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SENATE—*Friday, June 16, 1995*

(Legislative day of Monday, June 5, 1995)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, before us is a brandnew day filled with opportunities to live out our calling as servant leaders. We trust You to guide us so that all we do and say will be to Your glory.

Since we will pass through this day only once, if there is any kindness we can express, any affirmation we can communicate, any help we can give, free us to do it today. Help us to be sensitive to what is happening with people around us. We know that there are unmet needs beneath the surface of the most successful and the most selfassured. Today some are enduring hidden physical and emotional pain, others are fearful of an uncertain future, and still others carry burdens of worry for families or friends. May we take no one for granted, but instead be communicators of Your love and encouragement.

As this intense and busy week comes to a close, we express our gratitude for all of the people who make this Senate function so effectively: Each Senator's staff, the officers and staff of the Senate, the guards and the Secret Service, the maintenance crews and the people who work so faithfully in hundreds of crucial tasks. Today, as the Senate pages graduate, we thank You for these outstanding young men and women who have served in the Senate for these past months. We thank You for each one of these future leaders of our Nation. Lord, You have richly blessed this Senate so that You can bless this Nation through its inspired leadership. In Your holy name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

Mr. DOLE. Thank you, Mr. President.

SCHEDULE

Mr. DOLE. This morning, leader time has been reserved and there will be a period for morning business until the hour of 11 a.m. At 11 a.m., the Senate will resume consideration of the motion to proceed to S. 440, the National Highway System bill.

I have announced there will be no rollcall votes during today's session of the Senate. Cloture was filed last night on the motion to proceed, and there will be a vote on that cloture motion at 3 o'clock on Monday.

I am hopeful that maybe during today's session there can be some agreement reached on S. 440, the National Highway System Designation Act of 1995. It is a very important piece of legislation. It affects every State. There are one or two controversial areas. One is the Davis-Bacon Act, and one is the maximum speed limit compliance program. Those two issues, I assume, will be debated for some time. But it is my hope to complete action on this bill no later than Tuesday of next week, and then at that point to either go to regulatory reform, if that is ready—there are negotiations ongoing as we speak, and there are still about 10 areas of difference, but if we can reach a bipartisan compromise on regulatory reform, we would hope to take it up on Wednesday—or the other possible proposal would be welfare reform. And again, there is some difficulty on both sides, I might say. Republicans are having some difficulties. I understand the Democrats may be, too. But that is again a very important piece of legislation we hope to be able to resolve if not next week, take it up the following week.

THE TELECOMMUNICATIONS LEGISLATION

Mr. DOLE. Mr. President, let me also indicate, as I said yesterday, we passed a very important piece of legislation, telecommunications legislation. And obviously there were many, many people who deserved to be thanked for their effort. Certainly, the chairman of the committee, Senator LARRY PRESSLER of South Dakota, and members of his staff, and Senator HOLLINGS and members of his staff, and many members of the committee. I wanted to make certain I did not forget to thank David Wilson on my staff, who has been following this issue almost on a day-today basis for the past several months. I certainly appreciated his efforts and his insight into the very delicate issues which were involved in the legislation.

Mr. President, I understand there will be speakers coming to the floor. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I know leaders' time was reserved.

THE ENTERTAINMENT INDUSTRY

Mr. DOLE. Mr. President, remarks I made in California a few weeks ago have played a role in starting a new national debate on how the entertainment industry has contributed to the coarsening of our culture.

I was certainly not the first in this Chamber to take some to task for placing profits ahead of the innocence of our children. Senators SIMON and BRADLEY have fought the good fight on this matter for many years.

One thing that those Senators and I know, however, is that what we do here on the floor of the Senate, matters far less than what occurs out in the real world.

Until Americans hold accountable those who debase our culture, then there is little hope for progress.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

But there are definite signs of progress all across the country. And today, I wanted to congratulate radio station KGRM, which is the campus radio station at Grambling State University in Shreveport, LA.

Earlier this week, the station announced that, as a protest against profanity and obscenity, it will not play rap music for 19 days.

The station's assistant director said—and I quote—"If we can give students a format that's free of obscenity as far as words and lyrics, I think they'll be receptive to it."

Mr. President, Robert Kennedy once said "Each time a man stands for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope."

This morning, radio station KRGM is transmitting much more than just words and music. It is also transmitting a ripple of hope. I congratulate them for their courage.

THE ADARAND DECISION

Mr. DOLE. Mr. President, last Monday's Supreme Court ruling in the Adarand case is good news for those who believe that the Federal Government works best when it works to unite all Americans of all backgrounds.

In her majority opinion, Justice Sandra Day O'Connor correctly rejected the Clinton administration's position by insisting that Government-sponsored racial classifications, no matter how well intentioned, are inherently suspect and must meet the very highest standard of constitutional review—the standard of review known as strict scrutiny.

Whatever our race or ethnic background, the simple truth is that we are all Americans. We all pledge allegiance to the same flag. We all pay taxes to the same Government. We all share the same hope of a better future for our children and grandchildren. And on the battlefield, we all bleed the same blood. As Justice Scalia said in his concurring opinion, and I quote:

> In the eyes of government, we are just one race. It is American.

No doubt about it, the evil of discrimination continues to exist in the America of 1995. And, unfortunately, we have not yet achieved the colorblind ideal for which so many have valiantly struggled. But fighting discrimination cannot become an excuse to divide Americans by race, by ethnic background, by gender.

You do not cure discrimination with more discrimination.

So, Mr. President, I welcome the Supreme Court's Adarand decision. It clarifies the standard of review that must be applied to Federal laws and regulations that grant preferences on the basis of race. And perhaps as important, it is a wake-up call to Congress to put the Federal Government's own troubled house in order.

BOSNIA

Mr. DOLE. Mr. President, the facts are out: The New York Times reported last weekend that the Milosevic regime is actively aiding its Bosnian Serb allies—sending military assistance and fuel, SAM-6's, and even paying the salaries of many Bosnian Serb officers. This comes as little surprise to me, since I have been extremely skeptical of Slobodan Milosevic's reincarnation as peacemaker—an image the Clinton administration has actively promoted in a desperate bid to devise a Bosnia policy.

Indeed, the recent hostage taking by the Bosnian Serbs, followed by their release as a result of Milosevic's efforts, has called into question the theory of a split between Milosevic and Radovan Karadzic.

In my view the issue is not whether or not Milosevic and Karadzic are friends or political rivals, but whether or not their objectives are the same. The real question is, do Milosevic and Karadzic both want a greater Serbia?

It seems to me that the answer is yes—and that this charade of good cop, bad cop, has been useful in furthering that objective.

Apparently administration sources were aware of this support from Belgrade but continued with the approach of easing sanctions on Serbia. Those of us in the Congress who believed this policy was unwise for a number of reasons—including the fact that it removed leverage on the deteriorating situation in Kosova—were told that lifting sanctions would help bring peace to Bosnia because Milosevic would recognize Bosnia.

Mr. President, this report should prompt an immediate review of the administration's approach. Now is not the time to lift or further suspend sanctions on Serbia. The Milosevic regime is clearly supporting Bosnian Serb and Krajina Serb forces—and maybe even orchestrating their actions. In addition, it is continuing to oppress the Albanian majority in Kosova—which is in its 6th year under martial law.

Mr. President, I intend to offer an amendment to the foreign aid bill which would amend current Serbian sanctions legislation—originally sponsored by Senator LEVIN—to include strict criteria for the lifting of United States sanctions on Belgrade. This criteria will include a complete cutoff of military, political, or other material support from Belgrade to the Bosnian Serb and Krajina Serb militants; a restoration of civil rights to all minorities in Serbia; and a restoration of civil and human rights and political autonomy to the 2 million Albanians in Kosova.

It is time to stop this farce. Milosevic is no peacemaker. He is the author of the tragedies in Croatia, in Bosnia, in Kosova. His regime must be held responsible for its actions, not rewarded for its pretensions.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 11 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

Under the previous order, the Senator from Maryland [Mr. SARBANES] is recognized to speak for up to 15 minutes.

The Senator from Maryland is recognized.

Mr. SARBANES. I thank the Chair.

(The remarks of Mr. SARBANES pertaining to the introduction of S. 934, S. 935, S. 936, S. 937, and S. 938 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

THE TELECOMMUNICATIONS ACT OF 1995

Mr. MCCAIN. Mr. President, yesterday the Senate passed S. 652, the Telecommunications Reform Act of 1995. This is historic legislation that will substantially change the communications industry in this country.

Although the legislation alters the status quo, I was not able to support it due to the fact that the bill fundamentally reregulated, not deregulated the telecommunications industry.

I strongly support passing telecommunications reform. For too long this issue has been dictated by the courts. This is an abrogation of congressional authority, and the Congress is now compelled to play catch-up. It is imperative that the Congress implement a comprehensive, complete policy that will encourage free market competition and breed industry innovation that will ultimately benefit the consumer. Legislation that will accomplish this must contain provisions that deregulate and fosters true competition.

Unfortunately, the bill passed by the Senate, S. 652, does exactly the opposite. Regulation is increased and congressional, and Federal Communications Commission micromanagement is advanced. This bill establishes a regulatory regime that reallocates existing markets, controls and limits future growth, and effects changes to the communications industry through a series of complex, excessive regulation.

The best way to truly help the consumer is to allow industry the maximum flexibility to grow and prosper. That can be accomplished through deregulation. History shows us that deregulation of industry benefits the consumer. We should be working to pass legislation that deregulates.

S. 652 contains a prescription for a larger and more intrusive Government in Washington.

The bill mandates over 80 new regulatory proceedings that the Congressional Budget Office estimates will cost over $81 million to implement. Moreover, it is squarely at odds with nearly a quarter century of well-considered, soundly crafted, and broadly successful regulatory reform initiatives which commanded strong bipartisan support and, in the final analysis, yielded substantial consumer dividends for the American public. Back in 1970, the Senate Commerce Committee began work to deregulate a number of key, infrastructure industries. Airline, truck and rail, broadcast, maritime, cable, and freight regulatory reforms were initiated and successfully carried forward. These reforms paralleled changes which were occurring in the world at large, as the notion of pervasive, central economic planning by Government—embodied in the now-bankrupt Communist teaching and doctrine—faltered and competitive free enterprise concepts were adopted and embraced.

Senator PACKWOOD and I offered a series of amendments to S. 652 to make the bill more deregulatory. One amendment would have eliminated from the bill provisions which give the FCC excessive and unnecessary policymaking power. Another would have struck the community users provisions in the bill. A third amendment would have replaced the bill's universal service scheme with a voucher system that would have truly empowered consumers.

Unfortunately, all of those amendments were defeated.

I do want to thank the Commerce Committee chairman and ranking member for accepting some other amendments. I had sought to change the definition of the universal service contained in the bill. The universal service definition was far too broad and would have potentially cost consumers and companies hundreds of millions of dollars. The committee adopted the definition of universal service that I proposed as part of the manager's package of amendments.

Also included in the manager's package was an amendment I intended to offer to strike the DBS tax provisions in the bill. The legislation contained language that would have authorized the States to order DBS television providers to act as State tax collectors. This was an ill-conceived concept and I am very pleased that it was struck from the bill.

I was also very pleased that the committee accepted my amendment mandating that the FCC report any increases in the fees charged to communications companies as part of their universal service obligation and another amendment to means test the community users section of the bill. Both improved the bill.

Last, although I could not support this legislation, I want to thank Chairman PRESSLER. He did a masterful job of shepherding this bill through the Senate. He deserves specific praise for his efforts.

I also want to thank ranking Member HOLLINGS, Senator ROCKEFELLER, Senator SNOWE, and Senator PACKWOOD.

Their staff also deserve considerable praise for their efforts and hard work. I also want to thank Adam Thier of the Heritage Foundation, Bob Corn-Revere of Hogan & Hartson, and Jeffrey Blumenfeld and Christy Kunin of Blumenfeld & Cohen for their input and advocacy regarding the telecommunications voucher program.

I appreciate their help, and I thank them for their efforts.

HOUSTON ROCKETS WIN NBA CHAMPIONSHIP

Mrs. HUTCHISON. Mr. President, on Wednesday a team from my home State, the Houston Rockets, won their second consecutive NBA Championship, defeating the Orlando Magic four games to none. The Rockets overcame everything from injuries to midseason trade to, finally, one of the toughest playoff schedules over.

To understand the full significance of Wednesday night's victory, Mr. President, you must understand the history of Houston's two star players, Hakeem Olajuwon and Clyde Drexler. Both attended the University of Houston in the first part of the 1980's. In 1983 and 1984, Olajuwon and Drexler took their University of Houston team to the NCAA National Championship game. Soon after, they both went their separate ways. But this past Valentine's Day, in a trade many sports critics called unnecessary, the Rockets put Drexler back with his old college teammate Olajuwon. Wednesday night, the critics were proven wrong.

The Houston Rockets set an NBA playoff record by winning seven road games in a row. On their way to the NBA title, they won 11 out of their last 13 games. In the Western Conference Finals, they defeated the team with the best record in the regular season, another treasured Texas gem the San Antonio Spurs. As a team that never got the respect that it deserved when it won the title last year, Houston can now celebrate a title that will long be remembered. For most of the team, the second one is so much sweeter; but to Clyde Drexler, after 12 years in the NBA, this is the sweetest.

Mr. President, to repeat as champions with a four-game sweep is unprecedented. Five times the Rockets faced elimination and five times—with poise, determination, and character—they prevailed. The championship was a total team effort and everyone contributed.

Mr. President, I am sure that my colleagues will be glad to join me in congratulating the 1995 NBA World Champion Houston Rockets. For a team that started the playoffs with the sixth seed in the tournament, they are the lowest seed ever to win a World Championship. The Rockets showed their most adamant critics that they were not about to give up. In the words of head coach Rudy Tomjonavich, "Never underestimate the heart of a champion."

Mr. President, I just wanted to make sure that we recognized this great team effort, and the heart of these champions. And I am very proud of the Houston Rockets today, as last year, for their repeat world championship in basketball Wednesday.

I yield the floor, and I thank you, Mr. President.

THE SURGEON GENERAL

Mr. SIMON. Mr. President, we have been without a Surgeon General now for 6 months. I was very pleased when Senator DOLE mentioned he was going to meet with Dr. Foster. I hope that meeting can take place. I think the vote in our committee clearly illustrated there is a will on the part of this body to confirm Dr. Foster. I notice even those who voted against Dr. Foster had praise for his dedication and sincerity. I hope we can move soon on this Foster nomination. I think we have delayed enough.

If he is going to be voted down, let us vote him down. But I think we will approve him. I think he should be approved. I think those of us who were on the committee who heard him testify were very impressed by what he had to say.

NOMINATION OF DR. HENRY FOSTER TO BE SURGEON GENERAL

Mr. KENNEDY. Mr. President, I wish to address the Senate on the situation facing the President's nomination submitted to the Senate for the office of Surgeon General.

Mr. President, it is now nearly 4 months since President Clinton sent to the Senate the nomination of Dr. Henry Foster to be Surgeon General of the United States. On May 2 and 3, the Labor Committee held hearings on the nomination and on May 26 the committee voted to approve the nomination and sent it to the full Senate for final action.

Already 3 weeks have passed and nothing further has happened. It is time for a vote.

Dr. Foster has demonstrated his impressive qualifications, his character, and his vision for the future of health care in this country. During the committee hearings, he successfully put to rest the charges attacking his character and his ability. He earned the admiration and respect of the committee and the American public. Even some who opposed the nomination have expressed the belief that the Senate should vote. Other opponents have threatened to filibuster to prevent a final vote.

It is time for the Senate to act. By now it is obvious that Dr. Foster is a highly principled physician and educator who has devoted his life and his career to the service of others. His record is outstanding. He has been widely praised for his contributions to the quality of health care for his patients, for his service to his community, and for his research and teaching and medicine. We do a disservice to Dr. Foster, the Senate and the Nation as a whole by prolonging this process.

The Nation has now been without a Surgeon General for 6 months, and there is no justification for further delay. Only one issue is holding up this nomination. Many other issues have been raised as a smokescreen, but they are easily dispelled. The real issue delaying this nomination is the issue of abortion. The diehard opponents of a woman's right to choose are doing all they can to block this nomination because Dr. Foster participated in a small number of abortions during his 38-year career. But Dr. Foster is a baby doctor, not an abortion doctor. He has delivered thousands of healthy babies, often in the most difficult circumstances of poverty and neglect. As one commentator has observed, "Dr. Foster has saved more babies than Operation Rescue."

In any event, abortion is a legal medical procedure and a constitutionally protected right. It is not a disqualification for the office of Surgeon General of the United States. And there is no justification for some of our Republican colleagues to try to make it one.

Dr. Foster is an obstetrician and a gynecologist, and it is no surprise to anyone that he has participated in abortions. Those who have heard Dr. Foster describe his vision for health care and have examined his record know about the lives he has saved, the hundreds of young doctors he has trained, his outstanding research on sickle-cell anemia and infant mortality, his model program on maternal and infant care, and his groundbreaking work to combat teenage pregnancy. President George Bush thought so highly of Dr. Foster's "I Have a Future Program" in Nashville that he honored it with the designation as one of his thousand points of light.

With this nomination, the Nation has an unprecedented opportunity to deal more effectively with some of the more difficult challenges facing us in health care today and to do it under the leadership of an outstanding physician and an outstanding human being who has devoted his life to providing health care and for opportunity to those who need the help most.

As Dr. Foster has stated, his first priority will be to deal with the Nation's overwhelming problem of teenage pregnancy, and he is just what the doctor ordered to lead this important battle.

Teenage pregnancy is a crisis of devastating proportions. The United States has the highest rate of teenage pregnancy in the industrial world. More than a million U.S. teenagers become pregnant every year, and every day the problem gets worse. Dr. Foster can be the national spokesman we need on this issue to educate teenagers about the risks of pregnancy.

Every day, every week, every month, every year, the number of teenagers lost to this epidemic grows further out of control. With Dr. Foster's leadership, we have an unparalleled opportunity to deal more effectively with this cruel cycle of teenage pregnancy, dependency and hopelessness.

Dr. Foster's "I Have a Future Program" has been a beacon of hope to inner-city teenagers. His program provides the guidance they need to make responsible, sensible decisions about their health and their future and to put themselves on the road to self-sufficiency and productivity and away from dependency, violence and poverty. He has taught them to say no to early sex and yes to their futures and to their education and to their dreams.

Dr. Foster has devoted his life to giving people a chance, giving women the chance for healthy babies, giving babies a healthy childhood, giving teenagers a chance for successful futures.

Now Dr. Foster deserves a chance of his own, a chance to be voted on by the entire Senate. I urge the majority leader to do the right thing and bring this nomination up before the Senate and a vote by the entire Senate.

Mr. President, I heard earlier during the debate and discussion that we have legislation before us that is going to be necessary to pass by October. I daresay that every day that we delay in terms of approving Dr. Foster is a day when this Nation is lacking in the leadership of this extraordinary human being who can do something about today's problems, not problems and challenges that the States are going to face in the fall, but today's problems, tomorrow's problems, on the problems of teenage pregnancy and the problems of child and maternal care, and all the range of public health problems that are across this country.

That individual ought to be approved. We ought to have a debate. If the majority leader was looking for something to do on a Friday, we ought to be debating that today and voting on it today, instead of debating the issue that is going to deny working families income to put bread on the table.

We can ask what our priorities are. The majority has selected to debate Davis-Bacon, not to debate the qualifications of Dr. Foster. As much as I am sympathetic to where we might be in the fall, I am concerned about the public health conditions of the American public today. There is no excuse—no excuse whatsoever—not to bring him up, other than the power of those who have expressed their views about the issues on abortion. That is what is behind this delay, and it is wrong.

Dr. Foster has appeared before the committee, answered the questions, has been reported out, and he is entitled to a vote. Even two members of our committee who voted in opposition indicated that they believe the Senate ought to vote on this.

We have to ask ourselves, how much longer do we have to wait? This is a timely, important, sensitive position, and this country is being denied the leadership of Dr. Foster, and we have no adequate explanation about why that is the case. The nominees are entitled to be debated and to be reported out and, once reported out, they are entitled to be voted on in the U.S. Senate.

So, Mr. President, I hope that we will have an opportunity the next time the majority is looking around for something because we are not ready to deal with the welfare reform issues, and we are not prepared to deal with some other issue, that we can move ahead on the Dr. Foster nomination. We are ready to debate it. The committee is ready to debate it. We are entitled, he is entitled, and the country is entitled to have a vote on that nomination, and I hope that it will be very soon.

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

SECTION 252(a)(2)(A)

Mr. PACKWOOD. Section 252(a)(2)(A) requires a separate subsidiary for all information services except those that were being offered before July 24, 1991. Since that date literally hundreds of information services have been initiated and offered, because July 24, 1991, is the day before the information services line of business restriction was lifted by the MFJ court. This means that all of those services have to be shifted to a separate subsidiary on the date of enactment of this act.

Are there not two problems in your view: First, the bill does not grandfather all existing information services. Second, it will be impractical for Bell operating companies to transfer existing information services to a separate subsidiary prior to the date of enactment of this act.

Mr. PRESSLER. Yes; I agree. It is my intention to address these problems in conference.

ROTARY PEACE PROGRAM ON POPULATION AND DEVELOPMENT

Mr. NUNN. Mr. President, I have recently been contacted by Mr. David Stovall, a constituent from Cornelia, GA. In addition to his professional work at Habersham Bank and his community service with the chamber of commerce and the Georgia Mountains Private Industry and Local Coordinating Committee, Mr. Stovall serves in the Habersham County Rotary Club and as governor of Rotary District 6910.

It is in his capacity as a Rotary District Governor that Mr. Stovall brought to my attention a recent "Rotary Peace Program" put on by the Rotary Foundation of Rotary International. Entitled "Population and Development: A Global Perspective for Rotary Service," the event brought together Rotarians from District 9100, which includes Rotary clubs in 15 West African nations, and Rotarians from District 6910, which includes 57 Rotary clubs from throughout North Georgia.

At the Dakar Peace Program, the Rotarians were examining an issue of concern to many Americans—that is, the population growth in a number of countries in the world which are incapable of meeting the agricultural, the environmental, the medical, and the economic challenges that accompany such high races of growth.

Mr. President, these Rotarians, meeting in Dakar, Senegal, serve as an example of how nonprofit service organizations can take actions which contribute to the public debate and help to further policy objectives. To this end, I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks the resolution adopted at the Dakar Peace Forum.

I also want to recognize other Georgia Rotarians who participated in the Dakar Peace Forum. They include Buck Lindsay of Lawrenceville, David Roper of Martinez, James Lyle of Augusta, and Dr. Ruby Cheves of Union Point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A ROTARY PEACE PROGRAM BY THE ROTARY FOUNDATION OF ROTARY INTERNATIONAL

RESOLUTION

Whereas, The Trustees of Rotary International have endorsed a Rotary Peace Program on the topic of World Population and Sustainable Development, held this date in Dakar;

Whereas, in Forum, assembled Rotarians from Districts 6910 and 9100, and other parts of the Rotary World, along with NGOS in the field of population, have discussed in detail the topic of Population and Development;

Whereas, Recognized international and governmental experts on the subject of population and development have presented detailed information on the subject and participated in the deliberations;

Whereas, the Forum considered the conclusions of the International Conference on Population and Development held in Cairo, Egypt in 1994, encouraging and promoting respect for all human rights and for fundamental freedoms for all;

Whereas, The participants in the Forum expressed unanimous consensus that World Population is an issue of extreme importance and is an area in which Rotary must accordingly apply its humanitarian attention; now therefore: be it *Resolved*, That recommendation should be and is hereby made to the Board of Directors of Rotary International and to the Trustees of TRF that the following priorities be recognized:

(1) That awareness be promoted at all levels among Rotarians and others on the subject of Population and Development, in forums, including conferences, assemblies, institutions and peace forum;

(2) That the Directors establish a Task Force on Population and Development;

(3) That the Trustees of the TRF, in their humanitarian works, give high priority to projects which promote the role of women in development and which recognize the importance of the environment and population;

(4) That the education of Rotarians and non-Rotarians on the subject of population be carried out through the existing infrastructure of Polioplus, or a variation thereof. Be it further

Resolved, (5) That the Trustees provide appropriation for and begin research and development in support of a 3-H product, to serve as a model, addressing the subject of population and development.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, as of the close of business yesterday, Thursday, June 15, the Federal debt stood at $4,893,073,460,637.78. On a per capita basis, every man, woman, and child in America owes $18,574.19 as his or her share of that debt.

WHAT AN AIR FORCE PILOT'S RESCUE SAYS ABOUT AMERICA

Mr. LIEBERMAN. Mr. President, America rejoiced last week when the news broke of Air Force Capt. Scott O'Grady's rescue from Serb-controlled territory of Bosnia after being missing for 6 days. We were relieved to know that he was safe and sound and we were eager to receive a sliver of good news from a region where day after day for 3 years we have been besieged by reports of the murder of innocents, genocide, and international hooliganism on a scale unseen since the dark days of World War II.

Our elation could not help but grow when this young F-16 pilot stepped before the microphones for the first time after his rescue. His words filled us with pride and reminded us of what makes the men and women of our Armed Forces so special and what is special about America. After 6 days of eating grass, drinking rain water, and hiding from armed Serbs who were trying to kill him, this young man's first words were of his thanks to God, his parents, his comrades-in-arms, and his country. As remarkable as his own actions were in the face of considerable hardship and danger, Scott O'Grady told the world that he was not the hero in this situation—in his view it was the brave men and women who risked their lives for him by conducting a continuous search effort and, when at last he was located, flying into enemy territory to snatch him away and bring him home.

Though he spoke for less than 2 minutes in that first appearance before a cheering crowd at Aviano Air Base and, thanks to instant communications, the entire world, his words should give us all pause and cause us to consider the values he reflects: trust in God, love of family, unwavering confidence in his country, and faith in the abilities of his colleagues in each of the military services. Throughout the past week of interviews and ceremonies at the White House and Pentagon, Captain O'Grady has continued to talk about his faith in God, country, family, and coworker.

Are these values unique to Scott O'Grady or to members of the Armed Forces? Clearly, living, working, and, when called upon, fighting and dying together are unique aspects of life in the Armed Forces which build the camaraderie and faith in your fellow workers that are so evident in the military. These values are critically important when one's work requires you to put your life in the hands of others.

As a member of the Senate Armed Services Committee, I am involved in decisions on defense budgets and policies which remind me every day of the important responsibilities we have for the men and women of our Armed Forces. We must work to ensure that they are properly trained, equipped, and motivated—as Captain O'Grady and the members of the rescue forces clearly were—if they are going to be able to continue their vital work of ensuring our national security. Too often in recent times, the dedicated men and women of our military have been tarred with a brush of scandal because of the improper acts of just a few. These acts are cause for concern and should be taken seriously as the Senate always has. But at the end of the day, I believe that what we see in Captain O'Grady and those brave servicemen and women who rescued him is the best representation of what our Armed Forces are and what they stand for.

But the values we have seen reflected in the words and deeds of Scott O'Grady are, in fact, the values which Americans have prized throughout our history. They are what has made America great. They are the values which most of us learned from our parents in homes across America. Scott's mother and father should be proud of the way they taught these values to their son.

The daily barrage of headlines of violence in the homes and streets of America, stories of broken homes, and indications of racial and religious bigotry could lead one to conclude that there is a cancer growing on America's spirit. I do not believe it and I doubt that most Americans believe it.

Americans are as they have always been—people of faith, courage, patriotism, and hard work. Perhaps it is time to remind ourselves of what is good about us and to allow our values to come to the surface again where they can help pull us above our fears and insecurities.

America owes young Scott O'Grady a debt of gratitude—for the professional manner in which he performed his duties as an officer in the U.S. Air Force and for the reminder that he has given us of what it takes to survive in these troubled times. America should rejoice with his return—and reflect upon what it says about us as a nation.

AFFIRMATIVE ACTION

Mr. McCONNELL. Mr. President, I would like to address the Supreme Court's historic decision in the Adarand case handed down earlier this week. A majority of the Court, led by Justice Sandra Day O'Connor, found that preference and set-aside programs ordered by the Federal Government must be examined under the strictest judicial scrutiny. Justice O'Connor's opinion states that equal protection of the laws, as guaranteed by the Constitution, extends to every person, not to particular groups.

These preference programs are based on notions of group entitlement. As a practical matter, this decision will make it very difficult for the Federal Government to justify the more than 150 preference programs that currently exist. This decision is an important step in making this Nation truly color blind.

The case involved a Federal subcontract on a highway project. Under the Surface Transportation Act of 1987, Department of Transportation gives a bonus to a general contractor who hires subcontractors who qualify as socially and economically disadvantaged. Under the Small Business Administration definitions, disadvantaged is presumed to include African-Americans, Hispanic-Americans, women, native Americans, and other minority group members.

Despite Adarand Construction's lowest bid on a Colorado highway project to build a guardrail, the general contractor gave the subcontract to a minority firm. Adarand sued, claiming a violation of its right to equal protection.

Justice O'Connor, citing earlier affirmative action cases which had clouded the issue of the validity of these programs, wrote that classification based upon race which appear to be benign are not really benign, but "are in fact motivated by illegitimate notions of racial inferiority or simple racial politics."—from her own plurality opinion in Croson.

This decision comes in the midst of lots of attention to these preference programs. There is a movement in California to abolish preference and set aside programs. Gov. Pete Wilson recently did away with preferences in State employment by executive order and there is likely to be a ballot initiative next year. President Clinton has ordered a review of Federal preference policies, and congressional leaders, including the majority leader, have called for close examination of these programs.

Americans have no tolerance for racial discrimination, but they also have no patience for discrimination which is committed under the guise of making up lost opportunity for those who belong to certain groups. You can't discriminate against one group to benefit another. Justice Scalia said it best in his concurrence in the Adarand case,

> . . . [U]nder our Constitution there can be no such thing as either a debtor or creditor race. . . . In the eyes of the government, we are just one race here.

Mr. President, in the Foreign Operations Subcommittee of the Appropriations Committee, which I chair, we will have an opportunity to review at least one of these set-aside programs. It requires a percentage of certain categories of foreign aid to be managed by minority contractors. Under the Court's decision in the Adarand case, we will now examine the set-aside program under the strict scrutiny test. The administration will have to establish a compelling interest to justify the continuation of preference and set-aside programs. In this time of very scarce dollars, and especially scarce in the context of foreign aid, it's hard to imagine the administration's justification for anything other than the most efficient and economical use of our foreign aid dollars.

I look forward to the ramifications and implications of the Adarand case and the revision and even end to many of the Federal Government's preference programs and policies.

The PRESIDING OFFICER. The Senator from Montana.

FEDERAL AVIATION ADMINISTRATION REFORM

Mr. BURNS. Mr. President, yesterday my good friend, the distinguished Senator from Oklahoma, introduced a bill to reform the FAA. There is probably no institution in this town that needs reform more than it does. In my home State of Montana we take aviation, particularly general aviation, very seriously because we are a very large State but we are the 44th in population. We are the fourth largest State, 148,000 square miles. The Chair understands about that, coming from Wyoming, our good friend to the south. So you could say both of us have quite a lot in common. There is quite a lot of dirt between light bulbs in our part of the world and not many folks in between. So, for us having general aviation in a healthy mode and our ability to fly point to point is not a luxury, it is often a necessity in the West.

So we have a very strong, hard-working and well organized pilot community in Montana. I am proud of my strong relationship with the thousands of pilots in my State. Many of them are flying ranchers and that is the way they get their parts, that is the way they do a lot of business, a lot of their travel.

I have been watching the debate about reform of the Federal Aviation Administration and the Air Traffic Control system with some concern, and I share those concerns with my friend from Oklahoma. The pilots who talk to me tell of outdated equipment that their air traffic controllers are forced to use. I have heard the same concerns from air traffic controllers all over the country, as a matter of fact. They tell me about the concerns that the FAA does not get the necessary funds and it is absolutely hamstrung in some areas by layers and layers of red tape. They say the FAA is ripe for reform. After serving in this body now in my second term, after 6 years, I would have to agree with that.

But many of the proposals I have seen are only superficially attractive. The numbers just do not add up. The administration's ATC Corporation idea—there is no industry support for an entirely privatized ATC.

So today I am joining with Senator INHOFE in his introduction of legislation to provide some realistic, meaningful reform for the FAA. It will reestablish the FAA as an independent agency with an administrator who has a fixed term in office of 7 years and a management advisory committee made up of members of the private sector to advise the administrator on management policy, spending, and regulatory matters.

This measure will provide the FAA with major personnel, procurement and finance reforms that I think it needs. It will mandate that the FAA take action on safety-critical regulations in a more timely manner. This bill will give the FAA more flexibility in making corrections without risking its record of safety.

It is my hope this bill will be a starting point from which we can gain some consensus among this body, and in this Congress, and we hope that consensus will evolve rather quickly. I understand Senator McCAIN is also working on a proposal to reform FAA. He is the chairman of the Aviation Subcommittee on the Commerce Committee. His knowledge of not only flight but also this agency is unexcelled, and I hope he will welcome this bill and that it will be a valuable contribution to what he is trying to do. Maybe we can really get together and put reform on the fast track. We can work together. I think it can be supported by everyone in the aviation community. It is needed.

Also, we have to be very mindful that not just airlines use FAA. It is very important we maintain it at a healthy level for general aviation because of the points I spoke about earlier on today.

With that, I support this reform as it starts down the track. We hope we can get a consensus and reform it before the snow flies this fall.

Mr. President, seeing no other Senators on the floor, I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of the motion to proceed to S. 440.

The Senate resumed consideration of the motion to proceed.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. I thank the Chair. Mr. President, I might say to my colleague from Rhode Island, I had some remarks prepared, and intend to speak for awhile, but I wondered, if he wanted to start off, he can.

Mr. CHAFEE. No. Mr. President, I thank the distinguished Senator from Minnesota. I am here to listen to the persuasiveness of his argument. I will say that this bill is important. As we all know, unless we pass this legislation by the end of September of this year, our States will be deprived of some $6.5 billion of highway funds, which we need. So I think it is unfortunate we are involved in this filibuster, but that is obviously the choice of those on the other side. I am perfectly prepared to hear the remarks of the Senator from Minnesota.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Minnesota is recognized.

Mr. WELLSTONE. Given the few remarks of my colleague from Rhode Island, it probably would be important for me to clarify the situation.

Mr. President, I agree that the underlying bill, this highway bill, is extremely important to the country. The debate is really not about the underlying bill. The debate is about Federal prevailing wage standards under the Davis-Bacon law, and an effort to repeal Davis-Bacon, at least in relation to the highway construction work that is done.

What is attached to this bill is an amendment to repeal the Davis-Bacon law in relation to highway construction work. That is what is unfortunate. So those of us who are taking on this issue in this debate are not doing it, if you will, Mr. President, of our own choosing. That is to say, we are more than willing to have a full-scale debate about the importance of the Davis-Bacon legislation first passed in 1931. We do not believe that this debate should be taking place right now. We do not think this amendment to repeal Davis-Bacon should be a part of this piece of legislation. That is really the debate. The debate is not about the underlying bill at all. My colleague from Rhode Island will certainly find me to be very supportive of much of his work on the underlying bill. But in a letter of May 2, I and other colleagues indicated that we intended to engage in extended debate on this bill if this Davis-Bacon repeal amendment was adopted, so no one should be surprised by our presence here today.

I would like to talk first about the Davis-Bacon piece of legislation, just to summarize it for those who are watching this debate, and then talk about what I consider to be the larger question, the larger issue that is before the Senate, and therefore before the country.

First, on Davis-Bacon, Mr. President, back in the early thirties, this piece of legislation was passed and the basic idea was as follows: Where the Federal Government is involved in construction contracts, we want to make sure that wages that are paid to those workers are consistent with the prevailing wage of the community. In other words, the Federal Government is the big player here, and it is kind of right out of Florence Reese's song "Which Side Are You On?" Either the Federal Government is involved on the side of the contractor in paying wages below the prevailing level of the community or the Federal Government—being a Government that cares not just about the largest multinational corporations in the world, not just about the people who have the financial wherewithal, but a Government that cares about wage earners, cares about working families, and says we will make sure that our involvement is to assure that the wages paid to working people—in this particular case we are talking about highway construction workers—is consistent with the prevailing wage.

Mr. President, I would just simply tell you that proposition is based upon a standard of fairness in which I think the vast majority of the people of the United States of America believe.

Second, Mr. President, the importance of Davis-Bacon, which is why this piece of legislation has been with us for well over a half a century, is that by making sure you have some kind of prevailing wage standard you also have higher quality labor and higher quality work that is done. And when it comes to the highways and to the bridges and to our physical infrastructure, it is pretty darned important to the people of Minnesota and Michigan and Rhode Island and Virginia and elsewhere that the highest quality work is done. That is part of how we measure benefit and how we measure cost.

So, Mr. President, what is at issue is not the underlying bill. What is at issue is that within this piece of legislation is this one provision which would repeal Davis-Bacon as it relates to highway construction work, which I understand is about 40 percent of the work covered by Davis-Bacon. This is no small issue. This is no small issue to working people; this is no small issue when it comes to wages; this is no small issue when it comes to fair working conditions; this is no small issue for the Senate; and it is no small issue for people in this country. I have to tell you, Mr. President, that the larger issue, what is really at stake I think can be shown rather graphically by this chart.

If you look at historical trends in real family income—and the source of this is the Bureau of Census, Department of Commerce —if you look at real family income, what you get between 1950 and 1978 is something like this. For the bottom 20 percent of people in our country, real family income in 1993 dollars went up 138 percent.

Now, in our country I think people say that is the way it should be. The bottom 20 percent, their family income goes up 138 percent. The second 20 percent goes up 98 percent. The middle 20 percent, family income goes up 106 percent. The fourth 20 percent —now we are getting toward the top—111 percent, and then the top 20 percent, real family income goes up 90 percent, between the years 1950 to 1978.

That is sort of the American dream, Mr. President. That is what people care about, that is real growth in family income. And during this period, we see a trend that is very consistent, with the kind of standard of fairness that people in the country believe in.

Now, Mr. President, we look at 1979 to 1993, and what we see is a country growing apart.

As a matter of fact, more recent reports that have come out have shown that we have the greatest gap in income in wealth than we have ever had since we started measuring these things.

So, Mr. President, we see that between 1979 and 1993, for the bottom 20 percent, real family income goes down by 17 percent; the second 20 percent real family income goes down by 8 percent; the middle 20 percent real family income goes down by 3 percent; the fourth 20 percent real family income rises by 5 percent; and for the top 20 percent, real family income goes up by 18 percent.

So, Mr. President, what is really going on here is a debate about where the Federal Government fits in and what kind of public policy throughout the country is responsive to working families. This is the squeeze that people feel within the country, and I say to my colleague, and I say to people who are watching this debate, at the very time that real family income is going down, at the very time that the bottom 80 percent of the population feels this squeeze, what are we doing? Some are trying to overturn a piece of legislation that has served this country well and served working families well. We are now trying to bring down wages in our communities, and we have a Congress which, up to date, has been unwilling to even raise the minimum wage. So this debate is all about fairness. This debate is all about what matters to people in the country more than any other issue: a good job at a good wage.

Mr. SIMON. If my colleague will yield for just a series of questions. If we repeal Davis-Bacon, does that, in any way, depress the wages of that top 20 percent that has already gone up 18 percent?

Mr. WELLSTONE. Certainly not. If you look at average wages in the construction field, it is about $25,000-$30,000, or thereabouts.

Mr. SIMON. Then where, if we pass the repeal of Davis-Bacon, does it have its impact?

Mr. WELLSTONE. I say to my colleague from Illinois that if we repeal Davis-Bacon as it applies to highway construction, or even beyond that—which has everything in the world to do with making sure that we do not depress prevailing wages in our communities—what you are really going to see is a drop in incomes for the middle 20 percent, the second 20 percent, and the bottom 20 percent.

Mr. SIMON. So what we will be doing if we pass Davis-Bacon is depressing the wages of those who already are losing in our society.

Mr. WELLSTONE. That is precisely the point, I say to my colleague.

Mr. President, the most fundamental flaw of all with this provision in the bill is that it depresses the wages of the very families that are the most hard pressed in this country. I say to my colleague, we are not talking just about the poor, we are talking about middle-income working families, around $25,000, $30,000, a year.

Mr. SIMON. I thank my colleague.

Mr. WARNER. Mr. President, will my colleague yield for the purpose of a question?

Mr. WELLSTONE. I will be pleased to yield.

Mr. WARNER. The amendment of the Senator from Virginia, which is the current subject of discussion, relates only to the highway program. And in the Senator's presentation, he is sort of talking about all Davis-Bacon when, in fact, it is only roughly 38 percent of the program.

So I think it is important to be accurate here. We are talking about just that part of Davis-Bacon relating to the Federal Highway Program, are we not, I ask my colleague?

Mr. WELLSTONE. Mr. President, I say to my colleague from Virginia, I used the figure 40 percent earlier, 38 percent or 40 percent; that is correct. About 40 percent of Davis-Bacon contracts are highway related. When you consider all of the billions of dollars that we spend on highway construction, I think that's a lot. I mean, 40 percent of Davis-Bacon, 40 percent of prevailing wages in communities across our country, 40 percent that affects these families that are most hard pressed is not an insignificant percentage.

Mr. WARNER. Mr. President, I do not contest that point, but let us be accurate that we are talking about only the Federal Highway Program.

Mr. WELLSTONE. I say to my colleague, I have been accurate.

Mr. WARNER. Mr. President, I am not sure the Senator pointed out that this chart—it seems to me the Senator was talking to the entirety of Davis-Bacon.

Mr. WELLSTONE. I say to my colleague from Virginia, Mr. President, that before he came in, I first defined Davis-Bacon, I talked about the purpose of Davis-Bacon, the public interest accomplishments of Davis-Bacon, and I then went on and said this amendment dealt with highway construction as it applies to Davis-Bacon and gave the figure 40 percent.

What I will now say to my colleague is that we are talking about something larger than just the highway construction workers and we are talking about a larger question than just Davis-Bacon. What we are talking about is, if you look at the most recent years, an enormous squeeze on really the bottom 80 percent of the population. So that is really the issue here, and that is what I am now trying to pinpoint.

Mr. President, I thank my colleague from Virginia for his questions.

So, the reason I am on the floor with Senator KENNEDY from Massachusetts and Senator SIMON from Illinois is, A, Davis-Bacon passed in 1931. Why? To make sure that when the Federal Government is involved in these contracts, we are on the side of making sure that the wages that are paid to those workers are at least consistent with the prevailing wages of the community and we do not get involved or we are not on the side of employers who depress wages for people in the community.

B, we support the underlying bill, but this provision should not be a part of this bill. We ought to have a separate debate on Davis-Bacon because of the significance of this. When you are trying to overturn a piece of legislation that has been a part of the political and social landscape of this Nation for over 60 years and has been a part of fundamental economic justice and has been consistent with the idea that people ought to make decent wages on which they can support their families, you do not put it in as part of a highway bill. You deal with the whole legislation separately, and then you have that debate.

And then C, what I am now trying to do in this presentation is point out again, if I can ask for the first chart, what is really the larger context. This is what I think American politics is all about in many ways.

From the years 1950 to 1978, the vast majority of people in this country—and this is the American dream—saw a real increase in real family income, and from 1979 to 1993, we have seen a growing apart in this Nation. That is a fact. And for the life of me I do not know why in the world colleagues would be so anxious to repeal a law that is so consistent with economic justice, economic opportunity, fair wages and opportunities for working middle-income families in America.

Mr. President, people in the country feel an economic squeeze. People are worried about whether or not there are going to be good jobs. Let me just present some alternatives to what I think this effort is all about, and I certainly hope my colleagues will support us in blocking this effort, because this effort to repeal this provision of Davis-Bacon that applies to highway construction workers does not take us into the 21st century. In fact, this takes us back to the 19th century.

Let me present an alternative formulation. You say you want to have welfare reform, and we need to reform that system. We are going to have a debate on welfare reform, and hopefully not on something that is called welfare reform, but is really an effort to punish women and children.

Here is real welfare reform: A good education, good health care, and a good job. If we want to reduce poverty in America—say, for example, the poverty that exists 10 blocks from where we are right now in Washington, DC, or the poverty in Minnesota, Illinois, Massachusetts, Rhode Island, or Virginia, the answer is a good education, good health care, and a good job.

Mr. President, if you want to reduce violence in this Nation—and we all do—you hold people accountable that commit these crimes, no question about it. But, Mr. President, talk to any judge, police chief, or sheriff, and they will all tell you the same thing:

We also have to reduce violence by focusing on a good education, good health care, and a good job.

Mr. President, if you want to have a stable middle class, people need a good education, good health care and a good job. If you want to have a democracy—we have a democracy—that is why we love this country and why I love being in the U.S. Senate, you have to have men and women who can think on their own two feet and understand the world and the country and the community they live in. The only way that can happen is a good education and a good job.

Mr. President, this effort to repeal the part of Davis-Bacon that affects the highway program is mistaken. This takes us back to the 19th century, not forward into the 21st century. I simply contend that the future for our country is twofold. First, we need to understand that our real national security is to invest in the skills, intellect, and character of young people. The real national security is to make sure we focus on a good education for our citizens. The real national security is to make sure we focus on good jobs at decent wages.

This effort is mistaken. This effort turns the clock back, and that is why, in every way possible, those of us on the floor today intend to defeat this effort to repeal the provisions of Davis-Bacon.

I will yield for a question.

Mr. ABRAHAM. I would like to ask my colleague this on the chart indicating from 1979 to 1993. Can he say whether or not during that period of time the aggregate numbers he has there were reflective of a straight-line decrease in the share for the people in the lowest 20 percent and an increase for the people in the top 20 percent, or if there were fluctuations during that period, and if he is familiar with the year-by-year data during that timeframe?

Mr. WELLSTONE. I say to my colleague that I am not familiar with the year-to-year variation thereof. But I think, as a matter of fact, what happened in the United States, in the last decade and a half, is what's been called the deindustrialization of America. We have seen, in the United States of America, what Robert Kuttner and others have called a "disappearing middle class." We have seen in the United States an economy that is producing some jobs, but not the kind of jobs that families can count on, because they do not pay a decent wage or, I say to my colleague from Michigan, do not provide a decent fringe benefit.

So the point is that as you look at this period of time from 1979 to 1993, we are now in a period where the vast majority of families—really if you get right down to it, the bottom 80 percent—have been under an enormous squeeze.

Mr. ABRAHAM. I have seen this chart, of course, in our Budget Committee meetings and our Labor Committee meetings, and on the floor several times. I think it may have originated with Secretary Reich from the Department of Labor, who used this chart to argue that the economic policies over that last period, the period in question, 1979 to 1993, have been consistent policies. This chart is usually employed to argue that it has been the Republican policies that were harmful to certain segments of the economy, particularly certain income groups. But I have tried to look at this chart in terms of the policies that were in place during that timeframe. What I discovered was that there were some very significant changes during that timeframe. It begins in 1979. That is during a timeframe in which we had President Carter in office, and we had policies of higher taxes and more regulation. We had very high interest rates in this country and quite high inflation during that timeframe. Those policies were pretty much in effect, Mr. President, until about 1982, when after 1 year of the Reagan administration, the change in policies took place.

Now, between 1979 and 1982, you have a significant decline, a very significant decline in family income during those years. Then from 1982, I discover that you have a reversal of course, and I think we all recall that there was a substantial increase for the next 8 years or so in family income. It starts back down again around 1989, 1990. And, as the Senator noted, it has gone especially down in the last year or so. But I think that to use this chart to reflect or create the illusion that there has been a sort of straight-line decrease really does not capture the essence of what happened during this timeframe when, in fact, there was a sharp decline during the first 3 years of this and a significant incline for all groups, all quintiles on the chart, for about 8 years, and a decline over the last 3 years. So I am not sure that the 14-year chart really reflects what happened in terms of policy or in terms of family income.

Mr. WELLSTONE. Mr. President, I will be pleased to yield the floor in a while, but let me just say to my colleague, in the spirit of collegiality, because I like debating my colleague from Michigan because he is so thoughtful, and the country would be a lot better off with more thoughtful debate.

First, I did not actually talk about political parties. I did not talk about President Reagan or President Bush. I did not talk about political parties. And for the families——

Mr. ABRAHAM. I did not mean to suggest that. The chart has been presented under a number of circumstances.

Mr. WELLSTONE. I am trying to say it is kind of an academic point for the bottom 80 percent of the population, who really feel an economic squeeze as to whether or not, for a while, it was a little better and then much worse. The fact is that this is what has happened in the United States in the last few decades. And that's why the vast majority of people are under tremendous economic pressure.

The second point. There is an interesting correlation between what my colleague from Michigan talked about and the debate we are now having on the deficit, which is to say that my colleague is quite correct that we actually had a very deep recession in 1982. Those were not good years. And then we had a recovery, although it was a recovery supported by a politics and economics of illusion, because it was based on debt. That, of course, was the proposition that we could slash the revenue base, which we did with what was euphemistically called the Economic Recovery Act of 1981, and dramatically increase the Pentagon budget and other expenditures. And all of that would lead to high levels of productivity, high levels of great jobs, middle-class jobs. And in addition, if we wanted to go back to the speeches given then, it would lead to reducing the deficit and eliminating the debt.

That was a politics of illusion. A politics that prompted an explosion of the debt during that period from under a trillion, as I remember, when President Reagan took office, to where we are right now, well over $4 trillion.

Mr. President, what we have seen happen is the worst of both worlds. On the one hand, we have piled up record debt, and the interest on that debt robs us of our capacity to invest in ourselves. And, on the other hand, we have not been able to invest in the economy and in education in such a way that we have an economy that produces the kinds of jobs that people can count on, thus leading to a disappearing middle.

In that context, I say to my colleague—and I will yield for a question from the Senator from Illinois—it simply baffles me why Senators would want to eliminate a law that now provides wage earners in the construction industry—who are paid right around $25,000 or $30,000 a year, with assurance that they will get a decent wage.

Why are we now trying to depress people's wages? Why are we now trying to repeal a piece of legislation that has been so important to workplace fairness and fair wages? Why in the world are we trying to pass a piece of legislation that will depress wages? We can have this academic debate over and over again as to when it went up, down, or who is to blame. But that is the central question.

Mr. ABRAHAM. Mr. President, I will say that I think it is an academic debate, because the question about wage earners that we are talking about—and we are going to encounter this question in the budget debate—is which policies cause wages and family income to go up, and which policies cause them to go down.

I submit policies of high tax and high regulation tend to cause these wage earner family incomes to go down. The concern I have using charts like these is that they do not necessarily reflect a consistent set of policies.

During the period that is involved there, we had two very traumatic shifts. It began in an era with a policy of higher taxes and low regulation, and wages went down. It shifted to a policy of lower taxes and less regulation, and family incomes went up dramatically, then shifted one last time to policies of higher taxes and higher regulation again, and they have begun to decline.

I think we need to examine this. My point today is to reflect the fact that there are changes within that timeframe that are reflected in changed policies that I think do affect workers and make these inquiries more than academic.

Mr. WELLSTONE. Mr. President, actually I think we interpret our history a little differently.

As a matter of fact, if we were to just take the period of the 1980's, and we were to take the Reagan and Bush administrations, what we saw—talking about real income going up—what we saw in this period, which the Senator views as such a heyday for wage earners, was a massive redistribution of income up the wage scale, leaving low- and moderate-income people behind.

This is what was called trickle down economics. It is simply not the case, that middle-income and working families found themselves benefiting from the decades of the 1980's. This was a decade of sharp income inequality, a decade with a rise in poverty, a decade of fewer jobs people can count on. We still feel the squeeze.

I cannot understand why in the world some of my colleagues now want to repeal a piece of legislation that at least makes sure that those people who work get decent wages, and the wages are not depressed for people in the communities.

Mr. SIMON. If I could just respond very briefly to my friend from Michigan.

First of all, I think we have to be very careful. We go through this litany that higher taxes have caused depressed wages. Very interesting. As late as 1986, the average American industrial wage per hour was the highest in the world.

Today, 13 nations have higher average wages per manufacturing hour than we do, and every one of them has higher taxes than we do. We have to be careful about these kinds of economic myths that are going on out there.

Now, there are some reasons. Frankly, both political parties share some guilt. One is the deficit. We just had the Concord Coalition economic study that said if it were not for the deficit in the last two decades, the average family income today would be $15,000 a year higher.

The University of Michigan economics professor made a study and said the average family income, if it were not for the deficit, would be 25 percent higher. I do not know whose figure is right, but they are huge figures.

Both parties share the blame on this. The Reagan tax cut, as Howard Baker said, was a riverboat gamble. And it was a gamble that did not pay off. It was tragic. Democrats voted for it. I was not one of them. But Democrats voted for it, as well as Republicans.

The 1986 tax bill, I think, has turned out to be a disaster. I am pleased to say I voted against that.

Both parties share guilt on this. Part of this has nothing to do with either political party. That is just the economic trend. We demand more and more skills. Part of the reason for those changes are the unskilled, their wages are going down; the skilled, their wages are going up.

That is the reason for Bob Reich's statement, "If you are well prepared, technology is your friend; if you are not well prepared, technology is your enemy."

There was, during the Reagan years, a Democratic Party, so both parties share blame. There was kind of euphoria because we were living on a credit card. It is fun living on a credit card. We spent more money than we took in. It went very, very well.

Now, we have to face up to these things. That is why education, as part of that three-part program that Senator WELLSTONE is talking about, is so important.

It all fits into this, because one of the trends in our country today is there is a shrinking middle class; not dramatic, but it is shrinking. There are few people moving up, and more people moving down.

If we repeal Davis-Bacon, that trend will accelerate. That is not good for this country. What we need is to build the middle class. I intend to speak on that a little more later on.

I think again we have to examine these economic statistics. Both parties have plenty of blame to share. We ought to be working together to try to rectify this.

Mr. ABRAHAM addressed the Chair.

Mr. WELLSTONE. Mr. President, I believe I have the floor. I want to respond to the Senator briefly, and will be pleased to yield to the Senator from Michigan for a question in a moment.

I wanted to say to my colleague from Illinois, what is puzzling about this effort to repeal Davis-Bacon, is that we now have reached a point where our official measurement of unemployment is becoming almost meaningless because it is so incomplete.

You go State after State, and you have a figure of, say, 3 or 4 percent unemployed. That does not say anything about what kinds of jobs and what kinds of wages. It does not measure those people who are discouraged workers. It does not measure those people who are underemployed.

The key point, I think, is that what we find in many of our States with an officially defined "low level" of unemployment is a shockingly high level of families, as much as 50 percent, have incomes of under $25,000 a year.

That is the squeeze people feel. Why in the world we would be trying to repeal a provision that tries to keep the prevailing wages in communities at a higher level as opposed to depressing wages is what confuses me, and that is what I am so opposed to.

I am ready to yield the floor, but I will be pleased to yield for one more question from the Senator from Michigan.

Mr. ABRAHAM. Mr. President, I will be brief. I agree with the comments of the Senator from Illinois with respect to the comments we all have made with respect to some of the budget problems that have happened. I would assign them a little differently maybe. There was a tendency to see, as was implied earlier, that somehow by reducing taxes we generated less revenue for Washington. I always like to remind the Senate, what we are talking about when we reduce taxes is letting people keep a little more of what they earn. But I also point out that during the 1980's, the percentage of gross domestic product that ended up being paid in taxes did not change. In fact, it remained as it has for literally decades, right around the 19-percent level. What did change, and where I think both parties have the responsibility in particular, is in terms of our spending practices. Obviously, what we did during that decade was spend more. We spent on everybody's priorities. We refused to say we have to set some priorities. So it did create the kind of increased deficits that were referred to.

I agree with the assessments that those deficits did hurt. I do not know whether it is 19 or 25 percent. One of those figures was from the University of Michigan, so I will tend to be more likely to agree with the ones from my home State, but that clearly was a burden both parties, I think, were responsible for.

Mr. SIMON. Will my colleague yield for just 30 seconds?

Mr. WELLSTONE. I will be pleased to yield for more than 30 seconds.

Mr. SIMON. Mr. President, I think one of the reasons people resent taxes so much is they do not see the results. Two nations spend a disproportionately high percentage of their taxation on two things. There is only one nation that spends more among the modern nations, and that nation is Israel, on interest and on defense. No other nation come close to us in this. These are things that do not directly benefit the average person in Michigan, or the average person in Minnesota, or the average person in Illinois or Rhode Island.

I think one of the reasons people are so disheartened about government is they say: Next year we are going to spend $370 billion on interest, 12 times as much on interest as on education, 22 times as much on interest as on foreign aid, twice as much on interest as on our poverty programs.

On defense we are going to spend $270 billion, more than the next eight countries together.

We have to get ahold of our fiscal problems. We have to get ahold of our defense spending. Then I think people, if they see they are going to get out of their tax money education and health care and jobs and things like that, I think they are going to be more willing to spend it.

I thank my colleague for yielding.

Mr. WELLSTONE. Mr. President, I will finish up, too. I just would like to make two final points. I would like to say to the Senator from Illinois that I would add another reason as to why people have a fair amount of healthy indignation about taxes. Part of it is they want to make sure what they pay for works. But, if I could say this to my colleague from Illinois, there is another reason why people have a tremendous amount of skepticism about taxes. That is, ordinary citizens have a sneaking suspicion that they end up paying, but that there are a whole lot of other people who do not pay their fair share. That is called tax fairness. I make it clear, as I look at these proposals to reduce the deficit, including the President's proposal, the President's proposal is less harsh but we can do much better when the reconciliation bill comes out. Corporate welfare, deductions and loopholes and tax giveaways for energy companies and pharmaceutical companies—these are folks who have enormous clout here. They ought to be asked to tighten their belts too. I can tell you right now that has not so far been on the table in any real way in any of the proposals. I intend to make sure it is.

Second, I say to my colleague, he is absolutely right about some of the large military contractors. It is one thing to have a strong defense. It is another thing to be spending money on weaponry that is obsolete, wasteful, has nothing to do with a strong defense at all. Why in the world is that so sacred? It has a lot to do with who has power. Why are the people we are asking to tighten their belts also the people who have little economic or political clout? Why are we making the cuts in some of these areas but then leaving other areas untouched?

Finally, I say to my colleague, when it comes to Medicare and Medicaid, you cannot do it without health care reform. But I have not heard that yet. I would like to see the administration push harder on it. I will. You have to have universal coverage and systemwide cost containment. If that means you have to put a limit on insurance company premiums to cost of living times percentage of increase in population, you would save huge amounts of money. It is much fairer. But when it comes to those people and those interests we seem to not be willing to ask them to be a part of this national sacrifice.

So, I do not disagree with my colleague about the importance of deficit reduction and getting to the point where we balance the budget. But I would like for it to be done on the basis of some standard of fairness, not based upon the path of least political resistance.

Which takes me back full circle to my remarks about Davis-Bacon. This effort to repeal Davis-Bacon, which is what this is all about, in a bill we all think is important, is an effort to do nothing less than to depress the wages of middle-income and working families in America. It should be defeated. It should be identified for what it is and it should be defeated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I would point out to my colleagues, because I know Senator WARNER is a chief architect of this, I have great respect for Senator WARNER. If I were to give an award of courage for the last 2 years in the U.S. Senate to any single Senator, it would be an award of courage to Senator WARNER for how he has conducted himself in a very difficult situation in the State of Virginia. I greatly respect what he has done. He has handled himself with class.

But even the best of Senators can be wrong once in awhile. I believe Senator WARNER has erred in moving to repeal Davis-Bacon, in terms of highway construction. It is interesting that the National Alliance for Fair Contracting has come up with highway construction costs in low-wage States versus high-wage States. Listen to this. Total costs per mile on highway construction—and I assume this is State and interstate highways rather than local roads—total cost per mile in the low-wage States, $1,141,000. Total costs of highway construction per mile in high-wage States, $1,017,000 per mile.

The reason, in part anyway—and I have not looked at these statistics in detail. I do not know how they were arrived at. But one of the things that every study shows is that if you pay people well they are more productive workers. Davis-Bacon does not only apply to union workers, but the Harvard studies and others also show that union workers are more likely to be satisfied and more likely to be highly productive.

My hope is that we would not repeal Davis-Bacon. I think the reality is that if you repeal Davis-Bacon you do depress the wages of people who are struggling, people who are in the middle class or people who are trying to move up to the middle class.

When you see somebody out holding a flag because there is highway construction, that man or woman is not paid an awful lot of money; paid really probably above the minimum wage but not a great deal above the minimum wage. To depress that person's wage, which is what we would do if we pass this bill, I do not think is a direction the American people want us to go. We ought to be talking about lifting the wages of people. We ought to be talking about raising the minimum wage, not depressing wages. Yet, that is what we are really asked to do in the legislation that is before us.

Does Davis-Bacon need to be modified? There is no question that it should be modified. I had an amendment that Senator KENNEDY was a cosponsor of in the Labor and Human Resources Committee which applied to Davis-Bacon across the board, not simply to highway construction, which Senator WARNER says is about 38 percent of the application of Davis-Bacon. It would raise the threshold for coverage from $2,000 to $100,000. It would raise the threshold for repair work or alteration compared to new construction to $50,000. The current act, which is sometimes called the Copeland Act, is an—incidentally, Congressman Bacon, who was a cosponsor of Davis-Bacon, was a Republican Member of the House—but the Copeland Act currently requires weekly submission of payroll by contractors. We change that. So we reduce paperwork. And on contracts between $50,000 and $100,000 they would not be required to submit payrolls at all, simply a statement that they are complying with the law. And for the contracts over $100,000, instead of submitting a weekly payroll, they could submit a monthly payroll.

I think those kinds of changes are the changes that we need. I think they make sense. I hear reports that Senator HATFIELD may be coming up with a modification, something like the one that I offered in committee, and I hope that he does. I hope that somehow we move to a more sensible answer than simply repealing the Davis-Bacon legislation. Again, I see nothing to be gained for the country in highway construction costs, and in terms of what we are doing for our country to lift our people by repealing Davis-Bacon.

When people say, "Well, if you pay less, should not we have to pay less for highways?" The answer comes in productivity or it comes in profits. It is interesting to me. I was contacted as I walked into this body today by someone speaking in behalf of highway contractors who did not want to have Davis-Bacon repealed. I am not saying that he speaks in behalf of all highway contractors. But I was surprised to have someone contact me in behalf of highway contractors.

Labor costs per mile, according to the study in low-wage States, $216,000; labor costs per mile in high-wage States—my colleagues from Michigan and Rhode Island will be interested in this—in high-wage States costs per mile of labor costs are $241,000. Let me just repeat that because I know my colleagues from Michigan and Rhode Island would be persuaded by what I have to say on this now. The study shows in low-wage States the labor costs per mile are $216,000, in high-wage States the labor costs per mile are $241,000, and yet the total cost per mile, wages, everything—$1.141 million in a low-wage State, $1.17 million in a high-wage State.

(Mr. KYL assumed the chair)

Mr. SIMON. Mr. President, let me also digress for just a moment to say to the Presiding Officer, and to the Senator from Michigan, the only good thing about the Republicans taking over the Senate is Republicans have to preside and Democrats do not have to preside anymore. So I welcome the Republicans presiding up there.

But again, I say to my friends from Rhode Island, Arizona, and Michigan, and elsewhere, the evidence is just overwhelming that all we are going to do is depress wages. We are not going to reduce costs in highway construction if we repeal Davis-Bacon. The statistics show that.

I do not know why we should want to pass legislation that depresses wages for people in this country. You are talking about frequently very low-wage wages at the present time. Senator KENNEDY had a chart yesterday showing Davis-Bacon wages for carpenters in Tennessee, $6 an hour. That is not high wages. Some of you spend that much per hour for a babysitter.

Mr. CHAFEE. I wonder if the Senator from Illinois would like to engage in a discussion on this point?

Mr. SIMON. I would be pleased to. I am sure at the end of the discussion the Senator from Rhode Island will agree that we should not repeal Davis-Bacon.

Mr. CHAFEE. That is a leap that I am not quite prepared to agree to.

Let me just say this: We have a philosophic difference here. The philosophic difference is as follows: The Republicans are saying let competition work, let the marketplace take effect just like it is in 85 percent of construction. What the Democrats are saying is no, no, no—that we are going to give a special privilege, a fixed wage, as it were, to those who are working on Government jobs; namely, in this case, highway construction. What they are saying is that these wages are not going to be fixed by the free market or by what the employer wishes to pay or what the workers are prepared to accept. They are going to be guided solely by what is known as the prevailing wage. We all know that the prevailing wage is the union wage. That is a fact. I think you have great difficulty showing many sections of the country where the so-called prevailing wage under Davis-Bacon is not the union wage.

So what the Democrats are saying is this is the way we want to do business. We want to say that only those companies that have had a history of paying the union wage, that are big enough to handle all the complexities involved with the recordkeeping, with the forms, with the compliance with Davis-Bacon, will be able to bid on these jobs. The little fellow who is out there and has done well, in let us, say home construction or in sidewalk paving, or driveway paving, he cannot bid on a paving job for the U.S. Government or for the Highway Administration or for the State highways where there is Federal money contributed. He is out. That is a fact.

Davis-Bacon is a protective device for two things: For union wages, and union employees, union members, and for the big construction companies. It is no surprise that the Senator from Illinois is quoting some construction company saying we want to keep Davis-Bacon. Of course they do. And it is probably one of the biggest construction companies because they can keep everybody else out. The little fellow who comes in at a lower price, at a better bid, he is out.

To me that is a very, very strange way of doing business. It is saying that competition is not going to prevail. That is really what Davis-Bacon says. You cannot have competition except under these limited rules where you are going to pay the prevailing wage.

I listened carefully to the distinguished Senator from Massachusetts yesterday who had a very vigorous speech. As a matter of fact, all speeches the Senator from Massachusetts gives are vigorous speeches, with the volume turned up on occasion.

His point is that you are going to drive everybody else into the poorhouse. They are depressing wages, this wicked business of competition. That is like saying all the companies, the workers that work on the 85 percent of the other construction in the United States not covered by Davis-Bacon. What are we talking about? We are talking about building a building, building a warehouse, building housing, building apartment houses. That is not covered by Davis-Bacon unless the Government in some fashion has contributed, as the Senator knows. That is the rules that guide when Davis-Bacon applies.

The idea is that everybody that is doing construction in these other nongovernment jobs is just in rags, has been beaten down by the competitive system. That is nonsense. We all know that is nonsense. Those who are good, if you are a good worker and have the skills and can produce, you get the job and you get the pay. And to say that everybody is working at a minimum wage, a carpenter or a latheman, an electrician, a plumber, whatever it is, is working at some scroungy minimum wage because he does not have Davis-Bacon to protect him is total nonsense. I am sorry that the suggestion has been made. We can argue whether we want to have the Government getting into setting these wages, as in effect we are doing. That is fine. But to suggest that everybody is poverty stricken if Davis-Bacon should be eliminated is just not so.

Mr. SIMON. If I may reclaim my time and respond to my friend from Rhode Island, who on most things is very rational and reasonable, he has strayed on this one. I remember way back when taking a course in logic at Dana College, a small liberal arts college in Nebraska, and one of the things you set up is a series. There is an animal that has four legs. A horse has four legs; therefore, that animal is a horse. Well, it turns out that animal is a cat and not a horse, but you start off with some premises that are not accurate.

Do we want to have the free system? Yes, we want the free system. On that I agree with him. When he says the prevailing wage is the union wage, then the Senator from Rhode Island is off base. Only 11.8 percent of the nongovernmental employees in this Nation are union workers. The Senator from Massachusetts is here and I am sure will bear me out on this. Of the wages that are considered for prevailing wages, only—and if I may have the attention of my colleague from Rhode Island—of the wages that are considered for determining prevailing wages, only 29 percent are union workers. Of the rest, 48 percent are nonunion and then some mixed situations.

What Davis-Bacon says is go in and find out what the average wage is in Jones County, RI, or whatever the county is in Illinois or Arizona and do not let the Federal Government be the source for depressing wages for the workers of our country.

I think that is sound. That is what Davis-Bacon is all about. And then let businesses that pay the prevailing wage compete. Let the free market system work. Do not let it work by depressing people who are really struggling for a living.

I hope we will do the sensible thing and not repeal Davis-Bacon.

I see the presence of the senior Senator from Massachusetts, and I yield the floor, Mr. President.

Mr. KENNEDY. Mr. President, I want to commend my colleagues and friends who spoke earlier today about the issue that is before the Senate. It is described as a repealing of the Davis-Bacon Act but only in regard to the highway system.

It has been pointed out that represents 40 percent of all the Davis-Bacon protection. So it will have a very substantial impact on the construction workers of this country, depending upon what will be the will of the Senate on this particular issue.

As we have heard, even in the early parts of the debate by our good friend from Virginia, what he is basically talking about is taking approximately a billion dollars and getting more construction out of that billion dollars. Translated: That is taking more than a billion dollars during the life of this program out of the pockets of the men and women who work in the construction industry—that is basically what is being talked about here—depressing the wages of workers in the construction industry.

Yesterday, I took a few moments to point out what those workers were earning across the country. We are talking about men and women in the construction trade who are earning $26,000, $27,000 a year. Mr. President, $26,000 or $27,000 a year is hardly enough to pay a mortgage and put bread on the table and provide for the education and clothing of their kids and look to the future, plus being in an industry which is the second most dangerous industry, outside of the mining industry, in this country.

I reviewed what the workers were getting in different parts of the country, and we saw in those charts across the country, whether they were in heavy industry or in the residential area, what individuals were making. Some made $9,000, $10,000, $15,000 a year, going up even into the larger figures of up to $42,000 a year.

We saw that what we are talking about is their income and the assault on their income. That is basically what is the issue here. I have listened to the argument made that we are trying to jimmy the whole debate process on this thing in favor of denying competition. What we are saying is let us rule out the question of a competition to drive wages down when we are investing Federal taxpayers' money. That is what Davis-Bacon does.

If the companies and corporations are able to compete, showing better management, better skills, better administration, they can do it and win the contracts, but we are saying here that we are not going to permit driving wages down. We want the taxpayers, the middle-income families, to benefit from the opportunity to have real competition, not on driving wages down in this country at this time, but having competition on the other measures. That is what this debate is really all about.

I went through some figures yesterday about construction income. If you are a carpenter in Tennessee, you are talking about $9,000 a year under Davis-Bacon. If you are a carpenter in Providence, RI, it is $23,000. Mr. President, $23,000 does not go a long way up in New England when you are paying for home heating oil, paying the mortgage, and putting food on the table. It does not go a very long way, and if you repeal Davis-Bacon, you are putting at risk even this income.

Mr. CHAFEE. Will the Senator yield?

Mr. KENNEDY. I will be glad to yield to the Senator, but I want to be able to make the case with regard to Davis-Bacon and some other comments about the context of this whole debate. I plan to be here for some time, and I will be more than glad to respond to questions on the various studies that we have had and some of those that we are going to get into.

In my State, carpenters working on residential construction make $28,000 a year; in Rhode Island, it is $23,000. It is hard to make ends meet if you are working 1,500 hours a year. That happens to be the fact.

Let me just go back and tell you what will happen if this amendment strikes Davis-Bacon—to give a little example. We are fortunate in this public policy issue to have seen what happens in States where they have repealed Davis-Bacon. So often we debate these issues and we do not really have good information. We have what we think, what I think, what those on the other side might think, or whatever individual Members think. We have some studies. But very interestingly, on the repeal of Davis-Bacon, we have some very important information that is directly related to what happens in terms of wages and in terms of the impact of the repeal of Davis-Bacon, and that is a study that was done in the State of Utah.

In February 1995, four researchers at the University of Utah—this is out in Utah. We are not talking about some college or university in some other part of the country, we are talking about a University of Utah study of the economic and social consequences that actually resulted when nine States that had prevailing wages repealed them. That is the issue here.

Under the proposal of the Senator from Rhode Island, he would effectively repeal Davis-Bacon on construction.

Now we have the example of what happened to nine States, according to the University of Utah. Unlike the CBO reports, or anyone's theoretical speculation about the benefits of repeal, the Utah study provides real world evidence about what happens when contractors are allowed to pay less than the prevailing wage. The nine States are: Utah, Arizona, Kansas, Idaho, New Hampshire, Alabama, Colorado, Florida, and Louisiana, which repealed their Davis-Bacon laws between 1979 and 1988.

The research should convince any Senator that repeal is not in the best interest of construction workers, the industry, or the Government.

First of all, repeal led to lower wages for all construction workers. The average earnings for construction workers in the nine repeal States fell from $24,000 before the repeals to $22,000 after.

That should not be very difficult for people to figure out. This proposal in the highway bill is to drive down those wages of working men and women. I do not know what it is about our Republican friends over there, or what they have against working families, but they are right out there now trying to say to those that are working 1,500 hours a year in the second most dangerous industry that we are going to drive your wages down $2,000 more. We ought to be debating how we are going to raise the minimum wage. We ought to be trying to honor work, saying work pays, and encouraging people.

Now, this is what happened in these States. In the nine repeal States, their incomes went from $24,000 before to $22,000 afterward. The analysis shows that because of the repeal in those States, the wages amounted to $1,477 less per worker every year since the State repeal. This is the obvious and expected result of allowing contractors to pay less than the prevailing wage. So that is what the result was. That should not be any surprise. You have those supporting the repeal, who have indicated they are going to take that money and use it in construction at the cost of income for working families that are making $27,000. We are not talking about the $100,000, $150,000 or about the million dollar workers that are skimming on that; we are talking about working men and women earning in the range of $24,000.

Now, this is the second one. Slightly increased construction employment. In the repeal States, a 1.7-percent increase in construction employment that would not have occurred if not for the repeal. But construction employees as a whole were harmed because their overall wages fell by 5 percent—much more than their employment increased.

Third, as wages dropped, so did State revenues. That is interesting. We have not heard much talk about what the impact is going to be in terms of the revenues, in terms of, in this instance, the Federal Government. We have not had that economic analysis. And we understand why. That is because the Environment and Public Works Committee does not deal with this issue. They are just picking up some cliches, bumper sticker solutions. We all know what Davis-Bacon is about, and we have debated that. We are just going to repeal. We hear that all of the time.

Well, I hope they are able to tell us with this repeal what the impact is going to be in terms of the economy. As the wages drop, so do State revenues. Utah lost $3 to $5 million in sales tax and income tax revenues.

Fourth, repeal led to an increase in construction cost overruns. In Utah, cost overruns on the construction of State roads tripled after the repeal. Very interesting. The cost overruns escalated dramatically after contracts were awarded without the Davis-Bacon protections, because contractors bid low and got the job and then had to be bailed out. The amount of cost overruns tripled in the 10 years after repeal compared with the 10 years before.

Fifth, repeal led to a less skilled labor force. Union and nonunion apprenticeship rates fell 40 percent, whereas States that did not repeal the prevailing rate did not lose ground. The best apprenticeship programs that we have in this country are in the construction industry, which are a reflection of those in the construction industry working together in the development of these skills. They are the best that we have in this country. And what happens is when these individuals go through these training programs and work, their results in terms of performance are better. That is pretty logical. One of the attendant results of cutting back on Davis-Bacon is the significant reduction in participation in apprenticeship programs.

So we have the cost overruns, we have a less skilled work force, and sixth, we found out that minorities were hurt disproportionately. Their share of apprenticeships fell from 20 percent to 12 percent of apprenticeships in the repeal States. Minority opportunities to learn new skills and advance in the trades were doubly restricted. The apprenticeship pie got smaller, and their piece of the pie got smaller.

I am waiting for the argument that says if you repeal Davis-Bacon, it is going to offer new opportunities for minorities and women. Maybe we will have that argument later in the day. But it is not so. That is why none of the groups representing minorities and women support repeal. All they have to do is look at what happened in the various States.

I see my friend and colleague from Rhode Island leaving. I wanted to talk for a few moments, and I will be glad to yield. I do not want to be disrespectful.

Mr. WARNER. Mr. President, I will be here with the Senator.

Mr. KENNEDY. I thank the Senator. I wanted to just review this study and then get back into this. We have found now that the minorities were hurt disproportionately.

Seven. The injury rates rose. Construction work, which was already dangerous, became considerably more dangerous after repeal. Injury rates rose 15 percent, even after controlling for national trends in construction safety, and other factors, such as unemployment. So there is no good reason to believe that these grim consequences would not be replicated on a bigger scale if the Federal Davis-Bacon Act were repealed.

In terms of injury rates, for example, a 15-percent nationwide increase would mean 30,000 more serious injuries a year, more than 670,000 additional lost work days, and direct workers' compensation costs of $300 million, which would be passed on to the Federal Government in increased construction costs.

Collectively, for all construction workers, the research estimates a loss of almost $5 billion a year in construction earnings, which would result in a loss to the Federal Government of roughly $1 billion a year in income taxes. Clearly, these losses dwarf any benefits the Government might derive from cutting wages on workers on Federal construction projects, based on a repeal of Davis-Bacon.

So, Mr. President, this is what we are faced with. As I just mentioned, we not only have the studies, we have the results of what happened in States where they repealed their State Davis-Bacon. What we found is a significant reduction in workers' salaries, about $2,000, from $24,000 down to $22,000.

If you are interested in depressing the wages of hard-working men and women in the construction trade, your vote is to repeal Davis-Bacon. If that is what you want to do—say to American workers in the construction area, men and women averaging $27,000 a year, you are doing too well in America, even though your real purchasing power has declined over the period of the last 10 years, even though you are working harder, that $27,000 is too much for someone who wants to work in the second most dangerous industry, we are going to take back $1,500 or $2,000 from you—then go ahead and support the Republican position.

If you want to say that the lost revenues the Federal Government is going to see—and the best estimate from the Utah study is lost revenues of a billion a year—are not much and that our economy is in such good shape that we can say we are going to deny that billion dollars, we do not need that billion dollars either in the deficit, or to try and invest in the education of the sons and daughters or the children or the parents.

Just go ahead and support that program right over there that repeals Davis-Bacon. If anyone is not concerned about the increase in the injury rate that the Utah study has pointed out, the 15 percent, if anyone is not concerned about it and you think you have the right position, repeal Davis-Bacon, and the case goes on, Mr. President.

I think, quite frankly, those that just believe that this is a nice little way, somehow, to try to find a magical $1 billion out there and will somehow mean the taxpayers will be better protected, better be able to consider the realities we have seen.

I think when they do, they will realize that this particular measure to repeal Davis-Bacon will have a terrible impact on these families. It is basically wrong.

What I want to point out, Mr. President, now, is just where these working families are, what we have seen in the States that have repealed the Davis-Bacon Act. In those nine States, we have seen decline in real income for those working families. And we have seen in the charts brought out here earlier what has been happening to the working families over the period of these past years.

My good friends from Wisconsin and from Illinois pointed out what has happened from 1950 to 1970. What we found out from 1950 to 1970, when the Nation was growing and expanding, from 1950 to 1978, when we were going up and growing together, we were all growing together. The bottom 20 percent was growing; the second 20 percent, almost 100 percent; the middle 20 percent was growing; the fourth and the top was growing. All groups were growing just about together, and the bottom group was growing the most.

That is what was happening from 1950 to 1978. We heard our good friend from Michigan talking about sometimes we had good growth policy and not good growth policy. Therefore, we ought to be more particular.

He was pointing out that what was happening in 1980 was not really so good to look at because we were still coming out of the Carter high-interest rates and increasing unemployment. I am familiar with that period because I differed with the economic policies at that time, as well.

If we look now, and I am sorry my friend from Michigan is not here, but if we look now to what has happened from 1983 to 1989, now we have the new federalism. We have not heard much recently about the new federalism. Remember, in the 1980's, we were hearing about federalism, tax cuts, budget cuts, increased military spending. That was the new federalism.

We have the same economic program now, but the new federalism has somehow disappeared. I do not know why we are not using those words. I think basically the reason they are not using those words is it sends a message to middle-income families of what has happened to them over the period of these last years.

Taking 1983 to 1989, that will be more in tune with what happened during the Reagan and Bush period. This is what happened. Remember the other figures I just discussed? We were all growing together. And now take the top 1 percent; their wealth is 61 percent. The next 19 percent is 37 percent. The bottom 80 percent is 1.2 percent.

Remember the other chart had virtually the same, a little disparity, and the greatest growth was taking place at the end. In 1979 to 1992, who got the growth? This chart shows shares of average household income growth, the Bureau of Census figures.

Here we see the top 25. And we can take the red line, adding it, to equal 100 percent. We do not have to have charts like this. Talk to any family, talk to any worker in this country, and they will say the same thing. They will say the only way family incomes stayed competitive is that women entered the work force during the period of the 1980's, and they were just able to hold on to their family income. Although the real wages were going down, they were working harder, and they were just able to stay above the waterline. Without that additional kind of work, we have seen what has happened. Family incomes took a beating. Now we are asked out here on the floor of the U.S. Senate to accelerate that, repeal Davis-Bacon and drive those working families down even further in their wealth.

That is what they are asking us to do. The proponents of repeal say take that $1 billion out of the pockets of working people and put it into construction. Said another way, that is, take the $1,500 to $2,000 out of the pockets of these working families here in construction, and put it over somewhere into the distribution of the higher income brackets. That is what is happening.

Now, Mr. President, this is what is happening on this particular measure on Davis-Bacon. If we juxtapose this position, because we are talking about what is happening to working families —that is what this issue is really all about, what is happening to working families in this country—we have made the case. We are opposed.

We have competition. We ought to have the competition. It ought to be based upon management skills, efficiency, ability to buy cheaper materials, the ways of being able to do business. But not as a result of depressing workers' wages. That is the basic tenet of Davis-Bacon.

Just to restate what the obvious was in the other charts, I wish we were out here debating the increase in the minimum wage. That is what we ought to be doing. That is what working families are really concerned about: Making work pay.

It used to be that the minimum wage was adjusted periodically, in the 1960's, 1970's, and 1980's, under Republican as well as Democratic administrations. President Reagan increased the minimum wage on two different occasions. George Bush increased it in 1989. Why? Why?

They said, "Because anyone who works in the United States 40 hours a week, 52 weeks a year, ought to have sufficient income to not be in poverty, to put enough food on the table, pay their mortgage, and raise their children."

That has been true since the 1930's, until now, Mr. President. Until now. Until now, when we find out what has been happening in terms of the minimum wage and its impact on taking families out of poverty.

Go back—and this is, again, a response to some of the points raised by my good friend from Wisconsin—and look at the particular year. This is the percent of the poverty line, what a person has to get up to in order to be free of poverty. This is for the minimum wage for American workers. We are almost up there during the 1960's and 1970's, and even 1980's. And here it is. President Bush signed the increase to bring it back up, and it went right back down again. This is what is happening for men and women who are working in our economy, trying to make ends meet.

For those that advocate the repeal of Davis-Bacon, at least they would have much more credibility, much more credibility, if they said, "Look, this is really a construction issue. We are happy to be for working families. We are for the increase in the minimum wage." I daresay, you will not find five votes difference between those who want to repeal the minimum wage and those who want to repeal Davis-Bacon. It is the same group, virtually, the same Senators who want to drive construction workers down and refuse to give working families any increase in the minimum wage, although Republicans and Democrats over a long period of time have been willing to do it.

Why do they not say, "Look, Senator, you are wrong on the construction law. It is too bureaucratic, too much paperwork. I am for the minimum wage increase, and I want workers to get it, but this is not appropriate in terms of the construction industry." There is silence on it.

The Republican leaders in the House of Representatives said that only over their dead bodies would we increase the minimum wage. They are going to have an opportunity to lie down in front of that train, because we are going to make sure that this body will vote on it. We are going to make sure you will vote on it and vote on it and vote on it.

Men and women back in your home States are going to know whether you really honor work, whether you think work pays, or whether you are turning your back on working families. That is what has been happening on the minimum wage.

I am always told—"We cannot do the increase in the minimum wage, Senator KENNEDY"—and am always given a variety of reasons why. But let us look at the facts. I am not going to review the New Jersey studies today that show that the last time we had an increase in the minimum wage, the State of New Jersey had an increase in employment. But I will just take a moment of the Senate's time to show what has happened the last seven times we have seen an increase in the minimum wage.

In 1949 we went from 40 cents an hour to 75 cents, the change in the inflation rate reached a high of 1 percent. In 1955, the rate was increased from 75 cents to a dollar, and inflation reached a high of 3.6 percent.

From 1961 to 1963, the minimum wage was increased from $1 to $1.25, and inflation increased only 0.3 percent; not 3 percent, but only 0.3 percent. In 1967 and 1968, the minimum wage was increased from $1.25 to $1.60, and inflation remained stable, and did not increase at all.

From 1974 to 1976, the minimum wage was increased from $1.60 to $2.30, and inflation rate actually decreased—decreased—from 11 percent to 6.5 percent. From 1978 through 1981, the minimum wage increased from $2.30 to $3.35, and inflation actually increased and decreased intermittently. Then, from 1990 to 1991, the minimum wage increased from $3.35 to $4.25, and inflation decreased from 5.4 to 4.2 percent.

In effect, increases in the minimum wage had virtually no impact on the rate of inflation.

Let us look at the economy and the impact of an increase in the minimum wage on unemployment. If you look at the facts, you cannot make the case that an increase in the minimum wage has had an adverse effect on employment. You find that it has not had that impact.

Let us look back at the increases in the minimum wage since 1949. The first time the minimum wage was increased, unemployment decreased from 5.9 to 5.3 percent. Unemployment actually went down.

In 1955, the minimum wage was increased from 75 cents to a dollar, and unemployment decreased again from 4.4 to 4.1 percent. Again, unemployment went down.

From 1961 to 1963, when the minimum wage went from $1.00 to $1.25, unemployment decreased from 6.7 to 5.5 percent.

These facts show that there has been virtually no impact on either inflation or unemployment. And nonetheless, we have this blind opposition from the other side to any increase in the minimum wage.

So, what you are saying out here, Senators, is not just, "Oh, this is a little highway bill. We have to get it by the fall." What you are doing is a continuing, ongoing assault on the middle-income families of America. We have seen the massive switch in terms of income and wealth in this country, from the stability from the 1950's to the early 1970's to the enormous dichotomy in the 1980's and 1990's where wealth for the wealthiest individuals has gone up, and 80 percent of these workers, construction workers, are being asked to sacrifice at least $1,500 a year. And at the same time when the Republicans say absolutely no to any kind of increase in the minimum wage.

President Clinton's proposal on the minimum wage increase, if it passed today to bring it to $5.15 would just bring it right back up here where President Bush was. But the answer is, "No. No, we are not going to do that. No, we cannot afford in this country to do it. No, it is going to cause unemployment and inflation"—in spite of the facts and the history that show it is not.

So you cannot get away from this question: What is it we are talking about here this afternoon and what will we be voting on on Monday? It is real income. It is really an attack, an assault on working families for the privileged, taking the savings of the various cuts and giving them to the wealthiest individuals. It is perpetuating that. That is what is happening around here. That is what is at risk at this place.

Who are these families we are talking about here, who are going to be adversely impacted? What is going to be the impact on them? First of all, not only do we have, as I mentioned, the assault on the workers themselves, which means you have the assault on all those in construction and the denial of income to the 12 million who would be bumped up if they had some increase in the minimum wage. But what else is happening? What else is happening? We are saying to those construction workers: You care about your parents? You love your parents? They had some good Medicare, they had some degree of security—we are going to cut their Medicare programs by hundreds of billions of dollars over the period of the next 7 years. We will raise the out-of-pocket expenses, if the cuts the Republicans have suggested were evenly divided between beneficiaries and providers, $6,400 in the outyears. In the 7th year it is $6,400.

So, not only are we squeezing you on the Davis-Bacon, not only are we squeezing you by refusing to give you any increase in the minimum wage, but you better start putting some more of those scarce resources away because you are going to have to pay more out of your pocket to make sure that your parents, who are under Medicare, are going to be able to live.

And what about their children? What about the children of those working families, those construction workers? If they go to the fine schools and colleges up in Rhode Island, of Senator CHAFEE, or our other good friends from Virginia or Vermont or Massachusetts, what you are saying is if you are going to be able to qualify for any of those Stafford loans, you are going to have to pay a third more, a third more of indebtedness because of the cuts in terms of the education programs. Over the 7-year period, those families will lose more than $1.2 billion just from my State of Massachusetts for those scholarships. For the Stafford loans over the 7 years under the Republican budget that passed through here—$1.2 billion will be taken out of the pockets of the sons and daughters of working Americans—to go where? To continue their education; indebtedness of government transferred onto the indebtedness of those children. That will lead to a reduction in terms of the college opportunities for these kids.

And who benefits from all this? You are cutting back on the wages of working families, you are denying an increase in the minimum wage, you are saying their parents are going to have to pay more for Medicare, you are saying if their children are going to school, they are going to pay more out of pocket.

Then look at the bottom line, at what happens next. The $350 billion that you get in savings goes to the wealthiest individuals of this country.

Let us not kid ourselves, that is what this whole debate is effectively about. It is coming in baloney slices but this is the end result of it. You are doing all this for the tax cuts that have just been reiterated by the Republicans in the House of Representatives this past week when they reaffirmed their commitment—because they evidently were getting somewhat jittery about where the Senate Republicans were going to be on it—they reiterated the $350 billion tax cut for the wealthiest individuals.

So that is all a part of this. And I have not even mentioned the cuts that were proposed in terms of the day care proposals and the support for working mothers. They will be lucky if they are able to find day care for $6,000 a year in my State of Massachusetts—very lucky. You take the percent of income that working mothers pay for day care and you wonder why they are not out there on the job rolls instead of on the welfare rolls. We are talking about increasing the minimum wage to try to get people off welfare, make work pay, and it is extraordinary to me, extraordinary to me for the millions of Americans who would make more by being on welfare—millions of Americans make more by being on welfare; they get the health care in terms of the Medicaid, some of them even get limited amounts of day care help, they get other kinds of help and assistance in terms of fuel assistance and other kinds of benefits.

If you give an increase in the minimum wage, do you know what is going to happen? Those people are going to have more resources, make more money, and they will not be eligible for these Federal programs and we will get savings at the Federal level because we will be paying people a livable wage.

I would think those people who want to diminish Government programs would say, Why should the Federal Government continue to subsidize the workers for companies and corporations? Because that is what you are doing. You are paying them a lower minimum wage, and then they are eligible for the safety net. Who pays for the safety net? The workers do. The employer does not. It is a subsidy for them. We talk a great deal about how we are going to make our American people understand the importance of work, and then we deny them the very wherewithal to make work pay. That is part of this whole point.

Mr. WARNER. Mr. President, I would like to ask the Senator a question.

Mr. KENNEDY. I will yield in just 2 more minutes.

Finally, Mr. President, I hear in this debate that we have to try to get our house in order, too. Part of our proposal is to make sure that whatever we pass here in the Congress is going to be applicable to people across this country and also apply to us. I believe that it should. I support those programs. We passed them this year. Congress could have passed them last year. I believe so. You remember all those speeches. I even heard some yesterday in our Labor and Human Resources Committee on a different subject saying: Whatever we do, we want to make sure that, if it is going to happen outside the Senate and Congress, it ought to be applied to us. I say amen to it.

But how interesting it is for those new Members who come to the U.S. Senate and sign that little blue sheet that gives them the Federal employees' health insurance program, which is the best health insurance program in the country; effectively, 11 million Federal employees have it, and every one of us has it. The most recent information I have is that there is not a Member of the U.S. Senate who has rejected it.

Where are all those voices that say, "Look, we have it. Why not make it applicable to the American people? We have it." Is there not a flip side to the coin of all those speeches that we had to listen to day after day after day and which we agreed on—it passed overwhelmingly—which said we are going to make the laws which apply outside applicable to the inside? Amen. But how silent they are now. We have it for all those new Members, let alone older Members that get that Federal employees' health insurance, the premium of which is $101 for me with the Federal Government picking up the rest per month, and it gives me the best in terms of health care.

How silent we are in this debate about making that available to these working families that are having a tough enough time, who see the depletion of the value of their dollar. They are working harder and are paying more and more out for health care. We are shortchanging the children in terms of education. We are shortchanging the parents in the cuts in Medicare. We are denying them a decent kind of income, depressing those wages, refusing to increase it, and they are paying more and more out of their pockets for health care while we in the U.S. Senate have just made sure we are covered.

Mr. President, all of that really is wrapped in together because you are talking about income for families. We faced some of those measures early in this year when we had the budget cuts. We had the debates on education and on children's programs, and on other women's health care programs. That was a part of it. We will have another debate on reconciliation. We had debates in the budget with regard to the Medicare cuts. That was a part of it.

But the bottom line is that we are talking about the families of American workers. We are talking about their parents, we are talking about their kids, we are talking about their small children, their babies, and we are talking about their ability in this great country of ours to be full participants in the economic hopes, dreams, and economic justice of our Nation.

I daresay that all of that is what we are basically talking about when we are talking about the repeal of the Davis-Bacon Act.

I will be glad to yield for a question.

I will yield briefly for a question, and then I will yield the floor.

Mr. WARNER. Mr. President, for those following this debate who wish to be informed of what will occur for the balance of today and on Monday, I will make a brief announcement.

But to refocus the procedural as well as the substantive issue, procedurally this bill has been brought up, the national highway bill, and on it is a Davis-Bacon amendment. The Senator from Massachusetts is perfectly within his rights to discuss a broad range of issues because at the present time, it is my understanding he objects to further consideration of the bill, which is within his rights under the rules of the Senate.

My concern is that when you say that this amendment, that is, the Davis-Bacon amendment, takes wages and deprives workers of the ability to receive wages and to work, I ask the Senator if in fact what would occur here is simply that you take the highway trust fund, which is allocating money to the States, and the amendment would simply say that no longer would the States be required to take a percentage of those funds and apply it to the Davis-Bacon regulations; those funds would be expended on additional highways, providing additional work, and in a sense the same workers would get, relatively speaking, the same amount of money, but the people of that State will get additional work performed—more highways, better bridges. So it translates into a work product to be received by all the residents of the State. And the same workers end up, over a longer period of time, with the same amount in their pockets.

Is not that the case?

Mr. KENNEDY. I say to the Senator, no. That is absolutely not the case. I do not know where the Senator was earlier when I outlined the University of Utah study that analyzed the nine States that repealed their Davis-Bacon laws, which is effectively what you are doing with the construction industry. What you saw in those States is that there was a 1.7-percent increase in employment, but the total income for those workers in all of those States declined 5 percent. That amounted to between $1,500 and $1,700 per worker per year; the cost overruns went up three times over what they had been; the injury rates increased significantly; the total revenues to the States declined; and the total revenues, I think, to the Federal Government declined. The bottom line, I will just say, the most important part of that Utah study, is that the real income for all of these workers declined.

Just finally, what we are saying is we want the competition but not the depressed wages. That I think is a basic difference.

Mr. WARNER. Mr. President, the Senator can certainly bring up all the studies he wishes. But the practical dollar and cents is, take the State of Virginia. We anticipate we get $150 million. Part of it is allocation. All of that has to go into highway construction or matters related to transportation. So it is not as if this money is going to be lost. It is going to the States, and simply this amendment translates those dollars into more road construction, bridges, whatever it may be—safety, more construction. And the same workers eventually get the same amount of money.

So I do not wish to conclude this debate today on the theory that this amendment reaches in and robs the people of the opportunity to work, or of their wages, or that the people in the States are deprived of the benefits that they are entitled to with the payment of their gas taxes.

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The leader will subsequently inform the Senate, but I expect the Senate to reconvene about 12 noon on Monday, with morning business until 1 o'clock. And there is currently set a cloture vote for 3 p.m. Monday afternoon.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Mr. President, reserving the right to object—of course, I shall not—I know the distinguished Senator from New Hampshire is on the floor and wishes to speak. He has already mentioned that. I know our side has been speaking for some time.

I wonder if we might know the order of the 10-minute order. Will the distinguished senior Senator from Virginia be willing to amend that to ask that the Senator from New Hampshire be recognized first in the order of those speaking as in morning business, and then the Senator from Vermont be recognized following that?

Mr. WARNER. Mr. President, I am perfectly willing to do that. I think the Chair should be addressed by the Senator from New Hampshire first.

Mr. SMITH. Reserving the right to object, I would like to have 20 minutes, if that would be agreeable to the Senator from Vermont.

Mr. LEAHY. And the Senator from Vermont be recognized, say, at 1:22.

Mr. WARNER. Mr. President, I so modify my request.

The PRESIDING OFFICER. Is it the Senator's request that we proceed to morning business with a limitation of 10 minutes, except that the Senator from New Hampshire have the opportunity to speak for 20 minutes; and what about the Senator from Vermont?

Mr. LEAHY. Also 20 minutes.

The PRESIDING OFFICER. Also 20 minutes. Is that the request?

Mr. WARNER. Mr. President, that is the request.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Hampshire is recognized.

Mr. SMITH. I thank the Chair.

MEASURE READ FOR THE FIRST TIME—S. 939

Mr. SMITH. I send a bill to the desk and ask that it be read for the first time.

The PRESIDING OFFICER. The clerk will read the bill by title.

The bill clerk read as follows:

A bill (S. 939) to amend title 18, United States Code, to ban partial-birth abortions.

Mr. SMITH. Mr. President, I ask the bill be read for a second time.

Mr. LEAHY. Mr. President, I will have to object.

The PRESIDING OFFICER. Did the Senator make an objection?

Mr. LEAHY. The Senator from Vermont objects to the second reading—obviously not to the first reading, but I object to the second reading.

The PRESIDING OFFICER. Objection is heard. The bill will be read for the second time on the next legislative day.

The Senator from New Hampshire is recognized.

Mr. SMITH. Mr. President, on behalf of myself and the Senator from Texas [Mr. GRAMM], I rise today to introduce the Partial-Birth Abortion Ban Act of 1995. This bill is the companion legislation to a measure that was recently introduced in the House of Represenatives by Congressman CHARLES CANADY of Florida. Congressman CANADY is the chairman of the House Judiciary Committee's Subcommittee on the Constitution which held a hearing on the bill yesterday.

Mr. President, partial-birth abortions are first performed at 19 to 20 weeks of gestation—and often much later. To give my colleagues a clear understanding of how well developed an unborn child is that late in pregnancy, I have here an anatomically correct medical model of an unborn child at 20 weeks' gestation. It is unlikely that the cameras will pick it all up, but this is the actual size of a 20-week child, and the bodily features are there—nose, eyes, lips, fingers, toes—almost perfectly formed so that anyone could see that this is a child.

I want to point out to my colleagues that this is the smallest that this child could be under this procedure, which begins at 5 months or 20 weeks. So that this child is aborted in this procedure minimally at this size and much larger as the child grows in the womb.

Now, I have brought some photographs to the floor that show perhaps a little more clearly premature babies of the very same age of many of those babies who are the victims of these partial-birth abortions.

This photograph here—this is an AP photograph, by the way—is of tiny Miss Faith Materowski. Little Faith Materowski was born at 23 weeks of gestation, approximately this size, weighing in at 1 pound and 3 ounces. This photograph was taken about a month after she was born. The good news is that little Faith Materowski survived, and she survived because her mother chose to have her receive medical attention. She did not choose to have an abortion.

In photograph No. 2, we see a little lady named Melissa Mauer. She was born at 24 weeks of gestation, weighing only 14 ounces, Mr. President—14 ounces—less than a pound. She is shown in the picture about 8 days after her birth, at which point she was breathing on her own in an incubator. Unfortunately, Melissa died after briefly struggling for life after 3 months.

In photograph No. 3—this photograph was in the Miami Herald—we see a healthy little Miss Kenya King, who was born about 22 weeks into gestation, so is approximately the size of this model that I am holding. She weighed only 18 ounces at birth. She is shown here 4 months later, home at last with her parents.

Now, with a series of illustrations, in a moment I am going to try to demonstrate to you what is done to children like these and like this. This procedure is done to children—not fetuses or some inanimate object—children, Mr. President.

Now, as we put the pictures up, keep in mind that Dr. Martin Haskell, who by his own admission performed over 700 of these procedures—they are called partial-birth abortions—as of 1993, he told the American Medical News he had performed 700 of these. That is the official newspaper of the AMA. So the illustrations and descriptions that I am about to present are technical and from a technical point of view would be found or could be found in one of those journals.

In the first illustration, the doctor—excuse me, the abortionist—it is interesting that I made a slip there, saying doctor, because were this to be some type of a miscarriage or premature birth, the doctor would be assisting the birth of this child, because the mother wanted the child. But in this case, another decision has been made without the child's consent, of course, and the abortionist reaches in with forceps, using the ultrasound aid, and grabs the child with the forceps by the foot or leg, and then in the next picture he turns that child with the forceps so that he can pull the child out through the birth canal by the feet.

So you can see this being the birth canal, the child—this is a child, like this, and like those three children that we saw in those photographs.

With this child now, the forceps are around the legs and the child now is being pulled from the birth canal. In the next illustration, the abortionist delivers the entire body except for the head of the child. So we now have the abortionist pulling the child all the way out from the uterus with the exception of the head which the doctors tell me is approximately 85 to 90 percent of the child.

Now, the fourth illustration—this is pretty rough, Mr. President. I have seen a lot in my life. I am 54 years old, and I have seen some pretty rough things. But I cannot imagine, in a country as great as this why anyone could sanction—whether you be prochoice or pro-life—how anyone could sanction what I am about to show you happens.

If the head of this child comes through the uterus, they must try to keep it alive. So the abortionist has to be certain that the head does not come through the uterus. So he stops the baby from coming through the uterus at the head, and takes a pair of scissors, as you can see—I am going to try to demonstrate it here with this little model, which would be just like this, superimposed upon that picture—he takes the scissors and places them into the back of the head, into the cranium, and opens those scissors, once he sticks them in like that, to open a gap in the child's head. After that procedure is done, they insert a catheter into the back of the neck, the back of the cranium, and literally suck the brains out of that child, and as you can see there, the baby is hanging limp, now dead.

That is called partial-birth abortion.

We are really talking about inches here, are we not? What is a birth? Ninety percent out of the uterus, is that a birth? One hundred percent out of the uterus? Is that what we are going to say is a birth?

So a couple of inches and this child can live, but because it is prevented from fully coming out of the uterus by the abortionist and he then places the scissors to the back of the head, opens up an incision and inserts the catheter into the brain to suck the brains out, because that decision is made by someone other than the child, that child is denied life.

Mr. President, by the 19th or 20th week of gestation, when this unspeakably brutal method of abortion is used, the child is clearly capable and able to feel what is happening. This is a living human being.

According to neurologists, premature babies born at this stage may be more sensitive to painful stimulation than others. We had testimony yesterday at a press conference that I attended with a neurologist who indicated that. He does surgery on babies all the time, and he indicated point blank that that child would suffer pain in that procedure.

I think that most of my colleagues, and certainly most if not all Americans, would be absolutely appalled, sickened, and angered at such a brutal act committed against another human being. I know I had that feeling. I did not know that this procedure existed, Mr. President, until a couple of weeks ago, and I have been for 11 years an advocate of the pro-life cause, but I never knew this. I never knew this happened, and doctors who are gynecologists have told me that they did not know it either.

I just ask my colleagues a very simple question: If you had a dog or a cat or a pet that you needed to put to sleep, would you do it that way? Would you do it that way? Would you insert a pair of scissors into the back of the head of your family pet and suck the brains out to put it to sleep, Mr. President? Would anybody do that? This is the United States of America, the greatest country in the world, that says under the Constitution that we have an obligation to protect life. This is happening in America, probably right now as I am speaking. We would not do it to an animal, not a pet, and we do it to our children.

Under the Supreme Court Roe versus Wade decision, this partial-birth abortion procedure that I just described is legal in all 50 States. So anyone listening out there who says, "That doesn't happen in my State," it does. Somewhere in your State it is happening probably right now. Indeed, addressing the controversy over the partial-birth abortion method, the National Abortion Federation has written to its membership stating—and here is the document, here is what they say: "Don't apologize: This is a legal abortion procedure." And they are right, it is legal.

But I am going to tell you something, Mr. President, if I have anything to do with it, it is not going to be legal very much longer. This is a sickening, disgusting act that should never be tolerated, not 1 day longer, not 1 minute longer.

My good friend—and he is a good friend—the Speaker of the House of Representatives, NEWT GINGRICH, has told audiences all over America for the past couple of months that America cannot survive with 12-year-olds having babies, 15-year-olds killing each other, 17-year-olds dying of AIDS and 18-year-olds receiving diplomas that they cannot read, and he is right. And I am going to add one more to it. America cannot survive when some of its doctors turn from being healers to stabbing innocent babies to death when they enter the birth canal. America is not going to survive doing that either.

Dr. Martin Haskell has claimed responsibility, proudly, for 700 of these partial-birth procedures as of 1993. Pro-choice, pro-life, I do not care what your position is. How can you tolerate this? How could you possibly condone this act? James McMahon, who was profiled in the January 1990 article in the L.A. Times makes late-term abortions his speciality—late-term abortions his speciality.

In that article, Dr. McMahon coldly claims credit for having developed the partial-birth method which he calls "intrauterine cranial decompression." Nice way of saying murdering a child that is three-quarters of the way out of a birth canal. "I want to deal with the head last," Dr. McMahon comments icily, "because that's the biggest problem."

In the United States of America, a doctor who took an oath to save lives is killing a child. That is not killing a child? Somebody stand up and tell me on the floor of the U.S. Senate that that is not killing a child. Have the guts to come down here and stand up—I will yield to you—and tell me that is not killing a child.

According to the American Medical News, Dr. McMahon does abortions through all 40 weeks of pregnancy, but he says he will not do an elective procedure after 26 weeks—26 weeks. At 26 weeks, many babies are capable of living independent of the mother; 40 weeks is a full-term pregnancy. That is nice of him.

Mr. President, this grotesque and brutal partial-birth abortion procedure that I have described on the floor of the Senate can be and must be—must be—outlawed. Simply stated, the legislation that Senator GRAMM and I have introduced today will do just that, it will amend title 8 of the United States Code and provide that "Whoever, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus shall be fined under this title or imprisoned not more than 2 years, or both."

Not the woman—the abortionist. Our bill defines "partial-birth abortion" as "an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery."

Thus, the bill would ban not only the brain-suction, partial-birth abortion that I described, but any other abortion that involves the partial delivery of the child before he or she is killed.

The bill specifically prohibits the prosecution of a woman upon whom a partial-birth abortion is performed. The bill is aimed at the abortionist. It is aimed at the brutality of this act. In addition, the bill provides a life-of-the-mother exception.

Mr. President, I am confident that no matter how one feels about this very controversial issue of abortion, that reasonable people, caring people in this country are going to step up and say, "This is wrong, this is wrong, and we are going to stop it."

I am going to fight to the last day that this Congress is in session to get this bill voted on in the U.S. Senate, and I am going to stand up here again and again. I welcome my colleagues who want to come forth and defend this. I cannot wait to engage in the debate. Today I am introducing the bill, but there will be a day tomorrow or the next day when I am looking forward to debating them. I want to hear what their rationale is for this procedure. I just want to hear their defense of it. Ultimately, I think, if we can get the bill through, the Supreme Court will find the bill to be constitutional. I think it stands the test of constitutionality. Even in Roe versus Wade, that decision recognized that a newborn child is a person. Is that a newborn child—90 percent birth?

I am confident that the court will find that the Congress has the power to protect unborn children, who have started their journey through the birth canal, before being brutally killed, before they travel those last few inches. That is all we are talking about, Mr. President—a few inches. That is the margin between life and death. Inches. Inches.

Do you know that in this procedure if an abortionist was distracted and that child came through the birth canal, the child would have to survive. They could not do this procedure because it is out of the birth canal. That is the tragic irony of all this. That is why they do it. That is why they do it, Mr. President, because there is nothing more embarrassing to the abortionist than having the aborted baby live. That has happened. I talked to a woman who is 18 years old who survived it, so I know it happens. A beautiful young lady she is, and she is contributing to America.

Of these 700 that Dr. Haskell killed, how many Presidents are in that number? How many doctors who might find a cure for cancer? How many inventors? Who knows. We will never know, will we? They are gone—to the scissors.

Sticking scissors. Take a pair of scissors when you go home tonight, and stick them into your hands a little bit, until you can just feel the nip of it. Or perhaps why do you not try doing it in the back of the neck and see how it feels, see if it hurts.

I am going to see that this bill gets on the desk of President Clinton if it is the last thing I do before we leave this Congress. I hope, Mr. President, if you are out their listening, that you will sign this bill and you will stop this. I know how you feel about abortion, but I want to know how you feel about this. I hope you will sign this bill, because this is an outrage. It is unbecoming of this country to even think about it, and to even have to be here on the floor of the U.S. Senate and admit that this is happening in this country.

So I am looking forward to the debate, as I say. I hope my colleagues who support this will be down on the floor and debating it here in front of all America—this cruel, horrible act against another human being, a precious little baby that is defenseless. We had a doctor yesterday, a gynecologist, who explained all of this, how it all works and how you turn the baby so carefully to remove it from the uterus as it is being born, and you are so careful with it, you take care of it and protect it. But not in this case. It is just a baby, an innocent baby. Surely, we have more important things to do in the United States of America than this. How could any doctor who took an oath ever perform those, and then brag about it?

Mr. President, I think I have made my point. It has, frankly, been a very difficult speech to get through. It is quite emotional for me, and I know how the occupant of the chair, the Senator from Minnesota, feels about this issue. It is difficult to get through these remarks. I do not do it to offend people or to be overly graphic. But it is important that we understand that this is happening, and we must use every public access that we have to stop it.

So there will be another time, Mr. President, sooner rather than later, when we are going to debate this again right here. I will be here. Thank you.

I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. How much time is reserved under the previous order for the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont has 20 minutes.

Mr. LEAHY. I thank the Chair.

(The remarks of Mr. LEAHY pertaining to the introduction of S. 940 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

NORMALIZING RELATIONS WITH VIETNAM

Mr. LEAHY. Mr. President, there are press reports that the administration is considering finally normalizing relations with Vietnam. I know that even after a quarter century this is an emotional and difficult issue, especially for the families of our POW/MIA's. But I believe strongly that it is time to take this step. The record is clear that closer relations will contribute to resolving the remaining discrepancy cases, and we have many other interests in Southeast Asia that will be furthered by closer relations with our former enemy.

The Vietnam war was a tragedy for both the United States and for Vietnam. More than 58,000 American soldiers and at least 2 million Vietnamese lost their lives. Countless others were injured. At least 60,000 Vietnamese are missing a leg or an arm, mostly from landmines. The war produced bitterness on both sides that poisoned relations between our countries for years.

But it is time to put that period behind us. Vietnam is slowly moving away from its Communist past. It has taken aggressive steps to promote private investment and permit a market economy to develop. It has invited representatives of human rights groups to discuss their concerns. The Vietnamese Government is even requiring its senior officials to study English as a way of accelerating its adoption of American-style practices.

There is no question that Vietnam still has a long way to go. We need to continue to challenge Vietnamese officials about reports of torture, arrests of dissidents, arbitrary detentions, political trials, and abuse of prisoners in forced labor camps. We need to press them to eliminate Vietnam's black-market trade in endangered species. And there are other issues.

But we need to recognize that the situation has changed. The United States shut the door to Vietnam after the war because its Government was engaging in practices abhorrent to Americans. There are still problems, but 25 years later almost half of Vietnam's citizens had not even been born by the war's end. The best way to encourage the Vietnamese Government to maintain progress toward openness and free markets is to expand dialog and contact, not refuse it.

Obtaining the fullest possible accounting of our POW's/MIA's is essential. I have provided funding in the foreign operations appropriations bill to help locate the remains of our POW/MIA's. But there is no longer any question that the Vietnamese Government is cooperating fully in this effort. They are working closely with our liaison office to continue the search for remains. Maintaining obstacles to full cooperation between our two Governments at this point will hinder, not reinforce progress, toward completion of this effort.

Mr. President, the cold war is over. We have no Soviet Union to hold in check any longer, and the largest remaining Communist power, China, which has a worse human rights record than Vietnam, has been granted MFN status.

It is time we recognized that times have changed in Vietnam, and in our own country, and we should move forward together. I urge the President to delay no longer in resuming full diplomatic relations with Vietnam.

The PRESIDING OFFICER. The Senator from Utah is recognized.

SALT LAKE CITY 2002 WINTER OLYMPICS

Mr. BENNETT. Mr. President, the Members of this body have had experience in Utah with our winter sports facilities, as my predecessor, Jake Garn, invited Senators to come to Utah and enjoy the Senators' Ski Cup.

It is now my happy duty and privilege to announce to all of the Members of the Senate that the winter sports facilities of Utah have now attracted more than even the U.S. Senate. Just a few minutes ago, the International Olympic Committee announced that Salt Lake City, UT, will be the site of the Winter Olympics in the year 2002. This is a demonstration of the superior facilities that are available in Utah. We think it is well deserved.

I want to pay tribute here on the floor to the thousands, if not tens of thousands and even hundreds of thousands, of Utahns who have gathered together to support the Olympic bid. We lost it for the 1998 Olympics by one vote. We have learned here in this body how elections can be decided by one vote. There are some who suggested that the awarding of the Summer Olympics to Atlanta in 1996 hurt our bid, as the International Committee felt they did not want to have Winter and Summer Olympics back-to-back in the same country. Be that as it may, the disappointment of losing in 1998 has now been washed away in the excitement of winning in the year 2002.

We have a slogan in Utah that has been prepared for the Olympics. It is emblazoned on the banners as you come into our city. It is in the airports. It is all over the State. It is: "The world is welcome here." We are delighted to be able to announce that the world that has been welcome in Utah is now coming to Utah. We are looking for the most exciting Winter Olympics in history in the State of Utah in just a few short years.

We were so excited I had to come over to share this news with the Members of the Senate. I thank the Chair and the Members for the opportunity to express this. It is a great day for the people of our State and, frankly, for the people of our Nation as well. This is the first time the Winter Olympics have come back to America since Lake Placid in 1980. I think that is a long enough wait. We are delighted to be able to say, as I said, the world is welcome in Utah. And the world is coming to Utah.

WINTER OLYMPICS IN UTAH

Mr. WARNER. Mr. President, may I be among the first to congratulate the people of Utah and, indeed, their Senator, who is here today. I shared with him the joy in his heart when I happened to hear him speak a few moments ago. Having had the pleasure of visiting his State on a number of occasions, it will be a marvelous place to host the world. Now, only the weather remains a question. You usually have a very constant weather pattern during that period of the year.

Mr. BENNETT. We do, Mr. President. Winter snows are not unknown in Utah. We hope in 2002 they do not desert us.

The Senator from Virginia is very generous in his remarks. He has been to the Senators' Ski Cup and, indeed, has an award named after him for his activity there.

Mr. WARNER. That is true.

Mr. BENNETT. We hope he not only comes to celebrate with us in 2002, but if I may, Mr. President, I hope he comes as a Senator in 2002, having been safely reelected between now and then.

Mr. WARNER. Mr. President, I thank my dear colleague. I would only say the quality and the quantity of the snow in your State, I think, is almost unmatched anywhere in the world, and will be there to greet the Olympians.

Momentarily I will address the Senate with respect to the calendar on Monday.

At this time I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. THOMAS). Without objection, it is so ordered.

VITIATION OF CLOTURE VOTE

Mr. WARNER. Mr. President, I ask unanimous consent that the cloture vote scheduled for 3 p.m. Monday be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

Mr. WARNER. I now ask unanimous consent that the Senate proceed to S. 440, the highway bill.

The PRESIDING OFFICER. The clerk will read the bill by title.

The legislative clerk read as follows:

A bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Highway System Designation Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HIGHWAY PROVISIONS

Sec. 101. National Highway System designation.
Sec. 102. Eligible projects for the National Highway System.
Sec. 103. Transferability of apportionments.
Sec. 104. Design criteria for the National Highway System.
Sec. 105. Applicability of transportation conformity requirements.
Sec. 106. Use of recycled paving material.
Sec. 107. Inapplicability of Davis-Bacon Act.
Sec. 108. Limitation on advance construction.
Sec. 109. Preventive maintenance.
Sec. 110. Eligibility of bond and other debt instrument financing for reimbursement as construction expenses.
Sec. 111. Federal share for highways, bridges, and tunnels.
Sec. 112. Streamlining for transportation enhancement projects.
Sec. 113. Non-Federal share for certain toll bridge projects.
Sec. 114. Congestion mitigation and air quality improvement program.
Sec. 115. Repeal of national maximum speed limit.
Sec. 116. Federal share for bicycle transportation facilities and pedestrian walkways.
Sec. 117. Repeal of restrictions on toll facilities.
Sec. 118. Suspension of management systems.
Sec. 119. Intelligent vehicle-highway systems.
Sec. 120. Donations of funds, materials, or services for federally assisted activities.
Sec. 121. Metric conversion of traffic control signs.
Sec. 122. Identification of high priority corridors.
Sec. 123. Revision of authority for innovative project in Florida.
Sec. 124. Revision of authority for priority intermodal project in California.
Sec. 125. National recreational trails funding program.
Sec. 126. Intermodal facility in New York.
Sec. 127. Clarification of eligibility.
Sec. 128. Bristol, Rhode Island, street marking.
Sec. 129. Public use of rest areas.
Sec. 130. Collection of tolls to finance certain environmental projects in Florida.
Sec. 131. Hours of service of drivers of ground water well drilling rigs.

TITLE II—NATIONAL CAPITAL REGION INTERSTATE TRANSPORTATION AUTHORITY

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Purposes.
Sec. 204. Definitions.
Sec. 205. Establishment of Authority.
Sec. 206. Government of Authority.
Sec. 207. Ownership of Bridge.
Sec. 208. Capital improvements and construction.
Sec. 209. Additional powers and responsibilities of Authority.
Sec. 210. Funding.
Sec. 211. Availability of prior authorizations.

TITLE I—HIGHWAY PROVISIONS

SEC. 101. NATIONAL HIGHWAY SYSTEM DESIGNATION.

Section 103 of title 23, United States Code, is amended by inserting after subsection (b) the following:

"(c) NATIONAL HIGHWAY SYSTEM DESIGNATION.—

"(1) DESIGNATION.—The most recent National Highway System (as of the date of enactment of this Act) as submitted by the Secretary of Transportation pursuant to this section is designated as the National Highway System.

"(2) MODIFICATIONS.—

"(A) IN GENERAL.—At the request of a State, the Secretary may—

"(i) add a new route segment to the National Highway System, including a new intermodal connection; or

"(ii) delete a route segment in existence on the date of the request and any connection to the route segment;

if the total mileage of the National Highway System (including any route segment or connection proposed to be added under this subparagraph) does not exceed 165,000 miles (265,542 kilometers).

"(B) PROCEDURES FOR CHANGES REQUESTED BY STATES.—Each State that makes a request for a change in the National Highway System pursuant to subparagraph (A) shall establish that each change in a route segment or connection referred to in the subparagraph has been identified by the State, in cooperation with local officials, pursuant to applicable transportation planning activities for metropolitan areas carried out under section 134 and statewide planning processes carried out under section 135.

"(3) APPROVAL BY THE SECRETARY.—The Secretary may approve a request made by a State for a change in the National Highway System pursuant to paragraph (2) if the Secretary determines that the change—

"(A) meets the criteria established for the National Highway System under this title; and

"(B) enhances the national transportation characteristics of the National Highway System.".

SEC. 102. ELIGIBLE PROJECTS FOR THE NATIONAL HIGHWAY SYSTEM.

(a) IN GENERAL.—Section 103(i) of title 23, United States Code, is amended—

(1) by striking paragraph (8) and inserting the following:

"(8) Capital and operating costs for traffic monitoring, management, and control facilities and programs."; and

(2) by adding at the end the following:

"(14) Construction, reconstruction, resurfacing, restoration, and rehabilitation of, and operational improvements for, public highways connecting the National Highway System to—

"(A) ports, airports, and rail, truck, and other intermodal freight transportation facilities; and

"(B) public transportation facilities.

"(15) Construction of, and operational improvements for, the Alameda Transportation Corridor along Alameda Street from the entrance to the ports of Los Angeles and Long Beach to Interstate 10, Los Angeles, California. The Federal share of the cost of the construction and improvements shall be determined in accordance with section 120(b).".

(b) DEFINITION.—Section 101(a) of title 23, United States Code, is amended by striking the undesignated paragraph defining "startup costs for traffic management and control" and inserting the following:

"The term 'operating costs for traffic monitoring, management, and control' includes labor costs, administrative costs, costs of utilities and rent, and other costs associated with the continuous operation of traffic control activities, such as integrated traffic control systems, incident management programs, and traffic control centers.".

SEC. 103. TRANSFERABILITY OF APPORTIONMENTS.

The third sentence of section 104(g) of title 23, United States Code, is amended by striking "40 percent" and inserting "60 percent".

SEC. 104. DESIGN CRITERIA FOR THE NATIONAL HIGHWAY SYSTEM.

Section 109 of title 23, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility that will—

"(1) adequately serve the existing and planned future traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

"(2) be designed and constructed in accordance with criteria best suited to accomplish the objectives described in paragraph (1) and to conform to the particular needs of each locality.";

(2) by striking subsection (c) and inserting the following:

"(c) DESIGN CRITERIA FOR THE NATIONAL HIGHWAY SYSTEM.—

"(1) IN GENERAL.—A design for new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, or rehabilitation of a highway on the National Highway System (other than a highway also on the Interstate System) shall take into account, in addition to the criteria described in subsection (a)—

"(A) the constructed and natural environment of the area;

"(B) the environmental, scenic, aesthetic, historic, community, and preservation impacts of the activity; and

"(C) as appropriate, access for other modes of transportation.

"(2) DEVELOPMENT OF CRITERIA.—The Secretary, in cooperation with State highway agencies, shall develop criteria to implement paragraph (1). In developing the criteria, the Secretary shall consider the results of the committee process of the American Association of State Highway and Transportation Officials as adopted and published in 'A Policy on Geometric Design of Highways and Streets', after adequate opportunity for input by interested parties."; and

(3) by striking subsection (q) and inserting the following:

"(q) ENVIRONMENTAL, SCENIC, AND HISTORIC VALUES.—Notwithstanding subsections (b) and (c), the Secretary may approve a project for the National Highway System if the project is designed to—

"(1) allow for the preservation of environmental, scenic, or historic values;

"(2) ensure safe use of the facility; and

"(3) comply with subsection (a).".

SEC. 105. APPLICABILITY OF TRANSPORTATION CONFORMITY REQUIREMENTS.

(a) HIGHWAY CONSTRUCTION.—Section 109(j) of title 23, United States Code, is amended by striking "plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended." and inserting the following: "plan for—

"(1) the implementation of a national ambient air quality standard for which an area is designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

"(2) the maintenance of a national ambient air quality standard in an area that was designated as a nonattainment area but that was later redesignated by the Administrator as an attainment area for the standard and that is required to develop a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a).".

(b) CLEAN AIR ACT REQUIREMENTS.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding at the end the following:

"(5) APPLICABILITY.—This subsection shall apply only with respect to—

"(A) a nonattainment area and each specific pollutant for which the area is designated as a nonattainment area; and

"(B) an area that was designated as a nonattainment area but that was later redesignated by the Administrator as an attainment area and that is required to develop a maintenance plan under section 175A with respect to the specific pollutant for which the area was designated nonattainment.".

SEC. 106. USE OF RECYCLED PAVING MATERIAL.

(a) IN GENERAL.—Section 1038 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 109 note) is amended—

(1) by striking subsection (d) and inserting the following:

"(d) ASPHALT PAVEMENT CONTAINING RECYCLED RUBBER.—

"(1) CRUMB RUBBER MODIFIER RESEARCH.—Not later than 180 days after the date of enactment of the National Highway System Designation Act of 1995, the Administrator of the Federal Highway Administration shall develop testing procedures and conduct research to develop performance grade classifications, in accordance with the strategic highway research program carried out under section 307(d) of title 23, United States Code, for crumb rubber modifier binders. The testing procedures and performance grade classifications should be developed in consultation with representatives of the crumb rubber modifier industry and other interested parties (including the asphalt paving industry) with experience in the development of the procedures and classifications.

"(2) CRUMB RUBBER MODIFIER PROGRAM DEVELOPMENT.—

"(A) IN GENERAL.—The Administrator of the Federal Highway Administration shall make grants to States to develop programs to use crumb rubber from scrap tires to modify asphalt pavements. Each State may receive not more than $500,000 under this paragraph.

"(B) USE OF GRANT FUNDS.—Grant funds made available to States under this paragraph may be used—

"(i) to develop mix designs for crumb rubber modified asphalt pavements;

"(ii) for the placement and evaluation of crumb rubber modified asphalt pavement field tests; and

"(iii) for the expansion of State crumb rubber modifier programs in existence on the date the grant is made available."; and

(2) in subsection (e), by striking paragraph (1) and inserting the following:

"(1) the term 'asphalt pavement containing recycled rubber' means any mixture of asphalt and crumb rubber derived from whole scrap tires, such that the physical properties of the asphalt are modified through the mixture, for use in pavement maintenance, rehabilitation, or construction applications; and".

(b) FUNDING.—Section 307(e)(13) of title 23, United States Code, is amended by inserting after the second sentence the following: "Of the amounts authorized to be expended under this paragraph, $500,000 shall be expended in fiscal year 1996 to carry out section 1038(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 109 note) and $10,000,000 shall be expended in each of fiscal years 1996 and 1997 to carry out section 1038(d)(2) of the Act.".

SEC. 107. INAPPLICABILITY OF DAVIS-BACON ACT.

Section 113 of title 23, United States Code, is amended to read as follows:

"§113. Prevailing rate of wage

"The Act entitled 'An Act relating to the rate of wages for laborers and mechanics employed on public buildings of the United States and the District of Columbia by contractors and subcontractors, and for other purposes', approved March 3, 1931 (commonly known as the 'Davis-Bacon Act') (40 U.S.C. 276a et seq.), shall not apply with respect to any project carried out or assisted under any chapter of this title.".

SEC. 108. LIMITATION ON ADVANCE CONSTRUCTION.

Section 115(d) of title 23, United States Code, is amended to read as follows:

"(d) REQUIREMENT OF INCLUSION IN TRANSPORTATION IMPROVEMENT PROGRAM.—The Secretary may not approve an application under this section unless the project is included in the transportation improvement program of the State developed under section 135(f).".

SEC. 109. PREVENTIVE MAINTENANCE.

Section 116 of title 23, United States Code, is amended by adding at the end the following:

"(d) PREVENTIVE MAINTENANCE.—A preventive maintenance activity shall be eligible for Federal assistance under this title if the State demonstrates to the satisfaction of the Secretary that the activity is a cost-effective means of extending the life of a Federal-aid highway.".

SEC. 110. ELIGIBILITY OF BOND AND OTHER DEBT INSTRUMENT FINANCING FOR REIMBURSEMENT AS CONSTRUCTION EXPENSES.

(a) IN GENERAL.—Section 122 of title 23, United States Code, is amended to read as follows:

"SEC. 122. PAYMENTS TO STATES FOR BOND AND OTHER DEBT INSTRUMENT FINANCING.

"(a) DEFINITION OF ELIGIBLE DEBT FINANCING INSTRUMENT.—In this section, the term 'eligible debt financing instrument' means a bond or other debt financing instrument, including a note, certificate, mortgage, or lease agreement, issued by a State or political subdivision of a State, the proceeds of which are used for an eligible Federal-aid project under this title.

"(b) FEDERAL REIMBURSEMENT.—Subject to subsections (c) and (d), the Secretary may reimburse a State for expenses and costs incurred by the State or a political subdivision of the State, for—

"(1) interest payments under an eligible debt financing instrument;

"(2) the retirement of principal of an eligible debt financing instrument;

"(3) the cost of the issuance of an eligible debt financing instrument;

"(4) the cost of insurance for an eligible debt financing instrument; and

"(5) any other cost incidental to the sale of an eligible debt financing instrument (as determined by the Secretary).

"(c) CONDITIONS ON PAYMENT.—The Secretary may reimburse a State under subsection (b) with respect to a project funded by an eligible debt financing instrument after the State has complied with this title to the extent and in the manner that would be required if payment were to be made under section 121.

"(d) FEDERAL SHARE.—The Federal share of the cost of a project payable under this section shall not exceed the pro-rata basis of payment authorized in section 120.

"(e) STATUTORY CONSTRUCTION.—Notwithstanding any other law, the eligibility of an eligible debt financing instrument for reimbursement under subsection (a) shall not—

"(1) constitute a commitment, guarantee, or obligation on the part of the United States to provide for payment of principal or interest on the eligible debt financing instrument; or

"(2) create any right of a third party against the United States for payment under the eligible debt financing instrument.".

(b) DEFINITION OF CONSTRUCTION.—The first sentence of the undesignated paragraph defining "construction" of section 101(a) of title 23, United States Code, is amended by inserting "bond costs and other costs relating to the issuance of bonds or other debt instrument financing in accordance with section 122," after "highway, including".

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 122 and inserting the following:

"122. Payments to States for bond and other debt instrument financing.".

SEC. 111. FEDERAL SHARE FOR HIGHWAYS, BRIDGES, AND TUNNELS.

Section 129(a) of title 23, United States Code, is amended by striking paragraph (5) and inserting the following:

"(5) LIMITATION ON FEDERAL SHARE.—The Federal share payable for an activity described in paragraph (1) shall be a percentage determined by the State, but not to exceed 80 percent.".

SEC. 112. STREAMLINING FOR TRANSPORTATION ENHANCEMENT PROJECTS.

Section 133(e) of title 23, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking "(3) PAYMENTS.—The" and inserting the following:

"(3) PAYMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the"; and

(B) by adding at the end the following:

"(B) ADVANCE PAYMENT OPTION FOR TRANSPORTATION ENHANCEMENT ACTIVITIES.—

"(i) IN GENERAL.—The Secretary may advance funds to the State for transportation enhancement activities funded from the allocation required by subsection (d)(2) for a fiscal year if the Secretary certifies for the fiscal year that the State has authorized and uses a process for the selection of transportation enhancement projects that involves representatives of affected public entities, and private citizens, with expertise related to transportation enhancement activities.

"(ii) LIMITATION ON AMOUNTS.—Amounts advanced under this subparagraph shall be limited to such amounts as are necessary to make prompt payments for project costs.

"(iii) EFFECT ON OTHER REQUIREMENTS.—This subparagraph shall not exempt a State from other requirements of this title relating to the surface transportation program."; and

(2) by adding at the end the following:

"(5) TRANSPORTATION ENHANCEMENT ACTIVITIES.—

"(A) CATEGORICAL EXCLUSIONS.—To the extent appropriate, the Secretary shall develop categorical exclusions from the requirement that an environmental assessment or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) be prepared for transportation enhancement activities funded from the allocation required by subsection (d)(2).

"(B) NATIONWIDE PROGRAMMATIC AGREEMENT.—The Administrator of the Federal Highway Administration, in consultation with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation established under title II of the National Historic Preservation Act (16 U.S.C. 470i et seq.), shall develop a nationwide programmatic agreement governing the review of transportation enhancement activities funded from the allocation required by subsection (d)(2), in accordance with—

"(i) section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

"(ii) the regulations of the Advisory Council on Historic Preservation.".

SEC. 113. NON-FEDERAL SHARE FOR CERTAIN TOLL BRIDGE PROJECTS.

Section 144(l) of title 23, United States Code, is amended by adding at the end the following: "Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure.".

SEC. 114. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) AREAS ELIGIBLE FOR FUNDS.—

(1) IN GENERAL.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(A) by inserting "for areas in the State that were designated as nonattainment areas under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d))" after "may obligate funds"; and

(B) in paragraph (1)(A)—

(i) by striking "contribute to the" and inserting the following: "contribute to—

"(i) the"; and

(ii) by adding at the end the following:

"(ii) the maintenance of a national ambient air quality standard in an area that was designated as a nonattainment area but that was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or".

(2) APPORTIONMENT.—Section 104(b)(2) of title 23, United States Code, is amended—

(A) in the second sentence, by striking "is a nonattainment area (as defined in the Clean Air Act) for ozone" and inserting "was a nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) for ozone during any part of fiscal year 1995"; and

(B) in the third sentence—

(i) by striking "is also" and inserting "was also"; and

(ii) by inserting "during any part of fiscal year 1995" after "monoxide".

(b) REMOVAL OF CERTAIN FUNDING LIMITATIONS.—Section 149(b)(1)(A) of title 23, United States Code, is amended by striking "(other than clauses (xii) and (xvi) of such section), that the project or program" and inserting ", that the publicly sponsored project or program".

SEC. 115. REPEAL OF NATIONAL MAXIMUM SPEED LIMIT.

(a) IN GENERAL.—Section 154 of title 23, United States Code, is repealed.

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 154.

(2) Section 141 of title 23, United States Code, is amended—

(A) by striking subsection (a);

(B) by redesignating subsections (b), (c), and (d) as subsections (a), (b), and (c), respectively; and

(C) in subsection (b) (as so redesignated), by striking "subsection (b)" each place it appears and inserting "subsection (a)".

(3) Section 123(c)(3) of the Federal-Aid Highway Act of 1978 (Public Law 95–599; 23 U.S.C. 141 note) is amended by striking "section 141(b)" and inserting "section 141(a)".

(4) Section 153(i)(2) of title 23, United States Code, is amended to read as follows:

"(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.".

(5) Section 1029 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 154 note) is amended—

(A) by striking subsection (d); and

(B) by redesignating subsections (e), (f), and (g) as subsections (d), (e), and (f), respectively.

(6) Section 157(d) of title 23, United States Code, is amended by striking "154(f) or".

(7) Section 410(i)(3) of title 23, United States Code, is amended to read as follows:

"(3) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.".

SEC. 116. FEDERAL SHARE FOR BICYCLE TRANSPORTATION FACILITIES AND PEDESTRIAN WALKWAYS.

Section 217(f) of title 23, United States Code, is amended by striking "80 percent" and inserting "determined in accordance with section 120(b)".

SEC. 117. REPEAL OF RESTRICTIONS ON TOLL FACILITIES.

(a) IN GENERAL.—Section 301 of title 23, United States Code, is repealed.

(b) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Section 129(a)(1) of title 23, United States Code, is amended to read as follows:

"(1) AUTHORIZATION FOR FEDERAL PARTICIPATION.—Subject to the other provisions of this section, the Secretary shall permit Federal participation in Federal-aid projects involving toll highways, bridges, and tunnels on the same basis and in the same manner as in the construction of free highways under this chapter.".

(c) CONFORMING AMENDMENTS.—

(1) Section 129 of title 23, United States Code, is amended—

(A) in subsection (b), by striking "Notwithstanding the provisions of section 301 of this title, the" and inserting "The"; and

(B) in subsection (c), by striking "Notwithstanding section 301 of this title, the" and inserting "The".

(2) The analysis for chapter 3 of title 23, United States Code, is amended by striking the item relating to section 301.

SEC. 118. SUSPENSION OF MANAGEMENT SYSTEMS.

Section 303 of title 23, United States Code, is amended—

(1) by striking subsection (c) and inserting the following:

"(c) STATE ELECTION.—A State may, at the option of the State, elect, at any time, not to implement, in whole or in part, 1 or more of the management systems required under this section. The Secretary may not impose any sanction on, or withhold any benefit from, a State on the basis of such an election."; and

(2) in subsection (f)—

(A) by striking "(f) ANNUAL REPORT.—Not" and inserting the following:

"(f) REPORTS.—

"(1) ANNUAL REPORTS.—Not"; and

(B) by adding at the end the following:

"(2) REPORT ON IMPLEMENTATION.—Not later than October 1, 1996, the Secretary, in consultation with States, shall transmit to Congress a report on the management systems required under this section that makes recommendations as to whether, to what extent, and how the management systems should be implemented.".

SEC. 119. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

(a) IMPROVED COLLABORATION IN INTELLIGENT VEHICLE-HIGHWAY SYSTEMS RESEARCH AND DEVELOPMENT.—Section 6054 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 307 note) is amended by adding at the end the following:

"(e) COLLABORATIVE RESEARCH AND DEVELOPMENT.—In carrying out this part, the Secretary may carry out collaborative research and development in accordance with section 307(a)(2) of title 23, United States Code.".

(b) TIME LIMIT FOR OBLIGATION OF FUNDS FOR INTELLIGENT VEHICLE-HIGHWAY SYSTEMS PROJECTS.—Section 6058 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 307 note) is amended by adding at the end the following:

"(f) OBLIGATION OF FUNDS.—

"(1) IN GENERAL.—Funds made available pursuant to subsections (a) and (b) after the date of enactment of this subsection, and other funds made available after that date to carry out specific intelligent vehicle-highway systems projects, shall be obligated not later than the last day of the fiscal year following the fiscal year with respect to which the funds are made available.

"(2) REALLOCATION OF FUNDS.—If funds described in paragraph (1) are not obligated by the date described in the paragraph, the Secretary may make the funds available to carry out any other activity with respect to which funds may be made available under subsection (a) or (b).".

SEC. 120. DONATIONS OF FUNDS, MATERIALS, OR SERVICES FOR FEDERALLY ASSISTED ACTIVITIES.

Section 323 of title 23, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, OR SERVICES.—Nothing in this title or any other law shall prevent a person from offering to donate funds, materials, or services in connection with an activity eligible for Federal assistance under this title. In the case of such an activity with respect to which the Federal Government and the State share in paying the cost, any donated funds, or the fair market value of any donated materials or services, that are accepted and incorporated into the activity by the State highway agency shall be credited against the State share.".

SEC. 121. METRIC CONVERSION OF TRAFFIC CONTROL SIGNS.

Notwithstanding section 3(2) of the Metric Conversion Act of 1975 (15 U.S.C. 205b(2)) or any other law, no State shall be required to—

(1) erect any highway sign that establishes any speed limit, distance, or other measurement using the metric system; or

(2) modify any highway sign that establishes any speed limit, distance, or other measurement so that the sign uses the metric system.

SEC. 122. IDENTIFICATION OF HIGH PRIORITY CORRIDORS.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240; 105 Stat. 2032) is amended—

(1) by striking paragraph (5) and inserting the following:

"(5)(A) I–73/74 North-South Corridor from Charleston, South Carolina, through Winston-Salem, North Carolina, to Portsmouth, Ohio, to Cincinnati, Ohio, and Detroit, Michigan.

"(B)(i) In the Commonwealth of Virginia, the Corridor shall generally follow—

"(I) United States Route 220 from the Virginia-North Carolina border to I–581 south of Roanoke;

"(II) I–581 to I–81 in the vicinity of Roanoke;

"(III) I–81 to the proposed highway to demonstrate intelligent vehicle-highway systems authorized by item 29 of the table in section 1107(b) in the vicinity of Christiansburg to United States Route 460 in the vicinity of Blacksburg; and

"(IV) United States Route 460 to the West Virginia State line.

"(ii) In the States of West Virginia, Kentucky, and Ohio, the Corridor shall generally follow—

"(I) United States Route 460 from the West Virginia State line to United States Route 52 at Bluefield, West Virginia; and

"(II) United States Route 52 to United States Route 23 at Portsmouth, Ohio.

"(iii) In the State of North Carolina, the Corridor shall generally follow—

"(I) in the case of I–73—

"(aa) United States Route 220 from the Virginia State line to State Route 68 in the vicinity of Greensboro;

"(bb) State Route 68 to I–40;

"(cc) I–40 to United States Route 220 in Greensboro;

"(dd) United States Route 220 to United States Route 74 near Rockingham;

"(ee) United States Route 74 to United States Route 76 near Whiteville;

"(ff) United States Route 74/76 to United States Route 17 near Calabash; and

"(gg) United States Route 17 to the South Carolina State line; and

"(II) in the case of I–74—

"(aa) I–77 from Bluefield, West Virginia, to the junction of I–77 and the United States Route 52 connector in Surry County, North Carolina;

"(bb) the I–77/United States Route 52 connector to United States Route 52 south of Mount Airy, North Carolina;

"(cc) United States Route 52 to United States Route 311 in Winston-Salem, North Carolina; and

"(dd) United States Route 311 to United States Route 220 in the vicinity of Randleman, North Carolina.

"(iv) Each route segment referred to in clause (i), (ii), or (iii) that is not a part of the Interstate System shall be designated as a route included in the Interstate System, at such time as the Secretary determines that the route segment—

"(I) meets Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code; and

"(II) meets the criteria for designation pursuant to section 139 of title 23, United States Code, except that the determination shall be made without regard to whether the route segment is a logical addition or connection to the Interstate System."; and

(2) by adding at the end the following:

"(22) The Alameda Transportation Corridor along Alameda Street from the entrance to the ports of Los Angeles and Long Beach to Interstate 10, Los Angeles, California.

"(23) The Interstate Route 35 Corridor from Laredo, Texas, through Oklahoma City, Oklahoma, to Wichita, Kansas, to Kansas City, Kansas/Missouri, to Des Moines, Iowa, to Minneapolis, Minnesota, to Duluth, Minnesota.".

SEC. 123. REVISION OF AUTHORITY FOR INNOVATIVE PROJECT IN FLORIDA.

Item 196 of the table in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2058) is amended—

(1) by striking "Orlando,"; and

(2) by striking "Land & right-of-way acquisition & guideway construction for magnetic limitation project" and inserting "1 or more regionally significant, intercity ground transportation projects".

SEC. 124. REVISION OF AUTHORITY FOR PRIORITY INTERMODAL PROJECT IN CALIFORNIA.

Item 31 of the table in section 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2062) is amended by striking "To improve ground access from Sepulveda Blvd. to Los Angeles, California" and inserting the following: "For the Los Angeles International Airport central terminal ramp access project, $3,500,000; for the widening of Aviation Boulevard south of Imperial Highway, $3,500,000; for the widening of Aviation Boulevard north of Imperial Highway, $1,000,000; and for transportation systems management improvements in the vicinity of the Sepulveda Boulevard/Los Angeles International Airport tunnel, $950,000".

SEC. 125. NATIONAL RECREATIONAL TRAILS FUNDING PROGRAM.

(a) CONTRACT AUTHORITY.—Section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) is amended—

(1) by redesignating subsection (g) as subsection (i); and

(2) by inserting after subsection (f) the following:

"(g) CONTRACT AUTHORITY.—Funds authorized to be appropriated under this section shall be available for obligation in the manner as if the funds were apportioned under title 23, United States Code, except that the Federal share of any project under this section shall be determined in accordance with this section and shall not be subject to any limitation on obligation applicable generally to the Federal-aid highway program.

"(h) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be 50 percent.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) is amended—

(A) by striking subsection (c) and inserting the following:

"(c) STATE ELIGIBILITY.—A State shall be eligible to receive moneys under this part if—

"(1) the Governor of the State has designated the State agency responsible for administering allocations under this section;

"(2) the State proposes to obligate and ultimately obligates any allocations received in accordance with subsection (e); and

"(3) a recreational trail advisory board on which both motorized and nonmotorized recreational trail users are represented exists in the State.";

(B) in subsection (d), by striking paragraph (3);

(C) in subsection (e)—

(i) in paragraphs (3)(A), (5)(B), and (8)(B), by striking "(c)(2)(A) of this section" and inserting "(c)(3)"; and

(ii) in paragraph (5)(A)(i), by striking "(g)(5)" and inserting "(i)(5)"; and

(D) in subsection (i) (as redesignated by subsection (a)(1)), by striking paragraph (1) and inserting the following:

"(1) ELIGIBLE STATE.—The term 'eligible State' means a State (as defined in section 101 of title 23, United States Code) that meets the requirements of subsection (c).".

(2) Section 104 of title 23, United States Code, is amended—

(A) by redesignating subsection (h) as subsection (i); and

(B) by inserting after subsection (g) the following:

"(h) NATIONAL RECREATIONAL TRAILS FUNDING.—The Secretary shall expend, from administrative funds deducted under subsection (a), to carry out section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) $15,000,000 for each of fiscal years 1996 and 1997.".

(3) Section 9511(c) of the Trust Fund Code of 1981 is amended by striking ", as provided in appropriation Acts,".

SEC. 126. INTERMODAL FACILITY IN NEW YORK.

(a) IN GENERAL.—The Secretary of Transportation shall make grants to the National Railroad Passenger Corporation for—

(1) engineering, design, and construction activities to permit the James A. Farley Post Office in New York, New York, to be used as an intermodal transportation facility and commercial center; and

(2) necessary improvements to and redevelopment of Pennsylvania Station and associated service buildings in New York, New York.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section a total of $69,500,000 for fiscal years following fiscal year 1995, to remain available until expended.

SEC. 127. CLARIFICATION OF ELIGIBILITY.

The improvements to, or adjacent to, the main line of the National Railroad Passenger Corporation between milepost 190.23 at Central Falls, Rhode Island, and milepost 168.53 at Davisville, Rhode Island, that are necessary to support the rail movement of freight shall be eligible for funding under sections 103(e)(4), 104(b), and 144 of title 23, United States Code.

SEC. 128. BRISTOL, RHODE ISLAND, STREET MARKING.

Notwithstanding any other law, a red, white, and blue center line in the Main Street of Bristol, Rhode Island, shall be deemed to comply with the requirements of section 3B–1 of the Manual on Uniform Traffic Control Devices of the Department of Transportation.

SEC. 129. PUBLIC USE OF REST AREAS.

Notwithstanding section 111 of title 23, United States Code, or any project agreement under the section, the Secretary of Transportation shall permit the conversion of any safety rest area adjacent to Interstate Route 95 within the State of Rhode Island that was closed as of May 1, 1995, to use as a motor vehicle emissions testing facility. At the option of the State, vehicles shall be permitted to gain access to and from any such testing facility directly from Interstate Route 95.

SEC. 130. COLLECTION OF TOLLS TO FINANCE CERTAIN ENVIRONMENTAL PROJECTS IN FLORIDA.

Notwithstanding section 129(a) of title 23, United States Code, on request of the Governor of the State of Florida, the Secretary of Transportation shall modify the agreement entered into with the transportation department of the State and described in section 129(a)(3) of the title to permit the collection of tolls to liquidate such indebtedness as may be incurred to finance any cost associated with a feature of an environmental project that is carried out under State law and approved by the Secretary of the Interior.

SEC. 131. HOURS OF SERVICE OF DRIVERS OF GROUND WATER WELL DRILLING RIGS.

(a) DEFINITIONS.—In this section:

(1) 8 CONSECUTIVE DAYS.—The term "8 consecutive days" means the period of 8 consecutive days beginning on any day at the time designated by the motor carrier for a 24-hour period.

(2) 24-HOUR PERIOD.—The term "24-hour period" means any 24-consecutive-hour period beginning at the time designated by the motor carrier for the terminal from which the driver is normally dispatched.

(3) GROUND WATER WELL DRILLING RIG.—The term "ground water well drilling rig" means any vehicle, machine, tractor, trailer, semi-trailer, or specialized mobile equipment propelled or drawn by mechanical power and used on highways to transport water well field operating equipment, including water well drilling and pump service rigs equipped to access ground water.

(b) GENERAL RULE.—In the case of a driver of a commercial motor vehicle subject to regulations prescribed by the Secretary of Transportation under sections 31136 and 31502 of title 49, United States Code, who is used primarily in the transportation and operation of a ground water well drilling rig, for the purpose of the regulations, any period of 8 consecutive days may end with the beginning of an off-duty period of 24 or more consecutive hours.

(c) REPORT.—The Secretary of Transportation shall monitor the commercial motor vehicle safety performance of drivers of ground water well drilling rigs. If the Secretary determines that public safety has been adversely affected by the general rule established by subsection (b), the Secretary shall report to Congress on the determination.

TITLE II—NATIONAL CAPITAL REGION INTERSTATE TRANSPORTATION AUTHORITY

SEC. 201. SHORT TITLE.

This title may be cited as the "National Capital Region Interstate Transportation Authority Act of 1995".

SEC. 202. FINDINGS.

Congress finds that—

(1) traffic congestion imposes serious economic burdens on the metropolitan Washington, D.C., area, costing each commuter an estimated $1,000 per year;

(2) the volume of traffic in the metropolitan Washington, D.C., area is expected to increase by more than 70 percent between 1990 and 2020;

(3) the deterioration of the Woodrow Wilson Memorial Bridge and the growing population of the metropolitan Washington, D.C., area contribute significantly to traffic congestion;

(4) the Bridge serves as a vital link in the Interstate System and in the Northeast corridor;

(5) identifying alternative methods for maintaining this vital link of the Interstate System is critical to addressing the traffic congestion of the area;

(6) the Bridge is—

(A) the only drawbridge in the metropolitan Washington, D.C., area on the Interstate System;

(B) the only segment of the Capital Beltway with only 6 lanes; and

(C) the only segment of the Capital Beltway with a remaining expected life of less than 10 years;

(7) the Bridge is the only part of the Interstate System owned by the Federal Government;

(8)(A) the Bridge was constructed by the Federal Government;

(B) prior to the date of enactment of this Act, the Federal Government has contributed 100 percent of the cost of building and rehabilitating the Bridge; and

(C) the Federal Government has a continuing responsibility to fund future costs associated with the upgrading of the Interstate Route 95 crossing, including the rehabilitation and reconstruction of the Bridge;

(9) the Woodrow Wilson Bridge Coordination Committee, established by the Federal Highway Administration and comprised of representatives of Federal, State, and local governments, is undertaking planning studies pertaining to the Bridge, consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable Federal laws;

(10) the transfer of ownership of the Bridge to a regional entity under the terms and conditions described in this title would foster regional transportation planning efforts to identify solutions to the growing problem of traffic congestion on and around the Bridge;

(11) any material change to the Bridge must take into account the interests of nearby communities, the commuting public, Federal, State, and local government organizations, and other affected groups; and

(12) a commission of congressional, State, and local officials and transportation representatives has recommended to the Secretary of Transportation that the Bridge be transferred to an independent authority to be established by the Capital Region jurisdictions.

SEC. 203. PURPOSES.

The purposes of this title are—

(1) to grant consent to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to establish the National Capital Region Interstate Transportation Authority; and

(2) to authorize the transfer of ownership of the Bridge to the Authority for the purposes of owning, constructing, maintaining, and operating a bridge or tunnel or a bridge and tunnel project across the Potomac River.

SEC. 204. DEFINITIONS.

In this title:

(1) AUTHORITY.—The term "Authority" means the National Capital Region Interstate Transportation Authority authorized by this title and by similar enactment by each of the Capital Region jurisdictions.

(2) AUTHORITY FACILITY.—The term "Authority facility" means—

(A) the Bridge (as in existence on the date of enactment of this Act);

(B) any southern Capital Beltway crossing of the Potomac River constructed in the vicinity of the Bridge after the date of enactment of this Act; or

(C) any building, improvement, addition, extension, replacement, appurtenance, land, interest in land, water right, air right, franchise, machinery, equipment, furnishing, landscaping, easement, utility, approach, roadway, or other facility necessary or desirable in connection with or incidental to a facility described in subparagraph (A) or (B).

(3) BOARD.—The term "Board" means the board of directors of the Authority established under section 206.

(4) BRIDGE.—The term "Bridge" means the Woodrow Wilson Memorial Bridge across the Potomac River.

(5) CAPITAL REGION JURISDICTION.—The term "Capital Region jurisdiction" means—

(A) the Commonwealth of Virginia;

(B) the State of Maryland; or

(C) the District of Columbia.

(6) INTERSTATE SYSTEM.—The term "Interstate System" means the Dwight D. Eisenhower National System of Interstate and Defense Highways designated under section 103(e) of title 23, United States Code.

(7) NATIONAL CAPITAL REGION.—The term "National Capital Region" means the region consisting of the metropolitan areas of—

(A)(i) the cities of Alexandria, Fairfax, and Falls Church, Virginia; and

(ii) the counties of Arlington and Fairfax, Virginia, and the political subdivisions of the Commonwealth of Virginia located in the counties;

(B) the counties of Montgomery and Prince Georges, Maryland, and the political subdivisions of the State of Maryland located in the counties; and

(C) the District of Columbia.

(8) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 205. ESTABLISHMENT OF AUTHORITY.

(a) CONSENT TO AGREEMENT.—Congress grants consent to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to enter into an interstate agreement or compact to establish the National Capital Region Interstate Transportation Authority in accordance with this title.

(b) ESTABLISHMENT OF AUTHORITY.—

(1) IN GENERAL.—On execution of the interstate agreement or compact described in subsection (a), the Authority shall be considered to be established.

(2) GENERAL POWERS.—The Authority shall be a body corporate and politic, independent of all other bodies and jurisdictions, having the powers and jurisdiction described in this title and such additional powers as are conferred on the Authority by the Capital Region jurisdictions, to the extent that the additional powers are consistent with this title.

SEC. 206. GOVERNMENT OF AUTHORITY.

(a) IN GENERAL.—The Authority shall be governed in accordance with this section and with the terms of any interstate agreement or compact relating to the Authority that is consistent with this title.

(b) BOARD.—The Authority shall be governed by a board of directors consisting of 12 members appointed by the Capital Region jurisdictions and 1 member appointed by the Secretary.

(c) QUALIFICATIONS.—One member of the Board shall have an appropriate background in finance, construction lending, or infrastructure policy.

(d) CHAIRPERSON.—The chairperson of the Board shall be elected biennially by the members of the Board.

(e) SECRETARY AND TREASURER.—The Board may—

(1) biennially elect a secretary and a treasurer, or a secretary-treasurer, without regard to whether the individual is a member of the Board; and

(2) prescribe the powers and duties of the secretary and treasurer, or the secretary-treasurer.

(f) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a member of the Board shall serve for a 6-year term, and shall continue to serve until the successor of the member has been appointed in accordance with this subsection.

(2) INITIAL APPOINTMENTS.—

(A) BY CAPITAL REGION JURISDICTIONS.—Members initially appointed to the Board by a Capital Region jurisdiction shall be appointed for the following terms:

(i) 1 member shall be appointed for a 6-year term.

(ii) 1 member shall be appointed for a 4-year term.

(iii) 2 members shall each be appointed for a 2-year term.

(B) BY SECRETARY.—The member of the Board appointed by the Secretary shall be appointed for a 6-year term.

(3) FAILURE TO APPOINT.—The failure of a Capital Region jurisdiction to appoint 1 or more members of the Board, as provided in this subsection, shall not impair the establishment of the Authority if the condition of the establishment described in section 205(b)(1) has been met.

(4) VACANCIES.—Subject to paragraph (5), a person appointed to fill a vacancy on the Board shall serve for the unexpired term.

(5) REAPPOINTMENTS.—A member of the Board shall be eligible for reappointment for 1 additional term.

(6) PERSONAL LIABILITY OF MEMBERS.—A member of the Board, including any nonvoting member, shall not be personally liable for—

(A) any action taken in the capacity of the member as a member of the Board; or

(B) any note, bond, or other financial obligation of the Authority.

(7) QUORUM.—

(A) IN GENERAL.—Subject to subparagraph (B), for the purpose of carrying out the business of the Authority, 7 members of the Board shall constitute a quorum.

(B) APPROVAL OF BOND ISSUES AND BUDGET.—Eight affirmative votes of the members of the Board shall be required to approve bond issues and the annual budget of the Authority.

(8) COMPENSATION.—A member of the Board shall serve without compensation and shall reside within a Capital Region jurisdiction.

(9) EXPENSES.—A member of the Board shall be entitled to reimbursement for the expenses of the member incurred in attending a meeting of the Board or while otherwise engaged in carrying out the duties of the Board.

SEC. 207. OWNERSHIP OF BRIDGE.

(a) CONVEYANCE BY SECRETARY.—

(1) IN GENERAL.—After the Capital Region jurisdictions enter into the agreement described in subsection (c), the Secretary shall convey all right, title, and interest of the Department of Transportation in and to the Bridge to the Authority. Except as provided in paragraph (2), upon conveyance by the Secretary, the Authority shall accept the right, title, and interest in and to the Bridge, and all duties and responsibilities associated with the Bridge.

(2) INTERIM RESPONSIBILITIES.—Until such time as a new crossing of the Potomac River described in section 208 is constructed and operational, the conveyance under paragraph (1) shall in no way—

(A) relieve the Capital Region jurisdictions of the sole and exclusive responsibility to maintain and operate the Bridge; or

(B) relieve the Secretary of the responsibility to rehabilitate the Bridge or to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and all other requirements applicable with respect to the Bridge.

(b) CONVEYANCE BY THE SECRETARY OF THE INTERIOR.—At the same time as the conveyance of the Bridge by the Secretary under subsection (a), the Secretary of the Interior shall transfer to the Authority all right, title, and interest of the Department of the Interior in and to such land under or adjacent to the Bridge as is necessary to carry out section 208. Upon conveyance by the Secretary of the Interior, the Authority shall accept the right, title, and interest in and to the land.

(c) AGREEMENT.—The agreement referred to in subsection (a) is an agreement among the Secretary, the Governors of the Commonwealth of Virginia and the State of Maryland, and the Mayor of the District of Columbia as to the Federal share of the cost of the activities carried out under section 208.

SEC. 208. CAPITAL IMPROVEMENTS AND CONSTRUCTION.

The Authority shall take such action as is necessary to address the need of the National Capital Region for an enhanced southern Capital Beltway crossing of the Potomac River that serves the traffic corridor of the Bridge (as in existence on the date of enactment of this Act), in accordance with the recommendations in the final environmental impact statement prepared by the Secretary. The Authority shall have the sole responsibility for the ownership, construction, operation, and maintenance of a new crossing of the Potomac River.

SEC. 209. ADDITIONAL POWERS AND RESPONSIBILITIES OF AUTHORITY.

In addition to the powers and responsibilities of the Authority under the other provisions of this title and under any interstate agreement or compact relating to the Authority that is consistent with this title, the Authority shall have all powers necessary and appropriate to carry out the duties of the Authority, including the power—

(1) to adopt and amend any bylaw that is necessary for the regulation of the affairs of the Authority and the conduct of the business of the Authority;

(2) to adopt and amend any regulation that is necessary to carry out the powers of the Authority;

(3) subject to section 207(a)(2), to plan, establish, finance, operate, develop, construct, enlarge, maintain, equip, or protect the Bridge or a new crossing of the Potomac River described in section 208;

(4) to employ, in the discretion of the Authority, a consulting engineer, attorney, accountant, construction or financial expert, superintendent, or manager, or such other employee or agent as is necessary, and to fix the compensation and benefits of the employee or agent, except that—

(A) an employee of the Authority shall not engage in an activity described in section 7116(b)(7) of title 5, United States Code, with respect to the Authority; and

(B) an employment agreement entered into by the Authority shall contain an explicit prohibition against an activity described in subparagraph (A) with respect to the Authority by an employee covered by the agreement;

(5) to—

(A) acquire personal and real property (including land lying under water and riparian rights), or any easement or other interest in real property, by purchase, lease, gift, transfer, or exchange; and

(B) exercise such powers of eminent domain in the Capital Region jurisdictions as are conferred on the Authority by the Capital Region jurisdictions, in the exercise of the powers and the performance of the duties of the Authority;

(6) to apply for and accept any property, material, service, payment, appropriation, grant, gift, loan, advance, or other fund that is transferred or made available to the Authority by the Federal Government or by any other public or private entity or individual;

(7) to borrow money on a short-term basis and issue notes of the Authority for the borrowing payable on such terms and conditions as the Board considers advisable, and to issue bonds in the discretion of the Authority for any purpose consistent with this title, which notes and bonds—

(A) shall not constitute a debt of the United States, a Capital Region jurisdiction, or any political subdivision of the United States or a Capital Region jurisdiction;

(B) may be secured solely by the general revenues of the Authority, or solely by the income and revenues of the Bridge or a new crossing of the Potomac River described in section 208; and

(C) shall be exempt as to principal and interest from all taxation (except estate and gift taxes) by the United States;

(8) to fix, revise, charge, and collect any reasonable toll or other charge;

(9) to enter into any contract or agreement necessary or appropriate to the performance of the duties of the Authority or the proper operation of the Bridge or a new crossing of the Potomac River described in section 208;

(10) to make any payment necessary to reimburse a local political subdivision having jurisdiction over an area where the Bridge or a new crossing of the Potomac River is situated for any extraordinary law enforcement cost incurred by the subdivision in connection with the Authority facility;

(11) to enter into partnerships or grant concessions between the public and private sectors for the purpose of—

(A) financing, constructing, maintaining, improving, or operating the Bridge or a new crossing of the Potomac River described in section 208; or

(B) fostering development of a new transportation technology;

(12) to obtain any necessary Federal authorization, permit, or approval for the construction, repair, maintenance, or operation of the Bridge or a new crossing of the Potomac River described in section 208;

(13) to adopt an official seal and alter the seal, as the Board considers appropriate;

(14) to appoint 1 or more advisory committees;

(15) to sue and be sued in the name of the Authority; and

(16) to carry out any activity necessary or appropriate to the exercise of the powers or performance of the duties of the Authority under this title and under any interstate agreement or compact relating to the Authority that is consistent with this title, if the activity is coordinated and consistent with the transportation planning process implemented by the metropolitan planning organization for the Washington, District of Columbia, metropolitan area under section 134 of title 23, United States Code, and section 5303 of title 49, United States Code.

SEC. 210. FUNDING.

(a) SET-ASIDE.—Section 104 of title 23, United States Code (as amended by section 125(b)(2)(A)), is further amended—

(1) in the first sentence of subsection (b), by striking "subsection (f) of this section" and inserting "subsections (f) and (i)";

(2) by redesignating subsection (i) as subsection (j); and

(3) by inserting before subsection (j) the following:

"(i) WOODROW WILSON MEMORIAL BRIDGE.—Before making an apportionment of funds under subsection (b), the Secretary shall set aside $17,550,000 for fiscal year 1996 and $80,050,000 for fiscal year 1997 for the rehabilitation of the Woodrow Wilson Memorial Bridge and for the planning, preliminary design, engineering, and acquisition of a right-of-way for, and construction of, a new crossing of the Potomac River.".

(b) APPLICABILITY OF TITLE 23.—Funds made available under this section shall be available for obligation in the manner provided for funds apportioned under chapter 1 of title 23, United States Code, except that—

(1) the Federal share of the cost of any project funded under this section shall be 100 percent; and

(2) the funds made available under this section shall remain available until expended.

(c) STUDY.—Not later than May 31, 1997, the Secretary, in consultation with each of the Capital Region jurisdictions, shall prepare and submit to Congress a report identifying the necessary Federal share of the cost of the activities to be carried out under section 208.

(d) DISTRIBUTION OF OBLIGATION AUTHORITY.—Section 1002(e)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 104 note) is amended by inserting before the period at the end the following: "and the National Capital Region Interstate Transportation Authority Act of 1995".

(e) REMOVAL OF ISTEA AUTHORIZATION FOR BRIDGE REHABILITATION.—Section 1069 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2009) is amended by striking subsection (i).

SEC. 211. AVAILABILITY OF PRIOR AUTHORIZATIONS.

In addition to the funds made available under section 210, any funds made available for the rehabilitation of the Bridge under sections 1069(i) and 1103(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2009 and 2028) (as in effect prior to *the amendment made by section 210(e)) shall continue to be available after the conveyance of the Bridge to the Authority under section 207(a), in accordance with the terms under which the funds were made available under the Act.*

Mr. WARNER. Mr. President, I now ask unanimous consent that the committee substitute be modified to delete section 107 of the bill. That is the section which contains the amendment of the Senator from Virginia, the Davis-Bacon amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WARNER. I further ask unanimous consent that during the Senate's consideration of S. 440 no Davis-Bacon related amendments be in order.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. WARNER. Mr. President, I recommended this action after consultation with the managers of the bill and the chairmen of the respective committees and the leadership of the Senate, because I am very anxious that consideration of the National Highway System bill be moved forward expeditiously.

The Senate will have further opportunity to consider issues related to Davis-Bacon on other pieces of legislation, most notably S. 141, a bill reported from the Labor and Human Resources Committee.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SARBANES (for himself, Ms. MIKULSKI, and Mr. ROBB):

S. 934. A bill to authorize the establishment of a pilot program to provide environmental assistance to non-Federal interests in the Chesapeake Bay watershed, and for other purposes; to the Committee on Environment and Public Works.

S. 935. A bill to amend the Food Security Act of 1985 to require the Secretary to establish a program to promote the development of riparian forest buffers in conservation priority areas, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SARBANES (for himself, Mr. WARNER, Ms. MIKULSKI, and Mr. ROBB):

S. 936. A bill to amend the Federal Water Pollution Control Act to assist in the restoration of the Chesapeake Bay, and for other purposes; to the Committee on Environment and Public Works.

By Mr. SARBANES (for himself, Ms. MIKULSKI, and Mr. ROBB):

S. 937. A bill to reauthorize the National Oceanic and Atmospheric Administration Chesapeake Bay Estuarine Resources Office, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SARBANES (for himself, Mr. WARNER, Ms. MIKULSKI, and Mr. ROBB):

S. 938. A bill to provide for ballast water management to prevent aquatic nonindigenous species from being introduced and spread into the waters of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. SMITH (for himself and Mr. GRAMM):

S. 939. A bill to amend title 18, United States Code, to ban partial-birth abortions; read the first time.

By Mr. LEAHY (for himself, Mr. BRADLEY, Mr. GRAHAM, Mr. DASCHLE, Mr. SIMON, Mr. INOUYE, Mr. JEFFORDS, Mr. REID, Mr. HATFIELD, Mr. FORD, Mr. HARKIN, Mr. SARBANES, Mr. FEINGOLD, Mr. KOHL, Mr. LAUTENBERG, Mr. DODD, Mr. KERRY, Mrs. KASSEBAUM, Ms. MOSELEY-BRAUN, Mr. BUMPERS, Mr. KENNEDY, Mrs. BOXER, Mr. PELL, Mr. CHAFEE, Mr. DORGAN, Ms. MIKULSKI, Mr. WELLSTONE, Mr. SIMPSON, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. BRYAN, Mr. MOYNIHAN, Mr. KERREY, Mrs. FEINSTEIN, Mr. AKAKA, Mr. CONRAD, Mr. JOHNSTON, Mr. PRYOR, Mr. BREAUX, Mr. EXON, and Mr. CAMPBELL):

S. 940. A bill to support proposals to implement the United States goal of eventually eliminating antipersonnel landmines; to impose a moratorium on use of antipersonnel landmines except in limited circumstances; to provide for sanctions against foreign governments that export antipersonnel landmines, and for other purposes; to the Committee on Foreign Relations.

By Mr. DODD (for himself and Mr. KENNEDY):

S. 941. A bill to provide for the termination of the status of the College Construction Loan Insurance Association ("the Corporation") as a Government Sponsored Enterprise, to require the Secretary of Education to divest himself of the Corporation's stock, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. BOND (for himself, Mr. DOMENICI, Mr. WARNER, Mrs. HUTCHISON, Mr. BURNS, Mr. FRIST, and Mr. COVERDELL):

S. 942. A bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitrary regulatory enforcement actions against small entities, and for other purposes; to the Committee on Small Business.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SARBANES (for himself, Ms. MIKULSKI, and Mr. ROBB):

S. 934. A bill to authorize the establishment of a pilot program to provide environmental assistance to non-Federal interests in the Chesapeake Bay watershed, and for other purposes; to the Committee on Environment and Public Works.

S. 935. A bill to amend the Food Security Act of 1985 to require the Secretary to establish a program to promote the development of riparian forest buffers in conservation priority areas, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

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By Mr. SARBANES (for himself, Mr. WARNER, Ms. MIKULSKI, and Mr. ROBB):

S. 938. A bill to provide for ballast water management to prevent aquatic nonindigenous species from being introduced and spread into the waters of the United States, and for other purposes; to the Committee on Commerce, Science, and Transportation.

CHESAPEAKE BAY LEGISLATION

Mr. SARBANES. Mr. President, today, I am introducing, along with a number of my colleagues, a package of five bills directed to continuing and enhancing the efforts to clean up the Chesapeake Bay. Joining me in sponsoring elements of this package are my distinguished colleague from Maryland, Senator MIKULSKI, and my two distinguished Virginia colleagues, Senators WARNER and ROBB.

Mr. President, the Chesapeake Bay is the largest estuary in the United States and the key to the ecological and economic health of the mid-Atlantic region. The bay, in fact, is one of the world's great natural resources. We tend to take it for granted, since it is right here at hand, so to speak, and I know many Members of this body have enjoyed the Chesapeake Bay. The bay provides thousands of jobs for the people in this region. It is a world-class fishery that produces a significant portion of the country's fin fish and shellfish catch. It is a major commercial waterway and shipping center for the region and for much of the eastern United States. And it is an unparalleled recreational center for almost 10 million people.

The Chesapeake Bay also provides vital habitat for living resources. Over 2,700 plant and animal species live in the bay. It provides a major resting area for migratory birds and waterfowl along the Atlantic flyway, including many endangered and threatened species.

I could go on and on about this dimension of the bay, but most people are aware of it. Certainly, our Nation's scientists are aware of it and have consistently regarded the protection and the enhancement of the quality of the Chesapeake Bay as an extremely important national objective.

It is a treasured asset for those of us in Maryland—in fact, for all those who live around the bay in the other States, our neighboring State of Virginia, and the States to the north of us. Much of the water that comes into the bay comes from the Susquehanna River which originates in New York State.

The Chesapeake Bay is a defining element in Maryland history and a key to the quality of Maryland life throughout our history.

When the bay began to experience serious unprecedented declines in water quality and living resources in recent decades, the people in my State suffered as well. We lost thousands of jobs in the fishing industry. We lost much of the wilderness that defined the watershed.

We began to appreciate for the first time the profound impact that human activity could have on the Chesapeake Bay ecosystem.

Untreated sewage, deforestation, toxic chemicals, farm runoff, and increased development resulted in a degradation of water quality and a destruction of wildlife and its habitat.

Now, fortunately, over the last two decades we have also come to understand that humans can have a positive influence on the environment, and that we can, if we choose, assist nature to repair much of the damage which has been done.

We now treat sewage before it enters our waters. We ban toxic chemicals that were killing the wildlife, we have initiated programs to reduce nonpoint source pollution, and we have taken aggressive steps to restore depleted fisheries.

The States of Maryland, Virginia, and Pennsylvania deserve much of the credit for undertaking many of the actions that have put the bay and its watershed on the road to recovery.

All three States have had major cleanup programs. They have made significant commitments in terms of resources. It is an important priority item on the agendas of the bay States. Successive administrations—Governors have been strongly committed, State legislatures, the public. There are a number of private organizations—the Chesapeake Bay Foundation, for example—which do extraordinarily good work in this area.

But there has been an involvement of the Federal Government as well in helping to bring about the recent successes. It has been an essential and critical involvement.

Without the Federal Clean Water Act, the Federal ban on DDT, and EPA's watershed-wide coordination of Chesapeake Bay restoration and cleanup activities, we would not have been able to bring about the concerted effort, the real partnership, that is succeeding in improving the water quality of the bay and is succeeding in bringing back many of the fish and wildlife species that were on their way to simply being a memory.

So there has been an important role that has been played by the National Government in serving as a catalyst to bring together the State and local effort and the private sector effort. An extraordinary partnership has been built that is much greater than the sum of its parts.

There is a dynamic element that has resulted, as a consequence, that has enabled us to gain a significant momentum in raising the quality of the Chesapeake Bay to the benefit of everyone.

The Chesapeake Bay is getting cleaner, but we cannot afford to be complacent. There are tremendous stresses imposed upon the bay. This is a fast-growing area of the country, with increased population. The commercial stresses intensify.

So we need to address the continuing needs of the bay restoration effort. The hard work, investment, and commitment, at all levels, which has brought gains over the last two decades, must not be allowed to relax.

The measures I am introducing today are designed to build upon our National Government's past role in the Chesapeake Bay program, the highly successful Federal-State-local partnership to which I made reference, that so ably coordinates and directs efforts to restore the bay.

The proposed legislation reauthorizes the bay program and expands the responsibilities of the Federal agencies with a stake in the future of the bay so as to address continuing trouble spots in the watershed.

Difficulties identified by the Chesapeake Bay community include loss of wetlands and forests, soil erosion, toxics, nuisance species, and shellfish disease.

Let me just outline briefly how these various measures seek to accomplish this. First among this package of five bills is legislation that carries forward and enhances the role of the Environmental Protection Agency as the lead Federal agency committed to cleaning up the bay. It establishes a mechanism for interagency coordination and cooperation in the Chesapeake Bay restoration efforts.

The proposal also calls on EPA to initiate new programs to conduct watershed-wide research, programs to restore essential habitat, and programs to reduce toxics in the watershed.

Another bill in this package directs the Coast Guard to develop guidelines for ships entering U.S. waters, to limit the opportunity for the introduction of potentially harmful nonindigenous species through ballast water releases.

In other words, the bay is a ship artery. It is a commercial waterway. The Port of Baltimore is one of our Nation's leading ports. Ships coming into the Chesapeake Bay often release ballast water. The concern is that in the course of doing so they will release into the bay species that are nonindigenous to the bay. In other words, species that had been taken on elsewhere in the world and then would be released into the bay to its detriment.

In fact, this legislation builds on the program undertaken in the Great Lakes where nonindigenous species, such as the zebra mussel, are already causing millions of dollars in damage. We want to avoid such a situation developing in the Chesapeake Bay, and this provision giving the Coast Guard a role to play with respect to the release of ballast water is important in that regard.

Third, the package of legislation continues NOAA's role as the Federal agency responsible for providing key marine research in the Chesapeake Bay. It directs NOAA to continue to undertake research on and to develop solutions for the diseases that have ravaged oyster fisheries throughout the United States and, in particular, in the Chesapeake Bay. We have been very hard hit by these diseases that have virtually decimated the oyster industry. NOAA is the agency to carry forward this key marine research.

Fourth, the package of legislation calls on the Army Corps of Engineers to provide assistance to State and local governments in the design and construction of water-related infrastructure, and to assist in developing resource protection projects.

Let me just give an example of the projects I am talking about. The beneficial use of dredge material which offers a win-win situation. We have to dredge the bay channels for shipping purposes. There is a problem with the disposal of the spoil from that dredging. We now realize that if we move it to eroding islands, we can rebuild the islands. In other words, you have a disposal site so that you dispose of it in a way that is beneficial to the environment by renewing habitat.

We also are interested in the corps addressing sediment and erosion control questions, the protection of eroding shoreline, and the protection of essential public works such as waste water treatment and water supply facilities.

The final piece of legislation in this package directs the U.S. Department of Agriculture, acting through the Natural Resources Conservation Service and through the Forest Service, to encourage the planting of streamside forests in the Chesapeake Bay watershed and in other conservation priority areas. In other words, we encourage the planting of forest buffers, which then help to limit the pollution of water resources by reducing the entry of nonpoint pollutants into streams, and by stabilizing stream banks.

It is a very important and worthwhile program. By planting these buffer zones of trees we are able to stabilize the stream bank, and also filter out pollutants which otherwise would go into the bodies of water.

Mr. President, it is the hope of the cosponsors that most of these measures will ultimately be incorporated into larger pieces of legislation that are due to be reauthorized or considered this year. However, if such legislation is not considered or should become stalled in the legislative process—the larger legislation covers a whole range of issues—it is our intention to try to move forward with this legislation separately.

The Chesapeake Bay cleanup effort has been a major bipartisan undertaking in this body. It has consistently, over the years, been strongly supported by virtually all Members of the Senate. I strongly urge my colleagues to join with us in supporting this legislation and contributing to the improvement and the enhancement of one of our Nation's most valuable and treasured natural resources.

Mr. President, I ask unanimous consent that the text of these bills and a section-by-section analysis of the bills be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 934

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHESAPEAKE BAY ENVIRONMENTAL RESTORATION AND PROTECTION PROGRAM.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of the Army (referred to in this section as the "Secretary") shall establish a pilot program to provide environmental assistance to non-Federal interests in the Chesapeake Bay watershed.

(2) FORM.—The assistance shall be in the form of design and construction assistance for water-related environmental infrastructure and resource protection and development projects affecting the Chesapeake Bay estuary, including projects for sediment and erosion control, protection of eroding shorelines, protection of essential public works, wastewater treatment and related facilities, water supply and related facilities, and beneficial uses of dredged material, and other related projects that may enhance the living resources of the estuary.

(b) PUBLIC OWNERSHIP REQUIREMENT.—The Secretary may provide assistance for a project under this section only if the project is publicly owned, and will be publicly operated and maintained.

(c) LOCAL COOPERATION AGREEMENT.—

(1) IN GENERAL.—Before providing assistance under this section, the Secretary shall enter into a local cooperation agreement with a non-Federal interest to provide for design and construction of the project to be carried out with the assistance.

(2) REQUIREMENTS.—Each local cooperation agreement entered into under this subsection shall provide for—

(A) the development by the Secretary, in consultation with appropriate Federal, State, and local officials, of a facilities or resource protection and development plan, including appropriate engineering plans and specifications and an estimate of expected resource benefits; and

(B) the establishment of such legal and institutional structures as are necessary to ensure the effective long-term operation and maintenance of the project by the non-Federal interest.

(d) COST SHARING.—

(1) FEDERAL SHARE.—Except as provided in paragraph (2)(B), the Federal share of the total project costs of each local cooperation agreement entered into under this section shall be 75 percent.

(2) NON-FEDERAL SHARE.—

(A) VALUE OF LANDS, EASEMENTS, RIGHTS-OF-WAY, AND RELOCATIONS.—In determining the non-Federal contribution toward carrying out a local cooperation agreement entered into under this section, the Secretary shall provide credit to a non-Federal interest for the value of lands, easements, rights-of-way, and relocations provided by the non-Federal interest, except that the amount of credit provided for a project under this paragraph may not exceed 25 percent of total project costs.

(B) OPERATION AND MAINTENANCE COSTS.—The non-Federal share of the costs of operation and maintenance of a project carried out under an agreement under this section shall be 100 percent.

(e) APPLICABILITY OF OTHER FEDERAL AND STATE LAWS AND AGREEMENTS.—

(1) IN GENERAL.—Nothing in this section waives, limits, or otherwise affects the applicability of any provision of Federal or State law that would otherwise apply to a project carried out with assistance provided under this section.

(2) COOPERATION.—In carrying out this section, the Secretary shall cooperate fully with the heads of appropriate Federal agencies, including—

(A) the Administrator of the Environmental Protection Agency;

(B) the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration;

(C) the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service; and

(D) the heads of such other Federal agencies and departments and agencies of a State or political subdivision of a State as the Secretary determines to be appropriate.

(f) DEMONSTRATION PROJECT.—The Secretary shall establish at least 1 project under this section in each of the States of Maryland, Virginia, and Pennsylvania. A project established under this section shall be carried out using such measures as are necessary to protect environmental, historic, and cultural resources.

(g) REPORT.—Not later than December 31, 1998, the Secretary shall transmit to Congress a report on the results of the program carried out under this section, together with a recommendation concerning whether or not the program should be implemented on a national basis.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $30,000,000 for the period consisting of fiscal years 1996 through 1998, to remain available until expended.

S. 935

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Riparian Forest Pilot Program Establishment Act".

SEC. 2. RIPARIAN FOREST PILOT PROGRAM.

Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by inserting after subsection (f) the following:

"(g) RIPARIAN FOREST PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary shall establish a program to promote the development of riparian forest buffers in conservation priority areas designated under subsection (f) by entering into contracts to assist owners and operators of lands described in paragraph (2) to improve water quality and living resources in the conservation priority areas.

"(2) ELIGIBLE LANDS.—Notwithstanding subsection (b), the Secretary may include in the program established under this subsection any cropland or pasture land that, when converted to a riparian forest buffer consisting of trees, shrubs, or other vegetation, will—

"(A)(i) intercept surface runoff, wastewater, and subsurface flows from upland sources for the purpose of removing or buffering the effects of associated nutrients, sediment, organic matter, pesticides, or other pollutants, prior to entry into surface waters or ground water recharge areas; or

"(ii) accomplish specific objectives for terrestrial or aquatic habitat identified by the Secretary; and

"(B) meet specifications for size, vegetation, and tree species established by the Natural Resources Conservation Service and the Forest Service, in cooperation with appropriate State agencies.

"(3) DURATION, MODIFICATION, AND EXTENSION OF CONTRACTS.—Notwithstanding subsection (e), during calendar years 1996 through 2000, the Secretary may, in carrying out the program established under this subsection—

"(A) enter into contracts of not more than 20 years;

"(B) with the consent of the owner or operator, modify a contract entered into under this subchapter prior to the date of enactment of this paragraph to include land that meets the eligibility criteria of paragraph (2); and

"(C) extend a contract entered into or modified under this subchapter with respect to land that meets the eligibility criteria of paragraph (2) for a period of not more than 20 years.

"(4) PRIORITY FOR ENROLLMENT OF ELIGIBLE LANDS.—In enrolling lands under the program established under this subchapter, the Secretary shall—

"(A) give priority to land that meets the eligibility criteria of paragraph (2); and

"(B) to the extent practicable, ensure that at least 20 percent of enrolled lands in conservation priority areas designated under subsection (f) meets the eligibility criteria of paragraph (2).

"(5) TECHNICAL ASSISTANCE.—Through the Natural Resources Conservation Service and the Forest Service, in cooperation with States that contain conservation priority areas designated under subsection (f), the Secretary shall provide technical assistance for the design, establishment, and maintenance of riparian forest buffers.

"(6) COST-SHARE ASSISTANCE.—Notwithstanding any other provision of this title, the Secretary may pay not more than 100 percent of the cost of the design, establishment, and short-term maintenance of riparian forest buffers consisting of trees, shrubs, or other vegetation under the program established under this subchapter.

"(7) SELECTIVE HARVEST.—Notwithstanding any other provision of this title, an owner or operator participating in the program established under this subsection, with the prior approval of the Secretary, may selectively harvest mature timber if the harvest would not prevent accomplishment of the objectives of this subchapter.".

S. 936

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chesapeake Bay Restoration Act of 1995".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Chesapeake Bay is a national treasure and a resource of worldwide significance;

(2) in recent years, the productivity and water quality of the Chesapeake Bay and the tributaries of the Bay have been diminished by pollution, excessive sedimentation, shoreline erosion, the impacts of growth and development of population in the Chesapeake Bay watershed, and other factors;

(3) the Federal Government, State governments, the District of Columbia and the governments of political subdivisions of the States with jurisdiction over the Chesapeake Bay watershed have committed to a comprehensive and cooperative program to achieve improved water quality and improvements in the productivity of living resources of the Bay;

(4) the cooperative program described in paragraph (3) serves as a national model for the management of estuaries; and

(5) there is a need to expand Federal support for research, monitoring, management, and restoration activities in the Chesapeake Bay and the tributaries of the Bay in order to meet and further the goals and commitments of the Chesapeake Bay Program.

(b) PURPOSES.—The purposes of this Act are to—

(1) expand and strengthen the cooperative efforts to restore and protect the Chesapeake Bay; and

(2) achieve the goals embodied in the Chesapeake Bay Agreement.

SEC. 3. CHESAPEAKE BAY.

Section 117 of the Federal Water Pollution Control Act (33 U.S.C. 1267) is amended to read as follows:

"CHESAPEAKE BAY

"SEC. 117. (a) DEFINITIONS.—In this section:

"(1) CHESAPEAKE BAY AGREEMENT.—The term 'Chesapeake Bay Agreement' means the formal, voluntary agreements executed to achieve the goal of restoring and protecting the Chesapeake Bay ecosystem and the living resources of the ecosystem and signed by the Governor of the State of Maryland, the Governor of the Commonwealth of Pennsylvania, the Governor of the Commonwealth of Virginia, the Mayor of the District of Columbia, the chairman of the tri-State Chesapeake Bay Commission, and the Administrator, on behalf of the executive branch of the Federal Government.

"(2) CHESAPEAKE BAY PROGRAM.—The term 'Chesapeake Bay Program' means the program directed by the Chesapeake Executive Council in accordance with the Chesapeake Bay Agreement.

"(3) CHESAPEAKE BAY WATERSHED.—The term 'Chesapeake Bay watershed' shall have the meaning determined by the Administrator.

"(4) CHESAPEAKE EXECUTIVE COUNCIL.—The term 'Chesapeake Executive Council' means the signatories to the Chesapeake Bay Agreement.

"(5) SIGNATORY JURISDICTION.—The term 'signatory jurisdiction' means a jurisdiction of a signatory to the Chesapeake Bay Agreement.

"(b) CONTINUATION OF CHESAPEAKE BAY PROGRAM.—

"(1) IN GENERAL.—In cooperation with the Chesapeake Executive Council (and as a member of the Council), the Administrator shall continue the Chesapeake Bay Program.

"(2) PROGRAM OFFICE.—The Administrator shall maintain in the Environmental Protection Agency a Chesapeake Bay Program Office. The Chesapeake Bay Program Office shall provide support to the Chesapeake Executive Council by—

"(A) implementing and coordinating science, research, modeling, support services, monitoring, and data collection activities that support the Chesapeake Bay Program;

"(B) making available, through publications, technical assistance, and other appropriate means, information pertaining to the environmental quality and living resources of the Chesapeake Bay Program;

"(C) in cooperation with appropriate Federal, State, and local authorities, assisting the signatories to the Chesapeake Bay Agreement that participate in the Chesapeake Bay Program in developing and implementing specific action plans to carry out the responsibilities of the authorities under the Chesapeake Bay Agreement;

"(D) assisting the Administrator in coordinating the actions of the Environmental Protection Agency with the actions of the appropriate officials of other Federal agencies and State and local authorities in developing strategies to—

"(i) improve the water quality and living resources of the Chesapeake Bay; and

"(ii) obtain the support of the appropriate officials of the agencies and authorities in achieving the objectives of the Chesapeake Bay Agreement; and

"(E) implementing outreach programs for public information, education, and participation to foster stewardship of the resources of the Chesapeake Bay.

"(3) INTERAGENCY COOPERATION AND COORDINATION.—

"(A) IN GENERAL.—There is established a Chesapeake Bay Federal Agencies Committee (referred to in this paragraph as the 'Committee'). The purposes of the Committee shall be to—

"(i) facilitate collaboration, cooperation, and coordination among Federal agencies and programs of Federal agencies in support of the restoration of the Chesapeake Bay;

"(ii) ensure the integration of Federal activities relating to the restoration of the Chesapeake Bay with State and local restoration activities, and the restoration activities of nongovernmental entities; and

"(iii) provide a framework for activities that effectively focus the expertise and resources of Federal agencies on problems identified by the Committee in such manner as to produce demonstrable environmental results and demonstrable improvements in programs of Federal agencies.

"(B) DUTIES OF THE COMMITTEE.—The Committee shall share information, set priorities, and develop and implement plans, programs, and projects for collaborative activities to carry out the following duties:

"(i) Reviewing all Federal research, monitoring, regulatory, planning, educational, financial, and technical assistance, and other programs that the Committee determines to be appropriate, that relate to the maintenance, restoration, preservation, or enhancement of the environmental quality and natural resources of the Chesapeake Bay.

"(ii) Reviewing each Federal program administered by the head of each participating Federal agency that may influence or contribute to point and nonpoint source pollution and establishing a means for the mitigation of any potential impacts of the pollution.

"(iii) Developing and implementing an annual and long-range work program that specifies the responsibilities of each Federal agency in meeting commitments and goals of the Chesapeake Bay Agreement.

"(iv) Assessing priority needs and making recommendations to the Chesapeake Executive Council for improved environmental and living resources management of the Chesapeake Bay ecosystem.

"(C) APPOINTMENT OF MEMBERS.—The members of the Committee shall be appointed as follows:

"(i) At least 1 member who is an employee of the Environmental Protection Agency shall be appointed by the Administrator.

"(ii) At least 1 member who is an employee of the National Oceanic and Atmospheric Administration of the Department of Commerce shall be appointed by the Secretary of Commerce.

"(iii) At least 3 members shall be appointed by the Secretary of the Interior, of whom—

"(I) 1 member shall be an employee of the United States Fish and Wildlife Service;

"(II) 1 member shall be an employee of the National Park Service; and

"(III) 1 member shall be an employee of the United States Geological Survey.

"(iv) At least 4 members shall be appointed by the Secretary of Agriculture, of whom—

"(I) 1 member shall be an employee of the Natural Resources Conservation Service;

"(II) 1 member shall be an employee of the Forest Service;

"(III) 1 member shall be an employee of the Consolidated Farm Service Agency; and

"(IV) 1 member shall be an employee of the Cooperative State Research, Education, and Extension Service.

"(v) At least 3 members shall be appointed by the Secretary of Defense, of whom—

"(I) at least 2 members shall be employees of the Department of the Army, of whom 1 member shall be an employee of the Army Corps of Engineers; and

"(II) 1 member shall be an employee of the Department of the Navy.

"(vi) At least 1 member who is an employee of the Federal Highway Administration shall be appointed by the Secretary of Transportation.

"(vii) At least 1 member who is an employee of the Coast Guard shall be appointed by the head of the department in which the Coast Guard is operating.

"(viii) At least 1 member shall be appointed by the Secretary of Housing and Urban Development.

"(ix) At least 1 member shall be appointed by Board of Regents of the Smithsonian Institution.

"(D) CHAIRPERSON.—The Committee shall, at the initial meeting of the Committee, and biennially thereafter, select a Chairperson from among the members of the Committee.

"(E) PROCEDURES.—The Committee may establish such rules and procedures (including rules and procedures relating to the internal structure and function of the Committee) as the Committee determines to be necessary to best fulfill the responsibilities of the Committee.

"(F) MEETINGS.—The initial meeting of the Committee shall be not later than 60 days after the date of enactment of this subparagraph. Subsequent meetings shall be held on a regular basis at the call of the Chairperson.

"(c) REPORTS.—The Committee shall prepare and submit to the President a report to be submitted to Congress that identifies—

"(1) the activities that have been carried out or are being undertaken to carry out the responsibilities of the Federal agency under this section or that are otherwise required under the Chesapeake Bay Program;

"(2) planned activities to carry out the responsibilities referred to in paragraph (1); and

"(3) the resources provided by the Federal agency to meet the responsibilities of the agency under this section and under the Chesapeake Bay Program.

"(d) INTERSTATE DEVELOPMENT PLAN GRANTS.—

"(1) AUTHORITY.—The Administrator shall, at the request of the Governor of a State affected by the interstate management plan developed pursuant to the Chesapeake Bay Program (referred to in this subsection as the 'plan'), make a grant for the purpose of implementing the management mechanisms contained in the plan if the State has, within 1 year after the date of enactment of the Chesapeake Bay Restoration Act of 1995, approved and committed to implement all or substantially all aspects of the plan. The grants shall be made subject to such terms and conditions as the Administrator considers appropriate.

"(2) SUBMISSION OF PROPOSAL.—A State or combination of States may apply for the benefits provided under this subsection by submitting to the Administrator a comprehensive proposal to implement management mechanisms contained in the plan, which shall include—

"(A) a description of proposed abatement actions that the State or combination of States commits to take within a specified time period to reduce pollution in the Chesapeake Bay and to meet applicable water quality standards; and

"(B) the estimated cost of the abatement actions proposed to be taken during the next fiscal year.

If the Administrator finds that the proposal is consistent with the plan and the national policies set forth in section 101(a), the Administrator shall approve the proposal.

"(3) FEDERAL SHARE.—For any fiscal year, the amount of grants made under this subsection shall not exceed 50 percent of the costs of implementing the management mechanisms contained in the plan during the fiscal year and shall be made on the condition that non-Federal sources provide the remainder of the cost of implementing the management mechanisms contained in the plan during the fiscal year.

"(4) ADMINISTRATIVE COSTS.—Administrative costs in the form of salaries, overhead, or indirect costs for services provided and charged against programs or projects supported by funds made available under this subsection shall not exceed in any 1 fiscal year an amount equal to 10 percent of the annual Federal grant made to a State under this subsection.

"(e) COMPLIANCE BY FEDERAL FACILITIES.—

"(1) ASSESSMENT.—Not later than 1 year after the date of enactment of this subsection, and annually thereafter, the head of each Federal agency that owns or operates a facility (as defined by the Administrator) within the Chesapeake Bay watershed shall perform an assessment of the facility for the purpose of ensuring consistency and compliance with the commitments, goals, and objectives of the Chesapeake Bay Program and the enforceable requirements of this Act.

"(2) CONTENTS OF ASSESSMENTS.—The assessment referred to in paragraph (1) shall identify any then existing or potential impact on the water quality or living resources of the Chesapeake Bay (or both) by the facility, including any potential land-use impacts of activities related to new development, man-made obstructions to fish passage, shoreline erosion, and ground water and storm water runoff.

"(3) STATE PLANS AND PROGRAMS.—To the maximum extent practicable, the head of each Federal agency that owns or occupies real property in the Chesapeake Bay watershed shall ensure conformance with any applicable State plan or program to protect environmentally sensitive areas in the Chesapeake Bay watershed.

"(4) REPORT REQUIREMENTS.—As part of each report required under subsection (c)(3), the head of each Federal agency shall include a detailed plan, funding mechanism, and schedule for ensuring compliance with this Act and addressing or mitigating the impacts referred to in paragraph (2).

"(f) HABITAT RESTORATION AND ENHANCEMENT DEMONSTRATION PROGRAM.—

"(1) ESTABLISHMENT OF PROGRAM.—The Administrator, in cooperation with the heads of other appropriate Federal agencies, agencies of States, and political subdivisions of States, shall establish a habitat restoration program in the Chesapeake Bay watershed. The purpose of the program shall be to develop and demonstrate cost-effective techniques for restoring or enhancing wetlands, forest riparian zones, and other types of habitat associated with the Chesapeake Bay and the tributaries of the Chesapeake Bay.

"(2) CRITERIA FOR IDENTIFICATION OF AREAS FOR HABITAT RESTORATION.—Not later than 1 year after the date of enactment of this subsection, the Administrator, in consultation with the Chesapeake Executive Council, shall develop criteria to identify areas for habitat restoration, including—

"(A) unique, significant, or representative habitat types;

"(B) areas that are subject to, or threatened by, habitat loss or habitat degradation (or both) attributable to human or natural causes; and

"(C) areas inhabited by endangered, threatened, or rare species, neotropical migratory birds, or species that have a unique function within the Chesapeake Bay ecosystem.

"(3) PLAN.—Not later than 2 years after the date of enactment of this subsection, the Administrator, in consultation with the Chesapeake Executive Council, shall develop a plan for the restoration of wetlands, contiguous riparian forests, and other habitats within the Chesapeake Bay watershed.

"(4) DUTIES OF THE ADMINISTRATOR.—In carrying out the demonstration program under this subsection, the Administrator, in consultation with the Chesapeake Executive Council, shall—

"(A) identify opportunities for the restoration of major habitat resources in the Chesapeake Bay watershed;

"(B) characterize the importance of the habitat resources identified pursuant to subparagraph (A) to the health and functioning of the Chesapeake Bay ecosystem;

"(C) conduct a prerestoration characterization assessment of each habitat resource identified pursuant to subparagraph (A) to evaluate with respect to the habitat resource—

"(i) the potential effectiveness of a restoration effort;

"(ii) enhancement options; and

"(iii) the cost-effectiveness of each effort or option referred to in clauses (i) and (ii);

"(D) consider the degree to which restored and enhanced habitats may—

"(i) mitigate the effects of nutrient loading caused by nonpoint source pollution from developed areas and agricultural activities;

"(ii) reduce erosion and mitigate flood damage; and

"(iii) assist in the protection or recovery of living resources;

"(E) ensure coordination with all then existing management, regulatory, and incentive programs;

"(F) implement habitat restoration projects on a demonstration basis, including submerged aquatic vegetation plantings, breakwaters, forest buffer strips, and artificial wetlands;

"(G) monitor and evaluate the effectiveness of the demonstration projects;

"(H) establish and maintain a central clearinghouse to facilitate access to information related to habitat of the Chesapeake Bay watershed, including information relating to habitat location, type, acreage, function, condition and status, and restoration and design techniques and trends related to the information; and

"(I) develop and carry out educational programs (including training programs), research programs, and programs for technical assistance to assist in the efforts of State and local governments and private citizens related to habitat restoration and enhancement.

"(5) ASSISTANCE.—

"(A) IN GENERAL.—In carrying out the demonstration program under this subsection, the Administrator is authorized to provide, in cooperation with the Chesapeake Executive Council, technical assistance and financial assistance in the form of a grant to any State government, interstate entity, local government, or any other public or nonprofit private agency that submits an approved application.

"(B) FEDERAL SHARE OF GRANTS.—The Federal share of the amount of any grant awarded under this subsection shall be—

"(i) with respect to a project conducted by the grant recipient on land owned or leased by the Federal Government, 100 percent of the cost of the activities that are the subject of the grant; and

"(ii) with respect to a project conducted by the grant recipient on land that is not owned or leased by the Federal Government, 75 percent of the cost of the activities that are the subject of the grant.

"(C) FEDERAL SHARE OF PROJECTS.—The Federal share of any project conducted by the Administrator under this subsection shall be—

"(i) with respect to a project conducted on land owned or leased by the Federal Government, 100 percent of the cost of the activities that are the subject of the project; and

"(ii) with respect to a project conducted on land that is not owned or leased by the Federal Government, 75 percent of the cost of the activities that are the subject of the project.

"(6) HABITAT PROTECTION AND RESTORATION PROGRESS ASSESSMENT.—Not later than 3 years after the date of enactment of this subsection, and biennially thereafter, the Administrator shall submit a report to Congress concerning the results of the demonstration projects conducted under the habitat restoration demonstration program described in paragraph (1). The report shall also include a summary of scientific information concerning habitat restoration and protection in existence at the time of preparation of the report, and a description of methods, procedures, and processes to assist State and local governments and other interested entities in carrying out projects for the protection and restoration of habitat that the Administrator determines to be appropriate.

"(g) BASINWIDE TOXICS REDUCTION.—

"(1) IN GENERAL.—The Administrator, in cooperation with the Chesapeake Executive Council, shall develop a comprehensive basinwide toxics reduction strategy (referred to in this subsection as the 'Strategy'). The Strategy shall, with respect to inputs of toxic pollutants to the Chesapeake Bay and the tributaries of the Bay, establish basinwide reduction objectives and describe actions that are necessary to achieve a multijurisdictional approach to the reduction of the inputs.

"(2) RESEARCH AND MONITORING.—The Administrator shall undertake such research and monitoring activities as the Administrator determines to be necessary for the improvement of the understanding of intermedia transfers of toxic pollutants and the ultimate fate of the pollutants within the Chesapeake Bay ecosystem.

"(3) ELEMENTS OF STRATEGY.—The Strategy shall include a process to assist signatory jurisdictions with—

"(A) improving the identification of the sources and transport mechanisms of toxic pollutant loadings to the Chesapeake Bay and the tributaries of the Bay from point and nonpoint sources; and

"(B) the periodic integration, in a consistent format and manner, of the information obtained pursuant to subparagraph (A) into a toxics loading inventory for the Chesapeake Bay.

"(4) DEADLINE FOR COMPLETION OF STRATEGY.—The Strategy shall be completed not later than 2 years after the date of enactment of this subsection.

"(5) FEDERAL ASSISTANCE.—The Administrator, in cooperation with the Chesapeake Executive Council, shall provide such financial and technical assistance as the Administrator determines to be necessary to—

"(A) by not later than 1 year after the date of enactment of this subsection, develop a process to assist signatory jurisdictions—

"(i) with improving the identification of the sources and transport mechanisms of toxic pollutant loadings to the Chesapeake Bay and the tributaries of the Bay from point and nonpoint sources; and

"(ii) with the periodic integration, in a consistent format and manner, of the information obtained pursuant to clause (i) into a toxics loading inventory for the Chesapeake Bay maintained pursuant to the Chesapeake Bay Program (referred to in this subsection as the 'Chesapeake Bay Program Toxics Loading Inventory'); and

"(B) by not later than 2 years after the date of enactment of this subsection, commence the implementation of toxics reduction, pollution prevention, and management actions designed to achieve the toxics reduction goals of the Chesapeake Bay Agreement.

"(6) ACTIONS.—The toxics reduction, pollution prevention, and management actions referred to in paragraph (5)(B) shall—

"(A) be based upon the findings and recommendations of a reevaluation of the Strategy; and

"(B) include targeted demonstration projects designed to reduce the level of toxic pollutant loadings from major sources identified in the Chesapeake Bay Program Toxics Loading Inventory.

"(h) CHESAPEAKE BAY WATERSHED, TRIBUTARY, AND RIVER BASIN PROGRAM.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of this subsection, the Administrator, in cooperation with the Chesapeake Executive Council, the Secretary of Commerce (acting through the Administrator of the National Oceanic and Atmospheric Administration), the Secretary of the Interior (acting through the Director of the United States Fish and Wildlife Service), and the heads of such other Federal agencies as the Administrator determines to be appropriate, shall implement a coordinated research, monitoring, and data collection program to—

"(A) assess the status of, and trends in, the environmental quality and living resources of the major tributaries, rivers, and streams within the Chesapeake Bay watershed; and

"(B) assist in the development of management plans for the waters referred to in subparagraph (A).

"(2) CONTENTS OF PROGRAM.—The program referred to in paragraph (1) shall include—

"(A) a comprehensive inventory of water quality and living resource data for waters within the Chesapeake Bay watershed;

"(B) an assessment of major issues and problems concerning water quality in the Chesapeake Bay watershed, including the extent to which the waters provide for the protection and propagation of a balanced indigenous population of fish, shellfish, and wildlife;

"(C) a program to identify sources of water pollution within the Chesapeake Bay watershed, including a system of accounting for sources of nutrients, and the movement of nutrients, pollutants, and sediments through the Chesapeake Bay watershed; and

"(D) the development of a coordinated Chesapeake Bay watershed land-use database that incorporates resource inventories and analyses for the evaluation of the effects of different land-use patterns on hydrological cycles, water quality, living resources, and other environmental features as an aid to making sound land-use management decisions.

"(3) MANAGEMENT STRATEGIES.—In a manner consistent with each applicable deadline established by the Chesapeake Executive Council, the Administrator, in consultation with the Chesapeake Executive Council, shall assist each signatory jurisdiction of the Chesapeake Bay Council in the development and implementation of a management strategy for each of the major tributaries of the Chesapeake Bay, designed for the achievement of—

"(A) a reduction, in a manner consistent with the terms of the Chesapeake Bay Agreement, in the quantity of nitrogen and phosphorous entering the main stem Chesapeake Bay; and

"(B) the water quality requirements necessary to restore living resources in both the tributaries and the main stem of the Chesapeake Bay.

"(4) ASSISTANCE.—

"(A) IN GENERAL.—The Administrator, in consultation with the Chesapeake Executive Council, is authorized to provide technical and financial assistance to any State government, interstate entity, local government, or any other public or nonprofit private agency, institution, or organization in the Chesapeake Bay watershed to—

"(i) support the research, monitoring, and data collection program under this subsection;

"(ii) develop and implement cooperative tributary basin strategies that address the water quality and living resource needs; and

"(iii) encourage and coordinate locally based public and private watershed protection and restoration efforts that aid in the development and implementation of programs that complement the tributary basin strategies developed by the Chesapeake Executive Council.

"(B) GRANTS.—

"(i) IN GENERAL.—In providing financial assistance pursuant to subparagraph (A), the Administrator may carry out a grant program. Under the grant program, the Administrator may award a grant to any person (including the government of a State) who submits an application that is approved by the Administrator.

"(ii) FEDERAL SHARE.—A grant awarded under this subsection for a fiscal year shall not exceed an amount equal to 75 percent of the total annual cost of carrying out the activities that are the subject of the grant, and be awarded on the condition that the non-Federal share of the costs of the activities referred to in clause (i) is paid from non-Federal sources.

"(iii) WATERSHED PROTECTION AND RESTORATION.—As part of the grant program authorized under this paragraph, the Administrator may award a grant to a signatory jurisdiction to implement a program referred to in subparagraph (A)(iii).

"(C) PRIORITIZATION.—In carrying out the technical and financial assistance program under this subsection, the Administrator shall give priority to proposals that facilitate the participation of local governments and entities of the private sector in efforts to improve water quality and the productivity of living resources of rivers and streams in the Chesapeake Bay watershed.

"(D) COORDINATION WITH OTHER FEDERAL PROGRAMS.—The Administrator shall ensure that assistance made available under this subsection—

"(i) is consistent with the requirements of other Federal financial assistance programs;

"(ii) is provided in coordination with the programs referred to in subparagraph (A); and

"(iii) furthers the objectives of the Chesapeake Bay Program.

"(i) STUDY OF CHESAPEAKE BAY PROGRAM.—Not later than January 1, 1997, the Administrator, in cooperation with the Chesapeake Bay Executive Council, shall complete a study and submit a comprehensive report to Congress on the results of the study. The study and report shall, at a minimum—

"(1) evaluate the implementation of the Chesapeake Bay Agreement, including activities of the Federal Government and State and local governments;

"(2) determine whether Federal environmental programs and other activities adequately address the priority needs identified in the Chesapeake Bay Agreement;

"(3) assess the priority needs required by the Chesapeake Bay Program management strategies and how the priorities are being met; and

"(4) make recommendations for the improved management of the Chesapeake Bay Program.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this section $30,000,000 for each of fiscal years 1996 through 2001.''.

S. 937

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATIONS OF APPROPRIATIONS.

Section 2 of the National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98–210; 97 Stat. 1409) is amended—

(1) by striking subsection (e) and inserting the following new subsection:

''(e) CHESAPEAKE BAY ESTUARINE RESOURCES OFFICE.—

''(1) OPERATION OF CHESAPEAKE BAY ESTUARINE RESOURCES OFFICE.—Of the sums authorized under subsection (a), to operate the Chesapeake Bay Estuarine Resources Office established under section 307 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d), there are authorized to be appropriated—

''(A) $2,500,000 for each of fiscal years 1996 and 1997; and

''(B) $3,000,000 for each of fiscal years 1998 through 2000.

''(2) FUNDING FOR OYSTER DISEASE INVESTIGATIONS.—Of the sums authorized under subsection (a), to fund a program of investigations of oyster disease described in subsection (f), there are authorized to be appropriated $3,000,000 for each of fiscal years 1996 through 2000.

''(3) ADMINISTRATIVE EXPENSES.—Not more than 20 percent of the amounts authorized to be appropriated under this subsection may be used for administrative expenses of the Chesapeake Bay Estuarine Resources Office.''; and

(2) by adding at the end the following new subsection:

''(f) OYSTER DISEASE INVESTIGATIONS.—The Chesapeake Bay Estuarine Resources Office established under section 307 of the National Oceanic and Atmospheric Administration Authorization Act of 1992 (15 U.S.C. 1511d) shall conduct a program of investigations to—

''(1) improve the understanding of the etiology of the diseases of the eastern oyster (Crassostrea virginica); and

''(2) provide new scientific and management tools to counteract the consequences of diseases of oysters in the coastal waters of the United States, with particular emphasis on diseases of oysters in the Chesapeake Bay.''.

SEC. 2. AUTHORITIES OF THE DIRECTOR OF THE CHESAPEAKE BAY ESTUARINE RESOURCES OFFICE.

Section 307(a) of the National Oceanic and Atmospheric Administration Act of 1992 (15 U.S.C. 1511d(a)) is amended—

(1) in paragraph (1), by inserting ''and operate'' after ''establish''; and

(2) by striking paragraph (3) and inserting the following new paragraph:

''(3) To carry out this section, the Director may—

''(A) appoint such additional personnel as may be necessary; and

''(B) transfer funds to another Federal department or agency or provide financial assistance to a department or agency of a State or political subdivision thereof or a nonprofit organization for conducting research, assessment, monitoring, data management, or outreach activities.''.

S. 938

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This Act may be cited as the ''Chesapeake Bay Ballast Water Management Act of 1995''.

(b) REFERENCES.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.).

SEC. 2. AMENDMENTS TO THE NONINDIGENOUS AQUATIC NUISANCE PREVENTION AND CONTROL ACT OF 1990.

(a) AQUATIC NUISANCE SPECIES CONTROL PROGRAM.—Section 1101 (16 U.S.C. 4711) is amended—

(1) by striking the heading and inserting the following new heading:

''SEC. 1101. AQUATIC NUISANCE SPECIES CONTROL PROGRAM.'';

(2) by striking subsection (a) and inserting the following new subsection:

''(a) GUIDELINES.—

''(1) IN GENERAL.—Not later than 2 years after the date of enactment of the Ballast Water Management Act of 1995, the Secretary shall issue voluntary guidelines to prevent the introduction and spread of aquatic nuisance species into the waters of the United States that result from the release of ballast water.

''(2) CONTENTS OF GUIDELINES.—The guidelines issued under this subsection shall—

''(A) ensure that, to the maximum extent practicable, ballast water containing aquatic nuisance species is not discharged into the waters of the United States;

''(B) take into consideration—

''(i) variations in the ecological conditions of coastal waters of the United States; and

''(ii) different vessel operating conditions;

''(C) not jeopardize the safety of—

''(i) any vessel; or

''(ii) the crew and passengers of any vessel;

''(D) provide for reporting by vessels concerning ballast water practices; and

''(E) be based on the best scientific information available.'';

(3) in subsection (b)—

(A) by striking the paragraph (3) added by section 302(b)(1) of the Water Resources Development Act of 1992 (106 Stat. 4839); and

(B) in the paragraph (3) added by section 4002 of the Oceans Act of 1992 (106 Stat. 5068)—

(i) by striking ''issue'' and inserting ''promulgate''; and

(ii) by adding at the end the following: ''Subject to the requirements of this subsection, the Secretary shall, on a periodic basis, promulgate such revised regulations as are necessary to ensure the prevention of the introduction and spread of aquatic nuisance species into the Hudson River.'';

(4) in subsection (c)—

(A) by striking ''subsection (b)'' and inserting ''this subsection''; and

(B) by striking ''(c) CIVIL PENALTIES.—'' and inserting the following:

''(4) CIVIL PENALTIES.—'';

(5) in subsection (d)—

(A) by striking ''subsection (b)'' and inserting ''this subsection''; and

(B) by striking ''(d) CRIMINAL PENALTIES.—'' and inserting the following:

''(5) CRIMINAL PENALTIES.—'';

(6) in subsection (e), by striking ''(e) CONSULTATION WITH CANADA.—'' and inserting the following:

''(6) CONSULTATION WITH CANADA.—'';

(7) in subsection (b), by striking ''(b) AUTHORITY OF SECRETARY.—(1)'' and inserting the following:

''(d) GREAT LAKES.—

''(1) IN GENERAL.—'';

(8) in subsection (d) (as redesignated by paragraph (7) of this subsection)—

(A) in paragraph (1)—

(i) by striking ''issue'' and inserting ''promulgate''; and

(ii) by adding at the end the following: ''Subject to the requirements of this subsection, the Secretary shall, on a periodic basis, promulgate such revised regulations as are necessary to ensure the prevention of the introduction and spread of aquatic nuisance species into the Great Lakes.'';

(B) in paragraph (2)—

(i) by striking ''(2) The regulations issued under this subsection shall—'' and inserting the following:

''(2) REQUIREMENTS FOR REGULATIONS.—The regulations promulgated under this subsection shall—'';

(ii) by indenting subparagraphs (A) through (I) appropriately; and

(iii) in subparagraph (A), by striking ''require'' and inserting ''cover''; and

(C) in paragraph (6) (as redesignated by paragraph (6) of this subsection), by striking ''the guidelines and regulations'' and inserting ''the regulations promulgated under this subsection''; and

(9) by inserting after subsection (a) the following new subsections:

''(b) EDUCATION AND TECHNICAL ASSISTANCE.—At the same time as the Secretary issues voluntary guidelines under subsection (a), the Secretary shall implement multilingual (as defined and determined by the Secretary) education and technical assistance programs and other measures to encourage compliance with the guidelines issued under this subsection. To the extent practicable, in carrying out the programs implemented under this subsection, the Secretary shall arrange to use the expertise, facilities, members, or personnel of established agencies and organizations that have routine contact with vessels, including the Animal and Plant Health Inspection Service of the Department of Agriculture, port administrations, and ship pilots associations.

''(c) REPORT TO CONGRESS.—Not later than 3 years after the issuance of guidelines under subsection (a), the Secretary shall submit to the Congress a report concerning—

''(1) the effectiveness of the voluntary guidelines; and

''(2) the need for a mandatory program to prevent the spread of aquatic nuisance species through the exchange of ballast water.''.

(b) BALLAST WATER CONTROL STUDIES.—

(1) HEADING.—The heading of section 1102 (16 U.S.C. 4712) is amended to read as follows:

''SEC. 1102. BALLAST WATER CONTROL STUDIES.''.

(2) ADDITIONAL STUDIES.—Section 1102(a) (16 U.S.C. 4712(a)) is amended by adding at the end the following new paragraphs:

''(4) BALLAST RELEASE PRACTICES.—

''(A) INITIAL STUDY.—Not later than the date of issuance of the guidelines required under section 1101(a), the Secretary shall conduct a study to determine trends in ballast water releases in the Chesapeake Bay and other waters of the United States that the Secretary determines to—

''(i) be highly susceptible to invasion from aquatic nuisance species; and

''(ii) require further study.

''(B) FOLLOWUP STUDY.—Not later than 2 years after the date of issuance of the guidelines required under section 1101(a), the Secretary shall conduct a followup study of the ballast water releases described in subparagraph (A) to determine the extent of compliance with the guidelines and the effectiveness of the guidelines in reducing the introduction and spread of aquatic nuisance species.

"(5) AQUATIC NUISANCE INVASIONS.—

"(A) INITIAL STUDY.—Not later than the date of issuance of the guidelines required under section 1101(a), the Task Force shall conduct a study to examine the attributes and patterns of invasions of aquatic nuisance species that occur as a result of ballast water releases in the Chesapeake Bay and other waters of the United States that the Task Force determines to—

"(i) be highly susceptible to invasion from aquatic nuisance species; and

"(ii) require further study.

"(B) FOLLOWUP STUDY.—Not later than 2 years after the date of issuance of the guidelines required under section 1101(a), the Task Force shall conduct a followup study of the attributes and patterns described in subparagraph (A) to determine the effectiveness of the guidelines in reducing the introduction and spread of aquatic nuisance species.".

(c) NAVAL BALLAST WATER PROGRAM.—Subtitle B (16 U.S.C. 4701 et seq.) is amended by adding at the end the following new section:

"SEC. 1103. NAVAL BALLAST WATER PROGRAM.

"Subject to operational conditions, the Chief of Naval Operations of the Department of the Navy, in consultation with the Secretary, the Task Force, and the International Maritime Organization, shall implement a ballast water management program for the seagoing fleet of the Navy to limit the risk of invasion by nonindigenous species resulting from releases of ballast water.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 1301(a) (16 U.S.C. 4741(a)) is amended to read as follows:

"(a) PREVENTION OF UNINTENTIONAL INTRODUCTIONS.—There are authorized to be appropriated to develop and implement the provisions of subtitle B—

"(1) $500,000 to the department in which the Coast Guard is operating, for the period beginning with fiscal year 1996 and ending with fiscal year 2000, to be used by the Secretary to carry out the study under section 1102(a)(4);

"(2) $2,000,000 to the Task Force, for the period beginning with fiscal year 1996 and ending with fiscal year 2000, to be used by the Director and the Under Secretary (as co-chairpersons of the Task Force) to carry out the study under section 1102(a)(5); and

"(3) $1,250,000 to the department in which the Coast Guard is operating, for each of fiscal years 1996 through 2000, to be used by the Secretary for the development and implementation of the guidelines issued under section 1101(a) and the implementation and enforcement of the regulations promulgated under section 1101(d).".

CHESAPEAKE BAY RESTORATION ACT OF 1995—SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Establishes the title of the bill as the "Chesapeake Bay Restoration Act of 1995."

SECTION 2. FINDINGS AND PURPOSE

States that the purpose of the Act is to expand and strengthen the cooperative efforts to restore and protect the Chesapeake Bay and to achieve the goals embodied in the Chesapeake Bay Agreement.

SECTION 3. CHESAPEAKE BAY

Definitions

Defines the terms, "Chesapeake Bay Agreement," "Chesapeake Bay Program," "Chesapeake Bay Watershed," "Chesapeake Executive Council," and "Signatory Jurisdiction.

Continuation of Chesapeake Bay Program

Provides authority for EPA to lead and coordinate federal agency participation in the Chesapeake Bay Program, in cooperation with the Chesapeake Executive Council, and to maintain a Chesapeake Bay Program Office.

Directs the Chesapeake Bay Program Office to provide support and coordinate federal, state and local efforts in developing strategies and action plans and conducting system-wide monitoring and assessment to improve the water quality and living resources of the Bay.

Establishes a "Chesapeake Bay Federal Agencies Committee" to facilitate collaboration, cooperation and coordination among the agencies and programs of the federal government in support of the restoration of Chesapeake Bay.

Directs the committee to provide to the Congress a report on the activities being undertaken and planned and the resources being provided to assist in the Bay restoration effort.

Interstate development plan grants

Directs the Administrator to continue to make grants to states affected by the interstate management plan developed under the Chesapeake Bay Program if the state has approved and committed to implement the plan.

Federal facilities compliance

Requires each department, agency or instrumentality of the United States which owns or operates facilities within the Bay watershed to perform an annual assessment of their facilities to ensure consistency and compliance with the commitments, goals and objectives of the Bay program. Also requires the agencies to develop a detailed plan, funding mechanism and schedule for addressing or mitigating any potential impacts.

Habitat Restoration and Enhancement Demonstration Program

Establishes a habitat restoration and enhancement demonstration program to develop, demonstrate and showcase various low-cost techniques for restoring or enhancing wetlands, forest riparian zones and other types of habitat associated with the Chesapeake Bay and its tributaries.

Directs the Administrator, in cooperation with the Chesapeake Executive Council, to develop a plan for the protection and conservation of wetlands, contiguous riparian forests and other habitats within the Bay watershed, within two years from the date of enactment of the act.

Establishes a central clearinghouse to facilitate access to information about Bay watershed habitat locations, types, acreages, status and trends and restoration and design techniques.

Directs the Administrator to publish and disseminate on a periodic basis a habitat protection and restoration report describing methods, procedures and processes to guide State and local efforts in the protection and restoration of various types of habitat.

Basinwide toxics reduction

Authorizes EPA to assist the States in the implementation of specific actions to reduce toxics use and risks throughout the Bay watershed. Directs the Administrator to assist the States in improving data collection on the sources of toxic pollutants entering the Bay and integrating this information into the Chesapeake Bay Program Toxics Loading Inventory. Also directs the Administrator to begin implementing toxics reduction, pollution prevention and management actions, including targeted demonstration projects, to achieve the toxics reduction goals of the Bay Agreement.

Chesapeake Bay Watershed, Tributary and River Basin Program

Authorizes a comprehensive research, monitoring and data collection program to assess the status and trends in the environmental quality and living resources of the major tributaries, rivers and streams within the Chesapeake Bay watershed and to assist in the development of management plans for such waters. Directs the establishment of a system for accounting for sources of nutrients, and the movements of nutrients, pollutants and sediments through the watershed.

Provides for development of a coordinated Chesapeake Bay watershed land-use database, incorporating resource inventories and analyses, to provide information necessary to plan for and manage growth and development and associated impacts on the Bay system.

Encourages local and private sector participation in efforts to protect and restore the rivers and streams in the Bay watershed by establishing a technical assistance and small grants program.

Study of Chesapeake Bay Protection Program

Directs EPA to undertake an assessment of the Chesapeake Bay Program and evaluate implementation of the Bay Agreement. Also directs EPA to assess priority needs for the Bay and make recommendations for improved management of the program.

Authorizations

Authorizes $30 million for each of fiscal years 1996 through 2001 to be appropriated to the EPA to carry out the act.

CHESAPEAKE BAY BALLAST WATER MANAGEMENT ACT OF 1995—SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Establishes the title of the bill as the "Ballast Management Act of 1995."

SECTION 2. AMENDMENT TO NONINDIGENOUS AQUATIC NUISANCE PREVENTION AND CONTROL ACT

Amends the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 by adding the following provisions:

Ballast water guidelines

Directs the Secretary of Transportation, acting through the Coast Guard, to develop and publicize voluntary ballast water management guidelines for vessels entering U.S. waters, and to create a reporting mechanism to assess participation.

Not later than three years after the issuance of the voluntary guidelines, the Secretary must submit a report to Congress on the effectiveness of the guidelines and the need for a mandatory program to prevent the spread of aquatic nuisance species through ballast water.

Great Lakes Program

Continues in effect the existing regulatory program established by the Aquatic Nuisance Species Prevention and Control Act, as amended, for the Great Lakes and Hudson River.

Research

Directs the Secretary and the Aquatic Nuisance Species Task Force to undertake research to establish recent trends in ballast water releases and to examine the attributes and patterns of ballast-mediated invasions in the Chesapeake Bay and other U.S. waters.

These studies are to be conducted both prior to and two years following the issuance of voluntary guidelines so that the extent of compliance with the guidelines and the effectiveness of the guidelines in reducing the introduction and spread of aquatic nuisance species may be determined.

Naval Program

Directs the Chief of Naval Operations to implement a ballast water management program for the seagoing fleet of the Navy.

Authorizations

Authorizes a total of $2.5 million to the Coast Guard and the Aquatic Nuisance Species Task Force for the conduct of research required by the act.

Authorizes $1.25 million to the Coast Guard for each of fiscal years 1996 through 2000 for the development and implementation of voluntary guidelines and the implementation and enforcement of regulations in the Great Lakes and Hudson River.

CHESAPEAKE BAY ESTUARINE RESOURCES ACT OF 1995—SECTION-BY-SECTION ANALYSIS

SECTION 1. AUTHORIZATION OF APPROPRIATIONS

Reauthorizes the National Oceanic and Atmospheric Administration's Chesapeake Bay Estuarine Resources Office through the year 2000.

Authorizes $3,000,000 for each fiscal year through 2000 for investigations to improve understanding of oyster diseases and provide new scientific and management tools to counteract the consequences of oyster disease.

SECTION 2. AUTHORITIES OF THE DIRECTOR

Clarifies the authority of the Office Director to establish that the Office may provide financial assistance to federal, state, and local governments as well as non-profit organizations for the conduct of activities necessary to carry out the act, including research, monitoring and data management.

CHESAPEAKE BAY ENVIRONMENTAL RESTORATION AND PROTECTION PILOT PROGRAM—SECTION-BY-SECTION ANALYSIS

SECTION 1. PROGRAM

Instructs the Secretary of the Army to provide assistance to non-federal interests in the form of design and construction assistance for water-related infrastructure and resource protection and development projects affecting the Chesapeake Bay estuary. Such projects include sediment and erosion control, protection of essential public works such as wastewater treatment facilities, use of dredge material for beneficial purposes such as habitat restoration, and other projects that enhance the living resources of the estuary.

Only publicly owned and operated projects qualify for assistance. The Federal share of the cost of each such projects shall be 75%.

Directs the Secretary to establish at least one project in each of the states of Maryland, Virginia and Pennsylvania.

Authorizes $30,000,000 to carry out this section for fiscal years 1996 through 1998, which amount shall remain available, without regard to fiscal year, until expended.

RIPARIAN FOREST BUFFER PILOT PROGRAM ESTABLISHMENT ACT—SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

Establishes the title of the Act as the "Riparian Forest Pilot Program Establishment Act."

SECTION 2. RIPARIAN FOREST PILOT PROGRAM

In general

Amends the Food Security Act Conservation Reserve Program by directing the Secretary of Agriculture to establish a program to promote the development of riparian forest buffers in designated conservation priority areas for the purpose of improving water quality and living resources in such areas.

Eligible lands

Authorizes the Secretary to include in the program crop or pasture land that, when converted to a forest buffer, will intercept the flow of pollutants into surface or ground water or accomplish specific objectives for terrestrial and aquatic habitat identified by the Secretary.

Duration, modification and extension of contracts

Authorizes the Secretary to (1) enter into new contracts with land owners or operators for the lease of eligible lands for a period of up to 20 years, (2) modify existing contracts to meet the program eligibility criteria, and (3) extend the duration of existing or modified contracts meeting eligibility criteria for a period of 20 years.

Duty of Secretary

Directs the Secretary, in enrolling lands under the Conservation Reserve Program, to give priority to those lands that meet the criteria for the riparian buffer program, and to ensure, to the extent practicable, that at least 20% of enrolled lands in designated conservation priority areas meet the eligibility criteria.

Technical assistance

Directs the Secretary, acting through the Natural Resources Conservation Service and the Forest Service, to provide technical assistance for the design, establishment and maintenance of forest buffers.

Cost share assistance

Authorizes the Secretary to pay 100 percent of the cost for the design, establishment and short-term maintenance of riparian buffers.

Selective harvest

Permits program participants to selectively harvest mature timber with the approval of the Secretary, provided such harvest does not defeat the purposes of the riparian forest program.

By Mr. LEAHY (for himself, Mr. BRADLEY, Mr. GRAHAM, Mr. DASCHLE, Mr. SIMON, Mr. INOUYE, Mr. JEFFORDS, Mr. REID, Mr. HATFIELD, Mr. FORD, Mr. HARKIN, Mr. SARBANES, Mr. FEINGOLD, Mr. KOHL, Mr. LAUTENBERG, Mr. DODD, Mr. KERRY, Mrs. KASSEBAUM, Ms. MOSELEY-BRAUN, Mr. BUMPERS, Mr. KENNEDY, Mrs. BOXER, Mr. PELL, Mr. CHAFEE, Mr. DORGAN, Ms. MIKULSKI, Mr. WELLSTONE, Mr. SIMPSON, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. BRYAN, Mr. MOYNIHAN, Mr. KERREY, Mrs. FEINSTEIN, Mr. AKAKA, Mr. CONRAD, Mr. JOHNSTON, Mr. PRYOR, Mr. BREAUX, Mr. EXON, and Mr. CAMPBELL):

S. 940. A bill to support proposals to implement the U.S. goal of eventually eliminating antipersonnel landmines; to impose a moratorium on use of antipersonnel landmines except in limited circumstances; to provide for sanctions against foreign governments that export antipersonnel landmines, and for other purposes; to the Committee on Foreign Relations.

THE 1995 LANDMINE USE MORATORIUM ACT

Mr. LEAHY. Mr. President, earlier today, I spoke of a worldwide scourge of landmines and the use of antipersonnel landmines. I noted that there have been few times in history when the nations of the world joined together to outlaw the use of a weapon of war.

It was done with chemical and biological weapons, because it was understood that once they were unleashed, they could not be controlled. They maim or kill whoever comes in contact with them, and they do that whether it is civilians or combatants. In fact, if they are in the hands of terrorists, they could wreak havoc on whole societies. We had a terrifying glimpse of that in Japan a few months ago.

Now, while chemical weapons are relatively easy to produce, the political cost of using them is enormous. There is worldwide revulsion if they are used, and any perpetrator is branded a war criminal, a pariah, and ostracized by the entire world community. And so we ban them.

We did the same with dum dum bullets, which expand on contact with the human body and cause horrific injuries. They have been outlawed for a century.

I mention this because every weapon may have some military utility, as do chemical weapons and dum dum bullets. Some have been repudiated as inhumane and a violation of the laws of war.

That is what Civil War General Sherman said about landmines over a century ago. Sherman was no humanitarian, but he condemned landmines as "a violation of civilized warfare." It was in the Civil War that landmines—actually live artillery shells, were first concealed beneath the surface of roads, in houses, even concealed in flour barrels, where they maimed and killed soldiers and civilians alike. But even though Sherman and others condemned them, they have been used ever since in steadily increasing numbers.

Today, vast areas of many countries have become deathtraps from millions of unexploded landmines. The State Department estimates that there are 80 to 110 million of these tiny explosives in 62 countries, each one waiting to explode from the pressure of a footstep.

To give you an idea, Mr. President, this is a landmine in my hand. I am sure my colleagues know it is a deactivated landmine, but this is a landmine. It is tiny and costs $3 or $4 to produce. It is all rubber or plastic except for one tiny piece of metal about the size of a thumbtack. So it is nearly undetectable. If this had been real, in just touching it like this, my arm would be gone and most of my face would be gone. If you step on it, your leg is gone. If you are a child, you are probably killed. Children are killed daily on these. In fact, every day, it is estimated that 70 people are maimed or killed by landmines. That is one person every 22 minutes. That is 26,000 people every year. Most of them are not combatants. They are civilians going about their daily lives—bringing their animals to a field, collecting wood, or they are getting water, or going to market, or they are going to business. They are like Ken Rutherford, a humanitarian worker from Colorado, working with others in Africa.

He hit a landmine. As he described it in his very painful and very graphic testimony before the Senate, he sat there holding his foot in his hand, trying to figure out how he could put it back on. Of course, he never did. And there was surgery after surgery. We watched him walk painfully to the table where he testified before the Senate.

These pictures, Mr. President, behind me, tell a gruesome story. But, in a way, these are the lucky ones—lucky because they survived, but unlucky that they are in a country where they will face a lifetime of hardship.

There are tens of thousands of people like them. Many others die, just from a lack of blood or from shock, before they can reach a hospital. In many of these countries the hospitals are overwhelmed.

I do not have the slightest doubt, Mr. President, that any Member of the Senate, Republican or Democrat, could not see what I have seen without feeling as passionately as I do. Young children with their legs blown off at the knees, mothers with an arm or leg missing, hospital rows filled with rows of amputees. I have visited these hospitals.

My wife, a registered nurse, has visited these hospitals. We know what they are like. Tim Rieser, from my staff, has traveled to all parts of the world to see what landmines have done. Senators JOHNSTON and SPECTER, Senators SIMPSON and NICKLES saw firsthand what mines can do when they visited a center for amputees in Vietnam. Most people have not been to Vietnam, Afghanistan, Cambodia, Bosnia, Angola, or Mozambique where mines have been a fact of daily life and, in most places, still are. There you see, over and over, the terrible human tragedy these insidious weapons cause.

Civilians are not the only victims of landmines. They have become the scourge of the U.N. peacekeepers. An article in this week's issue of Defense Week is titled, "If U.S. Troops Get the Call in Bosnia, Mines Will Pose Serious Threat." It says American troops sent to former Yugoslavia would have to combat an estimated 1.7 million mines in Bosnia alone. It says that mines have been used by all sides in that war to intimidate U.N. peacekeepers.

We are called in there as the most powerful nation history has ever known. But we will be facing $3 and $4 and $5 and $8 landmines and be brought to the level of just about any other country, powerful or otherwise.

Landmines have become a cheap, popular weapon in Third World countries, the same countries where American troops are likely to be sent in the future. The $2 or $3 antipersonnel mine hidden under a layer of sand or dust can blow the leg off the best-trained, best-equipped American soldier, even though he or she represents the most powerful nation on earth.

Two years ago, almost no one was paying attention to this global crisis. Then the U.S. Senate passed my amendment for a moratorium on the export of antipersonnel landmines. Republicans and Democrats together joined to pass that.

The amendment had one goal: To challenge other countries to join with us to stop the spread of these hidden killers. As I spoke to the leaders of the other countries, I could tell them this was something—and probably the only thing during that same Congress—that united Senators as nothing else had, no matter what their party or political philosophy.

With the public pressure that grew out of that and the efforts of people around this world, 26 countries have now halted all or most of their exports of antipersonnel landmines in just 2 years, starting with what we were able to do here. Mr. President, 26 countries have halted all or most of their exports of antipersonnel landmines.

If, in my 21 years, I had to point to what I was most proud of, I could not think of anything I could be more proud of or have more pride in than knowing men and women both in this body and in parliamentary bodies around the world who have joined with the Senate.

Last September, in a historic speech to the U.N. General Assembly, President Clinton announced the goal of eventually eliminating antipersonnel landmines. On December 15, the 184 members of the U.N. General Assembly passed a resolution calling for further steps toward the eventual elimination of antipersonnel landmines.

This is the first time since the banning of chemical weapons that the nations of the world have singled out a type of weapon for total elimination. It reflects a growing worldwide consensus that these weapons are unacceptable because they are indiscriminate.

They are so cheap, so easy to mass produce, so easy to conceal and transport and scatter by the thousands. They cannot be controlled. They are used routinely to terrorize civilian populations.

In March of this year, Belgium passed a law prohibiting production, export, and use of antipersonnel mines. Belgium had been a major producer. Now they have outlawed them. Norway did the same just last week. Half a dozen other countries have declared support for a global ban on these weapons.

U.N. Secretary-General Boutros-Ghali, Pope John Paul II, former President Jimmy Carter, American Red Cross President Elizabeth Dole, these are but a few of the world leaders who have called for an end to the use of antipersonnel mines.

But despite this progress, the use of landmines continues unabated. Millions of new mines are being produced each year, and today the Russians are dropping them by the thousands, out of airplanes, over Chechnya.

Mr. President, today I introduce legislation that builds on the steps we have taken. It would impose a 1-year moratorium on the use of antipersonnel mines, to take effect 3 years from the date of enactment.

It would permit the use of these mines along international borders, for example between North and South Korea, in minefields that are monitored to keep out civilians. It also permits the use of Claymore mines, which are used to guard a perimeter, and antitank mines.

The purpose of the legislation is simple: Like the landmine export moratorium and the nuclear testing moratorium, it aims, by setting an example, to challenge other countries to join to bring an end to the mass destruction in slow motion caused by landmines.

As a step toward that goal, it would temporarily halt the scattering of antipersonnel mines that cause such a massive number of civilian casualties. One person who has worked on this in Cambodia said, sitting in my office in Burlington, VT, "Yes, we clear landmines in Cambodia. We clear them an arm and a leg at a time."

In addition, my legislation would provide for sanctions against countries that continue to export antipersonnel mines.

Mr. President, this is a global crisis. Even with all of our power, the United States cannot solve it alone. But neither will it be solved without strong U.S. leadership.

That is what the legislation does. It sets an example. It says, "For 1 year, we will take time out." We will challenge other countries to live up to what they said at the United Nations last December when they agreed to work to rid the world of these weapons.

Every ambassador from other countries I have talked to, every leader, every foreign minister, has told me in words the same thing: If the United States, the most powerful nation history has ever known, if the United States cannot set the moral leadership, this will not be done. But if the United States sets the example, then it can be done.

Our people will be safer. The people in 180 other countries ultimately will be safer, certainly the people of the 60 or more countries that are littered with mines can now begin to get rid of them. With 500 new landmine casualties each week, resolutions are not enough. We have to jolt the world out of complacency. Only the United States can do that.

I have two minds about this legislation. I believe it could be the spark that leads to international cooperation to stop this senseless slaughter, because what we do is being watched around the globe, and there is great support.

It will take a determined effort over the next few years, but if our leadership gets other governments to join, and I believe it will, Americans who are sent into harm's way in the future will have far more to gain from what we do here. Whether we send our men and women in uniform, whether we send our people on humanitarian missions, whatever else, to the other parts of the world, they will be safer because of what we can do here.

At the same time, it is only a 1-year moratorium and does not take effect for 3 years. Between now and then, 82,000 people will die or be horribly maimed by landmines.

Frankly, Mr. President, this legislation is the least we can do as the world's only superpower with by far the most powerful military. It is the least we can do to stigmatize these weapons, because they are indiscriminate and inhumane, whether they are the simple $2 or $3 type or the more complex self-destructive type.

What is our alternative? To accept that large areas of the world will be forever littered with hidden deadly explosives? I cannot accept that. Or that every 22 minutes of every day of every year someone, often a child, usually a civilian, will lose a leg or an arm, or life, as the result of a landmine? I and the 40 other Senators of both parties sponsoring this legislation cannot accept that. It is a global catastrophe. Landmines are causing more unnecessary suffering than any other weapon of war, and people everywhere are calling for the end of this.

Today, if armies leave the field they take their weapons with them. They take away their guns, their tanks, and their cannons. But they leave behind landmines that continue to kill long after anybody even remembers what the armies were fighting about. Long after their leaders, their generals, their politicians are dead and gone, the landmines stay there. It is the weapon that keeps on killing.

There are some weapons that are so inhumane they do not belong on this Earth. Antipersonnel landmines are in that category. This is not a weapon we need for our national security. It is a terrorist weapon used most often against the defenseless, like these children here who are no threat to anybody. They are the victims. It is, above all, a moral issue.

I want to close with a quote from Archbishop Desmond Tutu, because he has spoken eloquently about the 20 million landmines in Africa that have already destroyed so many innocent lives. Archbishop Tutu said:

> Anti-personnel landmines are not just a crime perpetrated against people, they are a sin. Why has the world been so silent about these obscenities? It is because most of the victims of landmines are neither heard nor seen.

Mr. President, the legislation I am introducing today shows that we do hear, that we do see, and we are going to stop this.

By Mr. DODD (for himself and Mr. KENNEDY):

S. 941. A bill to provide for the termination of the status of the College Construction Loan Insurance Association ("the Corporation") as a Government-sponsored enterprise, to require the Secretary of Education to divest himself of the Corporation's stock, and for other purposes; to the Committee on Labor and Human Resources.

THE COLLEGE CONSTRUCTION LOAN INSURANCE ASSOCIATION PRIVATIZATION ACT OF 1995

• Mr. DODD. Mr. President, I am pleased to introduce legislation offered by the Clinton administration to privatize the College Construction Loan Insurance Association, better known as Connie Lee. I am pleased to be joined in the effort by the ranking member of the committee, Senator KENNEDY.

Connie Lee was created in the Higher Education Act Amendments of 1986, and I was pleased to have shepherded this part of that larger effort through the Congress. So it is particularly rewarding for me to be here today to begin this exciting transition for Connie Lee.

Connie Lee was created with a vital and focused mission—to assist colleges in the repair, modernization, and construction of their facilities. Like many institutions, colleges, and universities need multiyear financing to keep up with their construction and renovation needs. For institutions with strong financial backing and large endowments, issuing bonds and securing capital has not been a major problem. Institutions that are less secure and have a lower bond rating, however, face major obstacles in obtaining the necessary financing.

It was clear to us in 1986 that we, as a nation, have a major stake in assuring that our higher education institutions both literally and figuratively sit on a strong foundation. Connie Lee was created to address this need and, since its incorporation in 1987, it has provided increased access to the bond markets for nearly 100 needy institutions through bond insurance. Connie Lee has insured bond issues totaling just over $2.5 billion and has assisted institutions such as the University of Denver, the University of Massachusetts Medical School, several community colleges, and numerous other institutions in nearly every State.

With its significant record, Connie Lee has clearly proven its maturity and strength. Since its founding, Connie Lee has maintained its triple-A financial rating, and a recent Standard and Poor's report confirmed its strong financial position. Connie Lee is clearly ready for privatization. Even though the original Federal investment of $19 million was small, every dollar is clearly needed in our effort to eliminate the budget deficit.

The administration's bill is quite straightforward. It would repeal the section of the Higher Education Act that authorized the creation of Connie Lee and governs its activities. In addition, it would provide for the Secretary of the Treasury to sell the 15-percent share the Government holds in Connie Lee.

The Subcommittee on Education, Arts and Humanities of the Labor and Human Resources Committee will hold hearings on this matter, as well as the proposal to privatize Sallie Mae early next week. While I think the administration's proposal is clearly a good start, there are some important issues for us to examine in the committee.

These issues are modest, however, and I hope that the committee can move quickly on this important and ground-breaking legislation.•

By Mr. BOND (for himself, Mr. DOMENICI, Mr. WARNER, Mrs. HUTCHISON, Mr. BURNS, Mr. FRIST, and Mr. COVERDELL):

S. 942. A bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitary regulatory enforcement actions against small entities, and for other purposes; to the Committee on Small Business.

THE SMALL BUSINESS REGULATORY FAIRNESS ACT OF 1995

• Mr. BOND. Mr. President, today I am announcing the opening of a new front in our fight against oppressive, onerous, and overly meddlesome Government regulations. I believe this new front will, for the time, take the fight outside the beltway and attack regulations and agencies where they impact people in their day-to-day lives.

Since the election, there has been tremendous activity in reforming the way Federal agencies develop and issue regulations, and I have been deeply involved in this effort as cochair, along with Senator KAY BAILEY HUTCHISON, of the Senate Republican Regulatory Relief Task Force. As we speak, we are working with Senator DOLE and others on his Comprehensive Regulatory Reform Act, S. 343. These efforts are vitally important if we are to slow runaway regulation and better control Federal agencies. Equally important for small business is to add some meaningful judicial enforcement provisions to the Regulatory Flexibility Act, and I have introduced legislation to accomplish this.

All of these efforts focus on changing the way agencies enact regulations. Today, I announce an effort to reform the way Government officials enforce Federal regulations. After all, most people, most small business people, do not have the time to concern themselves with the process of reviewing and commenting on proposed and final rules in the Federal Register. Small businesses have to deal with regulations when the regulator shows up on the doorstep to inspect their facility or to enforce a new Federal mandate. As chairman of the Senate Committee on Small Business, I have heard numerous horror stories about burdensome regulations. But as I have listened and learned from businessmen and women with real life problems, I have become increasingly convinced that the enforcement of regulations is a problem as troublesome as the regulations themselves.

Today I am introducing legislation to make fundamental changes in the way regulatory agencies think about small business. It should be every regulatory agency's mission to encourage compliance by making rules easier to understand and by not enforcing their regulations in a way that unnecessarily frustrates law abiding small businesses. To this end, my bill includes a three part attack on unfair enforcement of Government regulations.

First, small businesses should be able to understand what is expected of them. I want small businesses to know that if they are playing by the rules of the game as expressed in plain English compliance guides the agencies will be required to print, then they have nothing to fear from inspectors. Sound like common sense? It should be, but for too long agencies like EPA and OSHA have refused to tell businesses how they can avoid the threat of regulatory action. Like the merchant who responds to questions about his product with the phrase caveat emptor, some regulators have taken the attitude that it is not their responsibility to make complying with the law easy, preferring instead to punish small business owners who deviate in the smallest way from the most complicated regulation.

The second part of my bill is designed to give small businesses a place to voice complaints about excessive, unfair or incompetent enforcement of regulations, with the knowledge that their voices will be heard. My bill sets up regional Small Business and Agriculture Ombudsmen through the Small Business Administration's offices around the country to give small businesses assurance that their confidential complaints and comments will be recorded and heard. These Ombudsmen also will coordinate the activities of volunteer Small Business Regulatory Fairness Boards, made up of small business people from each region. These boards will be able to investigate and make recommendations about troublesome patterns of enforcement activities. Any small business that is subject to an inspection or enforcement action will have the chance to rate and critique the inspectors or lawyers they deal with. In dealing with small businesses today, agencies sometimes seem to assume that every one is a violator of their rules, trying to get away with something. Some agencies do a good job of fulfilling their legal mandate while assisting small business, but many agencies seem stuck in an enforcement mentality where everyone is presumed guilty until proven innocent. I think we should let small businesses compare their dealings with one agency to dealings with another so that the abusive agencies or agents can be weeded out and exposed. Agencies should be vying to see which can fulfill their statutory mandate in a way that helps and empowers small business. We need direct feedback from small businessmen and women around the country on how well the regulators are doing their jobs.

The third part of the legislation will create some financial accountability at Federal agencies and level the playing field for small businesses when they disagree with a fine or penalty imposed on them this bill will make the Government inspectors and lawyers responsible for their actions in assessing fines, penalties, and citations because it will allow small businesses to recover their legal costs from the Government when the enforcers and the lawyers have been unreasonable. If Federal agencies make excessive demands that they can not sustain in court, then the Federal agency will have to pay the legal fees of the small business. Small businessmen and women in American are more than willing to comply with regulations and pay appropriate penalties when they are in the wrong. But it is time we put a stop to powerful Federal agencies swooping down on small businesses and insisting on unreasonable fines just because the agency enjoys an enormous financial and resource advantage and can afford an expensive and time consuming court challenge. If the small business can reduce or eliminate the penalty, this bill will require the legal costs to be paid directly out of the agency's budget.

On Monday of this week, the President told the White House conference that he wants Government regulators to stop treating small business men and women as criminals and start treating them as partners or customers. I believe this legislation will make that goal a reality and bring much needed relief to small businesses across the country. I hope the President will follow through on his speech to small business and join with the National Federation of Independent Businesses in supporting this bill. I urge all of my colleagues to join with me in supporting small business by supporting this legislation.

Mr. President, I ask unanimous consent that the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 942

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Regulatory Fairness Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.

TITLE I—REGULATORY SIMPLIFICATION AND VOLUNTARY COMPLIANCE

Sec. 101. Definitions.
Sec. 102. Compliance guides.
Sec. 103. No action letter.
Sec. 104. Voluntary self-audits.
Sec. 105. Defense to enforcement actions.

TITLE II—SMALL BUSINESS RESPONSIVENESS OF COVERED AGENCIES

Sec. 201. Small business and agriculture ombudsman.
Sec. 202. Small business regulatory fairness boards.
Sec. 203. Services provided by small business development centers.

TITLE III—FINANCIAL ACCOUNTABILITY OF COVERED AGENCIES RELATING TO FEES AND EXPENSES

Sec. 301. Administrative proceedings.
Sec. 302. Judicial proceedings.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to change the relationship between regulators and small entities;

(2) to ameliorate the concern of small entities regarding the effects of arbitrary Federal regulatory enforcement actions on small entities;

(3) to increase the comprehensibility of Federal regulations affecting small entities;

(4) to make Federal regulators accountable for their actions; and

(5) to provide small entities with a meaningful opportunity for the redress of arbitrary enforcement actions by Federal regulators.

TITLE I—REGULATORY SIMPLIFICATION AND VOLUNTARY COMPLIANCE

SEC. 101. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) COMPLIANCE GUIDE.—The term "compliance guide" means a publication made by a covered agency under section 102(a).

(2) COVERED AGENCY.—The term "covered agency" has the same meaning as in section 30(a) of the Small Business Act (as added by section 201 of this Act).

(3) NO ACTION LETTER.—The term "no action letter" means a written determination from a covered agency stating that, based on a no action request submitted to the agency by a small entity, the agency will not take enforcement action against the small entity under the rules of the covered agency.

(4) NO ACTION REQUEST.—The term "no action request" means a written correspondence submitted by a small entity to a covered agency—

(A) stating a set of facts; and

(B) requesting a determination by the agency of whether the agency would take an enforcement action against the small entity based on such facts and the application of any rule of the agency.

(5) RULE.—The term "rule" has the same meaning as in section 601(2) of title 5, United States Code.

(6) SMALL ENTITY.—The term "small entity" has the same meaning as in section 601(6) of title 5, United States Code.

(7) SMALL BUSINESS CONCERN.—The term "small business concern" has the same meaning as in section 3 of the Small Business Act.

(8) VOLUNTARY SELF-AUDIT.—The term "voluntary self-audit" means an audit, assessment, or review of any operation, practice, or condition of a small entity that—

(A) is initiated by an officer, employee, or agent of the small entity; and

(B) is not required by law.

SEC. 102. COMPLIANCE GUIDES.

(a) COMPLIANCE GUIDE.—

(1) PUBLICATION.—If a covered agency is required to prepare a regulatory flexibility analysis for a rule or group of related rules under section 603 of title 5, United States Code, the agency shall publish a compliance guide for such rule or group of related rules.

(2) REQUIREMENTS.—Each compliance guide published under paragraph (1) shall—

(A) contain a summary description of the rule or group of related rules;

(B) contain a citation to the location of the complete rule or group of related rules in the Federal Register;

(C) provide notice to small entities of the requirements under the rule or group of related rules and explain the actions that a small entity is required to take to comply with the rule or group of related rules;

(D) be written in a manner to be understood by the average owner or manager of a small entity; and

(E) be updated as required to reflect changes in the rule.

(b) DISSEMINATION.—

(1) IN GENERAL.—Each covered agency shall establish a system to ensure that compliance guides required under this section are published, disseminated, and made easily available to small entities.

(2) SMALL BUSINESS DEVELOPMENT CENTERS.—In carrying out this subsection, each covered agency shall provide sufficient numbers of compliance guides to small business development centers for distribution to small businesses concerns under section 21(c)(3)(R) of the Small Business Act (as added by section 202 of this Act).

(c) LIMITATION ON ENFORCEMENT.—

(1) IN GENERAL.—No covered agency may bring an enforcement action in any Federal court or in any Federal administrative proceeding against a small entity to enforce a rule for which a compliance guide is not published and disseminated by the covered agency as required under this section.

(2) EFFECTIVE DATES.—This subsection shall take effect—

(A) 1 year after the date of the enactment of this Act with regard to a final regulation in effect on the date of the enactment of this Act; and

(B) on the date of the enactment of this Act with regard to a regulation that takes effect as a final regulation after such date of enactment.

SEC. 103. NO ACTION LETTER.

(a) APPLICATION.—This section applies to all covered agencies, except—

(1) the Federal Trade Commission;

(2) the Equal Employment Opportunity Commission; and

(3) the Consumer Product Safety Commission.

(b) ISSUANCE OF NO ACTION LETTER.—Not later than 90 days after the date on which a covered agency receives a no action request, the agency shall—

(1) make a determination regarding whether to grant the no action request, deny the no action request, or seek further information regarding the no action request; and

(2) if the agency makes a determination under paragraph (1) to grant the no action request, issue a no action letter and transmit the letter to the requesting small entity.

(c) RELIANCE ON NO ACTION LETTER OR COMPLIANCE GUIDE.—In any enforcement action brought by a covered agency in any Federal court, or Federal administrative proceeding against a small entity, the small entity shall have a complete defense to any allegation of noncompliance or violation of a rule if the small entity affirmatively pleads and proves by a preponderance of the evidence that the act or omission constituting the alleged noncompliance or violation was taken in good faith with and in reliance on—

(1) a no action letter from that agency; or

(2) a compliance guide of the applicable rule published by the agency under section 102(a).

SEC. 104. VOLUNTARY SELF-AUDITS.

(a) INADMISSIBILITY OF EVIDENCE AND LIMITATION ON DISCOVERY.—The evidence described in subsection (b)—

(1) shall not be admissible, unless agreed to by the small entity, in any enforcement action brought against a small entity by a Federal agency in any Federal—

(A) court; or

(B) administrative proceeding; and

(2) may not be the subject of discovery in any enforcement action brought against a small entity by a Federal agency in any Federal—

(A) court; or

(B) administrative proceeding.

(b) APPLICATION.—For purposes of subsection (a), the evidence described in this subsection is—

(1) a voluntary self-audit made in good faith; and

(2) any report, finding, opinion, or any other oral or written communication made in good faith relating to such voluntary self-audit.

(c) EXCEPTIONS.—Subsection (a) shall not apply if—

(1) the act or omission that forms the basis of the enforcement action is a violation of criminal law; or

(2) the voluntary self-audit or the report, finding, opinion, or other oral or written communication was prepared for the purpose of avoiding disclosure of information required for an investigative, administrative, or judicial proceeding that, at the time of preparation, was imminent or in progress.

SEC. 105. DEFENSE TO ENFORCEMENT ACTIONS.

(a) IN GENERAL.—No covered agency may impose a fine or penalty on a small entity if the small entity proves by a preponderance of the evidence that—

(1) the covered agency rule is vague or ambiguous; and

(2) the interpretation by the small entity of the rule is reasonable considering the rule and any applicable compliance guide.

(b) INTERPRETATION OF RULE.—In determining whether the interpretation of a rule by a small entity is reasonable, no deference shall be given to any interpretation of the rule by the agency that is not included in a compliance guide.

TITLE II—SMALL BUSINESS RESPONSIVENESS OF COVERED AGENCIES

SEC. 201. SMALL BUSINESS AND AGRICULTURE OMBUDSMAN.

The Small Business Act (15 U.S.C. 631 et seq.) is amended—

(1) by redesignating section 30 as section 31; and

(2) by inserting after section 29 the following new section:

"SEC. 30. OVERSIGHT OF REGULATORY ENFORCEMENT.

"(a) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

"(1) BOARD.—The term 'Board' means a Small Business Regulatory Fairness Board established under subsection (c).

"(2) COVERED AGENCY.—The term 'covered agency' means any agency that, as of the date of enactment of the Small Business Regulatory Fairness Act of 1995, has promulgated any rule for which a regulatory flexibility analysis was required under section 605 of title 5, United States Code, and any other agency that promulgates any such rule, as of the date of such promulgation.

"(3) OMBUDSMAN.—The term 'ombudsman' means a Regional Small Business and Agriculture Ombudsman designated under subsection (b).

"(4) REGION.—The term 'region' means any area for which the Administrator has established a regional office of the Administration pursuant to section 4(a).

"(5) RULE.—The term 'rule' has the same meaning as in section 601(2) of title 5, United States Code.

"(b) OMBUDSMAN.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Small Business Regulatory Fairness Act of 1995, the Administrator shall designate in each region a senior employee of the Administration to serve as the Regional Small Business and Agriculture Ombudsman in accordance with this subsection.

"(2) DUTIES.—Each ombudsman designated under paragraph (1) shall—

"(A) on a confidential basis, solicit and receive comments from small business concerns regarding the enforcement activities of covered agencies;

"(B) based on comments received under subparagraph (A), annually assign and publish a small business responsiveness rating to each covered agency;

"(C) publish periodic reports compiling the comments received under subparagraph (A);

"(D) coordinate the activities of the Small Business Regulatory Fairness Board established under subsection (c); and

"(E) establish a toll-free telephone number to receive comments from small business concerns under subparagraph (A).".

SEC. 202. SMALL BUSINESS REGULATORY FAIRNESS BOARDS.

Section 30 of the Small Business Act (as added by section 201 of this Act) is amended by adding at the end the following new subsection:

"(c) SMALL BUSINESS REGULATORY FAIRNESS BOARDS.—

"(1) IN GENERAL.—Not later than 180 days after the date of enactment of the Small Business Regulatory Fairness Act of 1995, the Administrator shall establish in each region a Small Business Regulatory Fairness Board in accordance with this subsection.

"(2) DUTIES.—Each Board established under paragraph (1) shall—

"(A) advise the ombudsman on matters of concern to small business concerns relating to the enforcement activities of covered agencies;

"(B) conduct investigations into enforcement activities by covered agencies with respect to small business concerns;

"(C) issue advisory findings and recommendations regarding the enforcement activities of covered agencies with respect to small business concerns;

"(D) review and approve, prior to publication—

"(i) each small business responsiveness rating assigned under subsection (b)(2)(B); and

"(ii) each periodic report prepared under subsection (b)(2)(C); and

"(E) prepare written opinions regarding the reasonableness and understandability of rules issued by covered agencies.

"(3) MEMBERSHIP.—Each Board shall consist of—

"(A) 1 member appointed by the President;

"(B) 1 member appointed by the Speaker of the House of Representatives;

"(C) 1 member appointed by the Minority Leader of the House of Representatives;

"(D) 1 member appointed by the Majority Leader of the Senate; and

"(E) 1 member appointed by the Minority Leader of the Senate.

"(4) PERIOD OF APPOINTMENT; VACANCIES.—

"(A) PERIOD OF APPOINTMENT.—

"(i) PRESIDENTIAL APPOINTEES.—Each member of the Board appointed under subparagraph (A) of paragraph (2) shall be appointed for a term of 3 years, except that the initial member appointed under such subparagraph shall be appointed for a term of 1 year.

"(ii) HOUSE OF REPRESENTATIVES APPOINTEES.—Each member of the Board appointed under subparagraph (B) or (C) of paragraph (2) shall be appointed for a term of 3 years, except that the initial members appointed under such subparagraphs shall each be appointed for a term of 2 years.

"(iii) SENATE APPOINTEES.—Each member of the Board appointed under subparagraph (D) or (E) of paragraph (2) shall be appointed for a term of 3 years.

"(B) VACANCIES.—Any vacancy on the Board—

"(i) shall not affect the powers of the Board; and

"(ii) shall be filled in the same manner and under the same terms and conditions as the original appointment.

"(5) CHAIRPERSON.—The Board shall select a Chairperson from among the members of the Board.

"(6) MEETINGS.—

"(A) IN GENERAL.—The Board shall meet at the call of the Chairperson.

"(B) INITIAL MEETING.—Not later than 90 days after the date on which all members of the Board have been appointed, the Board shall hold its first meeting.

"(7) QUORUM.—A majority of the members of the Board shall constitute a quorum for the conduct of business, but a lesser number may hold hearings.

"(8) POWERS OF THE BOARD.—

"(A) HEARINGS.—The Board or, at its direction, any subcommittee or member of the Board, may, for the purpose of carrying out the provisions of this section—

"(i) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, administer such oaths; and

"(ii) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Board or such subcommittee or member considers advisable.

"(B) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

"(i) ISSUANCE.—Each subpoena issued pursuant to subparagraph (A) shall bear the signature of the Chairperson and shall be served by any person or class of persons designated by the Chairperson for that purpose.

"(ii) ENFORCEMENT.—

"(I) IN GENERAL.—In the case of contumacy or failure to obey a subpoena issued under subparagraph (A), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence.

"(II) CONTEMPT OF COURT.—Any failure to obey the order of the court issued under subclause (I) may be punished by the court as a contempt of that court.

"(C) WITNESS ALLOWANCES AND FEES.—Section 1821 of title 28, United States Code, shall apply to witnesses requested or subpoenaed to appear at any hearing of the Board. The per diem and mileage allowances for any witness shall be paid from funds available to pay the expenses of the Board.

"(D) INFORMATION FROM FEDERAL AGENCIES.—Upon the request of the Chairperson, the Board may secure directly from the head any Federal department or agency such information as the Board considers necessary to carry out the provisions of this section.

"(E) POSTAL SERVICES.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

"(F) DONATIONS.—The Board may accept, use, and dispose of donations of services or property.

"(9) BOARD PERSONNEL MATTERS.—

"(A) COMPENSATION.—Members of the Board shall serve without compensation.

"(B) TRAVEL EXPENSES.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.".

SEC. 203. SERVICES PROVIDED BY SMALL BUSINESS DEVELOPMENT CENTERS.

Section 21(c)(3) of the Small Business Act (15 U.S.C. 648(c)(3)) is amended—

(1) in subparagraph (O), by striking "and" at the end;

(2) in subparagraph (P), by striking the period at the end and inserting a semicolon; and

(3) by inserting immediately after subparagraph (P) the following new subparagraphs:

"(Q) providing assistance to small business concerns regarding regulatory requirements, including providing training with respect to cost-effective regulatory compliance;

"(R) developing informational publications, establishing resource centers of reference materials, and distributing compliance guides published under section 102(a) of the Small Business Regulatory Fairness Act of 1995 to small business concerns; and

"(S) developing a program to provide confidential onsite assessments and recommendations regarding regulatory compliance to small business concerns and assisting small business concerns in analyzing the business development issues associated with regulatory implementation and compliance measures.".

TITLE III—FINANCIAL ACCOUNTABILITY OF COVERED AGENCIES RELATING TO FEES AND EXPENSES

SEC. 301. ADMINISTRATIVE PROCEEDINGS.

Section 504 of title 5, United States Code, is amended—

(1) in subsection (b)(1)(B)—

(A) by striking ", or (ii)" and inserting ", (ii)"; and

(B) by striking the semicolon at the end of the subparagraph and inserting the following: ", or (iii) a small entity as such term is defined in subsection (g)(1)(D);" and

(2) by adding at the end the following new subsection:

"(g)(1) For purposes of this subsection, the term—

"(A) 'covered agency' has the same meaning as in section 30(a) of the Small Business Act;

"(B) 'fees and other expenses' has the same meaning as in subsection (b)(1)(A), except that—

"(i) clause (ii) of such subparagraph (A) shall not apply; and

"(ii) attorney's fees shall not be awarded at a rate of pay in excess of $150 per hour unless the adjudicative party determines that regional costs or other special factors justify a higher fee;

"(C) 'prevailing small entity'—

"(i) means a small entity that raised a successful defense to an agency enforcement action by a covered agency in an adversary adjudication; and

"(ii) includes a small entity that is a party in an adversary adjudication in which the adjudicative officer orders a corrective action or penalty against the small entity that is less burdensome than the corrective action or penalty initially sought or demanded by the covered agency; and

"(D) 'small entity' has the same meaning as in section 601(6).

"(2) For the purpose of making a finding of whether an award under subsection (a)(1) is unjust, in any case in which fees and other expenses would be awarded to a prevailing small entity as a prevailing party—

"(A) the adjudicative officer of the agency shall not consider whether the position of the agency was substantially justified; and

"(B) special circumstances shall be limited to circumstances in which—

"(i) the matters in the adversary adjudication are matters for which there is little or no legal precedent; or

"(ii) findings of fact or conclusions of law are based on inconsistent interpretations of applicable law by different courts.

"(3) If a prevailing small entity is awarded fees and other expenses as a prevailing party under subsection (a)(1), such fees and other expenses shall include all fees and expenses incurred by the small entity in appearing in any proceeding the purpose of which is to determine the amount of fees and other expenses.

"(4) Fees and other expenses awarded to a prevailing small entity as a prevailing party under this section shall be paid by the covered agency from funds made available to the agency by appropriation or from fees or other amounts charged to the public if authorized by law. A covered agency may not increase any such fee or amount charged for the purpose of paying fees and other expenses awarded to a prevailing small entity as a prevailing party under this section.".

SEC. 302. JUDICIAL PROCEEDINGS.

Section 2412 of title 28, United States Code, is amended—

(1) in subsection (d)(2)(B)—

(A) by striking ", or (ii)" and inserting ", (ii)"; and

(B) by striking the semicolon at the end of the subparagraph and inserting the following: ", or (iii) a small entity as defined under subsection (g)(1)(D);" and

(2) by adding at the end the following new subsection:

"(g)(1) For purposes of this subsection, the term—

"(A) 'covered agency' has the same meaning as in section 30(a) of the Small Business Act;

"(B) 'fees and other expenses' has the same meaning as in subsection (d)(2)(A), except that—

"(i) clause (ii) of such subparagraph (A) shall not apply; and

"(ii) attorney's fees shall not be awarded at a rate of pay in excess of $150 per hour unless the court determines that regional costs or other special factors justify a higher fee;

"(C) 'prevailing small entity'—

"(i) means a small entity that raised a successful defense to an agency enforcement action by a covered agency in a civil action; and

"(ii) includes a small entity that is a party in a civil action in which the court orders a corrective action or penalty against the small entity that is less burdensome than the corrective action or penalty initially sought or demanded by the covered agency; and

"(D) 'small entity' has the same meaning as the term 'small entity' in section 601(6) of title 5.

"(2) For the purpose of making a finding of whether an award under subsection (d)(1)(A) is unjust, in any case in which fees and other expenses would be awarded to a prevailing small entity as a prevailing party—

"(A) the court shall not consider whether the position of the United States was substantially justified; and

"(B) special circumstances shall be limited to circumstances in which—

"(i) the matters in the civil action are matters for which there is little or no legal precedent; or

"(ii) findings of fact or conclusions of law are based on inconsistent interpretations of applicable law by different courts.

"(3) If a prevailing small entity is awarded fees and other expenses as a prevailing party under subsection (d)(1)(A), such fees and expenses shall include all fees and expenses incurred by the small entity in appearing in any proceeding the purpose of which is to determine the amount of fees and other expenses.

"(4) Fees and other expenses awarded to a prevailing small entity as a prevailing party under this section shall be paid by the covered agency from funds made available to the agency by appropriation or from fees or other amounts charged to the public if authorized by law. A covered agency may not increase any such fee or amount charged for the purpose of paying fees and other expenses awarded to a prevailing small entity as a prevailing party under this section.".

THE SMALL BUSINESS REGULATORY FAIRNESS ACT—SECTION-BY-SECTION ANALYSIS

Sec. 1. Short Title. "The Small Business Regulatory Fairness Act of 1995."

Sec. 2. Purposes. The purposes of the act are to change the relationship between agencies and small business, to increase the understandability of regulations, to increase the accountability of regulatory agencies, and to provide meaningful opportunities for redress of arbitrary enforcement actions.

Sec. 101. Definitions. Defines covered agency (those that have regs requiring a Regulatory Flexibility Act analysis), compliance guide, no-action letter, small business concern (as defined in sec. 3 of the Small Business Act) and voluntary self-audit.

Sec. 102. Compliance Guides. Directs regulatory agencies to publish small business compliance guides for regulations with significant economic impact on small entities, to disseminate the guides through Small Business Development Centers and prohibits enforcement actions of these regs against small entities until such time as the compliance guide is published.

Sec. 103. No Action Letter. Directs regulatory agencies to establish a system for issuing "no-action letters" similar to those used by the IRS and SEC, and allows small entities to rely on those no-action letters.

Sec. 104. Voluntary self-audits. Provides that information developed during a voluntary self-audit by a small entity is not admissible or discoverable by a Federal Agency.

Sec. 105. Defense to Enforcement Actions. Provides small entities with an affirmative defense where the agency rule is vague or ambiguous and the interpretation of the small entity is reasonable, and limits the court from giving deference to agencies' interpretations of their own rules.

Sec. 201. Small Business and Agriculture Ombudsman. Establishes Small Business and Agriculture Ombudsmen in each of the Small Business Administration's regional offices who will receive complaints about the enforcement activities of other federal agencies, develop a small business responsiveness rating to each regulatory agency, publish reports on those activities, and establish a toll-free telephone number to receive comments from small business.

Sec. 202. Small Business Regulatory Fairness Boards. Establishes volunteer Small Business Regulatory Fairness Boards in Small Business Administration offices around the country, appointed by the President and the Congressional leadership to advise the Ombudsmen, conduct investigations into agency enforcement activities, prepare independent reports and review the reports of the Ombudsmen.

Sec. 203. Services Provided by Small Business Development Centers. Expands the role of Small Business Development Centers to include providing regulatory compliance assistance, serving as a resource for compliance information including the distribution of compliance guides, and developing a program to provide regulatory compliance audits.

Sec. 301. Administrative Proceedings. Amends the Administrative Procedures Act to allow small entities to recover their attorneys fees in litigation against the government where the government has made unreasonable demands of settlement that are not sustained by a court, and without having to prove that the government position was not "substantially justified."

Sec. 302. Judicial Proceedings. Makes conforming changes to Title 28 U.S.C. Section 2412.●

ADDITIONAL COSPONSORS

S. 304

At the request of Mr SANTORUM, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 571

At the request of Mrs. BOXER, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 571, a bill to amend title 10, United States Code, to terminate entitlement of pay and allowances for members of the Armed Forces who are sentenced to confinement and a punitive discharge or dismissal, and for other purposes.

NOTICE OF HEARING

CANCELLATION OF COMMITTEE HEARINGS

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that the oversight hearing previously scheduled before the full Committee on Energy and Natural Resources for Tuesday, June 20, 1995, at 9:30 a.m. to review existing oil production at Prudhoe Bay, AK, and opportunities for new production on the coastal plain of Arctic Alaska has been canceled and will be rescheduled at a later date.

In addition, the hearing previously scheduled before the full Committee on Energy and Natural Resources for Wednesday, June 21, 1995, at 9:30 a.m. regarding the Secretary of Energy's strategic alignment and downsizing proposal and other alternatives to the existing structure of the Department of Energy has also been canceled and will be rescheduled at a later date.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Friday, June 16, 1995, session of the Senate for the purpose of conducting a hearing on the future of Amtrak and the Local Rail Freight Assistance Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PRISON WORK ACT OF 1995

• Mr. SHELBY. Mr. President, one of the many controversial provisions of the 1994 crime bill was the requirement that states have in place an array of dubious programs, including social rehabilitation, job skills, and even postrelease programs, in order to qualify for the prison construction grant money contained in the bill.

This requirement is yet another manifestation of the criminal rights philosophy, which has wreaked havoc on our criminal justice system. This view holds that criminals are victims of society, are not to blame for their actions, and should be rehabilitated at the taxpayers expense. In their zeal to rehabilitate violent criminals, proponents of this ideology have worked overtime to ensure that murderers, rapists, and child molesters are treated better than the victims of these acts and that these criminals have access to perks and amenities most hard-working taxpayers cannot afford.

Award-winning journalist Robert Bidinotto has revealed myriad abuses. For example, at Mercer Regional Correctional Facility in Pennsylvania, hardened criminals have routine access to a full-sized basketball court, handball area, punching bags, volleyball nets, 15 sets of barbells, weightlifting machines, electronic bicycles, and stairmasters facing a TV, so the prisoners do not have to miss their favorite show while working out.

Or consider David Jirovec, a resident of Washington State who hired two hit men to kill his wife for insurance money. His punishment? Regular conjugal visits from his new wife.

At Sullivan high-security prison in Fallsburg, NY, prisoners hold regular jam sessions in a music room crowded with electric guitars, amplifiers, drums, and keyboards.

In Jefferson City, MO, inmates run an around-the-clock closed-circuit TV studio and broadcast movies filled with gratuitous sex and graphic violence.

Perhaps the winner in the race for rehabilitation is the Massachusetts Correctional Institution in Norfolk, MA. There, prisoners sentenced to life in prison—known as the Lifers Group—held its annual Lifers Banquet in the $2 million visitors center. These 33 convicts—mostly murderers—and 49 of their invited guests dined on catered prime rib.

This is just the tip of the iceberg. These are not isolated incidents, but have become commonplace in our criminal justice system. Violent criminals have by definition committed brutal acts of violence on innocent women, children, the elderly, and other citizens. That the government continues to take money out of the pockets of law-abiding taxpayers—many of whom are victims of those behind bars—to create resorts for prisoners to mull around in is incomprehensible. The rationale for this system is likely summed up by Larry Meachum, commissioner of correction in the State of Connecticut: "We must attempt to modify criminal behavior and hopefully not return a more damaged human being to society than we received."

Mr. President, I reject this liberal social rehabilitation philosophy. I introduced legislation yesterday, the Prison Work Act of 1995, which has a different message: prisons should be places of work and organized education, not resort hotels, counseling centers, or social laboratories. It ensures that time spent in prison is not good time, but rather devoted to hard work and education. This is a far more constructive approach to rehabilitation.

Specifically, the Prison Work Act repeals the social program requirements of the 1994 crime bill and instead makes the receipt of State prison construction grant money conditional on States requiring all inmates to perform at least 48 hours of work per week, and engage in at least 16 hours of organized educational activities per week. States may not provide to any prisoner failing to meet the work and education requirement any extra privileges, including the egregious items listed above.

The critics of this legislation are likely to portend that it is too costly or too unworkable. However, as prison reform expert and noted author John DiIulio has pointed out, one-half of every taxdollar spent on prisons goes not to the basics of security, but to amenities and services for prisoners. However, these extra perks would be severely restricted under my legislation. No one failing to meet the work and organized study requirements would have access to them, and since the inmates would be occupied for 11 hours per day fulfilling the work and study requirement, the opportunity for these costly privileges would be reduced. Moreover, to reduce operation costs even further, prison labor could be used to replace labor that is currently contracted out. Thus, these programs could easily be implemented.

The other charge will likely be that the Federal Government should not micromanage State prison efforts. However, this bill does not micromanage at all. Rather, States have been micromanaged by the Federal courts which have mandated that States provide prisoners with every possible amenity imaginable. For example, Federal Judge William Wayne Justice of the Eastern District Court required scores of changes in the Texas prison system, designed to improve the living conditions of Texas prisoners. These changes increased Texas's prison operating expenses tenfold, from $91 million in 1980 to $1.84 billion in 1994—even though the prison population only doubled.

This legislation will empower State and local prison officials to operate their systems in a cost-efficient manner, and will give them the much needed protection from the overreaching Federal courts. More importantly, it will put the justice back in our criminal justice system and ensure that criminals are not treated better than the victims.•

THE FIFTH ANNUAL DAY OF THE AFRICAN CHILD

• Mr. FEINGOLD. Mr. President, I rise today to observe the fifth annual Day of the African Child, a day this year which will focus international attention on Africa's potential amidst critical challenges.

The Day of the African Child was declared in 1991 to commemorate the massacre of South African schoolchildren in the black township of Soweto 19 years ago. These elementary and high school children were shot and killed simply for protesting the deplorable system of apartheid education. On this anniversary, we have the opportunity to celebrate the achievements of countries like South Africa, and reflect on the challenges ahead for the African child—indeed, the next generation of Africa.

There have been considerable strides made in Africa over the last 30 years. In partnership with the international community, the mortality rate of children under 5 has decreased by half since 1960. The average life expectancy in the subcontinent is now 54 years, 13 years longer than it was in 1960. Two-thirds of African countries have immunized 75 percent of all children under 5, and UNICEF reports that the governments of Africa expanded the provision of safe water to over 120 million more people during the 1980's. Primary school enrollment has risen dramatically since the 1970's for both boys and girls, with 69 percent of African girls enrolled in primary school now.

Yet, hardships continue for many African children. Life expectancy in Africa is still 20 years behind that of developed states. Basic health care is not accessible to half of all Africans. Children in Africa continue to die at 10 times the rate of children in industrialized nations.

But today, in addition to hunger and disease, war is also ravaging the minds and bodies of Africa's children. It is no coincidence that the countries with the first, second, and third highest rates of child mortality—Mozambique, Afghanistan, and Angola—are those that have been embroiled in the bloodiest of civil wars. Ethiopia, Somalia, and Liberia are close behind.

The armed conflicts throughout Africa have taken their toll on the children. Last year in Rwanda, for instance, almost 100,000 children reportedly were killed in just a few months. In Sudan, according to a 1992 report by the U.N. High Commissioner for Refugees, one criterion for conscription was "the presence of two molar teeth": as a result, almost 12,500 boys from the ages of 9 to 16 years were enlisted.

Last year in Liberia, I raised the issue of child soldiers with members of the Transitional Government, and was told that this is truly a problem which is rotting the country. UNICEF estimates that thousands of children are participating in Liberia's civil war—either to avenge murders of their family members or to make some hard-found money—and that factions abuse their young soldiers with alcohol, drugs, and gunpowder.

Mr. President, while we recognize the progress made in Africa thus far, we must not forget these daunting challenges ahead. As we debate the role of the United States in Africa, we must do so with an eye to the future, and with an appreciation for what international partnership can achieve.•

DAY OF THE AFRICAN CHILD

• Mrs. KASSEBAUM. Mr. President, I rise today to honor the fifth annual Day of the African Child. As chairman of the African Affairs Subcommittee, I have long been concerned about Africa's children.

Earlier this year, the world community lost one of its foremost champions for the cause of children, Mr. James Grant. As head of UNICEF, Jim Grant worked tirelessly to improve the lives of children all around the world, particularly in Africa. His dedication, energy, and moral leadership will be sorely missed. On this day of African children, we mourn his loss but also celebrate his contributions.

Since I first chaired the subcommittee in 1980, there has been real and significant progress in improving the lives of children of Africa. Through the commitment of African governments, private voluntary groups, and international organizations like UNICEF, access to education has increased notably. The under-5 mortality rates are now half what they were in 1960. Malnutrition, while still affecting some 30 percent of African children, is less pronounced than many had feared entering the 1980's.

But much remains to be done. I am particularly concerned about the devastating effect of civil conflict on children. While political factions and armed groups fight for power, it is often the most vulnerable and voiceless—Africa's children—who are most affected. Entire generations have lost opportunities for basic education. Many have lost parents and siblings. From Sudan to Angola, Rwanda to Liberia, the brutality of war has scarred millions of innocent children.

Mr. President, the Day of the African Child, June 15, commemorates the 1976 uprising and massacre of the children of Soweto, South Africa. Their struggle to bring down the inhumane apartheid system vividly symbolizes the difficult plight of children in Africa. Their struggle, however, also represents the possibilities and hope for Africa as President Nelson Mandela finishes his first year as leader of a democratic, nonracial South Africa.

Today we celebrate the progress that has been made in bettering the lives of African children. But today also stands as a challenge to all of us to continue efforts to improve education and basic health care for all the children of Africa. Their future is the hope for the entire African Continent.•

COMMEMORATING THE DAY OF THE AFRICAN CHILD

• Mr. SIMON. Mr. President, today marks the 19th anniversary of the Soweto massacre where more than 100 black South African students—children—were killed while protesting against the tyranny of South African apartheid. These children are martyrs to the cause of freedom and justice. Their sacrifices, along with those of many others, contributed to a far brighter future in South Africa than could have been foreseen at that time. And so, June 16 has been designated by the Organization of African Unity as the "Day of the African Child." On this day, we not only mark the past, but we should also commit ourselves to creating a brighter future for the children of Africa.

Our commemoration of the children of Soweto should be solemn, as we reflect on the loss of far too many African children to conflict and war, to disease, to famine, and to the neglect of a world that often cares more about amassing material wealth than about ensuring the health and well-being of all of its children. An African child deserves no less than any other child born anywhere else in the world. They deserve to be cared for, to be protected, to have adequate food, shelter, and health care, to have safe drinking water, to be educated, and to live in a peaceful world. Yet, a child born in sub-Saharan Africa has a life expectancy 20 years shorter than a child born in an industrialized country. An African child is 8 times less likely to survive infancy and 10 times less likely to survive beyond 5 years old than a child in an industrialized country. The mother of an African child is 29 times more likely to die in childbirth than the mother of a child in the industrialized country. As many as 30 percent of African children suffer from malnutrition. Only 45 percent of Africans have access to safe drinking water.

Thanks to U.S. assistance, there has been progress in reducing the under-5 mortality rate, increasing child immunizations and increasing life expectancy over the last 30 years. But clearly, there is much work to be done. As we commemorate the Day of the African Child let us also recognize the very positive affect that our foreign assistance has on improving the prospects for Africa's children to have healthy, productive lives—to have no less than what we would want for our own children.

The theme of this year's observance is "Children in Armed Conflict." War has a devasting affect on children. Prior to 1945, most of the victims of war were soldiers. In the 160 wars and conflicts since 1945, 80 percent of the dead and wounded have been civilians—most of them women and children. The effect of armed conflict on African women and children has been particularly devastating. Ninety-two percent of the war-related deaths in Africa are women and children. In the Sudanese war, children die at 14 times the rate of government and guerrilla soldiers combined. Most often, in conflict zones children die as a result of the dispersal that leads to malnutrition and disease. Child mortality rates are highest in those countries that are ravaged by armed conflicts. As we observe the Day of the African Child let us also commit ourselves to playing whatever positive role we can through diplomacy, support for U.N. peacekeeping operations, or whatever measures appropriate to help resolve those conflicts that still remain on the African Continent. There has been great progress in ending conflicts on the African Continent over the last decade. Much more has to be done.

I join today with the Organization of African Unity, the United Nations Children's Fund and all those who care about the health and well-being of all the world's children in recognizing June 16 as the Day of the African Child. I salute the U.S. Committee for UNICEF for its hard work in organizing today's celebration. Let us resolve to do all that we can to provide hope for Africa's children that they may have the kind of future that each of us wants for our own children.

Mr. President, on the topic of aid to Africa, I would like to share with my colleagues a letter I received from a young lady, Miss Julie Haronik, from Moline, IL. Julie is 13 years old and she wrote to me asking that we maintain the Development Fund for Africa.

I have received many letters supporting foreign aid to Africa over the last month. Julie's letter demonstrated how a child can sometimes be wiser, more caring, and more compassionate than many adults far older than herself. Among Julie's reasons for supporting aid to Africa, she says that, "If you cut off aid some projects in Africa that have been started recently may fall apart without aid [before] they can sustain themselves." In the last paragraph of Julie's letter she writes:

> You may wonder why a thirteen year old would be concerned about Africa. One reason is that I want society to be on equal terms with all people when I am an adult. Another reason is that if America ever needed an African resource I would hope Africa would help us in our time of need. I also hope for world peace which can be achieved only through kindness, recognizing fellow humans, and helping those in need.

I am so proud of this young lady both for her world outlook and compassion for others, and for her willingness to write and participate in public debate on the political issues of the day. Mr. President, I ask that the full text of the letter be printed in the RECORD.

The letter follows:

MOLINE, IL.

Senator PAUL SIMON,
U.S. Senate,
Washington, DC.

DEAR SENATOR SIMON: Although you may not realize it Africa has come a long way, with outside aid. If you cut off aid some projects in Africa that have been started recently may fall part without aid until they can sustain themselves. Africa still has a way to go, but it is a place of hope. Please don't cut off aid to the Development Fund for Africa!

The United States of America has a duty to itself and the rest of the world. That duty is to help all people whether they can repay debts or not. One tenth of one percent of the budget is not very much money to give to those in need. Africa doesn't just take aid from people it has been its own resources, which are scarce. The government's duty is to make sure Africa does not lose all aid, but develop enough not to need it.

You may wonder why a thirteen year old would be concerned about Africa. One reason is that I want society to be on equal terms with all people when I am an adult. Another reason is that if America ever needed African resources I would hope Africa would help us in our time of need. I also hope for world peace which can be achieved only through kindness, recognizing fellow humans, and helping those in need. Thank you for your time.

Sincerely,

JULIE HARONIK.•

CIVIC EDUCATION GATHERING IN PRAGUE

• Mr. HATFIELD. Mr. President, during the first few days of June, one of the largest international gatherings of educators and representatives of the public and private sectors supporting civic education met in Prague, Czechoslovakia. Four hundred and twenty-five representatives from 52 nations participated.

Entitled CIVITAS@PRAGUE.1995, the conference was sponsored by 36 civic education organizations from North America, Western and Eastern Europe, and the former Soviet Union.

A declaration was adopted by CIVITAS participants that asserts the essential importance of civic education for developing the support required for the establishment and maintenance of stable democratic institutions. Constitutional democracies must ultimately rely upon citizens and leaders possessing a reasoned commitment to those fundamental values and principles which enable them to flourish. Stable democracies, in turn, are vital for economic development, national security, and for overcoming destructive religious and ethnic conflicts. The declaration also argues that civic education should have a more prominent place in the programs of all governments and international organizations.

American participation in the project was organized by a steering committee composed of representatives of the Center for Civic Education, American Federation of Teachers, National Endowment for Democracy, Institute for Democracy in Eastern Europe, Mershon Center at Ohio State University, and the Social Studies Development Center at Indiana University. All these groups worked in cooperation with the U.S. Department of Education and the U.S. Information Agency.

I urge my colleagues to join me in supporting this declaration and in giving greater recognition to the need to improve civic education for students in the United States and in other nations throughout the world.

The text of the CIVITAS declaration follows:

CIVIC EDUCATION—AN INTERNATIONAL PRIORITY

On June 2-6, 1995, representatives from fifty-two countries met in Prague at one of the largest international meetings on civic education ever held. The following is a declaration adopted by the participants. A list of the individual signers is available on CIVNET.

The wave of change toward democracy and the open economy that swept the world at the beginning of this decade has slowed, and, in some respects, even turned around. Religious and ethnic intolerance; abuses of human rights; cynicism toward politics and government; corruption, crime and violence; ignorance, apathy and irresponsibility—all represent growing challenges to freedom, the marketplace, democratic government, and the rule of law.

All this makes clear how central knowledge, skills, and democratic values are to building and sustaining democratic societies that are respectful of human rights and cultural diversity. Once again, we see the importance of education which empowers citizens to participate competently and responsibly in their society.

Despite great differences in the more than fifty countries represented among us, we find many similarities in the challenges we face in our civic life. These challenges exist not only in the countries represented here; they also exist in other parts of the world, and in all aspects of social, economic, and political life. People involved in civic education have much to learn from one another.

It is time again to recognize the crucial role that civic education plays in many areas of concern to the international community: Shared democratic values, and institutions that reflect these values, are the necessary foundation for national and international security and stability; The breakup of Cold War blocs, while bringing much good, has also created openings for aggressive and undemocratic movements, even in the established democracies themselves; Civic development is an essential element in—not just a side effect of—economic development. Investments and guarantees made by private enterprise, governments, and international financial institutions will fail where political and legal systems fail, and where corruption and violence flourish.

The challenge of civic education is too great for educators alone. They need far greater cooperation from their own peoples, governments, and the international community.

We seek increased support for civic education—formal and informal—from the widest range of institutions and governments. In particular, we urge greater involvement in civic education by international organizations such as the Council of Europe, the European Union, the North Atlantic Assembly, the Organization for Security and Cooperation in Europe, the United Nations, UNESCO, and the World Bank.

We seek an active personal and electronic on-line-exchange (through CIVNET) of curricular concepts, teaching methods, study units, and evaluation programs for all elements of continuing education in civics, economics, and history.

We pledge ourselves to create and maintain a worldwide network that will make civic education a higher priority on the international agenda.•

THE 31ST CONSTITUTIONAL CONVENTION OF THE UNITED AUTO WORKERS

• Mr. LEVIN. Mr. President, the United Auto Workers are concluding their 31st Constitutional Convention today in Anaheim, CA. This is a momentous occasion, marking the end of one era and the beginning of another for one of the world's most important labor organizations. Owen Bieber, who has held the presidency for the past 12 years, has retired and has handed over his duties to Stephen Yokich, the incoming president. Each of these leaders, with over 75 years of service to the UAW between them, has made it his life's work to fight for workers' rights both in the United States and around the world. They carry on an outstanding tradition of progressive union leadership that was established by the late Walter Reuther and continued by Leonard Woodcock and Douglas Fraser.

Owen Bieber has dedicated more than 45 years of his life to promoting fair labor standards. Bieber went to work right after high school bending wire for car seats at the McInerney Spring and Wire Company in Grand Rapids, Michigan. In 1948, he became a member of UAW Local 687, thus beginning a journey that would see him rise to the highest level of the organization. Bieber was quickly voted in to several leadership positions and in 1956, he was elected president of Local 687. Bieber served as president of the local until 1961, when he was appointed to be a staff representative for UAW Region 1D. He remained with UAW Region 1D for the next 20 years. He was elected regional director in 1974, and reelected in 1977. In 1980, delegates to the Union's 26th Constitutional Convention elected him to be an international vice-president and he then took charge of the UAW's largest department—General Motors. His final step to the presidency of the UAW came at the 27th Constitutional Convention in Dallas in 1983. Since then, he has been reelected every 3 years, with his fourth and final term beginning in 1992.

Owen Bieber has always been committed to the belief that in order for U.S. industry to be successful, there must be a strong partnership between management and labor. As UAW president, Bieber's strategy of building new cooperation with the auto companies laid the foundation for future success. It is this strategy that has allowed the U.S. auto industry to bounce back and once again lead the world. Bieber has worked to increase security for union members while at the same time helping improve the quality of both work and work life in the plants. Bieber has focused the union on efforts to raise wages, protect jobs, strengthen work place safety and ensure fully paid health care. Under Bieber's leadership, the UAW established and fostered successful bargaining relationships with Japanese manufacturers. Bieber also expanded membership in the UAW to include workers in the media, academia, and government.

Owen Bieber has also expressed a strong commitment to civil and human rights, both at home and abroad. During his tenure as president, the world saw workers win their basic rights in countries such as Poland and South Africa. These struggles were strongly supported by the UAW. In 1986, Bieber negotiated on behalf of South African workers who were jailed without being charged with a crime. A high point of his career came in 1990, when Bieber had the opportunity to escort recently freed Nelson Mandela through Ford Motor Company's Rouge plant.

Throughout the years, Bieber has always remained committed to his local community. He has also been a strong booster of the city of Detroit, where the union is headquartered. His broad civic involvement has included such organizations as the NAACP and the United Way.

Owen Bieber has always shown the highest regard and respect for the American worker. This giant of a man has also been a booming voice for a tough and fair American trade policy. It is only fitting that now, as he retires, we have an administration that is willing to stand up for American manufacturers and American workers and to insist that foreign markets are as open to our products as our markets are to imports.

The new president, Stephen Yokich, has spent the past three decades working on behalf of labor. The UAW has always meant a great deal to Yokich and his family. Both of Yokich's parents and grandfathers were members of the UAW. Yokich has been one the UAW's strongest negotiators. Yokich has been in charge of UAW's General Motors Department since 1989. He was on hand to oversee the downsizing of GM's work force. Yokich's handling of the situation enabled more workers to keep their jobs and has ultimately led to a more cooperative relationship between the UAW and GM. One of his main responsibilities in the near future will be to increase UAW membership, a task that will benefit from his great personal energy.

It is heartening to see that the leadership of one of the world's most important labor organizations will remain in able hands. I know my Senate colleagues join me in congratulating these two outstanding leaders for the extraordinary work they have done on behalf of our Nation's workers and for their efforts to make our automobile industry the foremost example of American manufacturing. I ask that the text of the remarks of Owen Bieber at the UAW's 31st Constitutional Convention be placed in the RECORD following my statement.

The text of the remarks follows:

REMARKS OF OWEN BIEBER

Brothers and sisters, I cannot tell you how much that video tribute, and how much your warm applause means to me.

What I can tell you is that when all is said and done—it is you and those you represent who have—time and again, inspired me.

It is your passion for justice, your love of your country and your love for the UAW that drives this union.

It is you who have created the opportunities for me to take the UAW's message from California to South Africa.

It is the clout of one-point-three million active and retired UAW members, that has carried me to the offices of Presidents and Senators and CEO's.

Without this union, a young worker in an auto parts plant in Grand Rapids, Michigan could hardly dream of meeting Lech Walesa or Nelson Mandela or Bill and Hillary Clinton—let alone actually do so.

It is also the collective UAW that has generated the great team of colleagues I have had the privilege to work with over the years.

Leonard Woodcock and Doug Fraser, especially, have been there for advice and counsel whenever I needed them.

Ken Bannon, Don Ephlin, Martin Gerber, Pat Greathouse, Irving Bluestone, Marc Stepp, Odessa Komer, Olga Madar and retired board members have also remained loyal supporters and advisors.

I cannot think of anyone I would rather have had on my side and at my side for the battles we've been through than Steve Yokich, Stan Marshall, Ernie Lofton, Carolyn Forrest, and Secretary-Treasurer, Bill Casstevens.

In case you don't already know this, let me tell you that the thing about the president's staff is that they are supposed to be kind of invisible.

But believe you me, without Dick Shoemaker and the rest of my fine staff and department heads, this union would be nowhere near as effective as we have been.

There are many unsung warriors in the UAW army, but I think there are none who contribute more than our clerical staff, and I thank them for the great work they do.

I want to say a special word about my personal secretary, Mary Shoemaker, who has been of great help to me and I thank her for that.

You know when you elect a president of the UAW—whether they like it or not—you are electing their family to serve, as well.

The family, too, must adjust to the travel and the long hours and the phone calls that can come at any time.

They, too, carry the weight of the office.

In my own case, my wife, Shirley, has, in essence, worked for this union for many years.

Thanks to all of those I have mentioned and many, many more that I have not—it is a remarkable life I have had.

It is, I hope, a life that has taught me a thing or two along the way.

Brothers and sisters, as I look back across the twelve years you have given me the honor of serving you as president . . . and as I look forward to the future—one thing in particular stands out as strong and clear as the sun on a bright, shiny morning.

It is this:

When you put the opportunities that are before us, together with the rock solid strengths of this union—I have no doubt that the UAW's future will be even greater than our past.

Let me speak, for a moment, of the nature of our times and the opportunities they create.

As many of you have heard me say before, a new economic order has upset boundaries and assumptions that guided our society for many decades.

Corporate globalization . . . new technology . . . the end of the cold war . . . and the relentless commercialization of our values are pulling and tugging with great force at our social fabric.

As a result, fear and frustration are being expressed from many points on the compass.

We hear it in the bitterness of the debate over affirmative action and immigration.

We felt it in the explosion in Oklahoma City.

It is part and parcel of the coast-to-coast angry talk show voices that denounce the legitimacy of our government . . . day . . . after . . . day . . . after . . . day.

By the way, as First Lady Hillary Clinton suggested back in Michigan recently—aren't any of those people ever in a good mood?

Not that I can tell.

As I have said, it's obvious that many people react to political, social and economic change with fear and uncertainty.

I, however, see something very different.

I see a time of hope and opportunity.

Why is that?

What do I see that others don't?

I see the drive that inspires men and women to band together for justice, as we in the trade union movement have done.

My friends, I have spent all of my adult life in this union.

And believe you me, I know first-hand that life for our members now is better than it was when I joined the UAW . . . forty-seven years ago.

Much better.

Brothers and sisters, a lifetime spent in the UAW does not make one fearful of change.

To the contrary, a lifetime in the UAW makes one aware of the desire and the ability of working people to control their own destiny.

A lifetime in the UAW makes one aware of the value of collective action.

Call it solidarity . . . call it brotherhood and sisterhood . . . call it what you will—it is what happens when the power of community hooks up with the power of justice.

As I said in the video we saw earlier—that is a tradition that I have been proud to uphold.

I am proud of what this union did for our members, during very difficult times.

When you look back at the 80's and 90's, if there was any kind of insurance . . . any kind of protection . . . any kind of good fortune that a working man or woman could have that delivered more than being a member of the UAW—I cannot think what it might be.

The record speaks for itself.

No union did better at defending the standard of living of its members. None.

In insecure times . . . did we break new ground on job security?

Yes, we did.

Did we make our workplaces healthier and safer?

We sure did.

Did we set out to defend the core idea of employer-paid health care that previous UAW generations fought so hard to win?

And did that idea come under attack in every single negotiation we entered?

You know it did.

But you know, too, that UAW members held on to employer-paid health care during a time when millions of workers were losing that benefit.

And what about our retirees?

Did we take care of those who built this great union?

We sure did.

And did we uphold the UAW's pioneering tradition, when it came to gaining worker involvement in decisions on sourcing and quality and manufacturing design?

Did we break new ground when it comes to education and training, child care services and assistance for workers' personal problems?

You know the answer.

Add it all up and this whole union has a lot to be proud of.

Brothers and sisters, as well as we have done at the collective bargaining table, that is by no means the extent of our accomplishments.

Let's look at our impact on politics and legislative issues.

A very good place to begin is with the fight that's going on right now to bring fairness to the economics of global trade.

I don't know if you noticed or not, but the Wall Street Journal recently paid this union quite a compliment.

In a lead editorial, they said, in so many words, that the reason that something is done about trade is because the UAW has made so much noise and created so much pressure on this issue.

Well, brothers and sisters, on behalf of the thousands of UAW members who have fought long and hard for fairness from the Japanese, I propose we accept the compliment from the Wall Street Journal with a big round of applause.

And while we're at it, let's also give a cheer to President Bill Clinton for standing up to the Wall Street Journal and the rest of the free-trade hypocrites—not to mention the Japanese themselves.

It's about time we had a President with the guts to act on this issue.

Brothers and sisters, the President is exactly right when he says that one-way trade is not free trade at all.

He is taking a lot of heat in this struggle and he deserves our support.

It is time for us to, show, again, where we stand.

Let us write and call our Senators and House members in support of the President's courageous position on auto trade with the Japanese.

Let me go further.

It is also important to mobilize now because the President needs our help in fighting the budget-cut atrocities that the Republicans will try to impose on our country's working families in the next one-hundred days.

As we approach these battles—let us not surrender to defeatism.

I tell you, brothers and sisters: the Republicans are weaker now than they were when Congress convened last January.

They do not have a popular mandate to wreck the country and it is our job to make sure they know that.

Let me tell you one more thing.

It is critical that we line up with President Clinton now for one more reason.

The 1996 elections will be here sooner than you can blink an eye.

And make no mistake about it—it is Bill Clinton who is standing between us and Phil Gramm . . . or Bob Dole . . . or, God forbid, Pat Buchanan, coming to live in the White House in January of 1997.

Need I say more?

I don't think so.

Turning now to another subject—as we all know, there is a huge gap between the accomplishments of the UAW . . . and how we are perceived.

Generally speaking, unions do not get the credit we deserve for what we contribute to the lives of our members or the well-being of our society.

Well, you know what, brothers and sisters—I say the time has come to quit believing what our critics say about us.

I say it's time to rely not on what somebody else says, but on what we know.

It is time to say—enough—to those who say that the trade union movement is too weak and too small and too old-fashioned to make a difference in today's world.

It is time to quit believing the propaganda put out by corporations, politicians and the media who want us to feel powerless and be powerless so that they may be even more powerful.

Brothers and sisters, ask yourself this question . . . if we're so damn weak, why have powerful corporations spent hundreds of millions of dollars to create a union-busting industry in this country?

And just why do they work so hard to make union organizing so difficult?

And have you ever wondered about this: Why does the media write our obituary . . . over and over and over again?

Let's really think about this.

You don't read story after story about how the Prohibition Party is dead do you?

Of course not.

That's because the Prohibition party really is dead!

They don't have to write their obituary over and over like they do ours.

Sometimes I wonder who is it they are trying to convince—themselves, or us?

Either way, my friends—it's time to quit believing this baloney about how weak we are.

It is time to put our media-induced inferiority complex behind us.

It's time for us to stand up to convicted felons and right-wing wackos like G. Gordon Liddy, Rush Limbaugh, and Bo Gritz.

There is nothing to be gained by keeping our mouths shut, and our pens in our pockets.

Let's start talking back to talk radio and writing more letters to the editor than ever.

Let's be clear here about something else.

It is not trade unions that are dinosaurs left over from some other age.

It's the G. Gordon Liddy's who find themselves in the wrong century and I'm sick and tired of those who try to tell us differently.

The truth is the truth.

It is trade unions who have proven time and again that we can and do adapt to new circumstances.

The UAW was born from the challenges created by the new industrial economy of the 1930's.

Since then we've shifted from peace to war and back again.

We've been leaders in integrating minorities into our economic, political and social life.

We've brought trade unions into new sectors of the economy and new places on the globe.

From the Chrysler bailout forward, we helped American industry turn around from its deepest peacetime crisis ever.

We've helped Ford and GM and John Deere and lot's of other companies change with the times.

And just so there is no confusion in anyone's mind—this entire union remains one-hundred percent solid in supporting the struggle of our members at Caterpillar.

They are trying to keep that company from backsliding completely into the nineteenth century.

And they have our full support.

You know, when you look at it closely, the basic situation now is very much the same as it was sixty years ago when this great union was founded.

Now, as then, the questions before us have to do with how to distribute the wealth that dynamic new economic developments have the potential to create.

We are a richer country today than we have ever been.

Yet more people are poor.

We were once a rich country that led the world in the just distribution of wealth.

Now, we lead the industrialized world in how unfairly wealth is distributed.

That is not just sad. It's dangerous.

For if there is one lesson that emerges from the twentieth century, it is this: How fairly wealth is distributed has a great deal to do with how much wealth gets created.

We have also demonstrated in the past, that we will commit the financial means to sustain us in long and difficult collective bargaining and organizing campaigns.

Speaking of organizing, all across this union, in workplaces large and small, we have demonstrated that we can help workers organize under the most difficult conditions.

Not only is that true in our traditional industrial base—it's true in the growing service sector as well.

In fact, the UAW is now represented in just about every section of the economy.

By way of example, Local 6000, which represents the state employees of Michigan, is now the largest local in the entire UAW.

There is another kind of diversity that is also a basic UAW strength.

Our union unites whites, blacks, Latinos . . . and men and women, as does no other organization in American life.

In a time of media manipulation and hate-mongering—that unity is a mighty weapon in the fight for justice and democracy.

In that same spirit, I would also point out that the UAW has a solid and growing core of experienced, dynamic and talented trade union women.

The UAW also possesses widely respected technical expertise in its legal; research; health and safety; retired workers, communications; social security; community service; political action and other departments.

And speaking of political action—we have a political army of active and retired members that is second to none.

Another great strength is the leadership that is nominated to take the reins of this union.

They are battle tested. They are smart. They are dedicated and hard-working. They have a clear vision of the future.

They are the right leaders, in the right time, at the right place to do what needs to be done.

What's more, come next fall, they will have the added advantage of dynamic new leadership in the AFL–CIO.

Finally, the most important reason for my confidence in our future is represented right here in this room.

It is the membership of this union—the men and women that elected you to be here—that make up our ultimate weapon.

It is you, and those like you, in workplaces all over this country who build this union and keep it strong.

And it is you for whom I have been proud to work as your president.

I welcome, therefore, this opportunity to say thank you for all that you have done for me * * * and all that you have meant to me over the years.

No matter how trying the times, I knew that I could always count on you.

I knew that with teamwork in the leadership and solidarity in the ranks—I could call on this membership at any time.

And I have done so, many times.

You have never let me down.

You have never let your union down.

For that, I say thank you from the bottom of my heart.

And on Thursday I will hand over the gavel knowing that this union's future will be even greater than its past.

Thank you again for everything.•

RECOGNITION OF WHITE HOUSE CONFERENCE ON SMALL BUSINESS

• Mr. CHAFEE. Mr. President, as I'm sure my colleagues are aware, this week Washington has been host to the White House Conference on Small Business. This officially sanctioned conference brings small businesspeople from all over the country together to make recommendations to the President and the Congress regarding policy changes that are needed to improve the Nation's business climate.

In the past, many of the proposals made by the Conference have later been adopted by both the executive and legislative branches. The process of bringing together those that our actions affect directly for their input is a fine example of the kind of communication and democratic governance that sets our Nation apart.

I take the recommendations of the Conference most seriously. Rhode Island is a State of small business. Of the nearly 25,000 firms doing business in my State, over 21,000 of those have fewer than 20 employees. Enterprises with less than 20 employees account for more than 50 percent of the payroll expenditures in our State each year.

Clearly, then, what helps small business helps Rhode Island. One of the most important themes Rhode Island's delegation has sounded throughout the Conference and the preliminary activities associated with its is the extraordinary role the Small Business Administration [SBA] has played in our State.

As my colleagues will recall, Rhode Island suffered a double-whammy in the early 1990's. We had the same recession experienced by the rest of the Nation—but it was quite a bit worse in our manufacturing State. On top of that recession, we also had a private deposit insurance collapse that led to the closing of many of our credit unions, the lender of choice for many of our small businesses. The net result was an economic downturn compounded by a credit crunch of considerable proportions.

It was at this point that our Providence SBA office began to work with our surviving private lenders to establish designated small business lending funds that the SBA would consider guaranteeing on a case-by-case basis. This activist, entrepreneurial approach is one important ingredient in the small business recovery that has occurred. Lending is up; in 1994 the SBA backed nearly 300 loans in Rhode Island. And in 1995 expectations are that the agency will guarantee over 500 small business loans.

This rapid expansion is also a function of the Federal Government's decision to use fees to offset the cost of expanding SBA lending authority. It is likely that further reductions in SBA's subsidy rate will be used to preserve the SBA's ability to meet demand at the same time that SBA's cost of doing business are reduced. I applaud this and other changes being made at SBA that will allow programs to continue even while SBA does its part in reducing the Federal deficit.

Thus, Mr. President, the SBA is important to Rhode Islanders. I look forward to working with the chairman of the Senate Small Business Committee, Senator BOND, and other small business backers as we work our way through this year's appropriations bills and try to preserve the positive contributions of the SBA.

As further evidence of Rhode Islanders' strong support for this program, I ask that a resolution recently approved by the Rhode Island General Assembly be printed at the conclusion of my remarks.

The resolution follows:

JOINT RESOLUTION

Whereas, the U.S. Small Business Administration was created in 1953 by President Dwight D. Eisenhower to foster the growth of small entrepreneurs, and

Whereas, our Nation's economic prosperity is linked directly to the health of the small business community, and

Whereas, the Rhode Island business community is comprised of over 97 percent small businesses, and

Whereas, small businesses have grown 49 percent since 1982, they employ 54 percent of the American work force, account for 50 percent of the gross domestic product, and account for 71 percent in new job growth in 1993, and

Whereas, the Small Business Administration's (SBA) 504 and 7(a) financing programs are a public/private partnership that leverages private dollars and allows for continued access to capital for Rhode Island's small business community, and

Whereas, SBA's technical resources including the Small Business Development Center at Bryant College and the Service Corps of Retired Executives provide much needed counseling to the Rhode Island small business community, and

Whereas, the Rhode Island SBA District Office has approved over 800 loans totaling $168.5 million in guarantee and 504 financing to the Rhode Island small business community from October 1992 to present, and

Whereas, this financial assistance has played a vital role in reviving the Rhode Island economy; now be it

Resolved, That the General Assembly of the State of Rhode Island and Providence Plantations hereby respectfully requests the United States Congress to financially support the U.S. Small Business Administration and its 7(a) and 504 financing programs, as well as its education/training and advocacy programs, and be it further

Resolved, That the Secretary of State be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the Speaker of the U.S. House of Representatives and the President of the United States Senate, and to the Rhode Island Delegation in the Congress of the United States.•

TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The text of the bill (S. 652) entitled the "Telecommunications Competition and Deregulation Act," as passed by the Senate on June 15, 1995, is as follows:

S. 652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telecommunications Competition and Deregulation Act of 1995".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Purpose.
Sec. 4. Goals.
Sec. 5. Findings.
Sec. 6. Amendment of Communications Act of 1934.
Sec. 7. Effect on other law.
Sec. 8. Definitions.

TITLE I—TRANSITION TO COMPETITION

Sec. 101. Interconnection requirements.
Sec. 102. Separate affiliate and safeguard requirements.

Sec. 103. Universal service.
Sec. 104. Essential telecommunications carriers.
Sec. 105. Foreign investment and ownership reform.
Sec. 106. Infrastructure sharing.
Sec. 107. Coordination for telecommunications network-level interoperability.

TITLE II—REMOVAL OF RESTRICTIONS TO COMPETITION

SUBTITLE A—REMOVAL OF RESTRICTIONS

Sec. 201. Removal of entry barriers.
Sec. 202. Elimination of cable and telephone company cross-ownership restriction.
Sec. 203. Cable Act reform.
Sec. 204. Pole attachments.
Sec. 205. Entry by utility companies.
Sec. 206. Broadcast reform.

SUBTITLE B—TERMINATION OF MODIFICATION OF FINAL JUDGMENT

Sec. 221. Removal of long distance restrictions.
Sec. 222. Removal of manufacturing restrictions.
Sec. 223. Existing activities.
Sec. 224. Enforcement.
Sec. 225. Alarm monitoring services.
Sec. 226. Nonapplicability of Modification of Final Judgment.

TITLE III—AN END TO REGULATION

Sec. 301. Transition to competitive pricing.
Sec. 302. Biennial review of regulations; elimination of unnecessary regulations and functions.
Sec. 303. Regulatory forbearance.
Sec. 304. Advanced telecommunications incentives.
Sec. 305. Regulatory parity.
Sec. 306. Automated ship distress and safety systems.
Sec. 307. Telecommunications numbering administration.
Sec. 308. Access by persons with disabilities.
Sec. 309. Rural markets.
Sec. 310. Telecommunications services for health care providers for rural areas, educational providers, and libraries.
Sec. 311. Provision of payphone service and telemessaging service.
Sec. 312. Direct Broadcast Satellite.

TITLE IV—OBSCENE, HARASSING, AND WRONGFUL UTILIZATION OF TELECOMMUNICATIONS FACILITIES

Sec. 401. Short title.
Sec. 402. Obscene or harassing use of telecommunications facilities under the Communications Act of 1934.
Sec. 403. Obscene programming on cable television.
Sec. 404. Broadcasting obscene language on radio.
Sec. 405. Separability.
Sec. 406. Additional prohibition on billing for toll-free telephone calls.
Sec. 407. Scrambling of cable channels for nonsubscribers.
Sec. 408. Scrambling of sexually explicit adult video service programming.
Sec. 409. Cable operator refusal to carry certain programs.
Sec. 410. Restrictions on access by children to obscene and indecent material on electronic information networks open to the public.

TITLE V—PARENTAL CHOICE IN TELEVISION

Sec. 501. Short title.
Sec. 502. Findings.
Sec. 503. Rating code for violence and other objectionable content on television.
Sec. 504. Requirement for manufacture of televisions that block programs.
Sec. 505. Shipping or importing of televisions that block programs.

TITLE VI—NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION

Sec. 601. Short title.
Sec. 602. Findings; purpose.
Sec. 603. Definitions.
Sec. 604. Assistance for educational technology purposes.
Sec. 605. Audits.
Sec. 606. Annual report; testimony to the Congress.

TITLE VII—MISCELLANEOUS PROVISIONS

Sec. 701. Spectrum auctions.
Sec. 702. Renewed efforts to regulate violent programming.
Sec. 703. Prevention of unfair billing practices for information or services provided over toll-free telephone calls.
Sec. 704. Disclosure of certain records for investigations of telemarketing fraud.
Sec. 705. Telecommuting public information program.
Sec. 706. Authority to acquire cable systems.

SEC. 3. PURPOSE.

It is the purpose of this Act to increase competition in all telecommunications markets and provide for an orderly transition from regulated markets to competitive and deregulated telecommunications markets consistent with the public interest, convenience, and necessity.

SEC. 4. GOALS.

This Act is intended to establish a national policy framework designed to accelerate rapidly the private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and to meet the following goals:

(1) To promote and encourage advanced telecommunications networks, capable of enabling users to originate and receive affordable, high-quality voice, data, image, graphic, and video telecommunications services.

(2) To improve international competitiveness markedly.

(3) To spur economic growth, create jobs, and increase productivity.

(4) To deliver a better quality of life through the preservation and advancement of universal service to allow the more efficient delivery of educational, health care, and other social services.

SEC. 5. FINDINGS.

The Congress makes the following findings:

(1) Competition, not regulation, is the best way to spur innovation and the development of new services. A competitive market place is the most efficient way to lower prices and increase value for consumers. In furthering the principle of open and full competition in all telecommunications markets, however, it must be recognized that some markets are more open than others.

(2) Local telephone service is predominantly a monopoly service. Although business customers in metropolitan areas may have alternative providers for exchange access service, consumers do not have a choice of local telephone service. Some States have begun to open local telephone markets to competition. A national policy framework is needed to accelerate the process.

(3) Because of their monopoly status, local telephone companies and the Bell operating companies have been prevented from competing in certain markets. It is time to eliminate these restrictions. Nonetheless, transition rules designed to open monopoly markets to competition must be in place before certain restrictions are lifted.

(4) Transition rules must be truly transitional, not protectionism for certain industry segments or artificial impediments to increased competition in all markets. Where possible, transition rules should create investment incentives through increased competition. Regulatory safeguards should be adopted only where competitive conditions would not prevent anticompetitive behavior.

(5) More competitive American telecommunications markets will promote United States technological advances, domestic job and investment opportunities, national competitiveness, sustained economic development, and improved quality of American life more effectively than regulation.

(6) Congress should establish clear statutory guidelines, standards, and time frames to facilitate more effective communications competition and, by so doing, will reduce business and customer uncertainty, lessen regulatory processes, court appeals, and litigation, and thus encourage the business community to focus more on competing in the domestic and international communications marketplace.

(7) Where competitive markets are demonstrably inadequate to safeguard important public policy goals, such as the continued universal availability of telecommunications services at reasonable and affordable prices, particularly in rural America, Congress should establish workable regulatory procedures to advance those goals, provided that in any proceeding undertaken to ensure universal availability, regulators shall seek to choose the most procompetitive and least burdensome alternative.

(8) Competitive communications markets, safeguarded by effective Federal and State antitrust enforcement, and strong economic growth in the United States which such markets will foster are the most effective means of assuring that all segments of the American public command access to advanced telecommunications technologies.

(9) Achieving full and fair competition requires strict parity of marketplace opportunities and responsibilities on the part of incumbent telecommunications service providers as well as new entrants into the telecommunications marketplace, provided that any responsibilities placed on providers should be the minimum required to advance a clearly defined public policy goal.

(10) Congress should not cede its constitutional responsibility regarding interstate and foreign commerce in communications to the Judiciary through the establishment of procedures which will encourage or necessitate judicial interpretation or intervention into the communications marketplace.

(11) Ensuring that all Americans, regardless of where they may work, live, or visit, ultimately have comparable access to the full benefits of competitive communications markets requires Federal and State authorities to work together affirmatively to minimize and remove unnecessary institutional and regulatory barriers to new entry and competition.

(12) Effectively competitive communications markets will ensure customers the

widest possible choice of services and equipment, tailored to individual desires and needs, and at prices they are willing to pay.

(13) Investment in and deployment of existing and future advanced, multipurpose technologies will best be fostered by minimizing government limitations on the commercial use of those technologies.

(14) The efficient development of competitive United States communications markets will be furthered by policies which aim at ensuring reciprocal opening of international investment opportunities.

SEC. 6. AMENDMENT OF COMMUNICATIONS ACT OF 1934.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

SEC. 7. EFFECT ON OTHER LAW.

(a) Antitrust Laws.—Except as provided in subsections (b) and (c), nothing in this Act shall be construed to modify, impair, or supersede the applicability of any antitrust law.

(b) Modification of Final Judgment.—This Act shall supersede the Modification of Final Judgment to the extent that it is inconsistent with this Act.

(c) Transfer of MFJ.—After the date of enactment of this Act, the Commission shall administer any provision of the Modification of Final Judgment not overridden or superseded by this Act. The District Court for the District of Columbia shall have no further jurisdiction over any provision of the Modification of Final Judgment administered by the Commission under this Act or the Communications Act of 1934. The Commission may, consistent with this Act (and the amendments made by this Act), modify any provision of the Modification of Final Judgment that it administers.

(d) GTE Consent Decree.—This Act shall supersede the provisions of the Final Judgment entered in United States v. GTE Corp., No. 83-1298 (D.C. D.C.), and such Final Judgment shall not be enforced after the effective date of this Act.

SEC. 8. DEFINITIONS.

(a) Terms Used In This Act.—As used in this Act—

(1) Commission.—The term "Commission" means the Federal Communications Commission.

(2) Modification of final judgment.—The term "Modification of Final Judgment" means the decree entered on August 24, 1982, in United States v. Western Electric Civil Action No. 82-0192 (United States District Court, District of Columbia), and includes any judgment or order with respect to such action entered on or after August 24, 1982, and before the date of enactment of this Act.

(3) GTE consent decree.—The term "GTE Consent Decree" means the order entered on December 21, 1984, as restated January 11, 1985, in United States v. GTE Corporation, Civil Action No. 83-1298 (United States District Court, District of Columbia), and includes any judgment or order with respect to such action entered on or after January 11, 1985, and before the date of enactment of this Act.

(4) Integrated telecommunications service provider.—The term "integrated telecommunications service provider" means any person engaged in the provision of multiple services, such as voice, data, image, graphics, and video services, which make common use of all or part of the same transmission facilities, switches, signalling, or control devices.

(b) Terms Used in the Communications Act of 1934.—Section 3 (47 U.S.C. 153) is amended by adding at the end thereof the following:

"(gg) 'Modification of Final Judgment' means the decree entered on August 24, 1982, in United States v. Western Electric Civil Action No. 82-0192 (United States District Court, District of Columbia), and includes any judgment or order with respect to such action entered on or after August 24, 1982, and before the date of enactment of the Telecommunications Competition and Deregulation Act of 1995.

"(hh) 'Bell operating company' means any company listed in appendix A of the Modification of Final Judgment to the extent such company provides telephone exchange service or exchange access service, and includes any successor or assign of any such company, but does not include any affiliate of such company.

"(ii) 'Affiliate' means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person. For purposes of this paragraph, the term 'own' means to own an equity interest (or the equivalent thereof) of more than 10 percent.

"(jj) 'Telecommunications Act of 1995' means the Telecommunications Competition and Deregulation Act of 1995.

"(kk) 'Local exchange carrier' means a provider of telephone exchange service or exchange access service.

"(ll) 'Telecommunications' means the transmission, between or among points specified by the user, of information of the user's choosing, including voice, data, image, graphics, and video, without change in the form or content of the information, as sent and received, with or without benefit of any closed transmission medium.

"(mm) 'Telecommunications service' means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used to transmit the telecommunications service.

"(nn) 'Telecommunications carrier' means any provider of telecommunications services, except that such term does not include hotels, motels, hospitals, and other aggregators of telecommunications services (as defined in section 226). A telecommunications carrier shall only be treated as a common carrier under this Act to the extent that it is engaged in providing telecommunications services for voice, data, image, graphics, or video that it does not own, control, or select, except that the Commission shall continue to determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.

"(oo) 'Telecommunications number portability' means the ability of users of telecommunications services to retain, at the same location, existing telecommunications numbers without impairment of quality, reliability, or convenience when switching from one telecommunications carrier to another.

"(pp) 'Information service' means the offering of services that—

"(1) employ computer processing applications that act on the format, content, code, protocol, or similar aspects of the subscriber's transmitted information;

"(2) provide the subscriber additional, different, or restructured information; or

"(3) involve subscriber interaction with stored information.

"(qq) 'Cable service' means cable service as defined in section 602.

"(rr) 'Rural telephone company' means a telecommunications carrier operating entity to the extent that such entity provides telephone exchange service, including access service subject to part 69 of the Commission's rules (47 C.F.R. 69.1 et seq.), to—

"(1) any service area that does not include either—

"(A) any incorporated place of 10,000 inhabitants or more, or any part thereof, based on the most recent population statistics of the Bureau of the Census; or

"(B) any territory, incorporated or unincorporated, included in an urbanized area, as defined by the Bureau of the Census as of January 1, 1995; or

"(2) fewer than 100,000 access lines within a State.

"(ss) 'Service area' means a geographic area established by the Commission and the States for the purpose of determining universal service obligations and support mechanisms. In the case of an area served by a rural telephone company, 'service area' means such company's 'study area' unless and until the Commission and the States, after taking into account recommendations of a Federal-State Joint Board instituted under section 410(c), establish a different definition of service area for such company.

"(tt) 'LATA' means a local access and transport area as defined in United States v. Western Electric Co., 569 F. Supp. 990 (U.S. District Court, District of Columbia) and subsequent judicial orders relating thereto, except that, with respect to commercial mobile services, the term 'LATA' means the geographic areas defined or used by the Commission in issuing licenses for such services: *Provided however*, That in the case of a Bell operating company cellular affiliate, such geographic area shall be no smaller than the LATA area for such affiliate on the date of enactment of the Telecommunications Act of 1995.".

TITLE I—TRANSITION TO COMPETITION

SEC. 101. INTERCONNECTION REQUIREMENTS.

(a) Required Interconnection.—Title II (47 U.S.C. 201 et seq.) is amended by inserting after section 228 the following:

"Part II—Competition in Telecommunications

"SEC. 251. INTERCONNECTION.

"(a) Duty to Provide Interconnection.—

"(1) In general.—A local exchange carrier, or class of local exchange carriers, determined by the Commission to have market power in providing telephone exchange service or exchange access service has a duty under this Act, upon request—

"(A) to enter into good faith negotiations with any telecommunications carrier requesting interconnection between the facilities and equipment of the requesting telecommunications carrier and the carrier, or class of carriers, of which the request was made for the purpose of permitting the telecommunications carrier to provide telephone exchange or exchange access service; and

"(B) to provide such interconnection, at rates that are reasonable and nondiscriminatory, according to the terms of the agreement and in accordance with the requirements of this section.

"(2) Initiation.—A local exchange carrier, or class of carriers, described in paragraph (1) shall commence good faith negotiations to conclude an agreement, whether through negotiation under subsection (c) or arbitration or intervention under subsection (d), within 15 days after receiving a request from any telecommunications carrier seeking to provide telephone exchange or exchange access service. Nothing in this Act shall prohibit multilateral negotiations between or among a local exchange carrier or class of carriers and a telecommunications carrier or class of carriers seeking interconnection under subsection (c) or subsection (d). At the request of any of the parties to a negotiation, a State may participate in the negotiation of any portion of an agreement under subsection (c).

"(3) MARKET POWER.—For the purpose of determining whether a carrier has market power under paragraph (1), the relevant market shall include all providers of telephone exchange or exchange access services in a local area, regardless of the technology used by any such provider.

"(b) MINIMUM STANDARDS.—An interconnection agreement entered into under this section shall, if requested by a telecommunications carrier requesting interconnection, provide for—

"(1) nondiscriminatory access on an unbundled basis to the network functions and services of the local exchange carrier's telecommunications network (including switching software, to the extent defined in implementing regulations by the Commission);

"(2) nondiscriminatory access on an unbundled basis to any of the local exchange carrier's telecommunications facilities and information, including databases and signaling, necessary to the transmission and routing of any telephone exchange service or exchange access service and the interoperability of both carriers' networks;

"(3) interconnection to the local exchange carrier's telecommunications facilities and services at any technically feasible point within the carrier's network;

"(4) interconnection that is at least equal in type, quality, and price (on a per unit basis or otherwise) to that provided by the local exchange carrier to itself or to any subsidiary, affiliate, or any other party to which the carrier provides interconnection;

"(5) nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the local exchange carrier at just and reasonable rates;

"(6) the local exchange carrier to take whatever action under its control is necessary, as soon as is technically feasible, to provide telecommunications number portability and local dialing parity in a manner that—

"(A) permits consumers to be able to dial the same number of digits when using any telecommunications carrier providing telephone exchange service or exchange access service in the market served by the local exchange carrier;

"(B) permits all such carriers to have nondiscriminatory access to telephone numbers, operator services, directory assistance, and directory listing with no unreasonable dialing delays; and

"(C) provides for a reasonable allocation of costs among the parties to the agreement;

"(7) telecommunications services and network functions of the local exchange carrier to be available to the telecommunications carrier on an unbundled basis without any unreasonable conditions on the resale or sharing of those services or functions, including the origination, transport, and termination of such telecommunications services, other than reasonable conditions required by a State; and for purposes of this paragraph, it is not an unreasonable condition for a State to limit the resale—

"(A) of services included in the definition of universal service to a telecommunications carrier who resells that service to a category of customers different from the category of customers being offered that universal service by such carrier if the State orders a carrier to provide the same service to different categories of customers at different prices necessary to promote universal service; or

"(B) of subsidized universal service in a manner that allows companies to charge another carrier rates which reflect the actual cost of providing those services to that carrier, exclusive of any universal service support received for providing such services in accordance with section 214(d)(5);

"(8) reciprocal compensation arrangements for the origination and termination of telecommunications;

"(9) reasonable public notice of changes in the information necessary for the transmission and routing of services using that local exchange carrier's facilities or networks, as well as of any other changes that would affect the interoperability of those facilities and networks; and

"(10) a schedule of itemized charges and conditions for each service, facility, or function provided under the agreement.

"(c) AGREEMENTS ARRIVED AT THROUGH NEGOTIATION.—Upon receiving a request for interconnection, a local exchange carrier may meet its interconnection obligations under this section by negotiating and entering into a binding agreement with the telecommunications carrier seeking interconnection without regard to the standards set forth in subsection (b). The agreement shall include a schedule of itemized charges for each service, facility, or function included in the agreement. The agreement, including any interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1995, shall be submitted to the State under subsection (e).

"(d) AGREEMENTS ARRIVED AT THROUGH ARBITRATION OR INTERVENTION.—

"(1) IN GENERAL.—Any party negotiating an interconnection agreement under this section may, at any point in the negotiation, ask a State to participate in the negotiation and to arbitrate any differences arising in the course of the negotiation. The refusal of any other party to the negotiation to participate further in the negotiations, to cooperate with the State in carrying out its function as a arbitrator, or to continue to negotiate in good faith in the presence, or with the assistance, of the State shall be considered a failure to negotiate in good faith.

"(2) INTERVENTION.—If any issues remain open in a negotiation commenced under this section more than 135 days after the date upon which the local exchange carrier received the request for such negotiation, then the carrier or any other party to the negotiation may petition a State to intervene in the negotiations for purposes of resolving any such remaining open issues. Any such request must be made during the 25-day period that begins 135 days after the carrier receives the request for such negotiation and ends 160 days after that date.

"(3) DUTY OF PETITIONER.—

"(A) A party that petitions a State under paragraph (2) shall, at the same time as it submits the petition, provide the State all relevant documentation concerning the negotiations necessary to understand—

"(i) the unresolved issues;

"(ii) the position of each of the parties with respect to those issues; and

"(iii) any other issue discussed and resolved by the parties.

"(B) A party petitioning a State under paragraph (2) shall provide a copy of the petition and any documentation to the other party not later than the day on which the State receives the petition.

"(4) OPPORTUNITY TO RESPOND.—A party to a negotiation under this section with respect to which the other party has petitioned a State under paragraph (2) may respond to the other party's petition and provide such additional information as it wishes within 25 days after the State receives the petition.

"(5) ACTION BY STATE.—

"(A) A State proceeding to consider a petition under this subsection shall be conducted in accordance with the rules promulgated by the Commission under subsection (i). The State shall limit its consideration of any petition under paragraph (2) (and any response thereto) to the issues set forth in the petition and in the response, if any, filed under paragraph (4).

"(B) The State may require the petitioning party and the responding party to provide such information as may be necessary for the State to reach a decision on the unresolved issues. If either party refuses or fails unreasonably to respond on a timely basis to any reasonable request from the State, then the State may proceed on the basis of the best information available to it from whatever source derived.

"(C) The State shall resolve each issue set forth in the petition and the response, if any, by imposing appropriate conditions upon the parties to the agreement, and shall conduct the review of the agreement (including the issues resolved by the State) not later than 10 months after the date on which the local exchange carrier received the request for interconnection under this section.

"(D) In resolving any open issues and imposing conditions upon the parties to the agreement, a State shall ensure that the requirements of this section are met by the solution imposed by the State and are consistent with the Commission's rules defining minimum standards.

"(6) CHARGES.—If the amount charged by a local exchange carrier, or class of local exchange carriers, for an unbundled element of the interconnection provided under subsection (b) is determined by arbitration or intervention under this subsection, then the charge—

"(A) shall be

"(i) based on the cost (determined without reference to a rate-of-return or other rate-based proceeding) of providing the unbundled element,

"(ii) nondiscriminatory, and

"(iii) individually priced to the smallest element that is technically feasible and economically reasonable to provide; and

"(B) may include a reasonable profit.

"(e) APPROVAL BY STATE.—Any interconnection agreement under this section shall be submitted for approval to the State. A State to which an agreement is submitted shall approve or reject the agreement, with written findings as to any deficiencies. The State may only reject—

"(1) an agreement under subsection (c) if it finds that the agreement discriminates against a telecommunications carrier not a party to the agreement; and

"(2) an agreement under subsection (d) if it finds that—

"(B) the agreement does not meet the standards set forth in subsection (b), or

"(B) the implementation of the agreement is not in the public interest.

If the State does not act to approve or reject the agreement within 90 days after receiving the agreement, or 30 days in the case of an agreement negotiated under subsection (c), the agreement shall be deemed approved. No State court shall have jurisdiction to review the action of a State in approving or rejecting an agreement under this section.

"(f) FILING REQUIRED.—A State shall make a copy of each agreement approved under subsection (e) available for public inspection and copying within 10 days after the agreement is approved. The State may charge a reasonable and nondiscriminatory fee to the parties to the agreement to cover the costs of approving and filing such agreement.

"(g) AVAILABILITY TO OTHER TELECOMMUNICATIONS CARRIERS.—A local exchange carrier shall make available any service, facility, or function provided under an interconnection agreement to which it is a party to any other telecommunications carrier that requests such interconnection upon the same terms and conditions as those provided in the agreement.

"(h) COLLOCATION.—A State may require telecommunications carriers to provide for actual collocation of equipment necessary for interconnection at the premises of the carrier at reasonable charges, if the State finds actual collocation to be in the public interest.

"(i) IMPLEMENTATION.—

"(1) RULES AND STANDARDS.—The Commission shall promulgate rules to implement the requirements of this section within 6 months after the date of enactment of the Telecommunications Act of 1995. In establishing the standards for determining what facilities and information are necessary for purposes of subsection (b)(2), the Commission shall consider, at a minimum, whether—

"(A) access to such facilities and information that are proprietary in nature is necessary; and

"(B) the failure to provide access to such facilities and information would impair the ability of the telecommunications carrier seeking interconnection to provide the services that it seeks to offer.

"(2) COMMISSION TO ACT IF STATE WILL NOT ACT.—If a State, through action or inaction, fails to carry out its responsibility under this section in accordance with the rules prescribed by the Commission under paragraph (1) in any proceeding or other matter under this section, then the Commission shall issue an order preempting the State's jurisdiction of that proceeding or matter within 90 days after being notified (or taking notice) of such failure, and shall assume the responsibility of the State under this section with respect to the proceeding or matter and act for the State.

"(3) WAIVERS AND MODIFICATIONS FOR RURAL CARRIERS.—The Commission or a State shall, upon petition or on its own initiative, waive or modify the requirements of subsection (b) for a rural telephone company or companies, and may waive or modify the requirements of subsection (b) for local exchange carriers with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide, to the extent that the Commission or a State determines that such requirements would result in unfair competition, impose a significant adverse economic impact on users of telecommunications services, be technically infeasible, or otherwise not be in the public interest. The Commission or a State shall act upon any petition filed under this paragraph within 180 days of receiving such petition. Pending such action, the Commission or a State may suspend enforcement of the requirement or requirements to which the petition applies with respect to the petitioning carrier or carriers.

"(j) STATE REQUIREMENTS.—Nothing in this section precludes a State from imposing requirements on a telecommunications carrier for intrastate services that are necessary to further competition in the provision of telephone exchange service or exchange access service, as long as the State's requirements are not inconsistent with the Commission's regulations to implement this section.

"(k) ACCESS CHARGE RULES.—Nothing in this section shall affect the Commission's interexchange-to-local exchange access charge rules for local exchange carriers or interexchange carriers in effect on the date of enactment of the Telecommunications Act of 1995.

"(l) REVIEW OF INTERCONNECTION STANDARDS.—Beginning 3 years after the date of enactment of the Telecommunications Act of 1995 and every 3 years thereafter, the Commission shall review the standards and requirements for interconnection established under subsection (b). The Commission shall complete each such review within 180 days and may modify or waive any requirements or standards established under subsection (b) if it determines that the modification or waiver meets the requirements of section 260.

"(m) COMMERCIAL MOBILE SERVICE PROVIDERS.—The requirements of this section shall not apply to commercial mobile services provided by a wireline local exchange carrier unless the Commission determines under subsection (a)(3) that such carrier has market power in the provision of commercial mobile service.".

(c) TECHNICAL AMENDMENTS.—

(1) Title II (47 U.S.C. 201 et seq.) is amended by inserting before section 201 the following:

"PART I—GENERAL PROVISIONS".

(2) Section 2(b) (47 U.S.C. 152(b)) is amended by striking "sections 223 through 227, inclusive, and section 332," and inserting "section 214(d), sections 223 through 227, part II of title II, and section 332,".

SEC. 102. SEPARATE AFFILIATE AND SAFEGUARD REQUIREMENTS.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by section 101 of this Act, is amended by inserting after section 251 the following new section:

"SEC. 252. SEPARATE AFFILIATE; SAFEGUARDS.

"(a) SEPARATE AFFILIATE REQUIRED FOR COMPETITIVE ACTIVITIES.—

"(1) IN GENERAL.—A Bell operating company (including any affiliate) which is a local exchange carrier that is subject to the requirements of section 251(a) may not provide any service described in paragraph (2) unless it provides that service through one or more affiliates that—

"(A) are separate from any operating company entity that is subject to the requirements of section 251(a); and

"(B) meet the requirements of subsection (b).

"(2) SERVICES FOR WHICH A SEPARATE AFFILIATE IS REQUIRED.—The services for which a separate affiliate is required by paragraph (1) are:

"(A) Information services, including cable services and alarm monitoring services, other than any information service a Bell operating company was authorized to provide before July 24, 1991.

"(B) Manufacturing services.

"(C) InterLATA services other than—

"(i) incidental services, not including information services;

"(ii) out-of-region services; or

"(iii) services authorized under an order entered by the United States District Court for the District of Columbia pursuant to the Modification of Final Judgment before the date of enactment of the Telecommunications Act of 1995.

"(b) STRUCTURAL AND TRANSACTIONAL REQUIREMENTS.—The separate affiliate required by this section—

"(1) shall maintain books, records, and accounts in the manner prescribed by the Commission which shall be separate from the books, records, and accounts maintained by the Bell operating company of which it is an affiliate;

"(2) shall have separate officers, directors, and employees from the Bell operating company of which it is an affiliate;

"(3) may not obtain credit under any arrangement that would permit a creditor, upon default, to have recourse to the assets of the Bell operating company; and

"(4) shall conduct all transactions with the Bell operating company of which it is an affiliate on an arm's length basis with any such transactions reduced to writing and available for public inspection.

"(c) NONDISCRIMINATION SAFEGUARDS.—In its dealings with its affiliate described in subsection (a) a Bell operating company—

"(1) may not discriminate between that company or affiliate and any other entity in the provision or procurement of goods, services, facilities, and information, or in the establishment of standards;

"(2) may not provide any goods, services, facilities, or information to such company or affiliate unless the goods, services, facilities, or information are made available to other persons on reasonable and nondiscriminatory terms and conditions, unbundled to the smallest element that is technically feasible and economically reasonable to provide, and at just and reasonable rates that are not higher on a per-unit basis than those charged for such services to any affiliate of such company; and

"(3) shall account for all transactions with an affiliate described in subsection (a) in accordance with generally accepted accounting principles.

"(d) BIENNIAL AUDIT.—

"(1) GENERAL REQUIREMENT.—A company required to operate a separate affiliate under this section shall obtain and pay for a joint Federal/State audit every 2 years conducted by an independent auditor selected by the Commission, and working at the direction of, the Commission and the State commission of each State in which such company provides service, to determine whether such company has complied with this section and the regulations promulgated under this section, and particularly whether such company has complied with the separate accounting requirements under subsection (b).

"(2) RESULTS SUBMITTED TO COMMISSION; STATE COMMISSIONS.—The auditor described in paragraph (1) shall submit the results of the audit to the Commission and to the State commission of each State in which the company audited provides service, which shall make such results available for public inspection. Any party may submit comments on the final audit report.

"(3) ACCESS TO DOCUMENTS.—For purposes of conducting audits and reviews under this subsection—

"(A) the independent auditor, the Commission, and the State commission shall have access to the financial accounts and records of each company and of its affiliates necessary to verify transactions conducted with that company that are relevant to the specific activities permitted under this section and that are necessary for the regulation of rates;

"(B) the Commission and the State commission shall have access to the working papers and supporting materials of any auditor who performs an audit under this section; and

"(C) the State commission shall implement appropriate procedures to ensure the protection of any proprietary information submitted to it under this section.

"(e) JOINT MARKETING.—

"(1) A Bell operating company affiliate required by this section may not market or sell telephone exchange services provided by the Bell operating company unless that company permits other entities offering the same or similar service to market and sell its telephone exchange services.

"(2) A Bell operating company may not market or sell any service provided by an affiliate required by this section until that company has been authorized to provide interLATA services under section 255.

"(3) The joint marketing and sale of services permitted under this subsection shall not be considered to violate the nondiscrimination provisions of subsection (c).

"(f) ADDITIONAL REQUIREMENTS FOR PROVISION OF INTERLATA SERVICES.—A Bell operating company—

"(1) shall fulfill any requests from an unaffiliated entity for exchange access service within a period no longer than that in which it provides such exchange access service to itself or to its affiliates;

"(2) shall fulfill any such requests with exchange access service of a quality that meets or exceeds the quality of exchange access service provided by the Bell operating company to itself or its affiliate;

"(3) shall provide exchange access service to all carriers at rates that are just, reasonable, not unreasonably discriminatory, and based on costs;

"(4) shall not provide any facilities, services, or information concerning its provision of exchange access service to the affiliate described in subsection (a) unless such facilities, services, or information are made available to other providers of interLATA services in that market on the same terms and conditions;

"(5) shall charge the affiliate described in subsection (a), and impute to itself or any intraLATA interexchange affiliate, the same rates for access to its telephone exchange service and exchange access service that it charges unaffiliated interexchange carriers for such service; and

"(6) may provide any interLATA or intraLATA facilities or services to its interLATA affiliate if such services or facilities are made available to all carriers at the same rates and on the same terms and conditions so long as the costs are appropriately allocated.

"(g) PROPRIETARY INFORMATION.—

"(1) IN GENERAL.—In complying with the requirements of this section, each Bell operating company and any affiliate of such company has a duty to protect the confidentiality of propriety information relating to other common carriers, to equipment manufacturers, and to customers. A Bell operating company may not share customer proprietary information in aggregate form with its affiliates unless such aggregate information is available to other carriers or persons under the same terms and conditions. Individually identifiable customer proprietary information and other proprietary information may be—

"(A) shared with any affiliated entity required by this section or with any unaffiliated entity only with the consent of the person to which such information relates or from which it was obtained (including other carriers); or

"(B) disclosed to appropriate authorities pursuant to court order.

"(2) EXCEPTIONS.—Paragraph (1) does not limit the disclosure of individually identifiable customer proprietary information by each Bell operating company as necessary—

"(A) to initiate, render, bill, and collect for telephone exchange service, interexchange service, or telecommunications service requested by a customer; or

"(B) to protect the rights or property of the carrier, or to protect users of any of those services and other carriers from fraudulent, abusive, or unlawful use of, or subscription to, any such service.

"(3) SUBSCRIBER LIST INFORMATION.—For purposes of this subsection, the term 'customer proprietary information' does not include subscriber list information.

"(h) COMMISSION MAY GRANT EXCEPTIONS.—The Commission may grant an exception from compliance with any requirement of this section upon a showing that the exception is necessary for the public interest, convenience, and necessity.

"(i) APPLICATION TO UTILITY COMPANIES.—

"(1) REGISTERED PUBLIC UTILITY HOLDING COMPANY.—A registered company may provide telecommunications services only through a separate subsidiary company that is not a public utility company.

"(2) OTHER UTILITY COMPANIES.—Each State shall determine whether a holding company subject to its jurisdiction—

"(A) that is not a registered holding company, and

"(B) that provides telecommunications service,

is required to provide that service through a separate subsidiary company.

"(3) SAVINGS PROVISION.—Nothing in this subsection or the Telecommunications Act of 1995 prohibits a public utility company from engaging in any activity in which it is legally engaged on the date of enactment of the Telecommunications Act of 1995; provided it complies with the terms of any applicable authorizations.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'public utility company', 'associate company', 'holding company', 'subsidiary company', 'registered holding company', and 'State commission' have the same meaning as they have in section 2 of the Public Utility Holding Company Act of 1935.".

(b) IMPLEMENTATION.—The Commission shall promulgate any regulations necessary to implement section 252 of the Communications Act of 1934 (as added by subsection (a)) not later than one year after the date of enactment of this Act. Any separate affiliate established or designated for purposes of section 252(a) of the Communications Act of 1934 before the regulations have been issued in final form shall be restructured or otherwise modified, if necessary, to meet the requirements of those regulations.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of enactment of this Act.

SEC. 103. UNIVERSAL SERVICE.

(a) FINDINGS.—The Congress finds that—

(1) the existing system of universal service has evolved since 1930 through an ongoing dialogue between industry, various Federal-State Joint Boards, the Commission, and the courts;

(2) this system has been predicated on rates established by the Commission and the States that require implicit cost shifting by monopoly providers of telephone exchange service through both local rates and access charges to interexchange carriers;

(3) the advent of competition for the provision of telephone exchange service has led to industry requests that the existing system be modified to make support for universal service explicit and to require that all telecommunications carriers participate in the modified system on a competitively neutral basis; and

(4) modification of the existing system is necessary to promote competition in the provision of telecommunications services and to allow competition and new technologies to reduce the need for universal service support mechanisms.

(b) FEDERAL-STATE JOINT BOARD ON UNIVERSAL SERVICE.—

(1) Within one month after the date of enactment of this Act, the Commission shall institute and refer to a Federal-State Joint Board under section 410(c) of the Communications Act of 1934 a proceeding to recommend rules regarding the implementation of section 253 of that Act, including the definition of universal service. The Joint Board shall, after notice and public comment, make its recommendations to the Commission no later than 9 months after the date of enactment of this Act.

(2) The Commission may periodically, but no less than once every 4 years, institute and refer to the Joint Board a proceeding to review the implementation of section 253 of that Act and to make new recommendations, as necessary, with respect to any modifications or additions that may be needed. As part of any such proceeding the Joint Board shall review the definition of, and adequacy of support for, universal service and shall evaluate the extent to which universal service has been protected and advanced.

(c) COMMISSION ACTION.—The Commission shall initiate a single proceeding to implement recommendations from the initial Joint Board required by subsection (a) and shall complete such proceeding within 1 year after the date of enactment of this Act. Thereafter, the Commission shall complete any proceeding to implement recommendations from any further Joint Board required under subsection (b) within one year after receiving such recommendations.

(d) SEPARATIONS RULES.—Nothing in the amendments made by this Act to the Communications Act of 1934 shall affect the Commission's separations rules for local exchange carriers or interexchange carriers in effect on the date of enactment of this Act.

(e) AMENDMENT OF COMMUNICATIONS ACT.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 252 the following new section:

"SEC. 253. UNIVERSAL SERVICE.

"(a) UNIVERSAL SERVICE PRINCIPLES.—The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles:

"(1) Quality services are to be provided at just, reasonable, and affordable rates.

"(2) Access to advanced telecommunications and information services should be provided in all regions of the Nation.

"(3) Consumers in rural and high cost areas should have access to telecommunications and information services, including interexchange services, that are reasonably comparable to those services provided in urban areas.

"(4) Consumers in rural and high cost areas should have access to telecommunications and information services at rates that are reasonably comparable to rates charged for similar services in urban areas.

"(5) Consumers in rural and high cost areas should have access to the benefits of advanced telecommunications and information services for health care, education, economic development, and other public purposes.

"(6) There should be a coordinated Federal-State universal service system to preserve and advance universal service using specific and predictable Federal and State mechanisms administered by an independent, nongovernmental entity or entities.

"(7) Elementary and secondary schools and classrooms should have access to advanced telecommunications services.

"(b) DEFINITION.—

"(1) IN GENERAL.—Universal service is an evolving level of intrastate and interstate telecommunications services that the Commission, based on recommendations from the public, Congress, and the Federal-State Joint Board periodically convened under section 103 of the Telecommunications Act of 1995, and taking into account advances in telecommunications and information technologies and services, determines—

"(A) should be provided at just, reasonable, and affordable rates to all Americans, including those in rural and high cost areas and those with disabilities;

"(B) are essential in order for Americans to participate effectively in the economic, academic, medical, and democratic processes of the Nation; and

"(C) are, through the operation of market choices, subscribed to by a substantial majority of residential customers.

"(2) DIFFERENT DEFINITION FOR CERTAIN PURPOSES.—The Commission may establish a different definition of universal service for schools, libraries, and health care providers for the purposes of section 264.

"(c) ALL TELECOMMUNICATIONS CARRIERS MUST PARTICIPATE.—Every telecommunications carrier engaged in instrastate, interstate, or foreign communication shall participate, on an equitable and nondiscriminatory basis, in the specific and predictable mechanisms established by the Commission and the States to preserve and advance universal service. Such participation shall be in the manner determined by the Commission and the States to be reasonably necessary to preserve and advance universal service. Any other provider of telecommunications may be required to participate in the preservation and advancement of universal service, if the public interest so requires.

"(d) STATE AUTHORITY.—A State may adopt regulations to carry out its responsibilities under this section, or to provide for additional definitions, mechanisms, and standards to preserve and advance universal service within that State, to the extent that such regulations do not conflict with the Commission's rules to implement this section. A State may only enforce additional definitions or standards to the extent that it adopts additional specific and predictable mechanisms to support such definitions or standards.

"(e) ELIGIBILITY FOR UNIVERSAL SERVICE SUPPORT.—To the extent necessary to provide for specific and predictable mechanisms to achieve the purposes of this section, the Commission shall modify its existing rules for the preservation and advancement of universal service. Only essential telecommunications carriers designated under section 214(d) shall be eligible to receive support for the provision of universal service. Such support, if any, shall accurately reflect what is necessary to preserve and advance universal service in accordance with this section and the other requirements of this Act.

"(f) UNIVERSAL SERVICE SUPPORT.—The Commission and the States shall have as their goal the need to make any support for universal service explicit, and to target that support to those essential telecommunications carriers that serve areas for which such support is necessary. The specific and predictable mechanisms adopted by the Commission and the States shall ensure that essential telecommunications carriers are able to provide universal service at just, reasonable, and affordable rates. A carrier that receives universal service support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

"(g) INTEREXCHANGE SERVICES.—The rates charged by any provider of interexchange telecommunications service to customers in rural and high cost areas shall be no higher than those charged by such provider to its customers in urban areas.

"(h) SUBSIDY OF COMPETITIVE SERVICES PROHIBITED.—A telecommunications carrier may not use services that are not competitive to subsidize competitive services. The Commission, with respect to interstate services, and the States, with respect to intrastate services, shall establish any necessary cost allocation rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.

"(i) CONGRESSIONAL NOTIFICATION REQUIRED.—

"(1) IN GENERAL.—The Commission may not take action to require participation by telecommunications carriers or other providers of telecommunications under subsection (c), or to modify its rules to increase support for the preservation and advancement of universal service, until—

"(A) the Commission submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives a report on the participation required, or the increase in support proposed, as appropriate; and

"(B) a period of 120 days has elapsed since the date the report required under paragraph (1) was submitted.

"(2) NOT APPLICABLE TO REDUCTIONS.—This subsection shall not apply to any action taken to reduce costs to carriers or consumers.

"(j) EFFECT ON COMMISSION'S AUTHORITY.—Nothing in this section shall be construed to expand or limit the authority of the Commission to preserve and advance universal service under this Act.

"(k) EFFECTIVE DATE.—This section takes effect on the date of enactment of the Telecommunications Act of 1995, except for subsections (c), (d), (e), (f), and (i) which take effect one year after the date of enactment of that Act.".

(f) PROHIBITION ON EXCLUSION OF AREAS FROM SERVICE BASED ON RURAL LOCATION, HIGH COSTS, OR INCOME.—Part II of title II (47 U.S.C. 201 et seq.) as amended by this Act, is amended by adding after section 253 the following:

"SEC. 253A PROHIBITION ON EXCLUSION OF AREAS FROM SERVICE BASED ON RURAL LOCATION, HIGH COSTS, OR INCOME.

"(a) The Commission shall prohibit any telecommunications carrier from excluding from any of such carrier's services any high-cost area, or any area on the basis of the rural location or the income of the residents of such area: *Provided*, That a carrier may exclude an area in which the carrier can demonstrate that—

"(1) there will be insufficient consumer demand for the carrier to earn some return over the long term on the capital invested to provide such service to such area, and—

"(2) providing a service to such area will be less profitable for the carrier than providing the service in areas to which the carrier is already providing or has proposed to provide the service.

"(b) The Commission shall provide for public comment on the adequacy of the carrier's proposed service area on the basis of the requirements of this section.".

SEC. 104. ESSENTIAL TELECOMMUNICATIONS CARRIERS.

(a) IN GENERAL.—Section 214(d) (47 U.S.C. 214(d)) is amended—

(1) by inserting "(1) ADEQUATE FACILITIES REQUIRED.—" before "The Commission"; and

(2) by adding at the end thereof the following:

"(2) DESIGNATION OF ESSENTIAL CARRIER.—If one or more common carriers provide telecommunications service to a geographic area, and no common carrier will provide universal service to an unserved community or any portion thereof that requests such service within such area, then the Commission, with respect to interstate services, or a State, with respect to intrastate services, shall determine which common carrier serving that area is best able to provide universal service to the requesting unserved community or portion thereof, and shall designate that common carrier as an essential telecommunications carrier for that unserved community or portion thereof.

"(3) ESSENTIAL CARRIER OBLIGATIONS.—A common carrier may be designated by the Commission, or by a State, as appropriate, as an essential telecommunications carrier for a specific service area and become eligible to receive universal service support under section 253. A carrier designated as an essential telecommunications carrier shall—

"(A) provide through its own facilities or through a combination of its own facilities and resale of services using another carrier's facilities, universal service and any additional service (such as 911 service) required by the Commission or the State, to any community or portion thereof which requests such service;

"(B) offer such services at nondiscriminatory rates established by the Commission, for interstate services, and the State, for intrastate services, throughout the service area; and

"(C) advertise throughout the service area the availability of such services and the rates for such services using media of general distribution.

"(4) MULTIPLE ESSENTIAL CARRIERS.—If the Commission, with respect to interstate services, or a State, with respect to intrastate services, designates more than one common carrier as an essential telecommunications carrier for a specific service area, such carrier shall meet the service, rate, and advertising requirements imposed by the Commission or State on any other essential telecommunications carrier for that service area. A State shall require that, before designating an additional essential telecommunications carrier, the State agency authorized to make the designation shall find that—

"(A) the designation of an additional essential telecommunications carrier is in the public interest and that there will not be a significant adverse impact on users of telecommunications services or on the provision of universal service;

"(B) the designation encourages the development and deployment of advanced telecommunications infrastructure and services in rural areas; and

"(C) the designation protects the public safety and welfare, ensures the continued quality of telecommunications services, or safeguards the rights of consumers.

"(5) RESALE OF UNIVERSAL SERVICE.—The Commission, for interstate services, and the States, for intrastate services, shall establish rules to govern the resale of universal service to allocate any support received for the provision of such service in a manner that ensures that the carrier whose facilities are being resold is adequately compensated for their use, taking into account the impact of the resale on that carrier's ability to maintain and deploy its network as a whole. The Commission shall also establish, based on the recommendations of the Federal-State Joint Board instituted to implement this section, rules to permit a carrier designated as an essential telecommunications carrier to relinquish that designation for a specific service area if another telecommunications carrier is also designated as an essential telecommunications carrier for that area. The rules—

"(A) shall ensure that all customers served by the relinquishing carrier continue to be served, and shall require sufficient notice to permit the purchase or construction of adequate facilities by any remaining essential telecommunications carrier if such remaining carrier provided universal service through resale of the facilities of the relinquishing carrier; and

"(B) shall establish criteria for determining when a carrier which intends to utilize resale to meet the requirements for designation under this subsection has adequate resources to purchase, construct, or otherwise obtain the facilities necessary to meet its obligation if the reselling carrier is no longer able or obligated to resell the service.

"(6) ENFORCEMENT.—A common carrier designated by the Commission or a State as an essential telecommunications carrier that refuses to provide universal service within a reasonable period to an unserved community or portion thereof which requests such service shall forfeit to the United States, in the case of interstate services, or the State, in the case of intrastate services, a sum of up to $10,000 for each day that such carrier refuses to provide such service. In determining a reasonable period the Commission or the State, as appropriate, shall consider the nature of any construction required to serve such requesting unserved community or portion thereof, as well as the construction intervals normally attending such construction, and shall allow adequate time for regulatory approvals and acquisition of necessary financing.

"(7) INTEREXCHANGE SERVICES.—The Commission, for interstate services, or a State, for intrastate services, shall designate an essential telecommunications carrier for interexchange services for any unserved community or portion thereof requesting such services. Any common carrier designated as an essential telecommunications carrier for interexchange services under this paragraph shall provide interexchange services included in universal service to any unserved community or portion thereof which requests such service. The service shall be provided at nationwide geographically averaged rates for interstate interexchange services and at geographically averaged rates for intrastate interexchange services, and shall be just and reasonable and not unjustly or unreasonably discriminatory. A common carrier designated as an essential telecommunications carrier for interexchange services under this paragraph that refuses to provide interexchange service in accordance with this paragraph to an unserved community or portion thereof that requests such service within 180 days of such request shall forfeit to the United States a sum of up to $50,000 for each day that such carrier refuses to provide such service. The Commission or the State, as appropriate, may extend the 180-day period for providing interexchange service upon a showing by the common carrier of good faith efforts to comply within such period.

"(8) IMPLEMENTATION.—The Commission may, by regulation, establish guidelines by which States may implement the provisions of this section.".

(b) CONFORMING AMENDMENT.—The heading for section 214 is amended by inserting a semicolon and "essential telecommunications carriers" after "lines".

(c) TRANSITION RULE.—A rural telephone company is eligible to receive universal service support payments under section 253(e) of the Communications Act of 1934 as if such company were an essential telecommunications carrier until such time as the Commission, with respect to interstate services, or a State, with respect to intrastate services, designates an essential telecommunications carrier or carriers for the area served by such company under section 214 of that Act.

SEC. 105. FOREIGN INVESTMENT AND OWNERSHIP REFORM.

(a) IN GENERAL.—Section 310 (47 U.S.C. 310) is amended by adding at the end thereof the following new subsection:

"(f) TERMINATION OF FOREIGN OWNERSHIP RESTRICTIONS.—

"(1) RESTRICTION NOT TO APPLY WHERE RECIPROCITY FOUND.—Subsection (b) shall not apply to any common carrier license held, or for which application is made, after the date of enactment of the Telecommunications Act of 1995 with respect to any alien (or representative thereof), corporation, or foreign government (or representative thereof) if the Commission determines that the foreign country of which such alien is a citizen, in which such corporation is organized, or in which such foreign government is in control provides equivalent market opportunities for common carriers to citizens of the United States (or their representatives), corporations organized in the United States, and the United States Government (or its representative): *Provided*, That the President does not object within 15 days of such determination. If the President objects to a determination, the President shall, immediately upon such objection, submit to Congress a written report (in unclassified form, but with a classified annex if necessary) that sets forth a detailed explanation of the findings made and factors considered in objecting to the determination. The determination of whether market opportunities are equivalent shall be made on a market segment specific basis within 180 days after the application is filed. While determining whether such opportunities are equivalent on that basis, the Commission shall also conduct an evaluation of opportunities for access to all segments of the telecommunications market of the applicant.

"(2) SNAPBACK FOR RECIPROCITY FAILURE.—If the Commission determines that any foreign country with respect to which it has made a determination under paragraph (1) ceases to meet the requirements for that determination, then—

"(A) subsection (b) shall apply with respect to such aliens, corporations, and government (or their representatives) on the date on which the Commission publishes notice of its determination under this paragraph, and

"(B) any license held, or application filed, which could not be held or granted under subsection (b) shall be withdrawn, or denied, as the case may be, by the Commission under the provisions of subsection (b).".

(b) CONFORMING AMENDMENT.—Section 332(c)(6) (47 U.S.C. 332(c)(6)) is amended by adding at the end thereof the following: "This paragraph does not apply to any foreign ownership interest or transfer of ownership to which section 310(b) does not apply because of section 310(f).".

(c) THE APPLICATION OF THE EXON-FLORIO LAW.—Nothing in this section (47 U.S.C. 310) shall limit in any way the application of the Exon-Florio law (50 U.S.C. App. 2170) to any transaction.

SEC. 106. INFRASTRUCTURE SHARING.

(a) REGULATIONS REQUIRED.—The Commission shall prescribe, within one year after the date of enactment of this Act, regulations that require local exchange carriers that were subject to Part 69 of the Commission's rules on or before that date to make available to any qualifying carrier such public switched network infrastructure, technology, information, and telecommunications facilities and functions as may be requested by such qualifying carrier for the purpose of enabling such qualifying carrier to provide telecommunications services, or to provide access to information services, in the service area in which such qualifying carrier has requested and obtained designation as an essential telecommunications carrier under section 214(d) and provides universal service by means of its own facilities.

(b) TERMS AND CONDITIONS OF REGULATIONS.—The regulations prescribed by the Commission pursuant to this section shall—

(1) not require a local exchange carrier to which this section applies to take any action that is economically unreasonable or that is contrary to the public interest;

(2) permit, but shall not require, the joint ownership or operation of public switched network infrastructure and services by or among such local exchange carrier and a qualifying carrier;

(3) ensure that such local exchange carrier will not be treated by the Commission or any State as a common carrier for hire or as offering common carrier services with respect to any infrastructure, technology, information, facilities, or functions made available to a qualifying carrier in accordance with regulations issued pursuant to this section;

(4) ensure that such local exchange carrier makes such infrastructure, technology, information, facilities, or functions available to a qualifying carrier on just and reasonable terms and conditions that permit such qualifying carrier to fully benefit from the economies of scale and scope of such local exchange carrier, as determined in accordance with guidelines prescribed by the Commission in regulations issued pursuant to this section;

(5) establish conditions that promote cooperation between local exchange carriers to which this section applies and qualifying carriers;

(6) not require a local exchange carrier to which this section applies to engage in any infrastructure sharing agreement for any

services or access which are to be provided or offered to consumers by the qualifying carrier in such local exchange carrier's telephone exchange area; and

(7) require that such local exchange carrier file with the Commission or State for public inspection, any tariffs, contracts, or other arrangements showing the rates, terms, and conditions under which such carrier is making available public switched network infrastructure and functions under this section.

(c) INFORMATION CONCERNING DEPLOYMENT OF NEW SERVICES AND EQUIPMENT.—A local exchange carrier to which this section applies that has entered into an infrastructure sharing agreement under this section shall provide to each party to such agreement timely information on the planned deployment of telecommunications services and equipment, including any software or upgrades of software integral to the use or operation of such telecommunications equipment.

(d) DEFINITIONS.—For purposes of this section—

(1) QUALIFYING CARRIER.—The term "qualifying carrier" means a telecommunications carrier that—

(A) lacks economies of scale or scope, as determined in accordance with regulations prescribed by the Commission pursuant to this section; and

(B) is a common carrier which offers telephone exchange service, exchange access service, and any other service that is included in universal service, to all consumers without preference throughout the service area for which such carrier has been designated as an essential telecommunications carrier under section 214(d) of the Communications Act of 1934.

(2) OTHER TERMS.—Any term used in this section that is defined in the Communications Act of 1934 has the same meaning as it has in that Act.

SEC. 107. COORDINATION FOR TELECOMMUNICATIONS NETWORK-LEVEL INTEROPERABILITY.

(a) IN GENERAL.—To promote nondiscriminatory access to telecommunications networks by the broadest number of users and vendors of communications products and services through—

(1) coordinated telecommunications network planning and design by common carriers and other providers of telecommunications services, and

(2) interconnection of telecommunications networks, and of devices with such networks, to ensure the ability of users and information providers to seamlessly and transparently transmit and receive information between and across telecommunications networks,

the Commission may participate, in a manner consistent with its authority and practice prior to the date of enactment of this Act, in the development by appropriate voluntary industry standards-setting organizations to promote telecommunications network-level interoperability.

(b) DEFINITION OF TELECOMMUNICATIONS NETWORK-LEVEL INTEROPERABILITY.—As used in this section, the term "telecommunications network-level interoperability" means the ability of 2 or more telecommunications networks to communicate and interact in concert with each other to exchange information without degeneration.

(c) COMMISSION'S AUTHORITY NOT LIMITED.—Nothing in this section shall be construed as limiting the existing authority of the Commission.

TITLE II—REMOVAL OF RESTRICTIONS TO COMPETITION

Subtitle A—Removal of Restrictions

SEC. 201. REMOVAL OF ENTRY BARRIERS.

(a) PREEMPTION OF STATE RULES.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 253 the following:

"SEC. 254. REMOVAL OF BARRIERS TO ENTRY.

"(a) IN GENERAL.—No State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications services.

"(b) STATE REGULATORY AUTHORITY.—Nothing in this section shall affect the ability of a State to impose, on a competitively neutral basis and consistent with section 253, requirements necessary to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers.

"(c) STATE AND LOCAL GOVERNMENT AUTHORITY.—Nothing in this section affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation from telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government.

"(d) PREEMPTION.—If, after notice and an opportunity for public comment, the Commission determines that a State or local government has permitted or imposed any statute, regulation, or legal requirement that violates subsection (a) or (b), the Commission shall preempt the enforcement of such statute, regulation, or legal requirement to the extent necessary to correct such violation or inconsistency.

"(e) COMMERCIAL MOBILE SERVICES PROVIDERS.—Nothing in this section shall affect the application of section 332(c)(3) to commercial mobile services providers.".

(b) PROVISION OF TELECOMMUNICATIONS SERVICES BY A CABLE OPERATOR.—

(1) JURISDICTION OF FRANCHISING AUTHORITY.—Section 621(b) (47 U.S.C. 541(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) To the extent that a cable operator or affiliate thereof is engaged in the provision of telecommunications services—

"(i) such cable operator or affiliate shall not be required to obtain a franchise under this title for the provision of telecommunications services; and

"(ii) the provisions of this title shall not apply to such cable operator or affiliate for the provision of telecommunications services.

"(B) A franchising authority may not order a cable operator or affiliate thereof to discontinue the provision of a telecommunications service.

"(C) A franchising authority may not require a cable operator to provide any telecommunications service or facilities as a condition of the initial grant of a franchise, franchise renewal, or transfer of a franchise.

"(D) Nothing in this paragraph affects existing Federal or State authority with respect to telecommunications services.".

(2) FRANCHISE FEES.—Section 622(b) (47 U.S.C. 542(b)) is amended by inserting "to provide cable services" immediately before the period at the end of the first sentence.

(c) STATE AND LOCAL TAX LAWS.—Except as provided in section 202, nothing in this Act (or in the Communications Act of 1934 as amended by this Act) shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or supersession of, any State or local law pertaining to taxation that is consistent with the requirements of the Constitution of the United States, this Act, the Communications Act of 1934, or any other applicable Federal law.

(d) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 202. ELIMINATION OF CABLE AND TELEPHONE COMPANY CROSS-OWNERSHIP RESTRICTION.

(a) IN GENERAL.—Section 613(b) (47 U.S.C. 533(b)) is amended to read as follows:

"(b) VIDEO PROGRAMMING AND CABLE SERVICES.—

"(1) DISTINCTION BETWEEN VIDEO PLATFORM AND CABLE SERVICE.—To the extent that any telecommunications carrier carries video programming provided by others, or provides video programming that it owns, controls, or selects directly to subscribers, through a common carrier video platform, neither the telecommunications carrier nor any video programming provider making use of such platform shall be deemed to be a cable operator providing cable service. To the extent that any telecommunications carrier provides video programming directly to subscribers through a cable system, the carrier shall be deemed to be a cable operator providing cable service.

"(2) BELL OPERATING COMPANY ACTIVITIES.—

"(A) Notwithstanding the provisions of section 252, to the extent that a Bell operating company carries video programming provided by others or provides video programming that it owns, controls, or selects over a common carrier video platform, it need not use a separate affiliate if—

"(i) the carrier provides facilities, services, or information to all programmers on the same terms and conditions as it provides such facilities, services, or information to its own video programming operations, and

"(ii) the carrier does not use its telecommunications services to subsidize its provision of video programming.

"(B) To the extent that a Bell operating company provides cable service as a cable operator, it shall provide such service through an affiliate that meets the requirements of section 252 (a), (b), and (d) and the Bell operating company's telephone exchange services and exchange access services shall meet the requirements of subparagraph (A)(ii) and section 252(c); except that, to the extent the Bell operating company provides cable service utilizing its own telephone exchange facilities, section 252(c) shall not require the Bell operating company to make video programming services capacity available on a non-discriminatory basis to other video programming services providers.

"(C) Upon a finding by the Commission that the requirement of a separate affiliate under the preceding subparagraph is no longer necessary to protect consumers, competition, or the public interest, the Commission shall exempt a Bell operating company from that requirement.

"(3) COMMON CARRIER VIDEO PLATFORM.—Nothing in this Act precludes a telecommunications carrier from carrying video programming provided by others directly to subscribers over a common carrier video platform. Nothing in this Act precludes a video programming provider making use of a common carrier video platform from being treated as an operator of a cable system for purposes of section 111 of title 17, United States Code.

"(4) RATES; ACCESS.—Notwithstanding paragraph (2)(A)(i), a provider of common carrier video platform services shall provide local broadcast stations, and to those public, educational, and governmental entities required by local franchise authorities to be given access to cable systems operating in the same market as the common carrier video platform, with access to that platform for the transmission of television broadcast programming at rates no higher than the incremental-cost-based rates of providing such access. Local broadcast stations shall be entitled to obtain access on the first tier of programming on the common carrier video platform. If the area covered by the common carrier video platform includes more than one franchising area, then the Commission shall determine the number of channels allocated to public, educational, and governmental entities that may be eligible for such rates for that platform.

"(5) COMPETITIVE NEUTRALITY.—A provider of video programming may be required to pay fees in lieu of franchise fees (as defined in section 622(g)(1)) if the fees—

"(A) are competitively neutral; and

"(B) are separately identified in consumer billing.

"(6) ACQUISITIONS; JOINT VENTURES; PARTNERSHIPS; JOINT USE OF FACILITIES.—

"(A) LOCAL EXCHANGE CARRIERS.—No local exchange carrier or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier may purchase or otherwise acquire more than a 10 percent financial interest, or any management interest, in any cable operator providing cable service within the local exchange carrier's telephone service area.

"(B) CABLE OPERATORS.—No cable operator or affiliate of a cable operator that is owned by, operated by, controlled by, or under common ownership with such cable operator may purchase or otherwise acquire, directly or indirectly, more than a 10 percent financial interest, or any management interest, in any local exchange carrier providing telephone exchange service within such cable operator's franchise area.

"(C) JOINT VENTURE.—A local exchange carrier and a cable operator whose telephone service area and cable franchise area, respectively, are in the same market may not enter into any joint venture or partnership to provide video programming directly to subscribers or to provide telecommunications services within such market.

"(D) EXCEPTION.—Notwithstanding subparagraphs (A), (B), and (C) of this paragraph, a local exchange carrier (with respect to a cable system located in its telephone service area) and a cable operator (with respect to the facilities of a local exchange carrier used to provide telephone exchange service in its cable franchise area) may obtain a controlling interest in, management interest in, or enter into a joint venture or partnership with such system or facilities to the extent that such system or facilities only serve incorporated or unincorporated—

"(i) places or territories that have fewer than 50,000 inhabitants; and

"(ii) are outside an urbanized area, as defined by the Bureau of the Census.

"(E) WAIVER.—The Commission may waive the restrictions of subparagraph (A), (B), or (C) only if the Commission determines that, because of the nature of the market served by the affected cable system or facilities used to provide telephone exchange service—

"(i) the incumbent cable operator or local exchange carrier would be subjected to undue economic distress by the enforcement of such provisions,

"(ii) the system or facilities would not be economically viable if such provisions were enforced, or

"(iii) the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

"(F) JOINT USE.—Notwithstanding subparagraphs (A), (B), and (C), a telecommunications carrier may obtain within such carrier's telephone service area, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that portion of the transmission facilities of such a cable system extending from the last multiuser terminal to the premises of the end user in excess of the capacity that the cable operator uses to provide its own cable services. A cable operator that provides access to such portion of its transmission facilities to one telecommunications carrier shall provide nondiscriminatory access to such portion of its transmission facilities to any other telecommunications carrier requesting such access.

"(G) SAVINGS CLAUSE.—Nothing in this paragraph affects—

"(i) the authority of a local franchising authority (in the case of the purchase or acquisition of a cable operator, or a joint venture to provide cable service) or a State Commission (in the case of the acquisition of a local exchange carrier, or a joint venture to provide telephone exchange service) to approve or disapprove a purchase, acquisition, or joint venture, or

"(ii) the antitrust laws, as described in section 7(a) of the Telecommunications Competition and Deregulation Act of 1995.".

(b) NO PERMIT REQUIRED FOR VIDEO PROGRAMMING SERVICES.—Section 214 (47 U.S.C. 214) is amended by adding at the end thereof the following:

"(e) SPECIAL RULE.—No certificate is required under this section for a carrier to construct facilities to provide video programming services.".

(c) SAFEGUARDS.—Within one year after the date of enactment of this Act, the Commission shall prescribe regulations that—

(1) require a telecommunications carrier that provides video programming directly to subscribers to ensure that subscribers are offered the means to obtain access to the signals of local broadcast television stations identified under section 614 as readily as they are today;

(2) require such a carrier to display clearly and prominently at the beginning of any program guide or menu of program offerings the identity of any signal of any television broadcast station that is carried by the carrier;

(3) require such a carrier to ensure that viewers are able to access the signal of any television broadcast station that is carried by that carrier without first having to view advertising or promotional material, or a navigational device, guide, or menu that omits broadcasting services as an available option;

(4) except as required by paragraphs (1) through (3), prohibit such carrier and a multichannel video programming distributor using the facilities of such carrier from discriminating among video programming providers with respect to material or information provided by the carrier to subscribers for the purposes of selecting programming, or in the way such material or information is presented to subscribers;

(5) require such carrier and a multichannel video programming distributor using the facilities of such carrier to ensure that video programming providers or copyright holders (or both) are able suitably and uniquely to identify their programming services to subscribers;

(6) if such identification is transmitted as part of the programming signal, require a telecommunications carrier that provides video programming directly to subscribers and a multichannel video programming distributor using the facilities of such carrier to transmit such identification without change or alteration;

(7) prohibit such carrier from discriminating among video programming providers with regard to carriage and ensure that the rates, terms, and conditions for such carriage are just, reasonable, and nondiscriminatory;

(8) extend to such carriers and multichannel video programming distributors using the facilities of such carrier the Commission's regulations concerning network nonduplication (47 C.F.R. 76.92 et seq.) and syndicated exclusivity (47 C.F.R. 76.171 et seq.); and

(9) extend to such carriers and multichannel video programming distributors using the facilities of such carrier the protections afforded to local broadcast signals in section 614(b)(3), 614(b)(4)(A), and 615(g)(1) and (2) of such Act (47 U.S.C. 534(b)(3), 534(b)(4)(A), and 535(g)(1) and (2)).

(d) ENFORCEMENT.—The Commission shall resolve disputes under subsection (c) and the regulations prescribed under that subsection. Any such dispute shall be resolved within 180 days after notice of the dispute is submitted to the Commission. At that time, or subsequently in a separate proceeding, the Commission may award damages sustained in consequence of any violation of this section to any person denied carriage, or require carriage, or both. Any aggrieved party may also seek any other remedy available under the law.

(e) EFFECTIVE DATES.—The amendment made by subsection (a) takes effect on the date of enactment of this Act. The amendment made by subsection (b) takes effect 1 year after that date.

SEC. 203. CABLE ACT REFORM.

(a) CHANGE IN DEFINITION OF CABLE SYSTEM.—Section 602(7) (47 U.S.C. 522(7)) is amended by striking out "(B) a facility that serves only subscribers in 1 or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way;" and inserting "(B) a facility that serves subscribers without using any public right-of-way;".

(b) RATE DEREGULATION.—

(1) Section 623(c) (47 U.S.C. 543(c)) is amended—

(A) by striking "subscriber," and the comma after "authority" in paragraph (1)(B);

(B) by striking paragraph (2) and inserting the following:

"(2) STANDARD FOR UNREASONABLE RATES.—The Commission may only consider a rate for cable programming services to be unreasonable if it substantially exceeds the national average rate for comparable cable programming services provided by cable systems other than small cable systems, determined on a per-channel basis as of June 1, 1995, and redetermined, and adjusted if necessary, every 2 years thereafter.".

(2) Section 623(l)(1) (47 U.S.C. 543(l)(1)) is amended—

(A) by striking "or" at the end of subparagraph (B);

(B) by striking the period at the end of subparagraph (C) and inserting a semicolon and "or"; and

(C) by adding at the end the following:

"(D) a local exchange carrier offers video programming services directly to subscribers, either over a common carrier video platform or as a cable operator, in the franchise area of an unaffiliated cable operator which is providing cable service in that franchise area, but only if the video programming services offered by the carrier in that area are comparable to the video programming services provided by the unaffiliated cable operator in that area.".

(c) GREATER DEREGULATION FOR SMALLER CABLE COMPANIES.—Section 623 (47 U.S.C. 543) is amended by adding at the end thereof the following:

"(m) SPECIAL RULES FOR SMALL COMPANIES.—

"(1) IN GENERAL.—Subsection (a), (b), or (c) does not apply to a small cable operator with respect to—

"(A) cable programming services, or

"(B) a basic service tier that was the only service tier subject to regulation as of December 31, 1994,

in any franchise area in which that operator serves 35,000 or fewer subscribers.

"(2) DEFINITION OF SMALL CABLE OPERATOR.—For purposes of this subsection, the term 'small cable operator' means a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.".

(d) PROGRAM ACCESS.—Section 628 (47 U.S.C. 628) is amended by adding at the end the following:

"(j) COMMON CARRIERS.—Any provision that applies to a cable operator under this section shall apply to a telecommunications carrier or its affiliate that provides video programming by any means directly to subscribers. Any such provision that applies to a satellite cable programming vendor in which a cable operator has an attributable interest shall apply to any satellite cable programming vendor in which such common carrier has an attributable interest.".

(e) EXPEDITED DECISION-MAKING FOR MARKET DETERMINATIONS UNDER SECTION 614.—

(1) IN GENERAL.—Section 614(h)(1)(C)(iv) (47 U.S.C. 614(h)(1)(C)(iv)) is amended to read as follows:

"(iv) Within 120 days after the date on which a request is filed under this subparagraph, the Commission shall grant or deny the request.".

(2) APPLICATION TO PENDING REQUESTS.—The amendment made by paragraph (1) shall apply to—

(A) any request pending under section 614(h)(1)(C) of the Communications Act of 1934 (47 U.S.C. 614(h)(1)(C)) on the date of enactment of this Act; and

(B) any request filed under that section after that date.

(f) EFFECTIVE DATE.—The amendments made by this section take effect on the date of enactment of this Act.

SEC. 204. POLE ATTACHMENTS.

Section 224 (47 U.S.C. 224) is amended—

(1) by inserting the following after subsection (a)(4):

"(5) The term 'telecommunications carrier' shall have the meaning given such term in subsection 3(nn) of this Act, except that, for purposes of this section, the term shall not include any person classified by the Commission as a dominant provider of telecommunications services as of January 1, 1995.";

(2) by inserting after "conditions" in subsection (c)(1) a comma and the following: "or access to poles, ducts, conduits, and rights-of-way as provided in subsection (f),";

(3) by inserting after subsection (d)(2) the following:

"(3) This subsection shall apply to the rate for any pole attachment used by a cable television system solely to provide cable service. Until the effective date of the regulations required under subsection (e), this subsection shall also apply to the pole attachment rates for cable television systems (or for any telecommunications carrier that was not a party to any pole attachment agreement prior to the date of enactment of the Telecommunications Act of 1995) to provide any telecommunications service or any other service subject to the jurisdiction of the Commission."; and

(4) by adding at the end thereof the following:

"(e)(1) The Commission shall, no later than 2 years after the date of enactment of the Telecommunications Act of 1995, prescribe regulations in accordance with this subsection to govern the charges for pole attachments by telecommunications carriers. Such regulations shall ensure that utilities charge just and reasonable and non-discriminatory rates for pole attachments.

"(2) A utility shall apportion the cost of providing space on a pole, duct, conduit, or right-of-way other than the usable space among entities so that such apportionment equals the sum of—

"(A) two-thirds of the costs of providing space other than the usable space that would be allocated to such entity under an equal apportionment of such costs among all attachments, plus

"(B) the percentage of usable space required by each such entity multiplied by the costs of space other than the usable space;

but in no event shall such proportion exceed the amount that would be allocated to such entity under an equal apportionment of such costs among all attachments.

"(3) A utility shall apportion the cost of providing usable space among all entities according to the percentage of usable space required for each entity. Costs shall be apportioned between the usable space and the space on a pole, duct, conduit, or right-of-way other than the usable space on a proportionate basis.

"(4) The regulations required under paragraph (1) shall become effective 5 years after the date of enactment of the Telecommunications Act of 1995. Any increase in the rates for pole attachments that result from the adoption of the regulations required by this subsection shall be phased in equal annual increments over a period of 5 years beginning on the effective date of such regulations.

"(f)(1) A utility shall provide a cable television system or any telecommunications carrier with nondiscriminatory access to any pole, duct, conduit, or right-of-way owned or controlled by it.

"(2) Notwithstanding paragraph (1), a utility providing electric service may deny a cable television system or telecommunications carrier access to its poles, ducts, conduits, or rights-of-way, on a non-discriminatory basis where there is insufficient capacity and for reasons of safety, reliability, and generally applicable engineering purposes.

"(g) A utility that engages in the provision of telecommunications services shall impute to its costs of providing such services (and charge any affiliate, subsidiary, or associate company engaged in the provision of such services) an amount equal to the pole attachment rate for which such company would be liable under this section.".

SEC. 205. ENTRY BY UTILITY COMPANIES.

(a) IN GENERAL.—

(1) AUTHORIZED ACTIVITIES OF UTILITIES.—Notwithstanding any other provision of law to the contrary (including the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.)), an electric, gas, water, or steam utility, and any subsidiary company, affiliate, or associate company of such a utility, other than a public utility company that is an associate company of a registered holding company, may engage, directly or indirectly, in any activity whatsoever, wherever located, necessary or appropriate to the provision of—

(A) telecommunications services,

(B) information services,

(C) other services or products subject to the jurisdiction of the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.), or

(D) products or services that are related or incidental to a product or service described in subparagraph (A), (B), or (C).

(2) REMOVAL OF SEC JURISDICTION.—The Securities and Exchange Commission has no jurisdiction under the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.) over a holding company, or a subsidiary company, affiliate, or associate company of a holding company, to grant any authorization to enforce any requirement with respect to, or approve or otherwise review, any activity described in paragraph (1), including financing, investing in, acquiring, or maintaining any interest in, or entering into affiliate transactions or contracts, and any authority over audits or access to books and records.

(3) APPLICABILITY OF TELECOMMUNICATIONS REGULATION.—Nothing in this section shall affect the authority of the Federal Communications Commission under the Communications Act of 1934, or the authority of State commissions under State laws concerning the provision of telecommunications services, to regulate the activities of an associate company engaged in activities described in paragraph (1).

(4) COMMISSION RULES.—The Commission shall consider and adopt, as necessary, rules to protect the customers of a public utility company that is a subsidiary company of a registered holding company against potential detriment from the telecommunications activities of any other subsidiary of such registered holding company.

(b) PROHIBITION OF CROSS-SUBSIDIZATION.—Nothing in the Public Utility Holding Company Act of 1935 shall preclude the Federal Energy Regulatory Commission or a State commission from exercising its jurisdiction under otherwise applicable law to determine whether a public utility company may recover in rates the costs of any activity described in subsection (a)(1) which is performed by an associate company regardless of whether such costs are incurred through the direct or indirect purchase of goods and services from such associate company.

(c) ASSUMPTION OF LIABILITIES.—Any public utility company that is an associate company of a registered holding company and that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall not issue any security for the purpose of financing the acquisition, ownership, or operation of an associate company engaged in activities described in subsection (a)(1) without the prior approval of the State commission. Any public utility company that is an associate company of a registered holding company and that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall not assume any obligation or liability as guarantor, endorser, surety, or otherwise by the public utility in respect of any security of an associate company engaged in activities described in subsection (a)(1) without the prior approval of the State commission.

(d) PLEDGING OR MORTGAGING UTILITY ASSETS.—Any public utility company that is an associate company of a registered holding company and that is subject to the jurisdiction of a State commission with respect to its retail electric or gas rates shall not pledge, mortgage, or otherwise use as collateral any utility assets of the public utility or utility assets of any subsidiary company thereof for the benefit of an associate company engaged in activities described in subsection (a)(1) without the prior approval of the State commission.

(e) BOOKS AND RECORDS.—An associate company engaged in activities described in subsection (a)(1) which is an associate company of a registered holding company shall maintain books, records, and accounts separate from the registered holding company which identify all transactions with the registered holding company and its other associate companies, and provide access to books, records, and accounts to State commissions and the Federal Energy Regulatory Commission under the same terms of access, disclosure, and procedures as provided in section 201(g) of the Federal Power Act.

(f) INDEPENDENT AUDIT AUTHORITY FOR STATE COMMISSIONS.—

(1) STATE MAY ORDER AUDIT.—Any State commission with jurisdiction over a public utility company that—

(A) is an associate company of a registered holding company, and

(B) transacts business, directly or indirectly, with a subsidiary company, affiliate, or associate company of that holding company engaged in any activity described in subsection (a)(1),

may order an independent audit to be performed, no more frequently than on an annual basis, of all matters deemed relevant by the selected auditor that reasonably relate to retail rates: *Provided*, That such matters relate, directly or indirectly, to transactions or transfers between the public utility company subject to its jurisdiction and the subsidiary company, affiliate, or associate company engaged in that activity.

(2) SELECTION OF FIRM TO CONDUCT AUDIT.—

(A) If a State commission orders an audit in accordance with paragraph (1), the public utility company and the State commission shall jointly select within 60 days a firm to perform the audit. The firm selected to perform the audit shall possess demonstrated qualifications relating to:

(i) competency, including adequate technical training and professional proficiency in each discipline necessary to carry out the audit, and

(ii) independence and objectivity, including that the firm be free from personal or external impairments to independence, and should assume an independent position with the State commission and auditee, making certain that the audit is based upon an impartial consideration of all pertinent facts and responsible opinions.

(B) The public utility company and the company engaged in activities under subsection (a)(1) shall cooperate fully with all reasonable requests necessary to perform the audit and the public utility company shall bear all costs of having the audit performed.

(3) AVAILABILITY OF AUDITOR'S REPORT.—The auditor's report shall be provided to the State commission within 6 months after the selection of the auditor, and provided to the public utility company 60 days thereafter.

(g) REQUIRED NOTICES.—

(1) AFFILIATE CONTRACTS.—A State commission may order any public utility company that is an associate company of a registered holding company and that is subject to the jurisdiction of the State commission to provide quarterly reports listing any contracts, leases, transfers, or other transactions with an associate company engaged in activities described in subsection (a)(1).

(2) ACQUISITION OF AN INTEREST IN ASSOCIATE COMPANIES.—Within 10 days after the acquisition by a registered holding company of an interest in an associate company that will engage in activities described in subsection (a)(1), any public utility company that is an associate company of such company shall notify each State commission having jurisdiction over the retail rates of such public utility company of such acquisition. In the notice an officer on behalf of the public utility company shall attest that, based on then current information, such acquisition and related financing will not materially impair the ability of such public utility company to meet its public service responsibility, including its ability to raise necessary capital.

(h) DEFINITIONS.—Any term used in this section that is defined in the Public Utility Holding Company Act of 1935 (15 U.S.C. 79a et seq.) has the same meaning as it has in that Act. The terms "telecommunications service" and "information service" shall have the same meanings as those terms have in the Communications Act of 1934.

(i) IMPLEMENTATION.—Not later than 1 year after the date of enactment of this Act, the Federal Communications Commission shall promulgate such regulations as may be necessary to implement this section.

(j) EFFECTIVE DATE.—This section takes effect on the date of enactment of this Act.

SEC. 206. BROADCAST REFORM.

(a) SPECTRUM REFORM.—

(1) ADVANCED TELEVISION SPECTRUM SERVICES.—If the Commission by rule permits licensees to provide advanced television services, then—

(A) it shall adopt regulations that allow such licensees to make use of the advanced television spectrum for the transmission of ancillary or supplementary services if the licensees provide without charge to the public at least one advanced television program service as prescribed by the Commission that is intended for and available to the general public on the advanced television spectrum; and

(B) it shall apply similar rules to use of existing television spectrum.

(2) COMMISSION TO COLLECT FEES.—To the extent that a television broadcast licensee provides ancillary or supplementary services using existing or advanced television spectrum—

(A) for which payment of a subscription fee is required in order to receive such services, or

(B) for which the licensee directly or indirectly receives compensation from a third party in return for transmitting material furnished by such third party, other than payments to broadcast stations by third parties for transmission of program material or commercial advertising,

the Commission may collect from each such licensee an annual fee to the extent the existing or advanced television spectrum is used for such ancillary or supplementary services. In determining the amount of such fees, the Commission shall take into account the portion of the licensee's total existing or advanced television spectrum which is used for such services and the amount of time such services are provided. The amount of such fees to be collected for any such service shall not, in any event, exceed an amount equivalent on an annualized basis to the amount paid by providers of a competing service on spectrum subject to auction under section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)).

(3) PUBLIC INTEREST REQUIREMENT.—Nothing in this section shall be construed as relieving a television broadcasting station from its obligation to serve the public interest, convenience, and necessity. In the Commission's review of any application for renewal of a broadcast license for a television station that provides ancillary or supplementary services, the television licensee shall establish that all of its program services on the existing or advanced television spectrum are in the public interest. Any violation of the Commission rules applicable to ancillary or supplementary services shall reflect upon the licensee's qualifications for renewal of its license.

(4) DEFINITIONS.—As used in this subsection—

(A) The term "advanced television services" means television services provided using digital or other advanced technology to enhance audio quality and video resolution.

(B) The term "existing" means spectrum generally in use for television broadcast purposes on the date of enactment of this Act.

(b) OWNERSHIP REFORM.—

(1) IN GENERAL.—The Commission shall modify its rules for multiple ownership set forth in 47 CFR 73.3555 by—

(A) eliminating the restrictions on the number of television stations owned under subdivisions (e)(1) (ii) and (iii); and

(B) changing the percentage set forth in subdivision (e)(2)(ii) from 25 percent to 35 percent.

(2) RADIO OWNERSHIP.—The Commission shall modify its rules set forth in 47 CFR 73.3555 by eliminating any provisions limiting the number of AM or FM broadcast stations which may be owned or controlled by one entity either nationally or in a particular market. The Commission may refuse to approve the transfer or issuance of an AM or FM broadcast license to a particular entity if it finds that the entity would thereby obtain an undue concentration of control or would thereby harm competition. Nothing in this section shall require or prevent the Commission from modifying its rules contained in 47 CFR 73.3555(c) governing the ownership of both a radio and television broadcast stations in the same market.

(3) LOCAL MARKETING AGREEMENT.—Nothing in this Act shall be construed to prohibit the continuation or renewal of any television local marketing agreement that is in effect on the date of enactment of this Act and that is in compliance with the Commission's regulations.

(4) STATUTORY RESTRICTIONS.—Section 613 (47 U.S.C. 533) is amended by striking subsection (a) and inserting the following:

"(a) The Commission shall review its ownership rules biennially as part of its regulatory reform review under section 259.".

(5) CONFORMING CHANGES.—The Commission shall amend its rules to make any changes necessary to reflect the effect of this section on its rules.

(6) EFFECTIVE DATE.—The Commission shall make the modifications required by paragraphs (1) and (2) effective on the date of enactment of this Act.

(c) TERM OF LICENSES.—Section 307(c) (47 U.S.C. 307(c)) is amended by striking the first four sentences and inserting the following:

"No license shall be granted for a term longer than 10 years. Upon application, a renewal of such license may be granted from time to time for a term of not to exceed 10 years, if the Commission finds that the public interest, convenience, and necessity would be served thereby.".

(d) BROADCAST LICENSE RENEWAL PROCEDURES.—

(1) Section 309 (47 U.S.C. 309) is amended by adding at the end thereof the following:

"(k)(1)(A) Notwithstanding subsections (c) and (d), if the licensee of a broadcast station submits an application to the Commission for renewal of such license, the Commission shall grant the application if it finds, after notice and opportunity for comment, with respect to that station during the preceding term of its license, that—

"(i) the station has served the public interest, convenience, and necessity;

"(ii) there have been no serious violations by the licensee of this Act or the rules and regulations of the Commission; and

"(iii) there have been no other violations by the licensee of this Act or the rules and regulations of the Commission which, taken together, would constitute a pattern of abuse.

"(B) If any licensee of a broadcast station fails to meet the requirements of this subsection, the Commission may deny the application for renewal in accordance with paragraph (2), or grant such application on appropriate terms and conditions, including renewal for a term less than the maximum otherwise permitted.

"(2) If the Commission determines, after notice and opportunity for a hearing, that a licensee has failed to meet the requirements specified in paragraph (1)(A) and that no mitigating factors justify the imposition of lesser sanctions, the Commission shall—

"(A) issue an order denying the renewal application filed by such licensee under section 308; and

"(B) only thereafter accept and consider such applications for a construction permit as may be filed under section 308 specifying the channel or broadcasting facilities of the former licensee.

"(3) In making the determinations specified in paragraphs (1) or (2)(A), the Commission shall not consider whether the public interest, convenience, and necessity might be served by the grant of a license to a person other than the renewal applicant.".

(2) Section 309(d) (47 U.S.C. 309(d)) is amended by inserting "(or subsection (k) in the case of renewal of any broadcast station license)" after "with subsection (a)" each place it appears.

(3) The amendments made by this subsection apply to applications filed after May 31, 1995.

(4) This section shall operate only if the Commission shall amend its "Application for renewal of License for AM, FM, TV, Translator or LPTV Station" (FCC Form 303-S) to require that, for commercial TV applicants only, the applicant attach as an exhibit to the application a summary of written comments and suggestions received from the public and maintained by the licensee in accordance with section 73.1202 of title 47, Code of Federal Regulations, that comment on the applicant's programming, if any, characterized by the commentor as constituting violent programming.

Subtitle B—Termination of Modification of Final Judgment

SEC. 221. REMOVAL OF LONG DISTANCE RESTRICTIONS.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 254 the following new section:

"SEC. 255. INTEREXCHANGE TELECOMMUNICATIONS SERVICES.

"(a) IN GENERAL.—Notwithstanding any restriction or obligation imposed before the date of enactment of the Telecommunications Act of 1995 under section II(D) of the Modification of Final Judgment, a Bell operating company, or any subsidiary or affiliate of a Bell operating company, that meets the requirements of this section may provide—

"(1) interLATA telecommunications services originating in any region in which it is the dominant provider of wireline telephone exchange service or exchange access service after the Commission determines that it has fully implemented the competitive checklist found in subsection (b)(2) in the area in which it seeks to provide interLATA telecommunications services, in accordance with the provisions of subsection (c);

"(2) interLATA telecommunications services originating in any area where that company is not the dominant provider of wireline telephone exchange service or exchange access service in accordance with the provisions of subsection (d); and

"(3) interLATA services that are incidental services in accordance with the provisions of subsection (e).

"(b) SPECIFIC INTERLATA INTERCONNECTION REQUIREMENTS.—

"(1) IN GENERAL.—A Bell operating company may provide interLATA services in accordance with this section only if that company has reached an interconnection agreement under section 251 and that agreement provides, at a minimum, for interconnection that meets the competitive checklist requirements of paragraph (2).

"(2) COMPETITIVE CHECKLIST.—Interconnection provided by a Bell operating company to other telecommunications carriers under section 251 shall include:

"(A) Nondiscriminatory access on an unbundled basis to the network functions and services of the Bell operating company's telecommunications network that is at least equal in type, quality, and price to the access the Bell operating company affords to itself or any other entity.

"(B) The capability to exchange telecommunications between customers of the Bell operating company and the telecommunications carrier seeking interconnection.

"(C) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates where it has the legal authority to permit such access.

"(D) Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.

"(E) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.

"(F) Local switching unbundled from transport, local loop transmission, or other services.

"(G) Nondiscriminatory access to—

"(i) 911 and E911 services;

"(ii) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and

"(iii) operator call completion services.

"(H) White pages directory listings for customers of the other carrier's telephone exchange service.

"(I) Until the date by which neutral telephone number administration guidelines, plan, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers. After that date, compliance with such guidelines, plan, or rules.

"(J) Nondiscriminatory access to databases and associated signaling, including signaling links, signaling service control points, and signaling service transfer points, necessary for call routing and completion.

"(K) Until the date by which the Commission determines that final telecommunications number portability is technically feasible and must be made available, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with final telecommunications number portability.

"(L) Nondiscriminatory access to whatever services or information may be necessary to allow the requesting carrier to implement local dialing parity in a manner that permits consumers to be able to dial the same number of digits when using any telecommunications carrier providing telephone exchange service or exchange access service.

"(M) Reciprocal compensation arrangements on a nondiscriminatory basis for the origination and termination of telecommunications.

"(N) Telecommunications services and network functions provided on an unbundled basis without any conditions or restrictions on the resale or sharing of those services or functions, including both origination and termination of telecommunications services, other than reasonable conditions required by the Commission or a State. For purposes of this subparagraph, it is not an unreasonable condition for the Commission or a State to limit the resale—

"(i) of services included in the definition of universal service to a telecommunications carrier who intends to resell that service to a category of customers different from the category of customers being offered that universal service by such carrier if the Commission or State orders a carrier to provide the same service to different categories of customers at different prices necessary to promote universal service; or

"(ii) of subsidized universal service in a manner that allows companies to charge another carrier rates which reflect the actual cost of providing those services to that carrier, exclusive of any universal service support received for providing such services in accordance with section 214(d)(5).

"(3) JOINT MARKETING OF LOCAL AND LONG DISTANCE SERVICES.—Until a Bell operating company is authorized to provide interLATA services in a telephone exchange area where that company is the dominant provider of wireline telephone exchange service or exchange access service, or until 36 months have passed since the enactment of the Telecommunications Act of 1995, whichever is earlier, a telecommunications carrier that serves greater than 5 percent of the Nation's presubscribed access lines may not jointly market in such telephone exchange area telephone exchange service purchased from such company with interLATA services offered by that telecommunications carrier.

"(4) COMMISSION MAY NOT EXPAND COMPETITIVE CHECKLIST.—The Commission may not, by rule or otherwise, limit or extend the terms used in the competitive checklist.

"(c) IN-REGION SERVICES.—

"(1) APPLICATION.—Upon the enactment of the Telecommunications Act of 1995, a Bell operating company or its affiliate may apply to the Commission for authorization notwithstanding the Modification of Final Judgment to provide interLATA telecommunications service originating in any area where such Bell operating company is the dominant provider of wireline telephone exchange service or exchange access service. The application shall describe with particularity the nature and scope of the activity and of each product market or service market, and each geographic market for which authorization is sought.

"(2) DETERMINATION BY COMMISSION.—

"(A) DETERMINATION.—Not later than 90 days after receiving an application under paragraph (1), the Commission shall issue a written determination, on the record after a hearing and opportunity for comment, granting or denying the application in whole or in part. Before making any determination under this subparagraph, the Commission shall consult with the Attorney General regarding the application. In consulting with the Commission under this subparagraph, the Attorney General may apply any appropriate standard.

"(B) APPROVAL.—The Commission may only approve the authorization requested in an application submitted under paragraph (1) if it finds that—

"(i) the petitioning Bell operating company has fully implemented the competitive checklist found in subsection (b)(2); and

"(ii) the requested authority will be carried out in accordance with the requirements of section 252,

and if the Commission determines that the requested authorization is consistent with the public interest, convenience, and necessity. If the Commission does not approve an application under this subparagraph, it shall state the basis for its denial of the application.

"(3) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (2), the Commission shall publish in the Federal Register a brief description of the determination.

"(4) JUDICIAL REVIEW.—

"(A) COMMENCEMENT OF ACTION.—Not later than 45 days after a determination by the Commission is published under paragraph (3), the Bell operating company or its subsidiary or affiliate that applied to the Commission under paragraph (1), or any person who would be threatened with loss or damage as a result of the determination regarding such company's engaging in the activity described in its application, may commence an action in any United States Court of Appeals against the Commission for judicial review of the determination regarding the application.

"(B) JUDGMENT.—

"(i) The Court shall enter a judgment after reviewing the determination in accordance with section 706 of title 5 of the United State Code.

"(ii) A judgment—

"(I) affirming any part of the determination that approves granting all or part of the requested authorization, or

"(II) reversing any part of the determination that denies all or part of the requested authorization,

shall describe with particularity the nature and scope of the activity, and of each product market or service market, and each geographic market, to which the affirmance or reversal applies.

"(5) REQUIREMENTS RELATING TO SEPARATE AFFILIATE; SAFEGUARDS; AND INTRALATA TOLL DIALING PARITY.—

"(A) SEPARATE AFFILIATE; SAFEGUARDS.—Other than interLATA services authorized by an order entered by the United States District Court for the District of Columbia pursuant to the Modification of Final Judgment before the date of enactment of the Telecommunications Act of 1995, a Bell operating company, or any affiliate of such a company, providing interLATA services authorized under this subsection may provide such interLATA services in that market only in accordance with the requirements of section 252.

"(B) INTRALATA TOLL DIALING PARITY.—

"(i) A Bell operating company granted authority to provide interLATA services under this subsection shall provide intraLATA toll dialing parity throughout that market coincident with its exercise of that authority. If the Commission finds that such a Bell operating company has provided interLATA service authorized under this clause before its implementation of intraLATA toll dialing parity throughout that market, or fails to maintain intraLATA toll dialing parity throughout that market, the Commission, except in cases of inadvertent interruptions or other events beyond the control of the Bell operating company, shall suspend the authority to provide interLATA service for that market until the Commission determines that intraLATA toll dialing parity is implemented or reinstated.

"(ii) Except for single-LATA States and States which have issued an order by June 1, 1995 requiring a Bell operating company to implement toll dialing parity, a State may not require a Bell operating company to implement toll dialing parity in an intraLATA area before a Bell operating company has been granted authority under this subsection to provide interLATA services in that area or before three years after the date of enactment of the Telecommunications Act of 1995, whichever is earlier. Nothing in this clause precludes a State from issuing an order requiring toll dialing parity in an intraLATA area prior to either such date so long as such order does not take effect until after the earlier of either such dates.

"(iii) In any State in which intraLATA toll dialing parity has been implemented prior to the earlier date specified in clause (ii), no telecommunications carrier that serves greater than five percent of the Nation's presubscribed access lines may jointly market interLATA telecommunications services and intraLATA toll telecommunications services in a telephone exchange area in such State until a Bell operating company is authorized under this subsection to provide interLATA services in such telephone exchange area or until three years after the date of enactment of the Telecommunications Act of 1995, whichever is earlier.

"(d) OUT-OF-REGION SERVICES.—Effective on the date of enactment of the Telecommunications Act of 1995, a Bell operating company or its affiliate may provide interLATA telecommunications services originating in any area where such company is not the dominant provider of wireline telephone exchange service or exchange access service.

"(e) INCIDENTAL SERVICES.—

"(1) IN GENERAL.—Effective on the date of enactment of the Telecommunications Act of 1995, a Bell operating company or its affiliate may provide interLATA services that are incidental to—

"(A)(i) providing audio programming, video programming, or other programming services to subscribers of such company,

"(ii) providing the capability for interaction by such subscribers to select or respond to such audio programming, video programming, or other programming services, to order, or control transmission of the programming, polling or balloting, and ordering other goods or services,

"(iii) providing to distributors audio programming or video programming that such company owns, controls, or is licensed by the copyright owner of such programming, or by an assignee of such owner, to distribute, or

"(iv) providing alarm monitoring services,

"(B) providing—

"(i) a telecommunications service, using the transmission facilities of a cable system that is an affiliate of such company, between LATAs within a cable system franchise area in which such company is not, on the date of enactment of the Telecommunications Act of 1995, a provider of wireline telephone exchange service, or

"(ii) two-way interactive video services or Internet services over dedicated facilities to or for elementary and secondary schools as defined in section 264(d),

"(C) providing a service that permits a customer that is located in one LATA to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another LATA area, so long as the customer acts affirmatively to initiate the storage or retrieval of information, except that—

"(i) such service shall not cover any service that establishes a direct connection between end users or any real-time voice and data transmission,

"(ii) such service shall not include voice, data, or facsimile distribution services in which the Bell operating company or affiliate forwards customer-supplied information to customer- or carrier-selected recipients,

"(iii) such service shall not include any service in which the Bell operating company or affiliate searches for and connects with the intended recipient of information, or any service in which the Bell operating company or affiliate automatically forwards stored voicemail or other information to the intended recipient, and

"(iv) customers of such service shall not be billed a separate charge for the interLATA telecommunications furnished in conjunction with the provision of such service,

"(D) providing signaling information used in connection with the provision of telephone exchange service or exchange access service to another local exchange carrier; or

"(E) providing network control signaling information to, and receiving such signaling information from, interexchange carriers at any location within the area in which such company provides telephone exchange service or exchange access service.

"(2) LIMITATIONS.—The provisions of paragraph (1) are intended to be narrowly construed. The transmission facilities used by a

Bell operating company or affiliate thereof to provide interLATA telecommunications under paragraph (1)(C) and subsection (f) shall be leased by that company from unaffiliated entities on terms and conditions (including price) no more favorable than those available to the competitors of that company until that Bell operating company receives authority to provide interLATA services under subsection (c). The interLATA services provided under paragraph (1)(A) are limited to those interLATA transmissions incidental to the provision by a Bell operating company or its affiliate of video, audio, and other programming services that the company or its affiliate is engaged in providing to the public. A Bell operating company may not provide telecommunications services not described in paragraph (1) without receiving the approvals required by subsection (c). The provision of services authorized under this subsection by a Bell operating company or its affiliate shall not adversely affect telephone exchange ratepayers or competition in any telecommunications market.

"(f) COMMERCIAL MOBILE SERVICE.—A Bell operating company may provide interLATA commercial mobile service except where such service is a replacement for land line telephone exchange service for a substantial portion of the land line telephone exchange service in a State in accordance with section 322(c) and with the regulations prescribed by the Commission.

"(g) DEFINITIONS.—As used in this section—

"(1) AUDIO PROGRAMMING SERVICES.—The term 'audio programming services' means programming provided by, or generally considered to be comparable to programming provided by, a radio broadcast station.

"(2) VIDEO PROGRAMMING SERVICES; OTHER PROGRAMMING SERVICES.—The terms 'video programming service' and 'other programming services' have the same meanings as such terms have under section 602 of this Act.

"(h) CERTAIN SERVICE APPLICATIONS TREATED AS IN-REGION SERVICE APPLICATIONS.—For purposes of this section, a Bell operating company application to provide 800 service, private line service, or their equivalents that—

"(1) terminate in an area where the Bell operating company is the dominant provider of wireline telephone exchange service or exchange access service, and

"(2) allow the called party to determine the interLATA carrier,

shall be considered an in-region service subject to the requirements of subsection (c) and not of subsection (d).".

(b) LONG DISTANCE ACCESS FOR COMMERCIAL MOBILE SERVICES.—

(1) IN GENERAL.—Notwithstanding any restriction or obligation imposed pursuant to the Modification of final Judgment or other consent decree or proposed consent decree prior to the date of enactment of this Act, a person engaged in the provision of commercial mobile services (as defined in section 332(d)(1) of the Communications Act of 1934), insofar as such person is so engaged, shall not be required by court order or otherwise to provide equal access to interexchange telecommunications carriers, except as provided by this section. Such a person shall ensure that its subscribers can obtain unblocked access to the provider of interexchange services of the subscriber's choice through the use of an interexchange carrier identification code assigned to such provider, except that the requirements for unblocking shall not apply to mobile satellite services unless the Commission finds it to be in the public interest.

(2) EQUAL ACCESS REQUIREMENT CONDITIONS.—The Commission may only require a person engaged in the provision of commercial mobile services to provide equal access to interexchange carriers if—

(A) such person, insofar as such person is so engaged, is subject to the interconnection obligations of section 251(a) of the Communications Act of 1934, and

(B) the Commission finds that such requirement is in the public interest.

SEC. 222. REMOVAL OF MANUFACTURING RESTRICTIONS.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 255 the following new section:

"SEC. 256. REGULATION OF MANUFACTURING BY BELL OPERATING COMPANIES.

"(a) AUTHORIZATION.—

"(1) IN GENERAL.—Notwithstanding any restriction or obligation imposed before the date of enactment of the Telecommunications Act of 1995 pursuant to the Modification of Final Judgment on the lines of business in which a Bell operating company may engage, if the Commission authorizes a Bell operating company to provide interLATA services under section 255, then that company may be authorized by the Commission to manufacture and provide telecommunications equipment, and to manufacture customer premises equipment, at any time after that determination is made, subject to the requirements of this section and the regulations prescribed, except that neither a Bell operating company nor any of its affiliates may engage in such manufacturing in conjunction with a Bell operating company not so affiliated or any of its affiliates.

"(2) CERTAIN RESEARCH AND DESIGN ARRANGEMENTS; ROYALTY AGREEMENTS.—Upon adoption of rules by the Commission under section 252, a Bell operating company may—

"(A) engage in research and design activities related to manufacturing, and

"(B) enter into royalty agreements with manufacturers of telecommunications equipment.

"(b) SEPARATE AFFILIATE; SAFEGUARDS.—Any manufacturing or provision of equipment authorized under subsection (a) shall be conducted in accordance with the requirements of section 252.

"(c) PROTECTION OF SMALL TELEPHONE COMPANY INTERESTS.—

"(1) EQUIPMENT TO BE MADE AVAILABLE TO OTHERS.—A manufacturing affiliate of a Bell operating company shall make available, without discrimination or self-preference as to price, delivery, terms, or conditions, to all local exchange carriers, for use with the public telecommunications network, any telecommunications equipment, including software integral to such telecommunications equipment, including upgrades, manufactured by such affiliate if each such purchasing carrier—

"(A) does not manufacture telecommunications equipment or have an affiliate which manufactures telecommunications equipment; or

"(B) agrees to make available, to the Bell operating company that is the parent of the manufacturing affiliate or any of the local exchange carrier affiliates of such Bell company, any telecommunications equipment, including software integral to such telecommunications equipment, including upgrades, manufactured for use with the public telecommunications network by such purchasing carrier or by any entity or organization with which such purchasing carrier is affiliated.

"(2) NON-DISCRIMINATION STANDARDS.—

"(A) A Bell operating company and any entity acting on its behalf shall make procurement decisions and award all supply contracts for equipment, services, and software on the basis of open, competitive bidding, and an objective assessment of price, quality, delivery, and other commercial factors.

"(B) A Bell operating company and any entity it owns or otherwise controls, or which is acting on its behalf or on behalf of its affiliate, shall permit any person to participate fully on a non-discriminatory basis in the process of establishing standards and certifying equipment used in or interconnected to the public telecommunications network.

"(C) A Bell operating company shall, consistent with the antitrust laws, engage in joint network planning and design with local exchange carriers operating in the same area of interest. No participant in such planning shall be allowed to delay the introduction of new technology or the deployment of facilities to provide telecommunications services, and agreement with such other carriers shall not be required as a prerequisite for such introduction or deployment. A Bell operating company shall provide, to other local exchange carriers operating in the same area of interest, timely information on the planned deployment of telecommunications equipment, including software integral to such telecommunications equipment and upgrades of that software.

"(D) A manufacturing affiliate of a Bell operating company may not restrict sales to any local exchange carrier of telecommunications equipment, including software integral to the operation of such equipment and related upgrades.

"(E) A Bell operating company and any entity it owns or otherwise controls shall protect the proprietary information submitted with contract bids and in the standards and certification processes from release not specifically authorized by the owner of such information.

"(d) COLLABORATION WITH OTHER MANUFACTURERS.—A Bell operating company and its affiliates may engage in close collaboration with any manufacturer of customer premises equipment or telecommunications equipment not affiliated with a Bell operating company during the design and development of hardware, software, or combinations thereof relating to such equipment.

"(e) INFORMATION ON PROTOCOLS AND TECHNICAL REQUIREMENTS.—The Commission shall prescribe regulations to require that each Bell operating company shall maintain and file with the Commission full and complete information with respect to the protocols and technical requirements for connection with and use of its telephone exchange service facilities. Such regulations shall require each such Bell company to report promptly to the Commission any material changes or planned changes to such protocols and requirements, and the schedule for implementation of such changes or planned changes.

"(f) ADDITIONAL RULES AND REGULATIONS.—The Commission may prescribe such additional rules and regulations as the Commission determines are necessary to carry out the provisions of this section, and otherwise to prevent discrimination and cross-subsidization in a Bell operating company's dealings with its affiliate and with third parties.

"(g) ADMINISTRATION AND ENFORCEMENT.—

"(1) COMMISSION AUTHORITY.—For the purposes of administering and enforcing the provisions of this section and the regulations prescribed under this section, the Commission shall have the same authority, power, and functions with respect to any Bell operating company as the Commission has in administering and enforcing the provisions of this title with respect to any common carrier subject to this Act.

"(2) CIVIL ACTIONS BY INJURED PARTIES.—Any party injured by an act or omission of a Bell operating company or its manufacturing affiliate which violates the requirements of paragraph (1) or (2) of subsection (c), or the Commission's regulations implementing such paragraphs, may initiate an action in a district court of the United States to recover the full amount of damages sustained in consequence of any such violation and obtain such orders from the court as are necessary to terminate existing violations and to prevent future violations; or such party may seek relief from the Commission pursuant to sections 206 through 209.

"(h) APPLICATION TO BELL COMMUNICATIONS RESEARCH.—Nothing in this section—

"(1) provides any authority for Bell Communications Research, or any successor entity, to manufacture or provide telecommunications equipment or to manufacture customer premises equipment; or

"(2) prohibits Bell Communications Research, or any successor entity, from engaging in any activity in which it is lawfully engaged on the date of enactment of the Telecommunications Act of 1995, including providing a centralized organization for the provision of engineering, administrative, and other services (including serving as a single point of contact for coordination of the Bell operating companies to meet national security and emergency preparedness requirements).

"(i) DEFINITIONS.—As used in this section—

"(1) The term 'customer premises equipment' means equipment employed on the premises of a person (other than a carrier) to originate, route, or terminate telecommunications.

"(2) The term 'manufacturing' has the same meaning as such term has in the Modification of Final Judgment.

"(3) The term 'telecommunications equipment' means equipment, other than customer premises equipment, used by a carrier to provide telecommunications services.".

(b) EFFECT ON PRE-EXISTING MANUFACTURING AUTHORITY.—Nothing in this section, or in section 256 of the Communications Act of 1934 as added by this section, prohibits any Bell operating company from engaging, directly or through any affiliate, in any manufacturing activity in which any Bell operating company or affiliate was authorized to engage on the date of enactment of this Act.

SEC. 223. EXISTING ACTIVITIES.

Nothing in this Act, or any amendment made by this Act, prohibits a Bell operating company from engaging, at any time after the date of enactment of this Act, in any activity authorized by an order entered by the United States District Court for the District of Columbia pursuant to section VII or VIII(C) of the Modification of Final Judgment, if such order was entered on or before the date of enactment of this Act.

SEC. 224. ENFORCEMENT.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 256 the following:

"SEC. 257. ENFORCEMENT.

"(a) IN GENERAL.—In addition to any penalty, fine, or other enforcement remedy under this Act, the failure by a telecommunications carrier to implement the requirements of section 251 or 255, including a failure to comply with the terms of an interconnection agreement approved under section 251, is punishable by a civil penalty of not to exceed $1,000,000 per offense. Each day of a continuing offense shall be treated as a separate violation for purposes of levying any penalty under this subsection.

"(b) NONCOMPLIANCE WITH INTERCONNECTION OR SEPARATE SUBSIDIARY REQUIREMENTS.—

"(1) A Bell operating company that repeatedly, knowingly, and without reasonable cause fails to implement an interconnection agreement approved under section 251, to comply with the requirements of such agreement after implementing them, or to comply with the separate affiliate requirements of this part may be fined up to $500,000,000 by a district court of the United States of competent jurisdiction.

"(2) A Bell operating company that repeatedly, knowingly, and without reasonable cause fails to meet its obligations under section 255 for the provision of interLATA service may have its authority to provide any service suspended if its right to provide that service is conditioned upon its meeting those obligations.

"(c) ENFORCEMENT BY PRIVATE RIGHT OF ACTION.—

"(1) DAMAGES.—Any person who is injured in its business or property by reason of a violation of section 251 or 255 may bring a civil action in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy.

"(2) INTEREST.—The court may award under this section, pursuant to a motion by such person promptly made, simple interest on actual damages for the period beginning on the date of service of such person's pleading setting forth a claim under this title and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances.

"(d) PAYMENT OF CIVIL PENALTIES, DAMAGES, OR INTEREST.—No civil penalties, damages, or interest assessed against any local exchange carrier as a result of a violation referred to in this section will be charged directly or indirectly to that company's rate payers.".

(b) CERTAIN BROADCASTS.—Section 1307(a)(2) of title 18, United States Code, is amended—

(1) by striking "or" after the semicolon at the end of subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting a semicolon and "or"; and

(3) by adding at the end thereof the following:

"(C) conducted by a commercial organization and is contained in a publication published in a State in which such activities or the publication of such activities are authorized or not otherwise prohibited, or broadcast by a radio or television station licensed in a State in which such activities or the broadcast of such activities are authorized or not otherwise prohibited.".

SEC. 225. ALARM MONITORING SERVICES.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 257 the following new section:

"SEC. 258. REGULATION OF ENTRY INTO ALARM MONITORING SERVICES.

"(a) IN GENERAL.—Except as provided in this section, a Bell operating company, or any affiliate of that company, may not provide alarm monitoring services for the protection of life, safety, or property. A Bell operating company may transport alarm monitoring service signals on a common carrier basis only.

"(b) AUTHORITY TO PROVIDE ALARM MONITORING SERVICES.—Beginning 4 years after the date of enactment of the Telecommunications Act of 1995, a Bell operating company may provide alarm monitoring services for the protection of life, safety, or property if it has been authorized to provide interLATA services under section 255 unless the Commission finds that the provision of alarm monitoring services by such company is not in the public interest. The Commission may not find that provision of alarm monitoring services by a Bell operating company is in the public interest until it finds that it has the capability effectively to enforce any requirements, limitations, or conditions that may be placed upon a Bell operating company in the provision of alarm monitoring services, including the regulations prescribed under subsection (c).

"(c) REGULATIONS REQUIRED.—

"(1) Not later than 1 year after the date of enactment of the Telecommunications Act of 1995, the Commission shall prescribe regulations—

"(A) to establish such requirements, limitations, or conditions as are—

"(i) necessary and appropriate in the public interest with respect to the provision of alarm monitoring services by Bell operating companies and their affiliates, and

"(ii) effective at such time as a Bell operating company or any of its subsidiaries or affiliates is authorized to provide alarm monitoring services; and

"(B) to establish procedures for the receipt and review of complaints concerning violations by such companies of such regulations, or of any other provision of this Act or the regulations thereunder, that result in material financial harm to a provider of alarm monitoring services.

"(2) A Bell operating company, its affiliates, and any local exchange carrier are prohibited from recording or using in any fashion the occurrence or contents of calls received by providers of alarm monitoring services for the purposes of marketing such services on behalf of the Bell operating company, any of its affiliates, the local exchange carrier, or any other entity. Any regulations necessary to enforce this paragraph shall be issued initially within 6 months after the date of enactment of the Telecommunications Act of 1995.

"(d) EXPEDITED CONSIDERATION OF COMPLAINTS.—The procedures established under subsection (c) shall ensure that the Commission will make a final determination with respect to any complaint described in such subsection within 120 days after receipt of the complaint. If the complaint contains an appropriate showing that the alleged violation occurred, as determined by the Commission in accordance with such regulations, the Commission shall, within 60 days after receipt of the complaint, issue a cease and desist order to prevent the Bell operating company and its subsidiaries and affiliates from continuing to engage in such violation pending such final determination.

"(e) REMEDIES.—The Commission may use any remedy available under title V of this Act to terminate and to impose sanctions on violations described in subsection (c). Such remedies may include, if the Commission determines that such violation was willful or repeated, ordering the Bell operating company or its affiliate to cease offering alarm monitoring services.

"(f) SAVINGS PROVISION.—Subsections (a) and (b) do not prohibit or limit the provision of alarm monitoring services by a Bell operating company or an affiliate that was engaged in providing those services as of June 1, 1995, to the extent that such company—

"(1) continues to provide those services through the affiliate through which it was providing them on that date; and

"(2) does not acquire, directly or indirectly, an equity interest in another entity engaged in providing alarm monitoring services.

"(g) ALARM MONITORING SERVICES DEFINED.—As used in this section, the term 'alarm monitoring services' means services that detect threats to life, safety, or property by burglary, fire, vandalism, bodily injury, or other emergency through the use of devices that transmit signals to a central point in a customer's residence, place of business, or other fixed premises which—

"(1) retransmits such signals to a remote monitoring center by means of telecommunications facilities of the Bell operating company and any subsidiary or affiliate; and

"(2) serves to alert persons at the monitoring center of the need to inform customers, other persons, or police, fire, rescue, or other security or public safety personnel of the threat at such premises.

Such term does not include medical monitoring devices attached to individuals for the automatic surveillance of ongoing medical conditions.".

SEC. 226. NONAPPLICABILITY OF MODIFICATION OF FINAL JUDGMENT.

Notwithstanding any other provision of law or of any judicial order, no person shall be subject to the provisions of the Modification of Final Judgment solely by reason of having acquired commercial mobile service or private mobile service assets or operations previously owned by a Bell operating company or an affiliate of a Bell operating company.

TITLE III—AN END TO REGULATION

SEC. 301. TRANSITION TO COMPETITIVE PRICING.

(a) PRICING FLEXIBILITY.—

(1) IN GENERAL.—The Commission and the States shall provide to telecommunications carriers price flexibility in the rates charged consumers for the provision of telecommunications services within one year after the date of enactment of this Act. The Commission or a State may establish the rate consumers may be charged for services included in the definition of universal service, as well as the contribution, if any, that all carriers must contribute for the preservation and advancement of universal service. Pricing flexibility implemented pursuant to this section for the purpose of allowing a regulated telecommunications provider to respond to competition by repricing services subject to competition shall not have the effect of using noncompetitive services to subsidize competitive services.

(2) CONSUMER PROTECTION.—The Commission and the States shall ensure that rates for telephone service remain just, reasonable, and affordable as competition develops for telephone exchange service and telephone exchange access service. Until sufficient competition exists in a market, the Commission or a State may establish the rate that a carrier may charge for any such service if such rate is necessary for the protection of consumers. Any such rate shall cease to be regulated whenever the Commission or a State determines that it is no longer necessary for the protection of consumers. The Commission shall establish cost allocation guidelines for facilities owned by an essential telecommunications carrier that are used for the provision of both services included in the definition of universal service and video programming sold by such carrier directly to subscribers, if such allocation is necessary for the protection of consumers.

(3) RATE-OF-RETURN REGULATION ELIMINATED.—

(A) In instituting the price flexibility required under paragraph (1) the Commission and the States shall establish alternative forms of regulation for Tier 1 telecommunications carriers that do not include regulation of the rate of return earned by such carrier as part of a plan that provides for any or all of the following—

(i) the advancement of competition in the provision of telecommunications services;

(ii) improvements in productivity;

(iii) improvements in service quality;

(iv) measures to ensure customers of noncompetitive services do not bear the risks associated with the provision of competitive services;

(v) enhanced telecommunications services for educational institutions; or

(vi) any other measures Commission or a State, as appropriate, determines to be in the public interest.

(B) The Commission or a State, as appropriate, may apply such alternative forms of regulation to any other telecommunications carrier that is subject to rate of return regulation under this Act.

(C) Any such alternative form of regulation—

(i) shall be consistent with the objectives of preserving and advancing universal service, guaranteeing high quality service, ensuring just, reasonable, and affordable rates, and encouraging economic efficiency; and

(ii) shall meet such other criteria as the Commission or a State, as appropriate, finds to be consistent with the public interest, convenience, and necessity.

(D) Nothing in this section shall prohibit the Commission, for interstate services, and the States, for intrastate services, from considering the profitability of telecommunications carriers when using alternative forms of regulation other than rate of return regulation (including price regulation and incentive regulation) to ensure that regulated rates are just and reasonable.

(b) TRANSITION PLAN REQUIRED.—If the Commission or a State adopts rules for the distribution of support payments under section 253 of the Communications Act of 1934, as amended by this Act, such rules shall include a transition plan to allow essential telecommunications carriers to provide for an orderly transition from the universal service support mechanisms in existence upon the date of enactment of this Act and the support mechanisms established by the Commission and the States under this Act or the Communications Act of 1934 as amended by this Act. Any such transition plan shall—

(1) provide a phase-in of the price flexibility requirements under subsection (a) for an essential telecommunications carrier that is also a rural telephone company; and

(2) require the United States Government and the States, where permitted by law, to modify any regulatory requirements (including conditions for the repayment of loans and the depreciation of assets) applicable to carriers designated as essential telecommunications carriers in order to more accurately reflect the conditions that would be imposed in a competitive market for similar assets or services.

(c) DUTY TO PROVIDE SUBSCRIBER LIST INFORMATION.—

(1) IN GENERAL.—A carrier that provides local exchange telephone service shall provide subscriber list information gathered in its capacity as a provider of such service on a timely and unbundled basis, under nondiscriminatory and reasonable rates, terms, and conditions, to any person requesting such information for the purpose of publishing directories in any format.

(2) SUBSCRIBER LIST INFORMATION DEFINED.—As used in this subsection, the term "subscriber list information" means any information—

(A) identifying the listed names of subscribers of a carrier and such subscribers' listed telephone numbers, addresses, or primary advertising classifications, as such classifications are assigned at the time of the establishment of service, or any combination of such names, numbers, addresses, or classifications; and

(B) that the carrier or an affiliate has published, caused to be published, or accepted for publication in a directory in any format.

(d) CONFIDENTIALITY.—A telecommunications carrier has a duty to protect the confidentiality of proprietary information of, and relating to, other common carriers and customers, including common carriers reselling the telecommunications services provided by a telecommunications carrier. A telecommunications carrier that receives such information from another carrier for purposes of provisioning, billing, or facilitating the resale of its service shall use such information only for such purpose, and shall not use such information for its own marketing efforts. Nothing in this subsection prohibits a carrier from using customer information obtained from its customers, either directly or indirectly through its agents—

(1) to provide, market, or bill for its services; or

(2) to perform credit evaluations on existing or potential customers.

(e) REGULATORY RELIEF.—

(1) STREAMLINED PROCEDURES FOR CHANGES IN CHARGES, CLASSIFICATIONS, REGULATIONS, OR PRACTICES.—

(A) Section 204(a) (47 U.S.C. 204(a)) is amended—

(i) by striking "12 months" the first place it appears in paragraph (2)(A) and inserting "5 months";

(ii) by striking "effective," and all that follows in paragraph (2)(A) and inserting "effective."; and

(iii) by adding at the end thereof the following:

"(3) A local exchange carrier may file with the Commission a new or revised charge, classification, regulation, or practice on a streamlined basis. Any such charge, classification, regulation, or practice shall be deemed lawful and shall be effective 7 days (in the case of a reduction in rates) or 15 days (in the case of an increase in rates) after the date on which it is filed with the Commission unless the Commission takes action under paragraph (1) before the end of that 7-day or 15-day period, as is appropriate.".

(B) Section 208(b) (47 U.S.C. 208(b)) is amended—

(i) by striking "12 months" the first place it appears in paragraph (1) and inserting "5 months"; and

(ii) by striking "filed," and all that follows in paragraph (1) and inserting "filed.".

(2) EXTENSIONS OF LINES UNDER SECTION 214; ARMIS REPORTS.—Notwithstanding section 305, the Commission shall permit any local exchange carrier—

(A) to be exempt from the requirements of section 214 of the Communications Act of 1934 for the extension of any line; and

(B) to file cost allocation manuals and ARMIS reports annually, to the extent such carrier is required to file such manuals or reports.

(3) FOREBEARANCE AUTHORITY NOT LIMITED.—Nothing in this subsection shall be construed to limit the authority of the Commission or a State to waive, modify, or forebear from applying any of the requirements to which reference is made in paragraph (1) under any other provision of this Act or other law.

SEC. 302. BIENNIAL REVIEW OF REGULATIONS; ELIMINATION OF UNNECESSARY REGULATIONS AND FUNCTIONS.

(a) BIENNIAL REVIEW.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 258 the following new section:

"SEC. 259. REGULATORY REFORM.

"(a) BIENNIAL REVIEW OF REGULATIONS.—In every odd-numbered year (beginning with 1997), the Commission, with respect to its regulations under this Act, and a Federal-State Joint Board established under section 410, for State regulations—

"(1) shall review all regulations issued under this Act, or under State law, in effect at the time of the review that apply to operations or activities of providers of any telecommunications services; and

"(2) shall determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between the providers of such service.

"(b) EFFECT OF DETERMINATION.—The Commission shall repeal any regulation it determines to be no longer necessary in the public interest. The Joint Board shall notify the Governor of any State of any State regulation it determines to be no longer necessary in the public interest.

"(c) CLASSIFICATION OF CARRIERS.—In classifying carriers according to 47 CFR 32.11 and in establishing reporting requirements pursuant to 47 CFR part 43 and 47 CFR 64.903, the Commission shall adjust the revenue requirements to account for inflation as of the release date of the Commission's Report and Order in CC Docket No. 91–141, and annually thereafter. This subsection shall take effect on the date of enactment of the Telecommunications Act of 1995.".

(b) ELIMINATION OF UNNECESSARY COMMISSION REGULATIONS AND FUNCTIONS.—

(1) REPEAL SETTING OF DEPRECIATION RATES.—The first sentence of section 220(b) (47 U.S.C. 220(b)) is amended by striking "shall prescribe for such carriers" and inserting "may prescribe, for such carriers as it determines to be appropriate,".

(2) USE OF INDEPENDENT AUDITORS.—Section 220(c) (47 U.S.C. 220(c)) is amended by adding at the end thereof the following: "The Commission may obtain the services of any person licensed to provide public accounting services under the law of any State to assist with, or conduct, audits under this section. While so employed or engaged in conducting an audit for the Commission under this section, any such person shall have the powers granted the Commission under this subsection and shall be subject to subsection (f) in the same manner as if that person were an employee of the Commission.".

(3) SIMPLIFICATION OF FEDERAL-STATE COORDINATION PROCESS.—The Commission shall simplify and expedite the Federal-State coordination process under section 410 of the Communications Act of 1934.

(4) PRIVATIZATION OF SHIP RADIO INSPECTIONS.—Section 385 (47 U.S.C. 385) is amended by adding at the end thereof the following: "In accordance with such other provisions of law as apply to Government contracts, the Commission may enter into contracts with any person for the purpose of carrying out such inspections and certifying compliance with those requirements, and may, as part of any such contract, allow any such person to accept reimbursement from the license holder for travel and expense costs of any employee conducting an inspection or certification.".

(5) MODIFICATION OF CONSTRUCTION PERMIT REQUIREMENT.—Section 319(d) (47 U.S.C. 319(d)) is amended by striking the third sentence and inserting the following: "The Commission may waive the requirement for a construction permit with respect to a broadcasting station in circumstances in which it deems prior approval to be unnecessary. In those circumstances, a broadcaster shall file any related license application within 10 days after completing construction.".

(6) LIMITATION ON SILENT STATION AUTHORIZATIONS.—Section 312 (47 U.S.C. 312) is amended by adding at the end the following:

"(g) If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary.".

(7) EXPEDITING INSTRUCTIONAL TELEVISION FIXED SERVICE PROCESSING.—The Commission shall delegate, under section 5(c) of the Communications Act of 1934, the conduct of routine instructional television fixed service cases to its staff for consideration and final action.

(8) DELEGATION OF EQUIPMENT TESTING AND CERTIFICATION TO PRIVATE LABORATORIES.—Section 302 (47 U.S.C. 302) is amended by adding at the end the following:

"(e) The Commission may—

"(1) authorize the use of private organizations for testing and certifying the compliance of devices or home electronic equipment and systems with regulations promulgated under this section;

"(2) accept as prima facie evidence of such compliance the certification by any such organization; and

"(3) establish such qualifications and standards as it deems appropriate for such private organizations, testing, and certification.".

(9) MAKING LICENSE MODIFICATION UNIFORM.—Section 303(f) (47 U.S.C. 303(f)) is amended by striking "unless, after a public hearing," and inserting "unless".

(10) PERMIT OPERATION OF DOMESTIC SHIP AND AIRCRAFT RADIOS WITHOUT LICENSE.—Section 307(e) (47 U.S.C. 307(e)) is amended by—

(A) striking "service and the citizens band radio service" in paragraph (1) and inserting "service, citizens band radio service, domestic ship radio service, domestic aircraft radio service, and personal radio service"; and

(B) striking "service' and 'citizens band radio service'" in paragraph (3) and inserting "service', 'citizens band radio service', 'domestic ship radio service', 'domestic aircraft radio service', and 'personal radio service'".

(11) EXPEDITED LICENSING FOR FIXED MICROWAVE SERVICE.—Section 309(b)(2) (47 U.S.C. 309(b)(2)) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (G) as (A) through (F), respectively.

(12) ELIMINATE FCC JURISDICTION OVER GOVERNMENT-OWNED SHIP RADIO STATIONS.—

(A) Section 305 (47 U.S.C. 305) is amended by striking subsection (b) and redesignating subsections (c) and (d) as (b) and (c), respectively.

(B) Section 382(2) (47 U.S.C. 382(2)) is amended by striking "except a vessel of the United States Maritime Administration, the Inland and Coastwise Waterways Service, or the Panama Canal Company,".

(13) MODIFICATION OF AMATEUR RADIO EXAMINATION PROCEDURES.—

(A) Section 4(f)(H)(N) (47 U.S.C. 4(f)(4)(B)) is amended by striking "transmissions, or in the preparation or distribution of any publication used in preparation for obtaining amateur station operator licenses," and inserting "transmission".

(B) The Commission shall modify its rules governing the amateur radio examination process by eliminating burdensome record maintenance and annual financial certification requirements.

(14) STREAMLINE NON-BROADCAST RADIO LICENSE RENEWALS.—The Commission shall modify its rules under section 309 of the Communications Act of 1934 (47 U.S.C. 309) relating to renewal of nonbroadcast radio licenses so as to streamline or eliminate comparative renewal hearings where such hearings are unnecessary or unduly burdensome.

SEC. 303. REGULATORY FORBEARANCE.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 259 the following new section:

"SEC. 260. COMPETITION IN PROVISION OF TELECOMMUNICATIONS SERVICE.

"(a) REGULATORY FLEXIBILITY.—Notwithstanding section 332(c)(1)(A) of this Act, the Commission shall forbear from applying any regulation or any provision of this Act to a telecommunications carrier or service, or class of carriers or services, in any or some of its or their geographic markets if the Commission determines that—

"(1) enforcement of such regulation or provision is not necessary to ensure that the charges, practices, classifications, or regulations by, for, or in connection with that carrier or service are just and reasonable and are not unjustly or unreasonably discriminatory;

"(2) enforcement of such regulation or provision is not necessary for the protection of consumers or the preservation and advancement of universal service; and

"(3) forbearance from applying such regulation or provision is consistent with the public interest.

"(b) COMPETITIVE EFFECT TO BE WEIGHED.—In making the determination under subsection (a)(3), the Commission shall consider whether forbearance from enforcing the regulation or provision will promote competitive market conditions, including the extent to which such forbearance will enhance competition among providers of telecommunications services. If the Commission determines that such forbearance will promote competition among providers of telecommunications services, that determination may be the basis for a Commission finding that forbearance is in the public interest.

"(c) END OF REGULATION PROCESS.—Any telecommunications carrier, or class of telecommunications carriers, may submit a petition to the Commission requesting that the Commission exercise the authority granted under this section with respect to that carrier or those carriers, or any service offered by that carrier or carriers. Any such petition shall be deemed granted if the Commission does not deny the petition for failure to meet the requirements for forebearance under subsection (a) within 90 days after the Commission receives it, unless the 90-day period is extended by the Commission. The Commission may extend the initial 90-day period by an additional 60 days if the Commission finds that an extension is necessary to meet the requirements of subsection (a). The Commission may grant or deny a petition in whole or in part and shall explain its decision in writing.

"(d) LIMITATION.—Except as provided in section 251(i)(3), the Commission may not waive the unbundling requirements of section 251(b) or 255(b)(2) under subsection (a) until it determines that those requirements have been fully implemented.".

SEC. 304. ADVANCED TELECOMMUNICATIONS INCENTIVES.

(a) IN GENERAL.—The Commission and each State commission with regulatory jurisdiction over telecommunications services shall encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, or other regulating methods that remove barriers to infrastructure investment.

(b) INQUIRY.—The Commission shall, within 2 years after the date of enactment of this Act, and regularly thereafter, initiate a notice of inquiry concerning the availability of advanced telecommunications capability to all Americans (including, in particular, elementary and secondary schools and classrooms) and shall complete the inquiry within 180 days after its initiation. In the inquiry, the Commission shall determine whether advanced telecommunications capability is being deployed to all Americans in a reasonable and timely fashion. If the Commission's determination is negative, it shall take immediate action under this section, and it may preempt State commissions that fail to act to ensure such availability.

(c) DEFINITIONS.—For purposes of this section—

(1) COMMUNICATIONS ACT TERMS.—Any term used in this section which is defined in the Communications Act of 1934 shall have the same meaning as it has in that Act.

(2) ADVANCED TELECOMMUNICATIONS CAPABILITY.—The term "advanced telecommunications capability" means high-speed, switched, broadband telecommunications capability that enables users to originate and receive high-quality voice, data, graphics, and video telecommunications.

(3) ELEMENTARY AND SECONDARY SCHOOLS.—The term "elementary and secondary schools" means elementary schools and secondary schools, as defined in paragraphs (14) and (25), respectively, of section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

SEC. 305. REGULATORY PARITY.

Within 3 years after the date of enactment of this Act, and periodically thereafter, the Commission shall—

(1) issue such modifications or terminations of the regulations applicable to persons offering telecommunications or information services under title II, III, or VI of the Communications Act of 1934 as are necessary to implement the changes in such Act made by this Act;

(2) in the regulations that apply to integrated telecommunications service providers, take into account the unique and disparate histories associated with the development and relative market power of such providers, making such modifications and adjustments as are necessary in the regulation of such providers as are appropriate to enhance competition between such providers in light of that history; and

(3) provide for periodic reconsideration of any modifications or terminations made to such regulations, with the goal of applying the same set of regulatory requirements to all integrated telecommunications service providers, regardless of which particular telecommunications or information service may have been each provider's original line of business.

SEC. 306. AUTOMATED SHIP DISTRESS AND SAFETY SYSTEMS.

Notwithstanding any provision of the Communications Act of 1934 or any other provision of law or regulation, a ship documented under the laws of the United States operating in accordance with the Global Maritime Distress and Safety System provisions of the Safety of Life at Sea Convention shall not be required to be equipped with a radio telegraphy station operated by one or more radio officers or operators. This section shall take effect for each vessel upon a determination by the United States Coast Guard that such vessel has the equipment required to implement the Global Maritime Distress and Safety System installed and operating in good working condition.

SEC. 307. TELECOMMUNICATIONS NUMBERING ADMINISTRATION.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 260 the following new section:

"SEC. 261. TELECOMMUNICATIONS NUMBERING ADMINISTRATION.

"(a) INTERIM NUMBER PORTABILITY.—In connection with any interconnection agreement reached under section 251 of this Act, a local exchange carrier shall make available interim telecommunications number portability, upon request, beginning on the date of enactment of the Telecommunications Act of 1995.

"(b) FINAL NUMBER PORTABILITY.—In connection with any interconnection agreement reached under section 251 of this Act, a local exchange carrier shall make available final telecommunications number portability, upon request, when the Commission determines that final telecommunications number portability is technically feasible.

"(c) NEUTRAL ADMINISTRATION OF NUMBERING PLANS.—

"(1) NATIONWIDE NEUTRAL NUMBER SYSTEM COMPLIANCE.— A telecommunications carrier providing telephone exchange service shall comply with the guidelines, plan, or rules established by an impartial entity designated or created by the Commission for the administration of a nationwide neutral number system.

"(2) OVERLAY OF AREA CODES NOT PERMITTED.—All telecommunications carriers providing telephone exchange service in the same telephone service area shall be permitted to use the same numbering plan area code under such guideline, plan, or rules.

"(d) COSTS.—The cost of establishing neutral number administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.".

SEC. 308. ACCESS BY PERSONS WITH DISABILITIES.

(a) IN GENERAL.—Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 261 the following new section:

"SEC. 262. ACCESS BY PERSONS WITH DISABILITIES.

"(a) DEFINITIONS.—As used in this section—

"(1) DISABILITY.—The term 'disability' has the meaning given to it by section 3(2)(A) of the Americans with Disabilities Act of 1990 (42 U.S.C. 12102(2)(A)).

"(2) READILY ACHIEVABLE.—The term 'readily achievable' has the meaning given to it by section 301(9) of that Act (42 U.S.C. 12181(9)).

"(b) MANUFACTURING.—A manufacturer of telecommunications equipment and customer premises equipment shall ensure that the equipment is designed, developed, and fabricated to be accessible to and usable by individuals with disabilities, if readily achievable.

"(c) TELECOMMUNICATIONS SERVICES.—A provider of telecommunications service shall ensure that the service is accessible to and usable by individuals with disabilities, if readily achievable.

"(d) COMPATIBILITY.—Whenever the requirements of subsections (b) and (c) are not readily achievable, such a manufacturer or provider shall ensure that the equipment or service is compatible with existing peripheral devices or specialized customer premises equipment commonly used by individuals with disabilities to achieve access, if readily achievable.

"(e) GUIDELINES.—Within 18 months after the date of enactment of the Telecommunications Act of 1995, the Architectural and Transportation Barriers Compliance Board shall develop guidelines for accessibility of telecommunications equipment and customer premises equipment in conjunction with the Commission, the National Telecommunications and Information Administration and the National Institute of Standards and Technology. The Board shall review and update the guidelines periodically.

"(f) CLOSED CAPTIONING.—

"(1) IN GENERAL.—The Commission shall ensure that—

"(A) video programming is accessible through closed captions, if readily achievable, except as provided in paragraph (2); and

"(B) video programming providers or owners maximize the accessibility of video programming previously published or exhibited through the provision of closed captions, if readily achievable, except as provided in paragraph (2).

"(2) EXEMPTIONS.—Notwithstanding paragraph (1)—

"(A) the Commission may exempt programs, classes of programs, locally produced programs, providers, classes of providers, or services for which the Commission has determined that the provision of closed captioning would not be readily achievable to the provider or owner of such programming;

"(B) a provider of video programming or the owner of any program carried by the provider shall not be obligated to supply closed captions if such action would be inconsistent with a binding contract in effect on the date of enactment of the Telecommunications Act of 1995 for the remaining term of that contract (determined without regard to any extension of such term), except that nothing in this subparagraph relieves a video programming provider of its obligation to provide services otherwise required by Federal law; and

"(C) a provider of video programming or a program owner may petition the Commission for an exemption from the requirements of this section, and the Commission may grant such a petition upon a showing that the requirements contained in this section would not be readily achievable.

"(g) REGULATIONS.—The Commission shall, not later than 24 months after the date of enactment of the Telecommunications Act of

1995, prescribe regulations to implement this section. The regulations shall be consistent with the guidelines developed by the Architectural and Transportation Barriers Compliance Board in accordance with subsection (e).

"(h) ENFORCEMENT.—The Commission shall enforce this section. The Commission shall resolve, by final order, a complaint alleging a violation of this section within 180 days after the date on which the complaint is filed with the Commission.".

(b) VIDEO DESCRIPTION.—Within 18 months after the date of enactment of this Act, the Commission shall commence a study of the feasibility of requiring the use of video descriptions on video programming in order to ensure the accessibility of video programming to individuals with visual impairments. For purposes of this subsection, the term "video description" means the insertion of audio narrative descriptions of a television program's key visual elements into natural pauses between the program's dialogue.

SEC. 309. RURAL MARKETS.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 262 the following new section:

"SEC. 263. RURAL MARKETS.

"(a) STATE AUTHORITY IN RURAL MARKETS.—Except as provided in section 251(i)(3), a State may not waive or modify any requirements of section 251, but may adopt statutes or regulations that are no more restrictive than—

"(1) to require an enforceable commitment by each competing provider of telecommunications service to offer universal service comparable to that offered by the rural telephone company currently providing service in that service area, and to make such service available within 24 months of the approval date to all consumers throughout that service area on a common carrier basis, either using the applicant's facilities or through its own facilities and resale of services using another carrier's facilities (including the facilities of the rural telephone company), and subject to the same terms, conditions, and rate structure requirements as those applicable to the rural telephone company currently providing universal service;

"(2) to require that the State must approve an application by a competing telecommunications carrier to provide services in a market served by a rural telephone company and that approval be based on sufficient written public findings and conclusions to demonstrate that such approval is in the public interest and that there will not be a significant adverse impact on users of telecommunications services or on the provision of universal service;

"(3) to encourage the development and deployment of advanced telecommunications and information infrastructure and services in rural areas; or

"(4) to protect the public safety and welfare, ensure the continued quality of telecommunications and information services, or safeguard the rights of consumers.

"(b) PREEMPTION.—Upon a proper showing, the Commission may preempt any State statute or regulation that the Commission finds to be inconsistent with the Commission's regulations implementing this section, or an arbitrary or unreasonably discriminatory application of such statute or regulation. The Commission shall act upon any bona fide petition filed under this subsection within 180 days of receiving such petition. Pending such action, the Commission may, in the public interest, suspend or modify application of any statute or regulation to which the petition applies.".

SEC. 310. TELECOMMUNICATIONS SERVICES FOR HEALTH CARE PROVIDERS FOR RURAL AREAS, EDUCATIONAL PROVIDERS, AND LIBRARIES.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by inserting after section 263 the following:

"SEC. 264. TELECOMMUNICATIONS SERVICES FOR CERTAIN PROVIDERS.

"(a) IN GENERAL.—

"(1) HEALTH CARE PROVIDERS FOR RURAL AREAS.—A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services, including instruction relating to such services, at rates that are reasonably comparable to rates charged for similar services in urban areas to any public or nonprofit health care provider that serves persons who reside in rural areas. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the difference, if any, between the price for services provided to health care providers for rural areas and the price for similar services provided to other customers in comparable urban areas treated as a service obligation as a part of its obligation to participate in the mechanisms to preserve and advance universal service under section 253(c).

"(2) EDUCATIONAL PROVIDERS AND LIBRARIES.—All telecommunications carriers serving a geographic area shall, upon a bona fide request, provide to elementary schools, secondary schools, and libraries universal services (as defined in section 253) that permit such schools and libraries to provide or receive telecommunications services for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall be an amount that the Commission and the States determine is appropriate and necessary to ensure affordable access to and use of such telecommunications by such entities. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the amount of the discount treated as a service obligation as part of its obligation to participate in the mechanisms to preserve and advance universal service under section 253(c).

"(b) UNIVERSAL SERVICE MECHANISMS.—The Commission shall include consideration of the universal service provided to public institutional telecommunications users in any universal service mechanism it may establish under section 253.

"(c) ADVANCED SERVICES.—The Commission shall establish rules—

"(1) to enhance, to the extent technically feasible and economically reasonable, the availability of advanced telecommunications and information services to all public and nonprofit elementary and secondary school classrooms, health care providers, and libraries;

"(2) to ensure that appropriate functional requirements or performance standards, or both, including interconnection standards, are established for telecommunications carriers that connect such public institutional telecommunications users with the public switched network;

"(3) to define the circumstances under which a telecommunications carrier may be required to connect its network to such public institutional telecommunications users; and

"(4) to address other matters as the Commission may determine.

"(d) DEFINITIONS.—

"(1) ELEMENTARY AND SECONDARY SCHOOLS.—The term 'elementary and secondary schools' means elementary schools and secondary schools, as defined in paragraphs (14) and (25), respectively, of section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

"(2) UNIVERSAL SERVICE.—The Commission may in the public interest provide a separate definition of universal service under section 253(b) for application only to public institutional telecommunications users.

"(3) HEALTH CARE PROVIDER.—The term 'health care provider' means—

"(A) Post-secondary educational institutions, teaching hospitals, and medical schools.

"(B) Community health centers or health centers providing health care to migrants.

"(C) Local health departments or agencies.

"(D) Community mental health centers.

"(E) Not-for-profit hospitals.

"(F) Rural health clinics.

"(G) Consortia of health care providers consisting of one or more entities described in subparagraphs (A) through (F).

"(4) PUBLIC INSTITUTIONAL TELECOMMUNICATIONS USER.—The term 'public institutional telecommunications user' means an elementary or secondary school, a library, or a health care provider as those terms are defined in this subsection.

"(e) TERMS AND CONDITIONS.—Telecommunications services and network capacity provided under this section may not be sold, resold, or otherwise transferred in consideration for money or any other thing of value.

"(f) ELIGIBILITY OF COMMUNITY USERS.—No entity listed in this section shall be entitled for preferential rates or treatment as required by this section, if such entity operates as a for-profit business, is a school as defined in section 264(d)(1) with an endowment of more than $50,000,000, or is a library not eligible for participation in State-based plans for Library Services and Construction Act Title III funds.".

SEC. 311. PROVISION OF PAYPHONE SERVICE AND TELEMESSAGING SERVICE.

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by adding after section 264 the following new section:

"SEC. 265. PROVISION OF PAYPHONE SERVICE AND TELEMESSAGING SERVICE.

"(a) NONDISCRIMINATION SAFEGUARDS.—Any Bell operating company that provides payphone service or telemessaging service—

"(1) shall not subsidize its payphone service or telemessaging service directly or indirectly with revenue from its telephone exchange service or its exchange access service; and

"(2) shall not prefer or discriminate in favor of its payphone service or telemessaging service.

"(b) DEFINITIONS.—As used in this section—

"(1) The term 'payphone service' means the provision of telecommunications service through public or semi-public pay telephones, and includes the provision of service to inmates in correctional institutions.

"(2) The term 'telemessaging service' means voice mail and voice storage and retrieval services, any live operator services used to record, transcribe, or relay messages (other than telecommunications relay services), and any ancillary services offered in combination with these services.

"(c) REGULATIONS.—Not later than 18 months after the date of enactment of the Telecommunications Act of 1995, the Commission shall complete a rulemaking proceeding to prescribe regulations to carry out this section. In that rulemaking proceeding, the Commission shall determine whether, in order to enforce the requirements of this section, it is appropriate to require the Bell operating companies to provide payphone service or telemessaging service through a separate subsidiary that meets the requirements of section 252.".

SEC. 312. DIRECT BROADCAST SATELLITE.

(a) DBS SIGNAL SECURITY.—Section 705(e)(4) (47 U.S.C. 605(e)(4)) is amended by inserting "satellite delivered video or audio programming intended for direct receipt by subscribers in their residences or in their commercial or business premises," after "programming,".

(b) FCC JURISDICTION OVER DIRECT-TO-HOME SATELLITE SERVICES.—Section 303 (47 U.S.C. 303) is amended by adding at the end thereof the following new subsection:

"(v) Have exclusive jurisdiction to regulate the provision of direct-to-home satellite services. For purposes of this subsection, the term 'direct-to-home satellite services' means the distribution or broadcasting of programming or services by satellite directly to the subscriber's premises without the use of ground receiving or distribution equipment, except at the subscriber's premises, or used in the initial uplink process to the direct-to-home satellite.".

TITLE IV—OBSCENE, HARRASSING, AND WRONGFUL UTILIZATION OF TELECOMMUNICATIONS FACILITIES

SEC. 401. SHORT TITLE.

This title may be cited as the "Communications Decency Act of 1995".

SEC. 402. OBSCENE OR HARASSING USE OF TELECOMMUNICATIONS FACILITIES UNDER THE COMMUNICATIONS ACT OF 1934.

(a) OFFENSES.—Section 223 (47 U.S.C. 223) is amended—

"(1) by striking subsection (a) and inserting in lieu thereof:

"(a) Whoever—

"(1) in the District of Columbia or in interstate or foreign communications—

"(A) by means of telecommunications device knowingly—

"(i) makes, creates, or solicits, and

"(ii) initiates the transmission of,

any comment, request, suggestion, proposal, image, or other communication which is obscene, lewd, lascivious, filthy, or indecent, with intent to annoy, abuse, threaten, or harass another person;

"(B) makes a telephone call or utilizes a telecommunications device, whether or not conversation or communication ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number or who receives the communications;

"(C) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

"(D) makes repeated telephone calls or repeatedly initiates communication with a telecommunications device, during which conversation or communication ensues, solely to harass any person at the called number or who receives the communication;

"(2) knowingly permits any telecommunications facility under his control to be used for any activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined not more than $100,000 or imprisoned not more than two years, or both."; and

(2) by adding at the end the following new subsections:

"(d) Whoever—

"(1) knowingly within the United States or in foreign communications with the United States by means of telecommunications device makes or makes available any obscene communication in any form including any comment, request, suggestion, proposal, or image regardless of whether the maker of such communication placed the call or initiated the communications; or

"(2) knowingly permits any telecommunications facility under such person's control to be used for an activity prohibited by subsection (d)(1) with the intent that it be used for such activity;

shall be fined not more than $100,000 or imprisoned not more than two years, or both.

"(e) Whoever—

"(1) knowingly within the United States or in foreign communications with the United States by means of telecommunications device makes or makes available any indecent communication in any form including any comment, request, suggestion, proposal, image, to any person under 18 years of age regardless of whether the maker of such communication placed the call or initiated the communication; or

"(2) knowingly permits any telecommunications facility under such person's control to be used for an activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined not more than $100,000 or imprisoned not more than two years, or both.

"(f) Defenses to the subsections (a), (d), and (e), restrictions on access, judicial remedies respecting restrictions for persons providing information services and access to information services—

"(1) No person shall be held to have violated subsections (a), (d), or (e) solely for providing access or connection to or from a facility, system, or network over which that person has no control, including related capabilities which are incidental to providing access or connection. This subsection shall not be applicable to a person who is owned or controlled by, or a conspirator with, an entity actively involved in the creation, editing or knowing distribution of communications which violate this section.

"(2) No employer shall be held liable under this section for the actions of an employee or agent unless the employee's or agent's conduct is within the scope of his employment or agency and the employer has knowledge of, authorizes, or ratifies the employee's or agent's conduct.

"(3) It is a defense to prosecution under subsection (a), (d)(2), or (e) that a person has taken reasonable, effective and appropriate actions in good faith to restrict or prevent the transmission of, or access to a communication specified in such subsections, or complied with procedures as the Commission may prescribe in furtherance of this section. Until such regulations become effective, it is a defense to prosecution that the person has complied with the procedures prescribed by regulation pursuant to subsection (b)(3). Nothing in this subsection shall be construed to treat enhanced information services as common carriage.

"(4) No cause of action may be brought in any court or administrative agency against any person on account of any activity which is not in violation of any law punishable by criminal or civil penalty, which activity the person has taken in good faith to implement a defense authorized under this section or otherwise to restrict or prevent the transmission of, or access to, a communication specified in this section.

"(g) No State or local government may impose any liability for commercial activities or actions by commercial entities in connection with an activity or action which constitutes a violation described in subsection (a)(2), (d)(2), or (e)(2) that is inconsistent with the treatment of those activities or actions under this section: *Provided, however*, That nothing herein shall preclude any State or local government from enacting and enforcing complementary oversight, liability, and regulatory systems, procedures, and requirements, so long as such systems, procedures, and requirements govern only intrastate services and do not result in the imposition of inconsistent rights, duties or obligations on the provision of interstate services. Nothing in this subsection shall preclude any State or local government from governing conduct not covered by this section.

"(h) Nothing in subsection (a), (d), (e), or (f) or in the defenses to prosecution under (a), (d), or (e) shall be construed to affect or limit the application or enforcement of any other Federal law.

"(i) The use of the term 'telecommunications device' in this section shall not impose new obligations on (one-way) broadcast radio or (one-way) broadcast television operators licensed by the Commission or (one-way) cable service registered with the Federal Communications Commission and covered by obscenity and indecency provisions elsewhere in this Act.

"(j) Within two years from the date of enactment and every two years thereafter, the Commission shall report on the effectiveness of this section.".

SEC. 403. OBSCENE PROGRAMMING ON CABLE TELEVISION.

Section 639 (47 U.S.C. 559) is amended by striking "$10,000" and inserting "$100,000".

SEC. 404. BROADCASTING OBSCENE LANGUAGE ON RADIO.

Section 1464 of title 18, United States Code, is amended by striking out "$10,000" and inserting "$100,000".

SEC. 405. SEPARABILITY.

(a) If any provision of this title, including amendments to this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 406. ADDITIONAL PROHIBITION ON BILLING FOR TOLL-FREE TELEPHONE CALLS.

Section 228(c)(7) (47 U.S.C. 228(c)(7)) is amended—

(1) by striking "or" at the end of subparagraph (C);

(2) by striking the period at the end of subparagraph (D) and inserting a semicolon and "or"; and

(3) by adding at the end thereof the following:

"(E) the calling party being assessed, by virtue of being asked to connect or otherwise transfer to a pay-per-call service, a charge for the call.".

SEC. 407. SCRAMBLING OF CABLE CHANNELS FOR NONSUBSCRIBERS.

Part IV of title VI (47 U.S. C. 551 et seq.) is amended by adding at the end the following:

"SEC. 640. SCRAMBLING OF CABLE CHANNELS FOR NONSUBSCRIBERS.

"(a) REQUIREMENT.—In providing video programming unsuitable for children to any subscriber through a cable system, a cable operator shall fully scramble or otherwise fully block the video and audio portion of each channel carrying such programming upon subscriber request and without any charge so that one not a subscriber does not receive it.

"(b) DEFINITION.—As used in this section, the term 'scramble' means to rearrange the content of the signal of the programming so that the programming cannot be received by persons unauthorized to receive the programming.".

SEC. 408. SCRAMBLING OF SEXUALLY EXPLICIT ADULT VIDEO SERVICE PROGRAMMING.

(a) REQUIREMENT.—Part IV of title VI (47 U.S.C. 551 et seq.), as amended by this Act, is further amended by adding at the end the following:

"SEC. 641. SCRAMBLING OF SEXUALLY EXPLICIT ADULT VIDEO SERVICE PROGRAMMING.

"(a) REQUIREMENT.—In providing sexually explicit adult programming or other programming that is indecent and harmful to children on any channel of its service primarily dedicated to sexually-oriented programming, a multichannel video programming distributor shall fully scramble or otherwise fully block the video and audio portion of such channel so that one not a subscriber to such channel or programming does not receive it.

"(b) IMPLEMENTATION.—Until a multichannel video programming distributor complies with the requirement set forth in subsection (a), the distributor shall limit the access of children to the programming referred to in that subsection by not providing such programming during the hours of the day (as determined by the Commission) when a significant number of children are likely to view it.

"(c) DEFINITION.—As used in this section, the term 'scramble' means to rearrange the content of the signal of the programming so that audio and video portions of the programming cannot be received by persons unauthorized to receive the programming.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 30 days after the date of the enactment of this Act.

SEC. 409. CABLE OPERATOR REFUSAL TO CARRY CERTAIN PROGRAMS.

(a) PUBLIC, EDUCATIONAL, AND GOVERNMENTAL CHANNELS.—Section 611(e) (47 U.S.C. 531(e)) is amended by inserting before the period the following: ", except a cable operator may refuse to transmit any public access program or portion of a public access program which contains obscenity, indecency, or nudity".

(b) CABLE CHANNELS FOR COMMERCIAL USE.—Section 612(c)(2) (47 U.S.C. 532(c)(2)) is amended by striking "an operator" and inserting "a cable operator may refuse to transmit any leased access program or portion of a leased access program which contains obscenity, indecency, or nudity".

SEC. 410. RESTRICTIONS ON ACCESS BY CHILDREN TO OBSCENE AND INDECENT MATERIAL ON ELECTRONIC INFORMATION NETWORKS OPEN TO THE PUBLIC.

(a) AVAILABILITY OF TAG INFORMATION.—In order—

(1) to encourage the voluntary use of tags in the names, addresses, or text of electronic files containing obscene, indecent, or mature text or graphics that are made available to the public through public information networks in order to ensure the ready identification of files containing such text or graphics;

(2) to encourage developers of computer software that provides access to or interface with a public information network to develop software that permits users of such software to block access to or interface with text or graphics identified by such tags; and

(3) to encourage the telecommunications industry and the providers and users of public information networks to take practical actions (including the establishment of a board consisting of appropriate members of such industry, providers, and users) to develop a highly effective means of preventing the access of children through public information networks to electronic files that contain such text or graphics,

the Secretary of Commerce shall take appropriate steps to make information on the tags established and utilized in voluntary compliance with this subsection available to the public through public information networks.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the tags established and utilized in voluntary compliance with this section. The report shall—

(1) describe the tags so established and utilized;

(2) assess the effectiveness of such tags in preventing the access of children to electronic files that contain obscene, indecent, or mature text or graphics through public information networks; and

(3) provide recommendations for additional means of preventing such access.

(c) DEFINITIONS.—In this section:

(1) The term "public information network" means the Internet, electronic bulletin boards, and other electronic information networks that are open to the public.

(2) The term "tag" means a part or segment of the name, address, or text of an electronic file.

TITLE V—PARENTAL CHOICE IN TELEVISION

SEC. 501. SHORT TITLE.

This title may be cited as the "Parental Choice in Television Act of 1995".

SEC. 502. FINDINGS.

Congress makes the following findings:

(1) On average, a child in the United States is exposed to 27 hours of television each week and some children are exposed to as much as 11 hours of television each day.

(2) The average American child watches 8,000 murders and 100,000 acts of other violence on television by the time the child completes elementary school.

(3) By the age of 18 years, the average American teenager has watched 200,000 acts of violence on television, including 40,000 murders.

(4) On several occasions since 1975, The Journal of the American Medical Association has alerted the medical community to the adverse effects of televised violence on child development, including an increase in the level of aggressive behavior and violent behavior among children who view it.

(5) The National Commission on Children recommended in 1991 that producers of television programs exercise greater restraint in the content of programming for children.

(6) A report of the Harry Frank Guggenheim Foundation, dated May 1993, indicates that there is an irrefutable connection between the amount of violence depicted in the television programs watched by children and increased aggressive behavior among children.

(7) It is a compelling National interest that parents be empowered with the technology to block the viewing by their children of television programs whose content is overly violent or objectionable for other reasons.

(8) Technology currently exists to permit the manufacture of television receivers that are capable of permitting parents to block television programs having violent or otherwise objectionable content.

SEC. 503. RATING CODE FOR VIOLENCE AND OTHER OBJECTIONABLE CONTENT ON TELEVISION.

(a) SENSE OF CONGRESS ON VOLUNTARY ESTABLISHMENT OF RATING CODE.—It is the sense of Congress—

(1) to encourage appropriate representatives of the broadcast television industry and the cable television industry to establish in a voluntary manner rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

(A) signals containing ratings of the level of violence or objectionable content in such programming; and

(B) signals containing specifications for blocking such programming;

(2) to encourage such representatives to establish such rules in consultation with appropriate public interest groups and interested individuals from the private sector; and

(3) to encourage television broadcasters and cable operators to comply voluntarily with such rules upon the establishment of such rules.

(b) REQUIREMENT FOR ESTABLISHMENT OF RATING CODE.—

(1) IN GENERAL.—If the representatives of the broadcast television industry and the cable television industry do not establish the rules referred to in subsection (a)(1) by the end of the 1-year period beginning on the date of the enactment of this Act, there shall be established on the day following the end of that period a commission to be known as the Television Rating Commission (hereafter in this section referred to as the "Television Commission"). The Television Commission shall be an independent establishment in the executive branch as defined under section 104 of title 5, United States Code.

(2) MEMBERS.—

(A) IN GENERAL.—The Television Commission shall be composed of 5 members appointed by the President, by and with the advice and consent of the Senate, of whom—

(i) three shall be individuals who are members of appropriate public interest groups or are interested individuals from the private sector; and

(ii) two shall be representatives of the broadcast television industry and the cable television industry.

(B) NOMINATION.—Individuals shall be nominated for appointment under subparagraph (A) not later than 60 days after the date of the establishment of the Television Commission.

(D) TERMS.—Each member of the Television Commission shall serve until the termination of the commission.

(E) VACANCIES.—A vacancy on the Television Commission shall be filled in the same manner as the original appointment.

(2) DUTIES OF TELEVISION COMMISSION.—The Television Commission shall establish rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

(A) signals containing ratings of the level of violence or objectionable content in such programming; and

(B) signals containing specifications for blocking such programming.

(3) COMPENSATION OF MEMBERS.—

(A) CHAIRMAN.—The Chairman of the Television Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including traveltime) during which the Chairman is engaged in the performance of duties vested in the commission.

(B) OTHER MEMBERS.—Except for the Chairman who shall be paid as provided under subparagraph (A), each member of the Television Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level V of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the performance of duties vested in the commission.

(4) STAFF.—

(A) IN GENERAL.—The Chairman of the Television Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the commission to perform its duties. The employment of an executive director shall be subject to confirmation by the commission.

(B) COMPENSATION.—The Chairman of the Television Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(5) CONSULTANTS.—The Television Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants under section 3109 of title 5, United States Code. The commission shall give public notice of any such contract before entering into such contract.

(6) FUNDING.—There is authorized to be appropriated to the Commission such sums as are necessary to enable the Commission to carry out its duties under this Act.

SEC. 504. REQUIREMENT FOR MANUFACTURE OF TELEVISIONS THAT BLOCK PROGRAMS.

(a) REQUIREMENT.—Section 303 (47 U.S.C. 303), as amended by this Act, is further amended by adding at the end the following:

"(w) Require, in the case of apparatus designed to receive television signals that are manufactured in the United States or imported for use in the United States and that have a picture screen 13 inches or greater in size (measured diagonally), that such apparatus—

"(1) be equipped with circuitry designed to enable viewers to block the display of channels during particular time slots; and

"(2) enable viewers to block display of all programs with a common rating.".

(b) IMPLEMENTATION.—In adopting the requirement set forth in section 303(w) of the Communications Act of 1934, as added by subsection (a), the Federal Communications Commission, in consultation with the television receiver manufacturing industry, shall determine a date for the applicability of the requirement to the apparatus covered by that section.

SEC. 505. SHIPPING OR IMPORTING OF TELEVISIONS THAT BLOCK PROGRAMS.

(a) REGULATIONS.—Section 330 (47 U.S.C. 330) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new subsection (c):

"(c)(1) Except as provided in paragraph (2), no person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States any apparatus described in section 303(w) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section.

"(2) This subsection shall not apply to carriers transporting apparatus referred to in paragraph (1) without trading it.

"(3) The rules prescribed by the Commission under this subsection shall provide performance standards for blocking technology. Such rules shall require that all such apparatus be able to receive transmitted rating signals which conform to the signal and blocking specifications established by the Commission.

"(4) As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers.".

(b) CONFORMING AMENDMENT.—Section 330(d), as redesignated by subsection (a)(1), is amended by striking "section 303(s), and section 303(u)" and inserting in lieu thereof "and sections 303(s), 303(u), and 303(w)".

TITLE VI—NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION

SEC. 601. SHORT TITLE.

This title may be cited as the "National Education Technology Funding Corporation Act of 1995".

SEC. 602. FINDINGS; PURPOSE.

(a) FINDINGS.—The Congress finds as follows:

(1) CORPORATION.—There has been established in the District of Columbia a private, nonprofit corporation known as the National Education Technology Funding Corporation which is not an agency or independent establishment of the Federal Government.

(2) BOARD OF DIRECTORS.—The Corporation is governed by a Board of Directors, as prescribed in the Corporation's articles of incorporation, consisting of 15 members, of which—

(A) five members are representative of public agencies representative of schools and public libraries;

(B) five members are representative of State government, including persons knowledgeable about State finance, technology and education; and

(C) five members are representative of the private sector, with expertise in network technology, finance and management.

(3) CORPORATE PURPOSES.—The purposes of the Corporation, as set forth in its articles of incorporation, are—

(A) to leverage resources and stimulate private investment in education technology infrastructure;

(B) to designate State education technology agencies to receive loans, grants or other forms of assistance from the Corporation;

(C) to establish criteria for encouraging States to—

(i) create, maintain, utilize and upgrade interactive high capacity networks capable of providing audio, visual and data communications for elementary schools, secondary schools and public libraries;

(ii) distribute resources to assure equitable aid to all elementary schools and secondary schools in the State and achieve universal access to network technology; and

(iii) upgrade the delivery and development of learning through innovative technology-based instructional tools and applications;

(D) to provide loans, grants and other forms of assistance to State education technology agencies, with due regard for providing a fair balance among types of school districts and public libraries assisted and the disparate needs of such districts and libraries;

(E) to leverage resources to provide maximum aid to elementary schools, secondary schools and public libraries; and

(F) to encourage the development of education telecommunications and information technologies through public-private ventures, by serving as a clearinghouse for information on new education technologies, and by providing technical assistance, including assistance to States, if needed, to establish State education technology agencies.

(b) PURPOSE.—The purpose of this title is to recognize the Corporation as a nonprofit corporation operating under the laws of the District of Columbia, and to provide authority for Federal departments and agencies to provide assistance to the Corporation.

SEC. 603. DEFINITIONS.

For the purpose of this title—

(1) the term "Corporation" means the National Education Technology Funding Corporation described in section 602(a)(1);

(2) the terms "elementary school" and "secondary school" have the same meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965; and

(3) the term "public library" has the same meaning given such term in section 3 of the Library Services and Construction Act.

SEC. 604. ASSISTANCE FOR EDUCATION TECHNOLOGY PURPOSES.

(a) RECEIPT BY CORPORATION.—Notwithstanding any other provision of law, in order to carry out the corporate purposes described in section 602(a)(3), the Corporation shall be eligible to receive discretionary grants, contracts, gifts, contributions, or technical assistance from any Federal department or agency, to the extent otherwise permitted by law.

(b) AGREEMENT.—In order to receive any assistance described in subsection (a) the Corporation shall enter into an agreement with the Federal department or agency providing such assistance, under which the Corporation agrees—

(1) to use such assistance to provide funding and technical assistance only for activities which the Board of Directors of the Corporation determines are consistent with the corporate purposes described in section 602(a)(3);

(2) to review the activities of State education technology agencies and other entities receiving assistance from the Corporation to assure that the corporate purposes described in section 602(a)(3) are carried out;

(3) that no part of the assets of the Corporation shall accrue to the benefit of any member of the Board of Directors of the Corporation, any officer or employee of the Corporation, or any other individual, except as salary or reasonable compensation for services;

(4) that the Board of Directors of the Corporation will adopt policies and procedures to prevent conflicts of interest;

(5) to maintain a Board of Directors of the Corporation consistent with section 602(a)(2);

(6) that the Corporation, and any entity receiving the assistance from the Corporation, are subject to the appropriate oversight procedures of the Congress; and

(7) to comply with—

(A) the audit requirements described in section 605; and

(B) the reporting and testimony requirements described in section 606.

(c) CONSTRUCTION.—Nothing in this title shall be construed to establish the Corporation as an agency or independent establishment of the Federal Government, or to establish the members of the Board of Directors of the Corporation, or the officers and employees of the Corporation, as officers or employees of the Federal Government.

SEC. 605. AUDITS.

(a) AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(1) IN GENERAL.—The Corporation's financial statements shall be audited annually in accordance with generally accepted auditing standards by independent certified public accountants who are members of a nationally recognized accounting firm and who are certified by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(2) REPORTING REQUIREMENTS.—The report of each annual audit described in paragraph (1) shall be included in the annual report required by section 606(a).

(b) RECORDKEEPING REQUIREMENTS; AUDIT AND EXAMINATION OF BOOKS.—

(1) RECORDKEEPING REQUIREMENTS.—The Corporation shall ensure that each recipient of assistance from the Corporation keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to fully disclose—

(i) the amount and the disposition by such recipient of the proceeds of such assistance;

(ii) the total cost of the project or undertaking in connection with which such assistance is given or used; and

(iii) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(C) such other records as will facilitate an effective audit.

(2) AUDIT AND EXAMINATION OF BOOKS.—The Corporation shall ensure that the Corporation, or any of the Corporation's duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance from the Corporation that are pertinent to such assistance. Representatives of the Comptroller General shall also have such access for such purpose.

SEC. 606. ANNUAL REPORT; TESTIMONY TO THE CONGRESS.

(a) ANNUAL REPORT.—Not later than April 30 of each year, the Corporation shall publish an annual report for the preceding fiscal year and submit that report to the President and the Congress. The report shall include a comprehensive and detailed evaluation of the Corporation's operations, activities, financial condition, and accomplishments under this title and may include such recommendations as the Corporation deems appropriate.

(b) TESTIMONY BEFORE CONGRESS.—The members of the Board of Directors, and officers, of the Corporation shall be available to testify before appropriate committees of the Congress with respect to the report described in subsection (a), the report of any audit made by the Comptroller General pursuant to this title, or any other matter which any such committee may determine appropriate.

TITLE VII—MISCELLANEOUS PROVISIONS

SEC. 701. SPECTRUM AUCTIONS.

(a) FINDINGS.—The Congress finds that—

(1) the National Telecommunications and Information Administration of the Department of Commerce recently submitted to the Congress a report entitled "U.S. National Spectrum Requirements" as required by section 113 of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923);

(2) based on the best available information the report concludes that an additional 179 megahertz of spectrum will be needed within the next ten years to meet the expected demand for land mobile and mobile satellite radio services such as cellular telephone service, paging services, personal communication services, and low earth orbiting satellite communications systems;

(3) a further 85 megahertz of additional spectrum, for a total of 264 megahertz, is needed if the United States is to fully implement the Intelligent Transportation System currently under development by the Department of Transportation;

(4) as required by part B of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 921 et seq.) the Federal Government will transfer 235 megahertz of spectrum from exclusive government use to non-governmental or mixed governmental and non-governmental use between 1994 and 2004;

(5) the Spectrum Reallocation Final Report submitted to Congress under section 113 of the National Telecommunications and Information Administration Organization Act by the National Telecommunications and Information Administration states that, of the 235 megahertz of spectrum identified for reallocation from governmental to non-governmental or mixed use—

(A) 50 megahertz has already been reallocated for exclusive non-governmental use,

(B) 45 megahertz will be reallocated in 1995 for both exclusive non-governmental and mixed governmental and non-governmental use,

(C) 25 megahertz will be reallocated in 1997 for exclusive non-governmental use,

(D) 70 megahertz will be reallocated in 1999 for both exclusive non-governmental and mixed governmental and non-governmental use, and

(E) the final 45 megahertz will be reallocated for mixed governmental and non-governmental use by 2004;

(6) the 165 megahertz of spectrum that are not yet reallocated, combined with 80 megahertz that the Federal Communications Commission is currently holding in reserve for emerging technologies, are less than the best estimates of projected spectrum needs in the United States;

(7) the authority of the Federal Communications Commission to assign radio spectrum frequencies using an auction process expires on September 30, 1998;

(8) a significant portion of the reallocated spectrum will not yet be assigned to non-governmental users before that authority expires;

(9) the transfer of Federal governmental users from certain valuable radio frequencies to other reserved frequencies could be expedited if Federal governmental users are permitted to accept reimbursement for relocation costs from non-governmental users; and

(10) non-governmental reimbursement of Federal governmental users relocation costs would allow the market to determine the most efficient use of the available spectrum.

(b) EXTENSION AND EXPANSION OF AUCTION AUTHORITY.—Section 309(j) (47 U.S.C. 309(j)) is amended—

(1) by striking paragraph (1) and inserting in lieu thereof the following:

"(1) GENERAL AUTHORITY.—If mutually exclusive applications or requests are accepted for any initial license or construction permit which will involve a use of the electromagnetic spectrum, then the Commission shall grant such license or permit to a qualified applicant through a system of competitive bidding that meets the requirements of this subsection. The competitive bidding authority granted by this subsection shall not apply to licenses or construction permits issued by the Commission for public safety radio services or for licenses or construction permits for new terrestrial digital television services assigned by the Commission to existing terrestrial broadcast licensees to replace their current television licenses.";

(2) by striking paragraph (2) and renumbering paragraphs (3) through (13) as (2) through (12), respectively; and

(3) by striking "1998" in paragraph (10), as renumbered, and inserting in lieu thereof "2000".

(c) REIMBURSEMENT OF FEDERAL RELOCATION COSTS.—Section 113 of the National Telecommunications and Information Administration Act (47 U.S.C. 923) is amended by adding at the end the following new subsections:

"(f) RELOCATION OF FEDERAL GOVERNMENT STATIONS.—

"(1) IN GENERAL.—In order to expedite the efficient use of the electromagnetic spectrum and notwithstanding section 3302(b) of title 31, United States Code, any Federal entity which operates a Federal Government station may accept reimbursement from any person for the costs incurred by such Federal entity for any modification, replacement, or reissuance of equipment, facilities, operating manuals, regulations, or other expenses incurred by that entity in relocating the operations of its Federal Government station or stations from one or more radio spectrum frequencies to any other frequency or frequencies. Any such reimbursement shall be deposited in the account of such Federal entity in the Treasury of the United States. Funds deposited according to this section shall be available, without appropriation or fiscal year limitation, only for the operations of the Federal entity for which such funds were deposited under this section.

"(2) PROCESS FOR RELOCATION.—Any person seeking to relocate a Federal Government station that has been assigned a frequency within a band allocated for mixed Federal and non-Federal use may submit a petition for such relocation to NTIA. The NTIA shall limit the Federal Government station's operating license to secondary status when the following requirements are met—

"(A) the person seeking relocation of the Federal Government station has guaranteed reimbursement through money or in-kind payment of all relocation costs incurred by the Federal entity, including all engineering, equipment, site acquisition and construction, and regulatory fee costs;

"(B) the person seeking relocation completes all activities necessary for implementing the relocation, including construction of replacement facilities (if necessary and appropriate) and identifying and obtaining on the Federal entity's behalf new frequencies for use by the relocated Federal Government station (where such station is not relocating to spectrum reserved exclusively for Federal use); and

"(C) any necessary replacement facilities, equipment modifications, or other changes have been implemented and tested to ensure that the Federal Government station is able to successfully accomplish its purposes.

"(3) RIGHT TO RECLAIM.—If within one year after the relocation the Federal Government station demonstrates to the Commission that the new facilities or spectrum are not comparable to the facilities or spectrum from which the Federal Government station was relocated, the person seeking such relocation must take reasonable steps to remedy any defects or reimburse the Federal entity for the costs of returning the Federal Government station to the spectrum from which such station was relocated.

"(g) FEDERAL ACTION TO EXPEDITE SPECTRUM TRANSFER.—Any Federal Government station which operates on electromagnetic spectrum that has been identified for reallocation for mixed Federal and non-Federal use in the Spectrum Reallocation Final Report shall, to the maximum extent practicable through the use of the authority granted under subsection (f) and any other applicable provision of law, take action to relocate its spectrum use to other frequencies that are reserved for Federal use or to consolidate its spectrum use with other Federal Government stations in a manner that maximizes the spectrum available for non-Federal use. Notwithstanding the timetable contained in the Spectrum Reallocation Final Report, the President shall seek to implement the reallocation of the 1710 to 1755 megahertz frequency band by January 1, 2000. Subsection (c)(4) of this section shall not apply to the extent that a non-Federal user seeks to relocate or relocates a Federal power agency under subsection (f).

"(h) DEFINITIONS.—For purposes of this section—

"(1) FEDERAL ENTITY.—The term 'Federal entity' means any Department, agency, or other element of the Federal Government that utilizes radio frequency spectrum in the conduct of its authorized activities, including a Federal power agency.

"(2) SPECTRUM REALLOCATION FINAL REPORT.—The term 'Spectrum Reallocation Final Report' means the report submitted by the Secretary to the President and Congress in compliance with the requirements of subsection (a).".

(d) REALLOCATION OF ADDITIONAL SPECTRUM.—The Secretary of Commerce shall, within 9 months after the date of enactment of this Act, prepare and submit to the President and the Congress a report and timetable recommending the reallocation of the two frequency bands (3625–3650 megahertz and 5850–5925 megahertz) that were discussed but not recommended for reallocation in the Spectrum Reallocation Final Report under section 113(a) of the National Telecommunications and Information Administration Organization Act. The Secretary shall consult with the Federal Communications Commission and other Federal agencies in the preparation of the report, and shall provide notice and an opportunity for public comment before submitting the report and timetable required by this section.

(e) BROADCAST AUXILIARY SPECTRUM RELOCATION.—

(1) ALLOCATION OF SPECTRUM FOR BROADCAST AUXILIARY USES.—Within one year after the date of enactment of this Act, the Commission shall allocate the 4635–4685 megahertz band transferred to the Commission under section 113(b) of the National Telecommunications and Information Administration Organization Act (47 U.S.C. 923(b)) for broadcast auxiliary uses.

(2) MANDATORY RELOCATION OF BROADCAST AUXILIARY USES.—Within 7 years after the date of enactment of this Act, all licensees of broadcast auxiliary spectrum in the 2025–2075 megahertz band shall relocate into spectrum allocated by the Commission under paragraph (1). The Commission shall assign and grant licenses for use of the spectrum allocated under paragraph (1)—

(A) in a manner sufficient to permit timely completion of relocation; and

(B) without using a competitive bidding process.

(3) ASSIGNING RECOVERED SPECTRUM.—Within 5 years after the date of enactment of this Act, the Commission shall allocate the spectrum recovered in the 2025–2075 megahertz band under paragraph (2) for use by new licensees for commercial mobile services or other similar services after the relocation of broadcast auxiliary licensees, and shall assign such licenses by competitive bidding.

SEC. 702. RENEWED EFFORTS TO REGULATE VIOLENT PROGRAMMING.

(a) FINDINGS.—The Senate finds that:

(1) Violence is a pervasive and persistent feature of the entertainment industry. According to the Carnegie Council on Adolescent Development, by the age of 18, children will have been exposed to nearly 18,000 televised murders and 800 suicides.

(2) Violence on television is likely to have a serious and harmful effect on the emotional development of young children. The American Psychological Association has reported that children who watch "a large number of aggressive programs tend to hold attitudes and values that favor the use of aggression to solve conflicts". The National Institute of Mental Health has stated similarly that "violence on television does lead to aggressive behavior by children and teenagers".

(3) The Senate recognizes that television violence is not the sole cause of violence in society.

(4) There is a broad recognition in the United States Congress that the television industry has an obligation to police the content of its own broadcasts to children. That understanding was reflected in the Television Violence Act of 1990, which was specifically designed to permit industry participants to work together to create a self-monitoring system.

(5) After years of denying that television violence has any detrimental effect, the entertainment industry has begun to address the problem of television violence. In the spring of 1994, for example, the network and cable industries announced the appointment of an independent monitoring group to assess the amount of violence on television. These reports are due out in the fall of 1995 and winter of 1996, respectively.

(6) The Senate recognizes that self-regulation by the private sector is generally preferable to direct regulation by the Federal Government.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that the entertainment industry should do everything possible to limit the amount of violent and aggressive entertainment programming, particularly during the hours when children are most likely to be watching.

SEC. 703. PREVENTION OF UNFAIR BILLING PRACTICES FOR INFORMATION OR SERVICES PROVIDED OVER TOLL-FREE TELEPHONE CALLS.

(a) FINDINGS.—Congress makes the following findings:

(1) Reforms required by the Telephone Disclosure and Dispute Resolution Act of 1992 have improved the reputation of the pay-per-call industry and resulted in regulations that have reduced the incidence of misleading practices that are harmful to the public interest.

(2) Among the successful reforms is a restriction on charges being assessed for calls to 800 telephone numbers or other telephone numbers advertised or widely understood to be toll free.

(3) Nevertheless, certain interstate pay-per-call businesses are taking advantage of an exception in the restriction on charging for information conveyed during a call to a "toll-free" number to continue to engage in misleading practices. These practices are not in compliance with the intent of Congress in passing the Telephone Disclosure and Dispute Resolution Act.

(4) It is necessary for Congress to clarify that its intent is that charges for information provided during a call to an 800 number or other number widely advertised and understood to be toll free shall not be assessed to the calling party unless the calling party agrees to be billed according to the terms of a written subscription agreement or by other appropriate means.

(b) PREVENTION OF UNFAIR BILLING PRACTICES.—

(1) IN GENERAL.—Section 228(c) (47 U.S.C. 228(c)) is amended—

(A) by striking out subparagraph (C) of paragraph (7) and inserting in lieu thereof the following:

"(C) the calling party being charged for information conveyed during the call unless—

"(i) the calling party has a written agreement (including an agreement transmitted through electronic medium) that meets the requirements of paragraph (8); or

"(ii) the calling party is charged for the information in accordance with paragraph (9); or"; and

(B) by adding at the end the following new paragraphs:

"(8) SUBSCRIPTION AGREEMENTS FOR BILLING FOR INFORMATION PROVIDED VIA TOLL-FREE CALLS.—

"(A) IN GENERAL.—For purposes of paragraph (7)(C), a written subscription does not meet the requirements of this paragraph unless the agreement specifies the material terms and conditions under which the information is offered and includes—

"(i) the rate at which charges are assessed for the information;

"(ii) the information provider's name;

"(iii) the information provider's business address;

"(iv) the information provider's regular business telephone number;

"(v) the information provider's agreement to notify the subscriber of all future changes in the rates charged for the information; and

"(vi) the subscriber's choice of payment method, which may be by direct remit, debit, prepaid account, phone bill or credit or calling card.

"(B) BILLING ARRANGEMENTS.—If a subscriber elects, pursuant to subparagraph (A)(vi), to pay by means of a phone bill—

"(i) the agreement shall clearly explain that charges for the service will appear on the subscriber's phone bill;

"(ii) the phone bill shall include, in prominent type, the following disclaimer:

'Common carriers may not disconnect local or long distance telephone service for failure to pay disputed charges for information services.'; and

"(iii) the phone bill shall clearly list the 800 number dialed.

"(C) USE OF PINS TO PREVENT UNAUTHORIZED USE.—A written agreement does not meet the requirements of this paragraph unless it requires the subscriber to use a personal identification number to obtain access to the information provided, and includes instructions on its use.

"(D) EXCEPTIONS.—Notwithstanding paragraph (7)(C), a written agreement that meets the requirements of this paragraph is not required—

"(i) for calls utilizing telecommunications devices for the deaf;

"(ii) for services provided pursuant to a tariff that has been approved or permitted to take effect by the Commission or a State commission; or

"(iii) for any purchase of goods or of services that are not information services.

"(E) TERMINATION OF SERVICE.—On receipt by a common carrier of a complaint by any person that an information provider is in violation of the provisions of this section, a carrier shall—

"(i) promptly investigate the complaint; and

"(ii) if the carrier reasonably determines that the complaint is valid, it may terminate the provision of service to an information provider unless the provider supplies evidence of a written agreement that meets the requirements of this section.

"(F) TREATMENT OF REMEDIES.—The remedies provided in this paragraph are in addition to any other remedies that are available under title V of this Act.

"(9) CHARGES IN ABSENCE OF AGREEMENT.—A calling party is charged for a call in accordance with this paragraph if the provider of the information conveyed during the call—

"(A) clearly states to the calling party the total cost per minute of the information provided during the call and for any other information or service provided by the provider to which the calling party requests connection during the call; and

"(B) receives from the calling party—

"(i) an agreement to accept the charges for any information or services provided by the provider during the call; and

"(ii) a credit, calling, or charge card number or verification of a prepaid account to which such charges are to be billed.

"(10) DEFINITION.—As used in paragraphs (8) and (9), the term 'calling card' means an identifying number or code unique to the individual, that is issued to the individual by a common carrier and enables the individual to be charged by means of a phone bill for charges incurred independent of where the call originates."

(2) REGULATIONS.—The Federal Communications Commission shall revise its regulations to comply with the amendment made by paragraph (1) not later than 180 days after the date of the enactment of this Act.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) CLARIFICATION OF "PAY-PER-CALL SERVICES" UNDER TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT.—Section 204(1) of the Telephone Disclosure and Dispute Resolution Act (15 U.S.C. 5714(1)) is amended to read as follows:

"(1) The term 'pay-per-call services' has the meaning provided in section 228(j)(1) of the Communications Act of 1934, except that the Commission by rule may, notwithstanding subparagraphs (B) and (C) of such section, extend such definition to other similar services providing audio information or audio entertainment if the Commission determines that such services are susceptible to the unfair and deceptive practices that are prohibited by the rules prescribed pursuant to section 201(a).".

SEC. 704. DISCLOSURE OF CERTAIN RECORDS FOR INVESTIGATIONS OF TELEMARKETING FRAUD.

Section 2703(c)(1)(B) of title 18, United States Code, is amended—

(1) by striking out "or" at the end of clause (ii);

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following:

"(iv) submits a formal written request for information relevant to a legitimate law enforcement investigation of the governmental entity for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing (as such term is in section 2325 of this title).".

SEC. 705. TELECOMMUTING PUBLIC INFORMATION PROGRAM.

(a) FINDINGS.—Congress makes the following findings—

(1) Telecommuting is the practice of allowing people to work either at home or in nearby centers located closer to home during their normal working hours, substituting telecommunications services, either partially or completely, for transportation to a more traditional workplace;

(2) Telecommuting is now practiced by an estimated two to seven million Americans, including individuals with impaired mobility, who are taking advantage of computer and telecommunications advances in recent years;

(3) Telecommuting has the potential to dramatically reduce fuel consumption, mobile source air pollution, vehicle miles traveled, and time spent commuting, thus contributing to an improvement in the quality of life for millions of Americans; and

(4) It is in the public interest for the Federal Government to collect and disseminate information encouraging the increased use of telecommuting and identifying the potential benefits and costs of telecommuting.

(b) TELECOMMUTING RESEARCH PROGRAMS AND PUBLIC INFORMATION DISSEMINATION.—The Secretary of Transportation, in consultation with the Secretary of Labor and the Administrator of the Environmental Protection Agency, shall, within three months of the date of enactment of this Act, carry out research to identify successful telecommuting programs in the public and private sectors and provide for the dissemination to the public of information regarding—

(1) the establishment of successful telecommuting programs; and

(2) the benefits and costs of telecommuting.

(c) REPORT.—Within one year of the date of enactment of this Act, the Secretary of Transportation shall report to Congress its findings, conclusions, and recommendations regarding telecommuting developed under this section.

SEC. 706. AUTHORITY TO ACQUIRE CABLE SYSTEMS.

(a) IN GENERAL.—Notwithstanding the provisions of section 613(b)(6) of the Communications Act of 1934, as added by section 203(a) of this Act, a local exchange carrier (or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier) may purchase or otherwise acquire more than a 10 percent financial interest, or any management interest, or enter into a joint venture or partnership with any cable system described in subsection (b) within the local exchange carrier's telephone service area.

(b) COVERED CABLE SYSTEMS.—Subsection (a) applies to any cable system serving no more than 20,000 cable subscribers of which no more than 12,000 of those subscribers live within an urbanized area, as defined by the Bureau of the Census.

(c) DEFINITION.—For purposes of this section, the term "local exchange carrier" has the meaning given such term in section 3 (kk) of the Communications Act of 1934, as added by section 8(b) of this Act.

REGULATORY TRANSITION ACT OF 1995—MESSAGE FROM THE HOUSE

Mr. WARNER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on a bill (S. 219) to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 219) entitled "An Act to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Regulatory Transition Act of 1995".

SEC. 2. FINDING.

The Congress finds that effective steps for improving the efficiency and proper management of Government operations, including enactment of a new law or laws to require (1) that the Federal rulemaking process include cost/benefit analysis, including analysis of costs resulting from the loss of property rights, and (2) for those Federal regulations that are subject to risk analysis and risk assessment that those regulations undergo standardized risk analysis and risk assessment using the best scientific and economic procedures, will be promoted if a moratorium on new rulemaking actions is imposed and an inventory of such action is conducted.

SEC. 3. MORATORIUM ON REGULATIONS.

(a) MORATORIUM.—Until the end of the moratorium period, a Federal agency may not take any regulatory rulemaking action, unless an exception is provided under section 5. Beginning 30 days after the date of the enactment of this Act, the effectiveness of any regulatory rulemaking action taken or made effective during the moratorium period but before the date of the enactment shall be suspended until the end of the moratorium period, unless an exception is provided under section 5.

(b) INVENTORY OF RULEMAKINGS.—Not later than 30 days after the date of the enactment of this Act, the President shall conduct an inventory and publish in the Federal Register a list of all regulatory rulemaking actions covered by subsection (a) taken or made effective during the moratorium period but before the date of the enactment.

SEC. 4. SPECIAL RULE ON STATUTORY, REGULATORY, AND JUDICIAL DEADLINES.

(a) IN GENERAL.—Any deadline for, relating to, or involving any action dependent upon, any regulatory rulemaking actions authorized or required to be taken before the end of the moratorium period is extended for 5 months or until the end of the moratorium period, whichever is later.

(b) DEADLINE DEFINED.—The term "deadline" means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

(c) IDENTIFICATION OF POSTPONED DEADLINES.—Not later than 30 days after the date of the enactment of this Act, the President shall identify and publish in the Federal Register a list of deadlines covered by subsection (a).

SEC. 5. EMERGENCY EXCEPTIONS; EXCLUSIONS.

(a) EMERGENCY EXCEPTION.—Section 3(a) or 4(a), or both, shall not apply to a regulatory rulemaking action if—

(1) the head of a Federal agency otherwise authorized to take the action submits a written request to the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget and submits a copy thereof to the appropriate committees of each House of the Congress;

(2) the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget finds in writing that a waiver for the action is (A) necessary because of an imminent threat to health or safety or other emergency, or (B) necessary for the enforcement of criminal laws; and

(3) the Federal agency head publishes the finding and waiver in the Federal Register.

(b) EXCLUSIONS.—The head of an agency shall publish in the Federal Register any action excluded because of a certification under section 6(3)(B).

(c) CIVIL RIGHTS EXCEPTION.—Section 3(a) or 4(a), or both, shall not apply to a regulatory rulemaking action to establish or enforce any statutory rights against discrimination on the basis of age, race, religion, gender, national origin, or handicapped or disability status except such rulemaking actions that establish, lead to, or otherwise rely on the use of a quota or preference based on age, race, religion, gender, national origin, or handicapped or disability status.

SEC. 6. DEFINITIONS.

For purposes of this Act:

(1) FEDERAL AGENCY.—The term "Federal agency" means any agency as that term is defined in section 551(1) of title 5, United States Code (relating to administrative procedure).

(2) MORATORIUM PERIOD.—The term "moratorium period" means the period of time—

(A) beginning November 20, 1994; and

(B) ending on the earlier of—

(i) the first date on which there have been enacted one or more laws that—

(I) require that the Federal rulemaking process include cost/benefit analysis, including analysis of costs resulting from the loss of property rights; and

(II) for those Federal regulations that are subject to risk analysis and risk assessment, require that those regulations undergo standardized risk analysis and risk assessment using the best scientific and economic procedures; or

(ii) December 31, 1995;

except that in the case of a regulatory rulemaking action with respect to determining that a species is an endangered species or a threatened species under section 4(a)(1) of the Endangered Species Act of 1973 (16 U.S.C. 1533(a)(1)) or designating critical habitat under section 4(a)(3) of that Act (16 U.S.C. 1533(a)(3)), the term means the period of time beginning on the date described in subparagraph (A) and ending on the earlier of the first date on which there has been enacted after the date of the enactment of this Act a law authorizing appropriations to carry out the Endangered Species Act of 1973, or December 31, 1996.

(3) REGULATORY RULEMAKING ACTION.—

(A) IN GENERAL.—The term "regulatory rulemaking action" means any rulemaking on any rule normally published in the Federal Register, including—

(i) the issuance of any substantive rule, interpretive rule, statement of agency policy, notice of inquiry, advance notice of proposed rulemaking, or notice of proposed rulemaking, and

(ii) any other action taken in the course of the process of rulemaking (except a cost benefit analysis or risk assessment, or both).

(B) EXCLUSIONS.—The term "regulatory rulemaking action" does not include—

(i) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to repealing, narrowing, or streamlining a rule, regulation, or administrative process or otherwise reducing regulatory burdens;

(ii) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to matters relating to military or foreign affairs functions, statutes implementing international trade agreements, including all agency actions required by the Uruguay Round Agreements Act, or agency management, personnel, or public property, loans, grants, benefits, or contracts;

(iii) any agency action that the head of the agency and the Administrator of the Office of Information and Regulatory Affairs within the Office of Management and Budget certify in writing is limited to a routine administrative function of the agency;

(iv) any agency action that—

(I) is taken by an agency that supervises and regulates insured depository institutions, affiliates of such institutions, credit unions, or government sponsored housing enterprises; and

(II) the head of the agency certifies would meet the standards for an exception or exclusion described in this Act; or

(v) any agency action that the head of the agency certifies is limited to interpreting, implementing, or administering the internal revenue laws of the United States.

(4) RULE.—The term "rule" means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy. Such term does not include the approval or prescription, on a case-by-case or consolidated case basis, for the future of rates, wages, corporation, or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor, or of valuations, costs, or accounting, or practices bearing on any of the foregoing, nor does it include any action taken in connection with the safety of aviation or any action taken in connection with the implementation of monetary policy or to ensure the safety and soundness of federally insured depository institutions, any affiliate of such an institution, credit unions, or government sponsored housing enterprises or to protect the Federal deposit insurance funds. Such term also does not include granting an application for a license, registration, or similar authority, granting or recognizing an exemption, granting a variance or petition for relief from a regulatory requirement, or other action relieving a restriction (including any agency action which establishes, modifies, or conducts a regulatory program for a recreational or subsistence activity, including but not limited to hunting, fishing, and camping, if a Federal law prohibits the recreational or subsistence activity in the absence of the agency action) or taking any action necessary to permit new or improved applications of technology or allow the manufacture, distribution, sale, or use of a substance or product.

(5) RULEMAKING.—The term "rulemaking" means agency process for formulating, amending, or repealing a rule.

(6) LICENSE.—The term "license" means the whole or part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption, or other form of permission.

(7) IMMINENT THREAT TO HEALTH OR SAFETY.—The term "imminent threat to health or safety" means the existence of any condition, circumstance, or practice reasonably expected to cause death, serious illness, or severe injury to humans, or substantial endangerment to private property during the moratorium period.

SEC. 7. LIMITATION ON CIVIL ACTIONS.

No private right of action may be brought against any Federal agency for a violation of this Act. This prohibition shall not affect any private right of action or remedy otherwise available under any other law.

SEC. 8. RELATIONSHIP TO OTHER LAW; SEVERABILITY.

(a) APPLICABILITY.—This Act shall apply notwithstanding any other provision of law.

(b) SEVERABILITY.—If any provision of this Act, or the application of any provision of this Act to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this Act, shall not be affected thereby.

SEC. 9. REGULATIONS TO AID BUSINESS COMPETITIVENESS.

Section 3(a) or 4(a), or both, shall not apply to any of the following regulatory rulemaking actions (or any such action relating thereto):

(1) CONDITIONAL RELEASE OF TEXTILE IMPORTS.—A final rule published on December 2, 1994 (59 Fed. Reg. 61798), to provide for the conditional release by the Customs Service of textile imports suspected of being imported in violation of United States quotas.

(2) TEXTILE IMPORTS.—Any action which the head of the relevant agency and the Administrator of the Office of Information and Regulatory Affairs certify in writing is a substantive rule, interpretive rule, statement of agency policy, or notice of proposed rulemaking to interpret, implement, or administer laws pertaining to the import of textiles and apparel including section 334 of the Uruguay Round Agreements Act (P.L. 103-465), relating to textile rules of origin.

(3) CUSTOMS MODERNIZATION.—Any action which the head of the relevant agency and the Administrator of the Office of Information and Regulatory Affairs certify in writing is a substantive rule, interpretive rule, statement of agency policy, or notice of proposed rulemaking to interpret, implement, or administer laws pertaining to the customs modernization provisions contained in title VI of the North American Free Trade Agreement Implementation Act (P.L. 103-182).

(4) ACTIONS WITH RESPECT TO CHINA REGARDING INTELLECTUAL PROPERTY PROTECTION AND MARKET ACCESS.—A regulatory rulemaking action providing notice of a determination that the People's Republic of China's failure to enforce intellectual property rights and to provide market access is unreasonable and constitutes a burden or restriction on United States commerce, and a determination that trade action is appropriate and that sanctions are appropriate,

taken under section 304(a)(1)(A)(ii), section 304(a)(1)(B), and section 301(b) of the Trade Act of 1974 and with respect to which a notice of determination was published on February 7, 1995 (60 Fed. Reg. 7230).

(5) TRANSFER OF SPECTRUM.—A regulatory rulemaking action by the Federal Communications Commission to transfer 50 megahertz of spectrum below 5 GHz from government use to private use, taken under the Omnibus Budget Reconciliation Act of 1993 and with respect to which notice of proposed rulemaking was published at 59 Federal Register 59393.

(6) PERSONAL COMMUNICATIONS SERVICES LICENSES.—A regulatory rulemaking action by the Federal Communications Commission to establish criteria and procedures for issuing licenses utilizing competitive bidding procedures to provide personal communications services—

(A) taken under section 309(j) of the Communications Act and with respect to which a final rule was published on December 7, 1994 (59 Fed. Reg. 63210); or

(B) taken under sections 3(n) and 332 of the Communications Act and with respect to which a final rule was published on December 2, 1994 (59 Fed. Reg. 61828).

(7) WIDE-AREA SPECIALIZED MOBILE RADIO LICENSES.—A regulatory rulemaking action by the Federal Communications Commission to provide for competitive bidding for wide-area specialized mobile radio licenses, taken under section 309(j) of the Communications Act and with respect to which a proposed rule was published on February 14, 1995 (60 Fed. Reg. 8341).

(8) IMPROVED TRADING OPPORTUNITIES FOR REGIONAL EXCHANGES.—A regulatory rulemaking action by the Securities and Exchange Commission to provide for increased competition among the stock exchanges, taken under the Unlisted Trading Privileges Act of 1994 and with respect to which proposed rulemaking was published on February 9, 1995 (60 Fed. Reg. 7718).

SEC. 10. DELAYING EFFECTIVE DATE OF RULES WITH RESPECT TO SMALL BUSINESSES.

(a) DELAY EFFECTIVENESS.—For any rule resulting from a regulatory rulemaking action that is suspended or prohibited by this Act, the effective date of the rule with respect to small businesses may not occur before six months after the end of the moratorium period.

(b) SMALL BUSINESS DEFINED.—In this section, the term "small business" means any business with 100 or fewer employees.

Mr. WARNER. Mr. President, I move that the Senate disagree to the House amendment, request a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The PRESIDING OFFICER. The motion was agreed to, and the Presiding Officer (Mr. THOMAS) appointed Mr. NICKLES, Mr. STEVENS, Mr. THOMPSON, Mr. GRASSLEY, Mr. GLENN, Mr. LEVIN, and Mr. REID conferees on the part of the Senate.

ORDERS FOR MONDAY, JUNE 19, 1995

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until the hour of 12 noon on Monday, June 19, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, no resolutions come over under the rule, the call of the calendar be waived, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, there then be a period for the transaction of morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak for up to 5 minutes each; further, that at the hour of 1 o'clock the Senate resume consideration of S. 440, the National Highway System bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

PROGRAM

Mr. WARNER. Mr. President, for the information of all Senators, the cloture vote on the motion to proceed to the highway bill previously scheduled for 3 p.m. on Monday has been vitiated. Senators should also be aware that no rollcall votes will occur during Monday's session of the Senate. However, the majority leader fully expects amendments to be offered to the bill and those votes would be postponed until Tuesday to a time to be determined by the two leaders.

ADJOURNMENT UNTIL MONDAY, JUNE 19, 1995

Mr. WARNER. If there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 2:09 p.m., adjourned until Monday, June 19, 1995, at 12 noon.

HOUSE OF REPRESENTATIVES—*Friday, June 16, 1995*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. BURTON of Indiana].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 16, 1995.

I hereby designate the Honorable DAN BURTON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

With hearts of gratitude and praise, O gracious God, we offer our thanks for Your Word that points us in the right way, that accompanies us in the valley of the shadow, that never abandons us though we forget or despise, that inspires and encourages us no matter what the concern, that forgives us and pardons us of all guilt, that reminds us that in all the moments of life we are never alone, for Your Word of faith and hope and love is with us always. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from American Samoa [Mr. FALEOMAVAEGA] come forward and lead the House in the Pledge of Allegiance.

Mr. FALEOMAVAEGA led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 17. Concurrent resolution authorizing the use of the Capitol Grounds for the exhibition of the RAH-66 Comanche helicopter.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will accept five 1-minutes from each side.

IN DEFENSE OF DEFENSE

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Mr. Speaker, I think it is fair to say that the defense budget has not been a high priority for Mr. Clinton. I think it is important, however, for us to remember that the greatest portion of the defense dollars that are spent are not spent on SDI nor on the B-2 bomber.

We spend the biggest share of our defense dollars on people, the young enlisted personnel who catapult the F-14's off carriers, control military satellites, man Patriot missile batteries, and land on beaches from Normandy to Somalia. These men and women who travel in harm's way for our sake are the ones who are hurt by inadequate defense spending.

We have begun yesterday and again today the process of rebuilding our national defenses. Because of our fiscal crisis, it won't be as much as some of us would like but it is a down payment. Remember, most defense goes to the men and women who protect us every day. That is what you will find in today's military construction appropriation bill.

Mr. Speaker, history has proven to us that when we see the daylight of peace on the horizon, we tend to disarm and bask in the sunshine. We need to remember that the darkness of war can be only a few hours away.

DO NOT BALANCE THE BUDGET ON THE BACKS OF OUR CHILDREN AND SENIOR CITIZENS

(Mr. LEWIS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Georgia. Mr. Speaker, we are all in agreement, Democrats and Republicans; we must put the financial affairs of our country back in order. Our huge national debt, the legacy of the Reagan and Bush administrations, must be eliminated.

The question, Mr. Speaker, is how to cut and what to cut. The Republicans in Congress want to cut school lunches for our children, cut our student's college loans and cut Medicare for our senior citizens. This is how the Republicans propose to balance the budget.

Students will have to pay thousands more to attend college and our parents and grandparents will have to spend an extra $1,000 per year for their health care.

At the same time the Republicans propose giving a tax break to the wealthiest people in America, the super rich, the top 1 percent. This approach, is wrong, just plain wrong.

Mr. Speaker, when are the Republicans in this House going to realize that the American people want to get the financial affairs of this country in order, but not on the backs of our children and senior citizens and not while giving tax breaks to the richest people in America.

GET ON THE REFORM BANDWAGON

(Mr. LAHOOD asked and was given permission to address the House for 1 minute.)

Mr. LAHOOD. Mr. Speaker, in New Hampshire this past weekend, President Clinton agreed with Speaker GINGRICH that Medicare is in trouble. In his own words, he said, "We cannot leave the system the way it is. There have to be some changes."

Mr. Speaker, it is nice to see the President of the United States recognizes a problem that affects millions of senior citizens in our country. However, I can't help thinking how nice it would be now to actually see Democrats produce some solutions to these problems.

Unfortunately, the Democrats around here have no ideas on how to fix the current Medicare crisis. Instead, they stand up day after day to whine and moan and complain about Republican actions on Medicare.

It would be nice to see the Democrats divert some of their energy into helping us develop solutions to preserve and protect Medicare. Join the President, join the Republicans. Let's preserve and protect a very good Medicare system. Stop whining, stop complaining, get on the reform bandwagon.

REPORT ON RESOLUTION TO ESTABLISH A "CORRECTIONS CALENDAR IN THE HOUSE OF REPRESENTATIVES

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report

(Rept. No. 104–144) on the resolution (H. Res. 168) amending clause 4 of rule XIII of the rules of the House to abolish the Consent Calendar and to establish in its place a Corrections Calendar, which was referred to the House Calendar and ordered to be printed.

MEDICARE

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, for the last 30 years or so, most of the laws made by Congress assumed that Government was more efficient and more wise than any other institution in the country.

For instance, Medicare was implemented in the 1960's and was designed to provide health care, primarily to the elderly, based on the idea that Government could best distribute health care resources.

Since the creation, Medicare spending has increased dramatically. In fact, Medicare part B has increased 5,400 percent since the creation of the program. Medicare is in such bad shape that even members of the President's own Cabinet admit that Medicare will be bankrupt in 7 years.

Mr. Speaker, buried deep in the philosophy of programs like Medicare is the assumption that Government has all the answers. It does not. It is time for the American people, both Republicans and Democrats, to work together to save Medicare. It is not too late to preserve and protect it before it goes broke.

WHERE'S THE BEEF?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, for years Washington politicians have been asking, Where's the beef? I can honestly answer this morning, we found the beef. It is grazing on the beltway, 12 errant bovines on the beltway, running around recklessly, grazing at will, and some people say they are just restless, it is the breeding season.

I say, Mr. Speaker, they are looking for the budget. The President has one, the House has one, the Senate has one. The truth is the American people know there is a lot of bovine flatulence down here, and the American people want to know where the cash cow really is.

I say let's develop a budget that creates some jobs. Where's the beef politically? Sad to say, it is on the beltway.

IMPROVING CHILD-PROOF MEDICINE CAPS

(Mr. FRELINGHUYSEN asked and was given permission to address the House for 1 minute.)

Mr. FRELINGHUYSEN. Mr. Speaker, yesterday was a rare example of how Government can work with industry—instead of against them—on regulations that will improve safety. I am referring to the decision by the Consumer Product Safety Commission on child-proof medicine caps.

New Jersey is home to 15 major pharmaceutical companies with over 83 facilities statewide. The industry employs over 56,000 New Jerseyans and contributes close to $10 billion to our State's economy.

Child-proof caps have become so hard to remove—especially for our elderly—that adults leave the bottles open or switch the drugs to pill boxes, where kids can easily get into them. The result was that more children were ingesting dangerous substances.

In February, during a VA–HUD appropriations hearing, I asked that the commission work with industry to fix this problem. Yesterday's ruling does just that.

Mr. Speaker, I congratulate the commission and industry for working together. This is a win-win result and I am glad that I was able to play a part. This rule should improve child safety and make older Americans' lives easier—what could be better?

FIXING A BROKEN MEDICARE SYSTEM

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, it is part of American conventional wisdom that if it ain't broke, then don't fix it, but Medicare is broke because it is going broke. The Medicare board of trustees said in March in their 1995 annual report on Medicare, that the program is severely out of financial balance and is expected to be exhausted in 2001.

It is broke because it is going broke. We have a responsibility to fix it. That is what this debate is all about. If you look at the numbers that we are talking about, the way that we fix it is in terms of numbers. We increase the spending from $4,800 per recipient per year to $6,400 per recipient per year. In other words, we go from about $400 a month per person to about $550 a month per person. But the real challenge is working out the details of how that is done.

I am confident that we can do that. I am confident that based on where the private sector has gone to squeeze out money in the medical system, that we can do it. But what we need is the help of the Democrats, we need the help of the President, we need the help of the public. We need our own people, and we need to all work together to come up with a solution that will in fact fix this system.

IN SUPPORT OF THE PRESIDENT'S BUDGET

(Mr. MORAN asked and was given permission to address the House for 1 minute.)

Mr. MORAN. Mr. Speaker, I rise in support of the budget that our President introduced this week. It is a thoughtful, fiscally responsible, and compassionate approach to the most difficult challenge that faces this governing body.

The President has included those items that are least justifiable in terms of the Federal role. It goes after the corporate tax subsidies, the most egregious ones. It follows up on the down payment we made on balancing the budget in 1993, the Omnibus Budget and Reconciliation Act, by keeping the spending caps on domestic discretionary programs.

Most importantly, it reforms the health care system. It has the insurance reforms that we have reached consensus on, that need to be made. It does not take money from the recipients of our programs in the way that most of the Medicare cuts that are included in the Republican budget do.

But what it does is to go after the providers, the providers that, in fact, have been taking most of the increase in health care costs, the insurers, the facilities, and even some of the physicians. What we need is a reform that affects everyone, where everyone contributes a reasonable share to balancing the budget, to achieving what has got to be our Nation's foremost objective. The President's plan does that in 10 years, it does it in a responsible way, one that my colleagues on both sides of the aisle ought to support.

PERMISSION FOR COMMITTEE ON COMMERCE AND COMMITTEE ON ECONOMIC AND EDUCATIONAL OPPORTUNITIES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING 5-MINUTE RULE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule:

Committee on Commerce, and Committee on Economic and Educational Opportunities.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. NADLER. Mr. Speaker, reserving the right to object, we have been consulted about this request. We have no objection.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1996

Mr. QUILLEN. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 167 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 167

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1817) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

SEC. 2. (a) For purposes of sections 302 and 311 of the Congressional Budget Act of 1974 as they apply in the House of Representatives to the Committee on Appropriations and to the consideration of general appropriation bills, amendments thereto, or conference reports thereon, the Congress shall be considered to have adopted House Concurrent Resolution 67 in the form adopted by the House on May 18, 1995.

(b) The allocations of spending and credit responsibilities to the Committee on Appropriations that are depicted in House Report 104-120, beginning on page 144, shall be considered as the allocations required by section 602(a) of that Act to be included in the joint explanatory statement of the managers on a conference report to accompany a concurrent resolution on the budget.

(c) This section shall cease to apply upon final adoption by the House and the Senate of a concurrent resolution on the budget for fiscal year 1996.

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The SPEAKER pro tempore (Mr. BURTON of Indiana). The gentleman from Tennessee [Mr. QUILLEN] is recognized for 1 hour.

Mr. QUILLEN. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. HALL], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 167 is an open rule providing for the consideration of H.R. 1817, the Military Construction Appropriations Act for Fiscal Year 1996. The rule provides 1 hour of general debate divided equally between the chairman and ranking minority member of the Committee on Appropriations.

The rule waives clause 2 of rule XXI, prohibiting unauthorized appropriations and legislation in an appropriations bill, and also waives clause 6 of rule XXI, prohibiting reappropriations, against provisions of the bill.

Additionally, the rule provides that the spending and credit allocations to the Committee on Appropriations contained in the House-passed budget resolution shall apply for budget act enforcement purposes until final adoption of a budget resolution. Under the rule, the chair may accord priority in recognition to Members who have preprinted their amendments in the CONGRESSIONAL RECORD. Finally, the rule allows one motion to recommit.

Mr. Speaker, the waivers provided in this rule are necessary since the defense authorization bill has not yet become law. I'm not aware of any objection to such waivers, and there was bipartisan support for this rule by the Appropriations Subcommittee on Military Construction and by the Rules Committee.

Mr. Speaker, this is a special occasion that deserves proper recognition. As Members know, our colleague from Nevada, BARBARA VUCANOVICH, is the chair of the Appropriations Subcommittee on Military Construction. She is the first woman to chair an appropriations subcommittee in 40 years. And all I can say, Mr. Speaker, it is about time and I cannot think of anyone more deserving of this distinction than Mrs. VUCANOVICH. She has served this Congress with dedication and commitment for over 12 years, and she is one of the most highly respected Members of the House. I applaud her hard work and bipartisan spirit in working together with the ranking minority member, BILL HEFNER, in bringing forward this first of the 13 appropriation bills. They did an outstanding job of addressing the important housing needs, base realignment and closure costs, and construction requirements of the military.

Mr. Speaker, it is estimated that about one-eighth of all military families living off-base reside in substandard housing. Additionally, more than one-half of the on-base family housing units are unsuitable and in need of significant repair. We've all heard stories of military families whose standard of living is so low they qualify for food stamps. This is deplorable, and we have an obligation to ensure an adequate lifestyle for those patriotic, dedicated men and women who have chosen to serve this country and are willing to put their lives on the line to defend America.

About 72 percent of the projects in this bill are for the construction of new barracks, family housing, and child development centers—money well spent, in my opinion.

Mr. Speaker, this open rule will allow all Members to fully participate in the amendment process, and I urge its adoption.

Mr. Speaker, I submit the following materials for the RECORD:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of June 15, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	29	74
Modified Closed[3]	49	47	10	26
Closed[4]	9	9	0	0
Totals:	104	100	39	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of June 15, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95).
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps.	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95).
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Natl. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1517	MilCon Appropriations FY 1996	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I many consume.

Mr. Speaker, as my colleague has described, House Resolution 167 is the rule waiving points of order against provisions of the bill, H.R. 1817, the Military Construction Appropriations Act for Fiscal Year 1996. The rule is essentially an open rule with 1 hour of general debate. If does provide waivers of clause 2 of rule XXI to allow unauthorized appropriations in the bill, as well as clause 6 of rule XXI prohibiting reappropriations. It also provides that figures in the House-passed budget resolution shall apply until final adoption of the budget resolution. There was no substantial opposition to these provisions from witnesses in yesterday's Rules Committee hearing.

In the Rules Committee hearing, however, Representatives BREWSTER and HARMAN did request an amendment known as the deficit reduction lockbox amendment. This would have allowed any savings obtained through floor votes to go into a special deficit reduction trust fund. Given the interest that many of us have in deficit reduction, I believe the Rules Committee should have made the Brewster-Harman amendment in order. Our ranking minority member, Representative JOE MOAKLEY, did offer the lockbox measure as an amendment to the rule. However, it unfortunately lost 8 to 3, with no Republican support.

Mr. Speaker, this bill appropriates approximately $11.2 billion for fiscal year 1996 for military construction, family housing, and base realignments and closures for the Department of Defense. The bill appropriates approximately $4.3 billion for family housing, $3.89 billion for base realignment and closure costs, $2.8 billion for military construction, and $161 million for NATO security.

Also included in the bill is approximately $18.5 million in funding for several projects at Wright-Patterson Air Force Base, which is partially located in my congressional district. I am pleased that the committee approved these funds which will continue several projects, including an electrical upgrade at the base. Mr. Speaker, these projects are important to Wright-Patterson Air Force Base, and to the community of Dayton, OH, which has been a world leader in aviation since the days of the Wright brothers. I commend my colleagues for including them.

Mr. Speaker, under the normal rules of the House, any amendment which does not violate any House rules could be offered to H.R. 1817. The rule was passed out of the House Rules Committee by voice vote, and I urge my colleagues to adopt it.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. SOLOMON], the chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I thank the chairman emeritus for yielding me the time. The rule certainly has been adequately explained by both the gentleman from Tennessee [Mr. QUILLEN] and the gentleman from Ohio [Mr. HALL], so I will not get into that. I will speak to the bill itself.

Mr. Speaker, the military construction bill this rule makes in order will have a major impact on the morale and the quality of life of our young men and women who serve in our military today, and that is so critically important in maintaining a high quality of recruits, especially when we have to depend on an all-voluntary military as we do today.

We presently face a seriously worsening situation with respect to military housing, and this is a problem that simply must be solved if we are going to keep these young men and women in the service.

We cannot hope to recruit and then retain a high-caliber all-volunteer force if our service men and women are consigned to live in housing that we would not let our own families live in. This is how bad it is.

An estimated one-eighth of all military families residing off-base today are living in substandard housing, and that is terrible. More than half of all of our on-base family housing units are considered unsuitable and in need of significant repair.

Mr. Speaker, these are shocking and absolutely unacceptable conditions. I am pleased to note that funding in this bill for family housing is up 23 percent over last year. We found the money. This is so vital for the 60 percent of our service personnel who are married.

I am pleased to see that this bill provides the seed money for a 5-year pilot project involving the private sector to replace or renovate most or all of the on-base family housing units that are in dire need of repair today.

With Armed Forces composed entirely of volunteers, we find that our military personnel are staying in the service longer, they are marrying while in service, many of them are trying to raise families, and that is the way it should be.

There is an increase in this bill for the building and renovating of barracks that are used by our military personnel who are not married. This situation also needs to be addressed, because half of all existing barracks today are 30, 40, 50, and even 60 years old, and they are in a deplorable condition. We have a deficit on top of that of 160,000 barracks spaces to provide for quarters for these people.

So, I am just really grateful for the many good and necessary improvements made in this bill. I want to thank the gentlewoman from Nevada [Mrs. VUCANOVICH] and all of the members of her subcommittee for bringing a really quality product to the floor today. The investment we make today to improve the quality of life for our military personnel will pay off in the future, because we will find it much easier to recruit and retain and keep these good people that are serving us.

Having said all of that, I just want to again repeat what my good friend, the gentleman from Tennessee [Mr. QUILLEN], said about the gentlewoman from Nevada [Mrs. VUCANOVICH]. In bringing the military construction bill to the floor this week, my good friend from Nevada, who was formerly from my area up in upstate New York, the gentlewoman from Nevada, will become the first women in 40 years to manage an appropriations bill in the House of Representatives. That is significant.

And as best as the staff of the Committee on Appropriations can tell, she will be only the second woman in the entire history of the House to have that responsibility. So, we salute the gentlewoman, let her come down here, and let us get this good bill going.

Mr. HALL of Ohio. Mr. Speaker, I yield 7 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I rise in very strong opposition to this rule for a variety of reasons, starting with the fact that this bill itself is unbelievably $2.5 billion above last year, even while we are told that we have to reach a balanced budget which requires us to cut most programs in the budget over a 7-year period by about 30 percent.

It is to me incredibly irresponsible to be suggesting that we can raise any appropriation bill by more than 20 percent in a single year, given the budget squeeze we are facing.

But I think there is an even more basic reason to oppose this rule and that is because this rule would, in its passage, have it deemed that we had already passed the budget resolution when in fact that is not the case.

This bill is coming to the floor 2 weeks after the first appropriation bill came to the floor last year. There is still no budget which has been adopted by the majority party. This is the latest in 10 years that the Congress has been without the adoption of a budget.

Because we are still not operating under a budget, this rule would have the House, in essence, declare that it is simply the House budget resolution which is going to govern the appropriation process for the rest of the year, when we know full well that that resolution is going to have to be compromised with the Senate and a different set of numbers will be reached.

An added problem is that the budget priorities under which we are acting, and under which this bill is brought to the floor, are in fact grossly warped. While this bill is going to be $2.5 billion above last year, the Labor-Health-Education appropriation bill will be about $10 billion below last year, cutting a $70 billion bill to $60 billion.

You will see a savaging of the Low-Income Heating Assistance Program. You will see a merciless squeezing of job training programs, of health appropriations, including a potentially very large squeeze on the National Institutes of Health. It just seems to me that that is an incredibly warped set of priorities.

I tried in the full Committee on Appropriations to get a different set of 602 allocations adopted for the subcommittee so that we could produce a different set of priorities. Instead of the outlandishly high military budget which is being enforced under this process, I suggested we simply go to what I would call Domenici-plus-one, which would say that we would limit defense expenditures to $1 billion above that provided in the Senate budget resolution. That is hardly a left-wing proposition.

That level was supported by a number of well-known conservatives in the Senate who I would name if House rules allowed me to; conservatives in both parties. It would have allowed us, by limiting that defense expenditure to those levels, to provide $900 million in additional support for law enforcement programs under Commerce-Justice, it would have allowed us to provide $1 billion more for highway construction that will be allowed under the proposal which was presented by the majority.

We would be allowed to provide $2 billion more to the VA–HUD bill to protect veterans' medical services and to help low-income seniors who otherwise are going to be clobbered in housing budgets.

It would have allowed $100 million more to be used to toughen immigration enforcement. It would have allowed a saving of about a half-billion dollars on the squeeze that will otherwise be put in national parks, and it would have allowed us to reduce the incredible reductions which are going to be forced on student assistance, on biomedical research, and grants to local school districts and fuel-assistance programs as I indicated.

But because this resolution deems us to be operating under the House budget resolution, and because under that House budget resolution these warped set of priorities have been adopted, we cannot proceed to produce a more balanced set of appropriation bills if we proceed under this approach.

I want to make clear, I am not talking about spending one additional dime above the spending levels suggested by the Republican Party, by the majority party. What I am suggesting is that the way the dollars are allocated under the ceiling which we are all going to have to live with is grossly warped and this resolution, by deeming us to be operating under that procedure, simply guarantees that we cannot make any improvements in the situation.

I do not think we ought to do that. I think this rule ought to be defeated so that the entire proposal can be recommitted to the Committee on Appropriations so that the committee can produce a different set of numbers which provide a greater sense of mercy and justice for working families who are trying to help their kids go through school, for families who have health problems, for workers who need retraining, rather than sticking to the spending priorities which we are going to be required to stick to under this proposal.

□ 1040

So I would urge you to defeat the previous question on the rule, defeat the rule, send this whole proposition back to the Committee on Appropriations so we can produce a much more balanced set of spending priorities in a very tight fiscal year.

Mr. HALL of Ohio. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Speaker, this rule makes in order an amendment to cut out what is a relatively small amount of money to purchase land for the construction of the U.S. Army Museum.

Now, if this were another time, if we were not all so much aware of the fiscal realities, the Army would have gone about this in the way that the other armed services have and, in fact, every other nation has, and build it with public funds. But the Army is not asking for public funds to build the U.S. Army Museum. The museum is going to cost about $72 million, and the Army is going to raise that through private donations. That is the kind of thing we have been encouraging the public sector to do, not to spend any money that is not absolutely necessary.

The small amount of money, however, that is in this appropriations bill, and we appreciate the fact that the chairperson of the appropriations bill, the gentlewoman from Nevada [Mrs. VUCANOVICH], included it, is necessary because we cannot possibly raise enough money to purchase the land immediately and it has to be purchased immediately. Equitable Real Estate, that owns it, has plans to develop two highrise office buildings on this site.

Now, let me describe where it is because all of you have seen this site. It is on the gateway to Washington, DC. It is kitty-corner to the Jefferson Memorial, across the river, and it is on a line between the Washington Monument, the Jefferson Memorial, and what would be the Army Museum. It is a small piece of land, just to the east of the 14th Street Bridge. Everyone will see it as they enter Washington.

The small amount of money that is necessary will enable us to purchase this land at a very reasonable cost, and then the Army will go about raising money for the museum.

The Army has about 500,000 artifacts to show. Most of them are warehoused. Nobody can see them. Many of them are priceless. The Army has a story to tell, the history of the United States, how the Army secured this Nation's liberty through war and sustained it through preparation for war in a responsible manner, and all of those junctures where the Army made major decisions are going to be highlighted in this museum. It will have an inestimable value for the esprit de corps, not just of the Army but of all the armed services.

And we know that there will be 20 million American citizens who will be visiting this museum every year. It has perpetual value. That is why this small amount of money is very important, and it is important that we include it in an appropriations bill, not vote for the amendment that would eliminate it.

Mr. SKELTON. Mr. Speaker, will the gentleman yield?

Mr. MORAN. I yield to the gentleman from Missouri.

Mr. SKELTON. I certainly agree with your position on the Army Museum. As a matter of fact, it is only an appropriation to buy the land because all else is going to be built by donations. Is that not correct?

Mr. MORAN. That is correct, I say to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Is it not also correct that all of the other services have a national type of museum but the U.S. Army does not?

Mr. MORAN. They do. And it is ironic that the Army has the most to show, things dating back to the Revolutionary War, the Civil War, the War of 1812, unbelievable things that this country has no awareness of the fact that we have these and would like to show them to the public.

Mr. SKELTON. I certainly agree and compliment you on your position.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma [Mr. BREWSTER].

Mr. BREWSTER. Mr. Speaker, I rise today in strong opposition to this rule and would urge my deficit hawk colleagues to oppose this rule as well.

There has been much discussion in this Chamber about the importance of deficit reduction and balancing the budget. Mr. Speaker, this House needs to put its money where its mouth is.

This rule restricts the Brewster-Harman lockbox amendment, which would guarantee all savings achieved from cuts in this bill would go solely for deficit reduction—savings could not be used for additional spending.

Mr. Speaker, if this House votes to cut a program on the floor, then I feel—as I think a majority of this House feels—that those savings should go only to deficit reduction, not be spent somewhere else. The Brewster-Harman lockbox amendment would guarantee this savings.

Only a few months ago, this House overwhelmingly voted to pass the lockbox amendment, 418 to 5. With that kind of support, Mr. Speaker, I am disappointed the Rules Committee did not continue the commitment of deficit reduction. Instead, they restricted the Brewster-Harman lockbox from this bill.

This is the first of 13 appropriations bills to come to the House floor this year. We must not wait any longer by letting millions of discretionary dollars slip into the wasteland of Federal spending. Let us make our cuts count.

Vote "no" on this rule, and let us send H.R. 1817 back to the Rules Committee and make the Brewster-Harman lockbox in order.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Deficit hawks listen up: I am the Harman of Brewster-Harman, and this is the vote you have been waiting for.

By excluding the lockbox, the Committee on Rules is telling us that on the first appropriations bill of the season we are not prepared, let me repeat, not prepared, to force cuts to go to deficit reduction.

A little later today we are going to consider at least two cuts to this bill. Should they pass, I am telling you now that without the lockbox, they will not, hear me, not go to deficit reduction.

Why not? The answer is that the appropriators, both sides, and this is not a partisan claim, do not want to lose the ability to use saved money for other pet projects.

Let me explain how the lockbox, which an overwhelming majority of this House has already supported, works. It works this way: If we cut money from an appropriations bill and we do not at the same time on the public record reprogram it to something else, that money automatically goes into what we call a lockbox. When the House passes its bill, the lockbox contains our cuts. When the Senate passes its bill, the lockbox contains the Senate's cuts. And then in conference the conferees are limited, limited by this mechanism to coming up with a bottom-line figure that is somewhere between the House and the Senate cuts. In other words, the money cut cannot be reprogrammed. They money cut goes to deficit reduction.

This concept is overwhelmingly popular out in the land and, in fact, it is probably a better mechanism, or at least a faster mechanism, than the balanced budget amendment because it goes into effect immediately with enactment of the appropriations bill.

And I say that as a strong supporter in this Congress, and in the last Congress, of the balanced budget amendment.

Let me conclude by saying this: Casting tough votes means casting votes that could hurt at home, and this is the case for me. Most people here know, and I always say it, I represent the aerospace center of the universe, California's 36th Congressional District. I am a strong defense hawk. I spoke for and voted for the plus-ups in the defense budget because I believe in them. I certainly believe in spending on military construction.

But I also believe in two other things, and they are relevant today. One is candor. If we are serious about cutting the deficit, let us do it. And the second one is making sure that when I stand here and say that something really is deficit reduction, it really is.

And so I tell my constituents right now that by doing this, by voting against this rule and by voting against this bill, I am fighting for you because I am fighting for deficit reduction and candor in this House.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, Members of the House, I rise in strong opposition not only to the rule but to this bill, and I say, "Wake up, America. Stay tuned America," because under this bill and the next defense appropriation bill, we are going to spend a whole bunch of money. We are going to have increases in that spending, and at the same time, under the Republican budget, you are going to see cuts, drastic cuts, radical cuts in Medicare for our senior citizens. We are going to see programs such as the heating assistance for the poor in my district cut out completely, but we are going to see, like I said, spending increases in defense.

There is no shared sacrifice here. The reasons that you have to cut the Medicare as they cut Medicare is not only the defense increases but also because they have in their budget a big tax break for the wealthy, a $20,000 tax break, $20,000 a year for people making over $250,000. That is not strengthening Medicare. That is not improving Medicare. That is not making Medicare any better. That is making it harder on my senior citizens, my rural hospitals.

I have got rural hospitals out there that right now estimate that it is going to be over a million-dollar loss in revenue to them by the end of this century just because you can give tax breaks to the wealthy and you can increase defense spending.

Mr. Speaker, I strongly oppose this movement of the Republican radical majority in order to take it out of the hides of the elderly and give it to our defense spending and to the wealthy.

For that reason, I oppose the rule, and I oppose the bill.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. BROWDER].

Mr. BROWDER. Mr. Speaker, I am concerned about this rule because it does not allow the lockbox. It does not allow us to vote on the lockbox.

I am concerned about that because I have an amendment which would delete $14 million from this bill which would go to build or to purchase land here in Washington, DC, for another Army Museum. This is another.

Another Army Museum, folks, would be the 49th Army Museum in this country. I cannot understand why we want to build a 49th museum right here in Washington when we have got American men and women who are needing training, who have family housing that is just unacceptable.

I think too many people have been talking to the generals and the brass, and they ought to get out there and talk to the men and women who serve in this Army and they ought to talk to the American taxpayer.

Mr. Speaker, I just think it is a shame, and I cannot wait for us to vote on the cutting of the money for the Army Museum, but I sure wish it was being locked into deficit reduction or could be sent somewhere else, like family housing.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I am going to vote with my distinguished chairman, the gentleman from Ohio [Mr. HALL], on the previous question, but that is not because I am opposed to this rule. I want to commend the chairman. I will support the rule, and I will give the procedural vote to my party.

But I want to say this: Pigs get fat, hogs get slaughtered.

There is a way to go about this business in this whole process, and I want to thank the Committee on Appropriations for funding the three projects I had requested at the Air Force base, reserve base in Vienna, OH, to my ranking member, the gentleman from North Carolina [Mr. HEFNER], and all the chairmen responsible, the gentlewoman from Nevada [Mrs. VUCANOVICH], thank you, but you see, I did it the right way. I requested it. And then it was evaluated, and then it was scrutinized, justified, then it was authorized, and then it went to the appropriators, and I showed that process, and I showed the importance of it and the merit of it, and it was funded.

And the process can work if we first authorize, justify, scrutinize.

And I am going to support this bill. As long as the appropriators are including those issues that are properly addressed through the authorizing process, you will have my vote.

I appreciate that, and I want to thank the chairman from Ohio for giving me the time.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker, I hesitate to stand up and speak right now because I am so agitated.

But, you know, I hear all of these new-found deficit hawks up here talking. And I have the National Taxpayers Union ratings here for the last 16 years, and I guess we know who the deficit hawks are and who are not. I do not have much faith in new deficit hawks because if they were really deficit hawks, they would be up here voting for cuts day in and day out, like you do, Mr. Acting Speaker.

As a matter of fact, later this afternoon I am going to be introducing a piece of legislation that is about as thick as my briefcase is here. It is $840 billion in spending cuts, and I am telling you it cuts just about everything and it brings the deficit under control that is killing this country, that is literally ruining the country.

We are going to give this, this bill which is this thick, we are going to give it to all of the appropriators and to any other of the 435 Members. They can take little pieces of the bills as these appropriations bills come down and all of the other bills and the reconciliation, and they can take it, you can, Mr. Speaker, or I can, anyone can take one little section. It is all there in legislative language, so all Members have got to do is come to me or come to the bill drafting office, and they have it there for you. They will give it to you, the specific amendment you want.

So the point is, let us see who the real deficit hawks are.

Now, I happen to support the Army Museum because it is a small amount of money. Somebody said, "Well, $14 million is not a small amount of money." But it is because it is the seed money which will bring the Army Museum about.

I do not see amendments up here wiping out the Korean War Memorial. We are going to have an opening on April 27. We are going to have those who served in the military during the Korean war. We are going to have them coming to Washington. It is going to be a great day because we are going to honor those Korean war veterans. I did not serve in combat myself. I served in the United States Marine Corps during that period of time. It is going to be so gratifying to see that war memorial finished for those veterans who did, especially for the lives lost there.

All of these artifacts that the Army has, my good friend, the gentleman from Virginia [Mr. MORAN] was talking about, what is wrong with having a museum for the people who served, whether in World War I or World War II or the Korean war or the Vietnam war? Why can they not have a place to come? I think it is terribly important.

The bill also then allows for the volunteers to come out and raise money, like we did for the Korean War Memorial, like we did there.

I am going to tell you one thing: I hope no Republican votes for that cut when it is offered by the gentleman from Alabama [Mr. BROWDER] or anybody else. I expect them to let that bill pass and let us get that war memorial built.

Mr. BROWDER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Alabama.

Mr. BROWDER. Would my friend tell me, do you know whether the Citizens Against Government Waste favor that expenditure for these, for this Army Museum, or oppose it, the Citizens Against Government Waste?

Mr. SOLOMON. I have got their ratings for however long they have been in effect. Yes, you are right, they do, and maybe the National Taxpayers Union. But sometimes they flake off, you know, too. They do it sometimes on some of these silly environmental laws sometimes. We know where this thing stands.

I want every Republican to come to this floor and vote against the Browder amendment, and I hope some good Democrats over there do, too. I know a few that will.

Mr. BROWDER. I thank the gentleman for admitting that the Citizens Against Government Waste are opposed to this museum.

Mr. SOLOMON. Now let me make one more point. We are trying to leave here by 2 o'clock at the request of all of the family-friendly Members, as my colleagues know. Where is my good friend, the gentleman from Indiana [Mr. ROEMER]? He is up here every Friday wanting us to be family friendly, and we want to be. We are trying to get out of here at 2 o'clock this afternoon because there are a lot of Members who really need to go home this weekend to talk about Medicare and other things to their senior citizens. They are going to miss those planes if we go much longer.

Now there is a previous question coming on something called the lockbox. Now I happen to be a strong supporter of the lockbox, but the truth of the matter is, if we allow that amendment to go through today, it would be knocked out on a point of order even if the previous question is defeated, even if it is defeated. So it is a wasted vote. My colleagues would be wasting the time of the Democrats and the Republicans.

I say to my colleagues, If you don't like the way the rule is written, it's an open rule. Any Member can offer any kind of germane amendment that he wants if you don't like that, then vote against the rule. That's your prerogative, but don't waste the body's time with this previous question that's going to add another 35 to 40 minutes to the debate today, and all of these Members are not going to be able to get home on time for the weekend and do those kinds of things for their constituents.

So I would urge my colleagues, please support the previous question and vote how you want to on the rule. That's your prerogative.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the former chairman of the Committee on Veterans' Affairs, a great American, the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman very much, and, about the Browder amendment, it should be pointed up in this war museum that the gentleman from Alabama is trying to eliminate there will be a section in there honoring the National Guard and Reserve, and I point out that in World War II, the 29th Division, it was a National Guard Division, that 2,000 young men, National Guardsmen, lost their lives landing at Omaha Beach, and they will be honored in this museum, and they ought to know that, and I appreciate the gentleman yielding to me.

Mr. SOLOMON. Well, they most certainly will, and when that museum opens, I want to go with the gentleman to be the first ones to visit.

Mr. DAVIS. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to my very good friend, the gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS. Mr. Speaker, I thank the gentleman from New York [Mr. SOLOMON] for yielding.

Let me just ask my colleagues from New York on the Browder amendment: Isn't it true we're going to get over $5 in contributions for every dollar we invest in this museum?

Mr. SOLOMON. Absolutely, because the American people live by the words "pride, patriotism and volunteerism." The gentleman is absolutely right.

Mr. DAVIS. And I understand there are over 500,000 artifacts sitting out there now, and some of these, frankly, face the fact that they could be lost over time if we do not find a permanent place for them.

Mr. SOLOMON. They could be lost, and also they could deteriorate and be destroyed.

Mr. DAVIS. And I guess the last question to ask is: The particular piece of property that we have in mind is, of course, adjacent to the Capitol and Arlington Cemetery in those areas, but we may lose this piece if we don't act within this next year; isn't that correct?

Mr. SOLOMON. It could very well be so. We almost even did not get the space for the Korean War Memorial.

Mr. DAVIS. Well, I plan to join the gentleman from New York [Mr. SOLOMON] in opposing the amendment.

Mr. SOLOMON. I thank the gentleman for his support.

Mr. HALL of Ohio. Mr. Speaker, I yield 30 seconds to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Speaker, I think this is a good bill, and I support the bill.

Let us set one thing straight for the Committee on Rules. They could have crafted a rule that would have done no harm to this bill, that would have made in order the lockbox amendment. That is a pretty bold assessment that they are putting up here. It could have been in order, would have done no harm to this bill, and it would have done what the people who had signed on to the lockbox amendment long ago wanted. It was absolutely done away with in the budget considerations, so let us not say it would have been out of order. It could have been in order but for the rule that was crafted. They could have crafted a rule that would have made it in perfect order for the lockbox amendment to be offered in this bill, and it would have done no damage to the military construction bill.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman from New York.

Mr. SOLOMON. Let me just say that the gentleman just does not understand the rule, that if the previous question were defeated and do not interrupt me, if the previous question were defeated, and then this was brought back to make this in order, it would, in my opinion, still be subject to a point of order. I cannot speak for the Parliamentarian, but from all previous precedents I know that that would be ruled out of order, and it would not be back here.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

I would only say, Mr. Speaker, that that was not the question. If we could have passed the amendment in the Committee on Rules yesterday that was voted down, I believe 8 to 3, it would have been in order to offer this amendment with the proper waivers, and that was the question that he asked, not if, in fact, we defeat this previous question.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. HALL of Ohio. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Speaker, I do not understand a lot of things around here, but I do understand rules. I have been in this House for 20 years, so for the gentleman to tell me I do not understand the rules is a little bit ludicrous.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. HALL of Ohio. I yield to the gentleman from New York.

Mr. SOLOMON. I just tell the gentleman I have been here for just about as long, and, if he looks at all these rules here, we can all stand a little learning sometime.

Mr. HALL of Ohio. Mr. Speaker, I do not have any more speakers. I would only say that I would urge my colleagues to defeat the previous question, and, if the previous question is defeated, I would offer an amendment that would make in order the Brewster-Harman deficit reduction lockbox amendment.

Mr. Speaker, I ask unanimous consent that my amendment be printed in the RECORD at this point.

The SPEAKER pro tempore (Mr. BURTON of Indiana). Is there objection to the request of the gentleman from Ohio?

There was no objection.

Proposed amendment to House Resolution 167: At the end of the resolution, add the following:

"SEC. 3. Before consideration of any other amendment, it shall be in order to consider, any rule of the House to the contrary notwithstanding, an amendment on the subject of the deficit reduction lockbox to be offered by Representative Brewster of Oklahoma and Representative Harman of California and submitted to be printed in the CONGRESSIONAL RECORD no later than June 16, 1995."

Mr. HALL of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. QUILLEN. Mr. Speaker, I, too, yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 223, nays 180, not voting 31, as follows:

[Roll No. 386]

YEAS—223

Allard
Armey
Bachus
Baker (CA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dornan
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NAYS—180

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clement
Clyburn
Coleman
Collins (MI)
Condit
Conyers
Costello
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Laughlin
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Tauzin
Tejeda
Thompson
Thurman
Torres
Torricelli
Towns
Traficant
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Zimmer

NOT VOTING—31

Ackerman
Archer
Baker (LA)
Chapman
Clay
Clayton
Collins (IL)
Coyne
Dickey
Dooley
Doolittle
Ehrlich
Flake
Gallegly
Gephardt
Hayes
Jefferson
Kleczka
Largent
Matsui
Mineta
Moakley
Parker
Pelosi
Schumer
Smith (NJ)
Stokes
Thornton
Torkildsen
Tucker
Yates

☐ 1126

Mr. WARD and Mr. VISCLOSKY changed their vote from "yea" to "nay."

Mr. RADANOVICH and Mr. TAYLOR of Mississippi changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. BURTON of Indiana). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 245, noes 155, not voting 34, as follows:

[Roll No. 387]

AYES—245

Abercrombie
Allard
Archer
Armey
Bachus
Baker (CA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dicks
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Funderburk
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Rangel
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torricelli
Traficant
Upton
Vucanovich
Waldholtz
Walker

Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NOES—155

Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clement
Clyburn
Collins (MI)
Condit
Conyers
Costello
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Manton
Markey
Martinez
Mascara
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Minge
Mink
Moran
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rahall
Reed
Reynolds
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Skaggs
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Thompson
Thurman
Towns
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Zimmer

NOT VOTING—34

Ackerman
Baker (LA)
Chapman
Clay
Clayton
Collins (IL)
Coyne
Dickey
Dooley
Ehlers
Ehrlich
Flake
Gallegly
Gephardt
Hayes
Jefferson
Kleczka
Largent
Lewis (CA)
Maloney
Matsui
Mineta
Moakley
Pelosi
Royce
Schumer
Smith (NJ)
Stokes
Thornton
Torkildsen
Torres
Tucker
Waters
Yates

□ 1135

Mr. HALL of Ohio changed his vote from "no" to "aye."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FLAKE. Mr. Speaker, due to an unavoidable absence, today I missed rollcall vote No. 386, ordering the previous question, and rollcall vote No. 387, on House Resolution 167. Had I been present, I would have voted "aye" on each of those rollcall votes.

PERSONAL EXPLANATION

Mr. EHRLICH. Mr. Speaker, on rollcall Nos. 386 and 387, I was unavoidably detained by official business in my district.

Had I been present, I would have voted "aye."

The SPEAKER pro tempore (Mr. BURTON of Indiana). Pursuant to House Resolution 167 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1817.

□ 1136

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1817) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, with Mr. BARRETT of Nebraska in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 30 minutes, and the gentleman from North Carolina [Mr. HEFNER] will be recognized for 30 minutes.

The Chair recognizes the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Ohio [Ms. KAPTUR].

Ms. KAPTUR. Mr. Chairman, I would like to congratulate the gentlewoman and inform the membership that not only is this bill historic, but, in fact, the moment we are about to experience here with the gentlewoman from Nevada [Mrs. VUCANOVICH], the chair of the Subcommittee on Military Construction handling this bill, is a truly historic moment for women and for men in our country, because, in fact, as she moves this bill today, this will only be the second time in the 200-year history of our country that a woman has chaired any of the subcommittees of the Committee on Appropriations, which is an exclusive committee.

The last such woman to handle such a bill was Julia Butler Hansen of Washington State who, at the age of 67, retired from this institution and chaired the Subcommittee on Interior and Related Agencies at the end of her career.

I just want to congratulate the gentlewoman. The road here is still a difficult one for women and to rise and chair one of the most exclusive subcommittees is truly an honor. We are proud of you. Good luck with the bill and congratulations to the people of Nevada for sending you here.

Mrs. VUCANOVICH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentlewoman for those remarks. All we need to do now is get along with this and get this done.

Mr. Chairman, it is my pleasure to present to the House the recommendations for the military construction appropriations bill for fiscal year 1996. The funding contained in this bill reflects only 4 percent of the total defense authorization passed by the House yesterday, totals $11.2 billion, and is within the subcommittee's 602(b) allocation for both budget authority and outlays. This represents a $500 million increase over the President's request and a $2.5 billion increase over fiscal year 1995.

Only recently has public attention been given to the problems our subcommittee has been citing for several years: the quality and deficit of military family housing for our military personnel, the necessity for support facilities for our service members and their families, and the importance of providing an adequate working environment to improve productivity and readiness. The committee has heard testimony from many different spectrums regarding these problems—and, we continue to feel strongly that the funds in this bill significantly contribute to the readiness and retention of our military personnel.

The appropriation and authorization committees have worked closely to provide for the number one priority of the military—quality of life for the men, women and their families, who voluntarily serve. Not one single project is included in this bill that was not included in the authorization bill which passed yesterday.

There is no question that there is a crisis in providing adequate housing. I cannot emphasize enough what an important role this plays in retention and readiness. This is the number one concern of our military personnel. Many barracks still contain gang latrines, suffer from inadequate heating and cooling, corroded pipes, electrical systems which fail and peeling lead-based paint. Continuous maintenance is required. Over 600,000 men and women are living in troop housing and about one half of the barracks were built 30 or more years ago, with an average age of 40 years. Of this inventory, over one fourth are considered substandard, and the Department estimates it will take up to 40 years at a cost of $8.5 billion to correct these deficiencies.

The situation with family housing is not much better. Two-thirds of the 350,000 family housing units in DOD's inventory are over 30 years old and require a substantial annual investment to meet maintenance requirements. Over the years, the majority of these homes have gone without adequate maintenance and repair and a current backlog in excess of $2 billion. This coupled with nearly 30 years and another $3 billion to eliminate the deteriorated and failing inventory pose a serious problem to the services. The committee recognizes that a combination of several different approaches will be necessary to help meet housing needs. A total of $4.3 billion, or 40 percent of this bill, is devoted to construction and operations and maintenance of the existing inventory. In addition, $22 million is included to fund Secretary Perry's top priority to begin the implementation of a pilot project to encourage private sector initiatives to help eliminate the family housing crisis. The challenge to help resolve this problem is for a sustained overall commitment, by Congress and the administration, at funding levels that will reduce the deficits and increase the quality of living conditions in a reasonable period of time.

This bill is not just about housing, it is also about necessary support facilities for our service members and their families—facilities that are growing more important with increased deployments; and, the importance of providing an adequate working environment to improve productivity and readiness. The bill provides needed facilities, worldwide, to support air, sea, and land operations for our forces; and, those facilities necessary to maintain a vast array of weapons and equipment. Twenty-five percent of this bill, or $2.8 billion, is devoted to military construction for these facilities. Also included under the military construction accounts is $636 million to address the substandard facilities our troops must live in; $207 million for environmental compliance; $179 million for medical related facilities; $108 million for chemical demilitarization and $57 million for child development centers.

In addition, a significant portion of this appropriation—35 percent or $3.9 billion, is to fund base realignment and closures. The implementation of base closures requires large upfront costs to ensure the eventual savings. Over 51 percent of the increase in this bill is applied toward the base closure accounts. This amount of funding will keep closures on schedule, includes $785 million for implementation of the 1995 round now under consideration, and devotes $457 million for environmental restoration at closed bases.

Mr. Chairman, in conclusion, I would like to thank the members of the subcommittee for their help in bringing this bill to the floor. We have worked in a bipartisan manner to produce a bill which begins to address the military's priorities. I want to express my deep appreciation to Mr. HEFNER for his commitment to this bill. When he was chairman of this subcommittee, he worked hard to provide badly needed quality of life improvements and many other programs that contribute to the well-being of our forces. He did this at a time these programs were not in the press and of such a high priority. As the ranking member, he has continued this commitment—his cooperation and insights into the problems we confront have been invaluable.

Mr. Chairman, I realize we are asking our colleagues to vote for a substantial increase. I hope as we debate this bill today they keep in mind that we are only talking about 4 percent of the total defense budget. But this $11.2 billion directly supports the men and women in our Armed Forces—it increases productivity, readiness and recruitment—all very vital to a strong national defense. Mr. Chairman, I ask my colleagues to join us in support of this bill.

MILITARY CONSTRUCTION APPROPRIATIONS BILL (H.R. 1817)

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Military construction, Army	550,476,000	472,724,000	625,608,000	+75,132,000	+152,884,000
Military construction, Navy	365,110,000	468,086,000	568,243,000	+203,133,000	+100,157,000
Military construction, Air Force	516,813,000	495,655,000	578,841,000	+62,028,000	+83,186,000
Military construction, Defense-wide	504,118,000	857,405,000	728,332,000	+224,214,000	-129,073,000
Total, Active components	1,956,517,000	2,313,870,000	2,521,024,000	+564,507,000	+207,154,000
Military construction, Army National Guard	188,062,000	18,480,000	72,537,000	-115,525,000	+54,057,000
Military construction, Air National Guard	249,056,000	85,647,000	118,267,000	-130,789,000	+32,620,000
Military construction, Army Reserve	57,370,000	42,963,000	42,963,000	-14,407,000	
Military construction, Naval Reserve	22,748,000	7,920,000	19,655,000	-3,093,000	+11,735,000
Military construction, Air Force Reserve	57,066,000	27,002,000	31,502,000	-25,564,000	+4,500,000
Total, Reserve components	574,302,000	182,012,000	284,924,000	-289,378,000	+102,912,000
Total, Military construction	2,530,819,000	2,495,882,000	2,805,948,000	+275,129,000	+310,066,000
NATO Security Investment Program	119,000,000	179,000,000	161,000,000	+42,000,000	-18,000,000
Family housing, Army:					
Construction	170,002,000	43,500,000	126,400,000	-43,602,000	+82,900,000
Operation and maintenance	1,013,708,000	1,337,588,000	1,337,596,000	+323,888,000	
Total, Family housing, Army	1,183,710,000	1,381,088,000	1,463,996,000	+280,286,000	+82,900,000
Family housing, Navy and Marine Corps:					
Construction	267,465,000	465,755,000	531,289,000	+263,824,000	+65,534,000
Operation and maintenance	937,599,000	1,048,329,000	1,048,329,000	+110,730,000	
Total, Family housing, Navy	1,205,064,000	1,514,084,000	1,579,618,000	+374,554,000	+65,534,000
Family housing, Air Force:					
Construction	277,444,000	249,003,000	294,503,000	+17,059,000	+45,500,000
Operation and maintenance	824,845,000	849,213,000	863,213,000	+38,368,000	+14,000,000
Total, Family housing, Air Force	1,102,289,000	1,098,216,000	1,157,716,000	+55,427,000	+59,500,000
Family housing, Defense-wide:					
Construction	350,000	3,772,000	3,772,000	+3,422,000	
Operation and maintenance	29,031,000	30,467,000	30,467,000	+1,436,000	
Total, Family housing, Defense-wide	29,381,000	34,239,000	34,239,000	+4,858,000	
Department of Defense Family Housing Improvement Fund 1/		22,000,000	22,000,000	+22,000,000	
Homeowners Assistance Fund, Defense		75,566,000	75,566,000	+75,566,000	
Total, Family housing	3,520,444,000	4,125,221,000	4,333,155,000	+812,711,000	+207,934,000
Construction	(715,261,000)	(762,030,000)	(955,964,000)	(+240,703,000)	(+193,934,000)
Operation and maintenance	(2,805,183,000)	(3,265,605,000)	(3,279,605,000)	(+474,422,000)	(+14,000,000)
Family Housing Improvement Fund		(22,000,000)	(22,000,000)	(+22,000,000)	
Homeowners Assistance Fund		(75,566,000)	(75,566,000)	(+75,566,000)	
Base realignment and closure accounts:					
Part I	87,600,000			-87,600,000	
Part II	265,700,000	964,843,000	964,843,000	+699,143,000	
(By transfer)	(133,000,000)			(-133,000,000)	
Part III	2,322,856,000	2,148,480,000	2,148,480,000	-174,376,000	
Part IV		784,569,000	784,569,000	+784,569,000	
Total, Base realignment and closure accounts	2,676,156,000	3,897,892,000	3,897,892,000	+1,221,734,000	
Procurement: General provisions 2/	-10,421,000			+10,421,000	
FY 1995 Emergency Supplemental (P.L. 104-6)	-100,800,000			+100,800,000	
Grand total	8,735,400,000	10,697,895,000	11,197,895,000	+2,462,495,000	+500,000,000
Appropriations	(8,735,400,000)	(10,697,895,000)	(11,197,895,000)	(+2,462,495,000)	(+500,000,000)
(By transfer)	(133,000,000)			(-133,000,000)	

1/ Budget amendment submitted 6/2/95 (H.Doc. 104-80).

2/ Budget amendment submitted 3/15/94 (H.Doc. 103-220, page 10).

☐ 1145

Mr. Chairman, I reserve the balance of my time.

Mr. HEFNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I thank the gentlewoman for those kind remarks.

Mr. Chairman, in general, I want to rise in support of this bill, and, of course, to complement the recommendations made by Chairwoman VUCANOVICH and the way in which the bill was put together. As chairman of this subcommittee I have in the past emphasized providing adequate funding for quality of life projects. For years many people would pay lip service to the concept of addressing our family housing and barracks deficits. We on this subcommittee understand perhaps better than any other group of Members, that providing our men and women in the military with a decent place to live and raise their families is the key to readiness and retention, and we are actually doing something about it in this bill.

I applaud the chairwomen's continuing of this theme as she developed the recommendations for fiscal year 1996. The quality of life projects included in this bill will reduce the deficit of adequate barracks and family housing spaces, and will provide additional child care capacity in many locations.

At Fort Bragg and Pope Air Force Base several vitally needed projects have been funded. In particular the folks at Fort Bragg will benefit from a vitally needed new health clinic. The current facility is a two-story World War II building with no handicapped access and conditions that make it impossible to maintain sanitary operations. In addition two badly needed barracks projects have been funded along with a staging area complex. This will increase the readiness of our vital forces stationed at Fort Bragg.

It is my understanding that the bill is $500 million above the President's request, and that this is based on the House budget resolution which added several billion to the President's request for Defense. The final number for Defense spending is pending before the Budget Committee's in their conference, and therefore the ability of the subcommittee to retain that $500 million in additional funds is in some doubt. While I understand the committee's action to spend these additional funds, we will find ourselves with some difficult choices later on in the process.

The bill recommends $11.2 billion in budget authority, and is consistent with the section 602(b) allocation. The bill contains most of the individual projects recommended in the authorization bill just passed by the House, and contains no unauthorized projects.

Of the funds added to the President's request $202 million are for barracks, $207 million is for family housing, $34 million is for child development centers, and $80 million is for medical programs and active component projects. Of the funds added to the bill 72 percent are for these quality of life items.

There may be some amendments to this bill which cuts all or a portion of these added projects. I will oppose those amendments. After all the years of rhetoric on improving living and working conditions in the military, its time to act and approve this funding.

Finally, I want to compliment Mrs. VUCANOVICH for the way in which this bill was put together. The needs of many Members from both sides of the aisle were taken into account in the formulation of the bill, and it reflects a bipartisan effort. I would highly recommend that Members support the bill.

I would also like to congratulate the staff that has worked so hard and so diligently to put this bill together.

Mr. Chairman, I would urge support of this bill.

Mr. Chairman, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Chairman, I yield 5 minutes to the gentleman from Colorado [Mr. HEFLEY], chairman of the Subcommittee on Military Installations and Facilities.

Mr. HEFLEY. Mr. Chairman, I rise in strong support of H.R. 1817, the military construction appropriations bill for fiscal year 1996.

Just yesterday, the House passed H.R. 1530, the National Defense Authorization Act for the coming year. Three hundred Members supported this measure. The House should also give similar support to this bill.

As the chairman of the Subcommittee on Military Installations and Facilities, I can assure the House that this bill squarely addresses one of the most serious problems confronting the Department of Defense and the people who serve in our Nation's military services. That problem is the quality and availability of adequate troop housing and military family housing.

There is no question that there is a crisis in military housing. Over 600,000 single enlisted personnel are assigned to on-base troop housing facilities. The average age of barracks and dormitories is over 40 years. One-fourth of these facilities is considered substandard.

The situation in family housing is not much better. Approximately 218,000—or two thirds—of the homes in the housing inventory of the Department of Defense are classified inadequate. One-quarter of the homes in the DOD inventory is over 40 years old and two-thirds are over 30 years old. This aging military family stock has extremely high maintenance and repair needs.

To put something tangible behind these dry statistics, I have here some examples of the problem we are trying to fix.

The first photo was taken at the U.S. Air Force Base in Incirlik, Turkey. This is military family housing. If anything this illustrates what we are trying to deal with here.

This is a picture of family housing for junior enlisted personnel at NAS Lemoore in California. These homes are about 40 years old and are structurally unsound.

This is family housing at the Naval Training Center, Great Lakes, IL.

It looks like a country that has been controlled by communism for 40 years, does it not? The buildings are falling apart, the wires are exposed. Again, this is family housing for our people we ask to serve in the armed services.

If you are in the armed services, where would you like to be stationed? The garden spot? Would that be Hawaii? Would you like to go to Hawaii to serve if you are in the armed services? If you do, this may be the way that your family is required to live. This is housing in Hawaii.

Is there any doubt that the present military housing situation is unacceptable? The Secretary of Defense has recognized that; the authorizing committee has recognized it; and so does the Appropriations Committee. Together, we are determined to put us on a path toward fixing the problem.

Mr. Chairman, I just received a letter from the Secretary of Defense, Dr. William Perry. Let me just share this with the Members:

> In light of the House completion of its consideration of fiscal year 1996 DOD authorization bill and today's debate on the fiscal year 1996 Military Construction Appropriations Act, let me again express my personal appreciation for the Members' support of your housing improvement initiative. Your leadership has been invaluable in moving this important program forward.
>
> Our effort to improve family housing is the cornerstone of our effort to enhance the quality of life of those men and women who serve so valiantly in our armed forces. Your actions and those of your Committee on Appropriations counterpart have given us the momentum we need to address the serious deficiencies that exist today.

Mr. Chairman, at the outset of the session, Chairman VUCANOVICH and I agreed that improving the quality of life for military personnel and their families would be our top priority. We also agreed that there would be no—and I stress no—unauthorized appropriations in the military construction budget. Working with our colleagues on the two subcommittees, especially Mr. ORTIZ and Mr. HEFNER, the two ranking members, we settled on a series of tough criteria to judge proposed projects.

Even more importantly, we reached a joint agreement on Milcon for the coming year which we have recommended to the House. The authorization bill is the appropriations bill. The degree of coordination, cooperation, and bipartisan spirit with which we have approached our work is unprecedented since I have been in Congress. This has not been a business-as-usual process; and this is not a business-as-usual bill.

Working with the military services, we have identified a number of unfunded and badly needed quality of life improvements in housing, child care, and health care facilities that can be executed next year. We have funded solely those projects where the need is the greatest and the dollars can immediately be put to use. We have agreed on a strong quality of life package, and I would encourage every Member of this body to support this package. It does a great deal for those we ask to defend our Nation.

Mr. HEFNER. Mr. Chairman, I yield 5 minutes to the gentleman from Alabama [Mr. BROWDER].

Mr. BROWDER. Mr. Chairman, I thank the gentleman for yielding time to me. I would like to also congratulate the gentlewoman from Nevada [Mrs. VUCANOVICH] for her leadership in the presenting of this appropriation bill.

Mr. Chairman, I am offering an amendment regarding the appropriations of $14 million for an Army museum, or for land to buy, to purchase land that the Army museum will be built on. That is the issue here.

Let me tell the Members what this is not about. This is not about Democrat versus Republican. This is not about whether you are pro-defense or anti-defense. We have good people who are for this bill and for this museum.

☐ 1200

There are some good people who are championing this. The question here is do we need to be spending taxpayer dollars for this purchase at this time?

There are several reasons why I think that we should oppose this purchase:

First, the Army already has 48 museums in the United States. I ask them in hearings, do you have any other museums? They tell me we have 48. But they want one here in the Washington, DC area so that they can have it in the monument corridor. I don't think we need a 49th museum at this price to the taxpayer.

Second, in effect we are doing this spending for a museum that does not contribute to national security, and we are doing it with money that we do not have, since we are running the deficit deeper for this purpose.

Third, in a time of budgetary restraint, it is unreasonable to make this expenditure of public funds when private donations sufficient to cover the purchase are apparently available and are a more appropriate source of funding.

It has been said that this is not going to cost the taxpayer dollars because it is going to come from private donations. I imagine that is going to be a tax-exempt private entity that is going to be doing this, so the taxpayers are going to be underwriting it. Plus, the taxpayers are being asked to spend $14 million to buy the land. I ask, the $70 million that they are going to raise privately to pay for the museum, why can we not use that money to buy the land?

Next, should the Army, in fact, be unable to raise these private contributions required to build the museum, then the Government would simply be adding more land to its inventory without any benefit to the public.

The question of whether this land is going to be available: We have got to buy it now or we will lose it. It has been sitting out there since 1987. The same companies have owned it.

CBO estimates that my amendment saves $14 million in budget authority and $2.2 million in outlays.

I would like to close, Mr. Chairman, by reading one paragraph from a letter from the Citizens Against Government Waste. This letter is just issued today, the Citizens Against Government Waste. They say:

> Finally, in the case of the land acquisition for yet another Army museum, we move to an unusual military theater of operations, the theater of the absurd. This will be Army museum number 49. How many museums do we really need while we're going another $180 billion in debt next year?

"Moreover,"—Mr. Chairman, I wish we would pay attention to this, this is the Citizens Against Government Waste—"we believe there are questions of impropriety in a building site buyout that looks likes a bailout of a major corporation with taxpayer dollars." I hope that the Members of this body will pay attention to this.

If we need a new museum, it should be paid for by private funds, and not now when we are telling the taxpayers we have got to dig deeper, and we are telling the men and women in the military that we can't help them with the readiness any more or with housing any more, but we can do this. I think we should stop talking to the generals and start talking to the men and women in our military, and start talking to the American taxpayer.

Mr. MOORHEAD. Mr. Chairman, will the gentlewoman from Nevada, distinguished chairman of the Subcommittee on Military Construction of the Committee Appropriations, yield for a colloquy?

Mrs. VUCANOVICH. I will be very happy to yield to the gentleman.

Mr. MOORHEAD. Mr. Chairman, I commend the gentlewoman for her efforts in the military construction appropriations bill to put forth a military construction program that will increase the quality of life for our military troops as well as revitalize our national security posture.

I would like to reiterate the concerns I have already expressed about the U.S. Marine Corps Reserve Center in my district in Pasadena, CA, which is the home of the 4th Low Altitude Air Defense Battalion, a frontline unit, several units of which were mobilized in Desert Storm. Here is a perfect example for a center which is run down, old, and probably unsafe.

In my discussions with the Marine Corps, they have expressed a desire to stay in Pasadena if we could demonstrate to them that we could solve their concern about inadequate and dilapidated facilities. The city of Pasadena is willing to forgo the rent that has been paid in order to keep the center where it is. What is needed is approximately $6 million to renovate the center. This is a primary example of what can be done in a cost-effective manner to revitalize existing military facilities.

Do you believe it is possible that this project may at some point in the future be included in some way as part of the military construction appropriation? I intend to continue to work with the authorizing committee of both Houses, and I hope we will be able to work together to ensure that projects such as this are included in the construction improvements put forth in fiscal year 1996 by this legislation.

Mrs. VUCANOVICH. I would like to assure the gentleman that we understand his concern and will continue to look into this matter. If the gentleman will keep us informed of his efforts with the authorizing committee, we will work together to try and find a solution.

Mr. MOORHEAD. I thank the gentlewoman very much.

Mrs. VUCANOVICH. Mr. Chairman, I yield 3 minutes to the gentleman from Alabama [Mr. CALLAHAN], vice chairman of the subcommittee.

Mr. CALLAHAN. I thank the gentlewoman for yielding me the time.

Mr. Chairman, I want to compliment the gentlewoman from Nevada [Mrs. VUCANOVICH] as well as the gentleman from North Carolina [Mr. HEFNER] for the professionalism they have displayed in handling this bill.

The gentlewoman from Nevada has taken members of her subcommittee all over the country and all over the world looking at the terrible conditions our military people are living in. The trips she took us on were not pleasurable trips because we had to face the families of American servicemen who live in these squalid conditions. We had to look at broken pipes, and electrical connections that were even dangerous.

It is ironic that this time last year when this bill was before the House, there was very little controversy. I do not think there is going to be a big controversy on the fact that we are trying to better the quality of life for the men and women who protect us in the military.

Ironically, last year the only debate we had on housing was whether or not to give the Russians over $150 million to build houses for their retired military officers. It is great that this year instead we are concentrating primarily on one of the most important things that this Congress can do, and that is to show the men and women who have come to us, and all the officers and all the people that represent the Government that have come to us and told us, "We need to recognize this tremendous dilemma we are in and we need to do something about it."

This bill does just that. It is a compliment to the ranking member and to our chairwoman and this brilliant staff she has assimilated in order to draft this legislation. Let me tell you, the Nation should be proud.

I know that every person in the military who is watching this program today is going to be appreciative of what we are doing for them and appreciative of the fact that the entire effort of this measure is to better their living conditions and to ensure they have a safe and a pleasurable place to live so they can do what they are supposed to be doing and not worrying about whether or not their family is safe at home or whether or not their roofs are leaking.

I compliment all of you today. I am proud to be a part of this subcommittee that has drafted this legislation. I know that my colleague from Alabama is concerned about minor parts of this bill, but let me tell all Members, this is a good bill just the way it is written and I think we ought to adopt it just the way it is written.

I thank the chairwoman for giving me the opportunity to express this, and thank the chairwoman and the ranking member for their compassionate understanding of the needs of these great men and women who serve us so well.

Mr. HEFNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in support of H.R. 1817, and commend the chairwoman and the ranking member for their outstanding work.

Mr. HEFNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia [Mr. SISISKY].

Mr. SISISKY. Mr. Chairman, I support the military construction appropriations bill, and particularly its commitment to family housing improvements.

In this aspect, the bill dovetails perfectly with what we have already passed in the Defense authorization bill.

That should be no surprise, because members and staff of both committees have worked very closely on this. As a result, both bills fund family housing above current levels, as well as above the administration request.

All of us have been concerned about military family housing problems over the last few years.

This is a critical component of readiness and quality of life that has not always had sufficient attention.

As outlined in my committee's report, we believe there are critical shortfalls in both quality and quantity.

Modernization and new construction have not progressed at the pace necessary to maintain our normal high standards.

Another aspect of the issue is that the All-Volunteer Force creates different kinds of housing needs.

Our military is in transition. It is no longer primarily made up of single men living in the barracks.

We have far more servicemembers—men and women—who have families and children.

Their housing needs are obviously different from those of people who served in the military even a few short years ago.

We have an obligation to keep up with this transition by ensuring that the great people who serve in the military have quality housing.

These issues are so important that I ask you: Oppose any effort to reduce our commitments to better housing.

Our military people and their families deserve the best we have to offer.

Mr. HEFNER. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I thank my good friend, the gentleman from North Carolina, for yielding me the time.

Mr. Chairman, I appreciate the perspective of my friend, the gentleman from Alabama. In fact, if the information that he believes to be the case were true, I would agree with him that we ought not go forward and build a surplus museum that represents a corporate buyout, but that is hardly the case. It could not be further from the case, in fact.

The reality is that this is a one-time opportunity, once in our lifetimes, probably in the history of our capital area, where we have one last opportunity to purchase the last major site in what is called the monumental corridor.

There is one last site left. It is kitty-corner to the Jefferson Memorial. It is on the gateway into the Capital. It is on line with the Washington Monument and Jefferson Memorial, and the private corporation that owns it wants to build high-rise office buildings on it. That is where the money is, that is where the profit is. If we do not act right now, they will do just that.

Every time we drive into the Nation's Capital, we see these big corporate office buildings at the edge of the river just before we cross the Potomac River, we will know that that is the site where we should have the U.S. Army Museum.

We have to act now. We cannot wait to raise private funds. That is what the Army would prefer to do. They do not want to have to pay for this with public funds, even though the other services pay for their national museums with public funds, and every other Nation has an Army museum that they have paid for with public funds. We need public funds only for the site acquisition, because it has to be done immediately if we are to preserve this site. That is why we need it.

The Army is going to raise $72 million. We are not asking for the money to build the U.S. Army Museum. We are only asking for the money we need right now. In fact, it is less money than the administration requested and was authorized this past week in the national security authorization.

The money has been authorized. It is not going to any kind of pork project. We have to get it now. It is a small downpayment on what will serve this country into perpetuity.

Mr. Chairman, we have 48 museums around the country, I grant you that, but they are small museums, built for specific purposes. There is no national Army museum. In fact, the 20 million people that come to the Nation's Capital are going to realize the history of this country when they go to this Army museum, and all of us are going to be proud for the vote that we take today to protect this money, to make this small down payment.

There is no other way that we can show the 500,000 artifacts that have been created throughout our Nation's history, 220 years of collecting these priceless artifacts. We have got the Spanish American War uniforms, 19th century brick casements with 32-pounder guns. We have got a signal flag that was used at Little Round Top during the Battle of Gettysburg.

The purpose of this is to instill greater citizenship among the people who visit the Nation's Capital, and in fact to provide the Army with the kind of pride and esprit de corps that they deserve. All those families and relatives and friends of people who have served in the Army ought to have that opportunity when they come to the Nation's Capital, to see these priceless artifacts, to see the development of the United States Army, to recognize the importance we put on those people who have served this country.

In fact, we have more people who served in the United States Army than any of the other services, and none of the other services obviously are opposed to this. But we need to educate our citizens as well. People are losing a sense of history in this country. That is one of the reasons we are losing some of our civility, as well, as a society.

□ 1215

This museum will show our Nation what people sacrificed to bring us to where we are. And much of that sacrifice occurred within the ranks of the United States Army.

We have compelling reasons to keep this money in, and I would urge my colleagues to defeat the Browder amendment, to leave the small amount of money in.

Mrs. VUCANOVICH. Mr. Chairman, I yield 2 minutes to the gentleman from Mississippi [Mr. WICKER], a member of our subcommittee and president of the Republican freshman class.

Mr. WICKER. Mr. Chairman, I thank the chairwoman for yielding me this time.

I rise in strong support of the military construction appropriation bill, and I want to take special note of the fact that every single dollar contained in the bill is for authorized projects.

In addition, the budget resolution set a funding goal for this appropriation and the bill meets that goal. I hasten to add that this appropriation bill is part of an overall spending plan that gives us a balanced budget by the year 2002.

The bill provides funding for military housing, airfield construction, infrastructure, for NATO, and base realignment and closure.

Our bill provides $4.3 billion for family housing, an area where, sadly, Congress has proven to be far shortsighted over the past few years. We intend to make up for that oversight today.

The men and women to serve in our Armed Forces, Mr. Chairman, have truly earned the right to a decent place to sleep and eat and their husbands, wives, and children who are left behind when they are called away at a moment's notice also have earned the right to expect better treatment from their Government.

Further, it is true that our appropriation exceeds President Clinton's request by $208 billion. Mr. Chairman, we do not have to be ashamed that we are demonstrating a greater commitment than the President has to the quality of life of those who serve in our Armed Forces. The committee simply put a higher priority on military quality of life than the President did. That is nothing to back down from.

In conclusion, Mr. Chairman, let me say this is a good bill. We have based it on sound principles. And I remind my colleagues again that every single dollar appropriated has been authorized. The committee has prioritized the needs of our Defense Department and those who serve in uniform and their families. I encourage my colleagues to support this bill and urge my colleagues to vote aye on final passage.

Mr. HEFNER. Mr. Chairman, I yield 3 minutes to the gentleman from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Chairman, we are in a situation here in the summer of 1995 where we are attempting to figure out how will we balance the budget. We had the fortunate occurrence earlier this week with the President making a commitment to join with Congress to balance the budget in a time certain.

This exercise is not going to be easy. It is going to require sacrifice in all areas of the country, in all activities that the Federal Government sponsors. And if we do not truly have shared sacrifice, we sap, we undermine, the willingness, the ability of others in this great Nation to join in this deficit-reduction budget-balancing effort.

This is the first of several appropriations bills to come before the U.S. House of Representatives. The question I submit is not really can we justify, one way or another, individual projects in this bill which are being identified for elimination. To be sure, we can.

All of us like museums. All of us like to welcome guests to our Nation's Capital and point out the fine features. All of us want to support our men and women in the Armed Forces.

All of us want to make sure that we have bases that are the best equipped in the world. But we cannot afford to do everything that each of us would like to do. The question is where do we draw the line? How do we draw the line? And I submit, Mr. Chairman, that we need to draw the line in consultation with the President and using common sense.

Is a museum something that we can afford when we are trying to balance the budget? If that museum is on a site owned by the private sector and that site has been valued at just over $10 million by the assessor in Virginia, why are we prepared to pay $14 million to the private landowner?

If we have housing facilities that are costing more than $200,000 a unit, let us ask: Is there not a way that we can do this better?

If we have facilities that are being built at bases and these facilities have not been requested by the Defense Department and by the administration, why do we need to do them this year? These are examples of things that are in this bill that we need to eliminate.

We need to send a message, not only to those men and women in this body that are composing the appropriations bills, but to the rest of the Nation, that balancing the budget is a top priority.

We cannot afford to increase by 28 percent military construction from 1994 to 1995, we cannot afford to increase by $500 million military construction in this bill over and above what the Defense Department and the White House has requested.

Mrs. VUCANOVICH. Mr. Chairman, I yield 2 minutes to the gentlewoman from Florida [Mrs. FOWLER], a member of the Committee on National Security.

Mrs. FOWLER. Mr. Chairman, I rise in strong support of the military construction appropriations bill.

This bill mirrors the authorization bill we passed yesterday, providing a much-needed boost to our military's quality of life.

For years, one administration after another has scrimped on the quality of life of our troops to pay for other priorities. In addition, we have been investing large sums in recent military construction bills to accommodate the base closure process. In fact, some 35 percent of this bill goes to base closure. While base closure investments will enable military consolidations that will reap significant dividends down the road, they also have had the effect of further squeezing our military personnel. The shortchanging of these personnel is finally coming home to roost.

Today, 60 percent of our military personnel are married, versus 40 percent only 20 years ago. Quality of life issues matter more and more. When coupled with the strains of extended deployments and uncertainties about military careers, substandard housing and other deficiencies mean that too many of our most talented military personnel are voting with their feet and leaving the military. We must act if we want to ensure that our fighting forces remain the best and the brightest.

Today we have an opportunity to do that. The bill before us includes a desperately needed $4.3 billion for military family housing. This funding is intended to help address the severe shortage of adequate military housing that exists today—a shortage that affects some 300,000 military families.

In my district, Naval Station Mayport has not seen an investment in new or renovated housing for 11 years. Some 1,300 military families—roughly 8,000 military personnel and their dependents—are waiting for base housing that is not available.

As one chief petty officer at Mayport recently said about living on-base, "when I'm gone for six months straight, the base is its own little community, totally self-sufficient with everything my family needs, and an excellent security force. There is . . . a support system for my family while I'm gone."

Mr. Chairman, I hope my colleagues will not continue to shortchange our military personnel and their loved ones today by opposing this legislation. I urge their support for this bill.

Mr. HEFNER. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. EDWARDS].

Mr. EDWARDS. Mr. Chairman, I first would like to speak out in strong support of this legislation. As someone who represents 45,000 Army soldiers, I want to say thank you to the gentlewoman from Nevada [Mrs. VUCANOVICH], the chairman of the subcommittee, and the gentleman from North Carolina [Mr. HEFNER], the ranking member, for having made a commitment to provide the quality of life for our military families that they so greatly deserve.

I would also like to speak out against the Browder amendment, which would strike the funding for any Army Museum.

I sometimes vote with Citizens Against Government Waste; I oftentimes vote with that organization. But

I take offense that they would call the proposed National Army Museum a theater of the absurd. For any organization to call a museum that would be a tribute to the hundreds of thousands of men and women who served our Nation and been willing to put their lives on the line for our freedoms, for them to call such a tribute to those men and women that is absolutely unfair and unconscionable.

What is a museum? I think a museum is an education tool. In the case of the Army Museum, it could be a retention tool. It could be a source of pride for every young man or woman serving in the U.S. Army today or any person who has ever served in the U.S. Army.

Now, people can poke fun at museums and make them sound like pork-barrel projects. I want to tell the Members, of all the experiences I have had in Washington, DC, perhaps none has been more meaningful to me personally than the 3½ hours I spent one day with my wife in the Holocaust Museum, for it was through that experience that a citizen of this country, born after the end of World War II, learned firsthand of the horror of World War II and the horror of tyranny at its worst at the hands of Adolf Hitler.

The Holocaust Museum did not glorify war and it did not glorify the Holocaust. Rather, it showed me and the thousands of schoolchildren who have visited since that our Nation must do everything possible to see that something like that tragedy never occurs again in the history of this world.

I believe an Army Museum can serve the same purpose. Such a museum would not glorify war, it would glorify those who sacrificed their full measure of devotion to see their country can have the opportunities and the freedoms that you and I enjoy today.

Such an Army Museum would also educate millions of young schoolchildren, 4 million of whom come to this Nation's Capital each and every year, and educate those children that our Nation must do everything possible to see that we prevent war, that war, in fact, is not a glorious thing as sometime it is shown to be on television, but war is a devastating experience to all those involved with it and all those affected by it.

So, Mr. Chairman and Members, I urge support not only for this legislation, but I would request your vote against the Browder amendment. Our Nation and our Army soldiers deserve a National Army Museum.

Mrs. VUCANOVICH. Mr. Chairman, I yield 2 minutes to the gentlewoman from New York [Mrs. KELLY].

Mrs. KELLY. Mr. Chairman, I rise in strong support of H.R. 1817, the fiscal year 1996 Military Construction Appropriations Act. This bill represents a reasoned approach toward addressing the shortage of quality housing within the Department of Defense. It also works to ensure the quality of life for the men and women who serve in the military. Approximately two-thirds of the family housing units in the Department's inventory are over 30 years old and require extensive maintenance. Furthermore, roughly one-half of all military barracks are also over 30 years old, with an average age of nearly 40 years. We should not expect the brave men and women in our Armed Forces to live in these conditions.

However, there is another compelling reason to support this bill. Recognizing the pressing needs of single military parents, dual military couples, and military personnel with civilian employed spouses, the Military Construction Subcommittee more than doubled the funding for child development centers. This is a significant step toward meeting the Defense Department's established goal of providing quality child care.

Nowhere is this pressing need more visible than at the U.S. Military Academy, which is located in the district I represent. H.R. 1817 provides funding for a single story, standard design child development center to provide child care for over 300 children. Although there is a lengthy waiting list, the current facilities at West Point accommodate just over one-half that amount.

The present child development center is a 3-floor warehouse constructed in 1885, 100 years ago. The part-day preschool is located in a World War II-era wood building. Both facilities have structural problems that are simply to uneconomical to repair. Clearly, those working to prepare the U.S. Army's future leaders deserve the peace of mind of knowing that their children are receiving quality child care, in decent facilities.

Mr. Chairman, H.R. 1817 provides vital funding to improve the child development center problem at West Point and numerous other military facilities throughout the Nation. It also addresses the housing crisis throughout the Department of Defense in a reasonable, fiscally responsible manner. All of the projects in the bill have been authorized and the total appropriation is consistent with the budget resolution that this Chamber passed. Without the funding provided by this bill, we run the risk of eroding the readiness and morale of our troops. We cannot allow that to happen. I urge my colleagues to support the bill. Our service men and women deserve nothing less.

□ 1230

Mr. HEFNER. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. DICKS], who is a member of the Committee on National Security.

Mr. DICKS. Mr. Chairman, I want to compliment our new chairman of the Military Construction Subcommittee for the outstanding job that she has done in this new responsibility. She has been a long-time member of this subcommittee, and the gentleman from North Carolina [Mr. HEFNER], the ranking Democrat.

For many years, I served on the Military Construction Subcommittee and we had cut to a minimum, and I think cut too deeply, into the funding for military construction and for quality of life, and if we are talking about the readiness and the training of our people, you have got to have the physical facility on these defense bases. You have got to have housing. You have got to have the educational and training facilities. You have got to have physical training facilities. These things all are important to the sailors, to the Army, the Marine Corps people, and the bottom line here is you can make some very big mistakes by cutting back on these kinds of things, these quality-of-life items.

What happens is the people then bolt, and they leave the services, and you have a major retention problem.

I can remember Admiral Hayworth coming up in 1979 to the defense subcommittee, which I have been a member of for 17 years. He says, "I am here to talk about what we have got to do to keep people in the services, and if we continue to let these facilities get worse and we do not deal with these problems in housing, physical training, all of these things that are important to the modern-era sailor and the modern-era person in the military, then they leave the services."

So I urge today that we support this bill, that we oppose the amendments that are aimed at taking out housing and training facilities, foundry at Philadelphia, so essential to maintaining some ability in the Government sector to producing propellers that is crucial to doing that important kind of work.

Let us support the committee and vote down these ill-considered amendments.

Mrs. VUCANOVICH. Mr. Chairman, I yield 1 minute to the gentleman from New Jersey [Mr. SAXTON], a member of the Committee on National Security.

Mr. SAXTON. Mr. Chairman, I rise in strong support of the 1996 military construction appropriations bill. I want to commend both Chairwoman VUCANOVICH and Chairman HEFLEY for their fine work.

In particular, I want to commend the two chairs for their initiative in addressing what we all agree is a tremendous problem, the widespread shortage and poor condition of military housing. In testimony before the milcon subcommittees this year, defense officials stated that, at current program levels, it will take years and in some cases decades to provide sufficient housing to our service men and women. As an initial down payment toward addressing this problem, this bill contains an additional $425 million for the construction and improvement to military housing and troop housing. This addition will allow for the construction of nearly 1,200 family housing units, 20 new barracks, as well as substantial renovations to family and single family housing.

I know that the construction of roads and buildings does not grab the headlines like weapons procurement or foreign policy debates. But for the young soldier and his or her family who need clean, affordable housing, this bill can make a real impact in their daily life and may, in fact, make the difference as to whether they remain a "military family" or leave the service.

As a member of the National Security Subcommittee on Military Installations and Facilities, I have seen firsthand the very real commitment to our military of both Chairwoman VUCANOVICH and Chairman HEFLEY and the ranking members, Mr. HEFNER and Mr. ORTIZ. This bill reflects their wise leadership and I strongly encourage my colleagues to support it.

Mr. HEFNER. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Chairman, I have before me a letter from the Council for Citizens Against Government Waste. In this letter, there is a description of the proposed Army Museum as "the theater of the absurd." Mr. Chairman, every American should resent those words.

I was privileged to be part of the congressional delegation that represented America at the D-day commemoration last year, the hundreds of graves near Normandy.

I have also been, years ago, to the scene of another army defense, a place called Corregidor.

And for someone to write the words "the theater of the absurd," when you wish to commemorate brave and outstanding heroism of the past, is absurd itself.

Those men and women who wear uniforms today and have worn the uniform in the past make it possible for people like this to write words like this in a free land.

Mr. Chairman, in a larger sense, someone a few moments ago spoke of sacrifice. Let us not forget we ask sacrifice of the young men and young women in uniform.

For them to live in substandard housing is wrong. It is a disgrace. We should give them the very best that we possibly can.

Mrs. VUCANOVICH. Mr. Chairman, I yield 1 minute to the gentleman from Iowa [Mr. LATHAM].

Mr. LATHAM. Mr. Chairman, I rise in strong support of the bill.

In the past several months, I have worked with both the Authorizing and Appropriations Committees on this bill and have been extremely impressed with their professionalism and commitment to producing a bill that provides the greatest possible quality of life improvements for our military personnel and their families.

I am curious about the concerns of the sponsors of the amendments to this bill based on my experiences with these two committees. While I am not a member of either the National Security Committee or the Military Construction Subcommittee, nor is anyone from the State of Iowa.

However, when the community of Sioux City presented the committee with the critical need for resurfacing the runway used by the 185th Air National Guard—a runway that is almost 10 years overdue for reconstruction—the committee listened to the case, agreed it was a priority, and included it in the bill.

The Military Construction Appropriations Committee evaluates projects on their merits. Sometimes that might result in a few changes from the administration's request, but this bill is under budget, it is properly authorized, and it was put together by a chairwoman whose only concern is producing the best possible bill.

I am as tough on unnecessary military spending as any Member of this Congress, but the facts concerning the critical needs in this area speak for themselves.

Thanks to Chairwoman VUCANOVICH, the families of pilots who fly in the 185th will not have to worry whether their loved ones will be working under unsafe conditions any longer.

I applaud her work and support this bill.

Mr. HEFNER. Mr. Chairman, I yield myself such time as I may consume.

I support this bill, and I will oppose amendments to this bill, and I plan to vote against the Browder amendment to cut funds for the museum.

But I would like to make a couple of statements. I have been, or was, chairman of the military construction for many, many years. With my ranking minority member at the time, the gentleman from Ohio [Mr. REGULA], we started this quality-of-life movement. Many years ago we visited bases all over this country and we found conditions that these people were living in were atrocious.

I would just like to make this point: I wish over the years that across the river the higher-ups and the generals would have made as much a priority of quality of life for our men and women in the service as they have gone to bat for this museum that we are considering here today.

As chairman of this committee, I remember years ago we did one museum for the Navy, and it was all paid for out of private funds. There was no taxpayers' money involved.

I guess what I just would like to say is that I am glad we are moving in the direction we now have on our committee. We have a committee here that looks after the living conditions of our men and women in service, and I would just hope that our generals in the Pentagon, both active and retired, would put as much a priority on the quality of life for our men and women in the service, as they do for a shrine here in Washington for the exploits of our brave servicemen over the years.

I plan to reluctantly vote against this particular amendment from the gentleman from Alabama. But I just wanted to say those few words because it perturbs me when I see the emphasis being so much on this one particular issue, while over the years the quality of life has been ignored before this committee over many, many years.

Mr. Chairman, I yield back the balance of my time.

Mrs. VUCANOVICH. Mr. Chairman, I yield 1 minute to the gentlewoman from North Carolina [Mrs. MYRICK].

Mrs. MYRICK. Mr. Chairman, I stand today as a strong supporter of the military and of our national defense. I have a brother and a father who are retired military.

I also will support final passage of the bill. But I am a member of the Committee on the Budget, and as such have spent the last few months working on the budget and cutting spending, et cetera.

I have a question on one of the amendments today relative to two particular requests that I understand were not requested by the military, by the Navy, in the appropriations bill. One of them is $6 million for a foundry renovation and modernization in a shipyard which had been closed by the Base Closing Commission and, as I said, was not requested. The other is $10.4 million earmarked for a physical fitness center in another shipyard that already has a physical fitness center. So, since the Navy did not request this, my question, very simply, is: I would like to ask that this amendment be supported for eliminating these two projects.

Mrs. VUCANOVICH. Mr. Chairman, I yield 30 seconds to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Chairman, I rise today in strong support of H.R. 1817, the Military Construction Appropriations Act. Allow me first to congratulate the chairwoman on her hard work. This bill is about quality of life for our members of the armed services.

H.R. 1817 employs sage and sound reasoning. Everything contained in this bill was authorized, and is fully consistent with the House-passed budget resolution. But more importantly, this bill addresses the crisis of military facilities. The main concern of this legislation, as should be the case, is the quality of life for the men, women, and their families, who serve in the Armed Forces. This is not a pork bill.

This is a necessary bill. The past decade of declining defense budgets have come at a steep cost. Readiness and morale have suffered drastically. H.R. 1817 addresses this concern—300,000 military families lack adequate housing. Nearly two-thirds of all on-base housing is substandard. It is important to note that a full 40 percent of all funds in this bill will go directly to family housing.

In addition, this bill contains important and necessary funds for Camp Blanding, a National Guard installation in my district, as part of the funding for critical construction projects. These projects are required and necessary. They would be used to replace the waste water treatment system, which was built in the late 1930's. The existing system has already been in service for 15 years past its life expectancy. Furthermore, Camp Blanding has been issued a letter of noncompliance by the Department of Environmental Regulation for inadequate chlorine residuals. Their water exceeds the national secondary drinking water regulation's maximum contamination level for iron. Mr. Chairman, the amazing thing is that Camp Blanding is not an aberration, but typical of bases across the country. At the very least, our fighting forces need—they deserve—access to clean drinking water.

The military value of such projects should be obvious. Camp Blanding's inadequate facilities must be upgraded to meet military and environmental standards. But more importantly, Camp Blanding's facilities must be upgraded because we owe it to our Nation's soldiers. They should not be forced to live in substandard and inadequate quarters. Mr. Chairman, we need to send a message to our forces that we care, that they are important to us. Mr. Chairman, we cannot afford not to pass this bill, for projects like Camp Blanding and all the other bases in similar positions.

This legislation is necessary for the readiness and morale of our Nation's troops. We must pass this legislation to improve the quality of life for our soldiers. They deserve our respect; they have earned it. I urge my colleagues to support this bill. It contains sound principles and strong medicine for an ailing and antiquated base structure.

Mr. Chairman, I urge an "aye" vote on final passage.

Mrs. VUCANOVICH. Mr. Chairman, I yield 30 seconds to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. Mr. Chairman, I rise to correct a statement made by the gentlewoman from North Carolina, who stated that a $6 million project is being appropriated for a navy yard in Philadelphia which is being closed.

The fact is the navy yard itself is scheduled for closure, but the propeller shop and foundry is not scheduled. This is what this $6 million is for, improvements to that facility, which is going to remain open and which is needed by the Navy.

Mrs. VUCANOVICH. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member offering an amendment that has been printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as having been read.

The Clerk will read.

The Clerk read as follows:

H.R. 1817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, for military construction, family housing, and base realignment and closure functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, including personnel in the Army Corps of Engineers and other personal services necessary for the purposes of this appropriation, and for construction and operation of facilities in support of the functions of the Commander in Chief, $625,608,000, to remain available until September 30, 2000: *Provided,* That of this amount, not to exceed $50,778,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

AMENDMENT OFFERED BY MR. HERGER

Mr. HERGER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HERGER: Page 2, line 12, strike "$625,608,000" and insert "$611,608,000".

The CHAIRMAN. The gentleman from California [Mr. HERGER] is recognized for 5 minutes in support of his amendment.

Mr. HERGER. Mr. Chairman, I rise to urge my colleagues to support this amendment to the Army's military construction budget.

Mrs. VUCANOVICH. Mr. Chairman, will the gentleman yield?

Mr. HERGER. I yield to the gentlewoman from Nevada.

Mrs. VUCANOVICH. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 20 minutes.

□ 1245

Mr. NADLER. Mr. Chairman, I will object.

Mr. HEFNER. Reserving the right to object, Mr. Chairman, could the gentlewoman withhold that request until the gentleman finishes his remarks and I can find out how many Members want to speak on this bill?

Mrs. VUCANOVICH. Mr. Chairman, will the gentleman yield?

Mr. HEFNER. I yield to the gentlewoman from Nevada.

Mrs. VUCANOVICH. Mr. Chairman, I am very happy to do that, and we will talk about it in between times.

Mr. NADLER. Mr. Chairman, I will object to it.

The CHAIRMAN. The request is withdrawn.

The Chair recognizes the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, I rise to urge my colleagues to support this amendment to the Army's military construction budget. This amendment eliminates $14 million in taxpayer dollars to purchase 7 acres of private land for the purpose of building a national army museum.

Mr. Chairman, let me be clear, we should always strongly support our military, and I will continue to do so. This amendment does not, in any way, move to belittle the brave Americans that served or trivialize the tremendous sacrifices that they have made for this country. Indeed, I support the building of the A museum dedicated to the soldiers of our Nation's Army—I simply believe it should be built on existing Federal lands.

The issue here is not whether the museum should be built, but rather where it should be built and more importantly can the Federal Government afford the $14 million price tag. I believe the American taxpayer would agree that $2 million an acre is a bit too much. Not only does this land acquisition cost the taxpayer, it denies private ownership and decreases revenues by taking the property off the tax rolls.

The Federal military already owns almost 650,000 acres of land when only 7 of which is needed for the museum. In fact, right here in the Washington area, we have Fort McNair, Fort Meyer, and the property surrounding the Pentagon that could be used to establish this museum. Mr. Chairman, I also understand that there may be a Federal department or two available in the near future. But my point is, I find it difficult to believe that the Army cannot find 7 acres somewhere in this country that would adequately accommodate the building of a museum. I do not see why we should spend additional taxpayer dollars to purchase more land when plenty of Federal property is already available.

If this Nation is to ever reduce the size of Government, then this Congress has to control spending where we can.

Mr. Chairman, this amendment does precisely that. It cuts unnecessary Federal spending and sends a clear message to all Federal agencies, that this Congress is committed to not making the Federal Government any larger than it already is. Why should we allocate scarce taxpayer dollars for more land instead of utilizing abundant existing lands. It simply does not make fiscal or common sense. I urge my colleagues to save taxpayer dollars and vote in favor of this amendment.

Mr. BROWDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of this amendment. My friend, the gentleman from California [Mr. HERGER], has offered his amendment which is similar to the Browder amendment. It is the same amendment. We are both supporting this amendment.

Mr. Chairman, let me make it very clear we have heard some very impassioned pleas today which the gentleman from California [Mr. HERGER] and I will agree that we want to honor American men and women who have served in our military. We are very concerned about this. But what we are saying is that there is a way to do this without having American taxpayers spend this money that increases the national debt for a museum that is the 49th museum in the United States. We have plenty of space for this.

Let me point out a few things:

First, the Army already has 48 museums in the United States. They have them up here in this area. This land is not necessary to have a museum in the Washington area.

Second, in effect we are spending this money that we do not have for a museum that would be the 49th museum.

Third, in a time of budgetary restraint it is unreasonable to make this expenditure of public funds when private donations sufficient to cover the purchase are apparently available.

Fourth, if we do spend this money to get this land, it may be that we just add more land because we may not get the money from the private donations to buy it.

Fifth, the CBO estimates that my amendment saves $14 billion in authority and $2.2 million in outlays.

The Citizens Against Government Waste have written to us today about this issue saying we move through an unusual military theater of operations, the theater of the absurd. A museum is not absurd, and men and women who have fought in the military are not absurd, but this money spent in this way is absurd. How many museums do we really need when we are going $180 billion in debt next year.

This is a very important amendment, Mr. Chairman, and I really do wish that people would talk to American men and women and American taxpayers rather than the generals who see this as an opportunity to put this monument here in this area, and there is a better way of doing this, and we can send that message to them now and tell them by doing this, by the way, we are creating this money that can be spent on family housing, that can be spent on training, that can be spent on impact aid for children or some other source. I do not know whether it can be done in this budget, in this particular bill, but it can be spent in other areas, and I urge support for this amendment.

Mrs. VUCANOVICH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the committee recommends approving this project, which was included in the administration's budget request.

General Sullivan, the Chief of Staff of the Army, Lieutant General Dominy, the Director of the Army Staff, and the Honorable Joe Reeder, the Under Secretary of the Army have all relayed that this is the Army's No. 1 priority. They strongly believe that:

The United States is the only major Nation that does not have a national Army museum in its Capital.

The essence of the American Army is the citizen-soldier. The museum will serve as a tribute to those people, telling the story of how they lived, served, and died for the Nation throughout our history, and explaining the reasons for their sacrifice and the high cost of armed conflict.

They further point out that:

It is important for the public to understand the role and mission of a military force in a democracy, and the part citizens play both by serving in the military and by monitoring our Armed Forces.

The museum will have a distinct military value, providing archival research for military historians as well as daily support to the Army's leadership.

After a 10-year search and study of over 60 potential sites, the Army has decided on a site within the extended monumental core of Washington, which will facilitate access for 1 million visitors each year.

Anticipated savings of $2 million per year will be realized by moving the Center of Military History from leased space into Army-owned space.

The Army's proposal is to acquire this site with appropriated funds, and to build the National Museum of the U.S. Army entirely with donated funds.

It is the committee's view that construction of such a facility with nonappropriated funds is entirely fitting, in recognition of the Army's role in the development of the Nation.

Both the Army and the committee have looked very hard at this land acquisition project, and the Army's best estimate is that it can be accomplished for $14 million, rather than the $17 million that was requested. That estimate is the basis for the committee's recommendation.

Mr. SKELTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I oppose the amendment. We are speaking about a tribute, tribute to soldiers. It is that simple. What we need to do is to purchase the land so that donations across our country can build this museum as a tribute to our soldiers.

I was struck by what the gentleman from Virginia said a few moments ago, that we are losing our sense of history. We in this country must regain that sense of history, particularly for the young people, those who come to Washington, those that wish to learn, those that are impressionable, because, if they see what their forefathers, particularly the soldier forefathers, thought the Army's 220-year history has done, has done for freedom, they will have a better understanding of not just the Army, but of our Nation.

We have an obligation to our soldiers. We have an obligation to our veterans, and especially those Americans who lost loved ones in uniform, to show how America's soldiers lived, and served, and died for our Nation throughout the Army's entire history.

We have an obligation as well to ensure that our society and the military do not grow apart. There is a real problem should that happen. In 1950, there were 3.9 soldiers for every 1,000. In 1996, there will be less than 2 soldiers for every 1,000 citizens. We need for Americans, young people and older folks as well, who have no contact with our Nation's Army, to understand the role, and the best place would be in a museum of this sort.

I oppose the amendment.

Mr. MCHUGH. Mr. Chairman, I move to strike the requisite number of words.

Let me start off by offering my congratulations to the gentlewoman from Nevada [Mrs. VUCANOVICH] for a remarkable job in presenting a very fair and balanced, and I think effective, piece of legislation.

Mr. Chairman, one of the more important skills, it seems to me, that any legislator should possess is the ability to separate emotions from merits, and I would suggest that this amendment is a true test of that skill. I want to assure the Chair and the Members of this body that I have the utmost respect for both the gentleman from Alabama, as well as the gentleman from California. But I would also suggest that on this occasion we differ, because this amendment, while very long on emotion, Mr. Chairman, falls very short on the merits, and I wanted to associate myself with the words of the gentleman from Texas [Mr. EDWARDS] when he said that he respected the Citizens Against Government Waste. I am proud to say that I have earned their taxpayer hero award in the past. I have my little hat that I like to wear on important occasions. But my respect does not cloak them in a gown of infallibility, and indeed on this issue they are dead wrong.

Let me make just a few points about some of the things that we raised in their letter that they circulated this morning. The first, that the Army already has 48 museums, is misleading at best. Most of these facilities are nothing more than a room set aside in some remote facility, some remote post across the United States, same kinds of rooms that are set aside in virtually every branch of the military and cannot, by any reasonable stretch of the imagination, be considered a true museums of the magnitude and scope that is considered here. The second is when they suggest that there is an impropriety or a corporate bailout involved here, and I think that kind of suggestion is simply outrageous. The fact of the matter is that the Army studied this proposal very thoroughly. They considered 60 sites, and it should be noted that this proposal is not just endorsed by the Army. It is, in fact, endorsed by the National Capital Planning Commission. It is endorsed by the Commission on Fine Arts. It is endorsed by the National Park Service, and to my friend from California who stated his concern about local tax base and tax revenues, it is also endorsed by Arlington County, which suggests that perhaps Arlington County residents understand very well the importance of this facility.

Mr. Chairman, the reasoning of this amendment would have us believe that the Secretary of Defense, that the President of the United States, that the Secretary of Army, that the Chief of Staff of the Army, do not care about the welfare of men and women under their command, do not care about the importance of other issues and quality of life.

□ 1300

Mr. Chairman, that kind of assertion is not just wrong, it is ludicrous, and it is an insult to those good men who have dedicated their lives to the service of this country.

This bill in its inclusion of funds for the National Museum for the U.S. Army is a recognition that we need, and we certainly deserve that kind of facility, a place where America can go and pay homage and remember the sacrifice that other Americans have made for more than 200 years in the name of liberty and freedom; a place to honor and to ensure that we never forget the glory, we never forget the heroes, but, most importantly, we never forget the sacrifices that are made to obtain and retain democracy.

To reject that need it seems to me, Mr. Chairman, is not an act in service to the U.S. Army. It is rather an insult to every man and women who has ever worn the uniform.

I have heard here today we should go and ask the men and women in the Army what they believe. I have no doubt in my mind that, if asked, they would think and they would say very clearly, this facility is a place that is necessary and a place of reverence to democracy, and they would endorse it wholeheartedly.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. MCHUGH. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would say to the gentleman, as one who is a former member of the U.S. Army——

Mr. MCHUGH. I am not, sir.

Mr. VOLKMER. I am. I wanted you to know I strongly support the amendment. You have asked one, I have told you.

Mr. MCHUGH. Mr. Chairman, reclaiming my time, I would still suggest, in all reverence to the gentleman's service, that I have an Army facility with more than 30,000 people of Army service on it, and I have talked to many of them, and they do support it. It is my belief that that in fact would be almost unanimous across the spectrum. I call for the rejection of this amendment.

Mr. VISCLOSKY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Browder amendment.

As a member of the Military Construction Subcommittee I have a deep respect and support for the chair of the subcommittee, Mrs. VUCANOVICH. Along with ranking member HEFNER, Chair VUCANOVICH has brought to the floor a well crafted and very fair bill.

Most importantly, the bill takes a strong stand against the abhorrent living conditions forced upon many military families. The living conditions of our soldiers and their families are a problem that has been ignored by the Department of Defense and the executive branch for decades. It is a problem the Military Construction Subcommittee has historically championed.

When Defense Secretary Perry recently asked to meet with subcommittee members on pressing housing needs, it was a breath of fresh air. Finally, someone at the Pentagon had woken up to the fact that the housing of our troops is woefully inadequate.

There is a $3 billion backlog for family housing. The barracks deficit is $8.5 billion. The Pentagon says the Army's share of the barracks deficit will take 23 years to eliminate.

And then, there are the children of those military families who must live in the housing we provide.

When during subcommittee hearings, I asked the Army what they were doing for the adolescent children of military families. I was informed that, for this year, there will be an $8.5 million program to provide school aged children and adolescents with activities targeted to prevention of at-risk behaviors.

The Army gave a glowing report of computer centers, and sports programs that were supported by this program.

But there is always a last word.

In this case, the final words were: "However, due to limited resources, the Army is not currently funded to continue these programs in fiscal year 1996 and beyond."

This was, and I repeat was, an $8.5 million program to help teens deal successfully with the unique problems they face as children of military personnel.

This was a program the Army chose to highlight as a successful, unique program for troubled adolescents. But the Army's limited resources are forcing its closure.

It is within this context that I support the Browder amendment and that I oppose the Army Museum project.

The Department's request for the museum is $17 million. This request is for land acquisition only—for 7 acres only—that's $2.4 million an acre. Are these 7 acres plated in gold?

How the Defense Department can with any clear conscience come to Congress and discuss with us the emergency of housing conditions, and at the same time request $17 million to purchase 7 acres for a museum, is beyond me. There are thousands of locations, where, at a cost more suited to this Nation's budget situation, the Army could put this museum.

It is unfortunate that this project was included in the bill. To Chair VUCANOVICH's credit, the request was limited to $14 million.

But it should be removed altogether.

Every Member of Congress and every citizen of the United States holds great respect and appreciation for our soldiers in the Army. Every soldier makes a deep, personal sacrifice to protect our Nation's freedom. The Army's legacy deserves honor and respect.

There should be a place for all Americans to go and remember, and to discover, the unique role the Army has played in this great Nation's history. But now is not the time for this project.

Maybe at a different time and a less costly location, but now we face a real housing crisis. This crisis affects those who serve now, today. Programs to help the increasing population of adolescents are being eliminated. These kids are a part of the military family, and they are struggling right now.

I urge my colleagues to support the Browder amendment and dedicate these funds to those serving in the Army today. There will be a time to support this project, but it is not now and it is not at this location.

Mr. LIVINGSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. It was requested by the U.S. Army. It was the Army that said this was one of their top priorities in order to provide a place which pays tribute to the young men and women who have served so valiantly on behalf of this country in an Army uniform throughout the history of this Nation.

They said they wanted this money, and this was with the blessing of the administration. They said they needed $17 million as a top priority to purchase land which has become available by a willing seller in the National Capital area, land that is within close proximity to this building. They said that they are going to build a museum funded with private dollars, not Federal dollars, but they need the start-up capital to acquire the land on which that museum would be located.

They said they have been conducting a 10-year search, and that they believe very strongly that on the heels of that search, with this land available and with private funds now in the pipeline to build this museum, that they can in fact do what every other service has done, and that is build a National Museum to represent their service—the U.S. Army.

I do not think it is an unusual or unreasonable request. I agree with everything else that the gentleman that just preceded me said. Unfortunately, we do have a situation in which 60 percent of the facilities available to the young people in uniform today are inadequate, and we are addressing those problems. Some of the very same people that will speak in favor of this bill are going to be decrying other portions of the bill, saying we are spending too much money on trying to provide for the young men and women in the service.

Well, that is what we are doing here. We are providing for these people by just giving them a little opportunity to express their pride in the service they have made for the country. Frankly, not all of them gave that service lightly. Some paid with their limbs, some paid with their health, and some paid with their lives, and it seems to me that it is a small token of our appreciation to purchase the land on which the museum can be built with private funds to thank them for that dedicated service.

So I hope that we will acknowledge that this is not pork-barrel spending. In fact, this committee, the Committee on Appropriations, and this subcommittee under the leadership of the distinguished gentlewoman from Nevada, has worked within their budget caps. We have a bill that conforms to the budget resolution that this Congress adopted just a month ago.

So we are not busting the budget. We are acting in response to what the administration and the Pentagon and the folks in the military uniform wish us to do. I think it is penny wise and pound foolish, as well as pretty mean-spirited, to tell them no, to tell them we are not going to provide land so you can build your museum.

Mr. LUTHER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support this amendment to strike $14 million from the Army's construction account, funds currently intended to acquire land that has been sitting for years, for a new Army Museum near the Pentagon.

I believe there are many reasons to oppose the military construction appropriations bill, but I can think of no more glaring example of unnecessary spending than this museum. Even for those who support the appropriations measure, the amendment is a common sense effort to improve the final bill. We in Congress must make every effort possible to eliminate spending for programs, no matter the level of funding, which are not justifiable, in order to be able to both balance our budget and have resources available for investments in our Nation's future.

As a new Member of Congress, I have tried to approach this issue objectively by asking some basic questions about priorities. Should an Army Museum get a higher priority than military housing or other assistance for military personnel and their families, at the same time that dozens of military installations are being slated for base closure, is it prudent to spend funds, funds we do not have, to acquire land for an Army Museum?

How would this museum contribute to military readiness or preparedness? Do we have extra money in our country's bank account, or are we in fact already beyond our ready reserve limit?

My conclusion was that it was time for us to be honest with ourselves. This museum, I do not believe, is about preserving artifacts. If it were, we would be helping the many other Army Museums that are literally falling apart in our country, with important artifacts of our history rotting away in those museums.

What we need here today is to have some common sense. That is what the American people are asking us to have. Let us show real respect for our Army personnel. Let us take care of our existing facilities in this country before building another new one.

Finally, with our country's deficit in the condition that it is in today, we have no business thinking about a proposal like this. I am surprised that a proposal like this would be in the bill. Let us take a step today toward changing the way Washington operates. Let us vote for this amendment to eliminate a needless spending project.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. LUTHER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I wish to commend the gentleman for his remarks. I think they are right on target as far as Members of Congress attempting to set priorities and spending patterns of what we are doing up here. Even though the gentleman who is the chairman of the Committee on Appropriations spoke earlier that even though it is within 902 allocation, et cetera, and it is their money, so they can spend it any way they want, well, I do not know. I thought we were up here on taxpayers' business. I thought it was the taxpayers who really we were supposed to be responsible to, not just to each other. That talk sounded to me like it was just like we were responsible only to each other.

As I look at this as a person who thinks about my taxpayers, I heard one earlier person say this morning arguing for this museum that it is only $14 million. "Only $14 million." Well, folks, hey, back home, $14 million is a whole bunch of money. A whole bunch of money. It is not just "only $14 million." And then you add to that, it is for 7 acres—$14 million for 7 acres?

The gentleman from Minnesota, I bet you got a lot of land that your taxpayers would like to sell to the Pentagon at $2 million an acre, do you not?

Mr. LUTHER. I think I could find some of that land.

Mr. VOLKMER. I think I could find a whole bunch of it in my district. That is completely unheard of, to spend this kind of money, taxpayers' money, at the same time when we look at the total picture, not just military construction, when we look at the total picture, we are going to have complete cut-out of low income energy assistance for your people and my people so they can theoretically buy 7 acres of ground to put a museum on for the U.S. Army. Well, as a former member of the U.S. Army, I want to tell you, my priorities are for my taxpayers and my people, not for a museum that we do not think we need at this time.

☐ 1315

Mr. HEFNER. Mr. Chairman, I would like to enter into an agreement with the gentlewoman.

Since we have established earlier that the House was going to try to complete their business by 2, if it is agreeable and we can accommodate everybody, I ask unanimous consent that debate on this amendment and all amendments thereto conclude at 15 minutes until 2.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

Mrs. VUCANOVICH. Mr. Chairman, reserving the right to object, I would like to agree on that on our side, but I think the time should be equally divided between the proponents and the opponents of this amendment.

Mr. HEFNER. Mr. Chairman, will the gentlewoman yield?

Mrs. VUCANOVICH. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Chairman, the request is for this one amendment and all amendments thereto. I do not know of any substitutes or amendments to this amendment.

Mrs. VUCANOVICH. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The CHAIRMAN. The Chair advises that the gentlewoman from Nevada [Mrs. VUCANOVICH], will be recognized for 15 minutes, and the gentleman from California [Mr. HERGER], will be recognized for 15 minutes.

PARLIAMENTARY INQUIRY

Mr. FOGLIETTA. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. FOGLIETTA. Mr. Chairman, if there is going to be a limitation on this amendment and all amendments thereto to end at 1:45 and there are other amendments pending, when will they be considered?

Mr. HEFNER. Mr. Chairman, will the gentleman yield?

Mr. FOGLIETTA. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Chairman, it is obvious we are not going to be able to finish this bill today. I would assume that we would come back next Tuesday and continue the bill. This takes us to the time when the House will adjourn for the week, and we will come back on next week and we will have a vote on this one single amendment and get this amendment out of the way. That is what my request was.

Mr. FOGLIETTA. Mr. Chairman, I thank the gentleman. I just wanted to make that clear.

The CHAIRMAN. The Chair has already allocated the time. The Chair recognizes the gentleman from California [Mr. HERGER].

Mr. HERGER. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, let me outline again the purpose of this amendment. The purpose of my amendment was not to eliminate the building of this museum in honor of the Army and those who have fought valiantly for our country over the centuries of our Nation's history. That is not the purpose.

The purpose of this amendment was to save $14 million to allow us to be able to go ahead and construct this museum. I might mention that the Army has indicated that this would not be done with taxpayers' dollars. It would be done by private donations, but to do so on land that the Federal Government already owns, to do so on land, for example, which is adjacent to it, Fort Myer, of which there is ample property to build a museum, or perhaps at the Pentagon on part of their parking lot where, again, there is ample land to build this museum, both of which are directly adjacent to the proposed site.

Again, during a time when we are looking at the $200 billion budget deficits, $14 million is not insignificant, when we can go out and do it with property that already exists, I believe we should do so.

So, again, I would urge the House to vote in favor of this amendment to eliminate this $14 million expenditure but to do so by building, again, this museum on land that already exists, already is owned by the Federal Government.

Mr. Chairman, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. DAVIS].

Mr. DAVIS. Mr. Chairman, I thank the gentlewoman for yielding time to me.

What this is about is that history is important. We have an obligation to continue teaching the lessons of history and remember our military experiences as they have evolved. As our Army becomes smaller, it is more important that we continue that.

This museum will be a recognition of this. To compare this museum with its over 500,000 items and artifacts to the small museums that the Army has scattered across the country is really misleading. The Army museum system today consists of a very disparate collection of localized branch-specific museums. These local collections offer a look at the past from the perspective of their particular area of interest, whether transportation or aviation or logistics, but this museum steps back to look at the experience of the American soldier going back to revolutionary times touched by all aspects of Army life during a long and proud history.

I think we can have a consolidation of some of these smaller museums if this moves ahead. But to get to the money issues that have been addressed, Mr. Chairman, for every dollar in public contribution that will go forward to buying this land, we expect a match of over $5 from the private and volunteer sector coming in. That is money well spent in this particular case.

At a time when the Army is getting one recruit for over 100 contacts it makes, this will be a good effort to increase the contacts the Army makes to over 200,000 people a year. So I rise in opposition to this amendment.

Mr. HERGER. Mr. Chairman, I yield 3 minutes to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I thank the gentleman for yielding time to me.

I also wanted to commend the gentleman from California for offering this amendment in light of all the opposition that appears to come from members of the Committee on Appropriations on military construction, but I think, as I said previously, we all should stop and think of what we are doing here. We are actually spending $14 million, which is not a small amount of money, for 7 acres of ground, 7 acres.

Now, to me that is a whole bunch, that is $2 million an acre. I do not know where you have to buy land to get it for $2 million an acre, but I guarantee you that the gentleman in the chair, the Chairman, has a whole bunch that he would like to sell to the U.S. Army for $2 million an acre. I have got a whole bunch I would like to sell.

But that is not the bottom line. The bottom line is, we are in a budget-cutting and a cost-cutting mood here and I commend the Congress for that. I believe in a balanced budget, but I also believe we need to establish priorities.

Now, when we go about cutting such things as money for school lunches, when we cut money for senior citizens, when we cut money out of low-income energy assistance, when we cut other programs for other people, then come up and say, now, here is $14 million that you can pay for 7 acres of ground in order to build a museum on, folks, I think if I go back and ask the people of my district about that, I think I know what the answer is going to be. I really think the answer is going to be, no, we would rather have that money spent on maybe a farm program.

Agriculture is taking a big cut under this budget. I would love to have $14 million more back in that agriculture budget. I would love to have $14 million more back in higher education, student loans, grants, I would love to have it there. I think that is more important than $14 million for 7 acres of ground, when I understand in Arlington County, it is only assessed at $10 million. Why are we paying $14 million for 10 million dollars' worth of grounds? The building on it is not any good. We all know that. Anybody that has ever been there knows that it is almost a wasted area.

I just do not understand it, folks. When you establish priorities, I thought that people were more important than things. It appears here the things are going to be more important than people.

It appears that if you listen to all the Members in the debate, that this thing, this museum, and by the way, I am a former member of the U.S. Army, very proud of the fact, but I do not believe that we need to spend our money, this $14 million at this time on this museum.

Mrs. VUCANOVICH. Mr. Chairman, I yield 2 minutes and 30 seconds to the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Chairman, I thank the gentlewoman for yielding time to me. It just bothers me when I see some of these Members who every time they mention the word "war," mention the word "military," or "armed forces," all of a sudden, some of these biggest spenders in the Congress all of a sudden become deficit hawks. That really bothers me.

My good friend from Missouri who just spoke is up here worried about this bill because we are spending too much money. I went over to pull out all of these lists that I carry around with me, because I do not like Members to be inconsistent. I want them to be consistent when they come on the floor. I find my good friend from Missouri [Mr. VOLKMER] listed as one of the biggest spenders in the Congress. And so all of a sudden, he is a deficit hawk.

Now, so much for credibility. Now, I just want to tell you this, I am looking at this report from the Committee on Appropriations, and nobody has taken them to task more than I have over the years. As I mentioned before, I will be introducing a bill later this afternoon or Monday at the latest with $840 billion; that is not million, that is not three quarters of a billion, that is $840 billion in spending cuts.

I wanted all of you people who are worried about this $14 million to come out here and vote for that bill or even cosponsor it. Then you will show me some guts. In the meantime, looking at this appropriation report, there is $14 million appropriated. Let me read you what it says. It says, Fort Myer Army museum land acquisition. It does not say anything about a particular piece of property.

I know the gentleman is sponsoring a resolution. He is a true deficit hawk and he means well. But we need to work this out with the Army. If we can find a better place or a cheaper place to do it, fine. The problem is, we want the war museum. We want those people who have died and sacrificed for their country to have their families be able to come here and look at those artifacts.

Mr. SKELTON. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Missouri.

Mr. SKELTON. Mr. Chairman, let me mention this. It was mentioned why not build the museum on Fort Belvoir or Fort Myer. It is prohibited to build the museum or any museum on that. That is why we have to do it here.

□ 1330

Mr. SOLOMON. Let me just say that that gentleman is also from Missouri, Mr. Chairman. I have hanging on my wall a picture of one of the great Presidents of this country. His name was Harry S. Truman. I was in the Marine Corps at the time he was here in Washington. I was proud of him, and I was a Democrat at the time. That is a good Democrat there. He would oppose this amendment.

Mr. VOLKMER. Harry Truman would never have built this museum.

Mr. SOLOMON. Yes, he would, Mr. Chairman.

Mr. HERGER. Mr. Chairman, I yield 2 minutes to the gentleman from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Chairman, I wish I could resolve the issue of how Mr. Truman would have voted on this particular proposal. I am not confident of Mr. Truman's vote.

Mr. Chairman, I would like to bring this body's attention back to the question of how do we balance this budget, and how do we set our priorities as a country. I would like to refer the body to legislation that was passed in 1994. It was the fiscal year 1995 defense authorization report that accompanied that legislation, and was signed by the President. It includes in it a guideline that was developed in the U.S. Senate.

The Senate developed a 5-part test for whether or not military construction projects ought to be approved. The Porkbusters Caucus in the House of Representatives has adopted that test.

Mr. Chairman, I would like to read one part of that test: "We should not appropriate money for military construction unless the project is necessary for reasons of the national security of the United States."

Regardless of what our opinion ought to be of museums, I submit, Mr. Chairman, that we should not be including in military construction, funds for museum sites and museums. We have the Smithsonian Institution. Certainly it can operate museums in the District and in the neighboring territory. We do not have to include this in our military construction budget, especially when we are trying to care for the needs of the men and women in the Armed Forces, and we have heard about the deplorable conditions in housing and the need for military construction in a variety of other ways.

Mr. Chairman, I urge this Chamber to respect this principle that has been developed and signed into law by the United States, that emphasizes that we only spend money in military construction for reasons of national security.

Mrs. VUCANOVICH. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I think we need to remember here what we are talking about is, and the chairman would understand this, Mr. Chairman, being from Nebraska, what we are talking about is planting seed. We are talking about $14 million here that is the seed to go into the ground, to grow and flourish to become a beautiful plant that we can all be proud of somewhere down the line.

The question is, Do we believe that museums to honor our heritage and our history are important? I happen to think they are important, so I am opposed to this amendment.

Mr. Chairman, I have gone to many of the Army museums around the country that have been mentioned here today. They are little divisional museums of one kind or another, and I am excited about them. I am the kind of guy that can get emotional walking up and down the historic Halls of this building. I go on the battlefield and I can smell the smoke and hear the guns. I love that kind of thing.

Yet, here we have a nation, the only nation in the world, only major nation in the world, that does not have some kind of an Army museum; not a dozen divisional museums, or 40 divisional museums, but a museum for the Army of our Nation.

Mr. Chairman, I fly in every week, practically, into Washington, DC. When I come into National, many of the Members have had this experience, when I come into National, if I am on the left-hand side of the airplane I look out and I see the wonderful monuments honoring the freedom and liberty and history of this country: The Washington Monument, the Lincoln Monument, Jefferson Memorial, all the way up to the Capitol of the United States.

However, if I am on the right side of the airplane, I see acre after acre of stark white tombstones. What this tells me is what I have on the left-hand side of the airplane was bought with a price from what is on the right-hand side of the airplane. I think that is what the Army museum is all about. It is telling us the price that was paid for this country's freedom and liberty.

I think we ought to honor it. I think we ought to support that museum. It is a small portion of the $72 million that will be raised privately. It is a partnership between the seed that we put in and the private money which comes. Support the Army museum. Vote against this amendment.

Mr. HERGER. Mr. Chairman, I yield 2 minutes to the gentleman from Alabama [Mr. BROWDER].

Mr. BROWDER. Mr. Chairman, we are coming down to the vote. Let us lay out here what we have. We could have debated this earlier this week when we were talking about the authorization bill, about this museum and whether we needed to spend this money. I had an amendment which would have sent this money to military family housing. That amendment for some strange reason was not made in order, so this body could not debate it.

What we have now is an opportunity to answer this question in a very simple way: Do we want to spend $14 million on this project? The Army generals, the Army brass, want this project. They have figured out sticking it in here, running it through with a good package, a good package that both sides have worked on, stick it in, run it through, nobody can stop it.

Mr. Chairman, we have to stop it. We have to decide what we are going to do, send this message to them, tell them to come back next year and let us debate this issue on this floor, and we will make that decision. I am sure we will make the wise decision. However, right now the wise decision is to support this amendment, and let us debate this at a later time.

Mrs. VUCANOVICH. Mr. Chairman, I yield 1½ minutes to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Chairman, I had 2 minutes. I am glad I am getting up now, or I would end up with none.

Mr. Chairman, I oppose the amendment. I would like to say that our country is still a young nation compared to Europe. Do we realize that freedom really does not come easily? What is wrong with honoring freedom by having this museum? Russia is. They are honoring those who kept the German Panzer divisions out of Russia. They are building a wonderful museum that costs three times more than what we are trying to do here today.

Mr. Chairman, I am told that a million Americans will visit this Army museum. Some of them will be young Americans. They will be impressed. They will join the Army. This is a good recruiting tool. Mr. Chairman, let me say that the military is in trouble on recruiting. They are not meeting their goals. Anything that can help the military to get young men and women into the service, that is what we need. Part of this museum will be dedicated to the National Guard and Reserve. I will point out that the National Guard, 29th Division of World War II, landed at Omaha Beach. They lost 2,000 young men from one State fighting at Omaha Beach. That will be shown, what sacrifices have been made by Americans who were in the Army. I totally oppose this amendment, and hope the Members will, too.

Mr. Chairman, I rise in opposition to the amendment and in support of funding for the National Museum of the U.S. Army.

The bill provides $17 million for land acquisition, but the rest of the cost will come from private donations.

This museum is expected to draw more than 1 million visitors a year to see the great history of our Army and the role it has played in the development, and in the defense, of our country.

One thing I especially like is that it in addition to covering the achievements of active duty Army soldiers since 1775, it will also have a section devoted to the National Guard and Reserves.

I would point out that at the invasion of Normandy 51 years ago this month, the 29th division of National Guardsmen stormed onto Omaha Beach as part of the expeditionary force. They lost 2,000 young men on D-Day.

That event, as well as other stories of bravery and sacrifice over the years, will be on display at the Twin Bridges site. This comprehensive look at the Army, from then until now, will provide future generations of Americans a chance to see the realities of war and the effect it has had not only on the soldiers, but on their loved ones as well.

The Army is the only service branch not to have a national museum. Yet, the U.S. Army is 220 years old—older than the country itself.

This museum will be a deserving tribute to that storied history and worthy recognition to all those who have served in the U.S. Army. It will also help educate the American people about military life, in wartime and in peace. It is a worthy project. I hope we will reject the amendment and keep the funding for the museum.

Mr. HERGER. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEWIS].

Mr. LEWIS of California. Mr. Chairman, I very much appreciate my colleague yielding time to me.

Mr. Chairman, I want the body to know that I rise in support of this amendment. I do so with some very serious sensitivity, because I am getting all kinds of messages from a variety of Members of the House, but I have heard the arguments from the top brass in the Army, how this museum would be a national treasure to commemorate the hard work of every enlisted man and women in the Army.

Therefore, I decided last night to call some of my own folks who happen to be in the military services. Their message was entirely different. I spoke with 6 different soldiers in 4 different Army commands in my district, which is the place where the National Training Center for the Army is located.

I let them know that today we would be considering the military construction bill, legislation which provides funds for military housing, base improvements, and other quality of life needs. I asked them specifically, would they like to have $14 million of these funds set aside to buy the land for a National Museum for the Army in their honor in Washington.

Each and every one of the 6 of them said they would rather have those funds go to housing or other quality of life items which they desperately need. I told each and every one of them that there was a large amount of additional funding already in the bill for housing. Our chairman has done a great job. It did not matter to any of them. A national museum in their honor was not on their priority list.

I told one soldier that this was a priority to the Army Command in Washington. He responded "That is because they do not have to live in the housing that we do." He told me that he has men living in temporary barracks that were constructed during World War II. His room is 11 by 12 feet in space, with temporary walls, and one of the bigger rooms. He also said that he has men and women driving 40 miles to work every day because there is not adequate housing.

Mr. Chairman, to say the least, while I have mixed emotions about this, this is not a priority to the men and women who are currently in the Army in my district in California.

Mrs. VUCANOVICH. Mr. Chairman, I yield 1½ minutes to the gentleman from Florida [Mr. PETERSON].

Mr. PETERSON of Florida. Mr. Chairman, I thank the gentlewoman for yielding me the time. I really regret I do not have enough time to say nearly everything I want to say.

Mr. Chairman, I want to say that I absolutely, absolutely oppose this amendment. I regret that the amendment is even on the floor. We resoundly defeated this amendment in our subcommittee in the Committee on National Security earlier. In fact, to me it represents a great disdain for the heritage of those who have served the U.S. Army. We are not fighting the issue of quality of life.

This bill added $813 million extra for housing. We are dealing with the quality of life issue. However, Mr. Chairman, my experience is not in the Army, it is in the U.S. Air Force. Whenever the Nation called me, I went. I left my family and I placed myself in jeopardy in defense of my Nation, and guess what? My Army colleagues have done that for 220 years. In fact, 470,246 members of the United States Army have died on the battlefield. Is it too much to ask for us to put a lousy $14 million in honor of those who have fallen? It is less than $20 a head.

Mr. Chairman, we would be making a giant mistake if we did not shut down this amendment.

Mrs. VUCANOVICH. Mr. Chairman, I yield 30 seconds to the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, I rise in opposition to the amendment. I am reminded that we are told that one does not live on bread alone. Soldiers do not accomplish their mission on food and forage alone. There is something called spirit and something called morale. My only regret is that this country has not provided the initiative to go forward with a museum honoring the soldiers of this U.S. Army much earlier.

The time has come, Mr. Chairman, We should not accept this amendment.

Mrs. VUCANOVICH. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I rise in strong opposition to this amendment. There is an old adage in the infantry that battles are won and wars are won on things other than money. If this amendment is adopted, we will not put one more nickel into housing, recreation, or anything else. But if this amendment is rejected, the U.S. Army is going to have something that will help all of us who served in previous wars.

Point to what it is that the Army has done. The Army is the only service that has no museum of this kind, and this is the only country of which I am aware of where no such museum exists to remind our veterans and our people of what it is that was done. Veterans say "We would like to you to remember what we did, and we would like you to remember why we did it." A museum will help Americans to understand that.

Mr. Chairman, I urge that the amendment be rejected. Remember, wars are won by morale. Service is enhanced by morale. Look at the British Army. They are all manner of curious troops, and they all serve enthusiastically. Why? Because of loyalty to their service.

Mr. HERGER. Mr. Chairman, I yield myself the remainder of my time.

Mr. Chairman, I believe the main point of this amendment has been missed. I find it quite ironic that I find myself in virtual complete agreement with those who are speaking against this amendment. I also favor the museum. I also favor our military. I favor us honoring those who have fought bravely for our military and for our country.

□ 1345

That is not the purpose of this amendment. The purpose is, why should we as taxpayers be spending an additional $14 million to purchase more land to build a museum on when we have land already available? Are we not closing down several departments? Are we not downsizing here in Washington?

Do we not have Pentagon property, Fort Myer property, adjacent to this property that the Federal Government and the taxpayers already own? Do we have to go out and buy more property? Do we have to go out and spend, I feel unwisely, more taxpayer dollars?

That is the issue. Again, I support the museum, but I support it being built on presently owned taxpayer property which is in the same area.

I urge an "aye" vote on this amendment.

Mrs. VUCANOVICH. Mr. Chairman, I yield the balance of my time to the gentleman from Virginia [Mr. MORAN].

The CHAIRMAN. The gentleman from Virginia is recognized for 1 minute.

Mr. MORAN. Mr. Chairman, I yield to the gentleman from Indiana [Mr. MYERS].

Mr. MYERS of Indiana. Mr. Chairman, I regret that we have run out of time, but I do rise in opposition to this amendment.

I have served as a member of the Committee on Appropriations for 25 years. I have offered and supported many amendments to reduce spending. I will take a back seat to no one on cutting and reducing unnecessary spending. I spent 23 years in Army service.

There is a time when we must act. There are those today who believe that the Army does not need and should not have a national museum. The oldest service of the uniformed services should have. We should have taken action to build a museum years ago.

If you believe, as I do, that we should have a museum, then we must act now or the site will be lost to a commercial use, and we will build it sometime at an even greater cost here in our Nation's Capital, or build it in a cornfield someplace where few will ever have the opportunity to enjoy it.

We are all concerned with quality of life for the young people we are asking to serve in defense of freedom. Pride and esprit de corps are also important to these people of whom we are so proud.

Defeat this amendment.

Mr. MORAN. Mr. Chairman, I yield to the gentleman from Texas [Mr. ORTIZ].

Mr. ORTIZ. Mr. Chairman, I oppose this amendment. As I travel toward the District, more Hispanics have received the Congressional Medal of Honor than any other ethnic group. They would like to be included in this museum so that they can display their history of bravery. At this moment I have to oppose my good friend and oppose his amendment.

Mr. MORAN. Mr. Chairman, sometimes we focus so much on the cost of things, no matter how small, that we lose sight of the value of things, no matter how great.

The National Museum of the U.S. Army is a vision to create at the gateway of Washington, a site that will no longer remain if we don't act now, a tribute to the American soldier. At a time when our Armed Forces are being cut every year, we have to tell the story of the citizen soldiers that have served this Nation, and we must inspire patriotism among our entire society.

That is the purpose of this. That is the purpose. There could be no greater purpose. I urge my colleagues to defeat this amendment and to support the bill.

Mr. PORTER. Mr. Chairman, I rise in strong opposition to the amendment.

I know a little bit about this subject since the land to be acquired for the purposes of building a national Army museum was originally part of the planned land swap for a portion of Fort Sheridan in my district. Several years ago the Army wished to trade the Fort Sheridan land, plus cash, for the property in Arlington then, and perhaps still, owned by Equitable. While that trade was blocked in the Senate, it was clear that this was a priority for the Army and one that I thought then, and still do now, deserved our support.

A nation's history is contained in its institutions. As a former Army enlisted man, I know the meaning of the traditions and history of the Army to those who don the uniform. The Army has never had a proper place to house and display its history and this land is deemed a very suitable site. There is no money in the bill for construction and that would come only when budgetary times are more propitious.

But if the land cannot be acquired now, it would undoubtedly be sold to others and developed and would be lost for the purpose of an Army museum. While the price may seem high, we thought, from the value of the Fort Sheridan land, that it would likely be even higher than the sum contained in the bill. We should reject the gentlemen's amendment and allow this land acquisition to go forward.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. HERGER].

The question was taken; and the Chairman announced that the noes appeared to have it.

REORDED VOTE

Mr. HERGER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 261, noes 137, not voting 36, as follows:

[Roll No. 388]

AYES—261

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baldacci
Barcia
Barr
Barrett (WI)
Barton
Bass
Becerra
Berman
Bilbray
Blute
Bono
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chenoweth
Christensen
Chrysler
Clement
Coble
Coburn
Combest
Condit
Conyers
Cooley
Costello
Crapo
Cremeans
Cunningham
Danner
Deal
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Doolittle
Dreier
Duncan
Dunn
Durbin
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Evans
Ewing
Fattah
Fawell
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Ganske
Gilchrest
Gillmor
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastings (WA)
Hayworth
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Inglis
Istook
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Jones
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennelly
Kildee
Kim
Klug
Knollenberg
LaFalce
LaHood
Largent
Lazio
Leach
Levin
Lewis (CA)
Lincoln
Lipinski
LoBiondo
Lofgren
Longley
Luther
Maloney
Manzullo
Markey
Martinez
Martini
McCarthy
McCollum
McCrery
McDermott
McInnis
McIntosh
McKeon
McKinney
Meehan
Menendez
Metcalf
Meyers
Mfume
Minge
Mink
Moorhead
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Olver
Orton
Owens
Paxon
Payne (NJ)
Peterson (MN)
Petri
Pombo
Pomeroy
Portman
Poshard
Pryce
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Scarborough
Schiff
Schroeder
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Souder
Stark
Stearns
Stenholm
Stockman
Studds
Stupak
Talent
Tate
Tauzin
Thomas
Thompson
Thornberry
Thurman
Tiahrt
Torricelli
Towns
Upton
Velazquez
Vento
Visclosky
Volkmer
Waldholtz
Walker

Wamp
Watt (NC)
Weldon (PA)
Weller
White
Whitfield
Williams
Wise
Woolsey
Wyden
Zeliff
Zimmer

NOES—137

Abercrombie
Barrett (NE)
Bartlett
Bateman
Beilenson
Bentsen
Bereuter
Bevill
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brown (FL)
Bryant (TX)
Callahan
Chambliss
Clinger
Coleman
Collins (GA)
Collins (MI)
Cramer
Crane
Cubin
Davis
de la Garza
DeLay
Diaz-Balart
Dingell
Dornan
Doyle
Edwards
Emerson
Everett
Farr
Fazio
Foglietta
Frost
Gejdenson
Gekas
Geren
Gibbons
Gilman
Gonzalez
Goodlatte
Green
Gutierrez
Hancock
Hastert
Hefley
Hefner
Hinchey
Holden
Hoyer
Hunter
Hyde
Johnson, E. B.
Johnson, Sam
Kelly
Kennedy (RI)
King
Kingston
Klink
Kolbe
Lantos
Latham
LaTourette
Laughlin
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Livingston
Lowey
Lucas
Manton
Mascara
McDade
McHale
McHugh
McNulty
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Myers
Oberstar
Ortiz
Oxley
Packard
Pallone
Parker
Pastor
Payne (VA)
Peterson (FL)
Pickett
Porter
Quillen
Reed
Ros-Lehtinen
Saxton
Schaefer
Scott
Serrano
Sisisky
Skaggs
Skeen
Skelton
Smith (TX)
Solomon
Spence
Spratt
Stump
Tanner
Taylor (MS)
Taylor (NC)
Tejeda
Torkildsen
Torres
Traficant
Vucanovich
Walsh
Ward
Waters
Watts (OK)
Waxman
Wicker
Wilson
Wolf
Wynn
Young (AK)
Young (FL)

NOT VOTING—36

Ackerman
Baker (LA)
Ballenger
Bilirakis
Brown (CA)
Buyer
Chapman
Clay
Clayton
Clyburn
Collins (IL)
Cox
Coyne
Dickey
Dooley
Gallegly
Gephardt
Hastings (FL)
Hayes
Jefferson
Johnston
Kleczka
Matsui
Meek
Mica
Miller (CA)
Miller (FL)
Mineta
Moakley
Pelosi
Rose
Stokes
Thornton
Tucker
Weldon (FL)
Yates

□ 1411

The Clerk announced the following pair: On this vote:

Mr. Ballenger, with Mr. Mineta against.

Messrs. CLINGER, KENNEDY of Rhode Island, and WYNN, and Mrs. CUBIN changed their vote from "aye" to "no."

Messrs. BRYANT of Tennessee, KANJORSKI, COMBEST, FRISA, THOMAS, RICHARDSON, EHLERS, RANGEL, STOCKMAN, FORD, FORBES, WALKER, NADLER, BURTON of Indiana FOLEY, DREIER, and BAKER of California changed their vote from "no" to "aye."

So the amendment are agreed to.

The result of the vote was announced as above recorded.

Mrs. VUCANOVICH. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. BARRETT of Nebraska, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1817) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mrs. VUCANOVICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the consideration of the bill, H.R. 1817, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Nevada?

There was no objection.

LEGISLATIVE PROGRAM

(Mr. FAZIO of California asked and was given permission to address the House for 1 minute.)

Mr. FAZIO of California. Mr. Speaker, I ask for this time in order to request of the majority leader information about next week's schedule.

I yield to my friend, the gentleman from Texas [Mr. ARMEY], if he would be willing to inform the Members about what we have to look forward to.

Mr. ARMEY. I thank the gentleman from California for yielding.

Mr. Speaker, the House will meet in pro forma session on Monday, June 19. There will be no recorded votes on Monday.

On Tuesday, the House will meet at 9 o'clock a.m. for morning hour and 10 o'clock a.m. for legislative business.

After 1-minutes, we plan to take up the rule for H.R. 1854, the fiscal year 1996 legislative branch appropriations bill.

If a recorded vote is ordered on the rule, that vote will be postponed until later in the day.

□ 1415

After debate on the legislative branch rule we will take up House Resolution 168, legislation implementing Corrections Day procedures for the House. Upon completion of this legislation we will hold the recorded vote on the rule accompanying the legislative branch appropriations bill, if a vote was ordered. We then plan to finish H.R. 1817, the fiscal year 1996 military construction appropriations bill and begin debate on the legislative branch appropriations bill. Members should be advised that recorded votes may come as early as 12 noon on Tuesday.

On Wednesday and Thursday the House will meet at 10 a.m. to consider two appropriations bills: H.R. 1868, the fiscal year 1996 foreign operations appropriations bill, subject to a rule; and the fiscal year 1996 energy and water appropriations bill, subject to a rule.

It is our hope to have Members on their way home to their families and their districts by no later than 6 p.m. on Thursday. There will be no recorded votes on Friday.

Mr. FAZIO of California. If the gentleman could help us on a matter relating to the Committee on Rules, I understand the Committee on Rules will be meeting on Monday to prepare to bring to the floor on Tuesday some of the rules that the gentleman has alluded to. I am wondering if we could determine what time the Committee on Rules will be meeting. I am one concerned. I will be flying back from California Fathers' Day, Sunday, and I have an interest in the legislative branch bill, of course, along with the gentleman from California [Mr. PACKARD].

Mr. ARMEY. If the gentleman will yield further, if I may make a comment, in the original schedule for the month, Monday was to have been a day on which we would have had votes. Because of so many considerations, we did manage to relieve all of the Members at large of votes on Monday, but the Committee on Rules must necessarily meet at 2 o'clock on Monday, and I appreciate that it is an inconvenience in the gentleman's personal life, but hopefully it will be helpful to the rest of the Members we were able to do that.

Mr. FAZIO of California. I am hopeful I will be able to get here by 3:30 or 4, the first plane out. Do you expect the Committee on Rules to have completed its work and filed its rules by 4 o'clock? I do not know what the urgency is, but I gather there is some. Is that right?

Mr. ARMEY. If the gentleman will yield further, the Committee on Rules hopes to file by 6 but they would expect to conclude testimony before the committee by about 4:30.

Mr. FAZIO of California. I may be able to get here just for the latter part of that testimony, and I appreciate my friend with his assistance from the standpoint of the staff of the committee.

Mr. CARDIN. Mr. Speaker, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from Maryland.

Mr. CARDIN. I would hope the majority leader might be able to give us some indication whether the privileged resolution that was rumored to be taken up this afternoon concerning waivers of the number of committees that a Member is permitted to serve on was going to be brought to the floor. We understand it is not being brought to the floor today. My question is: Do we anticipate a resolution will be brought up next week? If that is the case, can the leader assure us that we will have some opportunity to debate that issue? It is a major concern to many of us, the reforms of the House, as to how many committees a Member can serve on.

Mr. ARMEY. If the gentleman will yield further, we believe it is possible we may bring that up next week, and, of course, it is subject to an hour for debate in accordance with the rules of the House.

Mr. CARDIN. If the gentleman will continue to yield, I appreciate that. I would ask the leader if he would consider giving us some notice before that is brought to the floor and yield the customary time to the opponent of that type of a resolution in order that we can have a full debate on the floor of the House.

Mr. ARMEY. We will, of course, do our best to give you good notice, and we will, of course, examine the time constraints and certainly take your request under consideration.

Mr. WARD. Mr. Speaker, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from Kentucky.

Mr. WARD. If I might ask the gentleman from Texas, in looking at next week's schedule, I wonder if you would expect to bring up the billionaire expatriate tax loophole bill.

Mr. ARMEY. I thank the gentleman for your inquiry.

No, I do not anticipate that coming up next week. I have not talked to the Committee on Ways and Means yet, and I do not have any time scheduled for that at this point.

Mr. WARD. Well, if I might ask further, do you think that you could give us notice? I have many constituents who are interested in this bill, many constituents of other Members who have inquired, and if I could ask and seek the leader's help in getting some advance notice so we may know when to anticipate that bill.

Mr. ARMEY. Again, if the gentleman would yield further, we would certainly give you as much advance notice as you may need. You may want to go to the Committee on Rules, any number of things. I have not begun consideration of that bill yet from the Committee on Ways and Means, but certainly will give you every bit of notice we can.

Mr. WARD. I thank the gentleman.

Mr. FAZIO of California. Could the gentleman tell us when we would be completing our business on Tuesday and Wednesday?

Mr. ARMEY. Each night next week at this point we anticipate being able to be out of here by 6 or 6:30.

Mr. FAZIO of California. No evening next week would normally be expected to be here later?

Mr. ARMEY. If I may tell the gentleman, I have great expectations and an enormous amount of optimism, but as you might guess, I can give no hard and fast guarantees. If I had a dinner date for Tuesday night at 6:30, I would feel very comfortable with it.

Mr. FAZIO of California. I appreciate the gentleman's optimism. Let us hope it becomes reality.

ADJOURNMENT TO MONDAY, JUNE 19, 1995

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

COMMUNICATION FROM THE CHAIRMAN OF THE COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Standards of Official Conduct:

COMMITTEE ON STANDARDS OF OFFICIAL CONDUCT,
Washington, DC, June 15, 1995.

Hon. NEWT GINGRICH,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that my Committee has been served with a subpoena issued by the United States District Court for the Eastern District of Pennsylvania.

After consultation with the General Counsel, I will make the determinations required by the Rule.

Sincerely,

NANCY L. JOHNSON,
Chairman.

FRENCH NUCLEAR TESTING

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FALEOMAVAEGA. Mr. Speaker, let me cry out: "Shame on you the government of France. * * *"

Mr. Speaker, 27 million people in the Pacific cry out: "Shame on you the government of France * * * for your arrogance to explode eight nuclear bombs in the South Pacific starting this September."

Mr. Speaker, the 178 countries who signed the Nuclear Non-Proliferation Treaty cry out: "Shame on you France * * *."

Mr. Speaker, may I suggest to President Jacques Chirac, if he wants to develop France's nuclear bomb trigger device for computer simulation technology, then develop it on a computer—not in the South Pacific, not on people and not on mother Earth. Explode your eight nuclear bombs in Paris and along the rural and farm areas of France, and see if the citizens of France will support you.

Mr. Speaker, the Government of France currently has:

The world's third largest stockpile of nuclear bombs;

The fourth largest navy in the world; and

Twenty years of experience in conducting nuclear bomb explosions in the atmosphere and under water in the South Pacific. Mr. Speaker, let me tell you about the trigger device that the French Government wants to develop for its nuclear bomb explosions. The nuclear trigger is a nuclear bomb itself and is 100 times more powerful than the nuclear bombs dropped on Hiroshima and Nagasaki. If the nuclear bomb trigger is 100 times more powerful than what was dropped on Hiroshima and Nagasaki, can you imagine, Mr. Speaker, the nuclear explosion that will come after that? What madness, Mr. Speaker.

Why not drop your eight nuclear bombs under the Arc de Triomphe—a prided possession for the people of France, because, the island nations of the South Pacific are the prided possessions of the 27 million people who live, eat, drink, and swim in that part of the world.

I say to the military establishment of France and to the President of France—in the words of Bernard Clavel, the popular novelist, "You are the shame of France * * * you are the shame of France."

Mr. Speaker, I include the following newspaper articles for the RECORD:

[From the Samoa News, June 15, 1995]

SOUTH PACIFIC CONDEMNS DECISION TO RESUME NUCLEAR TESTING

SYDNEY, AUSTRALIA.—Countries of the South Pacific today sharply condemned France's decision to resume nuclear weapons testing in the region in September.

New Zealand Foreign Minister Don McKinnon bitterly accused French President Jacques Chirac of "Napoleonic-De Gaulle arrogance."

An angry Prime Minister Jim Bolger complained that France had directly insulted his country which sent troops to fight two world wars on French soil. "New Zealanders left the South Pacific to defend France and to help France reclaim its land," Bolger said in a vitriolic attack in Parliament. "Is that our thanks—the fingers sign because the French military want bigger playthings?"

Bolger said France and New Zealand had been "friends for generations and in one act today France decided to hell with the friendship." "It is not too late for France to reconsider its position. There is a great deal at stake," Bolger said. Both Australia and New Zealand said they will downscale or freeze defense links with France in protest.

Japan's Foreign Minister Yohei Kono also criticized the French decision to resume testing, saying it violates the trust of the non-nuclear community. Kono expressed his disapproval in a telephone call to his French counterpart.

The Philippines and Indonesia joined other Asia-Pacific critics of France's decision.

[From the New York Times, June 15, 1995]

France Planning Nuclear Tests Despite Opposition, Chirac Says

(By Craig R. Whitney)

PARIS, JUNE 13.—President Jacques Chirac of France, defying international opposition to resumption of French nuclear testing in the South Pacific, said tonight that France would resume underground weapons tests in September but would stop them once and for all by the end of May 1996.

Mr. Chirac's predecessor, François Mitterrand, declared a moratorium on nuclear tests in April 1992.

"Unfortunately, we stopped a little too early," Mr. Chirac said, on the eve of a trip to Washington and New York to confer with President Clinton and Secretary General Boutros Boutros-Ghali of the United Nations.

In a news conference in Élysée Palace, Mr. Chirac described his decision as "irrevocable." He said the eight planned tests would have "no ecological consequences" and would complete a series, interrupted three years ago, intended to calibrate equipment that would allow computer simulations in future tests of the reliability of the French independent nuclear deterrent.

Mr. Chirac had been telegraphing his decision for some time, but it could influence the debate in the United States. Some military experts in Washington would like the Clinton Administration to make a few more tests before a permanent ban in a treaty that France, the United States and other countries have pledged to sign next year.

Adm. Jacques Lanxade, the French armed forces chief of staff, reported to Mr. Mitterrand a year ago that the military needed to make a few more tests to insure the reliability of France's nuclear deterrent, according to Defense Minister Charles Millon. But Mr. Mitterrand declined to lift the moratorium.

Mr. Chirac, a conservative who succeeded Mr. Mitterrand on May 7, denounced Mr. Mitterrand's action in 1992 as "a unilateral disarmament decision."

France's independent nuclear deterrent, largely submarine-based, has been the keystone of its independent national defense strategy since the early 1960's, when Gen. Charles de Gaulle decided that dependence on the United States nuclear deterrent was unacceptable.

CONGRATULATING NAVAL ACADEMY CLASS OF 1995

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HOYER. Mr. Speaker, as a member of the Naval Academy Board of Visitors and a Member of Congress who has three of the greatest Naval installations in the country in my congressional district—the Patuxent Naval Air Station, the Indian Head Naval Surface Warfare Center, and the Naval Research Laboratory—I was extremely honored to join this year's graduation exercises at the U.S. Naval Academy.

Last year President Clinton in speaking to the graduates said that "I came here today because I want America to know there remains no finer Navy in the world than the U.S. Navy, and no finer training ground for naval leadership than the U.S. Naval Academy."

Mr. Speaker, I could not agree more with the words of our Commander in Chief.

This year, the graduation speaker was Secretary of the Navy John Dalton, who spoke of the timeless traits of leadership, traits I believe as Members of this body and as a nation we should practice in our everyday lives. I would like to submit the address by Secretary Dalton for the RECORD and close with one of his quotes to the outstanding graduates of the U.S. Naval Academy's Class of 1995:

> This institution is unique because its mission is to ensure that in your hearts you are unique. . . . That foremost and everywhere the defense of American liberty will remain your task . . . whether in the Naval service or elsewhere.

My congratulations to the graduates of the class of 1995.

Mr. Speaker, I include Secretary Dalton's address for the RECORD:

TIMELESS TRAITS OF LEADERSHIP

(By Secretary of the Navy, John H. Dalton)

Thank you, Chuck [Admiral Larson]. I want to congratulate you on the outstanding job you have done here at the Academy. One of the decisions I am most proud of was my decision to make Admiral Chuck Larson Superintendent of the Naval Academy. He has stepped in and demonstrated once again his extraordinary leadership ability. I thank you, the Academy thanks you, the Naval Service thanks you, and, above all, America thanks you for producing such outstanding young officers as we have graduating here today.

I am very pleased today to have two people—who are very special to me—here with us. . . . First of all, my claim to fame—the first lady of the Navy, my wife, Margaret . . . and sitting with her is a young man who graduated with honors last year from Davidson College and taught for a year at a Peace Corps-related service in Jamaica—teaching kids in the third world . . . and who is going to be entering Officer Candidate School this August to become a Naval Officer of the United States Navy: my son John.

We are also very pleased to have with us today an outstanding Member of Congress, who has been a strong supporter and friend of the naval service, Congressman Steny Hoyer.

I have a letter I would like to read to you from our Commander-in-Chief. He wanted to be here today, but was called to that other Academy out in Colorado. I took the first prize and came here. The letter reads:

Congratulations to the class of 1995 as you complete your studies at the United States Naval Academy. You can take great pride in the skills and character you have developed, knowing that you are well prepared to meet the tremendous challenge of leadership. Through the past 150 years, more than 60 thousand Naval Academy men and women have helped to keep our nation great.

Today, America looks to you to maintain this tradition of excellence. I am confident that you will be equal to the task. As you establish new standards of able performance and lead the Naval and Marine Corps into the 21st Century, you will stand as a beacon of liberty and democracy for nations around the world. On behalf of all Americans, thank you for your dedication to the idea of freedom and your commitment for defending the Constitution of the United States. Best wishes to each of you for every future success. Signed. Bill Clinton

It is simply not possible to describe what a great honor and privilege it is for me to be the principal speaker at the sesquicentennial graduation ceremony of this great institution that I love. I'm proud to be a graduate of the United States Naval Academy, and I know how proud and excited you are today because I remember so well how I felt as I sat where you now sit on graduation day in 1964. The speaker was Congressman Carl Vinson, Chairman of the House Armed Services Committee. Due to the day's excitement, I remember very little of what he said.

Three decades from now, you probably won't remember much of what I say either. But, I hope that you get the main point. Actually, in preparation for this speech I went back to review Carl Vinson's text. He said, "during your Navy careers there not only will continue to be Secretaries of the Navy, but these Secretaries will also continue to shoulder heavy responsibilities." Those words did not have any significance to me at that time. They certainly do now! Paul Nitze was Secretary of the Navy then and handed me my diploma as I will have the honor to present yours to you today.

At graduation last year President Clinton said, "I came here today because I want America to know there remains no finer Navy in the world than the United States Navy, and no finer training ground for naval leadership than the United States Naval Academy." I could not agree more. Today, I want to talk to you about naval leadership and my experience here as a midshipman.

When I was a sophomore at Byrd High School in Shreveport, Louisiana, we had a guest speaker who said that in his opinion the finest overall education that anyone could get in our country was at the United States Naval Academy. My mother always taught me to "hitch my wagon to a star," so I decided right then the Academy was where I wanted to go. That was the only place I applied, but in the spring of my senior year, I learned that I had not been accepted. I was devastated! So, I went to LSU for a year, which I enjoyed, but my heart was still set on the Naval Academy. The next year I was admitted into the Class of 1964.

I got off to a rocky start as a plebe and continued to have some painful and humbling experiences. I wanted to row crew, but got cut plebe summer. The first time they published an unsat list for academics my name was on it. I wanted to fly, but my eyes deteriorated. I competed for a Rhodes Scholarship and was not selected.

But, I also had many great and memorable experiences here. I marched with the whole brigade in John F. Kennedy's inaugural parade. Sadly, I later led a special honor company that marched in his funeral procession to Arlington National Cemetery. I spent first class summer on a foreign exchange cruise with Her Majesty's Royal Navy in Singapore. I had the privilege to serve as a striper in one of the truly great classes ever to graduate from here. For four years in a row, we "beat Army" in football . . . and I am confident that come the first Saturday in December, we are going to start that habit one more time!

The greatest lesson I learned came from our Superintendent, Rear Admiral Charles C. Kirkpatrick. He repeatedly told us, "You can do anything you set your mind to do, and don't you forget it." I pass that on to you. You can do anything you set your mind to do, and don't you forget it.

I know that right now your minds are on the end of your long voyage here . . . and the pride and joy you feel in what you have accomplished. Your family and friends share that pride and so do I. But along with the celebration, this is also a moment for each of you to think seriously about the challenges you will face in the future.

As you move forward in life, the one thing you will always need is a framework on which to base your approach to leadership. I have given much thought over the years to my own framework. It helped me with the leadership challenges I faced—as a midshipman, an active duty submarine officer, a Naval reservist, a community leader, and government official.

Recently an acquaintance of mine, a theologian from California, sent me a list of eight specific leadership traits that he drew from chapter 27 of the book of Acts in the Bible. In a succinct way, he has caught traits essential to my leadership framework. Now I'm not a preacher and this is not a sermon. But you certainly don't have to be a religious person to appreciate the value of these traits, and you don't have to be a Biblical scholar to interpret them.

These traits have stood the test of time. The list is as follows: A leader is trusted, a leader takes the initiative, a leader uses good judgment, a leader speaks with authority, a leader strengthens others, is optimistic and enthusiastic, never compromises absolutes, and leads by example.

This list can be exemplified by predecessors of yours from this Academy who have captured the essence of these leadership traits.

The first trait is trust. I am told by Admiral Larson that your class admires President Jimmy Carter, Class of 1947, and so do I. He personifies trust. He was successful with the Camp David Accords and the Middle East Peace Treaty, and he continues to serve the cause of peace in the world, because he is so honest and straightforward that he is genuinely trusted.

As plebes, you memorized a great example of trust. At the Battle of Manila Bay, Admiral George Dewey (Class of 1859) turned to the captain of his flagship and said, "You may fire when ready, Gridley." This Academy teaches trust and Admiral Dewey trusted each captain and crew to fight without need for his personal direction.

A leader takes the initiative. "Carpe Diem" Latin for "seize the day" has always been a fundamental tenet of leadership.

I find inspiration in this regard in the deeds of Vice Admiral Jim Stockdale, a classmate of President Carter, who took command of his fellow Prisoners of War in Hanoi at the height of the Vietnam conflict. Admiral Stockdale initiated and led cohesive resistance to torture and abuse despite the daily uncertainty of his own fate.

Good judgment is also critical to good leadership. Good judgment is not just evident in success, it can be most evident in defeat and disappointment.

In the Battle of the Coral Sea, the carrier USS *Lexington*—one of our few assets following Pearl Harbor—took multiple hits that caused her to list and burn. Rear Admiral Aubrey Fitch (Class of 1906), commander of the carrier group—and later a Superintendent of the Naval Academy—calmly assessed damage control efforts. He then turned to the *Lexington's* captain and said, "It's time to get the men off this thing." Twenty-seven hundred lives were saved by that one judgment call. A good leader needs to make tough decisions especially when things are going wrong.

The next trait is at the heart of a leader's personality. A leader speaks with authority. A leader needs to have sufficient confidence in what he is saying so that potential followers will be convinced. The best way to convince people is to speak with authority. And if that authority is matched by knowledge then the chances for leadership are greatly enhanced.

The development of the concept of amphibious warfare was initiated by Marine Corps Commandants who combined authority with conviction and knowledge. From its origins during the tenures of Commandants John Lejeune, Wendell Neville, and Benjamin Fuller, through the establishment of the Fleet Marine Force under General John H. Russell, all Naval Academy graduates, the development of the Marine Corps as America's expeditionary force was the result of leadership. It was backed by the experience of campaigns in the Caribbean, Central America, the Pacific and China. These leaders spoke with authority in directing new ideas because they had experienced the old ideas and borne the scars.

Likewise, when Chief of Naval Operations Admiral Arleigh Burke (Class of 1923) began the project to build the first fleet ballistic missile submarine, he needed to convince both the civilian leadership and the Navy itself that the program required top priority. The authority of his presentation was fortified with his combat experience—and his reflections about the deterrence implications of that experience.

A leader strengths others. A good leader does not seek to impose his or her own attitudes or solutions on others. Rather, the leader provides the support and guidance that prompts others to have confidence in their own abilities and decision-making.

When Fleet Admiral Chester Nimitz (Class of 1905) arrived to take command of the remnants of the Pacific Fleet at Pearl Harbor, his first effort was to renew the confidence of the staff and the commanding officers that they could go on to victory. Rather than making heads roll, he made them think. Rather than emphasizing the mistakes, he convinced his subordinates that they were the ones to overcome the past. Those who served under him recalled that his very "presence" seemed to give confidence wherever he was. He strengthened others to believe their abilities could achieve the crucial victory that they sought.

A leader remains optimistic and enthusiastic. To lead effectively, see the glass as half-full, not half-empty. Believe, every morning, that things are going to be better than before. Attitudes are infectious. Optimism and enthusiasm overcome the greatest challenges.

Captain John Paul Jones captured this idea with the immortal quote, "I have not yet begun to fight." I have a painting of that famous battle between the Bonhomme Richard and Serapis hanging in my office and it inspires me every day. John Paul Jones's spirit of optimism and enthusiasm has been a part of our Navy since the American Revolution.

A leader never compromises absolutes. Defense of American freedom and obedience to the Constitution of the United States are two absolutes the Naval Service lives by, and for which our Sailors and Marines may face death.

Admiral Hyman Rickover (Class of 1922), the father of the nuclear Navy—by whom I was interviewed for the Navy's nuclear program—vividly demonstrated this commitment to absolutes. He wanted to ensure there was no compromise in the safety of our submarines. And he did this by setting an example. Most Americans don't know that Admiral Rickover went on the first trial dive of every nuclear submarine the Navy built. He knew that it wasn't enough to simply certify on paper that a new submarine was safe. If Sailors were going to trust their lives to an untested submarine, he would go with them. If something seemed like it was going wrong during the dive, he would calmly go to the compartment where the problem appeared and sit to watch the crew handle it. How could you be afraid when this small, wrinkled old man was not? How could you treat safety as anything but an absolute.

This leads to the final quality on this list of traits: example. The best leaders need fewer words than most, because they lead with their lives. In the sports world, example is not just ability, but both the willingness to lead and the humility to support a team effort that is stronger than one skilled individual. Roger Staubach class of '65 and David Robinson class of '87 are competitors who set the example as both leaders and teammates.

Among today's Naval leaders, Rear Admiral Anthony Watson, class of 1970, has set an example that many young Americans have decided to follow. Raised in a public housing project in Chicago, he was a recognized leader in every position from midshipman to Commanding Officer to Deputy Commandant here, and became the first African-American submariner to make flag rank. He takes over soon as Commander of the Navy Recruiting Command, a position that demands a very public example.

And finally, I want to mention an academy graduate who exemplifies the fact that women in the Navy and Marine Corps no longer face any limits to their dreams. Since the age of ten, LCDR Wendy Lawrence, class of 1981, dreamed of becoming an astronaut. Three years ago she fulfilled that childhood dream. She became the first female naval aviator chosen by NASA for the astronaut program and was a mission specialist on the shuttle Endeavour's last mission. LCDR Lawrence demonstrates that what matters to the Naval service, above all else, is your performance as an officer. Man or woman, you will rise as high as your abilities will take you.

These eight traits of leadership provide a path, a course that has been marked for almost two thousand years.

There is a long line of Naval heroes before you . . . men and women tried by history. Your turn has come. That's what you were trained for. That is why the Naval Academy has existed for 150 years. Not just to educate . . . not just to train you in the arts of war . . . not just to provide competent officers. But to instill you with a commitment and tradition of service and leadership that will remain with you forever.

In character and in deed, you will always be the ones to set the example. This institutional is unique because its mission is to ensure that in your hearts you are unique . . . that foremost and everywhere the defense of American liberty will remain your task . . . whether in the Naval Service or elsewhere. Those people behind you are counting on you. When you shake hands with me as you receive your diploma, let's regard it as a pact—a bond between two graduates of this extraordinary institution—to be as worthy as we can possibly be of those who have gone before us . . . of those who march with us today . . . and of those who will follow us. In a few moments, your diploma and our handshake will seal that bond. And then the real challenge will begin.

God bless you. God bless the United States Navy and United States Marine Corps. And God bless America.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members are recognized for 5 minutes each.

IN OPPOSITION TO FRANCE'S RESUMPTION OF NUCLEAR TESTING IN THE SOUTH PACIFIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for 5 minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, as a Member from the Pacific Islands, I rise again in strong protest of France's decision to resume detonating nuclear bombs in the South Pacific on French Polynesia's Moruroa Atoll.

French President Jacques Chirac claims that the eight atomic bomb explosions planned—about one a month between this September and next May—are completely safe to the environment. I am not persuaded.

The people of the Pacific know from firsthand experience the horrors associated with nuclear bomb explosions and testing. As an American, I am not proud of the legacy of the United States testing program of the 1940's, the 1950's, and the 1960's on Bikini and Rongelap Atolls in the Marshall Islands. Even now, a half-century later, that bitter legacy is still being felt in the Marshall Islands.

In particular, I have long believed that when the United States detonated the "Bravo Shot" on Bikini Atoll—a 15-megaton thermonuclear bomb, a 1,000 times more powerful than the Hiroshima bomb—the Marshall Islanders residing on nearby Rongelap and Utirik Atolls were deemed expendable. These Pacific islanders justifiably believe they were used as "guinea pigs" and test subjects for nuclear radiation experiments conducted by our Nation. People there have not forgotten memories of the offspring of Pacific islander women infected by radiation from the nuclear explosions—where babies were born dead and didn't look human and were sometimes called "jelly babies."

Although our country, decades ago, stopped its nuclear testing in the Pacific, our Nation is still mired in the process of facing responsibility and making financial reparations for the devastating impact that our nuclear bomb explosions had on the Pacific people of the Marshall islands.

France has detonated over 200 nuclear bombs already, with almost all of those nuclear explosions taking place in the South Pacific. After sustaining the incomprehensible destructive energy unleashed by these bombs, French Polynesia's Moruroa Atoll has been described by scientific researchers as a "Swiss cheese of fractured rock." Leakage of radioactive waste from the underground test sites to the surrounding waters and air has been predicted and is inevitable; this embodies the environmental nightmare that the people of the South Pacific have long dreaded.

According to the international physicians for the prevention of nuclear war, underground nuclear tests, such as those at Moruroa Atoll, cause radioactivity to leak out into the sea and reach human beings through the food chain. Previous nuclear explosives in the South Pacific have resulted in a number of epidemic-like outbreaks in surrounding communities, where symptoms included damage to the nervous system, paralysis, impaired vision, nausea, and diarrhoea. I do not find it surprising that reports of increased cancer rates among Tahitians have surfaced. The damage to the marine environment can only be imagined.

Political leaders in French Polynesia, including French Polynesia's President Gaston Flosse, have registered strong objection to resume nuclear testing in their homeland. A hostile reaction from the Tahitian public is generating and efforts to discourage violence are being undertaken. Understandably, the people of French Polynesia are greatly disturbed by the rebirth of the nuclear monster in their midst and the nuclear poison to be spawned.

I and many other Pacific islanders have the greatest respect for French oceanographer Jacques-Yves Cousteau, who over the years came to the shores of many South Pacific islands for research and while there gained a special sensitivity for the pacific lifestyle and our vital dependence on the sea. Jacques Cousteau, in my mind, is the leading international spokesman for protection of the environment and conservation of all forms of marine life.

I am gratified to learn that Jacques Cousteau has condemned his Government's decision to resume exploding nuclear bombs in the South Pacific. In a statement from Paris, Cousteau stated his regret that France has given in to outdated arguments, as great wars are of the past. Cousteau declared that today's wisdom makes it necessary to outlaw atomic arms.

With French opinion polls documenting Jacques Cousteau as the leading popular figure in France, I would urge him to take up the fight with the good people of France to stop their Government's resumption of nuclear bomb detonations in French Polynesia. Jacques Cousteau, perhaps more than anyone else, has a unique and keen appreciation of how nuclear bomb explosions constitute the ultimate rape of the South Pacific's fragile marine environment.

□ 1430

Mr. Speaker, I say to the good people of France, your Government has already exploded over 200 nuclear bombs and yet it seeks to further pollute the South Pacific with eight more nuclear bomb detonations. With the world moving toward agreement that nuclear weapons should be outlawed, France's action encourages the exact opposite. By dismissing criticism of additional tests with the excuse that France has tested less than other nuclear powers, France opens a Pandora's box that may undermine negotiation of a comprehensive test ban treaty. This also leaves the door open to justify China's nuclear testing program and the fact that China has only tested 34 nuclear detonations, so by this reason let us allow China to test 174 times or explode 174 more nuclear bombs, and then in addition to that let us allow China to explode 900 more nuclear bombs to catch up with the United States.

What madness, Mr. Speaker. What madness.

Mr. Speaker, I submit for the RECORD the following article:

[From the New York Times, Mar. 21, 1995]

CHIRAC, THE OLD NEO-GAULLIST, IN THE LEAD

(By Craig R. Whitney)

TOURS, FRANCE, March 21.—Jacques Chirac, the Mayor of Paris, who has run for the French presidency and lost twice, now looks set to win on his third attempt, unless every public opinion poll is wrong or some surprise turns up before the runoff on May 7.

Mr. Chirac surged past his fellow conservative, Prime Minister Édouard Balladur, a month ago to become the favorite to succeed President François Mitterrand, a Socialist, who has been in office 14 years.

How Mr. Chirac, a 62-year-old conservative politician, has managed to make himself the image of change incarnate is the phenomenon of the 1995 presidential campaign.

His supporters say he has done it by patiently cultivating the grass roots since the summer of 1993 and listening hard to what voters say they want. With unemployment stuck at over 12 percent and French industries struggling under the burdens of an expansive welfare state, what many voters want is change, and Mr. Chirac has convinced a lot of them that he can deliver.

Although himself a graduate of the elite School of National Administration, Mr. Chirac says he wants to free France from technocrats and restore the egalitarian values that have given the country vitality for

200 years. He has promised job creation by making it less costly for businesses to hire new employees.

By now, Mr. Chirac is greeted by big crowds wherever he goes. Five thousands people—students and pensioners, farmers and workers—packed a fairgrounds hall outside Tours on Tuesday night to hear him explain how he would restore hope and unity to a country that he says is troubled by a lack of self-confidence.

"What I expect from him if he wins is a big reduction in unemployment," said Jean-Charles Paronnaud, a 28-year-old unemployed supermarket clerk.

Another supporter, Marie-Jeanne Avril, said: "I'm here because I'm an old Gaullist. For 45 years I've been voting for the general, even though he left us long ago, and this time I'll vote for Chirac."

Mr. Chirac founded his and Mr. Balladur's party, Rally for the Republic, in 1976 to perpetuate the legacy of President Charles de Gaulle, the founder of the Fifth Republic. He often shares the general's stubborn vision of France's destiny in a Europe of proudly separate countries rather than as part of a federal United States of Europe.

Given France's economic and financial problems, if he does win this spring Mr. Chirac may also need de Gaulle's ability to convince people that he knows what they want and then to carry through on it, whether they like it or not.

"Politicians all make promises, but this is the first time I've met one who actually seemed interested in listening to me," said Jacques Maurice, a 47-year-old homeless man from Pithiviers whom Mr. Chirac met on the way to Tours. "He'll get my vote," Mr. Maurice said.

Part of Mr. Chirac's appeal has been that, unlike the stiff Mr. Balladur, Mr. Chirac seems to enjoy rubbing elbows with voters and to be at ease with himself. On his campaign tour, he wore a dark green top coat over his suit, and his slicked-back hair looked almost as much in need of a trim as Mr. Maurice's.

But Mr. Chirac's personal image is carefully thought out, as is the impassioned delivery of his campaign speech—a crooning baritone that always recites a prepared text. Nonetheless, his hour-long stump speech here was often drowned out by cheers. "I refuse the idea that one France, more and more people all the time, is doomed to be left behind while the other is more and more heavily taxed to come to its aid with welfare instead of jobs," he told the crowd. "We have to break this vicious circle."

Audiences have also taken to his pro-Main Street, anti-Wall Street style. Capital should be at the service of the people it employs, he tells them, not parked in high-yield bonds.

More and more people are obviously convinced that he has the right answers. Two public opinion polls published on Tuesday showed Mr. Chirac pulling farther ahead of both his Socialist opponent, Lionel Jospin, and Mr. Balladur.

With at least four other candidates expected to be in the race, Mr. Chirac could win about 29 percent of the vote in the election's first round on April 23, the two surveys indicated, with as much as 22 percent for Mr. Jospin and 17 percent for the Prime Minister. A poll for the weekly magazine Express showed Mr. Chirac could handily defeat either candidate in the runoff between the two top vote-getters on May 7.

Though he served as Prime Minister under Mr. Mitterrand between 1986 and 1988, Mr. Chirac seldom mentions him by name. He ran against Mr. Mitterrand in 1988 for the presidency, and lost.

When the conservatives won the parliamentary elections in March 1993, Mr. Chirac chose to stay in city hall and let Mr. Balladur find out the hard way what it was like to be Prime Minister and run for President at the same time.

If he has been vindicated by that choice, Mr. Chirac also has some things to live down. One of them is what critics characterized as a chauvinist appeal to the nation made at the end of 1978, when he called for a disavowal of Mr. Giscard d'Estaing's pro-European policies, and spoke darkly of the menace of "the foreigners' party." Ever since, some politicians in Germany have questioned what relations with France would be like if Mr. Chirac became President.

German prowess remains very much on Mr. Chirac's mind. Speaking of the possibility of establishing a common European currency by the end of the decade, Mr. Chirac said he might call for a referendum to be sure France wanted to merge the franc with the German mark and other bills.

"The core of the problem, as General de Gaulle often said, is not whether we surrender this or that bit of sovereignty, but whether we do so on the same terms as Germany does," he said.

WE NEED ANSWERS

The SPEAKER pro tempore (Mr. FOLEY). Under a previous order of the House, the gentleman from New Jersey [Mr. SAXTON] is recognized for 5 minutes.

Mr. SAXTON. Mr. Speaker, I rise with some reluctance, but with some determination, to raise some questions about a very serious matter that occurred a short time ago. Together with Captain O'Grady we all thank God upon his return. It was, in fact, a miracle that he has been returned to us seemingly unharmed, and for that we are all very, very grateful, but I think some questions need to be asked about the circumstances under which Captain O'Grady had found himself in the air within the range of a SAM SA-6 missile.

In reviewing some news reports and some quotes of some individuals recently, I was prompted to go back to a report that the House Republican task force on terrorism and unconventional warfare issued in June of 1993 about issues related to this subject. In that month we issued a report, and I would like to read a part of it because it has a direct bearing on this issue.

Part of the report says the Serbian forces operate four SAM regiments, with the main concentration of Serb air defenses around the Banja Luka Air Base, including one SA-2 regiment, one battery of SA-6's, and one battery of old triple-A antiaircraft weaponry. Now this Banja Luka Air Base also has a facility located on it that repairs and upgrades SA-6 missiles. This was all confirmed in June of 1994 by a well-respected defense publication known as Jane's Defense Weekly when they confirmed all of the information we had in 1993. Unfortunately for us, I think, on June 2 General Shalikashvili, in being interviewed by the Senate Armed Services Committee, said, and I quote:

"We had absolutely no intelligence that Serb SAM's were in the area. For months," he said, "if not for years, there had never been detected an air defense site in that area," and he said the words "Banja Luka."

So I have very serious concerns about the fact that we knew this 3 years ago, that Jane's Defense Weekly reported it in 1994, and our top officials at the Pentagon seemingly had no idea that this in fact was the case, and so I think it raises some very, very important questions.

We read in the other news report more recently, June 13, after we released our report from 1993 just recently to the press, and that was reported that Ken Bacon, spokesman at the Pentagon, said at that time, "Finally, we were well aware of the Banja Luka facility where the Bosnian Serbs repair and maintain surface-to-air missile systems. The F-16 that Captain O'Grady was flying on June 2 was shot down outside of the area known as the threat envelope of the Banja Luka SAMs."

Now the F-16, as far as I can determine from news reports and from other information that we have been able to gather, was shot down less than 40 kilometers from Banja Luka. It is important to know that these SA-6's are track-mounted vehicles along with a second track-mounted vehicle which carries the radar which integrates into the system, travels 30 or 40 miles per hour, and so certainly it should have been considered, in my opinion, within the envelope that short distance from Banja Luka, and it seems to me that anyone making plans to carry out these missions should have taken that into consideration.

So I think this raises at least three questions, maybe more:

No. 1, what intelligence did the field commanders have at their disposal while making these very, very important and life-threatening decisions?

No. 2, what were the operational policies, and where were they made? What were the operational policies?

Our information is that there were 2 F-16's, and normally, if there is a threat of surface-to-air missiles, there are five aircraft, including radar jamming aircraft. I believe F-4's, known as Wild Weasels, would normally accompany our F-16's on these types of missions to guard against the type of events that actually happened.

No. 3, was it not reasonable to assume that Banja Luka, less than 40 kilometers away, was in fact part of the dangerous envelope into which these airplanes were flying?

So I would just conclude, Mr. Speaker, by saying this:

In 1993 we were able to gain information that said this was a danger. Jane's

Weekly reported in 1994 that this was a danger. Captain O'Grady was shot down proving that it was a danger, and we planned and carried out the mission anyway.

I would like answers to those questions. I have requested the same. I have requested Chairman SPENCE to hold hearings on this issue. I would like to know who is making these decisions, and where they are being made, and under what circumstances they are being made. We have other pilots, soldiers and sailors to think about. I believe this is a very serious issue.

CORRECTIONAL PEACE OFFICERS MEMORIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DOOLITTLE] is recognized for 5 minutes.

Mr. DOOLITTLE. Mr. Speaker, today I attended the annual memorial service held at the Iwo Jima Memorial in Arlington, VA, sponsored by the Correctional Peace Officers Foundation, Inc., as part of National Correctional Peace Officers Memorial Week. This service was held to commemorate the sacrifice of those correctional peace officers who died in the line of duty and to honor their families. I should like to submit for the RECORD the names of those individuals honored, together with the circumstances surrounding the individuals' deaths.

Inspector Stephen Stewart, Texas Department of Criminal Justice, Huntsville, Texas. Killed on January 7, 1994. Surviving: Wife, Debbie Stewart and three children, Clayton—age 22, Casey—age 21, and David—age 11½. Mr. Stewart was a Correctional Officer prior to promoting to Inspector. While transporting an inmate work crew, his vehicle spun out in gravel overturning the vehicle. Inspector Steward was killed at the site.

Group Supervisor Arnold Garcia, Los Angeles County Probation Department, Dorothy Cirby Center Residential Facility, Downey, California. Killed on April 4, 1994. Surviving: Wife, Alma Garcia and four children, Christian—age 15, Fatima—age 11, Joseph—age 8, and Anthony—age 2. Supervisor Garcia was struck in the head with a desk leg and beaten to death by two wards who attacked him during the graveyard shift in the dormitory housing unit. The two wards were apprehended in a railroad yard trying to leave the area.

Correctional Officer Dennis Stemen, Allen Correctional Institution, Ohio Department of Corrections, Lima, Ohio. Killed on July 5, 1994. Surviving: Wife, Patty Stemen and four children, Elizabeth—age 9½, Johah—age 7½, Jordan—age 5, and Bethany—age 3. Officer Stemen was killed following a transportation detail of an inmate to a hospital for treatment. After dropping off the inmate at the hospital some hours from his institution, he and another correctional officer were asked to stay and work due to a shortage of correctional officers at the hospital. Later, they started the long drive back to their facility when the vehicle they were driving left the road causing Officer Stemen's death. He was killed when he was ejected from the State van.

Correctional Sergeant Marc Perse, Colorado Territorial Correctional Facility, Colorado Department of Correction, Canon City, Colorado. Killed on August 15, 1994. Surviving: Wife, Pam Perse. While a member of the S.O.R.T. TEAM, Sgt. Perse was killed during a rappelling training exercise which required him to rappel down a 90 foot tower. Sergeant Perse was killed when his equipment failed.

Warden Charles Farquhar and wife Doris Farquhar, State Cattle Ranch, Alabama Department of Corrections, Greensboro, Alabama. Killed on October 23, 1994. Surviving: Son Robbie and his wife Nita, and two grandchildren, Drew—age 11, and Charlie—age 5. Warden Farquhar and his wife Doris were assaulted by trustee inmates at the State Cattle Ranch, beaten to death and then burned in their house. Several inmates were also killed trying to come to the Farquhar's aid.

Correctional Officer Louis Perrine, Powder River Correctional Facility, Oregon Department of Corrections. Killed on November 17, 1994. Surviving: Wife, Marilyn and three children, Steven—age 29, Anthony—age 27, and Audra—age 25. Officer Perrine was killed during the supervision of an inmate work crew. During heavy winter storms, he was trying to clear an area with a tractor/grader when it flipped, rolling over on Officer Perrine and killing him instantly.

Senior Correctional Officer D'Atonion "Tony" Washington, Georgia State Penitentiary, Federal Bureau of Prisons, Atlanta, Georgia. Killed December 12, 1994. Surviving: Mother—Delphine and Father Frederick. Officer Washington was alone in a housing unit when he instructed an inmate to move to another area and the inmate assaulted him and beat him to death.

Lieutenant Robert Boud, Essex County Jail Annex, Department of Public Safety, Caldwell, New Jersey. Killed on January 8, 1995. Surviving: Wife, Kathy and four children, Katie—age 17, William—age 15, Matthew—age 10, and Kimberly—age 22. Lieutenant Boud died of a heart attack immediately following an inmate altercation/struggle.

Correctional Officer Leonard Trudeau, Metro/Dade County Department of Corrections, Florida. Killed on January 16, 1995. Surviving: Ex-Wife, Brenda and one child, Christina—age 12. Officer Trudeau was enroute home following his shift when he came upon a vehicle accident. While assisting the involved motorists as a good samaritan, another vehicle happened upon the accident at too high a rate of speed and while trying to avoid hitting the already involved vehicle, the second vehicle hit the guard rail and hit Officer Trudeau.

Mr. Speaker, we owe these people who have made the ultimate sacrifice and their families who must live with the consequences of that sacrifice an unparalleled debt of gratitude. Our hearts go out to the families—the spouses, children, siblings, and parents—and our prayers go up to God in their behalf. May we honor the deceaseds' sacrifice by so living our lives that we each may do our part to make this country a better place in which to live.

AFFIRMATIVE ACTION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes.

Ms. JACKSON-LEE. Mr. Speaker, in light of recent Supreme Court rulings that raise the hurdle of educational and economic opportunity for millions of minority citizens in America, I rise this evening to speak about the philosophical questions now facing this Nation with respect to affirmative action.

Many of us saw the headlines after Adarand was decided, and of course it behooves the national media to claim that affirmative action, or maybe equal opportunity, was dead. But let me begin with the general principles and philosophy of affirmative action by posing the simple yes or no question:

Does American society today provide all, all of its citizens, with an equal opportunity to succeed? I would imagine, if you were truthful, what your answer would be, and if you actually answer this question with a yes, you must be one of the following: unfortunately alarmingly uninformed, or maybe far less than forthright, or sadly a Republican Presidential candidate for office, or some of my Republican colleagues offering antidiscrimination legislation in this body.

How else could one deny that which we all know in our hearts to be true, and that is that, while we are all created equal, we, by no means, are treated equally in our society.

As initially conceived by the Johnson administration and as put in place by the Nixon administration, bipartisan Federal affirmative action programs were never intended as and have never been applied as a knee-jerk set of quota rules and regulations. Nor have affirmative action programs ever sanctioned the hiring or promotion of unqualified individuals over those who are eminently more qualified. Who would abide by that?

Affirmative action has always been and remains a good-faith effort to help historically underprivileged Americans compete on a more equal footing in the areas of education, business, employment, housing, and finance, simply attaining the American dream. For if we are to ever attain our American ideal of a colorblind society, which many would raise in debates all across this Nation, carrying the flag and suggesting that all they want is a colorblind society, which is where all men and women, boys and girls, are judged solely by the content of their character, not the color of their skin, first stated, by the way, by Dr. Martin Luther King, then clearly we must come to terms with our less-than-egalitarian past.

While we focus on our brutal 400-year legacy of slavery that ended merely technically only some 30 years ago, with the passage of our Civil Rights and Voting Rights Acts, or the "glass ceiling" that has kept women from achieving, like their male counterparts, in the American workplace, it is obvious that we must do more to include a wider variety of our citizens' talents, energies, and potential of all aspects of American life. The Bush administration established the Glass Ceiling Commission to keep track of report on minority employment and trends in American business.

Mr. Speaker as most of my colleagues know, the Commission's February report told us that 95 percent of the top executive jobs in America's top 2,000 corporations are still held by white men, many of whom I have had the opportunity to dialog with, heads of these corporations who have said we are still working and striving to create diversity at the higher levels.

That information can logically lead us to two possible conclusions: Either majority males are naturally superior to all human beings and, therefore, rightfully merit their positions, or there is still troublesome and pervasive discrimination at work in our society.

There are all kinds of discrimination. Let us be realistic. Some is subtle, even subconscious, such as when a majority male executive—who happened to be hired by a majority male executive—has to decide between two similarly qualified job applicants, another majority male and perhaps a minority female.

By doing what statistics tell us he probably will; that is, hire the majority male, our executives have not necessarily engaged in overt, willful acts of discrimination, racism, or sexism. I am certainly saying and not suggesting that all majority male executives would do any of this. But the effect is the same. It occurs, it happens. Ninety-five percent of those positions are held by majority males.

And I should note, Mr. Speaker, as we all know, there are thousands of acts of overt and willful discrimination occurring every day, and we can bury our heads in the sand and pretend these virulent problems do not exist, or we can openly discuss our lingering racism and sexism in ways to improve and reform our affirmative action programs.

But rather than enter into a reasonable discussion of this critical national issue, many demagogs have chosen their scapegoats and now seek to exploit the economic anxieties of millions of Americans, and that is why the headlines, and the talk shows and the blame game.

The demagogs want Americans who are justifiably worried about a rapidly changing global economy to believe that the minorities are to blame for their economic woes.

They want us to believe that welfare mothers are to blame for all of America's troubles.

That hard-working legal immigrants should be distrusted.

And that all young African-American males are potential criminals and thus incapable of contributing to the strength of America.

This is shameless, this is nonsense. Mr. Speaker, I call upon this House, I call upon the Senate, I call upon the leadership of this Nation and all of the American people to answer the question of equality truthfully. Have we reached it? Absolutely not. Can we do it? Yes, we can. Can we do it together? Absolutely.

I challenge this society and America, Let's do it together and create a true equality for all Americans, real affirmative action.

MY ADVICE TO THE PRIVILEGED ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes as the designee of the minority leader.

Mr. GONZALEZ. Mr. Speaker, serving in a body as unique as this is in the world, I believe the only such representative body in the world as our House of Representatives reveals, we still have the people exercising the ultimate decision as to whom they want to represent them in this most formidable and auspicious and important body known as our national legislative branch.

□ 1445

It used to be that even though you have open and free elections, the limitations were of such a nature that the general citizenry in a given sector had not too much choice between candidates, to a certain extent perhaps it is true today because of the horrendous cost in campaigning in modern day American politics and the consequent power behind the power going to those who have the money, directly or indirectly.

I rise as one of the most privileged persons, not only in the United States, but I think in the world. I have said this often and from the beginning. In no other country would the likes of myself, with no particular economic recourse, social position, or the like, have won election in an entire county with the most formidable opposition that could be developed, well monied, well prepared, and as an individual with no particular economic resources, but having had the privilege of serving in varying capacities since youth, had been in intimate contact and association with every sector, not just of my own neighborhood, but the county.

That, again, happened because of unique circumstances. I was one of the so-called first breakthroughs in that area of the country. But even at that dim age, it was considered quite a startling event that the then county judge, also serving as juvenile court judge, would have picked me to head the juvenile court staff in that county at that time. That is quite a number of years ago. It was my first exposure to the public matter. The last thing I ever thought would be that I would be engaged in seeking public office. I grew up in the context of the world that is long gone past, and structured so differently from today that there is no way I could bring to today's mind and evoke that period of time.

I rise because there are very important things happening that the average citizen is not going to know about, even after they happen, until he feels the impact or the effect, if at all it becomes that noticeable. This has been the sorry fate for some decades now. Instead of this being the most deliberative, considered body, with debate, full-blown debate, that has not been the case for quite some decades.

If I were to be asked after all these years and all of this what is the thing you think, it isn't any great accomplishment or anything, but I think the greatest thing I would say is that I did stimulate and create the conditions for debate, where there would be no escaping and sashaying with fine toe dancing out of the issues.

Now, next week the Committee on Banking and Finance, as it is known now, is expected to mark up what euphoniously is called a regulatory relief bill. The number of that bill is H.R. 1362. I say it should be 1313, because it is sure going to be unlucky for the consumers if it gets enacted. It is equally bad for bank safety, believe it or not, and a disaster as far as public beneficial and creative policy is concerned.

Some of it, of course, like most things, makes some sense. There are parts of the banking statute that impose needless burdens, and we enacted legislation last year that repealed a pretty good substantial number of duplicative or needless or outdated regulations. We did that last year. But, unhappily, the bill that the Committee on Banking and Financial Services is about to take up is a grab bag of banking, lobbyist-driven excesses. As reported from the subcommittee, the bill guts important safety and soundness regulations, rips the heart out of basic consumer protection laws, and grants legal protection for careless and crooked bank officers and directors.

It is unbelievable, yet we have got it. I feel it urgent enough for me to take time on this day, where normally I would be preparing to go home, in order to bring the attention of my colleagues, including those who are members of the committee, about this.

In addition to that, as bad as that is, the bill effectively prohibits the Justice Department from enforcing fair lending laws, which took years of struggle for us to finally have enacted some time ago. Oh, the lobbyists are celebrating greatly, but the bank customers and the taxpayers, my advice is you better check your wallets. You are about to be fleeced.

Here is an example. Under this bill a customer whose credit card is lost or stolen has his liability jacked up tenfold, tenfold. If an ATM card is lost or stolen, the customer's whole bank account can easily be wiped out, with no recourse.

What this means is that credit cards are about to become far riskier to customers, so much so that they might want to tear up their automatic teller cards and rely on old-fashioned transactions with bank tellers. But many banks are raising their fees, so customers, if they can find a bank in their neighborhood, may find it too expensive to do that.

The bill makes it a whole lot easier for banks to engage in discriminatory practices. Can you feature that? After all of this ado over these years about antidiscrimination fights and please, thanks to one especially zany amendment, the Justice Department is barred from investigating fair lending cases.

Another provision wipes out laws that provide the information and the data that can provide lending discrimination. Fully 35 percent of lenders are exempted from the Home Mortgage and Disclosure Act. Therefore, under this bill, even if the Justice Department wanted to investigate a case, it would not have access to lending data.

And that is not all. The bill wipes out any kind of case built on desperate impact theories, cases that attack situations that look fair but are in fact discriminatory in their result. This means about the only way a customer could win a fair lending case is for the lending officer to say flat out, "We do not make loans to your kind of people."

Banks will have nothing to fear, or if they want to engage in discriminatory lending, they can do so, as long as they are not just absolutely blatant about it.

This provision, in my book, makes the bill unacceptable on its own. But the bank lobby grab bag bill gets even worse. Bank officers and directors whose bank fails, mind you, here are banks, bank owners and directors who fail, either through incompetency or crookedness or what have you, will have the taxpayer pick up the tab. They will have a whole lot less to worry about under this bill. It is a rollback to what we have for years fought so much against in the past.

The Government will have to accept settlement offers or run the risk of having to pay the legal costs of the defendants. Defendants are given new defenses that the courts have refused to accept. A bank president with a bad business judgment gets off scot-free, because under this bill stupidity is made a valid defense against liability.

Oddly enough, if you can say that anything more could be odder, the vast new protection this bill grants the bank insiders come from the very party that regularly ridicules the Government for not recovering more money from the crooks and the incompetents who raided banks throughout the wild days of the eighties.

You would think that the party of rugged responsibility, and that is my opposition party, the so-called Republican Party, would want to demand that bank officers and directors be responsible. But far from it. They are making it far easier for incompetence and outright hooligans to rob a whole new generation of banks and customers.

One idea the Republicans had was to exempt the whole new class of banks from the requirement that the bank audit committee actually be independent and objective, not the captive management of management and insiders. But an outside audit committee is only required for a big bank, those of $500 million resources or more.

Thankfully, we may be able to preserve this protection. It sounds like a small thing, but the eighties taught us that a bank that does not have an independent audit committee has very little protection against a crooked management. If the majority changes its mind, the opposition party, and insists on gutting the independent audit committee requirement, my friends and fellow citizens, you better get ready for a fast increase in the number of banks that are robbed from the inside by their own management.

Inside robberies would be made easier by yet another provision of the bill that remains in place, a huge new increase in loans permitted for insiders.

Now, banks used to be chartered for a reason. In fact, that is still the basic law. This was the exact and single-minded purpose for the chartering of a bank. Public need and convenience. Those were the words of the statute as enacted originally. Public need, convenience, or necessity.

One thing you would like to have is a bank that makes loans to the community. We have a very simple law, and, incidentally, the banks hate it, to try to target that, the Community Reinvestment Act. Banks hate the idea of having to show that they are doing a service to the community. The administration has responded to legitimate concerns about complexity in compliance with community reinvestment. So a new regulation is now in place that should make life a whole lot simpler for everyone.

But lo and behold, the banks did not want a regulation that is sensible or easy to live with. They do not want anything that requires them to show they are serving the customers.

□ 1500

So the bill now in the Committee on Banking and Financial Services, true to lobby demands, would exempt 90 percent of all banks from having to comply with the Community Reinvestment Act at all and renders the law, consequently, meaningless and useless for the rest.

Still other parts of this nefarious bill apparently will enable banks to change their charges and fees without prior notice, without any notice, just arbitrarily. This, of course, will make banks one of the few businesses in the country that do not have to tell customers about price changes. It is absolutely unbelievable to me, a child of the depression era in which we saw, felt, and suffered the excesses of the banks then that are now being put back in. So I think anybody who knows me knows exactly that this is what I would be doing today.

Banks already do not have a list price on their main product; that is, loans. Most loans are tied to a prime rate number, but guess what, the great majority of loans are made well above or well below that price. Favored customers pay below the posted rate, but small businesses pay more, lots more. Of course, since there is no meaningful disclosure law, bank customers have a hard time finding the best deal. It is about to get harder for bank customers to know much about price changes or other bank services as well, check processing, credit card fees or whatever else, because this pending bill apparently strips away requirements that such price changes be disclosed.

Another provision of this bill wipes out any meaningful disclosure about interest payments on customer deposits. So when you understand this bill, you discover that the customer loses any ability to easily find out who offers the best deal on deposits and who offers the best deal on services. The customer also suffers huge new liabilities in the case of credit card or ATM loss or fraud. The bank regulatory relief bill may deny some lobbyist some way, a wish or a hope, but it is their relief bill still. I cannot think of a lobbyist that the bill leaves unhappy.

I have been around here some time, privileged to have been so by the constituents in the 20th Congressional District of Texas for a good period. Since my special election in 1961, to be precise. So I have been here long enough to know that whenever there is a feeding frenzy like this, it is the poor folks out on the beltway who will end up crying and gypped and stolen from.

No matter how you look at it, this legislation will make it difficult or impossible for customers to know what a bank is charging for loans and services. This is incredible to me, a child of that period of time in which it was obvious that the suffering demanded that there be regulatory imposition. And here, now, has moved full circle. So that it is impossible for customers to know what a bank is charging for loans and services and close to impossible to avoid huge losses in credit card or ATM card frauds, virtually impossible to win a case involving discrimination and very much likely to be paying more for bank fraud and mismanagement, which are bound to increase, of course, thanks to the way this bill shreds safety and the soundness requirements.

When this legislation reaches the floor, it will be called regulatory relief.

A better name is, customer grief bill. The lobbyists and the special interests have run amok, and if this bill is enacted, it will be a sad day for the customer and the taxpayer. Instead of marking up this bill next week, the Committee on Banking and Financial Services would be better advised to tear it up and to start all over.

I wish somehow and, in fact, pray that something happens in the interim in that we can prevail and perhaps do so. But the reality is that the chances of that happening are minimal and, therefore, I am reporting to my colleagues here on the record so that nobody can say that nobody told them so.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY.) Visitors in the gallery should not express sentiment.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DICKEY (at the request of Mr. ARMEY), for today, on account of attending his son's wedding.

Mrs. MEEK of Florida (at the request of Mr. GEPHARDT), for today after 12:35 p.m., on account of official business.

Mr. MINETA (at the request of Mr. GEPHARDT), for today, on account of personal business.

Mr. TUCKER (at the request of Mr. GEPHARDT), for today after noon, on account of official business.

Mr. YATES (at the request of Mr. GEPHARDT), for today, on account of illness.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WISE) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

(The following Members (at the request of Mr. SAXTON) to revise and extend their remarks and include extraneous material:)

Mr. SAXTON, for 5 minutes, today.

Mr. DOOLITTLE, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WISE) and to include extraneous matter:)

Mr. WARD.
Ms. DELAURO.
Ms. WOOLSEY.
Mr. ACKERMAN.
Mrs. MEEK of Florida.
Mr. TRAFICANT.
Mr. ENGEL.
Mr. COLEMAN.
Mr. TORRES.
Mr. DIXON.
Mr. MEEHAN.
Mr. LANTOS.
Mr. WYNN.
Mr. BARRETT of Wisconsin in two instances.
Mr. LAFALCE.

(The following Members (at the request of Mr. SAXTON) and to include extraneous matter:)

Mr. BURTON of Indiana.
Mr. FIELDS of Texas.
Mr. SOLOMON.
Mr. CALLAHAN.
Mrs. ROUKEMA.
Mr. GILLMOR.
Mr. LIGHTFOOT.
Mr. HASTERT.
Mr. STARK.
Mr. LIPINSKI.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 6 minutes p.m.), under its previous order, the House adjourned until Monday, June 19, 1995, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1063. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance [LOA] to Germany for defense articles and services (Transmittal No. 95-28), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

1064. A letter from the Comptroller General, General Accounting Office, transmitting the list of all reports issued or released in April 1995, pursuant to 31 U.S.C. 719(h); to the Committee on Government Reform and Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SOLOMON: Committee on Rules. House Resolution 168. Resolution amending clause 4 of rule XIII of the Rules of the House to abolish the Consent Calendar and to establish in its place a Corrections Calendar (Rept. 104-144). Referred to the House Calendar.

Mr. ARCHER: Committee on Ways and Means. H.R. 1812. A bill to amend the Internal Revenue Code of 1986 to revise the income estate, and gift tax rules applicable to individuals who lose U.S. citizenship; with an amendment (Rept. 104-145). Referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant clause 5 of rule X the following action was taken by the Speaker:

H.R. 1062. Referral to the Committee on Commerce extended for a period ending not later than June 22, 1995.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FIELDS of Texas (for himself and Mr. MARKEY):

H.R. 1869. A bill to amend the Communications Act of 1934 to extend the authorizations of appropriations of the Federal Communications Commission, and for other purposes; to the Committee on Commerce.

By Mrs. MORELLA:

H.R. 1870. A bill to authorize appropriations for the activities of the Under Secretary of Commerce for Technology, and for Scientific and Technical Research Services and Construction of Research Facilities activities of the National Institute of Standards and Technology, for fiscal year 1996, and for other purposes; to the Committee on Science.

H.R. 1871. A bill to authorize appropriations for the National Institute of Standards and Technology Industrial Technology Services for fiscal year 1996, and for other purposes; to the Committee on Science.

By Mr. BILIRAKIS (for himself, Mr. WAXMAN, Mr. BLILEY, Mr. DINGELL, Mr. HASTERT, Mr. WYDEN, Mr. UPTON, Mr. MANTON, Mr. KLUG, Mr. TOWNS, Mr. GREENWOOD, Mr. STUDDS, Mr. BILBRAY, Mr. BROWN of Ohio, Mr. GANSKE, Ms. FURSE, Mr. MOORHEAD, Mr. DEUTSCH, Mr. RUSH, Ms. ESHOO, Mr. STUPAK, Mr. GUNDERSON, and Ms. PELOSI):

H.R. 1872. A bill to amend the Public Health Service Act to revise and extend programs established pursuant to the Ryan White Comprehensive AIDS Resources Emergency Act of 1990; to the Committee on Commerce.

By Mr. BOUCHER:

H.R. 1873. A bill to provide for protection of the flag of the United States; to the Committee on the Judiciary.

By Mr. BROWDER:

H.R. 1874. A bill to modify the boundaries of the Talladega National Forest, AL; to the Committee on Agriculture.

By Mr. COLEMAN:

H.R. 1875. A bill to provide for the conveyance of the reversionary interest of the United States in certain lands to the Clint Independent School District and the Fabens Independent School District; to the Committee on International Relations.

By Mr. EVANS (for himself, Mr. DEFAZIO, Mr. FALEOMAVAEGA, Mr. FRANK of Massachusetts, Ms. PELOSI, Mr. OLVER, Mr. HINCHEY, Mr.

Gutierrez, Mr. Durbin, Mr. Serrano, Mr. Shays, Mr. Foglietta, Mr. Lewis of Georgia, Mrs. Morella, Mr. Vento, Ms. Slaughter, Mr. Johnston of Florida, Mr. Minge, Mr. Deutsch, Mr. Dellums, Mr. Barrett of Wisconsin, Mr. Abercrombie, Mr. Torres, Mr. Brown of California, Mr. Wyden, and Mr. Conyers):

H.R. 1876. A bill to support proposals to implement the U.S. goal of the eventual elimination of antipersonnel landmines, to impose a moratorium on the use of antipersonnel landmines except in limited circumstances, to provide for sanctions against foreign governments that export antipersonnel landmines, and for other purposes; to the Committee on International Relations, and in addition to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FOX (for himself, Mr. Calvert, Mr. Baker of Louisiana, Mr. Schumer, Ms. McKinney, and Mr. LaTourette):

H.R. 1877. A bill to amend title 28, United States Code, to allow suits against foreign states for damages caused by torture, extrajudicial killing, and other terrorist acts; to the Committee on the Judiciary.

By Mr. HOBSON (for himself and Mr. Hall of Ohio):

H.R. 1878. A bill to extend for 2 years the period of applicability of enrollment mix requirement to certain health maintenance organizations providing services under the Dayton Area Health Plan; to the Committee on Commerce.

By Mr. HORN:

H.R. 1879. A bill to authorize the Secretary of the Interior to participate in the Alamitos barrier recycled water project and in the Long Beach water desalination and reuse research and development project; to the Committee on Resources.

By Mr. LAHOOD (for himself, Mr. Rush, Mr. Reynolds, Mr. Lipinski, Mr. Gutierrez, Mr. Flanagan, Mr. Hyde, Mrs. Collins of Illinois, Mr. Crane, Mr. Yates, Mr. Porter, Mr. Weller, Mr. Costello, Mr. Fawell, Mr. Hastert, Mr. Ewing, Mr. Manzullo, Mr. Evans, Mr. Poshard, and Mr. Durbin):

H.R. 1880. A bill to designate the U.S. post office building located at 102 South McLean, Lincoln, IL, as the "Edward Madigan Post Office Building"; to the Committee on Government Reform and Oversight.

By Mr. PETERSON of Minnesota:

H.R. 1881. A bill to amend the Internal Revenue Code of 1986 to treat for unemployment compensation purposes Indian tribal governments the same as State or local units of government or as nonprofit organizations; to the Committee on Ways and Means.

H.R. 1882. A bill to consolidate the Administrator of General Services authorities relating to the control and utilization of excess and surplus property, and for other purposes; to the Committee on Government Reform and Oversight, and in addition to the Committees on National Security, Science, International Relations, and Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SCARBOROUGH (for himself, Mr. Boehner, Mr. Chabot, Mr. Brownback, Mr. Armey, Mr. DeLay, Mr. Cox, Ms. Molinari, Mr. Paxon, Mr. Barr, Mr. Bono, Mr. Christensen, Mr. Forbes, Mr. Funderburk, Mr. Graham, Mr. Hastings of Washington, Mr. Hostettler, Mr. Hutchinson, Mr. Istook, Mr. Sam Johnson, Mr. Jones, Mr. Metcalf, Mr. Miller of Florida, Mr. Nethercutt, Mr. Riggs, Mr. Salmon, Mr. Souder, Mr. Talent, Mr. Bachus, Mr. Baker of California, Mr. Bartlett of Maryland, Mr. Barton to Texas, Mr. Bass, Mr. Bryant of Tennessee, Mr. Burr, Mr. Burton of Indiana, Mr. Camp, Mr. Callahan, Mr. Chambliss, Mrs. Chenoweth, Mr. Canady, Mr. Crapo, Mr. Chrysler, Mr. Coburn, Mr. Condit, Mr. Cooley, Mr. Crane, Mrs. Cubin, Mr. Cunningham, Mr. Dreier, Mr. Doolittle, Mr. Dornan, Mr. Emerson, Mr. Ensign, Mr. Foley, Mr. Ganske, Mr. Goss, Mr. Gutknecht, Mr. Hancock, Mr. Hastert, Mr. Hayworth, Mr. Hefley, Mr. Heineman, Mr. Herger, Mr. Hilleary, Mr. Hoke, Mr. Hunter, Mr. Inglis of South Carolina, Mr. Kasich, Mr. King, Mr. LaHood, Mr. Largent, Mr. Latham, Mr. Lewis of Kentucky, Mr. Linder, Mr. Livingston, Mr. Manzullo, Mr. McCollum, Mr. McIntosh, Mr. McCrery, Mr. Mica, Mrs. Myrick, Mr. Neumann, Mr. Norwood, Mr. Parker, Mr. Pombo, Mr. Radanovich, Mr. Regula, Mr. Rohrabacher, Mr. Sanford, Mrs. Seastrand, Mr. Shadegg, Mrs. Smith of Washington, Mr. Smith of Michigan, Mr. Solomon, Mr. Stockman, Mr. Stump, Mr. Tate, Mr. Taylor of North Carolina, Mr. Thornberry, Mr. Tiahrt, Mr. Watts of Oklahoma, Mr. Weldon of Pennsylvania, Mr. Weldon of Florida, Mr. White, Mr. Whitfield, and Mr. Wicker):

H.R. 1883. A bill to strengthen parental, local, and State control of education in the United States by eliminating the Department of Education and redefining the Fedeal role in education; to the Committee on Economic and Educational Opportunities, and in addition to the Committees on the Budget, and Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. TRAFICANT:

H.R. 1884. A bill to provide for school bus safety, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Economic and Educational Opportunities, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ZELIFF:

H.R. 1885. A bill to limit the authority of the Secretary of Transportation to regulate light and medium duty commercial vehicles; to the Committee on Transportation and Infrastructure.

By Mr. DEFAZIO (for himself and Mr. Durbin):

H.J. Res. 95. Joint resolution to amend the War Powers Resolution; to the Committee on International Relations, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WOLF (for himself, Mr. Solomon, Mr. Baker of California, Mr. Barton of Texas, Mr. Bonior, Mr. Brown of Ohio, Mr. Bunning of Kentucky, Mr. Conyers, Mr. Diaz-Balart, Mr. Dickey, Mr. Durbin, Mr. Evans, Mr. Frank of Massachusetts, Ms. Kaptur, Mr. Lantos, Mr. Markey, Ms. Pelosi, Mr. Rohrabacher, Ms. Ros-Lehtinen, Mr. Sensenbrenner, Mr. Smith of New Jersey, Mr. Stark, and Mr. Traficant):

H.J. Res. 96. Joint resolution disapproving the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of the People's Republic of China; to the Committee on Ways and Means.

MEMORIALS

Under clause 4 of rule XXII,

114. The SPEAKER presented a memorial of the General Assembly of the State of Indiana, relative to the Republic of China, Taiwan's, participation in the United Nations; to the Committee on International Relations.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. WYNN introduced a bill (H.R. 1886) for the relief of John Wesley Davis; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. Bevill, Mr. Young of Alaska, Mr. Scott, Mr. Mollohan, Mr. Lazio of New York, Ms. Woolsey, and Mr. Gallegly.

H.R. 65: Ms. Lofgren, Mr. Kildee, and Mr. Taylor of Mississippi.

H.R. 72: Mr. Shaw.

H.R. 73: Mr. Shaw.

H.R. 103: Mr. Barcia of Michigan and Mr. Serrano.

H.R. 109: Mr. Taylor of Mississippi.

H.R. 112: Mr. Johnston of Florida.

H.R. 188: Mr. Kennedy of Rhode Island.

H.R. 218: Mr. Jacobs and Mr. Barrett of Nebraska.

H.R. 246: Mr. McCollum, Mr. Schaefer, Mr. Cooley, Mr. Linder, Mr. Baker of Louisiana, and Mr. Packard.

H.R. 303: Ms. Lofgren and Mr. Taylor of Mississippi.

H.R. 311: Mr. Lewis of Georgia, Mr. Jacobs, and Mr. Poshard.

H.R. 359: Mr. Faleomavaega, Mr. Engel, and Mr. Lewis of Kentucky.

H.R. 447: Mr. Klink, Mr. Dellums, and Mr. Reynolds.

H.R. 497: Mr. Zeliff, Mr. Walsh, Mr. Brownback, and Mr. Hamilton.

H.R. 499: Mr. Barcia of Michigan.

H.R. 559: Mrs. Morella and Mr. Manton.

H.R. 733: Mr. McCollum and Mr. English of Pennsylvania.

H.R. 734: Mr. English of Pennsylvania.

H.R. 743: Mr. Dreier, Mr. Combest, Mr. Crapo, and Mr. Crane.

H.R. 782: Mr. DeFazio and Mr. Riggs.

H.R. 789: Mr. Ehlers.

H.R. 863: Mr. Gejdenson and Mr. Visclosky.

H.R. 864: Mr. Lewis of Georgia, Mr. Sensenbrenner, Mr. Gilchrest, Mr. Reynolds, and Mr. Bateman.

H.R. 868: Mr. SOLOMON, Ms. BROWN of Florida, Mr. BARCIA of Michigan, and Mr. HASTINGS of Florida.

H.R. 882: Mr. OBERSTAR, Mrs. MEYERS of Kansas, Mr. GALLEGLY, Mr. BURR, Mr. FRAZER, and Mr. GUNDERSON.

H.R. 883: Mr. BROWN of California, Mr. FRANK of Massachusetts, Mr. FATTAH, Mr. COYNE, Mr. FARR, Mr. CONYERS, and Ms. ROYBAL-ALLARD.

H.R. 899: Mr. POMBO, Mr. ZELIFF, Mr. SHAW, Mr. ABERCROMBIE, and Mr. WILLIAMS.

H.R. 1023: Mr. LONGLEY.

H.R. 1024: Mr. BAKER of Louisiana.

H.R. 1085: Mr. OLVER.

H.R. 1090: Mr. FOX and Mr. NORWOOD.

H.R. 1091: Mr. LEACH.

H.R. 1099: Mr. NEAL of Massachusetts, Mr. CAMP, Mr. ENGLISH of Pennsylvania, Mr. GEPHARDT, Mr. CARDIN, and Mr. HANCOCK.

H.R. 1114: Mr. WHITFIELD, Mr. ZIMMER, Mr. NETHERCUTT, and Mr. CRANE.

H.R. 1119: Mr. MATSUI.

H.R. 1172: Mr. MASCARA, Ms. HARMAN, Mr. CREMEANS, and Mr. POSHARD.

H.R. 1204: Mr. ENGLISH of Pennsylvania, Mr. MANZULLO, Mr. LINDER, Mr. FRANK of Massachusetts, Ms. LOFGREN, Mr. INGLIS of South Carolina, and Mr. KING.

H.R. 1227: Mr. MILLER of Florida, Mr. CHRISTENSEN, and Mr. CUNNINGHAM.

H.R. 1242: Mrs. MEYERS of Kansas.

H.R. 1402: Mr. MARTINEZ and Mr. REYNOLDS.

H.R. 1404: Mr. PICKETT, Mr. WARD, Mrs. MORELLA, Mr. GALLEGLY, and Mr. MATSUI.

H.R. 1459: Mr. FRAZER, Mr. ENGEL, Mr. FROST, Mr. FATTAH, and Mr. BENTSEN.

H.R. 1552: Mr. FROST, Mr. MATSUI, Mr. LAUGHLIN, Mr. BEREUTER, Mr. WATTS of Oklahoma, Mr. PARKER, Mrs. SEASTRAND, Mr. RIGGS, Mr. CRAMER, Mr. BAKER of Louisiana, Mr. LAHOOD, Ms. JACKSON-LEE, Mr. THOMPSON, and Miss COLLINS of Michigan.

H.R. 1568: Mr. LIPINSKI, Mr. BAKER of Louisiana, and Mr. REYNOLDS.

H.R. 1580: Mr. ENSIGN, Mr. ALLARD, Mrs. CUBIN, Mr. COOLEY, and Mr. THORNBERRY.

H.R. 1594: Mr. HOEKSTRA, Mr. BASS, Mr. FOX, Mr. ROYCE, Mr. GUTKNECHT, and Mr. CHRYSLER.

H.R. 1608: Mr. REYNOLDS.

H.R. 1627: Mr. SPENCE, Mr. PARKER, Mr. LEWIS of California, Mr. STOCKMAN, Mr. DAVIS, Mr. MCKEON, Mr. WICKER, Mr. TIAHRT, Mr. HILLIARD, and Mr. THOMPSON.

H.R. 1662: Mr. JEFFERSON, Mr. JACOBS, Mr. SABO, Mr. FRAZER, Mr. WARD, Mr. OBERSTAR, Mr. GINGRICH, and Mr. CARDIN.

H.R. 1678: Mr. CLINGER, Mr. SPENCE, Mr. SHAYS, Mr. FRANK of Massachusetts, Mr. RIGGS, Mr. INGLIS of South Carolina, Mr. UNDERWOOD, Mr. DAVIS, Mr. SCARBOROUGH, Mr. GOSS, Mr. UPTON, Mr. FRELINGHUYSEN, Mr. NEY, Mr. BRYANT of Tennessee, Mr. HORN, Mr. GENE GREEN of Texas, Mr. BAKER of Louisiana, Mr. LATOURETTE, Mr. HEINEMAN, and Mr. ZIMMER.

H.R. 1684: Mr. DINGELL, Mr. WHITFIELD, Mr. GILLMOR, Mr. STUPAK, Mr. FROST, Mr. LIPINSKI, Mr. BURR, and Mr. GUNDERSON.

H.R. 1686: Ms. DUNN of Washington.

H.R. 1768: Mr. GUTKNECHT.

H.R. 1801: Mr. ROHRABACHER, Ms. MOLINARI, Mr. PAXON, Mr. KASICH, Mr. NEUMANN, and Mr. BARTLETT of Maryland.

H.R. 1807: Mr. CRAMER, Mr. BOUCHER, and Mr. DAVIS.

H.R. 1818: Mr. BAKER of California, Mr. LIVINGSTON, and Mr. PAYNE of Virginia.

H. Con. Res. 23: Mr. MATSUI and Mr. JOHNSON of South Dakota.

H. Con. Res. 42: Mrs. KELLY.

H. Con. Res. 45: Mr. REYNOLDS and Mr. FALEOMAVAEGA.

H. Con. Res. 47: Mr. MILLER of California, Mr. FORBES, Mr. GEJDENSON, Mr. MOAKLEY, and Mr. TALENT.

H. Con. Res. 50: Mrs. KELLY.

H. Con. Res. 62: Mr. ENGEL and Mr. REYNOLDS.

H. Con. Res. 63: Mr. PORTMAN, Mr. CLAY, Mr. ENGEL, and Mr. SENSENBRENNER.

H. Res. 19: Mr. REYNOLDS.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1817

OFFERED BY: MR. BREWSTER

AMENDMENT NO. 9: At the end of the bill, add the following new title:

TITLE —DEFICIT REDUCTION LOCKBOX

DEFICIT REDUCTION TRUST FUND; DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS

SEC. 126. (a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the "Deficit Reduction Trust Fund" (in this title referred to as the "Fund").

(b) CONTENTS.—The Fund shall consist only of amounts transferred to the Fund under subsection (c).

(c) TRANSFERS OF MONEYS TO FUND.—For each of the fiscal years 1996 through 1998, the Secretary of the Treasury shall transfer to the Fund the aggregate amount of estimated reductions in new budget authority and outlays for discretionary programs (below the allocations for those programs for each such fiscal year under section 602(b) of the Congressional Budget Act of 1974) resulting from the provisions of this Act, as calculated by the Director.

(d) USE OF MONEYS IN FUND.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amounts in the Fund shall not be available, in any fiscal year, for appropriation, obligation, expenditure, or transfer.

(2) USE OF AMOUNTS FOR REDUCTION OF PUBLIC DEBT.—The Secretary of the Treasury shall use the amounts in the Fund to redeem, or buy before maturity, obligations of the Federal Government that are included in the public debt. Any obligation of the Federal Government that is paid, redeemed, or bought with money from the Fund shall be canceled and retired and may not be reissued.

(e) DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS.—Upon the enactment of this Act, the Director of the Office of Management and Budget shall make downward adjustments in the adjusted discretionary spending limits (new budget authority and outlays) as set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for each of the fiscal years 1996 through 1998 by the aggregate amount of estimated reductions in new budget authority and outlays transferred to the Fund under subsection (c) for such fiscal year, as calculated by the Director.

H.R. 1817

OFFERED BY: MR. GUTIERREZ

AMENDMENT NO. 10: On page 5, line 4, strike "$72,537,000", and insert "$69,914,000".

H.R. 1817

OFFERED BY: MR. HORN

AMENDMENT NO. 11: Page 3, line 3, insert "(less $99,150,000)" before ", to remain".

AMENDMENT NO. 12: Page 3, line 3, strike "$588,243,000" and insert "$489,093,000".

H.R. 1854

OFFERED BY: MR. BREWSTER

AMENDMENT NO. 1: At the end of the bill, add the following new title:

TITLE IV—DEFICIT REDUCTION LOCKBOX

DEFICIT REDUCTION TRUST FUND; DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS

SEC. 401. (a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the "Deficit Reduction Trust Fund" (in this title referred to as the "Fund").

(b) CONTENTS.—The Fund shall consist only of amounts transferred to the Fund under subsection (c).

(c) TRANSFERS OF MONEYS TO FUND.—For each of the fiscal years 1996 through 1998, the Secretary of the Treasury shall transfer to the Fund the aggregate amount of estimated reductions in new budget authority and outlays for discretionary programs (below the allocations for those programs for each such fiscal year under section 602(b) of the Congressional Budget Act of 1974) resulting from the provisions of this Act, as calculated by the Director.

(d) USE OF MONEYS IN FUND.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amounts in the Fund shall not be available, in any fiscal year, for appropriation, obligation, expenditure, or transfer.

(2) USE OF AMOUNTS FOR REDUCTION OF PUBLIC DEBT.—The Secretary of the Treasury shall use the amounts in the Fund to redeem, or buy before maturity, obligations of the Federal Government that are included in the public debt. Any obligation of the Federal Government that is paid, redeemed, or bought with money from the Fund shall be canceled and retired and may not be reissued.

(e) DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS.—Upon the enactment of this Act, the Director of the Office of Management and Budget shall make downward adjustments in the adjusted discretionary spending limits (new budget authority and outlays) as set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for each of the fiscal years 1996 through 1998 by the aggregate amount of estimated reductions in new budget authority and outlays transferred to the Fund under subsection (c) of such fiscal year, as calculated by the Director.

H.R. 1868

OFFERED BY: MR. BREWSTER

AMENDMENT NO. 1: At the end of the bill, add the following new title:

TITLE VI—DEFICIT REDUCTION LOCKBOX

DEFICIT REDUCTION TRUST FUND; DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS

SEC. 601. (a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the "Deficit Reduction Trust Fund" (in this title referred to as the "Fund").

(b) CONTENTS.—The Fund shall consist only of amounts transferred to the Fund under subsection (c).

(c) TRANSFERS OF MONEYS TO FUND.—For each of the fiscal years 1996 through 1998, the Secretary of the Treasury shall transfer to the Fund the aggregate amount of estimated reductions in new budget authority and outlays for discretionary programs (below the allocations for those programs for each such fiscal year under section 602(b) of the Congressional Budget Act of 1974) resulting from the provisions of this Act, as calculated by the Director.

(d) USE OF MONEYS IN FUND.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amounts in the Fund shall not be available, in any fiscal year, for appropriation, obligation, expenditure, or transfer.

(2) USE OF AMOUNTS FOR REDUCTION OF PUBLIC DEBT.—The Secretary of the Treasury shall use the amounts in the Fund to redeem, or buy before maturity, obligations of the Federal Government that are included in the public debt. Any obligation of the Federal Government that is paid, redeemed, or bought with money from the Fund shall be canceled and retired and may not be reissued.

(e) DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS.—Upon the enactment of this Act, the Director of the Office of Management and Budget shall make downward adjustments in the adjusted discretionary spending limits (new budget authority and outlays) as set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for each of the fiscal years 1996 through 1998 by the aggregate amount of estimated reductions in new budget authority and outlays transferred to the Fund under subsection (c) for such fiscal year, as calculated by the Director.

H.R. 1868

OFFERED BY: MR. SANDERS

AMENDMENT NO. 2: On page 5, line 14, delete "$26,500,000" and insert "0".

On page 5, line 23, delete "$79,000,000" and insert "0".

AMENDMENT NO. 3: On page 5, line 14, delete "$26,500,000" and insert "1".

On page 5, line 23, delete "$79,000,000" and insert "1".

EXTENSIONS OF REMARKS

SCHOOL BUS SAFETY ACT OF 1995

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. TRAFICANT. Mr. Speaker, every schoolday in our country approximately 418,000 schoolbuses carry 24 million schoolchildren to and from school and school-sponsored activities covering 4.5 billion miles. Schoolbus safety is an issue that certainly deserves the attention of the American people and the Congress. Between 1988 and 1993 approximately 400 people were killed, and 67,900 people were injured, as a result of schoolbus accidents. In my State of Ohio, there were 475 people—426 of them students—injured in schoolbus accidents in the 1992–93 school year.

Without question the schoolbus is the safest mode of transportation on America's roads today. My goal is to improve on existing technologies to maximize safety. Today, Mr. Speaker, I am introducing a bill to do just that. The School Bus Safety Act does a number of things that will ensure the safe travel of our most valuable resources: our children.

My bill directs the U.S. Department of Transportation to set national proficiency standards for schoolbus drivers. It also directs the Administrator of the National Highway Traffic Safety Administration to develop guidelines on the safe transportation in schoolbuses of children under the age of 5. Currently, today's buses are designed to transport and provide maximum safety for children above the age of 6. It would apply the Federal Motor Carrier Safety Regulations [FMCSR] to interstate schoolbus operations. Presently, schoolbuses owned and operated by school districts, regardless of the type of operation involved, are not covered by FMCSR because the school districts are exempt governmental entities. My bill mandates a national criminal history background check system to enable local education agencies, or contractors, to check the criminal background of any person they are considering for employment as bus drivers. In addition, the bill calls for the establishment of construction, design, and securement standards for wheelchairs used in schoolbuses. Finally, my bill directs the DOT study the usage of seat belts on schoolbuses, the extent to which public transit vehicles are engaged in schoolbus operations, and the contracting out of schoolbus operations.

Mr. Speaker, as a senior member of the U.S. House of Representatives Transportation and Infrastructure Committee, I have long championed Federal measures to promote transportation safety. My bill jets forth a reasonable plan for improving schoolbus safety and safeguarding the lives of schoolchildren. I urge all my colleagues to support this legislation.

REMEMBERING OUR VETERANS

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. BARRETT of Wisconsin. Mr. Speaker, one of my constituents, Thomas J. Boulet, sent me a poem "Remembering" which honors the service of the men and women who have served their country in the Armed Forces. I think this poem gives all of us an opportunity to reflect on their sacrifice and valor.

REMEMBERING

(By Thomas J. Boulet, September 10, 1980)

Yes, the poppies still blow in Flanders Field
But over here, who still cares—?
People have forgotten Wars I and II
That made Veterans of men so true.

For God and Country—they did their duties
Against high odds—they went forward:
Striving, fighting men—now forgotten
They gave their all, let them rest—Their battles done.

Today, we here, must say a Prayer
To remember the "Peace of the Dead"
Hoping that our Prayers are not in vain
That while this World lasts—no war again.

The "Torch" that was cast to us living
Must be "Held up high"—or die;
'Tis our time now to push and strive
For Peace; then we can hold that torch up high.

We must not forget what war can do,
A shattered family—of men so true;
Helping the helpless that did come back,
To work on in life with a joyous knack.

LEGISLATION TO AUTHORIZE A LAND TRANSFER BY THE CLINT AND FABENS INDEPENDENT SCHOOL DISTRICTS

HON. RONALD D. COLEMAN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. COLEMAN. Mr. Speaker, I rise to announce that I am introducing legislation to remove from existing Federal law an obstacle which prevents two school districts from making important decisions regarding land which they were granted by the Federal Government 38 years ago. Through minor changes in existing legislation, this Congress can give the Fabens and Clint independent school districts the power to determine how to make the most effective use of land they have been capably utilizing for almost four decades.

Since 1957, Clint and Fabens independent school districts in Texas have used federally bestowed land to enhance their agricultural and vocational curriculum. Placing an educational farm on land which the Federal Government had previously ignored for 23 years, the Clint school district has been able to add another dimension to their educational programming, and teach valuable skills to their students.

Over the years, however, getting students to the educational farm has grown increasingly problematic. Located 2 miles beyond the outermost boundaries of the Clint independent school district, school officials and teachers must daily confront the difficulties and dangers of getting students safely from Clint schools to a farm which now lies in another district. Students and teachers must hope that a considerable trip through busy streets will not tragically alter the progress these students are making. It would make sense, some argue, for Clint to sell the land and use the proceeds to enhance its other vocational and technological programs. Unfortunately, such a sensible course of action is not allowed by current law.

As existing law is written, the ability of the school districts to make decisions in regard to that land have been bracketed by a reversionary clause in the law. This clause states that any attempt to dispose of the land would result in making the land property of the Federal Government once again. Clinton and Fabens are, therefore, confined by a 38-year-old straitjacket. They can either keep the land no matter how greatly local circumstances change, or they can surrender it to the Government and leave their students with even fewer vocational resources than they currently possess.

At a time when we are all appreciating the complexities and virtues of a Federal system that gives localities important decisionmaking powers, I am confident that most of my colleagues on both sides of the aisle understand the importance of letting school districts decide how to best utilize property that has been under their supervision for close to 40 years.

Therefore, today I am introducing legislation which would waive the reversionary right stipulated in Public Law 85–42, and untie the hands of Fabens and Clint. Passage of this legislation would signal that this Congress is capable of recognizing instances when we can help our schools and students by intelligently scaling back the reach of the Federal Government.

Before the 85th Congress granted these districts the right to use this land, the Federal Government said for 23 years that it would soon build something on the land. After those two decades of inactivity, Clint, Fabens, and the Congress finally realized that the people of the community could make better use of the land than the Federal Government had. I urge my colleagues not to return to those years of inactivity and require the land to disappear into the labrynthian maze of Federal bureaucracy.

Waiving the reversionary right is a simple and straightforward way to help the young people in my district in Texas. The language in the proposed legislation is narrowly tailored to ensure that any proceeds which come from

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

any sale of land go to improving the education of students in two school districts. Moreover, by passing this bill, Congress can demonstrate that empowering localities is not a blind leap of faith, but a definite process which requires the Members of this body to be sensitive to local realities and local solutions. I urge my colleagues to support this legislation.

THE CRUSADE FOR CHILDREN: OUR COMMUNITY AT ITS BEST

HON. MIKE WARD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. WARD. Mr. Speaker, year after year, the WHAS Crusade for Children shows us what a community working together can achieve. The crusade did it again this past weekend.

Rick Larkins, the chief of the Highview Fire Department, summed up the crusade when he said, "We're like a collection point for the goodness of everyone in Jefferson County."

The Crusade for Children has collected that goodness for 42 years. I know of no other cause which, year in and year out, brings together so many volunteers, working long hours, to truly make a community statement that we will stand behind children and families with special needs.

The volunteer fire departments of my community have made the crusade their cause. In doing so, they have given all of us a concrete example that a real community is people helping people.

My thanks and commendations go to the men and women of WHAS, the volunteer firefighters, the churches, the veterans' groups, and so many individuals who give their time and energy to this annual endeavor to help children.

I'm proud to represent in the U.S. Congress a community which really cares about people, and the Crusade for Children is one of the best statements of our caring.

THE 50TH ANNIVERSARY OF BELVIDERE AMBULANCE CORPS INC.

HON. MARGE ROUKEMA

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mrs. ROUKEMA. Mr. Speaker, I rise to congratulate the Belvidere Ambulance Corps Inc. on the 50th anniversary of its dedicated service to the people of Belvidere, NJ. I am certain you realize how difficult it is to find people who are willing to invest their time and energy to become an emergency medical technician, answer calls at all hours of the day and night, and keep up with the continuing education required for this skill. Yet the men and women of the Belvidere Ambulance Corps have accepted this challenge and perform their arduous duties gladly. They truly care about the fellow members of their community.

The history of the Belvidere Ambulance Corps is one that began with a sad, unfortunate, and avoidable tragedy. On June 28, 1945, Belvidere merchant Matthew Hains was pushing his stalled car when he became pinned between the door and a utility pole and was seriously injured. A local doctor rushed to the scene and immediately called for an ambulance, but it took more than an hour for one to arrive from out of town. Mr. Hains made it 15 miles to the Easton [Pennsylvania] Hospital but died 2 days later. Belvidere had lost one of its most valued young citizens for lack of an ambulance.

The citizens of Belvidere responded swiftly. On July 2, 1945—only 4 days after the accident—the mayor appointed an ambulance fund committee and an ambulance was shortly in service. Over the years, the ambulance service has grown considerably, gaining its own building in 1946, a crash truck and boat in 1963, a jaws-of-life tool in 1976, Med-Evac helicopter flights in 1983 and 911 emergency calling in 1994.

Since that fateful day in 1945, the Belvidere Ambulance Corps has answered roughly 27,000 calls, an average of 11 a week, put in more than 115,000 person hours, an average of 45 hours a week, and put nearly 700,000 miles on its vehicles—the equivalent of crossing the United States 224 times. These figures do not include time spent on education, drills, or equipment maintenance.

The ambulance corps will celebrate its 50th anniversary with a parade on Saturday. More than 1,000 participants and spectators are expected to participate and show ambulance workers their support. I wish them continued success in their next 50 years.

RECOGNITION OF MAYOR ROBERT PHINNEY AND POPULACE OF SOUTH GLENS FALLS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. SOLOMON. Mr. Speaker, every day when I'm home I have the privilege of driving through one of the most appealing communities on my way to and from my house in Glens Falls and main district office in Saratoga.

One important community between those two cities is the Village of South Glens Falls, which will celebrate its centennial this year. It's a village with an interesting heritage and, at the same time, all the resources needed for an equally exciting future. I'd like to say a few words this morning about South Glens Falls.

Like the city across the river, South Glens Falls takes its name, and has built its life, around the falls in a bend of the Hudson River. There, also, is the site of the famous cave mentioned in James Fenimore Cooper's "Last of the Mohicans."

And like many other communities in the area, the birth of South Glens Falls was intimately tied to the lumber and paper-making industries. Its official beginning as a distinct entity was on August 8, 1895. Voters petitioned the formation of the village to find a source of wholesome water for its inhabitants. Funding was approved by a local bond vote in early 1896, and the village began building a water system fed by a series of springs, pumps, standpipes, and distribution piping.

A new sewer system was constructed during the twenties and thirties, but more stringent regulations in the seventies and eighties led to major reconstruction projects.

The village is justifiably proud of its success in cleaning up the Hudson River for future generations to enjoy. Adding to the quality of life was the inclusion of a walk/bike trail along the river and refurbishing the old brick treatment plant into a museum, which will be dedicated this summer.

The village is also known for its excellent school system, and other amenities that enhance living, but it has never lost its small-town character. Mr. Speaker, the character of America was forged in exactly such small towns and villages, where such virtues as thrift, hard work, and care for one's neighbors abound.

All summer long those small-town virtues and 100 years of existence will be celebrated in South Glens Falls. The highlight will be the week of August 7 to 13, featuring a parade and museum dedication.

Mr. Speaker, I ask all Members to join me in saluting Mayor Robert Phinney, other village officials, and the entire populace of South Glens Falls, with all our best wishes toward a second century of growth and prosperity.

SPECIAL TRIBUTE TO MR. W.C. HELVESTON

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. CALLAHAN. Mr. Speaker, I am here today to pay special tribute to a man who has for years been a dedicated and faithful public servant in Mobile County, AL. This gentleman is only the second person to have served as administrator of Alabama's second largest county in more than 70 years, and is owed an enormous debt of gratitude by the people of that area. Mr. Speaker, it is for this reason that I, on behalf of the citizens of Mobile County, recognize Mr. W.C. Helveston.

Mr. Helveston was educated in the Mobile County public school system. He then went on to attend the University of Alabama and Spring Hill College, graduating with a degree in business administration. Mr. Helveston worked for a period of time with the Louisville and Nashville Railroad before becoming an administrative assistant with the Mobile City Commission in 1961. It was 10 years later that W.C. Helveston made his entrance into local government as the administrator of Mobile County.

During his tenure in this office, Mobile County has flourished beyond expectation, and Mr. Helveston has made a very important contribution to this growth. He has seen the county's general fund budget go from $4 million in the early seventies to more than $104 million today. He has overseen a highway construction program that is one of the largest and best in our State. In addition, through untiring efforts with the U.S. marshall service, Mr. Helveston secured $1 million in Federal funds for the construction of the Metro Jail.

Mr. Speaker, I could go on for hours listing W.C. Helveston's various accomplishments and contributions to Mobile County. However, it is his undying commitment to make county government professional and responsive to the people that has been his greatest gift to the people of this county.

Mr. Helveston's commitment to Mobile County has always reached far beyond his position as administrator. At a time when many find it difficult to make time to give something back to the community, W.C. Helveston has been an outstanding exception. One of his most notable areas of community involvement has been with the Mobile County Mental Health Association, where he served on the executive board. The gentleman is a civil servant in the truest sense.

Oftentimes, many in this great Nation are eager to point the finger of blame or find fault with our leaders. Rarely do we take the opportunity to recognize the dedicated and faithful public service of many of our officials. It is for this reason that I take such great pleasure in honoring one such outstanding individual, W.C. Helveston, for all he has given to the citizens of Mobile County, AL.

TRIBUTE TO DR. ERWIN HOWARD BRAFF

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Dr. Erwin Howard Braff, who passed away on May 21, 1995. He was 71 years of age.

Dr. Braff was director of communicable diseases in San Francisco when the AIDS epidemic reached the Nation's consciousness. In fact, Dr. Braff supervised the individual who first alerted the gay community to the public health threat of AIDS. Erwin Braff served the department of health for 29 years until his retirement in 1984, as director of communicable diseases. Later, Dr. Braff played a leading role in passage of an anti-HIV/AIDS discrimination ordinance in Tiburon.

Erwin Braff served in the Army Air Corps during World War II, attended the University of California, Los Angeles, and began medical school at the University of California, San Francisco. After finishing medical school, he received a master's degree in public health from Johns Hopkins University and worked for the department of health in Tacoma, WA.

Erwin Braff was an active volunteer on the American Civil Liberties Union's San Francisco Hotline; a member of the California Democratic Central Committee; a member of the Health Council of Marin; Marin AIDS Advisory Commission; American Jewish Committee; and Marin Interfaith Council; board member of the Jewish Community Relations Council and treasurer of the Marin AIDS Political Action Committee. He was twice nominated for the Human Rights Commission's Martin Luther King Award.

Mr. Speaker, Marin County, and this Nation owes a great deal of gratitude for the tireless efforts of Dr. Erwin Howard Braff over the years. He was a friend and will be missed by all of us who knew him. I extend my condolences to his wife, Janet and his two sons Mitch and David.

HAPPY ANNIVERSARY TO BARBARA AND NICK CARTER

HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. WYNN. Mr. Speaker, I would like to take this opportunity to congratulate a very special couple who will celebrate a milestone wedding anniversary on June 26, 1995.

In these turbulent times, it is so wonderful to recognize Barbara and Nick Carter, a couple who have honored their vows to each other for 50 years.

Their romance began at Blair High School in Silver Spring, MD. He was a football star; she was a cheerleader. After Nick served in the Army Air Force during World War II, where he was a prisoner of war, Nick and Barbara wed on June 26, 1945.

In 1969, they left many family and friends in Maryland and moved to Elkins, WV, where Nick managed the Davis & Elkins College Bookstore. In 1975, Nick became city clerk, a position he held until his retirement in 1988. Barbara also worked at Davis & Elkins College, in the admissions office, for 18 years. They are now retired and enjoying their hobbies. They are avid bridge players. Nick enjoys golfing while Barbara enjoys gardening and tole painting.

They are also devoted to their children and grandchildren. They raised four children: Denise Carter O'Gorman of San Diego, CA; Melanie Carter-Maguire of Catharpin, VA; Lauren Cater Campbell of Brattleboro, VT; and Ernest (Tad) Carter III of New York City. They are the proud grandparents of Andrew, Alison, Katherine, Ian, and Colin. their family and friends, many of whom live in my district, will gather on June 24 to wish them well.

I would like to add my best wishes to this special couple for the years to come and to commend them for their inspiring life together.

CONGRESS SHOULD SUPPORT "SAFE COPS" PROGRAM

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. TRAFICANT. Mr. Speaker, earlier this week I had the pleasure of speaking at a Capitol Hill press conference to endorse a new police protection program called Safe Cops. I would like to take this opportunity to urge all my colleagues to support this excellent initiative.

The program is being sponsored by Eques Publishing Corp. of Freehold, NJ—publishers of Wanted magazine. Eques Publishing will offer a $10,000 reward to any person providing information that leads to the arrest and conviction of anyone who discharges a firearm at a law enforcement officer anywhere in the United States. Wanted is a new monthly publication that profiles America's most dangerous fugitives.

The "Safe Cops" program has the strong endorsement of the National Police Defense Foundation [NPDF], the Law Enforcement Alliance of America [LEAA], and the Guardian Angels. I would like to thank Shannon Williams of Eques Publishing, Joseph Occhipinti of the NPDF, Jim Fotis and Steve Chand of the LEAA, and Curtis Sliwa of the Guardian Angels for their strong support of this program and America's law enforcement officers. I would also like to thank my colleagues SUSAN MOLINARI, SCOTT MCINNIS, and ROBERT DORNAN for attending the press conference and expressing their support for the program.

As a former sheriff, I have seen first hand the sacrifices America's law enforcement officers have made in the fight against crime. Every day of the year some 600,000 Federal, State, and local law enforcement officers put their lives on the line to protect our communities and homes. Tragically, some 150 law enforcement officers are killed in the line of duty every year. Thousands more are injured. It is a tough, dangerous and all too often, thankless job.

Eques Publishing should be commended for their commitment to protecting our Nation's law enforcement officers. Their new reward program deserves the support of every Member of Congress and every American. I am proud to support the "Safe Cops" program.

HONORING PORSHIA MARIE ZABALA

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. TORRES. Mr. Speaker, I rise today to recognize Porshia Marie Zabala, a 13-year-old student from West Covina, CA.

Like most young adults, Marie enjoys playing sports, roller skating, and being among friends. Marie is uniquely blessed with an extraordinary talent to write poetry. Her poetry is inspired by a childhood filled with mixed messages of love and divorce, happiness and loneliness, and life and death. Her mother, Irene Zabala, and her grandparents are the pillars of support that motivate her creative spirit. Her letter to me conveyed the bond of love and devotion she has for her family.

Part of her family included her godfather, Nino Arthur. Porshia spent many hours by his bedside before he died of AIDS in 1991. His death was hard on her and inspired the following poem:

(By Porshia Marie Zabala)

Sometimes I want to cry.
Sometimes I want to scream.
And sometimes I'm just not me.
All my troubles seemed so-so-far away.
Now they're all here to stay.
Just so suddenly
I'm not the girl I used to be.
Now there's a shadow hanging over me.
There's no way I could get you to stay.
God just wanted to take you away.

I never knew what to say, when you were dying. Sick in bed.
And when I helped brighten your life, your smile helped brighten mine, in many different ways.
But, now that you're gone, those three words I had to say never really came out the right way.
So now I'll just say, I Love You, in that very special way.

Mr. Speaker, I ask my colleagues to join me in congratulating Porshia for nomination as Poet of the Year for 1995 by the International Society of Poets. I wish Porshia continued success with her poetry and future endeavors.

FIFTH ANNUAL DAY OF THE AFRICAN CHILD

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today to commemorate the Fifth Annual Day of the African Child. Nineteen years ago today, a terrible tragedy ensued in Soweto, South Africa. June 16, 1976 marks the beginning of a 5 day riot during which South African police massacred almost 200 protestors, many of them children. The Day of the African Child is dedicated to their memory. By commemorating this day, we are also promoting cross-cultural awareness and celebrating Africa's progress in meeting the needs of its children.

Unfortunately, there are still many impediments to further progress. Violence still ravages the lives of many African children. In the past decade, 2 million African children died as a result of armed conflict, 4 to 5 million were rendered physically disabled, and over 17 million were driven out of their homes. In addition, some 200,000 children under the age of 15 were forced into service in various African armies.

Let us use this day, and all those after, to focus on the desperate situation of children in Africa. Let us all contribute to a better world for our children, where they can expect to live a life free of violence, and receive the benefits of education, good health care, and safe shelter.

Although there is quite a distance to go, there have been some remarkable achievements in the last 35 years. In fact, U.S. development aid to Africa has been instrumental in helping millions of children live healthier and safer lives. For example, the death rate of children under 5 has been cut in half since 1960. The average life expectancy in Africa has risen to 54 years, an increase of 13 years since 1960. African governments provided safe water and adequate sanitation to an additional 120 million people during the 1980's, and now over 80 percent of the children living in urban areas have access to safe water. In addition, about 69 percent of African girls are now enrolled in primary school, up from 44 percent in the 1970's.

But this is still not enough. We must get behind this momentum of change we helped create and not stop until we have accomplished what we originally set out to do: to make this a safer world for our children. Mr. Speaker, I urge my colleagues to join me in commemorating today as the Day of the African Child. But, I also urge them to take one step further. Children are the world's most priceless resources, and we should honor them every day of the year.

TRIBUTE TO THE LITTLE HAITI HOUSING ASSOCIATION

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mrs. MEEK of Florida. Mr. Speaker, today, I would like to recognize and honor a group of people who truly believe in creating a better Miami for all of its residents.

Mr. Speaker, the group of people I am referring to is the Little Haiti Housing Association, Inc. and Citibank, F.S.B., Florida. Together, they have forged a formidable, lasting partnership in the Little Haiti community. Recently, this partnership has received the Social Compact's 1995 Outstanding Community Investment Award. This award is bestowed upon a handful of unsung heroes and organizations who invest their creative efforts and talents in at-risk communities around the country.

In 1993, the Little Haiti Housing Association and Citibank launched the Affordable Home Ownership/Education Program. This program has enabled 21 very low-income families in Little Haiti to become proud home owners. This program has also equipped 62 additional families with the wherewithal to purchase their own homes.

By leveraging public money with private funds and support, the Affordable Home Ownership Education Program purchases abandoned or foreclosed properties, renovates them and later sells them to program participants. Participants of the program are asked to commit to a 6 month individualized Home Ownership Training Program. During these 6 months, participants attend personalized counseling sessions, workshops, and class. The training program specifically addresses issues which will prepare Little Haiti residents for all the responsibilities and concerns that accompany home ownership.

The role this program plays in this community is particularly important when one understands what it means to live in Little Haiti. Almost one out of every two people in Little Haiti lives in poverty; and the average income for a family of five is less than $14,000 per year. Further, 70 percent of family income, on average, is devoted to paying rent. And finally, nearly three-quarters of all available housing is available only on a rental basis. The residents of Little Haiti are hard working Americans. It is easy to see how discouraging it would be to complete an 8 hour or more workday and come home to a house that you do not even own. Home ownership will be an integral component in jump-starting this very proud community.

Because of the Affordable Housing Ownership/Education Program, the benefits currently accruing to this community are threefold: the conversion of abandoned dwellings into family housing beautifies the community, and increases stability and pride of the residents. The new home owners are role models. Their self-determination and belief in the betterment of their community is something we should all strive to emulate.

In an area which is beset by poverty and other problems, the Little Haiti Housing Association, Inc. and Citibank of Florida have addressed a critical need within this community. These organizations as well as the individual participants of the program have demonstrated their commitment to delivering stability and a sense of community back to Little Haiti.

Mr. Speaker, the Affordable Home Ownership/Education Program in Little Haiti is clearly an example of what public-private partnerships are capable of achieving. To my colleagues, I believe that the Affordable Home Ownership/Education Program is an ideal way to recreate cohesive, strong communities, and may be an effective way to turning around communities within your own districts. Because of the partnership between the Little Haiti Housing Association, Inc. and Citibank of Florida, communities across the Nation are given a benchmark, a model—if you will—of what this country can do for those in need; and furthermore, what those in need are willing to do for themselves.

I would like to join the Social Compact in honoring this group of truly inspiring Floridians. I congratulate the Little Haiti Housing Authority and Citibank, F.S.B., Florida for creating an opportunity for residents of Little Haiti to own homes and build a stronger community. I also commend this program to my colleagues who are interested in promoting home ownership within their own communities.

A TRIBUTE TO JAMES SMITH OF METHUEN, MA FOR HIS OUTSTANDING CONTRIBUTION TO THE METHUEN PUBLIC SCHOOL SYSTEM

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. MEEHAN. Mr. Speaker, I rise today to pay tribute to an outstanding educator, Mr. James Smith.

For over 30 years, Mr. Smith was a member of the Methuen, MA public schools family. He dedicated his life to teaching, coaching, and guiding young students at the Tenney Middle School.

Mr. Smith began his distinguished career in 1958 as a teacher in Plymouth, NH. Seven years later he moved to Methuen and began his long tenure in the Methuen public school system. Throughout his career, he has assisted countless numbers of students. Each of his students has been a recipient of his sincere kindness, care, and responsible guidance. His supervision and instruction have been significant factors in shaping young students and preparing them for the future.

In his role as principal, teacher, coach, and sometimes parent, Mr. Smith has provided emotional as well as educational support. He has made many invaluable contributions to the Methuen community. Unfortunately, our society often takes its teachers for granted. But, when we consider the positive effects a teacher can have on the lives of children we begin to appreciate the value of the profession.

Mr. Smith's commitment is a lesson about teaching through example. He dedicated himself to improving his community and he succeeded. He is held in the highest esteem by all who know him. I know many parents, students, and colleagues are grateful to James Smith for his contributions. I extend my congratulations and best wishes to him on his retirement. I know that the Tenney Middle School will continue to benefit from Mr. Smith's involvement and contributions.

COMMEMORATION OF THE FIFTH ANNUAL DAY OF THE AFRICAN CHILD, JUNE 16, 1995

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. ENGEL. Mr. Speaker, I rise in commemoration of the fifth annual Day of the African Child. It was 19 years ago on this date that a massacre of schoolchildren took place in the town of Soweto, South Africa. Starting in 1991, the Day of the African Child has served as an annual awareness day, alerting the entire world of the continued progress and the daily plight of children throughout the African continent.

This year's campaign is particularly special because we explore the challenges and celebrate the progress encountered by children in armed conflict. It is chilling to realize that according to a recent study commissioned by UNICEF 75 percent of children interviewed in Rwanda had witnessed mass killings in multiple areas. Equally shocking is the reality that boys as young as 11 years old are being recruited to serve in the armed forces of Africa's war-torn countries.

The Day of the African Child is not just a time to recognize hardship but also an opportunity to dispel fallacy. It is important to realize that the continent of Africa is not a land of conflict-laden countries destined for decay and destruction. It is a place of potential growth and change, hope and progress.

Just in the last 35 years, the infant mortality rate has been cut in half and the average life expectancy in Africa has jumped 13 years to the age of 54. Over 80 percent of children living in urban areas have access to safe drinking water and African governments have provided safe drinking water and adequate sanitation to an additional 120 million people during the 1980's alone. In the area of education, over two-thirds of school age girls are enrolled in primary school. That's 25 percent more than in the 1970's.

While these advances are impressive they also vividly illuminate the daunting reality; African children have yet to even approach the basic humanitarian standards enjoyed by their counterparts in industrial nations. It is for this reason that we observe the Day of the African Child. And it is for this very reason that today and every June 16 we must remember not forget, recognize not sidestep, and reinvigorate not doom the plight and the promise of the children of Africa.

SEGALOFF LEADS U.S. ROWING TEAM TO GOLD

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Ms. DELAURO. Mr. Speaker, I would like to congratulate the U.S. Rowing Team for its tremendous performance at the 1995 Pan American Games in Mar del Plata, Argentina. In 21 events, the national team won 18 medals, including 10 gold.

The men's four and eight boats were led to gold medal victories by coxswain Steven Segaloff, of New Haven, CT. I would especially like to congratulate Steven. He and his family have been friends of mine for many years and I have watched Steven develop from an exceptional local athlete to a world-class competitor.

At an early age, Steven devoted countless hours to practicing and preparing for rowing competitions. His career as a coxswain began at the Yale boathouse on the Housatonic River in Derby, where he filled in for regular varsity coxes when they missed practice. Steven continued his career as a coxswain for Cornell University's varsity crew team. Like his father, Jim Segaloff, a veteran coxswain of 30 years who still continues to race at the New Haven Rowing Club, Steven developed a drive and passion for rowing.

After graduating from Cornell with a degree in American Studies, Steven prepared for his intended legal career by working for Senator JOSEPH BIDEN as a staff assistant to the Senate Judiciary Committee in 1993. But when U.S. national rowing coach Mike Spracklen asked him to cox for the national team, Steven put his legal and polticial ambitions on hold to train and compete in the World Cup Regatta in Germany.

Since then, Steven has led our national crew team to numerous victories, including first place finishes at the 1994 World Rowing Championships, the 1994 Henley Royal Regatta in London, the 1994 Goodwill Games, and recently at the Pan American Games in Argentina.

Now, preparing for the 1996 Summer Olympics, Steven hopes to fulfill his dream of winning an Olympic gold medal in Atlanta. His hard work and sacrifice, and that of the national rowing team, have earned the team international recognition and made us proud. I would like to wish the best of luck to Steven and the entire team as they train and compete in preparation for the Olympics. Bring home the gold in 1996!

CELEBRATION OF THE FIFTH ANNUAL DAY OF THE AFRICAN CHILD

HON. THOMAS M. BARRETT

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. BARRETT of Wisconsin. Mr. Speaker, I rise today to celebrate the fifth annual Day of the African Child, which commemorates the massacre of south African students in Soweto on this date in 1976.

These young students spoke out against apartheid, questioning the system that denied them equality. Who knew that their short lives would inspire their countrymen to alter the course of history in the years to come?

This tragic event was a critical moment in Africa's transition from crisis to hope. The commemoration of this day should remind us that the children of Africa are the true victims of that continent's many tragedies, but also that they will help lead Africa to a brighter future.

Although South Africa is successfully adjusting to its new democracy, other African nations continue to struggle. The horrible suffering in Rwanda has had a devastating impact on its children, with hundreds of thousands dead or homeless as a result of the senseless killing. We must work to prevent a repeat of this catastrophe.

I applaud the many dedicated volunteers and organizations who have worked tirelessly for the children of Africa. I believe Africa—a continent of the world's oldest civilizations and yet home to some of the youngest political states—will work to ensure a brighter future for its children and share the fruits of its hard work with those who nurture that goal today.

TRIBUTE TO BARBARA BLADEN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. LANTOS. Mr. Speaker, I ask my colleagues to join me in commending Barbara Bladen, who retired from the San Mateo Times on December 11, 1994, after 39 years as an exemplary critic and writer. Her instinct throughout the years has led to a long and distinguished career in the San Francisco Bay area. In reading her reviews I have always admired her insight and eloquence. She has devoted the past 39 years to opening the door to the world of performing arts to many bay area residents.

Barbara, who is well-versed in the performing arts, had planned to make her career as a participant of the arts rather than as critic of them. She is schooled in tap, ballet, classical and jazz piano, modeling, and acting. She had planned to study acting in New York when she married the late painter-sculptor Ronald Bladen. After their move to San Carlos, she began acting locally with the Hillbarn Theater.

Shortly thereafter, she began her long and distinguished career with the San Mateo Times. She started off as the newspaper's librarian and worked her way up to arts critic, for which she was paid $7.50 for each review. From there she moved into the women's department, and began writing a daily "Lively Arts" column. As a daily columnist, Barbara Bladen found her niche reviewing theater, opera, dance, music, and film. Although it was difficult in the beginning, she continued to strive on and overcome all hurdles to become a revered critic.

Known as one to put her interviewees at ease, Barbara was successful in capturing many celebrity interviews. She made use of her theatrical background interviewing Bette Davis, Clark Gable, Judy Garland, Jimmy Stewart, Omar Shariff, Peter O'Toole, Paul Newman, Lauren Bascall, Sophia Lauren, Lucille Ball, Jody Foster, and Kevin Costner to name a few. Not only did she dress and act accordingly for each star—in full skirts and flamboyant jewelry with a southern twang for country stars, in black leather and raw language for rock stars—she knew exactly what to ask and how to ask it. Barbara traveled extensively throughout her career, and reviewed the many different works she saw and heard from all over the world. She has given the bay area community a lifetime of her performing arts expertise.

Her forth-right manner and her charismatic style has been a great contribution to the arts arena in the bay area, and to the entire community. Mr. Speaker, Barbara Bladen's 39 years of dedication and commitment to sharing new works and discovering new talents has enlightened the entire San Francisco Bay area. On this day, when we celebrate her retirement, I ask my colleagues to join me in congratulating Barbara Bladen for her accomplishments and outstanding career.

TRIBUTE TO LESLIE H. "LES" MORGAN

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. DIXON. Mr. Speaker, I rise today to pay special tribute to Mr. Leslie H. "Les" Morgan on the occasion of his upcoming retirement from the city of Los Angeles after 30 years of outstanding service. In recognition of his dedication to the citizens of Los Angeles, Mr. Morgan will be honored at an appreciation dinner on July 20, 1995. It is a pleasure to share with my colleagues just a few of his many accomplishments.

Born in Arkansas on December 8, 1935, Mr. Morgan spent his formative years in Little Rock. After graduating from Dunbar High School, Les moved to California where he studied real estate and accounting at Compton College. Mr. Morgan completed his studies in real estate at East Los Angeles and Harbor City Colleges. After 19 years of continued education and experience in the field, he became a licensed real estate broker in the states of California and Nevada.

From 1965 to 1985, Mr. Morgan worked for the city of Los Angeles in a number of positions. In 1987, he became a real estate trainee in the general services department and by 1991 was advanced to real estate officer.

Mr. Morgan is an accomplished entrepreneur. He is a hair stylist for Morgan's Hair Styles, insurance broker, notary public, and owner of Morgan's Real Estate. When is not hard at work, Les enjoys Jazz, cooking, and travel.

Les has contributed his talents to the community through his active participation in community organizations such as the Western Association of Community Health Centers and the National Association of Community Health Centers. He served as treasurer of the Watts Health Foundation, as well as chairman of the organization's board of directors from 1972 to 1978. Dedicated to community health, he played an integral role in the negotiations and completion of the $7 million health center in 1978.

In appreciation of his service and dedication to the community, Les has received several awards and commendations. He is the recipient of certificates of appreciation bestowed by the Crippled Children's Society for his volunteer efforts and by the Volunteer's Auxiliary of the Watts Foundation for his contributions to the community. He was listed in "Men of Achievement," as well as the first edition of "Who's Who Among Black Americans." He has also been recognized for his dedication to public health by both the Los Angeles City Council and the Los Angeles County Board of Supervisors.

A devoted father of four sons, Gerry, Claude, Frederick, and Vincent, Les was married to Jewel Hall for 35 years. Jewel passed away in 1991, and he has since married the former Sandra Garrett. After Les retires, he looks forward to spending time with his family.

Mr. Speaker, I urge my colleagues in the House of Representatives to join me in saluting Mr. Leslie H. Morgan on his many years of dedicated service to the city of Los Angeles. It is a pleasure to join his family, friends, and colleagues in recognizing his distinguished career and congratulating him on his well-deserved retirement.

DAY OF THE AFRICAN CHILD

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. PAYNE of New Jersey. Mr. Speaker, I rise to note that this day, the 16th day of June, has been declared the "Day of the African Child" by the Organization of African Unity.

Founded in memory of the uprising and massacre of school children in Soweto, South Africa, it is a day that we pause to remember the plight of children all over Africa, and what we as citizens and legislators can do to create a better environment for them. It is a day that provides us with a forum to celebrate the achievements Africa has attained in meeting the needs of its children, and provides us with the opportunity to renew our commitment to providing greater resources to aid in this struggle.

In light of the recent defeat of the Hastings amendment to the foreign aid reauthorization bill regarding the restoration of the $802 million level for the Development Fund for Africa, we need to remind ourselves of the impact of this important part of our foreign aid bill that provided funds to help the malnourished, the illiterate and impoverished.

Through foreign aid provided by America and other countries:

The death rate of children under five has been halved since 1960.

African governments provided safe water and adequate sanitation to an additional 120 million people during the 1980's and now over 80 percent of the children living in urban areas have access to safe water and adequate sanitation.

African girls face many obstacles in obtaining an education but now approximately 69 percent of African girls are enrolled in primary school, up from 44 percent in the 1970's.

While there has been progress over the last three decades, there were several setbacks in the 1980's, such as a falling off of school enrollment by 7 percent.

This setback has been largely caused by the increasing civil wars with Africa. Armed conflict continues to afflict sub-Saharan Africa where fighting persists in Sudan, Liberia, and Sierra Leone. The potential for renewed outbreaks in Rwanda, Burundi, and Somalia is high, and other countries like Zaire and Nigeria, are at risk. Most of the nations where these wars occur have been victims of our former cold war policy.

The condition that these countries find themselves in today is largely due to our policy of containment of communism in the cold war days. As proper as that may have been during that period, the truth is these countries are suffering today because of the divisions this policy created in their societies.

Children of Africa have suffered due to this policy and this should concern the American people so that we strive harder to right these wrongs.

It is important that this year's Day of the African Child campaign will explore the theme of children in armed conflict. A study commissioned by UNICEF found that 75 percent of the children interviewed in Rwanda had seen mass killings in many areas. Moreover, in several African countries, boys as young as 11 years old have been recruited into military training.

The recent war in Rwanda is only one example of the atrocities committed where children have been the greatest victims. Thousands have been killed in the most brutal way by hacking away arms and limbs. On June 14 of last year, militia members of the majority Hutu tribe abducted up to 40 children of the minority Tutsis from a church complex in the government-held part of the Rwandan capital. The militia headed them off to almost certain death.

Enormous strides have been made in providing basic services for children caught in conflict. I was proud of the pharmaceutical industries in the New Jersey and New York area that responded to my call to help the children of Somalia through providing quality drugs through UNICEF.

On this now fifth annual Day of the African Child, please think of the children in each of the 56 countries of Africa and help in your own personal way to continue this good work.

Thank you, Mr. Speaker.

TRIBUTE TO ROLLING MEADOWS CHAMBER OF COMMERCE 1994 HONOREES

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. CRANE. Mr. Speaker, I would like to honor five very special business leaders in my district who were recognized and honored on May 11, 1995 by the Rolling Meadows Chamber of Commerce for their contributions to the community.

David Hill, Jr., chairman and president of Kimball Hill, Inc., was honored as the 1994 Business Leader of the Year. Having grown to become one of the 50 largest homebuilders in the United States, Kimball Hill Homes collectively delivered over 1,000 homes in 1994 alone. In addition, Mr. Hill has been involved in national housing policy efforts and has testified before Congress on housing finance issues. Moreover, he has been an extremely active participant in a number of local and regional planning, affordable housing, and charitable organizations.

Dr. Arvind Goyal, of Family Doctor, Inc., was honored as the 1994 Community Leader of the Year. Aside from having served residents for 16 years as a family doctor, Dr. Goyal has belonged to a wide range of local, State, and national organizations, such as the American Medical Association and the American Cancer Society. Other activities that have benefited the community include his public presentations and testimonials on health and other issues before a number of community institutions. Finally, Dr. Goyal has actively lobbied State and Federal legislators on such issues as smoking restrictions in business places, prevention of domestic violence, and health care reform.

Helene Curtis Industries, Inc., was honored with the 1994 Business Beautification Award. This respected Fortune 500 company which has been headquartered in Chicago for years completely renovated their building at 3100 Golf Road. The Rolling Meadows Chamber has obviously taken note of the marked improvement in appearance.

McMinn & Troutman was honored as Small Business of the Year. Having moonlighted as my campaign treasurer for the past 25 years, I am pleased to see Billy McMinn recognized for all the dedicated time and effort that he and his partner, Larry Troutman, have put into their business. Aside from their exceptional skills within the office, McMinn and Troutman have been longtime civic volunteers, as each are also active members of the Rolling Meadows Rotary Club, their respective churches, and many other civic institutions within the community.

Mr. Speaker, I would like to congratulate these five business leaders of Rolling Meadows for their hard work and dedication.

Rolling Meadows and the Eighth Congressional District of Illinois is a better place to live because of them.

THE FLAT TAX AND CRIMINALS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. STARK. Mr. Speaker, advocates of sales taxes and value added taxes say that their proposals will eliminate the underground economy and tax avoidance by the criminal element and pretty much make the IRS unnecessary.

Personally, I've been very skeptical of this argument, but the following letter, received by members of the Ways and Means Committee, indicates that the Republican tax revolution may indeed bring a revolution to criminal thinking.

ROBIN, GYPUM, & STEEL, P.C.,
Springfield, VA, June 7, 1995.

Chairman BILL ARCHER,
Committee on Ways and Means, 1102 Longworth HOB, Washington, DC.

DEAR MR. CHAIRMAN: We serve as legal representatives of the United Drug Dealers of America and the Organized Families Mutual Benefit Association. On behalf of our clients, we were pleased and excited to hear your opening statement of June 5, 1995, detailing how the United States of America might abolish the IRS and move to a transaction or sales tax system. As you indicated, this would abolish the problem of the underground economy and the problem of noncompliance with the nation's tax laws.

On behalf of our clients, we heartily endorse this move. Our clients are patriotic Americans who want to contribute to the nation's tax base.

We do have, however, a number of technical questions as to how the sales tax system would work, and we hope you can provide guidance to the entrepreneurs we represent.

1. To reduce the paperwork associated with millions of dollars worth of marijuana, heroin, cocaine, LSD, etc., sales, can we pay the tax just once at the point of entry? If so, can we pay to an authority other than the U.S. Customs Service (whose personnel seem to have an unprofessional "attitude" problem toward our clients)? Or could you abolish the Customs Service, too?

2. Many of our clients build a customer base near centers of education by the use of free samples. Later, much later, the customer pays. Can the cost of free samples be netted against the profits of later sales?

3. Sometimes a client/customer will make an offer that can't be refused, and a refund for a below par product is in order. If our client has already paid the sales tax, whom do they apply to for a refund?

4. In the execution of our business, a contract is frequently let for disposing of a family of problems. Half the payment is made at the time of the contract, half on the completed contract method of accounting. If, however, the contractor is himself/herself indisposed before half the job is completed, can we receive a refund for a business loss?

5. Because of the high rate of disease and disability in our clients' professions, we are very interested in qualifying for Social Security disability payments as soon as possible. Will we be able to qualify after six quarters of employment in the event of hostile fire? If there is no IRS, who will keep track of our Social Security and Medicare payments? Or would you recommend that we advise our clients to switch to State Workmen's Compensation programs?

6. It is reported you might exempt medical expenses from the sales tax. Client customers who use drugs for stress-reducing purposes—can they be exempt? We have a number of clients who provide dysfunctional sexual counseling services. Will that be an exempt medical expense?

7. Lastly, for our interstate gambling clients, will there be a source tax? For example, if a bettor in Virginia wins at a New York track, will his bookie have to withhold for New York State taxes?

Thank you for your help and guidance on these questions. Like other Americans, we will probably have more as we think through your proposal.

Sincerely,

DEWEY CHEATEM, Esq.

PERSONAL EXPLANATION

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. LAFALCE. Mr. Speaker, Wednesday, I missed several rollcall votes in order to attend my son's graduation ceremony in Buffalo. Had I been present, I would have voted "yes" on Roll Calls 370, 371, 372, 373, 374, 375, and 377, and "no" on Roll Calls 378 and 379.

SUPPORT EFFORTS FOR A JUST PEACE IN GUATEMALA

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. BURTON of Indiana. Mr. Speaker, I would like to urge the administration and my colleagues in Congress to support important efforts which are underway to establish a just peace in the friendly Central American Republic of Guatemala. This country has suffered through 34 years of a prolonged terrorist campaign, conducted by elements of the communist URNG, which has provoked violent military responses to its attacks and assassinations. Approximately 100,000 Guatemalans have been killed by both sides during this period. Even a former U.S. Ambassador, Gordon Mein, and a number of United States and other foreign embassy personnel have been assassinated by terrorists groups.

The disappearance of the U.S.S.R., the electoral demise of the Sandinistas and the impoverishment of Castro have left the guerrillas with little financial support other than Norway and a lame cause which has never commanded a popular following in Guatemala. The URNG has agreed to negotiations with the Government following its signing of a Comprehensive Human Rights Accord in 1994. Considerable progress has been made, and Guatemala's respected former Human Rights Ombudsman, Ramiro Leon Carpio, has become the nation's President, with a strong commitment to peace. He has sustained the peace talks and signed six agreements with the URNG since January 1994. These have included agreements on the protection of human rights, the establishment of a historical clarification commission to address past human rights abuses by both sides once the peace has been finalized, as well as agreements to protect Guatemala's Indian people, refugees and other displaced persons who have been victims of this bloody and protracted conflict.

To prove good faith, the Guatemalan Government has implemented its Human Rights Agreement and has agreed to the presence of a United Nations Peace Mission to Guatemala. I know of no other nation which has been so forthcoming about improving its human rights situation absent a peace agreement and in the face of on-going URNG provocation—police assassinated, numerous kidnapings.

As a society, Guatemala still suffers from residual violence and societal problems which prolonged conflict and unequitable wealth distribution have sustained since colonial times. Nevertheless, as a country, I believe that Guatemala has come farther, from a semi-feudal, conflict-torn and institutionally violent land, ruled by the military in the 1970's and 1980's, to a strong sustained effort toward democratic status. Against all expectations, Guatemala has sustained two democratic elections, which included transfers of power between political parties in 1986 and 1990, and elections of a fully empowered, multiparty legislative branch.

The largest remaining and unresolved Guatemalan problem remains the need for a better legal and police system. Impunity or corruption of the legal branch and untrained and susceptible police, has restrained the advancement of complete democratic process in Guatemala. Yet, in spite of the progress which I have only been to sketch out for you here, Guatemala now faces substantial threats including one from the United States.

The source of this extraordinary problem is an American woman who has become the public affairs front for the URNG. Jennifer Harbury, the widow of URNG Commandante Bamaca, has blitzed the United States for the URNG against Guatemala and has pilloried it in the court of media opinion, over the torture and death of her spouse who appears to have been killed in 1992. Now Harbury and a growing chorus of former supporters of the Sandinistas, and the El Salvadorean FMLN, are clamoring for a cut off of United States aid. What makes this implausible situation even worse is the fact that the terrorist URNG controls no territory, has fewer than 500 men under arms, and lives on war taxes extorted from kidnappings and intercepting local farmers and persons on busses going to market. Harbury has so focussed world opinion on past violent measures used by the Guatemalan armed forces in the face of terrorist assault, that the URNG has continued on its violent course today, with apparent impunity.

Mr. Speaker, I hope that you will join me in calling for the United States to refrain from the short-sighted actions called for by those seeking to cut off assistance to Guatemala at this pivotal time in its history. They would have us break with the Guatemalan armed forces, thereby aligning ourselves with the terrorist URNG in the peace process. The United States must assist Guatemala in the development of civilian controlled and staffed alternatives to the armed forces for law enforcement, and in the reform of a residually corrupt and discredited legal system. These are small items in the balance of a 34 year struggle, and of the Guatemalan people's wish for democracy and freedom from violence.

The United States can offer Guatemala invaluable and inexpensive assistance and constructive criticism, but the media driven opposition to needed democratization-related aid, and demonization of the country and of its government are driven by Harbury's effective campaign. The fact speak for themselves and loudly in favor of the peace process and the restraint of Guatemala's government. I hope the special treatment accorded to Harbury can be postponed until the peace accord has been signed, and all of the victims or casualties of this horrible episode can be accounted for.

We must do what can to encourage a just and lasting peace in Guatemala. This will enable that government to complete its remarkable transition to full democracy, implementing needed internal reforms necessary to create a system of justice that will bring criminals to justice.

TRIBUTE TO IRWIN WEINBERG

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. KANJORSKI. Mr. Speaker, this summer Irwin Weinberg of Wilkes-Barre, PA, an internationally known stamp collector and dealer, is celebrating 50 years in philately. At one point in his splendid career he owned the most expensive stamp in the world, the British Guiana one-cent magenta of 1856. He toured the world to exhibit this stamp and later sold it for a record setting sum. Christies in New York regularly asks him to provide stamps for consignment to enhance certain of their auctions. This is a man who has reached the highest level of success in his field.

But it is not his unparalleled success in philately that I as his Congressman and friend would like to celebrate today. It is the philosophy of this man that I commend you, the philosophy of this constituent who with his wife, Jean, lives in Kingston, PA, a town neighboring mine.

In this day when to call oneself a liberal is to be under attack from many sides, when even the term itself is used as an epithet, Irwin Weinberg is proud to call himself a constitutional liberal. Since childhood he has been interested in liberal causes, especially civil rights. I had the honor of taking him as my guest to the White House to meet Nelson Mandela, the great liberator of South Africa, a man whom Irwin counts along with Martin Luther King and Ghandi, as his hero.

As Irwin describes himself, being a constitutional liberal means coupling the defense of human rights as understood by President John Kennedy with the conservative strictures of the Ten Commandments, the Sermon on the Mount, and the American Constitution. And not just understanding and loving these precepts, but living by the truths and codes of conduct they demand of us.

To deal in stamps is to traffic in history. Each stamp is a distillation of a single, significant moment, a freezing of time to mark it for mankind. Irwin Weinberg has collected stamps since he was 12 years old. When he was 18 he issued his first weekly price list which he still publishes the same way, on an old mimeograph machine. He is a sole practitioner, handling each transaction without the aid of a computer, a copier, a fax machine or even a secretary. In this business he is respected throughout the world. Not unlike the delicate stamps themselves, Irwin Weinberg has maintained the integrity of the moment. It is an honor for me to celebrate him.

TRIBUTE TO RICK DIAZ CHANTENGCO

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. FILNER. Mr. Speaker and colleagues, I rise today to honor a great friend, veteran, business entrepreneur, and civic leader who passed away on June 2, 1995—Rick Diaz Chantengco.

Rick was a living proof of just how fine a person can be! His life exemplified kindness and inspired emulation. His untimely departure brought emptiness to places which he filled with energy and enthusiasm in the Filipino-American community.

In 1957, Rick enlisted in the submarine force of the U.S. Navy in which he served during the Bay of Pigs Conflict, Cuban Missile Crisis, and Vietnam war. In 1969, he was a Chief Petty Officer when he received an honorable medical discharge.

Rick graduated from San Diego City College with a Bachelors Degree in Business and Real Estate Law in 1969. Armed with his military experience and knowledge in real estate business, he founded Chantengco Realty, serving as president and broker. He also was the board chairman of the Pacific Rim Century, a hotel real estate investment corporation.

Rick used his expertise to help the community in which he lived. He assisted in the purchase of a permanent building for the Union of Pan Asian Communities, the largest social service agency in San Diego County. He was the founder and charter member of the Filipino-American Democratic Club of San Diego County, the first such Filipino club in California. He organized and chaired fund-raising campaigns for numerous candidates for political offices.

We all come across a small number of special people, those who touch our minds, hearts, and souls with their optimism and dedication to making everyone's life richer. Rick was one of those chosen few who won the respect and admiration of his family, friends, and community for his unwavering commitment to hard work, community involvement, and a sincere belief that one person can make a difference. This world needs more people like Rick Diaz Chantengco, who will be sorely missed.

My thoughts and prayers go out to his wife, Tess, and his children, J.R., Jacqueline, and Jeanne.

According to Rick's son, J.R. de Jesus Chantengco, he wanted to be remembered in the following way:

As a father, one you can always look up to and rely on. He must lead a very full and God-fearing life. He must set a good example to his wife, his children, and his friends.

As a friend, one who never asks for accolades but through his actions, many people will respect him.

As a business colleague, one who was charged with authority and the highest ethical standards.

As a professional, one who has always strived to be the best and whose business motto is Service is Our Business.

And as a person, one who continually helped others unselfishly, strived for social and political justice, and did them with much enthusiasm.

He wants to be remembered as the man who measures his success by how proud he is of the success of his children; by the most supportive and loving wife he will always have, and by the many friends' lives he has enriched by his helping hand and his caring smile.

WACHOVIA BANK OF GEORGIA WINS AWARD

HON. JACK KINGSTON

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. KINGSTON. Mr. Speaker, I would like to take this time to congratulate the Wachovia Bank of Georgia, N.A., Savannah, for their recent receipt of the Outstanding Community Investment Award. Wachovia Bank of Savannah and the Neighborhood Housing Services of Savannah Inc. [NHS], are one of six partnerships to receive this prestigious award from the Social Compact, an organization which fosters cooperation between financial institutions and American neighborhoods. They are being recognized for their joint efforts in pioneering a model strategy for transforming vacant, abandoned properties into quality single-family homes for first-time homeowners and, in the process, infusing vulnerable neighborhoods with the strength of new stakeholders.

Wachovia Bank of Georgia and NHS of Savannah began their partnership in 1993. Their pioneer program, the NHS Home Auction, represented the first time in the Nation that a city government, in partnership with a neighborhood-based organization and local financial institutions, conducted an affordable housing auction of dilapidated, city-owned properties for sale to first-time home buyers. The 1993 auction resulted in the rehabilitation and sale of 31 homes to lower income buyers, representing an investment of $1.5 million in the community. The 1994 auction sold 52 homes valued at $3.8 million.

This achievement represents innovation in urban renewal for both the city of Savannah and the Nation as a whole. Many American cities suffer both socially and economically from problems caused by aging inner-city housing. For years, city leaders and urban planners have searched for ways to turn these houses into assets rather than liabilities. Wachovia Bank and NHS of Savannah have done just that by transforming formerly vacant and dilapidated properties into quality homes which are securing—rather than threatening—the surrounding homes. The new stakeholders and increased investment is infusing fragile Savannah neighborhoods with a new lease on life. For the first time, these neighborhoods are being viewed as neighborhoods of choice, and they are growing as economically diverse and viable areas.

These victories would not have been possible without this partnership approach which maximized the strengths of each partner. By joining forces, the city, NHS, and Wachovia were able to stretch limited public sector resources while maximizing opportunities for private sector involvement. A key challenge to any urban renewal program is financing the very costly process of either replacing or renovating aged housing. The combined rehabilitation and purchase costs significantly exceed neighborhood market values, conventional loan terms, and the mortgage carrying capacity of the lower income borrowers. The partners in this program used creative financing approaches to help assure long-term affordability while providing financial incentives for the new home buyers to remain in the community.

Wachovia provided essential leadership to NHS for establishing the organizational capacity to undertake such a complex and resource-intensive venture. By pioneering mortgage programs for lower income buyers, providing revolving lines of credit essential for property acquisition, and financing the rehabilitation of the properties following purchase, the bank played a key role in this housing program. The city of Savannah and Wachovia should be congratulated for their partnership which not only helps the city itself but can also serve as a national model for urban renewal cooperation between cities and private business. The Outstanding Community Service Award recognizes their many achievements.

I would once again like to congratulate the individuals involved in this program. It is an honor and a privilege to represent them.

TRIBUTE TO DR. ARTHUR S. FLEMMING, FORMER SECRETARY OF HEALTH, EDUCATION AND WELFARE

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. NADLER. Mr. Speaker, I rise to pay tribute to Dr. Arthur S. Flemming, former Secretary of Health, Education and Welfare, as well as former Commissioner on Aging, on the occasion of his receiving an award of distinction from the Joint Public Affairs Committee for Older Adults [JPAC], a social action coalition of older adult representatives from over 120 senior centers and community groups throughout metropolitan New York.

Arthur Flemming served as Secretary of the Department of Health, Education and Welfare in the late 1950's. His critical role in the adoption of the Medicare Program began in the early 1960's, with his chairmanship of a special commission that offered proposals for a national program to meet the health needs of older Americans.

The 1971 White House Conference on Aging, with Arthur Flemming as its chairman, adopted significant recommendations later adopted into law, including the establishment of the Supplemental Security Income Program [SSI], support to build housing specifically designed for the elderly, and nursing home reform. He served as Commissioner on Aging from 1973 until 1978. Arthur Flemming's commitment to public service included his role as chairman of the U.S. Civil Rights Commission.

In the 1980's Arthur Flemming again showed his extraordinary leadership as co-chairman of Save Our Social Security [SOS], a coalition of 120 national groups devoted to stave off threatened cuts in Medicare and Social Security. He continues to be a forceful voice in efforts to achieve a program of affordable and accessible health care for all Americans.

Generations to come will remember Arthur S. Flemming as someone who has always spoken out with courage, has translated his values into action. In so doing he has made a difference in the lives of millions of people across this country. His energy and ideas continue to inspire many to join in the quest for a more just society. Mr. Speaker, I ask my colleagues in the House of Representatives to join with me in paying tribute to Arthur S. Flemming.

TRIBUTE TO M. EDWARD KELLY

HON. J. DENNIS HASTERT

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. HASTERT. Mr. Speaker, I rise today to honor an outstanding civic leader of Illinois' 14th Congressional District, M. Edward Kelly, on his forthcoming retirement.

Ed Kelly has served since December 1976 as the executive vice president of the Elgin Area Chamber of Commerce. The list of accomplishments during his long career are many, and there are many States across this Nation that are better for his service there. Born and raised in Parkersburg, WV, he graduated from Marietta College in Marietta, OH and entered the field of organization management in 1955. He began his professional career with the Benton Harbor-Saint Joseph's Chamber of Commerce in Michigan, and managed chambers in Oshkosh, WI and Springfield, MO before settling in Elgin, IL.

Mr. Speaker, Mr. Kelly has been a valued member of the Elgin community for years, and his list of civic and professional activities is a long one. A former director of the YMCA Corporate Board, Miss Illinois Scholarship Pageant, and Elgin Sesquicentennial Committee, he is also a past president of the Rotary Club of Elgin. To this day he serves as a member of the American Chamber of Commerce Executives, as an ex officio member of the Center City Development Corp. and as a trustee of the Northwest Suburban Mass Transit District.

Mr. Speaker, I ask you and my colleagues to join me in honoring this dedicated man, for his commitment to this Nation's businesses and to the Elgin community. I wish my friend the best in his retirement. His experience and dedication have served the people of Elgin well.

THE FEDERAL COMMUNICATIONS COMMISSION AUTHORIZATION ACT OF 1995

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. FIELDS of Texas. Mr. Speaker, today I join with my colleague from Massachusetts, Mr. MARKEY, the ranking minority member of the Subcommittee on Telecommunications and Finance, in introducing the Federal Communications Commission Authorization Act of 1995. The bill authorizes appropriations in the amount of $186 million for the FCC for 1 year only, fiscal year 1996. That figure is the same as the House authorized last year.

These are exciting times in the world of telecommunications. We are seeing new technologies, and the convergance and blurring of traditionally distinct businesses. We are also seeing new alliances being formed as we begin to build the information superhighway.

The House will soon be considering a major telecommunications reform bill which brings the 60-year-old communications statute up to date to reflect the dramatic changes in telecommunications. The Subcommittee on Telecommunications and Finance will be holding comprehensive hearings in the near future to consider the reduced role that the FCC will play in a competitive marketplace. That endeavor will be a challenge as well. In the meantime, however, we must authorize appropriations for the FCC so that it can fulfill its obligation as Congress intended.

The bill is substantially the same as legislation ordered reported by the Committee on Energy and Commerce last year and approved by the House. Unfortunately, the other body failed to act so we must again consider these proposals.

The bill includes a number of provisions that should allow the Commission to operate more efficiently, reduce regulatory burdens on industry, save agency resources, and privatize certain of the Commission's responsibilities.

The bill also provides that a substantial portion of the appropriated funds may be raised from application and user fees. It establishes procedures for tighter budget planning so that authorizing committees will have adequate time to review future proposed increases or adjustments to fee schedules.

In addition, this legislation allows the Commission to waive individual licensing requirements for maritime radio services. This provision should relieve boat owners from the burden of unnecessary fees. The bill also provides for more efficient and flexible inspection of ship radio equipment.

Among other things, the legislation clarifies the Commission's authority to reject tariffs and its authority to order refunds resulting from carrier rule violations. It also adjusts the statute of limitations for forfeiture proceedings against common carriers to conform with the Commission's accounting procedures. This provision reflects an agreement worked out between the FCC and the telephone industry. In addition, the bill authorizes the Commission to use outside consultants. This provision would save the FCC permanent staffing resources by allowing it to offer competitive compensation to temporary, outside experts and consultants.

This bill was developed with bipartisan support and reflects a number of proposals supported by the Federal Communications Commission. I urge my colleagues to support it as it proceeds through the legislative process.

TRIBUTE TO CRESCENT MANUFACTURING COMPANY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to an out-standing company in Fremont, OH. Cresent Manufacturing Co. was founded in 1898 as a disposable blade manufacturer and has operated continuously in Fremont since that time.

The firm makes 1.5 million steel blades a day for use in the medical, industrial, and other specialty fields. In March 1995, the owners of the company were nominated for Entrepreneur of the Year. This honor recognizes the tremendous effort performed by the management and staff of Crescent in bringing their company through a chapter 11 bankruptcy process. Their story reflects the spirit of enterprise that has made our Nation strong.

After taking over the company in 1990, the directors decided the debt which Crescent owed was too big and filed for protection under chapter 11. The very next day after obtaining controlling interest in the stock, changes were made. Costs were cut, customers were brought on-line, employees assisted in productivity enhancements and the company operated successfully through the bankruptcy process. The company exited chapter 11 on June 19, 1991, just thirteen months after filing for its protection.

Loyalty from customers, suppliers, and in particular, employees got Crescent through tough times. In every year since, sales have increased reaching $10.1 million in 1995. Crescent employs 150 people and has a payroll of $4.5 million annually. Their success has been Fremont's success.

Mr. Speaker, I ask my colleagues to join me today in recognizing the achievements of the staff and management of Crescent Manufacturing Co. and encourage them to continue to uphold what has become the standard of excellence in Ohio.

STATEMENT OF H.R. 1561, THE AMERICAN OVERSEAS INTERESTS ACT

HON. JACK REED

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, June 16, 1995

Mr. REED. Mr. Speaker, during the week of June 12, the House of Representatives considered H.R. 1561, the American Overseas Interests Act. Although this bill is not perfect, I voted in favor of this legislation because it includes several important provisions which I have historically supported.

HUMANITARIAN ASSISTANCE

H.R. 1561 included language from the Humanitarian Aid Corridor Act which restricts U.S. aid to any country that prohibits or restricts the transport or delivery of U.S. humanitarian assistance to other countries. I strongly believe that we should not allow humanitarian assistance to be used as a political weapon while innocent victims are deprived of food, fuel, and medical supplies.

STREAMLINING GOVERNMENT

The consolidation of USAID, ACDA, and USIA into the State Department in H.R. 1561 was one of the most contentious issues during debate. While I support the work of these agencies, I also believe that we must remain committed to streamlining government. Secretary of State Christopher proposed a similar consolidation earlier this year. The Department of Defense is now more efficient and productive due in part to the consolidation.

I supported Representative ACKERMAN'S amendment which would have required the Congressional Budget Office and the Office of Management and Budget to conduct a cost-benefit analysis prior to the implementation of this bill. Regrettably, this failed. Congress has been considering cutbacks and elimination of virtually every Federal agency, and, as such, none should be immune from efforts to reduce Government spending.

COMMITMENT TO ISRAEL AND EGYPT

H.R. 1561 also recognizes the United States' ongoing commitments to Egypt and Israel and maintains critical funding for the Middle East. As our steadfast ally in the Middle East, Israel has served as a leader in the efforts to bring stability to the region. We are sending a strong message of support to this region, but we are also acting in our own national self-interest to support a strong and democratic Israel. This region was once considered to have the potential to initiate a major world war. Today, we are witnessing the development of a lasting peace. To withdraw our moral and practical support at this point in the peace process would preempt what we have accomplished thus far.

THE U.S. ROLE IN THE UNITED NATIONS

H.R. 1561 also attempts to redefine our Nation's role in the United Nations. This is not to say we should abandon the basic principles of the U.N., but this bill would make the U.N. more accountable for its programs and practices. By extending current law, H.R. 1561 ensures that the United States maintains a voice in the U.N. budget process by allowing the President to withhold up to 20 percent of appropriated funds for the U.N. if it fails to effect consensus-based decisions. The bill will also give greater authority to the inspector general [IG] of the U.N.. H.R. 1561 withholds 20 percent of the U.N. budget and 50 percent of the peacekeeping budget until the President certifies that the U.N. has increased the powers of the IG, and has given the IG access and sufficient resources to conduct investigations and protect the identity of whistleblowers.

Having witnessed firsthand peacekeeping operations in Somalia, Bosnia-Herzegovina, and Haiti, I believe we must reevaluate the position of the United States within the United

Nations, and define the role in which the United States can best serve not only the interests of the U.N.s but also those of the American people.

EAST TIMOR

There are provisions in this bill which I do not support. H.R. 1561 authorizes the resumption of International Military and Education Training [IMET] for Indonesia. The IMET Program was eliminated for Indonesia in 1992 due to flagrant human rights abuses by the military in East Timor. This bill authorizes funding for this program, yet there has been no significant improvement in cases of human rights violations. I had planned to introduce an amendment to H.R. 1561 which would have eliminated the authorization of U.S. funding for military training in Indonesia. This issue is not about the efficacy of American military training and the value of exposing foreign military personnel to the professional and ethical standard of the American Armed Services. Rather, it is whether we will ignore continuous human rights abuses and use our dollars to pay for this training.

Unfortunately, time constraints prevented me from bringing my amendment to the floor. I believe that American taxpayers should not be asked to pay for this. We should not tolerate human rights abuses by the military in East Timor and I will continue to work in the appropriations process to help the people of East Timor.

BOSNIA

I voted against lifting the arms embargo against Bosnia-Herzegovina because I believe it would have a detrimental effect in the absence of a larger, more coherent strategy. Although the intent is to strengthen the Bosnian Muslims' position in the field, I am concerned that if the embargo is lifted, a large scale offensive would be initiated by the Bosnian Serbs against highly populated urban centers. The health and safety of civilians, as well as U.N. peacekeeping forces, would be put at greater risk.

Ending the arms embargo could also force the evacuation of U.N. forces. Both the Administration and the House Republican leadership have stated that this would require a commitment of U.S. troops. I believe we need to pursue a more comprehensive strategy to address the situation in Bosnia and reach a negotiated and enduring peace. Implementing only one aspect of an inherently complicated plan will only result in further suffering of the Bosnian people.

AFRICA AND LATIN AMERICA

Finally, I hope two issues will be addressed during the appropriations process as well as when the Senate considers its version of the reauthorization. H.R. 1561 cut assistance to Africa and Latin America far below the administration's request. I voted in favor of two amendments to increase funding for the Development Fund for Africa by $173 million and to increase assistance to Latin America and the Caribbean by $9 million. While both amendments failed, an engaged debate brought to light the concerns over drastic cuts to these regions which are certain to be addressed again during the appropriations process.

CONCLUSION

I anticipate many changes to this legislation as it progresses to the conference report. I hope that the conference report represents a continuing commitment by the United States to play a leadership role in the world while recognizing the profound changes in the world and the many demands, both at home and abroad, on our resources.

HOUSE OF REPRESENTATIVES—*Monday, June 19, 1995*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. SHAYS].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 19, 1995.

I hereby designate the Honorable CHRISTOPHER SHAYS to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O gracious God, that though we may depart from Your spirit through our willful ways, Your spirit will not depart from us. And though we may wander in our rush to do all the things that crowd our days, You will be patient with every person. Grant to us, O God, and to all Your people, the wisdom to heed Your Word and meditate on Your ways that in our busyness and in our seeming significance we do not lose the great blessings that are Your gifts to us. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from California [Mr. DREIER] come forward and lead the House in the Pledge of Allegiance.

Mr. DREIER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

AUNG SAN SUU KYI

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, today is the 50th birthday of Burma's Nobel Peace Prize Laureate Daw Aung San Suu Kyi who is being held under house arrest for the sixth year by the Burmese military regime known as the SLORC. She was imprisoned 6 years ago after her party won overwhelming victories in elections in Burma.

While today is this remarkable woman's birthday, sadly, there is not much to celebrate as the Burmese military regime continues her imprisonment and the repression of the Burmese people. Last year I met with this remarkable individual and witnessed the heroic stature of her crusade to restore democracy to her native land.

My efforts to visit her again last month were rebuffed. There is a retrogression of human rights and democracy in Burma. Just this week the Burmese military regime expected to allow the Red Cross to inspect prisons in that country. They have refused the Red Cross to inspect those prisons as they originally stated.

Mr. Speaker, let us rejoice in this remarkable woman's 50th birthday and stand with her in her struggle.

WOMEN'S RIGHTS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I join the gentleman from New Mexico in sending greetings, if that is what you could call it, to Aung San Suu Kyi who is still imprisoned in Burma. And I think when we look at this, if we look at many other issues affecting women all over this globe, we see that they are still not in very good shape.

It is amazing because she was the daughter of a very prominent Burmese leader. Her people elected her to lead them and yet even though she has received the Nobel Prize, she has done all sorts of things, no one in that country has been able to break this incredible lock they have on her as they hold her under house arrest.

But we can also look at China and the fact that they are not very happy about having this International Women's Symposium there. They seem to have thought it was a craft fair and did not have any idea that women were really going to come and talk about women's rights.

And we saw a very interesting article in this morning's paper pointing out that for every courageous male raising a family alone in America, there are seven women doing the same thing, and child care and all of those issues that have impacted on single parents are not being dealt with.

Things do not look very good, and we need to roll up our shirt sleeves and work on all of these issues.

FRENCH NUCLEAR TESTING

(Mr. MARKEY asked and was given permission to address the House for 1 minute.)

Mr. MARKEY. Mr. Speaker, the French Government has announced that they are going to resume nuclear testing in the South Pacific. This is a terrible precedent to be setting for the rest of the world as we try to encourage the Third World nations of this planet to back away from the nuclear weapons option. But worse, the United States Government has now begun the process themselves of following this French fashion of the season and going back to a nuclear testing regime. Nothing could be worse for the United States and for this world than if we ourselves set that poor example of testing nuclear weapons and, in fact, encouraging dozens of Third World countries across this planet to emulate us.

There is a very idealistic and practical set of objectives which this country should be seeking to achieve as nuclear nonproliferation and biological weapons proliferation becomes the single greatest danger to peace and security on this planet.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

TRADE WITH JAPAN

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. DREIER] is recognized for 60 minutes as the designee of the majority leader.

Mr. DREIER. Mr. Speaker, I have taken this time out today to relate to our colleagues some remarks that I made late last week; actually it was Thursday morning, the speech that I gave downtown. It has to do with an issue which quite frankly is rather sensitive and delicate and controversial. It is the proposed imposition of 100 percent tariff on the importation of automobiles from Japan to the United States.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Mr. Speaker, I was careful in making these remarks last Thursday morning. I made them before the President left for his meeting in Halifax with Prime Minister Murayama, and I also have been very careful to make these remarks today only after the President returns. So I have not said these things while the President was out of the country, recognizing Senator Van Den Berg's great recognition that partisanship ends at the water's edge.

I have been very proud to have been one of the President's strongest supporters when it has come to trade policy. I am a Republican, and I have been criticized by some of my Republican colleagues here and throughout the country for having strongly supported passage of the North American Free-Trade Agreement, completion of the Uruguay round of the General Agreement on Tariffs and Trade, and having pursued a very strong prohuman rights policy in China.

I have been proud to have worked not only with President Clinton but with my fellow Californian, the U.S. Trade Representative, Mr. Kantor, and with a bipartisan group of Members of both the House and the Senate; here in the House I have been privileged to work with Chairman ARCHER of the Committee on Ways and Means, Chairman CRANE, who chairs the Trade Subcommittee; my friend Mr. KOLBE on this side. On the other side my colleague, the gentleman from New Mexico, Mr. RICHARDSON, who was here a few minutes ago; my fellow Californian, Mr. MATSUI; the gentleman from Florida, Mr. GIBBONS, of course, the former chairman of the Trade Subcommittee of the Committee on Ways and Means. And we have pursued very, very strongly a bipartisan approach to trade. I am proud to have worked closely in rallying support for NAFTA.

The gentleman from Arizona [Mr. KOLBE] and I and a couple of others introduced legislation calling for the limitation of the tariff barriers for the North American Free-Trade Agreement 8 years ago. I spent the last 7 days with Mr. GIBBONS and Mr. MATSUI and members of the Committee on Ways and Means before completion of the Uruguay round of the General Agreement on Tariffs and Trade, an agreement which creates an opportunity among 124 nations in the world to create the free flow of goods and services.

Of course, on China policy, I strongly supported Mr. HAMILTON's language in the past because exposure to Western values is what will enhance the human rights situation that exists in China. I believe very strongly in that.

My past support for the President's trade policies has been based clearly on our goal of increasing jobs and living standards both in the United States and throughout the world, improving the qualify of life by reducing trade barriers and increasing commerce, the free flow of goods and services.

Mr. Speaker, while I part company with the President on the policy that he has stated calling on June 28 for the imposition of this 100-percent tariff, the President has actually parted company with the free trade principles which we have pursued vigorously for his entire Presidency up to this point. I share the President's broad goal of breaking down tariff barriers in Japan so that we can gain greater access to that market. However, the specified U.S. demands on auto parts purchases and dealership access are clearly repugnant to those of us who stand for free trade.

The administration has made tactical blunders regarding the timing and direction of this effort. The short-term economic impact of implementing trade sanctions, especially from my State of California, and I will get into that for a moment in just a moment, will be very negative. And I have to say, Mr. Speaker, it saddens me to conclude that the President is threatening to significantly set back the prospects for additional multilateral trade initiatives and a forward-looking Asia policy that ties the United States into that extraordinarily growing market in the Pacific rim.

Let me take a couple moments and talk about my State of California. California, whether you like it or not, it is the seventh largest economic power on the face of the earth; 32 million people in California. California is the Nation's largest exporter. Its $81¼ billion in exports is 20 percent of our Nation's total. Exports support 1.5 million jobs in the State of California. Foreign investment supports another half million jobs. While California has suffered greatly due to the defense and aerospace cutbacks, which have taken place for the past several years, the one bright spot has been California's access to other markets so that we could, in fact, be the gateway to the Pacific rim and Latin America.

California's No. 1 trading partner is Japan, with exports of $22.5 billion last year. Japanese-owned companies employ 150,000 Californians in electronics, entertainment, and computers, among other industries. If you add in the suppliers, there are a quarter of a million California jobs which are tied directly to Japanese investment.

Sixty-two percent—62 percent, Mr. Speaker—of California's exports go directly to the Pacific rim; 692,000 jobs in California are supported by Pacific rim trade, and it is very important to note that every single country, every single country in the Pacific rim has stated its very strong opposition to President Clinton's plan to impose this 100 percent tariff.

The State of California has a great deal to lose and very little to gain from the policies which President Clinton has proposed. The auto industry in California is more closely tied to Tokyo than it is to Detroit. The Japanese companies targeted by the President's sanctions have invested over $2 billion in California, directly creating over 13,000 private sector jobs; each company targeted, each company that has been targeted by the President's proposed imposition of this 100 percent tariff is headquartered in California. Another 28,640 are employed by dealers that sell cars imported from Japan.

Mr. Speaker, I believe that it is criminal to discriminate against California workers simply because the companies they work for are based in Tokyo rather than Detroit. The administration's sanctions threaten 12,000 middle income workers in dealerships and many more in California's ports and within advertising firms.

Mr. Speaker, these Americans have done nothing, they have done absolutely nothing to deserve unemployment. Of course, the greatest fear of all is recognition that the President is playing with fire with his proposed plan. An escalating trade war with Japan, which virtually everyone has said is a possibility, with the discussion of this possibility, an escalating trade war with Japan would devastate California and clearly threaten the economic future of the largest State in the Union.

Mr. Speaker, balancing trade by sector is playing bad policy. The trade imbalance between the United States and Japan is primarily a reflection of Japanese weakness, not strength. We should support openness in the Japanese economy, and we all share that same goal, but we should not support balanced trade. The administration has gone beyond the mistaken policy of trying to balance trade between our two countries, and they are now making the case that we should have balanced trade in one sector, the auto sector. That is the only place we should have balanced trade.

This route is a bad one. Heading down this path is clearly a very poor policy. And the best way to look at that is the President proposes to move only in the auto sector is, let us see what would happen if the Japanese made the decision to do the same thing to us. What would we as a country say if Japan extended this policy to some of the large exporters in our Nation's greatest State of California.

Well, the motion picture industry, Mr. Speaker, the motion picture industry enjoys a $1 billion, a $1 billion bilateral trade surplus with Japan. What would we say if the Japanese made the same mistake, same statement of us that we are of them on auto policy? Obviously, we would not stand for it. The agriculture industry in this country has a $9.2 billion bilateral trade surplus with Japan, and the aerospace industry has a $3.1 billion trade surplus with Japan.

Service industries are on the cutting edge of California's export industries.

Requiring a bilateral trade balance in each service sector would stifle our service exports to Japan, and it would be wrong. And that is exactly what we are trying to do in the area of autos with this policy.

The thing that really saddens me greatly, Mr. Speaker, is that we have observed a transition, a transition that has taken place within this administration's policy from what I know you, Mr. Speaker, and I agree has been very good trade policy. It is has garnered bipartisan support. The transition has been good trade policy to good trade politics. The Clinton administration earned the strong support of those of us who are free traders in both parties over the past couple of years because of the fact that we were able to work together in a bipartisan way on the North American Free Trade Agreement, on completion of the Uruguay round on the General Agreement on Tariffs and Trade and for a sound China policy.

I regularly congratulated the President, in fact one of the most passionate speeches I ever heard him deliver was just before passage of the North American Free Trade Agreement when former Presidents and other officials stood in the East Room of the White House. The President's speech was superb and very, very heart felt.

The administration in pursuing those policies took on the traditional projectionist factions within their own political party. However, the thing that concerned me greatly was that they pursued these things when it came to dealing with the issue of trade; but with the election on the horizon, they seem to be shifting back to what admittedly is a popular policy. It appears that they are now moving in a direction that many feared when neo-projectionists within the administration, like Robert Reich and Laura Tyson and others were named to senior positions from the beginning.

Rather than pursuing further broad, free trade initiatives, they appear to have adopted a polticial trade strategy intended to appeal to that labor base within the Democratic Party and to make the President look tough on dealing with Japan.

The first inclination of most Americans is to be critical of Japan. I admit that as I stand here right now, I am taking what is perceived as being the politically unpopular position. But I clearly believe that the goal of penalizing American consumers and workers with the planned imposition of this 100 percent tariff is wrong. We learn throughout history that tariffs have, in fact, diminished the standard of living, going all the way back to when me political party supported the Smoot-Hawley Tariff Act at the beginning of the Depression in hopes that it would somehow shorten the Depression. Virtually every economist has agreed that the Smoot-Hawley Tariff Act exacerbated the Great Depression, in the same way this politically popular policy that the President is pursuing creates the potential for a very serious trade war.

The result, Mr. Speaker, is bad foreign policy that threatens our long-term interests in Asia and bad economic policy that threatens the trade policy gains over the past 2 years.

Those gains that we have made over the past 2 years have been modeled after the fact that the United States of America has recognized that we live in a global economy, and breaking down these barriers is obviously the wave of the future. This policy as announced by the President is clearly a retrograde step on the whole issue of free trade.

It is often said that only Richard Nixon could open up ties with China. It takes strong leadership to undertake bold and dramatic initiatives. Up to this point, that is exactly what President Clinton has done in the area of trade. Statements by people in the administration like Laura Tyson who indicate that they believe the Japanese political weakness makes success more likely, the opposite is the case. The argument that she has made is that political division within Japan will somehow lead them to break down on this issue is wrong; again, the opposite is the case.

The economic reality in Japan reveals the fraud of those who claim the Japanese economic and trade policies have enriched Japan at our expense.

There are many people out there who regularly argue that Japan has been greatly enriched at our expense, but let us look at what has happened in Japan over the past several years. Japan has had 4 years of flat economic growth, unlike the kind of growth that we are now experiencing here in the United States. Japan has undergone 4 years of flat economic growth. This year alone the stock market in Japan has dropped by nearly a third to its lowest point since 1983. The appreciation in the yen has made it very unprofitable for Japan's businesses to export. Japanese banks hold $476 billion in bad loans.

Mr. Speaker, $476 billion, let us compare that to the cost of the savings and loan debacle here in the United States, the cost of which was $150 billion. So obviously Japanese financial institutions are faced with very serious problems.

And it is important for us to note the present amounts of money that have been made by United States businesses when so much of the real estate market during the 1980's was sold to Japan. Remember, Mr. Speaker, how people were outraged at the fact that Japan would own so much of what is here in the United States. They purchased Rockefeller Center, a wide range of other real estate investments during the 1980's, and I think everyone has recognized that real estate values have dropped dramatically over the past several years, a tremendous loss to those Japanese investors.

So this argument that Japan is greatly taking advantage of the United States is unfounded. Economic weakness in Japan, however, Mr. Speaker, hurts this country by placing a overall drag on the international economy. Remember, we are living with a global economy today. Of all industries to pick a fight with, it is incredibly ironic that U.S. automakers would be the target. Why? Because they are very healthy. We all know that United States automobile manufacturers in large part, despite competition from the Japanese auto manufacturers, have had tremendous profits, record profits just this past year.

But, Mr. Speaker, not everyone knows that two of the three largest auto manufacturers in Japan have lost money in the last year.

Ambassador Walter Mondale, former Vice President, our Ambassador to Japan, is now reported to believe that the new generation of Japanese Government bureaucrats desires to see Japan lean more toward Asia than toward the United States. And they are bolstered by this conflict, those within Japan who would choose to lean toward the other very successful nations within the Pacific rim. Those people are bolstered by this proposed imposition of a 100-percent tariff.

Mr. Speaker, this would be extraordinarily detrimental to U.S. interests in Asia.

One of the things that I think is a rather remarkable twist in the whole managed trade plan, the Clinton administration does not want the Japanese Government to manage auto makers. And yet this administration wants our Government, our Government to manage the Japanese automakers.

The primary sticking points that are driving us toward the job killing sanctions involve auto parts and auto dealerships. In auto parts, the administration wants the Japanese automakers to purchase certain amounts of United States parts.

☐ 1230

On auto dealerships, the administration wants the Japanese auto companies to require 1,200 of their dealers in Japan to sell United States cars.

Mr. Speaker, these demands do not involve Japanese Government action. They require action from Japanese businesses. It should not be surprising that the administration's proposed sanctions target the companies they want to coerce into an agreement. In fact, the administration is targeting Toyota and not Tokyo.

This proposed plan is, all the way around, a lose-lose-lose trade policy. If the administration wins in this showdown, it bolsters the popularity of trade policies that threaten our Nation's long-term trade and foreign policy interests. Imposing sanctions that clearly violate the World Trade Organization rules puts us in a position to lose the first major case before the World Trade Organization.

What does this do? Well, it plays into the hands of the Ross Perots and Pat Buchanans and Ralph Naders of the world, clearly undermining the potential for future multilateral trade agreements.

Mr. Speaker, our allies and trading partners around the world are unified in opposition to the unilateral sanctions policy because every government invested significant political capital in implementing a stronger multilateral trade regime which is designed to break down tariff barriers, improve the quality of life for working and consuming Americans and for peoples throughout the world in developing nations. Now the United States of America is proposing to ignore that newly established policy.

Don't overlook the possibility, Mr. Speaker, and it saddens me again to say this, but don't overlook the possibility that the administration's policy could, as I was saying a few minutes ago, spin out of control and set off a very destabilizing economic and political confrontation between the United States and Japan and potential other nations.

In the words of my colleague, DAVID OBEY, and I quote:

> I think most of us learned some time ago that if you don't like the President's position on a particular issue, you simply need to wait a few weeks.

Well, I have been holding out hope that that Obey quote was right on target. But as June 28 rapidly approaches, it appears that we are not taking the kind of positive shift that in this case I believe would help us greatly.

There is always hope, though, that the administration will come to its senses, focus on negotiating objectives that the Japanese Government can accomplish, and move away from these sector-by-sector specific negotiations to broad deregulation and antitrust enforcement in Japan, which we strongly support. We strongly support those kinds of things, so that we will have an opportunity to gain further access to that market.

That is why several years ago I followed the trade subcommittee chairman, the gentleman from Illinois [Mr. CRANE] by introducing legislation calling for a United States-Japan free trade agreement. We know that they have access to our market. We want to gain access to theirs, but increasing these tariffs is clearly wrong.

We cannot lose sight of the fact that the United States economy is healthier and better prepared to move into the 21st century than the Japanese economy is. We should not move away from the openness that has made us as a nation strong, even in an effort to move Japan toward a policy that will make it strong.

The President has just completed his meeting with Prime Minister Murayama, and we know that coming up our Trade Representative, Mr. Kantor, will be meeting with Mr. Hosokawa and we hope very much that this will be resolved.

But the threat of imposition of these sanctions is a wrong policy. It is a wrong way to do business. I know it is politically popular here in the United States, but we have to look at the fact that we are playing with fire, Mr. Speaker, and this policy creates the potential for very serious problems not only here in the United States and Japan but throughout the world.

My request, Mr. Speaker, is that this administration go back to the great free trade policies which have played a role in enhancing the economy of the United States, those policies being the breaking down of barriers within Latin America with implementation of the North American Free Trade Agreement, establishment of the WTO, and completion of the Uruguay round of the General Agreement on Tariffs and Trade, which among 124 countries is continuing to pursue the goals that were established in 1947 when the GATT went into place. That goal is very simply breaking down barriers.

My party and I believe this Nation strongly stands for freedom, the free flow of goods, services, ideas. That is what this agreement among 124 nations is doing. And in China, exposure to Western values, getting our ideas into China, that is what will help the very serious human rights situation that exists there, and this President has wisely acknowledged that.

Mr. Speaker, let us not as a nation move backward to the days of Smoot-Hawley when we look at the issue of a global economy. We are 5 years away from the millennium. Clearly the United States of America is the world's only complete superpower. We face very serious problems throughout the world.

We have stood in a bipartisan way for free trade. This proposed policy is 180 degrees from that. I hope very much, Mr. Speaker, that this administration will change the policy and continue to work on other methods to break down barriers and create an opportunity for us to gain access to the consumer market in Japan.

RECESS

The SPEAKER pro tempore (Mr. SHAYS). Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 1 o'clock and 37 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1756

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1854, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1996

Mr. DIAZ-BALART, from the Committee on Rules, submitted a privileged report (Rept. No. 104–146) on the resolution (H. Res. 169) providing for consideration of the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Member to revise and extend his remarks and include extraneous material:)

Mr. OWENS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mr. DREIER) and to include extraneous matter:)

Mr. BAKER of California.

(The following Members (at the request of Mr. DIAZ-BALART) and to include extraneous matter:)

Mr. RICHARDSON in two instances.

Mrs. SCHROEDER.

Mr. EHRLICH.

Mr. LIPINSKI.

Mr. LANTOS.

Mr. HAMILTON.

ADJOURNMENT

Mr. DIAZ-BALART. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 58 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, June 20, 1995, at 9 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1065. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the Department's intent to reprogram $2.0 million in fiscal year 1995 funds made available under chapter 4 of part II of the act for assistance to the Middle East multilateral peace process, pursuant to section 515 of the Foreign Operations, Export Financing, and Related Programs Act, 1995; to the Committee on Appropriations.

1066. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification concerning cooperative production of radar system improvements for the E-3 aircraft with the NATO Airborne Early Warning and Control [AEW&C] Programme Management Organization [NAPMO], (Transmittal No. 08-95), pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

1067. A letter from the Acting Assistance Secretary for Legislative Affairs, Department of State, transmitting a report on missile proliferation, pursuant to 22 U.S.C. 2797b(a)(1); to the Committee on International Relations.

1068. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions for the following: John Todd Stewart, of California, (Republic of Moldova); Victor Jackovich, of Iowa, (Republic of Slovenia); John Raymond Malott, of Virginia, (Malaysia); John K. Menzies, of Virginia, (Republic of Bosnia and Herzegovina); and Kenneth Michael Quinn, of Iowa, (Cambodia); and members of their families, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on International Relations.

1069. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Implementation of the Government Managers Accountability Act of 1995 and the Merit Personnel Law," pursuant to D.C. Code, section 47-117(d); to the Committee on Government Reform and Oversight.

1070. A letter from the Auditor, District of Columbia, transmitting a copy of a report entitled "Fiscal Year 1992 Annual Report on Advisory Neighborhood Commissions," pursuant to D.C. Code, section 47-117(d); to the Committee on Government Reform and Oversight.

1071. A letter from the Director, Office of Personnel Management, transmitting the semiannual report on the activities of the Department's inspector general for the period October 1, 1994, through March 31, 1995, and the management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1072. A letter from the Assistant Secretary for Legislative Affairs, Department of the Treasury, transmitting a State-by-State and district-by-district analysis of the Senate budget resolution's impact on the earned income tax credit [EITC], prepared by Treasury's Office of Economic Policy; to the Committee on Ways and Means.

1073. A communication from the President of the United States, transmitting a letter to the Speaker of the House of Representatives, with respect to the New Hampshire agreement; jointly, to the Committees on House Oversight and Rules.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DIAZ-BALART: Committee on Rules. House Resolution 169. Resolution providing for the consideration of the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104-146). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CRANE:

H.R. 1887. A bill to authorize appropriations for fiscal years 1996 and 1997 for the International Trade Commission, the Customs Service, and the Office of the U.S. Trade Representative, and for other purposes; to the Committee on Ways and Means.

By Mr. RICHARDSON:

H.R. 1888. A bill to add native American members to the Advisory Commission on Intergovernmental Relations, and for other purposes; to the Committee on Government Reform and Oversight.

MEMORIALS

Under clause 4 of rule XXII,

115. The SPEAKER presented a memorial of the House of Representatives of the State of Alabama, relative to reclaiming State sovereignty under the 10th amendment to the U.S. Constitution for the State of Alabama; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 42: Mr. MOAKLEY and Mr. FAZIO of California.

H.R. 713: Mr. LATOURETTE.

H.R. 773: Mr. BEREUTER.

H.R. 810: Mr. BOEHLERT.

H.R. 927: Mr. KIM and Mr. CHABOT.

H.R. 1150: Mr. FRAZER, Mr. BARRETT of Wisconsin, and Mr. SANDERS.

H.R. 1462: Mr. SERRANO, Mr. VENTO, Mr. BORSKI, Mr. DEFAZIO, Mr. MINETA, Mr. SCHIFF, Mrs. THURMAN, and Ms. VELAZQUEZ.

H.R. 1533: Mr. STUPAK, Mr. MARTINI, and Mr. UPTON.

H.R. 1557: Mr. ROYCE.

H.R. 1735: Mr. KENNEDY of Rhode Island and Ms. NORTON.

H.R. 1749: Mr. BROWN of Ohio, Mr. MEEHAN, Mr. LOBIONDO, Mr. ZELIFF, Mr. BARRETT of Wisconsin, Mr. ROHRABACHER, Mr. MARKEY, Mr. LUTHER, Mr. NADLER, Mr. ENGEL, and Mr. SANDERS.

H.R. 1797: Mr. FRANK of Massachusetts.

H.R. 1885: Mr. EMERSON, Mr. KIM, Mr. LATHAM, and Mr. LATOURETTE.

PETITIONS, ETC.

Under clause 1 of rule XXII,

25. The SPEAKER presented a petition of the council of the city of Toledo, OH, relative to defeating any proposal to repeal or weaken the assault weapons ban; which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1854

OFFERED BY: MR. ANDREWS

AMENDMENT NO. 2: Page 26, beginning on line 12, strike "operation and maintenance of the American Folklife Center in the Library;".

Page 26, line 19, strike "$211,664,000" and insert "210,544,000".

H.R. 1854

OFFERED BY: MR. FAZIO

AMENDMENT NO. 3: On page 15, line 8, strike all after the word "House" through the word "1986" on line 10.

H.R. 1854

OFFERED BY: MR. ZIMMER

AMENDMENT NO. 4: Page 49, after line 25, insert the following new section:

SEC. 312. Any amount appropriated in this Act for "HOUSE OF REPRESENTATIVES—Salaries and Expenses—Members' Representational Allowances" shall be available only for fiscal year 1996. Any amount remaining after all payments are made under such allowances for such fiscal year shall be deposited in the Treasury, to be used for deficit reduction.

H.R. 1868

OFFERED BY: MR. ANDREWS

AMENDMENT NO. 4: Page 4, strike line 15 and all that follows through page 5, line 6.

H.R. 1868

OFFERED BY: MR. BURTON OF INDIANA

AMENDMENT NO. 5: Page 13, line 9, strike "$465,740,000" and insert "$396,770,250".

H.R. 1868

OFFERED BY: MR. BURTON OF INDIANA

AMENDMENT NO. 6: Page 13, line 9, strike "$465,740,000" and insert "$432,000,000".

H.R. 1868

OFFERED BY: MS. ROS-LEHTINEN

AMENDMENT NO. 7: Page 78, after line 5, insert the following new section:

LIMITATION ON USE OF FUNDS BY RUSSIA FOR CONSTRUCTION OF JURAGUA NUCLEAR POWER PLANT IN CIENFUEGOS, CUBA

SEC. 564. None of the funds made available in this Act for assistance in support of the Government of Russia may be used for the construction of the Juragua nuclear power plant in Cienfuegos, Cuba.

H.R. 1868

OFFERED BY: MS. ROS-LEHTINEN

AMENDMENT NO. 8: Page 78, after line 5, insert the following new section:

REDUCTION OF FUNDS FOR RUSSIA IN AMOUNT PROVIDED FOR CONSTRUCTION OF JURAGUA NUCLEAR POWER PLANT IN CIENFUEGOS, CUBA

SEC. 564. (a) IN GENERAL.—The funds otherwise provided in this Act for the Government of Russia under the heading "Assistance for the New Independent States of the Former Soviet Union" shall be reduced by an amount equal to the amount of funds provided by such Government for the construction of the Juragua nuclear power plant in Cienfuegos, Cuba.

(b) EXCEPTION.—The reduction provided for by subsection (a) shall not apply if the President certifies to the Congress that a restoration of the funds is required by the national security interest of the United States.

H.R. 1868

OFFERED BY: MS. ROS-LEHTINEN

AMENDMENT NO. 9: Page 16, line 24, strike "$595,000,000" and insert "$355,000,000".

H.R. 1868

OFFERED BY: MS. ROS-LEHTINEN

AMENDMENT NO. 10: Page 16, line 24, strike "$595,000,000" and insert "$416,500,000".

H.R. 1868

OFFERED BY: MR. SANDERS

AMENDMENT NO. 11: Page 78, after line 5, insert the following new section:

REPORT ON USE OF RESOURCES OF THE INTERNATIONAL DEVELOPMENT ASSOCIATION FOR POVERTY REDUCTION

SEC. 564. Not later than December 31, 1995, the Secretary of the Treasury shall prepare and submit to the Committee on Banking and Financial Services of the House of Representatives and the Committee on Foreign Relations of the Senate a report that demonstrates that poverty reduction is central to the allocation of the resources of the International Development Association. The report shall give particular attention to the extent to which lending by the International Development Association is addressing the most serious barriers to sustained poverty reduction, including the extent to which the International Development Association is using poverty-targeted interventions.

H.R. 1868

OFFERED BY: MR. ZIMMER

AMENDMENT NO. 12: Page 78, after line 8, add the following new title:

TITLE VI—DEFICIT REDUCTION LOCKBOX

DEFICIT REDUCTION TRUST FUND; DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS

SEC. 601. (a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the "Deficit Reduction Trust Fund" (in this title referred to as the "Fund").

(b) CONTENTS.—The Fund shall consist only of amounts transferred to the Fund under subsection (c).

(c) TRANSFERS OF MONEYS TO FUND.—For each of fiscal years 1996 through 1998, the Secretary of the Treasury shall transfer to the Fund an amount equal to the allocations under section 602(b)(1) of the Congressional Budget Act of 1974 to the subcommittee of the Committee on Appropriations with jurisdiction over this Act minus the aggregate level of new budget authority and outlays resulting from the enactment of this Act, as calculated by the Director of the Office of Management and Budget.

(d) USE OF MONEYS IN FUND.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amounts in the Fund shall not be available, in any fiscal year, for appropriation, obligation, expenditure, or transfer.

(2) USE OF AMOUNTS FOR REDUCTION OF PUBLIC DEBT.—The Secretary of the Treasury shall use the amounts in the Fund to redeem, or buy before maturity, obligations of the Federal Government that are included in the public debt. Any obligation of the Federal Government that is paid, redeemed, or bought with money from the Fund shall be canceled and retired and may not be issued.

(e) DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS.—Upon the enactment of this Act, the Director of the Office of Management and Budget shall make downward adjustments in the adjusted discretionary spending limits (new budget authority and outlays) as set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for each of the fiscal years 1996 through 1998 by the aggregate amount of estimated reductions in new budget authority and outlays transferred to the Fund under subsection (c) for such fiscal year, as calculated by the Director.

SENATE—*Monday, June 19, 1995*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, whose chosen dwelling is the mind that is completely open to You and the heart that is unreservedly responsive to You, we thank You that our desire to find You is because You already have found us. Our prayers are not to get Your attention, but because You have gotten our attention. You always are beforehand with us with prevenient, providential initiative. Our longing to know Your will is because You have solutions for our problems to impart to us. You place before us people and their problems and potentials because You want to bless them through our prayers for them and what You want us to do and say to encourage and uplift them.

The challenges before us today and this week dilate our mind's eye because You have solutions ready to unfold and implement through us. You consistently know what we need before we ask You. Keep our minds riveted on You and our wills responsive to Your direction. We want Your best in everything for our beloved Nation. Bless the Senators and all who work with them as they seek to keep America good, so that she may continue to be great for Your glory. In Your holy name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

WELCOME TO THE NEW PAGES

Mr. DOLE. Mr. President, first, I welcome all the new pages. I think we have a new class of pages on each side of the aisle. We appreciate their efforts, and we will be working with them in the weeks ahead.

SCHEDULE

Mr. DOLE. Mr. President, today, there will be a period for the transaction of morning business until the hour of 1 p.m. Following morning business, the Senate will resume consideration of S. 440, the National Highway System bill. The cloture vote on the motion to proceed to the highway bill, originally scheduled today at 3 o'clock, has been vitiated. There will be no rollcall votes today. We have been able to work out a process where we do not need the cloture vote. We notified everybody Friday afternoon, so I do not think anybody was unaccommodated because of that change.

We will have amendments this afternoon and debate on amendments. If there are rollcall votes requested on any amendments, they will occur tomorrow morning. We hope to get an agreement on amendments, if we can, this afternoon.

This is an important bill. We would like to finish consideration of the bill tomorrow evening, if possible. I know the managers will be on the floor at 1 o'clock. There are a number of key amendments, but beyond that, we do not see any real problems with the bill now that we have agreed on the Davis-Bacon amendment. That has been withdrawn from this bill. That debate will happen in a more general way on a later bill coming from the Labor Committee.

So I urge my colleagues on both sides, if you have amendments to S. 440, to contact the managers so that we can move as quickly as we can this afternoon and this evening on debating some of the amendments. If rollcall votes are requested, they will occur tomorrow.

I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SHELBY). Without objection, it is so ordered.

RECESS UNTIL 1 P.M.

Mr. DOLE. Mr. President, I have asked on each side of the aisle, and apparently there is no request for the transaction of routine morning business. Rather than having the Senate wait until 1 o'clock, tying up the staff on the floor, we will recess.

However, at 1 o'clock, we will go on S. 440. We will be on the bill.

I move the Senate stand in recess until 1 o'clock. At 1 o'clock, we will be on S. 440. I hope and request that the managers be here at that time with amendments.

The motion was agreed to.

Thereupon, the Senate, at 12:21 p.m., recessed until 1:02 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. CHAFEE].

The PRESIDING OFFICER. In my capacity as a Senator from the State of Rhode Island, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. THOMAS. Mr. President, I ask unanimous consent that we have morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. THOMAS pertaining to the introduction of S. 943 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, more than 3 years ago, I began these daily reports to the Senate to make a matter of record the exact Federal debt as of close of business the previous day. On Mondays, of course, my reports are always "as of" the previous Friday.

As of the close of business Friday, June 16, the Federal debt stood at exactly $4,892,368,600,316.89. On a per capita basis, every man, woman, and child in America owes $18,571.52 as his or her share of the Federal debt.

It is important to recall, Mr. President, that the Senate this year missed an opportunity to implement a balanced budget amendment to the U.S. Constitution. Regrettably, the Senate failed by one vote in that first attempt to bring the Federal debt under control.

There will be another opportunity in the months ahead to approve such a constitutional amendment.

Mr. THOMAS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THOMAS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. THOMAS. I ask unanimous consent that we extend morning business for 10 minutes.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THOMAS. I thank the Chair.

BALANCING THE BUDGET

Mr. THOMAS. Mr. President, I would like to take an opportunity as we wait to go on the highway bill to talk a bit more about the budget. It seems to me there will be nothing this year that we will deal with more important than the budget. One aspect of it, of course, is the "why" of balancing the budget. Certainly I do not think anyone would suggest that continuing to spend more than we take in is a responsible fiscal or moral position. This Congress has not balanced the budget for 25 years.

When there is discussion of a balanced budget amendment, we always hear people say: I am for a balanced budget; I sure want a balanced budget, but we do not need an amendment; all we have to do is do it.

Well, we have a chance to come to the snubbing post this time and figure out if we can do it. And we have before us from the Senate as well as the House potential outlines that do balance the budget.

Not only is balancing the budget important, Mr. President, but I think also, of course, the budget and spending and taxes help to shape the form of Government. I think they respond to what I believe was a very clear statement of the voters in 1994 that Government is too big and spends too much. And certainly the test of good Government is whether or not the Government responds when voters have sent that sort of a message. So nothing will be more important than the budget discussions this year and the result of those deliberations.

I am pleased to welcome the President of the United States to the budget debate. I am disappointed that it took this long for him to participate in it. He sort of falls into the follow-the-leader type of concept.

I am disappointed that the budget recommended by the administration does not, in fact, balance the budget, even though it is extended to a period of 10 years. I am also disappointed that it appears to yield to the political notion of endloading, where almost all of the pain is somewhere in the future, somewhere 10 years from now, which puts balancing the budget at great risk. It's likely that in the next 10 years there will be another budget and all the benefits will come early and the price we have to pay for it as taxpayers will not show up until later and the budget ends up never being balanced.

So, Mr. President, I am glad we are launched. I am glad the President of the United States has come into the discussion. However, the Congress has already done most of the heavy lifting by passing a balanced budget weeks ago. I am very proud of what the Senate did. I am not on the Budget Committee, but I think Senator DOMENICI and others came face up to the task, and their cuts start soon; they start to do what has to be done without putting it off the way the President does—the political way of tough talk, the political way of giving the benefits and doing the tax adjustments early on and letting the hard work, the heavy lifting go until later, make it until even after the turn of the century, which is only 5 years from now, maybe until after the next Presidential election, not this one in 1996 but the next one in the year 2000. Most of the heavy lifting in the President's budget comes after that—coincidence, I am sure.

We are told that the President's budget cuts discretionary programs except defense and education by $200 billion in 7 years.

What we are not told is in the last 3 years the discretionary budget is cut by $178 billion, so basically almost all of the cuts come in the last 3 years, not in the early years.

We are told there are no cuts in defense, but after the year 2005, there are an additional $65 billion in defense cuts. Most of the discussion this year has been that this is not a peaceful world, and it is not a time to continue to reduce defense expenditures.

In addition, what was not said in the President's budget was in the last 3 years Medicare is cut by $167 billion, more than all of the proposed cuts in the first 7 years.

So I think it is fair to say that this budget proposal is endloaded. Even the Washington Post, which is not exactly a pillar of conservatism, indicates that given more time, it is always easier to do the budget reduction.

A full 85 percent of the President's promised reductions would occur in the next century. I would argue that chances are pretty good before we come to actually paying for the changes we ask for, there will be other changes. In the next 7 years, as a matter of fact, the promises made in the President's budget for cuts are slightly smaller than the budget he submitted in February.

So Martha Phillips, who is the executive director of the Concord Coalition, said, "It is a funny thing about those elusive outyears; they never seem to arrive."

I think one of the difficulties, Mr. President, in recent years—perhaps always, but it seems particularly ironic now—is that in an era in which we have the greatest, quickest communications system the world has ever known, it is very, very difficult to get facts to you and me as voters in Casper, WY; that the information is usually put forth by advocates on either side and spun whichever way they choose to spin it to where it is extremely difficult for people to really get a handle on what is happening.

I noticed in just the last couple of months that the folks who come to our office who belong to nationwide organizations usually get a briefing. Frankly, when they come to the office and explain their point of view from the basis of the briefing, you hardly recognize it from what you have seen in the budget.

What we need more than anything, of course, is really straight talk, some real facts. The idea that we are going to balance the budget with no pain is an illusion. Of course, there is going to be some pain. Of course, there are going to be some changes.

The idea that we accomplished great things in 1993, for example, when most of the deficit reduction came from bookkeeping changes. We changed what was anticipated in losses in the RTC. We changed what was anticipated in losses in Medicaid. About 18 percent of the change was a policy change, and that was a tax increase.

Spending in 1993, when we talk about the deficit reduction, went up and continues to go up at 5 percent. When you are talking about $1.5 trillion, 5 percent of that is a very large amount of money.

But I am encouraged now that the President has endorsed the idea of balancing the budget that we should get there as quickly as possible. It is a little hard to imagine that in a $7 trillion economy that a $60 billion change in Government spending is going to hurt our prosperity. I think George Will said that it was very hard to figure out how that can discombobulate a $7 trillion economy.

So we should move boldly. We have the chance to move boldly. We have the chance to do the things that we talked about for a very long time, that almost everyone talks about on the campaign trail—balance the budget, reduce Government, reduce spending. But when we get here, there are arguments about who does it, where it ought to be, and we end up not doing the things that you and I know need to be done.

We can balance the budget. Very likely we will find 6.1 million more jobs, we will lower interest rates on student loans, and on mortgages.

Mr. President, I think that we are going to hold the administration's feet to the fire. His track record does not indicate a great deal of confidence. His actions do not match the rhetoric that we have been hearing. The President promised a 5-year balanced budget plan as a candidate, then rejected a 7-year budget plan, and now proposes a 10-year budget plan. The budget deficit reduction in 1993 he talks so much about was a matter of increasing taxes.

So we have a history of more taxes, more spending—spending has never been reduced—and more Government. As a matter of fact, in the 1993 deficit reduction bill, domestic discretionary spending actually accelerated rather than decreased.

In addition, this administration last year made an effort to have the Government take over health care. We have to do something about Medicare. Americans rejected the idea of a Federal Health Care Program. We have now an opportunity to save Medicare. If we do not do something, according to the trustees—some of whom are Cabinet members—in 2 years we will be into the reserves and in 5 more years it will be broke. So it is not a question of whether we do something, it is a question of what we do and how we do it. If we want to have Medicare, if we want to have health care for the elderly, we have to change the program. Yet the administration only keeps Medicare solvent for 3 more years, until 2005.

So I certainly hope that the President of the United States joining the debate will cause us to move toward a balanced budget. I am decidedly pleased he has moved away from the February budget proposal which was rejected 99 to zip in this body.

We need to use the Congressional Budget Office's [CBO] numbers. The President suggested 2 years ago that those were the better numbers. Now we find he chooses to use other numbers which actually reduce the need by about $200 billion per year, and according to most people's accounting, would come up at the end of the 10 years still hundreds of billions in arrears. We have the best chance in memory to take a real bona fide look at doing something about overspending, about doing something with the size of Government, and we can do it this year, Mr. President.

So I welcome the President's entry, his recognition that we do need to balance the budget, and some of the ideas that he has, but I suggest to you we have to be honest and fair about it. We cannot wait until the next century to have the pain come. We have to start now and do the things that most people agree need to be done.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, we have just had an opportunity for the chairman of the committee, the Senator from Rhode Island [Mr. CHAFEE] myself, and the distinguished Senator from New York [Mr. MOYNIHAN] to meet with Mr. Rodney Slater, the Administrator of the Federal Highway Administration, and he will soon be forthcoming with some clarifications of the positions of the administration on a series of amendments.

The Secretary of Transportation did forward to all Senators today a letter respecting a special interest in the safety provisions in the pending bill, and at an appropriate time, I will introduce that letter into the RECORD.

But I encourage all Senators who have a particular interest in this legislation to come forward today when we have the opportunity to work out a number of amendments and to, hopefully, have arguments on others and hold over until tomorrow, pursuant to the decision of the majority leader and Democratic leader on the time for the votes.

So, at any time, this Senator and, I am sure, my distinguished colleague would be pleased to interrupt our remarks to allow a Senator or Senators to pursue their individual interests with respect to amendments.

MEASURE READ THE SECOND TIME—S. 939

Mr. WARNER. Mr. President, I understand there is a bill at the desk that is due for its second reading.

The PRESIDING OFFICER. The clerk will read the bill for the second time.

The assistant legislative clerk read as follows:

A bill (S. 939) to amend Title 18 United States Code to ban partial-birth abortions.

Mr. WARNER. Mr. President, at this time, under the instructions of the majority leader, I interpose an objection to further proceedings on this matter.

The PRESIDING OFFICER. The bill will be placed on the calendar.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 440, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

The Senate resumed consideration of the bill.

Mr. WARNER. Mr. President, there are some 20 amendments of which the managers have notice. There may be more. I know it is the intention of the majority leader and the Democratic leader that we proceed as expeditiously as possible to bring this pending matter to a conclusion in the Senate. Again, I urge all Senators having an interest to come to the floor and take up those matters.

This legislation is critically important to maintaining the transportation planning and construction programs in our several States, to providing for the efficient and timely movement of American products carried by commercial activities, and to the safety of the motoring public.

As provided in the 1991 Intermodal Surface Transportation and Efficiency Act, known as ISTEA, the Congress must approve the National Highway System map by September 30, 1995. With the cooperation of all members of the Committee on the Environment and Public Works, we were able to expedite this bill such as the Senate has it at this particular time, well in advance of the deadline created by ISTEA.

Now, if Congress does not meet the deadline, $6.5 billion in interstate maintenance and National Highway System annual apportionments will be withheld from the several States. Therefore, we must not permit this penalty to be further imposed on our States.

In February of this year, I introduced this legislation, along with 14 of my colleagues, to ensure prompt action on the National Highway System. Today, this legislation enjoys the bipartisan support of 26 Senators.

The Environment and Public Works Subcommittee on Transportation and Infrastructure, which I am privileged to chair, held four hearings on the importance of the National Highway System. The subcommittee also heard testimony on the impact of various transportation mandates, such as metric sign conversion and the use of rubberized asphalt. We also examined innovative financing proposals to increase State flexibility to maximize the use of highway dollars by allowing public funds to leverage nontraditional, private sources of funding for infrastructure development.

This is very definitely the direction in which our Nation must go if it wishes to continue to modernize our transportation system.

The subcommittee's hearings clearly demonstrated that continuing Federal investment, with our State partners and new private ventures, in our Nation's infrastructure is crucial to improving America's mobility and the efficiency of our surface transportation network.

The National Highway System reaffirms the Federal commitment to this limited network of highly traveled roads to provide for the consistency of road engineering and safety for commercial and public travel.

For the benefit of my colleagues who may be asking, "What is the National Highway System?"—a legitimate question—let me take this opportunity to offer some historical perspective and a brief description about the system.

We are particularly fortunate today that the manager on the minority side is the distinguished Senator from New

York, who really has spent much of his career in the U.S. Senate on this subject. I look forward to hearing his remarks about the historic concepts of this system.

In the 1950's, President Eisenhower challenged the transportation community to provide an effective system of highway connections among the 50 States. Thus, the era of the Interstate Highway System was born, and for the next 25 years, Federal transportation policy focused on the completion of the Interstate Highway System.

There is a little anecdotal history here that is interesting. My understanding of the reading is that Eisenhower, when he was a young major in his very late thirties, was instructed by the chief of staff of the U.S. Army to determine what would be the best route and, indeed, what difficulties might be incurred if a military envoy left one coast and traveled all the way to the next. And then Major Eisenhower was somewhat appalled by the system and how inadequate that system was to transfer military cargo, military troops, equipment, and other systems essential to our national defense, and at that time the major was also quite knowledgeable of the rapid advancement in Germany, under Nazi control in those days, and the Autobahn system.

So at that time, apparently, he determined at some future date he would have a hand in developing a system for the United States which would ensure, for the purposes of national security and other purposes, an adequate interstate highway system.

During the debate on ISTEA, the future role of the Federal Government in surface transportation was debated at length as the completion of the Interstate System neared. The debate questioned the level of Federal obligations to the maintenance of the Interstate System and other primary routes, the appropriateness of providing greater flexibility and responsibility to the States, and the most effective means of ensuring the safety of our surface transportation system for the traveling public.

I happen to have been a member of the committee and a member of the conference on ISTEA, and the distinguished Senator from New York was then the chairman of the Committee on the Environment and Public Works of the U.S. Senate and took a very active role in that ISTEA conference.

I concurred in the Senate's view that a National Highway System should be established to maintain a minimum level of Federal involvement with our State partners. Ensuring the efficient performance and consistency of our existing road system between individual States remains the foremost Federal responsibility.

As provided in ISTEA, the National Highway System map consists of 159,000 miles. Of this amount, 44,000 miles are interstate highways; 4,500 miles are high priority corridors identified in ISTEA; 15,700 miles are noninterstate strategic highway network routes; and 1,900 miles are strategic highway network connectors.

The remaining 91,000 miles were identified by the Federal Highway Administration and the States in cooperation with local governments.

May I stress, Mr. President, this is not a map concocted by the Congress. We are, essentially, about to confirm and ratify the work of the Federal Highway Administration in full cooperation with the counterpart authorities in each State, and down to the very local level. Many Senators have taken an active participation as it relates to their particular States.

The product of this 2-year dialog is the map before us, which must be enacted, as I said, by the Congress promptly to meet the September deadline.

The committee-reported bill commends the successful efforts of the several States, the Federal Highway Administration, and the local authorities in developing the NHS map, and provides authority for this process to continue to evolve.

May I pause to say this is not a static situation. It is a continuing situation, Mr. President. As new roads are constructed and State transportation priorities change, the States and the Federal Highway Administration can continue to make necessary adjustments to the map.

The National Highway System, as developed by our States, contains just 4 percent of America's 4 million miles of public roads. I would like to repeat that, Mr. President: The National Highway System, as developed by our States, contains just 4 percent of America's 4 million miles of public roads. This 4 percent, however, carries over 40 percent of all highway traffic and 70 percent of all truck freight traffic.

Most of the NHS roads are already built, and the system reflects a fair distribution of mileage between rural and urban roads.

I am committed to the National Highway System because it will increase economic opportunities to communities not served directly by the interstate system. Also, it will provide a direct link with roads in Canada and Mexico, uniting the North American commercial links. This is particularly appropriate in view of the American free-trade zone with a high-performance, continental road network.

For the first time, the NHS will allow States to focus their investments on connecting air, rail, commercial water ports, freight facilities, and highways so that the performance of the entire system can be maximized. In other words, we combine in this new map all of those essential parts to make up the infrastructure for this highway system. These intermodal connections will provide our entire transportation system with the flexibility needed to cope with the changing economic geography for this decade and beyond.

Reinforcing this economic backbone is the fact that nearly 85 percent of the Nation's freight travels at least part of its journey over a highway. As American companies rely more and more on just-in-time delivery to get raw materials to plants, and as American wholesalers and retailers count on rapid delivery to keep their inventories lean, the economic importance of an efficient, national transportation infrastructure is actually growing every day.

Mr. President, in February, when this legislation was introduced, I also indicated my intention to respond to the concerns raised by our State partners and other users of the system to increase the flexibility to use Federal highway funds and to reduce Federal mandates.

I am pleased that the bill before the Senate today provides relief from costly and burdensome mandates by the following:

First, repealing the usage requirement for the crumb rubber in hot mix asphalt;

Second, repealing the requirement that States convert transportation signs to metric measurements;

Third, repealing the requirement that States implement management system;

Fourth, repealing the national maximum speed limit;

Fifth, repealing the Davis-Bacon prevailing wage mandate on federally funded transportation construction projects. The Chair will note, as of the close of business on the preceding day of Senate business, namely, Friday, that amendment was taken out of this bill. So it no longer applies.

Sixth, streamlining the transportation enhancement process;

Seventh, clarifying that transportation conformity requirements apply only to Clean Air Act nonattainment areas;

Eighth, modifying the commercial motor vehicle hours of service requirements as applied to the drivers of groundwater drilling rigs.

In responding to the need to increase State flexibility of highway apportionments, the committee bill:

First, allows for larger transfers from the highway bridge program to other accounts;

Second, expands Federal aid eligibility to public highways connecting the NHS to intermodal facilities;

Third, provides for a soft match which allows private funds, materials, and services to be donated and applied to the State matching share;

Fourth, allows States to use advance construction funds for projects beyond the ISTEA authorization period;

Fifth, permits bond costs to be eligible for reimbursement as a cost of construction;

And sixth, allows States to use NHS and congestion mitigation and air quality funds for an unlimited period of time on intelligent vehicle transportation system projects.

Mr. President, another section of this legislation responds to the Federal need to move forward on a replacement facility for the Woodrow Wilson Bridge, located here in the greater metropolitan Washington area. The proposal the committee puts forward accomplishes three major objectives:

First, it offers an opportunity for the Federal Government to transfer ownership of the bridge to a regional authority established by Virginia, Maryland, and the District of Columbia, thereby relieving the Federal Government of the sole responsibility for this facility.

Second, it provides a framework that will stimulate additional financing to facilitate the construction of the alternative identified in the environmental impact statement.

Third, with less than 10 years of useful life remaining on the existing bridge, this approach addresses the need to provide for the safety of the traveling public and for the efficient flow of commerce.

I cannot emphasize too strongly, Mr. President, that particular provision as it relates to the Wilson Bridge. I have been down and personally inspected it. I talked to the appropriate authorities.

Mr. Herrity, the distinguished public servant here in northern Virginia, has actively written on this subject. I ask unanimous consent to have his statement printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 11, 1995]

PUT THE PEDAL TO THE METAL

On the Wilson Bridge Reconstruction of the Woodrow Wilson Bridge is essential not only to our region's economic health but to maintain the sanity of this area's commuters. We don't have time for the usual bureaucratic crawl toward completion—engineering experts say the bridge will be unusable in 10 years.

An interim proposal has been floated to prolong the bridge's life by closing it to truck traffic in the next two to five years. That, however, would be a disaster in terms of time and money. Ask any Beltway commuter what he or she thinks of diverting 18,000 trucks to the Cabin John Bridge. And all of us would see costs for the delivery of fuel, furniture, groceries etc. go up.

To build any road or bridge, first you plan and design it, then you find money. Finally, you build it. But we are moving too slowly. In the case of the Wilson Bridge, we must do all three steps quickly—and simultaneously. We don't have the luxury of a common bureaucratic timetable of 15, 20 or even 25 years.

The good news is that we already have taken steps to plan, design and find money for the reconstruction. In 1991, the Interstate Study Commission was established to find ways to raise money from Virginia, Maryland and the District (combined with federal government money) to own, construct, operate and maintain a new Wilson Bridge. Last December this commission recommended the creation of a regional authority to finance the construction. Maryland, Virginia and the District have passed or soon will pass legislation to allow the creation of such an authority, which will require amendments next year. As part of these amendments, the governors of Maryland and Virginia and the mayor of the District must select someone from each of their respective transportation departments to expedite:

The selection procedures for design engineering.

The procedures for right-of-way acquisition.

The bid procedures for expedited construction.

A coordinated and privatized effort can produce quick results. For example, the privatized Dulles Greenway (the Dulles Toll Road extension to Leesburg) is taking only 24 months to construction; it would have taken four to five years through normal bureaucratic channels.

A committee charged with recommending a bridge plan has selected three design options and soon will narrow its choice to two. Its recommendations will go to the Transportation and Planning Board of the Council of Governments, which will have the final say. At that point, the authority will be activated to get the bridge built.

We don't need a new bureaucracy for a bridge authority. Instead, the authority should be able to rely on the professional staffs of existing agencies. Then Virginia, Maryland and the District could work toward a common goal: the rapid rebuilding of a link vital to them all, the Woodrow Wilson Bridge.

Mr. WARNER. I conclude, Mr. President, by saying the goal of the NHS is to leave a legacy for the next generation. That legacy is an intermodal transportation system, a system that is not fragmented into separate parts, but rather one that works to serve the many diverse interests of Americans, to serve the growing demands of the competitive global marketplace, and to help ensure the safety of the traveling public.

I also feel there are certain national security interests involved in having an efficient system. I will address that particular section at another time.

I yield the floor.

Mr. MOYNIHAN. Mr. President, might I express my appreciation to the distinguished senior Senator from Virginia for his masterly account of the provisions in our bill and for his very thoughtful statement about the continuity of this act, S. 440, with the Intermodal Surface Transportation Efficiency Act of 1991, which had among other purposes the declaration that the Dwight D. Eisenhower Interstate and Defense Highway System, had been built, finished. It took quite a bit longer and a very great deal more than we had expected. But we had done it.

I would like to make just a slight modification to my friend's account because it is relevant. President Eisenhower would tell this story, and it is related in his book "At Ease: Stories I Tell to Friends."

It is 1919, a young Army lieutenant colonel, soon to revert to his peacetime rank of captain, Dwight D. Eisenhower, was given command of a serious military exercise. He was to assume that wartime events had disabled the railroads. He was to lead a convoy of army trucks across the country from Fort Meade, just out on the edge of the District, in Maryland, technically, to the Presidio in San Francisco. It took him 2 months. The convoy averaged less than 7 miles per hour. It proved that you could cross the continent by truck if you had to, but not if it was a wartime emergency. He wrote in his book:

> To those who have known only concrete and macadam highways of gentle grades and engineered curves, such a trip might seem humdrum. In those days we were not sure it could be accomplished at all. Nothing of the sort had ever been attempted.

The idea for an interstate system emerged, if I could be just a little parochial, out of the 1939 World's Fair in Flushing Meadow, in Queens, NY, at the great General Motors Futurama exhibit. I can remember sitting there as a child, in one of those gliding contraptions that moved around and you saw this great scene of highways, with what we would come to call cloverleaf intersections crossing over one another, going through mountains. President Roosevelt who, along with most others here in Washington, was very much concerned that the Depression of the 1930's would resume with the end of World War II, in 1944 got a national interstate highway system authorized. But it was nothing more than that, an authorization. In New York we built the first segment as the Thruway, starting immediately in 1946, but the system lagged elsewhere.

When President Eisenhower came to office he very much had that early command in mind, and he hit upon the idea with Jim Wright of Texas, a young Congressman at that time, to have a gasoline tax and dedicate it to the construction of this system. And, by golly, we did it. But there came a time when we in fact had done it, built the system, and yet a certain inertia, you might say, pushed us on and on, and we would just build another segment and yet another.

We finally came up with a better idea, though, as the chairman has indicated—a new national highway system which would supplement the Eisenhower interstate system. It would consist of only about 4 percent of the Nation's road mileage, but it would carry 40 percent of its traffic. And it would be a combined, cooperative effort of State governments and the Federal Government at its best.

In 1991, President Bush very much wanted to have this National Highway System, but in fact the Department of Transportation had not yet drawn it. We had a big meeting down at the Executive Office Building with a map of the country and lots of red lines over it, but it did not represent real highways. It just indicated what would be someday.

That someday has come. We will have until the 1st of October—am I correct?

Mr. WARNER. The 30th of September.

Mr. MOYNIHAN. Yes, the 30th, the end of this fiscal year, to authorize this system. And this legislation does that. It does it in a timely manner, as anticipated. We have funds available. And we have very real needs.

We are not building new highways. We are maintaining and improving their capacity. The intermodal system was very explicit on the idea that you do not want to add to the mileage of the system, you want to make it more efficient. We made very clear our view that a free good—and these are freeways—will be overconsumed. We made it clear that we were not in the least alarmed by the idea of pricing this good, as we do in points of congestion like tunnels and bridges.

We began the legislation—the conference report and the legislation itself—with a declaration of policy for the Intermodal Surface Transportation Efficiency Act. It said:

> The National Intermodal Transportation System must be operated and maintained with insistent attention to the concepts of innovation, competition, energy efficiency, productivity, growth, and accountability. Practices that resulted in the lengthy and overly-costly construction of the Interstate and Defense Highway System must be confronted and ceased.

We went so far, Mr. President, as to require that this table of principles be printed up and provided to every member of the Department of Transportation—and they were. In this system, in the present bill, we find continued reference to those principles. We find ourselves completing the 4-year work that we were asked to do.

Note, "intermodal." It is one of the ironies of President, then captain, Eisenhower's journey across the country that to assume the railroads had been destroyed and you find you could not get from here to there in any effective way without them led to an interstate highway system which pretty soon had destroyed the railroads. And not necessarily a good idea.

We, of course, made it clear that by intermodal we mean not just vehicle transportation. We talk about rail. We talk about air links. We talk about sea links. In this particular legislation there is a specific provision, "Sec. 126, Intermodal Facility In New York. [The] engineering, design, and construction activities to permit the James A. Farley Post Office in New York, New York, to be used as an intermodal transportation facility and commercial center."

Mr. WARNER. Mr. President, will my colleague allow me to observe?

Mr. MOYNIHAN. Surely.

Mr. WARNER. He said something about the destruction of the railroads? I am not sure the distinguished Senator from New York wanted to indicate the interstate highway system destroyed the railroads. I would think there was a period of time when there was a decline of passenger travel, but the railroads today are very strong in terms of freight transportation. And many of the things that Eisenhower was concerned about in terms of heavy equipment being moved—I am glad the Senator brought it back. It did jog my memory. I, too, went to the World's Fair of 1939 with my father. It was a memorable trip. But it was formulating in Eisenhower's mind through all those years. This was always in the recess of his mind.

Mr. MOYNIHAN. He got it built. General Motors thought it up, you might say.

And the Senator, the chairman, is highly correct. What we have seen is not the disappearance of the railroads but their disappearance as a principal mode of passenger transportation, save on certain corridors where it is efficient. If you were looking for the major reason for that—well, probably the airlines did it to continental transport, and the automobile. Although we may have overdone it. We had a very efficient rail system in Los Angeles, for example, which they closed down around 1950 and they wish they could get it back, now that it is probably too late.

In any event, with tribute to my friends once again, the Committee on Environment and Public Works brings to this floor a near unanimous measure. I have been 19 years in that committee, and I do not think I can remember many times in which we have had a party-line vote. We have tried to think about the environment. We have tried to think about public works in terms of national interests. If we have not always succeeded, it is not for lack of trying. Once again, we have done that, and very much to be congratulated and thanked at a time when partisan issues rise, as they ought—but they rise a little higher even as we approach Presidential years. This is a good example of the capacity of the Senators between the different parties, different regions, different interests to cooperate and produce a fine bill.

I for my part want to congratulate all those involved. Senator BAUCUS is necessarily absent or he would be saying substantially the same things from the point of view of the High Plains even as I speak from the point of view of the island of Manhattan.

Mr. President, with great appreciation for all of the work that the Senator from Virginia has done, and with the expectation that we will now go forward and get it through the Senate in the same period, I want to thank him.

I thank the Chair, and I yield the floor.

Mr. WARNER. Mr. President, I wish to reciprocate and thank again my distinguished colleague from New York. It was simply because he certainly handled the ISTEA legislation, and that in many respects gave rise to this national evolution of the highway system.

Mr. President, we are anxious to have Senators come to the floor for purposes of amendments. We will accommodate them as they arrive.

At this time, I see our distinguished colleague from Georgia who wishes to address the Senate I believe on a different subject.

I yield the floor.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, before I speak briefly on another subject, I would like to congratulate my friends from Virginia and New York on their leadership in this important area, and I think that they have indeed worked together very carefully and prudently in the Nation's interest. I congratulate them for that.

THE SITUATION IN BOSNIA

Mr. NUNN. Mr. President, I would like to speak just a few moments about the situation in Bosnia today and share with my colleagues some of my thoughts on the subject.

The Senate Armed Services Committee, under the leadership of Senator THURMOND, the chairman of the committee, has had a series of four hearings on the subject of Bosnia. We heard from a number of, I think, very well-informed witnesses.

We heard from, of course, the Secretary of Defense, Secretary Bill Perry, the Chairman of the Joint Chiefs, General Shalikashvili, the former Supreme Allied Commander in Europe, Al Haig, and former President of the United States, President Carter, and another former Supreme Allied Commander in Europe, Gen. Jack Galvin, now retired, former Secretary of Defense, Jim Schlesinger, former top official in the State Department, Richard Armitage, and retired Col. Harry Summers, a frequent writer on this and many other national security subjects.

Mr. President, I would like to express my disappointment—unrelated to the hearings but which took place simultaneously with our hearings last week—with the actions of the Clinton administration when they last week first delayed a vote in the U.N. Security Council, and then voted for the deployment of the French, British, and Dutch rapid reaction force to Bosnia which they at first opposed, but then deferring a decision on the financial cost for that force.

I understand this action on the part of Clinton administration was taken primarily because of a letter from Senate Majority Leader DOLE and House Speaker GINGRICH objecting to U.S. financing of the rapid reaction force.

I believe this is a serious mistake on the part of the Clinton administration, and on the part of the congressional leadership. I believe we will pay a price for this combined Presidential and congressional position in the years ahead with our allies.

Mr. President, the United States during the administrations of both President Bush and President Clinton voted for every U.N. Security Council resolution on Bosnia, and endorsed and supported the efforts of our NATO allies who are participating on the ground in Bosnia as a part of the U.N. Protection Force or UNPROFOR.

I myself disagreed with numerous actions that have been taken in Bosnia by both the United Nations and by NATO. Yet, we voted for it. Both Presidents—President Bush and President Clinton—voted in the Security Council for every one of these resolutions. Now we have our allies in difficulty. They are in difficulty on the ground. And that difficulty could intensify with the rapid reaction force that is now being inserted by our allies—not by America, but by our allies—which will be an integral part of UNPROFOR, and the cost should be underwritten to the same extent and in the same manner as all U.N. peacekeeping forces.

We will have another day and another time to determine how much the United States should pay for U.N. peacekeeping assessments. But that is a long-term challenge. The question now is whether or not we are going to support in any way financially a crucial force that is being put in to protect the U.N. peacekeepers and the NATO peacekeepers that we ourselves voted to put in Bosnia. It is the ultimate irony for our congressional leadership and for the Clinton administration to not fully support a much stronger NATO-U.N. rapid reaction force.

Mr. President, if the U.N. forces withdraw from Bosnia, the President of the United States has declared that he is going to help them with United States forces. The United States forces that would be placed there to help with this withdrawal would be working with this rapid deployment force. I think it is very important for us to understand the consequences of our not being willing to help pay for a rapid reaction force. That force, deployed by our allies and working with the United States forces assisting in the withdrawal, would help alleviate some of the responsibility for the United States forces in that situation and make it possible for a lot less United States forces to be placed in Bosnia to help with the withdrawal, and finally, greatly reduce the danger to United States forces that may be interjected there if and when the withdrawal comes about.

So I find it ironic that we have congressional leadership as well as—at least at the beginning of last week—the administration leadership opposing the force that would help reduce the forces which the United States has to put in to help with withdrawal and also would certainly reduce the danger of U.S. forces being placed in that situation. I find that ironic.

I hope that both the leadership in the Congress and in the administration will reconsider their position on this because I think we will pay a severe price for this—if not in Bosnia, then in other parts of the world where we ask our allies to help us. Alliances are not simply for good times and for when things are going smoothly. Alliances and allies have to stick together when things are not going well and certainly when things are getting to the dangerous stage as they certainly are in Bosnia.

Mr. President, I would like to explain to my colleagues my views as to the policy that should be followed with respect to Bosnia. I would first state—and my friend from Virginia, who yielded the floor, participated in every one of the hearings and he certainly, I know, would agree with this statement—that every single witness we had before our committee for 4 days opposed the United States unilateral lifting of the embargo while our allies remain on the ground in Bosnia. Every single witness—not one supported the unilateral lifting of the embargo; 4 days of hearings in the Armed Services Committee, and not one single witness favored the unilateral lifting of the embargo while our allies are still in harm's way on the ground in Bosnia.

Mr. President, my own views about where we go from here—and there are no good answers here—my views are heavily influenced by my support for NATO and my observation of NATO over the last four decades where it has been the strongest alliance in the history of the world. NATO has helped bring about the end of the cold war on peaceful terms without an explosion, and it has helped bring about the freeing of millions of people behind the Iron Curtain without huge bloodshed, which could have easily happened. So my views are influenced by both the history of NATO and also what we are going to need NATO to do in the future.

I also believe that we should do everything in our power to prevent Bosnia from further eroding the NATO alliance, any further than has already occurred. Make no mistake about it. It is entirely possible for us to erode NATO's credibility and viability without saving Bosnia. I start with the view that there is no good answer in Bosnia. A number of mistakes have been made which I will not recount here. And we have to deal with the situation as it presently exists where we have peacekeepers on the ground with no peace to keep, and with the warring parties apparently not wanting peace. One side views the peacekeepers as shields from which to launch an attack, and the other side that is taking most of the territory views NATO and U.N. forces as hostages for leverage and protection.

I favor one final round of diplomacy to ascertain if there is any possibility for a negotiated peace as called for last week in testimony before our committee by former President Carter, former NATO commander, General Galvin, and former Secretary of Defense, Jim Schlesinger. They all testified that we ought to have one more vigorous round of diplomacy. All of them had different emphases, but that was one common denominator of those three witnesses.

I also strongly agree with Dr. Schlesinger's comments that this peacekeeping mission cannot continue under present circumstances and that both NATO and the United Nations should acknowledge that, absent a near-term diplomatic breakthrough, it is time to withdraw the U.N. and NATO peacekeepers from Bosnia.

If after a reasonable period of time—and I favor setting a finite date for progress on the negotiated peace—if after that period of time there is no substantial progress, the U.N. forces should be withdrawn in an orderly manner. That is not going to be an easy task. U.S. forces should participate, in my view, in a NATO-led operation, as pledged by President Clinton, to assist in the U.N. withdrawal, and U.S. forces should come to the rescue of the forces of our allies if there is an emergency and if they come under an attack and there is no other capability available to rescue them. In other words, in a last-resort emergency situation, I would certainly favor supporting our allies on the ground when they are in extreme need.

Once the U.N. forces have been withdrawn from Bosnia, the arms embargo on the Government of Bosnia should be lifted, multilaterally if at all possible.

While this is all taking place, we should join with our NATO allies in a concrete plan of action to contain the conflict from spreading any further.

Secretary of Defense Bill Perry made it clear in our committee that the spread of that conflict would be against America's "vital" interests. He used that term carefully. "Vital" means interests that are so important we are willing to go into conflict in order to protect them.

The spread of the conflict would engage both U.S. and NATO interests in a very important way. And I think we ought to make it abundantly clear, while we are making one last effort for a diplomatic solution and while we are preparing for an orderly withdrawal of U.N. forces—and I hope our allies will come to that view—we should make it absolutely clear that we intend as an alliance to prevent that conflict from spreading and to hold Serbia—by this I mean Belgrade, Serbia—responsible for any breach of borders beyond what has already occurred in that region.

Finally, those calling for withdrawal should realize that there will be a high price to be paid once the U.N. forces are withdrawn from Bosnia. This is no free ride here. This is going to involve some real consequences in all likelihood. Once the U.N. forces have been withdrawn, there is a high potential for atrocities, particularly in and around the eastern enclaves.

Even recognizing what may occur, it is, in my view, however, past time to face the reality on the ground. The international community has failed to restore peace. That failure must be acknowledged. Unless there is a near-term diplomatic breakthrough, the warring parties must be left to fight it out until one party prevails or until they are exhausted and ready at last at some point in the future to negotiate a peace agreement.

Mr. President, I repeat, there are no easy answers in Bosnia, and I hope that we will not search for easy answers but, rather, for a course of action that will do whatever we can to alleviate the suffering there, within reason, but to acknowledge, first and foremost, that the NATO alliance is an important alliance and we should not further erode that alliance.

I repeat, Mr. President, I hope that the congressional leadership, as well as the Clinton administration, will review the position that they have taken, with lukewarm support and no financial support, for a rapid reaction force now being deployed there by our allies. That will alleviate some of the responsibility the U.S. forces might otherwise have, and that will certainly reduce the danger of any kind of harm to U.S. forces that may have to be injected into that country to help with a withdrawal of U.N. and NATO personnel. I find it supreme irony that we would not be willing to pay our part for other people deploying troops that will be to our direct benefit and an activity that has been voted for by both President Bush's and President Clinton's administrations at every single turn in the U.N. Security Council.

Mr. President, I yield the floor.

Mr. WARNER addressed the Chair.

Mr. NUNN. I thank my colleagues for letting me continue.

Mr. WARNER. Mr. President, could I detain the distinguished Senator from Georgia for a minute.

We were together at a private meeting with President Chirac, and information has come to my attention with regard to a meeting that President Chirac had here on Capitol Hill with the majority leader of the Senate and the Speaker of the House. I am told that in that meeting, President Chirac made it clear, after being specifically asked by the two leaders, that the rapid reaction force was not—and I emphasize not—being deployed to pave the way for an UNPROFOR withdrawal—indeed, had no relationship with NATO withdrawal plans.

I do not recall that subject being specifically addressed at the meeting that the Senator from Georgia and I had.

Mr. NUNN. I say to my friend from Virginia, I read some of that in the newspaper, but I got a contrary impression. I always hesitate to quote a foreign leader in a private meeting, but I must say my impression was not consistent in the meeting we had, which was at the French Embassy, was not consistent with the reported statements of the President of France at the meeting with the congressional leadership that took place on the Hill. I did not hear anything like that in the private meeting that I had.

He also made it clear, I believe, that he hoped that the U.N. forces would be able to remain. But I did not hear any statement that would indicate that those rapid reaction forces would not be used if and when there was a withdrawal. As a matter of fact, those forces would provide the very first protection if U.S. forces had to go in to help in the withdrawal. This is the first time the United Nations has put a much more heavily prepared force in there, which has been one of the problems all along. When you have a lightly armed force, as the Senator from Virginia well knows, they are nothing but hostage invitations and that is what has happened. So I know that probably the leadership of some of our allied countries would prefer not to withdraw, but I believe that all of them would acknowledge if withdrawal is necessary, this rapid deployment force will be the key ingredient in the early stages of withdrawal.

Mr. WARNER. Mr. President, I remember, in response to a question that I posed, that there was some discussion at our meeting with President Chirac about the mission of the rapid reaction force. And I am also told that same discussion took place here in the Capitol, at the meeting with the two leaders. When President Chirac was asked by the leaders what the mission of the rapid reaction force would be, President Chirac said that the rapid reaction force would not be deployed to implement the U.N. mandate to protect the safe havens, such as Sarajevo. The rapid reaction force would only be deployed to protect UNPROFOR.

It is my understanding that while Senator DOLE and Speaker GINGRICH did express support for the right of our allies to protect their troops, the leaders did not support the United States being assessed 31 percent for this European operation, given, in the judgment of the leaders, the futility—and I think the distinguished Senator from Georgia expressed the same judgment—of the UNPROFOR mission at this time.

So I hope, Mr. President, there will be some clarification of this in the very near future. I was also led to believe that the United Nations would soon be announcing some specific mission statements with regard to the new forces.

Mr. NUNN. I say to my friend from Virginia, I share his feeling on this subject. I do not know what the President of France said in the meeting that I did not attend. I would not try to have any conjecture on that. But I do know that common sense tells us—I have met with the Ministry of Defense in Britain, I have met with the JCS staff here, the joint staff—I know that the withdrawal of those U.N.-NATO forces is going to be extremely complicated and complex.

But one thing the people in the eastern enclaves may feel is that it puts them in great jeopardy of being in harm's way after those forces leave. It may be very difficult to disentangle from those eastern enclaves. So it is going to be a very difficult situation.

I know something like this rapid reaction force will be essential—it has to be augmented—but it is an essential first step if there is to be a withdrawal. That is basic common sense. For us to be in a position of having pledged to come in and help with the withdrawal and urging withdrawal—and I think there are an increasing number of people urging withdrawal—and then not helping, or at least to even look like we are negative on the first step, which is for the allies to protect themselves, it seems to me that is contrary to our own best interest.

Mr. WARNER. Mr. President, if I could just discuss one other point with my colleague. He referred to the Administration's proposal to allow U.S. forces to perform emergency missions, and he will recall in the hearing before our committee when Secretary of Defense Perry and the Chairman of the Joint Chiefs of Staff Shalikashvili were testifying, they put up a chart concerning the use of U.S. forces in an emergency situation. I think both my friend from Georgia and I were somewhat unclear as to exactly the context in which they were using "emergency."

If I can restate my concern and perhaps he can restate, once again, his use of the term here, it was not clear to me whether or not we would involve ourselves in emergency missions only if those emergency missions were a part of a withdrawal operation, or whether we would involve our ground forces in emergency missions prior to the determination to withdraw UNPROFOR.

Can the Senator clarify exactly what he said today with reference to "emergency"?

Mr. NUNN. I can clarify what I said. I hesitate to try and clarify what was said at that hearing, because I think there was at least implied conflict between what the Secretary of Defense was saying and perhaps what the Chairman of the Joint Chiefs said, although I thought later in the hearing Secretary Perry made it much clearer as to what the administration had in mind.

I must say, in announcing that new dimension of possible U.S. ground force involvement, which occurred about a week prior to that, I did not think the administration ever made it clear as to what they intended. I can only give you my view, therefore, and that is I hope the United States will not have to put in any ground forces at all, but we clearly are pledged by the President of the United States to put forces in to help with the withdrawal.

If there are emergencies related to that withdrawal, we would be, I am sure, part of any effort to come to the relief of our allies. But assuming, before there is a withdrawal, there is some dire emergency, that our allies get into an extreme situation—and I hope that is not going to happen—with jeopardy to the lives of perhaps a number of people that are basically under a U.N. mandate, under those dire circumstances where there is no other force available, I personally would favor the President of the United States having that authority and he probably would assert that under his Commander in Chief authority, whatever we do in the Senate, he is able to come to the aid of our allies in that situation.

I just do not think you can have a successful alliance, if your allies get into an extremely dangerous situation, which you voted for and encouraged, and you leave them at their own peril to die in a situation where you could have taken steps to help alleviate that danger. So those are clearly my views. I do not say I speak for anyone else on that subject.

Mr. WARNER. Mr. President, I join my colleague in expressing support for U.S. participation in an operation to withdraw UNPROFOR, if our participation is requested by our allies and necessary for the successful conclusion of the mission.

It is also my view that I hope we do not have to put ground forces in. But I think our President has indicated that they would be available to assist in such a withdrawal operation, if necessary. Clearly, under those circumstances, I would support the use of our ground and air forces to help in emergency situations associated with the withdrawal. But prior to the decision to withdraw UNPROFOR, the use of our forces in an emergency situation can have serious consequences, because the word "emergency" is really not definable. While it might be one situation, it could be another and another and another, and very shortly, prior to a withdrawal decision, if we are involved in a succession of emergency situations, we are in it. Plain and simple, we are in the battle at that time. It would be a clear perception worldwide, and the use of the term "emergency" as justification, I feel, would disappear.

Mr. NUNN. I say to my friend from Virginia, I understand his position on this. I think it is an area where I hope we do not have to get involved. Of course, in an emergency situation we already are involved. We are flying flights over Bosnia. I think the situation the Senator is directing his comments to is ground forces as opposed to air forces. We have been participating for a year or two. The fact is that we lost a plane and, fortunately, thankfully, we rescued the pilot.

I would call that an emergency situation. In that situation, we put air forces in—helicopters—and were prepared to put ground forces in at that time, and possibly had some on the ground at that time, to rescue a pilot. I hope if we needed the French to rescue that American pilot they would have been there. I would think if a French pilot went down tomorrow and they needed us and there was no other way, we would go in there and help that pilot. That is what an alliance is all about.

Mr. WARNER. I associate myself with the remarks of the distinguished Senator. There an emergency is very clear. A downed aviator, no matter what nation he may come from, is clearly in an emergency situation. But I am concerned about the gray area of other situations as it relates to the disposition of the UNPROFOR forces all over that region, oftentimes two or three individuals by themselves.

Mr. NUNN. I think the Senator makes a good point. I hope that kind of a situation would not develop. It may very well be that if we have some resolution on the floor, that we ought to leave that point without specific authority, perhaps, but leaving it up to the President's constitutional authority as Commander in Chief with consultation with Congress. It is hard to authorize that situation specifically, but to me it would be a fundamental error to preclude it, to block the resolution here. The Senator just acknowledged, if there was a British or French pilot that went down, we would want to help.

Mr. WARNER. Mr. President, that is part of a NATO operation. I think at this point we should also indicate the United States is also actively involved in a naval embargo in the Adriatic. In two ways, we are a very active participant in those NATO actions.

Mr. NUNN. The Senator is entirely correct.

Mr. WARNER. I thank the Chair for allowing a colloquy with my good friend from Georgia.

In conclusion, we point out two areas that require further definition; namely, the purpose for the rapid reaction force, as well as the meaning of "emergency." Those are areas in which I hope persons will step forward and provide clarification.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, before the Senator from Georgia leaves the floor, I would like to address a question to him along the lines of my colleague from Virginia. I, too, was at the hearing they were discussing earlier and I, too, raised questions about the emergency help that was being discussed and perhaps being offered by U.S. forces—the Senator from Georgia must catch a train and will not be able to stay, but perhaps I can talk to my colleague from Virginia, because I know he has some of the same concerns that I do.

I raised a question about the emergency nature of what our commitment would be: Would it be only in conjunction with the evacuation, or would it be any emergency that might arise in a reconfiguration effort?

It was my understanding in the hearing that we really were looking at any emergency, and I worry about that description because I believe that leaves us open to any conflict on the ground in Bosnia.

But then the Senator from Georgia also raised the issue of the air flights in which we do now participate, and I am concerned that we are not doing everything necessary to protect our forces in those overflights. For instance, the question was asked at that hearing—I am sure the Senator from Virginia remembers—the question was asked: Are we going to take out the missiles, or are we going to stop the overflights until there is cover? I would like to ask the Senator from Virginia if he, too, is concerned about the continuing flying efforts if we do not at least have an understanding about what our role is going to be, if we are going to take out the missile sites before we go forward, or if we are going to continue to put our flights in jeopardy?

Mr. WARNER. Mr. President, I thank the Senator from Texas for joining us in this very important colloquy. Indeed, we serve together on the Armed Services Committee, and she has taken a very active role in the policy formulations of the committee on this tragic situation in that part of the world.

Just recently, I say to my good friend, the Senator from Texas, I publicly said that our committee, the

Armed Services Committee, has a responsibility to investigate very clearly the circumstances under which Captain O'Grady's mission was not performed in the accompaniment of other aircraft—aircraft which are specifically designed and equipped for suppression of ground-to-air missiles. And we will have to look into that, because no member of the Armed Forces of the United States, wherever he or she may be in the world today, should ever be subjected to a risk, which risk can be lessened to some extent by the utilization of other assets possessed by the U.S. military.

The Senator will recall that General Shalikashvili said that some 69,000 missions had been flown successfully without a loss, such as Captain O'Grady, and that this particular mission was a longer route, where there had been—I think I quote him accurately—"no detection of ground-to-air systems," such as to justify the inclusion of other assets. Now, that is something we have to determine, because subsequently thereto in those reports and the testimony of the general before the committee on which the Senator from Texas and I sit, came the reports that there had been some collection of signals in another area of our intelligence which lent themselves to the theory that there was present on that particular flight path a ground-to-air system. And in fact there was. So that is one of the things we have to ascertain. Twofold: Was there a breakdown in intelligence if in fact those signals were collected and confirmed? And, second, exactly what policies and procedures does the Department of Defense employ at such time as they put our uniformed people in a situation of great risk?

Mrs. HUTCHISON. Mr. President, I will just add to the two points that have been made by the Senator from Virginia that I think we also should inquire about exactly what flights we are going to participate in and if we are going to take some action to make sure that we either take out the missiles which had been suggested by NATO and vetoed by the United Nations earlier in this process, or if we should stop participating in those overflights, over that disputed territory, before we get into a situation where we have another of our young men shot down, as we witnessed.

Thank goodness we had a good result, because we now have Captain O'Grady back safe and sound. But I think these are very important points that the Armed Services Committee should look into before any kind of authorization is given, and I think there are a lot of questions to be asked. I thank the Senator for his leadership in this effort.

The Senator from Virginia has really been a wonderful conscience for this conflict. I appreciate the work he has done on the Armed Services Committee.

Mr. WARNER. Mr. President, I thank my colleague from Texas for her thoughtful remarks, and indeed I could say the same about the Senator from Texas and her participation in her years on the committee.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The Senate continued with the consideration of the bill.

Mrs. HUTCHISON. Mr. President, I would like to know what the status of floor action is, because I have two amendments that are technical and have been agreed to by both sides, which I would like to propose.

Mr. WARNER. Mr. President, the matter before the Senate is the underlying bill, am I not correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Amendments are now in order, and I note that the distinguished Senator from Texas has several amendments, as reflected on the documents submitted to us. This would be an appropriate time to take those into consideration.

AMENDMENT NO. 1424

(Purpose: To change the description of a rural access project in Texas)

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 1424.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . RURAL ACCESS PROJECTS.

Item 111 of the table in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2042) is amended—

(1) by striking "Parker County" and inserting "Parker and Tarrant Counties"; and

(2) by striking "to four-lane" and inserting "in Tarrant County to freeway standards and in Parker County to a 4-lane".

Mrs. HUTCHISON. Mr. President, this is indeed a technical amendment. It just adds Tarrant County to the list of what counties may be included in this rural access projects. The reason is because a little bit of work needs to be done in Tarrant County for the Parker County project that was already approved.

ISTEA section 1106(a)—rural access projects—contains a project to upgrade an existing highway to four lane divided highway in Parker County, TX. In order to complete this project as envisioned, some work must be undertaken in neighboring Tarrant County.

However, ISTEA makes no mention of Tarrant County in the project authorization and there is a question at TXDOT as to whether it can complete the project through Tarrant County with the ISTEA-authorized funds since Tarrant is not specifically named in ISTEA by virtue of oversight.

I am offering a technical amendment to ISTEA which extends authorization to complete the project as intended in Tarrant County. This amendment does not authorize any additional funds.

Passage of this language has become critical because work undertaken under the ISTEA rural access authorization has reached the Tarrant County line and Congress must clarify that it may continue so that the Texas Department of Transportation may complete the project.

The House has included this technical correction in every original legislation in 1991. It also was included in last year's NHS bill and will likely do so again in this year's version. I thank the chairman and ranking minority member of the Environment and Public Works Committee for their support in rectifying this small, but important, problem in Tarrant County.

Mr. WARNER. I understand that amendment is essentially a technical correction to the ISTEA legislation. The managers are prepared to accept it. I would like to await the arrival of my comanager before doing so.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I may offer another amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1425

(Purpose: To change the identification of a high priority corridor on the National Highway System in Texas)

Mrs. HUTCHISON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mrs. HUTCHISON] proposes an amendment numbered 1425.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 36, strike lines 2 and 3 and insert the following:

Interstate System.";

(2) in paragraph (18)—

(A) by striking "and"; and

(B) by inserting before the period at the end the following: ", and to the Lower Rio Grande Valley at the border between the United States and Mexico"; and

(3) by adding at the end the following:

Mrs. HUTCHISON. Mr. President, this amendment would extend high-priority corridor 18 from where it currently ends in Houston, TX, all the way to the Mexican border in the lower Rio Grande Valley.

Under the Intermodal Surface Transportation Efficiency Act of 1991, corridor 18 now extends from Indianapolis, IN, through Evansville, IN, Memphis, TN, Shreveport/Bossier, LA, terminating in Houston, TX. Corridor 18, along with corridor 20—from Laredo to Houston—are together popularly referred to as I-69.

Extending corridor 18 to the Rio Grande Valley will expedite the shipment of goods traded between Mexico, the United States, and Canada by providing a direct link from the Canadian border to the Mexican border through the heart of the United States. Eighty percent of United States trade with Mexico is land-based. Because of geography, economic development, and commerce on both sides of the border, Texas is the funnel through which the majority of land-based United States-Mexico trade must pass.

More than 50 percent of that traffic crosses the border at the Rio Grande Valley and Laredo; that number is expected to increase to almost 75 percent over the next decade. This amendment would give the growing traffic on the high-priority corridor system convenient access to the entire United States-Mexico border.

Currently there are 9 existing border crossings in the lower Rio Grande Valley, with a total of 30 lanes. In 1994, they handled approximately 28.3 million crossings. Given the number of existing and planned bridges, the lower Rio Grande Valley is an increasingly significant center for cross-border commerce.

Extending corridor 18 to the lower Rio Grande Valley will provide a direct link for the eight States along the I-69 corridor—which accounted for $50.6 billion or 38 percent of the dollar value of United States trade with Mexico and Canada in 1993.

It will maximize the use of our border crossings. It will create a first-rate extended route that will distribute border traffic over several entry points, allowing for cost-efficient cross-border movement of goods.

Extending corridor 18 to the lower Rio Grande will create an infrastructure that will enable the United States to maximize economic development through all of the States that I have just mentioned, as well as our ability to move goods and better capitalize on international trade.

Finally, the development of corridor 18 to the lower Rio Grande Valley will link up with infrastructure development in Mexico. Currently, the Mexican State of Tamaulipas is advancing plans to construct a gulf highway corridor from the industrial center of Mexico City to the Rio Grande Valley.

I want to say how much I appreciate the assistance of the chairman, the ranking minority member of the Environmental and Public Works Committee, and the distinguished Senator, the chairman of the subcommittee, from Virginia, in this matter and say that this is truly going to enhance our ability to capitalize on NAFTA. It will affect all of the States that are going to have the ability to have the traffic and increase the trade between Mexico and the United States and Canada. This is a win for everyone.

Mr. President, I appreciate the cooperation of the Senator from Virginia, the Senator from Rhode Island, and the Senator from Montana, in allowing me to put forward these amendments that I think will increase the economic benefit to all three countries that are participating in NAFTA.

Mr. WARNER. Mr. President, may I say to the distinguished Senator from Texas that we indeed commend the Senator for diligently looking after the interest of the State of Texas as it relates to the interstate highway system.

These are two very important changes. They do not involve new NHS miles. However, they are essential for the purpose of the use of this system in your State.

I commend the Senator for bringing them to the attention of the Senate. I urge the adoption of the amendments presented by the Senator from Texas. They are agreed to by the managers on both sides.

The PRESIDING OFFICER. Is there further debate? The question is on agreeing to the amendment numbered 1425.

The amendment (No. 1425) was agreed to.

Mrs. HUTCHISON. Mr. President, I move to reconsider the vote.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1424

Mr. WARNER. Now, may we proceed to the second amendment, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment numbered 1424.

The amendment (No. 1424) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mrs. HUTCHISON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. We thank the Senator from Texas and we appreciate the participation of all Senators in moving along this legislation.

Mr. CHAFEE. Mr. President, I would like to join in the commendation to the Senator from Texas for the vigor with which she has handled this. She certainly is a strong proponent for her State, rightfully so, and she does an excellent job. I congratulate her.

Mrs. HUTCHISON. I did not know the Senator from Rhode Island had come back to the floor. I had mentioned him before, but I could not have asked for more cooperation in getting these two amendments through than I have seen from the chairman of the committee, the Senator from Rhode Island. He is doing a terrific job in shepherding this very important bill through.

This bill actually is going to enhance our infrastructure in this country. It is going to create jobs. It is going to lower costs and increase productivity. It will improve air quality. There are so many side effects for this bill that are going to be good for everyone. I do appreciate the leadership of the Senator from Rhode Island in getting it through.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent I be allowed to proceed for up to 7 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

BOSNIA

Mr. LIEBERMAN. Mr. President, I noted a short while ago that three or four of my colleagues were addressing themselves to the most recent events in the former Yugoslavia. I myself wanted to take this occasion to do the same, because the events there, which have been heartbreaking, tragic, frustrating, and infuriating in various degrees for the last 3 years, seem to only get more so.

I rise today, as I have on numerous occasions over the past years to talk about the tragedy which continues to unfold in Bosnia. There seems to be no end to the suffering of innocent people in that war-torn land. No end to the senseless murder of women and children in once-beautiful cities like Sarajevo. I saw a news clip this weekend; in the midst of the firing on the city that went on, the flowers come up—remembrances of times that were better there. Even today, as people have to go to rivers running through the town to try to get some water with which to wash themselves, perhaps to boil it for drinking water or for cooking. No end to the outrageous, illegal, and fundamentally immoral conduct of international outlaws who are operating under the banner of the Bosnian Serbs from their headquarters in Pale. No end to the humiliation of the United Nations and to the brave soldiers wearing the blue hats of UNPROFOR who are beleaguered in every spot where they have been stationed in Bosnia. No end to the chaos, confusion, and indecisiveness of the international community which has allowed this situation to deteriorate to its current, tragic, pathetic low point. Regrettably, U.S. policy has been part of this sad story.

Mr. President, the headlines of today's New York Times highlight the depths to which the policies of the West have fallen—"Captives Free, U.N. Gives Up Effort to Shield Sarajevo."

So what has happened here? International outlaws—the Serbs—seize U.N. soldiers—peacekeepers, supposedly, wearing the blue helmets, noncombatants—seize them as hostages. And what is their reward? Their reward is that the United Nations ceases to enforce a U.N. resolution which compelled U.N. forces to protect Sarajevo and other safe areas in Bosnia. In other words, internationally, at least in Bosnia, crime does pay. The most outrageous, inhumane crime.

And of course, the seizing of the U.N. personnel was not the worst of it. Capt. Scott O'Grady has become quite justifiably and, thank God, a national hero for his courage, for his steadfastness, his extraordinary resourcefulness, for the skill of the American marines who came to his aid, for the effectiveness of American technology that, combined with his bravery, created the circumstance in which he could be liberated, could be saved. But, Mr. President, let us not forget what happened. Captain O'Grady, was on a patrolling mission, not a hostile mission. He was on a mission to enforce a U.N. resolution that there be a no fly zone over Bosnia, that fixed-wing aircraft not fly. And he was shot down in a hostile act by Serbian missiles. And even after those days of eating grass and bugs to keep himself alive, covering himself face-down in the dirt so that the Serbian soldiers walking by would not find him, finally he gets the message out, and those two CH-53E Super Stallions come in with the Marines to rescue this American hero, and what happens? They are fired on by the Serbs—really an act of war. The domestic equivalent to this would be, what would happen if criminals in a city in our country seized police who were walking or riding on a routine mission, and then when other police came to take them out, fired on those other police. What would our reaction be? We would go in with all we had to get them out; we would feel that we had an obligation in the interest of law to punish them. What happens here? Nothing. The Serbs got away with it.

So this is the headline, "Captives Free, U.N. Gives Up Effort to Shield Sarajevo." The captives obviously are the U.N. peacekeepers who were held as hostages for these past weeks. While their return marks the end of one more crisis in Bosnia, it also demonstrates all too clearly why the U.N. forces should no longer be on the ground in Bosnia. There is no peace for these supposed peacekeepers to keep. Barely equipped for self-defense and left in positions where they are continuously vulnerable to Serb humiliation and manipulation, these men do not lack for individual courage, but their hands have been tied by Orwellian U.N. policies where appeasement of the Bosnian Serbs is seen as a virtue and self-defense by the United Nations is seen as a vice. And so the last of these so-called peacekeepers have been returned from their illegal and immoral imprisonment. But at what price?

Apparently in exchange for the release of these hostages, the United Nations has now withdrawn from all of the heavy weapons-collection sites around Sarajevo and withdrawn into the city. And now, they too can become targets once again of the wanton Serb artillery, rocket, mortar, and sniper fire that lands on Sarajevo. It is precisely this Serb use of civilians, hospitals, apartment buildings, schools, and playgrounds for target practice which yesterday cost another 7 people their lives and wounded 10 others, I gather, seeking water, at the very time the U.N. hostages were being released. Many of these people were elderly Sarajevans standing in line for water—water that has become ever scarcer as the Serb stranglehold on Sarajevo continues unabated. And what is the understanding that is worked out between the United Nations and the Serb positions from which the artillery came? Only that they allow the water to be turned on again.

And so the ultimatum which the United Nations issued early last year to protect the people of Sarajevo has now gone the way of all of the United Nations' efforts in Bosnia—it has been trampled under the heel of the Serbian indifference, the Serbian flouting, the Serbian disregard—I cannot find a noun strong enough for what I feel—of the rule of law and the conduct of civilized States at the end of the 20th century. This follows aggression. This follows genocidal acts against people singled out only because of religion, in this case Moslem. Two hundred thousand dead, two million refugees taken from their homes, increasingly under the cover of a U.N. mission that was supposed to bring peace, but has not brought any of it and has, unfortunately, increased the suffering. The top U.N. official in Bosnia, Yasushi Akashi, has now declared that UNPROFOR will adhere strictly to peacekeeping principles; thus, the use of force will, apparently, no longer be considered by the United Nations. In fact, Mr. Akashi indicated last week, 10 days ago, that the United Nations would only act when they had Serb permission to do so. Mr. Akashi, I say to you that it is time to wake up and look around at the ashes of what once was a multiethnic society in Bosnia—there is no peace to keep. Why is UNPROFOR remaining in Bosnia to perform a mission which by definition cannot be performed there? It is as if these courageous, but ill-fated soldiers wearing the U.N. uniform had been thrown in by the nations that control the United Nations as a kind of stop-gap measure to answer the question, "What are you doing to stop the aggression and slaughter and genocide in Bosnia?" And so the peacekeepers have been thrown in, where there is no peace, without the capacity to defend themselves, bringing humiliation on the United Nations and on the rule of law and civility in international relations. It is time for the U.N. leadership and the heads of the countries with forces in the UNPROFOR to acknowledge that in spite of everything else that has gone on, it is time for UNPROFOR to get out. The UNPROFOR mission should be terminated de jure as well as de facto, because de facto, it is over, it does not stand for anything, it is not helping anyone, as the events of the past week coming right down to yesterday, show. With the withdrawal of UNPROFOR, the international community will again have the opportunity to act to lift the immoral arms embargo of Bosnia and Herzegovina, an embargo that has left one side with heavy weapons, the other side ill prepared to defend families and country. If other countries will not go along with what is perhaps the last, best hope not only for the people of Bosnia but for the rule of law, for the standards of international opposition to aggression and genocide, then the United States, I hope, will lift it unilaterally, without delay. But, of course, if the United Nations is out, the traditional excuse, rationalization of our allies in NATO for not supporting a lifting of the embargo, which is that it might lead to the seizing of hostages, will be eliminated. Hostages have been taken. With the United Nations out, there will be no more hostages to take. To deny the legitimate Government of Bosnia the right to defend its sovereignty and the lives of its people is simply wrong.

Mr. President, last week Prime Minister Silajdzic of Bosnia and Herzegovina was in Washington. Many of us had the chance to hear him, to meet with him. I must say, I have seen him several times here in Washington. I have never seen him so grim. I have never seen him so frustrated. I have never seen him so deeply concerned, depressed about the suffering which his people continue to endure without hope of that assistance that they continue to feel and pray for is just around the corner, particularly from the United States of America, the last, best hope for people who suffer as the Bosnians have.

I have also never seen Prime Minister Silajdzic so determined that Bosnia will continue to fight for its rights as a sovereign state. Because no one else will come to their aid. If they are not for themselves, literally, who else will be? And if not now, when? The Prime Minister made clear once again that he does not want American soldiers on Bosnian soil. He wants to have the ability—the weaponry—for the brave Bosnians to fight their own fight. What they seek is the right to obtain those weapons which will enable them to defend themselves against those who have committed aggression and genocide against them.

Time has been running out for the people of Bosnia for too long now. The United Nations has not been willing or able to stop the bloodshed. It is time for the United Nations to step aside. What is left is for the people of Bosnia to fight their own fight with our assistance: at least with us untying their hands, which we have tied behind their backs by the continued imposition of this embargo, which originated at a time when the State of Bosnia did not exist, as an attempt to avoid the expansion of war by keeping arms out of the area. But it is the Serbs in Belgrade who control most of the war-fighting industrial capacity that was Yugoslavia's. It is the Bosnians who are left to fight tanks with light arms. Mr. President, the grotesque advantages that have been given to the aggressor here, as we continue to declare a kind of neutrality which amounts to immorality, defies all standards of decency and international law. The time is at hand for us finally to answer the call for help which has been coming, but has been unanswered, from Bosnia for too long. I hope that my colleagues in both parties in this chamber will be able to play a leadership role in supporting, encouraging, as rapidly as possible, the withdrawal of the U.N. forces from Bosnia, the lifting of the arms embargo, and the selective use of Allied air power to protect not just the sovereignty of a nation, Bosnia, that has been invaded by a neighbor, but to protect the rule of law, in Europe and throughout the world. In that, we here continue to have a vital national interest.

I thank the Chair. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. GRAMM). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The Senate continued with the consideration of the bill.

UNANIMOUS-CONSENT AGREEMENT

Mr. CHAFEE. Mr. President, I ask unanimous consent that during the Senate's consideration of S. 440, the highway bill, the following amendments be the only first-degree amendments in order, that they be subject to relevant second-degree amendments, and that no second-degree amendments be in order prior to a failed motion to table, unless the amendment is described only as relevant, in which case, second-degree amendments would be in order prior to a motion to table.

This agreement has been agreed to by the Democratic side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The list of amendments is as follows:

Baucus: CMAQ eligibility.
Baucus: Managers' amendment.
Baucus: Relevant.
Baucus: Strike Section 117.
Biden: State flexibility (w/Roth).
Biden: Amtrak.
Bond: Relevant.
Boxer: ISTEA project demonstration.
Bumpers: NHS connector route.
Byrd: Relevant.
Byrd: Relevant.
Campbell/Snowe: Helmets.
Chafee/Warner: Managers' amendment.
Cohen: Labor provisions of 13C.
Conrad: Relevant.
Daschle: Metric requirements.
Daschle: Relevant.
Dole: Relevant.
Dorgan: Open container/drunk driving.
Exon: High risk drivers.
Exon: Railroad crossings.
Exon: Truck lengths.
Faircloth: Relevant.
Feingold: Relevant.
Frist: CMAQ funding.
Graham: Relevant.
Graham: Relevant.
Graham: Relevant.
Grams: Private property.
Gregg: Relevant.
Gregg: Relevant.
Hatfield: Authorization of 15 in Oregon.
Inhofe: Single audits.
Inouye: Relevant.
Jeffords: Project review.
Kohl: Grandfathering size/weight trucks Wisconsin route.
Lautenberg: Restore speed limit requirements.
Leahy: Non-interstate NHS routes project review.
Leahy: Relevant.
Levin: Relevant.
Lott: NHS route designation.
Mack: NHS maps.
McCain: Highway demo projects $ out of state allocation.
McCain: Highway demo projects.
McConnell: Tolls.
Moseley-Braun: Motorcycle helmets (w/ Snowe).
Murkowski: Designation of Dalton Highway.
Reid: Trucks/speed limit.
Roth: States flexibility to Amtrak funding.
Roth: States flexibility to Amtrak funding.
Roth: States flexibility to Amtrak funding.
Simon: Date of bridge.
Smith: Helmets/seatbelts.
Smith: Helmets/seatbelts.
Stevens: Dalton Highway designations.
Stevens: Right of way designations.
Thurmond: High priority corridors.
Thurmond: High priority corridors.
Thurmond: High priority corridors.

Mr. CHAFEE. Mr. President, I ask unanimous consent that no amendment dealing with affirmative action be in order during the pendency of S. 440.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CRAIG). Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I rise today to offer my support for the national highway bill. I believe it is a good bill. But I believe there is one provision of the bill that, quite frankly, needs to be changed. So tomorrow, Senator LAUTENBERG and I will be offering an amendment to retain the current maximum national speed limit.

The bill as it is currently written totally repeals this law. I believe this action of repealing this law clearly flies in the face of reality, commonsense, logic, and history because I believe that on this issue the facts are in and they are conclusive.

Let us talk a little history. In 1973, 55,000 people died in car-related fatalities in this country. In 1974, the next year, Congress established the 55-mile-per-hour speed limit.

That is very same year highway fatalities dropped by 16-percent—a 16 percent reduction the very next year after Congress imposed the 55-mile-per-hour speed limit. Fatalities that year dropped from 55,000—in 1973—to 46,000 in 1974.

Mr. President, according to the National Academy of Sciences, the national speed limit law saves somewhere between 2,000 and 4,000 lives every year. So there have been as many as 80,000 lives saved in this country because of this law since 1974.

Mr. President, another historical fact moving forward to 1987: When the mandatory speed limit was amended in 1987 to allow the 65-mile-per-hour speed limit on some of the rural interstates in this country, the fatalities on those highways went up 30 percent more than had been expected. Increasing the speed limit to 65 miles per hour on rural interstates cost 500 lives per year. Those highways are among the safest roads in America. What happens when we totally repeal that law, totally repeal the 55 miles per hour, not just on the rural interstates but in the urban interstates as well? I think we will continue to see it go up, and it will go up at a much faster rate—the fatalities.

If we were to see just the same increase—30 percent—that we saw on the rural highways in the rest of the interstate system because of this particular law, the Department of Transportation estimates an additional 4,750 people would die every single year.

I think that is clearly not the direction we need to go in in the area of highway safety. I believe that we need to go in the opposite direction because there are obviously far too many Americans dying on the highways of this country every year.

In my home State of Ohio in 1993 a total of 1,482 people were killed in car accidents. Over 20 percent of those accidents were speed related. Nationwide, excessive speed is a factor in one-third of all fatal crashes.

Mr. President, I believe the old adage got it exactly right. Speed does kill. And even if interstate highways were designed for 70-mile-per-hour travel, people are not. People are not designed to survive crashes at that speed. As speed increases, driver reaction time decreases. The distance the driver needs, if he is trying to stop, increases. When speed goes above 55 miles per hour, every 10-mile-per-hour increase doubles—doubles—the force of the injury-causing impact. This means that at a 65-mile-per-hour speed, a crash is twice as severe as a crash at 55 miles per hour. A crash at 75 miles per hour is four times more severe.

A speed limit of over 55 is a known killer. Let us face that fact and do the right thing right here as part of this bill. That means I believe voting "aye" on the amendment which Senator LAUTENBERG and I will propose tomorrow.

I intend to come to the floor again tomorrow to talk at further length about this particular amendment. But I do believe that what we do in this body has consequences. I do not think anyone should be led to believe that passing the bill as it is currently written, passing a bill that flies in the face of 20 years of statistics, 20 years of history, 20 years of saving lives, makes any sense. I think each one of us, as we cast our vote tomorrow on this particular amendment, needs to think about it and needs to think of young people and old people whose lives have been saved over the past 20 years because of this law. To repeal it with no real compelling urgency, and no real need to do this, I think would be a very tragic mistake.

Mr. President, I will, along with my colleague, be offering this amendment tomorrow. I plan on debating this at length tomorrow.

Mr. President, I yield the floor.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, if the distinguished Senator from Ohio would remain on the floor for just a moment, I would like to congratulate him for his remarks. I will be one of many Senators supporting him. This is very much a part of the Intermodal Surface Transportation Efficiency Act of 1991.

But just to add to the remark, the Senator speaks of the fatalities. And could I suggest also that since 1965, when we established the National Highway Traffic Safety Administration and began the work on vehicular design and crashworthiness, there has been the whole idea of seatbelts, and now, of course, airbags, and the redesigning of the automobiles' interiors and such like; is very important work. Dr. William Haddon, whom I had worked with in Albany in the 1950's, became the first Director of that Administration.

The idea that there are two collisions when a car hits a tree—nothing gets hurt unless you have a thing about trees. It is when a person in the car—hits the inside of the car that you have a personal injury.

We have done a very great deal of work in this regard over what is now a generation such that collisions which would once have been routinely fatal would now simply be seriously injurious.

When we think of the number of lives that are at risk by raising the speed limit, which I think is the case, we could compound that by a factor, probably of tenfold, of injuries which need not be minor, which can be crippling, can be permanent, can be hugely costly, and can be avoided by maintaining the commonsense regulations we have in place, which we put in place by a long hard process of learning about what really was involved in managing this particularly implicitly dangerous system.

Mr. DEWINE. Will the Senator yield?

Mr. MOYNIHAN. I am happy to yield.

Mr. DEWINE. Mr. President, I would like to congratulate the Senator from New York not only for his long interest in this area going back for several decades but for the work he has done.

I read an article by the Senator a few months ago talking about the fact that there are really two things we always have to deal with in trying to reduce auto fatalities. And one is driver behavior but the other is the design of the car, and things that are external to that driver.

As the Senator pointed out—I cannot recall whether it was an article or an op-ed piece—tragically it was something that we should not be surprised by. It is easier many times to alter the car, to alter the speed limit, and to do other things than to alter the behavior of the driver. Certainly, the Senator has been a real leader in the efforts to do that, in the efforts to develop the change in design of the car, the seatbelts, and airbags, and the other things that every single day are saving lives in this country, not to say that we do not want to continue with the work on driver behavior. It is something that we all have to work on.

But the Senator from New York has been a real leader in this whole area. I want to congratulate him, and I appreciate his comments and am looking forward to working with him on the floor tomorrow.

Mr. MOYNIHAN. It is very generous of the Senator.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I join in the commendation of the Senator from Ohio with the effort he is going to undertake tomorrow with the Senator from New Jersey in restoring the speed limit, which the committee of jurisdiction eliminated.

As you know, Mr. President, the speed limit currently is 55 miles an hour on interstates except 65 miles an hour on rural interstates. I think this has worked well. Anybody who has given any thought to this matter has seen the tremendous destruction of lives and equipment and lost time and horrible injuries that have arisen from speeding and the accidents that result therefrom.

Just think of it. In our country, on the highways, 40,000 people a year are killed. That is an astonishing figure. I think the total deaths in Vietnam were something like 57,000, and that is a shocking figure. But that occurred over some 5 years. Every year, 40,000 people are killed. And those are the deaths. I think you can extrapolate something like four times that for the serious injuries; in other words, the people who live but are seriously injured.

And so I think this is no time, Mr. President, to change the speed limit. But it was the view of the Committee on Environment and Public Works that we should change it. I congratulate the Senator from Ohio. It is my understanding, am I not correct, that the Senator will be joining with the Senator from New Jersey to restore the speed limit?

Mr. DEWINE. That is correct.

The thing I point out to the Senate and my colleagues is it is really restoring the status quo. It is restoring it to something that has clearly worked. As the Senator from New York has also pointed out, this has worked. This has saved lives. Without any compelling reason, to turn back the clock and to ignore 20 years of history, over 20 years' demonstrated experience of saving lives, really makes absolutely no sense. I think the consequences of what we do tomorrow are very significant. A lot of times, we do things in this Chamber, and we act as if they are important, but they are really not. What we do tomorrow on this vote will make a difference and lives, I believe, will be affected. I am absolutely convinced the evidence shows that if we raise the speed limit from the national perspective, people will die. People will die who would not have died if we had kept the law the way it is.

That may sound brutally blunt, but I think at times we have to be blunt. And I think the facts clearly show that is what we are talking about. So I appreciate my colleagues' comments very much.

Mr. MOYNIHAN. Mr. President, if I could detain my friend from Ohio and the distinguished chairman just another moment, we say that there are 40,000 lives lost a year on highways. When we began working on the epidemiology of automobile crashes—not accidents; they are not accidents; they are predictable events in a complex system—we were already approaching 50,000 deaths a year. In the interval since we began changing design with passive restraints and such, we cannot have but doubled the number of automobiles and doubled the number of miles, but the number of deaths has actually dropped.

I make a point that this idea of passive restraints, where you build safety into the system, you will find in the Bible. And in the best tradition of this institution, I would like to cite—this was first found by William Hadden, Jr., the Dr. Hadden I mentioned. It is in Deuteronomy, chapter 22, verse 8:

> When thou buildest a new house, thou shalt make a battlement for thy roof, that thou bring not blood upon thine house, if any man fall from thence.

It is a simple idea. Have a railing so in the dark you do not step off and land 40 feet below. It is elementally good sense, but it is amazing how much argument it can take, and we shall hear more such argument tomorrow. But I wish the Senator from Ohio great good fortune.

Mr. CHAFEE. Mr. President, I am impressed by the quote from Deuteronomy, and I think that will help our cause greatly.

Now, Mr. President, I would like to say to the Senator from Ohio that not only do I commend him for his efforts in connection with the speed limit, but I also would draw his attention to another safety measure that will probably be attempted to be undermined here tomorrow, and that is the legislation we have which passed in 1991 in connection with the interstate transportation legislation fathered by the distinguished Senator from New York, and that legislation encourages States to pass mandatory seatbelt laws and mandatory motorcycle helmet laws.

Every single Senator on this floor, in connection with health, if asked: "Are you for preventive medicine?" would say, "Yes. Sure, certainly I am for preventive medicine." But if there ever was preventive medicine of a very dramatic type, it is the mandatory seatbelt laws and the mandatory helmets for motorcyclists.

Let us just take the motorcycle helmets. The correlation between the decline of deaths for motorcyclists and the passage of laws dealing with mandatory helmets absolutely exists. That correlation is there.

Example: California. California, I suppose, has more motorcyclists per capita than any State in the Nation. And the California Legislature, the General Assembly in California three times had passed mandatory helmet laws, but the Governor, prior to Governor Wilson, a Republican, vetoed that legislation, and the veto was not overridden.

Governor Wilson, then a Senator here, sponsored or joined in sponsoring legislation mandating the use of helmets, mandatory helmet laws. He then was elected Governor of California, and as Governor of California, when that legislation mandating motorcycle helmets passed, Governor Wilson signed it, despite the fact that the motorcyclists, some 3,000 or 4,000 strong, circled the capitol in Sacramento protesting. So again Governor—former Senator—Wilson signed the legislation.

Now, what has been the result? The result has been a decline in deaths of motorcyclists of 36 percent, from 1 year to the next. It followed the years following that legislation.

That is extraordinary. There is no reason it can be ascribed to other than that law. Maryland is the same way. Maryland passed the law—a 20 percent decline. And nearly all the populace States have passed that law—Texas, and Florida. I regret that my State has not passed it. We are certainly not one of the more populace States.

Mr. MOYNIHAN. Populace.

Mr. CHAFEE. Populace States. Oh, a very popular State, but not populace. And Ohio, likewise, has not passed it. But I have urged the passage of that legislation in my State. Certainly, I am going to vote to retain the requirement—it is not a requirement. What it is is a factor in the law, a provision in the law which says States that do not pass that legislation will have to devote a certain amount of their highway funds to education and training for safety purposes—safety in helmets, safety in motorcycles, safety in automobiles.

I will be very candid, the States do not like that because it takes some of their highway funds that they would rather spend on highways than on education.

You might ask, "What is the Federal Government doing in this anyway? Isn't this a States rights matter? Why doesn't the Federal Government stay out of this?"

The reason we are in it, and deeply into it, is because we pay Medicaid. There is not a State where we do not pay 50 percent of Medicaid and, in most instances, pay more than that. So if we are paying the piper, we have a right to call the tune.

These motorcyclists—I will say more on this tomorrow when the amendment comes up—but these motorcyclists who are laid up in hospitals, grievously injured, many in a coma because they have head injuries because they did not wear a helmet, they are being maintained in these hospitals by Medicaid. They do not have fancy insurance policies. They are being maintained by Medicaid, which you and I and you and you and you and the people in the galleries and elsewhere are paying. They are paying the bill.

I think if we are paying the bill, we have a right to require at least that these motorcyclists wear helmets and, to the extent it can be monitored, that the seatbelts be used in the vehicles.

Mr. MOYNIHAN. Will the distinguished chairman yield for a question?

Mr. CHAFEE. I sure will. I just want to say, I know the Senator from Ohio may be leaving. I am proselytizing him for his vote in connection with that particular measure.

Mr. MOYNIHAN. Perhaps he will stay long enough to hear this question.

The distinguished chairman, sometime Secretary of the Navy, was a combat marine in the Second World War; is that not right?

Mr. CHAFEE. That is true.

Mr. MOYNIHAN. A combat marine.

Mr. CHAFEE. Although all marines would say they are a combat marine, since there is no such thing as a noncombat marine.

Mr. MOYNIHAN. When you were in combat with those marines, were there marines who thought it was somehow unmanly to wear helmets?

Mr. CHAFEE. I cannot remember any.

Mr. MOYNIHAN. "I'm macho, I will take this helmet off."

Mr. CHAFEE. No; not for long anyway.

Mr. MOYNIHAN. I thank you for the answers to my questions.

Mr. CHAFEE. As a matter of fact, many a marine would be delighted if he could have crawled into his helmet. It somehow had a protective feeling, a helmet.

So, there we are, Mr. President. Unless anybody else has anything further to say, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, the distinguished Senator from New York and I are here. We are ready to do business. There are 15-plus amendments that are on the agreement for tomorrow. I see no reason why we cannot dispose of some of them now. Some might be agreed to, some might be contested, at least they can be debated. We will not have any votes, but it is a good time to have a discussion. I think it is too bad we are whiling away the day here with no action.

As I say, the Senator from New York and I are here and the store is open and looking for customers. So, Mr. President, I hope the call will go out near and wide to come on over and offer your amendments.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I simply would like to restate the request, if I may put it in those terms, certainly the invitation, of our chairman, noting once again Senator BAUCUS is necessarily absent. We have a long list of amendments. There is work to be done. On the other hand, it could be that people feel the product of the committee is so finely crafted that it would really be superfluous, if not at some level diminishing, to change it now that it has come to the floor, in which event we can be out of here in this regard by noon tomorrow.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1426

(Purpose: To ensure that High Priority Corridor 18 is included on the approved National Highway System after feasibility study is completed)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk on behalf of Mr. BUMPERS and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for Mr. BUMPERS, proposes an amendment numbered 1426.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . INCLUSION OF HIGH PRIORITY CORRIDORS.

Section 1105(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240; 105 Stat 2033) is amended by adding at the end the following:

"The Secretary of Transportation shall include High Priority Corridor 18 as identified in section 1105(c) of this Act, as amended, on the approved National Highway System after completion of the feasibility study by the States as provided by such Act."

Mr. MOYNIHAN. Mr. President, this is a clarifying amendment. It establishes that high-priority corridor 18 is in fact included in the National Highway System. This had been a presumptive fact, but circumstances have arisen which make it prudent and in the interest of the State of Arkansas that this be so stated in statute.

I believe this amendment will be agreed to.

Mr. CHAFEE. Mr. President, the Members on this side are in agreement with this amendment and urge its adoption.

Mr. MOYNIHAN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is an agreeing to the amendment.

The amendment (No. 1426) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

FRANCE TO CONDUCT NUCLEAR TESTS

Mr. BUMPERS. Mr. President, I was disturbed, almost alarmed, when I saw that the new President of France had said that France was going to conduct eight nuclear tests. It is not at all certain, from the press releases I have seen, what the magnitude of those tests will be—that is, how much plutonium will be used and what the kilotonnage will be.

Second, I would like to say that I think President Chirac is off to a very bad start. The precedent that he is setting is certainly going to influence people in this country who, for no sound reason, think we should also begin testing again. And sure enough, this morning, I read an account—I think maybe from Reuters—that our Secretary of Defense, William Perry, has said that he is getting ready to present the President with a series of options for resuming tests, from 4 pounds of plutonium to a full-scale test. He does not say how many tests will be conducted. But the argument is the same as that being used by France, that is, we have to determine the reliability of our deployed weapons and our stockpiles.

Now, bear in mind, Mr. President, that we test our ballistic missiles every year. I have been arguing on the floor of the Senate for 3 years that we are buying more D–5 missiles than we can possibly use on our Trident submarines. And in my arguments, I have always insisted that the number I think we should procure is not only adequate for the purposes, but also allows the Defense Department to continue testing anywhere from three to five D–5 missiles every year to determine their reliability.

I understand that this falls in the category of things that the Defense Department would like to do but does not have to do.

We are coming up on a Comprehensive Nuclear Test Ban Treaty, which is supposed to go into effect in 1996, and we are all trying to get under the wire now with these little tests which were portrayed as to be "so small as to be insignificant," at least for the French, just prior to asking every other nation to be good scouts and obey what has been agreed to in the Comprehensive Test Ban Treaty.

I hope the President of the United States will have the courage to do what he did the first year he was in office and say, "No more testing." He first said no testing for 15 months. When 15 months was over, he said no more testing, indefinitely. This is an indefinite ban on testing by the United States.

He no more had the words out of his mouth, and the Defense Department says it is absolutely essential to determine the reliability of our weapons, and we must start testing all over again.

Now, Mr. President, I will say, I know the makeup of this body. I know the makeup of the House. Unless the President says "No," and is prepared to stick with it, we will start testing.

That sends a message to every two-bit dictator in the world. We have been pleading with nations that we know are involved in trying to develop nuclear weapons, we have been pleading with them "Don't do it." Now what kind of a message does it send to those same nations when we start testing again? The United States and France will be the two most irresponsible nations on the planet Earth—if we join France and start testing again.

I do not intend to call the President. He has a lot of things to do. He knows my feelings about it. I have discussed it with him on previous occasions. I just think it would be a terrible thing for the United States, a terrible precedent, here 1 year away from the implementation of the Comprehensive Nuclear Test Ban Treaty.

Mr. MOYNIHAN. Mr. President, before the Senator yields the floor, would he yield to me for a question?

Mr. BUMPERS. I am happy to yield to the Senator.

Mr. MOYNIHAN. Sir, the distinguished senior Senator from Arkansas will recall that in 1974, the Republic of India detonated a nuclear device.

Mr. BUMPERS. I remember it well.

Mr. MOYNIHAN. The second-most populated nation in the world, and in the 20 years since, they have never yet detonated a second—not because they are members of the Test Ban Treaty, but because they feel there is an international constraint in place and it would be in some way inappropriate. Not that they could not or that they would not like to. They have not done it.

Would the Senator consider whether or not our now presumed testing, and French testing in the Pacific, would not put pressure on regimes such as that of India, or regimes which are clearly capable of nuclear devices, such as Pakistan?

Is that what we want started?

Mr. BUMPERS. The Senator makes my point better than I made it myself.

I must say, the Senator has given me a piece of information, as closely as I try to follow this issue, that I did not realize, and that is that India has never tested since their first test.

With some respect, we expect this sort of thing from the Chinese. In the world diplomacy, the Chinese have never been quite as concerned as to how the nations of the world community might feel about what they do. They test when they are ready. As far as I know, China is the only nation that has tested since the President took that bold initiative in 1993.

It does not endear them to me, but they have always danced to their own tune, marched to their own drummer.

I thought it was irresponsible for them to start testing, but be that as it may, our thinking about testing sends a terrible signal to every nation on Earth. It seems we are doing our very best to torpedo both the Comprehensive Test Ban Treaty and the Nuclear Non-proliferation Treaty.

I might also say, incidentally, on the other side of the coin, once India tested, Pakistan decided it needed nuclear weapons. The Senator is all too familiar with the problems we have with Pakistan and India, now. It is never ending. The Pakistanis will never be satisfied until they think they are coequal in the nuclear game with India.

Every time somebody joins the field, some other nation that has a 1,000-year history of animosity with that nation immediately goes to work—Iran and Iraq, and so it goes.

UNITED STATES ROLE REGARDING BOSNIA

Mr. BUMPERS. Now, Mr. President, I want to make a point on a different subject that has been discussed here several times today dealing with Bosnia. I heard the distinguished Senator from Georgia, Senator NUNN, a moment ago. I must say I thought the Senator made some very cogent points about what the United States role should be.

Even though I have steadfastly opposed the introduction of ground forces in Bosnia, I think the British and the French are on fairly solid ground when they chastise the United States for trying to tell them how to conduct themselves there. And they remind us periodically, that we have not been facing the same kind of threat they have. They are the ones who have had their troops taken hostage. They are the people who have had people killed. We have not.

If it is determined that we are going to withdraw the UNPROFOR forces from Bosnia, then I think the United States has a role to play. I am not sure, and I am not prepared today to define it in any detail, but certainly in my opinion we have a financial role to play.

We have been neglecting our dues to the United Nations because there is a trend in this country that thinks that somehow or another the United Nations is subversive.

I watched some of that militia hearing the other day. I never heard as many cockamamie theories in my life in such a short period of time about what a terrible Government we have. I wanted to ask, why is everybody in the world scratching and clawing and swimming the ocean to try to get here, if it is such a terrible place?

Back to Bosnia. We have an obligation. We are part of NATO. We are part of the United Nations. We have not been nearly as diligent as we should be in our commitment to our dues to the United Nations, or paying for the peacekeeping operation.

I think the Senator from New York will be much more familiar with this than I am, but as far as I know, the part of our dues we are furthest behind on is in the peacekeeping area. Yet we have championed all of these peacekeeping operations.

I spent a day at the United Nations a couple of years ago, and at that time I was shocked to find the United Nations has something like—I hesitate to say—20, 25 peacekeeping operations going on in the world right now.

We only know about the Golan Heights, and Bosnia, and some of the more visible areas, but the United Nations has peacekeeping operations all over the world, trying to keep people from fighting. A very laudable undertaking.

Let me remind those people who always want to denigrate the United Nations and the whole concept of world cooperation that time and again on this floor I have applauded President George Bush for going to the United Nations and getting that body's approval of Desert Storm and for recruiting a lot of the countries in the United Nations to assist in that operation. It was essentially a U.S. effort, but we had tremendous help from other nations because we were operating as a group of nations that the United Nations had endorsed for this operation.

Now, I have about reached the conclusion. About the time I wrote an op-ed piece in my own State newspaper, I read an article by Tom Friedman in the New York Times. Tom Friedman had been in Lebanon and wrote a magnificent book called "From Beirut to Jerusalem." A magnificent book.

He pointed it out in this New York Times piece last week, that in Bosnia, as in Lebanon, we have religion as one of the centrally dividing issues—they are not different ethnically.

It is my understanding during the Ottoman Empire the Turks said to the Bosnians, "You may be blond and blue-eyed but you will be Moslem."

I can tell the Senator from New York is not agreeing with me on that. He is the historian, so it must not have been the Ottoman Empire. It may have been later.

Mr. MOYNIHAN. Will the Senator yield for a question? Sharing his great regard for Tom Friedman's comments in this respect, I think the Bosnians were of a religious group within the Catholic Church which was being excommunicated, and they chose to affiliate with Islam in that setting.

Mr. BUMPERS. I was not quoting Tom Friedman on that point.

Mr. MOYNIHAN. It was, in a certain sense, a voluntary conversion.

Mr. BUMPERS. Perhaps so. But his bottom line was when the Serbs and the Bosnian Moslems tire of fighting each other, they will reach some kind of an accord.

Mr. MOYNIHAN. And then the United Nations might be able to help.

Mr. BUMPERS. And while I want to support the foreign policy of the President and the Secretary of State, we may very well have reached the time—the President made a compelling point the other day in support of his position. Everybody says our policy in Bosnia now is an unmitigated disaster.

The President responds by saying, in 1993, I guess it was, 92,000 people were killed in Bosnia. In 1994, 3,000 were killed. So it is difficult to say the policy is an unmitigated disaster when that many lives are being saved.

But there is not any question, the six Bosnian Moslem enclaves, are threatened. They are going to starve. Something is going to happen. Some of them have not been resupplied in months, and something is going to have to give.

I am almost of the opinion that perhaps we should withdraw. While we might not be, as a nation, actively involved in arming Bosnian Moslems, other nations are perfectly willing to do that if we can figure out a way to get the weapons to them. That does not mean that war is going to reach a stalemate. It does not mean the Bosnian Moslems are going to be winners ultimately. But at least it would help equalize the sides. The thing is totally unfair now to them.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. BUMPERS. I will be happy to.

Mr. MOYNIHAN. Bosnia is a member of the United Nations. It has been invaded by another country and in support of an internal dispute. The Yugoslavian Army, out of Belgrade, is clearly involved. We now learn that it was computers in Belgrade that brought down Captain O'Grady's F-16. Under the United Nations Charter it is elemental that Bosnia has the right of self-defense. And for the United Nations to impose an arms embargo on a member state which has been invaded is to put the charter in jeopardy. Would the Senator not agree?

Mr. BUMPERS. Absolutely. The Senator makes a very, very compelling point that I should have started off with.

So, to allow a member nation to be systematically choked to death while other U.N. members, as well as NATO, essentially look on and allow it to happen is totally unacceptable. Either we get involved or we get out. I doubt very seriously the people of this country would stand very long for our entry into the war. I saw a poll last week that said 61 percent of the people in this country are now saying they would not oppose the introduction of American ground troops in Bosnia. I do not happen to be a member of that 61 percent, because I realize what a sticky wicket this can be. But I was shocked by that number.

Mr. President, I found the Senate in a quorum call and I thought I would just make these few comments regarding those two issues.

I thank the Senator for the time.

The PRESIDING OFFICER. The Senator from Rhode Island.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The Senate continued with the consideration of the bill.

Mr. CHAFEE. Mr. President, I want to assure the Senator from Arkansas we are not closing up right now. If the Senator has nothing further to say, we will go into a quorum call unless the Senator from New York has something to say. The majority leader will be closing up the Senate a little later. He has a statement he wishes to make.

In connection with the bill before us, the highway bill, we have done as much of our work as we can do today, so I will be leaving. But the place will remain open until the majority leader comes in, sometime not to long, I guess.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ABRAHAM). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of January 4, 1995, the Secretary of the Senate on June 16, 1995, received a message from the President of the United States, submitting sundry nominations, which were referred to the Committee on Foreign Relations.

The nominations received on June 16, 1995, are shown in today's RECORD at the end of the Senate proceedings.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES REFERRED

Mr. THURMOND. Mr. President, pursuant to unanimous consent section 3(b) of Senate Resolution 400, 94th Congress, I ask that S. 922 be referred to the Senate Armed Services Committee.

The following bill was referred to the Committee on Armed Services pursuant to section 3(b) of Senate Resolution 400, 94th Congress, for a period not to exceed 30 days of the session:

S. 922. A bill to authorize appropriations for fiscal year 1996 for intelligence and intelligence-related activities of the United States Government and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time and placed on the calendar:

S. 939. A bill to amend title 18, United States Code, to ban partial-birth abortions.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1024. A communication from the Architect of the Capitol, transmitting, pursuant to law, the semiannual report of the Architect for the period October 1, 1994 through March 31, 1995; to the Committee on Appropriations.

EC-1025. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to amend chapter 38 of title 10, United States Code, as added by the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 100 Stat. 992), with respect to joint officer management policies for the Army, Navy, Air Force and Marine Corps; to the Committee on Armed Services.

EC-1026. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to amend the Army National Guard Combat Readiness Reform Act of 1992 and to make certain provisions of such Act applicable to the Selected Reserve of the Army, and for other purposes; to the Committee on Armed Services.

EC-1027. A communication from the Coordinator for Drug Enforcement Policy and Support, Department of Defense, transmitting, pursuant to law, a report relative to the status of the random drug testing program; to the Committee on Armed Services.

EC-1028. A communication from the Assistant Secretary of Defense, transmitting, pursuant to law, a report relative to the Civilian Separation Pay Program; to the Committee on Armed Services.

EC-1029. A communication from the Secretary of Energy, transmitting, pursuant to law, a notice of a 45 day extension with respect to a report relative to Defense Nuclear Facilities Safety Board recommendations; to the Committee on Armed Services.

EC-1030. A communication from the Director of Administration and Management, Department of Defense, transmitting, pursuant to law, a report relative to cleaning services at the Pentagon; to the Committee on Armed Services.

EC-1031. A communication from the Secretary of the Navy, transmitting, pursuant to law, a notice of determination relative to contract awards; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 240. A bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act (Rept. No. 104-98).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. THOMAS (for himself, Mr. SIMPSON, Mr. CRAIG, and Mr. CAMPBELL):

S. 943. A bill to require the Secretary of the Treasury to mint and issue coins in commemoration of the 125th Anniversary of Yellowstone National Park; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 136. A resolution to authorize representation by Senate Legal Counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. THOMAS (for himself, Mr. SIMPSON, Mr. CRAIG, and Mr. CAMPBELL):

S. 943. A bill to require the Secretary of the Treasury to mint and issue coins in commemoration of the 125th anniversary of Yellowstone National Park; to the Committee on Banking, Housing, and Urban Affairs.

THE YELLOWSTONE NATIONAL PARK 125TH ANNIVERSARY COMMEMORATIVE COIN ACT

Mr. THOMAS. Mr. President, I send a bill to the desk and ask that it be referred appropriately.

I am pleased to say that Senators SIMPSON, CRAIG, and CAMPBELL are joining me to sponsor the Yellowstone National Park 125th Anniversary Commemorative Coin Act.

Yellowstone National Park, of course, is largely in my State of Wyoming. It is, I think, the crown jewel of the National Park System. It is the first national park having had its 100th anniversary sometime back. It consists of about 3,400 square miles, the largest national park. We believe that we are joined by most to think it is the crown jewel of the Park System.

We have had—and we continue to have, Mr. President—substantial financial strain on our national parks, some of it due to the expansion of the authorization of parks far beyond our ability to pay for them. We have this expansion continuing to go on with a debt of about $4 billion in authorized expenditures which have not been able to have been appropriated.

There is increased wear and tear on 500 miles of roads in Yellowstone Park, 1,000 miles of trails, and countless public facilities. And, frankly, there is a need for $600 to $700 million to do the kind of maintenance that is necessary over a period of time. That will be very difficult to extract from the budget.

The bill that we offer is one that would authorize and provide for the minting and issue of 500,000 $1 silver coins for Yellowstone's 125th anniversary in 1997. For the taxpayers, this is a budget-neutral proposition. It does not cost the taxpayers anything.

The surcharges from the sale of the coins will be split evenly, 50 percent going directly to Yellowstone Park and 50 percent to the Park Service for distribution among other parks.

The sale of the coins could potentially raise $2.5 million for Yellowstone's needs.

Mr. President, chairman, I urge my colleagues to join me in this commonsense approach to provide the needed resources for Yellowstone Park and properly honor our oldest national park.

ADDITIONAL COSPONSORS

S. 160

At the request of Mr. SHELBY, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 160, a bill to impose a moratorium on immigration by aliens other than refugees, certain priority and skilled workers, and immediate relatives of United States citizens and permanent resident aliens.

S. 256

At the request of Mr. DOLE, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 426

At the request of Mr. SARBANES, the names of the Senator from Iowa [Mr. HARKIN] and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of S. 426, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes.

S. 457

At the request of Mr. SIMON, the names of the Senator from Utah [Mr. HATCH] and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of S. 457, a bill to amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws.

S. 526

At the request of Mr. GREGG, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 526, a bill to amend the Occupational Safety and Health Act of 1970 to make modifications to certain provisions, and for other purposes.

S. 641

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 758

At the request of Mr. HATCH, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 758, a bill to amend the Internal Revenue Code of 1986 to provide for S corporation reform, and for other purposes.

S. 877

At the request of Mrs. HUTCHISON, the name of the Senator from Wyoming [Mr. THOMAS] was added as a cosponsor of S. 877, a bill to amend section 353 of the Public Health Service Act to exempt physician office laboratories from the clinical laboratories requirements of that section.

S. 925

At the request of Mr. MACK, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 925, a bill to impose congressional notification and reporting requirements on any negotiations or other discussions between the United States and Cuba with respect to normalization of relations.

SENATE RESOLUTION 136—AUTHORIZING REPRESENTATION BY LEGAL COUNSEL

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 136

Whereas, in the case of *United States ex rel. Sequoia Orange Company* v. *Sunland Packing House Company*, Case No. CV–F–88–566 OWWW/DLB, and consolidated cases, pending in the United States District Court for the Eastern District of California, a subpoena for testimony at a hearing has been issued to Senator Dianne Feinstein;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself or herself from the service of the Senate without leave;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§228b(a) and 228c(a)(2) (1994), the Senate may direct its counsel to represent committees, Members, officers, and employees of the Senate with respect to subpoenas or orders issued to them in their official capacity: Now, therefore, be it

Resolved, That the Senate Legal Counsel is directed to represent Senator Feinstein in connection with the subpoena issued to her in these cases.

AMENDMENTS SUBMITTED

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

HUTCHISON AMENDMENTS NOS. 1424–1425

Mrs. HUTCHISON proposed two amendments to the bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes; as follows:

AMENDMENT NO. 1424

At the appropriate place in title I, insert the following:

SEC. 1 . RURAL ACCESS PROJECTS.

Item 111 of the table in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2042) is amended—

(1) by striking "Parker County" and inserting "Parker and Tarrant Counties"; and

(2) by striking "to four-lane" and inserting "in Tarrant County to freeway standards and in Parker County to a 4-lane".

AMENDMENT No. 1425

On page 36, strike lines 2 and 3 and insert the following:

Interstate System.";

(2) in paragraph (18)—

(A) by striking "and"; and

(B) by inserting before the period at the end the following: ", and to the Lower Rio Grande Valley at the border between the United States and Mexico"; and

(3) by adding at the end the following:

BUMPERS AMENDMENT NO. 1426

Mr. MOYNIHAN (for Mr. BUMPERS) proposed an amendment to the bill, S. 440, supra; as follows:

At the appropriate place, insert the following:

SEC. . INCLUSION OF HIGH PRIORITY CORRIDORS.

Section 1105(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240; 105 Stat. 2033) is amended by adding at the end the following:

"The Secretary of Transportation shall include High Priority Corridor 18 as identified in section 1105(c) of this Act, as amended, on the approved National Highway System after completion of the feasibility study by the States as provided by such Act."

NOTICE OF HEARING

SUBCOMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. ROTH. Mr. President, I would like to announce that the Subcommittee on Post Office and Civil Service, of the Committee on Governmental Affairs, will hold a hearing on June 19, 1995, on Federal pension review.

The hearing is scheduled for 2 p.m. in room 342 of the Dirksen Senate Office Building. For further information, please contact John Roots or Dale Cabaniss at 224–2254.

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding a hearing on Thursday, June 22, 1995, beginning at 9:30 a.m., in room G–50 of the Dirksen Senate Office Building on S. 487, a bill to amend the Indian Gaming Regulatory Act, and for other purposes.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON POST OFFICE AND CIVIL SERVICE

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Post Office and Civil Service, Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Monday, June 19, 1995, to review Federal pensions.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TAXATION AND IRS OVERSIGHT

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Taxation and IRS Oversight of the Committee on Finance be permitted to meet on Monday, June 19, 1995, beginning at 2 p.m. in room SD–215, to conduct a hearing on S corporation reform and the home office deduction.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1996

• Mr. SPECTER. Mr. President, on June 14, 1995, I filed, on behalf of myself and my distinguished colleague and vice chairman of the Select Committee on Intelligence, Senator KERREY, a bill which authorizes appropriations for fiscal year 1996 for the intelligence activities and programs of the U.S. Government. The Select Committee on Intelligence approved the bill by a unanimous vote on May 24, 1995, and ordered that it be favorably reported.

This bill would:

First, authorize appropriations for fiscal year 1996 for (a) the intelligence activities and programs of the U.S. Government; (b) the Central Intelligence Agency Retirement and Disability System; and (c) the Community Management Account of the Director of Central Intelligence;

Second, authorize the personnel ceilings as of September 30, 1996, for the intelligence activities of the United States and for the Community Management Account of the Director of Central Intelligence;

Third, authorize the Director of Central Intelligence, with Office of Management and Budget approval, to exceed the personnel ceilings by up to 2 percent;

Fourth, permit the President to delay the imposition of sanctions related to proliferation of weapons of mass destruction when necessary to protect an intelligence source or method or an ongoing criminal investigation;

Fifth, provide for forfeiture of the U.S. Government contribution to the Thrift Savings Plan under the Federal Employees Retirement System [FERS], along with interest, if an employee is convicted of national security offenses;

Sixth, restore spousal benefits to the spouse of an employee so convicted if the spouse cooperates in the investigation and prosecution;

Seventh, to allow employees of the excepted services to take an active part in certain local elections;

Eighth, amend the Fair Credit Reporting Act to permit the Federal Bureau of Investigation to obtain consumer credit reports necessary to foreign counterintelligence investigations under certain circumstances and subject to appropriate controls on the use of such reports; and

Ninth, make certain other changes of technical nature to existing law governing intelligence agencies.

The classified nature of U.S. intelligence activities prevents the committee from disclosing the details of its budgetary recommendations. However, the committee has prepared a classified supplement to the report, which contains: First, the classified annex to the report; second, and the classified schedule of authorizations which is incorporated by reference in the act and has the same legal status as a public law. The classified annex to the report explains the full scope and intent of the committee's actions as set forth in the classified schedule of authorizations.

This classified supplement to the committee report is available for review by any Member of the Senate, subject to the provisions of Senate Resolution 400 of the 94th Congress.

The classified supplement is also made available to affected departments and agencies within the intelligence community.

SCOPE OF COMMITTEE REVIEW

As it does annually, the committee conducted a detailed review of the administration's budget request for the National Foreign Intelligence Program [NFIP] for fiscal year 1996. The committee also reviewed the administration's fiscal year 1996 request for a new intelligence budget category, called the Joint Military Intelligence Program [JMIP]. The committee's review included a series of briefings and hearings with the Director of Central Intelligence [DCI], the Acting Deputy Assistant Secretary of Defense for Intelligence and Security, and other senior officials from the intelligence community, numerous staff briefings, review of budget justification materials, and numerous written responses provided by the intelligence community to specific questions posed by the committee.

In addition to its annual review of the administration's budget request, the committee performs continuing oversight of various intelligence activities and programs, to include the conduct of audits and reviews by the committee's audit staff. These inquiries frequently lead to actions initiated by the committee with respect to the budget of the activity or program concerned.

The committee also reviewed the administration's fiscal year 1996 budget requests for the Tactical Intelligence and Related Activities [TIARA] Program aggregation of the Department of

Defense. The committee's recommendations regarding these programs are provided separately to the Committee on Armed Services for consideration within the context of that committee's annual review of the National Defense Authorization Act.

FOLLOWUP TO THE AMES ESPIONAGE CASE

In the wake of last year's controversy surrounding the Ames espionage case, the intelligence community leadership pledged renewed dedication to the counterintelligence mission. In the testimony he gave before the committee at his confirmation hearing in open session, DCI Deutch stated that counterintelligence was one of the four principal purposes toward which the intelligence community should direct its efforts.

The committee and CIA inspector general reports on the Ames espionage case published last year identified several serious shortcomings on the part of the Central Intelligence Agency. The committee held a closed hearing with intelligence community officials on January 25, 1995, to review progress made to date in implementing counterintelligence reforms recommended by the aforementioned reports by DCI Woolsey. The committee also focused on the adequacy of counterintelligence programs and activities in the context of its review and markup of the administration's fiscal year 1996 budget request and provides several recommendations to enhance U.S. capabilities in this critical area in the classified annex accompanying the report.

Another issue raised by the Ames case is the apparent failure of the intelligence community to weed out poor performers. That Aldrich Ames was not only retained but promoted despite clear problems with alcohol and marginal performance is testament to a personnel process in need of reform. The committee has included in this bill a provision requiring the DCI to develop for all civilian employees in the intelligence community personnel procedures to provide for mandatory retirement for expiration of time in class and termination based on relative performance, comparable to sections 607 and 608, respectively, of the Foreign Service Act of 1980.

FOCUS ON HIGH-PRIORITY AREAS

Notwithstanding the rhetorical priority placed on critical intelligence topics such as proliferation, terrorism, and counternarcotics, the committee has identified areas where insufficient funds have been programmed for new capabilities, or where activities are funded in the name of high-priority targets which make little or no contribution to the issue. Therefore, in the classified annex accompanying the report, the committee recommends a number of initiatives to enhance U.S. capabilities in the areas of proliferation, terrorism, and counternarcotics.

CREATION OF A JOINT MILITARY INTELLIGENCE PROGRAM

As noted above, this year the administration submitted a modification of the existing budgeting structure for intelligence activities and programs, by adding a third budget category—the Joint Military Intelligence Program—to supplement the existing NFIP and TIARA. The administration acted to resubordinate formerly national and tactical programs under JMIP and created a new management structure to oversee JMIP that includes senior officials of the intelligence community and Defense. The JMIP Program executive is the Deputy Secretary of Defense, who also chairs the new Defense Intelligence Executive Board [DIEB]—a senior management body providing planning, programming, and budget oversight of defense intelligence. JMIP was initially established by Secretary of Defense memorandum dated May 14, 1994, which was superseded by Department of Defense directive 5205.0, dated April 7, 1995. The administration is submitting the first JMIP budget request to the Congress in fiscal year 1996.

The committee does not yet endorse the decision by the Deputy Secretary of Defense and the Director of Central Intelligence [DCI] to develop a new set of funding criteria for intelligence activities. The committee understands the Defense Department's requirement to exercise more top-down oversight and control of defense intelligence programs and to create a management forum for evaluating these activities. Additionally, advances in technology have made the former definitions of national and tactical less meaningful to the budget process. However, the committee has reservations about whether the administration proposal for three intelligence programs is the optimal solution. Further, the committee is not convinced that the presence of the Director of Central Intelligence on the DIEB, or the joint review process undertaken by the DCI and Deputy Secretary of Defense, will ensure that both intelligence community and Defense Department equities are served in the planning, programming, and management of all intelligence activities and programs. The committee plans to review the appropriate budgeting structure for intelligence as part of its review of the roles and missions of the intelligence community later this year.

In addition, the committee is concerned that the fiscal year 1996 budget request includes many programs that are budgeted in one intelligence program but more appropriately belong in another intelligence program according to the definitions set forth by the Deputy Secretary of Defense and the DCI. A partial listing of such programs is provided by the committee for illustrative purposes:

Programs belonging in NFIP because they serve multiple departments:

Cobra Dane, which this fiscal year is programmed in the administration's budget request for the Arms Control and Disarmament Agency. The committee recommends returning funding responsibility for this important arms control monitoring capability to the NFIP;

Air Force's Cobra Judy, a specialized shipborne reconnaissance program, funded in TIARA;

Navy's P-3C Reef Point, a specialized airborne reconnaissance program, funded in TIARA.

Programs belonging in JMIP because they serve multiple DOD components:

Army's Guardrail and airborne reconnaissance low programs, funded in TIARA;

Air Force's E-8C joint surveillance tracking and reconnaissance system, funded in TIARA;

Air Force's space-based infrared system, funded in TIARA.

Programs belonging in TIARA because they serve single military departments:

Army's European command combat intelligence readiness facility, funded in the NFIP;

Navy's fleet ocean surveillance information facility in the European theater, funded in the NFIP.

With the exception of Cobra Dane, the committee makes no recommendations this fiscal year to transfer any of these programs, primarily to avoid confusion and the potential for an unintended appropriated-not authorized situation. Further, the committee does not necessarily agree that last year's decision by the administration to consolidate funding for spaceborne and airborne reconnaissance acquisition in the NFIP and JMIP respectively—regardless of the intended customer base—makes sense in light of the new definitions for programming and budgeting intelligence activities and programs.

The committee believes that the DCI and Deputy Secretary of Defense should review jointly the budget categories of these and other programs prior to the submission of the fiscal year 1997 budget request and make the appropriate adjustments. Further, the DCI and Deputy Secretary of Defense should consider whether split funding arrangements; that is, funding provided by more than one intelligence budget category, are required for those organizations charged with acquisition of intelligence platforms; that is, the Defense Airborne Reconnaissance Office and the National Reconnaissance Office, on the grounds of improved management efficiency without regard to the consumer base as defined by Executive Order 12333 and Department of Defense Directive 5205.0. The committee requests that a report assessing these issues and outlining any specific programmatic adjustments made in the President's fiscal year 1997 budget request to more accurately reflect the intent of the new budgeting system be provided to the Intelligence and Defense Committees by March 1, 1996.

COMMITTEE RECOMMENDATIONS ON JMIP

Unlike the activities of the National Foreign Intelligence Program which the committee also authorizes, many activities funded by the new Joint Military Intelligence Program are unclassified. However, the amount of the total fiscal year 1996 budget request for JMIP, like that for the NEIP, is classified, as is any comprehensive treatment of JMIP elements. Given these facts, and in order to provide for the greatest degree of openness possible, the committee provides in the following sections its unclassified recommendations on JMIP elements. Further recommendations, as well as classified details on these unclassified recommendations, are provided in the classified annex accompanying this bill.

AIRBORNE RECONNAISSANCE PRIORITIES

The committee believes that it is vital to maintain a robust airborne reconnaissance force that is capable of collection satisfying priority intelligence requirements in peacetime, crisis, and war. The committee also understands that, in a zero sum gain budget environment, choices need to be made between upgrades to current manned system and the development of new unmanned platforms. Due to the increasing demands and requirements placed on our Nation's current generation of manned reconnaissance systems, the committee makes the following recommendations to redirect resources requested for unmanned aerial vehicle development activities to several manned reconnaissance upgrades which the committee views as essential in order to provide mission-capable forces to the warfighting commanders-in-chief [CINC's].

Accordingly, the committee recommends changes to the administration's fiscal year 1996 budget request to terminate one of five unmanned aerial vehicle [UAV] programs currently under development by the Defense Airborne Reconnaissance Program [DARP] and, instead, to reallocate these resources to provide for the upgrade of existing manned reconnaissance platforms.

CONVENTIONAL HIGH ALTITUDE ENDURANCE UAV

The committee recommends termination of the conventional high altitude endurance unmanned aerial vehicle [CONV HAE UAV] development effort, a reduction to the DARP in fiscal year 1996 of $117 million. The committee believes that the CONV HAE UAV will not provide an increased capability over the current U–2 airborne reconnaissance fleet and is therefore not required. The U–2 is an operational system currently supporting warfighting and national intelligence requirements. The CONV HAE UAV is an advanced concept technology demonstration [ACTD] project and has not achieved first flight.

In fact, the U–2 is a much more capable multisensor reconnaissance aircraft today than the CONV HAE UAV is designed to be. The U–2 fleet provides radar, electro-optical, and film imagery as well as electronic intelligence collection support to national, theater, and tactical commanders. The CONV HAE UAV will have only imagery sensors, and these will be less capable than those on-board the U–2. The U–2 has a much greater payload capacity than the CONV HAE UAV design. The U–2 affords a deeper look capability than planned for the CONV HAE UAV. Further, the committee understands that the CONV HAE UAV operational concept, now under development, is virtually identical to that of the U–2.

Cost comparisons are difficult to make because the U–2 is an existing asset flying missions on a daily basis and the CONV HAE UAV is an ACTD and has no flight experience. However, information provided to the committee by the DARP indicates that the flying hour costs of the UAV are comparable to the U–2.

The committee believes that development by the DARP of the low observable high altitude endurance unmanned aerial vehicle [LO HAE UAV] as a complementary system to the U–2 will provide the most capability to national policymakers and the warfighter. The committee strongly suggests that the Department investigate increases in capability that can be achieved in the LO HAE UAV if the goal for unit flyaway cost is increased from $10 to $20 million. The committee requests that the DARO prepare an analysis on this alternative and provide it to the intelligence and defense committees by March 1, 1996.

RC–135V/W RIVET JOINT ENGINE UPGRADES

Rivet Joint is an Air Force reconnaissance program which provides all weather, worldwide signals intelligence collection support to theater commanders. The committee has become concerned with the high OPTEMPO of the RC–135V/W Rivet Joint reconnaissance fleet. The RC–135 airframes currently are logging an extraordinary number of annual flight hours. Additionally, the schedule frequency and the extended mission times of the Rivet Joint program contribute significantly to the fuel and operating costs of the aircraft. Further, the current engines do not meet State III noise levels or EPA emission standards.

The committee is aware that the Air Force is considering the establishment of a reengining program for the RC–135 aircraft. Reengining with the CFM–56 engines common to the tanker fleet and commercial airlines would increase RC–135 nominal operating altitudes considerably, thereby greatly enhancing sensor field-of-view and area coverage, decreasing fuel consumption, increasing on-station time, and improving short-field capability for contingency operations. Current tanker support requirements and tanker flying could also be reduced significantly.

Therefore, the committee recommends an authorization of $79.5 million in fiscal year 1996 to begin reengining the RC–135 fleet. The committee expects the DARP to budget the additional funds required to continue reengining in fiscal year 1997 and beyond.

U–2 UPGRADES

While the committee is supportive of the DARP initiative to define a joint airborne SIGINT architecture [JASA], there is concern about the affordability of this approach for the military departments. The committee is also concerned with the Defense Department's apparent decision not to continue upgrading current platforms while focusing funding exclusively on a new development program. Therefore, the committee recommends an authorization of $20 million in fiscal year 1996 for the DARP to initiate a sensor upgrade program for the U–2 fleet. Further details about the proposed upgrade are contained in the classified annex accompanying this bill. The committee expects the DARP to budget for the remaining funds required to complete this upgrade in fiscal year 1997 and beyond. The committee also believes that this upgrade should be fully compliant with JASA standards.

The committee also makes a recommendation to improve the defensive capabilities of the U–2 fleet and provides $13 million in fiscal year 1996 for this purpose. Details of this initiative are included in the classified annex accompanying this bill. As with the proposed sensor upgrade, the committee expects the DARP to budget for the remaining funds required to complete this upgrade in fiscal year 1997 and beyond.

DEFENSE INTELLIGENCE COUNTER DRUG ANALYSIS INITIATIVES

In line with the committee's efforts to enhance intelligence capabilities in the area of counternarcotics and other high-priority issues, the committee recommends an authorization of an additional $7 million in fiscal year 1996 to the Defense Intelligence Counterdrug Program [DICP]. These funds should be applied against a variety of high-priority, counterdrug analysis, and connectivity programs identified by the DICP program manager. Details of this initiative are included in the classified annex accompanying this bill.

INFORMATION SYSTEMS SECURITY

While the administration's fiscal year 1996 budget request for DOD's Information Systems Security Program provides for a significant increase over the amounts requested in fiscal year 1995, the committee notes that information security [INFOSEC] personnel and resources will still have declined by roughly 40 percent since 1987. Meanwhile, in planning for future conflicts, the Department of Defense is deliberately placing increased reliance on information systems to compensate for a reduced force structure.

The committee does not believe that the Department of Defense has adequately assessed U.S. information security requirements. Further, it does not believe that there is a coherent plan or program to rectify the vulnerabilities identified by the Joint Security Commission, the Commission on Roles and Missions, and independent organizations such as the Rand Corp. An effective and comprehensive U.S. policy needs to be developed in order to prepare an integrated response that recognizes not only the vulnerabilities of U.S. Government communications, but the vulnerabilities of the underlying public switch network [PSN]. In that regard, it is not clear what benefits can be achieved through increased DOD spending on information security when over 95 percent of DOD communications travel over PSN and the PSN is not protected against attacks that sophisticated adversaries may employ in future conflicts. In sum, a comprehensive U.S. INFOSEC plan urgently needs to be developed.

The committee therefore, in its report, requests the DCI and the Secretary of Defense to prepare a comprehensive report which: (a) identifies the key threats to U.S. computers and communications systems, including those of both the Government and the private sector; that is, the public switch network upon which the Government heavily depends; and, (b) provides a comprehensive plan for addressing the threats described in section (a), to include any necessary legislative or programmatic recommendations required to protect Government or private U.S. information systems. The report is to be provided to the Intelligence and Defense Committees not later than March 1, 1996. In the absence of such a plan, the committee remains skeptical regarding the benefits that can be achieved through increased funding for the Department of Defense Information Systems Security Program.

COMMERCIAL OFF-THE-SHELF TECHNOLOGY

It is the sense of the committee that, to the extent practicable, all high performance computing and communications [HPCC] equipment and products purchased with funds authorized in this act should be commercial-off-the-shelf [COTS] or modified COTS.

The Department of Defense has already adopted a COTS policy in its purchase of high performance computing and communications systems, with significant cost savings to the taxpayers and with excellent performance results. Moreover, the Department's September 1994 defense technology plan, prepared by the Director of Defense Research and Engineering, recommends the utilization of more commercially viable technologies in the purchase of high performance computer systems. (Computing and Software, Defense Technology Plan.)

The committee also believes that the application of a COTS technology policy among the intelligence agencies should be adopted and implemented beginning in fiscal year 1996. The committee is hopeful that a COTS policy for the procurement of high performance computing and communications equipment could save millions of dollars and maintain the quality and performance standards required by the intelligence agencies both now and in the future.

Therefore, the committee included in the report a request that the agencies receiving funding authorized in this bill begin the process of adopting COTS technology procurement procedures in their high performance computing and communications programs and report, through the DCI, to the Intelligence and Defense Committees not later than May 1, 1996, regarding compliance with this request.

TECHNOLOGIES TO IMPROVE SOUND PROCESSING DEVICES USED BY THE PROFOUNDLY DEAF

Recent technological advances have made it possible for the medical community to provide substantial hearing to profoundly deaf individuals who cannot benefit from conventional hearing aids. Surgically implanted electrodes, combined with external speech processing devices, have the demonstrated ability to provide sound information across the frequency range even at low volume; that is, 30 decibels. Some children and adults, who would have had no option other than to use sign language, now have access to spoken language and can function in school and the workplace without any use of sign language. While the benefits can be enormous, it is also true that the quality of sound provided by cochlear implants is still crude compared to normal hearing. Remarkable progress has been made, but many technical issues remain, including the reliability, size, and the effectiveness of the hardware and software used by manufacturers of sound processing devices.

The intelligence community, and the National Security Agency in particular, is a world leader in speech and signal processing. It is quite possible that some of the sophisticated technologies employed by the intelligence community could increase the signal-to-noise ratio in the sound processing devices used by the profoundly deaf. The committee has recently seen how imaging technology developed by the intelligence community can be adapted to cancer screening by the medical community, and it is the committee's hope that similar success can be achieved in this area. In the report accompanying this bill, therefore, the committee requests the intelligence community to contact U.S. manufacturers of cochlear implant devices, review their technical needs, and identify any technologies that might be shared with such manufacturers in order to improve the quality of hearing for the hearing impaired. The committee also requests a report outlining the results of the intelligence community's review, to include identification of any capabilities that should be shared with U.S. manufacturers of cochlear implants, not later than May 1, 1996.

Mr. President, I ask that the full text of the bill be printed in the RECORD.

The text of the bill follows:

S. 922

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act for Fiscal Year 1996".

TITLE I—INTELLIGENCE ACTIVITIES

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for fiscal year 1996 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

(10) The Drug Enforcement Administration.

(11) The National Reconnaissance Office.

(12) The Central Imagery Office.

SEC. 102. CLASSIFIED SCHEDULE OF AUTHORIZATIONS.

(a) SPECIFICATIONS OF AMOUNTS AND PERSONNEL CEILINGS.—The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1996, for the conduct of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Committee of Conference to accompany ( ) of the One Hundred and Fourth Congress.

(b) AVAILABILITY OF CLASSIFIED SCHEDULE OF AUTHORIZATIONS.—The Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the Executive Branch.

SEC. 103. PERSONNEL CEILING ADJUSTMENTS.

(a) AUTHORITY FOR ADJUSTMENTS.—With the approval of the Director of the Office of Management and Budget, the Director of Central Intelligence may authorize employment of civilian personnel in excess of the number authorized for fiscal year 1996 under section 102 of this Act when the Director determines that such action is necessary to the performance of important intelligence functions, except that the number of personnel employed in excess of the number authorized under such section may not, for any element of the intelligence community (as defined in section 3(4) of the National Security Act of

1947 (50 U.S.C. 401(4)), exceed 2 percent of the number of civilian personnel authorized under such section for such element.

(b) NOTICE TO INTELLIGENCE COMMITTEES.—The Director of Central Intelligence shall notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate prior to exercising the authority granted by this section.

SEC. 104. INTELLIGENCE COMMUNITY MANAGEMENT ACCOUNT.

(a) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated for the Intelligence Community Management Account of the Director of Central Intelligence for fiscal year 1996 the sum of $98,283,000.

(2) Funds made available under paragraph (1) for the Advanced Research and Development Committee and the Environmental Task Force shall remain available until September 30, 1997.

(b) AUTHORIZED PERSONNEL LEVELS.—The Community Management Staff of the Director of Central Intelligence is authorized 247 full-time personnel as of September 30, 1996. Such personnel of the Community Management Staff may be permanent employees of the Community Management Staff or personnel detailed from other elements of the United States Government.

(c) REIMBURSEMENT.—During the fiscal year 1996, any officer or employee of the United States or any member of the Armed Forces who is detailed to the Community Management Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

TITLE II—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

SEC. 201. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1996 the sum of $213,900,000.

TITLE III—GENERAL PROVISIONS

SEC. 301. INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW.

Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

SEC. 302. RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES.

The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or the laws of the United States.

SEC. 303. APPLICATION OF SANCTIONS TO INTELLIGENCE ACTIVITIES.

The National Security Act of 1947 (50 U.S.C.401 et seq.) is amended by adding at the end thereof the following new title:

"TITLE VIII—APPLICATION OF SANCTIONS LAWS TO INTELLIGENCE ACTIVITIES

"SEC. 801. DELAY OF SANCTIONS.

"Notwithstanding any other provision of law, the President may delay the imposition of a sanction related to the proliferation of weapons of mass destruction, their delivery systems, or advanced conventional weapons when he determines that to proceed without delay would seriously risk the compromise of a sensitive intelligence source or method or an ongoing criminal investigation. The President shall terminate any such delay as soon as it is no longer necessary to that purpose.

"SEC. 802. REPORTS.

"Whenever the President makes the determination required pursuant to section 801, the President shall promptly report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives the rationale and circumstances that led the President to exercise the authority under section 801 with respect to an intelligence source or method, and to the Judiciary Committees of the Senate and the House of Representatives the rationale and circumstances that led the President to exercise the authority under section 801 with respect to an ongoing criminal investigation. Such report shall include a description of the efforts being made to implement the sanctions as soon as possible and an estimate of the date on which the sanctions will become effective.".

SEC. 304. THRIFT SAVINGS PLAN FORFEITURE.

(a) IN GENERAL.—Section 8432(g) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any other provision of law, contributions made by the Government for the benefit of an employee under subsection (c), and all earnings attributable to such contributions, shall be forfeited if the employee's annuity, or that of a survivor or beneficiary, is forfeited pursuant to subchapter II of chapter 83 of this title.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to offenses upon which the requisite annuity forfeitures are based occurring on or after the date of enactment of this Act.

SEC. 305. AUTHORITY TO RESTORE SPOUSAL PENSION BENEFITS TO SPOUSES WHO COOPERATE IN CRIMINAL INVESTIGATIONS AND PRECAUTIONS FOR NATIONAL SECURITY OFFENSES.

Section 8312 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(e) Notwithstanding any other provision of law, the spouse of an employee whose annuity or retired pay is forfeited under this section or section 8313 after the enactment of this subsection shall be eligible for spousal pension benefits if the Attorney General determines that the spouse fully cooperated with Federal authorities in the conduct of a criminal investigation and subsequent prosecution of the employee.".

SEC. 306. AMENDMENT TO THE HATCH ACT REFORM AMENDMENTS OF 1993.

Section 7325 of title 5, United States Code, is amended by adding after "section 7323(a)" the following: "and paragraph (2) of section 7323(b)".

SEC. 307. REPORT ON PERSONNEL POLICIES.

(a) REPORT REQUIRED.—Not later than three months after the date of enactment of this Act, the Director of Central Intelligence shall submit to the intelligence committees of Congress a report describing personnel procedures, and recommending necessary legislation, to provide for mandatory retirement for expiration of time in class, comparable to the applicable provisions of section 607 of the Foreign Service Act of 1980 (22 U.S.C. 4007), and termination based on relative performance, comparable to section 608 of the Foreign Service Act of 1980 (22 U.S.C. 4008), for all civilian employees of the Central Intelligence Agency, the National Security Agency, the Defense Intelligence Agency, and the intelligence elements of the Army, Navy, Air Force, and Marine Corps.

(b) COORDINATION.—The preparation of the report required by subsection (a) shall be coordinated as appropriate with elements of the intelligence community (as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(4)).

(c) DEFINITION.—As used in this section, the term "intelligence committees of Congress" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

SEC. 308. ASSISTANCE TO FOREIGN COUNTRIES.

(a) IN GENERAL.—Notwithstanding any other provision of law, funds authorized to be appropriated by this Act may be used to provide assistance to a foreign country for counterterrorism efforts if—

(1) such assistance is provided for the purpose of protecting the property of the United States Government or the life and property of any United States citizen, or furthering the apprehension of any individual involved in any act of terrorism against such property or persons; and

(2) the appropriate committees of Congress are notified not later than 15 days prior to the provision of such assistance.

(b) DEFINITION.—As used in this section, the term "appropriate congressional committees" means the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives.

TITLE IV—CENTRAL INTELLIGENCE AGENCY

SEC. 401. EXTENSION OF THE CIA VOLUNTARY SEPARATION PAY ACT.

Section 2(f) of the CIA Voluntary Separation Pay Act is amended by striking out "September 30, 1997" and inserting in lieu thereof "September 30, 1999".

SEC. 402. VOLUNTEER SERVICE PROGRAM.

The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end of the following new section:

"SEC. 20. VOLUNTEER SERVICE PROGRAM.

"(a) Notwithstanding any other provision of law, the Director of Central Intelligence is authorized to establish and maintain a program during fiscal years 1996 through 2001 to utilize the services contributed by not more than 50 retired annuitants who serve without compensation as volunteers in aid of the review by the Central Intelligence Agency for declassification or downgrading of classified information under applicable Executive Orders covering the classification and declassification of national security information and Public Law 102-526.

"(b) The Agency is authorized to use sums made available to the Agency by appropriations or otherwise for paying the costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of the review by the Agency of classified information, including, but not limited to, the costs of training, transportation, lodging, subsistence, equipment, and supplies. Agency officials may authorize either direct procurement of, or reimbursement for, expenses incidental to the effective use of volunteers, except that provision for such expenses or services shall be in accordance with volunteer agreements made with such individuals and that such sums may not exceed $100,000.

"(c) Notwithstanding the provision of any other law, individuals who volunteer to provide services to the Agency under this section shall be covered by and subject to the provisions of—

"(1) the Federal Employees Compensation Act; and

"(2) chapter 11 of title 18, United States Code,

as if they were employees or special Government employees depending upon the days of expected service at the time they begin their volunteer service.".

SEC. 403. AUTHORITIES OF THE INSPECTOR GENERAL OF THE CENTRAL INTELLIGENCE AGENCY.

(a) REPORTS BY THE INSPECTOR GENERAL.—Section 17(b)(5) of the Central Intelligence Act of 1949 (50 U.S.C. 403q) is amended to read as follows:

"(5) In accordance with section 535 of title 28, United States Code, the Inspector General shall report to the Attorney General any information, allegation, or complaint received by the Inspector General relating to violations of Federal criminal law that involve a program or operation of the Agency, consistent with such guidelines as may be issued by the Attorney General pursuant to paragraph (2). A copy of all such reports shall be furnished to the Director.".

(b) EXCEPTION TO NONDISCLOSURE REQUIREMENT.—Section 17(e)(3)(A) of such Act is amended by inserting after "investigation" the following: "or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken".

SEC. 404. REPORT ON LIAISON RELATIONSHIPS.

(a) ANNUAL REPORT.—Section 502 of the National Security Act of 1947 (50 U.S.C. 413a) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following:

"(3) annually submit to the intelligence committees a report describing all liaison relationships for the preceding year, including—

"(A) the names of the governments and entities;

"(B) the purpose of each relationship;

"(C) the resources dedicated (including personnel, funds, and materiel);

"(D) a description of the intelligence provided and received, including any reports on human rights violations; and

"(E) any significant changes anticipated.".

(b) DEFINITION.—Section 606 of such Act is amended by adding at the end the following:

"(11) The term 'liaison' means any governmental entity or individual with whom an intelligence agency has established a relationship for the purpose of obtaining information.".

TITLE V—DEPARTMENT OF DEFENSE INTELLIGENCE ACTIVITIES

SEC. 501. COMPARABLE OVERSEAS BENEFITS AND ALLOWANCES FOR CIVILIAN AND MILITARY PERSONNEL ASSIGNED TO THE DEFENSE INTELLIGENCE AGENCY.

(a) TITLE 10.—Title 10, United States Code, is amended—

(1) in section 1605(a), by striking "and" after "Defense Attache Offices" and inserting "or"; and

(2) in section 1605(a), by inserting ", and Defense Intelligence Agency employees assigned to duty outside the United States," after "outside the United States,".

(b) TITLE 37.—Title 37, United States Code, is amended—

(1) in section 431(a), by striking "and" after "Defense Attache Offices" and inserting "or"; and

(2) in section 431(a), by inserting ", and members of the armed forces assigned to the Defense Intelligence Agency and engaged in intelligence related duties outside the United States," after "outside the United States".

SEC. 502. AUTHORITY TO CONDUCT COMMERCIAL ACTIVITIES NECESSARY TO PROVIDE SECURITY FOR AUTHORIZED INTELLIGENCE COLLECTION ACTIVITIES ABROAD.

Section 431(a) of title 10, United States Code, is amended by striking "1995" and inserting "2001".

SEC. 503. MILITARY DEPARTMENTS' CIVILIAN INTELLIGENCE PERSONNEL MANAGEMENT SYSTEM: ACQUISITION OF CRITICAL SKILLS.

(a) ESTABLISHMENT OF TRAINING PROGRAM.—Chapter 81 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1599. Financial assistance to certain employees in acquisition of critical skills

"(a) TRAINING PROGRAM.—The Secretary of Defense shall establish an undergraduate training program with respect to civilian employees in the Military Departments' Civilian Intelligence Personnel Management System that is similar in purpose, conditions, content, and administration to the program which the Secretary of Defense established under section 16 of the National Security Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.

"(b) FUNDING OF TRAINING PROGRAM.—Any payments made by the Secretary to carry out the program required to be established by subsection (a) may be made in any fiscal year only to the extent that appropriated funds are available for that purpose.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by adding at the end thereof the following:

"Sec. 1599. Financial assistance to certain employees in acquisition of critical skills.".

TITLE VI—FEDERAL BUREAU OF INVESTIGATION

SEC. 601. DISCLOSURE OF INFORMATION AND CONSUMER REPORTS TO FBI FOR COUNTERINTELLIGENCE PURPOSES.

(a) IN GENERAL.—The Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after section 623, the following new section:

"§ 624. Disclosures to FBI for counterintelligence purposes

"(a) IDENTITY OF FINANCIAL INSTITUTIONS.—Notwithstanding section 604 or any other provision of this title, a consumer reporting agency shall furnish to the Federal Bureau of Investigation the names and addresses of all financial institutions (as that term is defined in section 1101 of the Right to Financial Privacy Act of 1978) at which a consumer maintains or has maintained an account, to the extent that information is in the files of the agency, when presented with a written request for that information, signed by the Director of the Federal Bureau of Investigation, or the Director's designee, which certifies compliance with this section. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(1) such information is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the consumer—

"(A) is a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978) or a person who is not a United States person (as defined in such section 101) and is an official of a foreign power; or

"(B) is an agent of a foreign power and is engaging or has engaged in an act of international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

"(b) IDENTIFYING INFORMATION.—Notwithstanding the provisions of section 604 or any other provision of this title, a consumer reporting agency shall furnish identifying information respecting a consumer, limited to name, address, former addresses, places of employment, or former places of employment, to the Federal Bureau of Investigation when presented with a written request, signed by the Director or the Director's designee, which certifies compliance with this subsection. The Director or the Director's designee may make such a certification only if the Director or the Director's designee has determined in writing that—

"(A) such information is necessary to the conduct of an authorized counterintelligence investigation; and

"(B) there is information giving reason to believe that the consumer has been, or is about to be, in contact with a foreign power or an agent of a foreign power (as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978).

"(c) COURT ORDER FOR DISCLOSURE OF CONSUMER REPORTS.—Notwithstanding section 604 or any other provision of this title, if requested in writing by the Director of the Federal Bureau of Investigation, or a designee of the Director, a court may issue an order ex parte directing a consumer reporting agency to furnish a consumer report to the Federal Bureau of Investigation, upon a showing in camera that—

"(1) the consumer report is necessary for the conduct of an authorized foreign counterintelligence investigation; and

"(2) there are specific and articulable facts giving reason to believe that the consumer whose consumer report is sought—

"(A) is an agent of a foreign power, and

"(B) is engaging or has engaged in an act of international terrorism (as that term is defined in section 101(c) of the Foreign Intelligence Surveillance Act of 1978) or clandestine intelligence activities that involve or may involve a violation of criminal statutes of the United States.

The terms of an order issued under this subsection shall not disclose that the order is issued for purposes of a counterintelligence investigation.

"(d) CONFIDENTIALITY.—No consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall disclose to any person, other than those officers, employees, or agents of a consumer reporting agency necessary to fulfill the requirement to disclose information to the Federal Bureau of Investigation under this section, that the Federal Bureau of Investigation has sought or obtained the identity of financial institutions or a consumer report respecting any consumer under subsection (a), (b), or (c), and no consumer reporting agency or officer, employee, or agent of a consumer reporting agency shall include in any consumer report any information that would indicate that the Federal Bureau of Investigation has sought or obtained such information or a consumer report.

"(e) Payment of Fees.—The Federal Bureau of Investigation shall, subject to the availability of appropriations, pay to the consumer reporting agency assembling or providing report or information in accordance with procedures established under this section a fee for reimbursement for such costs as are reasonably necessary and which have been directly incurred in searching, reproducing, or transporting books, papers, records, or other data required or requested to be produced under this section.

"(f) Limit on Dissemination.—The Federal Bureau of Investigation may not disseminate information obtained pursuant to this section outside of the Federal Bureau of Investigation, except to other Federal agencies as may be necessary for the approval or conduct of a foreign counterintelligence investigation, or, where the information concerns a person subject to the uniform Code of Military Justice, to appropriate investigative authorities within the military department concerned as may be necessary for the conduct of a joint foreign counterintelligence investigation.

"(g) Rules of Construction.—Nothing in this section shall be construed to prohibit information from being furnished by the Federal Bureau of Investigation pursuant to a subpoena or court order, in connection with a judicial or administrative proceeding to enforce the provisions of this Act. Nothing in this section shall be construed to authorize or permit the withholding of information from the Congress.

"(h) Reports to Congress.—On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and the Select Committee on Intelligence and the Committee on Banking, Housing, and Urban Affairs of the Senate concerning all requests made pursuant to subsections (a), (b), and (c).

"(i) Damages.—Any agency or department of the United States obtaining or disclosing any consumer reports, records, or information contained therein in violation of this section is liable to the consumer to whom such consumer reports, records, or information relate in an amount equal to the sum of—

"(1) $100, without regard to the volume of consumer reports, records, or information involved;

"(2) any actual damages sustained by the consumer as a result of the disclosure;

"(3) if the violation is found to have been willful or intentional, such punitive damages as a court may allow; and

"(4) in the case of any successful action to enforce liability under this subsection, the costs of the action, together with reasonable attorney fees, as determined by the court.

"(j) Disciplinary Actions for Violations.—If a court determines that any agency or department of the United States has violated any provision of this section and the court finds that the circumstances surrounding the violation raise questions of whether or not an officer or employee of the agency or department acted willfully or intentionally with respect to the violation, the agency or department shall promptly initiate a proceeding to determine whether or not disciplinary action is warranted against the officer or employee who was responsible for the violation.

"(k) Good-Faith Exception.—Notwithstanding any other provision of this title, any consumer reporting agency or agent or employee thereof making disclosure of consumer reports or identifying information pursuant to this subsection in good-faith reliance upon a certification of the Federal Bureau of Investigation pursuant to provisions of this section shall not be liable to any person for such disclosure under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State.

"(l) Limitation of Remedies.—Notwithstanding any other provision of this title, the remedies and sanctions set forth in this section shall be the only judicial remedies and sanctions for violation of this section.

"(m) Injunctive Relief.—In addition to any other remedy contained in this section, injunctive relief shall be available to require compliance with the procedures of this section. In the event of any successful action under this subsection, costs together with reasonable attorney fees, as determined by the court, may be recovered.".

(b) Clerical Amendment.—The table of sections at the beginning of the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) is amended by adding after the item relating to section 624 the following:

"624. Disclosures to FBI for counterintelligence purposes.".

TITLE VII—TECHNICAL CORRECTIONS

SEC. 701. CLARIFICATION WITH RESPECT TO PAY FOR DIRECTOR OR DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE APPOINTED FROM COMMISSIONED OFFICERS OF THE ARMED FORCES.

Section 102(c)(3)(C) of the National Security Act of 1947 (50 U.S.C. 403(c)(3)(C)) is amended—

(1) by striking "A" before "commissioned" and inserting "An active duty";

(2) by striking out "(including retired pay)";

(3) by inserting "an active duty" after "payable to"; and

(4) by striking "a" before "commissioned".

SEC. 702. CHANGE OF OFFICE DESIGNATION IN CIA INFORMATION ACT.

Section 701(b)(3) of the CIA Information Act of 1984 (50 U.S.C. 431(b)(3)) is amended by striking "Office of Security" and inserting "Office of Personnel Security".•

CONGRATULATIONS ON THE 100TH BIRTHDAY OF THE BERGEN RECORD

• Mr. LAUTENBERG. Mr. President, on June 5, 1995, the Bergen Record, the flagship of one of New Jersey's most successful family-owned businesses, turned 100 years old.

Since John Borg bought the paper in 1930, it has flourished to become New Jersey's third largest daily newspaper with a daily circulation of 172,000 and a Sunday circulation of 246,000. New Jersey's readers have been well served by an editorial policy that encourages thoughtful, objective reporting on issues of importance to our State's most populous county.

The Bergen Record is the cornerstone upon which the Borg family built its burgeoning media business, Macromedia Inc., which includes the Bergen Record Corp., the News Tribune, Magna Media Advertising, Inc., and Gateway Communications.

But what is special about this company is that, through all of this growth, the Borg family has continued the tradition started by John Borg of fostering an employee-oriented business. The chairman of the board, Malcolm Borg, is known by his first name and all 1,200 employees know that he has an open-door policy.

This attitude extends outward to the community with programs such as the in-house tutoring program for Hackensack Middle School Students and the scholarship program for the children of Record employees. In addition, advertising space is regularly donated to benefit and promote such worthy causes as Food Action of New Jersey and Help the Heartland. Employees are encouraged to volunteer their time for worthy causes.

A commissioner on the Palisades Interstate Park Commission, Malcolm Borg has taken a lead role in moving to protect Sterling Forest, the largest contiguous forest in New York. The aquifers in this forest supply one quarter of New Jersey's population with drinking water. Mac Borg's commitment to this project is instrumental in our fight to protect this land from a planned development which includes 14,000 homes and light industrial and commercial space.

Mr. President, I would like to recognize the enormous contributions to Bergen County and New Jersey made by the Borg family, the Bergen Record and the employees of the paper. They have served their community well and I congratulate them.•

ON THE VALUE OF PUBLIC SERVICE

• Mr. HATFIELD. Mr. President, I appreciate this opportunity to share with my colleagues the thoughtful comments of National Labor Relations Board Chairman, William B. Gould IV, to graduates of the Ohio State University College of Law. In his remarks, Mr. Gould reminds us of the satisfaction one obtains through service to one's community and of the many opportunities available for us to do so. His inspiring comments make clear the value and importance of this commitment to assisting those around us.

A remark by philosopher Albert Schweitzer has never failed to kindle my enthusiasm for work in the field of public service. Mr. Schweitzer once told an audience:

> I do not know what your destiny will be, but one thing I know: the only ones among you who will be truly happy are those who will have sought and found how to serve.

I thank my colleagues for this opportunity to make Mr. Gould's remarks a part of the Record.

The remarks follow:

[From the National Labor Relations Board, Washington, DC, May 14, 1995]

NLRB CHAIRMAN GOULD URGES LAW SCHOOL GRADS TO CONSIDER PUBLIC SERVICE CAREERS

In a commencement address on May 14 at the Ohio State University College of Law, National Labor Relations Board Chairman William B. Gould IV encouraged the graduates to consider careers in public service "even in this period of government bashing by the 104th Congress" and as the legal profession is under attack.

"My hope is that many of you will dedicate yourselves as lawyers or in other careers to a concern for the public good," Chairman Gould said in the graduation observance in Columbus, Ohio. "Now, when Oklahoma City has made it clear that the idea of government itself as well as the law is under attack, it is useful to reflect back upon what government, frequently in conjunction with lawyers, has done for us in this century alone in moving toward a more civilized society." He stated:.

"What would our society look like without the trust busters of Theodore Roosevelt's era and the Federal Reserve System created by Woodrow Wilson? Regulatory approaches to food and drug administration, the securities market, the licensing of radio and television stations, labor-management relations (with which my agency is concerned) and trade practices are all part of the Roosevelt New Deal legacy which few would disavow in toto."

Mr. Gould said "the challenge of public service in Washington has never been more exciting or inspirational," as a result of "the Clinton Administration's commitment—not only to helping the less financially able to use available educational opportunities and to provide a higher minimum wage to those who are in economic distress—but also, most particularly, through the National Service," He added:

"My sense is that there is a great opportunity for lawyers to serve the public good through the public service today—even in this period of government bashing by the 104th Congress. More than three decades ago President John F. Kennedy called upon the sense of a 'greater purpose' in a speech at the University of Michigan when he advocated the creation of the Peace Corps during the 1960 campaign. President Bill Clinton's National and Community Service Trust Act (AmeriCorps.), designed to allow young people tuition reimbursements for community service, echoes the same spirit of commitment set forth by President Kennedy—and at an earlier point by President Roosevelt through the Civilian Conservation Corps."

Tracing his own interest in the law and government service, Mr. Gould said he was inspired by the Supreme Court's landmark 1954 decision in *Brown* v. *Board of Education*, the NAACP's anti-discrimination efforts in the South, and "[m]ore than anything else . . . the struggle in South Africa made me see the connection between the rule of law and dealing with injustice." He also spoke of the "trilogy of values" at his "inner core" that has guided his life and fostered his philosophical allegience to the New Deal, the New Frontier and the Great Society.

The first of these values is the idea from his upbringing in the Episcopal Church of "our duty to live by the Comfortable Words and to help those who 'travail and are heavy laden.' The second was the belief, inspired by his parents, that "the average person needs some measure of protection against both the powerful and unexpected adversity." The third value, Mr. Gould continued, was "based upon personal exposure to the indignity of racial discrimination which consigned my parents' generation to a most fundamental denial of equal opportunity."

The NLRB Chairman, on leave as the Charles A. Beardsley Professor of Law at Stanford Law School, said he was proud of the agency's prominent role in the Major League Baseball dispute where "the public was able to obtain a brief glimpse of the Board's day-to-day commitment to the rule of law in the workplace." On March 26, the Board voted to seek injunctive relief under Section 10(j) of the Act requiring the owners to reinstate salary arbitration and free agency while the parties bargain a new contract. He said further:

"What may have been overlooked in the public view was the fact that the Board was able to proceed through a fast track approach and make the promise of spontaneous and free collection bargaining in the workplace a reality. I hope that the players and owners will now do their part and bargain a new agreement forthwith!"

"I am particularly proud to head an agency which is celebrating its 60th anniversary this summer and which, from the very beginning of its origins in the Great Depression of the 1930s, has contributed to the public good through adherence to a statute which encourages the practice and procedures of collective bargaining. . . ."

SERVING THE PUBLIC INTEREST THROUGH THE RULE OF LAW: A TRILOGY OF VALUES

(By William B. Gould IV, May 14, 1995)

Ladies and gentlemen. Members of the faculty. Honored guess. I am indeed honored to be with you here today in Columbus and to have the opportunity to address the graduates of this distinguished College of Law School as well as their parents, relatives, and friends on this most significant rite of passage. Looking backward 34 years to June 1961, my own law school graduation day was certainly one of the most important and memorable in my life. It was the beginning of a long involvement in labor and employment law as well as civil rights and international human rights.

But I confess that today I am hardly able to recall any of the wise words of advice that the graduation speaker imparted to us that shining day at Cornell Law School in Ithaca, New York. So, as I address you today I don't have any illusions that what I say is likely to change the course of your lives. But my hope is that my story will provide some context relevant to the professional pathways upon which you are about to embark.

Both governmental service and the furtherance of the rule of law by the legal profession have possessed a centrality and thus constituted abiding themes in my professional life. I hope that my remarks to you here today will induce some of you to consider government as an option at some point in your careers, notwithstanding the anti-government tenor of these times.

The tragedy of Oklahoma City has dramatized the contemporary vulnerability of these values to sustained attack, both verbal and violent. As the New York Times said last month, we must "confront the reality that over the past few years the language of politics has become infected with violent words and a mindset of animosity toward the institutions of government." The columnist Mark Shields has noted that this phenomenon has been fueled by the idea that the "red scare" should give way to the "fed scare."

My own view is that government does best when it intervenes to help those in genuine need of assistance—but I am aware that this point does not enjoy much popularity in Congress these days. Again Shields, in discussing recent comments of Senator Robert Kerry of Nebraska, put it well when he characterized the conservative view of the nation's problem: "The problem with the Poor is that they have too much money; the problem with the Rich is that they have too little."

Although I cannot recall the Great Depression and its desperate circumstances, a trilogy of values have always made up my inner core. The first of these is the idea that I heard in Long Branch, New Jersey's St. James' Episcopal Church every Sunday, i.e., that it is our duty to live by the Comfortable Words and to help those who "travail and are heavy laden." Fused together with this was a belief, inculcated by my parents, that the average person needs some measure of protection against both the powerful and unexpected adversity. The third was based upon personal exposure to the indignity of racial discrimination which consigned my parents' generation to a most fundamental denial of equal opportunity. It is this trilogy of values which fostered my philosophical allegiance to the New Deal, the New Frontier and the Great Society.

Simply put, I came to the law and Cornell Law School because of my view that law any lawyers can reduce arbitrary inequities and the fact that Chief Justice Earl Warren's May 17, 1954, opinion for a unanimous Supreme Court in Brown v. Board of Education represented an accurate illustration of that point. As you know, the holding was that separate but equal was unconstitutional in public education.

A unanimous Court rendered that historic decision—in some sense a corollary to President Harry Truman's desegregation of the Armed Forces—which possessed sweeping implications for all aspects of American society. The High Court's ruling prompted a new focus upon fair treatment in general and discrimination based upon such arbitrary considerations as sex age, religion, sexual orientation and disabilities in particular.

As a high school senior reading of NAACP Counsel Thurgood Marshall's courageous efforts throughout the South—and one who was heavily influenced by the Democratic Party's commitment to civil rights platforms in '48 and '52, as well as President Truman's insistence upon comprehensive medical insurance—I thought that the legal profession was one in which the moral order of human rights was relevant. The prominence of lawyers in political life, like Adlai Stevenson who "talked sense" to the American people, was also a factor in my choice of the law as a career.

More than anything else, though, the struggle in South Africa made me see the connection between the development of the rule of law and dealing with injustice. I watched the United Nations focus its attention upon that country when a young lawyer named Nelson Mandela and so many other brave activists were imprisoned, or, worse yet, tortured or killed for political reasons. My very first publication was a review of Alan Paton's "Hope for South Africa" in "The New Republic" in September 1959. In the early '90s I had the privilege to meet Mr. Mandela twice in South Africa—and then to attend President Mandela's inauguration just a year ago in Pretoria.

The Brown ruling, its judicial and legislative progeny and the inspiration of lawyers dedicated to principles and practicality—lawyers like Marshall, Mandela, Stevenson and President Lincoln in the fiery storm of our own Civil War—promoted my belief in the rule of law. And the fact is that my faith in the law as a vehicle for change has been reinforced and realized over these many years through the opportunities that I have had to work in private practice, teaching and government service.

My sense is that there is a great opportunity for lawyers to serve the public good through the public service today—even in this period of government bashing by the 104th Congress. More than three decades ago President John F. Kennedy called upon the sense of a "greater purpose" in a speech at the University of Michigan when he advocated the creation of the Peace Corps during the 1960 campaign. President Bill Clinton's National and Community Service Trust Act (AmeriCorps), designed to allow young people tuition reimbursements for community service, echoes the same spirit of commitment set forth by President Kennedy—and at an earlier point by President Franklin D. Roosevelt through the Civilian Conservation Corps.

This sense of idealism and purpose was at work in the New Deal which brought so many bright, public spirited young people to Washington committed and dedicated to the reform of our social, economic and political institutions. The same spirit has been rekindled by both President Kennedy as well as President Clinton since the arrival of this Administration in Washington almost two-and-one-half-years ago.

In a sense, this has come about by virtue of the Clinton Administration's commitment—not only to child immunization initiatives and helping the less financially able to use available educational opportunities and to provide a higher minimum wage to those who are in economic distress—but also, most particularly, through the National Service.

You have an unparalleled opportunity in the '90s to serve the public good. Your course offering which includes Social and Environmental Litigation, Right of Privacy, Society, Deviance and the Law, Foreign Relations Law, Employment Discrimination Law and Law of Politics, to mention a few, reflect our times and provide you with a framework that my contemporaries never possessed.

Though most of my words today are focused upon government or public service as a career or part of a career, the fact is that your commitment to the public interest and the rule of law can be realized in a number of forms. It is vital to the public interest that those committed to it are involved in a wide variety of legal, business and social careers—representing, for instance, corporations, unions, as well as public interest organizations.

But our commitment to law and the public interest is made more difficult given the fact that our legal profession is in the midst of a tumultuous and confusing environment. On the one hand, lawyer bashing, sometimes justified and sometimes not, seems to be moving full steam ahead. Part of this phenomenon seems to be attributable to the fear that the production of so many law students will soon result in too many lawyers for a society's own good.

Only two years ago a National Law Journal poll showed that only five percent of parents, given the choice of several professions, wanted their children to be attorneys. Undoubtedly, this unpopularity is what has fueled a number of the legal initiatives undertaken by the Republican Congress to the effect, for instance, that the loser in litigation should pay all costs, that caps be devised for punitive damages, etc.

A 1993 ABA poll comparing public attitudes toward nine professions ranked lawyers third from the bottom, ranking higher than only stockbrokers and politicians in popularity. In attempting to discover the reasons for the low public opinion of lawyers the poll asked what percentage of lawyers and of five other occupations lack the ethical standards and honesty to serve the public.

The results revealed an appalling ethical image of lawyers. Lawyers ranked well below accountants, doctors and bankers and barely above auto mechanics. According to the ABA poll half of the public thinks one-third or more of lawyers are dishonest, including one in four Americans who believe that a majority of lawyers are dishonest. The pollster concluded that "the legal profession must do some soul searching about the status quo, resolve to make some sacrifices to ensure a positive future, and, above all, clean up its own house."

One way for the profession to clean its own house is to find new substitutes for lengthy litigation, frequently both wasteful and unnecessarily acrimonious, such as alternative dispute resolution—particularly in my own area of employment law. More than a decade ago I chaired a Committee of the California State Bar which recommended that new methods be devised for many employment cases, and that where employees could have access to economical and expeditious procedures, it was appropriate to limit or cap damages. But the difficult balance involved is to avoid limitation of the basic rights of ordinary people to sue for the enforcement of consumer and employment related legislation.

Attitudes towards lawyers are inevitably affected by one's view of the law and the legal process. I hope that you will look very seriously at government service as you seek to use your newly acquired skills to better the position of your fellow human being. This is the most basic contribution that lawyers can make to society—and it is obvious that an increased commitment to government or, if you choose private practice or some other area of activity, pro bono work is central to this effort.

I am particularly proud to head an agency which is celebrating its 60th anniversary this summer and which, from the very beginning of its origins in the Great Depression of the 1930s, has contributed to the public good through adherence to a statute which encourages the practice and procedure of collective bargaining—as well as in other portions of our law. Since its inception, the National Labor Relations Board has possessed a culture of commitment to hard work, excellence, and to the promotion of a rule of law which is designed to allow both workers and business to peaceably resolve their difficulties through their own procedures.

Illustrative of this process was the NLRB's prominent role in the baseball dispute. It was not the Board's job to take sides between the players and the owners or to determine whose economic position ought to prevail. Consistent with this approach, it was our job to decide whether there was sufficient merit, as reflected by the facts and law, to proceed into federal district court to obtain an injunction against certain unilateral changes in conditions of employment made by the owners. The Board handled the baseball case as it does any other case.

Nor is it our job to take into account policy arguments arising out of the peculiarities of this industry, the income or status or notoriety of particular individuals on either side. The statute applies—properly in my judgment—to the unskilled and the skilled, to those who make the minimum wage and those who are financially secure.

In the baseball case, the public was able to obtain a brief glimpse of the Board's day-by-day commitment to the rule of law in the workplace. Where parties are involved in an established collective bargaining arrangement, our mandate under the statute is to act in a manner consistent with the fostering of the bargaining process—and I believe that we discharged our duty in baseball in a manner consistent with that objective.

What may have been overlooked in the public view was the fact that the Board was able to proceed through a fast track approach and make the promise of spontaneous and free collective bargaining in the workplace a reality. I hope that the players and owners will now do their part and bargain a new agreement forthwith!

Our March 26 decision to seek an injunction seems to have facilitated the resumption of baseball and thus was a great victory for the public in renewing its contact with the game which, like the Constitution, the Flag, and straight-ahead jazz is so central to the essence of the country. Hopefully, it will have the effect of promoting the collective bargaining process sooner rather than later.

Frequently, the public gains its impressions of lawyers and law from such high visibility cases and from exposure through television rather than books. I can tell you that another factor stimulating my interest in the law was watching the McCarthy-Army hearings in the spring of 1954, that fateful spring when Brown was decided. The hearings focused upon the Wisconsin Senator's investigation of alleged Communist infiltration of Ft. Monmouth, New Jersey, where my father worked. Because of ideological hysteria, "guilt" by association and rank anti-Semitism, many of our closest friends were dismissed—and, indeed, I feared that this would be my father's fate, particularly because of his announced sympathy for Paul Robeson, a hero to so many black people of his generation.

Later I had the opportunity to attend the so-called Watkins Hearings in the following September in Washington which ultimately led to MaCarthy's censure. Ft. Monmouth and the McCarthy-Army hearings demonstrated how excessive government authority can trample upon individual civil liberties—and the aftermath of the Watkins Hearings redeemed our country's constitutional protection of individual rights of belief and association.

Since then, I think that televised Congressional hearings, the Watergate hearings for instance, have contributed to the public's understanding about the rule of law and its relationship to the preservation of this Republic's principles. Though, regrettably less conclusive, it may be that the Iran-Contra hearings of 1988 and the Hill-Thomas hearings of October 1991 performed a similar function in that the assumption underlying both proceedings was that government, like private individuals, must adhere unwaveringly to the rule of law.

Again, this is to be contrasted with the spectacle of law as show business on television. In my state of California, the O.J. Simpson trial has treated the nation to an episodic soap opera which appears to be more about the business of the money chase than the real substance of law and the legal profession. As Attorney General Janet Reno said about the trial:

"I'm just amazed at the number of people who are watching it. If we put as much energy into watching the O.J. Simpson trial in

America . . . into other issues as Americans seem to have done in watching the trial, we might be further down the road."

A recent Los Angeles Times Mirror poll reported by Peter Jennings last month revealed that only 45 percent of adults surveyed said that they had read a newspaper the previous day, and a quarter of those responding said they spent so much time watching the Simpson trial that they did not have time for the rest of the news. At best, the siren song of sensationalism is a distraction—and, at worst, it reinforces excessively negative perceptions of law and lawyers.

My hope is that many of you will dedicate yourselves as lawyers or in other careers to a concern for the public good. Now, when Oklahoma City has made it clear that the idea of government itself as well as the law is under attack, it is useful to reflect back upon what government, frequently in conjunction with lawyers, has done for us in this century alone in moving toward a more civilized society.

Justice Holmes said, "Taxes are what we pay for civilized society,"—an axiom often forgotten in the politics of the mid-'90s. What would our society look like without the trust busters of Theodore Roosevelt's era and the Federal Reserve System created by Woodrow Wilson? Regulatory approaches to food and drug administration, the securities market, the licensing of radio and television stations, labor-management relations (with which my agency is concerned) and trade practices are all part of the Roosevelt New Deal legacy which few would disavow in toto.

It should not be forgotten that all three branches of federal government took the lead in the fight against racial discrimination and other forms of arbitrary treatment. And as Judge (now Counsel to the President) Abner Mikva has noted: "The history of the growth of the franchise is a shining example of why we needed . . . [the] federal approach."

Today, the challenge of public service in Washington has never been more exciting or inspirational. As I have indicated, President Clinton's National Public Service echoes anew the similar initiatives undertaken by both Roosevelt and Kennedy.

I urge you to think of the government as a career in which you can use your legal experience in pursuit of the public interest. That does not mean that you have to be a Washington or "inside the Beltway" careerist, although that is another way in which to make a contribution. Many of you may choose to serve in your communities throughout the country and, at a point where your career is well-developed, elect to serve through an appointment such as mine.

In particular, if you accept such an appointment consisting of a limited term (in the case of the Board five years), I hope that you will keep in mind President (then-Senator) Kennedy's characterization of eight law makers who were the subject of this book, "Profiles in Courage." Said the junior Senator from Massachusetts:

"His desire to win or maintain a reputation for integrity and courage were stronger than his desire to maintain his office . . . his conscience, his personal standards of ethics, his integrity or morality . . . were stronger than the pressures of public disapproval."

This is a particularly vexatious problem for those who are appointed and not elected because of the inevitable and appropriate subordination of appointees—even in the arena of independent regulation—to the people's elected representatives. My own view on serving in Washington is to do the very best you can to implement the public interest in the time allotted in your term, with the expectation that you will return to your community, reestablish your roots and feel satisfied that you have—to paraphrase President Kennedy—done your duty notwithstanding some of the immediate "pressures of public disapproval."

While I consider the term limits issue to be an entirely different proposition—the people ought always to be able to freely choose their elected leaders amongst the widest possible number of candidates—my view is that the proper standard for those who are subordinate to such leaders is that attributed to Cincinnatus, the Roman general and statesman of the fifth century, who upon discharging his public duty, returned to his community rather than taking the opportunity to seize power and perpetuate himself in office.

The independence of administrative agencies might be enhanced by legislation limiting Board Members or Commissioners to one term of service. The temptation to please elected superiors might decline accordingly.

Of course, all of us cannot win victories within 15 days, like Cincinnatus, and be back on our farms or in our communities so quickly. But true public service involves a self-sacrifice which rises above the immediate pressures. Do the best that you can to serve the public good.

This does not assure success or complete effectiveness. But it does allow you to make use of your acquired expertise for the best possible reasons. And this, in turn, puts you in the best position to see it through to the end with a measure of serenity that comes when you have expended your very best effort despite setbacks and criticisms you may endure in the process.

As President Lincoln said:

"If I were to try to read, much less answer, all the attacks made on me, this shop might as well be closed for any other business. I do the very best I know how—the very best I can and I mean to keep doing so until the end. If the end brings me out all right, what is said against me won't amount to anything. If the end brings me out wrong, ten angels swearing I was right would make no difference."

You graduate from a distinguished institution in the most exciting political period since the reforms undertaken by the Administration of the 1960s. I hope that some of you will be attracted to public service and help advance our society through the rule of law.

As you embark upon the excitement of a new career and challenges in the days ahead, I wish you all good luck and success on whatever path you choose.•

ROBERT P. URIBE

• Mr. LEVIN. Mr. President, I would like to recognize the lifetime achievements of Robert P. Uribe. On June 30, 1995, he will retire from his counseling position at the First Ward Community Center where he has worked for 27 years. He has served the Saginaw community in a wide variety of volunteer positions and is a respected leader in the Hispanic community.

As a counselor, Mr. Uribe has assisted countless members of the Saginaw community with their medical, financial, literacy, and other social needs. His list of volunteer service is long and impressive.

Mr. Uribe has served as chairman of the Saginaw Latin American Movement, vice chairman of the Saginaw Social Service Club, chairman of the Police Community Relations Commission, and commander of the American Legion Post 213. He has been a board member of the Spanish Speaking Center Federal Program, a member of the Michigan Governors Wage Deviation Board, a member of the Equal Education Advisory Committee, the Advisory Council on Migrant Housing, the Saginaw County Drug Abuse Council, and several affirmative action programs. Currently, Mr. Uribe is a member of the GM Hispanic leadership group, the Saginaw Economic Development Corp. and the screening committee for housing of the Saginaw Housing Commission.

Mr. Uribe has selflessly served the Saginaw community for three decades. His volunteer efforts are a model for his fellow citizens. Please join me in saying thank you to a man who has truly made a difference, Mr. Robert Uribe.•

THE SERVICE OF LARRY HOBART

Mr. HATFIELD. Mr. President, I thank my colleagues for this opportunity to recognize the longstanding service of Mr. Larry Hobart, the executive director of the American Public Power Association. Mr. Hobard joined the APPA 35 years ago. Today, he is recognized nationally as an innovator and broker of solutions to complex problems in the public power industry.

I have come to know Mr. Hobart through our work together to address issues facing public power generally and Bonneville Power Administration in my home State of Oregon in particular. Mr. Hobart has never failed to bring constructive expertise to the table in our efforts to resolve differences among parties. I have valued tremendously the knowledge, creativity, and experience he contributes to the process.

In addition to his work in the power industry, Mr. Hobart serves as vice president and a member of the board of directors of the Consumer Federation of America, the largest consumer organization in the United States.

I was sorry to learn that Larry will be retiring from the American Public Power Association. I know I am joined by many other members of this body in expressing regret at his departure but great thanks for his many valuable contributions to the legislative process on behalf of public power.

I appreciate this chance to share with my colleagues a speech Hobart gave on a recent trip to the Northwest. His remarks demonstrate a comprehensive grasp of the complex energy and natural resource issues facing the Pacific Northwest that only decades of active involvement and much thoughtful consideration can provide. I ask that it be printed in the RECORD.

The speech follows:

UPDATE FROM YOUR CHANGING NATION'S CAPITOL

(By Larry Hobart)

A lot of things have changed for public power in the past few years. Let me tick off six of them of importance to the Pacific Northwest:

1. The Energy Policy Act of 1992 was passed by Congress. Now the Federal Energy Regulatory Commission can order any transmitting utility, including Bonneville Power Administration under certain circumstances, to provide transmission services for any entity—utility or non-utility—generating electricity for sale for resale inside or outside of the region. FERC decisions encourage network access, comparability in pricing, and creation of Regional Transmission Groups. A more competitive bulk power supply market has developed with bidding pitting utilities against independent power producers against IOU subsidiaries against federal power marketing agencies.

2. Because of federal requirements, the price of salmon protection rose to an annual rate of $500 million a year, and combined with the effects of drought and lost revenues due to releases to flush fish, shoved BPA rates up near or beyond the point of noncompetitiveness, and raised the question for some preference customers as to whether federal power is the best buy.

3. Federal court interpretations of the Endangered Species Act reinforced the rigid nature of that statute, and suggested that there is no way short of an amendment by Congress that will prevent the imposition of an open-ended expense on power users that could ultimately price BPA power right out of the market and leave taxpayers to swallow an $8 billion investment.

4. Provisions of the Pacific Northwest Electric Power Planning and Conservation Act passed by Congress and signed by President Carter 15 years ago began to look increasingly obsolete because regional planning has been eroded by individual utility purchases in a competitive bulk power supply market, environmental demands placed on the federal power system have escalated costs, demand-side management approaches are now focused more on cost-effectiveness and customer information, and renewable resources must meet the economic test of gas-fired generation.

5. Global competition for sales of goods and services in international markets caused industries and businesses to engage in continuing rounds of down-sizing and cost-cutting; electric bills—even for firms that are not considered energy-intensive—became important expense items, and for some utilities, the principle for structuring rates for big users became "whatever it takes to keep the consumer." Retail competition became a reality across the nation. Failure to meet the challenge can now mean loss of industrial customers or even loss of the franchise.

6. And lastly, the Republicans took control of the U.S. Senate and House of Representatives. The Pacific Northwest has nine new U.S. Representatives. Tom Foley is gone as Speaker of the House, but seniority still gives your region important Republican representation. Mark Hatfield is chairman of the Senate Appropriations Committee, Bob Packwood heads the Senate Finance Committee, Frank Murkowski chairs the Senate Energy and Natural Resources Committee, Ted Stevens controls the Senate Rules and Administration Committee, and Don Young leads the House Natural Resources Committee.

Republicans attempted to "nationalize" issues in the campaign, running on a "contract with America" that stressed a balanced budget, tax cuts, and a build-up of national defenses. Meeting these goals will call for some form of new "revenues," which currently includes sale of four federal power marketing agencies—the Alaska Power Administration, the Western Area Power Administration, the Southwestern Power Administration, and the Southeastern Power Administration.

This morning I want to talk to you about some questions I think you must consider in the face of these facts as you plan the future of public power in the Pacific Northwest.

How can we avoid flushing down the river North America's greatest renewable energy resource—the Bonneville Power Administration?

Who is responsible for saving the system?

What steps need to be taken now?

Why should we worry about it?

We face a different situation than we confronted last year. Last year, the problem was political and the answer was economic: BPA critics charged that historically low interest rates constitute a subsidy, and BPA supporters responded with a scheme to restructure repayment. This year, the problem is economic, and the answer is political: BPA rates have become noncompetitive, and turning around the situation requires congressional decisions to change the ground rules.

If BPA's rates are not competitive, consumer-owned electric systems in the Pacific Northwest will increasingly turn to other less expensive sources of wholesale power. As the bulk power supply market expands with open access transmission, the opportunities for "shopping" the market will become greater, intensifying interest in suppliers other than BPA. Loss of load will leave BPA with the same fixed costs but fewer customers to share the burden. Even higher rates could result, giving other systems a reason to depart. The dismal reading is a "death spiral" in which BPA collapses like the pull of gravity into a black hole.

BPA is taking the business steps that any such threatened institution is expected to initiate in similar circumstances. It has backed away from a number of deals where power costs loomed larger than market prices at the margin, including a unit at McNary Dam, a gas-fired generating plant to be built by an IPP, and purchase of power from the province of British Columbia. It is seeking to control and cut costs, it is reducing personnel, it is restructuring to streamline operations, it is scaling back transmission line construction and improvements, it is emphasizing customer relations, and it is promoting packages of power at prices it hopes will hold in place existing markets. But the job is a tough one. BPA must deal with a significant body of statutory law that dictates how it operates, including 42 pages of dense language contained in the Pacific Northwest Electric Power Planning and Conservation Act. BPA must follow federal personnel practices, and accept the dictates of policymakers in the Department of Energy, the Office of Management and Budget, and the White House. It has looked at restructuring itself as a federal corporation, but the Office of Management and Budget and some members of Congress simply see such a solution as the first step toward privatization. BPA is the target of plenty of advice within the region from the regional council appointed by four governors, the press, and interest groups of all kinds.

But right now, the overriding fact about BPA economics is its open-ended obligation to pay for salmon survival. While the expenditures posted or postulated have produced questionable results in terms of fish, the one sure thing is that they represent the marginal measure of BPA's economic trouble. If these costs are not capped and cut back, their continued escalation poses the federal equivalency of bankruptcy with the loss of a source of revenue to repay taxpayer investment, the elimination of monies that might be employed to preserve fish under a practical program, and the disappearance of the regional asset at a "going out of business" sale.

What's the answer? The answer is congressional legislation, either through amendment of the Endangered Species Act or a specific statute limiting BPA's financial responsibility to an amount that allows it to price power at levels that permit a competitive response to current conditions.

Is this a special subsidy for BPA? No way! What is happening is that federal fish figures, activist jurists, and environmental groups are force-feeding BPA with experimental programs and giving no consideration to the costs versus the benefits.

Let's get real about this matter. Saving salmon with the methodology now in place is going to result in no money for repayment or fish. Randy Hardy said it right in testimony before a congressional committee earlier this year. "In today's competitive utility marketplace, Bonneville must first succeed as a business if it is to serve its wide-ranging regional mission and meet its federal responsibilities," he said. "Without revenues from the power side, it will be difficult, if not impossible, to continue to fund the region's fish, wildlife, conservation and renewables programs."

If the situation were not serious, it might be viewed as silly. The Direct Service Industries reported recently that under the Endangered Species Act, at least 214 West Coast salmon subspecies are potential candidates for ESA listing, even though they were members of four healthy species of salmon. "The listing of just three of those 214 subspecies has already created regional economic unrest and a greater than $500 million per year recovery price tag." The recently released National Marine Fisheries Service Snake River Salmon Recovery Plan suggests that doubling the 2,000 adult wild salmon now returning to the Snake to spawn could cost $300,000 a fish—assuming the plan works and that BPA can generate the money to finance the plan.

Where is the money to come from? If power users decline to pay higher prices to BPA than those charged by competitors, will fish interests cough up the cash? The navigators? The irrigators? The flood control beneficiaries? Federal taxpayers? In the current federal budgetary environment, is the U.S. Treasury likely to spawn money for salmon eggs? Not likely.

Power users cannot be forced to make electricity choices that are not in the interests of their consumers.

The Pacific Northwest Electric Power Planning and Conservation Act, enacted December 5, 1980, declares "that Congress intends that this Act not be construed to limit or restrict the ability of customers to take actions in accordance with other applicable provisions of Federal or State law, including, but not limited to, actions to plan, develop, and operate resources and to achieve conservation, without regard to this Act."

"Cost-effective" is defined by the Act to mean handling of the needs "of the consumers of the customers at an estimated incremental system cost no greater than that of the least-cost similarly reliable and available alternative measure or resource, or any combination thereof." Put differently, if consumers of public power systems and rural electric cooperatives would benefit from less expensive purchases made elsewhere, that would be the "cost-effective" decision.

What is happening in the wholesale bulk power segment of the electric industry is that it is undergoing a fundamental transformation from a monopolistic segment of the economy, regulated on a cost-of-service basis, to an open access, competitively priced, commodity-oriented activity. Competition has created within regions a "market clearing" price—a charge that represents the lowest marginal rate within a marketing area. This can cause "stranded investment"—that portion of the cost of a utility's facilities that is more expensive than the market price of electricity will support.

Who bears the cost if customers switch? Here are the four possibilities:

Write it down against utility shareholder equity

Charge to remaining customers through rates

Levy a "wires charge" by moving the investment to transmission

Create a "competitive transition" assessment

Some non-power interests are arguing that if consumer-owned electric utilities diminish their take from BPA, they must pay an "exit fee" to cover costs of WPPSS #2, renewable energy resources, conservation programs, and fish recovery plans. There is no requirement in law or contract that public power systems and rural electric cooperatives make payments of this type, and to do so would be detrimental to the interests of their consumers. To the extent that the charges equaled the differential between BPA prices and that of other suppliers, competition in the bulk power supply market would be diminished.

A "wires charge" is totally inequitable because it arbitrarily moves the cost of investment in generation—the principal element of "stranded investment"—and renames it "transmission." Furthermore, doing so is tantamount to creating a tying arrangement illegal under the antitrust laws.

Use of a "competitive transition" assessment punishes customers for a condition they did not create—the advent of a more competitive market driven by open access transmission, surplus capacity among utilities, and the development of gas turbine generation with short lead-times, high efficiencies, and low costs. The arrival of this competitive market is not a surprise—the trend has been evident for years—and where consumer-owned electric utilities choose to exercise their contractual options to switch or supplement a supplier to decrease consumer costs, they should not be penalized for doing so.

As APPA told FERC recently, the imposition of stranded cost payments—be they "wires" or transition" fees—would have anticompetitive effects in the marketplace because they:

erect artificial restrictions on new entry for alternative suppliers and trades;

discriminatorily favor individual entrenched suppliers and their shareholders;

give that entrenched competitive a paid-off asset with which to punish rivals;

distort relative transmission prices if charges are placed there;

reduce electricity consumption to suboptimal levels and distort the investment of electricity-using industries into more labor-intensive technologies; and

slow the diffusion of new technology.

Exit fee proposals skirt the real issue. The real issue is maintaining a competitive price for BPA power.

"Exit fees" are a solution advocated where monopolists wish to preserve the status quo by enforcing their will; BPA has no legal or economic power to implement this approach. Furthermore, it is completely contrary to the thrust of the National Energy Policy Act passed by Congress in 1992 and now being carried out by the Federal Energy Regulatory Commission. The likelihood that, at this juncture, Congress would decide to circumvent that law and write into statute a special deal for BPA is virtually nil.

There is no apparent authority for BPA to assess an "exit fee." While BPA's rates are subject to "confirmation and approval" by FERC that they are sufficient to assure repayment of the Federal investment over a reasonable number of years and are based on total system costs, this authority is unlikely to mean that "stranded investment" can be encompassed. If the issue comes to a head at the Commission, it is perhaps more likely to result from application of the FERC's regulations dealing that transmission.

The Energy Policy Act of 1992 specifies that FERC has the authority to "order the Administrator of the Bonneville Power Administration to provide transmission service and establish the terms and conditions of such service." While provisions of "otherwise applicable Federal laws" continue in full force and effect, FERC is charged with determining that "no rate for transmission of power on the system shall be unjust, unreasonable, or unduly discriminatory or preferential." Administrative procedures for requesting transmission services from BPA are outlined in the law, and BPA cannot be required to provide transmission service "if such order would impair the Administration's ability to provide such transmission services to the Administrator's power and transmission customers in the Pacific Northwest."

BPA is defined under the National Energy Policy Act as a "transmitting utility" because it "owns or operates electric power transmission facilities which are used for the sale of electricity at wholesale."

It's important to understand what FERC is doing in the area of transmission.

The Commission has issued a major proposed rule on this issue.

Under the proposal, IOUs are required to file generic nondiscriminatory open access transmission tariffs that will assure "comparability" between use of transmission systems by the transmitting utility and third party transmission customers.

The tariffs would functionally "unbundle" wholesale transmission from wholesale bulk power sales.

Each utility must have a tariff for network service, and for firm point-to-point service, including the necessary ancillary services.

The tariffs would include a duty to expand transmission capacity where necessary, and reassignment rights for firm point-to-point service.

Firm service requests would have the same priority as new transmission service for the utility's native load.

Utilities must also make available to potential transmission users the same electronic network information they use for their own transmission activities.

All transmission tariffs will contain a reciprocity clause.

With respect to "stranded investment," FERC postulates two situations:

1. Wholesale contracts executed after July 11, 1994, would be subject to recovery only if specifically provided for under contract.

2. For existing wholesale requirements customers, IOUs may seek recovery of stranded costs through transmission rates if (a) the contracts do not explicity address such recovery, and (b) the utility can show it had "a reasonable expectation" of continued service to the customer beyond expiration of the contract term. There is a rebuttal presumption that if contracts contain notice provisions, the utility had no reasonable expectation of continuing to serve the customer beyond the notice period.

The IOU must attempt to "mitigate" stranded investment, by absorbing, marketing or selling it, over a reasonable period of time, and the customer must be given advance notice of the maximum charge if no mitigation occurs.

FERC's proposal provides that utilities that are not private power companies but are "transmitting utilities" can file a request to recover stranded investment under sections of the Federal Power Act dealing with transmission. However, they would be required to make the same evidentiary demonstration that is required of private power companies seeking extra-contractual stranded investment cost recovery.

In April, Senator Mark Hatfield of Oregon held a hearing on BPA problems. I think some of the material presented by public power is significant. Here are some pertinent parts:

While debt of the Washington Public Power Supply System is controlled and is actually declining due to refinancing and other cost control measures, making it a predictable and certain future customer obligation, fish costs are uncontrolled and escalating. Since 1990, the annual fish cost (both capital and revenue expenditures) have more than doubled and continue to increase each year.

Forty percent of BPA's fish and wildlife costs are for the direct cost of the program, while 60 percent of the cost of the program is attributable to the cost of power purchases to meet flow requirements and revenues foregone because of spill or altered hydro availability. Fish and wildlife costs are 19 percent of EPA's total costs.

Reducing the generating capability for the Columbia River Hydro System is not a stranded investment subject to an exit fee concept. It is a change of water use by the federal government which should be subject to a recalculation of the repayment obligation. Transmission under the 1992 changes in the Energy Policy Act is a common carrier which should not be subject to external costs not related to construction and operation of transmission services.

BPA's resource base is 12,000 MW of installed, renewable and low-cost hydro. The advantage of purchasing power long-term from BPA is that it gives a utility access to this federal hydroelectric system, which is insulated from changes in energy costs due to changes in fuel prices. Gas prices and the price of alternate suppliers will not stay low forever while BPA's costs will decline as the Supply System debt is paid off. This is reason to believe that the BPA will continue to provide cost-effective electricity in the future. A long-term contract with BPA lessens the amount of decision-making on power supply that a utility needs to make. This creates a sense of "one-stop shopping" versus being an active participant in the market place. If BPA's one environmental externality (fish and wildlife concerns) can be addressed in an economically sustainable fashion, this system looks very good for a very long time.

BPA's future is not the only issue before Congress of interest to public power in the Pacific Northwest. For instance, Senator Slade Gorton of Washington is circulating a discussion draft of legislation to remove the public power exemption from regulation of pole attachments by the Federal Communications Commission. If his proposal were enacted into law as part of the telecommunications legislation pending in the Senate, FCC staff in Washington would decide what you could charge for use of your facilities and rights-of-way.

As many of you know, earlier this month, the House of Representatives, by a vote of 309–100, approved an amendment to the Clean Water Act that affirms the Federal Energy Regulatory Commission's proper role as a final arbiter over hydro-project licensing cases where Section 401 conditions conflict with FERC's responsibilities under the Federal Power Act. The people who helped make that happen include Representative Randy Tate and Representative Norm Dicks of Washington and Representative Helen Chenoweth of Idaho. The focus now shifts to the Senate, where we again need to explain the need for a final decision-maker to resolve federal-state disputes.

But Bonneville is the big issue. I think the stakes are large and immediate. If the hemorrhaging of water and money cannot be stopped, the agency is not a viable institution. It is unlikely that federal taxpayers will subsidize the operation, and it is unreasonable to expect Northwest electricity consumers to pay more than the going price for power. If the worst happens, Congress is likely to endorse an asset sale of a failing business. That shouldn't happen, and it doesn't need to happen. But your involvement in preventing it from happening is the essential ingredient.

It is important to understand a change in relationships that has taken place in the Pacific Northwest in recent years.

A long-term paternalistic resource planning and acquisition role for BPA is no longer sustainable in an era where planning horizons have shortened to five years and there are literally scores of potential suppliers, some with offerings that cost only ½ of Bonneville's current rates.

Technology choices have changed. Gas-fired combustion turbines can be ordered and brought on-line in less than a year, supplying power with efficiencies of up to 60 percent and prices lower than new hydro.

The partnership of BPA and preference customers cannot be the same when federal power costs more than purchases from IOUs.

Consumer-owned utilities have made payments to BPA over five decades and have built up the significant equity in the system. They have a continuing interest in protecting and enhancing that investment, but like BPA, they must adjust to a world where competitive bidding has replaced sole source suppliers.

BPA will have a more limited role in providing load growth services to its customers. In the future, this will more likely be the province of utilities, acting alone or in concert to diversify supply and reduce risk.

You have your responsibility to your user-owners. BPA has its responsibility to taxpayers. But both of you benefit from working together. And that effort needs to take place now.•

THE 1995 ABERDEEN PHEASANTS

Mr. PRESSLER. Mr. President, when I was growing up, professional baseball flourished in South Dakota. I remember many games from the now-defunct Basin League. Those teams stimulated and nurtured my love of America's greatest pastime. Therefore, as a lifelong baseball fan, I am very pleased to announce that professional baseball has returned to Aberdeen, SD, after a 24-year hiatus.

Last Friday night, June 16, the Aberdeen Pheasants won their home opener at Fossum Field against Saskatchewan's Regina Cyclones, 7–3. Since opening their 71 game season on the road on June 9 against Manitoba's Brandon Greyowls, the Pheasants have played brilliantly, winning eight of their first nine games. They are tied for the lead in their division. I am confident the team's early success is an indication of great seasons and thrilling action in the months and years ahead.

The 1995 Aberdeen Pheasants are part of the newly formed Prairie League, an eight-team independent professional baseball league consisting of four American and four Canadian teams. The Pheasants' ownership committee has a distinct local flavor consisting of 20 Aberdeen residents. The committee's executive leadership consists of Jeff Sveen, Dr. Scott Barry, and Keith Kusler will work closely with Arthur Bright, the vice president of operations and Rich Bosma, the team's general manager. I congratulate them and the entire ownership committee for bringing baseball back to Aberdeen, and for their team's early success this year.

Mr. President, I also am proud, though not surprised, how the entire Aberdeen community has rallied behind the effort to return pro baseball to the area. The Pheasants are the talk of the town. Friday's home opener was very well attended. Knowing the enthusiasm for baseball in the area, I am sure fan support will remain strong throughout the season.

The 1995 Pheasants are the latest chapter in the long and proud history of Aberdeen professional baseball. The city had a class D baseball team in the 1920 South Dakota League and from 1921 to 1923 in the reorganized Dakota League. In 1946, the Aberdeen Pheasants joined the old Northern League as a farm team for the Baltimore Orioles and remained in the Northern League until the entire league collapsed after the 1971 season.

During this 25-year period, as many as 40 Pheasant players went on to play in the Major Leagues. Among the notable Pheasant alumni were Hall of Fame pitcher Jim Palmer; Don Larson, who pitched a perfect game in the 1956 World Series; 1958 Cy Young winner Bob Turley and New York Yankee all-star player Lou Piniella. In addition, Cal Ripken, Sr., managed the Pheasants prior to assuming the same duties for the Baltimore Orioles. I am confident present Pheasants manager Bob Flori, assistant Coach Joe Calfapietra, and their crew of young, talented players will carry on the great traditions established by these players. Mr. President, I ask unanimous consent to place in the RECORD the team roster of the 1995 Aberdeen Pheasants at the conclusion of my remarks.

Mr. President, on behalf of the people of South Dakota, I want to welcome back the Pheasants to Aberdeen and wish them the best of luck in their inaugural season. Gentlemen, play ball!

TRIBUTE TO HELEN COLE

• Mr. ROCKEFELLER. Mr. President, I wish to recognize an outstanding woman whose hard work and dedication have touched the lives of many individuals. Indeed, it is rare to discover a character so willing to offer one's talents solely to serve and improve the lives of others.

Thus, I would like to take this time to express appreciation for an extraordinary citizen of Nicholas County, Summersville, WV, Helen Cole. Recently, Helen was honored at the Muddlety-Glade Creek Ruritan Club where she received numerous awards, including the prestigious Clara Barton Award, which is known to be the highest award given to volunteer workers. Currently, Helen is employed by Love, Inc., where she helps counsel financial management.

Helen, born in Ansted, WV, located in Fayette County, has been a lifelong resident of West Virginia. Helen has received a bachelor of science degree in home economics as well as a master's degree in extension education. In time, she became employed by WVU and USDA extension agents in Nicholas County, where she taught home economics in the field and in the home. In addition, Helen conducted radio educational programs in Nicholas and Fayette Counties and performed "Friends and Neighbors," an educational television program. Furthermore, Helen assisted as eastern regional director for the National Home Demonstration Agents Association [HDAA], and also served as State president of the West Virginia chapter of HDAA.

However, Helen's true colors are revealed through her in-depth involvement with the Nicholas County chapter of the American Red Cross. In the past, Helen has been a Red Cross volunteer for many years and has primarily been responsible for locating volunteers to manage crucial programs, such as blood services, first aid and CPR educational programs, service to military families, and disaster relief assistance.

From 1976 to 1981, Helen served as the volunteer executive secretary of the American Red Cross. In December 1980, Helen retired after 34 years of teaching home economics to extension homemakers and soon after accepted the dual positions of full-time chapter managers and treasurer.

Although Helen recently retired in December 1994 from her office of chapter manager of the American Red Cross in Summersville, she still remains involved in various volunteer activities in addition to her employment by Love, Inc. For example, Helen continues to volunteer at the Nicholas County chapter of the American Red Cross, where she holds the position of executive secretary and is a member of the board of directors. Also, she occasionally still teaches classes through programs under the WVU extension service concerning lesson leader training. Helen, since 1981, has volunteered with the Food Pantry of the Summersville Ministerial Association, where she organizes food supplies for the pantry. Furthermore, Helen reviews applications for emergency assistance at the Federal Emergency Management Agency program in Summersville. Also, since 1942, Helen has been a Sunday school teacher and continues to teach an adult women's class at Memorial United Methodist Church in addition to a weekly Bible study class.

Helen Cole's accomplishments deserve notice and praise. Her enthusiasm and concern for humankind provide a model we should all strive to follow.•

TEMPORARY STORAGE OF CIVILIAN SPENT NUCLEAR FUEL AT THE HANFORD RESERVATION IN WASHINGTON STATE

• Mr. GORTON. Mr. President, I wish to discuss a serious and important issue facing the Nation: Our growing supply of civilian spent nuclear fuel that has no home. My friend from Alaska, Senator MURKOWSKI, submitted a statement for the RECORD before the Senate adjourned for the Memorial Day recess. In it, he discussed a number of policy options to be employed for interim storage. Hanford, WA, and Savannah River, SC were two sites he mentioned as possible interim storage facilities for civilian spent nuclear fuel.

Located in the southeastern part of Washington State, the Hanford Reservation is home to over 80 percent of the Nation's spent plutonium fuel—2,132 metric tons by Senator MURKOWSKI's count. The most potent of that waste sits hundreds of yards from the Columbia River in 50-year-old concrete pools. These pools are not sophisticated and certainly not designed to store some of the deadliest materials produced by man.

Hanford faces a particularly difficult situation. This year the site has incurred serious criticism for the waste and inefficiencies that have become associated with Hanford cleanup. Much of this criticism is well deserved. Some, however, is off-base and ignorant of the monumental task at hand. Hanford has a mission—it is to follow through on the noble and worthy effort this Government undertook to win World War II. The site must be cleaned—that is the task at hand.

Adding more waste to Hanford, as I have said before, makes little sense. As the chairman of the Energy Committee, Senator MURKOWSKI has joined the ranking member, Senator JOHNSTON in introducing a bill that, I fear, would impede ongoing cleanup efforts at the site. So it is puzzling, when my friend suggests Hanford can barely tie its own shoes, but in the next breath, he says the site should be burdened with massive amounts of additional waste. There is a disconnect. I believe Hanford's mission is to focus on cleanup. So let me be clear: Shipping spent civilian nuclear fuel to Hanford sets a dangerous, and perhaps irrevocable, precedent. And unfortunately, despite Senator MURKOWSKI's assurances to the contrary, when dealing with waste that has a half-life of thousands of years, "interim" takes on an entirely new meaning.

Senator MURKOWSKI, fortunately, understands there is considerable room for debate on this issue. He is absolutely right to point out the problems the country faces in light of the impending spent fuel storage crisis. I also sympathize with the Senator from Alaska's frustration at both DOE and the President's lack of progress at Yucca Mountain. As he correctly notes, over $4.2 billion has been spent on the Yucca Mountain project to date—with nothing to show for the effort.

Rather than abandon this program altogether—which the House essentially does in its budget resolution this year—does it not make more sense to push through and finish a project that has absorbed significant time and money? Quite clearly, the United States must build a long-term storage facility for its high-level nuclear waste. Yucca Mountain, by most indications, is the logical choice.

As the Senator from Alaska emphasized in his statement, both an interim storage site and transportation system at Yucca Mountain must be developed. If it is the intention of the Federal Government to send waste to Yucca Mountain eventually, why not send the spent fuel there temporarily, until the permanent depository is ready? It is remote, arid, and has had a mission of testing nuclear devices for over 40 years. And perhaps most important, by placing a temporary facility at Yucca Mountain, transporting this deadly material across the Nation is limited to one voyage.

My intent today is not to solve the interim storage problems that the Nation faces with its growing stockpile of spent civilian nuclear fuel. I do, however, want to point out an inconsistency this Congress is contemplating: Cleaning Hanford while simultaneously adding more waste begs common sense. And I urge my colleagues to keep this in mind in their deliberations.•

THE FOSTER NOMINATION

• Mrs. BOXER. Mr. President, I rise today to renew my call for the majority leader to schedule a vote on the nomination of Dr. Foster to be Surgeon General of the United States. The Senate has had ample time to review Dr. Foster's record since his nomination was sent to us in February—over 3 months ago. It is time to take the next step and vote. We should not keep Dr. Foster or our Nation waiting.

America needs a strong and experienced voice on public health issues. Historically, the Surgeon General has always played that role. In the 1930's the Surgeon General launched a campaign to educate the public on the dangers of venereal disease. In the 1960's the challenge facing the Surgeon General was smoking; in the 1980's it was AIDS; today, the challenge is teen pregnancy, tuberculosis, and disease prevention.

I am confident that Dr. Foster has what it takes to make his mark in history and to lead us in working on the many public health issues that we face. So do many of my colleagues in this Chamber. Let's remember that Dr. Foster's nomination was favorably reported out by the Senate Labor and Human Resources Committee on a 9–7 vote.

There should be no delays and no more evasion of responsibility. It is time for the full Senate to vote on Dr. Foster's nomination for the position of Surgeon General.•

THE INDEPENDENT COUNSEL ACT

• Mr. SIMON. Mr. President, no politician likes to admit that he made a mistake in voting for any bill. But, in life and politics, it is usually better to be right than to be consistent.

I voted for the Independent Counsel Act when it was enacted in 1978. And I voted for it again—although with increasing trepidation—when it was reauthorized in subsequent years. But, as many have said, experience is the best instructor. And experience has demonstrated to my eyes that the Independent Counsel Act is worse than the disease it was meant to cure. I have come to the conclusion that it is time for the Senate to reconsider—and perhaps even eliminate—the office of the independent counsel.

To be sure, the act was born of good intentions. It was designed to counter the conflict of interest—or at least the appearance of a conflict—that existed whenever a Federal prosecutor pursued one of the President's own officials. It was meant, in short, to ensure that such investigations would be carried out solely with the public's interest in mind.

Nonetheless, as Prof. Gerald Lynch of Columbia University argued in the Washington Post, the act has not put to rest the charges of bias in politically tinged cases. Instead, what has become painfully clear is that virtually any suit against a major political player will involve charges of favoritism and partisanship, whether or not an independent counsel is appointed.

Even worse, says Professor Lynch, the act has encouraged overzealous prosecutions: "Ordinarily, a prosecutor must ask whether it is fair to treat this case as a felony compared to others where the defendant was not politically prominent. The special prosecutor has no such concerns." Three distinguished Attorneys General—Edward Levi, Griffin Bell, and William French Smith—have made similar criticism, noting how the act "exacerbates all of the occupational hazards of a dedicated prosecutor: the danger of too narrow a focus, the loss of perspective of preoccupation with the pursuit of one alleged suspect."

In short, 20 years of experience have demonstrated that the cost of maintaining the Independent Counsel Act far outweighs its benefits. It has aggravated, rather then calmed, the prevailing anti-Government mood that prevails in this Nation. As Gerald Lynch concludes, "instead of purifying our governing institutions, special prosecutors play into a pathology that thrives on an appetite for scandal and a distrust of our system of government." And that is perhaps the strongest reason of all to reconsider the wisdom and efficacy of the act in its current form.

I ask that the article by Prof. Gerald Lynch be printed in the RECORD.

The article follows:

SPECIAL PROSECUTORS: WHAT'S THE POINT?

(By Gerard E. Lynch and Philip K. Howard)

Just about everybody in the country was focused on terrorism in Oklahoma, but the president of the United States had other pressing business: He was being questioned by independent counsel Kenneth Starr about Whitewater.

Nothing unusual there. In fact, there has hardly been a time, since passage of the Ethics in Government Act in 1978, when a special prosecutor and his target have not been in the news. Justifying the smallest details of a past transaction or decision has become part of the job description for high executive office, always with the suggestion of public scandal and personal ruin.

The progress of the manhunt is chronicled in the daily headlines ("Investigation Moves One Step Closer to the President"), but the titillating prospect of bringing down important leaders is not a healthy sign. Instead of purifying our governing institutions, special prosecutors play into a pathology that thrives on an appetite for scandal and a distrust of our system of government.

The stakes were small in early independent counsel investigations. Who cared whether Hamilton Jordan used cocaine at Studio 54? But the Reagan-Bush administration provided an investigative feast: Did Michael Deaver, Lyn Nofziger or Ed Meese violate conflict-of-interest rules? Did Samuel Pierce preside over a corrupt housing department? Did Iran-contra extend past North, Poindexter and McFarlane to the secretary of defense, perhaps even to Reagan and Bush?

Cries for new independent investigations have dogged the Clinton administration practically every month. This month it's the secretary of commerce who gets his own special prosecutor. And why not Ira Magaziner—who knows whether he told the whole truth? Future occupants of the White House can expect the same.

As for actual law enforcement, however, it has been slim pickings. Does anyone remember Thomas Clines, the only Iran-contra figure who went to jail? Deaver pleaded to minor charges, and Nofziger's conviction was reversed. Meanwhile, a lot of apparently innocent people have been investigated intensively for a long time. The anemic results are obscured by all the noise and speculation around new investigations, which consume staggering amounts of taxpayer funds (about $10 million so far with Whitewater) and whose primary effect is to divert our leaders from the task of governing.

What, we might reasonably ask, is the point?

Good government orthodoxy has it that "special" prosecutors are needed because the regular Justice Department prosecutors, reporting to a politically appointed attorney general, can't be relied on to prosecute the president's cronies. Special prosecutors supposedly ensure impartiality.

These premises, plausible enough on the surface, happen to be backward. Deciding to prosecute is not a simple matter of finding that a law has been violated. It is a far more subtle decision, made against the reliable backdrop of hundreds of other cases. Judgment and discretion are at the heart of a prosecutor's job. In a world in which regulations are piled so high that many well-meaning people trip over them, prosecutors must decide every day whether a particular violation is merely technical or is one that requires the awesome step of criminal prosecution. Decisions to prosecute are inextricably bound up in priorities—prosecutors regularly allocate scarce resources to violent and drug crimes at the expense of nonviolent white-collar cases—and necessarily draw on society's norms and values.

The premise that professional prosecutors will tend to favor the politically powerful is also wrong. Ordinary assistant U.S. attorneys in Maryland brought down Spiro Agnew. Regular Justice Department employees in New York indicated John Mitchell and Maurice Stans. It was one of Rudy Giuliani's assistants, not an "independent" prosecutor, who called sitting Attorney General Ed Meese, his own boss, a "sleaze" in a prosecution of one of Meese's closest friends.

The real pressures distorting prosecutors' judgment are the opposite of what reporters and good government editorialists perceive. High officials are the most tempting targets for young prosecutors. Fame and glory (and ultimately a lucrative private law practice) come from handling cases in the headlines.

But what of the "appearance" of partiality? Surely a nonpartisan figure of great repute ensures, if nothing else, that the investigation will be "above politics." Two words refute this claim: Lawrence Walsh. The Iran-contra investigation proved the impossibility of taking a politically sensitive case "above politics." Here we had a special prosecutor of the president's own party, with a long history of moderation and professionalism, a respected and independent figure with a lifetime of achievement in law practice and public service. Surely, his conclusions would be respected by all.

Hardly. When Judge Walsh began to conclude the president's men were crooks, he was vilified by the president's allies (spearheaded by the Wall Street Journal) as politically motivated and biased. Judge Walsh was predictably defended as impartial by Democrats, but he was no more able to escape imputations of bias than regular prosecutors would have been. Indeed, Judge Walsh became a political symbol.

The Whitewater case provides an even more extreme example of the elusive search for nonpartisan appearances. The original special prosecutor, Bob Fiske, another establishment lawyer with Republican credentials and a reputation for unimpeachable integrity, drew criticism from Republicans when he did not seem impressed with the case against Clinton. Fiske was then replaced on the impeccable logic of taint-by-association: He was not quite "special" enough because he had been appointed by Clinton's attorney general. The New York Times, formerly a vigorous proponent of that pristine logic, promptly noted the right-wing Republican connections of the judge heading the panel that dumped Fiske, and attacked his replacement, Ken Starr—another lawyer of high standing and great integrity—as a Republican hack.

The lesson is clear: Partisan arguments intrude into all decisions involving the political arena. The intense spotlight of the special prosecutor does not illuminate so much as blind.

In the ordinary case, the U.S. attorney has to ask himself: Is it fair to treat this case as a felony, as compared to how we treated other, similar cases where the defendant was not politically prominent? The special prosecutor has no such concerns. He has only one investigation to pursue, and the unnatural intensity inevitably skews the decision. The smallest infraction can take on a life of its own.

In the words of three distinguished former attorneys general—Edward H. Levi, Griffin B. Bell and William French Smith—the independent counsel only exacerbates "all the occupational hazards of a dedicated prosecutor: the danger of too narrow a focus, of the loss of perspective, of preoccupation with the pursuit of one alleged suspect."

There may be disputes of constitutional dimension—Watergate, perhaps—where the benefits of special counsel are worth the accompanying diversion and disequilibrium. But in practically all other cases, the discretion and balance found in our ordinary law enforcement system is far superior. And if the people believe that a president or an attorney general has distorted that system to favor his friends, retribution at the hands of political enemies and media interests is never far off.●

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 136 submitted earlier today by myself and Senator DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 136) to authorize representation by Senate legal counsel.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, in the case of United States ex rel. Sequoia Orange Co. versus Sunland Packing House Co., and consolidated cases, pending in the U.S. District Court for the Eastern District of California, the private relator is opposing a motion filed by the Department of Justice to dismiss these cases. The court has scheduled a hearing on the Government's motion for this week. On Friday afternoon of last week, the relator caused a subpoena to be delivered to the office of Senator DIANNE FEINSTEIN seeking to compel her to appear to testify at the hearing on Wednesday, June 21, 1995, in Fresno, CA.

The Senate's standing rules require all Senators to attend the Senate's sessions unless granted leave to be absent by the Senate. This resolution would authorize the Senate Legal Counsel to seek to quash the subpoena to protect Senator FEINSTEIN's right to attend the Senate's sessions.

Mr. President, I ask unanimous consent that resolution be considered and agreed to, the preamble be agreed to and the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 136) was agreed to.

The preamble was agreed to.

So the resolution, with its preamble, is as follows:

S. RES. 136

Whereas, in the case of *United States ex rel. Sequoia Orange Company* v. *Sunland Packing House Company*, Case No. CV-F-88-566 OWWW/DLB, and consolidated cases, pending in the United States District Court for the Eastern District of California, a subpoena for testimony at a hearing has been issued to Senator Dianne Feinstein;

Whereas, by Rule VI of the Standing Rules of the Senate, no Senator shall absent himself or herself from the service of the Senate without leave;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2) (1994), the Senate may direct its counsel to represent committees, Members, officers, and employees of the Senate with respect to subpoenas or orders issued to them in their official capacity: Now, therefore, be it

Resolved That the Senate Legal Counsel is directed to represent Senator Feinstein in connection with the subpoena issued to her in these cases.

ORDERS FOR TOMORROW

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9:30 a.m. on Tuesday, June 20, 1995, that following the prayer the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and that the Senate then immediately resume consideration of S. 440, the National Highway System bill; further, at the hour of 9:30 Senator REID be recognized to offer an amendment regarding truck speed limits.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate stand in recess between the hours of 12:30 and 2:15 for the weekly policy luncheons to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, I will just say for the information of my colleagues that the Senate will resume consideration of the highway bill tomorrow at 9:30. Senator REID will be recognized to offer an amendment.

There could be rollcall votes possible before the 12:30 recess, and they are anticipated throughout the day.

I am advised by the managers that we did not make a great deal of progress today, which indicates that when people tell you on Friday they are going to do something on Monday and then you announce no votes on that Monday, nothing happens around here. So I will not make that mistake again.

But in any event, there are a number of amendments that will be taken and other amendments as I understand will be debated. But the managers seem fairly confident that they might be able to finish the bill tomorrow evening. If that happens, and if in fact we have an agreement that is helpful—I appreciate the staff putting that together. I know there are a lot of amendments listed, but I doubt that many of those amendments will be called up.

ORDER OF PROCEDURE

Mr. DOLE. Mr. President, if there is no further business to come before the Senate, I now ask that the Senate stand in recess under the previous order following the brief remarks that I will make and the remarks of Senator BOND, who is on his way to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE NOMINATION OF DR. HENRY FOSTER

Mr. DOLE. Mr. President, earlier today I met with Dr. Henry Foster. At our meeting we discussed a number of subjects, including the infamous Tuskegee syphilis study, the inconsistent statements from the White House and from Dr. Foster himself concerning the number of abortions Dr. Foster has performed, and Dr. Foster's role in sterilizing several mentally retarded women during the early 1970's.

I would just say that we had a very frank discussion. The discussion lasted 30 to 40 minutes.

I indicated earlier I felt, as the majority leader, that Dr. Foster certainly is entitled to an opportunity to speak to me. We went over probably 15, 20, 25 different questions. He answered each of the questions. Some had been answered during his nomination consideration before the Labor Committee.

I told Dr. Foster we were trying to work out some procedure on the Senate floor so that we could have two votes: one on cloture; if cloture was not invoked after two votes, that the nomination would go back on the calendar; and, if cloture were invoked, then, of course, we would have the debate. We have not reached an agreement, but I hope to visit tomorrow morning with the distinguished Democratic leader, Senator DASCHLE.

But I would say that our phones are ringing off the wall. Just because you meet with someone—some people do not even want you to meet with nominees because they have different views than the nominee. My view is that they are entitled to that regardless of whether I agree or disagree.

I do not support Dr. Foster's nomination, but my view is that he is entitled to that courtesy. And we had a good meeting as far as covering different points that I wanted to cover, and he had an opportunity to make his own statements.

So, hopefully, tomorrow we can announce a process that will lead us to consideration—at least the first step in the process, whether or not cloture will be invoked, and, second, if it is, what will follow.

It will be my intention to try to make that announcement sometime tomorrow.

I see the Senator from Missouri is here [Senator BOND]. At the end of his remarks, the Senate will stand in recess, and the Senator from Missouri is the man of the hour.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent that I may be permitted to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOND. Mr. President, I express my sincere thanks to the majority leader.

DEPARTMENT OF INTERNATIONAL TRADE

Mr. BOND. Mr. President, I have been very troubled during the past few months by the debate over the proposal to eliminate the Department of Commerce. Much of the debate has focused on the need to eliminate the so-called corporate welfare programs of the International Trade Administration and the Bureau of Export Administration. I would like to address these proposed cuts today.

Congress is embarked on a long overdue effort to make real cuts in Government programs and move toward balancing the budget by 2002. This effort deserves strong support from every member of this body, because eliminating the budget deficit is the primary responsibility facing Members of Congress today. The debt is a burden on the backs of the American people, on the future of our children, and on the competitiveness of U.S. companies trying to win in today's competitive world marketplace. That is why I voted for the budget in committee and again on the Senate floor, and that is why I support it strongly.

Certainly, the Commerce Department—like most of the Federal Government—can stand some significant trimming, and I applaud efforts to weed out outdated and inefficient programs at Commerce as well as at other departments. I believe, however, the attacks on these two trade agencies are misguided and misinformed.

As we enter the 21st century, it is clear the future of our Nation's economy depends on the international marketplace. If we are to remain the world's leading economy, then we will have to dominate the international market as well as our own. The competition will be intense, and companies from other nations will come to the field equipped with a wide array of tools provided by their nation's governments—from concessional financing, to market research, to high-level sales help from senior government officials. If our companies are going to remain competitive, they must have at least some access to the same tools. The International Trade Administration is the agency that helps to provide that edge.

At the same time, it is just as critical that we ensure other countries are trading fairly and playing by the rules. That is the job of the U.S. Trade Representative. However, all of the trade negotiators at USTR operate with significant support from the Commerce Department. The loss of that support would have a crippling impact on our ability to ensure our interests. BXA, the Bureau of Export Administration, and ITA, the International Trade Administration, are the engine that drive the rest of the Federal Government's trade agencies. Without them, the other agencies will cease to function properly, and effectively to help our businesses gain jobs and the revenues that they need from the world market.

For that reason, when the Senate considers legislation to abolish the Department of Commerce, I will offer an amendment to create a new, but very small Department of International Trade which will consist solely of the current Commerce Department trade agencies—the Bureau of Export Administration and the International Trade Administration.

There are a wide range of reasons for retaining the trade functions in a Department of International Trade. I would like to take a few moments to discuss the most important ones:

First, Senators need to understand that the International Trade Administration is responsible for supporting the activities of the Office of the U.S. Trade Representative with sectoral and technical expertise. The proposals to eliminate the Commerce Department appear not to recognize this fact.

Everyone seems to agree that USTR is a successful agency which performs a critical function, and which must be retained. But too few seem to realize that USTR is made up of a mere 170 people. They could not possibly handle all of our trade negotiations without significant support from other agencies, particularly the International Trade Administration.

When we are negotiating an auto parts deal with Japan, for example, there will be a USTR official sitting at the bargaining table leading the team. Behind that person, however, are almost certain to be experts from the Office of Automotive Affairs and the Office of Japan Trade Policy. The proposals to abolish the Commerce Department would eliminate both of these offices, which would leave the USTR negotiator unsupported, and unable to counter the Japanese negotiator on the other side of the table. We would have our head handed to us in these negotiations, and every other international trade negotiation we undertook. The result would be a loss of U.S. jobs as our ability to negotiate fair trade agreements is eroded.

The important role that ITA plays in trade negotiations is illustrated by looking at the NAFTA talks on which ITA experts spent more than 50,000 hours in the last year of the negotiations alone.

It should also be noted that ITA plays the lead role in a wide range of trade talks. For example, ITA led the negotiations that opened Japan's construction and government procurement markets to United States firms. ITA experts developed the negotiating positions for all U.S.-E.U. standards barrier talks since 1990.

It is also important to note that the International Trade Administration is the Federal agency with primary responsibility for monitoring bilateral and multilateral trade agreements. Elimination of the network of ITA specialists would severely hamper our ability to monitor trade agreements and ensure that other countries are playing by the rules.

Second, the proposals to eliminate the Commerce Department would effectively remove the Federal Government from providing export promotion and assistance for nonagricultural exports.

Now I realize there are many of my colleagues who would applaud that development, but I would like to take just a moment to review the impact it would have on American companies.

The economic battleground has moved solidly to the international marketplace. Our future economic growth depends, in large part, on American firms winning their share of the new markets developing in places like Indonesia, India, Brazil, and China. These countries have huge populations which are hungry for development. The infrastructure needs is these nations are staggering. Investment in roads, bridges, telecommunications systems, power generation, and other infrastructure projects is estimated to be $1 trillion over the next 5 years in Asia alone. The competition for these projects will be intense. Companies from Germany, Japan, Canada, and other nations will aggressively seek to win them; and they will go after them with strong tools provided by their governments. These tools will include not only concessional financing, but also market research, industry expertise, and the high-level marketing help of senior government officials. Already our companies go into this battle with fewer resources available from the government than their foreign competitors. If we send them in unarmed, they will simply get stomped.

We must also recognize that the markets in these countries are not like ours. Almost all of these infrastructure contracts will be awarded by governments, not by private firms. The officials responsible for making the buying decisions are used to dealing with other Government officials, rather than with businessmen. U.S. Government support is needed to support the business effort so that they can win in these markets.

I know of many examples from my personal experience in which ITA personnel played a key role in helping to clinch huge exports for companies in my State. In one, Black & Veatch, a Kansas City construction firm teamed with General Electric, won a $250 million power generation project in Malaysia last year with the active support of the Foreign Commercial Service officer in Kuala Lumpur, who spent 3 years on the project. The result was a win for the United States against a Japanese firm offering concessional government financing. The project has the potential to bring in a total of $1 billion in business if the American companies win the follow-on work. They would never have had a chance of winning without the active, on-the-ground support of the U.S. Government.

Commerce assistance is just even more important for small firms. Earlier this year, I received a letter from one businessmen in St. Louis who summed up the important role the US&FCS plays in supporting exports by small companies.

I might add here, Mr. President, we all know the major exporting companies, large companies in America are very competitive in the world market. They need help to stay on an equal footing with Export-Import Bank assistance and other financing, but when it comes to getting into the world market our medium- and small-sized businesses do not have the resources to mount an effective campaign for a small business. This letter reads as follows, and I quote:

> Four years ago, acting as vice president of a 65-year-old small business in St. Louis, Mo., I watched in horror as more and more of our independently owned retail customer base began closing. I then observed the exit of our largest single account, which accounted for 10% of our total company sales. After studying the competitive nature of U.S. business, I decided to investigate foreign markets as a possible answer to our declining sales problems.
>
> I did not know one single thing about international trade, I did not know where to look for possible customers, how to find them or how to communicate with them if, indeed, one was to be found. To a first-time potential exporter, the world looked like a very big place indeed, and I thought I had no way of knowing how to access it.
>
> One single seminar sponsored by the Department of Commerce, a two-hour lecture on international shipping, started my company once again on the road to financial stability. For during that two-hour meeting, and during the subsequent small talk that followed, I was introduced to the world through the eyes of the United States and Foreign Commercial Service and the U.S. Department of Commerce.
>
> Within only one year's time, our company exports climbed to $110,000. With continued tutelage from various members of the US&FCS, the second year of exporting yielded $263,000. Year three saw our sales climb to $473,000. Year four saw $576,000 in international sales alone.

Mr. President, those are significant amounts for a small company. They are very significant for any community. They are vitally important for the workers who make the products that are sold in the world market. If we multiply it across the tens of thousands of small firms that could be exporting, you would see the enormous impact on our trade deficit and our overall economic well-being that these functions of the Department of Commerce serve.

It is for that reason, Mr. President, I believe, when we take a look at weeding out the chaff and cutting out unnecessary activities, we must be well advised to keep those things which are working, to keep those things which are vitally important for ensuring the continued competitiveness of small- and medium-sized firms in the world market. If we do not help these firms, they will wither and die.

We must recognize, however, that small companies like this one are not going to export without help. They do not have the people, they do not have the time, and they do not have the resources to devote to entering the often-difficult international marketplace. If we take away their access to Commerce Department assistance, they are not going to go out and hire private lawyers and accountants—instead, they are going to forgo exporting, and cede valuable markets to foreign firms.

Third, the proposals to eliminate the Commerce Department would destroy the Import Administration. The Import Administration is the Agency responsible for enforcing and administering the laws against dumped and subsidized exports of other countries. Actions initiated by the Import Administration have played a key role in the revitalization of several U.S. industries.

The proposal that has been introduced in the House to abolish the Commerce Department would transfer the functions of the Import Administration to USTR which is not a proper agency to be making such determinations, and which will not have the manpower to handle the job.

A fourth problem with the plans that have been put forward is that they would transfer the responsibility for licensing dual use exports from the Bureau of Export Administration, to either the State Department or Defense Department.

Under the current system of export controls, the Commerce Department is responsible for licensing dual-use exports such as machine tools, computers, and telecommunications. The State Department has the responsibility for licensing weapons sold overseas. Over the past several years, as Congress has considered proposals to rewrite the export control system, a primary goal of exporters has been to ensure that as many exports as possible fall under the jurisdiction of the Commerce Department rather than the State Department. There are several reasons for this move. State is seen as not being friendly to exporters. It is seen as something of a black hole where export license applications can disappear until sales are lost to foreign firms by default.

Further, exporting is not the primary concern of the State Department. Instead, the Agency is focused on foreign policy concerns. It is easy to imagine a scenario in which an export application might be denied due to foreign policy interests rather than commercial interests.

Finally, State is in the process of taking cuts in its primary programs. As that happens, there is almost certainly not going to be an adequate number of people assigned to noncore functions such as export licensing. The result will be a further loss of jobs for American firms.

The alternate proposal to move the licensing function to the Defense Department is similarly problematic. DOD has responsibility for national security, not exporting. They do not have there expertise to deal with dual-use commercial items such as machine tools, computers, and telecommunications items. The result is certain to be that they will err on the side of caution and deny all licenses—or at least a majority of them.

Fifth, the proposal would transfer the responsibility for enforcing export controls from Commerce to the Customs Service. Now I am a strong supporter of the Customs Service. I think they are doing a fine job with the limited resources we give them. I have visited several of their facilities, I have watched them in action at the border. We can be proud of the job they are doing, particularly in keeping illegal drugs out of our country.

I am concerned, however, that the proposal to split enforcement from export licensing and transfer it to Customs will weaken our effort to control the spread of weapons of mass destruction. No matter how good a job Customs does, and they have done some good work in this area, they will still not be focused on it as their primary function, as the agents in Commerce are currently. Also, I fear that export enforcement will take back seat to the more visible activity of combating the spread of illegal drugs.

I should like to turn for a moment to the proposal to transfer several of these functions to USTR. I simply do not think that will work.

USTR is part of the Executive Office of the President. For 2 years now, we have told the President that he must cut the White House staff back significantly. Now some are coming forward with a proposal that would reverse any progress that has been made, by transferring hundreds of new employees to the White House. That does not make a whole lot of sense.

Just as important, USTR is not an appropriate home for these agencies or functions. USTR is a policy agency designed to advise the President and play the role of honest broker between other trade agencies. Transferring the functions of the Import Administration, the Foreign Commercial Service, and other agencies to USTR will make it a line agency with significantly broader responsibilities than it currently has. I question whether that is a step we want to be taking. I, for one, do not think so.

And there are other problems that are sure to arise. I am sure agricultural interests will be concerned that this proposal will put some of Commerce's manufacturing and services trade specialists into USTR. Since we would not be doing the same for the commodity specialists in the Department of Agriculture, they are certain to see this move as tipping the balance of interest in the White House away from agriculture interests.

As I stated earlier, if we are in fact going to eliminate the Commerce Department, I believe the solution to this problem is to create a very small, but very effective Department of International Trade made up solely of the existing functions of the International Trade Administration and the Bureau of Export Administration, and represented in the Cabinet. Creation of this agency will allow us to continue to remain effective in the international arena without spending more money than we are now. It keeps BXA and ITA together, thereby preserving the synergy that comes from keeping trade in one agency; and it allows exporters to continue to have a place at the cabinet table.

This new Department of International Trade would not be the bureaucratic monster that today's Commerce Department has become. It would have a budget of less than $400 million—not even one-tenth of the current Commerce Department budget.

My plan would not consolidate other existing trade agencies. It would leave USTR, the Export-Import Bank, OPIC, and TDA as independent agencies. Senators may ask why I do not consolidate them into this new agency, and my answer is very simple, they work, and I have long subscribed to the old adage, if it ain't broke, don't fix it. They are small agencies, performing critical functions, and we ought to leave them alone to continue that fine work.

As I have said already, trade is the key to our economy's future. If we toss in the towel right now, we can give up on the hope of remaining the world's most important economy. We simply will not be able to do so. I am not willing to toss in the towel, and I bet a majority of Senators agree with me.

In closing, I would note that a number of wild charges have been tossed around by those opposed to the so-called corporate welfare programs of export promotion and finance. I would like to focus on just one of those wild charges.

The report accompanying the House budget resolution references a CBO report which states:

> [a]ll increases in exports * * * resulting from ITA's * * * activities are completely offset by some mix of reduced exports of other industries and increased imports.

Now, Mr. President, I do not know which rocket scientist at CBO came up with than analysis, but it is one of the most ludicrous assertions I have come across in my time here in Washington—and trust me I have heard some good ones.

When the people at ITA work to see that a foreign airline buys Boeing 747's or McDonnell Douglas MD-11's rather than Airbus aircraft, is that increase in our exports offset by reduced exports or increased imports? No.

When a US&FCS officer in Kuala Lumpur helps to ensure that American firms win a major power project against their subsidized Japanese competitor, does that result in reduced exports somewhere else in our economy? Of course not.

Mr. President, the world trade pie is huge. The United States has a large part of it, but we should have an even larger part. Attitudes like the one expressed by this bureaucrat at CBO show a complete lack of understanding of this fact. If we make the mistake of believing them, we will condemn this Nation to lost jobs, a declining economy, and a lower standard of living as we enter the 21st century.

Mr. President, I thank the Chair for the indulgence. I yield the floor.

RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:30 a.m. tomorrow.

Thereupon, at 5:25 p.m., the Senate recessed until Tuesday, June 20, 1995, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 19, 1995:

DEPARTMENT OF STATE

PEGGY BLACKFORD, OF NEW JERSEY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GUINEA-BISSAU.

EDWARD BRYNN, OF VERMONT, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF GHANA.

JHOHN L. HIRSCH, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SIERRA LEONE.

VICKI J. HUDDLESTON, OF ARIZONA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF MADAGASCAR.

ELIZABETH RASPOLIC, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE GABONESE REPUBLIC AND TO SERVE CONCURRENTLY AND WITHOUT ADDITIONAL COMPENSATION AS AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF SAO TOME AND PRINCIPE.

DANIEL HOWARD SIMPSON, OF OHIO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ZAIRE.

Executive nominations received by the Secretary of the Senate June 16, 1995, under authority of the order of the Senate of January 4, 1995:

INFORMATION AGENCY

DAVID W. BURKE, OF NEW YORK, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM OF 3 YEARS. (NEW POSITION.)

EDWARD E. KAUFMAN OF DELAWARE, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM OF 2 YEARS. (NEW POSITION.)

TOM C. KOROLOGOS, OF VIRGINIA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM OF 3 YEARS. (NEW POSITION.)

BETTE BAO LORD, OF NEW YORK, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM OF 2 YEARS. (NEW POSITION.)

EXTENSIONS OF REMARKS

COMMEMORATING THE VICTIMS OF THE KATYN MASSACRE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1995

Mr. LANTOS. Mr. Speaker, I invite my colleagues to join me in remembering the victims of Stalin's mass murder of Polish officers in the Katyn Forest in Russia on June 4, 1940. That vicious and horrible slaughter was one of the great atrocities of World War II. As a result of the partition of Poland by Nazi Germany and the Soviet Union on the basis of the infamous Hitler-Stalin pact, the Soviet Union occupied eastern Poland. Following that imposition of Soviet control, which was every bit as brutal as the Nazi occupation of western Poland, the Soviet authorities brutally murdered some 15,000 Polish military officers and other Polish citizens. After the Soviets carried out this brutal massacre, they falsely blamed the Nazis for this inhuman act.

Mr. Speaker, this month marks the 55th anniversary of the Katyn Massacre. In memory of the victims of this horrible act, as a tribute to the survivors and their families, and as a message of reconciliation for the future, I wish to place in the RECORD the following message from the Federation of the Katyn Families:

"A MESSAGE TO THE WORLD FROM THE KATYN FAMILIES"—A STATEMENT REGARDING THE KATYN MASSACRE

Many call it the "Golgotha of the East": Katyn Forest and other sites in Russia where 15,000 captured Polish citizens and officers were massacred by Soviet paramilitary police during World War II. Now a sanctuary is being built in Katyn: as a remembrance and warning that it must not happen again, and as a symbol of reconciliation between Poland and Russia. Monsignor Zdzislaw Peszkowski, one of the fewer than 150 surviving prisoners of the massacre, and chief proponent of the sanctuary, states that the act of forgiveness offered by the Katyn Families will provide a starting point for future positive relations between Poland and Russia.

The massacre of the leading members of the Polish intelligentsia—including physicians, judges, scholars, policemen, and military officers—was intended by Josef Stalin to destroy resistance in Poland and annihilate the nation. During the war, Poland was invaded by both German and Soviet troops. The prisoners were each killed by a single bullet to the back of the head. With their hands tied behind their backs with barbed wire or heavy cord, they were thrown into mass graves. The victims have never been exhumed or buried. After the systematic murders of these 15,000 men, some 2 million Polish citizens, including victims' families, were evicted from their homes and crowded into animal boxcars and sent inland to serve as slaves in Russia. Many died on the trains and their bodies were thrown from the moving trains. In 1993, Boris Yeltsin admitted that responsibility for the massacre lay with the Soviet Union, while previously it had been attributed to the German army.

The Federation of the Katyn Families pleads with members of all nations to remember these atrocities and prevent such a thing from happening again. They proclaim that evil is overcome by the power of love and this love leads to victory and new life. They turn to the heirs of their persecutors and say: "We forgive." Especially to the youth, they say: "You are our hope. We caution you and beg: Through memory of past crimes, do not try to solve problems by force. May your generation renew the face of the earth. . . . We extend our hand in reconciliation to you, Brothers of the East. May our pain, memory, and forgiveness strengthen us all on the road to the peace desired by the entire human family."

ERNIE MILLS NAMED TOP BROADCASTER

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1995

Mr. RICHARDSON. Mr. Speaker, I urge my colleagues to join me in recognizing an outstanding broadcaster from New Mexico who was recently named Broadcaster of the Year by the New Mexico Broadcasters Association.

Ernie Mills of Santa Fe is a 46-year veteran of journalism. His career began in 1949 at the New York Herald Tribune. After 8 years in New York, he headed west to serve as the editor of the Gallup Independent. His colleagues in New York told him there was no news in New Mexico and that he would be heading back east in no time.

Mr. Mills, of course, proved his east coast friends wrong and quickly proved his worth. In March 1958, producer Mike Todd's plane crashed near Gallup. There was considerable interest in the story as Mr. Todd was married to film star Elizabeth Taylor. Not only did he file stories statewide, but his old paper, the Herald Tribune, led with Mr. Mills' story.

In 1968 and 1969 Mr. Mills made two tours of Vietnam to cover the New Mexico troops. He reported back to the troops' hometown radio stations and provided combat coverage for two Albuquerque television stations.

But Mr. Mills' most remarkable work occurred in 1980 during a violent uprising at the New Mexico State Penitentiary. Thirty-three inmates lost their lives during the riot. Mr. Mills was so well known and respected as a reasoned voice in New Mexico that State officials asked him to go inside the facility to negotiate with the inmates for the release of 15 guard hostages. Throughout the Saturday and Sunday of the riot, Mr. Mills repeatedly risked his own life and went inside the facility to meet with the inmate negotiators. The negotiations paid off as all 15 hostages were released.

Thanks to his many years covering the State legislature, Mr. Mills is a walking encyclopedia of New Mexico political history. He is a great resource for a good many people. He is always willing to share his knowledge and wisdom whether it is telling a story from the past or predicting something in the future.

He remains as active today as he's ever been—he has a daily radio program, a regular television show, and his own newsletter, the Mills Capitol Observer. I and many other New Mexicans greatly respect Mr. Mills. We know and trust him as a journalist. We care about him as a friend.

Mr. Speaker, I ask my colleagues to join me in recognizing and honoring this outstanding broadcast journalist who has excelled in his profession and has won the adulation and admiration of his peers and his listeners. I offer my congratulations to New Mexico's Ernie Mills and wish him all the best as he continues to do what he loves best.

IN MEMORY OF JACK FARBER

HON. GARY L. ACKERMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1995

Mr. ACKERMAN. Mr. Speaker, I rise today to join with my constituents in the Fifth Congressional District and the residents of the Flushing, Queens, community in mourning the loss of one of New York's most distinguished citizens, Jack Farber.

A graduate of Lafayette College and Brooklyn Law School, Mr. Farber established a reputation as a builder and developer of real estate on Long Island. Yet it was as chairman of the National Bank of New York City that he made his greatest contribution and is best remembered.

In 1963, Jack Farber founded the Flushing National Bank, later renamed the National Bank of New York City, and turned it into a neighborhood institution. From its outset, the bank, under Jack's astute leadership, assumed a unique role of exceptional service to the community. It was the first commercial bank to have its main branch and headquarters in the Flushing area. It also become known as a pioneer in banking operations by being the first bank in New York City to be open for business on Saturdays, as a convenience to its depositors. In addition, it was the first bank in New York State to pay interest on Christmas and Chanukah savings accounts.

As the Flushing community grew, so did Jack Farber's bank. In fact, Jack looked upon the bank as one of his greatest achievements, but, even more, he viewed the bank as part of the community. In doing so, he accepted the responsibility of supporting the community. He was an active benefactor of the Anti-Defamation League, the United Jewish Appeal, Lafayette College, and a multitude of other charitable organizations that fulfilled Jack's mission

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

to promote civil and human rights, expand health care, and to improve humanity.

It is to the great benefit of the Flushing neighborhood that citizens such as Jack Farber have so willingly shared their skill, compassion, and goodwill in giving of themselves to enhance our neighborhoods.

Mr. Speaker, I call on all of my colleagues in the House of Representatives to join me now in extending our condolences to the Farber family, and in paying tribute to the late Jack Farber, a skillful businessman and a warm and generous humanitarian.

SALUTE TO KIDS WHO CARE

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1995

Mr. BAKER of California. Mr. Speaker, recently, one of the papers in my district carried an article about an unusually impressive group of young men and women. According to the Contra Costa Times, this summer Kids Who Care will field over 100 high school students to serve as unpaid volunteers committed to fixing up the homes of senior citizens in northern Contra Costa County.

Kids Who Care is a nonprofit organization sponsored by another outstanding group, Christmas for Everyone. Through painting houses, doing yardwork, and other chores for seniors, these young people show their community spirit and their dedication to making life a bit easier for Easy Bay senior citizens.

Not only do the kids perform superb community service, but they also learn a bit about entrepreneurship, as well. By recruiting and working with corporate sponsors, they learn about the free enterprise system and how the business community can play a vital role in helping others. Julie Haydon, a student at Acalanes High, facilitates the corporate sponsorship program, and has already developed skills in planning and coordination that will serve her well throughout her life.

Private sector efforts to meet community needs are increasingly critical, and Kids Who Care serves as a model for effective, voluntary action to address some of the real concerns America now faces. Mary Perez, founder of Christmas for Everyone, deserves high praise for her sponsorship of Kids Who Care. And to the scores of teenagers who this summer will work without pay to help seniors and make their neighborhoods brighter places, thank you for all you are doing to remind us that America's best days lie ahead.

TRIBUTE TO CHICAGO RIDGE MAYOR EUGENE L. SIEGEL

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1995

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to Mr. Eugene L. Siegel, an outstanding public leader and resident of the Third Congressional District in Illinois. After 20 years of dedicated public service, Gene Siegel is retiring as mayor of Chicago Ridge, IL.

Mr. Siegel began his political career in 1963 when he was appointed as the deputy coroner for the Cook County Coroner's Office. After serving in that position for 8 years, Gene accepted another appointment as the assistant chief to the Cook County Sheriff's Office. In 1987, he accepted yet another appointment as administrative assistant to the State Treasurer's Office. Mayor Siegel was also a member of the Cook County Criminal Justice Commission for 6 years; one of two mayors in all of Cook County serving in that capacity. He is also a past associate of the Crisis Center for South Suburbia.

In 1975, Gene was elected as part-time mayor of Chicago Ridge to fill an unexpired term. He was reelected in 1977, 1981, 1985, 1989, and in 1993, was elected as a full-time mayor. At the present time, Mayor Siegel is serving as vice chairman of the Southwest Council of Mayors, and is the legislative chairman for the Southwest Conference of Local Government. Also, he is serving as vice president and a member of the board of directors for the Illinois Municipal League. He is a member of the Midway Airport task force and a member of the Cook County Advisory Board on Community Development Block Grant applications.

During his tenure as mayor, Mayor Siegel has accomplished a tremendous amount on behalf of the residents of Chicago Ridge. Gene created a solvent tax base by instrumenting the development of the Chicago Ridge Mall in 1981, and the Commons of Chicago Ridge in 1988. These developments allow his administration to hold the line on property owner's taxes and still permit such village improvements as the improvement of Ridgeland Avenue to establish commercial land use and the installation of an adequate water system with a 2-million-gallon reservoir and a pumping station. The mayor has worked diligently to make Chicago Ridge a beautiful and safe place to live and raise a family. Under his administration, countless streets have been paved with storm sewers, gutters, and modern street lighting, and traffic signals have been installed at hazardous intersections. Presently, the mayor is working on development projects that include the industrial park, a 130 acre parcel of property, and the Chicago Ridge Commons TIF extension.

Mayor Siegel is a dedicated public servant who has worked to build a genuine community feeling in Chicago Ridge. Throughout his 20 years as mayor, Gene has maintained an open door policy for all his constituents and employees. He will be sorely missed as mayor of Chicago Ridge but I am sure he will remain a prominent member of the community. He and his wife have been residents of Chicago Ridge for 39 years.

I ask my colleagues to join the residents of Chicago Ridge and myself in expressing our gratitude to Mayor Siegel for his years of devotion to public service. I wish Mayor Siegel good health in his retirement and, again, I thank him for his devotion to the residents of Chicago Ridge.

SALUTE TO THE COLORADO SILVER BULLETS

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1995

Mrs. SCHROEDER. Mr. Speaker, in an era when so many fans are turning away from baseball, it is reassuring to know that there are still a few people who are playing for the love of the game. I'm talking about the Colorado Silver Bullets, the Nation's only professional women's baseball team, which made its debut last year. The Bullets compete with men's teams throughout the Nation.

But the Bullets are about more than sports. They have been able to parlay the public and media interest they generate as a result of being the Nation's only professional women's baseball team to help fight domestic violence and to reinforce the dreams of many American children. Not only do they raise public awareness of women's athletics, but also they provide thousands of young girls hope for a future in professional sports.

They help stop domestic violence by donating tickets to local programs serving battered women and their children for use in fundraising. In addition, the Bullets speak to children and adolescents around the country on self-esteem.

For their contributions to America's game and their contributions to America, I commend the Colorado Silver Bullets.

ELIMINATE THE JOINT ECONOMIC COMMITTEE NOW

HON. DAVID MINGE

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1995

Mr. MINGE. Mr. Speaker, this year we are embarking on a long and arduous journey to a balanced budget. Our lingering deficit and staggering national debt make balancing the budget a critical necessity. We must take serious action now. We can no longer spend rampantly and pass the buck on to our children.

During this difficult process, we will have to make many painful decisions to cut beneficial programs and scale back the size of Government. We will have to cut waste and set priorities for dispersing the limited pool of Federal dollars. In this spirit of eliminating waste and reducing the deficit, I will be offering an amendment to the fiscal year 1996 legislative appropriations bill to eliminate funding for the Joint Economic Committee. Mr. Speaker, I understand that the Joint Economic Committee has been identified as waste and is slated for elimination in fiscal year 1997, but why should we wait another year? By eliminating the Joint Economic Committee this year, we could save the taxpayers $3 million.

We can no longer afford the luxury of funding redundant, duplicative, Government entities such as the Joint Economic Committee. We already have budget committees and tax committees in the House and Senate. Earlier this year, the committees of the House were reorganized and the total number reduced to eliminate overlap and duplication. Now, during the budget process, we must continue this effort and eliminate wasteful joint House-Senate committees.

Mr. Speaker, I commend you for your efforts to pare down the size of the legislative branch and improve efficiency. Let us take another relatively easy step toward balancing the budget by eliminating the Joint Economic Committee 1 year early. I urge my colleagues to support my amendment and save the taxpayers $3 million.

INDIAN TRIBES MUST ALSO HAVE A SEAT AT THE TABLE

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1995

Mr. RICHARDSON. Mr. Speaker, I am introducing legislation today that would add native American representation to the Advisory Commission on Intergovernmental Relations. Since its inception in 1959, this Commission which is composed of governmental officials from all levels of government has never included representatives from the oldest existing governments in this country—American Indian and Alaska Native tribes. The bill that I am introducing today will correct this egregious omission.

Federally recognized Indian tribes maintain a government-to-government relationship with the United States. Since the formation of this Nation the Congress, the courts, and the executive have recognized the sovereign status of Indian tribes and through treaties, Executive orders, and other means have dealt with tribes on a government-to-government basis. Furthermore, the United States has undertaken a solemn trust responsibility with respect to the protection and enhancement of the native American tribes.

It is almost shocking, but yet not surprising, that the more than 550 native American tribes in our country have been overlooked by the Commission for 36 years. My bill would expand the number of members on the Commission from 26 to 30 by adding 4 native American tribal officials to be appointed by the President from a list of 8 candidates selected by the House Committee on Resources and the Senate Committee on Indian Affairs. Because the Governors and mayors each have four representatives on the Commission, it seems that four is an appropriate number of representatives for Indian country as well.

Mr. Speaker, for too long we have neglected to invite our native American tribal leaders to be active and meaningful participants in our democratic form of government. In order for the Commission to truly fulfill its purpose of bringing together the various forms of government for consideration of common problems, Indian tribes must also have a seat at the table.

I urge my colleagues to support this legislation.

RETIREMENT OF WILLIAM C. DEE

HON. ROBERT L. EHRLICH, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1995

Mr. EHRLICH. Mr. Speaker, I rise today to recognize a highly respected and dedicated public servant who has retired after 36 years of service to his country.

During his tenure with the Federal civil service, William Dee was regarded as one of the world's foremost authorities on chemical weapons and chemical warfare. His expertise in the various techniques that produce chemical agents and munitions has benefited both the United States and countries throughout the world. At one point in his career, William Dee found himself in an unprecedented role when he guided and directed the U.S. Army's technical and scientific support to chemical and biological arms control.

Mr. Dee's extensive knowledge and ability to work harmoniously with policymakers helped shape the Chemical Weapons Convention, which allowed U.S. national security and industrial interests to be given significant attention. During the course of his career, William Dee's efforts had a profound impact on the chemical weapons community, the Department of Defense, and our Nation.

Mr. Speaker, please join me in recognizing William Dee as an exemplary American who has served his community with skilled devotion for 36 years. He has left a proud legacy for future generations to follow.

UNITED STATES POLICY TOWARD CUBA

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 19, 1995

Mr. HAMILTON. Mr. Speaker, on May 8, 1995, I wrote to President Clinton concerning the May 1995 migration agreement between the United States and Cuba in the context of overall United States policy toward Cuba.

On June 4, 1995, I received a reply from President Clinton. The text of the correspondence follows:

HOUSE OF REPRESENTATIVES, COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, May 8, 1995.

WILLIAM J. CLINTON,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I write with regard to last week's migration agreement between the United States and Cuba. I am concerned that this policy change treats only one aspect of Cuba policy and does not address the central policy problems.

For it to be successful, U.S. policy toward Cuba requires more than returning Cuban migrants interdicted at sea to Cuba. Instead of limiting policy changes to migration issues, the United States should reach out to the Cuban people in an attempt to make their lives better, decrease their incentive to emigrate, and enhance the chances for a peaceful transition to democracy in Cuba.

I commend you for your recent comments on U.S. Cuba policy. I welcome the administration's opposition to key provisions of the Cuban Liberty and Democratic Solidarity Act of 1995. I also have been encouraged by your recent comments, and those of administration officials, which have stressed the importance of having a robust "Track II" to U.S. Cuba policy. I agree with you that additional pressure on Cuba could likely result in violent change, unleashing the kind of migration your new policy is designed to discourage.

Now is the time to take definitive steps to increase contact between the citizens of the United States and Cuba and attempt to lessen their hardship. It is not the time for attempts at further isolating Cuba. These steps should include: Restoring pre-August 1994 remittance and travel guidelines for Cuban-Americans; allowing for greater travel and contact between all U.S. citizens and the people of Cuba; and pushing for news bureau exchanges between the U.S. and Cuba.

Such initiatives would be positive steps toward advancing the central goal of U.S. Cuba policy—a peaceful transition to democracy. The steps could also help discourage Cubans from taking to the seas. Taking those steps and eliciting reciprocal actions by Cuba also could lead to the process of carefully calibrated responses to Cuban actions emphasized in recent comments by administration officials.

I look forward to working with you on this matter.

With best regards,
Sincerely,

LEE H. HAMILTON,
Ranking Democratic Member.

THE WHITE HOUSE,
Washington, June 3, 1995.

Hon. LEE H. HAMILTON,
House of Representatives, Washington, DC.

DEAR LEE: Thank you for your letter on United States policy toward Cuba.

It has been one of our long-standing goals to regularize our migration relationship with Cuba. This will enable the United States to better control its borders. It will ensure that Cubans do not take to the sea in unseaworthy rafts at great peril to their lives. Finally, by resolving an issue Castro has long used to distract us, it will allow the United States to focus on its central goal of promoting a peaceful transition to democracy in Cuba. The recent migration agreements advance these objectives.

I share your belief that we must help the Cuban people in their struggle for democratic reform and human rights, and we now are in a position to do just that. Consistent with Track II of the Cuban Democracy Act, we already have taken steps to increase the flow of information, improve telecommunications and license private humanitarian aid to Cuba. I am committed to assisting opposition leaders, free-thinking intellectuals, churches and human rights groups in their efforts to push for meaningful political and economic change.

With regard to your specific proposals, we continue to review whether the measures in place serve our objective of encouraging peaceful economic and political change. Any actions we take will be consistent with that goal and with the two-track approach of the Cuban Democracy Act.

As usual, I appreciate your thoughtful comments on this issue.

Sincerely,

BILL CLINTON.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 20, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 21

9:00 a.m.

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD–430

9:30 a.m.

Labor and Human Resources

To hold oversight hearings on the Occupational Safety and Health Administration (OSHA).

SD–430

10:00 a.m.

Governmental Affairs

To hold hearings to abolish the Department of Commerce.

SD–342

2:00 p.m.

Select on Intelligence

To hold hearings to review the progress of the activities of the Director of Central Intelligence.

SD–106

JUNE 22

9:30 a.m.

Energy and Natural Resources

Forests and Public Land Management Subcommittee

To hold hearings on S. 852, to provide for uniform management of livestock grazing on Federal land.

SD–366

Labor and Human Resources

To continue oversight hearings on the Occupational Safety and Health Administration (OSHA).

SD–430

Indian Affairs

To hold joint hearings with the House Committee on Resources Subcommittee on Native American and Insular Affairs on S. 487, to amend the Indian Gaming Regulatory Act.

SD–G50

Joint Economic

To hold hearings to examine the impact of the President's 10-year budget plan on the economy.

SD–106

10:00 a.m.

Environment and Public Works

Drinking Water, Fisheries, and Wildlife Subcommittee

To hold oversight hearings on the National Marine Fisheries Service policy on spills at Columbia River hydropower dams, gas bubble trauma in endangered salmon, and the scientific method used under the Endangered Species Act which gave rise to that policy.

SD–406

Judiciary

Business meeting, to consider pending calendar business.

SD–226

JUNE 23

9:30 a.m.

Labor and Human Resources

To hold hearings to examine issues relating to the Legal Services Corporation.

SD–430

JUNE 27

9:30 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on ballistic missiles.

SD–192

Special on Aging

To hold hearings to examine the impact of breakthroughs in the treatment of catastrophic diseases on reductions in health care costs.

SH–216

JUNE 28

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD–366

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD–430

Indian Affairs

To hold hearings on S. 814, to provide for the reorganization of the Bureau of Indian Affairs.

SR–485

JUNE 29

9:30 a.m.

Small Business

To hold hearings to examine the future of the Small Business Investment Company program.

SD–538

10:00 a.m.

Energy and Natural Resources

To hold oversight hearings with the Committee on Environment and Public Works on energy and environmental implications of the Komi oil spills in the former Soviet Union.

SD–366

Environment and Public Works

To hold oversight hearings with the Committee on Energy and Natural Resources on energy and environmental implications of the Komi oil spills in the former Soviet Union.

SD–366

Governmental Affairs

Permanent Subcommittee on Investigations

To hold hearings to review the friendly fire incident during the Persian Gulf War.

SD–342

2:00 p.m.

Energy and Natural Resources

Parks, Historic Preservation and Recreation Subcommittee

To hold hearings on S. 594, to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer.

SD–366

JULY 11

10:00 a.m.

Veterans' Affairs

To hold hearings to examine options for compliance with congressional budget resolution (H. Con. Res. 67) instructions relating to veterans' programs.

SR–418

JULY 13

9:30 a.m.

Indian Affairs

To hold hearings on S. 479, to provide for administrative procedures to extend Federal recognition to certain Indian groups.

SR–485

CANCELLATIONS

JUNE 20

9:30 a.m.

Energy and Natural Resources

To hold oversight hearings to review existing oil production at Prudhoe Bay, Alaska and opportunities for new production on the coastal plain of Arctic Alaska.

SD–366

JUNE 21

9:30 a.m.

Energy and Natural Resources

To hold hearings on the Secretary of Energy's strategic alignment and downsizing proposal and other alternatives to the existing structure of the Department of Energy.

SD–366

SENATE—*Tuesday, June 20, 1995*

(Legislative day of Monday, June 19, 1995)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by Rabbi George Holland. He is a guest of Senator FAIRCLOTH.

PRAYER

Rabbi George Holland, Beth Hallell Synagogue, Wilmington, NC, offered the following prayer:

God of Abraham, Isaac, and Jacob, we bless Your holy name this day, You who gives salvation to nations, and strength to governments. We thank You for blessing the United States of America and all of her people. Instill in all of us a spirit of love and forgiveness in order to come together as one nation, working toward freedom for all mankind.

Master of all, we pray that You protect and guard our President, Bill Clinton, that You shield our President and all elected officials from any illness, injury, and influence. We beseech You to send Your wisdom, knowledge, and understanding daily to each of them as they guide our great Nation, and that Your angels guide, guard, and direct each elected individual, and those employed by them.

For it is in the name of the King of all kings that we pray. Amen.

Mr. CAMPBELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. May I make inquiry of the Chair what the business is before the Senate?

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The PRESIDENT pro tempore. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

The Senate resumed consideration of the bill.

Mr. REID addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from Nevada.

AMENDMENT NO. 1427

(Purpose: To provide that the national maximum speed limit shall apply only to commercial motor vehicles)

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 1427.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER (Mr. CAMPBELL). Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 26, strike line 14 and all that follows through page 28, line 9, and insert the following:

SEC. 115. LIMITATION OF NATIONAL MAXIMUM SPEED LIMIT TO CERTAIN COMMERCIAL MOTOR VEHICLES.

(a) IN GENERAL.—Section 154 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 154. National maximum speed limit for certain commercial motor vehicles";

(2) in subsection (a)—

(A) by inserting ", with respect to motor vehicles" before "(1)"; and

(B) in paragraph (4), by striking "motor vehicles using it" and inserting "vehicles driven or drawn by mechanical power manufactured primarily for use on public highways (except any vehicle operated exclusively on a rail or rails) using it";

(3) by striking subsection (b) and inserting the following:

"(b) MOTOR VEHICLE.—In this section, the term 'motor vehicle' has the meaning provided for 'commercial motor vehicle' in section 31301(4) of title 49, United States Code, except that the term does not include any vehicle operated exclusively on a rail or rails.";

(4) in the first sentence of subsection (e), by striking "all vehicles" and inserting "all motor vehicles"; and

(5) by redesignating subsection (i) as subsection (f).

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 154 and inserting the following:

"154. National maximum speed limit for certain commercial motor vehicles.".

(2) Section 153(i)(2) of title 23, United States Code, is amended to read as follows:

"(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.".

(3) Section 157(d) of title 23, United States Code, is amended by striking "154(f) or".

(4) Section 410(i)(3) of title 23, United States Code, is amended to read as follows:

"(3) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.".

The PRESIDING OFFICER. The Senator is recognized.

Mr. REID. Mr. President, last weekend, I returned to the State of Nevada to speak at two high school graduations in rural Nevada. One of the high schools is about 80 miles from Reno, a place called Yerington in Lyon County. I spoke there at 10 o'clock in the morning and then that evening proceeded to Lovelock, NV, in Pershing County, which is about 90 miles from Reno.

I traveled to Yerington by automobile and traveled to Lovelock by automobile from Yerington and then back to Reno. It was while I was traveling from Lovelock to Reno that evening that I decided that it was appropriate to offer the amendment which I have just offered.

I was on an interstate traveling at 65 miles an hour, and there were a number of occasions when trucks passed the car in which I was a passenger. There were other occasions during that day, certainly fixed in my mind that night, when we had had difficulty with trucks in many different ways—their loads moving as they proceeded up the roadway, as we tried to pass them on occasion.

Mr. President, as those of us who live in rural America, who spend time in rural America, know, trucks travel at great speeds. It is not infrequent that a truck will pass a car doing the speed limit. We know that it was necessary through Government regulation that there had to be a ban placed on the ability of trucks to determine if there were law enforcement officers in the vicinity with radar to see what their speed was. They all traveled with radar detectors, and that had to be outlawed because trucks drove so fast. There have been a number of programs on national television of how trucks travel, how the drivers are tired, how they have now, with deregulation, a significant number of miles to make, they have loads to pick up, they have loads to deliver.

This amendment is about safety on the highways. That is why, Mr. President, in newspapers all over the country, and certainly illustrated in yesterday's USA Today, the question is asked: "Why are the Nation's highways getting deadlier?" There are a lot of answers to questions like that asked in yesterday's USA Today.

One reason is truck traffic. If a passenger vehicle is in an accident with a truck and there are fatalities involved, there is a 98 percent chance that the passenger in the passenger vehicle is going to lose. Trucks win almost all the time. Almost 100 percent of the time trucks win and the passengers in the cars are killed and the trucks can drive off. Those of us who spend time in Congress are forced to read newspapers from here, we listen to the news here and we know the beltway around the Nation's Capital is deadly. Why? It is deadly because of trucks. I dread my family being on the beltway around Washington because of the trucks—they change lanes, they go fast. It is very, very difficult to feel safe when these trucks are barreling down the road trying to meet deadlines and carrying huge loads.

The amendment I have proposed is to provide that the national speed limit apply only to commercial motor vehicles. What we did in committee—I am a member of the Environment and Public Works Committee—is report a bill to the Senate which, in effect, did away with the speed limit. The reasoning was that States are better able to set speed limits, and I agree with that; that with passenger vehicles, a State like Nevada or a State like Colorado is better able to determine what the speed limits should be. Should there be a speed limit around Las Vegas that is one speed and a speed limit around Winnemucca that is another speed? The question is obviously yes. There should be some discretion left to State and local governments to set speed limits, but as relates to commercial vehicles, we should have a national speed limit. There is no question about that. Most of the commercial vehicles, of course, travel in interstate commerce.

Specifically, this amendment takes issue with the large commercial trucks which travel around our Nation's highways. Why is it critical to maintain a speed limit for this small proportion of vehicles? The reason is because one out of every eight fatalities on our roads today is the result of a collision involving a large truck, a commercial vehicle. In fact, tractor-trailer trucks are involved in more fatal crashes per unit of travel than passenger vehicles. In fact, Mr. President, about 60 percent more passenger vehicles are involved at about 2.5 per 100 million miles. Trucks, commercial vehicles that this amendment applies to, are almost 4. That is about a 60 percent difference. But what is even more striking is the fact that, as I have indicated, a little less than 2 percent of the people who are driving in a passenger car, who are involved in an accident with a truck—whether there are fatalities involved—survive, whereas trucks almost always remain.

Getting into an accident with a large truck is a hazard to a smaller vehicle. This means that the lives of us, our spouses, children and friends, are at risk when on the roads with these large commercial vehicles. It is interesting to note that most of the deaths occur during the daytime. I wondered why that is. Well, the reason is that there are more trucks on the road and certainly more passenger cars on the road. These trucks have places to go, they have time limits to meet, they have loads to pick up and loads to deliver. They are there on the road because they have some place to go and they want to be there as quickly as possible. That is how they make money. We need to set a standardized speed limit for these trucks.

As I indicated in my trip to rural Nevada last week, when I realized that we were doing the wrong thing by having a lifting of the speed limit for all vehicles, most of us have had the same experience of sharing the road with large trucks. They are a fact of life on the highways, and we all recognize that. But many of us have also had the unnerving experience of sharing the road with trucks that either tailgate—we have all had that—and you have to go faster because if you do not, you have the feeling that truck is going to run right over you. We have had the other experience of trucks barreling around us. The road seems too small, too narrow for these large tractor trailers and my little car. And these trucks seem to go too fast. There is good reason for us to be frightened by these unsafe practices. Speed not only increases the likelihood of crashing, of an accident, but also the severity of the crashes. Common sense dictates that the trucks are going to win these battles. Science indicates that trucks always win these battles.

Crash severity increases proportionately with speed. An impact of 35 miles an hour is a third more violent than one at 30 miles an hour. Increasing the energy which must be dissipated in a crash increases the likelihood of severe injury or death.

Mr. President, research has shown that vehicles are more likely to be traveling at higher speeds—that is, more than 65 miles an hour in States which have the 65 miles an hour speed limit. Many studies show that if you have a speed limit of 55, trucks will exceed that by at least 5 miles an hour. If you have a speed limit at 65, they will exceed it by at least 5 miles an hour. So if you have an unlimited speed limit or one of 70 or 75, trucks are going to be going faster. The scientific evidence is that these large trucks—and certainly a car also—but the faster these large trucks go, the more difficulty they have avoiding an accident or the more probability they have of causing an accident. Passenger cars stop more quickly than do trucks.

There is clear evidence that the proportions of vehicles traveling at high speeds are substantially lower in areas where the speed limit is 55. As a result, where there are more cars with increased speeds, there are more deaths. Studies show that States which raised speed limits to 65 miles an hour lose an additional 400 lives annually. So it is of utmost importance to preserve a standardized speed limit for these large trucks. As I have indicated, basic science, and specifically basic physics, tells us that the force of large trucks is already much larger than that of other motor vehicles. And increased speed only escalates the force with which a truck could impact another vehicle or pedestrian.

Also, large trucks have longer braking distances, as I have indicated, than cars. So a lower traveling speed for large trucks equalizes the stopping distances of trucks and cars. Some have asked, not very heartfully, Why do we need a different speed for trucks than cars. There are a number of reasons. One really apparent reason is that trucks take a significantly longer distance to brake, to slow down and to stop than do cars. That is one reason to have different speed limits.

In emergency situations, a shorter braking distance is an imperative to avoidance of impact. Speed limits do have an influence on the driving speeds of these trucks, as I have indicated. Studies have found that the percentage of trucks traveling over 70 miles an hour is at least twice—some studies show at lease six times—larger in States with a 65-mile-an-hour speed limit as in States with 55-mile-an-hour speed limits, the faster the speed limit, the more tendency there is for trucks to drive even faster. The speed of large trucks is truly a national concern. Most of these large commercial vehicles are involved in interstate travel, often passing through numerous States.

When I was a kid—as I am sure many others did—I looked at all the different license plates on the trucks. Some trucks have 10 or 12 license plates on one truck. Almost all of them have at least four. So this is certainly a problem of interstate travel. By maintaining a Federal limit, we will promote uniform truck operations from State to State and there will be more predictable truck behavior for the drivers of passenger vehicles.

From past incidents involving the weaving or tailgating of trucks, we all know how uniformity and predictability means greater peace of mind for all drivers on the highway.

Mr. President, when I came back from Lovelock and indicated to my staff I was going to offer this amendment, my legislative director said, "I was almost killed by a truck when I was in college." He was in a small passenger car with some friends, and there was no alcohol in the car. They were driving safe and sound. In fact, they were run over by a truck. The truck was going too fast and did not see them. Almost everyone has a comparable experience, where a truck has either nearly killed them or, in effect, they or some member of their family has been involved in an accident with a truck. The really tragic part of this is that most people who are in an accident with trucks, fortunately, live to regret it. Passenger vehicles simply do not do well against a truck. There has been a positive trend in recent years in fatalities, generally, and in truck-related fatalities and injuries.

This amendment is to maintain commercial trucking within the maximum speed limit. Why? Because it is essential in this positive trend. When we have programs and regulations with positive results, we should not retreat.

Mr. President, there are all kinds of statistics. We have one out of the New York Times. In this article, written by Jim McNamara, the fatal accident rate remains steady. Data show a rise in accidents and miles for all vehicles. Specifically, this relates to trucks. Accidents involving large trucks in 1993 was 32,000 people injured, and a significant number of others were killed. Trucks were involved in 4,320 fatal crashes in 1993, up by about 300 in 1992. So, specifically 98. Those accidents killed a total of 4,849 people, up from 4,462 the year before. Truck occupants accounted for 610 of these fatalities. So in this one year, the people in the trucks did not do as well as they had in previous years.

There are questions that people ask. If the trucking industry has to abide by a speed limit, why not apply it to everybody? Well, again, let me answer that question, Mr. President. Trucks provide a unique dimension on the roadways. Their size is both intimidating to passenger vehicles and a hindrance to one's view.

Additionally, by going faster than the established speed limit, the chance of accidents increases because of the weight and size of the trucks and the need for slowing, stopping, and even space.

The next question that is commonly asked—there actually appears to be a trend in truck-related fatalities, positive in recent years—Why do we need to keep them under the speed limit?

The whole point, and I just made it a minute ago, Mr. President, is there is a positive trend as the industry has abided by law. Hence, we should not repeal that which has been doing so well.

I do, Mr. President, indicate that there are some instances where the trend is not favorable. In areas that are more heavily populated, truck-related accidents and deaths are increasing.

The next question that is commonly asked: Why do we need the Federal Government to still be involved? The States are aware of the towns, villages and cities, as are most passenger vehicles who travel on roads in the States. Most of the travel in any State is not interstate, it is intrastate. That is not the way it is with truck traffic. The interstate nature of the commercial trucking and bus industry is inherently interstate. If ever there was a matter of interstate commerce, it certainly would be trucks.

Mr. President, again, why should trucks have a lower speed limit than other vehicles? The Insurance Institute for Highway Safety certainly believes that that is the case. Large trucks require much longer breaking distances than cars to stop. Lower speed limits for trucks make heavy vehicle stopping distances closer to those of lighter vehicles. Slower truck speeds also allow automobile drivers to pass trucks more easily. Crashes involving large trucks not only can cause massive traffic tieups in congested areas, but put other road users at great risk.

Over 98 percent of the people killed in two-vehicle crashes involving a passenger vehicle and a large truck are occupants, of course, of the passenger vehicle. The Insurance Institute for Highway Safety studies have shown that lower speed limits for trucks on 65-mile-an-hour highways lower the proportion of travelers faster than 70 miles an hour without increasing variation among vehicle speeds.

In one study, trucks exceeded the speed limit in Ohio about 4 percent of the time; in other studies, for example, in Arizona, 19 percent; in Iowa, 9 percent. So, twice as many trucks exceeded the speed limit in those States. It is important to allow passenger vehicles to have some semblance of comparability with these trucks, to slow down the trucks.

As I have indicated earlier, Mr. President, almost 5,000 people died in large truck crashes in 1993. Large trucks accounted—this is interesting—for 3 percent of the registered vehicles, 7 percent of vehicle miles traveled in the last statistics we had in 1990, but they were involved in over 11 percent of all 1990 crashes.

We start with 3 percent of the vehicles, and you wind up with 7 percent of the miles traveled, but you get up to over 11 percent of the fatal crashes.

We have to be aware that trucks are a problem. The faster trucks go, the bigger the problem. It certainly is not unreasonable, on an interstate highway system, to have a uniform speed for trucks. We do not need it for cars, maybe, passenger cars—and I did not oppose that in the committee.

I think the State of Nevada is an example that States should have the ability to set their own speed limits for passenger cars. I do believe we should have a uniform speed limit for trucks, commercial vehicles.

A risk of a large truck crash, of course, is higher at night than during the day. More crash deaths occur, as I have indicated, between 6 a.m. and 6 p.m. for obvious reasons. There are significantly more passenger cars on the road at that time, and trucks in heavy traffic cause a lot of problems.

It is also interesting, Mr. President, more large truck crash deaths occur on weekdays than on weekends; again, because of the heavy traffic from passenger vehicles.

I repeat, over 98 percent of the people killed in two-vehicle crashes involving a passenger vehicle and a large truck were occupants of the passenger vehicles. Passenger vehicles do not do well when they get in an accident with a truck. Common sense indicates that is the case. And science indicates that is certainly the case. Tractor trailers had a higher fatal crash involvement rate of about 60 percent more than did passenger vehicles.

Mr. President, 24 percent of large truck deaths occur on freeways. The rest are strewn around in other roadways throughout the United States. One of the things we are doing in this highway bill is designating other roadways so they can get Federal funds. There are a lot of important travelways throughout the United States that are not part of our interstate freeway system. That is one of the things this bill will do.

Tractor trailers studied on toll roads—and we have not done any good work on that in almost 10 years—had higher per mile crash rates than passenger vehicles. That is an understatement, Mr. President; 69 percent higher in New Jersey, 23 percent higher in Kansas, and 34 percent higher in Florida.

We know one reason that this provision of the law that we are going to be debating here this morning—that is, dealing with doing away with the speed limit for passenger vehicles—the reason that came about is that it is a States right issue. It is a States right argument. The States do know best.

No such issue exists with relation to trucks and interstate buses. That is what we are dealing with here. These trucks, these commercial vehicles, Mr. President, should have some national standard by which the speed limits are controlled.

A loaded tractor trailer takes as much as 42 percent farther than a car to stop when they are going 60 miles an hour. That is a significant figure. Rounding it off, it takes almost 50 percent longer for a truck to stop than a car when driving 60 miles an hour. Remember what we are trying to stop—a huge vehicle with those huge tires, and the heavy loads that they have.

We have also learned that this distance is the difference between having an accident and not having an accident. By slowing these trucks down, we are going to have less fatalities.

Driver fatigue—Mr. President, we do not have people who are super men and women driving trucks, no more than we have super men and women driving passenger vehicles. Those driving passenger vehicles get tired driving a car. People also get tired driving a truck. These people do it professionally, but that does not mean they do not get tired. Driver fatigue is something that is available to all. It is nondiscriminatory. That is one of the things we have to take into consideration.

Alcohol and drugs. Truck drivers also abuse alcohol. We have talked about radar detectors.

I repeat, large trucks accounted for 3 percent of registered vehicles, 7 percent of miles traveled, and they were involved in over 11 percent of all fatal crashes. That is an indication that we should do something about these trucks barreling down the road.

Do large trucks pose a hazard on the road? The answer is yes. Almost 5,000 people die each year in crashes involving large trucks. Most of the people who die, again, I indicate, over 98 percent of the people who die in these accidents, are not in the trucks, but are in the cars. They are sharing the road with the trucks. Large trucks, 3 percent of the registrations, 7 percent of the miles traveled, but over 11 percent of the fatal crashes.

I have indicated, Mr. President, we have done some things to try to slow trucks down. Radar detector use now is banned in commercial trucks involved in interstate commerce. The one problem we do have with that is the Federal Government is not enforcing that. It is left up to the States, and the States, most States, frankly, have not done a very good job enforcing that and a large number of truck drivers still use the radar detectors.

As I indicated, for 42 percent of the drivers of large trucks involved in fatal crashes in 1993, police reported one or more errors or other factors related to the driver's behavior associated with the crash. So truck crashes are not caused by passenger vehicles. For 42 percent of them, when investigated by police, it is found there are errors related to the truck driver's behavior associated with the crash. The factors most often noted in multiple vehicle crashes were failure to keep in lane, failure to yield right-of-way, and driving too fast for conditions or exceeding the speed limit. This is what they have found has been the problem with truck drivers.

I think it is important to note that most truck drivers drive safe, sound. But the fact of the matter is they have a tremendous responsibility. They are driving these huge pieces of equipment. I think it is important that we give the other driving public the recognition that trucks should travel no faster than a national speed limit.

So this amendment, I repeat, will simply provide that the national speed limit apply only to commercial motor vehicles. I think this is reasonable. I think it is fair, especially when you indicate, as we have seen in the USA Today, yesterday, "Why are the Nation's highways getting deadlier?" There are a lot of reasons they are getting deadlier, but we should not contribute to that by allowing trucks to travel at unrestricted speeds throughout the United States.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to ask the distinguished sponsor of this amendment if he defines trucks? Is it by weight?

Mr. REID. Mr. President, I will give the legal definition out of the United States Code; simply out of the United States Code.

Mr. CHAFEE. So the term "truck" is a term of art, a special term?

Mr. REID. It is a specific term. It does not apply to pickups. It applies to commercial vehicles and buses. I appreciate the chairman of the committee bringing that to the attention of the Senator.

Mr. President, I ask unanimous consent to have printed in the RECORD a definition out of the United States Code, what this means.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

§ 2503. Definitions

For purposes of this title, the term—

(1) "commercial motor vehicle" means any self-propelled or towed vehicle used on highways in interstate commerce to transport passengers or property—

(A) if such vehicle has a gross vehicle weight rating of 10,001 or more pounds;

(B) if such vehicle is designed to transport more than 15 passengers, including the driver; or

(C) if such vehicle is used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. App. 1801-1812), and are transported in a quantity requiring placarding under regulations issued by the Secretary under such Act [49 USCS Appx §§ 1801-1812];

Mr. CHAFEE. That will be helpful, because I am sure there will be concerns about whether we are talking about pickups and so forth.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask for the yeas and nays on the Reid amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I rise to offer my support to the amendment presented by Senator REID to maintain the current Federal maximum speed limit requirement for trucks. In fact, I support the current national speed limit along with the distinguished occupant of the President's chair for both cars and trucks. It is a proven fact that the law will save both lives and money. Unfortunately, the bill before us eliminates Federal speed limits altogether, and I recognize that the total removal of that provision, the abolition of speed limits, is not possible in this Congress though I hope that the amendment that the Senator from Nevada is offering will pass. And I hope that the amendment that I will be offering soon with the distinguished Senator from Ohio also will get favorable attention.

But at the moment, in considering just the speed limit for trucks, boy, I could not be more emphatic in my belief that we do our country a service if we maintain speed limits on trucks. As a matter of fact, there is not anybody, I do not care how barren your State is of population, I do not care how wide the roads are, who has not been upset at a point in his time or in his or her day when a big behemoth comes rolling down the highway, either gets behind you, wants you to move over or pulls up alongside you at what could be described at almost a totally death-defying speed. It is so surprising when it happens. It is unpleasant.

I authored a piece of legislation some years ago and have been involved in safety issues, along with the distinguished chairman of the Environment and Public Works Committee, Senator CHAFEE, and with Senator BAUCUS, the ranking member of the Environment and Public Works Committee, for many years. I was the author on the Senate side of the bill to raise the drinking age to 21. And whether they know it or not, 10,000 families were spared having to sit and grieve and mourn over the loss of a child because they did not experience it as a result of raising the drinking age to 21. Ten thousand kids were spared from dying on the highways in the last 10 years.

Mr. President, I also was a principal author of the legislation to ban radar detectors in trucks. I saw no earthly reason why we would condone the use of a device to thwart the law. What is the difference between saying you can use cop-killer bullets when in fact they ought to be outlawed, banned wherever the possibility occurs that they could be used because we want to protect people? We ought to make sure that trucks do not exceed proper speed limits on the highways over which they travel.

As a matter of fact, I learned just this morning that in Europe and Australia the crash rates for trucks on some of the roads are far in excess of ours. By the way, the countries in Europe are long known for their excellent highways, high-speed driving, lots of fun tearing down the autobahn at 100-plus miles an hour. It used to be fair game until there were too many deaths, too many injuries for people to stand. So they said enough of that, and they imposed speed limits. They still have roads that do not have speed limits on them, and they are now considering putting speed limits on those roads as well and they do limit truck speeds in most of these countries.

So we have an opportunity here to correct a wrong. I think what we ought to do, and we traditionally do as we consider legislation, is offer amendments to correct what each or any of us thinks is wrong. In this case, I think there is a terrible wrong in lifting the speed limit caps off of our roads.

Senator REID is trying to take care of part of that with his amendment today. And I hope that when the Senator from Ohio and I offer our amendment later on, that we will get the support of the Senate. The evidence is clear. Speed kills. When trucks are brought into the equation, speed is even more deadly.

In 1992, over 4,400 men, women, and children were killed in truck crashes. And every year over 100,000 Americans are injured, many very seriously, in accidents involving trucks. That is true although trucks make up only 3 percent of the vehicles on our Nation's roads and highways and 12 percent of the traffic on interstates. They are, however, involved in 38 percent of motorist fatalities in crashes involving a truck or more than one vehicle.

When large trucks weighing more than 10,000 pounds—and that is not a lot, Mr. President—collide with passenger vehicles, it is the people in the passenger vehicles who are killed most often. Only 2 percent of the deaths in such collisions during 1992—I repeat this even though the Senator from Nevada said it earlier because I think it is worth the emphasis—only 2 percent of the deaths in collisions between a truck and another vehicle were the truck occupants. When it came to the outcome, 2 percent of those killed were occupants of the trucks. The other 98 percent were occupants of the passenger vehicles that collided with the trucks.

In 1947, a truck was 35 feet long and it weighed 40,000 pounds. By 1990, the normal truck on our highways was 70 feet long and weighed 80,000 pounds. And during that same period, cars were getting smaller and continued to retain a much more compact size, indeed.

The general driving public does not like to share the roads with the trucks because it scares them. It scares them because trucks move so rapidly and take so much of the room.

The fact is that trucks play a vital role in our economy. They move vast amounts of goods throughout our country, and we do not want to ban trucks from our highways, but we can and should take responsibility to ensure that trucks are operated in the safest manner possible.

Now, Senator Reid's amendment takes responsibility for public safety as it relates to trucks, and by requiring trucks to follow the current speed limit requirements we are decreasing the potential frequency and severity of truck and car accidents.

According to the National Highway Traffic Safety Administration, more commonly known as NHTSA, the chances of death or serious injury doubles for every 10 miles per hour that a vehicle travels over 50. Why? Because speed increases the distance the truck travels before a driver can react in an emergency situation. Speed also increases the force of the energy released in an accident.

Mr. CHAFEE. Mr. President, I wonder if the distinguished Senator from New Jersey would yield for a question.

Mr. LAUTENBERG. I would be glad to.

Mr. CHAFEE. It is my understanding that the Senator has an amendment dealing with the total speed limit.

Mr. LAUTENBERG. Right, for all vehicles.

Mr. CHAFEE. For all vehicles. It would be helpful if the Senator could bring that up now, if possible, or very soon when he has finished his discussion on the Reid amendment. What we could do is set aside the Reid amendment and go to the amendment of the Senator from New Jersey. We are trying to get these stacked up, if we can, and then the objective would be to have several votes after 12:15.

Mr. LAUTENBERG. I would like to cooperate. I do not mind speeding this portion along.

Mr. CHAFEE. Fine.

Mr. LAUTENBERG. I thank the Senator from Rhode Island.

As I was saying, the increased force and energy causes more severe injuries to the drivers and occupants of cars. Now, if professional truck drivers and the trucking industry are going to be allowed to use the public infrastructure, then they should be held to the highest public safety standards.

So I would encourage my colleagues to support the Reid amendment. I hope that it will be successful. I think that its value can be expressed in the number of lives saved, costs reduced, and a more efficient and constructive use of our highway facilities.

I commend the Senator from Nevada for bringing this amendment forward and hope that when the Lautenberg-DeWine amendment comes to the floor, he will be equally enthusiastic about that as I am about his. But we will have to wait and see.

I yield the floor.

Mr. REID. Mr. President, while the Senator from New Jersey is in the Chamber, I wish to extend my appreciation to the Senator for supporting this amendment but also to establish in the RECORD the fact that this Senator, the ranking member of the Transportation Appropriations Subcommittee and a member of the Environment and Public Works Committee, has worked for many years on matters relating to health and safety of the American consumers as it relates to transportation.

I flew across the country yesterday with my wife, and coincidentally reflected on that airplane how much more pleasant the flight was as a result of the fact that we did not have people smoking.

For many, many years while serving in Congress, I inhaled secondhand smoke every time I took an airplane ride. It was as a result of the statements made by stewards and stewardesses on the airplanes, in addition to passengers complaining, that the Senator from New Jersey led the fight—and it was a fight against principally the tobacco industry—to make travel in airplanes certainly more pleasant as a result of not smoking.

I sit next to the Senator from New Jersey on the Environment and Public Works Committee and have for 9 years and have participated in his efforts to make our highways safer. I also am now, for the first time since being in the Senate, a member of the Subcommittee on Transportation Appropriations, where the Senator has worked for many years appropriating money for highways throughout the United States. So I appreciate the support of the Senator from New Jersey on this amendment.

Mr. President, I would like also to state what is in the United States Code defined as a commercial motor vehicle. It is defined as any vehicle with a gross vehicle weight of 26,001 pounds, or greater than 16 passengers, or containing hazardous materials in certain quantities or any explosives. And we will submit, as I indicated to the chairman of the committee and the manager of this bill, to be made part of the RECORD that definition of the United States Code which I will have momentarily.

I certainly have no objection to having my amendment set aside so that the Senate can go on to other matters to move this very important piece of legislation along.

Mrs. FEINSTEIN. Mr. President, I rise today in strong support of the amendment offered by my colleague from Nevada to keep the current speed limit in place as it relates to trucks.

According to the California Highway Patrol, the State of California has seen a steady reduction in the number of accidents, injuries, and fatalities relating to accidents involving trucks since 1989.

In 1989, 647 people lost their lives and 17,703 people were injured in California as a result of 12,159 truck-related accidents.

By 1994, 451 people were killed and 13,512 injured in California as a result of 9,225 truck-related accidents.

While these figures are nowhere near where we want to be, they do demonstrate that a commitment to truck safety: increased oversight on driver training and hours of operation; regulations on the size and weight of the vehicles; and federally mandatory speed limits. All have significant impacts on the increased safety on America's highways.

In one day this last April, the CHP pulled over 64 big rigs and issued almost 200 violations for everything from bad brakes to violating air pollution rules. That day, police ordered 34 vehicles off the road as a part of a crackdown on the most heavily used truck routes in Los Angeles County.

Now is not the time to begin to turn away from our commitment to make America's roadways safe and I urge my colleagues to support the amendment offered by the Senator from Nevada.

Mr. REID. Mr. President, unless the manager of the bill has something, I would suggest the absence of a quorum.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I ask unanimous consent that we set aside the Reid amendment and that we vote on that at 12:15.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CHAFEE. Furthermore, Mr. President, I wish to alert people that we are striving to have another amendment voted on immediately following the Reid amendment, and that would occur at 12:30. To do that, we would set aside the order for the luncheons, which would start at 12:30, under the order we have in place.

Also, Mr. President, I ask unanimous consent there be no second-degree amendments to the Reid amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. CHAFEE. So it would be my hope now, Mr. President, that the Senator from New Jersey would be prepared to go forward with his amendment.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1428

(Purpose: To require States to post maximum speed limits on public highways in accordance with certain highway designations and descriptions)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk on behalf of myself and Senator DEWINE and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself and Mr. DEWINE, proposes an amendment numbered 1428.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 26, strike line 14 and all that follows through page 28, line 9, and insert the following:

SEC. 115. POSTING OF MAXIMUM SPEED LIMITS.

(a) IN GENERAL.—Section 154 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 154. Posting of speed limits";

(2) in subsection (a)—

(A) in the first sentence—

(i) by inserting "failed to post" before "(1)";

(ii) by striking "in excess of" each place it appears and inserting "of not more than"; and

(iii) in paragraph (4), by striking "not"; and

(B) in the second sentence, by striking "established" and inserting "posted";

(3) by striking subsection (e); and

(4) by redesignating subsection (i) as subsection (e).

(b) CERTIFICATION.—The first sentence of section 141(a) of title 23, United States Code, is amended by striking "enforcing" and inserting "posting".

(c) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 154 and inserting the following:

"154. Posting of speed limits.".

(2) Section 157(d) of title 23, United States Code, is amended by striking "154(f) or".

Mr. LAUTENBERG. Mr. President, I yield to the manager of the bill, Senator CHAFEE.

Mr. CHAFEE. Mr. President, I ask unanimous consent that if the Reid amendment is agreed to, it be in order for Senator LAUTENBERG to modify his amendment to make technical conforming corrections to his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, before turning to the specifics of my amendment, I want to explain its relationship to the Reid amendment which is currently under consideration.

The Reid amendment is based on two principles:

First, acknowledging that higher rates of speed are dangerous; second, that the Federal Government has a right to regulate dangerous speeds.

If the Senate adopts the Reid amendment, it accepts those principles. The Reid amendment does not apply those principles universally; its application is restricted to trucks; it does not cover all vehicular traffic.

Mr. President, I would like to argue that the principles that are included in the Reid amendment apply to cars as well as trucks.

When a car travels at excessive speeds, it is as dangerous as a truck. When the Federal Government imposes speed limits on trucks, it can also impose similar limits on cars. The principles in the Reid amendment do not distinguish between types of vehicles; they apply to all such vehicles, trucks particularly in this case—all classes.

That, in essence, is what my amendment does. It applies the Reid principle to cars as well as to trucks.

I would like to provide some background. As my colleagues know, the current Federal speed limit law establishes maximum speed limits at 55 miles per hour or 65 miles per hour depending on the road and the road's location. Current law also requires that States certify a certain level of compliance with posted speed limits. If they do not, States are required to shift part of their construction funding to safety programs. They do not lose it, but they have to use those funds in other areas.

The committee bill abolishes those requirements. It allows States to post any speed limit they want and removes the penalty if States fail to endorse those limits.

Mr. President, I differ with the committee's action, which I think was wrong. I think it will directly contribute to death and injury for thousands of American citizens every year. It will cost our society billions of dollars in lost productivity and increased health care expenditures.

Now, looking at some facts, in 1974, the Federal Government established maximum speed limits. At that time, we were in the middle of an energy crisis and the issue was driven by the need to conserve fuel. We also found an unexpected additional benefit. Maximum speed limits reduced the number of people who died on our Nation's highways.

In fact, as a result of the 1974 law, highway fatalities dropped by almost 9,000, or 16 percent, while the miles traveled decreased by only 2 percent. This was the greatest single-year decrease in highway deaths since World War II.

A total repeal of Federal speed limit requirements will increase the number of Americans killed on our Nation's highways by some 4,750 each year. Mr. President, 4,750 people each year will die on our highways as a result of the increased speed on our roads. Those are not my numbers, Mr. President. Those are the numbers, the projections, of the National Highway Traffic Safety Administration.

I cannot imagine that 4,700 mothers, fathers, sons, daughters, brothers, sisters killed because they were allowed—some might say encouraged—to drive faster in order to save a few minutes, minutes that will cost them their lives.

If we do not want to look at the issue in human terms, how about from the budget perspective which so many want to adopt? One need not be reminded about the stringency of budget requirements around here these days.

It is estimated that the deaths and injuries caused by a total repeal of Federal speed limit restrictions will cost our country $15 billion in additional expense each year: the loss in productivity, taxes not paid and collected, and, of course, increased health care costs.

If that is not a high enough cost for one, add the $15 billion to the $24 billion that we already are losing from accidents caused by speeders. Now the total cost to American taxpayers will grow to $39 billion. That is more than the Federal Government spends on transportation each year—each year. That is on our highways, it is on our rail systems, on our aviation system. We spend more in repair and damage as a result of deaths due to speeding than we spend on our infrastructure each and every year. And the lives lost, all of the money spent, just to save a few minutes of travel time.

The point I want to make is that this is more than an issue of States rights or individual choice. This is an issue that affects everyone. We mourn for the dead, pay for the injured. We have a right and an obligation to do what we can, therefore, to minimize the loss and reduce the cost.

The American people seem to understand that very well. A recent poll conducted by advocates of highway and auto safety asked people if they favored or opposed allowing States to raise speed limits above 65 miles per hour on interstates and freeways. Only 31 percent of the total respondents favored raising current speed limit standards.

That same poll asked if the Federal Government should have a strong role in setting highway and auto safety standards, and over four out of five—close to 83 percent—said, yes, that the Federal Government—the Federal Government—should have a strong role in setting highway and auto safety standards.

Still, the committee adopted the language which strikes the limits even though a majority of the American people do not support this repeal.

Now, I realize that an amendment to restore current law will not prevail in the Senate. As a result, I sought a compromise.

This amendment recognizes the needs and the concerns of the traveling public. It is designed to address the States rights concerns which have been raised by some Members. It also recognizes the Federal Government's legitimate role and responsibility in not only building and maintaining roads but also in ensuring that those roads are safe.

Mr. President, our amendment would maintain the 55- and 65-mile-per-hour speed limits, but it would leave the issue of enforcement directly to the States. By allowing the States to have responsibility for enforcement, this amendment recognizes that States have their limited law enforcement capability and resources. I know that every day State law enforcement officers must determine how best to allocate these resources with the public's safety in mind.

Mr. President, I believe the Federal Government has a responsibility to protect its citizens. It is clear that repealing the Federal maximum speed limit will, most importantly, cost our citizens their lives. I believe this amendment strikes a balance that we can all live with.

That is why this amendment has the endorsement of the International Association of the Chiefs of Police. They say that there is value to maintaining speed limits on our roads. These are professionals, at the top of the ladder, chiefs of police. The law enforcement community does not want to see a repeal of Federal maximum speed limit requirements.

This amendment is also supported by the National Safety Council, the American Public Health Association, the American Trauma Society, Kemper National Insurance Companies, the American College of Emergency Physicians, State Farm Insurance Companies, GEICO, and the Advocates for Highway and Auto Safety. Additionally, we have the American Trucking Association supporting this amendment.

Mr. President, I ask unanimous consent letters of support from these organizations be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AMERICAN TRUCKING
ASSOCIATIONS, INC.,
Alexandria, VA, June 19, 1995.

Hon. FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: We support your efforts to retain the 55 mph speed limit for cars and trucks.

The American Trucking Associations supported 55 mph when it was temporarily imposed in 1974 and later when the permanent 55 mph National Maximum Speed Limit was established in 1975.

We believe the 55 mph speed limit conserves fuel and results in less wear and tear on our equipment. But the most important reason the American Trucking Associations supports the 55 mph national speed limit is that we are convinced it saves lives.

We are concerned that safety would be reduced if a speed differential were created by raising the speed limit just for cars. This could increase the number of cars hitting the rear of slower moving trucks.

Again, we applaud your continuing efforts to keep the speed limit at 55 mph and stand ready to assist you in achieving that goal.

Sincerely,

THOMAS J. DONOHUE,
President and
Chief Executive Officer.

STATE FARM INSURANCE COS.,
Bloomington, IL, June 15, 1995.

Senator FRANK LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing to express the support of the State Farm Insurance Companies for your amendment to the National Highway System legislation, S. 440, which would restore the National Maximum Speed Limit Law. This is a public health and safety law that should be preserved.

The National Maximum Speed Limit, 23 U.S.C. §154, has saved tens of thousands of lives on our highways since 1974. Based on National Academy of Sciences' estimates, the national speed limit has saved between 40,000 and 85,000 lives in the past two decades.

The committee reported legislation eliminates the national speed limit. We should proceed with caution in this area, particularly on non-interstate primary and secondary roads which have much higher fatality rates than interstate highways. According to the National Highway Traffic Safety Administration (NHTSA), one-third of all fatal crashes are speed-related and one thousand people are killed every month in speed-related crashes. NHTSA projects that elimination of the national speed limit on non-rural interstates and non-interstate roads will increase deaths by 4,750 annually at a cost of $15 billion. It is important that we have some reasonable speed limits.

For these reasons, we support your efforts to retain the National Maximum Speed Limit law and to continue saving lives on our highways.

Sincerely,

HERMAN BRANDAU,
Associate General Counsel.

GEICO,
Washington, DC, June 15, 1995.

Hon. FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: Because excessive speed is a leading cause of motor vehicle deaths and injuries, GEICO advocates maintaining the current law concerning the federal role in setting national speed limits. We believe that giving states the discretion to set any speed limits they want will result in increased deaths and injuries on our nation's highways.

GEICO is the sixth largest private passenger automobile insurance company in the nation, insuring over 3.3 million automobiles. Our assets total $4.8 billion and we have over 8,000 employees. As such we have a vested interest in pointing out the relationship between safety and automobile insurance.

Higher speeds mean more serious injuries and deaths in traffic crashes. From a humanitarian perspective alone, this is solid justification for setting national speed limits. From a business perspective, more speed related crash injuries and deaths mean higher insurance claim costs. Higher claim costs result in higher premiums for our policyholders.

We would like to see the federal government maintain a role in highway safety. Given the reality of the political situation, and the likelihood that S. 440, the National Highway Systems bill, will generate extensive debate, we commend your efforts to restore the federal role in setting national speed limits. In addition, we urge you and your Senate colleagues to oppose the repeal of Section 153, the safety belt and motorcycle helmet incentive program.

JANICE S. GOLEC,
Director, Business and Government Relations.

ADVOCATES FOR HIGHWAY AND AUTO SAFETY,
Washington, DC, June 14, 1995.

Senator FRANK LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: I am writing to express the support of Advocates for Highway and Auto Safety (Advocates) for your amendment to the National Highway System legislation, S. 440, which would restore the National Maximum Speed Limit Law. This is a public health and safety law that should be preserved.

The National Maximum Speed Limit, 23 U.S.C. §154, has saved tens of thousands of lives on our highways since 1974. The National Academy of Sciences estimated that the 55 mile per hour speed limit reduced fatality totals by two to four thousand each year. Even with higher speed limits on rural Interstates, the national speed limit has saved between 40,000 and 85,000 lives in the past two decades.

As you know, at higher speeds drivers have less time in which to react properly and their vehicles need more distance in which to come to a stop. Since speed is still a factor in one-third of all highway crash fatalities, Advocates continues to support the need for a reasonable and safe speed limit.

President Eisenhower began the federal presence on highways by initiating the Interstate highway system. That federal involvement will continue and expand with the advent of the National Highway System. The U.S. highway system is no longer a loose collection of state and local roads, but a national network on which the entire country depends. It is folly, both in terms of safety and the national economy, to eliminate the federal role in regulating American highways.

For these reasons we support your efforts to retain the National Maximum Speed Limit law and to continue saving lives on our highways.

Sincerely yours,

JUDITH LEE STONE,
President.

NATIONAL SAFETY COUNCIL,
Washington, DC, July 14, 1995.

Senator FRANK LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: The National Safety Council is extremely concerned that S. 440, the National Highway System bill, contains a provision to repeal the national maximum speed limit law. We strongly support your amendment to restore the 55-mph speed limit.

Speed is a factor in a third of all highway crash fatalities. The National Highway Traffic Safety Administration estimates that repealing the national maximum speed limit would result in 4,750 additional lives lost each year in traffic crashes. It would also increase crash-related medical and other costs by billions of dollars a year.

Returning to the days when states could set their own speed limits would reverse years of progress and jeopardize the safety of all travellers. Experience shows that if speed limits are increased to 65 and beyond, large numbers of trucks and cars will jump to even higher speeds of 75, 80 and 85 mph.

In the interest of public safety, the National Safety Council appreciates and supports your efforts to preserve the national maximum speed limit.

Sincerely,

GERALD F. SCANNELL,
President.

AMERICAN PUBLIC HEALTH ASSOCIATION,
Washington, DC, June 14, 1995.

Senator FRANK LAUTENBERG,
Hart Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: The American Public Health Association supports the Lautenberg amendment which requires states to maintain current law on posting speed limits of 55 and 65 M.P.H. depending on the road and road's location, but provides a degree of flexibility in enforcement. APHA recognizes the unique role of the federal government in setting uniform standards for the roads that are largely financed with federal funds.

More importantly from our perspective, APHA also recognizes the responsibility of the federal government to protect its citizens. The following statistical information points out the essential need for this amendment:

One third of all traffic accidents are caused by excess speed.

Repeal of the national speed limit will increase the number of traffic fatalities by 4,750 deaths per year at a cost of $15 billion.

We appreciate your efforts and wish you the best of luck.

Sincerely,

FERNANDO M. TREVIÑO, PHD, MPH,
Executive Director.

AMERICAN TRAUMA SOCIETY,
Upper Marlboro, MD, June 13, 1995.

Senator FRANK R. LAUTENBERG,
U.S. Senate,
Washington, DC.

DEAR SENATOR LAUTENBERG: The American Trauma Society supports your efforts through your Amendment to S. 440 to have posting of maximum speed limits on public highways.

We believe that limiting speed on highways is essential for highway safety.

Sincerely yours,

HARRY TETER, Jr.,
Executive Director.

KEMPER NATIONAL INSURANCE COS.,
Washington, DC, June 14, 1995.

Hon. FRANK R. LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: The Kemper National Insurance Companies supports the amendment you plan to offer on the Senate floor to the National Highway Systems legislation to prevent additional deaths and injuries on our nation's highways caused by excessive speed. Under your approach states would still post the 55 MPH or 65 MPH speed limit depending upon the type of highway but enforcement would be left to the states.

As an automobile insurer, Kemper is a long time proponent of highway safety. We saw deaths and injuries from automobile accidents decline when the speed limit was lowered to 55 MPH in the 1970s. Various studies have shown, including a recent GAO study for the Senate Commerce Committee, that speed is a big influence on risk of injury. The National Highway Traffic Administration, based on the increased deaths and economic costs which resulted from raising the speed limit to 65 MPH on rural interstates, estimates that if the national speed limit is repealed, deaths and injuries will increase by 4,750 deaths a year at a cost of $15 billion. Everyone helps pay the economic costs of these deaths and injuries through increased medical care costs, insurance costs, lost productivity and lost taxes.

A nationwide survey conducted this spring for the Advocates for Highway and Auto Safety found that people do support highway safety laws and 64.2% of Americans oppose states' increasing the speed limit to more than 65 MPH on rural interstates.

Sincerely,

MICHAEL F. DINEEN,
Vice President,
Federal Relations.

AMERICAN COLLEGE OF EMERGENCY PHYSICIANS,
Washington, DC, June 14, 1995.

Hon. FRANK R. LAUTENBERG,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR LAUTENBERG: I write on behalf of the over 17,700 members of the American College of Emergency Physicians (ACEP). I want to offer ACEP's endorsement of your proposed amendment to S. 440 regarding the national speed limit. I understand that your amendment will reverse the action taken by the Environment & Public Works Committee when they passed S. 440 and included a repeal of the speed limit. In addition, we strongly oppose any efforts to weaken Section 153—that section of ISTEA that deals with safety belt and motorcycle helmet use, and urge your opposition to any weakening language.

ACEP is a national medical specialty society, and is dedicated to improving the quality of emergency medical care through continuing education, research and public awareness. Emergency physicians are specialists trained to provide care to patients, including medical, surgical, and trauma services. Emergency physicians are the only medical specialists required by law to provide care to all who seek it, regardless of ability to pay. This role as "front-line" providers has positioned emergency physicians as guardians of quality, accessible health care for all populations. We have seen first hand in our emergency departments those who have been involved in vehicular accidents as a result of speeding, and the non-use of safety and motorcycle helmets.

Under the guise of promoting "states' rights" and opposing "unfunded mandates," proponents of eliminating these encouragements to states to adopt safe and same highway laws are risking the lives of thousands of our fellow citizens. These laws save states and taxpayers billions of dollars a year. Specifically, it is estimated that these four safety programs together save over ten thousand lives and $19 billion taxpayer dollars every year. Repealing or weakening them will result in more deaths and injuries on our nation's roadways, and cost all of us billions of dollars annually in increased insurance and medical costs, higher costs for emergency services, lost productivity and tax revenue, and direct costs to the Federal government in terms of those unable to pay for emergency care.

Without continued Federal leadership in these critical areas of highway safety, we will see a return to inconsistent and less effective state laws. Inevitably, there will be greater loss of life and an increased financial burden on our society. We applaud you, Senator, in your effort to restore a safe national speed limit. If we can be of any assistance to you in this process, please do not hesitate to call upon us.

Sincerely,

RICHARD V. AGHABABIAN,
President.

Mr. LAUTENBERG. Mr. President, I believe this is a reasonable and balanced amendment. All of us lose patience when we sit in traffic or leave late for an appointment and try to make up the time by just stepping on the gas a little bit more. But, if you know any family or in your own family have had a loss on a highway—whether it is from speeding or not the impact is the same at home, but when it is from speeding it is in many cases an avoidable death. And that is a tragedy beyond compare. We lose every year 40,000 people to highway fatalities—40,000 people. Something over 10,000 of those deaths are speed related on our highways.

To repeat, if we continue along the path we are on, the removal of speed limits for trucks and cars, it is estimated that we will have almost 5,000 more deaths a year occurring.

I know my colleagues, who see this as a States rights issue, do not, any more than I do, want to see people killed on our highways, people injured on our highways, or pay the expense for these accidents. But, nevertheless, this action is taken to remove constraints that we have in a lawful society, necessary to maintain our complex way of life. We are, after all—and I do not have to remind my colleagues here because it is part of their daily vocabulary—a nation founded as a nation of laws. That is what we say. We say we have laws so we can accommodate the needs of the majority of our citizens. Over 80 percent of our citizens said they want the Federal Government involved in auto and highway safety issues.

So, Mr. President, I hope in this dash for States rights we continue to focus not just on the States rights but on the individual rights that each of us has to protect our families, our children, our spouses, our brothers and sisters, and say the few minutes time gained is not worth a single life. I hope that is what the conclusion is going to be.

I yield the floor.

Mr. KERRY. Mr. President, I support the amendment offered by my colleague from Nevada, Senator REID, to exempt heavy trucks from the repeal of the national speed limit contained in S. 440. In other words, commercial vehicles will continue to be subject to a national speed limit. Given the havoc that one 18-wheeler or cement truck or other heavy vehicle can cause if its driver loses control or is involved in an accident, I believe this is necessary protection for the motoring public. I will vote for this amendment because it will have a real effect on people's lives. Also, and more importantly, it is enforceable. Should States choose to ignore it, penalties will be imposed.

For these same reasons I am unable to support the amendment by my dear friend from New Jersey, Senator LAUTENBERG, whose courageous leadership on this issue I have long respected and followed. His amendment would maintain a nationwide posted speed limit but give the States complete flexibility in enforcing the limits, without fear of suffering Federal funding penalties for failure to do so, as under current law. To me, this provision would be more shell than substance. Either our country should have a nationwide speed limit on interstates and Federal-aid highways that is enforceable, or we should not. What we definitely should not have is a hortatory nationwide speed limit, without teeth. I fear that will only lead to further disrespect for speed limits in particular and law in general, and we cannot afford such further erosion.

I am well aware of the relationship between speed limits and the number and cost of traffic fatalities and injuries to families and to our economy. I certainly believe speed limits make sense in terms of saving lives and the related health and lost productivity costs. Higher speeds also burn more fuel per mile and thereby create more pollution per passenger mile. But speed limits do not make sense if they are not taken seriously because they are not enforced. That is the practical effect of the Lautenberg amendment and why I am reluctantly compelled to oppose the Senator's amendment.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I wonder if the sponsor of the amendment would mind setting it aside just for a minute or so, while we dispose of some other business here?

Mr. LAUTENBERG. Not at all.

Mr. CHAFEE. Mr. President, I ask unanimous consent we set aside the Lautenberg amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1429

(Purpose: To express the sense of the Senate regarding the Federal-State funding relationship for transportation)

Mr. CHAFEE. Mr. President, I send an amendment to the desk on behalf of Senator MACK and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. MACK, proposes an amendment numbered 1429.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. . SENSE OF THE SENATE REGARDING THE FEDERAL-STATE FUNDING RELATIONSHIP FOR TRANSPORTATION.

Findings:

(1) the designation of high priority roads through the National Highway System is required by the Intermodal Surface Transportation Efficiency Act (ISTEA) and will ensure the continuation of funding which would otherwise be withheld from the states.

(2) The Budget Resolution supported the re-evaluation of all federal programs to determine which programs are more appropriately a responsibility of the States.

(3) debate on the appropriate role of the federal government in transportation will occur in the re-authorization of ISTEA.

Therefore, it is the Sense of the Senate that the designation of the NHS does not assume the continuation or the elimination of the current federal-state relationship nor preclude a re-evaluation of the federal-state relationship in transportation.

Mr. CHAFEE. Mr. President, this is an amendment that has been agreed to. It is a sense of the Senate. I improperly described it as an amendment—it is a sense-of-the-Senate resolution. It has been agreed to by both sides. I ask for its approval.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1429) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. I thank the Chair and thank the distinguished Senator from New Jersey.

I ask we return back to the Lautenberg amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1428

Mr. LAUTENBERG. Mr. President, we have not sought the yeas and nays on the amendment. I take it, it is proper to register our interest in a rollcall vote? I ask the manager whether it will be in order? The Reid amendment, I understand, is going to be the first amendment voted on. Were the yeas and nays agreed to on that?

Mr. CHAFEE. Yes, the yeas and nays were agreed to on the Reid amendment.

Mr. LAUTENBERG. Mr. President, I ask for the yeas and nays on the Lautenberg amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I would like to speak for a few minutes on the Lautenberg amendment.

Mr. President, all of us in our country want to have safe highways. I do not think there is anybody who even entertains the thought, either in the U.S. Congress or in the States, whoever, of asking for legislation which would have the effect of making our highways less safe. All of us listen to the statistics cited by the Senator from New Jersey about how fatalities on our highways have some relation to speed. There is no doubt about that. Fatalities on highways are also related to alcohol. There are a lot of factors which determine to some degree where the cause falls for fatalities, highway fatalities in our country.

The amendment of the Senator from New Jersey basically strikes a provision in the bill now before us. The bill now before us says: States, you decide what your speed limits should be. Why? The committee made the determination that States have a pretty good idea what conditions in those States are compared with other States. The committee also believes that State legislatures and Governors care about people in their own States and that they are going to set a speed limit which they think makes sense in their own State, taking into consideration the safety of the people in their State as well as conditions in a particular State, what the traffic is, how much space is in the State, what the population density might be.

The Senator from New Jersey comes from a very populous State. I think the population density in New Jersey is about a thousand people per square mile. The Senator from New Jersey will remember when I invited him to visit my State of Montana, which has a population of about six people per square mile. We were up in an airplane, flying at night. We were flying from Great Falls, MT, over to Custer, MT, in a twin-engine plane. The Senator from New Jersey turned to me for an explanation and said, "MAX, where are the people? Where are the lights?"

It was because there were not very many people. There were not very many lights down beneath our plane because there are not very many people in our State compared with the State of New Jersey.

I might say, therein lies one of the major differences between our States. And therein lies the reason for this provision in this bill. And therein lies the basic reason why adoption of the amendment by my very good friend, the Senator from New Jersey, would not be wise.

The argument by the proponents of this amendment essentially has two assumptions. One assumption is that there are not States that will also be able to set speed limits. Just because Uncle Sam decides there is not to be a national speed limit does not mean there is not going to be a speed limit in the States. We still have States. We have State legislatures. We have the governing bodies in States which will determine what the speed limit will be.

There is another assumption in the argument made by the proponents of this amendment, that we do not trust the States. We do not trust the States to do what is right for their own people or for people traveling through the State.

I think in this day and age, State legislatures and Governors have a good idea what makes sense in their States. They are going to want to protect their people. They are going to want to have conditions on the highways that are safe.

I trust the States. I trust the State legislatures to do the right thing for their States, which will, therefore, affect not only the people living in the States but also people traveling through their State.

I would guess, also, that if this bill becomes law—and I very much hope that it does without the Lautenberg amendment—that in all probability State legislatures are going to keep the same speed limit that now exists; that is, in some parts of some States it is going to be 55 miles an hour; in some parts of other States it will be 65 miles an hour. They will probably keep the present law. There will be some instances in the more thinly populated States where there are not a lot of people but an awful lot of miles of highway and not a lot of cars that they may make an adjustment. They may increase, as it should be increased, I think, in some parts of our country. But that is still the State's decision. Under this bill it will still be a State decision. I think the time has come in 1995 where it is proper for the U.S. Congress to trust the States and say, We trust you, you know what is right.

For that reason, I urge Members to not vote in favor of the Lautenberg amendment but rather to vote against it.

Mr. President, I yield the floor.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I rise today in strong support of the Lautenberg-DeWine amendment which my colleague from New Jersey just offered.

Let us talk for a moment about what this amendment will actually do. Our amendment would retain the current speed limit law while at the same time giving the States the flexibility they need in regard to the enforcement of the law, as the Senator from New Jersey has very well explained. This is really a compromise. It is saying to the States that while we believe the roads are traveled by people from all over the country—all you have to do is to stop at any rest area on one of our interstates in Ohio or any other State and you will see how many cars are from out of State. So, clearly there is a national priority, and clearly this is a national policy issue. But while retaining that, we also say that Congress is not going to micromanage this. We are not going to require these reports from the States. We are not going to look over the shoulders of the States. So it seems to me, Mr. President, it is a reasonable compromise.

The bill, as has been pointed out very well, totally repeals 20 years of history, 20 years of experience, and says that basically we have not learned anything in the last 20 years because for 20 years we have seen on our highways lives saved because of what Congress did originally in 1973. As my colleague from New Jersey has pointed out, it was almost, as we would say, an unintended consequence because the law was originally passed because of the energy crisis that this country faced. But, lo and behold, when the statistics came in the next year on all of the fatalities, guess what? We found that thousands of lives had been saved. We found that numerous families had been spared the agony, the horror, and the tragedy of burying a loved one who had been killed on our highways.

Mr. President, I talked about 20 years of experience. The facts are in. The facts are clear. The facts are conclusive. Let us go back to 1973. In 1973, 55,000 people died in this country from car-related fatalities—55,000 people—which affected 55,000 families. In 1974, Congress established the 55-mile-per-hour speed limit. That year the highway fatalities dropped by 16 percent. Fatalities dropped from 55,000 in 1973 to 46,000 in 1974. In my own State of Ohio, according to the Ohio Department of Public Safety, there was a 20-percent decrease in fatalities on Ohio roads over this 12-month period of time. According to the National Academy of Sciences, the national speed limit law saved somewhere between 2,000 and 4,000 lives every year; as many as 80,000 lives since 1974.

Let us move forward in this history to 1987. When the mandatory speed limit was amended in 1987 to allow the 55-mile-per-hour speed limit on some of the rural interstates, the National Highway Traffic Safety Administration found that the fatalities on those highways were then 30 percent more than had been projected based on historical trends.

According to the Insurance Institute for Highway Safety, increasing the speed limit to 65 miles per hour on rural interstates cost an additional 500 lives every year. Mr. President, those highways are probably among the safest roads in America. What is going to happen when we extend that speed limit in rural areas to the more dangerous urban interstates in this country? I think we know what is going to happen. History tells us. Statistics tell us. If we were to see the same increase, a 30-percent increase, on the more dangerous urban interstates that we see on the less traveled, less dangerous rural interstates, the U.S. Department of Transportation estimates that an additional 4,750 people would die every year.

I believe this is clearly not the direction we need to go in the area of highway safety. We need to go in the opposite direction because there obviously are far too many Americans dying on America's highways in this country.

In 1993, in Ohio a total of 1,482 people were killed in car accidents. Over 20 percent of those were speed related. Nationwide, it is estimated that one-third of all highway fatalities are caused because of excess speed.

Mr. President the old adage had it right. Speed does in fact kill. Everyone in this Chamber knows that. Even if interstate highways were designed for 70-mile-per-hour travel, people are not designed to survive crashes at that speed. As speed increases, driver reaction time, the time that driver has, decreases and the distance the driver needs if he is trying to stop increases. Excessive speed increases the total stopping distance, the driver's reaction time, plus the braking distance. Say a truck is overturned 290 feet ahead of a driver. A driver approaching it at 65 miles per hour would not have time to stop. It would take that driver so long to react and then to brake the car that he or she would still be going 35 miles per hour when they reached that truck. That is a major crash.

Let us say, on the other hand, the driver is approaching the truck at 60 miles per hour. That driver will have a little more time but still not enough to avoid a crash. They would crash into the truck at 22 miles per hour. Mr. President, let us take a third example. A driver approaching at 55 miles per hour would have time to slow down and to stop. When speeds go above 55 miles per hour, every 10-mile-per-hour increase doubles the force of the injury-causing impact.

Let me say that again. It is a phenomenal figure, I think. When speeds go above 55 miles per hour, every 10-mile-per-hour increase doubles the force of the injury-causing impact. This means that at 65 miles per hour a crash is twice as severe as a crash at 55 miles per hour. A crash at 75 miles per hour is four times more severe.

Mr. President, a speed limit of over 55 miles per hour is a known killer. The awareness of this fact is growing. Just yesterday in my office I received a letter from the executive director of the National Save the Kids Campaign urging the adoption of this particular amendment. We need, I think, to face the facts about the speed limit and to do the right thing. It is this part of this bill.

Mr. President, recently in Ohio the director of the Ohio Department of Public Safety, Charles Shipley, testified on this issue. I would like to read briefly what he said. His words are very simple but very powerful. But before I tell you what Chuck Shipley, the director of our department of highway safety, said, I want to tell you who he is. He is not just some bureaucrat. He is not just some political appointee. Chuck Shipley for many years was a highway patrolman. For many years Chuck Shipley had the duty of investigating crashes. Chuck Shipley had the horrible responsibility, as most members of our patrol ultimately do, of talking to a family informing them that their child or their sister or their brother had died. So Chuck Shipley knows what he is talking about. He has been there. He has seen it.

This is what the Ohio Director of Public Safety had to say. As I said, his words are simple and powerful. He was talking about another piece of legislation in Ohio but similar.

> This legislation is not in the interest of safety. The few minutes that could be saved will be paid for with injuries and with lives.

Mr. President, that is the exact truth, and we know it. That is why I strongly support this amendment. That is why I also strongly support Senator Reid's amendment.

In the last few years, one of the things that politicians and people in public office have talked about is the phrase "ideas have consequences." I think that is true. Just as ideas have consequences, votes in this Chamber have consequences as well. There are many times when we come to the floor and cast votes where we think we are benefiting society, where we think we can project in years ahead that something we are doing is going to be of help to people. This is one time where we know, based on the past history, based on common sense, what the results are going to be. We do not know how many more people will die, but statistics clearly show us, history clearly shows us that if we change the law as this bill does, more people will die on our highways, and that is the simple truth.

I believe that the compromise my colleague from New Jersey and I have crafted is, in fact, a reasonable compromise. It is a compromise that takes into consideration the concern every Member has for our loved ones, the people we represent, but also balances that with an understanding of where this country is going, as it should, to return more authority and more power to the States. It is a compromise, but it is a compromise that I submit, if we pass it, will save lives. The evidence is abundantly clear.

Mr. President, I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I commend my colleague from Ohio for his statements. He comes from a background in law, served as a prosecutor, and I think certainly has the qualifications and the knowledge to understand what happens when speed is permitted to accelerate at the will and the whim of a driver.

My friend from Montana and I often joke about my visit to beautiful Montana, and since I have been for a long time an outdoor person and hiker and spend time out there, I am always attracted, enchanted by the magnificence of the mountains of Montana, the beautiful countryside, and of course I know the sparseness of the population there but remind my colleague, since he always remembers the story about my looking for signs of life on the ground and not seeing them when we flew over Montana, that in New Jersey we have more horses per square acre than any State in the country. So we live with the wild western life as well as our heavy population density.

But, Mr. President, I say this to you, that an incinerated vehicle, whether it is in Oklahoma or Montana or Wyoming or North Carolina, is no less a tragedy than it is in New Jersey or any of those States. The families still feel the same pain when they lose a loved one. The community still feels the absence of that citizen when they hear about it, when they know about it.

I recently lost a good friend up in Maine, a good friend of mine, a very close friend of our former majority leader, Senator Mitchell, when he was hit head on by a car passing at a very high speed on a two-lane road. The other vehicle was so incinerated that they had to take it to the capital of the State, Augusta, ME, so that they could get the remnants of the bodies out of the vehicle and decide who these people were, the driver and his passenger.

Mr. President, we have many responsibilities in this place of ours but none—none—exceed that of protecting life and limb of our citizens. We maintain a huge defense apparatus to do that. We invest—insufficiently in my view, but we invest—large numbers in our infrastructure—highways, rail, aviation. We have the best aviation system in all of the world because we have put money in it. And we have said that even if there is a delay at your airport, too bad, because that takes second position to that of safety. So they spread the distance between flights, and they make sure that airplanes, too many airplanes, are not in the same area in the sky at the same time.

Safety. Safety is the primary concern. And so what we are saying here is that we are interested also in safety.

We talk about raising speed limits, but I have seen in my travels out West or in mountain country runouts for trucks. Now, sometimes it is because there is a failure in the driving system, but other times it is because the driver is going too fast, his judgment was faulty, and he has to seek the high-risk opportunity to go up a truck runout. If you look at some of those things, you know that when it is snowing on the ground or the truck is going too fast, there has to be a prayerful moment for the driver.

Mr. President, I have a report here that is developed by NHTSA. Its source is the fatal accident reporting system. It is a segment of the structure. They project a 30-percent increase in fatalities if we remove the speed limits. When we look at some of the States that are represented in the Chamber at this moment, a State like North Carolina can expect the fatalities within a year to increase by 243 persons if we remove the speed limits as proposed—243 people in the State of North Carolina.

Mr. NICKLES. Will the Senator yield?

Mr. LAUTENBERG. Yes.

Mr. NICKLES. Did the Senator say according to NHTSA there would be a 30-percent increase in fatalities?

Mr. LAUTENBERG. A 30-percent increase in the fatalities that occur from excessive speed right now, yes.

Mr. NICKLES. There are 40,000, 41,000 auto fatalities.

Mr. LAUTENBERG. If the Senator will permit me to respond, 40,000 total fatalities. Some of those, many of those, maybe 30,000, 25,000 are not related to speed but related to other things, perhaps ice, snow, faulty vehicles, other conditions, grade crossings, et cetera. But those attributed to excessive speed range about 14,000 persons a year, and NHTSA, the National Highway Traffic Safety Administration, projects a 30-percent increase if speed limits are removed.

In Oklahoma, for instance, it would go from 388 persons up by 110, with the projected increase of 30 percent.

So I think the case can be made, Mr. President—once again, I want it to be clearly understood I do not think there is anyone in this room, any Senator or any individual in this room who is saying abandon restraint regardless of consequence; not at all. I would never suggest it. My colleagues are too intelligent, too caring, and work too hard to protect the public. But in this case, I think it is an error to simply resort to the States rights argument and say that we ought not to have any Federal restrictions.

I submit, as I said before, the Federal Government is involved in aviation. We have the safest system anyplace on the globe. And so it is with many other parts of our society. But in this case, I think it is essential because the Federal Government makes the investment, the Federal Government does direct taxpayer money to our infrastructure development, and we will assume not only the tragedy and loss of life but can expect an increase of $15 billion a year in cost to the community and the Government as a result of these accidents.

And so, Mr. President, once again, I appreciate the support and the help of my colleague from Ohio and hope that we will be successful.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I rise in opposition to the Lautenberg-DeWine amendment and urge my colleagues to vote no.

I might ask the sponsors of the amendment, Do we have a time set for the vote on Lautenberg?

I understand from the manager of the bill, Senator BAUCUS, we do not have a time set for that vote, but I would just urge my colleagues when we do vote on it to vote no.

I compliment the committee for taking their position. The committee's position was not to raise speed limits. The bill that we have before us does not raise speed limits.

It allows the States to set the speed limits. There is a big difference. Some of my colleagues are assuming that we will have a national speed limit, if this bill passes as it is, of 65 or 70 miles an hour. That is not the case. The case is which jurisdiction of government should properly make this decision? Should it be decided by the Federal Government and mandated by the Federal Government? Or should it be decided by the States? That is what the vote is: Who should set the national speed limit or who should set speed limits. Should it be a national mandate or should we allow States to make the decision?

To have individuals talking about a 30-percent increase in fatalities due to speeding, I think, is hogwash. What makes you think the States are going to increase the speed limit? Maybe they will if it is strongly supported in their States and the State highway administration thinks it is safe. Maybe they will.

Mr. DEWINE. Will the Senator yield?

Mr. NICKLES. Let me make some more comments and then I will. They say, if this bill passes, 4,750 people are going to die every year. I think that comment is absurd. Are we taking a position that we need to have the National Government mandate speed limits because States do not care about safety, States do not care about fatalities? Again, I find that absurd.

I go back to the Constitution on occasion, and I read in the 10th amendment, it says:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Why not allow the States and the people to make this decision? Our forefathers, I think, would be shocked to find out that we have national speed limits, we have the Federal Government making all kinds of constraints and saying, "Well, if you don't comply, you don't get your money."

The money was raised within the States from a State-generated tax on gasoline primarily to fund the highway program. That money is sent to Washington, DC, and before Washington, DC, will send it back, you have to comply and if you do not comply, you do not get the money. Uncle Sam is putting the strings in, Uncle Sam, big Government, saying, "States, you must do this, and if you don't, you won't get your money back or we are going to withhold some money." We are telling the States, the State legislatures and State Governors, "Well, we don't care, we're going to mandate, we're going to tell you exactly what you have to do."

To get to this figure of 4,750 people I think is just ludicrous. Look at the statistics. In 1965, we had over 50,000—about 51,000—fatalities on our highways. In 1974, when we imposed the national speed limit, it had already dropped to 45,000. It declined fairly consistently throughout, and today the number of fatalities is a little over 40,000. There has been a consistent decline for a lot of different reasons: automobiles are built safer, we have airbags, we have more divided highways—there are many different reasons. Some people are driving slower; some people are driving faster.

The real issue we are going to vote on today is not what the national speed limit should be but if the States should make the decision or should we have it mandated by the Federal Government. That is the decision. The committee properly recommended that the States should make the decision.

Mr. President, I am going to have printed in the RECORD an article from the Washington Times by Stephen Chapman entitled "Clocking the 55-Mile-an-Hour Debate." It mentions that opponents are going to say, "We are concerned about safety." I am concerned about safety. I have children who are driving on the highways. I want those highways to be safe. I just happen to think the State of Oklahoma or the State of Virginia is just as concerned about safety as the Federal Government, and maybe those States will want to increase the speed limits, if they think it is safe and prudent to do so, if the highway is built well. Or maybe they will not. Maybe they will be convinced that if we have increased speed limits, we will have an increased number of fatalities.

If they do not want to increase the speed limit, that is their decision, and

I can abide by it. For people to say we did have over 50,000 fatalities in the sixties and then 45,000 in 1974 and now it is 40,000, but if we do not have a national speed limit, we assume it is going to jump up to 45,000, makes no sense whatsoever. That is not sustainable. For the national highway transportation people to make that kind of allegation I think is ludicrous. It shows they are against the amendment. Well, this administration is for more Government. They like the idea of the Federal Government making decisions instead of the States making decisions.

Many Governors do not agree, Democrat and Republican Governors. Mr. President, I have numerous letters from Governors, from a variety of States, Democrats and Republicans, who are supportive of allowing the States to make these decisions.

Lawton Chiles, a former Senator and now Governor of the State of Florida, says:

> Recognizing the national maximum speed limit is one of 19 mandates in current Federal law which threatens to sanction States with the loss of transportation funds, the State of Florida would clearly prefer an incentive approach over mandated activities.

What we have right now is a mandated activity.

I have a letter from the Governor of the State of Maine, Angus King, who says:

> As Governor, I am striving to not only gain empowerment for the State of Maine from Federal restrictions but to pass that right to Maine's citizens who truly know best what their needs are. Therefore, I do support your proposed legislation and would recommend its passage.

The proposed legislation is to allow the States to set the speed limits.

Governor Engler of the State of Michigan says:

> My administration is a strong proponent of States rights and an active opponent of unfunded Federal mandates.

This is an unfunded mandate.

Continuing with Governor Engler's letter:

> Speeding is a factor in one-third of all fatal crashes. I believe, however, that speed variance and violators are the major causes, not the setting of higher speed limits.
>
> In addition, I believe that individual States are better prepared to identify safe speeds for the roadways than the Federal Government.

That is the point I am making. I know the Governors are just as concerned with safety and fatalities on their roadways as this body is, as the Federal Government is.

I have a letter from the State of Montana, Governor Racicot. He talks about Montana being a large, sparsely populated State with hundreds of highway miles through rural areas:

The Governor writes,

> The diverse terrain and widely varying population across our State make enforcing a single speed limit based solely on the type of highway difficult, if not impossible. And a speed limit set with large eastern cities in mind often doesn't make sense in Montana.

I think he is correct.

I have additional letters from the Governor from the State of South Carolina, Governor Beasley and the Governor from the State of New Hampshire, Governor Merrill. I will just read this one paragraph from Governor Merrill:

> In addition to feeling the States should set their own speed limits, I also believe motorist compliance, or noncompliance, with those speed limits should not be related to the withholding of construction funds awarded to individual States.

I think he is correct.

I have a letter from Fife Symington, Governor of the State of Arizona, a letter of support from the Governor of the State of Tennessee, Governor Sundquist. I will read one comment:

> I agree with you that authority regarding speed limits should not be imposed by the Washington bureaucracy, but should be regulated by each State who understands their own transportation needs and who knows what restrictions are best for their citizens.

I have a letter from Governor Keating of my State of Oklahoma. He goes on:

> As you know, Federal mandates and penalties for noncompliance are a constant threat to Oklahoma's ability to build, maintain and manage highways effectively.

Also, a letter from Governor Glendening of Maryland:

> Sanctions which reduce critically needed transportation funds are counterproductive.

Again, I think he is right. I happen to think the Governor of Maryland, the Governor of Oklahoma, and the Governor of Montana are just as concerned—frankly, I think they are more concerned—than we are with highway safety within their States.

Again, I want to make clear that all of my colleagues are aware of the fact this bill we have before us, reported out of the committee, does not raise the national speed limit to 65, does not raise it to 70, does not raise it to 80. It says, "States, you make the decision." We have a little bit of confidence in the States. We think that is a decision that is more properly reserved to the States than the Federal Government. Very plain, very simple.

The people who are proposing this amendment obviously feel the Federal Government should make the mandate and enforce the mandate and say, "If you do not comply with posting, we are going to take your money away. If you do not comply with enforcement"—now under the proposal before us, under the Lautenberg proposal, it says you have to post the speed limit at 55, the national speed limit, but you do not really have to comply with it, we are going to leave compliance to the States.

I think that is going to create a contempt for the law. Why not allow the States to set the speeds limits, post the speed limits, and enforce the speed limits? To end up saying we are not going to have any sanctions on enforcement but you are going to have to post limits I think is a mistake. Therefore, if the State of Montana wants to have a speed limit of 65 they could legally have zero fine or penalty for exceeding the speed limit. That is going to create contempt for the law.

Maybe it is an effort to compromise, I do not know. I think it is a mistake. I think it is defying States saying, we do not think you can do the job; we are going to do it for you. We are going to tell you that you must do that. I disagree with that. I think the forefathers and the 10th amendment of the Constitution says all rights and powers are reserved to the people and the States. Our forefathers are right.

Why do we come in and micromanage and dictate what they must do to get their money back, money that came from constituents in those States? I might also mention that many States do not get their money back. A lot of States are so-called donor States: They pay $1 in taxes to Washington, DC, and get 90 cents back. They are shortchanged from the start and then with the 90 cents they get back, they must comply with a lot of Federal regulations. Complying with the Federal speed limit is just one such mandate.

I might also mention that it is a national speed limit law that is not complied with. I am not shocking anybody by saying that. But if you drive 55 on a lot of our highways around the country today, you will find that you are not going with the prevailing speed. Again, I am not one that says the speed limit should be higher; I am one who says the States should make that decision. The States should make that decision, not the Federal Government.

So I urge my colleagues, when we vote a little later, to vote "no" on the Lautenberg-DeWine amendment.

Finally, Mr. President, I want to print one additional article in the RECORD. The article is in today's Washington Times entitled, "Why Do We Still Have to Drive 55?"

I will just read this one paragraph:

> For example, after Congress gave the States the authority to raise the speed limit on selected rural interstates to 65 mph in 1987, a study done by the American Automobile Association in 1991 found that the fatalities in these regions fell by 3 percent, to 5 percent overall—thus belying the conventional wisdom that "speed kills."

The author states in a further paragraph:

> "Fifty-five" is almost universally despised, fosters contempt for legitimate authority and, paradoxically, probably increases the number of accidents because frustrated drivers tailgate, swerve and pull other maneuvers to get around the car ahead that's dawdling in the fast lane.

I ask unanimous consent the two articles, as well as the letters from several Governors in support of allowing the States to make the decision, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE OF FLORIDA,
OFFICE OF THE GOVERNOR,
Tallahassee, FL, May 19, 1995.

Hon. DON NICKLES,
U.S. Senator,
Washington, DC.

DEAR DON: Thank you for your letter concerning legislation you have introduced to repeal the National Maximum Speed Limit.

Recognizing that the National Maximum Speed Limit is one of the 19 mandates in current federal law which threatens to sanction states with a loss of transportation funds, the State of Florida would clearly prefer an incentive approach over mandated activities. With regard to the mandates referenced above, for the most part Florida would not alter appreciably our practices if these mandates were rescinded. Notably exceptions would be outdoor advertising and control of junk yards. Also, the Intermodal Surface Transportation Efficiency Act (ISTEA) Management System requirements could become very costly and should be made optional, or certainly less rigid.

Concerning the National Maximum Speed Limit mandate, one additional option not altogether unlike your approach, would be to set one national maximum—say 65, 70 or 75 mph. States would then be free to set speed limits as they best determine based on traffic and safety analysis with an upper cap already established. The urban/rural split between speed limits contained in the existing mandate is somewhat arbitrary and inconsistent with accepted methodology for setting speed limits, and should be dropped. Turning to a slightly broader subject, it is my view that the transportation funding needs of donor states like Florida and Oklahoma must inevitably be addressed. One solution worthy of possible consideration is a modified turnback, whereby only a limited federal highway role would be maintained. The federal gas tax would be reduced accordingly and individual states given the option of passing a replacement state gas tax. Form a variety of standpoints, this concept would seem to be attractive.

Again, thank you for your correspondence and I would welcome the opportunity to have our two states work together in the future for our mutual benefit.

With kind regards, I am

Sincerely,

LAWTON CHILES.

STATE OF MAINE,
OFFICE OF THE GOVERNOR,
Augusta, ME, May 3, 1995.

Hon. DON NICKELS,
Oklahoma City, OK.

DEAR SENATOR NICKLES: Please allow me to apologize for the delay in getting back to you. Thank you for your letter concerning the introduction of a bill to repeal the National Maximum Speed Limit.

It has been our experience in the State of Maine since the increase in the maximum limit from 55 MPH to 65 MPH, that compliance is no longer an issue. However, as you noted, the potential loss of highway funds is indeed a penalty which would severely impact our ability to properly fulfill our responsibility to Maine citizens and their transportation needs.

As Governor, I am striving to not only gain empowerment for the State of Maine from Federal restrictions but to pass on that right to Maine's citizens who truly know best what their needs are. Therefore, I do support your proposed legislation and would recommend its passage.

Thank you for giving me an opportunity to respond to your request for Maine's views on this matter.

Sincerely,

ANGUS S. KING, JR.,
Governor.

STATE OF MICHIGAN,
OFFICE OF THE GOVERNOR,
Lansing, MI, April 21, 1995.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATOR NICKLES: This is in response to your letter requesting my support and views on your bill to repeal the National Maximum Speed Limit. My administration is a strong proponent of states rights and an active opponent of unfunded federal mandates.

Speeding is a factor in one third of all fatal crashes. I believe, however, that speed variance and violators are the major causes, not the setting of higher speed limits.

In addition, I believe that individual states are better prepared to identify safe speeds for their roadways than the federal government. If the National Maximum Speed Limit restrictions are repealed at the federal level, all states must consider increasing fines and banning radar detectors wherever the higher limits are allowed in order to give law enforcement the tools necessary to mitigate any potential increase in deaths and injuries. Persons who violate the higher speed limits do present a substantial public safety hazard.

Given the above reasons, I support your efforts with reservation. Thank you for the opportunity to share my thoughts with you.

Sincerely,

JOHN ENGLER,
Governor.

STATE OF MONTANA,
OFFICE OF THE GOVERNOR,
Helena, MT, May 5, 1995.

Hon. DON NICKLES,
U.S. Senator,
Oklahoma City, OK.

DEAR SENATOR NICKLES: I agree with your position that a nationally-imposed maximum speed limit is inappropriate in many states, including Montana.

Montana, as you know, is a large, sparsely-populated state with hundreds of highway miles through rural areas. In addition, our population is greater in mountainous western Montana than in the prairie areas of the eastern half of the state. But even our most populated areas are rural when compared to cities in the eastern part of our country.

The diverse terrain and widely-varying population across our state make enforcing a single speed limit based solely on the type of highway difficult, if not impossible. And a speed limit set with large eastern cities in mind often doesn't make sense in Montana.

I agree with you, Senator Nickles, that the role of assigning reasonable speed limits should be returned to the states and I support your legislation.

Sincerely,

MARC RACICOT,
Governor.

STATE OF SOUTH CAROLINA,
OFFICE OF THE GOVERNOR,
Columbia, SC, April 3, 1995.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATOR NICKLES: Thank you for your recent letter regarding your bill which would repeal the National Maximum Speed Limit and return to the states the authority to regulate their own speed limits. I appreciate the opportunity to provide input regarding this legislation.

I believe the federal government should empower states with more responsibility and allow more control to make decisions affecting our futures. Should your legislation become law and we are given the authority of regulation, we will carefully assess our present speed limits to determine if changes may be necessary.

Again, thank you for sharing this information. Please do not hesitate to contact me if I may be of assistance in the future.

Sincerely,

DAVID M. BEASLEY.

STATE OF NEW HAMPSHIRE,
OFFICE OF THE GOVERNOR,
Concord, NH, May 9, 1995.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATOR NICKLES: I am pleased that you have introduced legislation to repeal the National Maximum Speed Limit. I am in agreement that states should be empowered to set speed limits that are appropriate for their highways, and the responsibility to dictate speed limits should not reside at the federal level.

In addition to feeling that states should set their own speed limits, I also believe motorist compliance, or non-compliance, with those speed limits should not be related to the withholding of construction funds awarded to individual states. Furthermore, states should not be penalized by withholding their construction funds because they have neither a universal seat belt use law, nor a motorcycle helmet use law. This currently exists under the provisions of the Section 153 transfer funds. My feelings on this subject are further stated in the attached letter dated January 27, 1994 to Frederico Pena, Secretary of Transportation.

We in the Granite State are very proud of our highway safety record which is possible only through the united efforts of local, State and county entities. In 1994, the lowest number of people died on New Hampshire highways in over 30 years, and we are striving to improve that record.

In closing, let me say that I support your legislation, as well as any efforts which have the goal of returning to the states the power to actively manage their own affairs.

Very truly yours,

STEPHEN MERRILL,
Governor.

STATE OF ARIZONA,
EXECUTIVE OFFICE,
Phoenix, AZ, April 13, 1995.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATOR NICKLES: Your legislation repealing the National Maximum Speed Limit will be a step in restoring the ability of states to set and maintain speed and safety standards without having to fear sanctions from Washington, D.C. You have my full support in your endeavors to restore responsibility to state governments.

If you need any help, do not hesitate to contact me.

Sincerely,

FIFE SYMINGTON,
Governor.

STATE OF TENNESSEE,
STATE CAPITOL,
Nashville, TN, April 18, 1995.

Senator DON NICKLES,
Washington, DC.

DEAR DON: Thank you for your letter advising me about the legislation that you have introduced that will repeal the National Maximum Speed Limit and return to the states the authority to regulate their own speed limits.

I strongly support this legislation that will further empower states with the responsibility to make their own decisions with regards to speed limits. The National Maximum Speed Limit is a part of federal law which threatens states with the loss of their badly needed highway funds. I agree with you that authority regarding speed limits should not be imposed by the Washington bureaucracy, but should be regulated by each state who understands their own transportation needs and who knows what restrictions are best for their citizens.

I agree with and support this important legislation. If there is anything else that I can do, please do not hesitate to contact me.

Best regards,

DON SUNDQUIST.

STATE OF OKLAHOMA,
OFFICE OF THE GOVERNOR,
Oklahoma City, OK, March 31, 1995.

Hon. DON NICKLES,
U.S. Senator,
Washington, DC.

DEAR SENATOR NICKLES: I applaud your recent introduction of legislation proposing the repeal of the National Maximum Speed Limit. As you know, federal mandates and penalties for non-compliance are a constant threat to Oklahoma's ability to build, maintain and manage highways effectively.

There are twenty federal mandates that affect highway funds which carry significant cash penalties for non-compliance. I appreciate your dedication to removing one of these obstacles from Oklahoma's path, and encourage you to address other mandates that threaten the prosperity of our state.

Thank you for your distinguished leadership and your dedication to Oklahoma's success. The legislation you are presenting will provide our state with the freedom to grow and prosper, and I wholeheartedly support this effort.

I look forward to seeing you at the state convention April 8.

Sincerely,

FRANK KEATING.

STATE OF MARYLAND,
OFFICE OF THE GOVERNOR,
Annapolis, MD, May 24, 1995.

Hon. DON NICKLES,
U.S. Senate,
Washington, DC.

DEAR SENATOR NICKLES: Thank you for your letter informing me of your introduction of S. 476, a bill to repeal the National Maximum Speed Limit. I agree with your opposition to the sanctions that are required by existing law. Instead of punishing states for lack of adequate compliance, it would be better to reward those states which enforce speed limits, perhaps in the form of bonus funding for transportation programs.

Sanctions which reduce critically needed transportation funds are counterproductive. I would not, however, abandon the concept of a national speed limit, which can serve a useful purpose, especially in regard to traffic fatalities. Thank you again for informing me of your proposal.

Sincerely,

PARRIS N. GLENDENING,
Governor.

[From the Washington Times, June 7, 1995]

CLOCKING THE 55 MPH DEBATE

If you want to get a debate going among legal scholars about the meaning of federalism, ask them about the Supreme Court's recent decision limiting the reach of the Constitution's interstate commerce clause. But if you want to get a debate going among ordinary people, ask them abut the 55 mph speed limit, which strikes some Americans the same way the Stamp Act struck Patrick Henry.

The 55 mph speed limit was mandated by the federal government in 1973 at the behest of President Nixon, who proposed it as a way to conserve fuel during the Arab oil embargo. States, which had always set the speed limits on their highways, suddenly found they had lost their authority. They may finally get it back, though, as a result of the GOP takeover of Congress. Republican Sen. Don Nickles of Oklahoma has introduced a bill to repeal the federal maximum. Other bills in Congress would simply deprive Washington of the money to enforce it.

The issue that arouses car buffs is speed. Prior to the federal intrusion, states set the limits anywhere from 65 mph to 80 mph—and Montana and Wyoming had no limit at all. Drivers with lots of pent-up horsepower have yearned for years to be able to open the throttle without fear of the highway patrol.

The passion on the other side of the issue is safety. One unforeseen result of the lower speed limit, defenders say, was a sharp decline in traffic fatalities, and one inevitable consequence of raising it will be more carnage on the roads.

The opponents of 55 are not entirely without arguments. They insist that everyone ignores it because it is ridiculously low and that higher limits would bring the law into closer conformity with the prevailing practice. Besides, they say, plenty of highways are engineered for much higher speeds than those now allowed.

The case amounts to more than just determined rationalization of dangerous behavior, but not a lot more. The defenders of 55 say that when Washington let states raise the limit to 65 on rural interstates in 1987, the death toll on those roads jumped by 20 percent.

This validates the common-sense assumption that if people drive faster, they are more likely to get killed. "It's possible to design cars and roads for high speed, but we haven't been able to design people for high speed," says Chuck Hurley of the Insurance Institute for Highway Safety. If posted maximums rise, I somehow doubt today's speeders will start obeying the law. Higher limits may or may not mean less speeding; they will definitely mean more speed.

But to get caught up in the issue of where to set the speed limit is to miss the more important issue, which is who should set it. There are plenty of good reasons to support 55, but none to insist that it be imposed by Washington.

On this, the left and the right should have no trouble agreeing. Conservatives have always wanted to decentralize power. But last year, during the debate on the crime bill, it was liberals who opposed Congress' grandstanding federalization of crime by noting that public safety and order have always been the province of local and state governments. If you're waiting for liberals to apply that logic to the speed limit issue, though, you'd better make yourself comfortable.

In fact, there is no reason on Earth that states should not be free to decide for themselves whether the danger of more auto accidents outweighs the advantages of faster travel. In a country that has highways as congested as New Jersey's and as empty as New Mexico's, we should be able to recognize that different places and that locals are best situated to make the judgment.

Nothing about the issue warrants federal intervention. If a state ignores pollution, the state next door will suffer harm to public health; if a state slashes welfare, its neighbors may be flooded with paupers. But if Illinois chooses to let people drive 70 mph on its highways, no one in Iowa will be at risk.

Iowans who venture eastward, granted, may be exposed to more adventure than they prefer on the highway. But Iowans who set foot in Chicago endure a greater likelihood of being murdered, which doesn't give them the right to dictate the number of cops on the street.

If states and cities are competent to set the speed limits everywhere from quiet residential streets to busy six-lane boulevards, they can certainly handle highways. Those who support keeping the 55 mph maximum should make their case to state legislatures, which are not indifferent to the lives and limbs of their constituents. Legislators may not always arrive at the right policy, but one of the prerogatives of states in their proper responsibilities is the right to be wrong.

[From the Washington Times, June 20, 1995]

WHY DO WE STILL HAVE TO DRIVE 55?

(By Eric Peters)

Make sense of this if you can: Prior to the great oil price shocks and shortages of the 1970s, speed limits on American highways were typically set at 70–75 mph. Now in those days, cars were great lurching behemoths riding on skinny little bias-belted tires that needed more room than an incoming 747 to come to a stop. No antilock brakes (ABS), no air bags—and suspensions that weren't worth a hoot in a corner.

Jump forward to 1995. All new cars have radial tires, superb brakes (and almost all have ABS), offer excellent road-gripping suspensions, air bags and superior body structures that, when combined with today's state-of-the-art powertrains, make for automobiles that can safely loaf along on a modern interstate highway at 80, 90—even 100 mph—in the hands of any competent driver.

Yet the federal government adamantly clings to the 55 mph "national speed limit"—citing "safety" and the need to conserve fuel.

The second rationalization—energy conservation—is easily dispensed with. Proven reserves are sufficient to supply our needs into the foreseeable future—and new oil fields are being discovered all the time. As proof of this abundance, one need only take note of fuel prices at the pump, which have remained constant or declined over the past 15 years.

If the supply of oil was in danger of drying up, prices would be skyrocketing in anticipation of impending shortages. Yet a gallon of unleaded premium today is typically sold for $1.35–$1.40—which is less than what it cost in 1980.

Besides, thanks to overdrive transmissions, fuel injection and computerized engine management systems, today's cars are much more efficient than their crude forebears of the mid-1970s. Simply driving a late model car—even at 80 mph—is a fuel-saving measure all by itself.

The safety issue is the toughie. Pro-55 people recite the mantra that "speed kills"—an allusion to their belief that the higher your rate of travel, the less time you will have to react; ergo, you are more likely to have an accident when driving fast—and more likely to die or be seriously injured when you do have one.

There's a certain logic to this, but it fails to take into account the improvements in vehicle design that have occurred over the past two decades. Today's cars are so much better, so much safer (thanks to "crumple zones," side-impact beams in the doors, air bags, etc.) than cars built just 20 years ago, that they're generally less likely to be involved in accidents, and if they are, the occupants are less likely to be seriously hurt.

For example, after Congress gave states the authority to raise the speed limit on selected rural interstates to 65 mph in 1987, a study done by the American Automobile Association in 1991 found that fatalities in these regions fell by 3 percent to 5 percent overall—thus belying the conventional wisdom that "speed kills."

There's also a wealth of information derived from crash studies done by the automobile manufacturers themselves, all of which indicates that people in modern cars equipped with air bags and other safety features have much better odds of surviving a serious accident than occupants of older vehicles lacking such features.

I know, for example, that if I slam on the brakes in my ponderous and poorly designed 1976 Pontiac Trans-Am (a state-of-the-art, "high performance" car back then) at 100 mph, I'm going to go into a skid and will probably wreck the car. If I tried the same thing in a 1995 Trans-Am—which has high-capacity, 4-wheel disc brakes and anti-lock—I wouldn't even spill my drink.

A front end collision 20 years ago at 40 mph was usually fatal; today, thanks to air bags, you stand a very good chance of walking away. Just ask the National Highway Traffic Safety Administration. Or the insurance companies—which offer more favorable rates to drivers of new cars equipped with air bags, ABS and the other safety gear mentioned earlier.

Humdrum mass-produced cars can outbrake, outhandle—and sometimes out-accelerate—the finest exotic and high performance machinery of 20 or 30 years ago. It's ludicrous to throttle their ability by making them go 55. Most people understand this and recognize that the hated "double nickel" is in place mainly for revenue collection—the bounty provided by ticketing motorists for "speeding" at 65 or 75 mph on a modern highway.

"Fifty-five" is almost universally despised, fosters contempt for legitimate authority and, paradoxically, probably increases the number of accidents because frustrated drivers tailgate, swerve and pull other maneuvers to get around the car ahead that's dawdling in the fast lane.

For now, it looks like we'll have to live with this. So while we're waiting for saner—and more equitable—traffic laws, a lighter foot and keener eye will have to suffice to keep us all out of trouble with the law.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio. The Senator from Oklahoma still has the floor.

Mr. DEWINE. I thought he yielded the floor.

Mr. NICKLES. I yield the floor.

Mr. DEWINE. Mr. President, let me try briefly to respond to the very eloquent comments of my colleague from Oklahoma. My friend talks about the fact that our forefathers would be shocked at amendments such as this. I think our forefathers would be shocked by the Interstate Highway System. I think they would be shocked by over 40,000 deaths every single year. So I am not sure that that really has, at least from this Senator's perspective, a great deal of validity.

The Senator talked about the figures that were cited—that I cited, that my colleague from New Jersey cited. Those were not our figures. They were national experts, respected, who gave those figures.

He talked about those arguments and figures being hogwash, ludicrous. Let me assure him that I am not attempting on this floor today to extrapolate or speculate or predict in any way, shape, or form the number of auto fatalities that there will be. I think it is important to cite what the experts tell us.

I am not pretending to project that. I would ask my friend from Oklahoma to find me one expert—one expert—in this whole country on highway safety who will say that there is not a direct relationship between speed and number of fatalities. It is an accepted fact.

If we want to talk to the real experts, go to any State in the Union and talk to the law enforcement officers who literally have to scrape people up off the roads. The law enforcement officers who study this, the law enforcement officers who have to deal with it every day, and have to talk to the families, and ask them if, in their opinion, speed does not matter, and speed does not kill. It does.

That is what we are saying. It is all we are saying. But I think it is a lot to say. I agree with my colleague from New Jersey. No one is saying that anybody on this floor does not care about human life and does not care about the welfare of people. I think the evidence is abundantly clear what will happen if, in fact, this bill as written is passed without this amendment.

The evidence is clear. We saw the statistics in 1973 and 1974. We saw what happened when this Congress allowed more flexibility at the State level. We saw what happened. We saw that the States did jump in. We saw the tremendous pressure. We saw the fact that speed limits were increased. Then we saw the auto fatality rate change. We saw it go up from what it should have been and was expected to be.

I do not think it is too big of a step of the imagination—I think, the opposite. The evidence is abundantly clear what will happen. That is, that speed limits will, in fact, be increased.

It is true that this bill does not do it directly. It will do it indirectly. The consequences are very clear.

I want to assure my colleague from Oklahoma I am not saying that we can predict exactly how many people will die, how many families will be crushed. But we can pretty well predict this: more will be—with this bill as it is written—than would be if the amendment were passed. I think that is very, very, significant.

I know there are other Members on the floor who would like to talk. I would end by saying that this is a compromise. I think it is a rational compromise.

It is rational that when you drive on the Interstate Highway System there be uniformity. But it is also rational, as we turn power back to the States, as we are sensitive as we should be to where the enforcement should take place and who has to really do the job every day, that we not try to micromanage things from Washington, and not tell the States how to enforce the law, allow the States the flexibility to do that.

That is what this bill does. It eliminates the reporting. It eliminates the looking over the shoulder. What it does say is that there is still a national standard.

Mr. FAIRCLOTH. Would the Senator from Ohio yield?

Mr. DEWINE. I am happy to yield to the Senator.

Mr. FAIRCLOTH. Does the Senator from Ohio not feel that the Ohio Legislature is not competent to set the speed limit for the State of Ohio?

Mr. DEWINE. My colleague would make the point of States rights, and my colleague from Oklahoma made the point about States rights.

For this Senator, it is a balancing test, as I think most things are in Congress, most things are in the Senate. It is a balancing test of how much we send back to the States, how much we need to have some national uniformity.

I think what we are doing in this amendment is, in fact, a balancing test. It is not a question of do we know best here? Do people know best in Columbus or Indianapolis? I think it is simply a balancing test. That would be my response to my friend.

I yield the floor.

UNANIMOUS-CONSENT AGREEMENT

Mr. WARNER. Mr. President, the proponents of two amendments are desirous of getting fixed time agreements and a set time for the vote.

I would like to propose for a discussion a unanimous-consent request that, at the hour of 12:15, there occur a vote on the amendment of the Senator from Nevada [Mr. REID] that would be for a period of 20 minutes, the normal time for a vote; at the conclusion of that, there would be a vote; then, on the Lautenberg amendment, or in relation to, for a period of not to exceed 10 minutes; and that the time remaining between the end of this colloquy discussion now be equally divided between the Senator from New Jersey and the Senator from Oklahoma.

Mr. LAUTENBERG. Will the Senator yield? In the earlier unanimous-consent request we had an agreement that a technical change to the Lautenberg amendment would not affect the structure of the amendment, but would reflect the response to whatever the outcome is on Reid would be acceptable. I would like to have that in there.

Mr. WARNER. Mr. President, I so amend the unanimous-consent request to reflect that.

The PRESIDING OFFICER. Is there objection?

Mr. FAIRCLOTH. How much time do I have to speak to the amendment, since I introduced it in the committee?

Mr. WARNER. Mr. President, that would be up to the discretion of the two individuals that have been assigned the allocation of the time.

The PRESIDING OFFICER. Is there objection to the request?

Mr. WARNER. Mr. President, further to inform the Senate, at the conclusion of the second vote, the Senate would stand in recess for a period of time determined by the leaders which I presume would be until 2:15.

The PRESIDING OFFICER. Is there objection?

Mr. LAUTENBERG. Our colleague from North Carolina did want some time, and in the remaining 20 minutes, if we had 5 minutes to wrap up, I would agree for the Senator from North Carolina to have 15 minutes.

Mr. FAIRCLOTH. I will not need 15 minutes.

Mr. LAUTENBERG. Such time as the Senator desires.

The PRESIDING OFFICER. Without objection, that will occur.

Mr. WARNER. Mr. President, I suggest since we have now adopted the unanimous consent that the Chair restate it for the benefit of all Senators.

The PRESIDING OFFICER. The time between now and 12:15 be equally divided between both sides, and the Senator from North Carolina be recognized for 10 minutes.

Who yields the time to the Senator from North Carolina?

Mr. NICKLES. I yield 5 minutes.

Mr. FAIRCLOTH. Mr. President, hearing the eloquent rebuttal from the Senator from Oklahoma does not leave a lot to say. A few things occur to me.

The one thing we have said repeatedly is that the bill does not set or raise speed limits. It does not lower them, it does not raise them. I would have thought by osmosis, it would have gotten through to most people, if by no other method. However, it does not seem to have done so.

The press is adamantly insisting that we are raising speed limits. We are simply saying what the amendment and bill says, and that is the States will have the right to do it. The States.

As was read by the Senator from Oklahoma, Senator NICKLES read the 10th amendment. It is clear. This is the prerogative of the States. Yet we have taken it. We do everything. The Federal Government can do it all.

The amendment, as proposed, is complete hypocrisy. It says you post a speed limit but you do not enforce it. You post it. You have to put the sign up, but you do not do anything about it. It becomes a joke, a facade. But you have to post it.

If that does not breed contempt for the law, I do not know what would. It is precisely the kind of proposal that you would expect out of Washington. To propose something, put up the sign, but, really, it is kind of wink at it, ride by and give it a little wave.

Senator LAUTENBERG could post 35 miles per hour on the New Jersey turnpike and allow 80, but it would look good. This thing is totally crass politics.

What we are doing here today is simple, common sense. That is to let the States do it. I do not think anybody believes that Rhode Island needs the same speed limit on most of its roads as Arizona or the wide open States. We, in North Carolina, do not need the speed limit that they need. We cannot drive as fast as a person probably could in Arizona or Nevada or some of the other States.

This is the worst example of Washington knows best, or the worst example of our attempt to compromise.

I said one time that if somebody put in a bill to burn the Capitol down we would not tell him he was an idiot, we would compromise with him and burn a third each year. That is about what this amounts to. We are simply saying that we do not want to really face up to giving the States the authority, and yet we do not want to force them to enforce a law.

Senator NICKLES read a number of letters from Governors and heads of departments of transportation all around the country. I have several. One I have is from North Carolina. It says, just one brief paragraph of it I will read. This is from Sam Hunt, the head of the department of transportation from North Carolina.

> States are capable of establishing speed limits within their individual borders on the basis of sound engineering practice and the specific circumstances involved. Federal involvement is not required. Every State is different, and a "one size fits all" approach is totally inadequate and inappropriate.

Mr. President, I do not know much more you can say on this except to reiterate repeatedly that this is not a bill to raise the speed limit. This is a bill to give the States the authority to set whatever speed limit they see fit.

Mr. NICKLES. Mr. President, I yield the Senator an additional 2 minutes.

Mr. FAIRCLOTH. We had an election in November in which the people stated clearly that we wanted less rules, less regulations and less authority from Washington. They wanted the right to set their own rules and regulations where it was reasonable and practical.

In this instance it is totally reasonable and totally practical that the States should be setting the speed limits. If a State legislature is not capable of setting the speed limit within the State then what is it capable of doing?

I submit to you, Mr. President, this is another intrusion of the Federal Government into a State right, a law the States should be handling and passing at whatever speed they want it to be. And it is not an attempt to increase the national speed limit. The States have the right to set their own.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that Senator FEINSTEIN be included as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I listened with interest to the debate coming from the opponents of my amendment, and, frankly, I am perplexed. I am sorry my good friend from North Carolina left the room because he and I have engaged in friendly differences before and I wanted to have a chance for this friend to respond. But he is out of the room.

I will, nevertheless, respond to a couple of comments that both he and our distinguished friend from Oklahoma made. Here we are, robbing the States of their opportunity to make decisions, and, by eliminating sanctions, by eliminating reporting requirements, by getting the so-called burden off the States so they do not have to respond to Uncle Sam.

They said, "No, that is not good. Are we not responsible citizens who run our States? Governors and legislators and all that?"

Of course. I agree to that. I think they are intelligent people. And I said earlier I do not think one part of this debate wants more people dead on the highways than the other. I just think it is a terrible error to remove the speed limit rules we presently have. But it is up to the States. It is up to the States to enforce it. So, on one hand, the States are intelligent enough to do it if we just let it go. On the other hand, they are not intelligent enough to do it if we say, "Here are the rules. You decide how the rules are played."

Mr. President, I wrote the law on the Senate side to raise the drinking age to 21. We had a strong debate and it happened. It is said, by the National Highway Traffic Safety Administration, that 14,000 kids are alive today who would not have been.

I point out to my friend from Oklahoma, there is not one demand by the

Federal Government that they do anything. We are relying on the intelligence of State governments to administer these programs. Mr. President, 14,000 families spared of mourning, spared of the pain and anguish of the loss of a loved one.

We wrote the law and the law stood and we did not have to tear down the Federal Government or burn the building to make it happen.

I hear these arguments all the time about how foul the Federal Government is, and I do not understand it. We built the greatest Nation on Earth. People will kill to get here—will die to get here. But we criticize this place as if it is some foreign body. This is the Government of the people, by the people, and for the people. We ought not to forget that.

We constantly make derogatory remarks about what it is, what bad things we do here. "We pick the pockets of our citizens and throw the money away." What nonsense.

This is about saving lives and it is yes or no. That is the way it is. We have an amendment here that tries to strike a compromise. It says to the States we understand you are intelligent people, caring people. We all wept when Oklahoma City saw that terrible explosion. We all shared the grief and the sympathy for the people there. This is a caring body. No matter how our opponents try to paint it, we give a darn about what happens out there. This is not just Big Brother. We are trying to do the right thing. If we disagree we disagree, but it is not hypocrisy and it is not crass politics. It is not any of those things. It is human beings.

When I think about people out there I think of my four children and my two grandchildren and I say God willing, I want to protect them any time I can. So it is with other people's children and grandchildren as well.

Mr. President, we have had a lot of talk about this. Frankly, I hope sense will prevail, we will be able to put up signs that say: Remember, these roads were built for safety at 65 and 55 miles an hour. If it has a chilling effect on the driver's foot on the accelerator pedal it is OK with me. All of us know that few people in this world are exactly tuned in to the speed limit. Mr. President, 65 in most States, whatever the dialect, whatever the intonation, says 75. And when it says 55, it really says 65. So we are kidding ourselves.

We keep hearing from our opponents that we want no speed limits. But they are objecting to the fact that we are saying they ought not remove the speed limit. Removal is OK, as far as the opponents are concerned. But I do not understand what they mean when they say: But that does not mean we simply raise the speed limits willy-nilly. Of course they can. And that is what we would like not to see happen.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, how much time do we have remaining?

The PRESIDING OFFICER. The Senator from Oklahoma controls 3 minutes and 44 seconds.

Mr. NICKLES. Mr. President, we have heard a lot of discussion, primarily on the part of the proponents of the Lautenberg-DeWine amendment, talking about saving lives. I can sincerely say I want to save as many lives as anybody else in this body. I think the States are just as interested, if not more interested, in saving lives than we are in the Federal Government. I know if a person is the Governor of Missouri or the Governor of Montana or Governor of New Jersey, he wants to save lives in his State, probably, maybe more than we do as a collective body. It is very close. It is personal. Those are their constituents.

To be perfectly clear, we are saying the States should make that decision, not the Federal Government. We should not have this Federal mandate.

Some people say if you increase the speed limits—we are not increasing the speed limits. We allow the States to make that decision. If the State of Virginia decides they want to have a uniform rate they can have a uniform rate. If the State of Virginia wants to have it at 55 they can have it at 55. If they want to have it at 40 they can have it at 40. They should have that right. It is a question of who makes that decision, the Federal Government or the State government.

Our forefathers, in the 10th amendment of the Constitution, clearly said all other rights and powers are reserved to the States and to the people. Yet we have this national speed limit. What is right for New Jersey may not be what is right for Oklahoma or Montana or Nevada.

I might mention, too, if you want to be ludicrous—people say we can save lives. You can pass a speed limit and say the national speed limit is going to be 20 miles an hour and you might be able to save 30,000 lives. We have 40,000 fatalities per year. If you set the national speed limit at 15 miles an hour you might not have any fatalities. Maybe some people would not comply with the law. They are not complying with this law.

There is a lot of contempt right now for the law because people are not complying with it. Under the Lautenberg proposal you would have even more contempt because we are telling the States you must post what we think is in your best interests. We are telling you, you must post 55 miles per hour in your areas except for rural interstates and then you can post 65 mph limits. I was the sponsor of the amendment that allowed the States to go to 65. I do not hear anybody saying we should repeal that.

What about lives? If you want to make a real change, come up with an amendment that allows us to set the national speed limit at 30 miles an hour or 20 miles an hour and we will really save lives. At what expense? What loss of freedom? Again, who should be making this decision? That is what the real issue is about, which group will make that decision? Are we going to allow the States to have the decision or are we going to mandate, as under the present law, that the Federal Government makes the decision?

Under the Lautenberg amendment we tell the States you must post national speed limits and we do not care whether you comply with them or not, or enforce them or not. That is going to breed contempt for the law. That makes very little sense. I do not like the States enforcing a national speed limit, but I do not like the Federal Government setting a national speed limit. Those are two things the Federal Government really should not do, and we are going to confuse the situation even further. You must impose limits but not enforce them, so you are going to have contempt for the law. That is the Lautenberg amendment. That makes no sense.

The committee came out with the right approach. The committee said, "Let us let the States make the decisions. We have confidence in States." Many of us have worked in State government. We have many Members of this body who are former Governors who have every bit as much concern over the health and safety of their constituents as we do on the Federal level. Let us allow them to make the decision, as I believe our forefathers would have wanted us to. This should not be mandated by the Federal Government.

So I hope we will give the States that opportunity to set the limits.

I yield the floor.

Mr. LAUTENBERG. Mr. President, just to be sure, I ask how much time we have left?

The PRESIDING OFFICER. The Senator has 2 minutes and 30 seconds.

Mr. LAUTENBERG. I will take 30 seconds and yield 1 minute to my colleague and 1 minute to the Senator from Ohio. I would say, what I have just heard on this floor astounds me. When the Senator from Oklahoma—and I know he means no malice—suggests if we reduce the speed limit enough we could save more lives, in turn what he is saying is that it is not worth keeping it where it is to save the lives that we can save. I wonder whether that message could be delivered in Oklahoma from a platform where a youngster has died on the highway, and say, "Listen, in the interests of speed and expediency, we had to do it this way."

I yield the floor. Mr. President, I yield 2 minutes to the distinguished Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, since 1987, when States were allowed to raise the speed limit on rural interstates to 65 miles per hour, Virginia has had a differential speed limit. On rural interstates in Virginia the speed limit was raised to 65 miles per hour for automobiles but at the same time the 55 mile per hour speed limit was retained for commercial vehicles. Based on these 6 years of experience, Virginia determined in the latest session of the general assembly that it was a matter of safety to have vehicles traveling at different speeds. In other words, it did not work.

As a consequence, we went to the consistent speed for both vehicles, and therefore I will have to oppose the Reid amendment. I am, however, in favor of the Lautenberg amendment to maintain a national maximum speed limit for the following reasons:

One-third of all fatal crashes are speed-related.

1,000 people are killed every month in speed-related crashes.

The current level of traffic fatalities at 40,000 people each year is intolerably high. The economic cost of these fatalities does not include the many thousands of people who have suffered serious injury from speed-related crashes.

The economic cost is $24 billion every year, or $44,000 per minute—one-third of which is paid for by tax dollars.

The health care costs of speed-related crashes is $2 billion per year.

Mr. President, some 70 percent of speed-related crashes involve a single vehicle.

Crash severity increases based on the speed at impact, the chances of death or serious injury double for every 10 mph over 50 mph a vehicle travels.

Rural roads account for 40 percent of all vehicle miles traveled but 60 percent of all speed-related fatal crashes.

Police report that in more than one-third of all fatal crashes, the driver exhibited unsafe practices such as speeding, following too closely, improper lane use, unsafe passing, and reckless operations.

IMPACT OF REPEALING THE NATIONAL MAXIMUM SPEED LIMIT

Repealing the NMSL would allow higher limits on noninterstate 55 mph roads. These roads already have a severe speed problem—43 percent of the Nation's speed-related fatalities are on these roads.

Noninterstate roads are not built to interstate standards.

If fatalities on 55 mph noninterstates increased by 30 percent—as occurred on rural interstates where speed limits increased to 65 mph—that would mean 4,750 additional deaths and $15 billion annually.

The National Academy of Sciences estimates that since 1974 compliance with the speed limit has saved between 2,000 and 4,000 lives each year.

Mr. NICKLES. Will the Senator yield to me just to respond?

Mr. LAUTENBERG. I have no time. I have a minute.

Mr. CHAFEE. I yield 20 seconds to the Senator from Oklahoma.

Mr. NICKLES. I thank my friend.

Mr. President, let me state that I have been in Oklahoma and I have been asked repeatedly at community meetings, Should the State set the speed limits, or should the Federal Government set the speed limits? It has been strongly supported that the States should make that decision, not the Federal Government.

Mr. CHAFEE. Mr. President, I support the Lautenberg amendment. And people say this is a States rights issue. I would remind everyone that Medicaid, a Federal program, pays for probably the great majority of the injuries that arise from excessive speed and terrible accidents.

So I hope that we will go forward with the speed limit as suggested by the Senator from New Jersey.

Mr. DEWINE. Mr. President, let me talk for a moment about the enforcement issue. Enforcement has always been local enforcement and State enforcement.

What this amendment is going to do is say, while we have a national standard, Congress is no longer—Washington is no longer—micromanaging the enforcement of it. This has always been local, and it will remain local. Predictions: I have only one prediction that I will make. While we cannot guess how many lives will be lost, the prediction is this: If this amendment does not pass, and if the bill goes into effect as written, the speed limits will go up and more people will die. That is what the facts are. That is what the evidence shows us. That is what history shows us. That is the bottom line of this bill.

I yield the floor.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Nevada. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 269 Leg.]

YEAS—51

Akaka
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Conrad
Daschle
DeWine
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Gorton
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Rockefeller
Sarbanes
Simon
Wellstone

NAYS—49

Abraham
Ashcroft
Baucus
Bennett
Brown
Burns
Campbell
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
Dole
Domenici
Faircloth
Frist
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Mack
McCain
McConnell
Murkowski
Nickles
Packwood
Pressler
Robb
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

So the amendment (No. 1427) was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, it is my understanding that the Senate will now proceed to a rollcall vote on the Lautenberg amendment. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have been ordered.

AMENDMENT NO. 1428, AS MODIFIED

Mr. LAUTENBERG. Mr. President, in the unanimous-consent agreement that we had before, it said that I would have an opportunity to send a technical modification of the amendment to the desk, and I do that, and then the vote will take place.

Mr. NICKLES. Mr. President, we have no objection to the modification, and I move to table the Lautenberg amendment, as modified.

The PRESIDING OFFICER. Pursuant to the previous order, the amendment will be so modified.

The amendment, as modified, is as follows:

On page 28, between lines 9 and 10, insert the following:

SEC. 1 . POSTING OF MAXIMUM SPEED LIMITS.

(a) IN GENERAL.—Section 154 of title 23, United States Code (as amended by section 115), is further amended—

(1) by striking the section heading and inserting the following:

"§ 154. National maximum speed limit";

(2) in subsection (b)—

(A) by striking "(b) MOTOR VEHICLE.—In this section, the" and inserting the following:

"(b) DEFINITIONS.—In this section:

"(1) MOTOR VEHICLE.—The"; and

(B) by adding at the end the following:

"(2) PASSENGER VEHICLE.—The term 'passenger vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways (except any vehicle operated exclusively on a rail or rails) that is not a motor vehicle."; and

(3) by adding at the end the following:

"(g) POSTING OF SPEED LIMITS FOR PASSENGER VEHICLES.—The Secretary shall not approve any project under section 106 in any State that has failed to post a speed limit for passenger vehicles in conformance with the speed limits required for approval of a project under subsection (a), except that a State may post a lower speed limit for the vehicles.''.

(b) CERTIFICATION.—The first sentence of section 141(a) of title 23, United States Code, is amended by inserting before the period at the end the following: ''with respect to motor vehicles, and posting all speed limits on public highways in accordance with section 154(g) with respect to passenger vehicles''.

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 154 and inserting the following:

''154. National maximum speed limit.''.

Mr. NICKLES. I ask for the yeas and nays.

The PRESIDING OFFICER. The motion to table has been made. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1428, as modified. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 65, nays 35, as follows:

[Rollcall Vote No. 270 Leg.]

YEAS—65

Abraham
Akaka
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brown
Bryan
Burns
Campbell
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Dole
Domenici
Faircloth
Feingold
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kerry
Kyl
Leahy
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Reid
Robb
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond

NAYS—35

Biden
Boxer
Bradley
Bumpers
Byrd
Chafee
Daschle
DeWine
Dodd
Dorgan
Exon
Feinstein
Ford
Glenn
Harkin
Hatfield
Heflin
Hollings
Kennedy
Kerrey
Kohl
Lautenberg
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Rockefeller
Sarbanes
Simon
Warner
Wellstone

So the motion to lay on the table the amendment (No. 1428), as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. ABRAHAM. Mr. President, I move to lay it on the table.

The motion to lay on the table was agreed to.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until the hour of 2:15.

Thereupon, at 1:01 p.m., the Senate recessed until 2:13 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KYL).

The PRESIDING OFFICER. The Senator from Massachusetts.

THE FOSTER NOMINATION

Mr. KENNEDY. Mr. President, yesterday, the majority leader met with Dr. Henry Foster, President Clinton's nominee for Surgeon General. After that meeting, he proposed a cloture vote on the nomination to take place at some point in the near future.

While I am pleased about this progress, the proposed cloture vote is only the first step to clearing the way for a real vote on the floor. Supporters and opponents alike who agree that Dr. Foster deserves a vote by the entire Senate, will vote to invoke cloture, so that we can finally give this nomination the fair vote it deserves.

Cloture is a step on the road to fairness, but it is only the first step. I hope that my colleagues will vote to invoke cloture, giving us the opportunity to take the second step—the step that counts—the up-or-down vote on the nomination by the entire Senate.

Throughout this nominations process, several Republicans have stated that, in fairness, the nomination should go before the entire Senate for a final vote. Some Members have suggested that by allowing a cloture vote, the majority leader will be giving the nomination the fair consideration it deserves. They have suggested that a vote on cloture is the same as a vote on the nomination. Obviously, that is not the case.

I believe that some Senators who feel strongly about the issue of fairness intend to vote for cloture, even if they intend to vote against the nomination itself.

Although I disagree with their position on Dr. Foster, they at least agree that it is wrong to filibuster this nomination. They refuse to let a minority of the Senate block the will of the majority.

Dr. Foster is well qualified to be Surgeon General. He has endured this confirmation process with dignity and grace. He has fully and forthrightly answered all the questions raised, and he deserves to be confirmed. And if the Senate treats him fairly, I am confident he will be confirmed.

We all know what is going on here. Republican opponents of a woman's right to choose are filibustering this nomination because Dr. Foster, a distinguished obstetrician and gynecologist, participated in a small number of abortions during his long and brilliant career.

From the beginning, the only real issue in this controversy has been abortion. All the other issues raised against Dr. Foster have disappeared into thin air. They have no substance now, and they have never had any substance. Dr. Foster has dispelled all of those objections, and he has dispelled them beyond a reasonable doubt.

The only remaining question is whether Republicans who support a woman's constitutional right to choose will vote for their principles, or pander to the antiabortion wing of their party by going along with this unconscionable filibuster.

The vote will tell the story. If the Senate is fair to Dr. Henry Foster, this filibuster will be broken, and Dr. Foster will be confirmed as the next Surgeon General of the United States.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I notice the Senator from Rhode Island is on his feet. I was intending to seek unanimous consent to speak for a minute as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

WELFARE REFORM

Mr. DORGAN. Mr. President, many of us are interested in the subject of welfare reform. I have now had an opportunity to hear a discussion of the scheduling that has been proposed for the Senate for the remainder of this week, next week, and in the weeks following the July 4 recess. I would say, as one Member of the Senate, I hope very much that we will see a welfare reform bill brought to the floor of the Senate by the majority party. We are ready, willing, and waiting to debate the welfare reform issue. We have produced, on the minority side, a welfare reform plan that we are proud of, one we think works, one we think will save the taxpayers in this country money, and one that will provide hope and opportunity for those in this country who are down and out and who need a helping hand to get up and off the welfare rolls and onto payrolls.

It is our understanding that the majority party, after having come to the floor for many, many months talking about the need and urgency for welfare reform, and their anxious concern about getting it to the floor, have run into a snag. They are off stride because they apparently cannot reach agreement in their own caucus on what constitutes a workable welfare reform plan that would advance the interests of this country.

We hope very much they find a way in their caucus to resolve their internal problems. Democrats have a welfare reform bill that will work, that is good for this country, and that we are ready to bring to the floor immediately. The question for them, I suppose, is what is wrong with the Republican welfare reform bill?

The problem Democrats see and the reason that we have constructed an alternative is that the welfare reform bill they are talking about, but apparently cannot yet agree on, is that it is not a bill about work. We believe that welfare reform must be more than a helping hand; it must also be about work.

In our bill, we call it Work First. We extend a hand of opportunity to those in need. Those who take advantage of the opportunities that this system gives them also have a responsibility. We will offer a helping hand. We will help you step up and out when you are down and out. You deserve a helping hand. But you have a responsibility in return. Your responsibility is to get involved in a program which will provide the training to lead to a job.

Welfare is not a way of life and cannot be a way of life. People have a responsibility. We are going to require them to meet that responsibility.

A good welfare reform bill is about work. The plan that has been proposed, but apparently not yet agreed to because of internal dissension in the other caucus, the caucus of the majority party, is unfortunately not about work. It is about rhetoric. It is about passing the buck. It is about saying let us send a block grant back to the States with no strings attached. If they require work, that maybe is OK. But they do not require work so their plan is not about work. It is about passing the buck. It is also not really about reform. It hands the States a pile of money and requires nothing, nothing of substance from them in return.

It does not protect kids. As we reform the welfare system, let us understand something about welfare. Two-thirds of the money we spend for welfare in this country is spent for the benefit of kids. No kids in this country should be penalized because they were born in circumstances of poverty. Welfare reform must still protect our children.

Finally, the proposal the majority party is gnashing its teeth about does nothing really to address the fundamental change that helps cause this circumstance of poverty in our country—teen pregnancy and other related issues. Their piece of legislation really takes a pass on those issues. We have to be honest with each other. We have to address the problem of teen pregnancy in a significant way.

The problem of teenage pregnancy is not going to go away. It does relate to poverty and it does relate to circumstances in which children live in poverty. The annual rate of unmarried teen mothers has doubled in this country in just one generation, and it continues to rise. There are a million teen births every year in this country now—1 million teen births, 70 percent of whom are not married. In fact, nearly 1 million children will be born this year who, during their lifetimes, will never learn the identity of their fathers. You cannot call a welfare reform plan true reform if it does not address that issue.

We hope we will soon see legislation on the floor of the Senate that is meaningful welfare reform legislation. Senator DASCHLE, Senator BREAUX, Senator MIKULSKI, and others have helped construct a plan I am proud of—a plan that will work, a plan that says "work first," a plan that will not punish children born in circumstances of poverty.

Now the question is, Where is the welfare debate? It has been postponed. Why? Because the majority party, so anxious to deal with welfare reform, now tells us for one reason or another, it is not on the horizon for the legislative calendar. I think that is a shame. I hope we will see it on the Senate agenda very soon.

Mr. President, if I might take 1 additional minute, not in morning business—on this bill?

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The Senate continued with the consideration of the bill.

OPEN CONTAINERS OF LIQUOR IN VEHICLES

Mr. DORGAN. Mr. President, I intend to return to the floor this afternoon with an amendment. I would like to describe it in no more than 1 minute to my friends in the Senate.

I am going to offer an amendment in the Senate that deals with the issue of open containers of liquor or alcohol in vehicles. We now have in this country 26 States in which it is perfectly legal to have open containers of alcohol as you move down the road. We have six States still remaining—I thought there were more—but there are six States still remaining in which it is perfectly legal in most parts of the State to drink and drive.

In my judgment, no one in this country ought to put the keys to the car in one hand and put them in the ignition and start the engine and wrap the other hand around a fifth of whiskey and start driving down the street. Alcohol and automobiles do not mix.

No one in this country ought to drive down the street in a strange State and not know that there is not another car coming where the people who are in the car, either driving or traveling, are drinking. We ought to have a uniform prohibition against open containers of alcohol in vehicles. It ought to be a national goal to see that happen.

Yesterday, there were eight people killed—six children killed in California, again from a drunk driver in one accident; six children killed, slaughtered on the highways. It is murder. Every 23 minutes in this country, it happens. It has happened to, I will bet, everyone in this Chamber, that someone they know or someone in their family has been killed by a drunk driver. There is no excuse for the States to access the billions of dollars of highway money but then to resist the need to prohibit open containers of alcohol in vehicles all across this country. I intend to offer an amendment on that this afternoon, and I do hope Members of the Senate see fit to support it.

I see the Senator from Louisiana is waiting. Let me at this moment yield the floor.

WELFARE REFORM

Mr. BREAUX. Mr. President, let me applaud the Senator from North Dakota for his comments and his statement on the open-container legislation but particularly on the remarks that he just made about the welfare reform debate that is now underway in this country and, hopefully, soon to be underway in the U.S. Senate.

I really believe that welfare reform should not be a partisan issue. I think it is clear that, if we make it a partisan issue, we will not get anything done. We as members of the minority party do not have enough votes to pass a welfare reform bill without our Republican colleagues' participation. I would suggest to my Republican colleagues that they do not have sufficient votes to pass Republican-only welfare reform without the participation of Democrats, certainly not one that can be signed into law or perhaps even one that can pass the Senate.

So I think it is certainly clear that we have to work together if we are going to get anything done. To insist on a political issue is insisting on failure as far as welfare reform is concerned. We as Democrats have worked very hard to come up with a bill that makes sense, that is true reform, that recognizes that the problem is big enough for the States and the local governments to work together in order to solve the problem. It is not a question of whether the Federal Government should solve it or the States should solve it. The real answer is the Federal Government and the States and local governments have to work together if welfare reform is ever to occur. It will not be done just by the States or just by the Federal Government.

So those who argue that we should give all of the problems to the States I would suggest miss the real solution to this very large problem. I have called the so-called block grant approach analogous to putting all the welfare problems in a box and shipping that box to the States and saying, Here. It is yours. And when the States open up that box they are going to see a whole lot of problems and not enough money to solve those problems. That is not reform. That is shirking the responsibility that we have as legislators who raise the money for welfare in this country. To just shift the problems to the States is not reform. It does not solve anything. It just says that we are so confused and we are so incapable of coming up with a solution that we are going to send the problem to the States, and maybe they will not resolve the problem.

The States are starting to recognize and the mayors of this country are starting to realize that the plan that has been reported out of the Senate Finance Committee by the Republican majority will freeze the amount of money available to the States at the 1994 level for 5 years and will tell all of the States that you are going to get the same thing you got in 1994. If you are a fast-growing western State or a low-income State like mine in the South, you are going to be frozen at the 1994 levels and not take into consideration any growth and people moving to your State or any increase in poverty problems that may occur in your State. That makes no sense whatsoever, and it certainly is not real reform.

The Republican plan, in addition, says that for the first time we are going to break the joint Federal-State partnership. We are going to tell the States you do not have to spend any money on it if you do not want to. You can take the money that you were spending on welfare reform and you can use it to build bridges or build roads or to give everybody in your State a salary increase if you would like to use it for that purpose.

Where is the partnership? Where is the sense of those States and Federal officials working together to solve the problem?

In addition, it is not reform if you are weak on work and tough on kids. One of the deficiencies I see in the Republican plan is that it says we are going to measure the success of the plan based on how many people get put into programs. That is the last thing we should measure our success by in welfare reform. The real solution to welfare is the standard by which reform must be judged, not how many people we put in programs, but how many people we are able to put into jobs. Our suggestion is that we should measure the success and reward States that put people in private sector jobs, not by putting people in more programs run by bureaucrats.

The bottom line on all of this is that I am calling for our colleagues on the Republican side to be willing to join with us in a bipartisan fashion to craft a welfare reform bill that does not focus on which party benefits but whether we can jointly find long-term solutions. It is clear, if we continue on the present track, that what we will have done is to produce perhaps short-term political gains but long-term guaranteed failures for the people of this country.

Why should we be afraid to meet together and talk about this problem and come up with solutions that are bipartisan in nature?

I think what we have crafted makes sense. I think it is a good plan. It is not to say that it cannot be modified or improved. We are willing to listen to our colleagues' suggestions in this particular area. It is clear, in my opinion, that the only way we come up with welfare reform that is real reform is to do it in a bipartisan fashion, and I would suggest that is something that the American people want us to do. If we do that, there would be enough political credit for everyone. If we fail to do that, there will be more than enough blame to go around. And this should be something that we do as quickly as possible.

Mr. President, I yield the floor.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I ask for 2 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

WELFARE REFORM

Mr. FORD. Mr. President, let me associate myself with the language and the words of my distinguished friend from Louisiana. Having been a Governor, I understand what the Federal Government can do to you or for you.

What we are trying to do now is to dump this problem off onto the States. It is the biggest unfunded mandate that I have seen in all the time I have been here. Just send the package down there minus 20 or 30 percent and say we have cut the budget and we sent all our problems to the States. The States now can do whatever they want to. And I can see a Governor out there having an opportunity to use some of this money that would be very politically helpful to him or to her. The welfare and the welfare program in the various and sundry States would not be helped.

This is a question that everybody has read. People want welfare reform. They want it done sooner than later. But the idea of sooner, of just saying we are going to send it all down to the States and we are going to cut 20 to 30 percent of the funding and let the States have at it, I think, is the wrong attitude.

We all need to sit down because I think all of us, both Democrat and Republican, would like to come up with a reasonable solution to welfare reform. If we can do that, that will be, I think, a star in the crown of the 104th Congress.

I urge my colleagues to sit down with us and try to work out something that would be acceptable. I think we have a good package. If it is passed, I think it would be helpful to the future. There would be other good ideas. So let us put them in the same basket.

I thank the Chair.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The Senate resumed with the consideration of the bill.

PRIVILEGE OF THE FLOOR

Mr. CHAFEE. Mr. President, I ask unanimous consent that Erica Gumm, an intern from Senator DOMENICI's office, be granted floor privileges during the Senate's consideration of S. 440, the highway bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1432

Mr. CHAFEE. Mr. President, on behalf of Senator INHOFE, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. INHOFE, proposes an amendment numbered 1432.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert:

SEC. . QUALITY THROUGH COMPETITION.

(a) CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—Section 112(b)(2) title 23. United States Code, is amended by adding at the end the following new subparagraphs:

"(C) PERFORMANCE AND AUDITS.—Any contract or subcontract awarded in accordance with subparagraph (A), whether funded in whole or in part with Federal-aid highway funds, shall be performed and audited in compliance with cost principles contained in the Federal acquisition regulations of part 31 of the Code of Federal Regulations.

"(D) INDIRECT COST RATES.—In lieu of performing its own audits, a recipient of funds under a contract or subcontract awarded in accordance with subparagraph (A) shall accept indirect cost rates established in accordance with the Federal acquisition regulations for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute. Once a firm's indirect costs rates are accepted, the recipient of such funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings of any kind. A recipient of such funds requesting or using the cost and rare data described in this subparagraph shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to an other firm or to any government agency which is not part of the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

"(E) EFFECTIVE DATE/STATE OPTION.—Subparagraphs (C) and (D) shall take effect upon the date of enactment of this Act, provided, however, that if a State, during the first regular session of the State legislature convening after the date of enactment of this Act, adopts by statute an alternative process intended to promote engineering and design quality, reduce life-cycle costs, and ensure maximum competition by professional companies of all sizes providing engineering and design services, such subparagraph shall not apply in that State."

Mr. CHAFEE. Mr. President, this amendment by the Senator from Oklahoma would require that any contract awarded with Federal aid funds accept overhead rates established in accordance with Federal acquisition rules. We are currently in a situation where we have duplication on the audits on these highway situations. The amendment of the Senator from Oklahoma would provide that the Federal System would prevail as to what is proper overhead rates.

So, Mr. President, this is an amendment that has been cleared with the Democratic side. I believe it is acceptable to all.

Mr. BAUCUS. Mr. President, I have looked at the amendment. I have examined it. I support it. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Oklahoma.

So the amendment (No. 1432) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1433

(Purpose: To clarify the intent of Congress with respect to the Federal share applicable to a project for the construction, reconstruction, or improvement of an economic growth center development highway on the Federal-aid primary, urban, or secondary system)

Mr. CHAFEE. Mr. President, on behalf of Senators JEFFORDS and LEAHY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. JEFFORDS, for himself and Mr. LEAHY, proposes an amendment numbered 1433.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . FEDERAL SHARE FOR ECONOMIC GROWTH CENTER DEVELOPMENT HIGHWAYS.

Section 1021(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240) (as amended by section 417 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (Public Law 102-388; 106 Stat. 1565)) is amended—

(1) in paragraph (2), by striking "and" at the end and inserting "or"; and

(2) in paragraph (3), by striking "section 143 of title 23" and inserting "a project for the construction, reconstruction, or improvement of a development highway on a Federal-aid system, as described in section 103 of such title (as in effect on the day before the date of enactment of this Act) (other than the Interstate System), under section 143 of such title".

Mr. JEFFORDS. Mr. President, this amendment is a technical correction to the current law regarding highways in Economic Growth Centers [EGC]. The amendment simply allows programs already approved for EGC funding to continue to receive this level of support.

The EGC program was authorized by title 23, United States Code [USC], section 143, for projects on the Federal-aid systems other than the Interstate System. Under 23 USC 120(k), the Federal share for EGC projects financed with regular Federal-aid funds were 95 percent. However, in 1991, Congress passed the Intermodal Surface Transportation Efficiency Act [ISTEA], which eliminated the Federal-aid systems and replaced it with National Highway System, which we are debating today. In addition, ISTEA eliminated 23 USC 120(K).

During debate over the Department of Transportation's Appropriations Act of 1993 my amendment to restore the 95 percent Federal funding ratio for previously approved EGC projects was accepted. However, because of the change ISTEA made in referring to Federal-aid systems, the amendment, as interpreted by the Department of Transportation, did not apply.

The amendment I am offering today will grandfather those EGC projects that have already been approved for EGC ratio funding. My understanding is that there are roughly 19 projects in the State of Vermont, all located in the Barre/Montpelier area or in Burlington.

In discussions with the Department of Transportation, we have been assured that this language will guarantee 95 percent Federal funding for these few EGC projects in Vermont.

Mr. LEAHY. Mr. President, I rise today to speak on behalf of a small program that has a large impact in my home State of Vermont. Federal economic growth centers are designated by Vermont's Agency of Transportation as areas that receive Federal funds with a reduced local matching requirement.

This program allows various small communities in Vermont to upgrade roads, sidewalks, and bridges that would otherwise be unaffordable. Most transportation projects are funded with an 80-percent Federal share, and a 20-percent State and local share. Economic growth centers are funded with a 95-percent Federal share, a 3-percent State share, and a 2-percent local share. This low local contribution allows communities such as Barre, VT, to undertake the North Main Street project, which upgrade roads, improve pedestrian facilities, handicapped accessibility, and enhance traffic signals.

Today there are 18 other similar projects across my State that are either receiving EGC funding or are scheduled to. From Burlington to Rutland, this program benefits Vermont.

However, if the National Highway System bill is approved in its current form, then many of these Vermont projects will revert to the less generous Federal funding formula. This would be disastrous for projects like the one in Barre. That is why I am offering an amendment with Senator JEFFORDS that maintains the current funding status. I urge its adoption.

Mr. CHAFEE. Mr. President, this Jeffords-Leahy amendment deals with economic growth center cost sharing. This amendment is a technical correction which amends title 23 by striking the words "Federal-aid system" each place they appear and inserting the words "Federal-aid highways." Section 143 of ISTEA contains outdated language referring to the Federal-aid system which ISTEA failed to amend. The term "Federal-aid system" limits use of the 95 percent Federal share and 5 percent State share to economic growth projects on the National Highway System.

Mr. President, this amendment has been cleared with the other side, and I believe it is acceptable to all.

Mr. BAUCUS. Mr. President, as the distinguished chairman mentioned, this is a technical amendment. It clarifies that the Federal share be applied to economic growth centers. We urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1433) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1434

(Purpose: To permit the full implementation of a border city agreement by exempting vehicles using certain routes between Sioux City, IA, and the borders between Iowa and South Dakota and between Iowa and Nebraska from the overall gross weight limitation applicable to vehicles using the Interstate System and by permitting longer combination vehicles on the routes)

Mr. BAUCUS. Mr. President, I have an amendment which I offer on behalf of the distinguished minority leader, Senator DASCHLE, Senator HARKIN, and Senator KERREY. It would allow South Dakota, Nebraska, and Iowa to update what are called border city agreements. These were agreements that were first reached in early 1970's allowing certain trucks from North Dakota and Nebraska to travel on a 3- to 5-mile stretch of interstate highway to enter Sioux City, IA.

Due to restrictions on weight and truck configurations in the current Federal law, however, Iowa is no longer allowed to honor existing agreements or to enter into new updated ones. This amendment does not require any State to change its current policies. Rather, it waives the Federal provisions that prevent these States from entering into agreements they consider to be in their mutual best interests.

I see no reason to oppose this amendment, Mr. President. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. DASCHLE, for himself, Mr. HARKIN, and Mr. KERREY, proposes an amendment numbered 1434.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . VEHICLE WEIGHT AND LONGER COMBINATION VEHICLES EXEMPTION FOR SIOUX CITY, IOWA.

(a) VEHICLE WEIGHT LIMITATIONS.—The proviso in the second sentence of section 127(a) of title 23, United States Code, is amended by striking "except for those" and inserting the following: "except for vehicles using Interstate 29 between Sioux City, Iowa, and the border between Iowa and South Dakota and vehicles using Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska, and except for".

(b) LONGER COMBINATION VEHICLES.—Section 127(d)(1) of title 23, United States Code, is amended by adding at the end the following:

"(F) IOWA.—In addition to vehicles that the State of Iowa may continue to allow to be operated under subparagraph (A), the State of Iowa may allow longer combination vehicles that were not in actual operation on June 1, 1991, to be operated on Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota and Interstate 129 between Sioux City, Iowa, and the border between Iowa and Nebraska."

Mr. BAUCUS. Mr. President, this is the amendment I just described. I think it has been agreed to by the majority side. I urge its adoption.

Mr. CHAFEE. Mr. President, the distinguished ranking member of the committee is exactly right. This amendment permits Iowa to continue allowing bigger and heavier trucks coming from South Dakota and Nebraska to enter Sioux City, IA, on I–29 and I–129, even though these trucks are bigger than are permitted on the general highways of Iowa. This has been cleared and has the approval of the Senators from Iowa. Apparently, Sioux City, IA, is just over the border in some fashion so that the trucks from South Dakota pull in there.

So, Mr. President, indeed, it has been cleared by this side.

Mr. DASCHLE. Mr. President, this amendment is offered on behalf of Senators from the three States affected by it: the Senator from Iowa [Mr. HARKIN], the Senator from Nebraska [Mr. KERREY], and myself.

This amendment repairs a breakdown in Federal highway laws that prevents the free flow of trade between our three Midwestern States, allowing South Dakota, Nebraska, and Iowa to update border city agreements that were first reached in the early 1970's. These agreements allow certain trucks from South Dakota and Nebraska to travel on a 3- to 5-mile stretch of interstate highway to enter Sioux City, IA.

Due to restrictions on weight and truck configurations in current Federal law, Iowa is no longer allowed to honor existing agreements or to enter into new, updated ones. These Federal policies impede the flow of interstate commerce between our States.

The governments of each of our three States support the approach taken in this amendment to free up the open market for trade with each other. Yet, the U.S. Department of Transportation has indicated that it does not have the authority under the law to waive Federal restrictions, even though it may be appropriate to do so.

Our amendment does not require any State to change its current policies. Rather, it waives Federal restrictions that prevent these States from entering into agreements they consider to be in their mutual best interest.

Businesses in all three States have paid the price since the border city agreements were disrupted by Federal regulation. One example is the movement of livestock into Sioux City, IA, stockyards from Nebraska and South Dakota. Vehicles that exceed Iowa's legal weight limit of 80,000 pounds must either light-load their vehicles or truck their livestock to terminals farther away. This increases the costs for ranchers and hurts the Sioux City stockyards.

In addition, longer combination vehicles that are permitted to operate in South Dakota but not in Iowa cannot cross State lines for the short trip to the Sioux City stockyards. They are instead forced to uncouple and leave part of their load at the South Dakota border, only to later return and make another trip to complete delivery to Sioux City.

The Daschle-Harkin-Kerrey amendment would permit our States to update their border city agreements. It places a simple waiver in statute so that trucks can once again travel unimpeded from the Siouxland tristate area into Sioux City, IA.

This problem stems from Federal regulations that require most States to prohibit divisible loads with a gross weight limit in excess of 80,000 pounds on interstate highways. States that authorized heavier loads in effect in 1956 were grandfathered, or allowed to keep those rights.

While Iowa did not allow heavier loads in 1956, South Dakota and Nebraska did. This was not a problem, however, because border city agreements were reached in the area that allowed for heavier trucks from South Dakota and Nebraska to drive into Sioux City.

The ISTEA of 1991 added a similar restriction on longer combination vehicles that contained a grandfather clause that did not take into account these border city agreements.

The Federal Government should not disrupt the free flow of trade between these States. The State legislatures in both South Dakota and Iowa approved resolutions calling on Congress to correct this problem. These agreements are supported by the departments of transportation in all three States. The U.S. Department of Transportation does not oppose restoring these agreements—it simply claims to lack the authority to do so.

Mr. President, our amendment addresses a classic example of Federal overregulation of business. It corrects the kind of problem that makes people fed up with the Federal Government, and we should correct it today. Truly, the Federal Government was established in 1789 to promote commerce among the States, not to impede it. This amendment is needed to provide a commonsense solution to a real problem, and to restore public confidence in our ability to reduce overregulation.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1434) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1435

(Purpose: To revise the authority for a congestion relief project in California.)

Mr. BAUCUS. Mr. President, I have another amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mrs. BOXER, proposes an amendment numbered 1435.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . REVISION OF AUTHORITY FOR CONGESTION RELIEF PROJECT IN CALIFORNIA.

Item I of the table in section 1104(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2029) is amended by striking "Construction of HOV Lanes on I–710" and inserting "Construction of automobile and truck separation lanes at the southern terminus of I–710".

Mr. BAUCUS. Mr. President, this is another technical amendment. This one clarifies that the State of California use previously authorized funds for construction of automobile-truck separation lines. This is a very technical amendment. I do not think it needs further explanation. I urge the Senate to agree to it.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CHAFEE. Mr. President, the Senator from Montana is exactly right. It has the approval of those on this side. We are supportive of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1435) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1436

(Purpose: To provide that if a certain route in Wisconsin is designated as part of the Interstate System, certain vehicle weight limitations shall not apply)

Mr. BAUCUS. Mr. President, I send an amendment to the desk on behalf of Senator KOHL of Wisconsin, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. KOHL, proposes an amendment numbered 1436.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1. APPLICABILITY OF CERTAIN VEHICLE WEIGHT LIMITATIONS IN WISCONSIN.

Section 127 of title 23, United States Code, is amended by adding at the end the following:

"(f) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN WISCONSIN HIGHWAYS.—If the 104-mile portion of Wisconsin State Route 78 and United States Route 51 between interstate Route 94 near Portage, Wisconsin, and Wisconsin State Route 29 south of Wausau, Wisconsin, is designated as part of the Interstate System under section 139(a), the single axle weight, tandem axle weight, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to the 104-mile portion with respect to the operation of any vehicle that could legally operate on the 104-mile portion before the date of enactment of this subsection.".

Mr. KOHL. Mr. President, I rise today to offer a brief explanation of the amendment offered on my behalf by my colleague, Senator BAUCUS. The amendment that was accepted by the managers of the bill addresses a problem that is critical to north central Wisconsin, but it does so in a way that does not upset the balance and symmetry of this important piece of legislation.

Specifically, my amendment relates to a 104-mile portion of U.S. Highway 51—also known as Wisconsin State Highway 78. Highway 51 connects population centers and industries located in north central Wisconsin with markets to the south. Wisconsin has recently completed the improvements necessary to bring Highway 51 up to interstate standards, and interstate shields will soon be erected.

However, a Federal exemption to insert weight requirements is required to allow continued operation of overweight commercial vehicles that currently use Highway 51. Overweight vehicles currently operate on this stretch of highway under State permits, but they would be forced off the road once the highway is designated as an interstate.

U.S. 51 is the only four lane north-south road serving this area. All other roads are secondary two lane State highways. Forcing large trucks onto these narrower—and more winding—secondary roads raises greater safety—and durability—concerns. The secondary roads that would be affected are small country roads that have never had large truck traffic. Who knows what sort of damage these huge vehicles could do?

Highway 51 has handled large truck traffic safely and efficiently for many years and a weight exemption would allow continued use of this safe and efficient route.

The weight exemption is also critical to a number of industries that contribute to the continued economic development of north central Wisconsin, including the manufacturing, pulp and paper, farming, food processing, dairy, livestock, refuse, garbage, recycling, and coal industries. Many Wisconsin communities and businesses, both small and large, will benefit from the adoption of this amendment.

Mr. President, before I yield the floor I would like to thank the bill managers—chairman CHAFEE and Senator MOYNIHAN—for their assistance and consideration. Let me also express my gratitude to Senator BAUCUS for his advice and assistance in offering the amendment. Finally, I thank my good colleague from New Jersey—Senator LAUTENBERG—for his guidance in this matter. Mr. President, I yield the floor.

Mr. BAUCUS. Mr. President, this amendment, offered by the Senator from Wisconsin [Mr. KOHL], would grandfather the current truck size and weight limitations on a segment of a Wisconsin highway that will shortly become part of the interstate system.

We have done this in a couple of other parts of our country. It is only appropriate that this section of interstate highway in Wisconsin also receive the same treatment.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, this side supports the amendment. I had a call from the Governor of Wisconsin yesterday in support of the amendment, and there is no objection to it, that I know of, on this side.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 1436) was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator is recognized.

Mr. INHOFE. Mr. President, I guess this is for the purpose of an inquiry. It is my understanding that the amendment we had that would change the procedure and offer more latitude in terms of avoiding duplication in preaward audits has already been taken up.

Mr. CHAFEE. The Senator is correct, his amendment went flying through.

Mr. INHOFE. I thank the Senator very much. I yield the floor.

Mr. SMITH addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

AMENDMENT NO. 1437

Mr. SMITH. Mr. President, I have an amendment, which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Hampshire [Mr. SMITH], for himself, Mr. GREGG, Ms. SNOWE, Mr. CAMPBELL, Mr. KEMPTHORNE, and Mr. THOMAS, proposes an amendment numbered 1437.

Mr. SMITH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . ELIMINATION OF PENALTIES FOR NONCOMPLIANCE WITH MOTORCYCLE HELMET AND AUTOMOBILE SAFETY BELT REQUIREMENTS.

Section 153 of title 23, United States Code, is amended—

(1) by striking out subsection (h); and

(2) by redesignating subsections (i) through (k) as subsections (h) through (j), respectively.

Mr. SMITH. Mr. President, section 153 of the Intermodal Surface Transportation Efficiency Act, better known by the acronym ISTEA, penalizes States that refuse to enact mandatory motorcycle helmet and automobile seatbelt laws. In other words, if a State chooses not to enact a mandatory seatbelt or mandatory motorcycle helmet law, they are penalized and they are penalized very substantially.

The amendment that I am offering, along with Senators GREGG, SNOWE, CAMPBELL, KEMPTHORNE and THOMAS would simply repeal the penalties on the States. It does not affect any State that has already adopted these laws. It does not interfere with that in any way. It has no effect on any State whatsoever that has adopted a mandatory helmet or seatbelt law.

But what it does do is repeal the penalty on any State that has not enacted such a mandatory use for its riders, either in automobiles or on motorcycles. So, again, lest the debate get misdirected, this does not affect any State law whatsoever.

This section of current law sanctions States, or penalizes States, that do not enact mandatory motorcycle helmet and seatbelt laws by—this is how it is done—diverting scarce highway maintenance and construction funds to their safety funds, even if that does not make any sense to do because they are already spending money into safety programs.

So, in other words, the penalties are assessed regardless of whether your State already has a safety program that is adequately funded toward both helmet and seatbelt usage, irrespective of your State's safety record. So if your State spends more than an adequate amount on training, on safety for the use of seatbelts and/or helmets, has a good safety record, it still gets penalized because it does not have a mandated helmet or seatbelt law. In fact, 28 States suffered this penalty, this current fiscal year.

Twenty-five States will suffer a doubling of this penalty, come October. In the State of New Hampshire, for example, we were penalized nearly $800,000 this year. That will double to $1.6 million next year. That is almost $1 for every man, woman, and child in the State of New Hampshire.

Nationally, this penalty translates into $48 million not spent on needed highway improvements this year, and $97 million that will not be spent next year and every year thereafter.

I think it is fiscal blackmail. If we look at the list of these States and look down the list, in many cases, the penalties double. They are very substantial. Some run as high as over $4 million. For example, in the State of Ohio, the current penalty is $4.6 million and that doubles to over $9 million in 1996.

I would just ask a question. In this era of where we are trying to provide for more States rights, more individual freedom, why would we want to penalize a State by taking away several million dollars—$97 million in total of all the States, $800,000 in New Hampshire, $9 million in Ohio, to use two examples. Why would we want to do that and insist they spend money for safety, or not get the money at all, when they already have the safety program that is necessary?

A person might say, it would be reasonable to allow those States to spend and to fix roads, to repair potholes, to repair bridges. That might be worth the effort. That is true. But that is too reasonable. That does not happen. If they do not spend it on the safety programs that they do not need, they do not get the money, and they are penalized.

Mr. President, I am not here to debate the merits of whether you wear a seatbelt or a motorcycle helmet. I do not ride a motorcycle. One of my colleagues does and he will be speaking to that in a moment. I do wear a seatbelt. That is my choice.

In fact, I am a strong supporter about educating the public on the benefits of wearing a seatbelt and a motorcycle helmet. The State of New Hampshire already requires seatbelt usage for children up to 12 and motorcycle helmets for passengers up to 16 years old. The sanctions still apply, unless the State has a mandatory law for everyone.

The argument has been made that taxpayers should be concerned about the amount of money spent on Medicare and Medicaid for injuries related to motorcycle accidents. This argument assumes a higher percentage of motorcycle riders are covered by Medicaid than the average citizen. I know Senator CAMPBELL will speak to that shortly.

I would just say at this point that is not true. On average, motorcycle riders have no great reliance on Medicaid than anybody else. I think that is a misnomer.

Furthermore, I would be happy to join any of my colleagues who are interested in reforming Medicare and Medicaid programs in order to save the taxpayers' dollars and maintain their solvency for future generations. I do not think that is the issue.

The administration has tried to make a case for maintaining the sanctions for the benefit of society and taxpayers. What next? Will we decide that convertible cars are more dangerous and therefore we should ban them? Should small cars such as Miatas or Alfa Romeos be banned because they are less safe in accidents than, say, a pickup truck or a van? Should the Federal Government limit Medicare and Medicaid to individuals who smoke? Who are police officers? Who are firemen? Bridge builders? Window washers? Should we limit Medicare and Medicaid to those people that lead a riskier life? I do not think so.

All we are talking about here is a person's voluntary right to wear a seatbelt, and voluntary right to wear a helmet. Maybe I am exaggerating to make a point which is how far should the Federal Government be allowed to reach into people's lives, or tell States what laws they will have on their books?

Frankly, this could cost lives, Mr. President. If we took the State of New Hampshire, the $800,000—and the Senator who is sitting in the chair at the moment, my colleague from New Hampshire, knows full well some of the rural roads we have in our States are full of potholes, and $800,000 could fix a lot of them.

Now, how many accidents happen because somebody loses control of an automobile, hitting a bad pothole or hitting some other portion of a road that needs repair? The truth of the matter is that New Hampshire cannot spend that $800,000 on the pothole repairs, because they have to use the $800,000 to create additional personnel for safety that they do not need because they already have an adequate safety program, more than adequate, more than the demand even calls for.

The whole thing is ridiculous. Again, it is the paternalistic attitude of Big Brother.

The real issue is whether Washington's micromanagement, of what should be dealt with at the State and local level, should continue. That is the issue. States should have the flexibility to devote the highway funds where they think they make the most sense, whether it be protecting public safety by improving those roads and bridges and traffic flow or through highway education. Frankly, in most cases, it is both. Let the States make that determination.

In fact, in the State of New Hampshire, which does not have a mandatory helmet or a seatbelt law, it has one of the best highway records in the Nation. One of the most safe, as far as fatalities per million miles traveled.

The New Hampshire legislature recognizes the need for improving motorcycle safety, and as a result, the Motorcycle Rider Education Program was enacted in 1989. Since then, more than 4,000 riders have gone through the program.

Educational programs like this certainly play an important role in increasing highway safety, and I believe the States have the expertise and know-how to develop their own programs, thank you, without the Federal intimidation or Federal intervention or Federal heavy hand. States will say they are in a better position to address safety concerns. They are.

During a hearing in the Environment and Public Works Committee, we received testimony from such States as Florida, Idaho, Montana, South Dakota, New Hampshire, and Wyoming, all with the same message: Let the States decide how to address highway safety. They all oppose the use of Federal sanctions to pressure States to enact laws against their will.

Furthermore, dictating how States spend their highway funds infringes on their ability to control their own budgets, resulting sometimes in misdirected and wasted resources.

Let me just give an illustration. Our New Hampshire highway safety coordinator has complained as a result of the mandated transfer of funds to his existing $550,000 budget, he has more money than he knows what to do with. He cannot spend it for safety. More there than he needs. It is hard to imagine that a government official is actually complaining about having too much money, but we are pretty independent in New Hampshire. Frankly, we tend to tell the truth when the truth needs to be told.

That is the reality. They do not want to go out and create another level of bureaucracy in the safety department in the New Hampshire Highway Department because they do not need it. Not because they do not care about safety, not because they do not want to promote safety, but because they do promote safety adequately and they want the funds to go into repairs.

Scarce resources could end up being wasted in these education projects while a section of the road falls in disrepair and somebody loses a life as a result of a pothole or some other urgent need.

It does not make any sense, which is why this constant dictating at the Federal level causes problems with our States and with our citizens.

It is this kind of action by the Federal Government that brought our Governors and our local officials to a state of rebellion, frankly, and led to this year's enactment of the unfunded mandates relief bill, one of the first pieces of legislation passed in this Congress.

Last year, the American people also voted for great local control and for relief from heavy-handed Federal mandates. With that in mind, let me conclude for the moment on this point, Mr. President. We should continue the trend of ridding this Washington-knows-best attitude around here, and allow our States, governments, communities, to make the kinds of decisions that they need to make for themselves. A vote for this amendment does not cure everything, but it is a step in the right direction.

I will point out before my critics point it out, we are not about to say here, by passing this amendment, that we are not in favor of safety, that we want people to go out on the motorcycles and not wear helmets and injure themselves and be wards of the State for the rest of their lives, or we want people to go out and not wear seatbelts and cause permanent injuries to themselves.

What we are saying is, we have adequate safety programs in our States, education programs, that indicate to these people that it is unsafe, that it would be better to use a seatbelt and to use a helmet. But if you choose not to, if you choose not to, that is your decision. Your State should not be punished by not receiving dollars that could be used to repair roads and bridges, which is the purpose of the legislation in the first place.

I know my colleagues here wish to speak. At this time I will yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Colorado.

Mr. CAMPBELL. Mr. President, I rise also in support of the amendment proposed by my friend and colleague, Senator Smith. This legislation will provide for a full repeal of the financial penalties established under the Intermodal Surface Transportation Act of 1991 and will provide relief to the 25 States, as he has mentioned.

There are, as my colleagues know, probably going to be three amendments, depending on how the vote goes on the SMITH amendment. But I am just going to make some general statements. If we go on to the next amendments, I will make some others dealing specifically with helmets. But this is not only a burdensome Federal mandate placed on the backs of State legislatures but also an erosion of States rights.

This amendment, by the way, does not require States to repeal any mandatory laws they now have in effect, not seatbelt laws or helmet laws. Strictly speaking, 25 States have refused to be blackmailed by the Federal Government. They have refused to comply with the Federal mandates. In accordance with ISTEA, they are required to transfer very scarce transportation and construction dollars to section 402 safety programs. This shift forces States to spend 10 to 20 times the amount they are currently spending on section 402 safety programs.

As Senator SMITH mentioned, it is money that is not even needed in one program and is badly needed in another, yet they are forced to transfer it from one to another. These penalties are assessed regardless of whether the State already has the funds dedicated to safety programs or not.

This year, these States had to divert 1.5 percent of their Federal highway funding to safety programs. This transfer affects the National Highway System, the Surface Transportation Program, and the Congestion Mitigation and Air Quality Improvement Program. Those States which did not enact seatbelt or helmet laws by September 30, 1994, are required to shift 3 percent of their Federal highway funds from these important programs into safety.

This year $48 million will not be spent on highways and bridges because of this section 153, as Senator SMITH has mentioned. Clearly, this is a punitive action by the Federal Government against States. The amendment Senator SMITH offers repeals that section.

I, like many people, believe the Federal Government has blackmailed States long enough and forced them to pass laws which may or may not be in the best interests of their citizens but certainly has taken away the right for them to choose what is best for them in their own States, in sort of a one-case-fits-all scenario.

It should not be a question of whether you should or should not wear helmets or whether you should or should not wear seatbelts. The question is who decides, you or the people in your State as elected legislators? Or the Federal Government, which is far removed from many of the people who have to comply with these laws?

The question is, What level of Government regulations becomes too absurd? In my view, that mandate has already reached that point. When the Federal Government starts requiring what you wear for some recreational pursuits, as it is now doing, it has gone too far.

Let us just say for the sake of argument that those on the other side of the issue are right, that in fact seatbelts and motorcycle helmets make people safer. You can find many personal accounts to support either side of the issue. There is no question about that. But clearly neither one prevents accidents. Does that give the Federal Government the right to force people to wear them? Most people agree that too much exposure to the Sun can cause cancer. Should the Federal Government require all sunbathers to wear sunscreen and threaten the States with withholding Federal money in case people get cancer?

I might also say I come from a State where over a million Americans ski, the State of Colorado. It is a big industry. I would like to point out we have had about five skiers killed on the slopes of Colorado this year. None of them was wearing a helmet. I am a skier and I tell you I would be concerned if the Federal Government decided here in Washington to require everybody who skis to wear a helmet. I think we see the same kind of general direction taken for people riding bicycles or horses or young people who use skateboards or rollerblades. Should we have a Government that dictates what you can wear and what you cannot with your recreation?

There is a thing called a public burden theory that often people use to defend the use of seatbelts and helmets, too. That public burden theory says if you are injured and do not have an insurance policy and do not have the money to pay for your hospitalization, then you become kind of a ward of the Government. That money has to be taken from the taxpayers to provide for your medical services.

There is no study I know of in the United States that says people who do not wear helmets become public burdens any more than anyone else, skiers or bicyclists or rollerbladers or ski boarders or anyone else. When you talk about the public burden I think you can use the same logic for anyone. There is an element of risk in any form of recreation. The question is how many individual rights do we take away in the name of the public burden theory?

In my view, the helmet law mandate has reached that point. We have talked on the floor many times this session about Federal mandates. I think if the voting public said anything to us last fall, it was to relieve them of some of the unfunded mandates, some of the things the Federal Government requires without setting the finances to implement the requirement. The last election certainly was about that.

While it can be argued that mandating these things may be good for American citizens, is it right to have the Federal Government intrude in our lives to that extent? And, where do we draw the line?

In closing, I strongly encourage my colleagues to support the amendment of Senator SMITH and I yield the floor.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I am very pleased to be able to join Senator SMITH as well as Senator CAMPBELL in support of this amendment. I commend Senator SMITH for offering it because I do think it underscores a very important point. In fact, as I recall, this Congress and this Senate, when we began in January, the very first issue we addressed was banning unfunded Federal mandates. I cannot think of another issue that represents unfunded mandates more than the one we are currently addressing with this legislation that would take away the mandate on States to enact mandatory seatbelt and helmet laws, and, if they do not, they are penalized by losing 1.5 percent of their transportation funds in 1995 and 3 percent in 1996.

What is unprecedented about that approach, and something that I certainly object to, is saying that States are going to lose existing transportation funds, which will happen this October, if they do not enact both laws. It is not saying if the States enact these laws we will give you additional funds and create an incentive, which has generally been the approach taken by the U.S. Congress in the past on a number of issues, but rather we are penalizing those States with existing transportation funds, which certainly are needed in terms of repairing roads and bridges.

We allow States to determine minimum driving ages for their residents. States have the authority to determine when the driver education courses are required. They determine the difficulty of the written as well as the practical tests. They determine many of the speed limits for various areas. And they determine the various penalties for violations such as driving while intoxicated.

In nearly every aspect of day-to-day driving we trust the individual States to determine the motor vehicle laws that govern the majority of vehicles that are on our highways. In short, the States control every aspect, for the most part, of our driving experience, with one exception. And that is, of course, when the Federal requirements state that States must pass laws to adopt seatbelts and helmet laws.

I do not believe that seatbelt and helmet laws are any different than any other motor vehicle law. We are creating these mandates from a paternalistic attitude, as Senator SMITH indicated. It is certainly outdated. I think the arrogance of that attitude manifested itself in the last election. Somehow we always think Washington knows best, and what Washington knows best and what is good for the States generally can be two different objectives.

I believe these differing perspectives were a critical reason we did address banning unfunded mandates as our very first legislative initiative in this Congress.

No matter how you package this issue, sanctions or penalties or whatever, the truth is it is a Federal requirement that is an unfunded Federal mandate. If you look at the helmet laws—and that is a good example—the States, as Senator SMITH indicated, 25 States will lose almost $49 million in 1995, and in 1996 they will lose close to $97 million because they did not adopt seatbelt and helmet laws.

In fact, it is interesting to note that many States already fund rider education programs with respect to riding motorcycles. My State is a very good example.

Yet, I am under these penalties. My State will double the motorcycle rider education safety program from $500,000 to more than $1 million. Yet, my State certainly needs these transportation funds for other things. It already has a well funded rider education program. It does not need to have it doubled. That is what the penalty will be under section 153.

It is interesting to note that those 44 States that have rider education programs with respect to motorcycles have very high rates of safety. And they do not have mandatory helmet laws. My State again is a good example. We ranked 49th out of 50 States in terms of the number of fatalities with respect to motorcycles in 1993. We are next to the lowest in the country. Yet, we do not mandate a helmet law, but have a very active motorcycle education program. We know that these education programs work. The State knows that they work.

It is hard to believe that we are saying somehow that the Governors of each and every State and every State legislature somehow are unconcerned and unresponsive to the statistics in what might be happening on their roads and their highways.

As we all know, State governments are even more close to their people and to their constituencies, and somehow we are saying that they cannot possibly understand the implication if they do not enact seatbelt and helmet laws.

The question here today is not whether we believe wearing a seatbelt or a helmet is a good thing. What we are saying is who should decide? And it clearly should not be the Federal Government.

As I said earlier, much of our driving experience is governed and dictated by States. In 1993, there were 2,444 motorcycle fatalities. That same year, there were 5,460 young people between the ages of 16 and 20 that were the victims of traffic fatalities.

So if you apply the logic of section 153 of ISTEA, that it is a safety issue, then one should suggest that penalties should be imposed on those States for allowing individuals to drive a car or ride a motorcycle under the age of 21.

The fact of the matter is there are many dimensions to our personal and social behavior that do have implications for health care expenditures. And I know opponents of Senator SMITH's amendment, or an amendment which I might offer or one which Senator CAMPBELL might offer, are saying that this really has an impact on our health care expenditures. Well, I have to say that there are many aspects of social behavior in this country that have an impact on our health care costs. Low-fat diet, lack of exercise—if people do not engage in having a good diet or engage in daily exercise, that can be a contributing cause of heart disease, which is a major cause of death in this country.

What should the Federal Government do—dictate a change in behavior in that regard? We could go on and on with some of the numbers of examples that we could offer as to what the Federal Government should get involved in because it has impact on health care. The point is that this legislation that was passed in 1991 really intervened in an area that has traditionally been a State issue.

I hope that we can recognize here today in light of what happened in the last election, in light of what I think people strongly feel about what should be traditionally a Federal issue and what should be consistently a State issue, that we reverse what occurred in 1991.

It is interesting to note that motorcycle fatalities, as well as motorcycle accidents, were reduced by 53 and 54 percent respectively between the time period of 1980 and 1992 before the penalties of ISTEA were put in place. It is because of motorcycle rider education programs that it made a difference in terms of reducing the number of accidents and fatalities.

Applying the logic further, we could say, "Well, the fatality rate on rural interstates is almost twice that of urban interstates." Does that mean we should penalize States with rural interstates because they have more accidents and more fatalities? Of course not.

In 1993, before the Massachusetts seatbelt law went into effect, that State was one of only two States in the country that showed a consistent drop in motor vehicle fatalities for the prior 6 years. Another State which showed a consistent drop was Arizona, which does not have a mandatory helmet law.

All combined, the 28 States that will face penalties if they do not enact both the helmet and seatbelt law will lose a combined $53 million in needed highway maintenance and improvement funding.

When my State officials were asked exactly how they felt about the loss of money in the State of Maine, which is $800,000 that we will lose in 1995 and $1.7 million that we will lose in 1996, the State officials replied that, "We could be spending it on our ailing highways and bridges, where it is desperately needed."

So I hope that we recognize that we should reverse the position that was taken in 1991. We know the States are responsive to these issues, and to these concerns and what occurs on their highways.

My State, for example, is sending to our people the question as to whether or not to enact a seatbelt law. I think that is perfectly consistent with the rights and the interests of the people of my State. If they make a decision that we should enact a seatbelt law, that should be their decision. But it should not be the Federal Government dictating that approach to the people of my State.

So again, I want to thank Senator SMITH for offering this amendment. I think it is a good amendment. I think it takes the right approach. It is a States rights issue, and it is an issue of unfunded mandates in the State, and every State has a right to determine its own motor vehicle laws.

I yield the floor, Mr. President.

Mr. CHAFEE. Mr. President, I vigorously oppose the amendment that has been offered by the Senator from New Hampshire. I really think it is very, very unfortunate that this amendment has been brought forward because a study that has been conducted on the efficacy and effectiveness of safety belts and motorcycle helmets has come to the conclusion that they are effective.

I have here a letter from the Eastern Maine Medical Center. This is what the physician there has to say about the use of seatbelts.

> At Eastern Maine Medical Center here in Bangor, where I am a physician, we have completed a study of the issue of seatbelt use and hospital charges of area Maine patients injured in car accidents with and without seatbelts. Our study shows that patients injured without seat belts had hospital bills almost $10,000 higher on average than patients injured while wearing seatbelts. We estimate that seatbelts would have saved $2.4 million in hospital bills for the 256 unbelted patients in our study. Those unnecessary bills were paid by all of us, of course. In the last 2 years of our study, we were able to identify the insurance status of patients admitted after car accident injuries. The medical bills for Medicaid and Medicare patients alone amounted to more than $2 million. Of the 73 Medicare and Medicaid patients in our study, only 10 were wearing seatbelts at the time of their injuries. We estimate seatbelts would have saved these patients alone $599,000, nearly $600,000. This saving of almost $600,000 would have been in just one hospital, in 2 years, and just 63 patients.

Maine has a seatbelt use of 35 percent, the lowest in the United States. Our low-use rate, which then results in more injuries and higher costs, as we have identified in our study, then forces taxpayers in other States who are required to wear seatbelts, to pay for our freedom to be unbelted in Maine.

Mr. President, a lot of discussion this afternoon has been about unfunded mandates and the Federal Government dictating what takes place.

The answer is twofold. I think as Senators we have a responsibility to do what we can to preserve lives and prevent injuries of American citizens. And it is not enough to say, oh, leave it to the States; let them take care of it.

I will show you a chart in a few minutes that shows what happens when we do leave it to the States.

In 1966, we passed a law in the Federal Government that mandated motorcycle helmets and seatbelts, and in this chart you will see that once that occurred the number of deaths declined dramatically. Then 10 years after that, in 1976, we repealed that, and up go the deaths. Will the States pass all these laws? Will these wonderful legislators, bold and brave, step up and face up to the motorcyclists who do not want this?

Well, the answer frequently is no.

Now, there is another point I would like to make, Mr. President. That is that the wrong approach here is to have sanctions. The way this law works—and I was instrumental in the writing of the so-called ISTEA legislation, the highway bill of 1990, this portion of it, and what we did was we said you pass a mandatory seatbelt and motorcyclist helmet bill by such-and-such a year, and if you do not, you will have to devote some small portion of your highway money to education and safety features, such as the three Senators have been discussing here this afternoon.

And it was pointed out that that is the wrong way to go; we ought to have inducements, benefits paid, rewards. Well, we do not do that. We have, as you know, a minimum drinking age bill that passed the Senate, and it says you must enact a law that says you cannot serve liquor to those under 21, and if you do not you lose 5 percent of your highway funds, and the next year you lose 5 percent more, making it 10 percent. That is the law.

Now, nobody is advocating repealing that. That is not a benefit that is thrown up: That is the wicked Federal Government coming in and dictating what you have to do. That is Big Brother, as we are accused of being here.

But there is no question that has saved hundreds of lives of the young people of our Nation.

Now, you might say, what right do we have to say anything about motorcyclist helmets or seatbelts. We have a right because we pay the piper. We are the ones who pay Medicaid. And do not tell me that these motorcyclists, when they end up in comas because they do not have helmets, have wonderful insurance policies that take care of them. Those are not the facts. The facts are that very, very frequently they do not, and particularly if they are in a coma for a long period. There is a Rhode Islander in our State hospital who has been there 20 years in a coma, all being paid for by the State, the cost now exceeding over $2 million to take care of him during the 20 years. And so, Mr. President, I just very, very strongly hope that this amendment will not be adopted.

Now, I would just like to talk a little bit about what are the benefits of safety belt and motorcycle helmet laws. There have been a slew of studies done by the National Highway Traffic Safety Administration, the States, the medical community, the safety groups, the Centers for Disease Control, the General Accounting Office, for example. They reached the same conclusion. They are as follows: First, safety belts and motorcycle helmets save lives and prevent serious injury.

Everybody knows that. We do not have to be in every emergency room to know that. We know it. We have seen it.

Over the past 10 years, safety belts and motorcycle helmets have saved over 60,000 lives and prevented 1.3 million serious injuries. If everyone used the safety belt, an additional 14,000 lives and billions of dollars could be saved every year. There are 40,000 people killed every year in our country. That could be cut to 26,000—14,000 lives saved if safety belts were used. If every motorcyclist wore a helmet, nearly 800 lives could be saved every year.

Unhelmeted motorcyclists involved in collisions are three times more likely than helmeted motorcyclists to incur serious head injuries that require expensive and long-lasting treatment. I think the motorcyclists would acknowledge that, and indeed in the sanctioned meets of the American motorcycle clubs you have to wear a helmet. That is a mandate. You cannot be in those meets, those hill climbs, and so forth, without a helmet. That is what they think of wearing helmets.

Now, the second point. The cost of motor vehicle crashes are staggering. Each year, as I say, 40,000 people die on our Nation's highways. Another 5.4 million—that is not thousand, that is million—5.4 million people are injured each year. These fatalities and injuries cost us over $137 billion every year for medical care, lost productivity and property damage. This represents a $50 billion annual cost to employers. The lifetime costs of one serious head injury sustained because no helmet or safety belt was used can reach the millions of dollars.

Now, who foots the bill? When somebody is injured in a motorcycle or an automobile accident, a police officer, who is a public employee, responds. The municipal ambulance carries the injured party to a hospital. Medical specialists provide emergency treatment without regard to costs. And if the victim is on welfare or unable to pay, Medicaid pays, and we all know that.

Now, the third point I would like to make is that mandatory laws are the most effective way to ensure that safety belts and motorcycle helmets are used. The States that have enacted mandatory safety belt-helmets have an average of a 20 percent increase in use. In other words, it is not enough to have an education program. You have to mandate it by law or it will not be followed.

In the early 1980's, before safety belt laws were enacted, the use rate was 11 percent. Now, with laws in 48 States, some version of safety belts, the use rate is 66 percent.

Now, I would like to read—we had hearings on this. We had doctors and others come in—what Dr. Rosenberg from the Centers for Disease Control said. Listen to what he said.

> We are unaware of any evidence that demonstrates that testing, licensing, or education alone leads anyone near the improvement in helmet laws that mandatory laws produce.

In other words, education does not do the trick. You have to have a law. And finally:

> Effective safety laws require a Federal-State-local partnership. Our history shows that when Federal requirements are eliminated, safety laws are weakened or repealed and deaths and injuries increase.

In other words, what they are saying there is the Federal Government really has to step in and do the trick. If we, the Federal Government, back off from this legislation, you can bet your bottom dollar that many of the States that have enacted motorcycle helmet and seatbelt laws will retreat because the pressures are so strong.

I have been a legislator. Many of us here have been legislators. The pressures that can come from one group, particularly if it is not something that the individual is deeply interested in himself—he might be interested in improving the economic climate of his State or doing something about unemployment compensation. And when a host of motorcyclists come after him day after day after day to repeal a law, then the individual frequently gives way. That is what happened in the different States when the Federal law mandating the helmet use or mandating seatbelts was repealed.

Now, what happens when the State does pass the law pursuant to the efforts that we have made here? California enacted its all rider motorcycle helmet law and motorcycle fatalities dropped by 36 percent. That is a remarkable figure. Maryland's helmet law resulted in a 20-percent fatality drop; 20 percent fewer people were dead as a result of the Maryland law. Both States realized direct taxpayer savings in millions of dollars. Both States enacted these laws with the encouragement of the Federal law.

There has been a great pressure in both States to repeal their motorcycle helmet laws. Can they maintain their laws if the Federal requirements are removed? I believe it will be difficult.

I come from a State that has not enacted either of these laws. We have no motorcycle helmet law in our State. We have no mandatory seatbelt law. We have to give up money, as pointed out by the distinguished Senator from New Hampshire. We have to put extra money into education and safety costs that we do not want to put in. And so I say then, if you do not want to put it in, pass the law. "Oh, we do not want the law. We think people have freedom to drive their motorcycles without helmets. If they end up on the public assistance rolls, and particularly through Medicaid, well, that is just one of those things."

We had a State senator from Illinois talk about this business of what the pressure is on the States. This is what the State senator said:

> So even though there is no doubt in my mind that a motorcycle helmet law is something that would be favored by an overwhelming majority of the citizens of the State of Illinois—

The people would be for it.

> the mechanics of passing a law are such that the more vocal opponents have had their way in the general assembly. The Federal Government has played a critical role in enacting safety legislation throughout the years. The original helmet law would not have passed but for Federal action. We all know that the drinking age and seatbelt legislation was passed in many states as a result of Federal action. And we also have some experience that every time that Congress changes its mind, such as back in the '70's, death and injury rates go up.

I will guarantee you, if this amendment is adopted today, you will see these States repeal the laws that they have. That is a guarantee. And you will see the number of deaths on motorcycles and from lack of using the seatbelts increase in our country.

I have a chart here. What is a speech these days without a chart?

Now, this illustrates what I have been talking about. In 1966, the law was passed. The Federal law mandated helmet use. And you can see the dramatic decrease in the death rate. This is per 10,000 motorcyclists. It was 13,000, then dropped down to about 8,000 and stayed at that and slid down a little more and got way down until you are about less than half or near than half of a decline in the deaths.

Then the law was repealed in 1976 right here in Congress. Up it goes once again. So that shows the correlation between what happens when we repeal our laws. And, obviously, repeals were enacted in the States. Twenty-seven States repealed or weakened the helmet laws right after we said you do not have to do it. My State was one of them. We had—in my State following the 1966 Federal law, sometime in that period around 1970, we enacted in our State a mandatory motorcycle helmet law.

When the Federal law was repealed, our legislature gave us, as did so many others, a repeal of the law itself. That will be the consequence. No question about it.

Now, I have a letter here from the executive director of the Safety and Health Council of New Hampshire. This is what he says:

> Without continued Federal leadership in these critical areas of highway safety, we will see a return to the inconsistent and less effective State laws. Inevitably there will be a greater loss of life and an increased financial burden on our society. The problem is especially acute in New Hampshire which, despite overwhelming evidence of the benefits, refuses to pass either a seatbelt or a helmet law.

Now, as the legislator from Illinois pointed out, these laws enjoy broad popularity except with a small but very, very persistent and energetic group that bedevils the legislators until they conform. The public supports strong safety laws. In recent national public opinion polls, 76 percent of those surveyed opposed the weakening or repeal of safety belt laws and 90 percent opposed the weakening or repeal of the motorcycle helmet laws.

Now, why do we repeal this? Why is this suggestion made?

The proponents argue that this section 153, which is the basic law, constitutes an encroachment on States and individual rights. Well, I disagree. When we get into our cars or hop onto our motorcycles, we do not do it in a vacuum. We become part of a complex and usually crowded transportation network. In the best interest of protecting drivers, property, and safety, we live by certain rules. Taxpayers have a right to be protected from higher taxes which result from motor vehicle crashes. Now, as I say, proponents have argued this undermines States rights, individual rights. You are entitled to drive your motorcycle with the wind blowing through your hair.

The problem is that the costs associated with highway crashes are a serious national problem. Each additional injury and fatality takes its toll on hospital backlogs, regional trauma centers, tax rates, national insurance rates. All of us have spent untold numbers of hours on trying to do something about health care costs in this country. And there is not one of us who will not say we are for preventive medicine.

It is a crime. Give children immunization. Prevent these accidents and diseases and illnesses from occurring. There is no clearer way of doing what we are out to do, preventive medicine, than having laws just like this that we have got on our books. And those who would vote to repeal this clearly are taking a vote to add to our medical costs in this country. There is no doubt about that. So, Mr. President, I do strongly urge my fellow colleagues to reject the amendment proposed by the Senator from New Hampshire.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Very frankly, I thought we would probably be able to avoid a game of statistics and studies. But it looks like we are not going to. I have a number of them that I will ask unanimous consent to have introduced in the RECORD. I would like to mention just a few things.

First of all, my colleague, the chairman, talked a little bit about the California study. And I would like to point out that the California study done by Dr. Krause took only—I think the figures were misleading because basically he took only the accidents into consideration based on the number of motorcycles that were registered at the time, not using figures up to 2 years before that indicated almost a drop of 50 percent in the registrations in California during the 2 years preceding his study. Clearly, if you have less of them on the highways, there are going to be less accidents.

He also did not take into consideration there is in excess of over 1 million motorcyclists that went through rider safety training. I would like to read just a few statements from different studies that have been made which I will try to abbreviate very shortly.

One, accident and fatality statistics, analyzed by Dr. A.R. MacKenzie, said that in a study of over 77 million motorcycle registrations covering the 16-year period, 1977 to 1992, the accident and fatality rates have been calculated and compared with in the helmet law States than in the repeal States.

On the basis of registrations, there have been 10.4 percent more accidents and 1.1 percent more fatalities in those States that had mandatory helmet laws than in repeal States. Our State is one of them. In Colorado, in fact, the fatalities went down after we repealed it.

According to the Wisconsin Department of Transportation 1978 Division of Motor Vehicle study, 29.4 percent of the motorcyclists that died wearing a helmet died of a head injury; 28.9 percent, almost 29 percent, of motorcyclists that died without a helmet also died of head injury. In other words, almost identical statistics with or without the helmets.

According to the National Safety Council "Accident Facts" of 1991, motorcycles represented only 2.2 percent of the overall U.S. vehicle population, and yet they were only involved in less than 1 percent of all the traffic accidents, the smallest recorded category of any moving vehicles.

Furthermore, only 2.53 percent of all registered motorcycles were reportedly involved in accidents, and just a little over 3 percent of those were fatal.

The University of North Carolina Highway Safety Research Center study says—and I am trying to abbreviate these:

> Helmet use was not found to be associated with overall injury severity, discharge facility . . . or insurance status. Injured motorcycle operators admitted to trauma centers had lower injury severity scores compared to other road trauma victims, a group including motor vehicle occupants, pedestrians and bicyclists.

A State of Kansas Health and Environment Department report to NHTSA stated:

> . . . we have found no evidence that the death rate for motorcycle accidents increased in Kansas as a result of the repeal of the helmet law. We have also not found any such evidence on a national basis.

I skipped over one, the Second International Congress of Automobile Safety said:

> The automobile driver is at fault in over 70 percent of our car/motorcycle conflicts.

Seventy-two percent of U.S. motorcyclists already wear a helmet, either by choice or existing State laws, while auto drivers use seatbelts only 47 percent of the time. Even with seatbelt laws in effect in 48 States, covering over 98 percent of America's population—only Maine and New Hampshire currently have no seatbelt law—more than half of all auto fatalities involve head injury, yet no one would suggest that auto drivers should wear a helmet. There are 10 times the fatalities in automobiles due to head injuries than motorcycles.

In a Hurt Report, Traffic Safety Center, University of California, they indicate 45.5 percent of all motorcyclists involved in accidents had no license at all and over 92 percent had no training. That is what we are trying to emphasize here. Helmets do not prevent accidents, training prevents accidents.

The American College of Surgeons declared in 1980 that improper helmet removal from injured persons may cause paralysis.

Inside a new label—I just happened to read one a couple years ago and wrote it down, a new DOT label said:

> Warning: No protective headgear can protect the wearer against all foreseeable impacts. This helmet is not designed to provide neck or lower head protection. This helmet exceeds Federal standards. Even so, death or severe injury may result from impacts of speeds as low as 15 miles an hour . . .

So, in other words, not a Federal agency that is empowered to authorize the testing and no private industry that does the testing, since DOD does not do their own, none will guarantee helmets over 15 miles an hour.

From my perspective, they do darn little help.

In a DOT test report of 1974 through 1990, where DOT tested helmets by a 6-foot vertical drop, impacting at 13.6 miles an hour, even at those low speeds, 52 percent of the helmets failed during that test.

Another study, done by Jonathan Goldstein at Bowdoin College:

> In contrast to previous findings, it is concluded that: One, motorcycle helmets have no statistically significant effect on the probability of fatality and, two, past a critical impact speed—

And I assume that is past 13.6 miles an hour, the DOT test speed.

> helmets will increase the severity of neck injuries.

A study done by Dr. John G.U. Adams, University College of London, said:

> Wearing a helmet can induce a false sense of security, leading to excess risk-taking and dangerous riding habits.

In fact, the six safest States by actual study in the United States per fatalities for 10,000 registrations are: Wisconsin, Iowa, Minnesota, New Hampshire, North Dakota, and Wyoming. None has adult helmet laws. And yet the States that have the helmet laws also have the highest injury and fatality rates.

So we could probably stay here all day long talking about studies that support either thesis, that they are good or bad, but I think we are still getting away from the fact that the decision should be made by the States, by the individuals, not by the Federal Government.

I see my friend and colleague from Montana in the Chamber. We were discussing the cost of each State a while ago. In fact, according to the statistics I have, Montana stands to lose $2,192,000 this year out of their construction funds if we do not pass some relief for States from this punitive measure we took in the Federal Government.

My own State loses over $2 million. Many of the people who will be here on the floor today—over 50 Senators, since there are 25 States that have refused to comply—are going to be penalized collectively to the point of hundreds of millions of dollars. With that, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I have a letter dated May 1 from the Secretary of Transportation, and I would like to read parts of it, if I might. This is what he said. It is addressed to me:

> I would like to take this opportunity to present the administration's position on several vital highway safety laws that may be challenged during the committee's consideration of the National Highway System legislation.

This was written as we took up the legislation in the committee.

> The Department of Transportation strongly supports the existing Federal provisions encouraging States to enact and enforce basic highway safety laws, such as section 153 of Title 23, United States Code—

That is the provision that deals with motorcycle helmet and seatbelt laws.

> relating to safety belts and motorcycle helmets. We would oppose efforts to weaken these provisions. We estimate that State minimum drinking age laws, safety belt and motorcycle helmet laws and enforcement of speed limit laws save approximately $18 billion every year. If these provisions are weakened or repealed, costs to the States and Federal Government would increase.

Then he talks a little bit about the minimum drinking age. Next paragraph:

> The other provisions offer similar savings to States. Motor vehicle crashes cost our society more than $137.5 billion annually in 1990 dollars. Many costs of motor vehicle crashes are ultimately paid by Federal and State welfare public assistance programs, such as Medicaid, Medicare, and Aid to Families with Dependent Children.
>
> Between 1984 and 1993, safety belt and motorcycle helmets use saved more than $16 billion in Federal and State revenues. Nearly $6 billion of this is the result of reduced public expenditures for medical care, while the remainder represents increased tax revenues and reductions in financial support payments.
>
> The Federal provisions encouraging minimum drinking age laws, safety belt, motorcycle helmet laws and the enforcement of speed limit laws were established because of high social and economic costs to our Nation resulting from motor vehicle crashes. These four provisions address areas where State laws and enforcement are proven effective and where savings are great. For example, when California enacted its all-rider motorcycle helmet law, motorcycle fatalities fell by 36 percent and the State saved millions of dollars. Every State that has enacted such a law has had similar experiences. States that repeal all-rider helmet use laws uniformly see a substantial increase in motorcycle fatalities.
>
> For example, the Colorado Division of Highway Safety found that the State's fatality rate decreased 23.8 percent after adopting a helmet law and increased 29 percent after the helmet law was repealed.

That is what we were discussing earlier about when the Federal Government in 1976 said you did not have to have the law, the States repealed them, I think it is 27 States repealed them—my State was one of them, regrettably—and up go the accidents.

> Wisconsin Department of Transportation data indicates that motorcycle fatalities were 18 percent lower when the State had a helmet law than after repeal.

Mr. President, Secretary Peña goes on:

> Weakening or repealing these will lead to a tragic increase in unnecessary preventable deaths and injuries on our roads and will increase the burden on State and Federal Government. At the very least, we must oppose steps that would clearly add to Federal spending.

Signed by Federico Peña, Secretary of Transportation.

So, Mr. President, I think in every way you look at this, whether you are looking at the tragedy that comes from accidents where people do not have a seatbelt, the tragedy that comes to motorcyclists who do not wear their helmets, or the cost to the Federal Government—everybody here is for reducing cost—I find this amendment very, very difficult to understand.

Mr. President, I hope very, very much that it will be rejected.

Ms. SNOWE. Thank you, Mr. President. I would like to respond to a few of the comments that have been made by the chairman, the manager of this legislation, because I think it is important since we are quoting from one another's States with respect to statistics and positions of officials in those States.

It is interesting to note, because back when we had hearings this year on this entire issue, Rhode Island State Senator William Enos, in testimony before the Environment and Public Works Subcommittee on Transportation and Infrastructure in March, noted that in 1976, the last year that Rhode Island had a helmet law, there was 1 death per every 1,000 riders. In 1994, without a mandatory helmet law, that rate was less than 0.5 deaths per 1,000 riders, despite the fact that there were 7,000 more riders in 1994 than in 1976.

He goes on to say:

> In 1993, the number of fatalities per 10,000 registrations was lower in Rhode Island than in many States with motorcycle helmet laws. Massachusetts, which has applied strict helmet wearing standards to motorcycle riders, has a fatality rate a full point higher than Rhode Island. Much of this success can be attributed to motorcycle rider education programs, which were first implemented in 1980.

Back in 1980. That was 15 years ago that Rhode Island implemented a motorcycle rider education program because they understood the value of those programs with rider safety and being able to drive a motorcycle better and more effectively. The same is true for driving an automobile.

I further read from his testimony:

> Again, referring to the attached graph, it can be seen that since rider training began, fatality rates have continued to decline. Furthermore, Rhode Island also had the second lowest rate of all motorcycle accidents per 10,000 riders, behind only Oregon, which has a helmet law in place.

As I said earlier, the State of Maine in 1993 ranked 49th in the number of motorcycle fatalities, second lowest in the country. And it has a very effective rider education program.

The 44 States that have rider education programs—and I think it is essential to underscore that there are 44 States that have motorcycle rider education programs. Those are not essentially mandated by the Federal Government, but the States have determined in their wisdom that they are the most effective approach in reducing the number of fatalities and accidents on the highways.

In fact, those programs are financed through motorcycle registration and license fees. Collectively, they have raised $13 million. Contrary to what the chairman has said, these education programs are not only financed by the States, but our States have determined how much is necessary to finance these programs. It is not as if they do not have the money. They have been financing the programs.

My State does not need to double the amount of money that already exists for its motorcycle rider education program. It has sufficient funding through license fees and registrations. But it does need its money for highway improvement and repairs. It desperately needs that funding.

Listening to the debate here today, one would think that it would be very difficult for State legislatures and the Governors and State officials to have the capability to make these decisions on behalf of the best interests of their State and the welfare of their own constituency.

Somehow, we have this notion that they do not know any better, that they could not possibly make these decisions for their constituents in their States, that somehow we know better here in Washington, DC, what should happen in the States when it comes to motor vehicle safety; that they do not have the capacity to understand.

No one is disputing the fact that we should do everything we can to improve safety on the highways. There is no doubt about that. Yes, it has some impact on our health expenditures. As I said earlier, so much of our behavior asks how far do we go?

That is the issue here today. Where do we draw the line as to what the Federal Government will dictate to the States or what the States themselves will decide for the people who live in their States? That is the ultimate question here. And I think that it is important to make a decision as to how far we are willing to go.

I would argue with the chairman that there are many other aspects to personal and social behavior that contribute far more to that cost of Medicare than riding a motorcycle or driving an automobile.

Mr. GREGG. Mr. President, will the Senator from Maine yield for a question?

Ms. SNOWE. I am happy to yield to the Senator.

Mr. GREGG. I think the Senator from Maine has made a superb point, and I would like to ask the Senator if this is the basic concept.

This is not an issue of health. It is not an issue of safety. It is an issue of States rights. On an issue of health or safety, that is a police power traditionally reserved for the State. It is ironic and anachronistic that the Federal Government has stepped into this area, where it has not stepped into 100 different areas that could be outlined.

Is not what we are dealing with here an issue of who has the right to manage the health and safety of the State, and whether or not that right is nationally vested in the State government, and it is inappropriate for the Federal Government to come in and usurp that right?

Ms. SNOWE. I answer the Senator, that is absolutely correct. Certainly, Senator GREGG well knows, having been a former Governor of the State of New Hampshire, to understand exactly what is relevant and within the purview or jurisdiction of the State, it is very essential that we begin to draw those lines as to how far we need to go to impose Federal mandates and Federal dictates.

Would the Senator agree that the States are in a much better position to make those decisions? Are they not more responsive since they are closer to the people? The Senator has been a Governor and certainly can appreciate that relationship between the State and the residents of that State.

Mr. GREGG. Mr. President, if the Senator will yield, just to respond to that point, I believe that is absolutely true. I believe the Senator from Maine, the Senator from New Hampshire, and the Senator from Colorado have made this point extraordinarily well. That is, whether or not someone is on a highway and operating——

Mr. LAUTENBERG. Mr. President, may I inquire of the Parliamentarian whether the floor is now obtained by the Senator from Maine, or do both Senators have the floor at the same time?

The PRESIDING OFFICER. The Senator from Maine has the floor. She has yielded time to the Senator from New Hampshire——

Mr. LAUTENBERG. She cannot yield, Mr. President; I am sorry.

The PRESIDING OFFICER. For a question.

Mr. LAUTENBERG. I am waiting to hear the question.

Mr. GREGG. I have the right to yield for the purposes of a question, Mr. President. During the prior colloquy, there was a question asked and there will be a question asked during this colloquy, also.

The point which I think the Senator has made and which I wish to elicit her thoughts on, further, are there not a variety of activities that occur on highways which determine the safety of highway activity, such as the size of a car that operates on the highway, such as the licensing of the operator of the car on the highway, such as the inspection of the car that operates on the highway, and the motorcycle, the licensing of the motorcycle operator on the highway? Are these not traditionally rights which have been reserved to the State?

It is sort of strange that the Federal Government would pick out just one area of safety on a State highway issue to step into. Is that not the issue here, that there is basically a unique usurpation of State rights?

Ms. SNOWE. The Senator is absolutely correct. When it comes to dictating the driver's age or the automobile inspection or the types of tests that are given so that people can get their licenses, or even some of the speed limits that are established on the various roads within a State, they have all traditionally been within the purview and jurisdiction of the States in determining that.

In fact, I was mentioning earlier in some of the statistics that the States have certainly made a number of decisions with respect to those issues and could make even more. We could draw a lot of decisions here today in terms of what we should do based on statistics, but the States are in a much better position to make those decisions.

I ask the Senator, because I think it is important since the Senator has been a former Governor, there has been this sort of impression here that somehow the States just do not understand or get it and, therefore, it requires and compels the Federal Government to impose these dictates and mandates.

Does the Senator not agree that the Governors and the States and the State legislature are in a far better position to make decisions about what is in the best interests of the general welfare of their constituencies and residents?

Mr. GREGG. Mr. President I will agree with that. That is obviously the purpose of this amendment, and I congratulate the Senator from Maine, the senior Senator from New Hampshire, and the Senator from Colorado for bringing this to the floor.

I see the Senator from New Jersey is seeking the floor, and although I may have further questions of the Senator from Maine, I will pass up those opportunities. I appreciate the courtesy of the Senator from Maine in allowing me to answer these questions.

Ms. SNOWE. I thank the Senator. Just to conclude, Mr. President, because I think it is important to read from the testimony of a State senator from the State of Illinois, who presented testimony before the committee on this issue—I would like to quote from her statement because I think it is important. She said that "Many in the State believe that this course"—referring to the penalties imposed by ISTEA in 1991—"is directly responsible,"—the course they established in the State of Illinois for rider education—

> . . . is directly responsible for the reduction in motorcycle accidents we witnessed in Illinois. We had a 46 percent decline in accidents involving motorcycles from 1985 to 1990. This

> led to a 48 percent decline in injuries to motorcyclists. During the time Illinois had a helmet law in 1968 and 1969, our fatality rate per 10,000 registrations averaged 9.15. Back then, we had 91,000 registered motorcycles. In 1993, we had 200,000 motorcycles registered and with no helmet law our fatality rate was 5.4 per 10,000 registrations, double the number of motorcycles, more vehicle miles traveled per year, no helmet law, and our fatality rate was four points lower. Yet Congress has sanctioned the State of Illinois for over $33 million.
>
> I would respectfully suggest to you that putting men to work building and repairing roads is a better and more efficient use of our highway dollars than requiring us to print up and distribute bumper stickers telling people to wear seatbelts.

Finally, I would like to quote from a July 1994 Wall Street Journal article.

> Dennis Faulkenberg, chief financial officer for Indiana's Transportation Department, says this year's lost share would have paved 25 miles of highway and repaired 6 to 8 bridges. New lanes and intersection improvements will also fall by the wayside because of the loss of money to the State of Indiana as a result of this penalty.

Further, I would like to quote from a New Hampshire State Representative who testified before the Environment and Public Works Subcommittee on Transportation in March. He said:

> My issue on whether I favor or disfavor a law mandating helmets or seatbelts is not the issue. The reason I came here today is because I feel this issue should be able to be decided by the State Legislatures in this country without the threat of Federal sanctions and money being moved.
>
> I don't think there is one of my colleagues in the State house that doesn't feel motorcycle helmets and seatbelts are a safety issue. There isn't one of us that will disagree with that. But let us discuss the issue, let us decide the issue on the merits of the issue, and not because we're going to have money transferred.

I think that speaks very well to the issue and the essence of the amendment offered by Senator SMITH.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I would like to address the amendment before us, if someone will yield time to me?

The PRESIDING OFFICER. There is no time limit.

Mr. FEINGOLD. Mr. President, I would like to speak to one aspect of the amendment offered by the Senators from Maine and New Hampshire, the repeal of sanctions against States lacking mandatory helmet laws. I am a cosponsor of the amendment which will be offered by the Senator from Maine at a later point, which addresses only the matter of helmet laws. But regardless of the amendment, there are two fundamental questions inherent in this debate. What is the proper role of government in regulating individual behavior? And what is the appropriate role for the Federal Government in policy areas that have traditionally been under the jurisdiction of the States?

There will be many issues of safety raised in this debate. In addition, the point will be made that unhelmeted motorcycle riders increase societal costs, such as the costs of publicly-funded health care. Those are legitimate issues, but I do not think they address the truly fundamental questions at stake in this debate. I think the fundamental question, the fundamental issue, is the proper role of government.

The relationship between the Federal Government and the States has been a complex relationship since the founding of this Nation. The practical and legal impact of the constitutional delineation of State and Federal responsibilities is very much a subject of debate today, and especially in this 104th Congress.

Mr. President, I served in the Wisconsin State Senate for 10 years and I know very well the frustration of State officials at the sometimes incomprehensible nature of the Federal bureaucracy. This much-debated relationship is frequently at issue in the discussion of Federal requirements on issues like seatbelts and helmets and speed limits. It has been the source of great controversy in my home State of Wisconsin, which does not have a mandatory helmet law. In each of the last two sessions of the Wisconsin Legislature, there have been resolutions introduced that have urged the repeal of section 153 of ISTEA, which imposes sanctions on States that do not have mandatory helmet laws.

Wisconsin stands to lose an estimated $2.3 million in highway funds this fiscal year and an estimated $4.7 million in fiscal year 1996, simply because our State is not in compliance with section 153 of ISTEA. Nationally, States will lose $48 million in fiscal year 1995 and $97 million in fiscal year 1996, if this provision continues.

This sanction applies, regardless of Wisconsin's efforts, which are substantial, to improve safety on its roadways. Wisconsin's Secretary of Transportation, Charles Thompson, told the National Transportation Safety Board that Wisconsin, through its program:

> . . . consistently and actively encourages all motorcycle riders to wear not only helmets but all protective gear through:
>
> Mandatory helmet laws for riders under 18 years of age and those with learner permits;
>
> Maintaining an award-winning rider education program which has an all-time high enrollment now of 3,500 students;
>
> Helmet surveys which show that 41 percent of riders wear helmets on a voluntary basis.

So, Mr. President, among States which do not have mandatory helmet laws, Wisconsin has the lowest number of fatalities per 10,000 motorcycle registration. Perhaps more significantly, among all States, Wisconsin ranks second with respect to motorcycle fatalities per 10,000 registrations—among all States—not just those that do not have a mandatory helmet law.

The National Highway Traffic Safety Administration has emphasized that State by State comparisons of motorcycle data are meaningless and that the only valid comparisons are those that compare data within an individual State over time. Let us take that test, if the previous tests are not adequate.

Even under that test, Wisconsin does extremely well. Our fatality rate in motorcycle accidents has declined from 93 fatalities in 1984 to 41 in 1993. I think the reason is that the State of Wisconsin has an exemplary motorcycle safety program which has had the impact of substantially reducing the total number of motorcycle accidents by almost 50 percent—50 percent, Mr. President— over the past 10 years.

So our State of Wisconsin is understandably upset with the sanctions contained in ISTEA, given their exemplary record for motorcycle safety. The State, I think, feels discriminated against since ISTEA does not credit the State with the progress it has made with respect to reduced motorcycle fatalities. Given that the intent of ISTEA is, as I understand it, specifically to reduce fatalities, Wisconsin legislators and regulators are bewildered that there is no credit being given to them for their accomplishments. That is one of the flaws of section 153 of ISTEA. It does not recognize significant accomplishments made in improving highway safety through proactive, voluntary State efforts.

I contend that a Federal mandate on helmet use is not necessary to require States to do the right thing.

However, beyond the question of the proper Federal-State relationship, I would also like to focus briefly on what I believe to be an even more fundamental issue. That is the question of whether the Government has a role in regulating individual behavior that does not have a direct impact on the health or safety of others in our society.

Unlike other motor safety requirements, such as traffic laws intended to keep traffic, highway traffic orderly and safe for all users, I believe helmet use only generally impacts the individual choosing to wear or not wear a helmet.

Many have argued that the cost which motorcycle accidents impose on our health care system are reason enough for regulating individual behavior, but I do not really see that as a persuasive argument. Individuals in this country still have a right to engage, if they wish, in risky behavior that does not directly harm others.

The Federal Government has not always regulated individual behavior for smoking or alcohol consumption in cases where that behavior does not affect others in our society. When it has done so, as we know with Prohibition, it has backfired.

Arguably, those behaviors, such as drinking and smoking, also impose substantial costs on our health care system. However, we have generally recognized that such behavior should, in most cases, be a matter of individual choice, regardless of whether that choice is the wisest one that an individual might make.

I generally object to Federal laws which regulate an individual's behavior for his or her "own good." I ask my colleagues, if we regulate helmet use at the Federal level where, then, do we draw the line? Or can we draw the line? Where do we stop infringing upon an individual's right to make his or her own decisions?

I contend that helmet use or lack of helmet use does not generally impact others in our society. As a strong supporter of individual rights I oppose Federal legislation requiring States, or blackmailing States into enacting helmet laws. I personally would strongly encourage all cyclists to wear helmets, as does Wisconsin's Motorcycle Safety Program. But I do not believe it is the Federal Government's role to require anyone to wear a helmet.

Mr. President, the amendment to be offered by the Senators from Maine and Colorado would repeal the Federal sanctions on States which do not have mandatory universal helmet laws. It is a step in the right direction from the standpoint of individual rights and I urge my colleagues to support it. I yield the floor.

Mr. THOMAS. Mr. President, I rise in strong support of the Smith amendment, which will repeal the penalties levied against States that have not passed both a mandatory seatbelt and helmet law. The issue is not the merits of helmet laws or seatbelt laws. The issue is where should these issues be discussed and decided.

The message of the last election was that we need a smaller, less intrusive Federal Government. The Federal Government tries to do too much and has taken over so many functions that ought to be State and local decisions.

The vote on the Smith amendment is a clear test as to whether or not the U.S. Senate got that message.

For too long an activist Congress has used the threat of loss of highway trust fund money to force States to adopt whatever the Federal agenda of the moment is. I think that is a rotten way to do business.

First, that approach assumes the money collected through Federal gas taxes somehow belongs to the Federal Government.

This money comes from the States—it comes from highway users in the States. To collect the money from these folks and then turn around and hang it over their heads until they do whatever we say is outrageous.

Second, the people who support this approach think State governments are incapable of making informed, responsible decisions about the safety of their citizens. I do not know how you can defend the idea that folks in Washington are somehow blessed with the divine wisdom to always know best. State officials are just as responsible, and in most cases are in a better position to make informed decisions than folks in Washington.

I will let others argue the merits of helmet use. There are strong feelings on both sides of that issue. What I will argue is that debate ought to happen at the State level, and the Federal attempt has clearly failed.

Section 153 was enacted as part of the ISTEA bill of 1991. Since enaction of section 153, only 1 State has adopted a mandatory helmet law; 25 States have yet to adopt mandatory helmet laws, and are in violation of section 153.

This year alone, $48 million will be diverted away from road and bridge construction. Next year that figure will increase to $97 million.

In Wyoming, just over $1 million was moved from highway construction to safety education programs this year. Next year we will see over $2 million shifted away. I do not know how we can spend $2 million on safety education programs in my State. That comes to just over $4 for every man, woman, and child in Wyoming to be spent on safety programs while we have millions in unmet infrastructure needs.

It does not make sense, and a full half of the States have said enough. They have decided it is more important to preserve the ability to make their own decisions than to bow to Federal blackmail.

That is a choice States should not have to make. I strongly support this amendment and urge its adoption.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I think this issue has been aired really well. I do not have much to add and we are approaching a time when we could vote.

The basic question we are debating is the degree to which the Federal Government should tell people whether or not they should wear seatbelts or whether or not they should have helmets when they drive motorcycles.

Much of the debate today has centered around the number of fatalities, highway safety, and so forth. We all agree we want to minimize accidents on our highways. On the issue of the effect of wearing seatbelts and wearing helmets on safety and fatalities, my colleagues have voiced differences of opinion and cited various studies.

Mr. President, I would like to draw a distinction between the Federal requirements to have seatbelt and helmet laws. There are 48 States that have seatbelt laws. I do not feel that all of these States passed these laws just because there has been a Federal requirement. States have enacted these seatbelt laws and fatalities and injuries have dropped. It makes sense to wear a seatbelt. And because 48 States have these laws, we should not disrupt the status quo. Seatbelts are part of American society now. Children today grow up knowing that it is right to buckle-up when they get into a car. It has become a part of our lives.

However, only 25 States have passed helmet laws. Helmet laws are very controversial. It becomes more of an individual rights issue.

I do not believe it makes sense for Congress to blackmail States into passing motorcycle helmet laws. That is a decision better left to the States. I know this is not an easy matter. Many of my colleagues do not agree with the State's rights argument.

There is no debate here as to whether the Congress has the power to do this. Under the commerce clause, it is clear Congress has the power to require States to pass these laws. And if States do not, Congress has the power to withhold highway funds or say that a portion of highway funds should go to safety education programs.

So the issue here is not whether the Congress has the power to do make these requirements. That is not the issue. The only issue question is should the Congress be involved in these decisions. Should the Congress tell the States to pass these laws. Or should Congress let the States decide on their own whether or not to pass these laws. Each of us is going to have to answer that question. We are 100 different Senators. We are bound to have different points of view on that issue.

My view is that we should not repeal the Federal requirement for States to enact seatbelt laws.

I would hope that if we were to adopt the Smith amendment, most States would keep their seatbelt laws and not repeal them.

But the Federal requirement for helmets is different. As only 25 States have these laws, there is obviously much more controversy attached to them. These difficult decisions can be made by the States.

Now the pending amendment is the Smith amendment. It is my understanding that, if the Smith amendment is not adopted, the Senator from Maine is going to offer her amendment which would repeal only the helmet laws. If that amendment is not adopted, it is my understanding that the Senator from Colorado may offer his amendment which just requires States to have motorcycle education programs instead of motorcycle helmet use laws.

I mention all of this because the sequence of amendments and the consequence of whether amendments are offered or not has a bearing on a Senator's position. The order of amendments is important if Senators have a different view on either seatbelt or helmet laws. If a Senator does not want to repeal both seatbelt and helmet requirements, or a Senator wants to only repeal the helmet requirements, the order of amendments is important. To close, I should also note that the State of Montana has had a referendum on seatbelts a few years ago. The people of Montana decided they wanted a seatbelt law. So let us focus on the helmet requirements.

Mr. SMITH. Mr. President, I know the Senator from Rhode Island would like to wrap this up. I have no objection to that if he chooses to seek unanimous consent to end the debate and have a vote momentarily. I want to make a couple of brief remarks. I think the Senator from Wyoming has a couple of remarks to make as well.

I would just say to the Senator from Montana that we are not repealing seatbelts laws anyway. We are not repealing any seatbelt laws. We represent two States in the Union—Maine and New Hampshire—who choose not to have seatbelt or helmet laws. All we are asking is the right for us to be able to do it our way, which is to improve safety, improve safety records, improve seatbelt and helmet use without the mandate which we are doing.

So it is a misstatement to say that we are trying to repeal the seatbelt law in the other 48 States. You passed them. You can have them. That is perfectly all right with me. I am not repealing that.

Mr. BAUCUS. I understand that.

If the Senator will yield for a question, if the Senator is successful, States which do not have helmet laws and seatbelt laws will not have to divert 1.5 percent of highway funds to safety education programs. Is that correct?

Mr. SMITH. Yes.

Mr. BAUCUS. Also by 1996, under current law, it will double to 3 percent.

Mr. SMITH. Yes.

Mr. BAUCUS. The Senator is providing in his amendment that States, if they do not have helmet or seatbelt laws, will receive the full complement of highway funding, and they would not have to direct that 1.5 to 3 percent to the safety program.

Mr. SMITH. That is correct. But I fail to understand the Senator's logic in saying that it is OK to mandate seatbelts and not OK to mandate helmets. What is the difference?

Mr. BAUCUS. Will the Senator let me repeat my argument?

Mr. SMITH. If I could just briefly reclaim my time here, we could mandate that we lock all the doors in automobiles, too. I can envision State troopers roaring down the highway seeing the door lock up and immediately sending somebody over to the side of the road and citing with a ticket. We could mandate that we all wear foam rubber suits and helmets every day that we walk around so we do not hurt ourselves.

The point is, Mr. President, in New Hampshire—I believe it is also true in Maine—we have safety programs, good safety programs.

This is a chart which shows the counties in New Hampshire, the 10 counties. Since 1984, we have improved—just picking one county off the top here, in 1984 there was a 24-percent seatbelt use in that county. Today it is 55 percent. There is no mandate. The point is we have good safety programs. We do not need another $800,000 for our safety programs. All we want is that $800,000 to be spent on repairing roads. It does not hurt Montana one bit. It does not do anything to Montana.

We just want the right to be able to have this done in the "Live Free or Die" State without a mandate, without the Federal Government saying you have to wear a helmet. Why do we not wear helmets in cars? How about this? Will the Senators agree that we should wear helmets in cars? We could save a heck of a lot more people from head injuries in automobiles than on motorcycles. So we wear seatbelts in the car. If you wear a helmet in the car, you would save even more lives.

The point is these mandates get ridiculous. The individuals have the right to essentially exercise the freedoms that they have as Americans.

This is not an unreasonable amendment at all. To use the logic that somehow we are denying somebody else in the other 48 States—there are 25 States here that are losing $97 million in moneys that they are entitled to to repair their highways. They are not getting it unless they decide to expand the safety program and spend money that they do not need because their safety programs are more than adequate. That is the whole stupidity of this Federal Government Washington-knows-best attitude.

The issue, in conclusion, Mr. President—and I heard the Senator from Rhode Island talk about this. He said mandatory helmets have saved thousands of lives. Wrong. Helmets save lives. Mandating the helmets do not save lives. Wearing helmets save lives. It is not the mandate.

So, you know, who makes the decision? That is the issue. Who is going to make the decision about wearing a helmet? The individual, the State, or Washington? It is no different than anything else in Medicaid, welfare, whatever, environmental laws. It is the same issue. Washington knows best. Therefore, nobody else knows anything. So we have the mandates.

I ask unanimous consent in conclusion—even the USA Today, which is part of or a strong supporter of the conservative cause, says, "States know what's best," and in their recent editorial of May 8, they indicated that we were right in what we are trying to do here on seatbelt and motorcycle helmet laws.

So I ask unanimous consent that article be printed in the RECORD, Mr. President.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From USA Today, May 8, 1995]

STATES KNOW WHAT'S BEST

I-10 stretches hypnotically out of Tucson across the desert. Yet the speed limit is the same as on I-64 as it undulates through the mountains of eastern Kentucky.

Any driver traveling those roads would recognize the foolishness of the uniformity instantly. It exists only because the federal government requires it.

Common sense says those most familiar with the roads know best. But that's not the way it's done. Technically, states set the limits. But if they dare set them faster than 55 in urban areas or 65 elsewhere, they face federal financial penalties. So they go along.

Seat-belt and motorcycle-helmet laws work much the same way. Forty-eight states have belt laws, and 25 require all riders to wear helmets. But if states don't pass both, they must divert some of their highway funds to safety programs—even if the money could be used to prevent more accidents by repairing dangerous bridges or roads.

Now, there's a move afoot in Congress to remove the federal shackles. A Senate subcommittee took the first step last week. It voted to repeal the national speed-limit law and let states set the limits without coercion from Washington.

Auto safety advocates are up in arms. They look at a highway fatality rate that fell from 5.2 per 100 million miles traveled in 1968 to 1.8 in 1993, thanks in part to such laws, and predict mayhem on the highway.

But that's not likely.

State officials can read statistics, too. They don't want to be responsible for blood on the roads. They know polls show public support for safety laws. Three states rejected efforts to repeal belt laws last year, and two fought off repeal of helmet laws.

The argument today is not about whether seat-belt and helmet laws save lives, whether excessive speed kills or alcohol impairs the ability to drive. They do. The argument is about who's better suited to balance safety against sensible use of the roads.

The answer is that the states are. They, not the feds, already write the rules of the road, enforce vehicle and traffic laws, and pay the bills.

The proper federal role in auto safety lies elsewhere. Only it can force automakers to build safe cars.

Washington also is uniquely equipped to serve as a clearinghouse for information about traffic convictions and driving licenses—a role it now fills in cooperation with the states—and it serves the country well by sponsoring safety research.

But when it comes to setting speed limits and requiring seat belts, states belong in the driver's seat.

Mr. SMITH. I also ask unanimous consent that a letter from the Governor of New Hampshire, which is 2 years old, which basically forecasts problems that would be coming up with this by having mandated laws—the Governor of New Hampshire was saying that New Hampshire voluntary seatbelt use had increased through education, and I ask unanimous consent that letter also be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF NEW HAMPSHIRE,
OFFICE OF THE GOVERNOR,
Concord, NH, December 22, 1993.
Hon. ROBERT C. SMITH,
Washington, DC.

DEAR SENATOR SMITH: I would like to enlist your support in opposing the diversion of highway funds under 23 U.S. Code Section 153 which, under the present conditions, will occur if the State of New Hampshire does not enact both mandatory seat belt and motorcycle helmet use laws.

I am sure that you are well aware that New Hampshire has made great progress in making our State's highways safer for all who use them. In 1982, for example, 98 of 154 highway fatalities, or 56.6%, were alcohol related. All of those numbers have decreased significantly in the interim years to a point where in 1992 only 30 of 123 fatalities, or 24.4%, were alcohol related. This represents a 20% decrease in highway fatalities, and the percentage of alcohol-related fatalities has been reduced by more than one-half.

New Hampshire's voluntary seat belt usage, which the federal government would have us mandate, has risen from 16.06% in 1984 to 50.57% in 1993. For five consecutive years, seat belt usage surveys in the State indicate that around 50% of New Hampshire's motorists are buckling up. This has been accomplished through public information programs and not through any coercion of the motorist. This means that New Hampshire has a nucleus of approximately 50% of its citizens using their seat belts not because they are forced to, but because they think it is the wise thing to do. Again, I am sure you are aware this has been accomplished while during the same time period (1982–1992) the number of drivers in the state has increased by 26%, the number of registered vehicles has increased by 49% and the population of the Granite State has increased by 17%.

The New Hampshire Legislature recognized the need for improving motorcycle safety and a Motorcycle Rider Education Program (RSA 263:34b) was enacted effective July 1, 1989. Through 1993, 2,629 cyclists had completed this program, which is entirely self-supported by fees attached to motorcycle licenses and registrations. The following is an interesting quote from the Highway & Vehicle/Safety Report of May 17, 1993, which is published by Stamler Publishing Company, 178 Thimble Islands Road, Branford, Connecticut:

"However, controversy surrounding mandatory use laws (MULS) for motorcycle helmets emerged during the recent hearing on ISTEA-related safety issues. Senator Ben Nighthorse Campbell, D-CO—himself a motorcyclist—said ISTEA's 'mandatory section simply is not working'. No helmet laws were passed in the last six months, leaving 25 states without ISTEA's Section 153, which requires the transfer of some highway funds to safety programs for states that do not enact helmet laws by this fall. He claimed that non-MULS states have 33% lower accident rates than those with MULS crediting voluntary helmet use and rider education programs."

Any assistance you can provide to prevent this federal intrusion into our State's highway safety efforts would be greatly appreciated.

Very true yours,

STEPHEN MERRILL,
Governor.

Mr. SMITH. Mr. President, before I yield the floor, I will at this point ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wonder if I may just engage in a bit of a colloquy here with my distinguished colleague. But I see the distinguished chairman of the committee. Does the chairman wish to address the Senate on a procedural matter?

Mr. CHAFEE. Yes.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I would like to see if we can allocate time out to those who want to speak so we can let our colleagues know about when we are voting.

Mr. BAUCUS. If I might make a suggestion, if the Senator will yield, that is we have a vote on the amendment offered by the Senator from New Hampshire by 5 o'clock, the time equally divided.

Mr. CHAFEE. The only thing is, I am not sure how much time people will want. The Senator from New Jersey would like how much?

Mr. LAUTENBERG. The Senator from New Jersey would like probably around 10 minutes, maybe an extended 10.

Mr. CHAFEE. How about 10? Let us just work this out and see how we are doing.

Mr. LAUTENBERG. I will tell the Senator this. I would not agree at this moment to a unanimous consent agreement that cuts off debate. I have stayed here, in all fairness, and listened to the debate from the other side, and I think there are people in opposition to it.

Mr. CHAFEE. We are not going to cut anybody off. Let us say 10 minutes, and if the Senator wants more he can take more.

The Senator from Montana, the ranking Member, wants no more time. The Senator from Virginia, how much?

Mr. WARNER. Mr. President, I would be agreeable to maybe 6 or 7 minutes.

Mr. CHAFEE. Let us say 7 minutes. The Senator from Wyoming, how much time would he like?

The Senator from Ohio?

Mr. DEWINE. Ten minutes.

Mr. CHAFEE. All right, 10. So there is 20, plus 6, or 26 minutes. The Senator from Maine?

Does the Senator from New Hampshire want some time?

The Senator from Colorado?

Mr. CAMPBELL. Perhaps 5 minutes to wind up.

Mr. CHAFEE. Five minutes. Well, I think, due to the point the Senator from New Jersey made, we cannot get a time certain to vote. But I can say to our colleagues who are listening, it looks as if we will vote about 10 past 5. That is not a certain time but just about then. If people could stick fairly close to the times that they took, that would be helpful. We have not forestalled anybody from coming. If somebody else shows up, they have a right to speak. This is not an agreement that has been reached, but perhaps it is an indication how much time we will take.

Mr. WARNER. Mr. President, this is a very important issue. I commend our distinguished chairman. It is an issue that is held very deeply by a number of Members in the Senate, and I think we have had an excellent debate. I commend the distinguished chairman. I happen to align myself with the viewpoints that he has. I would like to just pose a question to my friend from New Hampshire.

Members of my family are motorcycle folks and from time to time I attend the rallies. There was a rally that I attended not more than 6 weeks ago down in the area of Hampton, VA. I have never seen a more orderly or more wonderful assemblage of motorcycle individuals. They know that I am not in favor of repealing the helmets, but there was not a person there who did not treat me with complete dignity and respect. Argue and debate with me, that they did. It is interesting; their motto is "Let the riders decide."

We in our State of Virginia rank ourselves second to no State in this Union with respect to independence and individual freedom. But the question I pose to my good friend is as follows. Our State, in 1971, enacted both a seatbelt and a helmet law. This chart is down now, but we had the option presumably to repeal those laws at the time the Federal law was repealed, but we did not do it because the then Governor and others, the general assembly, felt it was in the interest of the State to keep it on, so it is still on today. It is primarily for that reason, that there has been a consistency of viewpoints of the people of Virginia on these two issues, that I support them, in addition to my own personal feelings. So I feel that I am correctly representing the State.

But our drivers, knowing that there is a seatbelt law and a helmet law, as they drive in our State, I think they have a certain feeling of personal security because there is a correlation between wearing seatbelts and surviving an accident. We all know that. The safety statistics show that. But as they venture into other States, particularly as it relates to seatbelts, should there not be the use of seatbelts in those States as we have in ours, are they not taking some personal risk?

Mr. SMITH. Are people who drive in other States without the mandate taking personal risk; is that the Senator's question?

Mr. WARNER. Let us say in other States where there is an absence of law, State and Federal, seatbelts are not required, and they follow the maxim "Let the riders decide," and there is a high percentage of use of motor vehicles without the use of seatbelts. Is there not some personal risk to those who travel from their State into another State and there is no seatbelt law?

Mr. SMITH. I just say to the Senator, we do not have, as he well knows, a seatbelt law in New Hampshire and our seatbelt use has increased almost 40 percent since 1984 through education and training.

Mr. WARNER. Mr. President, I saw those statistics. My good friend shared the statistics with me. But we also know as a fact that absent a Federal law, the State legislatures come under tremendous pressure to repeal those laws.

Mr. SMITH. We are not asking you to repeal those laws.

Mr. WARNER. I understand that. But as drivers from States that are used to the seatbelt laws move about the United States into other States that do not have them and there is likely to be a higher percentage of the nonuse of seatbelts, that concerns me from a safety standpoint. I just say to my good friend, that is an added reason, and a strong one, why I support the position taken by the distinguished chairman and also will oppose the Senator's amendment.

I see the distinguished majority leader present.

Mr. SMITH. May I take 10 seconds just to say to the Senator, it sounds to me as if the Senator from Virginia is advocating a national helmet and seatbelt law rather than a State law, based on the comments that the Senator made, if the Senator is worried about going from one State to another. The point is, I think it is not that. It is a question of who makes the decision, and I do not think the Federal Government needs to make it.

Mr. WARNER. Mr. President, I yield the floor.

Mr. LAUTENBERG. Mr. President, I rise to oppose the Smith amendment to eliminate Federal mandatory motorcycle helmet requirements and seatbelt requirements.

I want to say something at this moment that I said earlier in the debate on a couple of amendments, and that is that though I may differ with colleagues on the floor as to the application of law, I do not differ with them on their interests in saving lives and protecting their citizens. I want to make that clear, because though I think they are wrong, I do not think they intentionally want anybody to be hurt as a result of it. I would like to point out why I think their logic on the amendment is entirely antithetical to protecting life, limb and property.

Mr. President, I have heard so many arguments on the floor here, and many of them revolve around whether or not we are discussing life, health, safety, and I heard the Senator from Maine before say, "No," in response to the Senator from New Hampshire, "No, that is not the issue, what we are talking about is States rights."

I do not understand that because people's lives and well-being are involved. Are we discussing process or are we discussing reality? Are we discussing the penalty that is paid for the lack of helmet use on motorcycles?

Even though I am not a resident of New Hampshire or Maine I have a deep interest in what goes on with people in our entire society.

The facts are that helmet use reduces fatality rates and severity of injury. Universal helmet rates increase helmet use and reduce deaths, and the public bears higher costs for nonhelmeted riders when they are crash victims.

In 1975, 47 States had motorcycle helmet laws covering all riders. In 1976, the Highway Safety Act was amended to remove the Federal helmet requirements. After the act was changed, 27 States, which contained 36 percent of the American population, either repealed or seriously weakened their helmet laws. In the 5 years that followed, motorcycle fatalities increased 61 percent, while motorcycle registrations increased only 15 percent.

When Colorado repealed its mandatory helmet use in 1977, its motorcycle fatality rate increased 29 percent. Conversely, States that have passed mandatory helmet laws since 1989 have seen a significant reduction in their motorcycle fatality rate when compared to the motorcycle fatality rate in their State before passage of the law.

In Oregon, there was a 33 percent reduction in motorcycle fatalities the year after its mandatory helmet law was reenacted. California experienced a 36-percent reduction when its law went into effect. In total, the National Highway Traffic Safety Administration, NHTSA, estimated that 600 riders a year are saved as a result of motorcycle helmet use.

More than 80 percent of all motorcycle crashes result in injury or death to the motorcyclist. Head injury is the leading cause of death in motorcycle crashes. Compared to a helmeted rider, an unhelmeted rider is 40 percent more likely to incur a fatal head injury and 15 percent more likely to incur a head injury when involved in a crash.

At my request, one of the leading trauma hospitals in my State reviewed its data on motorcycle accidents over the last 3 years. According to the University of Medicine and Dentistry of New Jersey located in Newark, the deaths for motorcycle accident patients that entered their hospital was 11.5 percent, and this compared with only a 7.5 percent death rate for seriously injured automobile and truck accident patients, even though the absolute number of car and truck victims was far fewer than the motorcycle accident victims.

The failure of the motorcyclists to use helmets also has placed a huge financial burden on society. NHTSA estimates that the use of helmets saved $5.9 billion between 1984 and 1992. Repeal of mandatory helmet requirements would increase the death rate for motorcycle riders by 391 people per year and would increase costs to society by $380 million a year.

In these days when we are discussing skimpier budgets I do not understand what it is that makes a Federal mandate so onerous that we all ought to pay extra funds for taking care of hapless victims of motorcycle accidents.

When motorcyclists say they want Government off their backs and they want to ride bareheaded against the world, it is important to realize that there is a bill that has to be footed.

Now, I know that each of my friends here on the floor has not dissimilar experiences to me and you have visited hospital trauma wards and seen what happens with motorcycle riders who are involved in crashes.

I have seen many in my State. The most serious of injuries. My State is no different than any other. We are a little more crowded, but we are normal people just like anybody else.

The most serious injuries are those incurred by motorcyclists, often paraplegics or quadriplegics. There is nothing worse for a family to endure—nothing worse—than to see a child or a family member wind up a paraplegic. But it happens, and motorcyclists do have a different risk than automobiles.

We cannot use helmets, as was suggested. We do not need them in automobiles because we have roofs, we have roll bars, we have airbags, we have seatbelts. We have all kinds of devices to protect the driver and the occupants. That is why we continue to see declines in fatality and injury rates in automobiles, despite increasing traffic.

This amendment also eliminates federal seatbelt requirements, I find it amazing. Seatbelt use reduces the risk of a fatal or serious injury by 40 percent down to 55 percent—that much of a difference, Mr. President, 40 to 55 percent.

National seatbelt rates have gone from 13 percent in 1982 to 67 percent in 1994. Four States now have these laws. We, as a country, still travel virtually every developed nation in the world in seatbelts.

In those States with seatbelt laws, use rates average 67 percent. With strong enforcement and extensive public education, some States have been able to reach the use rate of 80 percent. Use of safety belts saved more than 40,000 lives and prevented more than 1 million injuries from 1983 to 1993. It saved $88 billion. Each year, safety belt use prevents an estimated 5,500 deaths and nearly 140,000 injuries. It saves taxpayers more than $12 billion annually.

Mr. President, 76 percent of Americans oppose weakening or repealing safety belt laws, and 61.9 percent believe doing so will place a greater burden on taxpayers. I get that information from the Advocates for Highway Auto Safety, who prepared that data.

We see all kinds of savings of lives and savings of injuries as we encourage helmet use, as we encourage seatbelt use.

I know one thing that saved a lot of lives—young lives—was the mandatory drinking age, at age 21. That law was written in 1984, and since that time we have saved more than 14,000 youngsters from dying on the highways. It is a good law. It also is under attack, not at the moment, but it is under attack.

We have heard it from the House that there are Members, one from Wisconsin, who want to eliminate the 21 drinking age bill, as well as seatbelts, as well as speed limits, as well as motorcycle helmets. He would eliminate all those things because it is a matter of pride and States rights.

Who foots the bills? Every citizen in America pays the bills for these removals. I will resist it, and I hope that this Senate will resist it.

What I have heard is that this State or that State stands to lose money. For heaven's sake. How about the lives that they lose if they do not have the laws in place or have the requirements in place? Talk about mandates, mandates saving lives, saving injuries, saving the health and well-being of their citizens. Is that such an onerous burden, that we will take away these protections that we have developed over a long period of time?

When it comes to the statistics, we hear them kicked around here pretty good. We hear about the reduction in fatalities or injuries in this place; then I hear just recited the number of injuries, fatalities, and destruction of property in another place. The question is, are we comparing apples to apples and oranges to oranges? I am not sure.

Mr. President, I hear the words, I listen to the debate. Frankly, I do not understand what it is we are trying to do here. I think we ought to hold fast to the laws that have been developed.

So I think the argument is bogus. I think the States rights argument is hollow when it comes to saving lives and reducing injuries and reducing costs.

I hope, Mr. President, that we will be able to defeat this amendment.

Mr. COHEN addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Maine.

Mr. COHEN. Mr. President, I would like to address the issue of motorcycle helmet laws just referred to by my colleague from New Jersey. Senator Snowe apparently plans to offer her amendment at a later time to the legislation, an amendment to repeal the penalties levied under section 153 of the Intermodal Surface Transportation Efficiency Act [ISTEA] on the States that do not impose mandatory helmet use by motorcyclists.

I find the statement just made somewhat ironic: What about all of the fatalities suffered by those who ride motorcycles, what about the loss of a limb, the serious accidents, the productivity losses attributable to accidents?

It would seem to me that States would have an equal interest. States are not immune to concern for their citizens. Why is it that one-half of all the States in this country do not have mandatory helmet laws? They have a vested interest in keeping Medicaid expenses from being excessive and going up. They have an interest in not having their citizens become paraplegics. They have an interest, it seems to me, in helping to protect their citizens' lives.

Why is it that they have refused to impose helmet laws? I think it is because there is a division of opinion on the issue of helmet laws. With regard to safety belts, there seems to be a general consensus that they do, in fact, help reduce fatalities and the severity of injuries in serious accidents. But there still is dispute with respect to motorcycle accidents and helmets.

Between 1980 and 1993, motorcycle accidents and fatalities declined by some 53 percent each, Mr. President. Now, these downward trends in accidents and fatalities were well underway before we passed ISTEA and section 153 in 1991.

So the decline in the accidents and the fatalities cannot be attributed to the passage of a law in 1991.

Mr. CHAFEE. May I make a point?

Mr. COHEN. I am happy to yield to the Senator.

Mr. CHAFEE. It is important to remember that many States had passed the mandatory helmet law previous to 1993; in other words, in 1991 and 1992: Texas, Florida, North Carolina, California, New York, and so forth.

Mr. COHEN. If that were the case, then it seems to me that the States which had the mandatory helmet laws would have the best safety records. But that, I think, as Senator SNOWE has clearly pointed out, does not seem to be borne out by the facts.

We would assume those who have the mandatory helmet laws have the best records. In fact, over one half of the States with the lowest fatality rates per 100 accidents over the past several years have not had helmet laws.

Even though Texas, California, and other States have mandatory helmet laws, we cannot draw a causal connection in this case, because Maine, which does not have a mandatory helmet law, had the second lowest fatality rate in the country in 1993, which is the last year for which statistics are available.

I think a lot of it is due to the fact that we have safety education programs. Senator SNOWE has talked at length about this, but back in 1991, Maine started requiring all applicants for a motorcycle learner's permit to take an 8-hour safety course. Anyone who offers the safety instruction must be certified by the State.

Senator SNOWE has talked about the United Bikers of Maine [UBM]. UBM members have taken the lead in developing and offering the safety course to beginners. They have augmented it with a road training course, which most beginners take, although the State does not require it. Now, the UBM offers refresher and advanced safety courses and road training for experienced riders, as well. So I think what we have in Maine is a very serious education program and, as a result of that program, we have seen fatalities drop.

In 1991 we had 30 motorcycle fatality accidents. In 1992, the number dropped to 21. In 1993, fatalities declined to 10. We had the second lowest fatality rate per 100 motorcycle accidents in 1993. It is due, in my judgment, to motorcycle safety training, these courses that are being conducted.

I have met with the UBM members on a number of occasions, I must tell you, both here in Washington and back home. I would say I have been struck, as I know my junior colleague has, by the seriousness with which they approach motorcycle riding. These are serious-minded men and women who take what they are about very, very seriously. They have taken the leadership role in our State to ensure that concomitant with motorcyclists' freedom to ride without a helmet is the responsibility to ride safely.

They have pointed out that there is great division within their own membership. Many of the members wear motorcycle helmets all on their own. They are not required to do so. They wear them. But there are others who maintain that wearing a helmet obscures their vision, it obscures their hearing, it produces fatigue and whiplash, and induces a false sense of security, especially among younger, less experienced riders.

You can debate that. They are out riding. You and I are not out there on the bikes riding every day. Were I to do so, in all likelihood I would probably wear a helmet. But I must defer to those who ride on a regular basis, since there is a division of opinion on this.

If we look at the record, the record would seem to indicate that Maine does all right. Maine does all right by any standard. The question is, Why is it necessary now for the Federal Government to mandate that Maine impose a mandatory helmet law or divert funds necessary for road repair and maintenance to a safety programs that is sufficiently self-financed by motorcyclists already? Why are we going to penalize the State of Maine? Maine needs all of the money it receives to address a growing backlog of road repair, maintenance and improvement projects, a backlog that threatens all motorists. We want to penalize the State in order to force its compliance with this law, when the State is making pretty good progress all on its own? The State of Maine is doing all right in terms of its safety programs.

So I intend to support the Senator from Maine, Senator SNOWE, when she offers her amendment later today or tomorrow, because I believe the States feel an obligation to look after their citizens. Many of them feel the same commitment to safety as we do here in Washington. It would seem to me Senator SNOWE makes a valid point when she talks about what the elections of last November revealed. Many people feel that we in Washington intrude too frequently upon decisions that they feel they can make at the local or State level just as adequately or better than we can.

So when she offers her amendment, I intend to support it at that time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, I rise in strong opposition to this amendment. I understand the philosophical argument, the States rights argument that has been made on this floor. I think it has, certainly, some validity. It's a philosophical argument. It is an argument about what the Federal Government should do and what the States should do.

But as I concede to the other side on this issue, I hope they would also understand that does not tell the full story. This is not an abstract debate about States rights. As I said this morning in the debate, what we do in this Chamber has consequences. There is no greater example than what we are about today. There will be consequences, and they are not just philosophical. They are not just abstract. They are practical, life and death consequences based on what we do today.

So let us not just say it is a philosophical debate and you are either for States rights or you are against States rights. I do not think too many people would look at my record over the years and say I am against the States. I spent over half of my career at the county level and State level, not here in Washington. But I think this debate is about a lot more than just philosophy and a lot more than just States rights. I think it is about lives.

We debated earlier today my amendment and the amendment of Senator LAUTENBERG that we offered to deal with speed. We lost that amendment.

Basically what this Senate said, what the will of the Senate was this morning—and I certainly respect that—is the Federal Government is going to back off. The green light is out. We no longer have any national interest in the issue of speed on interstate highways. I respect that. I disagree with the decision by the Senate, but I certainly respect that.

Now we are back on the floor with an amendment that says the Federal Government has no interest, we have no interest as a nation, in the issue of seatbelts. I really cannot believe we are here talking about this.

I was not going to become involved in this debate. I thought enough this morning was enough. But as I listened to the debate on the floor, I frankly felt compelled to come over here and talk, and talk about an issue I feel very, very deeply about. Do we really want the legacy, or one of the legacies of this Congress, of this Senate, to be for the first time in years we will say we do not care about seatbelts, who wears them and who does not? We do not care about speed? I think that would be a sorry legacy for this Congress. It may occur, but it will not occur with this Senator's vote.

I mentioned I have spent over half of my career at the county level and State level. One of my elected positions over the last 20 years was as Lieutenant Governor of the State of Ohio. My job as Lieutenant Governor was to oversee our anticrime and our antidrug efforts. I had at various times five or six different agencies that reported directly to me on behalf of the Governor. One of the departments that reported directly to me was the department of highway safety. So I have been intimately involved with this issue over the last 4 years. Prior to that time I was a State senator in Ohio. I wrote our drunk driving law. So I have lived with this.

We used to say, when we went around and talked about highway safety when I was Lieutenant Governor and when we tried to institute programs—we used to say there were three things that caused auto fatalities. This was kind of an oversimplification, but I think it did not miss it by far. There were three things: use of seatbelts, drinking and driving, and speeding. You can just about categorize every single auto fatality into one of those categories. So, if you are trying to cut down on auto fatalities, you have to deal with those three issues.

We have already said we do not care about the issue of speed. Now we are preparing, possibly, to say we do not care about the issue of seatbelts. I think that would be a tragic mistake.

I understand that my colleagues, for whom I have a great deal of respect, the Senator from New Hampshire, the Senator from Maine —their argument is really that is not what we are saying. We are not, by this action today, repealing any seatbelt law. We are not by this action today repealing any speed laws. Mr. President, that is technically true. That is true. But that does not tell the entire story, and I think it misleads a little bit to only say that, because I think we know what the consequences of our actions are.

Is there anyone in this Chamber who believes that virtually every State in the Union would have passed seatbelt laws when they did but for the action of the National Congress? I do not think anybody here would claim that. Just as I do not think there is anybody here who would stand up here with a straight face and say that with the action we took this morning, the action we may take this afternoon, the action with speed, the action with seatbelts, that some States will not change what they are doing. They clearly will. We will have a retrenchment. We will have a retrenchment in two areas that every expert that I have ever heard from, anybody I have ever talked to who knows anything about this issue, has said: These are key—speed, seatbelts—you will save lives. Cut down the speed and if people wear seatbelts, you will save lives.

I have yet to hear in the debate today anybody come up and cite an expert who says that is wrong. So I think this would be a sad legacy for this Congress. I think for those who say it is a philosophical debate, I again emphasize it is more than a philosophical debate. It is a question of lives.

For those who say we are really not repealing the speed limit, we are really not repealing seat belt laws—yes, that is technically true. But, no, it does not tell the full story.

So the action we take today will affect lives. As I said this morning when we talked about speed—and I will say the same thing again about seatbelts—if you have less use of seatbelts, if you have higher speed, more people will die. And that is the natural consequence of what we appear to be about ready to do.

So, I will in a moment yield the floor. But I believe this is a debate of great significance. I have been a States rights supporter for years. I do not think anyone would look at my record and argue with that. But that is not the entire debate today. The entire debate today has to look at what works and what does not work; what makes a difference and what does not make a difference. Let me say the evidence is absolutely overwhelming, the jury has returned. The jury is back. Seatbelt use makes a difference, and that is why I oppose the amendment of my colleague, Senator SMITH.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH. Mr. President, I ask unanimous consent to add Senator BROWN as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SMITH. Mr. President, I would just like to take about a minute or two to conclude here, to say I listened very closely to my colleague from Ohio. We are not opposed to the use of seatbelts. This amendment does not preclude the State of Ohio or any other State from having seatbelts.

Mr. DEWINE. Will the Senator yield on that?

Mr. SMITH. Yes.

Mr. DEWINE. Does the Senator believe this amendment—I do not think he would have offered the amendment, though, if he did not think there would be some consequence to it? That there would be a change by the States?

Mr. SMITH. There is no change.

Mr. DEWINE. I am sorry?

Mr. SMITH. I say to my colleague——

Mr. DEWINE. The States will take no—no actions will be changed at all?

Mr. SMITH. No, nothing. Nothing. We are simply asking that States like Maine and New Hampshire that choose not to have mandatory seatbelt laws and/or helmet laws, in this case Maine and New Hampshire, mandatory helmet or seatbelt—we are simply asking that we not be penalized and be told to spend additional dollars on safety programs that we are already spending dollars on. We would rather use that money for highways to save lives.

Mr. DEWINE. If the Senator will continue to yield for just a moment?

Mr. SMITH. Yes.

Mr. DEWINE. I understand his position. But does the Senator believe, though, that with the other 48 States there will not be some change? Just as there will be change in action in regard to the speed?

This is not just a philosophical debate. This is a practical debate for your State but it is also a practical debate for the other 48 States as well.

I cannot believe that this amendment will not lessen the use of seatbelts or at least the laws on the books, just as the debate this morning on the bill, the way it is written, will not—some States will not change speed limits?

I mean, the amendment would not have been offered this morning or the bill would not have been written this way if people did not think that was true. So I mean it is not just a philosophical debate. It has consequences, it seems to me.

Mr. SMITH. The point is the amendment which I have written in conjunction with others is not to punish anyone. It is the opposite. It is to stop punishing. The State of Ohio, for example, was penalized over $9 million because the Senator's State does not have a helmet law.

Mr. DEWINE. That is right.

Mr. SMITH. And my point on that is it does not matter to me whether Ohio has a helmet law or not. That is up to Ohio. It is not up to Washington. So if Ohio chooses not to have a helmet law but chooses to spend a lot of money in safety to enhance and to educate people to wear helmets, I would like them to have that $9 million to spend on the highways in Ohio, to repair bridges, potholes, and other things in Ohio, because that is the State's decision. That is all my amendment does. It does not stop Ohio from having seatbelts. It does not stop Ohio from getting money for having seatbelt laws or educating people to wear them or not wear them—not at all.

Mr. DEWINE. If the Senator will yield, I was directly involved in the spending of that $9 million. That money was, in fact, as the Senator can tell by the legislation, used on highway safety issues. Many people in Ohio were very upset about that, obviously, and have been upset about it.

My only point in asking the question is a statement was made, basically, we are not telling anybody what to do. I understand that. My only point though is that there are consequences to what we do. There are consequences to what we do not do.

My point is pretty simple. My point is that there will be a change in the use of seatbelts. There will be a change in what States do, just as there will be a change in regard to when we took the red light off and put the green light on this morning on speed limits. We are going to see a change. Because you will see that change, there will be other changes, and the other changes, I believe—the evidence is absolutely overwhelming—means that more people are going to die. There is no doubt about it.

Mr. SMITH. Does the Senator from Ohio believe that his decision should take precedence over the Governor of Ohio, or the Lieutenant Governor?

Mr. DEWINE. I have not talked to the Governor about this issue.

Mr. SMITH. I have not either. But my point is these are decisions that ought to be made at the State and the individual level. Let me give an example, because the Senator asked about the record.

In New Hampshire—I am not sure the Senator was here on the floor at the time this was discussed—in 1984, 16 percent of the people in New Hampshire, according to statistics that we had at the time, used seatbelts. Without a mandate, with spending money on safety programs, we now have about 55 percent of our people in the State of New Hampshire using seatbelts. There was no Federal mandate. I would be willing to bet you that in the next 10 years, that number will increase even more because we are spending money on education programs. But if I said to you, you need to build a fence between your neighbor's yard and your yard, and it is going to take five post holes, if I said to you, "You have to dig a sixth post hole or you don't get the money for the fence," what is the point of digging the sixth post hole? You need the fence, you need the money for the fence, but you do not need the extra post hole. That is all we are doing here.

You are simply mandating the State of New Hampshire and the State of Maine and other States who do not have the one law or the other to spend money where they do not want to spend money, where they are spending enough money, and they simply want to put that money somewhere else. That is the issue.

Mr. DEWINE. If the Senator will yield one last time, the Senator has been very generous with his time because I realize he has the floor. I just believe all those Senators were eloquent on the issue that we have come so far in this country in reducing fatalities, we have done it in many ways—with seatbelts, airbags, with better designed highways and cars. We have come a long way. I do not see how this debate can totally be viewed as a States rights debate. To me, yes, it is partially a States rights debate. I happen to have some feelings about that in regard to the Interstate Highway System that we build with the tax dollars. It is an Interstate System in interstate commerce. Clearly, Congress can have some uniformity in this area. That is really not my point.

My main point is we have come a long, long way in trying to save lives. I think we are turning the clock back with what we did this morning, and what we may do in a moment, if we pass the Senator's amendment. We would be turning the clock back, having sent the wrong signal. I think it is moving in the wrong direction, and I think it is ill-advised.

I respect the Senator's position. I will yield back to him at this point.

Mr. SMITH. I thank the Senator. Let me finish on this point.

I am certainly not interested in rolling back the clock on highway safety or on saving lives. My amendment does not do that. I just point out to my colleagues that of the 10 safest States in which you ride a motorcycle, 7 do not require a mandatory helmet use for adults. In New Hampshire, which does not have mandatory helmet and seatbelt laws, it has been ranked as one of the five States with the best highway safety record in the Nation on a per capita basis.

So I do not think the connection is there. It is not an issue of whether we want to save lives or not. No one is even hinting that we are not interested in saving lives. I hope the people look at the amendment for what it says, and not what the emotions of the argument are. But look at the facts, and the facts are do not punish anybody. We simply ask that we be allowed to receive the funds that we are entitled to and to spend it on repairing highways so that we can have safer highways in the

State of New Hampshire and the State of Maine and the State of Tennessee, and every other State, and not be penalized by forcing us to either spend money for something we do not need to spend it on, or not getting it to spend it all.

I yield the remainder of my time.

Mr. CHAFEE. Mr. President, I would like to commend the Senator from Ohio because I think he put his finger right on the point. It is not that nobody wants to have more highway deaths. It is not that anybody wants to see more people terribly injured. But the facts are that, if this bill passes, the States will be under tremendous pressure, just as they were in 1976 after 10 years of experience with the mandatory law—the mandatory law was repealed in 1976—and 27 States repealed the laws they had dealing with mandatory seatbelts and helmets.

It follows as night follows day. It is not the intention of the Senator from New Hampshire, but that is what is going to happen as sure as we are standing here.

So, therefore, a vote for the amendment of the Senator from New Hampshire, inadvertent though it might be in his judgment, is clearly going to result in increased deaths on motorcycles and in automobiles in our country. The statistics show it. There is no difference between what we are doing here than what took place in the 10-year period from 1966 to 1976. Sometimes, you learn from experience. This is clearly a case where we can learn from experience.

I know the Senator feels that in his State—and the Senator from Maine and some other States—they ought to have the privilege to do what they want. But I think we have some responsibilities as Senators. Yes, it is a financial drain on us and our Nation if we do not pass this law. I do not think there is any debate about that; that is, if we do not maintain the laws dealing with seatbelts and motorcycle helmets.

We had testimony. Just talk to anybody, to any physician who serves in an emergency room, for example. They all will tell you that absent seatbelts, accidents are 10 times more grievous. It is the same with helmets.

It is so ironic that the motorcyclists will campaign to get rid of mandatory motorcycle helmet use, and yet in their meets, in their sanctioned meets, they will require it. They require the use of a helmet. But for us to impose it—it is all right for them to do it in their meets, but if we say you have to have such a law or you lose some money, obviously an inducement to pass a law, somehow we are infringing on their freedoms.

Mr. President, there are various bills that come through here which we all vote on at different times. I suppose so far this year maybe we have had, I do not know, 100 rollcall votes, or something like that. Sometimes we vote on bills, and, "Oh, well. It could go this way or that way. We don't have much deep feeling about it." But I tell you, I have a very deep feeling about this legislation. I think we would be making a terrible mistake if we approved the amendment that we are going to vote on in a few minutes.

I know the Senator from Colorado wanted to speak.

Mr. CAMPBELL. To shorten the debate, I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from New Hampshire. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Indiana [Mr. COATS] is necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] and the Senator from Washington [Mrs. MURRAY], are necessarily absent.

I further announce that, if present and voting, the Senator from Washington [Mrs. MURRAY], would vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 45, nays 52, as follows:

[Rollcall Vote No. 271 Leg.]

YEAS—45

Abraham
Ashcroft
Bennett
Brown
Burns
Campbell
Cochran
Craig
Dole
Domenici
Feingold
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Inhofe
Kassebaum
Kempthorne
Kyl
Leahy
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Nunn
Packwood
Pressler
Robb
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond

NAYS—52

Akaka
Baucus
Biden
Bingaman
Bond
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Cohen
Conrad
Coverdell
D'Amato
Daschle
DeWine
Dodd
Dorgan
Exon
Faircloth
Feinstein
Ford
Frist
Glenn
Gorton
Harkin
Hatfield
Heflin
Hollings
Hutchison
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Pell
Pryor
Reid
Rockefeller
Sarbanes
Simon
Warner
Wellstone

NOT VOTING—3

Coats
Inouye
Murray

So the amendment (No. 1437) was rejected.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. LAUTENBERG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 1438

(Purpose: To prohibit the funding of new highway demonstration projects)

Mr. McCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. McCAIN], for himself, Mr. FEINGOLD, and Mr. SMITH, proposes an amendment numbered 1438.

Mr. McCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . PROHIBITION ON NEW HIGHWAY DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Notwithstanding any other law, neither the Secretary of Transportation nor any other officer or employee of the United States may make funds available for obligation to carry out any demonstration project described in subsection (b) that has not been authorized, or for which no funds have been made available, as of the date of enactment of this Act.

(b) PROJECTS.—Subsection (a) applies to a demonstration project or program that the Secretary of Transportation determines—

(1)(A) concerns a State-specific highway project or research or development in a specific State; or

(B) is otherwise comparable to a demonstration project or project of national significance authorized under any of sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027); and

(2) does not concern a federally owned highway.

Mr. McCAIN. Mr. President, I would like to explain the amendment. I apologize to the Senator from Maine if there was a misunderstanding on the sequence.

Mr. President, the amendment that I offer, along with Senators FEINGOLD and SMITH, would prohibit the use of highway funds for future—and I emphasize "future"—demonstration projects which have not already been authorized or started upon the date of enactment of this measure. Let me say it again. No demonstration project now authorized for which money has been appropriated will be affected by this amendment.

The amendment states that Congress will approve no new highway demonstration projects. This is strongly supported by the National Taxpayers Union and Citizens Against Government Waste, two organizations which exert a great amount of energy trying to reduce wasteful spending.

The problems associated with diverting Highway Trust Fund money to pay for congressionally earmarked highway projects are well documented and have been debated before. But, regrettably, the practice of taking taxpayer dollars that would otherwise be allotted to the States fairly for their priorities, so that Members can fund hometown projects—projects which may have absolutely nothing to do with the States' transportation problems—continues, and it demands our attention. Over the last 2 fiscal years, Congress has earmarked more than $2.7 billion for highway demonstration projects in select States—that is $2.7 billion which could have and should have been distributed to all States on a fair and equitable basis.

The President's budget request recommends the cancellation of these so-called demonstration projects. As stated in the President's budget:

> Such projects have been earmarked in congressional authorization and appropriations laws. These projects limit the ability of the States to make choices on how to best use limited dollars to respond to their highest priorities.

Vice President GORE has also raised serious concerns about these so-called demonstration projects. As he stated in Reinventing Government:

> GAO also discovered that 10 projects—worth $31 million in demonstration funds—were for local roads not even entitled to receive Federal highway funding. In other words, many highway demonstration projects are little more than Federal pork.

The Reinventing Government report went on to say:

> Looking specifically at the $1.3 billion authorized to fund 152 projects under the 1987 Surface Transportation and Uniform Relocation and Assistance Act, GAO found that "most of the projects . . . did not respond to States' and regions' most critical Federal aid needs.

Unfortunately, Congress continues to avail itself of its most favored projects. The amendment I am offering does not go as far as the President's recommendation. It would not cancel any current highway demonstration projects or projects which have been authorized. It would only prohibit future demonstration projects.

Now, Mr. President, I want to be clear. I have tried before to kill these things. I have tried to get rid of them. I have had amendment after amendment to try to stop these. I am aware if I try to stop projects that have already been authorized and appropriated, I would fail. But I appeal to the good sense and decency of my colleagues to at least stop this in the future. That is what this amendment is all about.

I am not asking the Senate to go as far as last year's amendment. I realize that Members from States with projects in the pipeline find it very hard to vote for cuts. I am only asking that we state clearly that earmarking is not how Congress will do business in the future.

Mr. President, I recently asked the Federal Highway Administration to calculate, by State, the amount of highway funds which have been earmarked over the last 2 fiscal years and to identify how this money would have been distributed if subject to the normal highway allocation formula. The results are hardly surprising. Thirty-three States received less money because of the earmarks. The taxpayers of these 33 States, who sent their money to Washington in the form of taxes, did not get an equitable amount in return because of the inequitable practice of earmarking highway demonstration projects.

Listed here are the 33 States which have been shortchanged. That word "demo" here has no reference to political party. It means demonstration projects. Of these 33 States, I notice the State of Washington is missing, I say to my friend from the State of Washington.

Mr. President, 33 States receive less money because of the earmarking practice. The taxpayers of these 33 States have not received their equitable share of highway funds. Every year they send their tax dollars to Washington with the expectation that the funds for highway projects will be distributed fairly. Something happens before the money is distributed. The process is twisted by the process of earmarking. I am not saying all congressionally earmarked projects are without merit. Many have great merit. Many others, however, do not.

Surely, no one in the Congress is without blemish. If a project has merit, it should be a priority under the State transportation plan. As President Clinton said, highway aid should be distributed fairly according to the established formula so the taxpayers' dollars could be spent according to the priorities established with such great care and expertise by those best qualified to do so—the individual States.

Mr. President, the amendment is a modest step toward reform. The current process, in my view, does not serve the public. It should be stopped.

I hope my colleagues will support me in this amendment.

Mr. President, I ask unanimous consent that a memorandum from the U.S. Department of Transportation, Federal Highway Administration, concerning distribution of earmarked demonstration funds, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF TRANSPORTATION, FEDERAL HIGHWAY ADMINISTRATION: TECHNICAL ASSISTANCE TO THE OFFICE OF SENATOR JOHN McCAIN

[Distribution of earmarked demo Funds based on the fiscal year 1995 distribution of the Federal-aid obligation limitation, June 15, 1995

State	Actual distribution of fiscal year 1994–1995 earmarked demos	Hypothetical distribution based on the fiscal year 1995 FAH limitation distribution	Difference
Alabama	63,844,784	46,248,098	(17,596,686)
Alaska	0	37,230,992	37,230,992
Arizona	4,389,600	34,031,360	29,641,760
Arkansas	139,470,486	28,305,175	(111,165,311)
California	140,881,126	225,435,520	84,554,394
Colorado	1,067,200	32,723,857	31,656,657
Connecticut	29,887,200	56,883,084	26,995,884
Delaware	0	12,001,264	12,001,264
District of Columbia	8,132,800	15,592,153	7,459,353
Florida	72,526,891	90,744,077	18,217,186
Georgia	44,693,584	71,767,571	27,073,987
Hawaii	5,708,000	19,494,218	13,786,218
Idaho	25,907,200	20,495,039	(5,412,161)
Illinois	153,438,774	104,048,256	(49,390,518)
Indiana	49,048,200	53,509,800	4,461,600
Iowa	56,030,827	35,367,547	(20,663,280)
Kansas	25,641,400	33,250,933	7,609,533
Kentucky	46,498,800	39,206,485	(7,292,315)
Louisiana	36,647,123	42,562,594	5,915,470
Maine	68,852,800	14,546,001	(54,306,799)
Maryland	61,164,800	57,501,218	(3,663,582)
Massachusetts	1,959,168	128,102,623	126,143,455
Michigan	92,117,080	68,433,290	(23,683,790)
Minnesota	81,441,320	46,551,977	(34,889,343)
Mississippi	11,833,197	30,166,296	18,333,100
Missouri	55,931,864	57,244,683	1,312,819
Montana	7,124,000	28,259,211	21,135,211
Nebraska	11,207,360	22,815,133	11,607,773
Nevada	41,252,914	18,069,114	(23,183,800)
New Hampshire	11,812,800	13,838,602	2,025,802
New Jersey	98,667,200	86,770,076	(11,897,124)
New Mexico	14,274,400	30,789,792	16,515,392
New York	150,313,547	157,276,319	6,962,772
North Carolina	65,051,600	66,112,858	1,061,258
North Dakota	26,128,000	18,084,249	(8,043,751)
Ohio	61,064,880	100,514,361	39,449,481
Oklahoma	29,737,220	36,242,397	6,505,177
Oregon	21,928,000	34,699,182	12,771,182
Pennsylvania	345,858,280	144,496,236	(201,362,044)
Rhode Island	21,126,880	16,786,071	(4,340,809)
South Carolina	14,241,600	30,789,683	16,548,083
South Dakota	8,888,960	20,473,729	11,584,769
Tennessee	16,196,192	55,184,502	38,988,310
Texas	109,697,114	168,356,581	58,659,467
Utah	7,011,200	21,684,270	14,673,070
Vermont	7,360,000	12,864,339	5,504,339
Virginia	61,636,000	61,668,894	32,894
Washington	39,280,800	38,727,527	(553,273)
West Virginia	212,335,480	27,595,907	(184,739,573)
Wisconsin	26,312,000	47,489,922	21,177,922
Wyoming	7,360,000	18,724,203	11,364,203
Puerto Rico	0	13,223,382	13,223,382
Total	2,692,980,651	2,692,980,651	0

Mr. MCCAIN. Mr. President, I had a couple more charts here.

President Clinton, in his budget request, said, "Such highway demonstration projects should compete for funds through the normal allocation and planning processes within the Federal-aid highways grant program."

Mr. WARNER. Could I ask the Senator if he desires a rollcall vote on this? If so, I would suggest he order the yeas and nays and let the Senate know.

Mr. MCCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. I thank my colleague from Virginia.

I will not take any longer on this issue. It is one that has been debated in this body for quite a while. I want to emphasize again, this does not affect any already authorized or appropriated highway demonstration project.

Mr. President, in February 1994 there was a very interesting article in the

Orlando Sentinel. It had some very interesting information where it says:

> The money used for demo projects amounts to less than 5 percent of the $20-billion-a-year federal highway program. But transportation experts—including those at the General Accounting Office—say this is money not well spent.
>
> "In 1991 we found that about half of the demonstration projects we reviewed did not appear on state or regional transportation plans," GAO official Kenneth Mead told a congressional committee last year. As such, the demo projects leapfrogged what local transportation officers had set as priorities.
>
> "Some (demo projects) are probably questionable, and I'm being charitable with that description," said Florida Transportation Secretary Ben Watts. "I think a lot of times the only thing they demonstrate is that you can get a demonstration project."

Mr. President, I would not be quite that harsh in my description of what a demo project is, but it is time we really restored equity to all the States in this country.

I believe we can do that through an equal distribution through the existing highway formula rather than earmarking demonstration projects. I yield the floor.

Mr. GLENN. Mr. President, I rise in support of the Senator from Arizona. He and I have talked about some of these things before.

We have done studies. We have had GAO studies done. And every time we come to something like this, we do this and we say we do not want to offend somebody over in the House or here that has one of these special projects that is not really needed.

The President has addressed this. He did not want these types of things in the budget this year. The Senator from Arizona cited from several studies that have been done on this as one of the most wasteful things in the budget.

I hope we can support this. I am glad he called for the yeas and nays. I plan to support it. I urge my colleagues to do the same. I thank you.

Mr. BAUCUS. Mr. President, I, too, urge the Senate to support the Senator from Arizona.

I remind the Senate we would not be here tonight debating this bill if this amendment in effect were law. That is, last year we had the NHS bill up. It did not pass the Congress. Why? Because it got loaded up with demonstration projects.

I just think that the day has now passed—it should be past—that we load the bills up with demonstration projects. States can decide for themselves how to spend highway funds.

I strongly urge the support of this amendment. It will be a good day for, frankly, good government and for cleaning up the appropriations process and even cut down a little bit of deficit reduction if we adopt this.

Mr. WARNER. Mr. President, I would like the attention of the Senator. I support the amendment. If there is no further debate, I would urge its adoption.

Mr. KYL. If the Senator would yield, I would like to express my support for the amendment of my colleague from Arizona.

For all of the reasons that he stated, it is about time we did this. I think everyone who has spoken has confirmed the need for this amendment.

I wholeheartedly support the amendment of my colleague from Arizona.

Mr. WARNER. Mr. President, for the information of Senators, the managers will remain on the floor in the hopes to clear such amendments that will not require rollcall votes. I anticipate that the leadership will soon be advising the Senate with respect to rollcall votes.

Tomorrow, it would be my recommendation to the leadership that the Snowe amendment be the first amendment up for purposes of a rollcall vote.

Mr. CHAFEE. Mr. President, I commend the Senator from Arizona for his amendment. I think it is good. I will support it. We will vote for it. And I also commend him for the excellent remarks he made about Senator KERREY and Senator KERRY's splendid achievement.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 1438, offered by the Senator from Arizona.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Indiana [Mr. COATS] and the Senator from Alabama [Mr. SHELBY] are necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] and the Senator from Washington [Mrs. MURRAY] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 75, nays 21, as follows:

[Rollcall Vote No. 272 Leg.]

YEAS—75

Ashcroft
Baucus
Biden
Bingaman
Bradley
Brown
Burns
Byrd
Campbell
Chafee
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feingold
Ford
Frist
Glenn
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hollings
Hutchison
Inhofe
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Leahy
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Pryor
Robb
Rockefeller
Roth
Simon
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NAYS—21

Abraham
Akaka
Bennett
Bond
Boxer
Breaux
Bryan
Bumpers
Feinstein
Harkin
Hatfield
Heflin
Jeffords
Johnston
Lautenberg
Levin
Mikulski
Reid
Santorum
Sarbanes
Specter

NOT VOTING—4

Coats
Inouye
Murray
Shelby

So, the amendment (No. 1438) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Now, Mr. President, that was the last vote of tonight by rollcall. It is the desire of the managers, however, to try and clear up a few amendments which have been agreed to.

AMENDMENT NO. 1439

Mr. WARNER. At this time, Mr. President, I send to the desk an amendment on behalf of Senator THURMOND, Senator HELMS, Senator FAIRCLOTH, and myself, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

> The Senator from Virginia [Mr. WARNER], for Mr. THURMOND, for himself, Mr. HELMS, Mr. FAIRCLOTH, and Mr. WARNER, proposes an amendment numbered 1439.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 34, strike lines 17 through 24 and insert:
>
> "(dd) United States Route 220 to United States Route 1 near Rockingham;
>
> "(ee) United States Route 1 to the South Carolina State line;
>
> "(ff) South Carolina State line to Charleston, South Carolina; and".
>
> On page 35 between lines 13 and 14, insert:
>
> "(ee) United States Route 220 to United States Route 74 near Rockingham;
>
> "(ff) United States Route 74 to United States Route 76 near Whiteville;
>
> "(gg) United States Route 74/76 to the South Carolina State line in Brunswick County;
>
> "(hh) South Carolina State line to Charleston, South Carolina"
>
> On page 34, strike lines 8 and 9 and insert:
>
> "(iii) In the states of North Carolina and South Carolina, the corridor shall generally follow—".

Mr. WARNER. Mr. President, the national highway map will make reference to I–73, and that route will traverse Virginia, North Carolina, and South Carolina. The Senators of these three States have now reached an agreement with respect to the course it will follow in each of the three States. This amendment recites specifically facts relating to the route in North Carolina and South Carolina. I know it has been cleared on the other side. I do not think further debate is necessary. Therefore, I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

So the amendment (No. 1439) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1440

(Purpose: To clarify the treatment of the Centennial Bridge, Rock Island, IL, under title 23, United States Code)

Mr. WARNER. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. WARNER. The amendment is on behalf of Mr. SIMON, Ms. MOSELEY-BRAUN, Mr. HARKIN, and Mr. GRASSLEY.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. SIMON, for himself, Ms. MOSELEY-BRAUN, Mr. HARKIN, and Mr. GRASSLEY, proposes an amendment numbered 1440.

Mr. WARNER. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . TREATMENT OF CENTENNIAL BRIDGE, ROCK ISLAND, ILLINOIS, AGREEMENT.

For purposes of section 129(a)(6) of title 23, United States Code, the agreement concerning the Centennial Bridge, Rock Island, Illinois, entered into under the Act entitled "An Act authorizing the city of Rock Island, Illinois, or its assigns, to construct, maintain, and operate a toll bridge across the Mississippi River at or near Rock Island, Illinois, and to a place at or near the city of Davenport, Iowa", approved March 18, 1938 (52 Stat. 110, chapter 48), shall be treated as if the agreement had been entered into under section 129 of title 23, United States Code, as in effect on December 17, 1991, and may be modified in accordance with section 129(a)(6) of the title.

Mr. WARNER. This is to extend the collection of tolls on the Centennial Bridge between Illinois and Iowa in perpetuity as long as excess revenues are used for transportation purposes. Current law would require the toll authority to remove the tolls when the bonds are paid in the year 2007.

Mr. President, I do not see the need for further debate on this amendment, and I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

So the amendment (No. 1440) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1441

(Purpose: To place a moratorium on certain emissions testing requirements, and for other purposes)

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of Senator GREGG and Senator BOND.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. GREGG, for himself, and Mr. BOND, proposes an amendment numbered 1441.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . MORATORIUM ON CERTAIN EMISSIONS TESTING REQUIREMENTS.

(a) MORATORIUM.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this subsection as the "Administrator") shall not require adoption or implementation by a State of a test-only or I/M240 enhanced vehicle inspection and maintenance program as a means of compliance with section 182 of the Clean Air Act (42 U.S.C. 7511a), but the Administrator may approve such a program if a State chooses to adopt the program as a means of compliance.

(2) REPEAL.—Paragraph (1) is repealed effective as of the date that is 1 year after the date of enactment of this Act.

(b) PLAN APPROVAL.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this subsection as the "Administrator") shall not disapprove a State implementation plan revision under section 182 of the Clean Air Act (42 U.S.C. 7511a) on the basis of a regulation providing for a 50-percent discount for alternative test-and-repair inspection and maintenance programs.

(2) CREDIT.—If a State provides data for a proposed inspection and maintenance system for which credits are appropriate under section 182 of the Clean Air Act (42 U.S.C. 7511a), the Administrator shall allow the full amount of credit for the system that is appropriate without regard to any regulation that implements that section by requiring centralized emissions testing.

(3) DEADLINE.—The Administrator shall complete and present a technical assessment of data for a proposed inspection and maintenance system submitted by a State not later than 45 days after the date of submission.

Mr. WARNER. This is to place a moratorium on certain emissions testing requirements. And it has been cleared by both managers. There is no indication that further debate is needed. I urge its adoption.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1441) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATFIELD. Mr. President, it is my pleasure to speak on the matter currently before the United States Senate which designates the National Highway System [NHS]. This legislation not only identifies the 159,000-mile NHS, but it provides greater flexibility to the States and attempts to reduce administrative burdens. I believe this is an important step forward in planning for our Nation's infrastructure development and that the Senate should act quickly in passing the National Highway System Act.

The Intermodal Surface Transportation Efficiency Act of 1991 [ISTEA] requires Congress to designate the NHS by September 30, 1995. The House and Senate each passed different NHS bills during the last Congress and, unfortunately, a compromise between the two could not be crafted. Without this measure all NHS and Interstate Maintenance funding, which totals approximately $6.5 billion per year through FY 1997, for the states would cease on that date. Consequently, by acting on this important measure at this early date we are helping to ensure that a bill is passed into law before repercussions are felt by the states.

For Americans across the country, our emerging transportation crisis is made apparent by the increasing number of traffic jams, delays, potholes, and road erosion in rural areas. Oregonians are no less afflicted by these growing problems than those in the rest of the Nation. As frustrating as they are, these problems represent only the tip of the iceberg.

Many do not realize the true importance of our tremendous network of roads and bridges to our economy, national security, and way of life. The health of our citizens, the education of our children, the movement of our perishable food and access to employment all depend upon a reliable and efficient transportation network. The National Highway System is a vital investment in our transportation infrastructure which will allow our society to continue to prosper.

Mr. President, the people of Oregon have long understood the importance of land use planning that incorporates transportation needs. The residents of Portland have frequently made their resounding support for the city's light rail project abundantly clear. As with most Western States, the people of rural Oregon rely constantly on an effective highway system which allows them to access educational, economic, and health care facilities.

Even though my support for this important legislation is extremely clear, there are several specific provisions of this bill which I cannot endorse and I will address these concerns through the amendment process. I continue to believe that in the aggregate this is an excellent piece of legislation and I intend to support its final passage.

I commend Senators CHAFEE, WARNER, BAUCUS and MOYNIHAN for their leadership on this issue. As the chairman of the Senate Appropriations Transportation Subcommittee, I look forward to working with them on this measure in the future.

Mr. SIMPSON. Mr. President, I wish to make a few remarks about the highway bill that we are considering today. The highway bill is so very critical for my State of Wyoming. We need to complete action on this legislation prior to October 1st of this year in order that funds can be released for badly-needed projects in all the States.

In the West our highways have become more and more important as we have observed the effects of airline deregulation and the reduction in rail service in our rural States. Airline deregulation has led to a dramatic decrease in the number of carriers and flights into Wyoming and we have lost Amtrack service. So the Interstate and State Highways System was and is—and always will be our great lifeline.

Because highways are so very important to us the State of Wyoming has proposed to add three significant road segments to the National Highway System in order to link several other primary and secondary highways. The Wyoming delegation has contacted the Federal Highway Administrator regarding this proposal and we trust he will give it every proper consideration.

When people travel in Wyoming—for the most part they drive—and they usually drive for long distances. We have highways that stretch for miles with no habitation at all in between. It is understandable that we are a so put off by a national speed limit. I am so pleased to see that the committee bill repeals the national speed limit. I think that the individual States are quite able to set speed limits that provide for a safe speed given local conditions. The same holds true for seat belt laws and helmet laws. I believe the States are able to determine on their own if they want these laws and how they should be administered without the intrusion of the Federal Government and the threat of Federal sanctions.

I trust we will swiftly pass this legislation and get it onto the President's desk so that we can get about the business of maintaining our present National Highway System and constructing the additional mileage as we require it. Those of us from the Western States of high altitude and low multitude understand the real necessity of passing this important legislation and I would urge my colleagues to support it.

Mr. WARNER. Mr. President, that concludes all matters relating to the pending bill, S. 440.

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators allowed to speak for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—NOMINATION OF DR. HENRY FOSTER

Mr. DOLE. Mr. President, as in executive session, I ask unanimous consent that at 9 a.m. on Wednesday, June 21, the Senate proceed to executive session to consider the nomination of Henry Foster, to be Surgeon General, and the debate on the nomination be limited to 3 hours equally divided in the usual form, and at 12 noon on Wednesday, June 21, the Senate proceed with a vote on the motion to invoke cloture on the nomination of Dr. Foster, to be Surgeon General, with the mandatory quorum under rule XXII being waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. If cloture is invoked, the Senate would immediately begin postcloture debate under the provisions of rule XXII.

I also ask, if cloture is not invoked, the Senate return to legislative session, and at 12 noon on Thursday, June 22, the Senate resume executive session to consider the nomination of Dr. Foster, and there be 2 hours of debate equally divided in the usual form, and at 2 p.m. a second vote occur on the motion to invoke cloture on the nomination of Dr. Foster, to be Surgeon General, with the mandatory quorum under rule XXII being waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Again, if cloture is invoked, the Senate would immediately begin debate postcloture under the provisions of rule XXII.

And finally I ask unanimous consent that if cloture is not invoked on the Foster nomination, the nomination be immediately returned to the calendar and the Senate return to legislative session, all without any intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. I wonder if I might just indulge the distinguished majority leader on a couple of questions. Assuming that cloture is invoked, obviously there is a 30-hour time agreement. But is it the intention of the majority leader not to limit time on the actual confirmation vote itself?

Mr. DOLE. Beyond the 30 hours?

Mr. DASCHLE. No, something shorter than 30 hours.

Mr. DOLE. My view is there would be 30 hours. I do not think it would take 30 hours, but certainly—as I understand, the most any one Member could accumulate would be 7 hours.

Mr. DASCHLE. Mr. President, let me thank the distinguished majority leader for his cooperation in the effort over the last several days to reach this point. Obviously, we are quite hopeful that we can invoke cloture on the first vote and go to a vote on the confirmation shortly thereafter.

This represents an effort on both sides to allow a vote, at least first on cloture, and second, hopefully, on the motion to confirm Dr. Foster. I know the distinguished majority leader has expressed his interest in working with us to reach this point, and I appreciate the cooperation that he has demonstrated.

We will have 3 hours of debate tomorrow, and then, if we fail to invoke cloture tomorrow, 2 hours of debate on Thursday. Many of us have been seeking an opportunity to have a vote, and we are just hopeful, now that we have reached this agreement, that, indeed, we can find the requisite number of colleagues on both sides of the aisle to ensure that cloture is invoked and that Dr. Foster be allowed a vote on confirmation.

As I understand it, no nomination for the Bush administration was ever defeated on a cloture motion, and I hope the same opportunity could be accorded the nominees of this President.

In accordance with the agreement, I ask unanimous consent to send two cloture motions to the desk, as in executive session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. I thank again the distinguished majority leader.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion, having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 174, the nomination of Dr. Henry Foster, to be Surgeon General of the United States.

Senators Christopher Dodd, Carl Levin, Dianne Feinstein, James Exon, Harry Reid, Daniel K. Akaka, Claiborne Pell, Richard Bryan, Patty Murray, Bob Graham, Max Baucus, Frank R. Lautenberg, Russell D. Feingold, Barbara Mikulski, Barbara Boxer, Edward Kennedy, and Tom Daschle.

CLOTURE MOTION

The PRESIDING OFFICER. The cloture motion, having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 174, the nomination of Dr. Henry Foster, to be Surgeon General of the United States.

Senators Christopher Dodd, Carl Levin, Dianne Feinstein, James Exon, Harry Reid, Daniel K. Akaka, Claiborne Pell, Richard Bryan, Patty Murray, Bob Graham, Max Baucus, Frank R. Lautenberg, Russell D. Feingold, Barbara Mikulski, Barbara Boxer, Edward Kennedy, and Tom Daschle.

(Later, the following occurred:)

Mr. FORD. Mr. President, I ask unanimous consent that Senator MOSELEY-BRAUN be added to the cloture motion filed with regard to the nomination of Dr. Foster.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Conclusion of earlier proceedings.)

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I thank my colleague, Senator DASCHLE, the Democratic leader. Let me indicate, as I said before, I did meet with Dr. Foster yesterday morning in my Hart office. We had a good discussion. I asked him a series of questions. I indicated to him that there would be possibly two votes, a cloture vote, which he understood would be, in effect to vote on the nomination, and if cloture was invoked, there could be a second vote, which would be a vote on the nomination itself. I tried to lay it out as best I could to Dr. Foster.

In addition, I must say, as is the case sometimes, different plans to proceed sometimes do not please everyone. This is not the process some of my colleagues would prefer. Some would prefer not to bring it up at all; that I, in effect, as the leader had a veto and should not bring this up. I thought about that and indicated at one time that might be the course I would follow, but I also had other options to consider, and this is another option.

If cloture should be invoked, then there will be the debate. I do not think it will consume 30 hours and I guess the vote, if it went that far, would be very, very close, based on my count. Whether or not there will be votes for cloture, I am not certain. I do not think so, but there may be.

We will put all this information in the RECORD tomorrow. There had been a number of nominations for the Bush administration which never got to the floor. They were in the committee and held in the committee and never got to the floor. We can have that debate, too.

The important thing is the Foster nomination was reported out of the Labor Committee in late May, and we had a week's recess. Nobody is suggesting, and I think the record is fairly clear, there has been no undue delay. We are trying to dispose of the nomination one way or the other. I think that is acknowledged, though some might suggest we should not be proceeding in this fashion. But that is a judgment that I made and I hope that we can conclude—in fact, I hope cloture is not invoked and that this nomination then would go back on the calendar after a vote on Thursday.

ACCOLADES TO JOHN KERRY

Mr. McCAIN. Mr. President, last weekend the U.S. Navy formally retired the last of the Navy's legendary swift boats. Our friend and colleague, Senator JOHN KERRY played a central role in the ceremonies attending the event. As many of our colleagues know, JOHN KERRY was not always the genteel, polished U.S. Senator he is today. He was once the 25-year-old skipper of a swift boat, PC–94, a title as honorable as any he subsequently earned.

JOHN KERRY distinguished himself in service to his country aboard his swift boat, earning the Silver Star, the Bronze Star, and three Purple Hearts. His speech at the retirement ceremony was a deeply moving tribute to these remarkable vessels and the brave men who sailed them.

I thought our colleagues would enjoy reading that speech, and I ask unanimous consent that a copy of Senator KERRY's remarks be included in the RECORD following my remarks, as well as an account of the retirement ceremony that appeared in the Boston Globe.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS OF SENATOR JOHN F. KERRY

Admiral Boorda, Admiral Zumwalt, Admiral Will, Admiral Moore, Admiral Hoffman, Congressman Kolbe, families and friends, and my fellow Swifties:

We have come here today—with respect and love—to complete the last River Run.

We have brought our memories and those dearest to us in order to put in a place of honored history a remarkable vessel of the United States Navy. In so doing we proudly share with the nation we willingly served, hundreds, even thousands, of examples of daring, courage, commitment, and sacrifice.

We do that with none of the braggadocio or even brash arrogance of our younger days. We do so with the humility that comes from the intervening years and the fact that we survived while our buddies did not; but we do so with unabashed pride in the quality of our service and those we were privileged to fight with—boat for boat, man for man.

We do so knowing that no words here—no hushed conversation with a wife or a son or daughter—no 30-year-later memory or description will ever convey the sight and feeling of 6 or 10 or 12 Swifts, engines throbbing, radios crackling, guns thundering towards the river bank, moving ever closer into harm's way.

But that's not all it was: We sunbathed and skinny-dipped; we traded sea rations for fresh shrimp; and left our Vietnamese recipients of Uncle Sam's technology grinning from ear to ear as they believed they got the better deal; we happily basked in wide beetlenut smiles; we glorified in shouts of "hey, American, you number one," and we casually brushed off taunts of "Hey, you number ten."

We replaced Psy Ops tapes with James Brown or Jim Morrison—we used our riot guns to shoot duck and cook up a feast and, yes, some did water ski.

We harassed LSTs and destroyers, lauding it over our less lucky, less plucky, black-shoed Navy brothers. We parlayed our independence and proximity to the war into handouts of steak, fruit, ship board meals and, best of all, ice cream. We became the consummate artists of Comeshaw.

We believed that anyone of us—officer or enlisted—might one day be CNO or CINCPAC, and all the while nothing really mattered that much except trying to win a war and keep each other alive. When we broke the rules—which we never did, of course—we would say, "what the hell can they do? Send us to Vietnam?!"

Through it all, we never forgot how to laugh—and there were wonderful moments, not just from the gallows humor of the war but those that came from the special spirit of Swifties: the times we lobbed raw eggs from boat to boat; great flare fights that lit more than one life raft on fire; delivering lumber to Nam Can in the middle of the war; handing out ridiculous Psy-Ops packages that no one understood; and of course pet dogs that didn't understand English or Vietnamese for "don't do it there." There were as many moments of humor as Swift boats and sailors.

And we exalted in the beauty of a country that took us from glorious green rice paddy, black water buffalo caressing the banks of rivers, children giggling and playing on dikes, sanpans filled with produce—that suddenly took us from innocence and tranquility deep into the madness of fire fights, chaos reigning around us, 50 calibers diminishing our hearing, screams for medevac piercing the radio waves, fish-tailing rockets passing by the pilot house—all suddenly to be replaced by the most serene, eerie beauty the eye could behold. We lived in the daily contradiction of living and dying.

In a great lesson for the rest of this country in these difficult times, we never looked on each other as officer or enlisted, as Oakie or Down Easterner. We were just plain brothers in combat, proud Americans who together with our proud vessels answered the call.

We were bound together in the great and noble effort of giving ourselves to something bigger than each and every one of us individually, and doing so at risk of life and limb. Let no one ever doubt the quality and nobility of that commitment.

The specs say Swifts have a quarter-inch aluminum hull—but to us it was a hull of steel, though at times that was not enough. It was hospital, restaurant, and home. It was sometimes birthplace and deathbed.

It was where we lived and where we grew up. It was where we confronted and conquered fear and where we found courage. It was our confessional; our place of silent prayer.

We worked these boats hard. No matter the mission, no matter the odds, we pushed them and they took us through violent cross-currents of surf, through 30 ft. monsoon seas, through fishstakes and mangrove, through sandbars and mudflats.

We loved these boats, even if we abused them of necessity, and the truth is—they loved us back. They never let us down.

We made mistakes. Sometimes we bit off more than we could chew. We didn't just push the limits, we exceeded them routinely and still the boats came through. They were our partners on a grand and unpredictable adventure.

Mines exploded underneath us, and—for the most part—the boats pressed on.

The Marines made amphibious landings and took the beachheads—so did we.

The Army conducted sweeps and over-ran ambushes—so did we.

The regular Navy provided shore bombardment and forward fire control—so did we.

The Coast Guard intercepted weapons and gave emergency medical care—so did we.

The nurses and Red Cross saved lives and delivered babies—so did we.

The Seals set ambushes and gathered intelligence—and so did we.

The only thing our boats couldn't do by definition was fly; but some would say that, light of ammo and fuel, and exuberant to have survived a firefight or a monsoon sea—we flew too.

But the power and the strength was not just in the boats. It was in the courage and the camaraderie of those who manned them.

In the darkness and solitude of night, or parked in a cove before a mission, or in the beauty of a crimson dawn before entering the Bay Hap, or the My Tho, or the Bo De, or any other mangrove cluttered river—we shared our fears and, no matter what our differences—we were bound together on an extraordinary journey the memory of which will last forever.

On just routine patrol these boats were our sanctuary—our cloister, a place for crossing divides between Montana, Michigan, Arkansas, and Massachusetts.

The boats occupied us and protected us. They were the place we came together in fellowship, brotherhood, and ultimately love to share our enthusiasm, our idealism—our youth.

Now we are joined together again after more than a quarter century to celebrate this special moment in our lives. It is a bittersweet moment and it is a time to reflect on those events and those friendships that changed our lives and made us who we are today.

Some were not as lucky as we were. They did not have the chance to grow up as we did. They did not get to see their children. They did not have the chance to fulfill their dreams, and we honor their memory today.

In their presence we are gathered with so much more than just mutual respect and admiration, more than just nostalgia.

We loved each other and we loved these boats.

But because of the nature of the war we fought we came back to a country that did not recognize our contribution. It did not understand the war we fought, what we went through, or the love that held us together then. It did not understand what young men could feel for boats like these and men like you.

This is really the first time in 30 years that we've been able to share with each other the feelings that we had then, and the feelings we have now. They are deeply and profoundly personal feelings. They are different for each of us, but the memories are the same—rich with the smells and sounds of the rivers and the power of the boats—punctuated by the faces of the men with whom we served and the thoughts we shared.

But that was 30 years ago, and now it is time to move on.

Joseph Conrad said, "And now the old ships and their men are gone; the new ships and the new men have taken up their watch on the stern-and-impatient sea which offers no opportunities but to those who know how to grasp them with a ready hand and an undaunted heart."

So, today, we stand here, still with ready hand—and more than ever undaunted hearts—to complete this last River Run and escort these magnificent boats into history. We who served aboard them are now bound together not just as veterans, not just as friends, but as family.

To all who served on these boats, I salute you. And may God bless you and your families.

[From the Boston Globe, June 14, 1995]

CHURNING THROUGH THEIR PAST—WITH POTOMAC TRIP, KERRY, VIETNAM CREW RELIVE OLD DANGERS

(By Bob Hohler)

WASHINGTON.—The brown river narrowed suddenly, pulling the dense shrubbery along the shores ever tighter yesterday around the last two Navy swift boats.

"Looks awful green over there, skipper!" Drew Whitlow shouted from a mounted machine gun to Sen. John F. Kerry at the helm of the lead boat, PCF-1.

"Awful green!" the Massachusetts Democrat yelled back. "That's an eerie sight."

When they last saw each other in 1969, Kerry was the commander and Whitlow a gunner on a swift boat whose six-member crew patrolled the Mekong Delta in Vietnam, where ambush-mined insurgents seemed to lurk in every patch of green.

Because some memories never die, it mattered little that Kerry, Whitlow and a dozen other highly decorated veterans of the 65-foot-long swift boats churned through the Potomac River rather than the once-treacherous Bay Hap or Doug Cung rivers in Vietnam.

The veterans were making the swift boats' last run, a 90-mile journey up the Potomac from the Naval Surface Warfare Center in Dahlgren, Va., to the Washington Navy Yard, where the boats are to be formally retired, closing a chapter in US naval history.

And green still spelled danger. "We were surrounded most of the time on the rivers by great, green beauty," Kerry recalled over the roar of engines and crushing waves. "There were lush greens and sampans and junks and water buffalos and beautiful Vietnamese children."

Then the green turned to fire and smoke, and "there were moments of utter terror where all hell broke loose," and Kerry, who earned the Silver Star, Bronze Star and three Purple Hearts as a 25-year-old commander of a swift boat, PCF-44.

The swift boats, modeled after the all-metal crafts used to ferry crews to offshore drilling rigs in the Gulf of Mexico, were dispatched to Vietnam because they were best suited to navigate the region's shallow and narrow waterways, the control of which US commanders considered vital.

But the boats became prime targets for the Viet Cong, who destroyed three of the 125 craft the Navy commissioned. Three others were lost in heavy weather off the coast of Vietnam. And one, PCF-14, sank after accidentally being attacked by the US Air Force.

For Kerry, action never seemed far away. "He was the type who if no other crew would take the job, he would take it," said Whitlow, a former gunner from Huntsville, Ark., who made his career in the Navy.

But his crew trusted him, said Tom Belodeau, an electrician from Lowell, who manned an M-60 machine gun on the bow of Kerry's boat. "He understood that his crew and his boat could get along without him, but that he couldn't get along without them," said Belodeau. "We all respected each other."

Kerry, clad yesterday in a brown leather jacket adorned with a "Tonkin Gulf Yacht Club" patch, reminisced with Whitlow and Belodeau on their four-hour journey up the Potomac, a reunion they said they never expected to occur.

Kerry joked about the time a Vietnamese woman nearly gave birth in Whitlow's arms as their boat sped to a medical unit. And he reminded Belodeau of the day a water mine exploded under the boat, catapulting their dog, VC, from the deck of their boat onto a nearby swift boat.

Kerry cited luck yesterday for much of his success in Vietnam. As he steered the swift boat toward the Washington Navy Yard and a clutch of dignitaries, he noted how well-preserved the craft was in contrast to his former boat.

"By the time I left" Vietnam, Kerry said, "there were 180 holes in my boat."

"To be honest," Belodeau said, "it looked like Swiss cheese."

Mr. McCAIN. In closing, Mr. President, had Senator KERRY's modesty allowed me to, I would have liked to also include in the RECORD his citations for conspicuous bravery and heroic achievement, virtues which Senator KERRY repeatedly demonstrated in service to his country's cause, in the company of heroes, aboard as durable and dependable a vessel as ever flew the colors of the United States.

Mr. WARNER. Mr. President, I would like to associate myself with the remarks of the distinguished Senator from Arizona as it relates to our distinguished colleague from Massachusetts. I happened to have been in the Department of Navy during that period and am well aware of his distinguished record.

WEST VIRGINIA BIRTHDAY

Mr. ROCKEFELLER. Mr. President, I am pleased and honored to wish the great State of West Virginia, and my fellow Mountaineers, a happy birthday. On this 20th of June we celebrate not only the courage our ancestors possessed in order to separate from Virginia, a powerful mother State, but also the heritage and sense of independence they left behind.

The State of West Virginia has always represented a place of great uniqueness. Our colors are blue and gold. Blue characterizes our bold ability to stand up for the freedom and the equal opportunities that we all deserve. Gold is the dignity of Mountaineers that shines throughout the world. The pride that the people of West Virginia have in their surrounding environment is one that can be found no where else. West Virginia's mountainous terrain offers attractions annually. The white water rafting and golf courses are considered among the finest anywhere. Plus, the 33 State parks include abundant wildlife. Tourists have rave remarks about our historic

Blennerhassett Island, Harpers Ferry, and the Greenbrier Hotel.

Loyalty is a splendid quality of all the people in this magnificent State. Mountaineers have always supported the education and athletics of their colleges and universities. Through continuous hard work the men and women of West Virginia have attracted numerous industries to the area. Their strong work ethic has helped West Virginia's manufacturing sector to prosper. However, the pride and loyalty of our people extends out from our own boundaries. The people of West Virginia know the importance of freedom; therefore, many have dedicated their lives to serving our Nation.

Mr. President, the people of West Virginia share a special bond. Therefore, on this day let us all join together in recognizing and celebrating a very special birthday. Happy Birthday West Virginia.

IS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES.

Mr. HELMS. Mr. President, the impression simply will not go away: The $4.8 trillion Federal debt is a grotesque parallel to the energizer bunny we see, and see, and see on television. The Federal debt keeps going and going and going—up, of course, and always to the added misery of the American taxpayers.

So many politicians talk a good game—when, that is, they go home to talk—and "talk" is the operative word—about bringing Federal deficits and the Federal debt under control.

But, sad to say, so many of these very same politicians have regularly voted for one bloated spending bill after another during the 103d Congress and before. Come to think about it, this may have been a primary factor in the new configuration of U.S. Senators as a result of last November's elections.

In any event, Mr. President, as of yesterday, Monday, June 19, at the close of business, the total Federal debt stood—down to the penny—at exactly $4,892,922,141,296.33 or $18,573.62 per man, woman, child on a per capita basis. Res ipsa loquitus.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

CREDIBILITY GAP IN THE PRESIDENT'S BUDGET

Mr. GRASSLEY. Mr. President, last week, the President announced he would join Republicans in seeking to balance the budget. I, along with many of my Republican colleagues, welcomed the President's decision. We particularly welcomed the President's recognition that the growth of Medicare must be slowed down if we are going to keep that important program solvent.

Unfortunately, though, when you look at the President's entire budget—and it was looked at by the Congressional Budget Office, and this is a nonpartisan scorekeeper—after reviewing the President's new proposal, it found that it would not balance the budget. In fact, the Congressional Budget Office estimates that President Clinton's new budget proposals would maintain deficits of approximately $200 billion per year.

The deficit then under CBO's projections for the year 2005, which is at the end of the 10-year period of time the President wants to balance the budget, would still be $209 billion deficits. And, of course, that is the year in which the President claimed his proposal would achieve balance.

The administration is trying in vain to paper over these huge deficits. The President claims that the failure of his new budget to achieve balance is due, in his words, to just some slight differences in estimating between the CBO and the administration's Office of Budget. Of course, we all know that this claim is disingenuous.

My colleagues need no further reminder than the President committing himself to using CBO estimates earlier in his administration to ensure that his proposal would be credible, and I would like to quote from the February 17, 1993, speech of the President. This was in a speech before Congress:

> Let's at least argue about the same set of numbers so the American people will think that we're shooting straight with them.

The President could not have said it any better. So the President stated this in advocating the use of Congressional Budget Office estimates instead of any other estimates, including his own Office of Budget.

Now, of course, the President has decided to back away from the pledge of using the nonpartisan CBO to provide estimates. He wants instead to use the White House's own numbers. Could it be because those numbers are more politically convenient? Of course, the answer is yes.

The President is using OMB estimates because he does not want to make the tough decisions and the tough tradeoffs. In addition, the President's proposal provides no detail and no policy assumptions—there is then no there, there. In sum, instead of lowering the deficit, the administration lowers the deficit estimate.

As former CBO Director Dr. Reischauer said the other day, and this is a direct quote: "He"—meaning the President—"lowered the bar and then gracefully jumped over it."

To the point, the President uses rosy scenarios. By embracing Ms. Rosy Scenario, the President undermines both his leadership and his credibility. I do not feel that I am carping on this issue, Mr. President, because I have walked the walk. I have broken ranks with Republican administrations in both the Reagan and Bush years because they proposed rosy scenarios and magic asterisks to seemingly lower the deficit. Rosy scenarios were wrong then and they are wrong now.

The President's intentions in joining the quest for a balanced budget are known, but his credibility is damaged by his new budget hocus-pocus. He has not enhanced his relevance in the process merely by offering what he says is a balanced budget. What he proposed must actually be a balanced budget to have credibility. Only at that point then will the President's efforts to balance the budget be real and will his part be relevant.

Again, I do not dismiss out of hand the President's efforts. His new budget at least indicates the President's good-faith intentions. In that regard, it is a good first step and a recognition that we must balance the budget. But if the administration wants to remain relevant, it must revisit its budget proposal and take the next very important step and make the additional cuts necessary to achieve balance, even by the year 2005, at the end of his 10 years, compared to the Republicans' 7 years.

In short, I propose the administration go back to the drawing board. Such actions would make the administration's budget truly credible with the American people to whom he promised a balanced budget proposal. The President must amend his proposal if he wants to fulfill his role as a leader on fiscal matters.

Mr. President, in closing, I would like to highlight just one part of the administration's budget which I believe the President needs to seriously reconsider, and that is the funding for defense. I was astounded to find that the President's proposal for outlays for defense is higher than that agreed to in the Senate budget resolution drafted by Senator DOMENICI.

The administration proposes to spend approximately $20 billion more on defense than contained in the Senate's budget resolution for fiscal year 1996 through the year 2002. And that resolution contained the original Clinton defense numbers. Incredibly, the administration's proposed defense spending is even higher than that contained in the House budget resolution. In the year 2002, the administration proposes to spend—can you believe this?—$2 billion more on defense than that very high figure proposed in the House budget resolution.

Now, I am at a loss to understand why the President believes it is necessary to increase defense spending by billions. What can the justification possibly be? The Soviet military threat has evaporated. DOD managers cannot even account for the taxpayers' money they already have and have already spent. Any extra money would largely go toward buying hidden costs—in other words, paying for cost overruns, not for more weapons or equipment.

At the same time, the President proposes to give more money to the generals, he is asking working families, family farms, and the elderly to tighten their belts.

I was also astonished that in the outyears—years 9 and 10 of his budget—the administration continues to ratchet up defense spending. That is so far down the road that it is not even a credible proposal. So what is the rationale?

Finally, revisiting the President's proposal to increase defense spending would be a good place to start—I think it is a good place to start—as the administration looks for additional cuts in spending for its new budget proposal—cuts that must be provided if the administration is to maintain credibility as we work to achieve a balanced budget.

We Republicans thank him for his proposed balanced budget, but we want him to use real numbers. We want it to be balanced in the year 2005, and we do not want to have a $9 billion deficit that is presently under the nonpartisan Congressional Budget Office's calculations, as they have reviewed and critiqued his proposal.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. WARNER). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

REPORT OF THE AGREEMENT BETWEEN THE UNITED STATES AND THE GOVERNMENT OF LATVIA CONCERNING FISHERIES—MESSAGE FROM THE PRESIDENT—PM 56

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred jointly to the Committee on Commerce, Science, and Transportation and the Committee on Foreign Relations, pursuant to Public Law 94–265:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 *et seq.*), I transmit herewith an Agreement Between the Government of the United States of America and the Government of the Republic of Latvia Extending the Agreement of April 8, 1993, Concerning Fisheries Off the Coasts of the United States. The Agreement, which was effected by an exchange of notes at Riga on March 28, 1995, and April 4, 1995, extends the 1993 Agreement to December 31, 1997.

In light of the importance of our fisheries relationship with the Republic of Latvia, I urge that the Congress give favorable consideration to this Agreement at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 20, 1995.*

MESSAGES FROM THE HOUSE

At 11:50 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1070. An act to designate the reservoir created by Trinity Dam in the Central Valley project, California, as "Trinity Lake".

At 2:16 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1530. An act to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times, by unanimous consent and referred as indicated:

H.R. 1070. An act to designate the reservoir created by Trinity Dam in the Central Valley project, California, as "Trinity Lake"; to the Committee on Energy and Natural Resources; and

H.R. 1530. An act to authorize appropriations for fiscal year 1996 for military activities of the Department of Defense, to prescribe military personnel strengths for fiscal year 1996, and for other purposes; to the Committee on Armed Services.

MEASURES PLACED ON THE CALENDAR

The following resolution was read and placed on the calendar:

S. Res. 97. Resolution expressing the sense of the Senate with respect to peace and stability in the South China Sea.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1032. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, a report relative to a grant transfer to the Government of Mexcio; to the Committee on Armed Services.

EC–1033. A communication from the Chief of Legislative Affairs, transmitting, pursuant to law, a report relative to a grant transfer to the Government of Tunisia; to the Committee on Armed Services.

EC–1034. A communication from the Chief of Legislative Affairs, Department of the Navy, transmitting, pursuant to law, a report relative to a grant transfer to the Government of Eritrea; to the Committee on Armed Services.

EC–1035. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report relative to base closures; to the Committee on Armed Services.

EC–1036. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to repeal a provision of the National Defense Authorization Act for Fiscal Year 1994 that prohibits the United States Government from acquiring or modifying diplomatic or consular facilities in Germany unless done with residual value funds provided by Germany and only after Germany has committed to repay at least 50 percent of the residual value of United States installations returned to Germany; to the Committee on Armed Services.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations, with amendments and an amended preamble:

S. Res. 97. A resolution expressing the sense of the Senate with respect to peace and stability in the South China Sea.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations:

Larry C. Napper, of Texas, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Lativa.

Nominee: Larry C. Napper.

Post: U.S. Ambassador to Latvia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, and donee.

1. Self, none.

2. Spouse, Mary Linton Bowers Napper, none.

3. Children and spouses names, John David Napper, none; Robert Eugene Napper, none.

4. Parents names, Paul Eugene Napper, none; Annie Ruth Napper, none.

Grandparents names, Irving P. and Martha Cooner, both deceased; Charles and Nellie Kindell, both deceased.

6. Brothers and spouses names, Gary E. Napper and spouse Terri, none; Billy Joe Napper, none.

7. Sisters and spouses names, none.

R. Grant Smith, of New Jersey, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tajikistan.

Nominee: R. Grant Smith.

Post: Ambassador to Tajikistan.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, donee.

1. Self, none.
2. Spouse, Renny T. Smith, none.
3. Children and spouses names, R. Justin Smith, none; Christina Adair Smith, none.
4. Parents names, Jane B. Smith, none; R. Burr Smith, deceased.
5. Grandparents names, Mr. and Mrs. Rufus D. Smith, deceased; Mr. and Mrs. C. Bergen, deceased.
6. Brothers and spouses names, Roy and Carolyn Steinhoff-Smith, $20, 1994, Mike Synar; Douglas and Betty Lou Smith, none.
7. Sisters and spouses names, none.

Donald K. Steinberg, of California, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Angola.

Nominee: Donald Kenneth Steinberg.

Post: Luanda, Angola.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, donee.

1. Self, none.
2. Spouse, N/A.
3. Children and spouses names, N/A.
4. Parents names, Warren Linnington Steinberg, 1991—Democratic Senatorial Campaign Committee, $30; Leo McCarthy for Senate (CA), $25; National Committee for an Effective Congress, $25; Democratic National Committee, $20.

1992—National Committee for an Effective Congress, $115; Clinton for President, $100; Feinstein for Senate, $100; Democratic National Committee, $65; Slavkin Campaign Committee, $20; Democratic Senatorial Campaign Committee, $10; Democratic Congressional Campaign Committee, $10; Senator John Kerry, $10; Senator John Glenn, $10; Senator Daniel Patrick Moynihan, $10; Barbara Boxer for Senate, $10.

1993—Democratic Congressional Campaign Committee, $60; National Committee for an Effective Congress, $40; Democratic Senatorial Campaign Committee, $35; Feinstein for Senate, $25; Senator Frank Lautenberg, $15; Senator Edward Kennedy, $15; Senator Harris Wofford, $15; Democratic National Committee, $15; Emily's List, $10; Senator Joseph Lieberman, $10.

1994—Democratic Congressional Campaign Committee, $30; National Committee for an Effective Congress, $50; Democratic Senatorial Campaign Committee, $70; Feinstein for Senate, $25; Senator Frank Lautenberg, $15; Senator Edward Kennedy, $25; Democratic National Committee, $35; Emily's List, $35; Representative Sandy Levin, $15; Democrats 2000, $15. Beatrice Blass Steinberg, none.

5. Grandparents names, not living.
6. Brothers and spouses names, Leigh William Steinberg, 1992—Mel Levine, $2,000; Barbara Boxer, $4,000; Diane Feinstein, $7,000.

1993—Emily's List, $100.

1994—Hollywood Committee for Pol Action, $2,000. James Robert Steinberg, none.

7. Sisters and spouses names, N/A.

Lawrence Palmer Taylor, of Pennsylvania, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Estonia.

Nominee: Lawrence Palmer Taylor.

Post: Estonia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete nad accurate.)

Contributions, amount, date, donee.

1. Self, Lawrence P. Taylor, none.
2. Spouse, Lynda E. Taylor, none.
3. Children and spouses names, Lori Taylor, Tracey Taylor, Scott Taylor, none.
4. Parents names, Sheldon and Juanita Taylor, none.
5. Grandparents names, deceased.
6. Brothers and spouses names, Kenneth and Rosemary Taylor, none.
7. Sisters and spouses names, Margaret Taylor Wise (divorced), none.

Peter Tomsen, of California, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Armenia.

Nominee: Peter Tomsen.

Post: Republic of Armenia.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, Peter Tomsen, none.
2. Spouse, Kim N. Tomsen, none.
3. Children, Kim-Anh Tomsen, none; Mai-Lan Tomsen, none.
4. Parents, Justus Tomsen, deceased; Margaret Y. Tomsen $85 (total) 1989 and 1991, Republican Party; $15 in 1992, Republican Party.
5. Grandparents, deceased.
6. Brothers and spouses, James and Anne Tomsen, none; Timothy and Linda Tomsen, none.
7. Sister, Margot Lynn Tomsen, none.

Michael Tomsen: Michael has estranged himself from the family for 15 years. He is dependent on Federal Government checks. We do not know his address. Because of his dependent state, it is my assumption that he has not contributed—and does not have the capacity to contribute—to political campaigns.

Jenonne R. Walker, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech Republic.

Nominee: Jenonne Roberta Walker.

Post: Ambassador to the Czech Republic.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, Jenonne Walker, none.
2. Parents, Walter and Eloise Walker, none.
3. Grandparents, John and Minnie Walker, none; James and Bennie Atwell, none.
4. Brother Howard Wayne Walker, none.

Mosina H. Jordan, of New York, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Central African Republic.

Nominee: Mosina H. Jordan.

Post: Central African Republic.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.
2. Spouse, none.
3. Children, George Michael Jordan, none; Mosina Michele Jordan, none; Frank Jordan, none.
4. Parents, Alice Mann, none; Frank Monterio, deceased.
5. Grandparents, maternal and paternal, deceased; Ellen and Joseph Jones, unknown.
6. Brothers, George Hitt, $30; Johnny Hitt, none.

Lannon Walker, of Maryland, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cote d'Ivoire.

Nominee: Lannon Walker.

Post: Cote d'Ivoire.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.
2. Spouse, none.
3. Children and spouses, Rachelle and Tom Crowley, none; Anne, none.
4. Parents, deceased on both sides, none.
5. Grandparents, deceased on both sides, none.
6. Brothers, no siblings.
7. Sisters, no siblings.

Timothy Michael Carney, of Washington, a career member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sudan.

Nominee: Timothy Michael Carney.

Post: Ambassador to the Republic of the Sudan.

The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.

Contributions, amount, date, donee:

1. Self, none.
2. Spouse, Victoria A. Butler, none.
3. Children, Anne H.D. Carney, unmarried, none.
4. Parents, Clement E. Carney, deceased; Marjorie S. Carney, stepmother, declines to specify. (Mrs. M. Carney said that she gave less than $1,000 and contributed only to local level, rather than national level candidates); Kenneth Booth, stepfather, and Jane Booth, mother, none.

5. Grandparents, Mr. and Mrs. P. Carney, deceased; Mr. and Mrs. J. Byrne, deceased.

6. Brother and spouse, Brian B. Carney, and Jane V. Carney, none.

7. Sister, Sharon J. Carney, divorced, none.

James Alan Williams, of Virginia, a career member of the Senior Foreign Service, class of Minister-Counselor, for the rank of Ambassador during his tenure of service as the Special Coordinator for Cyprus.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. HELMS. Mr. President, for the Committee on Foreign Relations, I also report favorably two nomination lists in the Foreign Service which were printed in full in the RECORDS of March 23, 1995 and May 15, 1995, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of March 23, and May 15, 1995 at the end of the Senate proceedings.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SIMON (for himself, Ms. MOSELEY-BRAUN, and Mr. COATS):

S. 944. A bill to provide for the establishment of the Ohio River Corridor Study Commission, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 945. A bill to amend the Illinois and Michigan Canal Heritage Corridor Act of 1984 to modify the boundaries of the corridor, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. COHEN (for himself and Mr. LEVIN):

S. 946. A bill to facilitate, encourage, and provide for efficient and effective acquisition and use of modern information technology by executive agencies; to establish the position of Chief Information Officer of the United States in the Office of Management and Budget; to increase the responsibility and public accountability of the heads of the departments and agencies of the Federal Government for achieving substantial improvements in the delivery of services to the public and in other program activities through the use of modern information technology in support of agency missions; and for other purposes; to the Committee on Governmental Affairs.

By Mr. PRESSLER (for himself and Mr. DASCHLE):

S. 947. A bill to amend title VIII of the Elementary and Secondary Education Act of 1965 regarding impact aid payments, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DORGAN (for himself, Mr. HELMS, Mr. INOUYE, Mr. LEAHY, Mr. MURKOWSKI, and Mr. ROBB):

S. 948. A bill to encourage organ donation through the inclusion of an organ donation card with individual income refund payments, and for other purposes; to the Committee on Finance.

By Mr. GRAHAM (for himself, Mr. ROBB, Mr. WARNER, Mr. HEFLIN, Mrs. KASSEBAUM, Mr. INOUYE, and Mr. SHELBY):

S. 949. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. BOXER (for herself, Mr. KENNEDY, Mr. KERRY, Mr. SARBANES, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. AKAKA, Mr. INOUYE, Mrs. MURRAY, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. ROBB, Mr. GRAHAM, and Mr. LAUTENBERG):

S. 950. A bill to amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to cease mineral leasing activity on submerged land of the outer Continental Shelf that is adjacent to a coastal State that has declared a moratorium on mineral exploration, development, or production activity in adjacent State waters, and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 137. A resolution to provide for the deposit of funds for the Senate page residence; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SIMON (for himself, Ms. MOSELEY-BRAUN, and Mr. COATS):

S. 944. A bill to provide for the establishment of the Ohio River Corridor Study Commission, and for other purposes; to the Committee on Energy and Natural Resources.

OHIO RIVER CORRIDOR STUDY COMMISSION ESTABLISHMENT ACT

Mr. SIMON. Mr. President, today I am introducing a bill to provide for the establishment of the Ohio River Corridor Study Commission. The purpose of this legislation is to focus attention on the distinctive and nationally important resources of the Ohio River corridor. My intention is to provide for long-term preservation, betterment, enjoyment, and utilization of the opportunities in the Ohio River corridor.

The Ohio River is a unique riverine system and is recognized as one of the great rivers of the world. In our Nation's early years, the Ohio was the way west; later the transportation opportunities provided by the river brought resources and people together to help build our country into a great industrial power.

The Ohio River starts in Pittsburgh, PA, and flows to the west and to the south toward its confluence in my home State of Illinois at the Mississippi River at Cairo, IL. The Ohio River covers 981 miles and flows through or borders on the States of Pennsylvania, Ohio, West Virginia, Kentucky, Indiana, and Illinois.

Our great American rivers even after years of neglect and abuse, remain among the most scenic areas of the country. After a preliminary investigation, the ad hoc Ohio River Group believes that an indepth study of the waterway would result in a favorable recommendation for a joint local, State, and national endeavor resulting in the designation of the river valley as a national heritage corridor.

Mr. President, as with other national heritage corridors there is a high degree of coordination and cooperation required by the various governmental entities along the river if the project is to be successful. I believe that establishing the Ohio River Corridor Study Commission—whose membership would include the Director, or designee, of the National Park Service—would be the most appropriate mechanism to begin implementation of the conceptual study.

By Mr. SIMON (for himself and Ms. MOSELEY-BRAUN):

S. 945. A bill to amend the Illinois and Michigan Canal Heritage Corridor Act of 1984 to modify the boundaries of the corridor, and for other purposes; to the Committee on Energy and Natural Resources.

ILLINOIS AND MICHIGAN CANAL HERITAGE CORRIDOR ESTABLISHMENT ACT

Mr. SIMON. Mr. President, today I am introducing a bill to provide for the Illinois & Michigan Canal Heritage Corridor. The purpose of this legislation is to preserve and enhance a corridor known for its nationally significant cultural and natural resources. My intention is to provide for long-term preservation, betterment, and utilization of the opportunities in the Illinois & Michigan Canal.

The Illinois & Michigan Canal National Heritage Corridor extends itself over 120 miles from Chicago to LaSalle/Peru. The Illinois & Michigan Canal was the first to be designated as a National Heritage Corridor in 1984. For years Illinoisans have been able to appreciate not only the natural beauty of the canal but also its historical interest. On both banks of the river, forests, prairies, and bird sanctuaries have been preserved. The unique architecture of this area includes buildings constructed between 1836 and 1848, architecture which no longer existed farther east, destroyed by the Chicago Fire of 1871.

The Illinois & Michigan Corridor is an innovative concept. It is the first partnership park of its kind and it is now a model for such parks throughout the Nation.

Mr. President, as with other national heritage corridors there is a high degree of coordination and cooperation required by the various governmental entities along the canal if the project is to be successful. The high historical, recreational, educational value of the canal is evident. It is my duty to seek to help preserving and protecting one of our national treasures. I believe that extending the Illinois & Michigan Canal National Heritage Corridor Commission would be the most appropriate way to reach those goals.

By Mr. COHEN (for himself and Mr. LEVIN):

S. 946. A bill to facilitate, encourage, and provide for efficient and effective acquisition and use of modern information technology by executive agencies; to establish the position of Chief Information Officer of the United States in the Office of Management and Budget; to increase the responsibility and public accountability of the heads of the departments and agencies of the Federal Government for achieving substantial improvements in the delivery of services to the public and in other program activities through the use of modern information technology in support of agency missions; and for other purposes; to the Committee on Governmental Affairs.

FEDERAL INFORMATION TECHNOLOGY REFORM ACT OF 1995

Mr. COHEN. Mr. President, today I rise to introduce the Federal Information Technology Reform Act of 1995. This legislation will provide much needed reform to the way the Government acquires and uses computers and information technology. This legislation is critical to the future of Government as information technology becomes increasingly important in the way we manage Federal programs and responsibilities.

It was not all that long ago—less than two decades—when the business tools in most offices consisted of rotary dial telephones, IBM Selectric typewriters, sheets of carbon paper, and gallons of white-out. Today, however, it is a much different world. Offices now rely on digital telephone systems, voice and electronic mail, personal computers, and copy and fax machines. And while the office tools in Government and the private sector are similar, the Government is finding itself falling further and further behind the technology curve The disparity between the tools of the private sector and the tools of Government is growing daily; especially in the area of information management.

The Government is the largest information manager in the world. The IRS collects more than 200 million tax forms a year. The Department of Defense has warehouses of information containing everything from declassified battle plans from the Spanish American War to financial records for the Aegis Destroyer.

The Department of Veterans Affairs has medical, educational, and insurance records for tens of millions of veterans scattered throughout the country. The Social Security Administration has hundreds of millions of records dealing with disability claims, educational benefits and payment records. In addition, all of these agencies have records dealing with personnel, travel and supply expenses. The list is endless.

The ability of Government to manage this information has a profound effect on the daily lives of all of us. When senior citizens receive their Social Security checks, it is because a Government computer told the Treasury Department to send a check.

When we pay taxes or receive a refund, it is a Government computer that examines our tax forms, checks our math, and determines if we have paid the right amount or if we are due a refund.

When we fly, we rely on Government computers to keep planes from crashing into one another. When we watch weather reports on the evening news, the information comes from Government computers.

Government computers also keep track of patents, Government-insured loans, contractor payments, personnel and payroll records, criminal records, military inventory, and Medicaid and Medicare billings. In short, the Government keeps track of information that ensures our financial well-being and is also critical to our public safety and national security needs.

But these Government information systems are headed for catastrophic failure if we fail to address the challenge of modernization. The Federal Aviation Administration, for example, relies on 1950's vacuum tube technology to monitor the safety of millions of airline passengers on a daily basis. Occasionally this antiquated technology fails, potentially putting airline passengers at risk.

Other Government computers are also failing to do the job such as failing to detect fraud in the Federal Student Loan Program and preventing excess inventories at the Department of Defense. Inadequate technology is also largely to blame for the Justice Department's failure to collect millions in civil penalties, the Internal Revenue Service's failure to collect billions in overdue taxes, and the Department of Health and Human Service's failure to detect fraud in the Medicare Program.

The underlying theme in all of the examples is that the Government does not do a good job managing its information. Poor information management is, in fact, one of the biggest threats to the Government Treasury because it leaves Government programs susceptible to waste, fraud, and abuse.

When the average taxpayer hears horror stories such as the Federal payroll clerk who was paying phantom employees and pocketing the money, or the case of the finance clerk who billed the Navy for ship parts that were never delivered, or the tax preparer who stole millions from the IRS through fictitious filings, they may not think about information management. But they certainly lose confidence in the Government's ability to manage.

My purpose in relating these incidents is not to simply recite a litany of Government horror stories. We have all heard too many of those. Instead, my purpose is to highlight how Government technology affects the lives of ordinary citizens, and to demonstrate that the common denominator in these examples is the Government's failure to effectively manage information.

The problems are clear. It is equally clear that focusing on reforming how the Government approaches and acquires information technology can have a profound impact on the way Government does business in much the same way it has changed corporate America.

Last fall, I issued a report examining the Government's purchase and use of information technology. While I do not want to rehash all of the findings and recommendations, I do think some key observations are worth repeating.

Government is falling further behind the private sector in its ability to successfully apply information technology. First, the Federal Government rarely if ever examines how it does business before it automates. I recently held hearings which examined how the Pentagon could save more than $4 billion over 5 years simply by changing the way it processed travel vouchers. Automating the current voucher processing system will neither achieve the projected savings nor the efficiencies that are accomplished through reengineering.

Second, the Federal Government has wasted billions of dollars by maintaining and updating so-called legacy or antiquated computers from the 1960's and 1970's which are ill-suited for the Government's needs and by today's standards will never be efficient or reliable.

Third, the Government wastes additional billions when we do buy replacement systems because we try to do too much at one time. These so-called megasystems are difficult to manage and are rarely successful. Without exception, megasystems cost much more than envisioned and when completed, which is rare, are generally years behind schedule. The private sector recognizes the megasystem approach as too risky and instead takes an incremental and more manageable approach. We need only look to the IRS and FAA to see examples of old systems that continue to deteriorate but have yet to be replaced because of failed modernization efforts.

Fourth, the process for buying Federal computer systems takes too long, largely because the process is inflexible and bureaucratic. In most cases, technology is obsolete by the time the new system is delivered. In a world where technology doubles every 18 months, Government can no longer afford systems that take 3 and 4 years to procure. In addition, once systems are finally delivered, agencies are then at the mercy of winning vendors for needed upgrades. These upgrades are purchased noncompetitively and any savings derived from the earlier competition are lost.

Finally, protests and the threat of protests add further delay and cost. In some cases, protests are lodged to obtain information that was not disclosed at debriefings, to interrupt revenue flow to competitors, or to gain other competitive advantages.

The current approach to buying computers is outdated and takes little account of the competitive and fast-changing nature of the global computer industry. Markets and prices change daily, yet Government often gets locked into paying today's prices for yesterday's technology.

It is time to move Government information technology into the 21st century. That is why today I am introducing the Information Technology Management Reform Act of 1995. This legislation will significantly alter how the Government approaches and acquires information technology. The legislation would repeal the Brooks Act and establish a framework that will respond more efficiently to the needs of Government now and in the foreseeable future.

Mr. President, this legislation will make it easier for the Government to buy technology. More importantly, it is intended to make sure that before investing a dime in information technology, Government agencies will have carefully planned and justified their expenditures. Federal spending on information technology will be treated like an investment. Similar to managing an investment portfolio, decisions on whether to invest will be made based on potential return, and decisions to terminate or make additional investments will be based on performance. Much like a broker, agency management and vendor performance will be measured and rewarded based on managing risk and achieving results.

One of the most important features of the bill is that it changes the way Government approaches technology. Agencies will be encouraged—indeed required—to take a hard look at how they do business before they can spend a dollar on information technology. The idea is to ensure that we are not automating for the sake of automation. The greatest benefit from an investment in information technology can come from automating efficient processes.

The bill will make it easier to invest in information technology by replacing the current procurement system with one that is less bureaucratic and process driven. The new system is designed to allow Government to buy technology faster and for less money. This will enable us to make significant progress in replacing the inefficient and unreliable legacy systems which currently waste a significant portion of the Federal Government's $27 billion annual information technology budget.

Specifically, the bill eliminates the delegation of procurement authority at the GSA, and establishes a National Chief Information Officer at OMB and Chief Information Officers at the major Federal agencies whose jobs are to emphasize up front planning, monitor risk management, and work with vendors to achieve workable solutions to the Federal Government's information needs.

The legislation will also fundamentally change the Government's focus of information technology from a technical issue to a management issue. We have seen how failing to recognize information technology as a management issue has resulted in billions of dollars lost to inefficiency and abuse. From now on, Government information technology will have the attention of top management because the CIO's will have seats at the top levels of Government.

My legislation will also discourage the so-called megasystem buys. Following the private sector model, agencies will be encouraged to take an incremental approach that is more manageable and less risky.

We can no longer afford Government-unique systems. My bill makes it easy for agencies to buy commercially available products. While I understand that there are some unique needs, standard commercially available systems should be utilized for payroll and travel operations that are similar in both business and Government and for other operations whenever practicable.

The bill eliminates the current system for resolving bid protests involving information technology. Consequently, all protests will be resolved by the agencies, General Accounting Office, or the courts. While some are concerned that without the current system fairness cannot be ensured, I believe that other improvements in the procurement process required by the legislation eliminate the need for this redundancy.

I am excited about the prospect of this legislation to transform the way the Government does business. If Government is going to regain the confidence of taxpayers, it must successfully modernize. And, as you know, we cannot successfully modernize unless we can buy the tools which will enable us to automate. My legislation will lay the foundation to fundamentally change how the Government approaches the application and purchases of information technology.

If passed and implemented properly, this legislation can save taxpayers hundreds of billions of dollars by reducing overhead expenses and enabling our Government to become significantly more efficient. Changing the way Government does business and realizing the full promise and potential of technology, we can reduce the financial burden for this and future generations of Americans.

Mr. President, I urge my colleagues to support this legislation and move swiftly toward its adoption. We simply cannot afford to miss this opportunity to improve the delivery of services to the public; to increase detection of waste and fraud; and significantly reduce the cost of Government.

I ask unanimous consent to have the full text of my statement and Senator LEVIN's statement printed in the RECORD as if read, and that the bill and section-by-section analysis be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 946

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Information Technology Management Reform Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
Sec. 3. Purposes.
Sec. 4. Definitions.

TITLE I—RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

Subtitle A—General Authority

Sec. 101. Authority of heads of executive agencies.
Sec. 102. Superior authority of Director of Office of Management and Budget.
Sec. 103. Repeal of central authority of the Administrator of General Services.

Subtitle B—Director of the Office of Management and Budget

Sec. 121. Responsibility of Director.
Sec. 122. Specific responsibilities.
Sec. 123. Performance-based and results-based management.
Sec. 124. Standards and guidelines for Federal information systems.
Sec. 125. Contracting for performance of information resources management functions.
Sec. 126. Regulations.

Subtitle C—Chief Information Officer of the United States

Sec. 131. Office of the Chief Information Officer of the United States.
Sec. 132. Relationship of Chief Information Officer to Director of the Office of Management and Budget; principal duties.

Sec. 133. Additional duties.
Sec. 134. Acquisitions under high-risk information technology programs.
Sec. 135. Electronic data base on contractor performance.

Subtitle D—Executive Agencies

Sec. 141. Responsibilities.
Sec. 142. Specific authority.
Sec. 143. Agency chief information officer.
Sec. 144. Accountability.
Sec. 145. Agency missions and the appropriateness of information technology initiatives.
Sec. 146. Significant failures of programs to achieve cost, performance, or schedule goals.
Sec. 147. Interagency support.
Sec. 148. Monitoring of modifications in information technology acquisition programs.
Sec. 149. Special provisions for Department of Defense.
Sec. 150. Special provisions for Central Intelligence Agency.

Subtitle E—Federal Information Council

Sec. 151. Establishment of Federal Information Council.
Sec. 152. Membership.
Sec. 153. Chairman; executive director.
Sec. 154. Duties.
Sec. 155. Software Review Council.

Subtitle F—Interagency Functional Groups

Sec. 161. Establishment.
Sec. 162. Specific functions.

Subtitle G—Congressional Oversight

Sec. 171. Establishment and organization of Joint Committee on Information.
Sec. 172. Responsibilities of Joint Committee on Information.
Sec. 173. Rulemaking authority of Congress.

Subtitle H—Other Responsibilities

Sec. 181. Responsibilities under the National Institute of Standards and Technology Act.
Sec. 182. Responsibilities under the Computer Security Act of 1987.

TITLE II—PROCESS FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

Subtitle A—Procedures

Sec. 201. Procurement procedures.
Sec. 202. Agency process.
Sec. 203. Incremental acquisition of information technology.
Sec. 204. Authority to limit number of offerors.
Sec. 205. Exception from truth in negotiation requirements.
Sec. 206. Unrestricted competitive procurement of commercial off-the-shelf items of information technology.
Sec. 207. Task and delivery order contracts.
Sec. 208. Two-phase selection procedures.
Sec. 209. Contractor share of gains and losses from cost, schedule, and performance experience.

Subtitle B—Acquisition Management

Sec. 221. Acquisition management team.
Sec. 222. Oversight of acquisitions.

TITLE III—SPECIAL FISCAL SUPPORT FOR INFORMATION INNOVATION

Subtitle A—Information Technology Fund

Sec. 301. Establishment.
Sec. 302. Accounts.

Subtitle B—Innovation Loan Account

Sec. 321. Availability of fund for loans in support of information innovation.
Sec. 322. Repayment of loans.
Sec. 323. Savings from information innovations.
Sec. 324. Funding.

Subtitle C—Common Use Account

Sec. 331. Support of multiagency acquisitions of information technology.
Sec. 332. Funding.

Subtitle D—Other Fiscal Policies

Sec. 341. Limitation on use of funds.
Sec. 342. Sense of Congress.
Sec. 343. Review by GAO and inspectors general.

TITLE IV—INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAMS

Subtitle A—Conduct of Pilot Programs

Sec. 401. Requirement to conduct pilot programs.
Sec. 402. Tests of innovative procurement methods and procedures.
Sec. 403. Evaluation criteria and plans.
Sec. 404. Report.
Sec. 405. Recommended legislation.
Sec. 406. Rule of construction.

Subtitle B—Specific Pilot Programs

Sec. 421. Share-in-savings pilot program.
Sec. 422. Solutions-based contracting pilot program.
Sec. 423. Pilot program for contracting for performance of acquisition functions.
Sec. 424. Major acquisitions pilot programs.

TITLE V—OTHER INFORMATION RESOURCES MANAGEMENT REFORMS

Sec. 501. Transfer of responsibility for FACNET.
Sec. 502. On-line multiple award schedule ordering.
Sec. 503. Upgrading information equipment in agency field offices.
Sec. 504. Disposal of excess computer equipment.
Sec. 505. Leasing information technology.
Sec. 506. Continuation of eligibility of contractor for award of information technology contract after providing design and engineering services.
Sec. 507. Enhanced performance incentives for information technology acquisition workforce.

TITLE VI—ACTIONS REGARDING CURRENT INFORMATION TECHNOLOGY PROGRAMS

Sec. 601. Performance measurements.
Sec. 602. Independent assessment of programs.
Sec. 603. Current information technology acquisition program defined.

TITLE VII—PROCUREMENT PROTEST AUTHORITY OF THE COMPTROLLER GENERAL

Sec. 701. Remedies.
Sec. 702. Period for processing protests.
Sec. 703. Definition.

TITLE VIII—RELATED TERMINATIONS, CONFORMING AMENDMENTS, AND CLERICAL AMENDMENTS

Subtitle A—Related Terminations

Sec. 801. Office of Information and Regulatory Affairs.
Sec. 802. Senior information resources management officials.

Subtitle B—Conforming Amendments

Sec. 811. Amendments to title 10, United States Code.
Sec. 812. Amendments to title 28, United States Code.
Sec. 813. Amendments to title 31, United States Code.
Sec. 814. Amendments to title 38, United States Code.
Sec. 815. Provisions of title 44, United States Code, and other laws relating to certain joint committees of Congress.
Sec. 816. Provisions of title 44, United States Code, relating to paperwork reduction.
Sec. 817. Amendment to title 49, United States Code.
Sec. 818. Other laws.

Subtitle B—Clerical Amendments

Sec. 821. Amendment to title 10, United States Code.
Sec. 822. Amendment to title 38, United States Code.
Sec. 823. Amendments to title 44, United States Code.

TITLE IX—SAVINGS PROVISIONS

Sec. 901. Savings provisions.

TITLE X—EFFECTIVE DATES

Sec. 1001. Effective dates.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Federal information systems are critical to the lives of every American.

(2) The efficiency and effectiveness of the Federal Government is dependent upon the effective use of information.

(3) The Federal Government annually spends billions of dollars operating obsolete information systems.

(4) The use of obsolete information systems severely limits the quality of the services that the Federal Government provides, the efficiency of Federal Government operations, and the capabilities of the Federal Government to account for how taxpayer dollars are spent.

(5) The failure to modernize Federal Government information systems, despite efforts to do so, has resulted in the waste of billions of dollars that cannot be recovered.

(6) Despite improvements achieved through implementation of the Chief Financial Officers Act of 1990, most Federal agencies cannot track the expenditures of Federal dollars and, thus, expose the taxpayers to billions of dollars in waste, fraud, abuse, and mismanagement.

(7) Weak oversight and a lengthy acquisition process have resulted in the American taxpayers not getting their money's worth from the expenditure of $200,000,000,000 on information systems during the decade preceding the enactment of this Act.

(8) The Federal Government does an inadequate job of planning for information technology acquisitions and how such acquisitions will support the accomplishment of agency missions.

(9) Many Federal Government personnel lack the basic skills necessary to effectively and efficiently use information technology and other information resources in support of agency programs and missions.

(10) Federal regulations governing information technology acquisitions are outdated, focus on process rather than results, and prevent the Federal Government from taking timely advantage of the rapid advances taking place in the competitive and fast changing global information technology industry.

(11) Buying, leasing, or developing information systems should be a top priority for Federal agency management because the high potential for the systems to substantially improve Federal Government operations, including the delivery of services to the public.

(12) Organizational changes are necessary in the Federal Government in order to improve Federal information management and to facilitate Federal Government acquisition of the state-of-the-art information technology that is critical for improving the efficiency and effectiveness of Federal Government operations.

SEC. 3. PURPOSES.

The purposes of this Act are as follows:

(1) To create incentives for the Federal Government to strategically use information technology in order to achieve efficient and effective operations of the Federal Government, to provide cost effective and efficient delivery of Federal Government services to the taxpayers, to provide greater protection of the health and safety of Americans, and to enhance the national security of the United States.

(2) To provide for the cost effective and timely acquisition, management, and use of effective information technology solutions.

(3) To transform the process-oriented procurement system of the Federal Government, as it relates to the acquisition of information technology, into a results-oriented procurement system.

(4) To increase the responsibility of officials of the Office of Management and Budget and other Federal Government agencies, and the accountability of such officials to Congress and the public, for achieving agency missions, including achieving improvements in the efficiency and effectiveness of Federal Government programs through the use of information technology and other information resources in support of agency missions.

(5) To ensure that the heads of Federal Government agencies are responsible and accountable for acquiring, using, and strategically managing information resources in a manner that achieves significant improvements in the performance of agency missions in pursuit of a goal of achieving service delivery levels and project management performance comparable to the best in the private sector.

(6) To promote the development and operation of secure, multiple-agency and Governmentwide, interoperable, shared information resources to support the performance of Federal Government missions.

(7) To reduce fraud, waste, abuse, and errors resulting from a lack of, or poor implementation of, Federal Government information systems.

(8) To increase the capability of Federal Government agencies to restructure and improve processes before applying information technology.

(9) To increase the emphasis placed by Federal agency managers on completing effective planning and mission analysis before applying information technology to the execution of plans and the performance of agency missions.

(10) To coordinate, integrate, and, to the extent practicable and appropriate, establish uniform Federal information resources management policies and practices in order to improve the productivity, efficiency, and effectiveness of Federal Government programs and the delivery of services to the public.

(11) To strengthen the partnership between the Federal Government and State, local, and tribal governments for achieving Federal Government missions, goals, and objectives.

(12) To provide for the development of a well-trained core of professional Federal Government information resources managers.

SEC. 4. DEFINITIONS.

In this Act:

(1) INFORMATION RESOURCES.—The term "information resources" means the resources used in the collection, processing, maintenance, use, sharing, dissemination, or disposition of information, including personnel, equipment, funds, and information technology.

(2) INFORMATION RESOURCES MANAGEMENT.—The term "information resources management" means the process of managing information resources to accomplish agency missions and to improve agency performance.

(3) INFORMATION SYSTEM.—The term "information system" means a discrete set of information resources, whether automated or manual, that are organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information in accordance with defined procedures and includes computer systems.

(4) INFORMATION TECHNOLOGY.—The term "information technology", with respect to an executive agency—

(A) means any equipment or interconnected system or subsystem of equipment, including software, services, satellites, sensors, an information system, or a telecommunication system, that is used in the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information by the executive agency or under a contract with the executive agency which (i) requires the use of such system or subsystem of equipment, or (ii) requires the use, to a significant extent, of such system or subsystem of equipment in the performance of a service or the furnishing of a product; and

(B) does not include any such equipment that is acquired by a Federal contractor incidental to a Federal contract.

(5) INFORMATION ARCHITECTURE.—The term "information architecture", with respect to an executive agency, means a framework or plan for evolving or maintaining existing information technology, acquiring new information technology, and integrating the agency's information technology to achieve the agency's strategic goals and information resources management goals.

(6) EXECUTIVE DEPARTMENT.—The term "executive department" means an executive department specified in section 101 of title 5, United States Code.

(7) EXECUTIVE AGENCY.—The term "executive agency" has the meaning given the term in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(8) HIGH-RISK INFORMATION TECHNOLOGY PROGRAM.—The term "high-risk information technology program" means an acquisition of an information system, or components of an information system, that requires special management attention because—

(A) the program cost is at least $100,000,000;

(B) the system being developed under the program is critical to the success of an executive agency in fulfilling the agency's mission;

(C) there is a significant risk in the development of the system because of—

(i) the size or scope of the development project;

(ii) the period necessary for completing the project;

(iii) technical configurations;

(iv) unusual security requirements;

(v) the special management skills necessary for the management of the project; or

(vi) the highly technical expertise necessary for the project; or

(D) it is or will be necessary to allocate a significant percentage of the information technology budget of an executive agency to paying the costs of developing, operating, or maintaining the system.

(9) COMMERCIAL ITEM.—The term "commercial item" has the meaning given that term in section 4(12) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(12)).

(10) NONDEVELOPMENTAL ITEM.—The term "nondevelopmental item" has the meaning given that term in section 4(13) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(13)).

TITLE I—RESPONSIBILITY FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

Subtitle A—General Authority

SEC. 101. AUTHORITY OF HEADS OF EXECUTIVE AGENCIES.

The heads of the executive agencies may conduct acquisitions of information technology pursuant to their respective authorities under title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251, et seq.), chapters 4 and 137 of title 10, United States Code, and the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.).

SEC. 102. SUPERIOR AUTHORITY OF DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET.

Notwithstanding section 101 and the authorities referred to in such section, the conduct of an acquisition of information technology by the head of an executive agency is subject to (1) the authority, direction, and control of the Director of the Office of Management and Budget and the Chief Information Officer of the United States, and (2) the provisions of this Act.

SEC. 103. REPEAL OF CENTRAL AUTHORITY OF THE ADMINISTRATOR OF GENERAL SERVICES.

Section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) is repealed.

Subtitle B—Director of the Office of Management and Budget

SEC. 121. RESPONSIBILITY OF DIRECTOR.

(a) IN GENERAL.—The Director of the Office of Management and Budget is responsible for the effective and efficient acquisition, use, and disposal of information technology and other information resources by the executive agencies.

(b) GOAL.—It shall be a goal of the Director to maximize the productivity, efficiency, and effectiveness of the information resources of the Federal Government to serve executive agency missions.

(c) ACTIONS TO BE TAKEN THROUGH CHIEF INFORMATION OFFICER.—The Director shall act through the Chief Information Officer of the United States in the exercise of authority under this Act.

SEC. 122. SPECIFIC RESPONSIBILITIES.

(a) RESPONSIBILITIES STATED.—The Director of the Office of Management and Budget has the following responsibilities with respect to the executive agencies:

(1) To provide direction for, and oversee, the acquisition and management of information resources.

(2) To develop, coordinate, and supervise the implementation of policies, principles, standards, and guidelines for information resources, performance of information resources management functions and activities, and investment in information resources.

(3) To determine the information resources that are to be provided in common for executive agencies.

(4) To designate (as the Director considers appropriate) one or more heads of executive agencies as an executive agent to contract for Governmentwide information technology.

(5) To maintain a registry of most effective agency sources of information technology program management and contracting services, and to facilitate interagency use of such sources.

(6) To promulgate standards and guidelines pertaining to Federal information systems in accordance with section 124.

(7) To carry out an information systems security and privacy program for the information systems of the Federal Government, including to administer the provisions of section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-4) relating to the Computer System Security and Privacy Advisory Board.

(8) To provide for Federal information system security training in accordance with section 5(c) of the Computer Security Act of 1987 (40 U.S.C. 759(c)).

(9) To encourage and advocate the adoption of national and international information technology standards that are technically and economically beneficial to the Federal Government and the private sector.

(b) CONSULTATION WITH FEDERAL INFORMATION COUNCIL.—(1) The Director shall consult with the Federal Information Council regarding actions to be taken under paragraphs (3) and (4) of subsection (a).

(2) The Director may consult with the Federal Information Council regarding the performance of any other responsibility of the Director under this Act.

SEC. 123. PERFORMANCE-BASED AND RESULTS-BASED MANAGEMENT.

(a) EVALUATION OF AGENCY PROGRAMS AND INVESTMENTS.—

(1) REQUIREMENT.—The Director of the Office of Management and Budget shall evaluate the information resources management practices of the executive agencies and the performance and results of the information technology investments of executive agencies.

(2) CONSIDERATION OF ADVICE AND RECOMMENDATIONS.—In performing the evaluation, the Director shall consider any advice and recommendations provided by the Federal Information Council or in any interagency or independent review or vendor or user survey conducted pursuant to this section.

(b) CONTINUOUS REVIEW REQUIRED.—The Director shall ensure, by reviewing each executive agency's budget proposals, information resources management plans, and performance measurements, and by other means, that—

(1) the agency—

(A) provides adequately for the integration of the agency's information resources management plans, strategic plans prepared pursuant to section 306 of title 5, United States Code, and performance plans prepared pursuant to section 1115 of title 31, United States Code; and

(B) budgets for the acquisition and use of information technology;

(2) the agency analyzes its missions and, based on the analysis, revises its mission-related processes and administrative processes as appropriate before making significant investments in information technology to be used in support of agency missions;

(3) the agency's information resources management plan is current and adequate and, to the maximum extent practicable, specifically identifies how new information technology to be acquired is expected to improve agency operations and otherwise expected to benefit the agency;

(4) efficient and effective interagency and Governmentwide information technology investments are undertaken to improve the accomplishment of common agency missions; and

(5) agency information security is adequate.

(c) PERIODIC REVIEWS.—

(1) REVIEWS REQUIRED.—The Director shall periodically review selected information resources management activities of the executive agencies in order to ascertain the efficiency and effectiveness of such activities in improving agency performance and the accomplishment of agency missions.

(2) INDEPENDENT REVIEWERS.—(A) The Director may carry out a review of an executive agency under this subsection through—

(i) the Comptroller General of the United States (with the consent of the Comptroller General);

(ii) the Inspector General of the agency (in the case of an agency having an Inspector General); or

(iii) in the case of a review requiring an expertise not available to the Director for the review, a panel of officials of executive agencies or a contractor.

(B) The Director shall notify the head of a Federal agency of any determination made by the Director to provide for a review to be performed by an independent reviewer from outside the agency.

(C) A review of an executive agency by the Comptroller General of the United States may be carried out only pursuant to an interagency agreement entered into by the Director and the Comptroller General. The agreement shall provide for the Director to pay the Comptroller General the amount necessary to reimburse the Comptroller General for the costs of performing the review.

(3) FUNDING.—Funds available to an executive agency for acquisition or use of information technology shall be available for paying the costs of a review of activity of that agency under this subsection.

(4) REPORT AND RESPONSE.—The Director shall transmit to the head of an executive agency reviewed under this subsection a report on the results of the review. Within 30 days after receiving the report, the head of the executive agency shall submit to the Director a written plan (including milestones) on the actions that the head of the executive agency determines necessary in order—

(A) to resolve any information resources management problems identified in the report; and

(B) to improve the performance of agency missions and other agency performance.

(d) VENDOR SURVEYS.—The Director shall conduct surveys of vendors and other sources of information technology acquired by an executive agency in order to determine the level of satisfaction of those sources with the performance of the executive agency in conducting the acquisition or acquisitions involved. The Director shall afford the sources the opportunity to rate the executive agency anonymously.

(e) USER SURVEYS.—

(1) REQUIREMENT.—The Director shall conduct surveys of users of information technology acquired by an executive agency in order to determine the level of satisfaction of the users with the performance of the vendor.

(2) COMPILATION OF SURVEY RESULTS.—The Director shall compile the results of the surveys into an annual report and make the annual report available electronically to the heads of the executive agencies.

(f) ENFORCEMENT OF ACCOUNTABILITY.—

(1) IN GENERAL.—The Director may take any action that the Director considers appropriate, including an action involving the budgetary process or appropriations management process, to enforce accountability for poor performance of information resources management in an executive agency.

(2) SPECIFIC ACTIONS.—Actions taken by the Director in the case of an executive agency may include such actions as the following:

(A) Reduce the amount proposed by the head of the executive agency to be included for information resources in the budget submitted to Congress under section 1105(a) of title 31, United States Code.

(B) Reduce or otherwise adjust apportionments and reapportionments of appropriations for information resources.

(C) Use other authorized administrative controls over appropriations to restrict the availability of funds for information resources.

(D) Disapprove the commencement or continuance of an information technology investment by the executive agency.

(E) Designate for the executive agency an executive agent to contract with private sector sources for—

(i) the performance of information resources management (subject to the approval and continued oversight of the Director); or

(ii) the acquisition of information technology.

(F) Withdraw all or part of the head of the executive agency's authority to contract directly for information technology.

(g) ENFORCEMENT ACTIONS RELATED TO COST, PERFORMANCE, AND SCHEDULE GOALS.—

(1) REQUIRED TERMINATIONS OF ACQUISITIONS.—The Director shall terminate any high-risk information technology program or phase or increment of the program that—

(A) is more than 50 percent over the cost goal established for the program or a phase or increment of the program;

(B) fails to achieve at least 50 percent of the performance goals established for the program or a phase or increment of a program; or

(C) is more than 50 percent behind schedule as determined in accordance with the schedule goal established for the program or a phase or increment of the program.

(2) AUTHORIZED TERMINATIONS OF ACQUISITIONS.—The Director shall consider terminating any information technology acquisition that—

(A) is more than 10 percent over the cost goal established for the program or a phase or increment of the program;

(B) fails to achieve at least 90 percent of the performance goals established for the program or a phase or increment of a program; or

(C) is more than 10 percent behind schedule as determined in accordance with the schedule goal established for the program or a phase or increment of the program.

SEC. 124. STANDARDS AND GUIDELINES FOR FEDERAL INFORMATION SYSTEMS.

(a) PROMULGATION RESPONSIBILITY.—The Director of the Office of Management and Budget shall, on the basis of standards and guidelines developed pursuant to paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (20 U.S.C. 278g-3(a)), promulgate standards and guidelines pertaining to Federal information systems, making such standards compulsory and binding to the extent to which the Director determines necessary to improve the efficiency of operation, interoperability, security, and privacy of Federal information systems. In promulgating standards, the Director should minimize the use of unique standards and adopt market standards to the extent practicable.

(b) MORE STRINGENT STANDARDS AUTHORIZED.—The head of an executive agency may employ standards for the security and privacy of sensitive information in a Federal information system within or under the supervision of that agency that are more stringent than the standards promulgated by the Director, if such standards are approved by the Director, are cost effective, maintain interoperability, and contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Director.

(c) WAIVER AUTHORITY.—The standards determined to be compulsory and binding may be waived by the Director in writing upon a determination that compliance would adversely affect the accomplishment of the mission of an operator of a Federal information system, or cause a major adverse financial impact on the operator which is not offset by Governmentwide savings.

(d) SPECIAL RULE OF APPLICABILITY.—(1) Security standards promulgated by the Director of the Office of Management and Budget do not apply to information systems of the Department of Defense or the Central Intelligence Agency.

(2) The Secretary of Defense shall prescribe security standards applicable to the information systems of the Department of Defense.

(3) The Director of Central Intelligence shall prescribe security standards applicable to the information systems of the Central Intelligence Agency.

SEC. 125. CONTRACTING FOR PERFORMANCE OF INFORMATION RESOURCES MANAGEMENT FUNCTIONS.

The Director of the Office of Management and Budget may contract for the performance of an information resources management function for the executive branch.

SEC. 126. REGULATIONS.

(a) AUTHORITY.—The Director of the Office of Management and Budget may prescribe regulations to carry out the provisions of this Act.

(b) SIMPLICITY OF REGULATIONS.—To the maximum extent practicable, the Director shall minimize the length and complexity of the regulations and establish clear and concise implementing regulations.

(c) INCORPORATION INTO FAR.—The regulations shall be made a part of the Federal Acquisition Regulation.

(d) PROHIBITION AGAINST AGENCY SUPPLEMENTAL REGULATIONS.—The head of an executive agency may not prescribe supplemental regulations for the regulations prescribed by the Director under subsection (a).

Subtitle C—Chief Information Officer of the United States

SEC. 131. OFFICE OF THE CHIEF INFORMATION OFFICER OF THE UNITED STATES.

(a) ESTABLISHMENT.—There is established in the Office of Management and Budget an Office of the Chief Information Officer of the United States.

(b) CHIEF INFORMATION OFFICER OF THE UNITED STATES.—

(1) APPOINTMENT.—The Chief Information Officer of the United States is appointed by the President, by and with the advice and consent of the Senate, from among persons who have demonstrated the knowledge, skills, and abilities in management and in information resources management that are necessary to perform the functions of the Office of the Chief Information Officer of the United States effectively. The qualifications considered shall include education, work experience, and professional activities related to information resources management.

(2) HEAD OF OFFICE.—The Chief Information Officer is the head of the Office of the Chief Information Officer of the United States.

(3) EXECUTIVE LEVEL II.—Section 5313 of title 5, United States Code, is amended by adding at the end the following:

"Chief Information Officer of the United States.".

(c) ADMINISTRATIVE PROVISIONS.—

(1) APPOINTMENT OF EMPLOYEES.—The Chief Information Officer appoints the employees of the office.

(2) EMPLOYEE QUALIFICATIONS.—In selecting a person for appointment as an employee in an information resources management position, the Chief Information Officer shall afford special attention to the person's demonstrated abilities to perform the information resources management functions of the position. The qualifications considered shall include education, work experience, and professional activities related to information resources management.

(3) PAY FOR PERFORMANCE.—(A) The Chief Information Officer shall establish a pay for performance system for the employees of the office and pay the employees in accordance with that system.

(B) Subject to the approval of the Director of the Office of Management and Budget, the Chief Information Officer may submit to Congress any recommendations for legislation that the Chief Information Officer considers necessary to implement fully the pay for performance system.

(4) SUPPORT FROM OTHER AGENCIES.—Upon the request of the Chief Information Officer, the head of an executive agency (other than an independent regulatory agency) shall, to the extent practicable, make services, personnel, or facilities of the agency available to the Office of the Chief Information Officer of the United States for the performance of functions of the Chief Information Officer.

SEC. 132. RELATIONSHIP OF CHIEF INFORMATION OFFICER TO DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET; PRINCIPAL DUTIES.

(a) REPORTING AUTHORITY.—The Chief Information Officer of the United States reports directly to the Director.

(b) PRINCIPAL ADVISER TO DIRECTOR OF OMB ON INFORMATION RESOURCES MANAGEMENT.—The Chief Information Officer is the principal adviser to the Director on information resources management policy, including policy on acquisition of information technology for the Federal Government.

(c) PERFORMANCE OF DUTIES OF DIRECTOR OF OMB.—

(1) IN GENERAL.—The Chief Information Officer shall perform the responsibilities of the Director under this Act.

(2) CONTINUED RESPONSIBILITY OF DIRECTOR.—Paragraph (1) does not relieve the Director of responsibility and accountability for the performance of such responsibilities.

(d) AUTHORITY SUBJECT TO CONTROL OF DIRECTOR OF OMB.—The performance of duties and exercise of authority by the Chief Information Officer is subject to the authority, direction, and control of the Director of the Office of Management and Budget.

SEC. 133. ADDITIONAL DUTIES.

The Chief Information Officer has the following additional duties:

(1) To encourage the executive agencies to develop and use the best practices in information resources management and in acquisitions of information technology by—

(A) identifying and collecting information regarding the best practices, including information on the development and implementation of the best practices by the executive agencies; and

(B) providing the executive agencies with information on the best practices and with advice and assistance regarding use of the best practices.

(2) To assess, on a continuing basis, the experiences of executive agencies, State and local governments, international organizations, and the private sector in managing information resources.

(3) To compare the performances of the executive agencies in using information resources and to disseminate the comparisons to the executive agencies.

(4) To develop and maintain a Governmentwide strategic plan for information resources management and acquisitions of information technology, including guidelines and standards for the development of an information resources management plan to be used by the executive agencies.

(5) To ensure that the information resources management plan and the information systems of executive agencies conform to the guidelines and standards set forth in the Governmentwide strategic plan.

(6) To develop and submit to the Director of the Office of Management and Budget proposed legislation and proposed changes or additions to regulations and agency procedures as the Chief Information Officer considers necessary in order to improve information resources management by the executive agencies.

(7) To review the regulations, policies, and practices of executive agencies regarding information resources management and acquisitions of information technology in order to identify the regulations, policies, and practices that should be eliminated or adjusted so as not to hinder or impede information resources management or acquisitions of information technology.

(8) To monitor the development and implementation of training in information resources management for executive agency management personnel and staff.

(9) To keep Congress fully informed on high-risk information technology programs of the executive agencies, and the extent to which the executive agencies are improving program performance and the accomplishment of agency missions through the use of the best practices in information resources management.

(10) To review Federal procurement policies on acquisitions of information technology and to coordinate with the Administrator for Federal Procurement Policy regarding the development of Federal procurement policies for such acquisitions.

(11) To facilitate the establishment and maintenance of an electronic clearinghouse of information on the availability of nondevelopmental items of information technology for the Federal Government.

(12) To perform the functions of the Director of the Office of Management and Budget under chapter 35 of title 44, United States Code.

SEC. 134. ACQUISITIONS UNDER HIGH-RISK INFORMATION TECHNOLOGY PROGRAMS.

(a) ADVANCE PROGRAM REVIEW.—The Chief Information Officer of the United States shall review each proposed high-risk information technology program.

(b) ADVANCE APPROVAL REQUIRED.—No program referred to in subsection (a) may be carried out by the head of an executive agency without the advance approval of the Chief Information Officer of the United States.

SEC. 135. ELECTRONIC DATA BASE ON CONTRACTOR PERFORMANCE.

(a) ESTABLISHMENT.—The Chief Information Officer of the United States shall establish in the Office of the Chief Information Officer of the United States an electronic data base containing a record of the performance of each contractor under a Federal Government contract for the acquisition of information technology or other information resources.

(b) REPORTING OF INFORMATION TO DATA BASE.—

(1) REQUIREMENT.—The head of each executive agency shall, in accordance with regulations prescribed by the Director of the Office of Management and Budget, report to the Chief Information Officer information on contractor performance that is to be included in the data base.

(2) WHEN SUBMITTED.—The head of an executive agency shall submit to the Director—

(A) an annual report on contractor performance during the year covered by the report; and

(B) upon the completion or termination of performance under a contract, a report on the contractor performance under that contract.

(c) PERIOD FOR INFORMATION TO BE MAINTAINED.—Information on the performance of a contractor under a contract shall be maintained in the data base for five years following completion of the performance under that contract. Information not required to be maintained under the preceding sentence shall be removed from the data base or rendered inaccessible.

Subtitle D—Executive Agencies

SEC. 141. RESPONSIBILITIES.

(a) IN GENERAL.—The head of an executive agency is responsible for—

(1) carrying out the information resources management activities of the agency in a manner that fulfills the agency's missions and improves agency productivity, efficiency, and effectiveness; and

(2) complying with the requirements of this Act and the policies, regulations, and directives issued by the Director of the Office of Management and Budget or the Chief Information Officer of the United States under the provisions of this Act.

(b) INFORMATION RESOURCES MANAGEMENT PLAN.—

(1) PLAN REQUIRED.—The head of an executive agency shall develop, maintain, and oversee the implementation of an agencywide information resources management plan that is consistent with the strategic plan prepared by the head of the agency pursuant to section 306 of title 5, United States Code, and the agency head's mission analysis, and ensure that the agency information systems conform to those plans.

(2) CONTENT OF PLAN.—The information resources management plan shall provide for applying information technology and other information resources in support of the performance of the missions of the agency and shall include the following:

(A) A statement of goals for improving the contribution of information resources to program productivity, efficiency, and effectiveness.

(B) Methods for measuring progress toward achieving the goals.

(C) Assignment of clear roles, responsibilities, and accountability for achieving the goals.

(D) Identification of—

(i) the existing and planned information technology components (such as information systems and telecommunication networks) of the agency and the relationship among the information technology components; and

(ii) the information architecture for the agency.

(c) AGENCY RECORDS.—The head of an executive agency shall periodically evaluate and, as necessary, improve the accuracy, completeness, and reliability of data and records in the information systems of the agency.

(d) BUDGETING.—The head of an executive agency shall use the strategic plan, performance plans, and information resources management plan of the agency in preparing and justifying the agency's budget proposals to the Director of the Office of Management and Budget and to Congress.

SEC. 142. SPECIFIC AUTHORITY.

The authority of the head of an executive agency under section 101 and the authorities referred to in such section includes the following authorities:

(1) To acquire information technology—

(A) in the case of an acquisition of less than $100,000,000, without the advance approval of the Chief Information Officer of the United States; and

(B) in the case of an acquisition of a high-risk information technology program, with the advance approval of the Director of the Office of Management and Budget.

(2) To enter into a contract that provides for multi-agency acquisitions of information technology subject to the approval and guidance of the Federal Information Council.

(3) If the Federal Information Council and the heads of the executive agencies concerned find that it would be advantageous for the Federal Government to do so, to enter into a multi-agency contract for procurement of commercial items that requires each agency covered by the contract, when procuring such items, either to procure the items under that contract or to justify an alternative procurement of the items.

(4) To establish one or more independent technical review committees, composed of diverse agency personnel (including users) and outside experts selected by the head of the executive agency, to advise the head of the executive agency about information systems programs.

SEC. 143. AGENCY CHIEF INFORMATION OFFICER.

(a) DESIGNATION OF CHIEF INFORMATION OFFICERS.—

(1) AGENCIES REQUIRED TO HAVE CHIEF INFORMATION OFFICERS.—There shall be a chief information officer within each executive agency named in section 901(b) of title 31, United States Code. The head of the executive agency shall designate the chief information officer for the executive agency.

(2) AGENCIES AUTHORIZED TO HAVE CHIEF INFORMATION OFFICERS.—The head of any executive agency not required by paragraph (1) to have a chief information officer may designate a chief information officer for the executive agency.

(b) RELATIONSHIP TO AGENCY HEAD.—

(1) PRINCIPAL ADVISER.—The chief information officer of an executive agency is the principal adviser to the head of the executive agency regarding acquisition of information technology and management of information resources for the agency.

(2) REPORTING AUTHORITY.—The chief information officer of an executive agency reports directly to the head of the executive agency.

(3) CONTROL BY AGENCY HEAD.—The performance of duties and exercise of authority by the chief information officer of an executive agency is subject to the authority, direction, and control of the head of the executive agency.

(c) DUTIES.—

(1) IN GENERAL.—The chief information officer of an executive agency shall provide advice and other assistance to the head of the executive agency and other senior management personnel of the executive agency to ensure that information technology is acquired and information resources are managed for the agency in a manner that—

(A) maximizes—

(i) the benefits derived by the agency and the public served by the agency from use of information technology; and

(ii) the public accountability of the agency for delivery of services and accomplishment of the agency's mission; and

(B) is consistent with the policies, requirements, and procedures that are applicable in accordance with this Act to the acquisition and management of information technology.

(2) ESTABLISHMENT OF GOALS.—The chief information officer of an executive agency shall—

(A) establish goals for improving the efficiency and effectiveness of agency operations and the delivery of services to the public through the effective use of information resources; and

(B) submit to the head of the executive agency an annual report, to be included in the budget submission for the executive agency, on the progress in achieving the goals.

(3) INFORMATION RESOURCES MANAGEMENT.—(A) The chief information officer of an executive agency shall administer the information resources management functions, including the acquisition functions, of the head of the executive agency.

(B) Subparagraph (A) does not relieve the head of an executive agency of responsibility and accountability for the administration of such functions.

(4) AGENCY POLICIES.—The chief information officer shall prescribe policies and procedures that—

(A) minimize the layers of review for acquisitions of information technology within the executive agency;

(B) foster timely communications between vendors of information technology and the agency; and

(C) set forth and require the use of information resources management practices and information technology acquisition practices that the chief information officer considers as being among the best of such practices.

(5) AGENCY PLANNING.—The chief information officer shall—

(A) develop and maintain an information resources management plan for management of information resources and acquisition of information technology for the executive agency; and

(B) ensure that there is adequate advance planning for acquisitions of information technology, including assessing and revising the mission-related processes and administrative processes of the agency as determined appropriate before making information system investments.

(6) PERFORMANCE MEASUREMENTS.—(A) The chief information officer shall ensure that—

(i) performance measurements are prescribed for information technology used by or to be acquired for the executive agency; and

(ii) the performance measurements measure how well the information technology supports agency programs.

(B) In carrying out the duty set forth in subparagraph (A), the chief information officer shall consult with the head of the executive agency, agency managers, users, and program managers regarding the performance measurements that are to be prescribed for information technology.

(7) MONITORING OF PROGRAM PERFORMANCE.—The chief information officer shall monitor the performance of information technology programs of the executive agency, evaluate the performance on the basis of the applicable performance measurements, and advise the head of the executive agency regarding whether to continue or terminate programs.

(8) PROGRAM PERFORMANCE REPORTS.—(A) Not later than February 1, 1997, and not later than February 1 of each year thereafter, the chief information officer of an executive agency shall prepare and submit to the head of the executive agency an annual program performance report for the information technology programs of the executive agency. The report shall satisfy the requirements of section 1116(d) of title 31, United States Code.

(B) The head of the executive agency shall transmit a copy of the annual report to the Chief Information Officer of the United States.

(9) ADDITIONAL ASSIGNED DUTIES.—A chief information officer designated under subsection (a)(1) may not be assigned any duty that is not related to information resources management.

(d) OFFICE OF CHIEF INFORMATION OFFICER.—

(1) ESTABLISHMENT.—The head of an executive agency designating a chief information officer shall establish within the agency an Office of the Chief Information Officer.

(2) HEAD OF OFFICE.—The chief information officer of the executive agency shall be the head of the office.

(3) STAFF.—(A) The head of the executive agency appoints the employees of the office. The chief information officer of the executive agency may make recommendations for appointments to positions in the office.

(B) In selecting a person for appointment to an information resources management position in the office, the head of the executive agency shall afford special attention to the demonstrated abilities of the person to perform the information resources management functions of the position. To the maximum extent practicable, the head of the executive agency shall appoint to the position a person who has direct and substantial experience in successfully achieving major improvements in organizational performance through the use of information technology.

(e) EXECUTIVE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Chief information officers designated under section 143 of the Information Technology Management Reform Act of 1995.".

SEC. 144. ACCOUNTABILITY.

(a) INFORMATION TECHNOLOGY INVESTMENTS.—The head of an executive agency shall be accountable to the Director of the Office of Management and Budget, through the budget process and otherwise as the Director may prescribe, for attaining or failing to attain success in the achievement of the program objectives established for the information technology investments of the agency.

(b) SYSTEM OF CONTROLS.—The head of an executive agency, in consultation with the chief financial officer of the agency (or, in the case of an agency without a chief financial officer, any comparable official) shall establish policies and procedures that—

(1) provide for sound management of expenditures for information technology investments of the agency;

(2) ensure that the accounting, financial, and asset management systems and other information systems of the agency are designed, developed, maintained, and used effectively to provide financial or program performance data for financial statements of the agency;

(3) ensure that financial and related program performance data are provided on a reliable, consistent, and timely basis to agency financial management systems;

(4) ensure that there is a full and accurate accounting for information technology expenditures, including expenditures for related expenses, and for the results derived by the agency from the expenditures; and

(5) ensure that financial statements support—

(A) assessment and revision of mission-related processes and administrative processes of the agency; and

(B) performance measurement in the case of information system investments made by the agency.

(c) PROTECTION OF SENSITIVE INFORMATION.—Section 6 of the Computer Security Act of 1987 (Public Law 100–235; 101 Stat. 1729) is amended—

(1) in subsection (a), by striking out "Within 6 months after the date of enactment of this Act, each" and inserting in lieu thereof "Each"; and

(2) in the first sentence of subsection (b)—

(A) by striking out "Within one year after the date of enactment of this Act, each" and inserting in lieu thereof "Each"; and

(B) by striking out "section 111(d) of the Federal Property and Administrative Services Act of 1949" and inserting in lieu thereof "section 124 of the Information Technology Management Reform Act of 1995".

SEC. 145. AGENCY MISSIONS AND THE APPROPRIATENESS OF INFORMATION TECHNOLOGY INITIATIVES.

(a) PROVIDING FOR APPROPRIATE INITIATIVES.—Before making investments in information technology or other information resources for the performance of agency missions, the head of each executive agency shall—

(1) identify opportunities to revise mission-related processes and administrative processes, assess the desirability of making the revisions, and, if determined desirable, take appropriate action to make and complete the revisions; and

(2) determine the most efficient and effective manner for carrying out the agency missions.

(b) MISSION ANALYSIS.—

(1) CONTINUOUS STUDIES.—In order to be prepared to carry out subsection (a) in an efficient, effective, and timely manner, the head of an executive agency shall provide for studies to be conducted on a continuing basis within the agency for the purpose of analyzing the missions of the agency.

(2) ANALYSIS.—The purpose of an analysis of a mission under subsection (a) is to determine—

(A) whether the mission should be performed in the private sector rather than by an agency of the Federal Government and, if so, whether the component of the agency performing that function should be converted from a governmental organization to a private sector organization; or

(B) whether the mission should be performed by the executive agency and, if so, whether the mission should be performed by—

(i) a private sector source under a contract entered into by head of the executive agency; or

(ii) executive agency personnel.

(c) PROCESS IMPROVEMENT STUDIES.—The head of the executive agency shall require that studies be conducted of ways to improve processes used in the performance of missions determined, in accordance with subsection (b) or otherwise, as being appropriate for the agency to perform.

SEC. 146. SIGNIFICANT FAILURES OF PROGRAMS TO ACHIEVE COST, PERFORMANCE, OR SCHEDULE GOALS.

(a) IN GENERAL.—The head of an executive agency shall monitor the performance of information technology acquisition programs of the executive agency with regard to meeting the cost, performance, and schedule goals approved or defined for the programs pursuant to section 313(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 263(b)) or section 2220(a) of title 10, United States Code.

(b) REQUIRED TERMINATIONS OF ACQUISITIONS.—The head of an executive agency shall terminate any information technology acquisition program of the executive agency, or any phase or increment of such a program, that—

(1) is more than 50 percent over the cost goal established for the program or any phase or increment of the program;

(2) fails to achieve at least 50 percent of the performance goals established for the program or any phase or increment of the program; or

(3) is more than 50 percent behind schedule as determined in accordance with the schedule goal established for the program or any phase or increment of the program.

(c) ACQUISITIONS REQUIRED TO BE CONSIDERED FOR TERMINATION.—The head of an executive agency shall consider for termination any information technology acquisition program of the executive agency, or any phase or increment of such a program, that—

(1) is more than 10 percent over the cost goal established for the program or any phase or increment of the program;

(2) fails to achieve at least 90 percent of the performance goals established for the program or any phase or increment of the program; or

(3) is more than 10 percent behind schedule as determined in accordance with the schedule goal established for the program or any phase or increment of the program.

SEC. 147. INTERAGENCY SUPPORT.

The head of an executive agency shall make personnel of the agency and other forms of support available for Government-wide independent review committees and interagency groups established under this Act.

SEC. 148. MONITORING OF MODIFICATIONS IN INFORMATION TECHNOLOGY ACQUISITION PROGRAMS.

(a) REQUIREMENT TO MONITOR AND REPORT.—The program manager for an information technology acquisition program of an executive agency shall monitor the modifications made in the program or any phase or increment of the program, including modifications of cost, schedule, or performance goals, and shall periodically report on such modifications to the chief information officer of the agency.

(b) DETERMINATIONS OF HIGH RISK.—The number and type of the modifications in a program shall be a critical consideration in determinations of whether the program is a high-risk information technology program (without regard to the cost of the program).

(c) ASSESSMENTS OF AGENCY PERFORMANCE.—The Chief Information Officer of the United States shall consider the number and type of the modifications in an information technology acquisition program of an executive agency for purposes of assessing agency performance.

(d) CONTRACT TERMINATIONS.—The chief information officer of an executive agency shall—

(1) closely review the modifications in an information technology acquisition program of the agency;

(2) consider whether the frequency and extent of the modifications justify termination of a contract under the program; and

(3) if a termination is determined justified, submit to the head of the executive agency a recommendation to terminate the contract.

SEC. 149. SPECIAL PROVISIONS FOR DEPARTMENT OF DEFENSE.

(a) OVERSIGHT OF IMPLEMENTATION WITHIN THE DEPARTMENT OF DEFENSE.—

(1) DELEGATION OF AUTHORITY FOR INDIVIDUAL PROGRAMS AND SYSTEMS.—(A) Subject to subparagraph (B), the Director of the Office of Management and Budget shall delegate to the Secretary of Defense the authority to perform the responsibilities of the Director for supervision of the implementation of the requirements of this Act and the policies, regulations, and procedures prescribed by the Director under this Act in the case of individual information technology programs, including acquisition programs, and information systems of the Department of Defense.

(B) The Director may revoke, in whole or in part, the delegation of authority under subparagraph (A) at any time that the Director determines that it is in the interests of the United States to do so. In considering whether to revoke the authority, the Director shall take into consideration the reports received under subsection (d).

(2) RESPONSIBILITY OF DIRECTOR OF OMB.—The Director of the Office of Management and Budget shall continue to exercise overall responsibility for compliance by the Department of Defense with the provisions of this Act and the policies, regulations, and procedures prescribed by the Director under this Act.

(b) IMPLEMENTATION.—

(1) REQUIREMENT.—The Secretary of Defense shall implement the provisions of this Act within the Department of Defense.

(2) COVERED PROGRAMS.—The Secretary of Defense shall ensure that the provisions of this Act and the policies and regulations prescribed by the Director of the Office of Management and Budget are applied to all information technology programs of the Department of Defense, including—

(A) all such programs that are acquisition programs, including major defense acquisition programs;

(B) programs that involve intelligence activities, cryptologic activities related to national security, command and control of military forces, and information technology integral to a weapon or weapons system; and

(C) programs that are critical to the direct fulfillment of military or intelligence missions.

(c) CHIEF INFORMATION OFFICER.—

(1) DESIGNATION.—The Secretary of Defense shall—

(A) designate the Under Secretary of Defense for Acquisition and Technology as the chief information officer of the Department of Defense; and

(B) delegate to the Under Secretary the duty to perform the responsibilities of the Secretary under this Act.

(2) OTHER DUTIES.—Section 143(c)(9) does not apply to the chief information officer of the Department of Defense.

(d) ANNUAL REPORT.—The Secretary of Defense shall submit to the Director of the Office of Management and Budget an annual report on the implementation of this Act within the Department of Defense.

(e) PILOT PROGRAMS.—

(1) RECOMMENDATIONS BY SECRETARY OF DEFENSE.—The Secretary of Defense may submit to the Chief Information Officer of the United States a recommendation that a specific information technology pilot program be carried out under section 401.

(2) OVERSIGHT OF RECOMMENDED PROGRAM.—If the Chief Information Officer determines to carry out a pilot program in the Department of Defense under section 401, the Director of the Office of Management and Budget shall supervise the pilot program without regard to any delegation of authority under subsection (a).

SEC. 150. SPECIAL PROVISIONS FOR CENTRAL INTELLIGENCE AGENCY.

(a) OVERSIGHT OF IMPLEMENTATION WITHIN THE CIA.—

(1) DELEGATION OF AUTHORITY FOR INDIVIDUAL PROGRAMS AND SYSTEMS.—(A) Subject to subparagraph (B), the Director of the Office of Management and Budget shall delegate to the Director of Central Intelligence the authority to perform the responsibilities of the Director of the Office of Management and Budget for supervision of the implementation of the requirements of this Act and the policies, regulations, and procedures prescribed by the Director of the Office of Management and Budget under this Act in the case of individual information technology programs (including acquisition programs) and information systems of the Central Intelligence Agency.

(B) The Director of the Office of Management and Budget may revoke, in whole or in part, the delegation of authority under subparagraph (A) at any time that the Director determines that it is in the interests of the United States to do so. In considering whether to revoke the authority, the Director shall take into consideration the reports received under subsection (d).

(2) RESPONSIBILITY OF DIRECTOR OF OMB.—The Director of the Office of Management and Budget shall continue to exercise overall responsibility for compliance by the Central Intelligence Agency with the provisions of this Act and the policies, regulations, and procedures prescribed by the Director under this Act.

(b) IMPLEMENTATION.—

(1) REQUIREMENT.—The Director of Central Intelligence shall implement the provisions of this Act within the Central Intelligence Agency.

(2) COVERED PROGRAMS.—The Director of Central Intelligence shall ensure that the provisions of this Act and the policies and regulations prescribed by the Director of the Office of Management and Budget are applied to all information technology programs of the Central Intelligence Agency, including information technology acquisition programs.

(c) CHIEF INFORMATION OFFICER.—

(1) DESIGNATION.—The Director of Central Intelligence shall—

(A) designate the Deputy Director of Central Intelligence as the chief information officer of the Central Intelligence Agency; and

(B) delegate to the Deputy Director the duty to perform the responsibilities of the Director of Central Intelligence under this Act.

(2) OTHER DUTIES.—Section 143(c)(9) does not apply to the chief information officer of the Central Intelligence Agency.

(d) ANNUAL REPORT.—The Director of Central Intelligence shall submit to the Director of the Office of Management and Budget an annual report on the implementation of this Act within the Central Intelligence Agency.

(e) PILOT PROGRAMS.—

(1) RECOMMENDATIONS BY DIRECTOR OF CENTRAL INTELLIGENCE.—The Director of Central Intelligence may submit to the Chief Information Officer of the United States a recommendation that a specific information technology pilot program be carried out under section 401.

(2) OVERSIGHT OF RECOMMENDED PROGRAM.—If the Chief Information Officer determines to carry out a pilot program in the Central Intelligence Agency under section 401, the Director of the Office of Management and Budget shall supervise the pilot program without regard to any delegation of authority under subsection (a).

Subtitle E—Federal Information Council

SEC. 151. ESTABLISHMENT OF FEDERAL INFORMATION COUNCIL.

There is established in the executive branch a "Federal Information Council".

SEC. 152. MEMBERSHIP.

The members of the Federal Information Council are as follows:

(1) The chief information officer of each executive department.

(2) The chief information officer or senior information resources management official of each executive agency who is designated as a member of the Council by the Director of the Office of Management and Budget.

(3) Other officers or employees of the Federal Government designated by the Director.

SEC. 153. CHAIRMAN; EXECUTIVE DIRECTOR.

(a) CHAIRMAN.—The Director of the Office of Management and Budget is the Chairman of the Federal Information Council.

(b) EXECUTIVE DIRECTOR.—The Chief Information Officer of the United States is the Executive Director of the Council. The Executive Director provides administrative and other support for the Council.

SEC. 154. DUTIES.

The duties of the Federal Information Council are as follows:

(1) To obtain advice on information resources, information resources management, and information technology from State, local, and tribal governments and from the private sector.

(2) To make recommendations to the Director of the Office of Management and Budget regarding Federal policies and practices on information resources management.

(3) To establish strategic direction and priorities for a Governmentwide information infrastructure.

(4) To assist the Chief Information Officer of the United States in developing and maintaining the Governmentwide strategic information resources management plan.

(5) To coordinate Governmentwide and multi-agency programs and projects for achieving improvements in the performance of Federal Government missions, including taking such actions as—

(A) identifying program goals and requirements that are common to several agencies;

(B) establishing interagency functional groups under section 161;

(C) establishing an interagency group of senior managers of information resources to review high-risk information technology programs;

(D) identifying opportunities for undertaking information technology programs on a shared basis or providing information technology services on a shared basis;

(E) providing for the establishment of temporary special advisory groups, composed of senior officials from industry and the Federal Government, to review Governmentwide information technology programs, high-risk information technology acquisitions, and issues of information technology policy;

(F) coordinating budget estimates and information technology acquisitions in order to develop a coordinated approach for meeting common information technology goals and requirements; and

(G) reviewing agency programs and processes, to identify opportunities for consolidation of activities or cooperation.

(6) To coordinate the provision, planning, and acquisition of common infrastructure services, such as telecommunications, Governmentwide E-mail, electronic benefits transfer, electronic commerce, and Governmentwide data sharing, by—

(A) making recommendations to the Director of the Office of Management and Budget regarding services that can be provided in common;

(B) making recommendations to the Director regarding designation of an executive agent to contract for common infrastructure services on behalf of the Federal Government;

(C) approving overhead charges by executive agents;

(D) approving a surcharge which may be imposed on selected common infrastructure services and is to be credited to the Common Use Account established by section 331; and

(E) monitoring and providing guidance for the administration of the Common Use Account established by section 331 and the Innovation Loan Account established by section 321 for purposes of encouraging innovation by making financing available for high-opportunity information technology programs, including common infrastructure systems and services.

(7) To assess ways to revise and reorganize Federal Government mission-related and administrative processes before acquiring information technology in support of agency missions.

(8) To monitor and provide guidance for the development of performance measures for agency information resources management activities for Governmentwide applicability.

(9) To submit to the Chief Information Officer of the United States recommendations for conducting pilot projects for the purpose of identifying better ways for Federal Government agencies to plan for, acquire, and manage information resources.

(10) To identify opportunities for sharing information at the Federal, State, and local levels of government and to improve information sharing and communications.

(11) To ensure that United States interests in international information-related activities are served, including coordinating United States participation in the activities of international information organizations.

SEC. 155. SOFTWARE REVIEW COUNCIL.

(a) ESTABLISHMENT.—The Federal Information Council shall establish a Federal Software Review Council.

(b) MEMBERSHIP.—

(1) COMPOSITION.—The Federal Information Council, in consultation with the Chief Information Officer of the United States, shall determine the membership of the Federal Software Council. The number of members of the Council may not exceed 10 members.

(2) CERTAIN REPRESENTATION REQUIRED.—The Federal Information Council shall provide for the Government, private industry, and college and universities to be represented on the membership of the Software Review Council.

(c) CHAIRMAN.—The Chief Information Officer of the United States shall serve as Chairman of the Federal Software Review Council.

(d) DUTIES.—

(1) CLEARINGHOUSE FUNCTION.—(A) The Federal Software Review Council shall act as a clearinghouse of information on the software that—

(i) is commercially available to the Federal Government; and

(ii) has been uniquely developed for use by one or more executive agencies.

(B) The Federal Software Review Council shall provide advice to heads of executive agencies regarding recommended software engineering techniques and commercial software solutions appropriate to the agency's needs.

(2) SOFTWARE FOR USE IN DEVELOPMENT OF AGENCY SYSTEMS.—The Federal Software Review Council shall submit to the Federal Information Council proposed guidelines and standards regarding the use of commercial software, nondevelopmental items of software, and uniquely developed software in the development of executive agency information systems.

(3) INTEGRATION OF MULTIPLE SOFTWARE.—The Federal Software Review Council shall submit to the Federal Information Council proposed guidance regarding integration of multiple software components into executive agency information systems.

(4) REVIEW OF PROPOSALS FOR UNIQUELY DEVELOPED ITEMS OF SOFTWARE.—(A) In each case in which an executive agency undertakes to acquire a uniquely developed item of software for an information system used or to be used by the agency, the Federal Software Review Council shall—

(i) determine whether it would be more beneficial to the executive agency to use commercial items or nondevelopmental items to meet the needs of the executive agency; and

(ii) submit the Federal Software Review Council's determination to the head of the executive agency.

(B) Subparagraph (A) applies to an information technology acquisition program in excess of $1,000,000.

Subtitle F—Interagency Functional Groups

SEC. 161. ESTABLISHMENT.

(a) IN GENERAL.—The heads of executive agencies may jointly establish one or more interagency groups, known as "functional groups"—

(1) to examine issues that would benefit from a Governmentwide or multi-agency perspective;

(2) to submit to the Federal Information Council proposed solutions for problems in specific common operational areas; and

(3) to promote cooperation among agencies on information technology matters.

(b) REQUIREMENT FOR COMMON INTERESTS.—The representatives of the executive agencies participating in a functional group shall have the following common interests:

(1) Involvement in the same or similar functional areas of agency operations.

(2) Mission-related processes or administrative processes that would benefit from common or similar applications of information technology.

(3) The same or similar requirements for—

(A) information technology; or

(B) meeting needs of the common recipients of services of the agencies.

SEC. 162. SPECIFIC FUNCTIONS.

The functions of an interagency functional group are as follows:

(1) To identify common goals and requirements for common agency programs.

(2) To develop a coordinated approach to meeting agency requirements, including coordinated budget estimates and procurement programs.

(3) To identify opportunities to share information for improving the quality of the performance of agency functions, for reducing the cost of agency programs, and for reducing burdens of agency activities on the public.

(4) To coordinate activities and the sharing of information with other functional groups.

(5) To make recommendations to the heads of executive agencies and to the Director of the Office of Management and Budget regarding the selection of protocols and other standards for information technology, including security standards.

(6) To support interoperability among information systems.

(7) To perform other functions, related to the purposes set forth in section 161(a), that are assigned by the Federal Information Council.

Subtitle G—Congressional Oversight

SEC. 171. ESTABLISHMENT AND ORGANIZATION OF JOINT COMMITTEE ON INFORMATION.

(a) ESTABLISHMENT.—There is established in Congress a Joint Committee on Information composed of eight members as follows:

(1) Four members of the Committee on Governmental Affairs of the Senate appointed by the Chairman of that committee.

(2) Four members of the Committee on Government Reform and Oversight of the House of Representatives appointed by the Chairman of that committee.

(b) TERM OF APPOINTMENT.—The term of service of a member on the joint committee shall expire immediately before the convening of the Congress following the Congress during which the member is appointed. A member may be reappointed to serve on the joint committee.

(c) VACANCIES.—A vacancy in the membership of the joint committee does not affect the power of the remaining members to carry out the responsibilities of the joint committee. The vacancy shall be filled in the same manner as the original appointment.

(d) CHAIRMAN AND VICE CHAIRMAN.—

(1) ELECTION BY COMMITTEE.—The chairman and vice chairman of the joint committee shall be elected by the members of the joint committee from among the members of the joint committee.

(2) BICAMERAL COMMITTEE LEADERSHIP.—The chairman and vice chairman may not be members of the same house of Congress.

(3) ROTATION OF LEADERSHIP POSITIONS BETWEEN HOUSES.—The eligibility for election as chairman and for election as vice chairmanship shall alternate annually between the members of one house of Congress and the members of the other house of Congress.

SEC. 172. RESPONSIBILITIES OF JOINT COMMITTEE ON INFORMATION.

(a) IN GENERAL.—The Joint Committee on Information has the following responsibilities:

(1) To review information-related operations of the Federal Government, including the acquisition and management of information technology and other information resources.

(2) To perform studies of major information resources management issues regarding such matters as the following:

(A) Compatibility and interoperability of systems.

(B) Electronic commerce.

(C) Performance measurement.

(D) Process improvement.

(E) Paperwork and regulatory burdens imposed on the public.

(F) Statistics.

(G) Management and disposition of records.

(H) Privacy and confidentiality.

(I) Security and protection of information resources.

(J) Accessibility and dissemination of Government information.

(K) Information technology, including printing and other media.

(L) Information technology procurement policy, training, and personnel.

(3) To submit to the Committees on Governmental Affairs and on Appropriations of the Senate and the Committees on Government Reform and Oversight and on Appropriations of the House of Representatives recommendations for legislation developed on the basis of the reviews and studies.

(4) To carry out the responsibilities of the joint committee under chapter 1 of title 44, United States Code.

(5) To carry out responsibilities regarding the Library of Congress as provided by the Senate and the House of Representatives.

(b) STUDY REQUIRED.—Upon the organization of the Joint Committee on Information, the joint committee shall consider and develop policies and procedures providing for cooperation among the committees of Congress having jurisdiction over authorizations of appropriations, appropriations, and oversight of departments and agencies of the Federal Government in order to provide incentives for such departments and agencies to maximize effectiveness in the administration of this Act and the amendments made by this Act.

(c) TRANSFERS.—

(1) FUNCTIONS.—The functions of the Joint Committee on Printing and the functions of the Joint Committee of Congress on the Library are transferred to the Joint Committee on Information.

(2) RECORDS.—The records of the Joint Committee on Printing and the records of the Joint Committee of Congress on the Library are transferred to the Joint Committee on Information.

(d) TERMINATION OF SUPERSEDED JOINT COMMITTEES.—The Joint Committee on Printing and the Joint Committee of Congress on the Library are terminated.

SEC. 173. RULEMAKING AUTHORITY OF CONGRESS.

This subtitle is enacted—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as the rules relate to that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

Subtitle H—Other Responsibilities

SEC. 181. RESPONSIBILITIES UNDER THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY ACT.

(a) STANDARDS PROGRAM.—

(1) MISSION AND DUTIES.—Subsection (a) of section 20 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-3) is amended—

(A) by striking out "The Institute—" in the matter preceding paragraph (1) and inserting in lieu thereof "To the extent authorized by the Director of the Office of Management and Budget, the Director of the Institute shall—";

(B) in paragraph (3), by striking out "have responsibility within the Federal Government" and inserting in lieu thereof "carry out the responsibility of the Director of the Office of Management and Budget"; and

(C) in paragraph (4), by striking out "to the Secretary of Commerce for promulgation under section 111(d) of the Federal Property and Administrative Services Act of 1949" and inserting in lieu thereof "to the Director of the Office of Management and Budget under section 124 of the Information Technology Management Reform Act of 1995".

(2) AUTHORITY.—Subsection (b) of such section is amended—

(A) by striking out "In fulfilling subsection (a) of this section, the Institute is authorized" in the matter preceding paragraph (1) and inserting in lieu thereof "In order to carry out duties authorized under subsection (a), the Director of the Institute may, to the extent authorized by the Director of the Office of Management and Budget—";

(B) in paragraph (2), by striking out "Administrator of General Services on policies and regulations proposed pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949" and inserting in lieu thereof "Director of the Office of Management and Budget on policies and regulations proposed pursuant section 124 of the Information Technology Management Reform Act of 1995";

(C) in paragraph (3), by striking out "section 111(d) of the Federal Property and Administrative Services Act of 1949" and inserting in lieu thereof "section 124 of the Information Technology Management Reform Act of 1995"; and

(D) in paragraph (4), by striking out "Office of Personnel Management in developing regulations pertaining to training, as required by" and inserting in lieu thereof "Director of the Office of Management and Budget in carrying out the responsibilities regarding training regulations provided under".

(3) AUTHORITY OF DIRECTOR OF OMB.—Such section is amended—

(A) by redesignating subsection (d) as subsection (e); and

(B) by inserting after subsection (c) the following new subsection (d):

"(d) AUTHORITY OF DIRECTOR OF OMB.—The Director of the Office of Management and Budget may—

"(1) authorize the Director of the Institute to perform any of the functions and take any of the actions provided in subsections (a), (b), or (c), or limit, withdraw, or withhold such authority;

"(2) perform any of the functions and take any of the actions provided in subsections (a), (b), or (c); and

"(3) designate any other officer of the Federal Government in the executive branch to perform any of such functions and exercise any of such authorities.".

(4) TERMINOLOGY.—Such section is further amended by striking out "computer system" each place it appears and inserting in lieu thereof "information system".

(5) DEFINITIONS.—Subsection (e) of such section, as redesignated by paragraph (3), is amended—

(A) in paragraph (1)(B)(v) by striking out "Administrator of General Services pursuant to section 111 of the Federal Property and Administrative Services Act of 1949" and inserting in lieu thereof "Director of the Office of Management and Budget"; and

(B) in paragraph (2)(B), by striking out "as that term is defined in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949".

(b) INFORMATION SYSTEM SECURITY AND PRIVACY ADVISORY BOARD.—

(1) ESTABLISHMENT.—Subsection (a) of section 21 of the National Institute of Standards and Technology Act (15 U.S.C. 278g-4) is amended—

(A) by striking out "within the Department of Commerce" in the first sentence and inserting in lieu thereof "within the Office of the Chief Information Officer of the United States"; and

(B) by striking out "Secretary of Commerce" both places it appears and inserting in lieu thereof "Director of the Office of Management and Budget".

(2) RECIPIENTS OF ADVICE AND REPORTS FROM BOARD.—Subsection (b) of such section is amended—

(A) by striking out "Institute and the Secretary of Commerce" in paragraph (2) and inserting in lieu thereof "Director of the Office of Management and Budget"; and

(B) by striking out "the Secretary of Commerce," in paragraph (3).

(3) TERMINOLOGY.—Such section is further amended by striking out "computer system" each place it appears and inserting in lieu thereof "information system".

(4) DEFINITIONS.—Subsection (g) of such section is amended by striking out "section 20(d)" and inserting in lieu thereof "section 20(e)".

SEC. 182. RESPONSIBILITIES UNDER THE COMPUTER SECURITY ACT OF 1987.

(a) RESPONSIBILITY FOR TRAINING REGULATIONS.—Section 5(c) of the Computer Security Act of 1987 (Public Law 100-235; 101 Stat. 1729) is amended by striking out "Within six months after the date of the enactment of this Act, the Director of the Office of Personnel Management" and inserting in lieu thereof "The Director of the Office of Management and Budget".

(b) REPEAL OF EXECUTED PROVISION.—Section 5(b) of such Act is amended by striking out "shall be started within 60 days after the issuance of the regulations described in subsection (c). Such training".

TITLE II—PROCESS FOR ACQUISITIONS OF INFORMATION TECHNOLOGY

Subtitle A—Procedures

SEC. 201. PROCUREMENT PROCEDURES.

(a) RESPONSIBILITY.—The Director of the Office of Management and Budget of the United States shall prescribe in regulations the procedures to be used in conducting information technology acquisitions. The procedures shall be made a part of the Federal Acquisition Regulation.

(b) STANDARDS FOR PROCEDURES.—The Director shall ensure that the process for acquisition of information technology is, in general, a simplified, clear, and understandable process that, for higher cost and higher risk acquisitions, provides progressively more stringent precautions for ensuring that there is full and open competition in an acquisition and that each acquisition timely and effectively satisfies the needs of the Federal Government.

(c) PERFORMANCE MEASUREMENTS.—The regulations shall include performance measurements and other performance requirements that the Director determines appropriate.

(d) USE OF COMMERCIAL ITEMS.—The regulations shall require the head of each executive agency to use, to the maximum extent practicable, commercial items to meet the information technology requirements of the executive agency.

(e) DIFFERENTIATED PROCEDURES AND REQUIREMENTS.—Subject to subsection (b), the Director shall prescribe different sets of procedures and requirements for acquisitions in each of the following categories of acquisitions:

(1) Acquisitions not in excess of $5,000,000.

(2) Acquisitions in excess of $5,000,000 and not in excess of $25,000,000.

(3) Acquisitions in excess of $25,000,000 and not in excess of $100,000,000.

(4) Acquisitions in excess of $100,000,000.

(5) Acquisitions considered as high-risk acquisitions.

(f) DIFFERENTIATION ON THE BASIS OF OTHER FACTORS.—In prescribing regulations under this title, the Director shall consider whether and, to the extent appropriate, how to differentiate in the treatment and conduct of acquisitions of information technology on any of the following additional bases:

(1) The information technology to be acquired, including such considerations as whether the item is a commercial item or an item being developed or modified uniquely for use by one or more executive agencies.

(2) The complexity of the information technology acquisition, including such considerations as size and scope.

(3) The level of risk (at levels other than high risk covered by procedures and requirements prescribed pursuant to subsection (e)), including technical and schedule risks.

(4) The level of experience or expertise of the critical personnel in the program office, mission unit, or office of the chief information officer of the executive agency concerned.

(5) The extent to which the information technology may be used Government wide or by several agencies.

(g) REQUIRED ACTIONS.—The regulations shall require the heads of executive agencies, in planning for and undertaking acquisitions of information technology, to apply sound methodologies and approaches that result in realistic and comprehensive advance assessments of risks, reasonable management of the risks, and maximization of the benefit derived by the Federal Government toward meeting the requirements for which the technology is acquired.

SEC. 202. AGENCY PROCESS.

(a) RESPONSIBILITY.—The head of each executive agency shall, consistent with the regulations prescribed under section 201, design and apply in the executive agency a process for maximizing the value and assessing and managing the risks of the information technology acquisitions of the agency.

(b) DESIGN OF PROCESS.—The process shall—

(1) provide for the selection, control, and evaluation of the results of information technology investments of the agency;

(2) be integrated with budget, financial, and program management decisions of the agency; and

(3) incorporate the procedures and satisfy the requirements, including procedures and requirements applicable under various threshold criteria, that are prescribed pursuant to section 201.

(c) BENEFIT AND RISK MEASUREMENTS.—

(1) REQUIREMENT.—The process shall provide for clearly identifying in advance of the acquisition quantifiable measurements for determining the net benefits and risks of each proposed information technology investment.

(2) EXAMPLES OF MEASURES.—(A) Measurements of net benefits could include such measures as cost reductions, decreases in program cycle time, return on investment, increases in productivity, enhanced capability, reductions in the paperwork burden imposed on the public, and improvements in the level of public satisfaction with services provided.

(B) Measures of risk could include such measures as project size and scope, project longevity, technical configurations, unusual security requirements, special project management skills, software complexity, system integration requirements, and existing technical and management expertise.

(d) EVALUATION OF VALUE OF PROPOSED INVESTMENTS.—The process shall require evaluation of the value of a proposed information technology investment to the performance of agency missions, including the provision of services to the public, on the basis of—

(1) the measurements applicable under subsection (c) as well as other applicable criteria and standards; and

(2) a comparison of that investment with other information technology investments proposed to be undertaken by or for the agency.

(e) PERIODIC REVIEW BY SENIOR MANAGERS.—

(1) IN GENERAL.—The process shall provide for senior managers of the executive agency—

(A) to review on a periodic basis the development, implementation, and operation of information technology investments undertaken or to be undertaken by the agency and the information technology acquired under such investments; and

(B) in the case of each investment, to make recommendations to the head of the executive agency regarding actions that should be taken in order to ensure that suitable progress is made toward achieving the goals established for the investment or that the investment, if not making suitable progress, is terminated in a timely manner.

(2) REVIEWS AFTER IMPLEMENTATION.—The implementation and operation reviews provided for under paragraph (1) shall include provisions for senior managers of the executive agency—

(A) upon the implementation of the investment, to evaluate the results of the investment in order to determine whether the benefits projected for the investment were achieved; and

(B) after operation of information systems under the investment begins, to conduct periodic reviews of the systems in order—

(i) to determine whether the benefits to mission performance resulting from the use of such systems are satisfactory; and

(ii) to identify opportunities for additional improvement in mission performance that can be derived from use of such systems.

(f) SPECIFIC ACQUISITION PROCEDURES.—In the awarding of contracts for the acquisition of information technology, the head of an executive agency shall consider the information on the past performance of offerors that is available from the Director of the Office of Management and Budget.

SEC. 203. INCREMENTAL ACQUISITION OF INFORMATION TECHNOLOGY.

(a) IN GENERAL.—The regulations prescribed under section 201 shall require that, to the maximum extent practicable, an executive agency's needs for information technology be satisfied in successive, incremental acquisitions of interoperable systems the characteristics of which comply with readily available standards and, therefore, can be connected to other systems that comply with such standards.

(b) DIVISION OF ACQUISITIONS INTO INCREMENTS.—Under the successive, incremental acquisition process, an extensive acquisition of information technology shall be divided into several smaller acquisition increments that—

(1) are easier to manage individually than would be one extensive acquisition;

(2) address complex information technology problems incrementally in order to enhance the likelihood of achieving workable solutions for those problems;

(3) provide for delivery, implementation, and testing of workable systems or solutions in discrete increments each of which comprises a system or solution that is not dependent on any other increment in order to be workable for the purposes for which acquired; and

(4) provide an opportunity for later increments of the acquisition to take advantage of any evolution in technology or needs that occurs during conduct of the earlier increments.

(c) TIMELY ACQUISITIONS.—

(1) AWARD OF CONTRACT.—If a contract for an increment of an information technology acquisition is not awarded within 180 days after the date on which the solicitation is issued, that increment of the acquisition shall be canceled. A subsequent solicitation for that increment of the solicitation, or for a revision of that increment, may be issued. A contract may be awarded on the basis of offers received in response to a subsequent solicitation.

(2) DELIVERY.—(A) The information technology provided for in a contract for acquisition of information technology shall be delivered within 18 months after the date on which the solicitation resulting in award of the contract was issued.

(B) The Chief Information Officer of the United States may waive the requirement under subparagraph (A) in the case of a particular contract. The Chief Information Officer shall notify Congress in writing of each waiver granted under this subparagraph.

(C) If the information technology to be acquired under a contract is not timely delivered as provided in subparagraph (A) and a waiver is not granted in such case, the contract shall be terminated and the contracting official concerned may issue a new solicitation that—

(i) provides for taking advantage of advances in information technology that have occurred during the 18-month period described in subparagraph (A) and advances in information technology that are anticipated to occur within the period necessary for completion of the acquisition; and

(ii) adjusts for any changes in identified mission requirements to be satisfied by the information technology.

(d) FULL-INCREMENT FUNDING FOR MAJOR AND HIGH-RISK ACQUISITIONS.—

(1) SUBMISSION OF PROGRAM INCREMENT DETAILS TO CONGRESS.—Before initial funding is made available for an information technology acquisition program that is in excess of $100,000,000, the head of the executive agency for which the program is carried out shall submit to Congress information about the objectives and plans for the conduct of that acquisition program and the funding requirements for each increment of the acquisition program. The information shall identify the intended user of the information technology items to be acquired under the

program and each increment and shall include objective, quantifiable criteria for assessing the extent to which the objectives and goals established for the program are achieved.

(2) REQUIREMENT FOR FULL INCREMENT FUNDING.—(A) In authorizing appropriations for an increment of an information technology acquisition program, Congress shall provide an authorization of appropriations for the program increment in a single amount that is sufficient for carrying out that increment of the program. Each such authorization of appropriations shall be stated in the authorization law as a specific item.

(B) In each law making appropriations for an increment of information technology acquisition program, Congress shall specify the program increment for which an appropriation is made and the amount appropriated for that program increment.

(e) COMMERCIAL ITEMS.—

(1) SOURCE.—Except as provided in paragraph (2), a commercial item used in the development of an information system or otherwise being acquired for an executive agency shall be acquired through any of the following means available for the agency that can supply an item satisfying the needs of the agency for the acquisition:

(A) A multiple award schedule contract.

(B) A task or delivery order contract.

(C) A Federal Government on-line purchasing network established by the Chief Information Officer of the United States.

(2) EXCEPTION.—A commercial item need not be acquired from a source referred to in paragraph (1) if an item satisfying such needs is available at a lower cost from another source.

SEC. 204. AUTHORITY TO LIMIT NUMBER OF OFFERORS.

(a) CIVILIAN AGENCY ACQUISITIONS.—Section 303B(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253b(d)) is amended by adding at the end the following:

"(3) Under regulations prescribed by the Director of the Office of Management and Budget, a contracting officer of an executive agency receiving more than three competitive proposals for a proposed contract for acquisition of information technology may solicit best and final offers from the three offerors who submitted the best offers within the competitive range, as determined on the basis of the evaluation factors established for the procurement. Notwithstanding paragraph (1)(A), the contracting officer should first conduct discussions with all of the responsible parties that submit offers within the competitive range.".

(b) ARMED SERVICES ACQUISITIONS.—Section 2305(b) of title 10, United States Code, is amended by adding at the end the following:

"(5) Under regulations prescribed by the Director of the Office of Management and Budget, a contracting officer of an agency receiving more than three competitive proposals for a proposed contract for acquisition of information technology may solicit best and final offers from the three offerors who submitted the best offers within the competitive range. Notwithstanding paragraph (4)(A)(i), the contracting officer should first conduct discussions with all of the responsible parties that submit offers within the competitive range.".

SEC. 205. EXCEPTION FROM TRUTH IN NEGOTIATION REQUIREMENTS.

(a) CIVILIAN AGENCY ACQUISITIONS.—Section 304A of the Federal Property and Administrative Services Act of 1949 is amended—

(1) by redesignating subsection (i) as subsection (j) and, as so redesignated, is amended by adding at the end the following:

"(4) The term 'information technology' has the meaning given that term in section 4 of the Information Technology Management Reform Act of 1995."; and

(2) by inserting after subsection (h) the following new subsection (i):

"(i) ADDITIONAL EXCEPTION FOR INFORMATION TECHNOLOGY COMMERCIAL ITEMS.—The head of an executive agency may not require the submission of cost or pricing data in a procurement of any information technology that is a commercial item. However, the head of the executive agency shall seek to obtain from each offeror or contractor the information described in subsection (d)(2)(A)(ii) for the procurement.".

(b) ARMED SERVICES ACQUISITIONS.—Section 2306a of title 10, United States Code, is amended—

(1) by redesignating subsection (i) as subsection (j) and, as so redesignated, is amended by adding at the end the following:

"(4) The term 'information technology' has the meaning given that term in section 4 of the Information Technology Management Reform Act of 1995."; and

(2) by inserting after subsection (h) the following new subsection (i):

"(i) ADDITIONAL EXCEPTION FOR INFORMATION TECHNOLOGY COMMERCIAL ITEMS.—The head of an agency may not require the submission of cost or pricing data in a procurement of any information technology that is a commercial item. However, the head of an agency shall seek to obtain from each offeror or contractor the information described in subsection (d)(2)(A)(ii) for the procurement".

SEC. 206. UNRESTRICTED COMPETITIVE PROCUREMENT OF COMMERCIAL OFF-THE-SHELF ITEMS OF INFORMATION TECHNOLOGY.

(a) FULL AND OPEN COMPETITION REQUIRED.—Full and open competition shall be used for each procurement of commercial off-the-shelf items of information technology by or for an executive agency.

(b) INAPPLICABILITY OF CERTAIN PROCUREMENT LAWS.—

(1) FAR LIST.—The Federal Acquisition Regulation shall include a list of provisions of law that are inapplicable to contracts for the procurement of commercial, off-the-shelf items of information technology. A provision of law that is properly included on the list pursuant to paragraph (2) may not be construed as being applicable to such contracts. Nothing in this section shall be construed to render inapplicable to such contracts any provision of law that is not included on such list.

(2) PROVISIONS TO BE INCLUDED.—A provision of law described in subsection (c) shall be included on the list of inapplicable provisions of law required by paragraph (1) unless the Chief Information Officer of the United States, in consultation with the Federal Information Council, makes a written determination that it would not be in the best interest of the United States to exempt such contracts from the applicability of that provision of law.

(c) COVERED LAW.—The list referred to in subsection (b)(1) shall include each provision of law that, as determined by the Chief Information Officer, sets forth policies, procedures, requirements, or restrictions for the procurement of property or services by the Federal Government, except the following:

(1) A provision of this Act.

(2) A provision of law that is amended by this Act.

(3) A provision of law that is made applicable to procurements of commercial, off-the-shelf items of information technology by this Act.

(4) A provision of law that prohibits or limits the use of appropriated funds.

(5) A provision of law that specifically refers to this section and provides that, notwithstanding this section, such provision of law shall be applicable to contracts for the procurement of commercial off-the-shelf items of information technology.

(d) PETITION TO INCLUDE OMITTED PROVISION.—

(1) PETITION AUTHORIZED.—Any person may submit to the Chief Information Officer a petition to include on the list referred to in subsection (b)(1) a provision of law not included on that list.

(2) ACTION ON PETITION.—The Federal Acquisition Regulatory Council shall amend the Federal Acquisition Regulation to include the item on the list unless the Chief Information Officer, in consultation with the Federal Information Council—

(A) has made a written determination described in subsection (b)(2) with respect to that provision of law before receiving the request; or

(B) within 60 days after the date of receipt of the request, makes a such a written determination regarding the provision of law.

(e) DEFINITION.—In this subsection, the term "commercial, off-the-shelf item of information technology" means an item of information technology that—

(A) is a commercial item described in section 4(12)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403);

(B) is sold in substantial quantities in the commercial marketplace; and

(C) is offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace.

SEC. 207. TASK AND DELIVERY ORDER CONTRACTS.

(a) CIVILIAN AGENCY ACQUISITIONS.—

(1) REQUIREMENT FOR MULTIPLE AWARDS.—Section 303H(d) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253h(d)) is amended by adding at the end the following new paragraph:

"(4) In exercising the authority under this section for procurement of information technology, the head of an executive agency shall award at least two task or delivery order contracts for the same or similar information technology services or property unless the Chief Information Officer of the United States determines that, because of unusual circumstances, it is not in the best interests of the United States to award two such contracts.".

(2) DEFINITION.—Section 303K of such Act (41 U.S.C. 253k) is amended by adding at the end the following new paragraph:

"(3) The term 'information technology' has the meaning given that term in section 4 of the Information Technology Management Reform Act of 1995.".

(b) ARMED SERVICES ACQUISITIONS.—

(1) REQUIREMENT FOR MULTIPLE AWARDS.—Section 2304a(d) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) In exercising the authority under this section for procurement of information technology, the head of an executive agency shall award at least two task or delivery order contracts for the same or similar information technology services or property unless the Chief Information Officer of the United States determines that, because of unusual circumstances, it is not in the best interests of the United States to award two such contracts.".

(2) DEFINITION.—Section 2304d of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(3) The term 'information technology' has the meaning given that term in section 4 of the Information Technology Management Reform Act of 1995.".

SEC. 208. TWO-PHASE SELECTION PROCEDURES.

(a) CIVILIAN AGENCIES.—

(1) PROCEDURES AUTHORIZED.—Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303H the following new section:

"TWO-PHASE SELECTION PROCEDURES

"SEC. 303I. (a) PROCEDURES AUTHORIZED.—The head of an executive agency may use two-phase selection procedures for entering into a contract for the acquisition of information technology when the agency head determines that three or more offers will be received for such contract, substantial design work must be performed before an offeror can develop a reliable price or cost proposal for such contract, and the offerors will incur a substantial amount of expenses in preparing the offers.

"(b) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

"(1) The agency head solicits proposals that—

"(A) include information on the offerors'—

"(i) technical approach; and

"(ii) technical and management qualifications; and

"(B) do not include—

"(i) detailed design information; or

"(ii) cost or price information.

"(2) The agency head evaluates the proposals on the basis of evaluation criteria set forth in the solicitation, except that the agency head does not consider cost-related or price-related evaluation factors.

"(3) The agency head selects at least three offerors as the most highly qualified to provide the property or services under the contract and requests the selected offerors to submit competitive proposals that include cost and price information.

"(4) The agency head awards the contract in accordance with section 303B(d).

"(c) RESOURCE COMPARISON CRITERIA REQUIRED.—In using two-phase selection procedures for entering into a contract, the agency head shall establish resource criteria and financial criteria applicable to the contract in order to provide a consistent basis for comparing the offerors and their proposals.

"(d) TWO-PHASE SELECTION PROCEDURES DEFINED.—In this section, the term 'two-phase selection procedures' means procedures described in subsection (b) that are used for the selection of a contractor on the basis of cost and price and other evaluation criteria to provide property or services in accordance with the provisions of a contract which requires the contractor to design the property to be acquired under the contract and produce or construct such property.

"(e) DEFINITION.—In this section, the term 'information technology' has the meaning given the term in section 4 of the Information Technology Management Reform Act of 1995.".

(2) CLERICAL AMENDMENT.—The table of contents in the first section of such Act is amended by inserting after the item relating to section 303H the following new item:

"Sec. 303I. Two-phase selection procedures.".

(b) DEPARTMENT OF DEFENSE.—

(1) PROCEDURES AUTHORIZED.—Chapter 137 of title 10, United States Code, is amended by inserting after section 2305 the following new section:

"§ 2305a. Two-phase selection procedures

"(a) PROCEDURES AUTHORIZED.—The head of an agency may use two-phase selection procedures for entering into a contract for the acquisition of information technology when the head of the agency determines that three or more offers will be received for such contract, substantial design work must be performed before an offeror can develop a reliable price or cost proposal for such contract, and the offerors will incur a substantial amount of expenses in preparing the offers.

"(b) PROCEDURES DESCRIBED.—Two-phase selection procedures consist of the following:

"(1) The head of the agency solicits proposals that—

"(A) include information on the offerors'—

"(i) technical approach; and

"(ii) technical and management qualifications; and

"(B) do not include—

"(i) detailed design information; and

"(ii) cost or price information.

"(2) The head of the agency evaluates the proposals on the basis of evaluation criteria set forth in the solicitation, except that the head of the agency does not consider cost-related or price-related evaluation factors.

"(3) The head of the agency selects at least three offerors as the most highly qualified to provide the property or services under the contract and requests the selected offerors to submit competitive proposals that include cost and price information.

"(4) The head of the agency awards the contract in accordance with section 2305(b)(4) of this title.

"(c) RESOURCE COMPARISON CRITERIA REQUIRED.—In using two-phase selection procedures for entering into a contract, the head of the agency shall establish resource criteria and financial criteria applicable to the contract in order to provide a consistent basis for comparing the offerors and their proposals.

"(d) TWO-PHASE SELECTION PROCFDURES DEFINED.—In this section, the term 'two-phase selection procedures' means procedures described in subsection (b) that are used for the selection of a contractor on the basis of cost and price and other evaluation criteria to provide property or services in accordance with the provisions of a contract which requires the contractor to design the property to be acquired under the contract and produce or construct such property.

"(e) DEFINITION.—In this section, the term 'information technology' has the meaning given the term in section 4 of the Information Technology Management Reform Act of 1995.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2305 the following:

"2305a. Two-phase selection procedures.".

SEC. 209. CONTRACTOR SHARE OF GAINS AND LOSSES FROM COST, SCHEDULE, AND PERFORMANCE EXPERIENCE.

The Director of the Office of Management and Budget shall prescribe in regulations a clause, to be included in each cost-type or incentive-type contract for procurement of information technology for an executive agency, that provides a system for the contractor—

(1) to be rewarded for contract performance exceeding the contract cost, schedule, or performance goals to the benefit of the United States; and

(2) to be penalized for failing—

(A) to adhere to cost, schedule, or performance goals to the detriment of the United States; or

(B) to provide an operationally effective solution for the information technology problem covered by the contract.

Subtitle B—Acquisition Management

SEC. 221. ACQUISITION MANAGEMENT TEAM.

(a) IN GENERAL.—

(1) USE OF AGENCY PERSONNEL.—The head of each executive agency planning an acquisition of information technology shall determine whether agency personnel satisfying the requirements of subsection (b) are available and are to be used for carrying out the acquisition.

(2) USE OF OUTSIDE ACQUISITION TEAM.—If the head of the executive agency determines that such personnel are not available for carrying out the acquisition, the head of that agency shall consider designating a capable executive agent to carry out the acquisition.

(b) CAPABILITIES OF AGENCY PERSONNEL.—

(1) IN GENERAL.—The head of each executive agency shall ensure that the agency personnel involved in an acquisition of information technology have the experience, and have demonstrated the skills and knowledge, necessary to carry out the acquisition competently.

(2) HIGH-RISK INFORMATION TECHNOLOGY PROGRAM ACQUISITIONS.—For an acquisition under a high-risk information technology program—

(A) each of the members of the acquisition program management team (including the management, technical, program, procurement, and legal personnel) shall have experience and demonstrated competence in the team member's area of responsibility; and

(B) the team manager, deputy team manager, and each procurement official on the acquisition management team shall have demonstrated competence in participating in other major information system acquisitions or have other comparable experience.

(c) ACQUISITION WORKFORCE TRAINING.—The head of each executive agency shall ensure that agency personnel used for information technology acquisitions of the agency receive continuing training in management of information resources and the acquisition of information technology in order to maintain the competence of such personnel in the skills and knowledge necessary for carrying out such acquisitions successfully.

SEC. 222. OVERSIGHT OF ACQUISITIONS.

It is the sense of Congress that the Director of the Office of Management and Budget, the Chief Information Officer of the United States, the heads of executive agencies, and the inspectors general of executive agencies, in performing responsibilities for oversight of information technology acquisitions, should emphasize reviews of the operational justifications for the acquisitions, the results of the acquisition programs, and the performance measurements established for the information technology rather than reviews of the acquisition process.

TITLE III—SPECIAL FISCAL SUPPORT FOR INFORMATION INNOVATION

Subtitle A—Information Technology Fund

SEC. 301. ESTABLISHMENT.

There is established on the books of the Treasury a fund to be known as the "Information Technology Fund".

SEC. 302. ACCOUNTS.

The Information Technology Fund shall have two accounts as follows:

(1) The Innovation Loan Account.

(2) The Common Use Account.

Subtitle B—Innovation Loan Account

SEC. 321. AVAILABILITY OF FUND FOR LOANS IN SUPPORT OF INFORMATION INNOVATION.

Amounts in the Innovation Loan Account shall be available to the Director of the Office of Management and Budget, without fiscal year limitation, for lending to an executive agency for carrying out an information innovation program to improve the productivity of the agency.

SEC. 322. REPAYMENT OF LOANS.

(a) REPAYMENT REQUIRED.—The head of an executive agency shall repay the Innovation Loan Account the amount loaned to the executive agency.

(b) TERMS AND CONDITIONS.—The Director of the Office of Management and Budget shall prescribe the terms and conditions for repayment of the loan.

(c) REPAYMENT OUT OF SAVINGS.—The funds to be used by the head of an executive agency for repaying a loan shall be derived as provided in section 323 from savings realized by the agency through increases in the productivity of the agency that result from the information innovation funded (in whole or in part) by the loan. The Director shall prescribe guidelines for computing the amount of the savings.

SEC. 323. SAVINGS FROM INFORMATION INNOVATIONS.

(a) DISPOSITION OF SAVINGS.—Of the total amount saved by an executive agency in a fiscal year through increases in the productivity of the agency that result from information innovations funded (in whole or in part) by loans from the Innovation Loan Account 50 percent shall be credited to the Innovation Loan Account in repayment of loans to the agency from the Fund.

(b) EMPLOYEE INCENTIVES.—The head of an executive agency is authorized to pay monetary incentives to agency personnel who made significant contributions to the achievement of increases in agency productivity that resulted in the savings.

(c) COMPUTATION OF SAVINGS.—For purposes of this section, the amount saved by an executive agency in a fiscal year as a result of increases in the productivity of the agency that are attributable to information innovations funded (in whole or in part) by loans from the Innovation Loan Account shall be computed by the head of the agency in consultation with the chief information officer and chief financial officer of the agency and in accordance with the guidelines prescribed pursuant to section 322(c).

SEC. 324. FUNDING.

(a) INITIAL CAPITALIZATION.—The head of each executive agency shall transfer to the Innovation Loan Account at the beginning of each fiscal year for fiscal years 1996 through 2000 the amount equal to 5 percent of the total amount available to that executive agency for such fiscal year for information resources, as determined by the Chief Information Officer of the United States.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Innovation Loan Account, to be available without fiscal year limitation, such sums as may be necessary for making loans authorized by section 321.

Subtitle C—Common Use Account

SEC. 331. SUPPORT OF MULTIAGENCY ACQUISITIONS OF INFORMATION TECHNOLOGY.

(a) IN GENERAL.—Amounts in the Common Use Account shall be available to the Director of the Office of Management and Budget, without fiscal year limitation for the following purposes:

(1) Acquisitions of information technology to be used by two or more executive agencies.

(2) Expenses, including cost of personal services, incurred for developing and implementing information technology for support of two or more executive agencies.

(b) PROJECTS FUNDED.—The Director of the Office of Management and Budget shall select for funding out of the Common Use Account projects that are projected to meet the following requirements:

(1) Demonstrate the innovative use of information technology to reorganize and improve work processes or to integrate programs and link the information systems of executive agencies.

(2) Provide substantial benefits to the public, such as improved dissemination of information, increased timeliness in delivery of services, and increased quality of services.

(3) Substantially lower the operating costs of two or more executive agencies or programs.

(c) LIMITATION OF FUNDING.—Funding for a particular project shall ordinarily be limited to two fiscal years.

(d) ADDITIONAL REQUIREMENT FOR SELECTION.—In addition to meeting the requirements in subsection (b), the proposal for a project shall include a transition plan for proceeding from a pilot program or the initial stage of the project into operation of the information technology. The transition plan shall identify funding sources for the transition and for the sustainment of operations.

SEC. 332. FUNDING.

(a) INITIAL CAPITALIZATION.—

(1) TRANSFER OF FUNDS.—The initial capitalization of the Common Use Account shall be accomplished by transfer of funds under paragraph (2).

(2) AMOUNT AND SOURCE.—For purposes of paragraph (1), the Administrator of General Services shall transfer, out of the Information Technology Fund established by section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757), the amount equal to the excess of—

(A) the amount of the unobligated balance in that Fund, over

(B) the portion of that unobligated balance that the Administrator, with the approval of the Director of the Office of Management and Budget, determines is necessary to retain for meeting the requirements of the fund for the remainder of the fiscal year in which this Act takes effect under section 1001(a) and the next fiscal year.

(3) TERMINATION OF INFORMATION TECHNOLOGY FUND.—Effective at the end of the fiscal year immediately following the fiscal year in which this Act takes effect under section 1001(a)—

(A) section 110 of the Federal Property and Administrative Services Act (40 U.S.C. 757) is repealed; and

(B) the Information Technology Fund established by that section is terminated.

(b) CHARGES FOR COMMON INFRASTRUCTURE SERVICES.—The Director of the Office of Management and Budget may impose on executive agencies a charge for common infrastructure services to fund the Common Use Account.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Common Use Account, to be available without fiscal year limitation, such sums as may be necessary to fund multiagency acquisitions of information technology.

Subtitle D—Other Fiscal Policies

SEC. 341. LIMITATION ON USE OF FUNDS.

Funds available to an executive agency for information technology may not be expended for a proposed information technology acquisition until the head of the agency certifies in writing in the agency records of that acquisition that the head of the agency has completed a review of the agency's mission-related processes and administrative processes to be supported by the proposed investment in information technology and has established performance measurements for determining improvements in agency performance.

SEC. 342. SENSE OF CONGRESS.

It is the sense of Congress that executive agencies should achieve a 5 percent per year decrease in the cost incurred by the agency for operating and maintaining information technology, and a 5 percent per year increase in the efficiency of the agency operations, by reason of improvements in information resources management by the agency.

SEC. 343. REVIEW BY GAO AND INSPECTORS GENERAL.

(a) REVIEW REQUIRED.—During fiscal year 1996 and each of the first four fiscal years following that fiscal year, the Comptroller General of the United States and the Inspector General of each executive agency or (in the case of an executive agency that does not have an Inspector General) an appropriate audit agency shall, in coordination with each other, review the plans of the executive agency for acquisitions of information technology, the information technology acquisition programs being carried out by the executive agency, and the information resources management of the executive agency.

(b) PURPOSE OF REVIEWS.—The purpose of each of the reviews of an executive agency is to determine, for each of the agency's functional areas supported by information technology, the following:

(1) Whether the cost of operating and maintaining information technology for the agency has decreased below the cost incurred by the agency for operating and maintaining information technology for the agency for fiscal year 1995 by at least 5 percent (in constant fiscal year 1995 dollars) for each of five fiscal years.

(2) Whether, in terms of the applicable performance measurements established by the head of the executive agency, the efficiency of the operations of the agency has increased over the efficiency of the operations of the agency in fiscal year 1995 by at least 5 percent by reason of improvements in information resources management by the agency for each of five fiscal years.

TITLE IV—INFORMATION TECHNOLOGY ACQUISITION PILOT PROGRAMS

Subtitle A—Conduct of Pilot Programs

SEC. 401. REQUIREMENT TO CONDUCT PILOT PROGRAMS.

(a) IN GENERAL.—

(1) PURPOSE.—The Chief Information Officer of the United States shall conduct pilot programs in order to test alternative approaches for acquisition of information technology and other information resources by executive agencies.

(2) MULTIAGENCY, MULTI-ACTIVITY CONDUCT OF EACH PROGRAM.—Except as otherwise provided in this title, each pilot program conducted under this title shall be carried out in not more than two procuring activities in each of two executive agencies designated by the Chief Information Officer. The head of each designated executive agency shall, with the approval of the Chief Information Officer, select the procuring activities of the agency to participate in the test and shall designate a procurement testing official who shall be responsible for the conduct and evaluation of the pilot program within the agency.

(b) LIMITATIONS.—

(1) NUMBER.—Not more than five pilot programs shall be conducted under the authority of this title, including one pilot program each pursuant to the requirements of sections 421, 422, and 423, and two pilot programs pursuant to section 424.

(2) AMOUNT.—The total amount obligated for contracts entered into under the pilot programs conducted under the authority of this title may not exceed $1,500,000,000. The Chief Information Officer shall monitor such contracts and ensure that contracts are not entered into in violation of the limitation in the preceding sentence.

(c) INVOLVEMENT OF FEDERAL INFORMATION COUNCIL.—The Chief Information Officer may—

(1) conduct pilot programs recommended by the Federal Information Council; and

(2) consult with the Federal Information Council regarding development of pilot programs to be conducted under this section.

(d) PERIOD OF PROGRAMS.—

(1) IN GENERAL.—Subject to paragraph (2), the Chief Information Officer shall conduct a pilot program for the period, not in excess of five years, that is determined by the Chief Information Officer to be sufficient to establish reliable results.

(2) CONTINUING VALIDITY OF CONTRACTS.—A contract entered into under the pilot program before the expiration of that program shall remain in effect according to the terms of the contract after the expiration of the program.

SEC. 402. TESTS OF INNOVATIVE PROCUREMENT METHODS AND PROCEDURES.

(a) IN GENERAL.—The Chief Information Officer of the United States shall exercise the authority of the Administrator for Federal Procurement Policy under section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413) with regard to the acquisition of information technology and other information resources by executive agencies.

(b) RELATIONSHIP TO PILOT PROGRAM AUTHORITY.—The authority under paragraph (1) is in addition to the authority provided in this title to conduct pilot programs. A test program conducted under subsection (a), and each contract awarded under such test program, are not subject to the limitations on pilot programs provided in this title.

SEC. 403. EVALUATION CRITERIA AND PLANS.

(a) MEASURABLE TEST CRITERIA.—The Chief Information Officer of the United States shall require the head of each executive agency conducting a pilot program under section 401 or a test program under section 402 to establish, to the maximum extent practicable, measurable criteria for evaluating the effects of the procedures or techniques to be tested under the program.

(b) TEST PLAN.—Before a pilot program or a test program may be conducted under section 401 or 402, respectively, the Chief Information Officer shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a detailed test plan for the program, including a detailed description of the procedures to be used and a list of any regulations that are to be waived.

SEC. 404. REPORT.

(a) REQUIREMENT.—Not later than 180 days after the completion of a pilot program conducted under this title or a test program conducted under section 402, the Chief Information Officer of the United States shall—

(A) submit to the Director of the Office of Management and Budget a report on the results and findings under the program; and

(B) provide a copy of the report to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

(b) CONTENT.—The report shall include the following:

(1) A detailed description of the results of the program, as measured by the criteria established for the program.

(2) A discussion of any legislation that the Chief Information Officer recommends, or changes in regulations that the Chief Information Officer considers necessary, in order to improve overall information resources management within the Federal Government.

SEC. 405. RECOMMENDED LEGISLATION.

If the Director of the Office of Management and Budget determines that the results and findings under a pilot program under this title indicate that legislation is necessary or desirable in order to improve the process for acquisition of information technology, the Director shall transmit the Director's recommendations for such legislation to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives.

SEC. 406. RULE OF CONSTRUCTION.

Nothing in this title shall be construed as authorizing the appropriation or obligation of funds for the pilot programs or test programs conducted pursuant to this title.

Subtitle B—Specific Pilot Programs

SEC. 421. SHARE-IN-SAVINGS PILOT PROGRAM.

(a) REQUIREMENT.—The Chief Information Officer of the United States shall carry out a pilot program to test the feasibility of—

(1) contracting on a competitive basis with a private sector source to provide the Federal Government with an information technology solution for improving mission-related or administrative processes of the Federal Government; and

(2) paying the private sector source an amount equal to a portion of the savings derived by the Federal Government from any improvements in mission-related processes and administrative processes that result from implementation of the solution, as determined by the Chief Information Officer.

(b) PROGRAM CONTRACTS.—Up to five contracts for one project each may be entered into under the pilot program.

(c) SELECTION OF PROJECTS.—The projects shall be selected by the Chief Information Officer from among projects recommended by the Federal Information Council.

SEC. 422. SOLUTIONS-BASED CONTRACTING PILOT PROGRAM.

(a) IN GENERAL.—The Chief Information Officer shall carry out a pilot program to test the feasibility of the use of solutions-based contracting for acquisition of information technology.

(b) SOLUTIONS-BASED CONTRACTING DEFINED.—For purposes of this section, solutions-based contracting is an acquisition method under which the Federal Government user of the technology to be acquired defines the acquisition objectives, uses a streamlined contractor selection process, and allows industry sources to provide solutions that attain the objectives effectively. The emphasis of the method is on obtaining from industry an optimal solution.

(c) PROCESS.—The Chief Information Officer shall require use of the following process for acquisitions under the pilot program:

(1) ACQUISITION PLAN EMPHASIZING DESIRED RESULT.—Preparation of an acquisition plan that defines the functional requirements of the intended users of the information technology to be acquired, identifies the operational improvement results to be achieved, and defines the performance measurements to be applied in determining whether the information technology acquired satisfies the defined requirements and attains the identified results.

(2) RESULTS-ORIENTED STATEMENT OF WORK.—Use of a statement of work that is limited to an expression of the end results or performance capabilities desired under the acquisition plan.

(3) SMALL ACQUISITION ORGANIZATION.—Assembly of small acquisition organization consisting of the following:

(A) An acquisition management team, the members of which are to be evaluated and rewarded under the pilot program for contributions toward attainment of the desired results identified in the acquisition plan.

(B) A small source selection team composed of representatives in the specific mission or administrative area to be supported by the information technology to be acquired, a contracting officer, and persons with relevant expertise.

(4) USE OF SOURCE SELECTION FACTORS EMPHASIZING SOURCE QUALIFICATIONS.—Use of source selection factors that are limited to determining the qualifications of the offeror, including such factors as personnel skills, previous experience in providing other private or public sector organizations with solutions for attaining objectives similar to the objectives to be attained in the acquisition, past contract performance, qualifications of the proposed program manager, and the proposed management plan.

(5) OPEN COMMUNICATIONS WITH CONTRACTOR COMMUNITY.—Open availability of the following information to potential offerors:

(A) The agency mission to be served by the acquisition.

(B) The functional process to be performed by use of information technology.

(C) The process improvements to be attained.

(6) SIMPLE SOLICITATION.—Use of a simple solicitation that sets forth only the functional work description, source selection factors, the required terms and conditions, instructions regarding submission of offers, and the estimate of the Federal Government's budget for the desired work.

(7) SIMPLE PROPOSALS.—Submission of oral proposals and acceptance of written supplemental submissions that are limited in size and scope and contain information on the offeror's qualifications to perform the desired work together with information of past contract performance.

(8) SIMPLE EVALUATION.—Use of a simple evaluation process, to be completed within 45 days after receipt of proposals, which consists of the following:

(A) Identification of the offerors that are within the competitive range of most of the qualified offerors.

(B) Issuance of invitations for at least three and not more than five of the identified offerors to make oral presentations to, and engage in discussions with, the evaluating personnel regarding the qualifications of the offerors, including how the qualifications of each offeror relate to the approaches proposed to be taken by the offeror in the acquisition.

(C) Evaluation of the qualifications of the identified offerors on the basis of submissions required under the process and any oral presentations made by, and any discussions with, the offerors.

(9) SELECTION OF MOST QUALIFIED OFFEROR.—A selection process consisting of the following:

(A) Identification of the most qualified source, and ranking of alternative sources, primarily on the basis of the oral proposals, presentations, and discussions, but taking into consideration supplemental written submissions.

(B) Conduct for 30 to 60 days of a program definition phase, funded by the Federal Government—

(i) during which the selected source, in consultation with one or more intended users, develops a conceptual system design and technical approach, defines logical phases for the project, and estimates the total cost and the cost for each phase; and

(ii) after which a contract for performance of the work may be awarded to that source on the basis of cost, the responsiveness, reasonableness, and quality of the proposed performance, and a sharing of risk and benefits between the source and the Government.

(C) Conduct of as many successive program definition phases with the alternative sources (in the order ranked) as is necessary in order to award a contract in accordance with subparagraph (B).

(10) SYSTEM IMPLEMENTATION PHASING.—System implementation to be executed in phases that are tailored to the solution, with various contract arrangements being used, as appropriate, for various phases and activities.

(11) MUTUAL AUTHORITY TO TERMINATE.—Authority for the Federal Government or the contractor to terminate the contract without penalty at the end of any phase defined for the project.

(12) TIME MANAGEMENT DISCIPLINE.—Application of a standard for awarding a contract within 60 to 90 days after issuance of the solicitation.

(d) PILOT PROGRAM DESIGN.—

(1) JOINT PUBLIC-PRIVATE WORKING GROUP.—The Chief Information Officer shall establish a joint working group of Federal Government personnel and representatives of the information technology industry to design a plan for conduct of the pilot program.

(2) CONTENT OF PLAN.—The plan shall provide for use of solutions-based contracting in the Department of Defense and not more than two other executive agencies for a total of—

(A) 10 projects, each of which has an estimated cost of between $25,000,000 and $100,000,000; and

(B) 10 projects, each of which has an estimated cost of between $1,000,000 and $5,000,000, to be set aside for small business concerns.

(3) COMPLEXITY OF PROJECTS.—(A) Subject to subparagraph (C), each acquisition project under the pilot program shall be sufficiently complex to provide for meaningful evaluation of the use of solutions-based contracting for acquisition of information technology for executive agencies.

(B) In order for an acquisition project to satisfy the requirement in subparagraph (A)—

(i) the solution for attainment of the executive agency's objectives under the project should not be obvious, but rather shall involve a need for some innovative development; and

(ii) the project shall incorporate all elements of system integration.

(C) An acquisition project should not be so extensive or lengthy as to result in undue delay in the evaluation of the use of solutions-based contracting.

(e) USE OF EXPERIENCED FEDERAL PERSONNEL.—Only Federal Government personnel who are experienced, and have demonstrated success, in managing or otherwise performing significant functions in complex acquisitions shall be used for evaluating offers, selecting sources, and carrying out the performance phases in an acquisition under the pilot program.

(f) MONITORING BY GAO.—

(1) REQUIREMENT.—The Comptroller General of the United States shall—

(A) monitor the conduct, and review the results, of acquisitions under the pilot program; and

(B) submit to Congress periodic reports containing the views of the Comptroller General on the activities, results, and findings under the pilot program.

(2) EXPIRATION OF REQUIREMENT.—The requirement under paragraph (1)(B) shall terminate after submission of the report that contains the final views of the Comptroller General on the last of the acquisition projects completed under the pilot program.

SEC. 423. PILOT PROGRAM FOR CONTRACTING FOR PERFORMANCE OF ACQUISITION FUNCTIONS.

(a) REQUIREMENT.—The Chief Information Officer of the United States shall carry out a pilot program which provides for the head of an executive agency, or an executive agent acting for the head of an executive agency, to contract for the performance of the contracting and program management functions for an information technology acquisition for the agency.

(b) PARTICIPATING AGENCIES.—The Chief Information Officer shall select five executive agencies to participate, with the consent of the head of the agency, in the pilot program.

(c) OBLIGATION OF FUNDS TO BE BY FEDERAL OFFICIALS.—Funds of the United States may not be obligated by a contractor in the performance of contracting or program management functions of an executive agency under the pilot program.

(d) GAO REVIEW AND ANALYSIS.—The Comptroller General of the United States shall—

(1) monitor and review the results of the pilot program;

(2) compare the use of contract personnel for performance of the contracting and program management functions for an information technology acquisition under the pilot program with the use of agency personnel to perform such functions; and

(3) submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight a report on the comparison, including any conclusions of the Comptroller General.

SEC. 424. MAJOR ACQUISITIONS PILOT PROGRAMS.

(a) FLEXIBLE ACQUISITIONS PILOT PROGRAMS.—The Chief Information Officer of the United States shall carry out two pilot programs, one in the Department of Defense and one in another executive agency, to test and demonstrate for use in major information technology acquisition programs flexible acquisition procedures that accommodate the following during the conduct of the acquisition:

(1) Continuous refinement of—

(A) the agency information architecture for which the information technology is being procured; and

(B) the requirements to be satisfied by such technology within that information architecture.

(2) Incremental development of system capabilities.

(3) Integration of new technology as it becomes available.

(4) Rapid fielding of effective systems.

(5) Completion of the operational increments of the acquisition within 18 months (subject to supplementation or further evolution of the agency information system through follow-on procurements).

(b) COVERED ACQUISITION PROGRAMS.—Each pilot program shall involve one acquisition of information technology that satisfies the following requirements:

(1) The acquisition is in an amount greater than $100,000,000, but the amount of the increments of the acquisition covered by the pilot program does not exceed $300,000,000.

(2) The information technology is to be procured for support of one or more agency processes or missions that have been, or are being, reevaluated and substantially revised to improve the efficiency with which the agency performs agency missions or delivers services.

(3) The acquisition is to be conducted as part of a sustained effort of the executive agency concerned to attain a planned overall information architecture for the agency that is designed to support improved performance of the agency missions and improved delivery of services.

(4) The acquisition program provides for an evolution of an information system that is guided by the overall information architecture planned for the agency.

(5) The acquisition is being conducted with a goal of completing two or more major increments in the evolution of the agency's information system within a 3-year period.

(c) WAIVER OF PROCUREMENT LAWS.—

(1) WAIVER AUTHORITY.—The head of an executive agency carrying out a pilot program under this section may, with the approval of the Chief Information Officer of the United States, waive any provision of procurement law referred to in paragraph (2) to the extent that the head of the agency considers necessary to carry out the pilot program in accordance with this section.

(2) COVERED PROCUREMENT LAWS.—The waiver authority under paragraph (1) applies to the following procurement laws:

(A) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.).

(B) Chapter 137 of title 10, United States Code.

(C) The Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

(D) Sections 8, 9, and 15 of the Small Business Act (15 U.S.C. 637, 638, and 644).

(E) Any provision of law that, pursuant to section 34 of the Office of Federal Procurement Policy Act (41 U.S.C. 430), is listed in the Federal Acquisition Regulation as being inapplicable—

(i) to contracts for the procurement of commercial items; or

(ii) in the case of a subcontract under the pilot program, to subcontracts for the procurement of commercial items.

(F) Any other provision of law that imposes requirements, restrictions, limitations, or conditions on Federal Government contracting (other than a limitation on use of appropriated funds), as determined by the Chief Information Officer of the United States.

(d) OMB INVOLVEMENT.—

(1) IN GENERAL.—The Chief Information Officer of the United States shall closely and continuously monitor the conduct of the pilot programs carried out under this section.

(2) ASSIGNMENT OF OMB PERSONNEL TO PROGRAM TEAM.—In order to carry out paragraph

(1) effectively, the Chief Information Officer of the United States shall assign one or more representatives to the acquisition program management team for each pilot program.

(e) TERMINATION OF PILOT PROGRAM FOR UNSATISFACTORY PERFORMANCE.—The Chief Information Officer of the United States shall terminate a pilot program under this section at any time that the Chief Information Officer determines that the acquisition under the program has failed to a significant extent to satisfy cost, schedule, and performance requirements established for the acquisition.

(f) REPORTS TO CONGRESS.—

(1) REQUIREMENT.—The Director of the Office of Management and Budget shall submit to Congress reports on each pilot program carried out under this section as follows:

(A) An interim report upon the completion of each increment of the acquisition under the pilot program.

(B) A final report upon completion of the pilot program.

(2) CONTENT OF FINAL REPORT.—The final report on a pilot program shall include any recommendations for waiver of the applicability of procurement laws to further evolution of information systems acquired under the pilot program.

TITLE V—OTHER INFORMATION RESOURCES MANAGEMENT REFORMS

SEC. 501. TRANSFER OF RESPONSIBILITY FOR FACNET.

Section 30 of the Office of Federal Procurement Policy Act (41 U.S.C. 426) is amended—

(1) in subsection (a), by striking out "Administrator" the first place it appears inserting in lieu thereof "Chief Information Officer of the United States"; and

(2) by striking out "Administrator" each place it appears and inserting in lieu thereof "Chief Information Officer".

SEC. 502. ON-LINE MULTIPLE AWARD SCHEDULE ORDERING.

(a) DEVELOPMENT AND IMPLEMENTATION OF SYSTEM DESIGNS.—In order to provide for the economic and efficient procurement of commercial information technology, the Chief Information Officer of the United States shall establish competing programs for the development and testing of up to three system designs for providing for Government-wide, on-line computer purchasing of commercial items of information technology.

(b) REQUIRED SYSTEM CAPABILITIES.—Each of the system designs shall be established as an element of the Federal acquisition computer network (FACNET) architecture and shall, at a minimum—

(1) provide basic information on the prices, features, and performance of all commercial items of information technology available for purchasing;

(2) provide for updating that information to reflect changes in prices, features, and performance as soon as information on the changes becomes available;

(3) enable users to make on-line computer comparisons of the prices, features, and performance of similar products and services offered by various vendors;

(4) enable users to place, and vendors to receive, on-line computer orders for products and services available for purchasing;

(5) enable ordering users to make payments to vendors by bank card, electronic funds transfer, or other automated methods in cases in which it is practicable and in the interest of the Federal Government to do so; and

(6) archive data relating to each order placed against multiple award schedule contracts using such system, including, at a minimum, data on—

(A) the agency or office placing the order;

(B) the vendor receiving the order;

(C) the products or services ordered; and

(D) the total price of the order.

(c) USE OF SYSTEMS.—Under guidelines and procedures prescribed pursuant to subsection (d), the head of an executive agency may use a system developed and tested under this section to make purchases in a total amount of not more than $5,000,000 for each order.

(d) GUIDELINES AND PROCEDURES.—The Chief Information Officer shall prescribe guidelines and procedures for making purchases authorized by subsection (c). The guidelines and procedures shall ensure that orders placed on the system referred to in that subsection do not place any requirements on vendors that are not customary for transactions involving sales of the purchased commodities to private sector purchasers.

(e) REPORT TO CONGRESS.—Not later than one year after the date of the enactment of this Act, the Chief Information Officer shall submit to Congress a report on the Chief Information Officer's decision on implementation of an electronic marketplace for information technology. The report shall contain a description of the results of the programs established under subsection (a).

SEC. 503. UPGRADING INFORMATION EQUIPMENT IN AGENCY FIELD OFFICES.

(a) AUTHORITY TO USE MICRO-PURCHASE PROCEDURES.—Under the authority, direction, and control of the head of an executive agency and subject to subsection (b), the head of a field office of that agency may use micro-purchase procedures to procure up to $20,000 of upgrades for the computer equipment of that office each year in increments not exceeding $2,500 each. Procurements within that limitation shall not be counted against the $20,000 annual limitation provided under section 32(c)(2) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(c)(2)).

(b) CERTIFICATION REQUIREMENT.—The head of a field office may procure an upgrade for computer equipment in accordance with subsection (a) only if the head of the field office determines in writing that the cost of the upgrade does not exceed 50 percent of the cost of purchasing replacement equipment for the equipment to be upgraded. The head of the field office shall include a written record of the determination in the agency records of the procurement.

(c) MICRO-PURCHASE PROCEDURES DEFINED.—In this section, the term "micro-purchase procedures" means the procedures prescribed under section 32 of the Office of Federal Procurement Policy Act (41 U.S.C. 428) for purchases not in excess of the micro-purchase threshold (as defined in that section).

SEC. 504. DISPOSAL OF EXCESS COMPUTER EQUIPMENT.

(a) AUTHORITY TO DONATE.—The head of an executive agency may, without regard to the procedures otherwise applicable under title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.), convey without consideration all right, title, and interest of the United States in any computer equipment under the control of such official that is determined under title II of such Act as being excess property or surplus property to a recipient in the following order of priority:

(1) Elementary and secondary schools under the jurisdiction of a local educational agency and schools funded by the Bureau of Indian Affairs.

(2) Public libraries.

(3) Public colleges and universities.

(b) INVENTORY REQUIRED.—Upon the enactment of this Act, the head of an executive agency shall inventory all computer equipment under the control of that official and identify in accordance with title II of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 et seq.) the equipment, if any, that is excess property or surplus property.

(c) DEFINITIONS.—In this section:

(1) The terms "excess property" and "surplus property" have the meanings given such terms in section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472).

(2) The terms "local educational agency", "elementary school", and "secondary school" have the meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).

SEC. 505. LEASING INFORMATION TECHNOLOGY.

(a) ANALYSIS BY GAO.—The Comptroller General of the United States shall perform a comparative analysis of—

(1) the costs and benefits of purchasing new information technology for executive agencies;

(2) the costs and benefits of leasing new information technology for executive agencies;

(3) the costs and benefits of leasing used information technology for executive agencies; and

(4) the costs and benefits of purchasing used information technology.

(b) LEASING GUIDELINES.—Based on the analysis, the Comptroller General shall develop recommended guidelines for leasing information technology for executive agencies.

SEC. 506. CONTINUATION OF ELIGIBILITY OF CONTRACTOR FOR AWARD OF INFORMATION TECHNOLOGY CONTRACT AFTER PROVIDING DESIGN AND ENGINEERING SERVICES.

Notwithstanding any other provision of law, a contractor that provides architectural design and engineering services for an information system under an information technology program of an executive agency is not, solely by reason of having provided such services, ineligible for award of a contract for procurement of information technology under that program or for a subcontract under such a contract.

SEC. 507. ENHANCED PERFORMANCE INCENTIVES FOR INFORMATION TECHNOLOGY ACQUISITION WORKFORCE.

(a) ARMED SERVICES ACQUISITIONS.—

(1) CLARIFICATION OF REQUIREMENTS FOR SYSTEM OF INCENTIVES.—Subsection (b) of section 5001 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3350; 10 U.S.C. 2220 note) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by designating the second sentence as paragraph (2);

(C) by inserting "(1)" after "(b) ENHANCED SYSTEM OF PERFORMANCE INCENTIVES.—"; and

(D) by adding at the end the following:

"(3) The Secretary shall include in the enhanced system of incentives, to the extent that the system applies with respect to programs for the acquisition of information technology (as defined in section 4 of the Information Technology Management Reform Act of 1995), the following:

"(A) Pay bands.

"(B) Significant and material pay and performance incentives to be awarded, and significant and material unfavorable personnel actions to be imposed, under the system exclusively, or primarily, on the basis of the contributions of personnel to the performance of the information technology acquisition program in relation to cost goals, performance goals, and schedule goals.

"(C) Provisions for pay incentives and performance incentives to be awarded under the system only if—

"(i) the cost of the information technology acquisition program is less than 90 percent of the baseline established for the cost of the program;

"(ii) the period for completion of the information technology program is less than 90 percent of the period provided under the baseline established for the program schedule; and

"(iii) the results of the phase of the information technology program being executed exceed the performance baselines established for the system by more than 10 percent.

"(D) Provisions for unfavorable personnel actions to be taken under the system only if the information technology acquisition program performance for the phase being executed exceeds by more than 10 percent the cost and schedule parameters established for the program phase and the performance of the system acquired or to be acquired under the program fails to achieve at lease 90 percent of the baseline goals established for performance of the program.".

(2) Recommended Legislation.—Subsection (c) of such section is amended by adding at the end the following: "The Secretary shall include in the recommendations provisions necessary to implement the requirements of subsection (b)(3).".

(3) Implementation of Incentives System.—Section 5001 of the Federal Acquisition Streamlining Act of 1994 is further amended by adding at the end the following:

"(d) Implementation of Incentives System.—(1) The Secretary shall complete the review required by subsection (b) and take such actions as are necessary to provide an enhanced system of incentives in accordance with such subsection not later than October 1, 1997.

"(2) Not later than October 1, 1996, the Secretary shall submit to the Committees on Armed Services and on Governmental Affairs of the Senate and the Committees on National Security and on Government Reform and Oversight of the House of Representatives a report on the actions taken to satisfy the requirements of paragraph (1).".

(b) Civilian Agency Acquisitions.—

(1) Clarification of Requirements for System of Incentives.—Subsection (b) of section 5051 of the Federal Acquisition Streamlining Act of 1994 (Public Law 103–355; 108 Stat. 3351; 41 U.S.C. 263 note) is amended—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by designating the second sentence as paragraph (2);

(C) by inserting "(1)" after "(b) Enhanced System of Performance Incentives.—"; and

(D) by adding at the end the following:

"(3) The Deputy Director shall include in the enhanced system of incentives, to the extent that the system applies with respect to programs for the acquisition of information technology (as defined in section 4 of the Information Technology Management Act of 1995), the following:

"(A) Pay bands.

"(B) Significant and material pay and performance incentives to be awarded, and significant and material unfavorable personnel actions to be imposed, under the system exclusively, or primarily, on the basis of the contributions of personnel to the performance of the information technology acquisition program in relation to cost goals, performance goals, and schedule goals.

"(C) Provisions for pay incentives and performance incentives to be awarded under the system only if—

"(i) the cost of the information technology acquisition program is less than 90 percent of the amount established as the cost goal for the program under section 313 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 263);

"(ii) the period for completion of the program is less than 90 percent of the period established as the schedule goal for the program under such section; and

"(iii) the results of the phase of the program being executed exceed the performance goal established for the program under such section by more than 10 percent.

"(D) Provisions for unfavorable personnel actions to be taken under the system only if the information technology acquisition program performance for the phase being executed exceeds by more than 10 percent the cost and schedule goals established for the program phase under section 313 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 263) and the performance of the system acquired or to be acquired under the program fails to achieve at lease 90 percent of the performance goal established for the program under such section.".

(2) Recommended Legislation.—Subsection (c) of such section is amended by adding at the end the following: "The Deputy Director shall include in the recommendations provisions necessary to implement the requirements of subsection (b)(3).".

(3) Implementation of Incentives System.—Section 5051 of the Federal Acquisition Streamlining Act of 1994 is further amended by adding at the end the following:

"(d) Implementation of Incentives System.—(1) The Deputy Director shall complete the review required by subsection (b) and take such actions as are necessary to provide an enhanced system of incentives in accordance with such subsection not later than October 1, 1997.

"(2) Not later than October 1, 1996, the Deputy Director shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform and Oversight of the House of Representatives a report on the actions taken to satisfy the requirements of paragraph (1).".

TITLE VI—ACTIONS REGARDING CURRENT INFORMATION TECHNOLOGY PROGRAMS

SEC. 601. PERFORMANCE MEASUREMENTS.

(a) Implementation of Requirement for Performance Measurements.—The chief information officer of an executive agency shall ensure that performance measurements are prescribed for each significant current information technology acquisition program of the agency.

(b) Quality of Measurements.—The performance measurements shall be sufficient to provide—

(1) the head of the executive agency with adequate information for making determinations for purposes of subsections (b)(2) and (c)(2) of section 146; and

(2) the Director of the Office of Management and Budget with adequate information for making determinations for purposes of paragraphs (1)(B) and (2)(B) of section 123(g).

SEC. 602. INDEPENDENT ASSESSMENT OF PROGRAMS.

(a) Assessment Required.—The head of each executive agency shall provide for an assessment to be made of each of the current information technology acquisition programs of the agency that exceed $100,000,000.

(b) Independence of Assessment.—The head of the executive agency shall provide for the assessment to be carried out by the Inspector General of the agency (in the case of an agency having an Inspector General), a contractor, or another entity who is independent of the head of the executive agency.

(c) Purposes.—The purposes of the assessment of a program are to determine the following:

(1) To determine the status of the program in terms of performance objectives and cost and schedule baselines.

(2) To identify any need or opportunity for improving the process to be supported by the program.

(3) To determine the potential for use of the information technology by other executive agencies on a shared basis or otherwise.

(4) To determine the adequacy of the program plan, the architecture of the information technology being acquired, and the program management.

SEC. 603. CURRENT INFORMATION TECHNOLOGY ACQUISITION PROGRAM DEFINED.

For purposes of this title, a current information technology acquisition program is—

(1) an information technology acquisition program being carried out on the date of the enactment of this Act; and

(2) any other information technology acquisition program that is carried out through any contract entered into on the basis of offers received in response to a solicitation of offers issued before such date.

TITLE VII—PROCUREMENT PROTEST AUTHORITY OF THE COMPTROLLER GENERAL

SEC. 701. REMEDIES.

Section 3554(b) of title 31, United States Code, is amended by adding at the end the following:

"(4) If the Comptroller General makes a determination described in paragraph (1) in the case of a protest in a procurement of information technology, the Comptroller General may submit to the Chief Information Officer of the United States a recommendation to suspend the procurement authority of a Federal agency for the protested procurement.".

SEC. 702. PERIOD FOR PROCESSING PROTESTS.

Section 3554(a) of title 31, United States Code, is amended—

(1) in paragraph (1), by striking out "paragraph (2)" in the second sentence and inserting in lieu thereof "paragraphs (2) and (5)"; and

(2) by adding at the end the following:

"(5)(A) The requirements and restrictions set forth in this paragraph apply in the case of a protest in a procurement of information technology.

"(B) The Comptroller General shall issue a final decision concerning a protest referred to in subparagraph (A) within 45 days after the date the protest is submitted to the Comptroller General.

"(C) The disposition under this subchapter of a protest in a procurement referred to in subparagraph (A) bars any further protest under this subchapter by the same interested party on the same procurement.".

SEC. 703. DEFINITION.

Section 3551 of title 31, United States Code, is amended by adding at the end the following:

"(4) The term 'information technology' has the meaning given that term in section 4 of the Information Technology Management Reform Act of 1995.".

TITLE VIII—RELATED TERMINATIONS, CONFORMING AMENDMENTS, AND CLERICAL AMENDMENTS

Subtitle A—Related Terminations

SEC. 801. OFFICE OF INFORMATION AND REGULATORY AFFAIRS.

The Office of Information and Regulatory Affairs in the Office of Management and Budget is terminated.

SEC. 802. SENIOR INFORMATION RESOURCES MANAGEMENT OFFICIALS.

In each executive agency for which a chief information officer is designated under section 143(a), the designation of a senior information resources management official under section 3506(a)(2) of title 44, United States Code, is terminated.

Subtitle B—Conforming Amendments

SEC. 811. AMENDMENTS TO TITLE 10, UNITED STATES CODE.

(a) Multiyear Contracts.—Section 2306b(k) of title 10, United States Code, is amended by striking out "property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies" and inserting in lieu thereof "information technology (as defined in section 4 of the Information Technology Management Reform Act of 1995".

(b) Sensitive Defense Activities.—Section 2315 of such title is repealed.

SEC. 812. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

Section 612 of title 28, United States Code, is amended—

(1) in subsection (f), by striking out "section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759)" and inserting in lieu thereof "the provisions of law, policies, and regulations applicable to executive agencies under the Information Technology Management Reform Act of 1995";

(2) in subsection (g), by striking out "sections 111 and 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481 and 759)" and inserting in lieu thereof "section 201 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481)";

(3) by striking out subsection (l); and

(4) by redesignating subsection (m) as subsection (l).

SEC. 813. AMENDMENTS TO TITLE 31, UNITED STATES CODE.

(a) Availability of Funds Following Resolution of a Protest.—Section 1558(b) of title 31, United States Code, is amended by striking out "or under section 111(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(f))".

(b) GAO Procurement Protest System.—Section 3552 of such title is amended by striking out the second sentence.

SEC. 814. AMENDMENTS TO TITLE 38, UNITED STATES CODE.

Section 310 of title 38, United States Code,is amended to read as follows:

"§ 310. Chief information officer

"(a) The Secretary shall designate a chief information officer for the Department in accordance with section 143(a) of the Information Technology Management Reform Act of 1995.

"(b) The chief information officer shall perform the duties provided for chief information officers of executive agencies under the Information Technology Management Reform Act of 1995.".

SEC. 815. PROVISIONS OF TITLE 44, UNITED STATES CODE, AND OTHER LAWS RELATING TO CERTAIN JOINT COMMITTEES OF CONGRESS.

(a) Joint Committee on Information.—

(1) Replacement of Joint Committee on Printing.—Chapter 1 of title 44, United States Code, is amended by striking out the chapter heading and all that follows through the heading for section 103 and inserting in lieu thereof the following:

"CHAPTER 1—JOINT COMMITTEE ON INFORMATION

"Sec.

"101. Joint Committee on Information.

"102. Remedial powers.

"§ 101. Joint Committee on Information

"There is a Joint Committee on Information established by section 101 of the Information Technology Management Reform Act of 1995.

"§ 102. Remedial powers".

(2) References to Joint Committee.—The provisions of title 44, United States Code, are amended by striking out "Joint Committee on Printing" each place it appears and inserting in lieu thereof "Joint Committee on Information".

(b) References to Joint Committee of Congress on the Library.—

(1) Miscellaneous References.—Section 82 of the Revised Statutes (2 U.S.C. 132a), section 203(i) of the Legislative Reorganization Act of 1946 (2 U.S.C. 166(i)), section 1831 of the Revised Statutes (40 U.S.C. 188), and section 801(b)(2) of Public Law 100-696 (102 Stat. 4608; 40 U.S.C. 188a(b)(2)) are amended by striking out "Joint Committee of Congress on the Library" and inserting in lieu thereof "Joint Committee on Information".

(2) Superseded Provision.—Section 223 of the Legislative Reorganization Act of 1946 (2 U.S.C. 132b) is repealed.

(3) Continuation of Authority.—Section 2 of the Act of March 3, 1883 (22 Stat. 587) is amended under the heading "SENATE." by striking out the undesignated paragraph relating to the exercise of powers and discharge of duties of the Joint Committee of Congress upon the Library by the Senate members of the joint committee during the recess of Congress (22 Stat. 592; 2 U.S.C. 133).

(c) Other References.—A reference to a joint committee of Congress terminated by section 102(d) in any law or in any document of the Federal Government shall be deemed to refer to the Joint Committee on Information established by section 101.

SEC. 816. PROVISIONS OF TITLE 44, UNITED STATES CODE, RELATING TO PAPERWORK REDUCTION.

(a) Definition.—Section 3502 of title 44, United States Code, is amended by striking out paragraph (9) and inserting in lieu thereof the following:

"(9) the term 'information technology' has the meaning given that term in section 4 of the Information Technology Management Reform Act of 1995;".

(b) Office of Information and Regulatory Affairs.—Chapter 35 of such title is amended—

(1) by striking out section 3503 and inserting in lieu thereof the following:

"§ 3503. Chief Information Officer of the United States

"The Director of the Office of Management and Budget shall delegate to the Chief Information Officer of the United States the authority to administer all functions under this chapter, except that any such delegation shall not relieve the Director of responsibility for the administration of such functions."; and

(2) by striking out section 3520.

(c) Development of Standards and Guidelines by NIST.—Section 3504(h)(1)(B) of such title is amended by striking out "section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d))" and inserting in lieu thereof "paragraphs (2) and (3) of section 20(a) of the National Institute of Standards and Technology Act (20 U.S.C. 278g-3(a))".

(d) Compliance With Directives.—Section 3504(h)(2) of such title is amended by striking out "sections 110 and 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757 and 759)" and inserting in lieu thereof "the Information Technology Management Reform Act of 1995 and directives issued under section 110 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 757)".

(e) Senior Information Resources Management Officials.—Section 3506(a)(2) of such title is amended—

(1) in subparagraph (A), by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)"; and

(2) by adding at the end the following:

"(C) An agency for which a chief information officer is designated under section 143(a) of the Information Technology Management Reform Act of 1995 may not designate a senior official under this paragraph.".

SEC. 817. AMENDMENT TO TITLE 49, UNITED STATES CODE.

Section 40112(a) of title 49, United States Code, is amended by striking out "or a contract to purchase property to which section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) applies".

SEC. 818. OTHER LAWS.

(a) Computer Security Act of 1987.—Section 2(b)(2) of the Computer Security Act of 1987 (Public Law 100-235; 101 Stat. 1724) is amended by striking out "by amending section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d))".

(b) Public Law 101-520.—Section 306(b) of Public Law 101-520 (40 U.S.C. 166 note) is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) the Information Technology Management Reform Act of 1995; and".

(c) National Energy Conservation Policy Act.—Section 801(b)(3) of the National Energy Conservation Policy Act (42 U.S.C. 8287(b)(3)) is amended by striking out the second sentence.

(d) National Security Act of 1947.—Section 3 of the National Security Act of 1947 (50 U.S.C. 403c) is amended by striking out subsection (e).

Subtitle B—Clerical Amendments

SEC. 821. AMENDMENT TO TITLE 10, UNITED STATES CODE.

The table of sections at the beginning of chapter 137 of title 10, United States Code, is amended by striking out the item relating to section 2315.

SEC. 822. AMENDMENT TO TITLE 38, UNITED STATES CODE.

The table of sections at the beginning of chapter 3 of title 38, United States Code, is amended by striking out the item relating to section 310 and inserting in lieu thereof the following:

"310. Chief information officer.".

SEC. 823. AMENDMENTS TO TITLE 44, UNITED STATES CODE.

(a) Chapter 1.—The item relating to chapter 1 in the table of chapters at the beginning of title 44, United States Code, is amended to read as follows:

"1. Joint Committee on Information .. 101".

(b) Chapter 35.—The table of sections at the beginning of chapter 35 of such title is amended—

(1) by striking out the item relating to section 3503 and inserting in lieu thereof the following:

"3503. Chief Information Officer of the United States.";

and

(2) by striking out the item relating to section 3520.

TITLE IX—SAVINGS PROVISIONS

SEC. 901. SAVINGS PROVISIONS.

(a) REGULATIONS, INSTRUMENTS, RIGHTS, AND PRIVILEGES.—All rules, regulations, contracts, orders, determinations, permits, certificates, licenses, grants, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the Administrator of General Services or the General Services Administration Board of Contract Appeals, or by a court of competent jurisdiction, in connection with an acquisition activity carried out under the section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759), and

(2) which are in effect on the effective date of this title,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Director of the Office of Management and Budget, the Chief Information Officer of the United States, any other authorized official, by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS AND APPLICATIONS.—

(1) TRANSFERS OF FUNCTIONS NOT TO AFFECT PROCEEDINGS.—This Act and the amendments made by this Act shall not affect any proceeding, including any proceeding involving a claim or application, in connection with an acquisition activity carried out under section 111 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759) that is pending before the Administrator of General Services or the General Services Administration Board of Contract Appeals on the effective date of this Act.

(2) ORDERS IN PROCEEDINGS.—Orders may be issued in any such proceeding, appeals may be taken therefrom, and payments may be made pursuant to such orders, as if this Act had not been enacted. An order issued in any such proceeding shall continue in effect until modified, terminated, superseded, or revoked by the Director of the Office of Management and Budget, the Chief Information Officer of the United States, or any other authorized official, by a court of competent jurisdiction, or by operation of law.

(3) DISCONTINUANCE OR MODIFICATION OF PROCEEDINGS NOT PROHIBITED.—Nothing in this subsection prohibits the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(4) REGULATIONS FOR TRANSFER OF PROCEEDINGS.—The Director of the Office of Management and Budget may prescribe regulations providing for the orderly transfer of proceedings continued under paragraph (1).

TITLE X—EFFECTIVE DATES

SEC. 1001. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect one year after the date of the enactment of this Act.

(b) TITLE VI.—Title VI shall take effect on the date of the enactment of this Act.

SYNOPSIS OF THE INFORMATION TECHNOLOGY MANAGEMENT REFORM ACT

The Act reflects the growing importance that information resources management plays in contributing to efficient government operations and provides more appropriate procedures for the procurement of information technology given today's realities. The Act places focus on the management of information technology as well as the processes supported by that technology, rather than simply on the procedures and process used to acquire information technology. Key features of this bill include the establishment of a national Chief Information Officer (CIO) within the Office of Management and Budget, creation of CIOs within each executive agency; simplification of the acquisition process; and emphasis on improving mission-related and administrative processes before acquiring information technology or automation. There are 10 titles to the bill which are summarized below.

Title I (Responsibility for Acquisition of Information Technology) contains Subtitle A (General Authority) repeals the Brooks Act and provides the heads of executive agencies with direct authority to procure information technology. This authority is subject to the direction and control of the Director of the Office of Management and Budget (OMB).

Subtitle B (Director of the Office of Management and Budget) assigns responsibility for the efficient use and acquisition of information resources by the executive agencies to the Director of OMB. The Director is to act through the CIO defined in Subtitle C of this title.

The Director is responsible for maximizing the productivity, efficiency, effectiveness of information resources in the government, and for establishing policies and guidelines related to improving the performance of information resources functions and activities; investing in and acquiring information resources; and reviewing and revising (reengineering) mission-related and administrative processes. Concise, simple regulations to implement the above requirements and other provisions of the Act should be made part of the Federal Acquisition Regulations. The Director is responsible for reviewing overall agency information resources management performance and for establishing information technology standards for the government with the exception of those information system security requirements required by the Department of Defense and Central Intelligence Agency which shall be developed by the Department of Defense and Central Intelligence Agency.

The Director of OMB has the authority and responsibility and is required to terminate any high risk information technology program or program phase or increment that exceeds its established goals for cost or schedule by 50 percent or does not achieve at least 50 percent of its performance goals; and requires the Director to consider terminating any high risk information technology program or program phase or increment that exceeds its established goals for cost or schedule by 10 percent or does not achieve at least 90 percent of its performance goals.

Subtite C (Chief Information Office of the United States) establishes the Office of the CIO within OMB. The CIO is appointed by the President, at Executive Level II, with Senate confirmation. The CIO is the principal advisor to the Director of OMB on matters of information resources management, and is delegated the responsibilities of the Director under this Act. The CIO' is responsible for, among other things, developing and maintaining a governmentwide strategic information resources management plan; developing proposed legislative or regulatory changes needed to improve government information resources management; reviewing agency information resources management regulations and practices; and coordinating with the Administrator of the Office of Federal Procurement Policy on federal information technology procurement policies. The CIO is required to review all high risk information technology programs before an agency may carry out or proceed with that program.

Subtitle D (Executive Agencies) assigns responsibility and accountability for carrying out agency information resources management activities and for complying with the requirements of this Act and related policies established by the national CIO to the head of each executive agency. Agencies are allowed to procure information technology costing under $100 million without OMB approval, while the national CIO must approve all information technology acquisitions over $100 million. Each agency is required to establish an agency CIO. The agency CIO is responsible for ensuring that agency mission-related and administrative processes are reviewed and improvement opportunities identified, and appropriate changes made to those processes before investing in supporting information technology.

The head of the agency is required to terminate any information technology program or program phase or increment that exceeds it established goals for cost or schedule by 50 percent or does not achieve at least 50 percent of its performance goals; and consider terminating any program or program phase or increment that exceeds its established goals for cost or schedule by 10 percent or does not achieve at least 90 percent of its performance goals. The agency CIO is required to monitor program cost, schedule and performance goal modifications, and consider the number and impact of such changes when deciding whether to continue or terminate the program.

The Department of Defense and Central Intelligence Agency are each delegated total responsibility for this Act, including that for high risk information technology programs. The delegation may be revoked, in whole or part, by the Director of OMB. Both agencies are required to provide the Director of OMB with an annual report on the status of their implementation of this Act.

Subtitle E (Federal Information Council) establishes a council composed of agency CIOs and others designated by the Director of OMB who shall serve as chairperson. The Council will establish strategic direction for the federal information infrastructure, offer information resources management advice and recommendations to the Director, and establish a committee of senior managers to review high risk information technology programs. A Software Review Council is established under the Federal Information Council to develop guidelines related to software engineering, integration of software systems, and use of commercial-off-the-shelf software.

Subtitle F (Interagency Functional Groups) authorizes agencies to jointly create governmentwide or multi-agency groups which will focus on functions, processes, or activities which are common to more than one agency and facilitate common information technology solutions for common problems and processes. Recommendations of the functional groups are provided to the Director of OMB or Federal Information Council as appropriate.

Subtitle G (Congressional Oversight) creates the Joint Committee on Information; composed of eight members, four appointed by the chair of both the Senate Committee on Governmental Affairs and the House of Representatives Committee on Government Reform and Oversight. Members serve for one Congress but may be reappointed. The Committee is responsible for reviewing the acquisition and management of information resources issues. This Act transfers functions and records of the Joint Committee on Printing and the Joint Committee of Congress on the Library to the Joint Committee on Information and terminates those Joint Committees.

Subtitle H (Other Responsibilities) transfers responsibilities related to development of information standards identified in the Computer Security Act of 1987 and the National Institute for Standards and Technology Act to the Director of OMB, and transfers responsibility for the Information Systems Security and Privacy Advisory board to the national CIO.

Title II (Process for Acquisitions of Information Technology) contains two subtitles. Subtitle A (Procedures) requires the Director of OMB to develop clear, concise information technology acquisition procedures and guidelines. The acquisition procedures and guidelines will be based on the following cost thresholds: under $5 million, $5–$25 million, $25–100 million, and $100 million and above. The procedures should reflect the increasing program risk associated with higher dollar acquisitions, the type of information technology procured (e.g., commodity, services), and other information technology issues. The procedures must include guidance for developing performance measures for information technology programs and using commercial items where appropriate.

Executive agencies are required to implement agency-wide acquisition procedures and guidelines which are based on and consistent with the above OMB-developed procedures, and establish a mechanism to periodically review agency information technology acquisitions. Agency acquisition procedures must include methods for determining program risks and benefits, guidelines for incremental acquisition and implementation of information technology, and establish an 18 month deadline for delivery of information technology program increments. Procurements of commercial off the shelf (COTS) information technology will be exempt from all procurement laws (identified by the national CIO in consultation with the Federal Information Council) except those which require full and open competition. Agencies will be allowed to limit to three the number of offerors who can submit best and final offers; use a two-phase solicitation process; and reward or penalize vendors based on contract performance measures.

Subtitle B (Acquisition Management) requires the head of an executive agency to establish minimum qualifications for information technology acquisition personnel and to provide for continuous training of those personnel. The head of each executive agency is required to determine whether agency personnel are available or whether an executive agent should be used to carry out an information technology acquisition. The subtitle expresses the sense of Congress that management oversight should focus on the mission-related and administrative processes supported by information technology and the results or effects of information technology acquisitions on those processes, rather than focus on the acquisition process and its procedures.

Title III (Special Fiscal Support for Information Innovation) contains four subtitles which address funding issues associated with this Act. Subtitle A (Information Technology Fund) establishes an information technology fund with two separate accounts in the Treasury, the Innovation Loan Account and the Common Use Account.

Subtitle B (Innovation Loan Account) directs that funds contained in the Innovation Loan Account be available for providing loans to agencies which have identified an innovative information technology solution to an agency problem. Loans are to be repaid by the agency by reimbursing the Account with 50 percent of the annual savings achieved by the information technology program funded by the such loans. This account will initially be funded by transferring five percent of each agency's information technology budget to the account for each of five fiscal years beginning in FY96.

Funds to support multi-agency and governmentwide information infrastructure services or acquisition programs will be funded by the second information technology fund account as defined in Subtitle C (Common Use Account). In selecting programs to be funded using the Common Use Account, the Director of OMB will consider criteria such as whether the program provides an innovative solution for reorganizing processes; supports interoperability among two or more agencies; or improves service to the public. Funding from this account is limited to two fiscal years. The Common Use Account will be funded initially by the transfer of unobligated funds held in the existing GSA Information Technology Fund and in the future by fees assessed users of the common information technology service or program.

Subtitle D (Other Fiscal Policies) requires the head of each executive agency to certify that mission-related and/or administrative process(es) have been reviewed and revised (reengineered) before funds may be expended to acquire an information technology program that supports those process(es). The subtitle states that improvements in information resources management should enable agencies to decrease information technology operation and maintenance costs by five percent and increase efficiency of agency operations by five percent. The Comptroller General, agency Inspector General or other audit agency is required to conduct an independent review of the executive agency's information resources plans, acquisitions, and management for five fiscal years beginning in FY96 to determine whether the agency's information technology operating and maintenance costs have decreased by at least five percent annually and whether agency operational efficiency, as measured by performance goals, has increased at least five percent.

Title IV (Information Technology Acquisition Pilot Programs) contains two subtitles related to pilot programs authorized under this Act. Subtitle A (Conduct of Pilot Programs) authorizes the National CIO to conduct, with advice of the federal Information Council, five pilot programs designed to evaluate alternative approaches for acquiring and implementing information technology programs. The CIO is limited to a total of $1.5 billion for the conduct of the pilot programs. Agencies selected to carry out a pilot program acquisition are required to develop criteria which can be used to measure the success of the effort, and the national CIO must submit to Congress a test plan that identifies how the pilot effort will be measured against its objectives. The national CIO to provide the results of pilot programs conducted under this Act to the Director, OMB and Congress within six (6) months of their completion, and recommendations regarding information technology legislation to Congress.

Subtitle B (Specific Pilot Programs) identifies the five specific pilot programs authorized under this Act. The first, the Share-in-Savings Pilot Program, is designed for information technology acquisitions in which the government seeks a creative or innovative solution from industry. Up to five contracts are authorized under the pilot. The savings achieved by the vendor's innovative solution will be shared between the vendor and government.

The second pilot, the Solutions-Based Contracting Pilot Program, is designed for programs in which the information technology need or problem is similar to one found in the private sector, and is based on industry providing proven business solutions to government problems. Contractors will be selected based primarily on the contractor's qualifications and past performance. A maximum of 10 programs valued between $25 million and $100 million and 10 programs valued between $1 million and $5 million for small business are authorized under this pilot program, and will be carried out by up to two civilian agencies and one defense agency.

Third, the Pilot Program for Contracting for Performance of Acquisition Functions, will allow up to five agencies to contract with the private sector to conduct procurement and management functions related to an information technology acquisition. An agency selected for this pilot program will award a contract to a vendor who will be responsible for performing all the work associated with procuring and managing an information technology acquisition.

The final two pilot programs, the Major Acquisitions Pilot Program, are authorized for acquisitions of information technology over $100 million. The pilots will be carried out by a selected civilian agency and by a defense agency, and will be limited to a 3 year test period and $300 million total funding limit. The two pilots initiated under this pilot program are intended to, among other things, identify ways to incrementally build information systems, allow systems to keep pace with technology advancements.

Title V (Other Information Resources Management Reforms) contains seven sections related to various information technology initiatives. This title transfers responsibility for the Federal Acquisition System Network (FACNET) to the national CIO, and authorizes the nation CIO to establish up to three competing programs for the development and testing of system designs which will be part of FACNET and which support the electronic purchase of commercial information technology items. Based on the results of the design and test, the CIO is to report recommendations regarding implementation of an electronic marketplace for purchasing commercial information technology to Congress.

The title authorizes the head of a field office, under authority and direction of the head of the executive agency for that field office, to sue micro-purchase procedures to procure up to $20,000 per year for computer hardware upgrades in increments of $2,500, in addition to the $20,000 limit provided under the Federal Acquisition Streamlining Act of 1994.

The title authorizes the head of an executive agency to give excess or surplus information technology equipment to public elementary and secondary schools, public libraries, or public universities or colleges, and requires agencies to maintain an inventory of its equipment to support this process.

The Comptroller General of the U.S. is required to analyze the costs and benefits of buying versus leasing new or used information technology and develop guidelines for agencies based on that analysis. The title authorizes contractors who provide the design or engineering support for an information system design, to also compete for or be part of a contractor team which bids on and/or wins the contract for implementing the information system. Finally, the title contains provisions for pay and performance incentives for personnel involved in information technology acquisitions.

Title VI (Actions Regarding Current Information Technology Programs) contains three subsections related to ongoing or existing information technology programs. The title requires the head of an executive agency to establish performance measures for all ongoing agency information technology programs and requires that such measures be used to support decisions regarding program continuation or termination. The head of an executive agency is also required to obtain an independent assessment of each current agency information technology program over $100 million to identify opportunities for improving or reengineering the process supported by the information technology program; and determine whether the program is meeting current agency needs and strategic plans.

Title VII (Procurement Protests) amends current law to allow the Comptroller General, in the case of information technology acquisition protests, to recommend that an agency's procurement authority be suspended for that acquisition. This title also requires the Comptroller General to issue a decision relating to an information technology protest within 45 days and bars further protest to the Comptroller General under this subchapter once a decision is made.

Title VIII (Conforming and Clerical Amendments) contains three subtitles. Subtitle A (Related Terminations) eliminates the Office of the Information and Regulatory Affairs (OIRA) within OMB, and eliminates the position of Senior Information Resources Management Official in agencies which are required to have a CIO under this Act. Subtitle B (Conforming Amendments) identifies conforming amendments that modify Titles 10, 28, 31, 38, 44, 49 of the United States Code; the Computer Security Act of 1987; the National Security Act of 1947; National Energy Conservation Policy Act; and Public Law 101–520 for consistency with the provisions of this Act. Subtitle C (Clerical Amendments) provides clerical changes to Title 10, Title 38 and Title 44 of United States Code which provide consistency with this Act.

Title IX (Savings Provisions) allows selected information technology actions and acquisition proceedings, including claims or applications, which have been initiated by or are pending before the Administrator of the General Services Administration or the General Services Administration Board of Contract Appeals to be continued under their original terms until terminated, revoked, or superseded in accordance with law by the Director of OMB, the national CIO, by a court, or operation of law. The Director of OMB is authorized to establish regulations for transferring such actions and proceedings.

Title X (Enactment) makes this Act and amendments made by this Act, with the exception of Title VI, effective one (1) year after enactment. Title VI will take effect on the date of the enactment of this Act.

Mr. LEVIN. Mr. President, I am pleased to join my colleague, Senator COHEN, in cosponsoring the Information Technology Management Reform Act of 1995. This bill is the product of months of work by Senator COHEN and his staff, who have engaged in an extensive review of problems with Government purchases of information technology systems and endeavored to come up with a comprehensive legislative solution to those problems.

The bill that they have put together would dramatically revise Federal procurement procedures for information technology products and services by repealing the Brooks Act of 1965, eliminating the requirement for a "delegation of procurement authority" by the General Services Administration, and ending the unique role of the General Services Board of Contract Appeals in information technology bid protests.

In the place of these laws, the Cohen bill would establish a new Chief Information Officer, or CIO in the Office of Management and Budget and in each of the 23 major Federal agencies and give them responsibility for information management and the acquisition of information technology. It would create a Federal Information Council to coordinate governmentwide and multiagency information technology acquisitions and a Software Review Council to act as a clearinghouse for commercial and off-the-shelf software programs that could meet agency needs.

The bill would require governmentwide guidelines to assist agencies in assessing their information technology needs, mandate up-front acquisition planning and risk management, establish goals for information technology costs and efficiency improvements, and provide performance incentives for vendors and agency personnel who perform well. It would favor incremental purchases of information technology over a period of years, streamline contracting requirements, establish a series of pilot programs to test innovative procedures, and consolidate administrative bid protests in the General Accounting Office.

Mr. President, much has changed in the 30 years since Congress adopted the Brooks Act. In 1965, we were buying main frame computers, which were centrally located, managed, and acquired by a small core of Government computer experts. Today, by contrast, every Government agency is trying to take advantage of a rapidly evolving commercial marketplace for personal computers, packaged software, and other information technology products and services. Our rigid and centralized Government computer acquisition systems are having increasing difficulty keeping up.

So it is very much time for us to reexamine those acquisition systems from the ground up. It is appropriate for us to ask why bid protest procedures and standards that have met our needs for products ranging from toasters to fighter aircraft cannot also meet our needs in the area of computer procurement. It is appropriate for us to ask whether we still need the centralized approach of the Brooks Act, under which the General Services Administration is responsible for approving computer purchases by other Federal agencies.

Just as important, I think it is time for us to take another look at the increasingly complex and unwieldy Government specifications used in computer procurements today. Does it really make sense that in an era of rapidly evolving commercial technology, the Government is still trying to design its own computer systems? Isn't there some way that we can better harness the know-how of the private sector to do this for us? The bill we are introducing today takes some steps in this direction; I hope that as we consider this issue in hearings and markup, we will be able to do even more.

So I congratulate Senator COHEN and his staff for the leadership they have shown in putting these issues on the table. I congratulate them for the bold and comprehensive approach that they have taken to the problems of acquiring information technology.

At the same time, Mr. President, there are some provisions in this bill which I do not support in their current form. For example, several provisions call for the automatic termination of contracts and solicitations, and even automatic pay adjustments for Federal employees, based on artificial formulas which are intended to reflect the performance of agency employees and contractors. I believe that every acquisition program presents its own unique challenges, which cannot be evaluated with a single mechanistic formula. For this reason, I do not think that business judgments about contract terminations and pay adjustments can or should be made on the basis of such formulas.

Similarly, I am concerned by provisions of the bill that would overturn the prohibition on organizational conflicts of interest in acquisitions of information technology. I agree that we need to consider new types of competition, including design-build contracts and two-step procurements, in purchases of information technology. That does not mean, however, that we should abandon all concern about providing a level playing field for all participants in such purchases.

I am also reserving judgment on the new organizational structures established by the bill, including the chief information officers in OMB and each of the 23 major Federal agencies, and the two new councils. We recently passed the reauthorization of the Paperwork Reduction Act, which places responsibility for information management in the Office of Information and Regulatory Affairs. This bill would take those functions out of that office and establish a new position and a new office. I want to carefully review the consequences of such a proposal to determine whether this possible enlargement of the bureaucracy brings sufficient benefits to justify the cost.

Finally, I do not look with favor on the establishment of a new Joint Committee on Information. At a time when we are trying to down-size our own committee system, with particular attention being paid to the role of joint committees, I am very leery of creating a whole new congressional entity just to oversee information management. I believe it is fair for us to ask whether we need to establish new oversight structures, or whether we could instead trust Federal agencies to make their own information technology purchases pursuant existing congressional and agency oversight mechanisms and the streamlined policies and procedures established in the bill.

I hope that we will continue to work on these and other aspects of the bill in hearings and at markup. Overall, however, the Cohen bill is an impressive effort to address some very real problems with the way we purchase and manage information technology in the Federal Government today. I may not agree with everything in the bill, but I do believe that it points us in the right direction. I am pleased to be an original cosponsor of the bill, and I look forward to working with Senator COHEN as we move forward to modernize our information technology acquisition laws.

By Mr. PRESSLER (for himself and Mr. DASCHLE):

S. 947. A bill to amend title VIII of the Elementary and Secondary Education Act of 1965 regarding impact aid payments, and for other purposes; to the Committee on Labor and Human Resources.

IMPACT AID PROGRAM TECHNICAL AMENDMENTS ACT

Mr. PRESSLER. Mr. President, today I am introducing a bill to make technical improvements in the Impact Aid Program. Last year, I was pleased to be the lead sponsor of the initial Impact Aid reauthorization. That bill was incorporated into the Improving America's Schools Act, now Public Law 103-382.

As my colleagues know, the Impact Aid Program is an ongoing Federal responsibility. More than 2,600 school districts enrolling more than 20 million children depend on the program. In South Dakota for example, Impact Aid is the lifeblood of more than 55 school districts. Without it, these districts could not recoup the lost tax base caused by a Federal presence.

As with any legislation of this scope, corrections often need to be made. The bill I am introducing today fine-tunes last year's reauthorization in several ways. The bill first makes technical changes in section 8002, which reimburses districts for Federal land. During the reauthorization, language was omitted which permitted districts which had been formerly consolidated to retain their eligibility. It was not the intent of the authorizing committees to exclude these districts. The provision in my bill would restore eligibility to more than 80 school districts, allowing them to receive the revenue they had planned on.

Second, a hold harmless agreement for section 8002 school districts also would be put in place. The reauthorization made dramatic changes in the formula for section 8002. The hold harmless provision would prevent a district's payment from being decreased below 85 percent of its payment for the previous year. This agreement would protect section 8002 school districts and expedite payments while the Department of Education works out the new calculations. This brings section 8002 into line with the other sections of the law, which also contain hold harmless provisions.

Third, the bill would make several clarifications in section 8003, the section which authorizes funding for heavily impacted districts. One of these provisions clarifies the legal use of supplemental funds received by section 8003 districts from the Department of Defense. These school districts should not have these supplemental payments counted against their regular section 8003 payments. The Department of Defense payments were intended as additional payments for capital outlay expenses, not as funds for day-to-day operations.

Fourth, the bill amends the law regarding "civilian b" students. "B" students are those whose parents either live or work on Federal property. In the past, school districts could be eligible for "b" funds if either 15 percent or 2,000 students in impacted average daily attendance [ADA] are "b" students. The reauthorization changed this language so that only school districts with 15 percent impacted ADA and 2,000 impacted students may qualify. This change excluded many previously eligible schools from the program, especially in small States such as South Dakota. This change tilts the program in favor of large urban areas at the expense of small rural areas. Many, if not most, school districts in South Dakota do not have 2,000 students in ADA, much less 2,000 impacted students.

Finally, the bill would allow two districts in South Dakota, Bonesteel-Fairfax and Wagner, to claim eligibility for section 8003 for the current year. These two schools meet all the criteria for section 8003 funds, but could not qualify because of regulations that prevented them from amending their application after September 30. Allowing these two districts to claim eligibility would not alter section 8003 payments to other schools.

This bill represents no departures in policy from previous legislation. It would require no new funds. It simply would clear up several areas of uncertainty and enable the program to run more efficiently. This bill enjoys bipartisan support. The Impact Aid Program has been operating successfully for more than 40 years. These changes will help the program continue to run smoothly for years to come.

Mr. President, as we begin this year's appropriations process, the Impact Aid Program is in danger once again of being drastically cut. Again, I remind my colleagues that it is due to a Federal presence that nearby schools lose tax revenue and have to rely on the Impact Aid Program. It would be most unfair to federally impacted districts and the children they serve if the Federal government opted to deny them both a tax base and Federal support. Without this Federal support, local and county governments would be forced to either raise taxes or cut services to its citizens. A Federal presence should not force local governments to make that choice.

Impact Aid is a continuing responsibility that Congress cannot shirk. I look forward to working with my colleagues on both sides of the aisle to further enhance this program in the year ahead.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 947

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPACT AID.

(a) HOLD-HARMLESS AMOUNTS FOR PAYMENTS RELATING TO FEDERAL ACQUISITION OF REAL PROPERTY.—Section 8002 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7702) is amended by adding at the end the following new subsections:

"(g) FORMER DISTRICTS.—

"(1) IN GENERAL.—Where the school district of any local educational agency described in paragraph (2) is formed at any time after 1938 by the consolidation of two or more former school districts, such agency may elect (at any time such agency files an application under section 8005) for any fiscal year to have (A) the eligibility of such local educational agency, and (B) the amount which such agency shall be eligible to receive, determined under this section only with respect to such of the former school districts comprising such consolidated school districts as such agency shall designate in such election.

"(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency referred to in paragraph (1) is any local educational agency that, for fiscal year 1994 or any preceding fiscal year, applied for and was determined eligible under section 2(c) of the Act of September 30, 1950 (Public Law 874, 81st

Congress) as such section was in effect on September 30, 1994.

"(h) HOLD-HARMLESS AMOUNTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2)(A), the total amount that the Secretary shall pay a local educational agency under subsection (b)—

"(A) for fiscal year 1995 shall not be less than 85 percent of the amount such agency received for fiscal year 1994 under section 2 of the Act of September 30, 1950 (Public Law 874, 81st Congress) as such section was in effect on September 30, 1994; or

"(B) for fiscal year 1996 shall not be less than 85 percent of the amount such agency received for fiscal year 1995 under subsection (b).

"(2) RATABLE REDUCTIONS.—(A)(i) If necessary in order to make payments to local educational agencies in accordance with paragraph (1) for any fiscal year, the Secretary first shall ratably reduce payments under subsection (b) for such year to local educational agencies that do not receive a payment under this subsection for such year.

"(ii) If additional funds become available for making payments under subsection (b) for such year, then payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.

"(B)(i) If the sums made available under this title for any fiscal year are insufficient to pay the full amounts that all local educational agencies in all States are eligible to receive under paragraph (1) after the application of subparagraph (A) for such year, then the Secretary shall ratably reduce payments under paragraph (1) to all such agencies for such year.

"(ii) If additional funds become available for making payments under paragraph (1) for such fiscal year, then payments that were reduced under clause (i) shall be increased on the same basis as such payments were reduced.".

(b) COMPUTATION OF PAYMENT.—Paragraph (3) of section 8003(a) of such Act (20 U.S.C. 7703(a)) is amended by striking "and such" and inserting ", or such".

(c) PAYMENTS FOR ELIGIBLE FEDERALLY CONNECTED CHILDREN.—Subsection (f) of section 8003 of such Act (20 U.S.C. 7703) is amended—

(1) in paragraph (2)—

(A) in the matter preceding clause (i) of subparagraph (A), by striking "only if such agency" and inserting "if such agency is eligible for a supplementary payment in accordance with subparagraph (B) or such agency"; and

(B) by adding at the end the following new subparagraph:

"(C) A local educational agency shall only be eligible to receive additional assistance under this subsection if the Secretary determines that—

"(i) such agency is exercising due diligence in availing itself of State and other financial assistance; and

"(ii) the eligibility of such agency under State law for State aid with respect to the free public education of children described in subsection (a)(1) and the amount of such aid are determined on a basis no less favorable to such agency than the basis used in determining the eligibility of local educational agencies for State aid, and the amount of such aid, with respect to the free public education of other children in the State."; and

(2) in paragraph (3)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by inserting "(other than any amount received under paragraph (2)(B))" after "subsection";

(ii) in subclause (I) of clause (i), by striking "or the average per-pupil expenditure of all the States";

(iii) by amending clause (ii) to read as follows:

"(ii) The Secretary shall next multiply the amount determined under clause (i) by the total number of students in average daily attendance at the schools of the local educational agency."; and

(iv) by amending clause (iii) to read as follows:

"(iii) The Secretary shall next subtract from the amount determined under clause (ii) all funds available to the local educational agency for current expenditures, but shall not so subtract funds provided—

"(I) under this Act; or

"(II) by any department or agency of the Federal Government (other than the Department) that are used for capital expenses."; and

(B) by amending subparagraph (B) to read as follows:

"(B) SPECIAL RULE.—With respect to payments under this subsection for a fiscal year for a local educational agency described in clause (ii) or (iii) of paragraph (2)(A), the maximum amount of payments under this subsection shall be equal to—

"(i) the product of—

"(I) the average per-pupil expenditure in all States multiplied by 0.7, except that such amount may not exceed 125 percent of the average per-pupil expenditure in all local educational agencies in the State; multiplied by

"(II) the number of students described in subparagraph (A) or (B) of subsection (a)(1) for such agency; minus

"(ii) the amount of payments such agency receives under subsections (b) and (d) for such year.".

(d) CURRENT YEAR DATA.—Paragraph (4) of section 8003(f) of such Act (20 U.S.C. 7703(f)) is amended to read as follows:

"(4) CURRENT YEAR DATA.—For purposes of providing assistance under this subsection the Secretary—

"(A) shall use student and revenue data from the fiscal year for which the local educational agency is applying for assistance under this subsection; and

"(B) shall derive the per-pupil expenditure amount for such year for the local educational agency's comparable school districts by increasing or decreasing the per pupil expenditure data for the second fiscal year preceding the fiscal year for which the determination is made by the same percentage increase or decrease reflected between the per-pupil expenditure data for the fourth fiscal year preceding the fiscal year for which the determination is made and the per-pupil expenditure data for such second year.".

(e) SPECIAL RULE FOR 1994 PAYMENTS.—The Secretary shall not consider any payment to a local educational agency by the Department of Defense, that is available to such agency for current expenditures and used for capital expenses, as funds available to such agency for purposes of making a determination for fiscal year 1994 under section 3(d)(2)(B)(i) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such Act was in effect on September 30, 1994).

(f) APPLICATIONS FOR INCREASED PAYMENTS.—

(1) PAYMENTS.—(A) Notwithstanding any other provision of law—

(A) the Bonesteel-Fairfax School District #26-5, South Dakota, and the Wagner Community School District #11-4, South Dakota, shall be eligible to apply for payment for fiscal year 1994 under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on September 30, 1994); and

(B) the Secretary of Education shall use a subgroup of 10 or more generally comparable local educational agencies for the purpose of calculating a payment described in subparagraph (A), and the local contribution rate applicable to such payment, for a local educational agency described in such subparagraph.

(2) APPLICATION.—In order to be eligible to receive a payment described in subsection (a), a school district described in such subsection shall apply for such payment within 30 days after the date of enactment of this Act.

(3) CONSTRUCTION.—Nothing in this section shall be construed to require a local educational agency that received a payment under section 3(d)(2)(B) of the Act of September 30, 1950 (Public Law 874, 81st Congress) (as such section was in effect on September 30, 1994) for fiscal year 1994 to return such payment or a portion of such payment to the Federal Government.

Mr. DASCHLE. Mr. President, today, along with Senator PRESSLER and Congressman JOHNSON, I am introducing legislation making technical amendments to the Impact Act law to clarify the eligibility requirements for aid to federally impacted school districts. Federal Impact Aid is essential to the education and development of thousands of children across the United States.

Some of the provisions of Public Law 103-382, last year's reauthorization of the Elementary and Secondary Education Act, were not clearly known or fully understood until the implementation of the law was underway. Now that implementation is underway, one area of the law that demands clarification is that governing payments to section 8002 schools (formerly section 2).

Section 8002 provides a payment in lieu of taxes to those school districts which have lost at least 10 percent of the assessed value of their taxable land due to Federal acquisition. It provides partial compensation for the presence of Federal property within a school district's borders. Prior to Public Law 103-382, Congress included specific statutory protection to school districts that consolidated with districts that included Federal property. However, this provision was not included in Public Law 103-382; therefore, formerly eligible districts are not deemed ineligible.

The new law jeopardizes the eligibility of consolidated school districts that are eligible based on former district status. Previously, section 2 authorized reimbursements to a school district in which the Federal Government had acquired, since 1938, at least 10 percent of the taxable assessed value of the district. In many cases, especially in South Dakota, schools have found it necessary to consolidate, and the old law provided a safeguard for those schools. This safeguard provision in section 2 enabled districts to be eligible for funds if one or more of the consolidating districts was a former district with a 10 percent Federal impact. However, under Public Law 103-382, to be eligible for section 8002 payments, the current district itself must be affected by 10 percent or more, not counting any former school districts.

The elimination of the safeguard language will have a devastating effect on section 8002 schools in South Dakota. Under the new law, 18 of the 21 school districts in South Dakota that currently receive section 2 funds would be ineligible. Although the dollar amounts received may seem small, the funds are critical to enable these districts to provide basic educational needs.

The legislation we are introducing today would reinstate the former safeguard for section 8002 schools. It is important to note that our bill would not allow newly consolidated school districts to claim eligibility.

This bill also brings the hold harmless provisions for section 8002 districts, at 85 percent, in line with those governing other sections of the law; makes a technical correction regarding "civilian b" students; clarifies that supplemental payments from other Federal agencies used for capital outlays should not be counted against the district's overall supplemental payments; authorizes the adjustment of prior year financial data to accommodate current year need; and allows certain districts to apply for section 8003 funds if excess funds are remaining.

I hope these technical amendments can be adopted expeditiously.

By Mr. DORGAN (for himself, Mr. HELMS, Mr. INOUYE, Mr. LEAHY, Mr. MURKOWSKI, and Mr. ROBB):

S. 948. A bill to encourage organ donation through the inclusion of an organ donation card with individual income refund payments, and for other purposes; to the Committee on Finance.

ORGAN DONATION INSERT CARD ACT

Mr. DORGAN. Mr. President, I rise today to reintroduce legislation that proposes an inexpensive public education campaign to encourage organ donation. Senators INOUYE, LEAHY, ROBB, MURKOWSKI, and HELMS join me in this effort. And my good friend in the House of Representatives, DICK DURBIN, is introducing the same bill in that body today.

The Organ Donation Insert Card Act would direct the Treasury Department to enclose organ donation information when it mails next year's Federal Income Tax refunds.

THE SHORTAGE OF ORGAN DONORS

The most common tragedy of organ donation is not the patient who receives a transplant and dies, but the patient who has to wait too long and dies before a suitable organ can be found. Three thousand people will die this year because their bodies simply cannot wait any longer for the needed transplant.

In the meantime, the number of people added to the waiting list continues to increase dramatically. More than 40,000 people are currently on the waiting list—double the number on the list 5 years ago. Just in the last year, 9,000 people have been added to the waiting list, and a new name is added every 18 minutes.

Organ transplants can only happen if a grieving family authorizes the donation of their loved one's organs. Even a signed organ donor card does not ensure a donation because the next-of-kin must also agree to the donation.

I certainly understand that it is difficult for families to cope with the unexpected death of a loved one. Often, potentially life-saving transplants never occur because family members hesitate to permit organ donation at this emotionally demanding time. However, if family members can remember that a loved one talked to them about this matter, they are more likely to authorize the donation.

That's why it's so important for willing donors to discuss their wishes with their families before a tragedy can occur. Many family members will never have to act on these wishes. But if this difficult decision does arise, something good can come from this misfortune.

THE ORGAN DONATION INSERT CARD PROPOSAL

My legislation provides a simple, inexpensive way for the Federal Government to help educate potential donors and their families about organ donation.

My legislation would direct the Secretary of the Treasury to enclose with each income tax refund mailed next year information that encourages organ donation. The information would include a detachable organ-donor card. It would also include a message urging recipients to sign the card, tell their family they are willing to be an organ donor, and encourage their family to permit organ donation should the decision prove necessary.

The Treasury Department has said that enclosing this information with every tax refund would reach about 70 million households at a cost of only $210,000. The population that would receive these insert cards is very appropriate for the organ donation appeal.

The medical and transplant recipient communities strongly support this proposal. In fact, last year, more than 20 of these organizations endorsed this legislation.

By increasing public awareness and encouraging family discussion about organ donation, this legislation would increase the number of donors and reduce the number of people who die while waiting for transplants. I urge my colleagues to cosponsor and support this important measure.

Mr. President, I ask unanimous consent that the text of the bill and a summary of its provisions be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 948

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Organ Donation Insert Card Act".

SEC. 2. ORGAN DONATION INFORMATION INCLUDED WITH INCOME TAX REFUND PAYMENTS.

(a) IN GENERAL.—The Secretary of the Treasury shall include with any payment of a refund of individual income tax made during the period beginning on February 1, 1996, and ending on June 30, 1996, a copy of the document described in subsection (b).

(b) TEXT OF DOCUMENT.—The Secretary of the Treasury shall, after consultation with the Secretary of Health and Human Services and organizations promoting organ donation, prepare a document suitable for inclusion with individual income tax refund payments which—

(1) encourages organ donation;

(2) includes a detachable organ donor card; and

(3) urges recipients to—

(A) sign the organ donor card;

(B) discuss organ donation with family members and tell family members about the recipient's desire to be an organ donor if the occasion arises; and

(C) encourage family members to request or authorize organ donation if the occasion arises.

THE ORGAN DONATION INSERT CARD ACT

WHAT THE LEGISLATION DOES

This legislation directs the Secretary of the Treasury to enclose with each income tax refund check mailed between February 1 and June 30 of next year a card that encourages organ donation.

The insert would include a detachable organ-donor card. It also would include a message urging individuals to sign the card, tell their families about their willingness to be an organ donor, and encourage their family members to request or authorize organ donation if the occasion arises.

The text of the card would be developed by the Secretary of the Treasury, in consultation with the Secretary of Health and Human Services and organizations promoting organ donation.

WHY THE LEGISLATION IS NEEDED

The most common tragedy of organ transplantation is not the patient who receives a transplant and dies, but the patient who has to wait too long and dies before a suitable organ can be found. More than 3,000 people on the waiting list will die this year before receiving a transplant.

The demand for organs greatly exceeds the supply. More than 40,000 people now are waiting for an organ transplant, including over 1,400 children and more than 25,000 people who must have kidney dialysis while they wait for a kidney to become available. Meanwhile, another person is added to the list every 18 minutes.

We lose many opportunities for organ donation because people hesitate to authorize organ donation for themselves or their family members. Even a signed donor card does not ensure a donation because the next-of-kin must authorize the donation.

By encouraging organ donation and disseminating information about the importance of family discussion, this legislation could expand the pool of potential donors, increase the likelihood that families will authorize donation upon the death of a loved one, and reduce the number of people who die while waiting for organ transplants.

IMPLEMENTATION

Every year, the Treasury Department already puts an insert card in refund check mailings. According to the Treasury Department, the cost of the insert cards is $210,000. In recent years, the insert cards have offered special coins for sale. Switching from an appeal about coins to an appeal about organ donation for one year could save many lives for many years to come.

About 70 million households would receive the organ donor information and card. The population that would receive these cards is very appropriate for the organ donation appeal. For most transplants, the optimum age range for organ donors is 15 to 65. Individuals who receive refunds tend to be adults below retirement age. They tend to be of prime age for organ donation and often are the next-of-kin of others who could be prime candidates for organ donation.

More than 20 organizations in the medical and transplant recipient communities endorsed this proposal last year.

By Mr. GRAHAM (for himself, Mr. ROBB, Mr. WARNER, Mr. HEFLIN, Mrs. KASSEBAUM, Mr. INOUYE, and Mr. SHELBY):

S. 949. A bill to require the Secretary of the Treasury to mint coins in commemoration of the 200th anniversary of the death of George Washington; to the Committee on Banking, Housing, and Urban Affairs.

GEORGE WASHINGTON COMMEMORATIVE COIN ACT

Mr. GRAHAM. Mr. President, It is my distinct honor to introduce, with my colleagues, Senators ROBB, WARNER, KASSEBAUM, HEFLIN, INOUYE, and SHELBY, the George Washington Commemorative Coin Act of 1995.

On December 14, 1799, the United States lost its most honored patriot, a living embodiment of the ideals of the American Revolution. Unlike his contemporaries, many Americans today do not understand President Washington's importance, and while his reputation as America's greatest hero has remained for the most part intact, it seems that each generation knows less about George Washington than the previous one.

The George Washington Commemorative Coin Act of 1995 will focus public attention on the significance of our first President and the legacy he left behind. This legislation would authorize the Secretary of the Treasury to mint 100,000 gold coins in 1999, commemorating the 200th anniversary of Washington's death. The sale of these coins will cover costs that the Federal Government will incur in the minting of the coin and will provide a $35 surcharge which will be transferred to Mount Vernon.

The George Washington Commemorative Coin Act was recommended by the Citizens Commemorative Advisory Committee in its initial report to Congress last November, and was drafted with the assistance of the U.S. Mint.

Mount Vernon has the distinction of being the beloved home of our first President as well as our Nation's oldest and foremost historic preservation project. The proceeds from the sale of the coin will be added to Mount Vernon's endowment for the preservation of George Washington's home and the continuation of Mount Vernon's efforts to educate the American public about his life and accomplishments.

Mr. President, I urge my colleagues to join me in supporting the George Washington Commemorative Coin Act of 1995, thus ensuring that future generations have a full understanding of the importance of our Nation's first President.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 949

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "George Washington Commemorative Coin Act".

SEC. 2. COIN SPECIFICATIONS.

(a) FIVE DOLLAR COINS.—The Secretary of the Treasury (in this Act referred to as the "Secretary") shall mint and issue not more than 100,000 $5 coins, each of which shall—

(1) weigh 8.359 grams;

(2) have a diameter of 0.850 inches; and

(3) contain 90 percent gold and 10 percent alloy.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of section 5134 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under other provisions of law.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this act shall be emblematic of George Washington, the first President of the United States.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "1999"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary after consultation with the Mount Vernon Ladies' Association and the Commission of Fine Arts; and

(2) reviewed by the Citizens Commemorative Coin Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—Only 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality of the coins minted under this Act.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue coins minted under this Act beginning May 1, 1999.

(d) TERMINATION OF MINTING AUTHORITY.—No coins may be minted under this Act after November 1, 1999.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in subsection (d) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $35 per coin.

SEC. 7. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 8. DISTRIBUTION OF SURCHARGES.

(a) IN GENERAL.—All surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the Mount Vernon Ladies' Association to be used—

(1) to supplement the endowment of the Mount Vernon Ladies' Association, which shall be a permanent source of support for the preservation of George Washington's home; and

(2) for the continuation and expansion of the efforts of the Mount Vernon Ladies' Association to educate the American public about the life of George Washington.

(b) AUDITS.—The Comptroller General of the United States shall have the right to examine such books, records, documents, and other data of the Mount Vernon Ladies' Association as may be related to the expenditures of amounts paid under subsection (a).

SEC. 9. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration Board.

Mr. WARNER. Mr. President, I rise today with my good friend, Senator BOB GRAHAM, to introduce legislation that will be a source of support for Mount Vernon, the home of George Washington, the first President of the United States of America. The land, including Mount Vernon estate, has been in the Washington family since it was first patented in 1674 to John Washington, first of the name in America, and great-grandfather of George Washington. The estate served as home and, ultimately, final resting place for our first President and his wife, the former Martha Dandridge Custis. Indeed, Mount Vernon and the tomb of George Washington are held in such veneration that every ship of the United States Navy, while passing this spot, lowers its flag to half mast, tolls its bell and calls its crew to attention. Mount Vernon was declared as neutral ground by both North and South during the Civil War.

Mount Vernon is maintained by the Mount Vernon Ladies' Association, a nonprofit organization which scrupulously restored the estate following George Washington's own plans of detail and furnishings. Encompassing 487 acres, the grounds are landscaped according to Washington's records and notations to his estate manager. Mount Vernon is visited by more than 500,000 people a year.

The legislation which I am introducing today would authorize the U.S. Mint to produce a commemorative coin to honor the 200th anniversary of the death of George Washington. After recovery of minting and production costs, the proceeds of the George Washington commemorative coin, conservatively estimated at $5–$10 million, will be used for the preservation of George Washington's home and the expansion and continuation of Mount Vernon's efforts to educate the American public about our first President's life and accomplishments. This campaign will assure the full preservation and continued operation of the home of the first President of the United States.

Mr. President, George Washington was the living embodiment of the ideals of the American Revolution. His death in 1799 brought about an outpouring of grief remarkable even by modern standards. Unlike his contemporaries, many Americans today do not understand Washington's importance in creating the beginnings of a Nation that would become the most powerful and free country in the world. This legislation is an important step toward bringing all Americans closer to this great man.

I thank the Chair.

Mr. ROBB. Mr. President, I rise today with my colleagues from Florida and Virginia, Senators GRAHAM and WARNER, to introduce the George Washington Commemorative Coin Act.

This legislation requires the Secretary of the Treasury to issue a coin in the year 1999 commemorating the 200th anniversary of the death of George Washington. The surcharges raised from the selling of the coins will go to the Mount Vernon Ladies Association for the preservation of Mount Vernon and help the American people about the life and the legacy of our Nation's first President.

This is an important endeavor, Mr. President, because George Washington is one of our Nation's most prominent and beloved founding fathers. Before serving as President of a young Nation during its first 8 difficult years, Washington was a distinguished soldier and statesmen. After commanding the Virginia forces during the French and Indian Wars at the age of 23, Washington went on to serve his State and Nation as a member of both the Virginia House of Burgesses and the First Continental Congress. As Commander of the Continental Army during the Revolutionary War, he led the defeat of the most powerful nation on earth, and in doing so, allowed for the establishment of a bold experiment we call America.

As Virginius Dabney once wrote:

> George Washington epitomized what subsequent generations have come to recognize as a great, a good, a brave and a patriotic American. Without him there would have been no victory in war, no stability in peace. He came as close as anyone in our history to being the indispensable man.

In approving the George Washington Commemorative Coin Act, Mr. President, this Congress helps preserve the legacy of George Washington for future generations of the great nation he helped create and sustain.

I urge my colleagues to support this important legislation.

By Mrs. BOXER (for herself, Mr. KENNEDY, Mr. KERRY, Mr. SARBANES, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. AKAKA, Mr. INOUYE, Mrs. MURRAY, Mrs. FEINSTEIN, Mr. HOLLINGS, Mr. ROBB, Mr. GRAHAM, and Mr. LAUTENBERG):

S. 950. A bill to amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to cease mineral leasing activity on submerged land of the Outer Continental Shelf that is adjacent to a coastal State that has declared a moratorium on mineral exploration, development, or production activity in adjacent State waters, and for other purposes; to the Committee on Energy and Natural Resources.

COASTAL STATES PROTECTION ACT OF 1995

Mrs. BOXER. Mr. President, today the Republican Congress took the first step to destroy the California coastline and the coastlines of other States. We Democrats in Congress want to make sure it is their last.

Congressman GEORGE MILLER and I are introducing legislation that will offer Republicans a comfortable path away from coastal destruction.

I say comfortable because this bill is based on States' rights and local control—two concepts embraced by Republicans—at least in theory.

Simply put, the Boxer-Miller bill—the Coastal States Protection Act of 1995—says that when a State establishes a drilling moratorium on part or all of its coastal water, our legislation would extend that protection to Federal workers.

It does a State no good to protect its own waters which extend 3 miles from the coast only to have drilling from 4 miles to 200 miles of Federal waters jeopardizing the entire State's coastline including the State's protected waters.

An oilspill in Federal waters will rapidly foul State beaches, contaminate the nutrient rich ocean floor upon which a local fishery industry depends, and endangers habitat on State tidelands.

Our bill simply directs the Secretary of the Interior to cease leasing activities in Federal waters where the State has declared a moratorium on such activities thus coordinating Federal protection with State protection.

Our bill has a fundamental philosophy—do no harm to the magnificent coastlines of America and respect State and local State laws.

Those groups endorsing our bill include the Center for Marine Conservation, the Natural Resources Defense Council, American Oceans Campaign, and the Safe Oceans Campaign.

Original cosponsors of the Moynihan bill include Senators MURRAY, KENNEDY, KERRY, SARBANES, MIKULSKI, AKAKA, INOUYE, BIDEN, FEINSTEIN, HOLLINGS, ROBB, GRAHAM, and LAUTENBERG.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 950

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coastal States Protection Act".

SEC. 2. STATE MORATORIA ON OFFSHORE MINERAL LEASING.

Section 8 of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

"(p) STATE MORATORIA.—When there is in effect with respect to lands beneath navigable waters of a coastal State a moratorium on oil, gas, or other mineral exploration, development, or production activities established by statute or by order of the Governor, the Secretary shall not issue a lease for the exploration, development, or production of minerals on submerged lands of the outer Continental Shelf that are seaward of or adjacent to those lands.”.

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. ROTH, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 12, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

S. 254

At the request of Mr. LOTT, the name of the Senator from Arizona [Mr. MCCAIN] was added as a cosponsor of S. 254, a bill to extend eligibility for veterans' burial benefits, funeral benefits, and related benefits for veterans of certain service in the United States merchant marine during World War II.

S. 304

At the request of Mr. SANTORUM, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 401

At the request of Mr. LEAHY, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to clarify the excise tax treatment of hard apple cider.

S. 581

At the request of Mr. FAIRCLOTH, the names of the Senator from Indiana [Mr. COATS] and the Senator from New Hampshire [Mr. SMITH] were added as cosponsors of S. 581, a bill to amend the National Labor Relations Act and the Railway Labor Act to repeal those provisions of Federal law that require employees to pay union dues or fees as a condition of employment, and for other purposes.

S. 628

At the request of Mr. KYL, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 628, a bill to repeal the Federal estate and gift taxes and the tax on generation-skipping transfers.

S. 641

At the request of Mrs. KASSEBAUM, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 650

At the request of Mr. SHELBY, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 650, a bill to increase the amount of credit available to fuel local, regional, and national economic growth by reducing the regulatory burden imposed upon financial institutions, and for other purposes.

S. 815

At the request of Mr. HATCH, the name of the Senator from Nebraska [Mr. EXON] was added as a cosponsor of S. 815, a bill to amend the Internal Revenue Code of 1986 to simplify the assessment and collection of the excise tax on arrows.

S. 847

At the request of Mr. GREGG, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of S. 847, a bill to terminate the agricultural price support and production adjustment programs for sugar, and for other purposes.

SENATE JOINT RESOLUTION 34

At the request of Mr. SMITH, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 34, a joint resolution prohibiting funds for diplomatic relations and most favored nation trading status with the Socialist Republic of Vietnam unless the President certifies to Congress that Vietnamese officials are being fully cooperative and forthcoming with efforts to account for the 2,205 Americans still missing and otherwise unaccounted for from the Vietnam War, as determined on the basis of all information available to the United States Government, and for other purposes.

SENATE RESOLUTION 97

At the request of Mr. HELMS, his name was added as a cosponsor of Senate Resolution 97, a resolution expressing the sense of the Senate with respect to peace and stability in the South China Sea.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Idaho [Mr. CRAIG], the Senator from Wyoming [Mr. SIMPSON], and the Senator from California [Mrs. FEINSTEIN] were added as cosponsors of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

SENATE RESOLUTION 117

At the request of Mr. ROTH, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of Senate Resolution 117, a resolution expressing the sense of the Senate that the current Federal income tax deduction for interest paid on debt secured by a first or second home located in the United States should not be further restricted.

SENATE RESOLUTION 137—RELATING TO FUNDS FOR THE SENATE PAGE RESIDENCE

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 137

Resolved, That effective on and after June 18, 1995, amounts withheld by the Secretary of the Senate under section 902 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 88b–6) shall be deposited in the revolving fund, within the contingent fund of the Senate, for the Daniel Webster Senate Page Residence, as established by section 4 of the Legislative Branch Appropriations Act, 1995 (2 U.S.C. 88b–7).

AMENDMENTS SUBMITTED

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

REID (AND FEINSTEIN) AMENDMENT NO. 1427

Mr. REID (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes; as follows:

Beginning on page 26, strike line 14 and all that follows through page 28, line 9, and insert the following:

SEC. 115. LIMITATION OF NATIONAL MAXIMUM SPEED LIMIT TO CERTAIN COMMERCIAL MOTOR VEHICLES.

(a) IN GENERAL.—Section 154 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

“§ 154. National maximum speed limit for certain commercial motor vehicles”;

(2) in subsection (a)—

(A) by inserting “, with respect to motor vehicles” before “(1)”; and

(B) in paragraph (4), by striking “motor vehicles using it” and inserting “vehicles driven or drawn by mechanical power manufactured primarily for use on public highways (except any vehicle operated exclusively on a rail or rails) using it”;

(3) by striking subsection (b) and inserting the following:

“(b) MOTOR VEHICLE.—In this section, the term ‘motor vehicle’ has the meaning provided for ‘commercial motor vehicle’ in section 31301(4) of title 49, United States Code, except that the term does not include any vehicle operated exclusively on a rail or rails.”;

(4) in the first sentence of subsection (e), by striking “all vehicles” and inserting “all motor vehicles”; and

(5) by redesignating subsection (i) as subsection (f).

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 154 and inserting the following:

“154. National maximum speed limit for certain commercial motor vehicles.”.

(2) Section 153(i)(2) of title 23, United States Code, is amended to read as follows:

“(2) MOTOR VEHICLE.—The term ‘motor vehicle’ means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.”.

(3) Section 157(d) of title 23, United States Code, is amended by striking "154(f) or".

(4) Section 410(i)(3) of title 23, United States Code, is amended to read as follows:

"(3) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.".

LAUTENBERG (AND OTHERS) AMENDMENT NO. 1428

Mr. LAUTENBERG (for himself Mr. DEWINE, and Mrs. FEINSTEIN) proposed an amendment to the bill, S. 440, supra; as follows:

Beginning on page 26, strike line 14 and all that follows through page 28, line 9, and insert the following:

SEC. 115. POSTING OF MAXIMUM SPEED LIMITS.

(A) IN GENERAL.—Section 154 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 154. Posting of speed limits";

(2) in subsection (a)—

(A) in the first sentence—

(i) by inserting "failed to post" before "(1)";

(ii) by striking "in excess of" each place it appears and inserting "of not more than"; and

(iii) in paragraph (4), by striking "not"; and

(B) in the second sentence, by striking "established" and inserting "posted";

(3) by striking subsection (e); and

(4) by redesignating subsection (i) as subsection (e).

(b) CERTIFICATION.—The first sentence of section 141(a) of title 23, United States Code, is amended by striking "enforcing" and inserting "posting".

(c) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 154 and inserting the following:

"154. Posting speed limits.".

(2) Section 157(d) of title 23, United States Code, is amended by striking "154(f) or".

MACK AMENDMENT NO. 1429

Mr. CHAFEE (for Mr. MACK) proposed an amendment to the bill, S. 440, supra; as follows:

SEC. . SENSE OF THE SENATE REGARDING THE FEDERAL-STATE FUNDING RELATIONSHIP FOR TRANSPORTATION.

Findings:

(1) the designation of high priority roads through the National Highway System is required by the Intermodal Surface Transportation Efficiency Act (ISTEA) and will ensure the continuation of funding which would otherwise be withheld from the states.

(2) the Budget Resolution supported the re-evaluation of all federal programs to determine which programs are more appropriately a responsibility of the States.

(3) debate on the appropriate role of the federal government in transportation will occur in the re-authorization of ISTEA.

Therefore, it is the Sense of the Senate that the designation of the MHS does not assume the continuation or the elimination of the current federal-state relationship nor preclude a re-evaluation of the federal-state relationship in transportation.

ROTH AMENDMENTS NOS. 1430–1431

(Ordered to lie on the table.)

Mr. ROTH submitted two amendments intended to be proposed by him to the bill, S. 440, supra; as follows:

AMENDMENT NO. 1430

At the appropriate place in title I, insert the following:

SEC. 1 . INTERCITY RAIL INFRASTRUCTURE INVESTMENT.

(a) INTERSTATE RAIL COMPACTS.—

(1) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

(A) retaining an existing service or commencing a new service;

(B) assembling rights-of-way; and

(C) performing capital improvements, including—

(i) the construction and rehabilitation of maintenance facilities;

(ii) the purchase of locomotives; and

(iii) operational Improvements, including communications, signals, and other systems.

(2) FINANCING.—An interstate compact established by States under paragraph (1) may provide that, in order to carry out the compact, the States may—

(A) accept contributions from a unit of State or local government or a person;

(B) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);

(C) on such terms and conditions as the States consider advisable—

(i) borrow money on a short-term basis and issue notes for the borrowing; and

(ii) issue bonds; and

(D) obtain financing by other means permitted under Federal or State law.

(b) ELIGIBILITY OF PASSENGER RAIL AS SURFACE TRANSPORTATION PROGRAM PROJECT.—Section 133(b) of title 23, United States Code, is amended—

(1) in paragraph (1), by inserting ", railroads," after "highways)"; and

(2) in paragraph (2)—

(A) by inserting ", all eligible activities under section 5311 of title 49, United States Code," before "and publicly owned";

(B) by inserting "or rail passenger" after "intercity bus"; and

(C) by inserting before the period at the end the following: ", including terminals and facilities owned by the National Railroad Passenger Corporation".

(c) ELIGIBILITY OF PASSENGER RAIL UNDER CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) if the project or program will have air quality benefits through construction of and operational improvements for intercity passenger rail facilities, operation of intercity passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operating support.".

(d) ELIGIBILITY OF PASSENGER RAIL FOR MASS TRANSPORTATION FUNDING.—Section 5311 of title 49, United States Code, is amended—

(1) in subsection (a), by inserting ", including an operator of intercity passenger rail transportation service" before the period at the end; and

(2) in subsection (b), by adding at the end the following:

"(3) Grants for intercity passenger rail service under this section shall be used to preserve the maximum choice of passenger modes in areas other than urbanized areas.".

AMENDMENT NO. 1431

At the appropriate place in title I, insert the following:

SEC. 1 . INTERCITY RAIL INFRASTRUCTURE INVESTMENT.

(a) INTERSTATE RAIL COMPACTS.—

(1) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

(A) retaining an existing service or commencing a new service;

(B) assembling rights-of-way; and

(C) performing capital improvements, including—

(i) the construction and rehabilitation of maintenance facilities;

(ii) the purchase of locomotives; and

(iii) operational improvements, including communications, signals, and other systems.

(2) FINANCING.—An interstate compact established by States under paragraph (1) may provide that, in order to carry out the compact, the States may—

(A) accept contributions from a unit of State or local government or a person;

(B) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);

(C) on such terms and conditions as the States consider advisable—

(i) borrow money on a short-term basis and issue notes for the borrowing; and

(ii) issue bonds; and

(D) obtain financing by other means permitted under Federal or State law.

(b) ELIGIBILITY OF PASSENGER RAIL AS NATIONAL HIGHWAY SYSTEM PROJECT.—Section 103(i) of title 23, United States Code, is amended by adding at the end the following:

"(14) Construction of and operational improvements for intercity passenger rail facilities, operation of intercity passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operation.".

(c) ELIGIBILITY OF PASSENGER RAIL AS SURFACE TRANSPORTATION PROGRAM PROJECT.—Section 133(b) of title 23, United States Code, is amended—

(1) in paragraph (1), by inserting ", railroads," after "highways)"; and

(2) in paragraph (2)—

(A) by inserting ", eligible activities under section 5311 of title 49, United States Code," before "and publicly owned";

(B) by inserting "or rail passenger" after "intercity bus"; and

(C) by inserting before the period at the end the following: ", including terminals and facilities owned by the National Railroad Passenger Corporation".

(d) ELIGIBILITY OF PASSENGER RAIL UNDER CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) if the project or program will have air quality benefits through construction of and operational improvements for intercity passenger rail facilities, operation of intercity passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operating support.".

(e) ELIGIBILITY OF PASSENGER RAIL FOR MASS TRANSPORTATION FUNDING.—Section 5311 of title 49, United States Code, is amended—

(1) in subsection (a), by inserting ", including an operator of intercity passenger rail transportation service" before the period; and

(2) in subsection (b), by adding at the end the following:

"(3) Grants for intercity passenger rail service under this section shall be used to preserve the maximum choice of passenger modes in areas other than urbanized areas.".

INHOFE AMENDMENT NO. 1432

Mr. CHAFEE (for Mr. INHOFE) proposed an amendment to the bill, S. 440, supra; as follows:

At the appropriate place, insert:

SECTION . QUALITY THROUGH COMPETITION.

(a) CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—Section 112(b)(2) of title 23, United States Code, is amended by adding at the end the following new subparagraphs:

"(C) PERFORMANCE AND AUDITS.—Any contract or subcontract awarded in accordance with subparagraph (A), whether funded in whole or in part with Federal-aid highway funds, shall be performed and audited in compliance with cost principles contained in the Federal acquisition regulations of part 31 of title 48 of the Code of Federal Regulations.

"(D) INDIRECT COST RATES.—In lieu of performing its own audits, a recipient of funds under a contract or subcontract awarded in accordance with subparagraph (A) shall accept indirect cost rates established in accordance with the Federal acquisition regulations for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute. Once a firm's indirect cost rates are accepted, the recipient of such funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings of any kind. A recipient of such funds requesting or using the cost and rate data described in this subparagraph shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to another firm or to any government agency which is not part of the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

"(E) EFFECTIVE DATE/STATE OPTION.—Subparagraphs (C) and (D) shall take effect upon the date of enactment of this Act; Provided, however, that if a State, during the first regular session of the State legislature convening after the date of enactment of this Act, adopts by statute an alternative process intended to promote engineering and design quality, reduce life-cycle costs, and ensure maximum competition by professional companies of all sizes providing engineering and design services, such subparagraphs shall not apply in that State."

JEFFORDS (AND LEAHY) AMENDMENT NO. 1433

Mr. CHAFEE (for Mr. JEFFORDS for himself and Mr. LEAHY) proposed an amendment to the bill, S. 440, supra; as follows:

At the appropriate place, insert the following:

SEC. . FEDERAL SHARE FOR ECONOMIC GROWTH CENTER DEVELOPMENT HIGHWAYS.

Section 1021(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240) (as amended by section 417 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (Public Law 102-388; 106 Stat. 1565)) is amended—

(1) in paragraph (2), by striking "and" at the end and inserting "or"; and

(2) in paragraph (3), by striking "section 143 of title 23" and inserting "a project for the construction, reconstruction, or improvement of a development highway on a Federal-aid system, as described in section 103 of such title (as in effect on the day before the date of enactment of this Act) (other than the Interstate System), under section 143 of such title".

DASCHLE (AND OTHERS) AMENDMENT NO. 1434

Mr. BAUCUS (for Mr. DASCHLE, Mr. HARKIN, and Mr. KERREY) proposed an amendment to the bill, S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . VEHICLE WEIGHT AND LONGER COMBINATION VEHICLES EXEMPTION FOR SIOUX CITY, IOWA.

(a) VEHICLE WEIGHT LIMITATIONS.—The proviso in the second sentence of section 127(a) of title 23, United States Code, is amended by striking "except for those" and inserting the following: "except for vehicles using Interstate 29 between Sioux City, Iowa, and the border between Iowa and South Dakota and vehicles using Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska, and except for".

(b) LONGER COMBINATION VEHICLES.—Section 127(d)(1) of title 23, United States Code, is amended by adding at the end the following:

"(F) IOWA.—In addition to vehicles that the State of Iowa may continue to allow to be operated under subparagraph (A), the State of Iowa may allow longer combination vehicles that were not in actual operation on June 1, 1991, to be operated on Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota and Interstate 129 between Sioux City, Iowa, and the border between Iowa and Nebraska.".

BOXER AMENDMENT NO. 1435

Mr. BAUCUS (for Mrs. BOXER) proposed an amendment to the bill, S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . REVISION OF AUTHORITY FOR CONGESTION RELIEF PROJECT IN CALIFORNIA.

Item 1 of the table in section 1104(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2029) is amended by striking "Construction of HOV Lanes on I-710" and inserting "Construction of automobile and truck separation lanes at the southern terminus of I-710".

KOHL AMENDMENT NO. 1436

Mr. BAUCUS (for Mr. KOHL) proposed an amendment to the bill, S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . APPLICABILITY OF CERTAIN VEHICLE WEIGHT LIMITATIONS IN WISCONSIN.

Section 127 of title 23, United States Code, is amended by adding at the end the following:

"(f) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN WISCONSIN HIGHWAYS.—If the 104-mile portion of Wisconsin State Route 78 and United States Route 51 between Interstate Route 94 near Portage, Wisconsin, and Wisconsin State Route 29 south of Wausau, Wisconsin, is designated as part of the Interstate System under section 139(a), the single axle weight, tandem axle weight, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to the 104-mile portion with respect to the operation of any vehicle that could legally operate on the 104-mile portion before the date of enactment of this subsection.".

SMITH (AND OTHERS) AMENDMENT NO. 1437

Mr. SMITH (for himself, Mr. GREGG, Ms. SNOWE, Mr. CAMPBELL, Mr. KEMPTHORNE, Mr. THOMAS, and Mr. BROWN) proposed an amendment to the bill, S. 440, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . ELIMINATION OF PENALTIES FOR NONCOMPLIANCE WITH MOTORCYCLE HELMET AND AUTOMOBILE SAFETY BELT REQUIREMENTS.

Section 153 of title 23, United States Code, is amended—

(1) by striking out subsection (h); and

(2) by redesignating subsections (i) through (k) as subsections (h) through (j), respectively.

MCCAIN (AND OTHERS) AMENDMENT NO. 1438

Mr. MCCAIN (for himself, Mr. SMITH, and Mr. FEINGOLD) proposed an amendment to the bill, S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . PROHIBITION ON NEW HIGHWAY DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Notwithstanding any other law, neither the Secretary of Transportation nor any other officer or employee of the United States may make funds available for obligation to carry out any demonstration project described in subsection (b) that has not been authorized, or for which no funds have been made available, as of the date of enactment of this Act.

(b) PROJECTS. Subsection (a) applies to a demonstration project or program that the Secretary of Transportation determines—

(1)(A) concerns a State-specific highway project or research or development in a specific State; or

(B) is otherwise comparable to a demonstration project or project of national significance authorized under any of sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2027); and

(2) does not concern a federally owned highway

THURMOND (AND OTHERS) AMENDMENT NO. 1439

Mr. WARNER (for Mr. THURMOND, Mr. HOLLINGS, Mr. HELMS, Mr. FAIRCLOTH, and Mr. WARNER) proposed an amendment to the bill, S. 440, supra; as follows:

On page 34, strike lines 17 through 24 and insert:

"(dd) United States Route 220 to United States Route 1 near Rockingham;

"(ee) United States Route 1 to the South Carolina State line;

"(ff) South Carolina State line to Charleston, South Carolina; and".

On page 35 between lines 13 and 14, insert:

"(ee) United States Route 220 to United States Route 74 near Rockingham;

"(ff) United States Route 74 to United States Route 76 near Whiteville;

"(gg) United States Route 74/76 to the South Carolina State line in Brunswick County;

"(hh) South Carolina State line to Charleston, South Carolina".

On page 34, strike lines 8 and 9 and insert:

"(iii) In the states of North Carolina and South Carolina, the corridor shall generally follow—".

SIMON (AND OTHERS) AMENDMENT NO. 1440

Mr. WARNER (for Mr. SIMON for himself, Ms. MOSELEY-BRAUN, Mr. HARKIN, and Mr. GRASSLEY) proposed an amendment to the bill, S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . TREATMENT OF CENTENNIAL BRIDGE, ROCK ISLAND, ILLINOIS, AGREEMENT.

For purposes of section 129(a)(6) of title 23, United States Code, the agreement concerning the Centennial Bridge, Rock Island, Illinois, entered into under the Act entitled "An Act authorizing the city of Rock Island, Illinois, or its assigns, to construct, maintain, and operate a toll bridge across the Mississippi River at or near Rock Island, Illinois, and to a place at or near the city of Davenport, Iowa", approved March 18, 1938 (52 Stat. 110, chapter 48), shall be treated as if the agreement had been entered into under section 129 of title 23, United States Code, as in effect on December 17, 1991, and may be modified in accordance with section 129(a)(6) of the title.

GREGG (AND OTHERS) AMENDMENT NO. 1441

Mr. WARNER (for Mr. GREGG for himself, Mr. BOND, and Mrs. HUTCHISON) proposed an amendment to the bill, S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . MORATORIUM ON CERTAIN EMISSIONS TESTING REQUIREMENTS.

(a) MORATORIUM.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this subsection as the "Administrator") shall not require adoption or implementation by a State of a test-only or I/M240 enhanced vehicle inspection and maintenance program as a means of compliance with section 182 of the Clean Air Act (42 U.S.C. 7511a), but the Administrator may approve such a program if a State chooses to adopt the program as a means of compliance.

(2) REPEAL.—Paragraph (1) is repealed effective as of the date that is 1 year after the date of enactment of this Act.

(b) PLAN APPROVAL.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this subsection as the "Administrator") shall not disapprove a State implementation plan revision under section 182 of the Clean Air Act (42 U.S.C. 7511a) on the basis of a regulation providing for a 50-percent discount for alternative test-and-repair inspection and maintenance programs.

(2) CREDIT.—If a State provides data for a proposed inspection and maintenance system for which credits are appropriate under section 182 of the Clean Air Act (42 U.S.C. 7511a), the Administrator shall allow the full amount of credit for the system that is appropriate without regard to any regulation that implements that section by requiring centralized emissions testing.

(3) DEADLINE.—The Administrator shall complete and present a technical assessment of data for a proposed inspection and maintenance system submitted by a State not later than 45 days after the date of submission.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Tuesday, June 20, 1995, to conduct a semiannual oversight hearing of the Resolution Trust Corporation.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 20, 1995, at 11 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 20, 1995, at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON EDUCATION, ARTS AND HUMANITES

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Education, Arts and Humanities of the Committee on Labor and Human Resources be authorized to meet for a hearing on the Privatization of Sallie Mae and Connie Lee, during the session of the Senate on Tuesday, June 20, 1995 at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SOCIAL SECURITY AND FAMILY POLICY

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Subcommittee on Social Security and Family Policy of the Committee on Finance be permitted to meet on Tuesday, June 20, 1995 beginning at 10 a.m. in room SD–215, to conduct a hearing on the business and financial practices of the American Association of Retired Persons.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

BUDGET SCOREKEEPING REPORT

• Mr. DOMENICI. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under section 308(b) and in aid of section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of section 5 of Senate Concurrent Resolution 32, the first concurrent resolution on the budget for 1986.

This report shows the effects of congressional action on the budget through June 16, 1995. The estimates of budget authority, outlays, and revenues, which are consistent with the technical and economic assumptions of the concurrent resolution on the budget (H. Con. Res. 218), show that current level spending is below the budget resolution by $5.6 billion in budget authority and $1.4 billion in outlays. Current level is $0.5 billion over the revenue floor in 1995 and below by $9.5 billion over the 5 years 1995–99. The current estimate of the deficit for purposes of calculating the maximum deficit amount is $238.0 billion, $3.1 billion below the maximum deficit amount for 1995 of $241.0 billion.

Since my last report, dated June 8, 1995, there has been no action that affects the current level of budget authority, outlays, or revenues.

The report follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 19, 1995.

Hon. PETE DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The attached report for fiscal year 1995 shows the effects of Congressional action on the 1995 budget and is current through June 16, 1995. The estimates of budget authority, outlays and revenues are consistent with the technical and economic assumptions of the 1995 Concurrent

Resolution on the Budget (H. Con. Res. 218). This report is submitted under Section 308(b) and in aid of Section 311 of the Congressional Budget Act, as amended, and meets the requirements of Senate scorekeeping of Section 5 of S. Con. Res. 32, the 1986 First Concurrent Resolution on the Budget.

Since my last report, dated June 8, 1995, there has been no action to change the current level of budget authority, outlays or revenues.

Sincerely,

JUNE E. O'NEILL,
Director.

THE CURRENT LEVEL REPORT FOR THE U.S. SENATE, FISCAL YEAR 1995, 104TH CONGRESS, 1ST SESSION, AS OF CLOSE OF BUSINESS JUNE 16, 1995

[In billions of dollars]

	Budget resolution (H. Con. Res. 218)[1]	Current level[2]	Current level over/under resolution
ON-BUDGET			
Budget Authority	1,238.7	1,233.1	−5.6
Outlays	1,217.6	1,216.2	−1.4
Revenues:			
1995	977.7	978.2	0.5
1995–99	5,415.2	5,405.7	−9.5
Deficit	241.0	238.0	−3.1
Debt Subject to Limit	4,965.1	4,803.4	−161.7
OFF-BUDGET			
Social Security Outlays:			
1995	287.6	287.5	−0.1
1995–99	1,562.6	1,562.6	([3])
Social Security Revenues:			
1995	360.5	360.3	−0.2
1995–99	1,998.4	1,998.2	−0.2

[1] Reflects revised allocation under section 9(g) of H. Con. Res. 64 for the Deficit-Neutral reserve fund.

[2] Current level represents the estimated revenue and direct spending effects of all legislation that Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on public debt transactions.

[3] Less than $50 million.

THE ON-BUDGET CURRENT LEVEL REPORT FOR THE U.S. SENATE, 104TH CONGRESS, 1ST SESSION, SENATE SUPPORTING DETAIL FOR FISCAL YEAR 1995, AS OF CLOSE OF BUSINESS JUNE 16, 1995

[In millions of dollars]

	Budget authority	Outlays	Revenues
ENACTED IN PREVIOUS SESSIONS			
Revenues			978,466
Permanents and other spending legislation	750,307	706,236	
Appropriation legislation	378,096	757,783	
Offsetting receipts	−250,027	−250,027	
Total previously enacted	1,238,376	1,213,992	978,466
ENACTED THIS SESSION			
1995 Emergency Supplementals and Rescissions Act (P.L. 104–6)	−3,386	−1,008	
Self-Employed Health Insurance Act (P.L. 104–7)			−248
Total enacted this session	−3,386	−1,008	−248
ENTITLEMENTS AND MANDATORIES			
Budget resolution baseline estimates of appropriated entitlements and other mandatory programs not yet enacted	−1,887	3,189	
Total current level[1]	1,233,103	1,216,173	978,218
Total budget resolution	1,238,744	1,217,605	977,700
Amount remaining:			
Under budget resolution	5,641	1,432	
Over budget resolution			518

[1] In accordance with the Budget Enforcement Act, the total does not include $3,905 million in budget authority and $7,442 million in outlays in funding for emergencies that have been designated as such by the President and the Congress, and $841 million in budget authority and $917 million in outlays for emergencies that would be available only upon an official budget request from the President designating the entire amount requested as an emergency requirement.•

TRIBUTE TO HENRY STRAUSS

• Mr. DODD. Mr. President, I rise today to recognize a distinguished citizen of my home State of Connecticut, Henry Strauss, on the occasion of his 80th birthday.

Mr. Strauss was born in New York City in 1915, where he attended New York City public schools and was an intercollegiate diving champion at his alma mater, New York University.

In 1940 he married his wife Joan and a year later began active duty in the U.S. Navy, where he served with distinction. He survived the worst noncombat disaster in the history of the Navy in a gale off the coast of Newfoundland. For helping save the lives of his shipmates, Mr. Strauss was cited for heroism and commissioned to command a subchaser in the South Pacific through some of the worst naval combat of the war. He retired from the Navy in 1946 as a lieutenant junior grade.

Upon his return from the war, Mr. Strauss moved to Connecticut to raise two daughters and start his own business. Through this company, Henry Strauss Productions, Mr. Strauss pioneered the use of film to teach, train, increase people's productivity, and promote understanding between cultures. Clients of Henry Strauss Productions included the U.S. Army, the State Department, IBM, United States Steel, and Pan American Airways.

He was the first American filmmaker allowed by the Soviet Government to make a documentary film on that country, a project he completed in 1960. Other films he made for his clients included films on England, Spain, Tahiti, and Africa. His career culminated with an Academy Award nomination for best documentary for his film "Art Is."

Henry Strauss's love of the sea has brought him to navigate six of the seven oceans of the world, compete and place in some of the world's most prestigious yachting competitions, and earn distinguished membership into the Explorers' Club, the Cruising Club of America, and the New York Yacht Club.

Throughout his life he has successfully encouraged his two daughters and three grandchildren to be civic-minded and politically active citizens.

Once again I would like to congratulate Henry Strauss on this auspicious occasion.•

THE RAINBOW HOUSE/ARCO IRIS

• Mr. SIMON. Mr. President, today, I would like to pay tribute to the Rainbow House/Arco Iris, a shelter for battered women located in the Chicago area. Since 1982, Rainbow House has provided shelter, counseling, and support services for over 5,000 battered women and their children.

Recognizing that shelters are not the sole answer to domestic violence, the Rainbow House has been actively committed to developing an energetic community education and prevention initiative. This important organization has presented hundreds of community education workshops for thousands of teachers and students. The goal—to stop the problem before it starts by teaching young children how to express their strong feelings without violence.

Domestic abuse is a serious and pervasive problem in our culture. In fact, abuse is the single largest cause of injury to women. The FBI estimates that a woman is beaten in the United States every 15 seconds.

Family abuse, including child abuse is found on every level of society, regardless of race, education, age, or income. The National Coalition Against Domestic Violence estimates that in 50 percent of the families where a woman is being beaten, children are being abused as well.

Ten years ago there were fewer than a dozen shelters for battered women nationwide. Now, Rainbow House is 1 of more than 600. It is with great pleasure and admiration that I recognize the work of this fine organization.•

PROVIDING FOR DEPOSIT OF FUNDS FOR SENATE PAGE RESIDENCE

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 137, submitted earlier by Senators DOLE and DASCHLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the resolution by title.

The bill clerk read as follows:

A resolution (S. Res. 137) to provide for the deposit of funds for the Senate page residence.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, I ask unanimous consent that the resolution be considered and agreed to, that the motion to reconsider be laid on the table, and that any statements related to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 137) was agreed to, as follows:

S. Res. 137

Resolved, That effective on and after June 18, 1995, amounts withheld by the Secretary of the Senate under section 902 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 88b–6) shall be deposited in the revolving fund, within the contingent fund of the Senate, for the Daniel Webster Senate Page Residence, as established by section 4 of the Legislative Branch Appropriations Act, 1995 (2 U.S.C. 88b–7).

LEGISLATIVE LINE-ITEM VETO ACT OF 1995—MESSAGE FROM THE HOUSE

Mr. DOLE. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on (S. 4) a bill to grant the power to the President to reduce budget authority.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 4) entitled "An Act to grant the power to the President to reduce budget authority", do pass with the following amendments:

Strike out all after the enacting clause, and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Line Item Veto Act".

SEC. 2. LINE ITEM VETO AUTHORITY.

(a) In General.—Notwithstanding the provisions of part B of title X of the Congressional Budget and Impoundment Control Act of 1974, and subject to the provisions of this section, the President may rescind all or part of any dollar amount of any discretionary budget authority specified in an appropriation Act or conference report or joint explanatory statement accompanying a conference report on the Act, or veto any targeted tax benefit which is subject to the terms of this Act if the President—

(1) determines that—

(A) such rescission or veto would help reduce the Federal budget deficit;

(B) such rescission or veto will not impair any essential Government functions; and

(C) such rescission or veto will not harm the national interest; and

(2) notifies the Congress of such rescission or veto by a special message not later than ten calendar days (not including Sundays) after the date of enactment of an appropriation Act providing such budget authority or a revenue or reconciliation Act containing a targeted tax benefit.

(b) Deficit Reduction.—In each special message, the President may also propose to reduce the appropriate discretionary spending limit set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by an amount that does not exceed the total amount of discretionary budget authority rescinded by that message.

(c) Separate Messages.—The President shall submit a separate special message for each appropriation Act and for each revenue or reconciliation Act under this section.

(d) Limitation.—No special message submitted by the President under this section may change any prohibition or limitation of discretionary budget authority set forth in any appropriation Act.

(e) Special Rule for Fiscal Year 1995 Appropriation Measures.—Notwithstanding subsection (a)(2), in the case of any unobligated discretionary budget authority provided by any appropriation Act for fiscal year 1995, the President may rescind all or part of that discretionary budget authority under the terms of this Act if the President notifies the Congress of such rescission by a special message not later than ten calendar days (not including Sundays) after the date of enactment of this Act.

SEC. 3. LINE ITEM VETO EFFECTIVE UNLESS DISAPPROVED.

(a)(1) Any amount of budget authority rescinded under this Act as set forth in a special message by the President shall be deemed canceled unless, during the period described in subsection (b), a rescission/receipts disapproval bill making available all of the amount rescinded is enacted into law.

(2) Any provision of law vetoed under this Act as set forth in a special message by the President shall be deemed repealed unless, during the period described in subsection (b), a rescission/receipts disapproval bill restoring that provision is enacted into law.

(b) The period referred to in subsection (a) is—

(1) a congressional review period of twenty calendar days of session, beginning on the first calendar day of session after the date of submission of the special message, during which Congress must complete action on the rescission/receipts disapproval bill and present such bill to the President for approval or disapproval;

(2) after the period provided in paragraph (1), an additional ten days (not including Sundays) during which the President may exercise his authority to sign or veto the rescission/receipts disapproval bill; and

(3) if the President vetoes the rescission/receipts disapproval bill during the period provided in paragraph (2), an additional five calendar days of session after the date of the veto.

(c) If a special message is transmitted by the President under this Act and the last session of the Congress adjourns sine die before the expiration of the period described in subsection (b), the rescission or veto, as the case may be, shall not take effect. The message shall be deemed to have been retransmitted on the first Monday in February of the succeeding Congress and the review period referred to in subsection (b) (with respect to such message) shall run beginning after such first day.

SEC. 4. DEFINITIONS.

As used in this Act:

(1) The term "rescission/receipts disapproval bill" means a bill or joint resolution which only disapproves, in whole, rescissions of discretionary budget authority or only disapproves vetoes of targeted tax benefits in a special message transmitted by the President under this Act and—

(A) which does not have a preamble;

(B)(i) in the case of a special message regarding rescissions, the matter after the enacting clause of which is as follows: "That Congress disapproves each rescission of discretionary budget authority of the President as submitted by the President in a special message on ________", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(ii) in the case of a special message regarding vetoes of targeted tax benefits, the matter after the enacting clause of which is as follows: "That Congress disapproves each veto of targeted tax benefits of the President as submitted by the President in a special message on ________", the blank space being filled in with the appropriate date and the public law to which the message relates; and

(C) the title of which is as follows: "A bill disapproving the recommendations submitted by the President on ________", the blank space being filled in with the date of submission of the relevant special message and the public law to which the message relates.

(2) The term "calendar days of session" shall mean only those days on which both Houses of Congress are in session.

(3) The term "targeted tax benefit" means any provision of a revenue or reconciliation Act determined by the President to provide a Federal tax deduction, credit, exclusion, preference, or other concession to 100 or fewer beneficiaries. Any partnership, limited partnership, trust, or S corporation, and any subsidiary or affiliate of the same parent corporation, shall be deemed and counted as a single beneficiary regardless of the number of partners, limited partners, beneficiaries, shareholders, or affiliated corporate entities.

(4) The term "appropriation Act" means any general or special appropriation Act, and any Act or joint resolution making supplemental, deficiency, or continuing appropriations.

SEC. 5. CONGRESSIONAL CONSIDERATION OF LINE ITEM VETOES.

(a) Presidential Special Message.—Whenever the President rescinds any budget authority as provided in this Act or vetoes any provision of law as provided in this Act, the President shall transmit to both Houses of Congress a special message specifying—

(1) the amount of budget authority rescinded or the provision vetoed;

(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific project or governmental functions involved;

(3) the reasons and justifications for the determination to rescind budget authority or veto any provision pursuant to this Act;

(4) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the rescission or veto; and

(5) all actions, circumstances, and considerations relating to or bearing upon the rescission or veto and the decision to effect the rescission or veto, and to the maximum extent practicable, the estimated effect of the rescission upon the objects, purposes, and programs for which the budget authority is provided.

(b) Transmission of Messages to House and Senate.—

(1) Each special message transmitted under this Act shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each special message so transmitted shall be referred to the appropriate committees of the House of Representatives and the Senate. Each such message shall be printed as a document of each House.

(2) Any special message transmitted under this Act shall be printed in the first issue of the Federal Register published after such transmittal.

(c) Introduction of Rescission/Receipts Disapproval Bills.—The procedures set forth in subsection (d) shall apply to any rescission/receipts disapproval bill introduced in the House of Representatives not later than the third calendar day of session beginning on the day after the date of submission of a special message by the President under section 2.

(d) Consideration in the House of Representatives.—(1) The committee of the House of Representatives to which a rescission/receipts disapproval bill is referred shall report it without amendment, and with or without recommendation, not later than the eighth calendar day of session after the date of its introduction. If the committee fails to report the bill within that period, it is in order to move that the House discharge the committee from further

consideration of the bill. A motion to discharge may be made only by an individual favoring the bill (but only after the legislative day on which a Member announces to the House the Member's intention to do so). The motion is highly privileged. Debate thereon shall be limited to not more than one hour, the time to be divided in the House equally between a proponent and an opponent. The previous question shall be considered as ordered on the motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order.

(2) After a rescission/receipts disapproval bill is reported or the committee has been discharged from further consideration, it is in order to move that the House resolve into the Committee of the Whole House on the State of the Union for consideration of the bill. All points of order against the bill and against consideration of the bill are waived. The motion is highly privileged. The previous question shall be considered as ordered on that motion to its adoption without intervening motion. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. During consideration of the bill in the Committee of the Whole, the first reading of the bill shall be dispensed with. General debate shall proceed without intervening motion, shall be confined to the bill, and shall not exceed two hours equally divided and controlled by a proponent and an opponent of the bill. No amendment to the bill is in order, except any Member may move to strike the disapproval of any rescission or rescissions of budget authority or any proposed repeal of a targeted tax benefit, as applicable, if supported by 49 other Members. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion. A motion to reconsider the vote on passage of the bill shall not be in order.

(3) Appeals from the decisions of the Chair relating to the application of the rules of the House of Representatives to the procedure relating to a bill described in subsection (a) shall be decided without debate.

(4) It shall not be in order to consider more than one bill described in subsection (c) or more than one motion to discharge described in paragraph (1) with respect to a particular special message.

(5) Consideration of any rescission/receipts disapproval bill under this subsection is governed by the rules of the House of Representatives except to the extent specifically provided by the provisions of this Act.

(e) CONSIDERATION IN THE SENATE.—

(1) Any rescission/receipts disapproval bill received in the Senate from the House shall be considered in the Senate pursuant to the provisions of this Act.

(2) Debate in the Senate on any rescission/receipts disapproval bill and debatable motions and appeals in connection therewith, shall be limited to not more than ten hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(3) Debate in the Senate on any debatable motions or appeal in connection with such bill shall be limited to one hour, to be equally divided between, and controlled by the mover and the manager of the bill, except that in the event the manager of the bill is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or his designee. Such leaders, or either of them, may, from the time under their control on the passage of the bill, allot additional time to any Senator during the consideration of any debatable motion or appeal.

(4) A motion to further limit debate is not debatable. A motion to recommit (except a motion to recommit with instructions to report back within a specified number of days not to exceed one, not counting any day on which the Senate is not in session) is not in order.

(f) POINTS OF ORDER.—

(1) It shall not be in order in the Senate to consider any rescission/receipts disapproval bill that relates to any matter other than the rescission of budget authority or veto of the provision of law transmitted by the President under this Act.

(2) It shall not be in order in the Senate to consider any amendment to a rescission/receipts disapproval bill.

(3) Paragraphs (1) and (2) may be waived or suspended in the Senate only by a vote of three-fifths of the members duly chosen and sworn.

SEC. 6. REPORTS OF THE GENERAL ACCOUNTING OFFICE.

Beginning on January 6, 1996, and at one-year intervals thereafter, the Comptroller General shall submit a report to each House of Congress which provides the following information:

(1) A list of each proposed Presidential rescission of discretionary budget authority and veto of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each rescission of discretionary budget authority or veto of a targeted tax benefit was accepted or rejected by Congress.

(2) The total number of proposed Presidential rescissions of discretionary budget authority and vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(3) The total number of Presidential rescissions of discretionary budget authority or vetoes of a targeted tax benefit submitted through special messages for the fiscal year ending during the preceding calendar year and approved by Congress, together with their total dollar value.

(4) A list of rescissions of discretionary budget authority initiated by Congress for the fiscal year ending during the preceding calendar year, together with their dollar value, and an indication of whether each such rescission was accepted or rejected by Congress.

(5) The total number of rescissions of discretionary budget authority initiated and accepted by Congress for the fiscal year ending during the preceding calendar year, together with their total dollar value.

(6) A summary of the information provided by paragraphs (2), (3) and (5) for each of the ten fiscal years ending before the fiscal year during this calendar year.

SEC. 7. JUDICIAL REVIEW.

(a) EXPEDITED REVIEW.—

(1) Any Member of Congress may bring an action, in the United States District Court for the District of Columbia, for declaratory judgment and injunctive relief on the ground that any provision of this Act violates the Constitution.

(2) A copy of any complaint in an action brought under paragraph (1) shall be promptly delivered to the Secretary of the Senate and the Clerk of the House of Representatives, and each House of Congress shall have the right to intervene in such action.

(3) Any action brought under paragraph (1) shall be heard and determined by a three-judge court in accordance with section 2284 of title 28, United States Code.

Nothing in this section or in any other law shall infringe upon the right of the House of Representatives to intervene in an action brought under paragraph (1) without the necessity of adopting a resolution to authorize such intervention.

(b) APPEAL TO SUPREME COURT.—Notwithstanding any other provision of law, any order of the United States District Court for the District of Columbia which is issued pursuant to an action brought under paragraph (1) of subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under paragraph (1) of subsection (a) shall be issued by a single Justice of the Supreme Court.

(c) EXPEDITED CONSIDERATION.—It shall be the duty of the District Court for the District of Columbia and the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter brought under subsection (a).

Amend the title so as to read: "An Act to give the President item veto authority over appropriation Acts and targeted tax benefits in revenue Acts.".

Mr. DOLE. I move that the Senate disagree to the House amendments, request a conference on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees.

The motion was agreed to, and the Presiding Officer appointed Mr. ROTH, Mr. STEVENS, Mr. THOMPSON, Mr. COCHRAN, Mr. MCCAIN, Mr. GLENN, Mr. LEVIN, Mr. PRYOR, Mr. SARBANES, Mr. DOMENICI, Mr. GRASSLEY, Mr. NICKLES, Mr. GRAMM of Texas, Mr. COATS, Mr. EXON, Mr. HOLLINGS, Mr. JOHNSTON, and Mr. DODD.

Mr. DOLE. Mr. President, let me indicate that the Senator from Kentucky, Senator FORD, will want to make a statement on that particular item after I obtain consent.

ORDERS FOR WEDNESDAY, JUNE 21, 1995

Mr. DOLE. I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m., on Wednesday, June 21, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and under the provisions of a previous unanimous-consent agreement, the Senate immediately go into executive session for 3 hours of debate on the nomination of Dr. Foster; I further ask unanimous consent that if cloture is not invoked on the Foster nomination on Wednesday, the Senate then resume consideration of S. 440, the National Highway System bill and at that time the Senator from Maine be recognized to offer an amendment regarding helmets.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. As a reminder for all Senators, the Senate will debate the Foster nomination from 9 a.m. to 12 noon tomorrow, with a cloture vote occurring on the nomination at 12 noon. If cloture is not invoked at that time, the Senate will resume the highway bill.

We hope to complete the bill tomorrow evening. We will have rollcall votes throughout the day. I do not know of any conflicts tomorrow evening. Tonight, there are a number of conflicts, including the President and Mrs. Clinton have invited all Members to the White House for a picnic plus other things. I know that Senators have obligations to attend.

If cloture is not invoked Wednesday, a second vote on cloture will occur at 2 p.m. on Thursday.

If there is no further business to come before the Senate, I ask the Senate stand in recess under the previous order following the remarks of Senator FORD and Senator SANTORUM.

The PRESIDING OFFICER. Without objection, it is so ordered.

LINE-ITEM VETO

Mr. FORD. As the majority leader indicated as it relates to the line-item veto, I voted for the line-item veto when it left here because I think it is important that we put that into the structure.

When I spoke earlier, just before passage of the line-item veto legislation, I tried to tell my colleagues that the proposal that left here, in my opinion, was too cumbersome; that if we had the Interior appropriations bill that we had last session, there would be 2,040 pieces of legislation under that one bill. Then the President would have to sign 2,040 pieces of legislation in order to either sign them or veto them or line item it, however it might be. So it really is not a line-item veto; it becomes a multiple choice.

It reminds me when I was Governor that we would have a commission authorized, the Governor, to go to New York to sign bonds for highway projects, or whatever it might be. They give you one pen and there would be 49 other pens up there and you sign your name down here and the other 49 pens would work and all those bonds would move aside and then you sign them again.

That is basically what we are trying to do, I think, or cause the President to have to do once these pieces of legislation come up for line-item veto.

When I was Governor I had three options. I had line-item veto. The three options: one, I could line item it and send a message to the legislature why I had vetoed or line itemed that particular piece of legislation or that item in that legislation. The legislature could consider it. They could either sustain the Governor's veto or override it.

The second option I had was to reduce an amount. If we did not need to spend all of it—we had a 2-year budget, we did not need to spend all that money in the first year. We could reduce it, and you draw a line through it, initial it, send a message to the legislature, and they could either sustain or override the veto.

The third option I had was to line item a phrase. That may be a direction—"You cannot use any money for so and so," or "If you are going to use money, you have to do it this way." The Governor had the right to eliminate a phrase.

Those are the only three things. It was simple, direct, and the legislature had an opportunity to sustain or override the veto.

What I am asking tonight, as the conferees were appointed for the line-item veto legislation in conference, is that they look very seriously at what the Senate has done in sending their piece of legislation to conference.

I think simpler is better. It is easy, it is direct. A message must come. And that message, then, can either be accepted or declined. Either sustain the veto or override the veto. I think that is what we ought to do.

Mr. President, I voted in support of the line-item veto when it left here in the hopes that it would be reduced and made somewhat simple so we could line-item veto, we could partially veto—or a phrase; it does not have to be all.

A line-item veto, when you try to explain it to your constituents back home, they think that gives the President the right to take some pork out of the budget.

Right now he has to sign 2,040 pieces of legislation for one appropriations bill. Just one. We are getting into thousands and thousands of pieces of legislation. I think that is wrong.

I hope the conferees will take into consideration my remarks tonight. I would be glad to work with them in any way. And several in this Chamber have had experience as Governors using the line-item veto. In my 4 years as Governor, it was seldom even considered.

It can be done and I think it can be done in the right sort of way. I thank the Chair for its courtesy. I yield the floor.

WHERE IS THE BUDGET?

Mr. SANTORUM. Thank you, Mr. President. First, I would like to thank the Chair for his indulgence in spending the time that I am supposed to be in the chair presiding and doing that for me. As customary, the Senator from Virginia is always there to do the gentlemanly thing and fill in a need. I appreciate very, very much the indulgence of the Senator.

I am back to continue my vigil in requesting the President put forward a balanced budget resolution. The last time I appeared here on the Senate floor was the night the President announced his balanced budget resolution. I had sketchy details at the time but did not have the full package that the President presented.

We have gotten it. It is about 6 or 7 pages, double-sided, about that big, that thick. That is his budget proposal, compared to his first budget proposal which was about this thick, to give the comparison, the amount of detail.

As Members have heard on the Senate floor today and in newspapers and other places, it just does not measure up. The President uses a whole lot of assumptions that are exaggerated and made to make the projections of the economic growth and interest rates and everything else look rosy, and as a result, gets to a balanced budget through his numbers with smoke and mirrors.

The Congressional Budget Office, who, in a State of the Union Address in 1993, he stated would be the numbers that he would use—that everyone should use because they are the most accurate—that he would use in determining whether we get to a balanced budget, scores the Clinton budget as continuing deficits of $200 billion or more. It is a straight line. Deficits do not come down at all under this budget proposal as scored by the Congressional Budget Office.

The people who scored his budget over 10 years as getting the deficit to zero were the Office of Management and Budget, which is over in the Department of Treasury, which is his own people scoring his own numbers, which are, as was said, rosy assumptions. The nonpartisan Congressional Budget Office, the one that the President says we have to use, says that we have $200 billion deficits into the future for the next 10 years.

So, as a result, I have to come back and add another number to this chart, which says, "Days with no proposal to balance the budget from President Clinton."

I gave a period of time to give him the benefit of the doubt to get the numbers up here to let us see what the specifics were, whether this would be scored by a neutral party, the Congressional Budget Office, as a balanced budget resolution. In fact it has come back to be not balanced. It is disappointing.

I just want to go over a couple of the details of the budget and then I want to address, finally, this chart which has gotten a little publicity here, of late.

First, the details of the budget. The Republican budget gets to balance by the year 2002. What are the deficits that are estimated by the Congressional Budget Office under the Clinton budget: $196 billion in 1996, $221 billion in 1997, $199 billion in 1998, $213 billion in 1999, $220 billion again in the year 2000; $211 billion in 2001, $210 billion in 2002, $207 billion in 2003, $209 billion in 2004, and $209 billion again in the year

2005; over $2 trillion in additional debt over the next 10 years under his revised budget which he says gets us to zero, which the Congressional Budget Office says gets us to even worse shape than we are now, $209 billion as opposed to $175 billion projected this year. So we have made no progress even under Clinton II.

Let us look at the specifics of Clinton II. If you compare the Clinton second budget to his first budget, the one he submitted to the Congress in February that nobody in this Chamber voted for—99 "no" votes, 1 "absent"—under the Clinton first budget in discretionary spending, that is nonentitlement spending, he cuts over 5 years, $2 billion from his first budget. This new revised budget that is going to be tough, that is going to get us to zero, that is going to do all these things—make the tough decisions, face up to the music for the American public, that he went on national television to tell us how important it was, now to come to the table and make these tough choices—$2 billion over 5 years.

Under his first budget he was to spend, just to give an idea of the magnitude of the numbers we are talking about, over the first 5 years in his first budget he submitted in February that did not come to balance—it did not even pretend to come to balance—total discretionary spending over that 5-year period, $2.730 trillion. That is the total discretionary spending accounted for in the Clinton first budget.

The Clinton second budget—new, improved, I am going to get you to balance, make the tough decisions, tighten the belt some more, we have gotten the message from the American public, I know you want me to deliver—not $2.730 but $2.728 trillion. So over 5 years he reduced discretionary spending by $2 billion. That is not a Weight Watchers approach to the budget. You are not going to loosen any notches on $2 billion out of $2.7 trillion.

So how does he do it, if he does not cut discretionary? He admits he does not cut discretionary. You cannot play around with those numbers. How does he do it? He looks at these cuts in the outyears. He does not do much in the first few years. He sort of back-end loads it.

In fact, of the 10-year budget that he has proposed, you would think if we are going to cut money over 10 years you would do it on a straight line. You cut so much per year every year to get to balance. It does not take much of a mathematician, which I am not, to figure out if you were going to cut the same amount every year to get your balance, sort of a straight line down, you would have to get about 10 percent a year. That is what you would figure.

In the first year the President cuts 2 percent; 2 percent of his cuts first year, 3 percent next, 4 percent next, 5 percent next, in years 9 and 10, 17—almost 18 percent of the cuts and almost 21 percent of the cuts; the last 2 years, long after—that is three Presidents from now—he decides that is when we are going to do all the cutting.

It is a lot easier if you are sitting in the White House and look two or three Presidents down the road and have them do all the tough work. He does not do any of the tough work under the rest of his administration or the potential next administration. So again, all the tough decisions are put off to future Congresses and future Presidents and none of the real tough decisions are made now.

I say that in criticism of the President's budget. But I will say that I appreciate that he at least came to the table. He did not come to the table with much. He is not going to feed a lot of people with what he has at the table, but he at least came. He entered into the debate, he made some, I think, relevant comments when he came to some of the health care programs and how they had to be on the table. I know it upset folks on the other side of the aisle but at least he came and said we have an obligation to do this.

I hope he comes back with some real budgets and with some real numbers that show that we will do this. So I unfortunately will have to come back and talk more about how the President has not come through with a budget.

There are a couple of things I want to comment on in wrapping up, and again I appreciate the indulgence of the Senator from Virginia.

There was an article in the Washington Post on Sunday about how some of my colleagues were upset with this chart I have on the floor because of its irreverence, some may suggest, in its title. I was criticized by Members that I should not, in a chart, refer to the President by his first name.

I did a little looking back, as to how the other side treated Republican Presidents when they were in the majority—when they were here and the President was a Republican. I found just a few things. We did not do an extensive research—frankly, you did not have to do extensive research to quickly find references to Presidents which were in my opinion a heck of a lot more pejorative in nature than mentioning the President's first name in a chart.

In the 99th Congress, the next-to-the-last Congress, when President Reagan served as President, there were 77 references by Members to the term "Reaganomics." That at the time was not a flattering term. "Reaganomics," 77 times. In the 100th Congress 42 times. The term "Reaganomics" appeared in the journal here in the U.S. Senate, used by Members of the U.S. Senate to describe Ronald Reagan's fiscal policies. That is not a very nice thing to say. Yet I do not recall any of those comments being made and Members being attacked for that.

I have, from the CONGRESSIONAL RECORD here, March 3, 1989, the Senator from South Carolina, the junior Senator from South Carolina referring to President Reagan as "Ronnie," in his discussion. I do not assume to use any more familiar terms in referring to the current President.

I have, from the CONGRESSIONAL RECORD of 1991, the Senator from Massachusetts who used the term, not only on November 15, but on November 7 and November 1, the phrase "waiting for George," George Bush, the President of the United States. "Waiting for George is more frustrating than waiting for Godot." He used that phrase several times during debate in 1991 with respect to the unemployment compensation extension.

So, I mean, I also will refer back to the Senator from Massachusetts, September 20, 1988, during the campaign where he referred to the then-Vice President, candidate for President, as "Where was George then?" That was, as I mentioned before, the reason for this chart. The term "Where's George" was a popular saying back in 1988. And it was a popular saying, not as the Senator from North Dakota said to me while on debate the other day, at the Convention, the Democratic National Convention in 1988, but also on the floor of the U.S. Senate.

So, I think before we get a little high and mighty about the reverence paid to people, I do say "Days with no proposal to balance the budget from President Clinton." We try to be respectful and I am respectful of the office of the President and of President Clinton, but I think this chart is well within the bounds of decorum here in the U.S. Senate, and I do so with the greatest amount of respect and also with a very sincere effort to try to bring the President's attention back to this issue, to where he can become a relevant player in making budget policy for this country, which I think the country needs.

Whether we like it or not, the President has to sign the budget reconciliation. So he needs to be relevant to this process. We need the President. We cannot do it alone. We would like to be able to do it alone but we cannot. That is not the way the Constitution set it up. He needs to be relevant and needs to be involved. And I appreciate the first step he took, and his advisers who encouraged him to come to the fore and make that suggestion.

Now it is time to come and do a little harder work and get that—sharpen that pencil a little bit and start working with real numbers to come up with real solutions to the problems that face this country.

Mr. President, I yield the floor.

RECESS UNTIL 9 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate now stands in recess until 9 a.m. tomorrow, June 21, 1995.

Thereupon, the Senate, at 7:29 p.m, recessed until Wednesday, June 21, 1995, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, June 20, 1995*

The House met at 9 a.m. and was called to order by the Speaker pro tempore [Mr. LUCAS].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 20, 1995.

I hereby designate the Honorable FRANK D. LUCAS to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER pro tempore. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority and minority leader, limited to not to exceed 5 minutes and not to exceed 9:50 a.m.

RETURN ON INVESTMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 5 minutes.

Mr. GOSS. Mr. Speaker, good morning. It is appropriations season again and the money is tight everywhere, as we all know, as we discussed the budget in this town. However, there is a $2 billion expenditure that I do not believe is receiving the scrutiny it deserves; the money we are spending on continued United States operations in Haiti.

During this very painful process where even the good programs are likely to be cut in Washington, I have been particularly disheartened by the reports I have been receiving from Haiti and by how little return the American taxpayer seems to be getting for the precious tax dollars the Clinton administration is spending there.

We know that the total costs will run well past the $2 billion, that is "B," billion, mark or if our soldiers leave as scheduled in February of next year, 1996. This is an extraordinary sum of money. In fact, to put it in perspective, we could have given every person in Haiti $300; more than the average Haitian makes in a year, incidentally.

What will we have to show for it when it is all said and done? That is the question. I sincerely hope that we will have at least two free and fair elections. In fact, I am going to travel to Haiti later this week as the head of an elections observation team for a firsthand look at the electoral process for the elections this Sunday.

From the briefings I have received, though, I fear that this weekend's parliamentary and local elections may be dangerously close to falling below internationally accepted standards for good elections. And it is not for lack of money.

In fact, it seems the Clinton administration had to learn the hard way that doing things in a country with a history of political turmoil and a near vacuum in infrastructure and democratic government costs a lot more to get done than it does to get things done here in the United States.

While the FEC estimates that an American election costs around $2 a ballot, recent reports in the Arkansas Democrat I saw indicate that it will cost United States taxpayers between $10 and $15 per ballot in Haiti. That adds up to $30 million in administrative costs alone just to hold elections in Haiti.

Of course, this does not include the Presidential elections expected for sometime in December, if all goes well. Still more disheartening is the fact that once again, as in 1934, the United States may depart Haiti leaving nothing behind to help Haitians consolidate the progress they have made.

There are very serious gaps in the long-term picture. The constitutionally required permanent electoral council was never formed and the provisional electoral council is just that, it is provisional and it is struggling and not working as well as it needs to be.

Thus, we will leave behind no cadre of trained individuals to carry forth the democratic electoral process. We will leave behind no institutionalization of the justice system, the judicial system, which is a prerequisite for any democratic society.

A further concern is the police force. The Aristide government is resisting President Clinton and his team not to build a large, well-trained, independent police force. This is no doubt the legacy of his bad experience with former Haitian dictators' military police forces, but it nevertheless remains deeply troubling.

At the time U.S. forces are scheduled to leave, next February, barely 4,000 newly trained police will be in place. If training continues as scheduled, the program could produce a maximum of maybe 6,000 police. Would this be enough police, given the dissolution of the Haitian military and the historical propensity in Haiti for chaos? Will this provide stability for a country with nearly 7 million people, 4,000 police? I do not think so.

If there is anything that Haiti needs it is law and order, democratic law and order. That means a set of laws that apply equally and effectively to all citizens, a judiciary and a police force answerable to the democratically elected government.

I think every American, including people like myself who opposed the armed invasion of Haiti and entangling military occupation, are hoping that we will leave enough in Haiti for Haitians to build on; that a few years down the road we will not be faced with the same crisis all over again, starting with a great refugee crisis into Florida.

Frankly, I am not convinced that is happening, though. I hope every American will write their Congressman or Congresswoman and demand a full accounting of spending on United States and United Nations operations in Haiti by this administration. We are asking all Americans to tighten their belts still another notch. They deserve to know whether or not they are getting a reasonable return on the $2 billion-plus investment of their tax dollars that the Clinton administration has spent in that small Caribbean nation.

Mr. Speaker, where has all that money gone? And what did the U.S. taxpayer get for it? That is the question that deserves an answer.

SO MUCH FOR OPEN RULES

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Colorado [Mrs. SCHROEDER] is recognized during morning business for 5 minutes.

Mrs. SCHROEDER. Well, well, well, well, here we go again, Mr. Speaker. The Rules Committee has really become the first line of defense for sacred cows. Today we are going to be taking up another rule that once again shuts out all sorts of amendments that would knock out sacred cows around this place.

Let us talk about that a little further. When we bring up the legislative branch appropriations bills, many of us

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□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

thought that it was very important to have a ban on gifts to staff and Members. Once and for all, get the lobbyists' gifts out of here. It taints the whole place. People are tired of that. You know what? In this group that pledged open rules, we are not allowed to offer that amendment. That amendment has been denied. Keep the gifts coming. Boy, is that wrong.

We also have two major committees that do nothing. They have no legislative jurisdiction. There were amendments to try and go after these. One has a staff of over $6 million a year; the other is over $3 million a year. The one that has the over $6 million, the last thing it did was a 300-page report defending the right of billionaires to be able to give up their U.S. citizenship and move offshore to avoid paying taxes. Now, that is not something I feel like funding, thank you.

Not only that, we have two tax committees that have legislative jurisdiction. Why do we need this third one that is really nothing but a select committee?

Why am I angry? Well, we did away with all the other select committees, ones that dealt with children and families, the one that dealt with hunger, and the one that dealt with the elderly. Those are gone. Those were people ones, but when you talk about taxes you cannot have enough staff up here protecting billionaires. No, no. no, we have to preserve them. So we have the Rules Committee denying any amendments to take those out, because if those amendments came to the floor, they are afraid people might vote for them. Well, so much for open rules.

I must say this saddens me very, very much. People may remember at the end of the 100 days I suppose I misbehaved. I climbed up on the top of this dome and I hung out a sign that said "Sold," because I feel I am watching this place being sold right under my eyes. It is like sold to the highest bidder; sold to the highest gift-giver. We are becoming a major, major coin-operated legislative machine.

There are ways to prevent that. There are ways to prevent that with campaign finance reform, with the gift ban, with doing away with committees that are just defending the super-rich who have their lobbyists up here protecting their special interest in the Tax Code. There are ways we can do that. But we cannot do that if we are denied the right to even bring these up as real amendments on the floor.

So far they have not denied my right to come here and at least talk about it. I suppose that is next. But we cannot do anything meaningful about it because the process has been shut down.

Now, I think for Americans this is a very serious issue, a very serious issue. We know that lobbyists can come in here and turn things around. We know they have been here a long time. But we now know we are seeing them in a magnitude greater than we have ever seen.

I was for the gift ban before they moved in with this magnitude. But for heaven's sakes, I think before the cynicism just gets so deep that we all drown in it we need to get to these basic House cleaning rules.

We really need to clean all this stuff up. We need to make the Tax Code look like it is working for the average person rather than working on the average person. We should be focusing much more on issues and how they affect children and families. Instead, we did away with the one committee that monitored that type of thing.

We ought to be standing up against hunger. That has been one of the great things that this country has done traditionally, is fed the world with this great breadbasket we have. No, we did away with that committee.

But, by golly, today we will not even have the chance to save $10 million and do away with the one that is protecting the billionaires over there on the Joint Committee on Taxation and do away with the Joint Economic Committee.

Have you ever seen an economist that has come out with anything that is on target yet? Why do we keep buying more and more and more of those, especially when we do not look at these other issues that are so critical?

So I rise with great sadness, and I hope many people think, very, very long and hard before they vote for this rule, because when you vote for this rule, remember, you have totally shut out the ability of being able to bring up these kind of amendments once more.

If you rememeber, last week when we did the defense bill, we had a rule that prevented us from bringing the defense number down to what the Pentagon wanted. This must stop. Think about that when you vote for the rule and vote "no."

RECESS

The SPEAKER pro tempore. There being no further requests for morning business, pursuant to clause 12, rule I, the House will stand in recess until 10 a.m.

Accordingly (at 9 o'clock and 13 minutes a.m.) the House stood in recess until 10 a.m.

□ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker at 10 a.m.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Remind us always, O God, that honest communication between people demands that we not only speak but we also listen, that we not only express our ideas and feelings but we also heed the words and feelings of others, that we not only hear the sounds of conversation but actually contemplate the meaning intended by such words. May we, gracious God, appreciate that before we can act faithfully, we must also listen faithfully to that which others say to us. So let us truly commit ourselves to listen to others—in word and thought and meaning and purpose. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Pledge of Allegiance will be led by the gentlewoman from Texas [Ms. JACKSON-LEE].

Ms. JACKSON-LEE led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

> S. 652. An act to provide for a pro-competitive de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 219) "An act to ensure economy and efficiency of Federal Government operations by establishing a moratorium on regulatory rulemaking actions, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. NICKLES, Mr. STEVENS, Mr. THOMPSON, Mr. GRASSLEY, Mr. GLENN, Mr. LEVIN, and Mr. REID, to be the conferees on the part of the Senate.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. McCathran, one of his secretaries.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The chair will recognize each side for fifteen 1-minutes.

DIME STORE DEFICIT REDUCTION

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, earlier this year some Members of Congress were infected with the me too but syndrome. As we discussed welfare reform they would say, "I'm for welfare reform, but" or when we passed a tough crime bill they said, "Me too, but, not that bill."

Now it appears a strain of that virus has infected the White House. President Clinton seems to have come down with me too not as much and I have no details syndrome.

The President told us last week that he was for spending cuts just not as much as Congress and he offered no specifics for his so-called budget plan. He claimed he was for tax cuts for hard working middle class Americans. But the House plan would allow families to keep too much of what they earn. And now we learn this week that the Clinton budget II, still leaves our children with huge annual deficits.

Mr. Speaker, we should not be fooled. As this House is trying to save the next generation from bankruptcy, the President is offering dime store deficit deduction.

STAND UP FOR WORKING PEOPLE

(Ms. JACKSON-LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE. Mr. Speaker, the morning talk shows were having a great time, for they were talking about how the Congress was getting ready as a legislative body of the United States of America to do our own budget. As we address the appropriations for this Congress, there is a lot of smoke and mirrors, and I have come to stand on behalf of the working people.

What are we doing with this appropriation? We are cutting out jobs for working people, the folding room, hard-working citizens who have been working for many, many years, dedicated and loyal, providing mail service to this House—they will lose their jobs. The Printing Office, skilled craftsmen who have been working and contributing to this House, they, too, it seems will lose their jobs. And then the citizens who come to work here, they may be driving a 1967 Chevrolet, but they are coming to the Congress to work. What do we do? We cut out their parking lot just so a few extra dollars can go somewhere else.

Mr. Speaker, if we are going to do real appropriating and let us be real fair, do not cut valuable services and real jobs for working Americans who work in lower level positions. Let us stand on the side of Americans who work, the citizens who come to work every day in the folding room, the Printing Office, and, yes, those individuals who drive far to come to work for the citizens of the United States of America who need just a simple unfancy parking lot to park in.

Smoke and mirrors, that is this appropriation. Vote "no" on this congressional budget appropriation process. There are no real cuts only smoke and mirrors—vote to save jobs.

PORKER OF THE WEEK AWARD

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, last month 238 employees of the National Immunization Program held a conference at the luxurious Century Plaza Hotel in downtown Beverly Hills.

The event cost $1,015,900.

This money could be used to immunize 13,500 babies. But I suppose a conference among bureaucrats in beautiful Beverly Hills was more important.

I am told the conference organizers selected Beverly Hills because of a recent outbreak of measles in Los Angeles. I wonder how many of the infected were in Beverly Hills at the time of the conference.

For whittling away taxpayer dollars so that bureaucrats can live high on the hog, the National Immunization Program gets my Porker of the Week Award.

SHAME, WASHINGTON POST

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the Washington Post bought eight brand-new printing presses, $250 million, a quarter of a billion dollars. They got them from Mitsubishi of Japan, who they said was the low bidder over Rockwell International.

Beam me up. How many, Mr. Speaker, how many businesses in Japan buy ads in the Washington Post? How many Japanese read the Washington Post? How many Japanese buy the Washington Post?

Shame, Washington Post. Hide your face, and while you are hiding your face, on behalf of all the workers at Rockwell International who are not allowed to bid in Japanese markets, shove your printing presses up your low bid.

CONGRATULATING THE HOUSE ON CORRECTIONS DAY

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I just wanted to take a minute to congratulate the House. Later on today we will pass the provision in the rules which creates Corrections Day. Later, after that, we will establish the bipartisan committee or task force which will be reviewing proposals for Corrections Day. Later, after that, we will establish the bipartisan committee or task force which will be reviewing proposals for Corrections Day.

This is an idea which first developed earlier this year, and people said, "Isn't there some way to correct the bureaucracy when it is doing things that make no sense?" I think it is a sign of real progress that on a bipartisan basis we were able to work out both the arrangement to establish a procedure for Corrections Day and we were able to establish, with the minority leader, a proposal and a list of names so there will be genuine bipartisanship in pursuing this, I think it is an example of working together.

We can get something good done for the American people, and we can cut some of the nonsense out of the Federal Government.

So I commend the Committee on Rules for its diligence, and I commend the gentlewoman from Nevada [Mrs. VUCANOVICH] and the others who worked so hard to make this come true.

WHAT WE ARE NOT DOING TODAY

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, I think that it is important, after just hearing from Speaker GINGRICH, what we are going to do and what we are not going to do today.

Well, I will have to ask the empty Chamber what we are not going to do today.

What we are not going to do today is deal with the question of billionaires and the tax loopholes they can take in renouncing their citizenship. What we are not going to do today is to add a gift ban, a meaningful gift ban, which many of us have taken voluntarily, that requires, that allows, that makes sure that we do not fall under undue influence.

What is important to ask today is not what we are doing with some of these poll-driven, cynical ideas that seem to reach out to the common denominator, but, rather what we are not doing up here. We are not taking care of Medicare. We are cutting Medicare to give a tax break to the most wealthy.

We have got to look not at what we are doing today but what we are not doing, and what they are planning to do.

WE WILL BALANCE THE BUDGET

(Mr. METCALF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. METCALF. Mr. Speaker, we will balance the budget. This will not be easy, but we will balance the budget, but not quite as soon as we would like, but we are going to do it.

How will we do this? We are going to have to rein in the spending, and we will rein in the spending.

The way that we should look at each expenditure, as this budget comes before us, look at each expenditure in this way: Is this spending so important that we are willing to borrow the money to do it? We do not have the money. We have debt now. We do not have the money. Borrow the money to do it and force our children and grandchildren to pay interest on it for the rest of their lives, to lower their standard of living to pay interest on that money for the rest of their lives? If it is that important, then we should spend the money, and if it is not, we should delete it.

BAN GIFTS FROM LOBBYISTS

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, the American public strongly favors banning gifts from lobbyists to Members of Congress, yet, again and again, the Republican leadership has turned back Democratic efforts to pass gift ban legislation. Yesterday, yet another Democratic gift ban amendment ran up against yet another Republican stonewall.

The Baldacci amendment to the legislative appropriations bill we will consider today would have prohibited legislative funds from going to any Member or employee who has accepted a gift from a paid lobbyist, a lobbying firm, or an agent of a foreign principal. Yet, the Republican leadership will not even allow this amendment to come to the floor for a vote.

Perks and privileges demean this institution and everyone who serves here. We are here to do the people's business and we are well compensated for that. We do not need paid vacations, frequent flier miles, or free meals to sweeten the deal. It is high time Republicans live up to their rhetoric on reform and join Democrats to clean up Congress and ban gifts from lobbyists.

PEOPLE OF AMERICA KNOW HOW TO BALANCE THE BUDGET

(Mr. BARTLETT of Maryland asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, balancing the budget is serious and difficult business. This was made even plainer this week when it was made known by the Congressional Budget Office that the President's plan to balance the budget in 10 years, which, by the way, is far longer than most Americans want to take to balance the budget, that his plan is out of balance by roughly $200 billion a year and is still out of balance at the end of 10 years by, I think, $209 billion.

Now, I am sure that the President and all of his people worked very hard on this plan to balance the budget, and the fact that it is out of balance every year roughly $200 billion and still out of balance in year 10, over $200 billion, indicates how difficult balancing the budget is.

Mr. Speaker, I will tell you where the real wisdom is in how to balance the budget, and that is outside the beltway. Let us go out to real America where people work and earn a living and balance their budget day in and day out, year in and year out. They will have the answer of how to do it here.

IN SUPPORT OF NIH FUNDING

(Mr. BENTSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENTSEN. Mr. Speaker, the Republicans want to balance the budget, provide tax cuts for the wealthy, and increase defense spending at the expense of vital programs that serve the health of every American.

In their budget plan, they have proposed a $2.8 billion cut in funding for the National Institutes of Health, the world's leading biomedical research institution.

Their plan would jeopardize our Nation's health and our economy.

It would limit medical advances for life-threatening diseases such as heart disease and cystic fibrosis.

It would reduce the number of new technologies and treatments which save billions in annual medical care costs.

It would also threaten America's status as the premier health research center of the world and the 726,000 jobs this industry has created.

A cut of this magnitude is not only wrong, it lacks public support. Over 91 percent of Americans want us to spend more, not less, on health research.

M.D. Anderson Cancer Center, located in my district, is one of the best cancer research facilities in the world. The cancer center was among the first institutions to conduct trials of the new anticancer drug taxol, now being used to treat over a dozen types of cancer. NIH provided the resources to help M.D. Anderson develop this drug.

I do not believe the American people want us to reduce experiments which could provide a breakthrough in the treatment or cure for breast cancer, Hodgkin's disease, or melanoma.

If NIH's budget is reduced, M.D. Anderson and other institutions across the Nation would face even tighter budgets. These facilities would be forced to eliminate thousands of research-associated jobs.

Let us not risk America's role in biomedical research. If we do, our Nation could face a serious health care crisis down the road.

PRESIDENT'S BUDGET OUT OF BALANCE

(Mr. HOKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOKE. Mr. Speaker, a week ago the President of the United States spoke to the American people and entered, reentered the debate. He had sort of been AWOL for several months about the budget, and he reentered the debate, came in from the cold and said that he was presenting us with a balanced budget, or a budget that would be in balance after 10 years.

Republicans, while wishing that he had probably been there a lot sooner, generally welcomed him and asked him to be a part of it and looked forward to that and felt good about that, felt good he was going to enter back into the fray.

We have now found out from the CBO that, in fact, this budget that was presented is not in balance at all. In fact, it shows $200 billion deficits through the 5th year, through the 6th year, through the 7th year, through the 10th year. Every single year, it goes from $191 billion to about $210 billion.

It reminds me a great deal of the same situation we had in 1992, where the President campaigned from the center and then, after he was elected, governed from the left. Here we have a situation where the claim was made a week ago there was a balanced budget when, in fact, it is not.

LEGAL SERVICES FOR THE POOR

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, Members of the House, very soon now, this House will be engaged in a great debate as to whether or not to preserve legal services to the poor as is now a part of the Federal establishment.

There is general agreement across the board from those who want to zero it out altogether and not spend one penny in the support of legal services from the Federal Government to those who would expand the legal services grouping, as we now know it; somewhere in the middle lies the final principle upon which this House will take action.

Do we want to provide legal services access to the courts for the poor? The answer is resoundingly probably, yes. But do we want to allocate Federal funds to a private corporation to dole out these sums to help the poor in the various States, or do we want to shrink the amount of money, send it to the States in the form of block grants and have them decide how to provide legal services for the poor?

These are the outlines for the debate that is yet to come.

IMPORTANT INFORMATION ABOUT SUDDEN INFANT DEATH SYNDROME [SIDS]

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, today, Representative TIM JOHNSON of South Dakota and I want to send a wake-up call to our colleagues about the No. 1 killer of infants during their first year of life: Sudden infant death syndrome, otherwise known as SIDS or crib death.

SIDS is defined as the "Sudden death of an infant under 1 year of age which remains unexplained after a thorough case investigation, including performance of a complete autopsy, examination of the death scene, and review of the clinical history."

The tragic and unexpected loss of a newborn is devastating to parents. What makes this disheartening experience even more agonizing is when doctors have no medical explanation for the infant's death.

SIDS is the leading cause of death among infants between the ages of 1 week and 1 year and strikes infants of all countries and cultures—in the United States alone, there are between 6,000 to 7,500 infants who unexpectedly die of SIDS each year.

As a new Member of the 104th Congress, I remain committed to increasing national public awareness about SIDS and educating parents about steps they can take to reduce the risks of SIDS.

In 1994, a national "Back to Sleep" public education campaign was launched by Federal and private entities.

The goal of this campaign is to encourage parents to place healthy babies on their backs or sides to sleep which research has shown to reduce the risk of SIDS.

Representative JOHNSON and I have sent important information to each office about the "Back to Sleep" campaign and SIDS public service announcements. We encourage our colleagues to send this vital message about SIDS prevention home to your constituents.

WHAT A DIFFERENCE A REPUBLICAN MAJORITY MAKES

(Mr. GUTKNECHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUTKNECHT. Mr. Speaker, the new Republican majority has decided to set an example for everyone else to follow. Today we are bringing to the floor our own funding bill, the legislative branch appropriations for fiscal year 1996. It may come as a shock to the American people, but, this year we are cutting our own budget by $155 million. Yes, $155 million.

Mr. Speaker, what a difference a Republican majority can make. We have worked hard to eliminate unnecessary programs, privatize programs, and to streamline this huge bureaucracy that we call our home away from home. We are going to make Congress work better with less money. In fact, if every other program in the Federal Government were being proportionately reduced, we would save more than $130 billion during the next fiscal year.

Mr. Speaker, what a difference a Republican majority makes.

□ 1020

EFFICIENCY, COST SAVINGS ARE HALLMARKS OF LEGISLATIVE BRANCH APPROPRIATIONS BILL

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, the Republican majority continues to make good on our promise to change the status quo by cutting Government. Today we are bringing to the floor two measures to prove our dedication—the legislative branch appropriations bill, and legislation to establish a Corrections Day.

Through the legislative branch bill, we will reduce our own budget by $155 million for the next fiscal year. We have cut congressional staff and eliminated unnecessary programs.

Corrections Day will help purge the Federal Government of ridiculous red tape. It will especially help State and local officials, who have been dealing with ridiculous regulations for too long.

Mr. Speaker, a smaller, less costly, and more efficient Government is our goal.

EXTENSION OF AGREEMENT ON FISHERIES BETWEEN LATVIA AND THE UNITED STATES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104-86)

The SPEAKER pro tempore (Mr. UPTON) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Resources and ordered to be printed:

To the Congress of the United States:

In accordance with the Magnuson Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), I transmit herewith an Agreement Between the Government of the United States of America and the Government of the Republic of Latvia Extending the Agreement of April 8, 1993, Concerning Fisheries Off the Coasts of the United States. The Agreement, which was effected by an exchange of notes at Riga on March 28, 1995, and April 4, 1995, extends the 1993 Agreement to December 31, 1997.

In light of the importance of our fisheries relationship with the Republic of Latvia, I urge that the Congress give favorable consideration to this Agreement at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 20, 1995.*

CUT CORPORATE WASTE

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, corporate welfare is defined as payment of Federal assistance in the form of subsidies, tax credits, and payments to business.

Such corporate welfare has grown to be so widespread that nearly every member of the Fortune 500 receives some sort of subsidy. Besides the enormous burden corporate waste places on the Federal budget, subsidies serve to weaken businesses; incentive to be competitive, efficient, and productive.

Reducing corporate subsidies is an important step in controlling spending. By sharply reducing these programs, we could eliminate unproductive programs while freeing much-needed funds for deficit reduction. In fact, cutbacks in corporate waste would have far more impact in reducing the deficit than many of the current efforts by Republicans to cut discretionary spending.

The Republicans have proposed to cut billions from programs that assist families, children, seniors, farmers, and veterans. Yet, while Republicans seek to gut programs that allow American families to make ends meet, over $160 billion a year in corporate welfare is buried in our Tax Code in the form of giveaways and loopholes.

It is indefensible to ask Americans to sacrifice without asking big business to do its fair share. I challenge the majority to cut aid to dependent corporations.

PROVIDING FOR CONSIDERATION OF H.R. 1854, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1996

Mr. DIAZ-BALART. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 169 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 169

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for consideration of the bill (H.R. 1854) making appropriations for the Legislative Branch for the fiscal year ending September 30, 1996, and for other purposes. The first reading of the bill shall be dispensed with. Points of order against consideration of the bill for failure to comply with section 302(f) or 308(a) of the Congressional Budget Act of 1974 are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule and shall be considered as read. Points of order against provisions in the bill for failure to comply with clause 2 or 6 of rule XXI are waived. No amendment shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment except as specified in the report, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against amendments printed in the report are waived. The chairman of the Committee of the Whole may postpone until a time during future consideration in the Committee of the Whole a request for a recorded vote on any amendment made in order by this resolution. The chairman of the Committee of the Whole may reduce to not less than five minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall be not less than fifteen minutes. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from Florida [Mr. DIAZ-BALART] is recognized for 1 hour.

Mr. DIAZ-BALART. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 169 is a structured rule, providing for the consideration of H.R. 1854, the legislative branch appropriations bill for fiscal year 1996.

The rule waives section 302(f), prohibiting consideration of legislation which exceeds a committee's allocation of new entitlement authority, and section 308(a) which requires a cost estimate in committee reports on new entitlement authority of the Budget Act against consideration of the bill.

The rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations.

The rule also waives clause 2, prohibiting unauthorized appropriations of legislative provisions in an appropriations bill, and clause 6, prohibiting reappropriations, of rule XXI against provisions in the bill.

In addition, the rule makes in order only the amendments printed in the report on the rule, to be offered only in the order printed, by the Member specified, and debatable for the time specified in the report. The amendments are considered as read and are not subject to amendment or a demand for a division of the question in the House or Committee of the Whole. Also, all points of order are waived against the amendments.

House Resolution 169 permits the Chairman of the Committee of the Whole to postpone consideration of a request for a recorded vote on any amendment and to reduce to 5 minutes the time for voting after the first of a series of votes.

Finally, the rule provides for one motion to recommit.

Mr. Speaker, as in last year's legislative branch appropriations rule, House Resolution 169 is a fairly standard structured rule to allow for the consideration of H.R. 1854. Amendments were made in order that allow the full House to make changes in areas where there are true differences of opinion. Last year, a total of 43 amendments were submitted to the Rules Committee and 12 of those were made in order. This year, 33 amendments were filed at the Rules Committee, and House Resolution 169 makes 11 in order. Of this year's group of filed amendments, less than one-half, by the way, Mr. Speaker, of the amendments filed were submitted on time and several were repetitive. A full dozen of these amendments dealt with franked mail and the Rules Committee made three amendments that affect Members mailings in order. We also allow amendments that would restore functions that some Members want to retain. In addition, we allow the full House to vote on an amendment that would allow Members to return unspent portions of their office expense allotments to the Treasury to be used for deficit reduction.

Mr. Speaker, I have the privilege in being the only Member of Congress to currently serve on both of the Speaker-appointed committees, and in my role on the Committee on House Oversight, I am very proud of the reforms achieved in H.R. 1854 based on the recommendations by House Oversight. We had some tough choices to make, but getting our own House in order and tightening our own buckles is a necessary step if we are ever going to achieve a balanced Federal budget; which is, of course, our goal.

H.R. 1854 incorporates House Oversight plans to revolutionize the internal workings of the House of Representatives, and over the next few months alone, save the taxpayers $7 million by streamlining operations. This bill is below the subcommittee's 602(B) allocation and is over 8 percent below last year's spending level. H.R. 1854 eliminates, consolidates and reduces, paving the way for privatization of functions that will likely be less costly when performed in some instances by the private sector. Quite frankly, House Oversight and the legislative branch subcommittee did such a fine job that there really is not much room for improvement by way of further reductions on the floor.

I would like at this time to commend the gentleman from California [Mr. THOMAS], chairman of the Committee on House Oversight, as well as the gentleman from California [Mr. PACKARD], chairman of the Subcommittee on Legislative, and of course the gentleman from Louisiana [Mr. LIVINGSTON], chairman of the full Committee on Appropriations, for their excellent work in bringing this bill forward. I believe, Mr. Speaker, that House Resolution 169 is a necessarily structured and yet fair rule, and I would urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we reluctantly oppose this rule for the legislative branch appropriations bill.

We are aware of the dilemma faced by the new majority in fashioning a rule for the consideration of this spending bill, which has for the past several years has proved especially contentious. We very much would like to be able to support this rule, but we do not oppose it because it makes in order only 11 of the 33 amendments that met the required pre-filing deadline. We do not oppose it because it waives points of order against provisions in the bill that violate House rules. We do not oppose this rule because it does not represent the "free and open legislative process" under which amendments are not blocked—the type of rule promised by the gentleman from New York—who is now the distinguished and able chairman of the Committee on Rules—

when we debated the rule on this same spending measure last year.

Mr. Speaker, we oppose this modified closed rule because it does not make in order amendments that deal with some of the most significant issues raised by the spending priorities in the bill. We oppose the rule because it denies Members the opportunity to vote on important reform and spending amendments.

During committee consideration of the rule late yesterday, we sought to make in order those amendments; our attempts were defeated each time on a party-line vote.

We argued that Members of the House should be allowed to vote on the deficit reduction lockbox amendment offered by Representatives BREWSTER and HARMAN. After all, the hallmark of the bill before us is that it cuts the spending of the legislative branch of Government; ends several of its functions and programs, and turns others over to the private sector.

As a consequence, we felt it only fair that the House have the opportunity to debate what happens to those savings, and whether or not they can be directly applied to reducing the Federal deficit.

Unfortunately, the majority on the committee voted once again to deny Representatives BREWSTER and HARMAN the opportunity to address this deficit reduction issue on the floor of the House.

We also felt strongly that a responsible amendment dealing with funding for the Office of Technology Assessment should be in order. The OTA is a nonpartisan research organization that provides Congress with valuable and timely information about issues in the legislation we are considering. It has strong bipartisan support in the Congress. Many of us on both sides of the aisle are concerned that the Appropriations Committee has acted precipitously in eliminating funding for this important research arm of Congress.

The rule makes in order one of the two amendments filed by the gentleman from New York [Mr. HOUGHTON] which is written to retain a smaller version of the OTA. Unfortunately, the amendment made in order is not the one favored by the author; he testified before the Rules Committee that he preferred his amendment that retains for the OTA some of the autonomy it currently has, and which has been a large part of its success.

The amendment required a waiver of the rule prohibiting legislative provisions in an appropriations bill. But, Mr. Speaker, since the rule itself provides a waiver of this point of order for other provisions in the bill and also waives all points of order against the amendments that are allowed, we felt it would have been equitable and certainly not unreasonable to protect the amendment Mr. HOUGHTON had hoped would be made in order.

The majority on the committee also refused to make in order several reform amendments, including one offered by the gentlewoman from Colorado [Mrs. SCHROEDER] to abolish the Joint Committee on Taxation. The Schroeder amendment should have been made in order, especially since the new majority intends to end or weaken one of its major functions—reviewing the tax returns of individuals and corporations with refunds that exceed $1 million, a function that saved the taxpayers of this country $16 million last year alone.

Our colleagues will also remember, of course, that we have, in the past, come to rely on the Joint Tax Committee as a voice of independence. But recent actions, including the 300-page report on the billionaire expatriates, have called its autonomous nature into question.

This amendment, along with another offered by the gentleman from Minnesota [Mr. MINGE], to eliminate funding now for the Joint Economic Committee, would have helped in our effort to streamline congressional operations, as well as save taxpayers money.

We are also being denied the opportunity to bring a gift ban to a vote. The committee refused to make in order an amendment offered by the gentleman from Maine [Mr. BALDACCI], that would have prohibited the acceptance of gifts by Members, their staffs, and the officers of the House.

As Members know, Mr. Speaker, we have been attempting to vote on a gift ban since the first day of this Congress, when the majority voted down a rules change that would have implemented a similar provision as a House rule.

We believe that officially ending this practice of accepting gifts would go a long way toward restoring faith in Congress by removing the appearance of impropriety by Members. This amendment would have given us the chance to vote on this important issue, the resolution of which has been dragged out far too long.

Mr. Speaker, this rule unfortunately also denies us the right to vote on another long-overdue congressional reform, a bipartisan amendment that would have ended the personal use of frequent flier miles by Members of Congress.

In conclusion, Mr. Speaker, we believe the Members of this body deserve the chance to debate and vote on a handful of amendments that could, in fairness, have been made in order by this modified closed rule. They addressed important congressional reform issues and the continuation of the OTA with some semblance of autonomy; they should have been a part of today's debate, and should not have been denied consideration.

This legislation is obviously essential if we want to continue to do well what we were sent here to do: Represent the people in our districts and legislate with their best interests and the interests of the Nation in mind at all times.

Mr. Speaker, we regret that we are unable to support the rule for this very important legislation.

We urge our colleagues to vote against the previous question so that we will be able to consider the important budget and reform amendments that were denied by the majority of the Committee on Rules and locked out of the amendment process.

If the Brewster-Harman lockbox amendment and the Baldacci gift ban amendment had been made in order, we would have had more spending cuts and more reform, and we shall ask our colleagues to give us the opportunity to make these important amendments part of the process today.

Mr. Speaker, I reserve the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules.

Mr. SOLOMON. Mr. Speaker and my colleagues, I will not consume very much time. Let me just say I rise in strong support of the rule. Like most of the rules on legislative branch appropriations bills adopted by the House in recent years, this is a structured rule. My colleague from Miami, FL, has so stated. He is a very valuable member of our Committee on Rules and also a very, very important member of the Committee on House Oversight. As he has stated, the rule provides for the consideration of a total of 11 amendments, or substitute amendments, 5 of which are Republicans', 4 of which are Democrats', and 2 of which are bipartisan.

□ 1040

The rule will give the House an opportunity to work its will on most of the major issues relating to this bill.

Mr. Speaker, I heard some criticism of this rule and of the bill before us, but let me tell Members how important this is. We have just enacted a budget in this Congress which is going to realize a balanced budget in 7 years. I would have preferred to have it be 5 years, but, nevertheless, 7 years guaranteed, I think, is certainly a step in the right direction.

What does this legislative appropriation bill do? This sets the tone for exactly what we are going to be doing throughout the entire Federal Government when we restructure that government. We have reduced committees, we have reduced subcommittees, and, to drive a point home, that means 833 fewer employees, 833 fewer employees. If you look at my good friend RON PACKARD's committee report on page 16, it talks about the savings that are arrived at from reducing 833 employees. That means less taxpayers' money that goes to the contribution to pension benefits for employees and for Members of Congress, it means less taxpayers' money that is appropriated to pay the congressional employees' share of health care costs, and so it goes, on and on and on.

Well, if that saves several million dollars, just think what is going to happen when we abolish the Department of Education, with 7,000 employees; when we abolish the Department of Commerce with 36,000 employees; and the Department of Energy with 18,000 employees. Think how fewer contributions there are going to be of taxpayer dollars going to benefits for those employees of the Federal work force. We are not reducing the amount for the Federal work force that pays for those benefits, but we are reducing the total amount of dollars. That is what we need to do.

So for anyone who wants to vote against this rule or the legislative appropriations bill, they are making a big mistake, because this does set that tone. For the first time in years I am going to vote for a legislative appropriations bill, because it reduces the spending on this Congress and sets the right tone. I urge all Members to do the same thing.

Mr. BEILENSON. Mr. Speaker, for purposes of debate only, I yield such time as he may consume to the gentleman from Washington [Mr. McDERMOTT].

Mr. McDERMOTT. Mr. Speaker, I rise in opposition to the rule because, among other reasons, the amendment of the gentleman from New York [Mr. HOUGHTON], preserving OTA, was not put in order.

Mr. Speaker, I rise in support of the amendment to retain OTA. I have served on the OTA board for 4 years, and I feel strongly that this agency should be retained.

I have three main points I want to make concerning OTA in my brief comments today. My first point is that the work of OTA is not simply a luxury to Congress, the work done by OTA cannot and will not be replicated by any other organization.

Second, I want to point out that OTA exists as a result of growing awareness over the early part of the 20th century of the ever-increasing need for sound scientific analysis in policymaking. Much careful thought went into creating OTA, and we should be equally careful as we consider what its future should be.

Congress will not get a lot of symbolic mileage out of eliminating OTA. With all the inefficient organizations we have to cut in the Federal Government, eliminating a small agency that is considered a model of efficiency by experts across the political spectrum is not the way to score political points.

During the joint hearing on congressional support agencies on February 2 of this year, a number of experts on congressional reform from across the political spectrum discussed OTA. Each witness praised the expertise of OTA reports, and several witnesses noted that OTA could serve as a model of efficiency and organization for other government entities.

No one questioned the objectivity of OTA, nor were there serious concerns raised about the utility of their reports. The only argument made for eliminating OTA was that the organization was not essential to the Congress. The question then comes down to the necessity of having OTA continue its work for Congress.

I think we all can agree that Congress is being called upon to legislate in a world which only becomes more technically complex, we clearly have a need for good technical analysis from an objective and professional organization.

Some say we should go directly to the outside experts, and that objective and balanced advice should be obtained that way. This is based on the belief that professional standards in the technical fields are sufficient that Congress does not need an office to help sort out competing scientifically based claims.

As a medical professional, I know enough about science to know that there is a lot of ground for differing interpretation and presentation of scientific facts. In my own field, I can make judgments about what constitutes solid evidence. But we are incapable of making those sorts of judgments outside of our own fields. I would have very little basis to judge good or bad scientific advice outside of my own area of medicine.

In OTA, we keep on hand a small but highly trained group of experts in numerous technology related fields. They have no institutional or economic agenda to push. They exist to sort out competing arguments, to explain seemingly contradictory facts, and then present them to us so that we may make our policy decisions with these complicated scientific perspectives sorted out.

Here is an example of why it would be difficult to rely directly on experts or the private sector to fill the functions of OTA.

Many of us have been concerned over the past several years about the emergence of bacterial disease resistant to many of our antibiotics. What is unknown is how serious a problem this truly is, and how we should deal with it. Presumably we could go directly to the experts, the microbiologists and infectious disease specialists.

But we might expect these professionals could have a conflict of interest, and might overstate the problem, in hopes of obtaining more funding for surveillance and basic research. OTA has no stake in this issue other than to serve the policymaking needs of the Congress.

They can afford to be objective and ask the question, Is this truly a public health crisis, and what needs to be done about it? The OTA is just a few months away from having a report completed on this question, and it will almost certainly shed important light on a problem which is a significant cause for public concern.

We must recognize that OTA exists as a result of a long history of recognition by Federal policymakers that policy requires data and analysis. The National Academy of Sciences argued for the creation of OTA, because they—among others—recognized that the pace of science demanded an expanded capacity for Congress to obtain balanced technical advice.

The number of scientific and technology issues, the pace of change and the complexity of these issues will only increase in the next decade. It strikes me as precisely the wrong time for impulsive acts like the elimination of an entity that exists because of a long, carefully considered need for such assistance.

OTA was not some luxury created based on some monetary whim. OTA exists because policymakers found a significant gap that was not filled by the existing experts, think tanks, academic centers, or other sources.

The National Academy of Sciences, Institute of Medicine and National Academy of Engineering continues to this day to strongly support the continuation of OTA.

Furthermore, we should not expect that an entity like OTA can be quickly recreated. OTA has accumulated an experienced staff in an amazingly broad range of science and technology issues, and that have a considerable amount of institutional memory in addition to their technical expertise.

A hasty decision to fire these professionals would undo many years of careful thought and painstaking hiring.

The American people sent a lot of new people to Congress in November to act; but they did not send them here to act impulsively or with shortsightedness. I think that if we have learned anything it is that the public can usually tell the difference.

Mr. DIAZ-BALART. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. PACKARD], the distinguished chairman of the Subcommittee on Legislation of the Committee on Appropriations.

Mr. PACKARD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, this is a structured rule, a rule that I think is very fair. It will give complete opportunity for us to debate every issue that I think is important to be debated. Frankly, I want to express my appreciation as chairman of the subcommittee to the Committee on Rules for providing us with this very fair and open opportunity for debate.

In reference to OTA, I must make some comment. We will have a complete opportunity to debate OTA. There are two amendments made in order. One is to restore virtually all of OTA to where it is now, 85 percent of it. Then a second amendment, offered by the gentleman from New York [Mr. HOUGHTON]. We will have complete opportunity to debate OTA. Frankly, I think that the Committee on Rules was very fair in that area.

I also want the Members of the House to know that we spent considerable time and effort in trying to craft a bill that would do some of the fundamental things that Congress and we think the voters have called upon the House to do, and that is to downsize Government, and to start with themselves.

This bill does that. This sets the model. This sets the mold for all the rest of Government to follow in downsizing, in consolidating, in eliminating, and in cutting those areas that Government needs to cut, and we have started with the Congress and the related agencies that support the Congress in this bill.

It is a very good bill. We have given considerable effort and bipartisan debate before we come to the floor of the House to it. This rule gives us a chance to debate those very issues that were debated and were still controversial in the committee and subcommittee. We do not believe there should be any need for additional amendments. In fact, we would have preferred less amendments. But the Committee on Rules, in their good judgment, balanced the amendments to both sides of the aisle, and we think that we will have an opportunity to debate the important issues.

We like the rule, we appreciate the Committee on Rules, and I strongly urge the Members of the House to vote in support of the resolution.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, today we take up the 2d of our 13 appropriations bills, this time the legislative branch appropriations bill. Sadly, the rule on this bill once again does not include the Brewster-Harman bipartisan lockbox amendment.

Later today we will also resume consideration and vote on the military construction appropriations bill. The rule on that bill did not include the Brewster-Harman bipartisan lockbox amendment.

Let me explain what is sad about this and why I will vote against the rule to this bill and the rule to future appropriations bills, so long as they do not include the Brewster-Harman bipartisan lockbox amendment.

The lockbox is a very simple concept. It is supported by or was supported by 418 Members of this House and I believe all members of the Committee on Rules when it was voted on earlier this spring. What it says is a cut is a cut. It is a mechanism whereby when we cut spending on an appropriations bill, as we did last Friday when we voted down a proposal for an Army museum that would cost $14 million, the money that is saved is scored in a lockbox. It could be called anything, but it is separately and identifiably set aside. That means that when the House bill passes, that lockbox money is identified. When the Senate bill passes, whatever is in the Senate lockbox is identified, and the conferees are required to come out with a figure somewhere between the House and Senate number. That final amount in savings must go to deficit reduction.

These are not actual dollar bills that are in a box. This is less money that has to be borrowed, and it is money that comes off the 602(b) allocation.

I want to explain to my colleagues if we do not do this, we are deceiving the American people. We are saying that we are cutting spending, when we are not. Instead, we are giving a certain kind of power to the appropriators that the American people do not understand that they have. It is not the right thing to do in this House in my view, to cut spending and then to reallocate that spending without people knowing about it.

So one more time, colleagues, deficit hawks, all of you, let me urge that we change this rule to make in order the Brewster-Harman lockbox amendment and that we make clear to the American people that we are not kidding, that the money saved comes off the bottom line, and that the deficit will go down because of the courageous actions we take in this body.

Vote "no" on this rule.

Mr. DIAZ-BALART. Mr. Speaker, I yield 3 minutes to my distinguished colleague on the Committee on Rules, the gentleman from Florida [Mr. GOSS].

Mr. GOSS. Mr. Speaker, I thank my distinguished colleague and dear friend, the gentleman from Florida, Mr. LINCOLN DIAZ-BALART, for yielding me this time. I must say that it has been a pleasure to have him on the Committee on Rules and I am pleased to see him managing these legislative efforts.

Mr. Speaker, in the time I have been in Congress, we have had much discussion about the need to look close to home as we work to bring balance to our Federal budget. Not only is there an actual real need to clamp down on unnecessary and lower priority spending—but there is also a very important symbolic need behind that effort. My mail strongly suggests the American people are willing to make some sacrifices in order to bring down our deficit and begin paying off our debt. But they want to be sure that the sacrifice is spread fairly, all the way around—and they sure want to know that their elected officials are leading the way, not hiding behind some royal velvet curtain in the castle or the Imperial Congress. I am very proud of the work done by our friends on the legislative branch subcommittee in bringing us H.R. 1854, the bill that outlines our own budget up here on the Hill for the coming year. The subcommittee made some very real cuts—reflecting the action we took on the opening day in cutting our staff budgets by one-third and in reducing the actual dollars we intend to spend next fiscal year by 8.2 percent from what we are spending this year. That is a real cut—not just slower growth or some budgetary hocus-pocus. Still, though the committee has done good work—there are Members who have ideas about further cuts and ways to change priorities in how the money is spent. Although appropriations bills are privileged and could come straight to the floor without a rule, this bill requires certain waivers as explained by my colleague from Florida. In addition, because we are under a tight time schedule to complete our work on all the appropriations bills, our Rules Committee chose to follow recent precedent and provide a structured rule, which was reported by our committee on a voice vote. This rule provides for consideration of 11 amendments—including several proposals for additional cuts in Members' franking. I am a strong proponent of reducing the allowances Members get for free mail—having spent the past 6 years fully responding to my constituents' inquiries and staying in touch—while only using a fraction of my allocation. I am certain many other Members have had similar experience of underutilization of the over generous franking allowances. Likewise, we will consider an amendment to afford Members the opportunity to return unused office funds to the Treasury for deficit reduction—an important proposal designed to change the incentives from spending toward saving. All together—the bill and this rule—provide strong testimony to the fact that Members are starting to get it—the American people want us to lead by example and that is exactly what we are doing. This doesn't reduce Congress and its Members to sackcloth and ashes. It does responsibly tighten our belts another notch or two. I urge support for this rule.

Mr. BEILENSON. Mr. Speaker, at the moment we have no further requests for time, although such requests may yet appear. We reserve the balance of our time.

Mr. DIAZ-BALART. Mr. Speaker, I yield 3 minutes to my distinguished colleague on the Committee on Rules, the gentleman from Georgia [Mr. LINDER].

Mr. LINDER. Mr. Speaker, I want to express my strong support for House

Resolution 169, the rule which provides for consideration of H.R. 1854, appropriations for the legislative branch.

In the past, Congress has proven that it absolutely cannot restrain itself from spending taxpayers' money. This bill is a significant move to curb Congress' spending on itself. H.R. 1854 cuts the congressional budget by $154 million in fiscal year 1996, eliminates 2,350 congressional staff positions, and privatizes those operations that would be better provided in the open market.

The bill crafted by the Appropriations Committee continues our commitment to shrink Government, beginning with ourselves. This rule assures that the Members of the House can vote on a number of amendments that would further cut the funds that Congress spends on itself, including funds spent on congressional allowances, congressional mail, and congressional staff. While only 12 percent of amendments offered by the minority party were permitted in the last Congress on this bill, the Rules Committee will allow almost one-third of minority amendments to be considered on the House floor today.

Some amendments, such as a loosely written gift ban amendment, should not be in this bill. However, under the ill-advised amendment offered in the Rules Committee, if a group from the Fourth District of Georgia decided to hold a reception, I could be prohibited from joining the event because it was funded by interested constituents.

A House bipartisan task force is working on effective gift ban language, and the Rules Committee acted responsibly in not permitting this amendment.

Mr. Speaker, we will balance the budget so that our grandchildren will not have to pay for our extravagances. We are cutting our own budget first, and are working to assure that future generations will not have to pay for the excesses of Government. I urge support for this fair rule and the bill that will create a streamlined, responsible legislative branch.

□ 1100

Mr. DIAZ-BALART. Mr. Speaker, I yield 2 minutes to my distinguished colleague, the gentlewoman from Utah [Mrs. WALDHOLTZ], a member of the Committee on Rules.

Mrs. WALDHOLTZ. Mr. Speaker, I rise in strong support of the fiscal year 1996 legislative branch appropriations bill. By slashing Congress' own budget by $154 million, this bill shows that Congress is not just asking others to make do with less money, but we are starting with ourselves.

The rule for this bill, though, allows us to go even further than the base bill. The rule makes in order a number of amendments that will cut even more funding, including an amendment to cut Members' office allowances by $9.3 million, another amendment to cut franking funds by $4.6 million. We allow an amendment that would further reduce the Government Printing Office and an amendment that allows Members to return the unspent portions of their office expenses to the Treasury for deficit reduction.

I have pledged to cut my office expenses by 25 percent over last year's mark and we are doing it. And I would much rather see that money go to deficit reduction than back into Congress' own spending accounts.

As we work to bring our own House in order, this rule gives us the opportunity to make additional spending cuts beyond the bill's nearly 9 percent reduction.

The American people have become increasingly disillusioned with Congress and for good reason. We have squandered their money for too long. All over this country families are tightening their belts and figuring out how to make do with less, but Congress has failed to do the same over and over again.

This bill proves to American families that we, too, are willing to do our part to help tame the budget deficit by downsizing Congress and bringing spending under control.

This bill takes an important step toward making sure that Congress learns how to do our work better for less money. I urge my colleagues to support both the rule and the bill.

Mr. BEILENSON. Mr. Speaker, I yield 4 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from California for yielding time to me. Let me say that talking about how this is a good rule is like trying to put lipstick on pigs. This is a bad rule. Let me tell you why.

Some very essential amendments were denied. They were denied by the same group who promised open rules. The most essential, I think, is the one that would cut off gifts being able to be delivered to Members of Congress and their staff. I think this place should have had a gift ban from the day it started, and to think in 1995 we still do not have it is unbelievable. But we were denied the opportunity to come forward with a gift ban once and for all and say to the lobbyists, no, no, no, this place is not for sale.

So that is one reason. No. 2, if you think we ought to be paying $6 million to the staff on the Joint Committee on Taxation who just finished preparing a 300-page document defending billionaires in America and their right to give up their citizenship and move offshore to keep from paying taxes, then you will love this rule, because the amendment that would cancel that joint committee that has absolutely no legislation was also not allowed. Those guys are there defending the fat cats, and they are going to keep them there defending the fat cats. They are the first line of defense I guess for fat cats when it comes to taxes. I think they should be gone.

It is very interesting that we cut the Select Committee on Children, the Select Committee on Hunger, the Select Committee on Aging; all of those are gone, but not the select committee that protects tax bennies, no, no, no.

They do not have any more legislative jurisdiction than the other select committees. And on children, let me tell you, the Select Committee on Children Youth and Families, which was around here for 10 years, their entire 10-year staff budget did not equal what one year is in this Joint Committee on Taxation. That was not allowed. So that amendment was not allowed, nor was the amendment to cut out the Joint Committee on Economics.

Now, let me tell you, we either do away with all select committees; I think that is a very good point, if you are going to do all of them. But to selectively just target the ones that are people oriented begins to tell you what our priorities are.

Maybe I would lose if I could offer my amendment. Maybe the gift ban would lose if we could offer that amendment. But let me tell you, anybody who votes for this rule is voting against our chance to even offer that amendment. The only thing we can do is stand down here and talk about it.

What people will then say when they go home and are asked why they did not vote to clean up the Congress and get rid of gifts, they will say, because I could not. What they are not telling is that the reason they could not was because they voted a rule out that did not allow them to clean up the place.

Let us hope people out there are sophisticated enough to ask the second question. If you cannot clean up a gift ban, who can, and why in the world would you vote for a rule that would deny the opportunity for this debate and deny the opportunity for these issues to come to the floor.

If you vote for that rule, that is exactly what you are doing. So if you love gifts coming to your office, vote for this rule. If you or your staff wants more gifts from lobbyists, vote for this rule. If you think it is a great idea to spend $6 million a year for people to write defenses of billionaires being able to give up their citizenship and duck taxes, vote for this rule; you will love this rule. For me, I do not like this rule and I am voting "no."

Mr. DIAZ-BALART. Mr. Speaker, I yield 5 minutes to the gentlewoman from Utah [Mrs. WALDHOLTZ].

Mrs. WALDHOLTZ. Mr. Speaker, after hearing the last speaker, I think it is very important that we clarify what exactly was attempted to be done through a gift ban in this legislation versus legislation that I have cosponsored along with other members of the bipartisan task force on reform that really will eliminate gifts from lobbyists coming to Members of this institution.

The amendment that was offered, while I recognize the intent and the spirit with which it was offered, simply said that if we discovered that someone was accepting gifts, they could not get money out of the legislative appropriations bill. What we are trying to do in my gift ban bill is not say it is OK to take gifts as long as you do not get caught, it is to say that gifts should not be accepted by Members of this body.

The amendment that the previous speaker referred to was a few sentences that did not define a gift, that did not define a lobbyist, that left so many loopholes, it would be far too easy to ignore the plain intent of gift ban legislation.

The bill that I offered, along with other Members, by contrast defines exactly what a gift is, includes trips, includes meals, and gives Members a framework in which to know exactly what things are not permitted. It defines it clearly so that Members cannot argue that they simply did not realize that a meal from someone constitutes a gift.

So if Members are serious about outlawing gifts in this institution, which I hope they are, then it is too important to try to deal with for political purposes in some amendment that does not really truly address the problem. We need to address this problem in a way that makes it clear that we do not have loopholes, that we have an opportunity to really clean this practice up.

In my office we do not take gifts. Things that are sent to us go to a homeless shelter in the area. It is very important to me that we deal with this gift ban, but we need to do it responsibly, not through something tacked on that really will not deal with the problem.

Mrs. SCHROEDER. Mr. Speaker, will the gentlewoman yield?

Mrs. WALDHOLTZ. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Speaker, that is always the great excuse, that this is not the perfect amendment. So my first question is, why did you not offer yours in lieu thereof, if you did not like this one? And second, if you did not like this one, why still not allow it to come to the floor and we at least debate it? You could amend it, whatever. I think that is very important.

Third, why did you not allow the amendment to cut out the two select committees, one on taxation, one on the Joint Economic Committee? Those were also denied. That is 10 million dollars' worth of savings when you just add those two together.

Mrs. WALDHOLTZ. Mr. Speaker, let me address the gift ban aspect. The reason that I did not offer my bill to legislative appropriations is because it is not appropriate to be legislating in an appropriations bill. I am sure the gentlewoman well knows that. This gift ban needs to be dealt with on its own merits. We need to have a discussion about this. The people of this country need to be able to see exactly what it is we are doing, and I have offered my bill and it is working its way through the process so that Members have an opportunity to know exactly what we are dealing with, that the people of this country can then have confidence that this is not some little thing that we added onto another bill that does not really mean anything, that has an enforcement mechanism, that has definitions that will allow people to really know that we are going to do away with gifts from lobbyists coming to Members of this institution.

Mrs. SCHROEDER. Mr. Speaker, if the gentlewoman will continue to yield, let me say we passed a very strong bill last year. We tried to put it through as legislation, as rules of the House at the beginning of the session. There are many of us who have a discharge petition up there trying to get it out here in one form.

As I say, we have been waiting for over 200 years in this Congress to get decent gift legislation. There is always a reason why not now, not right now. I think this is the perfect time. I thought the gentleman's amendment was excellent. I think it is a shame we would use the amendment to shut off the rule.

Mrs. WALDHOLTZ. Mr. Speaker, I will simply close by saying this: Gift ban legislation is too important to deal with it in a haphazard manner. We need to deal with it not as an add-on to a legislative appropriations bill, not as simply adding a sentence saying that if we find out you are taking gifts you will not get money from this fund.

We need to deal with it in a responsible way that the bipartisan reform task force is attempting to do, by dealing with it in a way that makes it clear to members of the public and to Members of this body that we will not take gifts and trips and meals and all the various things that the people at home have come to feel are too influential in how a law gets made.

I would urge those who are genuinely sincere in wanting to accomplish a gift ban to work with the bipartisan reform team and help us move our legislation forward that deals with this issue responsibly in a way that will make it clear to the public that the days of that influence into this body are over.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman form Maine [Mr. BALDACCI].

Mr. BALDACCI. Mr. Speaker, when I was first elected to Congress a little shy of 6 months ago, we were faced with this revolution that was going to be taking place this session. And that revolution was going to be reforming the way the Congress operates.

We passed congressional accountability to make Congress accountable for the laws it passes and it passes on everybody else. We were told at that time that gift ban legislation would be taken up later on, and it could not be done when we tried to do it during that first day.

Now we are being told again that it cannot be done now because it is not the right time and that we want an opportunity for people to understand what is all entailed here.

I think that the people of my State and I think the people of this country understand very well what is taking place and why we do not have gift ban legislation.

□ 1115

They understand very well, whether we establish an enforcement mechanism, whether we establish a watchdog to watch over it, they know where the majority does no want this issue to be, in front of this Congress, because it is what the American people want and what they demand.

Congress is paid a good salary. They have good benefits. There is no need to have somebody else picking up our check when we go out to eat. We get enough money to pay our own bills. We do not need people buying us tickets to go to a hockey game or to a baseball game, because we have the income and the ability to do it.

We are supposed to be serving the people of this country. We are public servants for the people. I swore an oath to the people, and that is the contract that I have. I do not know what Members are afraid of in bringing this issue up. It may not be perfect, but it will not be the only thing that is not perfect that has been brought up this session

Mr. Speaker, I implore Members to pass this legislation. We need the Four Horsemen to pass reforms: campaign finance reform, gift ban legislation, congressional accountability. Start putting trust back into the people, so the trust will be raised within the population, so they will have faith in all of us.

Mr. Speaker, we are here to do this job. I voted for term limits. I voted for congressional accountability. I want to vote for campaign finance reform, and I want a gift ban, because it is important to get back the trust of the people in what we are doing on the issues before us. I implore the Members, I do not know what they are afraid of in addressing this issue now. I want to do it, I want to do it now, and I want the people to have their trust back in their public servants, because it is their institution, and we are here to serve them.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. MINGE].

Mr. MINGE. Mr. Speaker, this year we are embarking on a long and arduous journey to balance the budget. Our lingering deficit and staggering national debt make balancing the budget a critical necessity. We must take serious action now. We cannot afford to spend yet additional years and spend additional money before we make cuts that have already been identified.

During this process we are going to have to make many painful decisions to cut programs that are beneficial. We will have to scale back the size of Government. We will have to cut waste, set priorities for dispersing the limited pool of Federal dollars. In this spirit of eliminating waste and reducing the deficit, I had hoped to offer an amendment to the fiscal year 1996 legislative appropriations bill that would have eliminated funding for the Joint Economic Committee.

Mr. Speaker, I understand that the Joint Economic Committee has been identified as an appendage of this institution that is not needed. It is slated for elimination in fiscal year 1997. Why should we wait for another year? By eliminating the Joint Economic Committee this year, we could save the taxpayers $3 million.

Mr. Speaker, we can no longer afford the luxury of funding redundant, duplicative Government entities such as the Joint Economic Committee. We already have budget committees, tax committees, in both the House and Senate. Earlier this year the committees in the House were reorganized, and the total number was reduced to eliminate overlap and duplications. Now, during the budget process, we should continue this effort and eliminate wasteful joint House and Senate committees.

Mr. Speaker, I commend the Members for their efforts to pare down the size of the legislative branch and improve efficiency. Let us take another relatively easy step toward balancing the budget by eliminating the Joint Economic Committee now. I urge my colleagues to support this effort and save the taxpayers $3 million. I ask, why could this rule not have allowed for that step to be taken this week?

Mr. BEILENSON, Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, certainly, as the last speaker very articulately pointed out, the American people want us in Congress to act on the budget, and act with fairness to balance the budget and make some tough spending cuts. One of the ways we can achieve that is to lead ourselves, to return money out of our congressional accounts back to the U.S. Treasury Department.

Over the least 4 years, I have returned over $670,000. Many Members of Congress have done much better than that. What we should be able to do is have that money designated for deficit reduction and not go back into a fund that pays for other Members' mail, office accounts, salaries, whatever be the case.

A bill that I introduced on the first day of Congress this session, last session, the session before, H.R. 26, would achieve this purpose. It simply says, "Any excess funds in an account will go directly to the U.S. Treasury, and not back to the U.S. Government to be respent."

Mr. Speaker, I think this is fair. It is accountable. It shows some leadership on the part of the Congress to address the deficit. This is bipartisan legislation; 121 Members of Congress have joined with me, Democrats and Republicans joining together to do something about the budget deficit, including the acting Speaker, the gentleman from Michigan [Mr. UPTON]. I will be joining tomorrow with the gentleman from New Jersey [Mr. ZIMMER] to offer an amendment to have excess moneys go directly to the deficit.

I am hopeful that we can pass this legislation to account for truth in budgeting, so we do not appropriate less money than we actually need, and count on Members to return money, and second, to show the American people that Members of Congress are going to be fiscally disciplined and make some of the tough decisions in their own office to return funds.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we regret we are unable to support the rule for this very important piece of legislation. We do urge our colleagues to vote against the previous question, so we will be able to consider the important budget and reform amendments that were denied by the majority of the Committee on Rules, and kept out of the amendment process.

If the Brewster-Harman lockbox amendment and the Baldacci gift ban amendment had been made in order, we would have had more spending cuts and more reform, and we shall ask our colleagues to give us the opportunity to make these important amendments part of the process today.

Mr. Speaker, I urge a "no" vote on the previous question.

Mr. Speaker, I include for the RECORD information regarding the floor procedure in the 104th Congress:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on suspension calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPILED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) of rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute..	1D
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D
H.R. 655	Hydrogen Future Act	H. Res 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery of the State of Iowa	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D;1R
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waives sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan

* Contract Bills, 67% restrictive; 33% open. ** All legislation, 65% restrictive; 35% open. *** Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. **** Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. Speaker, I yield back the balance of my time.

Mr. DIAZ-BALART. Mr. Speaker, I yield such time as I may consume.

Mr. Speaker, I was pleased to see the gentleman from Indiana [Mr. ROEMER] bring up that very important subject which we have permitted to be addressed by virtue of making in order an amendment offered by the gentleman from New Jersey [Mr. ZIMMER] that will allow Members to return unspent portions of their office expense accounts to the Treasury to be used specifically for deficit reduction.

This is a fair rule, Mr. Speaker. It has been a rule that has been well thought through. There has been very close work and cooperation between the Legislative Subcommittee of the Committee on Appropriations, the Committee on House Oversight, and the Committee on Rules. I think it is a good piece of work that we have brought before the floor today, before our colleagues today, and I would urge that our colleagues adopt this rule and move this bill onto the floor.

Mr. Speaker, I include for the RECORD a table reflecting the amendment process under special rules reported by the Committee on Rules.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of June 19, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	29	73
Modified Closed [3]	49	47	11	27
Closed [4]	9	9	0	0
Totals	104	100	40	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of June 19, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of June 19, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95)
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95)
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95)
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95)
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95)
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95)
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95)
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95)
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95)
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nattional Defense Auth. FY 1996	PQ: 233–183 (6/13/95)
H. Res. 167 (6/15/95)	O	H.R. 1617	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95)
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. UPTON). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BEILENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 5 of rule I, further proceedings on this question are postponed until completion of action on House Resolution 168.

Mr. BEILENSON. Mr. Speaker, I want to make it clear that I was objecting to a vote on the previous question.

The SPEAKER pro tempore. The Chair recognizes that.

The point of no quorum is considered withdrawn.

ESTABLISHING A CORRECTIONS CALENDAR IN THE HOUSE OF REPRESENTATIVES

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 168 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 168

Resolved, That clause 4 of rule XIII of the Rules of the House of Representatives is amended to read as follows:

"4. (a) After a bill has been favorably reported and placed on either the Union or House Calendar, the Speaker may, after consultation with the Minority Leader, file with the Clerk a notice requesting that such bill also be placed upon a special calendar to be known as the "Corrections Calendar". On the second and fourth Tuesdays of each month, after the Pledge of Allegiance, the Speaker may direct the Clerk to call the bills in numerical order which have been on the Corrections Calendar for three legislative days.

"(b) A bill so called shall be considered in the House, debatable for one hour equally divided and controlled by the chairman and ranking minority member of the primary committee of jurisdiction reporting the bill, shall not be subject to amendment except those amendments recommended by the primary committee of jurisdiction or those offered by the chairman of the primary committee, and the previous question shall be considered as ordered on the bill and any amendment there to final passage without intervening motion except one motion to recommit with or without instructions.

"(c) A three-fifths vote of the members voting shall be required to pass any bill called from the Corrections Calendar but the rejection of any such bill, or the sustaining of any point of order against it or its consideration, shall not cause it to be removed from the Calendar to which it was originally referred.".

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the distinguished gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

Mr. Speaker, House Resolution 168 is the long-awaited reform to create a new House Corrections Calendar for legislation that would repeal or correct laws, rules, and regulations that are obsolete, ludicrous, duplicative, burdensome, or costly.

The idea was first proposed by our Speaker back in February of this year, and it has since captured the imagination and enthusiastic support of our colleagues and the American people alike.

The resolution amends clause 4 of House Rule 13 by repealing the obsolete Consent Calendar and by replacing it with the new Corrections Calendar.

The Consent Calendar has not been used since the 101st Congress and, even then, was only used for three bills.

For bills to be placed on the Corrections Calendar, they must first be reported by the committee of jurisdiction and placed on their normal Calendar. The Speaker could then place the bills on the Corrections Calendar after consultation with the minority leader.

The Calendar could be called on the second or fourth Tuesday of each month, at the discretion of the Speaker, after the Pledge of Allegiance. Bills would be called in the numerical order of their placement on the Calendar, after pending there for at least 3 legislative days, following the existing rules of the House.

The bills would be debated for 1 hour equally divided between the chairman and ranking minority member of the primary committee of jurisdiction. No amendments would be allowed unless recommended by the primary committee or offered by its chairman.

Each bill would provide for one motion to recommit with or without instructions. That means a final, alternative amendment or substitute could be considered, debatable for 10 minutes divided between the proponent and an opponent.

Finally, the rule provides for a three-fifths vote to pass a bill on the Corrections Calendar.

We think the three-fifths super-majority vote for Corrections Calendar bills is a reasonable middle ground between a two-thirds, which is used for suspensions when the bills are reasonably noncontroversial, and a simple majority vote when bills are extremely controversial. The bills should be relatively noncontroversial and bipartisan, but there is bound to be some controversy on some of these measures. Even so-called stupid rules will have their defenders.

Given the prospect of some controversy on some corrections bills, we purposely built-in the ability of the minority to offer an amendment as part of a motion to recommit with instructions. This is something that is not available under the suspension process.

Nor do bills have to be reported from a committee to be considered under suspension. It was the strong feeling of the Speaker and his advisory group that drafted this proposal that regular process should be followed at the committee level for a bill to be eligible for the Corrections Calendar.

Moreover, suspension bills can be in violation of House rules and still be considered. Corrections bills do not have such protection against points of order. They must be in conformity with House rules. The only exception is that a corrections bill will not be subject to the point of order that it should be considered in the Committee of the Whole. Instead, the bills will be considered in the House under the 1-hour rule.

Mr. Speaker, I want to commend the Speaker on originating this idea and on following through on it by appointing the special advisory group that developed and drafted the rule before us today. That advisory group consists of Representative BARBARA VUCANOVICH, its chairman, and Representatives ZELIFF and MCINTOSH.

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They have put in countless hours in perfecting the concept and in gathering support for it. We all owe them a debt of gratitude in bringing this to the Rules Committee and to the House floor today.

Mr. Speaker, one of the other concerns expressed by the minority is that this process may not have sufficient input from the minority. To address that concern, we adopted the amendment requiring the Speaker to consult with the minority leader before placing any bill on the Corrections Calendar. The minority would have preferred giving the minority leader veto power over placing bills on the Corrections Calendar, but we felt that went too far in interfering with the scheduling prerogatives of the majority leadership.

Moreover, we included report language at the suggestion of the minority, urging the Speaker to follow through on his stated aim of having a bipartisan group of Members to help develop criteria for corrections bills and in recommending which bills should go on the calendar.

I am pleased to report that today the Speaker will act on his original intention to have a bipartisan advisory group—even without the benefit of our report language. In addition to the initial three-member group, the Speaker has named four additional Republicans and five Democrats recommended by the minority leader. So this should go a long way toward meeting the major concerns expressed by the minority.

It is our hope that we will see bills by Members of both parties considered under this process.

In conclusion, Mr. Speaker, the work of the Speaker's advisory group and the further amendments adopted by the Rules Committee, help to ensure that this will follow the normal committee process and will allow for minority participation and input at every step of the process—including the right of the minority to offer a final floor amendment.

Mr. Speaker, the Corrections Day resolution before us is another positive step forward by this House in relieving our constituents, local governments and small businesses of the needless, and costly red tape that has hampered their ability to fully and freely contribute to the betterment of their communities and to the creation of new job opportunities, economic growth, and prosperity.

Mr. Speaker, I am very, very excited about this new Corrections Calendar because we really are going to take the burden off of small business in particular, which creates 75 percent of all the new jobs in America every single year. If you don't think that is important, look at all the graduating seniors from college today, look at all the graduating seniors from high school today, and look at the lack of job opportunity out there. We need this kind of Corrections Calendar, and I hope it passes unanimously today.

Mr. Speaker, I include the following for the RECORD:

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of June 19, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	29	73
Modified Closed [3]	49	47	11	27
Closed [4]	9	9	0	0
Totals:	104	100	40	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of June 19, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/10/95).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of June 19, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: v.v. (2/2?/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/1/95).
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95).
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95).
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95).
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95).
H. Res. 115 (3/14/95)	MO	H.R. 1158	Making Emergency Supp. Approps	A: 242–190 (3/15/95).
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95).
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95).
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95).
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95).
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95).
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95).
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95).
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95).
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95).
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95).
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95).
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95).
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95).
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 233–183 (6/13/95).
H. Res. 167 (6/15/95)	O	H.R. 1617	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95).
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

For example, let me point out some of the very serious problems I have in my own congressional district and even my own home town of Glens Falls in upstate New York.

As you might expect, nestled in the middle of the Adirondack mountains and on the shore of Lake George, tourism and forestry are the major industries in my home town. Both of these industries are threatened by extreme environmental regulations. Another industry which has sprung up in the region during the past 10 years, three major medical device companies, are now moving off shore because of restrictive and senseless Food and Drug Administration regulations.

Most recently, a 100-year-old cement company may be forced to close their doors because of a new interpretation of Clean Air regulations by the EPA.

Mr. Speaker, Glens Falls, NY, is small town U.S.A. and just look at what the Federal Government is doing to it. Let me give you specific examples of the devastation misguided Government regulations have caused in my home town.

The Cluster Rule caused Scott Paper to lay off 400 people.

The Cluster Rule may force Finch, Pruyn paper company to lay off 1,000 workers.

The safe drinking water act requires the hotel and motel owners to put up unsafe drinking water warning signs—killing tourism and costing hundreds of jobs.

New EPA kiln emissions standards could put Glens Falls cement out of business—another 130 people unemployed.

In 1994, Mallinckrodt Medical announced plans to relocate its manufacturing operations to Ireland and Mexico where they can market their products directly to the EEC without waiting 5 to 10 years for F.D.A. approval. This cost 450 jobs.

A similar medical device company, Angio Dynamics, is also considering closing its doors and moving to Ireland for the same reason. This could cost another 400 jobs.

Additionally, allow me to outline the traumatic effect of the Cluster Rule on the paper industry, not only in my district, but in the Nation.

Mr. Speaker, the Cluster Rule is the biggest and most costly rule ever proposed by the EPA for a single industry. Because of the inflexibility and tremendous costs involved, 33 U.S. paper mills could be forced to close, eliminating 21,000 jobs.

For Finch, Pruyn paper mill in Glens Falls, the effect is even more damaging. That is because the most stringent aspect of the EPA's Cluster Rule applies solely to the small category of papergrade sulfite mills they belong to. This is the aspect which requires totally chlorine-free bleaching. While EPA intended to eliminate the discharge of chlorinated compounds into waterways, they determined technology did not exist to permit the larger category of kraft mills to adopt totally chlorine-free paper bleaching. Thus only papergrade sulfite mills would have to comply.

This regulation undermines the economy of upstate New York. It is not based on good science, it upsets the competitive balance of the open market and threatens the very existence of a 130-year-old company. This is a prime example of the type of damaging regulations we need to remedy through Corrections Day.

All in all, the small Glens Falls area in upstate New York is subject to losing upwards of 2,500 jobs as a direct result of excessive Government regulation. Mr. Speaker, Corrections Day would provide the ideal forum to rectify these grave ills facing the American worker.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are opposed to this resolution, and we urge Members to vote "no" on the previous question, and "no" on the resolution. We need to go back to the drawing board and develop a corrections process that if fair and bipartisan.

Mr. Speaker, I am sure that many of us agree that it could be useful for the House of Representatives to try a new way of facilitating changes in laws and regulations that are not working well. The reason that the Corrections Day idea resonates is that all of us can give examples of regulations that seem to defy common sense, and all of us have probably experienced the frustration of getting nowhere with changes we suggest to certain laws.

From time to time, constituents bring thoughtful ideas to me about changes they think should be made in a law, and I send their ideas over to the appropriate committees, but we do not always get a response—not even the assurance that the committee is looking into the matter. Being able to submit ideas to an advisory panel that carries more weight with committees—as proponents of Corrections Day envision—might give us a more effective avenue to pursue such changes.

What many of us find appealing about the proposed corrections process is the idea that our committees would, presumably, receive strong messages about problems with laws under their jurisdiction. As a result, they would likely do a better job of finding out exactly what agencies are doing, and figuring out how the implementation of the laws under their jurisdiction can be improved. This process has the potential to greatly improve congressional oversight and, if it does, it will have turned out to be a useful and constructive tool.

What concerns us, however, about the Corrections Day idea is the specific rule change before us today. We believe that this new and unusual procedure is both unfair to the minority, and unnecessary. In fact, the entire corrections process has not been well thought out, so it is premature for the House to act on any rule change for this purpose.

Proponents of House Resolution 168 have failed to make a convincing case for the need to establish a floor procedure for considering so-called corrections bills that differ from existing procedures. As Members know, the House already has a procedure—suspension of the rules—that permits the expedited consideration of relatively noncontroversial bills. This procedure has been a feature of the House since 1822, and is well accepted by both minority and majority members. The requirement of a two-thirds vote ensures that bills considered by this method have bipartisan support and are noncontroversial.

In contrast, the procedure provided by House Resolution 168, in which only a three-fifths vote is required for passage, means that bills will not necessarily require bipartisan support. Members should be reminded that, during 4 of the last 10 Congresses, one party held three-fifths of the seats in the House.

If bills considered under the corrections procedure are not allowed to be amended—other than by an amendment by the committee of jurisdiction and through a motion to recommit—then they should meet the same test for bipartisanship, and lack of controversy, that is imposed on bills considered under the suspension process.

The right to offer amendments is important to all Members, but it is particularly significant to minority members because it provides the opposition party its best opportunity for meaningful involvement during floor consideration of a bill. I would hope that our colleagues on the other side—most of whom had the opportunity to serve here in the minority—would give serious thought to this matter. Those who do will surely agree that it would be a mistake for the House to abandon its longstanding protection of minority floor rights by requiring anything less than the approval of two-thirds of the House to waive those rights.

We also find it troubling that Members are being asked to approve a change in the rules of the House for a class of legislation before we have a clear understanding of what corrections bills are, and why they require a separate and distinct floor procedure for consideration. Neither the resolution itself, nor the accompanying report, defines a corrections bill; there has been no explanation of how the correction process will work before a committee reports a bill; and we have yet to receive an explanation of what roles the leadership, the corrections advisory group, committees and individual Members will play in this process.

Until information on those matters is provided, we believe it is unwise for the House to act on any measure establishing an unusual legislative procedure for considering corrections bills, particularly when the procedure vests all authority to determine which bills qualify for it in one person, the Speaker.

We believe that if the House is going to establish a new expedited procedure, then the minority party should have a formal role in determining which measures may be brought up under it, as it does in determining the scheduling of bills under suspension of the rules. In such cases, the Republican conference rules themselves require the approval of the minority.

When the Speaker testified before a joint hearing of the Rules Committee and the Government Reform and Oversight Committee, he said—repeatedly—that he wanted the corrections process to be bipartisan. In fact, he stated emphatically that "if this is going to work, it has to be bipartisan."

That was on May 2. Some time between that date and June 6, when this resolution was introduced, the Corrections Day proposal took a wrong turn. Despite the Speaker's strong bid for a bipartisan process, Corrections Day became a highly partisan matter. No minority members were involved in the development of the proposed procedure or any aspect of the corrections process; no minority members were added to the initial corrections steering group; and the minority leader was—until just today as we understand it—unable to secure assurances that the minority party will be able to select its own members for the corrections advisory group, as has been the longstanding tradition in the House for appointments to committees and all other formal bipartisan panels.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. BEILENSON. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I think the gentleman has just said that the minority leader has had no input. I do believe that Speaker GINGRICH has received a letter appointing those Members from your side of the aisle. The gentleman really should correct his statement to that effect.

Mr. BEILENSON. The gentleman, reclaiming his time, has corrected his statement. The gentleman has said, and I will quote him:

> No minority Members were involved in the development of the proposed procedure or any aspect of the corrections process; no minority Members were added to the initial corrections steering group; and the minority leader was—until just today as we understand it—unable to secure assurances that the minority party will be able to select its own Members for the corrections advisory group.

I think what the gentleman from California said was absolutely correct.

Mr. SOLOMON. Just for clarification, the minority leader has appointed the minority members.

Mr. BEILENSON. As of today, we understand that is correct. But we have had no part to play in the development of this process from the beginning.

We think that the existing suspension process would be sufficient for the consideration of corrections bills, and we urge the majority to try using this process before establishing this new procedure.

Alternatively, we proposed changing the three-fifths margin for passage of corrections bills to two-thirds. We also asked that a motion to recommit be permitted during consideration of corrections bills. And, we proposed requiring the minority leader's concurrence to place bills on the Corrections Calendar.

We also asked that appointments to the corrections advisory group—which is expected to play a pivotal role in the corrections process—be made in the same manner as appointments are made to other formal bipartisan panels, with the minority members chosen by their leadership. And, we asked that the bipartisan leadership define corrections bills, and issue guidelines for the corrections process, before using the Corrections Calendar.

We offered these proposals not only to safeguard minority rights, but also to protect the integrity of the legislative process in the House. Unfortunately, except for the inclusion of a motion to recommit, and now the acquiescence and the approval of the minority leader in appointing Members to the advisory committee, our proposals were rejected by the majority members of the committee. Actually, a provision for a motion to recommit had to be added, because otherwise the resolution would have violated the Rules of the House.

It is unfortunate that the proponents of this rule change decided to follow a path of partisanship in this matter, rather than accept our modest suggestions which would have ensured broad—if not unanimous—support for the corrections process, and which would have kept the process in the same bipartisan spirit in which the Speaker first offered it.

However, it is not too late to turn this proposal into a procedure that will be embraced by Members of both parties. If the previous question is defeated, we shall offer an amendment to change the three-fifths vote requirement for corrections bills to two-thirds. With a two-thirds vote requirement, we will have the assurance that, regardless of which party is in power, the rights of the minority will be as well protected for purposes of considering corrections bills—however they turn out to be defined—as they are for any other legislation.

Mr. Speaker, we urge our colleagues to oppose House Resolution 168 in its current form.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I would like to respond to the gentleman's comments regarding the amendment we offered and adopted to permit a motion to recommit with instructions on corrections bills.

The fact is that it was only after we decided to offer this amendment that it came to our attention that House rules prohibit the Rules Committee from denying a motion to recommit—even in a House rule change such as this. We had thought it only applied to special order resolutions.

However, we did not have to include the language "with or without instructions." We included that language voluntarily to guarantee the minority's right to offer a final amendment in a motion to recommit, even if a committee substitute has been adopted.

Ordinarily, such a substitute would block further amendments in a motion to recommit.

So, my only point is that we overcame a problem even before we knew it was a problem; and we solved it by going further than we had to do to protect the minority's rights.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DREIER], one of the most important Members of this Congress in bringing about reform, and vice chairman of the Committee on Rules, which I have the privilege of chairing.

Mr. DREIER. Mr. Speaker, I thank my friend the gentleman from Glens Falls, distinguished chairman of the committee, for yielding me this time.

Mr. Speaker, it is very apparent that we have an opportunity to deal with what the Speaker has accurately described as a corrections day, to face some of the most ridiculous, preposterous regulations the Federal Government has imposed on the American people and get rid of them. But the Speaker was right when he, on May 2, testified before the joint hearing that was held by the Subcommittee on Rules and Organization of the House Committee on Rules, and the subcommittee of the Committee on Government Reform and Oversight that dealt with this issue, when he said it should be done in a bipartisan way.

Let me say to my friend from Woodland Hills and to others on the other side of the aisle that, as we have gone through this process, I have been working very closely with my colleagues to ensure that minority rights are not ignored. Let me underscore that again. Minority rights are very important.

I have served in this House as a Member of the minority. I am much happier serving as a Member of the majority but I think, having served as a Member of the minority, I am very sensitive to the concerns the minority has raised, and I believe the Speaker was very sincere when he said we should do this in a bipartisan way.

So what have we done? Well, the Corrections Calendar procedure does call for, as my friend said just a few moments ago, the minority leader to appoint the minority members, and he is right, it was just done recently, but the fact of the matter is those Members have been appointed by the minority leader.

This measure requires a three-fifths vote for passage. It requires the Speaker to consult with the minority leader before placing bills on the Corrections Calendar. It requires that all measures placed on the Corrections Calendar be favorably reported by a committee and placed on the House or Union Calendar. It does not waive points of order against measures called up on the Corrections Calendar, and as my friend knows, I offered an amendment in the Committee on Rules which was adopted in a bipartisan way which allows minority amendments through a motion to recommit with amendatory instructions.

Mr. Speaker, this measure is going to deal with these onerous regulations and at the same time recognize minority rights. We should have support all the way across the board.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. WAXMAN].

Mr. WAXMAN. Mr. Speaker, I rise with regret to express my opposition to the proposed Corrections Day Calendar.

I strongly support the idea of correcting truly silly regulations. But I fear that the new corrections procedure we are considering will become a fast track for special interests to stop regulations that protect public health and the environment.

My concern is not hypothetical. We have already seen many examples this Congress of special interest fixes being described as "corrections."

Consider the recent actions of the House Budget Committee report. Last month, the Budget Committee identified over 50 regulations in its budget report that it said are "the most expensive and onerous and appear ripe for termination or reform." Unfortunately, the Budget Committee's list wasn't limited to expensive and onerous regulations that truly need correction. Instead, it included many regulations whose correction would enrich special interests at the expense of public health.

One example involves the tobacco industry. This industry is the Nation's biggest special interest. During the last election cycle alone, the tobacco industry gave $2 million in soft money to the Republican Party.

This powerful special interest is an enormous beneficiary of the corrections proposed by the Budget Committee. The Budget Committee recommends that Congress—and I quote—"rescind enforcement of laws regarding cigarette sales to minors"—Budget Report at page 171. The committee also recommends that Congress prevent OSHA from regulating exposure to environmental tobacco smoke—a known human lung carcinogen.

I cannot support a new corrections process that could be used by the tobacco industry to increase their cigarette sales to children.

The tobacco companies are by no means the only special interest that is likely to benefit from the new process. The Budget Committee also recommends that we stop the Department of Agriculture from finalizing its regulations to modernize meat inspections. These regulations are estimated to save thousands of lives and prevent millions of illnesses each year. Yet they are put in jeopardy by the rule changes we are considering today.

Other examples of regulations that the Budget Committee wants to correct include:

The Clean Air Act requirements that sources of toxic emissions monitor and report their emissions.

The requirements that cars meet minimum fuel-efficiency standards.

Key requirements to clean up drinking water.

The regulations implementing the motor-voter law.

We must not adopt a corrections process that would make it easier for special interests to subvert the legislative process and achieve goals like those proposed by the Budget Committee. Unfortunately, I am afraid that the proposal before us will have exactly this result.

□ 1145

Mr. SOLOMON. Mr. Speaker, I just have to point out, and I would point out to the gentleman from California [Mr. BEILENSON], we just heard the previous speaker. Now, I understand that the gentleman from Missouri [Mr. GEPHARDT] is going to appoint the previous speaker to this task force. You have heard his attitude. The gentleman thinks this whole corrections concept is silly and absurd.

Can you imagine how constructive the gentleman from California [Mr. WAXMAN] is going to be in trying to get corrections bills for regulations that I consider silly and ludicrous? The gentleman from Minnesota, Mr. COLLIN PETERSON, has been denied the right to have these votes on the floor in the past.

That is why the minority leader cannot be given a veto right. We would never get any of these silly and dumb rules out onto the floor for debate.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Reno, NV, Mrs. BARBARA VUCANOVICH, the chairwoman of the task force, who has done such an outstanding job of putting together this corrections calendar concept.

Mrs. VUCANOVICH. Mr. Speaker, I want to begin by thanking Chairman SOLOMON for his invaluable help in putting together this historic rules change we are considering today. Without his support and guidance this House would not be about to launch this important initiative.

I also want to thank the Speaker for allowing me to chair the steering committee on Corrections Day. It has been an honor to work on this important project.

This is a historic day. For the first time the Congress is going to implement a plan for eliminating ridiculous Federal rules and regulations. For the first time this House is going to make it a priority to relieve average citizens of regulatory excess.

There are 100 million words of Federal regulations on the books today, and it is growing by the thousands each and every day.

The truth of the matter is—no one can possibly comply with all these rules and no one can possibly enforce them all. We have to do something to turn the tide.

This is not an attempt at wholesale repeal of health and safety laws, or environmental regulation.

We all agree, some regulation is necessary. But you can't tell me that there aren't just a few of those 100 million words of regulation that we can live without.

During this debate we are going to hear a lot about the corrections process being unnecessary or unfair to the minority.

These issues are minor when compared to the important task we are undertaking.

We have come up with the most fair and workable plan to handle corrections. I urge Members to support this resolution and strike the first blow against stupid regulations.

Mr. BEILENSON. Mr. Speaker, I yield 6 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in opposition to this change in the House rules to establish special new procedures for a Corrections Day, which has been billed as an opportunity to pass simple bills that correct mistakes in laws, or correct regulations that go far beyond what Congress intended.

The Speaker has indicated that these bills should enjoy bipartisan support, and that they would correct silly results of previous laws.

At a joint hearing of subcommittees of the Rules Committee and the Committee on Government Reform and Oversight, on which I serve as ranking minority member, there was bipartisan agreement that corrections bills could serve a useful purpose, if handled properly. No one should believe, therefore, that any Member opposes efforts to establish a corrections day to modify laws that don't make sense.

Unfortunately, House Resolution 168 would rig the playing field to the advantage of the majority for these supposedly noncontroversial bills. This resolution would allow corrections bills to go to the floor at the sole discretion of the Speaker under rules that permit no amendments and require just a three-fifths vote.

The common procedure of the House for noncontroversial bills is the Suspension Calendar. Those bills require a two-thirds vote for passage. Many bills that were passed with a two-thirds vote will not require just a three-fifths vote for correcting. This is illogical. If we require a two-thirds vote to pass a bill under suspension of the rules, it should take a two-thirds vote to correct it.

The question is why are the Republicans not comfortable using the two-thirds majority already established for suspension votes. The obvious answer is that they feel quite certain that they can muster 261 votes, but are not certain that they can get the 290 votes that would be needed if two-thirds were required.

Since the difference between the proposed procedure for a correction bill and a bill brought up under a rule is the ban on amendments, it appears that the Republican majority is reneging on its pledge of fewer rules that prohibit amendments. Corrections bills under House Resolution 168 would not be amendable, and unlike suspension procedures, require just a three-fifths vote. There is an inconsistency here.

The other problem presented by the proposed Corrections Day procedure is the lack of any definition of a correction. Under the proposed change of the House rules, the Speaker would be the sole arbiter. At our hearing regarding the establishment of Corrections Day, we got a glimpse into the Republicans' view of mistakes that need corrections.

The list ranged from EPA monitoring requirements under the Safe Drinking Water Act to the Federal trade Commission review of the Nestle purchase of Alpo Pet Food.

Correction Inventory

1. FAA landfills and airports.
2. Fish and wildlife, Back Bay wildlife access.
3. Defense logistics surplus DOD property, humanitarian assist. program, foreign military sales.
4. Federal Trade Commission, Nestle purchase of Alpo Pet Food.
5. Federal Highway Admin., P.L. 100–418, metric measurements.
6. Dept. of Education 1992 Higher Educ. Act State Postsecondary review entities.
7. Private pension law reform, IRS Code revisions to provide designed base safeharbors.
8. EPA, rainfall overflow of sanitary sewer systems.
9. State covert auditing of emission test vendors, 40 CFR 51.363(a)(4).
10. Individuals With Disabilities Act revisions: 1. Apply Federal Administrative Procedures Act; 2. State option to combine idea fund with other Fed. funds; 3. Authority for States to use 10 percent of idea funds for non-categorical supports and services for children with disabilities; 4. State ability to use simplified application for local education agencies.
11. Clean Air Act, employee commute options State compliance.
12. ISTEA requirement of recycled rubber for paving.
13. EPA penalties for standards not yet announced.
14. Safe Drinking Water Act, EPA requirement for State monitoring of 25 contaminants.
15. Title V permit fees under Clean Air Act not counted as match for Federal grants.
16. IRS and SSA requirement that States verify asset-income information.
17. Home and community-based services eligibility for employment services.
18. State supplementary payments for SSI recipients.
19. Federal community mental health services block grant planning requirements.
20. Justice Dept. substance abuse RFP's require notice of funds available.
21. Title IV–E client eligibility requirements for AFDC.
22. Religious Freedom Restoration Act required religious services for any and all religions in State prisons.
23. CDBG requirements too burdensome for small communities.
24. Federal Management Improvement Act requirement that States pay interest on Federal funds.
25. Dept. of Labor should not prohibit coverage bank costs related to unemployment insurance taxes.
26. FUTA and SSA require State to withhold tax from unemployment.
27. Take Federal unemployment trust fund off budget.
28. Amend Fair Employment Standards Act to prevent absurd rulings for law enforcement agencies.
29. Streamline data collection for Federal education programs.
30. Amend Single Audit Act to require audits for grants in greater amounts.
31. 50 CFR 930, requires agencies to review competence and physical qualifications of all employees who operate vehicles.
32. OSHA requirement of four member firefighting crews.

Corrections Day could very easily become Special Interest Protection Day. The voices of those special interests are far more likely to propose the opening of regulatory and tax loopholes than closing them.

In order to set the Corrections Day Calendar, the Speaker has established yet another task force—this one to review corrections legislation.

When the House voted in January to eliminate three committees, and to reduce committee staffs by a third, surely it was not intended that their work be done by task forces. We do not need more task forces any more than we need new Government agencies.

These partisan task forces are not governed by any rules. In this particular case, the Corrections Day task force could become a group before which special interests will come to plead their case out of the view of the public. We saw a similar problem with the Competitiveness Council chaired by Vice President Quayle, where big businesses that failed before agencies went to the Council to plead their cases in private. It is wrong for the party that proclaimed its new Sunshine in Committee rules on the first day of Congress to be using task forces that operate in the dark behind closed doors.

Despite the call in Contract With America for fewer closed rules and fewer House committees, this proposal would result in more closed rules and more House committees, renamed task forces.

Just last week I was successful in offering an important amendment to retain full and open competition in procurement. It was a close vote, but after the vote the House passed the underlying procurement amendment by a near unanimous vote. However, if the Speaker decided that Chairman CLINGER'S procurement bill were a correction of previous procurement laws, I would not have been able to offer the amendment, and small businesses and the taxpayers would have suffered. This is wrong.

There is a simple solution that Members of both sides of the aisle could easily endorse: Require a two-thirds vote for a correction bill rather than the proposed three-fifths vote. That would be consistent with the vote required for a bill on the Suspension Calendar. If a bill is unlikely to get a two-thirds vote, then bring it up under normal procedures, where a simple majority is required, but amendments are permitted. Unfortunately, the only way we can amend these proposed procedures is to defeat the previous question on this resolution. Then, in a bipartisan manner, we can adopt the Corrections Day procedures. Let me remind my colleagues, if the House could pass the Contract With America in 100 days, there is no need to rig the playing field for the benefit of noncontroversial bills.

Mr. WAXMAN. Mr. Speaker, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Speaker, I thought it was really out of place and I resented the fact that there was a personal attack on me by the gentleman from New York [Mr. SOLOMON]. The gentleman did not address the issues I raised on why this bill is going to be a vehicle for special interest.

I would like to have a corrections day to correct silly regulations, but I do not want a vehicle, which I fear this will be, to give special interests an opportunity to get a return on their investment in the candidacies of a lot of people that are in power in this institution.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Let me just assure the previous speaker that because of the deep respect I have for the gentleman from California [Mr. WAXMAN] I would never personally attack him. And I am sorry if the gentleman thought I did.

Nevertheless, I yield 3 minutes to the gentleman from Florida [Mr. GOSS], one of the most outstanding members of the Committee on Rules, the chairman of the Subcommittee on Legislation and Budget Process of the Committee on Rules.

Mr. GOSS. Mr. Speaker, I thank the gentleman from Glens Falls, NY [Mr. SOLOMON], the distinguished chairman of the Committee on Rules, for yielding this time.

Mr. Speaker, I rise in strong support of House Resolution 168, legislation which is designed to respond to the plea of the American people that the Federal Government become more responsive and more attuned to common sense.

One of the worst byproducts of our overblown Government and the cumbersome bureaucracy that it has spawned over the years is hat often good intentions lead to bad, or just plain dumb, rules or regulations upon implementation. That is what happens, unfortunately, when you try to enforce too many centralized, one-size-fits-all requirements on the diverse communities and individuals that make up this great country.

Government is not the answer to every problem that comes along and it never was intended to be so. Like so many good and creative ideas, the proposal for corrections day arose because of discussions with ordinary citizens and with State and local officials who for years have labored under the rigid, onerous, and at times downright absurd requirements of the Federal Government.

It is our intent, through this procedural change, to find a way to cut through the redtape and inertia and allow for speedy, narrowly focused action in addressing those problems. It is the old principle of feedback, some call it representative government, when the Federal Government hands down an ill-advised or misdirected requirement and the folks at the other end of the mandate cry out for relief. The corrections day procedure provides for a rapid-response means to receive that message through the static and tune out the problem quickly.

There were concerns raised by my friends on the other side of the aisle that this proposal could be abused and would not protect the rights of the minority. I shared that concern on the Committee on Rules and was pleased that our Committee on Rules, under Chairman SOLOMON's leadership, adopted an amendment by my friend, the gentleman from California [Mr. DREIER] to afford the minority its traditional right to a motion to recommit, with or without instructions.

I think that, coupled with the Speaker's public pledge to seek bipartisan corrections proposals, should allay those concerns of the minority. The abuse that we should be most worried about is the abuse that for years has allowed unnecessary, burdensome and counterproductive rules to weigh down the productivity and the individual freedoms of Americans and American institutions.

□ 1200

That is the relief we are after here today, and while some in opposition have questioned whether Republicans have got exactly the right formula, I think we do have a formula that will get the job done, and I am delighted to urge support for approval of this effort. I urge a "yes" vote as we go into this.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota [Mr. PETERSON].

Mr. PETERSON of Minnesota. Mr. Speaker, I rise today to support House Resolution 168.

I am a cosponsor of this resolution, in spite of the fact that it is not everything that some of us wanted. Some of us actually wanted a tougher process than we have got in this resolution. But I do think it moves us in the right direction.

There is bipartisan support for this process, and I am glad to be able to serve as part of this corrections day task force that is being set up.

As I say, there are a number of Democrats on our side that think that we need to do something about overly burdensome Federal regulations. I was not really too involved in all of this regulatory process until I got looking at this moratorium bill that was introduced early on this session and got to reading some of the regulations that were promulgated and were of concern in this moratorium. What I found out is there were 615 regulations adopted in just a month and a half, and I sat down and read all of those 615, and if every Member of Congress would sit down and read every regulation, we would be in a lot better shape in this Congress, and we maybe would not need bills like this.

But the other thing that I found is that there are 204 volumes of Federal regulations, and if you sat down and read those regulations 40 hours a week, it would take you 8 years to read all of the Federal regulations that we have promulgated over the last number of years.

I do not think that there is anybody that understands everything that is in all of these regulations. I really think that what we need is a requirement that every Member of Congress read every rule and every regulation, and that would be the best thing that we could do.

We are working on some other bills. We have a sunset bill which will help, if we could get that passed, that would say we are going to look at every regulation, and we are going to sunset those that are no longer necessary.

We thought in the House that the moratorium would help, that we would have a timeout on regulations to look at the process. I think the 45-day legislative veto that the Senate is proposing will help. Again, I am not sure how much good it will do, but it will clearly put more focus.

I think this Corrections Day process will clearly help us in changing this regulatory process, because what it will do, in my opinion, it will focus Members and focus the public's attention on this regulatory process which, in my judgment, has really gotten out of hand.

I want to commend the chairman, the gentleman from Indiana [Mr. MCINTOSH], and the subcommittee that I serve on for kind of making it a priority of that subcommittee to do oversight on the regulatory process. We have traveled to a number of areas in the country and listened to ordinary citizens and their reactions to some of the regulatory overburden. And as I understand it, the chairman is going to continue that process so that we are going to have oversight on the regulatory process, and that is going to help, as well.

I also want to commend the chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON], for being with us on these issues, and the gentleman from Pennsylvania [Mr. CLINGER], the gentleman from Texas [Mr. DELAY], and others.

So I just want to say that there are a number of Democrats that are concerned about the regulatory process. We have been working where we can to have a reasonable response to the overregulation that we have seen in this country, and the truth is that we should write, in my judgment, legislation more specifically so we would not have so much rulemaking, that we should read every rule that comes out, and, lastly, that we should pass this Corrections Day bill because it will move us in the right direction.

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from Warren, PA [Mr. CLINGER], the chairman of the Committee on Government Reform and Oversight, who has been very much involved in this.

Mr. CLINGER. Mr. Speaker, I thank the gentleman for yielding this time to me.

At the outset, I want to commend the gentleman from Minnesota for his courage and his tenacity in reading 615 regulations. I think that is some sort of a Guinness world record I suspect he should be submitted for.

I take your point if we read more of these things, we might be a little more sensitive to the fact that we are overburdening vast portions of our economy with needless regulations. So I would rise in support of the resolution. It is well thought out, I think, and it provides a deliberative means to implement Corrections Days as suggested by our Speaker.

Corrections Day is a new and innovative approach to fixing longstanding Washington problems, and by establishing a Corrections Day calendar we have an opportunity to highlight and fix in an expedited manner laws, policies or regulations that simply do not make much sense, that are unnecessary, outdated, or over reaching. We will really have a chance in this exercise to reinvent Government, not just by talking about it but by taking concrete steps to make it more reasonable and efficient.

It is also an opportunity for us to put a call out to all Americans that not only are we serious about changing Government but to enlist their help in identifying corrections.

We need to start down this road as quickly as possible because there is clearly a lot in this city that needs correcting.

I would also state that I know the concerns of the minority about the possible abuse of this proposed new process, and I would hope that that would not be the case. My sense of Corrections Day is that these are going to be items that we can universally agree on in a bipartisan manner, that these are stupid and these are things that should be corrected. I do not anticipate that this is going to be used as a partisan club to accomplish things but, rather, it will be done in a very bipartisan and cooperative effort to ensure that only those things that are clearly egregious and clearly outrageous will be affected.

We did have in the joint hearing held by the Committee on Government Reform and Oversight and the Committee on Rules in May, at that time both members and witnesses had the opportunity to share their thoughts about how we should be establishing Corrections Day, and it was a very bipartisan effort, and I think there is a general agreement that this is something that is needed in this climate.

Frankly, Mr. Speaker, as a committee chairman, one of the concerns that I expressed at that time was how these legislative proposals would fit into the committee structure and whether committees would be bypassed in the process, and in many cases, use of the committee provides the opportunity for stakeholders to participate in the process.

House Resolution 168 addresses this concern by providing for committee consideration of all Corrections Day legislation and that allays the concerns I had about shortcircuiting the committee process. At the same time, many of us do appreciate the expedited floor procedures provided in this resolution. House rules, as we all know, can be cumbersome.

This is a sound, balanced, very well thought-out means to implement Corrections Day. The new calender affords us the opportunity to rid ourselves of Washington policies, regulations, and procedures, that just do not make sense, in many cases are just plain dumb.

So, Mr. Speaker, I encourage all Members to support this procedure for Corrections Day.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Speaker, this is going to sanction the creation of the mother and the father of all closed rules.

Very frankly, there is a mechanism to bring matters of this kind to the floor quickly. It is called suspension of the rules. It requires a two-thirds vote. Virtually nothing else is present in this legislation which is not available to the leadership at this time under the process known as suspension of the rules.

All of us favor the idea that something should be done about dumb regulations and, like others, I have been extremely critical of legislation and regulation which has not worked in the broad public interest and which has, in fact, been counterproductive because it did not address the problems with which we are properly concerned.

The practical effect of the rule change which we are undergoing at this particular minute is to confer on the Speaker the ability to put a piece of legislation on the floor which will be considered under 1 hour's time, with no amendments permitted except that which either the chairman or the leadership wants to take place. It will foreclose thereby all meaningful amendments which are not concurred in by the leadership, foreclose all meaningful debate because clearly any piece of legislation can be brought to the floor under this rule change. It can involve massive termination of programs. It can involve termination of agencies in Government such as the Department of Commerce, Department of Education, Department of Defense, Department of Energy. It can involve termination of programs such as welfare or air pollution or water pollution or the Food and Drug Administration or legislation which would protect the consumers or the Federal Trade Commission or any other piece of legislation which could probably be brought here under an open rule, affording more adequate and proper debate and affording adequate opportunity to amend and to discuss amendments.

In short, as I have indicated, this is the mother and the father of all closed rules. It confers on the Speaker the opportunity to pass legislation without consideration of amendments and without more than 1 hour's debate on something like 261 Members of this body. This is not something which is going to lead to good legislative practice. It is not something which is significantly expanding the authority of the leadership to do anything other than one thing, and that is to curb debate, to curb amendments, and to do so with less than two-thirds now required, only requiring three-fifths.

Now, it should be noted in the 5 of the previous 10 Congresses, 10 out of the previous 20 years, from 1975 to 1994, one party controlled over 60 percent of the seats. This is clearly a bad proposal, and no fancy language or discussion of wrongdoing is going to change that.

Mr. SOLOMON. Mr. Speaker, I yield 2½ minutes to the gentleman from

Jackson, NM [Mr. ZELIFF], another member of the task force appointed by Speaker GINGRICH, a very valuable Member of this body.

Mr. ZELIFF. Mr. Speaker, I thank the distinguished chairman of the Committee on Rules for yielding me this time.

I rise today in the strongest support for this change to the House rules. Corrections Day is a revolutionary idea for this Congress, and it deserves a special place, along with the Contract With America, in changing the way we do business. Back in November the voters made their feelings clear about their dissatisfaction with the way this House of Representatives operates. Republicans came to the majority as part of a revolution for change. These old ways of doing business are over.

In just the past 6 months we have changed the way Washington works. Corrections Day is a natural step in this Republican revolution for change.

There is just no way that we can continue to operate under the systems of the 1950's. This is 1995, and we live in a society which demands immediate action to correct the onslaught of Federal regulations which enter into every American's everyday life.

Corrections Day serves as one way for this Congress to begin to relieve those threats to liberty, clean out some of the legislative deadwood that has accumulated around here for the last 40 years, and to do it quickly and effectively, and it all comes with change.

Today we are hearing argument after argument from the other side about fairness to the minority and how Corrections Day will trample their rights. What we hear, ladies and gentlemen, is the voice of the status quo and the voice of denial. They are not concerned with minority rights. We have gone to great lengths to insure the rights of the minority by allowing motions to recommit, requiring consultation with the minority on all corrections requiring a three-fifths' vote to assure these bills pass on a bipartisan basis, which, by the way, will require strong Democratic support.

Corrections Day allows us to finally have an effective tool to get rid of the most ridiculous, outrageous, dumb ideas, laws, rules, regulations which now plague the future of our country. With Corrections Day, we can make these changes without having to go through an entire reauthorization of legislation which will take months.

We have been very deliberate to assure nothing could reach the floor as a correction without first going through the committee process, since their Members are the experts on these subjects. Corrections Day is a new idea with a strong potential to change the way that this Congress does business.

I thank the Speaker for coming up with a great idea. I commend the Committee on Rules for their fine work, and I look forward to this Congress becoming more efficient in the way we run our country's business.

This is a private sector idea. It is a time where we start looking at more efficient ways to do our business.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Speaker, one of the responsibilities of any legislature has always been to correct features of previously enacted bills when appropriated to do so, and to correct actions taken by the executive pursuant to legislative authority when the legislature believes that the executive action is unwise or unwarranted. Such legislative corrections have been part of this Congress' activity for almost as long as there has been a Congress.

What has been proposed more recently is that we have a special Corrections Calendar, to highlight and expedite the corrections legislating that we have long done. House Resolution 168 would amend the Rules of the House of Representatives to create such a calendar, to empower the Speaker to decide which of all the bills placed on the other calendars of the House should be placed also on the new Corrections Calendar, and to allow the bills on the new Correction Calendar to be considered without amendment and to pass by a three-fifths vote.

There is nothing wrong with the idea of creating a separate Corrections Calendar, and there is nothing wrong with trying to expedite Congress' longstanding efforts to correct what needs to be corrected in existing law or in executive branch action.

The Speaker testified before the Government Reform and Oversight Committee that the purpose of a new legislative procedure for corrections should be to deal with issues which obviously warrant corrections and for which the correction enjoys broad bipartisan support and is not controversial. That is exactly the kind of corrections legislation which should have an expedited procedure so the correction can be accomplished quickly.

I, therefore, support, and I believe most Members would support, an expedited Corrections Calendar for corrections bills which enjoy broad bipartisan support and which are not controversial.

Unfortunately, that is not what House Resolution 168 would do. The effect of this resolution would be to allow any bill, whether it was a corrections bill or any other bill, to be taken up under procedures which would bar amendments from the floor of the House, and it would make it easier than it has ever been to do that.

Nothing in this resolution would prevent this or any future Speaker from putting a bill which was not a corrections bill at all on the Corrections Calendar.

At present we have a Suspension Calendar, designed to expedite consideration of smaller, noncontroversial bills. A bill on the Suspension Calendar may be considered without amendments from the floor, but it must achieve a two-thirds vote in order to pass. That two-thirds vote has been the high standard for routinely barring amendments—a bill had to be sufficiently noncontroversial that it could pass by a two-thirds vote in order to be considered under procedures. which barred amendments. What House Resolution 168 would do, for the first time, is create a procedure by which amendments could be routinely barred for bills which could only get a three-fifths vote.

In other words, the sole effect of this resolution would be to make it easier to bar amendments to bills which are not sufficiently noncontroversial and bipartisan to get the two-thirds vote.

The sole power to decide what would be placed on the Corrections calendar would be in the hands of one person—the Speaker of the House. By virtue of being on that calendar all unfriendly amendments would be barred. It would thus be the power of the Speaker alone to decide whether a bill being considered under procedures barring all amendments would have to meet the two-thirds test or the three-fifths test. The Speaker alone would have the power to adjust for each bill the standard of what it takes to pass a bill while preventing amendments from being offered.

The difference between two-thirds and three-fifths in the House is the difference between 290 votes and 261 votes. What this resolution is all about is giving the Speaker the sole power to decide whether any bill needs 290 votes to be considered under provisions barring amendments, or whether it needs only 261 votes to be considered under those procedures.

That is a lot of power to give any individual. It is the power for 1 Member to negate the votes of 29 other Members. It is a degree of power that we should not give to any one Member of this House, whether Speaker or not, whether a Member of one party or the other, whether a past, present, or future Member.

This is not a power anyone needs who simply wants to pass bills which are broadly bipartisan and noncontroversial.

This is a device for stifling alternative points of view, for preventing full and open consideration of alternatives, for keeping opposing ideas out of the public debate, for making it easier for some Members to avoid votes and public accountability on tough issues.

If what we wanted was a Corrections Calendar which offered an expedited procedure for noncontroversial bills, we would use the same two-thirds requirement we have always had for the Suspension Calendar.

I would urge Members to oppose the previous question so that an amendment can be offered which would keep the idea of a Corrections Calendar, but would also retain the present practice of requiring a two-thirds vote to pass bills under procedures barring all amendments. Let us make Corrections Day what the Speaker said he wanted, an opportunity to pass broadly bipartisan and noncontroversial bills, not an opportunity to make it easier to exclude amendments from bills which are controversial.

□ 1215

Mr. SOLOMON. Mr. Speaker, Vice President Dan Quayle came under a lot of criticism for speaking up for family values. It turns out he was so right; was he not?

Mr. Speaker, I yield 3 minutes to another gentleman from Indiana [Mr. MCINTOSH].

Mr. MCINTOSH. Mr. Speaker, let me say I think this change in the rules today is one of the critically important reforms that we are making in this House of Representatives not to cater to special interests, but to actually cater to what the American people want us to do, and that is to correct the problems that have grown up over 25 years of big government, increasing regulation and burdens that in many cases just simply do not make any sense. The gentleman from Minnesota [Mr. PETERSON], the ranking member on my subcommittee, indicated that we had traveled to many places and held field hearings where we actually listened to people and the problems that they have with the Federal Government. Let me report to my colleagues some of the things we heard.

In Muncie, Kay Whitehead, who is a farmer who has a pork production facility, has to get rid of the waste product of that pork production facility. She needs to spread it on her fields as manure. One agency tells her to spread it on top of the fields. Another agency tells her, no, to plow it into the fields. She does not care what she does, but she needs to have guidance from the Government. We need to correct that so she knows one way or the other she is following the law.

The city of Richmond came in and testified they have a paraplegic van to help people who are handicapped in their transportation network. They also have eight city buses. They are now required under the Americans With Disabilities Act to expend over $100,000 in changing those buses to make them handicapped accessible. The problem is in the last 3 years they have only had one person who would need that new facility. Everybody else uses the vans that they make available to them.

In Maine we heard from the city that had to spend millions of dollars in correcting their sewage treatment facility. They have an excellent record of protecting the environment there. This money was not needed. They could have done it in a much cheaper way, but Federal regulations were imposing those costs.

Firefighters wrote to me and said, "You know, in a small town we have difficulty getting four firefighters to the fire at the same time, but OSHA has a regulation saying that we can't go in and start fighting the fire until all four of us are there. What do you want us to do? Stand on the sides letting the building burn." Another stupid regulation that needs to be corrected.

Finally we heard about a new guideline came out from a Federal agency to builders saying in new homes we have to have a different type of toilet. It cannot be the regular toilet with a full tank of water to flush. It has to be a smaller tank so that one would only use a small amount of water. The problem is the way the Federal Government designs these toilets, they do not have enough water to flush the drain. Everybody flushes twice and ends up using more water and undermining the whole goal of this regulation. This is a rule that should just be flushed down the toilet. Let people know what they need to do, and let them design the solution for themselves.

Let me close by saying that I think the genius of Speaker GINGRICH's proposal here is that he has reversed the incentives. As Members of Congress we can now come forward with solutions to correct these problems, have a calendar that will let us do it. It is a bipartisan initiative. It will let us have a process that will let us flush these old rules down the drain.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from Louisiana [Mr. TAUZIN].

Mr. TAUZIN. Mr. Speaker, as a Member of the House, there was a time once upon a time when committees of Congress had the power to veto stupid regulations. That power was taken away from us by the Supreme Court when it ruled that the right to regulate under any statute we create belonged to the agency, the executive agency. We can no longer veto regulations that we have authorized in legislation. The President of the United States can veto bills, but he cannot veto regulations, and, worse than that, the Supreme Court ruled, that if an agency wanted to change a regulation, get rid of a regulation, it has to go through the same process it used to create that regulation in order to get rid of it.

What we have got in America is a situation where the bureaucrats have more power than the legislature and more power than the President himself under our Constitution. A day like Corrections Day makes sense. It is a day when we in Congress can do what the Supreme Court says we ought to do, be a little more careful when we write laws, what we allow people to regulate, a day for us to correct those mistakes in a legal, constitutional way.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Speaker, I rise in support of House Resolution 168 that would establish the Correction Calendar to expedite the repeal of outdated, unnecessary, and ridiculous laws and regulations. The need for such a Correction Calendar is readily apparent, has been for some time. Whether it is a rule that was irrational and unnecessarily burdensome to begin with or a law that has outlived whatever usefulness it may have had, the time has come to provide a mechanism to correct these regulatory and statutory errors.

Mr. Speaker, I think that not only is this an opportunity for us to repeal regulations that fit that characterization, but it will also have a very salutary effect upon the agencies that write the regulations in the first part, and, second, I think it is likely to cause our constituents to give us their ideas repeatedly about regulations that do not seem to be too rational in their effect, and I think we are going to hear from our constituents, and they are going to have greater hope that we in the Government, the legislative branch, will be able to do something about inappropriate regulations.

Mr. Chairman, this Member rises in support of House Resolution 168, which would establish a Corrections Calendar to expedite the repeal of outdated, unnecessary and ridiculous laws and regulations. The need for such a Corrections Calendar is readily apparent. Whether it is a rule that was irrational and unnecessarily burdensome to begin with or a law that has outlived whatever usefulness it may have had, the time has come to provide a mechanism to correct these regulatory and statutory errors.

Mr. Speaker, this Member would like to highlight two examples of regulations which cry out for inclusion on the Corrections Calendar. The first is the DOT hours-of-service regulation as it applies to farmers and farm suppliers. The need to repeal this regulation is obvious—each year farmers and their suppliers must be prepared to move quickly and work long hours at planting and harvest time when the weather permits. During certain weeks of the year, there is a small window of opportunity in the crop-planting and harvesting season when the demand for farm supplies escalates. Unfortunately, this demand runs headlong into the Department of Transportation's regulations for the number of hours a driver can be on duty.

DOT's hours-of-service regulations are highly impractical, burdensome, and costly for farmers and farm suppliers because the law can require them to take 3 days off—at the peak of agricultural production—and wait in order to accumulate enough off-duty time to resume driving. This is because DOT regulations define on duty time as "all time from the time a driver begins work or is required to be in readiness to work until the time he/she is relieved from work." Of course DOT could correct this problem by a change in regulations but they are performing like an unyielding, arrogant bureaucracy unsympathetic to the necessary problems their regulations create for the farm community.

The hours-of-service regulations are directed toward long distance truck drivers. However, they also apply to the local distribution of farm input materials even though driving is incidental to the farm supplier's principal work function of servicing farmers.

Last year, working with farm State colleagues in the House and the other body, this Member sought regulatory relief for farmers and farm suppliers from the DOT's unfair on-duty hours of service restrictions on this class of drivers and joined many Members in a letter to the DOT on this matter. Unfortunately, last year's legislative effort to provide an agricultural exemption was reduced to a mandated rulemaking which has now become a bureaucratic nightmare with no hope of regulatory relief in sight. The DOT proposed rulemaking includes a number of hurdles which will further burden farmers. This Member introduced legislation earlier this year along with the distinguished gentleman from Texas [Mr. LAUGHLIN] to address this issue. Such a bill would be a perfect candidate for the first Corrections Calendar.

Second, this Member has introduced legislation to correct a badly flawed interpretation of the law by the Department of Housing and Urban Development [HUD]. That department has willfully flaunted congressional intent to promulgate a final regulation which burdens homeowners unnecessarily and undermines the intent of this Member to bring common sense to HUD's requirements for water purification devices in rural FHA insured properties.

This Member's legislation, H.R. 69, is identical to legislation passed by the House in the 103d Congress as section 410 of H.R. 3838, the Housing and Community Development Act of 1994, passed July 22, 1994. The need for this provision arose when HUD promulgated extremely unsatisfactory regulations to implement section 424 of the Housing and Community Development Act of 1987. The 1987 provision is one this Member introduced to provide for either point-of-use or point-of-entry water purification equipment in FHA insured housing. HUD's initial regulations did not allow point-of-use systems.

Despite passage of section 424 in 1987, HUD took until 1991 to promulgate an inadequate proposed rule, and the final rule was not promulgated until March 19, 1992. After taking an outrageous period of time—nearly five years—to develop a new rule, the rule that was finalized is seriously flawed. That rule requires a point-of-use system on every faucet in an FHA insured house which has a water supply not meeting HUD's water purity standards, whether the faucet is used for human consumption or for showers, washing machines, and so forth.

This Member's legislation provides that a point-of-use system is required on every faucet used primarily for human consumption thereby protecting the safety of the dweller without irrationally over-regulating at a great cost to the homeowner.

The legislation also requires that for testing water purification devices, HUD use water-purification industry accepted protocols or protocols using technically valid testing methods of the Environmental Protection Agency. This take HUD out of the business of creating environmental standards and leaves those standards to those with expertise in the area.

HUD has show complete intractability in meeting the original intent of this Member's legislation. This is a problem which should have been solved in 1987, but instead has lingered on for over 7 years. If ever there was a candidate for a correction of bureaucratic mismanagement, this foolish regulation is it. This Member hopes that his colleagues will lend their support to finally resolve this problem.

Mr. Chairman, these are only two examples, but they highlight the much larger problems associated with a bureaucratic Federal Government which has grown too big. This Member urges his colleagues to strike a blow for common sense and vote for the Corrections Calendar to be established by House Resolution 168.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Scottsdale, AZ [Mr. HAYWORTH].

Mr. HAYWORTH. Mr. Speaker, I rise in strong support of this legislation. I think what we saw on November 8 of last year was the American people saying, "Let us open the windows of this Congress, let us reform this Congress; yes, perhaps in revolutionary style, but also in a rational style. Let us have common sense returned to Government."

Mr. Speaker, that is what this legislation will do. By innovation we will be able to streamline and correct problems, outmoded regulations, outmoded laws, find a vehicle to restore rationality, and that is why I am proud, Mr. Speaker, to stand here in strong support of the legislation.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Utah (Mrs. WALDHOLTZ), a new Member of this House.

Mrs. WALDHOLTZ. Mr. Speaker, I rise to strongly support Corrections Day of which I am proud to be an original cosponsor. This bill gives Congress a sensible approach to eliminating irresponsible, nonsensical Federal regulations. Overreaching regulations impose a heavy cost on our economy and are killing small business which creates the majority of new jobs throughout our country and particularly in my home State of Utah. Each new mandate means higher costs, increased litigations, more failed businesses and fewer jobs. Government administrators currently face no explicit requirement to consider the effects of the rules that they have developed, nor have lawmakers done so in the past. Even when agencies or congressional committees have considered the effects of proposed regulations, policymakers often did so in ways that were simplistic or relied on faulty assumptions or models, and nowhere in the entire regulatory processes did anyone consider the cumulative effects of proposed and existing regulations. As part of the Contract With America we passed important regulatory reform to help Federal bureaucrats prioritize regulatory decisions ensuring that limited resources have targeted to the greatest needs, but while this was a positive step for future regulations, we still have not addressed the problems that we have with current Federal regulations.

That is why I support Corrections Day. It is not enough for us to ensure that future regulations are controlled. We need to reform the current regulatory maze. Inefficient regulation costs the American economy $600 billion each year or more than $5,900 per family, and Congress has been too slow to fix the problems we have inadvertently created. Corrections Day will give us the flexibility to respond quickly to correct our obvious errors and mistakes while still having the benefit of review by the committee of jurisdiction and the consensus reflected by the three-fifths requirement.

Mr. Speaker, I urge my colleagues to support the previous question and to support this bill so that we can work to free Americans from bureaucratic redtape and help to remake our economy into the greatest job making machine in the world.

□ 1230

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing, let me say this. The gentleman from Indiana [Mr. McINTOSH] and others have spoken of regulations and laws that need changing. May I gently point out that nothing is stopping us from changing those laws and regulations right now. Nobody really has explained why we need a new procedure.

The truth of the matter is that none of this is necessary. The Speaker or anyone else can gather together any bills that he or others deem corrections bills and put them on the calendar right now and call it a corrections calendar. In fact, presumably every bill we pass around here is a correction of one sort or another, or an improvement of one kind or another on existing laws or regulations.

For the many reasons previously given, perhaps most cogently most recently by the gentleman from Michigan [Mr. DINGELL] and the gentleman from California [Mr. MINETA] and others, we do oppose the proposed rules change.

Mr. Speaker, I want to point out to Members that the first vote will be on the previous question on the Corrections Day resolution. I urge my colleagues to defeat the previous question.

If it is defeated, I shall offer an amendment to change the three-fifths vote requirement to two-thirds. With a two-thirds vote requirement, we will have the assurance, regardless of the party in power, that the minority is as well protected in the corrections process as on all other legislation.

Mr. Speaker, the amendment I propose to offer, should the previous question not be ordered, simply reads: "On page 3, line 1, strike 'three-fifths' and insert 'two-thirds.'"

Mr. Speaker, in closing, again I urge a "no" vote on this proposed rules change.

Mr. Speaker, I yield back the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just point out to the Members of this body that this country had a great President not too many years ago, and his name was Ronald Reagan. He had a unique ability to focus this entire Nation in the direction that he wanted to move it. I guess we are so very fortunate today to have a Speaker of this House who has that same unique ability to keep this Congress focused.

The big difference between the old majority controlled by the Democrats and the new majority controlled now by the Republicans is that we try to focus this Nation on the problems that have literally brought this country to a halt and that have threatened generations to come with huge deficits and huge burdens of overregulation that are heaped on not only local government but on small business in particular.

This particular resolution, by creating a corrections calendar, is going to focus the entire bureaucracy of this Government on the problems that really are facing business and industry today. By our bringing these corrections up one by one in a separate calendar, every bureaucrat inside this Beltway is going to take notice. That is the real reason for this.

So when we bring these corrections bills before the Congress, they will be relatively noncontroversial, but there will be some controversy. They will be confined to a single subject. They will not involve the expenditure of additional money or the raising of additional revenues. That is very important. These are the criteria for these kinds of legislation. They will deal with the silly, dumb, and ludicrous rules that have literally just about brought business and industry to a point where they cannot be profitable anymore. If you cannot be profitable, you cannot create a new job for all of the high school seniors, as I said before, or for the college seniors who are graduating today. This is what we are doing.

I am so excited about this. When we bring this first corrections bill to the floor, every bureaucrat in this Government is going to pay attention to what is happening and they are going to think twice before they promulgate the kinds of rules and regulations that go far beyond what the legislative intent of Congress is.

Having said that, Mr. Speaker, I hope every Member will vote for the previous question and will vote for this change of the rules, which is going to really make a difference in this country.

Mr. DELAY. Mr. Speaker, I rise in support of creating a calendar for the purpose of Corrections Day legislation. From the start, I've thought having regular Corrections Days would be the perfect way to deal with the myriad of rules and regulations that are unduly costly or simply make no sense.

It is particularly timely for us to be doing this now because July 9, just a couple of weeks away, is Cost of Government Day. This is the day when Americans will have earned enough money to pay off the total financial burden of government at all levels, including taxes, mandates, borrowing, and regulations. This means that 52 cents out of every hard earned dollar are going to the government either directly or indirectly this year.

Cost of Government Day is a sad reminder that the size of government has reached unbelievable proportions.

But the 104th Congress is very different from past Congresses. Earlier this year, the House began to shrink the burden of government by passing a number of regulatory reform bills, and the Senate will soon bring similar legislation to the floor for a vote.

However, while we are making significant changes to the process by which regulations are promulgated, there is still the arguably even bigger problem of ridiculous regulations that are currently on the books and are encroaching on people's lives every day. Many of these are hard to believe:

Last year, a Houston roofing company was cited by OSHA 23 times for a grand total of $13,200 in fines for such transgressions as a bent rung on the bottom of a ladder and a splintered handle on a broken shovel placed in the back of a truck after it had been broken.

Also last year, a 14-year-old Boy Scout was left stranded in new Mexico's Santa Fe National Forest after being lost for 2 days because the Forest Service would not allow a police helicopter to land and pick him up. It seems the boy was in a "wilderness area" in which "mechanized vehicles" are banned.

And many of you have heard of OSHA's rule requiring employers to provide detailed safety information and training regarding the use of such hazardous substances as diet soda, Joy dishwashing liquid, and chalk.

I assume the Federal Government is not intentionally trying to wreak havoc on people's lives. Nonetheless, the American people shouldn't have to continue to suffer the consequences of poorly written or poorly implemented rules and regulations.

Mr. Speaker. I say to my colleagues, Corrections Day is a real opportunity to right wrongs. All across the country, Americans are fed up with a system that is overly intrusive, unreasonable, and excessively costly.

This rules change will address one aspect of the problem and create a process by which we can repeal the most egregious, oppressive, and ridiculous regulations that this Government has promulgated.

I urge support of the Members for House Resolution 168 to create a Corrections Calendar.

Mr. MOAKLEY. Mr. Speaker, I live by the old adage: If it ain't broke don't fix it. We have spent a whole lot of time and energy coming up with a way to fix a legislative process that is not the least bit broken.

I might remind my Republican colleagues that we already have a procedure for bipartisan, noncontroversial bills, it is called suspension of the rules and it would take care of everything you want to go after and allow the Democrats to join you.

But, we are not leaving well enough alone; for some reason we are changing the rules.

My Republican colleagues say we need this rules change to get rid of unnecessary regulations. Although this version of the resolution is an improvement over the last version—it is still a long way from being fair to the Democrats.

If these regulations we will be ending are so silly, then why lower the vote margin from two-thirds to three-fifths?

Democrats want to get rid of silly regulations and unnecessary laws just as much as anyone else but this process will not give us much say.

We firmly believe that there are far too many wasteful, useless provisions and it is time to eliminate them. I urge my colleagues to defeat the previous question so that Democrats can join in the corrections process.

Mr. SOLOMON. Mr. Speaker, I yield back the balance of my time and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. UPTON). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BEILENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 236, nays 185, not voting 13, as follows:

[Roll No. 389]

YEAS—236

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Blute

Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—185

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—13

Becerra
Bliley
Brown (CA)
Deal
Edwards
Flake
Jefferson
McCollum
McDade
Moakley
Peterson (FL)
Schumer
Stark

□ 1254

The Clerk announced the following pair:

On this vote:

Mr. Bliley for, with Mr. Moakley against.

Mrs. MEEK of Florida and Mr. MINGE changed their vote from "yea" to "nay."

Mr. STENHOLM changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HEFLEY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BEILENSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were ayes 271, noes 146, not voting 17, as follows:

[Roll No. 390]

AYES—271

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—146

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay

Clayton
Clyburn
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Engel
Eshoo
Evans
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Pickett
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Skaggs
Slaughter
Stark
Stokes
Studds
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wilson
Woolsey
Wyden
Wynn
Yates

NOT VOTING—17

Bliley
Buyer
Edwards
Farr
Flake
Jefferson
Jones
Maloney
McCollum
McDade
McDermott
Moakley
Obey
Peterson (FL)
Schumer
Serrano
Williams

□ 1303

The Clerk announced the following pair:

On this vote:

Mr. Bliley for, with Mr. Moakley against.

Ms. LOFGREN changed her vote from "aye" to "no."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. JONES. Mr. Speaker, on rollcall No. 390, I inadvertently missed the vote. Had I been present, I would have voted "Yes."

PERSONAL EXPLANATION

Mrs. MALONEY. Mr. Speaker, on rollcall vote No. 390, I inadvertently missed the vote. Had I been present, I would have voted "No."

PERSONAL EXPLANATION

Ms. PELOSI. Mr. Speaker, on June 20, the House adopted House Resolution 168, creating a Corrections Day calendar. I was mistakenly recorded as having voted "Yes" on this resolution. My vote should have been recorded as "No" on the adoption of House Resolution 168.

PARLIAMENTARY INQUIRY

Mr. BEILENSON. A parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore (Mr. HEFLEY). The gentleman is recognized for his parliamentary inquiry.

Mr. BEILENSON. Mr. Speaker, am I correct in saying that the next vote will be on the previous question on the rule on legislative branch appropriations?

The SPEAKER pro tempore. The gentleman is correct.

Mr. BEILENSON. Continuing my inquiry, if I may, Mr. Speaker, if the previous question is defeated, will I be recognized to control the hour of additional debate time?

The SPEAKER pro tempore. The Member had led the fight against the previous question. The answer would be yes.

Mr. BEILENSON. Continuing my inquiry, if I may, Mr. Speaker, if I control the time, would I be in a position to offer an amendment to the rule?

The SPEAKER pro tempore. A proper amendment would be in order.

PRINTING OF PROPOSED AMENDMENT TO HOUSE RESOLUTION 169

Mr. BEILENSON. Mr. Speaker, I ask unanimous consent that the amendment that I would offer to House Resolution 169 be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The text of the proposed amendment is as follows:

At the end of the resolution, add the following:

SEC. . Before consideration of any other amendment, it shall be in order, any rule of the House to the contrary notwithstanding, to consider the following two amendments in the order specified:

1. An amendment to be offered by Representative BREWSTER of Oklahoma and Representative HARMAN of California:

At the end of the bill, add the following new title:

TITLE IV—DEFICIT REDUCTION LOCKBOX

DEFICIT REDUCTION TRUST FUND; DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS

SEC. 401. (a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the "Deficit Reduction Trust Fund" (in this title referred to as the "Fund").

(b) CONTENTS.—The Fund shall consist only of amounts transferred to the Fund under subsection (c).

(c) TRANSFERS OF MONEYS TO FUND.—For each of the fiscal years 1996 though 1998, the Secretary of the Treasury shall transfer to the Fund the aggregate amount of estimated reductions in new budget authority and outlays for discretionary programs (below the allocations for those programs for each such fiscal year under section 602(b) of the Congressional Budget Act of 1974) resulting from the provisions of this Act, as calculated by the Director.

(d) USE OF MONEYS IN FUND.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amounts in the Fund shall not be available, in any fiscal year, for appropriation, obligation, expenditure, or transfer.

(2) USE OF AMOUNTS FOR REDUCTION OF PUBLIC DEBT.—The Secretary of the Treasury shall use the amounts in the Fund to redeem, or buy before maturity, obligations of the Federal Government that are included in the public debt. Any obligation of the Federal Government that is paid, redeemed, or bought with money from the Fund shall be canceled and retired and may not be reissued.

(e) DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS.—Upon the enactment of this Act, the Director of the Office of Management and Budget shall make downward adjustments in the adjusted discretionary spending limits (new budget authority and outlays) as set forth in section 601(a)(2) of the Congressional Budget Act of 1974 for each of the fiscal years 1996 through 1998 by the aggregate amount of estimated reductions in new budget authority and outlays transfered to the Fund under subsection (c) for such fiscal year, as calculated by the Director.

2. An amendment to be offered by Representative BALDACCI of Maine:

Page 49, after line 25, insert the following new section:

SEC. 312. None of the funds made available in this Act may be provided for any Member, officer, or employee of the House of Representatives when it is made known to the Federal entity or official to which the funds are made available that such Member, officer, or employee has accepted a gift, knowing that such gift is provided directly or indirectly by a paid lobbyist, a lobbying firm, or an agent of a foreign principal.

PROVIDING FOR CONSIDERATION OF H.R. 1854, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. The pending business is the question de novo of ordering the previous question on House Resolution 169.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BEILENSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—ayes 232, noes 106, not voting 6, as follows:

[Roll No. 391]

AYES—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOES—196

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—6

Edwards
Flake
Jefferson
McCollum
Moakley
Peterson (FL)

□ 1323

The Clerk announced the following pair:

On this vote:

Mr. McCollum for, with Mr. Moakley against.

Mr. BREWSTER changed his vote from "aye" to "no."

Mr. ROHRABACHER changed his vote from "no" to "aye."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. HEFLEY). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BEILENSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 236, noes 191, not voting 7, as follows:

[Roll No. 392]

AYES—236

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutierrez
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Stupak
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOES—191

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne

Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—7

Edwards
Flake
Hoke
Jefferson
McCollum
McDade
Moakley

☐ 1333

The Clerk announced the following pair:

On this vote:

Mr. McDade for, with Mr. Moakley against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT AS MEMBER TO FEDERAL COUNCIL ON THE AGING

The SPEAKER pro tempore (Mr. HEFLEY). Without objection, and pursuant to the provisions of section 204(a) of the Older Americans Act of 1965 (42 U.S.C. 3015(a)), as amended by section 205 of Public Law 102–375, the Chair announces the Speaker's appointment to the Federal Council on the Aging for a 3-year term on the part of the House to fill the existing vacancy thereon the following member from private life: Mr. Charles W. Kane of Stuart, FL.

There was no objection.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING 5-MINUTE RULE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule: Committee on Banking and Financial Services, Committee on Commerce; Committee on Economic and Educational Opportunities; Committee on Government Reform and Oversight; Committee on International Relations; Committee on the Judiciary; Committee on Resources; Committee on Science; Committee on Transportation and Infrastructure; Permanent Select Committee on Intelligence; and Committee on Agriculture, chaired by that great American and former marine, the gentleman from Kansas, Mr. PAT ROBERTS.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. WISE. Mr. Speaker, reserving the right to object, the distinguished gentleman is absolutely correct. The Democrat minority has been consulted on all of these and has no objections.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

GENERAL LEAVE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on both House Resolution 168, which is the corrections day resolution, and House Resolution 169, the legislative branch appropriations rule, the two resolutions just adopted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

GENERAL LEAVE

Mrs. VUCANOVICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill (H.R. 1817) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, and that I may be permitted to include tables and other extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Nevada?

There was no objection.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. Pursuant to House Resolution 167 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1817.

☐ 1341

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1817) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, with Mr. BARRETT of Nebraska in the chair.

The CHAIRMAN. When the Committee of the Whole rose on Friday, June 16, 1995, the amendment offered by the gentleman from California [Mr. HERGER] had been disposed of and the bill was open for amendment through page 2, line 20.

Are there further amendments to this paragraph?

AMENDMENT OFFERED BY MR. NADLER

Mr. NADLER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NADLER: On Page 2, line 12, insert "(less $10,000,000)" before ", to remain".

Mr. NADLER. Mr. Chairman, I am appalled that in this time of ever increasing concern over our burgeoning national debt, the committee has chosen to include in this bill an appropriation of $10 million as a second down payment on a $32 million project for a project which is at best of dubious necessity. At worst, it is a $32 million total boondoggle with no legitimate purpose.

My amendment would cut this wasteful and unnecessary spending and ultimately save the taxpayers $32 million. Mr. Chairman, let me tell you the twisted tale of this waste of money that is proposed to be taken from the pockets of working Americans.

Once upon a time there was a facility to train Army units at Fort Irwin, CA. But alas this facility had no airport. Personnel had to be trucked 170 miles from the nearest available airfield in Nevada. We can all agree that this was a situation that needed to be remedied.

This House several years ago initiated a study to find a more efficient way to transport trainees. At one point, the Army designated Barstow-Daggett Airfield, currently a Marine Corps logistics facility, as the best available option to upgrade that facility.

The House initiated action to get funds for a $32 million project to upgrade Barstow-Daggett. But in the meantime, Edwards Air Force Base, 90 miles away from Fort Irwin, became available for this purpose as in downsizing the workload there was reduced and we are informed that the Air Force is amenable to the Army's use of Edwards for this purpose.

George Air Force Base, another local facility 60 miles from Fort Irwin, which has been a closed military facility pursuant to the base closing situation is currently operating as a civilian airport.

Ten million dollars was included in the fiscal year 1995 appropriation to upgrade Barstow-Daggett. It has not been spent. This bill now proposes to appropriate an additional $10 million for Barstow-Daggett, although construction will not begin until 1997.

In addition, the bill contains language that will instruct the Army to reopen the closed George Air Force Base, reopen a closed base in this time of closing bases, to be used as the interim air base for Fort Irwin until Barstow-Daggett reaches initial operational capability. I will be offering an amendment later to delete that language.

Why should the taxpayers be forced to pay who knows how much to reopen a closed Air Force base when an operating Air Force base, Edwards, can be used instead?

In the meantime the Army has been working on a study which is due to be released in August, 2 months from now, to assess the various options and recommend the proper course of action. Construction at Barstow-Daggett is not due to begin until 1997.

Why cannot we wait until the study is completed in 2 months before deciding which is the best most cost-effective way to proceed? Some will argue that the roads between Fort Irwin and Edwards Air Force Base are unsafe, compared to the roads between George Air Force Base and Fort Irwin. A study by the Army indicates the opposite.

The American Automobile Association, with whom we spoke in Redlands, CA, has provided to us the following information. From Fort Irwin to Edwards Air Force Base is 90 miles, almost entirely freeway driving. No unsafe roads were mentioned.

I have a chart here that illustrates what I am saying. From Fort Irwin to George is 60 miles. Edwards, 90 miles freeway driving; Barstow-Daggett, 35 miles. Is this somewhat shorter distance, 35 miles as against 90, when the 90 miles is freeway driving, an hour and a half, worth $32 million of taxpayer funds to upgrade Barstow-Daggett to have a 10,000-foot runway, plus the cost of reopening a closed military Air Force base at George for temporary use? I doubt that.

Now, it may be that the Army study due out in August will show that for reasons unknown to us, that is the best way. But why not wait until August to determine that?

This bill contains an appropriation of $10 million more for Barstow-Daggett, though as I said construction cannot begin until 1997. So if we do not fund it now it would not delay it. And the committee further instructs the Army to reopen George Air Force Base which has been closed as a part of downsizing.

Mr. Chairman, this is not cut and save. This sounds a lot more like the old tax and spend. What happened to downsizing? What happened to the rhetoric heard in this Chamber while we were slashing programs for children, the needy, veterans, and the elderly? Yes, we have to make tough choices, but our story could have a happy ending if we passed this amendment and saved the taxpayer this money.

Mrs. VUCANOVICH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I wish to point out that the need to provide an airfield for Fort Irwin has been an issue since the first round of base closure in 1988, when Norton Air Force Base was closed.

The committee has appropriated funds since fiscal year 1994 to bring about the arrangement to locate the air unit at Barstow-Daggett. This will permit 60,000 troops per year to continue to receive state-of-the-art maneuver and training for close combat heavy brigades. The committee's recommendation includes the second phase of funding for a project to meet this requirement.

This is a good solution and deserves the support of this body. I urge a "no" vote.

Mr. LEWIS of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in very, very strong opposition to this proposal by my colleague from New York. I do not know if the gentleman from New York [Mr. NADLER] has had the opportunity to travel to the National Training Center for the Army. It is without any question the most important and valuable asset that our military has anywhere in the world.

It is the place where we train and retrain our troops in real live war circumstance and prepare them for perhaps the worst they might face out in the battlefield. This is the base about which General Schwarzkoff said,

> I commanded the 24th Mechanized Division during seven different rotations at Fort Irwin.
>
> It is the best investment the Army has made in 35 years. The reason we did so well in Desert Storm and Desert Shield is because almost every commander we had over there had some kind of involvement in the NTC.

□ 1345

It is suggested that his amendment saves money by stopping the previously authorized project in midstream. This amendment, ladies and gentlemen, wastes money already approved by the Congress.

Mr. Chairman, the need to have a permanent airhead will not go away. The primary cost factor, distance from the national center, will not change; that is, troops are brought in numbers of 60,000 a year from various bases around the country. They come in rotations to train at the national training center for the Army. They must be flown in to somewhere.

In the past, we have flown them into Las Vegas, where they got on buses and rode for 4½ hours, an ongoing expense. The last rotation had them coming from Edwards Air Force Base.

The gentleman from New York [Mr. NADLER] probably ought to come to the territory and actually see the region we are dealing with here. A portion of it is on freeway, but approximately a third of the transportation takes place on a two-lane highway, a very, very dangerous highway in which the accident rate is something like 50 times greater than on a normal freeway; very important to recognize that in the past we have been looking for a temporary facility, Norton Air Force Base; they are considering George. That does not open up that base or reopen it. It may allow for a lease short term.

In the meantime, the Army, after a 5-year study, has come to the conclusion that, No. 1, they need a permanent airhead for bringing those troops in for this vital training; and, second, that Barstow-Daggett is the logical location which will not only serve the needs of the national training center but will also save a lot of money over the life of this very important facility.

Since 1989, I have been working with the Army to establish a permanent airfield to support the NTC rotations. We have been back and forth over all of those years.

There is little question that those who do not understand the mission of the NTC could hardly understand the importance of this facility. But, ladies and gentleman, there is absolutely no doubt that the most important thing we can do for our men and women in the armed services is to make sure that they are ready, that they are prepared by the best of training. The NTC is the best available. They need this facility desperately.

I would suggest to the gentleman that in the future, insofar as this Member is concerned. I will follow with great care what has long been a standing policy of mine that if I have a concern or an issue that affects a specific Member's district about which I do not have great expertise myself, before I carry an amendment on the floor regarding that district, I will at least show that Member the courtesy of a conversation regarding the problem. Sometimes a little light helps a lot with the discussion around here, and in this case, I must say, after 5 years of very intense work with the Army, it is very apparent that most people do not understand the vastness of this territory.

The national training center for the Army is located in a desert territory in which you can put five eastern States easily, and, in turn, the NTC is the perfect facility for live warfare kinds of games to provide the readiness we need. If you believe it is critically important that our troops be ready and prepared and well trained, vote "no" on the Nadler amendment.

Vote in support of the national training center for the Army.

Mr. NADLER. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection, the gentleman from New York [Mr. NADLER] is recognized.

Mr. LEWIS of California. Has the gentleman spoken?

I object, Mr. Chairman.

The CHAIRMAN. Objection is heard.

Mr. HEFLEY. Mr. Chairman, I move to strike the requisite number of words.

I will not take the full 5 minutes.

As chairman of the authorizing committee, we looked at this very, very carefully, and I would concur with what the gentleman from California had to say about the training facility. It is the premier training facility of its kind probably in the entire world.

I like to say that about the training facility at Colorado Springs, and they say, "Yes, it is, but the one in California, that is the one that here the premier facility of its kind."

And we do bring, the figure was used, 60,000 troops, plus or minus a few, in there every year to rotate in for training, and we need the kind of facilities necessary to get them in and get them out safely.

So I think what we are talking about here distance. The idea of moving them in and taking them for 4½ hours on a bus, this number of people simply makes no sense whatsoever. I think it is a matter of time, and I think it is a matter of safety.

So I would hope that we would oppose the gentleman's amendment.

Ms. FURSE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Chairman, I listened to the remarks of the gentleman from California very carefully, and I agreed with everything that was said about the national training center at Fort Irwin. It is the finest facility, an essential facility, et cetera.

We are not talking in this amendment about Fort Irwin or the National Training facility. We are talking about Barstow-Daggett, whether we should spend $32 million, at Barstow-Daggett to make a modern airfield there and whether we should reopen George Air Force Base as a temporary facility.

The fact of the matter is the NTC is a wonderful training facility and an essential one, and we rotate 60,000 troops in there every so often and out of there every so often.

The question is: Is it worth the investment to rotate them into Barstow-Daggett instead of through Edwards Air Force Base? I agree, if it were a 4½ hour journey from Las Vegas, I probably would not offer this amendment. When this was started, when this project was initiated, when the studies were undertaken initially, Edwards Air Force Base was not available as an option, because it was busy, busy with Air Force business.

Circumstances have changed. Now it is available. The Army has not requested this money.

The study that the gentleman holds up, the Army study that supposedly justifies this, is unavailable. It has never been released publicly. We could not get a hold of it. I do not know what it says.

We do know the Army is coming out with its study as to the best way to rotate troops into and out of Fort Irwin in 2 months. So what is the rush? Two months from now the Army will release its study as to the best way, and maybe the information that I have, and we called up the AAA and we said, "How do you get from Redlands, where this Fort Irwin is, to Edwards Air Force Base, and vice versa?" "Oh, no problem. Ninety minutes on the freeway." They did not tell us anything about a third of the way on 2-lane roads. We asked them specifically. They said it is all freeway driving, 90 minutes, you are there.

For 16 years, I commuted 140 miles up to Albany from New York, where the State legislature meets, freeway driving, no problems. Most people do that.

It will not degrade on military capability on which the gentleman was so earnest, if the troops rotating in and out of Irwin Air Force Base every few months take an hour and a half on a bus and on a freeway from Edwards Air Force Base to Fort Irwin, and the other way around, a few months later, however long a period of time they stay at Fort Irwin. We are not talking about a daily commute. We are talking about rotating in for exercises and a few weeks later rotating out and a 90-minute drive each way.

Maybe what I just said is wrong. Maybe the Army study that is due out in August will show that is wrong for some reason that we do not know here on this floor, at least we on this side do not know, in which case, fine, maybe we should develop the Barstow-Daggett base, and that information in that report will show us that we should.

But we have plenty of time. They cannot start construction until 1997, in any event. To appropriate $10 million now is totally unnecessary, even if it is necessary to develop Barstow-Daggett. The $10 million appropriated last year is unspent. Now we will have $20 million unspent or wasted. Why cannot we wait 2 months until that study comes out to show what the best course of action is?

Remember, this money, for all the eloquence of the people saying how important the NTC is, this money is not requested or wanted by the Army. It should be dispositive and, therefore, this amendment should pass in the interests of saving the taxpayers' money.

Mr. SAXTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just would like to respond to my good friend from New York. He raised a question as to what we might know that people on the other side of the aisle do not, and I am not sure that we know anything that the people on the other side of the aisle do not, but there are some very important facts here that I think are interesting to consider in light of the fact that we are going through currently the last stage of a major reorganization of our base structure, and that organization and reorganization has been going on now for some 6 years.

From the Army's point of view, this relationship that will exist between Barstow-Daggett and Fort Irwin is a very, very important relationship.

Let me just try to point out where there are some other relationships that exist like this. For example, Fort Bragg and Pope Air Force Base enjoy a relationship that is quite similar to this, for perhaps a different purpose, but a very similar kind of a thing, and as a result of that relationship, as far as I know, the Base Realignment and Closing Commission process, BRAC, has never begun to address either Fort Bragg or Pope Air Force Base because of the relationship of the role they play with each other.

More recently, of course, Fort Bragg and Pope Air Force Base have been together for many years, but more recently the Base Realignment and Closure Commission realized the importance of these kinds of relationships when they realigned McGuire Air Force Base in New Jersey and realigned Fort Dix in New Jersey to carry forth the relationship of jointness much as is proposed by the mil con bill in creating a relationship at Barstow-Daggett and Fort Irwin.

Fort Irwin, in my opinion, is never going to go away, and if anybody knows a little bit about base structure, they know Fort Irwin, the national training center, is huge, a huge base, thousands of acres, a national training center where 60,000 troops came each year to train to hone their skills, and a relationship with an Army air base where additional training can take place and the ease of transportation is provided to provide for a more cost-efficient mode of operation is part of this consolidation that is taking place through the BRAC process and through the process of mil con bill that we are here discussing today.

And so I think from a point of cost effectiveness, from a point of distance in getting people to and from where they need to be, from the standpoint of training opportunities that are provided with close proximity of an air base and other training facilities and from commonsense opportunities that are offered and looked upon favorably by the base realignment and closure commission in each of the base closure actions that have taken place since 1989, I think it would be foolhardy for us to side with the gentleman from New York [Mr. NADLER] in spite of the fact that I think he has great intentions. I think the consolidated effort under way here a very essential part of the base reconfiguration project.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from California.

Mr. LEWIS of California. I appreciate my colleague yielding.

He makes a number of important points.

First, let me mention in the last year, I personally have escorted the Secretary of Defense as well as the Secretary of the Army to this very field. It was not 6 months ago the Secretary of the Army looked me in the eye, standing on the tarmac at Barstow-Daggett, and said, "This is exactly where we should have this permanent airhead."

When we went through the process of trying to figure out where to land these 60,000 troops in rotations every year, we looked at a number of facilities. Very early on, Edwards Air Force Base was taken off the list. They were not even among the remaining five being considered. Most important, they were taken off the list because of a conflict of mission. Edwards Air Force Base presently is the home of the 117 fighter bomber, home location of the B–1, where the B–2 lands, where the shuttle lands from time to time.

Indeed the C–17, will use that facility in the future, but most importantly, as the Army evaluated this question, this is what they said about Edwards Air Force Base: "Mission compatibility is of the utmost importance. This unquantifiable benefit could determine the degree of success in the NTC training mission. Unforeseen delays, postponements to the training exercises, deployment and redeployments, schedule changes and conflicts in use of air space would greatly detract from the overall benefits of the training mission exercise. The domino effect of mission incompatibility with other tenants at an airhead location would effectively smother the entire operation."

□ 1400

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. SAXTON] has expired.

(By unanimous consent, Mr. SAXTON was allowed to proceed for 2 additional minutes.)

Mr. SAXTON. Mr. Chairman, just let me say very briefly, and then I will yield to the gentleman from New York [Mr. NADLER], that I believe that what the Army is after here is the recognition of the fact that training in large part relates to deployment, and, if one is going to deploy efficiently, we must have the facilities together through which deployment takes place. That is true at Fort Dix and McGuire. That is true at Fort Bragg and Pope Air Force Base, and it is equally true at Barstow-Daggett and Fort Irwin. So I think it is something we cannot ignore.

Mr. NADLER. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from New York.

Mr. NADLER. I have one simple question:

Given all the things I said, why has the Army not requested this?

Mr. SAXTON. We cannot speak for the administration and their budget. This is obviously something that makes a great deal of sense and something that military planners do not disagree with. Every branch of the service has its priorities, and we are told that this is a priority of some magnitude.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. SAXTON. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I am reminded that some 60,000 troops rotate through this area for training, that there is a constant flow of troops coming from all over the Army establishment throughout the country for this unique desert training at Barstow, and this location is rally within minutes of where they actually train.

Is that accurate?

Mr. SAXTON. That is the understanding that I have, and I would just add to that that the relationship between an airport where deployment actually takes place and the training facility at Fort Irwin is an additional reason for this consolidation to take place.

Mr. HUNTER. And the last documentation that the Army did on this did recommend Barstow-Daggett, at least from the documents that I have seen.

Mr. SAXTON. Mr. Chairman, I thank the gentleman for bringing that to our attention, and that would provide a more full answer to the gentleman from New York.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to my colleague, the gentleman from New York [Mr. NADLER].

Mr. NADLER. Mr. Chairman, I am going to be brief on this because I think most of it has already been said, but again listen to what the proponents of this arrangement and of this appropriation are saying. They are saying Fort Irwin, the National Training Center, is very important. Granted. They are saying that the Army at one point asked for funds to upgrade Barstow-Daggett. Granted, when they could not use Edwards Air Force Base. They are saying that Edwards Air Force Base cannot be used, it is not good enough. It is being used now. In fact there is mission incompatibility, but there is decreased Air Force use of Edwards because of less Air Force use. That we know for the last few years, and the fact of the matter is again, the Army is doing a study of what the best available options are, what is the best way of rotating troops in and out of Irwin, the most cost-effective way and the best way for mission readiness at Fort Irwin. That study is coming out in August. But we do not want to wait for that study. We want to jump the gun. That is silly because that risks wasting a lot of taxpayers' money. None of the money appropriated here in this bill on this subject can be spent at Barstow-Daggett before 1997, which is to say before the next appropriation bill will have been passed in any event, so why not remove this money, wait for the August study, and if they still have the mind that this is the way to go, fine. Next year they can appropriate it, and they can build it just as fast, but if that study shows, as apparently the Army thinks it may, because the Army is not requesting this money. With all of this rhetoric we have heard on this floor about how important this money is, that our combat capability will be degraded without it and so forth, the Army has not asked for this money, and in this climate, when we are taking money away from food stamps, from school lunches, from Medicare, from Medicaid, from college loans, from just name it, we are proposing to give the Army $32 million it does not say it needs, and it does not request, and it does not want because we cannot wait 2 months for a study that may show us a cheaper, better way to do it sounds to me like pork, not military readiness.

Mr. McKEON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from New York. Mr. Chairman, no State has been impacted by the base closure process more than the State of California. Many of the programs and personnel associated with former military installations in California have either been eliminated or transferred to other States. That being said, there are still fundamental missions which occur at facilities such as the National Army

Training Center at Fort Irwin. The Army has spent considerable time and resources addressing the need to establish a permanent airfield to support Forth Irwin and is now moving forward with a cost-effective plan that has been endorsed by Congress and the Secretary of the Army. Voting in favor of the gentleman's amendment will only result in needless delays in meeting this critical requirement.

The Nadler amendment unravels 5 years of the Army's planning for a permanent airfield to support Fort Irwin. The decision to study California alternatives for the NTC airhead was undertaken by the Army at its own initiative beginning on December 13, 1989. The analysis of alternative study was completed in October of 1993. Here is the specific finding of that study before it went to Forscam and the Military Traffic Management Command:

> Fort Irwin does not have a reliable, full-time tactical airfield usable by fixed-wing, heavy-life, and wide-body aircraft. Long-term operation at McCarran is questionable. If this project is not provided, air operations at the NTC will continue to be substandard. Limited Army funding will continue to be spent to bring troops overland from great distances, training time will be lost, and command and control will be difficult. The Barstow-Daggett alternative was found to be the most economically cost-efficient as calculated over the life of the project.

Mr. Chairman, I have been here now just a couple of years. The gentleman from New York [Mr. NADLER] and I came at the same time. The gentleman from California [Mr. LEWIS] has the district next to mine. We both represent people from the desert. We understand the desert probably a little better than someone from across the country. We know what the road is like driving from Fort Irwin over to Edwards, and it is a dangerous road, and I think that this amendment should be defeated.

I urge my colleagues to vote "no" on the Nadler amendment.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. McKEON. I yield to the gentleman from California.

Mr. LEWIS of California. Mr. Chairman, let me emphasize the point that gentleman just made.

Up until this most recent rotation where troops came from Edwards to the training center, the troops were being sent by bus for 4½ hours from Las Vegas. To say the least, it was a long ways away from the way they should have come to arrive in a training setting, a war kind of setting.

Recently for a short time Edwards Air Force Base became an experiment as a temporary airhead, but the people who designated that temporary airhead have no idea what that road is really like. One-third of the distance, about 33 miles, is along a very, very dangerous two-lane highway. It is only some time when someone is going to rush around and run into one of those caravans of troops.

Mr. McKEON. Reclaiming my time, again, both of us coming from that area, we know when we talk about a two-lane road it is a little different out there than it is here. Two lane road there, it is up and down because of the flash flooding coming off the hills, and they have to leave low spots in the road, and so we get ups and downs, and I have had friends killed on that highway. I understand the danger there.

Mr. LEWIS of California. Exactly, and if the gentleman continues to yield, I must say that I can understand in part, I suppose, what the gentleman from New York [Mr. NADLER] is saying, but, if he would ride that roadway, he would understand the difference. What we need to do is have a permanent facility where these troops can come and be in the training environment. Barstow-Daggett is the ideal location. It is the cheapest solution, short-term and long-term, without any question. This is the most important training center in the world, and a no vote on the Nadler amendment indeed is in support of the National Training Center for the Army, and I encourage my colleagues to recognize just how critical this training center is to our national defense.

Mr. WICKER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to associate myself with the remarks of the previous speaker from California and to say that I oppose the Nadler amendment and that I hope my colleagues will join in supporting the hard work of the gentlewoman from Nevada [Mrs. VUCANOVICH], and her subcommittee. Their decision with regard to this airstrip was based on the facts, and the facts are that the National Training Center is a major contributor to the national defense mission. The transport of our service men and women in and out of there is a very important component of their mission, and, if the Nadler amendment is adopted, instead of a convenient airstrip 37 miles away, however, far the distance, it will be a much farther distance that they will have to be transported.

So I will say the facts are with the committee on this decision. I hope that the Members of this body will support the chairwoman, support the committee, and vote no on the Nadler amendment.

Mr. BROWN of California. Mr. Chairman. I rise today to voice my opposition to the amendment to strike funding for the expansion of Barstow-Daggett Airfield in San Bernardino County, CA.

The expansion of the runway of Barstow-Daggett Airfield is needed to accommodate aircraft that will bring in the thousands of Army troops that annually train at Fort Irwin in the California desert. Barstow-Daggett Airport is located only 30 miles from Fort Irwin. Since the closure of Norton Air Force Base in San Bernardino, the Army has not had a permanent site to fly in troops for transport to the Fort Irwin training area.

As we all know, desert training is more critical than ever for our Nation's troops. Without Barstow-Daggett Airport, our troops will lose valuable training time being transported by bus from more distant airfields.

Mr. Chairman, one of the reasons that I am persuaded to support this military construction project is that it has been authorized as part of the Defense Authorization Act for 2 straight years. I also understand that the Secretary of the Army supports the project. These facts persuade me that this project is worthwhile and has received the proper scrutiny and approval of the relevant authorizing committee, during times of both Democratic and Republican committee leadership.

For these reasons, I will support this project and vote against the amendment to strike the project's funding, and I urge my colleagues to join me in voting against the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. NADLER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. NADLER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 100, noes 329, not voting 5, as follows:

[Roll No. 393]

AYES—100

Andrews
Baldacci
Barrett (WI)
Becerra
Bentsen
Bonior
Brown (OH)
Cardin
Christensen
Clayton
Collins (IL)
Collins (MI)
Conyers
Cooley
DeFazio
Dellums
Deutsch
Dingell
Doggett
Duncan
Ehlers
Engel
Eshoo
Evans
Fattah
Fields (LA)
Filner
Furse
Ganske
Gephardt
Green
Gutierrez
Hastings (FL)
Hilliard
Hinchey
Hoekstra
Jackson-Lee
Jacobs
Johnston
Kanjorski
Kennedy (MA)
Klug
LaFalce
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Markey
McKinney
Meehan
Menendez
Mfume
Miller (CA)
Minge
Mink
Moran
Nadler
Neal
Neumann
Nussle
Obey
Olver
Orton
Owens
Pastor
Payne (NJ)
Pelosi
Petri
Ramstad
Rangel
Reynolds
Rivers
Roukema
Royce
Rush
Sanders
Schroeder
Schumer
Scott
Sensenbrenner
Skaggs
Slaughter
Stark
Studds
Thurman
Torricelli
Tucker
Velazquez
Ward
Waters
Watt (NC)
Williams
Woolsey
Wyden
Yates
Zimmer

NOES—329

Abercrombie
Ackerman
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr

Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Chrysler
Clay
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dixon
Dooley
Doolittle
Dornan
Doyle
Dreier
Dunn
Durbin
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martinez
Martini
Mascara
Matsui
McCarthy
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meek
Metcalf
Meyers
Mica
Miller (FL)
Mineta
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Ney
Norwood
Oberstar
Ortiz
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Reed
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roybal-Allard
Sabo
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stokes
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff

NOT VOTING—5

Gejdenson
Jefferson
McCollum
Moakley
Rose

□ 1438

Mrs. CHENOWETH, Ms. ROYBAL-ALLARD, and Messrs. BRYANT of Texas, COBLE, WHITFIELD, BARCIA, TOWNS, McDERMOTT, and SMITH of Michigan changed their vote from "aye" to "no."

Ms. PELOSI, Messrs. MFUME, WATTS of North Carolina, PETRI, ORTON, NEAL of Massachusetts, SCOTT, and DELLUMS, and Mrs. COLLINS of Illinois changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The Clerk will read.

The Clerk read as follows:

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $588,243,000, to remain available until September 30, 2000: *Provided*, That of this amount, not to exceed $66,184,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

AMENDMENT OFFERED BY MR. ROYCE

Mr. ROYCE. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROYCE: Page 3, line 3, strike "$588,243,000" and insert "$571,843,000".

Mr. ROYCE. Mr. Chairman, this amendment targets two construction projects which were not requested by the Pentagon but were added on by the committee. The first item spends $6 million to repair a foundry at a shipyard which Congress voted to close in the 1991 base closing round.

Why are we upgrading this foundry and this propeller shop when the Navy has not made a request? If the hope is that the Pentagon will keep this one foundry at the yard open for the long haul, does it not make sense to, at least, wait to see if the DOD makes a request before approving a $6 million upgrade? This sets a bad precedent for all base closures past and future and opens up a Pandora's box for Congress. So let us take it out of the bill.

Let me repeat one point: DOD has confirmed that this is not in the future years' defense plan from 1996 to 2001.

The second item also not requested spends $10.4 million for a new gymnasium at a base which already has a gym. The Puget Sound Naval Shipyard has racquetball. It has a gym with Nautilus equipment and free weights. It has basketball courts, volleyball, tennis courts, three softball fields.

We are going to spend here $10.4 million for a facility which will add badminton, squash, aerobics, and paddleball when there are already 10 private gyms within 5 miles of the base?

I can only tell my colleagues, Mr. Chairman, that with a base at Bangor Submarine Base 15 miles away with a gym, a gym free to all Active duty personnel, maybe we should buy a bus if there is overflow. But there is no evidence that there is overflow at the existing gym. There is a YMCA less than a mile away. Maybe we should look at contracting out for the overflow. But again, we have no evidence of it. This is $10.5 million that could be spent for more urgent projects.

Mr. Chairman, there are many supporters of a strong national defense in this House, defense hawks, and I am one. But many of you are also deficit hawks here. And these projects are not needed. They will not add to our national security. They were not requested. In fact, the overall $500 million added by the committee comes on top of $500 million added last year but not requested last year, and the total bill is now $2.4 billion more than the 1995 appropriation.

This is an ominous trend, colleagues. The Department of Defense already has a $1 billion backlog in deferred maintenance. We should not be spending money on unrequested projects. So join with the Pork Busters, the National Taxpayers Union, the Business Executives for National Security, Citizens Against Government Waste and Citizens for a Sound Economy in supporting this amendment. This is the first test of an appropriations bill on the floor this year. Let us not fail that test. Let us vote to try to reduce this spending and move towards a balanced budget.

Mrs. VUCANOVICH. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am curious why out of all projects included in this bill, the gentleman chose these two. I would guess he thinks the mandated physical fitness and recreational activities of 12,500 naval personnel is of no importance. Because when the committee asked the Navy if this project was mission essential or critical in this fiscal year the Navy's response was yes—that it was essential to provide for quality of life and physical fitness of service members.

And, I would like to take this opportunity to tell the gentleman that our subcommittee held 14 hearings this year and our major focus was on "what is quality of life?" When asked, Sergeant Major Kidd of the Army told the committee that it was "a good place to work, a good place to train, a good place to live, and a good place to have recreation."

Does the gentleman oppose our naval personnel being well fit to serve this country when called?

And does the gentleman not believe it is essential that the individuals working in the foundry in Philadelphia—which is to remain active after the yard's scheduled closure—should be threatened by the many environmental, safety, and health problems associated with the facilities deficiencies? When the committee asked the Navy their answer was, absolutely not. That the combined serious deficiencies in industrial ventilation, lighting, stress relieving ovens, and weight handling equipment greatly increase the chances of a catastrophic accident and personal injury. And, on top of that a recent inspection revealed the foundry is in immediate jeopardy of being cited by EPA and OSHA.

Mr. Chairman, why these two projects have been targeted, I do not understand. I strongly urge my colleagues to defeat this amendment.

□ 1445

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to make clear that I think this bill contains far too much spending. I intend to vote against the bill, because it is far in excess of the President's request, as well as last year's budget. However, I think the attack on this particular facility at Bremerton is unfair.

In this bill, there are an awful lot of items which are labeled "quality of life." Unfortunately, many of those items are targeted to improve the life of people who already have a pretty high quality of life. That is why I support most of the amendments that are going to be made to cut this bill. That is why I support the Neumann-Furse amendment, for instance, which tries to strike construction for units costing more than $200,000 each.

However, this proposal, in my view, strikes at the needs of the people in the services who most need our help. As I understand the situation, there are over 12,000 seamen who are located in this facility in Washington. Many of them live on board ship for at least 6 months at a time. They live in very cramped quarters, and when they do get to shore, they need some recreational opportunities.

As my staff has been able to determine, the recreational opportunities for the enlisted people at the lower pay grades are far less than what they need, given the demands put on them in that area.

Therefore, it seems to me that if we are going to go after projects in this bill, we ought to go after projects for the most comfortable, not for the most uncomfortable, not for the enlisted guy at the bottom of the totem pole who very seldom gets very much attention paid to his or her needs.

Mr. Chairman, I would also simply ask why it is that these two projects have been especially singled out by the sponsor of the amendment. I would point out that the gentleman from California [Mr. ROYCE], who is offering the amendment, wrote the committee last year requesting funding for two projects at the Los Alamedos Reserve Center totaling $11.9 million.

The committee, which was then under my chairmanship, with the gentlewoman from Nevada [Mrs. VUCANOVICH] as well as the gentleman from North Carolina [Mr. HEFNER] on the subcommittee in the two lead spots, approved $4.2 million to provide for a new logistics facility for him. I wonder if the gentleman from California [Mr. ROYCE] recalls this committee's favorable response to his request to meet a special need in his district at that time?

Mr. Chairman, I do not mind the gentleman going after projects unneeded. I am going to vote against plenty of them myself this afternoon. As I said, I am going to vote against this entire bill because it is far too high. However, in this instance, I find going after the project, especially in Washington, to be especially quaint, given the needs of the enlisted people in that area. I think we ought to turn this amendment down, in the interests of fairness.

Mr. HEFNER. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Chairman, as a point, I had a letter last year from the author of this current amendment for two projects. The gentleman made the point that these projects were not requested by the administration, they were not requested by the Pentagon.

We have two projects here that the gentleman requested last year that were not requested by anybody. We funded the projects, because we felt the gentleman knew what was good for his district, and something that was needed for the people in his district.

It seems to me it is a little bit unusual for the taxpayers, Citizens Against Government Waste, to go through all this bill and find two projects, find two projects in the Navy, that were worthy of having the gentleman's sponsorship of these amendments. I strongly oppose these amendments.

I think it is ridiculous that we would even be discussing them here on the floor.

Mr. OBEY. Mr. Chairman, I would simply close by saying that I think we owe more to those 12,000 seamen in this case than to simply tell them that when they come on shore from their ship, that they ought to use the Y.

Mr. FOGLIETTA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to oppose the Minge-Royce amendment.

Mr. Chairman, this is a case of mistaken identity colleagues. The propeller shop at the site of the Philadelphia Naval Shipyard is open and its working men and women are busy today providing for the defense of our Nation. They perform some of the most sensitive and important work in developing finely manufactured propellers for submarines and surface combatants.

The Philadelphia Naval Shipyard was ordered closed by the Base Closure Commission. We, in Philadelphia, accept that, though we continue to believe it was the wrong decision.

We are working to convert the yard to become a commercial shipyard. Two companies—one, an international shipbuilder and another a respected U.S. ship overhauling firm—are deeply interested in creating at least 4,000 new jobs at the yard.

But the propeller shop at the Navy yard was never part of the order to close.

Manufacturing propellers for carriers, subs and other Navy vessels is a vital endeavor. The Navy must maintain that capacity.

This winter, I wrote to the Navy concerned about rumors that it was considering moves to sell off the propeller shop and foundry.

Not true, said Assistant Navy Secretary Pirie. He said, "We share your view that the propeller shop and foundry are required to support our operational forces in the future. Thus, we did not recommend their closure."

Based on that continued commitment by the Navy, I worked with the Navy to develop this project to renovate the propeller facility.

This project was authorized in the bill we passed, just last week. The Navy has already completed the 35 percent design for the bulk of this project. That is the threshold requirement demanded by our subcommittee as well as by the National Security Committee. Our subcommittee has confirmed this with the Navy. Thus, the argument that this is not wanted by the Navy is wrong.

This project would construct new stress relieving ovens to insure the structural integrity of modern propellers. In addition, the project would improve worker safety by meeting OSHA requirements. This is dangerous work. Maybe that is not something that the porkbusters are interested about. I have a list of at least 26 workers who have sustained injuries at the prop shop. A pattern maker and a molder who had molten metal splash in their eye. A rigger who was stuck by metal pieces. How can they call protecting workers from serious injury pork?

In this case, the porkbusters have, again, identified the wrong man, at the wrong time, at the wrong place. Do they want to give up our edge in the sensitive technology of developing and manufacturing propellers to the Japanese and Europe? That is what they would do by not investing the money to keep this facility—which is an open facility—state of the art.

Mr. Chairman, I urge my colleagues to reject this amendment. It defies the intent of this Congress of maintaining our national security.

Mr. WELDON. Mr. Chairman, will the gentleman yield?

Mr. FOGLIETTA. I yield to the gentleman from Pennsylvania.

Mr. WELDON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I will include for the RECORD a letter from Cheryl Kandaras of the Navy to the honorable chairman of the subcommittee which says that this shop and foundry "provide essential services to the fleet, much of which is classified and cannot be supported by another source." This letter is dated June 20, 1995.

For any Member of this body to stay on the floor and infer that somehow the Navy is considering closing this is certainly shortsighted at best, and beyond that, just trying to demagogue on an issue where we have done a good job in removing those items from defense spending that are clearly not wanted by the military.

I thank my colleague for yielding.

The letter referred to is as follows:

DEPARTMENT OF THE NAVY,
OFFICE OF THE ASSISTANT SECRETARY,
Washington, DC, June 20, 1995.

Hon. BARBARA F. VUCANOVICH,
Chairman, Military Construction Subcommittee, House Appropriations Committee, House of Representatives, Washington, DC.

DEAR MADAM CHAIRMAN: This letter is in response to your request for information regarding Navy's plans for facilities that remain open after implementation of BRAC actions at Naval Shipyard Philadelphia.

The Propeller Shop and Foundry will remain open to support our operational forces for the foreseeable future. These facilities provide essential services to the fleet, much of which is classified, and can not be supported by another source. Accordingly, they were not recommended for closure to the 1995 Defense Base Closure and Realignment Commission.

As always, if I can be of any further assistance, please let me know.

Sincerely,

CHERYL KANDARAS,
Principal Deputy.

Mr. HEFLEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not think I have to take a back seat to anybody for coming down here time and time again with amendments to strike things that I think are pork in appropriation bills, and we will do it some more, probably.

That is the reason, Mr. Chairman, that, as I assumed the chairmanship of the authorization committee for Milcon, the gentlewoman from Nevada [Mrs. VUCANOVICH] and I worked very, very carefully together to systematically make sure that we had very strict criteria, because we know these particular bills are bills that are subject to pork enough. We did not want that to happen. We wanted to make sure that did not happen. We were very careful to do that.

The bill that we produced and that we passed here last week and the bill that we are considering today, are mirror images of each other. There is nothing in this bill that we are considering today that was not authorized in the bill last week.

Mr. Chairman, on these two projects we are talking about, I think the gentlemen that have spoken before me have made the case pretty well that the propeller shop is something that is absolutely crucial, It is the only facility of its kind that we have in the United States. Yes, it was not requested this time because this is a phase 3 project. This is the third phase of three phases of a project, and it is a very crucial project.

As for the physical fitness facility out in Washington, there was a great case made for that physical facility out there. Mr. Chairman, these things, even though they were not requested this year, they were on the priority list.

I would like to note that I also have the request from last year of the gentleman from California [Mr. ROYCE], and not only were these not requested last year, but they were not on anybody's priority list last year, and yet the gentleman from California felt they were very important. They may have been very important. I have not looked into it to see if they were or not. However, the ones we did, they had to be on a priority list or they did not get funded. These were on the priority list.

Mr. Chairman, I would ask the Members to vote "no" on the Royce amendment.

Mr. ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment. I would like to associate myself with the remarks of my friend and colleague, the gentleman from Pennsylvania [Mr. FOGLIETTA], and my friend, the gentleman from Pennsylvania [Mr. WELDON]. This is an example of diligent research that has reached the wrong conclusion.

Let me say, Mr. Chairman, that I am one who has, in fact, voted against and worked against projects that bring money to my own State and to my own district. I will take a back seat to no one in standing in opposition to the expenditure of funds that I think are unnecessary.

I think I understand what happened in the offering of this amendment. There was a review of the military construction appropriation bills, and someone looked at this and quite plausibly drew the conclusion that here is a project that is not wanted by the Navy, that is going to be located in a base that is going to be closed under the 1991 BRACC decision.

Both of those two assumptions are wrong. No. 1, this project is wanted by the Navy. Believe me, the Philadelphia Naval Shipyard is no friend of the Navy brass. We have been involved in litigation all the way to the U.S. Supreme Court, in which I was a plaintiff and many of our colleagues here were plaintiffs, fighting tooth and nail the Navy's recommendation and decision to close the Philadelphia Naval Shipyard.

In 1991, when that recommendation was made, the Navy expressly and specifically excluded the propeller shop and all of the things that serve the propeller shop. They looked at the whole base. We think they made the wrong decision about the whole base, but we certainly agree they made the right decision about preserving this from the 1991 decision.

The Navy has drawn the conclusion, as we have heard the authorizer say, the appropriators say, the Navy has reached the decision that this infrastructure is essential to the maintenance of the fleet. The Navy wants the project.

No. 2 is the assumption that this is pouring Federal tax dollars into a base that is on the base closure list. It is true that the naval shipyard is on the base closure list. It is true that the naval base is on the base closure list. It is not true that the propeller shop is on the base closure list.

Mr. Chairman, what was diligent work to look at this I think, respectfully, became the wrong conclusion. This is not a project that has been rejected by the Navy, it is not a project that is on a closed base, it is an ongoing project that has been reported by the Navy. I think it is worthy of the recommendation that the Committee on Appropriations has made.

Mr. Chairman, I say this one more time. I know it is the practice of people to come to the floor and be against expenditure of funds in everyone's district except their own. That is a time-honored practice here. I have gone on record with my vote and my voice in my efforts to oppose some expenditure of dollars in and around my district. I would be happy to supplement the RECORD here with a list of times I have done that. I am not so foolish to actually say it on the floor, but I would be happy to supplement the RECORD with a list.

For those reasons, Mr. Chairman, I would urge all of my colleagues who are concerned, as we all are, about the size of the Federal Government not to make the wrong decision here and support this amendment. They should oppose the amendment being offered.

□ 1500

Mr. WELDON of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, one of the responsibilities that we in the Congress have is to take the recommendations of the administration and then act to authorize and appropriate various levels of dollars. That is our fundamental responsibility.

If the sponsor of this amendment thinks that we should not fund anything except what the administration asks for, then in fact this year he will be opposing $9.7 billion of items that this Congress added in to defense spending, both in the bill that we passed last year and in the MILCON bill that we are about to act on today.

What I find a little bit disingenuous here is that the gentleman who offered this amendment last week voted in favor of the B-2 bomber, which I happen to oppose, by the way, despite the support of my party. He voted in favor of a $533 million add-on that the administration did not request. If you are going to be consistent, be consistent across the board.

In addition, my good friend and colleague came into my office on May 23 at 4 in the afternoon bringing in some constituents from California, and asked me as the chairman of the Subcommittee on Military Research and Development to put in $34 million this year for the DAGGRS program, which would cost $25 million next year, $25 million in 1998 and $50 million in 1999. So here is a gentleman offering an amendment to eliminate $16 million that has been authorized and is about to be appropriated, when he himself came into my office and said,

> Well, Mr. Chairman, this hasn't been approved yet, and it's not been requested by the Pentagon, but could you see your way fit to put $34 million in this year's bill because it will really help me out back in my district.

Mr. Chairman, I have a problem with that. I have a problem with Members of Congress who want to have two standards. I have fought long and hard as chairman of the Subcommittee on Military Research and Development to take out items that were not justified by the military. That is not the case here.

Anyone who works with our Navy knows that the advantage of our Navy over the former Soviet fleet and Russian fleet is our quietness, the ability to go through the oceans of the world and operate in a quiet manner. That is almost totally due to our propellers. Our propellers are only made in one shop, owned by the Government, in the entire country. That one shop, with a foundry, is in Philadelphia. As a matter of fact, the Russians have stolen the technology for our propeller operations, sold it to the Chinese, and are now competing with us in terms of quietness.

What we have on the floor today is an amendment that takes $6 million away from improving that capability. This is not some pork project for some company. This is not some add-on. This is to improve a facility that today is costing American lives, in working to give our Navy the best technology available in terms of quite submarines and quiet ships.

Mr. Chairman, I have a real problem with this. I take a back seat to no one when it comes to budget cutting. I will invite our colleagues to my office to show them my "Golden Bulldogs" which I too take great pride in receiving from Citizens Against Government Waste and the other watchdog groups.

But we have to look beyond simplistic answers in trying to control spending. That is what this is. It is a simplistic notion that is not based on fact.

The Navy has stated on the record that this facility is vital for our national security interests. It is vital for our Navy and our submarines to be the quietest in the world. This $6 million item is to improve the safety of those workers who work at that shipyard facility. It has nothing to do with base closing.

The Philadelphia Navy Shipyard and the Philadelphia Naval Base, as my colleague said earlier, is in fact closing this September. But the Navy has never recommended closing the propeller shop because it is the only Government-owned and operated facility of its kind in the entire country.

Mr. Chairman, I would encourage our colleagues to stand up and do the right thing here and to vote against this amendment because it is wrongheaded. It is not in the best interests of our country, it is not in the best interests of our Navy.

And if we want to be consistent, perhaps I would ask the authors if they are going to stand up and oppose all $9.7 billion that this Congress last week put in, above and beyond what President Clinton's administration requested for defense spending. Because if you are going to be consistent, then that is exactly what you should do, and that is not in fact what the responsibility of this body and the other body is.

Our responsibility is to take the recommendations, the requests of the administration, to hold hearings and to finally act on those. In this case, we have projects that the administration says are warranted but just those that were not originally requested.

I would encourage my colleagues to vote "no" on this amendment and to vote "yes" for what is important, as determined by the distinguished chairwoman of this subcommittee and the ranking member of this subcommittee, who have both done such an admirable job with the minimal amount of defense dollars that we have available to spend in this fiscal year.

Mr. HEFNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, to me this is an amendment that just cannot be defended. It is my understanding that this is the only place that we make these propellers anywhere in the United States. What are we going to do if we do not have this facility? Where are we going to get them, from China or the Russians who stole our technology?

To me this just borders on being ridiculous. It is very easy to come in here and talk about, let us make some cuts here, Did it ever occur to you that it just might be possible that the Citizens Against Government Waste do not know what they are talking about when they target and say this is a good project to cut?

We are talking about quality of life. I have been on this committee for many, many years and we have fought for quality of life for our men and women in the services for all these years. The gymnasium that we are talking about, this is a qualify of life.

This helps us with retention. This helps us with morale for our men and women, and especially our sailors that go out and spend so much time on submarines and aircraft carriers. When they come in, they don't need to be having to go join up with a temporary membership in the Y or go to some public playground. These are things that are vital to the quality of life for our men and women in the service.

It seems to me that this is something that is totally out of place. On the one hand we are looking at closing a facility that Bragg did not say you are going to close. This is a facility that makes something that is vital to the defense of this country. On the other hand, you are talking about a facility that is vital for the morale and for the retention of the people in our Armed Forces.

Ladies and gentlemen, you folks that are not here to listen to this debate, I hope wherever you are that you will come and you will soundly, soundly defeat this amendment, because in my view this committee has done an admirable job, not only on this bill but over the years. We have had a committee that is so bipartisan doing the things that we think are best for this great country.

This is one committee, to my knowledge since I have been in the Congress, we have not appeared one time that I know of in the National Enquirer, any of the tabloids ọr any of the exposé programs on television. This is a committee that has worked in a bipartisan way to try to accommodate Members for the betterment of the men and women in the service and do the things that are best for the defense of this great country of ours. I would urge a strong, overwhelming, majority vote against this ludicrous amendment.

Mr. MINGE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think that the time has come when we should recognize really what is the issue that we will be voting on shortly. The issue is not whether a propeller shop should be maintained or improved. The issue is not whether we should have improved recreation facilities. The issue is whether the funds should be appropriated in the summer of 1995 to do that. What I would like to do is take the time available to me to outline why it is that the Pork Busters are submitting that this is not the time to appropriate these funds.

The Pork Busters Coalition recently adopted a 5-point military construction criteria. These are taken from the 1995 defense authorization bill, fiscal year 1995, which was passed in 1994.

Using this objective 5-point test, we found that there were several add-on projects, but these were two of the more curious. Neither of the projects were requested by the Department of Defense and both fail, as I have indicated, the 5-point statutory test. My colleague, the gentleman from California [Mr. ROYCE] and I are offering these amendments to eliminate funding for these projects.

I would like to first look at the foundry. We are simply proposing that $6 million be eliminated from the appropriations. We are not requesting that the Navy close the foundry. That is a mischaracterization of the amendment.

This foundry project is estimated by the appropriations and the authorizing committee to cost $6 million. The fact of the matter is, the design work is only 15 percent complete, and even that 15 percent work indicates that is a $6.8 million project. We face the prospect that there will be substantial overruns, and that this Congress will be asked time and again to authorize and appropriate yet more money. Let us wait until the design work is complete.

Going beyond that, the money is requested for an upgrade. The shipyard was approved for closing but the foundry, which is to survive, is the sole source of submarine propellers. We certainly recognize that.

But after the shipyard is to close, according to the Business Executives for National Security, this is to provide surge production capability. Spending $6 million before the Defense Department requests it to enhance surge capability, at a time when submarine production is hardly a growth industry, seems an expense of luxury that detracts from more pressing defense needs.

Going beyond that, the defenders of these projects have said they do not have the money to put into the projects unless they are approved this year. The fact of the matter is the Defense Department's future years defense program does not include these projects. According to the Business Executives for National Security, again, or BENS, these future years defense programs do not include this project at all.

What we ought to do is to wait until the Defense Department has its act together and has made the formal request to the committee.

I would like to turn briefly to the facility in Bremerton, WA. Neither the gentleman from California [Mr. ROYCE] nor I are saying that the men and women that use that base should not have more recreation facilities. We are not here to pass judgment on that. We are not here to lower the morale of the men and women in our Armed Forces.

What we are simply saying is we have to make tough choices. If we have a year-by-year budget, and if the Defense Department and the administration are coming in with priority projects, let us honor those priorities. Let us work in that fashion.

This is perhaps an appropriate upgrade to the facilities for 1996 appropriations consideration. But as we add these in year by year in the authorizing and the appropriating committees, what do we find? We find that these projects are going predominantly to the districts of the Members on the committees. In fact, in terms of location by home districts, the Members gave themselves 52 percent of the projects and 53 percent of the cash that were needed for the unrequested construction efforts.

This, I think, is a telling reason why we should schedule these projects at a time when the Defense Department itself has requested that the projects be given priority.

In closing, I would urge that my colleagues join with the gentleman from California [Mr. ROYCE] and myself and the pork busters in saying no to these projects in fiscal year 1996 appropriations.

Mr. DICKS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to this amendment.

I am from Bremerton, WA. I was born about 250 yards from the current facility in the Puget Sound Naval Base Hospital. There are no recreational facilities within 1 hour's walk of the shipyard. We have 8,000 sailors in Bremerton, with the *Nimitz* coming back in a few months with another 3,500.

It is so easy to get up here and to take on a project like this. I called the base commander and I asked him, I said, "Admiral Designate Yount, is this project required?" He said, "It is absolutely required." He said, "I don't have the facilities for these young men and women. We now have women on every one of these ships that is in Bremerton, seven ships, so we have to have new facilities for the women as well."

☐ 1515

"And the pool here was built in 1922." I mean, it is absolute disaster. And this is one of those things where we have just got to try to do the right thing. We have got to, I think, support our committees. We have had people here from both the authorization and appropriations committee who looked at it.

I called the Naval Audit Service who had just been out there 2 weeks ago and I asked them, "You guys look at these things independently, right?" And they said, "Yes, for Secretary Perry, we look at them independently." And I said, "Is this physical training facility needed?" And they said, "Congressman, it was an embarrassment to look at this facility. It is needed." And I said, "Well, that is good enough for me."

I have seen it. It is in my community. There are no facilities that have been mentioned that have any space available for additional people. I just hope we can support our committee leadership. This is why we have a committee system here. Both the authorizing and appropriations committee support it. Let us vote down this amendment.

Mr. Chairman, I rise this morning to strongly object to this amendment which would eliminate funding for a critical fitness facility center at the Puget Sound Naval Shipyard.

This is unfortunately a cynical attempt by some of my colleagues to kill what is a legitimate program in an effort to gain some cheap, short-lived notoriety for being alleged budget cutters. This is outright demagoguery and I believe it is time to set the record straight on this matter. Let me begin by clearing up a couple of assertions being thrown around by the authors of this amendment.

First of all, the gentlemen offering this amendment have stated that the Navy has not identified this as a priority. Not true. The fitness facility is in fact budgeted and is included in the Navy's 5-year defense plan. Moreover, a recent study done by the Naval Audit Service which assesses the legitimacy of Navy MILCON projects has determined that this project is needed and that current facilities are woefully inadequate.

Another internal Navy document says that if the fitness facility is not constructed "* * * personnel will continue to be forced to use the extremely overcrowded facilities. Access to recreational activities will be greatly restricted producing a negative impact on the morale and physical conditioning of Navy personnel."

The chairwoman of the MILCON subcommittee has advised that additional money spent on MILCON beyond what was requested by the President be used for projects that both improve the qualify of life for Armed Forces personnel and that are supported and required by the Services. This project meets those two criteria.

So let me set the record straight in this regard by saying that the assertion that the Navy does not consider this project a priority, does not have it in their budget plan, or does not want it, is all patently false.

The second assertion made by the authors of this amendment is that this facility is not really needed because the sailors can go to one of four private fitness facilities in the surrounding area.

Here are the facts. There is not one fitness facility that is less than a 1 hour walk from the base. And of the fitness facilities in the area, only one—the Kitsap County Golf and Country Club—has no waiting list for those who wish to join. This may be fine for the officers stationed at the shipyard, but 85 percent of the young men and women stationed there are of enlisted rank. I would suggest to my colleagues that we cannot have it both ways. We cannot pay our enlisted men and women the paltry salaries that we do and at the same time expect them to finance a membership at the local country club.

Mr. Chairman, Puget Sound Naval Shipyard was designed and constructed to be just that, a shipyard. What exists today however, is more on the order of a homeport, with seven ships berthed in what had initially been a busy overhaul and repair yard up until 1987. Before then, the number of military personnel residing at the shipyard numbered less than 1,000. Since the assignment of the *Nimitz* carrier in 1987, the number of military personnel in the shipyard has risen to between 7,000–8,000. This number will continue to rise as the Puget Sound area accepts more and more personnel as a result of BRAC realignment.

Because of the intended mission of PSNS, there is simply not the kind of infrastructure on the base to accommodate anywhere near the number of personnel that exist there now. As such Mr. Chairman, I have done my best over the past couple of years to see to it that the sailors stationed there have access to adequate housing, medical, day care, and other quality of life facilities that Secretary Perry has deemed so critical to the readiness of our Armed Forces.

Access to fitness facilities is clearly something the Defense Department considers to be a high priority in order to ensure a desirable quality of life for our young men and women serving in the Armed Forces. Moreover, in addition to quality of life considerations, fitness is now a mission requirement for all navy personnel with each sailor required to pass a physical fitness test twice annually.

The current facility—built in 1942—does not even begin to meet the needs of the sailors in the shipyard. It is dilapidated and woefully inadequate in size to accommodate the 8,000 personnel stationed at PSNS. In fact, over 50 sailors are turned away from the facility each day because of space considerations.

In my judgment, this is no way to treat our young men and women serving their country. As we continue to ask those serving in the Armed Forces to do more with less, we must provide them with access to facilities that provide the best possible quality of life. That is what the military constructions subcommittee has attempted to do and I commend the gentlewoman for her efforts. Don't listen to those who—for purely political purposes—would turn their backs on the quality of life of our soldiers and their families.

Vote with the MILCON mark and vote against the Minge-Royce amendment.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The question is on the amendment offered by the gentleman from California [Mr. ROYCE].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. ROYCE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 158, noes 270, not voting 6, as follows:

[Roll No. 394]

AYES—158

Allard
Archer
Armey
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Barton
Bass
Boehner
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Camp
Chabot
Chapman
Christensen
Chrysler
Coburn
Collins (GA)
Condit
Cooley
Cox
Crane
Cremeans
Danner
Davis
Deal
Deutsch
Doggett
Dooley
Doolittle
Dornan
Dreier
Duncan
Ehlers
Ewing
Fawell
Fields (TX)
Foley
Frank (MA)
Gallegly
Ganske
Gillmor
Goodlatte
Green
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hancock
Hastert
Hayworth
Herger
Hinchey
Hobson
Hoekstra
Hoke
Horn
Inglis
Istook
Jacobs
Johnson (SD)
Kasich
Kildee
Kim
Kingston
Kleczka
Klug
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Levin
Lewis (GA)
Lincoln
Linder
Lipinski
LoBiondo
Luther
Manzullo
Martini
McCarthy
McDermott
McInnis
Menendez
Meyers
Miller (FL)
Minge
Morella
Myrick
Neal
Neumann
Ney
Norwood
Nussle
Parker
Paxon
Peterson (MN)
Petri
Pombo
Portman
Poshard
Pryce
Quinn
Radanovich
Ramstad
Regula
Reynolds
Rivers
Roberts
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Schaefer
Schiff
Schroeder
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Smith (MI)
Smith (WA)
Souder
Stearns
Stockman
Stump
Talent
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Torricelli
Upton
Wamp
Watt (NC)
Weller
Williams
Woolsey
Wyden
Zeliff
Zimmer

NOES—270

Abercrombie
Ackerman
Andrews
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Bartlett
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Bonilla
Bonior
Bono
Borski
Boucher
Brown (CA)
Brown (FL)
Burton
Buyer
Callahan
Calvert
Canady
Cardin
Castle
Chambliss
Chenoweth
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coleman
Collins (IL)
Collins (MI)
Combest
Conyers
Costello
Coyne
Cramer
Crapo
Cubin
Cunningham
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doyle
Dunn
Durbin
Edwards
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gonzalez
Goodling
Gordon
Goss
Graham
Greenwood
Hall (OH)
Hamilton
Hansen
Harman
Hastings (FL)
Hastings (WA)
Hayes
Hefley
Hefner
Heineman
Hilleary
Hilliard
Holden
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Jackson-Lee
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
King
Klink
Knollenberg
LaFalce
Lantos
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Livingston
Lofgren
Longley
Lowey
Lucas
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McKeon
McKinney
McNulty
Meehan
Meek
Metcalf
Mfume
Mica
Miller (CA)
Mineta
Mink
Molinari
Montgomery
Moorhead
Murtha
Myers
Nadler
Nethercutt
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Porter
Quillen
Rahall
Rangel
Reed
Richardson
Riggs
Roemer
Rogers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Scarborough
Scott
Serrano
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Solomon
Spence
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tate
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Torkildsen
Torres
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Ward
Waters
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—6

Jefferson
McIntosh
Moakley
Mollohan
Moran
Rose

☐ 1536

The Clerk announced the following pair:

On this vote:

Mr. McIntosh for, with Mr. Moakley against.

Mrs. JOHNSON of Connecticut, and Messrs. OWENS, BUYERS, RUSH, BECERRA, COSTELLO, and MEEHAN changed their vote from "aye" to "no."

Messrs. FOLEY, INGLIS of South Carolina, ZIMMER, ZELIFF, LEVIN, DOOLITTLE, and HERGER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. HORN

Mr. HORN. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore (Mr. HASTINGS of Washington). The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mr. HORN: Page 3, line 3, strike "$588,243,000" and insert "$489,093,000".

Mrs. VUCANOVICH. Mr. Chairman, I ask unanimous consent that debate on this amendment and all amendments thereto close in 20 minutes, and that the time be equally divided between the proponents and opponents of the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Nevada?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from California [Mr. HORN] will be recognized for 10 minutes, and the gentleman from California [Mr. HUNTER] will be recognized for 10 minutes.

The Chair recognizes the gentleman from California [Mr. HORN].

Mr. HORN. Mr. Chairman, I yield myself such time as I may consume.

There has been a lot of discussion about the need for better quality housing for those in the armed services, Mr. Chairman. We heard that Friday. We have heard that today. And those who have argued that are absolutely right.

This amendment involves cutting $99 million $150 thousand out of military construction. It is the spending proposed by the Navy to berth three nuclear aircraft carriers at North Island. Ultimately, that is going to cost the taxpayers of the United States $1 billion.

Most of that money would be better sent on military housing. This spending duplicates facilities that already exist either at Alameda or Long Beach in California or Puget Sound in Washington.

The Navy has requested the $99 million $150 thousand for the first phase of this project in fiscal year 1996. The Navy has submitted several substantially different estimates for the total costs of this project. They submitted and had such confusion over the amount that even the Military Construction Appropriations Subcommittee questioned it. That is why on page 16 of the committee report, the members of the subcommittee noted that they have referred the matter to GAO and hope to resolve it in conference.

I say when the Navy has misled Members of this Chamber, misled its committees, misled GAO, that we should send them a signal that that type of behavior will not be tolerated by the House of Representatives.

The estimate that the Navy submitted to the House Military Construction Subcommittee is $267.8 million. They submitted a much higher estimate once the General Accounting Office, the major audit agent of Congress, got into it, $546.1 million, and they have probably submitted a new estimate in their draft environmental impact statement which, unfortunately, I have not been able to get yet, but it has been filed.

□ 1545

One may question the ethics of submitting one set of cost estimates to the Military Construction Appropriation Subcommittee, another substantially different set of estimates to the Government Accounting Office. A difference of $278.3 million is significant and raises the question of whether the Navy has used a valid data base or simply obtained their estimate out of thin air. Two admirals have told me privately that the total cost of homeporting two nuclear air carriers at North Island will ultimately be well in excess of $1 billion. If an environmental suit is filed, and I believe one will be filed—and I want to include after my remarks, Mr. Chairman, a letter from a number of the environmentalists in San Diego, if that is appropriate—then this project will go nowhere for a year, or perhaps more than a year, and, as I say, we should not appropriate the money now.

We should not reward the misleading of the House of Representatives and its Members. The members of the Military Construction Appropriations Subcommittee, as I noted, found sufficient reason to question these estimates in their report, and that is why the subcommittee asked the General Accounting Office to conduct a further investigation. I believe that while that investigation is in order, the appropriate action is to strike the funds. That will get the Navy's attention, perhaps it will get the whole Pentagon's attention, because, as I talked to Members, I find similar behavior has come from some of the other services. Bad behavior should not be rewarded. If the Navy ever submits realistic and honest numbers, the House could always reinstate the funding.

So vote for the Horn-Minge-Royce amendment and send a message that this Congress cannot be lied to.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

My colleagues, this is a fight between two communities on the surface, San Diego and Long Beach, but it is really a lot more than that for everybody here who has some interest in the integrity of the Base Closing Commission and that operation because we have been through this fight before. The gentleman from California [Mr. HORN] has his numbers, San Diego has their numbers, Alameda has their numbers, the Navy has their own analysis, but in the end the Base Closing Commission in which we vested a great deal of trust closed the Naval Station at Long Beach, and I have the report here, the report that over the 20-year period they are going to save about $2 billion. The Naval Yard at Long Beach, which is pending closure according to the recommendation for closure, will save the taxpayers an additional $2 billion. So we are talking about $4 billion in savings for the taxpayers.

Now the Navy made this decision to close Long Beach, and I am sorry, I feel for the gentleman, I think everybody that was involved in this situation in this program took some shots. We all took some body blows. We lost a naval training center to Illinois. We fought hard for it, Orlando fought hard for it, but with respect to the carriers, that Commission set down in a hard-nosed way and did evaluation of a number of areas. They did evaluation with respect to mission, and mission capability of the service was the most important thing. They said that having the aircraft replacement and repair yard right next to the carriers in San Diego was important because we have about 110 planes a year that have to be lifted by crane literally, damaged planes, off the carriers and repaired at the facility right there in North Island. They said the idea that we had the hospital at San Diego was good for families; that was important to them. They said that having the carrier training range right off San Diego, where cargo ships cannot go and impede naval operations, was important to have that colocation.

So, for all those reasons BRACC made a decision to close Long Beach.

I say to my colleagues, "Don't involve yourself in an amendment that opens up the BRACC process. That is bad news for this House. Let's keep that naval station at Long Beach closed, let's keep the naval hospital closed, and let's keep this thing on track."

Mr. Chairman, I yield 1 minute to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. Mr. Chairman, I rise in opposition to the amendment. I have asked the Secretary of the Navy to reaffirm the decision to homeport the nuclear carriers at North Island and would like to share his response. He states many other things in this letter, but the most important thing he says:

> The total estimated construction and dredging costs to enable NAS North Island to homeport up to three NIMITZ class carriers is $268 million. This plan is completely on track to support the arrival of the first NIMITZ class carrier in August 1998. To stay on track, the approval of the Berthing Wharf

and Controlled Industrial Facility projects in the FY 1996 budget is essential.

So, Mr. Chairman, I urge the defeat of this amendment.

Mr. HORN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I listened with great interest to my good colleague from San Diego. The gentleman has made a very interesting presentation. The only thing is it has nothing to do with this issue. This is not a BRACC [Base Realignment and Closure Commission] issue. The Navy says it is not a BRACC issue. Who did they say it to? They said it to the Base Realignment and Closure Commission.

What this is is a spending issue, pure and simple. What this is is the honesty of the numbers. That is why the subcommittee has asked the Government Accounting Office to go after that. I asked them several months ago to go after it. What happened? They were stonewalled. I was stonewalled, the Comptroller General of the United States was stonewalled. They should have subpoenaed the report. They did not. They have to live with these people because, if they get too tough on them, they will not get the information the next time they are around, and it is nothing to do with BRACC. It has simply honesty of numbers, and I ask, "What do you tell the House of Representatives and its subcommittees as well as its Members?"

Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to take a little time for myself, as much time as I may consume, and ask the gentleman to respond briefly. I ask, If this isn't a BRACC issue, and you've already closed the naval station at Long Beach, and the shipyard closure is pending, what are you going to do with these carriers if you send them back up to Long Beach?

Mr. HORN. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from California.

Mr. HORN. No. 1, all of the facilities that were at the naval station in essence are mothballed. They have not been disposed of yet. There is a wharf there, there is an officers club, there is housing, there is a fire department, and the industrial facilities. Now——

Mr. HUNTER. Reclaiming my time—reclaiming my time, and I would just conclude, the gentleman obviously is saying, You're going to have to build a naval base. You can't have 15,000 people; that's three carriers' worth, and their dependents, and not have a naval base.

So the gentleman is either going to have to reopen the Long Beach Naval Station—I say to the gentleman, You can't homeport these at the Dairy Queen; you're going to have to reopen the Long Beach Naval Station, or you're going to have to keep the shipyard open, and that's what your group, Save our Shipyards, is trying to do, and I commend them for it. It is very creative, but it is going to blow away the integrity of the BRACC process.

Mr. Chairman, I yield 1 minute to my friend, the gentleman from New Jersey [Mr. SAXTON].

Mr. SAXTON. Mr. Chairman, I would not normally involve myself in a dispute between two good friends, but in this case this is really all of our business.

I have here the base realignment closure report from 1991, and it says quite clearly, "Recommendation: Close Naval Station Long Beach and transfer the ships—reassign ships to other specific fleet home ports," but what the gentleman from California [Mr. HORN] is trying to do here is defund the other homeport so there is no place for the ships to go so they stay in his homeport. That is pretty neat if it can be done, but I think it is the wrong thing to do.

Second, a four star general said to me recently, "Do us one favor. Don't make any changes in what BRACC has already done. People who wear the uniform deserve the right to have some stability in the force," and this would create, I believe, instability.

Third, let me make a point that, if we move this concept to the East Coast where I live, Philadelphia Shipyard has been closed, other east port shipyards are open. I ask, Why don't ROB ANDREWS, CURT WELDON, and TOM FOGLIETTA and JIM SAXTON just get together and introduce a bill to defund them? That is not a logical way for us to proceed. So I oppose the amendment, and I ask others to join me.

Mr. HORN. Mr. Chairman, I yield myself such time as I need to make a point here.

No. 1, no one is talking about reopening the Long Beach Naval Station. I said housing is there; in fact 27,000 houses exist in noncrime areas to house the people. San Diego is a couple of years behind in housing. But that is not the point. Those carriers could, A, stay at Alameda; B, go to Puget Sound; they could go to Long Beach; they could go to Pearl Harbor; they could go anywhere they want. What is at stake here is the amount of money to suddenly rebuild the facilities that are at Alameda, build the facilities that are at Puget Sound, build the facilities that were closed at Long Beach. That is what is at stake, and it is the honesty of the numbers that are at stake.

Mr. HUNTER. Mr. Chairman, I yield 30 seconds to my friend, the gentleman from Virginia [Mr. BATEMAN].

Mr. BATEMAN. Mr. Chairman, Members, I would hope that we would resist this amendment. All carriers have to have some place to go. I say, If you are going to close, as the BRACC commission has recommended, Long Beach Naval Shipyard, then close Long Beach Naval Station. To defund the places to which those carriers have to be set on the Pacific Coast would, I think, represent bad policy, especially if its aim or underpinning of it is to undo legislatively the BRACC process.

Mr. HUNTER. Mr. Chairman, I yield 1 minute to my colleague, the gentleman from San Diego, CA [Mr. BILBRAY].

Mr. BILBRAY. Mr. Chairman, this facility is in my district. It also happens to be the Navy base where I was born. But let me just say that my colleague talks about this whole process. It is the whole process of the BRACC that says the most cost-effective way of defending our Nation was to take a certain strategy. It did not fit in with Long Beach. I understand that, but I do have to call attention to my colleague from California that the co-called environmentalists that he referred to happened to be the same people who were litigating right now to stop us from treating sewage from a foreign country that is polluting this area, too.

So I say to my colleagues, "Please don't refer to these people as environmentalists. They think of themselves as that. This whole issue is one of those ugly little games that gets played, and I hope we don't allow certain pressure groups to get involved in that. I'm asking you to take a look at the fact that BRACC process came down, my district was hurt by the loss of the naval training facility, but it also, in that work, was saying that the consolidation of these facilities in one area will save the United States' people money, and I think that is a critical part about this when we talk about the dredging, the improvements and everything else that has gone on in San Diego. It will continue to do it regardless of this."

Mr. HORN. Mr. Chairman, I yield myself such time as I may consume.

Let me just say in answer to my friend from San Diego that what we are talking about here is the fact that the station is not being reopened, the facilities are available on the west coast, and the billion dollar boondoggle that we will ultimately have in San Diego means not only that 70 percent of the Pacific surface fleet is there, but most of the carriers will be there, and what a wonderful target for terrorists, for other nations, whatever, and it just seems to me that the Navy ought to be rethinking its basic strategy anyhow. In addition, when we think of the earthquake fault and all the rest that they are going to have to build this on, I do not think the project will ever be done. But if Congress wants to spend that money on something other than military housing, I cannot prevent a majority from doing it.

I would just say we would more wisely spend the money on military housing throughout the world and throughout this country so that our sailors, our air personnel and our military would have decent housing while they serve their Nation.

Mr. Chairman, I reserve the balance of my time.

□ 1600

Mr. HUNTER. Mr. Chairman, I yield 2 minutes 45 seconds to the gentleman from California [Mr. CUNNINGHAM], the top gun.

Mr. CUNNINGHAM. Mr. Chairman, first of all, I have operated out of all of these bases, and I resent, and I say I resent the gentleman from California establishing and saying that the Navy is pulling these figures out of the air. Evidently the GAO is wrong, the Navy is wrong, the Taxpayers Union is wrong, the committee is wrong, the Secretary of Defense is wrong, and even the President that asked for these dollars is wrong. He sets himself up. Someone that has spent their life staying out of the military, now sets himself up as the sole executor of what is right for the Navy.

Well, it is flat wrong. You talk about billions of dollars. We save $2 billion by closing Long Beach. You say it has nothing to do with that. Only a fool would believe that, to the gentleman of California. We saved not only billions of dollars there, when you send a sailor out to sea, which we have done since World War II, out of San Diego, we have three carriers ported there right now. You talk about environmentalists? Give me a break. We have carriers established there. We will in the future.

We need to take a look at what it takes to reduplicate. We have one of the most modern hospitals, base housing, 100 training facilities, all of the fire-fighting facilities. Why do you think they call it a megaport? That is Oceania should never have closed down, because it is the megaport on the east coast. Only a fool would want to change and deal with that. That is why every single committee, this committee and all the way down from the Secretary of the Navy and the President say this is a foolhardy amendment.

I take a look at what we have gone through in the past with looking at base closures. Every base closure has said, and this is the final one that says, "Long Beach needs to close." Why? Because their cost for repairing a ship is three times what it is at any other facility. It is gone. It is history. And yet I applaud the gentleman for trying to save it. He says this has nothing to do with that. It is absolutely wrong, and it is not the fact.

Let me quote from the 1993 base closure commission report. Substantial military construction is occurring at Everett, North Island to replace a portion of nuclear carrier berthing capacity that exists in Alameda. These MILCON projects are being accomplished separate from the base closure process ultimately result in the Navy's ability to home port aircraft carriers at a reduced cost.

Now, the gentleman wants to increase and incur $2 billion from the closure of Long Beach. He also wants another $4 or $5 billion to duplicate all of these training facilities, hospitals and everything else. When he says he wants to save, that is a liberal's way of saying "I want to spend more money."

Mr. HORN. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, the gentleman again tries to make an issue out of the BRACC process. The issue is exactly what the Subcommittee on Military Construction Appropriations found. The numbers are soft. They cannot get a straight answer. So instead of taking the money out, they said "Well, we have referred it to GAO, let us work it out in conference."

I am saying based on my experience, when Members of this House are stonewalled by the Navy, not given the accurate numbers, they sit on them until they finally feel they have to give some number, and that is exactly what has happened. I am saying the way you deal with that is not go advocating parochial pork in your district. You deal with it by saying "look, this project is going nowhere right now, once the lawsuits get done on the environment alone." Why not take the money out, get their attention, and let us get them serious, to submit the numbers to the Subcommittee on Military Construction Appropriations that could be put in a supplemental, that could be put any number of places.

But the fact is what the gentleman says about the Long Beach Naval Shipyard is just dead wrong. All you have to do is look at which shipyard gave money back to the Treasury of the United States and the Navy over the last several years. The only one was the Long Beach Naval Shipyard.

Now, I do find it ironic, and I think the taxpayers will find it ironic, that suddenly it appears on the list of the Navy, when it has never been there before, ranked a strong third as a shipyard, with only Puget Sound and Norfolk ahead of it.

But that is not the issue. The issue is lousy numbers, misleading the Congress, misleading GAO. I think the only way you teach better behavior of spoiled little children is to take something away from them for a while.

Mr. Chairman, I reserve the balance of my time.

Mr. HUNTER. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, the gentleman has been refighting BRACC. For mission effectiveness, for the men and women in uniform, for the taxpayers saving $4 billion under the base that has already been closed at Long Beach and the base to be closed at Long Beach, and for the integrity of the base closing process, vote against this amendment.

Mr. HORN. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, again, this has nothing to do with BRACC. We have heard a lot of figures. All that happened before I was a Member of the House 2 years ago. That is the closing of the Long Beach naval station. No one can retrieve that. What we can do is make economies where we see them, and if we can get above the parochialism of all of our districts, we will say when have you three aircraft carriers that need to be berthed somewhere, look at Puget Sound, keep them at Alameda, put them in San Diego, put them in Long Beach. But when you do that, give the Congress some honest figures of what it is going to cost. And if you are closing a naval shipyard at Long Beach with one hand, and secretly opening enough of comparable facilities in San Diego with another, I would say the Navy is not coming before this body with clean hands.

I would ask the Congress to strike this money, just as the Subcommittee on Military Construction Appropriations has already noted, they got lousy numbers out of the Navy, and they want to know what the story is. The difference is, they would like to know by conference;

I am saying let us get it out on the floor.

I include for the RECORD the following information:

June 19, 1995.

Chairman ALAN J. DIXON,
Defense Base Realignment and Closure Commission, Arlington, VA.

DEAR CHAIRMAN DIXON: We read in the June 15, 1995 San Diego Union Tribune that issues related to the Draft Environmental Impact Statement (DEIS) regarding the CVN Homeporting in San Diego had been discussed by BRAC members. We are in the process of commenting on the DEIS and wanted to share with you some of our concerns regarding this document.

These concerns are shared by the undersigned organizations. It is our analysis that the DEIS is significantly deficient in a number of areas which are listed below and in the attachment. If the issues raised below are not fully resolved and corrected in the final DEIS, it is our belief that the DEIS will be in direct violation of NEPA.

The deficiencies in the DEIS are numerous and significant. For the sake of brevity, we have listed the major problematic areas below with more specific problems attached. Our complete comment letter will be available on June 26, 1995, the date of closure of public comment. We will be happy to send you the complete list of deficiencies and problems in more detail at that time.

Our concerns are as follows:

1. Inadequate analysis of alternatives

The DEIS lacks an adequate examination of alternatives and there are several that are possible. The Code of Federal Regulations states that agencies shall: "(a) Rigorously explore and objectively evaluate all reasonable alternatives and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.

(b) Devote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.

(c) Include reasonable alternatives not within the jurisdiction of the lead agency.

There are a number of alternatives that are viable for the homeporting project. None of these were evaluated or even mentioned in the DEIS. This is a significant failing of this document.

A decisionmaker must explore alternatives sufficiently to "sharply define the issues and provide a clear basis for choice among options by the decisionmaker and the public." 40 C.F.R. §1502.14. Because of the absence of a satisfactory evaluation of alternatives, the Navy has failed in its duty to foster informed decision-making and public participation in the NEPA process. This DEIS ignores reasonable, viable alternatives and therefore is inadequate.

2. The DEIS does not examine the full impacts of the entire project

The DEIS does not examine the impacts of 3 CVNs even though it stated, in a number of Navy documents and memos in our possession, that 3 CVNs will be homeported here. In addition, the number of and impacts from additional transient CVNs is not adequately discussed in the DEIS. The DEIS is inadequate in that all aspects of the proposed project are not analyzed. For example, the DEIS does not discuss the extent to which support ships for the homeported CVN's will also be homeported in San Diego. NEPA requires that, [p]roposals or parts of proposals which are related to each other closely enough to be, in effect, a single course of action shall be evaluated in a single impact statement." 40 C.F.R. §1502.4(a). Thus, the EIS must analyze *all* impacts of the homeporting of three CVNs in San Diego, not just those associated with the first CVN.

3. DEIS lacks mitigation for environmental impacts of dredging

The DEIS cites the intent to dredge 9 million cubic yards of bay bottom. No mitigations are offered for the impacts of the dredging, attendant impacts on fish and wildlife and impacts on those who consume the fish. Council on Environmental Quality regulations require every EIS to include a discussion of means to mitigate adverse environmental impacts. 40 C.F.R. §1502.16(h). In fact, the adequacy of an EIS rests upon the completeness of the mitigation plan. ONRC v. Marsh, 832 F.2d 1489, 1493 (9th Cir. 1987).

Because the EIS lacks a detailed description of mitigation measures for the impacts of dredging and an analysis of their effectiveness, the Navy fails to meet its criteria obligation of fostering informed decision-making and informed public participation. State of California v. Block, 690 F.2d 753, 767 (9th Cir. 1982).

Thank you for your interest in the environmental process as it relates to the CVN Homeporting project.

Sincerely,

Laura Hunter,
San Diego Military Toxics Campaign;
Z. Kripke,
Physicians for Social Responsibility;
Roy Latas,
Chairperson, San Diego County Chapter Surfrider Foundation;
Carol Jahnkow,
San Diego Peace Resource Center;
Lorraine Demi,
Committee Opposed to Militarism and the Draft;
José Bravo,
Southwest Network for Economic and Environmental Justice.

ATTACHMENT #1 TO JUNE 16, 1995 LETTER TO CHAIRMAN DIXON OF THE BASE REALIGNMENT AND CLOSURE COMMISSION

Additional issues and concerns that will be raised in the June 26, 1995 from the San Diego Military Toxics Campaign letter on the DEIS include:

DEIS does not address the cumulative effects of homeporting the 3 CVNs to the effects of the already homeported nuclear-powered submarines at Ballast Point.

DEIS does not adequately assess the transportation routes, holding areas, and ultimate disposal of hazardous and radiological waste. Designations of ultimate disposal sites are not made nor are arrangements made for permanent storage on site.

DEIS grossly underestimates the effects of the presence of an active fault line in the construction area.

DEIS proposes an inadequately designed confined disposal facility for containing toxic material in a marine environment.

DEIS does not include Health Risk Assessments to assess the increases in cancer risk and acute and chronic health hazard indices from homeporting of any CVNs.

The emergency plan for a major reactor accident discussed in the EIS is completely unworkable, requiring barging of the carrier only at a certain high tides.

The current project description appears to allow sediment that failed toxicity screening tests to be placed on the beaches. There is a lack of adequate metals chemistry testing done on turning basin material intended for beach disposal.

DEIS does not accurately reflect and underestimates environmental justice issues.

The EIS lacks information on and mitigation for the introduction of the major amount of radiological work that will be conducted as part of the servicing of the nuclear carriers.

While citing alleged safety of nuclear-powered vessels, provides neither adequate data regarding performance records of naval nuclear reactors so that an independent evaluation may be made, nor sufficient information regarding the nature of the reactors and the types of radioactive nuclieds that might be released in the event of an accident.

Project description fails to include channel widening requests from the San Diego Harbor Safety Committee even though the recommendations were made to improve safety with existing traffic in the Bay. The homeporting of 3 CVNs would increase risk and traffic in San Diego Bay.

Mr. ROHRABACHER. Mr. Chairman, I rise to support the Horn amendment to cut $99 million in wasteful, duplicative spending for Navy facilities in San Diego that already exist in Long Beach, CA. This amendment is much more important than just saving $99 million. The $99 million is just the first year downpayment of what is going to be close to $1 billion in spending before the Navy is through.

This is the key vote on saving taxpayers money. If this money is appropriated there will be hundreds of millions to follow; none of which is needed.

In addition to saving money the Horn amendment also saves the environment. At the appropriate time during debate in the House I will ask permission to insert in the Record at this point a letter signed by the Surfrider Foundation of San Diego County and five other organizations that raises critical questions about the environment effects of this proposed $1 billion in construction.

At the very least I urge my colleagues to vote to delete these funds from this year's bill to allow full consideration of the impact on the environment of these massive construction projects. Vote "yes" on the Horn amendment.

The CHAIRMAN pro tempore (Mr. Hastings). The question is on the amendment offered by the gentleman from California [Mr. Horn].

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. HORN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 137, noes 294, not voting 3, as follows:

[Roll No. 395]

AYES—137

Allard
Andrews
Baesler
Barcia
Barrett (WI)
Becerra
Bereuter
Berman
Brown (OH)
Bryant (TX)
Camp
Chapman
Clay
Clayton
Clinger
Collins (IL)
Collins (MI)
Costello
Coyne
Danner
Davis
Dellums
Dixon
Dooley
Dornan
Duncan
Durbin
Ehlers
Engel
Eshoo
Farr
Fawell
Fazio
Fields (LA)
Foley
Ford
Frank (MA)
Franks (NJ)
Furse
Ganske
Gonzalez
Gordon
Green
Gutierrez
Gutknecht
Harman
Hastings (FL)
Hayworth
Hinchey
Hoekstra
Horn
Houghton
Jackson-Lee
Jacobs
Johnson (SD)
Johnston
Kennedy (MA)
Kennelly
Kildee
Kim
Kingston
Kleczka
Klug
LaHood
Lantos
Lazio
Leach
Lewis (GA)
Luther
Maloney
Manzullo
Markey
Martinez
Martini
McCarthy
McCollum
McDermott
McKinney
Meehan
Meek
Menendez
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Moorhead
Moran
Morella
Nadler
Neal
Nussle
Oberstar
Obey
Orton
Owens
Pastor
Payne (NJ)
Pelosi
Petri
Rahall
Rangel
Reynolds
Rivers
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roybal-Allard
Royce
Rush
Sanders
Schroeder
Schumer
Sensenbrenner
Serrano
Shays
Smith (MI)
Souder
Stark
Stokes
Studds
Tanner
Torres
Torricelli
Towns
Tucker
Upton
Vento
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Yates

NOES—294

Abercrombie
Ackerman
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman

Beilenson
Bentsen
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Conyers
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Fattah
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Forbes
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoke
Holden
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
King
Klink
Knollenberg
Kolbe
LaFalce
Largent
Latham
LaTourette
Laughlin
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Manton
Mascara
Matsui
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mfume
Mica
Molinari
Mollohan
Montgomery
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Olver
Ortiz
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Richardson
Riggs
Roberts
Rogers
Rose
Roukema
Sabo
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Shadegg
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Velazquez
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Wynn
Young (FL)
Zeliff
Zimmer

NOT VOTING—3

Jefferson
Moakley
Young (AK)

□ 1628

Messrs. FOGLIETTA, HILLIARD, and CHRISTENSEN changed their vote from "aye" to "no."

Ms. ESHOO and Mr. MOORHEAD changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1630

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $578,841,000, to remain available until September 30, 2000: *Provided*, That of this amount, not to exceed $49,021,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committee on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, DEFENSE-WIDE

(INCLUDING TRANSFER OF FUNDS)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $728,332,000, to remain available until September 30, 2000: *Provided*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction or family housing as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further*, That of the amount appropriated, not to exceed $68,837,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $72,537,000, to remain available until September 30, 2000.

AMENDMENT OFFERED BY MR. GUTIERREZ

Mr. GUTIERREZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Gutierrez: On page 5, line 4, strike "$72,537,000", and insert "$69,914,000".

Mrs. VUCANOVICH. Mr. Chairman, I ask unanimous consent that debate on this amendment and all amendments thereto close in 20 minutes or less, and that the time be equally divided between the proponents and opponents of the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Nevada?

There was no objection.

The CHAIRMAN. The gentleman from Illinois [Mr. GUTIERREZ] will be recognized for 10 minutes, and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Chairman, I am happy to offer an amendment today that helps the American taxpayer get some relief.

My amendment is simple.

It saves the American taxpayer $2.6 million by eliminating funding for construction of a new outdoor firing range for the National Guard in Tennessee.

Why is this project a perfect example of congressional pork?

Because an indoor firing range already exists at the very same site.

And because the Army National Guard did not request the funding.

And because the Department of Defense did not even request the funding.

In fact, no one in the Defense Department has argued that this project is essential for reasons of national security. They did not put it in their request.

This unneeded project is a congressional add-on.

Now, a congressional add-on doesn't mean that the 435 Members of this body are going to pass the hat and take up a collection of $2.6 million among ourselves to fund this program.

A congressional add-on is a bureaucratic way of saying that a bunch of politicians are ignoring the military request, who say we do not need this facility, and are sticking the American taxpayer with a bill for almost 3 million bucks.

In fact the only thing this bill is adding on is adding on the fiscal irresponsibility of the U.S. Congress and the unfair burden to working Americans.

It is certainly not adding to our national security.

Let me repeat and make clear—this project was not in the Department of Defense budget request for military installations.

That means that the people who plan and manage our defense budget have made a clear decision—this project is not a priority.

It is not needed.

Now, people who defend this pork might say, "Well, construction has already begun—what's another 3 million to finish it?" Or, "The indoor firing range isn't exactly perfect—it doesn't precisely meet our needs."

Well, in the desperate budget situation our Nation is facing, we cannot always precisely meet our needs.

We need to make decisions about priorities.

We make them every day.

In fact, the majority in this house has decided we can't precisely meet our Nation's needs for more police officers on our streets, or more job-training programs for our workers, or more Head Start for our kids or protecting Medicare for our seniors.

But, they want to argue today, we can find $3 million for a firing range the Defense Department doesn't want.

It is a question of priorities.

Today, let us listen to the priorities of the Department of Defense.

Their priorities are clear.

A brand new, outdoor firing range, in the same location where an indoor range already exists is not a priority to our Nation's military leaders. They made it clear in their budget request.

In fact, when we start tampering with the budget request of experts, we risk funding for programs that are in our Nation's vital national security interests.

A "yes" vote on this amendment simply says we are listening to the experts and standing up against pork. A "yes" vote says that we are listening to our constituents and putting the best interests of the American taxpayer first.

A "no" vote says that despite all the rhetoric, despite all the promises, despite the American voters' overwhelming desire to have us change business as usual inside the beltway—the pork is still sizzling.

Take the pork out of the frying pan today, please vote to support this important amendment.

Mr. Chairman, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, I rise today in strong opposition to the Gutierrez amendment.

The defense bill we passed last week was a much needed first step toward restoring military readiness.

Nowhere is readiness more important than for the numerous State National Guards who serve this country.

The National Guard represents over half of America's military force.

I believe that the policies set forth by this Congress should certainly reflect the crucial importance of the National Guard for the security needs of this country.

But the Gutierrez amendment certainly does not reflect that belief, because it would eliminate a much needed training site located at Tullahoma, TN.

This amendment could effectively serve to damage and undermine the effectiveness and readiness of the Tennessee Army National Guard and the U.S. Armed Forces.

Mr. Chairman, the Tennessee National Guard, the U.S. military, and the millions of Americans who depend on both of them for protecting our interests at home and abroad need the training site at Tullahoma.

The Tullahoma facility certainly would serve a legitimate and strategic role for America's security interests. It would provide tough and realistic training conditions for our troops.

This facility would support the training of the 278th Armored Cavalry Regiment—one of only 15 regiments which has been designated as an enhanced readiness brigade.

I might add that an enhanced readiness brigade is the highest level of readiness for deployment.

Furthermore, Mr. Chairman, the Tullahoma site would serve to train the 196th Field Artillery Brigade—one of only two National Guard artillery brigades that served in the gulf war.

And it would be the training site for several other important troops and brigades as well.

Mr. Chairman, it is of vital importance that the soldiers of the Tennessee Army National Guard are provided with the proper training to allow them to carry out their mission.

When we turn to the Guard, it is with the understanding that they are properly trained and prepared to confront whatever the task at hand may be in a ready manner.

Mr. Chairman, to my fellow colleagues, I say let us not compromise military readiness and the security needs of America for the sake of politics.

Vote against the Gutierrez amendment.

Mrs. VUCANOVICH. Mr. Chairman, I yield 3 minutes to the gentleman from Tennessee [Mr. HILLEARY].

Mr. HILLEARY. Mr. Chairman, this amendment lowers the appropriation in the Army National Guard portion of the bill from $72,537,000 to $69,914,000. This is clearly targeted at a vital project to maintain the readiness of the Army National Guard.

This portion of the military construction budget goes to a critical requirement for a modified record fire range. This project is a priority with the Army National Guard up and down the chain of command. This range will have a direct positive impact on readiness.

The National Guard has a proud tradition of service to the country. And I know I do not need to remind you of the important role the National Guard plays in our overall defense strategy. The soldiers of the National Guard must be trained to meet the mobilization mission for deployment in support of the U.S. Army. This range will assist in the readiness required to meet the individual, and collective, range training to meet the mobilization mission.

This site will support the training of the 278th Armored Cavalry Regiment, one of only 15 scheduled for designation as an Enhanced Readiness Brigade, which is the highest readiness level for deployment. With the significant cut in force structure that has occurred in recent years, the capability and competence of the National Guard are more important than ever to maintain our edge.

The modified record fire range is not a glamour project. Ask anyone who has ever fired on one. It is a challenging, realistic battle training requirement. To put it plain and simple, it is the kind of training our soldiers need to fight and win wars. Please vote to support our Army National Guard and our Nation's military readiness by voting no on the Gutierrez amendment.

Mr. GUTIERREZ. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado [Mr. HEFNER].

Mr. HEFNER. Mr. Chairman, I have a question for the gentleman from Tennessee [Mr. BRYANT].

I would ask the gentleman, what is the problem with the existing indoor firing range? How old is it and what is the problem? What is the justification, just for my information?

Mr. HILLEARY. Mr. Chairman, will the gentleman yield?

Mr. HEFNER. I yield to the gentleman from Tennessee.

Mr. HILLEARY. Mr. Chairman, this is an outdoor training range that artillery can be used on that provides a realistic battlefield type situation. If we expect our citizens to be ready on a moment's notice to go to war, I think they deserve the same type of training that our citizens that are in the Armed Forces on active duty have, because they get this kind of training all the time.

I think it is just something that the men and women in the Guard and the Reserve, for that matter, deserve. From my participation in Desert Storm, I know this is the type of training we had.

Mr. HEFNER. My question, Mr. Chairman, is what is the status, and how old is the existing firing range? The firing range in Tullahoma, TN, is an indoor firing range, is that correct?

Mr. HILLEARY. If the gentleman will continue to yield, Mr. Chairman, it is not adequate and will not provide the training. I am not sure how old it is, but it would not provide the type of training, as well as the type of readiness realistic training this would provide.

Mr. HEFNER. Mr. Chairman, I would ask the gentleman, how much territory will this new firing range take? How much property? Is it like 10, 20, 30 acres? The gentleman says they could use artillery. What artillery does the National Guard use?

Mr. HILLEARY. I am not exactly sure how many acres it would take, but it would not be that many, I do not believe.

Mr. HEFNER. The gentleman does not know how large an area this would encompass?

Mr. HILLEARY. No, sir, I do not.

Mr. HEFNER. Will it be constructed on existing property that belongs to the Tennessee State National Guard?

Mr. HILLEARY. It would be constructed on property already owned by the Department of Defense, yes, sir.

Mr. HEFNER. The Department of Defense?

Mr. HILLEARY. That is my understanding. That is correct, yes.

Mr. HEFNER. Mr. Chairman, I thank the gentleman.

Mrs. VUCANOVICH. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, this is, as the gentleman has indicated, an add on. It is an add on that was not requested by the President, but for crying out loud, we said in the Contract With America that the President is wrong in the level with which he wants to cut back the defense of this country, and that we were going to make some changes in that. We tried to make some changes, both in the authorization bill and now in the appropriation bill, to correct some of the things.

Yes, some of the things that are in here are not things the President requested, but of the add ons, over 70 percent of them are things just like Members see here, foundations in family housing being held up by jacks, and screens and doors coming off of windows. Over 70 percent are those kinds of things.

Mr. Chairman, if it was something that are not a quality of life or housing type of thing, we had to be absolutely, thoroughly convinced it was meaningful and significant, and that they could do it and it was on their list of high priorities, even though they did not ask it.

This was one of those projects. It was on their list of priorities. They had not requested it because they simply were not allowed by the orders they had from above to request everything on their priority list, but it was on their list of priorities. They convinced us that it is something that they very badly needed for readiness, and we supported it and felt very good about supporting it.

Mr. Chairman, I would ask the Members to vote against this amendment.

Mrs. VUCANOVICH. Mr. Chairman, I reserve the balance of my time, and I reserve the right to close.

Mr. GUTIERREZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not think anybody is discussing the importance of the National Guard. I do not think that anybody can truthfully argue that the military preparedness of the Nation is on the line because of a firing range. We did take out a *Sea Wolf* submarine. I do not know about military preparedness and the defense of our Nation, a firing range in Tennessee and *Sea Wolf* submarine. I think I want the *Sea Wolf* submarine defending me if we are going to start looking at priorities in terms of this Nation and its defense.

Let me just reiterate, and I do not want to get into an argument about the President, it is always easy to bring him into a debate and the argument, it is as though all of our military staff, the generals, the Colonels, all of those people who give everything they can in defense of this Nation, just put their hands up in the air and said: "The President did not allow us to include this essential piece of military preparedness, so we are just going to follow what he says, in spite of what is good for our troops."

Just a bunch of weaklings we have in our military is what we are supposed to believe, if that argument is supposed to be true. I do not believe that about the military in this Nation. I think if they thought this was an issue that was important, they would have included it there. I think it speaks less of them to think anything else of the military leadership of this Nation.

Mr. Chairman, Members say it is a priority, but the fact is if it was such a priority, I just return, why did they not request the funding for this priority? We all can argue about priorities all day long. However, the priorities should have come from the Department of Defense, and they have already said it is not a priority.

I look at page 22 of the military construction appropriations bill of 1996, and it seems as though there were a lot of priorities in a lot of different districts.

□ 1645

It says Component, Army National Guard, the request was for $18,480,000. Well, someone found a whole bunch of more priorities, all the way to $72,537,000. That is a $54 million jump in priorities.

I just think that we have to look at what our priorities are. It was not requested. The fact remains that there is an indoor facility right there at that National Guard where they can get trained. The money was not asked for. I think the reason a lot of people do not even know where the land is, where all of the stuff is at, is because it was put in late in the process.

Mr. Speaker, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Chairman, I reserve the balance of my time to close. If the gentleman has anything further, he should use his time.

Mr. GUTIERREZ. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Illinois [Mr. GUTIERREZ] is recognized for 1 minute.

Mr. GUTIERREZ. Mr. Chairman, let me just say, we all have priorities. If we want to talk about cuts, we have seen the kind of draconian cuts that we have had here in this Congress that are going to cause pain. Not educating the child is going to cause pain in the Head Start Program, a 3-year-old child. Cutting out a WIC program is going to cause pain. A senior citizen who may not be able to get proper medical attention because you increased their deductible under a Medicare reform program and cuts in Medicare are going to cause pain.

I think what we have to do is look at this pain and say to ourselves, let's look at that compared to the $2.6 million that is here. The fact is, it is not a priority. The fact is, that we cut and have cut here in this Congress.

I think that the American taxpayers deserve $2.6 million. It was not asked for by the military. They did not say it was a priority. Someone added it on. Unless we are going to pass the hat in this place and the 435 Members are going to pony up for the $2.6 million, then let's give the taxpayers a little bit of relief.

Mrs. VUCANOVICH. Mr. Chairman, I yield 30 seconds to the gentleman from Colorado [Mr. HEFLEY].

Mr. HEFLEY. Mr. Chairman, I thank the gentlewoman for yielding me the time.

Mr. Chairman, I would just like to say I am a little surprised that the gentleman does not seem to understand the chain of command in the military. It is not because they are sniveling cowards or they are not courageous. They fight like crazy for what they think is important over there inside the building. But they have bosses all the way up to the President of the United States.

If the President of the United States says this is the level and it does not come out of the building, then they cannot request it, even if it is a high priority. It has to do with the chain of command.

That is why you get these kinds of situations, high priorities, not requested, because they have limitations put on them by the boss.

Mrs. VUCANOVICH. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentlewoman from Nevada [Mrs. VUCANOVICH], the distinguished chairman of the Subcommittee on Military Construction, is recognized for closure.

Mrs. VUCANOVICH. Mr. Chairman, I rise in opposition to the amendment.

This project for the Army National Guard will provide a standard 10-lane record firing range, designed for individual weapons proficiency and qualification. Currently there is no such range in the State of Tennessee to support the premobilization training and annual individual weapons qualification requirements for 14,340 soldiers.

Without this project, day-to-day training objectives will be delayed, and this will increase the time that is required to meet basic qualifications when Guardsmen are called to active duty.

The committee has been notified that this project has project has been submitted within the Department on three separate occasions, only to be deferred due to budget constraint.

I know of no project that is more basic to the readiness of the Army National Guard than a project to provide for firing individual weapons at targets comparable to battlefield ranges, and to develop speed and accuracy in target engagement in a realistic environment.

The Army National Guard reports that this project is mission-essential, that it is 65-percent designed, that the estimate contract award date is May of 1996, and that construction can begin in fiscal year 1996.

Mr. Chairman, this is a good project and it deserves our support.

I ask for your vote against this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. GUTIERREZ].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GUTIERREZ. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 214, noes 216, not voting 4, as follows:

[Roll No. 396]

AYES—214

Abercrombie
Ackerman
Allard
Andrews
Baesler
Baldacci
Ballenger
Barcia
Barrett (WI)
Barton
Bass
Becerra
Beilenson
Bentsen
Berman
Boehlert
Bonior
Borski
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TX)
Bunn
Camp
Cardin
Chabot
Chapman
Christensen
Chrysler
Clay
Clayton
Clyburn
Coburn
Coleman
Collins (IL)
Collins (MI)
Condit
Cooley
Costello
Coyne
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Ehlers
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gonzalez
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoekstra
Holden
Horn
Hoyer
Hutchinson
Inglis
Istook
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kasich
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klug
LaFalce
Lantos
Largent
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Matsui
McCarthy
McDermott
McIntosh
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moran
Morella
Nadler
Neal
Neumann
Ney
Nussle
Oberstar
Obey
Olver
Orton
Owens
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Petri
Portman
Poshard
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Rivers
Roemer
Rohrabacher
Rose
Roth
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sanford
Sawyer
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shadegg
Shays
Skaggs
Slaughter
Smith (MI)
Smith (WA)
Souder
Spratt
Stark
Stokes
Studds
Thompson
Thurman
Torres
Torricelli
Towns
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Whitfield
Williams
Woolsey
Wyden
Wynn
Zimmer

NOES—216

Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Barr
Barrett (NE)
Bartlett
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehner
Bonilla
Bono
Boucher
Brewster
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Castle
Chambliss
Chenoweth
Clement
Clinger
Coble
Collins (GA)
Combest
Conyers
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Gekas
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoke
Hostettler
Houghton
Hunter
Hyde
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kim
King
Kingston
Klink
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Mascara
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Norwood
Ortiz
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (MN)
Pickett
Pombo
Pomeroy
Porter
Pryce
Quillen
Quinn
Radanovich
Riggs
Roberts
Rogers
Ros-Lehtinen
Roukema
Salmon
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Solomon
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Traficant
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—4

Jefferson
Moakley
Wise
Yates

□ 1712

Messrs. PALLONE, KIM, and HOBSON, and Mrs. ROUKEMA changed their vote from "aye" to "no."

Messrs. MATSUI, KILDEE, GILCHREST, BASS, HOYER, DICKEY, ABERCROMBIE, and LARGENT, and Ms. EDDIE BERNICE JOHNSON of Texas changed their vote from "no" to "aye."

The CHAIRMAN. Are there further amendments to this paragraph?

If not, the Clerk will read.

The Clerk read as follows:

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $118,267,000, to remain available until September 30, 2000.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $42,963,000, to remain available until September 30, 2000.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $19,655,000 to remain available until September 30, 2000.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $31,502,000 to remain available until September 30, 2000.

NORTH ATLANTIC TREATY ORGANIZATION SECURITY INVESTMENT PROGRAM

For the United States share of the cost of the North Atlantic Treaty Organization Security Investment Program for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction authorization Acts and section 2806 of title 10, United States Code, $161,000,000, to remain available until expended.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $126,400,000, to remain available until September 30, 2000; for Operation and maintenance, and for debt payment, $1,337,596,000; in all $1,463,996,000.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $531,289,000, to remain available until September 30, 2000; for Operation and maintenance, and for debt payment, $1,048,329,000; in all $1,579,618,000.

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $294,503,000, to remain available until September 30, 2000; for Operation and maintenance, and for debt payment, $863,213,000; in all $1,157,716,000.

AMENDMENT OFFERED BY MR. NEUMANN

Mr. NEUMANN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. NEUMANN: On page 8, line 2, strike $1,157,716,000 and insert $1,150,730,000.

☐ 1715

Mrs. VUCANOVICH. Mr. Chairman, I ask unanimous consent that debate on this amendment and all amendments thereto close in 20 minutes or sooner, and that the time be equally divided between the proponents and opponents of the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Nevada?

There was no objection.

The CHAIRMAN. The gentleman from Wisconsin [Mr. NEUMANN] will be recognized for 10 minutes, and the gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. NEUMANN].

Mr. NEUMANN. Mr. Chairman, I yield myself 5 minutes. The gentlewoman from Oregon [Ms. FURSE] and I are very, very concerned about housing for our military personnel.

The purpose of this amendment is to prohibit and stop the expenditure of $6.9 million to build 33 housing units at an average cost of $208,000 per housing unit. Buying housing units at an average cost of $208,000 each is not an appropriate expenditure of our scarce tax dollars. This is especially true in view of the legitimate problems of substandard housing for our enlisted military personnel.

There are several key points that need to be made regarding this amendment. The first one is what we intend to do at these military bases is tear down housing built in the years 1957, 1958, 1959, 1968 and one report that simply says the 1950's. When I went back to my district this past weekend and I asked the folks in my district if they thought it was reasonable that we should tear down houses built in the 1950's and early 1960's and build brand new, they looked at me as though I was crazy.

The first point I would like to make, we are going to tear down housing built in the 1950's and 1960's and replace it with brand new. That is unacceptable in the world we live in.

I would reemphasize these housing units are only units that are going to cost the taxpayers an average cost of over $200,000. Reports tell us there are 300,000 military families with inadequate housing, that there are 150,000 barracks spaces needed.

I would like to make a second major point on this amendment, that is, that we could take care of 437 barracks spaces with the same money we are going to spend on these 33 housing units.

This amendment is not about eliminating housing for our military but, rather, it is about spending the money in the most appropriate manner and making the best use of our tax dollars.

I would like my colleagues to carefully consider, when they go home to their districts, how they are going to respond to the charge that we have built these houses at over $200,000 each, and now I am going to quote directly the reason for building these houses. This is directly from the Department of Defense reports. It says, and this is regarding the one at the New Mexico Air Force Base, "The condition of the house would reflect poorly on the many dignitaries that frequently are entertained in the house." The reason we are tearing down the old house and building anew is because it reflects poorly for entertainment purposes.

A second quote from the same report, "It is to build four-bedroom houses appropriate for family living and entertainment responsibilities for the wing commander." Again, we see entertainment as the reason we are replacing this housing.

I quote from another report, and this is the North Carolina Air Force base, "This is to build housing appropriate for family living and the entertainment responsibility of the wing commander."

I would like my colleagues to think about our men and women in uniform who are living in substandard housing and think about how we are going to explain to our men and women in uniform why it is we spent over $200,000 per housing unit at the expense of building 437 barracks spaces that could have been taken care of.

Mr. LEWIS of California. Mr. Chairman, will the gentleman yield?

Mr. NEUMANN. I yield to the gentleman from California.

Mr. LEWIS of California. I just happened to be on the floor, and so I hope you will bear with these questions and bear with me.

I am noting in this amendment that there are several Air Force bases that are listed in which there would be a reduction here. Among them is Nellis Air Force Base, and I think it is $1.375 billion, is it?

Mr. NEUMANN. Million.

Mr. LEWIS of California. Not nearly as much. But that Air Force base is in the district of the chairman of the subcommittee, and I presume you discussed this in some depth with her, did you not, before proposing this cut?

Mr. NEUMANN. No, sir, I did not. I simply looked for housing units that were going to cost in excess of $200,000 per unit. I concluded it would not be a fair or good expenditure of our tax dollars to spend the money at a cost of over $200,000 per unit when we could, in fact, be building barracks spaces to take care of our men and women in uniform, many units to replace this one.

Mr. LEWIS of California. I guess the reason for my question is that I have a great deal of respect for all of my colleagues, especially for the chairman of our subcommittee, and since it happens to be in her district, I would have thought you might have discussed it with her. But having said that, after the vote, I would suggest that you should discuss it with her, and I would urge a very, very strong no vote on the part of the House.

Mr. NEUMANN. I would just say that I have the greatest respect for my colleagues, as well, and to be perfectly honest with you, I did not check which district it was in. I simply identified them by the ones that were costing over $200,000.

Mr. Chairman, I yield 5 minutes to the gentlewoman from Oregon [Ms. FURSE].

Ms. FURSE. At a time when Congress claims to be working hard at balancing the budget, I am really amazed the Military Construction Subcommittee has added over a half a billion dollars of projects making this bill 28 percent higher than last year's appropriation.

The gentleman from Wisconsin [Mr. NEUMANN] has described that we are offering to strike the funding for 33 expensive homes.

Now, many of us citizens are ill-housed. This Congress is cutting funding on affordable housing, homeless shelter and shelters for battered women.

When the median cost of constructing a home in all but one of these areas is below $75,000, we should not be spending over $200,000 on luxury military housing. These are not houses for enlisted men and women. These are top dollar residences for the top brass.

I would say the prestige of the United States military relies on the prestige of their leadership, not on the quality of the homes in which they entertain.

It is wrong that enlisted military people live in substandard housing while this Congress funds excessively expensive units. It is not right.

I urge my colleagues to remember that every tax dollar we spend must be sensible and every military dollar we spend must be defensible.

I urge you to support the Neumann-Furse amendment.

Mr. NEUMANN. Mr. Chairman, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Chairman, I yield 2 minutes to the gentleman from Massachusetts [Mr. TORKILDSEN].

Mr. TORKILDSEN. Mr. Chairman, I rise today in strong opposition to an amendment offered by my colleague, the gentleman from Wisconsin. This amendment is flawed and if passed would only result in hurting morale and degrading the readiness of our armed forces.

Let there be no misunderstanding—this amendment attempts to throw away the hard work of both the authorizing and appropriations committees which have delivered to this House a bill that funds only military construction projects that are previously authorized, as part of a balanced budget by the year 2002. As my colleagues well know, the bill before us is an example of how things should work in Congress.

The military construction appropriations bill is the end result of the tireless work of Chairmen SPENCE, LIVINGSTON, HEFLEY, and VUCANOVICH, who have continually championed this Congress' support for our men and women in uniform. The amendment offered by Congressman NEUMANN not only undermines their hard work, but undermines the readiness of our Armed Forces.

When so many of our military families live in substandard homes and live off food stamps, I find it unconscionable that an amendment of this nature would be offered.

Let me also point out that the numbers used by my colleague from Wisconsin are incorrect. Hanscom Air Force Base, for example, is slated for replacement housing for enlisted personnel and junior officer families. According to this amendment, each home will cost $208,000 apiece. I wish that were the case. In fact, according to the Air Force, the average cost of each home is $116,000. The difference in the numbers used by the Air Force and the sponsor of the amendment is that the Air Force has to account for extensive site preparation and demolition that includes removal of hazardous materials such as asbestos and lead paint. Costs associated with construction in Massachusetts are substantially higher than in Wisconsin—well over 20 percent higher, and 30 percent higher than the national average. Additionally, military family housing projects cannot depend on local or State entities to fund many of the services we take for granted—such as sewer connection lines, utilities, sidewalks, and recreation areas.

But let us not get bogged down in the abstract debate of numbers and statistics. What we are talking about here is people. At Hanscom, it is common for a five-person family to live in a cinder block home little more than 1,100 square feet. That's about the same size a Member has for a staff of 8 to 10 people. Can you imagine two parents and three children trying to live in that space?

The housing in question at Hanscom is known as some of the least desirable throughout the entire Air Force. Indeed, the service has identified it as a priority and has budgeted for its replacement in the next fiscal year. Both committees of jurisdiction have reviewed the project. Based solely on merit, those committees wisely expedited funding for this much-needed construction.

This is not a wish item, Mr. Chairman—this is vital to the service men and women and their families who are stationed at Hanscom. I ask all my colleagues to oppose this misguided amendment.

Mrs. VUCANOVICH. Mr. Chairman, I yield 2 minutes to the gentleman from North Carolina [Mr. JONES].

Mr. JONES. Mr. Chairman, I thank the gentlewoman for yielding me this time.

Mr. Chairman, I stand in opposition to this amendment.

I would like to point out that the approved projects to replace the general officers' quarters at Seymour Johnson Air Force Base is something the Air Force and the Administration asked for before I was elected. I did not add this project to the budget, but I do support its construction, after realizing the obvious need for it.

The building in question was built in 1956. This project, more than anything else, is a matter of replacing a house which is showing the age and wear of continuous heavy use. Most everything, from the walls to the foundations and the underlying pavement, requires major repairs or replacement. Plumbing and electrical systems are outdated and do not meet the current standards for efficiency or safety.

In addition, the heating and air conditioning system needs to be totally replaced.

I would like to add that every study that could be done to evaluate this project has been done. Studies show that replacing the house would cost less over the long run than constantly repairing this 40-year-old system.

Mr. Chairman, if we are going to call for quality of life for our troops, I do not think it is too much to ask that the legitimate needs of our commanders be met.

Mr. NEUMANN. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Last week we were discussing the living conditions for enlisted people, the fact that we have more than 15,000 on food stamps and are living in substandard trailer parks. Today we are here debating housing that averages $208,000 a unit, and generally, despite the earlier speaker, not to address the living needs of enlisted people.

Here is one example, Little Rock Air Force Base, Arkansas, we have a home here for the general officer housing. It is totally inadequate for the position and entertainment responsibilities of the installation. Perhaps the general could use the officers' club or the golf club to entertain if he finds his home inadequate.

The kitchen configuration creates a circulation problem. Well, a lot of us have that problem in our homes. Generally we remodel. We do not tear the house down and start over, but the taxpayers are not paying for our homes.

Here the four bedrooms and their closets are undersized. Is the general entertaining in the bedrooms? What sort of entertainment are we talking about here?

They have outdated ceramic tile floors. I do not know, in my part of the country, people consider that a feature, and they actually pay extra for ceramic floors.

Wainscoting, that is kind of considered a plus out my way, too.

The question here is: Are we going to spend an average of $208,000 a unit to better house the general staff because they do not want to entertain at the officers' club and they want to live in spiffy new houses? They have already got cars, drivers; they have already got the helicopter rides from the Pentagon to Andrews Air Force Base, the private jets around the country. Now they need new houses at a average of $208,000 each with no rent paid in return.

□ 1730

I think it is time to draw the line somewhere. Support housing for our enlisted folks, but no more for the generals and the top brass.

Mr. NEUMANN. Mr. Chairman, I yield myself the remaining 1 minute.

Mr. Chairman, would just like to close with the three main points. In this thing we are talking about eliminating 33 housing units at an average cost of $208,000 per unit. The same money could take care of 437 spaces and barracks that currently are housing our men and women in uniform at substandard levels.

The second one is that we are going to tear down houses built in the late

1950's and early 1960's, and in America we would find that generally to be an unacceptable practice.

Most of all, this rifle shot kind of target in a few bases in our district was not selected based on whose district they were in, but rather it is selected based on the fact that they are excessive spending in a bill that is 28 percent over last year's number.

We are spending in this, our first appropriations bill, 28 percent more than what we spent last year, and I would like everyone to know that one of the main reasons we are standing here right now is because of the fact that a 28-percent spending increase in any category I find personally unacceptable.

Mr. HEFNER. Mr. Chairman, will the gentlewoman yield for just a comment?

Mrs. VUCANOVICH. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Chairman, the problem here is not the fact that we do not need to do these houses. There is absolutely dilapidated quarters that need to be replaced in all quarters and what I would point out to the gentleman on the one point, when he said we had a 28-percent increase, and that is true, but if we go back to the past 10 years, military construction budget at best, at the very best, has been stagnant for the past 10 years. During the Bush administration we had one series that we were absolutely at a pause. We did not do one thing in family housing and military construction. We had a complete pause.

So I say to my colleagues, if you do the replacement, it would take us over 50 years at the replacement rate that we are going now, so the growth is warranted. We have been stagnant for 10 years. This is warranted, this increase.

Now we may need some oversight at the cost per square foot for family housing and for general housing, but that is the only place we need to look at because we do need to upgrade all the quarters, both enlisted men and general quarters, and I am going to reluctantly oppose this amendment.

Mrs. VUCANOVICH. Mr. Chairman, I yield myself the balance of my time.

First, Mr. Chairman, I would like to clarify the cost of the units the gentleman from Wisconsin is referring to. He has incorrectly estimated the average cost to be $208,000. The cost associated with these projects is not purely construction. It also includes: demolition of existing dilapidated units; asbestos removal; lead-based paint removal; utilities and site preparations. Eliminating these costs—assuming the gentleman would agree that asbestos and lead-based removal is of importance—the average construction cost per unit is $120,829. This is below the 1994 median sales price of $130,000 for all new homes nationwide.

Is the gentleman aware that prior to new construction the Department is required to conduct an economic analysis that compares the alternatives of new construction, revitalization, leasing, and status quo? Based on the net present values and benefits, the Air Force found replacement to be the most cost efficient option over the life of these projects.

For some apparent reason, the gentleman has chosen to single out five projects which involve not only housing for senior officers, but also senior and junior noncommissioned officers.

I say to the gentleman, Mr. NEUMANN, we have an all volunteer force—and that includes noncommissioned officers as well as officers of any rank. Are you telling the Members of this body that the quality of life of any man of woman who serves this country and is prepared to risk his or her life is more important than another? Are you saying that those individuals who make a multiyear commitment to the defense of this country and who grow to become leaders do not deserve a decent place to live?

As a member of the National Security Subcommittee, I am sure the gentleman is aware that it costs roughly $1.3 million to train a fighter pilot in today's Air Force. Is it not worth the minor expenditure to provide decent housing to keep that pilot in the Air Force?

And, Mr. NEUMANN, I remind you that this Nation is still on a high because of the courageous survival of Capt. Scott O'Grady and the success of the Marines who went into Bosnia to rescue him. Mr. NEUMANN, members of our forces—at all ranks—were involved in that mission. Are you telling me that those men and women who just happen to be officers don't deserve a decent place to live?

As long as I am chairman of this subcommittee, I will work to improve the housing of every individual who serves this country—they deserve no less.

I urge the defeat of this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. NEUMANN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. NEUMANN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 266, noes 160, not voting 8, as follows:

[Roll No. 397]

AYES—266

Ackerman
Allard
Andrews
Archer
Baesler
Baldacci
Ballenger
Barcia
Barrett (WI)
Bartlett
Barton
Bass
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bilirakis
Blute
Boehner
Bonior
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Burr
Camp
Canady
Cardin
Castle
Chabot
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Coble
Coburn
Collins (IL)
Conyers
Cooley
Costello
Coyne
Crane
Crapo
Cremeans
Cubin
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Doggett
Dooley
Doyle
Dreier
Duncan
Durbin
Ehlers
English
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fields (TX)
Filner
Flanagan
Foley
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Furse
Ganske
Gejdenson
Gekas
Gephardt
Gilchrest
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Harman
Hastings (WA)
Hayworth
Hinchey
Hobson
Hoekstra
Holden
Horn
Houghton
Hutchinson
Inglis
Istook
Jackson-Lee
Jacobs
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kasich
Kennedy (RI)
Kennelly
Kildee
Kim
Kingston
Kleczka
Klink
Klug
LaHood
Lantos
Largent
LaTourette
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Luther
Maloney
Manton
Manzullo
Martinez
Martini
Mascara
Matsui
McCarthy
McInnis
McIntosh
McKinney
McNulty
Meehan
Menendez
Metcalf
Meyers
Mfume
Miller (CA)
Miller (FL)
Mineta
Minge
Moran
Morella
Myrick
Nadler
Neal
Neumann
Ney
Nussle
Oberstar
Obey
Olver
Orton
Owens
Oxley
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Porter
Portman
Poshard
Pryce
Radanovich
Rahall
Ramstad
Reed
Rivers
Roberts
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Schaefer
Schroeder
Schumer
Scott
Sensenbrenner
Serrano
Shadegg
Shays
Shuster
Skaggs
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Spratt
Stark
Stearns
Stockman
Studds
Stupak
Talent
Tate
Tauzin
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torres
Torricelli
Traficant
Tucker
Upton
Vento
Volkmer
Waldholtz
Walker
Wamp
Ward
Waters
Weldon (FL)
Weller
White
Wise
Woolsey
Wyden
Wynn
Zeliff
Zimmer

NOES—160

Abercrombie
Armey
Bachus
Baker (CA)
Baker (LA)
Barr
Barrett (NE)
Bateman
Bevill
Bilbray
Bishop
Bliley
Boehlert
Bonilla
Bono
Borski
Bunning
Burton
Buyer
Callahan
Calvert
Chambliss
Clay
Clinger
Clyburn
Coleman
Collins (GA)
Collins (MI)
Combest
Condit
Cox
Cramer
Cunningham
DeLay
Dicks
Dingell
Dixon
Doolittle
Dornan
Dunn
Edwards
Ehrlich

Emerson
Engel
Ensign
Everett
Fazio
Fields (LA)
Flake
Foglietta
Fowler
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Geren
Gibbons
Gonzalez
Green
Hansen
Hastert
Hastings (FL)
Hayes
Hefley
Hefner
Herger
Hilleary
Hilliard
Hoke
Hostettler
Hoyer
Hunter
Hyde
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Jones
Kelly
Kennedy (MA)
King
Knollenberg
Kolbe
Latham
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Lucas
Markey
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McKeon
Meek
Mica
Mink
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Nethercutt
Norwood
Ortiz
Packard
Pallone
Peterson (FL)
Pickett
Pombo
Pomeroy
Quillen
Quinn
Rangel
Regula
Reynolds
Richardson
Riggs
Rogers
Rose
Saxton
Scarborough
Schiff
Seastrand
Shaw
Sisisky
Skeen
Skelton
Smith (TX)
Spence
Stenholm
Stokes
Stump
Tanner
Taylor (MS)
Taylor (NC)
Tejeda
Torkildsen
Towns
Visclosky
Vucanovich
Walsh
Watt (NC)
Watts (OK)
Weldon (PA)
Whitfield
Wicker
Williams
Wilson
Wolf
Young (AK)
Young (FL)

NOT VOTING—8

Gilman
Heineman
Jefferson
LaFalce
Moakley
Velazquez
Waxman
Yates

☐ 1800

Messrs. NETHERCUTT, MARKEY, HASTINGS of Florida, McDADE, WATT of North Carolina, FOGLIETTA, and SHAW, and Ms. EDDIE BERNICE JOHNSON of Texas changed their vote from "aye" to "no."

Messrs. GEJDENSON, TRAFICANT, FORBES, SPRATT, FIELDS of Texas, DE LA GARZA, HALL of Texas, CRAPO, and WARD, Mrs. COLLINS of Illinois, Mrs. CUBIN, and Mrs. CHENOWETH changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

☐ 1800

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FAMILY HOUSING, DEFENSE-WIDE

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension, and alteration, and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $3,772,000, to remain available for obligation until September 30, 2000; for Operation and maintenance, $30,467,000; in all $34,239,000.

DEPARTMENT OF DEFENSE FAMILY HOUSING IMPROVEMENT FUND

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense Family Housing Improvement Fund, $22,000,000, to remain available until expended: *Provided*, That, subject to thirty days prior notification to the Committees on Appropriations, such additional amounts as may be determined by the Secretary of Defense may be transferred to this Fund from amounts appropriated in this Act for Construction in "Family Housing" accounts, to be merged with and to be available for the same purposes and for the same period of time as amounts appropriated directly to that Fund: *Provided further*, That appropriations made available to the Fund in this Act shall be available to cover the costs, as defined in section 502(5) of the Congressional Budget Act of 1974, of direct loans or loan guarantees issued by the Department of Defense pursuant to the provisions of, and amendments made by, the National Defense Authorization Act for fiscal year 1996 pertaining to alternative means of acquiring and improving military family housing and supporting facilities.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966, as amended (42 U.S.C. 3374), $75,586,000, to remain available until expended.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART II

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510), $964,843,000, to remain available until expended: *Provided*, That not more than $224,800,000 of the funds appropriated herein shall be available solely for environmental restoration.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART III

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510), $2,148,480,000, to remain available until expended: *Provided*, That not more than $232,300,000 of the funds appropriated herein shall be available solely for environmental restoration.

BASE REALIGNMENT AND CLOSURE ACCOUNT, PART IV

For deposit into the Department of Defense Base Closure Account 1990 established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991 (Public Law 101–510), $784,569,000, to remain available until expended: *Provided*, That such funds will be available for construction only to the extent detailed budget justification is transmitted to the Committees on Appropriations: *Provided further*, That such funds are available solely for the approved 1995 base realignments and closures.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in Military Construction Appropriations Acts shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor: *Provided*, That the foregoing shall not apply in the case of contracts for environmental restoration at an installation that is being closed or realigned where payments are made from a Base Realignment and Closure Account.

SEC. 102. Funds appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in Military Construction Appropriations Acts shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Army Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in Military Construction Appropriations Acts shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual Military Construction Appropriations Acts.

SEC. 107. None of the funds appropriated in Military Construction Appropriations Acts for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in Military Construction Appropriations Acts may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 110. None of the funds appropriated in Military Construction Appropriations Acts may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 111. None of the funds appropriated in Military Construction Appropriations Acts may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan, in any NATO member country, or in the Arabian Gulf, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 112. None of the funds appropriated in Military Construction Appropriations Acts for military construction in the United States territories and possessions in the Pacific and on Kwajalein Atoll, or in the Arabian Gulf, may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided*, That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 113. The Secretary of Defense is to inform the appropriate Committees of Congress, including the Committees on Appropriations, of the plans and scope of any proposed military exercise involving United States personnel thirty days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

SEC. 114. Not more than 20 per centum of the appropriations in Military Construction Appropriations Acts which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 115. Funds appropriated to the Department of Defense for construction in prior years shall be available for construction authorized for each such military department by the authorizations enacted into law during the current session of Congress.

SEC. 116. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 117. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law.

(TRANSFER OF FUNDS)

SEC. 118. During the five-year period after appropriations available to the Department of Defense for military construction and family housing operation and maintenance and construction have expired for obligation, upon a determination that such appropriations will not be necessary for the liquidation of obligations or for making authorized adjustments to such appropriations for obligations incurred during the period of availability of such appropriations, unobligated balances of such appropriations may be transferred into the appropriation "Foreign Currency Fluctuations, Construction, Defense" to be merged with and to be available for the same time period and for the same purposes as the appropriation to which transferred.

SEC. 119. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with an annual report by February 15, containing details of the specific actions proposed to be taken by the Department of Defense during the current fiscal year to encourage other member nations of the North Atlantic Treaty Organization, Japan, Korea, and United States allies in the Arabian Gulf to assume a greater share of the common defense burden of such nations and the United States.

(TRANSFER OF FUNDS)

SEC. 120. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, proceeds deposited to the Department of Defense Base Closure Account established by section 207(a)(1) of the Defense Authorization Amendments and Base Closure and Realignment Act (Public Law 100-526) pursuant to section 207(a)(2)(C) of such Act, may be transferred to the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991, to be merged with, and to be available for the same purposes and the same time period as that account.

SEC. 121. No funds appropriated pursuant to this Act may be expended by an entity unless the entity agrees that in expending the assistance the entity will comply with sections 2 through 4 of the Act of March 3, 1933 (41 U.S.C. 10a-10c, popularly known as the "Buy American Act").

SEC. 122. (a) In the case of any equipment or products that may be authorized to be purchased with financial assistance provided under this Act, it is the sense of the Congress that entities receiving such assistance should, in expending the assistance, purchase only American-made equipment and products.

(b) In providing financial assistance under this Act, the Secretary of the Treasury shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

(TRANSFER OF FUNDS)

SEC. 123. During the current fiscal year, in addition to any other transfer authority available to the Department of Defense, amounts may be transferred among the Fund established by section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3374); the account established by section 2906(a)(1) of the Department of Defense Authorization Act, 1991; and appropriations available to the Department of Defense for the Homeowners Assistance Program of the Department of Defense. Any amounts so transferred shall be merged with and be available for the same purposes and for the same time period as the fund, account, or appropriation to which transferred.

SEC. 124. The Army shall use George Air Force Base as the interim airhead for the National Training Center at Fort Irwin until Barstow-Daggett reaches Initial Operational Capability as the permanent airhead.

SEC. 125. (a) In order to ensure the continued protection and enhancement of the open spaces of Fort Sheridan, the Secretary of the Army shall convey to the Lake County Forest Preserve District, Illinois (in this section referred to as the "District"), all right, title, and interest of the United States to a parcel of surplus real property at Fort Sheridan consisting of approximately 290 acres located north of the southerly boundary line of the historic district at the post, including improvements thereon.

(b) As consideration for the conveyance by the Secretary of the Army of the parcel of real property under subsection (a), the District shall provide maintenance and care to the remaining Fort Sheridan cemetery, pursuant to an agreement to be entered into between the District and the Secretary.

(c) The Secretary of the Army is also authorized to convey the remaining surplus property at former Fort Sheridan to the Fort Sheridan Joint Planning Committee, or its successor, for an amount no less than the fair market value (as determined by the Secretary of the Army) of the property to be conveyed.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property (including improvements thereon) to be conveyed under subsections (a) and (c) shall be determined by surveys satisfactory to the Secretary. The cost of such surveys shall be borne by the Lake County Forest Preserve District, and the Fort Sheridan Joint Planning Committee, respectively.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENT OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FRANK of Massachusetts: Page 19, after line 12, insert the following new section:

SEC. 126. The amounts otherwise provided in this Act for the following accounts are hereby reduced by 5 percent:

(1) "Military Construction, Army".
(2) "Military Construction, Navy".
(3) "Military Construction, Air Force".
(4) "Military Construction, Defense-wide".
(5) "Military Construction, Army National Guard".
(6) "Military Construction, Air National Guard".
(7) "Military Construction, Army Reserve".
(8) "Military Construction, Naval Reserve".
(9) "Military Construction, Air Force Reserve".
(10) "North Atlantic Treaty Organization—Security Investment Program".

Mrs. VUCANOVICH. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 30 minutes or less and that the time be equally divided between the proponents and opponents of the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Nevada?

There was no objection.

The CHAIRMAN. The gentlewoman from Nevada [Mrs. VUCANOVICH] will be recognized for 15 minutes, and the gentleman from Massachusetts [Mr. FRANK] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would cut 5 percent from those accounts in this bill that do not affect housing or the Base Closing Commission. Those two accounts are most of the bill. The amendment is to almost 3 billion dollars' worth of new construction. The 3 billion dollars' worth of new construction, other than housing and other than base closing, includes regular military construction and it includes the NATO infrastructure. And it does seem to me time NATO could come here and build some infrastructure. It would save $148 million.

The bill is significantly over the President's recommendation. And even if my amendment is adopted, this bill will still, in these accounts, have more money than the President recommended. And it will also have a significant increase over last year.

We are talking here about military construction at a time when we are closing things down. I leave 95 percent in the bill. I leave more than the President asked for. I leave more than we had last year. I am struck, Mr. Chairman, by my own moderation in this particular amendment, but I am trying to get something accomplished.

This would go into reducing the deficit. It is an appropriation. If we save this $148 million, the deficit at $148 million less, housing is not affected, base closing is not affected, and I do not believe the American people will be one bit less secure.

Mr. Chairman, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Chairman, I yield such time as he may consume to the gentleman from Louisiana [Mr. Livingston].

Mr. LIVINGSTON. Mr. Chairman, this is not a wise amendment. We have got a committee process, and that committee process is proceeding within the appropriations cycle to meet the recommendations reflected in the budget resolution adopted by this House of Representatives and a companion resolution adopted by the other body just a relatively few short weeks ago.

We are balancing the budget by the year 2002. The President says he does not want to balance the budget until the year 2005, but he has become a budget balancer and has become convinced of the need to avoid disaster for the future by making sure we get our spending in line with our revenues.

The Committee on Appropriations is meeting regularly. We are bringing forth bills within the House budget caps. The gentleman says, this bill is above the President's request. That is true. But this bill also addresses the needs for base closing; roughly 35 percent of the bill addresses the need to pay the money in order that we can close the bases.

This bill addresses the fact that 60 percent of our current military housing is inadequate, woefully inadequate in many instances. We are addressing the military construction demands of the armed services of this country. We are addressing the needs of the NATO commitments around the world. And this bill, along with its 12 counterparts in the appropriations process, will come under the budget allotments adopted by the House of Representatives a few short weeks ago.

If you want to scrap the budget; scrap the committee process; if you want to handle all of the business of the House of Representatives on the floor, then start with this amendment and let us add in a few others. Every time we come up with an appropriations bill, we can say we all are experts on every single issue, and we will just gut the hell out of the bills and the budget. But we may be causing ourselves great harm in the future.

I would say to my colleagues that the committee process works, if they will give it an opportunity to work. Unfortunately, there are those who think that their wisdom supersedes the committee process and maybe in some instances they do. Maybe they are very bright people. I give them credit.

But I want to commend the gentlewoman from Nevada and her staff and all of the members of the subcommittee who have worked very hard on this bill to meet the needs of this Nation. A mindless amendment of this sort, cutting across the board, even though it is confined to certain narrow categories, is not the way we should go about balancing the budget. If that is what we need, then we should just not stop here. We should just close down the committees and all of us sit on the floor and each of us come up with a new idea on what we should cut.

Eventually, we will get the balanced budget, because we will not be spending any Federal money at all. But I dare say that will be because the U.S. Government and this great Nation of ours will come to a screeching halt, and we will be sorely ashamed of abdicating our responsibility to our people to represent them wisely and efficiently and with foresight and with good judgment. All of those are lacking in this amendment. I urge its defeat.

Mr. FRANK of Massachusetts. Mr. Chairman, I have not heard such a touching plea for the sacrosanct nature of anything a committee does since Jack Brooks left.

Mr. Chairman, I yield 5½ minutes to the gentlewoman from Colorado [Mrs. Schroeder].

Mrs. SCHROEDER. Mr. Chairman, I must say I was amazed to hear this amendment classified as a mindless amendment, because I was getting ready to taunt the gentleman from Massachusetts that he had mellowed; this was a mellow amendment for the gentleman and that indeed middle age may be setting in. I do not know. But I rise in strong support of this amendment, and let us talk about it.

First of all, the gentleman from Massachusetts' amendment does not touch the base closing process over there, nor does it touch housing that is over there that is essential for troops. This only touches additional add-ons in the whole structure for NATO.

As one of the Members who has been talking about burdensharing forever and ever and ever and ever, and every time we come to this floor they say, great idea but now is not the time, this is not the day, when are we ever going to deal with this? The NATO infrastructure formula has not been changed since NATO began. Our allies have changed a lot. They have become a lot richer. In fact all of them together have a larger economy than ours.

But we still put in the same amount that we did right after World War II, when we were carrying a large share of the budget.

□ 1815

That formula did change in Japan and other countries. They have not gotten enough credit for it. They are picking up much, much more of the infrastructure budget. In fact, Japan is practically picking up the whole thing. However, no, not Europe. We would not want to tell the Europeans that they could now do a little more because they are a little richer.

The gentleman's amendment only cuts 5 percent non-base closing and non-housing, and yet it will save $148 billion. One of the reasons this is higher than the President asked for and higher than the Pentagon asked for is because, as we know, on this side of the Congress our budget is $9.7 billion more than the Pentagon asked for, more than the President asked for, and more than the Senate did.

Since we do not have a budget resolution, this committee was forced to mark up to those higher levels. There is the padded budget, therefore.

If Members vote for the gentleman's amendment, which I am going to do, we are taking the padding out. We are taking some of the padding out, and getting back to the realistic number that the Commander in Chief and the Pentagon recommended.

Of course, the reason I think it is so mellow is the gentleman and I used to go after both the Pentagon and the Commander in Chief for asking too much. However, we are just saying here it is being padded ever more to kick it up that $9-plus billion, because we have to use fillers in order to do that, to try and continue this budget negotiation with the Senate. If Members are into that, fine, vote against the amendment.

However, I think the time has come that reason should come forward, as we are slashing bases at home, as we are slashing the infrastructure at home, as we are harming all sorts of things. In fact, the base closure commission is meeting today, as it has been meeting every other day, and why in the world we cannot vote for a 5 percent cut in Europe that would be $148 billion, I do not know. I do not get it.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I am glad the gentlewoman made that point about the budget. The chairman of the Committee on Appropriations, in his plea for not interfering with the sacred deliberations of the holy committee and not profaning it with our individual judgments, said "We are just doing what the budget said. First, the budget is a ceiling. It is not a floor, it is not a command. The budget is a ceiling."

Second, as the gentlewoman said, the House budget figure is almost certainly going to be higher than the Senate budget figure, than the final budget figure. The House is $9 billion in this account, the overall military account, higher than the Senate. No one thinks the conference report is coming out at the House number.

The chairman of the Committee on Rules said there were delicate negotiations going on with the Senate now, so we are not going to have a final budget resolution that is at this higher number, and we are anticipating that in a reasonable way.

I thank the gentlewoman.

Mrs. SCHROEDER. I thank the gentleman from Massachusetts.

Basically, Mr. Chairman, it is not 1945, it is 1995. The formula does not look any different in 1995 than it did in 1945. The wall came down but the formula did not change. The cold war is over but the formula did not change.

The question is, Mr. Chairman, what are they building over there? We are leaving 95 percent of it intact, not touching the base closure, not touching housing. If we stand here and say we cannot even cut 5 percent out of the stuff we are building in NATO under a post-World War II formula, we have never had the guts to tell them to change, we are really, I think, wimpish.

I have always felt we are really Europhiles, and that we really always kind of yield and defer to them. I have always seen that going on in all the burdensharing amendments. If we cannot ask for this little bit, especially since we are so over the budget, so over what everyone asks, I think we really look silly.

Mr. Chairman, I stand in strong support of this amendment and I hope people vote aye, very, very affirmatively.

Mr. VUCANOVICH. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. HEFNER] who is ranking on our committee.

Mr. HEFNER. Mr. Chairman, I admire people for wanting to cut the budget and save money that we can apply toward the deficit, but I think this is a little bit wrongly directed. We exempt the base closure, the BRACC, we exempt that. We exempt family housing, which is good. We have fought over the past 10 years to increase this budget. However, as I said earlier, it has been stagnant for 10 years.

Just let me tell the Members some of the things that are going to be affected with this 5-percent across the board. It is not going to affect family housing. It is not going to affect BRACC. However, let me tell the Members what it is going to do. It is going to go directly to quality of life, because we would affect the building of barracks.

The gentlewoman from Nevada [Mrs. VUCANOVICH] and I went to Fort Bragg in North Carolina. We went through some barracks in North Carolina, where if Members took their kids to camp or to college, and they took us in and said "This is where you are going to be living," we would load them up in the car, put the suitcases back in, and we would come home. We would not let them stay at camp for 2 weeks in the barracks which some of these people are living in.

That is one of the things it is going to affect. Also, child development. We have made some real strides in child development. It is going to affect child development, which directly impacts on retention to these men. In many cases both parents are in the service, or either one parent is in the service and the other is working, and they have the day care centers and the child development programs. We would be going to cut that.

Also, the hospitals and medical centers all across this country, and in Fort Bragg, NC, we have a new medical facility that is being built, and clinics all across this country. We are experimenting with mental care in some of these bases all across the country. That is going to be cut.

We are also going to be cutting some other critical programs, like chemical weapons demilitarization. I know that this budget is more than it was last year, Mr. Chairman. Thank God for that, because we have been trying to beef up the military construction budget for years. It has been stagnant.

However, let me point out one other thing. If we do this 5-percent across-the-board cut, and then we get a budget agreement, we have $500 million in this budget that was marked up on the basis of the budget that was passed in this House that we very easily could not have when we come to a compromise. We may have to lose another $500 million, and if we add to that this 5 percent, plus we add to the cut that was just made on an earlier vote, this budget is going to be about stagnant again in this session.

Mr. Chairman, we cannot stand that, if we want to use this voluntary Army, we want to have retention, and we want to get the very best people that can operate these sophisticated weapons and serve us well.

The gentlewoman from Colorado [Mrs. SCHROEDER] and I have talked many times about quality of life and about burdensharing. We are not going overboard for building facilities in Europe. We did beef up a little in Korea because we had a serious situation there, but if we take the cuts we have just made, and if we do this 5-percent cut and then we lose on top of that a half a billion dollars because of a compromise on the budget conference between the House and Senate, this budget once again will be a stagnant budget, and we will not be able to do the things we need to do for our men and women in the Armed Forces.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 3½ minutes.

First, the gentleman from North Carolina [Mr. HEFNER] is wrong when he says if we take this 5-percent cut and then have a budget conference reduction of a half a billion, they will be additive. No, this will be a way of reaching that.

The budget conference would lower the number that this goes to. My amendment would be a way of reaching that lowering, so they would not be added. It would not be cumulative. This would be a way of dealing with that.

Mr. HEFNER. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from North Carolina.

Mr. HEFNER. Mr. Chairman, just a question. Once we have passed this bill, we go to conference with the Senate, and we come out with a bottom-line number, if it is $500 million, is the gentleman saying that his 5 percent would go to that bottom line?

Mr. FRANK of Massachusetts. Mr. Chairman, I assumed the gentleman was talking about the budget conference. My point is the amount that we are going to be able to vote is contingent on the budget resolution, and the budget resolution is way above this.

Yes, the final figure will be a compromise in this particular account between what we vote and the Senate votes, but what I was talking about was the budget resolution. The budget resolution is the one where there is going to be a reduction on what the House voted, and this is not additive to that, this is going to be a way of reaching that.

Mr. HEFNER. If the gentleman will continue to yield, Mr. Chairman, what I was getting at, when they reach a compromise on the budget, the 302 allocation, it is $500 million less than we have now, then the 5-percent cut will go to that number?

Mr. FRANK of Massachusetts. It would be a way of reaching that number. It would not be on top of that number, of course. It would not automatically reduce it by 5 percent plus $500 million, of course not.

Mr. Chairman, let me continue with a couple of other points. The gentleman read some very appealing things here: child development. Child development is very appealing. It gets $57 million out of the $3 billion.

NATO alone, Mr. Chairman, NATO alone gets more money in this bill than the entire amount my amendment would cut. NATO in this bill get $161 million. My total amendment cut is

$148. It is true, Mr. Chairman, if they decide, and the 5-percent cut leaves it to the discreation of the committee. It is 5 percent, not in every single number that the gentleman mentioned. It does not mandate a 5-percent cut in child development or in barracks. It says find 5 percent of cut. Cut NATO by half and we have met already 2½ percent. Cut some of the other construction.

What we are saying is, Mr. Chairman, they are going to spend $161 million on NATO along when this House has felt that it is the Europeans who owe us, rather than the other way around. We think with some cut out of NATO and elsewhere we can find it.

Mr. Chairman, we have a terrible budget crisis, we keep being told. Yes, there are things we would like to do, but we cannot exempt any part of the budget, in my judgment, and then reach an sensible zero figure.,

Just to reiterate, this does not affect family housing, it does not affect base closing. It need not affect hospitals or child development if the subcommittee does not want it to. We can make it all up out of NATO. We can make half up out of NATO.

Mr. Chairman, as far as the budget resolution is concerned, if the budget resolution reduces the budget authority, we are going to have to cut by more than this amendment. This amendment will not then be relevant if the budget authority is so substantially reduced, except it is a way of saying yes, we are going to cut in the NATO account, but we are not going to cut family housing in BRACC.

Mr. Chairman, I reserve the balance of my time.

Mrs. VUCANOVICH. Mr. Chairman, I yield 2½ minutes to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Chairman, I thank the gentlewoman for yielding to me.

First of all, Mr. Chairman, this body has exercised pretty sound judgment with regard to having an all-volunteer military. With that, and we talk about support for an all-volunteer force, it means the readiness. We have talked about it on the House floor often. It means training the force and equipping the force so they will be ready.

Second is pay and benefits for an all-volunteer force. Third is taking care of the military family, and what that encompasses. We talk about it on the House floor as the quality-of-life issues, whether it is housing and recreation, et cetera.

Mr. Chairman, this issue about let us do a 5-percent cut across the board, someone called it mindless. I am not going to call it mindless. I have voted in the past for across-the-board cuts. However, this one, I think the chairwoman and the ranking Member have done an excellent job in this military construction budget. There is no padding, as the gentlewoman from Colorado [Mrs. SCHROEDER] said. There are some very important decisions that need to be done, and I think that the subcommittee of the Committee on Appropriations did a very good job.

What are we cutting, when we talk about a 5-percent cut? That is new construction, whether it is for port facilities, a fire station, medical facilities, hospitals, dental clinics, outpatient clinics, recreational facilities; we are talking about child care centers, we are talking about barracks. When they say cutting for housing, I would like to ask the author of this amendment, he says it would not touch housing. Would his amendment affect military barracks?

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. BUYER. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Chairman, I would tell the gentleman, not if the subcommittee does not want it to. My amendment gives full discretion to the subcommittee, and would not mandate any reduction in barracks at all.

Mr. BUYER. Reclaiming my time, Mr. Chairman, it also would affect environmental compliance. When the gentleman talks also about its impact upon NATO and our security interests, chemical weapons, demilitarization, while I applaud across-the-board cuts, I think that the subcommittee has done an excellent job, and we should support the subcommittee.

When they say that this is not going to touch BRACC, when they say this will not touch BRACC, first of all, to my colleagues, we have to remember there are a lot of things in motion out there, whether it is in NATO or here in the United States, with regard to consolidation of posts and the impact upon installations. There are a lot of decisions that base commanders out there have to make, whether it is the commander of a fort. To say it will not be affected by BRACC does not really take some rational thought. A lot of these military construction projects, especially in Europe, are based because of consolidation of the force.

Mr. Chairman, I urge my colleagues to vote "no" on this amendment.

□ 1830

Mrs. VUCANOVICH. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina [Mr. HEFNER], the ranking member.

Mr. HEFNER. Mr. Chairman, I don't relish engaging in debate with the gentleman from Massachusetts or the gentlewoman from Colorado, but let me just tell you what this amendment says.

The amounts otherwise provided in this act for the following accounts are hereby reduced by 5 percent: military construction Army, military construction Navy, military construction Air Force, military construction defensewide, military construction Army National Guard, military construction Air National Guard, military construction Army Reserve, military construction Naval Reserve, military construction Air Force Reserve, North Atlantic Treaty Organization security investment programs. Each one of these would carry with it a 5 percent. I wish the gentleman, if it was possible, to take it all out of NATO if you are going to make the cut.

Mr. FRANK of Massachusetts. If the gentleman would yield for a unanimous-consent request, I would ask unanimous consent that the amendment be amended so that at the subcommittee's discretion as much as possible could be taken out of NATO. I ask unanimous consent for that amendment.

Mrs. VUCANOVICH. Mr. Chairman, I object.

Mr. FRANK of Massachusetts. Well, I tried.

The CHAIRMAN. Objection is heard.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, as was just made clear, I was prepared to give the subcommittee more power to cut NATO but they do not want to do that.

This does not mandate cuts in barracks or child development. It does cut, and I agree, as worded it has less flexibility than it should have with regard to NATO. I would agree to changing that, but as I said, they don't want to do it.

Here is where we are. We have broad agreement that we are going to get to a balanced budget soon. We are in a zero sum situation. If we do not make reductions here to get the deficit down, then either we raise taxes somewhere else, which is very, very unlikely, or the cuts in Medicare are deeper than they have to be, the cuts in aid to college students are deeper than they have to be, the money to reimburse communities trying to meet existing Federal mandates is less than it has to be.

We talk about no further unfunded mandates. I am for that, but the legislation we passed does not touch any of the existing Federal mandates that are unfunded. I would like to make some more money available to do that.

If we pass legislation like this without this amendment, if we lavish the $161 million on NATO, if we go more than the Pentagon asked for for construction elsewhere, we mandate deeper cuts in all these other programs. Members will go to their districts and say, "Gee, I want to balance the budget, and I am sorry we have to really cut the National Institutes of Health. I am sorry we will do much less research on disease. I am sorry transportation will get hurt. I wish we didn't have to cut Medicare so much. I wish we did not have to insist that the cost of living increase for Social Security be reduced as their budget resolution says."

Well, this is why it happens. You cannot claim helplessness when you are talking about these cuts and then vote to insist on spending on military construction, other than housing and other than BRAC more than the Pentagon asks for. I am sure that many of these projects, most of this money, would be usefully spent, but that is no longer the criterion. What we have here is a view that says we will exempt the ordinary operations of the U.S. military from the discipline that everybody else gets.

Mr. Chairman, a few years ago a great thing happened in the world. The Soviet Union collapsed. Yes, it is still a threat in some ways, but our major enemy now just failed to take a military hospital, with their crack troops, manned by 50 irregulars.

There is simply no qualitative comparison to be made between the nature of the threats that face us today and those that faced us 10 years ago. There are bad people in the world, there are people who run countries who should not even be allowed to drive cars in a rational world, but they have not got the power to threaten us. What we are doing is acting as if the United States was still threatened.

I heard a Member say during the debate on the military bill, "Well, the world is a more dangerous place now because the Soviet Union collapsed." That nostalgia for a major enemy capable of destroying us is nonsensical in any other context than trying to put more money here, and more money here will inevitably mean less in Medicare, less in college student loans, less in the National Institutes of Health, less in helping people comply with environmental mandates, less in law enforcement.

Vote to give this $148 million to the Pentagon, vote for the full funding of the NATO infrastructure gift from America to the economies of western Europe, vote for other additional military construction at a time when the threat has diminished, and you take away from every other account. You deprive yourselves of the argument that you regret the other cuts in important programs that help people because you are voluntarily taking the money from Medicare, taking the money from student loans, taking the money from the National Institutes of Health, taking the money from Head Start, taking the money from pollution enforcement, and putting it here where it is at a much lower level of social need.

Mrs. VUCANOVICH. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I rise in strong opposition to the gentleman's amendment.

The committee has done its job and has been responsible.

This bill is about things the gentleman from Massachusetts should be able to support. It is about the soldiers, sailors, airmen, marines, and their families—that is what this bill is about. Providing for their working environment, their housing, their hospitals and clinics, their child care centers—the gentleman's amendment impacts all of these things.

Mr. Chairman, as we find ourselves with fewer personnel in the Armed Forces we are going to have to provide bases that are maintained in top order and personnel must be adequately housed.

Does the gentleman think our soldiers are overhoused—because his amendment could impact a total of $636 million for troop housing. Does the gentleman not believe that child development centers are important to single military parents, dual military couples, and military personnel with a civilian employed spouse—because his amendment could impact a total of $57 million for child development centers. Does the gentleman not believe the members of the Armed Forces and their families deserve to have updated hospitals and clinics because his amendment could impact a total of $178 million to provide these facilities. Does the gentleman not believe that we should meet the requirements of the Federal Facilities Compliance Act because his amendment could impact a total of $207 million for environmental compliance.

Mr. Chairman, the committee has been responsible and reviewed each project provided for in this bill. The gentleman is not being responsible by approaching his reductions in such a vague manner. I ask my colleagues to oppose his amendment and suggest if he is serious about cutting this bill that he provide this body with the specific projects that would be related to his amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRANK of Massachusetts. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 131, noes 290, not voting 13, as follows:

[Roll No. 398]

AYES—131

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Berman
Bonior
Borski
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Durbin
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Filner
Foglietta
Ford
Frank (MA)
Franks (NJ)
Furse
Ganske
Gejdenson
Green
Gutierrez
Hamilton
Hilliard
Hinchey
Hoekstra
Horn
Jackson-Lee
Jacobs
Johnston
Kanjorski
Kennedy (MA)
Kennelly
Kildee
Kleczka
Klug
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Luther
Maloney
Markey
Martinez
Martini
McCarthy
McDermott
McHale
McKinney
Meehan
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moran
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pastor
Payne (NJ)
Pelosi
Peterson (MN)
Petri
Poshard
Rahall
Ramstad
Rangel
Reynolds
Roemer
Rohrabacher
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sanford
Schroeder
Sensenbrenner
Serrano
Shays
Slaughter
Smith (MI)
Stokes
Studds
Stupak
Torres
Torricelli
Towns
Tucker
Upton
Volkmer
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Zimmer

NOES—290

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (FL)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Doyle
Dreier
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fazio
Fields (LA)
Fields (TX)
Flake
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Funderburk
Gallegly
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoke
Holden
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (RI)
Kim
King
Kingston
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Manzullo
Mascara
Matsui
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Meek
Metcalf
Meyers
Mica

Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Pickett
Pombo
Pomeroy
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Rogers
Ros-Lehtinen
Rose
Roth
Royce
Salmon
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Shadegg
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—13

Duncan
Frost
Jefferson
Manton
Moakley
Murtha
Schumer
Stark
Velazquez
Vento
Wilson
Wynn
Yates

□ 1859

Mr. COX changed his vote from "aye" to "no."

Mr. RANGEL and Mr. SMITH of Michigan changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1900

Mrs. VUCANOVICH. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly, the committee rose; and the Speaker pro tempore (Mr. NORWOOD) having assumed the chair, Mr. BARRETT of Nebraska, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee, having had under consideration the bill (H.R. 1817) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, had come to no resolution thereon.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON BILL MAKING APPROPRIATIONS FOR ENERGY AND WATER DEVELOPMENT, 1996

Mr. MEYERS of Indiana. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations have until midnight tonight to file a privileged report on a bill making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The SPEAKER pro tempore. All points of order are reserved on the bill.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1868, FOREIGN OPERATIONS APPROPRIATIONS FOR FISCAL YEAR 1996

Mr. GOSS, from the Committee on Rules, submitted a privileged report (Rept. No. 104–147) on the resolution (H. Res. 170) providing for consideration of the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR CERTAIN COMMITTEES AND SUBCOMMITTEES TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule.

Committee on Agriculture; Committee on Banking and Financial Services; Committee on Commerce; Committee on Economic and Educational Opportunities; Committee on Government Reform and Oversight; Committee on International Relations; Committee on the Judiciary, and Committee on Transportation and Infrastructure.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

COMMUNICATION FROM CHAIRMAN OF THE COMMITTEE ON APPROPRIATIONS

The SPEAKER pro tempore laid before the House the following communication from the Chairman of the Committee on Appropriations:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES, COMMITTEE ON APPROPRIATIONS,
Washington, DC, June 15, 1995.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that my Committee has been served with a subpoena issued by the United States District Court for the Eastern District of Pennsylvania.

After consultation with the General Counsel, I will make the determinations required by the Rule.

Sincerely,

BOB LIVINGSTON,
Chairman.

COMMUNICATION FROM CHAIRMAN OF THE COMMITTEE ON SMALL BUSINESS

The SPEAKER pro tempore laid before the House the following communication from the Chairman of the Committee on Small Business:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES, COMMITTEE ON SMALL BUSINESS,
Washington, DC, June 15, 1995.

Hon. NEWT GINGRICH,
Speaker of the House,
Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L (50) of the Rules of the House, that the Committee on Small Business has been served with a subpoena issued by the United States District Court for the Eastern District of Pennsylvania.

After consultation with the General Counsel, I will make the determinations required by the Rule.

Sincerely,

JAN MEYERS,
Chair.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

LESSONS FROM THE HISTORY OF AGRICULTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, you know, we are a young Nation, and our focus is forward with only an occasional glance back at the lessons of Athens or Rome or even the lessons of the dust bowl in this country.

But this House is soon going to consider an important issue that requires a deeper look back so we can better plan ahead.

We will soon consider a farm bill that warrants an examination of the history of agriculture and a study of the lessons learned. There is a lineage between the modern American farmer and the ancient Sumerian who worked the land between the Tigris and the Euphrates. It is an equality of importance. Both were responsible, indeed farmers throughout history have been responsible for their countries' civilizations.

It has been said that in the last reckoning, all things are purchased with food. This was true with the cradle of civilization, and it holds true now. Today, American agriculture is this country's largest industry. Agriculture accounts for a full 16 percent of our current gross domestic product, $355 billion worth of food and fiber were produced this past year. That is more than any other industry.

And so it is especially critical that we learn the lessons taught by the successes and failures of the past. History is awash with the remains of societies that failed their farmers and ultimately failed to maintain their soil and who let it succumb to erosion and certainly that resulted in a fall of their civilization.

Cities like ancient Babylon, 2,600 years ago, developed a productive agriculture. It allowed their civilization to grow to 17 million people and a remarkably diversified society. King Nebuchadnezzar boasted, "That which no king has done before, I did. Great canals I dug and brought abundant waters to all the people." But agriculture and farmers became a lesser priority in that country, and ultimately failed.

Today, the site of Babylon is desolation, a dry land, and the promised land 3,000 years after Moses, he called it the land of milk and honey, now barren and rugged, the victim of soil erosion. Only dregs of fertile soil remain at the bottoms of narrow valleys.

But there are also successes. Societies with plans maintaining farmers and maintaining agriculture survived and flourished. For the last 1,000 years, farmers in the French Alps have terraced hillsides dramatically in an effort to prevent soil loss, resulting in continuously fertile soil, fertile agriculture and abundant production.

Essentially, countries that practice a careful stewardship of the Earth's resources through terracing, crop rotation and other sound conservation measures have flourished for centuries, Dr. W.C. Lowdermilk, of the Soil Conservation Service, reported in 1953. Forty-two years have not changed that.

In the U.S. Congress we are now engaged in a great agricultural debate. We are deciding what proper role the Federal Government has in Federal agricultural policy.

It is important that the American people understand that agricultural programs have been designed to encourage a continuous, but slight, overproduction. Farm prices have been kept low.

Most farmers over the past 50 years have experienced subsistence standards of living, mostly because of the agricultural farm programs.

A goal of those programs has been to keep enough farmers and ranchers producing so that an abundant supply would result in not only lower food and fiber prices in this country, but huge exports of commodities that has eventually assisted in our balance of trade.

For 60 years, we have enticed farmers to become more and more dependent on Government subsidy programs. As we move to a more market-oriented farm policy, it is important that we do it gradually and we do it smartly to make sure we do not endanger this productive and efficient industry of American agriculture.

American consumers now spend 9.5 percent of their take-home dollars for food. With that 9.5 percent they are able to buy the best-quality, lowest-priced food anywhere in the world.

In our haste, we cannot jeopardize the survival of American agriculture or the economic strength of our country.

HONORING ST. LOUIS CITY HALL EMPLOYEES FOR THEIR EFFORTS ON BEHALF OF VICTIMS' FAMILIES OF OKLAHOMA CITY TRAGEDY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. GEPHARDT] is recognized for 5 minutes.

Mr. GEPHARDT. Mr. Speaker, I rise today to honor St. Louis City Hall employees for their efforts on behalf of the victims and families of the Oklahoma City tragedy. The Recorder of Deeds, Sharon Quigley Carpenter, and her staff organized a fund-raiser in conjunction with other departments in City Hall and raised a total of $3,415.50. In addition, city hall employees sent a sympathy card to Oklahoma City signed by hundreds of people who either worked or came into City Hall on business.

The initiative taken by the employees at St. Louis City Hall demonstrates their caring spirit. It is a model of action stimulated by compassion and empathy. I want to salute these employees for their selfless and generous contributions to the victims of Oklahoma City.

STATE OF EMERGENCY IN GOVERNMENT

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1996, the gentleman from New York [Mr. OWENS] is recognized for 1 hour as the designee of the minority leader.

Mr. OWENS. Mr. Speaker, there is a state of emergency with respect to decisionmaking right here in this capital right now, and there are large numbers who do not recognize the fact that there is a state of emergency.

We are faced with an unprecedented situation. Government is about to make a dramatic change, and most people, most groups who are going to be victimized by this dramatic change, do not quite seem to understand that there is no miracle in the offing, nothing will save us from the kind of decisionmaking that is taking place now which will result in some devastating cuts in program that benefit large numbers of the American people.

There is a state of emergency, and we should understand that there is a state of emergency. Those who do not understand that we are caught up in extremism, driven by the radical right, public policy is being driven toward a dangerous cliff. We are going to go over that cliff if we do not summon our forces and begin to fight back and understand the kind of problem we face.

To approach extremism and to try to combat extremism with moderation is to guarantee defeat. We must summon up the same kind of intensity that is being summoned against us. We must defend ourselves with the same kind of intensity.

Let us take a look at the budget making process that is now begun. We have already passed the House of Representatives budget. The ruling majority, the Republicans, have passed a budget already. The Senate has passed a budget, and the Senate and House budgets do not differ dramatically. There are draconian cuts in both budgets.

Granted, the Senate's wisdom seems to be to move much slower than the House budget, and that is under negotiation now, the House budget versus the Senate budget, two Republican majorities negotiating with each other.

But there is extremism in both. Never before in the history of the country, this Nation has never seen before such drastic changes being pushed over such a short period of time.

There is a document that was issued by the Republican majority in the House called "Cutting Government," and I have it in my hand. Cutting Government was issued, and it is an indication of what was passed in the Republican majority's budget in the House of Representatives. Cutting Government summarizes extreme changes that are being proposed, extreme, and the sooner we all understand it, the better we will be able to marshal some kind of appropriate defense.

Let me just read the first paragraph of the Cutting Government document. It reads as follows: "The House committee on the budget proposes to terminate, block grant or privatize three Cabinet departments, 284 programs, 69 commissions, 13 agencies, and privatize three commercial activities in our 1996 budget resolution."

That is the opening statement of the document, Cutting Government, from the Republican majority in the House of Representatives.

☐ 1915

Unprecedented. Where else in the history of the Nation have we seen a Congress propose such drastic, reckless changes in such a short period of time, to cut 284 programs, to eliminate three Cabinet departments? Sixty-nine commissions are to be eliminated, 13 agencies to be eliminated, all in a 2-year period—really it is 1 year because a budget is a 1-year document. It is hoped that once they accomplish this, you know, that this is the worst possible scenario, that next year there would not be another budget which will make additional draconian cuts. I do not know what else there will be left to cut in such an extreme matter. They have set out a pattern which I assume will be followed next year, and I assume the pattern will be followed for the next 7 years because there is a 7-year budget that has been proposed. These are extreme measures, you know.

They do not like to hear the word "extreme" around here. They do not like to have recognized exactly what is happening. These extreme measures are camouflaged under talk that makes it appear that this is all a matter of fiscal responsibility, that we are going to save the Government from bankruptcy. These extreme measures will hurt a great deal. They will hurt people in my district; they will hurt people right across the country.

These are extreme measures and represent war being declared on certain categories of people in our society. They do not like to hear class warfare. The Republicans are quick to respond to any notion of an attack on the working class. This is an attack on the working poor, it is an attack on the working middle class, it is an attack on people who are not working and poor. That is class warfare; it is clearly an attack.

You know, it is a blitzkrieg; that is a German word related to World War II that nobody wants to hear either. I am not implying that the Republicans are Fascists or Nazis. It is a figure of speech that I use when I say that they have launched a blitzkrieg because of the rapidity with which they are moving, and the destructive nature, the all-encompassing destructive nature, of the budget process that has been launched by the Republicans: 284 programs to be eliminated, 3 Cabinet departments to be eliminated, 69 commissions to be eliminated, 13 agencies to be eliminated; if this is not a blitzkrieg, then what is a blitzkrieg? You know, if this is not devastation that goes deep and is quite thorough, and to do it all within one budget over a 2-year period, 7 year period, to move that rapidly; if that is not a blitzkrieg, if that figure of speech is not appropriate, I do not know what figure of speech would be appropriate.

On the other hand there are people who say we should not use such harsh language, that we are overdoing it when we talk about the fact that we are faced with an unprecedented situation in our history. We should respond in a more genteel terms. We should be civil in the face of uncivil actions that are uncivilly perpetrated against us. We should ignore the Speaker of the House when the Speaker of the House states that politics is war without blood.

The Speaker of the House says politics is war without blood. He has proceeded to set a tone in the House which runs parallel to that statement. It has been pretty clear that we have been pursuing business here in a manner which very much resembles war. War requires enemies. War requires losers. I do not think that we define what happens here in the Congress, or here in Washington in the past, as being war without blood. We have defined it as being a contest between two responsible parties. Whether they agree or not, at least we did not consider that there must be ultimate losers, casualties. We did not put it in terms that made it appear that, you know, the Nation is going to suffer, a large segment is going to suffer, as a result of one group trampling over another.

I said before we have been engaged in what I would consider to be a noble contest between two political parties. The contest is to determine who can provide the best possible government or what compromise will result—will result because you have two competing parties who both have the goal of improving the Government, of promoting the general welfare, of establishing an environment where people can pursue happiness in the easiest possible way with the least amount of impediments.

I assume that a noble contest is what we were talking about, and the tone of our deliberations in the House and the tone of the deliberation of the Government in Washington are affected by the fact that many of the leaders in the past have considered us to be engaged in a noble contest to determine how best we can improve our Government to keep the great American experiment going forward and getting better all the time. But Speaker GINGRICH has defined what is happening here as war without blood, and the attack launched by the budget process is a blitzkrieg, it is a war, it is scorched-earth warfare when you eliminate three Cabinet departments, you eliminate 284 programs, you eliminate 69 commissions, 13 agencies, and you privatize three major commercial activities all in a very short period of time. That is war, and, if we do not recognize, if the opposition, the Democrats, loyal opposition, does not recognize it, then they are doomed to failure.

The great majority of the American people are going to be impacted, and the majority will be hurt, an elite group in the minority will benefit greatly from this blitzkrieg. They will be the winners. The majority of Americans will be hurt. They are going to be hurt, and we are going to have to hide our heads in shame if we do not offer a better defense.

We may lose; after all, the Republicans have the numbers in the Senate, they have the numbers they need in the House of Representatives. We may lose, but at least we ought to rally ourselves and not fool ourselves about what we are confronted with and make an appropriate response.

You know, to take another analogy from World War II, my father, who gave me the name "Major," so you know he must have been interested in war and soldiering a great deal; he followed events in World War II very closely in the newspaper and magazines. He only had an eighth-grade education, so he did not read scholarly journals, but I think he was as smart as anybody I ever met. He followed it very closely, and he explained to me at one point the tragedy of the blitzkrieg launched by Hitler against Poland and how they had these Panzer tanks. Hitler and his army mechanized, modernized, moving toward Warsaw, and the Polish sent the cavalry out to meet him. Poland sent men on horses, beautifully trained horses, beautifully trained riders, the old glory of the aristocracy riding with him. They sent horses out to meet tanks, and that is the danger that I see developing here, is that we are allowing ourselves to be lulled to sleep by some kind of gas or some kind of noxious fumes. Something is affecting us in ways which are inexplicable. We do not understand what we are up against. We are ready to send beautiful horses out to meet tanks, murderous tanks.

On the one hand we say, well, you have the Republicans propose this reckless budget, extreme budget. They cannot get away with that. But the Republicans in the House control the votes, have enough votes to do it. The Republicans in the Senate have enough votes to do it. That is on the one hand.

On the other hand you say, well, you got a Democratic President. A Democratic President will not let him get away with that, but recently the Democratic President says that he is in favor of moving in the same direction, not just moving toward a balanced budget, and wisely so. He makes a difference, that we will do it in 10 years, but the only difference that he proposes, that the cuts be a little less drastic, that the blitzkrieg be joined, not opposed, you know.

That is on the one hand, the other hand, and you know there is just no other hand if the President, the Democrat who has the power to veto—all expecting the veto of the President to put a check on extremism; the veto of the President will slow down this blitzkrieg. The veto of the President will force a halt to the rapid movement toward the cliff, the dangerous cliff that our public policy is moving toward. The veto of the President would make it necessary to negotiate. There will be no unconditional surrender, but a negotiation which would at least preserve some of what is under attack here.

But the President has said that he will join the rapid movement, and the only difference is he wants to slow it down or he wants to spread it out. That is the only difference. The President wants to balance the budget, and he refuses to talk about the one item that we know one could use to balance the budget in 7 years or in 10 years. You could balance the budget; we have proven that. The Congressional Black Caucus budget, which was introduced here on the floor here, said, if you insist on balancing the budget, we think it is very unwise to try and do it in 7 years, but whether you do it in 7 or 10 years, the way to balance the budget without forcing the draconian cuts in Medicare, the draconian cuts in Medicaid, the terrible cuts in education, without cutting the throat of the effort to improve education, which is so vital to our society, without those drastic moves you could still balance the budget if you would raise the percentage of the tax burden which is borne by the corporations. You could raise the percentage of the tax burden borne by the corporations, and there would be very little pain out there because the corporations are making tremendous amounts of money in our society at this point. Our economy is booming. Part of our economy is booming. The Wall Street economy where investments are made and the profits of corporations are up; that side of the economy is booming.

There is another side of the economy, or another economy totally at this point which I call the job economy which has no relationship between the—there is no relationship between the booming Wall Street economy and the job economy. The job economy is suffering from less and less unemployment in certain places is quite high. Underemployment is rampant all over the country. People are working for less. When they have the good fortune to find a job and have a job, they are working for less, even in the ranks of middle management. They are working for much less. The downsizing, the streamlining, has driven down the quality of life and the standard of living of large numbers of middle-class people who seemed quite safe before in our economy. The very industries which would drive the need for people in an information economy, an information-driven economy, that industry is automating so fast, streamlining its communications technologies and its computerization that large numbers of employees who were needed before are not needed now, or they can take portions of their operations overseas for cheaper and cheaper labor, and the cheap labor is not necessarily only the children in Bangladesh who make sneakers and who are forced to work long hours. Cheap labor sometimes are computer specialists, people who are programing computers in India and who are college graduates or from Eastern Europe who are college graduates, and they work for half of what the computer specialists or the computer programmers would make here in this country.

So there are many ways in which our industries, American industries, can earn huge profits without improving the job situation. So we need a program to correct that. We need to deal with how Americans are going to protect their standard of living the way the Japanese protect their standard of living, the way the Germans protect their standard of living. We need a program.

□ 1930

Before we get to a comprehensive program to do that, one obvious step we should take is to take advantage of the fact that our corporations are making a lot of money. The profits are up very high, and yet they are paying less of a tax burden than families and individuals.

In 1943, and I have a chart here which shows this, the Congressional Budget Office uses the same statistics. I think this chart came out of one of their documents, the Office of Management and Budget, nobody disputes the fact that these are facts. In 1943, 39.8 percent, of the tax burden, the revenue that runs our Government, came from corporations, corporate income taxes. In 1943, 39.8 percent almost 40 percent. At the same time, in 1943, 27 percent of the tax burden, the revenues that run the country, came from individuals and families.

I have repeated these facts several times here in this Chamber. You cannot repeat it too much, because at some time the American people have to wake up; at some time they have to realize they have a good reason to be angry. At some point they have to know where to direct their anger appropriately. The anger should be directed at the sellout that has taken place in this Congress, in this city, Washington, since 1943. The tax burden that is borne by the corporations dropped all the way from 39.8 percent, almost 40 percent, to 8 percent in 1982, 8 percent. It went all the way down from 40 percent to 8 percent in 1982.

Now, how did that happen, while at the same time the individual share of the tax burden went from 27 percent in 1943 to 48 percent in 1982? And in 1995 we are looking at a situation where the individual taxes, individual and family income taxes, are still at 43.7 percent in terms of the total amount of revenue raised to run the country, while the corporate share is down still, not quite as low as it was under Ronald Reagan in 1982, not at 8 percent, but it is at 11 percent. Eleven percent.

Now, if you want to balance the budget, then I was waiting for the President to say, "Let's balance the budget by closing the corporate loopholes, by getting rid of the corporate welfare, by restoring a balance in the tax burden. Let's do it over 8 years." You could balance the budget and meet that need, if we consider that to be such a great need, without cutting Medicare 1 cent, without cutting Medicaid.

Medicare and Medicaid should go back to where Hillary Clinton placed them. In her health plan we were going to make cuts in health care, but we were going to make them in the context of a plan which would provide better health care for all Americans, and, most of all, would cover all Americans. Within the context of that kind of plan, we were also going to be able to slow the rate of the rise in the cost of health care, which is what is being talked about now. The cuts being proposed now are being proposed without any discussion of providing health care to all Americans who are uncovered, or without any discussion of how health care can be improved.

What am I talking about? I am saying that on the one hand, the Republicans in the House and the Senate propose to recklessly balance the budget by making cuts that are going to make large numbers of Americans suffer, by making cuts that are going to leave a mark on our infrastructure, our social infrastructure as well as our physical infrastructure, that will make it very difficult to overcome in future years. All of this is being done very rapidly, and nothing seems to be in place to stop it. The Republicans are moving rapidly, and the President now has joined the flow in the same direction, instead of being the opposition force, the one remaining opposition force we could rely on, the veto of the President.

I projected on the floor of the House a few weeks ago that we would have a situation where the President would stand between the American majority, the caring majority of Americans who are going to be hurt by these cuts, he would stand between them and the Republican blitzkrieg, and force the issue by vetoing the appropriations bill. He cannot veto the budget. That will be decided in the next few days probably by the House and Senate, and the budget will be there. But the budget only sets the upper limits as to how each Committee on Appropriations can operate.

The appropriations bills, one by one, go to the President. The President can veto them. The power to override the vetoes does not reside in either House, I do not believe. The Senate could override the vetoes and the House could not. The Democrats have enough coherence, unity, enough strength left to be able to assist the President in the veto process.

Then negotiations would be forced. You have to have negotiations. We all remember the famous negotiations at the White House when we had gridlock with George Bush. George Bush, facing a democratically controlled House of Representatives and Senate, they had to negotiate a settlement. Each side had to give and take, and you had a balance coming out that nobody was really that happy with, but at least it did not wreck the country overnight. It was not extremism of the kind we are faced with here.

So if we do not have the hope that the President will stand against the blitzkrieg of the Republicans, then what do we have? All we have left is a possibility that the American people can be mobilized and public opinion can be so focused and so determined and communicated in such a forceful way that the President will wake up and change his course.

Our hope is we can have the executive branch of Government stand firm against these draconian, disastrous cuts that will drive our Nation over the cliff into an abyss that will be very difficult to get out of.

Let me just go into a little more detail, because people still do not believe that we are in a crisis. Nobody seems to understand what is in plain English. This is not so subtle. There is nothing hidden. It is all quite out in the open. There is no conspiracy. Republicans cannot be accused of a conspiracy. It is right out there in the open. Everybody has a copy of this list, "Cutting Government."

Departments to be eliminated: The Department of Commerce, the Department of Education, the Department of Energy. They are to be eliminated. That is the Republican proposal. I understand the Senate only proposes to eliminate the Department of Commerce. We can be hopeful in the negotiations between the Senate and the House that we are going to save, if not all three of these departments, at least two of them.

But that is a fact now. It is a very hard fact. One-half of the legislative process, one-half of the legislative branch of Government, is on record already to want to eliminate the Department of Commerce, the Department of Education, and the Department of Energy.

They want to eliminate 13 agencies. I invite anybody who wants to go along with me to take out a pencil and write it down. If you do not have the list, I will give it all to you in detail. Details sometimes are very important. Maybe the details will awaken the American people to the fact we have a crisis. We have a state of emergency in decision making.

The decisions that are going to be made in the next few months in Washington are going to leave us in a situation that will create massive amounts of pain and suffering. The decisions that are made are going to be very difficult to undo in the next few years. Something must be done to rally the American people, the public opinion, and communicate that to the executive branch, that they have to stand against this blitzkrieg that is going to make for so much pain and suffering.

Agencies eliminated, 13. The Economic Development Administration, the Travel and Tourism Administration, International Trade Administration, Minority Business Development Administration, Maritime Administration, Federal Transit Administration, Agency for Health Care Policy Research, Corporation for National and Community Service, which was created by the National Community Service Act just 2 years ago, the Corporation for Public Broadcasting will be phased out over 3 years, Administrative Conference of United States, Legal Services Corporation, which has provided legal services for poor people since Lyndon Johnson created the Legal Services Program during the Great Society years in the 1960's. That is going to be wiped out completely, eliminated like all the other agencies that I have just named. The State Justice Institute, the Office of Technology Assessment. All eliminated.

Maybe this is too high up for most of you who are listening. You cannot comprehend what it means, because these are big agencies still. They are pretty big. Maybe you want to go to another level and let's talk about the 284 programs to be eliminated. The Housing Investment Guarantee Program, USDA's Strategic Space Plan, FMF, loans to Greece and Turkey, assistance to Eastern Europe and Russia, East-West Center, North-South Center, Office of the American Workplace, the SBA Tree Planting Program, DOT's Minority Resource Development Program, highway demonstration projects, mass transit operating assistance, Air Traffic Control Revitalization Act.

There is an article today on the front page of one of the magazines that asks is the Government doing all they can to protect us in the sky when we are flying? Their answer is no, the Government is not. We are going to eliminate a portion of the effort to make it safer for us to travel by air.

The National Highway Institute, the Office of Physical Fitness and Sports. Under Ronald Reagan I think we had a fitness program that was launched that has been quoted over and over again as having reaped great gains in terms of improvements in health and the movement in the direction which would lessen the cost of health care by having a more fit population.

There is an assumption that any small program, because it is small, is undesirable. Some of the programs I am reading here are small, and they are deemed to be automatically undesirable and unproductive because they are small. There is nothing rational about that. That is totally irrational.

I do not say that some of this reasoning does not come from the administration. The White House, the executive branch, started looking at everything small and deciding that we would consolidate. But every time they consolidate by bringing them together, one office under one umbrella, they would eliminate some of the funding, which means that consolidation was really a way to cut out some of the programs.

It is like saying that fingers on your hand are undesirable and no good, unproductive, because they are smaller than the hand. We would be better off if we had just one lump here, consolidation. Let's consolidate all this stuff, and you have it all in one lump, and that is a great improvement automatically.

Well, the animals on the Earth that do not have the kind of finger separation and these smaller items here are not able to compete at all with the manual dexterity of the species homo sapiens. God knew what he was doing, and can we not follow the example? We make the assumption because the fingers are smaller than the hand, we would rather consolidate it in order to improve it. Many of these small programs are far more effective and far more beneficial than large programs. The cost benefits ratio for what we pay for these small programs as taxpayers, we get a far greater benefit out of them than you get from some of the better known, larger programs that are being protected, of course.

The VISTA Program, volunteers in this country, originally created to sort of parallel the Peace Corps, where you would have volunteers in this country. Senior Volunteer Corps, Retired Senior Volunteer Corps, the Foster Grandparent Program, Senior Companion Program, Senior Demonstration Program, these programs are being eliminated because they are very small. They are very tiny, but they are very beneficial and nobody ever argues at any hearing or markup that the programs do not work.

□ 1945

They just are small, and they are going to be eliminated because they happen to be too small.

Goals 2000, State and local education programs. Goals 2000 national programs, Goals 2000, parental assistance, small efforts in the Department of Education that represent a great deal of time, energy, brainpower, devotion, patience, Goals 2000 resulted from a long effort that began under Ronald Reagan when he commissioned a group to study the state of American education, public education. They came back with a report entitled "A Nation at Risk." "A Nation at Risk" said that we are at risk in the modern world of not being able to compete globally with our competitors in trade, not being able to in technology or the use of technology match our competitors and produce the kind of products, the quality of products at the cost level necessary to be able to maintain our leadership in the world.

Goals 2000 is a result of a long process begun then. First, "A Nation at Risk" report was issued by Ronald

Reagan, and then George Bush came along and issued a position statement called American 2000. President Bush called a summit of Governors in Virginia, and the Governors decided to establish a six-point program, six goals for education. These are very, very energetic, knowledgeable people who participated in this process. More important than anything else, they were elected by the American people. They participated in the process together.

It was not to the credit of President Bush, it was not the White House handing down something from Olympia and expecting all the States to comply. There was instead a participation of all existing Governors, including Governor Bill Clinton. So when Governor Bill Clinton became President, he was in a position to follow through. There was continuity from a Republican President to a Democratic President on the all-important matter of education.

Yes, the emphasis was different in terms of the great emphasis on vouchers and privatization of education that was written into the American 2000 program by President Bush and Secretary Alexander. That emphasis was not there in Goals 2000. But much of what was in America 2000 under George Bush was retained in Goals 2000, especially the standard setting.

There was agreement, Republican and Democrats all Governors, that you need to have some standards set. You need to have standards set with respect to the kind of curriculum, the quality of curriculum, the purpose and goals of curriculum. You need to have standards set in terms of how you were going to assess the performance of students, and they did not decide this among the Governors but in the Education and Labor Committee. We introduced a third set of standards called opportunity to learn standards that in addition to standards for curriculum and standards for the assessment of the performance of students, tests, there also should be standards for opportunity to learn, all the young people in the States given an opportunity to learn.

All of these standards were set and would be voluntary. No State would have to do anything. The State has an option. The State would not have to accept the standards. The State would not have to accept standards for curriculum, standards for opportunity to learn. It is all voluntary, but even that, by the way, has been quite successful.

There has been a national math curriculum issue, a national arts curriculum issue. The curriculum standards have moved forward. There is a national history curriculum in the works now, a lot of controversy about it, but it is moving forward. And for the first time the effort to improve American schools is on a systematic upward, forward, progressive path. But now we are going to eliminate that effort. The heart of the effort will be eliminated in this budget that eliminates 284 programs.

Education is a particular target. If you recall, when I read the names of the departments to be eliminated, education was one of the departments, one of the three departments proposed by the Republicans in the House to be eliminated. That alone, when a civilized nation in 1995, given where the world is, how complicated it is, how competitive it is, when a civilized nation decides it wants to eliminate its Department of Education, then you have a state of emergency right there, even if it did no further damage.

If no other reckless proposals were made, that alone is enough for the American people to understand that something is seriously wrong here in Washington. How can any civilized nation say it does not want to provide some kind of direction and some kind of effort to influence the way education is undertaken in the whole nation.

We have a situation where local and State governments are primarily responsible for education. They always have been. There was an editorial in The Hill last week where one of the members of the Education and Labor Committee argued that we have spent more and more on education, and education has gotten worse; and the Federal Government, therefore, should get out of the business of education. We spend more on education, but the money has come from the States and the local levels, and the States and the local governments have been in charge.

Local school boards and the States have been in charge of education. They have the power, $360 to $380 billion. That is a lot of money spent on education last year. But only about 7 percent of that was Federal money. The rest of it came from the States and the localities.

So 93 percent of the dollars, the cost is covered by State and local government. They have 93 percent of the power. The Federal Government is a small bit player in education. The largest program, the chapter 1 program, is a $7 billion program out of that total of $360 to $380 billion. So the Federal Government cannot be blamed if we have spent more money on education and got poor results because it has been a bit player, a tiny player. Its influence is at this point quite minimal. I think it would be very appropriate, highly desirable if the Federal Government's role in education increased to about 25 percent and the Federal funding for education moved in the same way.

If we were funding 25 percent of the total education budget of the country and we had 25 percent of the decision-making power, education would still be very much under the control of local governments, local school boards and the States. It would still be 75 percent. Anybody who has 75 percent of the power is in control.

The Federal Government would have some influence and that is all it has ever had, a tiny amount of influence. So if education is in trouble, things have gone wrong, it is not because the Federal Government has had a major role and it is the cause. The Federal Government has come to this situation very late in the history of this Nation. State governments have always been in control.

Even this tiny effort now would be wiped out in the pending budget. Education for disadvantaged concentration grants, wiped out; education for disadvantaged targeted grants wiped out; impact aid, wiped out; education infrastructure, small program which was to begin the process of providing some help to have poor local school boards to remove asbestos or lead where it is a problem and make schools more healthy in areas where they do not have the money and will never be able to raise the money to do it so that kids would go to safe schools or schools that are not so life threatening as lead poisoning and asbestos are to young children, that is eliminated.

Magnet schools assistance, eliminated; drop out prevention demonstrations, eliminated; bilingual education instruction services, eliminated; Gallaudet University will not be eliminated but they must combine four programs into one. National Institutes for the Deaf combined three programs into one. This is small efforts for people with disabilities, and they are squeezed also.

The Eisenhower Leadership Program, the minority teacher recruitment, minority science improvement, innovative projects for community service, these are all tiny programs, but they have gone and assumed that because they are so tiny they are undesirable, unproductive and must be eliminated.

Federal TRIO programs are tampered with, five programs are eliminated: National Science Scholars, National Academy of Science, Space and Technology, Teacher Corps. I am not reading them all. I am just reading a few of those on the list. Harris fellowships, Javits fellowships, graduate assistance in areas of national need. These are all graduate programs that will be fashioned by members of the Education and Labor Committee in response to long-standing needs. They are tiny programs, but they meet specific kinds of needs that have been identified for more aid in certain areas.

Science is one of those areas. We need more aid for students who are studying, minority students studying science. Javits fellowships were a different kind of effort to aid minority students, not minority students, but students in general. Graduate assistance in areas of national need says it exactly as it is, areas of national need identified, public health people, people who could work with children with disabilities, various areas where you identify national need, there was an effort to target the funding. All of that eliminated. Too small.

Nobody has ever said it does not work, they just said, it must go.

Howard University academic program, Howard University endowment program, elimination. We are talking about wiping out the Howard University academic program, Howard university research, Howard University Hospital, Howard University Clinical Center, Howard University construction, all that wiped out, about $110 million wiped out of Howard University's budget, which wipes out Howard University, because Howard University is the only federally funded university for primarily, it was created primarily, after the Civil War, for the newly freed slaves. But it serves students of all colors, races and creeds now, but it is federally funded primarily.

It does receive funds from some other sources, but only tiny amounts. So when you take away federal funds from Howard University, you are saying we are wiping out Howard University. That is a serious action. That is certainly a state of emergency for Howard University, a state of emergency for education.

Star Schools, eliminated; Ready to Learn Television, the whole area of technology, the use of mass media to improve education, to lower the cost of education, all of that discussed for many years in the Education and Labor Committee, the old Education and Labor Committee, which is now called the Committee on Economic and Educational Opportunities, the representatives that you elect, the representatives that you send here who are placed on authorizing committees labor to get the best wisdom in the country through hearings, through reading papers. Staff organizes legislation, and we created these programs in response to real needs.

But now the power is in the Committee on the Budget and the Committee on Appropriations to wipe all this out, and it proceeded to destroy it. When I use the word blitzkrieg or scorched earth, it is quite appropriate. This is very thorough. This is very devastating, very destructive. It is public policy decisionmaking, but it is as deadly as knives and guns are on a smaller level.

What is being done to our society, the torture and the maiming of our society is incomprehensible to most people. We do not think in those terms. One of the problems with the species Homo sapiens is that they are very physical. Species Homo sapiens only reacts to what it can see and feel, what our senses can identify.

The cognitive process is more difficult to comprehend than we allow, and we allow it to be fooled and manipulated and misused by people who understand the cognitive processes better, who understand futurism and how to project and create new systems. And they understand the result of the systems that they create.

They talk about a balanced budget amendment, but what they are doing is presenting a situation or creating a situation and an environment which will be hostile to social programs and sets up a situation which allows them to squeeze the social programs that they do not want out of existence.

□ 2000

Granted, another group could do that, and squeeze the defense programs and some of the undesirable programs that are being funded out of existence also, but the process is in the control of those who want to go after the programs that benefit the great majority of the American people.

These people who are doing the squeezing, this list of programs to be eliminated and destroyed, which I will discontinue reading at this point, this list is promulgated by people who know very well what they are doing, and have targeted people programs, programs that do benefit the working poor, the working middle class, the poor who have no jobs, and large numbers of the upper middle class will also be hit.

The professional classes will also be hit. The government workers, they are going after their pensions, and going to squeeze those. They know what they are doing. It is not by accident. Nothing has happened by accident. It is clearly understood what the process is.

When they decide to do something in the opposite direction, which is clearly going to cost a lot of money, but they want to do it, they can be very reckless about doing it, very open.

Mr. Speaker, I think that the discussion on the budget and the discussion on appropriations and the discussion about where the country is going with respect to fiscal responsibility, what the danger of bankruptcy might be, that discussion ought to be divided into two parts: before the B-2 bomber vote that took place last week, and after the B-2 bomber vote. The B-2 bomber is a defining point in this whole discussion. The funding for the B-2 bomber, the authorizing of the funding for the B-2 bomber, was on the floor. There was an amendment to eliminate the funding for the B-2 bomber.

What is the B-2 bomber? It is a dream machine for people who want to sneak into areas through a stealth process with a bomber and drop bombs. It was originally conceived to go into the Soviet Union during a nuclear war and drop bombs on selected targets, and it would do this during a nuclear war by using the state-of-the-art stealth technology. It would not be observed. It could sneak in there and do it. With the whole world exploding around us, we would send this bomber in there and it would finish off targets in the Soviet Union.

We say we still need it. It is under production already. The item on the floor was whether or not they should add additional B-2 bombers. The cost was about $30 billion, when we add the production costs and operations costs. The figure of $30 billion sticks out. We are talking about $30 billion in the budget.

Mr. Speaker, I am saying the discussion before and after the B-2 bomber tells us a great deal, because there were large numbers of people who insisted that they came here to cut government, to get government off the backs of people, to make government more effective and more efficient.

There was a discussion on the floor of the B-2 bomber costing $30 billion. Thirty billion dollars can buy a lot of hospital beds, it can buy a lot of school lunches. Thirty billion dollars can build beautiful new schools where there are unsafe schools with asbestos and lead poisoning. Thirty billion dollars can accomplish a great deal in our society in any of the areas of need.

However, $30 billion was on the floor, and the deliberation was shall we go ahead with this madness and keep this $30 billion in the budget, or shall we be reasonable and sincere and show that we are honest about wanting to improve the efficiency of government, about wanting to save the Nation from bankruptcy, about wanting to keep our children from having to bear the burden of paying the debt we build up. All the rhetoric that has come around the balanced budget and the need to move forward to make these draconian cuts was on the table.

The B-2 bomber, the Pentagon says they do not need it. The Secretary of Defense said "We do not need the B-2 bomber." Nobody in the military wants the B-2 bomber. The President does not want the B-2 bomber. The people who are the experts, people who have to fight the wars, say "We do not need a B-2 bomber." Yet, $30 billion is on the table that we can realize and regain to do other things with, to go toward helping the deficit, to keep our children from having to pay these gigantic debts in the future.

All of the rhetoric could be realized. All of the things promised in the rhetoric could be realized to a great degree with $30 billion on the floor. The military does not want it, the Air Force does not want it, the Secretary of Defense does not want it; yet, the majority of the people on the floor of the House of Representatives voted to keep the $30 billion in the budget for the B-2 bomber.

Before the B-2 you might have said "Some of these people are really sincere, especially the freshmen." The freshmen came with their eyes popping with sincerity, bright with sincerity. They said "We do not care what it is, if it is wasteful, we will eliminate it."

Here is an example on the floor, a concrete physical example, a $30 billion example of what you can do to help eliminate waste, make government more effective and efficient, and reduce the deficit. All the objectives can be met to the tune of $30 billion on the floor. Yet, the vote was that the majority says "No, we will keep the B-2 bomber," for whatever reasons.

I do not stand here to impugn the motives of my colleagues, and Congressmen are not in the business of explaining the votes of other Congress persons. They can explain their own vote, but I think you ought to call up each one who voted to keep the B-2 bomber to explain "What is the magic, what is it that we cannot see through simple, ordinary logic?"

There may be some special kind of reasoning and logic, or some deep-seated wisdom that the people who voted to keep this $30 billion monster in the budget have that the rest of us do not have. Let them explain. I see no rush to explain by many who voted.

Of course, there were people who argued on the floor that we need to give our troops the very best, and the stealth bomber would help make it safer for our fliers, et cetera, et cetera. The fliers do not say that. The experts in the military do not say that. The generals do not say that. The Secretary of Defense does not say that. They all gave these arguments, running counter to the people we trust and pay to run our defense.

Therefore, let the B-2 bomber be the deciding point in terms of determining the integrity and the consistency, the truthfulness of anybody who stands on this floor and calls for budget cuts. Let that be the determining, defining moment. It is worthy of saying "Before the B-2 I saw you this way. After the B-2 you are exposed."

Across the B-2, across the spectrum, there are some other B-2 bomber types of votes. We are voting to keep in the F-22, a fighter plane that is the most sophisticated fighter plane ever conceived. It is not needed, also. There are many others. Then we are going to be considering very soon a reorganization of the agricultural bill, continuation of agricultural welfare. Here you have very dishonest discussions about to shape up, similar to the B-2 in terms of the rhetoric is in one place and the action is in another.

If we want to eliminate welfare as we have known it, if we want to change welfare and eliminate welfare as we know it, then let us eliminate agricultural welfare as we know it. From New York, Chicago, Los Angeles, there are thousands, millions of people who would love to go to Kansas and be able to enjoy the benefits that Kansas farmers enjoy from the taxpayers. They get $20,000, $30,000, $40,000 checks each year of doing nothing. They get checks for not plowing the soil, for not growing grain. The checks are without question. They do not have to prove that they are poor.

If you go in any city and say that you are desperately poor, you have no other means to feed your children, then you have to fill out forms. You have to have an audit of your expenses. Somebody has to investigate you before you get a penny. The average welfare check for Aid to Dependent Children recipients, for a family of three, is about $300 a month across the Nation, it being much lower in certain places, like Mississippi, and higher in places like New York. However, the average check is $300 a month for a family of three. Yet, you have to fill out numerous forms, be investigated, and establish the fact that you really need it. There is a means test.

There is no means testing for farmers. There is no means testing. The rich farmers will get the same check that the poor farmers get. There is no means testing. Yes, true, when Franklin Roosevelt first established the program there were poor farmers in the Nation, and it served the purpose. That is no longer the case. We have rich farmers as well as poor farmers getting this welfare.

My time is up, Mr. Speaker, but my point is we are on the verge of a major catastrophe here in Washington. A state of emergency exists. All of America should wake up, particularly the caring majority, the large majority of people who are going to have a great deal of pain and suffering generated for them as a result of these terrible decisions that are being made here.

I hope people understand that in the final analysis, the war that is raging is for us to win. We are still a majority. We are not beggars. We are not in a situation where we have no arms to fight back with. We are still a majority. The caring majority can rally its forces and still prevail. We have to understand first that we are in a state of emergency, that we are threatened, before we rally, but we can and we shall overcome.

CONGRESS MUST LEAD BY EXAMPLE IN DEFICIT REDUCTION

The SPEAKER pro tempore (Mr. JONES). Under the Speaker's announced policy of May 12, 1995, the gentleman from Pennsylvania [Mr. FOX] is recognized for 60 minutes as the designee of the majority leader.

Mr. FOX of Pennsylvania. Mr. Speaker, we address the House tonight on some important issues, many of which are coming up tomorrow. The fact is, in the legislative branch of the Government, if we are going to lead by example, we need to reduce our own expenditures.

We have already seen in this 104th Congress, Mr. Speaker, there have been tax reductions. We have had spending reductions of $190 billion. We have had a deficit reduction of $90 billion. We have had regulatory relief to try to eliminate the unnecessary regulations on businesses and individuals, so they have a chance to succeed in life and be able to create jobs. Now we are talking about downsizing Government.

We talked about eliminating some Federal agencies and reducing others, privatizing still others and consolidating their functions, making sure that we have more direct services for people but less bureaucrats we are supporting. That is what the people of the United States want.

We see historically tomorrow a very important day in the life of this 104th Congress in the House, because House Republicans will continue to keep their promise to the American people by making Congress smaller, more efficient, more accountable, and less costly.

In H.R. 1854, the legislative branch appropriations bill will bring to an end 40 years of largesse in the bloated congressional bureaucracy. By ending business as usual, the GOP bill slashes wasteful congressional spending and ensures that Congress will show its fair share of deficit reduction on the road to a balanced budget.

With me tonight is the gentleman from Minnesota, Mr. GIL GUTKNECHT. He will be working with me in discussing with the American people a number of issues where we can see the downsizing. For instance, Congress must lead by example in its quest to balance the budget by the year 2002. H.R. 1854 will cut congressional spending by $155 million below the fiscal 1995 levels, and we think that is a step in the right direction.

Once the Senate considers its changes, Mr. Speaker, the total savings just within the Congress could be $200 million. I would like the gentleman from Minnesota [Mr. GUTKNECHT] to in fact outline for those Members of the House who are present and listening tonight and others who are joining with us the kinds of changes we are fundamentally making in the way the House runs itself.

I yield to the gentleman from Minnesota [Mr. GUTKNECHT] to outline for us some of those points which are radically different than any prior Congress.

Mr. GUTKNECHT. Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. FOX] for yielding to me.

Mr. Speaker, my grandmother used to say it was wrong to tell our children that they should do as I say, not as I do. I think it is important, as the gentleman has indicated, that we lead by example.

Mr. Speaker, I was pleased and terrified on my very first day in this body to stand in this very place and be the freshman lead sponsor on the adoption of the rules for the Congressional Accountability Act, which essentially said that Congress is going to have to start to play by the same rules as everybody else. That, I think, was the first step in saying that we are going to lead by example in the 104th Congress.

The bill that probably has more to do with actual Members of Congress than any other bill we will deal with this year, the legislative appropriations bill that will be on the floor tomorrow, really begins to make a very important start, and more importantly, an important statement about what we are going to do.

Let me quote one other person who it may seem unusual for someone on our side of the aisle to quote, but one of my favorite quotations is from a gentleman by the name of Jesse Jackson. Several years ago Jesse Jackson said "If you want to change the world, you have got to first change your neighborhood."

I think if we are going to downsize the Federal Government, we have to start with our own House appropriations bill, and I am very pleased with the bill that the gentleman from California [Mr. THOMAS] and others have put together. I think it reflects what the American people voted for back in November 1994. I think it reflects what the American people want. I think it reflects what the American people expect.

□ 2015

Let me just talk about some of those things you have already mentioned and I don't want to be redundant but I think it bears repeating, that this legislative branch appropriations bill is going to spend $155 million less in fiscal year 1996 than we are spending in fiscal year 1995. I think that people need to put that in perspective.

If if fact we did that throughout the entire Federal budget, if we reduced the Federal budget in every category as much as we are reducing our own budget, it would mean that we would cut over $130 billion from the Federal deficit next year. I think that is important. I think the American people need to know that.

Among some of the things that they have included in this bill, and again I congratulate the committee and the staff and all the Members who have been working so hard, and frankly I think maybe, JON, you and I can take some credit as Members of the freshmen class in the 104th Congress, we have been applying pressure from day one to make certain that these kinds of changes were made. But let me just read a few of the changes that are included in this important bill. First of all we eliminate the funding for the Office of Technology Assessment. Second, we eliminate the Joint Committee on Printing, because there is an awful lot of duplication. We will still be able to get our documents printed. It is just eliminating some of the waste and duplication here in the House. We eliminate one House parking lot. I think long term we are looking at a plan perhaps of privatizing all the House parking lots and making it pay its own way. We eliminate complimentary Historical Society calendars. We eliminate the complimentary volumes of the United States Code for Members. We eliminate constituent copies of the CONGRESSIONAL RECORD. In other words, people who want this information are going to have to help pay for it. We privatize the Flag Office. Many constituents write in and they want flags that have been flown over the Capitol. We are still going to make that available but we are not going to do it as a Government-run operation. We are going to privatize. We are going to privatize the House Folding Room which has been a sore spot I think particularly with many of the reformers for a number of years. We are also going to reform, we are going to go right where it hurts, we are going to privatize the House barber shop and the House beauty shop. More important probably than anything else, we are going to begin to consolidate all of these various Members' allowances into a single account.

Again let me just restate. I think this is what the American people wanted back in November when they sent such a clear message that they wanted to downsize the Federal Government. I think they want the Congress to live by example. I think they have seen over the years the number of abuses that Members of Congress have piled upon themselves in terms of perks and advantages that we enjoy, and I think this is a giant step in the right direction in returning some of the credibility to the U.S. House of Representatives and making us much more accountable and making us live within the means that we can afford.

Again, finally, let me just restate something else. If we downsize the rest of Federal spending as much as we are downsizing legislative appropriations in this bill that we will hear tomorrow, we will be saving the taxpayers over $130 billion. I think that is a giant step forward.

Mr. FOX of Pennsylvania. I thank the gentleman from Minnesota [Mr. GUTKNECHT]. I think the fact is that you have displayed repeatedly on the House floor and in committee your resolve as well as the Speaker's that we move forward in making those kinds of fundamental changes.

As we look to this budget for this year, and we look to reconciliation and the appropriations process, we have to keep asking ourselves, because our constituents will be asking us as well, is this a legitimate function for government? Could the private sector better handle it? If it should be government, could it be done with less money? And if it should be government, should be it the Federal Government? Could it be better handled by the State government or local governments which are closest to the people?

Extending if I may beyond what you have said already on some of the savings, the Printing Office would be reduced as far as what their actual budget items would be. The Office of Technology Assessment. The Architect of the Capitol would be reduced by $9.9 million. I think part and parcel of reducing the legislative expense of running this House and of running the Senate which could, like you said, be sizable figures, part of what the freshman class has been doing, and you may want to expand on this, Congressman, after I reflect on it, that is, we have talked already and have obviously acted to reduce by at least one-third to 50 percent our amount of money for franking, that is the mail that is paid for by citizens to receive information which is supposed to be factual data but reducing that budget by a great extent which makes it better for challengers and more fair to the process. We have reduced already the pensions which I would like to see reduced further. We have a bill to ban gifts from lobbyists, which is certainly appropriate and in line with our reforms. We are also looking to eliminate the frequent flier miles, as no one should personally benefit from the fact they have to fly home or fly back or go to a committee meeting, those personal flier miles should not go to the Congressman, they should go back to the Federal Government in savings for travel.

We also should be looking to election and lobbying reform. I think people want to see reform of political action committees and their involvement and influence in elections. This is just one more dimension as I see it in making sure we in fact reform the House, reform its operations, and reform the procedure by which Congressmen run their offices and run the Government to the extent that legislative branch impacts on the total Federal arena.

I would like to yield back to the gentleman from Minnesota [Mr. GUTKNECHT] to reflect further if you have comments on these reform procedures beyond the downsizing of the House itself.

Mr. GUTKNECHT. I remember on that very first night, I was just thinking about it as we were standing here, one of the people I quoted, another person that I have a tremendous amount of respect for, is Vaclav Havel, the first free elected President of Czechoslovakia. I will never forget he came to Minnesota a number of years ago and he said something incredibly profound. Actually he was quoting Thomas Jefferson. He said, "Words are plentiful but deeds are precious."

I think the important thing about the 104th Congress whether we are talking about the Legislative Branch appropriations, a lot of the other reforms you are talking about, as a matter of fact, I think sometimes people say, "Well, what have you done for us lately?"

We are trying every day to press for these reforms, whether it is campaign finance reform, ethics reform, lobbying reform. I think those items are still on the agenda and obviously we would like to work together with our friends on the other side of the aisle and the President if possible on some of those things, but if they are not willing to work with us, I think we are willing to take those bulls by the horns as well and do it ourselves. But the important thing is I think we are leading by example, particularly with this legislative branch appropriation and I think the American people need to know that. I think they need to know that we are working to keep those promises that many of us made back in the campaigns last year that we do want to downsize the Federal Government, we want government to do what they have to do and that is to live within its means, that is why we fought for term limits, that is why we fought for all these other reforms.

Tomorrow I think is a very important day and marks one more milestone in this historic reform-minded 104th Congress.

Mr. FOX of Pennsylvania. I appreciate the gentleman's quote from important individuals around the world who recognize the importance of the actions as opposed to just the words that we speak here on the House floor. Frankly we have been meeting in more days and more hours and more votes than any prior Congress in recent memory, and our work is obviously not completed. While we have done much to set the stage by reducing by one-third of House committee staff, eliminating 3 committees, 25 subcommittees, on the opening day $93 million alone in savings, we are now looking to downsizing the Federal Government so that we have more for direct services and less in bureaucracy and paying for bureaucrats.

One of my pieces of legislation that the gentleman from Minnesota [Mr. GUTKNECHT] is working with me on and many of the freshmen, that is, to have a sunset review of Federal agencies within an every 7-year cycle. This worked very successfully in Pennsylvania where each agency, bureau and department would have to justify their existence on a regular basis and to the extent they are not really fulfilling their original objectives or is duplicating another level of government service, it gets eliminated. The employees would move on to other agencies or into the private sector.

The fact is we need to downsize the Government which has to a great extent created a cottage industry of just more regulations, and more bureaucrats to in fact carry them out. We have legitimate services for which government is important but not just to have more regulations that cost individuals and cost businesses.

The gentleman from Minnesota [Mr. GUTKNECHT] has been working closely with me in our Government Reform and Oversight Committee. Some of the accomplishments we have already had is to make sure we have legislation when there is regulation? And correspondingly, what benefit will they get out of this new regulation? In fact, we have passed in this House this year a moratorium on new regulations until the inventory that we already have on the books and whether or not enforcing them is in the pubic interest.

We have also had a Paperwork Reduction Act, now trying to reduce our paperwork by at least 10 percent. The Government has not been really user-friendly. What we need to do is make sure that like as a business, we justify every dollar we spend, every service we are trying to perform and if the private sector can do it better, then the private sector ought to be left to doing it because the Government usually is slower, more costly, creates more barriers and does not reward initiative.

I know the gentleman from Minnesota [Mr. GUTKNECHT] is a leader in his State in this movement. The gentleman might want to reflect on regulations and where we have come thus far in the 104th Congress and where you see us going from this point.

Mr. GUTKNECHT. I would just go back to a couple of points you made as well. Not only I think has this Congress been reform-minded, we have also been about opening up the process to the public, reminding Members of exactly who pays the bills and who we work for.

Despite some of the cuts, I want to point out that in this legislative branch appropriation, one point that I missed and I do want to come back to that, that we fully fund projects to bring Congress into the information age, including Office 2000 Network and the National Digital Library. We want to encourage all agencies to move towards electronic formatting of documents. We want to make it easier for people to get information about what is happening here in the People's House. I know the Speaker has set that as the standard from day one and I think that is something we are going to continue to work for.

Despite some of the budget cuts that we are going to sustain here in the legislative branch appropriations bill, we are not going to close the process to the American people.

One of the other reforms that we passed on the very first day, we said we are going to open all the meetings, so the meetings that we are having now are open to the public. One other thing we have found now as we have been through these markups, and I know the gentleman has been in some, I was in one most of the day and will be in one most of tomorrow. We do not have proxy voting anymore. Members actually have to be in those committees and we have to actually cast our own votes.

I think many folks would come in from other parts of the country, would come to Washington, they would see some of these committee meetings where almost no one was actually there to listen to the testimony or to participate in the process in terms of marking up these bills and actually voting on amendments, where the committee chairman would sit with a handful of proxies and literally vote half of the members of that particular committee or subcommittee. I think we all knew that that was wrong, and it took the 104th Congress to begin to end that.

Despite the cuts that we are making, we are going to continue to press to make this much more open, much more user-friendly and much more available to the average American so that they know what is happening with their government here in the People's House.

I wanted to mention that. I also want to get back, you began to talk a little about being more businesslike and doing some things as relates to regulatory reform. There is no question that one of the things that we need in this country is regulatory reform and if I might just continue on the time of the gentleman from Pennsylvania [Mr. FOX] for just a little bit, talk about one of the committees that I serve on and why I believe it is important that we continue to press for regulatory reform.

I happen to serve on the McIntosh subcommittee that deals with regulatory reform. It has got a name much longer than that but the short title around here is the Regulatory Reform Subcommittee. Let me just share some of the things that we have learned in testimony in that committee so far. One think tank told us that they believe that the cost of unnecessary Federal regulations to the average consumer in the United States per household works out to about $4,000 per household. It totals about $400 billion a year, according to that one particular think tank.

Federal spending to run regulatory agencies in 1994 was $144 billion. We have approximately 130,000 Federal employees, some might call them bureaucrats, but 130,000 people whose principal job it is to write, interpret or enforce new rules. What we hear from many small business people that have come in to testify, and we have had field hearings around the country, is that they really cannot bear the cost of all of these new Federal regulations. Let me give a few examples.

When we talk about the FDA. It is estimated that on average it will cost a drug manufacturer, a pharmaceutical company over $350 million and 10 years of time to come out, to get approval for FDA of one new drug. Sometimes we wonder why our drug prices are so high. I certainly would not be one that would defend some of the high drug prices, but certainly the amount of regulation and redtape that the pharmaceutical companies have to go through to get one new drug approved is almost staggering. In fact, one estimate said that 25 cents of every dollar spent by consumers on new drugs falls within the FDA empire. This is the largest consumer protection agency in the world and sometimes we have to ask ourselves, how much protection can we afford?

Mr. FOX of Pennsylvania. If the gentleman will yield, the fact is we just had a hearing in my district on FDA reform. Most of the new miracle, lifesaving, life-extending drugs that are created in the country, in fact in the world are created here in the United States.

Many of our experts in the biotech and pharmaceutical companies have informed us that in fact we may be the last recipients, our constituents, of these miracle lifesaving and life-extending drugs because of all the delays in approvals.

□ 2030

And people who are waiting for the drugs say, "Well, if my insurance company will not approve it because the FDA has not, in fact, sanctioned it, then we cannot get it." We had witnesses who had ALS, epilepsy, cancer, or AIDS, all waiting for drugs that, frankly, have gone through appropriate protocols, have had the clinical trials, which most countries might approve.

We are just saying in new legislation we are trying to get passed is, "please speed up the process of approving or disapproving the drugs." We want them to be pure. We do not want overregulation. That is what you are getting at. When we overregulate, we delay the time period by which our constituents might be able to extend lives or the quality of their years.

Mr. GUTKNECHT. It is not just in terms of the number of lives and people waiting for new drugs and chemicals and new procedures, new technologies. I must say that is an issue that is relatively near and dear to our heart back in the State of Minnesota. Obviously, the largest employer in my district is the Mayo Foundation. We are very keen in making certain we have the latest technologies, latest developments for patients who come to visit Mayo Clinic.

As a matter of fact, I like to share the story; it is told that shortly before he retired, one of the Mayo brothers gave a speech. He said, "The plain truth is the average American becomes seriously ill 11 times during their lifetime. They recover 10 times. The reason they recover as many times as they do is because we know as much as we know. When we know more, they will recover more times."

The problem we have in the United States, as it relates to new technologies, new drugs, new procedures, it takes so long from the time they have been developed until they are on the market and the result of which is not only are we losing the benefit of some of those new technologies, in many cases they are very cost-effective as well, but we are also losing some of the jobs that go with producing those new devices and those new technologies.

The medical advice business is more and more being exported to Europe and Japan where they can get approval much faster. They do not have to go through as many hoops, and, as a result, the manufacturers are saying, "I am not going to fool with the FDA. We can get approval much faster in Sweden, Germany, France and Great Britain, and so forth."

So we are not only losing the advantage of having those technologies and drugs available to the American consumer, we are also losing all of that economic growth and development, the jobs that go along with that very important biotechnical industry.

So that is another thing we are losing, and as we talk about the rules and regulations, and we have had so many examples, it is not just FDA.

I will give you one more example about the FDA. The last food additive that was approved by the FDA was in 1990, 5 years ago. When you talk to the food processors in the Midwest or anywhere, they tell us that you know, it is next to impossible because you have to almost prove or disprove the negative. I mean it is next to impossible.

In fact, just a few years ago, we had a scare, you may remember about Alar in apples, and everybody thought, well, we should not eat the apples because some of the apples have had, you know, a very minute amount of Alar applied to them.

Well, only later did we find that the average consumer would have to consume 28,000 pounds of apples a day for 70 years to have something like a 1-in-a-million chance of additional cancer in their particular body.

The point, I guess, of all of this is we can never make things that are completely 100 or 1,000 or whatever, 1-in-a-million percent safe. And so I think we have to have some reasonable regulation, and it is going to be placed upon us to change some of those things.

And, you know, it is like the Alar example, there are lots of examples. Just because we can measure in parts per billion does not necessarily mean that a drug or a chemical is completely unsafe for the American consumer. At some point I think we are going to have to deal with that.

I think American consumers are ready for that.

Mr. FOX of Pennsylvania. One of the things I wanted to say is the fact that on all of these items we are dealing with, whether we are dealing with reform or dealing with items of reduction of our spending or tax cut adoption, or whether we are talking about deficit reduction in this House, the 104th Congress, I am very heartened to tell you and those who are listening, in fact, reforms have been bipartisan, that it has largely been the majority of both sides of the aisle. I think that tells us a lot about the fact that our agenda has been pro-people, pro-active, pro-jobs, pro-business, because the American business cannot depend on having all of these regulations. If we have to over regulate ourselves, as you just said, our jobs are going overseas. We have to make sure regulations are reasonable, not overly expensive, overly intricate. They have to be related to safety and not related to a bureaucratic maze.

I have just seen in my own district, where a gentleman wanted to deal with the Federal Government, but there were 187 pagers of forms, a small contract, $25,000. He would have had to hire a architect, an engineer, attorney, to get through the maze of those documents. He said to me, "Well, you know the Federal Government is not user-friendly."

And, you know, the fact is if the Federal Government was a business, it would be out of business. So we have to make sure we continue our bipartisan situation where we are looking at the focus of the country and saying what can we do to make sure the Government is really delivering the services the people want, that they cannot already take care of themselves, that the private sector is not taking care of.

FDA reform, I believe, is one of the major areas, not only in your district, but my district as well. Some 12,000 jobs are dependent just on pharmaceutical and biotech areas where they helped to make people live longer, live better, and actually provide employment for a great number of high-tech jobs.

So I believe that in this Congress you are going to find some reform legislation adopted which will make the system work better.

Mr. GUTKNECHT. I wanted to restate something else about that. It is not just the jobs and all the other things, but in many cases, the use of some of these new technologies, new drugs, pharmaceuticals and so forth, are very cost-effective, even though the cost of that drug, even at today's prices, because of all the regulations and, to a certain degree, because of the litigation that goes on, we are paying probably for more than we should pay for those drugs, it is still more cost-effective than a hospital stay or the alternative that people might have to confront.

So it is not just that. There are a lot of factors here. I do not think we want to leave the impression with the American people we want no regulations. All we want is reasonable regulations, and we cannot prove something is safe to 1 in 1 million or 1 in a billion. At some point we have to understand that there are some risks. Every morning when we get up in the morning, we take a certain amount of risk. When we get in our car, we take a certain amount of risk. Some of us fly home almost every weekend. We take a certain amount of risk.

I wanted to also share a story of some things I have learned here recently, for example, about the Department of Defense. I believe these numbers are correct, and this is all about all of regulations that, in part, we create, but, more importantly, are created by the various other Federal agencies.

But I am told we have working for the Department of Defense 106,000 people, now, you almost have to be sitting down to hear this, 106,000 people whose principle job it is to be buyers. In other words, they buy things for the Department of Defense, everything from toilet paper to F–16 fighters.

In fact, F–16 fighters are a good example. I think we have something like 1,646 people to buy one F–16 fighter. Now, we pretty much know what one looks like. We know what it is supposed to do. I understand there are certain specs. We have got to make certain the contractors are meeting those specs. But it is hard for me to believe we need 1,646 people to buy one F–16 a week.

Now, 106,000 buyers seems a bit exorbitant, at least it did to me. What bothered me even more, as a matter of fact, I think the story is bad but it gets worse, I am told they have over 200,000 managers to manage the 106,000 buyers. Largely, it is because we have this convoluted set of rules and regulations and regulations piled on top of regulations.

As a matter of fact, I have to tell this story. This morning I gave a talk to a group of electronics folks who were in town. One of them gave me this little circuit board. This circuit board, I guess, goes into an M–1 tank, and it helps to monitor the fuel supply in an M–1 tank. It is a very simple, and I am not an expert on circuit boards but I know just about enough to be dangerous, but this is a very simple circuit board. In fact, the gentleman told me it costs about $3. But because of all the Federal regulations and all the hoops they have to go through, when they sell this circuit board, I think General Dynamics, they sell it for $15.

He said the biggest reason is we have to deal with all the various rules and regulations of the Federal Government, the procurement process and everything that goes with it, and they have to certify, and now, this has a life cycle of about 20 years, but they have to certify at the end of 20 years that this will have no detrimental impact on the environment.

Now, this is going into a machine whose principal mission it is to destroy the environment, a tank; I mean, what it does is break things and destroy things, and yet this circuit board has to prove beyond any doubt that it will do no environmental damage, and, you know, again, I want to say that we want regulation. We need regulation, and there certainly is a role for the Federal Government to play, and I know that left to its own devices, the free markets will not take good care of our environment. I understand that.

Mr. FOX of Pennsylvania. The point you make is well taken. The fact is that this U.S. Congress and this House and Senate will have to take those kinds of examples you just showed us with regard to what one circuit board for $3, that we need to reexamine every single department. What we are talking about with sunset review might eliminate some useless jobs, some duplicating jobs, some positions that are really redundant.

We certainly need to make sure our defense is combat-ready and that our people have the technology and training that goes with having a job with the military, and we have the finest units in the world. There is no question about it.

But to have us spend $12 extra for overregulation, environmental conditions that really not applicable, shows to me that the sunset review legislation would certainly be an idea whose time has come.

Mr. GUTKNECHT. I would say absolutely it is just indicative; I think it does tie together with this whole legislative branch appropriations.

I think we are showing that if we operate our House more efficiently and show how it can be done, if we begin to reduce the needless regulations that the Federal Government has created over the years, and I sometimes do not like this term, if we begin to run the Government more like a business, maybe a better way to say it is we ought to say use more business principles and common sense in achieving some of the things the American people want us to do, I think, and I am an incurable optimist, I believe you can balance the budget. I believe you can make the Federal Government live within its means. I believe you can have reasonable regulations. I think you can have a strong economy.

I do not think these are mutually exclusive. It is just that it takes a little bit of common sense. I think that is what the American people want. That is what we promised, and, as I say, I think that is what we are delivering every day for the American people here in the 104th Congress, and it has been a privilege for me to be a part of it, and it has been a privilege for me to have been working with people like you, and I think we are making a difference, and this legislative branch appropriation is important tomorrow because it sends the right kind of signal.

It is going to demonstrate to the American people we can run the Congress on a much smaller budget. If we can do it in the House of Representatives, it can be done in Federal agencies all over. We can reduce the bureaucracy in the Department of Defense. We can have a strong national defense. We do not have to spent 70 percent more than we have to when we buy circuit boards, whether we are buying toilet paper, toilet seats. You know, the examples go on. Many times, though, those things happen because of all the regulations that we have piled onto the bureaucracy, and it is not just on the Federal Government. We are piling those kinds of regulations on the private sector as well.

So if we unleash some of those powers, use business principles, use common sense, I think we can balance the budget. We can have a clean environment. We can have safe drinking water. We can have new drugs and pharmaceuticals. We can have a growing industry in all kinds of fields. We can have all those things the American people want.

We do not have to sacrifice. We just have to have some common sense.

Mr. FOX of Pennsylvania. What you stated is very much on point. The fact is what we need to do is have a new orientation. Your positive aspect I certainly applaud, and I think the enthusiasm is infectious.

Beyond that, what is even more important is the commonsense ideas, good business ideas. We can take a look at industry and say what have they done well. Frankly, business people have to balance the bottom line every day. If something is not working, is not profitable, they eliminate it. In the Government, if it is not profitable we just send it onto the taxpayers, more taxes, more regulation, more waste, and, the American people are tired of that. They want less waste, more accountability, less taxes, less wasteful spending, more direct service they need which the private sector cannot take care of themselves.

I am very happy tomorrow, you will you and I will be leading the charge, along with our colleagues here in the House, to make sure the kinds of changes fundamental to the running of the House, to downsizing, privatizing and consolidating will be the hallmark for the future on how we look to each Federal agency.

Mr. GUTKNECHT. I would only say in closing, I thank the gentleman for giving this opportunity to speak for a few moments here on the House floor, and some of our Members who may be watching back in their offices, that downsizing the Federal Government is a very difficult task, and I think as freshmen we are beginning to learn how difficult that can be, as the various groups come in and say, "Well, but do not cut this program, do not cut this program."

We can reduce the size of Government. We can reduce many of the things that the Government does without hurting people, and unfortunately sometimes the debate we hear is if you reduce this, it means people are going to get hurt.

One of the examples you used, and I just want to come back to it very briefly, you talked about in the private sector if something is not working and it is too expensive, it is downsized or eliminated. Unfortunately, what happens so often in the Federal Government, they do not downsize anything, do not eliminate anything, but come out with a new program and fund the old program at even larger scale. As a matter of fact, I think that is one of the reasons we have something like 160 different job training programs which are subsidized in whole or in part by the Federal Government, and we have been told by private consultants that most of those job training programs really do not work.

□ 2045

But the answer is never to eliminate any. It is to come out with more programs and prop up the ones that are not working, and I think we have to have the courage as we go forward to do what we are doing with the legislative branch appropriations, and that is to make real cuts, to make some of those tough decisions, and to force the use of technology and other ways to get more efficiency so that we can get more bang for the buck because again I think that is what the American people want, that is what they expect, and hopefully this is just one more example of our promises made and promises kept.

Mr. FOX of Pennsylvania. I say to the gentleman from Minnesota, "Thank you, Congressman. I want to take this opportunity to thank you for participating in this colloquy and dialogue with the American people on how to make sure the Federal Government, through the Congress, can be more accountable to the people and to make sure we stay openminded to hear new ideas from our constituents whether it be by town meetings, by letter, or by phone call. We certainly will be responsive as our colleagues have been in the past."

Mr. Speaker, I appreciate your indulgence in giving us this opportunity to speak out on some important issues of the day.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. UNDERWOOD of Guam (at the request of Mr. GEPHARDT), for today and the balance of the week, on account of personal business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BECERRA) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.

Mr. GEPHARDT, for 5 minutes, today.

(The following Members (at the request of Mr. SMITH of Michigan) to revise and extend their remarks and include extraneous material:)

Mrs. SEASTRAND, for 5 minutes, on June 21.

Mr. SMITH of Michigan, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. BECERRA) and to include extraneous matter:)

Ms. HARMAN.
Mr. CLYBURN.
Mrs. MEEK of Florida.
Mr. MCDERMOTT.
Mr. GORDON.
Mr. BROWN of California.
Mr. SKELTON.
Mr. KLECZKA.
Mr. RAHALL.
Mr. NADLER.
Mr. MILLER of California.
Mr. PALLONE.
Mr. TOWNS.
Ms. SLAUGHTER.
Mr. DURBIN.
Mr. SKAGGS.
Mr. WILLIAMS.

(The following Members (at the request of Mr. SMITH of Michigan) and to include extraneous matter:)

Mr. SAM JOHNSON of Texas in two instances.
Mr. LEWIS of California.
Mr. SHAW.
Mr. TAYLOR of North Carolina.
Mr. ROTH.
Mr. FUNDERBURK.
Mr. QUILLEN.
Mr. HOUGHTON.
Mr. SMITH of New Jersey.
Mrs. SMITH of Washington.
Mr. WAMP.
Mr. BRYANT of Tennessee.
Mr. GILLMOR.
Mr. PACKARD.

(The following Members (at the request of Mr. GUTKNECHT) and to include extraneous matter:)

Mr. GUTKNECHT.
Ms. NORTON.

ADJOURNMENT

Mr. FOX of Pennsylvania. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 46 minutes p.m.), the House adjourned until tomorrow, Wednesday, June 21, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1074. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation entitled, the "District of Columbia Emergency Highway Relief Act"; to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GOSS: Committee on Rules. House Resolution 170. Resolution providing for consideration of the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–147). Referred to the House Calendar.

Mr. BLILEY: Committee on Commerce. H.R. 558. A bill to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact (Rept. 104–148). Referred to the Committee of the Whole House on the State of the Union.

Mr. MYERS: Committee on Appropriations. H.R. 1905. A bill making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–149). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DURBIN (for himself and Mr. CAMP):

H.R. 1889. A bill to encourage organ donation by enclosing information in income tax refund check mailings; to the Committee on Ways and Means.

By Ms. ESHOO (for herself, Mr. FARR, Ms. WOOLSEY, Ms. PELOSI, Mr. MINETA, Mr. MILLER of California, and Ms. LOFGREN):

H.R. 1890. A bill to establish a California Ocean Protection Zone, and for other purposes; to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HAMILTON:

H.R. 1891. A bill to provide for the establishment of the Ohio River Corridor Study Commission, and for other purposes; to the Committee on Resources.

By Mr. HOEKSTRA (for himself, Mr. Oxley, Mr. Ehrlich, and Mr. Gillmor):

H.R. 1892. A bill to amend the Communications Act of 1934 to clarify the requirements applicable to hearing aid compatible telephones in workplaces; to the Committee on Commerce.

By Mr. HOUGHTON (for himself, Mr. McNulty, Mr. Ackerman, Mr. Bunning of Kentucky, Mr. Volkmer, and Mr. Shaw):

H.R. 1893. A bill to amend the Internal Revenue Code of 1986 to exclude length of service awards to volunteers performing fire fighting or prevention services, emergency medical services, or ambulance services from the limitations applicable to certain deferred compensation plans, and for other purposes; to the Committee on Ways and Means.

By Mr. JOHNSON of South Dakota:

H.R. 1894. A bill to amend title VIII of the Elementary and Secondary Education Act of 1965 regarding impact aid payments, and for other purposes; to the Committee on Economic and Educational Opportunities.

H.R. 1895. A bill to amend title 23, United States Code, relating to a vehicle weight and longer combination vehicles exemption for Interstate routes 29 and 129 in Iowa; to the Committee on Transportation and Infrastructure.

H.R. 1896. A bill to waive requirements mandating that States use the metric system in erecting highway signs and taking other actions relating to Federal-aid highway projects; to the Committee on Transportation and Infrastructure, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. LOFGREN (for herself and Mr. Moorhead):

H.R. 1897. A bill to amend the Immigration and Nationality Act to assure immigration priority for unmarried sons and daughters of citizens of the United States over unmarried sons and daughters of permanent residents; to the Committee on the Judiciary.

By Mr. MILLER of California (for himself, Mr. Fazio of California, Mr. Matsui, Ms. Pelosi, Mr. Lantos, Ms. Eshoo, Mr. Farr, Mr. Waxman, Mr. Torres, Mr. Serrano, Mr. McDermott, Mr. Studds, Mr. Johnston of Florida, Ms. DeLauro, Mr. Gejdenson, Mr. Deutsch, Mr. Mineta, Mr. Dellums, Ms. Woolsey, Mr. Pallone, and Mr. Beilenson):

H.R. 1898. A bill to amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to cease mineral leasing activity on submerged land of the Outer Continental Shelf that is adjacent to a coastal State that has declared a moratorium on such activity, and for other purposes; to the Committee on Resources.

By Mr. NADLER:

H.R. 1899. A bill to amend title 18, United States Code, to prohibit certain conduct relating to civil disorders; to the Committee on the Judiciary.

By Mr. NUSSLE:

H.R. 1900. A bill to amend the Clean Air Act to exempt agriculture-related facilities from certain permitting requirements, and for other purposes; to the Committee on Commerce.

By Mr. ROSE:

H.R. 1901. A bill to require the Administrator of the Environmental Protection Agency to delay the implementation of remedial action and design for a particular Superfund site for 1 year while undertaking monitoring and testing to determine whether further action is needed; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

H.R. 1902. A bill to remove the New Hanover County airport burn pit Superfund site from the national priorities list under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; to the Committee on Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SKAGGS (for himself, Mr. Stark, Mr. Evans, and Mr. Sanders):

H.R. 1903. A bill to provide health insurance benefits to certain former employees at defense nuclear facilities of the Department of Energy for injuries caused by exposure to ionizing radiation; to the Committee on Commerce.

By Mr. WILLIAMS:

H.R. 1904. A bill to provide for various programs relating to improving the health of rural populations; to the Committee on Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 60: Mr. Roth.

H.R. 104: Mr. Smith of Texas, Mr. Inglis of South Carolina, Mr. Frank of Massachusetts, and Mr. Chambliss.

H.R. 127: Mr. Zimmer and Mrs. Meyers of Kansas.

H.R. 156: Mr. Smith of New Jersey.

H.R. 218: Ms. Dunn of Washington.

H.R. 219: Ms. Harman.

H.R. 263: Mr. Stark.

H.R. 264: Mr. Waxman.

H.R. 311: Mr. Ney and Ms. Slaughter.

H.R. 312: Mr. Armey.

H.R. 364: Mr. Martini.

H.R. 390: Mrs. Kelly and Mr. Royce.

H.R. 407: Mr. Pomeroy.

H.R. 488: Ms. Rivers, Ms. Lofgren, and Mr. Gene Green of Texas.

H.R. 500: Mr. Deal of Georgia.

H.R. 528: Mr. Jacobs and Mr. Collins of Georgia.

H.R. 574: Mr. Ortiz and Mr. Gene Green of Texas.

H.R. 732: Mr. Inglis of South Carolina.

H.R. 733: Mr. Spratt.

H.R. 734: Mr. Spratt.

H.R. 752: Mr. Baker of California, Mr. Baker of Louisiana, Mr. Callahan, Mr. Calvert, Mrs. Chenoweth, Mr. Cunningham, Mr. Ehrlich, Mr. Hall of Texas, Mr. Lewis of Kentucky, Mr. Manzullo, Mr. McCrery, Mrs. Morella, Mr. Portman, Mrs. Seastrand, Mr. Torkildsen, Mr. Whitfield, Mr. Lipinski, Mr. Deutsch, Mr. Dicks, Mr. Bishop, Mr. McKeon, and Mr. Doolittle.

H.R. 789: Mr. Chambliss.

H.R. 797: Mrs. Lowey.

H.R. 798: Mr. Hefner, Ms. DeLauro, and Mr. Hastings of Florida.

H.R. 810: Mr. Ehlers and Mr. Cramer.

H.R. 843: Mr. Houghton.

H.R. 863: Ms. Lofgren and Mrs. Meek of Florida.

H.R. 896: Mr. Reynolds.

H.R. 909: Mr. Gutknecht.

H.R. 913: Mr. Thornberry, Mr. Luther, Mr. Ganske, Mr. Zimmer, and Mr. Inglis of South Carolina.

H.R. 994: Mr. Weller, Mr. Torkildsen, Mr. Canady, Mr. Ehrlich, Mr. Scarborough, Mr. Zeliff, Mr. Davis, Mr. Shadegg, and Mr. Burton of Indiana.

H.R. 995: Mr. Riggs.

H.R. 996: Mr. Riggs.

H.R. 1021: Mr. Zimmer.

H.R. 1023: Mr. Payne of Virginia.

H.R. 1085: Mr. Zimmer.

H.R. 1100: Mr. Deutsch.

H.R. 1114: Mr. Everett, Mr. Ney, Mr. Duncan, and Mr. Skeen.

H.R. 1130: Mr. Weller.

H.R. 1138: Mr. Dellums.

H.R. 1143: Mr. Holden.

H.R. 1144: Mr. Holden.

H.R. 1145: Mr. Holden.

H.R. 1192: Ms. Slaughter, Mr. Saxton, Mr. Reynolds, and Mr. Zimmer.

H.R. 1193: Ms. Slaughter, Mr. Saxton, Mr. Reynolds, and Mr. Zimmer.

H.R. 1222: Mr. Jacobs and Mr. Torkildsen.

H.R. 1229: Mr. Watts of Oklahoma.

H.R. 1235: Mr. Royce.

H.R. 1268: Mr. Sensenbrenner.

H.R. 1299: Mr. Reynolds.

H.R. 1339: Mr. Kennedy of Rhode Island.

H.R. 1385: Mr. Peterson of Minnesota.

H.R. 1386: Mr. Young of Alaska, Mr. Taylor of North Carolina, and Mr. Klug.

H.R. 1400: Mr. Dellums.

H.R. 1406: Mr. Klink, Mr. Goodlatte, Mr. Holden, Mr. Clinger, and Mr. Foglietta.

H.R. 1448: Mr. Kasich and Mr. Skeen.

H.R. 1450: Mr. Royce.

H.R. 1496: Mr. Clyburn, Mr. Serrano, and Ms. Velázquez.

H.R. 1512: Mr. Zimmer and Mr. Herger.

H.R. 1546: Mr. Reynolds.

H.R. 1594: Mr. Bliley, Mr. Ney, Mr. Buyer, and Mr. Thomas.

H.R. 1610: Mr. Hobson and Mr. Filner.

H.R. 1617: Mr. Sensenbrenner.

H.R. 1670: Mr. Watts of Oklahoma, Mr. McKeon, Mr. Moran, and Mr. Fox.

H.R. 1677: Mr. Bentsen, Mr. Reynolds, Mr. Stupak, and Mr. Serrano.

H.R. 1739: Mr. LaTourette and Mr. Luther.

H.R. 1744: Mr. Stockman.

H.R. 1768: Mr. Skeen.

H.R. 1791: Mrs. Johnson of Connecticut, Mr. Pastor, and Mr. Gene Green of Texas.

H.R. 1794: Mr. Baker of Louisiana, Mr. LaTourette, and Mr. Reynolds.

H.R. 1799: Mr. LaTourette.

H.R. 1810: Mr. Stockman.

H.R. 1821: Mr. Reynolds, Mr. Cunningham, and Mr. Reed.

H.R. 1834: Mr. Burton of Indiana, Mr. Lewis of Kentucky, Mr. McInnis, Mr. Packard, Mr. Payne of Virginia, Mr. Skeen, Mr. Smith of Texas, Mr. Stearns, Mr. Stockman, Mr. Watts of Oklahoma, and Mr. White.

H.R. 1837: Mr. Torricelli.

H.R. 1876: Mr. Farr and Mr. LaFalce.

H.J. Res. 93: Mr. Bereuter, Mrs. Fowler, and Mr. Herger.

H. Con. Res. 10: Mr. Barcia of Michigan, Mr. Shays, Mr. Mineta, Mr. Coble, and Mr. Pickett.

H. Con. Res. 42: Mr. Kleczka and Mr. Hoke.

H. Con. Res. 47: Mr. Owens and Mr. Hoke.

H. Con. Res. 50: Mr. Hoke and Mr. Pallone.

H. Con. Res. 60: Mr. Manton, Mr. Brown of Ohio, and Mr. Schumer.

H. Con. Res. 76: Mr. Bonior, Ms. Woolsey, Ms. Slaughter, Mr. Oberstar, Mr. McHale, Mrs. Mink of Hawaii, and Mr. Conyers.

H. Con. Res. 77: Mr. Solomon.

H. Res. 153: Mr. Reynolds, Mr. Miller of California, Mr. Lewis of Georgia, Mrs. Schroeder, Mr. Berman, Mr. Kennedy of Massachusetts, Mrs. Lowey, Mr. Waxman, Ms. Roybal-Allard, Mr. Ward, Ms. Eshoo, Mr. Klink, Mr. Hinchey, Mr. Gejdenson, Mr. Durbin, Ms. Norton, Ms. Pelosi, Mr. Abercrombie, Mr. Torricelli, Mr. Menendez, Mr. Hastings of Florida, Mr. Frost, Mr. Ackerman, Mr. Thompson, Ms. Slaughter, Mr. Becerra, Mrs. Kennelly, Ms. Woolsey, Mr. Richardson, Ms. Velázquez, Mr. Jefferson, and Mr. Orton.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[Omitted from the Record of February 13, 1995]

H.R. 521: Mr. Beilenson.

[Omitted from the Record of March 10, 1995]

H.R. 24: Mr. Fox.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1868

Offered By: Mr. Brownback

Amendment No. 13: Page 8, line 16, strike “$669,000,000” and insert “$645,000,000”.

Page 12, line 8, strike “$7,000,000” and insert “$3,000,000”.

Page 13, strike line 18 and all that follows through page 14, line 11.

Page 16, line 24, strike “$595,000,000” and insert “$643,000,000”.

H.R. 1868

Offered By: Mr. Burton of Indiana

Amendment No. 14: Page 13, strike line 18 and all that follows through page 14, line 11.

H.R. 1868

Offered By: Mr. Burton of Indiana

Amendment No. 15: Page 77, line 3, insert before the period the following:

or full access for human rights organizations to areas where there exist human rights problems

H.R. 1868

Offered By: Mr. Burton of Indiana

Amendment No. 16: Page 78, after line 5, insert the following new section:

LIMITATION ON ASSISTANCE TO COUNTRIES THAT RESTRICT ACCESS OF HUMAN RIGHTS ORGANIZATIONS

Sec. 564. (a) In General.—None of the funds made available in this Act may be used for assistance in support of any country when it is made known to the President that the government of such country prohibits or otherwise restricts, directly or indirectly, full access for human rights organizations to areas where there exist human rights problems.

(b) Exception.—Subsection (a) shall not apply to assistance in support of any country when it is made known to the President that the assistance is in the national security interest of the United States.

H.R. 1868

Offered By: Mr. DeLay

Amendment No. 17: Page 29, line 1, strike “$50,000,000” and insert “0”.

H.R. 1868

Offered By: Mr. DeLay

Amendment No. 18: Page 29, line 1, strike “$50,000,000” and insert “10,000,000”.

H.R. 1868

Offered By: Mr. DeLay

Amendment No. 19: Page 29, line 1, strike “$50,000,000” and insert “$30,000,000”.

H.R. 1868

Offered By: Mr. Hall of Ohio

Amendment No. 20: Page 7, strike line 18 and insert the following: “CHILDREN AND DISEASE PROGRAMS FUND”.

Page 7, line 23, strike “$484,000,000” and insert “$592,660,000”.

Page 8, line 6, strike “and (7)” and insert “(7) basic education programs, and (8)”.

Page 8, line 16, strike “$669,000,000” and insert “$655,000,000”.

Page 14, line 22, strike “$2,336,700,000” and insert “$2,310,000,000”.

Page 30, line 17, strike “$167,960,000” and insert “$100,000,000”.

H.R. 1868

Offered By: Mr. Hall of Ohio

Amendment No. 21: Page 7, strike line 18 and insert the following: “CHILDREN AND DISEASE PROGRAMS FUND”.

Page 7, line 23, strike “$484,000,000” and insert “$592,660,000”.

Page 8, line 6, strike “and (7)” and insert “(7) basic education programs, and (8)”.

Page 8, line 16, strike “$645,000,000” and insert “$631,000,000”.

Page 14, line 22, strike “$2,336,700,000” and insert “$2,310,000,000”.

Page 30, line 17, strike “$167,960,000” and insert “$100,000,000”.

H.R. 1868

Offered By: Mr. Hefley

Amendment No. 22: Page 16, line 24, strike “$595,000,000” and insert “$296,800,000”.

H.R. 1868

Offered By: Mr. Klug

Amendment No. 23: Page 5, line 9, strike “$79,000,000” and insert “$60,629,334”.

H.R. 1868

Offered By: Mr. Klug

Amendment No. 24: Page 5, beginning on line 10, strike “, to be derived by transfer from the Overseas Private Investment Corporation Noncredit Account”.

H.R. 1868

Offered By: Mr. Klug

Amendment No. 25: Page 5, line 9, strike “$79,000,000” and insert “$60,629,334”.

Page 5, beginning on line 10, strike “, to be derived by transfer from the Overseas Private Investment Corporation Noncredit Account”.

H.R. 1868

Offered By: Mrs. Lowey

Amendment No. 26: Page 23, line 19, insert “or Indonesia” after “Zaire”.

Page 23, line 21, strike “Indonesia and”.

H.R. 1868

Offered By: Mr. Martini

(Amendment to the Amendment Offered By Mr. Sanders)

Amendment No. 27. Strike “$1,000,000” each place it appears in the amendment and insert “$0”.

H.R. 1868

Offered By: Mr. Porter

Amendment No. 28: Page 78, after line 5, insert the following new section:

LIMITATION ON ASSISTANCE TO TURKEY

Sec. 564. (a) None of the funds appropriated in this Act under the heading “Economic Support Fund” may be made available to the Government of Turkey.

(b) Not more than the amount under the heading “Foreign Military Financing Program Subsidy Appropriations” necessary to subsidize loans to the Government of Turkey in the amount of $213,000,000, may be made available to the Government of Turkey unless it is made known to the President that the Government of Turkey has—

(1) formulated and begun implementing a plan to ensure the economic, political and human rights of the Kurdish community in Turkey through political, economic, and other nonviolent means;

(2) lifted all restrictions on free expression in Turkey which controvert Turkey's human rights commitment as stated in OSCE documents and the United Nations Human Rights Convention;

(3) completely lifted its blockage of Armenia; and

(4) begun a comprehensive withdrawal of its troops from Cyprus.

H.R. 1868

Offered By Mr. Porter

Amendment No. 29: Page 78, after line 5, insert the following new section:

LIMITATION ON ASSISTANCE TO TURKEY

Sec. 564. (a) None of the funds appropriated in this Act under the heading “Economic Support Fund” may be made available to the Government of Turkey.

(b) Not more than the amount under the heading “Foreign Military Financing Program Subsidy Appropriations” necessary to subsidize loans to the Government of Turkey in the amount of $240,000,000, may be made available to the Government of Turkey unless it is made known to the President that the Government of Turkey has—

(1) formulated and begun implementing a plan to ensure the economic, political and human rights of the Kurdish community in Turkey through political, economic, and other nonviolent means;

(2) lifted all restrictions on free expression in Turkey which controvert Turkey's human rights commitment as stated in OSCE documents and the United Nations Human Rights Convention;

(3) completely lifted its blockade of Armenia; and

(4) begun a comprehensive withdrawal of its troops from Cyprus.

H.R. 1868

Offered By: Mr. Porter

Amendment No. 30: Page 78, after line 5, insert the following new section:

LIMITATION ON ASSISTANCE TO TURKEY

Sec. 564. (a) None of the funds appropriated in this Act under the heading “Economic Support Fund” may be made available to the Government of Turkey.

(b) None of the funds under the heading “Foreign Military Financing Program

SUBSIDY APPROPRIATIONS" may be made available to assist the Government of Turkey unless it is made known to the President that the Government of Turkey has—

(1) formulated and begun implementation a plan to ensure the economic, political and human rights of the Kurdish community in Turkey through political, economic, and other nonviolent means;

(2) lifted all restrictions on free expression in Turkey which controvert Turkey's human rights commitment as stated in OSCE documents and the United Nations Human Rights Convention;

(3) completely lifted its blockade of Armenia; and

(4) begun a comprehensive withdrawal of its troops from Cyprus.

H.R. 1868

OFFERED BY: MR. PORTER

AMENDMENT NO. 31: Page 78, after line 5, insert the following new section:

CONDITIONS ON ASSISTANCE TO TURKEY

SEC. 564. None of the funds appropriated in this Act under the heading "ECONOMIC SUPPORT FUND" may be made available to the Government of Turkey unless it is made known to the President that the Government of Turkey has—

(1) formulated and begun implementing a plan to ensure the political, economic, and human rights of the Kurdish community in Turkey through political, economic, and other nonviolent means;

(2) lifted all restrictions on free expression in Turkey which controvert Turkey's stated human rights commitment as stated in OSCE documents and the United Nations Human Rights Convention;

(3) totally lifted its blockade on Armenia; and

(4) begun a comprehensive withdrawal of its troops from Cyprus.

H.R. 1868

OFFERED BY: MR. PORTER

AMENDMENT NO. 32: Page 78, after line 5, insert the following new section:

LIMITATION ON ASSISTANCE TO TURKEY

SEC. 564. None of the funds appropriated in this Act under the heading "ECONOMIC SUPPORT FUND" may be made available to the Government of Turkey.

H.R. 1868

OFFERED BY: MR. PORTER

AMENDMENT NO. 33: Page 78, after line 5, insert the following new section:

LIMITATIONS AND CONDITIONS ON ASSISTANCE TO TURKEY

SEC. 564. (a) LIMITATION.—None of the funds appropriated in this Act under the heading "ECONOMIC SUPPORT FUND" may be made available to the Government of Turkey.

(b) CONDITIONS.—None of the other funds appropriated in this Act may be made available to the Government of Turkey prior to April 1, 1996, prior to which the Secretary of State, in consultation with the Secretary of Defense, shall have submitted to the Committees on Appropriations a report detailing the Government of Turkey's progress in—

(1) formulating and implementing a plan to ensure the political, economic, and human rights of the Kurdish community in Turkey through political, economic, and other nonviolent means;

(2) lifting all restrictions on free expression in Turkey which controvert Turkey's stated human rights commitment as stated in OSCE documents and the United Nations Human Rights Convention;

(3) lifting its blockade on Armenia; and

(4) removing its troops from Cyprus.

H.R. 1868

OFFERED BY: MR. PORTER

AMENDMENT NO. 34: Page 78, after line 6, insert the following new section:

LIMITATION ON ASSISTANCE TO TURKEY

SEC. 564. Not more than $21,000,000 of the funds appropriated in this Act under the heading "ECONOMIC SUPPORT FUND" may be made available to the Government of Turkey.

H.R. 1868

OFFERED BY: MR. PORTER

(Amendment to the Amendment Offered by Mr. Smith of New Jersey)

AMENDMENT NO. 35: In addition, $25,000,000, to be transferred to and merged with the appropriation for "Development Assistance Fund".

H.R. 1868

OFFERED BY: MR. PORTER

(Amendment to the Amendment Offered By Mr. Smith of New Jersey)

AMENDMENT NO. 36: At the end of the amendment, insert the following: In addition, $25,000,000, to be available only if there takes effect a reduction in United Nations Population Fund amounts provided for under this heading in the event of noncompliance with certain requirements specified under this heading, and to be transferred to and merged with the appropriation for "Development Assistance Fund".

H.R. 1868

OFFERED BY: MR. RICHARDSON

AMENDMENT NO. 37: Page 14, line 22, strike "$2,326,700,000" and insert the following "$2,325,500,000".

Page 21, line 7, strike "$671,000,000" and insert "$672,000,000".

H.R. 1868

OFFERED BY: MR. RICHARDSON

AMENDMENT NO. 38: Page 78, after line 6, insert the following new section:

LIMITATION ON FUNDS FOR BURMA

SEC. 564. None of the funds made available in this Act may be used for International Narcotics Control or Crop Substitution Assistance for the Government of Burma.

H.R. 1868

OFFERED BY: MR. RICHARDSON

AMENDMENT NO. 39: Page 78, after line 6, insert the following new section:

LIMITATION ON IMET ASSISTANCE FOR GUATEMALA

SEC. 564. None of the funds appropriated in this Act under the heading "International Military Education and Training" shall be available for Guatemala.

H.R. 1868

OFFERED BY: MS. ROS-LEHTINEN

AMENDMENT NO. 40: Page 16, line 24, strike "$595,000,000" and insert "$355,000,000".

H.R. 1868

OFFERED BY: MS. ROS-LEHTINEN

AMENDMENT NO. 41: Page 16, line 24, strike "$595,000,000" and insert "$416,500,000".

H.R. 1868

OFFERED BY: MS. ROS-LEHTINEN

AMENDMENT NO. 42: Page 78, after line 6, insert the following new section:

LIMITATION ON USE OF FUNDS BY RUSSIA FOR CONSTRUCTION OF JURAGUA NUCLEAR POWER PLANT IN CIENFUEGOS, CUBA

SEC. 564. None of the funds made available in this Act for assistance in support of the Government of Russia may be used for the construction of the Juragua nuclear power plant in Cienfuegos, Cuba.

H.R. 1868

OFFERED BY: MS. ROS-LEHTINEN

AMENDMENT NO. 43: Page 78, after line 6, insert the following new section:

REDUCTION OF FUNDS FOR RUSSIA IN AMOUNT PROVIDED FOR CONSTRUCTION OF JURAGUA NUCLEAR POWER PLANT IN CIENFUEGOS, CUBA

SEC. 564. (a) IN GENERAL.—The funds otherwise provided in this Act for the Government of Russia under the heading "Assistance for the New Independent States of the Former Soviet Union" shall be reduced by an amount equal to the amount of funds provided by such Government for the construction of the Juragua nuclear power plant in Cienfuegos, Cuba.

(b) EXCEPTION.—The reduction provided for by subsection (a) shall not apply if the President certifies to the Congress that a restoration of the funds is required by the national security interest of the United States.

H.R. 1868

OFFERED BY: MR. SANDERS

AMENDMENT NO. 44: Page 4, line 26, strike "$26,500,000" and insert "$1,000,000".

Page 5, line 9, strike "$79,000,000" and insert "$0".

H.R. 1868

OFFERED BY: MR. SAXTON

AMENDMENT NO. 45: Page 72, line 5, strike "for the" and all that follows through line 16 and insert a period.

H.R. 1868

OFFERED BY: MR. SMITH OF NEW JERSEY

AMENDMENT NO. 46: Page 20, line 25, strike the semicolon and all that follows through "Code" on page 21, line 5.

Page 21, line 7, strike the final comma and all that follows through line 9 and insert the following:

: *Provided*, That none of the funds appropriated under this heading shall be available for salaries and expenses of personnel assigned to the bureau charged with carrying out the Migration and Refugee Assistance Act.

OFFERED BY: MR. SMITH OF NEW JERSEY

AMENDMENT NO. 47: Page 78, after line 5, insert the following new section:

PROHIBITION ON FUNDING FOR ABORTION

SEC. 564. (a) IN GENERAL.—

(1) Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act for population assistance activities may be made available for any private, nongovernmental, or multilateral organization until the organization certifies that it does not now, and will not during the period for which the funds are made available, directly or through a subcontractor or sub-grantee, perform abortions in any foreign country, except where the life of the mother would be endangered if the fetus were carried to term or in cases of forcible rape or incest.

(2) Paragraph (1) may not be construed to apply to the treatment of injuries or illnesses caused by legal or illegal abortions or to assistance provided directly to the government of a country.

(b) LOBBYING ACTIVITIES.—

(1) Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act for population assistance activities may be made available for any private, nongovernmental, or multilateral organization until the organization certifies that it does not now, and will not during the period for which the funds are made

available, violate the laws of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited, or engage in any activity or effort to alter the laws or governmental policies of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited.

(2) Paragraph (1) shall not apply to activities in opposition to coercive abortion or involuntary sterilization.

(c) Coercive Population Control Methods.—Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act may be made available for the United Nations Population Fund (UNFPA), unless the President certifies to the appropriate congressional committees that (1) the United Nations Population Fund has terminated all activities in the People's Republic of China; or (2) during the 12 months preceding such certification, there have been no abortions as the result of coercion associated with the family planning policies of the national government or other governmental entities within the People's Republic of China. As used in this section the term "coercion" includes physical duress or abuse, destruction or confiscation of property, loss of means of livelihood, or severe psychological pressure.

H.R. 1868

Offered By: Mr. Traficant

Amendment No. 48. Page 78, after line 5, insert the following new section:

ACROSS-THE-BOARD REDUCTION OF AMOUNTS

Sec. 564. (a) In General.—Except as provided in subsection (b), each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by 10 percent.

(b) Exceptions.—Subsection (a) shall not apply to the amounts appropriated or otherwise made available by this Act for the following:

(1) "Export and Investment Assistance" (title I of this Act).

(2) "Development Assistance Fund".

(3) "Development Fund for Africa".

(4) "International Disaster Assistance".

(5) "African Development Foundation".

(6) "Inter-American Foundation".

(7) "Peace Corps".

(8) "International Narcotics Control".

(9) "Anti-Terrorism Assistance".

(10) "Nonproliferation and Disarmament Fund".

(11) "Contribution to the International Development Association".

(12) "Contribution to the Asian Development Fund".

H.R. 1868

Offered By: Mr. Traficant

Amendment No. 49: Page 78, after line 5, insert the following new section:

ACROSS-THE-BOARD REDUCTION OF AMOUNTS

Sec. 564. (a) In General.—Except as provided in subsection (b), each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by 1 percent.

(b) Exceptions.—Subsection (a) shall not apply to the amounts appropriated or otherwise made available by this Act for the following:

(1) "Export and Investment Assistance" (title I of this Act).

(2) "Development Assistance Fund".

(3) "Development Fund for Africa".

(4) "International Disaster Assistance".

(5) "African Development Foundation".

(6) "Inter-American Foundation".

(7) "Peace Corps".

(8) "International Narcotics Control".

(9) "Anti-Terrorism Assistance".

(10) "Nonproliferation and Disarmament Fund".

(11) "Contribution to the International Development Association".

(12) "Contribution to the Asian Development Fund".

H.R. 1868

Offered By: Mr. Traficant

Amendment No. 50: Page 78, after line 5, insert the following new section:

ACROSS-THE-BOARD REDUCTION OF AMOUNTS

Sec. 564. (a) In General.—Except as provided in subsection (b), each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by 5 percent.

(b) Exceptions.—Subsection (a) shall not apply to the amounts appropriated or otherwise made available by this Act for the following:

(1) "Export and Investment Assistance" (title I of this Act).

(2) "Development Assistance Fund".

(3) "Development Fund for Africa".

(4) "International Disaster Assistance".

(5) "African Development Foundation".

(6) "Inter-American Foundation".

(7) "Peace Corps".

(8) "International Narcotics Control".

(9) "Anti-Terrorism Assistance".

(10) "Nonproliferation and Disarmament Fund".

(11) "Contribution to the International Development Association".

(12) "Contribution to the Asian Development Fund".

H.R. 1868

Offered By: Mr. Traficant

Amendment No. 51: Page 78, after line 5, insert the following new section:

PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

Sec. 564. Sense of Congress.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) Notice Requirement.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

H.R. 1868

Offered By: Mr. Visclosky

Amendment No. 52: In Title V Section 507 strike "Provided further," and all that follows in Section 507.

H.R. 1868

Offered By: Mr. Visclosky

Amendment No. 53: In Title V Section 507 strike "Provided further," and all that follows in Section 507 and insert "Provided further, That, notwithstanding any other provision of law, non-governmental organizations and private voluntary organizations operating within Azerbaijan and Nagorro-Karabagh shall be eligible to receive funds to be used for humanitarian assistance for refugees displaced by the conflict in Nagorno-Karabagh and also for technical assistance for election observers and other assistance to facilitate free and fair parliamentary elections in Azerbaijan scheduled for November 12, 1995. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated directly to the government of Azerbaijan.

H.R. 1868

Offered By: Mr. Wolf

Amendment No. 54: Page 23, line 19, insert "or Indonesia" after "Zaire".

Page 23, line 21, strike "Indonesia and".

H.R. 1868

Offered By: Mr. Wolf

Amendment No. 55: Page 78, after line 6, insert the following new section:

LIMITATION ON IMET ASSISTANCE FOR INDONESIA

Sec. 564. None of the funds appropriated in this Act under the heading "International Military Education and Training" shall be available for Indonesia.

EXTENSIONS OF REMARKS

THE TRUE INTENT OF THE FIRST AMENDMENT

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. QUILLEN. Mr. Speaker, my good friend and constituent W.W. Belew, of Bristol, TN, is a prominent businessman and an inspiration to his community and church. Bill kindly sent me a copy of the following article from Reader's Digest that I believe every Member of Congress should read. We have just finished the season when high schools around the Nation hold their annual graduation exercises, and students everywhere were again denied their rights to include religious references at this important time in their lives. The reason for this is the unfortunate and harmful decision of our judicial system to take religion entirely out of any public enterprise. I believe that this decision is wrong, and the article sent to me by Mr. Belew clearly states why. I look forward to being able to vote for a constitutional school prayer amendment soon to rectify this situation, and I am hopeful that my colleagues will join me in this endeavor.

[From the Reader's Digest, Dec. 1994]

THE SUPREME COURT IS WRONG ABOUT RELIGION

(By M. Stanton Evans)

A rabbi prays at a Rhode Island high-school graduation ceremony. This brings a lawsuit, and a court prohibits invocations at such ceremonies. In Morrow, Ga., a school-board attorney advises a class officer to delete reference to God from her commencement remarks—because it is unconstitutional. A federal judge abolishes the Good Friday holiday in Illinois public schools.

Over three decades ago the Supreme Court declared that prayer in the public schools was unconstitutional—a violation of the First Amendment, which states that "Congress shall make no law respecting an establishment of religion." Since then traditional religious beliefs and customs have retreated before a secular onslaught by our courts.

Was the First Amendment really intended to build a "wall of separation" between church and state? History is clear: it was not. The Founding Fathers wanted to protect religion from federal-government interference, not diminish its influence in our public life.

What were the religious convictions of the framers?

Some historians, as well as members of the Supreme Court, have implied that the Founding Fathers were religious skeptics. In fact, the vast majority of those who gathered in Philadelphia to create the Constitution were church-going believers.

They included Presbyterian Hugh Williamson, a former preacher from North Carolina; Roman Catholics such as Daniel Carroll of Maryland; Quakers John Dickinson of Delaware and Thomas Mifflin of Pennsylvania.

Ben Franklin asserted, "The longer I live, the more convincing proofs I see of this truth—that God governs in the affairs of men." George Washington, for his part, had urged his troops "to live and act as becomes a Christian soldier," and wrote in his Farewell Address that "reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle."

What were the public customs at the time of the First Amendment?

The providence of God was openly and officially acknowledged. Most states had religious requirements to hold office. South Carolina, for instance, said no one was eligible for the legislature "unless he be of the Protestant Religion."

The term "establishment of religion" had a definite, agreed-upon meaning: an official church, vested with privileges denied other churches and supported by the public treasury. Such was the Church of England in Great Britain—and churches in nine of the 13 Colonies at the outset of the American Revolution.

Because of growing religious diversity, however, pressure mounted within the Colonies to disestablish these churches. In 1785, James Madison co-sponsored a bill in Virginia to disestablish the Protestant Episcopal Church and prohibit taxes from being used to support any church. He did not act out of animosity to religion, but mainly at the request of other denominations who felt unfairly treated. Nor did he intend to erect a "wall of separation" between church and state: on the same day, he introduced a bill "for appointing days of public fasting and thanksgiving."

What was the federal policy?

Religious belief was officially sanctioned. Days of prayer and appeals for divine assistance were common. The Continental Congress appointed a chaplain and provided for an opening prayer as one of its first items of business.

When the Continental Congress passed the Northwest Ordinance, governing territories beyond the Ohio River, one of its goals was the promotion of religion. One lot in each parcel of land in the territories was to be "given perpetually for the purposes of religion." And in 1780, in the midst of Revolutionary conflict, the Congress also took steps to print an American Bible, as the supply from England had been cut off.

How was the First Amendment written?

After his election to the House of Representatives, Madison proposed a Bill of Rights on June 8, 1789. It assured that "the civil rights of none shall be abridged on account of religious belief or worship, nor shall any national religion be established."

In debating the bill the House made it clear that its objective was to prevent Congress from establishing a "national" religion that would threaten the religious prerogatives of the states.

The specific First Amendment language adopted—"Congress shall make no law respecting an establishment of religion"—was worked out by a six-man committee, including two members of Connecticut's state-established Congregational Church. The meaning was clear. Congress was forbidden to legislate for or against church establishments. It could neither set up a national church, nor interfere with the established churches in the states.

Official support for religion persisted well after adoption of the First Amendment. The established church of Massachusetts, for example, lasted until 1833, when it was abolished by the state itself, not the Supreme Court.

In recent times, the Supreme Court has "applied" the First Amendment's establishment clause to the states. Thus, what was once prohibited only to the Congress is now also prohibited to the states. Yet even if this approach is valid, it hardly warrants banishing religion from public life.

The Court has prohibited prayer in state-sponsored schools, yet Congress itself has engaged in officially sponsored, tax-supported prayer, complete with paid official chaplains, from the very outset. The day after the House approved the First Amendment's establishment clause, September 25, 1789, it called for a day of national prayer and thanksgiving—the precursor to our present national holiday.

President Washington said: "It is the duty of all nations to acknowledge the providence of Almighty God, to obey His will, to be grateful for His benefits and humbly to implore His protection and favor."

The Supreme Court's term "wall of separation" comes from a letter Jefferson wrote to Baptist officials in Danbury, Conn. In it, he affirmed his view that establishing or disestablishing a church was not a question for the federal government. In his second inaugural address, Jefferson stated that in matters of religion, he had "left them, as the Constitution found them, under the direction and discipline of State or Church authorities acknowledged by the several religious societies."

Later, Jefferson told a clergyman that his views were based on the states' rights Tenth Amendment as well as on the First: "Certainly no power to prescribe any religious exercise, or to assume authority in religious discipline, has been delegated to the general government. It must then rest with the states as far as it can be in any human authority."

The conclusion seems irresistible: that no wall of separation between religious affirmation and civil government was intended by the First Amendment. The wall of separation was between the federal government and the states.

The Constitution, including the First Amendment, was the work of believers in God who expressed their faith through public prayer. We have come to a day when a child's mention of God in a graduation address or the presence of a Nativity scene in a public place triggers threats of legal action. This is a gross distortion of our Constitutional history and a dishonor to our Founders.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

TRIBUTE TO MAUMEE VALLEY GUIDANCE CENTER ON THE OCCASION OF THEIR 35TH ANNIVERSARY

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. GILLMOR. Mr. Speaker, it gives me great pleasure to rise today and pay tribute to an outstanding organization located in Ohio's 5th Congressional District. On June 22, 1995, the Maumee Valley Guidance Center will celebrate their 35th anniversary.

The guidance center is a community mental health center serving residents of Defiance, Fulton, Henry, and Williams Counties in OH. Under the leadership of executive director, William Bierie, and the center's dedicated staff of professionals, it has steadfastly served northwest Ohio for 35 years.

The Maumee Valley Guidance Center believes in the principles associated with continuous quality improvement as supported by various health care accrediting agencies and consistent with organizations committed to excellence.

The purpose of continuous quality improvement is to provide a mechanism whereby ongoing and systematic monitoring and evaluation of the quality of client services can be accomplished. Continuous quality improvement activities provide direction for the development and implementation of change toward improved quality of care and client outcome.

Mr. Speaker, anniversaries are a time to reflect on past accomplishments, they are also a time to look toward new horizons. The staff of the guidance center has made it their responsibility to serve those in need by keeping pace with the ever increasing challenges facing mankind. I ask my colleagues to join me today in recognizing the achievements of the Maumee Valley Guidance Center and encourage them to continue to uphold what has become the standard for service in Ohio.

IN HONOR OF RITA GERBER

HON. JANE HARMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Ms. HARMAN. Mr. Speaker, I ask that my colleagues join me today in honoring a constituent of mine and longtime Westchester resident, Rita Gerber. Rita is concluding a 1-year term as president of the Westchester/LAX Chamber of Commerce, and is being honored by her colleagues at the chamber's annual dinner on June 27.

Under Rita's leadership the Westchester Chamber experienced a significant increase in membership, and received its first ever ranking in the Los Angeles Business Journal's listing of the largest Chambers of Commerce in Los Angeles County. The chamber now boasts over 375 members.

Rita oversaw a year of firsts at the Westchester/LAX Chamber. The chamber held its first business recognition dinner and also launched the flight path, a walking tour that commemorates pioneers in aviation and aerospace history. The flight path dedication was attended by retired Brig. Gen. Chuck Yeager. Another first was the chamber's protectors' breakfast held to honor men and women in law enforcement. These events would not have been possible without Rita's ability to turn ideas into action. Rita lent the enthusiasm and the consensus building skills she possesses to see these projects through.

During Rita's tenure the chamber took a lead role in the formulation of the Los Angeles City general plan, the blueprint for future progress and growth in Los Angeles. In addition, the chamber was instrumental in building a coalition between business leaders and educators in Westchester, ensuring that the area's most valuable asset, its children, are given as many opportunities as possible to learn.

Rita is truly a modern woman. Along with all her responsibilities as president of the Westchester/LAX Chamber, she still finds time to spend with her husband Greg, and daughter Christine, 12, their proudest accomplishment. Her friends appreciate her infectious laugh, and her great sense of humor. Please join me in honoring a very special person, Rita Gerber.

TRIBUTE TO THE DESCENDANTS OF JACK SPANN OF SUMTER

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to the descendants of Jack Spann of Sumter, SC as they celebrate their family reunion.

Jack Spann was born May 16, 1844, in Middleton Township in my hometown of Sumter County, SC. Jack was the son of Milton and Lettie Spann, who had one other son, Dave.

Born into slavery, Jack received his freedom around 1854, prior to the 1863 Emancipation Proclamation. After receiving his freedom, Jack lived on Scriven Moore's place as a tenant farmer in a community known as Scuffletown.

Jack Spann was also a minister and was assistant to the pastor of St. Luke AME Church for many years. He could quote the Bible from Genesis to Revelation. It was said of him, "If Christianity was ever demonstrated, Jack Spann was an excellent example." When a member of the community died, families called on Jack Spann to pray with them.

In 1876, Jack Spann married Sophie Bradford, with whom he had 11 children, 6 of whom died in infancy and early childhood. Those who lived to adulthood were: Harriet, Annette, Jack, Joseph, and Henry. Sophia Bradford Spann died in 1889 and is believed to be buried in the old St. Luke AME Church cemetery.

In 1891, Jack married Alice Jackson Singleton, a young widow, who had a child from her first marriage, Sipio, who was known as "Fisher." Jack and Alice had nine children of their own: James, Richard, Albert, Samuel, Mary Alice, Eliza, Willa, and Sarah—twins, and Lummie. After a long and fruitful life, Jack Spann died in Sumter County at 7:35 a.m. on June 11, 1925, at the age of 81. Alice Spann died in Kershaw County on July 29, 1948, at the age of 76.

Mr. Speaker, on June 23, 1995, Jack Spann's descendants, including his only surviving child, Eliza Spann Missouri Pickett, 92 years of age, will gather in New York to celebrate their family reunion and to honor the memory of Jack Spann and all of their long-gone relatives. Please join me in congratulating this fine family.

IN RECOGNITION OF THE INSTITUTE IN BASIC LIFE PRINCIPLES

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. SAM JOHNSON of Texas. Mr. Speaker, in a day when crime and juvenile delinquency are growing concerns internationally, I would like to commend a group of outstanding young people who are striving to set a new standard of strong moral character and social good works in our Nation and around the world. Among these young people are the 130 individuals below who recently traveled to Taiwan, and the Republic of China, to represent positive qualities before government leaders, in public meetings, and most importantly of all, in presentations to and personal conversations with over 14,000 Chinese students. The youth named below traveled to the Republic of China on April 1, 1995 and visited the cities of Taichung, Taipei, and Kaoshiung before departing on April 17, 1995. The leaders with whom they met included Dr. Ma Ying-Jeou, the Minister of Justice, R.O.C.; Dr. Yung Chao-Hsiang, Political Deputy Minister of the Ministry of Education R.O.C.; Dr. Hwang Jen-Tai, Administrative Deputy Minister of the Ministry of Education, R.O.C.; Mr. Wu Den-Yih, Mayor of Kaohsiaung; Mr. Wu Ying-Jang, Commissioner of the Bureau of Education of Taipei; Dr. Wu Chung-Lih, Deputy Director of the Government Information Office, R.O.C.; Dr. Li Tchong-Koei and Dr. Jeng Sen-Shyong, President and Vice President of the China Youth Corps with the directors of their cabinet; Dr. Chen Chien-Chin, Speaker of the House for the Taipei City Council; and various other educational leaders of all three cities. In the course of these contacts, invitations were extended for additional groups of these young people to come to Taiwan, The Republic of China and initiate long-term projects with Chinese youth and families.

Steve Alexander (TX), Julie Allen (TX), Dominique Bakash (IN), Kimberly Barber (GA), Matthew Barnes (IN), Jamie Becker (CO), Mary Bolin (NE), Bethany Bowman (MI), Matthew Bowman (MI), Tom Boyle (CT), Bud Bramblett (GA), Billy Briscoe (OK), Joshua Brock (GA), Bert Bunn (NC), Gracie Butler (AL), Mike Cancigilia (WA), Jonathan Carslile (MO), Mary Carpenter (SC), Pamela Chamberlin (IN), Faith Chen (NY), Karen Chen (NY), and Stephen Chen (NY).

Timothy Chen (NY), You-Lan Chen (NY), Amanda Collyer (MI), Bridget Conklin (CT), April Cooney (OR), Jill Cooney (OR), Abby Cowan (NZ), Emily Cummings (WA), Garrett Dauer (CA), Dorece DeLano (WA), Sonia Dietos (CA), Anitra Donald (WA), Jessica Douglas (IN), Reuben Dozeman (MI), Annie DuBreuil (IL), Ryan Ennis (AR), Erika Engen (WA), Prggy Evans (TX), Steve Ferrand (CO), Janet Fay (PA), Paul Ford (MN), and David Freeman (FL).

Antonio Garza (TX), Danielle Greiger (NC), Delisa Greiger (NC), Abagail Gelotte (WA), Paul Glader (SD), Rachel Glader (SD), Alison Gracom (CA), Christen Grunden (TX), Desiree Hansen (BC), David Hanson (IN), Matthew Harry (MI), Titus Heard (OK), Rachel Hedden (MN), Matthew Heisey (PA), Strickland Holloway (GA), Timothy Hood (FL), Seth Horvath (NY), George Hsu (TX), Timothy Hsu (TX), Jennifer Hulson (OK), Andrea Jackson (CA), and Annette Jackson (CA).

Lulu Jang (Taiwan), Matthew Jefferys (OH), Aaron Johnson (WA), Scott Johnson (TX), Shannon Johnson (NC), Bradley Johnson (IN), Jody Killingsworth (MO), Karl Kinzer (MN), Leslie Knight (GA), Tracy Koskart (SD), Janet Lassiter (TX), Stephen Leckenby (WA), Tim Levendusky (TX), Rebekah Lilly (MI), Aaron Lioi (OH), Samuel Lundmark (PA), Mike Lyle (GA), Christina Mason (AR), Chad Max (MN), Nathan Maxwill (KS), Sonshine Meadows (GA), Jason Miller (NY), Christina Navarro (NJ), Kristia Needham (MN), Sara Needham (MN), Jonathan Newhouse (MN), Shawn O'Rourke (TN), Matthew Olsort (KS), and John Pate (AR).

Courtney Pell (IL), Amy Pelletier (WA), Rachel Perdue (CO), Douglas Plagerman (WI), Michelle Pollock (MI), Michelle Popowich (CO), Jonathan Purks (MD), Christy Rayla (MI), Jenny Roberts (KS), Christopher Rogers (WA), Jamie Rutland (MS), Cara Sanford (TX), Gretchen Schiller (NY), Aaron Scott (CA), David Sevideo (VA), Joel Smith (OK), John Stephens (IL), Melissa Stroder (TX), Kira Stuckey (ON), Rebecca Swanson (IO), Bradley Voeller (MN), Jim Voeller (MN), Jim Voeller (MN), Kathy Voyer (CA), Brandon Wassenaar (IL), Elizabeth Whiting (NZ), Joel Williams (NZ), Matthew Wood (WA), Erin Worley (TX), Sara Yoder (IA), Matthew Yordy (IN), and Elisabeth Youngblood (NC).

ARTIST'S VIEW OF JAPANESE-AMERICAN INTERNMENT

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. McDermott. Mr. Speaker, I would like to draw your attention to a unique exhibit, featuring works by internationally renowned artist Kenjiro Nomura, on display in the Cannon Rotunda, until June 23, 1995.

The exhibit, "Kenjiro Nomura: An Artist's View of the Japanese-American Internment," consists of sketches and paintings produced by the artist while interned during World War II at the Minidoka Relocation Center in Hunt, ID. Like other Japanese-Americans, Mr. Nomura and his family lost their freedom, home, possessions, and business when they were uprooted from their home in Seattle, WA, and herded off to internment camps.

Under orders not to depict camp life in a negative way, Nomura, who worked as a sign painter during his internment, used Government-issue paints, crayons, and paper to create a diary of his internment ordeal. His paintings done in oil or watercolor on mostly yellowish paper are the artist's record of proud people living in the harsh conditions of internment.

I encourage you to take a moment to view these remarkably poignant works of art.

I wish to thank June Mukai McKivor, Mr. Nomura's niece and art scholar in Seattle, who is responsible for recognizing the historical significance of these paintings and for organizing them into a traveling exhibit.

TRIBUTE TO DR. SELINA SMITH: ADVOCATE AND EDUCATOR

HON. CARRIE P. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mrs. MEEK of Florida. Mr. Speaker, it gives me great pleasure to rise today to recognize a truly remarkable woman. Dr. Selina Smith is a nutritionist who has dedicated 15 years to furthering research which links dietary habits to breast and cervical cancer. Her tenure in academia, the American Cancer Society, and the Fred Hutchinson Cancer Research Center will have long-range impact on the lives of an estimated 13,500 women stricken with cancer every year.

Dr. Smith's recent endeavors include a free clinic at the Rainbow Village housing complex in Overtown which provides free breast and cervical screenings to poor women. Additionally, Dr. Smith currently hosts and produces "Witnessing," a 12-part cable program aimed at informing highly at-risk populations of breast and cervical cancer.

"Witnessing" and the free screening clinic in Overtown are the latest attempts at health care outreach to traditionally underserved women in Dade County. Her work is of utmost importance in the African-American community where mortality rates for breast and cervical cancer far exceed the mortality rates within other communities.

Mr. Speaker, Dr. Smith is also a cancer survivor. Seven of ten women in her family have been afflicted by breast cancer. Dr. Smith, herself, is currently receiving chemotherapy treatments. Perhaps, it is because this disease has affected Dr. Smith's life with such frequency and proximity that she is able to be such an exemplary advocate and educator for women at risk and women with cancer.

Dr. Smith knows that cancer is beatable. Her self-described mission is encapsulated in the following quote: "Hopefully, women will see me and not equate cancer with death. Hopefully, I can ease some of the fears." Dr. Smith's efforts at educating and empowering women will greatly reduce the chances of cancer affecting the lives of someone we know. Mr. Speaker, I congratulate Dr. Selina Smith for her achievements, and I urge my colleagues to join me in recognition and enthusiastic support of this truly courageous and inspiring woman.

A TRIBUTE TO DR. RAYMOND SCHULTZE

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention the fine work and outstanding public service of Dr. Raymond Schultze of Tarzana, CA. Dr. Schultze, a dedicated medical professional, is retiring after 36 years of service to UCLA.

Dr. Schultze received his bachelor's and medical degrees from Washington University in St. Louis and was twice selected as a U.S. Public Health Fellow. He first came to UCLA in 1959 for his internship and residency and has served in a wide variety of roles over the years including chief of UCLA's Division of Nephrology, executive vice chairman of UCLA's Department of Medicine, and associate dean for administration of the UCLA School of Medicine. From 1986 to 1991, Dr. Shcultze served the UCLA campus as its administrative vice chancellor while concurrently serving as director of the medical center.

In his 15 years as director of one of America's finest hospitals, Dr. Schultze has guided the institution through the ever-changing health care environment to a position of international prominence. Dr. Schultze's distinctive combination of business acumen, medical knowledge, commitment to the community, and concern for patients have been crucial components in the UCLA Medical Center being consistently ranked in surveys as the best hospital in the West.

Whether testifying before the Senate Finance Committee on the impact of managed care on teaching hospitals, meeting with a small group of UCLA Medical Center nurses to hear their suggestions for improving patient-focused care, consulting with hospital directors in western Africa, or leading UCLA's effort to trim the budget while improving the quality of patient care—Dr. Schultze has demonstrated his willingness to improving health care at UCLA, in the United States, and around the world.

Mr. Speaker, running a large academic medical center in today's marketplace is a tremendously challenging task. Throughout his remarkable career, Dr. Raymond Schultze has provided outstanding leadership, skill, and expertise leaving a rich legacy for the future of the UCLA Medical Center. I ask that you join me, our colleagues, and Dr. Schultze's friends and family in recognizing his fine achievements and selfless contributions. He has touched the lives of many people and it is only fitting that the House of Representatives recognize him today.

A TRIBUTE TO JO M. WRIGHT

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. SHAW. Mr. Speaker, this past weekend, the people of south Florida lost a valuable member of their community and I join them in mourning the loss of Jo M. Wright.

I rise today to pay tribute to the memory of Jo for her unparalleled service and contributions to the people of south Florida. Jo was a dedicated community leader, a successful business woman, and a mother of six.

For more than 30 years, she was an active member of the Florida Association of Realtors, the State's largest professional trade association. As a result of her outstanding participation and professionalism, she was named the Fort Lauderdale Realtor of the Year in 1976 and the Florida Realtor of the Year in 1985. In addition, Jo was an energetic political activist, participating in the development of the Realtor's Political Action Committee [RPAC], chairing the State Woman's Council of Realtors, and acting in a key capacity on numerous other government-appointed committees. She was appointed by the Truman administration to serve as a 1950 delegate to the White House Conference on Children and Youth and continued on to energetically serve at local, State, and national levels for the next 40 years.

Jo's impressive achievements are easily documented. However, the high respect in which she was held by her peers is also worthy of recognition. Jo was a kind, strong woman whose positive impact will be felt far into the future.

"ALWAYS IN MY HEART"—PRESIDENT LEE SPEAKS AT CORNELL UNIVERSITY

HON. DAVID FUNDERBURK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. FUNDERBURK. Mr. Speaker, on June 9, 1995, President Lee Teng-hui of the Republic of China delivered the Olin lecture at Cornell University, his alma mater. President Lee's lecture, "Always in My Heart," included his personal reminiscences of his student days at Cornell. He recalled "the long, exhausting evenings in the libraries, the soothing and reflective hours at church, the hurried shuttling between classrooms, the evening strolls. * * *"

President Lee then went on to described what was truly in his heart: The Taiwan Experience. With considerable pride he said eloquently:

> By the term Taiwan Experience I mean what the people of Taiwan have accumulated in recent years through successful political reform and economic development. This experience has already gained widespread recognition by international society and is being taken by many developing nations as a model to emulate. Essentially, the Taiwan Experience constitutes the economic, political and social transformation of my nation over the years . . . It is worth remembering what we in the Republic of China on Taiwan have had to work with in achieving all that we now have: a land area of only 14,000 square miles (slightly less than ⅓ the area of New York State) and a population of 21 million. My country's natural resources are meager and its population density is high. However, its international trade totaled U.S. $180 billion in 1994 and its per capita income stands at U.S. $12,000. Its foreign exchange reserves now exceed U.S. $99 billion, more than those of any other nation in the world except Japan.

Indeed, within a period of 45 years Taiwan has compiled a most impressive economic and political record. I am happy to see that the Clinton administration had the wisdom to allow President Lee Teng-hui to visit Cornell, and I hope that the United States and its people will also open their hearts to receive and welcome President Lee Teng-hui to Capitol Hill and the White House in the very near future. The Republic of China is a model ally, worthy of our support.

IN MEMORY OF THOMAS L. SALTZ

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. TAYLOR of North Carolina. Mr. Speaker, I rise today to honor the memory of a very special man from western North Carolina, Thomas L. Saltz, who passed away on June 5, at the age of 64. It is with great sadness that I offer my condolences to his wife Doris and the rest of the Saltz family. Thomas Saltz was a friend to all and a tireless worker. His passing is a great loss to all who knew him.

Mr. Saltz grew up in Henderson County, NC. He was schooled at Dana High School, where he also played basketball. Later, he joined the Army, and is a Korean war veteran. After leaving the service, he went to work for General Electric, where he served for 35 years until his retirement in 1990.

Mr. Saltz loved his community and participated actively in it. He was a member of the American Legion Post 77, Woodmen of the World, Southern Lights Square Dance Club, and the East Flat Rock First Baptist Church. He was a steadfast Republican who put people first in everything he did. He was a former party chairman and had served as chairman of the Henderson County Board of Elections. Mr. Saltz was devoted to the party until his death. He has been considered by many who knew as the backbone of the Henderson County Republican Party for the last 40 years. At the time of his death he was a Henderson County precinct chairman.

Thomas Saltz will be remembered as a father, a friend, and a leader. He touched the lives of many people and will be missed dearly.

TRIBUTE TO THE MERCHANT MARINE FLEET

HON. LINDA SMITH

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mrs. SMITH of Washington. Mr. Speaker, I rise today to recognize those men and women who served our Nation as members of the merchant marine fleet in times of peace and national crisis. Recently, I heard from a constituent, Lawrence Jacobson of Olympia, WA, who reminded me of the great contributions that our merchant marines have given to the United States.

In World War II, it was the merchant marine who was most likely to give his life to transport much needed cargo to our embattled allies, risking attack by Nazi U-boats and other hazards. Without their diligent, selfless and brave determination, England would have been almost defenseless.

Every armed conflict has demanded sea transport that only our merchant marines could provide. Even as recently as the Gulf war, U.S. merchant marines served along-side their brothers and sisters in the Army, Air Force, Navy, and Marine Corps with equal valor and at great personal risk. I am proud to serve a District that touts such men and women as the merchant marine.

There are very few men and women who can say that they have served their country in both peace and war as those brave souls who served on the decks of our merchant marine fleet. Mr. Speaker, the merchant marines have my admiration and I am sure that I speak for every American when I say, thank you.

TRIBUTE TO DR. BOB FOWLER

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. GORDON. Mr. Speaker, few get the chance to know someone who exemplifies the very meaning of the word service. I am honored to be able to tell you about this man who has given so much to all of us.

Dr. Bob Fowler learned the true meaning of service to his country through his military work and the true meaning of service to the men and women of our communities through his work as a physician. From day one, he was dedicated to both.

As a young man, he hitchhiked to Fort Bragg, NC hoping to join the 82d Airborne Division of the U.S. Army. He was placed in the infantry instead, but got his chance to work with that acclaimed division 45 years later, as the oldest combat soldier in the Persian Gulf war. Dr. Fowler served both the 82d and 101st Airborne Divisions on the front lines. By then he was a combat surgeon because following his World War II service as a private, Fowler attended the University of North Carolina and Duke University Medical Schools.

Following graduation he continued his Army service in the Medical Corps, serving as a first lieutenant in the Korean war. After active duty, he continued to practice general surgery, but he still retained a love for military service.

In 1987, Dr. Fowler joined the Tennessee Army National Guard as a battalion surgeon. During that period he used the kind of practical and creative thinking that merged his many talents and helped so many people.

He came up with what is now known as MediGuard, a system that allows Guard medical facilities to be used to help indigent patients and rescue missions when the staff and facilities are not busy.

The concept has been so successful it is now used nationally, but to Fowler it is just another way to help others. That is the kind of spirit that has made our country and our communities strong.

The dedication has not gone unnoticed, even now upon his retirement. Gov. Don Sundquist has promoted Dr. Fowler to the rank of major general of the Tennessee National Guard. It is a well deserved honor for him and a wonderful moment for all of us, who continue receiving the benefit of his talent, experience, and dedication. I am proud to call Dr. Bob Fowler a friend.

HONORING DON KAMPFER

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. ROTH. Mr. Speaker, I rise today to honor a member of our community who has worked diligently to uphold the highest standards of American journalism.

After 36 years at the Post-Crescent in Appleton, WI, publisher and general manager, Don Kampfer, will retire on July 31.

In the newspaper business—like many businesses—you start from scratch every day and hope your efforts gain wide acceptance by your customers and high praise from your peers. The Post-Crescent, under Don's direction, has achieved both.

He has guided Appleton's daily newspaper through some turbulent times in the industry, and the Post-Crescent has not only survived, but grown and flourished as an award-winning publication.

Don was born in Chilton, WI, and has lived there ever since. He is a graduate of Chilton High School and served his country in the Korean conflict. Don became a self-made person. He never attended college, but became such a capable newsman that he is undoubtedly qualified to teach college journalism.

Don's tenure at the Post-Crescent started when he left a position with his hometown newspaper, the Chilton Times-Journal, to open an editorial and circulation office for the Post-Crescent in Chilton. From that day forward he worked himself from the bottom of the news operation to the very top. He went on to hold the positions of farm editor, copy desk editor, regional editor, Sunday editor, news editor, managing editor, and executive editor.

Throughout his career, Don was a mentor for aspiring journalists and has been called a newsman's newsman. He was very dedicated to his profession, rarely calling in sick or taking a vacation.

Kampfer was named general manager of the Post-Crescent in 1982. Since then, Don has distinguished himself in Wisconsin as an accomplished journalist, manager, and businessman. Don used the skills he attained in his ascension to publisher when he assumed that role in 1986. By that time, he had an in-depth knowledge of every facet of the newspaper business, including production, advertising, and circulation.

He put his skills to good use. Juggling the needs of a community, its subscribers, a newspaper staff, advertisers, and a parent company is no easy task, but Don handled it all with skill and sensitivity.

His redesign of the Post-Crescent is one of the highlights of his career. At a time when many newspapers felt the need to compete with television—with flashy graphics and less room for hard news—the Post-Crescent stayed true to its tradition of in-depth reporting and continued focus on the people and events of the Fox Valley. It remains to this day a first-class newspaper.

As the Post-Crescent's circulation grew under Don's watchful eye, so did the newspaper's involvement in the community. The Post-Crescent sponsors dozens of charitable events every year and has donated $500,000 in free advertising to a variety of nonprofit organizations.

Among the beneficiaries of the newspaper's good will have been the YMCA, Outagamie County Museum, Thompson Senior Center, Appleton Library Foundation, St. Elizabeth Hospital, Fox Cities Growth Alliance, Fox Cities Stadium, and the Avenue Mall development.

Like so many others, I count on the Post-Crescent for news of the Fox Valley and will always be a faithful subscriber. Lately it has been fashionable in Washington to attack the media for being too negative, too cynical or too liberal. Such attacks would fall flat against Don Kampfer and the Post-Crescent, however, who I feel has guided a newspaper dedicated to finding the facts and telling the truth.

I think Don would find Washington journalists quite different from the type of reporter and editor found in northeastern Wisconsin. In Wisconsin, we remain optimistic about the future. In Appleton, people work together to solve problems in the community and preserve a quality of life we see disappearing in this country. I believe the Post-Crescent continues to fulfill its duty of bringing people the good news as well as the bad. In Washington and across America, this is too seldom the case. Too often, newspapers forget the positive role they can play in their communities.

In addition to its superior local reporting, the Post-Crescent under Don's direction has consistently provided fair and balanced coverage of Congress. Over the years, I have placed great value in my honest and candid relationship with the Post-Crescent, its fine editorial staff and talented reporters. I credit Don, and thank him, for building and sustaining this important forum for our community and its people.

I am sure Don is looking forward to spending more time with his wife of 39 years, Lila, his son, and three daughters. I wish to congratulate Don Kampfer, once again, on a well-deserved retirement and wish him many blessings and continued success in his future endeavors.

IN RECOGNITION OF THE INSTITUTE IN BASIC LIFE PRINCIPLES

HON. SAM JOHNSON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. SAM JOHNSON of Texas. Mr. Speaker, as the Congress deliberates the issues facing our Nation and the world today, I would like to bring to your attention a group of young people and families who are taking significant steps to strengthen society in our country and around the globe. In particular, I would like to commend 329 such individuals who have recently returned from Moscow, Russia, where they have been involved over the 1994–95 school year in providing character education to orphans, public school children, college young people, juvenile delinquents, and families. They have been serving at their own expense under the authority and official invitation of the Moscow Department of Education. The success continues to be heralded throughout Moscow by television, newspaper, and word of mouth among the citizens and leaders of Russia. Furthermore, the credential and strengthening that this experience provides for those who have taken part will heighten the success of their work in their own home communities as they continue to serve families and young people through positive character training and practical assistance.

Karleen Affelt (MI), Evangeline Alexander (AK), Adam Allen (CA), Gabriel Anast (NM), Christy Armstrong (CA), Jason Axt (OH), Aileen Bair (OH), John Bair (OH), Peter Bair (OH), Robert Bair (OH), Stephen Bair (OH), John Barja (NC), James Beaird (TX), Amy Beckenhauer (CA), Kurt Beckenhauer (CA).

Zachery Beckner (MN), Paul Bedingfield (GA), Joshua Billingmeier (MD), Alan Balck (TX), John Lack (TX), Nicole Blockeel (ON), Dean Boehler (CO), Justin Boehler (CO), Rachel Borchers (MO), Sarah Borchers (MO), Andrew Bowers (TN), Skylar Bower (WA), Rachel Brillhart (FL), Vann Brock (GA).

Hannah Brooker (GA), Daniel Brown (TX), Micah Buckner (TX), Reuben Burwell (TX), Andrew Campbell (NZ), Jerry Campbell (FL), David Carne (OR), Andy Cecil (GA), Estelle Christensen (NM), Jim Christensen (NM), Justin Christensen (NM), Mark Christensen (NM), Stephen Christensen (NM), Timothy Christensen (NM).

Nathan Clausseen (MN), James Clifford (ON), Lisa Cload (OH), Barbara Coker (OH), Chuck Coker (OH), Matt Coker (OH), Buck Collie (CA), David Collie (CA), Sarah Collie (CA), Sue Collie (CA), Tim Collie (CA), Jesse Conklin (CT), J. Marty Cope (SC), Arrie Courneya (MN), Annalisa Craig (NE).

Daniel Craig (NE), David Craig (NE), Mary Craig (NE), Neil Craig (NE), Stephen Craig (NE), Timothy Craig (NE), Timothy Crawford (MI), David Cummings (WA), Benjamin Daggett (TX), Steve Dankers (WI), Trey Darley (GA), Mary Kay Del Mul (TX), Orlando Diez, Jr. (WV), James Diel (WI).

Don Dillhaunty (TX), Jason Dolan (TX), Daniel Dorsett (CA), Kieran Dozeman (MI), Joseph Elam, Jr. (FL), Ben Easling (WA), Jason Edwards (VA), David Elliott (WY), Jason Elliott (EY), Paul Elliott (WY), Jana Farris (CA), Amanda Feldman (WA), Carolyn Fickley (VA), Robert Fickley (VA), Scott Flaugher (MO).

Scott Forrester (TN), Jennifer Freeman (CA), Stephen Gaither (TX), Vawna Gary (TX), Charles Gargeni (IN), Gary Gilchrist (FL), Jonathan Glick (PA), Chris Goodman (TX), Chad Greenacre (IL), Andrew Griffin (TN), Peter Guy (CA), Bonnie Hackett (OR), Marie Hackelman (MI), Susan Hall (MI), Brant Hambly (IA), Brian Hambly (IA).

Daniel Hambly (IA), Denise Hambly (IA), Milton Hambly (IA), Terra Hambly (IA), Aaron Hawkins (AZ), Sally Hawkins (OR), Susan Hawlins (OR), Timothy Haynes (NY), Trevor Haynes (NY), Amy Hensarling (MS), Adam Hess (NE), Dean Hertzler (PA), Kaarina Hilman (OR), Tamra Hoaglund (IL), Daniel Hobbs (PA), Nathan Hoggatt (TX).

Robert Holbrook (GA), Aimee Howd (IA), Terrill Hulson (OK), Wilburn Hunsucker (NC), Blayne Hutchins (ON), Judith Hynds (TX), Drew Inman (NE), Michael Jacobson (ON), Michael Jacquot (SD), Katie Jett (AL), Matt Jett (AL), Stanley Jett (AL), Trevor Johnson (WA), Chris Johns (MS), Joseph Jones (GA).

Jonathan Kangas (OR), Kristina Kangas (OR), Laura Kangas (OR), Mike Kangas (OR), Susanna Kangas (OR), Caleb Kasper (WA), Dean Kersliner (MD), H. Michael Koller (MO), Michael Krabill (OR), Stephen Krell (BCL), Matthew Kruse (IN), Aaron Laird (MT), Davis Lambert (MI), Sondra Lantzer (MI), Mark Lassiter (TX).

Anthony Leggett (NZ), David Lent (GA), Deena Lent (GA), George Lent (GA), Marywinn Lent (GA), Michael Lent (GA), Rachel Lent (GA), Matthew Lindquist (CA), Jason Litt (OH), Jonathan Little (CA), Christen Lofland (KS), Andrew Long (GA), Elizabeth Long (GA), James Long (GA), James Long, Jr. (GA), John Long (GA).

Rosemarie Lyda (OR), Sarah Lyons (OH), De Shea Mabra (MO), Paul Marosi (ID), Joshua Martin (PA), Robert Matlack (KS), George Mattix (WA), Patti Mattix (WA), Jennifer Mattox (MO), Jonathan McAlpine (ON), John McCrea (NZ), David Meadows (GA), Joshua Meals (TN), Charles Mehalic (NY), Debra Mehalic (NY), Rachel Mehalic (NY).

Rebekah Mehalic (NY), Sandra Mehalic (NY), T.C. Mehalic (NY), Phillip Michaelson (MN), Ryan Middleton (CA), Stephen Midkiff (WA), Amy Miller (MN), Betina Miranda (GA), Peter Moberg (OR), Jonathan Moeller (MO), Ben Monshor (MI), Elizabeth Moore (AL), Harry Moore (AL), Lauren Moore (AL), Robert Moore (AL).

Joy Morgan (AL), Michael Mosley (MO), Burt Mueller (TX), Clem Mueller (TX), Tiffany Mueller (TX), Ann Phillis Murphy (AR), Doty Murphy (AR), Phillis Murphy (AR), Zach Murphy (AR), Barry Newsom (AL), Julia Newsom (AL), Lori Newsom (AL), Nancy Newsom (AL), Kathleen Nicolosi (TX), Jerome Nicolosi (TX), Regina Nicolosi (TX).

Vanessa Nicolosi (TX), Veronique Nicolosi (TX), Jeremy Nunez (MI), Vladamir Osherov (IL), Sunia Panapa (NZ), Jonna Patterson (GA), Helvitin Paul (WA), Natalia Payne (IA), Glory Perkins (GA), James Perkins (GA), Lea Perkins (GA), Timothy Peters (TX), Beverly Pike (FL), Joshua Ramsey (CA), Randal Rankin (AL), Paul Ratcliff (NC).

William Ratcliff (NC), Robert Reed (OH), Andrew Riendeau (PQ), Simon Riendeau (PQ), Greg Roe (TN), Charles Rogers (AR), Charles Rogers, Jr. (AR), Deborah Rogers (AR, Deborah Joy Rogers (AR), Jonathan Rogers (AR), Stephen Rogers (AR), Joam Roof (NY), Charles Ross (IN), Charity Ross (IN), Jedidiah Ross (IN), Mary Ross (IN).

Stephen Ross (IN), Rebekah Ross (IN), Keith Rumley (MI), Laura Rumley (MI), Peter Rumley (MI), Robert Runella (CA), William Rushing (TX), Jeremy Schiefelbien (MN), Sharon Schneider (KS), David Scott (GA), Bob Sherwood (CA), John Shrader (TX), David Shubin (OR), George Shubin (OR), Doug Simmons (GA), Andrew Smith (OR).

Benjamin Smith (PA), David Smith (AL), Lohn Smith (AL), Rebeca Smith (OR), Brian Sonderaard (CA), Doug Sondergaard (CA), Laura Spencer (NS), Phillip Strange (VA), Caleb Stanton (AR), Denise Stanton (AR), Luke Stanton (AR), Michael Stanton (AR), Spencer Stanton (AR), Zachery Stanton (AR), Kyra Stevenson (TX).

Charles Stewart (WV), Benjamin Stixrud (WA), Angela Storm (IA), Ruth Sutherland (MI), Nathaniel Swanson (NB), Jeremy Tanner (MI), Joshua Tanner (MI), Amanda Taylor (MS), Jeremy Thielen (MI), Alison Turner (GA), Timothy Tuttle (OR), April Unruh (TN), Rochelle Wagler (KS), Ken White (IL), Matthew Waite (IL), Dane Walker (VA), William Warren (FL).

John Watkins (MN), Paul Watkins (MN), Jonathan Wedel (PQ), Heather Wenstrom (FL), Brian Weston (CA), Andrea Whitfield (KY), Deborah Whitfield (KY), Jeromey Whitfield (KY), Joshua Whitfield (KY), Robert Whitfield (KY), Brian Wicker (AZ), Nathan Williams (KS), David Wilson (AL), James Winkler (NY), Aaron Wood (TX), Rebekah Zeimann (NJ), Andrea Zeller (IN), Angela Zimmerman (NC), Christine Zimmerman (NC), Josh Zimmerman (NC).

173D AIRBORNE BRIGADE HOLDS REUNION

HON. GIL GUTKNECHT

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. GUTKNECHT. Mr. Speaker, it is with great pleasure that I rise to commend the 173d U.S. Airborne Brigade. This important military group will be hosting its 30th anniversary reunion in Rochester, MN later this week. It is my understanding that approximately 1,500 of these brave veterans will be in attendance.

The 173d Airborne Brigade fought in southeast Asia from May 5, 1965, to September 26, 1970, and consisted of the following groups:

1st Battalion, 503d Infantry.

2d Battalion, 503d Infantry.

3d Battalion, 503 Infantry.

3d Battalion, 503d Infantry (from Oct. 26, 1967, to Sept. 26, 1970).

4th Battalion, 503d Infantry.

173d Support Battalion.

Company C, 75th Infantry (Feb. 1, 1969, to Sept. 26, 1970).

Special Troops Battalion, 173d Airborne Brigade.

Troop E, 17th Cavalry.

173d Engineer Company.

46th Public Information Detachment (from Mar. 23, 1967, to Sept. 26, 1970).

51st Chemical Detachment (from Feb. 15, 1968, to Sept. 26, 1970).

24th Military History Detachment.

172d Military Intelligence Detachment (from Feb. 15, 1968, to Sept. 26, 1970).

534th Signal Company (from Dec. 20, 1968, to Sept. 26, 1970).

45th Postal Unit.

Company N, 75th Infantry (from Feb. 1, 1969, to Sept. 26, 1970).

39th Infantry Platoon.

75th Infantry Detachment (from Feb. 1, 1969, to Sept. 26, 1970).

Headquarters and Headquarters Company, 173d Airborne Brigade.

1st Battalion, 50th Infantry (from Apr. 5, 1968 to Oct. 6, 1969).

54th Infantry Detachment (from Feb. 22, 1968, to Apr. 11, 1969).

Company D, 16th Armor (from May 4, 1965, to Sept. 24, 1970).

Tuy Hoa Provisional Tank Company (from May 5, 1969, to Oct. 21, 1969).

The 173d Airborne Brigade was a combat-experienced unit, composed of courageous soldiers who always displayed an enthusiastic anti-Communist spirit. During its 5 years of fighting in the Republic of Vietnam, the 173d Airborne Brigade was instrumental in the fight against communism, yet at the same time participated in the humanitarian restoration of the country.

In recognition of their service, the 173rd Airborne Brigade and its attached and assigned units were awarded the U.S. Meritorious Unit Commendation and the Vietnamese Cross of Gallantry with Palm for their outstanding service. These unit citations were awarded to the 173rd Airborne Brigade by authority of U.S. Department of the Army General Order (D.A.G.O.) 51 of 1971.

Unfortunately, one of the foreign attachments to the 173rd Airborne Brigade, the First Battalion, The Royal Australian Regiment (1 RAR Group), was inadvertently left off the D.A.G.O. 51 of 1971.

The 1 RAR (Group) consisted of the following groups:

First Battalion, The Royal Australian Regiment.

161 Field Battery, Royal New Zealand Artillery.

105 Field Battery, Royal Australian Artillery.

3 Field Troop, Royal Australian Engineers.

4/19th Prince of Wales Light Horse (1 APC Troop).

1st Australian Logistic Support Company.

161 Recce Flight (Independant).

709 (Ind) Sig Troop, Royal Australian Signals.

After many years and multiple attempts to correct this oversight, the 1 RAR (Group) finally received the recognition they so rightly deserved by receiving the U.S. Meritorious Unit Commendation.

I must say, however, their fight is not over. While receiving the unit citation, the 1 RAR (Group) was not included on the D.A.G.O. 51 of 1971. Therefore, I intend to work with the U.S. Department of Defense [DOD] and the Embassy of Australia in Washington, DC to amend the D.A.G.O. 51 of 1971 to include the 1 RAR (Group).

EIGHTY-ONE PERCENT OVERNIGHT ON-TIME DELIVERY MAIL SERVICE IN THE DISTRICT

HON. ELEANOR HOLMES NORTON

OF THE DISTRICT OF COLUMBIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Ms. NORTON. Mr. Speaker, I rise today to take note of the significant improvement in the performance of the Postal Service in the District of Columbia. In just over 1 year, under prodding from the Congress, the Postal Service has taken a new direction with a pay back for postal customers in the District of Columbia. The most recent performance figures show that local, on-time delivery performance is now at 81 percent—up from 69 percent this time last year.

This is a clear demonstration that the Postal Service can do the job if we keep on its case.

Last year, when we became aware of problems effecting mail service in the metropolitan region, I indicated that our last place finish would not be tolerated. In addition to residents' mail, the most important mail in the country and the world passes through the Washington, DC Post Office. The Postal Service apparently heard us—at a town meeting I convened in the District and through our many hearings that brought out the details of delivery problems here in the District.

Since I began monitoring local mail service closely over the past year, I am encouraged that performance has been steadily rising throughout this period. The Postal Service's investment in providing the type of service required in the world's most important city is finally paying off. New technologies, new employees, and a renewed commitment to customer service are making the difference, just as they are showing us what Government can do when it places its customers first. Not only has service in the District of Columbia improved, but nationally, on-time delivery has reached the highest level ever.

A few months ago, I walked a delivery route with a letter carrier here in the District of Columbia. I learned first hand of the pride many postal employees take in serving their customers. There is a fragile bond between the customer and the service provider. I am pleased that the Postal Service recognizes the very real need to maintain and strengthen this bond.

I will continue to monitor the progress of the Postal Service and make monthly reports to District constituents in my column "Notes from Congress" in community papers. As shown by the good news of the most recent figures, monitoring and pressure from House Members has been among the most important factors influencing the improvements in service. Now is no time to let up the pressure. D.C. needs to do more than improve markedly, as we have. We must shoot for the top—and we will.

PERSONAL EXPLANATION

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. KLECZKA. Mr. Speaker, during the weeks for which the House was in session between May 16, 1995 and June 16, 1995, I was granted an official leave of absence for medical reasons.

As an elected Representative of Wisconsin's Fourth Congressional District, I have a responsibility to my constituents to inform them of the votes during that leave and to apprise them of how I would have voted.

The following is how I would have voted on rollcall votes Nos. 330–388:

Rollcall No.	Bill No.	Position
330	H.R. 1590	Nay.
331	Procedural	Nay.
332	H.R. 961 (Boehlert Amdt.)	Yea.
333	H.R. 961 (Gilchrest Amdt.)	Yea.
334	H.R. 961 (Frelinghuysen Amdt.)	Yea.
335	H.R. 961 (Wyden Amdt.)	Yea.
336	H.R. 961 (Bonior Amdt.)	Yea.
337	H.R. 961	Nay.
338	Procedural	Yea.
339	H. Res. 149 Previous Question	Nay.
340	H. Res. 149 Rule	Nay.
341	Procedural	Yea.
342	H.C.R. 67 (Gephardt Amdt.)	Yea.
343	H.C.R. 67 (Neumann Amdt.)	Nay.
344	H.C.R. 67 (Payne <NJ> Amdt.)	Nay.
345	H.C.R. 67 (Kasich Amdt.)	Nay.
346	H.R. 1158	Nay.
347	H. Res. 155	Yea.
348	H.R. 1561 (Brownback Amdt.)	Yea.
349	H.R. 1561 (Morella Amdt.)	Yea.
350	H.R. 1561 (Smith <NJ> Amdt.)	Yea.
351	H.R. 1561 (McKinney Amdt.)	Yea.
352	H.R. 1561 (Wynn Amdt.)	Nay.
353	H.R. 1561 (Smith <NJ> Amdt.)	Yea.
354	H.R. 1561 (Hastings <FL> Amdt.)	Yea.
355	H.R. 483	Yea.
356	H.R. 535	Yea.
357	H. Res. 156	Yea.
358	Procedural ("Present")	Would have voted.
359	H.R. 1561 (Hyde Amdt.)	Nay.
360	H.R. 1561 (Ackerman Amdt.)	Yea.
361	H. Con. Res. 67	Yea.
362	H.R. 1561 (Hoyer Amdt.)	Yea.
363	H.R. 1561 (Gilman Amdt.)	Nay.
364	H.R. 1561	Yea.
365	H.R. 1561 (Hamilton Amdt.)	Yea.
366	H.R. 1561	Nay.
367	H. Res. 164	Nay.
368	H. Res. 164	Nay.
369	H.R. 1530 (Dornan Amdt.)	Nay.
370	H.R. 1530 (Kasich Amdt.)	Yea.
371	H.R. 1530 (Collins <IL> Amdt.)	Yea.
372	H.R. 1530 (Clinger Amdt.)	Yea.
373	H.R. 1530 (Spratt Amdt.)	Yea.
374	H.R. 1530 (DeFazio Amdt.)	Yea.
375	H.R. 1530 (Shays Amdt.)	Yea.
376	H.R. 1530 (Pombo Amdt.)	Yea.
377	H.R. 1530 (Berman Amdt.)	Yea.
378	H.R. 1530 (Kolbe Amdt.)	Nay.
379	H.R. 1530 (Molinari Amdt.)	Yea.
380	Procedural	Yea.
381	H.R. 1530 (Markey Amdt.)	Yea.
382	H.R. 1530 (DeLauro Amdt.)	Yea.
383	H.R. 1530 (Spence Amdt.)	Yea.
384	H.R. 1530 (Dellums Amdt.)	Yea.
385	H.R. 1530	Nay.
386	H. Res. 167	Yea.
387	H. Res. 167	Nay.
388	H.R. 1817 (Herger Amdt.)	Nay.

The outcome would have been no different on any of these votes if I had been present.

Regarding my absence from the House Ways and Means Committee, on which I serve, one vote occurred during that time. On that vote, which occurred on whether to report H.R. 1812, I would have voted "no".

DR. ROBERT FOWLER HONORED FOR MILITARY SERVICE

HON. ZACH WAMP

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. WAMP. Mr. Speaker, I am proud to honor—and proud to number among my friends—Dr. W. Robert Fowler, a distinguished citizen of the 3d District of Tennessee. Dr. Fowler was recently promoted to major general in the Tennessee Army National Guard just before he retired—exactly 50 years after he first joined World War II.

He served as well during the Korean war and even returned to duty for Operation Desert Storm during the Persian Gulf war in 1990–91, when he was the oldest combat soldier serving. That span of service well illustrates the achievements and devotion to duty, the community, and the Nation that has marked Dr. Fowler throughout his life.

Dr. Fowler began his career of service in 1945 when he hitchhiked to Fort Bragg, NC, to join the 82d Airborne Division. He served in the infantry, and after the war attended the University of North Carolina and Duke University Medical School. In the Korean conflict, he served as a first lieutenant in the U.S. Army Medical Corps.

Following that conflict, Dr. Fowler spent 26 years practicing general surgery and serving the Chattanooga area community. He retired as a surgeon in 1984, but in 1987 became active in the Army again when he joined the Tennessee Army National Guard as a battalion surgeon. During that service, Dr. Fowler conceived of the idea of making Guard units available to treat indigent patients. After the Iraqi invasion of Kuwait in 1990, Dr. Fowler was called to active duty and served on the front lines as a combat surgeon.

By no means the least of Dr. Fowlers's accomplishments is the fact that he married a lady who is well-known and well liked by all of us on the Hill—former Congresswoman Marilyn Lloyd, who worked tirelessly for 20 years to serve the 3d District that I now represent. Our Tennessee Gov. Don Sundquist is to be commended for promoting Dr. Fowler to major general. I am sure everyone here joins me in congratulating Dr. Fowler and in wishing him and his wife—our former colleague—the very best in the years ahead.

100 YEARS OF SERVICE

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Ms. SLAUGHTER. Mr. Speaker, I wish to pause to recognize and commend the Rochester law firm of Harter, Secrest, and Emery on the occasion of completing its' first 100 years of service to its business and personal clients across the Nation.

Harter, Secrest, and Emery has a long history of community service and is one of the leading law practices in the Northeast. It was founded by James Havens and Nathaniel Foote in 1893. Foote was one of the original founders and first president of the Rochester Bar Association, which eventually evolved into the Monroe County Bar Association, and he was appointed to the New York State Supreme Court by Governor Higgins. He later was elevated to the Appellate Division.

Partner James Breck Perkins joined the firm in 1898 and began a long history of civic involvement. Perkins was an author, musician, and historian, and served five terms in the U.S. Congress, first elected in 1900.

Founding partner, James Havens was a noted libel defense lawyer and active in the Democratic Party. He served out the final congressional term of his partner, James Perkins, who died while in office. Havens then declined an opportunity to run for Governor of New York State; instead he took the post of general counsel and vice president for Eastman Kodak Co.

William Strang, like his partner, James Havens, was a community activist. He joined the firm in 1907 and methodically built his practice. He was elected president of the Bar in 1928, president of the Chamber of Commerce in 1945, and Grand Master of the New York State Masons.

Partner C. Vincent Wiser served as one of the area's premier real estate attorneys. With retail magnate, J.C. McCurdy, he crafted and developed Midtown Plaza, in Rochester, NY. This was the first urban mall in the country. He also served as a city planning commissioner from 1949–1964.

Hyman Freeman perpetuated the firm's history of community selflessness. He distinguished himself in politics as well. Freeman served on city council from 1955–1967, and was elected vice-mayor in 1966. Freeman also served as president of the Monroe County Bar Association and was a prominent leader of the Jewish Welfare Fund.

Partner Richard Secrest excelled in business law, building the firm's corporate department. He set precedent with his aggressive and innovative representation of corporations. Secrest received the Navy and Marine Corps Medal and the Purple Heart for outstanding service during World War II.

Donald Harter joined the firm in 1940 and immediately established himself as a leader in local, State, and national bar associations. His community legacy includes laying the foundation for Strong Museum, presently located in Rochester, NY.

R. Clinton Emery further expanded the firm's corporate involvement. He spread the company's corporate representative influence throughout upstate New York and set in place many internal business practices that are still being used today.

The centennial of the law firm of Harter, Secrest and Emery is an appropriate time to reflect upon the prominent role that the firm has played in the history of Rochester. With its' rich tradition of innovation and civic involvement this firm will be an integral part of the Greater Rochester area in the years to come. Therefore, I rise today to congratulate Harter, Secrest, and Emery and wish them well as they embark on the next century.

PRAISE FOR RALEIGH COUNTY VOCATIONAL CENTER

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. RAHALL. Mr. Speaker, I rise today to bring to your attention the outstanding work of a fine group of students and teachers from the Raleigh County Vocational Technical Center in West Virginia's Third Congressional District. More than 100 young people from classes as diverse as electronics technology to marketing education to computer-aided graphing have come together in a project that has involved virtually the entire school. The culminating project has been the "Electrosprint": a state-of-the-art electric car which has been the subject of a great deal of attention.

The students have been recognized by the environmental program "A Pledge and A Promise" by Anheuser-Busch Theme Park from among 600 entries nationwide and are recipients of the $12,500 first place award. The car was awarded first place in the efficiency event at the EV Grand Prix. It has the distinction of being the most efficient car ever tested by Argonne National Laboratories in the United States, where one official noted, "[t]he car is as efficient as anything built by professional automakers . . ." It also won the West Virginia Vocational Association Award of Merit for Innovative Program and was named the American Vocational Association Innovative Program for Region I. They have been featured on national television for their enterprising and innovative ideas.

The Electrosprint project has had remarkable results. Sparking the interest of students and increasing enrollment at the vocational school; exciting people of all ages about science, math, and the environment; and boosting self-esteem and reinforcing a positive image of education in southern West Virginia are only a few of the beneficial effects of this venture.

Serious about environmental concerns and efficiency, and learning firsthand about how to work as a team, these students deserve to be commended as a model not only for other students, but for all of us. Their work on electrically powered transportation should inspire others in the field and everyone who is concerned with protecting our environment. They are not satisfied with only a passive role in their own education; instead, they are learning through experience how to harness technology in a way that will have a visible impact on the world around them. These are essential skills and qualities as we enter the 21st century.

The students' next project will be to draw from their previous work, transplanting the technology they have already developed to electric powered delivery vehicles for use in inner cities. Future plans also include testing vehicles on hilly terrain, expanding the use of alternative fuels such as solar, wind, and natural gas, and further developing safety equipment for electric cars with the possibility of patenting. We should encourage such initiative and hard work.

I am extremely proud of the students at Raleigh County Vocational Technical Center and encourage them in their future challenges. I also want to thank and congratulate their teachers, parents, and community for supporting the superb efforts of the next generation.

MIDDLETOWN POST VFW 2179 AND LADIES AUXILIARY: 50 YEARS OF COMMUNITY AND VETERANS SERVICE

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. PALLONE. Mr. Speaker, on Saturday, June 24, 1995, the Middletown, NJ, Veterans of Foreign Wars Post No. 2179 and ladies auxiliary will be celebrating its 50th anniversary at the Post Home with the slogan "Golden Pride Since '45." The event will include a rededication of the post's street sign, known as Veterans Lane, to commemorate both the 50th anniversary of the founding of the post as well as the 50th anniversary of the end of World War II. There will be a memorial service, speeches by officials and veterans, and then hours of music and dancing.

Mr. Speaker, it is a great honor for me to pay tribute to the fine men and women whose pride and patriotism have made Post 2179 and the ladies auxiliary such a great part of our community. In 1945, as America emerged victorious from World War II and our Nation entered into a new era, a group of returning veterans and their wives formed the Middletown Post. In those days, the post met over a store in Belford section of Middletown Township. Social events were held in the basement of St. Mary's Roman Catholic Church. Later the post met in a former hospital building purchased from nearby Fort Monmouth. Now, the members meet in a modern, $1.5 million facility.

Through the years, Post 2179 has distinguished itself for its charitable works, its help and support of the Menlo Park and Lyons Hospital VA facilities, its championing of veterans rights and benefits, its advocacy on behalf of POW's and MIA's, and its participation in Memorial Day and Veterans Day activities and at VFW conventions each year. The post has received many distinguished visitors, including President Bush in 1992.

Mr. Speaker, it is a tremendous honor for me to pay tribute to Post 2179 on the occasion of their 50th anniversary.

INTRODUCTION OF LEGISLATION TO PROTECT COASTAL RESOURCES FROM OIL AND GAS DEVELOPMENT IN FEDERAL WATERS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. MILLER of California. Mr. Speaker, I am pleased to join Senator BARBARA BOXER as we introduce legislation today to protect our coastlines from the harmful impacts associated with oil and gas leasing on the Outer Continental Shelf.

In the past, we have successfully barred Federal OCS leasing in sensitive areas by attaching moratoria to annual appropriations bills. Today, the Interior Subcommittee of the Appropriations Committee voted to lift that moratorium. It is very unlikely, I am afraid, that the final appropriations bill will include an OCS moratorium provision.

As a result, hundreds of miles of Federal waters—and adjacent State waters—will be exposed to the dangers associated with offshore oil development.

Our bill will bar Federal leasing and production when a coastal State, by law or order, establishes a moratorium on part or all of its coastal lands and waters.

California recently enacted in a bipartisan effort, a law making all State waters off limits to new oil exploration. Our legislation would extend that protection into Federal waters.

Federal officials should not override the decisions of coastal States that want to protect their offshore sanctuaries from the hazards of oil development. Those in the Congress who constantly cite the need for Congress to follow the wishes of State governments should have no problem endorsing the approach taken in our legislation.

TRIBUTE TO ELLA ADENE KEMP BAMPFIELD

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. TOWNS. Mr. Speaker, I would like to acknowledge the accomplishments of a very special woman, Ella Adene Kemp Bampfield. Ms. Bampfield was born June 29, 1905, in Waynesville, NC. She is the fourth of nine children born to Elijah Melton and Lelia Love Kemp.

Ms. Bampfield is a graduate of Fayetteville State Normal College, in North Carolina, and Howard University and Cortez Peters University, in Washington, DC. After teaching in the North Carolina school system for 7 years, she relocated to Washington DC, and began a career with the Treasury Department's Bureau of Engraving and Printing, where she retired in 1969 after 28 years and 11 months of dedicated service.

A member of the John Wesley AME Zion Church since 1934, Ms. Bampfield is affiliated with the Education and June Calendar Clubs. She has traveled extensively and is the mother of one son and grandmother of two. Celebrating her 90th birthday, Ella represents a longstanding tradition of dedicated service to her family, community, and her church. It is my pleasure to recognize the contributions of a remarkable woman, Ms. Ella Adene Kemp Bampfield.

GIVE THE GIFT OF LIFE—SUPPORT THE ORGAN DONATION INSERT CARD ACT

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. DURBIN. Mr. Speaker, today I am introducing legislation along with Representative DAVE CAMP to encourage organ donation through a highly cost-effective campaign of public education. I am pleased to note that Senator BYRON DORGAN is introducing similar legislation in the Senate.

The most common tragedy in organ transplantation is not the patient who received a transplant and dies, but the patient who has to wait too long and dies before a suitable organ can be found.

The demand for organs greatly exceeds the supply. More than 40,000 people are now waiting for an organ transplant, including more than 1,400 children and more than 25,000 people who must have a kidney dialysis while they wait for a kidney to become available. More than 3,000 people on the waiting list will die this year before receiving a transplant. Meanwhile, another person is added to the list every 18 minutes.

Our legislation, known as the Organ Donation Insert Card Act, would direct the Secretary of the Treasury to enclose, with each income tax refund check mailed next Spring, an insert card that encourages organ donation.

The insert would include a detachable organ donor card. It would also include a message urging recipients to sign the card, tell their families about their willingness to be an organ donor if the occasion arises, and encourage family members to request or authorize organ donation if the occasion arises.

The text of the card would be developed by the Secretary of the Treasury after consultation with the Secretary of Health and Human Services and organizations promoting organ donation.

This proposal poses no logistical problems. Every year, the Treasury Department already puts an insert card in refund check mailings. In recent years, the insert cards have offered special coins for sale, such as last year's offer of World Cup commemorative coins. Shifting from an appeal about coins to an appeal about organ donation for 1 year could save a number of lives for many years to come.

This is also a highly cost-effective proposal. According to the Treasury Department, around 70 million households would receive this appeal at a cost of $210,000. There is no other way to reach so many households at such a modest cost.

Our approach also emphasizes the most important and often overlooked step in encouraging organ donation, which is talking to one's family beforehand.

Most people don't realize that a signed organ donor card does not ensure a donation. In order for an organ donation to take place, the next-of-kin must authorize it. If your family has not heard you express the desire to be an organ donor, they may be reluctant to authorize it. That is why talking to your family is critical.

Unfortunately, most Americans have never signed an organ donor card, and many of those who have signed a card have never discussed the matter with their family members. As a result, family members hesitate to authorize organ donation and opportunities to save lives are lost.

According to a Gallup poll cosponsored by the Partnership for Organ Donation, more than 90 percent of the public would authorize organ donation if their loved one had expressed that wish before death, but less than half would consent to donation if the discussion had not occurred. Unfortunately, according to the survey, less than half of the public have told their families of their wishes regarding donation.

Our bill is specifically designed to address this problem. Since organ donation begins with people who decide they want to be an organ donor if they should die unexpectedly, our bill encourages people to sign an organ donor card. But since an actual organ donation often hinges on whether loved ones are aware of that desire, our bill also encourages people to tell their family members about their desire to be an organ donor and urge their family to authorize a donation if the occasion arises.

By emphasizing the importance of family discussion, this legislation could expand the pool of potential donors, increase the likelihood that families will authorize donation for their loved ones, and reduce the number of people who die while waiting for transplants.

This legislation has the support of the United Network for Organ Sharing [UNOS], the American Nurses Association, and the National Kidney Foundation. Similar legislation in the 103d Congress had the support of nearly 20 organizations involved in the organ transplantation field, and we expect similar support this year.

This measure is desperately needed. When I first introduced the legislation in 1990, just over 20,000 people were on the waiting list and around 2,000 of those people died before receiving a transplant. Today, the waiting list has doubled in size, and more than 3,000 waiting list deaths are anticipated this year. Only a broad public education campaign can make a dent in these figures.

I urge my colleagues to join me as a cosponsor of this bill and encourage all Americans to "give the gift of life" by authorizing organ donations when the opportunity arises.

THE RURAL AMERICA HEALTH CARE IMPROVEMENT ACT

HON. PAT WILLIAMS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. WILLIAMS. Mr. Speaker, I am introducing legislation that is critically important to the health of rural America. Rural Americans face unique barriers to obtaining health care—barriers ranging from great distances to reach hospitals and medical clinics to harsh weather conditions, too often low wages and poverty, and, perhaps most importantly, a simple lack of doctors, nurses, and other medical professionals as well as modern health care facilities.

Sixty-five million Americans—fully one-quarter of our Nation's population—live in rural areas, yet most of these folks lack access to even the most basic health care services. In 1992, 146 counties did not have a single physician and 34.8 percent of rural Americans lived in areas with fewer than 1 primary-care physician for every 3,500 residents. This severe inability to obtain basic health care has resulted in the poorer general health of rural folks. Rural America has a higher infant mortality rate and a 40 percent higher rate of death from accidents.

Out my way in Montana, too many of our rural hospitals and clinics are understaffed and financially troubled and too many rural families live daily with the anxiety that assistance for an unusual illness or serious injury will be miles and hours away.

Forty-one of Montana's 56 counties suffer from a serious shortage of physicians; and 9 counties do not have a single physician. In 22 counties there is no obstetrical care, putting women with a complicated delivery at severe risk. Half of Montana's hospitals, most of them small and rural, have endured significant financial losses for most of this past decade.

Mr. Speaker, the decision to live in a rural area should not be a decision to accept inferior health care. Rural Americans deserve the same quality and access to health care that is available to folks living in our suburbs and major cities.

The legislation I am introducing today, the "Rural America Health Care Improvement Act," offers an aggressive and comprehensive approach toward alleviating the problems our rural communities face to obtaining care. It provides rural and frontier areas with the means to develop the capacity to provide quality medical care to their residents. It encourages physicians to practice in medically underserved rural areas.

My bill provides 20 percent bonus payments to physicians who choose to serve in health professional shortage areas and offer primary care services to their rural patients. Furthermore, it encourages health care providers to practice in rural underserved areas by guaranteeing physicians, nurse practitioners, nurse-midwives and physician assistants a tax credit.

It also dramatically expands the National Health Service Corps a program which offers financial assistance to students and loan repayment to graduates in exchange for their commitment to serve in a health professional shortage area and requires the National Health Service Corporation to place more physician assistants, nurse practitioners, and nurse-midwives in our rural communities.

Nurses and physician assistants play a vital role in our rural health care delivery systems. Many of our rural communities rely on health professionals other than physicians as the only provider of care in the community. In 1990, 34 percent of all physician assistants practiced in communities with less than 50,000 residents and 25 percent of all midwives practiced in those same areas. My bill recognizes that PA's, NP's, and nurse-midwives are more apt to practice in rural areas than physicians and therefore provides funds to train nonphysician providers.

My bill in particular provides rural and frontier areas with the assistance they need to develop their own community-based health plans to offer residents with health insurance. This program facilitates community involvement and encourages health care delivery structures that are adapted by local folks directly for local needs.

Furthermore, my bill recognizes that rural hospitals across the country are experiencing financial shortfalls. My bill includes a grant program for hospitals and outpatient facilities in medically underserved rural communities to provide primary-care services. It also provides for the development of emergency medical hospitals and nurse-managed health centers.

Mister Speaker, I have developed this legislation after countless meetings and much discussion with rural community leaders and hospital directors, with physicians and other health practitioners who live and work in rural areas, and especially with the families and workers and small business operators in our small towns and rural communities. This bill incorporates their solutions to the health care crisis they live and cope with daily. They are practical, specific, nonbureaucratic, no-nonsense, thoughtful solutions and I hope to see this Congress consider and approve them.

TRIBUTE TO RABBI YISOCHER DOV ROKEACH, THE BELZER REBBE, UPON HIS VISIT TO NEW YORK

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. NADLER. Mr. Speaker, I rise today to honor Rabbi Yisocher Dov Rokeach, known as the Belzer Rebbe, who will be visiting next week from Jerusalem. The Belzer Rebbe is the leader of a prominent Chassidic community whose core is based in my district in Boro Park and in Israel where Rabbi Rokeach resides. He stands out as an individual who has maintained the vibrancy and cohesion of a community, with followers who number in the thousands and reside around the world.

The Belzer Chassidic community was founded in Galicia, toward the end of the 18th century. It was well known for the wisdom of its literature and the religious dedication of its leaders. During the Second World War, Nazi terror devastated the Belzer European community and the surviving Belzer Chassidim left Europe to try to revitalize their movement in Israel. Under the direction of the fourth Belzer Rebbe, they began a program of community building, developing schools for child and adult education, and creating supportive economic institutions for the multitudes who had been impoverished by an oppressive war.

In 1966, Rabbi Rokeach took over these efforts. He has since realized the post-war vision of Belzer revitalization and has infused new life into the Belzer community. The community presently sponsors numerous self-help organizations including one of the world's largest patients advocate organizations of its kind, a center for free medical counseling, and a clinic providing affordable medical treatment. In addition, the Belzer community prides itself upon the recent growth of its numerous yeshivot—academies for talmudic scholarship. Hillel the Elder stated, "If I am not for myself then who will be for me? But if I am only for myself, then what am I?" The Belzer Chassidim reflect this message. Under the leadership of the Belzer Rebbe, this community has truly succeeded in forging the ethnic of self-help together with an awareness of social responsibility. The modern-day Belzer Rebbe has created a vibrant, exciting community that would make each of his predecessors proud.

GERMANTOWN HIGH SCHOOL TEAM WINS TENNESSEE STATE CHAMPIONSHIP

HON. ED BRYANT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. BRYANT of Tennessee. Mr. Speaker, I rise today to advise this body that my own 7th District of Tennessee is the home of the best high school baseball team in the United States.

Germantown High School achieved perfection this year, compiling a record of 38–0, winning not only the Tennessee State Championship, but also national honors, being selected as the No. 1 team in America following their most successful season.

Coaches Phil Clark, Robert Armbruster, and John Perkins knew they had the makings of an outstanding team when, at the beginning of the year, their team won the Upper Deck baseball tournament in California. This tournament featured some of the very best high school teams from across the country.

As all of you can imagine, Germantown's team was a talented group of individuals. But they were a team in the true sense of the word. Not relying on a sole super star player, each member worked toward the common goal of winning, contributing a part to each victory. When one was not having a good day, others carried the team forward. Every day, some combination of pitching, hitting, running, defense, and strategy prevailed. Not once a let-down. This was an amazing accomplishment for a group of 15- 18-year-old young men. Their committed effort dispels any current thought that our American youth lack focus or work ethic. If any of you doubt me, you should come to Germantown, TN and see for yourselves.

The players include some who have signed college scholarships, as well as several underclassmen who will return next year. Jay Hood has been drafted by the Minnesota Twins and also, has signed with Georgia Tech. Chris Lotterhos will go to Ole Miss, where his father played football a few years ago. Other members of this team are Ricky Brillard, Daniel Brown, Andy Brunetz, Michael Cobb, Phillip Cobb, Matt Hale, Tom Hilderbrand, Darrin Hope, Brian Kincheloe, Jeff Flein, Blaine Lester, Chad Moore, Brandon Morrison, Brent Reid, Cory Sumner, Jeremy Wade, Chris Winsett, Johnathan Winterrowd, Paul Wood, and Chris Hackett. Many of the boys have played baseball together for years previous. All now share a unique bond, an experience that none will soon forget, and that no one can take from them.

Any acknowledgment such as this would not be complete without pointing out the efforts, out front and behind the scenes, of the Germantown High School administration, coaches, loyal fans and especially, the wonderful parents and families who provided immeasurable support.

Again, congratulations to Germantown High School. You certainly have set the standard in high school baseball for years to come.

TRIBUTE FOR GEN. JOHN M. LOH

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. SKELTON. Mr. Speaker, today I want to recognize Gen. John Michael Loh who is retiring after 35 years of faithful and distinguished military service to our Nation.

As one of our Air Force's most senior leaders, General Loh directly contributed to the revolutionary changes in the application of aerospace power that have resulted in dramatic improvements in our Nation's ability to achieve our security goals. General Loh's dedicated service and exceptional leadership helped ensure the U.S. Air Force excelled in the technologically demanding latter half of the cold war, in the crucible of Operations Desert Shield and Desert Storm, and in the economic turbulence and changing geopolitical landscape of the 1990's.

General Loh's drive, vision, and extraordinary leadership skills set him apart from his peers and brought him varied, demanding assignments in which he always excelled. He was graduated eighth in the second class produced by the U.S. Air Force Academy. As a young pilot, he flew over 200 combat missions in the F–4 as a member of the 389th and 366th Tactical Fighter Squadrons at Da Nang Air Base, Republic of South Vietnam. On returning, he served as an engineer and test pilot, helping to usher in many of the technological innovations in today's fighter aircraft. He accumulated more than 5,000 hours as a command pilot in the F–4, F–104, A–7, F–16, and dozens of other aircraft. He capped his career by becoming one of the first to fly the Nation's most sophisticated combat aircraft—the B–2 bomber.

The general's contributions to the acquisition community began very early in his career. As a junior officer, he worked on the prototype of a highly capable yet low-cost fighter. It became the F–16. He won the Air Force Association's Daedalian Fellowship for his work and applied it to a graduate engineering program at the Massachusetts Institute of Technology. Upon completion of the degree, he continued his work in fighter aircraft acquisition. His technical expertise and leadership resulted in the F–16 exceeding its program goals and going on to become one of the Nation's most successful fighter programs. Today, the F–16 comprises 53 percent of the Air Force's fighter and ground attack force, and it is the most successful foreign military sales program. General Loh also helped lay the groundwork for the F–22 fighter, B–2 bomber, and, as a former commander of the Air Force's agency for aircraft acquisition, he influenced every substantive program within the service.

Shortly after he became the Air Force's Vice Chief of Staff, Iraq invaded Kuwait. General Loh served as the acting Chief of Staff for the majority of Operation Desert Storm and played a key role in preparing the plan for the air campaign. His ability to work quietly behind the scenes to guide the implementation of innovative policies and lightning-quick acquisition and deployment of weapons played a significant part in the success of the Nation's war effort.

As the Soviet Union began to collapse, Air Force leadership decided to radically restructure the entire service. As the first commander of Air Combat Command, General Loh became the linchpin of this effort. He restructured the Air Force's combat forces, using the remnants of the inactivated Strategic Air Command, Tactical Air Command, and Military Airlift Command to build a more dynamic, fleet-footed, conventionally-oriented combat force. Within this new entity of more than 30 wings, 3,400 aircraft, and 250,000 active duty, Guard, Reserve, and civil service people, he engendered a new leadership style. He replaced the authoritarian style of ACC's predecessors with a people-oriented style based on trust, teamwork, and a mutual quest for continuous improvement. His success in bringing this leadership style into use resulted in the implementation of better practices and processes in every facet of the command's operations, leading to an outstanding response to contingencies in Southwest Asia, the former Yugoslavia, and Haiti to name just a few. His leadership style also saved the Air Force millions of dollars and raised morale across the command despite the turbulence of the dramatic defense draw down. This success led to high praise from Vice President GORE during the National Performance Review and an invitation for General Loh to join him at the Reinventing Government Summit in Philadelphia in June of 1993.

As fiscal pressure and geopolitical necessities drove American forces to become increasingly expeditionary, General Loh became the leading advocate for the immediacy and flexibility of air power. Throughout his career, he has worked closely with local governments to foster technology transfer to private, nondefense businesses. The governors of Ohio and Virginia each chose him to co-chair their State's technology transfer and defense reutilization commissions. He has also been one of the Nation's most effective advocates for maintaining the unique portions of the Nation's industrial base that have allowed us to field weapons with stealth and other sophisticated, force-multiplying characteristics.

General Loh's ability to master diverse challenges and draw on his own experience to interweave the efforts of combat forces and the industries that support them has given the nation the world's preeminent combat air force. His vision of what this fighting force can and should be has made it a national model for the people-centered, intellectually nimble work horse of the future. None of these things would have been accomplished without General Loh's conviction, courage, and leadership. He set a new standard for air power and gave our Nation the world's most effective combat air force.

General John Michael Loh, on behalf of the Congress of the United States and the Americans we represent, I offer our sincere thanks for your dedicated and selfless service to our Nation.

AMENDMENT TO EXCLUDE LENGTH OF SERVICE AWARD PROGRAMS

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. HOUGHTON. Mr. Speaker, I am joined today by several of my colleagues, including Mr. MCNULTY, Mr. ACKERMAN, Mr. BUNNING, Mr. VOLKMER, and Mr. SHAW, in introducing legislation to exclude Length of Service Award Programs [LOSAP's] for volunteers performing firefighting or prevention services, emergency medical services or ambulance services from section 457 of the Internal Revenue Code. Likewise, the legislation would exempt the LOSAP's from FICA and Medicare taxation. This corrective legislation would support the important role that volunteer firefighters and rescue personnel play in small towns and rural areas across the United States.

There are approximately 150,000 volunteer firefighters in about 37 States, who receive nominal awards, about $250 per year on average, under LOSAP's from their governmental or tax-exempt fire districts. Volunteers earn awards under a LOSAP while they are performing volunteer services, on the basis of their years of service. However, the awards are not actually paid to volunteers in cash until after they have retired as volunteers. There are similar award programs for volunteers performing other emergency medical services, such as rescue personnel and ambulance drivers.

These nonqualified plans are covered by section 457. Participants under a section 457 plan normally report for tax purposes any compensation deferred and any income attributable to the amounts when it is actually received, similar to so-called qualified pension plans. However, one of the requirements for delayed taxation under section 457 is to limit such deferred amounts to a percentage of compensation paid. Of course, with most volunteer fire and rescue personnel, there is no regular pay, or only nominal amounts to cover expenses. Section 457 is in the Code to prevent governmental and tax-exempt entities from setting aside excessive amounts of tax-deferred income for the highly compensated employees, while at the same time being able to avoid the nondiscrimination rules that are applicable to qualified plans. Volunteers are far from being highly compensated, so our proposal does not undermine this policy.

However, the result of the current limitations may be to tax the volunteer with zero or minimal pay, on the amounts set aside as LOSAP's for retirement, at the time the amounts vest with the volunteer; that is, there are no restrictions on the receipt other than the passage of time. This could result even though it may be years before the volunteer will actually receive any funds.

The proposal would provide that the LOSAP's are excluded from the provisions of section 457. The result would be deferral of taxation until the LOSAP awards are paid. It would also exempt the amounts awarded under the LOSAP's from FICA and Medicare payroll taxes. The latter provision is similar to other areas of the tax law, such as exempting Peace Corp allowances paid to volunteers, as well as other plans established by the Government for deferral of compensation.

The proposal would promote volunteerism in the United States. There are strong public policy reasons for promoting volunteerism, and programs such as LOSAP's are important in doing this. In many areas of the country it is not economically or geographically feasible to provide these fire protection and emergency medical services through paid career personnel.

We urge our colleagues to support this sensible and important legislation.

DEFENSE WORKERS HEALTH BENEFITS LEGISLATION

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. SKAGGS. Mr. Speaker, I am today introducing legislation to provide health insurance benefits to former employees at defense nuclear facilities such as the Rocky Flats site in Colorado.

This bill, the Defense Nuclear Workers' Health Insurance Act of 1995, is essentially identical to a bill I introduced in the last Congress, and is based on provisions of a defense nuclear workers' bill of rights that I introduced in 1991. Other provisions of that larger bill were enacted as part of the 1993 defense authorization bill.

The bill I am introducing today would establish a health insurance program to help with the costs of serious illnesses resulting from workplace exposure to radiation or toxic materials. This would be funded through the Department of Energy and would cover treatment costs exceeding $25,000 for the covered illnesses or injuries.

Mr. Speaker, nuclear weapons plant workers were on America's frontlines in the cold war. They helped our national defense mission, working with dangerous materials often under conditions that would not be acceptable by today's standards. Now, as the work force at these sites is reduced, we need to act to assure prospective future employers that company health insurance rates will not be adversely affected if they hire these former defense workers. We also need to act to give these workers assurance that they'll have health insurance coverage for work-related illnesses.

This is the right thing to do, Mr. Speaker. America has already rightly recognized a special obligation to veterans and to those exposed to dangerous levels of radiation during the cold war—uranium miners, people who were downwind from nuclear tests, and atomic veterans. Nuclear weapons workers deserve similar consideration, and this bill would provide that.

MILITARY CONSTRUCTION APPROPRIATIONS ACT

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. PACKARD. Mr. Speaker, this bill addresses two current and critical concerns raised by the Department of Defense: The lack of quality family dwellings and a shortage of troop barrack space.

Two-thirds of the 350,000 family housing units in the Department of Defense inventory are over 30 years old and require extensive maintenance. Troop housing is in an even more dire situation. About one-half of all military barracks were built 30 or more years ago. The Department of Defense considers more than a quarter of this housing substandard and in need of constant upkeep to deal with problems such as asbestos, corroded pipes, inadequate ventilation, faulty heating and cooling systems, and peeling lead-based paint. Mr. Speaker, our service men and women deserve more. Chairwoman VUCANOVICH'S bill addresses this issue.

This bill also provides adequate support facilities for our service members and their families. These facilities are vital to ensure adequate working environments, productivity, and readiness, particularly with the growing number of deployments. They are essential to a strong national defense.

These men and women voluntarily put their lives on the line to serve their country. They deserve nothing less than the best we can offer them and I strongly urge support for this bill.

CHECHNYA VIOLENCE SPREADS TO RUSSIA

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 20, 1995

Mr. SMITH of New Jersey. Mr. Speaker, in the New Testament, the book of Galatians, we read that "whatsoever a man soweth, that shall he also reap." How true that is today, and how true it is not only of individuals, but also of societies and governments.

In response to the secession attempt by the region of Chechnya, the Russian Government has used massive and indiscriminate force to regain control of the region. At one point, at least half of the population of Grozny, the capital of Chechnya, a city of about 400,000, had been killed or driven from their homes. Entire families have been wiped out. Neighborhoods and livelihoods have been annihilated. Thousands of refugees have been displaced throughout Chechnya, and into neighboring Ingushetia and Dagestan.

According to a spokesperson from the respected international relief organization, Doctors Without Borders, Russian military assaults against villages south and southeast of Grozny were accompanied by massive abuses against the civilian population. During the attacks against these villages, the number of women and children killed or seriously wounded was over 50 percent of the total casualties. The shelling of the town of Samashki, for instance, has been compared to the bombing of Guernica during the Spanish Civil War.

And now the killing has come to Russia. According to press reports, about 100 people died when Chechen guerrillas stormed the southern Russian city of Budennovsk last Wednesday and took about 2,000 hostages at a local hospital. Dozens more were killed or wounded Saturday when Russian troops tried to free the hostages by storming the hospital.

Ironically, this action takes place when the head of the Mission of the Organization on Security and Cooperation in Europe in Grozny reports that Russia is trying to reduce civilian casualties in Chechnya and has tightened up discipline in Russian military ranks to avoid the brutality that took place earlier. Moreover, I note also that an official representative of Chechen political leader General Dudaev, speaking in The Hague, has condemned the Chechen raid on Budennovsk and the taking of hostages.

Thankfully, the fury in Budennovsk has been settled without further bloodshed. But, Mr. Speaker, the legacy of violence and hatred cannot be easily extinguished. I am informed that the leader of the Chechen guerrilla force that attacked Budennovsk lost most of his family to the Russian onslaught in Chechnya. How many other desperate and vengeful persons has the Chechen War begotten?

In a recent message concerning the Budennovsk tragedy, Dr. Elena Bonner writes:

> The policy of physical destruction of the Chechen people together with attempts to deprive them of any dignity has in a natural way led to the tragedy in Budennovsk. Under [these] circumstances, any solution by means of force will only result in new victims and will become a stimulus for further spreading of the bloodshed over greater territory of Russia.

I am certain that all my colleagues in the Congress join me in urging all concerned to end the cycle of violence in Chechnya and Russia. And once again, as Chairman of the Commission on Security and Cooperation in Europe, I urge the Russian government and the Chechen opposition to work with the Organization on Security and Cooperation in Europe toward a permanent cease-fire and a just settlement of the conflict.

HOUSE OF REPRESENTATIVES—*Wednesday, June 21, 1995*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. BONILLA].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 21, 1995.

I hereby designate the Honorable HENRY BONILLA to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O gracious God, that we will focus our energies and abilities in ways that calm any troubled waters, that help straighten any crooked road, that we will help people know faith and hope and love. As we quickly move along life's way, may we treasure the virtues of being reconcilers of the truth and custodians of the marvelous gifts of Your Word. In the vocations of each day enable us to hold dear to that which is eternal and strive always to be the people You would have us be. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Colorado [Mr. HEFLEY] will lead the House in the Pledge of Allegiance.

Mr. HEFLEY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. This morning the Chair will recognize five 1-minute speeches on either side of the aisle as agreed to by the leadership.

PRACTICE WHAT WE PREACH

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, today, at least I assume it will be today, the House will begin debate on the Legislative Appropriations Act for fiscal year 1996. With passage of this bill, Congress can show the American people that we are serious about cutting spending and downsizing the Federal bureaucracy.

Over $155 million in spending cuts in this bill; one-third cut in overall committee staff; elimination of some of the offices, the folding room, the flag office, the ice distribution to Members' offices.

Mr. Speaker, around this town some may believe that $155 million is not much money, but this Member of Congress, as well as the American taxpayers, think it is a lot of money. I have always felt that if we are serious about reaching a balanced budget, we should start first with our own selves here, our own legislative budget. Maybe today we will take that first important step.

LOBBY REFORM LEGISLATION IS NEEDED

(Mr. BRYANT of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRYANT of Texas. Mr. Speaker, we have heard a lot of talk this year about reform of this House from the new Republican leadership. But the one thing that they have steadfastly refused to do in attempting reform is the outrageous practice that continues, and has continued for many years, of Members of Congress being able to accept gifts from the very lobbyists who are paid to come and influence our decisions.

It is time, Mr. Speaker, to end the carefully orchestrated effort by the Republican Speaker and the Republican leadership to prevent this House from considering legislation to prohibit the acceptance of gifts by Members of Congress from lobbyists.

Last year we passed legislation through this House that did that. We passed it through the Senate and it did the same thing. But when the conference report went back to the Senate in the waning days of the session, the Republican Senators filibustered it and killed it.

The fact of the matter is the public wants it. It is in the interest of this institution. It is good for America. Mr. Speaker, stop blocking the efforts to bring lobby reform legislation before the House of Representatives.

PRESERVE THE OCS BAN

(Mr. GOSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GOSS. Mr. Speaker, yesterday's vote by the Interior Appropriations Subcommittee to lift the 14-year-old OCS moratorium on oil and gas activity was a big disappointment for Florida. Even through we know that the annual appropriations ritual to protect our sensitive coastal waters may not be the best way to operate, the lack of a long-term policy has forced us to take what we can get.

Floridians and millions of visitors to Florida strongly oppose opening up our coastal waters to oil and gas drilling—not just because of the tremendous risk of a spill to our environment, our beaches, and our tourist economy, but also because of the onshore infrastructure such drilling would spawn.

In the near term, we urge the full Appropriations Committee to restore the ban—and we will take our fight to this floor if necessary. For the longer term, it is time to develop a real solution to this annual problem, perhaps by passing H.R. 72, a bill that provides for good science, some degree of certainty, and a rational plan to determine if and where exploration can be done safely. Meanwhile, those who love Florida will fight to protect it.

GIVE JAPAN THE RAW DEAL

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute.)

Mr. TRAFICANT. Mr. Speaker, here we go again. Japan wants a compromise. Japan wants another last

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□This symbol represents the time of day during the House proceedings, e.g., □1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

minute deal. Japan wants. Japan wants. Japan wants.

Ladies and gentlemen, from President Nixon through President Bush, Japan has been able to wriggle out from every crisis. Last month's trade deficit hit a record $11.4 billion and Japan wants another last-minute deal.

Beam me up here. American jobs are going overseas. And we are giving Japan last-minute deals. I say give Japan the deal, the raw deal. The same raw deal they have been giving American workers for the last 40 years.

They have earned it. They deserve it. Think about it.

TIME FOR FREE MARKETS IN JAPAN

(Mr. FUNDERBURK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FUNDERBURK. Mr. Speaker, my colleague from the other side is right. Japan has been playing Uncle Sam for a fool. Thirty-five years is long enough to wait for Japan to join the world of free markets. Every President since JFK has been baffled and frustrated by Japanese resistance to free trade. We have had decades of handshakes, smiles, and bows from Japanese leaders. Each time we have offered friendship they have offered arrogance. Each time we have offered compromise, they have built walls to protect their outmoded industries. Enough is enough.

Mr. Speaker, if Japan will not honor the rules of free trade then America must impose punitive tariffs on Tokyo's products and cars are only the tip of that iceberg. Mr. Speaker, I do not want a trade war, but if the Japanese keep their markets closed to North Carolina farmers, North Carolina textiles, and North Carolina technology, they can no longer have free access to our markets. It is time Tokyo got with the program. It is time the Japanese Government joined the 20th century.

ELIMINATE GIFTS FROM LOBBYISTS

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, as you all know, later on today we will be taking up the legislative appropriation bill. And it has been said by one of the earlier speakers there are cuts in that bill from what we have had previously. But in my opinion, there are not sufficient cuts. There is still too much spending. And I am going to be voting for some of the amendments that will cut further.

But one thing I find is that the Committee on Rules has not permitted the most important amendment that could have been offered to this bill and that is the Baldacci amendment, which would have said that Members of Congress who accept elaborate gifts from lobbyists, and who have those same lobbyists write their bills, could not get paid as a Member of Congress.

Why should they get paid when they are getting all the free gifts from the lobbyists? But the Committee on Rules, under the gentleman from New York [Mr. Solomon] and the Republican majority, said, no, we are not going to permit that amendment. We are not going to have reform up here.

Ladies and gentlemen, this Republican majority is not really reform minded. And I am going to talk about that more in the special orders this afternoon.

PROTECT THE ROLE OF CONGRESS IN UNITED STATES-CUBA NEGOTIATIONS

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, today I will introduce legislation to ensure that Congress maintains its proper role in the realm of foreign relations with the Communist Dictator Castro.

In conjunction with similar legislation proposed by our Florida Senator Mack in the other Chamber, this bill will require that the President notify congressional leadership prior to any meetings with the Castro regime and that a timely report be made to the leadership with the results of any such negotiations.

With a situation as delicate as negotiations with one of the last Communist regimes left in the world, it is essential that Congress be kept aware of any attempts made by the administration to legitimize the Castro government.

Mr. Speaker, while I recognize that it is the preprogative of the President to conduct foreign affairs, it is also the responsibility of the President to keep Congress informed of his actions so that we might respond accordingly.

I am pleased that I am able to introduce this bill with bipartisan support and would especially like to thank my colleagues from Florida, Ms. Ros-Lehtinen and Mr. Diaz-Balart for their support.

Mr. Speaker, I urge my colleagues to join me in making sure that the United States does not rush into a closer relationship with a Communist dictatorship without the elected representatives of the people being properly informed.

NO TAX BREAKS FROM THE POCKETS OF AMERICA'S SENIORS

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, I came to Washington to serve as an independent voice for families from central Texas, not to march in lock-step formation for any political party. And in that independent spirit I must continue to express my concern about what is happening in this House on Medicare.

The Medicare trust fund is just that, it is something in which American seniors and American middle-class families have to trust. But unfortunately in this House it is being treated not as a trust fund but as a slush fund to fund additional tax breaks for the privileged few in our society.

Mr. Speaker, speaking independently, I have to say that it is strange, strange indeed, that at this point the same Republicans who criticized President Clinton now try to hide behind his latest attempt to get a balanced budget in their efforts to raid the Medicare trust fund.

And those of us who have been elected to independently speak up for our constituents are going to be here speaking out about the Medicare trust fund and saying, Do not reach into the pockets of America's seniors to fund a tax break for the privileged few.

PRESIDENT SHOULD HAVE SCORED HIS BUDGET PROPOSAL

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, we welcomed the President a week and a night ago as he decided to join, rejoin, the national debate on the balanced budget. And he told us in a short address to the Nation that he was going to balance the budget. He would do it over 10 years.

We only wish that he had, in fact, contacted the CBO or the OMB to get it scored before he made that statement that he was offering a balanced budget in 10 years. Because, frankly, if we balance the budget in 10 years, or we balance the budget in 7 years, there is room there to talk about things that are difficult problems but are things that we can negotiate, we can talk about.

But when CBO scored the President's plan, what we found out is shown in this graph. And that is that the Republican budget that we have passed as a resolution goes from the current deficit down to zero by the year 2002. But the President's budget stays, it hovers just around $200 billion deficits for the next 7 years and then it goes on the next 3 years at $200 billion deficits. I only wish that the President had, in fact, gotten it scored first.

HOUSE NEEDS GIFT BAN LEGISLATION

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, we continue to have ample opportunity in this body to close down the influence of the special interests, including one that we had yesterday. But the Republican leadership refused, and this is not the first time. They refused over and over again to allow an amendment to come up to ban gifts to Members of this Congress.

Yesterday they refused to allow the Baldacci amendment to come up that would close down the ability of the special interests to have undue influence on Members of Congress.

Members of this body do not need gifts. They do not need airline tickets to exotic places; frequent-flyer miles. We are very, very well compensated and our job here is to do the business of the people.

The Republican leadership's rhetoric is just that, rhetoric, about closing down corporate special interests. Let us close the special interests down. Let us have a gift ban amendment on this floor.

NOTICE OF AVAILABILITY OF CLASSIFIED MATERIALS ACCOMPANYING THE FISCAL YEAR 1996 INTELLIGENCE AUTHORIZATION BILL H.R. 1655

(Mr. COMBEST asked and was given permission to address the House for 1 minute.)

Mr. COMBEST. Mr. Speaker, I wish to announce to all Members of the House that the classified schedule of authorizations and the classified annex to the committee report accompanying the intelligence authorization bill for fiscal year 1996, H.R. 1655, are available for review by Members at the offices of the Permanent Select Committee on Intelligence in room H-405 of the Capitol from 8:30 to 5:30, Monday through Friday.

It is important that Members keep in mind that clause 13 of rule XVIII of the House, adopted at the beginning of the 104th Congress, requires that before Members of the House may have access to classified information, they must sign the oath set out in that clause. The classified schedule of authorizations and the classified annex to the committee report contain the Intelligence Committee's recommendations on the intelligence budget for fiscal year 1996 and related classified information which may not be disclosed publicly. After consultation with the general counsel to the Clerk of the House, I would advise Members wishing to have access to the classified schedule of authorizations and the classified annex that they must bring with them to the committee office a copy of the rule LXIII oath signed by them or be prepared to sign a copy of that oath when they come to see these classified materials.

I would also recommend that Members wishing to read the classified schedule of authorizations and the classified annex to the committee report first call the committee office to indicate when you plan to review the classified annex to the report. This will help assure that a member of the committee staff is available to help Members, if they wish, with their review of these classified materials. I urge Members to take some time to review these classified documents to help them better understand the actions the Intelligence Committee has recommended before the intelligence authorization is considered on the House floor in the next several weeks.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. COMBEST. I yield to the gentleman from Missouri.

Mr. VOLKMER. That is one rule of the House that was enacted this year; correct?

Mr. COMBEST. The gentleman is correct.

Mr. VOLKMER. It is interesting to me that the Republican majority stands very strong about enforcing this rule of the House, but does not enforce another rule of the House that says that Members of this body can only serve on four subcommittees. Is the gentleman going to enforce that rule?

Mr. COMBEST. I do not enforce rules of the House, I tell the gentleman from Missouri. And I suggest he take it up with the leadership.

MILITARY CONSTRUCTION APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. Pursuant to House Resolution 167 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1817.

□ 1023

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1817) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, with Mr. BARRETT of Nebraska in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Tuesday, June 20, 1995, the amendment offered by the gentleman from Massachusetts [Mr. FRANK] had been disposed of and the bill had been read through line 12, page 19.

Are there further amendments?

AMENDMENT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment number 7 offered by Mr. OBEY: Page 19, after line 12, insert the following new section:

SEC. 126. The amounts otherwise provided in this Act for the following accounts are hereby reduced by the following amounts:

(1) "Military Construction, Army", aggregate amount, $14,000,000.

(2) "Military Construction, Navy", aggregate amount, $9,500,000.

(3) "Military Construction, Army National Guard", $13,200,000.

(4) "Military Construction, Air National Guard", $11,000,000.

(5) "Military Construction, Air Force Reserve", $1,800,000.

Mr. OBEY. Mr. Chairman, this amendment is a very easy to understand amendment. It simply cuts this bill by $50 million. As I think most Members know, this $7.2 billion bill is $2.5 billion above last year's appropriations for the same items and it is one half of a billion dollars above the President's request.

Now, many of the projects added by the committee are referred to as quality of life projects which improve the quality of life of our servicemen and women.

□ 1020

This does nothing whatsoever to limit those projects, but by my calculation, there are at least $140 million in added projects which have absolutely nothing whatsoever to do with improving quality of life for our service men and women. They are simply added projects for Members who are attempting to change DOD construction priorities.

My amendment simply seeks to reduce the added spending in this bill somewhat less than that amount, $50 million out of $140 million. It is hardly a radical amendment.

For those of you concerned about which projects this amendment affects, I would say it does not affect any project specifically. I am not trying to embarrass any individual Member on either side of the aisle. I am simply trying to cut the overall amounts so that this committee can, as it deals with the Senate, use its own judgment in conjunction with the Secretary on where those reductions ought to come from.

This is a time of stark choices. The bill before us represents an unbelievable increase of 28 percent over last year's appropriation. I do not believe that is justifiable nor do I believe that is defensible at a time when we are seeing major reductions in other key programs that affect working people all over this country.

The Labor, Health, and Education bill, for instance, is going to be $10 billion below last year's level. The HUD bill is going to be some $9 billion below last year's level. The Interior bill yesterday had to make very deep reductions in some key programs to help local units of government because of reductions in that area. The Commerce, Justice bill is going to be cut substantially, squeezing our ability to provide decent funding for law enforcement all over the country.

The magnitude of those cuts is going to endanger a lot of health programs. It is going to put student loans in a position where the costs for those will rise significantly. Veterans' programs will be at risk. Law enforcement, immigration enforcement, national parks, housing for the elderly, all of them are going to be at risk, and yet we have this bill before us with a 28-percent increase over last year.

I think that is phenomenally ridiculous. I think it is a spectacular example of how this Congress is missing the boat in terms of a rational set of priorities when it comes to applying required spending cuts.

This is a modest effort, $50 million cut out of a huge, over $11 billion, bill.

I would urge that the committee adopt the amendment.

Mrs. VUCANOVICH. Mr. Chairman, I rise in opposition to the amendment.

No matter how the gentleman describes his proposal, it is simply an across-the-board reduction to five accounts in this bill.

If the gentleman wanted to eliminate individual projects in the bill, we could have debated the merits of doing so. He could have identified projects for us that he believed to be less meritorious. We could have discussed whether or not they deserved the support of the House. But he did not choose to do that. Instead, he proposes to cut a substantial amount of resources from the bill, but without canceling any projects.

Mr. Chairman, our subcommittee has worked hard to present a good bill to the House. We have done this in a very bipartisan manner, and we have coordinated our actions with the authorizing committee. In its most basic sense, the bill literally adds up. There is no creative accounting or other fiscal gimmickry to make the numbers work. It is just good, straightforward mathematics.

But the gentleman appears to think that there is a better way to do the job. All that is required is to pull a number out of thin air. Ignore the detailed architectural work, engineering, design, and cost estimating that backs up each and every project. Ignore the realities of area cost factors that are constantly changing around the country and around the world. Ignore the bidding climate that is very sensitive to the timing of construction proposals.

Instead, just make up a number.

Mr. Chairman, I ask the Members to stand in support of the good work we have performed in hammering out the details of this bill. It is a good bill, and it deserves your support. Oppose this proposal to just make up a number and tell the Department of Defense to find a way to live with it.

I ask for your vote against this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. OBEY].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. OBEY. Mr. Chairman, I demand a recorded vote, and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 399]

Abercrombie
Ackerman
Allard
Andrews
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)

Smith (NJ)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wolf
Woolsey
Wyden
Wynn
Young (FL)
Zimmer

□ 1048

The CHAIRMAN. Four hundred fourteen Members have answered to their names, a quorum is present, and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Wisconsin [Mr. OBEY] for a recorded vote. Five minutes will be allowed for the vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 163, noes 258, not voting 13, as follows:

[Roll No. 400]

AYES—163

Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Blute
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Coburn
Collins (IL)
Conyers
Cooley
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Dooley
Doyle
Duncan
Durbin
Ehlers
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Ford
Frank (MA)
Franks (NJ)
Frost
Furse
Ganske
Gejdenson
Gephardt
Gibbons
Gordon
Green
Gunderson
Gutierrez
Hamilton
Harman
Hastings (FL)
Hilliard
Hinchey
Hoekstra
Horn
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennelly
Kildee
Kleczka
Klug
Lantos
Leach
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Moran
Morella
Nadler
Neal
Neumann
Oberstar
Obey
Olver
Orton
Owens
Pastor
Payne (NJ)
Pelosi
Petri
Poshard
Rahall
Ramstad
Rangel
Reed
Reynolds
Rivers
Rohrabacher
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Sanders
Sanford
Schroeder
Sensenbrenner
Serrano
Shays
Skaggs
Slaughter
Smith (MI)
Souder
Spratt
Stark
Stokes
Studds
Stupak
Tiahrt
Torricelli
Towns
Tucker
Upton
Velazquez
Vento
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—258

Abercrombie
Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Clyburn
Coble
Coleman
Collins (GA)
Combest
Condit
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Doolittle
Dreier
Dunn
Edwards
Ehrlich
Emerson
English
Everett
Ewing
Fawell
Fazio
Flanagan
Foglietta
Foley
Forbes
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Funderburk
Gallegly
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoke
Holden
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kim
King
Kingston
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Longley
Lucas
Mascara
Matsui
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Pomeroy
Porter
Pryce
Quillen
Quinn
Radanovich
Regula
Richardson
Riggs
Roemer
Rogers
Ros-Lehtinen
Rose
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (WA)
Solomon
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Torres
Traficant
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)
Zeliff

NOT VOTING—13

Collins (MI)
Dornan
Fields (TX)
Gekas
Moakley
Portman
Roberts
Salmon
Schumer
Smith (TX)
Torkildsen
Wilson
Young (AK)

□ 1056

Mr. GREENWOOD changed his vote from "aye" to "no."

Mr. SPRATT changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PORTMAN. Mr. Chairman, because of an unforeseen scheduling conflict, I was unable to be in attendance in the House for one recorded vote, rollcall vote No. 400 on the Obey amendment to H.R. 1817.

Had I been in attendance, I would have voted "nay" on rollcall vote No. 400.

The CHAIRMAN. Are there further amendments?

If not, the Clerk will read the last two lines of the bill.

The Clerk read as follows:

> This Act may be cited as the "Military Construction Appropriations Act, 1996".

The CHAIRMAN. If there are no further amendments, under the rule the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BUNNING of Kentucky) having assumed the chair, Mr. BARRETT of Nebraska, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1817) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes, pursuant to House Resolution 167, directed he report the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

There was no objection.

The SPEAKER pro tempore. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Under the rule, the yeas and nays are ordered.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 319, nays 105, not voting 10, as follows:

[Roll No. 401]

YEAS—319

Abercrombie
Ackerman
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chambliss
Chenoweth
Chrysler
Clayton
Clement
Clyburn
Coble
Coleman
Collins (GA)
Combest
Condit
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoke
Holden
Hostettler
Houghton
Hoyer
Hunter
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martinez
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Meek
Metcalf
Meyers
Mica
Miller (FL)
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nethercutt
Ney
Norwood
Ortiz
Oxley
Pallone
Parker
Paxon
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roybal-Allard
Salmon
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Scott
Seastrand
Serrano
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Solomon
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torres
Traficant
Tucker
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff

NAYS—105

Allard
Andrews
Barcia
Barrett (WI)
Becerra
Beilenson
Bonior
Brown (CA)
Brown (OH)
Bryant (TX)
Cardin
Castle
Chabot
Chapman
Christensen
Clay
Coburn
Collins (IL)
Conyers
Cooley
Dingell
Duncan
Engel
Eshoo
Fattah
Flake
Frank (MA)
Franks (NJ)
Furse
Ganske
Green
Gunderson
Gutierrez
Harman
Hilliard
Hinchey
Hoekstra
Horn
Johnston
Kennedy (MA)
Kleczka
Klug
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Markey
Martini
McDermott
McKinney
Meehan
Menendez
Mfume
Miller (CA)
Mineta
Minge
Nadler
Neal
Neumann
Nussle
Oberstar
Obey
Olver
Orton
Owens
Pastor
Payne (NJ)
Petri
Rahall
Ramstad
Rangel
Roemer
Roth
Roukema
Royce
Rush
Sabo
Sanders
Sanford
Schroeder
Sensenbrenner
Shadegg
Shays
Smith (MI)
Smith (WA)
Souder
Stark
Stokes
Studds
Torricelli
Towns
Upton
Velazquez
Vento
Volkmer
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wyden
Yates
Zimmer

NOT VOTING—10

Clinger
Collins (MI)
Hutchinson
Moakley
Packard
Roberts
Schumer
Shaw
Torkildsen
Wilson

☐ 1116

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. VUCANOVICH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 1817, and that I may include tabular and extraneous material.

The SPEAKER pro tempore (Mr. BUNNING of Kentucky). Is there objection to the request of the gentlewoman from Nevada?

There was no objection.

GENERAL LEAVE

Mr. PACKARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 1854, and that I may include tabular and extraneous materials and charts.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. Pursuant to House Resolution 169 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1854.

☐ 1119

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes, with Mr. LINDER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. PACKARD] will be recognized for 30 minutes, and the gentleman from California [Mr. FAZIO] will be recognized for 30 minutes.

The Chair recognizes the gentleman from California [Mr. PACKARD].

Mr. PACKARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, it is a pleasure to present the legislative branch appropriations bill for the fiscal year 1996. The bill H.R. 1854 and the report, House Report No. 104–141, were reported by the Committee on Appropriations on Thursday, June 15.

Before I begin, I want to acknowledge the members of the subcommittee who have shared in crafting this bill. I am particularly grateful to the gentleman from California [Mr. FAZIO], the ranking minority member of the committee and former chairman of this committee for many years. He has been my mentor on the committee and has been an extremely great person to work with.

In addition, we have the gentleman from Florida [Mr. YOUNG], who has served as the ranking minority member for years on this committee, the gentleman from North Carolina [Mr. TAYLOR], the gentleman from Florida [Mr. MILLER], and the gentleman from Mississippi [Mr. WICKER].

On the minority side, in addition to the gentleman from California [Mr. FAZIO], we have the gentleman from Arkansas [Mr. THORNTON] and the gentleman from California [Mr. DIXON]. They have all helped craft this bill and have been very helpful in and cooperative in bringing about what I consider a very good piece of legislation.

We also have the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the full committee, who has sat in on our meetings and sits on the subcommittee, as well as the gentleman from Wisconsin [Mr. OBEY], the ranking minority member of the full committee.

The bill covers appropriations for the operations of the House, the joint committees, our support agencies, the CBO, the Congressional Research Service, General Accounting Office, the Architect of the Capitol, the Library of Congress, and the Government Printing Office. Funds for the Senate will be added by the other body when the bill is taken up in the Senate.

The bill summary is as follows:

It includes $1.7 billion in budget authority. It reduces from this current year's budget $154.9 million. It also reduces by $333 million under the requests received in the President's budget. It is $26.6 million under the discretionary 602(b) allocation and, again, the Senate items are excluded from this bill.

The bill makes significant reductions and changes in our operations. We have calculated that if the entire Federal budget were reduced in proportion to the reduction in the legislative budget before us today, the deficit would go down by $133 billion in 1 year. That is three-fifths of the way toward a balanced budget in 1 year, if the rest of the Government followed our lead.

We have cut 2,350 FTE's, that is full-time equivalent employees, from the rolls of this branch of Government. There are several privatization initiatives that we have included. The report directs the Architect of the Capitol to obtain proposals to contract out custodial care and buildings maintenance. The flag raising function, the taxpayer subsidized perk, has not been funded, which will allow the Capitol Historical Society to take over that operation. Again, it will no longer be a tax-supported operation.

That is $320,000 a year subsidy to provide the flags. They will still be available but under the direction of the Historical Society.

The bill eliminates the beauty shop and the barber shop's revolving funds. It paves the way to contract operations for these services, and it has already been approved by the Committee on House Oversight.

The GAO has been directed to outsource administrative work, and the GAO also will be funded to outsource more of their audit and program analysis.

There are several eliminations of programs and other activities in this bill. The Office of Technology Assessment will be eliminated. The Joint Committee on Printing will be eliminated. Constituent copies of the CONGRESSIONAL RECORD and the United States Code subscriptions for Members will be eliminated. One House parking lot is to be turned back to the District of Columbia.

One warehouse is to be eliminated, and a congressional board is to be eliminated.

You will find key reductions in the bill. All agencies have been asked to absorb the COLA's for this year out of this year's level spending. In other words, we are asking every agency to absorb the COLA's and still live within the level of spending from the 1996 budget year. All agencies are held to this year's level funding or below, with the exception of the Library of Congress.

The savings made possible by significant reforms of several House operations approved by the Committee on House Oversight have been reflected in this bill. The GAO is downsized by 15 percent on the way to a 25-percent cut over the next 2-year period. CBO has been asked to absorb unfunded mandate workload, an additional workload, but out of current level funding.

There are several cutbacks in congressional printing. For example, a reduction in the number of printed hearings and the bound annual CONGRESSIONAL RECORDS, which have been placed on CD ROM's. In addition, more electronic format will be substituted for the far more expensive print-on-paper documents. And then also to be reduced, the Joint Economic Committee is being downsized by 25 percent. We will also be streamlining some of the agencies. The House postal operations are being turned over to the U.S. Postal Service. Members' allowances are being funded in a single appropriation. That is the three allowances, the clerk hire, the official expense, and the mailing allowances are all being combined into one allowance, and the Committee on House Oversight in future months will actually give us flexibility to combine those funds into a single allowance.

All committee funding has been combined under a single heading in the bill. The bill reassigns security resources to the Sergeant at Arms. Also the bill combines the Capitol guide service and the special service offices, again, a combining of offices and operations in the Government.

The Botanic Garden is being transferred to the National Arboretum. The GAO claims and judgments work is transferred to the executive branch. We are keeping the pressure on agencies to standardize their accounting systems. This is a long-term savings measure. And then there is language in the bill which requires the publishing agencies, including the Congress, to pay the cost of paper-based documents being sent by the Superintendent of Documents to the Federal depository libraries.

We are simply asking the agencies to pay their own printing costs rather than having this committee do it.

Finally, we have included some innovative programs. We have funded a project called Office 2000, which will take the House into the age of the cyber Congress, modernizing our offices with electronic equipment. We have also funded the National Digital Library in the Library of Congress which aims at making the collections of the Library of Congress accessible to electronic storage and distribution systems, making that information available throughout the country and perhaps throughout the world.

We have initiated a study to determine if the Digital Library can be applied to the Federal documents collections under the control of the Superintendent of Documents.

And finally, a major emphasis throughout the bill has been placed on moving the legislative branch into electronic documents storage and information sharing. We want to take advantage of the on-line distribution of congressional information as the Congress enters the cyber age.

There are a number of housekeeping provisions in the bill. Many of these are carried from year to year to facilitate the operations of the House and other agencies. Some are new, and I have mentioned most of them.

Mr. Chairman, we believe this bill is a significant step in the way of not only balancing the budget but of showing the American people that we can downsize, that we can right size our budget, but also that we can modernize the Congress and make it more effective, more efficient, and we are asking our agencies to do more with less.

We will use great talent that exists in the private sector to privatize many of the things that heretofore Government has been doing. We simply want to stop doing what we can do without.

I urge Members to support this bill. It is a very good piece of work. It does set us on a glide path toward a zero deficit. We have set the pattern, and I want to thank my committee members for the cooperation we received.

At this point, I would like to include my prepared remarks.

Mr. Chairman, it is a pleasure to present H.R. 1854, the legislative branch appropriations bill for fiscal year 1996 to the House.

The bill and report, House Report No. 104–141, were filed on Thursday, June 15, 1995.

I do not intend to go into every detail. The report and the bill have been available, and I know that many Members and staff have gone over it very thoroughly.

Before I begin, I want to thank each member of the Legislative Subcommittee on Appropriations.

First of all, we have VIC FAZIO, the gentleman from California, our ranking minority member. VIC FAZIO has been a Member of Congress since 1979, and since 1981 served as chairman of the Subcommittee on Legislative until this Congress. I believe—and I hope he agrees—we have worked together in bringing this bill to the floor.

In addition to Mr. FAZIO, the other members of the subcommittee: Mr. LIVINGSTON of Louisiana, also chairman of the full Committee on Appropriations; Mr. YOUNG of Florida; Mr. TAYLOR of North Carolina; Mr. MILLER of Florida; Mr. WICKER of Mississippi; Mr. THORNTON of Arkansas; and Mr. DIXON of California.

Mr. OBEY, the ranking minority member of the full committee, is an ex-officio member of the subcommittee.

I should point out that we work very closely with the Committee on House Oversight, and I also want to express my appreciation to the members and leadership of that committee, primarily the chairman, the gentleman from California [Mr. THOMAS], and the gentleman from California [Mr. FAZIO], the ranking minority member of that committee.

CONTENT OF THE BILL

This is the annual appropriation for the operations of the legislative branch of the Federal Government.

This is an important occasion in a symbolic sense. With this bill, I believe we begin to show the way to a balanced budget. We have applied our own resources—the legislative branch agencies and the funds to operate the House of Representatives—what we must apply to the entire Federal bureaucracy—restraint, downsizing, and streamlining—with some innovations thrown in.

It is true that we are a small part of the total budget picture. This bill only constitutes twelve one-hundredths of 1 percent—0.12 percent—about one-tenth of 1 percent of the entire budget.

Our activities include the House of Representatives and the Senate—and our support agencies such as the Architect of the Capitol, the Congressional Budget Office, and the Congressional Research Service.

There is also the agency that ferrets out waste, fraud, and abuse, and conducts financial audits of Government programs—the General Accounting Office.

We also include the Government Printing Office, and Library of Congress.

Several other programs are also included: the Copyright Office; Books for the Blind and Physically Handicapped; the National Library Service; and the Depository Library Program.

SUMMARY OF THE BILL

Mr. Chairman, the bill before the House totals $1.73 billion—$1,727,351,000—in budget authority for fiscal year 1996.

This figure does not include Senate items that will be added when the bill goes over to the other body.

COMPARED WITH LAST YEAR'S BILL

Last year, the Legislative Branch Appropriations Act, 1995, appropriated $1.88 billion—$1,882,221,600—for the activities covered in H.R. 1854. This bill cuts spending $155 million—$154,870,600—an 8.2-percent reduction. We expect that the other body will be adding to the reduction.

We expect a final bill going down to the President which cuts $200 million. If the total Federal budget were reduced the same way, over $130 billion would be saved in fiscal year 1996.

COMPARISON WITH 602(b) ALLOCATION

Under section 602(b) of the Budget Act, our committee allocated $2.262 billion for the legislative bill. The bill before us contains $1.727 billion in discretionary budget authority. That means we are $535 million—$535,569,000—under the target—a large amount because Senate operations are not included in the bill before us.

With the amounts we have reserved for the Senate, we are $27 million below the 602(b) target.

We did a similar analysis of our outlay target. Our calculation is that the bill is about $78.5 million—$78,477,000—under the 602(b) outlay ceiling.

LEGISLATIVE RIGHTSIZING

This bill is the first step in reaching the right size, and shape, of the legislative branch. The full-time equivalent work force is reduced by 2,350—8.6 percent below fiscal year 1995.

We have restructured several activities and programs not in direct support of legislative work. The Botanic Garden is transferred to the National Arboretum; the Office of Technology Assessment is eliminated; the costs of distributing Federal documents to depository libraries are shifted to the publishing entity; and work appropriate to the executive branch is shifted there from the General Accounting Office, while GAO audit work not essential to its primary mission in support of Congress is outsourced.

We have also eliminated a vast amount of print-on-paper congressional printing. Several incentives have been placed in the bill for all agencies to convert to electronic format—a substantial cost and space saver.

Other activities in the bill are held at or below last year's level with one exception—an exception that leads me to another theme of this bill.

THE "CYBER" CONGRESS

Earlier this year, the Speaker characterized the 104th Congress as the "cyber" Congress. This bill reinforces that sense.

The single increase in this bill, $1.5 million, is in support of the National Digital Library project at the Library of Congress.

Another important policy shift in this bill charges the costs of paper and microfiche documents and their distribution to the agency producing the documents. If the document is electronic and is requisitioned from or through GPO, the Superintendent of Documents office will bear the cost.

Beyond placing the cost in the appropriate place, this bill makes electronic information attractive; and it is compatible with the reinventing Government proposals and current executive branch information management policies.

MAJOR ITEMS IN THE BILL

The bill provides $671.6 million for the House and is based on the reorganized operations of the House established early in the 104th Congress. The reduction of 833 FTE's reflects the one-third cut in committee staff and initiatives of the Committee on House Oversight to reduce the administrative support offices. The bill does allow a small COLA for legislative agency staff, based on current law and the House budget resolution. The bill provides funding for Office 2000, a project to bring the House into a "cyber" Congress status.

There are no funds provided to purchase Historical Society calendars or subscriptions to the U.S. Code; Members can purchase calendars through their official allowance and can access the Code online.

Also, we have not funded one warehouse used by the House, and one parking lot. We have eliminated the Flag Office—we believe the Capitol Historical Society can take that over and eliminate the subsidy of taxpayer funds.

JOINT ITEMS

We have allowed $85.8 million for joint items, including the Capitol Police, the joint committees of the House and Senate, the guide service, and the attending physician.

The Capitol Police civilian strength is increased by 18—by transferring 5 security apparatus design staff and funds from the Architect, and by adding 13 security aide positions with a comparative decrease in gallery door attendant staff under the Sergeant at Arms.

One joint committee receives reduced funds—a 25-percent reduction for JEC. The Joint Committee on Printing has not been funded, those functions will be carried out by the House and Senate authorizing committees—while the Joint Committee on Taxation remains level funded.

ARCHITECT OF THE CAPITOL

We have allowed $124.7 million overall, including the Botanic Garden and Library buildings and grounds maintenance, for the Architect of the Capitol. This level reflects a 5-percent reduction in FTE's and the elimination of the Flag Office. Provision is made for the Architect to undertake the transfer of the Botanic Garden to the National Arboretum. The first installment of the renovation of the Conservatory is funded, fulfilling a commitment of Congress, but it is limited to the original estimate of $21 million.

The AOC's parking attendants are transferred to the House Sergeant at Arms, who will bring that activity within the security function.

STUDY AGENCIES

Funds are not provided for the Office of Technology Assessment. Study of science policy questions can be carried out by staff within CRS or GAO, or contracts for specific analyses can be bid out to scientific organizations with appropriate expertise.

The Congressional Budget Office is level funded. We believe, that by shifting resources from program analysis and support overhead, this allowance will be sufficient for the new priorities established by the unfunded mandates legislation, since CBO is already experienced in analyzing costs at the State and local level.

The Congressional Research Service is level funded.

LIBRARY OF CONGRESS (NON-CRS PART)

For the Library of Congress, $324.7 million is allowed and there is authority to spend another $138.1 million in receipts. In addition to the National Digital Library initiative, for which the bill provides $3 million, relocation expenses to the remote storage project has been funded, as has the Global Legal Information Network, and the Copyright Office Electronic Registration, Recordation, and Deposit System and responsibilities under the GATT agreement. The Braille centralization project will proceed through savings.

GOVERNMENT PRINTING OFFICE

A number of unnecessary congressional printing costs are eliminated. The shift of costs for distributing documents to depository libraries includes Congress paying its fair share in the congressional printing and binding account.

GENERAL ACCOUNTING OFFICE

The allowance of $392.9 million reflects a 15-percent cut, the first year of a 2-year 25-percent cut. By reordering priorities and staff, through outsourcing appropriate work, and through transferring to the executive branch activity appropriate to the executive, GAO is reduced and refocused.

GENERAL AND ADMINISTRATIVE PROVISIONS

In addition to several housekeeping provisions in title I, sections 101 and 102 provides for deposit in the Treasury as miscellaneous receipts those moneys collected for delivery of contractor-submitted mail in the House postal system and for rebates from the Government Travel Card Program.

Revolving accounts for the legislative service organizations are dissolved in section 106, while section 107 ends the revolving accounts for the House beauty and barber shops, the House recording studio, and the House restaurant.

Section 112 merges the Special Services Office with the Capitol Guide Service and eliminates the separate board for the Special Services Office.

In title II, there are several housekeeping provisions. In addition to these, section 208 limits CRS involvement in support of Interparliamentary development to incidental purposes, allowing for closeout of current work.

Section 209 brings into the Library's budgeting process the gift and trust fund obligations in excess of $100,000.

Section 210 provides that components of the Government responsible for issuing documents shall bear the cost of distributing them to the depository library system—unless electronic documents are produced or procured through GPO.

Section 211 transfers the claims and settlements functions of the General Accounting Office to the executive branch.

In addition to the general provisions routinely carried in this bill, section 306 transfers the parking attendant staff to the Sergeant at Arms. Section 307 prohibits the use of funds appropriated in the bill to move Members' offices. Section 308 transfers the security apparatus design staff and funds of the Architect to the Capitol Police. Section 309 assigns the Board of the Office of Compliance the responsibility for submitting a report required under the Congressional Accountability Act of 1995. Section 310 authorizes the military police at Fort Meade to make arrests on property owned by the legislative branch within that military installation. Section 311 transfers the Botanic Garden to the National Arboretum and provides for the Architect to complete the renovation of the Conservatory.

SUMMARY

BA compared to: 1995 operating level: $154.9 million (8.2 percent) reduction; 1996 request: $332.8 million (16.2 percent) reduction; 602(b): $26.6 million reduction under our 602(b)'s—Senate excluded.

Outlays compared to: 1995 operating level: $158.6 million (8.5 percent) reduction; 1996 request: $295.9 million (16.1 percent) reduction; 602(b): $78.5 million (4.4 percent) reduction under pro rata share—Senate excluded.

Mr. Chairman, this bill makes major reductions, clarifies the duties of the legislative branch, and makes a down payment on balancing the budget. I urge an "aye" vote on the bill.

Mr. Chairman, I reserve the balance of my time.

□ 1130

Mr. FAZIO of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there is one statement of Chairman PACKARD's that I'll take issue with. It is that this year starts the process of cuts in our own backyard.

Cuts process started many years ago.

Using 1979 as a benchmark:

Executive branch funding has increased by 30 percent during that time; judicial branch funding has doubled.

Legislative branch funding has decreased. How much?

CRS has issued a recent report comparing legislative appropriations in terms of constant dollars:

From fiscal year 1972 to fiscal year 1995, legislative budgets rose 21.2 percent overall.

However, after the legislative expansion of the early 1970's, including the formation of CBO, from fiscal year 1978 to fiscal year 1995, legislative budgets have been reduced 2.2 percent.

Budget authority has decreased in fiscal year 1993, fiscal year 1994, fiscal year 1995—a total decrease of 5.5 percent in total legislative BA and a decrease of 5.7 percent in direct congressional operations contained in title I.

These reductions stem primarily from a general decline in House and Senate committee funding, policy changes enacted since 1991 significantly reducing mail costs, and several other factors, but they represent significant deductions.

In this bill, we have an 8.6-percent reduction in FTE's, primarily due to the cuts in committee staff and support organizations.

This comes on the heels of a 7.5-percent reduction in FTE's that occurred between fiscal year 1992 and fiscal year 1995.

Over a 4-year period, legislative branch entities covered in this bill will have downsized personnel by over 15 percent.

So, I welcome the new majority's continuing efforts to spend our resources wisely and let the taxpayers know that this is a lean and cost-effective Congress.

There are some good initiatives in this bill:

Scrutinizing the number of copies of congressional publications we need, for example, copies of the CONGRESSIONAL RECORD, copies of committee reports, eliminating the free U.S. Code or Annotated Code provided to freshmen. MC's can still get the code from their official expenses account.

Creating incentives to convert to electronic formats and to convert to electronic document distributions where it is feasible.

Funding for the National Digital Library project at the Library of Congress.

Many of the reductions in this bill are really a consequence of cost-shifting.

Shifting the Botanic Garden to the Department of Agriculture.

Cutting in half the appropriations for the Superintendent of Documents and Federal Depository Libraries and asking agencies to assume these costs.

Changes that will dramatically affect the operation of Members' personal offices from day to day—the committee estimates that the average office will have to absorb $12,000 in additional costs due to cuts in the Clerk's and CAO's budget coupled with changes approved by the Committee on House Oversight to eliminate our in-house printing facilities, close the folding room, and increase the costs of the recording studio and the photography office.

These shifts have been somewhat offset by an increase in Members accounts.

However, there is an amendment to decrease these funds, and even with the proposed increase in Members accounts, there is no provision for a COLA for our staffs.

I'm also particularly concerned about the effect of these cuts on the important House support organizations we depend upon.

GAO is embarking on a 2-year reduction of 25 percent—15 percent of which is included in this bill. Since 1992, that's a 35-percent cut.

Congressional Research Service is being asked to absorb their pay cut costs with only a $1,000 increase.

CBO's budget is being held level at a time we have given them significant additional responsibilities with unfunded mandates—glad that an amendment will give us the chance to add additional resources.

Perhaps the least defensible elimination in this bill is the Office of Technology Assessment.

The Speaker talks of the cyber-Congress but the first chance the Republican majority gets, it proposes eliminating the one agency that helps us sort out the fact from fiction over increasingly technical and complex policy questions.

OTA studies have saved us billions by performing independent analyses concerning high technology issues like synthetic fuels, computers at the Social Security Administration, technologies to counter terrorism in our airlines, and medical prevention technologies in Medicare.

Important to retain an independent analytical function as Congress takes up important but technical policy questions regarding risk assessment and telecommunications.

We need a counter to the executive—shouldn't have to depend on agency self-analysis.

OTA has always functioned with a unique bipartisan House-Senate board that directs their research mission; they use more than 5,000 outside-the-beltway specialists each year to assist in their studies and review their work.

We're closing them down with no thought to preserving their mission or even providing close-down funds to complete the studies they have underway.

Certainly, OTA should not be immune to the cuts we are imposing on other support agencies. Simply placing it in a Federal building, such as House Annex 2, would immediately save $2 million a year—10 percent of their annual budget—in lease costs.

I'm glad we have two amendments to consider ways to restore OTA—the Fazio amendment and the Houghton amendment.

I would prefer to simply restore OTA, and my amendment reflects that—our bill is $26 million under our 602b allocation so there is certainly plenty of room for OTA.

Mr. Houghton is also offering a very thoughtful amendment that permits us to abolish the agency yet retain its mission and the core of its personnel while getting it out of leased space and into a Federal building—maybe Annex II, maybe the Adams Building.

Also concerned about a provision having to do with the Joint Tax Committee, and I am prepared to offer a corrective amendment.

Under current law, the Joint Committee on Taxation is required to review all proposed tax refunds in excess of $1 million before the refund can be paid by the IRS to the affected taxpayer.

In 9 percent of cases, the Joint Committee staff finds an error or issue.

In 1994, for example, joint tax reviews resulted in $16 million in reduced refunds, $64 million in reduced minimum tax net operating loss carry-forwards, and $255 million in reduced minimum tax foreign tax credit carry-forwards.

In the first 5 months of 1995, Joint Tax reviews have resulted in $5 million in reduced tax refunds.

Joint Tax and CBO estimate that eliminating this review of large tax refunds will reduce Federal budget receipts by at least $50 million over the 1996–2000 period.

Our colleague, Bill Archer, in testimony before our subcommittee, said:

> . . . I think it is very, very important that whatever arm does this investigation be accountable to us so that we can make whatever changes need to be made.
>
> . . . constitutionally, the founders of this country were very, very concerned about the power to tax, and that it be closely held within not just the Senate, but within the House of Representatives, and we all know that the Senate cannot initiate any tax legislation. And so the Congress felt many, many years ago, long before I ever came here, that it was very, very important that the Congress keep as much of that power as was reasonably justified. . . . But doing my own return, I must tell you that there are big problems. But the fact that the review has found that there was $16 million that was unjustified, more than justifies the cost of the committee review.

Classic example of a solution trying to find a problem.

No evidence that anything is wrong—serves as an important legislative check on this process.

So, the minority has a number of problems with this bill—some of them can be addressed with the amendments we will consider.

Beginning of a long process, including Senate consideration and conference committee.

Look forward to working with Chairman Packard in the weeks ahead.

Mr. Chairman, I reserve the balance of my time.

Mr. PACKARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me respond briefly to the gentleman. I certainly will stipulate that the gentleman from California [Mr. Fazio] is correct. The downsizing of the legislative branch of Government started long before this year and before I became chairman. The report reflects that. I wanted to make that apology to his efforts as chairman of the committee.

Mr. Chairman, it gives me pleasure to yield 3 minutes to the gentleman from Florida [Mr. Miller], a member of the subcommittee.

Mr. MILLER of Florida. Mr. Chairman, as a member of the subcommittee, it is a pleasure to stand here and support this appropriation bill. This is the beginning of the downsizing of Government. It is great that we are starting with ourselves. That is the second appropriation bill, and it is important to show to the American people and to the other agencies of the Federal Government that we are starting with ourselves.

We are actually cutting $154.9 million from last year's budget. This is not slowing the growth in spending, as we are in so many other very important programs. This is an actual cut from last year's spending, not a cut from the baseline, but a cut from the 1995 spending. When we add the cuts that the Senate will probably come forward with, we are talking about $200 million savings on approximately a $2 billion budget. Therefore, we are moving in the right direction, and we are sending the right message.

Mr. Chairman, we are accomplishing this by basically privatizing, streamlining, and computerizing the legislative branch operations. In the privatization, Mr. Chairman, we are just taking functions that are important that we provide. For example, the calendars that the historical society provides, they are going to continue to be available. We are just going to be charged for them on our individual budgets. If we can afford it, fine. If not, they will be bought through the historical society and made available that way.

The same way with the flag operation. It costs over $300,000 just to raise and lower the flags, not counting the costs of the franking, where it takes basically two letters to go through the process of arranging for the flags, the cost of sending the flag itself, and the cost of the labor of everybody in all 40 offices preparing all the flag purchases.

The flags are going to continue to be available. They will continue to fly over the Capitol. It is just that the person buying the flag will pay the cost, the actual cost of flying that flag. This can be true of a number of other issues we are going to have within the Federal Government, as here in the Congress.

We are eliminating a number of programs. The United States Code, as we go to computerization, why do we need to buy these expensive sets of books? If Members want to buy them, they can put it in their budget. If not, they can just charge it. What is exciting is the fact we are computerizing so many things in the Government now, especially in our offices, so we can be reached by E-mail by our constituents.

We are providing money to digitalize a lot of the Library of Congress, and we are looking into digitalizing the congressional information to make it available to more people all over the United States without the bulk of the paperwork that now is so costly. I am proud to be able to support this bill, and urge my colleagues to support this appropriation bill.

Mr. FAZIO of California. Mr. Chairman, I yield 5 minutes to the gentleman from Virginia [Mr. MORAN].

Mr. MORAN. Mr. Chairman, I thank the gentleman from California [Mr. FAZIO] for yielding time to me.

Mr. Chairman, I rise in opposition to this bill. It is not just because it takes away much of our oversight, particularly in areas in science and technical matters, where I find that I rely a great deal on OTA analyses. The Office of Technology Assessment has done a great job over the years in supplying us with the information we need to make difficult decisions. The review that is made by the Joint Tax Committee staff of audits, they have uncovered hundreds of thousands of dollars of money that people were trying to avoid paying, that legally they were responsible for.

I do not rise so much in opposition to the fact that we are not going to be providing the information that we have traditionally provided to our constituents, whether it be through depository libraries or the General Accounting Office's capacity to print the kind of information our constituents need; all those things I oppose, but what troubles me the most about this bill is what it does to the unsung heroes in this institution, people who have devoted their lives in a professional manner to making this the very special place it is, people that take such great pride in their work.

Since the two speakers before me mentioned the Flag Office, to emphasize what we are doing in terms of saving money in the Flag Office, let me focus on that, the fact that we will say to these people that "We no longer need your services, we have found a way to privatize;" to say to somebody like Chris Benza, who has worked in the Flag Office for 35 years, in a windowless office in the bowels of the Capitol, surrounded by piles of flags, doing her job, and as her colleagues, just a few people down there do their job day in and day out for 435 Members and 100 Senators who expect immediate service.

When I wanted to provide flags to Captain O'Grady's family, on the day that Captain O'Grady returned to the United States, after his family had assumed that he was lost, dead in Bosnia, that was an important occasion. The people in this Flag Office went in to work over the weekend to prepare the flags flown over the Capitol on June 8, the day of Captain O'Grady's rescue, to ensure that they were ready for presentation for the O'Grady family.

While we concentrate on the cost of doing that, which is a few dollars, really, they do not bill us anything more for working on the weekends or late at night, we think nothing of the value of a service like that, of people like that.

If you were to go into a PX on a military base, you would pay twice as much money as we charge our constituents for these flags that are flown over the Capitol. Those flags have not flown over the Capitol. All we would have to do is to add $2 to the cost of each of these flags. We would bill our constituents. That would actually enable us to generate a profit. However, that would not be privatization, would it?

□ 1145

Mr. PACKARD. We have tried to be very sensitive as we have dealt with employees, and certainly the Flag Office is one. In our discussions with Clarence Brown, a former Member of Congress who is Director of the Capitol Historical Society, we discussed the employees of the Flag Office. He cannot, of course, give us assurance that they would be pulled into his organization and continued service but he certainly will give every effort to do so. We are sensitive to the gentleman's concerns.

Mr. MORAN. I appreciate what my friend, the chairman says, but the point is that these employees have no assurance and the assumption is that they will lose their jobs. After 35 years of dedicated service to us and all the people that have preceded us, this is how we say thanks for a job well done: "Sorry, you're no longer needed. You're expendable. It's more important to us to privatize this office with new people," in a way that we cannot assure that he service will be provided as efficiently as it is to our constituents.

I see no reason why this was necessary to be done, and in fact why we could not have accepted an alternative that would have generated money and still provided this service at less cost than they could get anyplace else, and still reward public servants who deserve to be rewarded.

That is one of the very strong reasons I oppose this bill.

Mr. PACKARD. Mr. Chairman, I yield 7 minutes to the gentleman from California [Mr. THOMAS], chairman of the Committee on House Oversight.

Mr. THOMAS. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I want to rise in support of this particular piece of legislation, notwithstanding the fact that it does involve a degree of change. As a matter of fact, life involves a degree of change.

My concern is the direction of the change. Change will occur. It is whether the change is understood and directed and for the better, or whether the change controls you and it is not for the better.

I happen to believe that the combined efforts of the gentleman from California [Mr. PACKARD] and the gentleman from California [Mr. FAZIO] and the hard-working members of that subcommittee have offered us change which is on the whole for the better. I congratulate them for their work product. I do need to point out, I guess in part because of a degree of pride, that of the $155 million reduction, $40 million plus of it is on the basis of the committee changes that originated in the Committee on House Oversight.

I want to underscore the comment of both of the gentlemen from California that this is a work in progress. It certainly started before the 104th Congress. It also cannot be denied that it has been rapidly accelerated in the 104th Congress and that we are in fact making changes that are long, long overdue.

There are a number of amendments that will be offered shortly and there will be a very brief time in which to discuss these amendments. I would like to take some time now to kind of do a preview of those amendments I have a particular interest in, and will indicate my support or opposition and the reason why. If I do not discuss a particular amendment, it is because I basically do not feel that my input would be useful to the Members in arriving at their particular decision as to whether to support or oppose that particular amendment.

At this time, I would ask the chairman of the subcommittee, the gentleman from California [Mr. PACKARD], if he would engage me in a colloquy in a subject matter which is focused on by amendment No. 4, offered by the gentleman from California [Mr. FAZIO]. If his amendment is offered on the Joint Committee on Taxation language removal, I would support that amendment.

I would like to engage the chairman in a colloquy to clarify a provision in the bill, it if remains in the bill, that states that no funds of the Joint Committee on Taxation can be used to determine specific refunds or credits under sections 6405 and 8023.

As the chairman knows, in the Internal Revenue Code, the IRS is required to report to the Joint Committee on Taxation any proposed refunds, credits or tentative adjustments of certain Federal taxes in excess of $1 million. As the chairman is also aware, the Joint Committee on Taxation does not receive a copy of the tax return but rather reviews the adjustments and determinations made by the IRS in connection with the tax return, and that under the Internal Revenue Code only the IRS may either adjust the amount to be refunded or make the refund as proposed.

Mr. PACKARD. If the gentleman will yield, yes, that is correct.

Mr. THOMAS. Mr. Chairman, I understand that the provision in the bill neither prevents the Joint Committee from reviewing proposed refunds or credits in excess of $1 million as is required by Internal Revenue Code section 6405 nor does it limit the Joint Committee's ability to secure data from the IRS under section 8023.

Is the sole purpose of the provision in the bill to make it crystal clear that the Joint Committee does not have the power to actually decide the amount of refund or credits in a taxpayer's Federal tax return?

Mr. PACKARD. That is the sole purpose and the only purpose of the provision.

Mr. THOMAS. I think the chairman for that clarification.

Mr. Chairman, I would in the brief time I have indicate to my colleagues that I also will oppose amendment No. 1 or 2, which is the reduction in the Members' allowances, not that I am opposed to reductions in Members' allowances. I have encouraged, supported, and in fact brought about more than a one-third reduction in the franking account. I will continue to monitor and urge us to make adjustments as appropriate in the Members' accounts, just as we have in the committee accounts.

My concerns with amendments 1 and 2 are, frankly, the timing. As I said, the changes in the House are a work in progress. We are going to make adjustments, a portion of them created financially in this bill by consolidating the three funds available to Members into one. We will do that through the committee in the next calendar year. We are assigning a number of specific increases to Members' allowances which ordinarily would have been paid for by the general funds of the House.

My concern is that as we make these adjustments on costs that were borne by the House on the whole, moving $10,000 to $15,000 to the Members' individual accounts, that this is not the right time to make the adjustment, perhaps compounding the problem of budgeting for some Members. That adjustment should be made after we actually combine accounts and we absorb the individual costs that will be placed upon the Members through H.R. 1854.

It is not that I am opposed to the concept of further reductions, it is frankly timing, and the timing is wrong. I would ask my colleagues to oppose amendments 1 and 2.

Conversely, I would indicate that I would vote in favor of amendment No. 3 by the gentleman from Illinois [Mr. GUTIERREZ] which would extend the cutoff period for unsolicited mass mailings from 60 days to 90 days before an election.

Finally, I would strongly oppose amendment No. 8 by the gentleman from Utah [Mr. ORTON]. All this does is keep alive hard copy transfer at a time when we are trying to create electronic transfers. In no way should we provide funds, regardless of where they come from, to maintain the old way of doing business. If amendment No. 8 by the gentleman from Utah passes, it will only delay and make more expensive the transition into the new electronic world. I would urge my colleagues to join me in opposing amendment No. 8.

As I indicated at the beginning, I think this is an excellent work product. It is a very difficult thing to do, that is, change, especially when it involves personnel and dollar amounts. Change is new and unfamiliar. On the whole, I believe H.R. 1854 is as good as could be expected and perhaps even better in making this institution more accountable to our shareholders, the American people. I applaud both of the gentlemen from California on their work product.

Mr. FAZIO of California. Mr. Chairman, I yield 2 minutes to the gentleman from Rhode Island [Mr. KENNEDY].

Mr. KENNEDY of Rhode Island. Mr. Chairman, I rise today in support of the Office of Technology Assessment.

Since its inception in 1972, OTA has served as the scientific arm of Congress. In the effort to spend the dollars more wisely, it seems to me that OTA is more critical today than ever before. OTA helps Congress determine what projects should be undertaken, streamlined and made more effective.

It is often said that knowledge is power. Having the right information, the right knowledge, will allow us to better be able to make the right decisions. In this case, OTA provides us with the knowledge, gives us the power.

Opponents of OTA say that because OTA's reports take too long to prepare and are too detailed, they are out of sync with the legislative flow or speed with which Congress now operates. To the opponents of OTA, I ask you, what do you want? Do you want it fast, or do you want it right? When did speed become the hallmark of quality legislation?

If we lose OTA, we effectively eliminate the lens by which Congress assesses the quality of its technology-based assessments.

Mr. Chairman, in my district in Rhode Island, the fourth most elderly district in the Nation, OTA has been critical in advancing preventative medicines and cures that have helped reduce the cost of Medicare, which has helped save our taxpayers dollars. It saved over $368 million in a Social Security Administration computer system. It has helped us move to find out which technologies are more effective, and in my State that has a lot to do with the military. We have the Naval Undersea Warfare Center, and OTA has done reports on that.

Mr. Chairman, I think the OTA gives us the information that we need, and in this environment we need the right information. I would ask my colleagues to support the Houghton amendment and others that help maintain the function of OTA.

Mr. PACKARD. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, I want to congratulate both the gentleman from California [Mr. PACKARD] and the gentleman from California [Mr. FAZIO]. This is not a new idea. Others have expressed this. I think they have done a wonderful job over the years. I think particularly the gentleman from California [Mr. PACKARD] has been sensitive to the overall issues we are dealing with today.

I just want to make one plea, and I want to follow up and thank the gentleman from Rhode Island [Mr. KENNEDY] for what he has said.

Budgeting is not an across-the-board process. It is never done well that way. We have never done it that way. Therefore, it is a selective, it is not a meat cleaver approach, it is a surgical approach.

One of the things I worry about here is that the committee bill zeros out the Office of Technology Assessment. Why do I worry about it? It is not a political issue, It is not something which affects many of us back in our districts, but long-term it affects this country.

We should not go blind into the 21st century thinking about a whole variety of things, not understanding science. There are only 3 scientists in this body. Most people do not consider the scientific implications here. They are critically important.

I have been involved as a businessman, before I came here, in cutting, cutting, cutting all my life. That is the nature of what business does. Never once did we cut the research, because it not only affects the cost but particularly it affects the revenues.

If we are going to go into this next century and our major war will be economic rather than military, we must know what our legislative body can do and what other people are going to do in the world around us. Therefore, I plead either to support the Fazio amendment or my particular amendment in terms of preserving an element of scientific understanding without which I think we are going to be in terrible trouble.

Mr. FAZIO of California. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I thank the gentleman from California for yielding me the time.

Mr. Chairman, I rise today to oppose this bill as is. What really annoys me about it is the attitude that the other side of the aisle seems to have, that government is bad and somehow we all ought to apologize for what we do here; that we need to engage in self-flagellation all the time to eliminate things because we are supposedly living high off the hog here. The fact of the matter is that 99 percent of the Members that I know on both sides of the aisle work very, very hard here and use the resources that we are given.

□ 1200

If we do not begin to have respect for ourselves or respect for this institution, frankly no one is going to have respect for us at all. And for good cause.

Yes, let us cut waste. Let us cut the things that do not work. But let us not throw the baby out with the bath water. Eliminating OTA? Give me a break. That is one of the things that has worked. It is one of the things that has been good.

We have 581,000 people in my district. New York has 581,000 people in all the districts. We need to communicate with our constituents. I do not see why eliminating the folding room or cutting printing helps anybody. I do not see where it makes government more efficient, just so we can go back to our constituents and say look at what we have done, we have cut all of these wonderful things.

Let us cut where it makes sense, but not just to cut to throw the baby out with the bath water. The flag program, my constituents like that program and if we are subsidizing it at $300,000 a year, let us just raise the price of the flags. Why do we have to eliminate it or transfer it to another agency?

Transferring or shifting things to other departments is a phony savings. It is a phony cost savings. We are not saving money; we are just shifting the costs and claiming that we are saving money.

Privatization, I do not think privatization as an end in itself is something that is so terrific. If it makes sense, let us do it. But if there are functions here that we do in terms of legislative offices like printing and like folding, to me it makes sense to do it in-house.

And firing employees, well, let us fire where we need to fire. But just to throw people out on the street and pretend that we are doing all of these great things, I do not see it at all.

This rule blocks most of the amendments filed at the Committee on Rules, including the gift-ban amendment, amendments to abolish two joint committees, and the lockbox amendment.

The bill eliminates funding for the Office of Technology Assessment for the first time since 1972. The bill prohibits the Joint Committee on Taxation from reviewing tax refunds of a million dollars or more to determine if they are in compliance with tax laws.

Give me a break. Let us cut where cutting is necessary, but let us not do this thing with a meat cleaver and pretend that we are somehow doing wonderful things for the American people.

I make no excuses for government. I think government is necessary to help people. I do not want to eliminate it. Downsize it, yes. But downsize it where it is important, not just so we can go home and say how wonderful we are.

Mr. PACKARD. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WELDON].

Mr. WELDON of Pennsylvania. Mr. Chairman, I first of all want to applaud the gentleman from California [Mr. PACKARD], chairman of the subcommittee, and the gentleman from California [Mr. FAZIO], the ranking member, for doing a fantastic job in an extremely difficult situation.

Mr. Chairman, I want to speak to one issue during the brief time that I have here today, and that is the issue of the elimination of the Office of Technology Assessment.

As a senior member of the Committee on Science and as chairman of the Subcommittee on Military Research and Development of the Committee on National Security, it is extremely important that we not take this short-sighted approach to eliminate what amounts to approximately a $22 million item in our legislative branch appropriations bill.

The Office of Technology Assessment touches the acts of this Congress in ways that none of us really are aware of or understand. In the area of defense, the subcommittee that I chair oversees approximately $35 billion of expenditures. That is more than five Cabinet-level agencies.

Much of the research that we do is dependent upon the long-term work that has been done by the Office of Technology Assessment. Just last week we marked up the 1996 authorization bill for the military and we plussed up the national missile defense accounts and theater missile defense accounts by $800 million.

Much of the documentation and the arguments to justify that plus-up came from reports and studies done by the Office of Technology Assessment; their study on missile proliferation around the world, their work on the development of arms and the need for arms control and the needs of defending the American people. All of that factual investigative work that took in some cases months and years was done by OTA.

It would be extremely short-sighted for us to eliminate this agency. And, in fact, we and the taxpayers would be the losers in the end. And there is no other agency that can do that work.

I know there are going to be amendments offered by our colleagues. And I would say to our colleagues here, support those amendments, whether it is by the gentleman from California [Mr. FAZIO] or by the gentleman from New York [Mr. HOUGHTON], who I am here to help today.

Even if you are not satisfied with where the money will come from, we can send a message to the conference committee that we want OTA to be saved. It is important for this Congress and it is important to the issues that we deal with.

Mr. FAZIO of California. Mr. Chairman, I yield 2 minutes to the gentlewoman from the District of Columbia [Ms. NORTON].

Ms. NORTON. Mr. Chairman, I want to speak to what this bill does to the Government Printing Office. It virtually begins the dismantlement of that office with a 50-percent cut from 1995. No thought is given to access by the public, which will now have to go through the individual agencies instead of to a single service to get documents. I fear for the public. Government is hard enough to find your way through.

This massive cut assumes that the agencies are going to pay. Of course, we are cutting the agencies too, so we are simply moving the cost. GPO, ironically, is the leading agency in contracting out. Yet the underlying assumption of this bill is that what we ought to do with this agency is contract out.

They contract out 75 percent of their work. We ought to send the other agencies to the GPO to find out how they do it. We need a referee, however, when we are talking printing and printing technology, to decide what should be contracted out and what should not.

I cannot imagine each individual agency going through the process of deciding that. And particularly, I cannot imagine that given what a recent GAO report has found; that agencies contract out work that can be done more cost efficiently in-house, more cheaply in-house.

Mr. Chairman, I have a bill, cosponsored by the gentlewoman from Maryland [Mrs. MORELLA], that would require executive agencies to make a specific determination, before contracting out occurs, that it is going to indeed cost less. Nothing, of course, requires that to happen within this body.

We need, with this body, procurement with some controls on it from a central, knowledgeable source. For most of our history that source has been the GPO.

Finally, let me say the Government Printing Office is one of the few manufacturing facilities still left in the District of Columbia. It is the largest minority employer in the manufacturing facility. Congress has ultimate responsibility for the District of Columbia, which is on its financial knees. This is not the time to cripple one of its major employers.

Mr. PACKARD. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. FOLEY].

Mr. FOLEY. Mr. Chairman, I thank the chairman for his leadership on this.

Mr. Chairman, I rise in support of H.R. 1854. We hear from our colleagues that.

Government is bad, and none of us have made that statement here as Republicans. We are not saying that Government is bad, but we are trying to evaluate the need for the expansiveness of this Government.

No father likes to tell his children that we cannot go on vacation this year. No parent wants to tell their child they cannot go to college because we cannot afford it.

But in Government we seem to print money and make excuses that everything is essential. Everything that we do in this body is essential. The American businessman has to make decisions that are critical to the salvation of his or her company, and they make those decisions based on the need for productivity.

I want to particularly single out something that this committee has done regarding the code books that I have discussed on this floor in past sessions. And I want to thank you for including language in the bill prohibiting Members' personal subscriptions to the United States Code book to be paid for by the Clerk's budget.

Many may recall I brought this issue to light earlier this year following a salesman's visit to my office peddling the $2,500 set of gold-embossed books as being free. But as anybody who has spent any time in Washington knows, there is no such thing as free in Congress.

As I have advocated, this bill states that for Members who require an office copy, the code can be purchased from the Members' official expense allowance. Alternatively, the code is available in the House library, at the Library of Congress, on line, and on CD-ROM.

By eliminating this entitlement to newly elected Members of Congress, we can bring some accountability to this system and eliminate some of the waste and abuse associated with the current system. No longer will newly elected Members be able to simply sign away 2,500 hard-earned taxpayer dollars, but they will be accountable for this purchase in their office accounts.

Mr. Chairman, I want to thank the chairman for his attention to this issue and bring closure to the issue of free sets of the United States Code to Members of Congress. But, I want to urge both sides to participate in meaningful debate of making certain that what government is doing today is what is important for the taxpayers, not for those that reside in Congress.

Mr. FAZIO of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I wanted to point out, as I said earlier, there is still $26 million under the 602(b) figure that has been allocated to this subcommittee, and I would hope that we could at some point, perhaps in conference, use those additional funds to augment CBO.

I would like to reiterate that I do not think we need to help that beleaguered agency by cutting back on the Folk Life Center. I understand the Library of Congress has been contacting Members concerned about the Houghton amendment which would take some funds from the only agency in this bill that has had an increase to perpetuate the existence of a scaled-down OTA under the aegis of the Library.

Certainly, if the amendment of the gentleman from New York [Mr. HOUGHTON] were adopted or if mine were to be adopted, I would hope that we could compensate the Library at a higher level in order to make up for any costs that might be incurred by them as we divert funds to another agency in this bill.

These things can be worked out, and I do not believe the Library need worry that they are coming under attack here today. In fact, I would hope that they would understand the importance of keeping OTA alive.

But I wanted to mention another piece of legislation which has already been referred to in a colloquy between the gentleman from California [Mr. THOMAS] and the chairman, the gentleman from California [Mr. PACKARD], and that is the language that refers to the Joint Committee on Taxation.

Currently, the Joint Committee is required to review all proposed tax refunds in excess of $1 million before the refund can be paid by the IRS to the affected taxpayer. Ninety-two percent of these returns are corporate returns. There are very, very few individual returns in this category.

When we heard from our colleague, the gentleman from Texas [Mr. ARCHER], who is the chairman of the Committee on Ways and Means, and this year the chairman of the Joint Committee on Taxation, in testimony before our legislative-branch subcommittee, he said, I think it is very, very important that whatever arm does this investigation be a accountable to us, meaning the legislative branch, so that we can make whatever changes need to be made.

There is no question that the Internal Revenue Service sees no need for this amendment. They are satisfied that the relationship that we currently have between these two branches of Government is working well.

It is important to understand that this committee has historically saved the taxpayers of this country a great deal of money. In fact in 1994, they saved in the neighborhood of $270 million. That is far in excess of the amount we are cutting from the legislative branch in this bill today.

In 1 year, by simply doing a more accurate job of auditing the returns, mostly of corporate taxpayers, they have saved the taxpayers far more than we are saving them today in all of the legislative branch reductions that are included in this bill.

In 9 percent of the cases the joint committee staff finds an error or an issue. These are the cases where filings are over $1 million.

Let me break down for you how we got to that figure, the total savings that they made in 1994. In reviewing the various returns, they found savings of $16 million in reduced refunds, $64 million in reduced minimum tax operating loss carry-forwards, and $255 million in reduced minimum tax foreign tax credit carry-forwards.

In the first 5 months of 1995, joint tax reviews have resulted in $5 million in reduced tax refunds. The Joint Tax and CBO together estimate that eliminating this review of large tax refunds would reduce Federal budget receipts by at least $50 million over the 1996 to 2000 year period, in that 4-year period. So I think the argument that we need to be involved in this area is simply lacking. In my view we have a solution trying to find a problem.

I do think that we should not in any way interfere with the relationship between the Congress and the executive, between Treasury and IRS, the Joint Committee on Taxation and the two tax writing committees in the Senate and the House. There is no evidence that anything is wrong. I think this serves as an important legislative check. It is the kind of oversight that we need to be doing.

So, I am hopeful that my amendment will be adopted and that we create no confusion about what our intent is in this area. I think we should support the decision that has been made I believe by the chairman of the Committee on Ways and Means and in effect take no action on any language that may have been made in order by the Committee on Rules that would affect the prerogatives of that committee.

Mr. Chairman, I reserve the balance of my time.

Mr. PACKARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, to respond briefly to the comments of the gentleman from California, we simply do not eliminate the opportunity for the Joint Committee on Taxation to review the reports from the Internal Revenue Service on tax returns of those that are requesting a refund of $1 million or more.

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We simply are saying, in bill language, none of these funds shall be used to determine specific refunds. That is the job of IRS.

If IRS is not doing that job, then we need to have better oversight and work with them to accomplish that goal. It does not preclude the Joint Committee on Taxation to review these returns. They can continue to do that as they have done in the past.

I thought the colloquy with the gentleman from California [Mr. THOMAS] made that very clear, and thus, in my judgment, it makes the amendment that the gentleman from California [Mr. FAZIO] is referring to unnecessary, because exactly what he is asking for is what we have agreed is the case in the colloquy but also in bill language.

Mr. FAZIO of California. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. I yield to the gentleman from California.

Mr. FAZIO of California. I just wanted to read into the RECORD a brief paragraph that I received from Margaret Milner Richardson, who is the Commissioner of the Internal Revenue Service. She says,

> I appreciate the opportunity to clarify that refund reviews performed by the Joint Committee on Taxation serve a legislative purpose and are not merely duplicative of executive branch functions. These refund reviews are one form of legislative oversight for the Internal Revenue Service but are also an invaluable resource of information useful to a better understanding of areas ripe for legislative change.

I believe she's saying there seems to be no confusion about the two roles of the executive and the legislative branch and really believes there is no particular purpose for this language.

Mr. PACKARD. Reclaiming my time, I can put my signature at the bottom of her letter because I agree, we do not infringe upon the ability of the Joint Committee on Taxation to continue to do refund reviews of those tax returns. We simply do not want the Joint Committee on Taxation to do the auditing, to determine the return that goes to the taxpayer. That is all we are doing.

And so again I think we really are together on it, and maybe we are struggling over the language itself. But nevertheless I think our objective is simply to prevent the Joint Committee on Taxation from doing the returns. Let IRS do that. Let the review be done as they have been doing in the past by the committee.

Mr. FAZIO of California. If the gentleman would yield further, is there a problem that the gentleman is going after? Is there some substance where the joint committee was alleged to have done the audit which technically could only be performed by IRS? I mean, I did not hear in the testimony in the subcommittee or have not been presented with any cause for us to take action. I have not been made aware there was a problem by either entity, either IRS or the Joint Committee. I wondered if the gentleman could cite for me what the reason is for offering the language.

Mr. PACKARD. We did not wish to have anything in current law that would give the Joint Committee on Taxation the feeling that they had a prerogative to determine the tax return.

Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I have gone back and looked at the votes that I have cast in previous years for the legislative appropriations bill. My votes have always been "no." This is the first time, in fact, that I expect to vote "yes."

The reason is this: In each of those years, spending under this subcommittee has gone up. This year it is different; spending goes down. In fact, spending goes down about 8 percent. I think that is a pretty good figure, particularly as we look at years and years ahead of us of multi-$100-billion deficits.

In fact, if we had an 8-percent cut in each of the appropriation bills, we would save the taxpayers about $130 billion just in fiscal year 1996. That is not bad. In fact, that is exactly the direction that we need to be headed.

Mr. Chairman, in this year of massive budget cuts, it is only fair that this subcommittee, the legislative branch, takes its fair share of cuts, and I applaud the committee for doing this.

Mr. FAZIO of California. Mr. Chairman, I yield 4 minutes to the gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Chairman, I rise in opposition to H.R. 1854.

This bill's treatment of employees, the lowest paid employees, in the folding room, the recording studio, and the photographic studio, is an outrage. Just as this House's employees were to come under private sector laws, 270 of them will be let go in the most capricious way.

For the rest of the country, we have a Job Training Partnership Act, JTPA, as it is known, and that law has a specific title, title III, for dislocated workers. This is a program that assists in communities, States and local governments, and private sector employees who lose their jobs. Many businesses have their own training and placement programs in addition to those run by the government, and in the case of some industries, such as aerospace, there are additional JTPA programs designed to meet the specific job training needs of the dislocated population.

Yet this bill makes no serious attempt to assist our own employees who are slated for termination. Let me be clear about who we are talking about. Folding room employees, for example, are among the lowest paid workers in the House. Many of them have 15 and 20 years of service. They have never been promoted to anything. After all of these years, many of them have never received a salary increase, maybe one salary increase, and this under both Republicans and Democrats.

We are talking about people who have endured the most difficult working conditions of any House employees. If you have ever been down in the folding room, you know what I mean. I think it has been a health hazard. I think not only have they been working in unsafe conditions, I think there have been problems of discrimination, on and on and on, and I really think they should pursue a lawsuit.

Let us defeat this bill and do it right. We need to do something about our employees.

I was attempting to describe a situation that we should all be embarrassed about. We have low-entry-level employees working in these various places, and the folding room is a prime example of where they have been working for years, many of them 20–25 years, that have received no upper mobility opportunities, very little in pay increases, working in unsafe conditions, and we are literally kicking them out. And do not tell me that the measly amount of money that was put in in the Committee on Appropriations is designed to do anything real.

These people need an opportunity to be retrained. They need job training. If we can do it for the private sector and others, if we have money in the Federal Government, why are we treating our own employees this way?

I am sorry that I and others who care so much about this issue have not had an opportunity, because we do not serve on the Committee on Appropriations, but you are about to do the same thing, I understand, with our elevator operators and with others. They deserve better than the way that they are being treated.

I believe that this business to rush to privatization, to give out contracts, I am told, that do not even go up to bid without making any requirements that these people be hired by the people that we are giving these contracts to is absolutely unconscionable.

I would urge this body to show that it cares about the least of these, to show that we are not just concerned about ourselves and our generous salaries and our perks, whatever they may be, but that we care about little people.

Do you know that many of these people may never work again? Many of them have little children. It is tough out there, with no job training. We can do better than this.

Let us send this bill back. Let us do it right. This is enough for Democrats and Republicans alike to come together on. It is not too much to ask.

Mr. FAZIO of California. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me just conclude the remarks on this side by saying, and I will try to be brief, I want to work with my chairman, the gentleman from California [Mr. PACKARD], in opposition to one amendment which was just mentioned by the gentlewoman from California. My understanding is that the CAO is looking at this question of the need for elevator operators.

It is a longstanding amendment which we have seen on many occasions. I certainly hope the two of us can ask our colleagues together to withhold on support of the Christensen amendment, and I also want to go on record in opposition to the amendment by the gentleman from New Jersey [Mr. ZIMMER] which is flawed in its concept.

In the days when we had Democratic Speakers, we used to hear about Speakers' slush funds. In fact, no such slush fund is available or could be drawn down upon. In fact, this bill for the first time, under the leadership of the gentleman from California [Mr. PACKARD] will let each Member know just how much they have spent of what is authorized and available to them, so that Members can help gauge their spending and, therefore, leave money in the Treasury that otherwise might have been drawn down.

The amendment offered by the gentleman from New Jersey [Mr. ZIMMER] is well-intentioned, but flawed in concept. I look forward to joining the gentleman from California [Mr. PACKARD] in opposition to both of those amendments.

Mr. Chairman, I yield back the balance of my time.

Mr. PACKARD. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to make it very clear that the Legislation Branch Subcommittee is not against the Federal Government. We honestly believe that Government has a very important function for the American people. We simply believe that the American people are not satisfied that Government is functioning in a most efficient and effective way.

This bill, we think, goes a long ways toward fulfilling that desire in the American people. It does cut back on the legislative branch of Government. There is no question that it does, and it has not been an easy process of trying to determine where those cuts ought to be made, but we have tried to be sensitive to the employees of the Government. We have tried to be sensitive to the needs of the Members of Congress and their ability to communicate with their constituents.

We think we have done a good job.

The amendment process we will now enter into will help us refine that even further.

I urge the Members of the House to vote for the legislative branch bill.

Ms. DUNN of Washington. Mr. Chairman, H.R. 1854 is a historic achievement. For the first time, Members of Congress are finally putting their money where their mouths are.

I'd like to commend Chairman RON PACKARD for reporting out of his subcommittee a bill that is consistent with the reforms Members have promised their constituents they supported, but have never been willing to act upon. Year after year, we've heard Members tell their constituents that they agree this institution needs reform. Yet year after year, opportunities for reform have been wasted and we've seen no genuine effort to review legislative branch expenditures in terms of the best interests of the taxpayer. This Congress is different. This bill cuts funding by $155 million over the fiscal year 1995 level.

As a member of House Oversight, the committee that authorizes programs funded through Mr. PACKARD's subcommittee, I am pleased to see the appropriation for the operation of the House of Representatives reflects the same intent of House Oversight, such that:

Committee staff funding is cut by one-third.

Many functions of the House provided more cheaply by the private sector will be privatized.

Offices and functions not critical to the ability of Members to serve their constituents will be abolished.

It's crystal clear that Republicans are running this show differently, and are willing to challenge the status quo if it means savings to the taxpayer and a more efficiently run Congress. The Republican-led Congress is not afraid to absorb cuts where we'll feel the cuts most—our own House, the House of Representatives.

I am pleased to rise in support of this bill, because it says to the American people that while Congress is making the difficult policy decisions necessary to achieve a balanced budget, Congress is starting with itself. We are willing to reduce our budget and cut back on noncritical functions. Not only is it symbolically important that we be willing to set the example for fiscal conservatism in today's economic climate, it is further proof that we are keeping our promises to the American people.

Thank you, and I yield back any time that remains.

Mr. BEREUTER. Mr. Chairman, this Member rises in support of H.R. 1854 and is pleased that this measure includes a reduction of $56 million for the General Accounting Office [GAO] below the fiscal year 1995 funding level.

Mr. Chairman, during the first days of the 104th Congress, this Member wrote to the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the House Appropriations Committee, as well as the gentleman from Ohio [Mr. KASICH], the chairman of the Budget Committee, to express this Member's strong support for reduced funding levels for GAO. This Member is pleased with the action taken in H.R. 1854 which confers with this Member's request for reducing funding for GAO.

For some time, this Member supported a reduction in funding for GAO. In fact, during consideration of the fiscal year 1995 legislative branch appropriations bill, this Member offered an amendment to cut funding for GAO by 5 percent below the fiscal year 1994 level. Unfortunately, this amendment failed by a close vote.

The $393 million fiscal year 1996 funding level for GAO included in H.R. 1854 represents a decrease of $56 million below the fiscal year 1995 level. During last year's deliberation of the legislative branch appropriations bill, the House approved a funding level of $439.5 billion, an increase of $9.4 million. In addition, the conference report then included $449 million for GAO, $10 million more than the House bill. This Member commends his colleagues on the Appropriations Committee for reversing this outrageous trend in funding for GAO.

This Member strongly believes that GAO is an agency where growth has been out of control, and that it is an agency which has not been responsive to individual Members, especially to the requests of Republican Members during our long tenure in the minority. This Member also believes that the quality of work produced by the GAO is increasingly shoddy. While the quality of the work varies dramatically, all products are given the same kind of credibility simply because they are GAO products. The level of resources provided to produce these products has been excessive and has grown disproportionately when compared with other congressional support agencies. In addition, GAO resources have also been used for consultants, training and other unnecessary expenses. Concern has also been expressed that GAO is more interested in getting headlines than in supporting the Congress with the required information. This Member has also been concerned by the funds that have been spent to lavishly renovate GAO's offices. This renovated space includes plush conference and meeting rooms which seem excessive for the scope of work performed at GAO. The leadership and staff of the GAO ought to visit the staff here on Capitol Hill to understand something about crowded staff office conditions and about the absence of required conference rooms for meetings with constituents.

Now let's examine the GAO workload. From 1985 to 1993, GAO investigations doubled from 457 per year to 915. In addition, GAO's budget jumped from $46.9 million in 1965 to our current spending level of $449 million, a nearly 1,000 percent increase in unadjusted dollars.

While the number of full-time equivalent positions at GAO has been reduced additional cuts are still needed to account for the past growth at this agency, which this Member will outline. In 1980, funding for GAO staff cost $204 million. By 1985 that had grown to $299 million. In 1988 it was $330 million, and in 1989, $346 million. The average increase between 1980 and 1990 was 8 percent per year. Then, in 1991, GAO was increased by 14 percent, to a total of $409 million. In 1992, GAO received another 8 percent increase to $443 million.

According to a Democratic Study Group [DSG] Special Report issued on May 24, 1994, January 1994 personnel totals for GAO were 4,597. This level was nearly as large as the staffing level of 4,617 for the entire Library of Congress—the largest library in the world—which also includes the staff of the Congressional Research Service.

According to this same study, in 1994, GAO's staffing level was nearly 2½ times as large as the 1,849 House committee staff members, during the 103d Congress, and more than one-half as large as the 7,340 individuals employed by Members of the House. The DSG study also compared funding levels for the legislative branch from 1979 to 1994, in inflation-adjusted dollars. According to the DSG, the General Accounting Office received one of the largest increases in funding for the entire legislative branch at an inflation-adjusted 13.5 percent during this time period.

Funding for other areas of the legislative branch have actually declined since 1979, according to this study. For example, the Library of Congress received a 17.6-percent reduction, CBO was reduced by 3.8 percent, and Members' staff was reduced by 6.4 percent in inflation-adjusted dollars since 1979.

Again, this Member would like to thank the Appropriations Committee for their good judgment in facing the long-term reality of GAO and reducing funding for that agency. This Member urges his colleagues to support this funding level included in H.R. 1854.

Mr. MFUME. Mr. Chairman, I rise today in opposition to the bill before us, and I urge my colleagues to take a hard look at its contents, as well as its long-term effects, prior to voting.

One of the primary reasons for my opposition is the heartless, and indeed cruel, manner in which this bill treats the current employees of the House folding room, the House printers, and the various other programs that are being privatized, downsized, and eliminated. This bill tells them that while we have used, and many of us have appreciated, their services since coming to Congress, we are now casting them off, with really very little concern for their futures or their families.

While I can appreciate the move to save the taxpayers' money—and I agree, wholeheartedly, that we need to begin to reduce the deficit by reviewing spending on ourselves—I have concerns that this is a short-term fix that in the long run may not produce any fiscal savings.

As long as Members send out districtwide constituent communications, such as newsletters, we will need the services currently provided by the folding room. While I recognize that the House Oversight Committee has estimated that closing the folding room will save money, I am skeptical, to say the least, that the amount estimated will ever be realized. Representatives of Washington-area companies that provide mail processing services have said that they can "* * * undercut the upper end of the estimate of the folding room costs."

Would it not make sense, then, to also look at how we can keep the folding room costs down to the lower end of the current estimates, and perhaps save the taxpayers money by keeping the job in-house? To my knowledge no such study, on how to improve the current operations, has been performed.

Finally, I am also curious as to why we are rushing into this matter. As many of us know, the Congressional Accountability Act, which would provide the employees of the folding room with the rights which are afforded to people in the private sector who are facing layoffs, will not be in place until the end of this year. It is my understanding that many of the folding room employees will not even be able to apply for retraining under the JTPA for Dislocated Workers program. This is a shame.

In short, I have concerns that this legislation is wreaking havoc with people's lives for the sake of a quick, and perhaps ultimately expensive, political hit. I hope that the Members will take the time to review their actions before voting. The actions of this House have already ruined the reputations of many fine people. Passage of this bill may, very well, ruin their lives.

I urge my colleagues to review the costs of this bill in light of the questionable savings.

Mr. BROWN of California. Mr. Chairman, I particularly appreciate the opportunity to speak before the House today as this is a critical time for OTA. At a time when budget cuts are a priority, some have questioned whether Congress needs a support agency whose primary mission is to assess technology and its implications for society. I hope you will answer that question with an emphatic yes because I believe today we need OTA more than ever before.

I have been involved with OTA from the very beginning and have watched its development from my vantage point on the OTA Board since 1975. Congress established OTA because there was a great need to have our own independent and objective source of information on complicated scientific and technological issues.

I am convinced that this need is stronger than ever because science and technology permeate so many of the issues that we consider, such as space, energy, environment, and health.

When OTA was created, no one knew exactly how it was going to work. There were times during the early years when we were not quite sure it would work at all. I think few of us would have predicted what a vital role OTA would play in the legislative processes over the years, and how valuable its work would be to so many different committees and to Members from both sides of the aisle.

I recall in particular that back in 1988, concerns about aviation safety led Representative TOM LEWIS, then ranking Republican member of the Transportation, Aviation and Materials Subcommittee of the House Science, Space and Technology Committee, to introduce legislation to strengthen FAA research efforts. OTA had prepared a report, "Safe Skies for Tomorrow," that addressed many of the research issues in the legislation.

The study found that the FAA was not adequately addressing human factors in its research program, even though these factors contributed to more than two-thirds of aviation accidents. OTA testified before and worked closely with the Science Committee. Important parts of the Aviation Safety Research Act of 1988 are based directly on OTA's work. In fact, Representatives WALKER, VALENTINE, LEWIS, and I noted in a letter requesting a subsequent OTA report that "Safe Skies for Tomorrow [had] led to passage of Public Law 100–591."

In space technology, OTA has a history of studies extending over a decade. Some of these are extensive landmark studies of a broad sweep that produced several reports. The space transportation study of 1988–1990 and the recently completed study of earth observation produced six studies each. These studies helped shape the debate on major elements of the U.S. space program, and also provided focused insights into specific program elements. Smaller space studies with a specific focus were also very useful in our deliberations.

I could give you many more examples, but the point I want to make is that OTA contributed to legislation on science and technology issues for many years, and that it continues to do so here and now.

Consider one of OTA's recent studies which reviews the Department of Energy's Fusion Energy Program and was released at a hearing of the House Science Committee earlier this month. That study highlighted critical strategic and budgetary shortcomings of the fusion programs that have gone largely unacknowledged despite hundreds of millions of dollars in annual spending. I fully expect that OTA's work will help lead to more rational fusion program decisions.

In coming months, Congress will try to delineate the appropriate role of government and industry in science and technology. OTA can help us sort through the claims of parties interested in particular programs so that we can focus on the matters that are more important to the entire Nation.

Also in the coming months, large science projects will come under scrutiny and have to face the realities of fiscal restraints. Many believe that international cooperation may provide a way to share the costs of such projects.

OTA is now looking at the opportunities and challenges of such cooperation and will be able to help us understand what arrangements may or may not work in the future. As Congress and the administration move to revise national R&D strategies and reduce some R&D funding, OTA can give us realistic appraisals of options being considered.

OTA can help us understand how to utilize research more cost effectively. In response to a bipartisan request from the Science Committee for example, OTA has been examining a problem that has been much in the news since the tragic Kobe earthquake: how to mitigate damages from such natural disasters. OTA's study will help us understand how we can use research and innovate technologies most effectively to reduce earthquake damage.

I strongly believe OTA's work is going to be increasingly valuable in the months and years to come. OTA can continue to serve the needs of Congress in technology areas where the committees do not have in-depth expertise and do not wish to rely solely on the information provided to us by interested parties.

OTA gets advice from outside the beltway. Their studies draw on a network of nearly 5,000 experts each year from industry, academia, and other institutions. These advisors ensure that OTA has access to the best technical advice available from all areas of enterprise. Their knowledge and expertise, in conjunction with the quality and experience of the OTA staff, create a model organization ideally suited to conduct the necessary analyses designed for the specific needs of Congress.

OTA has perfected a process that brings in and distills all relevant points of view through panels, workshops, and broad review. Moreover, the OTA Board ensures that the studies are relevant to the priority needs of both parties, and that they are objective and well founded.

It would take many years to recreate this unique institution. I urge you not to deprive Congress of this valuable resource at a time when we need it most.

Ms. DUNN of Washington. Thank you, Mr. Chairman. I ask unanimous consent to revise and extend my remarks.

Mr. Chairman, the Government Printing Office—the GPO—is the Federal agency responsible for fulfilling the printing needs of the Federal Government and providing the American people with copies of Government documents. It is through legislative branch appropriations that the GPO receives its funding.

I rise in support of both the funding allocation provided by the subcommittee to GPO and the allocation not provided to the Joint Committee on Printing, which has oversight over the agency.

The provisions in this bill are consistent with comprehensive legislation I sponsored to reform title 44, the portion of the United States Code that governs Government printing.

Both Mr. PACKARD and I are attempting to force agencies to budget for their printing needs the same way they budget for other activities. Both Mr. PACKARD and I are attempting to cut back on the amount of unnecessary and duplicative printing for Congress, while protecting the public's access to Government documents through the Depository Library Program. It is critically important that we maintain the historical record of the activities of our Government—a vital function of GPO's Superintendent of Documents. Without a complete and accurate record, we do a disservice to the generations of Americans who will come after us—all of whom have a right to Government information, documents, reports, and statistics. When agencies bypass the Superintendent of Documents, we very well may lose a piece of American history. This is what is referred to by depository librarians as the fugitive document problem.

By creating incentives for Federal agencies to use the GPO for their printing, not only do we help eliminate the fugitive document problem, but we keep costs to the taxpayer to an absolute minimum since GPO's competitive procurement system can generally secure work for about half of what it costs agencies to print in-house. The bill before us today also asks the agencies, rather than the institution of Congress, to reimburse the cost of printing and distributing documents to the public through the Depository Library Program. Congress will still pay for the printing and distribution of its own documents, but for the first time, the costs of printing will be where they belong: In the budgets of the individual agencies.

The bill has not provided funding for the Joint Committee on Printing, except to the extent that the JCP will exist through the rest of the fiscal year. This is among the first crucial steps toward reforming the way our Government purchases printing. It sends a message to our more reluctant colleagues that change is, indeed on the way.

Thank you, Mr. Chairman. I commend Chairman PACKARD for his leadership, and I urge my colleagues to support this bill.

Mr. STEARNS. Mr. Chairman, I rise today in support of this bill and would like to thank Chairman PACKARD and the members of his committee for the effort they put forth in order to bring this bill to the floor and for allowing me to speak on its behalf.

I am, however, disappointed that the Rules Committee did not choose to make my own amendment in order.

Mr. Chairman, the amendment would have stopped the automatic pay raises for Members of Congress until the Federal Government is once again running under a balanced budget. While passage of this bill will demonstrate to the American people that we are willing to reform our own house, until we make the necessary step to change the law regarding our own salaries, the people we represent will continue to see a Congress that cuts funding for the programs they care about while it continues to raise its own pay.

We must return, Mr. Chairman, to the ideals set forth in the 27th amendment to our own Constitution which prohibits pay raises from going into effect until an election has passed. The American people recognize that if your salary went up, you got a raise. They also know that by trying to avoid direct votes on these raises, some Members are trying to hide them and to avoid the spirit of the 27th amendment if not the letter of the law. While we currently vote on our salaries, we have to vote not to raise them in a special bill. With my amendment we would no longer need to take special action to stop raises from going into effect. If the budget was not balanced, Members would get no such raise.

We can still take the necessary step. Join me in supporting H.R. 1133 which I have sponsored and which will put this freeze in place. Help us to restore the bonds of trust between our constituents and their reacted representatives.

Mr. Chairman, I appreciate the work of Chairman SOLOMON and the Rules Committee as well as the work of Chairman PACKARD and the Legislative Branch Appropriations Subcommittee and compliment them on their fine work. And I understand that congressional salaries are not a line item in this bill and that my amendment was therefore difficult to include. Yet without my amendment, it will prove difficult to restore the faith of the American people in their elected officials.

Again, Mr. Chairman, I urge my colleagues to support this bill and hope that it will take us a step closer to reforming this great institution in which it has been my honor to serve.

Mr. TAYLOR of North Carolina. Mr. Chairman, I rise in strong support of today's bill, H.R. 1854. As a member of the Legislative Branch Subcommittee, we have worked long and hard to bring real cuts to the legislative branch appropriations. Three years ago, as a new member of the subcommittee in a much different Congress, I proposed a plan which would have achieved a 25-percent cut in the money Congress spends on itself.

Today's bill, with almost 10 percent is a significant move toward that goal. We eliminate the Office of Technology Assessment, we cut the General Accounting Office by 15 percent this year and 10 percent next year, and we have reduced committee staff by some 800 positions, and the entire legislative branch by some 2,400 positions. Imagine, this bill actually spends less money on fewer people than did last year's—$154,000,000—a feat impossible before the 104th Congress.

My proposal for a real and achievable 25-percent cut in the legislative branch budget can result in a total savings of over $2 billion of taxpayers' money over the next 4 years.

Major American corporations—from IBM to General Motors to Sears & Roebuck—have responded to changes in the marketplace by cutting expenses and becoming more efficient. So must the Federal Government, especially the Congress.

Until this bill, Congress has acted as though the solution to any management difficulty is to merely increase taxes or spending. I advocate we make the same kind of tough decisions that private sector companies must make when they cannot increase revenue—to cut their spending. Under my plan and this bill, we begin that process in earnest.

Because each individual Member can best determine for himself how to spend their office funds, we combined all three office accounts into a single, unified account; making the Member responsible for how he or she spends the taxpayer's money in representing those same taxpayers.

My plan of 3 years ago proposed that we consolidate the activities of the Congressional Budget Office, the Joint Committee on Taxation, the Joint Economic Committee, and House and Senate Budget Committee with a shared staff. Today's bill cuts the Joint Economic Committee by a third and makes it clear the joint committee will be zeroed out next year. And, we will make further progress in moving toward a consolidated staff structure.

We still have a long way to go in the consolidation of Congress' legal staff. Congress and its support agencies currently employ literally hundreds of highly paid lawyers, many with duties and functions that are either duplicative or which are unrelated to the legislative duties of the Congress.

We have, to name just a few, the Office of Legal Counsel, the Office of General Counsel, the Office of the Law Revision Counsel, the Office of Legislative Counsel, the Library of Congress' American Law Division, and the hundreds of lawyers employed by dozens of congressional committees and subcommittees.

To eliminate the waste and duplication of effort and staff caused by these offices, I propose consolidating all of these offices into one legal pool. We could get a lot of high-paid lawyers off the public payroll and save the taxpayers millions of dollars. At least $5 million would be saved from the legislative counsels, most of the $11 million cut in the Congressional Research Service could be achieved from this consolidation, and millions more would be saved from within the committee and subcommittee budgets.

In addition to these consolidations, my plan eliminates a number of activities that we simply can no longer afford in this era of $300 billion budget deficits. Under my plan, we would eliminate:

All expenses related to former speakers—$201,000 in official expenses and $410,000 in salaries for a total 1-year savings and $611,000 and a savings of $2,444,000 over 4 years.

The compilation of precedents of the House, saving $587,000.

The office and research assistant provided to the former Librarian of Congress.

I would also make the Office of the Attending Physician operate on a self-sustaining basis, based on the contributions of Members, for a 1-year savings of $1,305,000 and $5.2 million over 4 years.

Unbelievably, congressional travel is included in the legislative branch budget. I support developing a procedure to reduce foreign travel, and make this bill reflect the actual costs of congressional travel instead of hiding it elsewhere in the Federal budget.

Today's bill is a very good start indeed at reforming this institution and gaining creditability with the American people. I look forward to working with Chairman PACKARD and the other members of the subcommittee to move further next year into the next phase of our streamlining of the legislative branch.

Mr. PACKARD. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. HASTERT). All time for general debate has expired.

Pursuant to the rule, the bill is considered read for amendment under the 5-minute rule.

The text of H.R. 1854 is as follows:

H.R. 1854

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1996, and for other purposes, namely:

TITLE I—CONGRESSIONAL OPERATIONS

HOUSE OF REPRESENTATIVES

SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, $671,561,000, as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $11,271,000, including: Office of the Speaker, $1,478,000, including $25,000 for official expenses of the Speaker; Office of the Majority Floor Leader, $1,470,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $1,480,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, including the Chief Deputy Majority Whip, $928,000, including $5,000 for official expenses of the Majority Whip; Office of the Minority Whip, including the Chief Deputy Minority Whip, $918,000, including $5,000 for official expenses of the Minority Whip; Speaker's Office for Legislative Floor Activities, $376,000; Republican Steering Committee, $664,000; Republican Conference, $1,083,000; Democratic Steering and Policy Committee, $1,181,000; Democratic Caucus, $566,000; and nine minority employees, $1,127,000.

MEMBERS' REPRESENTATIONAL ALLOWANCES

INCLUDING MEMBERS' CLERK HIRE, OFFICIAL EXPENSES OF MEMBERS, AND OFFICIAL MAIL

For Members' representational allowances, including Members' clerk hire, official expenses, and official mail, $360,503,000.

COMMITTEE EMPLOYEES

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by House resolutions, $78,629,000.

COMMITTEE ON APPROPRIATIONS

For salaries and expenses of the Committee on Appropriations, $16,945,000, including studies and examinations of executive agencies and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act of 1946 and to be available for reimbursement to agencies for services performed.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $83,733,000, including: for salaries and expenses of the Office of the Clerk, including not to exceed $1,000 for official representation and reception expenses, $13,807,000; for salaries and expenses of the Office of the Sergeant at Arms, including the position of Superintendent of Garages, and including not to exceed $750 for official representation and reception expenses, $3,410,000; for salaries and expenses of the Office of the Chief Administrative Officer, $53,556,000, including salaries, expenses and temporary personal services of House Information Systems, $27,500,000, of which $16,000,000 is provided herein: *Provided*, That House Information Systems is authorized to receive reimbursement from Members of the House of Representatives and other governmental entities for services provided and such reimbursement shall be deposited in the Treasury for credit to this account; for salaries and expenses of the Office of the Inspector General, $3,954,000; for salaries and expenses of the Office of Compliance, $858,000; Office of the Chaplain, $126,000; for salaries and expenses of the Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $1,180,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $1,700,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $4,524,000; and other authorized employees, $618,000.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $120,480,000, including: supplies, materials, administrative costs and Federal tort claims, $1,213,000; official mail for committees, leadership offices, and administrative offices of the House, $1,000,000; reemployed annuitants reimbursements, $68,000; Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $117,541,000; and miscellaneous items including purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions, and gratuities to heirs of deceased employees of the House, $658,000.

CHILD CARE CENTER

For salaries and expenses of the House of Representatives Child Care Center, such amounts as are deposited in the account established by section 312(d)(1) of the Legislative Branch Appropriations Act, 1992 (40 U.S.C. 184g(d)(1)), subject to the level specified in the budget of the Center, as submitted to the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 101. Effective with respect to fiscal years beginning with fiscal year 1995, in the case of mail from outside sources presented to the Chief Administrative Officer of the House of Representatives (other than mail through the Postal Service and mail with postage otherwise paid) for internal delivery in the House of Representatives, the Chief Administrative Officer is authorized to collect fees equal to the applicable postage. Amounts received by the Chief Administrative Officer as fees under the preceding sentence shall be deposited in the Treasury as miscellaneous receipts.

SEC. 102. Effective with respect to fiscal years beginning with fiscal year 1995, amounts received by the Chief Administrative Officer of the House of Representatives from the Administrator of General Services for rebates under the Government Travel Charge Card Program shall be deposited in the Treasury as miscellaneous receipts.

SEC. 103. The provisions of section 223(b) of House Resolution 6, One Hundred Fourth Congress, agreed to January 5 (legislative day, January 4), 1995, establishing the Speaker's Office for Legislative Floor Activities; House Resolution 7, One Hundred Fourth Congress, agreed to January 5 (legislative day, January 4), 1995, providing for the designation of certain minority employees; House Resolution 9, One Hundred Fourth Congress, agreed to January 5 (legislative day, January 4), 1995, providing amounts for the Republican Steering Committee and the Democratic Policy Committee; House Resolution 10, One Hundred Fourth Congress, agreed to January 5 (legislative day, January 4), 1995, providing for the transfer of two employee positions; and House Resolution 113, One Hundred Fourth Congress, agreed to

March 10, 1995, providing for the transfer of certain employee positions shall each be the permanent law with respect thereto.

SEC. 104. (a) The five statutory positions specified in subsection (b), subsection (c), and subsection (d) are transferred from the House Republican Conference to the Republican Steering Committee.

(b) The first two of the five positions referred to in subsection (a) are—

(1) the position established for the chief deputy majority whip by subsection (a) of the first section of House Resolution 393, Ninety-fifth Congress, agreed to March 31, 1977, as enacted into permanent law by section 115 of the Legislative Branch Appropriation Act, 1978 (2 U.S.C. 74a–3); and

(2) the position established for the chief deputy majority whip by section 102(a)(4) of the Legislative Branch Appropriations Act, 1990;

both of which positions were transferred to the majority leader by House Resolution 10, One Hundred Fourth Congress, agreed to January 5 (legislative day, January 4), 1995, as enacted into permanent law by section 103 of this Act, and both of which positions were further transferred to the House Republican Conference by House Resolution 113, One Hundred Fourth Congress, agreed to March 10, 1995, as enacted into permanent law by section 103 of this Act.

(c) The second two of the five positions referred to in subsection (a) are the two positions established by section 103(a)(2) of the Legislative Branch Appropriations Act, 1986.

(d) The fifth of the five positions referred to in subsection (a) is the position for the House Republican Conference established by House Resolution 625, Eighty-ninth Congress, agreed to October 22, 1965, as enacted into permanent law by section 103 of the Legislative Branch Appropriation Act, 1967.

(e) The transfers under this section shall take effect on the date of the enactment of this Act.

SEC. 105. (a) Notwithstanding any other provision of law, or any rule, regulation, or other authority, travel for studies and examinations under section 202(b) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(b)) shall be governed by applicable laws or regulations of the House of Representatives or as promulgated from time to time by the Chairman of the Committee on Appropriations of the House of Representatives.

(b) Subsection (a) shall take effect on the date of the enactment of this Act and shall apply to travel performed on or after that date.

SEC. 106. (a) Notwithstanding the paragraph under the heading "GENERAL PROVISION" in chapter XI of the Third Supplemental Appropriation Act, 1957 (2 U.S.C. 102a) or any other provision of law, effective on the date of the enactment of this section, unexpended balances in accounts described in subsection (b) are withdrawn, with unpaid obligations to be liquidated in the manner provided in the second sentence of that paragraph.

(b) The accounts referred to in subsection (a) are the House of Representatives legislative service organization revolving accounts under section 311 of the Legislative Branch Appropriations Act, 1994 (2 U.S.C. 96a).

SEC. 107. (a) Each fund and account specified in subsection (b) shall be available only to the extent provided in appropriation Acts.

(b) The funds and accounts referred to in subsection (a) are—

(1) the revolving fund for the House Barber Shops, established by the paragraph under the heading "HOUSE BARBER SHOPS REVOLVING FUND" in the matter relating to the House of Representatives in chapter III of title I of the Supplemental Appropriations Act, 1975 (Public Law 93–554; 88 Stat. 1776);

(2) the revolving fund for the House Beauty Shop, established by the matter under the heading "HOUSE BEAUTY SHOP" in the matter relating to administrative provisions for the House of Representatives in the Legislative Branch Appropriation Act, 1970 (Public Law 91–145; 83 Stat. 347);

(3) the special deposit account established for the House of Representatives Restaurant by section 208 of the First Supplemental Civil Functions Appropriation Act, 1941 (40 U.S.C. 174k note); and

(4) the revolving fund established for the House Recording Studio by section 105(g) of the Legislative Branch Appropriation Act, 1957 (2 U.S.C. 123b(g)).

(c) This section shall take effect on October 1, 1995, and shall apply with respect to fiscal years beginning on or after that date.

SEC. 107A. For fiscal year 1996, subject to the direction of the Committee on House Oversight of the House of Representatives, of the total amount deposited in the account referred to in section 107(b)(3) of this Act from vending operations of the House of Representatives Restaurant System, the cost of goods sold shall be available to pay the cost of inventory for such operations.

SEC. 108. The House Employees Position Classification Act (2 U.S.C. 291, et seq.) is amended—

(1) in section 3(1), by striking out "Doorkeeper, and the Postmaster," and inserting in lieu thereof "Chief Administrative Officer, and the Inspector General";

(2) in the first sentence of section 4(b), by striking out "Doorkeeper, and the Postmaster," and inserting in lieu thereof "Chief Administrative Officer, and the Inspector General";

(3) in section 5(b)(1), by striking out "Doorkeeper, and the Postmaster" and inserting in lieu thereof "Chief Administrative Officer, and the Inspector General"; and

(4) in the first sentence of section 5(c), by striking out "Doorkeeper, and the Postmaster," and inserting in lieu thereof "Chief Administrative Officer, and the Inspector General".

SEC. 109. (a) Upon the approval of the appropriate employing authority, an employee of the House of Representatives who is separated from employment, may be paid a lump sum for the accrued annual leave of the employee. The lump sum—

(1) shall be paid in an amount not more than the lesser of—

(A) the amount of the monthly pay of the employee, as determined by the Chief Administrative Officer of the House of Representatives; or

(B) the amount equal to the monthly pay of the employee, as determined by the Chief Administrative Officer of the House of Representatives, divided by 30, and multiplied by the number of days of the accrued annual leave of the employee;

(2) shall be paid—

(A) for clerk hire employees, from the clerk hire allowance of the Member;

(B) for committee employees, from amounts appropriated for committees; and

(C) for other employees, from amounts appropriated to the employing authority; and

(3) shall be based on the rate of pay in effect with respect to the employee on the last day of employment of the employee.

(b) The Committee on House Oversight shall have authority to prescribe regulations to carry out this section.

(c) As used in this section, the term "employee of the House of Representatives" means an employee whose pay is disbursed by the Clerk of the House of Representatives or the Chief Administrative Officer of the House of Representatives, as applicable, except that such term does not include a uniformed or civilian support employee under the Capitol Police Board.

(d) Payments under this section may be made with respect to separations from employment taking place after June 30, 1995.

SEC. 110. (a)(1) Effective on the date of the enactment of this Act, the allowances for office personnel and equipment for certain Members of the House of Representatives, as adjusted through the day before the date of the enactment of this Act, are further adjusted as specified in paragraph (2).

(2) The further adjustments referred to in paragraph (1) are as follows:

(A) The allowance for the majority leader is increased by $167,532.

(B) The allowance for the majority whip is decreased by $167,532.

(b)(1) Effective on the date of the enactment of this Act, the House of Representatives allowances referred to in paragraph (2), as adjusted through the day before the date of the enactment of this Act, are further adjusted, or are established, as the case may be, as specified in paragraph (2).

(2) The further adjustments and the establishment referred to in paragraph (1) are as follows:

(A) The allowance for the Republican Conference is increased by $134,491.

(B) The allowance for the Republican Steering Committee is established at $66,995.

(C) The allowance for the Democratic Steering and Policy Committee is increased by $201,430.

(D) The allowance for the Democratic Caucus is increased by $56.

JOINT ITEMS

For Joint Committees, as follows:

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $3,000,000, to be disbursed by the Secretary of the Senate.

JOINT COMMITTEE ON PRINTING

(TRANSFER OF FUNDS)

For duties formerly carried out by the Joint Committee on Printing, $750,000, to be divided into equal amounts and transferred to the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate. For the purpose of carrying out the functions of the Joint Committee on Printing for the remainder of the One Hundred Fourth Congress only, the rules and structure of the committee will apply.

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $6,019,000, to be disbursed by the Clerk of the House: *Provided*, That none of these funds shall be used to determine specific refunds or credits under section 6405 and section 8023 of the Internal Revenue Code of 1986.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,500 per month to the Attending Physician; (2) an allowance of $500 per month each to two medical officers while on duty in the Attending Physician's office; (3) an allowance of $500 per month to one assistant and $400 per month each to not to exceed nine assistants on the basis heretofore provided for such assistance; and (4) $852,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, which shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,260,000, to be disbursed by the Clerk of the House.

CAPITOL POLICE BOARD

CAPITOL POLICE

SALARIES

For the Capitol Police Board for salaries, including overtime, hazardous duty pay differential, clothing allowance of not more than $600 each for members required to wear civilian attire, and Government contributions to employees' benefits funds, as authorized by law, of officers, members, and employees of the Capitol Police, $70,132,000, of which $34,213,000 is provided to the Sergeant at Arms of the House of Representatives, to be disbursed by the Clerk of the House, and $35,919,000 is provided to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate: *Provided*, That, of the amounts appropriated under this heading, such amounts as may be necessary may be transferred between the Sergeant at Arms of the House of Representatives and the Sergeant at Arms and Doorkeeper of the Senate, upon approval of the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate.

GENERAL EXPENSES

For the Capitol Police Board for necessary expenses of the Capitol Police, including motor vehicles, communications and other equipment, uniforms, weapons, supplies, materials, training, medical services, forensic services, stenographic services, the employee assistance program, not more than $2,000 for the awards program, postage, telephone service, travel advances, relocation of instructor and liaison personnel for the Federal Law Enforcement Training Center, and $85 per month for extra services performed for the Capitol Police Board by an employee of the Sergeant at Arms of the Senate or the House of Representatives designated by the Chairman of the Board, $2,560,000, to be disbursed by the Clerk of the House of Representatives: *Provided*, That, notwithstanding any other provision of law, the cost of basic training for the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1996 shall be paid by the Secretary of the Treasury from funds available to the Department of the Treasury.

ADMINISTRATIVE PROVISION

SEC. 111. Amounts appropriated for fiscal year 1996 for the Capitol Police Board under the heading "CAPITOL POLICE" may be transferred between the headings "SALARIES" and "GENERAL EXPENSES", upon approval of the Committees on Appropriations of the Senate and the House of Representatives.

CAPITOL GUIDE SERVICE AND SPECIAL SERVICES OFFICE

For salaries and expenses of the Capitol Guide Service and Special Services Office, $1,991,000, to be disbursed by the Secretary of the Senate: *Provided*, That none of these funds shall be used to employ more than forty individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each, and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and the House of Representatives, of the statements for the first session of the One Hundred Fourth Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $30,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

ADMINISTRATIVE PROVISION

SEC. 112. (a) Section 441 of the Legislative Reorganization Act of 1970 (40 U.S.C. 851) is amended by adding at the end the following new subsection:

"(k) In addition to any other function under this section, the Capitol Guide Service shall provide special services to Members of Congress, and to officers, employees, and guests of Congress.".

(b) Section 310 of the Legislative Branch Appropriations Act, 1990 (2 U.S.C. 130e) is repealed.

(c) The amendment made by subsection (a) and the repeal made by subsection (b) shall take effect on October 1, 1995.

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), including not to exceed $2,500 to be expended on the certification of the Director of the Congressional Budget Office in connection with official representation and reception expenses, $23,188,000: *Provided*, That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further*, That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 219 fulltime equivalent positions: *Provided further*, That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98-63: *Provided further*, That the Director of the Congressional Budget Office shall have the authority, within the limits of available appropriations, to dispose of surplus or obsolete personal property by inter-agency transfer, donation, or discarding.

ADMINISTRATIVE PROVISION

SEC. 113. Section 8402(c) of title 5, United States Code, is amended—

(1) by redesignating paragraph (7) as paragraph (8); and

(2) by inserting after paragraph (6) the following:

"(7) The Director of the Congressional Budget Office may exclude from the operation of this chapter an employee under the Congressional Budget Office whose employment is temporary or intermittent.".

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol, the Assistant Architect of the Capitol, and other personal services, at rates of pay provided by law, $8,569,000.

TRAVEL

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $20,000.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $100,000.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol and electrical substations of the Senate and House office buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; including not to exceed $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; and attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol, $22,832,000, of which $3,000,000 shall remain available until expended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House office buildings, and the Capitol Power Plant, $5,143,000, of which $25,000 shall remain available until expended.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House office buildings, $33,001,000, of which $5,261,000 shall remain available until expended.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; lighting, heating, power (including the purchase of electrical energy) and water and sewer services for the Capitol, Senate and House office buildings, Library of Congress buildings, and the grounds about the same, Botanic Garden, Senate garage, and air conditioning refrigeration not supplied from plants in any of such buildings; heating the Government Printing Office and Washington City Post Office, and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex, Thurgood Marshall Federal Judiciary Building and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation, $32,578,000: *Provided*, That not to exceed $4,000,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1996.

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $60,083,000: *Provided*, That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Oversight of the House of Representatives or the Committee on Rules and Administration of the Senate: *Provided further*, That, notwithstanding any other provision of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress and the distribution of Congressional information in any format; printing and binding for the Architect of the Capitol; expenses necessary for preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $88,281,000: *Provided*, That this appropriation shall not be available for paper copies of the permanent edition of the Congressional Record for individual Senators, Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further*, That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

This title may be cited as the "Congressional Operations Appropriations Act, 1996".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; and purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $3,053,000.

CONSERVATORY RENOVATION

For renovation of the Conservatory of the Botanic Garden, $7,000,000, to be available to the Architect of the Capitol without fiscal year limitation: *Provided*, That the total amount appropriated for such renovation for this fiscal year and later fiscal years may not exceed $21,000,000.

ADMINISTRATIVE PROVISIONS

SEC. 201. (a) Section 201 of the Legislative Branch Appropriations Act, 1993 (40 U.S.C. 216c note) is amended by striking out "$6,000,000" each place it appears and inserting in lieu thereof "$10,000,000".

(b) Section 307E(a)(1) of the Legislative Branch Appropriations Act, 1989 (40 U.S.C. 216c(a)(1)) is amended by striking out "plans" and inserting in lieu thereof "plants".

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including development and maintenance of the Union Catalogs; custody and custodial care of the Library buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog cards and other publications of the Library; hire or purchase of one passenger motor vehicle; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $211,664,000, of which not more than $7,869,000 shall be derived from collections credited to this appropriation during fiscal year 1996 under the Act of June 28, 1902 (chapter 1301; 32 Stat. 480; 2 U.S.C. 150): *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than the $7,869,000: *Provided further*, That of the total amount appropriated, $8,458,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $30,818,000, of which not more than $16,840,000 shall be derived from collections credited to this appropriation during fiscal year 1996 under 17 U.S.C. 708(c), and not more than $2,990,000 shall be derived from collections during fiscal year 1996 under 17 U.S.C. 111(d)(2), 119(b)(2), 802(h), and 1005: *Provided*, That the total amount available for obligation shall be reduced by the amount by which collections are less than $19,830,000: *Provided further*, That up to $100,000 of the amount appropriated is available for the maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies: *Provided further*, That not to exceed $2,250 may be expended on the certification of the Librarian of Congress or his designee, in connection with official representation and reception expenses for activities of the International Copyright Institute.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act of March 3, 1931 (chapter 400; 46 Stat. 1487; 2 U.S.C. 135a), $44,951,000, of which $11,694,000 shall remain available until expended.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $4,882,000, of which $943,000 shall be available until expended only for the purchase and supply of furniture, shelving, furnishings, and related costs necessary for the renovation and restoration of the Thomas Jefferson and John Adams Library buildings.

ADMINISTRATIVE PROVISIONS

SEC. 202. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $194,290, of which $58,100 is for the Congressional Research Service, when specifically authorized by the Librarian, for attendance at meetings concerned with the function or activity for which the appropriation is made.

SEC. 203. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15; and

(2) grants such manager or supervisor the right to not be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 204. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees and may be expended or obligated—

(1) in the case of a reimbursement, only to such extent or in such amounts as are provided in appropriations Acts; or

(2) in the case of an advance payment, only—

(A) to pay for such general or administrative overhead costs as are attributable to the work performed for such agency; or

(B) to such extent or in such amounts as are provided in appropriations Acts, with respect to any purpose not allowable under subparagraph (A).

SEC. 205. Not to exceed $5,000 of any funds appropriated to the Library of Congress may be expended, on the certification of the Librarian of Congress, in connection with official representation and reception expenses for the Library of Congress incentive awards program.

SEC. 206. Not to exceed $12,000 of funds appropriated to the Library of Congress may be expended, on the certification of the Librarian of Congress or his designee, in connection with official representation and reception expenses for the Overseas Field Offices.

SEC. 207. Under the heading "Library of Congress" obligational authority shall be available, in an amount not to exceed $86,912,000 for reimbursable and revolving fund activities, and $5,667,000 for non-expenditure transfer activities in support of parliamentary development during the current fiscal year.

SEC. 208. Notwithstanding this or any other Act, obligational authority under the heading "Library of Congress" for activities in support of parliamentary development is prohibited, except for Russia, Ukraine, Albania, Slovakia, and Romania, for other than incidental purposes.

SEC. 209. (a) Section 206 of the Legislative Branch Appropriations Act, 1994 (2 U.S.C. 132a–1) is amended by striking out "Effective" and all that follows through "provided", and inserting in lieu thereof "Obligations for reimbursable activities and revolving fund activities performed by the Library of Congress and obligations exceeding $100,000 for a fiscal year for any single gift fund activity or trust fund activity performed by the Library of Congress are limited to the amounts provided for such purposes".

(b) The amendment made by subsection (a) shall take effect on October 1, 1996, and shall apply with respect to fiscal years beginning on or after that date.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $12,428,000, of which $3,710,000 shall remain available until expended.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For expenses of the Office of Superintendent of Documents necessary to provide for the cataloging and indexing of Government publications and their distribution to the public, Members of Congress, other Government agencies, and designated depository and international exchange libraries as authorized by law, $16,312,000: *Provided*, That travel expenses, including travel expenses of the Depository Library Council to the Public Printer, shall not exceed $130,000: *Provided further*, That funds, not to exceed $2,000,000, from current year appropriations are authorized for producing and disseminating Congressional Serial Sets and other related Congressional/non-Congressional publications for 1994 and 1995 to depository and other designated libraries.

ADMINISTRATIVE PROVISION

SEC. 210. The last paragraph of section 1903 of title 44, United States Code, is amended by striking out the last sentence and inserting in lieu thereof the following: "The cost of production and distribution for publications distributed to depository libraries—

"(1) in paper or microfiche formats, whether or not such publications are requisitioned from or through the Government Printing Office, shall be borne by the components of the Government responsible for their issuance; and

"(2) in other than paper or microfiche formats—

"(A) if such publications are requisitioned from or through the Government Printing Office, shall be charged to appropriations provided to the Superintendent of Documents for that purpose; and

"(B) if such publications are obtained elsewhere than from the Government Printing Office, shall be borne by the components of the Government responsible for their issuance.".

GOVERNMENT PRINTING OFFICE REVOLVING FUND

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the Government Printing Office revolving fund: *Provided*, That not to exceed $2,500 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further*, That the revolving fund shall be available for the hire or purchase of passenger motor vehicles, not to exceed a fleet of twelve: *Provided further*, That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further*, That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for level V of the Executive Schedule (5 U.S.C. 5316): *Provided further*, That the revolving fund and the funds provided under the headings "OFFICE OF SUPERINTENDENT OF DOCUMENTS" and "SALARIES AND EXPENSES" together may not be available for the full-time equivalent employment of more than 3,900 workyears: *Provided further*, That activities financed through the revolving fund may provide information in any format: *Provided further*, That the revolving fund shall not be used to administer any flexible or compressed work schedule which applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS–15: *Provided further*, That expenses for attendance at meetings shall not exceed $75,000.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed $7,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for level IV of the Executive Schedule (5 U.S.C. 5315); hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8)); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to AID projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); $392,864,000: *Provided*, That not more than $400,000 of reimbursements received incident to the operation of the General Accounting Office Building shall be available for use in fiscal year 1996: *Provided further*, That notwithstanding 31 U.S.C. 9105 hereafter amounts reimbursed to the Comptroller General pursuant to that section shall be deposited to the appropriation of the General Accounting Office then available and remain available until expended, and not more than $8,000,000 of such funds shall be available for use in fiscal year 1996: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including the salary of the Executive Director and secretarial support: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further*, That to the extent that funds are otherwise available for obligation, agreements or contracts for the removal of asbestos, and renovation of the building and building systems (including the heating, ventilation and air conditioning system, electrical system and other major building systems) of the General Accounting Office Building may be made for periods not exceeding five years: *Provided further*, That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences.

ADMINISTRATIVE PROVISION

SEC. 211. (a) Effective June 30, 1996, the functions of the Comptroller General identified in subsection (b) are transferred to the Director of the Office of Management and Budget, contingent upon the additional transfer to the Office of Management and Budget of such personnel, budget authority, records, and property of the General Accounting Office relating to such functions as the Comptroller General and the Director jointly determine to be necessary. The Director may delegate any such function, in whole or in part, to any other agency or agencies if the Director determines that such delegation would be cost-effective or otherwise in the public interest, and may transfer to such agency or agencies any personnel, budget authority, records, and property received by the Director pursuant to the preceding sentence that relate to the delegated functions. Personnel transferred pursuant to this provision shall not be separated or reduced in classification or compensation for one year after any such transfer, except for cause.

(b) The following provisions of the United States Code contain the functions to be transferred pursuant to subsection (a): sections 5564 and 5583 of title 5; sections 2312, 2575, 2733, 2734, 2771, 4712, and 9712 of title 10; sections 1626 and 4195 of title 22; section 420 of title 24; sections 2414 and 2517 of title 28; sections 1304, 3702, 3726, and 3728 of title 31; sections 714 and 715 of title 32; section 554 of title 37; section 5122 of title 38; and section 256a of title 41.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Oversight and for the Senate issued by the Committee on Rules and Administration.

SEC. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided*, That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and House of Representatives, and clerk hire for Senators and Members of the House of Representatives shall be the permanent law with respect thereto.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 305. (a) It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SEC. 306. (a) Upon approval of the Committee on Appropriations of the House of Representatives, and in accordance with conditions determined by the Committee on House Oversight, positions in connection with House parking activities and related funding shall be transferred from the appropriation "Architect of the Capitol, Capitol buildings and grounds, House office buildings" to the appropriation "House of Representatives, salaries, officers and employees, Office of the Sergeant at Arms": *Provided*, That the position of Superintendent of Garages shall be subject to authorization in annual appropriation Acts.

(b) For purposes of section 8339(m) of title 5, United States Code, the days of unused sick leave to the credit of any such employee as of the date such employee is transferred under subsection (a) shall be included in the total service of such employee in connection with the computation of any annuity under subsections (a) through (e) and (o) of such section.

(c) In the case of days of annual leave to the credit of any such employee as of the date such employee is transferred under subsection (a) the Architect of the Capitol is authorized to make a lump sum payment to each such employee for that annual leave. No such payment shall be considered a payment or compensation within the meaning of any law relating to dual compensation.

SEC. 307. None of the funds made available in this Act may be used for the relocation of the office of any Member of the House of Representatives within the House office buildings.

SEC. 308. (a)(1) Effective October 1, 1995, the unexpended balances of appropriations specified in paragraph (2) are transferred to the appropriation for general expenses of the Capitol Police, to be used for design and installation of security systems for the Capitol buildings and grounds.

(2) The unexpended balances referred to in paragraph (1) are—

(A) the unexpended balance of appropriations for security installations, as referred to in the paragraph under the heading "CAPITOL BUILDINGS", under the general headings "JOINT ITEMS", "ARCHITECT OF THE CAPITOL", and "CAPITOL BUILDINGS AND GROUNDS" in title I of the Legislative Branch Appropriations Act, 1995 (108 Stat. 1434), including any unexpended balance from a prior fiscal year and any unexpended balance under such headings in this Act; and

(B) the unexpended balance of the appropriation for an improved security plan, as transferred to the Architect of the Capitol by section 102 of the Legislative Branch Appropriations Act, 1989 (102 Stat. 2165).

(b) Effective October 1, 1995, the responsibility for design and installation of security systems for the Capitol buildings and grounds is transferred from the Architect of the Capitol to the Capitol Police Board. Such design and installation shall be carried out under the direction of the Committee on House Oversight of the House of Representatives and the Committee on Rules and Administration of the Senate, and without regard to section 3709 of the Revised Statutes of the United States (41 U.S.C. 5). On and after October 1, 1995, any alteration to a structural, mechanical, or architectural feature of the Capitol buildings and grounds that is required for a security system under the preceding sentence may be carried out only with the approval of the Architect of the Capitol.

(c)(1) Effective October 1, 1995, all positions specified in paragraph (2) and each individual holding any such position (on a permanent basis) immediately before that date, as identified by the Architect of the Capitol, shall be transferred to the Capitol Police.

(2) The positions referred to in paragraph (1) are those positions which, immediately before October 1, 1995, are—

(A) under the Architect of the Capitol;

(B) within the Electronics Engineering Division of the Office of the Architect of the Capitol; and

(C) related to the design or installation of security systems for the Capitol buildings and grounds.

(3) All annual leave and sick leave standing to the credit of an individual immediately before such individual is transferred under paragraph (1) shall be credited to such individual, without adjustment, in the new position of the individual.

SEC. 309. (a) Section 230(a) of the Congressional Accountability Act of 1995 (2 U.S.C. 1371(a)) is amended by striking out "Administrative Conference of the United States" and inserting in lieu thereof "Board".

(b) Section 230(d)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1371(d)(1)) is amended—

(1) by striking out "Administrative Conference of the United States" and inserting in lieu thereof "Board"; and

(2) by striking out "and shall submit the study and recommendations to the Board".

SEC. 310. Section 122(d) of the Military Construction Appropriations Act, 1994 (Public Law 103–110; 2 U.S.C. 141 note) is amended by adding at the end the following new sentence: "The Provost Marshal (U.S. Army Military Police), Fort George G. Meade, is authorized to police the real property, including improvements thereon, transferred under subsection (a), and to make arrests on the said real property and within any improvements situated thereon for any violation of any law of the United States, the District of Columbia, or any State, or of any regulation promulgated pursuant thereto, and such authority shall be construed as authorizing the Provost Marshal, with the consent or upon the request of the Librarian of Congress or his assistants, to enter any improvements situated on the said real property that are under the jurisdiction of the Library of Congress to make arrests or to patrol such structures.".

SEC. 311. (a)(1) Effective as prescribed by paragraph (2), the administrative jurisdiction over the property described in subsection (b), known as the Botanic Garden, is transferred, without reimbursement, to the Secretary of Agriculture. After such transfer, the Botanic Garden shall continue as a scientific display garden to inform and educate visitors and the public as to the value of plants to the well-being of humankind and the natural environment.

(2) The transfer referred to in paragraph (1) shall take effect—

(A) on October 1, 1996, with respect to the property described in subsection (b)(1)(A); and

(B) on the later of October 31, 1996, or the date of the conveyance described in subsection (b)(1)(B), with respect to the property described in that subsection.

(b)(1) The property referred to in subsection (a)(1) is the property consisting of—

(A) Square 576 in the District of Columbia (bounded by Maryland Avenue on the north, First Street on the east, Independence Avenue on the south, and Third Street on the west) and Square 578 in the District of Columbia (bounded by Independence Avenue on the north, First Street on the east, and Washington Avenue on the southwest), other than the property included in the Capitol Grounds by paragraph (20) of the first section of Public Law 96–432 (40 U.S.C. 193a note);

(B) the site known as the Botanic Garden Nursery at D.C. Village, consisting of 25 acres located at 4701 Shepherd Parkway, S.W., Washington, D.C. (formerly part of a tract of land known as Parcel 253/26), which site is to be conveyed by the District of Columbia to the Architect of the Capitol pursuant to Public Law 98–340 (40 U.S.C. 215 note);

(C) all buildings, structures, and other improvements located on the property described in subparagraphs (A) and (B), respectively; and

(D) all equipment and other personal property that, immediately before the transfer under this section, is located on the property described in subparagraphs (A) and (B), respectively, and is under the control of the

Architect of the Capitol, acting under the direction of the Joint Committee on the Library.

(c) Not later than the date of the conveyance to the Architect of the Capitol of the property described in subsection (b)(1)(B), the Architect of the Capitol and the Secretary of Agriculture shall enter into an agreement to permit the retention by the Architect of the Capitol of a portion of that property for legislative branch storage and support facilities and expansion of such facilities, and facilities to be developed for use by the Capitol Police.

(d)(1) Effective October 1, 1996, all employee positions specified in paragraph (2) and each individual holding any such position (on a permanent basis) immediately before the transfer, as identified by the Architect of the Capitol, shall be transferred to the Department of Agriculture.

(2) The employee positions referred to in paragraph (1) are those positions which, immediately before October 1, 1996, are under the Architect of the Capitol and are primarily related to the functions of the Botanic Garden.

(3) All annual leave and sick leave standing to the credit of an individual immediately before such individual is transferred under paragraph (1) shall be credited to such individual, without adjustment, in the new position of the individual.

(e)(1) Notwithstanding the transfer under this section, and without regard to the laws specified in paragraph (2), the Architect of the Capitol shall retain full authority for completing, under plans approved by the Architect, the National Garden authorized by section 307E of the Legislative Branch Appropriations Act, 1989 (40 U.S.C. 216c), including the renovation of the Conservatory of the Botanic Garden under section 209(b) of Public Law 102–229 (40 U.S.C. 216c note). In carrying out the preceding sentence, the Architect—

(A) shall have full responsibility for design, construction management and supervision, and acceptance of gifts;

(B) shall inform the Secretary of Agriculture from time to time of the progress of the work involved; and

(C) shall notify the Secretary of Agriculture when, as determined by the Architect, the National Garden, including the renovation of the Conservatory of the Botanic Garden, is complete.

(2) The laws referred to in paragraph (1) are section 2 of the Act entitled "An Act providing for a comprehensive development of the park and playground system of the National Capital.", approved June 6, 1924 (40 U.S.C. 71a), and the first section of the Act entitled "An Act establishing a Commission of Fine Arts.", approved May 17, 1910 (40 U.S.C. 104).

(f)(1) Except as provided in paragraph (2), effective October 1, 1996, the unexpended balances of appropriations for the Botanic Garden are transferred to the Secretary of Agriculture.

(2) Any unexpended balances of appropriations for completion of the National Garden, including the Conservatory of the Botanic Garden, under subsection (e) shall remain under the Architect of the Capitol.

(g) After the transfer under this section—

(1) under such terms and conditions as the Secretary of Agriculture may impose, including a requirement for payment of fees for the benefit of the Botanic Garden, the National Garden and the Conservatory of the Botanic Garden shall be available for receptions sponsored by Members of Congress; and

(2) the Secretary of Agriculture, through the Botanic Garden, shall continue, with reimbursement, to propagate and provide such plant materials as the Architect may require for the United States Capitol Grounds, and such indoor plant materials and cut flowers as are authorized by policies of the House of Representatives and the Senate.

This Act may be cited as the "Legislative Branch Appropriations Act, 1996".

The CHAIRMAN pro tempore. No amendment is in order except the amendments printed in House Report 104–146. Each amendment may be offered only in the order printed in the report, by a member designated in the report, shall be considered as having been read, shall be debatable for the time specified, equally divided and controlled by the proponent and an opponent of the amendment, shall not be subject to amendment except as specified in the report and shall not be subject to a demand for a division of the question.

The Chairman of the Committee of the Whole may postpone until a time during further consideration in the Committee of the Whole a request for a recorded vote on any amendment made in order by the rule.

The Chairman of the Committee of the Whole may reduce to not less than 5 minutes the time for voting by electronic device on any postponed question that immediately follows another vote by electronic device without intervening business, provided that the time for voting by electronic device on the first in any series of questions shall not be less than 15 minutes.

It is now in order to consider amendment No. 1 printed in House Report 104–146.

AMENDMENT OFFERED BY MR. NEUMANN

Mr. NEUMANN. Mr. Chairman, I offer an amendment made in order under the rule.

The CHAIRMAN pro tempore. The clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. NEUMANN: Page 3, line 6, strike "$360,503,000" and insert "$351,217,000".

The CHAIRMAN pro tempore. Pursuant to the rule, the gentleman from Wisconsin [Mr. NEUMANN] and a Member opposed will each be recognized for 5 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. NEUMANN].

Mr. NEUMANN. Mr. Chairman, I feel strongly that Congress should shrink its own budget as well as the rest of the budget for the U.S. Government.

Mr. Chairman, I yield the balance of my time to the gentleman from Delaware [Mr. CASTLE] to handle the debate on this amendment.

Mr. CASTLE. Mr. Chairman, I thank the gentleman from Wisconsin for yielding me this time.

Mr. Chairman, I want to discuss both what he was doing and an amendment which will come to his amendment shortly after this particular debate is concluded. There will be other speakers on this.

The issue of the franking privilege in the Congress of the United States is one we have all wrestled with at one time or another. I have been working with some like-minded people to try to reduce the cost of the taxpayers of the United States of America in the area of franking.

Now, let me just say, because I believe there will be some opposition to our amendment to the amendment offered by the gentleman from Wisconsin [Mr. NEUMANN], that the individuals who are working on this, on the Republican side, I think have done a remarkable job. Both the chairman of the Appropriations Subcommittee and the Committee on Appropriations, I think, have done an outstanding job of trying to deal with this particular problem.

□ 1230

However, I feel that we should go even faster. I have here before us a couple of charts, if I may, Mr. Chairman, and the first of these charts shows the expenditures in an election year, and I think it is self-explanatory. I have always stated that, as far as the franking privilege is concerned, it is a tremendous boost to the incumbent because the incumbent can spend much more money on mail, either for town meetings, or questionnaires, or newsletters, or just mail in general during the course of an election year, and, as we cycle this, it shows completely that this can take place, and that is what the chart demonstrates, and I think that is a significant number to keep in mind.

What we are trying to do here is to reduce the overall Members' representation allowance which has now been lumped together, and I think that is a good idea, too, with other office expenses, by $4.6 million, and essentially it reduces it to where it was last year, at a sum of some $41 million.

Now, as the Member who spent less than anybody else in this Congress last year on the franked mail, I can tell my colleagues that for sure we can answer all of our mail for this amount of money, and I say to my colleagues, if you want to give notices of town meetings, you can probably do that. You can probably have a statewide mailing in addition to that. But you are going to reduce some of these costs, as far as the margins are concerned, and that is essentially what we are attempting to do.

So we have indeed put together this effort. We believe it is reasonable, we believe that it does not overreach in terms of the reductions which are in order, and even though there is some added costs to the Members' office because the folding room will no longer be a part of this and some other costs, I think it leaves a great deal of latitude to handle whatever mail is necessary to be handled in the Congress of the United States and indeed to allow the various Members to communicate fully with their constituents.

Mr. Chairman, I reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. PACKARD. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PACKARD. Are we now debating the Castle amendment or the Neumann amendment?

The CHAIRMAN. In reply to the gentleman from California, the Castle amendment has not yet been offered.

Mr. PACKARD. So we are now talking about the Neumann amendment?

The CHAIRMAN. The gentleman is correct.

Mr. PACKARD. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Wisconsin [Mr. NEUMANN].

Mr. Chairman, we have already cut severely the Members' allowance to pay for clerk hire for their staff as well as other office expenses in this bill. We have also, in order to absorb the cost of the reforms that the Committee on House Oversight has approved, we will be absorbing somewhere between $11 and $12,000 per office of existing office expense accounts, and each Member is asked to absorb those costs.

We have also in this bill underfunded by the amount of $28 million the current allowances of Members for staff salaries, and an office and mail expenses. The House Finance Office estimates that the amount funded in the bill will be necessary for the salary expenses of the staff in Members office. There is no room for additional reductions.

Simply said, the House budget has already been cut by $57 million, Members' allowances are underfunded by $28 million, and there is reason to believe that another almost $5 million will have to be absorbed because of administrative reforms. If we simply add additional reductions of $4.6, or $9 million in the Neumann amendment case, it is just going to put such a burden on Members' budgets that I think they will suffer dearly and would have to actually not pay their staff or release their staff. I strongly urge the Members to protect their own offices and their own staffs from a further cut and vote against this amendment.

Mr. CASTLE. Mr. Chairman, I have tremendous respect for the chairman of the subcommittee, all the work he has done, and he is absolutely doing the right thing, and anything I say to rebuttal to this, or anything anyone else might say, is in no way critical of that because they really are going in the right direction.

But I must state, "If you look at the second chart I have here, which shows our outgoing mail versus our ingoing mail, it is just absolutely evident to anyone who has ever examined these accounts that quite frankly there is a great deal of room to reduce the costs that we have, and it is correct that this particular Congress has taken very strong and good measures and intends to take more, which I know about, in order to address this problem, but the bottom line is that we are dealing with a relatively small reduction, a relatively small number, that hardly cuts into the outgoing mail."

Mr. Chairman, if I had my druthers, we would go much further than we are at this particular time. I would have clearly supported the first amendment before us right now, the Neumann amendment, and clearly the amendment which I will offer as an amendment to that, the Castle amendment which reduces it even more. I think it is one which should be supported, so I am in support of that.

Mr. Chairman, I reserve the balance of my time.

Mr. PACKARD. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Chairman, I will say briefly, You can look at the franked mail charts over there, but this does not apply to franked mail. Part of the problem around here is that we have some people who were very earnest in the changes they want to make. You need to know that this is an appropriation bill. It goes into effect October 1. The combined representational account, which the gentleman from Delaware wants to cut, the gentleman from California, has already cut by more than one-third since the last year. We cannot make the changes to make it a single fund until the calendar year, and that's why the gentleman from California [Mr. PACKARD] is right.

This money could very well go to deny already agreed-upon salaries to employees and purchasing of equipment. I want to underscore the fact I am not opposed to continuing to reduce Members' funds. There is a way; there is an orderliness to it. We are trying to move forward in an orderly fashion. The appropriation goes first, then the Committee on House Oversight will take those already agreed-upon changes and put them into effect.

I say to my colleagues, when you introduce changes like this in midstream, that throws out the coordination of the leadership, the majority and the minorities' agreed-upon changes and it just makes it more difficult. I'm not opposed to cuts. I'm opposed to cuts at this time in this manner. Let's get this representational account combined. Let's then examine it.

Frankly I am anxious to cut more than the gentleman from Delaware [Mr. CASTLE] is looking at, but I want to do it from a realistic, honest base where the Members have not already made commitments that they are now going to be forced to renege upon in the zealousness to get credit for some kind of a reduction.

I would urge the Members to vote "no," reluctantly, on this amendment.

Mr. CASTLE. Mr. Chairman, in response to the gentleman from California with whom I have discussed it, and by the way I cannot congratulate him enough on taking this issue and trying to run with it because I think he is doing absolutely the right thing, and I have no disagreement with that, but I do not think this is midstream. I believe that the franking privilege has lurked around this Congress at numbers well beyond anything that the public comprehends and certainly would be willing to live with it if they understood what those numbers are, and I think any time we can diminish those numbers we should. Quite frankly I wish I had a amendment accepted that would have cut it even more than ultimately what my amendment will be, the $4.6 million. We are going to a representational allowance, and I agree with the chairman. It is wonderful that he has done that, but still that provides for some extra costs too, $9.3 million, and this is merely a taking away of a very small part of that.

So for all of these reasons I feel very strongly that what we are doing here today should happen today. It in no way deters the steps which the gentleman from California has taken or that those who advocate his position would want to do, and, as a matter of fact, I stand behind that and would encourage our pursuing that in every way we possibly can.

AMENDMENT OFFERED BY MR. CASTLE AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. NEWMANN

Mr. CASTLE. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mr. CASTLE as a substitute for the amendment offered by Mr. NEUMANN: Page 3, line 6, strike "$360,503,000" and insert "$355,903,000".

The CHAIRMAN. Pursuant to the rule, the gentleman from Delaware [Mr. CASTLE] and a member opposed will each be recognized for 5 minutes.

The Chair recognizes the gentleman from Delaware [Mr. CASTLE].

Mr. CASTLE. Mr. Chairman, I yield 1½ minutes to the gentleman from Pennsylvania [Mr. MCHALE].

Mr. MCHALE. Mr. Chairman, today is a day for leadership by example. At a time when we are making very difficult decisions affecting Medicare, student loans, military base closures and low income heating assistance, this is not a time when we can afford to take ourselves off the firing line. I am very pleased to join with my colleague, the gentleman from Delaware [Mr. CASTLE] and my colleague, the gentlewoman from Washington [Mrs. SMITH], in support of this bipartisan reform effort.

Let me first of all define the content of the amendment so that we are clear as to what we are talking about.

The Castle-McHale-Smith amendment simply freezes the amount of money available for the frank at last year's level. The Castle-McHale-Smith amendment cuts $4.6 million from Members' representational allowances signifying a 13 percent reduction in franking funds from the committee recommended amendment for fiscal year 1996. The amendment that we now offer is supported by the National Taxpayers Union and by Common Cause.

Let us be candid in defining the problem. Last year Congress sent out over six times more mail than it received. Two hundred sixty-seven million pieces of mail were sent out by Congress during that period. According to the National Taxpayers Union Foundation, in July and August of 1994 alone Members spent 84 percent more on the frank than during the same months in 1993.

Mr. Chairman, we are making tough choices in balancing the budget. We have a moral and political responsibility to share in carrying that burden. This is a reasonable amendment. It is fiscally responsible, and it demonstrates, as we unfortunately rarely do, leadership by example.

Mr. PACKARD. Mr. Chairman, I rise in opposition to the amendment offered as a substitute for the amendment offered by the gentleman from Wisconsin [Mr. NEUMANN].

The CHAIRMAN. The Chair recognizes the gentleman from California [Mr. PACKARD] for 5 minutes.

Mr. PACKARD. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Chairman, I tell the gentleman from Pennsylvania that, I assume inadvertently, he is wrong. This chart is wrong. It does not apply to franking, it applies to the salaries of the Members, to the Members' staff and what they have committed to. It applies to the computers that they may have already obligated themselves to in terms of purchasing. That is why we ought to go about these changes in an orderly fashion.

I say to my colleagues, I believe you think you're cutting the frank. The way in which the amendment is written, means that this reduction goes to the salary of the staff that you've hired, to the computers that you have already obligated yourself, and/or mail.

Mr. Chairman, I say to my colleagues, Please, let me repeat once more, that this is not a reduction in the frank, you are misrepresenting this amendment. it is not. We cut franking by one-third already in this session—one-third, 33⅓ percent. This is not an amendment to cut franking.

Mr. CASTLE. Mr. Chairman, I yield myself 15 seconds to respond to the gentleman from California [Mr. THOMAS].

Mr. Chairman, I just simply say that because of the representative aspects of the way this is done we can only cut the office budgets as a whole, but clearly every office can take this money as a portion. Over 435 Members is $4.6 million out of the money they would use for franking; it is that simple.

Mr. Chairman, I yield 1 minute to the gentlewoman from Washington [Mrs. SMITH].

Mrs. SMITH of Washington. Mr. Chairman, I rise today to urge my colleagues' support for the Castle-McHale-Smith amendment.

Mr. Chairman, the amendment cuts $4.6 million from the Members' representational allowances, and my intent is to reduce Members' franking.

I want to tell my colleagues a little bit about what happened in the last campaign. My opponent had a flurry of franked mail that came in the last few weeks. Many, many, 499 piece mailings. If they had that much money, they simply did not need it.

I say to my colleagues We have to step up, folks, and start being a part of the budget problem, and what we are doing here is saying, "Take a small, not a significant, but at least small step in good faith to do that."

My colleagues will say, "Well, we are going to go further later."

Well, this says we will because we are not going to put the money in right now. Good words for later just do not cut it, and I understand the intent here is good and strong for those that are working the congressional issues and the budget. But this should fit in real well to any planning to downsize Congress.

□ 1245

Mr. PACKARD. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I simply want to reinforce what the gentleman from California [Mr. THOMAS] said earlier, and that is this amendment does not target the mail account. This amendment applies to all three accounts that Members have. That is very important to know, that you are cutting back on office expense and clerk hire. Frankly, we have given at the office in this bill. It is not necessary for us to cut to the point where we simply cannot do our job.

Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the Committee on Appropriations.

Mr. LIVINGSTON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am reminded that it is very difficult to out reform a reformer, but we are a reform Congress. That is the whole point. That is the point of the November elections. We are reforming.

Now, how much do we have to bleed on the floor to show, to demonstrate, that we are reforming? If you don't watch out, you start making cuts for the sake of cuts to the point that the reform becomes counterproductive. The reform, in essence, then becomes an obstacle to clean, efficient Government. Now, I thought the purpose of this entire effort over the last year, during which the House of Representatives and the Senate changed hands from one party to another, was in fact to pare down Government, to streamline it, and make it more efficient.

Well, it seems to me that the primary amendment here, albeit well-intentioned, from the gentleman from Wisconsin, as well as the amendment to the amendment, the Castle substitute, frankly leaves us in the position that we are not going to be able to reform. We are just going to be able to stand around and show how frugal we should be without really displaying any great deal of sense or wisdom.

The fact is that the gentleman from California has shown that we are cutting the funding for this Congress, and we are paring down on all of our accounts. We are consolidating, we are merging, and we are doing it with a great deal of thought and effort. I commend the gentleman from California and his Committee on Oversight, and I especially commend my other friend from California, Mr. PACKARD, the distinguished chairman of the Subcommittee on the Legislative Branch, for their efforts. They are conscientious and diligent in trying to bring some common sense to Government. They are eliminating agencies. They are downsizing the legislative branch and the Government in general.

But to cut more just to say that we can cut more money is a counterproductive amendment, and it should be defeated. Frankly, it astounds me. If the gentleman is sincere about giving back money to the Treasury and saving money, let him give his own office account back. And I would say that to him and the other gentleman that they can turn their own money back. Any Member in this House can turn back to the Treasury any amount of money you want to get rid of. But do not impede the progress of the House of Representatives by shortsighted cuts that do not make sense.

Mr. CASTLE. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Massachusetts [Mr. BLUTE].

Mr. BLUTE. Mr. Chairman, I rise in strong support of the Castle-McHale-Smith amendment. While I feel, as I am sure Mr. CASTLE does as well, that we need to go further to address the issue of franking, this amendment is an excellent start.

For too long, Members of Congress have used taxpayer financed mail as an extension of their reelection campaigns at the expense of the challengers as well as free and fair elections.

This is not a wild accusation. The piles of newsletters in the House basement just before election cutoffs are a testament to their political nature. Furthermore, in the past decade franking expenditures have risen by as much as 50 percent in election years.

I know my colleague, the gentleman from Delaware, who represents an entire State, agrees that we do not need to send our reams of newsletters to keep our constituents informed. In my first 2 years of service I spent less than $25,000 out of a budget of more than $300,000.

This year it may be even more dangerous because of the unified budget. No longer will Members be constrained strictly by their franking budgets.

I urge my colleagues to adopt the Castle substitute and go even further by calling for comprehensive franking reform along the lines of H.R. 798 which I introduced, or H.R. 923 introduced by my distinguished colleague from Delaware.

Mr. CASTLE. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Delaware [Mr. CASTLE] is recognized for 1 minute.

Mr. CASTLE. Mr. Chairman, in this debate of about 20 minutes these charts have never been answered. We are sending out more mail in election years than at any time, and we are sending out a lot more mail from our offices than we are receiving. The cut we are talking about, which is $4.6 million, is a very small amount.

To the chairman of the Committee on Appropriations, I am proud to say, I spent $10,000 out of $400,000 over 2 years. I did my part to return it to the taxpayers.

This bill is endorsed by the National Taxpayers Union as a key vote, it is endorsed by Common Cause, it applies to all of the accounts of Congress. But if you want to, you can make sure it comes out of your franking portion of your account. There are no questions about that.

Basically it still leaves $4.5 million after we reduce it by $4.6 million in order to accommodate any extra costs which are added in with respect to some of the other aspects of the House which are being closed down.

This is a very simple amendment. It is not a large sum of money. It will not deter in any way the progress we want to make on making deeper cuts. But I believe we should band together to make absolutely sure we are ending or at least reducing this practice, which has been very objectionable. I encourage Members to vote for this amendment.

Mr. PACKARD. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in closing I would simply like to say we have underfunded. This bill underfunds the mail account by $13.3 million below the allowance of the Committee on House Oversight. They just lowered that allowance a few months ago, and we are well below that level. We have cut this allowance to a point where severe restraint is going to be necessary for the Members. For them to have to cut further is beyond restraint, it is fiscal imprudence.

We have an amendment coming up that will further restrain the mail account to where they cannot mail out 90 days before an election, so we are putting more and more constraints on the mail account. We again feel that we have already given at the office in this bill. Let us not devastate each Member's office. I urge the Members to vote against the substitute amendment of Mr. CASTLE. We certainly agree that we need to cut. We think alike. It is just that we feel we have gone far enough in our bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Delaware [Mr. CASTLE] as a substitute for the amendment offered by the gentleman from Wisconsin [Mr. NEUMANN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CASTLE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2 of rule XXIII, the Chair will reduce to 5 minutes the time for a recorded vote, if ordered, on the Neumann amendment, if there is no intervening business.

The vote was taken by electronic device, and there were—ayes 213, noes 215, not voting 6, as follows:

[Roll No. 402]

AYES—213

Allard
Andrews
Bachus
Baldacci
Barcia
Barrett (WI)
Barton
Bass
Becerra
Bentsen
Bilirakis
Blute
Boehner
Bonilla
Brewster
Browder
Brown (OH)
Brownback
Bryant (TN)
Burr
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Coble
Collins (GA)
Condit
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cunningham
Danner
Davis
Deal
DeLauro
Deutsch
Dickey
Dooley
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
English
Ensign
Eshoo
Fawell
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Funderburk
Furse
Gallegly
Geren
Gilchrest
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Hall (TX)
Hamilton
Harman
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Hilleary
Hinchey
Hobson
Hoekstra
Holden
Horn
Houghton
Hutchinson
Inglis
Johnson (SD)
Jones
Kasich
Kennedy (RI)
Kennelly
Kildee
Kim
Kingston
Kleczka
Klug
LaFalce
LaHood
Largent
LaTourette
Laughlin
Lazio
Leach
Levin
Lincoln
LoBiondo
Lofgren
Longley
Luther
Maloney
Manzullo
Martini
Mascara
McCarthy
McCrery
McHale
McHugh
McInnis
McNulty
Meehan
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Minge
Montgomery
Moorhead
Morella
Neal
Nethercutt
Neumann
Norwood
Olver
Orton
Pallone
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pomeroy
Portman
Poshard
Pryce
Quinn
Radanovich
Rahall
Ramstad
Reed
Rivers
Roberts
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Sanford
Scarborough
Schaefer
Schroeder
Seastrand
Shadegg
Shaw
Shays
Sisisky
Skaggs
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spratt
Stearns
Stenholm
Stockman
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Thornberry
Thornton
Thurman
Tiahrt
Upton
Volkmer
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Woolsey
Wyden
Young (FL)
Zeliff
Zimmer

NOES—215

Abercrombie
Ackerman
Archer
Armey
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bateman
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bishop
Bliley
Boehlert
Bonior
Bono
Borski
Boucher
Brown (CA)
Brown (FL)
Bryant (TX)
Bunn
Bunning
Burton
Buyer
Callahan
Calvert
Clay
Clayton
Clement
Clinger
Clyburn
Coburn
Coleman
Collins (IL)
Collins (MI)
Combest
Conyers
Cooley
Coyne
Cubin
de la Garza
DeFazio
DeLay
Dellums
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Doolittle
Ehlers
Ehrlich
Emerson
Engel
Evans
Everett
Ewing
Farr
Fattah
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Foglietta
Frank (MA)
Frelinghuysen
Frisa
Frost
Ganske
Gejdenson

Gekas
Gephardt
Gibbons
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gutknecht
Hall (OH)
Hancock
Hansen
Hastert
Hastings (FL)
Heineman
Herger
Hilliard
Hoke
Hostettler
Hoyer
Hunter
Hyde
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kelly
Kennedy (MA)
King
Klink
Knollenberg
Kolbe
Lantos
Latham
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
Lowey
Lucas
Manton
Markey
Martinez
Matsui
McCollum
McDade
McDermott
McIntosh
McKeon
McKinney
Meek
Menendez
Miller (FL)
Mineta
Mink
Molinari
Mollohan
Moran
Murtha
Myers
Myrick
Nadler
Ney
Nussle
Oberstar
Obey
Ortiz
Owens
Oxley
Packard
Payne (NJ)
Pelosi
Pombo
Porter
Quillen
Rangel
Regula
Reynolds
Richardson
Riggs
Roemer
Rogers
Rose
Roth
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sawyer
Saxton
Schiff
Scott
Sensenbrenner
Serrano
Shuster
Skeen
Skelton
Slaughter
Spence
Stark
Stokes
Studds
Stump
Stupak
Taylor (NC)
Tejeda
Thomas
Thompson
Torkildsen
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Vucanovich
Waters
Watt (NC)
Waxman
Whitfield
Wicker
Williams
Wise
Wolf
Wynn
Yates
Young (AK)

NOT VOTING—6

Gunderson
Kaptur
Moakley
Schumer
Torres
Wilson

□ 1313

The Clerk announced the following pair:

On this vote:

Mr. Gunderson for, with Mr. Moakley against

Mr. BRYANT of Texas, Mrs. LOWEY, and Mr. RUSH changed their vote from "aye" to "no."

Mr. DICKEY, Mr. ZELIFF, Ms. FURSE, Mr. PALLONE, Ms. DELAURO, and Messrs. CREMEANS, SMITH of Texas, LAFALCE, LAZIO of New York, PAXON, and STOCKMAN changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

Mrs. MYRICK. Mr. Speaker, on June 21, 1995, during consideration of H.R. 1854, the Legislative Branch Appropriations Act for fiscal year 1996, I am on record as having voted "nay" on rollcall vote No. 402, offered by Representative MICHAEL CASTLE. This amendment addressed funds for Members' official mail expenses, reducing them by $4.6 million. The Castle amendment was offered as a substitute to Representative MARK NEUMANN's amendment, which would have reduced Members' representational allowances by $9.3 million.

I felt Representative NEUMANN's amendment was a more fiscally responsible proposal, as it offered a greater reduction in funding—and did not focus solely on Members' official mail expenses. I, therefore, voted against the Castle substitute, and intended to vote in favor of the Neumann amendment when it was brought up for a rollcall vote.

Unfortunately, a recorded vote was not allowed on Representative NEUMANN's amendment, due to a technical parliamentary procedure and the Chair failed the amendment by a voice vote. Therefore, I would like to state for the record, Mr. Speaker, that had a recorded vote been called for the Neumann amendment—reducing funds in the legislative appropriations bill for Members' representational allowances by $9.3 million—I would have voted "aye."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. NEUMANN].

The amendment was rejected.

□ 1315

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 104–146.

AMENDMENT OFFERED BY MR. GUTIERREZ

Mr. GUTIERREZ. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GUTIERREZ: Page 3, line 6, insert before the period the following: ": *Provided*, That no such funds shall be used for the purposes of sending unsolicited mass mailings within 90 days before an election in which the Member is a candidate.".

The CHAIRMAN. Pursuant to the rule, the gentleman from Illinois [Mr. GUTIERREZ] and a Member in opposition will each be recognized for 5 minutes.

Mr. FAZIO of California. Mr. Chairman, I am opposed to the amendment, and I seek to control the time in opposition.

The CHAIRMAN. The gentleman from California [Mr. FAZIO] will be recognized for 5 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Illinois [Mr. GUTIERREZ].

Mr. GUTIERREZ. Mr. Chairman, my amendment would prohibit mass mailings within 90 days of an election. As all Members are well aware, a prohibition currently exists barring such activities from occurring 60 days before an election.

In its simplest form, this amendment is an extension of that limit.

But, it is more than that.

It is a sign to an American public hungry for change that we are ready to implement reform.

It is a sign that we are more interested in doing the people's business rather than our own political business.

This additional 30 days makes sense. Common sense.

We have all been through campaigns. As candidates. And as voters.

So, we know what happens when it's 65 or 70 or 75 days before election day. In some ways, it's not so different from what happens right before election day.

That is the point.

Here is an example. Most years, Labor Day falls in that block of time that is currently unrestricted by franking prohibitions.

Now, for a lot of people, Labor Day's a holiday. But, for any candidate hoping to keep his office, that's a day to labor—it is the heart of campaign season.

And, most years, we are on the stump even earlier than that. The "dog days of August" are often the red hot days of a tough campaign.

Unfortunately, under current guidelines, it is entirely possible that your district-wide newsletter, sent at the taxpayers expense, hits the mailbox at the same time as a challenger's direct-mail campaign piece.

That is not fair.

It is not fair to voters who deserve a campaign based on the power of ideas, rather than the power of incumbency.

And, you know what? As long as these double standards exist, it is not fair to us. It's not fair that Congress is perceived as inactive on reform.

But today is our change to erase part of that perception.

I offer this amendment in the greatest spirit of bipartisanship.

I want to thank members of both parties on the Rules Committee who made this amendment in order. I know that many Republicans have introduced reforms of this nature—including my friend, JACK QUINN of New York.

And, at the same time, this amendment is in keeping with the franking reforms initiated by the Democratic leadership—by Mr. FAZIO and others—that have led to great savings.

Since 1991, when some crucial reforms in franking were first put in place, a considerable sum of taxpayer funds has been saved—to the tune of over $190 million.

I believe it is accurate that the trend I have just mentioned would continue and even accelerate with new reforms like this one.

Regardless of those trends, let us just try to estimate cost savings this way.

In 1994, an election year, House mail costs were $42 million.

Let us ask: Did mass mailings—especially those sent in the heat of an election in late summer or early fall—account for half of that money?

A quarter? A tenth?

If they even accounted for just under 5 percent of such funds, then that equals $2 million.

Two million bucks of the taxpayers money. That is a conservative estimate—and I am not usually a conservative.

And, if you are looking for a couple of outside authorities on this matter, I think it's worth noting that the National Taxpayers Union—a group committed to cost savings—has pledged their support of this amendment.

And, Public Citizen, a group well-known for its work on reform, also supports my amendment, because they see it as an important step—a first step—toward better government.

Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. QUINN].

Mr. QUINN. Mr. Chairman, I appreciate the time being yielded by my friend, the gentleman from New York.

Mr. Chairman. I am pleased to support the amendment offered by Congressman GUTIERREZ to prohibit congressional unsolicited mass mailings within 90 days of an election.

Last year, I successfully offered an amendment to this bill, along with my colleague, Mr. POMEROY, to cut congressional franking allowances by $4 million. The franking allowance, therefore, was reduced from $35 million to $31 million for House Members.

There is quite a bit of talk in Washington about reducing the cost of Government. If Congress is ever going to be successful in getting Government spending under control, it first must reduce its own expenses.

I consider the ability to communicate with my constituents to be very important. Nevertheless, when I first ran for Congress in 1992, I pledged not to send mass mailing within 6 months of an election. I have kept that promise throughout my tenure in Congress and it has worked very well.

This amendment only prevents Members from sending mass mailings within 3 months of an election. By restricting myself from mailing within 6 months, twice the amount of time involved in this amendment, I have shown that this approach not only works, but is not overly restrictive.

I invite my colleagues to support this amendment. I also encourage all of you to join me in an effort to restore credibility to this body by voluntarily withholding mass mailings within 6 months of an election.

Mr. GUTIERREZ. I reserve the balance of my time, Mr. Chairman.

The CHAIRMAN. The gentleman from Illinois [Mr. GUTIERREZ] has 1 minute remaining.

Mr. FAZIO of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, let me begin by saying it was a number of years ago that we moved from 30 days to 60 days, and then under the leadership of the gentleman from California [Mr. THOMAS] who, by the way, should have jurisdiction of this issue within his committee, the Committee on House Oversight, we made sure people were not allowed to mail simply by delivering their printing to the Post Office and having it go out after the 60-day deadline was thought to be in place. In other words, if it is not postmarked before 60 days before the election, it cannot go.

Mr. Chairman, we have occasionally had problems where people did mail after that date, but the effect of the Thomas amendment, I think, has gone a long way to cleaning up the problem that some of our colleagues continue to be concerned about.

Mr. Chairman, let me just simply say that now, as we move to a contracting out concept with the folding room, Members will be dealing with literally hundreds of printers here and, I suppose, in their districts, so there will be no overruns of the 60-day period, which has occurred because of the heavy load of printing going through simply 2 printers, one for the minority and one for the majority.

More importantly, Mr. Chairman, if we move to 90 days, it would mean that Members with late primaries would be completely unable to send even community meeting bulletins, even notices of townhall meetings, for as long as 6 months at a time.

Perhaps this is acceptable to some Members, but it seems to me that in the 6 months prior to our ability to go before the voters in November, there ought to be some opportunity for Members to communicate directly and personally with their constituents. I think we would end up, frankly, if we had a 90-day period, with a much more expensive mailing scheme even from normal purposes, even for those communications that go out to inform constituents of what the Congress has indeed accomplished.

As we all know, much of what we do will not be known until the last few months before we leave here in the second year of the congressional session. Much of the reason for this saw-tooth effect that Members saw earlier on the chart is that while certainly elections are a factor in Members' thinking, just as important is the desire on the part of each Member to communicate the accomplishments or the failings of Congress, whatever they may have done on the issues that they said to their constituents they were to focus on in the second year of a Congress, when much of the work that we are engaged in comes to a close.

Mr. Chairman, it would it seems to me that this amendment, pushing us out 30 more days, is much more than is appropriate. I would urge that it be defeated.

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, I would simply like to add to what the gentleman from California [Mr. FAZIO] said. Those who have late primaries, in September, would not be able to send anything out for a long period of time during a general election and a primary election campaign. Also, Mr. Chairman, an early primary would force Members to do their mailing during the holiday season. That is not a good time to communicate with your constituents. Therefore, I think there are some reasons for Members to be very concerned about this provision of extending it an additional 30 days.

Mr. GUTIERREZ. Mr. Chairman, I would ask how much time remains.

The CHAIRMAN. The gentleman from Illinois [Mr. GUTIERREZ], has 1 minute remaining, and the gentleman from California [Mr. PACKARD] has 1½ minutes remaining.

Mr. GUTIERREZ. Mr. Chairman, I yield 75 percent of that time, 45 seconds, to the gentleman from California [Mr. THOMAS], and I will keep 15.

Mr. THOMAS. First of all, Mr. Chairman, I want to thank my colleagues for voting with us on the last amendment. It creates an orderly process in making change, and I want to thank them.

I was the author of the 60-day postmark cutoff, because I thought that was what the law was supposed to be. I will tell Members that I am rising in support of this particular amendment because it does not create disorder. Since we are getting rid of the folding room at the end of August, the decision to go to 90 days from 60 days is basically a philosophical one. I would ask the Members to ask themselves whether they think it is appropriate or not.

I would say that a September primary now, because of the 60-day cutoff, does not allow Members to mail between September and November, anyway. That is not an argument for this amendment. Members can send notice through newspapers and other means for town hall meetings. It does not have to be unsolicited mass mail. Therefore, this would not be disruptive, and I would support it.

Mr. GUTIERREZ. Mr. Chairman, I yield myself the balance of my time.

No. 1, I think we can organize our mailings. People are watching us right now as we speak. I just want to say that I offer this amendment because I think it is important for the House to reform itself before the people reform us and demand these reforms. I think that is what a lot of the elections, at least the last two election cycles, have been about. I encourage everybody to support this amendment.

Mr. FAZIO of California. Mr. Chairman, I yield myself such time as I may consume.

I will just conclude, Mr. Chairman, with the comment that I think all of us who attempted to get people together at a townhall meeting relying on the good offices of local newspapers have found that to be a wanting approach. We do need to let people know when we are available for constituent consultation or for just the give and take on the issues. It seems to me to have 90 days before a primary and 90 days before a general election makes it almost impossible for Members to adequately communicate during the second year of a congressional session.

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Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. FAZIO of California. I yield to the gentleman from California.

Mr. THOMAS. Mr. Chairman, I will tell the gentleman that the Committee on House Oversight is working on the possibility of creating public service announcement-type purchases on the radio and other media, as a point of information, beyond mail, for the townhall meetings.

I appreciate the gentleman yielding.

Mr. FAZIO of California. I appreciate that comment. I certainly think we should take a look at doing something to mitigate for this before we act on it, in the absence of any alternative. Therefore, I would urge that this amendment be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. GUTIERREZ].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 4 printed in House report 104–146.

AMENDMENT OFFERED BY MR. FAZIO OF CALIFORNIA

Mr. FAZIO of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FAZIO of California: Page 15, line 8, strike the colon and all that follows through "1986" on line 10.

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. FAZIO] and a Member opposed will each be recognized for 5 minutes.

Mr. PACKARD. Mr. Chairman, I rise in opposition to this amendment.

The CHAIRMAN. The gentleman from California [Mr. PACKARD] will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Chairman, I think this issue has been debated probably more extensively in the general debate than the 10 minutes we have to debate it now would permit.

Mr. Chairman, I yield 1 minute to the gentleman from Florida [Mr. GIBBONS].

Mr. GIBBONS. Mr. Chairman, there is an old saying, "If it ain't busted, don't fix it." The Joint Committee that does the auditing work, looks over the work of the IRS, is not busted. I have been associated with it for about 30 years now. I have never heard one single complaint about their work.

Let me repeat that. In the 30 years I have followed the work of the Joint Committee on Taxation, overseeing the IRS on refunds, I have never heard of one single complaint from either a taxpayer or from anybody involved in the tax-gathering business. It is highly professional. It is nonpartisan. It is something that needs to be done. The Congress set it up that way a number of years ago.

It has worked well. We should not destroy what works well. This is a very controversial area of the law. I think anybody who is connected with the Code realizes that the IRS Code is very complicated and requires some very technical information. These are the people who know it and they do it well. Don't fix it.

Mr. PACKARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do not disagree at all with the previous speaker, and I do not believe that it really is broken. I believe that we did treat the Joint Committee on Taxation very favorably in this bill. We did not change anything.

According to the colloquy and my understanding of the language in the bill, it simply confirms something that is important in terms of its function. We simply do not want the Joint Committee on Taxation to determine tax returns and refunds. We think that that is addressed in the bill. The colloquy I think addressed that.

Frankly, I do not know that this amendment will do anything differently than what is already done. In the interest of time, I would simply ask the gentleman from California to withdraw his amendment and let it ride the way that the colloquy followed, but I will leave that to his judgment.

Mr. Chairman, I reserve the balance of my time.

Mr. FAZIO of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I do continue to offer the amendment, not because I at the moment am convinced that the plans of the gentleman from California [Mr. PACKARD] are pernicious or would in any way be intentionally undermining the role of the Joint Committee, but I have yet to hear a rationale for the language that has been offered.

I say that because in the earlier colloquy there was no problem cited, no indication that we had a lack of clarity about the powers of the executive or the legislative branch, no problem that had been presented in terms of the role the Joint Committee on Taxation has performed in this area.

There is no question that they have performed admirably. They have, I think, saved the taxpayers countless millions of dollars, and will in the future. The chairman of the Committee on Ways and Means testified that he felt the process was working well and that this language in effect when it was discussed, not at that time offered, was perhaps going to be somewhat confusing.

I do not really think that the Packard amendment, as it is currently worded and currently interpreted by the gentleman from California [Mr. THOMAS] in the earlier colloquy, does anything at all.

What I would suggest is we simply leave the language out. If the intent was not to interfere with the processing of audits at the Joint Committee on Taxation, then I think we should be silent on this issue. This is an opportunity for the Members, I think, to register support for the work of the Joint Committee in this regard and for the oversight function that Congress must provide over the Internal Revenue Service.

As the Commissioner of Internal Revenue has said, this is not simply an oversight function but one that helps the two entities educate themselves about new approaches that have been taken by countless attorneys and accountants to in many ways short the American taxpayers on a proper filing of their corporate returns. Ninety-two percent of these returns are corporate.

I am urging my colleagues to vote down this amendment. I think it would be the most effective way to say we support the status quo. If at some point I am presented with some facts that show we are in disarray or disagreement between the two branches, if the Joint Committee has gone too far, if IRS thinks there is somehow some confusion about their role to actually be the final say on any given return, then I think we could revisit this in a future Congress.

At this point, I reserve the balance of my time, but reaffirm my desire for this amendment to be defeated. I would hope perhaps that the gentleman from California [Mr. PACKARD] could withdraw it, because if he does not believe that this will do anything, I do not know that we need to present the amendment.

Mr. PACKARD. Mr. Chairman, if I have done anything, I have confused the gentleman from California. It is his amendment, not mine, and I think he wants a "yes" vote, not a "no" vote.

Mr. FAZIO of California. I am opposed to the language as placed in the bill. And the gentleman does correct me.

Mr. PACKARD. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FAZIO of California. Mr. Chairman, I yield back the balance of my time and ask for an "aye" vote on my amendment to remove the language that I would hope the gentleman from California [Mr. PACKARD] would voluntarily withdraw, should he succeed in this vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. FAZIO].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 104-146.

AMENDMENT OFFERED BY MR. FAZIO OF CALIFORNIA

Mr. FAZIO of California. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. FAZIO of California: Page 19, after line 13, insert the following:

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92-484), including official reception and representation expenses, expenses incurred in administering an employee incentive awards program, and rental of space in the District of Columbia, $18,620,000.

The CHAIRMAN. Pursuant to the rule, the gentleman from California [Mr. FAZIO] and a Member opposed will each be recognized for 5 minutes.

Mr. PACKARD. Mr. Chairman, I rise in this instance in strong opposition to the amendment.

The CHAIRMAN. The gentleman from California [Mr. PACKARD] will be recognized for 5 minutes.

The Chair recognizes the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of, obviously, an amendment that I think is important to restore the Office of Technology Assessment to that group of agencies that have shown an outstanding ability to assist this Congress in its workload.

There is no question in my mind that this is an organization that, if eliminated, would be seriously missed by this institution and I think by the people who elect us and send us to Washington to serve every 2 years.

Mr. Chairman, this is a very complex world we are part of. Many of us are trained in the social sciences and humanities. We are not physicists, chemists. There are very few of us that have scientific degrees. Yet we as a Congress, in almost every committee of jurisdiction, are assigned a responsibility of very frequently, particularly in the appropriations process, making fundamental judgments about questions relating to science and technology that are beyond our ability to understand without the assistance of people who are expert.

What have we done? Instead of going out and hiring a group of people who are standing by to advise us, we have created a small entity with a core staff that works with thousands of people, from the academic world, from the private sector, from national laboratories, from any number of places where scientists are employed in this country, to help us solve the problems that come to us on a regular basis. We have had this agency, which has a $22 million budget, pay for itself hundreds of times over by giving this Congress the kind of advice it needs to prevent mistakes from being made.

Some are, anyway. We have not always used OTA to the extent we should. But my suggestion is, rather than eliminate it, let's let the new majority, if they are so inclined, to change it, to reform it, to mold it, to make it more useful. I think this meat ax approach should be rejected.

Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BROWN], a member of the board of OTA.

Mr. BROWN of California. Mr. Chairman, I have been associated with the OTA since the hearings which led to its creation back in the 1960's, and I have been on the board for some time.

Mr. Chairman, I would concur in everything that the distinguished gentleman from California has said about the merits of the OTA. It is today a better organization than it has ever been. It is headed by one of the finest, most capable Members of the House, the gentleman from New York [Mr. HOUGHTON], who is, and I have said this publicly, the finest chairman the board has had in my experience, and I hope he will have an opportunity to continue.

The value of the work that is done I have illustrated here. I have brought with me some of the reports; the most recent, National Space Transportation Policy, dealing with critical issues in the Space Program which will require expenditures of billions of dollars, and on which most Members of this House will not be able to make informed decisions without the kind of advice and assistance that these reports represent.

I think it would be tragic to eliminate the agency at this time. I very strongly urge support for the amendment of the gentleman from California to restore the funding.

Mr. PACKARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in our efforts in this bill we have genuinely tried to find where there is duplication in the legislative branch of Government. This is one area where we found duplication, serious duplication. We have several agencies that are doing very much the same thing in terms of studies and reports.

I served on the Subcommittee on Science of the Committee on Science, Space, and Technology for many, many years in this institution, and I am aware of the invaluable service of OTA, but there are other agencies that do the same thing. The CRS has a science division of their agency. GAO has a science capability in their agency. They can do the same thing as OTA.

We evaluated how to best consolidate, and it was our conclusion as a committee that to eliminate OTA and absorb the essential functions into some of these other agencies that are going to continue was the best way to go.

If the Members of Congress really feel that duplication and additional bureaucracies with additional personnel and office space and cost are the way to go and status quo is the way to go, then they would want to vote for this amendment, but I do not believe the committee nor the House feels that that is the way to go. We ought to eliminate those agencies where duplication exists. This is one of those areas.

Mr. Chairman, I admit OTA has done a good job. They have good, solid professionals, but those professionals can work with other agencies that will do those same functions, if they are essential. We also have the CRS, GAO, and other agencies, such as the National Academy of Sciences. There are many alternatives, or this work can even be privatized and contracted out for the services. But we do not need this agency that has now outgrown its usefulness, has now increased its mission to other areas beyond science. I feel that the committee has done the right thing, and would strongly urge a "no" vote on this amendment.

Mr. FAZIO of California. Mr. Chairman, I yield 1 minute to the gentleman from Colorado [Mr. SKAGGS].

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Mr. SKAGGS. Mr. Chairman, this is a very important issue and I urge the Members to support the amendment offered by the gentleman from California [Mr. FAZIO]. So much of the work of this place now goes on really in a second language, the language of science and technology, whether it is space issues or research issues or environmental issues.

Without OTA, essentially, to do simultaneous translation of the language that is very inaccessible to most of us who have not been trained in technical fields, we will essentially be engaging in an act of unilateral disarmament on very, very key national issues.

Far from being a luxury that we could do without, this is a necessity that we would be foolish to try to do without. The idea that there is play or leeway in the budgets of any of the other support agencies, GAO or CRS, is simply not true. Those budgets are being held static. There is no place else to put these functions. We need to keep them alive and well at the OTA.

Mr. PACKARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me simply say that this is over $18 million that would be added back into the budget. If we are serious about deficit reduction and balancing the budget, then it really needs to start with Congress itself, and this is an agency of the Congress itself.

We believe that the American people would be very pleased to see Congress eliminate, certainly, the duplication and the bloat of the bureaucracy that we have created for ourselves over the years. Surely we can do without agencies that duplicate the same service.

It is not a question of whether the science reviews and studies will be done or the reports will be done. It is a question of whether we want two or three or four agencies doing essentially the same work. So I urge my colleagues to save this $18 million, and not add it back as this amendment would do.

Mr. FAZIO of California. Mr. Chairman, I yield myself such time as I may consume.

I want to make it very clear, I am going to be supporting my colleague, the gentleman from New York [Mr. HOUGHTON], who will be offering a substitute in just a few seconds. That amendment, I think, is a compromise which does allow CRS to absorb OTA for purposes of getting us to conference.

I will be honest, I do not want to draw down the Library of Congress' budget for this purpose, and I would request that none of my colleagues vote against this amendment out of any concern for the library. We still have $26 million allocated by the full committee that has not been used. That will be enough to absorb what the gentleman from New York [Mr. HOUGHTON] expects to spend in the library.

There is no question that OTA is accountable and should be reformed if Members of the majority feel it should. But I think the amendment that my colleague from New York is offering allows OTA to go through that process of reform under his stewardship and will put us in a position to continue to benefit from the expertise that we have reposited at OTA over the last decade plus.

AMENDMENT OFFERED BY MR. HOUGHTON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FAZIO OF CALIFORNIA

Mr. HOUGHTON. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The CHAIRMAN. The Clerk will designate the amendment offered as a substitute for the amendment.

The text of the amendment offered as a substitute for the amendment is as follows:

Amendment No. 6 offered by Mr. HOUGHTON as a substitute for the amendment offered by Mr. FAZIO of California: Page 23, line 18, strike "$60,083,000" and insert "$75,083,000".

Page 26, line 19, strike "$211,664,000" and insert "$195,076,000".

The CHAIRMAN. Pursuant to the rule, the gentleman from New York [Mr. HOUGHTON], and a Member in opposition, the gentleman from California [Mr. PACKARD], will be recognized for 5 minutes.

The Chair recognizes the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, I yield myself such time as I may consume. I will speak briefly because other Members want to express themselves.

I have spoken earlier on the floor regarding the OTA. I believe it is critically important for this Nation to know what is going on in the business of technology and science into the 21st century. This is the only unit we have to advise this Congress, to work hand in hand with the scientists of this country and know what is there, and if we eliminate it, we go blindfolded, and I think that is wrong.

Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. OXLEY], who also is a member of the OTA Board, who would like to express himself.

Mr. OXLEY. Mr. Chairman, I also rise in support of the Houghton amendment. I have had a great experience working on the Board at OTA. I have learned a lot. And what I have learned is this, that the information that we get as Members of Congress making policy is getting more and more technical and more and more difficult. And OTA has done yeoman's work in providing that kind of information.

One example, we had a bill last year, if you will recall, dealing with wiretapping. We worked with the FBI, we worked with the telephone companies, to craft a bill that would allow the FBI and other law enforcement agencies to deal with the very real problem of using legal wiretaps on the new technology.

We asked OTA to determine how that technology will result in either excessive or not excessive costs in implementing that program. It was a very important study. We just got the interim report back. We would expect the final report back relatively quickly. That will give us an idea about how that new technology will work and the ability of law enforcement to protect us from the kind of situation that occurred in Oklahoma City.

I think it is important that OTA be made part of this proposal. I support the Houghton amendment.

Mr. Chairman, I rise today in support of this amendment to restore funding for the Office of Technology Assessment.

While I am a relative newcomer to OTA's operations, I have been impressed with what I have observed. In addition to being on OTA's governing board, I am also one of its clients as a member of two subcommittees of the House Commerce Committee. In September I asked the OTA to take on a complicated job for the Subcommittee on Telecommunications and Finance; namely, to figure out the costs to the telecommunications industry of meeting law enforcement needs under the requirements of the Communications for Law Enforcement Act.

The problem we had during the debate over the act, was that the telephone industry and the FBI had widely different ideas on costs. To understand these costs and whose numbers might be best, we quickly figured out that we needed to know a lot more about the technology than we did. And neither we nor our staffs has the time to do the necessary digging. So we turned to the OTA.

What I discovered was a wealth of knowledge and insight related to the whole field of telecommunications. OTA, I found, has already completed numerous studies upon which we could draw and there was knowledgeable staff to quickly take on our task. I already have their preliminary results in hand and I expect the final report next month.

As chairman of the Subcommittee on Commerce, Trade, and Hazardous Materials, I will be using OTA's expertise again. OTA's analysis of the Superfund Programs will be important as efforts begin in the Congress to completely revamp this program. Just last week, OTA provided important testimony before my subcommittee, and is continuing to produce analysis to help in rewriting Superfund legislation.

I know that these limited experiences of mine are not unique. Countless other subcommittees and committees are continually tapping into OTA's knowledge base and expertise. At this time, when we are contemplating massive changes in the way this country is run, I think we need the best information and analysis available. With this in mind, I hope that my colleagues will carefully consider the OTA's irreplaceable expertise to Congress and support this amendment.

Mr. PACKARD. Mr. Chairman, I yield myself such time as I may consume.

I rise in opposition to the amendment and would like to make some observations. The one area that services the Congress and the country perhaps best of all in the legislative branch of Government is the Library of Congress.

There is not any Member of Congress that I know of that has any desire to limit or to cut back the Library of Congress. In fact, it is the one agency in our bill that we have struggled to remain whole and to provide for them even a modest increase.

It is the most valuable resource I think the Members of Congress and the country have relative to the providing and preservation of information.

This cut to the Library of Congress, a cut of over $16 million, over $16.5 million, would cut 306 full-time employees, it would be an 8.1-percent cut in this particular area. And it would also limit or cut back on the time that the reading rooms would be open for the public, according to the Librarian.

It would also reduce their cataloging facilities by 25 percent and if they cannot catalog, then other libraries throughout the country cannot use or access the bibliographic records. It would cut back on the preservation of collections by 15 percent to 20 percent. That is 40,000 to 50,000 items that would not be preserved and would be lost because of paper or binding deterioration. And it would cut back on the law library services of the Library of Congress which is arguably the most important collection of legal materials in the world. The processing of library materials would be cut back.

I received two phone calls from the Librarian, Dr. Billington, within the last 24 hours and he strongly urges a "no" vote on this amendment. And I strongly urge a "no" vote on this amendment.

Mr. FAZIO of California. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. I yield to the gentleman from California.

Mr. FAZIO of California. I wish Dr. Billington had called me. He did not, obviously, as the author of this amendment. The Library is not going to suffer if we deal with their needs in conference. There is no other way in a revenue-neutral sense that we could begin to help OTA unless we went to the one agency that was plussed up in this bill, the Library. Dr. Billington needs to understand the context in which this bill is being offered.

Mr. PACKARD. I think it is clear that this substitute amendment unquestionably will penalize the Library of Congress by over $16.5 million. I think that it is unconscionable to transfer these funds out of the Library. I would much prefer to see the OTA be absorbed into the Library of Congress, as this amendment does, but let the CRS absorb that workload and eliminate the costs at OTA.

Mr. Chairman, I reserve the balance of my time.

Mr. HOUGHTON. Mr. Chairman, I yield myself such time as I may consume.

I would just like to respond a minute. This is a rather new argument, and it comes about because of the absorption of the costs. I, myself, have also talked to Dr. Billington. I explained our situation. I think he understood. I cannot speak for him, but I thought he did.

Mr. Chairman, I yield 1 minute to the distinguished gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I am certainly supportive of the gentleman from California [Mr. PACKARD] and the work that his subcommittee has done, but I must say in this situation I do wholeheartedly support the substitute amendment offered by the gentleman from New York [Mr. HOUGHTON].

It cuts 50 of 190 jobs. It cuts the budget by 32 percent, from $22 million down to $15 million. And it folds its functions into the Congressional Research Service. So we cut down on the money, we cut down on the personnel, we downsize to the bone, but we do not lose the function.

It just seems to me in this era of fiber optics and lasers and space stations, we need access to an objective, scholarly source of information that can save us millions and billions. We should not eviscerate everything that makes us a more effective Congress. So, I support the Houghton amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. PACKARD. Mr. Chairman, I yield myself such time as I may consume.

The largest science project that has come before this Congress and before the country was the superconducting super collider project. OTA refused to do a study and a review and a report on that project.

Subsequently, and I cannot fault the lack of a report and a study, but subsequently, there has been billions of dollars lost on that project because it did not go to fruition in the State of Texas.

There are reports that have come late after the report was of no value. So there are some flaws in the process. It is not an agency without its problems. But I do not believe that we have to retain an agency if we retain the essential functions of the agency. And that is what we are proposing to do.

It is not that the functions will not be done that have to be done. But if the Members of Congress are serious abut downsizing Government, if they are serious about cutting costs, they ought to start with themselves, and the committee has, in their judgment, felt that this is a place to start.

Mr. Chairman, I reserve the balance of my time.

Mr. HOUGHTON. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, in a time when we are talking about risk assessment and cost-benefit analysis, getting the Congress the best possible information we can get is a very important undertaking. And having OTA to provide that kind of assistance to the Congress is absolutely indispensable.

OTA, because of the fine technical work and because of the careful research which it has done on advanced questions involving technology and advanced information systems, has saved the Congress literally hundreds of millions of dollars over the time of its existence.

To cut it back at a time when other nations are beginning to recognize the importance of this kind of advice to a legislative body would be a great shame, and would indeed cost us vastly more than any piddling savings that could be made by eliminating that agency. I would urge my colleagues to recognize this is a cost-benefit, efficient, and desirable step in continuing the existence of OTA.

Mr. HOUGHTON. Mr. Chairman, I yield 1 minute to the distinguished gentleman from New York [Mr. BOEHLERT].

Mr. BOEHLERT. Mr. Chairman, I rise in strong support of this amendment to preserve the Office of Technology Assessment [OTA] I fail to see precisely what problem the elimination of OTA is supposed to solve.

Is the problem that we suffer from a surfeit of clear, objective, analysis on the complex technical issues confronting the Nation? Is the problem that we expect that the questions facing the Congress are likely to become simpler and less related to technology? Is the problem that as individual Members we have more time, energy, and staff to delve into perplexing scientific and technical materials?

Obviously, the answer to all these questions is a resounding no. And for that reason, the response to the proposal to eliminate OTA should also be a resounding no.

OTA is the Agency that gives Congress half a chance at making sense of the growing welter of complex, technical issues we must consider. Without OTA, we will be ever more at the mercy of special interests, who appear at our doors with their particular take on the issues, their own tailored explanations, their specifically crafted data.

Now of course I know why some Members want to eliminate OTA—to save a little money. But as I have said before, the public has asked us to do more with less—not to do more knowing less. There are other items we should examine before limiting our access to the most precious commodity in Washington—reliable information.

The writer Kurt Vonnegut once defined the "information revolution" as the ability of human beings to actually know what they are talking about, if they really want to. OTA has given us the ability to participate in that revolution. It is a revolution we should embrace, not reverse. Support this amendment, and support the ability of Congress to know what it is talking about.

Mr. HOUGHTON. Mr. Chairman, I yield 1 minute to the distinguished gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I thank the gentleman for yielding time to me, and I rise in strong support of the Houghton amendment.

I think it really does not make a whole lot of sense as we move into a more technologically driven era to be taking away the tool that really give us in Congress the opportunity to assess the effectiveness or ineffectiveness of various technologies. I know as the chairman of the Committee on Government Reform and Oversight that we rely, in doing that oversight as to the effectiveness of programs, OTA provides us with invaluable information.

□ 1400

So, you know, we seem to be going in the wrong direction when we really are going to have a much more scientifically, technically driven society, to be taking away the resource that enables us to make rational decisions as to what we should be investing in.

I think it would be a terrible mistake to do away with OTA entirely.

Mr. PACKARD. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, let me make it clear to the Members of the House this vote is a vote to determine whether there is a serious commitment to downsizing our own agencies and starting downsizing Government right here within our own legislative branch.

On the Houghton amendment, the real choice is whether you want to downsize in the Library of Congress or whether you want to downsize OTA. The committee has studied this very carefully, and we have come to the conclusion that to eliminate an agency where the services could be rendered and done in another agency is a good move.

We think we have made the right choice. We hope the Members of Congress will recognize that we are not eliminating the review process and the study process and the reporting process for science issues. It is simply a question of whether it is done in one agency or another.

We think the Library of Congress can do it under the CRS. We think other agencies could do it. We do not think we need to preserve every agency that is current.

There is no question in my mind that the status quo is not always the best. In this instance we think it is time for a change.

We strongly urge that the Members of Congress vote to eliminate OTA, and to allow other agencies to do those functions that must be preserved and protected.

Mr. WALSH. Mr. Chairman, I rise in support of the amendment by my good friend AMO HOUGHTON to transfer $15 million in funding to the Congressional Research Service for the transfers of functions and personnel from the Office of Technology Assessment [OTA]. Efforts to eliminate funding for this program are a short-sighted move that Congress will regret as the OTA is an invaluable resource in determining the budgetary impact of new scientific developments.

The OTA is a bipartisan agency that relies on technical and scientific expertise from a broad cross-section of industry, academia, and other well-respected institutions. The reports that OTA submit to congressional committees are thorough, top-notch documents that provide expert guidance in advising how Congress should adapt to emerging technologies.

Furthermore, OTA is an efficient, unbiased organization that has made recommendations which have saved the U.S. Government millions of dollars. For example, the OTA's study of a Social Security Administration plan to purchase computers helped save the Government $368 million. Other OTA recommendations have been influential in public policy decisions. OTA's reports on preventative Medicare services validated the benefits of mammography screening in the elderly. Another study demonstrated how cost prohibitive it would be to institute cholesterol screening in the elderly.

The point I am trying to make is that OTA is a proven organization that provides tangible benefits, expertise, and savings to Congress. Efforts to eliminate all of the functions and personnel of the OTA are misguided and I urge my colleagues to support the Houghton amendment.

Mrs. MORELLA. Mr. Chairman, I rise in support of this effort to restore funding for the Office of Technology Assessment [OTA].

As the chair of the Science Subcommittee on Technology, I can attest to the importance of OTA. It provides in-depth analyses of science and technology issues for Congress on a bipartisan basis. Reports are initiated only after OTA's congressional governing board, consisting of an equal number of Republicans and Democrats, agrees to proceed.

OTA is a small agency that is able to do its job effectively because of its access to expertise from across the country, calling on industry, academia, and other experts to obtain free assistance. It has voluntarily reduced its management staff by 40 percent since 1993, and it continues to save Federal dollars by relying on temporary experts on staff. OTA's reports have led to important cost-saving innovations for our agencies as well.

OTA's continued existence is critical to our resolution of complicated policy questions through an objective analysis of difficult issues. Currently, OTA is working on reports examining weapons proliferation, the human genome project, air traffic control, nuclear waste cleanup, and advanced telecommunications networks.

The Houghton amendment proposes a 25-percent reduction in operating expenses for OTA, while still retaining its core function. I urge my colleagues to support this amendment and to retain this valuable resource.

Mr. PACKARD. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. HOUGHTON] as a substitute for the amendment offered by the gentleman from California [Mr. FAZIO].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. PACKARD. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2, rule XXIII, the Chair will reduce to 5 minutes the time for a recorded vote, if ordered, on the amendment offered by the gentleman from California [Mr. FAZIO], if there is no intervening business.

The vote was taken by electronic device, and there were—ayes 228, noes 201, not voting 5, as follows:

[Roll No. 403]

AYES—228

Abercrombie
Ackerman
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Buyer
Cardin
Castle
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Crane
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Edwards
Ehlers
Engel
English
Eshoo
Evans
Farr
Fawell
Fazio
Fields (TX)
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (NJ)
Frisa
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Graham
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Harman
Hastings (FL)
Hayes
Hefner
Heineman
Hilliard
Hinchey
Holden
Houghton
Hoyer
Hyde
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
LaFalce
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Martini
Matsui
McCarthy
McCrery
McDermott
McHale
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Morella
Murtha
Myers
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Quinn
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roberts
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sawyer
Schiff
Schroeder
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Towns
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Whitfield
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—201

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunning
Burr
Burton
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehrlich
Emerson
Ensign
Everett
Ewing
Fields (LA)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Frelinghuysen
Funderburk
Gallegly
Ganske
Gekas
Goodlatte
Goss
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Inglis
Istook
Jacobs
Johnson, Sam
Jones
Kasich
Kim
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Mascara
McCollum
McDade
McHugh
McInnis
McIntosh
McKeon
McKinney
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Parker
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Radanovich
Ramstad
Regula
Riggs
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tate
Thomas
Thornberry
Tiahrt
Traficant
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—5

Fattah
Moakley
Schumer
Torres
Wilson

☐ 1422

Messrs. CANADY of Florida, GOODLATTE, ENSIGN, MOORHEAD, ZELIFF, HOBSON, LUTHER, WAMP, and SCHAEFER changed their vote from "aye" to "no."

Messrs. GOODLING, DAVIS, and MOLLOHAN changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRIES

Mr. BONIOR. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. BONIOR. Mr. Chairman, is it within the scope of the rules of this House and the rules of the Committee on Science for the chairman of that committee to call a vote after the bells have gone off, and all the Members on our side of the aisle have left that committee to come to vote, and then to take a recorded vote and have the people miss it? Is that within the rules of the House and the rules of the committee?

The CHAIRMAN. There is no rule which precludes such voting in the committee.

Mr. BONIOR. Mr. Chairman, would the chairman please, for the benefit of our Members, let us know what the rules of the Committee on Science are with respect to attendance, with regard to bells going off on this House floor for votes?

The CHAIRMAN. The Chair is not aware of a House rule affecting the Committee on Science's rules. The Committee on Science has its own rules, and the Chair assumes the membership knows those rules.

Mr. DOGGETT. A further parliamentary inquiry, Mr. Chairman:

Is there any mechanism available under the House rules that would permit a member of a committee where a vote has been called after a vote has been called here to be recorded in both places after the change in the House rules that abolished proxies?

The CHAIRMAN. There is not a mechanism for that, but the Chair was informed that the members of the Committee on Science were voting, and the Chair waited until he saw them come in, and saw the chairman of the committee on Science come in and vote, and saw the chairman of the Committee on Science come in and vote before he called the end of the vote.

Mr. DOGGETT. A further parliamentary inquiry then:

How are the members of the Committee on Science to be advised of the Chair's awareness and decision to extend the vote beyond the degree provided in our rules?

The CHAIRMAN. The Chair was notified by the Democrat Cloakroom that there were people still voting in committee, and held the vote open until he saw them come on the floor.

Ms. RIVERS. A further parliamentary inquiry, Mr. Chairman, on the same issue then:

Can we now expect that when committees vote during a rollcall vote here that all of us will have the opportunity to be recorded on the floor when we finish our duties in committee, that will be guaranteed to all Members who are participating in a committee vote?

The CHAIRMAN. The Chair would observe that it would hope the committee chairmen would not call votes during the course of a vote here on the floor.

The Chair will also observe that the Chair has been keeping some votes open longer than the 17 minutes we intended to, and very nearly in the future the Chair is going to close votes within 17 minutes whether or not the Members are here.

Ms. RIVERS. The question I am raising though, Mr. Chairman is that is a very flexible policy which is impossible to predict for someone who is not in the chair as you are. How do regular Members know they are going to be protected in an instance?

For example, my concern is that I have been especially diligent and have never missed a vote on the floor, nor in committee. I have been at every committee hearing; I have been at committee activities when they have gone until 11 o'clock at night.

I looked at the clock. I knew how long it took me to get here. There was inadequate time to do both of those things. I had to leave. There was no guarantee. No one came to me as a Committee on Science member, nor did anyone at the committee suggest that we would be accommodated in our need to vote.

The CHAIRMAN. The gentlewoman has made her comment known to the entire House.

Under rule VIII the House votes take primacy over the committee vote.

MOTION TO RISE OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Missouri [Mr. VOLKMER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 257, not voting 11, as follows:

[Roll No. 404]

AYES—166

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Becerra
Bentsen
Berman
Bevill
Bishop
Bonior
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)

Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gonzalez
Gordon
Green
Hall (OH)
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lowey
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rangel
Reed
Reynolds
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sawyer
Schroeder
Scott
Serrano
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wyden
Wynn
Yates

NOES—257

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Bonilla
Bono
Borski
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gibbons
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lofgren
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—11

Boehner
Gutierrez
Hoyer
Kaptur
Minge
Moakley
Sanders
Schumer
Skaggs
Torres
Wilson

□ 1443

So the motion to rise was rejected.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRIES

Ms. JACKSON-LEE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentlewoman will state it.

Ms. JACKSON-LEE. Mr. Chairman, I am not understanding the prior statement that was made. As a member of the Committee on Science, I am trying to understand the ruling of the Chair.

The CHAIRMAN. What is the gentlewoman's inquiry?

Ms. JACKSON-LEE. The inquiry, Mr. Chairman, is reflecting on the gentlewoman from Michigan. Did the Chair give a ruling indicating that after the second bell, there was an opportunity to have reconsideration of a vote in a markup rollcall session in committee? Did the Chair give that ruling?

The CHAIRMAN. The Chair did not give any ruling.

Ms. JACKSON-LEE. So the Chair did not provide that protection, is the Chair saying?

The CHAIRMAN. The Chair has not the responsibility to provide protection. If this House wants to move to change its rules, it may do so. The Chair may not change the rules of the House or add rules to the House.

Ms. JACKSON-LEE. Did the Chair make any clarification that at least Members would be notified that votes were being held while the rollcall in committee was going on and a rollcall was going on on the floor?

The CHAIRMAN. The Chair did not inform any Members that the vote would be held. What the Chair did say was under a House rule, No. 8, voting in the House takes priority interest.

Ms. JACKSON-LEE. Mr. Chairman, my final question, did the Chair not make a statement in this particular incident that the Chair had informed the Committee on Science chairman that the vote was being held on the floor for those Members?

The CHAIRMAN. The Chair did not make that statement.

Ms. JACKSON-LEE. That was my understanding, Mr. Chairman, I thank the Chair.

The CHAIRMAN. What the Chair did say was that the Chair had been notified by the Democratic Cloakroom that some Members would be late because a Committee vote was in progress. The Chair held the House vote open until he saw the chairman on the floor. The Chair has since found out the gentleman was the last one to leave the room.

Mr. DOGGETT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DOGGETT. Mr. Chairman, I was in my prior parliamentary inquiry expressing concern about having to be two places at once. This is a different inquiry under our rules.

My inquiry, Mr. Chairman, is, if a member of the Committee on Science or of any other committee of this House were serving on five or six committees and subcommittees, would that be a violation of the rules of the House?

The CHAIRMAN. The Chairman of the Committee of the Whole cannot give any anticipatory rulings at this point.

Mr. DOGGETT. The Chair is advised that there are at least 30 Members of this House, including a member of the Committee on Science, who are serving on five or six appointments in violation of the rules of the House.

The CHAIRMAN. That issue can be addressed in its proper context.

Mr. DOGGETT. Mr. Chairman, further parliamentary inquiry, what remedy is available for a Member of this House to raise an objection to an open violation of the rules by a member of the Committee on Science or any other committee serving on five or six positions when the rules provide you can only serve on three? Is there any remedy?

The CHAIRMAN. The rules provide that the House must approve certain subcommittee memberships and committee memberships.

Mr. DOGGETT. A further parliamentary inquiry, Mr. Chairman: Has there been any approval of the 30 Members who are serving on five or six committees? Has there been any waiver granted to them?

The CHAIRMAN. The Chairman of the Committee of the Whole cannot answer that at this point.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. FAZIO], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 213, noes 214, not voting 7, as follows:

[Roll No. 405]

AYES—213

Abercrombie
Ackerman
Baesler
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Crane
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Filner
Flake
Ford
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Green
Greenwood
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Heineman
Hinchey
Holden
Houghton
Hoyer
Hyde
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Quinn
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Scott
Serrano
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tauzin
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Towns
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOES—214

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Emerson
English
Ensign
Everett
Ewing
Fields (LA)
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gillmor
Goodlatte
Goodling
Goss
Graham
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Inglis
Istook
Jacobs
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Traficant
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—7

Ehrlich
Foglietta
Hilliard
Moakley
Schumer
Torres
Wilson

☐ 1505

So the amendment, as amended, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. For what reason does the gentleman from California [Mr. PACKARD] rise?

Mr. PACKARD. Mr. Chairman, I move the committee do now rise.

The CHAIRMAN. The gentleman from California moves that the committee do now rise. There is a motion on the floor. The gentleman from California has been recognized.

PARLIAMENTARY INQUIRY

Mr. FAZIO of California. A parliamentary inquiry, Mr. Chairman.

Mr. Chairman, did you announce the vote? Mr. Chairman, did you announce the vote?

Mr. BONIOR. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman from Michigan [Mr. BONIOR] will state his parliamentary inquiry.

Mr. BONIOR. Mr. Chairman, we had 2 Members in the well with their voting cards out, and the vote was 214 to 213, and the gentleman in the Chair, respectfully I say to him, called the vote while two of our Members were voting. That, Mr. Chairman, is not fair. It is not right. This side of the aisle is not going to stand for it.

The CHAIRMAN. That is not correct.

Mr. BONIOR. I would further add, Mr. Chairman——

The CHAIRMAN. That was not a parliamentary inquiry.

The CHAIRMAN. The gentleman from California [Mr. PACKARD] has a privileged motion before the Committee. The gentleman will state his motion.

Mr. PACKARD. The motion is to rise.

The CHAIRMAN. The question is on the motion to rise offered by the gentleman from California [Mr. PACKARD].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 233, noes 190, not voting 11, as follows:

[Roll No. 406]

AYES—233

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen

Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Owens
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—190

Abercrombie
Ackerman
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tauzin
Taylor (MS)
Thompson
Thornton
Thurman
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Williams
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—11

Coburn
de la Garza
Greenwood
Martinez
Moakley
Schaefer
Schumer
Tejeda
Torres
Waxman
Wilson

□ 1528

Messrs. BRYANT of Texas, OLVER, REED, NEAL of Massachusetts, JOHNSON of South Dakota, FIELDS of Louisiana, BAESLER, MILLER of California, PALLONE, MARKEY, TUCKER, SPRATT, MORAN, and DIXON changed their vote from "aye" to "no."

Messrs. GILLMOR, PAXON, BLILEY, KING, HOSTETTLER, SHADEGG, WALSH, and SMITH of New Jersey changed their vote from "no" to "aye."

So the motion to rise was agreed to.

The result of the vote was announced as above recorded.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. LINDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes, had come to no resolution thereon.

MOTION TO ADJOURN

Mr. ARMEY. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARMEY].

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 224, noes 190, not voting 20, as follows:

[Roll No. 407]

AYES—224

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—190

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell

Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Serrano
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—20

Bateman
Berman
Coburn
de la Garza
DeLay
Dunn
Forbes
Istook
McIntosh
Moakley
Oxley
Roberts
Schiff
Schumer
Skelton
Torres
Torricelli
Walker
Williams
Wilson

□ 1547

Mr. BARCIA and Mr. OWENS changed their vote from "aye" to "no."

So the motion to adjourn was agreed to.

The result of the vote was announced as above recorded.

Accordingly (at 3 o'clock and 47 minutes p.m.), the House adjourned until tomorrow, Thursday, June 22, 1995, at 10 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SHUSTER: Committee on Transportation and Infrastructure. House Concurrent Resolution 38. Resolution authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby (Rept. 104–150). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DOOLITTLE (for himself, Mr. RADANOVICH, Mr. CONDIT, Mr. THOMAS, Mr. HERGER, Mr. FAZIO of California, Mr. POMBO, and Mr. DOOLEY):

H.R. 1906. A bill to amend the Central Valley Project Improvement Act, and for other purposes; to the Committee on Resources.

By Mr. MCINTOSH (for himself and Mr. HORN):

H.R. 1907. A bill to permit State and local governments to transfer—by sale or lease—Federal-aid facilities to the private sector without repayment of Federal grants, provided the facility continues to be used for its original purpose; and for other purposes; to the Committee on Government Reform and Oversight.

By Mrs. MORELLA (for herself and Mr. BROWN of California):

H.R. 1908. A bill to establish an education satellite loan guarantee program for communications among education, Federal, State, and local institutions and agencies and instructional and educational resource providers; to the Committee on Economic and Educational Opportunities.

By Mr. STEARNS (for himself, Ms. ROS-LEHTINEN, Mr. DIAZ-BALART, Mr. BURTON of Indiana, Mr. TORRICELLI, Mr. SOLOMON, Mr. DORNAN, Mr. FUNDERBURK, Mr. BARTON of Texas, and Mr. DEUTSCH):

H.R. 1909. A bill to impose congressional notification and reporting requirements on any negotiations or other discussions between the United States and Cuba with respect to normalization of relations; to the Committee on International Relations.

By Mr. TAYLOR of North Carolina:

H.R. 1910. A bill to permit the current refunding of certain tax-exempt bonds; to the Committee on Ways and Means.

By Mr. RANGEL:

H. Con. Res. 78. Concurrent resolution expressing the sense of the Congress that Social Security should be maintained and protected; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. BATEMAN introduced a bill (H.R. 1911) for the relief of Pauline Applewhite Saunders; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 26: Mr. BAKER of Louisiana.

H.R. 65: Mr. BILBRAY.

H.R. 103: Mr. CHAMBLISS.

H.R. 109: Mr. ROYCE and Mr. MARTINI.

H.R. 329: Mr. BILBRAY, Mr. BURTON of Indiana, and Mr. BAKER of Louisiana.

H.R. 359: Mr. SCHAEFER and Mr. SHADEGG.

H.R. 488: Mr. MARTINI.

H.R. 580: Mr. TAYLOR of Mississippi Mr. SHADEGG, Mr. MATSUI, Mr. DELLUMS, and Mr. FROST.

H.R. 743: Mr. COX and Mr. REGULA.

H.R. 803: Mr. FIELDS of Texas, Mr. SMITH of Texas, and Mr. BARTON of Texas.

H.R. 842: Mr. SKELTON, Mr. GILMAN, Mr. BARTON of Texas, Mr. STUMP, Mr. FRISA, and Mr. HALL of Texas.

H.R. 860: Mr. HAYWORTH, Mr. BACHUS, Mr. FUNDERBURK, and Mr. BURTON of Indiana.

H.R. 952: Mr. ROBERTS.

H.R. 972: Mr. BEVILL, Mr. BRYANT of Texas, and Mr. PETRI.

H.R. 974: Mr. DIXON and Mr. ENGEL.

H.R. 1003: Mr. BREWSTER, Mr. GUNDERSON, Mr. CHRISTENSEN, and Mr. BAKER of Louisiana.

H.R. 1023: Mr. FATTAH.

H.R. 1044: Mr. ZIMMER.

H.R. 1046: Ms. VELAZQUEZ and Ms. NORTON.

H.R. 1061: Mr. THORNBERRY.

H.R. 1073: Mr. HASTINGS of Florida, Mr. FLAKE, Mr. LATOURETTE, Mr. BREWSTER, Ms. KAPTUR, and Mr. DICKS.

H.R. 1090: Mr. BARCIA of Michigan.

H.R. 1103: Mr. BOEHNER.

H.R. 1172: Mr. WELDON of Pennsylvania.

H.R. 1255: Mr. RADANOVICH, Mr. SKEEN, and Mr. FORBES.

H.R. 1296: Mr. BEREUTER.

H.R. 1298: Mr. GALLEGLY.

H.R. 1370: Mr. BURTON of Indiana.

H.R. 1416: Mr. PORTER, Mrs. MORELLA, Mr. DELLUMS, Mr. KENNEDY of Massachusetts, Mrs. LOWEY, Mr. WILSON, Mr. FROST, Ms. FURSE, Mr. OWENS, Mr. ACKERMAN, Mr. LEWIS of Georgia, Mr. VENTO, and Mr. SERRANO.

H.R. 1540: Mr. SMITH of Texas, Mr. PACKARD, Mr. KIM, Mr. BURTON of Indiana, Mrs. VUCANOVICH, and Mr. STOCKMAN.

H.R. 1619: Mrs. KELLY, Mr. GALLEGLY, Mr. GUNDERSON, Mrs. JOHNSON of Connecticut, Mr. ACKERMAN, Mr. BROWN of California, Mr. WYDEN, Mr. CRAMER, Mr. FROST, Mr. DAVIS, Mr. JACOBS, Mr. DEUTSCH, Mr. SPENCE, Mr. ANDREWS, Mr. LAFALCE, Mr. ENGEL, Mr. OLVER, Mr. KLUG, Mr. SERRANO, Mr. BLUTE, Ms. DELAURO, Mr. OBERSTAR, Mr. STUPAK, Mr. BARRETT of Nebraska, Mr. MURTHA, Mr. STENHOLM, Mr. TORRICELLI, Mrs. THURMAN, Mr. LEWIS of Georgia, Mr. ABERCROMBIE, Mrs. MORELLA, Mr. REYNOLDS, Mr. BARTON of Texas, Mr. KLECZKA, Mr. FRANK of Massachusetts, Mrs. VUCANOVICH, Mrs. LOWEY, and Mr. PETE GEREN of Texas.

H.R. 1625: Mr. SMITH of New Jersey.

H.R. 1716: Mr. RIGGS, Mr. STEARNS, Mr. MANZULLO, Mr. SKEEN, Mr. PACKARD, and Mr. STUMP.

H.R. 1739: Mrs. MEYERS of Kansas.

H.R. 1762: Mr. CAMP, Mr. ZIMMER, Mr. SAM JOHNSON, Ms. DUNN of Washington, Mr. PORTMAN, Mr. HAYWORTH, Mr. FILNER, Mrs. FOWLER, Mr. STUMP, Mr. COOLEY, Mr. STEARNS, Mrs. SMITH of Washington, Mr. FOLEY, Mr. MCCOLLUM, Mr. SALMON, Mr. SCARBOROUGH, Mr. BILBRAY, Mr. METCALF, Mr. MARTINEZ, and Mr. HERGER.

H.R. 1897: Mr. UNDERWOOD.

H.J. Res. 70: Mr. CALVERT.

H.J. Res. 90: Mr. SMITH of New Jersey.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1868

OFFERED BY: MR. BROWNBACK

AMENDMENT NO. 56: Page 8, line 16, strike "$669,000,000" and insert "$644,000,000".

Page 12, line 8, strike "$7,000,000" and insert "$3,000,000".

Page 13, strike line 18 and all that follows through page 14, line 11.

Page 16, line 24, strike "$595,000,000" and insert "$643,000,000".

H.R. 1868

OFFERED BY: MR. BURTON OF INDIANA

AMENDMENT NO. 57: Page 13, line 9, strike "$465,750,000" and insert "$396,770,200".

Page 13, strike line 18 and all that follows through page 14, line 11.

H.R. 1868

OFFERED BY: MR. BURTON OF INDIANA

AMENDMENT NO. 58: Page 13, line 9, strike "$465,750,000" and insert "$432,000,000".

Page 13, strike line 18 and all that follows through page 14, line 11.

H.R. 1868

OFFERED BY: MR. MILLER OF FLORIDA

AMENDMENT NO. 59: Page 16, line 24, strike "$595,000,000" and insert "$355,000,000".

H.R. 1868

OFFERED BY: MR. MILLER OF FLORIDA

AMENDMENT NO. 60: Page 16, line 24, strike "$595,000,000" and insert "$416,500,000".

H.R. 1868

OFFERED BY: MR. MILLER OF FLORIDA

AMENDMENT NO. 61: Page 78, after line 6, insert the following new section:

LIMITATION OF USE OF FUNDS BY RUSSIA FOR CONSTRUCTION OF JURAGUA NUCLEAR POWER PLANT IN CIENFUEGOS, CUBA

SEC. 564. None of the funds made available in this Act for assistance in support of the Government of Russia may be used for the construction of the Juragua nuclear power plant in Cienfuegos, Cuba.

H.R. 1868

OFFERED BY: MR. MILLER OF FLORIDA

AMENDMENT NO. 62: Page 78, after line 6, insert the following new section:

REDUCTION OF FUNDS FOR RUSSIA IN AMOUNT PROVIDED FOR CONSTRUCTION OF JURAGUA NUCLEAR POWER PLANT IN CIENFUEGOS, CUBA

SEC. 564. (a) IN GENERAL.—The funds otherwise provided in this Act for the Government of Russia under the heading "Assistance for the New Independent States of the Former Soviet Union" shall be reduced by an amount equal to the amount of funds provided by such Government for the construction of the Juragua nuclear power plant in Cienfuegos, Cuba.

(b) EXCEPTION.—The reduction provided for by subsection (a) shall not apply if the President certifies to the Congress that a restoration of the funds is required by the national security interest of the United States.

H.R. 1868

OFFERED BY: MR. ROEMER

AMENDMENT NO. 63: Page 78, after line 6, insert the following new section:

LIMITATION ON FUNDS FOR RUSSIA

SEC. 564. Of the funds appropriated in this Act under the heading "Assistance for the New Independent States of the Former Soviet Union", not more than $150,000,000 may be made available for Russia.

H.R. 1905

OFFERED BY: MR. BEREUTER

AMENDMENT NO. 1: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 505. None of the funds made available in this Act may be used to revise the Missouri River Master Water Control Manual when it is made known to the Federal entity or official to which the funds are made available that such revision provides for an increase in the springtime water release program during the spring heavy rainfall and snow melt period in States that have rivers draining into the Missouri River below the Gavins Point Dam.

H.R. 1905

OFFERED BY: MR. TRAFICANT

AMENDMENT NO. 2: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 505. (a) PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American-made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

SENATE—*Wednesday, June 21, 1995*

(Legislative day of Monday, June 19, 1995)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

A contemporary rendering of the 23d Psalm provides a prayerful confession of faith as we begin this day:

The Lord is my strength, I shall not panic;
He helps me relax and rest in quiet trust.
He reminds me that I belong to Him and restores my serenity;
He leads me in my decisions and gives me calmness of mind.
His presence is peace.
Even though I walk through the valley of the fear of failure,
I will not worry, for He will be with me.
His truth, grace, and loving kindness will stabilize me.
He prepares release and renewal in the midst of my stress.
He anoints my mind with wisdom;
My cup overflows with fresh energy.
Surely goodness and mercy will be communicated through me,
For I shall walk in the strength of my Lord, and dwell in His presence forever.
Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader is recognized.

SCHEDULE

Mr. DOLE. Mr. President, this morning leader time has been reserved.

The Senate will meet in executive session to begin 3 hours of debate on the nomination of Dr. Foster.

At 12 noon, or right around 12 noon, there will be a cloture vote on the Foster nomination. If cloture is not invoked the Senate will resume consideration of S. 440, the highway bill.

I just suggest that Members can expect votes. We hope to complete action on the highway bill today. I understand there are only one or two major amendments and many others are in the process of being worked out, or may not be offered.

EXECUTIVE SESSION

DEPARTMENT OF HEALTH AND HUMAN SERVICES

The PRESIDING OFFICER (Mr. INHOFE). Under the previous order, the Senate will now go into executive session to proceed to the consideration of the nomination of Dr. Henry W. Foster, Jr., of Tennessee, to be Medical Director in the Regular Corps of the Public Health Service, and to be Surgeon General of the Public Health Service, on which there shall be 3 hours of debate.

Mr. DOLE. Mr. President, the time will be under the direction of the chairman of the committee, Senator KASSEBAUM, and the ranking Democrat member, Senator KENNEDY.

I just want the RECORD to reflect before the debate starts that this nomination came on the calendar on May 26. That was followed by a recess. It was June 5 when we came back. This Senator and Dr. Foster tried to get together in 1 week. He was not available. The next week I was not available. But the RECORD should reflect that it has only been really since June 5 to June 21.

So there has not been any delay as far as bringing the nomination to the floor. There was a lot of research and investigation done prior to the hearing. But I listened to some comments last night on television. I had the impression that many in the media thought this had been pending on the Senate floor for months and months, which is not the case. It is barely a little over 2 weeks.

NOMINATION OF HENRY W. FOSTER, JR., TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE AND TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The nomination of Henry W. Foster, Jr., of Tennessee, to be Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service, for a term of 4 years.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

PRIVILEGE OF THE FLOOR

Mrs. KASSEBAUM. Mr. President, first I would like to ask unanimous consent that Dr. Jim Wade, a Robert Woods Johnson Fellow of the staff of the Committee on Labor and Human Resources, be allowed the privileges of the floor during the consideration of the nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, the Senate is now considering the nomination of Dr. Henry W. Foster, Jr., to be Surgeon General of the United States. At noon today, the Senate will vote on the motion to invoke cloture, which would limit debate on this nomination.

Mr. President, I oppose this nomination, for reasons that I will briefly explain, but I will vote for cloture so that the Senate can make a clear-cut decision on Dr. Foster's nomination. While I respect the right of any Senator to engage in extended debate on any issue, I have long believed that nominations should be dealt with in a direct fashion. My practice has been to oppose filibusters on nominations and I will oppose one on this nominee, even though I do not support Dr. Foster's confirmation.

This nomination has been embroiled in controversy from the outset due to the fact that, as an obstetrician-gynecologist, Dr. Foster has performed abortions. That fact has become a battle cry for those on both sides of the abortion issue.

When the Committee on Labor and Human Resources considered this nomination, I said that Dr. Foster deserved to be judged on his whole record, not on a single issue. I have weighed the full record and concluded that I cannot support Dr. Foster's nomination.

Given the troubled term of Dr. Joycelyn Elders, it was clear to me, and it should have been clear to the administration, that the next Surgeon General needed to be someone who immediately could reestablish the credibility and nonpolitical authority of this office.

But political it has become, and many Americans, including me, wonder why we need a Surgeon General if he or she is going to be caught up in pointless rhetorical controversies that do nothing to address the critical health issues facing our Nation.

The Surgeon General's main role is to speak to the entire Nation on health issues in ways that both enlighten and challenge us. I believe that Dr. Foster

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

cannot effectively perform that role, largely because his own credibility and authority was undermined at the very start of the nomination process.

Despite his many strengths, I believe Dr. Foster is the wrong person to step into this badly damaged office at this time.

On top of this overarching concern, I have serious reservations about this nomination when it is weighted solely on Dr. Foster's own merits, particularly his willingness to provide strong leadership on difficult issues.

My concern about Dr. Foster's leadership goes to the heart of this nomination—his supervision and direction of the I Have a Future Program, which the administration and Dr. Foster himself have made the centerpiece of his nomination.

In his opening statement to the committee, Dr. Foster talked about the success of this program and his desire to lead a national crusade to deal with the critical problem of teenage pregnancy in this country.

The I Have a Future Program is not without merit and undoubtedly has changed the lives of some young people for the better. Dr. Foster should be commended for his efforts in working to create a worthwhile program. There is no question in my mind that Dr. Foster has a sincere, genuine concern for young people and is deeply committed to helping them.

However, the record also is clear that the I Have a Future Program has never shown significant success in reducing teenage pregnancy. In fact, evaluations produced in 1992 and in 1994 raise serious questions about whether this program has had unintended consequences by increasing sexual activity among its participants.

If anything, the I Have a Future Program demonstrates the extreme difficulty, the extraordinary resources, and the potential risks involved in efforts to deal with teen pregnancy. Far from being a model for a national crusade, it is instead a warning sign to us all to proceed with caution on this matter.

In both his testimony to the committee and in response to written followup questions, Dr. Foster has been unwilling to come to grips with the difficult, fundamental questions raised in evaluations of this program. I am troubled by this unwillingness. A Surgeon General must have not only a good heart, which Dr. Foster certainly has, but the ability to ask hard questions and demand solid answers rooted in fact and in science.

Mr. President, are we asking too much of the Surgeon General of the United States? If, indeed, this is a position of importance to us in this country, I think not. We need the strongest possible leadership for our Nation's public health concerns. And I do not believe Dr. Foster is that nominee. Therefore, I will vote against his confirmation.

I yield the floor, Mr. President.

Mr. KENNEDY. Mr. President, I yield myself 7 minutes.

Mr. KENNEDY. Mr. President, I welcome the opportunity for the Senate to have a chance to express itself on the nomination of Dr. Foster.

There was some comment earlier about the fact that Dr. Foster has been on the calendar for a very limited period of time and a question why there should have been so much concern about the consideration of Dr. Foster.

The principal reason for that is because leaders in the Senate indicated they were going to use their power, such as that of the majority leader, to not even consider the nomination that had been reported out of the Labor and Human Resources Committee, and there are others who indicated that they were going to use the rules of the committee in order to raise a higher barrier, higher hurdle, for the nominee to go over in order to be approved for the position of Surgeon General.

So there has been a great deal of concern, and I think that the overwhelming majority of the American people, certainly those who watched the consideration in the hearings for the time that Dr. Foster testified, had to feel that the issue of fairness was in play here; that Dr. Foster had been nominated by this President, really an outstanding nominee, one that has demonstrated his qualifications well, reported out of the committee, and that the Senate in its own way ought to have the opportunity to express itself.

Quite frankly, the fact that we are going to vote for cloture in order to be able to get to the nomination I do not think is the way we ought to be considering the nomination. I do not think it is fair to Dr. Foster, and it is not fair to the American people, who want to have an outstanding doctor as the Surgeon General.

It continues to be my position, and I think for most persons, that this is not the fair way to treat this nomination. It is not the fair way to treat an individual who has gone through the process with great dignity, great patience, great grace, great strength, and demonstrated a knowledge and an ability and a strong commitment to do the job of Surgeon General.

I think those who have pointed out there are other forces at work here are correct. This really is an issue that involves, I believe, a woman's right to choose, and the issue of privacy, the question of the doctor who is going to be Surgeon General is going to face a litmus test on the issue of abortion before being able to be confirmed. When all is said and done, Mr. President, that is really the issue that is out there. Dr. Foster is entitled to a vote. He is entitled to a vote up and down, and the American people are entitled to a Surgeon General who understands and respects the right of privacy, the constitutional right of a woman's right to choose.

Now, I listened carefully during the course of the hearings. There are those who have talked about this, and we will have a chance during the course of this debate this morning to hear many of our colleagues who want to speak on it, as we should hear from them. But nonetheless, when the bottom line is drawn, that is the underlying issue. We will hear about the Tuskegee study. We will hear about sterilization. We will talk about the number of abortions. We will talk about the I Have a Future Program, but you cannot get away from the fact that this extraordinary individual for 38 years has devoted himself to the well-being of needy people in our society.

How many other doctors would leave the hallowed halls of great institutions and go down and serve in the most underserved part of America, the poorest area of America. This is a baby doctor, delivering 10,000 babies over the course of time. I do not even recognize the nominee from the descriptions that many of our colleagues who are opposed to Dr. Foster would use.

How many would spend their time not only delivering babies in some of the most difficult circumstances and then devote their lives to training young people?

We will hear what was the effect of the I Have a Future Program. It was good enough for President George Bush to give it an award—good enough for that. Where were those voices then who are complaining about this program now? They were silent. Why? Because President Bush identified this as a program trying to make a difference.

We will hear that program flyspecked on the floor of the Senate, but what you will not hear are those young voices. You will not see the eyes of those young people on the floor of the Senate. You will not be able to shake their hands, as many of us have done, and hear them say, "Dr. Foster made a major difference in my life. He has given me real hope. I am staying in school. I am going on in school. I am abstaining."

We will hear, "Well, did the information really emphasize abstinence? When was it printed?"

You are missing the point. How many other doctors have really attempted to lead the country to try to do something about the problems of teenage pregnancy? How many others have tried to keep our young people in school, as Dr. Foster has done? And how many have been a source of inspiration, as he has?

I daresay, Mr. President, when you look at his commitment, when you look at his dedication, he could have taken that medical diploma and been on easy street today. He did not have to go through this process. He could have a good, solid income and be living in the best areas and communities of any city in this country. But he dedicated himself to the people who are left behind in our society, those without. And he was recognized by the Institute of Medicine as a leader of his field. Does anybody understand how you get selected by the Institute of Medicine, one of the most prestigious and important academic achievements? Because of his record, because of his commitment. He has served on ethical panels in his own State. He has assumed every kind of position of leadership and distinction because of extraordinary service. And he has been recognized by some of the most important charitable organizations because of that leadership.

The Carnegie Foundation, that does so much work in terms of poor children, recognized his program. They reviewed it. He asked for help and assistance, technical help and assistance. And when he asked for technical help and assistance, those who are opposed to him say, "Take that letter. Look, he really didn't know what he was doing because he asked for technical help and assistance." It is the most convoluted rationale for opposition to this nominee.

Mr. President, this nominee by training, tradition, concern and conviction is a man who can serve this country, is a man who has been dedicated to youth, is a man who has been an outstanding researcher in sickle-cell anemia and infant mortality and perinatal kinds of diseases. He is a man who can serve as Surgeon General with distinction, and I hope he will be approved.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I yield to the Senator from Maryland 5 minutes.

Ms. MIKULSKI. Good morning, Mr. President.

The PRESIDING OFFICER. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise this morning to lend my voice and my vote to the nomination of Dr. Henry Foster to be Surgeon General of the United States of America.

This morning I will be pleased to vote for Dr. Henry Foster to be the Surgeon General of the United States. Why? When I look at Dr. Foster, I see a man who meets my criteria for the Surgeon General of the United States. He has competence. He has character. He has commitment. He brings bedrock values and the right professional credentials to the office of the Surgeon General.

He is truly a leader, a man who leads by example. He leads by example in the way he has lived his life, both personally and professionally. Dr. Foster has dedicated his life to improving people's health, particularly the health of women and children, and most often the health of those who are without health care, those who have been left out, those who have been pushed aside, those who have been down and out.

When Dr. Foster returned from the U.S. military, he could have gone to a lucrative practice somewhere in the North and would have gone on to make a great medical contribution and, I am sure, would have made a lot more financial profit for his family. But he chose to go to the South. And to the South he went. And he reached out his very able hand to those in a segregated health care system that needed a doctor and needed a medical helping hand.

That is who Dr. Foster is. He is a qualified professional bringing competence as a clinician, a medical administrator, and a scholar in residence now. For 38 years, he has been a respected member of his own medical community. He has been a medical professor and then even a dean of a medical school. He will bring great knowledge and expertise to the Surgeon General post. I believe he will serve with distinction.

In the debate, we will hear things about the Tuskegee study, the famous study done on the issue of syphilis in which African-American men did not know that they were being experimented on in his own country. You will also hear about how Dr. Foster participated in a study on hysterectomies and how some of the people involved were mentally retarded.

But let me tell you about that. There is much going to be said, what did Dr. Foster know and what did Dr. Foster do?

In that area of the Tuskegee study, Dr. Foster told the committee that he knew nothing about that Tuskegee study until years later. Now, that will be disputed here this morning. I will tell you, as a member of something called the National Medical Society—because the AMA would not let African-American doctors in—his own peers, if they knew that he knew about the Tuskegee study, he would have been shunned and ostracized in his own community. They would not have made him the dean of the medical school at one of the most distinguished, historically black colleges in the United States of America.

Then they will talk about the fact that in a study that he did—not hysterectomies that he performed—mentally retarded girls were involved. There will be the issue of parental consent. Dr. Foster will tell you there was parental involvement. Now, are we going to dispute that? Well, his peers in Nashville did not dispute it.

Then the medical society, when they finally admitted African-Americans after all those years, they made him the head of the bioethical committee.

So who should judge who Dr. Foster is? Is it the U.S. Senate, who has only gotten to know him or the people who have known him for 38 years in his own medical profession?

I say, let us go back home and talk to the people who knew Henry Foster, and they will tell you how he stands.

Now, Dr. Foster's character. Dr. Foster served as a captain in the U.S. Air Force. He brought character and competence, as I said, to that job. When he served willingly in the military, his character and competence were never questioned. So why should we question it now? He willingly served in the U.S. military. America wanted him then. And I say America wants him now. They want him to be the Surgeon General.

The Surgeon General's office is organized on a military model—"Surgeon General." And I believe that he will lead a campaign, a campaign against teenage pregnancy, a campaign against infectious disease. The Surgeon General will show that the triad for health care in the United States is prevention, primary care, and personal responsibility. And that is the kind of campaign Dr. Foster will lead.

But while he is a great clinician, he brings old-fashioned values. As a community leader in Nashville he did voluntary work in his own community, serving on boards, including the March of Dimes, to lead the fight against birth defects. We have all heard a lot about how he has been a driving force behind the teenage pregnancy program, I Have a Future. He won a point of light for that. I hope he will be more than a point of light for the United States of America. I Have a Future stresses to the teens the importance of abstinence.

Mr. President, I ask for 2 additional minutes.

Mr. KENNEDY. Two minutes.

Ms. MIKULSKI. I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER. Without objection, so ordered.

Ms. MIKULSKI. I Have a Future stresses to teens the importance of abstinence and self-esteem and teaches teens to say "no" to teenage pregnancy, and "yes" to abstinence, personal education and jobs. We see under that program fewer teens getting pregnant and more young people going to college.

Dr. Foster has dedicated his life to giving people chances, giving women the chances to have healthy babies, giving babies the chance to have healthy childhoods, and giving the teens a chance to have a successful future.

I say let us give Henry Foster a chance. Let us give him a chance. He is both a man of the mind and a man of the heart. He is a man of the medical community and is involved in his own community and the kind of leader and distinguished public servant our country needs. I look forward to his tenure as the next Surgeon General. I hope we will not deny him his day in the U.S. Senate by hiding behind a parliamentary maneuver.

Mr. President, I yield such time as I might have left.

Mr. KENNEDY. Mr. President?

I yield 5 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. I thank the Senator from Massachusetts. Mr. President, in my view, as a matter of basic fairness, Dr. Henry Foster is entitled to his day in court. He is entitled to a vote on the merits without having a filibuster foreclose an up or down vote.

The real challenge in this matter is whether Dr. Foster is disqualified from being Surgeon General of the United States because he has performed abortions, a medical procedure lawful under the Constitution of the United States. This should not be a matter which is debated on the floor of the U.S. Senate with respect to Dr. Foster's confirmation. But that happens to be the fact of the matter. All of the other issues are red herrings. Dr. Foster acquitted himself brilliantly in his testimony before the committee. I met with Dr. Foster extensively, examined his record, and there is no question but on the merits he is well qualified to be Surgeon General of the United States.

But the sole issue which confronts his confirmation today is that he has performed abortions, a medical procedure lawful under the Constitution of the United States. We have to remember, Mr. President, that it is not Roe versus Wade, the Justice Blackmun opinion of 1973, which governs here today but it is the decision of the Supreme Court of the United States in Casey versus Planned Parenthood, written by three Justices appointed by Republican Presidents. And the matter ought not to be a partisan issue here. I suggest, Mr. President, that it is a very bad precedent if there is to be a filibuster based on ideology.

Judge Thomas, when he was up for confirmation for the Supreme Court of the United States—now Justice Thomas—would have been foreclosed from confirmation had the same procedure, the same tactic been employed in reverse. Judge Thomas was confirmed to be Justice Thomas by a vote of 52 to 48. Had there been an ideological battle, Justice Thomas would not have received 60 votes, and he would not have been confirmed. I suggest that this is a very, very bad precedent, if we are going to start fighting ideology on the floor of the U.S. Senate when it comes to the confirmation of someone who is before this body.

Now, Mr. President, we know that in last November's election, there was a sea change by the American people. And we now have a new look in the Congress of the United States. But I think it is important for Senators on both sides of the aisle to focus on the fact that there was nothing in the Contract With America on a woman's right to choose. There was nothing in the Contract With America on the subject of abortion. There was nothing in the Contract With America that is legitimately raised here in the consideration of the nomination of Dr. Henry Foster.

And I suggest, Mr. President, that if this body is going to become embroiled on this constitutional issue, a woman's right to choose, a medical procedure sanctioned by the Supreme Court of the United States, we are not going to be able to attend to our core responsibilities.

What the 104th Congress was elected to do is to reduce the size of Government, to cut spending, to balance the budget, to lower taxes, to have effective crime control, and have strong national defense. It is true that this issue has come to the floor under a limited time agreement. But when this body takes up the question of abortions on military bases, we will be discussing that for days, weeks, or perhaps months. This is not the kind of issue that ought to embroil the Congress of the United States, the Senate of the United States. The constitutional law has been established in the building across the green by the Supreme Court of the United States and the opinion written by three Justices appointed by Republican Presidents. We ought not allow this ideological issue to obscure the underlying question as to whether Henry Foster is qualified to be Surgeon General of the United States.

If we become embroiled in these matters, we will not be doing the job that we were sent to do in the 104th Congress. I urge my colleagues to set aside ideology, to recognize the constitutional right of a woman to choose and not to disqualify this nominee because he is carrying out a medical procedure which is authorized under the Constitution. Cloture ought to be invoked, and this man ought to have his day in court, ought to have his day in the Senate on the merits, and if that is done, I believe he will be confirmed.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Mr. President, what is the time that is remaining?

The PRESIDING OFFICER. The time remaining on your side is 71 minutes and 84 minutes 31 seconds on the other side.

Mr. KENNEDY. I yield 5 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized for 5 minutes.

Mr. PELL. Mr. President, I thank my friend and colleague from Massachusetts and rise in strong support of the nomination of Dr. Henry Foster to be Surgeon General. While I am delighted that the day of debate has finally arrived, I must say how unfortunate I find it that Dr. Foster's nomination may be resolved—not by the will of the majority—but by the minority rule permitted under the Senate's cloture rule, which was invoked here even before there was any debate.

I have long believed that every President deserves great deference in the choice of nominees, provided that the individual is qualified for the position for which he or she has been nominated. And because of that belief, I have—over the years—cast votes for nominees for whom I had little enthusiasm. This is not the case today. Today I can enthusiastically cast my vote for Dr. Foster, after having met him, talked with him, and listened to him carefully during 2 full days of testimony before the Senate Labor and Human Resources Committee.

I believe that Dr. Foster is a man of substance, who has worked very hard all his life to achieve an unselfish kind of success. Dr. Foster was raised in the rural South at a time of intense segregation, enduring those indignities with the kind of dignity, intelligence, and vision that enabled him both to see that he could achieve something important in his life—and to do it. He speaks eloquently of his father's teachings of the value of education and hard work, and he has clearly incorporated those values into everything he has done throughout his life.

Dr. Foster's credentials alone render him a qualified candidate for Surgeon General. A practicing obstetrician-gynecologist for 38 years, he is also a medical educator who has devoted much of his professional life to reducing infant mortality and preventing teen pregnancy. He has served as both dean of the school of medicine and acting president of Meharry Medical College, and has been the recipient of many awards and honors—too numerous to mention here—ranging from induction into the Institute of Medicine to receiving a Thousand Points of Light Award from President Bush for his I Have a Future Program that promotes self-esteem and positive choices among at-risk teens.

But it is true that qualifications alone may not be sufficient for a person to hold a position of leadership and trust in our Government. Especially with a position attracting as much attention as Surgeon General, it is important that the person appointed be an example of the best that our country has to offer.

Mr. President, from what I have learned about Dr. Foster, I believe that he is such a person. In addition to excellent academic and leadership qualifications, Dr. Foster has traveled an admirable path, in the early years forfeiting a life of wealth in a more comfortable setting to return to his roots—this time to poor, rural Alabama—to help an underserved population that needed his care. Since then, Dr. Foster has helped train the minds and influence the careers of hundreds of Meharry Medical College students, many of whom have followed in his footsteps.

While Dr. Foster's life and career have not been without their controversial moments, there are few, if any, individuals of prominence and principle in this country who have not experienced such moments in life. I have reviewed carefully the information available to me about those times in Dr. Foster's life and have asked him about others. I am satisfied that Dr. Foster has told the truth about the discrepancies that arose shortly after his nomination was announced, and I believe that his actions can be explained in the context of the times and the nature of his work.

I have been most impressed by the strong support Dr. Foster has received from the medical community, from public health and social service advocates, and from individuals in my State and around the country—including several Rhode Islanders who have contacted me to say that they personally know and admire Dr. Foster. I hope that the U.S. Senate will look fairly at the man himself and consider carefully his story, his dreams, his vision for the country, and his qualifications. I feel confident that it we do that, we will confirm the nomination of a person of compassion, humor, and dedication, whom I believe deserves the chance to serve his Nation as the next Surgeon General.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 5 minutes.

Mr. DODD. Mr. President, I thank my colleague and the chairman of the committee. Let me say briefly, Mr. President, that first of all, I strongly support this nomination. I believe Dr. Henry Foster is not only deserving of a Senate vote but also deserving of an affirmative vote, confirming him as Surgeon General of the United States. And it should be done so with a note of celebration.

It is, I think, a low moment for the U.S. Senate that we are going to be engaged in a couple of cloture votes on this nomination. This is an individual who has served his country, his community with great distinction over four decades. It saddens me deeply that we are going to be engaged in a procedural approach to deny this individual a straight up-or-down vote on his nomination, that you have to produce now 60 votes in order to be confirmed as Surgeon General of the United States, for an individual who, as everyone now knows, has been recognized by his Governor, by a former President of the United States of the majority party for his contribution.

As I said, we should be celebrating his life and his contribution, rather than making him the subject of ridicule. I am just deeply saddened that it has come to this, that we are engaged in procedural maneuverings.

Let me put it bluntly, this is not about Dr. Foster. We are engaged in Presidential politics. That is what this is about. This is not a question of whether or not Dr. Foster deserves to be confirmed as the Surgeon General of the United States. This is a game of one-upmanship, in my view, and that is what it comes down to. Frankly, he is being used as a pawn in this process to advance the particular political agenda of candidates for an office that will not be decided for 18 months in this country. Anyone who suggests otherwise, I think, has not been around here in the last number of weeks.

This is a highly qualified individual, Mr. President. No one denies the fact the White House did not handle this terribly well, but it is not the White House that is up for confirmation this morning. It is Dr. Henry Foster. Be angry at the White House if you want, suggest they might handle the process in a more efficient manner, but do not make Dr. Foster the victim of that criticism, however legitimate it may be.

This is an individual, as I mentioned, who gave four decades of his life to helping others and could have easily just retired, enjoyed the comforts that his profession might offer him through whatever financial remuneration he might receive, rather than stepping forward and to accept the position of Surgeon General of the United States.

The President has identified a very critical and important issue, and that is teen pregnancy. Dr. Foster has run a program in Tennessee called I Have a Future. That program has its difficulties. Our distinguished chairperson of the Labor Committee has identified some areas where she thinks the success of the program has not been as strong as it could be. That may very well be the case. I am not even going to argue about that. The point is, and I say it with all due respect, at least he is trying, he is trying to do something about it.

Programs have been tried and failed across this country, but people step up and try to do something about a plague in our Nation—and that is kids having kids. Every American citizen in this country knows what a serious problem it is. Here is a doctor in Tennessee who, on his own initiative, went out and said, "I think I will roll up my sleeves and try and do something about it." And so he tries, and he has great success, I point out. An overwhelming majority of these kids have completed high school, many have gone on to college, trying to get their lives straightened out setting an example of how you can achieve success, deferring the gratification that too many youngsters in this country do not understand or appreciate the benefits of avoiding.

So this individual does that, is involved in a variety of community activities over the years, and receives one of President Bush's points of light. Lamar Alexander asks him to head up an infant mortality program in the State. And then an American President says, "Would you serve as a Surgeon General and come up here and see if we cannot come up with a national program to deal with this issue?" Here is a man who was the first African-American to be in medical school in Arkansas years ago, who struggled against all of the problems associated with being an African-American through the 1940's and 1950's and 1960's, who served his country in uniform. He comes through this process and all of a sudden he goes through this wringing, wrenching process because he happens to be an obstetrician-gynecologist, one of 35,000 of them in the country, who has performed abortions, a legal procedure.

Obviously, there are those who disagree with abortion. Are we saying here this morning that anybody out there who is an obstetrician-gynecologist better never come forward and try to seek a position in the Federal Government, particularly a confirmable position; do not even think about it?

I heard the other day from people when I asked them whether or not they would be willing to step forward and seek a position. I talked to young people and said, "Would you ever think about serving your Government if asked to serve?" They laughed. There was uproarious laughter when I suggested it. Two got up and said, "What did Dr. Foster go through? Do you think I would ever be willing to go through that process?"

We better think twice about what we are doing when we drag people like this through the mud and deny them an opportunity to serve. No sound-thinking person having witnessed what this man has gone through would step forward. We are doing great damage by engaging in a cloture motion here. Let us vote this man up or down. If you do not like him, vote against him, but do not deny him the opportunity to receive, I think, the majority of votes he would receive in this body, and let him do his job as Surgeon General. We do not do ourselves proud by going through a process like this.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I yield myself 20 seconds. We have the members of the committee that were here this morning prepared to debate these issues that have been raised. We have read about them in the newspapers, we have heard about them on radio, and we have watched them on television. We believe they have been answered. We are prepared to debate.

I hope we are not going to be in the situation where we are using up our time in the last hour and we do not have an opportunity because we have those who want to speak and advocate for Dr. Foster. We have had now close to 45 minutes, and I have other Senators eager to address the Senate in support of this. We are trying to deal with these issues. We are here and we want to debate this. This is enormously important.

So I hope that we can at least engage and respond. I think the American people want that. This is a very, very important matter. There have been a lot of charges made. We are prepared to respond to them. But we do not want to be unfair to Dr. Foster by denying the opportunity for our colleagues here that are interested in this in the Senate, and certainly the American people, who are paying attention to this debate, to be able to make the case for him.

Mrs. KASSEBAUM. Mr. President, if I may respond to the ranking member, the Senator from Massachusetts, there are many Members on our side, of course, members of the committee, as well as others, who do wish to respond. Many could not be here until between now and 10 o'clock. So it, unfortunately, appears that your side is using more time than ours. I will do the best that I can to encourage Members to come to the floor because time is going by. Many have wanted to give, and will give, some very strong statements.

I yield the floor.

Mr. KENNEDY. I yield 5 minutes to the Senator from Illinois.

Mr. SIMON. Mr. President, I thank my colleague, Senator KENNEDY, for the time and also for his leadership here.

Strangely, the issue of abortion is dominating our consideration. Here is an obstetrician/gynecologist who has delivered over 10,000 babies and was involved in 39 abortions, some of which he was just the supervising physician, where his name is on record. If he is confirmed, there will not be one additional abortion in this country because he is a Surgeon General of the United States—maybe less, but not more. I say "maybe less" because I concur completely with what Senator DODD had to say about the I Have a Future Foundation.

Here is a distinguished physician who took an interest in teenagers in a public housing project, and the statistics are squishy because they move in and out. But there is one statistic no one questions, which is that the dropout rate for these young people changed dramatically. And that has a great deal to do with abortion. There are a lot of things we do not know, but we do know that girls, as well as boys, who complete high school are much less likely to become pregnant and become teenage parents.

There are 1 million teenage pregnancies in this country, 400,000 of which end up in abortions. He could have ducked that. He could have been home watching television. He could have gone to the country club and played golf instead of working with teenagers. And he cared. We have an opportunity to nominate someone and to approve someone who cares.

Dr. Foster, if you are listening and viewing this somewhere, let me tell you that this is not a judgment on you that is being made in the U.S. Senate. You can be proud of your record; your family can be proud of your record; your profession can be proud of your record; your country can be proud of your record. What we are doing is making a judgment about the U.S. Senate, about whether we have the courage to do what is right. I am sure the chairwoman would agree with me on this. There was not a single member of the committee who listened to his testimony that did not come away very much impressed by Dr. Foster. If people had not taken positions prior to his testimony, he would be overwhelmingly approved here. We are judging ourselves.

Senator SPECTER mentioned Justice Thomas when he was up. Senator KENNEDY and I were on the Judiciary Committee and strongly opposed him. TED KENNEDY did not get up here and try to have a filibuster. PAUL SIMON did not try to have a filibuster. We let the process work. That is what we ought to do. That is what we ought to do in fairness to Dr. Foster, but it is also what we ought to do in fairness to the process, in fairness to the U.S. Senate.

I hope we do the right thing, and the right thing is to let us make a judgment whether or not he should serve as Surgeon General of the United States.

I yield the floor.

Mr. DODD. Is there some event going on that the other side does not want to show up this morning on this?

Mr. KENNEDY. I yield myself a couple of minutes. I thought we were supposed to meet at 9 o'clock, in any event, to go over the job training——

Mr. DODD. Hark, hark, I hear the roar of an angel here. The magic words and the doors open. We may now get some time on the other side.

Mrs. KASSEBAUM. I yield 15 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, I thank the distinguished chairman for yielding. I rise in opposition to the Foster nomination.

Elections have consequences. I think democracy is based on the principle that when the American people go to the polls and vote, that vote has an impact on government. I think when the American people voted for Bill Clinton, they either knew or should have known that his Presidency was going to mean a bigger Government. It was going to mean more spending. It was going to mean more taxes. It was going to mean more decisions made in Washington and fewer decisions made around the kitchen table. It was going to mean, on political appointments, that liberals were going to be nominated.

Let me say, Mr. President, we have considered hundreds of Clinton nominees. I am not aware of one who represented my philosophy or my values. Yet, with the exception of a small handful of those nominees, I have either voted for them or I have allowed them to pass without a vote. Why? Because I think philosophy alone is not grounds for voting against confirmation of any nominee, including Dr. Foster.

What I have tried to do is to set out three criteria for considering a nominee: No. 1, is the nominee competent for the position? No. 2, is the nominee credible? Can you believe what the nominee says? Is the nominee trustworthy in his or her career? No. 3, are the nominee's views—in the case of Bill Clinton—mainstream Democrat Party views of the type that the American people could have believed, could have known, or could have been expected to have known would be reflected in the people that Bill Clinton—as they would have known him and perceived him in the 1992 election—would nominate?

It is on the basis of these three criteria that I oppose the Foster nomination and will resist the nomination with my colleagues. It is on the basis of that opposition, on these three criteria, that we are going to have two votes on cloture. I hope and believe that those cloture motions will be defeated, and that the Foster nomination will not go forward.

Let me start with competence. Dr. Foster has held two important positions in his career that have been pointed out as his qualifications for this office. No. 1, Dr. Foster was the head of Meharry Medical College's obstetrics-gynecology residency program. During his tenure as head of that department, that program lost its accreditation.

I do not believe that is a strong recommendation. I do not believe Dr. Foster's record of having allowed the department, under his leadership, to lose its accreditation, is a qualification to hold a position which, in essence, is a position as America's physician. In that position he would oversee the presentation of reports and would actually make substantive decisions that would be binding on other members of the Government.

Mr. KENNEDY. Will the Senator yield?

Mr. GRAMM. I will not yield. I would be happy to yield when I finish. If you want to yield on your time, Senator KENNEDY, I would be happy to yield on your time, but I only have 15 minutes.

No. 2, Dr. Foster served as director of the I Have a Future Program. In the stated mission is, to "address the burgeoning problem of adolescent pregnancy." That is the stated goal of the program.

We have heard repeatedly Dr. Foster's leadership in this program stated as a qualification for being Surgeon General. Now, on two occasions, and only two occasions that I am aware of, there were evaluations of this program. In both evaluations, the 1992 evaluation and the 1994 evaluation, evidence, that was in no way challenged by the people who were running this program, was clearly presented that showed the program had failed to produce any change in adolescent pregnancy among the people who were involved in the program as compared to the people who were not involved.

In both evaluations, any difference in pregnancy rates that existed—apparently a slightly higher level in the first study, a slightly lower level in the second study—were considered statistically insignificant. In neither case did these two evaluations find any statistically significant difference in teen pregnancy rates among people in this program.

On the two major positions that Dr. Foster has held—the head of a department of a medical school which lost its accreditation under his leadership, and a program funded by charitable contributions which did not, in either study reporting on its achievements, achieve its goal—I do not believe that any private personnel firm in America would have recommended Henry Foster for a position in the private sector of the economy, based on these two factors, or would have ever come forward with his name as someone qualified to be Surgeon General.

I am not going to get into the credibility issue because it will be discussed at length by my colleagues. On virtually every issue, from the number of abortions he performed, to whether or not it was standard practice to have involuntary sterilization of mentally incompetent people, to the very nature of the I Have a Future Program, or from the simple question of whether Dr. Foster had ever had a malpractice suit or been the subject of litigation, on almost every subject which was raised in the hearing, in almost everything which has been debated, in almost every issue that has come from the White House or come from Dr. Foster, there has been a consistent credibility problem.

Now, I want to get to the real reason that I am opposed to this nomination. We have two good reasons that anybody could be opposed to it. I oppose it for those reasons. But the real reason I oppose it is, the American people would have had no reason to believe that the Bill Clinton running for office in 1992 who became President would have appointed such a person. They would have every reason to believe it today.

In 1995, after Joycelyn Elders, after gays in the military, after the Clinton Justice Department has entered every suit involving quotas and set-asides on the side of quotas and set-asides, after a series of appointments of people who hold radical views, today, no one is surprised.

Let me read four brief statements that in 1992, as candidate for President, Bill Clinton said. No. 1, "I want the American people to know that a Clinton administration will put their values into our social policy at home;" No. 2, "I want an America where family values live in our actions, not just in our speeches;" No. 3, "The thing that makes me angriest about what's gone wrong in the last 12 years is that our Government has lost touch with our values while our politicians continue to shout about them;" and finally, "We offer our people a new choice based on old values."

Now, some people have said this is a debate about abortion. To some extent, it is a debate about abortion. But it is a debate about radical views on abortion that were held by Joycelyn Elders and that are held totally and completely by Dr. Foster.

The view that, No. 1, we should not have parental notification for minors, a view that the vast majority of American people do not share. A view that abortion on demand should everywhere be the rule and the guiding principle, even in late abortions, even in those cases where States, today, are trying to exercise their legitimate rights under the Webster decision. I do not believe those views represent traditional American values. I do not believe they represent the will of the American people. And, finally, let me read one little quote which tells the whole story, from the "I Have A Future, Family Life Module Staff Manual" from September 1994, which was sent by the White House to the committee as a summation of the work of Dr. Foster on this program. Let me read one quote.

> Values are neither good nor bad. They are the way you feel.
>
> Values are neither good nor bad. They are the way you feel.

That in no way represents in any degree the statements that Bill Clinton made throughout his 1992 campaign. The Foster nomination is a nomination of a person who does not represent the traditional values of the American people and a person whose views are radical as compared to theirs and outside the mainstream that could have been expected of Bill Clinton when he was a candidate in 1992.

Final point: Why filibuster? Why not bring this up for just a simple vote and let the majority rule? The Founders, in setting the rules of the Senate, felt that if a determined minority had strong views that in order to shut off debate, it would require a supermajority. That provision has been used on numerous occasions by both parties and, by and large, it has served the interests of the public well. When Joycelyn Elders was nominated by the President, based on her record, based on her credibility, based on her qualifications, and based on how her views compared to the views of candidate Bill Clinton in 1992, I strongly opposed her nomination. But this was early in the process. We did not know what she would be like as a Surgeon General, and so no one prevented the vote.

We now have seen a disastrous tenure by Joycelyn Elders. We have seen a tenure that has divided the country. And I do not believe that we should confirm a candidate for Surgeon General whose views are identical to Joycelyn Elders' in nearly every way.

We made a mistake on Joycelyn Elders by not denying a vote on her nomination. That was a mistake I, for one, was determined not to make again.

Now, I believe that this is a nominee who is wrong for this job. If there is one position in Government that ought to be easy to fill, it ought to be Surgeon General. The duty of Surgeon General is to use moral suasion on public health issues. The duty of the Surgeon General is to unite the Nation in promoting good public health. And that ought to be an easy thing to do because nobody is opposed to good public health.

Surely, there must be one physician in America who voted for Bill Clinton, who supports him, who shares his views as stated in the campaign, who could do that job. Unfortunately, Dr. Foster is not such a nominee. I oppose his nomination. I have determined, along with my colleagues, to vigorously oppose it, to require that there be a vote on ending debate. For the sake of saving the time of the Senate, we have agreed to a procedure to vote on it not once but twice so certainly no one can say they did not get the opportunity to end this debate. But I oppose this nomination. This is the wrong person with the wrong views for the wrong job. I think we can serve the public interest by saying "no." I think "no" is the right answer. I am confident we are going to say it.

I thank my colleague for yielding me the time and I yield back my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would like to yield myself just a minute. Does the Senator from Texas understand why the accreditation was lost during that period of time? Does the Senator understand? Has he had an opportunity to review the record and see the excellent exchange between Dr. FRIST and Dr. Foster on the issue of accreditation that responds to that point that the Senator has made?

Mr. GRAMM. I have had an opportunity to look at that. But I think the fact remains, whatever you are going to say about an individual and about his efforts, when you are talking about promoting a person to be the Nation's chief physician, it is not a qualification under any circumstance to say that under his stewardship his department at his medical school lost its accreditation. No matter how or why or what the circumstances, I do not think anybody would say that is a qualification. Nor do I believe that his I Have A Future Program, when the only two evaluations that were ever done, to the best of my knowledge, showed it had absolutely no statistically significant effect on the objective it sought, should be considered a qualification.

Mr. KENNEDY. Mr. President, I yield time to myself. I wish the Senator had a chance to review the record, because the issue of accreditation was addressed very credibly by Senator FRIST, talking about exactly what happened, the loss of patients and the change of demography there and the leadership that was provided by Dr. Foster.

These are the kinds of issues that have been reviewed and re-reviewed and re-reviewed. I think having his comments about that and putting that in perspective has certainly responded to this kind of a charge.

I think we have gone through the issue—I will yield myself 30 more seconds—about I Have A Future. At least Dr. Foster tried and he was given an award by the President of the United States, George Bush. I did not hear the complaints about that program at the time when President Bush was identifying it. There is a solid record that they reduced the dropouts, continued education, and went on to successful careers.

I do not know whether the Senator had a chance to meet with many of those who came through the program of I Have A Future, because they came here and spoke to Members of the Senate who were prepared to meet with them, to talk about exactly the kind of difference that Dr. Foster had made in their lives.

The PRESIDING OFFICER (Mr. KYL). The Senator from Missouri.

Mr. ASHCROFT. Mr. President, I yield the junior Senator from Oklahoma 5 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. INHOFE. I thank my colleague for yielding a few minutes here.

Mr. President, I was not planning to speak on this nomination today but while presiding for an hour and listening to some of the debate that has taken place, I felt compelled to do so because I think there is a misunderstanding as to why some of us are going to be opposing the nomination of Henry Foster.

I disagree with my friend, the Senator from Pennsylvania, Senator SPECTER, when he said that abortion is the sole issue. Abortion is not the sole issue in this nomination. I happen to be pro-life. It would be an issue with me if it were the sole issue, but it is not. The issue here in my opinion is credibility. I want to make it abundantly clear, when I vote against the nomination of Henry Foster to be Surgeon General, it is not because of his pro-abortion stand, or the abortion issue. It is his credibility.

I suggest that we recall—I do not think anyone in this Chamber knows what his real position is or how many abortions he performed because there has been such a variance in what he has reported and what he has said. I can remember when his name first came up and there was an article written in the Washington Post quoting him, quoting the White House, saying he had performed one abortion in his career.

Then, on February 3, 1995, the Department of Health and Human Services released a statement by Dr. Foster which stated, "I believe that I have performed fewer than a dozen pregnancy terminations." This was a statement by Dr. Foster.

Then, back on November 10, way back in 1978, Dr. Foster, as a member of the Department of Health, Education and Welfare Ethics Advisory Board, is recorded in an official Government transcript saying, "I have done a lot of therapeutic abortions, probably near 700."

The documentation of that is HEW Ethics Advisory Board Meeting, Friday, November 10, 1978, Seattle, WA, page 180. The White House first claimed that the transcript was not genuine but later admitted its authenticity.

Dr. Foster initially claimed the transcript was inaccurate, that he did not make the statement nor did he do what the statement said, but later he said he did not remember making the statement.

At about the same time, in November 1980, OB/GYN News published a story regarding a study conducted on behalf of Upjohn Pharmaceuticals by Dr. Foster at Meharry Medical College in Nashville to develop an abortion pill based on the chemical prostaglandin. Dr. Foster has admitted that he was the research director of a clinical study in which 55 chemical abortions and 4 surgical abortions were performed on women participating in the study. Appearing on ABC's "Nightline" program on February 8, 1995, Dr. Foster stated he was the physician of record in 39 abortions since 1973, since Roe versus Wade. He stated that the number of 39 did not include any of the 59 performed as a part of the study noted above since while he supervised the trial he did not personally perform these abortions.

So, Mr. President, to me regardless of whether your feelings are about abortions—again, I am pro-life—the fact is that either his memory is very bad or he has a habit of saying things that are not true. The inconsistencies are incontrovertible. I agree with my friend from Texas. But I think it is one more very significant reason to vote against the nomination of Henry Foster; and, that is, he says things that are not true.

So, Mr. President, I wanted to clarify why I will be opposing the nomination of Henry Foster.

I yield the floor.

Mr. KENNEDY. Mr. President, I ask unanimous consent to put in the RECORD the report of the Carnegie Corporation of May 3, 1995. They are the one funding the I Have a Future Program. This is what they say:

> By 1994, a significant proportion of the young people who received "I Have a Future Services" showed improvement on several measures of success, compared to a control group. The Corporation has worked with Meharry Medical College in developing the program, and Meharry has been responsive to recommendations for ways to improve the research design and the curriculum. The Meharry team has courageously and thoughtfully tackled an important and difficult problem. "I Have a Future" should have useful lessons to impart to others attempting to enhance the life options of young people caught in adverse circumstances.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Carnegie Corporation of New York, May 3, 1995]

I HAVE A FUTURE

Carnegie Corporation of New York funded the "I Have a Future" program from its inception in 1986. "I Have a Future" is a life options program addressing the multiple risks that many young people face in adverse circumstances—the risk of school failure leading toward dropping out, the risks of early pregnancy, the risks of drug abuse, and the risk of delinquency.

The program takes a comprehensive, problem-solving approach to the underlying factors involved in high-risk behaviors. It works to enhance young people's self-esteem, positive feelings toward family members, and a sense of responsibility toward their community. It urges them to pursue their education through high school and beyond and tries to give them a real sense of future possibilities.

The program combines many of the elements that researchers and practitioners agree are found in successful intervention programs for high-risk youth. These include individualized attention, collaboration with other community agencies, staff with specialized training, social skills training that helps adolescents both resist negative peer influences and adopt health enhancing behaviors, peer support, the involvement of parents, career/life planning, and opportunities for community service.

By 1994, a significant proportion of the young people who received "I Have a Future Services" showed improvement on several measures of success, compared to a control group. The Corporation has worked with Meharry Medical College in developing the program, and Meharry has been responsive to recommendations for ways to improve the research design and the curriculum. The Meharry team has courageously and thoughtfully tackled an important and difficult problem. "I Have a Future" should have useful lessons to impart to others attempting to enhance the life options of young people caught in adverse circumstances.

This is the Carnegie Corp. They are the ones who have done the evaluation. This is their bottom line.

I withhold the rest of our time.

Mr. President, I yield to the Senator from Louisiana 2 minutes.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 2 minutes.

Mr. BREAUX. Mr. President, I thank the Senator for yielding.

Mr. President, my colleagues, in considering the confirmation of a Presidential nominee I think that we as Members of the Senate have an obligation to vote on the merits of the nominee's qualifications. I intend to vote for cloture so that we can vote on the merits of this nomination later.

I have differed with some of the President's nominees. In fact, I voted against President Clinton's previous nominee for Surgeon General. I feel very strongly that the Senate should not hide behind procedural votes that present the question of the nominee's qualifications from even coming up. We should have the courage to bring the nomination up, debate his qualifications, and then vote "yes" or "no" on the merits. I realize that there are differences of opinion among our colleagues on this nominee, and indeed, on what the proper role of the Office of the Surgeon General should be. This I would suggest should be debated and decided by a vote of the Senate on the merits.

I have met with Dr. Foster in my office and discussed his views and also his past practices. He has family connections to my State of Louisiana, and I found him to be a very sincere person. I think, Mr. President, that the Senate owes the President and this nominee a vote on his qualifications and not just a vote on whether to even bring it up.

Mr. President, I yield the floor.

Mr. KENNEDY. I yield 5 minutes to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I thank my friend and colleague from Massachusetts, and I thank the Chair.

Mr. President, this Senator has been serving the Senate now for 17 years representing my people of the great State of Nebraska and in speaking for them I have tried to support the wishes of the Presidents of the United States from all different parties whomever they wish to place in their key positions. I have not always done so, because I think everyone should be looked at on an individual basis.

Like the Senator from Louisiana who just spoke, this Senator voted against the last nomination by President Clinton for the position that is now being debated with regard to Dr. Foster. I never as long as I have been here have taken part in a filibuster to try to thwart the will of the majority of this body and the elected President of the United States, whether that President be a Democrat or a Republican, to go the filibuster route and thwart the will of the majority of this body.

Mr. President, it seems to this Senator that the debate on the Foster nomination has simply deteriorated into a series of pronouncements by his opponents as to how they have come to principled reasons for voting against him.

I may be wrong. But it is the opinion of this Senator that Dr. Foster is being crucified on the altar of Presidential politics, pure, and simple. That is not what all of the opponents of Dr. Foster are thinking in my mind. But it is to a considerable extent of some who are providing leadership. I think crucifying someone to enhance someone else's Presidential ambitions is a sorry sight, indeed, to see happening on the floor of the supposedly deliberative body that makes up the U.S. Senate.

I guess the feelings about abortion of this Senator are somewhat legendary in this body. I suspect that Dr. Foster and I do not see eye to eye on the matter of abortion. But despite the many pronouncements to the contrary, I believe any reasoned, seasoned interest of the U.S. Senate would recognize and realize that in all too many cases votes will be cast one way or other on this nomination driven by one's feelings or pressure groups on abortion.

Having said that, I probably do not agree directly with Dr. Foster on abortion, but I still say that all of the abortions that he has been involved in, as near as I can tell, are fully legal. He has broken no law of the United States of America. He has broken no laws of the professional organizations to wish he is a very prestigious member.

I sat down with Dr. Foster in a one-on-one meeting not long ago. I came away from that meeting convinced that here is a family physician that I would like to have being the family physician of my family.

How then could I not vote to support his nomination even though we might not agree on all issues? He is a very decent human being. He is an understanding human being. He has the bedside manners, if you will, of what most of us would think of as a family physician.

He is very much concerned about the falling morality in this country. No one has spoken out more effectively, in my view, than Dr. Foster with regard to out-of-wedlock births and what we are going to do about it. Certainly there has been some confusion with regard to some originating statements that came out of the White House early in the nomination process. But there are few among us who have never made some mistakes, made some errors. I do not think any of those mistakes or errors on the part of Dr. Foster were intentional or plotted or designed to mislead. I think he made some mistakes. Who of us has not made some mistakes?

It seems to me, Mr. President, that we in the Senate have an obligation to have a majority vote, if you will, on nominees for important high office sent to us for confirmation by the President of the United States. So I will vote for cloture.

I think it is somewhat discouraging that by and large Dr. Foster is being crucified on the altar of Presidential politics; that we are even having a filibuster and a cloture vote. But I do not object to the right of my colleagues, mostly on the other side of the aisle, who choose this route. That is within their right. I think it is not playing fair with Dr. Foster or a qualified nominee sent us for confirmation by the President.

So I hope that the Senate will have the courage to rise above the obvious attempt to crucify Dr. Foster for the sake of partisan Presidential politics. It is wrong. It should not be a part of this process. And I hope the Senate will rise to the occasion and enough Members on that side of the aisle will recognize that despite some reservations they might have, and in some cases legitimately so, the right way to proceed on this is to stop the filibuster, invoke cloture, and then let the Senate adopt by majority vote its will. For the Senate to adopt a majority vote under its will will require some help from the Republican side of the aisle. We do not have enough votes on this side.

Mr. President, I thank my friend from Massachusetts, and I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. ASHCROFT. Mr. President, thank you very much.

Today we face a set of questions. They are serious questions. They are questions of procedure, of principle, questions of candor and questions of credibility, for today we begin a debate not only about the qualifications of an individual to serve as Surgeon General but about the terms under which that debate will take place. It is a debate neither easily resolved nor easily limited. Neither is it a debate to be taken lightly.

There are those who have said that the Surgeon General's office is an office of just a handful of people, that takes up less than $5 million of the taxpayers' money and therefore does not deserve the scrutiny that it has been given.

I disagree. The office of Surgeon General speaks with enormous influence and persuasion. Power of the position lies not in its legislative authority but in its ability to influence both the tone and the content of our national conversation concerning some of the most profound challenges that we face. And today the office of Surgeon General is in serious need of repair. It is an office that has been discredited by the reckless agenda and the damaging statements of its last occupant.

What we really need now, what we need today, is a Surgeon General of impeccable credentials and unquestionable credibility. We need a national doctor who commands the confidence of the people and who can unite us in tackling our most pressing pathologies. When you need a doctor, you need someone that you can trust; you need someone of reliability; you need someone of consistency. You do not want to go back with the same symptoms and get a different diagnosis in each visit. You do not want to have a different prescription. You need the confidence of knowing that what is said is what is believed and what will be followed.

We have pressing challenges. We have pressing pathologies. They are pressing. Whether it is the continuing scourge of cancer, the crisis of drugs, or the tragedy of illegitimacy, the problems are apparent and yet the solutions are not so apparent.

There are those in this administration who look at these problems and say that the only solution is to accommodate people in their problems. To teens in the back seat of a car they would say, "Better use a condom" when they should be saying "Stop. Get out; change your way of living." To addicts on the street, they would say, "Better use a clean needle," when they should be saying, "Stop. Get help; change your way of living." We do not need those who would say, "How can we help you in a lifestyle which is threatening your health and the health of the American people?" What we do need are people and leaders who will appeal to us at our best, who will appeal to the better angels of our nature, not seek to accommodate the basest of human desires. We need leaders who will agree with the great English writer and thinker G.K. Chesterton who wrote, "What is wrong is that we do not ask what is right."

We should be seeking to ask every individual, especially those faced by serious health challenges, how can we avoid these health challenges? How can we provide a healthy Nation by having the kind of consistent approach to behavior that will improve substantially where we are?

Frankly, there is not a lot that is right with this nomination. Initial appearances and claims were deceiving. If we were to just take what was originally given us, if we were to truncate or shorten the investigation, if we were to limit the debate, over and over again in this nomination we would find ourselves acting on the basis of inaccurate and false data, acting on the basis of alleged conclusions unsupported by the facts.

In a rush to market this nominee, the Clinton administration has displayed a reckless indifference to the evidence and a casual disregard for substantiating documentation. The frequent contradictions and serious misrepresentations about both the background and record of Dr. Henry Foster and about the performance of the I Have a Future Program have in my mind seriously undermined the credibility of this nominee. They have led to confusion and to controversy surrounding the nomination. They have made any notion of a brief debate about this nominee impossible.

Let me just recap for a moment. Dr. Foster was introduced to the American people as the architect of a program touted as an abstinence-based program. The fact. It turns out that the program is based on weekly contraceptive distributions. A program which alleges a focus on abstinence has been unable to produce any abstinence brochures developed, produced, or updated under Dr. Foster's leadership. In fact, the only brochures that could be located regarding abstinence were brochures written, published, and printed after Dr. Foster's nomination and after the controversy over Dr. Foster's so-called abstinence program began.

Dr. Foster was introduced to the American people as a man behind the program touted as preventing teen pregnancies. President Clinton called it an unqualified success.

Well, it turns out, according to its own data, participants were more likely to have had sex than nonparticipants, and that contraceptive use was not increased among those who were participants as compared to those who were nonparticipants.

Maybe President Clinton was half right in calling the program an unqualified success. It certainly was not a success, but it was unqualified in terms of helping these young people, for more of the young people had been involved in sexual activity who participated in the program than those who never even participated in the program. And according to the reports promulgated or published by the program itself, the words of the report say that there was no statistically significant difference in pregnancy rates between those participating in the program and those not participating in the program.

And as Dr. David Murray of the nonpartisan research group STATS, stated:

> The program's statistical results do not support the notion that pregnancy prevention or even lowering the risk of pregnancy follows from program participation.

Dr. Foster was introduced to the American people as the doctor behind a program extolled as reaching multitudes of children. It turns out that more individuals drop out of the program than persist in the program for complete participation.

Just a week after the Labor Committee nomination hearings, I received a letter from Dr. Foster stating that he had inadvertently misrepresented his position to me when I asked about additional statistics or studies on the I Have a Future Program. During the hearing, it became apparent from the studies that were available that the program's marks were not high, that it was not achieving its intended result.

So I asked if there were other studies, if there had been other data accumulated, if there were evaluations, and he clearly answered no. But his letter which he sent to me says that what he should have said was, "Yes, there are other statistics." As a matter of fact, there was not only an additional study but an independent analysis of that additional study. And this additional material reinforced the conclusions earlier made about the failure of the program; as a matter of fact, material which suggested a counterproductivity of the effort altogether.

But the additional material, that kind of a contradiction, just served to underscore and undermine further the credibility of this nomination, a credibility which was not sustainable and believable as it related to the number of abortions conducted, was not sustainable or believable about the quality and nature of the studies, was not sustainable or believable about the impact on young people.

As we consider a vote to decide whether or not we are going to have a complete, open and full debate on this nominee or whether or not we are going to cut off debate rather quickly, these revelations point toward more debate, more scrutiny, more exposure, not less. For it seems the more we probe, the more we discover, and never in this nomination have we found that the initial representations were supported by the evidence or the facts. It is always that the additional revelations somehow contradicted what the marketing by this administration had been.

Dr. Foster is a decent man who should be commended for his dedication and service to a desperately needy population. I do not think anyone would contradict that. But his nomination is more than a matter of personality, it is about standards of credibility and integrity, and it is about the belief in what things will remediate the pressing pathologies of our society. It is about an exceptional situation where an office has been discredited by an individual, our last Surgeon General, who discredited not only the office but the administration that she served. It is about this nomination, and this consideration is a debate about substantial and gross inconsistencies and contradictions that will continue to swirl around the nominee.

I believe that we need a nominee who inspires unquestioned confidence. We need someone that we have the kind of faith in that we expect in our family doctor. This nominee does not pass that test. The process has not provided a basis for that kind of belief.

The questions remaining are serious enough that I voted against this nomination in committee, and I believe that they are serious enough that we should all vote against any measure that would limit the debate over this nomination today.

I inquire as to what time remains.

The PRESIDING OFFICER. The Senator from Missouri has 52 minutes 45 seconds. The Senator from Massachusetts has 43 minutes remaining.

Mr. KENNEDY. Mr. President, I yield 1½ minutes to the Senator from Connecticut to clarify some points.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. I thank my colleague from Massachusetts. I just wanted to respond quickly to the Senator from Missouri on part of his statement. I sent a letter on June 13 to the majority leader in which I pointed out, again, the overwhelming evidence that this program, I Have a Future, has long supported abstinence—not just on some rhetorical statements, but rather based on evidence, pamphlets, videos, so forth, that have been available going back to 1986. To suggest somehow that these were manufactured documents that came up after Dr. Foster's nomination is just not borne out by the facts.

Mr. President, the following are among materials that have been provided to the committee—by the way, I am not holding these, they have been part of the record. For example, the 1989 edition of the family life module staff manual specifically calls for the handing out of a pamphlet entitled "Many Teens Are Saying 'No.'" A copy of that pamphlet was provided to the committee. A 1986 pamphlet from the American College of Obstetricians and Gynecologists to which Dr. Foster alluded in his hearings called "A Parent's Guide to the Facts: To Help Mothers and Fathers Talk to Their Teenagers About Sexual Responsibility." That was the title. It includes a similar abstinence message. The pamphlets are only part of this program. The same abstinence message is delivered through videos, training materials, group discussions, games, a variety of other materials, all of which are a part of the record.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DODD. Mr. President, I ask for 30 additional seconds.

Mr. KENNEDY. I yield 30 seconds.

Mr. DODD. Mr. President, all of that material has been made available to the committee. To say that these were manufactured documents that came up after the nomination is ludicrous. It is all there, it is all available to the committee. It is a longstanding record of supporting abstinence as part of that program. To suggest otherwise is unfair to the nominee. It is not an accurate reflection of the hearing record.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Thank you, Mr. President. I thank the Senator from Massachusetts.

Mr. President, I have listened to the debate for about the last 40 minutes or so. I have decided to not speak in the language of statistics or charge/countercharge. I sit on the Labor and Human Resources Committee and had an opportunity to hear Dr. Foster and go through this hearing with him.

I have heard some language from my colleagues, mainly on the other side, about appealing to the better angels of our nature, about values, about mainstream, and about competency. So let me try to, within my own way, within a very short timeframe, set the record straight.

Dr. Foster, during the committee hearing, was articulate, thoughtful and able to maintain his sense of humor. And more importantly, the committee and the American people came to see a compassionate, humane, caring theme—Dr. Henry Foster, the same Dr. Henry Foster known to his friends, to his family, and to his community and, more importantly, to his patients.

Sometimes we do not know what we do not want to know. We went through the debate on the I Have a Future Program over and over and over again in committee. The Senator from Massachusetts mentioned the Carnegie Foundation report. There is not one Senator here that should ever argue anything other than the question of why children have children is complicated and none of us really knows the answers, though we are all struggling to find those answers.

But Dr. Foster at least tried. During the hearing, every time I heard a criticism of this program, I asked my colleagues, "Could you point to another program that had more success? Could you point to a more worthy attempt? If we want to talk about values and how you live your life, can you point to a doctor who has been more there with young people, who has cared more about this problem of teenage pregnancy, who has cared more about the problem of substance abuse, who has cared more about the problem of violence in the lives of all too many young people in America, who has cared more about the problem of HIV infection and AIDS?"

Mr. President, I must tell you that during the committee hearing—and I suspect on the floor of the Senate as well—there will be no answer to the question I just raised. The silence will be deafening.

Mr. President, Dr. Henry Foster does appeal to the better angels of our nature. I heard one of my colleagues earlier talk about the standards being competency, credibility, and mainstream values. Competency? This is an Africa-American man who has a whole life of accomplishments. This is an African American man who has contributed enormously to communities and to our country. And mainstream values? What is more consistent with mainstream values than to take your professional ability and to use that ability in such a way that you give to the most vulnerable citizens in our country, you take your professional ability as a doctor and give it to communities and you serve people?

Mr. President, the key to a successful and effective Surgeon General is, will that Surgeon General have rapport with the people of our country? There is no question in my mind that Dr. Foster will. Dr. Foster, if you are watching this debate—and for all the people in the country that are watching the debate—Dr. Foster, be proud. This personal attack is all about politics in the worst sense. Be proud of your life. Be proud of what you have done. I believe, as a Senator from Minnesota, Dr. Henry Foster will serve our country very well.

I yield the floor.

Mr. COATS. Mr. President, I yield 10 minutes to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. First, I wish to compliment my friend and colleague, Senator COATS, for his work on this nomination. I also would like to clarify a couple of statements that have been made by some of the proponents of the nomination.

I heard some of the proponents say this nomination is about Presidential politics. I disagree. I have seen politics play a part in previous nominations for different things. But I will tell you as a person who has been involved in some of the battles on the office of Surgeon General in the past, I do not think this is about Presidential politics. I remember Dr. C. Everett Koop, who eventually was confirmed for Surgeon General, but he was held up for months, almost a year.

I remember Dr. Elders. I was involved in slowing down that nomination. I tried to defeat it. I tried to use parliamentary procedures, and I slowed it down for several months, because I thought she was the wrong person to be Surgeon General. That was not about Presidential politics, although people said that on the floor. Dr. Elders alluded to it being about race. And that was wrong. She was the wrong nominee and she was the wrong Surgeon General. She made a lot of statements, both prior to her confirmation and after her confirmation, that proved she was the wrong person to be Surgeon General.

And, Mr. President, I state that Dr. Foster is the wrong person to be Surgeon General. He should not be confirmed. It does not have anything to do with Presidential politics. He should not be confirmed.

Why? I do not think we can trust him. I think time and time again he has made statements that have proven not to be truthful. I do not think he has been honest. I do not think he leveled with the Congress or with the American people. I do not think somebody should be confirmed if they cannot tell the truth. That does not mean he is not a nice guy, or that he has not done some good things. But if a person does not tell the truth, then they should not be confirmed to a high-level office. As a matter of fact, I terminate the employment of people if they do not tell the truth. I think that telling the truth is a basic requirement.

You might say, well, where are you getting these facts, and where are these things coming from, and is this not just based on opinions not fact? Well, a lot of it comes from Dr. Foster himself. A lot of the statements he has made on very sensitive, important issues have been misleading, at best. A lot of people have said this issue is about abortion because a lot of people do not want to have somebody who has performed abortions be Surgeon General.

I agree. I do not want to have an abortionist as Surgeon General. But I also will say that with the numbers in the Senate, that probably would not necessarily disqualify somebody or mean they could not get the votes to be confirmed. But what about when you have statements like, maybe I have performed one abortion—that came out of the White House. Then we had a statement issued by the White House and by Dr. Foster, and I will read this statement. They have a printed statement on February 3, 1995, that says:

> In that period of almost three decades as a private practicing physician, I believe that I performed fewer than a dozen pregnancy terminations.

Fewer than a dozen. This is a release to try to stop the discussion of how many abortions Dr. Foster had performed, because they had a problem with their nomination. And then I find out in a Department of Health-HHS hearing, Ethics Advisory Board, on November 10, 1978, Dr. Foster talks about doing about 700 or so abortions. So to quote, it says, "I have done a lot of amniocentesis and therapeutic abortions, probably near 700."

That was Dr. Foster. What was the response? First the White House said, "He was not there." "It was not Dr. Foster." Then, "He is misstated or misquoted and did not remember making the comments." But it is in this record. The White House was saying it is not true. It turns out, I think, that it is. In Dr. Foster's statements on abortion, he is misleading Congress and the American people. On "Nightline" he said, "I have done fewer than 39 abortions." Well, he was not counting those 700 or so he referred to in his testimony before the Ethics Advisory Board nor was he counting the abortions that occurred during a study he headed at Meharry, where over 50 abortions were caused by use of a suppository.

And then also in Dr Foster's statements, he says, "Well, I am not about abortion. I abhor abortion. I am against it." And then I look at some of the statements he made about the suppository, talking about, how this suppository can induce abortion in 1 to 7 hours and could be available for prescription in 36 months. We are going to have suppositories where everybody can get abortions; they can be quick, easy, and cheap.

He made that statement. So I am thinking, wait a minute, how is this consistent with "I abhor abortion," but he is doing a study to see if we can have a suppository to make it available to everybody. Then I go back to a statement the White House released that said, "I have done fewer than a dozen." On "Nightline," he said, "I did 39." And then we read a transcript saying he did 700. Then he is doing a study on a suppository where it could be cheap, free, and available to everyone.

Then when I read what Dr. Foster stated on February 27, 1995—that he is fighting mad at "white right-wing extremists that are using my nomination to achieve their radical goals."

That reminds me of some of the statements that Dr. Elders made. Who is he talking about? I am opposed to his nomination for a lot of reasons, but I have never put myself in that category. I do not know that people would put the New York Times in that category. Generally, it is a fairly liberal paper—editorially, at least.

On February 10, the New York Times says, talking about Dr. Foster:

> Although Dr. Foster is a highly respected obstetrician, his lack of candor about his abortion record disqualifies him from serious consideration. Misleading statements by candidates for high positions simply cannot be condoned.

They go on:

> Of course, the chief blame for this debacle lies with the White House, which once again put forth a nominee without adequately vetting the person's background or knowing the answers to potentially explosive questions. As a result, the administration put out false information on the number of abortions performed by Dr. Foster.

They summarize and say, "It is time to withdraw the nomination."

I think they were correct. However, the White House did not withdraw the nomination. They have been fighting for this nomination. They think this is important. They have tried to turn this into all kinds of different philosophical battles. They are wrong.

Some of my other colleagues have raised issues concerning credibility. I think there is a real credibility problem. Concerning the syphilis study, Dr. Foster stated, "I didn't know about that until 1972 when it became public." Yet, I do not think that is the truth. Dr. McRae, who was president of the medical society at the time of the study, stated in a letter on February 28, 1995, "I sat at the end of the table, and Dr. Foster sat some two chairs down from me on the left."

I ask unanimous consent that the letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

L.C. MCRAE, JR., M.D.,
Mount Vernon, GA, February 28, 1995.

Mr. JERRY HORN,
Celebrate Life Magazine.

DEAR MR. HORN: With reference to your inquiry concerning the Tuskegee Syphilis Study, I will express my knowledge of the study as I know it to be.

Some weeks before the County Medical Society Meeting of May 19, 1969, I received correspondence from Dr. Bill Brown at Emory University, U.S. Public Health Service. He was requesting a meeting with the County Medical Society to discuss an on-going "study". Prior to this letter I had received an endorsement from Dr. Ira Myers who was the Alabama State Health Director calling my attention to the fact that I would be hearing from Dr. Brown.

The meeting was organized and held at the then Torch Cafe some four miles outside Tuskegee. Prior to that time we held, our meetings at John Andrews Hospital on Tuskegee Institute Campus. At this meeting we were apprised, myself and everyone there included, of an on-going syphilis study that began in 1932 and was to run over a forty-year period. This study consisted of a double blind study of treated and untreated male syphilis patients. This was the first that any physicians in the County Medical Society knew anything about this study. Dr. Brown made his presentation requesting that we endorse the continuation of the study. It was my feeling and belief that the study was ending within three years bringing it to its forty-year period that was designed in the study. A list of the remaining patients in the study was given to each physician and I noted four or five of my patients that were on the list whom I had treated for latent syphilis not knowing that they were involved in the study.

Members attending the meeting to the best of my knowledge were myself, Dr. Brown, a colleague of his, Dr. John Hume, Dr. Thomas Calhoun, Dr. Howard Settler and Dr. Henry Foster.

I sat at the end of the table and Dr. Foster sat some two chairs down from me on the left. The presentation was one conducted over a thirty to forty-five minute period of time and it became our consensus that we would endorse the continuation of the study.

What is striking to me about the fact that those members present as named were unaware of the study, however no future conversations were held at either meetings or with me. When the news broke in 1972 about the Tuskegee Syphilis Study and Dr. Foster's name came up in that he was greatly helpful in working out the logistics of seeing that patients were located and treated and I felt that from my knowledge to the news media that Dr. Foster was doing a great service and I still feel that way to this day. What concerned me was that he was at the meeting and voiced no objection to the continuation of the study and yet became outraged in 1972 when approached by members of the press and other interested parties concerning the Tuskegee Syphilis Study.

The minutes of the meeting have not been located and through talking to some other reporters it was determined that Dr. Howard Settler, of course, was Secretary-Treasurer of the County Medical Society in 1969 and he stated that most recently, that his secretary had died and he had no idea where the minutes were.

If I can be of any further service to you, please advise.

Sincerely yours,

LUTHER C. MCRAE, JR., M.D.

Mr. NICKLES. Dr. Foster was vice chair of the medical society where they were being briefed on the syphilis study in 1969, yet Dr. Foster emphatically says, "I was not there." He was not there. He performed a delivery that day. It turns out that the time of delivery that day did not coincide with the birth record of that child. There are so many inconsistencies, so many downright misstatements of fact. It leads me to conclude that Dr. Foster should not be confirmed.

Maybe one that troubles me, maybe it troubles me more than others, deals with the sterilization of the mentally retarded. This is sterilizing mentally retarded women without their consent. Dr. Foster admits doing this.

As a matter of fact, in the summer of 1974 he read a paper to a medical association that said, "Recently, I have begun to use hysterectomy in patients with severe mental retardation." Since then, both Dr. Foster and the White House said, well, that was medically accepted, that procedure was in the medical mainstream. That is false. That is outright false.

As a matter of fact, in Alabama, that summer the law on sterilization shifted dramatically and practices that were formerly perhaps part of the medical mainstream were no longer.

I have a whole list, including the case in June 1973, where Mary Alice Relf, age 12, and Minnie Relf, age 14, were surgically sterilized in a hospital in Montgomery, AL. To make the story short, this case went to court. This was in June 1973. HEW regulations were sought to protect the rights of all persons, including the mentally retarded, with respect to sterilizations paid for with Federal funds.

However, those regulations did not take effect because the Federal district court in Washington, DC, in March 1974, found HEW had no authority to fund any nonconsensual sterilization whatever.

Mr. COATS. Mr. President, I yield the Senator from Oklahoma 1 minute, additionally.

Mr. NICKLES. Mr. President, if we look at the inconsistencies, they said sterilization for the mentally retarded was in the medical mainstream. It was not.

There were court cases saying, "No, do not do it." HEW said, "We will not do it or fund it." Dr. Foster was making speeches to medical associations saying, "We are doing it." There were cases, and there was an outcry against this activity.

If we look at this, if we look at the inconsistencies of his statements on what happened on the number of abortions, if we look at the syphilis study where he said, "I don't know anything about it," and Dr. McRae and others say, "Yes, he was informed about it," I think there are so many inconsistencies we really have serious questions about his honesty to Congress and to the American people.

Therefore, I happen to agree with the New York Times in their editorial that I read from, and their editorial today which states that Dr. Foster should not be confirmed by the Senate.

Mr. COATS. Mr. President, could I inquire how much time remains on each side?

The PRESIDING OFFICER. The Senator from Indiana has 40 minutes and 40 seconds; the Senator from Massachusetts has 35½ minutes.

Mr. KENNEDY. Mr. President, I yield five 5 minutes to the Senator from California.

Mrs. BOXER. Thank you very much, Mr. President. I thank my colleague from Massachusetts.

I am very disheartened and, frankly, disgusted with what is starting to emerge here on the Senate floor.

A defamation of a man's character. A defamation of a man's career by Senators who do not even know this man; by Senators who are not even physicians; by Senators who think they know more than professional organizations who have honored this man, than patients of this man who have come forward to testify to his decency, his qualifications, his integrity; by Senators who think they know more than President George Bush, who gave his program the 1,000 Points of Light Award; by Senators who think they know more than their own colleague, Dr. BILL FRIST, a Senator here, who said very clearly that he supports Dr. Foster.

I quote to my fellow Senator on the other side of the aisle, their own colleague, Senator FRIST: "When people ask me why I support Hank Foster's nomination, I will tell them simply, because he's qualified to carry out the duties of Surgeon General, and I am confident he will perform that job well."

I am disheartened that people would come on this floor and attack a decent man the way they are doing here today. I take offense at it. I apologize to Dr. Foster for it and to his family and his friends.

This is about politics. Politics of the worst sort. This is about pressure. Pressure of the worst sort. This is about sacrificing a decent man on the altar of right-wing politics in America.

I hope that if we do not win this vote today on cloture that the American people will rise up, that they will phone their Senators, because there is a chance to reconsider if we do not win today.

I am appalled at what I have heard here. I am appalled that people who claim to stand for family values and for a decent society, would attack a decent man in such a personal way.

I share the views of my friend from Connecticut when he says, "Who in their right mind will put themselves through this and get caught up in Presidential politics like this?"

Dr. Foster is an ob/gyn—an obstetrician-gynecologist—and delivered thousands of babies. Mr. President, only a very small percentage of his practice involved abortion. And this is how he gets treated.

This is a man who, as my friend from Maryland said, could have been a wealthy doctor in the Northeast somewhere playing golf at country clubs on the weekend, but chose to go into the South where women had to travel 150 miles to get decent health care.

I have letters I will put into the RECORD from doctors who served with Henry Foster, who saw that compassion. And people in this Chamber with a cushy lifestyle get on this floor and attack him personally for giving up his life, so he could serve people in need, so he could turn around the infant mortality rate in the Deep South.

They say "He will be like Joycelyn Elders." What does that mean? What does that mean? I have never heard that before on this floor. When we take up a nominee, that people compare him to the person who held the office before. What does it mean? Think about it. More than one person on this floor has said it. The only thing I can think of is that they are both African-American.

I ask you to search your soul in this debate and stop the personal attacks on a decent human being. If you want to vote against him, vote against him. He deserves his day.

I ask for 30 additional seconds.

Mr. KENNEDY. I yield the Senator 30 seconds.

Mrs. BOXER. He deserves his day. And filibustering this nomination is keeping him from his day.

If you do not think a woman deserves a right to choose, fight against it. Convince the American people, because they do not agree with you. They want Government kept out of that decision. Do not take it out on a man who brought thousands of babies into this world.

Oh, he forgot exactly the number of abortions. We have heard that. Maybe he forgot the exact number of babies he brought into the world. Would that change your mind?

Let us be fair. Let us stop the personal attack. Let us stop Presidential politics. Let us vote for cloture. Then let each and every Senator vote his or her conscience.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I yield 2 minutes, or more if he needs it, to the Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. THOMPSON. Mr. President, today we are debating much more than the qualifications of Dr. Henry Foster. Few could argue he is not technically qualified. Furthermore, few, if any, would contest the fact that Henry Foster is a decent man who has worked hard and done much good in his lifetime.

I might also say, for my part I am not too caught up in these issues of credibility with regard to things that may or may not have happened a decade or more ago. I do not agree with my colleagues who say that you cannot trust this man. I hope the Members of this body are never judged by standards of consistency in other matters by which we judge some of these nominees.

However, Dr. Foster is caught up in something much bigger than himself and, therefore, so are the rest of us in this debate. Because of the way the President has used the office of Surgeon General and the appointments to it, we are now engaged in a heated national debate, one that I think is divisive and unnecessary. At a time when all of us, and especially the President, should be looking for ways to bring people together in this country, the President, by means of this appointment, has chosen instead to give a symbolic victory to one side in the abortion debate.

The President has taken the office of Surgeon General, a rather obscure office with no real authority whose purposes have traditionally been to simply promote mental and physical health, and raised it to the position of spokesperson with regard to sensitive moral and social issues. Then he has proceeded to appoint Dr. Elders to that position, one of the worst and most controversial appointments in recent years.

With that legacy, naturally the position has become one of great sensitivity to many of the American people. It is time for an appointment that will symbolize a return to matters of basic health care. It is time for an appointee who will command the attention and respect of the Nation with regard to these issues.

Instead, the President has made an "in-your-face" appointment that was totally insensitive to the religious and moral beliefs of a large segment of the American people. One must assume the President knew the firestorm of divisiveness that this appointment would cause and that he simply assumed he would be the political winner in this national debate that would ensue, regardless of whether or not Dr. Henry Foster was confirmed.

That is not the proper use of the office of the Surgeon General and that is not the proper use of this nomination. Therefore, I choose not to endorse the President's actions and I will not vote to confirm this nomination.

I yield the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I yield myself such time as I may consume. But I ask the Chair to inform the Senator when he has used 10 minutes of time.

Mr. President, I say to my colleagues that confirmations are probably one of if not the most difficult tasks required of us here in the Senate because we are not dealing with abstract statistics. We are not dealing with generalizations. We are not dealing with issues per se. But we are dealing with fellow human beings, their character, their lives, their experience—who they are.

When we make a judgment on a nominee, I believe it is a task that needs to be taken with some humility. None of us can claim a past without mistakes or without failings. Nevertheless, we are required to weigh the record against the criteria for service and come to an informed decision.

Let me begin today by saying what is not at issue in this nomination. Dr. Foster's commitment to the poor is not at issue in this nomination. He has proven that commitment over many years of service. Dr. Foster's engaging good humor is not at issue. He has shown it in our Senate hearings and at other times. And the administration's initial handling of the nomination should not be at issue. You can hardly blame Dr. Foster for White House incompetence.

My concerns in this process have been specific and they have been factual. I have attempted to raise some basic questions, questions that for me are determinative in my decision in terms of whether I would support or not support Dr. Foster. Has the nominee been candid? Has the nominee, during his career, displayed the ethical judgment and leadership necessary for the position of U.S. Surgeon General? Would this nominee unify our Nation on important health concerns, or would he fragment it through divisive moral debates?

I think it is interesting that today in the New York Times, an editorial appears addressing the question of candor. It is not, I believe, either inconsistent nor does it indicate some kind of a right-wing conspiracy that Members who have opposed Dr. Foster have raised the questions of his credibility and his candor with the Senate and with the public. I am quoting from the New York Times, which says:

> We continue to believe that Dr. Foster has forfeited any claim to the job by his initial lack of candor about his abortion record. He had a constitutional right, indeed duty,

According to the New York Times—

> to perform abortions for his patients. The number he performed . . . is in fact rather modest for a busy gynecologist serving a needy population.
>
> But numbers are not at issue here. The sad fact is that, from the day his name was announced, Dr. Foster seemed determined to minimize his abortion record and kept being forced to revise the numbers upwards. His misleading statements led us in February to oppose his candidacy. Nothing that has emerged in the later hearings or comments has justified those misstatements.
>
> . . . Dr. Foster's candidacy fails the candor test. He deserves . . . to be rejected.

Those are not words from this Senator. Those are not words from other Senators. Those are not words from the right wing. Those are words from the editors of the New York Times on the issue of his candor. So I think it is a legitimate issue. It is a legitimate issue to raise. It is a legitimate issue to evaluate. It is a legitimate issue by which to form a judgment as to whether this particular individual is the individual that is best suited for the position of U.S. Surgeon General.

It is not our job in a nomination debate to deal in general impressions. Our task is to investigate specific concerns.

The questions that I have raised I believe can be answered from the public record. In my opinion, none of these questions were answered satisfactorily during the hearing process; none in favor of Dr. Foster's nomination.

There are at least four concerns that I would like to raise before the Senate for consideration.

First, at the beginning of this process, I was concerned that Dr. Foster gave varying accounts of his record on abortion—numbers that could not be explained by a faulty memory alone. The nominee has tried to dismiss those concerns, but he has not in my opinion specifically answered them.

I am concerned with more than numbers in this matter. I am a pro-life Senator. I would prefer a Surgeon General who extends his compassion to the weakest members of the human family. For me, as a matter of moral principle, a commitment to speak for those who cannot speak for themselves.

Having said that, the numbers are not relevant as the New York Times has indicated. It would seem unlikely to me that someone who admits to performing 39 abortions would confuse that figure with performing just one or even 12, that someone who testified that he abhors abortion, and it is one of the most difficult things that he has ever had to do, would be confused over his involvement in abortion or would not remember what his involvement was, and only when pressed on the record would say, "Well, yes, I guess the number is different than what I initially indicated." It is clear that Dr. Foster oversaw, in addition to the 39 that he admitted on the "Nightline" show, 55 additional chemical abortions, and 4 additional surgical abortions as part of a scientific study of which he was involved with.

We also know now from an official HEW transcript that Dr. Foster himself claimed to have done 700 amniocentesis and therapeutic abortions. We were never able to clarify just exactly what the breakdown was in terms of those abortions; where they came from. That is the clouded part of the record.

I cannot avoid the conclusion that Dr. Foster's frequently changing numbers and varying accounts of his personal involvement with abortions are profoundly troubling and difficult to explain as a mere lapse of memory.

Second, I am concerned that Dr. Foster may have been informed about the Tuskegee syphilis study before 1972, when it became widely known. That concern was not in my opinion satisfactorily answered despite my lengthy and thorough questioning of Dr. Foster on this subject in the confirmation hearing.

Dr. Foster declared in the Labor Committee hearing that neither he nor anyone in the county knew anything about the study. But we know that a number of medical personnel in the county helped conduct the study and knew that treatment was being denied to those black men who had syphilis in the name of continuing the study. We know that Dr. Foster was chief of obstetrics at the Tuskegee Institute, which provided services in connection with the study.

We know that Dr. Foster was vice president and later President of the Macon County Medical Society when that society was consulted regarding the study, and when that society agreed to cooperate with the public health service.

I have considerable additional material that if time would allow I would be happy to share with the Senate. I have forwarded a letter to each Member of the Senate for their consideration detailing this information. If time permits, I hope to be able to examine some of that material.

The Washington Post editorialized that this was a critical factor in Senators' decisions of knowing what Dr. Foster knew and when he knew it regarding the Tuskegee study. That editorial claimed that, if he had knowledge of that study before 1972, he was not qualified for this office. I presented to the Senate a lengthy detailed record of information that I believe leads to the conclusion that Dr. Foster did know about the study and did not respond as he indicated.

We know that Dr. Foster, as then president of the medical society recalls, may have attended a meeting at which the medical society was notified of the study, and documents from the Public Health Service specifically state that each member of the society, which is a small society, 10 Members I believe, was provided with a list of surviving participants in the syphilis study.

The PRESIDING OFFICER. The Senator should be informed that he has consumed 10 minutes, and that he has 27 minutes and 10 seconds remaining.

Mr. COATS. I thank the Chair.

Let me state, third, that I was concerned that Dr. Foster performed sterilizations on the mentally handicapped, without proper consent. That concern was not fully answered.

Dr. Foster confirmed that this procedure was done, without the assent of patients and without a judicial decision. He and the White House defended this practice as mainstream medicine at the time, but we found that this procedure was not mainstream, even at the time. It was contradicted by Alabama case law, Federal regulations and professional standards.

I cannot avoid the conclusion that Dr. Foster, on this issue, displayed little ethical sensitivity, and demonstrated no ethical leadership.

Finally, I became concerned with both the inflated claims and the direction of Dr. Foster's I have a future program. This concern was not answered. In fact, it was decisively confirmed.

Dr. Foster and the White House claimed that abstinence was the bedrock of I have a future, and that the program itself was a tremendous success. Objective evidence undermines both of these contentions. Abstinence is not mentioned in two promotional brochures for the program, but contraception is prominently featured. In the program curriculum, abstinence gets a weak second billing to an aggressive contraception focus.

On this issue, the pattern of carelessness with the truth was repeated. When abstinence brochures were presented to the committee to show the nominee's commitment to this principle, the publisher confirmed the procedures were written just before Dr. Foster's selection and were ordered only a month after his nomination.

I have a future is a story of good intentions and poor results. Two evaluations by the program's own staff show it may actually have been harmful to teen participants. Although they started the program more abstinent than the control group, they ended up more sexually active, and no less pregnant at the end of the program.

Mr. President, I cannot avoid the conclusion that I have a future is a program operating on a failed theory, the theory that contraception can be an acceptable substitute for restraint.

In considering this nomination, I always come back to the unique nature of this office, an office with little staff, little funding, but exceptional influence. That influence is based on persuasion and respect alone. It is based on the ability to build consensus and provide moral leadership.

Dr. Foster has many good qualities, but they are not the qualities for this office, particularly at this time, in the aftermath of Dr. Elders. The reputation of this position must be rebuilt, or its entire future is in doubt. That job of rebuilding will require credibility, ethical judgment, and candor, and it will require in my opinion, a different nominee.

For all these reasons, I cannot support this nomination, and I urge my colleagues to defeat the motion to invoke cloture.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I yield 3½ minutes to the Senator from Alabama.

Mr. HEFLIN. Mr. President, I rise in support of the nomination of Dr. Henry Foster and I think his background and training and education makes him uniquely qualified.

I rise today in support of the nomination of Dr. Henry Foster to be Surgeon General of the United States. Like many of my colleagues, I do have some reservations concerning the nomination. But in my judgment, there is nothing about his background that—under current law—should disqualify him from serving as the Nation's chief spokesman on health care issues. Based on his testimony before the Senate Labor and Human Resources Committee—which many hailed as an old fashioned tour de force—early last month and the accolades he has received from friends and associates since his nomination, he should be confirmed without further delay.

I think his background, training, and education make him uniquely qualified for this position, and I believe his testimony before the committee helped to dispel some of the fears of his opponents. I think we should be encouraged by this process. The May 2 hearing served the purpose for which confirmation hearings are designed—the nominee was able to make his case in his own way and in his own words, outside the realm of political caricature and interest group misrepresentation. His qualifications were already well-known; after the hearing, the nominee was well known. This is the way the process should work. We should now have the opportunity for an up or down vote, based on what we know.

What we know of Dr. Foster is that he has 38 years of experience as an educator, professional physician, and public servant. He was the founder of a program that addressed the issue of teenage pregnancy called I Have a Future, developed in 1987. The program stressed abstinence as a first method of reduction. It was chosen by former President Bush for his Points of Light Program.

Dr. Foster served 2 years of Active duty and 2 years of Active Reserve duty in the U.S. Air Force. He was instrumental in the consolidation of Meharry Medical College and Metropolitan General Hospital in Nashville, saving both from possible closure. He is a member of the prestigious Institute of Medicine and is a member of many distinguished medical advisory and review boards. He served as chief of obstetrics and gynecology at the John A. Andrew Memorial Hospital in Tuskegee, AL, where he still has the full support of the local citizens.

This nomination has been sidetracked by disputes about how many abortions Dr. Foster performed, whether he knew about a controversial 40-year syphilis experiment on black men conducted in Tuskegee, and what role he played in hysterectomies performed to sterilize mentally retarded patients during the 1970's.

I am personally opposed to abortion. My position is well known, since the national media once carried my statement: "As a former fetus, I am opposed to abortion." But the fact is that it is a legal medical procedure that is generally carried out by obstetrician-gynecologists such as Dr. Foster. Reasonable people can debate what the law of the land should or should not be with regard to abortion.

Regardless of how many abortions he may have performed, the number is irrelevant because it is a legal medical procedure taught in many medical schools. As to the question of his candor in recalling the specific numbers, I suppose it would be fair to say he made errors in his recollection. I practiced law for 25 years in a small country town, and once I was asked how many murder cases I had tried. I gave an answer, and then upon reflection I realized the number I had given was incorrect. Then I got to thinking about it. Well, let us see. I did not think about this case, and I did not think about that case, and I soon realized that each time I thought about it I had really made a mistake.

Unless recollections are supported and refreshed by documentation, they are inherently hazy, especially in relationship to a long career. In hindsight, it would be clear that he should have not given out a precise number at the time. He may have made a mistake in trying to neutralize a politically divisive issue. I do not think he intentionally misled the public, the administration, or the Labor Committee for his own personal gain.

The issue of when Dr. Foster knew of the syphilis experiments was addressed at the committee hearing. It has been alleged that he learned of these experiments during a May 19, 1969, briefing on the study. However, based on my reading of the record, Dr. Foster did not learn of the study until it became public in 1972.

I have a copy of an affidavit signed by Minnie Capleton Jamison, of Tuskegee, AL, whose son Dr. Foster delivered by Caesarean section on the evening of May 19, 1969. Ms. Jamison specifically recalls that part of the procedure occurred at 7 p.m., with the official medical record indicating that her baby was delivered at 9:17 p.m. The briefing on the syphilis study is said to have begun at 7 p.m. on May 19 at a medical society meeting. I ask unanimous consent that a copy of this affidavit be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HEFLIN. His critics charge that even if he was not at the May 19, 1969, briefing, he could have found out about the study through specialty journals unlikely to have been read by Dr. Foster. To read all medical articles and all journals, few doctors would have time to treat patients. This standard clearly violates the bounds of reason and logic.

Finally, some charge that Dr. Foster should not be confirmed because he performed hysterectomies on four mentally retarded patients for hygiene or life-saving purposes. During his testimony, he responded that these were not "forced" or "involuntary" sterilizations under the guidelines in place at that time. Informed consent was given consistent with the medical ethics in the 1960's and early 1970's, the time period during which these four procedures were performed.

Senator FRIST's support is one of the most compelling arguments in his favor. As the Senate's only physician, he is in a unique position to judge the Surgeon General's qualifications and ability to serve. Just as we look to the legal community to make recommendations about Supreme Court and other judicial nominees, we should look to members of the medical community for their assessments of nominees that are relevant to their field. Senator FRIST—a physician and Republican—strongly supports Dr. Foster. Virtually every medical group has come out in favor of his nomination. Their recommendations should carry a great deal of weight as we cast our votes.

Some worry that like his predecessor, Dr. Foster will be a divisive figure when who we need is a unifier. But anyone who saw the way he conducted himself at the hearing cannot doubt his ability to bring people together and serve as a soothing force in our Nation. As a national official, his constituency and responsibilities will be vastly different and more comprehensive than as a private physician. There will be competing interests and views that he will have to take into account and often balance if he is to be successful. Like most nominees to high office, I expect Dr. Foster to grow and adapt to his new role in ways that will serve the country well.

Dr. Foster has the type of friendly, down-to-earth bedside manner that each of us look for in our own physicians. He has professional expertise and a keen realization of the health problems which confront our Nation that will guide him well in the office of Surgeon General. In deference to basic fairness, cloture should be invoked, and we should proceed to confirm this nominee.

EXHIBIT 1

STATEMENT OF MINNIE CAPLETON JAMISON

My name is Minnie Capleton Jamison, and I am a resident of Tuskegee, Macon County, Alabama. I reside at 1307 Gregory Street in Tuskegee.

On the evening of May 19, 1969, I gave birth to my son, Steven Darryl Jamison. Dr. Henry W. Foster was my obstetrician and guided me along the entire course of my pregnancy and delivered the baby. It had been a difficult pregnancy. I was confined to bed for seven of the nine months, and during the fourth month it was necessary for Dr. Foster to perform a surgical procedure to prevent a miscarriage. I had had two miscarriages before this.

I went into labor on May 18, 1969. I was admitted to John A. Andrew Memorial Hospital in Tuskegee that evening, and I was given medicine to slow labor. My baby was delivered by Dr. Foster on the next evening, May 19, 1969. The delivery was by Caesarean section.

I remember the evening well, but I do not remember all of the specific details. I know that Dr. Foster looked in on me from time to time, but I do not recall exactly what time he looked in or exactly how often he checked on me. I remember that the delivery took place at night, and that I was in surgery for approximately two hours. I recall specifically that part of the procedure was at 7:00. I recall that I was very nervous and I was hyperventilating. I was doing breathing exercises and I tried to focus on a clock at 7:00 p.m. I remember that the anesthesiologist was trying to calm me at the time, and that Dr. Foster joined and helped to calm me. I recall that all of this was before Dr. Foster started to operate, but I do not recall more specifically at what point this was in the procedure. I understand that the medical record indicates that the delivery took place at 9:17 p.m., and I do not dispute that record.

I also remember well what fine care Dr. Foster gave to me and my son. I remember that throughout a difficult time for me Dr. Foster was warm and attentive. I had been told by another obstetrician that I could never have a child. Dr. Foster told me that he would work with me and do everything humanly possible to make sure I could have a child, and he did. He was a very busy man with many patients, but he always took time and was always there to help. He was always very human and very professional. He is a fine man and will make a fine Surgeon General.

Signed: Minnie Capleton Jamison.
Date: 4/28/95.

Mr. KENNEDY. I yield 4 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mrs. MURRAY. I thank the Chair.

Mr. President, today we should be debating the nomination of Dr. Henry Foster to be U.S. Surgeon General. After all, it has been 6 months since this Nation has had a leading public health spokesperson, and the clock is still ticking.

I will remind my colleagues that every 59 seconds a baby is born to a teen mother. Every 17 minutes in this country AIDS takes another American life. And this year, 46,000 women will die of breast cancer.

We should be debating the nomination of Dr. Henry Foster but we are not. We are debating whether or not to allow a vote on Dr. Foster in this Chamber. This is very unfortunate, particularly in light of the many health care crises in this country.

When I first met Dr. Foster, I was very impressed for one very important reason. He is an ob-gyn. I have fought long and hard, as this body knows, for women's health issues. Every wife, every mother, every sister, every daughter understands that women's health issues have been at the bottom of the barrel for too long in this country. I thought finally with an ob-gyn as Surgeon General, our health concerns would be brought to the top of the Nation's agenda.

Let me make this very clear. I see a no vote today as a vote to deny women, for the first time and probably for a long time, a voice from the top on women's health issues.

I was also impressed by Dr. Henry Foster's devotion to teens in our country. As all of you know, I have two teenagers at home. I listen to them in my living room, and I hear the same message: No one cares about them. Adults go in their houses; they shut the doors; they close the blinds and no one pays attention.

Dr. Foster paid attention. He was willing to dedicate his personal time and his life to give children a message of hope, of opportunity and chance. That is what his point of light program, I Have a Future, is all about. This Senate should not go on record dashing that message of hope for our children today. A no vote on cloture does just that.

Let us not forget the bigger picture and message in today's vote. For 5 months, Dr. Foster has gone through a very intense process: An FBI check, a search of his entire medical records; every word he has uttered has been magnified, expanded, looked at, and questioned, and he went through the entire committee process. He passed with flying colors.

I heard some of my colleagues on the Senate floor say that Dr. Foster was confused, that he was not forthright. Anyone who looks at the record, anyone who watched Dr. Foster before that committee, feels as I do, that he is a man of dignity, of honor. He is honest and he is forthright.

Are we giving him a vote today on his nomination? No. We are arguing whether or not he gets a vote in this Chamber.

What does that say to Americans in this country who may at some point be asked to serve their country? If you cast a no vote on cloture today, it says loud and clear: Think twice; think about your entire life being scrutinized by this Senate body, think about giving up months of your personal life, your job, and your security only to hit the end of the line and not even get a vote on your nomination. A no vote today on cloture sends a loud, strong message for future votes on Presidential nominations, and I think the Members of the Senate should think long and hard before they cast their votes today.

This vote today will be a vote on fairness. Can this body be fair to a person? And can we be fair to ourselves and the Senate process? I agree with my colleague from Illinois, Senator SIMON, that this is not a vote on Dr. Foster; it is a vote on us. And meanwhile, I will remind my colleagues the clock is ticking.

I yield back my time.

Mr. COATS. Mr. President, could you just inform us of the remaining time on each side?

The PRESIDING OFFICER. The Senator from Indiana has 23½ minutes; the Senator from Massachusetts has 20½ minutes.

Mr. KENNEDY. I yield 4 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Chair.

Mr. President, I rise in strong support of the cloture motion on the Foster nomination. The only issue that we should have to address is whether or not the President's nominee to be Surgeon General is qualified for that office. If the answer is yes, he should be confirmed. If the answer is no, then that individual should vote against Dr. Foster's nomination.

But, Mr. President, under no circumstance is it appropriate or fair for us to filibuster, to erect extraordinary hurdles to a vote on confirmation, to use procedural tricks to avoid having to take up the question of whether or not the President's nominee is qualified to serve in this office.

In the first instance, Mr. President, I join my colleagues in saying to the world that Dr. Foster is eminently qualified to be Surgeon General of the United States of America. He is a physician with a specialty in women's health. He has been through fire. Every aspect of his credentials, his actual objective qualifications to serve have been examined and found to be worthy. He is eminently qualified to serve as Surgeon General.

With regard to his character, which is the second part of what we are supposed to look at, there is again in my mind no question that Dr. Foster has the highest integrity. No person, Mr. President, who worked with Dr. Foster in his 38 years of practice says otherwise. His colleagues, his patients, the community, those people who have known him for 38 years in professional life all have good things to say about him and laud him for his efforts in behalf of women's health.

And so the question becomes, as has been suggested by my colleagues, will the subjective bar, the subjective analysis be raised so that anyone who stands for an office such as this risks character assassination as a function of their willingness to serve our country? I do not think that that is appropriate.

Mr. President, the fact is that the opposition here is not as much about Dr. Foster as it is about culture wars. Abortion is not the issue here. Abortion, if anything, is the hook. It is the hook. I will ask the question to anybody, what obstetrician-gynecologist could say with certainty that they have never performed an abortion. It is a function of ob-gyn. Similarly, a syphilis study is not an issue. Again, he was a women's health specialist. The purpose for the opposition to use an emotional issue such as abortion is to divide America again. They are using this as the hook to raise the issue of culture war, to divide us one from the other.

I submit to this body that, if anything, Dr. Foster does not want to be a divisive force in our community's dialog. If anything, he wants to bring us together.

He has worked hard to raise the issues about what a Surgeon General ought to do. He has worked hard to articulate the kind of values that he respects. He has actually stood for the last 139 days going through all kinds of changes and difficulties, 139 days in order to make the message that we have to come together as a community, as a nation in order to reclaim our youth, in order to restore and rekindle hope, in order to make the Surgeon General's office a force for healing.

That is the mission that Dr. Foster has attempted to undertake. He is, obviously, committed to this. He has been through what can be called nothing less than trial by excoriation. And yet he has survived all of the attacks with his integrity intact and with his ideals unimpeached.

So the only question, again, I think we have to face right now is what kind of ideals will be represented by the action of this U.S. Senate. Will it be the crass politics of obstruction and division, or will it be a message of fairness? Will we allow this nomination to come to a vote, or will we erect additional procedural hurdles against that?

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator's time has expired.

Ms. MOSELEY-BRAUN. In conclusion, I just say that Dr. Foster's nomination deserves a vote, America deserves a vote, and I hope to have the support of my colleagues for this motion to invoke cloture. Thank you.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. I yield 3 minutes to the Senator from Kentucky and 1 minute to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from Kentucky has 3 minutes.

Mr. FORD. I thank the Senator, and I thank the Chair.

Mr. President, I, like Senator DOLE, oppose Dr. Foster's nomination to be Surgeon General. However, I refuse to become a pawn in Senator GRAMM's Presidential politics. This cloture vote has Presidential one-upmanship written all over it, and it is a disservice to the American public.

I agree with my colleague who said this vote represents the first Republican primary. This is about Presidential politics, pure and simple. If we had played by these rules in the past, James Watt would not have become Secretary of the Interior, Ed Meese would not have become Attorney General, Samuel Pierce would not have been HUD Secretary, Clarence Thomas would not be on the Supreme Court, and Robert Bork would not have had an up-or-down vote.

Mr. President, I will vote against Dr. Foster, but I think he is entitled to a vote. I agree with those who say we should vote to invoke cloture so then we can vote for the nominee. I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota has 1 minute.

Mr. DORGAN. Mr. President, sadly, we put people on trial too much in politics in our country today. That is what has been done to Dr. Henry Foster by his opponents, both in the Senate and in the press. He has been put on trial, accused with reckless charges and careless words designed to tarnish the reputation of a good man.

For instance, I heard at one point in this debate that Dr. Foster had performed hundreds of abortions. I asked the opponent who charged that how he had arrived at that number. He showed me a number that included abortion and amniocentesis. I asked, "Do you think amniocentesis is an abortion?" because that is what was included in that number. That is an example of the reckless charges designed to discredit the reputation of a good man.

I do not know Dr. Foster very well, but I do know from testimony by his friends and colleagues that he is a good, decent, honest man who has dedicated his life to helping others.

Sadly, he has been put through a political meat grinder, as happens all too often these days. The treatment of this nominee has been fashioned to serve the political interests of some in the Senate, in my opinion. But we can correct that today. We can do justice to Dr. Foster by voting to invoke cloture and then by confirming his nomination to be Surgeon General.

The PRESIDING OFFICER. Who yields time?

Mr. COATS. Mr. President, I yield 10 minutes to the Senator from Mississippi.

The PRESIDING OFFICER. The Senator from Mississippi [Mr. LOTT] is recognized for 10 minutes.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Indiana for yielding me this time. I commend him for his efforts with regard to this nomination. I know he has been diligent in trying to find the truth, and in this instance, it has not been easy.

I want to begin my remarks by frankly questioning the current scenario of the office of Surgeon General. Over the past few years, instead of being a position that brought us together in advocacy of good health policies, it has become a position that divides us. It has made us fight over various issues.

I have come to question whether we really need this position. Why should the Federal Government have a paid advocate in this office? There is a cost involved—about $1 million. There are a number of staff people involved, along with a travel budget. I have reached the conclusion that the Surgeon Generalship is a position we probably do not need anymore. What is done within that office should be done by other agencies within the Department of Health and Human Services or elsewhere in Government and the private sector.

The second point I want to make needs a longer explanation. The Foster nomination came to the Senate in the aftermath of the situation involving the former Surgeon General, Dr. Joycelyn Elders. There were many problems associated with her tenure in office, with what she had to say and how she said it.

Many of us raised concerns about her conduct as Surgeon General, and eventually, of course, the President had to call for her resignation, because she was advocating things that most people in America certainly were not comfortable with. I do not believe Dr. Foster would do the job in the same way. I think his approach would be gentler. I am certain he would not say some of the things that Dr. Elders said when she was Surgeon General. But he has held some offices and has otherwise been associated with organizations which advocate the very things Dr. Joycelyn Elders advocated. I believe that is the wrong approach to the office of Surgeon General.

More than ever before, if we are going to have that office, we need a doctor who will advocate health measures which are in the overall best interest of our country and with which most Americans can agree. Maybe it is good to have some leading-edge comments every now and then, but we need not have those issues flaunted in our faces, as they have been for the past couple of years and, frankly, as they were over a longer period of time. That is one reason why Dr. Foster, given some of the things in his background, was a mistaken selection by the President of the United States.

My next point is extremely important: No, we should not blame Dr. Foster for the mistakes of the administration in handling his nomination, but we should expect to get candid, direct, and accurate information on presidential nominees. There is no question that some inaccurate information was given to Senators, whether by the White House or by Doctor Foster himself. The Senator from Kansas, NANCY KASSEBAUM, certainly was given some inaccurate or incomplete or misleading information. Senator KASSEBAUM is not given to overreacting, but she was one of the first to raise concerns about the way the Foster nomination was handled.

Then we went through the process of the administration's changing information it had previously provided concerning Doctor Foster's record. Clearly, it was not handled well by the administration. That alone is not enough to reject the nomination, but it certainly is a problem.

What bothers me more than anything else about this nomination is that lack of total truthfulness, that changing of important information. Maybe it was because Dr. Foster was not familiar with the fast ways of Washington. Maybe he sometimes talked without checking his facts. But the misstatements happened several times. There also were slips of the tongue when he questioned the motives and the background of the people who opposed his nomination.

He subsequently said that was a mistake. But there is a pattern here, a pattern of inadequate, insufficient or incorrect information from the administration, a pattern of changing information from the nominee, and a pattern of talking before thinking. That is what got Dr. Elders in trouble. Why does anyone want to repeat that experience?

Dr. Foster got off to a bad start by repeatedly revising his information about the number of abortions he had performed in his career as an obstetrician-gynecologist. That was only the first of many confusions which have, collectively, eroded his credibility.

For instance, we were told that his I Have a Future Program has had marvelous results. I think the concept of that program is good. I would like to see it work. I like the idea of abstinence education for teens, helping them live up to their responsibility to avoid sexual activity. But then we found out that that was not quite the case with Dr. Foster's program.

We found, moreover, that Dr. Foster was associated with organizations which, in fact, took quite a different approach to teen pregnancy. He has had a long and close relationship with Planned Parenthood, which has for years opposed abstinence-based programs like those funded under HHS' title XX program. Indeed, Dr. Foster held a high profile in that organization at the very time it was fighting in the courts against a Tennessee parental notification law regarding abortion.

We also found what appears to be the very belated printing of brochures stressing abstinence for his I Have a Future program. These documents seem to have been ordered from Meharry Medical College, where Doctor Foster is dean, on March 8, 1995, weeks after his program had come under fire for its emphasis upon teen contraception instead of restraint. This had all the earmarks of an organization doctoring its records to sway a Senate committee. The shipping invoice for the pamphlets was dated March 23, 1995. They were passed out to the Labor and Human Resources Committee at Dr. Foster's hearing in early May.

So, once again, it seems that truth is an evolving matter where Dr. Foster is concerned. It has been shaded this way and that as we have gone through the process. Another example—and something about which I have a great deal of concern—is the issue of involuntary sterilizations. At a time when the involuntary sterilization of retarded girls and mental patients had provoked national outrage, Dr. Foster reported his own expertise in that regard in an article in the Southern Medical Journal. The article appeared in 1976, 3 years after an especially shocking case—the Relf case—occurred in Alabama, where Dr. Foster was a prominent ob-gyn. The Federal courts, the Congress, the Department of HEW were all involved. But the furor seems to have been lost on Dr. Foster.

Equally troublesome is the cloud of uncertainty that now obscures Dr. Foster's role in the notorious Tuskegee experiments, conducted over decades in his home county of Macon, AL. It stretches credibility to be told that a physician of Dr. Foster's prominence—indeed, the vice president of the County Medical Society—did not know about all that.

How could he not have known that his fellow doctors had agreed to withhold antibiotics from men being tortured and killed by syphilis? I find it hard to believe that this information escaped him until it was nationally publicized—and he denounced it—years later.

The Foster nomination has presented a persistent pattern of misinformation, not just the instances I have mentioned here, but others, like his leadership of a research project at Meharry in conjunction with a pharmaceutical company. We still need a clearer account of that episode, why it was undertaken and why it was eventually abandoned.

All these things considered, I think it would be a mistake to confirm this nominee. We do need more information, and more accurate information, before accepting Dr. Foster as Surgeon General.

Dr. Foster's advocates are right in one regard. The real vote to confirm or reject his nomination will occur today at noon. That is the vote on invoking cloture. That is the vote that counts.

I believe this nominee should not be confirmed. I urge our colleagues to consider the many serious reasons why I and other Senators have taken that position. It is not just the abortion issue, but the many questions about the veracity of the nominee concerning programs he was involved with, organizations he was associated with, and medical controversies in which he played a part.

I urge a vote against the cloture motion.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I thank the Senator from Massachusetts. Just in very brief form, because time is so limited, I sat here in amazement and I listened to what was being said very carefully. I just heard that Planned Parenthood is opposed to abstinence for teenagers. I have never seen that mailing or that program. It is absurd. What we are talking about is a man and his professional qualifications to fill this job. He did not run for office. That was not his credentials. He was not looking at how this might be one day when he was considered for a nomination to a high post. He did what his conscience and the Hippocratic oath had him do. He has been endorsed—I heard this morning on the radio, that Dr. McAfee, the president of the American Medical Association, heartily endorses Dr. Foster and his qualifications. Further, he has been endorsed by the Association of American Medical Colleges, by the Association of Academic Health Centers, the American Academy of Pediatrics, the Tennessee Medical Association, and the American College of Physicians. They all know he is qualified.

The problem here is not Dr. Foster's qualifications. The problem here is politics at the expense of the health of the American people. The problem is that we are playing Presidential politics right here in this room. It is pitiful. Talking about the fairness of the system and how it is equitable for a minority to restrict the majority view, why can we not have a straight up-or-down vote on this without threats of filibuster? When it was Robert Bork or John Tower or Clarence Thomas, even though there was strong opposition, many Senators opposed them. The fact is that the votes were held here, up or down.

So when I sit here and I listen to what the debate is about, the debate is not about Dr. Foster and it is not about fairness to the American people; it is about who can score points. And they score points, unfortunately, while Americans die. Every day, 2,000 Americans die from heart disease. Every day, close to 1,200 men and women die from tobacco-related illness, people die from breast cancer, and every day 110 men and women and children die from AIDS. These figures are tragic, but what is more tragic is these deaths result from preventable diseases.

I hear people castigating this very well-qualified physician, this compassionate human being, who lifted himself up by his bootstraps, and criticize him for what he did and for what he thought was right. I am not much for biblical quotations, but John said, "He that is without sin among you, let him first cast a stone."

I hear mistakes being made all over the place here. We have an Ethics Committee that hears breaches of conduct by the Senators. And, yes, this man is condemned because he did what his conscience and the law allowed him to do. I think we ought to get an up-or-down vote on this. I hope my colleagues will vote for cloture and we can confirm Dr. Foster's appointment.

Mr. KENNEDY. I yield 6 minutes to the Senator from Vermont.

Mr. JEFFORDS. Mr. President, I rise in support of a vote for cloture. I believe this would probably be the first time in history if cloture is not granted for a nominee that has come out from a committee with a positive recommendation to be denied an up-or-down vote.

I also recognize from listening to those who have opposed granting cloture, that it is critical that we have debate on Dr. Foster, because there is so much information out here which is incorrect.

I sat through the hearings, and I have gone through thousands of pages of documentation, and I came to the conclusion that a President has the right to have people around him who he wants to have, and he has that right here.

There is nothing that should stand in the way. First of all, there is no evidence whatsoever that this man is not competent to handle the job.

Second, there is no credible evidence that there is any flaw in character or any reason why this person should be denied the job.

To deny Dr. Foster the ability to have his nomination debated is indefensible, in my mind. I am not going to go into all the issues, but there are a couple I would like to straighten out.

First of all, the Tuskegee situation. All of the argument has been about who knew what when. When did it occur? Was he there? Was he not? What we do not know is whether at that meeting which the CDC held in Tuskegee in the late 1960's, with the doctors of Macon County that they were told anything about the fact that there was a group of black men being denied treatment in order to see the difference between treating people with syphilis versus not treating them. That did not come out until the 1970's, and all hell broke loose, and everyone said what a shocking thing.

Whether Dr. Foster was there—the evidence was clear he was not—but even if he had been there, he would not have learned anything.

All of the information that has clouded that, strike it out of your mind, and remember that nobody at that time other than CDC knew the experiment was being conducted. Whether he was there or not is irrelevant.

Second, another issue where there is confusion, as the previous speaker from my side of the aisle got into, there were two situations with respect to a sterilization situation which occurred in this country at a time when the decision was, and it was sort of ethical and considered wise in many respects, to sterilize seriously mentally deficient people. That had nothing to do with Tuskegee. The previous speaker got that confused. Make a judgment, but it was not unethical or improper at that time. Later on it was discarded as a methodology.

Third, the abortion issue. Yes, there was changing information, confusing information, things hard to follow. That was not the doctor's fault. He was very clear. He searched his records and found out, over 30 years, performed 39 abortions, or was responsible for them. Thirty years—that is not a doctor who is working in abortion clinics. He is an ob-gyn. Obviously, he is going to have a number of abortions during that period of time, to save the life of the mother or whatever.

The abortion issue is one that has been made to be a key issue, when it should not be here at all.

I would ask Members to try and remove from your minds all the discussion we have had, and ask the simple question: Is this person deserving of the right to have a vote of up or down? That is the crux of it.

We are having this cloture vote, because there are at least 51 votes that will support Dr. Foster to be the next Surgeon General of the United States. This is an attempt to use the cloture—and some of these issues which the information is, at best, misunderstood—to try and prevent or even avoid having that opportunity to vote.

I urge my colleagues to seriously recognize and understand, first, the facts are very clear that the doctor ought to be recommended. The committee recommended him. More importantly, that he ought to be entitled to an up-or-down vote on the issue. We will discuss it and spend a day or so discussing these things so we can clear this up in everyone's mind.

I spent days on this, and I am confident there is no reason this doctor should not be confirmed. He certainly should be allowed to have a vote up or down on whether or not he should be confirmed to be the next Surgeon General of the United States.

I yield the floor.

Mr. COATS. Mr. President, I yield 2 minutes to the Senator from South Dakota.

Mr. PRESSLER. I thank my colleague.

Mr. President, I rise in strong opposition to the nomination of Dr. Foster. He does not represent the family values that my State seeks.

Also, I am very concerned about inconsistent statements. As has been stated on this floor, not to paraphrase from others, but the real issue should not be whether or not young people will use a clean needle when they use drugs. The Surgeon General of the United States should encourage them to say "No" to drugs.

We really need to take a look at this position of Surgeon General and see whether it even needs to exist in the future. The Secretary of Health and Human Services is supposed to do this function.

If we are going to have a Surgeon General, he should be a role model for family values, for what our country believes in. He should be a strong opponent of the use of drugs and of teenage pregnancies, stating his opposition to it. Not stating other side issues such as using clean needles, et cetera, et cetera.

I am strongly opposed to the nomination and shall vote against cloture. I yield the floor.

Mr. KENNEDY. How much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 4 minutes and 30 seconds.

Mr. KENNEDY. I yield 1 minute to the Senator from California.

Mrs. BOXER. Mr. President, many of my colleagues have quoted from newspapers—Senator COATS quoted from the New York Times. But he failed to say something important: The New York Times says Foster deserves a vote. So do not just give half the story. They are calling for a vote. We should vote "yes" on cloture.

The Boston Globe said it well. "It is time for the opponents of Foster to choose: Either let Foster be confirmed without a fuss, or seek protection under the political equivalent of chapter 11, because all their arguments are bankrupt." They are bankrupt.

Then the Republican San Diego Union Tribune, quite a Republican editorial board, said: "The more we learn about Foster, the more convinced we are he would be an effective Surgeon General." The Chicago Tribune says Foster's prospects for approval by the committee appear to be good, and of course they were right. The Republican committee sent him to this floor positively, but then they add, "A foul situation is developing in the Senate."

My friends, a foul situation has developed in this Senate. This Republican Senate is trying to deny this man a vote.

Mr. KENNEDY. I yield 1 minute to the Senator from Washington.

Mrs. MURRAY. Thank you, Mr. President. I thank my colleagues who have been here on the floor this morning working very hard to bring this nomination to a vote.

I remind everyone that the clock is ticking on the health of all Americans. Our Nation has been without a Surgeon General for 6 months.

I see this vote very clearly today: We are not voting on the nomination of Dr. Henry Foster today. We are voting on the opportunity for Members to vote on that nomination. A "no" vote will send a very clear message to women across this country. It denies women the opportunity to have a Surgeon General who specializes in women's health care.

A "no" vote denies teenagers across the Nation a spokesperson who can give them hope and opportunity and who believes in them.

A "no" vote sends a message to all Americans that public service is not something they should get involved in.

A "no" vote denies this country the service of not one man, but many future leaders.

A "yes" vote says this body is fair and will allow the vote of Dr. Foster to come before this body.

Mr. KENNEDY. Mr. President, 1 minute to the Senator from Maryland.

Ms. MIKULSKI. Mr. President, this debate of Dr. Foster has often characterized him in a way that I think is misleading. Dr. Foster has been characterized as someone who is not the man that I met in my office.

Dr. Foster came and met with me, both in my office and met in the committee, and showed the kind of person we want to be the Surgeon General of the United States.

First of all, he showed backbone and he showed guts. Anyone of a lesser personality would have flinched under this new toxic atmosphere in which we find Presidential nominees going forward. But he was willing to speak to both friend and to foe, to speak with candor, grace, dignity, quiet good humor, the willingness to set the record straight.

That is why we can see why he was so well regarded by his patients and by his own community with the bedside manner.

Mr. KENNEDY. Mr. President, I yield myself the remaining minute.

The issue before the Senate comes down to a simple question of fundamental fairness. I believe that a majority and probably an overwhelming majority of our Republican Senate colleagues know in their hearts that Dr. Henry Foster deserves to be confirmed as the next Surgeon General of the United States.

Dr. Foster is a highly principled physician whose honesty, integrity, and outstanding character shine through. His extraordinary record of achievement shows, beyond any reasonable doubt, the lives he saved, the doctors he has trained, and his pioneering leadership against teenage pregnancy.

President George Bush sought to highlight his I Have a Future Program in Nashville, TN. He honored it as one of his 1,000 points of light.

We all know what is happening here. The normal confirmation process has been sidetracked by Republican Presidential politics. Dr. Foster deserves a vote. I hope the Senate will vote cloture on this so that he can be judged fairly and honestly and candidly.

Mr. SIMPSON. Mr. President, I rise today to speak in support of Dr. Henry Foster's nomination to be Surgeon General.

Since February 2, when President Clinton first announced his nominee for Surgeon General, a wide range of criticisms and attacks have been leveled against Dr. Foster. I believed and said from the very beginning Dr. Foster deserved the same chance as every other nominee to address these concerns in a committee hearing. That indeed is the reason for the hearing process.

I further stated that, although I had not yet found any valid reason to oppose Dr. Foster's nomination, I would withhold my final decision until after the committee hearings were held. Now that the hearings are concluded, I have decided that I will vote in support of Dr. Foster's nomination. I believe any questions as to whether or not Dr. Foster is fit or qualified for this position were dispelled during the hearings. I think it is fair to say that this was never the chief concern about the nomination.

I realize that there are some people who oppose his nomination because he, like many obstetrician-gynecologists, performed abortions in the practice of his profession. However, I do not believe Dr. Foster should be disqualified from serving as Surgeon General solely because he performed abortions. We face the possibility of such a history whenever we consider an obstetrician-gynecologist for this position.

Much has been said about Dr. Foster's "credibility" due to some initial confusion about how many abortions he performed in the course of practicing his profession for more than 20 years. Dr. Foster addressed these concerns honestly and forthrightly in his opening statement before the Labor and Human Resources Committee.

In that statement, he asserts that:

> I regret the initial confusion on this issue. But there was never any intent to deceive. I had no reason to do so * * *. I have worked very hard to establish a record of credibility and ethical conduct. It is open to anyone who chooses to scrutinize it.

I think that those of us in public life should be able to eternally empathize with him about the difficulty of "getting it exactly right" when speaking to a reporter.

Not only did Dr. Foster address the "credibility issue" in his statement, but he also outlined what kind of Surgeon General he says he will be and how he intends to focus on the "full range of health challenges" facing our Nation, including cancer, AIDS, heart disease, maternal and child health, aging, substance abuse, violence, and teen pregnancy.

Another issue raised during the hearings was the question of whether or not Dr. Foster had personal knowledge prior to 1972 of the "Tuskegee study" in which black men were denied treatment for syphilis in order that doctors could observe how the disease progressed. This experiment was abruptly terminated in 1972 when it was publicly disclosed that then-available treatments were being withheld from these men. When questioned at the hearings, Dr. Foster stated emphatically that he had no knowledge of the study before 1972. In fact, Dr. Foster never approved of or in any way cooperated with this study. In 1972, when he was fully informed of it, he immediately called for the study to be stopped and for the surviving men to be treated.

The real issue about this nomination, for me, is not "the bad things" Dr. Foster did not do, but the many noble, altruistic things he has done. I have had several opportunities to visit personally with Dr. Foster and to question him on various issues. He described to me his work with disadvantaged youths and the role he played in creating the "I Have a Future" Program that encourages teens in some of Nashville's toughest housing projects to be sexually abstinent and to avoid drugs. I am impressed by the fact that Dr. Foster has spent his lifetime preaching abstinence. It is not just a slogan or a high-minded phrase for him. He has been right down in the trenches helping some of the poorest people in society. Many lives, including hundreds of young people, have been touched by Dr. Foster's work in his community. He is a good and generous man.

Dr. Foster's philosophy emphasizes delaying sexual activity, providing education and job training, and ensuring access to comprehensive health services. Not only has he been successful in reducing teen pregnancy, but he has also helped to instill the values of personal responsibility, belief in God, and self-esteem in many young people who live in absolute poverty and are most "at risk." Many of those youth traveled to Washington this past winter to express their admiration and respect for Dr. Foster. All anyone had to do was listen to their personal stories to understand how Dr. Foster has made a profound impact on their lives.

Dr. Foster is one of the leading experts on, and advocates for, maternal and child health, and has developed and directed teen pregnancy and drug abuse prevention programs that bolster self-esteem, and encourage personal responsibility. He has had a distinguished career as a physician and community leader, and I believe he is a very qualified nominee who will make an outstanding Surgeon General.

Finally, I would implore my colleagues to at the very least bring this man's nomination to a vote. I know that many in my party are displeased by the way the administration failed to display all relevant information about this nomination. And, I know that many have strongly held views about abortion. But, do not make this man the victim of those controversies. There are other places to voice displeasure about these matters. A nominee, who comes before this body, seeking only to serve his country, deserves far better.

Dr. Foster has strong bipartisan support both inside the Senate as well as around the country. I look forward to seeing him make a positive contribution to the Nation's public health.

Mr. LEAHY. Mr. President, I support the nomination of Dr. Henry Foster to be the Surgeon General of the United States.

Over the past 4 months, Dr. Foster's entire career has been under great scrutiny. Opponents of his pro-choice stance have looked for every shred of information that could cast a shadow on the character and integrity of Dr. Foster. I believe that his opponents have failed in this effort.

I followed the nomination hearing with great interest. During the hearing, Dr. Foster conveyed a sincere vision of what he would do as Surgeon General. His top priority would be to continue his work on reducing teenage pregnancy. This is an important vision.

I am astounded by the personal attacks that have been made against Dr. Foster on the floor of the Senate today. I believe we should be focusing on the thousands of babies that Dr. Foster has delivered and the thousands of teenagers he has counseled. Instead, the focus has been on a medical procedure that is legal in all 50 States.

I believe Dr. Foster is a man of integrity who will excel as Surgeon General.

When President Bush nominated Clarence Thomas to the U.S. Supreme Court, I was the first member of the Senate to declare my opposition to his nomination. I did not believe that Clarence Thomas was qualified to serve on the Court. Even with strong reservations, I felt that Judge Thomas deserved an up-or-down vote.

I hope the opponents of Dr. Foster will let his nomination come to a vote. He deserves no less.

Mr. GORTON. Mr. President, on May 25, the Senate Labor and Human Resources Committee voted to approve President Clinton's nomination of Dr. Henry Foster as Surgeon General, over my opposition. I voted against Dr. Foster because he has shown extreme intolerance of those with whom he disagrees, and is therefore not the kind of Surgeon General who can or will exercise broad moral leadership. I intend to vote against his nomination here in the Senate if that nomination comes to a vote.

Dr. Foster's indulgence in name-calling—decrying those who disagreed with him as "white, right-wing extremists"—came after his nomination, when he was already a public figure. His behavior shows his lack of capacity to build consensus. For the first 2 years of the Clinton administration, this Nation suffered a needlessly divisive Surgeon General. We do not need another for the remaining year and a half. The next Surgeon General should heal wounds, not deepen them.

Despite my opposition to Dr. Foster's confirmation, however, I will vote for cloture. If a majority of the Senate is willing to confirm the nominee, then he should be confirmed. All sides have had ample time to air their views; no useful purpose is served by further delay.

But the most important reason not to filibuster Dr. Foster's nomination is that a filibuster will set a terribly damaging precedent. Had this tactic been used 4 years ago, Clarence Thomas would not be on the U.S. Supreme Court today. Dr. Foster deserves a straight up-or-down vote. Whether one agrees with him or not, he is entitled to the same consideration given almost every other nominee.

In 2 years, a Republican President will be submitting nominees for far more important offices. That President will appoint Cabinet members and Supreme Court Justices who undoubtedly will be opposed by Democrats and the national media. I do not want to make it easy for them to stall nominations of future conservatives by giving their opponents the moral precedent to use the filibuster as a means of defeating them. I also do not want to further cloud the nomination process by essentially ensuring that the only nominees who can gather the necessary 60 votes for confirmation are those with no track record, no history of making bold statements, and no strong views that make them attractive to large segments of our Nation.

Nominations to the Supreme Court are the most important a President can make, nominations that affect the future of the country long after the President who made them is gone. To put at risk future nominations to the Supreme Court just so we can hand President Clinton a setback today makes little sense.

I agree that Dr. Foster should not be put in a position where he will have a forum to speak about the important issues of the day. He has already proven that when he is given that opportunity, he will make comments that divide our Nation and lead to the kind of debate we see here on the Senate floor. Dr. Foster is not a builder; to the contrary, he uses political rhetoric to divide people, a tactic that makes for captivating headlines in the newspapers and provocative television stories, but does little to make our Nation stronger.

So let me be clear—no matter how strongly I feel that the nomination of Dr. Foster should be defeated, I am not willing to put the long-term future of our Nation at risk by allowing a precedent to be set that could lead to the filibuster of the next Republican nomination to the Supreme Court.

In short, my Republican colleagues should not now set a precedent they will soon come to regret. To prevent this vote from coming to the floor is to thwart the democratic process and to tamper with appropriate executive privilege. I remain as opposed as ever to the confirmation of Dr. Foster, but I am unwilling to put the long-term future of our Nation at risk by allowing such a mischievous precedent to be set.

Mr. THOMAS. Mr. President, I rise today to express my opposition to the nomination of Dr. Henry Foster, Jr., as Surgeon General. The issue is not one of abortion. I believe the President of the United States has the authority to nominate whomever he pleases to represent his position. However, the position of Surgeon General is unique in that it requires pulling Americans together as this nation's doctor.

Unfortunately, Dr. Foster's credibility to represent the public health concerns of this country was severely damaged during the nomination process. I am deeply concerned about Dr. Foster's conflicting statements with the findings by the Senate Committee on Labor and Human Resources and with the White House. Our Nation's "family doctor" needs to be consistent and must speak with credibility so all will listen.

This time of exploration into the background of Dr. Foster has caused me to evaluate the role of the Office itself. It seems to me when this country is making priorities in the budget, it does not appear that the Office of Surgeon General is particularly integral to the overall mission the Federal Government faces. The Secretary of Health and Human Services has a budget of $726.5 billion. Surely, the Secretary can take over the role of the Surgeon General and save the taxpayers substantial money.

The Office was created back in 1870 in order to direct the Marine Hospital Service. The primary purpose was to provide health care services to sailors. It is clear to me that the Office has outlived its intended service.

Mr. President, many issues that Surgeon Generals in the past have trumpeted, like the risk of smoking and fetal alcohol syndrome, are crucial to health of our country. No one wants to silence that discussion. Those public health concerns can and should continue to be a priority, but as part of the role of our Secretary for the Department of Health and Human Services, or even in certain circumstances the President himself.

Mr. BAUCUS. Mr. President, I wish to express my support for the nomination of Dr. Henry Foster, Jr. to be Surgeon General of the United States. I do so because Dr. Foster fulfills the two conditions I consistently apply when deciding whether to support a particular nominee's confirmation: First, is this nominee ethical with a professional record of integrity; and second, does this nominee possess the proper professional qualifications and background for his or her particular position?

My conclusion is that Dr. Foster fulfills both criteria. He is first a man of high integrity and ethics; and second has demonstrated a lifetime record of professional accomplishment, commitment, and scholarship to the field of medicine, and in particular, gynecology and obstetrics.

Throughout the years I have applied these two criteria consistently and even-handedly, even when a nominee's own personal ideology has at times differed from my own. I do so again today.

Dr. Foster is a classic obstetrician-gynecologist of the highest order. He is not an abortion doctor. In fact, throughout his medical practice and career, Dr. Foster has promoted abstinence as the best way to prevent unwanted pregnancy. His practice has focused on delivering healthy babies and educating young people about proper family planning so that unwanted pregnancies and abortions can be avoided. Dr. Foster has demonstrated particular commitment and compassion to both rural and inner-city America and the unique health care-related problems these two areas face.

I respect the concerns of those who oppose Dr. Foster. Yet I also believe it is fair and appropriate to give this nominee the benefit of the doubt. Years ago, there was another Surgeon General nominee that attracted more than his fair share of criticism, although most of that criticism came from the left. That was, of course, Dr. C. Everett Koop.

Dr. Koop went on to prove his detractors wrong. He went on to serve the Reagan administration with great class and distinction. And I would urge Dr. Foster to look toward Dr. Koop as a role model. If he does that, I am convinced he will be a great Surgeon General.

In sum, over the last four decades Dr. Foster has proven to be a respected scholar, an accomplished researcher, a practicing physician, and an esteemed medical school dean. I believe that a person of Dr. Foster's professional background should be confirmed.

Mr. ROBB. Mr. President, I rise in support of the nomination of Dr. Henry W. Foster, Jr., to be Surgeon General of the United States.

While I recognize the concerns that have been expressed about this nomination, after reviewing his Senate Labor and Human Resources Committee confirmation hearings, I am confident that Dr. Foster answered all questions honestly and openly and is well qualified for the position of Surgeon General. Accordingly, I will vote for cloture and in support of his nomination if cloture is envoked.

Any examination of Dr. Foster's record, Mr. President, shows that Dr. Foster has dedicated his life to the health and well-being of others—a qualification uniquely suited to a Surgeon General nominee.

Dr. Foster has worked at Meharry Medical College in Nashville, TN, where he has received numerous honors for his work in obstetrics, treatment of sickle cell anemia, and teen pregnancy prevention. In 1988, in a Tennessee housing project, Dr. Foster began his I Have a Future project which encourages young people to practice abstinence and was named by former President George Bush as one of his Thousand Points of Light.

And Dr. Foster's record of service continues to this very day.

Mr. President, at the very least, Dr. Foster deserves a vote by this body on the merits of his nomination. We owe him that much. So I urge my colleagues to support today's vote to envoke cloture on the nomination of Dr. Henry Foster as Surgeon General of the United States.

With that I thank the chair and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Does the Senator from Indiana have any further speakers?

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota is recognized.

Mr. DASCHLE. Mr. President, I will use my leader time, since I know we are virtually out of time at this point. I will allocate whatever leader time may be required to make my statement.

Mr. President, several facts need to be emphasized before we take this vote. First, Dr. Foster may be one of the most qualified nominations ever to be made for Surgeon General of the United States. No one denies the fact that he has had an extraordinarily distinguished career—as a dedicated public servant, as an accomplished educator, as an exemplary community leader.

Dr. Foster has touched and positively influenced more people's lives than most can hope to in a lifetime. More than 10,000 children who owe their lives and health to Dr. Foster can attest to that.

Second, the fact is we need a Surgeon General now. We need a leader in health, just as we need a leader in economics, in law, or in foreign policy. Some would argue we need a Surgeon General even more than in these other areas.

Many of the most serious health problems plaguing our country are those money and health insurance cannot solve. They are problems of public health: smoking, teenage pregnancy, breast cancer, AIDS, and violence. Every 59 seconds, a baby is born to a teen mother. Every 30 seconds, a child in our Nation smokes for the first time. Every day, 2,000 Americans die of heart disease. This year, 46,000 women will die of breast cancer. These figures are all the more tragic because, in large measure, they are preventable.

But how do we prevent these problems without leadership? The answer is, we cannot. The two most powerful tools of prevention are public education and moral suasion, both functions of leadership. No one is better suited than the Surgeon General to use each of these tools.

The third fact, and it is a fact, is that a majority of Senators recognize both the need for a Surgeon General and the qualifications of Dr. Foster. Democrats and Republicans supported Dr. Foster's nomination in committee. Democrats and Republicans support his nomination now. It is clear that a majority of this body supports this nomination today. They know how badly we need a Surgeon General. They know how important it is, how important these issues of public health are. They know how eminently qualified Dr. Foster is. They know what a skilled Surgeon General he will be.

But they also know there is a catch. The catch is there is a minority of Senators who, for the most unfortunate reasons, want to deny Dr. Foster even the opportunity for a vote. They know that Dr. Foster may be the first victim of Republican Presidential politics; that this vote may be hostage to a narrow constituency in the Republican Party who hold a different philosophical view than Dr. Foster. That is really what this is all about. It is about whether or not the far right has enough influence to stop a qualified public servant from serving his country. It is about whether some who seek the Republican Presidential nomination can make this the first vote of the Republican primaries.

Mr. President, this matter is too important to be trivialized by politics. This nomination, more than virtually any other, will affect the lives of millions of children and other Americans who need the leadership that Dr. Foster can give. It is a matter of fairness, not only to Dr. Foster, but to all those who now wait—who wait for solutions to breast cancer, who wait for help for teenage pregnancy, who wait for strategies in coping more ably with violence, with AIDS, with heart disease.

In the cause of fairness, in the cause of doing what is right, let us stand united as Democrats and Republicans in giving this man and our country what he and it deserves—a vote for cloture and a vote for the confirmation of the next Surgeon General for the United States.

I yield the floor.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

The Chair might inform the majority leader there are 11 minutes and 27 seconds remaining on the side opposing the nomination, and of course the leader has time.

Mr. DOLE. Thank you, Mr. President. I thank my colleagues on both sides of the aisle.

I think most everything has been said, but I just want to repeat a few things and sort of set the record straight about some other things. To begin with, maybe just a little history here might help some of my colleagues who may not have been here at that time.

From 1987 to 1992, I served as Senate minority leader under Presidents Reagan and Bush. There can be little doubt that during that time, the process of Senate confirmation became more contentious and more political than ever before. Some of the nominations that became political footballs are well known—Robert Bork, John Tower, and Clarence Thomas, to name a few. But most of us here have probably forgotten about the others. While we may have forgotten, I am certain their families have not forgotten and they probably have not forgotten, either.

This is not my information; it is information provided by the Congressional Research Service. During the 6 years Democrats controlled the Senate under Presidents Reagan and Bush, 11 nominees were reported out of the committee but did not receive a vote on the floor of the Senate. In other words, they came out here and that was the end of it. They did not get any vote; not on cloture, not anything. They just sat here and they went away at the end of the session.

Eighteen nominees were allowed a committee hearing but not a committee vote. Is that fairness? We had all this talk about fairness. Where is the fairness in that, when you have a hearing and no vote?

And a staggering 166 nominees were not even given the courtesy of a committee hearing.

Let us get everything straight out here. I have listened to all the crocodile tears this morning about this nomination, but I have not heard anybody go back and review what has happened in the past. These are facts. These are facts. These are not BOB DOLE's facts. These are facts.

I was just one of the many Senators, Democrat and Republican alike, who said during those years that if the Senate continued to turn confirmations into inquisitions, then good men and women would be no longer interested in serving in our Government.

When President Clinton took office, my philosophy remained the same: Absent unusual circumstances, a President's nominee should generally be confirmed. And Republicans cooperated to confirm President Clinton's Cabinet in record time. I think even the President said so when he called me.

In fact, during his 2½ years in the White House, President Clinton has submitted 248 names to the Senate for confirmation to civilian positions. Several have been controversial, but not one has been defeated in committee or here on the floor—not one. Not one.

My point is this: When we were in the minority, Republicans did not abuse the nomination process. And we will not abuse it now that we are in the majority. And we have not abused it with this nomination.

I assume, when people refer to Presidential politics, they may have me in that category. Everything around here is Presidential politics up here, but not downtown. Oh, it is all statesmanship in the White House. It would never occur to them to have any Presidential politics.

When this nomination was made, that was Presidential politics, to try to drive a wedge between Republicans on the issue of abortion. That is what it is all about. President Clinton made a calculated political move—politics. Politics, not qualification.

Nobody, including Dr. Foster, can question the fairness of the hearings chaired by Senator KASSEBAUM who, if cloture is invoked, will vote against Dr. Foster. At no time did the hearings become a media circus. We went through media circuses this year, and when the Democrats had control, we had nominees who were being pilloried day by day and ridiculed by the media, by the liberal media.

Dr. Foster was asked tough questions. He gave his answers and the committee voted him out 9 to 7.

I heard on the morning news that this has been delayed and delayed. I am going to give the facts again, as I did when this debate started.

This nomination was put on the calendar the 26th of May, the day we went out for the Memorial Day recess. We came back on the 5th of June. As I calculate, today is the 21st. I said that I wanted to meet with Dr. Foster. He could not meet the first weekend because he had commitments. I do not fault him for that. I could not meet the next weekend. We met on Monday. Today, we have the debate on the floor—on Wednesday.

So I want to set the record straight for those who are saying somehow this has all been held up. It has not been held up at all on the Senate floor. In fact, I think it is a very expeditious handling of the nomination.

Yes, supporters of the nominee must obtain 60 votes. That is the way it works. I have had the Congressional Research Service do a little work in that area. I have heard people say, "Oh, this never happened before." It has happened a lot. I voted. Let me just give you a little information here. Sometimes facts may not be important, but they are nice to have in the record.

Cloture was first sought on a nomination in 1968, when a motion to proceed to the consideration of the Abe Fortas nomination—Chief Justice of the Supreme Court—was defeated 45 to 43. When cloture was not invoked, President Johnson withdrew the nomination. Since 1968, 24 nominations have been subjected to cloture votes.

So there have been plenty of precedents for cloture proceedings on nominations.

In 1980, as the Senator from Massachusetts will recall, the nomination of Stephen Breyer to the Circuit Court of Appeals was subject to a cloture vote because of Republican concerns. Cloture was invoked, and the nomination was confirmed. I voted aye on cloture, and I voted aye on the nomination.

In 1986, a very, very important nomination, the nomination of William Rehnquist to be Chief Justice of the Supreme Court was subjected to a cloture vote—the Chief Justice of the Supreme Court subjected to a cloture vote; not some small office with a staff of seven, with no policy, nothing but a public relations office. I voted yes on the cloture motion. I voted yes on final passage.

Prior to the 103d Congress, the following nonjudicial nominations have been subjected to the cloture procedure: William Lubbers, nominated to be general counsel of the National Labor Relations Board, 1980; Don Zimmerman, nominated to be a member of the National Labor Relations Board, 1980; Melissa Wells, nominated to the rank of Ambassador, 1987; and William Verity, nominated to be Secretary of Commerce, 1987. On each of these nominations, cloture was invoked and the nominations were confirmed. And that is only part of the story.

I remember meeting a few years ago with a fellow named Bill Lucas, an outstanding black American who was sheriff in Wayne County, MI; an outstanding man, a Republican. The Black Caucus did not show up for that event. But he was an outstanding American. The vote in the committee was 7 to 7, a tie. That was the end of it. We never had a vote. We never had anything on the Senate floor because the Judiciary Committee said, "No; we are not even going to report it out, not even unfavorably." That is fairness? I do not think so. It was not fairness for Bill Lucas. It was not fairness to his family. He did not have any hearing on the Senate floor.

So I just suggest that we are all talking about all this being fair. I have a memory for fairness. I have been here a while, and I have tried to be fair. I had a number of options—not bring it up at all. But I did not believe that was appropriate. I thought about it. It was an option. But that would have been one person making a decision for 100 Senators, and I did not do it although it has been done in the past by majority leaders on the other side when they had a majority, not to bring it up at all. But I chose not to do that. I do not believe we give up our rights when we bring it up. We are not giving up our rights. And I can understand where people would have different views.

I would say, as I have said, I had a good visit with Dr. Foster. I think he is a very nice person. We are not voting on that. There were contradictions in his statements. I asked him 20 to 25 questions, and I tried to make a record so I would understand, myself, on much of the debate. I read the information which Senator COATS sent to each of us, which was very helpful.

I was troubled by the Tuskegee information. I was troubled by sterilization of some mentally retarded women. I was troubled by a lot of these things that Dr. Foster had no recollection of. I could not understand it. But again, let some say, "OK, maybe you can dismiss that." So I just suggest that there may be a lot of things—I am proud of the fact that Dr. Foster is a veteran. He served his country. I am proud of that. He is proud of that.

I just want to suggest that a cloture vote on a nomination is nothing new here in the Senate. As I said, there are 24 nominations that have been subjected to cloture votes since 1968. And one of those votes occurred on the nomination of William Rehnquist to be Chief Justice of the United States, the head of the third branch of our Government, and we had to have a cloture vote.

So it seems to me that we understand the options. I told Dr. Foster we would not let him hang there in limbo. He told me his sabbatical ends the first of the month. He has been on a year of sabbatical, and he would like to have some determination. I think he is entitled to it. That is why we are here today.

So I must say, we said let us do it. The Democrats said, "Oh, we would like to wait a week"—so they can work over Republican Senators and try to get the liberal media to follow the steps that they normally do and spread their spin across America.

So I say again, about Presidential politics, certainly everything is not Presidential politics here. If I wanted to have one-upmanship, I would not have brought the nomination up. Maybe others have ideas about Presidential politics. But again, let me suggest that certainly it was not overlooked at the White House.

I think another major point is candor. I think even Dr. Foster's supporters have to say on a number of occasions, this nominee's candor has come into question. All of these were not Dr. Foster's fault. This particular nomination was flawed from the outset because of the way it was handled at the White House, the way they did not bring out all of the information right up front. I know that was not Dr. Foster's fault.

In his committee hearing, in his public statements, and in his meeting with me, Dr. Foster had an explanation for every misstatement concerning the number of abortions he performed and for every controversial action, including his alleged knowledge of the infamous Tuskegee syphilis study and his role in sterilizing several mentally retarded women during the early 1970's. Some explanations made sense, and some did not. Some questions were answered and some were not.

And somewhere along the line, I think a line was crossed where no matter how Dr. Foster tries, there will always be questions in the minds of many Americans about this nominee's candor and credibility.

This is not just the opinion, as has been noted here—I have watched every debate on C-SPAN—it is not just the opinion of a few conservative Senators. It is also the opinion from an editorial in today's New York Times.

But it seems to me, Mr. President, that we have President Clinton demanding we return to civility in our politics. He said the Americans want Republicans and Democrats to work together for the betterment of our country.

If that is true—and I think it is—then this nomination certainly does not further those goals. Without consulting with Senator KASSEBAUM, my colleague, or any other Senator, President Clinton selected a nominee who was all but guaranteed to cause a political controversy, a nominee who was all but guaranteed to divide the Senate, and all America, as well. And that is just what this nomination has done.

Sadly, this divisive nomination was made in the wake of the forced resignation of a Surgeon General whose tenure led many to believe that the time had come to abolish the office before it became even more politicized than it was.

So again, I will conclude by saying that while I admire Dr. Foster's military service and his obvious passion for his work—and he has done a lot of good work—that somewhere out there among America's hundreds of thousands of physicians, there is a man or a woman whose past actions and statements would not divide the American people and this Chamber. They can be pro-choice. They could be pro-life. They could be whatever. There are thousands and thousands of qualified people out there. The Surgeon General should be "America's doctor"—America's doctor.

I have listened to these statements, one just by the Democratic leader, about cancer, heart disease, the Surgeon General is going to take care of all these things. If we just confirm Dr. Foster, all these things are going to go away. We know that is not the case.

They should not be the Democrat's doctor or the Republican's doctor. They should not be the liberal's doctor or the conservative's doctor. Ideally, their qualifications and experience should be so apparent that they would be confirmed by an overwhelming vote. And this is most assuredly not the case here. The bottom line is, will Dr. Foster unite the American people? Will his public pronouncements and speeches be regarded as medical and scientific fact rather than political rhetoric? Would he be regarded as America's doctor? That is the question we need to answer.

As I said, he may be a fine person, but in my view he is the wrong person for this job.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 174, the nomination of Dr. Henry W. Foster, to be Surgeon General of the United States.

Senators Christopher Dodd, Carl Levin, Dianne Feinstein, James Exon, Harry Reid, Daniel K. Akaka, Claiborne Pell, Richard Bryan, Patty Murray, Bob Graham, Max Baucus, Frank R. Lautenberg, Russell D. Feingold, Barbara Mikulski, Barbara Boxer, Edward Kennedy, and Tom Daschle.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the nomination of Dr. Henry W. Foster, Jr., of Tennessee, to be Surgeon General, shall be brought to a close. The yeas and nays are required. The clerk will now call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 57, nays 43, as follows:

[Rollcall Vote No. 273 Ex.]

YEAS—57

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Simpson
Snowe
Specter
Wellstone

NAYS—43

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Smith
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 43. Three-fifths of the Senators duly chosen and sworn, not having voted in the affirmative, the motion is rejected.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 440, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

The Senate resumed consideration of the bill.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, under the previous order, the next amendment is that of the Senator from Maine, Senator SNOWE, as I understand it; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. CHAFEE. I understand she is willing to let the Senator from Missouri make a statement for up to 5 minutes.

The PRESIDING OFFICER. That is the Chair's understanding. The Senator from Missouri.

Mr. BOND. Mr. President, I thank my distinguished chairman and the Senator from Maine.

Mr. President, it was a real pleasure for me on February 16 of this year to join the distinguished chairman of this committee, the ranking member, Senator BAUCUS, and chairman of the subcommittee, Senator WARNER, with whom I joined in introducing S. 440, the National Highway System Designation Act of 1995.

Since its introduction, the Subcommittee on Transportation and Infrastructure, of which I am a member, conducted four hearings, had a full committee markup and moved this bill to the point where we are now. This is a priority measure. I am very grateful for the bipartisan leadership and support that this measure has obtained.

The concept of the NHS was authorized in the big Federal highway bill, ISTEA, to solicit State and local input in designing a national transportation system which would move people and goods efficiently and safely across the country.

This is something I have worked for throughout my career in State and Federal government, and it has always been important to those of us in my State of Missouri, that we who are at the crossroads of the Nation be included in a modern national network that would provide Missouri the same kind of full access to the markets that the coasts currently have, and it would provide our friends and neighbors from other States the opportunity for efficient transportation through the heartland of the Nation.

NHS was developed from the bottom up. In our State, the highway and transportation department coordinated with metropolitan planning organizations, regional planning agencies, highway groups and local officials to determine the highway priorities.

Missouri then acted promptly in submitting the approved plan to the Federal Department of Transportation for incorporation into the overall system. This, to me, Mr. President, is a great example of the cooperation between Federal, State, local governments, and private sector organizations, and we should encourage this kind of cooperation in the future.

In its entirety, as the Members well know, NHS will be a 159,000-mile network of interstate highways, major arterials and key corridors across the United States. These highways will carry more than 75 percent of all commercial traffic, although they comprise only 4 percent of the Nation's highway mileage. For our State of Missouri, Mr. President, this means 3,490 rural and 973 urban miles of highways that are the most economically important roads in the State, carrying 46 percent of all motor vehicle traffic.

The NHS will be the backbone of our transportation infrastructure network. They will carry over 40 percent of the Nation's highway traffic, 75 percent of heavy truck traffic, and 80 percent of our tourist traffic, which is vitally important to us. These highways are critical for both State and interregional commerce. These highways are the economic lifeline, especially for States like mine.

I know that in striving to reach a balanced budget by 2002, we have to make tough choices and recognize that the Government cannot do it all. But by developing and passing the NHS, we are establishing priorities, priorities on our highway and transportation needs, in order to ensure that we invest our limited funds wisely. We recognize the role that the transportation infrastructure has with the state of our economy. It is imperative that these critical things receive priority attention.

We must realize the importance of this legislation being passed and signed into law by September 30 of this year. Without passage, States will not receive their apportionments of $6.5 billion. There is $156 million for our State of Missouri. We cannot delay or hinder the passage of this bill which means so much to our constituents. I join my colleagues in urging prompt adoption of this measure here. I also urge our colleagues in the House to act on this legislation before it is too late. This is of vital national concern.

Mr. President, I thank the Chair, and I particularly thank the distinguished Senator from Maine for yielding time to me.

AMENDMENT NO. 1442

(Purpose: To eliminate the penalties for noncompliance by States with a program requiring the use of motorcycle helmets)

Ms. SNOWE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will report.

The bill clerk read as follows:

The Senator from Maine [Ms. SNOWE], for herself, Mr. CAMPBELL, Ms. MOSELEY-BRAUN, Mr. SMITH, Mr. FEINGOLD, Mr. KOHL, and Mr. KEMPTHORNE, proposes an amendment numbered 1442.

Ms. SNOWE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. . ELIMINATION OF PENALTIES FOR NONCOMPLIANCE WITH MOTORCYCLE HELMET USE REQUIREMENT.

Section 153(h) of title 23, United States Code, is amended by striking "a law described in subsection (a)(1) and" each place it appears.

Ms. SNOWE. Mr. President, I am now offering an amendment today, along with my colleague, Senator CAMPBELL from Colorado, as well as my colleagues, Senators MOSELEY-BRAUN, SMITH, FEINGOLD, KOHL, and KEMPTHORNE. Essentially, what our amendment would do is to repeal the penalty that would be imposed on those 25 States that have yet to pass a mandatory helmet law.

Yesterday, Senator SMITH from New Hampshire offered an amendment that included both seatbelt and helmet laws. That amendment failed. So I am now offering today an amendment that would help 25 States—half of our country—who have yet to pass a mandatory helmet law.

We had considerable debate yesterday as to whether or not it is appropriate for the Federal Government to intrude upon decisions that rightfully belong to the States. We began this Congress with a pledge to reduce the size and the scope of the Federal Government and to restore the ability of States to resolve their own problems with their own solutions and with their own people.

I think we need to hold firm to that commitment. It is not a one-time deal or a part-time arrangement that we have for the people of this country to meet a commitment that they demanded in the last election. Reducing the size, scope, and intrusion of the Federal Government is a central part of our legislative agenda in this Congress. That is why I am introducing this amendment here today. It is one that I have worked on and Senator CAMPBELL has worked on over the years. We happen to think that it is inappropriate for the Federal Government to impose on the States a mandate and a requirement that they have to enact specific laws, otherwise, in this instance, they lose a percentage of their transportation funds.

As we know it, ISTEA was passed in 1991, and penalties took effect a year later, and States could enact both a mandatory seatbelt and helmet law. There are two States that have yet to enact seatbelt laws—Maine and New Hampshire. There are 25 States that have yet to enact mandatory helmet laws. And these penalties take effect in October of 1995, whereby 1.5 percent of the transportation funds from that particular State will be diverted to safety education programs. In 1996, it will be 3 percent of the transportation funds that will be diverted to safety education programs. All told, that represents, in the year 1995, a loss, as exemplified by this chart, of $48 million to those 25 States in badly needed highway improvement funds or bridge repair.

In 1996, the penalty is doubled to $97 million for those 25 States. They will lose precious transportation funds—funds that already had been appropriated to the States, which I think is very unprecedented, and will be used for safety education programs.

If you look at the State of Illinois, it would lose $12,480,000 in the year 1996. Ohio will lose, in 1996, $9,280,000. That is a substantial amount of money to be lost for any State when it comes to highway repair. Certainly, it is true for my State of Maine, which has more than 22,000 road miles in the State. We need every dollar we can use for highway repair.

Now, under this penalty, the State of Maine will be required to double the amount of money for safety education programs, to more than $1 million, as a result of this penalty. It will be money that cannot be used for highway road repair if they do not pass a mandatory helmet law. I think that, frankly, is the wrong approach to take. It is, again, Federal Government micromanaging State policy. It is demonstrating the arrogance of the Federal Government. It certainly represents an excessive reach of the Federal Government and, again, the coercive means that the Federal Government is willing to use to force States to be brought into line with what the U.S. Congress considers to be politically correct.

The penalties that will be levied are going to be substantial, as I mentioned before. But more important is the fact that the States already recognize the importance of safety education programs. In fact, 44 States already have in place rider education programs for motorcycle riders. It was not because the Federal Government bullied the State into establishing those programs. No. It was something that the States recognized on their own as essential to improving motorcycle riding safety. And that is why I believe that fatalities and accidents have been substantially reduced over the last decade—far ahead of the time before these penalties even took effect under ISTEA when it was passed in 1991.

Those 44 programs represent $13 million to the States, and they raised that funding by imposing fees on motorcycle registration and licenses. In my State of Maine, we have a $500,000 program. It has proven to be valuable, essential, and effective in reducing fatalities of motorcyclists. In fact, in Maine in 1993, we ranked the second lowest in the country for motorcycle fatalities. I think it does prove that those programs become very effective toward reducing accidents on the road and certainly fatalities.

That is why I think the States should be allowed to determine their own policies with respect to safety on the highways and certainly with respect to motorcycles.

Since 1983, the number of accidents have decreased from 307 per 10,000 registered motorcyclists to 206 in 1992. Fatalities similarly declined from 8 per 10,000 registered motorcyclists in 1983 to 6 per 10,000 in 1992. This shows, in my opinion, a remarkable decline. And this all occurred, as I said, prior to the enactment of section 153 that went into effect, I think demonstrating clearly that the heavy-handed treatment by the Federal Government is not essential to improving motorcycle safety. The States are certainly better able, better prepared, and better equipped to address those issues.

I was somewhat disturbed yesterday by the tenor of the debate. I think there is some feeling that somehow the Governors and State legislatures are somewhat less concerned or disinterested or unresponsive to what is happening on their own highways and roads.

I do not think there is anything that could be further from the truth. The fact is, motor vehicle laws have always been within the purview of State government. It has been traditionally their jurisdiction. I think there is nothing wrong with the Federal Government creating incentives for establishing certain programs or passing certain laws.

We should not be imposing heavy-handed penalties to force the States to do something that they do not deem appropriate or in their interests. That is for themselves to determine in making and creating State policy.

In response to the chairman's comments yesterday, the chairman was saying in any of the competitions for motorcycle riders, they are required to wear helmets. I think we can say very safely that many feel that people should wear helmets. But that should not be a decision made by the Federal Government.

The question of who decides who should wear helmets should be appropriately placed with the States. For personal safety, I certainly would recommend, and I have worn a helmet when I have ridden a motorcycle, because I think it is important.

The chairman made the comment yesterday that there is a requirement at these competitions that riders wear helmets. Mr. Dingman sent a letter to the chairman. I quote from it:

> As part of your justification for keeping in place the section 153 penalties on States that do not have mandatory helmet laws for all riders, you stated that the AMA requires all riders to wear helmets in the competitive events we sanction. I would like to point out that although regarding the American Motorcycle Association races, sanctioning policies are established by riders committee through a democratic process.

In seeking to repeal the section 153 penalties, we simply want to give the States the same ability to make a decision regarding helmet laws through a democratic process without coercion from the Federal Government.

I think that is the bottom line here. What we are attempting to achieve through this amendment is to allow the decision to be made by the State legislatures and the people in those States. That is what we should be doing. That is the kind of approach, I think, that should be taken at the Federal level, to leave those decisions that are best made by the State governments to the States.

Finally, I would also like to quote a letter by the Governor of the State of Wisconsin, Governor Thompson.

Mr. President, he writes:

> Wisconsin cycling community, in their legislatures, has said our State does not want or need a law requiring all motorcyclists to wear helmets. The most recent efforts to enact such a law was unsuccessful in the 1994 legislative session. Instead, Wisconsin relies on a partnership approach marked by responsible riding and effective training and safety programs. This approach is working well. During the past 12 years, without a mandatory helmet law, Wisconsin has continued to pose one of the Nation's best motorcycle safety records. Still, Federal laws require States to pass mandatory helmet laws covering all motorcyclists by October 1, 1995, or face strict penalties. If Wisconsin does not pass a mandatory motorcycle helmet law by this Federal deadline, more than $7 million in Federal funds will be taken away from highway projects and transferred to motorcycle safety programs of the next 2 years.
>
> Instead of leading the charge for a mandatory helmet law in Wisconsin, I am leading the fight in Washington against burdensome Federal mandates. Wisconsin must have the freedom to choose what works best for our State without facing costly, one-size-fits-all Federal laws that tie our hands. I hope you support this effort by contacting your U.S. Senator or Representative, urging them to help repeal the helmet law mandate. The decision on whether to require helmet use must be made by individual States, not by the Federal Government.

I think that is well said.

Again, I want to underscore another point, as mentioned by Governor

Thompson. The fact is, Wisconsin has a very effective rider safety education program and has one of the best safety records in the country. Yet they do not mandate the use of helmets. They are not going to change their law in the State of Wisconsin regardless of what the Federal Government does with respect to the penalty imposed on them through the use of transportation funds.

The point is, even prior to the imposition of penalties, 24 States out of the 25 said that they had not passed mandatory helmet laws. Only one State, since ISTEA passed in 1991, the State of Maryland, passed a law. That was before the penalty was in place. That was so they could qualify for an incentive grant program for additional funding.

The point is that over half of the States, or half the States, in this country have not adopted the helmet law because they think it is a decision that should not be forced upon them by the Federal Government. I certainly could not agree more.

I hope my colleagues will support my amendment to repeal this intrusive measure so the States can make their own decisions and their own policies. I yield the floor.

Mr. CAMPBELL. Thank you, Mr. President.

They say here on some bills that everything that can be said about an issue has been said, but not every Senator has said it. Yesterday we were in debate well over 2 hours on the Smith amendment. I would like to point out there was a very clear difference. We had some people yesterday who said that if the amendment did not deal with seatbelts, they thought they could support it.

I would like my colleagues to know that the Snowe amendment does only deal with helmets and, in fact, does not repeal anything. It simply stops the blackmailing by the Federal Government of States to pass mandatory helmet laws.

In my opinion, the 25 States out of compliance are not going to change. A number of States have repeatedly voted down mandatory helmet laws, as has our State of Colorado. I think they will continue to do so.

If a Senator is from a State that is out of compliance, I think the Senator will be asked by constituents, when they go home, why did that Senator vote to continue penalizing a State if that Senator did not support the Snowe amendment? Why did Senators take the right away from citizens in their own State to make that choice?

Those States include Alaska, they will be penalized over $2 million, $2.7 million; Arizona will be penalized over $2 million; my State of Colorado will be penalized $1.9 million; Connecticut will be penalized $2.3 million; Delaware, $735,000.

I will read all of them so those Senators who may not know if their State is out of compliance or not, will know at the end of this.

Hawaii will be penalized $1.334 million; Illinois, $6.12 million; Indiana, $2.934 million; Kansas, $1.6 million; Maine, $853,000; Minnesota, $2.192 million; Montana, $1.6 million; New Hampshire, $800,000; New Mexico, $1.9 million; North Dakota, over $1.1 million; Ohio, over $4.6 million; Oklahoma, $1.9 million; Rhode Island, $700,000; South Carolina, over $1.734 million; South Dakota, $1.1 million; Utah, $1.69 million; Wisconsin, the State from which we just had the letter introduced in the RECORD, Governor Thompson's State, penalized $2.4 million, yet they have repeatedly voted down mandatory helmet laws; and Wyoming, your State, Mr. President, will be penalized over $1 million if the Snowe amendment does not pass.

My State of Colorado has no helmet law. We had one until 1977. Have not had it since then. The Colorado State Legislature has repeatedly refused any attempt to implement one. The last time it was up, it lost in committee by 6 to 1.

We do not need the U.S. Senate or any Federal agency second-guessing our legislature on that issue. Yet that is exactly what we are doing in Colorado and the other 24 State legislatures if this amendment is not adopted. I do not think there is any question that helmet laws do not prevent accidents, nor do they make safer drivers. For the 14-year period between 1977 and 1990, States with mandatory helmet laws had 12.5 percent more accidents and 2.3 percent more fatalities than did States that did not have mandatory helmet usage.

In the past decade, motorcycle fatalities have decreased 38 percent and accidents have plummeted 41 percent. I think those figures are particularly impressive because the Federal Highway Administration estimates that the average vehicle miles traveled by motorcyclists has increased 85 percent since 1975. These statistics are unmatched in any other category of road user, passenger, or commercial.

The opponents of the Snowe amendment will tell you the reason those numbers of deaths and injuries have gone down is because of mandatory helmet laws. We disagree. We believe in most cases they have gone down because we have better trained riders, that through rider education training throughout America we simply are getting more people who are riding that understand the dangers and are better riders.

What can account for the decrease in accident fatalities? Evidence clearly indicates that the most effective way to reduce motorcycle accidents is through comprehensive education programs. Many of us think, in fact, it should be established in the schools just as driver education is for automobiles.

Currently, 42 States have established and funded some sort of safety programs. They have done that without the Federal Government mandating that they do so. The national average of motorcycle fatalities per 100 accidents is 2.95 per 100. States with rider education programs and no helmet laws, however, have the lowest death rate, 2.56 fatalities per 100 accidents. States with mandatory helmet laws and no rider training have a significantly higher rate of 3.09 fatalities per 100 accidents.

We are talking on the floor almost every day about Federal mandates. I do not remember the exact vote, but some months ago we overwhelmingly passed the unfunded mandates bill on the floor of the U.S. Senate in which we basically said we heard from our constituents across America who said, "Get the Government somewhat out of our business and curtail some of the mandates you are making in the U.S. Congress that forces States to do things against their will." Many believe in part that message in the last election was almost all about getting Government reduced in size and out of our personal decisions.

I happened to see a license plate the other day from the State of my friend, Senator SMITH of New Hampshire, that I thought was rather interesting. It was a license plate made by the State of New Hampshire. On the license plate it says, "Live Free Or Die." That may sound a little arcane in this day and age, but the fact of the matter is many Americans still believe they have enough Government imposed on them and they should be able to make more decisions in their own private lives.

While it can be argued that mandating these things would be good for America's citizens—and I am sure some of the opponents of the Snowe amendment may so argue—is it right to have the Federal Government intrude in our lives to the extent they tell us how to dress for recreational pursuits? I think that is absolutely wrong, and I strongly urge my colleagues to support the Snowe amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Ms. MOSELEY-BRAUN. Mr. President, I am pleased to join my distinguished colleagues in support of this amendment to repeal the law that levies financial penalties on States that have not enacted mandatory helmet laws.

Mr. President, when you say the words "right to privacy" these days, most Americans think of reproductive freedom and more specifically of a woman's right to choose. Although reproductive freedom is certainly an important part of the individual liberty protected by our constitutional right to privacy, the right to privacy really does encompass much more.

One of the best definitions of its scope and its importance came in a 1928 dissent by Justice Louis Brandeis in the case of Olmstead versus United States. In that opinion, Justice Brandeis stated:

> The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness . . . they sought to protect Americans in their beliefs, their thoughts, their emotions, and their sensations. They conferred, as against the Government, the right to be let alone, the most comprehensive of rights and the right most valued by civilized men.

The authors of the Constitution knew all too well the danger posed by a Government that did not respect individual privacy. For that reason, privacy is protected explicitly by the 4th, 9th, 10th and 14th amendments to our Constitution and, indeed, by the very foundation and structure of that document.

When it comes to supporting our constitutional right to privacy, I am as determined as they come. In fact, everything I do here in the U.S. Senate is dedicated to protecting and promoting the rights and liberties of all Americans. That is why I have cosponsored this legislation during both the 103d and 104th Congress, legislation that would strike the provision in the Intermodal Surface Transportation Act which infringes on our right to privacy by forcing citizens to wear motorcycle helmets. More specifically, this provision forces States to enact mandatory motorcycle helmet laws by transferring highway construction funds to highway safety programs in States that failed to enact such laws.

Since Illinois is one of only three States without a mandatory motorcycle helmet law, the U.S. Department of Transportation has already transferred more than $6 million from our highway construction program to the highway safety program in fiscal year 1995. It is expected to transfer more than $12 million out of this very important program, the construction program, in fiscal year 1996.

Although I do not own a motorcycle, I ride one every chance I get, and sometimes without a helmet. Like many Americans all across the country, I love the feeling, the sensation, the enjoyment that I get from that experience.

Just a few months ago, I joined 3,000 members of ABATE of Illinois on a freedom ride from the Illinois Department of Transportation to the Illinois State Capitol to remind members of our State legislature that our democracy is only as strong as the rights and the liberties of its citizens. So the question of individual freedom and privacy is paramount in my analysis of this issue.

This issue is not about whether or not people should wear a motorcycle helmet. I, frankly, encourage everyone to do so. In fact, there is the old motorcyclist's shorthand phrase, "Those who do not wear helmets do not have brains to protect." The fact is, you should wear a helmet when you are riding.

The question, however, here, is whether or not the Government should be making that decision for me or for any other American. To that question my response is a resounding "no." The fact of the matter is, there is insufficient data to suggest that, by forcing States to give up money by forcing States to transfer highway dollars in behalf of dictating what motorcyclists should wear, that there is any real public policy served by that. If the Federal Government wants to increase motorcycle helmet use, it should invest more in highway safety education programs like the very successful motorcycle training program in Illinois instead of forcing States to enact mandatory helmet laws. Those programs give individuals the information they need to make informed decisions regarding safety, training regarding the proper use of motorcycles, and how one should properly operate that machine.

The fact of the matter is, however, this is a mandate that goes too far. This is an infringement on individual choice. This is an infringement on the right to privacy. I believe this amendment should, therefore, be supported by everyone who cares about our capacity as Americans to make decisions, personal decisions, regarding personal safety.

I encourage my colleagues to support the Snowe-Campbell-Moseley-Braun-Feingold-Kohl amendment.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I feel very strongly this is a bad amendment. I regret it has been brought up. Yesterday, we debated the seatbelt bill containing this provision in it. It was defeated. The seatbelt part was dropped. And now we are strictly debating motorcycle helmets and whether the Federal Government has the right, as it is currently doing, to provide an incentive, if you would, for the States to enact a helmet law or, if they fail to do so, they will be deprived—some of their funds will be directed into highway safety rather than into road construction.

I would just like to set the record straight here, if I might, because various suggestions have been made.

First of all, the Federal Government is already deeply into highway safety. The Federal Government, through the National Highway Traffic Safety Administration, sets all kinds of standards on motor vehicles. No one is suggesting we ought to be able to have an absence of safety glass in our automobiles, of course not. That is set, standards are set by the so-called NHTSA, the National Highway Traffic Safety Administration.

They set standards for brakes and bumpers, safety belts, airbags, all of those things are by the Federal Government. Why? Because the Federal Government cares about the safety of our people. And, furthermore, let us never forget the cost to the Federal Government if people are injured. This particularly goes to those who are riding motorcycles without helmets who suffer severe head injuries that could have been prevented.

Do we only get into the vehicle itself when I am talking about safety glass and seatbelts and airbags and so forth? Or do we get into the rider or the driver? Of course, we get into that in the minimum drinking age. We now have a provision in the law that says every State has to enact a minimum drinking age of 21 or else they will lose some funds. As a result, every State has enacted that, and there is nobody who gets up on the floor and says that is the wrong way for the Federal Government to go, we should not be doing this, that this is big, bad Federal Government, it is coercion. It is a fine measure.

Yesterday, we kept the provision in there dealing with seatbelts. Indeed, we kept the provision dealing with helmets. But the seatbelt one has been dropped, as I mentioned. There is a suggestion that we should not be doing this. What is the Federal Government doing in this through the Senate and the House of the United States? Leave it to the democratic process. Well, I do not understand that. Is there a suggestion that State legislators are democratic and the Congress of the United States is not? I do not follow the argument that it is perfectly all right for a State to do it, but somehow it is wicked for the Federal Government to do it.

But the principal point I want to get back to is the Federal Government, the Federal taxpayers, pay the bills when these horrible injuries occur. And there is not anybody here who has spoken to a physician or a nurse who has worked in an emergency room who will not tell you, that individual will give horror story after horror story of what has happened to individuals they see in the emergency room who suffer terrible injuries in a vehicle when they did not have their safety belt on, or were riding a motorcycle when the individual did not have a helmet on.

One of the arguments given here is the answer is not to mandate this through the coercion of losing funds if you do not pass it. But it is to have rider education. No one argues against that. Sure, rider education is great. No one objects to that. All the better. But it is not one or the other. I have difficulty following the argument that, if you have rider education, you do not need helmets.

We do not say that if you have driver education, as is required in the schools in my State, and I presume in many of the States, or safety efforts that are made on the highways. I remember we used to talk about the three E's: education, enforcement, and engineering. All of those apply: education in the driver training; enforcement, with the police making sure there is not excessive speeding; and engineering in the design of our highways. But it is not those and not something else. Sure, in addition to all of this, we have seatbelts for those in automobiles. And we ought to have motorcycle helmets for those who are riding motorcycles, and the passengers likewise.

The argument somehow is made it does not do any good. I do not think anybody is serious about that. Nobody knows better than these riders that the helmet is a preventive measure. It is a safety measure.

I listened carefully while the Senator from Maine read the letter from the head of the motorcycle association. And yesterday I said that the motorcycle association in its sanctioned meets requires a helmet to be worn. The letter that was read, as I understood it—and I stand to be corrected—did not refute what I said. It said that is arrived at in a democratic process. But that does not get around the point.

The point I was making is that those who are fighting this so vigorously, their own activities require it. It is not up to the choice for each motorcyclist to do what he wants, freedom of expression, the chance to have the wind blowing through his or her hair. It is required, and it may be through a democratic process. But it could well be that there are 51 votes for it and 49 votes against it. But it is required. And if the Senator from Maine finds I am wrong in the way I interpreted what she said, I would be pleased to learn that because my understanding is—we have checked this before—that in the sanctioned meets by the motorcycle association, helmets are required. It makes no difference that it is arrived at in a democratic process. This is a democratic process. We are voting here on the floor.

There is another suggestion that seems to be made here that this is a wicked thing we are doing, or have been doing, because after all, this law has been on the books for nearly 4 years because it costs the States money. It does not cost the States money. We do not take money from the States, from the amounts that they are allocated under the highway legislation. They get the same amount of money.

The only thing is that in 1991, we said in the so-called ISTEA legislation, the Surface Transportation Efficiency Act of 1991, that if you do not pass a law mandating the use of helmets and seatbelts, then a certain proportion of that money, an increased proportion, must be devoted to safety measures, to education and safety training. That has been done in many States. Over 22-odd States that do not have this legislation have to put that money into education. That is their choice. They made that choice. If they want the highway money, they can pass the legislation.

They say that is coercion. Well, I do not think it is. It seems to me that if you are paying the bill, as the Federal Government is doing through Medicaid, over 50 percent in every instance, taking care of these people who are so severely damaged as a result of the absence of a helmet, we have a right to levy some requirements.

Do helmets save lives? I do not think anybody questions that. That is not to say that education does not, or driver training and experience does not save lives. But so do motorcycle helmets.

Over the past 10 years, motorcycle helmets have saved over 6,400 lives and prevented over 25,000 serious injuries. If every motorcyclist wore a helmet, nearly 800 lives would be saved every year. Unhelmeted motorcyclists involved in collisions are three times more likely than helmeted motorcyclists to incur serious head injuries that require expensive and long-lasting treatment. No one will argue with that. I mean, that is common sense.

These are two experienced riders. I would be interested if they, one, wear helmets; and, two, if they think helmets are useless and do not do any good.

Second, the cost of overall motor vehicle crashes, including motorcycles, is staggering to the country. The only reason I combine automobiles and motorcycles in this particular statistic is because we do not have figures broken down by the National Highway Safety Administration. But motor vehicle crashes cost over $137 billion each year.

Even for somebody from Washington, $137 billion is a lot of money. Over the past 10 years, motorcycle helmets have saved over $6.4 billion a year, according to the statistics I have.

Let me just give you a little instance. I have used this statement before. But it is one that I am familiar with because it came up in my State. We have in our State hospital an individual who, through an unhelmeted accident, has been in a coma for nearly 20 years, and 24 hours a day has to be cared for, fed and cared for, at a cost to taxpayers of over $2.5 to $3 million.

What do we do? Here we all are in the Senate and in the House, always talking about preventive measures, always talking about the skyrocketing costs of medical care in the United States. We have to do something about Medicare and Medicaid. We have to do something about hospital costs. Here is about as effective a way as possible.

Is this going to solve all the health cost problems of our country? Of course, it is not. But every little bit counts.

Here is a statement from a doctor from the Centers for Disease Control.

> We are unaware of any evidence that demonstrates that testing or licensing or education alone leads to anywhere near the improvement in helmet use that mandatory laws produce.

What he is saying here is do not leave it up to the States to do what they want, because what will happen is we will not have the laws.

Now, there is objection by the Senator from Maine to the suggestion I made that State legislatures and State legislators are more subject to pressure than we are. And that is true. I served in a State legislature, so I know something about it. The motorcyclists of the country are a very, very dedicated single-issue group, and they will descend on a legislator and put on a full-court press. And that is the issue that they will vote on. It is the epitome of the single-issue vote. And that legislator in his or her district frequently, in their desire to be reelected, which is nothing unique, nothing unusual in our country, says OK, if you care so much about it, I will go along. I will vote against any effort to mandate motorcycle helmet use.

How can I say that? Because in 1966, we enacted a law right here in the Federal Government that said you had to have helmets, and in 1976 we repealed it. As soon as the Federal Government repealed that incentive, the 28 States likewise repealed what they had on the books, including my own State of Rhode Island, and we have not been able to get that back on the books yet in my State despite the presence of this law and despite the fact that we desperately need highway funds.

Now, has it worked when we have passed this legislation and States have adopted it? Has it worked? Well, I will quote California again. I suppose there are more motorcycle riders in California than in any State in the Nation—total. Maybe not per 100,000 people but total riders. The number of fatalities in California, after they enacted a mandated helmet law, dropped by 36 percent. The number in Maryland, after they adopted it, dropped 20 percent. Of course, there are millions of dollars in savings by the States once these accidents and fatalities had been reduced.

So, Mr. President, I very much hope that we will not approve this amendment of the Senator from Maine.

I have a question I would like to ask the Senator from Maine. That is, one, does she agree that there are substantial costs involved in the accidents that come to those unhelmeted riders? That is the first question. Second, are those costs to a considerable degree borne by the Federal Government? Those are the two questions I have.

Ms. SNOWE. I appreciate them. In response to the Senator's questions, first of all, as I said in my statement earlier, when I have ridden a motorcycle, I have always worn a helmet, and I certainly would advise anybody who is riding a motorcycle to wear a helmet.

The question is, Who should decide when someone wears a helmet? Should the Federal Government decide it or should the State decide it? That is the question we are trying to determine here today. It is a basic philosophical question that needs to be addressed. I do not happen to think the Federal Government should be the determining factor in who is going to wear a motorcycle helmet.

The second question is in terms of incurring costs, and I mentioned yesterday, where do we draw the lines in terms of personal and social behavior and what impacts Federal health care costs? That is a basic question. Because, first of all, we know there is behavior that could result in more costs in the Medicaid Program, for example. If somebody smokes, it leads to cancer. If somebody does not engage in a good diet or engage in regular exercise, it leads to heart disease. Or chewing tobacco. Whatever the case may be, that results in more health care costs.

Where do we at the Federal level draw that line? That is also a question that needs to be addressed here today.

To even answer the Senator's question more specifically, I would like to mention a study that was conducted at the Harbor View Medical Center in Seattle, WA. They reported that 63.4 percent of the injured motorcyclists in the trauma center relied on public funds in order to pay their hospital bills. According to testimony by the director of the trauma center, 67 percent of the general patient population also relied on taxpayer dollars to pay their bills.

A study that was conducted by the University of North Carolina Highway Safety Research Center found that 49.4 percent of injured motorcyclists had their medical costs covered by insurance, while 50.4 percent of the other road trauma victims were similarly insured.

So I think, first of all, we are being selective here in who do we determine is impacting health care costs. But secondly, the question is whether or not the Federal Government should intrude to such an extent as to require States to pass laws. And the Senator mentioned that it does not cost the States any money. Well, technically the Senator is correct. But that money is transferred to programs that are already well-funded.

Does it make sense for my State to have to pay twice as much in safety programs when it has already determined that it is not necessary, that $500,000 is sufficient, not $1.3 million? That is not money they can spend on other things that are also essential to the well-being and the welfare of the residents of my State.

So I would suggest to the Senator that by singling out motorcycle riders and saying that they are having the greatest effect on our medical costs in the country is certainly not a fair characterization. I just do not happen to think that this is an appropriate area for us to be governing here in the Congress.

I, too, was in the State legislature in the State of Maine for 6 years, and I do not think the pressures on a State legislature are any different than the pressures we face by any one group by serving in the Senate or the House of Representatives. I doubt anybody would believe it if you suggested differently.

The fact is, looking at the merits of this question, 24 States had already adopted helmet laws before the ISTEA penalties took effect—24 States. They had already decided in their own wisdom that it was important for the residents of their States to have that requirement. So they decided it on their own, to their credit.

The Senator mentions the State of California. Well, again that is another example. The State of California passed its law prior to ISTEA passing in the U.S. Congress in 1991. It took effect before ISTEA was even passed in the Congress. So they determined it in their own wisdom. They do not need the Federal Government telling them what to do. That is what the whole issue is all about.

Mr. CHAFEE. Well, Mr. President, I do not think that is what it is all about. Everybody can define the issue as they wish. But the real question is does the Congress have any interest in the safety of its citizens riding its roads. And I believe we do. We have a deep interest. We have a deep interest because of the pain and suffering that arises but also because of the costs.

The Senator from Maine is familiar with the letter that came from the Eastern Maine Medical Center, which she herself received. It is a study of the Medicaid costs that arise with those who are unbelted or with no helmets. It is a very, very persuasive study that was done.

What are we talking about when we are talking Medicaid? We are talking Federal dollars. And so for that reason alone—never mind the suffering that arises. I have seen it. I am sure the Senators from Colorado and Maine have likewise visited their rehabilitation centers and seen individuals who were so severely damaged because of head injuries as a result of not having helmets, some who end up in comas, some who end up in terrible physical condition. These could have been avoided.

I just cannot understand that we go backward. It is on the law now. It is not resisting the presence of the law, the enactment of the law. It is repealing the law. And yesterday, thank goodness, we rejected the effort to repeal the seatbelt requirement, and I hope we will reject this effort to repeal the motorcycle helmet effort.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. I would like to respond to a few of the comments my friend, Senator CHAFEE, has made.

First of all, since I come from the State of Colorado, I can tell him that I called the State agencies to try to find out if there was any agency in our State that kept track of people who are being paid because they were incapacitated under what is commonly called the "public burden theory." The public burden theory, as I mentioned yesterday, basically says that if you are injured and you have no insurance and no way to pay for your hospital bills, the public picks up the cost. In the State of Colorado there are no numbers whatsoever that define which people are incapacitated by automobile injuries, by motorcycles, by skiing or anything else. If they are injured, they do not have an insurance policy and they do not have finances to take care of themselves, they are put in a pool. That is what I am told by the State of Colorado.

I would also like to point out that we are concerned that the Federal Government sometime or other is going to get involved in defining all forms of personal behavior that have some element of risk. That may include skiers in my State. We had something like five deaths this year on the slopes of Colorado. None of them were wearing a helmet. Perhaps we should mandate that they do because it is on Federal ground and, therefore, the Federal Government has some kind of a vested interest.

In the State of California, since my colleague mentioned that a number of times, I would tell him that bicycles recently in the State of California came under a State law that requires everyone to wear a helmet that rides a bicycle. But the Federal Government did not mandate it. It let the State of California make its own decision. And if that is what the people of California want, and the legislature, their elected officials want, then that probably fits all right in the State of California. I do not think we would want it in Colorado. But clearly we let them make the decision.

Now, I mention California because there is over 100 times more head injuries and automobile accidents than there is on motorcycles and over ten times more deaths.

Recently—several years ago, in fact—there was an assemblyman named Dick Floyd of Hawthorne, CA, who told a radio audience in Los Angeles that he favored a helmet law for automobile drivers and was thinking of introducing a bill to mandate that everybody that drives an automobile in California wear a helmet, even though there have been instances where the California Highway Patrol have given citations for people that were wearing a helmet in automobiles. And the reason they gave them is because they cut down hearing and visibility. Mr. Floyd's comments came during a debate during appearances concerning a helmet bill which he introduced in California, and did pass, by the way, for motorcycles. Mr. Floyd was not reelected. So he is no longer in the State legislature, probably for a good reason, because I think he believed in taking away personal choices and personal freedoms.

There is another thing I would like to say. I hope that my colleague, Senator CHAFEE, does not imply that within States where people elect their own legislators they do not have elected officials that can make decisions for their own constituents and that we should overrule them at the Federal level, because I think that is absolutely wrong.

He mentioned something about who pays the bills under the highway users trust fund, the gasoline tax. But we have 3.5 million people in Colorado, most of whom drive, who pay money every time they buy a gallon of gasoline in any gas station, as your State of Wyoming does, the State of Maine does, where my colleague, Senator Snowe, is from. That money goes into a pool, the highway users trust fund, that people in those States have every right to expect to be paid back for construction in the States. There was nothing, to my knowledge, in the enabling bill, the bill that originally set up the highway users trust fund, that said we are going to collect a tax from you, however we are only going to give it back if you comply under this condition or that one, which may be a mandatory helmet law. The money is supposed to go back to the States for construction. As it is now, under the mandatory section of ISTEA that did pass—and we are trying to get repealed—they simply do not have that option. It is simply a Federal blackmail of the State governments.

Now, we can stand, I guess, here all day and hear some of the horror stories, the public burden theory, who was injured, who was not, and we should have mandatory laws dealing with them about their recreation. But I would point out that the Federal Government simply cannot get involved in every form of behavior in which there is some risk. Melanoma is a skin cancer from sunbathing that kills more people than motorcycle accidents, yet we do not outlaw sunbathing or require they have certain kinds of Sun screen on, or tell them we will deny some funding under Medicaid or Medicare if they do not.

Swimming and diving accidents cause more quadriplegics each year than motorcycling, yet we have not outlawed swimming and diving. I think it gets beyond ridiculous when we tell States that we are going to require certain things that take away fundamental rights and deny them money that they have every right to if they do not comply with what we think they should be doing with their recreation in private states.

With that, I yield the floor, Mr. President.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I have here a document from the Colorado Department of Transportation, University of Colorado, Health Sciences Center. It is a news release dated February 15, 1994. And it says here, "In the past three years—1991-93—134 motorcyclists have been killed in traffic crashes in Colorado. Ninety-six of the victims—72 percent—were not wearing helmets." So whatever is happening in Colorado, apparently it is not encouraging the use of helmets very much, as of the date of this, anyway. "Young riders are overly represented in the motorcycle fatality figures. Sixteen to 20-years old represent about 4 percent of the licensed motorcyclists in the state, yet during the past three years they have accounted for 15 percent of the deaths. Twenty of the motorcyclists killed—1991-93—were aged 16 to 20."

And then a quote from Dr. Steve Lowenstein, associate director of the University of Colorado Health Sciences Center.

> Motorcycle crashes almost always have dire consequences.
>
> In 1991 and in 1992, there were 3,668 crashes involving motorcycles in Colorado. Of those, 80 percent resulted in either the death or injury to the motorcycle rider. Helmets could have prevented many of those injuries, saving taxpayers millions of dollars in health care costs.

And then it goes on to point out in 1991 and in 1992, just 2 years, 2,824 motorcyclists were injured in crashes in Colorado with about 600 of those riders suffering traumatic brain injuries. The 1993 injury data was not yet available.

> Studies have documented that unhelmeted motorcycle riders sustain serious to critical head injuries three to five times more often than helmeted riders.

So I do not think this should be an argument about States rights or the Federal Government imposing demands, requirements. We are dealing here with human beings, human beings all across our country. And these young people or those who are not so young could have been maintained in far greater health and prevented terrible injuries that could have been prevented with the presence of helmets. And we should do everything we can to encourage helmet use. I think we should do that. So, Mr. President, I would very much hope that this amendment would not be approved.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. I will ask unanimous consent to have printed in the RECORD a letter from the Colorado Department of Transportation that lists the three highest priorities for the Colorado Department of Transportation, one being the repeal of the mandatory section of ISTEA which the Snowe amendment does. I would like to point out again for my friends who are watching this debate in their offices on television, this is not a question of whether you should or should not, as my colleague implies.

It is a question of who makes the decision, whether it should be done in the U.S. Senate or whether it should be done at the State level.

There also is no question that we are getting sidetracked a little bit, because it seems to me that his statements imply that somehow helmets prevent accidents. They do not. They do not prevent accidents. They may prevent some deaths, but clearly we have a number of studies also that say rider education training prevents more.

So somewhere along the line, we have to define what it is we are talking about, and we are not talking about whether you should or should not, we are talking about who makes the decision.

I do not want to monopolize the time. I see my colleague from South Dakota on the floor, so I yield the floor.

Mr. PRESSLER. If my friend will yield.

Mr. CAMPBELL. If the Senator can speak on his own time.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I would like to discuss briefly the important issue of motorcycle safety. I have been a motorcyclist for many years. I had a motorcycle when I was a second lieutenant in the Army, and have ridden many times over the years. In fact, I am the owner of a Harley-Davidson Heritage Softail Classic. I enjoy riding it on the weekends when I am home in South Dakota.

While much debate has focused on the safety of motorcycle helmets, I do not want us to overlook another very important issue: motorcycle rider training. In my view, proper motorcycle training is even more critical to safety.

To update my license, I recently completed one of the motorcycle rider training courses endorsed by the National Motorcycle Safety Foundation. This 2½-day course—which took place Friday evening, and all day Saturday and Sunday—consisted of both classroom and hands-on instruction. It is a very rigorous course designed to teach even a beginner how to handle a motorcycle safely. I must say, I learned a lot of things about motorcycles that I did not know, and about safety.

Mr. President, according to statistics, about 62 percent of all the accidents involving motorcycles involve some sort of use of alcohol. I also want to point out the accident rate is very low in those States where motorcyclists have completed motorcycle safety courses. That is because the training courses strongly emphasize safety. Congress should emphasize safety education too.

In South Dakota, motorcyclists are urged to take rider training courses. I think that is very important. Across the Nation, if we had more people taking motorcycle training courses, we would have more skilled riders. In my judgment, Congress can best promote safety by encouraging motorcyclists to enroll in motorcycle rider training courses.

As many of my colleagues know, the Sturgis motorcycle rally is held in my home State every summer. We have thousands of motorcyclists coming to South Dakota for this annual event. Some wear helmets and some do not. We do not have a helmet mandate. It is a matter of individual choice.

So I join with my friend from Colorado in the remarks that he has made, and I hope to soon ride my new Harley-Davidson Softail with him.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. CAMPBELL. Mr. President, the Senator from South Dakota added an element that has not been discussed, and that is the financial implications.

I point out—he probably already knows this—according to the South Dakota Tourism Council, motorcyclists put $57 million a year into the South Dakota economy. Three years ago, a study was done by the town of Sturgis that he mentioned, at which about 150,000 to 200,000 people show up every summer for a big celebration. The Chamber of Commerce did a study of the people that were there 3 years ago, and they asked the people that came to South Dakota if they would come back to South Dakota to Sturgis if the State of South Dakota had a mandatory helmet law.

I do not have the exact statistics, but the number was very close to 50 percent said they would not come back to South Dakota if they passed a mandatory helmet law.

There are a lot of other elements to the financial picture, too. My friend from Rhode Island mentioned California—he mentioned that several times—and the reduction of deaths after helmets were introduced. What he failed to mention was that it was also at the same time that the same training that my colleague from South Dakota went through was implemented and expanded in California. It is one of the leading States for motorcycle training. So deaths also went down because of the training.

In addition to that, he also failed to mention in the 3-year period of time, registrations of new motorcycles in California dropped by 50 percent. There were simply fewer people riding fewer miles, so that also would have an impact on the injuries and deaths. I point that out because it is something that has not been discussed in this whole debate about choice. I yield the floor.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Mr. President, I just want to make a couple of additional points. I think a lot of the debate has centered on many of the issues that also were raised yesterday and are important to reiterate. But I think it is important since we are talking about the issue of safety, in terms of the statistics that have been given with respect to motorcycle safety.

According to the National Highway Traffic Safety Administration, in 1993, the motorcyclist fatality rate per registered vehicle has decreased by more than 50 percent since 1966. Senator PRESSLER mentioned, and Senator CAMPBELL, who has taken the rider education course, how effective and valuable it is, and that is why the States have decided unilaterally, without any coercion by the Federal Government, to establish those programs because they know it is essential to reducing fatalities and accidents on the road.

I also would like, as I did yesterday, because I do think it is critical, since the chairman is from the State of Rhode Island, to read part of a statement that was given by a State senator before his committee back in March. He says in his statement that:

> In a year when unfunded mandates are a target of Federal legislation, it may be said that section 153 is an unfunded suggestion.
>
> Section 153 also has a negative economic impact on the State of Rhode Island. The Federal Highway Administration has stated that every $1 billion in highway construction monies creates 60,000 jobs. Although the funding is not being rescinded, the transfer of funds will result in the loss of approximately 40 construction jobs. These are difficult economic times, and Rhode Island has been hit hard by defense cutbacks, as well as national recession. If each job paid $30,000, the impact on the Rhode Island economy could be greater than $1.2 million.

The State senator goes on to talk about how there has been a dramatic reduction in fatalities and accidents in Rhode Island. He said:

> . . . the number of deaths related to motorcycle accidents have declined significantly in proportion to the number of motorcycle riders on the road. In 1976, the last year that the motorcycle helmet law was in effect, there was more than 1 death per every thousand riders. In 1994, there was less than .5 deaths per thousand riders. . . .
>
> In 1993, the number of fatalities per 10,000 registrations was lower in Rhode Island than in many States with motorcycle helmet laws. Massachusetts, which applied strict helmet wearing standards for motorcycle riders, has a fatality rate a full point higher than Rhode Island. . . .
>
> Much of the success can be attributed to motorcycle rider education programs, which were first implemented back in 1980. . . .
>
> Furthermore, Rhode Island also had the second lowest rate of all motorcycle accidents per 10,000 riders, behind only Oregon, which has a helmet law in place.

So I think it goes to show that the experiences in various States that have been through the rider education program in making a difference and having an impact on highway safety with respect to motorcycle riding.

I also would like to read a paragraph from the Bellevue News Democrat, in Illinois, from September 14 titled "Independent of Blackmail, Summed Up the Issue":

> If the Federal Government is so hot on motorcyclists wearing helmets, why doesn't it adopt a national policy? Because it realizes this is the type of decision that rightfully belongs to the individual States, as long as the decision is the one that the Federal bureaucrats want, that is.

I think that appropriately sums up the problem we have here today with these kinds of penalties. It will not end here. It will continue, somehow thinking that we know more than the States in terms of what is occurring on their highways.

I also will mention that the States have debated these issues at great length. There were 109 bills introduced on helmet laws and zero adopted, since ISTEA penalties became effective—109 different bills. So it was adequately debated in the States. They will determine their own wisdom whether or not they should adopt a helmet law. That is where that decision belongs.

I ask unanimous consent to add Senator GREGG from New Hampshire, Senator WELLSTONE from Minnesota, and Senator BROWN from Colorado as cosponsors of my amendment, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. At the proper time, I will ask to table the amendment.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I ask unanimous consent to cosponsor the Snowe-Campbell amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we have heard a lot of debate. I think we are pretty close to a vote. I do not think there is anybody on this floor who is not worried about highway safety, or about deaths of motorcycle riders from head injuries. But that is not the issue. The issue we are deciding here is, who should make these decisions? Should it be the U.S. Federal Government by way of the U.S. Congress that should decide whether people should wear helmets? Or should it be State legislatures, the Governor, and the people in their own jurisdiction?

I think the time has come, Mr. President, where it is important to gain public confidence in Government. I think a lot of people today feel alienated from Government. They feel Government is too distant, too remote, maybe arrogant and heavyhanded. I do not think there is much doubt about that. That is a more prevalent feeling in America today than in the last 10 to 15 years.

Why has that happened? There are a lot of reasons. One reason is because the world is much more complex. The cold war is over, which caused a certain anxiety in this country. A lot of people are concerned about their jobs, and there are a whole host of reasons why people tend to be a little bit alienated from and inclined not to believe their Government is doing what should be done.

This amendment is one opportunity for us to address a small part of that. We can give the decision making ability on helmets to the States. Let the people decide for themselves whether they want to live free or die. Let people decide whether they want to wear a helmet. Let people decide, according to the State legislatures, what they want to do. They will debate this issue and come to a reasonable conclusion. Some of us may not agree with that conclusion, and some of us may agree with that conclusion. Different States will reach different conclusions. But at least the people at home in the States we represent will be a little closer to the decision that is made.

We are not going to solve all of our country's problems today—not even a large portion of our country's problems. We have to take each step at a time. Today we are faced with a very small step, but important step. Let people in our own States decide for themselves whether there should be a helmet law. It is that simple.

The issue is not whether we are concerned about safety on the highways. That is not the issue. The issue is not whether—with all due respect to my good friend from Colorado—there is a greater incidence of bike fatalities with persons who do not wear helmets compared with those who do. We should not be debating that issue today. The issue is: Who should decide, the Congress or the States? I believe it is an issue for the States themselves to decide.

I am glad the Senator from Maine is offering this amendment. I think it is an opportunity for people in our States to get a little closer to the decisions that are made, and maybe in a small way help restore a little bit of confidence they have now in Government generally.

I urge the Senate to adopt this amendment.

Mr. CAMPBELL. Mr. President, I thank the Senator from Montana. He enjoys great respect in this body and is looked to by many of the Members for his leadership. I think he has spoken in very clear terms on what this debate is all about. It is really a State rights issue. An implication has been made that if we repeal this mandatory section of ISTEA, there is going to be a pell-mell rush by States to repeal whatever they have in place now. Some States have helmet laws for everyone; some have it for 18 and under; some have it for under 1 year of experience. It is a hodgepodge of things now. Very clearly, 25 States do not have full compliance. I do not see them changing.

I think that in a number of States, they have dealt with this over and over, and they simply see this as a Federal blackmail system, and they are not going to give up. I can tell my colleagues on the other side of this issue that I do not intend to give up, and I am sure Senator SNOWE will not. The people who believe in States rights and the 10th amendment will not give up.

We talked almost 3 hours on this issue yesterday, and another 2 hours today. I say to my friend, the Senator from Rhode Island, that I am willing to stay here all night, and I am sure others are, too. I would like to ask the Senator from Rhode Island if he will consider some kind of a time agreement on which we can end this debate and have a vote.

Mr. CHAFEE. We are ready to vote now. If this amendment is adopted, it is absolutely clear that the States, just as they did in the period of 1976, will repeal the mandatory helmet laws they have on the books. That is the next objective of the motorcycle association. They will be on every legislator's doorstep pressuring, demanding, and the result will be that the States that have it will repeal their helmet laws. And the result of that will be increased deaths on our highways from motorcyclists not wearing helmets, not having helmets. I think it is a very unfortunate step.

If the Senator is through speaking, I will move to table.

Ms. SNOWE. Mr. President, first, I wanted to ask unanimous consent to include somebody as a cosponsor.

Mr. CHAFEE. That is fine.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. SNOWE. Mr. President, I ask unanimous consent to include Senator COHEN of Maine and Senator THOMAS of Wyoming as cosponsors of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WELLSTONE. Mr. President, I am pleased to join my colleagues in sponsoring an amendment to eliminate the penalties on States that do not require the use of motorcycle helmets. I do not support efforts to force States to institute helmet laws, particularly States like Minnesota that already have effective motorcycle safety education programs.

I would have preferred to join in an alternative amendment that would have repealed current requirements that States enact helmet safety laws and replaced it with a requirement that States enact helmet safety education programs. However, that alternative amendment, which had been prepared by one of my colleagues, was not actually offered. I am therefore supporting the amendment before us, and as I pointed out, Minnesota does have a motorcycle safety education program.

Mr. President, Minnesota had a mandatory helmet law for 10 years—1968–1977. Proponents in favor of this law stated, "A mandatory helmet law will dramatically reduce motorcycle fatalities." During the 10-year period Minnesota had a mandatory helmet law, fatalities did not go down per 10,000 registered vehicles. In fact, fatalities continued to increase almost every year.

Mr. President, Minnesota has not had a mandatory helmet law for 10 years. Our 1993 fatality rate plummeted an incredible 72 percent in spite of doubling the number of licensed motorcyclists. Since the inception of Minnesota's Rider Education and Public Awareness programs, motorcycle fatalities have been reduced 54 percent.

Mr. President, the Minnesota legislative body has analyzed and debated the helmet law issue many times in the 18 years since the helmet law was repealed. Legislators have repeatedly concluded; Minnesota does not need a mandatory helmet law.

Mr. CHAFEE. I now move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 36, nays 64, as follows:

[Rollcall Vote No. 274 Leg.]

YEAS—36

Akaka
Bingaman
Bond
Boxer
Bradley
Bumpers
Byrd
Chafee
DeWine
Dodd
Faircloth
Feinstein
Ford
Frist
Glenn
Gorton
Harkin
Hatfield
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Lautenberg
Levin
Lieberman
Mikulski
Moynihan
Murray
Pell
Pryor
Reid
Rockefeller
Sarbanes
Simon

NAYS—64

Abraham
Ashcroft
Baucus
Bennett
Biden
Breaux
Brown
Bryan
Burns
Campbell
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
Dole
Domenici
Dorgan
Exon
Feingold
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kerry
Kohl
Kyl
Leahy
Lott
Lugar
Mack
McCain
McConnell
Moseley-Braun
Murkowski
Nickles
Nunn
Packwood
Pressler
Robb
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

So the motion to lay on the table the amendment (No. 1442) was rejected.

AMENDMENT NO. 1443 TO AMENDMENT NO. 1442

(Purpose: To limit the repeal to apply only to States that assume the Federal cost of providing medical care to treat an injury attributable to a person's failure to wear a helmet while riding a motorcycle)

Mr. CHAFEE. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mrs. HUTCHISON, proposes an amendment numbered 1443 to amendment No. 1442.

Before the period at the end of the amendment insert the following: "and inserting 'a law described in subsection (a)(1) (except a State that by law assumes any Federal cost incurred in providing medical care to treat an injury to a person in a motorcycle accident, to the extent that the injury is attributable to that person's failure to wear a motorcycle helmet) and' ".

Mr. CHAFEE. Mr. President, let me explain this amendment, if I might.

This is an amendment to gratify the hearts of all the believers in strong States rights and get the Federal Government off our backs and out of things.

This amendment says that the current law involving the dedication of certain funds for highway funds for safety and training will go into effect unless that State passes—and seatbelts and motorcycle helmets will be required—unless that State passes a law saying that none of the medical care to treat an injury to a person in a motorcycle accident, to the extent that the injury is attributable to that person's failure to wear a helmet, no Federal funds will be used to pay for that health care.

In other words, what we are saying, and I said right along here on the floor, is that the Federal Government should not be caught with the cost if the State does not want to mandate motorcycle helmets. Other people say it ought to be left to the States. That is fine. But let us not have the Federal Government caught with the cost. So this means that the Federal share will not be payable if a State does not enact such a helmet law.

It seems to me that it is a very fair thing. We are saying if we pay the piper, we ought to have some say. But people do not want that. They do not want the Federal Government to have any say requiring motorcycle helmets. So we say, OK, you do what you want, but we, the Federal Government, will not pay our portion of the Medicaid, principally, and it will apply to Medicare likewise.

So, Mr. President, I think it is a good amendment. The Senator from Texas has been active in this. I commend her for it.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Texas.

Mrs. HUTCHISON. Mr. President, I am a cosponsor of this amendment. I voted not to table the Snowe-Campbell amendment because I do believe in States rights. But I also have a concern about the States lifting this helmet law and then expecting the Federal Government, through Medicaid or through other public grants, to pay for the cost of their lifting. I am a States righter. I think this should be a State issue. But I also think that with the right comes the responsibility.

So, if the States decide within their rights to lift the laws requiring the use of helmets on motorcycles, I then think it is incumbent on the States to take the responsibility if the person does not have private health insurance.

The statistics show that 64 percent of the inpatient charges for motorcycle-related accidents are provided for by private health insurance. But that leaves 19 percent for public, and 17 percent from other sources, including Medicaid.

So you can see that there is a large percentage of these injuries that could be publicly paid for. I think people do have the right to enact State laws that govern how people on highways perform and how they protect themselves and what kind of safety issues you should have. I am a believer in States rights, and I also think with that right goes responsibility.

So I am cosponsoring the amendment, and I appreciate the work that everyone has done on this issue. I thought this might be acceptable to both sides. But I think maybe it is not. I would like to reserve a little time at the end of the debate to finish in closing.

Thank you, Mr. President.

Mr. CAMPBELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Colorado.

Mr. CAMPBELL. Mr. President, before I make any comments, I would like to make a parliamentary inquiry. If the Hutchison amendment is adopted, then is this further subjected to a second-degree? Does this become a first-degree?

The PRESIDING OFFICER. The Snowe amendment, as amended, if this were to prevail, would then be open to further amendment.

Mr. CAMPBELL. Further question: Are we to assume that it would then be open to further amendments dealing with Medicare or Medicaid?

The PRESIDING OFFICER. The Senator is advised that the relevancy of further amendments would be determined by the Chair on a case-by-case basis.

Mr. CAMPBELL. I thank the Chair.

Mr. President, I tell you, with all deference to my friend and colleague, Senator HUTCHISON, for whom I have great admiration and respect, I think, very frankly, this is a terrible amendment.

First of all, if we are trying to deal with helmet use, we do not want to fool around with the money that goes through our Medicare system to States. I think it is a real mistake to open up that issue because we would have to have a whole bunch of amendments dealing with that. I can tell you that I am not a constitutional attorney, but I think when you discriminate against one class of people, when you tell them that they will be denied funding under these programs because they do not wear helmets, but they will not be denied the same money if they get injured through any other kind of pursuits. I think in the courts it would be fairly unconstitutional. I look forward to finding that out, if this amendment does pass.

Second, I do not know where it would leave the 25 States that are not in compliance now. Are we going to tell millions, if not hundreds of millions of Americans, in those 25 States that we are going to add another burden and we refuse to grant them some kind of Federal help under these services if they do not comply with the mandatory helmets under ISTEA?

So I just tell you, I think it is a terrible mistake, and opens up a can of worms that could be amended further and further dealing with all kinds of recreational pursuits.

I hope that my colleagues will reject it.

I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I would like to speak to this amendment.

I would be in opposition to the amendment, it seems to me, for these reasons, unless it can be clarified: If a motorcyclist were simply stopped at a light and a car made an illegal turn or in some other manner struck him, or her, as the case may be, then I understand this amendment would apply. Would that be correct?

Mrs. HUTCHISON. No, it is my understanding of the amendment, if the injury is attributable to the person's failure to wear the motorcycle helmet.

Mr. WARNER. Suppose they did not have a helmet on. They are standing there motionless and a car violated some law and struck the person.

Mrs. HUTCHISON. I think it would be very easy to determine if the person was injured by not having a helmet on or not.

Mr. WARNER. Well, they might go off the bicycle and, indeed, suffer a head injury. That person then would fall within the statute?

Mrs. HUTCHISON. If a helmet would have prevented the injury, absolutely, and that is the purpose of helmet laws.

Mr. WARNER. Even though the cyclist is totally innocent of malfeasance or negligence?

Mrs. HUTCHISON. The reason that some States do have helmet laws—and this is, of course, I believe, a State issue—is because it is a protection. Whether you are hit or whether you fall or whether you are thrown from a motorcycle, the purpose is to try to keep down the injuries because you do not have the protections of a car. So regardless of fault, if you are injured because you did not have a helmet on, yes, you would fall under this amendment.

Mr. WARNER. Now, if the injuries were a combination of head injuries and, say, torso or limb injuries, you could get the Federal subsidization through Medicare or Medicaid for the injuries other than the head injuries, would that be correct?

Mrs. HUTCHISON. Yes, I think so. We are talking about the States taking the responsibility for not having a helmet law for what might happen for people who do not use them.

Mr. WARNER. So a cyclist could receive compensation, Federal compensation for any injury other than a head injury?

Mrs. HUTCHISON. Yes, I would say so.

Mr. WARNER. Mr. President, I would say to my two good friends here, it seems to me we had what I would characterize as an honest, fair debate on the underlying amendment, and with some reluctance, because I have always tried to myself be concerned about the expenditures of the Federal taxpayers for these types of accidents, I support the prevailing side on this amendment. I do so because it seems to me this is a clear question of States rights to this Senator, and I find that on the other votes on this bill, where I stood toe to toe to try and protect the Federal speed limit and stood toe to toe to protect the requirement to wear seatbelts, even though I am a strong States rights person, in this instance it is different.

Why is it different for this Senator? Because in the case of speed limits and seatbelts, I find there is a direct correlation to other drivers of automobiles, because they could be injured innocently as a consequence of excessive speed by another driver or that driver in another vehicle not wearing a seatbelt and thereby losing some control over the vehicle and causing injury to an innocent person.

We lost on that speed limit. But it seems to me this is a case where we let the States decide, like let the riders decide to wear or not to wear a helmet. And therefore I find the amendment, in my judgment, begins to open up a series of legislative moves in an attempt to undermine the underlying amendment when we had a perfectly fair and open fight and discussion and debate on the underlying amendment.

Therefore, I would have to associate myself with those who will be in opposition, I regret to say to my distinguished chairman. We are both chairmen. He is the chairman of the committee. I am the chairman of the subcommittee. But at this point, he is in the chair.

Mr. CHAFEE. Mr. President, throughout the discussion yesterday on the amendment of the Senator from New Hampshire and the amendment today of the Senator from Maine, there was great accent on freedom, freedom to choose—we should respect the State legislatures in that they will do the right thing and that the Federal Government should get out of it. And the Federal Government was chastised in many of the remarks made here as a big, overpowering force; that we should do everything to avoid bringing the Government closer to the people.

That was the argument. All right. But the argument we were making on the other side was that the Federal Government has to pay the bill frequently through Medicare and Medicaid. In every instance in Medicaid, the Federal Government is paying more than 50 percent. So that argument was blown away by a very, very heavy vote.

Now what we are saying is, OK, let the States decide, let the States forgo the so-called mandatory helmet bill, but if they do, then the Federal Government will not step in and pay the medical costs of an individual injured as a result of not wearing a helmet.

So this is a very, very simple amendment. I should think it would thoroughly satisfy the States righters because they get everything they want, and indeed they are avoiding the problem of the big Federal Government coming in and paying some of the bills, if that presents a problem.

So all we are saying is that where there is an injury attributable to that person's failure to wear a helmet, and the State does not have a helmet law, the Federal Government should not have to pay either Medicare or Medicaid. Let the States pay it. I think it is a very fair deal.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. BAUCUS. Mr. President, this is a very simple amendment. It reminds me of something a very famous journalist, H.L. Mencken, once said. He said for every complicated problem, if there is a simple solution, it is usually wrong. This is a very simple solution, but I think it raises a lot of important questions. I would like to ask if the Senator from Texas might respond to some of these questions.

As I understand it, this amendment deals with the treatment of States that do not have a helmet law. For those States, that do not have a helmet law, that State could not use Federal Medicaid funds to pay for unhelmeted riders injured in motorcycle accidents. Is that correct?

Mrs. HUTCHISON. No. It goes toward the State that decides to make that decision to also take the responsibility for injuries caused by making that decision.

Mr. BAUCUS. No, no. As I read the amendment, it says in the last words in the last few lines "to the extent that the injury is attributable to that person's failure to wear a motorcycle helmet."

Mrs. HUTCHISON. That is correct. But we are putting the responsibility on the State, if they decide not to have a helmet law.

Mr. BAUCUS. Let me ask another question. What happens if a person who is injured is not wearing a helmet and the physician then has a hard time determining the degree to which the injury the person suffers is attributable to not wearing a helmet, and then other injuries that would otherwise occur. Let us say it is a neck injury; let us say this person is thrown from the bike, for example, and falls on the pavement. It is partly a head injury; it is partly a shoulder injury; there may be another injury. So is the doctor then supposed to write out a form as to what percent of the cost is attributable to the head injury and what percent of the cost is attributable to the other injuries that occur?

Mrs. HUTCHISON. I think it would be very reasonable to do that actually. I think whether you have a head injury or do not have a head injury is easily ascertainable. And yes, I think you could devise a——

Mr. BAUCUS. Let us ask the next question. Let us say there is a superficial head injury, a cut, but the person goes into shock, and the hospital bills are very extensive but there appears to be just a superficial scrape to the head.

Now, which portion of the hospital bills would be paid and which portions not?

Mrs. HUTCHISON. I think a doctor is going to be able to easily discern what is caused by not wearing a helmet. I do not think that is going to be a big deal for a doctor.

Mr. BAUCUS. But it is true that, if this amendment were to pass, the hospitals, nurses, doctors, and other health care providers involved with this patient would have to go through a lot of hurdles in determining what portions of the injuries are attributable to not wearing a helmet. This will require a lot of paperwork to document all this. Is that not correct?

Mrs. HUTCHISON. No. I think you are obviously making something that is not there because you do not think this is a good amendment, which is your right. But I think the issue here is, if a State wants to pass a law that says people do not have to wear motorcycle helmets, they have the right to do it. All we are saying is, they also have the responsibility to pay for it. I think that is fairly simple. I think it is fairly clear.

Mr. BAUCUS. Let us think about the additional paperwork required to meet the demands of this amendment. Paperwork for hospitals, doctors, and nurses.

Has the Senator made an assessment of how much more paperwork this would cause?

Mrs. HUTCHISON. The State has the option. This is not something we are forcing them to use. The States have the option. They can decide to not have a helmet law and take the responsibility for the injuries, or they can have a helmet law and try to prevent those injuries. It is just a matter of whether the Federal Government is going to pay for this State right. You know, I am very much for States rights. I am very much against unfunded mandates. But I think it is very important when you are dealing with the highways and safety on the highways, which we do with seatbelts and helmet laws, if States are going to take the responsibility to make the decision, which I think they have a right to do, I think they should have the responsibility to pay for it rather than send the bill to the Federal Government.

Mr. BAUCUS. I agree with that. As I read this amendment, it would apply to injuries that might occur due to lack of a helmet whether the motorcyclist was riding on the interstate highway or on private property.

I ask the Senator from Texas, there are a lot of wide open spaces in Texas, a lot of ranches. Would this apply to someone on a ranch in Texas who is out on his place trying to chase down a stray steer, not on any road? He falls off his bike on his own place and gets a head injury. Would this amendment apply to that person as well?

Mrs. HUTCHISON. The underlying——

Mr. BAUCUS. That is how I read it.

Mrs. HUTCHISON. I think it depends on what the State does. I think the State has a right to say that you need to wear a helmet on a highway but private property is exempt, or the State can also require it on private property. I doubt it would apply on private property. But that is a State right. And I would think that probably private property is exempt.

Mr. BAUCUS. Mr. President, I appreciate very much the Senator's responses. I think that, to be totally candid, this is an amendment which is well meaning and well intended. But has not been thought through enough. It opens up horrendous difficulties. No. 1, it is an impossible burden to place on the doctor, nurse, or provider to determine the portion of total injuries, which is often very difficult to do.

For instance, there may be a massive head injury and not much other injury to the body or maybe massive injuries to other parts of the body. It may be a head injury, and it may be a head injury that is causing the huge medical bills or it may not. It is very difficult for a doctor or nurse to determine and answer that question.

Second, Mr. President, it is the incredible paperwork that it will cause. This is a horrendously complex issue. I think the answer that the Senator from Texas said, "It is up to the States," the way this is written, "to the extent the injury is attributable to that person's failing to wear a motorcycle helmet," does not seem to give a lot of discretion to the States.

If it gives discretion to the States, the Senator is making our argument. This is States rights. Let us give discretion to the States and give discretion for what makes sense for them in their own States.

And to the private property point. As I read this amendment, it does not appear to give the State discretion to limit it to injury to persons without a helmet on public roads. As I read this amendment, it says, "To the extent that the injury is attributable to that person's failure to wear a motorcycle helmet." And that is just another problem I see with this amendment. But if we are going to go down this road and limit Federal dollars, we might as well say, "OK, States, why not? We are going to limit your Federal dollars if you don't pass handgun legislation outlawing the use of handguns." We all know that handguns cause some deaths in this country. Many emergency rooms in hospitals around this country see patients because of gunshot wounds. Does the Senator from Texas think we should apply the same logic to legislation of that kind?

What about passive smoke? Some people think that more people get cancer because they breathe passive smoke. Are we to say there should be no public funds to States if they did not pass legislation restricting public accommodations for passive smoke?

There is no end to this. I know this is a well-meaning amendment, but I think it is very complex. I think it would be wise for us, Mr. President, to summarily vote it down.

Mr. CHAFEE. Mr. President, there is an old technique in debating and arguing, if you will, to get into analogies. And pretty soon you are on the analogy instead of the basic point. In other words, suddenly we are on handguns here. There is no suggestion of handguns in this legislation. This is very simple.

And I commend the Senator from Texas and join her as a cosponsor, as has been pointed out. What she is saying is, if everybody wants the State to have all its rights, and they do not want to subscribe to a Federal law which says you have got to wear a motorcycle helmet, fine. That is the ultimate of States rights. What we voted on here today, they do not want any of those Federal people interfering.

What she is saying is, if we cannot have any control over what takes place, why should we have to pay the bill, any portion of the bill? And that is all it does. And you can get into all kinds of arguments about, "Oh, who is going to decide?" We have decisions made all the time in connection with health care. There is no problem there. The whole Medicare system is based upon a doctor making a decision, categorizing the extent of the illness. That is the way all the charges are done. This is not anything unique. It is very, very common. It is the same with Medicaid and the eligibility requirements for Medicaid. They are all there. And so I do not think we want to get bogged down.

If he is not wearing a helmet in a stationary position getting injured, does it count? Of course, it counts, because he ought to have been wearing a helmet under the law. If the State does not have that law, OK, fine. And there is no requirement that they have the law. And there is no requirement for the Federal Government to pay anything either.

So, Mr. President, I think this is—I thought we might get this amendment accepted. I thought every States righter would think this is great. And perhaps they will. Perhaps the distinguished Senators from Maine and Colorado will say, "This is good. This is what we like." I look for a favorable response.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Maine.

Ms. SNOWE. Thank you, Mr. President. Well, I do not blame the distinguished chairman for not wanting to get into the details of this amendment because once you do and understand the implications and the impact, it certainly would be unprecedented from a Federal standpoint.

I ask the Senator from Texas, why stop here? Why just stop with those who do not wear helmets? Why do we not deny individuals who are on Medicaid any medical care if they smoke and end up getting cancer? Why do we not deny people who are on Medicaid and do not engage in exercise, good diet, and do not get preventive medical checkups on an annual basis? Why do we not deny them medical care?

I mean, we can go on with endless possibilities. Why do we not deny those who ski and do not wear a helmet when they get injured? Why do we not deny them medical care? How about those who go rollerblading? If they do not wear a helmet, do we deny them medical care?

I think the Senator from Virginia raised a very important point. If somebody is riding a motorcycle and does not happen to be wearing a helmet because that person is abiding by the State law because they are not required to wear a helmet and they get broadsided by somebody who might be intoxicated or driving recklessly, that person who is driving recklessly or intoxicated would be eligible for Medicaid if they were in that category.

But the person who was a law-abiding citizen riding the motorcycle and gets broadsided by that individual who is driving recklessly would be denied medical care. I do not think that is the approach we want to adopt in Congress, sort of a two- and three-tiered system as to who is going to be denied or who is going to have access to medical care.

I think, and I said before, when the Senator from Rhode Island raised the issue about, well, this is going to add to our costs, I would ask the Senator, why not offer legislation that denies medical care for anything we think is going to affect health care costs to the Federal Government? Why are we stopping with just wearing helmets? I ask either the Senator from Texas or the Senator from Rhode Island that question. What about horseback riding? Rodeos?

Mr. CHAFEE. Can I give an answer to that?

Ms. SNOWE. I will be glad to yield for that purpose.

Mr. CHAFEE. The measure before us is a bill dealing with helmets, motorcycle helmets and seatbelts. That is the legislation. We do not have legislation before us dealing with skiers or with rollerbladers or with horseback riders.

So what the Senator from Maine has done, if her amendment is adopted—by the way, her amendment has not been adopted but what she is striving to do is to change the law. The current law says that a State must pass legislation to mandate the use of motorcycle helmets and seatbelts, except if they choose not to, then they suffer certain penalties. You are the one who brought up the legislation, not us.

Ms. SNOWE. This Senator, in hearing the Senator's answer to the question, then assumes the Senator supports denying all these categories for access to medical care on other pieces of legislation.

Mr. CHAFEE. No, I have not said anything to that effect.

Ms. SNOWE. That is the question I am asking because this is the kind of precedent that this amendment is establishing. What is the point?

Mr. CHAFEE. We will worry about precedents later on. The matter before us is motorcycle helmets.

Ms. SNOWE. So the Senator is not prepared——

Mr. CHAFEE. The Senator from Maine seeks to change that, and I am saying if you change that and are unsuccessful, why should we have to pay the bill?

Ms. SNOWE. I reclaim my time.

Mr. CHAFEE. We are not saying anything about denying hospital care or medical coverage. States can do that.

Ms. SNOWE. The States can do that at great cost, as the Senator well recognizes, and it was the Senator from Rhode Island who raised the question of medical costs. So let us discuss the issue of medical costs. I think it is a very relevant issue, and if it is right for motorcycle riders, then it should be right for everybody else in all of these categories, if we are talking about medical costs. It was the Senator who raised that issue.

Mr. CAMPBELL. Will the Senator yield? Is it the Senator's understanding, as it is mine, if this amendment is adopted, it then becomes amendable?

Ms. SNOWE. Absolutely.

Mr. CAMPBELL. What is to stop amending it saying anyone not wearing seatbelts is denied Medicaid or what is to stop amending it to say we do away with Medicaid altogether, or something of that nature?

Ms. SNOWE. That is correct. There would be endless possibilities in terms of what could be offered here to deny medical care to people in various categories, in various forms of personal behavior.

Mr. CAMPBELL. A further question. The Senator mentioned a drunken driver. Let me see if I have the scenario right and maybe the Senator can inform me.

Let us say there is a man driving down the road and is dead drunk and runs over 10 people. One he happens to run over is a motorcyclist parked by a stop sign who does not have a helmet on. The drivers are also injured in all these wrecks. As I understand the Hutchison amendment, the drunk that runs over the 10 people is going to get Medicaid, if he needs it, because he is injured, but the guy he ran over who was just sitting there will not because he does not have a helmet. Is that the way the Senator from Maine reads it, too?

Ms. SNOWE. That is the way I interpret this amendment.

Mr. CAMPBELL. In my opinion, this opens up Pandora's box of amendments we do not want to deal with. I have to tell you, as I understand the amendment of the Senator from Texas, it would deny Medicaid to people who are not wearing a helmet. I am going to prepare an amendment to hers, if it is adopted, that simply would require Medicaid for everybody who is riding with a helmet, if we are going to open up that Pandora's box. I yield the floor.

Ms. SNOWE. I thank the Senator for his comments, because I think his amendment would be very relevant under the rules of the Senate, and I think that it does, as the Senator from Colorado indicates with his amendment, open up all kinds of possibilities. This is unprecedented. We will start determining who will have access to medical care depending on their personal or recreational choices. That is the decision we will be making with this amendment.

I also suggest it is a strange form of States rights that almost does not pass the straight-face test.

Mr. CAMPBELL. Will the Senator further yield? I know the Senator from Maine has a pretty considerable background of law. I do not. Does the Senator also see this as a singling out of one class of people that could question the constitutionality of the amendment?

Ms. SNOWE. I say to the Senator, I am not a lawyer, but I certainly think that would have a great impact. It certainly would, in my opinion, in terms of the impact it would have on a specific category of recipients, potential recipients if they are eligible for any of our medical programs in the Federal Government.

Mr. CAMPBELL. I thank the Senator.

Ms. SNOWE. But I would say, I mentioned earlier that it would be a very strange form of States rights. We are saying to the States, "You decide whether or not you want a helmet law." However, if somebody who is abiding by the fact that their State does not have a helmet law, so is not wearing a helmet and gets in an accident, regardless of whether or not it is his or her fault, they will be denied medical care; is that what we are really saying and want to say by adopting this amendment? I hope not, because I think you would all agree there are other areas that we could examine, as far as having a tremendous impact on medical care that adds to the cost year in and year out.

So I hope that we reject this amendment, because otherwise, as the Senator from Colorado, Senator CAMPBELL, has mentioned, there will be other amendments to address these very issues that come within the scope and relevance of the amendment that has been offered by the Senator from Texas, Senator HUTCHISON.

Mr. President, I ask for a recorded vote on the underlying amendment.

The PRESIDING OFFICER (Mr. GRAMS). The yeas and nays have already been ordered on the underlying first-degree amendment.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I have listened to this debate with interest, curiosity, and amazement, because what I hear is, "If you do that, I'm going to punish you. If you do that amendment, I'm going to punish you with other amendments."

This floor is wide open. You can make as many amendments as time will allow, and no one ought to be cowed or frightened by the prospect of another amendment that drags in some extraneous issue. We are now discussing whether or not these benefits apply universally and whether we will be able to take it away if someone stubs their toe in a bathtub.

The fact of the matter is that what these discussions are about did not get on the books willy-nilly because someone had it in for motorcycle riders or someone had it in for nonseatbelt users or someone had it in for speeders. These things developed because this was the safest way for our country to operate.

For those of us who are not regular motorcycle riders—I say regular. The first time I rode a motorcycle was when I was 17 years old, which was more than 20 years ago. I got a few pieces of gravel in my knee and my arm. My father talked to me, as only fathers and sons used to talk in those days; it was direct, no exceptions. He did not mind striking a blow for intelligence and maturity. I listened carefully. That was the end of my motorcycle career.

But the fact of the matter is that this is not a vendetta against motorcycle riders. What it is is a carefully thought out program to save us money—all of the American taxpayers. Motorcyclists, as a class, have more accidents and more costly accidents than do automobile riders. And, thusly, we are saying, hey, if you want us to make contributions, to pay into the pot for Medicaid, then please take some precautions. Even if you do not use a seatbelt in the car, you are protected by the frame and structure of the car, and now by airbags in almost every car. But you see it almost automatically—people buckle up. Machismo says: I do not buckle up; I ride free and easy. Well, that is up to the individual. I went through a story yesterday about my visit to a trauma center, which was an urban trauma center in a very poor, high-crime city, and the doctor in charge of the center said that the only thing that exceeds disastrous injuries from motorcycles are gunshot wounds. And we know that needs attention of and by itself.

But, in this case, what we are saying is that helmets ought to be used because it saves society money. Those who choose to run the risk, obviously, they are the ones who decide how much pain their families will have, how much anguish their loved ones will have; they are the ones who will decide that the risk is worth the ride. That is up to the individuals.

But I say, if you want to use Federal roads, then you ought to do the things that guarantee a modicum of safety. I think the Senator from Texas has come up with a brilliant idea, which says that if there are additional expenses involved as a result of your not taking appropriate precautions, then do not ask us, the Federal taxpayers, to pay the bill. That is standard in almost everything in life that we do. We are a Nation of laws. If you obey the laws and something happens, typically, it does not cost you anything, other than that which you pay in the normal array of taxes. But if you fail to obey the laws, if you want to jump out of an airplane in a parachute in the middle of a city and you cause all kinds of disruption, today you are going to pay a price for it. If you choose to violate the rules for safe passage in the mountains or in the oceans and you require service from the Federal Government, you pay for it. We, the citizens and taxpayers, are not required to do that.

So when we talk about what it is that centers this focus on helmets, we have to ask ourselves: What was the mission of the law as it was originally developed? The mission was not to punish States. The mission was not to add expense to the operations of State or local government. The mission was to save lives. And yesterday, we heard a fairly astounding statement, which when thought about carefully, suggested something. The suggestion was that if we slow the cars enough on our highways, we would save lots and lots of lives. But that was implied, and that was, therefore, a calculated risk. So that if we increase the speed limit a little bit more and a few more people die, as they say in France, "c'est la vie"—that is life. That is the price you pay for more speed.

If one wanted to extend that argument, one could say that when this airline is scheduled to leave at 9:05 in the morning from Newark Airport, regardless of whether the skies are crowded or not, that plane takes off. It is the most ridiculous proposal anyone could conjure up. But it is the same as saying, well, sure, if you want to make things more efficient, you simply slow down the traffic, and the reverse of that—if you want to get someplace, then you may lose some lives. That argument hardly holds water when it comes to discussing a tragic result, whether it is a motorcycle rider or car rider or somebody falling down and getting hit by the car. It does not matter. The cost relates to lives. That is what we are discussing here—whether or not we are interested in saving lives, or whether the mission is to save the States dollars that do not want to comply with the rules.

We have had a vote and it was very clearly established that the majority here prefers that helmet laws be revoked. But I think that the proper response to that, having seen that overwhelming support, is that if more costs result from injuries that obtain from no helmets, and the Federal Government ought not to have to pay for that. If a State chooses to remove the requirements for helmets, then the State ought to pay for it. There ought not to be Medicaid for it. Private insurance is another thing. But there ought not to be public insurance for those States that violate sensible safety rules.

So I commend the Senator from Texas. I think she has an excellent idea. I rise as a cosponsor. I ask unanimous consent that I be included as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I hope our colleagues will see the wisdom of her recommendation and that we will respond to what is an attempt to remove the safety precautions and replace it with a "if you want to play, you pay" kind of thing. I think that is quite normal and I think that is quite acceptable.

I will close by saying that I do not think this opens up a Pandora's box or other things. If we want to discuss other things, we are going to discuss them, regardless of the outcome of this amendment.

I hope that this amendment is agreed to.

Mrs. HUTCHISON. Mr. President, I thank the Senator from New Jersey. I appreciate the fact that he wants to be added as a cosponsor of this amendment, because I think it is a good, sound amendment. There was one technical answer that I wanted to give to the Senator from Montana in his request for information, and that is, the underlying helmet law applies to public roads.

Private property is really not an issue here. It is a matter of what we do on public roads.

I was a member of the National Transportation Safety Board at one time. I am very safety conscious. There is no question about that. I would like to encourage people to wear helmets, because I know that makes a difference in safety.

Safety belts make a huge difference in injuries in car accidents. I think that is so well settled that the Senate showed overwhelmingly yesterday that they did not want to lift the safety belt requirement.

The issue of helmets is a closer call. I think it really is a States right issue. Yet, I do hope that the States will think very carefully before they enact a law that would do away with the helmet law, because I do think it is a safety issue.

We do not want to hamper the rights of States in this instance. In fact, the American College of Emergency Physicians also believes this is a good amendment, because they see the effects of the differences in injuries when a person does not have a seatbelt or is not wearing a helmet while riding a motorcycle.

When people choose to ride motorcycles, as my wonderful friend the Senator from Colorado does, and we are proud that he does—when a person chooses to do that, that person is choosing to ride a vehicle that does not have the same protections as an automobile. A person should have that right.

I also think that there is an issue of, if you are going to do that unprotected, without a helmet, which we know will not only save lives but have far fewer injuries, I think that there is a responsibility there.

I just think that if a State decides that it is going to do away with the helmet law on public roads, that State should also take responsibility. This is not hampering States rights, but it is saying that when you have the right and you choose to exercise that right, you also take the responsibility for that action, rather than having the Federal Government do it.

I think it is a very simple issue. I think it is an issue of States rights and State responsibilities. I am a cosponsor of the amendment that would not allow the Senate to send costs to the States. I think this is just a reversal of the same treatment.

If the States decide they do not want to go with a national policy that has been set, they have the right to do it, but they should pay for the consequences of exercising that right. Thank you.

Mr. CHAFEE. Mr. President, I wonder if the Senator from Colorado would respond to a question. We are trying to get a time agreement here and wind this up. I was wondering if the Senator would agree to a certain length of time?

Mr. CAMPBELL. No, not without my colleague. I would like to retain my time.

Mr. President, the Senator from New Jersey is still here. Senator LAUTENBERG talked about missions and our mission here.

I can say that missions change, because when the 55-mile-an-hour speed limit was implemented, it was not to save lives. It was to save gasoline—everyone knows that—because of the energy crunch. Somehow the mission changed as people began to look at their relationship to speed and safety. Missions change.

I would like to point out what I guess in my old-fashioned way is still considered to be the original mission of this body, and that was to uphold the Constitution. As I read the 10th amendment—not having the background and a lot of the legal skills as some of my colleagues do—the 10th amendment still says: "The powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved to the States respectively, or to the people."

There is nothing here that says we will mandate helmet laws. Nothing says we will be punitive and deduct money that they paid in their gas tax if they do not comply with some kind of an arbitrary rule we set back here. It does not say anything like that. It says we will not take away the States' rights to decide. That is the original mission. That is why we are here.

I think that the Hutchison amendment opens up a Pandora's box of any further amendments. If her amendment passes, it can be amended. Is somebody going to offer an amendment that, if they do not have a helmet, we do away with their food stamps? Or we do away with their farm subsidies? If they are not wearing a helmet, they will not receive money under the crime bill? The list can be endless. That is why this amendment is a killer amendment.

I urge my colleagues to vote against the amendment or to table it when that motion is offered. I yield the floor.

Ms. SNOWE. Thank you, Mr. President. I appreciate the comments made by the Senator from Colorado, because I think some of the questions that have been raised with respect to the amendment offered by the Senator from Texas really does embark the Senate on a different course with respect to, for example, the Medicaid Program.

The Medicaid Program is a State-Federal program. States design their programs within the Federal guidelines. Do not underestimate for a moment that we will not be pursuing a different and an unprecedented approach with respect to our medical programs. Once we decide that behavior is going to dictate whether or not an individual has access to medical care costs, we have opened, as the Senator from Colorado said, Pandora's box.

It will not stop here. I know the Senator from Rhode Island would not answer the question as to whether or not he would support other forms of social, personal, or recreational behavior as a determining factor for an individual eligible for our medical programs to receive those medical benefits.

I now would ask the Senator from Texas as to whether or not the Senator thinks that we should adopt a standard of behavior that will determine whether or not an individual should receive medical care in this country. I ask the Senator, does the Senator think that we should draw the line, for example, on what people do—whether they are skiing, skateboarding, rollerblading, smoking, improper diet, lack of exercise? We could go on in terms of the number of critical choices that are made as to how we will spend our money. And those people who are recipients of these programs could be denied based on this amendment. This is setting a precedent.

Does the Senator think that we should design our Medicaid or Medicare programs according to people's personal and social and recreational behavior?

Mrs. HUTCHISON. Mr. President, in a way, we do that in many instances. I think it is well settled that the U.S. Congress has the right to make laws as they affect our public roads and highways. If a State gets Federal funding, then we have certain laws that we must comply with.

There are safety laws in the way we construct highways. Insurance companies do have standards that are adopted by States, very often, on who can get insurance and who cannot. I think we have to take everything on a case-by-case basis.

I certainly think the Federal Government has the right and has made laws that are contingent upon receiving—Federal funds are contingent on those laws for States to receive those Federal funds. I sort of messed that up, but basically there are standards that have been set.

I do not think it is out of line at all. I think we have a Federal law. We have set a Federal standard. We are giving States the right to go against that standard, just like we did on the speed limit yesterday.

So I think we have just said if the States exercise the right, they take the responsibility.

Ms. SNOWE. Getting to specifics, I think it is important, because we are talking about medical costs.

We are saying if somebody does not wear a helmet and gets in an accident, regardless of whether or not it is that individual's fault, they will not have access to medical care if they happen to be eligible for a Federal program.

Now, we know that smoking is a cost. Does the Senator think that if somebody who happens to be on the Medicaid or Medicare Program, smoking, and happens to get lung cancer, do we deny that individual medical care?

Mrs. HUTCHISON. Mr. President, I think the Senator from Maine is asking for a personal opinion when, in fact, there very easily could be Medicaid standards that say if you smoke, you do not get treatment. Now, whether I think that we should have those standards or not is really irrelevant here.

Ms. SNOWE. No, I think it is relevant. I reclaim my time. I think it is relevant because the Senator's amendment is setting up drawing distinctions for the first time. I think it is very relevant.

Mrs. HUTCHISON. I think the Senator is doing what Senator CHAFEE mentioned earlier, and that is using a debate tactic. I think it is well within the rights of an insurance company or the Federal Government, under Medicaid, to set standards for when you will receive that care. Absolutely, it is within their rights.

Ms. SNOWE. We know its within their rights.

Mrs. HUTCHISON. We are saying in this instance we think the State should pick up the responsibility if they are going to exercise their right. It is very simple.

Ms. SNOWE. This is not a hypothetical amendment. It is reality. That is, what we are talking about is a very real possibility that will open a number of doors in terms of who will be eligible and who will be ineligible for medical care. We know the Federal Government has every right in the world and every prerogative to design the programs the way we see fit. But that is not the point.

Mrs. HUTCHISON. Well, it is the point. That is absolutely the point.

Ms. SNOWE. Let me have—it is my time.

The point is in terms of what is right. Now we are saying that, because somebody happens to be abiding by their State law—and my colleague calls it a States rights issue, and I find that a very interesting interpretation of States rights because it is no different than what we are trying to fight over the helmet law or even the seatbelt law. We are saying let the States determine it but do not penalize us with transportation funds.

So now the Senator's amendment is penalizing States in a different way. She is saying we are not going to give you medical care costs if somebody gets in an accident because you are not adopting that amendment. That is the bottom line of her amendment. Because now she is giving the States the choice, if you do not pass that helmet law, and if something happens to an individual abiding by the State law that does not require them to wear a helmet, they will not have access to medical costs. The Senator knows the State is going to have to pick up the tab, so it is an unfunded mandate and she is a cosponsor of the unfunded mandate bill—but this is an unfunded mandate.

The hospitals are not going to deny that care to that individual. The Senator would not suggest a 16- or 17-year-old on a motorcycle who gets in an accident is going to be denied medical care because they were abiding by the law of their State?

Mrs. HUTCHISON. Will the Senator yield?

Ms. SNOWE. I hope that is not the approach we are taking with this legislation because it opens up, I think, very incredible questions about the propriety of procedures in a policy from the Federal prospective.

Mrs. HUTCHISON addressed the Chair.

Ms. SNOWE. It is my time.

Mrs. HUTCHISON. I ask if the Senator will yield?

Ms. SNOWE. I will be glad to yield.

Mrs. HUTCHISON. I think the Senator is raising a red herring here because the issue is, if we are going to provide the service, we have the right to set the standards. If we are going to say the States can exercise their rights, we have a right to also give them the responsibility.

I am glad we are going toward eliminating unfunded mandates to the States, but I think if we are going to give States the rights to do these things, they are going to have to pick up the responsibility, coming the other way, just as we are giving them the right not to have unfunded mandates from the Federal Government.

Ms. SNOWE. To answer the Senator's statement, yes, we do have the right. But the question is, what is right? I do not think the Senator's approach is the right approach. I do not think it is appropriate for us to begin to determine in a number of different areas how we are going to provide that medical care because we decide on what is appropriate and what is inappropriate.

If we are going to do that, then I think it is only fair to look at a whole host of areas that have an impact on the cost to the Federal Government of medical care. That is what this amendment is suggesting. That is the door it is opening.

It is everybody's right to interpret how this amendment is going to be applied. It is not a hypothetical situation. It is very real. While the Senator might think she is granting States the right to make those decisions, it is not any different than what we are trying to fight with this legislation. We are saying to the States, you ought to make those decisions. We have decided in our wisdom that something should be decided rightfully by the States. That was the vote we just had on my amendment, to allow the States to make those decisions, not to penalize them through transportation funds. But the Senator is coming through the back door and saying, all right, if you do not adopt this amendment then you are going to be denied medical care cost reimbursements by the Federal Government.

Yes, it is definitely going to be an unfunded mandate, but I think it raises some other very serious questions about exactly how far we are willing to go to begin to make those distinctions on medical care costs and who is going to have access.

Mr. CAMPBELL. Will the Senator yield?

Ms. SNOWE. I will be glad to yield to the Senator from Colorado.

Mr. CAMPBELL. The Senator from Texas referred several times to Federal funding.

Is it the belief of the Senator from Maine, as it is mine, that there is no funding here, that this money that is here comes from the taxpayers?

Ms. SNOWE. That is absolutely correct. The Senator raised that earlier in terms of the transportation funds.

Mr. CAMPBELL. That was the point I was going to make. Is it my colleague's belief, as it is mine, that people who pay into the highway users trust fund under the gasoline tax, whether it is Texas or Maine or Colorado or wherever, if they have the right to get that money back unfettered? They paid it in. Do they have a right to get it back without us putting a whole bunch of strings attached to it before they get their money back?

Ms. SNOWE. I say to the Senator, he is exactly correct. My colleague is exactly right. Providing strings and requirements to the money before it is returned to the States or otherwise, they do not really get it because they cannot use it for the purposes they require. It is only the purpose which the Federal Government, the Congress, requires, but not for what the States need.

Mr. CAMPBELL. I thank the Senator.

Ms. SNOWE. I hope, as I conclude my own remarks with respect to this issue, that we reject this amendment because, while some would say this is a red herring, it is not. We all too often find that we have amendments that have real implications. This certainly is one of them.

We are saying on the one hand the States have the right to make decisions about their helmet laws, but on the other hand, if you do and it is not the right decision, we are not going to allow eligible recipients to have access to medical care if they abide by that law. It does not stop there.

Mr. LAUTENBERG addressed the Chair.

Ms. SNOWE. Does the Senator have a problem?

Mr. LAUTENBERG. I was appealing to the Chair for time. I thought the Senator was finished.

Ms. SNOWE. The fact of the matter is, we are going to be denying individuals medical care under this amendment. But it will not stop here. It will go on into other areas. As the Senator from Colorado has indicated, he will offer an amendment. There will be other amendments, there will be other legislation, and we will be continuing to draw those lines in terms of who will be able to get medical care.

It can go on and on, because there are a number of behaviors that people engage in that have implications to our medical costs. I cannot imagine we are saying now, if somebody is skiing or skateboarding or rollerblading, playing touch football, and has a head injury and is not wearing a helmet, and may be on Medicaid—that has implications, too.

But what we are doing is isolating a certain group and imposing a punishment on them because they are abiding by State law. So I hope we will reject the amendment that has been offered by the Senator from Texas, Senator HUTCHISON.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank the occupant of the chair for giving me recognition.

I listened carefully to the Senators who are opposed to this amendment and I am struck by the response to what I think is a very carefully thought out, very specific amendment that addresses a problem that is going to be created.

What I heard was that the 10th amendment says that powers not relegated to the Federal Government are relegated to the States. What I heard is that, if this happens, "I promise you I will have amendment after amendment after amendment" that will kind of "make you pay" for supporting her amendment. I heard that this opens Pandora's box, that we are going to be discussing all kinds of things that relate to taking away people's benefits. I remind our distinguished friends that it has been the tradition in promoting safety in this country that you get incentives or that you get penalized by not complying because we are, after all, a Federal Nation.

Yes. We can debate how much of a particular issue is a State issue exclusively or the Federal Government issue exclusively. But the fact is that we are an inextricably linked society, and that we have transportation programs that transcend State borders one after the other.

I cannot tell how many requests I have gotten from the State of Maine over the years when I was chairman of the Transportation Subcommittee to have Amtrak extend to Maine to get this little bridge fixed up to there, to get that little road fixed up there. Never was it said in these requests, "Now I know that we are asking for more than we should based on what we paid into the fund." The request was a legitimate one to the Federal Government.

Colorado—I know Colorado well. It is a State I love and have visited many times. I have recommended funding for Colorado highways, viaducts—the 23d Street viaduct in Denver, CO, because it was recommended. I recommended supporting the funding there. And it goes on place after place after place.

So this sudden shock that suggests that, "Well, you want the States to pay for their miscreants? You want States to pay for their deeds that they commit that cost the Government money?" Yes. Of course. Everybody pays their fair share. That is the way the game gets played. We are not talking about taking away food stamps or farm subsidies. We are talking about a very specific thing related to a very specific group which has a high incidence of injury and death relative to other types of transportation—very high incidence, often long-term illness, lifetime in many cases, for whom we pay extraordinarily high costs.

What the amendment of the Senator from Texas says is, if you do not take the appropriate precautions, that is a right that apparently is yours. But you have no right to assess the rest of the country bills for decisions that you make that cost us money. We have all kinds of laws regulating behavior.

I am surprised that we are debating this. We have laws against drinking and driving. We have laws against driving without a license. We have all kinds of laws that say this is the way society ought to conduct itself. We are, I remind my friends, a nation of laws. That means that there is a structure of conduct of behavior, to use the term of the Senator from Maine. There is a structure of behavior that you have to have in a society that has 250 million people, many with different interests, different backgrounds, different ideas about how we ought to conduct ourselves.

So we are a nation of laws. As a consequence of that we are going to be subject to some laws that we do not like. We are going to be subject to some restrictions that we may disagree with. But it is an essential factor in a complex society, in a complex world.

So we can disagree on a particular thing or another without suggesting that the sky is falling down, and that, if you do one thing, it is going to hurt everything else. Each one of these subjects is fair game. If someone wants to propose an amendment that would have penalties for not using sensible safety rules within a State, they have the right to do it. That is the nature of things. But let not the Senator from Texas be cowed by the threat that perhaps there will be other amendments to follow.

We are here. We are here to do what we have to do in the interest of this highway bill. And if these amendments affect that, then I think we just have to proceed ahead.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

ORDER OF PROCEDURE

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate go into morning business not to exceed a minute and a half, and then return to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR WARNER'S VOTE ON CLOTURE

Mr. WARNER. Mr. President, at the present time my office is being overwhelmed with pressing calls with respect to the scheduled cloture vote tomorrow.

I wish to announce at this time that my vote tomorrow will be consistent with my vote today which is in opposition to cloture.

I thank the Chair.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The Senate continued with the consideration of the bill.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I would like to take a couple of minutes to finish and answer just a couple of things that were said.

First, in relation to what the Senator from New Jersey said, I do not think that we need to talk about what other areas might arise from some innovative approach to this amendment. This amendment is very simple and very straightforward. We are not talking about penalizing the States. We are talking about letting them do as they wish, do something that could add to the medical costs because we know this is a safety issue, and if they decide to exercise that right that they take the responsibility for it.

I think it is pretty simple. I think that Members are going to start seeing as we go down the road pursuing the unfunded mandates theory, and as we are turning things back to the States, the States are going to take responsibility for what they do. That is part of returning the power to the States, which I think is right thing to do.

So I support the underlying amendment. This is not a gutting amendment at all. It is an amendment that I think is the correct thing—that, if the States decide that they are going to opt out from the Federal helmet laws, they take the responsibility for doing that. I think it is very simple and straightforward.

I urge the adoption of the amendment.

Thank you, Mr. President.

I yield the floor.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. Thank you, Mr. President.

Just very briefly in response to what the Senator from New Jersey was talking about, that we have laws with respect to the drunk driving. The interesting part is how this amendment would not have an impact on somebody who is drunk while driving, or reckless driving, or somebody who overdoses on drugs, and all of these categories. They happen to be eligible for Medicaid, and Medicare. They still will get medical care. But a motorcycle rider who may not be wearing a helmet, abiding by State laws, gets in an accident, may not be any fault of their own, but would be denied medical care because they were not wearing a helmet even though they were abiding by that State's law, I do not think that is the approach that we should adopt.

I urge Members of the Senate to reject the amendment offered by Senator HUTCHISON.

Ms. SNOWE. Mr. President, I make the motion to table the amendment.

The PRESIDING OFFICER. The question is on the motion.

Ms. SNOWE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine to lay on the table the amendment of the Senator from Texas. On this motion, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Arizona [Mr. McCAIN] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 275 Leg.]

YEAS—60

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Boxer
Bradley
Brown
Burns
Campbell
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dole

Domenici
Dorgan
Exon
Feingold
Frist
Graham
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Inhofe
Jeffords
Kassebaum
Kempthorne
Kohl
Kyl
Leahy
Lott

Lugar
McConnell
Moseley-Braun
Murkowski
Nickles
Nunn
Packwood
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NAYS—39

Akaka
Biden
Bond
Breaux
Bryan
Bumpers
Byrd
Chafee
Dodd
Faircloth
Feinstein
Ford

Glenn
Gorton
Gramm
Harkin
Heflin
Hollings
Hutchison
Inouye
Johnston
Kennedy
Kerrey
Kerry

Lautenberg
Levin
Lieberman
Mack
Mikulski
Moynihan
Murray
Pell
Pryor

Reid
Robb

Rockefeller
Sarbanes

Simon
Specter

NOT VOTING—1

McCain

So, the motion to lay on the table the amendment (No. 1443) was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DOLE. Mr. President, I yield to the Senator from Maine.

Ms. SNOWE. I thank the majority leader. I am prepared to have a voice vote on the underlying amendment. I ask unanimous consent to vitiate the yeas and nays.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Maine.

The amendment (No. 1442) was agreed to.

Ms. SNOWE. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1437

Mrs. MURRAY. Mr. President, I was necessarily absent last evening, attending the high school graduation of my son, Randy.

I would have voted against the Smith amendment lifting penalties against States for not having helmet or seat belt laws.

This issue for me, comes down to the simple question of safety. An issue that is bipartisan and noncontroversial. In fact, a recent comprehensive consumer survey shows that 82 percent of Americans support a strong Federal role in safety.

How can we then support a step backward against the giant gains we have made in highway accident and injury prevention. According to the National Highway Traffic Safety Administration, from 1983 to 1993, safety belts saved more than 40,000 lives and prevented $88 billion in economic losses by reducing health care costs and productivity losses. In 1993 alone, motorcycle helmet laws in 25 States saved 515 lives, prevented 2,035 moderate to serious injuries, and saved $513 million in economic losses.

As a former State senator, I understand State's rights, but let us legislate on the side of safety and human life.

Mr. JEFFORDS. Mr. President, I would like to engage my colleague from Rhode Island in a colloquy on Federal oversight of the design of projects in Vermont that are on non-interstate portions of the National Highway System [NHS].

First, Mr. President, I would like to acknowledge the hard work that committee staff, my staff, the U.S. Department of Transportation and the Vermont Agency of Transportation have put in on the NHS-design issue. All the parties have acknowledged that Vermont's mountainous terrain and historic villages present a unique challenge when designing highway and rural road improvements. It has been the goal of the parties to come up with solutions that do not adversely affect Vermont's small communities and rural landscape.

Mr. President, the 1991 Intermodal Surface Transportation Efficiency Act placed control for the design of highway improvements off the NHS in the hands of the individual States. It has been our experience in Vermont that this has improved communications with local citizens on highway projects and lowered project costs. it is the Vermont Agency of Transportation's desire to assume primary responsibility for the management of its transportation system, including those non-interstate roads proposed for the National Highway System. Representatives of the U.S. Department of Transportation have assured Vermont transportation officials that such control and flexibility can be provided for the non-interstate NHS roads through existing provisions of the United States Code, title 23.

Mr. CHAFEE. The Senator from Vermont is correct.

Mr. JEFFORDS. Vermont has been assured by the U.S. Department of Transportation that under section 117, United States Code title 23, the Vermont Agency of Transportation can be granted the authority to provide design exceptions at its discretion on non-interstate NHS roads. Further, Vermont has been assured that it may determine the scope of non-interstate NHS projects. These projects include simple road and bridge resurfacing, while more comprehensive improvements undergo the necessary planning and design process.

Mr. CHAFEE. The Senator's understanding is correct.

Mr. JEFFORDS. To ensure that a common understanding exists on the above matters between the U.S. Department of Transportation and Vermont transportation officials, Vermont has been assured by the Federal Highway Administration's Deputy Administrator Jane Garvey and other high-level Federal highway officials that she and these officials will visit Vermont in the near future to discuss these matters. Following this visit and drawing on the provisions of section 117 of the United States Code, title 23, Vermont has been assured that an agreement will be executed that will grant Vermont the authority required to assume primary responsibility for the management of its transpiration system, including the non-interstate roads on the NHS.

Mr. CHAFEE. The Senator accurately states my understanding of the intent of the agreement between the

U.S. Department of Transportation and the Vermont Agency of Transportation.

Mr. JEFFORDS. I thank the Senator from Rhode Island.

CHANGE OF VOTE

Mr. DOMENICI. Mr. President, on rollcall vote 271, I voted "yes." It was my intention to vote "no." Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from Virginia.

Mr. WARNER. Mr. President while we have the two leaders on the floor, I wonder if we might explore the possibility of finishing the pending matter tonight.

I wish to advise the Senate there are 26 amendments pending. Of that number of amendments, it is my assessment that only four will require rollcall votes, and the balance can be resolved, hopefully, by the managers.

I see present on the floor a number of the Senators associated with the amendments that could require rollcall votes. If I might identify the Members: Senator ROTH has an amendment; the distinguished former leader, Senator BYRD; and the Senator from North Dakota, Mr. DORGAN. Those are the amendments that I feel will require votes.

If we could get time agreements and finish those amendments, I think we can work out the balance of the amendments. This bill would be ready for final passage late tonight, or whenever the leaders desire tomorrow.

Mr. DOLE. I have not had a chance to discuss this with my colleague, Senator DASCHLE, the Democratic leader, but I hope we can finish it this evening if we can obtain time agreements. Four amendments would not take that much time. We had a short night last night because of two or three very special events which presented conflicts for many of our colleagues.

I would certainly be willing, and I do not think the Senator from South Dakota has any objection.

Mr. DASCHLE. I have no objection, and I would like to continue to work.

I know a number of Senators are prepared to offer their amendments. They are here on the floor. I think we ought to proceed.

Mr. WARNER. Mr. President, I will await the return of my comanager, the Senator from Montana. But seeing three of the proponents on the floor, I ask the Senator from Delaware if a period of an hour and a half equally divided would be suitable for the disposition of the amendment, together with Senator BAUCUS; is that correct?

Mr. ROTH. That would be most satisfactory.

Mr. WARNER. I thank the Senator for his cooperation. I now ask the distinguished Senator from West Virginia, with respect to his amendment if an hour equally divided would meet his requirements?

Mr. BYRD. Mr. President, an hour equally divided would be agreeable to me. However, if I am going to be 9 o'clock tonight calling up my amendment, having an opportunity—I have been here all day and I indicated yesterday I would be ready to call up my amendment the first thing today. As I understand it, there is a kind of lineup.

I know what my rights are. Under the rules I can get recognition to call up my amendment any time. I want to cooperate with the managers and therefore I have no objection to one or two others going first, but I do not want to have an agreement on my amendment and then call it up here at 9 o'clock tonight.

Mr. WARNER. Mr. President, we will work with the sponsors of the amendments as to the sequence and timing, either today or should the leadership grant us time in the morning, to do it then. But I thank the Senator for indicating the time within which presumably the Senator from Montana and I might be able to get a time agreement—just as to the time of the amendments. The sequencing would be left open.

Mr. BYRD. Yes. I do not like sequencing, generally speaking. I like to follow the rules of the Senate.

Mr. WARNER. Fine.

Mr. BYRD. But may I say to the Senator, if we are not going to finish it today, if we are going to go over to tomorrow, I would prefer to go over to tomorrow now that it is 4:30 in the afternoon.

Mr. WARNER. Mr. President, that is a matter the leadership will have to decide.

I thank the Senator from West Virginia.

I now ask the Senator from North Dakota with respect to his amendment, the amount of time required to be equally divided?

Mr. DORGAN. What amount of time?

Mr. WARNER. Yes.

Mr. DORGAN. I would agree, as I previously discussed with the Senator from Virginia, to 40 minutes, 20 minutes on each side.

If the Senator from Virginia would be inclined to accept my amendment I would do it in 5 minutes.

Mr. WARNER. At this time, I say to my good friend, Mr. President, I will look at it but I am not able to assure him.

If I could put down 40 minutes equally divided for the amendment sponsored by the Senator from North Dakota?

Mr. DORGAN. Fine.

Mr. WARNER. It gives the managers some area in which they can work.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks time?

The Senator from Delaware.

AMENDMENT NO. 1444

(Purpose: To permit States to use Federal highway funds for capital improvements to, and operating support for, intercity passenger rail service)

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] for himself, Mr. BIDEN, Mrs. BOXER, Mr. CHAFEE, Mr. COHEN, Mr. JEFFORDS, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. MOYNIHAN, Mrs. MURRAY, Mr. SPECTER, Mr. PELL, Ms. SNOWE, and Mr. D'AMATO proposes an amendment numbered 1444.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . INTERCITY RAIL INFRASTRUCTURE INVESTMENT.

(a) INTERSTATE RAIL COMPACTS.—

(1) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

(A) retaining an existing service or commencing a new service;

(B) assembling rights-of-way; and

(B) performing capital improvements, including—

(i) the construction and rehabilitation of maintenance facilities;

(ii) the purchase of locomotives; and

(iii) operational improvements, including communications, signals, and other systems.

(2) FINANCING.—An interstate compact established by States under paragraph (1) may provide that, in order to carry out the compact, the States may—

(A) accept contributions from a unit of State or local government or a person;

(B) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);

(C) on such terms and conditions as the State consider advisable—

(i) borrow money on a short-term basis and issue notes for the borrowing; and

(ii) issue bonds; and

(D) obtain financing by other means permitted under Federal or State law.

(b) ELIGIBILITY OF PASSENGER RAIL AS SURFACE TRANSPORTATION PROGRAM PROJECT.—Section 133(b) of title 23, United States Code, is amended—

(1) in paragraph (1), by inserting ", railroads," after "highways)"; and

(2) in paragraph (2)—

(A) by inserting ", all eligible activities under section 5311 of title 49, United States Code," before "and publicly owned";

(B) by inserting "or rail passenger" after "intercity bus"; and

(C) by inserting before the period at the end the following: ", including terminals and facilities owned by the National Railroad Passenger Corporation".

(3) in paragraph 6(a), by inserting ", and for passenger rail services," after "programs".

(c) ELIGIBILITY OF PASSENGER RAIL UNDER CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) if the project or program will have air quality benefits through construction of and operational improvements for intercity passenger rail facilities, operation of intercity passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operating support.".

Mr. ROTH. Mr. President, the amendment which I am offering today on behalf of myself and Senator BIDEN, as well as several other Members of the Senate, has a very simple and important purpose and that is to give States the much needed flexibility to use their CMAQ and STP funds for Amtrak passenger rail service.

Since late last year, Amtrak has begun a much needed restructuring. The restructuring has required substantial participation by State governments in determining which rail lines will stay in service. While States currently have wide authority in allocating Federal transportation dollars—whether it be on pedestrian walkways, bikeways, buses, light rail, highway, and other intermodal and commuter-based transit needs, a damaging double standard exists which, by law, prevents States from utilizing these funds to improve, expand or simply maintain vital Amtrak service if they so choose.

My legislation would eliminate this double standard and give States more flexibility in the way they use their transportation dollars.

My amendment addresses a number of realistic and sensible ways States can be given this flexibility.

Under my proposal, States would be allowed to use funds available in the Congestion Mitigation and Air Quality Program (CMAQ] for passenger rail service.

This program, created in the Intermodal Surface Transportation and Efficiency Act, provides an incentive to focus on transportation alternatives which reduce traffic congestion, improve air quality and lower fuel consumption.

Amtrak passenger rail service clearly meets these criteria, potentially better than any other transportation alternative currently available. My amendment would allow CMAQ funds for passenger rail service.

Second, States would be allowed to use their Surface Transportation Program [STP] dollars for Amtrak passenger rail service. STP gives States and localities unprecedented flexibility in moving Federal dollars between modes. Currently, States are using these funds for carpool projects, parking facilities, and bicycle and pedestrian facilities.

My amendment simply ensures that this flexibility is extended to States to use for Amtrak passenger rail service.

In addition to these provisions, Mr. President, my amendment would permit States to enter into interstate compacts in support of Amtrak services. We know that it requires coordinated efforts among a number of States to make a regional passenger rail route possible. Those States could use Federal funds from the programs I just listed, or make use of bonding authority under the compact to support intercity rail services.

Mr. President, the need for flexibility is clear. I have here, a letter signed by Governor Dean of Vermont, Governor Thompson of Wisconsin, Governor Engler of Michigan, and Tom Carper, Governor of my State of Delaware, both Democrats and Republicans. This letter supports my amendment.

Let me read this letter. This letter went to Senator BAUCUS and to Senator CHAFEE, the chairman of the committee.

This is from the four Governors, and it says:

> As you proceed with consideration of S.440, we want you to be aware our strong support for the right of states to use their federal transportation funds for rail passenger service. The amendment being offered by Senators Roth and Biden has our full and enthusiastic support.
>
> Under present law, we are not able to make use of our federal highway or transit funds for rail passenger service. This has posed a number of difficulties for our state in forming partnerships with Amtrak for these purposes, even when investments in rail passenger service would produce clear public benefits and improve the service quality of other modes of transportation.
>
> Adoption of the proposed amendment will provide states with the ability to decide what transportation system best meets their needs and to allocate their federal funds accordingly. In this time of severe budget constraints at all levels of government, it is essential that we empower state and local officials to make the best use of scarce federal resources. This is clearly a states' rights issue.
>
> We view this adoption of the Roth/Biden provision as part of S.440 as an extremely positive step in the direction of achieving a higher level of state choice and a more balanced transportation system. We look forward to working with you to ensure this result.

As I said, this was signed by Governor Dean of Vermont, Governor Thompson of Wisconsin, Governor Engler of Michigan, and Governor Carper of Delaware.

These Governors have already committed their own States' general revenues to support intercity rail routes, at the same time they have surpluses in Federal transportation programs that they are prohibited from using to maintain Amtrak services. These Governors have confirmed the need for more flexibility.

California, Illinois, Michigan, Missouri, Wisconsin, Pennsylvania, and Vermont have also confirmed the importance of Amtrak.

Mr. President, Congress has recognized the need for States to have flexibility with Federal subsidies in important local transportation decisions. In fact, the increased flexibility provided by this amendment is consistent with the major goals of the bill before us today. In an important sense, this amendment simply removes an inconsistency in earlier legislation.

When ISTEA was enacted in 1991, a major premise of that legislation was to remove the unnecessary hurdles in the way of a national transportation policy.

Fundamental to that landmark legislation was the realization that all the components of our transportation system must be allowed to work together, each making its own appropriate contribution.

ISTEA provided unprecedented flexibility to States and localities to make use of Federal transportation funds to provide the mix most appropriate for local transportation needs.

Adoption of my amendment would extend the irrefutable logic of that approach to passenger rail service.

Mr. President, this legislation calls for no new spending. It does not change Federal transportation allocation formulas, nor does it mandate that States spend their Federal transportation dollars on passenger rail service.

As I have said, it simply gives States the ability to spend Federal CMAQ and STP money as they see fit and in ways which have been repeatedly found to be good for them and good for the country.

Mr. President, I yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, I rise to speak to this amendment.

Mr. President, my colleague from Delaware and I are often suspect when it comes to Amtrak since we are such daily users. So I want a full disclosure to acknowledge that, if I had my way, we would be dealing with Amtrak in a way far beyond what this amendment does.

I think we should be setting up a trust fund for Amtrak. I think we should be dealing with it very differently than we are. But, Mr. President, the amendment that the Senator from Delaware, Senator ROTH, and I have is much more modest in its approach, and it is not designed to be a long-term solution for Amtrak's financial problems. They are going to have to come from the internal restructuring which Senator ROTH referred to that is already under way and from a clearly defined, in my view, dedicated source of funds to support its capital needs the way we provide capital for highways and airports in other systems.

I would just like to note for the record that we subsidize airports and highways on a per passenger basis considerably more than we do Amtrak. It is not even close. And the single most environmentally sound thing we could do and, from a safety standpoint, the single most significant thing we can do is have a real passenger rail service system in the United States. I might add there is not one single passenger rail service system in the world that is self-sufficient; not one in the whole world.

But that is another argument. We are not here today to correct the problems of Amtrak. We are here to try to deal with an inequity that exists that in effect prejudices Amtrak in a way no other means of transportation, including pedestrian paths and bike paths, are prejudiced.

I believe there has been some misunderstanding about the proposal which Senator ROTH and I have, and possibly we will see some of that in the debate today.

But let me begin by briefly explaining what this amendment will not do. It will not spend a dime of additional money. It will not spend a dime of additional money, State or Federal. It will not require any State in the Nation to spend any funds on Amtrak.

There is no mandate, no requirement. It will not change any formula for the allocating of transportation funds among the States. It will not affect the amount of annual Federal transportation funds that States now receive. It will not do any of those things.

So that your State, for Senators who are listening and the staffs who are listening, will not in any way be affected in terms of the amount of money, percentage of money, source of money that is now received.

But let us look at what it will do.

Mr. President, the bottom line is that this amendment simply permits the States to use funds they already qualify for in a way that is not currently permitted.

Under this proposal, States will be given the discretion to include intercity rail service, which is another way of saying Amtrak, among the transportation options available to their citizens. Current restrictions on the use of Federal transportation funds will be removed, and Governors around this country will be able to use those funds that they now get under the present formula as they see fit, including supporting intercity rail service provided by Amtrak if that is what they choose to do.

In very congested areas, particularly in the urban corridors along the east and west coasts, but also in other areas, adding some more highways is simply not an economic option. For example, in our State of Delaware, were Amtrak to shut down, the idea of building another I-95 through our State—our State is not wide enough to take another I-95. We cannot handle another system that is that large in terms of our air quality, in terms of our land resources available to us, and in every other way. It makes no sense.

By the way, I might add, I will put in the RECORD at a later time what the effect on my State and the Northeast corridor would be if there were no Amtrak and what the effect would be on the airports of the east coast were there no Amtrak.

The fact is that this option is not only an option that should be made available to States with a great deal of congestion—keeping an Amtrak route open on an existing rail right of way is much more cost effective, safer and cleaner than buying land and constructing even one more lane on a major interstate highway. The interstate highway is already there. It is called the right of way that Amtrak has. There is already a rail bed. And what is happening now because of cost containment, we are cutting the number of trains we put on that rail bed. We are cutting them, reducing the number of people who can use that mode of transportation and putting them on highways or in planes, both of which cause additional congestion.

The increased flexibility provided by this amendment is fully consistent with the major goal of the National Highway System bill before us today and with so-called ISTEA, the landmark legislation that calls for a National Highway System designation.

Mr. President, the need for this enhanced State flexibility is clear. In recent months, under the leadership of Amtrak's president, Tom Downs, Amtrak has undertaken, as Senator ROTH has said, a major downsizing and restructuring to reduce and eventually eliminate its dependence on Federal operating subsidies.

Now, again, I wish to make it clear I do not think it should have to do as much as it is doing. I think it is counterproductive. But the fact is they are given a mandate. They are told, by the way, this all ends in a year certain. And Downs has gone out there and done what he has had to do. He has fired thousands of employees. He has cut the number of trains going into various States. He has reduced costs.

This is a mandate set out in both the House and Senate budget resolutions, which, I might add, I voted against, but it is there. That is likely to be the law.

The first stage of this progress made by Mr. Downs was announced last December with major route eliminations taking effect in April. And President Downs heard from an awful lot of folks on this floor saying: Why did you cut the train out of my State? Why did you cut it out of my State? Why do I not have this access? And the answer is because we decided that we are not going to have the national rail transportation system that we should have. We are cutting the budget.

Well, he did his part. He has cut and eliminated routes. Frequency reductions on selected routes throughout the country will be completed by this coming October. That is a euphemism for saying if you have three trains coming through your State now, you may have one coming through your State by October. These steps have reduced by 20 percent the route miles previously served by Amtrak. And as a result many commuters across the country find themselves with little or none of the Amtrak service that they once had depended upon. All of a sudden Governors who thought this was a good idea and even some of my colleagues in the Senate who thought it was a good idea are realizing how important Amtrak was to them. The Governors of those States where these cuts took place know that intercity rail is an important option for small towns without air service as well as for congested commuter corridors. They know that intercity rail supports commerce as an important component of the modern national transportation system and in some States particularly their tourism.

That is why States are seeking ways to use the funds, the CMAQ funds referred to earlier, to meet congestion mitigation and air quality goals, to support Amtrak rather than to deal with having to build more highways. Under current law, that is not an option. Under current law, they are not allowed to do that.

I have here, Mr. President, a letter from Governors Dean of Vermont, Thompson of Wisconsin, Engler of Michigan, and Carper of Delaware, which I will not repeat. It was already put into the RECORD by my colleague from Delaware.

Mr. President, among the authors of this letter are Governors who have already committed their own State's general revenue to support intercity rail routes at the same time they have surpluses in Federal transportation programs that are prohibited because they are prohibited from using Amtrak services.

In other words, their citizens pay into the highway trust fund x amount of dollars. They get them back. Because they do not want to build more highways, they cannot use them so they have to send them back to the trust fund, not to the taxpayers, not to those folks—back into the trust fund. And they say, why can we not use that money to meet the needs in our State, the transportation needs and the air quality needs, et cetera?

States that have confirmed the importance of Amtrak runs include California, Illinois, Michigan, Missouri, Wisconsin, Pennsylvania, Vermont—the list goes on.

Mr. President, virtually every advanced industrial nation in the world has found intercity passenger rail service to be essential. All of our major competitors and trading partners provide some level of financial support to assure that the benefits of passenger rail, which include less congestion and less construction of highways and airports, are available to them.

There are tourists here listening to this today from other countries. One of the often heard marvels is, well, I was in Paris; I was in Tokyo; I got in a spotless train that went 190—in one case 300—miles per hour and it got me from A to B, and it was economical, and it could, and it worked, et cetera. Why does the greatest nation in the world not have that?

Well, the greatest nation in the world does not have that because we have devalued intercity rail service.

Our amendment today does not solve the overall problem, but it does provide those Governors that I mentioned and others the means, if they choose, to support Amtrak routes important to their States. With the tools provided by this proposal, States will be empowered to make more efficient decisions about the mix of transportation services that best meet their citizens' needs.

Now, if the Governor of a State says, "I do not want any part of any Amtrak service," fine. That is up to the State. Let them make that choice. Mr. President, this amendment would help those States and others maximize the effectiveness of their transportation dollars. Specifically, it makes Amtrak an eligible use for funds from the following areas:

The surface transportation program. Right now those funds may be used for most kinds of roads and highways as well as for capital costs, for bus terminals, for carpool projects, for bicycle and pedestrian facilities, for hiking paths, for bike paths. They can use the highway funds for all those things, but they cannot use it for Amtrak passenger rail service.

Our amendment would add intercity rail to that list, consistent with the aims of the program to support a fully integrated transportation network. This amendment also makes intercity rail an eligible use for the so-called CMAQ funds. This program—congestion mitigation and air quality is what the acronym stands for—this program is designed to help urban areas come into compliance with the Clean Air Act requirements.

Mr. President, Amtrak can cut down on congestion and carry the same number of people with less pollution than cars on the highways. Surely this would be an appropriate use of those funds, a use currently denied the States.

In addition to those provisions, Mr. President, this amendment would permit States to enter into interstate compacts in support of Amtrak services. Logically, it may require coordinated efforts among a number of States to make a regional passenger railroad possible. Those States could use the funds from the program I just listed or make use of bonding authority under the compact to support intercity rail services. In every instance, this proposal is consistent with the goals of the ISTEA, so-called ISTEA. And in an important sense, this amendment simply removes the inconsistencies in the earlier legislation.

When ISTEA was enacted in 1991, Mr. President, the major premise of that legislation was to remove inefficient and unnecessary hurdles in the way of our national transportation policy. Fundamental to that landmark legislation was the realization that all of the components of our transportation system, all of the various transportation modes, must be allowed to work together, each making its own appropriate contribution according to what the States believe are needed to do that.

In the end, ISTEA provided unprecedented flexibilities to States and localities to make use of Federal transportation funds to provide the mix most appropriate for local, State and regional transportation needs.

The amendment we are offering here today extends the irrefutable logic of that approach to intercity rail service making it eligible for Federal transportation funds. By opening up more options to State and local officials, by relieving congestion on our highways and in our airports, this amendment is fully consistent with the goals of ISTEA. I urge my colleagues to keep in mind that the very highway interests who argue against this amendment argued against all those other changes as well.

And I want my colleagues to please keep in mind, when they vote on this amendment, what this amendment does not do. It does not add a dime of additional money to State or Federal funds. It will not require the States to spend a single dime on Amtrak. It will not change any formula allocating transportation funds to your State. And it will not affect the amount of annual Federal transportation funds that your State will receive. It will merely give your State greater flexibility.

I yield the floor and reserve the remainder of the time.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator from Montana.

Mr. BAUCUS. Mr. President, I listened with great interest to the Senators from Delaware in support of this amendment. It has a lot of surface appeal. But I think, in the interest of disclosure, in the interest of common sense, it is important for Senators to think through a lot of other ramifications that have not all been discussed. If one thinks a little more deeply about this, I think one will realize maybe this is not a good idea after all.

Several points. First of all, this is essentially an amendment to rob Peter to pay Paul. We are going to rob our highway funds to spend money on Amtrak. I do not know if that is something we want to do. Frankly, I do not know if it is something that the Governors really want to do, the State legislatures really want to do. I would guess that most Governors, most State legislatures would rather have what they have today, a current, dedicated highway account to decide how to allocate the highway dollars among the States and not have to decide, of the dollars they get, how much is going to go for highway and how much is going to go for Amtrak. Rather, it would be better to have a separate, dedicated Amtrak account separate from a separate, dedicated highway account.

I have an idea how we can accomplish that, which I think is a much better idea to meet our Amtrak needs than the idea that is contained in this amendment.

It is also important to know that there are tremendous road and bridge needs in our country. About $212 billion are necessary to get our highways up to grade. There are a lot of highways in America. There are a lot of potholes and roads that are just in bad shape and not up to standards, up to snuff. The Federal Highway Administration estimates a total of about $212 billion of unmet highway needs. Then there are the bridge unmet needs. The Federal Highway Administration estimates that is about $78 billion, about $78 billion of bridge disrepair, that is, bridges that just are in bad shape in our country.

For example, if you take the State of Arkansas—I am going down some States alphabetically—37 percent of the bridges in the State of Arkansas are deficient. Let us go down to Georgia. Twenty-one percent of the bridges in Georgia are deficient, that is, either functionally obsolete or structurally deficient, as estimated by the Federal Highway Administration. In the State of Iowa, 31 percent are deficient. In the State of Louisiana, 40 percent are deficient. In the State of Michigan, 35 percent are deficient. In the State of Nebraska, 38 percent are deficient. In the State of South Dakota, 31 percent are deficient. Let us look at Delaware. In the State of Delaware, 25 percent of the bridges in Delaware are deficient, that is, either functionally obsolete or structurally deficient. In the State of New Jersey, Mr. President, that figure is 47 percent. The averages, as we go down this list are around a high of 66 percent. That is the State of New York. The lowest I see on this list is 11 percent for Arizona. But the average is about 30 percent, 40 percent. So I wonder if we want to take money away from bridge construction and repair, in the way of highway construction and repair, and spend it on Amtrak? I just do not think we want to do that, particularly if there is a better way to accommodate the needs of Amtrak.

Another problem. Highway planning takes years. Anyone who has spent any time talking with the State highway departments, essentially to determine which roads to construct, which repairs are to be put in place and which bridges are to be repaired, knows that it takes time. It takes about 5 years.

You have to go through the environmental impact statements and public hearings. You have to have rights-of-way hearings, what is the right-of-way going to be for a certain road, even for bridge construction. It takes a long, long time.

There is a backlog of highway projects in most States. Basically, it is because the needs are so great and the dollars are so few. That puts a lot more pressure on planning and proper planning of highway projects, whether it is roads or bridges, or whatever it might be. And it means if they are not done right, they are litigated, lawsuits are filed, because the EIS process is not fully complied with.

I am just saying, Mr. President, if we have this already fairly convoluted process determining which highway projects are to be pursued in each State, then layered on top of that the possibility that all of that is going to be disrupted because we are going to divert some money, perhaps, in a State to Amtrak, it is going to be chaos and difficult to plan. It is hard enough to plan for a project, hard enough for people to know if they are going to get their highway project. This is going to make it that much more uncertain, that much more complex, and that much more difficult. Basically, we are doing people in our States quite a disservice, if there is a better alternative—I think that is a pretty important point to make—if there is an alternative to deal with Amtrak.

Another problem with the amendment is, basically, as I understand the amendment, it says that a State, according to its own discretion, can divert some of the highway money it gets to pay for Amtrak. I am not sure it is going to work. Why might it not work?

The problem is this: There is a provision in the proposed amendment which provides for interstate Amtrak compacts, but that is all voluntary. Let us take the northern-tier States, the State of Washington, then Amtrak's route follows Washington, Idaho, Montana, North Dakota, over to Minnesota, down to Illinois, and into Chicago. We have Amtrak problems. Amtrak service has been reduced from 7-day service to 4-day service. We would love to have full 7-day service of Amtrak in Montana along the northern tier, just as I am sure other States that face reduced service would like to be restored to full service, even better service.

Let us say we in Montana say, "You bet; this amendment is the law. We are going to, even though we don't like it, make the Hobson's choice of diverting some money away from highways," and believe me, we have great unmet highway needs in Montana. Let us say we make the Hobson's choice and we painfully, after much gnashing of teeth in our State between those who want to ride Amtrak and those who want to meet highway needs, make some decision to divert away from highways to Amtrak. What is that expenditure going to be? Is that going to be a capital expenditure? Are we building better roadbeds? Are we going to pay money to hire more conductors and other personnel?

Let us say we do it. We are going to have Amtrak. It is going to work. Suppose folks in Montana want to go someplace; they want to go to the Pacific coast, they want to see the ocean, or go in the other direction to Minneapolis and Chicago. Let us say the adjoining State does not do anything. If North Dakota, in its wisdom, or Idaho, in its wisdom, or Washington, in its wisdom, say, "Well, we're not going to divert any money," what is going to happen?

We have this spruced up service in Montana, we go rushing off to the border, and what happens? Is the train going to stop as we wait for the 2 or 3 more days because Idaho only has alternate day service, or do we have to get off our train in Montana—we have a superliner going through Montana which zips along at 150 miles an hour. We get to that old border and the train stops. Everybody gets off the train and gets on a little dinky, bumping-along Idaho train on Amtrak to get over to Washington. I do not know, but I do think the probability of all States agreeing on a capital expenditure program or all States agreeing to spend money for operating expenses, whatever it is, is probably zero. It is probably zero.

So, as a practical matter, I do not think this is going to work. It sort of sounds good on the surface: Oh, we are going to divert money for Amtrak. It may turn into an intercity rail program only within the State. We have a mass transit program for that that will not turn into an interstate national Amtrak system. It will not work. It just will not work. I think we probably should not spend our time, frankly, adopting something which, as I said, just will not work.

Another point. There is some, not a lot, of support for a Federal gasoline tax—some, not a lot. People do not like paying gasoline taxes, but they are willing to pay a little bit because they know that that money, the gasoline tax, is going to go to the highway trust fund, and from the highway trust fund, it is going to be spent on highways.

It is true, we are not simon pure here. Some of the highway trust fund money now goes to related purposes. Some goes to bike ways, some goes to safety programs, highway safety and related programs, and even some of it goes to mass transit. But, still, Mr. President, I do not know that we want to further dilute the purpose of the gasoline tax.

There are a lot of people in our country who pay gasoline taxes for highways. They do not want to pay gasoline taxes for Amtrak. If we are going to work on public confidence in Government, we will to do better if we keep the purpose for which money is raised directly related to the person who is paying the money—user fees, if you will. I just think it is very worrisome if we go down the road and start raising gasoline taxes, as I said, and spending it for other purposes.

What might be a better idea? Let me suggest one. This gets a little complicated, but bear with me.

The long and the short of it is, under the law today, about—in fact exactly—2½ cents of the Federal gasoline tax goes to the highway trust fund; 2½ cents of the current gasoline tax and diesel tax goes to the highway trust fund.

In 1996, just a year from now, that 2½ cents that currently goes to the highway trust fund will go for a different purpose. Two cents of it goes to the highway trust fund and one-half cent goes to the transit trust fund. I am suggesting that we take that half cent, which in 1996 is scheduled to go to the transit trust fund, and instead dedicate it to Amtrak, about $600 million.

The beauty of that, Mr. President, is it takes nothing away from mass transit. The mass transit trust fund account today is already at a $5 billion surplus. Currently, out of the gasoline tax, about one-half cent goes to the transit trust fund. I am suggesting we keep the same amount that is now going to the transit trust fund—as I said, it is a $5 billion surplus; it is already paying for mass transit. The one-half cent I am talking about does not now go to the transit trust fund; not yet. It is scheduled to go to the transit trust fund in 1996. I am suggesting we take that one-half cent and spend it on Amtrak. Is it new taxes we have to raise? None whatsoever. But it is one-half cent available to spend on Amtrak. That raises $600 million.

Mr. BIDEN. Will the Senator yield on that point?

Mr. BAUCUS. Just a second. We cannot do that on this bill. We cannot provide that amendment on this bill because that is a revenue measure, and it will be blue-slipped by the House of Representatives. That is, they will just not consider it, because as a revenue bill, it did not originate in the House. When we get to reconciliation, we then have an opportunity to include this provision in reconciliation, which I think is the way to solve the Amtrak problem. The deficit in Amtrak is about $1 billion a year. We have to make a lot of changes in Amtrak, spruce it up, and make it more efficient and so forth. But here is a way to provide $600 million a year without increasing taxes, and because Amtrak is so important to our country—it is vitally important throughout America. There are only two or three States that do not have Amtrak service, but the rest do. I suggest that the better way to handle this whole problem is to pursue the alternative I am suggesting, which solves the Amtrak problem, rather than the amendment before us which I think will cause a lot of headaches and heartaches and will not even begin to solve the problems that we have to deal with regarding Amtrak.

I yield to the Senator from Delaware.

Mr. BIDEN. The Senator from Montana essentially answered the question I was about to ask—that we could not do that on this bill. I agree that that would be a significant and important change. Granted, it only comes out of the mass transit fund, which, right now, is in surplus. But it does not come out of the highway money. I would rather see a half-cent come out of that 2 cents going to the highway fund. But it is very important.

I want to respond very briefly to the four basic points the Senator made. I will really focus on one. He talked about this being—that we are robbing Peter to pay Paul. That is a judgment for Peter to make, whether he wants to give it to Paul. "Governor Peter" can decide whether or not he wants to suggest that it go to Paul. If Governor Peter wants it to stay where it is, you do not have to rob anybody. It stays where it is.

This notion of the need for bridges and repairs, obviously, if the States conclude the bridges are more important to them than Amtrak, then they will make that judgment. We are only talking about one portion of the highway trust funds that go into the State, which rough cut is about 25 percent of the moneys that the States get, that is the only portion they could use.

No. 3 is this notion of disruption. I have great admiration for my friend from Montana, and I mean that sincerely. He knows that if you can paint a picture for someone that makes the proposition look a little ridiculous, it is very compelling. His idea of going 150 miles an hour through Montana to the border of Idaho and getting off the train and getting on this chugalug train that is going to take you through Idaho, is a very disruptive picture. That is why Senator ROTH placed in the legislation this compact that no Governor is going to in fact decide to divert money to Amtrak from their highway trust fund money if in fact they know that train is going to stop at the Idaho border.

So the reason for the compacts are allowing the States of Washington, Idaho, Montana, and the Dakotas, to sit down and say, does it make sense for us all to do that? If they cannot get it done, they are not going to do it. It is a very colorful picture to paint of this train speeding and going through Coeur d'Alene, ID, and then coming to a screeching halt. It is not realistic and not likely to happen.

I will end by saying that my friend from Montana has been very, very helpful in the past regarding the need to set up a dedicated fund for Amtrak, just like there is one for highways, recognizing the national need. The point, though, is that if the States conclude that it is better to use that small portion of their highway funding for Amtrak, and if they want to do that in conjunction with other States in their region, we should allow them. We allow them to do that for bicycle paths now, Mr. President, and we allow them to do that for walking paths. We allow them to go out and buy buses, and we allow them to make capital investments for other means. The only thing we do not allow them to do is deal with it with regard to intercity rail service.

I was intrigued by the Senator's remarks, and I am heartened by his commitment to taking a half-cent of the gasoline tax, which is now going in one direction but will revert to the way in which he suggested—coming up with $600 million for capital for Amtrak which, by the way, would meet Amtrak's capital needs on a yearly basis. He is correct, it would essentially put them in the black. They would be able to run in a very efficient way and increase service, not diminish service. I thank him for his suggestion. I look forward—if he is still willing—to working with him on the reconciliation bill to do that.

In the meantime, I think this does not create the inconvenience he suggests would be created. In large part, the most compelling argument he made is disruption, and I think Senator ROTH was farsighted in laying out in the legislation the compact capability for States, and that is the reason for that provision of the legislation.

I thank my colleagues and yield the floor.

Mr. JEFFORDS. Mr. President, I strongly urge my colleagues to support this important amendment. The Roth amendment will grant States the flexibility to use highway funds to maintain and revitalize intercity passenger rail service. At a time when we are shifting responsibility from Washington to the States, we should also allow individual States to chose how they would allocate Federal transportation funds and select transportation systems that best meet their needs for the future.

Mr. President, my own State of Vermont spent the winter working to preserve our link to the national passenger rail system. In December, Amtrak announced that all passenger rail service to Vermont would be terminated. But in April, after extensive negotiations, the State of Vermont and Amtrak announced the establishment of the Vermonter, a new day train traveling from Washington, DC, to St. Albans, VT. The key to preserving this rail service was that the State of Vermont was willing to pay, out of general funds, the operating costs of this train. This is how important rail service is to Vermont.

Earlier in this debate a number of Senators referred to a letter in support of this amendment from four Governors, including Governor Dean of Vermont. The letter clearly illustrates that States want the flexibility to use Federal transportation funds as they chose. Vermont would use these funds to support the Vermonter and possibly other passenger rail in the State, including a proposed route from White Hall, NY, through Rutland to Burlington, VT. Clearly, Vermont and other States should have this option. I commend Senator ROTH for his dedication to this issue and I urge my colleagues to vote for this important amendment.

Mr. WARNER. Mr. President, the distinguished Senator from Montana, the comanager of the bill, and I at this time would like to see if we can get a unanimous consent request with regard to time limitations on the three amendments.

We start with the amendment now under consideration. It was indicated to the managers earlier that Senators ROTH and BIDEN would agree to 1½ hours equally divided. We can calculate the amount of time that has expired thus far and then determine the time at which the 1½ hours would be completed.

I yield to my colleague.

Mr. BAUCUS. Mr. President, will the Senator again go through the list?

Mr. WARNER. Yes, I am happy to do that. Mr. President, the distinguished Senator from West Virginia indicated that on his amendment, he would be agreeable to 1 hour equally divided. The Senators from Delaware, Mr. ROTH and Mr. BIDEN, indicated 1½ hours equally divided. The Senator from North Dakota, Mr. DORGAN, said 40 minutes equally divided on his amendment.

Mr. LAUTENBERG. Reserving the right to object. Would the manager on the Republican side be able to tell me, or would the Parliamentarian be able to tell us, how much time remains on the hour and a half at this juncture?

Mr. WARNER. The pending Roth-Biden amendment. We put that question to the Chair.

The PRESIDING OFFICER. Forty-six minutes have been consumed on that amendment up to this point.

Mr. LAUTENBERG. Will the distinguished Senator from Virginia be willing, if Senator ROTH is inclined to agree, to divide the remaining time? I ask that before a unanimous consent is agreed to. Frankly, I would like a chance——

Mr. WARNER. I think I have an easier solution. The Senator from Montana has expressed my views very clearly. I associate myself with his remarks and thereby with the exception of maybe 2 minutes, I will forgo such time as I may require or would have required otherwise. So I suggest let us agree to the hour and a half—first, how much time does the Senator from New Jersey want?

Mr. LAUTENBERG. I will have to ask the Parliamentarian how much time remains on the Roth-Biden amendment.

Mr. WARNER. Would the Senator indicate how much time he desires?

Mr. LAUTENBERG. I think we ought to have 20 minutes to further discuss the issue, if that is acceptable to Senator ROTH.

Mr. WARNER. I suggest that we amend the time agreement and say that the pending amendment would be completed in 35 minutes, 20 minutes of which would go to the Senators from Delaware, with a due allowance to their colleague from New Jersey and the 15 minutes would be divided equally between the Senator from Montana and myself; that we may then proceed to the amendment of the Senator from West Virginia [Mr. BYRD] who desires an hour on his amendment.

I ask unanimous consent that that be ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Lastly, the Senator from Montana and I now pose a unanimous-consent request that the amendment of the Senator from North Dakota [Mr. DORGAN] be concluded in 40 minutes, equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. It is the hope of the managers of the bill that the Senator from West Virginia could proceed following the disposition of the amendment of the Senators from Delaware.

Mr. ROTH. Mr. President, I yield 15 minutes to the distinguished Senator from New Jersey.

Mr. LAUTENBERG. I thank the Senator from Delaware. Perhaps I will use less than that. I appreciate it.

Mr. BAUCUS. Mr. President, I would like to mention to my colleagues, the Senator from West Virginia [Mr. BYRD] would like the unanimous-consent agreement to provide that there be no second-degree amendments to his amendment.

Mr. WARNER. I join the Senator from Montana in that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, while the Senator from Montana and I are up, we are making great progress in resolving the other amendments.

I urge all Senators who have pending matters to send their staffs over at this time to complete the amendments which are outstanding. As far as I know, the Senator from Montana and I only know of these three amendments subject to time agreements which will require rollcall votes.

Mr. BAUCUS. Mr. President I would like to echo that statement. We are close to finishing this bill. It behooves Senators to come over quickly and work on their amendments so we can finish this bill tonight. I thank the Senator.

Mr. LAUTENBERG. Mr. President, I thank the Chair.

Mr. President, I rise in strong support of the Roth-Biden amendment, perhaps to no one's surprise, because I have long had an interest and an association with Amtrak.

This amendment is fairly simple. I think it has been well stated by both of the distinguished Senators from Delaware. The central purpose of the amendment, as I see it, is to provide the States with flexibility—something we constantly urge around here—to use funds provided on two of the major Federal transportation formula programs for the cost of interstate rail passenger service.

The thrust of this amendment closely resembles a provision that passed the Senate that I sponsored during the debate on the Intermodal Surface Transportation Efficiency Act, which we call ISTEA.

Under the amendment, Governors and State transportation officials would be granted the flexibility to use funds provided under the surface transportation program [STP], the Congestion Mitigation and Air Quality Program called CMAQ, for the costs of intercity rail passenger service.

I want to make one thing quite clear. This amendment does not mandate that even one cent of highway or transit formula funds will be spent on Amtrak service. The only way one penny can even be used for Amtrak, is if the Governor and the State transportation officials want it to happen.

When the Congress adopted ISTEA, we made great strides toward enhancing the flexibility of State transportation planners in directing Federal funds to the types of transportation projects that best suited their needs.

However, in the final conference report, there was a glaring omission. That was the flexibility to direct Federal formula funds to the cost of intercity rail service.

The Senate-passed version of ISTEA did include such flexibility for the surface transportation service. However, jurisdiction over rail programs at the time was under the House Commerce Committee. As such, it was very difficult to get members of the House Public Works Committee to accept the provision.

We now have a new opportunity to address this issue, since the House has moved jurisdiction over rail matters to our companion committee in the House, the newly-named Transportation and Infrastructure Committee.

All Members are aware that Amtrak has been facing especially difficult financial times over the last year. Amtrak has been required to announce several service cuts and route eliminations to reduce or eliminate an operating deficit that exceeds $200 million.

These service cuts and eliminations impacted many States, including my own. We heard the distinguished Senator from Montana talk about how valuable he viewed Amtrak service in the State of Montana. They have had what to some would appear to be a modest cut, yet it was apparently deeply felt.

In the wake of these service cuts, numerous States have been scrambling to find their own funding to maintain Amtrak service. Many of these same States have asked Members to explain why they can use their Federal formula funds for transit purposes but may not use them for intercity rail service.

I do not believe that any Members have a good answer to that question. Amtrak's delicate financial situation was brought about largely through underinvestment, over a great many years, in our national rail network. Our national passenger rail corporation, Amtrak, covers a higher percentage of its operating costs than any other passenger railroad in the world. It benefits from an operating subsidy like every other passenger rail system in the world, but at a smaller subsidy per passenger than any of the others. Compared to our industrial competitors, we spend a pittance on our national rail network.

Within the next 5 years, France plans to spend nearly $125 billion on intercity rail enhancements. If anyone has a chance to see the TGB and see it zip along the countryside at a cool 180 or 200 miles per hour in comfort, speed, attracting lots and lots of passengers, one would see why the investment is justified.

Germany will spend over $70 billion during the same period. By the end of this century, Sweden, a relatively tiny country, plans to invest as much in rail enhancement as it does in highways.

Just within the European Community, high speed rail investment is likely to top $100 billion by the year 2000. On average, European countries invest between 1 and 1.5 percent of their GDP in intercity rail. That compares with our country where we invest roughly five one-hundredths of one percent on our national passenger rail service, Amtrak.

No one is suggesting we use highway funds to embark on a major rail investment program. However, Amtrak's recent financial difficulties make it clear that we must take action to ensure the future of a national rail network, to ensure that our Nation has a balanced transportation system.

This amendment takes a small step to allow the Nation's Governors—and we are talking about flexibility, and we are talking about decisions made within the State—the option of preserving a balanced transportation program in their States. If they do not want to use any of it for Amtrak, they need not do it.

Throughout our recent political debates over the role of the Federal Government, there has been increased attention to the benefits of giving States enhanced responsibility while simultaneously giving them increased flexibility. This model, it is assumed, will provide for a more efficient public service transportation system.

This is clearly one area where this model can benefit the traveling public across the Nation by giving Governors access to the full range of transportation options.

I want to speak about the region of the country I come from, the Northeast. I can tell my colleagues—and Senator BIDEN and Senator ROTH are only too familiar with this—that in my part of the country, Amtrak is absolutely indispensable. It is one of the most cost-effective investments of Federal transportation dollars in the region. Fully half of Amtrak's ridership travels on the Northeast corridor, the most congested transportation corridor in the United States.

Now, all the highway spending in the world could not overcome the lack of adequate right of way to construct enough lane miles to accommodate all Northeast corridor Amtrak traffic. There is simply not the capacity in the already congested airports of the Northeast to accommodate an additional 11 million passengers annually.

Mr. ROTH. Mr. President, would the Senator yield?

Mr. LAUTENBERG. I am happy to yield to the Senator.

Mr. ROTH. Mr. President, I think, to underline the point made by my distinguished colleague, it is important to understand, for example, in the case of New Jersey, the ridership in 1994 was 1,369,000; in Maryland, 1,448,000; in my little State of Delaware, 607,000. Is there any way we could replace that travel by building additional roads?

Mr. LAUTENBERG. There is no way on Earth, as they say, to provide the capacity for additional highway lanes. But, further, I say to the distinguished Senator, Amtrak currently carries half of the combined air-rail market between New York and Washington, DC. Were Amtrak service to disappear, listen to this, it would add the equivalent of 10,000 fully booked DC–9's to the already congested air traffic in the Northeast. There is not enough room on the highways or on Earth. And there is not enough room at the airports or in the skies to accommodate such growth.

What a disaster it would be for the economy of the Northeast as well as the country as a whole. It is already almost impossible to move on our highways and get in and out of the airports during the peak holiday seasons. The noteworthy ones, Thanksgiving, Memorial Day, Labor Day, Father's Day—you name it, it would be a disaster. If you eliminate Amtrak service in the Northeast, traffic on the highways and at the airports will come virtually to a dead stop. So we need to find ways to expand our passenger rail infrastructure, not to kill it. I am pleased to hear the Senator from Montana talk positively about Amtrak. We have to find the funding for it.

The GAO estimates that productivity losses due to highway congestion each year cost our Nation $100 billion, each year. DOT estimates that in our 39 largest cities, traffic congestion costs $44 billion annually. And absent any effort to expand our rail capacity and other nonhighway alternatives, highway use is expected to grow at such a rapid rate that all the increased highway spending that we could muster could not handle the growth and the congestion.

The Senator from Montana made a good point. He said if you do not claim your highway use, the construction and so forth, enough in advance, you could wind up with a patchwork quilt of things. So it is with Amtrak. That is why I think the Senator from Delaware provided for a compact arrangement between States, to be able, hopefully, to agree on a program that fits the needs of the several States in the area.

The situation is just as bad at our Nation's airports. Winglock, congestion at our airports, costs our economy roughly $5 billion a year. It is expected air travel delays will only worsen over the next several years. Within the next 5 years, most major airports will exceed 80,000 hours of annual flight delays each year. In short, it is a major, major problem.

Completing the electrification of the Northeast corridor, which is virtually underway, though not specific construction—but a lot of engineering, a lot of the planning and some of the equipment has been ordered—is expected to attract 3 million additional passengers annually between New York City and Boston to our rail system, taking them off already congested highways and airways.

Completing the electrification will alleviate the need for creating highway capacity for 324,000—the numbers are staggering—324,000 drivers each year and the cost of expanding aviation capacity to accommodate 50 daily New York-Boston flights. The cost of this rail project is, as we say, peanuts compared to the Federal funds that would be required to be invested to achieve the highway and aviation capacity that would be otherwise needed.

The prospect of expanding Logan Airport in Boston runs into multiple billions of dollars just in that one place.

I am in contact, and have been in contact, with Governors along the Northeast corridor, almost all of them—almost all of them—Republican. They recognize the critical value of Amtrak to our region. They currently have the opportunity to use discrete amounts of their Federal formula funds for costs associated with transit service in the region, and Amtrak service should be no exception.

In sum, it is very obvious that those who think in detail about transportation needs—to those who come from the northeastern part of the country, those who come from all parts of the country, because there are not any Senators that I have had a chance to talk to where there is some Amtrak service who do not want to either expand it or continue it—I have not heard any of them volunteer to eliminate the Amtrak service, as sparse as it may be within their State.

So I hope we will be able to provide this flexibility. We are not taking anything away from anybody. If the question is put, is there sufficient funding for bridges? Heck, no, there is not sufficient funding for bridges in our society. Even to repair those that are functionally obsolete, there is not enough money for it.

Is there enough to maintain the highways in the condition we would like to see them? No, there is not. But if we lose Amtrak and we lose the infrastructure that is associated with national rail passenger service, we will be in far worse shape because at least if we keep the intercity railroad going, we have a chance to buck the trend and be able to accommodate the traveling needs of the public.

I hope this amendment will carry. I commend Senators ROTH and BIDEN for bringing it to this point. I think it is timely. There are so many services that we would like to see operating in the transportation infrastructure network of our country that are just not going to be able to be funded. I know for some Senators in some of the Western States, something called essential air service is a critical factor. We want to try to fund it wherever we can.

All of these are competing for funding. All of these modes are competing for funding, but this one, national rail service, national passenger rail service, is an essential factor if we are going to think about a balanced transportation network in this country of ours.

I urge my colleagues to support the Roth-Biden amendment.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I will make a couple of points that I think are worth knowing about this amendment.

First of all, this amendment is opposed by a lot of groups. Let me read a letter from Keep America Moving. It is an organization interested in our highways. I will just read the relevant part:

> The undersigned organizations believe the National Highway System is vital to America's economic and defense needs. We urge you to support prompt passage of the NHS and oppose any efforts to subsidize Amtrak with highway funds.
>
> Sincerely,
>
> American Automobile Manufacturers Association.
> American Bus Association.
> American Consulting Engineer Council.
> American Movers Conference.
> American Petroleum Institute.
> American Portland Cement Alliance.
> American Road and Transportation Builders Association.
> American Trucking Associations.
> Ashland Inc.
> Associated Builders and Contractors.
> Associated General Contractors.
> Highway Users Federation.
> National Asphalt Pavement Association.
> National Association of Manufacturers.

There are a lot more. There is a lot of opposition, I might say, to this amendment.

Second, I wondered what the donor States think of this amendment. Mr. President, about half of the States of our country are so-called donor States. They just get the willies when they realize they are spending more money on gasoline taxes than they are getting back in highway funds. Now, what are they going to think, the donor States—here is a whole other opportunity to spend their money on another State?

I frankly think the donor States would not be very happy about this amendment. The donor States, about half of our States, would get very nervous, in fact upset with the idea of spending more of their money on some other State, in this case for Amtrak.

Also, let me sum up by saying this is not going to work, this proposal. There are 46 States in our country that have Amtrak. As I hear the proponents of this amendment, there are 46 different horses before the Amtrak cart; 46 different States have an idea how to improve Amtrak, 46 different States. Capital expenditures, operating expenditures—who knows what?

Amtrak is a national system. It is not a separate 46-State system, it is a national system. That is why I again come back to the idea I proposed earlier. I want very much to help the Senator from New Jersey by taking that half-cent that is, in 1996, scheduled to go to the mass transit account which already has a $5 billion surplus, and say dedicate that half-cent instead to Amtrak. It is $600 million. That is a national solution to a national problem, rather than a 46-State solution to a national problem.

I understand the provisions in the amendment—compacts and all that. But those compacts are not going to work. States are not going to agree to those compacts. If they do not work, then they do not work. Then we are not solving the problem.

I think, frankly, it is an idea that has surface appeal and it is an idea that is not going to work, and I suggest we therefore agree to this amendment. Dig down, agree to it, get the amendment agreed to that I am suggesting, namely that half-cent dedicated to Amtrak.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. How much time do I have left, Mr. President?

The PRESIDING OFFICER. The Senator has 4 minutes and 22 seconds remaining.

Mr. BIDEN. Will the Senator yield 2 minutes?

Mr. ROTH. I yield 2 minutes to my distinguished colleague.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. BIDEN. Mr. President, everything my friend from Montana said up to a moment ago was basically correct when he said how are the donor States going to feel having another way to spend more money? No more money can be spent for this amendment, No. 1. No. 2, we are a donor State. We are for it. No. 3, the idea that somehow there are other ways to spend the money meaning that we are going to be taking money from one State and spending it another State is not accurate. I do not think he meant to say that. He may have left that impression.

Mr. BAUCUS. I appreciate that. If the Senator will yield, what I meant to say is that it is not more money, but a donor State spending money for more purposes.

Mr. BIDEN. We are a donor State. We like that opportunity.

Lastly, the list from the cement manufacturers to the highway people, it seems like 100 years ago when I first got here in 1973 and was on the committee that the Senator is now the ranking member. Then every one of those interests were against anything that had to do with transportation other than highway. They always will, they always were, they always will be, and they always have. They were against the ISTEA provision that is related to transportation other than highways. They are against anything that does not lay cement, macadam, or concrete. It is real simple. Do not blame them. It is all there, the naked self-interest which is the way this place runs. OK, but the idea that they are against this, they never have been for anything at all progressive that related to any mode of transportation other than laying concrete, so help me goodness.

I yield the 10 seconds I probably have left.

Mr. LAUTENBERG. If the Senator will yield for one question, does he think the automobile manufacturers are not objecting when they want to preserve all of the funding that we could muster for highways?

Mr. BIDEN. Mr. President, I think the automobile manufacturers—my father having been an automobile salesmen his entire life—are honorable, decent people who know their self-interest, and I respect them for that.

Mr. ROTH. Mr. President, I want to emphasize once more that the Roth-Biden amendment requires no new spending. It does not change any Federal transportation formula. It does not require a State to spend any money on Amtrak or intercity rail. It simply provides States with the flexibility to support Amtrak with funds they already qualify for, and it responds to a real need, a real need expressed by Governors around the country who are seeking the means to support Amtrak services that have been cut back. It promotes State responsibility in support of our national transportation system.

Current prohibitions against using Federal funds for Amtrak frankly skews public policy away from a cleaner, cheaper option—intercity rail. Highway user fees, gas taxes, already go to fund many other surface transportation options from mass transit to hike and bike trails. Only intercity rail is cut off from those funds. States cannot now choose to support Amtrak with those funds.

At the same time that they are losing Amtrak services, many of our States find themselves with unused surpluses and programs they do not need.

So the goal of our highway bill is to increase State and local flexibility to improve the efficiency of our national transportation system.

This amendment would promote that goal and remove what I believe to be an arbitrary restriction on States' transportation choices.

I yield the floor.

Mr. WARNER. Mr. President, I have done a great deal of work on this amendment.

Mr. President, I rise in opposition to the Roth-Biden amendment to make Amtrak activities, including operating expenses and acquisition of equipment, eligible for National Highway System funds.

If the amendment before us is adopted, it will reverse the momentum and progress of the National Highway System and the purpose of this bill. It would drain the gas out of our tank.

The NHS will ensure that our surface transportation network performs to maximum efficiency. In order to meet this maximum level of efficiency, the highway trust fund must remain in tact to meet the funding requirements needed to meet our urgent number of highway and bridge needs.

The American taxpayer pays into the highway trust fund through gas taxes. We must "keep faith" with our citizens to ensure that existing roads are maintained and where necessary new roads are constructed. Those who have paid into the highway trust fund expect that their fuel taxes will be available to respond to our highway needs.

While there is no doubt that Amtrak has started to make some needed restructuring improvements in their day-to-day operations, it is clear that a complete overhaul of the system is necessary.

As the Federal Highway Administration has stated that the highway trust fund cannot begin to meet existing highway and bridge needs, it is not wise to dilute the effectiveness of these limited dollars. It is estimated that $290 billion is needed to fund the backlog of repairs and improvements to the current highway system. By diverting any of the $6.5 billion annual authorization for the National Highway System to Amtrak, we would be placing our roads and bridges in jeopardy.

At a time when transportation infrastructure dollars are so constrained, priority funding should go to those areas of transportation which will move the largest number of goods and people across the country. The NHS roads carry about 40 percent of all highway traffic and 75 percent of all commercial truck traffic. Over 80 percent of intercity passenger miles are traveled on our highway system, not on Amtrak. In fact, Amtrak carries less than 1 percent of all intercity passenger rail miles.

I have in the past and will continue to be a supporter of Amtrak. It is undeniable, however, that Amtrak currently carries a very low percentage of all intercity passenger miles traveled in comparison to our Nation's highways. The highway trust fund, to which rail passengers have made no contributions, must not be used for this purpose.

I ask unanimous consent to have printed in the RECORD certain documents relating to my comments.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, May 1, 1995.

Hon. JOHN W. WARNER,
Committee on Environment and Public Works, U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: On behalf of the U.S. Chamber of Commerce Federation of 220,000 businesses, 3,000 state and local chambers of commerce, 1,200 trade and professional associations, and 72 American Chambers of Commerce abroad, I urge you to oppose any effort to include Amtrak routes in the National Highway System (NHS).

Senators Roth, Biden, Murray, Moynihan, Jeffords, and Leahy have introduced legislation (S. 733) that would provide states with the flexibility to shift Highway Trust Fund dollars to Amtrak's capital and operating budgets. We are concerned that portions of this bill may be offered as an amendment during the Environment and Public Works Committee markup of S. 440, the "National Highway System Designation Act of 1995." Given that the United States is investing significantly less than the amount needed to maintain our roads and bridges, a subsidy for Amtrak, via Highway Trust Fund dollars, would be an affront to many of our members who expect their fuel taxes to be spent for their intended purpose.

In these times of budgetary cutbacks and competing demands, the NHS represents good government. It gives priority funding to those roads that are most important to our commercial and personal commuting needs. In fact, the NHS only accounts for four percent of America's total system mileage, yet will carry 40 percent of all travel and 75 percent of all commercial vehicle travel. Also, 95 percent of all businesses will be within five miles of the NHS. Moreover, the NHS represents a bottom-up approach, whereby state and local officials played an instrumental role in formulating the Department of Transportation's designation map.

However, if an Amtrak amendment is successful, the Chamber's support for S. 440 would be in serious jeopardy. In particular, we are very concerned about the findings contained in a February 1995 General Accounting Office report on Amtrak which shows that:

Not a single Amtrak route is profitable when capital costs are taken into account; revenues cover only 65 percent of the cost;

Amtrak will need $4 billion in capital investment just to maintain its equipment and facilities;

Over the next five years, Amtrak will accrue a $1.3 billion operating deficit, despite its revenues and its $1 billion-per-year federal subsidy; and

Despite service cutbacks and other cost-cutting measures, Amtrak is unlikely to close its deficit gap.

The September 30, 1995 deadline for passage is coming quickly. The needs of the transportation infrastructure are too important to let this opportunity pass by. Failure to act will mean losses of $13 billion in NHS funds to states for fiscal 1996 and 1997, which could translate into fewer economic benefits for the economy. Because the NHS designation represents a long-term commitment to our country's productivity and competitiveness, the Chamber urges passage of a bill that focuses on the designation and respectfully requests the defeat of any weakening amendments, such as language contained in S. 733.

Sincerely,

R. BRUCE JOSTEN.

AMERICAN ROAD & TRANSPORTATION
BUILDERS ASSOCIATION,
Washington, DC, April 25, 1995.

Hon. JOHN WARNER,
Chairman, Subcommittee on Transportation & Infrastructure, U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: The 4,000 members of the American Road & Transportation Builders Association commend you for your leadership in moving to secure Senate approval of S. 440 designating routes of the National Highway System. We strongly support prompt enactment of this legislation to avoid any possibility of missing the September 30 deadline and the resulting loss to the states of a substantial part of their federal highway funding.

We fully agree with your statement at the time you introduced S. 440 that nothing should stand in the way of its enactment. We are concerned, however, that other legislation being prepared for introduction would constitute an impediment to the NHS bill. That legislation, expected to be introduced by Senators Roth and Biden, would make the Amtrak passenger rail system eligible for NHS funds. Inclusion of Amtrak funding eligibility in the NHS bill would cause ARTBA to seriously reconsider its support of this legislation and would result, we believe, in a general erosion of support by other key groups.

The NHS is designed to be the principal focus of federal highway investment well into the next century. This system carries a large proportion of the nation's commercial and personal traffic. It needs billions of dollars of investment to allow it to perform this mission effectively and economically. The resources of the Highway Trust Fund already are inadequate to meet highway and bridge needs, estimated in 1993 by the Department of Transportation at $290 billion. Any further diversion of user fees paid by the nation's highway users would be totally unacceptable.

Amtrak is an important component of the American transportation system. Congress should provide it with financial assistance—from the general treasury—to the extent it deems necessary and prudent. The Highway Trust Fund, to which rail users make no contribution, should not be used for this purpose.

Mr. Chairman, ARTBA is ready to work with you in securing enactment of NHS designation legislation. We strongly oppose, however, the inclusion in that bill of any provision that would dilute trust fund revenues by making them available to Amtrak or for any other use not currently authorized.

Sincerely,

T. PETER RUANE,
President and CEO.

AMERICAN TRUCKING
ASSOCIATIONS, INC.,
Alexandria, VA, May 5, 1995.

Hon. JOHN W. WARNER,
Environment and Public Works Committee, U.S. Senate, Washington, DC.

DEAR SENATOR WARNER: On April 27th, Senator Roth (R-DE) introduced S. 733, legislation that would add Amtrak routes to the National Highway System, in effect, making the rail system eligible for capital and operating subsidies funded through Highway Trust Fund receipts. This proposal is bad law and bad policy and should not be added to NHS approval bill, S. 440. Adding S. 733 would create a contradiction to the committee's long-stated goal of passing a clean NHS bill. Further, this diversion would create unsafe highways, not meet national transportation needs, and would undercut capital funding.

I urge you to reject this amendment for the following reasons:

It would create unsafe highways. According to the Federal Highway Administration, there is not enough money in the Highway Trust Fund to meet existing highway and bridge needs. Specifically, $290 billion is needed to fund the backlog of repairs and improvements to the system. Diverting funds from these needs creates a real safety problem, such as when the I-95 bridge in Connecticut failed in 1983.

It would not meet national transportation needs. The intercity rail passenger system only carries .3% (one-third of one percent) of intercity passengers. It does not move any of America's freight. Diverting funds to pay Amtrak expenses will not significantly benefit auto congestion. It would also establish a major highway user subsidy unfair to companies that carry intercity passengers—the bus and aviation industries.

It undercuts capital funding. The Roth bill would allow up to $3.25 billion a year of capital funding to be used for Amtrak salaries and operating costs. Faced with an imminent and unplanned loss of a state's intercity rail service, a state would be under extreme political pressure to shortchange its multi-year capital improvement program and pay the operating costs. The future suffers.

The Roth proposal fails to solve Amtrak's underlying problems. In fact, it seems to sustain them. Amtrak was conceived with the objective that it would meet its expenses from operating revenues. Instead, it has sought ever increasing federal and state subsidies and has slashed services. While recognizing that some intercity routes truly make sense, replacing the General Fund subsidy to Amtrak with a highway user subsidy fails to solve its dilemma.

Please join me in preserving the use of highway user revenues for highway users. I look forward to working with you and your staff on this important issue. If you have any questions, please call

Sincerely,

THOMAS J. DONOHUE,
President and Chief Executive Officer.

NATIONAL ASPHALT
PAVEMENT ASSOCIATION,
Lanham, MD, April 25, 1995.

Hon. JOHN WARNER,
U.S. Senate, Russell Building,
Washington, DC.

DEAR SENATOR WARNER: The National Asphalt Pavement Association (NAPA) opposes the Roth/Biden bill to make Amtrak part of the National Highway System (NHS). This proposal constitutes an enormous potential diversion of highway user fees into subsidized passenger rail service that, according to Amtrak's own estimates, will post a $1.3 billion operating deficit over the next five years.

The NHS is designed to focus federal highway dollars on highways and bridges that are most important for safely moving people and goods in interstate commerce. The nation's highway users should not be tapped to pay the bill for a passenger rail system that provides limited transportation value.

NAPA is the national trade association exclusively representing the Hot Mix Asphalt (HMA) Industry. We have a membership of nearly 800 corporations, most of which are HMA producers and paving contractors. The majority of our members are small businesses, and our member firms produce approximately 70 to 75 percent of the total HMA produced in the United States annually.

NAPA urges you to oppose the Roth/Biden proposal.

Sincerely,

MIKE ACOTT,
President.

HIGHWAY USERS FEDERATION,
Washington, DC, April 27, 1995.

Hon. JOHN CHAFEE,
Chairman, Environment & Public Works Committee, U.S. Senate, Washington, DC.

Hon. MAX BAUCUS,
Ranking Democratic Member, Environment & Public Works Committee, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN AND SENATOR BAUCUS: The Highway Users Federation strongly opposes any effort to include Amtrak routes in the National Highway System (NHS). Senators Roth, Biden, Murray, Moynihan, Jeffords, and Leahy have introduced S. 733 to do just that, and we understand elements of their bill may be offered as an amendment during Environment and Public Works Committee mark up of S. 440, the "National Highway System Designation Act of 1995." In my judgment, if such an amendment were approved, the current widespread support for the NHS in the private sector would be seriously eroded.

The NHS is intended to focus federal highway dollars on those roads that are most important for meeting America's personal, commercial, and defense mobility needs. S. 440 designates the routes identified by Transportation Secretary Federico Peña, based on the recommendations of state and local officials. These roads carry 40% of all highway traffic and 75% of commercial truck travel. Over 80% of intercity passenger miles are traveled by highway, and NHS routes carry the bulk of that passenger service.

In stark contrast, Amtrak carries just three-tenths of one percent (0.3%) of all intercity passenger miles traveled. Ridership and revenues continue to fall, according to a February 1995 General Accounting Office (GAO) report, and even in the Northeast Corridor where the railroad gets its heaviest ridership, revenues cover only 65% of costs. Not a single Amtrak route is profitable when capital costs are taken into account, GAO says. Over the next five years, Amtrak will accrue a $1.3 billion operating deficit—even after accounting for both its revenues and a billion dollar-per-year federal subsidy. In addition, the railroad will need $4 billion in capital investments just to keep its facilities and equipment in working order.

It's clear why Amtrak's leadership and supporters would be looking for a financial prop. GAO says, however, that even the service cutbacks and other cost-cutting measures recently instituted by Amtrak are unlikely to close the deficit gap, and Congress should consider whether the railroad's "original mission of providing nationwide intercity passenger rail service" is still appropriate.

Whatever decision Congress makes with respect to Amtrak, the Highway Trust Fund should not be tapped for the subsidy. The U.S. already invests about $13 billion per year less than the amount needed just to maintain conditions on our roads and bridges, according to the Federal Highway Administration. This under-investment has resulted in a current backlog of $290 billion in needed road and bridge repairs. There simply is not enough money to meet our fundamental transportation needs, let alone enough to subsidize a passenger rail system that shows no promise of ever paying its own way.

Along with other organizations participating in the Keep America Moving coalition, an alliance of businesses, trade associations, and consumer groups dedicated to prompt enactment of the NHS, we are building constituent and media support for the NHS. We believe the bipartisan list of S. 440 cosponsors, including 15 Environment and Public Works Committee members, reflects the widespread public support for the NHS, and we hope the legislation ultimately reported by the committee will enjoy the same breadth and depth of support.

Sincerely,

WILLIAM D. FAY,
President.

AMERICAN PORTLAND CEMENT ALLIANCE,
Washington, DC, June 19, 1995.

Hon. JOHN WARNER,
Chairman, Transportation and Infrastructure Subcommittee, U.S. Senate, Washington, DC.

DEAR JOHN: The American Portland Cement Alliance (APCA), which represents virtually all U.S. cement production, would like to thank you for your leadership on S. 440, the "National Highway System Designation Act of 1995."

In light of positive developments, APCA has become aware of an amendment which Senator Roth may offer to make Amtrak routes eligible for federal highway funds. APCA strongly opposes the Roth amendment.

Motorists' fuel taxes paid into the highway trust fund should be used to construct and maintain our nation's highways and bridges—not to subsidize passenger rail service. The nation's highway system has a $290 billion backlog of road and bridge needs and cannot afford to spend limited dollars for other than their intended purpose.

In addition, Amtrak carries only three tenths of one percent (0.3%) of all intercity passenger miles traveled and no freight. In contrast, highways carry over 80% of intercity passenger miles and nearly 80% of the dollar volume of all freight moved in the United States.

APCA urges you to continue your support for prompt passage of S. 440, and to oppose an amendment to subsidize Amtrak with highway funds.

Sincerely,

RICHARD C. CREIGHTON,
President.

Mr. WARNER. Mr. President, I do not feel that the various organizations in opposition to this amendment have in any way tried to state their case other than in a straightforward way. I have received—perhaps the other managers have—a letter from the chamber of commerce.

They state very succinctly in here the following:

> However, if an Amtrak amendment is successful, the Chamber's support for S. 440 would be in serious jeopardy. In particular, we are very concerned about the findings contained in a February 1995 General Accounting Office report on Amtrak which shows that:
>
> Not a single Amtrak route is profitable when capital costs are taken into account, revenues cover only 65 percent of the cost;
>
> Amtrak will need $4 billion in capital investment just to maintain its equipment and facilities;
>
> Over the next five years, Amtrak will accrue a $1.3 billion operating deficit, despite its revenues and its $1 billion-per-year federal subsidy; and
>
> Despite service cutbacks and other cost-cutting measures. Amtrak is unlikely to close its deficit gap.
>
> The September 30, 1995 deadline for passage is coming quickly. The needs of the transportation infrastructure are too important to let this opportunity pass by.

They continue, I think, in a very responsible, straightforward way.

I do not find that those petitions to try to intervene on behalf of those of us who feel that this amendment is not wise have in any way gone beyond the facts and how they interpret their facts in terms of their own interests.

So, I conclude by saying that the statements by the Senator from Montana, particularly those referencing the gas tax—and the citizens go up to the tank. I happen to be from a donor State and represent a donor State. They pay that Federal gas tax knowing or hoping that an equal percentage would come back to the State, the Commonwealth of Virginia. Regrettably, it does not. We do not get back in my judgment all that we ought to in a fair proportion. But that battle is for another day, and I will join others in waging it.

Consequently, when a rider for Amtrak goes down and gets on the train he or she does not pay a similar tax as does the driver of an automobile.

So this amendment, in effect, would let Amtrak back up to that driver's gas tank and drain out the gas. It would take the gas out of the momentum that we now have for this particular highway program, and we have good momentum. I do not want to see that happen. This bill will add to that momentum.

So accordingly, Mr. President, I will suggest and urge my colleagues not to accept this amendment.

Mr. President, on behalf of the managers, we yield back our time.

Mr. President, I move to table and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to table.

Mr. WARNER. Mr. President, leadership requests a quorum call be placed, and I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I support the amendment offered by my colleagues from Delaware. This amendment reinforces the flexibility that the Intermodal Surface Transportation Efficiency Act, so-called ISTEA, gave to the States in setting the States' transportation policies.

That landmark legislation allowed States and local officials, for the first, time to determine how they want to spend their money. They can spend it on highway projects or transit facilities or other alternative transportation methods, even to the extent of bikeways and pedestrian walkways.

The amendment by the Senators from Delaware builds on this flexibility by enabling the States to direct their so-called congestion mitigation and air quality and surface transportation program funds to intercity passenger rail.

Passenger rail service is an important national resource. It is particularly important to the region of the country that includes my State, Rhode Island. I cannot imagine what the transportation situation would be on the east coast without passenger rail service, other than total gridlock. The highways and airways are already extremely congested and there is little room to build more highways and airports. The cost of building major new facilities in this part of the country would be prohibitive.

We have one example now in this part of the country—the central artery in Boston. The cost of improving 3.5 miles of highway and building a 3.5 mile third harbor crossing is now estimated at $8 billion and rising—over $2 billion a mile. Imagine what kind of passenger rail service we could have for $8 billion.

Yet, we are clearly in danger of losing passenger rail service in this country, and I believe that would be a terrible mistake.

Over the past year, Amtrak has been in the process of restructuring its operations. So far, the results are encouraging. Thomas Downs, the president and chairman of the board of Amtrak, testified before the Surface Transportation Subcommittee last Friday that Amtrak is ahead of schedule in achieving a net savings of $173 million for fiscal year 1995. Amtrak is also working on innovative financing options, such as partnerships with State and local officials.

Amtrak has a pivotal role to play in the Nation's transportation system. Intercity passenger rail is a vital link between automobile, bus, transit, and aviation transportation. Although the bill before us is entitled the National Highway System Designation Act, the NHS designation is a part of a multimodal national transportation system. We must not forget the big picture.

I want to point out just a few of the benefits of passenger rail.

First, passenger rail travel has made a significant contribution to the economic growth and prosperity of our Nation. Rail service in the Northeast corridor, for instance, has contributed to a major expansion of economic opportunities in the areas of Boston, New York, and Washington. It has also given other smaller cities like New Haven, CT; Trenton, NJ; and Providence, RI, the ability to take advantage of economic development opportunities that they would not otherwise have.

Second, Amtrak provides travelers with a fuel efficient alternative to crowded highways and airways. As our highways and airways become more and more congested, travelers need more choices in mobility. Rail provides an environmentally sound alternate mode of travel to the automobile.

Finally, there is the larger issue of State flexibility. One of the central principles of the surface transportation law is that State and local officials should have as much flexibility as possible to spend Federal-aid funds on their highest priorities.

Another important ISTEA principle is that the best transportation system is an intermodal system. All modes of transportation must be considered when funding decisions are made. The Senators' amendment will give States the flexibility to consider the needs of passenger rail when they make their transportation funding decisions.

The amendment of the Senators from Delaware is in keeping with the flexibility that is so important for the success of the surface transportation law. It does not require the States to spend any of their ISTEA money on passenger rail. It simply provides the States with another tool to provide passenger rail service if they choose to do so.

It is my hope that the amendments by the Senators from Delaware will be approved.

Mr. CHAFEE. Mr. President, I suggest the absence of a quorum. 3

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I would like to propose the following unanimous-consent request: That the present amendment be laid aside, and that the Senate then proceed to the amendment by the Senator from West Virginia, and if the yeas and nays are ordered on it, that the vote be set aside, and the Senate then proceed to debate on the amendment of the Senator from North Dakota [Mr. DORGAN], and at the conclusion of that all three votes occur in sequence but that should not occur before the hour of 7:40 p.m.

I now yield to the Senator from Montana.

Mr. BAUCUS. Mr. President, I inquire of my good friend and colleague from Virginia, I wonder if that could be further amended so that there could be other amendments considered prior to the time indicated in the event not all time is used on those two amendments, that is, the amendment offered by the Senator from West Virginia as well as the amendment offered by the Senator from North Dakota.

Mr. WARNER. Mr. President, I did not understand the Senator from Montana.

Mr. BAUCUS. It is possible that not all time will be used.

Mr. WARNER. That is correct. And if there is a period of time following the sequence of these amendments, then the Senate could turn to consideration of other amendments but the understanding is no votes would occur before the hour of 7:40 p.m.

Mr. BAUCUS. Right. Correct.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, will the vote on my amendment be up or down—up or down on the amendment?

Mr. WARNER. Mr. President, I would recommend that that be the case.

Mr. BYRD. I ask unanimous consent that the vote occur on the amendment.

The PRESIDING OFFICER. Is there objection to the request, as so modified? Without objection, it is so ordered.

Mr. WARNER. I yield the floor.

Mr. BYRD. Mr. President, I yield myself such time as I may require from the time allotted to me.

AMENDMENT NO. 1446

(Purpose: To require the withholding of Federal highway funds if a State fails to provide that any minor in the State who operates a motor vehicle and has a blood alcohol concentration above a specified level shall be considered to be driving while intoxicated or driving under the influence of alcohol)

Mr. BYRD. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER (Ms. SNOWE). The clerk will report.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself, Mr. EXON, Mr. BUMPERS, Mr. BRADLEY, Mr. BIDEN, Mr. GLENN, Mr. HATFIELD, Mr. DODD, Mr. LAUTENBERG, Mr. JOHNSTON, Mr. SIMON, Mr. INOUYE, Mr. ROCKEFELLER, Mrs. BOXER, Mr. DASCHLE, Mrs. FEINSTEIN, Mr. MOYNIHAN, Mr. REID, Mr. PRYOR, Mr. HARKIN, Mr. STEVENS, Mr. HATCH, Mr. LEVIN, Mr. BAUCUS, Mr. WELLSTONE, Mr. DORGAN, Ms. MOSELEY-BRAUN, and Mr. PELL, proposes an amendment numbered 1446.

Mr. BYRD. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . OPERATION OF MOTOR VEHICLES BY INTOXICATED MINORS.

Section 158(a) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) OPERATION OF MOTOR VEHICLES BY INTOXICATED MINORS.—

"(A) FISCAL YEAR 1998.—If the condition described in subparagraph (C) exists in a State as of October 1, 1998, the Secretary shall withhold, on October 1, 1998, 5 percent of the amount required to be apportioned to the State under each of paragraphs (1), (2), (5), and (6) of section 104(b) for fiscal year 1998.

"(B) FISCAL YEARS THEREAFTER.—If the condition described in subparagraph (C) exists in a State as of October 1, 1999, or any October 1 thereafter, the Secretary shall withhold, on that October 1, 10 percent of the amount required to be apportioned to the State under each of paragraphs (1), (2), (5), and (6) of section 104(b) for the fiscal year beginning on that October 1.

"(C) CONDITION.—The condition referred to in subparagraphs (A) and (B) is that an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater when operating a motor vehicle in the State is not considered to be driving while intoxicated or driving under the influence of alcohol."; and

"(2) in paragraph (2), by striking "AFTER THE FIRST YEAR" and inserting "PURCHASE AND POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS".

Mr. BYRD. Madam President, I have offered this amendment on behalf of myself and the following Senators: Senators EXON, BUMPERS, BRADLEY, BIDEN, GLENN, HATFIELD, DODD, LAUTENBERG, JOHNSTON, SIMON, INOUYE, ROCKEFELLER, BOXER, DASCHLE, FEINSTEIN, MOYNIHAN, REID, PRYOR, HARKIN, STEVENS, HATCH, LEVIN, BAUCUS, WELLSTONE, DORGAN, MOSELEY-BRAUN, and PELL.

Mr. WARNER. Madam President, would the distinguished Senator from West Virginia add the Senator from Virginia as a cosponsor?

Mr. BYRD. I would be delighted. I ask unanimous consent that I might add the able Senator from Virginia, Mr. WARNER, as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, one of the most important and pressing problems on our Nation's highways is teenage drunk driving. Today I am offering an amendment that seeks to address this persistent, serious, and tragic problem. My amendment would require that the States adopt a "zero tolerance" standard for drivers under the age of 21. If States fail to adopt a driving-while-intoxicated [DWI] or a driving-while-under-the-influence [DUI] policy of .02 percent of blood-alcohol content for minors, they will lose 5 percent of their Federal highway construction funds in fiscal year 1998, and 10 percent of their Federal highway funds every year thereafter.

My amendment builds upon one of the most important—and successful—Federal initiatives related to alcohol and minors—a 1984 requirement that States adopt laws prohibiting the possession or purchase of alcohol by anyone younger than twenty-one years of age. Any State not in compliance by September 30, 1985, forfeited 5 percent of its Federal highway construction funds for that year and 10 percent of its Federal highway construction funds for each year of non-compliance thereafter. Before enactment of this law, only 18 States had a 21-year-old minimum drinking age. Today, all States have 21-year-old drinking age.

So that single action by the Congress and the States has significantly helped to reduce the carnage on our Nation's highways. The National Highway Traffic Safety Administration [NHTSA] has estimated that the 21-year-old drinking age has saved 8,400 lives since 1984. Further, in 1993, the last year for which statistics are available, the 21-year-old drinking age requirement is estimated to have saved $1.8 billion in economic costs to our society.

The Congress should now take the next step, and explicitly state, as a matter of law, that minors are not allowed to drink and drive. My amendment is simple and straight forward—since it is illegal for minors under the age of 21 to possess or purchase alcohol—that is, publicly possess or purchase alcohol—any level of consumption that is coupled with driving should be treated, under the requirements of each State's laws, as driving while intoxicated.

This amendment sets the right example, and tells our Nation's youth that drinking and driving is wrong; that it is a violation of law; and that it will be appropriately punished according to the laws of each State. To oppose this amendment is to send exactly the opposite message: namely, that it is acceptable and legal for a minor, who has been drinking, to drive a car, as long as that minor is under the DWI or DUI blood alcohol level for an adult over the age of 21.

In other words, my amendment corrects a glaring loophole in Federal law. Consider the example of a State that follows Federal law to the letter, and has made it illegal for a minor under 21 years of age to publicly possess or purchase alcohol. That same State, let us say, has a typical driving-while-intoxicated standard of a blood alcohol level of 0.10 percent. A minor in that State could consume alcohol in a private residence, and then legally drive an automobile, as long as the minor's blood alcohol level registers below 0.10 percent.

Under my amendment, the message to that minor is clear: you cannot drink and drive. Period. And, hopefully, this type of tough and absolute requirement in the law will encourage our young people not to drink at all.

As I explained, the passage of the Federal 21-year drinking age in 1984 led to the enactment of that standard by all 50 States. It is my expectation and hope that if my amendment were adopted, it would have similar results and increase the number of States that have zero tolerance laws from the current 24 States and the District of Columbia, to all of the States.

This zero tolerance amendment will save lives, and the life saved may be yours. It will save lives in the single most vulnerable group of drivers, namely teenagers. For the simple fact is that alcohol, when mixed with teenage driving habits, is a lethal combination.

First, let us examine the driving record of teenagers. As the chart to my left shows, of the percentage of drivers in fatal crashes who are exceeding the speed limit or traveling too fast for road conditions, teenagers are far more likely to be involved. This happens because teenagers are more likely, compared to older drivers, to engage in risky driving practices. A teenager's lack of experience and over confidence can lead to accidents that often have fatal results, not only to teenagers, but also to their passengers or to pedestrians or to individuals in other automobiles, other innocent victims.

Teenagers are also involved in far more crashes than older drivers. As the chart to my left shows, a much higher percentage of teenagers than any other group is involved in police-reported crashes per million miles traveled.

Adding alcohol to this situation can make it a deadly combination for teenagers and for other drivers on the road. Quite simply, teenagers who drive while consuming alcohol are far more likely to speed, to be distracted by other passengers, to disregard road signs and conditions, and to drive recklessly.

As a result, according to NHTSA, 40 percent of the traffic fatalities in the teenage group are alcohol related. Forty percent of the traffic fatalities involving drivers, ages 15 to 20, are alcohol related. The result is carnage on our Nation's highways. Twenty-eight percent of 17- to 19-year-old drivers who were killed in 1993 crashes had high blood alcohol concentrations.

But our concern should not only be for the teenage drivers, but also for the innocent, law-abiding victims who are killed and maimed by teenage drunk drivers. In 1994, approximately 2,200 people were killed because of minors who were drinking and driving, and of that group, 1,600 were young people themselves.

Teenagers are generally inexperienced at both drinking and driving, so even small amounts of alcohol combined with driving can result in serious accidents and death. Approximately one-third of the 15- to 20-year-old drinking drivers in fatal crashes had blood alcohol content levels of less than 0.09 percent.

I would like to repeat that fact, as it underscores the importance of my amendment: one-third of all fatal crashes involving teenage drunk drivers involved a blood alcohol level below the DWI level used in most States, and even below a 0.08 or 0.09 DUI standard of some States. In fact, teenage drivers with blood alcohol levels of 0.05 to 0.10 percent are far more likely than sober teenage drivers to be killed in single-vehicle crashes—18 times more likely for males, 54 times more likely for females.

My amendment requires a "zero tolerance" policy, which is already the law in 24 States and the District of Columbia. I am advised that two other States have enacted legislation to provide for zero tolerance, but the legislation has not yet been signed into law, but it is expected to be within the course of the next week or so. This amendment recognizes that when teenagers drink, regardless of the amount, they have significantly increased the probability that their behavior will result in an accident, and a serious one at that. Perhaps fatal. My amendment recognizes that teenagers and alcohol—any amount of alcohol—is a dangerous, and often lethal, combination. We must be consistent, and condemn any level of drinking and driving by minors. To do anything less is to condone the illegal use of alcohol by minors.

The record shows that zero tolerance saves lives. As I have stated, 24 States have already enacted the zero-tolerance law which is called for in my amendment and it has proved to be very effective.

In Maine, North Carolina, Wisconsin, and New Mexico, which have adopted zero tolerance laws, lower blood alcohol limits for minors resulted in a 34 percent decline in nighttime fatal crashes among younger drivers. Various studies have shown that these zero-tolerance laws can reduce fatal accidents, and they will reduce fatal accidents. A 1992 Federal study in Maryland found that car accidents involving drivers under the age of 21 who had been drinking, declined eleven percent after the zero-tolerance law was adopted. Further, there was a 50 percent drop in accidents in areas where the penalties were promoted with a publicity campaign.

Whenever we lower the accident rate on our Nation's highways, we also directly lower costs to society. When someone is injured in a car accident, we all pay a price, either in the form of increased health insurance premiums, or more directly through Medicaid and other forms of State and Federal government assistance. This important point should not be ignored: At the very time that we are trying to lower the deficit, we should not leave a loophole in Federal law that allows teenage drunk drivers to cause accidents that increase Federal health and income-support costs.

The abuse of alcohol continues to be one of the most pressing problems of our society, and the consequences can be felt throughout our Nation—at home, at work, and in public places. While our society has made great strides in recent years, we have barely begun to deal with the problem. And there is no better place to start than with our Nation's youth.

Our Nation's young people are encouraged and tempted to consume alcohol by the movies they see, by the TV commercials, by the magazines they read, and by the huge flow of print advertisements for alcoholic beverages.

But it is adults who must set the example for what is appropriate behavior. And the adults are foremost the parents of these young people. We have a responsibility to the Nation's youth to help prevent drunk driving by adopting this amendment. We should take this positive step—a step that involves clear and decisive action, and not just rhetoric—and help get teenage drunk drivers off the roads.

When it comes to substance abuse in this Nation, alcohol is our biggest scourge. Almost 14 million Americans over 18 are alcoholics. Another 1.3 million suffer alcohol dependency. Overall, close to 8 percent of adults have a problem with liquor, costing the economy an estimated $100 billion every year in lost productivity and in health care costs.

So the very least we can do as a Nation that purports to care about the health, safety, and well-being of its people is to try to nip this alcohol plague in the bud by discouraging the early drinking that often results in later addiction or alcohol dependency.

We have heard a lot of debate during consideration of this legislation about personal freedoms and States rights. But if we, who claim to be national leaders, decline to try to set even bare minimum standards and guidelines for behavior which is dangerous, destructive, and unacceptable for our young people, why have we chosen national public service as a vocation in the first place? At the very least, we should not abdicate our leadership role when it comes to our Nation's most precious resource, its young people. If we do not have the courage to take a stand on this most obvious of issues—drunk driving by minors—we will have surely failed, not only in our official capacity, but also in a larger moral sense as well.

I commend President Clinton for speaking out on this matter.

I ask unanimous consent that a letter transmitted to me today signed by the President, and also other materials that are relevant to the subject about which I have been speaking, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, June 21, 1995.

Hon. ROBERT BYRD,
U.S. Senate,
Washington, DC.

DEAR ROBERT: Drinking and driving by young people is one of the nation's most serious threats to public health and public safety. I am deeply concerned about this ongoing tragedy that kills thousands of young people every year. It's against the law for young people to drink. It should be against the law for young people to drink and drive.

As you know, earlier this month, I called on Congress to make Zero Tolerance the law of the land. I support your amendment to the

National Highway System Designation Act, which would achieve this goal.

A decade ago, we decided as a nation that the minimum drinking age should be 21. In 1984, President Reagan signed bipartisan legislation to achieve this goal, and today all 50 states have enacted such laws. Our efforts are paying off—drunk driving deaths among people under 21 have been cut in half since 1984.

But we must do more. Twenty-four states and the nation's capital have enacted Zero Tolerance laws that consider a driver under age 21 to be "driving while impaired" after just one full drink of alcohol. These laws work—alcohol-related crashes involving teenage drivers are down as much as 10–20 percent in those states. If all states had such laws, hundreds more lives could be saved and thousands of injuries could be prevented.

I commend your efforts today, and I urge the Senate to pass your amendment.

Sincerely,

BILL CLINTON.

From Advocates for Highway and Auto Safety.

Re zero tolerance for youth fact sheet.

Federal law (the National Minimum Drinking Age Act of 1984) requires every state to make purchase or public possession of alcoholic beverages by those under age 21 illegal, or the state loses a portion of its federal highway funds. As a result, all states passed laws making 21 the legal drinking age.

The National Highway Traffic Safety Administration (NHTSA) credits increases in the legal drinking age with preventing close to 1,000 traffic deaths a year. (Public Health Reports Nov-Dec 1994, Hingson, Heeren and Winter)

As of April 1994, 29 states and DC passed lower blood alcohol concentration laws for youthful drivers. 26 states and DC have zero tolerance (.00, .01 or .02) laws.

Youths have a lower tolerance for alcohol than adults and their driving is impaired with any consumption.

Motor vehicle crash injuries are the leading single cause of all injury-related youth fatalities, followed by homicide; In 1993, 5,905 youths age 15–20 died in motor vehicle crashes. 2,364 of those deaths were alcohol-related.

The National Institute on Drug Abuse reports that almost one-third of high school seniors binge drink.

A 1994 study published in the November-December issue of Public Health Reports comparing 12 states with lower tolerance laws for youth to neighboring states without such laws showed that zero tolerance laws are likely to reduce youth fatalities significantly whereas lower tolerance laws (.04 or .06) do not.

A comparison of drivers involved in single vehicle fatal crashes revealed that each .02 percent increase in blood alcohol concentration nearly doubled the risk of fatal crash involvement for all drivers. (Public Health Reports)

According to NHTSA seven percent of licensed drivers are ages 15–20. But 15 percent of drivers in fatal crashes are between the ages of 15 and 20, and 21 percent of deaths in crashes involve a driver of that age.

A study of the first four states to have reduced legal blood alcohol concentration for youths, comparing them to four neighboring states which did not reduce youth legal BAC revealed a 34 percent decline in night fatal crashes among adolescents in those states with reduced legal BAC for youths.

Teen drivers are inexperienced. They are more likely to speed and take other risks on the road. Their inexperience and risk taking combined with impairment from alcohol consumption markedly increase their chances for crashes.

Mr. BYRD. I urge the Senate to adopt my amendment. I reserve the remainder of my time.

I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I rise in support of Senator BYRD's amendment to the national highway system bill relating to zero tolerance for under-age drivers.

In 1984, I sponsored legislation that required States to enact laws making it illegal for anyone under the age of 21 to purchase and publicly possess alcoholic beverages.

I sponsored this legislation for one simple reason—our children were dying on our highways. And they were dying for the sake of a drink.

Studies have shown that alcohol—even at very low levels—can cause young people to lose their judgment and behave without regard to the risks of driving at about twice the rate of drivers 21 or older.

Mr. President, since the national 21 drinking age was enacted nationally, 9 thousand lives have been saved.

And since 1975, when States first started enacting laws like this one locally, as estimated 10,000 lives and over $30 billion in economic costs have been saved.

In 1993 alone, 2,364 youths—young people between 15 and 20 years old—died in alcohol-related crashes.

And 23 percent of the 15- to 20-year-old drivers who were involved in these fatal crashes had some alcohol in their blood.

So how do we keep our children from killing themselves when studies show that over 95 percent of American adolescents will have experimented with alcohol by the time they are seniors in high school?

I believe Senator BYRD's amendment can help us do just that.

Mr. President, there is mounting evidence which demonstrates that blood alcohol concentration levels as low as .015 can impair a person's ability to make the kind of judgments needed to operate a motor vehicle safely.

Mr. STEVENS. Mr. President, I wish to ask the distinguished Senator from Delaware if he would describe the impact on Alaska of the adoption of his amendment No. 1444 to the Federal highway bill, S. 440?

Mr. ROTH. I would be pleased to do so, as I know of the considerable interest of the Senator from Alaska in continuing to see to it that the Alaska Railroad remains one of the premier transportation systems for Alaska. The adoption of amendment No. 1444 authorizes any State that does not have Amtrak service as of the legislation's enactment date, to use the mass transit account of the highway trust fund for capital improvements to, and operating support for, intercity passenger rail service. This means that congestion, mitigation, and air quality funds, as well as Surface Transportation Program funds will be eligible for the State of Alaska to use for its State railroad.

Mr. STEVENS. I thank my good friend for spelling out the details of the impact of this amendment. It will come as good news for the Alaska Railroad Corporation as well as the people of Alaska who rely heavily on this unique rail system.

And as I indicated before, the evidence is clear: young drinking drivers behave differently from older drinking drivers. For young people, more than adults, alcohol—even at very low levels—may cause them to lose judgment and behave without regard to the inherent risks of driving at about twice the rate of drivers 21 years or older.

But despite the evidence, many States still use the same standards to determine if a young person is under the influence as they apply to older drivers.

That does not make sense.

At present 24 States and the District of Columbia have laws which allow zero tolerance for those under 21 who are caught drinking and driving.

These laws consider young drivers in violation the law if they are caught with a .02 BAC level or more. A .02 or .01 BAC level is considered zero tolerance given the present level of technology of alcohol breath-testing devices.

There are an additional eight States that have laws which set zero tolerance for drivers less than 18—or have laws that set lower allowable BAC levels for underage drivers.

A Maryland study showed a 21-percent reduction in alcohol-related traffic accidents involving youth under the age of 21 after it enacted its .02 BAC law for younger drivers. When Maryland combined the .02 BAC law with a public information campaign, alcohol-related traffic accidents involving youth under the age of 21 dropped by 50 percent.

These are impressive statistics. They demonstrate the kind of impact that Senator BYRD's amendment will have on the safety of the American public, particularly young Americans.

The human tragedy of teenage drunk driving is measured in the funerals of too many bright and promising young people who made the fatal decision to drink and drive—and too many funerals of law-abiding citizens who were victimized by drunk drivers.

The national 21 minimum drinking age was a step in the right direction. We need to keep going. The Byrd amendment does that. It will save lives—young lives.

I encourage my colleagues to support the Byrd amendment.

Mr. WARNER. Madam President, the distinguished Senator from Montana and I have conferred as managers. We see no one who wishes to speak at this time on the Byrd amendment. Therefore, I ask unanimous consent that the time remaining on the Byrd amendment be 20 minutes, and that it be equally divided between the Senator from West Virginia and the managers of the bill.

Then the Senate would now proceed to the amendment of the Senator from North Dakota.

Mr. BYRD. Madam President, reserving the right to object, I will not object, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 1445

(Purpose: To require the transfer of certain Federal highway funds to a State highway safety program if a State fails to prohibit open containers of alcoholic beverages and consumption of alcoholic beverages in the passenger area of motor vehicles)

Mr. DORGAN. Madam President, my understanding of the legislative circumstances are that we have set aside the amendment offered by the Senator from West Virginia, in which case I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 1445.

Mr. DORGAN. I ask unanimous consent further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . OPEN CONTAINER LAWS.

(a) ESTABLISHMENT.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 161. Open container requirements

"(a) PENALTY.—

"(1) GENERAL RULE.—

"(A) FISCAL YEAR 1998.—If, at any time in fiscal year 1998, a State does not have in effect a law described in subsection (b), the Secretary shall transfer 1.5 percent of the funds apportioned to the State for fiscal year 1999 under each of paragraphs (1), (2), and (3) of section 104(b) to the apportionment of the State under section 402.

"(B) FISCAL YEARS THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 1998, a State does not have in effect a law described in subsection (b), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of paragraphs (1), (2), and (3) of section 104(b) to the apportionment of the State under section 402.

"(b) OPEN CONTAINER LAWS.—For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State. If a State has in effect a law that makes the possession of any open alcoholic beverage container unlawful in the passenger area by the driver (but not by a passenger) of a motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers, the State shall be deemed in compliance with subsection (a) with respect to the motor vehicle for each fiscal year during which the law is in effect.

"(c) FEDERAL SHARE.—The Federal share of the cost of any project carried out under section 402 with funds transferred under subsection (a) to the apportionment of a State under section 402 shall be 100 percent.

"(d) TRANSFER OF OBLIGATION AUTHORITY.—If the Secretary transfers under subsection (a) any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall allocate an amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out only projects under section 402 that is determined by multiplying—

"(1) the amount of funds transferred under subsection (a) to the apportionment of the State under section 402 for the fiscal year; and

"(2) the ratio of the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs to the total of the sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to any obligation limitation) for the fiscal year.

"(e) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other law, no limitation on the total of obligations for highway safety programs carried out by the Secretary under section 402 shall apply to funds transferred under subsection (a) to the apportionment of a State under section 402.

"(f) DEFINITIONS.—In this section:

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning provided in section 158(c).

"(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning provided in section 154(b).

"(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' has the meaning provided in section 410.

"(4) PASSENGER AREA.—The term 'passenger area' shall have the meaning provided by the Secretary by regulation.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"161. Open container requirements.".

Mr. DORGAN. Madam President, I listened with interest to my colleague, the Senator from West Virginia, Senator BYRD, and I have added my name as a cosponsor to his amendment. I think it is good legislation. I think it will save lives. I am pleased to support him and I hope that my colleagues in the Senate will vote for the legislation he has offered.

I offer an amendment dealing with the same subject, the subject of drinking and driving. My amendment deals with the subject of open containers of alcohol in vehicles.

Sunday was Father's Day in our country, a day that many remembered fondly with our families. Sunday was also a day in which eight people were killed on a California highway, two of them toddlers, four of them children, two adults: a 2-month-old named Antonia, a 2-year-old named Carina, a 3-year-old named Suleima, a 9-year-old named Jairo.

These children were in a car last Sunday on a California highway. I read about it Monday morning. A drunk driver came down the highway and cut into the back of the car that these children were in at a high rate of speed, apparently, in a reckless manner, according to the newspaper accounts. The car began to flip and became a fireball. These six children died on Father's Day in that accident.

The person that pulled in apparently was driving a pickup truck, according to the newspaper accounts, and was drunk. The driver of the truck had been convicted previously of drunk driving and was driving drunk on Father's Day without a license, and kills six children and two adults.

I point this out only because I read about it Monday morning and understood, again, the horror of it. It happens every day, all day, all across this country. Every 30 minutes someone else gets a telephone call or a knock on the door saying, "Your loved one has been killed because someone in this country was driving drunk."

I received a telephone call at 10:30 in the evening telling me that my mother had been killed in a drunk driving accident by a fellow who was fleeing from the police. Never in my life will I forget that telephone call and how I felt about it. I had received calls before. My sister's son, a pizza delivery boy, was also killed. That call came late at night. My cousin's son was killed a couple of weeks ago, the weekend of his high school graduation. He did not cross the stage because he was in a car that was hit by a train, driven, apparently, by someone who also had been drinking.

Everyone understands the pain and the agony of losing friends, acquaintances, and loved ones in accidents on America's roads. And all too often we understand the pain of losing someone in an accident that is caused by someone, also, who drank.

This is not some mysterious disease for which we do not understand the cure. We understand what causes these deaths and we understand how to stop it. People who drink and drive commit murder in this country. We ought not just blithely ignore it any longer.

I do not think my colleagues, know that according to the Department of Transportation, there are six States in America where you can get behind the wheel of your car, use your right hand to put the key in the ignition, and close your left hand over the bottleneck of a bottle of whiskey and drive on down the road and drink your whiskey and be perfectly legal. It is not a problem, because it is not against the law to be able to drink and drive in those States. In over half the States in this country, if the driver cannot drink, the rest of the folks in the car can have a party and pass the bottle around as they drive down the street.

My own view about drinking and driving in this country is that we ought to decide to separate the act of drinking from the act of driving.

I had hoped one day that this Senate will decide to develop an attitude about drinking and driving like the Europeans have. In most European countries, if you go out and see others out at a bar someplace, or a pub, you can be sure that one person out of those five or six people that are together is not drinking.

Why? Because they understand the penalties are far too severe to risk getting picked up for drunk driving. You just do not dare chance it. Most of those countries will not tolerate it. You do not even want to think about the penalty for drunk driving. In our country, all too often, it is a slap on the wrist, and then back to the road.

I was in a car with my late daughter that was hit by a driver so drunk he could not drive after he hit us. He totaled our car. Fortunately, neither of us were hurt. After hitting our car he kept driving and drove about half a block more into a streetlight, where his car stopped. He was too drunk to get out of the car.

Of course, he was not hurt because most often in those accidents it is the other people who are killed. The people who are drunk, by and large, do not get hurt very often.

But the point is, we all understand what is happening on our roads. It is carnage on America's roads.

Now, I do not want to go on a vacation and I do not want the Senator from West Virginia or the Senator from Montana to go on vacation, and drive from one State line to another State and discover that on the public roads in this next State that you are driving into, built in part with Federal funds, we have folks driving toward us who are able to drink in the car. Or we have folks driving toward us with four or five other people in the car, having a party, and that State finds that it is fine.

It is not fine with me. When we spend the billions of dollars to invest in our road system in this country, we ought to decide it is a national purpose to tell the people in this country that it does not matter which line you have crossed, what State you are moving through, in this country we made a decision, you shall not have open containers of alcohol in your car, in your vehicle. It is a national decision. This is a national problem.

My amendment, Madam President, is fairly simple. My amendment would require the States in this country to enact open container laws that prohibit open containers in vehicles.

If a State does not comply within 2 years, then 1.5 percent of its Federal highway construction funds would be transferred to the State's allocation amount for highway safety programs. It does not take the money away from the State. It simply does what we have done previously in the seatbelt laws and says if you do not conform, then 1.5 percent moves from the construction program over to the highway safety program.

If the State does not comply after September 30, 1998, then 3 percent of the money would be transferred to the safety program.

This amendment utilizes the identical incentives to encourage States to prohibit open containers of alcohol as it does on the seatbelt issue.

I know we will likely hear from some who come to this Chamber later 100 reasons why this should not be done. We have always heard reasons why we should not interfere.

This country must soon wake up and decide, as other countries already have in many parts of the world, to tell people who drive drunk that they are murdering people on our highways and we will no longer permit it. We think there should be certain sanctions, tough sanctions, tough punishment for people who drive drunk. I am suggesting that no State should be able to tell the citizens in its State or elsewhere that it is fine, when you enter our State line, to drink and drive. Or it is fine to have alcohol in the car and have other people drinking. At least, it is not fine with me.

We are heading, now, toward the Fourth of July weekend. It is one of the deadliest alcohol-related traffic holidays in our Nation. That is the case every single year. Madam President, 55 percent of the total traffic fatalities on July 4, 1993, the last year for which we have statistics, were alcohol related.

From 1982 to 1993—I came to the Congress in 1981; the person in the chair from Maine I suspect came in 1980 or 1982, somewhere in that period, to the U.S. House of Representatives—since that time, roughly 266,000 Americans have been killed in alcohol-related traffic accidents; 266,000 Americans in an 11-year period. It ought not continue. We ought to stop it and we ought to decide to have the courage as a Congress to tell everybody in this country do not even think about driving if you are drinking. Alcohol and driving do not mix and will not be tolerated anywhere in this country—anywhere in this country.

If the Congress would this evening enact the legislation I am proposing, we would, I think, send a signal in this country that we intend to be tough with respect to this issue. Madam President, 26 States do not have open container laws at the present time, according to the National Highway Traffic Safety Administration. I mentioned that six States do not have laws prohibiting drinking and driving at the same time by drivers. I think there is a way for us to speak to that, and I hope we will.

There are as many reasons as there are people around here to find them that we should not do this. There are 266,000 reasons, 266,000 dead Americans in the last 11 years, whose memory we probably ought to honor today by passing this legislation. I cannot claim how many Americans we will save, how many lives we will save if we do the right thing in our country and tell people you cannot drink and drive; you cannot have open containers in your vehicle. But I know in my heart we are talking about tens of thousands of people, year after year, who will not lose their lives because someone was driving drunk.

There are at least six children in a morgue tonight who died on Father's Day who should not have died: Carina, Antonia, Suleima, Fidela, Jairo, and Omar. I name only six because it would take too long to name the number of people who died from alcohol-related accidents since Sunday, because it is every half hour, every hour of every day someone is killed because of a drunk driver. We can stop it if we will decide to exhibit the courage to stand up on a national basis and say this is our national message: Do not drink and drive in this country.

Madam President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Montana.

Mr. BAUCUS. Madam President, I suggest the absence of a quorum and request the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Madam President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DORGAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Madam President, I ask unanimous consent the time be taken from both sides equally during the quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1446

Mr. BAUCUS. Madam President, I would like to make a couple of comments on the amendment offered by the Senator from West Virginia.

I first want to commend the Senator from West Virginia. This is a very good amendment. It goes to the heart of the problem of teenage drinking. I commend him for offering this amendment. This amendment will help us reduce some of the slaughter on our Nation's highways, particularly the tragic deaths of teenagers.

Mr. BYRD. Madam President, I thank the distinguished Senator. I am very pleased to have him as a cosponsor.

Mr. BAUCUS. I thank the Senator. I might say to the Senator, we are very proud in Montana, particularly in Yellowstone County, of a program called It's Your Choice. It is sponsored by the Yellowstone County commissioners who provide the funding. A fellow named Dick Taylor, who is the head of the former ambulance service in Yellowstone County, saw so many deaths he finally said, "I need to do something about all this, particularly the deaths of teenagers." This program, It's Your Choice simulates crashes, including the police and ambulances coming to the scene of an accident. It is all realistically reenacted in high schools in Billings, MT.

As a consequence, the number of teenage deaths attributable to alcohol in traffic accidents has been reduced. Also the State of Montana has recently passed legislation providing the blood alcohol content cannot be more than .02 percent for teenagers.

The Senator from West Virginia is leading the effort for a national .02 alcohol content for youthful drivers, and I commend the Senator for his efforts.

Mr. BYRD. I thank the Senator, and I also thank the Senator from Virginia.

Mr. WARNER. Madam President, I join my distinguished colleague from Montana in commending my distinguished colleague from West Virginia.

Mr. BAUCUS. Madam President, I ask unanimous consent the pending amendment be temporarily laid aside so I might be able to call up another amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending amendment is set aside.

AMENDMENT NO. 1447

(Purpose: To strike the section repealing restrictions on toll facilities)

Mr. BAUCUS. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for himself and Mr. MCCONNELL, proposes an amendment numbered 1447.

Mr. BAUCUS. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 28, strike line 15 and all that follows through page 29, line 14.

Mr. BAUCUS. Madam President, this amendment is offered on behalf of myself, as well as Senator MCCONNELL. As I am sure my colleagues know, many of us are very pleased with the progress on this bill. It is a vital step in developing a national transportation strategy. It makes important gains in reducing some of the regulatory burden in our States, something we are all interested in doing.

But there is one item here in this bill which concerns me regarding tolls. The amendment I am offering today is very simple. It seeks to maintain current law which prohibits States from converting toll-free interstate highways into toll roads.

Let me explain why this is needed. Current law says States cannot put tolls on an interstate highway unless it was built without using Federal funds. Current law also allows States a little more flexibility on noninterstate highways. They can impose tolls on those roads, but only if it is done in conjunction with major repair or reconstruction.

The theory is you should get something for your money. Unfortunately, the language in the bill removes both of these restrictions. The bill would allow States to place tolls on any Federal highway, including the interstate highway system, regardless of whether or not the road is undergoing repair work.

I think that is a mistake. My amendment strikes this language from the bill. States planning major repairs to interstate highways can still place a toll on that road and use the revenue to pay for the repairs. That makes sense. Once a State pays for the repairs using tolls, further toll revenues can be used for other transportation purposes.

My amendment would prevent States from using toll roads as cash cows; that is, putting tolls on the road just to generate revenue. Drivers already pay a pretty steep gasoline tax in most States, and combined with the Federal-State portion it gets pretty high. I do not think we need yet another tax on top of that.

I urge my colleagues to support the amendment.

I ask unanimous consent that letters supporting the amendment from the American Trucking Association, the Highway Users Federation, and the National Association of Truck Stop Operators be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS,
Washington, DC, June 21, 1995.

DEAR SENATOR: The International Brotherhood of Teamsters urges you to support the effort by Senators Baucus and McConnell to strike section 117 of the National Highway System Bill (S. 440). Section 117 would allow states to impose tolls on interstate highways.

Section 117 is an unnecessary tax increase on the trucking industry and the motoring public. Highway users already pay millions of dollars in taxes annually into the Highway Trust Fund for the construction and repair of interstate highways. Consequently, passage of Section 117 would put the Senate on record as supporting the "double taxation" of highway users. Passage of this additional highway tax will place an economic burden on both the transportation and tourism industries. We encourage you to vote to strike Section 117.

We also encourage you to vote for the amendment likely to be offered by Senator Exon that would establish standards for truck trailer lengths under the NAFTA. We support the Senator's proposal to limit single trailer lengths to fifty three feet. It is imperative that U.S. highway safety standards are not compromised during negotiations to establish common truck safety standards under the NAFTA. Senator Exon's proposal is a critically important step in ensuring that we preserve the highest highway safety standards possible in North America.

Sincerely,

WILLIAM W. HAMILTON, Jr.,
Governmental Affairs Department.

HIGHWAY USERS FEDERATION,
Washington, DC, June 15, 1995.

Hon. MAX BAUCUS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BAUCUS: The Majority Leader moved to consideration of S. 440, the "National Highway System Designation Act of 1995," this afternoon. With fewer than 50 congressional working days remaining before the September 30 NHS funding deadline, prompt action on this measure is urgently needed. We want to inform you of our views on two specific amendments that may be offered during floor consideration of S. 440.

Tolls—we understand Senators Baucus and McConnell will offer an amendment to strike the section of S. 440 that would allow tolls to be placed on existing, free Interstate highways, We strongly support the Baucus/McConnell amendment. The prohibition against tolls on Interstate highways has existed for 40 years. Nearly 100% of the Interstate System is completed and open to traffic, paid for by highway users. To allow tolls now on existing, free Interstates is akin to charging a homeowner rent. Highway users have paid for construction of the Interstates and continue to pay for Interstate maintenance through Federal and state user fees. In addition, tolls on Interstate highways would seriously restrict the flow of interstate commerce and the mobility that American families and businesses depend on and have come to expect.

Amtrak—we understand Senator Roth may offer an amendment to make Amtrak routes eligible to receive Federal highway funds. We would strongly oppose the Roth amendment. Amtrak carries just three-tenths of one percent (0.3%) of all intercity passenger miles travelled and no freight. By contrast highways carry over 80% of intercity passenger miles and almost 80% of the dollar volume of all freight moved in the U.S. With a $290 billion backlog of road and bridge needs, it makes no sense to subsidize passenger rail service with our limited highway dollars.

The NHS is vital to America's economic and defense needs. We hope the bill approved by the Senate will garner the broad, bipartisan support that this important program deserves.

Sincerely,

THOMAS J. DONOHUE,
President & CEO, American Trucking Associations, Inc.
WILLIAM D. FAY,
President, Highway Users Federation.

NATSO, INC.,
Alexandria, VA, June 20, 1995.

Hon. MAX BAUCUS,
U.S. Senate,
Washington, DC.

DEAR SENATOR BAUCUS: On behalf of NATSO, Inc., the professional and legislative representative of America's travel plaza and truckstop industry, I am writing to express grave concerns about a provision in S. 440 that would allow states to establish tolls on the Interstate highway system. I understand that you and Senator McConnell are offering an amendment to delete this provision, and the eight NATSO member locations in Montana as well as the more than 1,070 member locations nationwide strongly support your efforts.

NATSO opposes this provision for several reasons. First, highway users have already paid for the Interstate system. Every time fuel is purchased, motorists pay a tax into the highway trust fund that goes to support the Interstate system. Allowing the states the opportunity to collect tolls from Interstate travelers is nothing more than a new tax on the highway user. The Interstate traveler should not be forced to pay again for something already purchased.

Also, this provision will undoubtedly shift traffic from Interstate highways, proven to be the safest and most efficient, to secondary roads that have not been designed to handle large volumes of traffic. This proposal will increase congestion and traffic accidents. It will also devastate the truckstops, travel plazas and thousands of other roadside businesses that provide goods and services to the Interstate traveler.

Finally, if more transportation funds are needed, we believe that Congress should spend down the $19.6 billion languishing in the highway trust fund. Instead of being used for its intended purpose, the highway trust fund is currently held hostage to make the federal deficit appear smaller. Asking the highway user to pay more—at a time when tax money already collected is not being spent—is wrong.

Again, NATSO strongly supports your amendment to delete this toll provision from S. 440. We will gladly provide assistance to you in your efforts to pass this amendment.

Sincerely,

W. DEWEY CLOWER,
President.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, the managers are going to accept this. I see the presence of the cosponsor of the amendment on the floor. Following his remarks, I will then speak to the pending amendment.

So I yield the floor.

Mr. McCONNELL. Madam President, I thank my friend from Virginia, and I want to commend the Senator from Montana for the amendment he has offered of which I am the principal cosponsor.

I think he has adequately described the rationale for the amendment. Essentially, it is that we do not want the States to turn the interstate system into a way to raise revenue for themselves. That is not the basis upon which the Interstate Highway System was constructed.

This amendment would guarantee that could not happen. I am proud to be the principal cosponsor of this amendment.

Madam President, this amendment would strike section 117 of this bill. The provision I would like to remove is one that repeals the prohibition against States imposing tolls in Federal-aid highways, including the Interstate System.

To put it more simply, my amendment continues the ban on State tolling of federally built highways. Or to say it even more plainly, if you gave at the office, you should not have to give again on the road.

The Interstate System had helped to open up this vast country, removing all limitations on mobility. However, if section 117 is not removed from the bill, it could potentially turn our Interstate System into a heavily milked cash cow, where States squeeze additional dollars out of road that have already been paid for, through the excise tax on gasoline.

From sea to shinning sea, we could find our Federal highways transformed into elongated parking lots, bisected at regular intervals by toll plazas.

For the past 39 years, highway users have contributed to the highway trust fund, perhaps begrudgingly, but with the knowledge that these funds would be used for the construction and upkeep of the Nation's highway infrastructure. This national contract with highway users was establish in 1956, with the Federal-Aid Highway Act. As we all know, 90 percent of trust fund revenues comes from the ever-increasing excise tax on gasoline. But it is fed by other revenue sources as well, including a sales tax on tires, trucks, and buses, as well as taxes on truck usage.

In short, Madam President, if it moves on a highway, we have already taxed it—and we've taxed the gasoline it runs on. America's drivers are not exactly suffering from a dearth of taxes and user fees.

Since 1956, when the highway trust fund was first established, American motorists have contributed $278 billion in net revenue to the fund. In return, highway users have been afforded free access to the Interstate System, unencumbered by a gauntlet of toll plazas. Congress should honor the contract it made with motorists—and eliminate the loophole contained in section 117.

My amendment will ensure that our Interstate System remains free from the double taxation of tolls, which would disproportionately affect poorer Americans.

Aside from my strong opposition to the double taxation of highway users, I also believe this toll provision is bad economic policy. It could potentially ruin hundreds of small businesses that cater to highways users. Should States decide to exact their pound of flesh at every highway exit, communities and business will be severely harmed as they are cut off from their customers.

As someone who has personally traveled thousands of miles on Kentucky roads, I am all too familiar with the impact of highway tolls. In Kentucky, economic development adjacent to highways and parkways did not occur until these roads became toll-free. Only then did businesses blossom to meet the needs of tired, hungry, and road-weary motorists.

Not only would many small businesses be crippled, but motorists and truckers would no longer benefit from highly competitive roadside services. Instead, users would essentially be forced to accept the overpriced gasoline and food concerns which would be given virtual monopoly rights at tolling areas.

This provision will of course add to the cost of trucking, travel, and commerce—all of which would be reflected in bottom-line prices at the grocery store and elsewhere.

To suggest that tolls are paid only by highway users is a gross economic oversimplification. Toll roads add to the cost of any goods shipped cross-country. These same costs will hit the tourist industry of every State hard, as families are forced to stay closer to home or forego travel altogether.

I know that, in Kentucky, tourism would be substantially reduced by State tolling of Federal highways, for our State is a crossroads for interstate travel.

Ever since the 1950's, when the United States embarked on its mission of establishing the Dwight D. Eisenhower Interstate Highway System, these roads were meant to be toll-free. If toll booths were suddenly erected on Federal highways, traffic would snarl up, thereby adding to the cost and travel time. Anybody who has traveled a toll road can tell you that exists are not always located at every crossroad.

In fact, on many toll roads, it is not uncommon for exits to be separated by 20 miles or more. If tolls are permitted on Federal highways, the communities and businesses that have developed around highway access points could be cut off. The network of roads, exits, and intersections are a vital part of the national highway contract. It is unacceptable—and potentially disastrous, to change the terms of our Federal agreement.

Finally, tolls could result in an increase in air pollution. It is widely accepted that vehicles operate more efficiently at steady speeds. Long lines and stop-and-go traffic caused by toll plazas will needlessly pump greater amounts of pollution into the atmosphere.

We are told that proponents of toll roads are developing new, high-technology methods of collecting tolls—without the safety, congestion, and pollution problems caused by toll roads. I do not know whether such an idea should be met with admiration or alarm. The notion that the Government could stick huge barcodes on every vehicle, which then would be read by high-speed laser scanners at checkpoints, does not exactly elicit cheers of enthusiasm for the advances of modern technology.

Frankly, whether a toll is taken by a live human being or a high-technology scanner is a bit like making a distinction between holding up a bank in person or embezzling funds via computer. In either case, the loss of funds is felt just as acutely.

Madam President, I am not alone in this view. This proposal is also strongly opposed by motorists. In fact, a 1994 poll taken by Triple-A found that fully two-thirds of its members opposed this toll idea. I have letters from both the Louisville and Lexington chapters of Triple-A opposing this measure.

Madam President, I appreciate the arguments of toll proponents that there is a real need to insure funding for our infrastructure needs. I do not think there is a Member in the Senate who does not believe our transportation infrastructure is of the utmost importance to national commerce and competitiveness.

However, this toll provision is an underhanded money grab that breaks the contract with motorists established through the Intrastate System. This single provision will cripple our ability to transport goods in a timely and cost-effective fashion.

There are other ways to fund infrastructure development that will not require taxing motorists again for something they have already paid for. Congress needs to provide for the full funding of ISTEA and put an end to the gas tax diversion. The $9 billion in gas tax revenue that has been diverted elsewhere in the budget would go a long way toward improving the condition of our roads, bridges, and tunnels.

America has paid for these roads. Let Americans use them—without added, hidden costs. Let us strike section 117 out of the bill, and protect motorists from new and ingenious ways of extracting more revenue from our Federal Highway System.

Madam President, I ask unanimous consent that several letters from various groups in support of the amendment that Senator BAUCUS and myself have offered be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN AUTOMOBILE ASSOCIATION,
Washington, DC, June 15, 1995.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: On behalf of AAA's 37 million members, I urge you to introduce an amendment to S. 440, The National Highway System Designation Act of 1995, that would repeal the provisions allowing tolling of existing highways.

"The American Automobile Association is against toll roads as a general principle . . . believing all highway facilities should be toll-free. AAA particularly objects to the imposition of tolls on any existing toll-free highway . . . ." (AAA Policies, April 1995–96)

Our opposition to tolls is longstanding:

We must have roads suitable and adequate for the movement of modern motor traffic with safety. There must be multiple-lane highways with opposing traffic streams divided. They must be free and not toll roads. . . . (AAA "Bill of Rights," 1936).

The American Automobile Association reiterates its opposition to transcontinental toll superhighways; also to privately-owned toll roads . . . . (November, 1938).

The American Automobile Association reiterates its opposition to toll highways. (November, 1939).

The American Automobile Association vigorously opposes the levying of tolls on existing free highways. (November, 1940).

The Association believes that the National System of Interstate Highways should be entirely free of tolls . . . . (AAA Policies 1949, 1950, reprinted January, 1951).

Thank you for considering AAA's request. Say Yes to Just NHS.

Sincerely,

RICHARD HEBERT,
Acting Vice President,
Public and Government Relations.

AAA BLUE GRASS/KENTUCKY,
Lexington, KY, June 15, 1995.

Hon. MITCH MCCONNELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCONNELL: On behalf of the 118,000 AAA members we serve in central and eastern Kentucky, AAA Blue Grass/Kentucky supports S. 440 which would establish a National Highway System. However, we strongly object to any toll provision in the bill.

We oppose a toll provision for several reasons:

Excessive cost.—Historically, toll-free roads have cost the motorist about one cent per mile; new toll roads will cost about 10 cents per mile. Admittedly, all new road construction is going to be more expensive, but toll roads will probably cost 3 to 4 times as much as toll-free roads because of bond interest charges and toll collection costs.

Double taxation.—If gas taxes are used to construct new toll roads, motorists will pay twice—once at the pump, and once at the toll booth.

Breach of Trust.—Highway users have paid literally hundreds of billions of dollars to construct the nation's highway system; they should not now be charged a toll to use it.

Collection Inefficiency.—Currently 10–20% of toll revenues are needed for the collection process while only one percent of motor fuel taxes are devoted for that purpose.

Inconvenient Access.—Toll roads often provide few entrances and exits in order to minimize the number and therefore the costs of toll personnel. Users can't get off the road at convenient places and people in small communities cannot use toll roads built right next to them.

Motorist Irritation and Delay.—Congestion at toll plazas often causes long lines of cars, much to the consternation of the motoring public.

Closed System Economics.—Toll road users are locked into higher-price gas stations, food establishments and other services.

Toll facilities are self-perpetuating.—Agreements to make facilities toll-free after debt service is paid seldom are implemented. For instance, there are still 4,700 miles of toll roads, bridges and tunnels on the interstate system, with little likelihood that many of these facilities will become toll-free.

Neglect of the toll-free system.—Inevitably, construction of toll roads will lead to toll-free roads not being built in the same transportation corridors. Maintenance of free roads parallel to toll roads may also suffer.

Undermining the Federal Highway Trust Fund.—Increased tolls would weaken pressure on Congress and the administration to spend the money in the Highway Trust Fund.

We appreciate your consideration of our views.

Regards,

KATHY GROSS,
Manager, Marketing.

AAA KENTUCKY,
June 15, 1995.

Hon. A.M. "MITCH" MCCONNELL,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR MCCONNELL: AAA Kentucky, serving over 300,000 members in our state, strongly supports an amendment removing the toll provision in S. 440, "The National Highway System Designation Act of 1995". Our opposition to allowing tolls on federally financed highways is rooted in four basic beliefs:

The motorists we serve do not want tolls;
Tolls are economically regressive;
Tolls hurt travel and tourism;
Tolls on federally financed highways are an unfair form of double taxation

MOTORISTS DO NOT WANT TOLLS

According to AAA's 1994 National Legislative Survey, two-thirds of AAA members oppose imposing tolls on existing interstates/highways to fund highway maintenance or improvements. Locally, we are tabulating our most recent legislative state survey and the results are running sixty-eight percent against tolls as a method to increase revenues.

TOLLS ARE ECONOMICALLY REGRESSIVE

According to the Congressional Budget Office, new toll roads would impose per-car charges of 8 to 10 cents per mile on travelers. This translates into an effective tax rate of an additional $1.60 to $2.00 per gallon of gasoline used. In addition, tolls are an inefficient form of taxation. For instance 15 percent of toll revenue is needed just for tax collection compared to only 1 percent of motor fuel taxes being used for collection. These factors combined to illustrate the point that tolls should be the last place we look for additional revenue.

TOLLS HURT TRAVEL

As a simple tenant of economics, the more expensive an action becomes, the fewer people will take that action. Toll roads illustrate this axiom by discouraging travel over the tolled section of highways. For example, here in Kentucky the Western Parkway was a toll highway until nine years ago, when tolls were removed. In a conversation with a Kentucky State Trooper, he said he felt that traffic has increased on the road over 25 percent since the tolls were lifted. Similarly, during peak travel times, congestion and delays at toll booths also breed frustration and further discourage travel, increase costs and harm the environment.

TOLLS ARE A FORM OF DOUBLE TAXATION

The promise the Federal government makes to motorists every time they pay the gas tax at the pump would be broken with the introduction of tolls. Literally, America's motorists have paid hundreds of billions of dollars to construct and maintain the nation's highway system. To change the rules now and ask them to pay again as they use the system is clearly a form of double taxation.

For these reasons, AAA Kentucky strongly supports the removal of the toll provision from S. 440. It is vital to pass the NHS Bill at the earliest opportunity. However, while it contains such provisions, AAA finds it unacceptable.

Thank you for your efforts on behalf of Kentucky's, and the nation's, motorists.

Sincerely,

ROGER BOYD.
Director, Public Affairs.

NATSO,
June 20, 1995.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: On behalf of NATSO, Inc., the professional and legislative representative of America's travel plaza and truckstop industry, I am writing to express grave concerns about a provision in S. 440 that would allow states to establish tolls on the Interstate highway system. I understand that you and Senator Baucus are offering an amendment to delete this provision, and the 32 NATSO member locations in Kentucky as well as the more than 1,070 member locations nationwide strongly support your efforts.

NATSO opposes this provision for several reasons. First, highway users have already paid for the Interstate system. Every time fuel is purchased, motorists pay a tax into the highway trust fund that goes to support the Interstate system. Allowing the states the opportunity to collect tolls from Interstate travelers is nothing more than a new tax on the highway user. The Interstate traveler should not be forced to pay again for something already purchased.

Also, this provision will undoubtedly shift traffic from Interstate highways, proven to be the safest and most efficient, to secondary roads that have not been designed to handle large volumes of traffic. This proposal will increase congestion and traffic accidents. It will also devastate the truckstops, travel plazas and thousands of other roadside businesses that provide goods and services to the Interstate traveler.

Finally, if more transportation funds are needed, we believe that Congress should spend down the $19.6 billion languishing in the highway trust fund. Instead of being used for its intended purpose, the highway trust fund is currently held hostage to make the federal deficit appear smaller. Asking the highway user to pay more—at a time when tax money already collected is not being spent—is wrong.

Again, NATSO strongly supports your amendment to delete this toll provision from S. 440. We will gladly provide assistance to you in your efforts to pass this amendment.

Sincerely,

W. DEWEY CLOWER,
President.

INTERNATIONAL BROTHERHOOD
OF TEAMSTERS,
June 21, 1995.

DEAR SENATOR: The International Brotherhood of Teamsters urges you to support the effort by Senators Baucus and McConnell to strike section 117 of the National Highway System Bill (S. 440). Section 117 would allow states to impose tolls on interstate highways.

Section 117 is an unnecessary tax increase on the trucking industry and the motoring public. Highway users already pay millions of dollars in taxes annually into the Highway Trust Fund for the construction and repair of interstate highways. Consequently, passage of Section 117 would put the Senate on record as supporting the "double taxation" of highway users. Passage of this additional highway tax will place an economic burden on both the transportation and tourism industries. We encourage you to vote to strike Section 117.

We also encourage you to vote for the amendment likely to be offered by Senator Exon that would establish standards for truck trailer lengths under the NAFTA. We support the Senator's proposal to limit single trailer lengths to fifty three feet. It is imperative that U.S. highway safety standards are not compromised during negotiations to establish common truck safety standards under the NAFTA. Senator Exon's proposal is a critically important step in ensuring that we preserve the highest highway safety standards possible in North America.

Sincerely,

WILLIAM W. HAMILTON, JR.,
Governmenal Affairs Department.

Mr. McCONNELL. Madam President, I thank my friend from Virginia. I am pleased that this amendment is going to be accepted.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Virginia.

Mr. WARNER. Mr. President, both sponsors of this amendment have been quite persuasive. There were concerns certainly on our side for a period of time. But that persuasiveness has carried the day, since we are prepared to accept this. It I think goes back to the original situation which ensures that the National Highway System provides for the free flow of commerce. That was the objective of both of the sponsors.

I might also add that during the course of the discussions in the consideration of other amendments on this bill, I find the truckers have been very responsible in the area of supporting the continuation of the speed limit objective that I had and will continue to have, and also in objecting to a differential between cars and trucks. I likewise oppose any differential.

So while criticism is often directed toward them, I think certainly in the consideration of this bill in the three areas, they come up in a very responsible manner.

So if the distinguished Senator from Montana wishes, I believe the junior Senator from Montana wishes to be added as a cosponsor, the Presiding Officer. I ask unanimous consent on behalf both Senator BAUCUS and myself, that the junior Senator, Senator BURNS be added as a cosponsor of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Montana.

The amendment (No. 1447) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, if I could get the attention of my comanager, there may be some amendments. We are still working on a list of amendments that we might clear at any time.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, my understanding is that time remaining on the amendment offered by the Senator from West Virginia is 20 minutes equally divided. What is the time remaining on the amendment offered by the Senator from North Dakota?

The PRESIDING OFFICER. The Senator from North Dakota has 3 minutes and 30 seconds. The manager in opposition has 12 minutes and 15 seconds.

Mr. BAUCUS. Mr. President, I ask that the time on the amendment offered by the Senator from West Virginia be yielded in its entirety, and that 10 minutes of that be transferred to the Senator from North Dakota.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. I thank the chair.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN. I yield myself such time as I may consume on my amendment.

The PRESIDING OFFICER. Without objection.

AMENDMENT NO. 1445

Mr. DORGAN. Mr. President, at 7:40 we begin a series of three votes, one of which will be on the amendment I offered. My amendment is one that, again, would establish a national standard to say that States shall enact statutes that call for the prohibition of open containers of alcohol in vehicles. My amendment is not likely to attract sufficient votes to pass, I am guessing, if history is a lesson here.

Some will come to the Chamber and decide, "Well, my State does not have the prohibition for open containers, so I don't want to provide any leadership in Washington." Others will say, "I do not think Washington ought to be telling anybody anything, so I will vote against it."

So we have a circumstance where we have a bill described by the managers to have a national strategy on transportation. But I must say that any bill that describes itself as a bill of national strategy that fails to provide the leadership necessary to send a message to this country that drinking and driving do not mix is a bill that falls far short on national strategy. It is not much of a strategy, in my judgment.

We now have in this country a requirement that you wear seatbelts. Apparently the message would be, if my amendment does not pass, "Go ahead and get in the car, buckle up, and then go ahead and take a swill of bourbon." It is fine with some. They do not mind if you drink. Just make sure you have your seatbelt on if you drink. I guess it is a policy position that might be attractive to some, but not to those who think clearly.

It seems to me that Senators should understand that in this country every year there are 1 million people injured from drunk driving accidents. Every 25 minutes or so another American is killed from a drunk driving accident. In 11 years, 1982 to 1993, for which we have statistics, 266,000 Americans were killed as a result of alcohol-related accidents.

As I said before, this is not some mysterious disease. We know what causes it and how to stop it. The Europeans know how to stop it largely. They tell people, "Do not even think about drinking and driving. It is not funny. Do not even think about it. If you get caught drunk driving, you are in deep trouble."

There are parts of this country where, if you get caught drunk driving, you get a little slap on the wrist and people grin at you, "You must have been having a good time."

It is not a good time to turn a car into a weapon of murder. That is what happens in this country if we do not have the strength to develop a national standard to say to people, part of the responsible use of our highways in this country is to understand you cannot drink and people in your car cannot drink and you cannot have open containers of alcohol in your car. There is nobody here that can come to the floor and claim a national strategy for the national transportation system until we provide a national strategy to tell Americans that you cannot drink and drive, you cannot have open containers of alcohol in vehicles. Until that happens, no one can reasonably come to the floor of the Senate and say we have a responsible national strategy on transportation or a responsible national strategy with respect to highways.

It is disgusting to me that in this country there are still six States where it is legal to drink and drive, and there are 26 States in which you can have an open container of alcohol in a vehicle. One way or another—one way or another—someday, somehow, we are going to fix that. And we are going to learn the lessons that others in the world have already learned, notably European countries, to tell Americans that part of driving responsibly is to understand you do not drink and drive in our country. That is what my amendment is intending to do.

I suspect there will not be sufficient votes for my amendment because people will come here and decide that they are not interested in providing national leadership on this issue. And the result will be more Americans will die. And until one day when sufficient numbers will come to the floor of the Senate and the House and decide that the carnage really ought to stop and there is something we can do to stop it, then we will pass an amendment of this type.

Mr. President, I yield whatever time I have remaining to the Senator from New Jersey, Senator LAUTENBERG.

The PRESIDING OFFICER. There are 8 minutes 35 seconds.

The Senator is recognized.

Mr. LAUTENBERG. I thank the Presiding Officer. Mr. President, I rise because there is a confluence of amendments and ideas being put forward at this time that come together to me in a very meaningful way. All of us—all of us, I am sure—have known someone who lost a family member or who themselves were lost because someone was casual about booze and driving.

Perhaps the thing I am most proud of—I am honored to be elected to the Senate; I am honored to have had that opportunity in my life—but the thing that I am most proud of is that I am the father of four wonderful children and two of the most beautiful grandchildren to ever walk the face of the Earth. I am so taken by them that my thoughts are often consumed by the view of the world in which we live and concerned about things that, again, concern all parents—fathers, mothers—that is, the violence in our society, the destruction of young lives needlessly, about the family that we know where a 14-year-old boy was riding in the passenger seat in a car in Florida. The 16-year-old boy was driving. He had open containers of beer in the car. They hit a telephone pole going 70 miles an hour. My friend's son was incinerated. We do not know whether he died before he was burned or whether it was after, but the thought, the notion, the vision of this child—a bright, beautiful young man—was so vivid that it seared the thinking of the community for years after. There have been memorials, there have been testimonials, but nothing—nothing—can ever remove the memory of that tragedy.

But I am also considered the father of the 21-drinking-age bill, not quite like fatherhood in the real sense, but something in which I take a significant measure of pride as well. That law was written in 1984. President Reagan was in office. Elizabeth Dole was the Secretary of Transportation. They were Republicans, devoted Republicans. And yet, throughout that debate, they were very positive. I was invited to be at the signing in the Rose Garden when President Reagan signed the 21-drinking-age bill.

That bill was almost forced on us by the anguish and the grief of parents across the country, of young friends across the country, high school kids—SADD was their organization, MADD was the Mothers Against Drunk Driving, who came here brokenhearted at the loss of a child, typically to drunken driving.

So we worked hard, and we got that bill through. The rewards come every year when we get reports from the National Highway Traffic Safety Administration, when they say that we are saving about a thousand kids a year from dying on the highways—a thousand kids.

It does not sound like something fantastic in the abstract, because a thousand families that do not have to mourn do not know that they escaped the pain. They do not know that they did not lose a child because there is a law on the books that encouraged the appropriate kind of behavior.

Here we are, some 10 years later, 10,000 young people saved from dying on the highways, and I feel very good about the effort that is being made throughout my State and many States in the country to reduce drunk driving, ever more harsh in the punishment of those who abuse the privilege and the opportunity to get behind the wheel of a car and forget about it only too quickly.

I am a strong supporter of Senator BYRD's amendment, which was offered before this, to continue to make the public and the driver more aware of the fact that when they drive and they drink that there is a penalty to be paid, a penalty far less—far less—than the ultimate penalty of winding up a statistic or a phone call in the dark of night or a police officer at the door.

So when we look at legislation, as we consider the national highway bill, and we try, as we develop this 160,000 miles more of supervised or constructive road development, that we focus on the safety issues.

One of the things that is apparent to anyone who has ever seen people driving with a drink container, a glass, a bottle in their hands, or a can, bottoms up going along often at a fast rate of speed, it seems to have particular attraction for young men and often people in the prime of life. They just do not understand that it is not cool, that it is not macho, that it is not anything but disgusting, because if they make a miscalculation, the ball game is over.

Mr. BREAUX. Will the Senator yield for a question?

Mr. LAUTENBERG. Yes.

Mr. BREAUX. I was listening to the Senator's arguments, as well as the arguments of the Senator from North Dakota. I think they were very eloquent about the problems we are facing with drinking while people drive.

I guess a philosophical question I ask the Senator from New Jersey, because I think the Senator from New Jersey supports the theory that on the use of highway funds for transportation purposes that the States should have a maximum degree of flexibility—if they want to use highway funds, for instance, instead of building highways, they should have the right to use them for Amtrak and rail systems—how does that square with the argument I think the Senator is making now with regard to standards for when people drink within a State that the Federal Government knows better in that area, but the State knows better in the area of what type of transportation system is better within the State? We are going to tell you what to do when it comes to setting limitations on drinking, but we are not going to tell you what to do with how the money is spent for transportation purposes?

Mr. LAUTENBERG. To me, it is a fairly simple differentiation, and that is, in the case of decisions about where funds are spent on transportation, we have agreed in an amendment that we just dealt with that within the State legislature, the Governor and transportation officials within the State are qualified to make decisions about where they put their money—bridges, roadways, railroads, as I see it, mass transit. I think that is one kind of consideration.

But I never believed—never believed—that when it came to the safety of our children, when it came to the helmet law, when it comes to drinking and driving, I do not believe that the Federal Government dare walk away from its responsibilities any more than we ought to walk away from equipping our service people with adequate resources if they are ever in combat, with equipping our people with the best education that they can get, equipping our young people with the best health conditions they can get with proper nutrition. I think that is a responsibility of Government. I think we ought to step forward on all issues affecting people on our roads to try to reduce the danger.

Mr. BREAUX. Will the Senator yield further? Suppose the State says that is their responsibility, as well; let them make that decision?

Mr. LAUTENBERG. In this case, obviously, I am not one who is going over the cliff on behalf of all States rights. I think States ought to have some flexibility in some areas, and in others, I think that there ought to be a national policy that is consistent.

One of the problems that we had—and I know the Senator knew this very well because he was in Washington at that time—one of the problems we had when we tried to develop the 21 drinking age was that there were States, and some of these, not the most rural States, by the way, as one might often think, that refused to raise the drinking age because business was pretty good.

By the way, one of the places was right here in the very Capital of our country. Washington, DC, was one of the last. They made a calculated decision as to whether or not they would raise the drinking age to 21 because Georgetown sells a lot of booze, and there is a lot of money spent there. So they were almost willing to trade bucks for lives, but the legislation forced them, because they would have lost a fair amount of their transportation money.

Mr. DORGAN. Will the Senator yield to me?

Mr. LAUTENBERG. I will be happy to yield.

Mr. DORGAN. I might respond in part to the Senator from Louisiana by saying this is a question, in part, of whether there ought to be a national standard, not a question of whether the States can do it better. It is a question of do you think there should be a national standard on whether one should drink and drive.

If one takes the position, I think some States ought to say you can drink a little and drive, and another State can say you can drink a lot and drive—because in our State there is a feeling you can drink a lot and drive—and in another State they say we do not think you ought to drink and drive at all, my own view of those three different choices States made is I think it ought not be a State choice. I think we ought to have a national standard on the fundamental question of is it appropriate on the national highways of the United States to drink and drive. The answer to me is no.

Now, one can reach a different conclusion, and I will respect that. But I view this as the question of, should we have a national standard? The answer, clearly to me, is yes. Nowhere in this country should anyone ever believe, under any circumstance, that it is appropriate to get behind the wheel of a car, start the engine, and drive away drinking whiskey. That is totally, always, in every part of this country, inappropriate. I hope that we will have a national standard that will say that.

Mr. BREAUX. If the Senator will yield, I think the discussion is good.

Mr. LAUTENBERG. Yes, I yield.

Mr. BREAUX. I say to the Senator from North Dakota, in discussing this, we have a national transportation highway system, and yet, some would argue, with a lot of eloquence, that the States should have a right to determine whether it is going to be a highway made of concrete or whether it is going to be a rail system that is used to transport people. The State ought to have a right to make that decision.

I have a lot of sympathy that States should make that determination, even though it is a national highway transportation bill. But then when it comes to setting standards for when someone within a particular State should have a right to drink, well, some who make the argument that the States ought to have the flexibility on determining whether they are going to build highways or rail systems, then we are going to supersede you and we are going to determine in Washington what the proper standard is.

In one case, we are saying the States have the right to make that determination, and in another area we say you are not smart enough to make the right determination, and we have to do it here in Washington. I am bothered by the inconsistency.

Mr. LAUTENBERG. I appreciate the Senators' interests and comments. I say this: If, in Louisiana, a decision was made to build a highway, bridge, or a rail spur, that does not necessarily present any danger or any problems for people in the neighboring States.

However, if State "A" has an open, or has no restrictions on drinking and driving, no open container law, and does not enforce the 21 drinking age law, it invites disaster, because young people from State "B"—we call those blood borders. That is why the 21 drinking age bill was put into place in the first place. These are young kids. I have it in my State. It happened between New Jersey and New York and between Wisconsin and Illinois. There are a lot of instances around the country. Young people in New Jersey —at one point, we had an 18-year-old drinking age. When the law turned to 21 because we were losing too many kids on our highways, New York State invited them over. They would go over and they would come back and come down "slaughter alley," a particular road and often would not make it home. Boy, that convinced me, and I said we ought to have a standard that applies all over. What you do in one State can seriously affect the lives and well-being of others in other States.

The PRESIDING OFFICER. The chair advises the Senator that his time has expired.

Mr. LAUTENBERG. Is there any more time left?

The PRESIDING OFFICER. We have 7 minutes on the other side of the aisle.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, if the Senator from Montana and the Senator from Virginia would be willing—I know we are headed toward a vote, and I was willing to agree to the shortest time agreement. I wonder if they would permit an additional 5 minutes prior to the vote so that the Senator from Arkansas might speak on this issue.

Mr. WARNER. Mr. President, will the Senator restate the request?

Mr. DORGAN. We have apparently 5 or 6 minutes before the votes will begin. I would like some time for the Senator from Arkansas to speak.

Mr. WARNER. How much time does the Senator desire?

Mr. DORGAN. If the Senator would provide 4 or 5 minutes so the Senator from Arkansas can have some time, along with the Senator from New Jersey.

Mr. WARNER. Would 6 minutes be agreeable? We will yield 7.

Mr. President, I make a unanimous consent request that the Senator from North Dakota have 7 minutes under his control.

Mr. DORGAN. I very much appreciate the generosity.

I yield to the Senator from New Jersey.

Mr. LAUTENBERG. I thank the Senator. I will wrap up my comments by noting that around this place lately we have been talking about values, about family, about structure, about behavior. And while we do not regulate behavior here, we talk often about models, examples, and about conduct. One of the worst ways for any child growing up to get a picture of what he or she ought to do in adulthood is someone moving down the road with a beer can, pouring it down their throat at the same time that they are driving. It is not a good image, and it is not a good result. I hope that in the final analysis, the amendment by the Senator from North Dakota will prevail. It is an excellent amendment.

Mr. DORGAN. I yield the remainder of my time to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. I thank the Senator. We are all victims of our own personal experiences. So I will tell you about mine. I was a freshman at Northwestern University Law School in Chicago. My brother was up at Harvard Law School. Both of us were there on the GI bill because I promise you my father could not afford that kind of education for us. One Sunday evening, I got this phone call that my mother and father had been in a car wreck, and the message was obviously tempered. But I got on a plane the first thing the next morning and flew home. It was tough to get home to Fort Smith, AR, from Chicago back in those days.

But to shorten the story, my father owned a small farm over in Oklahoma, just across the Arkansas River from where we lived. He and my mother and a couple next door had gone over to look at the spinach, which was coming up, and they were going to start harvesting it the next day. They were coming back and were 10 miles west of Fort Smith, AR, on what is now I-40—this is the transportation bill. They were on an 18-foot narrow highway with no shoulders, and they came up over a slight hill, just a slight incline, at about dusky-dark—the wrong time, wrong place—roaring drunk, whom a cop had been chasing, but he had a flat tire and he lost him. He went over on my father's side of the road and, blam, our neighbor next door was killed instantly, and my mother died 2 days later. And my father died 5 days later.

I have often wondered about how we establish death penalties in this country. You could not have taken an AK-47 and more deliberately killed my mother and father than to get behind the wheel of an automobile roaring drunk and, in a split second, destroy our family. So I have no problem supporting this amendment, the Byrd amendment, and any other amendment that anybody wants to offer dealing with this subject.

As I was about to say a moment ago, this is a transportation bill. Almost precisely where my mother and father were killed, today is I-40. If I-40 had been there then, my mother and father would have lived a normal lifespan and we would have had the happiness that should have been ours for at least another 20 years.

So I speak in favor of these magnificent highways we have today that give us some protection. As you know, the death rate on interstate highways is about 80 percent less than it is on all the other two-lane highways, because you do not have to worry about some drunk coming over a hill on the wrong side of the road. So I am pleased that we are trying to improve our highways in this country and give people like my father an opportunity not to have to face drunken drivers who do not have any better judgment than to get roaring drunk. And, as I say, surely as if he had an AK-47 in his hands, he could not have killed those three people any more efficiently.

Why not the death penalty? I have always struggled with the death penalty, I admit it. I voted for it. It has always been a problem. But I have never been able to see the distinction between the people we provide the death penalty for and the guy who served 5 years in the penitentiary for killing my mother and father and their best friend next door.

I will yield the floor and say that I strongly support the Senator from North Dakota, and I strongly support the Senator from West Virginia.

Mr. WARNER. Mr. President, I just wish to say that there are moments in the life of the U.S. Senate that one shall always remember, and I am privileged to have had a long, personal relationship with my good friend from Arkansas, predicated on many, many things that we have done and shared together.

Tonight, the Senator has deeply touched this Senator, as I am sure many others, showing the courage to come over here and share with the Senate that story. I shall not forget it.

Mr. BUMPERS. I thank the Senator.

Mr. WARNER. Mr. President, the comanager, the Senator from Montana, and I have several amendments which we will now clear with the Senate.

AMENDMENT NO. 1448

(Purpose: To require the Secretary of Transportation to cooperate with the State of Wyoming in monitoring the changes in growth along, and traffic patterns of, certain road segments in Wyoming, for the purpose of future consideration of the addition of the route segments to the National Highway System)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Mr. THOMAS, proposes an amendment numbered 1448.

Mr. WARNER. I ask unanimous consent further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, line 3, insert "(a) IN GENERAL.—" before "Section".

On page 10, between lines 13 and 14, insert the following:

(b) ROUTES SEGMENTS IN WYOMING.—

(1) IN GENERAL.—The Secretary of Transportation shall cooperate with the State of Wyoming in monitoring the changes in growth along, and traffic patterns of, the route segments in Wyoming described in paragraph (2), for the purpose of future consideration of the addition of the route segments to the National Highway System in accordance with paragraphs (2) and (3) of section 103(c) of title 23, United States Code (as added by subsection (a)).

(2) ROUTE SEGMENTS.—The route segments referred to in paragraph (1) are—

(A) United States Route 191 from Rock Springs to Hoback Junction;

(B) United States Route 16 from Worland to Interstate Route 90; and

(C) Wyoming Route 59 from Douglas to Gillette.

Mr. WARNER. This is an amendment on behalf of the Senator from Wyoming, [Mr. THOMAS].

The amendment does not add new routes, nor does it provide any funds. It encourages the Federal Highway Administration and the State of Wyoming to monitor growth changes in the Wyoming National Highway System.

I urge its acceptance.

Mr. BAUCUS. Mr. President, we have examined this amendment and have no objections.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1448) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1449

Mr. WARNER. Mr. President, I send an amendment to the desk on behalf of the two Senators from South Dakota, Mr. PRESSLER and Mr. DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Mr. PRESSLER, for himself and Mr. DASCHLE, proposes an amendment numbered 1449.

Mr. WARNER. Mr. President, I ask unanimous consent further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert "(a)" immediately before "Notwithstanding" on page 32, line 17.

Insert a new subsection (b) after page 32, line 25, to read as follows:

"(b) Upon receipt of a written notification by a State, referring to its right to provide notification under this subsection, the Secretary of Transportation shall waive, with respect to such State, any requirement that such State use or plan to use the metric system with respect to designing, preparing plans, specifications and estimates, advertising, or taking any other action with respect to Federal-aid highway projects or activities utilizing funds authorized pursuant to title 23, United States Code. Such waiver shall remain effective for the State until the State notifies the Secretary to the contrary. Provided further, a waiver granted by the Secretary will be in effect until September 30, 2000."

Mr. PRESSLER. Mr. President, my amendment concerns the issue of metric conversion. It makes clear that in this era of significant budgetary pressures, expenditures on metric conversion does not deserve priority. We must preserve Federal and State transportation funds for more important needs. Let me explain.

The Federal Highway Administration, by regulation, is requiring metric conversion of internal processes for all States by September 30, 1996. If a State is not in compliance, Federal-aid highway funds will be lost. What would such internal conversion entail?

In addition to engineering and planning concerns, this would require States to rewrite their highway and transportation design procedures as well as to rewrite their motor vehicle and drivers license manuals. Their procedures for the purchase of materials and equipment would need to be altered and they would need to provide retraining to workers. All this and more by September 30, 1996.

Would a better approach not be to give States adequate time to allocate resources and provide for internal metric conversion based on their own unique funding priorities? It would.

Mr. President, infrastructure needs and costs continue to increase dramatically. While I am not at all opposed to metric conversion, I believe it could best be accomplished at the discretion of each State. After all, should not each State be allowed to consider their unique funding needs? They should. And that is what my amendment would allow.

Specifically, my amendment would allow the Secretary of Transportation to waive, upon the receipt of a written notification by a State, any requirement that such State use or plan to use the metric system with respect to designing, preparing plans, specifications and estimates, advertising, or taking any other action with respect to Federal-aid highway projects or activities. The waiver would be in effect until September 30, 2000.

Mr. President, my amendment has no budget impact. However, it would help States with limited resources to deliver more services to their citizens. Should that not be our primary objective? I urge my colleagues to support my amendment.

Mr. WARNER. On behalf of Senators PRESSLER and DASCHLE, the managers send this amendment.

We accept the amendment to provide States until the year 2000 to convert their internal working documents to the metric measurements.

Mr. BAUCUS. Mr. President, we accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1449) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1450

(Purpose: To clarify eligibility of a Luzerne County, Pennsylvania rail freight acquisition and improvement project for certain federal transportation funds)

Mr. WARNER. Mr. President, I send to the desk on behalf of the Senator from Pennsylvania, [Mr. SPECTER] an amendment and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Mr. SPECTER, proposes an amendment numbered 1450.

Mr. WARNER. I ask unanimous consent further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following:

SEC. . CLARIFICATION ELIGIBILITY.

The improvements to the former Pocono Northeast Railway Company freight rail line by the Luzerne County Redevelopment Authority that are necessary to support the rail movement of freight, shall be eligible for funding under sections 130, 144, and 149 of title 23, United States Code.

Mr. WARNER. Mr. President, this amendment allows for the economic redevelopment of the former Pocono Northeast Railway Co. No funds are involved.

Mr. BAUCUS. Mr. President, we have no objection on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1450) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1451

(Purpose: To provide States with innovative financing options for projects with dedicated revenue sources)

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] for Mr. LEVIN, proposes an amendment numbered 1451.

Mr. BAUCUS. Mr. President, I ask unanimous consent further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 204. TOLL ROADS, BRIDGES, TUNNELS, NON-TOLL ROADS THAT HAVE A DEDICATED REVENUE SOURCE, AND FERRIES.

Section 129 of title 23, United States Code, is amended—

(1) by revising the title to read as follows:

"§ 129. Toll roads, bridges, tunnels, non-toll roads that have a dedicated revenue source, and ferries"; and

(2) by revising paragraph 129(a)(7) to read as follows:

"(7) LOANS.—

"(A) IN GENERAL.—A State may loan an amount equal to all or part of the Federal share of a toll project or a non-toll project that has a dedicated revenue source, specifically dedicated to such project or projects under this section, to a public entity constructing or proposing to construct a toll facility or non-toll facility with a dedicated revenue source. Dedicated revenue sources for non-toll facilities include: excise taxes, sales taxes, motor vehicle use fees, tax on real property, tax increment financing, or such other dedicated revenue source as the Secretary deems appropriate.

Mr. LEVIN. Mr. President, I am offering an amendment to make a simple change to S. 440, the National Highway System [NHS] Designation Act of 1995.

The amendment will allow States to lend all or part of the Federal share of the costs of transportation projects to public entities, so long as there is a dedicated revenue source associated with that project. Current law only allows toll projects to be eligible for this kind of financing. The increased flexibility provided by this amendment should help States and local governments that need more transportation funds to proceed with or continue construction of a greater number of vital projects.

Mr. President, I am pleased that my colleagues are able to accept this amendment.

Mr. BAUCUS. Mr. President, the managers offer this amendment on behalf of Senator LEVIN. This amendment provides for innovative financing options for States. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1451) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1452

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of Senators ABRAHAM and LEVIN and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Mr. ABRAHAM, for himself and Mr. LEVIN, proposes an amendment numbered 1452.

Mr. WARNER. I ask unanimous consent further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike lines 7 through 10 on page 33 and insert the following:

"(5)(A) I-73/74 North South Corridor from Charleston, South Carolina, through Winston-Salem, North Carolina, to Portsmouth, Ohio, to Cincinnati, Ohio, to termini at Detroit, Michigan, and Sault Ste. Marie, Michigan."

Mr. LEVIN. Mr. President, this amendment makes one minor change to S. 440, the National Highway System [NHS] Designation Act of 1995.

The change will modify the current northern terminus of NHS high-priority corridor Interstate 73/74. Currently, the bill designates Detroit, MI, as the only northern end of that corridor. This amendment adds Sault Ste. Marie, another major border crossing, as an additional terminus. The actual route to each terminus will be determined by the Federal Highway Administration [FHA] and the Michigan Department of Transportation [MDOT] after appropriate studies are completed.

Mr. President, I am pleased that my colleagues are able to accept this amendment.

Mr. WARNER. Mr. President, this amendment is a modification to the I-73 route in Michigan. The managers are pleased to accept it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1452) was agreed to.

Mr. BAUCUS. I move to reconsider the vote.

Mr. BUMPERS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1453

(Purpose: To provide for the transfer of funds between certain demonstration projects in Louisiana)

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] for Mr. BREAUX, proposes an amendment numbered 1453.

Mr. BAUCUS. I ask unanimous consent further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . TRANSFER OF FUNDS BETWEEN CERTAIN DEMONSTRATION PROJECTS IN LOUISIANA.

Notwithstanding any other law, the funds available for obligation to carry out the project in West Calcasieu Parish, Louisiana, authorized by section 149(a)(87) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 101–17; 101 Stat. 194) shall be made available for obligation to carry out the project for Lake Charles, Louisiana, authorized by item 17 of the table in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 101–240; 105 Stat. 2038).

Mr. BAUCUS. Mr. President, the managers this amendment offer on behalf of Senator BREAUX, to clarify the use of funds previously authorized for a Louisiana project.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1453) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Now, Mr. President, I ask unanimous consent that on the amendment by the Senator from Montana, Mr. BAUCUS, just adopted, Senator SIMPSON of Wyoming be listed as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1454

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Montana [Mr. BAUCUS] for Mr. BUMPERS, proposes an amendment numbered 1454.

Mr. BAUCUS. I ask unanimous consent further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . NORTHWEST ARKANSAS REGIONAL AIRPORT CONNECTOR.

Notwithstanding any other provision of law, the Federal share for the intermodal connector to the Northwest Arkansas Regional Airport from U.S. Highway 71 in Arkansas shall be 95 percent.

Mr. BAUCUS. Mr. President, this amendment on behalf of Senator BUMPERS of Arkansas provides uniform match for intermodal connector as part of U.S. 71 to the Northwest Arkansas Regional Airport.

Mr. WARNER. Mr. President, we accept this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1454) was agreed to.

Mr. WARNER. Mr. President, the amendments are in order to be voted on. There will be the normal period of time allocated for the first amendment.

Might I inquire as to whether or not we could get consent to have the sequential amendments 10 minutes each?

Mr. BAUCUS. Yes.

Mr. WARNER. Mr. President, I ask unanimous consent that following the first vote occurring this evening, the remaining votes—and there are two now scheduled—be in sequence and be limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON MOTION TO TABLE AMENDMENT NO. 1444

The PRESIDING OFFICER. Under the previous order, the question occurs on the motion to table amendment No. 1444, offered by the Senator from Delaware, [Mr. ROTH].

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER (Mr. DEWINE). Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 36, nays 64, as follows:

[Rollcall Vote No. 276 Leg.]

YEAS—36

Ashcroft
Baucus
Bingaman
Bond
Brown
Bryan
Coats
Cochran
Conrad
Coverdell
Craig
Dole
Domenici
Faircloth
Frist
Glenn
Grams
Grassley
Gregg
Helms
Hutchison
Inhofe
Kassebaum
Kempthorne
Kyl
Lugar
McConnell
Nickles
Packwood
Shelby
Simpson
Smith
Thomas
Thompson
Thurmond
Warner

NAYS—64

Abraham
Akaka
Bennett
Biden
Boxer
Bradley
Breaux
Bumpers
Burns
Byrd
Campbell
Chafee
Cohen
D'Amato
Daschle
DeWine
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Gorton
Graham
Gramm
Harkin
Hatch
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lott
Mack
McCain
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Simon
Snowe
Specter
Stevens
Wellstone

So, the motion to lay on the table the amendment (No. 1444) was rejected.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, the managers would like to address the Senate. May we have order.

The PRESIDING OFFICER (Mr. DEWINE). The Senator from Virginia.

Mr. WARNER. It is the judgment of the managers that we can complete this bill tonight provided we can get a list of amendments which would remain in order. We are now compiling that list, and the managers urge all Senators who have any question about any amendment to kindly approach the desk here and address the managers or their staff, such that at the conclusion of this vote but before the third vote we can pose a unanimous consent request with regard to the remaining amendments, all of which we hope we can resolve without rollcall votes.

Mr. BIDEN. Mr. President, I wonder whether the managers of the bill are willing to have a voice vote on adoption of this amendment now.

Mr. WARNER. Mr. President, I agree.

Mr. BIDEN. Mr. President, I would urge adoption of the Roth-Biden amendment and ask for a voice vote on that now.

The PRESIDING OFFICER. Without objection, the yeas and nays are vitiated.

The question is on agreeing to the amendment.

The amendment (No. 1444) was agreed to.

Mr. BIDEN. Mr. President, I move to reconsider the vote.

Mr. GRAMM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1446

The PRESIDING OFFICER. The question now occurs on agreeing to Amendment No. 1446 offered by the Senator from West Virginia [Mr. BYRD]. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 64, nays 36, as follows:

[Rollcall Vote No. 277 Leg.]

YEAS—64

Abraham
Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Cochran
Cohen
Conrad
D'Amato
Daschle
DeWine
Dodd
Domenici
Dorgan
Exon
Feinstein
Ford
Glenn
Gorton
Gramm
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inouye
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Levin
Lieberman
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Simpson
Specter
Stevens
Thurmond
Warner
Wellstone

NAYS—36

Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Coats
Coverdell
Craig
Dole
Faircloth
Feingold
Frist
Graham
Grams
Grassley
Gregg
Inhofe
Jeffords
Kempthorne
Kyl
Leahy
Lott
Lugar
Mack
Nickles
Nunn
Packwood
Pressler
Roth
Santorum
Shelby
Smith
Snowe
Thomas
Thompson

So the amendment (No. 1446) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the managers are anxious to determine what amendments remain, in the hopes that we can establish a list and to lock in those amendments, and then determine whether or not rollcall votes are required.

The amendments that this manager knows of, and I know that my distinguished colleague has others, are as follows: Senators FRIST, COHEN, SMITH, HATFIELD, MCCAIN second amendment, both Senators from Alaska and Senator INOUYE, plus, of course, a managers' amendment.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, as near as I can determine, on our side there is an amendment by Senator JOHNSTON dealing with high-priority corridors; Senators SARBANES and MIKULSKI may have a colloquy. I am not sure if that is an amendment or not. Senator FORD, Senator INOUYE, Senator EXON has three amendments, Senator WELLSTONE, Senator KERRY, Senator BOXER with two amendments.

Mr. WARNER. Mr. President, are there other Senators who wish to express an interest in the amendments? If not, I ask unanimous consent that the list, as stated by the Senator from Virginia, as amended by the Senator from Montana, represent the totality of the amendments that can be further considered on this bill.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. WARNER. I assure the Senator from Alaska, both of his amendments are on the list.

Mr. STEVENS. I still object.

Mr. WARNER. Objection has been heard.

VOTE ON AMENDMENT NO. 1445

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1445, offered by the Senator from

North Dakota, Senator DORGAN. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 48, nays 52, as follows:

[Rollcall Vote No. 278 Leg.]

YEAS—48

Akaka
Biden
Boxer
Bradley
Bumpers
Byrd
Chafee
Cohen
Conrad
D'Amato
Daschle
DeWine
Dodd
Exon
Feinstein
Ford
Glenn
Gorton
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Inouye
Kassebaum
Kennedy
Kerrey
Kerry
Lautenberg
Levin
Lieberman
McCain
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pryor
Reid
Rockefeller
Sarbanes
Simon
Simpson
Stevens
Thurmond
Wellstone

NAYS—52

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Bond
Breaux
Brown
Bryan
Burns
Campbell
Coats
Cochran
Coverdell
Craig
Dole
Domenici
Dorgan
Faircloth
Feingold
Frist
Graham
Gramm
Grams
Grassley
Gregg
Hutchison
Inhofe
Jeffords
Johnston
Kempthorne
Kohl
Kyl
Leahy
Lott
Lugar
Mack
Murkowski
Nickles
Nunn
Packwood
Pressler
Robb
Roth
Santorum
Shelby
Smith
Snowe
Specter
Thomas
Thompson
Warner

So the amendment (No. 1445) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote and to lay that motion on the table.

Mr. DORGAN. Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. SANTORUM). The question is on agreeing to the motion to table the motion to reconsider. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Maine [Mr. COHEN] and the Senator from Alabama [Mr. SHELBY] are necessarily absent.

Mr. FORD. Mr. President, I announce that the Senator from Delaware, [Mr. BIDEN], the Senator from Louisiana, [Mr. BREAUX], the Senator from California, [Mrs. FEINSTEIN], the Senator from South Carolina, [Mr. HOLLINGS], the Senator from Arkansas, [Mr. PRYOR], and the Senator from Illinois, [Mr. SIMON] are necessarily absent.

The result was announced—yeas 51, nays 41, as follows:

[Rollcall Vote No. 279 Leg.]

YEAS—51

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Bond
Brown
Bryan
Burns
Campbell
Coats
Cochran
Coverdell
Craig
Dole
Domenici
Faircloth
Feingold
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kohl
Kyl
Lott
Lugar
Mack
McCain
Murkowski
Nickles
Nunn
Packwood
Pressler
Robb
Roth
Santorum
Smith
Snowe
Specter
Thomas
Thompson
Warner

NAYS—41

Akaka
Boxer
Bradley
Bumpers
Byrd
Chafee
Conrad
D'Amato
Daschle
DeWine
Dodd
Dorgan
Exon
Ford
Glenn
Harkin
Hatch
Hatfield
Heflin
Helms
Inouye
Kennedy
Kerrey
Kerry
Lautenberg
Leahy
Levin
Lieberman
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Reid
Rockefeller
Sarbanes
Simpson
Stevens
Thurmond
Wellstone

NOT VOTING—8

Biden
Breaux
Cohen
Feinstein
Hollings
Pryor
Shelby
Simon

So the motion to lay on the table the motion to reconsider was agreed to.

THE ALAMEDA CORRIDOR PROJECT

Mrs. BOXER. Mr. President, I would like to ask the distinguished chairman of the Committee on Environment and Public Works a question of a clarifying nature regarding the provision in S. 440 which identifies and establishes the Alameda transportation corridor in my State of California as a "high-priority corridor" under section 1105 of the Intermodal Surface Transportation and Efficiency Act.

Mr. CHAFEE. I would be happy to yield to the Senator from California for a question.

Mrs. BOXER. Let me begin by first commending Senator CHAFEE, the committee chairman, Senator WARNER, chairman of the Subcommittee on Transportation and Infrastructure, and my ranking member Senator BAUCUS for their support in recognizing the Alameda corridor as a project of critical importance not only to California's but to the Nation's economy.

In recent months, the attention of Congress has been focused on how to reduce our budget deficit and how to restructure infrastructure spending. As important as these goals are, it remains critical in this new era in the Federal budget process to support infrastructure projects which have national significance. I support innovative solutions to meet our transportation infrastructure needs.

The Alameda transportation corridor is one of the most critically important infrastructure projects for the Nation. The project will streamline rail and highway transportation between the ports of Los Angeles and Long Beach, and intermodal connections in downtown Los Angeles. The rail portion of the project will consolidate the operations of three freight carriers into one higher speed corridor and eliminate conflicts with highway crossings. Highways will also be improved to provide better access from the ports to the freeways. The increased transportation efficiency will provide the added benefit of decreased air pollution.

Last year the ports handled $74.3 billion in exported or imported goods. That amount represents 27 percent of the national value of exports and imports. This volume of shipments produces more than $17.3 billion in Federal, State, and local taxes nationwide. With completion of the project, these figures will substantially increase. The ports estimate that the project will increase national economic output by an estimated $170 billion annually and will increase total Federal revenues by approximately $32 billion.

The Alameda corridor will mean billions in increased trade for the United States, hundreds of millions in new tax revenue to State and local governments throughout the country, and the addition of hundreds of thousands of jobs nationwide.

Recognizing the national significance of the project, Mr. President, I would like to pose the following question to Senator CHAFEE: As I understand section 1105 of ISTEA, the designation of the Alameda transportation corridor as a "high-priority corridor" under this section will enable the Secretary of Transportation to work cooperatively with the project sponsors on using creative financing to advance the project, including eligibility for a line a credit. Is that correct?

Mr. CHAFEE. Yes. The designation of the Alameda transportation corridor as a "high-priority corridor" reflects the committee's determination that the project merits an ongoing Federal role based upon the long-term potential benefits to interstate and international commerce. The Alameda corridor is, indeed, a project of national significance.

Under section 1105, high-priority corridors are eligible for creative financing with the Secretary. This eligibility includes participation in the Priority Corridor Revolving Loan Fund, the establishment of a line of credit, and other methods of financing. The section 1105 "high-priority" designation allows the corridor project to help itself by making it eligible for these innovative financing options.

I would encourage the Secretary to work with the project sponsors to identify and pursue those creative financing options that will assist the timely completion of the project.

Mrs. BOXER. I thank the chairman. I appreciate the clarification and again commend him for his assistance in moving this project forward.

Mr. ROBB. Mr. President, I rise today to speak briefly about several votes on amendments to the National Highway System Designation Act of 1995. These votes did not reflect a lack of support for helmet and seatbelt laws or speed limits on our highways. They reflected a choice as to the appropriate level of government to make those decisions. I believe these decisions are better decided, not by the Federal Government, but by each individual State, taking into consideration local conditions and local demographics.

Issues involving highway safety have always been important to me, dating back to my years as Governor of the Commonwealth of Virginia. I know the members of the Virginia General Assembly and the citizens of my State care very deeply about these issues as well.

Mr. President, existing Federal requirements forcing States to impose safety belt and helmet laws have had their intended consequences. Most States have enacted helmet and seatbelt laws. In my view, the time has come to remove the Federal Government from issues which properly fall within the province of the States. In the spirit of devolving non-Federal responsibilities to the States, I think we can start with ending the Federal role in setting traffic laws. At some point, we must trust the States on issues which fall particularly within their areas of expertise and for which they bear the full responsibility of enforcement.

To conclude, Mr. President, my votes yesterday were not to repeal safety laws or speed limits. I personally support helmet laws and seatbelt requirements. My votes were to allow Virginia and other States to use their own expertise to determine the laws that will best serve their citizens and enhance their safety.

Mr. DOLE. Mr. President, I join my colleagues today as a cosponsor of S. 440 to encourage the adoption of this legislation designating the National Highway System. This bill contains significant reforms that are important to Kansas and our country's transportation system.

There has been a great deal of support for the designation of the National Highway System. The 159,000 miles identified in this bill represent each State's primary routes connecting major population centers, transportation facilities, and other intermodal efforts. Our highway system is a network whose maintenance and upkeep are crucial to our economy. As new technological developments for intermodal transportation are created, the interconnectivity of our country's transportation system becomes increasingly important. This designation will allow for much needed funds to flow to our States directly.

I appreciate the efforts of Senator WARNER and Senator CHAFEE to address specific areas of concern for Kansas. The designation of the I-35 corridor identifies an existing route from Texas to Kansas to Minnesota that is a valuable link between Mexico and Canada. The demands on these transportation routes connecting Canada, the United States, and Mexico will only increase. As our demand for trade among these countries grows, so will our need to develop and maintain these transportation routes.

Several issues addressed in this bill have long been in need of attention. The repeal of the crumb rubber mandate, removal of metric measurements requirements, and hours of service clarifications are of great interest to many Kansans. Although we did not pursue the repeal of Davis-Bacon in this legislation, the repeal of this outdated law will continue to be a high priority. Throughout this debate, efforts have been made to give the States a greater role in setting their own transportation policy. The issue is not whether there should be a speed-limit or mandatory helmet or seatbelt law. The issue is who decides: is it Congress or each of the respective States?

In addition, I would like to thank Senator CHAFEE for joining with me in addressing the concerns of water-well drillers and the hours-of-service regulations. The language in S. 440 resolves an unintended problem by requiring the drivers of water well drilling rigs to comply with the same hours of service regulations currently provided to drivers of vehicles in oilfield operations while maintaining safety priorities.

I believe the National Highway System designation, as well as other provisions contained in S. 440, provide a positive step forward in addressing our Nation's transportation needs.

I urge my colleagues to join in support of S. 440.

Mr. KEMPTHORNE. Mr. President, I rise today to express my strong support for the legislation before us, S. 440, the National Highway Designation Act. This is landmark legislation because it expands the existing Federal Interstate Highway System into a national system that includes the major roadways in every State. The identification of these important State highways and their eligibility for Federal highway funding is a significant step forward in strengthening the transportation network of our country.

As a member of the Environment and Public Works Committee and the subcommittee on Transportation and Infrastructure, I have been very involved in the drafting of many sections of this bill, the repeals of the crumb rubber and national speed limit mandates and, most importantly to me personally, funding authority for the National Recreational Trails Program. The trails program was established in the original ISTEA bill but has not been fully implemented due to an inconsistent funding source. In this bill we have finally authorized contract funding authority to provide moneys from the Highway Trust Fund to design, build and maintain a national trail system for both motorized and non-motorized recreational uses.

I think that the committee amendment is good legislation. It reflects many hours of diligent and thoughtful effort by the committee members, and I want to particularly acknowledge the efforts of the Transportation Committee Chairman Senator WARNER and his staff.

The committee draft includes several provisions that are of critical importance to both the Nation and my home State of Idaho. These improvements share the common themes of deregulation and decentralization as we streamline and, in some cases, eliminate existing Federal transportation regulations and mandates. Some of these changes to present law revolve around the restoration of States rights in determining how to fund, construct and manage the highways in their individual States. My own State of Idaho has struggled in the past with these very issues because we also believe that these decisions are better left to be resolved by State legislatures. Federal bureaucrats in Washington, DC seldom, if ever, have a better sense of what is appropriate in the 50 individual States than those folks who are elected locally.

We have seen over and over again that rules and regulations drafted in Washington, DC which are designed to deal with specific regional problems, but which have national application, often times are too far reaching and burdensome to a majority of the country. Prime examples of these types of mandates presently in highway legislation include the national speed limit mandate, the financial penalties for noncompliance with mandatory helmet and seat belt laws and the financial penalties for noncompliance with the crumb rubber requirement.

It is not reasonable to assume that highway conditions and demands are the same in a predominately urban and heavily populated State as they would be in a primarily rural State like Idaho. For example the needs of Atlanta, Idaho, which has a population of just 200, a single road, one bridge, and plenty of wide open spaces are quite different from the needs of Atlanta, GA which has a population of 500,000.

The application of the crumb rubber minimum utilization requirement may work in some geographic areas that do not have great temperature variations and light commercial truck volume but, in the high mountain passes of Idaho, this mandate was a failure and resulted in a waste of both Federal and

State highway dollars. This Idaho crumb rubber pilot project was on U.S. 30 at the Fish Creek Summit which is situated at an elevation of 5,000 feet. Mr. Brent Frank, the Idaho DOT District 5 engineer, reported that the section of highway where crumb rubber was used displayed severe wheel rutting of up to 3 inches in depth after just 1 year. Normal wear of conventional paving materials would be 1 inch of rutting in 10 years. And, although Mr. Frank is reluctant to place the total blame for the accelerated deterioration on the recycled paving material, the Idaho DOT has suspended a second project that was to use the recycled material. There simply was not sufficient research and study conducted on this process prior to implementation of the mandate.

The good news is that each of the examples I have cited has been addressed to one degree or another in the committee bill. Several additional amendments will be offered which afford even more flexibility and discretion to local authorities to design programs that fit the needs of their constituents. I have co-sponsored two of these which deal with the repeal of financial penalties for noncompliance with Federal seat belt and helmet laws. Do I personally always use seat belts? Do I require that our children always wear seat belts? Absolutely. But I believe that this is a decision that should be made by the individual State legislatures.

These types of issues should not be decided by congressional studies or surveys, but rather on the constitutional grounds of the 10th amendment. I am unconditionally opposed to Federal edicts and mandates to the States, particularly in matters such as these where the Federal Government imposes financial penalties on States by redirecting moneys from a trust fund that was paid for by the very citizens that are being penalized.

I am hopeful that a majority of our colleagues will join in the effort to return these decisions where they belong—to the individual States.

Mr. WARNER. Mr. President, once again the managers would like to address the Senate in the hopes that we can tonight ascertain the full list of amendments that will be considered on this bill. The list as it now stands of Senators is as follows: Senator FRIST, Senator COHEN, Senator SMITH, Senator INOUYE, Senator HATFIELD, Senator MCCAIN, Senator JOHNSTON, Senator FORD, Senator GRAMS, Senator WELLSTONE, Senator STEVENS, Senator MURKOWSKI, Senator SARBANES, Senator FORD, Senator EXON, Senator BOXER, Senator CHAFEE, Senator NICKLES, and the amendment by the managers.

I ask my colleagues. Are there further amendments?

Mr. BAUCUS. Might I ask my good friend and colleague from Virginia? Does he have Senator STEVENS?

Mr. WARNER. We have Senators STEVENS and MURKOWSKI.

Mr. BAUCUS. JOHNSTON?

Mr. WARNER. Yes.

Mr. BAUCUS. Three amendments by Senator EXON?

Mr. WARNER. That is correct.

Mr. BAUCUS. JOHN KERRY?

Mr. WARNER. I suggest you add him—he was on and struck off—if you wish to put him back on.

Mr. BAUCUS. Two Boxer amendments?

Mr. WARNER. Yes.

Mr. BAUCUS. SARBANES?

Mr. WARNER. That is correct.

Mr. BAUCUS. And the managers?

Mr. WARNER. That is correct.

Mr. BAUCUS. That is the list.

Mr. WARNER. Mr. President, that is the list as we know it.

I now ask unanimous consent that that constitute the remaining amendments that can be brought up on this bill.

Mr. MURKOWSKI. Mr. President, reserving the right to object, because of our inability to resolve an issue that affects our State, not having the assurance that we can resolve this, even though I arranged for a meeting to take place tomorrow morning relative to the concerns that we have concerning that issue, I feel I must object.

Mr. WARNER. Mr. President, I remind the Senator that we have his amendment on this list. We can add a second amendment. So he can have two amendments on this list.

Mr. BAUCUS. Mr. President, I might also remind the Senator that there is no time agreement. So I think the Senator is fully protected.

Mr. WARNER. The Senator is fully protected. But it would enable the leaders in the Senate and the managers to get this bill through.

So I once again ask unanimous consent.

Mr. MURKOWSKI. Mr. President, I am sorry. This is of such importance to us. I appreciate the patience of the floor managers and the fact we are going to proceed with this tomorrow. But we have been at this for some 15 years since statehood, and we are so close to it now that unless we can reach some kind of an accord, I feel compelled to raise an objection at this time.

Mr. WARNER. If I could say one thing to my colleague at this time, let us make it clear that we have accepted one amendment from Alaska. We are going to clear it tonight. The second one, of which the Senator spoke, the Committee on Environment and Public Works has no jurisdiction whatsoever.

Am I not correct?

Mr. MURKOWSKI. That is correct.

Mr. WARNER. It is a matter that rests before the committee of which the distinguished Senator is the chairman.

Given those facts, would the Senator not be fully protected by just leaving it on the list and, therefore, we can have a unanimous consent agreement that this list constitutes the totality of all amendments?

I ask the Senator once again so we can move this bill.

Mr. MURKOWSKI. I think my friend from Virginia would recognize that in the years I have been here I have been most cooperative in trying to accommodate various Members. But this is an issue that is as important to us as any issue that we have ever had, and it is simply the right of access across Federal lands so that we can get to our private lands in the State, and there is an environmental objection from various groups that have persuaded Members that this is something they simply do not want to see addressed and resolved.

We see no other alternative other than to attempt to use every method that we can to try to bring some justice to the contract that was made when we entered into the statehood compact. The fact that we have been at this for so long, the fact that it belongs in this bill—and I recognize the comment made by the Senator from Virginia that some of the objection is within the Energy Committee, of which I happen to chair, and I hope that I will be able to prevail.

I wonder if the senior Senator from Alaska has any comments relative to this.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, reserving the right to object, I do believe we speak for the State of Utah also that has a similar problem which is very pertinent to this bill. This is the highway bill. We are trying to preserve our highway rights of way as other western States have. And we now find a new form of discrimination against us because we seek to use the rights of way created by the public over Federal lands. I think we are entitled to persist on this as long as we have to in order to get our rights recognized.

Mr. BAUCUS. Mr. President, might I inquire of the Senators from Alaska if there is some other provision we could incorporate in this agreement to accommodate them? They are protected. They now have an opportunity to offer an amendment. There is no time agreement.

I wonder if there is anything else we might consider at this point that the Senators would like to suggest that we could possibly incorporate in this agreement so that we can accommodate the Senator's interest.

Mr. STEVENS. Mr. President, reserving the right to object again, I am waiting for some information from our State and from our offices in the State regarding this matter. I thought we were on our way to settling this earlier today. We are not. We have to get a considerable amount of material in. We will not get it in tonight. We do operate on a situation where, you will recall, it is 4 hours earlier in our State. But we still are in the situation where we have to wait until they open in the morning and send us the information.

I do think it is not an unreasonable request that we be permitted to have the time necessary to deal with this objection. We just heard this afternoon.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, the Senator from Montana made a suggestion, if we could agree on the other amendments, to have the Senator from Alaska have the right to offer an amendment any time before final disposition of the bill, and that will give them time to decide precisely what amendment, if any, they wish to offer. Of course, the materials are not here. You are not going to let the bill go to final disposition. At least we would have a partial cap on the amendments.

I think the managers are prepared to stay here tonight and not have any more votes but to accept some amendments that may be pending.

Mr. MURKOWSKI. Mr. President, reserving the right to object, I shall not object, but it is just simply inconceivable and unacceptable to those of us in Alaska that this basic right that we were guaranteed under the statehood compact that we go out and identify those traditional trails, winter trails, access wagon roads, across Federal lands that have been utilized and those that have been completed—some 500 and some have been documented—and submitted, that we cannot consummate what was guaranteed under the Statehood Act.

It is very disappointing to me to find objections from other Senators that are strictly based on the feeling that this is a giant land grab. This is nothing more than the opportunity for the citizens of the State to traverse Federal land so they can get to their private land, so they can get to the State land.

It is something every single State—at least in the western United States—which had any public land has enjoyed. And we simply cannot understand why it is not acceptable.

Mr. STEVENS. Reserving the right to object, Mr. President, I shall not object, if the suggestion under the majority leader is incorporated—in other words, if we are not limited in the solution we may want to offer to this bill to this problem. We do not want to be tied down to just one amendment or amendments that might not be in order in terms of the circumstances that might be developed under this unanimous-consent agreement.

My understanding is that the leader has suggested we be permitted to offer an amendment or amendments to deal with the problems we have been talking about, and there will be no time limit on the bill under the circumstances of the agreement.

I do not object.

Mr. WARNER. Mr. President, I renew the request.

Mrs. BOXER. Mr. President, will the Senator yield?

I have a similar situation. I have two amendments pending. I am very willing to go with this approach. It would be very important to have the request for the amendments of the Senators from Alaska incorporated, so that, if we find another way to stop a problem, we are not inhibited from doing so.

Mr. WARNER. Mr. President, I renew the unanimous consent request as amended by the colloquy between the distinguished majority leader, the Senator from Alaska, and the Senator from California.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. Mr. President, reserving the right to object.

Mr. LAUTENBERG. Reserving the right to object, I have an amendment that I would like considered and I would like it placed on the list as well.

Mr. WARNER. Mr. President, I amend the unanimous consent request to include the Senator from New Jersey.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I also suggest to my good colleague that that request be subject to the usual parameters of the previous agreement, that is, the parameters of order No. 114, essentially that the following amendments be the only first-degree amendments in order and subject to relevant second degree, et cetera—the same parameters that are contained in order 114 of today.

The PRESIDING OFFICER. Is there objection to the unanimous consent request?

Without objection, it is so ordered.

Mr. WARNER. Now, Mr. President, the managers are prepared to continue consideration of amendments. We have several amendments which can be cleared, and we will proceed to do that expeditiously.

Mr. DOLE. Is it fair to announce there will be no more votes this evening?

Mr. WARNER. Correct.

Mr. DOLE. There will be no more votes tonight.

AMENDMENT NO. 1455

(Purpose: To include the Dalton Highway in Alaska in the designation of the National Highway System)

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of the Senator from Alaska.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. STEVENS, proposes an amendment numbered 1455.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 36, on line 12, strike the quotation mark and second period and insert:

"(24) The Dalton Highway from Deadhorse, Alaska to Fairbanks, Alaska.".

Mr. WARNER. I believe this amendment has been cleared by the distinguished Senator from Montana.

Mr. BAUCUS. Mr. President, it has been cleared. I urge its adoption.

Mr. STEVENS. Mr. President, I am grateful to the managers for accepting this amendment. It merely clarifies the status of the road that parallels the Alaska pipeline, an Alaska highway that can be the subject of expenditure of Federal highway funds.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I believe the vote is in order, and I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

Without objection, the amendment is agreed to.

So the amendment (No. 1455) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1456

Mr. CHAFEE. Mr. President, on behalf of the Senator from California, Mrs. BOXER, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mrs. BOXER, proposes an amendment numbered 1456.

Mr. CHAFEE. I ask further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In the appropriate place, insert the following: "At the end of section 5309(g)(4) of title 49, U.S.C., add the following new sentence: 'The Secretary may enter future obligations in excess of 50 percent of said uncommitted cash balance for the purpose of contingent commitments for projects authorized under section 3032 of Public Law 102–240'."

Mr. CHAFEE. This is an amendment that has been cleared by both sides and is acceptable.

Mr. BAUCUS. The Senator is correct. This is offered on behalf of Senator BOXER dealing with future obligations. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

So the amendment (No. 1456) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1457

(Purpose: To maintain eligibility under the congestion mitigation and air quality improvement program for areas that received funding during fiscal year 1994 and are nonattainment areas that have been redesignated as maintenance areas)

Mr. CHAFEE. Mr. President, on behalf of the Senator from Tennessee, Mr. FRIST, Mr. FAIRCLOTH, Mr. HELMS and Mr. THOMPSON, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. FRIST, for himself, Mr. FAIRCLOTH, Mr. HELMS and Mr. THOMPSON, proposes an amendment numbered 1457.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 26, line 3, strike "1995" and insert "1994".

On page 26, line 8, strike "1995" and insert "1994".

On page 26, between lines 13 and 14, insert the following:

(c) EFFECT OF LIMITATION ON APPORTIONMENT.—Notwithstanding any other law, for each of fiscal years 1996 and 1997, any limitation under this section or an amendment made by this section on an apportionment otherwise authorized under section 1003(a)(4) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1919) shall not affect any hold harmless apportionment adjustment under section 1015(a) of the Act (Public Law 102–240; 105 Stat. 1943).

Mr. WARNER. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

So the amendment (No. 1457) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1458

(Purpose: To make an amendment relating to the operating costs of the Boston-to-Portland rail corridor)

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. WARNER. Mr. President, if I might interject, I believe this is an amendment by Mr. COHEN of Maine.

I believe the Senator from Virginia is correct that it is now an amendment on behalf of Mr. COHEN, and I request that the clerk so amend the amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. COHEN, proposes an amendment numbered 1458.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . AVAILABILITY OF CERTAIN FUNDS FOR BOSTON-TO-PORTLAND RAIL CORRIDOR.

Section 5309 of title 49, United States Code, is amended by adding at the end of the following new subsection:

"(p) BOSTON-TO-PORTLAND RAIL CORRIDOR.—Notwithstanding any other provision of law, up to $3,600,000 of the funds made available under this section for the rail corridor between Boston, Massachusetts and Portland, Maine may be used to pay for operating costs arising in connection with such rail corridor under section 5333(b).".

Mr. WARNER. I appreciate the indulgence of the Chair, and also the staff of the Senate. It appears that that should now be an amendment by the Senator from Maine, Mr. COHEN, and the Senator from Massachusetts, Mr. KERRY. I ask unanimous consent that the clerk so amend the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I am advised Senator SNOWE likewise wishes to be a cosponsor. I ask unanimous consent that she be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

So the amendment (No. 1458) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1459

(Purpose: To make an amendment relating to surface transportation projects in the State of Hawaii)

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. INOUYE, for himself and Mr. AKAKA, proposes an amendment numbered 1459.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1. REVISION OF AUTHORITY OF MULTIYEAR CONTRACTS.

Section 3035(ww) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2136) is amended by adding at the end the following: "Of the funds provided by this subsection, $100,000,000 is authorized to be appropriated for regionally significant ground transportation projects in the State of Hawaii.".

Mr. BAUCUS. Mr. President, this is an amendment relating to surface transportation projects in the State of Hawaii. We have examined this amendment and agree to its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

So the amendment (No. 1459) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1460

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Montana [Mr. BAUCUS], for Mr. JOHNSTON, for himself and Mr. BREAUX, proposes an amendment numbered 1460.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add new section as follows:

Notwithstanding any other provisions of law, section 1105(e)(2) of Public Law 102–240 is amended by adding at the end the following new sentence: "A feasibility study may be conducted under this subsection to identify routes that will expedite future emergency evacuations of coastal areas of Louisiana.”

Mr. BAUCUS. Mr. President, this is a feasibility study which I think merits our consideration and approval. I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

So the amendment (No. 1460) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1461

(Purpose: To modify the authorization for a demonstration project in Minnesota)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. Grams, for himself and Mr. WELLSTONE, proposes an amendment numbered 1461.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1. 34TH STREET CORRIDOR PROJECT IN MOORHEAD, MINNESOTA.

Section 149(a)(5)(A) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 181) is amended—

(1) in clause (i), by striking “and” at the end; and

(2) by inserting “and (iii) a safety overpass,” after “interchange,”.

The PRESIDING OFFICER. Is there further debate?

Without objection, the amendment is agreed to.

So the amendment (No. 1461) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. CHAFEE. Mr. President, I now ask unanimous consent there be a period for morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

REGULATORY REFORM

Mr. DOLE. Mr. President, I have stated several times my intention to move as soon as possible to the regulatory reform bill. Regulatory reform is one of the most important issues this Congress will face, and the American people have made clear that they expect us to act. Regulatory reform does not have to be a partisan issue.

Democrats and Republicans alike have seen a need to inject common sense into how the Federal Government crafts regulations. Democrats and Republicans alike recognize that we cannot continue to bear $500 billion of added costs to the economy. That is why I believe it is important that we pass a strong regulatory reform bill, with bipartisan support.

Senator HEFLIN, for example, has provided welcome leadership in helping to craft this bill. I have been working with Senator JOHNSTON for some time to produce a strong regulatory reform package, in order to ensure that Congress answers America's call for relief.

I am pleased to say that I think Senator JOHNSTON and I have reached an agreement on at least a discussion draft, a package that we believe will enjoy broad support. My intention would be to, as soon as the draft is completed, ask that the draft be printed in the RECORD today so that everybody might have an opportunity to see it. Earlier this year, we had a dispute because not all Members had seen a draft on an earlier piece of legislation. Hopefully, by Tuesday of next week, we can bring that bill to the floor and try to complete it by the end of next week. We can put that into the RECORD today.

Again, this is a draft. We reached an agreement on this. It does not mean it may be the perfect answer or there may not be change between now and next Tuesday. I have talked to some of my colleagues on the other side, such as the Senator from Massachusetts, Senator KERRY, and many are wanting an opportunity to see what the draft is. By printing it in the RECORD, it will be available tomorrow, Friday, Saturday, Sunday and Monday and, hopefully, we can go to it on Tuesday.

I have suggested, and the Senator from Louisiana suggested, that we make that statement on the floor.

I yield to Senator JOHNSTON.

Mr. JOHNSTON. I thank the distinguished leader for his statement. He is correct that he and I have agreed upon a draft. It has been arrived at after extensive conversations, negotiations and writing, and we have worked in over 100 amendments to the underlying text. I hope my colleagues like the result, and I have reason to suspect that they will.

I would like to emphasize and ask the majority leader, if he does not agree with this—that this is, in fact, a discussion draft, and that we invite input from all of our colleagues. By filing this to be printed, it is simply a matter of giving notice to colleagues of what is in the discussion draft. It is not the filing of the bill or the filing of an amendment. But it is a filing of notice, so that all of those who have meaningful input can work through the process and, hopefully, we will be able to improve the bill, so that by the time a bill or an amendment is filed, it will contain the suggestions of our colleagues, if we can agree upon those suggestions. Am I correct on that?

Mr. DOLE. Let me respond to that. The Senator is correct. I will underscore that this is a very significant effort. I do not want to downplay the importance of the draft, because it is important. It is a result of a lot of work on behalf of a lot of people on both sides of the aisle.

I do not want to suggest we are going to rewrite the whole thing. It is important. It has not been completed, and it could be improved, some would say by making it stronger, or there may be another way to improve it.

If there is no objection, I will ask unanimous consent later to have it printed. It is not completed yet. That will appear in the RECORD tomorrow morning and, hopefully, we can continue discussions tomorrow and Friday and again on Monday, so that on Tuesday we might be prepared to take the bill up with fairly broad bipartisan support.

Mr. JOHNSTON. Mr. President, I thank the leader for his statement. I thank him especially for the attitude of cooperation in the drafting of this “discussion draft” because the leader did not come in as a man with 56 votes in his pocket, the majority of votes, and do it his way; but rather, the input which I have had from this side of the aisle I tried to faithfully follow, and tried to compromise. Not everything went our way, and not everything went the Senator's way.

I really believe this is an excellent bill that I can enthusiastically support, and I hope my colleagues can improve, significantly, or in whatever ways they choose.

I think we have a draft that is going to attract some wide bipartisan support. I certainly hope so. From my part, I solicit and welcome any suggestions which I will faithfully try to negotiate to improve the bill, if any such suggestions are made.

Mr. DOLE. Again, I thank my colleague from Louisiana. He spent a lot more time on this this week than I. I know, for example, the many, many hours the Senator from Louisiana spent.

I also wanted to recognize the efforts of the Senator from Utah, Senator HATCH; the Senator from Delaware, Senator ROTH; the Senator from Alaska, Senator MURKOWSKI; the Senator from Oklahoma, Senator NICKLES; the Senator from Missouri, Senator BOND; the Senator from Alabama, Senator HEFLIN, whom I have already alluded to, and a number of others on this side, including the Senator from Georgia, Senator COVERDELL, who has been working in, I think, a very bipartisan way to try to find something we can agree on.

This is very important legislation. We hope we can have a bipartisan bill.

Mr. DASCHLE. Mr. President, Senator DOLE has laid out his plans having to do with the next piece of legislation, and I know a couple of our colleagues were hoping to comment on that.

Mr. DOLE. I am happy to yield to the Senator from Massachusetts.

Mr. KERRY. Mr. President, I would like to thank the majority leader and the Senator from Louisiana. I think this is a very positive and constructive step, to print the bill as a draft proposal rather than enter it as a piece of legislation at this point. I thank them for doing that.

I think the key here—as the majority leader has said, this is definitely one of the most sweeping and important pieces of legislation that we have yet considered—I think it is essential that we have an opportunity to try to guarantee that in the next few days, we come together as a working group to see if the product that will come to the floor as a bill, finally introduced, reflects the maximum amount of changes possible in the good spirit of bipartisan compromise.

I note for the majority leader that last year, we passed a cost-benefit definition by a vote of 0 to 8. I was pleased to vote for that. I think we ought to be able to, if we work in the next few days, to approach this bill with that same concept.

One of the fears that some Members have at this point is that there is enough layering of judicial involvement here that at a time when we are moving forward—securities reform, product liability reform, tort reform—we are suddenly perhaps creating a whole new avenue of tort possibilities.

I will simply ask the majority leader if, in the spirit of printing this, it is also his intention to now engage, in a couple of days, together with the Senator from Louisiana, with the Senator from Michigan, the Senator from Ohio, and others who are interested, in trying to see if we can pare down some of those differences that might help to truly make the final product introduced a bipartisan effort.

Mr. DOLE. Mr. President, I respond in the affirmative to the Senator from Massachusetts.

That is why I will ask consent later this evening, when we have the draft completed, so that we would have Thursday and Friday, and staff could have whatever time over the weekend and again on Monday, for the principals to see if we can come together.

We may not be able to come together. Maybe it will not happen next Tuesday. As I understand, a lot of people have been working on this in good faith, and all have not been in the same room but have been in different rooms in different groups.

That is based on the suggestion made by the Senator from Massachusetts earlier today. I think we agreed that we would not push it, we would not try to start on a bill tomorrow, but we would put it in the RECORD, a draft. It may not be the one that is introduced next week. The answer is yes.

Mr. KERRY. I think that is constructive. I thank the majority leader. He has certainly pledged to try to work in good faith to see if we can reach agreements.

Mr. GLENN. Mr. President, I want to add a couple of comments here. I think we have been at this on two tracks. There was a lot of regulatory reform legislation put in this year and considered in the Governmental Affairs Committee. We came out with a bill.

Another bill went through the Judiciary Committee process which is the one that the distinguished majority leader is referring to, that he and Senator JOHNSTON have been working on.

Now there has been a dual track going on. In addition to the Judiciary Committee bill, some have also been working on the bill that came out of the Governmental Affairs Committee, and it was voted unanimously out of Governmental Affairs with both Republican and Democratic support, a unanimous vote.

Now, we have taken that bill and done some work on it, and we think we have made some pretty good improvements.

It is ready. I will not submit it today, in view of what the majority leader has proposed here. But there have been two tracks. All of the work with regard to regulatory reform has not been centered on just the one bill that will be submitted today. I wanted to point that out to my colleagues.

I am happy to work with the Senator from Louisiana, as well as the majority leader, in trying to work this thing out and get the best of all of this legislation together if we possibly can do it. Whether that can be done in time enough to bring a completed form to the floor by next Tuesday, I do not know. But we can sure take a crack at it and see.

I just want to point out we do have this other effort. And the bill that we have been working on——

Mr. KERRY. Will the Senator yield for a moment?

Mr. GLENN. Just one more comment and I will yield the floor. We do have this other bill ready to go, in case we cannot negotiate these things out. I think it is a pretty good bill. We have given a lot of thought to it and have changed some of the things for which I know there was some objection.

With that I yield the floor.

Mr. JOHNSTON. Will the Senator yield? Will the Senator from Ohio yield?

Mr. JOHNSTON addressed the chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, in response to the Senator from Ohio I might say the excellent work he and Senator ROTH and the members of the Governmental Affairs Committee did was very much a matter of concern and negotiation to us on this bill. Particularly the judicial review, the recommendations which will appear in this draft are, really, motivated by the good work the Senator from Ohio and Senator ROTH did in their bill. So it is not that we considered only the Judiciary product.

To the contrary, the good work that went in the Roth-Glenn bill we sought to incorporate in this bill—I hope successfully. But to the extent it can be improved we solicit and invite those comments and suggestions.

Mr. LEVIN. Mr. President, will the Senator yield?

Mr. JOHNSTON. Yes, of course.

Mr. LEVIN. Let me just first commend the Senator from Louisiana and the majority leader for the process they are now undertaking. This is a process which submits a draft to the CONGRESSIONAL RECORD printer so we all can look at it and make suggestions to them for changes before it is introduced as a bill. I think that is the right process and holds out at least some hope that there could be a broad, bipartisan consensus behind the regulatory reform bill.

There is a broad, bipartisan consensus that we need regulatory reform. I think almost all of us have voted for it in one version or another. I have worked closely with my friend from Louisiana, as a matter of fact, over the years on some regulatory reform issues. But I think the fact they are going through this discussion draft stage first, before it is introduced as a bill, with the representation that they are open to suggestions from people on both sides of the aisle with points of view on that draft before they finally agree on a final bill, I think is an important step forward. Then, if that does not work out there will be, of course, time for alternatives then to be offered.

I thank my friend from Louisiana and the majority leader.

Mr. KERRY. Mr. President, just before we close off on the subject, it is my understanding from the conversations that we had privately on this, but

I think I am not violating any of them to say that at this moment the expectancy is that whatever does come to the floor will be truly open to the full legislative process and not prejudged in a way we find with just a series of tabling motions and there is no legislative effort. Am I correct in that also?

Mr. JOHNSTON. The Senator is correct. But more than that, we solicit these comments in advance of filing the bill. That is an easier time and place to get this done.

Mr. KERRY. I could not agree with the Senator more.

Mr. JOHNSTON. Mr. President, I imagine there are going to be a lot of amendments. This is a huge and vitally important bill where each word carries tremendous meaning and where experts are going to look at it and be able to suggest improvements. For my part I think there are a lot of improvements that can be made. There are a lot of things I would like to change.

For example, we have a $50 million threshold for rules. I think it ought to be higher. That was a matter of compromise. And I hope we can discuss that seriously before we get to the floor or at least on the floor.

So the Senator is correct, it is open for serious negotiations before we file it, and after it is filed of course it is open for amendment. And I hope we will do it in a very bipartisan way and expect we will.

Mr. DOLE. Mr. President, I ask unanimous consent that the text of the draft be printed in the RECORD.

There being no objection, the draft was ordered to be printed in the RECORD, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Regulatory Reform Act of 1995".

SEC. 2. DEFINITIONS.

Section 551 of title 5, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking "this subchapter" and inserting "this chapter and chapters 7 and 8";

(2) in paragraph (13), by striking "and";

(3) in paragraph (14), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(15) 'Director' means the Director of the Office of Management and Budget.".

SEC. 3. RULEMAKING.

Section 553 of title 5, United States Code, is amended to read as follows:

"§ 553. Rulemaking

"(a) APPLICABILITY.—This section applies to every rulemaking, according to the provisions thereof, except to the extent that there is involved—

"(1) a matter pertaining to a military or foreign affairs function of the United States;

"(2) a matter relating to the management or personnel practices of an agency;

"(3) an interpretive rule, general statement of policy, guidance, or rule of agency organization, procedure, or practice, unless such rule, statement, or guidance has general applicability and substantially alters or creates rights or obligations of persons outside the agency; or

"(4) a rule relating to the acquisition, management, or disposal by an agency of real or personal property, or of services, that is promulgated in compliance with applicable criteria and procedures.

"(b) NOTICE OF PROPOSED RULEMAKING.—General notice of proposed rulemaking shall be published in the Federal Register, unless all persons subject thereto are named and either personally served or otherwise have actual notice of the proposed rulemaking in accordance with law. Each notice of proposed rulemaking shall include—

"(1) a statement of the time, place, and nature of public rulemaking proceedings;

"(2) a succinct explanation of the need for and specific objectives of the proposed rule, including an explanation of the agency's determination of whether or not the rule is a major rule within the meaning of section 621(5);

"(3) a succinct explanation of the specific statutory basis for the proposed rule, including an explanation of—

"(A) whether the interpretation is clearly required by the text of the statute; or

"(B) if the interpretation is not clearly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and an explanation why the interpretation selected by the agency is the agency's preferred interpretation;

"(4) the terms or substance of the proposed rule;

"(5) a summary of any initial analysis of the proposed rule required to be prepared or issued pursuant to chapter 6;

"(6) a statement that the agency seeks proposals from the public and from State and local governments for alternative methods to accomplish the objectives of the rulemaking that are more effective or less burdensome than the approach used in the proposed rule; and

"(7) a statement specifying where the file of the rulemaking proceeding maintained pursuant to subsection (j) may be inspected and how copies of the items in the file may be obtained.

"(c) PERIOD FOR COMMENT.—The agency shall give interested persons not less than 60 days after providing the notice required by subsection (b) to participate in the rulemaking through the submission of written data, views, or arguments.

"(d) GOOD CAUSE EXCEPTION.—Unless notice or hearing is required by statute, a final rule may be adopted and may become effective without prior compliance with subsections (b) and (c) and (e) through (g) if the agency for good cause finds that providing notice and public procedure thereon before the rule becomes effective is impracticable, unnecessary, or contrary to the public interest. If a rule is adopted under this subsection, the agency shall publish the rule in the Federal Register with the finding and a succinct explanation of the reasons therefor.

"(e) PROCEDURAL FLEXIBILITY.—To collect relevant information, and to identify and elicit full and representative public comment on the significant issues of a particular rulemaking, the agency may use such other procedures as the agency determines are appropriate, including—

"(1) the publication of an advance notice of proposed rulemaking;

"(2) the provision of notice, in forms which are more direct than notice published in the Federal Register, to persons who would be substantially affected by the proposed rule but who are unlikely to receive notice of the proposed rulemaking through the Federal Register;

"(3) the provision of opportunities for oral presentation of data, views, information, or rebuttal arguments at informal public hearings, meetings, and round table discussions, which may be held in the District of Columbia and other locations;

"(4) the establishment of reasonable procedures to regulate the course of informal public hearings, meetings and round table discussions, including the designation of representatives to make oral presentations or engage in direct or cross-examination on behalf of several parties with a common interest in a rulemaking, and the provision of transcripts, summaries, or other records of all such public hearings and summaries of meetings and round table discussions;

"(5) the provision of summaries, explanatory materials, or other technical information in response to public inquiries concerning the issues involved in the rulemaking; and

"(6) the adoption or modification of agency procedural rules to reduce the cost or complexity of the procedural rules.

"(f) PLANNED FINAL RULE.—If the provisions of a final rule that an agency plans to adopt are so different from the provisions of the original notice of proposed rulemaking that the original notice did not fairly apprise the public of the issues ultimately to be resolved in the rulemaking or of the substance of the rule, the agency shall publish in the Federal Register a notice of the final rule the agency plans to adopt, together with the information relevant to such rule that is required by the applicable provisions of this section and that has not previously been published in the Federal Register. The agency shall allow a reasonable period for comment on such planned final rule prior to its adoption.

"(g) STATEMENT OF BASIS AND PURPOSE.—An agency shall publish each final rule it adopts in the Federal Register, together with a concise statement of the basis and purpose of the rule and a statement of when the rule may become effective. The statement of basis and purpose shall include—

"(1) an explanation of the need for, objectives of, and specific statutory authority for, the rule;

"(2) a discussion of, and response to, any significant factual or legal issues presented by the rule, or raised by the comments on the proposed rule, including a description of the reasonable alternatives to the rule proposed by the agency and by interested persons, and the reasons why each such alternative was rejected;

"(3) a succinct explanation of whether the specific statutory basis for the rule is expressly required by the text of the statute, or if the specific statutory interpretation upon which the rule is based is not expressly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and why the agency has rejected other interpretations proposed in comments to the agency;

"(4) an explanation of how the factual conclusions upon which the rule is based are substantially supported in the rulemaking file; and

"(5) a summary of any final analysis of the rule required to be prepared or issued pursuant to chapter 6.

"(h) NONAPPLICABILITY.—In the case of a rule that is required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 shall apply in lieu of subsections (c), (e), (f), and (g).

"(i) EFFECTIVE DATE.—An agency shall publish the final rule in the Federal Register not later than 60 days before the effective date of such rule. An agency may make a rule effective in less than 60 days after publication in the Federal Register if the rule grants or recognizes an exemption, relieves a restriction, or if the agency for good cause finds that such a delay in the effective date would be contrary to the public interest and publishes such finding and an explanation of the reasons therefor, with the final rule.

"(j) RULEMAKING FILE.—(1) The agency shall maintain a file for each rulemaking proceeding conducted pursuant to this section and shall maintain a current index to such file.

"(2) Except as provided in subsection (k), the file shall be made available to the public not later than the date on which the agency makes an initial publication concerning the rule.

"(3) The rulemaking file shall include—

"(A) the notice of proposed rulemaking, any supplement to, or modification or revision of, such notice, and any advance notice of proposed rulemaking;

"(B) copies of all written comments received on the proposed rule;

"(C) a transcript, summary, or other record of any public hearing conducted on the rulemaking;

"(D) copies, or an identification of the place at which copies may be obtained, of factual and methodological material that pertains directly to the rulemaking and that was considered by the agency in connection with the rulemaking, or that was submitted to or prepared by or for the agency in connection with the rulemaking; and

"(E) any statement, description, analysis, or other material that the agency is required to prepare or issue in connection with the rulemaking, including any analysis prepared or issued pursuant to chapter 6.

The agency shall place each of the foregoing materials in the file as soon as practicable after each such material becomes available to the agency.

"(k) CONFIDENTIAL TREATMENT.—The file required by subsection (j) need not include any material described in section 552(b) if the agency includes in the file a statement that notes the existence of such material and the basis upon which the material is exempt from public disclosure under such section. The agency may not substantially rely on any such material in formulating a rule unless it makes the substance of such material available for adequate comment by interested persons. The agency may use summaries, aggregations of data, or other appropriate mechanisms to protect the confidentiality of such material to the maximum extent possible.

"(*l*) RULEMAKING PETITION.—(1) Each agency shall give an interested person the right to petition—

"(A) for the issuance, amendment, or repeal of a rule;

"(B) for the amendment or repeal of an interpretive rule or general statement of policy or guidance;

"(C) for an interpretation regarding the meaning of a rule, interpretive rule, general statement of policy, or guidance; and

"(D) for a variance or exemption from the terms of a rule to which the petitioner is otherwise subject, provided the statute authorizing the rule does not prohibit a variance or exemption.

"(2) The agency shall grant or deny a petition made pursuant to paragraph (1), and give written notice of its determination to the petitioner, with reasonable promptness, but in no event later than 18 months after the petition was received by the agency.

"(3) The written notice of the agency's determination shall include an explanation of the determination and a response to each significant factual and legal claim that forms the basis of the petition.

"(m) JUDICIAL REVIEW.—(1) The decision of an agency to use or not to use procedures in a rulemaking under subsection (e) shall not be subject to judicial review.

"(2) The rulemaking file required under subsection (j) shall constitute the rulemaking record for purposes of judicial review.

"(3) No court shall hold unlawful or set aside an agency rule based on a violation of subsection (j), unless the court finds that such violation has precluded fair public consideration of a material issue of the rulemaking taken as a whole.

"(4)(A) Judicial review of compliance or noncompliance with subsection (j) shall be limited to review of action or inaction on the part of an agency.

"(B) A decision by an agency to deny a petition under subsection (*l*) shall be subject to judicial review immediately upon denial, as final agency action under the statute granting the agency authority to carry out its action.

"(n) CONSTRUCTION.—(1) Notwithstanding any other provision of law, this section shall apply to and supplement the procedures governing informal rulemaking under statutes that are not generally subject to this section.

"(2) Nothing in this section authorizes the use of appropriated funds available to any agency to pay the attorney's fees or other expenses of persons intervening in agency proceedings.".

SEC. 4. ANALYSIS OF AGENCY RULES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY RULES

"§ 621. Definitions

"For purposes of this subchapter—

"(1) except as otherwise provided, the definitions under section 551 shall apply to this subchapter;

"(2) the term 'benefit' means the reasonably identifiable significant favorable effects, including social, environmental, and economic effects, that are expected to result directly or indirectly from implementation of a rule or other agency action;

"(3) the term 'cost' means the reasonably identifiable significant adverse effects, including social, environmental, and economic costs, that are expected to result directly or indirectly from implementation of a rule or other agency action;

"(4) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition;

"(5)(A) the term 'major rule' means—

"(i) a rule or set of closely related rules that the agency proposing the rule, the Director, or a designee of the President determines is likely to have a gross annual effect on the economy of $50,000,000 or more in reasonably quantifiable increased costs;

"(ii) a rule that is otherwise designated a major rule by the agency proposing the rule, the Director, or a designee of the President;

"(B) a designation or failure to designate under subparagraph (A)(ii) shall not be subject to judicial review; or

"(6) the term 'market-based mechanism' means a regulatory program that—

"(A) imposes legal accountability for the achievement of an explicit regulatory objective on each regulated person;

"(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, which flexibility shall, where feasible and appropriate, include, but not be limited to, the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

"(C) permits regulated persons to respond to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates;

"(7) the term 'performance-based standards' means requirements, expressed in terms of outcomes or goals rather than mandatory means of achieving outcomes or goals, that permit the regulated entity discretion to determine how best to meet specific requirements in particular circumstances;

"(8) the term 'reasonable alternatives' means the range of regulatory options that the agency has authority to consider under the statute granting rulemaking authority, including flexible regulatory options of the type described in section 622(c)(2)(C)(iii), unless precluded by the statute granting the rulemaking authority; and

"(9) the term 'rule' has the same meaning as in section 551(4), and—

"(A) includes any statement of general applicability that substantially alters or creates rights or obligations of persons outside the agency; and

"(B) does not include—

"(i) a rule that involves the internal revenue laws of the United States;

"(ii) a rule or agency action that authorizes the introduction into commerce, or recognizes the marketable status, of a product;

"(iii) a rule exempt from notice and public procedure under section 553(a);

"(iv) a rule or agency action relating to the public debt;

"(v) a rule required to be promulgated at least annually pursuant to statute, or that provides relief, in whole or in part, from a statutory prohibition, other than a rule promulgated pursuant to subtitle C of title II of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.);

"(vi) a rule of particular applicability that approves or prescribes the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

"(vii) a rule relating to monetary policy or to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k))), credit unions, Federal Home Loan Banks, government sponsored housing enterprises, farm credit institutions, foreign banks that operate in the

United States and their affiliates, branches, agencies, commercial lending companies, or representative offices, (as those terms are defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101));

"(viii) a rule relating to the payment system or the protection of deposit insurance funds or the farm credit insurance fund;

"(ix) any order issued in a rate or certificate proceeding by the Federal Energy Regulatory Commission, or a rule of general applicability that the Federal Energy Regulatory Commission certifies would increase reliance on competitive market forces or reduce regulatory burdens; or

"(x) a rule relating to the financial responsibility of brokers and dealers, the safeguarding of investor securities and funds, the clearance and settlement of securities transactions, or the suspension of trading that is promulgated under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), or a rule relating to the protection of the Securities Investor Protection Corporation, that is promulgated under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.).

"§ 622. Rulemaking cost-benefit analysis

"(a) DETERMINATION OF MAJOR RULE.—Prior to publishing a notice of proposed rulemaking for any rule (or, in the case of a notice of proposed rulemaking that has been published but not issued on or before the date of enactment of this subchapter, not later than 30 days after such date of enactment), each agency shall determine whether the rule is or is not a major rule within the meaning of section 621(5)(A)(i) and, if it is not, whether it should be designated as a major rule under section 621(5)(A)(ii).

"(b) DESIGNATION.—(1) If an agency has determined that a rule is not a major rule within the meaning of section 621(5)(A)(i) and has not designated the rule as a major rule within the meaning of section 621(5)(A)(ii), the Director or a designee of the President may, as appropriate, determine that the rule is a major rule or designate the rule as a major rule not later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the date of enactment of this subchapter, not later than 1 year after such date of enactment).

"(2) Such determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation.

"(c) INITIAL COST-BENEFIT ANALYSIS.—(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking file an initial cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

"(B)(i) When an agency, the Director, or a designee of the President has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

"(ii) Following the issuance of an initial cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment in the same manner as if the initial cost-benefit analysis had been issued with the notice of proposed rulemaking.

"(2) Each initial cost-benefit analysis shall contain—

"(A) a succinct analysis of the benefits of the proposed rule, including any beneficial effects that cannot be quantified, and an explanation of how the agency anticipates such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

"(B) a succinct analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

"(C) a succinct description (including an analysis of the costs and benefits) of reasonable alternatives for achieving the identified benefits of the proposed rule, including, where such alternatives exist, alternatives that—

"(i) require no government action, where the agency has discretion under the statute granting the rulemaking authority not to promulgate a rule;

"(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply;

"(iii) employ performance-based standards, market-based mechanisms, or other flexible regulatory options that permit the greatest flexibility in achieving the regulatory result that the statutory provision authorizing the rule is designed to produce; or

"(iv) employ voluntary standards;

"(D) in any case in which the proposed rule is based on one or more scientific evaluations, scientific information, or a risk assessment, or is subject to the risk assessment requirements of subchapter III, a description of the actions undertaken by the agency to verify the quality, reliability, and relevance of such scientific evaluation, scientific information, or risk assessment; and

"(E) an explanation of whether the proposed rule is likely to meet the decisional criteria of section 624.

"(d) FINAL COST-BENEFIT ANALYSIS.—(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking file a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

"(2) Each final cost-benefit analysis shall contain—

"(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking record, including flexible regulatory options of the type described in subsection (c)(2)(C)(iii), and a description of the persons likely to receive such benefits and bear such costs; and

"(B) an analysis, based upon the rulemaking record considered as a whole, of whether and how the rule meets the decisional criteria in section 624.

"(3) In considering the benefits and costs, the agency, when appropriate, shall consider the benefits and costs incurred by all of the affected persons or classes of persons (including specially affected subgroups).

"(e) REQUIREMENTS FOR COST-BENEFIT ANALYSES.—(1)(A) The description of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs. The analysis shall take into account only costs and benefits that are reasonably related to the effect that the statute under which the rulemaking is authorized is designed to produce.

"(B) The quantification or numerical estimate shall—

"(i) be made in the most appropriate unit of measurement, using comparable assumptions, including time periods;

"(ii) specify the ranges of predictions; and

"(iii) explain the margins of error involved in the quantification methods and the uncertainties and variabilities in the estimates used.

"(C) An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible.

"(D) The agency evaluation of the relationship of benefits to costs shall be clearly articulated.

"(E) An agency shall not be required to make such evaluation primarily on a mathematical or numerical basis.

"(2) Where practicable and when understanding industry-by-industry effects is of central importance to a rulemaking, the description of the benefits and costs of a proposed and final rule required under this section shall describe such benefits and costs on an industry-by-industry basis.

"(f) HEALTH, SAFETY, OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) A major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources; and

"(B) the agency publishes in the Federal Register, together with such finding, a succinct statement of the basis for the finding.

"(2) Not later than 180 days after the promulgation of a final major rule to which this section applies, the agency shall comply with the provisions of this subchapter and, if thereafter necessary, revise the rule.

"§ 623. Agency Regulatory Review and Petitions

"(a) PRELIMINARY SCHEDULE FOR RULES.—Not later than 1 year after the date of enactment of this section, and every 5 years thereafter, each agency shall publish in the Federal Register a preliminary schedule of rules selected for review by the agency under this section, and request public comment thereon, including suggestions for additional rules warranting review. Such preliminary schedule shall propose deadlines for review of each rule listed thereon, and such deadlines shall occur not later than 11 years after the date of publication of the preliminary schedule.

"(b) INTERPRETIVE RULES, GENERAL STATEMENTS OF POLICY, AND GUIDANCE.—(1) For each interpretive rule, general statement of policy, or guidance, which on the date of enactment of this section has the force or effect of a rule under section 621(9), the agency shall, not later than the date of publication of the preliminary schedule in subsection (a)—

"(A) withdraw the rule;

"(B) issue a new interpretive rule, general statement of policy, or guidance;

"(C) publish notice in the Federal Register that the interpretive rule, general statement of policy, of guidance does not have the force or effect of a rule; or

"(D) include the rule on the schedule in subsection (a).

"(2) If such rule is included on the schedule in subsection (a), the rule may remain in force pending its review under this section, if the agency makes a finding of good cause and publishes such finding in the Federal Register with the schedule.

"(c) Schedule.—(1) Not later than 1 year after publication of a preliminary schedule under subsection (a), the agency shall publish a schedule of rules to be reviewed by the agency under this section, taking into account the criteria in subsection (d), and comments from the public.

"(2) The agency shall publish revisions to the schedule as necessary to reflect changes to the schedule required by agency action pursuant to subsection (e) or (j)(4) or required to comply with any conditions of an annual appropriations Act affecting the agency.

"(3) The schedule, including any revisions of the schedule, shall establish a deadline for completion of the review of each rule listed thereon. Each such deadline shall occur not later than 10 years from the date of initial publication of the schedule.

"(d) Criteria for Establishing Deadlines for Review.—The schedules in subsections (a) and (c) shall establish priorities for the review of rules listed on the schedule, and the deadlines for review of each rule on the schedule, that take into account—

"(1) the extent to which, for a particular rule the preliminary views of the agency are that—

"(A) the rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

"(B) the rule would not meet the decisional criteria of section 624, and the agency has discretion under the statute authorizing the rule to repeal the rule; or

"(C) the rule could be revised in a manner allowed by the statute authorizing the rule to meet the decisional criteria under section 624 and to—

"(i) substantially decrease costs;

"(ii) substantially increase benefits; or

"(iii) provide greater flexibility for regulated entities, through mechanisms including those listed in section 622(c)(2)(C)(iii);

"(2) the resources expected to be available to the agency to carry out the reviews under this section; and

"(3) the importance of each rule relative to the other rules being reviewed under this section.

"(e) Petition for Reconsideration of Priority.—(1) Any interested person may petition the agency to revise the deadline for completion of review of a rule listed on a schedule under subsection (c). The petition shall identify with reasonable specificity the rule to be reviewed and the revised deadline requested. A decision to grant, or final agency action to deny, such petition shall be made with reasonable promptness, but in no event later than 18 months after the petition was received by the agency. If the petition is granted, the final schedule under subsection (c) shall be modified to reflect the revised deadline. The agency shall give notice of each petition submitted under this subsection and shall consider any comments submitted in granting or denying the petition.

"(2) Notwithstanding section 533(*l*)(2), during the time between a decision to grant or deny a petition and the publication of the next preliminary schedule under subsection (a), no further petition under this subsection on the same rule shall be required to be considered by the agency unless—

"(A) such further petition was filed not later than 90 days after public notice under this subsection; or

"(B) such further petition is based on a significant change in fact, circumstance, or provision of law underlying or otherwise related to the rule and occurring since the petition was granted or denied, that warrants the review of the deadline.

"(f) Review of Rule.—(1) For each rule on the schedule under subsection (c), the agency shall—

"(A) not later than 2 years before the deadline in such schedule, publish in the Federal Register a notice that solicits public comment regarding whether the rule should be extended, modified, or terminated;

"(B) not later than 1 year before the deadline in such schedule, publish in the Federal Register a notice that—

"(i) addresses public comments generated by the notice in subparagraph (A);

"(ii) contains a preliminary analysis provided by agency of whether the rule satisfies the decisional criteria of section 624;

"(iii) contains a preliminary determination as to whether the rule should be extended, modified, or terminated; and

"(iv) solicits public comment on the preliminary determination for the rule; and

"(C) not later than 60 days before the deadline in such schedule, publish in the Federal Register a final notice on the rule that—

"(i) addresses public comments generated by the notice in subparagraph (B);

"(ii) contains a final determination of whether to extend, modify, or terminate the rule;

"(iii) if the agency determines to extend the rule, contains findings necessary to satisfy the decisional criteria of section 624; and

"(iv) if the agency determines to modify the rule, contains a notice of proposed rulemaking under section 553.

"(2) If the agency's final determination is to extend or terminate the rule, that determination shall take effect 60 days after the publication in the Federal Register of the notice in paragraph (1)(c).

"(3) The head of an agency may extend the period for completing review of a rule for up to 2 years after the deadline in the schedule, if the head of the agency—

"(A) makes a finding of good cause for making the extension;

"(B) makes a finding that the extension is in the public interest; and

"(C) publishes such findings in the Federal Register with a notice of the extension.

"(g) Deadline for Final Agency Action on Modified Rule.—If an agency makes a determination to modify a rule under subsection (f)(1)(C)(ii), the agency shall complete final agency action with regard to such rule not later than 2 years after the date of publication of the notice in subsection (f)(1)(C) containing such determination. Nothing in this subsection shall limit the discretion of an agency to decide, after having proposed to modify a rule, not to promulgate such modification. Such decision shall constitute final agency action for the purposes of judicial review.

"(h) Termination of Rules.—(1) Subject to paragraph (2), if the head of an agency has not completed the review of a rule by the deadline established in the schedule published under subsection (c), the head of the agency shall not enforce the rule, and the rule shall terminate by operation of law, as of such deadline.

"(2) If a notice of extension has been published under subsection (f), the head of an agency shall not enforce a rule subject to such notice, and the rule shall terminate by operation of law, as of the earlier of—

"(A) the date that is 2 years after the deadline in the schedule; or

"(B) the date designated in the notice.

"(i) Appropriations.—(1) The President's annual budget proposal submitted under section 1105(a) of title 31 for each agency subject to this section shall—

"(A) identify as a separate sum, the amount requested to be appropriated for implementation of this section during the upcoming fiscal year;

"(B) include a copy of the schedule under subsection (c); and

"(C) include a list of rules that may terminate during the year for which the budget proposal is made.

"(2) Amendments to the schedule under subsection (c) may be included in annual appropriations Acts for the relevant agencies. Each agency shall modify its schedule under subsection (c) to reflect such amendments.

"(j) Petition To Amend or Repeal a Major Rule.—(1) A petition under section 553(*l*)(1)(A) to amend or repeal a major rule shall be reviewed in accordance with this subsection. The petition shall identify with reasonable specificity the major rule to be reviewed and the amendment or repeal requested.

"(2) The agency shall grant the petition if the petition shows that—

"(A) there is a reasonable likelihood that, considering the future impact of the rule—

"(i) the rule is a major rule under section 621(5); and

"(ii) the head of the agency would not be able to make the findings required by section 624 with respect to the future impact of the rule; and

"(B) a schedule was published by the agency under subsection (c) at the time that the petition was received by the agency, and the rule was not scheduled for review on such schedule.

"(3) The agency shall give notice in the Federal Register on any petition under this subsection and shall consider any comments submitted in granting or denying the petition. Notwithstanding section 553(*l*)(2), during the 5-year period immediately following a decision to grant or deny a petition, no further petition of the same rule, reviewable under this subsection, shall be required to be considered by the agency, unless—

"(A) such further petition was filed not later than 90 days after notice was provided under this paragraph; or

"(B) such further petition is based on a significant change in a fact, circumstance, or provision of law underlying or otherwise related to the rule and occurring since the petition was granted or denied, that warrants the amendment or repeal of the rule.

"(4) If the agency grants the petition reviewed under this subsection, or the petitioner is the prevailing party upon judicial review of the denial of a petition, the agency shall amend the schedule under subsection (c) to include the rule, and assign a deadline for completion of the review of the rule according to the criteria of subsection (d).

"(5) This subsection shall become effective, for each agency, on the date of publication of the first schedule for that agency under subsection (c).

"(k) Petition To Review Interpretive Rules, General Statements of Policy, and Guidance.—(1) A petition under section 553(*l*)(1)(B) to review an interpretive rule, general statement of policy, or guidance on the basis that on the date the petition is filed, the interpretive rule, general statement of policy, or guidance has the force and effect of a rule under section 621(9) shall be reviewed in accordance with this subsection. The petition shall identify with reasonable specificity why the interpretive rule, general statement of policy, or guidance has the force and effect of a rule under section 621(9).

"(2) The agency shall grant the petition if the petition shows there is a reasonable likelihood that—

"(A) the interpretive rule, general statement of policy, or guidance has the force and effect of a rule under section 621(9) on the date the petition is filed; and

"(B) if a schedule has been published by the agency under subsection (c), at the time that the petition was received by the agency, the interpretive rule, general statement of policy, or guidance is not on such schedule.

"(3) For each interpretive rule, general statement of policy, or guidance for which a petition is granted under this subsection, the agency shall—

"(A) immediately withdraw the interpretive rule, general statement of policy, or guidance;

"(B) publish notice in the Federal Register that the interpretive rule, general statement of policy, or guidance does not have the force or effect of a rule; or

"(C) add the interpretive rule, general statement of policy, or guidance to the schedule under subsection (c), and assign a deadline for completion of the review of the rule according to the criteria in subsection (d).

"(4) If the agency adds the interpretive rule, general statement of policy, or guidance to the final schedule in subsection (c), it may continue to enforce the interpretive rule, general statement of policy, or guidance, if the agency makes a finding of good cause and publishes such finding in the Federal Register.

"(5) This subsection shall take effect, for each agency, on the date of publication by the agency of the first schedule for review under subsection (c).

"(*l*) PETITION FOR REVIEW OF A MAJOR RISK ASSESSMENT.—(1) Any interested person may petition an agency to conduct a scientific review of a risk assessment conducted or adopted by the agency.

"(2) The agency shall utilize external peer review, as appropriate, to evaluate the claims and analyses in the petition, and shall consider such review in making its determination of whether to grant the petition.

"(3) The agency shall grant the petition if the petition shows that there is a reasonable likelihood that—

"(A)(i) the risk assessment that is the subject of the petition was carried out in a manner substantially inconsistent with the principles in section 633; or

"(ii) the risk assessment that is the subject of the petition does not take into account material significant new scientific data and scientific understanding;

"(B) the risk assessment that is the subject of the petition contains different results than if it had been properly conducted pursuant to subchapter III; and

"(C) a revised risk assessment will provide the basis for reevaluating an agency determination of risk that would be likely to have an effect on the United States economy equivalent to that of major rule.

"(4) A decision to grant, or final action to deny, a petition under this subsection shall be made not later than 180 days after the petition is submitted.

"(5) If the agency grants the petition, it shall complete its review of the risk assessment not later than 1 year after its decision to grant the petition. If the agency revises the risk assessment, in response to its review, it shall subject the revised risk assessment to peer review under section 633(i) prior to its publication.

"(m) FINAL AGENCY ACTION.—(1) A failure to promulgate a modified rule, or to make other decisions required by subsection (g), by the date established under such subsection, shall constitute final agency action.

"(2) An agency's determination to extend or terminate a rule under this section shall be considered a final agency action.

"(3) An agency's action with respect to a petition filed under subsection (e) shall be overturned by the court on review only upon a determination by the court that such action was arbitrary and capricious or an abuse of discretion under section 706(a)(2)(A).

"(4) A decision to grant or deny a petition under subsection (l) shall be final agency action.

"§ 624. Decisional criteria

"(a) CONSTRUCTION WITH OTHER LAWS.—The requirements of this section shall supplement, and not supersede, any other decisional criteria otherwise provided by law.

"(b) REQUIREMENTS.—Except as provided in subsection (c), no final major rule subject to this subchapter shall be promulgated unless the agency head publishes in the Federal Register a finding that—

"(1) the benefits from the rule justify the costs of the rule;

"(2) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii); and

"(3)(A) the rule adopts the least cost alternative of the reasonable alternatives that achieves the objectives of the statute; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest and the agency head provides an explanation of those considerations, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits; and

"(4) if a risk assessment is required by section 632—

"(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

"(c) ALTERNATIVE REQUIREMENTS.—If, applying the statutory requirements upon which the rule is based, a rule cannot satisfy the criteria of subsection (b), the agency head may promulgate the rule if the agency head finds that—

"(1) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii);

"(2)(A) the rule adopts the least cost alternative of the reasonable alternatives that achieves the objectives of the statute; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest, and the agency head provides an explanation of those consideration, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits; and

"(3) if a risk assessment is required by section 632—

"(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed;

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

"(d) PUBLICATION OF REASONS FOR NONCOMPLIANCE.—If an agency promulgates a rule to which subsection (c) applies, the agency head shall prepare a written explanation of why the agency was required to promulgate a rule that does not satisfy the criteria of subsection (b) and shall transmit the explanation with the final cost-benefit analysis to Congress when the final rule is promulgated.

"§ 625. Jurisdiction and judicial review

(a) REVIEW.—Compliance or noncompliance by an agency with the provisions of this subchapter and subchapter III shall be subject to judicial review only in accordance with this section.

(b) JURISDICTION.—(1) Subject to paragraph (2), each court with jurisdiction under a statute to review final agency action to which this title applies has jurisdiction to review any claims of noncompliance with this subchapter and subchapter III.

(2) No claims of noncompliance with this subchapter or subchapter III shall be reviewed separate or apart from judicial review of the final agency action to which they relate.

(c) RECORD.—Any analysis or review required under this subchapter or subchapter III shall constitute part of the rulemaking record of the final agency action to which it pertains for purposes of judicial review.

(d) STANDARDS FOR REVIEW.—In any proceeding involving judicial review under section 706 or under the statute granting rulemaking authority, failure to comply with this subchapter or subchapter III may be considered by the court solely for the purpose of determining whether the final agency action is arbitrary and capricious or an abuse of discretion (or unsupported by substantial evidence where that standard is otherwise provided by law).

"§ 626. Deadlines for rulemaking

"(a) STATUTORY.—All deadlines in statutes that require agencies to propose or promulgate any rule subject to section 622 or subchapter III during the 5-year period beginning on the effective date of this section shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 2 years after the date of the applicable deadline.

"(b) COURT-ORDERED.—All deadlines imposed by any court of the United States that would require an agency to propose or promulgate a rule subject to section 622 or subchapter III during the 5-year period beginning on the effective date of this section shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 2 years after the date of the applicable deadline.

"(c) OBLIGATION TO REGULATE.—In any case in which the failure to promulgate a rule by a deadline occurring during the 5-

year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 2 years after the date of the applicable deadline.

"§ 627. Special rule

"Notwithstanding any other provision of the Comprehensive Regulatory Reform Act of 1995, or the amendments made by such Act, for purposes of this subchapter and subchapter IV, the head of each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act), the National Credit Union Administration, the Federal Housing Finance Board, the Office of Federal Housing Enterprise Oversight, and the Farm Credit Administration, shall have authority with respect to such agency that otherwise would be provided under such subchapters to the Director, a designee of the President, Vice President, or any officer designated or delegated with authority under such subchapters.

"§ 628. Requirements for major environmental management activities

"(a) DEFINITION.—For purposes of this section, the term 'major environmental management activity' means—

"(1) a corrective action requirement under the Solid Waste Disposal Act;

"(2) a response action or damage assessment under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

"(3) the treatment, storage, or disposal of radioactive or mixed waste in connection with site restoration activity; and

"(4) Federal guidelines for the conduct of such activity, including site-specific guidelines,

the expected costs, expenses, and damages of which are likely to exceed, in the aggregate, $10,000,000.

"(b) APPLICABILITY.—A major environmental management activity is subject to this section unless construction or other remediation activity has commenced on a significant portion of the activity, and—

"(1) it is more cost-effective to complete the work than to apply the provisions of this section; or

"(2) the application of the provisions of this section, including any delays caused thereby, will result in a significant risk to human health or the environment.

"(c) REQUIREMENT TO PREPARE RISK ASSESSMENT.—(1) For each major environmental management activity or significant unit thereof that is proposed by the agency after the date of enactment of this subchapter, is pending on the date of enactment of this subchapter, or is subject to a granted petition for review pursuant to section 623, the head of an agency shall prepare—

"(A) a risk assessment in accordance with subchapter III; and

"(B) a cost-benefit analysis equivalent to that which would be required under this subchapter, if such subchapter were applicable.

"(2) In conducting a risk assessment or cost-benefit analysis under this section, the head of the agency shall incorporate the reasonably anticipated probable future use of the land and its surroundings (and any associated media and resources of either) affected by the environmental management activity.

"(3) For actions pending on the date of enactment of this section or proposed during the year following the date of enactment of this section, in lieu of preparing a risk assessment in accordance with subchapter III or cost-benefit analysis under this subchapter, an agency may use other appropriately developed analyses that allow it to make the judgments required under subsection (d).

"(d) REQUIREMENT.—The requirements of this subsection shall supplement, and not supercede, any other requirement provided by any law. A major environmental management activity under this section shall meet the decisional criteria under section 624 as if it is a major rule under such section

"SUBCHAPTER III—RISK ASSESSMENTS

"§ 631. Definitions

"For purposes of this subchapter—

"(1) except as otherwise provided, the definitions under section 551 shall apply to this subchapter;

"(2) the term 'exposure assessment' means the scientific determination of the intensity, frequency and duration of actual or potential exposures to the hazard in question;

"(3) the term 'hazard assessment' means the scientific determination of whether a hazard can cause an increased incidence of one or more significant adverse effects, and a scientific evaluation of the relationship between the degree of exposure to a perceived cause of an adverse effect and the incidence and severity of the effect;

"(4) the term 'major rule' has the meaning given such term in section 621(5);

"(5) the term 'risk assessment' means the systematic process of organizing and analyzing scientific knowledge and information on potential hazards, including as appropriate for the specific risk involved, hazard assessment, exposure assessment, and risk characterization;

"(6) the term 'risk characterization' means the integration and organization of hazard and exposure assessment to estimate the potential for specific harm to an exposed individual population or natural resource including, to the extent feasible, a characterization of the distribution of risk as well as an analysis of uncertainties, variabilities, conflicting information, and inferences and assumptions in the assessment;

"(7) the term 'screening analysis' means an analysis using simple conservative postulates to arrive at an estimate of upper and lower bounds as appropriate, that permits the manager to eliminate risks from further consideration and analysis, or to help establish priorities for agency action; and

"(8) the term 'substitution risk' means an increased risk to human health, safety, or the environment reasonably likely to result from a regulatory option.

"§ 632. Applicability

"(a) IN GENERAL.—(1) Except as provided in subsection (c), for each proposed and final major rule, a primary purpose of which is to protect human health, safety, or the environment, or a consequence of which is a substantial substitution risk, that is proposed by an agency after the date of enactment of this subchapter, or is pending on the date of enactment of this subchapter, the head of each agency shall prepare a risk assessment in accordance with this subchapter.

"(2) An agency shall not, as a condition for the issuance or modification of a permit, conduct, or require any person to conduct, a risk assessment not otherwise explicitly required by law or regulation.

"(b) APPLICATION OF PRINCIPLES.—Except as provided in subsection (c), the head of each agency shall apply the principles in this subchapter to any risk assessment carried out by, or on behalf of, or prepared by others and adopted by, the agency in connection with human health, safety, and environmental risks.

"(c) EXCEPTIONS.—(1) This subchapter shall not apply to risk assessments performed with respect to—

"(A) a situation for which the agency finds good cause that conducting a risk assessment is impracticable due to an emergency or health and safety threat that is likely to result in significant harm to the public or natural resources;

"(B) a rule or agency action that authorizes the introduction into commerce, or initiation of manufacture, of a substance, mixture, or product, or recognizes the marketable status of a product;

"(C) a human health, safety, or environmental inspection, an action enforcing a rule or permit, or an individual facility permitting action, except risk assessments conducted in connection with permits issued under subtitle C of title II of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.);

"(D) a screening analysis clearly identified as such; or

"(E) product registrations, reregistrations, tolerance settings, and reviews of premanufacture notices under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) and the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

"(2) An analysis shall not be treated as a screening analysis for the purposes of paragraph (1)(D) if the result of the analysis is used—

"(A) as the basis for imposing a restriction on a previously authorized substance, product, or activity after its initial introduction into manufacture or commerce; or

"(B) to characterize a finding of significant risk from a substance or activity in any agency document or other communication made available to the public, the media, or Congress.

"(3) This subchapter shall not apply to any food, drug, or other product label or labeling, or to any risk characterization appearing on any such label.

"§ 633. Principles for risk assessments

"(a) IN GENERAL.—(1) The head of each agency shall design and conduct risk assessments in a manner that promotes rational and informed risk management decisions and informed public input into the process of making agency decisions.

"(2) The head of each agency shall establish and maintain a distinction between risk assessment and risk management.

"(3) An agency may take into account priorities for managing risks, including the types of information that would be important in evaluating a full range of alternatives, in developing priorities for risk assessment activities.

"(4) In conducting a risk assessment, the head of each agency shall employ the level of detail and rigor appropriate and practicable for reasoned decisionmaking in the matter involved, proportionate to the significance and complexity of the potential agency action and the need for expedition.

"(5) An agency shall not be required to repeat discussions or explanations in each risk assessment required under this subchapter if there is an unambiguous reference to a relevant discussion or explanation in another reasonably available agency document that was prepared in accordance with this section.

"(b) LEVEL OF DETAIL.—(1) Each agency shall develop and use an iterative process for risk assessment, starting with relatively inexpensive screening analyses and progressing to more rigorous analyses, as circumstances or results warrant.

"(2) In determining whether or not to proceed to a more detailed analysis, the head of the agency shall take into consideration whether or not use of additional data or the analysis thereof would significantly change the estimate of risk.

"(c) DATA QUALITY.—(1) The head of each agency shall base each risk assessment only on the best reasonably available scientific data and scientific understanding, including scientific information that finds or fails to find a correlation between a potential hazard and an adverse effect, and data regarding exposure and other relevant physical conditions that are reasonably expected to be encountered.

"(2) The agency shall select data for use in a risk assessment based on a reasoned analysis of the quality and relevance of the data, and shall describe such analysis.

"(3) In making its selection of data, the agency shall consider whether the data were developed in accordance with good laboratory practice or other appropriate protocols to ensure data quality, such as the standards for the development of test data promulgated pursuant to section 4 of the Toxic Substances Control Act (15 U.S.C. 2603), and the standards for data requirements promulgated pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a), or other form of independent valuation.

"(4) Subject to paragraph (3), relevant scientific data submitted by interested parties shall be reviewed and considered by the agency in the analysis under paragraph (2).

"(5) When conflicts among scientific data appear to exist, the risk assessment shall include a discussion of all relevant information including the likelihood of alternative interpretations of the data and emphasizing—

"(A) postulates that represent the most reasonable inferences from the supporting scientific data; and

"(B) when a risk assessment involves an extrapolation from toxicological studies, data with the greatest scientific basis of support for the resulting harm to affected individuals, populations, or resources.

"(6) The head of an agency shall not automatically incorporate or adopt any recommendation or classification made by any foreign government, the United Nations, any international governmental body or standards-making organization, concerning the health effects value of a substance. Nothing in this paragraph shall be construed to affect the implementation or application of any treaty or international trade agreement to which the United States is a party.

"(d) USE OF POSTULATES.—(1) To the maximum extent practicable, each agency shall use postulates, including default assumptions, inferences, models or safety factors, only when relevant scientific data and scientific understanding, including site-specific data, are lacking. The agency shall decrease the use of postulates to the extent higher quality scientific data and understanding become available.

"(2) When a risk assessment involves choice of a postulate, the head of the agency shall—

"(A) identify the postulate and its scientific or policy basis, including the extent to which the postulate has been validated, or conflicts with empirical data;

"(B) explain the basis for any choices among postulates; and

"(C) describe reasonable alternative postulates that were not selected by the agency for use in the risk assessment, and the sensitivity of the conclusions of the risk assessment to the alternatives, and the rationale for not using such alternatives.

"(3) An agency shall not inappropriately combine or compound multiple postulates.

"(4) The agency shall develop a procedure and publish guidelines for choosing default postulates and for deciding when and how in a specific risk assessment to adopt alternative postulates or to use available scientific information in place of a default postulate.

"(e) RISK CHARACTERIZATION.—In each risk assessment, the agency shall include in the risk characterization, as appropriate, each of the following:

"(1) A description of the hazard of concern.

"(2) A description of the populations or natural resources that are the subject of the risk assessment.

"(3) An explanation of the exposure scenarios used in the risk assessment, including an estimate of the corresponding population at risk and the likelihood of such exposure scenarios.

"(4) A description of the nature and severity of the harm that could plausibly occur.

"(5) A description of the major uncertainties in each component of the risk assessment and their influence on the results of the assessment.

"(f) PRESENTATION OF RISK ASSESSMENT CONCLUSIONS.—(1) To the extent feasible and scientifically appropriate, the head of an agency shall—

"(A) express the overall estimate of risk as a range or probability distribution that reflects variabilities, uncertainties and data gaps in the analysis;

"(B) provide the range and distribution of risks and the corresponding exposure scenarios, identifying the reasonably expected risk to the general population and, where appropriate, to more highly exposed subpopulations; and

"(C) where quantitative estimates of the range and distribution of risk estimates are not available, describe the qualitative factors influencing the range of possible risks.

"(2) When scientific data and understanding that permits relevant comparisons of risk are reasonably available, the agency shall use such information to place the nature and magnitude of risks to human health, safety, and the environment being analyzed in context.

"(3) When scientifically appropriate information on significant substitution risks to human health, safety, or the environment is reasonably available to the agency, or is contained in information provided to the agency by a commentator, the agency shall describe such risks in the risk assessments.

"(g) PEER REVIEW.—(1) Each agency shall provide for peer review in accordance with this section of any risk assessment subject to the requirements of this subchapter that forms that basis of any major rule or a major environmental management activity.

"(2) Each agency shall develop a systematic program for balanced, independent, and external peer review that—

"(A) shall provide for the creation or utilization of peer review panels, expert bodies, or other devices that are balanced and comprised of participants selected on the basis of their expertise relevant to the sciences involved in regulatory decisions and who are independent of the agency program that developed the risk assessment being reviewed;

"(B) shall not exclude any person with substantial and relevant expertise as a participant on the basis that such person has a potential interest in the outcome, if such interest is fully disclosed to the agency, unless the result of the review would have a direct and predictable effect on a substantial financial interest of such person;

"(C) shall provide for a timely completed peer review, meeting agency deadlines, that contains a balanced presentation of all considerations, including minority reports and agency response to all significant peer review comments; and

"(D) shall provide adequate protections for confidential business information and trade secrets, including requiring panel members to enter into confidentiality agreements.

"(3) Each peer review shall include a report to the Federal agency concerned detailing the scientific and technical merit of data and the methods used for the risk assessment or cost-benefit analysis, and shall identify significant peer review comments. Each agency shall provide a written response to all significant peer review comments. All peer review comments, conclusions, composition of the panels, and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

"(4)(A) The Director of the Office of Science and Technology Policy shall develop a systematic program to oversee the use and quality of peer review of risk assessments.

"(B) The Director or the designee of the President may order an agency to conduct peer review for any risk assessment that is likely to have a significant impact on public policy decisions, or that would establish an important precedent.

"(5) The proceedings of peer review panels under this section shall not be subject to the Federal Advisory Committee Act.

"(h) PUBLIC PARTICIPATION.—The head of each agency shall provide appropriate opportunities for public participation and comment on risk assessments.

"§ 634. Rule of construction

"Nothing in this subchapter shall be construed to—

"(1) preclude the consideration of any data or the calculation of any estimate to more fully describe or analyze risk, scientific uncertainty, or variability; or

"(2) require the disclosure of any trade secret or other confidential information.

"§ 635. Comprehensive risk reduction

"(a) SETTING PRIORITIES.—The head of each agency with programs to protect human health, safety, or the environment shall set priorities for the use of resources available to address those risks to human health, safety, and the environment, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

"(b) INCORPORATING RISK-BASED PRIORITIES INTO BUDGET AND PLANNING.—The head of each agency in subsection (a) shall incorporate the priorities identified under subsection (a) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner using the priorities set under subsection (a), the basis for that determination, and explicitly identify how the agency's requested budget and regulatory agenda reflect those priorities.

"(c) REPORTS BY THE NATIONAL ACADEMY OF SCIENCES.—(1) Not later than 6 months after the date of enactment of this section, the Director of the Office of Science and Technology Policy shall enter into an arrangement with the National Academy of Sciences to investigate and report on comparative risk analysis. The arrangement shall provide, to the extent deemed appropriate and feasible by the Academy, for—

"(A) 1 or more reports evaluating methods of comparative risk analysis that would be appropriate for agency programs related to human health, safety, and the environment to use in setting priorities for activities; and

"(B) a report providing a comprehensive and comparative analysis of the risks to human health, safety, and the environment that are addressed by agency programs under subsection (a), along with companion activities to disseminate the conclusions of the report to the public.

"(2) The report or reports prepared under paragraph (1)(A) shall be completed not later than 3 years after the date of enactment of this section. The report under paragraph (1)(B) shall be completed not later than 4 years after the date of enactment of this section, and shall draw, as appropriate, upon the insights and conclusions of the report or reports made under paragraph (1)(A). The companion activities under paragraph (1)(B) shall be completed not later than 5 years after the date of enactment of this section.

"(3)(A) The head of an agency with programs to protect human health, safety, and the environment shall incorporate the recommendations of reports under paragraph (1) in revising any priorities under subsection (a).

"(B) The head of the agency shall submit a report to the appropriate Congressional committees of jurisdiction responding to the recommendations from the National Academy of Sciences and describing plans for utilizing the results of comparative risk analysis in agency budget, strategic planning, regulatory agenda, enforcement, and research and development activities.

"(4) Following the submission of the report in paragraph (2), for the next 5 years, the head of the agency shall submit, with the budget request submitted to Congress under section 1105(a) of title 31, a description of how the requested budget of the agency and the strategic planning activities of the agency reflect priorities determined using the recommendations of reports issued under subsection (a). The head of the agency shall include in such description—

"(A) recommendations on the modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

"(B) recommendation on the modification or elimination of statutory or judicially mandated deadlines,

that would assist the head of the agency to set priorities in activities to address the risks to human health, safety, or the environment that incorporate the priorities developed using the recommendations of the reports under subsection (a), resulting in more cost-effective programs to address risk.

"(5) For each budget request submitted in accordance with paragraph (4), the Director shall submit an analysis of ways in which resources could be reallocated among Federal agencies to achieve the greatest overall net reduction in risk.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"§ 641. Procedures

"(a) IN GENERAL.—The Director or a designee of the President shall—

"(1) establish and, as appropriate, revise procedures for agency compliance with this chapter; and

"(2) monitor, review, and ensure agency implementation of such procedures.

"(b) PUBLIC COMMENT.—Procedures established pursuant to subsection (a) shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

"(c) TIME FOR REVIEW.—(1) If procedures established pursuant to subsection (a) include review of any initial or final analyses of a rule required under chapter 6, the time for any such review of any initial analysis shall not exceed 90 days following the receipt of the analysis by the Director, or a designee of the President.

"(2) The time for review of any final analysis required under chapter 6 shall not exceed 90 days following the receipt of the analysis by the Director, a designee of the President.

"(3)(A) The times for each such review may be extended for good cause by the President or by an officer to whom the President has delegated his authority pursuant to section 642 for an additional 30 days. At the request of the head of an agency, the President or such an officer may grant an additional extension of 30 days.

"(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

"§ 642. Delegation of authority

"(a) IN GENERAL.—The President may delegate the authority granted by this subchapter to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

"(b) NOTICE.—Notice of any delegation, or any revocation or modification thereof shall be published in the Federal Register.

"§ 643. Judicial review

"The exercise of the authority granted under this subchapter by the Director, the President, or by an officer to whom such authority has been delegated under section 642 and agency compliance or noncompliance with the procedure under section 641 shall not be subject to judicial review.

"§ 644. Regulatory agenda

"The head of each agency shall provide, as part of the semiannual regulatory agenda published under section 602—

"(1) a list of risk assessments under preparation or planned by the agency;

"(2) a brief summary of relevant issues addressed or to be addressed by each listed risk assessment;

"(3) an approximate schedule for completing each listed risk assessment;

"(4) an identification of potential rules, guidance, or other agency actions supported or affected by each listed risk assessment; and

"(5) the name, address, and telephone number of an agency official knowledgeable about each listed risk assessment.".

(b) REGULATORY FLEXIBILITY ANALYSIS.—

(1) FINAL REGULATORY FLEXIBILITY ANALYSIS.—Section 604 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) No final rule for which a final regulatory flexibility analysis is required under this section shall be promulgated unless the agency finds that the final rule minimizes significant economic impact on small entities to the maximum extent possible, consistent with the purposes of this subchapter, the objectives of the rule, and the requirements of applicable statutes.

"(2) If an agency determines that a statute requires a rule to be promulgated that does not satisfy the criterion of paragraph (1), the agency shall—

"(A) include a written explanation of such determination in the final regulatory flexibility analysis; and

"(B) transmit the final regulatory flexibility analysis to Congress when the final rule is promulgated.".

(2) JUDICIAL REVIEW.—Section 611 of title 5, United States Code, is amended to read as follows:

"§ 611. Judicial review

"(a)(1) For any rule described in section 603(a), and with respect to which the agency—

"(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities;

"(B) prepared a final regulatory flexibility analysis pursuant to section 604; or

"(C) did not prepare an initial regulatory flexibility analysis pursuant to section 603 or a final regulatory flexibility analysis pursuant to section 604 except as permitted by sections 605 and 608,

an affected small entity may petition for the judicial review of such certification, analysis, or failure to prepare such analysis, in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 or under any other provision of law shall have jurisdiction over such petition.

"(2)(A) Notwithstanding any other provision of law, an affected small entity shall have 1 year after the effective date of the final rule to challenge the certification, analysis or failure to prepare an analysis required by this subchapter with respect to any such rule.

"(B) If an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection may be filed not later than 1 year after the date the analysis is made available to the public.

"(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be subject to the provisions of, or otherwise required to comply with, the final rule.

"(4) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

"(5)(A) Notwithstanding section 605, if the court determines, on the basis of the court's review of the rulemaking record, that there is substantial evidence that the rule would have a significant economic impact on a substantial number of small entities, the court shall order the agency to prepare a final regulatory flexibility analysis that satisfies the requirements of section 604.

"(B) If the agency prepared a final regulatory flexibility analysis, the court shall order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the court's review of the rulemaking record, that the final regulatory flexibility analysis does not satisfy the requirements of section 604.

"(6) The court shall stay the rule and grant such other relief as the court determines to be appropriate if, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5), the agency fails, as appropriate—

"(A) to prepare the analysis required by section 604; or

"(B) to take corrective action consistent with section 604.

"(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

"(c) Except as otherwise required by the provisions of this subchapter, the court shall apply the same standards of judicial review that govern the review of agency findings under the statute granting the agency authority to conduct the rulemaking.".

(c) REVISION OF CERTAIN PROVISIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT RELATING TO TESTING.—In applying section 409(c)(3)(A), 512(d)(1), or 721(b)(5)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)(A), 360b(d)(1), 379e(b)(5)(B)), the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency shall not prohibit or refuse to approve a substance or product on the basis of safety, where the substance or product presents a negligible or insignificant foreseeable risk to human health resulting from its intended use.

(d) TOXIC RELEASE INVENTORY.—

(1) Within 180 days after the date of the enactment of this subsection, the Administrator of the Environmental Protection Agency shall carry out a review of each characterization or listing of a substance added since November 8, 1994 to the Toxic Release Inventory under section 313(c) of the Emergency Planning and Community Right to Know Act of 1986.

(2) In this review the Administrator shall determine with the respect to each such characterization or listing whether removal of the substance from the Toxic Release Inventory presents a foreseeable significant risk to human health or the environment.

(3) The Administrator shall remove from the Toxic Release Inventory any substance whose removal is justified by the determination under paragraph (2).

(4) (A) Within 90 days after the date of the enactment of this subsection the Administrator shall publish in the Federal Register a draft review and the Administrator's preliminary plans to use the authority under paragraph (3), and afford interested persons an opportunity to comment.

(B) Promptly upon completion of the review, the Administrator shall provide Congress with a written report summarizing the review and the reasons for action or inaction on each characterization or listing subject to this subsection.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—Part I of title 5, United States Code, is amended by striking the chapter heading and table of sections for chapter 6 and inserting the following:

"CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

"SUBCHAPTER I—REGULATORY ANALYSIS

"Sec.

"601. Definitions.
"602. Regulatory agenda.
"603. Initial regulatory flexibility analysis.
"604. Final regulatory flexibility analysis.
"605. Avoidance of duplicative or unnecessary analyses.
"606. Effect on other law.
"607. Preparation of analysis.
"608. Procedure for waiver or delay of completion.
"609. Procedures for gathering comments.
"610. Periodic review of rules.
"611. Judicial review.
"612. Reports and intervention rights.

"SUBCHAPTER II—ANALYSIS OF AGENCY RULES

"621. Definitions.
"622. Rulemaking cost-benefit analysis.
"623. Agency regulatory review and petitions.
"624. Decisional criteria.
"625. Jurisdiction and judicial review.
"626. Deadlines for rulemaking.
"627. Special rule.
"628. Requirements for major environmental management activities.

"SUBCHAPTER III—RISK ASSESSMENTS

"631. Definitions.
"632. Applicability.
"633. Principles for risk assessments.
"634. Rule of construction.
"635. Comprehensive risk reduction.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"641. Procedures.
"642. Delegation of authority.
"643. Judicial review.
"644. Regulatory agenda.".

(2) SUBCHAPTER HEADING.—Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

"SUBCHAPTER I—REGULATORY ANALYSIS".

SEC. 5. JUDICIAL REVIEW.

(a) IN GENERAL.—Chapter 7 of title 5, United States Code, is amended—

(1) by striking section 706; and

(2) by adding at the end the following new sections:

"§ 706. Scope of review

"(a) To the extent necessary to reach a decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

"(1) compel agency action unlawfully withheld or unreasonably delayed; and

"(2) hold unlawful and set aside agency action, findings and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(D) without observance of procedure required by law;

"(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 or otherwise reviewed on the record of an agency hearing provided by statute;

"(F) without substantial support in the rulemaking file, viewed as a whole, for the asserted or necessary factual basis, in the case of a rule adopted in a proceeding subject to section 553; or

"(G) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

"(b) In making the determinations set forth in subsection (a), the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"§ 707. Consent decrees

"In interpreting any consent decree in effect on or after the date of enactment of this section that imposes on an agency an obligation to initiate, continue, or complete rulemaking proceedings, the court shall not enforce the decree in a way that divests the agency of discretion clearly granted to the agency by statute to respond to changing circumstances, make policy or managerial choices, or protect the rights of third parties.

"§ 708. Affirmative defense

"Notwithstanding any other provision of law, it shall be an affirmative defense in any enforcement action brought by an agency that the regulated person or entity reasonably relied on and is complying with a rule, regulation, adjudication, directive, or order of such agency or any other agency that is incompatible, contradictory, or otherwise cannot be reconciled with the agency rule, regulation, adjudication, directive, or order being enforced.

(b) TECHNICAL AMENDMENT.—The analysis for chapter 7 of title 5, United States Code, is amended by striking the item relating to section 706 and inserting the following new items:

"706. Scope of review.
"707. Consent decrees.
"708. Affirmative defense."

SEC. 6. CONGRESSIONAL REVIEW.

(a) FINDING.—The Congress finds that effective steps for improving the efficiency and proper management of Government operations will be promoted if a moratorium on the implementation of certain significant final rules is imposed in order to provide Congress an opportunity for review.

(b) IN GENERAL.—Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"801. Congressional review.
"802. Congressional disapproval procedure.
"803. Special rule on statutory, regulatory, and judicial deadlines.
"804. Definitions.
"805. Judicial review.
"806. Applicability; severability.
"807. Exemption for monetary policy.

"§ 801. Congressional review

"(a)(1)(A) Before a rule can take effect as a final rule, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

"(i) a copy of the rule;

"(ii) a concise general statement relating to the rule; and

"(iii) the proposed effective date of the rule.

"(B) The Federal agency promulgating the rule shall make available to each House of

Congress and the Comptroller General, upon request—

"(i) a complete copy of the cost-benefit analysis of the rule, if any;

"(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

"(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

"(iv) any other relevant information or requirements under any other Act and any relevant Executive orders, such as Executive Order No. 12866.

"(C) Upon receipt, each House shall provide copies to the Chairman and Ranking Member of each committee with jurisdiction.

"(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction to each House of the Congress by the end of 12 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

"(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

"(3) A major rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

"(A) the later of the date occurring 60 days after the date on which—

"(i) the Congress receives the report submitted under paragraph (1); or

"(ii) the rule is published in the Federal Register;

"(B) if the Congress passes a joint resolution of disapproval described under section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

"(i) on which either House of Congress votes and fails to override the veto of the President; or

"(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

"(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

"(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

"(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802.

"(b) A rule shall not take effect (or continue) as a final rule, if the Congress passes a joint resolution of disapproval described under section 802.

"(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this chapter may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

"(2) Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

"(A) necessary because of an imminent threat to health or safety or other emergency;

"(B) necessary for the enforcement of criminal laws; or

"(C) necessary for national security.

"(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

"(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, section 802 shall apply to such rule in the succeeding Congress.

"(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

"(i) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the 15th session day after the succeeding Congress first convenes; and

"(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a final rule can take effect.

"(3) A rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law (including other subsections of this section).

"(e)(1) Section 802 shall apply in accordance with this subsection to any major rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on November 20, 1994, through the date on which the Comprehensive Regulatory Reform Act of 1995 takes effect.

"(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

"(A) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date of the enactment of the Comprehensive Regulatory Reform Act of 1995; and

"(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

"(f) Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

"(g) If the Congress does not enact a joint resolution of disapproval under section 802, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

"§ 802. Congressional disapproval procedure

"(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced during the period beginning on the date on which the report referred to in section 801(a) is received by Congress and ending 60 days thereafter, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ____ relating to ____, and such rule shall have no force or effect.'. (The blank spaces being appropriately filled in.)

"(b)(1) A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution may not be reported before the eighth day after its submission or publication date.

"(2) For purposes of this subsection the term 'submission or publication date' means the later of the date on which—

"(A) the Congress receives the report submitted under section 801(a)(1); or

"(B) the rule is published in the Federal Register.

"(c) If the committee to which is referred a resolution described in subsection (a) has not reported such resolution (or an identical resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such resolution in the Senate upon a petition supported in writing by 30 Members of the Senate and in the House upon a petition supported in writing by one-fourth of the Members duly sworn and chosen or by motion of the Speaker supported by the Minority Leader, and such resolution shall be placed on the appropriate calendar of the House involved.

"(d)(1) When the committee to which a resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of, a resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order.

"(3) Immediately following the conclusion of the debate on a resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

"(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

"(e) If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

"(1) The resolution of the other House shall not be referred to a committee.

"(2) With respect to a resolution described in subsection (a) of the House receiving the resolution—

"(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(B) the vote on final passage shall be on the resolution of the other House.

"(f) This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"§ 803. Special rule on statutory, regulatory, and judicial deadlines

"(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of the enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

"(b) The term 'deadline' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

"§ 804. Definitions

"(a) For purposes of this chapter—

"(1) the term 'Federal agency' means any agency as that term is defined in section 551(1) (relating to administrative procedure);

"(2) the term 'major rule' has the same meaning given such term in section 621(5); and

"(3) the term 'final rule' means any final rule or interim final rule.

"(b) As used in subsection (a)(3), the term 'rule' has the meaning given such term in section 551, except that such term does not include any rule of particular applicability including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing or any rule of agency organization, personnel, procedure, practice or any routine matter.

"§ 805. Judicial review

"No determination, finding, action, or omission under this chapter shall be subject to judicial review.

"§ 806. Applicability; severability

"(a) This chapter shall apply notwithstanding any other provision of law.

"(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

"§ 807. Exemption for monetary policy

"Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.".

(c) Effective Date.—The amendment made by subsection (b) shall take effect on the date of enactment of this Act and shall apply to any rule that takes effect as a final rule on or after such effective date.

(d) Technical Amendment.—The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rulemaking .... 801".

SEC. 7. REGULATORY ACCOUNTING.

(a) Definitions.—For purposes of this section, the following definitions apply:

(1) Major rule.—The term "major rule" has the same meaning as defined in section 621(5)(A)(i) of title 5, United States Code. The term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States; or

(C) regulations related to agency organization, management, or personnel.

(2) Agency.—The term "agency" means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(b) Accounting Statement.—

(1) In general.—(A) The President shall be responsible for implementing and administering the requirements of this section.

(B) Not later than June 1, 1997, and each June 1 thereafter, the President shall prepare and submit to Congress an accounting statement that estimates the annual costs of major rules and corresponding benefits in accordance with this subsection.

(2) Years covered by accounting statement.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

(3) Timing and procedures.—(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

(B) The President shall propose the first accounting statement under this subsection not later than 2 years after the date of the enactment of this Act and shall issue the first accounting statement in final form not later than 3 years after such effective date. Such statement shall cover, at a minimum, each of the fiscal years beginning after the date of the enactment of this Act.

(4) Content of accounting statement.—(A) Each accounting statement shall contain estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

(B)(i) An accounting statement shall estimate the costs of major rules by setting forth, for each year covered by the statement—

(I) the annual expenditure of national economic resources for major rules, grouped by regulatory program; and

(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

(I) Private sector costs.

(II) Federal sector costs.

(III) State and local government administrative costs.

(C) An accounting statement shall estimate the benefits of major rules by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(c) Associated Report to Congress.—

(1) In general.—At the same time as the President submits an accounting statement under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an "associated report"). The associated report shall contain, in accordance with this subsection—

(A) analyses of impacts; and

(B) recommendations for reform.

(2) Analyses of impacts.—The President shall include in the associated report the following:

(A) Analyses prepared by the President of the cumulative impact of major rules in Federal regulatory programs covered in the accounting statement on the following:

(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(ii) Small business.

(iii) Productivity.

(iv) Wages.

(v) Economic growth.

(vi) Technological innovation.

(vii) Consumer prices for goods and services.

(viii) Such other factors considered appropriate by the President.

(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(3) Recommendations for reform.—The President shall include in the associated report the following:

(A) A summary of recommendations of the President for reform or elimination of any

Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers, provide guidance to agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to sections 3 and 7 of this Act, including—

(A) detailed guidance on estimating the costs and benefits of major rules; and

(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

(2) to standardize the format of the accounting statements.

(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

(f) JUDICIAL REVIEW.—No requirements under this section shall be subject to judicial review in any manner.

SEC. 8. STUDIES AND REPORTS.

(a) RISK ASSESSMENTS.—The Administrative Conference of the United States shall—

(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 4 of this Act); and

(2) submit an annual report to the Congress on the findings of the study.

(b) ADMINISTRATIVE PROCEDURE ACT.—Not later than December 31, 1996, the Administrative Conference of the United States shall—

(1) carry out a study of the operation of the Administrative Procedure Act (as amended by section 3 of this Act); and

(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

SEC. 9. MISCELLANEOUS PROVISIONS.

(a) EFFECTIVE DATE.—Except as otherwise provided, this Act and the amendments made by this Act shall take effect on the date of enactment.

(b) SEVERABILITY.—If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

NOMINATION OF DR. HENRY FOSTER

Mr. LEVIN. Mr. President, we debated today whether a minority of members of the Senate will permit Dr. Henry Foster a vote on the confirmation of his nomination.

Dr. Foster is qualified to be Surgeon General of the United States. His 38-year career as a physician has reflected his concern for the medically underserved in our society and most clearly for young people. He has delivered more than 10,000 babies and trained hundreds of young doctors.

Unfortunately, his nomination has become a pawn in the game of Presidential politics. Apparently, some of our colleagues see an advantage in the Republican Presidential nominating process to using the issue of abortion as a rallying cry to frustrate the confirmation process. If a bipartisan majority of the U.S. Senate is prepared to vote to confirm the President's appointment, that vote should occur and Dr. Foster should be Surgeon General.

Pure and simple, the excuse for denying a vote to Dr. Foster is that he has performed a legal medical procedure on behalf of a tiny percentage of his patients.

Some of my colleagues in the Senate oppose a woman's right to choose on abortion, and that is their right. As lawmakers, they have the right to try to regulate it within constitutional limits and indeed, through the route of a constitutional amendment, they may even try to prohibit it. We have debated, and I'm sure we will again, debate that issue in this Chamber.

However, we should not try to turn Dr. Foster's nomination into that debate, because doing so is neither fair to the nominee, nor wise for the Nation.

I think Dr. Foster's views on abortion echo that of the vast majority of Americans. Abortion should be safe, legal, and rare. Now that last word rare is important. It's a word many people use when they talk about abortion, but Dr. Foster hasn't just talked about making abortion rare—he has done something about it.

Dr. Foster's I Have a Future program in Tennessee is considered an effective approach to teen pregnancy prevention. Indeed President Bush considered Dr. Foster's program one of his Thousand Points of Light, an outstanding example of Americans taking their own initiatives to make our country healthier and stronger. In this program, Dr. Foster has focused on helping young people develop confidence and self-esteem, because he knows that the teenager who can say "I have a future" is the teenager who can say "I don't want to give up that future by having a baby."

The qualities of leadership and vision Dr. Foster demonstrated in creating this program will make him a fine Surgeon General.

I was moved by Dr. Foster's testimony before the Labor and Human Resources Committee and paid a visit in my State to a program that shares many of the goals he has achieved in his I Have A Future program.

At Detroit's Northern High School, the Michigan Metro Girl Scout Council, with support from the W.K. Kellogg Foundation, has developed the Jayhawk Teen Center. The center provides young people with a safe, clean, and attractive place to come after school. It's a place to play a game of checkers' or a game of pool or to use a computer to log onto the Internet. It's also a place where young people learn how to resolve conflicts without violence, how to avoid the dead end street of substance abuse, and how to practice sexual responsibility. A team of four student managers runs this center, and I wish you could see the pride on their faces when they describe the difference it's made in their lives and the lives of their fellow student. Here too, young people are realizing they have a future.

When I met with these students, I told them about Dr. Foster, the work he had done and why I thought he would make an even greater contribution to our country as Surgeon General. But I also told them it was possible his nomination would not even be allowed to come up for a vote. They were puzzled by that. They couldn't understand how a good man, a man who had done all Dr. Foster has done, could be denied that opportunity. And, I do not think the American people will understand it either. They won't understand why Presidential politicking should prevent us from considering the nomination of a physician so qualified for this position.

Mr. President, I voted to invoke cloture on the nomination. The President is entitled to his nominee, if a majority of the Senate consent. We should have that vote and find out.

NOMINATION OF DR. HENRY W. FOSTER

Mr. KENNEDY. Mr. President, I strongly support the nomination of Dr. Henry Foster to be Surgeon General of the United States. Earlier today, the Senate narrowly rejected an attempt to cut off the unconscionable filibuster being waged against him. I want to take this opportunity to review the case in more detail for Dr. Foster.

Dr. Foster is a distinguished physician who has dedicated his career to improving the quality of health care for women and children. Throughout his 38-year career in medicine, he has had a substantial influence on the quality of health care through his own practice, his teaching, and his community leadership.

His outstanding record as a physician, community leader, medical educator, and public servant make him superbly qualified for this important position.

I am pleased that we have made it this far in the nomination process, and that we are on the road to bringing this nomination up for a final vote. But opponents to this nomination are intent on a filbuster, and we must invoke cloture in order to get the nomination to a vote. Those who believe that this nomination deserves a vote must vote for cloture to make that happen.

Cloture is only the first step on the road to fairness. The second step—the step that counts—is the up or down vote on the nomination by the entire Senate.

Throughout this nomination process, several Republicans have stated that, in fairness, the nomination should go before the entire Senate for a final vote. Some Members have suggested that by allowing a cloture vote, the majority leader will be giving the nomination the fair consideration it deserves. They have suggested that a vote on cloture is the same as a vote on the nomination. Obviously, that is wrong and misleading.

Senators who feel strongly about the issue of fairness should vote for cloture, even if they intend to vote against the nomination itself. It is wrong to filibuster this nomination, and Senators who believe in fairness will not let a minority of the Senate deny Dr. Foster his vote by the entire Senate.

We do a disservice to Dr. Foster, the Senate and the Nation as a whole by prolonging this process. The Nation has now been without a Surgeon General for 6 months, and there is no justification for further delay.

Dr. Foster has demonstrated his impressive qualifications, his character, and his vision for the future of health care in this country. During the committee hearings, he successfully put to rest the charges attacking his character and his ability. He earned the admiration and respect of the committee and the American public.

Dr. Foster has developed innovative and effective approaches to some of the most difficult medical and social challenges facing communities across the Nation today. He began his unselfish crusade early in his career, and at every stage, he has been an inspiring example of personal sacrifice and service to others.

During the Labor Committee hearings, Dr. Foster ran the gauntlet of the committee and emerged with flying colors. With real and very moving eloquence, he described his background, his career, and his vision for the future of health care in America.

In doing so, he demonstrated his impressive qualifications for Surgeon General, and successfully dismantled all of the objections raised against him. Dr. Foster had the opportunity to make his case, and he did so very well.

He developed a model prenatal care program to improve health care for expectant mothers and their babies. He tried his best to confront the problems of infant mortality, mental retardation and birth defects by bringing comprehensive prenatal and postnatal health care to tens of thousands of poor women.

During his 38-year career, he has been nationally recognized for his leadership and research on sickle cell anemia, infant mortality, adolescent health care, women's health care, and teenage pregnancy.

He has made a significant difference in the lives and futures of those he has served throughout his career, and there is no question that he will do the same for the Nation.

In a sense, Dr. Foster has been a pioneer all his life. In the course of his career, he has met and mastered many difficult challenges in medicine, and has had a positive impact in every community and every environment he has served.

Dr. Foster was born in 1933 in Pine Bluff, AR. He earned his undergraduate degree from Morehouse College, and was accepted to medical school at the age of 20—the only African-American in his class.

After earning his medical degree in 1958, Dr. Foster served his internship at Detroit Receiving Hospital in Michigan.

From 1959 to 1961, he also served as a captain and medical officer in the U.S. Air Force, and was stationed in the State of Washington. He came to Boston to begin his residency training in 1961, and also served in the active Air Force Reserve during that year. In 1962 he went to Hubbard Hospital in Nashville, TN, for 3 years to complete his training.

He decided to begin his practice of medicine in the rural South. During that time, few doctors set up practice in the disadvantaged rural areas. Young, able, and well-trained in modern medicine, Dr. Foster went to Tuskegee to work among the poor, the uneducated, and the isolated residents living in racially divided rural Alabama.

He practiced there until 1973, when he returned to Nashville as chairman of the Department of Obstetrics and Gynecology at Meharry Medical College.

During his years in Tuskegee, the main local hospital served only whites, except for a few black emergency patients who would be put in rooms normally used as closets. So black patients often went to the J.A. Andrew Hospital, where Dr. Foster was on duty and took care of them.

During that time, Tuskegee suffered from a severe shortage of doctors, and Dr. Foster filled an urgent need. Most of his patients were poor, black women who had never seen a doctor in their lives before being treated by Dr. Foster. Most of them lived without electricity, a telephone, and in some cases, running water.

Many were forced to deliver their babies at home with lay midwives. Access to prenatal care was nonexistent. Dr. Foster provided this critical service, often in life or death situations and under the most difficult circumstances.

Conditions such as these would be a challenge for even a seasoned physician well into his practice.

But Dr. Foster took on this challenge at the very beginning of his career. He took sole responsibility for patients from five counties in rural Alabama, with a caseload well into the hundreds. He dedicated himself to providing adequate health care to these women and their children—sometimes delivering as many as three babies a day. The community remembers him as the town baby doctor—a doctor who has, in his 38-year career, delivered literally thousands of babies into the world.

As his practice and experience grew, Dr. Foster saw first hand how the lack of adequate health care contributed to an inordinately high level of infant mortality in the region. To deal with this problem, Dr. Foster applied for a grant from the Department of Health to expand the maternity and infant care program at Tuskegee Institute, and he directed this program from 1970 to 1973. Through this initiative, Dr. Foster made a significant impact on the effort to reduce infant mortality and give children a healthy start in life.

He brought together teams of doctors, nurses, social workers, and nutrition specialists to provide comprehensive services to women and children in rural communities. These teams worked to reach women early in their pregnancies, and to identify those with high potential for complications, so that they could receive proper health care throughout their pregnancy and following birth.

In his comprehensive approach to maternal and child care, Dr. Foster was well ahead of his time—so much so that it became a national model for what is now known as regional prenatal care. This kind of care involved extensive community outreach, specialized services for high risk women, and comprehensive care for mothers and infants both before and following birth. Very quickly, Dr. Foster became one of the Nation's leading experts on maternal and child health.

His initiatives helped Alabama women learn to take better care of themselves and their unborn children. He began working with the Robert Wood Johnson Foundation to extend his health care model to other parts of the country. In 1972, primarily because of his revolutionary work in this area, Dr. Foster received the high honor of being elected to the prestigious Institute of Medicine.

Dr. Foster has served on the Institute of Medicine since 1972. The Institute was chartered in 1970 by the National Academy of Science to promote the advancement of the health sciences and the improvement of health care. It enlists distinguished members of the medical and other professions in pursuit of these goals.

The Institute of Medicine is a highly selective professional body, with only 500 regular members, each of whom must be nominated by a current member and elected by the full membership. The institute is governed by a council of 21 members elected by the entire membership.

In 1992, the full membership recognized Dr. Foster's distinguished service for the institute—where he has served on numerous committees and boards—by electing him to the council. He was elected to a second term on the council in November 1994.

In 1978, Dr. Foster was also appointed by HEW Secretary Joe Califano to the Ethics Advisory Board, which was created to examine the moral and ethical questions raised by advances in medical science. Dr. Foster was appointed as one of the board's 15 members from a large group of nominations submitted by professional associations, scientific societies, public interest groups, and Members of Congress.

Members of the board included such leaders as James Gather, a former adviser to President Johnson and subsequent president of Stanford University board of trustees; Dr. David Hamburg, a former president of the Institute of Medicine and now president of the Carnegie Corporation of New York; Dr. Daniel Tosteson, dean of the Harvard Medical School for the past 20 years; and Dr. Sissela Bok, Harvard ethicist and philosopher.

Dr. Foster is also one of 10 members who serve on the Ethics Committee of the Nashville Academy of Medicine. The academy has over 1,400 members overall. The Ethics Committee acts as a tribunal for the discipline of academy members when complaints are received by other physicians concerning a member's ethical conduct.

According to the academy's executive director, Dr. Foster was chosen by the board of directors because of his "outstanding reputation in the medical community." Dr. Foster has served on the committee for 10 years.

In the 1970's Dr. Foster also began a crusade to provide quality health care to adolescents, whom he recognized as having inadequate access to care or to information about their health needs. He was chosen by the Robert Wood Johnson Foundation to direct a multimillion-dollar grant program to increase health services for teenagers and young men and women.

Dr. Foster concentrated on young persons between the ages of 15 and 24, who lived in areas characterized by high rates of teenage pregnancy, violence, drug and alcohol abuse, and mental illness. Under his guidance, 20 teaching hospitals developed comprehensive health programs to expand services for youths in their own communities and to train doctors and nurses in the specialized care of high risk youth.

As a result of Dr. Foster's initiative, between 1982 and 1986, these programs provided health services to 306,000 young people.

In addition, the program significantly increased the number of professionals trained in providing health care to adolescents. Formal training in adolescent care was given to 115 adolescent medicine fellows, 974 medical residents, and 753 graduate trainees in nursing, medicine, psychology, and social work.

Many of the Nation's first school-based clinics were a direct result of this initiative. During this time, Dr. Foster began to develop his strategy for combating the problem that presents perhaps one of the gravest dangers to health, opportunity, and the future for adolescents in America—teenage pregnancy.

Teenage pregnancy has become a crisis of significant proportions in this country. More than a million teenagers become pregnant each year. For every 1,000 women between the ages of 15 and 19, 13 become pregnant—the highest rate of teen pregnancy in the industrial world.

In 1987, as chairman of the Obstetrics/Gynecology Department at Meharry Medical College, Dr. Foster began a landmark effort to reduce the rate of teenage pregnancy. He went into the community, working with parents and community leaders in Nashville to find solutions to the problem. He listened to teenagers themselves, and asked them what they needed to help them do better in school, stay out of trouble, and avoid pregnancy.

The result was the I Have A Future program, which Dr. Foster established at Meharry Medical College in Nashville. He recognized that school-based clinics were not easily accessible when schools were closed, so he developed a program to reach teenagers where they live, during times when they need it most—after school, on the weekends, and during the summer—when they have free time, need something to do, and are at greatest risk of getting into trouble.

The I Have A Future program targets teenagers in two public housing developments in inner-city Nashville. It works to reduce teenage pregnancy, while also addressing other serious problems facing inner-city youth—drugs, violence, alcohol abuse, homicide, unemployment, and lack of educational opportunity. The program raises participants' self-esteem, promotes abstinence, and offers positive options to help teenagers make sensible decisions.

One of the most important points is that the I Have A Future program encourages teenagers to make responsible and sensible decisions. It gives them a purpose for abstaining from sex and avoiding high risk sexual behavior.

It raises their self-esteem and confidence. It gives them incentives to delay early sexual involvement and childbearing, and to focus instead on education, job skills, and personal responsibility. In short, the program teaches teens to think hard in advance about their choices and their future.

It offers on-going activities, such as after-school tutoring, computer training, sports, art and dance activities, and other recreation. Because the program is based where teenagers live, it draws parents and communities together to provide comprehensive and complementary services to participants, creating a stable and positive environment.

Dr. Foster has convinced these youths that they have an opportunity and a right to positive, productive, and fulfilling futures. As one I Have a Future teenager said:

> Dr. Foster has put excitement into learning. Learning could be fun if you do it in a fun way. Dr. Foster is doing a good deed by teaching kids to wait before they have sex. Dr. Foster would rather the young kids not have sex at all, because they still have a lot of things to look forward to in life. The "I Have A Future" program teaches you that you don't have to do what everyone else is doing.

Another teenager wrote:

> I am a three-year participant in the "I Have A Future" entrepreneurship program. Dr. Foster's program has greatly helped me. I have developed a positive attitude, good morals, confidence, and the willingness to become a strong, successful, black female through this extraordinary program. Dr. Henry Foster is a caring, honorable man who considers the welfare of others. He takes time out to understand and help those who may not be as fortunate. He is an inspiration to me.

One need only look at the results to see the program's effectiveness in helping students reach their goals for positive futures. The program has had a significant impact on the number of inner-city teenagers who go to college. In 1993, nine I Have A Future participants graduated from high school, and of this number, seven attended college and remain enrolled. In 1994, 24 participants graduated from high school, and 16 went on to college. Another four entered the Armed Forces. The numbers in 1995 promise to be even higher.

With the help of the program, these students have learned to overcome the considerable barriers to achievement in their inner-city environments. They have learned that they can achieve goals that they once though were impossible to attain.

This program has been so successful, and has had such a powerful impact on the community it serves, that it has been nationally recognized as an outstanding model to combat the problems facing American teenagers. It has won the support of prestigious national and local organizations.

It receives funding from the Carnegie Corporation of New York, the William T. Grant Foundation, Bill and Camille Cosby, the State of Tennessee Department of Health, the United Way of Middle Tennessee, and the Middle Tennessee Chapter of the March of Dimes.

The Tennessee Children Services Commission honored the program and named it one of six model teenage pregnancy programs in the State. The American Medical Association's National Congress for Adolescent Health also gave the program an award in recognition of its success in preventing teenage pregnancy.

The I Have A Future program was honored by President George Bush in 1991, who designated it as one of the Nation's Thousand Points of Light. As President Bush wrote on March 15, 1991:

> DEAR FRIENDS: I was delighted to learn of your outstanding work in behalf of your community. Your generosity and willingness to serve others merit the highest praise, and I am pleased to recognize you as the 404th "Daily Point of Light."
>
> Since taking office as President, I have urged all Americans to make community service central to their lives and work. Judging by your active engagement in helping others, it is clear that you understand this obligation.
>
> We must not allow ourselves to be measured by the sum of our possessions or the size of our bank accounts. The true measure of any individual is found in the way he or she treats others—and the person who regards other with love, respect, and charity holds a priceless treasure in his heart. With that in mind, I have often noted that, from now on in America, any definition of a successful life must include serving others. Your efforts provide a shining example of this standard.
>
> Barbara joins me in congratulating you and in sending you our warm best wishes for the future. May God bless you always.
>
> Sincerely,
>
> GEORGE BUSH.

In addition to his role as a physician and community leader, Dr. Foster has had an illustrious career in academic medicine. In 1973, Dr. Foster became chairman of the Department of Obstetrics and Gynecology at Meharry Medical College in Nashville, TN. As chairman and teacher, he trained doctors to work intensively with the communities they served—to treat the whole patient, not just a narrow specialty—to understand the issues and attitudes of patients, and to identify the barriers that exist to the provision of quality health services.

As a medical educator, Dr. Foster made a lasting impact on the young physicians he trained. One of his students, now a practicing obstetrician-gynecologist in California, wrote to the committee to support his nomination:

> I offer a unique perspective to Dr. Foster. He had a tremendous influence on my desire to be an OB/GYN. He taught me while at Meharry, and at our rotation at Tuskegee Institute. His bedside manner was gentle, his surgical technique impeccable, his empathy for these young women having their babies exemplary. I would say it was he who had the most profound influence on me to go into obstetrics.

This physician goes on to write:

> I offer, also, a unique perspective as I was one of about eight Caucasian students in a class of about 90 Blacks. I was the minority. And yet, I couldn't have felt more comfortable, mainly because of the efforts of men like Dr. Foster.
>
> As for the abortion issue, I would only state that he was training me right about the time Roe vs. Wade was in front of the Supreme Court. I am sure he often saw, as I did, the results of women taking medical care into their own hands when abortion was illegal. They would often be left permanently infertile, and some would even die.
>
> This man is not only a good man, he is a great man. He represents to me what every student, at whatever level they would be at, should have—a professor who puts his arm around your shoulder, who cares about you both personally and professionally, who takes you under his wing; and as a student, you are proud to be under his wing.
>
> I have not seen Dr. Foster since I graduated from Meharry Medical College in June of 1974, but I have often thought of him as I have practiced medicine these past 17 years. To not allow him to serve his country would be a greater loss for our country than it would be for him.
>
> Senators, don't blow it, there are too few men like him.

For the past 21 years, Dr. Foster has trained hundreds of America's finest practitioners. He served as chairman of the Department of Obstetrics and Gynecology from 1973 to 1990, and went on to become dean of the School of Medicine and vice president for health services at Meharry from 1990 to 1993. Dr. Foster served as acting president of Meharry Medical College from October 1993 until he left for sabbatical in June 1994. Since that time, he has been a health policy fellow at the Association of Academic Health Centers.

Dr. David Satcher, director of the Federal Government's Centers for Disease Control and Prevention, also served as president of Meharry Medical College. He has testified to Dr. Foster's intellect, fairness, integrity, and talent as a medical professional.

Among many other of his colleagues, Dr. Louis Sullivan, president of Morehouse School of Medicine and the Secretary of Health and Human Services under President Bush, testifies to Dr. Foster's ability, intellect, fairness and talents as a medical professional. He writes:

> I have known Henry Foster for more than 40 years since our undergraduate years at Morehouse College in Atlanta. In each phase of our long association, I have found Dr. Foster to be an extremely capable scholar, vigorously dedicated to his patients, an inspiring teacher, an innovative administrator, and a trusted friend of young people . . . Dr. Henry Foster would be an able, credible and trusted advocate. His warmth and sincerity make him an ideal spokesperson for good health and behavior change.

There is no question that Dr. Foster has devoted his life and career to improving the health of mothers and infants, reducing teenage pregnancy, and training skilled doctors in the responsible and competent practice of medicine. Through his work as a physician, as a medical educator, and as a community leader, he has made significant contributions that have improved the lives of those he has served.

Within the field of medicine, Dr. Foster has been recognized by his peers as a leader in his profession, a physician of unusual stature whose judgment is trusted in dealing with the most difficult questions of medical ethics and medical practice.

Any efforts to attack this nomination based on Dr. Foster's credibility are dead wrong.

Dr. Foster has had an honorable and distinguished career in medicine. He has been recognized by his professional colleagues and peers, his community and his patients as having the highest ability, integrity and compassion worthy of the post of Surgeon General.

Dr. Foster's vision for the health care of America is impressive, innovative, practical, and progressive.

With this nomination, the nation has an unprecedented opportunity to deal more effectively with some of the most difficult challenges facing us in health care today, and to do so under the leadership of an outstanding physician and outstanding human being, who has devoted his life to providing health care and opportunity to those who need help the most.

Opponents of this nomination continue to raise irresponsible objections based on certain specific questions about Dr. Foster's record. They have selectively chosen issues on which to base their objections, but they refuse to tell the whole story of Dr. Foster's commitment, credibility, and extraordinary qualifications that make him an excellent choice for Surgeon General.

I would like to take this opportunity to address these objections again and shed light on the facts that opponents do not want illuminated to give the complete story on Dr. Foster's record.

THE TUSKEGEE SYPHILIS STUDY

Some opponents to this nomination allege that Dr. Foster, a black physician in the rural South in the late 1960's, knew about and acquiesced in one of the worst abuses ever committed by the U.S. Government against black Americans since the Civil War. The allegation is preposterous on its face. Dr. Foster convincingly refuted it.

The committee has documents which clearly show that Dr. Foster was delivering a baby in a complicated procedure at the time of the meeting he supposedly attended in 1969 between the Public Health Service and the Macon County Medical Society.

None of the doctors at the meeting, except for one, Dr. McRae, place Dr. Foster at the meeting. And even Dr. McRae himself has admitted that the Federal officials at the meeting did not disclose that the patients in the study were not being treated for their illness.

The record gives every indication that the PHS officials glossed over the details of the study, and did not give the local doctors the true facts. So even if Dr. Foster had been there, which he was not, he would not have learned enough about the study to raise suspicion.

A physician named Dr. Ira Myers testified in 1974 that he had spoken with Dr. Foster about the study. But the date of their conversation is unclear, and there is no evidence that it occurred before, rather than after, the public scandal first broke in 1972.

In fact, Dr. Myers has rejected efforts to twist his testimony, and he has publicly supported Dr. Foster's recollection of their meeting.

There is ample evidence that Dr. Foster had no knowledge of the study until it was publicly disclosed in 1972, and that, upon learning of the study, he was outraged and called for the immediate treatment of the surviving patients.

Although it took 8 months for the U.S. Department of Health, Education and Welfare to provide that treatment, it is unfair to blame Dr. Foster for HEW's delay.

THE "I HAVE A FUTURE" PROGRAM

Some opponents of this nomination have chosen to attack Dr. Foster's I Have a Future Program, which he started in order to combat teenage pregnancy in the urban housing projects in Nashville in 1987.

Dr. Foster's opponents are reduced to the unseemly position of looking for bad news with a microscope. But Dr. Foster's program has worked. It has given teenagers hope. It helps them to make responsible and sensible decisions. It encourages abstinence.

In establishing the I Have a Future Program, Dr. Foster went to the families and community leaders first, and asked them what programs they thought teenagers needed. With the help of these parents and community leaders, he developed the program.

It gives teenagers a purpose for abstaining from sex and avoiding high risk sexual behavior. It helps them to focus instead on education, job skills, and personal responsibility.

In order to promote positive futures for its participants, the I Have a Future Program provides a wide variety of training, programs, and services. There is training in pre-employment skills; alcohol and drug use prevention; conflict resolution and violence prevention; and family life education.

Other activities include an entrepreneurship program, field trips and cultural outings, after-school tutoring, sports, art, and computer training.

The program has been criticized because it provides contraceptives to teenagers who choose to have sex. Distribution of contraceptives constitutes a small part of the overall program. Opponents must recognize, however, that this is the only responsible course to take in an environment where 74 percent of all teenagers have sex before the age of 15, and where 91 percent of their parents asked that a teen pregnancy program make it easier for sexually active teenagers to get birth control to prevent pregnancy and the spread of AIDs and other sexually transmitted diseases.

Those who say the program has been unsuccessful should talk to the teenagers in the program. There is no doubt that they think it works, especially when compared to their other options in the only world they know, which is full of violence, drug abuse, schools that to not teach, joblessness and hopelessness.

The participants are proud of their accomplishments. They have graduated from high school. They have gone on to college. They think they have a future—and in the real world they know, thinking makes it so. Dr. Foster has lit a candle in their world—while his critics prefer to curse the remaining darkness.

President George Bush thought the program was such a success that he designated it as one of his well-known "Points of Light," a significant national honor.

ABORTION

Republican opponents of a woman's right to choose are filibustering this nomination because Dr. Foster, a distinguished obstetrician and gynecologist, participated in a small number of abortions during his long and brilliant career.

From the beginning, the only real issue in this controversy has been abortion. All the other issues raised against Dr. Foster have disappeared into thin air. They have no substance now, and they have never had any substance. Dr. Foster has dispelled all of those objections, and he has dispelled them beyond a reasonable doubt.

The die-hard opponents of a woman's right to choose are doing all they can to block this nomination, because Dr. Foster participated in this small number of abortions. But Dr. Foster is a baby doctor, not an abortion doctor. He has delivered thousands of healthy babies, often in the most difficult circumstances of poverty and neglect.

Dr. Foster has also been charged with misleading the public by giving conflicting information about the number of abortions he performed.

Dr. Foster has acknowledged that he mistakenly spoke from memory in a desire to provide immediate information. It is clear, and there is no doubt in my mind, that Dr. Foster never intended to deceive the public.

He has since reviewed all available medical records, and has determined the number of procedures for which he is listed as physician of record.

It is time to end this numbers game. The most important point is that abortion is a legal medical procedure and a constitutionally protected right. Dr. Foster is an obstetrician and gynecologist, and it should be no surprise to anyone that he has participated in this procedure. To have done so is not a disqualification for the Office of Surgeon General of the United States. There is no justification for our Republican colleagues to try to make it one.

In my view, it is Dr. Foster's opponents who have a credibility problem, not Dr. Foster. They pretend to challenge his credibility on abortion, when in reality, as all of us know, they are trying to make abortion the issue indirectly, in a way that will not embarrass them. One need only review Dr. Foster's record for the past 38 years to see that his integrity, honesty, and credibility are beyond reproach.

Dr. Foster is a highly qualified physician who has devoted his life to improving health care for his patients and his community. His integrity and ability shine through all the muck that has been raked against him. He will serve the Nation well as Surgeon General, and he deserves the chance to do so.

He is a talented and passionate physician, a fine human being, and a remarkable role model of service to others. He has earned the right to have his nomination considered by the entire Senate, and I urge my colleagues to vote for cloture and give him the opportunity he deserves.

I ask unanimous consent that the text of President Bush's letter to the I Have a Future Program may be printed in the RECORD.

I also ask unanimous consent that a series of fact sheets on the nomination may be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, March 15, 1991.

Volunteers and staff of the "I Have A Future" Program, Meharry Medical College, Nashville, TN.

DEAR FRIENDS: I was delighted to learn of your outstanding work in behalf of your community. Your generosity and willingness to serve others merit the highest praise, and I am pleased to recognize you as the 404th "Daily Point of Light."

Since taking office as President, I have urged all Americans to make community service central to their lives and work. Judging by your active engagement in helping others, it is clear that you understand this obligation.

We must not allow ourselves to be measured by the sum of our possessions or the size of our bank accounts. The true measure of any individual is found in the say he or she treats others—and the person who regards others with love, respect, and charity holds a priceless treasure in his heart. With that in mind, I have often noted that, from now on in America, any definition of a successful life must include serving others. Your efforts provide a shining example of this standard.

Barbara joins me in congratulating you in sending you our warm best wishes for the future. May God bless you always.

Sincerely,

GEORGE BUSH.

DR. FOSTER AND THE TUSKEGEE STUDY—SUMMARY

In 1932, the Public Health Service (PHS) began a study of 600 black men in Macon County, Alabama, some 400 of whom had syphilis. The disease was not infectious in the 400 men, but held real health dangers for them. PHS assured the State that it would treat the men, but did not, even when penicillin became available. The men were not informed of the study by PHS, but thought that they were being treated. From roughly 1935 to 1945, PHS actively interfered with treatment of the men.

By the time Dr. Foster came to Tuskegee in 1965, the Study was far different than in 1935–1945. Barriers to treatment had crumbled, and by 1965 all but one of the men had received treatment from some local doctor or other source outside the Study. PHS obscured the Study, with misleading information as to treatment and consent in medical journals and locally. Even those providing services to PHS, such as X-rays, knew nothing.

PHS re-examined the study in February 1969, and arranged to meet with the local Medical Society on May 19, 1969. The PHS officials were acutely aware of the racial aspect of the Study, and the strong evidence is that they did not tell the black Tuskegee physicians that they were withholding treatment from black men without the men's knowledge or consent, or ask the black doctors to endorse such practices. Indeed, the evidence is that PHS told them that all of the men had received effective treatment, and gave a report of procedures for their "continued" care. Indeed, PHS finally did begin to provide medical information about the men to their local physicians in 1970.

One person, Dr. Luther McRae, has stated that Dr. Foster attended the May 19, 1969 meeting. No other person supports this recollection, and no document places Dr. Foster at the meeting. Official state medical records provide strong evidence that at the time of the May 19, 1969 meeting, Dr. Foster was delivering a baby. These records are far more reliable than the memory of Dr. McRae, whose license to practice medicine was revoked in 1985 for the improper distribution of controlled substances. Nor is there any evidence at all that any Society member at the meeting ever discussed it afterwards with Dr. Foster or any other person. Even Dr. McRae indicates that the PHS presentation was so unremarkable that he never mentioned it to anyone. When the full story of black men misled and untreated came to light in 1972, the shock of Dr. Foster and the other Macon County doctors was entirely genuine.

The other source of information about the Study was medical articles in specialty journals unlikely to be read by Dr. Foster. The articles are at times misleading, and in themselves did not alert even those national newspapers provided with copies in 1969 to the nature of the Study. To condemn Dr. Foster on the strength of these articles would be to condemn every member of the medical profession who practiced prior to 1972.

FACT STATEMENT

In 1932, the federal government's Public Health Service commenced its "Study of Untreated Syphilis in the Male Negro in Macon County, Alabama." The subjects were not aware of the purpose of the study or even that they had syphilis. The study's purpose was to observe the effects of untreated syphilis, not to treat it.

In February 1969, at least partially in response to concerns about the racial, social, and moral implications of the study, the CDC convened an Ad Hoc blue-ribbon panel to consider whether to continue the study. At that meeting, the panel discussed whether to commence treatment of the untreated subjects, and devoted considerable discussion to the fact that treatment at that point was unlikely to do much good and might be dangerous.

They agreed to continue the study, but also to try to bring local physicians on board. Communications prior to the meeting as well as the minutes reflect that the CDC was concerned that it had a potentially explosive story on its hands, and several passages suggest that CDC doctors thought obtaining the concurrence of the Macon County doctors would provide protection from criticisms of the study. One comment referred to bringing the doctors on board as "good public relations."

On May 19, 1969, a meeting was held in Tuskegee, Alabama between the CDC and some members of the Macon County Medical Society. The CDC was represented by Dr. William J. Brown and Dr. Alphonso Holguin. Exactly what occurred at the May meeting is unclear, but what does seem clear is that the briefing was relatively short—the Macon County doctors who recall it estimate that it lasted between ten and twenty minutes—and that crucial details of the study were not disclosed.

Indeed, the Macon County doctors who recall the meeting, never understood the single most important fact about the study—namely that the study was designed to observe untreated syphilis and that participants were not supposed to be treated. Moreover, none of the doctors recalls that the members of the Medical Society were asked, or agreed, to withhold treatment from the subjects.

Dr. Settler, the Secretary-Treasurer of the Medical Society in 1969, states that he remembers no discussion of treatment and no consent by the Medical Society to continuation of a study of untreated syphilis. In 1972, the Montgomery Advertiser reported that Dr. Settler had informed the Advertiser that Medical Society "members agreed to continue the program, but consented under the assumption that the patients were receiving treatment for the disease. 'We were never really informed of a project in which people were not being treated,' he said."

The Advertiser also reported in 1972 that Dr. Brown, the former chief of the venereal disease branch of the Center for Disease Control, "conceded that there might have been a misunderstanding over certain details of the program discussed with Macon County physicians in 1969, but there was no intention on his or Dr. Holguin's part to mislead the society."

Whatever the intentions of the CDC doctors, it seems clear that Dr. Brown's concession was accurate: there was a significant misunderstanding between federal officials and Macon County Medical Society members regarding the nature of the Tuskegee Syphilis Study. Any "consent" by the Medical Society to continuation of the study was based on incomplete and inadequate information.

Who attended the May 19 meeting is also unclear. Ten doctors have been identified by at least one person as being present at a meeting of the Macon County Medical Society at which a briefing on the Tuskegee Syphilis Study was presented, but half do not remember being present at such a meeting. Most who remember the meeting could not place the meeting in 1969.

Of those who recall being present at the meeting, each has memories of the meeting that differ significantly from the memories of the others. Only one—Dr. McRae, President of the Medical Society in 1969—says that he recalls that Dr. Foster was present. Another recalls that Dr. Foster was not present. Moreover, Dr. McRae recalls the presence of other doctors who do not recall the meeting.

Dr. McRae's recollections on a number of points ranging from how the May meeting was set up, to the nature of the Study, to Dr. Foster's role following the public disclosure of the Study in 1972 are all inconsistent with the facts as established by the documentary evidence. The confusion and mixing of memories after 26 years is not surprising.

The CDC doctors have also indicated that they believe the local Macon County physicians must have known about the Tuskegee Study in 1969, even without the briefing from the CDC. But on March 13, 1969, Dr. Ira Myers, the Alabama State Health Officer, wrote to CDC's Dr. Brown that Dr. Myers had discussed the proposed meeting with Dr. Ruth Berrey, the County Health Officer, "and she knows of no opposition to the project at this time. She feels that it is not generally known or publicized. She doubts if the Medical Society is aware of its existence but hopes they will be sympathetic with the desires of the Public Health Service" (emphasis added). This contemporaneous evidence from a doctor who knew the local Macon County physicians clearly refutes the assumption of the federal officials that all the Medical Society doctors knew about, much less understood the details of, the Tuskegee Syphilis Study.

This is what Fred Grey, the lawyer who sued the federal government on behalf of the Study participants, says about the local Tuskegee doctors:

"I don't believe they were aware of the details of the study. I think they probably were as much victims as were the participants themselves." (CBS Evening News, 2/24/95)

"Our research showed that the only ones who really made decisions were persons connected with the federal government and the (state) health department. Our research showed that none of the local doctors were responsible for the study." (The Washington Post, 2/25/95)

Broadus Butler, former President of Dillard University and head of the Ad-Hoc Commission appointed by HEW to review the

Tuskegee Study, is equally clear that the local doctors had nothing to do with the Study:

"What was clear from our review is that this was a federal government study from start to finish, with no input or participation from local Tuskegee doctors. Any effort to assign blame to the local doctors—most of whom weren't even aware of the study until the very end and then were not aware of critical details—is terribly misplaced.

"There were really only two issues concerning this study: first, whether it should ever have taken place; second, whether it should have been stopped in the late 1940s when penicillin became widely available. These decisions were made solely by the federal government. By 1968, one of the study researchers advised the team and the federal government that treatment was no longer a viable option." (2/24/95)

DR. FOSTER AND HIS RECORD ON ABORTION

Dr. Henry Foster is one of the nation's leading physicians and medical educators. During his 38-year career as an obstetrician/gynecologist, he has delivered thousands of babies and instructed hundreds of young physicians. From 1990–93, Dr. Foster served as the Dean, School of Medicine, Meharry Medical College in Nashville, after having served as the Chairman of the Department of Obstetrics and Gynecology and Chief of the Obstetrics Unit of the Hubbard Hospital for seventeen years. Before coming to Meharry, Dr. Foster served as the Chief of Obstetrics and Gynecology at the John A. Andrew Memorial Hospital at Tuskegee Institute, Alabama, where he also established and was the Director of the Maternity and Infant Care Project. In these programs and through the creation of the "I Have a Future" Program in lower-income areas of Nashville, Dr. Foster has worked to prevent unwanted pregnancies.

Much debate over the nomination of Dr. Foster to be Surgeon General of the United States has centered on the issue of abortion. Critics charge that Dr. Foster has promoted abortion, provided misleading accounts of his abortion practices, and has encouraged the development of drugs for abortion. This paper examines Dr. Foster's views on abortion, his practices, and his participation in a nationwide clinical trial funded by the Upjohn Company.

I. STATEMENTS AND WRITINGS

Critics contend that Dr. Foster has encouraged the use of abortion as a contraceptive and has promoted abortion in his speeches, writings and activities such as Planned Parenthood.

Dr. Foster has consistently advocated greater access to maternal and child health care, particularly for low-income communities. He also has encouraged both abstinence, as in the "I Have a Future" program, and family planning where appropriate.

However, he has explicitly disavowed the use of abortion as a contraceptive. In a 1975 presentation entitled "Family Planning and the Black Community," Dr. Foster voiced his belief that women should use birth control measures to prevent unwanted pregnancies, rather than rely on abortions.

Dr. Foster also has consistently supported adequate counseling for patients who are considering pregnancy termination. He has vocalized the need for informed consent for a patient to make this personal decision. As the account of one former patient demonstrates, Dr. Foster has in fact counseled women not to terminate their pregnancy.

Dr. Foster's association with Planned Parenthood demonstrates his belief that Roe versus Wade struck an appropriate balance between the state's interest in health and the patient's interest in making a decision about her pregnancy. Dr. Foster has repeatedly voiced his concern that women be afforded their constitutional right to choose whether or not to terminate their pregnancies. He has stated that "abortions should be safe, legal and rare." In a speech to Planned Parenthood in 1984, Dr. Foster argued against overly burdensome state-imposed barriers to access to abortion, because they would have encouraged resort to unsafe, clandestine abortions.

Thus, an examination of Dr. Foster's statements, writings, and activities shows that he has supported access to abortion, but has not promoted the procedure as a substitute for abstinence, education or family planning.

II. PARTICIPATION IN ABORTIONS

Dr. Foster has admitted that he made a mistake by guessing the number of abortions he performed without first consulting the medical records. To rectify that problem, he asked Meharry Medical College to search its records to determine the number of abortion procedures that he performed or participated in.

As the attached letter form the General Counsel of the Meharry Medical College states, Meharry Medical College/Hubbard Hospital searched its records and found that Dr. Foster had performed or participated in 39 abortions during his tenure from 1973–1990. It should be noted that this period includes the entire post-Roe versus Wade era. Additionally, Meharry Medical College records indicate that for approximately three-quarters of these 39 patients, another physician or resident participated in or performed the abortion procedure.

The John Andrew Memorial Hospital in Tuskegee Institute has been closed for several years and records covering Dr. Foster's tenure were not available for a search.

III. MEDICAL RESEARCH AND THE UPJOHN STUDY

During the 1980's, the Upjohn Company sponsored an FDA-approved, multi-center clinical trial throughout the country to determine the safety and efficacy of a drug—methyl ester prostaglandin—for use in inducing abortions. Upjohn's study tested whether administering this drug in a suppository form could provide a safe and less expensive way of performing a legal, medically accepted procedure.

While Chairman of the Department of Obstetrics and Gynecology at Meharry Medical College and Hubbard Hospital, Dr. Foster served as the principal investigator for the Meharry site, one of numerous sites for the Upjohn study throughout the country. The clinical trial at the Meharry site was part of a research project conducted in an academic setting. All medical procedures were performed in the university hospital. All patients were volunteers who were legally approved for pregnancy termination in the State of Tennessee.

The clinical trial at the Meharry site was subjected to outside oversight and review. FDA regulations require that an institutional review board review and approve all clinical trials such as the Upjohn study. FDA regulations at the time required that the institutional review board consist of lay persons of various expertise and backgrounds. The Meharry site had such institutional review panels overseeing the Upjohn study.

Dr. Foster served as the principal investigator or grant administrator for the Meharry site. Residents administered the suppositories. As grant administrator, Dr. Foster did have certain responsibilities. FDA regulations specify that the duties of the investigator include ensuring the consistency of the investigation with the FDA-approved plan and applicable regulations, ensuring proper procedures are followed as well as protecting the rights, safety and welfare of those taking part in the clinical trial.

Dr. Foster published in 1985 an article summarizing the results of the administration of the Upjohn product to a group of 60 women who were eight or fewer weeks' pregnant. As discussed in the article, the study criteria for success included safety, efficacy and patient acceptability. Fifty-five of the women had successful results measured by these criteria; four women required hospitalization and follow up procedures. One woman withdrew from the study.

Dr. Foster's work as the principal investigator for the Meharry site was consistent with his responsibilities as Department Head to allow opportunities for research into methods for improving legal, medically accepted procedures. Such research projects also are consistent with the standards for accreditation of medical schools. Guidelines published by the Accreditation Council for Graduate Medical Education state:

"The quality of the educational experience within a department of obstetrics and gynecology is enhanced by an active research environment. It is highly desirable that every program encourage each resident to be involved in a research project."

Additionally, these guidelines provide that teaching staff should take part in scholarly activity, including research projects that result in publications.

As a postscript, it is worth noting that Upjohn eventually determined not to seek FDA approval for the drug that was the subject of the study.

DR. FOSTER AND CREDIBILITY

Dr. Henry Foster's career in medicine has been a model of integrity and commitment to ethical conduct.

It is, by now, well known that Dr. Foster has devoted his 38 years of practice to improving the health care of mothers and babies, reducing teenage pregnancy and caring for those who too often go without care.

What may be less well known is that Dr. Foster has been recognized by his peers, time and again, as a leader in his profession, a man of unusual stature, a physician whose judgment is trusted in grappling with the ethics of medicine and medical practice. If the truest test of professional character is the esteem with which one is held by his colleagues, Dr. Foster stands in the top rank.

The Institute of Medicine. Dr. Foster has served on the prestigious Institute of Medicine since 1972. The Institute was chartered in 1970 by the National Academy of Sciences to promote the advancement of the health sciences and the improvement of health care. The Institute was designed to enlist distinguished members of the medical and other professions in pursuit of these goals.

The Institute is a highly selective professional body, with only 500 regular members, each of whom must be nominated by a current member and elected by the full membership. The Institute is governed by a Council of just 21 members, elected by the entire membership.

In 1992, the full membership recognized Dr. Foster's distinguished service for the Institute—where he has served on numerous committees and boards—by electing him to the governing Council. The membership elected him to a second term of the Council in November 1994.

The Ethics Advisory Board. In 1978, then HEW Secretary Joe Califano created the Ethics Advisory Board to examine the moral and ethical questions raised by the historic breakthroughs being made in the world of medical science. He appointed Dr. Foster as one of the Board's 15 members from a large group of nominations submitted by professional associations, scientific societies, public interest groups and Members of Congress.

The Board was an extraordinary collection of doctors, lawyers, clinicians, researchers and even a leading theologian, Rev. Richard McCormick of Georgetown University. Members included James Gaither, a former advisor to President Johnson and subsequent President of the Stanford University Board of Trustees; Dr. David Hamburg, a former President of the Institute of Medicine and now President of the Carnegie Corporation of New York; Dr. Daniel Tosteson, Dean of the Harvard Medical School for the past 20 years; and Dr. Sissela Bok, Harvard ethicist and philosopher.

The Ethics Advisory Board was active from 1978 to 1980. In 1980, Congress established its own commission on medical ethics (the President's Commission for the Study of Ethical Problems in Medicine and Biomedical and Behavioral Research) and the EAB's appropriations were shifted to this new body.

Nashville Academy of Medicine—Ethics Committee. Dr. Foster is one of 10 members of the 1400-member Nashville Academy of Medicine who serve on the Academy's Ethics Committee.

The function of the Ethics Committee is to act as a tribunal for the discipline of Academy members when complaints are received by other physicians concerning a member's professional conduct.

According to the Academy's Executive Director, Dr. Foster was chosen by the Board of Directors to serve on the Ethics Committee because of his "outstanding reputation in the medical community." Dr. Foster has served on the Committee for 10 years.

In short, those opponents of Dr. Foster's nomination who pretend to base their opposition on his lack of credibility or integrity are flying in the face of a career's worth of honorable and distinguished conduct, recognized as such by Dr. Foster's professional colleagues and peers.

MEHARRY MEDICAL COLLEGE,
Nashville, TN.

To Whom It May Concern:

Pursuant to a request by Dr. Henry Foster, Jr., we have undertaken a search of the medical records of Meharry Medical College pertaining to operations performed by Dr. Foster during the years 1973–90. Our records indicate that Dr. Foster participated in or performed 39 abortions, not including termination of tubal pregnancies or follow-up procedures made necessary by incomplete and/or spontaneous abortions. Our records also indicate that in approximately three quarters of these procedures, at least one other physician or a resident performed or participated in the surgery, in addition to Dr. Foster.

Sincerely yours,
RICHARD E. JACKSON, J.D.,
General Counsel.

DR. FOSTER AND STERILIZATION

In the 1960's and early 1970's, Dr. Foster performed a small number of therapeutic sterilizations on severely mentally retarded women. Some people have sought to distort this information by failing to place Dr. Foster's practice in the context of the time and prevailing medical practice.

In August 1974, Dr. Foster delivered a paper before a meeting of the National Medical Association that included a discussion of the hysterectomies he had performed between May 1963 and May 1973. The paper, which was published in 1976, includes a bar chart showing that, among other seasons for performing hysterectomies to remove normal uteruses, he had performed four such procedures on severely mentally retarded women. Dr. Foster noted that hysterectomies could be performed on women with severe mental retardation "either for sterilization or to eliminate the menses which is of significant hygienic benefit. . ." See Henry W. Foster, Jr., Removal of the Normal Uterus, 69 Southern Medical Journal 13, 15 (1976).

Dr. James Todd, Vice President of the American Medical Association has confirmed that performing hysterectomies on severely retarded women for pregnancy prevention or to eliminate the menses for hygienic purposes "was thought to be the state of medicine back then." So has Dr. Joseph Gambone, Acting Director of Reproductive Endocrinology at UCLA, who indicates that the practice was common at the time. Dr. Luigi Mastroianni, a professor of obstetrics and gynecology who heads the division of human reproduction at the University of Pennsylvania, has said such procedures "were the most humane method we had to allow people with severe mental deficiency to have any comfort at all."

In that same 1976 article, Dr. Foster stressed that "obstetricians and gynecologists must guard vigilantly against the injudicious and indiscriminate removal of the normal uterus." Dr. Arthur Caplan, Director of the Center for Bioethics at the University of Pennsylvania, has said that Dr. Foster's 1974 paper on this subject "represents an enlightened and cutting-edge opinion about the need for caution and care with respect to that form of surgical sterilization."

By the late 1970's, medical practice and legal standards had shifted, as had Dr. Foster's views. In 1980, Dr. Foster wrote: "It is understood if the patient is judged to be incapable of comprehending and thus not able to provide an informed consent, she must not be sterilized." See Henry W. Foster, Jr., Ambulatory Gynecologic Surgery, in Ambulatory Obstetrics & Gynecology 399, 416 (George Ryan ed. 1980).

At all times, Dr. Foster's practice has been consistent with prevailing medical norms. In many ways, as Dr. Caplan's comments reveal, Dr. Foster has been ahead of his time on these issues.

DR. FOSTER AND PLANNED PARENTHOOD

Planned Parenthood is a health care organization which manages nearly 1,000 health centers in 49 states and the District of Columbia. Planned Parenthood serves four million women and men each year, making it the nation's largest provider of comprehensive reproductive health care, including breast examinations, PAP tests, testing and treatment for sexually transmitted diseases, infertility services, birth control methods and counseling, and comprehensive sexuality education. Dr. Foster has served on local and national Planned Parenthood boards since 1974.

Planned Parenthood and Dr. Foster share the mission of resolving our nation's most troubling health crisis by providing effective solutions which focus on prevention and responsibility. Throughout his career, Dr. Foster has been a driving force in the prevention of teen pregnancy and a leader in the field of public health. The highly effective, "I Have a Future" program, which Dr. Foster developed, stresses sexual responsibility, self-control, education, and job skills and provides positive alternatives to having children. Similarly, Planned Parenthood's medical and educational services help prevent nearly half a million unintended pregnancies each year.

Although Dr. Foster does not advocate abortions as a substitute for family planning, he supports Planned Parenthood's efforts to provide abortion services when a woman chooses to have the legal, constitutionally-protected procedure. Dr. Foster has repeatedly voiced his concern that all women have access to reproductive health care, including abortion. He also has supported Planned Parenthood's efforts to secure the passage of the Freedom of Access to Clinic Entrances Act, legislation designed to protect patients and staff at women's health care centers.

While Dr. Foster was a member of the organization's Board of Directors, the Nashville affiliate filed a lawsuit challenging a Tennessee law requiring parental notice before a teenage girl could obtain an abortion. Dr. Foster has sought to involve parents in their children's decisions to obtain contraceptive or abortion services and strongly believes that parents should be involved in these decisions. He has worked to limit the number of abortions performed on teenagers by promoting abstinence and alternatives to having children through programs such as the "I Have a Future" program. Dr. Foster realizes, however, that some young women cannot notify their parents, because they come from homes where physical violence or emotional abuse is prevalent or because their pregnancy is the result of incest. Dr. Foster opposed the Tennessee law because it required parental notice for a minor seeking abortion with no exception for minors from abusive homes and no bypass mechanism as required by the United States Supreme Court.

To prevent unwanted pregnancies and to provide alternatives to sexual activity, Dr. Foster looks primarily to parents and families. He encourages parents to educate their children about sexuality and reproductive health and to promote the need to postpone premature sexual activity. Dr. Foster also realizes that schools may play an important role in the process and advocates developing age-appropriate educational programs which promote abstinence and which prepare teenagers for responsible sexual involvement as adults.

DR. FOSTER AND "I HAVE A FUTURE": USING ABSTINENCE TO PREVENT TEEN PREGNANCY

An examination of "I Have A Future's" teaching modules—as well as the many supplemental materials [brochures, videos, games, posters] they utilize—evidences the strong abstinence message that is integral to the program. IHAF promotes abstinence to prevent teen pregnancy in several ways:

First, by stressing the value of abstinence and explaining why it is so important.

Second, by involving the family and community in promoting this value.

Most important, the program does not just say the word "abstinence" a few times and leave it at that. IHAF devotes considerable time and effort to giving teens the tools they need to be responsible, to make good decisions and then stand up for what they believe in, and, most importantly, to resist social pressures to engage in sexual activity.

I. IHAF'S CURRICULUM

A. Family life education module [staff manual] final copyrighted version; September 1994

Abstinence message:

"Responsible sexual behavior is defined as abstinence or acting upon the decision to participate in sexual intimacy while maintaining a healthy body and exercising assertive family planning." [p. 2]

"It is important for people to practice responsible sexual behavior . . . 1) Refrain from having sexual intercourse . . . However, it is best for children to postpone initiating sexual intercourse and other risky sexual behaviors beyond the early adolescent years." [p. 2]

Kujichagulia [Self-Determination] ". . . one needs to have Kujichagulia (Self-Determination) in order to cope with the negative peer pressure toward early sexual intercourse, and careless sexual activity." [p. 58]

"Adolescents often have the impression that 'everyone is doing it'. Surveys show that more than half of all adolescents do indeed say 'No' to sex." [p. 70]

"Discussion: 'Encourage the participants to do their best to postpone having sex at an early age. Before making up their mind to have sex now or wait, they should ask themselves the following questions:

1. "Can I take full responsibility for my actions?"

"Am I willing to risk STDs, pregnancy, future infertility?"

"Can I handle being a single parent or placing my child for adoption?"

"Am I ready and able to support a child on my own?"

"Can I handle the guilt and conflict I may feel?"

"Will my decision hurt others? My parents? My friends?" [p. 60]

"Decisions about sex may be the most important decisions one will ever make. So, think before you act!" [p. 60–1]

One exercise is called the "STD Handshake." It asks the teens to pick an index card from a bag. Some say "STDs" and others say "Abstinence." The point of this exercise is that Abstinence is the only way to completely avoid the risk of Sexually Transmitted Diseases. [p. 65]

"Young men and women can say 'no' and postpone sexual intercourse. But, if they do intend to have sex, they must be informed of the possible consequences of sexual behavior. [If participants are not ready for the responsibility of parenthood, they must consider the various ways of acting sexually responsible.]" [p. 58]

"There are two ways of exercising responsible sexual behavior. One can abstain from sexual intercourse or one can use contraceptives/condoms effectively." [p. 75]

"In order to promote the value of sexual responsibility, it is critical that the community seeks to uplift this value in a unified manner. [p. 32]

"Each participant is encouraged to discuss values around sexuality with their parents and/or other adults whose values are important to the participant." [p. 32]

"Educate participants regarding responsible sexual decision-making." [p. 11]

"The teenage years are a good time to assist others with child care responsibilities but not to take on the full responsibility of being a parent." [p. 46]

"It is important to remember that the purpose of being a teenager is to finish the process of becoming an adult and not to create children before achieving adulthood." [p. 53]

To show teenagers what having a baby can do to their lives, one of the exercises is a "Job Interview for Parent." It discusses issues like financial resources, time required, emotional needs, etc. to try to convince teenagers to postpone early sex and pregnancy until a more appropriate time. [p. 50]

Teaching teens to say no:

"There is no reason for adolescents to feel different or strange if they say 'No'. Because of peer pressure, adolescents need to master the assertive communication skills of knowing how to say 'No'. They may often worry about hurting friends' feelings if they say 'No'. Hurt feelings go away but an unintended pregnancy and a baby don't go away." [p. 70]

"Goals: 'Using assertiveness skills to avoid unwanted sexual behavior [and to insist that contraception be utilized.]" [p. 70]

Motto: "If you don't stand for something, you can fall for anything." [p. 32]

"To provide participants with options for confronting pressure to do something that they are uncertain they want to do." [p. 35]

"Definition of Assertive: 'to exhibit confidence and adherence to decision despite others' opinion.'" [p. 38]

"Example of an assertive technique is to 'Use broken record technique (Keep repeating a simple negative response, don't provide excuses).'" [p. 38]

"Emphasize that when a person feels good about him/herself, that person can express themselves openly, honestly, and assertively." [p. 39]

"Remind participants that their purpose is to develop positive assertive skills for responding to pressure as an adolescent and an adult." [p. 39]

B. Family life education module [Staff manual][1] November 1991

Abstinence Message:

"Responsible sexual behavior is defined as abstinence or acting upon the decision to participate in sexual intimacy while maintaining a healthy body and exercising assertive family planning." [p. 3]

Kujichagulia [Self-Determination] ". . . one needs to have Kujichagulia (Self-Determination) in order to cope with the negative peer pressure toward early sexual intercourse, and careless sexual activity." [p. 58]

"Adolescents often have the impression that 'everyone is doing it'. Surveys show that more than half of all adolescents do indeed say 'No' to sex." [p. 70]

"Discussion: Encourage the participants that they should do their best to postpone having sex at an early age. Before making up their mind to have sex now or to wait, they should ask themselves these questions:

1. "Can I take full responsibility for my actions?"
2. "Am I willing to risk STD, pregnancy, future infertility?"
3. "Can I handle being a single parent or placing my child for adoption?"
4. "Am I ready and able to support a child on my own?"
5. "Can I handle the guilt and conflict I may feel?"
6. "Will my decision hurt others? My parents? My friends?" [pp. 60–61]

"Decisions about sex may be the most important decisions one will ever make. So, think before you act!" [p. 61]

One exercise is called the "STD Handshake." It asks the teens to pick an index card from a bag. Some say "STDs" and others say "Abstinence." The point of this exercise is that Abstinence is the only way to completely avoid the risk of Sexually Transmitted Diseases. [p. 65]

"Young men and women can say 'no' and postpone sexual intercourse. But, if they do intend to have sex, they must be informed of the possible consequences of sexual behavior. [If participants are not ready for the responsibility of parenthood, they must consider the various ways of acting sexually responsible.]" [p. 58]

"There are two ways of exercising responsible sexual behavior. One can abstain from sexual intercourse or one can use contraceptives/condoms effectively." [p. 75]

"Educate participants regarding responsible sexual decision-making." [p. 11]

"The teenage years are a good time to assist others with child care responsibilities but not to take on the full responsibility of being a parent." [p. 16]

"It is important to remember that the purpose of being a teenager is to finish the process of becoming an adult and not to create children before achieving adulthood." [p. 53]

To show teenagers what having a baby can do to their lives, one of the exercises is a "Job Interview for Parent." It discusses issues like financial resources, time required, emotional needs, etc. to try to convince teenagers to postpone early sex and pregnancy until a more appropriate time. [p. 50]

Teaching Teens To Say No:

"There is no reason for adolescents to feel different or strange if they say 'No'. Because of peer pressure, adolescents need to master the assertive communication skills of knowing how to say 'No'. They may often worry about hurting friends' feelings if they say 'No'. Hurt feelings go away but an unintended pregnancy and a baby don't go away." [p. 70]

"Goals: Using assertiveness skills to avoid unwanted sexual behavior [and to insist that contraception be utilized.]." [p. 70]

Motto:"If you don't stand for something, you can fall for anything." [p.32]

"To provide participants with options for confronting pressure to do something that they are uncertain they want to do." [p. 35]

"Definition of Assertive: 'to exhibit confidence and adherence to decision despite other's opinion.'" [p. 38]

"Example of an assertive technique is to 'Use broken record technique (Keep repeating a simple negative response, don't provide excuses).'" [p. 38]

"Emphasize that when a person feels good about him/herself, that person can express themselves openly, honestly, and assertively." [p. 39]

"Remind participants that their purpose is to develop positive assertive skills for responding to pressure as an adolescent and an adult." [p. 39]

C. Family life education module [staff manual][1] September 1989

Abstinence Message:

Suggests handing out pamphlet: "Many Teens Are Saying No"[2]

"The Family Life Education Module is designed to help . . . generate attitudes and values positive toward contraception and abstinence." [1st page after course outline, no page #8]

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[1] Footnotes at end of article.

"Deep love between close friends can exist without the presence of open or conscious sexual desire . . . Sex is not what makes a relationship work. Sharing thoughts, beliefs, feelings, and most of all, mutual respect, is what makes a relationship strong." [Session IX]

"Sexual feelings may be expressed in a variety of ways, only one of which is sexual intercourse." [Session IX]

"Decisions about sex may be the most important decisions you'll ever make. So, think before you act!" [Decision-Making Handout]

Should you have sex now or should you wait? Ask yourself these questions before making up your mind?

1. "Can I take full responsibility for my actions?"
2. "Am I willing to risk STD, pregnancy, future infertility?"
3. "Can I handle being a single parent or placing my child for adoption?"
4. "Am I ready and able to support a child on my own?"
5. "Can I handle the guilt and conflict I may feel?"
6. "Will my decision hurt others? My parents? My friends?"

Teaching Teens To Say No:

"Let the youth know that it's okay to say 'no'. There is nothing wrong with saying it. Even more important, there is no reason for them to feel different or strange if they do say 'no'." [Assertive Communication]

"Because of pressure from their friends (peer pressure) the youngsters need guidance in knowing how to say 'no'. Young people often worry about hurting friends' feelings if they say 'no'. Hurt feelings go away but an unintended pregnancy and a baby don't" [Assertive Communication]

D. Prosocial skills modules [staff manual] October 1994

"Emphasize that when we choose tough values such as abstinence, our choice may not be the most popular choice. We are likely to receive little positive reinforcement for these choices. Therefore, we must develop the capacity to praise ourselves for courage in living the values we believe are best for us." [p. 28]

"To provide a framework for adolescents to understand that to say 'no' is not abnormal but normal." [p. 19]

"Emphasize the need to make you own decisions and to take responsibility for the outcome." [p. 19]

"To assist participants in developing skills to resist group pressure." [p. 28]

"To increase participants' positive refusal skills." [p. 28]

"To teach participants how to look beyond the immediate benefits and consider the long-term consequences." [p. 28]

"To assist participants in developing coping strategies when their peer group does not positively reinforce him/her for standing up for his/her beliefs." [p. 31]

"To teach participants how to cope with group pressure." [p. 33]

Quote from Malcolm X: "It is always better to form the habit of learning how to see things for yourself, listen to things for yourself, and think for yourself; then you are in a better position to judge for yourself." [p. 36]

E. Prosocial skills module [staff manual] November 1991

"Emphasize that when we choose tough values such as abstinence, our choice may not be the most popular choice. We are likely to receive little positive reinforcement for these choices. Therefore, we must develop the capacity to praise ourselves for courage in living the values we believe are best for us." [p. 28]

"To emphasize that even when you make a decision, you are not always totally locked into that decision if you have reservations." [p. 19]

"To provide a framework for adolescents to understand that to say 'no' is not abnormal but normal." [p. 19]

"Emphasize the need to make your own decisions and to take responsibility for the outcome." [p. 19]

"To assist participants in developing skills to resist group pressure." [p. 28]

"To increase participants' positive refusal skills." [p. 28]

"To teach participants how to look beyond the immediate benefits and consider the long-term consequences." [p. 28]

"To assist participants in developing coping strategies when their peer group does not positively reinforce him/her for standing up for his/her beliefs." [p. 31]

"To assist participants in confronting those feelings which may prompt them into responding impulsively and giving in to the group." [p. 31]

"Emphasize that no one has to fall prey to persuasion. By getting the facts, one can make their own decisions and define for themselves what they will do and who they will be." [p. 33]

Quote from Malcolm X: 'It is always better to form the habit of learning how to see things for yourself, listen to things for yourself, and think for yourself; then you are in a better position to judge for yourself.' [p. 36]

F. "I have a future" program evaluation: Renewal grant proposal to W.T. Grant Foundation April 1991

One Goal [Hypothesis] of The Program: "Active participants will delay the initiation of sexual intercourse longer than youth who do not participate and comparison site youth."

II. BROCHURES

As Dr. Foster mentioned during his hearings, since its inception "I Have A Future" has distributed brochures to the teenagers—and even to their parents—that have a strong abstinence message. A variety of brochures have been used over the years, as can be seen below. IHAF staff is always looking for new brochures and teaching materials to catch the teens attention and get the message out in different ways.[4]

A. "Many teens are saying 'no'" [U.S. Department of Health and Human Services, 1986][5]

"Don't be fooled into thinking most teenagers are having sex. They aren't!! There's a lot to know before you say 'yes' to having sex."

"Face it! Sex for young people is pretty risky!"

"Sexual feelings can be pretty strong! So think before you act. Think about your future. Think about the consequences. In other words, think about yourself! Ask yourself, 'Am I ready to have sex now?' To answer this question you need to decide which is more important to you—giving in to your sexual feelings or being true to your inner feelings that may be telling you to 'wait.'"

"There's a lot to know before making your decision about whether or not to say "yes" to sex:

Is having sex in agreement with your own moral values?

Would my parents approve of my having sex now?

If I have a child, am I responsible enough to provide for its emotional and financial support?

If the relationship breaks up, will I be glad I had sex with this person?

Am I sure no one is pushing me to have sex? [—]

If any of your answers are NO, then you'd better WAIT."

"Decisions about sex may be the most important decisions you'll ever make. So, think before you act."

"What should I know if I decide not to have sex? Congratulations . . . contrary to rumor, so have lots of other teens. It's not hard to say "NO" and still remain friends if you are careful not to hurt the other person. For example you might say:

'I like you a lot but I'm just not ready to have sex.'

'I don't believe in having sex before marriage. I want to wait.'

'I enjoy being with you but I don't think I'm old enough to have sex.'

'I don't feel like I have to give you a reason for not having sex. It's just my decision.'

"Also, there are different ways to show affection for another person without having sexual intercourse."

"Try to avoid situations where sexual feelings become strong. "Stopping" is much harder then."

"Talk about your feelings and what seems right for you. If you and you partner can't agree, then maybe you need to find someone else whose beliefs are closer to your own."

"Will having sex really make you more popular, more mature, more desirable? Probably not. In fact, having sex may even cause your partner to lose interest. The one sure thing about having sex is that you may be in for problems you don't know how to handle."

"Sex is not what makes a relationship work."

Watch out for lines like, "If you care about me, you'll have sex with me."

You don't have to have sex with someone to prove you like them.

Sex should never be used to pay someone back for something . . . all you have to say is, "Thank you."

Sharing thoughts, beliefs, feelings and most of all mutual respect is what makes a relationship strong.

Saying "No" can be the best way to say, "I love you."

B. "AIDS and sex: What you should know" [Tennessee responds to AIDS, December 1992]

"What do I do?: First, understand it's okay to say 'No' to sex. Get to know the person better. Date. Don't be afraid to talk about your choices with your friends. Have respect for your body. This way, you can avoid HIV and problems like unplanned pregnancy and other sexually transmitted diseases like gonorrhea and syphilis."

C. "AIDS: What you should know" [Tennessee responds to AIDS, July 1989]

"How can I protect myself . . . The only way to be absolutely safe is to avoid all drug needles and not have sex until you are in a marriage or permanent relationship with a faithful, uninfected partner.

Until this is possible . . . Say 'No' to sex."

"Remember: Alcohol and drugs make it harder to say no to dangerous behavior."

D. "AIDS and teens: What you should know" [Tennessee responds to AIDS, June 1991]

"How do I protect myself? Don't have sex. Express your affection in other ways such as holding hands or hugging."

"The safest way to protect yourself from becoming infected with HIV is by avoiding sex and drugs. Because this is your life and your body, you have a right to say NO. Remember, you can't tell by looking at someone if they are infected with the virus."

"Remember the best protection against getting HIV is to avoid sex and drugs. Both drugs and alcohol will affect your judgment and you will be less likely to take steps to protect yourself."

E. "AIDS and the black community: What you should know" [Tennessee responds to AIDS, June 1991]

"How do I avoid HIV?

Say 'No' to sex.

Alcohol and drugs make it harder to say no to dangerous behavior."

F. "A parents' guide to the facts: to help mothers and fathers talk to their teenagers about sexual responsibility" [American College of Obstetrics and Gynecology (ACOG), 1986]

The facts: No. 1: Young people can postpone sex—

"Fact: Today's youngsters often have the impression that 'everyone is doing it.' Surveys show that more than half of all teenagers do indeed say 'no.' The 'everyone is doing it' comment is typical big talk by young people who want to make themselves look important in the eyes of their friends."

"Let your children know that it's okay to say 'no.' There's nothing wrong with saying it. Even more important, there's no reason for your children to feel different or strange if they do say 'no'."

"Because of pressure from their friends your children need guidance in knowing how to say 'no.' Explain to your children that the best way to say 'no' is to decide before they get into a situation that might force that decision."

"Young people often worry about hurting friends' feelings if they say 'no.' Hurt feelings go away but an unintended pregnancy and a baby don't."

"Wrapping up the facts: When parents can establish themselves as the best source of information on sex, the chances of misinformation are reduced. . . . When they (your children) have the Facts, you can help guide them in making the decisions that are best for them. They can say 'no' and postpone having sex. . . ."

G. "A message for teens from teens" [March of Dimes Birth Defects Foundation, November 1986]

"We all know how difficult peer pressure can be—people our own age telling us to do something that we don't really feel good about doing. We don't want to feel different. We don't want to feel left out. But there is such a thing as positive peer pressure. Our true friends wouldn't want us to do anything that would hurt us or get us into trouble."

No one should try to rush you into anything. That's not the way to express your love for someone."

"Guys take it less seriously because they're not the ones who get pregnant."

H. "Sexually transmitted diseases" [March of Dimes Birth Defects Foundation, October 1986]

"Obviously, there is no risk of infection if there is no sexual contact."

III. SUPPLEMENTAL TEACHING MATERIALS

A: Game: Crossroads—teen relationships and teen sexuality

1. Objective:

"The objective of CROSSROADS is to encourage sexual abstinence, goal-setting, parent-teen communications, strong moral values, self-control, responsibility, self-respect, and respect for others."

"Sexual abstinence is important because it provides an opportunity to practice self-control, self-respect, respect for others and other important moral and religious values. It decreases the occurrence of teen pregnancy and sexually transmitted diseases and increases your opportunity to complete educational and vocational goals."

"Teens should be very careful about the selection of their peers. They should choose friends and dates who value sexual abstinence and other positive moral standards.

2. Sample game cards[6]

a. "If parents find out that their son or daughter is sexually active, they should discuss birth control because it is too late to discuss abstinence. True or False.

Answer: False . . . It is never to late too discuss abstinence."

b. "It is important for both males and females to keep their virginity because (a) it decreases the chances of getting sexually transmitted diseases (b) takes away the possibility of unwanted children (c) both a and b.

Answer: (c)".

c. "What is the best method a teen may use to keep from getting a sexually transmitted disease? (a) condoms (b) abstinence (c) frequent visits to the doctor.

Answer: (b)".

d. "Why do you think a male or female teen would choose to abstain from sex until marriage? Explain your answer."

e. "Which two methods can be used to control your sexual feelings? (a) maintain the value of abstinence (b) take a cold shower (c) don't deny your feelings, talk to your parents (d) ignore your feelings, they will go away

Answers: (a) and (c)"

f. "What are the advantages for males and females who abstain from sex until marriage? (a) no advantages (b) they can set goals and achieve them through self-control (c) no children born before marriage" Which statement was incorrect?

Answer: (a)"

g. "What is sexual abstinence? Please explain your answer . . .

Answer: Sexual abstinence means to refrain from sexual activities, including the more advanced stages of petting and sexual intercourse."

h. "Can you truly love someone and abstain from premarital sex with that person? Yes or No?

Answer: Yes. Love is a strong affectionate bond that consists of respect, trust and commitment."

B. Video: "Who do you listen to? choosing sexual abstinence"

Note: There is no date on the invoice [which was enclosed in the video sent to the Committee.] A fax—apparently sent to the program from the video company—is dated 8-21-92.

"It gives them the facts and feelings teens must confront in order to take responsibility for their own sexual activity, and presents a healthy option for them to consider—sexual abstinence before marriage."

Objectives: "To help students: [. . .]

Explain the physical, emotional, and psychological risks of premarital sexual activity.

Make more responsible decisions about their sexual behavior."

Discussion topics and activities: [. . .]

4. Psychological Risks: Consider the psychological risks involved in having sex before marriage, such as feelings of guilt, doubt, fear, disappointment and even the pain of being used. Why do these feelings often follow pre-marital sex? Could they possibly interfere with your ability to concentrate on other things, like building friendships, studying or working?

5. Physical Risks: Consider some of the physical risks involved in having sex . . .

6. Practicing Sexual Abstinence: Discuss the advantages and disadvantages of practicing sexual abstinence before marriage. List some concrete reasons for saying "no", to pre-marital sex that you have learned from the video . . . Why would it be a good idea to refrain from sexual activity, despite what your body can be saying to you? List four activities that can constructively channel your time and energy.

7. Saying No: What are the most common ways others might try to convince you that you should have sex? Practice avoiding the pressure to have pre-marital sex by coming up with reasons to say "no".

Suggestions for group leaders:

Share some adult pressures that you face, such as belonging to a certain club, going out for a drink when you'd rather not, etc. Tell a story illustrating an effective way that you have handled peer pressure, and ask your group to tell you about situations they have seen or been involved in having to do with peer pressure.

Encourage adolescents to talk to their parents, school counselors, health teachers or physicans . . . Offer a supportive environment for them to share the information they find. Encouraging them to discuss these issues with their parents can help bridge any embarrassment they may feel regarding these intimate matters."

C. Video: "It only takes once"

The main theme of this video is abstinence, following a young woman—who has decided with her boyfriend not to be sexually active—through a variety of social settings. She speaks to a group of teens saying that it's possible to be a virgin and still be cool. [referenced in Family Life Module, p. 59]

D. AIDS poster: "With AIDS around, gonorrhea, syphilis and herpes are fair warning"

Poster shows a STOP sign and at the bottom it says: "You want to be risk-free from AIDS? Don't have sex. And as long as you aren't shooting drugs, you'll be fine. No worries about who's slept around, who's had blood tests, and whether your condoms are latex or not."

IV. MEDICAL STUDENT HANDBOOK

As "I Have A Future" falls under the Department of Obstetrics and Gynecology at Meharry Medical College, medical residents and students often rotate through the programs's clinics. The IHAF staff prepared a handbook[8] to train residents before they begin their rotation. The handbook gives specific guidelines for providing counseling—stressing abstinence as the first and best option.

Discussion of questions on "personal information form".

"The following questions are sensitive and emotional and could take much more time than is available at the clinic. It is important to schedule a special session with the client to talk in more depth if necessary." [...]

"2. Have You Talked to Either of Your Parents About Coming Here?

"Determine teen's comfort level in talking with parents" [...]

"Provide teen with 'Can I Tell My Parents?' brochure and encourage her to tell her parents in the future. Emphasize that parents can be a source of support for them. If they can't talk to them now, maybe they will be able to some time later. (Don't give up!) [...]

"4. Have you ever had sexual intercourse?

If yes, discuss how she made the decision to have sex and ask how often she has intercourse. If the teen felt pressure to have intercourse, let her know that she can stop if it doesn't seem right for her. You can say 'no' after saying 'yes'.

You shouldn't have sex: 1) just for another person or 2) to be like your friends. What you really want is most important. This is your decision. . . .

If no, discuss teen's feelings about her decision. Legitimize decision not to have sex . . ."

"15. The goal of this [sic] questions is to increase the client's realistic understanding of how a pregnancy would affect her life . . .

Have you thought about when you will be ready to have a baby? Deal with a pregnancy? When do you think you will be ready? Imagine for a moment that you were pregnant? How would you feel?

Discuss wide range of emotions involved in hearing news like this. What kind of reaction would she have? Who could she turn to for information and support? What options would she have?

Have she and boyfriend discussed possibility of pregnancy with sexual relationship?

How would pregnancy/parenthood affect their goals?

Possible role-play situation [unplanned pregnancy]

"Initial visit interview/counseling session. Contraception and STD's (using protocol guidelines):

The manual lists a number of options for avoiding Sexually Transmitted Diseases—the first of which is "abstinence."

"Provide the following brochures for the teen to take with her:

AIDS Brochure.

What Every Teen Needs To Know.

Your Pelvic Exam—the 1st or 21st.

Can I tell my Parents?

The Facts [STDs].

NO and Other Methods of Birth Control".

V. LISTEN TO TEENAGERS WHO ARE IN THE PROGRAM

"But if you let the youngsters tell it, there is less sexual activity among those in the program. Part of it is knowing they are not the only one deciding on abstinence. Part of it is having adults they can talk to openly. Part of it is realizing the repercussions of early sexual activity." [The Tennessean. 2/5/95]

Rhiannon Wilson:

"In 'I Have A Future' I have learned why it's best to abstain from sexual activities through a class called Family Life. With me being a young lady, this class and all the other very positive things we do has helped me realize that I truly do have a future and a bright one at that." [Personal Statement]

"Dr. Foster always tells us that abstinence is what should follow." [Testimony to Senate Committee]

Jason Gordon:

"The program stresses abstinence to the fullest extent, it is the major goal of the program." [Testimony to Senate Committee]

"The program taught him one thing most of all, [Jason Gordon, 18] said. 'I know I'm not ready to have a child." [New York Times, 2/11/95]

"I Have A Future tell inner-city youth that their futures can be more positive and more successful if they delay sex and pregnancy until they are adults and can handle the responsibilities of a family." [Statement at White House, 5/1/95]

"I know that I would not be where I am if I had gotten shot, gotten someone pregnant, or dropped out of school. That is what IHAF tells us—if we stay out of trouble, abstain from sex, and avoid drugs and alcohol, our futures can be anything we want. Having a child can limit us forever. Taking responsibility for our lives puts us in charge and lets us define our lives ourselves." [Statement at White House 5/1/95]

"It's a lot more than just delaying pregnancy and not having sex. It's a lot about responsibility, about having dreams, about having goals." [AP, 5/1/95]

Deanna Garrett:

"The 'I Have A Future' program tries to teach the teens that abstinence is the only way that we can put a stop to teen pregnancy, the spread of sexually transmitted diseases, and the transmission of the HIV virus." [Testimony to Senate Committee]

Gary Hicks:

"Dr. Foster is doing a good deal by teaching kids to wait before they have sex. He would rather the young kids not have sex at all, because they still have a lot of things to look forward to in life. The 'I Have A Future' program teaches you that you don't have to do what everyone else is doing." [Testimony to Senate Committee]

Terrell Carter:

Terrell Carter said the program has given him a new perspective on interaction between the sexes. "I thought that having sex was part of everyday life. It showed me abstinence is cool . . ." [The Commercial Appeal, 2/14/95]

Terrell Carter, 18, credits the program for teaching him that fathering a child is "nothing to be proud of." He now has "more respect for girls. They're not just sex objects." [USA Today, 2/9/95]

Charmaine Harris, 18, says that the program taught her skills she could use to resist pressure to have sex: "Let's say you have a date, dancing, and things start getting hot. Are you going to be passive or stand up for what you believe in?" [The Tennessean, 2/5/95]

"As a member of the 'I Have A Future' program, I have learned how to choose and make decisions that will have a positive effect on my life and benefit me as well as others around me. I learned that it is alright to be different because the only person I need to please is me." [Testimony to Senate Committee]

Tonya Rutledge:

Tonya Rutledge, 17, thinks that her life would be different if she hadn't been in the program. "I think I would probably be like my other friends which have children or they're about to have a child. . . . ." [USA Today, 2/9/95]

Amelia Turner:

"When I first moved to Nashville. . . I was confronted daily with negative influences such as pressure to have sex and use drugs and alcohol. Fortunately, people like Dr. Foster realized those kinds of pressures, and they did something about it. Joining 'I Have A Future' gave me a safe alternative to doing those negative things. It taught me how to resist the peer pressures in order to be the best person I can be by not letting others pull me down." [Statement at D.C. Arrival Event, 5/1/95]

"'It kept me busy, I had friends trying to take me in the wrong direction," said Amelia Turner, 18, who joined the program when her family moved to Nashville five years ago. '[The program leaders] constantly stressed the importance of higher education . . . having a child is down the road." [The Commercial Appeal, 2/14/95]

"This would be a nice program to have in other cities," said Amelia Turner, who wants to major in both medicine and biomedical engineering. "In the little town I came from, there is nothing to do, so you may go over to your boyfriend's house. This takes you away from that. You don't have time to do crazy things." [The Boston Globe, 2/10/95]

Eighteen year old Amelia Turner says that in her life she is under "a lot of pressure" to have sex. I Have A Future counselors "let us know that if you want to have sex, here's what you can use. But, the best sex is no sex." [USA Today, 2/9/95]

Floyd Stewart:

Floyd Stewart has been in the "I Have A Future" program for 4 years and says that unfortunately most people "don't know about how [Dr. Foster] preaches abstinence." [Testimony to Senate Committee]

Johnetta Nelson:

Johnetta Nelson, a student, believes that the program taught her many things. "I chose to further my education, and I knew that if I was to become impregnated that it would probably hold me back. And I know that I want a lot of things out of life, so I figured that it's not the time. [CNN, 2/13/95]

"I owe a great deal of credit to "I Have A Future" for keeping me active and busy. The program helped me keep my focus on my future and kept me from straying away. It taught me that your education comes first and having children comes later." [Statement at D.C. Arrival Event, 5/1/95]

Melissa Hunter:

"Melissa Hunter . . . said [Dr. Foster's] brainchild gives her and her friends a choice they seldom had before. A few make it out of the projects and their teen-age years without a baby and the limitations that babies bring, purely on strength of character alone, she said. But it is hard. 'Here they keep you too busy to get into trouble.'" [The New York Times, 2/11/95]

Latara Gooch:

The "I Have A Future" program has "taught me how to think of myself, and not let everyone think for me. It also has kept me from making a big mistake in my life. The mistake is having sex at an early age." [Personal Statement]

Tyreca Bowers:

"I have been in the 'I Have A Future' program for approximately 2 years. This program has helped me to prepare for the real world. It teaches me to be responsible." [Personal Statement]

FOOTNOTES

[1] Many of these quotes also appear in the final [September 1994] version of the Family Life Module.

[2] This pamphlet—produced by HHS in 1986—has been given to the Committee and is excerpted on pps. 10–11.

[3] Many of these quotes also appear in the final [October 1994] version of the Prosocial Skills Module.

[4] The new brochures Dr. Greene ordered in March 1995 were the first she had seen which a) showed African American role models; and b) had a message targeted specifically to teenage males. The publisher of the pamphlets said in a letter to Senator

Dodd that "I have long known Dr. Foster to be a strong advocate for abstinence . . . When these pamphlets were first published. . . I immediately requested my staff to send copies to his program because I knew they would be interested in seeing them. . . His program immediately purchased and began using them . . . reflection of their interest in keeping their program up to date. . ." [May 5, 1995 letter from Journeyworks Publishing]

[5] This pamphlet is referenced in the September 1989 draft of the Family Life Education Module [Staff Manual] which was given to the Committee.

[6] These are only a small selection of the cards focusing on abstinence. Many more were given to the committee. The game also had cards addressing AIDS and STDs.

[7] The Committee has the only copy of this video so I was not able to quote directly.

[8] Final Report To Health Of The Public; Submitted by "I Have A Future", Department of Obstetrics & Gynecology, Meharry Medical College; October 1992.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, before contemplating today's bad news about the Federal debt, let us have another go, as the British put it, with our little pop quiz. Remember: one question, one answer.

The question: How many million dollars are in one trillion dollars? While you are arriving at an answer, bear in mind that it was the U.S. Congress that ran up the Federal debt that now exceeds $4.9 trillion.

To be exact, as of the close of business yesterday, Tuesday, June 20, the exact Federal debt—down to the penny—stood at $4,895,341,208,279.21. This means that, on a per capita basis, every man, woman, and child in America now owes $18,582.80.

Mr. President, back to the pop quiz: How many million in a trillion? There are a million million in a trillion.

TRIBUTE TO COL. LANNING RISHER

Mr. THURMOND. Mr. President, I rise to pay tribute to a man who is not only a dear friend, but someone who in the course of his life has done much to serve his State and Nation.

Col. Lanning Parsons Risher was born in 1931 to one of the most distinguished and well-known families in South Carolina. His father ran the well-respected Carlisle Military School in Bamberg and was recognized throughout the State for his stature as an educator.

Completing his preparatory studies at Carlisle, Colonel Risher felt comfortable in a military environment and decided to pursue his college education at The Citadel, a rigorous and demanding institution with a reputation for producing leaders. Upon his graduation from The Citadel, Lanning chose to serve his Nation in the military, earning a commission in the infantry of the U.S. Army.

After fulfilling his military obligation, Colonel Risher joined the teaching staff of his alma matter, the Carlisle Military School, where he taught for 3 years. In 1958 a new opportunity and challenge presented itself to the young instructor and veteran, the chance to serve as the headmaster of the Camden Military Academy, a preparatory military school. Grabbing the reins, the new headmaster set out to make the Camden Military Academy a success.

For the past 38 years, Col. Lanning Parsons Risher has poured his very life's blood into his school, working to not only make the academy profitable, but to ensure that his students received an education that could not be equaled by any other secondary military preparatory school. I am proud to say that my friend has achieved his goals. Over the past almost four decades, literally thousands of young boys entered Camden Military Academy and graduated as young men, capable and ready for the challenges of the military, college, or whatever other endeavor they believed to be their destiny.

Mr. President, at the end of April, Colonel Risher's long and distinguished tenure as headmaster came to a close. I doubt a visit to the school will ever be the same knowing that Colonel Risher is not sitting in his office, administering to the needs of his charges.

While I know that Lanning will no doubt miss the duties and responsibilities of running Camden Military Academy, he can take great pride in all that he has accomplished. Over the years, the colonel has received recognitions from a number of different groups. Committed to community service, Colonel Risher has served as a member and officer of an impressive list of organizations which include, but are not limited to: a bank; patriotic and veterans groups; civic clubs; and professional associations. There is no question that the city of Camden and the State of South Carolina have benefited from Lanning Risher's interest and commitment to so many worthwhile endeavors.

In addition to meeting the demands of running the academy and being civically involved, Colonel Risher also managed to find time to pursue and earn a master's degree from the University of South Carolina and raise a family. Lanning and his lovely wife, Deane, raised five daughters—Julie, Helen Dean, Virginia, Mary, and, Kathleen—who have all grown into fine young women.

Mr. President, after a long and full career as a soldier and educator, Col. Lanning P. Risher has earned a well deserved rest. We are grateful for the colonel's many years of service to his community, State, and Nation. Through his work, he has given thousands of young men the skills they require to be successful in their lives, instilling in them the values of a sound education, responsibility for themselves, and a love for their Nation. His former students are more than grateful for his influence on their lives, and they will always remember the contribution he made to their success.

A LEADER MOVES ON

Mr. LEAHY. Mr. President, Sister Janice Ryan recently announced that she will be giving up the presidency of Trinity College in Burlington next July after 17 years of service. I note this news with sadness, thanks and with hope.

I am sad because the kind of leadership Sister Janice embodies is found in so few people on this Earth. She has committed her life to improving the lot of others. She has been a tireless advocate for the disadvantaged. She has been an inspiring leader in the field of higher education in Vermont. She has been a stirring role model for the thousands of students at Trinity College, most of them young women, who have seen the power and force of a gifted educator and administrator.

Sister Janice has done all this with competence, a sense of humor and the grace that comes from a confidence grounded in logic, reason and faith.

When Sister Janice Ryan speaks, people listen. She does her homework. She is political in the best sense of the word. She understands the complexity of the decision making process, and knows how to work to change the system in ways that will further the interests of those in whose name she speaks.

Sister Janice is not retiring She is moving on to another chapter in her life, which I know will be as challenging and rewarding and fulfilling as the chapter that will soon close.

We need more people like Sister Janice Ryan everywhere. But we in Vermont are especially proud to have been graced by the presence of an exceptional native daughter of our Green Mountain State.

Mr. President, I ask unanimous consent to include a recent article and editorial about my good friend Sister Janice Ryan that appeared in the Burlington Free Press. My wife Marcelle, and I wish her Godspeed.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Burlington (VT) Free Press, May 16, 1995]

RYAN TO RETIRE FROM TRINITY'S HELM

(By Molly Walsh)

After 17 years at the helm of Vermont's only women's college, Trinity College President Janice Ryan has announced she will leave the school in July 1996.

"For Trinity and for me it just feels like the right time," Ryan, a Roman Catholic nun, said Monday. "We have truly as a college been blessed."

Friends, trustees and nuns in The Sisters of Mercy, the order that founded Trinity and welcomed Ryan as a fresh-faced farm girl in 1954, praised her vision, determination and energy.

"We would have liked to convince her to stay here for another 17 years," said Christopher Weinheimer, Trinity board of trustees chairman and treasurer of Fletcher Allen Health Care. A national search for a successor is underway.

During Ryan's tenure, Trinity launched a successful "weekend college" degree program, three new masters programs and two major capital campaigns. It also established a model scholarship program to help low-income single parents receive an education.

It's the students, most of all, who make Ryan proud as she looks back.

"I've watched the young women over these 17 years and honest to goodness, their abilities never cease to amaze me," Ryan said.

Off campus, Ryan has served on dozens of boards and community service projects, taking a special interest in mentally retarded people of all ages and children with special needs.

Ryan is the kind of person who would always find a way to get un-stranded from the proverbial desert island, said Trinity trustee Joan Sylvester, who has known Ryan for 20-odd years.

No problem is too big for her.

"She's like the little Duracell battery that goes on and on," Sylvester said.

Ryan's resignation is not a surprise. Two years ago, she declined to sign a fourth five-year contract. Trustees persuaded her to stay at least through July 1996 to help oversee a $5 million capital campaign.

To date, $4.4 million has been raised and a $1.9 million reconstruction of Delehanty Hall, the college's primary teaching facility, begins today.

One of six children in an Irish-Catholic family, Ryan's early education in a one-room school house was followed by a bachelor's from Trinity and a masters at Boston University in 1967.

Ryan's polished, dressed-for-success image is a contrast to the nun who wore thick glasses with clunky, black frames and the traditional long, black habit in the 1960s while she taught at local parochial schools.

And far from the stereotype of a cloistered nun, Ryan is known as an engaging dinner partner and a skilled fund-raiser and networker.

Ryan sets a fine example of spirituality in action, said Sister Lindora Cabral, Trinity trustee and president of the Sisters of Mercy, Vermont Regional Community. "To have people realize that we're part of today's world * * * that's a very important piece for us."

Although she will always love Vermont, Ryan is interested in policy-making work on an international level. "She will be missed," Cabral said. "But whether she's in the area or not, Trinity will always be a piece of her heart."

[From the Burlington (VT) Free Press, May 18, 1995]

MISSION STILL UNDONE

If Sister Janice Ryan doesn't eventually end up in a front-line public service job serving Vermont's disadvantaged, her resignation next year after 17 years as president of Trinity College in Burlington won't just be a loss to the school. It will be a missed opportunity for Vermont.

The time couldn't be better for an administrator of her caliber and an advocate for the needy with her energy to take a full turn in government service.

Examine the list of citizens likely to suffer the most from federal budget-cutbacks and cost-shifts to states, and it reads like a Who's Who of people Sister Janice has helped before and during her time at Vermont's last remaining women's-only college. Among them: the under-educated and physically and mentally disadvantaged in particular; women in general.

Public-service opportunities ahead become even more obvious when you look at the enormous task Vermont state government now faces: implementing welfare reform (whose largest group is now poor, single women) while absorbing federal budget cuts; making affordable the same special education law Sister Janice helped pass in 1972, without undermining its equal-access intent; and, most important, defending the basic tenet of modern government now at risk of being forgotten—retaining a basic level of decency for the disadvantaged, not as a luxury but as a moral and social imperative.

In short, Sister Janice's quiet, behind-the-scenes work at both state and national levels on behalf of all such causes isn't just a legacy for Trinity, it's a job description for Vermont state government.

As for other women aspiring to leadership—whether within or outside religious life—there are other secrets to be found in Sister Janice's example and long tenure.

One: It isn't the loudest voice that wins; more often it's the most persuasive and persistent. Just ask any Vermont legislator who remembers the years of struggle by her and other women to gain equal access to public schools for Vermont's retarded and other mentally disadvantaged children. Or any Vermont bishop who's found her on his doorstep ready to discuss in private her views on controversial church matters.

It's also testimony to what can happen when the boss—in this case the Sisters of Mercy—says, both by design and action, that a religious woman's role is, in fact, "out there," where the under-educated and the underprivileged live.

Nor is this more public life without the usual pitfalls. Sister Janice's predecessor at Trinity, Sister Elizabeth Candon, found the transition from religious life and academia a rocky one during her own pioneering tenure as human services secretary in the contentious '70s. Yet in that example is another lesson for any political leader today: that it takes more than good intentions to balance the fiercely competing interests of taxpayers and the needy; it also takes an unusually effective mix of political acuity and toughness.

While on one hand, education has long been one of the few traditional ways American culture has accepted female leaders, it's taken women like Sister Janice to take such leadership to a new, higher level through innovation and determination.

If the next few years produce the kind of budget restraints Congress is calling for—Vermont and small states like it are going to need all the persistent innovators like her they can get.

UNITED STATES-JAPAN AUTO NEGOTIATIONS

Mr. BAUCUS. Mr. President, I rise today to express my strong support for the President and Ambassador Kantor in their efforts to open Japan's auto and auto parts market.

In just 1 week, we are scheduled to impose sanctions on Japanese luxury cars. That is a last resort. I hope in these last few days Japan's auto companies will show themselves willing to accept a reasonable agreement. But if not, we will have no choice.

STATUS OF UNITED STATES-JAPANESE TRADE

Japan has always had a good public relations operation. They have done their best to present themselves as the victim in this issue. So before we look at the details of the auto issue, let us look at the big facts.

For decades now, American business has met a Japanese market closed in all sorts of sectors. We have negotiated over semiconductors, glass, insurance, apples, oranges, medical equipment, supercomputers, wood products, beef, and more.

In all these areas we had some success. Japan is now our largest beef market. We have sold a few supercomputers. The detail work has helped. But we are still far away from open trade with Japan. The statistics tell the story. Let me include them for the RECORD.

[In billions of dollars]

	Exports to Japan	Imports from Japan
1990	48.6	89.7
1991	48.1	91.5
1992	47.8	97.4
1993	47.9	107.3
1994	53.5	119.1

To sum it up, since 1990 Japan's exports to the United States have grown from $89.7 billion to $119.1 billion—an average of $7.35 billion per year. Our exports to Japan, by contrast, did not grow by a penny between 1990 and 1993. In fact they shrank. Only in 1994 did we improve at all.

So let us put all the complaints and talk of protectionism from Japan aside. They are doing fine. If there was protectionism here, their exports would not have grown by $12 billion last year. And just today, figures came out showing that in April, Japan sold us a record $2.4 billion worth of cars. The problem is Japan's closed market.

THE FRAMEWORK NEGOTIATIONS

And that is what we began to address in 1993, in the so-called framework talks. These had three main baskets, as follows:

The United States agreed to cut its budget deficit.

Japan agreed to macroeconomic reforms—deregulation in particular—to reduce its worldwide current account surplus.

And both agreed on talks covering several specific sectors of the Japanese market: Insurance, telecommunications, patent law, medical equipment, and autos and auto parts.

Two years later, we have kept our part of the bargain. We have reduced the deficit by $500 billion over the 1993–98 budget years, and we are on track to do even more this year.

In the second basket, Japan has made some halting steps toward deregulation. At least in part because of those steps, Japan's economy began to recover last year and we had a relatively good exporting year.

And in the third basket, we have agreements on medical equipment, telecommunications, insurance, patent laws, and flat glass. But autos and auto parts remain unsolved. Japan has resisted all efforts at a deal. And that is why we have a deadline next week.

JAPAN'S CLOSED AUTO SECTOR

Let us now take a closer look at this issue. Autos and auto parts account for close to two-thirds of our total trade imbalance with Japan. And the reason is that our auto and parts companies simply do not have a fair deal in Japan. A coalition of big companies and economic bureaucrats make sure Japanese dealers do not carry foreign products. And the effects are clear if we review some statistics.

In all the OECD countries but Japan, American auto parts average a 20.4-percent market share. Our share of Japan's auto parts market is 2.4 percent.

And in 1994, the world as a whole was able to export only 300,000 vehicles to Japan, where 6.5 million vehicles were sold.

This is a result of a deliberate policy to reserve Japan's auto market for domestic production. It began in the 1950's, when between 1953 and 1960 the United States share of Japan's auto markets fell from 60 to 0 percent. That is right. Zero.

It continues today, 40 years later. In 1993, for example, Japan's Fair Trade Commission found that 47 percent of Japanese dealers think they are prohibited from handling competing products, or worry their current supplier would retaliate if they sold those products.

AUTOS AND THE U.S. ECONOMY

This is a critical issue for the American economy. Our automobile industry makes up 4.6 percent of America's GDP. It is our largest manufacturing employer, employing 2.3 million Americans. And it is one of the world's most efficient and productive industries.

Since 1990, the auto industry has spent $58.3 billion on new plants and equipment. Its R&D spending stands at $44 billion, behind only our computer industry. Cars like the Chrysler Neon, GM's Saturn or the Ford Probe show that this investment has paid off in cars that are the world's standard for quality. There is no reason they cannot sell in Japan.

And these talks affect more than the automobile industry and its parts suppliers. They are critical for electronics, semiconductors, steel, chemicals, aluminum, machine tools, and more.

Let me give you one example. When you think about autos, you do not often think about Montana. But you should. Because the auto industry is the aluminum industry's second largest market, and aluminum is a critical Montana industry.

An average vehicle contains about 200 pounds of aluminum. So in 1993, the aluminum industry shipped about 4.2 billion pounds of aluminum to the transportation market. And if American autos sell in Japan, we open a new export market for American aluminum and reduce some of the chronic oversupply on our domestic market.

So these talks are important not just in Washington, Detroit, and Tokyo, but in the Flathead Valley.

CONCLUSION

We should also remember that a good deal is good for Japan, too. Japanese citizens want cheaper cars. And Japanese surveys show a majority of Japanese dealers want to sell imported cars. If we reach a good agreement this week, both countries will benefit. The time to settle this is now.

Finally, I have said before that the ultimate solution to our trade problems with Japan lies not in trade policy, but in Japan's domestic regulatory and antimonopoly policies.

Broad reform of these areas would solve many problems which now appear to us as sectoral trade barriers. It would remove much of the tension which has pervaded our trade relationship over the past 20 years. And it would be in the fundamental interest of Japan's consumers and domestic economic growth as well.

As Singapore's Senior Minister Lee Kuan Yew said last May:

> If Japan re-examines its past strategy, its leaders must recognise that conditions have changed so fundamentally that they have to break the mold of the last 50 year. That strategy, which was designed to maximize exports and minimize imports, will not limit Japan's role and damage its growth.

That is a long-term choice, and it is ultimately up to Japan. Until Japan's political leaders, business elite and—most of all—economic bureaucrats accept the choice, we will have to be firm, and autos are no exception. We have made fair offers, and there is no reason Japan cannot accept them. So let us stand behind the President and Ambassador Kantor, and get the job done.

TRIBUTE TO HERBERT P. COLE, JR.

Mr. HEFLIN. Mr. President, I rise today to pay tribute to Herbert P. Cole, Jr., a great Alabamian and American who recently passed away in his hometown of Mobile, AL.

Herb was born in Mobile on January 8, 1919, in an antebellum home known as Oakleigh, which is now a symbol of Mobile and the South. He began his education at the University Military School and then graduated from the Lawrenceville School in Lawrenceville, NJ, in 1938. That fall he entered Princeton University. The dark clouds of World War II were plainly visible and influenced his studies at Princeton. Deciding that America's entry in the war was only a matter of time, he learned to fly and joined the civilian pilot training program. In his senior thesis, he combined his love for flying with his major, economics. He concluded that America's aircraft industry could never gear up in time to be a factor in the war.

Upon graduation in June 1942, he set out to prove his conclusion wrong. He immediately joined the Navy as an aviation cadet. He found primary training in Pensacola to be relatively easy since he had logged more hours than his instructor had and, in fact, gave his instructor several pointers. Following carrier qualification in the Great Lakes, he accepted a commission in the U.S. Marine Corps. When asked why he chose the Marines over the Navy, he would explain that the scuttlebutt was that the Navy pilots would be kept State-side to serve as instructors but the Marine aviators would be sent overseas. As was typical of him, he was eager to get the job done and thus joined the Marines.

Once overseas, he was assigned to VMSB–341, the Flying Turtles, and flew the SDB Dauntless dive bomber. His missions included strikes against enemy ships and ground support against enemy forces on Rabaul and Guadalcanal, included missions to locate and destroy the infamous "Pistol Pete" artillery piece. He earned the Air Medal for his actions in World War II.

Following the war, he returned to Mobile. In 1948, he married Valery Converse. He began his career in industrial sales with the Ruberoid Co., now known as GAF. Ruberoid moved Herb and his growing family around the South, first to Americus, GA, then to Jacksonville, FL, and finally back to Mobile. When Ruberoid threatened to move him again, this time somewhere up North, he quit. He had decided that no where in the world were there any people as fine as the ones he knew in Alabama. He then joined BLP Mobile Paint Co. as a salesman. He eventually became vice president for sales.

Herb Cole was not all work, though; he found time to enjoy his family and life. Rather than say goodbye, he would often leave his family with the admonition, "enjoy." Like many southerners, he was a sportsman. He enjoyed sailing, hunting, fishing, and supporting the Crimson Tide of Alabama and the Tigers of Princeton. His greatest sports interest, though, was golf. He was an avid golfer all of his life and shot five holes-in-one, including one when he was in his seventies.

In 1975, he took an early retirement from BLP Mobile Paint Co. Although he dabbled in real estate and other business ventures at this time, he saw retirement as a time to continue to give to the community. He served on the vestry at St. Paul's Episcopal Church in Mobile, on the board at the YMCA, and as a local representative for Princeton.

Probably Herbert's most memorable qualities were his deeply held Christian beliefs and his love for St. Paul's Church. The only place Herbert could be found on Sunday mornings would be on the fourth pew from the rear in the chapel at St. Paul's Church, along with his wife and four children.

In sum, Mr. President, any measure of a man one could take, Herbert Cole met. He was intelligent, articulate, a loving and loved husband and father, a war hero, a successful businessman, and a devout Christian. My colleagues and I send our condolences to "Miss Valery," their 4 children and 10 grandchildren. To Herbert Cole, I say "Semper Fidelis."

U.S. SENATE PAGES, SPRING 1995

Mr. KEMPTHORNE. Mr. President, I would like to pay tribute today to 24 outstanding young Americans. The U.S. Senate pages, Spring Class of 1995, have been an exceptional group of motivated and enthusiastic young assistants. I have enjoyed working with them, and I appreciate all of their hard work.

I recently had the honor of attending the traditional tree planting ceremony in recognition of the Spring Class of 1995. It was quite a priviledge to be included in such a memorable event.

With such a fine group of young adults, I feel the future of the United States will be in good hands.

It is with great pleasure that I recognize the hard work of these fine Senate pages: Bethany Atkins, Jessie Baker, Toby Bendor, Casey Chamberlain, April Cunningham, Robby Fairchild, Brent Faught, Dan Flicker, Amy Jerominek, Lara Kemp, Justin Marceau, Hillary Maxwell, Dora McCann, Aaron McClung, Matthew McMillan, David Myers, Ryan Offut, Owen O'Leary, Gordon Parker, Chris Pandelis, James Pfadenhauer, Sarah Saucedo, Jared Smith, Jennifer Van Doorn.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Foreign Relations.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 3:39 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1817. An act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes.

The message also announced that pursuant to the provisions of section 204(a) of the Older Americans Act of 1965 (42 U.S.C. 3015(a)), as amended by section 205 of Public Law 102–375, the Speaker appoints Mr. Charles W. Kane of Stuart, Florida, from private life, to the Federal Council on the Aging on the part of the House for a 3-year term, to fill the existing vacancy thereon.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1817. An act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1996, and for other purposes; to the Committee on Appropriations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1037. A communication from Secretary of the Treasury, transmitting, pursuant to law, the report on the public debt for fiscal year 1995; to the Committee on Banking, Housing, and Urban Affairs.

EC–1038. A communication from the Deputy and Acting Chief Executive Officer of the Resolution Trust Corporation, transmitting, pursuant to law, the comprehensive litigation report for the period October 1, 1994 through March 31, 1995; to the Committee on Banking, Housing, and Urban Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on Armed Services:

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be general

Gen. Carl E. Mundy, Jr., [redacted], U.S. Marine Corps.

The following-named officer for reappointment to the grade of general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Gen. James L. Jamerson, [redacted], U.S. Air Force.

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Kenneth R. Wykle, [redacted], U.S. Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Hubert G. Smith, [redacted], U.S. Army.

The following-named officer for appointment to the grade of lieutenant general in the U.S. Marine Corps while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Paul K. Van Riper, [redacted].

The following-named officer for reappointment to the grade of lieutenant general in the U.S. Marine Corps while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be lieutenant general

Lt. Gen. Charles E. Wilhelm, [redacted]

The following-named captains in the staff corps of the Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to title 10, United States Code, section 624, subject to qualifications therefore as provided by law:

MEDICAL CORPS

To be rear admiral (lower half)

Capt. Michael Lynn Cowan, [redacted], U.S. Navy.

SUPPLY CORPS

To be rear admiral

Capt. Raymond Aubrey Archer III, [redacted], U.S. Navy.

Capt. Justin Daniel McCarthy, [redacted], U.S. Navy.

Capt. Paul Oscar Soderberg, [redacted], U.S. Navy. civil engineer corps

To be rear admiral (lower half)

Capt. Robert Lewis Moeller, [redacted], U.S. Navy.

Capt. Michael William Shelton, [redacted], U.S. Navy.

MEDICAL SERVICE CORPS

To be rear admiral (lower half)

Capt. Harold Edward Phillips, [redacted], U.S. Navy.

The following-named rear admirals (lower half) in the line of the U.S. Navy for promotion to the permanent grade of rear admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefore as provided by law:

UNRESTRICTED LINE OFFICER

To be rear admiral

Rear Adm. (1h) Charles Stevens Abbot, [redacted], U.S. Navy.

Rear Adm. (1h) Michael Lee Bowman, [redacted], U.S. Navy.

Rear Adm. (1h) Frank Matthew Dirren, Jr., [redacted], U.S. Navy.

Rear Adm. (1h) Marsha Johnson Evans, [redacted], U.S. Navy.

Rear Adm. (1h) Henry Collins Giffen III, [redacted], U.S. Navy.

Rear Adm. (1h) Lee Fredric Gunn, [redacted] U.S. Navy.

Rear Adm. (1h) Michael Donald Haskins, [redacted], U.S. Navy.

Rear Adm. (1h) Henry Francis Herrera, [redacted], U.S. Navy.

Rear Adm. (1h) Francis William Lacroix, [redacted] U.S. Navy.

Rear Adm. (1h) Thomas Fletcher Marfiak, [redacted], U.S. Navy.

Rear Adm. (1h) Richard Willard Mies, [redacted], U.S. Navy.

Rear Adm. (1h) Robert Joseph Natter, [redacted], U.S. Navy.

Rear Adm. (1h) Robert Michael Nutwell, 1253–34–8437, U.S. Navy.

Rear Adm. (1h) James Gregory Prout III, [redacted], U.S. Navy.

Rear Adm. (1h) James Reynolds Stark, [redacted], U.S. Navy.

Rear Adm. (1h) Robert Sutton, [redacted], U.S. Navy.

Rear Adm. (1h) Jay Bradford Yakeley III, [redacted], U.S. Navy.

ENGINEERING DUTY OFFICER

To be rear admiral

Rear Adm. (1h) Paul Matthew Robinson, [redacted], U.S. Navy.

The following U.S. Army National Guard officers for promotion in the Reserve of the Army to the grades indicated under title 10, United States Code, sections 3385, 3392 and 12203(a):

To be major general

Brig. Gen. Crayton M. Bowen, [redacted].

Brig. Gen. James D. Davis, [redacted].

Brig. Gen. Robert J. Mitchell, [redacted].

Brig. Gen. John E. Prendergast, [redacted].

Brig. Gen. Robert E. Schulte, [redacted].

Brig. Gen. Walter L. Stewart, Jr., [redacted].

Brig. Gen. Carroll Thackston, [redacted].

To be brigadier general

Col. Lance A. Talmage, Sr., [redacted].

Col. Robert A. Morgan, [redacted].

Col. John E. Blair, [redacted].

Col. Phillip O. Peay, [redacted].

Col. Robert D. Whitworth, [redacted].

Col. Ronald W. Henry, [redacted].

Col. Vandiver H. Carter, [redacted].

Col. Troy B. Oliver, [redacted].

Col. Don C. Morrow, [redacted].

Col. Smythe J. Williams, [redacted].

Col. William W. Austin, [redacted].

Col. Jean A. Romney, [redacted].

Col. James T. Dunn, [redacted].

Col. Paul T. Ott, [redacted].

Col. Reid K. Beveridge, [redacted].

Col. Bertus L. Sisco, [redacted].

Col. Jim E. Morford, [redacted].

Col. Willie A. Alexander, [redacted].

Col. Steven P. Solomon, [redacted].

Col. Jerry V. Grizzle, [redacted].

Col. James V. Torgerson, [redacted].

(The above nominations were reported with the recommendation that they be confirmed.)

Mr. THURMOND. Mr. President, for the Committee on Armed Services, I report favorably the attached listing of nominations.

Those identified with a single asterisk (*) are to be placed on the Executive Calendar. Those identified with a double asterisk (**) are to lie on the Secretary's desk for the information of any Senator since these names have already appeared in the RECORDS of March 23, April 24, May 11, 19, and 23, 1995, ask unanimous consent, to save the expense of reprinting on the Executive Calendar, that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The nominations ordered to lie on the Secretary's desk were printed in the RECORDS of March 23, April 24, May 11, 19, and 23, 1995, at the end of the Senate proceedings.)

*In the Navy there are 18 promotions to the grade of rear admiral (list begins with Charles Stevenson Abbot) (Reference No. 164).

*In the Navy there are 7 promotions to the grade of rear admiral (lower half) (list begins with Michael Lynn Cowan) (Reference No. 204).

**In the Navy there are 258 promotions to the grade of captain (list begins with Vincent J. Andrews) (Reference No. 278).

*Lt. Gen. Kenneth R. Wykle, USA to be placed on the retired list in the grade of lieutenant general (Reference No. 288).

**In the Air Force there are 13 promotions to the grade of colonel (list begins with Danny N. Armstrong) (Reference No. 341).

*In the Navy there are 186 promotions to the grade of captain (list begins with Robert J. Adams) (Reference No. 344).

**In the Navy there are 621 promotions to the grade of commander (list begins with Milton D. Abner) (Reference No. 384).

*Maj. Gen. Paul K. Van Riper, USMC to be lieutenant general (Reference No. 388).

*Lt. Gen. Charles E. Wilhelm, USMC for reappointment to the grade of lieutenant general (Reference No. 389).

*Gen. James L. Jamerson, USAF for reappointment to the grade of general (Reference No. 394).

*Maj. Gen. Hubert G. Smith, USA to be lieutenant general (Reference No. 395).

*In the Army Reserve there are 28 promotions to the grade of major general and below (list begins with Crayton M. Bowen) (Reference No. 396).

**In the Army Reserve there are 34 promotions to the grade of colonel and below (list begins with Richard F. Anderson) (Reference No. 397).

**In the Army Reserve there are 43 promotions to the grade of colonel and below (list begins with Ronald C. Bredlow) (Reference No. 398).

**In the Army there are 35 promotions to the grade of lieutenant colonel (list begins with James E. Agnew) (Reference No. 399).

**In the Navy there are 265 appointments to the grade of lieutenant (list begins with Camilo L. Abalos) (Reference No. 400).

**In the Army there are 295 promotions to the grade of major (list begins with Robert T. Aarhus) (Reference No. 401).

[redacted]In the Air Force Reserve there are 27 promotions to the grade of lieutenant colonel (list begins with William M. Altman III) (Reference No. 403).

**In the Army there is 1 promotion to the grade of lieutenant colonel (list begins with Robert G. Kowalski) (Reference No. 404).

**In the Army there are 7 promotions to the grade of lieutenant colonel and below (list begins with Joseph F. Miller) (Reference No. 405).

**In the Navy there are 1,062 appointments to the grade of lieutenant commander and below (list begins with Carlton L. Jones) (Reference No. 407).

*Gen. Carl E. Mundy, Jr., USMC to be placed on the retired list in the grade of general (Reference No. 420).

Total: 2,906.

By Mr. SPECTER, from the Select Committee on Intelligence:

George J. Tenet, of Maryland, to be Deputy Director of Central Intelligence.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mrs. KASSEBAUM, from the Committee on Labor and Human Resources:

Clifford Gregory Stewart, of New Jersey, to be General Counsel of the Equal Employment Opportunity Commission for a term of 4 years.

John D. Kemp, of the District of Columbia, to be a Member of the National Council on Disability for a term expiring September 17, 1997.

Edmundo A. Gonzales, of Colorado, to be Chief Financial Officer, Department of Labor.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mrs. HUTCHISON:

S. 951. A bill to commemorate the service of First Ladies Jacqueline Kennedy and Patricia Nixon to improving and maintaining the Executive Residence of the President and to authorize grants to the White House Endowment Fund in their memory to continue their work; to the Committee on Energy and Natural Resources.

By Mr. LIEBERMAN:

S. 952. A bill to prohibit the taking of certain lands by the United States in trust for economically self-sufficient Indian tribes for commercial and gaming purposes, and for other purposes; to the Committee on Indian Affairs.

By Mr. CHAFEE (for himself, Ms. MOSELEY-BRAUN, Mr. SIMON, Mr. CAMPBELL, Mr. THOMPSON, and Mr. PELL):

S. 953. A bill to require the Secretary of the Treasury to mint coins in commemoration of black revolutionary war patriots; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HATFIELD (for himself and Mr. MOYNIHAN):

S. 954. A bill to authorize the Architect of the Capitol to establish a Capitol Visitor Center under the East Plaza of the United States Capitol, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. HELMS (for himself, Mr. LEAHY, and Mr. REID):

S. Res. 138. A resolution relating to the conflict in Kashmir; to the Committee on Foreign Relations.

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 139. A resolution to authorize the production of records by the Select Committee on Intelligence; considered and agreed to.

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 140. A resolution to authorize the production of records by the Select Committee on Intelligence; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. HUTCHISON:

S. 951. A bill to commemorate the service of First Ladies Jacqueline Kennedy and Patricia Nixon to improving and maintaining the Executive Residence of the President and to authorize grants to the White House Endowment Fund in their memory to continue their work; to the Committee on Energy and Natural Resources.

THE WHITE HOUSE ENDOWMENT FUND MEMORIAL GRANT AUTHORIZATION ACT

• Mrs. HUTCHISON. Mr. President, throughout our history as a nation the White House has served as a public symbol of the President and the Federal Government. During countless wars and national crises, we have looked to the White House for leadership.

The growth of our country, and the growth of its importance in the world, has caused the number of visitors and the demands on the Executive Residence of the President—the White House—to grow substantially. Over 1.5 million people visit the White House annually; it's the only Executive Residence in the world that is regularly open to the general public.

Eventually the burden of constant use and the neglect of our historical treasures left the White House in disrepair. Until recently the White House was not maintained as a public building suitable for exhibiting our heritage and culture to the public.

In 1961, First Lady Jacqueline Kennedy initiated the White House Historic Preservation Program. The program's goals were to restore the historic integrity of the public rooms of the White House; to establish a fine and decorative arts collection; and to establish the White House Historical Association to publish and distribute educational materials describing the White House and its history.

Later that decade First Lady Pat Nixon provided new leadership by overseeing the most extensive acquisition of fine and decorative arts in the history of the White House. Her plan for refurbishment of the public rooms remains intact after more than 20 years.

The fine and decorative arts donated to the White House during the leadership of Mrs. Kennedy and Mrs. Nixon, valued today at tens of millions of dollars, far exceed those received during all other modern Presidential administrations combined.

With over 1.5 million visitors annually, the Executive Residence's public rooms need constant care and complete refurbishing every 8 to 10 years. To maintain the collection of fine arts, historic pieces must be acquired, loaned works must be acquired, reproductions need to be replaced, and repairs need to be made.

First Lady Barbara Bush established the White House Endowment Fund in 1990 to create a permanent endowment of $25 million to maintain the public rooms and collection of the White House. Although substantial contributions have been received from the public, additional funds are needed to complete the endowment.

Over the past 2 years we have lost Jacqueline Kennedy and Patricia Nixon, who were among the finest First Ladies that have served our country. In recognition of their service in preserving and improving the White House, and in their memory following their recent deaths, today I am introducing legislation to authorize a memorial grant to the White House Endowment Fund to continue preservation activities at the White House.

First Ladies Jacqueline Kennedy and Patricia Nixon devoted much of their service to preserving and improving the White House. They made it a national showplace of American history, fine arts, and decorative arts. Bestowing this honor on Mrs. Kennedy and Mrs. Nixon would be in accord with the well-established congressional precedent by which a grateful nation recognizes noteworthy and enduring contributions to the public interest with memorial gifts. I hope all Senators will join me in recognizing their work and in preserving it for the future by supporting this bill.•

By Mr. LIEBERMAN:

S. 952. A bill to prohibit the taking of certain lands by the United States in trust for economically self-sufficient Indian tribes for commercial and gaming purposes, and for other purposes; to the Committee on Indian Affairs.

THE INDIAN TRUST LANDS REFORM ACT OF 1995

• Mr. LIEBERMAN. Mr. President, I am introducing legislation today to return some common sense to one aspect of the Federal Government's policies regarding Indian lands. My bill, the Indian Trust Lands Reform Act of 1995, arises out of a problem we have been struggling with in Connecticut for the last couple years, but which, given the explosive growth in Indian gaming, other States will soon likely face as well.

The bill would amend the Indian Reorganization Act of 1934 to reinforce its original purpose—helping Indian tribes and individual Indians hold on to or obtain land they need to survive economically and ultimately support themselves. Congress passed the 1934 act after the landholdings of some tribes had dwindled down to acres. Tribes and their members were selling and losing land to foreclosures, tax arrearages, and the like.

The 1934 act gave the Secretary of the Interior the authority needed to help tribes hold on to or acquire land on which they could earn a living and, further, to hold those lands in trust for them so they would not be sold or otherwise lost. Once land is taken in trust by the United States for a tribe through this process, it becomes part of the tribe's sovereign lands and is no longer within the jurisdiction of State or local governments or subject to taxation or zoning controls.

The 1934 act specifically provides the Secretary of the Interior with the authority, "in his discretion, to acquire, through purchase, relinquishment, gift, exchange, or assignment, any interest in lands * * * for the purpose of providing land for Indians." The legislative history of the 1934 act and that specific provision makes clear that Congress' purpose was "to provide for the acquisition, through purchase, of land for Indians, now landless, who are anxious to make a living on such land. * * *" and "to meet the needs of landless Indians and of Indian individuals whose landholdings are insufficient for self-support." Senate Report No. 1080, 73d Congress, 2d Session 1–2 (1934).

Economic conditions for most tribes have improved since 1934 through a variety of commercial, agricultural, and other enterprises, but many are still struggling. Few could be described as rich or even comfortable; far too many still live in poverty. The 1934 act should be available to help those tribes who still need assistance from the Federal Government in attaining economic self-sufficiency.

Since the passage of the Indian Gaming Regulatory Act in 1988, of course, many tribes have established casinos and gambling operations. Some have been very successful, others less so. One of the most successful gambling casinos in the country is located in eastern Connecticut and is owned and operated by the Mashantucket Pequot Tribe. The success of the tribe's Foxwoods Casino has been well-chronicled. Established in 1992, the casino has been open 24-hours-a-day, 7-days-a-week ever since. Whatever one thinks about the Indian Gaming Regulatory Act or gambling, either morally or as a vehicle for economic growth, the Mashantucket Pequots seized the opportunity presented to them by the Indian Gaming Act. They have developed an extraordinarily successful, well-run casino in record time. In 1994, annual casino revenues for the 300-member tribe were said to exceed $800 million. By any measure, the tribe has become very wealthy.

Given the tribe's financial success, it is not at all surprising that it has chosen to use some of those gambling revenues to buy more land near its reservation in order to expand upon its success. According to press accounts, the tribe owns over 3,500 acres outside of the boundaries of the reservation, in addition to the 1,229 acres that is held in trust on its behalf within the reservation, and is now the largest private landowner in southeastern Connecticut. Tribal leaders have at various times talked of building a massive theme park, golf courses, and hotels on the land it owns outside the reservation. The tribe owns that land in fee simple, like any other property owner and so is free to develop it like any other property owner might.

Nevertheless, the tribe has chosen to apply to the Department of the Interior under the 1934 act to have some of that land taken in trust on their behalf. The 1934 act is on the books and available, with limitations, to all federally recognized tribes. The benefits are enormous—tax-free land that is not subject to any State or local zoning or land-use laws.

Their efforts have paid off. In 1992, 27 acres in the neighboring towns of Ledyard and Preston were taken into trust by the Department of Interior for the tribe at its request. In January 1993, the tribe filed an application to have an additional 248 taken in trust. The legal and policy justifications for that request, as well as the earlier 1992 trust acquisition, were immediately challenged by the affected towns of Ledyard, North Stonington, and Preston. Nevertheless, that request was granted this May by the Department of Interior, subject to certain conditions regarding the land's development and pending resolution of lawsuits filed by the towns and the Connecticut attorney general. In March 1993, the tribe applied to have 1,200 more acres taken in trust. That request was denied because of legal deficiencies in the application. Reapplication by the tribe is possible. Past statements by tribal leaders suggest that more applications may be filed.

The effect of these decisions—by the tribe and the Department of the Interior—has been unsettling, to say the least, on the tribe's neighbors—the residents of the small towns that border the reservation. Once the United States takes land into trust on behalf of a tribe, as it has done here, boundaries change permanently. That land is no longer within the jurisdiction of the State or local governments. It is not subject to local zoning, land-use or environmental controls. Taxes cannot be collected on the land or on any business operated on the land. And State and local governments may exercise no police powers on the land unless invited by the tribe to do so.

Given the vast financial resources of the tribe and the apparent willingness of the Department of Interior to take land into trust on their behalf regardless of any evidence that the tribe needs additional trust lands, many residents in the tribes wonder, as do I, where this will all end. I simply do not see any policy justification for the United States to change the boundaries of three Connecticut towns unilaterally so that an extraordinarily wealthy tribe—this one or any other—can expand its gaming or other business enterprises, free of taxes and local land-use controls, particularly when that tribe is perfectly capable of expanding its businesses on the thousands of trust and nontrust land it presently owns. It strains credulity to think that Congress intended in 1934 that the law would be used in this fashion.

The authority for the Department of Interior to grant the tribe's request is now subject to review in the courts. The courts will have to decide whether the 1934 act even applies to this tribe and, if so, whether the Secretary acted properly. The courts will have to decide as well whether the 1983 Mashantucket Pequot Settlement Act independently prohibits trust acquisition by the tribe outside of reservation boundaries.

To avoid future disputes and controversy, my bill would amend the Indian Reorganization Act to return to its original purpose. It would prohibit the Secretary of Interior from taking any lands located outside of the boundaries of an Indian reservation in trust on behalf of an economically self-sufficient Indian tribe, if those lands are to be used for gaming or any other commercial purpose. It directs the Secretary of Interior to determine, after providing opportunity for public comment, whether a tribe is economically self-sufficient and to develop regulations setting forth the criteria for making that determination generally. Among the criteria that the Secretary must include in those regulations to assess economic self-sufficiency are the income of the tribe, as allocated among members and compared to the per capita income of citizens of the United States, as well as the role that the lands at issue will play in the tribe's efforts to achieve economic self-sufficiency.

My bill does not affect the ability of the Secretary to assist tribes that genuinely need additional land in order to move toward or attain economic self-sufficiency. Moreover, the bill contains explicit exemptions for the establishment of initial reservations for Indian tribes, whether accomplished through recognition by the Department of Interior or by an act of Congress, and in circumstances where tribes once recognized by the Federal Government are restored to recognition.

Mr. President, many residents of Connecticut applaud the success that the Mashantucket Pequot Tribe has had with its Foxwoods Casino. The tribe employs thousands of Connecticut residents in an area of the State that was hard-hit by a lingering recession and cuts in defense spending. The tribe's plans for economic development of the region, while not universally liked, have many in the area genuinely excited about future opportunities.

I have discovered though that even among residents cheered by the tribe's success and supportive of its plans, there is a strong sense of unfairness about how the "land in trust" process is being used. They believe there is absolutely no reason why this tribe, or any other in a similar situation, needs to have the U.S. Government take additional, essentially commercial land in trust on the tribe's behalf outside of its reservation boundaries. What is at stake here, afterall, is not preserving a culture or achieving self-sufficiency, but expansion of an already successful business on lands which are owned by the tribe and developable by them, as they would be by any other landowner. Extra help is simply not needed, and continuing to grant it is unjust and, in my view, ultimately counterproductive for all involved.

It is time for Congress to make this common sense clarification in the law. I urge my colleagues to join me in supporting this legislation, and ask unanimous consent that the text of the bill appear in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 952

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Trust Lands Reform Act of 1995".

SEC. 2. PROHIBITION AGAINST TAKING CERTAIN LANDS IN TRUST FOR AN INDIAN TRIBE.

Section 5 of the Act of June 18, 1934 (commonly known as the "Indian Reorganization

Act of 1934") (48 Stat 935; 25 U.S.C. 465) is amended—

(1) in the first undesignated paragraph, by striking "The Secretary of the Interior" and inserting "Except as provided in the following paragraph, the Secretary of the Interior"; and

(2) by inserting after the first undesignated paragraph the following new undesignated paragraphs:

"Except with respect to lands described in the following paragraph, the Secretary of the Interior may not take, in the name of the United States in trust for use for any commercial purpose (including gaming, as that term is used in the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)) by an economically self-sufficient Indian tribe, any land that is located outside of the reservation of that Indian tribe as of the date of enactment of the Indian Trust Lands Reform Act of 1995. The Secretary of the Interior shall, after providing notice and an opportunity for public comment, determine whether an Indian tribe is economically self-sufficient for purposes of this paragraph. The Secretary of the Interior shall promulgate regulations pursuant to section 553 of title 5, United States Code, to prescribe the criteria that shall be used to determine the economic self-sufficiency of an Indian tribe under this paragraph. The criteria described in the preceding sentence shall include a comparison of the per capita allocation of the gross annual income of an Indian tribe (including the income of all tribal enterprises of the tribe) among members of the tribe with the per capita annual income of citizens of the United States, and shall include the potential contribution of the lands at issue as trust lands toward efforts of the tribe to achieve economic self-sufficiency.

"The immediately preceding paragraph shall not apply with respect to any lands that are taken by the Secretary of the Interior in the name of the United States in trust for the establishment of an initial reservation for an Indian tribe under applicable Federal law, including the establishment of an initial reservation by the Secretary of the Interior in accordance with an applicable procedure of acknowledgement of that Indian tribe, or as otherwise prescribed by an Act of Congress. Neither shall the immediately preceding paragraph apply to any lands restored to an Indian tribe as the result of the restoration of recognition of that Indian tribe by the Federal Government.".•

By Mr. CHAFEE (for himself, Ms. MOSELEY-BRAUN, Mr. SIMON, Mr. CAMPBELL, Mr. THOMPSON, and Mr. PELL):

S. 953. A bill to require the Secretary of the Treasury to mint coins in commemoration of black Revolutionary War patriots; to the Committee on Banking, Housing, and Urban Affairs.

THE BLACK REVOLUTIONARY WAR PATRIOTS COMMEMORATIVE COIN ACT OF 1995

• Mr. CHAFEE. Mr. President, on behalf of myself and Senator MOSELEY-BRAUN, as well as Senators SIMON, CAMPBELL, PELL, and THOMPSON, I am introducing the black Revolutionary War patriots commemorative coin legislation.

In 1986, Congress approved construction of a memorial celebrating the lives of more than 5,000 African-Americans who served, fought, and died during our Nation's Revolutionary War. Ironically, many of these brave Americans had never experienced the freedom and independence for which they fought.

As a Rhode Islander, it gives me particular pleasure to sponsor this legislation. As few Americans know, of the estimated 5,000 African-Americans who served in the Continental Army, the vast majority were from New England, and a great number were from my State of Rhode Island. In fact, in 1778, Rhode Island approved the first slave enlistment act and the Black Regiment of Rhode Island was formed. This was one of only two all black regiments. The other was the Bucks of America of Boston.

Not only did these men serve our Nation, they served with distinction. Regrettably throughout our history, their valor has been overlooked. Men like Jack Sisson of Rhode Island, who expertly steered one of five boats involved in the daring capture of British Maj. Gen. Richard Prescott at Newport in 1777, are barely mentioned in historical reports of the incident.

Jack Sisson went on to join a regiment of some 200 black soldiers from my State, who, at the battle of Rhode Island, held their ground against several fierce attacks by British-Hessian forces, thereby allowing six American brigades to retreat. With scant training, but abundant courage, the First Rhode Island Regiment inflicted casualties of six to one on the professional troops of the Redcoats.

Like African-American soldiers throughout the colonies, however, the soldiers of Rhode Island's First Regiment faced tragedy as well as triumph. In May 1781, the unit suffered a surprise attack by the British cavalry at Pines Bridge, and 40 soldiers lost their lives. Two years later, the regiment was disbanded unceremoniously in Oswego, NY. According to the historian John Harmon, the soldiers were told to find their own way home, and many died while making the trip. Further, despite the promise of freedom which had been made in order to entice them to enlist, some of the soldiers were actually reenslaved after their return.

Valor and fortitude in battle always are worthy of celebration, but they are especially inspiring when one takes into account the hostility and oppression that African-American soldiers faced from the Nation for which they fought. As Harriet Beecher Stowe observed,

> They served a nation which did not acknowledge them as citizens and equals. . . It was not for their own land they fought, but for a land that enslaved them. Bravery under such circumstances, has particular beauty and merit.

A portion of the proceeds from sales of the coin my legislation will authorize will help to pay for construction of the memorial. The Patriots Foundation already has raised $4 million for this purpose, and these additional funds are crucial if the memorial is to be completed.

The design for the black Revolutionary War patriots memorial has been approved. It will be a 90-foot-long, 7-foot high, curved bronze wall located some 300 feet from the Vietnam Memorial in Constitution Gardens between the Washington Monument and the Lincoln Memorial. Figures of black soldiers will be sculpted in high and low relief and a black granite arch will be inscribed with historical information.

NANCY JOHNSON has introduced companion legislation in the House of Representatives, and it is my hope that this proposal will receive speedy approval by both bodies.•

By Mr. HATFIELD (for himself and Mr. MOYNIHAN):

S. 954. A bill to authorize the Architect of the Capitol to establish a Capitol Visitor Center under the East Plaza of the United States Capitol, and for other purposes; to the Committee on Energy and Natural Resources.

THE CAPITOL VISITOR CENTER AUTHORIZATION ACT OF 1995

• Mr. HATFIELD. Mr. President, it is my great pleasure to introduce a bill that will make the U.S. Capitol more accessible to the American people. Over the past 200 years the U.S. Capitol has become more than a mere monument or museum. It is a living space, housing both Chambers of Congress, and hosting hundreds of thousands of visitors from across the globe annually. Today the U.S. Capitol Building stands as a symbol of our American ideals of liberty and freedom as much as it did on September 18, 1793, when President Washington laid the first stone into the ground.

Mr. President, the Capitol Visitor Center Authorization Act of 1995 upholds our Nation's original commitment to citizen involvement in government by providing Americans with enhanced opportunities to witness their government at work. Located under the East Plaza of the U.S. Capitol, this new addition would ease visitor access to the Capitol, allowing the ever-increasing number of visitors to enter more quickly and efficiently. Visitors will also be treated to informative displays about the Capitol as they proceed underground to enter the building. And anyone who has ever visited Washington, DC in the summer or winter will greatly appreciate the importance of providing visitors with relief from the elements.

In this period of scrutinizing government expenditures and balancing the budget, it is important to note that funding for the visitors center would come primarily from private gifts and donations. Contributions would be held in the U.S. Treasury under a separate account.

Mr. President, above all, this historic legislation should be enacted because it fulfills the intent of the U.S. Capitol Building by further opening it up to the American people. The visitors center would be an educational facility to be enjoyed for many years to come. It is my pleasure to introduce this important legislation and I thank the senior Senator from New York, Senator MOYNIHAN, for joining me as an original cosponsor.●

ADDITIONAL COSPONSORS

S. 240

At the request of Mr. DOMENICI, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 240, a bill to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

S. 643

At the request of Mr. JEFFORDS, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from New Jersey [Mr. BRADLEY] were added as cosponsors of S. 643, a bill to assist in implementing the plan of action adopted by the World Summit for Children.

S. 733

At the request of Mr. ROTH, the names of the Senator from Maine [Ms. SNOWE], the Senator from Rhode Island [Mr. PELL], and the Senator from New York [Mr. D'AMATO] were added as cosponsors of S. 733, a bill to amend title 23, United States Code, to permit States to use Federal highway funds for capital improvements to, and operating support for, intercity passenger rail service, and for other purposes.

S. 789

At the request of Mr. CHAFEE, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 789, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly traded stock to certain private foundations, and for other purposes.

S. 907

At the request of Mr. MURKOWSKI, the names of the Senator from Montana [Mr. BURNS], the Senator from Vermont [Mr. JEFFORDS], and the Senator from Wyoming [Mr. THOMAS] were added as cosponsors of S. 907, a bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands and to withdraw lands within ski area permit boundaries from the operation of the mining and mineral leasing laws.

S. 917

At the request of Mr. STEVENS, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 917, a bill to facilitate small business involvement in the regulatory development processes of the Environmental Protection Agency and the Occupational Safety and Health Administration, and for other purposes.

S. 939

At the request of Mr. SMITH, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 939, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 940

At the request of Mr. LEAHY, the names of the Senator from Virginia [Mr. ROBB], the Senator from Connecticut [Mr. LIEBERMAN], the Senator from Indiana [Mr. LUGAR], and the Senator from Michigan [Mr. LEVIN] were added as cosponsors of S. 940, a bill to support proposals to implement the United States goal of eventually eliminating antipersonnel landmines; to impose a moratorium on use of antipersonnel landmines except in limited circumstances; to provide for sanctions against foreign governments that export antipersonnel landmines, and for other purposes.

SENATE JOINT RESOLUTION 33

At the request of Mr. COCHRAN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of Senate Joint Resolution 33, a resolution proposing an amendment to the Constitution of the United States relative to the free exercise of religion.

SENATE CONCURRENT RESOLUTION 11

At the request of Ms. SNOWE, the names of the Senator from Michigan [Mr. LEVIN], the Senator from California [Mrs. BOXER], and the Senator from Virginia [Mr. ROBB] were added as cosponsors of Senate Concurrent Resolution 11, a concurrent resolution supporting a resolution to the long-standing dispute regarding Cyprus.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the names of the Senator from North Dakota [Mr. CONRAD] and the Senator from Louisiana [Mr. BREAUX] were added as cosponsors of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

SENATE RESOLUTION 138—RELATIVE TO THE CONFLICT IN KASHMIR

Mr. HELMS (for himself, Mr. LEAHY, and Mr. REID) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 138

Whereas U.S. policy calls for a solution to the conflict in Kashmir through negotiations between India and Pakistan taking into account the wishes of the Kashmiri people to choose legitimate representatives to negotiate on their behalf;

Whereas India and Pakistan have fought two wars over Kashmir and tensions in the region remain high;

Whereas both India and Pakistan have nuclear weapons programs and possess sophisticated means to deliver such weapons;

Whereas reports indicate widespread human rights abuses in Kashmir, resulting from the excessive use of force by Indian military and paramilitary forces and acts of violence by Kashmiri militants;

Whereas the Indian parliament did not renew the Terrorists and Disruptive Activities Act, thereby improving prospects for the rule of law in Kashmir;

Whereas the All Parties Hurriyet (Freedom) Conference was organized to engage in negotiations with Indian and Pakistani authorities without precondition;

Whereas in January 1994 the United States Institute of Peace (USIP) brought together representatives from India, Pakistan and Kashmir to engage in a dialogue for peace;

Whereas the USIP concluded that, "It is essential that people of Jammu and Kashmir be central participants in this political process, along with the governments and citizens of India and Pakistan."

Whereas the recent destruction of the mosque and the razing of the town of Charar-i-Sharief in Kashmir have reinforced the urgent need for such a dialogue;

Resolved, That the Senate—

(1) condemns the use of excessive force by Indian military and paramilitary forces in Kashmir and similarly condemns acts of violence by Kashmiri militants;

(2) welcomes the release from detention of Kashmiri political leaders and urges that the government of India take further steps to respond to human rights concerns, including:

Prosecuting security personnel involved in abuses of human rights;

Permitting international human rights groups such as Amnesty International access to Kashmir; and

Permitting international humanitarian groups access to detention and interrogation centers in Kashmir;

(3) welcomes the expiration of the Terrorist and Disruptive Activities Act and urges the government of India to take further steps to safeguard the Kashmiri people's right to due process;

(4) welcomes steps taken by the government of Pakistan to reduce its support for Kashmiri militants, and urges the government of Pakistan to take further steps, including using its influence with private Pakistani sources, to stop the acts of intimidation and violence by Kashmiri militants;

(5) calls on the governments of India and Pakistan to enter into negotiations with legitimate representatives of the people of Jammu and Kashmir to resolve the conflict peacefully;

(6) urges the Administration to work to facilitate negotiations for a peaceful settlement of the conflict in Kashmir.

Mr. HELMS. Mr. President, I send a resolution to the desk for appropriate referral. It addresses the precarious situation growing out of two nuclear-armed nations facing each other on the South Asian subcontinent. During the past 50 years, the two nations have gone to war twice, and barely avoided doing so again in 1990.

The dispute over the State of Kashmir continues to fester, and India and Pakistan are nowhere near resolving their differences. Kashmir could easily ignite a nuclear conflagration, and it would be difficult to imagine a greater interest by the United States than preventing such a terrifying tragedy.

Mr. President, exacerbating the tensions in the region is a pattern of gross violations of the Kashmiri people's basic human rights. More than 20,000 Kashmiris have been killed in the past 6 years, and the people of Kashmir continue to endure daily abuses, most often at the hands of the Indian Army and security forces. The State Department's 1994 Report on Human Rights lists "extrajudicial executions, torture and reprisal killings" as common tactics used by Indian Government forces.

Only last month, Mr. President, a battle between militants and Indian troops in the town of Charar-i-Sharief started a fire that destroyed 1,000 homes, and a 600-year-old mosque that is Kashmir's most important Moslem shrine. The blaze also displaced nearly 25,000 people.

The resolution Senators LEAHY, REID, and I are offering speaks directly to the very serious issues that confront the people of Kashmir. It decries human rights abuses perpetrated by both Indian security forces and Moslem militants. It also speaks to the root of the threat to South Asia and to the United States—the failure to negotiate a settlement to the Kashmiri dispute.

Since 1972, India and Pakistan have worked through the Simla framework: bilateral negotiations to resolve bilateral problems, including Kashmir. After 23 years, it is time to admit failure. Negotiations will not succeed without the involvement of the Kashmiri people. The resolution that Senator LEAHY and I are introducing today asks that the Kashmiri people, through the peaceful voice of their Hurriyet Council, be represented in any negotiations on the future of Kashmir.

Kashmir must not be ignored; it will come back to haunt us all. I urge Senators to support not only this resolution, but more importantly, this cause.

Mr. LEAHY. Mr. President, I rise in support of the resolution on Kashmir submitted today by Senator HELMS, which I am cosponsoring along with Senator REID.

The situation in Kashmir has been a continuing concern of mine for many years. I am a friend of India, a country of nearly a billion people with great cultural and religious diversity and a myriad of problems. I have long believed that the United States and India have a tremendous amount to gain from closer relations. But I have been very disturbed by the excessive use of force by India's security forces in Kashmir, which has resulted in the detention, torture, and death of thousands of civilians. I am also very disturbed by the Pakistan Government's continuing assistance to the Kashmiri militants who have also been guilty of atrocities.

I am cosponsoring this resolution because I believe it is balanced, and because I believe the recommendations it contains are in the interests of India and Pakistan, and the Kashmiri people. It condemns acts of violence by both the Indian security forces and Kashmiri militants, and it welcomes the decision of the Indian Government to release Kashmiri political leaders who had been imprisoned.

Further, it urges the Indian Government to respond to continuing human rights violations in Kashmir. Specifically, the resolution calls for prosecution of those responsible for human rights violations, since far too often those implicated in abuses have gone unpunished, and it requests the Indian Government to permit international human rights and humanitarian groups access to Kashmir. This is long overdue.

In addition, the resolution recognizes the Pakistani Government's efforts to reduce its support for Kashmiri militants, and calls on the Pakistani Government to take further steps including using its influence with private Pakistani sources to stop the acts of intimidation and violence by Kashmiri militants. A recent report by the Arms Project of Human Rights Watch described the flow of military assistance from Pakistan that has contributed to the violence and bloodshed in Kashmir.

The resolution does not express a position on what the future status of Kashmir should be. Rather, we urge the Indian and Pakistani Governments to enter into negotiations with legitimate representatives of Jammu and Kashmir in order to resolve the conflict in a peaceful manner. It is widely recognized that there is no military solution to the Kashmir conflict. It is long past time that the various parties with an interest in the future of Kashmir engaged in a serious dialogue to end the violence.

Mr. President, this is a balanced resolution that seeks to encourage and support a search for peace in Kashmir, and I want to thank the Senator from South Carolina, the chairman of the Foreign Relations Committee, for the constructive role he played in the drafting of the resolution. Our goal is to diffuse tensions in a dangerous region and to help resolve a bloody conflict that has caused enormous suffering over many years. The resolution should pass unanimously.

SENATE RESOLUTION 139—TO AUTHORIZE THE PRODUCTION OF RECORDS BY THE SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 139

Whereas, the Office of the Inspector General of the Central Intelligence Agency has requested that the Select Committee on Intelligence provide it with copies of committee records relevant to the Office's pending inquiry into the accuracy and completeness of information provided by Agency officials to the intelligence oversight committees of the Congress concerning the Agency's activities in Guatemala between 1985 and 1995;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Vice Chairman of the Select Committee on Intelligence, acting jointly, are authorized to provide to the Office of Inspector General of the Central Intelligence Agency, under appropriate security procedures, copies of records that the Office has requested for use in connection with its pending inquiry into the provision of information by officials of the Central Intelligence Agency to the congressional intelligence oversight committees.

SENATE RESOLUTION 140—TO AUTHORIZE THE PRODUCTION OF RECORDS BY THE SELECT COMMITTEE ON INTELLIGENCE

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 140

Whereas, the Office of the Inspector General of the Department of Justice has requested that the Select Committee on Intelligence provide it with copies of committee records relevant to the Office's pending review of matters related to the Aldrich Ames case;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Vice Chairman of the Select Committee on Intelligence, acting jointly, are authorized to provide to the Office of Inspector General of the

Department of Justice, under appropriate security procedures, copies of records that the Office has requested for use in connection with its pending review into matters related to the Aldrich Ames case.

AMENDMENTS SUBMITTED

THE NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

SNOWE (AND OTHERS) AMENDMENT NO. 1442

Ms. SNOWE (for herself, Mr. CAMPBELL, Ms. MOSELEY-BRAUN, Mr. SMITH, Mr. FEINGOLD, Mr. KOHL, Mr. KEMPTHORNE, Mr. GREGG, Mr. WELLSTONE, Mr. BROWN, Mr. PRESSLER, Mr. COHEN, and Mr. THOMAS) proposed an amendment to the bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes; as follows:

At the appropriate place in title I, insert the following:

SEC. . ELIMINATION OF PENALTIES FOR NONCOMPLIANCE WITH MOTORCYCLE HELMET USE REQUIREMENT.

Section 153(h) of title 23, United States Code, is amended by striking "a law described in subsection (a)(1) and" each place it appears.

CHAFEE (AND OTHERS) AMENDMENT NO. 1443

Mr. CHAFEE (for himself, Mr. HUTCHISON, Mr. LAUTENBERG) proposed an amendment to amendment No. 1442 proposed by Ms. SNOWE to the bill S. 440, supra; as follows:

Before the period at the end of the amendment insert the following: "and inserting 'a law described in subsection (a)(1) (except a State that by law assumes any Federal cost incurred in providing medical care to treat an injury to a person in a motorcycle accident, to the extent that the injury is attributable to that person's failure to wear a motorcycle helmet) and' ".

ROTH (AND OTHERS) AMENDMENT NO. 1444

Mr. ROTH (for himself, Mr. BIDEN, Mrs. BOXER, Mr. CHAFEE, Mr. COHEN, Mr. JEFFORDS, Mr. KERRY, Mr. LAUTENBERG, Mr. LEAHY, Mr. MOYNIHAN, Mrs. MURRAY, Mr. SPECTER, Mr. PELL, Ms. SNOWE, and Mr. D'AMATO) proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . INTERCITY RAIL INFRASTRUCTURE INVESTMENT.

(a) INTERSTATE RAIL COMPACTS.—

(1) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

(A) retaining an existing service or commencing a new service;

(B) assembling rights-of-way; and

(C) performing capital improvements, including—

(i) the construction and rehabilitation of maintenance facilities;

(ii) the purchase of locomotives; and

(iii) operational improvements, including communications, signals, and other systems.

(2) FINANCING.—An interstate compact established by States under paragraph (1) may provide that, in order to carry out the compact, the States may—

(A) accept contributions from a unit of State or local government or a person;

(B) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);

(C) on such terms and conditions as the States consider advisable—

(i) borrow money on a short-term basis and issue notes for the borrowing; and

(ii) issue bonds; and

(D) obtain financing by other means permitted under Federal or State law.

(b) ELIGIBILITY OF PASSENGER RAIL AS SURFACE TRANSPORTATION PROGRAM PROJECT.—Section 133(b) of title 23, United States Code, is amended—

(1) in paragraph (1), by inserting ", railroads," after "highways)"; and

(2) in paragraph (2)—

(A) by inserting ", all eligible activities under section 5311 of title 49, United States Code," before "and publicly owned";

(B) by inserting "or rail passenger" after "intercity bus"; and

(C) by inserting before the period at the end the following: ", including terminals and facilities owned by the National Railroad Passenger Corporation".

(3) in paragraph 6(a), by inserting, "and for passenger rail services."

(c) ELIGIBILITY OF PASSENGER RAIL UNDER CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) if the project or program will have air quality benefits through construction of and operational improvements for intercity passenger rail facilities, operation of intercity passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operating support.".

DORGAN AMENDMENT NO. 1445

Mr. DORGAN proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . OPEN CONTAINER LAWS.

(a) ESTABLISHMENT.—Chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"§ 161. Open container requirements

"(a) PENALTY.—

"(1) GENERAL RULE.—

"(A) FISCAL YEAR 1998.—If, at any time in fiscal year 1998, a State does not have in effect a law described in subsection (b), the Secretary shall transfer 1.5 percent of the funds apportioned to the State for fiscal year 1999 under each of paragraphs (1), (2), and (3) of section 104(b) to the apportionment of the State under section 402.

"(B) FISCAL YEARS THEREAFTER.—If, at any time in a fiscal year beginning after September 30, 1998, a State does not have in effect a law described in subsection (b), the Secretary shall transfer 3 percent of the funds apportioned to the State for the succeeding fiscal year under each of paragraphs (1), (2), and (3) of section 104(b) to the apportionment of the State under section 402.

"(b) OPEN CONTAINER LAWS.—For the purposes of this section, each State shall have in effect a law that prohibits the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle (including possession or consumption by the driver of the vehicle) located on a public highway, or the right-of-way of a public highway, in the State. If a State has in effect a law that makes the possession of any open alcoholic beverage container unlawful in the passenger area by the driver (but not by a passenger) of a motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers, the State shall be deemed in compliance with subsection (a) with respect to the motor vehicle for each fiscal year during which the law is in effect.

"(c) FEDERAL SHARE.—The Federal share of the cost of any project carried out under section 402 with funds transferred under subsection (a) to the apportionment of a State under section 402 shall be 100 percent.

"(d) TRANSFER OF OBLIGATION AUTHORITY.—If the Secretary transfers under subsection (a) any funds to the apportionment of a State under section 402 for a fiscal year, the Secretary shall allocate an amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs for carrying out only projects under section 402 that is determined by multiplying—

"(1) the amount of funds transferred under subsection (a) to the apportionment of the State under section 402 for the fiscal year; and

"(2) the ratio of the amount of obligation authority distributed for the fiscal year to the State for Federal-aid highways and highway safety construction programs to the total of the sums apportioned to the State for Federal-aid highways and highway safety construction (excluding sums not subject to any obligation limitation) for the fiscal year.

"(e) LIMITATION ON APPLICABILITY OF HIGHWAY SAFETY OBLIGATIONS.—Notwithstanding any other law, no limitation on the total of obligations for highway safety programs carried out by the Secretary under section 402 shall apply to funds transferred under subsection (a) to the apportionment of a State under section 402.

"(f) DEFINITIONS.—In this section:

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning provided in section 158(c).

"(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning provided in section 154(b).

"(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' has the meaning provided in section 410.

"(4) PASSENGER AREA.—The term 'passenger area' shall have the meaning provided by the Secretary by regulation.".

(b) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by adding at the end the following:

"161. Open container requirements.".

BYRD (AND OTHERS) AMENDMENT NO. 1446

Mr. BYRD (for himself, Mr. EXON, Mr. BUMPERS, Mr. BRADLEY, Mr. BIDEN, Mr. GLENN, Mr. HATFIELD, Mr. DODD, Mr. LAUTENBERG, Mr. JOHNSTON, Mr. SIMON, Mr. ROCKEFELLER, Mrs. BOXER, Mr. DASCHLE, Mrs. FEINSTEIN, Mr. INOUYE, Mr. MOYNIHAN, Mr. REID, Mr. PRYOR, Mr. HARKIN, Mr. STEVENS, Mr. HATCH, Mr. LEVIN, Mr. BAUCUS, Mr. WARNER, Mr. WELLSTONE, Mr. DORGAN, Ms. MOSELEY-BRAUN, Mr. MCCONNELL, and Mr. PELL) proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . OPERATION OF MOTOR VEHICLES BY INTOXICATED MINORS.

Section 158(a) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) OPERATION OF MOTOR VEHICLES BY INTOXICATED MINORS.—

"(A) FISCAL YEAR 1998.—If the condition described in subparagraph (C) exists in a State as of October 1, 1998, the Secretary shall withhold, on October 1, 1998, 5 percent of the amount required to be apportioned to the State under each of paragraphs (1), (2), (5), and (6) of section 104(b) for fiscal year 1998.

"(B) FISCAL YEARS THEREAFTER.—If the condition described in subparagraph (C) exists in a State as of October 1, 1999, or any October 1 thereafter, the Secretary shall withhold, on that October 1, 10 percent of the amount required to be apportioned to the State under each of paragraphs (1), (2), (5), and (6) of section 104(b) for the fiscal year beginning on that October 1.

"(C) CONDITION.—The condition referred to in subparagraphs (A) and (B) is that an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater when operating a motor vehicle in the State is not considered to be driving while intoxicated or driving under the influence of alcohol."; and

(2) in paragraph (2), by striking "AFTER THE FIRST YEAR" and inserting "PURCHASE AND POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS".

BAUCUS (AND OTHERS) AMENDMENT NO. 1447

Mr. BAUCUS (for himself, Mr. MCCONNELL, and Mr. BURNS) proposed an amendment to the bill S. 440, supra; as follows:

Beginning on page 28, strike line 15 and all that follows through page 29, line 14.

THOMAS (AND SIMPSON) AMENDMENT NO. 1448

Mr. WARNER (for Mr. THOMAS, for himself and Mr. SIMPSON) proposed an amendment to the bill S. 440, supra; as follows:

On page 8, line 3, insert "(a) IN GENERAL.—" before "Section".

On page 10, between lines 13 and 14, insert the following:

(b) ROUTES SEGMENTS IN WYOMING.—

(1) IN GENERAL.—The Secretary of Transportation shall cooperate with the State of Wyoming in monitoring the changes in growth along, and traffic patterns of, the route segments in Wyoming described in paragraph (2), for the purpose of future consideration of the addition of the route segments to the National Highway System in accordance with paragraphs (2) and (3) of section 103(c) of title 23, United States Code (as added by subsection (a)).

(2) ROUTE SEGMENTS.—The route segments referred to in paragraph (1) are—

(A) United States Route 191 from Rock Springs to Hoback Junction;

(B) United States Route 16 from Worland to Interstate Route 90; and

(C) Wyoming Route 59 from Douglas to Gillette.

PRESSLER (AND DASCHLE) AMENDMENT NO. 1449

Mr. WARNER (for Mr. PRESSLER, for himself and Mr. DASCHLE) proposed an amendment to the bill S. 440, supra; as follows:

Insert "(a)" immediately before "Notwithstanding" on page 32, line 17.

Insert a new subsection (b) after page 32, line 25, to read as follows:

"(b) Upon receipt of a written notification by a State, referring to its right to provide notification under this subsection, the Secretary of Transportation shall waive, with respect to such State, any requirement that such State use or plan to use the metric system with respect to designing, preparing plans, specifications and estimates, advertising, or taking any other action with respect to Federal-aid highway projects or activities utilizing funds authorized pursuant to title 23, United States Code. Such waiver shall remain effective for the State until the State notifies the Secretary to the contrary. Provided further, a waiver granted by the Secretary will be in effect until September 30, 2000."

SPECTER AMENDMENT NO. 1450

Mr. WARNER (for Mr. SPECTER) proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place in the bill, insert the following:

SEC. . CLARIFICATION OF ELIGIBILITY.

The improvements to, the former Pocono Northeast Railway Company freight rail line by the Luzerne County Redevelopment Authority that are necessary to support the rail movement of freight, shall be eligible for funding under sections 130, 144, and 149 of title 23, United States Code.

LEVIN AMENDMENT NO. 1451

Mr. BAUCUS (for Mr. LEVIN) proposed an amendment to the bill S. 440, supra; as follows:

SEC. 204. TOLL ROADS, BRIDGES, TUNNELS, NONTOLL ROADS THAT HAVE A DEDICATED REVENUE SOURCE, AND FERRIES.

Section 129 of title 23, United States Code, is amended—

(1) by revising the title to read as follows:

"§ 129. Toll roads, bridges, tunnels, non-toll roads that have a dedicated revenue source, and ferries"; and

(2) by revising paragraph 129(a)(7) to read as follows:

"(7) LOANS.—

"(A) IN GENERAL.—A State may loan an amount equal to all or part of the Federal share of a toll project or a non-toll project that has a dedicated revenue source, specifically dedicated to such project or projects under this section, to a public entity constructing or proposing to construct a toll facility or non-toll facility with a dedicated revenue source. Dedicated revenue sources for non-toll facilities include: excise taxes, sales taxes, motor vehicle use fees, tax on real property, tax increment financing, or such other dedicated revenue source as the Secretary deems appropriate.

ABRAHAM (AND LEVIN) AMENDMENT NO. 1452

Mr. WARNER (for Mr. ABRAHAM, for himself and Mr. LEVIN) proposed an amendment to the bill S. 440, supra; as follows:

Strike lines 7 through 10 on page 33 and insert the following:

"(5)(A) I-73/74 North South Corridor from Charleston, South Carolina, through Winston-Salem, North Carolina, to Portsmouth, Ohio, to Cincinnati, Ohio, to termini at Detroit, Michigan, and Sault Ste. Marie, Michigan.

BREAUX (AND JOHNSTON) AMENDMENT NO. 1453

Mr. BAUCUS (for Mr. BREAUX and Mr. JOHNSTON) proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1___. TRANSFER OF FUNDS BETWEEN CERTAIN DEMONSTRATION PROJECTS IN LOUISIANA.

Notwithstanding any other law, the funds available for obligation to carry out the project in West Calcasieu Parish, Louisiana, authorized by section 149(a)(87) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17; 101 Stat. 194) shall be made available for obligation to carry out the project for Lake Charles, Louisiana, authorized by item 17 of the table in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2038).

BUMPERS AMENDMENT NO. 1454

Mr. BAUCUS (for Mr. BUMPERS) proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place, insert the following;

SEC. . NORTHWEST ARKANSAS REGIONAL AIRPORT CONNECTOR.

Notwithstanding any other provision of law, the Federal share for the intermodal connector to the Northwest Arkansas Regional Airport from U.S. Highway 71 in Arkansas shall be 95 percent.

STEVENS AMENDMENT NO. 1455

Mr. WARNER (for Mr. STEVENS) proposed an amendment to the bill S. 440, supra; as follows:

On page 36, on line 12, strike the quotation mark and second period and insert:

"(24) The Dalton Highway from Deadhorse, Alaska to Fairbanks, Alaska.".

BOXER AMENDMENT NO. 1456

Mr. CHAFEE (for Mrs. BOXER) proposed an amendment to the bill S. 440, supra; as follows:

In the appropriate place, insert the following: "At the end of section 5309(g)(4) of title 49, U.S.C., add the following new sentence: 'The Secretary may enter future obligations in excess of 50 percent of said uncommitted cash balance for the purpose of contingent commitments for projects authorized under section 3032 of Public Law 102–240.' "

FRIST (AND OTHERS) AMENDMENT NO. 1457

Mr. CHAFEE (for Mr. FRIST for himself, Mr. FAIRCLOTH, Mr. HELMS, and Mr. THOMPSON) proposed an amendment to the bill S. 440, supra; as follows:

On page 26, line 3, strike "1995" and insert "1994".

On page 26, line 8, strike "1995" and insert "1994".

On page 26, between lines 13 and 14, insert the following:

(c) EFFECT OF LIMITATION ON APPORTIONMENT.—Notwithstanding any other law, for each of fiscal years 1996 and 1997, any limitation under this section or an amendment made by this section on an apportionment otherwise authorized under section 1003(a)(4) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1919) shall not affect any hold harmless apportionment adjustment under section 1015(a) of the Act (Public Law 102–240; 105 Stat. 1943).

COHEN (AND OTHERS) AMENDMENT NO. 1458

Mr. BAUCUS (for Mr. COHEN for himself, Mr. KERRY, and Ms. SNOWE) proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1___. AVAILABILITY OF CERTAIN FUNDS FOR BOSTON-TO-PORTLAND RAIL CORRIDOR.

Section 5309 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(p) BOSTON-TO-PORTLAND RAIL CORRIDOR.—Notwithstanding any other provision of law, up to $3,600,000 of the funds made available under this section for the rail corridor between Boston, Massachusetts and Portland, Maine may be used to pay for operating costs arising in connection with such rail corridor under section 5333(b).".

INOUYE (AND AKAKA) AMENDMENT NO. 1459

Mr. BAUCUS (for Mr. INOUYE for himself and Mr. AKAKA) proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place, in title I, insert the following:

SEC. 1 . REVISION OF AUTHORITY OF MULTIYEAR CONTRACTS.

Section 3035(ww) of Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2136) is amended by adding at the end the following: "Of the funds provided by this subsection, $100,000,000 is authorized to be appropriated for regionally significant ground transportation projects in the State of Hawaii.".

JOHNSTON (AND BREAUX) AMENDMENT NO. 1460

Mr. BAUCUS (for Mr. JOHNSTON for himself and Mr. BREAUX) proposed an amendment to the bill S. 440, supra; as follows:

Add new section as follows:

Notwithstanding any other provisions of law, section 1105(e)(2) of Public Law 102–240 is amended by adding at the end the following new sentence: "A feasibility study may be conducted under this subsection to identify routes that will expedite future emergency evacuations of coastal areas of Louisiana."

GRAMS (AND WELLSTONE) AMENDMENT NO. 1461

Mr. WARNER (for Mr. GRAMS for himself and Mr. WELLSTONE) proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . 34TH STREET CORRIDOR PROJECT IN MOORHEAD, MINNESOTA.

Section 149(a)(5)(A) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 181) is amended—

(1) in clause (i), by striking "and" at the end; and

(2) by inserting "and (iii) a safety overpass," after "interchange,".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, June 21, 1995, at 9:30 a.m. in executive session, to discuss markup procedures and major issues in review of the defense authorization request for fiscal year 1996 and the future years defense program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. COATS. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, June 21, at 10 a.m. for a hearing on S. 929, the Department of Commerce Dismantling Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for an executive session, during the session of the Senate on Wednesday, June 21, 1995 at 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. COATS. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the Oversight of OSHA, during the session of the Senate on Wednesday, June 21, 1995 at 10:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. COATS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, June 21, 1995 at 2 p.m. to hold an open hearing on Intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

FOREIGN AID HAS ITS USES

• Mr. SIMON. Mr. President, through the years I have found Brent Scowcroft to be one of the more rational and thoughtful people, when it comes to foreign policy.

Recently, he had an op-ed piece in the New York Times titled, "Foreign Aid Has Its Uses," and it makes eminent good sense. I ask that it be printed in the RECORD at the conclusion of my remarks.

What concerns me is that while U.S. leadership abroad is slipping—and that should concern all of us—we are accelerating the slippage by cutting back on foreign aid.

In addition, when we cut foreign aid and increase military spending, we increase the likelihood of the use of the military option rather than other options that could save lives and bring stability.

The great threat to the world today is instability.

We should heed the words of Brent Scowcroft.

The material follows:

[From the New York Times, June 12, 1995]

FOREIGN AID HAS ITS USES

(By Brent Scowcroft)

Foreign assistance is again undergoing the "perils of Pauline" as it wends through the Congressional gauntlet. This happens yearly, but the dangers today seem especially ominous. With the search for budget economies so desperate, using up funds for what detractors call foreign giveaways when programs to assist needy Americans are being slashed seems unconscionable to many.

Foreign assistance, with us since the Marshall Plan, has been perhaps the most unpopular legislation to come before Congress for some years. The increased peril it faces arises mainly from the loss of the justification the cold war provided.

The case for foreign assistance is simple, basic—and misunderstood. The core argument is that foreign assistance is a fundamental instrument of foreign policy.

There are three main ways through which, separately or in combination, we can exert influence abroad. One is traditional diplomacy. Another is economic or military coercion. When diplomacy alone is inadequate and coercion too extreme or inappropriate, we have to turn to foreign assistance—the use of economic incentives.

Why the difficulty in persuading Congress and the nation of its merits? One reason is that some foreign assistance programs, however meritorious, have become so encrusted with activities and outlays that have so little to do with our direct national interests that the main purpose of the programs has become obscured.

In the cold war, our aid programs could carry this burden, but now the entire economic assistance edifice is endangered. We must refocus the programs to make them directly relevant to our national interests. For example, we need to emphasize the security requirements of countries of particular concern—Israel and Turkey, for example. We have to strengthen stability in areas of strategic interest: Gaza, Jericho, Poland and Czechoslovakia. We should see the Central American peace process through to its conclusion.

We need to suitably compensate countries that provide military installations as well as cooperation and support on issues of particular importance to us. For example, we recently offered incentives to Caribbean countries to accept Haitian and Cuban refugees.

We need to be able to respond quickly to unforeseen circumstances and unusual opportunities. For example, right after the ouster of Gen. Manuel Antonio Noriega, we helped Panama pay off its debts to international financial institutions, thus making other economic aid possible.

When Fidel Castro leaves the scene, economic assistance to Cuba may be needed immediately to ease the transition. A contingency fund for that purpose would be useful.

Support for democracy and for sustainable economic development serve our interests, but they are not top priorities. For example, help for the Development Fund for Africa would flow from the American tradition of compassion and altruism. And while our contributions to such international financial institutions clearly benefit us in the long term, we should base such aid on our wish to promote global prosperity rather than to promote specific American interests.

Like it or not, America has inherited the mantle of world leadership. In searching for budget cuts, we must not destroy foreign aid, a crucial means of exercising that leadership.●

CHISHOLM TRAIL ROUNDUP, FORT WORTH, TX

● Mrs. HUTCHISON. Mr. President, more than 100 years ago, cattle drives made their way across the Texas plains toward the railhead of Abilene, KS, along what came to be known as the Chisholm Trail. Within a span of only 2 decades, the Chisholm Trail not only transformed settlements and towns, like Fort Worth, into major centers of commerce, it also produced one of our Nation's most enduring folk heroes—the cowboy.

Since 1976, the Chisholm Trail Roundup has been held in the historic stockyards district of Fort Worth, TX. The roundup celebrates the Western spirit of adventure and perseverance and honors the cultures of tribe and nation that forged a new way of life on the American frontier. From native American dances to cowboy gunfights, the roundup displays all aspects of frontier life and creates an atmosphere in which learning about our history and enjoying the festival come together.

As one of the country's largest annual festivals, the Chisholm Trail Roundup is nonprofit and benefits Western heritage organizations. This past weekend, Fort Worthians gathered once again to celebrate the city's rich heritage and to relive one of the most memorable times in American history.

Mr. President, as the junior Senator from Texas, I would like to recognize the Chisholm Trail Roundup and its efforts to remind us to our pioneering heritage. I appreciate the thousands of hours of work that went into planning this event and am looking forward to many more roundups in the years to come.●

COMMEMORATING EAST BRUNSWICK HIGH SCHOOL'S AWARD-WINNING PERFORMANCE IN THE "WE THE PEOPLE . . . THE CITIZEN AND THE CONSTITUTION" NATIONAL FINALS

● Mr. BRADLEY. Mr. President, I rise today to congratulate a group of young New Jerseyans whose perseverance and achievement warrant the highest praise. These are not heroes or public figures of the usual variety, but a group of high school students who have mastered an understanding of the basis of our Government, the Constitution. I am proud to announce that students from East Brunswick High School in New Jersey have won second place in the "We the People . . . The Citizen and the Constitution" national finals.

Twenty-three students from East Brunswick High School came to Washington this May to compete against teams from all 50 States. After extensive study of the Constitution and the Bill of Rights, and preliminary competitions within the State, the students faced a panel of judges in a simulated congressional hearing. They were required to draw on their knowledge of the Constitution and American history to answer questions involving the subtleties and complexities of the Bill of Rights.

I am proud to draw attention to these students, who on May 1 were prepared to discuss issues ranging from school prayer to classical republicanism and the natural rights philosophy. The achievements of East Brunswick High School serve as an example to students, educators, and legislators across the country. They remind us how important it is that every member of society, including parents, professionals, and legislators, participate in the educational process. Congressional support is crucial to the growth and development of future leaders. I am pleased to note that 98 Members of this body participated in this year's We the People program, which has reached more than 20 million students over the past 7 years.

Of those 20 million, I would particularly like to congratulate the students of East Brunswick High School, under the guidance of their teacher John Calimano: David Bagatelle, Michael Barnett, Jessica Boar, Ross Cohen, Brian Cutler, Brian Fischer, Marc Gensler, Jonathan Goldberg, Cliff Katz, Ken Katz, Michael Katz, Scott Lanman, Keith Levenberg, Jennifer LoPresti, Eric Neutuch, Evan Rosen, Jeffrey Seiden, Gregg Slater, Sheryl Spinner, John Stapleton, Alison Tanchyk, Howard Wolfson, and Marc Yannaco. These students of East Brunswick High School will lead our Nation into the 21st century, with the knowledge and commitment to understand and defend our Constitution. Success like theirs bodes well for an educated, tolerant, and politically engaged America.●

TRIBUTE TO GENERAL MUNDY

● Mr. KEMPTHORNE. Mr. President, on June 30, the U.S. Marine Corps and the Nation will say farewell to a valiant warrior, Gen. Carl E. Mundy, Commandant of the Marine Corps. I want to add my best wishes to General Mundy as he retires after 38 years of public service.

General Mundy's personal decorations include the Legion of Merit, the Bronze Star Medal, the Purple Heart, two Navy Commendation Medals and the Vietnamese Cross of Gallantry. I think the word "gallantry" exemplifies Carl Mundy's career.

The Commandant of the Marine Corps leads the Nation's "911" force which is ready for combat or deployment at a moment's notice. The marines are America's rapid deployment force and in our Nation's history we have frequently called upon our marines to go abroad, to make a stand, to defend our Nation's interests. Carl Mundy and our marines have never let us down and we all owe a debt of gratitude to these brave and selfless Americans.

General Mundy has a long history of defending the interests of the marines who serve under his command. I think we all have a better appreciation of the quality of life issues and their impact on readiness because of the tireless work of Carl Mundy in this area. While we still have a long way to go to give all of our soldiers, sailors, airmen and marines a decent quality of life, Carl Mundy has clearly pushed the Department of Defense and the Congress to address these issues and I salute him for this effort.

Most of all, General Mundy is a leader and a man of his word. When the administration seemed determined to leave 55 FAST marines stranded in Mogadishu for no apparent reason, I asked for a hearing on this subject. Prior to the hearing, I discussed the issue with General Mundy and others to get a better feel for the situation. In my discussion with the Commandant, I saw he had only two objectives—accomplishing the mission and the interests of his marines. As it became clear that there was no mission to accomplish, the Senate voted to remove the last American military personnel, our 55 FAST marines, from Somalia. I appreciate General Mundy's support and guidance during the Senate consideration of this issue.

The marines are a symbol of the strength and character of America. The presence of U.S. Marines overseas is an unmistakable signal that America is serious about its commitments and responsibilities. General Mundy is a symbol of these qualities, he served with a presence, and he served with honor and dignity. I want to thank Carl Mundy for his dedicated service to his country and his marines.•

THE DEFICIT AND TRADE

• Mr. SIMON. Mr. President, one of the most impressive leaders I have met during my years in public service is Helmut Schmidt, who served as chancellor of Germany.

Recently, he had an article about trade, which is interesting both because of what he says about trade, and also, because of what he says about our deficit.

Listen to these words:

> Every economist knows that the U.S. trade deficit can be eliminated only through a sizable reduction of the budgetary deficit. This fact is also well-known by the White House and Congress. And yet, American politicians continue to pretend to themselves and their people that the Japanese are responsible for their misery.

I am not saying that the Japanese are perfect in terms of opening their market to other countries, but there is no question that the principal reason for our trade deficit is our budget deficit. We have shot ourselves in the foot. We have a self-inflicted wound.

I ask that the full statement by Helmut Schmidt, which appears in the Los Angeles Times, be printed in the RECORD.

The material follows:

[From the Los Angeles Times/Washington edition, June 14, 1995]

THE UNITED STATES IS DEAD WRONG

(By Helmut Schmidt)

Listening to the U.S. trade representative these days evokes sounds of battle, of the adversary's cunning and one's own self-righteousness. The recurring topic is automobiles, and everything is directed against Japan. If the overall trade between the two countries is in deficit for the United States, then—obviously—must not it be Japan's fault?

In reality, the United States shows a trade deficit not only with Japan but also with the rest of the world. Even if Japan were to buckle under the pressure from Washington to agree to import quotas for American automobiles—which would be in violation of the treaty establishing the World Trade Organization and of the painfully achieved results of the GATT Uruguay Round—the structural illnesses of the American economy would still remain untreated.

Every economist knows that the U.S. trade deficit can be eliminated only through a sizable reduction on the budgetary deficit. This fact is also well-known by the White House and Congress. And yet, American politicians continue to pretend to themselves and their people that the Japanese are responsible for their misery.

Washington's attempt to impose larger sales of American automobiles on the Japanese constitutes a serious violation of the principle of freedom of trade. Those who believe that punitive import duties of 100% on automobiles imported from Japan would give European cars a better chance are shortsighted indeed. This trade war can spread very rapidly. It can fast affect other areas, such as the aircraft industry and modern information technologies, as well as the television and movie industries.

In short, Washington is dead wrong. Its actions can endanger the world economy as a whole. Those Americans who, in spite of paying lip service to the contrary, really quite like the fall of the dollar on the currency markets because they hope to increase exports, should remember this: Whoever weakens the dollar as a leading world currency will undermine America's role as a world power in the long run.

Japan's position, however, is also unhealthy in the long run. Over the past 15 years, its production has largely exceeded its domestic consumption and investments. The extraordinary savings of the Japanese have turned their nation into the world's largest creditor. And no overpowering creditor will remain popular for long.

The leading officials in the ministries of finance and industry and trade who, in reality, control the Japanese economy have succeeded in structuring an economy oriented exclusively toward consumer self-restraint within and toward expansion in trade abroad. Neither the Japanese people at large, nor even most of the politicians, seem fully aware of this.

True, Japan has become a potential world power because of the foreign-policy leverage of its overwhelming financial strength. True, the annual interest and dividends from abroad have reached nearly one-third of the annual surplus of its trade balance. True, the Japanese foreign currency reserves have levels twice as high as those of the United States. Yet, Japanese citizens pay for this nominal wealth with sacrifices in consumption, especially by giving up adequate housing standards.

The Japanese markets are a difficult terrain for many foreign sellers. But even if President Clinton's offensive in the automobile trade war were successful, this would change little in the structure of the Japanese economy, which would continue to be oriented unilaterally toward exports. A structural reform to promote domestic expansion would in all likelihood take about one decade, about as much time as it would take to orient American structures toward a balanced budget. Until now, neither country seems to wish such drastic reforms.

Tokyo's political leadership has not yet realized that Japan's increasing economic strength has lead to an increasingly vulnerable foreign-policy position, not only vis-a-vis its only ally, the United States, but also vis-a-vis its many neighbors in East and South East Asia. An Asian-Pacific economic entity under Japanese leadership is even less popular with its neighbors than a European Union under a theoretically conceivable German leadership.

In the long run, Japan will remain dependent on a tolerable relationship with the United States. This conflict will benefit no one in the world. America is wrong in today's trade war, which is not to say Japan is right. Restraint is desirable from both sides. Both nations must realize that a structural reform of their economies is a must.

Helmut Schmidt, the former German chancellor, co-founded (with former French President Valery Giscard D'Estaing) the annual economic summits of the seven leading industrial countries. This year's opens Thursday in Halifax, Nova Scotia. This article is from Global Viewpoint, adapted from one originally published in the Hamburg-based Die Zeit.•

THE LANDMINE USE MORATORIUM ACT

• Mr. LEAHY. Mr. President, last Friday I introduced S. 940, the Landmine Use Moratorium Act of 1995, which seeks to spark international cooperation to stop the maiming and killing of tens of thousands of people each year by landmines.

I further ask to have printed in the RECORD a portion of a statement issued on June 16, 1995, by the U.S. Catholic Bishops at their semi-annual meeting in Chicago, entitled "Sowing Weapons of War: A Pastoral Reflection on the Arms Trade and Landmines." In that statement the Bishops call on the United States to lead an international effort to ban the use of antipersonnel landmines. That is the goal announced by President Clinton at the United Nations last December, and my legislation aims to move us toward that goal.

The statement follows:

EXCERPT FROM SOWING WEAPONS OF WAR: A PASTORAL REFLECTION ON THE ARMS TRADE AND LANDMINES

Banning Landmines: An Urgent Task. Finally, we would like to add our voice to appeals of Pope John Paul II and the growing movement to control and eventually ban anti-personnel landmines. The Holy Father has issued "a vigorous appeal for the definitive cessation of the manufacture and use of those arms called 'anti-personnel mines'. . . In fact, they continue to kill and to cause irreparable damage well after the end of hostilities, giving rise to severe mutilations in adults and above all, in children." Some 100 million of these hidden killers are strewn around the world, killing an estimated 500 people per week, most of whom are civilians. In Cambodia, one of every 236 people is an amputee because of mine blasts. While landmines can be used responsibly for legitimate defense, they are often indiscriminate in use, especially in the intra-state conflicts which are so prevalent today. Moreover, landmines are indiscriminate in time because, as the Pontifical Council for Justice and Peace has pointed out, they cause "unacceptable damage to civilian populations long after the cessation of hostilities." From Cambodia to Angola, large areas have been rendered uninhabitable, preventing refugees from returning to their homes, inhibiting post-war reconstruction, and producing an ongoing threat to innocent life.

The United States should lead an international effort to reduce and ultimately ban the use of anti-personnel landmines, just as was done with chemical and biological weapons. The current moratorium on U.S. exports of landmines is commendable; it should be made permanent and should be extended globally. The United States should also take steps, such as those called for in legislation now before Congress, to further restrict its own use of landmines, while it pursues with urgency and persistence international agreements to restrict use globally. The decision to ratify the Conventional Weapons Convention and to seek to strengthen it during its review this year is welcome. Finally, our government should continue to take a leadership role in developing an international effort on the costly and time-consuming process of demining, so important to the protection of innocent life and reconstruction in so many war-torn countries.•

WHO CARES ABOUT AFRICA?

• Mr. SIMON. Mr. President, recently, the magazine America, published by the Society of Jesus, ran an article by its associate editor, Father James Martin, titled "Who Cares About Africa?"

Because it contains so much common sense about a continent that we are not paying enough attention to, I ask to have it reprinted in the end of my brief remarks.

The reality is every continent on the face of the Earth is making gradual improvement in its quality of life and standard of living, with one exception: Africa.

The irony is as democracies have spread in Africa recently—an almost totally unrecognized phenomenon—instead of helping those fledgling democracies, we are cutting back on aid in general and aid to Africa more specifically.

It is a flawed policy both in humanitarian terms and in political terms.

I urge my colleagues to read Father Martin's article.

At this point, I ask that the article be printed in the RECORD.

The article follows:

WHO CARES ABOUT AFRICA?

"Kwanza begins today," the radio announcer said, launching into an explanation of the cycle of January African-American feast days. "The word Kwanza," he said brightly, "means 'first' in African." I groaned. He meant Swahili, of course.

Can you imagine any reasonably educated person saying that primo means "first" in European? But not knowing beans about Africa is taken for granted among many Americans. Before I went to Kenya for a two-year stay, a (well-educated) friend asked me if Kenya was in Nairobi. This is, to continue the analogy, like asking if Italy is in Rome. After I returned to the States, someone mentioned how exciting it must have been to be in Kenya when they elected Nelson Mandela.

But on this count, I had been just as guilty. When I began working with refugees in Nairobi, I had to ask them where their home countries were. "Sudan is, uh, north of here, right?" I finally bought a map.

THE DARK CONTINENT

American interest in Africa, it would seem, is piqued only during times of crisis: Ethiopia, Somalia, Rwanda. Some of this is laudable. Only the most cynical would say that Americans were not moved to compassion after seeing pictures of the Rwandan refugees or starving Somalis.

The problem is that once the United States ceases to be involved, we no longer hear anything about it. It's the flavor-of-the-month syndrome. For example, as soon as the United States pulled out of Somalia in March 1994, Somalia dropped out of the news, giving the false impression that things were just fine there. And, just as predictably, when U.S. troops returned to Somalia in March of this year to escort the remaining U.N. troops out, it was back in the news. As a result, the American public's understanding of Africa is based primarily on these short-term involvements. And while U.S. policy mavens may be more well informed, the public's misunderstanding often drives policy makers into responding inappropriately.

Even the level of involvement and awareness among African Americans has been a disappointment to Africans. Some Kwanza celebrations, important as they are for fostering a sense of values and cultural continuity, can end up as grab bags of various traditions—Kente cloth from Ghana, Swahili from East Africa, history from Egypt—and may sometimes run the risk of cultural tourism. Many agree. Makau Mutua is a Kenyan who runs Harvard Law School's Center for Human Rights and also serves as chairman of the Kenyan Human Rights Committee. "I think the knowledge of African Americans about Africa has to be based on fact, not fiction," he told me in a recent conversation.

But what can we expect? For even the most diligent Africaphiles, it is difficult to find news about Africa in the mainstream media—unless, of course, the United States is involved. They don't call it the Dark Continent for nothing.

With the exception of a few major newspapers, and magazines like The Economist, the print media all but ignore the tremendous richness of African cultures, to say nothing of the continent's variegated politics. There are 52 African countries, comprised of thousands of ethnic groups with their own languages, spiritualities, traditions, and arts. Even speaking of things "African" is misleading, since that adjective is forced to encompass the long-literate Christian traditions of Ethiopia in addition to those of the semi-primitive, nomadic East African Maasai tribe in addition to . . . well, you get the picture. By any measure it is a fascinating mix of cultures that is, for the most part, ignored.

As for television, its coverage runs heavily to the following: famine, poverty, war and especially animals—National Geographic-style. (One example: How many stories did you read about Rwanda before last year that didn't have to do with Diane Fossey's gorillas?)

During my first week in Kenya I met a Somali refugee named Amin. I assumed from my prior CNN education that, like any "typical" refugee, he was poor and uneducated, probably illiterate. He certainly looked the part: an unkempt, older man wearing a faded blue suit, shiny with age. I had already started a language course, so I asked him if he would be more comfortable speaking Swahili.

"Actually," he said in the King's English, "I would be equally comfortable in English, French or Italian." As it turned out, he had received his doctorate in philosophy at the University of Florence. He was, in short, far more educated than I was. Meeting him made me realize how poorly I understood Africa.

My point is not that we should all dash out and buy armfuls of books about Africa (although it's not such a bad idea). The point is rather that this ignorance inevitably affects U.S. responses to the various crises that we say concern us so.

RECEIVED WISDOM

Let's take two recent examples: Somalia and Rwanda. As with much of the reporting about Africa, both countries have been viewed through certain lenses, or "angles," replicated over and over by much of the media. Somalia, we were told, is a violent tribal society whose warfare exacerbated a natural shortage of food, causing widespread famine. The United Nations, led by the United States, went in, distributed food and restored some order—that is, until the ungrateful Somalis starting fighting us. Then we had to get out.

Similarly, Rwanda was presented as a society divided into violent tribes—Hutu and Tutsi—that degenerated into lawlessness when, after the President's assassination, the people rose up and massacred one another. Fortunately, the West came to help out the Rwandan refugees who had fled to Zaire and Tanzania.

This is not the place for a full explication of the complicated politics of Somalia and Rwanda. But it is instructive to review how accurate the received wisdom was—by asking a few experts.

First, what about the "violent" Somali culture? "This invocation of 'mysterious primordial violence' is repellent," said Gregory White, professor of political science at Smith College in Massachusetts and a specialist in African politics. "Somali culture is certainly not bereft of violence, but the intensity of the violence you see today is a decidedly modern phenomenon. It must be seen within the context of the arms infusions—the modern weaponry—provided by the U.S. and the Soviet Union during the Cold War."

How about another bit of received wisdom—the West's generous and timely response to Rwanda? I asked Timothy Longman, who teaches at Drake College in Iowa. Professor Longman spent 1992 and 1993 in Rwanda finishing his doctoral thesis on church-state relations in Rwanda. He is one of this country's leading experts on Rwanda. What did he think of the West's response?

"It was shameful," he said bluntly. "We could have prevented the disaster and we chose not to."

Clearly this is not the familiar media angle. And his explanation of this particular point demonstrates how far the media stories sometimes stray from a more complex truth. According to Professor Longman, the killings were initially carried out by a very small group of Rwandans and could have been stopped. There were, he noted, U.N. troops already in Rwanda at the time, and they could have expanded rather than shrunk their presence.

"The people I know who were killed were killed some three weeks after the violence started in Kigali," he explained. "The later massacres happened because they got away with it in Kigali. The West's only concern was to protect their nationals and pull them out of the country—though they were never really threatened. So the message given to the Rwandans was that they could literally get away with murder. And because it was so systematic, because it was not random violence, and because it was not spontaneous violence coming from the people, it could have been stopped. That's something the world community had fully within its capabilities. But they chose not to."

Why not? The first reason, he said, derived from our experience in Somalia: not to get involved in a hopeless "tribal conflict" with ungrateful people. Smith Hempstone, U.S. Ambassador to Kenya from 1989 to 1993, said in a recent conversation, "To some degree, I think that's why there wasn't the reaction to Rwanda that there was to Somalia."

Which brings us back to a conflict that, according to some, we may have never understood in the first place. "I think the lessons we learned from Somalia were the wrong ones," said Makau Mutua. In other words, misunderstanding bred misunderstanding.

These admittedly isolated examples point out the difficulty of making judgments about the complex environment of Africa based on the simplistic presentations provided by the mainstream press. Once the media-driven "angles" take root in the public mind they become difficult to dislodge and force policy to go where it perhaps should not. Our perceptions of Somalia influenced our response to Rwanda, and will undoubtedly influence the U.S. response to other crises on the continent.

OTHER WISDOMS

One touchstone for all of this, I think, is the identification of African conflicts as "tribal" and European ones as "ethnic." Have you ever heard of "tribal" violence in Northern Ireland? Well, that's religious, you might say. So how does one define a "tribe"? And do such groups exist only in Africa?

Professor Longman summed up this idea: "It is viewed as a 'tribal conflict' because Africans are basically a 'tribalistic' people, because they're seen as 'savages'; they're black. Therefore, they're just going to fight one another and there's nothing we can do. And I think it's a mistaken notion."

Why? "It is a view driven by racism," said Makau Mutua. His conclusion was echoed by Professor Longman: "The more I get into this, the more I interpret it in racial terms, and the more it seems that black people are considered to be expendable. This was what was used to justify colonialism in the first place, and I think the attitudes are still there."

The hard facts show that U.S. support for Africa is shockingly low and may fall even lower. According to Terence Miller, director of the Maryknoll Society's Justice and Peace Office in Washington, D.C., U.S. aid to sub-Saharan Africa (all but five African countries) was $802 million in 1994. At first blush that may sound high, but consider the amount that goes to just two countries—Israel and Egypt—$5.2 billion. In other words, 45 countries in Africa receive about one fifth the amount of aid given to those two countries.

Overall, total U.S. aid to Africa represents a paltry one-twentieth of the foreign aid budget, which itself is only 1.3 percent of the Federal budget. And the push in Congress, especially among people like Senator Mitch McConnell (Rep., Ky.), incoming chairman of the Foreign Relations Committee, is to reduce even this meager amount, while maintaining aid to the Middle East at current levels. "The world around Africa is fast coming together, and this continent risks becoming the odd man out," said Anthony Lake, President Clinton's national security adviser, in The New York Times on March 17.

Is Africa, then, to be consigned to the dustbin? A recent article by William Finnegan in the March 20 issue of The New Yorker focused on the depressing post-U.N. Somalia legacy of no infrastructure, no government, intense poverty and, as his wrenching article points out, no education for an entire generation of Somali youth. He paints the now familiar African scene of crumbling school buildings surrounded by hundreds of idle children, their formative years slipping away like the sand that blows through the empty classrooms.

I asked Tim Longman if he planned to return to Rwanda. "Someday," he said. "But most of the dynamic and inspiring people I worked with are dead."

HORROR FATIGUE

At this point, the concerned but skeptical reader might say either "Well, it really is their own fault" or "There's nothing we can do." To respond to the first reaction, it is helpful to remember not only the West's role in propping up various dictatorships throughout the cold war and providing arms, but also its earlier imposition of colonial boundaries, which threw traditionally separate ethnic groups together. Here is a thought exercise: Imagine a foreign power conquering Mexico and Texas, and calling this resulting amalgam of two separate cultures, say, Mexas. After 100 years, Mexas gains independence. Do you think the former Mexicans and Texans would get along very well? Probably not.

Indeed, when Queen Victoria and Kaiser Wilhelm were drawing the borders of their East African colonies in 1884, both decided they wanted a big mountain. To provide for this, their ministers simply took out a ruler and drew a line between Mt. Kenya and Mt. Kilimanjaro. The line divided various tribal lands; thus were British East Africa and Tanganyika created. These artificial boundaries endure today as Kenya and Tanzania. Tribes that traditionally lived apart were thrown together against their will. So saying the ethnic tension is the Africans' own fault is more than a little simplistic.

The second reaction—"There's nothing we can do"—reflects a familiar sentiment. Ambassador Hempstone put his finger on this feeling: "I think that we may have reached the sort of 'horror fatigue' situation in which, when you've seen one starving baby, you've seen them all. And that bothers me."

Certainly the apparent ingratitude on the part of the Somalis engendered indignant reactions from the American public and the press. Some of this represented righteous indignation, as when Somalis dragged the body of an American soldier through the streets. This is barbaric. But much may be a result of the média's incessant focus on Mogadishu, rather than on other areas where the famine-relief strategy helped to save an estimated 300,000 lives.

INTO AFRICA

What can be done in the future? This is a broad question but one that warrants consideration, given that the African continent is, as the director of the Jesuit Refugee Service, Mark Raper, said recently, "in a state of chronic collapse" (Am., 3/25).

Many feel that some sort of limited engagement must be part of our future involvement with Africa, and gone is the hubris of "nation-buidling" that went awry in Somalia. Ambassador Hempstone, for example, thinks we must confine ourselves largely to humanitarian efforts. "I think one of the lessons I've learned is that you don't want to try to re-create a society—nation-building and all that. I'm not sure we're competent to do that."

Tim Longman points to another mode of engagement,"I was at a conference a year and half ago with Cardinal Christian Tumi of Cameroon, Archbishop Desmond Tutu and other Protestant and Catholic leaders from Africa. Their unanimous agreement was that if the West wants to help Africa, the best thing they could do right now is stop the international arms trade."

Most agree that the mental isolationism that allows Americans to think of Africa as alien has to end. "I think it's difficult for Americans to be interested in other countries unless they feel that their own futures are interconnected with the futures of others," said Makau Mutua. He looks to the various constituencies that have traditionally been concerned with African affairs—church groups, the Africanist community in academia and especially African Americans—to inform people better about Africa. "The critical point is that the lack of information in this society about Africa has to be laid at the door of those groups who have the ability to inform people better."

One hopeful sign is that the African-American community is increasingly finding its voice on African politics beyond South Africa. Randall Robinson's TransAfrica lobby, created in 1977, has intensified the influence of African Americans in foreign policy. In March Mr. Robinson created a coalition of prominent African Americans who pledged to put pressure on Nigeria's military dictatorship to restore democracy.

TransAfrica also might do well to pressure the media to cover the continent more thoughtfully. A few newspapers already do. The New York Time's Donatella Lorch has provided consistently good coverage of Rwanda, including insightful reporting on the massacre in late April of 2,000 people in the Kilbeho camp. An excellent series of articles in March in The Philadelphia Inquirer, "Remnants of a Nation," focused on Rwanda one year after the genocide of 1994. The reporter, Glenn Burkins, included the standard angles—refugees, ethnic strife—but also discussed lesser-known aspects of the situation in Rwanda, such as the prison system and the urgent need for international aid to the Rwandan Government. The media can help keep Rwanda from sliding back into oblivion.

Similarly, the media can help by more fully explicating the problems of current African trouble spots. Thousands are fleeing from ethnic unrest in Burundi; Christians are being massacred (and, recently, crucified) by Government troops in southern Sudan, and 2,000 people have already lost their lives in the past two years in ethnic land clashes in Kenya. Though the Western powers are not yet involved in these crises, learning more from the media could help prevent the sort of spasmodic, misinformed responses to crises that will continue to dog Africa in the future.

In the end, the problems of Africa remain our problems. The people are, as Jesus would undoubtedly point out, our brothers and sisters, and many of them suffer tremendously. Fully 54 percent of the people of Africa live in absolute poverty. Furthermore, the West has been, to some degree, complicit in Africa's troubles today, not only because of the colonial past but also because of our recent actions there—the arms trade and our activities in the cold war. Finally, as Professor White pointed out, "Even if you just want to be self-interested, the concomitant ignorance of Africa is shortsighted, because in the long run, as more problems continue to emerge, our ignorance will come back to haunt us."

SALUTE TO GEN. MIKE LOH

• Mr. KEMPTHORNE. Mr. President, next week, General Mike Loh, Commander of Air Combat Command, will retire after 39 years of distinguished service in the U.S. Air Force. I want to take this opportunity to thank General Loh for his unselfish service to the national security interests of the United States.

General Loh's career began in the second class to graduate from the U.S. Air Force Academy. After graduating with honors, Mike Loh went on to serve as a decorated fighter pilot, flying over 200 missions, in Vietnam. General Loh's awards include the Distinguished Service Medal, the Legion of Merit with oak leaf cluster, the Distinguished Flying Cross, the Meritorious Service Medal and the Air Force Medal with seven oak leaf clusters.

Mike Loh's career reached its zenith when he was selected to serve as the Commander of Air Combat Command. As Commander of ACC, Mike Loh was responsible for most of this Nation's air power and over 250,000 men and women. As General Loh retires, the strength, professionalism and reputation of Air Combat Command has never been higher. For that, a grateful, more secure nation says thank you.

My colleagues and I in the Senate know General Loh best as a ferocious advocate for a strong Air Force. In repeated testimony before the Senate Armed Services Committee, General Loh earned a reputation as a straight shooter who would tell it like it is. General Loh never hid his views or his feelings and you never left a meeting with Mike Loh wondering where he stood on an issue. At my request, General Loh made repeated visits to my office to discuss bomber and tactical aviation issues. I came away from each of those meeting more informed about the issues, more understanding of the value of air power and more impressed with General Loh's abilities. The Air Force will lose a patriot, an innovator and an articulate spokesman when General Loh retires.

I want to thank General Loh for 39 years of loyal service to the Air Force and his nation. I want to thank General Loh for his steadfast support for a strong Air Force and a service that looks out for the men and women who volunteer to wear the uniform of the United States of America. Most importantly, I want to thank General Loh for his commitment to serve and defend the national security interests of the United States.•

LITERACY

• Mr. SIMON. Mr. President, I picked up the spring 1995 issue of the Congressional Institute for the Future and noted the following Barbara Bush quotation in it: "There is really no question that literacy is related to all our social concerns—crime, drugs, and teenage pregnancy as well as America's stature in the world, our competitiveness on the international scene, and our national security. Low literacy goes hand-in-hand with unemployment, low productivity, and problems with job retraining in our rapidly changing communities—this is a now and future issue. The literacy of parents affects the educational chances of children. We are only just beginning to treat this complex, many-sided issue with the care and concerted action it requires."

Barbara Bush provided significant leadership on this issue of literacy, and if we're to have a truly productive country, we're going to have to pay more attention to this issue.

One complaint I hear about more from heads of major corporations is how poorly prepared American workers too often are.

The basics have to be there in the field of education to have a well prepared work force. The basics are the old "reading, writing, and arithmetic."

People in this country are not more stupid than people in other Western industrialized countries, but the other countries have had the good sense to put a greater stress on basic literacy.

We have to do the same.

Yes, we ought to improve the schools that we have, but we also have to reach out to those who have not been helped by schools, adult Americans.

I urge my colleagues to keep in mind Barbara Bush's words of wisdom.•

FAYE OLASOV: DEDICATED TO CHARLESTON

• Mr. HOLLINGS. Mr. President, let me take this opportunity to send birthday greetings to Faye Olasov, a friend from my hometown of Charleston, SC. Faye, a long-time activist in Charleston's Jewish community who turned 70 earlier this month, soon will be honored for all her work to make Charleston a better place to live.

Mr. President, quite frankly, Faye is a whirlwind of wonder and joy. When people throughout the Charleston Jewish community think of a person who embodies family and wholesome values, Faye is the first person whose name comes to mind. She is the engine that has driven the Jewish Community Center in Charleston. At various times, she has served as day camp counselor, activities director, CenterTALK editor, Sherman House manager, and a newspaper columnist. Last December when she retired from the center, she left shoes that are hard to fill.

Faye Rabinowitz Olasov was born June 13, 1925, in Charleston. When the Nation was at war in the 1940s, she attended the College of Charleston, where she was business manager and editor of the yearbook and president of the Dramatic Society. After a distinguished college career, she graduated in 1946. On top of all her work in Charleston's active Jewish community, Faye and husband Sanford Olasov had four children—Nathan, Billy, Barbara, and Judy, who my wife Peatsy taught at St. Andrews High School.

Mr. President, now the community is coming together to give back something to Faye, who has given so much over the years. On July 9 at the Charleston Jewish Community Center, the community will honor Faye at a brunch that highlights her achievements and looks back at a life filled with compassion and great memories.

Mr. President, if I may be so bold, we should all take a look at Faye's life and use it as the model of how to be involved in a community. I appreciate this opportunity to recognize the warmth, energy, and lifelong commitment of Faye Olasov—a true community leader. Let us all wish Faye a happy retirement and many more years to come.•

A CONSUMER'S GUIDE

• Mr. SIMON. Mr. President, there is a great deal of discussion about the loan guarantee for Mexico, most of it negative because that is where public opinion is today.

Any careful study of the merits of the issue suggest that the safer gamble between doing nothing or having a $40 billion loan guarantee is the $40 billion loan guarantee. I do not like the option, but that is the reality we face.

We are being asked to cosign a note, but there is some security with a note, and if we do not go ahead, the consequences in terms of illegal immigration, loss of export markets and, simply, the suffering that will take place south of our border are much too clear.

Tom Friedman of the New York Times has a column which puts another perspective on this matter that I think also makes sense. He is not interested in bailing out the bankers who hold some of the Mexican bonds, but he is interested in preserving our pension systems, which also hold many of these bonds.

What he says makes sense, and I ask that the Tom Friedman column be printed in the RECORD.

The column follows:

A CONSUMER'S GUIDE

(By Thomas L. Friedman)

ZURICH.—One of the hottest topics in finance these days is how to prevent another Mexico from destabilizing the global financial system. Finance ministers will tell you that the subject has been dominating all their international meetings, and you are going to hear a lot of their proposed solutions at this week's G–7 summit in Halifax. This is a Warning: There is more nonsense than common sense among these proposals. Since some of them could cost you money, I offer this survival guide to the I-can-prevent-the-next-Mexico schemes.

I. Bad Ideas That Sound Good.

The worst of these bad ideas is the proposal to establish a $50 billion standby rescue fund—administered by the I.M.F.—that would be ready as a life preserver to be tossed to any country dragged under the waves by global markets running amok.

I call this idea "The George Soros Memorial Gift Fund." In 1992 Mr. Soros, the billionaire currency speculator, mounted a fierce attack on the overvalued British pound, and Prime Minister John Major of Britain spent billions trying to defend his inflated currency against a devaluation. Eventually the pound was broken. But you can bet that if there had been a $50 billion rescue fund available in 1993, Mr. Major would have tapped it. And just as surely, that $50 billion would be in Mr. Soros' pocket today. The more money that government leaders have to defend faulty economics and their own egos, the richer Mr. Soros becomes by exposing their foolishness.

Don't get me wrong. I'm for the Mexico bailout. But I want it to be hard. Dangling a $50 billion fund out there only invites buccaneering governments to be reckless. Professors should never begin the semester by announcing when the makeup exam will be. Governments should have to operate on the assumption that there will never be a makeup exam—and if there is one, it will be an extraordinary event.

II. Good Ideas That Are Not as Good as They Sound.

The best of this lot is the decision by the I.M.F. to intensify its surveillance of financially shaky nations. The I.M.F. used to do only a once-a-year checkup on its client countries. But it was precisely in the months between annual checkups that Mexico went on the wild spending binge that caused its financial heart attack.

The I.M.F. has now promised to keep closer tabs on its clients. But this is no cure-all. Remember one thing: Many of Mexico's financial problems, on the eve of its crash, were hiding in plain sight. Public data showed it was running unsustainable deficits and was too dependent on hot money from abroad. These data were ignored because investing in Mexico had become a fad. Too many foreign investors had been to cocktail parties where people were whispering: "Mexico—you gotta be in Mexico." Fads will always trump logic. When the Hula Hoop was hot, no one wanted to hear that it was bad for your hips.

III. Small Ideas That Could Make a Big Difference.

1. Copy Chile. Chile demands that foreigners who want to buy Chilean stocks hold them for at least a year. That way if your country is practicing sound economics it won't be punished when the next Mexico crashes and jittery investors scream to their brokers: "Get me out of all emerging markets." In Chile's case, investors could not get out, and so Chile, unlike Brazil and Argentina, was not punished for Mexico's sins.

2. Save, save and save. If your country has a low savings rate, it will have to rely on another country's savings for growth. That will make your country vulnerable to the whims of global markets and global markets vulnerable to the crazy behavior of your country. (See encyclopedia entry for Mexico.)

3. America's next global economic crusade should be to get more developing countries to adopt U.S.-style securities laws—the toughest in the world for financial disclosure, conflict of interest and insider trading. Many of the new stock markets in Asia and Latin America are still rigged casinos, where investors are just begging for trouble. (See encyclopedia entry for Barings Bank, Singapore.)

4. Fasten your seat belts, put your tray tables and seat backs in a fixed and upright position and enjoy the ride. Because there is simply too much money, moving around the world too quickly, with too few controls, and too many governments ready to do anything to get slice of it, to prevent another Mexico somewhere over the horizon.•

JUNETEENTH DAY

• Mr. KOHL. Mr. President, I would like to join my fellow citizens in the State of Wisconsin in celebrating Juneteenth Day, a day which celebrates the abolition of slavery in the United States. As much as any other event in African-American history, the Emancipation Proclamation was one step in the long struggle which has lasted the last two centuries. This document is an affirmation of freedom and dignity, and is also a reaffirmation of the goals, hopes and dreams of all African-Americans.

The African-American community has given so much to this country, and Juneteenth is a day to celebrate the many achievements made by African-American men and women. This day is not only a celebration of freedom, but a statement of understanding and pride in the African-American culture. History is rich with the contributions made by African-Americans, and they continue to be a valuable part of this society.

The Emancipation Proclamation of 1863 was the beginning of a long road for the African-American community which we still continue to travel today. The fight for equality continues and we must push for the dream of Dr. Martin Luther King Jr. that all children "not be judged by the color of their skin but by the content of their character." We have come a long way since the enactment of the Emancipation Proclamation, but we must persist with the idea that each person in this country be offered every opportunity and there is equality in every aspect of society. I invite my colleagues to join me in celebrating Juneteenth Day, a day of freedom, pride, and dignity in the African-American community.•

UNICEF ASKS BROADER AID FOR CHILDREN

• Mr. SIMON. Mr. President, recently, Barbara Crossette had an article in the New York Times titled, "UNICEF Asks Broader Aid For Children."

The article quotes the new head of UNICEF, appointed by the President of the United States, Carol Bellamy, as saying the United States should do better in our response to the needs abroad.

I could not agree with her more.

I hope we do not diminish the United States contribution to world stability by cutting back on foreign aid, as we seem destined to do right now.

I ask that the Barbara Crossette piece be entered into the RECORD at this point.

The article follows:

[From the New York Times, June 12, 1995]

UNICEF ASKS BROADER AID FOR CHILDREN

(By Barbara Crossette)

UNITED NATIONS, June 9—The United States now ranks lowest among 21 industrial countries in the amount of foreign aid it gives in relation to its gross national product, according to a new study by Unicef, the United Nations Children's Fund.

Although American aid is second only to Japan's in dollars—$9.7 billion as calculated by international organizations using 1993 figures—it represents 15 hundredths of 1 percent of G.N.P.

The Scandinavian countries and the Netherlands lead the list, with levels above 80 hundredths of 1 percent, and in those countries, as in the United States, aid budgets are facing new cuts.

The general reduction in foreign aid comes at a time when Unicef is urging all countries to look at the situation of children in the broadest terms, including the environments in which their mothers live.

"The child can't really be seen as separate and on an island," said Carol Bellamy, Unicef's executive director. "You can adopt some concrete objectives and go out and seek to achieve them, but the child has to be seen in the broader context of the community."

In an interview here last week before leaving for Berlin, where she released the report today, Ms. Bellamy said the Unicef board had recently approved clean water and education programs that would benefit whole villages and people of all ages.

Taking a broader look, she said, means that programs can be tailored to national needs and levels of development: basic survival in a country like Chad or children's rights in Argentina or Chile.

Among its recommendations, the report calls for campaigns to attack vitamin deficiencies and malnutrition, the precursors to disease in many countries, and to ameliorate or end deprivations and social abuses of children that weaken them and ultimately threaten their lives.

"In all regions of the world," the report said, "children continue to be malnourished, to be plagued by preventable disease, to be denied even a basic education."

Unicef says that about 200 million children worldwide suffer from vitamin A deficiency, which impairs the immune system and can lead to blindness and death. One million to two million children's lives could be saved each year by vitamin supplements, the report says.

About half of the 13 million children who die each year are victims of three major illnesses: pneumonia, diarrheal disease and measles. While measles are in retreat, the report says, pneumonia, the single largest killer of children, is not. And AIDS is now a threat. About one million children now have the virus that causes AIDS, many in Africa and Asia.

With the world population growing fastest in the poorest countries, where children are likely to live in the worst conditions, Ms. Bellamy said the reduction in aid was especially unfortunate.

"None of us benefit if our partners in development are being hurt, because we are actually all in the same development boat," she said.

Ms. Bellamy, a former Peace Corps volunteer in Guatemala and director of the Peace

Corps before she joined Unicef in May, said she had the point of interrelationships driven home when she became City Council President in New York in 1978.

"Here in New York City—the industrialized world—we had not had a full-scale immunization program for a number of years," she said. "A third of all youngsters in New York City schools and close to a half of poor youngsters were not immunized. So we started a program to get all kids immunized.

"There is a direct connection between that investment in aid and health care back here in the United States. If polio breaks out one place in the world it can just come back and spread again. The walls between nations are now very thin curtains."

IN RECOGNITION OF EUGENE PETERS

• Mr. BRADLEY. Mr. President, I rise to offer my gratitude and respect to a long-time member of my staff, Eugene Peters, who recently left my office after 10 years. I will miss Gene, as will everyone who worked with Gene on my staff, and his colleagues and counterparts on the Committee on Energy and Natural Resources.

Gene is a member of a very small club here—second-generation Capitol Hill staffers. His father held several high posts in the House of Representatives, and Gene worked his way through college, in New Jersey, by spending summers as an elevator operator in this building. By the time he joined my staff in 1984, Gene had turned to scientific and academic pursuits, completing graduate work in both engineering and public policy. But while he may have been taught to think like an engineer, he was a natural at the very different and less orderly demands of getting legislation passed. His instinctive, entrepreneurial skill was demonstrated by his ability to handle hundreds of issues at once and find opportunities in each one to improve the quality of life in New Jersey.

Gene Peters deserves not only my thanks, but those of the people of New Jersey. The shore is clean again this summer, because, in part, of Gene. Open spaces, which are jealously guarded in a State so densely populated, remain pristine, because of Gene Peters. There is less lead in the air and soil, and more awareness of its dangers, because of Gene. And hopefully, before this year is over, the citizens of New Jersey will have better protection from gas explosions in part because of Gene's hard work.

The quality that has made Gene a great member of my staff is a simple one, but rare: He knows his stuff. Behind his relaxed, dressed-down persona, Gene knows just about all there is to know about Federal energy programs, land-use and water policy, beach erosion and replenishment, wasteful agricultural programs and numerous other issues that came his way. Gene brought to all these issues not just enthusiasm and knowledge, but the perspective of a parent who understands that the environmental laws we pass have important and far-reaching implications for the well-being of future generations. His ability to keep the work he did in perspective set an example for my entire staff. I will miss him, and I wish him luck in his new position at the Independent Energy Producers Association.•

REDUCING GANG VIOLENCE

• Mr. SIMON. Mr. President, today, I would like to share an important Chicago Tribune article with my colleagues. It highlights an interesting new program offering healthy alternatives to gang members.

Irving Spergel, a University of Chicago professor and national expert on gangs, has founded a program in the Little Village neighborhood of Chicago designed to reduce gang violence. The program, which is federally funded, is entitled the Gang Violence Reduction Project. Professor Spergel is building on the many failures and few successes of past gang intervention programs. Based on his experience in this field, he is careful not to set his sights too high. He is not trying to eliminate gangs, nor is he trying to turn them into peaceful entities. Such efforts have been tried, and they have almost always failed. Instead, his program focuses on individual gang members who have violent histories, uses simple tools such as jobs, education, and personal attention, and emphasizes community involvement and cooperation in the effort.

Gang intervention is an inexact science and any success is usually accompanied by heartbreaking failures. However, there is some indication that this approach is working where others have failed. In the 2 years prior to the start of the project, there were 15 gang-related homicides in Little Village, compared to 8 such homicides in the 2 years that followed. Aggravated assaults in Little Village rose 19.4 percent, but skyrocketed 291 percent in a nearby neighborhood with the same profile during the same time period. While these are not the kind of statistics that make headlines, in the complicated effort to reduce violence, they are indeed promising.

But these statistics don't tell the story of this program's success as well as the individual examples of the young people it has helped. By the age of 19, Guillermo Gutierrez had already survived two stabbings and a shooting, and was a suspect in a drive-by shooting. Before he met Marilu Gonzalez, who runs a new community group called Neighbors against Gang Violence formed by the Gang Violence Reduction Project, Guillermo believed there was nothing anyone could do for him. One year later, he has earned his high school equivalency certificate. Even more importantly, he has discovered his community. Guillermo volunteers as a tutor for elementary school children and at an AIDS prevention project.

Although Guillermo's story is an example of one of the successes of this program, it is a qualified success. Guillermo recently began a 6-year prison sentence for attempted murder from a nonfatal drive-by shooting he committed before he began participating in Professor Spergel's project. Many would consider Guillermo a lost cause. Yet, the day after his sentence, Guillermo spent 8 hours volunteering at community service projects.

The story of Little Village is an important lesson for everyone concerned about violence. The causes of violence are complex, and no single approach will solve the problem. We should not expect violence reduction programs to produce miraculous changes in troubled communities. We should, however, continue to provide the seed money for innovative programs such as the Gang Violence Reduction Project. I ask that the full text of the article be printed in the RECORD.

The article follows:

[From the Chicago Tribune, June 5, 1995]

GIVING GANG MEMBERS OPTIONS, NOT THREATS

(By George Papajohn)

"There's nothing you can do for me."

Meeting the cold glare of the young gangbanger issuing this challenge, Marilu Gonzalez had little reason to doubt him.

For his part, Guillermo Gutierrez, a dropout, a heavy drinker, a survivor of two stabbings and one shooting and the suspect in a drive-by shooting, had plenty of reasons to believe no adult could help him—or would want to.

A year later, with Gonzalez's help, Gutierrez can smile at his insolence. He has earned his high-school equivalent certificate, given up drinking and immersed himself in a series of community service projects. When he talks to Gonzalez, he exudes sincerity, not hostility.

"I want to study till my brains fall out," says the 20-year-old, who quit high school his sophomore year and still has a bullet in his ankle from a gang shooting.

And those days of gangbanging still haunt Gutierrez. On Monday, he's set to begin a six-year prison term for attempted murder from a non-fatal drive-by shooting last summer, committed before he put his trust in Gonzalez.

It took an unusual program focusing on the seemingly intractable problem of gangs—and making some demonstrable inroads—to bring Gutierrez and Gonzalez together.

For three years, University of Chicago researchers, Chicago police, youth counselors and community activists like Gonzalez have been trying to reduce gang violence in the Little Village neighborhood by refusing to believe that hard-core gang members like Gutierrez are beyond help.

Although the changes in Gutierrez seem stunning, they can be traced to a careful plan laid out by one of the nation's foremost experts on gangs, U. of C. professor Irving

Spergel, who is trying to build on the many failures and the too few successes of past gang intervention programs.

Spergel has no illusions of eliminating gangs in Little Village, a working-class enclave of Mexican-Americans on the Southwest Side. That would be unrealistic, and Spergel, 71, has studied gangs for too long to be naive.

His project is not trying to turn the two targeted gangs—the Latin Kings and the Two-Six, both with decadeslong histories of violence—into peaceful entities. That has been a proven recipe for disaster, often serving only to strengthen a gang's organizational structure. Instead, the youth workers try to change individual gang members who seem the most prone to violence.

And the project is not aimed at forging gang truces or holding peace summits. That's far too showy and superficial. Instead, it relies on solutions that are startlingly simple: jobs, education and personal attention.

But while the name of the federally funded program—The Gang Violence Reduction Project—is mundane, its goals are lofty.

Few gang programs across the country can claim to make a difference. Fewer still can prove it through rigorous evaluation.

"You can't wipe out gang violence," Spergel said. "But it looks like something we're doing is working."

He thinks he now has the statistics to back him up.

In the two years prior to the start of the project in August 1992, labeled Time I, there were 15 gang-related homicides. In the two years that followed, Time II, there were eight.

Gang-related aggravated batteries and aggravated assaults are up, but at nowhere near the pace of similar areas such as Pilsen, another Latino neighborhood with a long-standing gang problem. For instance, aggravated assaults in Little Village rose 19.4 percent but skyrocketed 291 percent in Pilsen.

Researchers also surveyed 86 gang members to estimate the number of violent incidents they were involved in during Time I and Time II. The average dropped from 26 to 11.

What's clear is that progress in Little Village has to be measured in small increments. Gangs still have a strong grip on the community and its youths, and gang involvement in drug dealing is rising. Little Village still has a very big gang problem.

Some local observers, however, say the neighborhood now has something it didn't have two years ago; a blueprint for change, sense of purpose and a glimmer of hope.

"From the outside it might seem like it's status quo, but you don't realize how many lives have been touched," said Romero Brown, director of the Boys and Girls Club in Little Village.

One of Spergel's tenets is the need for a community to marshal all its resources in an effort to redirect gang members.

That has meant that the youth counselors supervised by the university come from the neighborhood and probably still have friends in the gang; it has meant the formation of a new community group run by Gonzalez, Neighbors Against Gang Violence; and it has meant developing a better relationship with police and probation of officers.

The youth workers often are the catalysts. One of their responsibilities is to alert police of impending gang attacks.

"We'll let the cops know if there's a planned retaliation," Spergel said. "The police will be out there to prevent it."

A more important and subtle duty, though, is for youth workers to gain the trust of gang members and refer them to Gonzalez. These workers hook gang members up with jobs, get them back into school and even refer them for psychological counseling.

Two tactical officers assigned to the area also have gone out of their way to get to know the gang members. They advise the youth workers on who are the best candidates for change. They're still looking to bust the bad guys, but they also are more willing than in the past to identify the good kid gone astray—and they'll encourage a gang member to call Gonzalez or one of the youth workers if he or she needs help.

From the youth worker's perspective, the idea is to give the gang member options, not lectures or ultimatums to leave the gang.

"We don't talk about that," said Javier Avila, 26, field supervisor for the three youth workers and a longtime neighborhood resident. "That will happen in time if we do what we're supposed to do."

Said Brown of the Boys Club: "You can't go in and say, 'I'm going to save you.' You have to help them be able to see things for themselves."

In the last year, as new worlds have opened up to him, Gutierrez has learned there's more to life than the street corner. He traveled to Boston for training in the national youth service program and has worked on City Year, the national youth service program, on various community projects throughout Chicago.

But his life still is in transition. When pressed, he said he still considers himself a gang member, but not a gangbanger—somebody out wreaking havoc in the community.

There's no single way to measure whether a gang member has turned his or her life around. But here's one piece of evidence in Gutierrez's case: The day after he appeared in court to plead guilty and receive his sentence, he showed up at 8 a.m. for his City Year project. The next eight hours would be split between an AIDS prevention project and tutoring grammar-school children.

Gutierrez resisted the temptation to stay home and nurture his anger about the prison sentence.

"I'd rather come here," he said. "It's important to me. if I stop doing this, I'm going to get the mentality that I used to have—screw the world, nobody cares, I ain't going to make a difference."

In prison, he said, he hopes he can begin earning college credits. But he also knows that, depending on the prison he is assigned to, gangs may continue to have a heavy influence on his life.

All involved in the program have learned, if they didn't suspect it already, that gang intervention is an inexact science.

"You've got to assume that no one approach will work," Spergel said. "Sometimes a guy get a job and has extra money and uses it to buy more weapons."

Avila told the story of another youth who was enrolled in the same service program that helped Guiterrez adopt his new outlook. That youth is no longer in the program or in Little Village, having been arrested in Texas in December on charges of smuggling drugs from Mexico.

Avila and Gonzalez took that youth's fall from grace personally. They had believed he was making progress and had invested long hours to help him, sometimes searching the streets late at night to find out where he was.

Now, they believe he probably was using them, and they hope they've gained some wisdom from the experience.

"That's the most important thing you learn—who's conning you and who isn't," Avila said.

Even though the program targeted about 200 gang members three years ago for intervention, some were unreachable and never were referred for jobs or training. Within the past several months, two of those gang members have been charged with murder.

Spergel still is compiling an important piece of the project's evaluation: a before-and-after comparison of 140 gang members based on court and police records.

Even without knowing the results of the Little Village project, the U.S. Justice Department has been impressed enough by Spergel to finance similar programs in five cities, including Bloomington, Ill., as a test of his theories.

The programs, set in cities with emerging gang problems, will be launched later this summer. Like the Little Village program—which also is getting federal funding, funneled through the Illinois Criminal Justice Information Authority and the Chicago police—the price tag is about $500,000 a year.

Gonzalez slowly has been acquiring government grants so that once Spergel finishes his work in Little Village several months from now, the gang program can continue.

There's still plenty she thinks can be done for the gang youths.

"They are in many ways lost individuals," said Gonzalez, a mother of three. "They are individuals very desperately seeking something."•

DANISH CREAMERY ASSOCIATION

• Mrs. BOXER. Mr. President, 1995 marks the 100th anniversary of the founding of the Danish Creamery Association, the oldest continually operated farmer-owned dairy cooperative in the United States.

In 1895, farmers around Fresno, CA sought to provide a better market for locally produced milk and to provide the Fresno area with quality butter. The Danish Creamery Association has been the distributor of dairy products to innumerable dairy producers for generations. Their products are nationally and internationally recognized for their high quality and taste.

The Danish Creamery Association has been at the forefront of the advancement of dairy technology and has provided leadership in the promulgation of State and national programs for the betterment of an industry which has, in the last few decades, bolstered the economy of California and the United States due to its continuously high employment rates.

I congratulate and acknowledge the fine work accomplished by the Danish Creamery Association in the last century, and I am confident that it will continue to serve the central valley, California, and the United States with its fine products for years to come.•

COMMANDER MICHAEL W. LORD

• Mr. COATS. Mr. President, I rise today to recognize and honor Comdr. Michael W. Lord, Judge Advocate General's [JAG] Corp, U.S. Navy, as he retires upon completion of 20 years of faithful service to our Nation on July 1, 1995.

Upon his retirement Commander Lord will be leaving the Secretary of Navy's Office of Legislative Affairs where for the past 3 years he has served with distinction as the primary liaison point between the Navy and the Congress on some of the Navy's most critical issues, to include all issues involving Navy personnel, recruiting, military health care, and the Naval Academy.

Commander Lord, a native of North Adams, MA, graduated from the U.S. Naval Academy in 1975. He was commissioned an ensign and served on U.S.S. *Marathon* (PG–89) as the engineering and weapons officer. Following decommissioning of the *Marathon*, Commander Lord served on U.S.S. *Hewitt* (DD–966) as fire control officer.

Commander Lord was selected to participate in the Navy's law education program, and in 1981, earned his law degree at the University of Virginia. As a Navy JAG officer, Commander Lord served as trial counsel, defense counsel and legal assistance officer at the Naval Legal Service Offices in Norfolk and Oceana, VA. In 1983, he served as the first staff judge advocate to commander, Cruiser Destroyer Group 8 where he was responsible for providing legal advice to the commander of the 42 ship group. He then served as the officer in charge of the Naval Legal Service Office Detachment in Guantanamo Bay, Cuba. In 1987, Commander Lord became the legal advisor to the commandant of midshipmen, U.S. Naval Academy. In 1990, he reported to the Military Personnel Division of the Office of the Judge Advocate General where he served as the lieutenant commander detailer until Commander Lord reported to his present position in the Office of Legislative Affairs.

Commander Lord's awards have included the Meritorious Service Medal—gold star in lieu of second, the Navy Commendation Medal—gold star in lieu of second, and the Navy Achievement Medal—gold star in lieu of second. He is authorized to wear the Overseas Service Ribbon.

Mr. President, Commander Lord has truly been a great credit to the Navy throughout his career. I know that many of my colleagues are personally aware of his hard work over the past 3 years in the Office of Legislative Affairs and his significant and direct contribution to the future readiness and success of the Naval service. It gives me great pleasure to recognize Comdr. Mike Lord and to wish him, along with his wife, Shirley, and their daughters, Tara, Kelley, and Lindsey, "fair winds and following seas," as he concludes a distinguished career in the U.S. Naval Service.•

BANKING PARTNERSHIP WITH COMMUNITIES

• Mr. SIMON. Mr. President, I would like to tell my colleagues about four banks in Illinois that have joined with nonprofit firms in a partnership that creates community service projects to serve underdeveloped communities. I am pleased to recognize South Shore Bank, Uptown National Bank of Chicago, AMCORE, N.A., Rockford, and Magna Bank of Illinois for their investment in vulnerable neighborhoods. These four banks have recently been recognized by the Social Compact, an organization that promotes private sector firms working with nonprofit organizations to relieve impoverished neighborhoods.

South Shore Bank has worked in conjunction with The Neighborhood Institute [TNI]. This partnership has allowed South Shore Bank to contribute to the 71st Street Commercial Revitalization Project, an economic development strategy that targets a distressed, one mile commercial strip. The project includes restoring to use three abandoned properties, and assisting 34 small businesses with start up and development expenses. This project funded by South Shore has also created 70 jobs for local residents.

Uptown National Bank of Chicago has worked in conjunction with the Voice of the People in Uptown, Inc. This partnership has made the dream of home owning a reality for 28 lower income immigrant and minority families in the urban Chicago land area. This $2.7 million project has allowed new construction as well as rehabilitation of existing sites.

AMCORE, N.A., Rockford, has worked very closely with Zion Development Corp. [ZDC]. Through their partnership, AMCORE has construction and permanent financial loans with flexible terms available, enabling construction of 21 affordable housing units and added commercial space.

Magna Bank of Illinois has worked in conjunction with Winstantley/Industry Park Neighborhood Organization [WIPNO] to provide the capacity to meet the needs of the local residents.

These four banks have provided something to these communities that was once a dream, but now is reality. They have provided their industry with an example that I hope the rest of the banking industry will follow.•

AUTHORIZING PRODUCTION OF RECORDS BY THE SELECT COMMITTEE ON INTELLIGENCE

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of two Senate resolutions en bloc submitted earlier today by Senators DOLE and DASCHLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the first resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 139) to authorize the production of records by the Select Committee on Intelligence.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 139) was agreed to.

The preamble was agreed to.

The resolution with its preamble is as follows:

S. RES. 139

Whereas, the Office of the Inspector General of the Central Intelligence Agency has requested that the Select Committee on Intelligence provide it with copies of committee records relevant to the Office's pending inquiry into the accuracy and completeness of information provided by Agency officials to the intelligence oversight committees of the Congress concerning the Agency's activities in Guatemala between 1985 and 1995;

Whereas, by the privileges of the Senate of the United States and rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Vice Chairman of the Select Committee on Intelligence, acting jointly, are authorized to provide to the Office of Inspector General of the Central Intelligence Agency, under appropriate security procedures, copies of records that the Office has requested for use in connection with its pending inquiry into the provision of information by officials of the Central Intelligence Agency to the congressional intelligence oversight committees.

The PRESIDING OFFICER. The clerk will state the second resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 140) to authorize the production of records by the Select Committee on Intelligence.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 140) was agreed to.

The preamble was agreed to.

The resolution with its preamble is as follows:

S. RES. 140

Whereas, the Office of the Inspection General of the Department of Justice has requested that the Select Committee on Intelligence provide it with copies of committee records relevant to the Office's pending review of matters related to the Aldrich Ames case;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that documents, papers, and records under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistently with the privileges of the Senate: Now, therefore, be it

Resolved, That the Chairman and Vice Chairman of the Select Committee on Intelligence, acting jointly, are authorized to provide to the Office of Inspector General of the Department of Justice, under appropriate security procedures, copies of records that the Office has requested for use in connection with its pending review into matters related to the Aldrich Ames case.

Mr. DOLE. Mr. President, the Select Committee on Intelligence has received requests for copies of committee records from the Offices of the Inspector General of two executive branch agencies. First, the Inspector General of the Central Intelligence Agency has requested from the Committee records relevant to the Inspector General's pending inquiry into whether the congressional intelligence oversight committees where properly informed by CIA officials about the CIA's activities in Guatemala over the past 10 years.

The second request is from the Department of Justice Inspector General and concerns a review the Inspector General is conducting into matters related to the Aldrich Ames case. The Inspector General is seeking copies of transcripts of hearings, briefings, and interviews that the Senate Intelligence Committee received on the Ames case last year.

Mr. President, these two resolutions would authorize the chairman and vice chairman of the Intelligence Committee, acting jointly, to provide committee records in response to these requests, utilizing appropriate security procedures.

EXECUTIVE SESSION

NOMINATION OF JOHN P. WHITE, TO BE DEPUTY SECRETARY OF DEFENSE

Mr. CHAFEE. Mr. President, I ask unanimous consent to go into executive session to consider the nomination of John P. White to be Deputy Secretary of Defense.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the nomination.

The legislative clerk read the nomination of John P. White of Massachusetts to be Deputy Secretary of Defense.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, that any statements relating to the nomination appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The nomination, considered and confirmed, is as follows:

DEPARTMENT OF DEFENSE

John P. White, of Massachusetts, to be Deputy Secretary of Defense.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR THURSDAY, JUNE 22, 1995

Mr. CHAFEE. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 8:30 a.m., on Thursday, June 22, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until the hour of 9:30 a.m., with Senators to speak for up to 5 minutes each, with the exception of the following: Senator DORGAN, 10 minutes, Senator COATS, 20 minutes, and Senator THOMAS, 30 minutes; further, that at the hour of 9:30 the Senate resume consideration of S. 440, the highway bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. CHAFEE. For the information of all Senators, the Senate will resume consideration of the highway bill tomorrow at 9:30.

Rollcall votes can be expected on or in relation to amendments to the highway bill, however there will be no rollcall votes prior to 11:30 a.m., on Thursday. Senators are also reminded at 12 noon the Senate will resume debate on the nomination of Dr. Foster, with a cloture vote occurring on the nomination at 2 p.m. Also to alert Members following the cloture vote and completion of highway bill, it is the intention of the majority leader to turn to the consideration of S. 240, the securities bill.

I would point out, therefore, under this agreement, if we are not completed with the highway bill, which I do not think we will, because we only have half an hour for votes between 11:30 and 12. Therefore, after the cloture vote at 12 o'clock on Dr. Foster, we will be returning to the highway bill for some time. I hope not too long.

Mr. FORD. Mr. President, will the distinguished Senator yield for a question? Did I understand him to say that following the disposition of the cloture vote on Dr. Foster, however that turns out, that we move back, then, to the highway bill?

Mr. CHAFEE. That is right.

Mr. FORD. What about S. 240?

Mr. CHAFEE. The agreement between the leaders reads as follows, "That following the cloture vote and the completion of highway bill . . . ."

Mr. FORD. All right.

Mr. CHAFEE. So, those things will be done before moving to the consideration of S. 240, the securities bill.

Mr. FORD. I wanted to be sure about that. There was some discussion earlier that we might set the highway bill aside and go to S. 240. I thought it would be much better to finish the highway bill and then go to S. 240.

Mr. CHAFEE. The Senator's wishes are attained, because the agreement clearly says, "will complete the highway bill." I hope it will not take too long.

Mr. FORD. I thank the Senator.

RECESS UNTIL 8:30 A.M. TOMORROW

Mr. CHAFEE. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 10:06 p.m., recessed until Thursday, June 22, 1995, at 8:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 21, 1995:

PEACE CORPS

MARK D. GEARAN, OF MASSACHUSETTS, TO BE DIRECTOR OF THE PEACE CORPS, VICE CAROL BELLAMY, RESIGNED.

DEPARTMENT OF STATE

WILLIAM H. ITOH, OF NEW MEXICO, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF THAILAND.

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

JOHN T. CONWAY, OF NEW YORK, TO BE A MEMBER OF THE DEFENSE NUCLEAR FACILITIES SAFETY BOARD FOR A TERM EXPIRING OCTOBER 18, 1999. (REAPPOINTMENT.)

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

LT. GEN. RICHARD E. HAWLEY [redacted]

THE FOLLOWING-NAMED OFFICERS FOR PERMANENT PROMOTION IN THE U.S. AIR FORCE, UNDER THE PROVISIONS OF SECTION 628, TITLE 10, UNITED STATES CODE, AS AMENDED, WITH DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE.

LINE OF THE AIR FORCE

To be lieutenant colonel

STEVEN J. AUSTIN [redacted]
SAMUEL V. CROUSE [redacted]
ANDREW W. DUNN [redacted]
HENRY ESPOSITO [redacted]
ROBERT J. FELDMAN [redacted]
ARTHUR L. FITTERER [redacted]
RICHARD A. HATCH [redacted]
KENNETH R. HOVATTER [redacted]
RICHARD A. MANNING [redacted]
MICHAEL L. MCGUIRE [redacted]
JOHN M. NARRON [redacted]
GARY S. RATTRAY [redacted]
ROBIN D. ROBIDEAUX [redacted]
STUART C. SCHIELA [redacted]
THOMAS E. SINCLAIR [redacted]
JAMES D. STALEY [redacted]
LUCY K. YARBROUGH [redacted]

LINE OF THE AIR FORCE

To be major

RICKEY B. BENNETT [redacted]
ERIC R. BRENKERT [redacted]
KENNETH F. CAREY [redacted]
FREDERICK L. COWLES [redacted]
JAMES K. COX [redacted]
EDWARD M. CZAPSKI [redacted]
GREGORY E. DAVIS [redacted]
MORGAN R. DEANE, JR. [redacted]
MICHAEL C. DERESHKEVICH, JR [redacted]
GARY T. FULTON [redacted]
WONZIE L. GARDNER, JR [redacted]
RICHARD A. HARRIS, JR [redacted]
JAMES S. HENDERSON [redacted]
DEREK D. JAQUISH [redacted]
KAREN C. JORDAN [redacted]
MARK A. MERKEL [redacted]
DAVID J. MEYER [redacted]
ROBERT E. PANNONE, JR [redacted]
TILLMAN W. PAYNE III [redacted]
LUIS A. VARGAS [redacted]
ANDY D. ROGERS [redacted]
MARK W. WESSON [redacted]
ARTHUR J. WOOD III [redacted]

BIOMEDICAL SCIENCES CORPS

To be major

YVONNE SANTIAGEO [redacted]

THE FOLLOWING-NAMED OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF SECTION 531, TITLE 10, UNITED STATES CODE WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE OFFICERS BE APPOINTED IN A GRADE HIGHER THAN THAT INDICATED.

LINE OF THE AIR FORCE

To be captain

RALPH W. EMERSON III [redacted]
DAWN C. STUBBS [redacted]

THE FOLLOWING-OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 531, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

MEDICAL CORPS

To be colonel

ANGELO J. FREDA [redacted]
ROLANDO SANTAANA [redacted]

MEDICAL CORPS

To be lieutenant colonel

DAVID L. BROWN [redacted]
PHILIP J. DUCHAMP [redacted]
MARY E. GABRIEL [redacted]
JOAN R. GRIFFITH [redacted]
JULIAN C. LEVIN [redacted]
MICHAEL C. MERWIN [redacted]
PAUL E. MORTON [redacted]
STANLEY H. STANCIL [redacted]
RODGER D. VANDERBEEK [redacted]
HOWARD D. WILCOX [redacted]
CHARLES D. WILLIAMS [redacted]
RICHARD S. WILLIAMS [redacted]

MEDICAL CORPS

To be major

ROBERT M. KRUGER [redacted]
ROBERT J. MEDELL [redacted]

DENTAL CORPS

To be lieutenant colonel

DAVID G. CHARLTON [redacted]
DAVID E. CORMAN [redacted]
BRUCE A. KENNEDY [redacted]
EDWARD P. KISS [redacted]
GREGORY G. LANGSTON [redacted]
JOHN F. LEWIS [redacted]
RONALD G. NELSON [redacted]

To be major

MICHAEL P. CUNNINGHAM [redacted]
RANDALL C. DUNCAN [redacted]
JACK H. LINCKS [redacted]
JEFFREY A. STAPLES [redacted]

To be captain

RONALD A. ABBOTT [redacted]
DEAN H. WHITMAN [redacted]

NURSE CORPS

To be colonel

MARILYN C.A. FLORO [redacted]

THE FOLLOWING INDIVIDUALS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, IN GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 12203, WITH A VIEW TO DESIGNATION UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 8067, TO PERFORM THE DUTIES INDICATED.

MEDICAL CORPS

To be lieutenant colonel

RENE J. SANCHEZ [redacted]
BURTON L. THOSEN [redacted]

THE FOLLOWING AIR FORCE OFFICER FOR APPOINTMENT AS PERMANENT PROFESSOR, U.S. AIR FORCE ACADEMY UNDER THE PROVISIONS OF SECTION 9333 (B), TITLE 10, UNITED STATES CODE.

LINE OF THE AIR FORCE

To be colonel

SAMUEL L. GRIER, JR [redacted]

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR APPOINTMENT IN THE REGULAR AIR FORCE IN ACCORDANCE WITH SECTION 531 OF TITLE 10, UNITED STATES CODE, WITH A VIEW TO DESIGNATION IN ACCORDANCE WITH SECTION 8067 OF TITLE 10, UNITED STATES CODE, TO PERFORM DUTIES INDICATED WITH GRADE AND DATE OF RANK TO BE DETERMINED BY THE SECRETARY OF THE AIR FORCE PROVIDED THAT IN NO CASE SHALL THE FOLLOWING OFFICERS BE APPOINTED IN A HIGHER GRADE THAN THAT INDICATED.

MEDICAL CORPS

To be lieutenant colonel

VINCENT F. CARR [redacted]

DENTAL CORPS

To be lieutenant colonel

BRADFORD W. CHRISTENSON [redacted]
STEVEN J. NEVINS [redacted]

To be major

ROBERT F. GAMBLE [redacted]
MICHAEL W. MARTIN [redacted]

THE FOLLOWING-NAMED INDIVIDUAL FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE, IN GRADE INDICATED, UNDER SECTIONS 12203 AND 8067 OF TITLE 10, UNITED STATED CODE, WITH A VIEW TO DESIGNATION TO PERFORM THE DUTIES INDICATED.

NURSE CORPS

To be lieutenant colonel

ROBERT C. AHRENS [redacted]

THE FOLLOWING UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES CLASS OF 1995 OFFICERS FOR APPOINTMENT IN THE REGULAR AIR FORCE IN THE GRADE OF CAPTAIN, EFFECTIVE UPON GRADUATION IN ACCORDANCE WITH SECTION 2114 OF TITLE 10, UNITED STATES CODE.

MEDICAL CORPS

To be captain

SCOTT A. HARTWICH [redacted]
CHARLES A. TUJO [redacted]

THE FOLLOWING OFFICERS FOR PROMOTION AS RESERVES OF THE AIR FORCE, UNDER THE PROVISIONS OF SECTIONS 12203, 8366, AND 8372, OF TITLE 10, UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8372 AND CONFIRMED BY THE SENATE UNDER SECTION 12203 SHALL BEAR AN EFFECTIVE DATE OF 10 MARCH 1995 AND PROMOTIONS MADE UNDER SECTION 8366 SHALL BE EFFECTIVE UPON COMPLETION OF 7 YEARS OF PROMOTION SERVICE AND 21 YEARS OF TOTAL SERVICE, UNLESS A LATER PROMOTION EFFECTIVE DATE IS REQUIRED BY SECTION 8372(C), OR THE PROMOTION EFFECTIVE DATE IS DELAYED IN ACCORDANCE WITH SECTION 8380(B) TO TITLE 10.

CHAPLAIN CORPS

To be lieutenant colonel

RICHARD C. BEAULIEU [redacted]
THOMAS C. BLAIR [redacted]
GAYLEN MEL BUCKLEY [redacted]
WALTER W. COMBS [redacted]
JOHN M. DONNELLY [redacted]
LAWRENCE M. PENZES [redacted]
LARRY V. STAIR [redacted]
DAVID E. STINE [redacted]

JUDGE ADVOCATE

To be lieutenant colonel

RUCHARD K. BOWERS, JR. [redacted]
SUSAN E. BOWMAN [redacted]
EDWARD E. ESRICK [redacted]
DONALD R. FITCH [redacted]
RUSSELL A. FRIEMEL [redacted]
JACK W. GRADY [redacted]
GREGORY P. HOLDER [redacted]
BRUCE A. HUTTON [redacted]
LANNETTE J. MOUTOS [redacted]
OMAR T. OJEDA [redacted]
LOREN S. PERLSTEIN [redacted]
ALBERT H. PETTIGREW, JR [redacted]
THOMAS J. REES [redacted]
BEVERLLY M. RYALL [redacted]
RONALD W. SCHMIDT [redacted]
MERRILL R. STREINER [redacted]
DOUGLAS J. THIESEN [redacted]
FRANCINE WEAKER [redacted]

IN THE NAVY

THE FOLLOWING-NAMED LIEUTENANTS IN THE LINE AND STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF LIEUTENANT COMMANDER, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 628, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

LIMITED DUTY OFFICER (LINE)

To be lieutenant commander

KENNETH V. KOLLERMEIER [redacted]

MEDICAL SERVICE CORPS

To be lieutenant commander

TERRY L. BUTLER [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS, ON THE ACTIVE DUTY LIST, FOR PROMOTION TO THE GRADE INDICATED IN THE U.S. ARMY IN ACCORDANCE WITH SECTION 624, TITLE 10, UNITED STATES CODE. THE OFFICERS INDICATED BY ASTERISK ARE ALSO NOMINATED FOR APPOINTMENT IN THE REGULAR ARMY IN ACCORDANCE WITH SECTION 531, TITLE 10, UNITED STATES CODE:

MEDICAL SERVICE CORPS

To be lieutenant colonel

ANDERSON, DENISE J. [redacted]
BERTE, STEPHEN B. [redacted]
BIRDSALL, GREGORY L. [redacted]
BRIGGS, BURTON F. [redacted]
BROWN, THOMAS A. [redacted]
BROWN, WILLIAM D. [redacted]
BUCHWALD, DONALD R. [redacted]
*BUTLER, BARCLAY P. [redacted]
BZDULA, EDWARD F. [redacted]
*BZDULA, MARY J. [redacted]
CARLISLE, MICHAEL A. [redacted]
CHAPIN, MARK G. [redacted]
CHEWNINGKULICK, BRE [redacted]
COKER, DENNIS E. [redacted]
CROMARTIE, JAMES A. [redacted]
DECESARE, MICHAEL N. [redacted]
DENNIS, CHRISTINE R. [redacted]
DRABCZUK, GARY S. [redacted]
DUBAY, ROBERT C. [redacted]
DUDEVOIR, DOUGLAS R. [redacted]
EKWURZEL, KARI [redacted]
FORNEY, JOHN R. [redacted]
FRASSO, JOHN J. [redacted]
*FRIEDL, KARL E. [redacted]
GALLAGHER, KEITH W. [redacted]
GARIBALDI, PETER M. [redacted]
GIDWANI, PRADEEP G. [redacted]
GRANGER, MATHEW S. [redacted]
GRANT, EARL JR. [redacted]
GUNNELL, VAUN F. [redacted]
GUPTON, HERBERT M. [redacted]
HABIB, DAVID A. [redacted]
HOLMES, KEITH H. [redacted]
JONES, DAVID L. [redacted]
KAMINSKI, MICHAEL S. [redacted]
KURMEL, THOMAS D. [redacted]
*LEU, JOHN R. [redacted]
*LEWIS, GORDON A. [redacted]
*LIPNICK, ROBERT J. [redacted]
LYFORD, MARK A. [redacted]
MABE, MARYANN P. [redacted]
MCCOLLUM, DENISE M. [redacted]
MODROW, HAROLD E. [redacted]
MONTGOMERY, MICHAEL [redacted]
NIMMER, ELIAS G. [redacted]
NORRIS, GARY C. [redacted]
NOVAK, WILLIAM R. [redacted]
ORTHNER, WALTER H. [redacted]
PARKER, KEITH R. [redacted]
PEDUTO, DAVID B. [redacted]
PIERSON, JEROME F. [redacted]
PIERSON, LINDA L. [redacted]
PITTMAN, JAMES O. [redacted]
RICKARD, JAMES H. [redacted]
RILEY, PATRICK E. [redacted]
RINEHART, CARMEN L. [redacted]
RUSSELL, KENNETH E. [redacted]
*SAFFLE, PAULETTE E. [redacted]
SANDERS, PHILLIP G. [redacted]
SANFORD, EDWARD J. [redacted]
SAWYERS, MICHAEL C. [redacted]
SCHWENK, BEVERLY A. [redacted]
SEES, RALPH H. [redacted]
SHAMBLEY, JOYCE H. [redacted]
SHEAFFER, ALAN W. [redacted]
SIGNAIGO, JETTAKA M. [redacted]
STARCHER, JAMES A. [redacted]
STOCKER, VIKKI L. [redacted]
THOMAS, LEWIS E. [redacted]
TURGEON, DAVID K. [redacted]
TURNER, BETTY E. [redacted]
VANHAMONT, JOHN E. [redacted]
WAINRIGHT, CHARLES [redacted]
WARD, CHARLES D. [redacted]
WATSON, RALPH R. [redacted]
WEICKUM, RICKE J. [redacted]

WHITCOMB, JAMES P [redacted]
WILLIAMS, CALVIN E [redacted]
WILLIAMS, THOMAS J [redacted]
WITTMAN, THOMAS E., [redacted]

ARMY MEDICAL SPECIALIST CORPS

To be lieutenant colonel

ALLISON, STEPHEN C [redacted]
BERTHOLD, DEBRA D [redacted]
FORMAN, BRENDA J [redacted]
HEETER, JAMES P [redacted]
*HEETER, PATRICIA A [redacted]
ITO, MAX A. [redacted]
*PAULUS, DUANE K [redacted]
STRUTH, RAYMOND J [redacted]
*TINGLE, JANET A [redacted]
WASSERMAN, CAROL G. [redacted]
WISH, KAREN W [redacted]

VETERINARY CORPS

To be lieutenant colonel

BANFIELD, CATHERINE [redacted]
*LECLAIRE, ROSS D [redacted]
*NOSSOV, PATRICIA C [redacted]
*PRATT, WILLIAM D [redacted]
*VOGEL, ALFRED P [redacted]
WILLIAMSON, DALE L [redacted]
*YANOFF, SUSAN R [redacted]
*ZAUCHA, GARY M. [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

AGBAH, VINCENTIA A. [redacted]
ANDERSON, DOROTHY A. [redacted]
ANDERSON, LINDA H [redacted]
BATES, MARGARET A [redacted]
BAXTER, ROGER D [redacted]
BITHER, MARK H [redacted]
BOONE, PATRICIA M [redacted]
BRILES, STEPHEN A. [redacted]
*BROSCH, LAURA R [redacted]
BROWN, DEBRA L [redacted]
BRUNO, BARBARA J [redacted]
CAMPANARO, JOAN M. [redacted]
CISCO, EARLDINE S [redacted]
CLARK, MARY C. [redacted]
COOK, HELEN C. [redacted]
*CORDIER, PATRICIA L. [redacted]
CRAWFORD, JENNIFER. [redacted]
CRUMP, RICHARD W. [redacted]
DABBS, RICHARD P. [redacted]
DOWELL, CARYL J [redacted]
*DRIVER, CAROLYN E. [redacted]
ETTIPIO, ANTHONY M. [redacted]
*FERSTER, KENNETH L [redacted]
*FINNICUM, BRENDA G. [redacted]
*FITZPATRICK, JUDITH [redacted]
*FOERSTER, LILLIAN A [redacted]
FORESTER, HOLLY D. [redacted]
*GABBARD, MARY L. [redacted]
GALLIMORE, CAROLE E [redacted]
*GAMBLE, DELOIS H. [redacted]
GARRETT, NORMALYNN. [redacted]
*GAUBATZ, CARYL L. [redacted]
*GERTONSON, STEVEN F. [redacted]
GILMORE, LEE N. [redacted]
GOLDSBY, BOYD D. [redacted]
HAMMOND, EDITH K. [redacted]
*HARGIS, FRANCES M. [redacted]
HAYES, PATRICIA A [redacted]
HEASTON, STEVEN E [redacted]
HECTOR, BARBARA J [redacted]
HELMINIAK, JOSEPH J [redacted]
*HOLLANDSWORTH, JOAN. [redacted]
HOWELL, LADONNA N. [redacted]
JANOSIK, LUISA M [redacted]
JOHNSON, DORIS T [redacted]
KRUPP, CHRISTOPHER [redacted]
KUCINSKIS, CLAUDE A. [redacted]
*LARIOSA, REYMUNDO J [redacted]
*LEDERER, PATTI A. [redacted]
*LEE, RUTH E. [redacted]
*LIGGETT, BARBARA A. [redacted]
MATTERN, EDWARD G. [redacted]
MCCOWEN, ANITA H. [redacted]
*MEADOWS, YOUNG B. [redacted]
MILLER, THOMAS H. [redacted]
MONTZ, LINDA A. [redacted]
MORGAN, KEITH L. [redacted]
NEELY, CONSTANCE B. [redacted]
NGAI, GORDON. [redacted]
O'DONNELL, TAMARA D. [redacted]
O'LEARY, KATHLEEN M. [redacted]
PATRICK, JOE L. [redacted]
*PAUL, HARRIET M. [redacted]
*PENISTON, JUDY B. [redacted]
*PIPER, CHRISTINE M. [redacted]
PIXTON, WILLIAM T. [redacted]
ROBINSON, SANDRA M. [redacted]
*SAPONARI, GARY L. [redacted]
SMITH, SANDRA L. [redacted]
SOLVESON, DENISE M. [redacted]
STAMP, VICKIE B. [redacted]
*THIBODEAUX, BARRY L. [redacted]
ULLMANN, DIANE K. [redacted]
*UNDERWOOD, BYRON D. [redacted]
*VANDERLAAN, JOAN K. [redacted]
*VANEVERA, EDITH A. [redacted]
VAUSE, MARY C. [redacted]
*VOEPEL, LEO F. [redacted]
VOYLES, RANDALL L. [redacted]
*WEBSTER, LINDA A. [redacted]
WIGGINS, JANNIFER E. [redacted]
WINBUSH, CAROLYN J. [redacted]
WOOTTON, MARK T. [redacted]
WORTMAN, JOAN S. [redacted]
YOUNGMCCAUGHAN, STA. [redacted]

CONFIRMATION

Executive nomination confirmed by the Senate June 21, 1995:

DEPARTMENT OF DEFENSE

JOHN P. WHITE, OF MASSACHUSETTS, TO BE DEPUTY SECRETARY OF DEFENSE.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 22, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 23

9:30 a.m.
Labor and Human Resources
To hold hearings to examine issues relating to the Legal Services Corporation.
SD–430

JUNE 27

9:30 a.m.
Appropriations
Defense Subcommittee
To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on ballistic missiles.
SD–192

Environment and Public Works
To hold hearings on proposals to supplement the legal framework for private property interests, with primary emphasis on the operation of Federal environmental laws.
SD–406

Special on Aging
To hold hearings to examine the impact of breakthroughs in the treatment of catastrophic diseases on reductions in health care costs.
SH–216

JUNE 28

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD–366

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD–430

Indian Affairs
To hold hearings on S. 814, to provide for the reorganization of the Bureau of Indian Affairs.
SR–485

10:00 a.m.
Judiciary
Immigration Subcommittee
To hold joint hearings with the House Committee on the Judiciary's Subcommittee on Immigration and Claims to review a report of the U.S. Commission on Immigration. 2141 Rayburn Building

JUNE 29

9:30 a.m.
Small Business
To hold hearings to examine the future of the Small Business Investment Company program.
SD–538

10:00 a.m.
Energy and Natural Resources
To hold oversight hearings with the Committee on Environment and Public Works on energy and environmental implications of the Komi oil spills in the former Soviet Union.
SD–366

Environment and Public Works
To hold oversight hearings with the Committee on Energy and Natural Resources on energy and environmental implications of the Komi oil spills in the former Soviet Union.
SD–366

Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings to review the friendly fire incident during the Persian Gulf War.
SD–342

2:00 p.m.
Energy and Natural Resources
Parks, Historic Preservation and Recreation Subcommittee
To hold hearings on S. 594, to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer.
SD–366

Environment and Public Works
Clean Air, Wetlands, Private Property, and Nuclear Safety Subcommittee
To hold oversight hearings on the Clean Air Act's inspection and maintenance program.
SD–406

JULY 11

10:00 a.m.
Veterans' Affairs
To hold hearings to examine options for compliance with congressional budget resolution (H.Con.Res. 67) instructions relating to veterans' programs.
SR–418

JULY 13

9:30 a.m.
Indian Affairs
To hold hearings on S. 479, to provide for administrative procedures to extend Federal recognition to certain Indian groups.
SR–485

HOUSE OF REPRESENTATIVES—*Thursday, June 22, 1995*

The House met at 10 a.m.

PRAYER

The Reverend David Sievert, pastor, St. Matthew's Lutheran Church, Janesville, WI, offered the following prayer:

Heavenly Father, God of Nations, God of Peace:

We thank You for the men and women You have given our Nation in the past, leaders who "pledged their lives, their fortunes and their sacred honor" that we may enjoy "life, liberty and the pursuit of happiness."

Since the care of many must ever rest on the shoulders of the few, strengthen the leaders of our land and especially of this House of Representatives. Help them work for the common good. Make them conscious of their privilege and trust. Give them wisdom, courage, and resolution. Point out to them Your way.

Let the deliberations of those serving here this day speed the cause of justice and peace in our land and throughout the world; through Jesus Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. COMBEST. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. COMBEST. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 220, nays 189, answered "present" 1, not voting 24, as follows:

[Roll No. 408]

YEAS—220

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cunningham
Davis
Deal
DeLay
Dickey
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Heineman
Herger
Hilleary
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Martinez
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)
Zeliff

NAYS—189

Abercrombie
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bilirakis
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gonzalez
Green
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hastings (FL)
Hayes
Hefley
Hefner
Hilliard
Hinchey
Hobson
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Mascara
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Pomeroy
Porter
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sawyer
Schroeder
Scott
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tauzin
Thompson
Thornton
Thurman
Towns
Upton
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

ANSWERED "PRESENT"—1

Harman

NOT VOTING—24

Ackerman
Chapman
Chenoweth
Cubin
Diaz-Balart
Doolittle
Fazio
Gordon
Hunter
Laughlin
Levin
Matsui
Moakley
Ortiz
Sanders
Schumer
Serrano
Taylor (MS)
Tejeda
Torres
Torricelli
Tucker
Wilson
Young (AK)

□ 1037

Mrs. COLLINS of Illinois, Messrs. GILCHREST, BALDACCI, JEFFERSON, and GONZALEZ, Ms. McCARTHY, and Messrs. FIELDS of Louisiana, BEVILL, HAMILTON, CLEMENT, COYNE, DE LA GARZA, UPTON, COSTELLO, BISHOP, PAYNE of New Jersey, and MINGE changed their vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore (Mr. GILLMOR). The gentlewoman from Florida [Mrs. MEEK] will lead the House in the Pledge of Allegiance.

Mrs. MEEK of Florida led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOME TO PASTOR DAVID SIEVERT

(Mr. NEUMANN asked and was given permission to address the House for 1 minute.)

Mr. NEUMANN. Mr. Speaker, it is my privilege to thank Pastor David Sievert for opening Congress this morning with a prayer.

Pastor Sievert is from my home church—St. Matthew Evangelical Lutheran Church—in Janesville, WI.

I met Pastor Sievert about 15 years ago and quickly came to understand that his message was one of faith in God, commitment to family, and love of country.

As my family got better acquainted with the Sievert family, it became very clear that his message from the pulpit was carried out in his own daily life.

Pastor Sievert's continuous message of faith, love, and commitment has inspired me and helped me through the daily trials and tribulations while running for office and now as a Member of Congress.

I look forward to listening to his motivating words for many years to come.

Pastor Sievert, I would like to thank you for making the journey out to Washington and for your encouraging prayer to open today's session of Congress.

□ 1040

FAIRNESS IN HOUSE VOTING PROCEDURES

(Mr. ARMEY asked and was given permission to address the House for 1 minute.)

Mr. ARMEY. Mr. Speaker, prior to making a unanimous-consent request, I have two comments to make about yesterday's vote on the amendment offered by the gentleman from California [Mr. FAZIO] as amended during consideration of the legislative branch appropriations bill.

First, after viewing and reviewing the videotape of yesterday's proceedings, it is quite clear that the Chair, the gentleman from Georgia [Mr. LINDER], was on solid parliamentary ground when he called the vote on the Fazio amendment. The clerk informs us that he called the vote after 17 minutes and 10 seconds. The videotape shows Mr. LINDER started to call the vote and refrained from completing the call to allow a Member on the minority side of the aisle to vote at the desk, the gentleman from New York [Mr. ACKERMAN]. The video then shows the gentleman from Georgia [Mr. LINDER] called the vote with the well of the House empty of Members. The video then shows that after some time two Members from the minority party appeared at the desk and attempted to vote. The regular procedure of the House is that after the Chair has called the vote, it is too late for Members to cast a vote. The fact that Mr. LINDER paused to allow the gentleman from New York [Mr. ACKERMAN] to vote demonstrates that his intent was not to arbitrarily shut off Members from their right to vote, nor did the Chair cut off anyone in the well from their right to vote because there were no Members in the well at the time he announced the vote.

I would further point out to the House that the vote on the amendment offered by the gentleman from California [Mr. FAZIO] followed two earlier series of parliamentary inquiries to the chair which were propounded to Members on the minority side. These Members asked the chair to be consistent in his respecting the 17-minute voting period. The Chair allowed that he had been, perhaps, too generous in allowing votes to stay open to accommodate Members and that he would attempt to be more rigorous in abiding by the 17-minute vote policy, and with the vote on the Fazio amendment he did just that.

I would further point out that the two Members from the minority who entered the well to vote aye after the vote had already been announced were followed in seconds by another Member from the majority who also arrived too late to vote nay. Had all three of those Members voted, the amendment would still have been defeated on a tie vote, and I might point out, as is the custom, the Speaker did not cast a vote. In other words, Mr. Speaker, the outcome would not have changed even with an extra minute of voting time.

The disposition of the vote on the Fazio amendment was entirely appropriate and conducted within the proper parliamentary procedure of this Chamber.

Having said that, it is also true that many Members, most especially Members on this side of the aisle who supported the Houghton language earlier, felt that their victory had been snatched from them. They have made that clear to the leadership on this side of the aisle. Perhaps they did not have the chance to view the videotape, as I have had. I have that videotape in my office and will make it available to any Member who wishes to see it.

However, I know all too well that once the perception of unfairness and arbitrariness has set in, it is difficult to undo regardless of the facts of the matter. It is important to this Member that fairness govern this Chamber because this Member spent over a decade attempting to do the people's business under very unfair conditions. It is important to this Member that the victories we win are honest and that the defeats we endure are equally so.

that reason I am about to make a unanimous-consent request to revisit the vote on the Fazio amendment, and, Mr. Speaker, before I make that request, if I may just speak very personally for a moment to my colleagues.

I have not been a Member of this body long, but I can think of few things in life beyond my wife and my children for which I have a greater deal of love than I have for this institution, and this body, and us as Members. I hope that we can set straight a perception of wrongdoing, errant behavior, unfairness, with this action today, and I hope we can all take time to pause and reflect, and remember this body in my estimation is the single most precious and unique institution of democracy in the world, perhaps in the history of the world, and we should all, in each and every act of conduct, no matter how small, always put the honor and the dignity of this body ahead of the politics or even, for that matter, the political subtlety of the moment.

Mr. Speaker, I hope that we can see this as an opportunity for all of us to regain a new understanding of how precious is this body, and how precious is our privilege to be here, and how precious is our duty to always do honor to this body.

VACATION OF ROLLCALL 405 AND MAKING IN ORDER DE NOVO VOTE ON AMENDMENT OFFERED BY MR. FAZIO OF CALIFORNIA, AS AMENDED

ARMEY. Mr. Speaker, I ask unanimous consent that the proceedings of the Committee of the Whole on rollcall No. 405 be vacated and that when the Committee of the Whole resumes consideration of H.R. 1854 pursuant to House Resolution 169, the chairman of the Committee of the Whole be directed to put the question de novo on the amendment offered by the gentleman from California [Mr. FAZIO] as amended by the amendment offered by the gentleman from New York [Mr. HOUGHTON].

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. GEPHARDT. Reserving the right to object, Mr. Speaker, and I am reserving the right to object, but I will not object. I want to respond briefly to what the majority leader said.

Mr. Speaker, I think what the majority leader is attempting to do is right. Our version of the facts is different than his, and I would like to give that version just for the purpose of all of us understanding what was involved here and so that we can try to not have these kinds of things happen again.

As all of my colleagues know, the Speaker made a ruling early in the year that we would try to hold votes to 17 minutes. The ruling stated unless someone was in the well. Our version of the facts was that these two Members, who will speak for 5 minutes and will give their version of it in a moment, were in the Chamber, were trying very much to get into the well, but were not able to physically get there, but were, clearly understood by everybody in the Chamber, trying to vote, and in fact at some point, and there is a dispute about when they handed the card in or even handing cards in to vote, when the vote was called to an end, they were not allowed to vote. There is added suspicion because the vote was close and the majority was winning by one vote, and we had two Members coming into the Chamber, so there is added suspicion from that end of it.

Mr. Speaker, there is very strong feeling on this side. I have been here now 19 years, and I have not in my experience seen the depth of feeling that occurred on this particular issue because, as the gentleman said, the thing that we all hold most dear is our ability to represent over 500,000 people in this Chamber on every issue that is voted on. These Members were doing their best to be here on time and to vote. I think there is added feeling on this side because we seem to be into a differing standard from vote to vote. As was said on the vote just before this vote, there was a long time that the clock was held open. On the vote after, on the motion to adjourn, it again was held open for a much longer time than 17 minutes.

Mr. Speaker, what I think we must do, and I hope we will be able to do, is to have a small group meet and try to figure out some standard that everyone can know so we do not wind up with either the reality or the perception of unfairness in how votes are conducted.

There was another issue yesterday that has also been resolved that I need to bring to the attention of the Members, and that was a situation in the Committee on Science where a vote was held in the committee after the first bell had rung and maybe after the second bell had rung, and a lot of our Members left the committee thinking there would be no other votes in the committee. They came here to vote and missed a vote in the committee. The chairman of the committee rectified that this morning by having a revote in the committee so that people who had not voted in the committee could get the chance to vote, and on this issue, too, I think we need to have an understanding as to when votes will not be held in the committee after the bells have begun to ring at some point.

The final thing I would say is that the most important thing we bring here is our ability to cast a vote. All of us love this House. All of us come here with a serious purpose of representing over 500,000 people. We must never call into question, in perception or in reality, that we all are treated fairly in our ability to vote in committee and our ability to vote on this floor. This is the people's House, and, if there is ever a perception that we are not running this House in a fair manner, perception and reality, then we are in great difficulty.

The minority will work in every way possible to make sure those standards are established and that they are lived with, and I believe that the right thing was done here today, and I hope and believe the right thing will continue to be done.

I would like, as part of the request, to have the Members on our side have 5 minutes to explain their version of what went on.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, I am about to make, as soon as this request is over, another request.

Mr. GEPHARDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. Therefore, proceedings on rollcall No. 405 will be vacated, and, when the Committee of the Whole resumes consideration of H.R. 1854 pursuant to House Resolution 169, the Chairman of the Committee of the Whole will be directed to put the question de novo on the amendment offered by the gentleman from California [Mr. FAZIO] as amended by the amendment offered by the gentleman from New York [Mr. HOUGHTON].

PERMISSION FOR SUNDRY MEMBERS TO ADDRESS THE HOUSE FOR 5 MINUTES EACH

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that the gentleman from Pennsylvania [Mr. FOGLIETTA], the gentleman from Alabama [Mr. HILLIARD], and the gentleman from Maryland [Mr. EHRLICH] be allowed to address the House for 5 minutes each.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The Chair, before recognizing the gentleman from Pennsylvania [Mr. FOGLIETTA], wishes to make several observations:

First of all, the Chair announced at the request of the gentleman from Virginia [Mr. WOLF] and the committee on trying to help with families at the beginning of the year that there would be 17-minute votes. The Chair wishes to restate that 17 minutes is a reasonable limit, that if Members are in the Chamber, that they should be recognized, but the Chair also wishes to observe that on final passage on various bills Members who were getting off the elevator on the majority side did not get to vote on the final passage of bills earlier this year. The Chair simply wishes to reassert and to remind all Members we are trying to save time, we are trying to find a way to get this House home so Members can be with their families, and, as a general principle, that is a reasonable thing to do.

Second, the Chair has asked the majority and minority leaders to work both together and with those Members they wish to appoint to resolve the question of committee voting when the House is voting, and obviously, having abolished proxy voting, things are a little more difficult than they used to be, particularly adding 17-minute votes.

Third, the Chair simply wishes to reassert what both the majority and minority leaders have said. Every Member should have the right to participate fairly. Every Member should have the right to vote. This body, as a group, should recognize that there have to be some rules.

The Chair thinks the 17-minute rule reasonably applied is the right kind of thing to do, but we will do everything we can, I hope today, in what the Chair believes is an action he does not remember was taken during the preceding years when I served in this body. The Chair hopes that today's effort will be a sign of good faith that we truly intend for every Member to have their rights protected.

The Chair recognizes the gentleman from Pennsylvania [Mr. FOGLIETTA] for 5 minutes.

Mr. FOGLIETTA. Mr. Speaker, I thank the majority leader for, first, giving me this opportunity to speak and, also as importantly, giving this House a right to revote the controversial issue of yesterday afternoon.

Mr. Speaker, I come from the city of Philadelphia. I represent the First Congressional District, and in the heart of that district stands Independence Hall where the Constitution of the United States was written and adopted. The majority and minority leaders both spoke of matters dear to them. Let me say that the Constitution of the United States of America is also very dear to me.

The majority leader stated the facts as he knows them. However I was the subject, and I was here. The fact is, Mr. Speaker, that I entered the Chamber. The gentleman from Wisconsin [Mr. OBEY] was standing toward the rear of the aisle, and, as I passed Mr. OBEY on my way to the well, Mr. OBEY yelled out to the Chairman, "One more vote, one more vote," which, according to custom over the years, has always allowed that Member to cast his or her vote. Mr. Speaker, I was denied that right.

We are talking about the amount of time that was involved. The Washington Post timed the vote and found that the vote was called 15 seconds prior to the expiration of 17 minutes. I ran to the well, wrote out my card, handed it to the Clerk. The Clerk actually had the card in his hand, and I was then denied to have my vote counted.

Mr. Speaker, that Constitution of which I spoke gives us as Americans some basic inalienable rights. One of the most important, one of the most basic of those rights, is the right of every American citizen to cast his or her vote, and, as importantly, it was the right, or is the right, of every American to have his or her Congressperson vote on their behalf in this House.

Mr. Speaker, I regret that yesterday afternoon over 1 million Americans were denied their right to have their Representative cast votes on their behalf. One million Americans were disenfranchised by, I consider, a disgraceful display of arrogant, unconstitutional abuse of power.

Mr. Speaker, we might try to determine why this occurred. As you well know, the vote would have turned had I and the gentleman from Alabama [Mr. HILLIARD] been allowed to vote. That is one of the reasons. The second reason I was not aware of until I left this Chamber is, as I left the Chamber, I walked out in front of the Capitol and there saw my colleagues from the majority side boarding buses to take them to the airport to take them to New York City for a fundraiser. Strangely enough, the New York Post, owned by one Rupert Murdoch, states in its column that the GOP went to great lengths to make sure that its Members got to the Big Apple on time. Was one of those great lengths to which the GOP went the denial of Members of the right to vote and the denial of American citizens, of over 1 million American citizens, to have their Representative cast votes on their behalf?

I appreciate the fact that we are going to have a revote, and I would hope that this incident brings home the message to every Member of this House that what we do here is an important part of the American way of life. What we do in this body is a right guaranteed by the Constitution of the United States, and that constitutional right should remain inviolate no matter what the circumstances.

□ 1100

I would hope that after this incident, every Member will have the right to cast his or her votes on behalf of his or her constituents, the American citizens.

VOICE OF FREEDOM STILLED ON FLOOR OF HOUSE

(Under previous order of the House, Mr. HILLIARD was given permission to address the House for 5 minutes and to revise and extend his remarks.)

Mr. HILLIARD. Mr. Speaker, yesterday on the floor of this House the voice of freedom was stilled by the forces of repression. The strong arms of the Republican army flexed their mighty parliamentary weight and refused two duly elected Members of this body, myself and the gentleman from Pennsylvania [Mr. FOGLIETTA], the opportunity to vote before this Congress. In doing so, the Republicans crushed the very voice of democracy.

This is not Caesar's Rome, this is not Hitler's Germany, and this is definitely not Stalin's Russia. This is where the voices of freedom should reign. This is the birthplace of democracy.

This is America. We all must protect its democratic institutions, and especially its foundation, the right to vote. Our right to vote supersedes any party vote on any issue. We must preserve the integrity of the vote, and we must in this body aggressively champion the right to vote.

A revote is good. It does not show good faith. To me, being a politician for 22 years, it tells me that you are out to achieve your objective at any cost. Yesterday you could not win because there were two votes in this Chamber that would have made the difference, and there was no third vote, even though I realize that you have created one now. Because you did not have the votes yesterday, and because you have twisted arms last night and you have the votes today, you are ready to revote. To me, that is not good faith.

You, because you are the majority party, have a greater duty to preserve and protect this institution, and I suggest to you that you have failed to do that. The procedures of this institution must be protected at all costs. It should be beyond and above any objective of any party.

This morning, the Washington Post stated that you cut off the vote by 15 seconds. I heard you state that 10 seconds had elapsed. By our count, we had more than 30 seconds. By the Washington Post, which I would think would be independent of the Republican count or the Democratic count, you cut off and denied over 1 million people the right to vote by 15 seconds.

This is not democracy. In Alabama we do not even do this. Never do we openly take the rights of anyone to vote, and I would hate to think that this body is below that level. It cannot be, it should not be.

I suggest to you, because you have the votes and because you have been using the clock to manipulate that vote, you hold it open when you do not have the votes, you close it when you do, you win, the Republican Party wins. But I also suggest to you that every time you do it, democracy loses.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GILLMOR). The Chair will accept fifteen 1-minute requests from each side.

DENYING THE RIGHT TO VOTE

(Mr. BONIOR asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONIOR. Mr. Speaker, we have always known that the Republicans were willing to go to great lengths to pass their extremist agenda. I never thought that I would see the day when they would actually deny Members of this body the right to vote, but on the floor yesterday, a Democratic amendment was one vote, one vote, shy from victory. There were 15 seconds left. Two Democrats who had not voted were trying to vote, and they were cut off, denying 1 million people in this country representation.

Mr. Speaker, this is the most egregious and arrogant abuse of power that I have seen on our House floor. To top it all off, when Democrats tried to question the ruling, the Republicans adjourned early and jumped on buses. You know why? Where did they go? This poster points out where they went. They went to New York, by plane, got on a bus, took a plane, and raised $1.7 million at a fund raiser.

Now, the Republicans are willing to shut down our voices, shut down our votes, and adjourn the House early, all so they can raise $1.7 million from the special interests and the wealthy corporations. Welcome to the Gingrich revolution.

TRAMPLING DEMOCRACY

(Mr. DOGGETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOGGETT. Mr. Speaker, yesterday our Republican colleagues were in a rush to get to a big bucks fundraiser up in Manhattan, and democracy was trampled in their stampede to get to those big dollars. You can look at today's New York Post. You can see what it was all about. An all-star list of corporate bigwigs was slated to attend, the same corporate bigwigs that are being benefited by the tax shift to the superrich at the expense of people who want school lunches and the protection of Medicare. It is more of the same thing.

But it is a dark day indeed for democracy in this country when the rights not just of two Members, but over 1 million Americans to have their voice heard in this House, are trampled and cut off. And, amazingly, only moments before this occurred, in the Committee on Science on which I serve, in an incredible display of arrogance, there was an attempt to force people to vote there or vote here.

This is a true setback for democracy.

ADJOURNING EARLY

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, in my 13 years as a Member of Congress, I have never experienced what happened yesterday in this House. Instead of doing the people's business, this House adjourned yesterday at 3:50 in the afternoon, in the middle of a workday afternoon when most Americans are still on the job. Why? Money, and millions of dollars of it. That is right. Congress adjourned early yesterday so that Republican Members with Speaker GINGRICH at the helm could fly to New York to attend a GOP fundraiser aboard the Intrepid Sea and Air Space Museum, where wealthy givers paid $1.7 million to hobnob with Republican Members who did not work a full day yesterday, but were not docked for their pay.

During the first 2 months of this year, the Republican Campaign Committee has raised over $11 million. That is over $123,000 a day. Maybe it is time to ask ourselves who is fighting for America here in Washington, and should not those Members who left early be docked on their pay?

GOP ABUSE OF POWER

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, it seems only yesterday when the Republicans rode into town promising reform, but those days are long gone. Instead of reform, the new Republican majority has curried favor with the special interests, gagged debate, and yesterday denied Members of this body the right to vote.

Why did Republicans close a vote while two Democratic Members were waiting to cast their ballots? Because they had a fundraiser to go to. Yes, the buses were idling outside waiting to squire them to the "Salute to Newt" fundraiser, featuring GOP poster boy Rupert Murdoch. The article in the Post today says "the GOP went to great lengths." Indeed, they went to great lengths to make sure that their Members got to the Big Apple on time.

Last November, the American people were promised that Government would be returned to them. But yesterday hundreds of thousands of American people were shut out of the people's House when their Representatives were denied the right to vote on their behalf. What we are seeing in this body is an arrogance of power, one of the most egregious abuses of power in our Nation's history.

THE FACTS BE DAMNED

(Mr. SCARBOROUGH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCARBOROUGH. My goodness, such self-righteous indignation over those big-money interests. It is a concept that the other side of the aisle has known nothing about for 40 years. But who for the past 40 years has been the champion of PAC money and collecting special interest money? It has not been this side of the aisle. It has been the Democrats. And yet now that the Republicans dare to have a fundraiser, a concept that the Democratic Party has never thought of one time in their life, we are destroying the work of the people's House. We are subverting democracy.

Dear Lord, there were two Democrats that were going to vote yesterday, but they were shut out. Be damned with the facts. Get behind us, facts. There was a Republican in the Chamber also, and the majority leader explained this yesterday. The Democrats would have lost.

But instead of sticking to the facts, they are relying on demagoguery, talking about Rupert Murdoch and other things that have absolutely nothing to do with the facts of what happened yesterday.

How absolutely irrelevant to what has been going on yesterday and what has been going on since we got here on January 4, 1995.

MEMBERS' RIGHTS MUST BE PRESERVED

(Mr. OBEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OBEY. Mr. Speaker, in response to the previous statement by the gentleman who just spoke, let me say the issue is not whether the Republican Party held a fundraiser or not. That happens all the time on both sides of the aisle.

The issue, however, is whether it is in the democratic tradition, big American democratic tradition, not party, for the majority party to shut down this House and cut off an individual Member's right to vote so that they can get to a fundraiser in New York on time. The article in Mr. Murdoch's paper says the GOP "went to great lengths to make sure its Members got to the Big Apple on time."

This is the issue. Not whether you had a fundraiser, but whether you were so anxious to go grab the money, that you were willing to shortcircuit the democratic process in the doing. That is the issue.

CRYING LACK OF FAIR PLAY

(Mr. MCINNIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCINNIS. Mr. Speaker, first of all, in response to all this money-raising garbage, frankly, that I have been hearing this morning, how interesting it is that the President of your party tonight kicks off his fundraising. Do you want to dock his pay? One of your people just proposed you dock the pay for the time they spent. Take a look at that.

Second of all, to my colleague that was just preceding me, who talked about the cutoff of voting rights, why do you not bring the videotape up here and set up the TV camera? To my colleague, the videotape does not lie. They were in violation of the rule. They were not down here in the well. They had gone beyond the 17 minutes.

Do not cry lack of fair play. Bring up the video and show the American people the truth. Are you afraid to do that? Of course you are.

□ 1115

A BAD DAY FOR THE CONSTITUTION

(Ms. ESHOO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ESHOO. Mr. Speaker, this morning I think that we should recall the words of a great woman of many, many years ago, Barbara Jordan, during the Watergate hearings, when she intoned the Constitution.

Yesterday was a bad day for the Constitution. Yesterday was a bad day for this card that we each have that the people of our respective congressional districts graced us with, the power to speak for them, the power to represent them with our vote. The Constitution. The Constitution.

Yesterday was a good day for fundraising. Yesterday was a bad day for democracy and for the Constitution and the power that the people gave us in the House of Representatives to cast our vote and to speak for them. Shame on those that would chip away at the Constitution.

CLINTON BUDGET NOT BALANCED

(Mr. JONES asked and was given permission to address the House for 1 minute.)

Mr. JONES. Mr. Speaker, the Congressional Budget Office has weighed in on President Clinton's plan to balance the budget in 10 years. Their conclusions were not too, shall we say, promising.

CBO concludes that Clinton's new budget would not even come close to balancing in the year 2005. They predict the deficit that year will be $209 billion, about what it is today.

During his first State of the Union Address, Bill Clinton sang the praises of the CBO. Now, the differences between his numbers and CBO's numbers are passed off as merely a difference of opinion between policy wonks.

Mr. Speaker, Bill Clinton's budget is a sham. If he were serious about balancing the budget, he would get serious about the Federal Government's spending problem.

Instead of a real balanced budget, all Bill Clinton proposes is a plan to protect big government.

INNOCENT UNTIL PROVEN GUILTY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, before the House institutes instant replay, I would like to talk about the Constitution in another way. Under the Constitution, an American citizen once accused shall be considered innocent and the accuser shall be held accountable for the credibility and reliability of those accusations and shall bear the burden of proof.

It is simple. It is logical. It is fair. It is American. It is right to the point.

Tell me, Mr. Speaker, when did the Washington bureaucrats reach into the Constitution and in a tax case allow the IRS to treat the American people like indentured servants, like criminals, like noncitizens, like chattel. Unbelievable.

H.R. 390 says, any time an American taxpayer is in a court over a tax proceeding, they shall be considered innocent, and the IRS shall have the burden of proof. That is simple. That is logical. That is fair. By God, that is American.

If we want to talk about the people's business, let us pass H.R. 390.

RULE ON VOTE TIME

(Mr. HEFLEY asked and was given permission to address the House for 1 minute.)

Mr. HEFLEY. Let us wait just a minute, folks, with all the screaming and wrapping of the righteous robes of indignation around your bodies about what happened here yesterday. The rule was established at the outset of this session. We are not going to do it like we did in the old days. We are not going to slop over for 30 minutes on the votes. We are going to have 15-minute votes. Those 15-minute votes, because sometimes there are unexplainable circumstances, those 15-minute votes sometimes will wait until 17 minutes. The vote yesterday was 17 minutes. But I guess some Members are slow learners and they habitually wander in here after the 17 minutes and say, one more, one more, let us vote.

We were here. Where were those two Members when everybody else had voted within the 17 minutes? Where were those two Members who feel like they were so wronged yesterday? They had the same time we did. I guess they had things that were more important to do than to be on this floor and vote within that 17-minute limit.

We are here to try to change Congress and change this country. You are just trying to change the subject.

ARROGANT ABUSE OF POWER

(Mrs. COLLINS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Speaker, I have been in this body for 22 long years and never have I seen the arrogant abuse of power that I saw here yesterday.

Now the funny thing about it, I sat here for an hour and a half this morning. Thirty minutes of that time was spent on the vote that was called to vote on the record, a 30-minute vote. Check the video. Check the clock. Check the timekeeper. You will find that is the case.

Now, 30 long minutes, yet you cannot allow a Member time to get here to vote on the floor of the House of Representatives. I say to my colleagues, money is important. Everybody likes money. I like money. The Democrats like money. Republicans like money. But not at the expense should anybody leave this body to go to a fundraiser, a fundraiser in New York when business is going on to represent the people in this country.

The House of Representatives and the millions of people that we represent deserve better than that, deserve to have their voices heard, deserve to have their votes casts by those of us they send here to cast their ballots for them.

Let me tell you something else, money is the root of all evil, and you did an evil thing yesterday when you left here and did not do the people's business.

SETTING THE RECORD STRAIGHT

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, I would like to rise to set the record straight. Yesterday I was in the Committee on Science when the chairman laid out the rules for the vote that was going to precede the vote that came on the floor.

What happened is the opposition to this tried to filibuster in the Committee on Science and then alleged that they missed the votes here. The chairman stayed throughout all debate. He then left the Committee on Science, came here and was able to register his vote. But still the charge is arrogance.

Today I just left the Committee on Science. I just revoted on the very same amendment. It was allowed. We were considerate and yet no apology, just a charge of arrogance. When are we going to have some reality and some consideration on the floor of this House?

I think it is time that we act like gentlewomen and gentlemen as we so profusely proclaim on the floor of this House.

THE REPUBLICANS' ARROGANCE

(Mr. WARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WARD. Mr. Speaker, let us talk about setting the record straight. Listen to this. Listen to this, you people on the other side of the aisle who simply do not get it. This country is about the right to vote.

I was in this Chamber yesterday. I am a witness. I saw it all. There were two Members standing at the very place I stand this minute, filling out cards, attempting to vote, attempting to represent over a million Americans. A million Americans were denied their right to vote yesterday, and why? There are two simple reasons: The Republicans were losing the vote and they could not stand that in this era of lockstep, almost Nazi-esque obedience.

Second, they were going to a fundraiser. It says right here, the GOP went to great lengths to make sure its Members got to the party on time.

Let us do not forget this, my colleagues. It is about their arrogance, and they never apologized for it. They just said: We will let you vote again. That is not right.

LET US GET ON WITH THE PEOPLE'S BUSINESS

(Mr. SAXTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SAXTON. Mr. Speaker, the beltway mentality that exists here never ceases to amaze me. The votes on this issue, had they been cast, would not have changed the result of the vote to begin with. But the real crime here is that the people in my district at least have some real concerns.

For example, I have some senior citizens in my district who are concerned about Medicare. And yet while your party decides that they want to complain and carp about a time limit on a vote, you all suggest that we are not going to deal with the Medicare problem. The President himself has admitted that Medicare goes bankrupt in 7 years. Yet your party decides to refuse to address the issue.

Which is more important? Squabbling about these votes or getting to the business of the people and addressing issues like Medicare?

Mr. Speaker, I am tired of the partisan bickering. I seldom take part in these partisan debates; I prefer to deal with issues, issues like Medicare. Let us get on with the people's business.

WE SHOULD ALL LIVE BY THE SAME RULES

(Ms. FURSE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FURSE. Mr. Speaker, I have a history. I have lived in countries that were not democracies. I want to say something about democracy. In a democracy trust is the major component. In a democracy, it is not the military who makes the rules; we make the rules. We, the people, make the rules, and we trust we will all live by them.

The Republican leadership said there will be 17-minute votes. Yet today we have a 30-minute vote. So who can we trust?

That is why, they say, they denied those two Members coming down from here into the well to vote. I was standing right here, Mr. Speaker. I pointed to those Members. I said, Mr. Speaker, there are Members. It is on the videotape.

Mr. Speaker, if we lost the trust in this institution, we lose what is best about a democracy. We all make the rules. We all live by the same rules.

METHINKS THOU DOTH PROTEST TOO MUCH

(Mr. EMERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMERSON. Mr. Speaker, I have actually sat here this morning and listened to all of the righteous indignation being expressed. There was a perceived wrong in the House, and the majority leader, in an act of magnanimity that I have never witnessed in my 15 years here, and, believe me, when we were in the minority, there were many perceived and real acts perpetrated that were not only perceived, they were real acts of wrongdoing, procedurally. This House was never offered the means to address the perception of wrong, in those days. But now the offer has been made, and it was unanimously agreed to.

I think with what is going on here this morning, there is—I would have to refer a little bit to Shakespeare here: Methinks thou doth protest too much. For the lack of an agenda of substance, you want to quibble about a procedural issue that is, in fact, being addressed and addressed in a very reasonable, up front and correct manner.

THE AMERICAN PEOPLE WERE DENIED REPRESENTATION

(Ms. MCKINNEY asked and was given permission to address the House for 1 minute.)

Ms. MCKINNEY. Mr. Speaker, a frightening thing happened yesterday. Two votes that would have changed the outcome of House action were denied. In addition to the disenfranchisement of two Members, 1 million American people were also denied representation on that vote. What does this kind of capriciousness do to our democracy? What was so important that the business of the House had to be shut down? Was it the "Salute to Newt" that took place in New York last night? What does this say about the integrity of the vote under Republican rule?

Republicans want to deny potential voters with the repeal of motor-voter. Republicans want to deny real voters by invalidating election results in California and North Carolina. And how we see that they are willing to even deny elected Members the right to vote on the floor of the House if it does not fit in with their outcome.

Mr. Speaker, this bodes ill for the people of America. This is going too far. They are extremists, and they cannot be trusted.

U.S. COAST GUARD COMMENDED FOR LEADING FIGHT AGAINST ILLEGAL DRUGS AND VIOLENT DRUG CARTELS

(Mr. ZELIFF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZELIFF. Mr. Speaker, the U.S. Coast Guard is leading the charge against a force that is now our No. 1 national security threat—illegal drugs and violent drug cartels.

Last week, as chairman of the National Security, International Affairs and Criminal Justice Subcommittee, I led a congressional delegation to the front lines in the drug war. We went to the 7th Coast Guard District. What we saw was both impressive and disturbing.

Impressive, because we saw brave men and women in the air and on the sea, putting their lives at risk, in the drug transit zone, hunting narcotraffickers. They are out there protecting our kids and our grandchildren. And they need our help.

Disturbing, because our Nation has badly underestimated the threat posed by drugs and the drug cartels. The interdiction effort needs our support. Congress and President Clinton have to lead.

In the past 2 years, drug use has skyrocketed. But the priority on drug interdiction has fallen. We flew in Falcon jets. But 4 of the region's 10 Falcons have been retired. We flew in HH-60 helicopters. But the pilots have lost radars, aerostats, and their only C-130 AWAC. Resources are at rock bottom, when they should be at the top.

We saw 5,000 pounds of drugs interdicted by the brave souls on the Coast Guard Cutter *Mellon*. But the raw truth is: The drug cartels are killing us as surely as any foreign enemy. It has got to stop.

From the frontlines, I say to my colleagues and I say to President Clinton, let us get drugs at the top of the national agenda.

To the Coast Guard I say, thank you. You are doing important and dangerous work, and we appreciate it.

CORPORATE FAT CATS

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, let us put a little focus on what this article points out. The reason we adjourned the House early on Wednesday afternoon, what every other American thinks is a regular workday, we adjourned early afternoon so people could run to corporate jets owned by tobacco companies and insurance companies, so they could traipse off and go to New York City, where the New York fat cats were waiting to stuff their coffers with money. If they kept those fat cats waiting, they might not have stuffed so much in the pocket.

Mr. Speaker, I am one of the people who, after the first 100 days, went to this dome, and some were angry for holding up a sold sign, but let me tell the Members, every day it appears to me we are selling this place out. I do not want this to become a coin-operated legislative machine.

Yes, have fundraisers, but have them at night, have them on weekends. Do not have them on Wednesday afternoon with corporate jets escorting Members back and forth, so they do not upset the fat cats, so they will give them lots of money. That is why the American people are really concerned about this sacred trust we have called democracy. It is not totally dead yet, but I will tell the Members, it is in danger, as of today.

GAMES IN THE HOUSE

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, there is sanctimony dripping from the ceiling. I want to set the record straight. I see my colleague, the gentleman from California [Mr. FAZIO] standing here. I would remind the gentlewoman from Colorado [Mrs. SCHROEDER], who just stood and talked about scheduling events on weekends and at times the House is not in session, that the gentleman from California [Mr. FAZIO], chairman of the DCCC, used to come to me and say "We are going to have an event. We would like to make certain that votes are not called during that time." We always obliged. I think there was always comity between the two sides of the aisle.

We held an event, that side holds events. Both sides do it. This vote had nothing to do with the scheduling of our event. It had everything to do, though, with games being played here in the House that had nothing to do with the NRCC's event last night. However, we certainly will remember that advice in the future, when it comes to scheduling events, and certainly keep an eye on that side's, also.

RECOGNITION OF THE SOUTHERN BAPTIST CONVENTION'S RESOLUTION, JUNE 22, 1995

(Mrs. MEEK of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MEEK of Florida. Mr. Speaker, I am delighted to stand here today to recognize the bold and courageous step the Southern Baptist Convention took during its annual convention. As many of you know, its members passed a resolution acknowledging and asking forgiveness for past acts of racism.

The Southern Baptist Convention was created in 1845 when some members split from the American Baptist Convention over the question of whether slaveowners could be missionaries.

In 1989, its members moved toward this historic resolution when they declared racism a sin.

This resolution commits its members to eradicating racism in all its forms from Southern Baptist life and ministry. I pray, Mr. Speaker, that others would follow the example of the Southern Baptist Convention so that our great Nation can be all that it can be, utilizing the full potential of all its citizens regardless of race.

A LITTLE HYPOCRISY IN COMPLAINTS

(Mr. LATHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATHAM. Mr. Speaker, I have been listening to this debate up in the office. I just happened to see Roll Call this morning. It concerned me that maybe we have a little bit of hypocrisy going on today.

There is an article here entitled "Party Weekend."

> The Democrats are holding a retreat for big donors at the notorious Greenbrier resort in White Sulfur Springs this weekend. The price of admission is $10,000 for individuals, $15,000 for PAC's. There will be some time for discussion, but most of Saturday is free time for golf, tennis, swimming, horseback riding, and visiting the spa. The Greenbrier retreat is one of six events the Democrats are holding for big donors this year.

Mr. Speaker, let us get some reality here. All this rhetoric is quite disingenuous.

AMERICA IS NOT YET A COLOR-BLIND SOCIETY

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, let me be the first today to welcome all of our colleagues to the new colorblind society. Mr. Speaker, the Speaker himself has said just as late as last week that we were not there yet, but we are. Let us just put down all the weapons we used to get here to the promised land of equality and cooperation.

Mr. Speaker, what are the signs that we are here in this land of milk and honey? The Supreme Court last week in the Adarand decision told us, and today in the Committee on Banking and Financial Services, we will put yet another nail in the coffin of inequality in fair housing and lending.

News flash, we are not there yet. By taking one of the best weapons we have away from the Attorney General to use testers, qualified minority and nonminority applicants who root out bigotry and discrimination in housing, we have taken a bad detour back to the past.

Shame on those who falsely welcome us to this color-blind America. We are not there yet, Mr. Speaker. Only last week U.S.A. Today reported that there is still discrimination in housing in this land. There is still discrimination in fair lending practices. Mr. Speaker, let us move toward a color-blind society, but we are not there yet.

HOW REPUBLICANS MAKE LAW: LET LOBBYISTS DO IT

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, the Republicans promised some sweeping changes in how Congress works. In one way, they have certainly delivered.

The Democratic Study Group is today releasing a special report that describes just how this Republican Congress has turned over the reins of congressional power to special interest lobbyists.

Lobbyists have been brought in from the corridors of the Capitol and given a seat of power, where they are performing the functions that are the legal and moral responsibility of Members and staff. These paid agents of private interests are dictating the wording of legislation, conducting official staff briefings advising committee counsel during bill markups, drafting official committee reports, and even sitting on the dais during hearings.

Mr. Speaker, it is one thing for lobbyists to give advice and suggest bill language. It is quite another for these agents of private interests, interests with a financial stake in the outcome, to perform the core responsibilities of congressional staff and Members.

Mr. Speaker, this is the business of legislating. It is the public's business. It is to be conducted only by those who are accountable to the public.

PERMISSION FOR COMMITTEES AND SUBCOMMITTEES TO SIT FOR THE REMAINDER OF THE WEEK DURING THE 5-MINUTE RULE

Mr. ARMEY. Mr. Speaker, I offer a privileged motion and ask for its immediate consideration.

The SPEAKER pro tempore (Mr. GILLMOR). The Clerk will report the motion.

The Clerk read as follows:

> Pursuant to clause 2i of rule 11 Mr. ARMEY moves that all committees and subcommittees of the House be permitted to sit for the remainder of the week while the House is meeting in the Committee of the Whole House under the 5-minute rule.

The SPEAKER pro tempore. The gentleman from Texas [Mr. ARMEY] is recognized for 1 hour.

Mr. ARMEY. Mr. Speaker, I will not take my whole hour.

Mr. Speaker, let me just say, this is a routine matter. It is a fairly normal thing we have been doing here in order to enable our committees to work while the House proceeds with business. Of course, we do this in all due consideration to all our Members, but also, of course, in due consideration of the fact that the people's work must be done.

Mr. Speaker, I reserve the balance of my time, with the exception that I will yield 15 minutes to the gentleman from Texas [Mr. DOGGETT] for the purpose of debate only.

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding time to me, and would like to be heard in opposition to this motion.

Normally, Mr. Speaker, it would be my feeling that this House should proceed in all due speed to attend to matters, certainly on the Committee on Science on which I serve. However, yesterday we had an incredible display of arrogance in that committee. It is not the first time that it has happened, unfortunately.

That is that after the bell had rung for Members of the Committee on Science to come to the floor of this house and cast their vote on behalf of the over half a million people that each of those Members represent, after that bell had rung, the chairman of the committee attempted to force the committee to vote in committee at the same time, several blocks away from where they were being asked to vote on the floor of this House.

The effect of that action is to deny that half a million Americans the opportunity to cast their vote either in the committee or on the floor, since even the Committee on Science, as advanced as its outlook might be, has not figured out a way to have Members of Congress sit in two places at the same time.

Therefore, Mr. Speaker, with this having happened on a prior occasion, I began talking about this in the Committee on Science in hopes that there would be an opportunity to simply have the common decency and the common courtesy to postpone the vote until immediately after the vote here, because several members of the Committee on Science, Democratic members, had already left, realizing how really critical this vote was on the floor of the House concerning, ironically, the Office of Technology Assessment, a matter that relates directly to the jurisdiction of our committee.

Those members left. They included the distinguished gentlewoman from Michigan, LYNN RIVERS. Ms. RIVERS, as she told the House yesterday, has never missed a vote on the floor of this House. She has never missed a vote in any of the committees on which she served until yesterday. The only reason that she missed that vote was the vote was forced while she was trying to cast her vote on the floor of the House, the vote was forced in the Committee on Science.

Mr. Speaker, I talked for 5 minutes, asking for the opportunity to simply delay the vote until such time as all our Members could return, and that opportunity, that common courtesy, was rejected. It is for that reason that I oppose this motion, because I think that the House needs to make a statement that we will not place any Member of this House, Democratic or Republican, in the position, the dilemma, of deciding shall I vote on the floor for my constituents, shall I vote on the committee to which my expertise is called?

Mr. Speaker, none of this would have been necessary yesterday. None of this rush to justice would have occurred had it not been, as several Members have pointed out this morning, for the fact that some of our Republican colleagues just could not move fast enough to get to that big bucks fundraiser up in New York City, where all of the corporate elite was gathered to shower down benefits on them. There is nothing wrong with having a fundraiser. They do go on all the time on both sides. It is the only way this place seems to be able to operate.

However, what is wrong is when democracy is trampled in the process, and people are cut off and denied their right to vote, be it on the floor or in an important committee of this House like the Committee on Science.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, I think we all recognize that immediately following the disposition of this motion by the floor leader, that we are going to be back on the legislative branch appropriation bill. The very first vote is going to be, again, on OTA. At least that is being corrected.

However, then we are going to follow with other votes about 10, 11 minutes apart. We are going to have other amendments and they each have about 10 minutes to them. Those are very important amendments. Those on the Committee on Science are going to have to stay over there and not listen to the debate.

Mr. DOGGETT. They are over there right now meeting. That is the problem. They cannot be in two places at once.

Mr. VOLKMER. If the gentleman will yield further, they do not know what is going on, Mr. Chairman. They have to run over here and try to make this vote. If the chairman does like he did yesterday and calls for votes, we are back in the same pickle all over again.

Would it not be better for the Committee on Science just to say no, we will not finish up today, we will come back in next week and we will finish up, at a time when it is not going to interfere with Members trying to do two things at one time?

Mr. DOGGETT. Perhaps at a time when simple common courtesy and decency and collegiality could prevail, instead of pomposity and arrogance, which is what we have had too much of.

Mr. VOLKMER. Mr. Speaker, I thank the gentleman for yielding.

Mr. DOGGETT. Mr. Speaker, I might point out what happened yesterday as it relates to what occurred here on the floor. I know the gentleman is interested in the total inconsistency, because when we did rush over here, literally in a gallop from way over at the Rayburn building, to try to be two places at once, we found, or I did, in response to a parliamentary inquiry, that a phone call had been made, and that the vote had been extended far beyond 17 minutes, but that was the vote immediately before the one that was cut off a few seconds shy, and 1 million Americans' right to vote shy, of being able to be cast here.

Mr. VOLKMER. If the gentleman will continue to yield, Mr. Speaker, if the gentleman and other Members of the minority had been informed by the chairman of the Committee on Science that that phone call was being made, and that there would be sufficient time for the gentleman to respond to the rollcall vote over here, he would not have had to run over here right away

□ 1145

You were not told that, were you?

Mr. DOGGETT. We heard nothing of it. It would have allowed those Members like the gentlewoman from Michigan [Ms. RIVERS] to keep her 100-percent voting record for the people of Michigan.

Mrs. SCHROEDER. Mr. Speaker, will the gentleman yield?

Mr. DOGGETT. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. I really thank the gentleman from Texas for his leadership on this. I know in Judiciary, we were confronted with exactly the same thing the day before. That after the second bell I left to come here to vote because I thought the 15-minute thing was legit and I guess my mother emphasized promptness too much. I left, I came over here, went back and found out that they had a rollcall and so I had not been able to participate in the rollcall in Judiciary.

Look, during the first 100 days, I think our side cooperated when we had this 15-ring circus going on. But at this point when you have got committees that are doing markups and hearings and meanwhile having issues on the floor that the committee is also interested in at the same time, I would think what we are really saying is we are just running around here voting and people do not have any time to really focus on these tough issues. I think the people expect a little more of us. They expect us to work later than 3:30 in the afternoon and in the middle of the week, knock off to go to New York City and whatever.

I think the gentleman is making an excellent point and I would hope that everybody could get some idea of what the rules are. Are we going to have committee votes after the second bell? Are we going to have them after the third bell? Are we going to be able to hold the thing open down here if that is happening? Who has the clout to do it? Is it only people on that side of the aisle? People on this side do not have that clout? These are serious issues.

Mr. DOGGETT. They are serious issues, because democracy has to work both ways. It has to be the same rule for Democrats and Republicans and people of no party affiliation. I certainly do not object to their need to rush off to a fundraiser in Manhattan with the tobacco lobbyists and the other big corporate interests, buy why is it that the people's workday had to be cut short in the middle of the afternoon? The folks I represent down in Texas do not usually get off at 3 or 4 in the afternoon to head off to some big bucks party. They have to stay and put in at least their full 8 hours of labor. Had these folks been willing to put in their full 8 hours of labor and then catch their corporate jet to New York and enjoy the chance to be wined and dined with the big corporate lobbyists, then we would not have had this problem. We could well have permitted people to vote in due order in the Committee on Science and to vote here on the floor of the House without rancor, without any kind of interruption or disruption such as we have had, and we would be much further along on the people's business today had these nasty incidents, one here on the floor of the House, one in the Committee on Science, totally uncalled for, totally unnecessary, had those no occurred.

Mrs. SCHROEDER. If the gentleman will yield further, I think the gentleman is making an excellent point. That what we are talking about is by trying to compact the day into just a few hours so it is convenient for jetsetters, or fat cats, so they don't have to be kept waiting and whatever is wrong. You do your business first and then you do the other thing. We understand that.

If people say, "Well, we don't want to work late that night," that may be one thing. But 3:30 in the afternoon is not really late. I think that most people would be very surprised by that. But I think basically what Members want to know is what are the rules around here? How many times can we have votes? How late are they going to be? Are we going to have to start choosing between where our vote is recorded? And it is not our vote. It is the vote of the people we represent. I think that is the thing we have to keep focusing on. People expect their voice to be heard here and Members are now being forced to choose between where they are going to cast their vote since we do not really quite know what the new rules are. I thank the gentleman for pointing this out.

I hope people vote "no." I think we have got to get a little more in order here.

Mr. DOGGETT. I think there is no doubt about the outcome of this vote on my objection than any of the other votes that we have had this time. But I would commend to the majority leader the leadership of a member of the majority of the subcommittee on which I serve on the Committee on Science, the distinguished gentleman from New Mexico [Mr. SCHIFF], because we went through a subcommittee hearing on some of the same legislation being considered in the Committee on Science. It was without disruption, it was without ill feeling, even though we disagree on some of the substance as much as with any member of the full committee. That is the way that the committees and the subcommittees of this Congress need to be operated.

The people did not ask for us to come here and get engaged in some kind of partisan tussle. They simply wanted a full exchange of ideas where every Member is accorded the dignity of a vote, to represent their constituents.

I would ask the distinguished majority leader, whatever the outcome, perhaps the predetermined outcome of this vote, to simply work with us to see that this does not happen again, to see that Members are not forced to a choice between representing their constituents within a committee and representing them on the floor of the House. That is what all this is about, so that there can be informed representation, fair representation. We ask for no special privilege on the Democratic side, only the opportunity to represent our constituents and hopefully work toward a bipartisan answer to some of the problems that this country faces.

I know that there will be times when the crush of campaign duties may draw people away. But let that not be at the expense of the normal workday. There is no reason why this body cannot work until at least 5. There will be plenty of time to fly off in the corporate jets and deal with the contributors that I know are so vital to the Republican Party. They can do that and still conduct the people's business in a fair and proper way.

I think that yesterday democracy was trampled twice, once on the floor of this House, once in the Committee on Science. Let us see in today's action that in addition to revotes, that we actually have a commitment to reform.

When I came here in Congress for the first day in January of this year, I have to admit that I was not all that happy about finding myself in the minority. But I will also admit that I was quite happy to see Republican colleagues saying they were going to shake this place up. I think business as usual needed to be shaken up in this place. If I have any disagreement with them now, it is not that they shake too much but that they did not shake enough. When things like this happen, it suggests we are right back to business as usual.

It is not enough to say, "Well, that's the way somebody else did it 10 or 20 years ago." These are supposed to be revolutionaries, committed to revolutionary change in this House. It is nothing but revolting to see what happened yesterday. We do need revolutionary change in this House, and I think that assuring that every Member gets to cast their vote fully and fairly in committee and on the floor of the Congress is absolutely vital to that reform.

If we can combine with that opportunity some affirmative and immediate action, if we could have as much of a rush to true campaign finance reform, as much of a rush to a gift ban and free trips and this kind of thing, to changing our rules to deal with that as there was a rush to justice yesterday to get to that fund-raiser up in Manhattan, we would begin to reform this system so that people had not only their full 100-percent right to vote on the floor of this House and in the Committee on Science but so that our citizens were dealt with fully and fairly, so that the ties that seem to bind too many Members of this body to the lobby, the gifts, the freebies, the free trips, so that those would be ended, as my colleague the gentleman from Texas [Mr. BRYANT] has been trying to do with a true gift ban limitation in our rules but which we cannot get up for a vote on the floor of this House. Maybe we could have done that after 4:00 yesterday. Likewise, so that we could move forward as there appeared to be some bipartisan support for moving forward earlier in the week but it seems to have vanished away, to do something about campaign finance reform.

That gets to the heart of real reform, to genuinely shaking this body up and giving the American people the kind of reform that they need to have a Congress that is responsible first and foremost to the people that are struggling to climb up that economic ladder instead of tilting all of the benefit to those who are sitting comfortably on top. That is what this is about.

I object and ask for a "no" vote on this attempt of the Committee on Science to continue to operate under the same old procedures. I ask that we assure democracy and fair play for our constituents as well as our Members and hopefully put some genuine meaning in the term "reform."

Mr. ARMEY. Mr. Speaker, I yield myself such time as I may consume. I have just a few more comments before I yield back the balance of my time.

Mr. Speaker, I want to thank the gentleman from Texas for his remarks. I am sure we would all agree they were very entertaining.

I should say, Mr. Speaker, the gentleman from Texas has clearly demonstrated, I think, to the satisfaction of this entire body that he does moral outrage very well. But I must admit, he is far more entertaining when he does wide-eyed innocence, and I should hope that I will not have to experience the performance again in the future.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. ARMEY].

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. ARMEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

This is a 17-minute vote.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 232, nays 187, not voting 15, as follows:

[Roll No. 409]

YEAS—232

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn

Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—187

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Sisisky
Skaggs
Skelton
Slaughter
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—15

Ackerman
Browder
Chapman
Dornan
Harman
Kennedy (MA)
Laughlin
Moakley
Mollohan
Schiff
Schumer
Serrano
Torres
Waters
White

□ 1214

Mr. METCALF changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE BRANCH APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore (Mr. GILLMOR). Pursuant to House Resolution 169 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1854.

□ 1217

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes, with Mr. LINDER in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Wednesday, June 21, 1995, amendment No. 5 printed in House Report 104-146 offered by the gentleman from California [Mr. FAZIO] had been disposed of.

DE NOVO VOTE ON AMENDMENT OFFERED BY MR. FAZIO OF CALIFORNIA, AS AMENDED

The CHAIRMAN. Pursuant to the order of the House today, the Chair will now put the question de novo.

The question is on the amendment offered by the gentleman from California [Mr. FAZIO], as amended.

Mr. FAZIO of California. Mr. Chairman, I ask unanimous consent that the gentleman from New York [Mr. HOUGHTON] be allowed to speak out of order for 2 minutes in order to underscore and explain the amendment that is about to be voted on.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

Mr. PACKARD. Mr. Chairman, reserving the right to object, I will only consent to this request if we are given equal time.

Mr. FAZIO of California. Mr. Chairman, will the gentleman yield?

Mr. PACKARD. Further reserving the right to object, I yield to the gentleman from California.

Mr. FAZIO of California. Mr. Chairman, I would amend my request.

The CHAIRMAN. The unanimous-consent request now is that the gentleman from New York [Mr. HOUGHTON] will be given 2 minutes, and the gentleman from California [Mr. PACKARD] will be given 2 minutes.

Mr. PACKARD. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN. The gentleman from New York [Mr. HOUGHTON] will be recognized for 2 minutes, and the gentleman from California [Mr. PACKARD] will be recognized for 2 minutes.

The Chair recognizes the gentleman from New York [Mr. HOUGHTON].

PARLIAMENTARY INQUIRY

Mr. HOUGHTON. Mr. Chairman, rather than exercising my right to speak for 2 minutes, maybe I can handle this through a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HOUGHTON. Am I right that this is a revote on the Fazio amendment, amended by me yesterday?

The CHAIRMAN. The gentleman is correct.

Mr. HOUGHTON. I thank the Chair.

Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. FAZIO].

Mr. FAZIO of California. Mr. Chairman, I appreciate the gentleman yielding me the time.

I would reserve the balance of my time if the gentleman has yielded it to me.

Mr. PACKARD. Mr. Chairman, I would like to close on this, so I will reserve the balance of my time.

PARLIAMENTARY INQUIRY

Mr. WATT of North Carolina. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. WATT of North Carolina. Mr. Chairman, under what authority would the gentleman have the right to close on a unanimous-consent request that was divided?

The CHAIRMAN. The gentleman from California [Mr. PACKARD] is the manager of the bill.

Mr. WATT of North Carolina. But this is not on the bill. Under what authority would he have the right to close? This is a unanimous-consent request.

The CHAIRMAN. This is additional controlled debate, permitted by unanimous consent, on an amendment to the bill.

Mr. FAZIO of California. Mr. Chairman, I know we have had a lot of discussion this morning about Members who are aggrieved by the circumstances that occurred when this was last voted yesterday, and I certainly relate to the gentleman from Alabama [Mr. HILLIARD] and the gentleman from Pennsylvania [Mr. FOGLIETTA] and their concerns, but I think there is another individual Member who has been aggrieved as well, and I think that is the gentleman from New York [Mr. HOUGHTON].

The gentleman from New York [Mr. HOUGHTON] worked very hard to bring to the floor a compromise amendment which allowed for a reduction in OTA of some $7 million, and yet under the aegis of the Library of Congress, kept this very important scientific advisory entity in existence. He worked his side of the aisle, and he found a majority; he found it once, and I believe he found it twice.

He brings the perspective of perhaps the most successful businessman in this institution to this issue. He has made clear that he believes cutting our research and evaluation capability is not the way to downsize an institution, even the Congress of the United States.

I hope when all Members choose their decision to vote now for the third time on this issue, they will affirm his position, they will vote to support his perspective and, I think, as well, will vote to confirm the fact that when you work the system right here in the Congress, no one, majority or minority, should be able to deprive you of having your day in court, the court of public opinion here on the floor of the House of Representatives.

I ask for an "aye" vote on the Houghton-Fazio amendment.

Mr. PACKARD. Mr. Chairman, this is an amendment that will preserve OTA but transfer it to the Library of Congress.

The committee, in their bill, wants to allow the functions of OTA to be done at the Library of Congress or at other agencies that do scientific studies and reports that duplicate what now the OTA does, but the bill eliminates OTA.

This amendment will preserve OTA, but transfer it to the Library of Congress. We think that if we are going to streamline, downsize, and consolidate duplicating services, the committee bill already does that.

I must mention that the Speaker very strongly does not support this amendment and very strongly does not support gutting the Library of Congress. This amendment will take $16.5 million out of the Library of Congress. The Library of Congress would have to discontinue many of its functions in terms of its basic and core functions, in terms of cataloging. It would prevent a full quarter of the cataloging necessary for its new holdings, and it would also take away some of the services to the public. It would cut the preservation program by 15 to 20 percent.

It would also cut the infrastructure support, the automation program, personnel, and procurement processes. It would deeply hurt the Library of Congress.

I urge the Members to vote against this amendment and to defeat the amendment to preserve the OTA, and to support the Speaker.

The CHAIRMAN. All time has expired.

The Chair will now put the question de novo.

The question is on the amendment offered by the gentleman from California [Mr. FAZIO], as amended.

The question was taken; and the Chairman announced that he was in doubt.

RECORDED VOTE

Mr. FAZIO of California. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 220, noes 204, not voting 10, as follows:

[Roll No. 410]

AYES—220

Abercrombie
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Cardin
Castle
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Ehlers
Emerson
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (NJ)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gonzalez
Goodling
Gordon
Green
Gunderson
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hastings (FL)
Hayes
Hefner
Heineman
Hilliard
Hinchey
Holden
Houghton
Hoyer
Hyde
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
LaFalce
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Quinn
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roberts
Roemer
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sawyer
Schiff
Schroeder
Scott
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torkildsen
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—204

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehrlich
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gillmor
Goodlatte
Goss
Graham
Greenwood
Gutknecht
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Inglis
Istook
Johnson, Sam
Jones
Kasich
Kelly
Kim
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Packard
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Radanovich
Ramstad
Regula
Riggs
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanders
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Taylor (NC)
Thomas
Thornberry
Tiahrt
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—10

Ackerman
Chapman
Harman
Laughlin
Moakley
Parker
Schumer
Serrano
Solomon
Torres

□ 1241

Mr. SMITH of Texas changed his vote from "aye" to "no."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. HARMAN. Mr. Chairman, I was unavoidably absent during rollcall 410 to restore funds to the Office of Technology Assessment. Had I been present I would have voted "aye."

The CHAIRMAN. It is now in order to consider amendment No. 7 printed in House Report 104–146.

AMENDMENT OFFERED BY MR. CLINGER

Mr. CLINGER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CLINGER: Page 20, after line 10, insert the following:

In addition, for salaries and expenses of the Congressional Budget Office necessary to carry out the provisions of title I of the Unfunded Mandates Reform Act of 1965 (Pub. L. 104-4), as authorized by section 109 of such Act, $1,100,000.

Page 26, beginning on line 12, strike "operation and maintenance of the American Folklife Center in the Library;".

Page 26, line 19, after the first dollar figure, insert the following: "(less $1,165,000)".

The CHAIRMAN. Pursuant to the rule, the gentleman from Pennsylvania [Mr. CLINGER] and a Member opposed will each be recognized for 5 minutes.

Who seeks time in opposition?

Mr. FAZIO of California. Mr. Chairman, I am in opposition to the amendment and would request the allocation of time.

The CHAIRMAN. The gentleman from California [Mr. FAZIO] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, at the outset I say that anybody who supported the unfunded mandates legislation which we passed earlier this year and which passed by an overwhelming vote, 390 Members in favor of that legislation, should indeed support this amendment. As I said at the time we debated the unfunded mandates legislation, this could be an effective way to reorder the Federal, State, and local relationship. It could also be an effective way to relieve the burdens which we imposed on State and local governments, but only if we were able to implement the law properly, and the CBO plays a vital role in the implementation of the unfunded mandates legislation. CBO must do the estimating as to whether or not the threshold of $50 million nationwide impact is reached or not. If it is not reached, then there is not a point of order lies. If it is reached, then a point of order does lie. The whole credibility of the unfunded mandates legislation would be called into question if those estimates are not accurate. If, in fact, they can be challenged or questioned or found to be somehow ineffective, then I think we lose the legislation.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CLINGER. Mr. Chairman, I yield myself 30 seconds.

What we have done is provide an offset of $1,100,000. That is not really sufficient to do the job CBO is charged to do under this legislation, but it will give them a good start on accomplishing that. We offset it from the Folklife Center in the Library of Congress. This is a program that is not authorized, it was not reauthorized. It is a program that receives a large amount of private sector funding, and we would encourage that to continue. It is also a program that frankly should go into the private sector for funding.

Mr. Chairman, I reserve the balance of my time.

□ 1245

Mr. FAZIO of California. Mr. Chairman, I yield 1 minute to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, my concern is about the Folklife Center, which I know through personal experience to be a most useful entity and function of the Library of Congress. I visited with Chairman CLINGER and Chairman PACKARD about this issue, and they have assured me, and I would like to engage the gentleman from California in a brief colloquy, that this function will not be decimated, that it will simply be rearranged. Am I correct in that understanding?

Mr. PACKARD. Mr. Chairman, will the gentleman yield?

Mr. EMERSON. I yield to the gentleman from California.

Mr. PACKARD. Mr. Chairman, I think the American Folklife Center is important and ought to be retained. I cannot assure the gentleman from Missouri that it will be retained, because that will be a function of trying to work out this cut to the library appropriation. But certainly I would work toward that end.

Mr EMERSON. Mr. Chairman, reclaiming my time, I thank the gentleman. I know his commitment to the Folklife Center, and would like, as the process moves forward, to continue to work with him, and also in the authorization process, to ensure that this most vital function is indeed retained.

I thank the gentleman for his generosity in yielding.

Mr. CLINGER. Mr. Chairman, I am pleased to yield 1 minute to the gentleman from Virginia [Mr. DAVIS], a very valued member of the committee.

Mr. DAVIS. Mr. Chairman, why are we cutting the American Folklife Center? It is a great program, but I think the money can be raised from the private sector. It does not have to come from the governmental sector. More importantly, this money was deauthorized and is not authorized. This money is appropriated but does not have the proper authorization at this point.

Why reprogram dollars to the Congressional Budget Office? I think the answer is very simple. Without this amendment, the unfunded mandates legislation that we passed in a bipartisan manner, both Houses of Congress, signed by the President, will have no teeth, because the CBO, who does the estimating on the costs of each mandate so that we will know what they will cost States and localities and the private sector, will not be able to do it. It will be gutted completely.

Let us not undo the unfunded mandates reform that a bipartisan Congress and the President passed this spring and the President signed into law. Without this amendment, that is exactly what we are doing. So I rise in support of the Clinger amendment.

Mr. FAZIO of California. Mr. Chairman, I yield myself such time as I may consume.

I simply want to say at this point I am in a difficult position. I have been urging the chairman of this committee to provide additional funding to CBO. I do think they are going to need at least $2.5 million to take on their new responsibilities. The gentleman from Virginia, Mr. DAVIS, I think just outlined, as Chairman CLINGER has, the responsibility that we have to give CBO the resources to do what we have just asked them to do in the first 100 days of this Congress.

But I do not want to do it on the back of the Folklife Center. The gentleman from California [Mr. THOMAS], the chairman of the House Committee on Oversight, tells us that they will take up the authorization of this entity in due time. But if this amendment is adopted, there is obviously insufficient support for it, and therefore he may not even take up the authorization.

I think people who believe that the Folklife Center has value, as I do, ought to vote against this amendment, and we ought to find additional 602(b) allocations to this subcommittee to help CBO when we get to conference. This is obviously a conferrable item with the Senate, a joint item we will both have to consider.

Mr. Chairman, I yield 1 minute to the gentleman from South Carolina [Mr. SPRATT].

Mr. SPRATT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to say to the Members of the House who do not know what the American Folklife Center is, I did not either, until I came on the House a couple years ago and we had an authorization bill under suspension, and I was told at the door that this was Lawrence Welk's homestead all over again. So like a hoard of other people, I voted no, only to get back to my office and have a phone call from a constituent, who happened to be chairman of the board of the American Folklife Center.

I learned out in a hurry what it was all about. I want to say now I am a believer. I have seen it. There are about 12 full-time equivalents there. Last year they served the needs of 9,000 researchers, a wonderful repository of American folklife and folklore.

One small example of what they do: Years ago, wax cylinders were made recording Indian chiefs and Indians of western tribes, recollections of their tribe, native music and things of this kind. These were languishing somewhere in the Library of Congress. This organization brought them forth, perfected them, made them into digitized CD-ROM's, and now we have that resource preserved. We need some organization that is committed to this. For $1.25 million, surely we can continue this kind of enterprise.

Mr. CLINGER. Mr. Chairman, I yield myself 15 seconds merely to say last year the American Folklife Center raised $330,000 in private funding. It obviously does attract a great deal of private support. The other point I would make is that under our amendment, we do in no way limit the Library of Congress in the ability to apply funds to that purpose, if they so choose.

Mr. Chairman, I am pleased to yield 30 seconds to the gentleman from California [Mr. PACKARD], the chairman of the subcommittee.

Mr. PACKARD. Mr. Chairman, I will take a short time just to say I am not going to actively oppose this amendment, but I do have some concerns about continually raiding the Library of Congress. The last amendment that passed was $16.5 million. This is another $1.165 million. That does give me some concerns. I hope we can find a way to protect and preserve the American Folklife Center.

Mr. FAZIO of California. Mr. Chairman, I yield 1 minute to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I sympathize with the motives of the gentleman. He has to find money for the unfunded mandates. But clearly the American Folklife Center is not the place to cut, and would be a devastating cut. What we are basically doing is hurting the culture, the diverse culture, of this country.

This Library of Congress Folklife Center has 1.5 million manuscripts, sound recordings, photographs, films, and periodicals. It is unique in the world. It reveals our history through collections of conservations, arts, crafts, songs, traditions of everyday Americans, our cowboy history, our native American history, our Mexican-American history.

I have had many constituents call with great concerns about what this cut would do. This is not the right thing to do. We should not go after this center that is good, that is well-managed, and I urge my colleagues to defeat the amendment.

Mr. Chairman, I rise today to oppose the Clinger amendment because I believe there is nothing more sacred to the people of this country than our rich, diverse culture.

The American Folklife Center housed in the Library of Congress maintains 1.5 million manuscripts, sound recordings, photographs, films, and periodicals. It is unique in the world. It reveals our history through collections of conversations, arts, crafts, songs, and traditions of everyday Americans.

My State of New Mexico has a particularly diverse history. Ranchers rose every day of their lives to herd cattle and sing songs around the campfire during cattle drives and the Folklife Center provides the only recordings and conversations we have of this folk cultures.

Mexican-Americans in New Mexico settled this country long before Columbus landed on Plymouth Rock. Their rich contributions to our culture should be and are chronicled in the John Donald Robb collection of Spanish-American folksongs and similar artifacts.

New Mexico is also blessed with a rich Native American culture. The American Folklife Center documents that culture with early recordings of Zuni songs and folklore, which date back to 1890. There are also recordings from the eight Pueblos in northern New Mexico, and materials from the Mascalero and Chiricahua Apache peoples.

As a nation, we have done more to destroy native American culture than to preserve it; recent appropriation bills would kill all funding for the National Museum of American Indian that would have been built here in Washington. Let's do the right thing and preserve the American Folklife Center collection of native American culture.

The American Folklife Center brings history to life like no other museum we have. It keeps pieces of our history alive for future generations to understand. When our children want to know what songs their relatives sang, or what native American language sounded like 100 years ago, the Folklife Center can provide that information.

The center has been part of the Library of Congress since 1928—it survived the Depression and post-World War II downsizing, surely we can preserve it now.

It is internationally renowned and heavily used. It's the sort of education that we must continue to cherish and fund.

The center's budget includes not just programs but collections. Its Archive of Folk Culture contains nearly 1.5 million sound recordings, photographs, manuscripts, and other unique materials representing American and (to a smaller extent) world folk music, folklore, and folklife traditions.

The Archive has been part of the Library since 1928, surviving the 1930's, the post-WWII downsizing, and other vicissitudes. It is internationally renowned and heavily used. Users include researchers, publishing and record companies from the private sector, and members of the communities documented in the collections. Its American Indian holdings alone are unparalleled in the world; its African-American holdings are unequalled. Every State, every region, and nearly every ethnic group are likewise represented.

The collections-based portion of the center's budget amounts to approximately three-fourths of the total budget; the other one-fourth covers programs and general operations overhead.

The center in 1994 raised or leveraged funds amounting to about $350,000, or one-third again the appropriated budget. Fund-raising will continue to increase. But fund-raising for the basic collections support is difficult if not impossible. That base of public support, for the center and the Library as a whole, is what the public as well as donors expect the Congress to fund.

Some supporters of the idea of removing the center's budget cite the Western Folklife Center in Elko, NV, as an example of a folklife center succeeding on private funding. This is not true, as the artistic director of the Western Folklife Center, Hal Cannon, testifies. First, that center has benefited greatly from tax-based support—Federal, State, and local. Second, the Western Folklife Center does not have the responsibility for a unique and heavily used national archive of 1.5 million items; the personnel to support such a collection adequately—acquisitions, processing, preservation, reference services—cannot be maintained by raising private funds.

Mr. CLINGER. Mr. Chairman, I am very pleased to yield 1½ minutes to the gentleman from California [Mr. CONDIT], a very valuable member of the committee, a supporter of this legislation, and a cosponsor of this legislation.

Mr. CONDIT. Mr. Chairman, in March the President signed the Unfunded Mandate Reform Act into law. We all debated that issue on the floor, and we are all well aware we needed to take action that would require us under the new law to come up with money to pay for the studies that CBO had to do.

That is basically what we are doing here today, is meeting our obligation to come up with some money. It is probably not enough money. We will have to do this again. It is unfortunate we have to take the money from the American Folklife Center. I understand that and am sympathetic to this. Somebody needs to speak on behalf of local government, county government, and State government on this issue. We have to do an assessment of the mandates so that we can get an actual cost. That is basically what we are doing today. We are doing it for local and State governments, and we need to be supportive of that amendment.

In addition to that, it has been mentioned, and I will reiterate for the Members on our side, this is an activity that has the support of the private citizens, and they can raise the money and it is a way for us to go. I am just saying we can move to the private sector and we can raise some money to help this American Folklife Center, as well as the gentleman from California [Mr. FAZIO] mentioned that we might be able to conference this and work out another solution. If we can do that, that is great.

But we have to fulfill our commitment on the unfunded mandate. The President signed the law. We in Congress need to come up with this component to make it happen. So ask all

Members to vote in support of the amendment.

Mr. CLINGER. Mr. Chairman, I yield 15 seconds to the gentleman from Ohio [Mr. PORTMAN], an architect of the unfunded mandates legislation and a strong supporter of this amendment.

Mr. PORTMAN. Mr. Chairman, I will be brief, by necessity. Let me say I think the Folklife Center can get a lot more in private funding. They did raise $330,000 in 1994, three times what they raised in 1990. The one in the western region does it entirely by private funds. I think that offset can be handled.

If you voted for the unfunded mandate bill, you should vote "yes" on this amendment.

Mr. FAZIO of California. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I just want to reiterate the importance of the Folklife Center. I think we all understand we ought to fulfill our responsibility to CBO to allow them to do the workload we have just given them, and I am certainly hopeful we will do that in conference. But I would not want Members to vote for this amendment, because if they do, they will end up doing in the Folklife Center at a time when it may be impossible to resurrect it and bring it back as an authorized entity.

The American Folklife Center has been an integral part of the Library of Congress since 1977, but really 1928 as the archives of folk culture. Its budget includes not just programs, but collections; 1.5 million sound recordings, photographs, manuscripts, films, videos, periodicals, and other unique materials representing American and to some smaller degree world folk music, folk lore and folk life traditions.

This is something we ought not to be doing in for $1.5 million. This is an entity that ought to be preserved. They will be raising more and more private fund sector funds, as the library in general is, but if we do them in, they will not be in a position to do that. I urge Members defeat this amendment.

PARLIAMENTARY INQUIRY

Mr. PACKARD. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. PACKARD. Mr. Chairman, I understand that we will be delaying votes until the end. Does the rule call for this vote to be a 15-minute vote?

The CHAIRMAN. This vote will be a 15-minute vote. Amendments 8 through 11 will then be debated and the votes held until the end.

The question is on the amendment offered by the gentleman from Pennsylvania [Mr. CLINGER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CLINGER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 260, noes 159, not voting 15, as follows:

[Roll No. 411]

AYES—260

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Ballenger
Barcia
Barr
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bono
Borski
Brewster
Brown (CA)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doggett
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehrlich
English
Ensign
Everett
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (RI)
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Lipinski
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCarthy
McCollum
McDade
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (CA)
Minge
Molinari
Montgomery
Moorhead
Murtha
Myers
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Reed
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Towns
Traficant
Upton
Volkmer
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wyden
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—159

Abercrombie
Baesler
Baker (LA)
Baldacci
Barrett (NE)
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonilla
Bonior
Boucher
Brown (FL)
Brown (OH)
Bryant (TX)
Callahan
Cardin
Castle
Clay
Clayton
Clement
Clyburn
Coburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Cramer
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Dooley
Durbin
Edwards
Ehlers
Emerson
Engel
Eshoo
Evans
Ewing
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Frank (MA)
Furse
Gejdenson
Gephardt
Gibbons
Gordon
Graham
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Linder
Livingston
Lofgren
Lowey
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCrery
McDermott
McKinney
Meehan
Meek
Menendez
Mfume
Miller (FL)
Mineta
Mink
Mollohan
Moran
Morella
Myrick
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Owens
Packard
Pallone
Pastor
Payne (NJ)
Pomeroy
Rahall
Rangel
Reynolds
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Skaggs
Slaughter
Spratt
Stark
Studds
Stupak
Taylor (NC)
Tejeda
Thompson
Thornton
Torricelli
Tucker
Velazquez
Vento
Visclosky
Vucanovich
Walsh
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Wolf
Woolsey
Wynn
Yates

NOT VOTING—15

Ackerman
Browder
Chapman
Ford
Johnson (CT)
Laughlin
Lazio
Moakley
Parker
Pelosi
Richardson
Schumer
Serrano
Stokes
Torres

□ 1314

The Clerk announced the following pair:

On this vote:

Mr. Lazio of New York for, with Mr. Moakley against.

Messrs. BISHOP, EWING, POMEROY, and EDWARDS changed their vote from "aye" to "no."

Messrs. SAM JOHNSON of Texas, PORTER, and LIGHTFOOT changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. RICHARDSON. Mr. Speaker, I was unavoidably detained on rollcall vote 411. Had I been present, I would have voted "nay."

The CHAIRMAN. It is now in order to consider amendment No. 8 printed in House Report 104-146.

AMENDMENT OFFERED BY MR. ORTON

Mr. ORTON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ORTON: Page 25, strike lines 14 through 20. Page 32, line 16, strike "$16,312,000" and insert "$23,312,000".

The CHAIRMAN. Pursuant to the rule, the gentleman from Utah [Mr. ORTON] and a Member opposed will each be recognized for 5 minutes. Who seeks time in opposition?

Mr. PACKARD. Mr. Chairman, I seek the time in opposition.

The CHAIRMAN. The gentleman from California [Mr. PACKARD] will be recognized for 5 minutes.

The Chair will repeat, the request for recorded votes on the next four amendments will be postponed until completion of amendment No. 11, pursuant to House Resolution 169.

The Chair recognizes the gentleman from Utah [Mr. ORTON].

(Mr. ORTON asked and was given permission to revise and extend his remarks.)

Mr. ORTON. Mr. Chairman, I yield myself 2 minutes and 45 seconds.

Before beginning, Mr. Chairman, since the House continues to waive its own rules prohibiting committees from meeting in voting session at the same time we are in voting session on the floor, I am currently missing recorded votes in the Committee on Banking and Financial Services on a bill of which I am a cosponsor, to be here to present this amendment on the floor.

Mr. Chairman, my amendment is deficit neutral. It is also simple. It shifts $7 million of increased spending on the Botanic Garden to restore $7 million of cuts in the Federal depository library program. Since 1985 the Federal depository library program has been a partnership between the Federal Government and 1,400 libraries around the Nation to provide the public with local access to Government information and documents.

There is widespread use of these libraries, Mr. Chairman. One hundred sixty-seven thousand Americans per week utilize these collections. The legislation before us would cut 50 percent of funding from these libraries. Overall, this bill cuts only 8 percent of legislative branch appropriations, and actually increases spending on the Botanic Garden by over 200 percent.

The Botanic Garden in the 1995 appropriation was $3 million. In 1996 it is $10 million. The $7 million increase is the first of a 3-year $21 million appropriation for construction on the Botanic Garden. The future of the garden is uncertain. It is listed for transfer from the Congress to the Department of Agriculture. The House is also considering proposals to privatize or move the garden.

Cutting spending is tough business. In doing so, we must set priorities. In this Member's opinion, funding 14,000 libraries is a higher priority than constructing improvements on a building with a very uncertain future. Even the Architect of the Capitol, in testifying before the committee, stated the construction improvements would be of low priority, and the Botanic Garden would be subject to consideration for privatization.

Mr. Chairman, I will refer to two letters which will be included, urging support for my amendment. One is from the American Library Association, and the other is a letter from both the American Association of Law Libraries and the Association of Research Libraries.

Mr. Chairman, I urge support for my amendment.

Mr. Chairman, my amendment is a sensible, deficit-neutral approach that will restore $7 million in critical funding to the Federal Depository Library Program—a true hallmark of our democratic society.

Since 1895, this community-based partnership between the public and private sectors has provided unfettered public access to Government information—access that is vital to effective citizen participation in the democratic process. The Federal Depository Library Program is a partnership between 1,400 designated depository libraries and the Federal Government—the sole purpose of which is to disseminate Government information to the public, free of charge.

To give you an idea of the widespread use of the services provided by this program, the Public Printer testified earlier this year that more than 167,000 persons utilize Federal Depository library collections nationwide each week.

The GPO's 1996 request for the Depository Library Program was $2 million less than the funding level for the previous year. The Public Printer testified that this request was sufficient to maintain program responsibilities, while also managing the transition to the appropriate use of electronic media.

But, now these facilities are being asked to accommodate a 50 percent increase in electronically formatted copies, while taking a 50 percent cut in their funding source. While overall, the fiscal year 1996 legislative branch appropriations bill only represents an 8 percent cut from last year's funding level.

The purpose of the committee's 50 percent reduction in funding is to hasten the transition to electronic publishing, by requiring that executive branch agencies reimburse the GPO for the costs of producing and distributing paper and microfiche documents to depository libraries. The reduction in funding is a disincentive for Government agencies to participate in the Federal Depository Library Program.

This will result in a drastic reduction in the number of printed documents produced by the agencies, and will ultimately hinder free public access to Government information. Also, these deep cuts will result in new costs to depository libraries, as more time and effort will have to be expended to locate and acquire Government agency information products.

The president of the American Library Association testified earlier in the year that additional equipment and support would have to be provided to the depository libraries in order to implement the overly aggressive electronic program proposed in this legislation. Furthermore, some of the smaller, rural, public libraries don't have the necessary resources or the technology that the larger, research libraries have.

But, the GPO and the depository libraries recognize the increasing need to move to an effective, electronically-based program, and they are making great strides in new technology. The GPO Access System was created to provide no-fee, online dissemination—via the Internet—of such publications as the CONGRESSIONAL RECORD and the Federal Register. Now, the public has free access to this service, either through on-site equipment at depository libraries or through off-site electronic gateways established in cooperation with the libraries.

As important as this transition to electronic dissemination of information is, one must realize that not all Government information can be distributed electronically. Since the informational needs of each community are different, it is important to maintain a variety of formats—including print and microfiche.

The distribution of electronic copies has been steadily increasing, with about 454,000 copies projected for fiscal year 1996—a 50-percent increase over fiscal year 1995.

If we are to expect our Federal depository libraries to provide free, convenient access to Government information, we must allow for a more sufficient period of transition to an electronically-based program.

My amendment restores $7 million to this vital program, asking our depository libraries to take a more reasonable cut of 22 percent from the GPO's request.

I would now like to discuss the source of this critical funding.

The fiscal year 1995 appropriation for the Botanic Garden was $3.23 million. This legislation provides an appropriation of $10.053 million for fiscal year 1996; that represents a 200-percent increase at a time when other agencies and operations are being asked to take their share of cuts.

The $7 million increase over last year has been provided for a renovation of the Botanic Garden's conservatory. This is one of three, annual $7 million expenditures to carry out this renovation. It would be nice to find the funding for this renovation, but we must set priorities for our limited resources.

During hearings before the legislative branch appropriations subcommittee, the question was raised as to whether this renovation expenditure should be reconsidered in light of suggestions to privatize the Botanic Garden. Questions were also raised as to the primary function of the Botanic Garden.

The Architect of the Capitol agreed that the Botanic Garden's function is limited, and that the only reason for housing the facility in its current place is for historical reasons.

One of the members of the subcommittee suggested that the Botanic Garden might be able to serve its function better if it were privately funded. It was also suggested that services could be obtained from local landscape and nursery contractors.

Finally, the Architect was asked the following question: "If the committee asked the Architect's office to reduce their budget by 10, 15, 20, or 25 percent for the next budget year, would this (Botanic Garden) be a low-priority item that you would recommend spinning off to privatize?"

The Architect's response: "It would."

One must ask the question: Should we be spending valuable resources on renovating a facility whose ultimate fate has not been determined?

We are faced here with a question of priorities—increased funding for a limited facility in Washington, DC, or a much needed investment in the 1,400 depository libraries throughout the country.

Let us ease the transition of our depository libraries to electronic dissemination of information, and assist these facilities in carrying out their primary objective—which is to provide vital Government information to the public.

Mr. Chairman, I include for the RECORD the information I referred to.

The information referred to is as follows:

AMERICAN ASSOCIATION
OF LAW LIBRARIES,
Washington, DC, June 20, 1995.

Hon. WILLIAM ORTON,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE ORTON: On behalf of the American Association of Law Libraries and the Association of Research Libraries, we would like to express our gratitude to you for offering an amendment to H.R. 1854 to restore $7 million to the Government Printing Office's Salaries and Expenses (S&E) appropriations. As you know, this fund supports the Depository Library Program which provides government information in all formats to over 1,400 Congressionally designated depository libraries.

We are very concerned that the proposed fifty percent reduction in funding for S&E, shifting the cost burden to agencies as an unfunded mandate, will drastically reduce the number of documents disseminated to the American public through depository libraries. Further, we believe that the need for a well-studied transition period Must be recognized as the government converts to an effective electronically-based environment.

Thank you again for offering this amendment to restore funding for the Depository Library Program. We are very appreciative of your efforts and grateful for your support.

Sincerely,

ROBERT L. OAKLEY,
Washington Affairs Representative.
PRUDENCE S. ADLER,
Association of Research Libraries,
Assistant Executive Director.

AMERICAN LIBRARY ASSOCIATION,
Washington, DC, June 20, 1995.

Hon. WILLIAM ORTON,
U.S. House of Representatives, Cannon House Office Building, Washington, DC.

DEAR MR. ORTON: On behalf of the American Library Association, I write to tell you of our support for your amendment to restore $7,000,000 to the Superintendent of Documents Salaries and Expenses Appropriation as the House of Representatives considers H.R. 1854, the Legislative Branch Appropriations for FY96. The House Appropriations Committee cut this appropriation by 50 percent from the FY95 funding level, a cut far in excess of the overall 8 percent reduction in the bill for the Legislative Branch. Additionally, H.R. 1854 amends the statute governing the Depository Library Program, a procedure not appropriate on an appropriations bill.

The SuDocs Salaries and Expenses appropriation funds the Depository Library Program which provides government publications in print, microfiche and electronic formats to constituents through the nearly 1,400 Congressionally designated depository libraries. This drastic cut does not provide for the orderly transition that the government must follow to assure that its statutory requirements are fulfilled to disseminate government information to the public under Title 44, United States Code.

While intended to encourage agencies to publish electronically, this slash in the appropriation will more likely result in a great reduction in the number of printed documents made available to the public. Agencies have not budgeted in FY96 for depository copies. Agencies may well shirk their responsibilities to disseminate agency information and the number of fugitive documents—those that escape the program—may increase enormously.

Additionally, the deep cuts in appropriations for the Depository Library Program will result in an unfunded mandate for the state and local governments that support depositories, and result in additional costs to participating libraries as more time and effort will be invested to locate and acquire publications. Many libraries will not have the money to buy the equipment and paper needed to provide on-demand print service to the public.

A 1992 survey of depository libraries confirmed that participating libraries make significant contributions in personnel, equipment, facilities, and resources (including resources beyond those provided by the Government Printing Office) to carry out their part of the partnership with the government to ensure that the American people have equitable and ready access to federal information.

The likely result of the change in funding and the shift to an electronic Depository Library Program is a loss of information to the American public as the government undergoes a transition from a print-based to an electronic environment. In 1994, GPO acquired, cataloged, and distributed approximately 21 million copies of 65,000 documents to depository libraries for about $1 a copy. Of these titles, only 306 were in electronic format.

In addition, the GPO Access System now provides 24-hour no-fee public access through depository libraries and gateways to the Congressional Record, Federal Register, text of all published versions of bills introduced in Congress, the History of Bills, the U.S. Code, and Public Laws of the 104th Congress. GPO plans a gateway in every state. But that development is in jeopardy because Congress required GPO Access to be funded by cost savings from the GPO's distribution of publications. With the reduction you are being asked to vote on today, GPO will no longer be able to support and expand the resources of GPO Access.

The American Library Association is also very concerned about the Appropriations Committee's decision to publish only on CD-ROM the Serial Set and the bound Congressional Record. Everyone does not have access yet to a computer for their information needs. The elimination of the print format of these very important titles will create information have-nots. Further, these two publications are at the core of Congressional information and serve as the official record of the daily activities of Congress. The longevity and durability of the CD-ROM format remain untested. In addition, the paper format has always served as the permanent and official record.

Congress should hold hearings and study the cost effectiveness and impact of these policy changes on public access to government information.

The American Library Association deeply appreciates your willingness to offer an amendment to restore funds to the appropriations for the Depository Library Program. ALA is a nonprofit educational organization of 57,000 librarians, library trustees, and friends of libraries.

Sincerely,

ARTHUR CURLEY,
President, American Library Association.

Mr. PACKARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let us make it clear to the Members of the House, we are not going to cut in this bill our commitment to the depository libraries. What we are doing in this bill is requesting that the agencies of Government, including the administration agencies in the executive branch, as they provide documents printing for depository libraries, they will have to pay for their own print on paper rather than having the GPO pay for it out of their own funds. Therefore, the work will still be done. It is just that we are transferring the costs to those that require the printing to be done.

In reference to the conservatory, this is a historic building. We all see it. It is the glass building right here close to Capitol Hill. It is falling apart. We simply have to preserve and protect it, as well as to repair it, or else it will simply not be able to be visited by people who want to visit the exhibits, because of safety reasons.

We have worked out a program where we have cut them back in their request for construction money from $28 million to $21 million. If we take this $7 million away, then we may lose the private funds that are being raised and contributed for the purpose of the National Garden, but we also undercut the entire process of renovation. We think that would be a very sad mistake.

Mr. Chairman, it is only right that the agencies that request the printing to be done pay for their own requests. That is all our bill does. This would frustrate that process. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. ORTON. Mr. Chairman, I yield 1½ minutes to the gentleman from New York [Mr. Owens].

Mr. OWENS. Mr. Chairman, I rise in support of the Orton amendment.

Mr. Chairman, we cannot promote the general welfare unless the citizens are informed. Our people cannot fruitfully engage in the pursuit of happiness in this complicated information age unless they are informed. For the past 100 years Congress has paid for Government publications to be sent to depository libraries located in each of our districts across the country. The depository library program ensures that ordinary citizens can have access to Government information, but H.R. 1854 reverses 100 years of precedent by having executive branch agencies reimburse the Government Printing Office for their publications. I assure the Members, no executive branch agency will have it as a priority. They will not do it.

H.R. 1854 also mandates a massive shift from print to electronic dissemination of information. However, in promoting a "cyber government", the bill ignores the fact that we cannot electronically reach most of our constituents through these libraries. They are not wired. They do not have the ability to receive electronic information.

Mr. Chairman, information must be produced not only in electronic formats, but also in traditional print formats, in order to accommodate the wide range of the majority of our people's needs and abilities. Many citizens are not yet ready to use Government information in an electronic format. Most libraries do not have the capacity to receive it that way.

Mr. Chairman, H.R. 1854 also eliminates the availability of free copies of the CONGRESSIONAL RECORD that we send to our public schools, hospitals, and nonprofit libraries, not to mention free copies of bills, reports, and other documents that we supply. These proposed changes do not take us anywhere. I urge a "yes" vote on the amendment.

Mr. PACKARD. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. THOMAS], chairman of the Committee on House Oversight.

Mr. THOMAS. Mr. Chairman, the bill number is H.R. 1854. The concept driving this amendment is truly circa 1854. No one is talking about cutting off depository libraries from getting information. In fact, we want to promote it. What we do not want to encourage is a central paper printing process which then produces a bulk paper product, which is then shipped across country, and then made available at a depository library. That is what we are trying to change.

More than 90 percent of the libraries transmit, send, and receive electronic data today. What we are trying to do is tell the executive branch agencies we are not going to fund them. I have no quarrel with where the money comes from, the Botanic Garden, that is a secondary issue. It is up to those people to decide what they are going to do.

I object strenuously, that they are taking money from congressional sources and funding an executive branch agency when they do not want to spend the money themselves. We should not be forced to pay the money for the executive branch to pay for perpetuating an 1854 paper world. What we want to do is get up to speed in sending that same data electronically, and by CD ROM. If taxpayers want a hard copy at the depository library, the library will produce it there. Taxpayers do not pay for shipping wood, printed on wood, across country. That is what they did in the 19th century.

What we are trying to do is stop that. This amendment perpetuates it. It is wrong. It may be revenue neutral, but the concept is wrong. Unfortunately, I am going to ask Members to vote against the amendment of the gentleman from Utah.

The CHAIRMAN. The gentleman from Utah [Mr. ORTON] has 1¼ minutes remaining, and the gentleman from California [Mr. PACKARD] has 1 minute remaining and the right to close.

Mr. ORTON. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in response to the gentleman, I would say we do need to gear up the electronic highway, we do need to transmit information electronically. Hopefully, this will save us costs. However, the reality is costs and transition time to shift to an electronic-based program, while placing an additional burden on the libraries in the immediate future.

Demand for electronic copies is projected to increase by 50 percent in just 1 year. A 50-percent cut in funding right now will make it impossible to meet this demand.

Also, Mr. Chairman, the informational needs of each community are different. Not every community in America has an off ramp from the electronic highway. Not all Government information can be distributed electronically. It is critical to provide documents and Federal information by print, microfiche, and CD ROM. The result of a 50 percent budget cut would be significant reduction of services and elimination of some Federal depository libraries.

Mr. Chairman, I would urge my colleagues postpone the $7 million capital construction to the building of uncertain future, and let us continue to fund the Federal depository libraries. I urge support for my amendment.

Mr. PACKARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the committee removed from the conservatory construction funds $7 million in this year 1995 rescission bill. We have already cut them back $7 million. To cut them back an additional $7 million would be simply gutting the renovation process.

Let me speak very briefly to the idea of access to the electronic equipment and information, Mr. Chairman. Virtually all, over 90 percent of the depository libraries, have access to electronic information through Internet and other electronic access equipment. To say that they cannot access it is simply not true. Furthermore, we ought to push them toward access. We ought to nudge them toward putting in the equipment that would give them access to electronic information and facilitate that process.

Frankly, Mr. Chairman, if we move this process to the electronic age, we will save more than the $7 million that we are trying to save in paperwork that is now being printed. We will save it with the electronic age.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Utah [Mr. ORTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ORTON. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Utah [Mr. ORTON] will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 9 printed in House Report 104–146.

AMENDMENT OFFERED BY MR. KLUG

Mr. KLUG. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KLUG: Page 34, line 24, strike out "3,900" and insert in lieu thereof "3,550".

The CHAIRMAN. Pursuant to the rule, the gentleman from Wisconsin [Mr. KLUG] and a Member opposed will each be recognized for 5 minutes.

Mr. DIXON. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from California [Mr. DIXON] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I want to congratulate the gentleman from California [Mr. PACKARD] and the fine work the Committee on Appropriations has done to this point in trying to execute one of the key platforms of the Republican agenda, now that we have taken control of the House, and that is a trend toward privatization.

This appropriations bill we have in front of us today does it when it comes to the beauty shop and barber shop here in the House, the elimination of the folding room, and we all hope the eventual sale of a powerplant that the U.S. Congress actually owns and operates.

I have to tell the Members that I think this amendment is far too timid when it comes to the matter of the Government Printing Office. Mr. Chairman, the Government Printing Office has 4,000 employees in it, which essentially serve at the will of Congress itself to print documents connected to our business here. I think we have to ask ourselves why it is in 1995 that we run a printing plant.

There are 115,000 private printers in the United States. Assuredly one of them is capable of printing the CONGRESSIONAL RECORD at much more reduced costs than what we presently pay the Government Printing Office on a regular basis. Since 1991 the GPO has lost money every year. For my colleagues here in 1994, they may remember the bizarre situation where GPO lost business and suddenly decided it had to raise rates in order to make up for the shortfall. What business in America, if they lose business, would suddenly increase their costs?

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This amendment we have in front of us, Mr. Chairman, will reduce the Government Printing Office staffing levels. The Subcommittee on Legislative of the Committee on Appropriations has already reduced it from 4,200 to 3,900. This amendment will reduce it by another 350 slots. In the long run, what we hope we will accomplish is a glide path to force the Government Printing Office to essentially become a procurement agency in the next several years and to close down the printing function altogether. In fact, the committee report itself directs the Public Printer to study the outsourcing of both security personnel and custodial care which account for 144 of the 350 positions that we are discussing today.

I think this amendment is absolutely crucial if we are going to be serious about privatization in this House.

Mr. DIXON. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, I rise in strong opposition to this amendment.

Mr. Chairman, the gentleman talks about a printing plant. I hope the gentleman has visited that plant. In point of fact, it is in the Internet, it is on the World Net. It, in fact, has the state of the art technology in terms of information transfer available to it. Individuals anywhere in this country can get the CONGRESSIONAL RECORD and other Government documents in their home and can print it, presuming that they have the proper facilities, as we get it ourselves.

The fact of the matter is, in addition, 80 percent of the GPO's workload is contracted out right now to the private sector. The fact of the matter is there are certain things; namely the CONGRESSIONAL RECORD and other documents that we need inhouse for security reasons or other reasons.

The gentleman talks about a glide path. Approximately 5,000 employees 3 years ago, down to 4,104. This bill brings them down to 3,900. They are on a glide path, they are reinventing, they are downsizing.

This will cost 20 million additional dollars. The reason being, because it will require RIF's, 554 to be exact if they come down that fast, and there will be a tremendous cost, not a cost savings.

This is a bad amendment, it is not timely, and it will undermine the ability to get the information that this Congress needs in a timely fashion.

Mr. KLUG. Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. ROBERTS], who has been an absolute tireless champion on reform of the Government Printing Office and has been a mentor on this issue since I first got here in 1990.

Mr. ROBERTS. Mr. Chairman, I join the gentleman from Wisconsin.

As the ranking Republican Member on the House-Senate Joint Committee on Printing, I have been alarmed with the dramatic losses being incurred by the GPO. The gentleman from Maryland asked if anybody has been down to the GPO. I have, many, many times.

This year the GPO estimates its losses to be nearly $10 million. The Joint Committee has requested four different studies over the last several years to be conducted by the GAO, and Arthur Andersen, and the Public Printer's GPO 2000 study, to determine the cause and options to reduce these losses. This is $10 million.

I think it is far more sensitive to employees to really gradually try to reduce the work force, if we can, than at a future date to be forced to totally eliminate the entire agency.

The gentleman from Maryland has indicated that the argument that we are going to have RIF's here and it is going to cost money—that is false and shortsighted. We do not have to go to RIF's. The GPO can do it. It is not required to utilize RIF's. Even if the GPO chooses to do so, the amendment will still save taxpayers over $6 million.

We are talking about 350 positions. This has been a glidepath but, again, this agency has lost over $10 million. They are under orders from the Joint Committee to quit losing money, and it is not the fault of the employees. It is that the GPO is the victim of a technological revolution in regard to printing.

The gentleman's amendment is in good standing. It is the continued way to go to save money. We will await the studies and see if we can make further savings. I urge my colleagues to support the amendment of the gentleman from Wisconsin.

Mr. DIXON. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Maryland [Mr. WYNN].

Mr. WYNN. Mr. Chairman, I rise today to express my strong opposition to the Klug-Roberts amendment. The Government Printing Office has served our country for 100 years and they still have a vital role.

Just to clarify for the American people, to give them a sense of what this agency does on a daily basis, they produce 20,000 copies of the CONGRESSIONAL RECORD, 32,000 copies of the Federal Register, 26,000 copies of Commerce Business Daily and process nearly 2,000 orders from the American people. All of this is being done despite a 50-percent decrease in staff since 1975.

I would submit that in fact the committee considered this issue very thoroughly. They made reductions to the tune of 200 positions that are being reduced. This amendment would add to that 350, and rest assured, you cannot do 550 positions without some additional cost. You cannot do it all through attrition. There will in fact be some cost as a result of RIF's.

But the final point I would like to make is this: They do it efficiently. They produce the overnight service, the 24-hour turnaround that is required to meet our needs. There is no plant, no facility on the east coast, in the mid-Atlantic area that has shown the capacity to deliver this work product in a timely, efficient, and most importantly consistent manner as the Government Printing Office.

I believe I would have to return to the old adage: "If it ain't broke, don't fix it."

Mr. KLUG. Mr. Chairman, I assume I have the right to close.

The CHAIRMAN. The gentleman from California [Mr. DIXON], a member of the committee, has the right to close.

Mr. KLUG. Mr. Chairman, I yield myself the balance of my time.

Let me respond to a couple of points, if I can, Mr. Chairman. First of all the argument that nobody on the east coast is capable of doing this work.

Somewhere in India or Bangkok today a reporter from the Wall Street Journal will file a story, it will be edited in New York, sent up on a satellite dish, and the Wall Street Journal will end up on my doorstep the next morning in Madison, WI. Assuredly somebody is capable on the east coast of publishing the CONGRESSIONAL RECORD overnight.

In terms of the cost of RIF's, let's make it very clear on the arithmetic for everybody who is in this Chamber today. On the average it costs us $55,000 an employee at the Government Printing Office. The one-time cost if we have to end up paying those people a RIF is $25,000. That means at a minimum we save $30,000 a year on each single employee. It does not cost us money. It saves us $6 million.

In the long run if what we are interested in is attempting to save money and to move toward privatization, then it is clear we have got to be very aggressive on privatizing services in the Government Printing Office, and RIF'ing, and eliminating another 350 positions is exactly the way to do it.

Mr. DIXON. Mr. Chairman, I yield the balance of the time to the gentleman from North Carolina [Mr. ROSE], a former chairman of the Joint Committee on Printing.

The CHAIRMAN. The gentleman from North Carolina is recognized for 2 minutes.

Mr. ROSE. Mr. Chairman, I thank the gentleman from California for yielding me the time.

Mr. Chairman, to my colleagues on the other side of the aisle, I would love to let the Wall Street Journal print the CONGRESSIONAL RECORD if we could sell ads, but that is another day.

The point is clear: In my opinion, as for 4 years I was chairman of the House

Administration Committee and either chairman or vice chairman of the Joint Committee on Printing, the Government Printing Office is on a glide path as the gentleman from Maryland [Mr. HOYER] so well put. It will cost money. It will cost money if we have to reduce under this amendment as quickly as this amendment says we should.

I am in sympathy with the objects that the gentleman who authored this amendment had. But let me tell you a little story. The other night, the White House wanted something printed in color and they were a little afraid to work it through the Government Printing Office, so they went to Kinko's to get 30—however many copies they needed—Kinko's in Washington. Kinko's could not handle it as quickly as they wanted it, so they farmed it out all over town.

It wound up costing $30,000. It would have cost $5,000 if it had been procured, and that is what GPO basically is today, is a procurement shop. It would have been $5,000 if it had been procured through GPO, in color. It would have been $3,000 if it had been done in black and white. The quick turnaround time necessary for printing the documents that we use in this institution is what keeps this work force alive and in necessary for us.

My colleagues, I beg you, let's don't speed up the glide path that the Government Printing Office is on now. You are going to pull a nose dive off that is going to have a crash and is going to cost us a lot more than if the normal path that has already been set up for many years now is followed.

The Government Printing Office is basically a procurement shop. I do not want the Defense Department being able to go out and choose whatever printer it wants to print its business. I want the Government Printing Office to be competitively bidding those jobs out in the private sector as it has been for years. I hope that will continue. I respectfully ask my colleagues, please don't vote for this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. KLUG].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. KLUG. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Wisconsin [Mr. KLUG] will be postponed.

It is now in order to consider amendment No. 10 printed in House Report 104-146.

AMENDMENT OFFERED BY MR. CHRISTENSEN

Mr. CHRISTENSEN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. CHRISTENSEN: Page 49, after line 25, insert the following new section:

SEC. 312. None of the funds made available in this Act may be used for the salaries or expenses of any elevator operator in the House of Representatives office buildings.

The CHAIRMAN. Pursuant to the rule, the gentleman from Nebraska [Mr. CHRISTENSEN] and a Member opposed will each be recognized for 5 minutes.

Mr. PACKARD. Mr. Chairman, I would like to seek the time in opposition.

The CHAIRMAN. The gentleman from California [Mr. PACKARD] will be recognized for 5 minutes.

The Chair recognizes the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the time has come for Members of Congress to start pushing their own buttons. Yes, that grievous, arduous task of pushing your own elevator button. No, my amendment does not propose to eliminate elevators, nor does my amendment require the Members to take the steps from here out. All my amendment requires is that we begin pushing our own elevator button.

Last week a young woman who had been visiting my office commented to my staff that she was shocked to see that we still had elevator operators in the House office buildings. She remarked, "I though you guys got rid of those the first week."

Well, if we the Members of this body have heard that comment once, we have heard it too many times. My amendment very simply would eliminate funding for the 10 elevator operators in the House office buildings, not the Capitol, just the House office buildings.

Each and every day this body convenes in committees and task forces all over the Capitol to make tough choices about changing the way our Government does business. We were elected to change the way our Government does business because it is no longer acceptable to Americans for us to mortgage the future of our Nation and our children.

My amendment is not going to bring the deficit down a whole lot. It is not going to work on the debt, but it is going to save the taxpayers $263,000 this year in salary and benefits.

I understand some very well-intentioned Members may suggest that we should commission a study on this issue. A study. How anyone could suggest a study to examine how to eliminate 10 elevator operators and keep a straight face while saying it is beyond me. With a $5 trillion debt, the last thing we need is another study.

In our economy, when businesses are forced to downsize, it is the perks that go first: company cars, expense accounts, and corporate country club memberships, all cut back in the name of the bottom line. By what justification can any of us say that we must downsize Government but keep House elevator operators?

I will be the first to admit that many of the people who run the automatic elevators are good, decent people. However, we must remember that any time a company is forced to downsize, many kind and friendly people may lose their jobs as well.

It might be argued here today that the purpose of the operators is to assist Members in arriving at the floor in time for votes. But I submit that my amendment has no bearing whatsoever on the elevator operators in the Capitol Building. It only affects those in the House office buildings.

I also remind Members that there are already elevators set aside for Members only to use, the speed of which remains the same no matter who pushes the button.

In closing, I will again remind all assembled here that our Federal Government is broke. We are nearly $5 trillion in debt. At a time when we are asking Americans to tighten the belt and make do with less, surely this body can make do without elevator operators.

My colleagues, the time has come for us to begin pushing our own buttons.

Mr. HOYER. Mr. Chairman, will the gentleman yield?

Mr. CHRISTENSEN. I yield to the gentleman from Maryland.

Mr. HOYER. Mr. Chairman, I appreciate my friend yielding, and I know he is into sacrifice.

Am I correct that the gentleman's office is on the first floor of the Longworth?

Mr. CHRISTENSEN. The gentleman is correct. I am on 1020 Longworth.

Mr. HOYER. Am I correct that the gentleman does not need an elevator, therefore, because he is at street level? He just walks right out?

Mr. CHRISTENSEN. Reclaiming my time from my friend from Maryland, it is correct that I am on 1020 Longworth, but the issue is not whether I am on the first floor or the seventh floor or in Rayburn or in Cannon.

Mr. HOYER. You want to give it up for the rest of us.

Mr. CHRISTENSEN. The issue is that it is time for us to push our own automatic elevator buttons.

Mr. HOYER. I understand.

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Mr. CHRISTENSEN. Mr. Chairman, I reserve the balance of my time.

Mr. PACKARD. Mr. Chairman, I yield myself 1 minute.

Virtually every Member that does work in the Longworth Building would not want to have the elevators made more inconvenient. There has never been a time on the floor of this House when the whole issue of being able to get here to vote on time is more graphic than it was yesterday and today.

And to even consider making it more difficult for our Members to meet the time frame of getting here to vote by virtue of eliminating elevator operators, that only operate for Members at least during the time that we have a vote call, this would not be the right time.

We have not asked for a study. We have simply asked the chief administrative officer of the entire House of Representatives, to review the process of elevators and elevator operators and give us a recommendation as to how it can be improved. That is not going to be a long study and expensive study. We expect that to come back to us. We will readdress this issue at the appropriate time in the future.

Mr. PACKARD. I yield 1 minute to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Chairman, I am very disappointed in the gentleman from Nebraska [Mr. CHRISTENSEN]. We have already cut the elevator operators from 150 a few years ago down to 22. The gentleman is not giving us any credit for that.

And I might say for the elevator operators, these are good people. They have families. They are working. And what are we doing in the U.S. Congress? I thought we were going to put our emphasis on finding ways to build self-esteem and self-worth. We cannot all be chiefs; we need a lot of Indians. And we all do different things to get the job done and accomplish the mission.

Let us give our elevator operators a break. I do not see the gentleman from Texas putting a cap on these people making $10 million or more, yet we want to single out the elevator operators who give information, they give advice, they give directions, and they are trying to make a difference.

Mr. PACKARD. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Chairman, this is not a new issue. It is an issue that is easy to make fun of. The American public hears you have got push-button elevators. What do you need an operator for? Like all the elevators around the country, they are run by computers and the computers cannot tell, they are not as sophisticated as human beings still.

And human beings, as the chairman has pointed out, can make a difference, can make judgments, can make sure that people get up and down the 7 floors of the Longworth Building or the 6 floors or the 5 floors of the Cannon and Rayburn Buildings so that Members can get to the floor on time.

We have just had a substantial incident where a number of Members were late getting to the floor. We had a big confrontation about that and the Speaker told us, voting in a timely fashion is important. We want to limit it to 17 minutes. This facilitates that at a relatively small cost. Why? Because the computers cannot tell as well as human beings can how to accommodate the 15-minute voting patterns.

Mr. PACKARD. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Chairman, I have, with all due respect, seen a lot of bonehead amendments in the years that I have been here, but this one ranks up at top.

The elevator operators on the House side work very hard. They are scared to death about this. They are scared to death about losing their jobs. And, frankly, we need them. Those of us who are in the Longworth Building, many times we run down the steps because the elevators are so difficult to get in that building. Without the elevator operators, we would probably miss half the votes.

So, I can think of nothing more that is so silly. The savings is next to nothing. All it is doing is making a lot of loyal government employees, who work hard and are not paid much, frightened to death and making it impossible for Members to vote in a timely fashion.

If there was ever a vote that did not make sense on the merits, this is it. It does not make sense from a monetary point of view. It saves us nothing. It does not make sense from an efficiency point of view.

I very, very strongly urge my colleagues on both sides of the aisle to defeat this amendment. It may play great with the folks back home, saying we have cut out fat. This is not fat. This is necessary. I urge defeat of this amendment.

Mr. CHRISTENSEN. Mr. Chairman, I yield myself such time as I may consume. For any Member to suggest that they are going to miss votes because they cannot push their own button, but they need an elevator operator to push the button, is ludicrous. What is this country coming to when you cannot push your own automatic elevator button?

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from California [Mr. PACKARD] has 1 minute remaining and has the right to close.

Mr. PACKARD. Mr. Chairman, I reserve the balance of my time.

Mr. CHRISTENSEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would urge support of my amendment and I guess it would just be the fact that it is not about the families, because they are good people. They are very good people. But when you downsize, you have to make some cutbacks and some people have to find other work. So, I would urge support of my amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. PACKARD. Mr. Chairman, I yield 30 seconds to the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Chairman, the gentleman from Nebraska [Mr. CHRISTENSEN] is mistaken. This is not a tough vote at all. It is not tough to cut out jobs; to inconvenience the Members when we have only 17-minutes to get to a vote. It is a cheap-shot vote. It is a bad vote. It is not a tough vote.

The elevator operators here control the traffic and the flow of the crowd during the times of votes. It is very important that they do that. I would urge the Members to vote down this amendment.

Mr. PACKARD. Mr. Chairman, I yield myself such time as I may consume.

In writing this bill we have not approached it to save jobs, per se. We have tried to streamline and improve the operation of Government. And the time will come when we will reevaluate the operators after we have upgraded the elevators and made them work better for the Members. But for the time being, this is not the time to make it more difficult for the Members and to eliminate the elevator operators in this amendment. I urge a strong no vote on this amendment.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from Nebraska [Mr. CHRISTENSEN].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. CHRISTENSEN. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from Nebraska [Mr. CHRISTENSEN] will be postponed.

The CHAIRMAN. It is now in order to consider amendment No. 11 printed in House Report 104-146.

AMENDMENT OFFERED BY MR. ZIMMER

Mr. ZIMMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 11 offered by Mr. ZIMMER: Page 49, after line 25, insert the following new section:

SEC. 312. Any amount appropriated in this Act for "HOUSE OF REPRESENTATIVES—Salaries and Expenses—Members' Representational Allowances" shall be available only for fiscal year 1996. Any amount remaining after all payments are made under such allowances for such fiscal year shall be deposited in the Treasury, to be used for deficit reduction.

The CHAIRMAN. Pursuant to the rule, the gentleman from New Jersey [Mr. ZIMMER] and a Member opposed will each be recognized for 5 minutes. Does any Member seek time in opposition?

Mr. PACKARD. Mr. Chairman, I seek time in opposition.

The CHAIRMAN. The gentleman from California [Mr. PACKARD] will be recognized for 5 minutes.

The Chair recognizes the gentleman from New Jersey [Mr. ZIMMER].

Mr. ZIMMER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, together with the gentleman from Michigan [Mr. CAMP] and the gentleman from Indiana [Mr. ROEMER], I am proposing an amendment that addresses an issue that has caused great confusion, consternation, and rancor in this House.

Many of us have gone to great lengths not to spend the money that is available for our office expenses because we believe that frugality begins at home. We believe that we cannot credibly ask for major cuts in programs that affect our constituents unless we cut programs that affect us and reduce spending in our own offices.

I have saved more than $500,000 in my 4 years in Congress, and many of my colleagues have save more. But there has been persistent uncertainty about what happens to the money that we do not spend.

This amendment ends that uncertainty by explicitly dedicating the money we save to deficit reduction. Simply put, this amendment gives Members a real incentive to do the right thing.

Mr. Chairman, I reserve the balance of my time.

Mr. PACKARD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would like to speak not so much in opposition as to explain the circumstances. In my opinion, this amendment simply does not do anything that is now not being done through the normal process.

There has been the mistaken idea, and I had that mistaken idea for many years when I first came here, and I think many of my colleagues had the idea, that there was a slush fund out there that all the extra money that we did not spend in our official expense or our other office expense allowances, clerk hire and so forth, if there were surpluses at end of the year, that money would be turned back to the slush fund that the Speaker or somebody else in the House would control.

That is simply not true. The fact is that when I do not spend money out of my official accounts, it is never withdrawn from the Treasury. It is never spent from the Treasury.

Members need to know that what we do not spend, what is surplus at end of the fiscal year out of our official moneys, and that is for all three accounts, never comes out of the Treasury. That includes the mail account, that includes the official expense account, and that also includes the clerk hire account. What is not spent, there is nothing written out of the Treasury. So there is nothing to return to the Treasury as this amendment would request.

We cannot return to the Treasury money that has never been withdrawn from the Treasury. So in my judgment, this amendment has absolutely no meaning in terms of changing existing policy. It will still remain the same.

With that explanation, I oppose the amendment because I think it simply adds a layer of redundancy.

Mr. Chairman, I reserve the balance of my time.

Mr. ZIMMER. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, I thank the gentleman for yielding time to me.

I am proud to join in cosponsoring the amendment with Mr. ZIMMER. I introduced this bill as H.R. 26 on the first day of Congress. It has 121 cosponsors, Democrats and Republicans. The idea has been endorsed by the National Taxpayers Union, the Citizens Against Government Waste, and the Concord Coalition, because it does address the deficit.

We should vote for this for two reasons, and I strongly disagree with the analysis of the gentleman from California [Mr. PACKARD]. One is because we should lead on deficit reduction. We should take the first step. If American families are tightening their belts, Congress certainly can do the same thing. And voluntarily return money. I voluntarily returned $677,000 over the last 4 years.

Second, in response to the gentleman from California, [Mr. PACKARD], this is a truth-in-budgeting amendment. It is outrageous that somebody could say we need to appropriate less money in the appropriations process and count on the gentleman from Indiana [Mr. ROEMER], or the gentleman from Michigan [Mr. UPTON], or the gentleman from Alabama [Mr. BROWDER], or the gentleman from New Jersey [Mr. ZIMMER] to return money to pay for these other people spending more.

I thank the chairman and the sponsor of the amendment and join proudly in a bipartisan way to urge passage.

Mr. PACKARD. Mr. Chairman, I yield myself 10 seconds.

I, too, at one time introduced a bill to do exactly what the gentleman from Indiana has done, but I was wrong. I simply misunderstood the process, and I now know what the process is. The money never goes out of the Treasury.

Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. THOMAS].

Mr. THOMAS. Mr. Chairman, I too, do not rise in opposition or in support of this particular amendment. I would tell the gentleman from Indiana [Mr. ROEMER] he does not return money to the Treasury.

First of all, no money is appropriated for individual offices. There is no appropriation for the 21st District of California, for example. There is no appropriation for Members' offices. There is an appropriation to the House in support of our official duties.

Members draw down on that account. If they do not use all of the money, it means they did not draw down all of their call on that account. They do not return money to the Treasury. Having said that, the gentleman from Indiana [Mr. ROEMER] knows that I have been working with our lawyers and others to try to figure out a way to make this happen. We are talking about even fundamentally changing the way in which we appropriate so that Members who do not draw down their account to the maximum amount available under law, can go back home and say: That amount I did not draw down is designated to go to deficit reduction.

Mr. Chairman, I think that is a positive. That is an incentive and it is probably a better goal than just going back into the Treasury to be churned for other expenditures.

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So that is why I am not opposing this measure, but you have got to have an understanding, folks. Your concept of the way this place works in flat-out wrong.

What we need to do is to make sure that what you are talking about, in fact, becomes reality, and I pledge my support to continue to work on this.

And the reason I am not opposing the gentleman from New Jersey is because if, in fact, it is possible, within the context of this appropriations bill, to make some determinations without having to go to statute, at least, he says, it is to go to deficit reduction instead of the general treasury. That is a modest step forward, if we can make it happen.

Mr. ZIMMER. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CAMP].

Mr. CAMP. Mr. Chairman, I thank the gentleman from New Jersey for yielding me this time.

I join him in urging support of this amendment, as well as the gentleman from Indiana.

I agree with much of what the gentleman from California said. He is correct in that these funds are not office- or district-specific. However, the fact is if all of the offices collectively do not use the appropriated amount, these funds can be reprogrammed.

In the past, I would submit that that has occurred in this House, and what this amendment would do is it would change that procedure so those leftover funds are not reprogrammed.

In the beginning of this session, during the debate on the rules package, I came to the floor and requested that we have an independent audit of House operations to include an examination of where these funds go, because it has been blurred and made difficult for us to find this out.

So I would urge support of the amendment.

Mr. ZIMMER. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BENTSEN].

Mr. BENTSEN. Mr. Chairman, I would first like to thank the sponsor of this amendment, the gentleman from New Jersey [Mr. ZIMMER], and also the author of H.R. 26, the gentleman from Indiana [Mr. ROEMER], for allowing me to speak on this important issue.

Mr. Chairman, I rise in strong support of the Zimmer amendment.

As a new Member of Congress, I have discovered there are few clear choices when it comes to balancing the Federal budget. This amendment is a simple, commonsense proposition for Members of the House to claim they support this goal. Each year many Representatives have money left over in their office budgets. This money goes back to the general House fund for use on other projects.

The Zimmer amendment would require Representatives to apply all excess funds from their office budgets each year to the Federal debt. In essence, Members of Congress would be making their contribution to the ultimate goal of balancing the budget, a goal which many of us support.

I ask Members who came to Congress as a result of the 1994 elections to carefully consider this amendment. The American people sent us here to reduce the deficit and change the way Congress does its business. The Zimmer amendment accomplishes both goals.

Mr. ZIMMER. Mr. Chairman, I yield the balance of my time to the gentleman from Wisconsin [Mr. KLUG].

Mr. KLUG. Mr. Chairman, this is a familiar fight for the gentleman from New Jersey [Mr. ZIMMER], the gentleman from Indiana [Mr. ROEMER], and other people in my class because we actually began it back in 1990.

I understand the point of the chairman of the Appropriations Committee, the gentleman from California [Mr. PACKARD], that it is certainly not the intention, his intention, nor the intention of his colleagues to turn around and reprogram money.

It seems to me if there is a question or if there is essentially some sense of indecision about whether or not this is binding, then we should clearly err on the side of deficit reduction. Let us remove any sense of temptation that presently exists for the Committee on Appropriations to reprogram any of this money. Let us settle it once and for all.

Like my colleague, the gentleman from Indiana [Mr. ROEMER], I have worked very hard in my office to hold down expenses and have had the lingering suspicion over the least 4 years much of the money I saved somehow gets spent someplace else.

Let us say to the Members of Congress, if you are careful enough to hold down travel and careful enough to hold down salaries of your staff and careful enough to watch the kind of monies spent throughout your House operations, then at the very least all the incentives should be in place to save money rather than spend it.

I strongly support the Zimmer amendment.

Mr. PACKARD. Mr. Chairman, I yield 15 seconds to the gentleman from California [Mr. DIXON].

Mr. DIXON. Mr. Chairman, and Members, I, too, join in the opposition to this amendment. I really think, after listening to the dialogue here, that the problem could be corrected by allowing Members to put out a press release saying that they returned money to the Treasury.

Mr. PACKARD. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, in my concluding remarks, I want to simply remind Members that we went to special efforts to give Members credit for not spending all of their funds. The report provides that there will be a letter that would indicate that they have not spent all of their funds; they can use it for whatever purpose that they wish.

Any amount left in the appropriations account, in this account, remains in the treasury. It is never spent out of the treasury and thus it is available for deficit reduction.

The absolute intent of this amendment is being realized in the existing process.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. ZIMMER].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ZIMMER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to the rule, further proceedings on the amendment offered by the gentleman from New Jersey [Mr. ZIMMER] will be postponed.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the rule, proceedings will now resume on those amendments on which further proceedings were postponed in the following order: Amendment No. 8, offered by the gentleman from Utah [Mr. ORTON]; amendment No. 9, offered by the gentleman from Wisconsin [Mr. KLUG]; amendment No. 10, offered by the gentleman from Nebraska [Mr. CHRISTENSEN]; and amendment No. 11, offered by the gentleman from New Jersey [Mr. ZIMMER].

The Chair will reduce to 5 minutes the time for any electronic vote after the first such vote in this series.

AMENDMENT OFFERED BY MR. ORTON

The CHAIRMAN. The pending business is the demand of the gentleman from Utah [Mr. ORTON] a recorded vote on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN. A recorded vote has been demanded.

RECORDED VOTE

The CHAIRMAN. Those in support of the demand for a recorded vote will rise and be counted. The Chair will count all Members standing in support of the request for a recorded vote.

This is the amendment offered by the gentleman from Utah [Mr. ORTON].

PARLIAMENTARY INQUIRY

Mr. HOYER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HOYER. Mr. Chairman, can the Chair advise us as to how the vote turned out on the voice vote?

The CHAIRMAN. The Chair said in the reading of the announcement that the noes prevailed by a voice vote.

Mr. HOYER. I thank the Chair.

The CHAIRMAN. A recorded vote has not yet been ordered.

The pending business before the committee is a request for a recorded vote.

PARLIAMENTARY INQUIRY

Mr. HOYER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. HOYER. Mr. Chairman, I understand this is not necessarily a parliamentary inquiry. Was it the amendment offered by the gentleman from Utah [Mr. ORTON]?

The CHAIRMAN. Yes, by the gentleman from Utah [Mr. ORTON].

EXPRESSING CONCERN ON VOTING PROCEDURE

Mr. HOYER. Mr. Chairman, I ask unanimous consent to speak out of order for 1 minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

There was no objection.

Mr. HOYER. The concern I have, I would say to the acting ranking member and the chairman, is that if one of our colleagues requested a vote and expected that vote to occur and is now off the floor, I think it would be somewhat unfair of us not to—here is the gentleman from Utah [Mr. ORTON].

Mr. Chairman, I yield back the balance of my time. I know my colleagues were glad to hear from me.

The CHAIRMAN. Any Member may make a point of order that a quorum is not present.

Mr. ORTON. Mr. Chairman, I demand a recorded vote on my amendment. Pending that, I make a point of order a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

Mr. ORTON. Mr. Chairman, I will withdraw the point of order and demand a recorded vote.

The CHAIRMAN. The Chair will count for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 15-minute vote.

The vote was taken by electronic device, and there were—ayes 104, noes 321, not voting 9, as follows:

[Roll No. 412]

AYES—104

Abercrombie
Andrews
Bachus
Baesler
Baldacci
Barrett (WI)
Becerra
Bishop
Borski
Brewster
Browder
Brown (FL)
Cardin
Clyburn
Condit
Coyne
Cramer
Danner
Deal
DeFazio
DeLauro
Doyle
Duncan
Engel
Eshoo
Farr
Fattah
Fields (LA)
Foglietta
Frank (MA)
Furse
Geren
Gordon
Hayes
Hefner
Hilliard
Holden
Houghton
Hoyer
Jacobs
Johnson (SD)
Johnson, E. B.
Kanjorski
Kasich
Kennedy (RI)
Kildee
Kleczka
Klink
LaFalce
Lewis (GA)
Lincoln
Lofgren
Luther
Maloney
Markey
Mascara
McHale
McKinney
McNulty
Meehan
Mfume
Minge
Montgomery
Nadler
Oberstar
Orton
Owens
Pastor
Payne (VA)
Pelosi
Peterson (MN)
Pickett
Pomeroy
Rahall
Reed
Richardson
Rose
Sabo
Sawyer
Schroeder
Shays
Sisisky
Skelton
Slaughter
Stenholm
Tanner
Tauzin
Taylor (MS)
Thornton
Thurman
Towns
Vento
Visclosky
Volkmer
Waldholtz
Watt (NC)
Watts (OK)
Waxman
Weller
Williams
Wyden
Wynn
Yates
Zimmer

NOES—321

Allard
Archer
Armey
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Boucher
Brown (CA)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Conyers
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Dreier
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Evans
Everett
Ewing
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jefferson
Johnson (CT)
Johnson, Sam
Johnston
Jones
Kaptur
Kelly
Kennedy (MA)
Kennelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Manton
Manzullo
Martinez
Martini
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHugh
McInnis
McIntosh
McKeon
Meek
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Mineta
Mink
Molinari
Mollohan
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Obey
Olver
Ortiz
Oxley
Packard
Pallone
Paxon
Payne (NJ)
Peterson (FL)
Petri
Pombo
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Ramstad
Rangel
Regula
Reynolds
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Roybal-Allard
Royce
Rush
Salmon
Sanders
Sanford
Saxton
Schaefer
Schiff
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Skaggs
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tate
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Tucker
Upton
Velazquez
Vucanovich
Walker
Walsh
Wamp
Ward
Waters
Weldon (FL)
Weldon (PA)
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Young (AK)
Young (FL)
Zeliff

NOT VOTING—9

Ackerman
Clayton
Laughlin
Moakley
Parker
Scarborough
Schumer
Serrano
Torres

☐ 1430

Mr. WISE and Mr. MARTINEZ changed their vote from “aye” to “no.”

Ms. ESHOO, Messrs. PAYNE of Virginia, BAESLER, FARR, NADLER, LEWIS of Georgia, MFUME, FOGLIETTA, CRAMER, TAYLOR of Mississippi, OBERSTAR, KLECZKA, MASCARA, SHAYS, and TOWNS, Ms. LOFGREN, and Messrs. BORSKI, TAUZIN, BACHUS, GORDON, MARKEY, SKELTON, RICHARDSON, and LUTHER changed their vote from “no” to “aye.”

So the amendment was rejected.

The result of the vote was announced as above recorded.

☐ 1430

AMENDMENT OFFERED BY MR. KLUG

The CHAIRMAN. The pending business is the demand of the gentleman from Wisconsin [Mr. KLUG] for a recorded vote on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 293, noes 129, not voting 12, as follows:

[Roll No. 413]

AYES—293

Allard
Andrews
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brown (CA)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeFazio
DeLay
Deutsch
Diaz-Balart
Dickey
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lucas
Luther
Maloney
Manzullo
Markey
Martini
Mascara
McCarthy
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
McNulty
Meehan
Menendez
Metcalf
Meyers
Mica
Miller (CA)
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Radanovich
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schroeder

Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wyden
Young (FL)
Zeliff
Zimmer

NOES—129

Abercrombie
Baesler
Bateman
Becerra
Beilenson
Berman
Bishop
Bonior
Borski
Boucher
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Davis
DeLauro
Dellums
Dicks
Dingell
Dixon
Engel
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frost
Gejdenson
Gephardt
Gibbons
Gonzalez
Green
Gutierrez
Hall (OH)
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Lewis (GA)
Lowey
Manton
Martinez
Matsui
McDermott
McHale
McKinney
Meek
Mfume
Mineta
Mink
Mollohan
Moran
Morella
Murtha
Myers
Nadler
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Payne (NJ)
Pelosi
Quillen
Rahall
Rangel
Reynolds
Rose
Roth
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Scott
Skaggs
Slaughter
Spratt
Stark
Stokes
Studds
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Wilson
Wise
Wolf
Woolsey
Wynn
Yates
Young (AK)

NOT VOTING—12

Ackerman
Clayton
Condit
Dornan
Laughlin
McDade
Moakley
Parker
Schumer
Serrano
Tate
Torres

The Clerk announced the following pair:

On this vote:

Mr. Cunningham for, with Mr. Moakley against.

Messrs. BERMAN, TEJEDA, and GUTIERREZ changed their vote from "aye" to "no."

Messrs. DEUTSCH, EHLERS, and EVERETT changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. Pursuant to the rule, the Chair announces again that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device will be taken on each amendment on which the chair has postponed further proceedings.

AMENDMENT OFFERED BY MR. CHRISTENSEN

The CHAIRMAN. The pending business is the demand of gentleman from Nebraska [Mr. CHRISTENSEN] for a recorded vote on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 177, noes 246, not voting 11, as follows:

[Roll No. 414]

AYES—177

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barrett (WI)
Bartlett
Barton
Bass
Bentsen
Bilbray
Bliley
Blute
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Buyer
Camp
Canady
Cardin
Castle
Chabot
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Danner
Deal
Deutsch
Diaz-Balart
Dickey
Doggett
Dooley
Dreier
Duncan
Dunn
English
Ensign
Fawell
Fields (TX)
Flanagan
Forbes
Fowler
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Goodlatte
Gordon
Goss
Graham
Green
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hoekstra
Hoke
Holden
Horn
Hostettler
Hunter
Hutchinson
Inglis
Istook
Johnson (CT)
Johnson (SD)
Jones
Kasich
Kelly
Kennedy (RI)
Kim
Kingston
Klug
LaHood
Largent
Latham
Lazio
Leach
Lewis (KY)
Lincoln
LoBiondo
Longley
Luther
Manzullo
Martini
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Mica
Miller (FL)
Minge
Moorhead
Myrick
Nethercutt
Neumann
Norwood
Nussle
Paxon
Petri
Pomeroy
Portman
Pryce
Quinn
Ramstad
Reed
Rivers
Roemer
Rohrabacher
Ros-Lehtinen
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Stearns
Stockman
Stump
Talent
Tanner
Tate
Taylor (NC)
Thornberry
Tiahrt
Torkildsen
Upton
Waldholtz
Wamp
Ward
Weller
White
Whitfield
Zeliff
Zimmer

NOES—246

Abercrombie
Andrews
Baesler
Barcia
Barr
Barrett (NE)
Bateman
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilirakis
Bishop
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Bryant (TX)
Burton
Callahan
Calvert
Chambliss
Chapman
Clay
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Cooley
Costello
Coyne
Davis
de la Garza
DeFazio
DeLauro
DeLay
Dellums
Dicks
Dingell
Dixon
Doolittle
Doyle
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Foley
Ford
Fox
Frank (MA)
Frost
Furse
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodling
Gunderson
Gutierrez
Hall (OH)
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Hobson
Houghton
Hoyer
Hyde
Jackson-Lee
Jacobs
Jefferson
Johnson, E. B.
Johnson, Sam
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennelly
Kildee
King
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
Lantos
LaTourette
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
Lofgren
Lowey
Lucas
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McCollum
McDade
McDermott
McKinney
McNulty
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Mink
Molinari
Mollohan
Montgomery
Moran
Morella
Murtha
Myers
Nadler
Neal
Ney
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Porter
Poshard
Quillen
Radanovich
Rahall
Rangel
Regula
Reynolds
Richardson
Riggs
Roberts
Rogers
Rose
Roth
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Spence
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tauzin
Taylor (MS)
Tejeda
Thomas
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—11

Ackerman
Clayton
Clement
Cunningham
Dornan
Greenwood
Laughlin
Moakley
Parker
Serrano
Torres

☐ 1447

Mr. HUNTER changed his vote from "no" to "aye."

Mr. BROWDER changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. CLEMENT. Mr. Chairman, on roll call vote No. 414, I was unavoidably detained with business before the U.S. Senate regarding Dr. Henry Foster's nomination. Had I been present, I would have voted "nay" on the amendment offered by Representative JON CHRISTENSEN.

AMENDMENT OFFERED BY MR. ZIMMER

The CHAIRMAN. The pending business is the demand of the gentleman from New Jersey [Mr. ZIMMER] for a recorded vote on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 403, noes 21, not voting 10, as follows:

[Roll No. 415]

AYES—403

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Farr
Fattah
Fawell
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Meehan
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Reynolds
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thurman
Tiahrt
Torkildsen
Torricelli
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—21

Abercrombie
Clay
Collins (MI)
Conyers
Dellums
Dingell
Dixon
Fazio
Gibbons
Hastings (FL)
Hoyer
Lewis (GA)
Meek
Moran
Nadler
Packard
Sabo
Stokes
Thornton
Towns
Waters

NOT VOTING—10

Ackerman
Clayton
Ewing
Johnson (CT)
Laughlin
Livingston
Moakley
Parker
Serrano
Torres

☐ 1455

Ms. MCKINNEY and Mr. GEJDENSON changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. PORTMAN. Mr. Chairman, I rise today to voice my support for H.R. 1854, the legislative branch appropriations bill for fiscal year 1996.

I strongly support the bold cuts to the level of funding provided in the bill today.

There is nothing more important than addressing the $4.8 trillion national debt, which is keeping badly needed capital out of the hands of the private sector of our economy, the engine of growth and job creation. And I believe the goal of deficit reduction will only be met if we lead by example here in Congress.

Today, we have the opportunity to prove to our constituents that we are serious about addressing the national debt by taking the lead and making cuts to our own budget. This bill appropriates $1.7 billion for the House of Representatives and other legislative branch operations—$155 million less than in fiscal year 1995. This bill contains responsible cuts, such as eliminating the Joint Committee on Printing [JCP], the Office of Technology Assessment [OTA], one House parking lot, complimentary Capitol Historical Society calendars, and volumes of the U.S. Code for members of Congress. This bill provides for privatizing the flag office, the House folding room, and other support offices, reducing the General Accounting Office budget by 15 percent, combining the allowances for Members' clerk hire, mailing and office expenses into one account and cutting House committee funding by $39 million.

At a time when the House is asking others to make significant sacrifices, we must be responsible enough to tighten our own belt. I will vote for the legislative branch appropriations bill because the House should lead by example rather than give itself special treatment.

Mr. CLINGER. Mr. Chairman, I rise today in support of H.R. 1854, legislative branch appropriations for fiscal year 1996. I also rise to applaud the efforts of the subcommittee chairman, Congressman RON PACKARD, for performing a superior job in crafting this difficult bill, making truly difficult decisions, and helping ensure that the legislative branch contributes its share to the Nation's total debt reduction.

I am particularly pleased with the committee's successful efforts to find meaningful and constructive reductions in the General Accounting Office account.

H.R. 1854 appropriates $393 million for the General Accounting Office. That is $56 million, or 12 percent, less than the fiscal year 1995 appropriation, and $80 million less than the amount requested by GAO. The bill's appropriation level will support 3,947 positions, a 15-percent cut from current staffing levels.

This cut is the first of a 2-year reduction in GAO's budget, which will reach a total of about 25 percent over 2 years. If this budget is adopted, GAO will have downsized by a total of 35 percent between 1992 and 1997.

No agency can sustain this level of a reduction without seriously reevaluating the work that it performs. I am confident that Comptroller General Chuck Bowsher, Appropriations Subcommittee Chairman RON PACKARD, and I will work hard to ensure that GAO takes responsible steps to absorb these reductions while still providing useful research and assistance to the Congress.

The committee report that accompanies this bill calls on GAO to fully accomplish its core mission while absorbing the reductions in their budget both this year and next. As the chairman of GAO's authorizing committee, it is my intention over the coming months to work with the GAO staff to ensure that the mission of GAO is achieved. In my mind, some of the most important functions of the GAO is to perform financial management and performance audits. The enactment of the Chief Financial Officers Act placed a great burden on the shoulders of GAO to help executive branch agencies design and publish annual financial reports. Also, the development of a District of Columbia financial control board will also result in a strain on GAO's resources. They should continue their hard work in these areas.

At the same time, GAO should continue to support the activities of congressional committees. I am confident that they will continue to do just that in the same professional manner that we have seen in the past. GAO has performed yeomen's service for the Government Reform and Oversight Committee during the past several months and I look forward to continuing that relationship with them.

Again, I applaud the efforts of Chairman PACKARD and encourage the adoption of this bill.

Mr. PORTMAN. Mr. Chairman, I rise today to offer the Clinger-Portman-Condit-Davis amendment to the legislative branch appropriations bill. Our amendment is fiscally responsible and is vital to the mission of the Unfunded Mandates Reform Act of 1995. In fact, our amendment is endorsed by many of the same groups that supported the unfunded mandates bill earlier this year, including the U.S. Chamber of Commerce, National Governors' Association, National Conference of State Legislatures, National Association of Counties, and the National League of Cities. The amendment would add $1.1 million to CBO's budget, the funding it needs to comply with S. 1, the unfunded mandates bill that was signed into law in March. As you know, the House approved this Contract With America bill by a strong vote of 394–28, and the Senate did as well, 91–9.

The amendment's appropriation of $1.1 million to the CBO is far below the $4.5 million the House authorized earlier this year in S. 1. In fact, it is only 26 percent of the amount we've already authorized for CBO by the unfunded mandates law.

As you may remember, under the unfunded mandates bill, CBO has a number of critical and new responsibilities starting January 1, 1996. First, CBO is required to analyze all new reported legislation containing Federal mandates and to prepare cost estimates for bills that impose mandates on State and local governments costing more than $50 million in any year. CBO has to perform a similar analysis for bills that impose mandates on the private sector costing more than $100 million. Although CBO does analyze intergovernmental mandates costing more than $200 million now, the new law has greatly increased its workload. These are complicated analyses, requiring CBO to perform a number of complex new tasks.

CBO has identified a number of new challenges it will be facing as it calculates the costs of mandates. Specifically, Dr. June O'Neill, Director of the CBO, has identified that: First, legislation often lacks the detailed information needed to project future impacts at the time a bill is considered; second, the effects of legislation may vary greatly among localities, making it difficult to quantify nationwide costs; third, obtaining accurate information from State, local, and tribal officials will be difficult and time consuming; fourth, obtaining information from private-sector parties will be difficult and time consuming since the information may not be readily available and is often considered to be confidential.

To make accurate cost estimates, CBO needs these additional resources to address these problems. Specifically, these resources will need to be focused on covering the costs of: First, consulting extensively with the relevant Federal agency to define the range of alternatives that are likely to be considered in issuing regulations; second, collecting information early in the legislative process from a broad sample of State, localities, and tribes, as well as from the private sector and individuals; third, consulting with experts to identify techniques that will improve CBO's ability to provide accurate estimates of nationwide costs based on a limited sample of States, localities, tribes, businesses, and individuals; fourth, consulting directly with as many States, local, and tribal officials as possible, as well as representatives from business and citizen groups.

CBO estimates that it needs 25 new full-time employees to conduct the cost analyses required by the unfunded mandates bill. The office intends to create a new intergovernmental mandate unit in the Budget Analysis Division that will prepare cost statements and studies of intergovernmental mandates, as well as work with committees and State and local governments—15 people would be assigned to the program divisions for preparing private-sector mandate cost estimates and studies.

In addition to new analytic difficulties, the quantity of estimates required by CBO will likely be burdensome. Dr. O'Neill estimates that the private sector analyses—a provision in the law that is strongly supported by many Members of Congress—alone could require CBO to analyze approximately 10 to 15 percent of all reported bills. I expect the number of analyses required for State and local governmental mandates will be even higher. The bottom line is that S. 1 increased significantly CBO's volume of work.

CBO has identified another issue that justifies this additional appropriation to its budget. In the case of both intergovernmental and private sector mandates, CBO has determined that it will take nearly as much analysis to estimate whether or not a bill exceeds the threshold as it does to provide a full cost analysis when the threshold is exceeded. A statement by Dr. O'Neill reinforces this point: ". . . all bills that are deemed to have a mandate will exert considerable pressure on CBO's resources, even when the analysis does not result in a detailed cost statement."

If CBO fails to complete these analyses, the consequences to the legislative process could be severe. Because the unfunded mandates law establishes a new point of order against the consideration of legislation for which a CBO cost estimate is not printed in the committee report or in the CONGRESSIONAL RECORD, points of order could potentially be raised against scores of bills. This could significantly complicate and slow down the legislative process.

In addition, a provision in the bill allows for a waiver of CBO's requirement if an analysis is not feasible, although a point of order would remain in effect. Without the CBO analysis, the unfunded mandates law would be meaningless. I view the new cost information as the linchpin to the improved accountability the legislation is intended to establish. Without the CBO analysis, Members would be voting on legislation in the dark, without any clear knowledge of the burdens they are imposing on State and local governments or the private sector. Those 394 Members of the House agreed that we should end the practice of mandating blindly. Providing CBO the tools it needs will help to eliminate this problem, by giving Members the information we all must have to legislate responsibly. Also, because S. 1 obligates committees to identify sources of funding to cover the costs of intergovernmental mandates, committees will need the CBO information to do their jobs. Last year alone, it is estimated that we sent billions of dollars worth of mandates to State and local governments. Spending $1.1 million up front to curb the practice makes sense. To do otherwise would be penny-wise and pound-foolish.

I understand that the Appropriations Committee expresses concerns about the additional duties given to CBO by the unfunded mandates law, but it suggested that DBO shift its resources to cover the new responsibilities. Having talked to CBO and looked at these new responsibilities, I believe that a mere shifting of CBO priorities will not free up enough money to cover the costs of these analyses. We should not place an unfunded mandate on the very agency helping us to end this practice.

This amendment is a modest and responsible request for funding that CBO needs. The $1.1 million is fully paid for by offsetting cuts in the legislative branch appropriations bill. The offset is to a part of the Library of Congress budget, specifically targeted to eliminate funding for the American Folklife Center, which was not authorized. We believe this is a reasonable cut. The Appropriations Committee report on this item cites that "there is ample precedence for the Library to raise private funding for the American Folklife Center."

I urge my colleagues to join me in supporting this amendment. It will allow for the successful implementation of the unfunded mandates bill. CBO analyses of mandates on State and local governments, as well as the private sector, are the heart of the unfunded mandates bill—a law that is designed to ensure Congress has cost information, has a separate debate on whether and how to fund mandates and is accountable before it ever mandates again. Without providing the additional appropriation, we will also be sending the message that we are not serious about giving our State and local partners the relief they need. Let's keep our promise and support this amendment. If you supported the Unfunded Mandate Reform Act of 1995 and believe in it, you should vote "yes" on this amendment.

Mr. LUTHER. Mr. Chairman, I rise in strong support of Mr. CASTLE's proposal to cut our official mail allowances by $4.6 million. I ran for Congress with the promise that I would work to reform the franked mail system, and I intend to vote accordingly.

Consider these facts: First, Members of Congress sent about 267 million pieces of mail in 1994, that's six times more mail than was received; second, during the last election cycle, House incumbents spent more on franked mail than House challengers raised; and third, spending on franked mail doubles in election years.

I do believe that it is important for Members to keep in touch with their constituents. Members of Congress must make the attempt to listen and seek the input of constituents on important pending issues. I also believe that it is important for Members to let their constituents know about town meetings, listening sessions, and other opportunities to contact their Members of Congress. However, I do not believe that Members should be using the franked mail as a campaign advantage. A limited frank budget will result in responsible communications from Members to their constituents.

The Castle proposal freezes the franking allowance at 1994 levels by cutting $4.6 million from Members' representational allowances. That represents a reduction of 13 percent in addition to the roughly 30-percent cut of earlier this year.

The Castle proposal enjoys bipartisan support.

Those Members who are firmly committed to reforming Congress and reducing the budget deficit will vote "yes" on this proposal.

Mr. FAZIO. Mr. Chairman, this is a particularly ill-considered amendment offered today by the gentleman from Wisconsin, [Mr. KLUG], and I oppose it strongly. It gives little thought to the reductions to the Government Printing Office already contained in the bill or the significant reductions to GPO over many years due to its modernization efforts. Let me describe those efforts for my colleagues.

In 1975, GPO had 8,500 full-time equivalents, or FTE's. The committee-mandated level of 3,900 FTE's means GPO has reduced its staff by over 50 percent since that time.

In just the past 2 years—since February 1993—total GPO employment has fallen by 13 percent. FTE's have been reduced from 4,893 to 4,250, a reduction of 646 positions at a cost savings of $32 million. During those 2 years and based on the retirement incentive program, which was authorized by law, 357 positions, primarily managers and supervisors, were eliminated representing about 7 percent of GPO's work force.

GPO's authorized level has been reduced in this bill from 4,293 FTE's to 3,900 FTE's. In addition, GPO has typically employed fewer FTE's than authorized by law. For example, in fiscal year 1994, GPO utilized 4,364 FTE's compared with an authorized level of 4,493. In the current fiscal year, 1995, GPO is utilizing 4,250 FTE's compared with an authorized level of 4,293, and their objective is to reduce FTE's further in this fiscal year—to 4,200.

Clearly, the trend over many years has been to reduce employees at GPO, to take advantage of modern equipment, to bring management-to-employee ratios into equality with those throughout the Government, and to use even fewer FTE's than authorized by law.

This amendment offers absolutely no guidance as to where a 350-employee reduction would come from. GPO's core printing and binding function—which utilizes the vast majority of FTE's—could be affected adversely.

Perhaps more important, an amendment of this nature sends a terrible message to an important agency and to the employees who would be affected. It sends the message that no matter what strides GPO makes in downsizing, we will never consider it enough. No matter what type of planning they start to undertake for cost-effective long-term downsizing, we will always throw another curve at them.

There are $155 million of cuts in this bill, and GPO has already been dealt its fair share of cuts as we seek to reduce the legislative branch. Let's leave GPO alone. I urge a "no" vote on the Klug amendment.

Mr. FAZIO. Mr. Chairman, I rise in opposition to the Christensen amendment. During the 13 years that I've managed the legislative appropriations bill, I can't count the number of times we have dealt with an amendment to cut elevator operators.

As a newcomer to our body, the gentleman from Nebraska, Mr. Christensen, lacks the perspective on this issue that many of his more senior colleagues enjoy. The fact is, over the last dozen years or so, the House has cut elevator operators from a level of 150 to just 22 today. Twelve of these operators work in the Capitol, 10 work in House buildings. The average salary of these full-time employees is below $20,000.

Over the years, the Architect regularly has requested funds to modernize elevators. Because the committee has worked to make these funds available, and because this modernization has been carried out in many areas, we have been able to reduce the number of elevator operators dramatically. The fact is, we employ a minimum number now, and we use them where Member traffic and traffic from our visitors is heaviest, essentially only where it is absolutely necessary to expedite Members getting to votes.

I also think the gentleman forgets that these loyal employees are some of the best goodwill ambassadors in the House, responding tirelessly to thousand of questions from our visiting constituents each year and helping our visitors through the Capitol's bewildering and sprawling complex.

The events of yesterday dramatically point out the difference that a few seconds can make in whether Members will get to the Chamber successfully to represent their constituents on the important bills and amendments we vote on daily. As the Republican leadership insists on a 17-minute time frame for votes in order to expedite the business of the House, punctuality will remain very important.

I strongly oppose the gentleman's amendment, and I urge my colleagues to let their common sense overcome this crude attempt to engage in the politics of sound-bites and political expediency.

Mr. FAZIO. Mr. Chairman, during consideration of this bill, we are fortunate that the House will have two good amendments to consider regarding what I consider to be one of the most ill-considered cuts in the bill—the elimination of the Office of Technology Assessment [OTA].

At a time when the Speaker talks constantly about the cyber-Congress and bringing this Congress into the space age of modern communication and the effective use of technology, one of the first steps as we take up this year's 13 annual appropriations bills is to eliminate the very agency—OTA—which gives Congress an independent capacity to analyze complex and technical issues.

My personal preference is that we simply restore OTA in its present form. My amendment does include a reduced funding level for OTA of 15 percent, in keeping with the cut applied to the General Accounting Office and other reductions in the bill. Certainly, OTA should not be immune to legislative downsizing.

However, I also think our colleague, AMO HOUGHTON, has offered a thoughtful amendment that would essentially abolish OTA but hold on to its core function and its core staff by moving them to become a new component of Congressional Research Service. I think this approach has much to commend it. In fact, 10 percent of OTA's annual budget goes to pay for its leased space. If we could just move OTA into a Federal office building like House Annex No. 2 or another appropriate Federal facility, we could recoup that cost as well as a number of administrative costs associated with maintaining OTA's facilities.

Although I would prefer to leave OTA alone, the Houghton amendment, making a 32-percent cut in OTA's regular budget, is probably the best long-range solution for retaining OTA's important mission while allowing it to be carried on as cost-effectively as possible in keeping with overall legislative branch reductions. I intend to support his approach.

For my colleagues who may not be as familiar with OTA as some of their seniors, perhaps an introduction is necessary. OTA is a bipartisan organization analyzing science and technology issues in depth for Congress, primarily for House and Senate committees.

OTA is a bipartisan organization. For example, last year, OTA issued 21 major reports, and 85 percent of them were requested on a bipartisan basis. The reports are begun only after OTA's congressional governing board, which has an equal number of Republicans and Democrats, gives the green light to proceed. The Board also reviews all reports for bias before they are released.

Although OTA is a small agency with only 143 full-time employees and an annual budget for fiscal year 1995 of about $22 million, we get a tremendous bang for our buck because OTA draws on the expertise of over 5,000 outside-the-beltway specialists from industry, academia, and other institutions each year in contributing to its reports and its policy recommendations.

OTA is a lean, cost-effective organization. Since 1993, OTA voluntarily has reduced its middle and senior management by almost 40 percent. OTA relies wherever possible on the use of temporary expert technical staff to avoid adding to its spartan number of full-time employees.

The most important thing to know about OTA is that it saves taxpayer dollars. Again and again, OTA analyses have been the basis for wise policy decisions as Congress formulates legislation. Here are just a few examples:

First, OTA's reports on health care services have saved taxpayers billions by analyzing which medical treatments are cost-effective for inclusion under Medicare and which are not.

Second, OTA's study of the computers at the Social Security Administration last year saved an estimated $368 million.

Third, OTA's cautions about the Synthetic Fuels Corporation saved an estimated $60 billion in spending for energy research.

Fourth, OTA's study of technologies permitted FAA to choose the most cost-effective explosion detection device standards for airline safety.

Fifth, OTA's recommendations concerning the electric power industry contributed greatly to deregulation of the electric power industry as part of the Energy Policy Act of 1992.

In the past few days, we have each received several impressive bipartisan Dear Colleague letters that tell about the special role played by OTA. CURT WELDON and JOHN SPRATT, the chair and ranking member of the Military Research and Development Subcommittee of the National Security Committee respectively, told us how, in response to the bombing in Oklahoma City, they had occasion to draw on OTA's work about countering terrorism. They said their committee has drawn on OTA work on such topics as the former Soviet Union and proliferation, preserving a robust defense technology and industrial base, and evaluating the potential for using a dual-use strategy to meet defense needs. WELDON and SPRATT concluded by saying, "The type of work they perform is just not available from other congressional agencies."

JOHN DINGELL and JIM MCDERMOTT told us of OTA's importance in evaluating Medicare, rural health care, pharmaceutical research and development, and tough issues like defensive medicine and medical malpractice, unconventional cancer treatments, forensic DNA testing, and other very technical issues related to health. "Time and time again," they said, "OTA reports have provided the timely information necessary for Congress to make good policy decisions to spend federal health care dollars well."

MIKE OXLEY, chair of the Commerce Committee's Subcommittee on Commerce, Trade, and Hazardous Materials, and RICK BOUCHER, a Democratic member of that subcommittee, brought our attention to OTA's work on environment issues before their subcommittee including Superfund, nuclear contamination in the Arctic Ocean, alternatives to incineration for cleaning up selected Superfund sites, and new biological pesticides.

A letter from our colleague GEORGE BROWN, the former chairman of the Science Committee, and others cited a small sample of the leaders from business and industry, science and academic who believe the committee made a mistake in trying to eliminate OTA.

Leaders from business and industry endorsing OTA include Norman Augustine, the president of Lockheed-Martin; David Potter, former vice chairman of General Motors Corp.; Doug Decker of Johnston Controls; Robert Klimish, vice president of the American Automobile Manufacturers Association; John Seely Brown from the Xerox Palo Alto Research Center; Michel T. Halbouty, president of America's largest independent oil company; David Hale, chief economist for Kemper Financial Services; Mitch Kapor, chairman, of ON Technologies Inc. and the inventor of Lotus 1–2–3; John Diebold of the Diebold Institute for Public Policy Studies, Inc.; Brooks Ragen, chairman and CEO of Ragen McKenzie; and Jim Christy from TRW.

Scientists and academics endorsing OTA include Sally Ride, America's first woman astronaut; Guy Stever, Science Advisor to Presidents Ford and Carter; Ed David, Science Advisor to President Nixon; Charles Vest, president of Massachusetts Institute of Technology; Jim Hunt, former chancellor of the University of Tennessee Medical Center; Harold Brown, former president of Caltech and former Secretary of Defense under President Carter; Robert Frosch of the Kennedy School of Government at Harvard University; Granger Morgan and Marvin Sirbu from Carnegie-Mellon University; Daniel Bell of the American Academy of Arts & Sciences; George Connick, president of the Education Network at the University of Maine; John Dutton, Dean of Earth Sciences at Pennsylvania State University; Rosemary Stevens of the University of Pennsylvania; Chase Peterson, president emeritus of the University of Utah; Max Lennon, past president of Clemson University; Alvin L. Alm of Science Applications International Inc.

Other supporters include our most eminent scientific organizations: the American Association for the Advance of Science; the National Academy of Sciences; the Federation of American Scientists; the American Physical Society; the American Association of Medical Colleges; and American Psychological Association.

The Dear Colleague letter pointed out that technology offices modeled after OTA have been established by the parliaments of England, France, Germany, the Netherlands, and the European Commission. Clearly, OTA has a national and international reputation for excellence.

Coming from a State where agriculture is of pre-eminent importance, I am struck by the number of important analyses OTA has provided in the agriculture area, a policy area where one might not normally think of complex or highly technical issues. For nearly 20 years, OTA has provided exceptional support on agriculture technology and policy to Congress. As we begin the Farm Bill debate this year, we are already armed with a major, new assessment from the agency—"Agriculture, Trade and the Environment"—which presents several ways to achieve trade growth and environmental quality in complementary fashion.

OTA is completing another study using the best scientific expertise available in the country to identify agriculture's environmental priorities for better targeting of the Conservation Reserve Program and others under continuing budget stress. In a second study, OTA is assessing ways that agricultural research can generate new technologies at a faster pace, so as to ensure continued growth in trade while still meeting environmental, food safety, and public health goals. Another assessment now underway examines the roles biologically based pest controlled technologies can play in reducing the risk and use of pesticides while maintaining competitiveness. This subject affects several farm bill titles, including research, technology transfer, and land management.

In closing, I'll emphasize several points. First, it is imperative that Congress retain an independent analytical function. We don't want to rely on executive branch agencies.

Second, OTA's work cannot be picked up adequately by GAO or CRS, which focus on entirely different types of studies. The idea that OTA's work somehow could be contracted out is also unworkable. We would either be beholden to organizations supplying studies slanted to their own interests, or if we were willing to pay top dollar for the type of long-range studies OTA now undertakes, we would lose the important capacity inherent in an established professional staff to give testimony or to assist with legislative proposals sometimes years after the studies have been completed.

Third, policy questions are increasingly complex and technical. Environmental risk assessment and telecommunications are just two examples of complicated policy issues that confront Congress this year. Our colleagues have pointed out many others in the areas of national security, health, agriculture, and the environment. We make important policy choices every day, and we need OTA to help us sort out fact from fiction.

I ask my colleagues to support the Fazio and the Houghton amendments to restore OTA and to hold on to the important mission of this agency in support of our congressional decision-making.

Mr. FAZIO. Mr. Chairman, the rule for this bill is frequently controversial because the provisions of the legislative appropriations bill affect our personal offices, our committees, and the offices and people supporting this institution. We all have personal knowledge of much of the subject matter, but there are many different perspectives about the standards we should be setting for ourselves and the way we should be administering the House. Those perspectives ensure controversy, and as the floor manager of the legislative appropriations bill for the last 13 years, I've managed my share of them. That honor now falls to my good friend, RON PACKARD, as the new chairman of the Legislative Appropriations Subcommittee.

This year 33 amendments were offered to the Rules Committee—however, only 11 were accepted.

The structure of this rule stands in stark contrast to the open rule adopted for consideration of the military construction appropriations bill, which was considered immediately prior to this one.

Although some good questions will be debated today, I am troubled by the important subjects that will be skipped.

Thoughtful amendments were submitted on a number of issues affecting the way we conduct business here. Amendments were submitted including:

First, ensuring the frequent flier miles earned by Government travel will only be applied to Government travel, Second, eliminating funding for the Joint Economic Committee, and

Third, eliminating the discrepancy between congressional retirement benefits and other congressional employees.

I'm particularly concerned that the Republican majority on the Rules Committee voted down three amendments to the rule offered by their Democratic counterparts:

First, the Brewster/Harman lockbox amendment—this is a good concept that has been endorsed overwhelmingly by the House in the past. It's too bad we won't have a chance to consider it again when it comes to cuts in our won backyard.

Second, an amendment offered by Mrs. SCHROEDER to abolish the Joint Tax Committee. Mrs. SCHROEDER made a good argument at the Rules Committee comparing the Republican attitude toward the Select Committees of Hunger, Narcotics, Aging, and Children, Youth and Families—which were eliminated at the beginning of this Congress—and whether we should be considering joint tax in this same vein. Unfortunately, the House won't have a chance to make the comparison.

Third, last but hardly least, a gift ban proposed by our freshman colleague, JOHN BALDACCI from Maine. The GOP freshmen came in with big reform plans for Congress. Now, when a gift ban is proposed, we're told that this is not the proper legislative vehicle for considering it, that it is too difficult to make these determinations in this bill.

Fortunately, there are some good questions the House will have an opportunity to discuss:

First, clerk-hire, official expenses, and mail. We'll be considering an amendment to cut costs more severely in the accounts affecting our personal offices even as a major cost-shifting effort is contemplated that will have a significant impact on the day-to-day operations of our personal offices.

Second, the proper funding level for Members' mail. We've slashed funding for mail significantly in the last few years—we'll have another chance to see if the Members feel we've finally done enough.

Third, the operation of the Government Printing Office and our depository libraries program. It is fitting that we consider the proper funding level for depository libraries especially as we move to an increased level of electronic dissemination of documents.

I'm grateful to the Rules Committee that we will also have a good debate about the vital support organizations for Congress that help us do our job.

There is a good amendment offered by Mr. CLINGER and our colleagues, Mr. PORTMAN, Mr. CONDIT, and Mr. DAVIS to add funding to the Congressional Budget Office [CBO] in support of the important work they have been given in the unfunded mandates legislation passed by Congress earlier this year. I'm concerned about the offset they are offering in abolishing funding for the American Folklife Center, but it is important to talk about the resources needed for CBO to do their job properly for us.

Two good amendments take up the question of the Office of Technology Assessment [OTA]. My amendment is a straight restoration of OTA with a 15 percent cut in line with our cut to the General Accounting Office. Mr. Houghton's amendment would cut OTA further—to $15 million—and make further savings by shifting their box on the organizational chart to Congressional Research Service.

I'm also grateful to the Rules Committee for allowing us to take up this important question of the authority of the Joint Tax Committee regarding refunds for our largest taxpayers.

This authority was, in my opinion, mistakenly eliminated in this bill. Joint tax works closely with the U.S. Treasury and provides a vital legislative check on their work, finding errors in approximately 9 percent of the cases reviewed and easily paying for the limited resources we devote to this function each year. There are solid reasons for joint tax performing this function, and I'm pleased that we will have a chance to point those out to the membership.

We will have some good debates. But the Rules Committee has left out too many important questions and has continued their intransigence in permitting the House to debate a gift ban. I oppose this rule, and I ask my colleagues to send this rule back to the Rules Committee to open up this debate and permit us to take up additional important questions that affect this institution and the way we conduct the people's business here.

Mr. FAZIO. Mr. Chairman, I share the concerns of the gentleman from Utah [Mr. ORTON], who is offering this amendment to add resources to the Superintendent of Documents.

The committee is undertaking an enlightened policy of providing the greatest possible incentives to Federal agencies to shift their reliance on traditional printing and switch to electronic dissemination of documents to the greatest extent possible. By shifting the cost of printing documents to the originating agencies instead of assuming responsibility for it in our legislative appropriation, it is thought that agencies are more likely to scrutinize their needs and consider whether making documents available electronically will suit their purposes just as well, with the added benefit of decreased overall costs to the Federal Government.

However, frequent users of our Federal depository libraries have raised some legitimate concerns.

First, our experience with electronic dissemination is limited. For example, last year the Government Printing Office acquired and distributed over 20 million copies of publications, some 65,000 titles—but only 306 titles were provided by GPO in electronic format to participating libraries.

Second, although we want to encourage electronic distribution of information, it is also likely that the nature of some documents will never make them suitable for only electronic transfer either because of the nature of their use, or because the users don't have access to computers, or because the libraries need a permanent printed copy for historical research purposes.

Last, there is also legitimate concern that agencies, faced with these additional costs, will use the costs as an excuse not to comply with their obligations under the law in making documents available to depository libraries. Since at least some problems with fugitive documents are of concern to depository libraries already, then this changeover is certainly a process we want to monitor carefully.

Because of the legitimate concerns raised by librarians and others familiar with the depository library system, I offered and the chairman accepted language at the full Appropriations Committee meeting to ensure that the public's access to information will remain unchanged and to see that this changeover is administered smoothly. The language, which appears on page 31 of the report states:

> The Committee's intent is that the public's access to information through Federal Depository Libraries will not be reduced as a result of these policies, but will be maintained and enhanced. The Committee expects the Superintendent of Documents to monitor these new policies and report about the progress of the agencies in converting to electronic format and distribution, complying with the reimbursement policy, and the effects of these policies on the availability of documents to the public.

So I share the concerns of the gentleman from Utah, and the committee has taken steps, as outlined in the report, to monitor this changeover carefully.

I am also concerned about offsets offered by the gentleman from the Botanic Garden's conservatory renovation funds. Although the funds provided by the committee appear to be a substantial boost to the Botanic Garden's normal appropriations, the additional funds represent a multiyear effort that is also dependent on private funds for this long-overdue project.

For both reasons, I oppose the amendment and urge my colleagues to vote against it.

The CHAIRMAN. Under this rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. CAMP) having assumed the chair, Mr. LINDER, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1854) making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes, pursuant to House Resolution 169, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MILLER OF CALIFORNIA WITH INSTRUCTIONS

Mr. MILLER of California. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the bill in its present form?

Mr. MILLER of California. I am, Mr. Speaker.

Mr. PACKARD. Mr. Speaker, I reserve a point of order on the gentleman's motion.

The SPEAKER pro tempore. A point of order is reserved.

The Clerk will report the motion.

The Clerk read as follows:

Mr. MILLER of California moves to recommit the bill H.R. 1854 to the Committee on Appropriations with instructions to report the same to the House forthwith with the following amendment:

Page 49, after line 25, insert the following new section:

SEC. 312. None of the funds made available in this Act may be provided for any Member, officer, or employee of the House of Representatives when it is made known to the Federal entity or official to which the funds are made available that such Member, officer, or employee has accepted a gift, knowing that such gift is provided directly or indirectly by a paid lobbyist, a lobbyist firm, or an agent of a foreign principal.

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] is recognized for 5 minutes in support of his motion to recommit.

□ 1500

Mr. MILLER of California. Mr. Speaker, the purpose of this motion to recommit is to send this bill back to committee with instructions for the purposes of reporting the bill back to the floor with a gift ban, to make sure we would finally end the practice of gifts from lobbyists, lobbying firms, and others involved in legislation, to Members of Congress.

We have amended the rules of this House extensively, and we have done it on three different occasions. Each time we have been denied the opportunity to offer an amendment to end the practice of gifts by lobbyists to Members of Congress.

This is an effort to do that through the legislative appropriations bill by denying those appropriations to those offices where Members have continued to accept gifts which they knowingly have been provided, directly or indirectly, by a paid lobbyist or a lobbying firm.

Mr. Speaker, I would hope Members of this House, on a bipartisan basis, would vote to support the recommittal motion, so once and for all we can put an end to a practice that is unacceptable to the public, it is unacceptable in the conduct of the public's business, and it should be unacceptable in this House. That is ending the giving of gifts by lobbyists and lobbying firms to Members of this House while they have legislation under consideration.

Mr. DOGGETT. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, it was very thoughtful of the Committee on Rules to put some of the really critical issues of the Nation before us in the amendments that they permitted us to consider. We got to consider flowers, we got to consider whether there would be elevator operators, we got to consider a number of other matters of similar import, and yet, on the critical issue of whether the ties that bind legislators to gifts would be approved, we were denied the opportunity to even present it for a vote on the floor of this Congress. Mr. Speaker, that goes to the core of the problem in this Congress of business as usual.

Mr. Speaker, there is a need for us to be able to present the American people with a clear choice of whether we are going to end gifts, freebies, free trips, or we are not going to end them. This motion is one way to do that. It is an up-or-down vote. If Members believe in continuing the gifts, if they believe in continuing the freebies, then vote against the motion of the gentleman from California [Mr. MILLER].

However, if Members think we ought to do something to clean up this House, this is the opportunity to do it. Some of us have taken a voluntary gift ban agreement and have signed off, and we return these gifts and these freebies, and deny these tickets and special benefits. However, this is a way to write it into law. That is the whole purpose of this amendment.

Mr. WARD. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Kentucky.

Mr. WARD. Mr. Speaker, do Members know what is so frustrating? What is so frustrating is to hear these cries of "vote," when they are not saying vote on a gift ban, are they? They are not going to allow us a vote on a gift ban. We have asked again and again and again.

If we are going to reform this Congress, let us have an up-or-down vote on a gift ban. That is all we are asking for today.

Mr. MILLER of California. Mr. Speaker, finally, I would just say we have considered many amendments to this legislation. Many of those amendments have been about how we conduct our offices and how we pay for those offices and how we approach and hold ourselves out to the public.

However, what we did not consider in this legislation was the question of gift giving by lobbyists to Members of this legislative body. It is a practice that must be ended. The leadership on that side had said they are going to end it. The question is when, because every time we have an opportunity to do it within the rules of the House, somehow we cannot find the will to do it.

Mr. Speaker, this is a practice that must end. It must end now. If Members support the motion to recommit, it can be done away with today. I would urge all the Members to support the motion to recommit.

POINT OF ORDER

The SPEAKER pro tempore (Mr. CAMP). Does the gentleman from California [Mr. PACKARD] have a point of order?

Mr. PACKARD. Mr. Speaker, I wish to make a point of order against the motion to recommit with instructions because it includes a limitation and is not in order under clause 2 of rule XXI. Under the precedents of the House, it is not "competent" for the House to amend the bill in the manner proposed because it is not in order for the House to instruct the Committee to do what the House itself could not do.

Mr. Speaker, I quote from precedents of the House of Representatives: "It is not in order to do indirectly by a motion to commit with instructions what may not be done directly by way of amendment."

Also, Mr. Speaker, a point of order was sustained on a motion, a very like motion, to recommit with instructions on August 1, 1989, under a different Speaker. Mr. Speaker, the gentleman's motion to instruct includes a limitation not specifically contained or authorized in existing law, and not considered in the Committee of the Whole pursuant to clause 2(d) of rule XXI, and therefore I ask for a ruling by the Chair on the point of order.

The SPEAKER pro tempore. Does the gentleman from California [Mr. MILLER] wish to address the point of order?

Mr. MILLER of California. Mr. Speaker, the language offered in this motion to recommit is in fact valid under the House rules. It is constructed to meet all requirements for a valid limitation under clause 2 of rule XXI. It does not impose "substantial additional duties."

While it is true such an amendment could have been blocked under section (d) of clause 2 by the motion to rise had such a motion been offered in the Committee of the Whole, in fact no such motion was offered. The Committee rose under the direct terms of the rule, House Resolution 169, rather than as a result of the motion of the majority leader or the manager.

The House rules clearly permit a valid limitation to be offered when the manager or the majority chooses not to offer the motion to rise or if they fail to do so in a timely fashion. For this reason, a motion to recommit with instruction to include a simple valid limitation is in fact in order, and therefore the motion to recommit requiring a gift ban be reported back to the House is in order.

The SPEAKER pro tempore (Mr. CAMP). The Chair is prepared to rule on the point of order. Consistent with the precedents of August 1 and 3, 1989, which are recorded in section 835 of the House Rules and Manual, the point of order is sustained and the motion is held out of order.

MOTION TO RECOMMIT OFFERED BY MR. MILLER OF CALIFORNIA

Mr. MILLER of California. Mr. Speaker, I move to recommit the bill, H.R. 1854, to the Committee on Appropriations.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. MILLER of California moves to recommit the bill, H.R. 1854, to the Committee on Appropriations.

Mr. MILLER of California. Mr. Speaker, if I can, I would like to be heard on the motion.

The SPEAKER pro tempore. The motion is not debatable. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit with instructions.

PARLIAMENTARY INQUIRIES

Mr. GEJDENSON. I have a parliamentary inquiry, Mr. Speaker.

Mr. MILLER of California. A parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California [Mr. MILLER] will state his parliamentary inquiry.

Mr. MILLER of California. Mr. Speaker, why was that motion not debatable, but the previous motion was debatable?

The SPEAKER pro tempore. The difference is between a motion that includes instructions, which is debatable, and one that does not.

Mr. MILLER of California. I thank the Chair.

Mr. PACKARD. A parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman from California will state it.

Mr. PACKARD. Mr. Speaker, I have been told and informed that we expect this final passage vote to be the last vote of the day. Is that correct?

The SPEAKER pro tempore. The Chair would advised the gentleman that the vote is on recommital.

Mr. PACKARD. After final passage, I am talking about, Mr. Speaker.

The SPEAKER pro tempore. The Chair is about to announce a 15 vote on recommital and then a 5——

Mr. PACKARD. After final passage, is that to be the last vote of the day, Mr. Speaker?

The SPEAKER pro tempore. The Chair would tell the gentlemen yes, that is the Chair's understanding.

Mr. OBEY. A parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state it.

Mr. OBEY. Mr. Speaker, would it be in order to point out that if this motion is adopted, the committee would attempt to incorporate the gift ban when it comes back from committee?

The SPEAKER pro tempore. That is not a parliamentary inquiry.

The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 5(b)(3) of rule XV, the Chair may reduce to not less than 5 minutes the time for any recorded vote that may be ordered on passage of the bill.

The vote was taken by electronic device, and there were—ayes 186, noes 240, not voting 8, as follows:

[Roll No 416]

AYES—186

Abercrombie
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Montgomery
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Poshard
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOES—240

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—8

Ackerman
Clayton
Laughlin
Moakley
Parker
Pomeroy
Serrano
Torres

□ 1528

Mr. SAXTON changed his vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. DELAY was allowed to proceed out of order.)

Mr. DELAY. Mr. Speaker, I only take this 1 minute to clarify a statement that was made earlier.

Mr. Speaker, we do expect, in fact it is automatic on appropriations bills, a vote on final passage. The other side has assured us, and we are assuring Members that there is no plan to vote on the rule on the Foreign Operations appropriations bill.

Mr. OBEY. Mr. Speaker, will the gentleman yield on that point, because that is no longer correct. Will the gentleman yield for a clarification?

Mr. DELAY. I will be glad to yield to the gentleman from Wisconsin, the ranking member of the Committee on Appropriations.

Mr. OBEY. Mr. Speaker, there are two aspects of the rule which have just come to my attention, which mean that this gentleman at least would be asked for a vote on the rule. I do not know what the wish of the majority is in terms of proceeding, but I do not believe that Members should be given assurances that if the rule is going to be voted on tonight, that there will not be a rollcall vote, because with my new understanding of what the Committee on Rules has done, I intend to ask for a vote on the rule.

☐ 1530

Mr. DELAY. Mr. Speaker, I change my earlier statement. There will be a vote on final passage, a rollcall vote on final passage, and Members should expect a vote on the rule in an hour after that vote is concluded.

The SPEAKER pro tempore (Mr. CAMP). The question is on passage of the bill.

Pursuant to clause 7 of rule XV, the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 337, nays 87, not voting 10, as follows:

[Roll No. 417]

YEAS—337

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fawell
Fazio
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McHale
McInnis
McIntosh
McKeon
McNulty
Meehan
Meek
Metcalf
Meyers
Mica
Miller (FL)
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Pallone
Paxon
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Sabo
Salmon
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schumer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—87

Abercrombie
Andrews
Becerra
Bevill
Bishop
Bonior
Browder
Brown (CA)
Bryant (TX)
Chapman
Clay
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Cramer
DeFazio
Dellums
Dingell
Durbin
Engel
Fattah
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gibbons
Gordon
Green
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Jackson-Lee
Jacobs
Jefferson
Johnston
Kanjorski
Klink
LaFalce
Lewis (GA)
Martinez
McDermott
McKinney
Menendez
Mfume
Miller (CA)
Mineta
Moran
Murtha
Nadler
Neal
Olver
Owens
Pastor
Payne (NJ)
Peterson (FL)
Pickett
Rangel
Reynolds
Roybal-Allard
Rush
Sanders
Sanford
Schroeder
Scott
Slaughter
Stark
Stokes
Thompson
Torricelli
Towns
Tucker
Velazquez
Vento
Volkmer
Waters
Watt (NC)
Waxman
Wyden
Wynn

NOT VOTING—10

Ackerman
Clayton
Dicks
Houghton
Laughlin
McHugh
Moakley
Parker
Serrano
Torres

☐ 1539

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

GENERAL LEAVE

Mr. PACKARD. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1854, the bill just passed, and that I may include tabular and extraneous material and charts.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1905, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 1996

Mr. QUILLEN, from the Committee on Rules, submitted a privileged report (Rept. No. 104–154), on the resolution (H. Res. 171) providing for consideration of the bill (H.R. 1905) making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROVIDING FOR CONSIDERATION OF H.R. 1868, FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 170 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 170

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes. The first reading of the bill shall be dispensed with. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered by title rather than by paragraph. Each title shall be considered as read. Points of order against provisions in the bill for failure to comply with clause 2, 5(b), or 6 of rule XXI are waived. Before consideration of any other amendment it shall be in order to consider the amendments printed in part 1 of the report of the

Committee on Rules accompanying this resolution in the order printed. Each of those amendments may be offered only by a Member designated in the report, may amend portions of the bill not yet read for amendment, shall be considered as read, shall be debatable for ten minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against amendments printed in part 1 of the report are waived. After disposition of the amendments printed in part 1 of the report, the provisions of the bill as then perfected shall be considered as original text. Points of order against amendments printed in part of the report under clause 2 of rule XXI are waived. An amendment printed in part 2 of the report shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. During further consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 6 of rule XXIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida [Mr. GOSS] is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Ohio [Mr. HALL] pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate only.

(Mr. GOSS asked and was given permission to include extraneous material in the RECORD.)

PERMISSION FOR MEMBER TO OFFER AMENDMENTS IN MODIFIED FORM

Mr. GOSS. Mr. Speaker, I ask unanimous consent that the gentleman from Ohio [Mr. HALL] be permitted to offer either of his amendments numbered 1 or 2 in House Report 104–147 which accompanies House Resolution 170, to the bill H.R. 1868 in the modified form which Representative HALL has placed at the desk.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. HALL of Ohio. Mr. Speaker, reserving the right to object, I will not object, but I would like to explain this request.

The unanimous consent will simply correct a technical and clerical error that occurred at the Legislative Counsel's office in the drafting of my amendments, which appear as amendments number 1 and number 2. An incorrect number was picked up from line 14, page 22, of H.R. 1868. As a result, the corrected numbers in the Hall amendment are $2,326,700,000 and $2,300,000,000 respectively. This is a technical error.

□ 1545

It will not change the thrust of the amendments, and I still only intend to offer one of them.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. OBEY. Mr. Speaker, reserving the right to object, is the technical amendment only in the Hall amendment and no other portion?

Mr. GOSS. Mr. Speaker, will the gentleman yield?

Mr. OBEY. Further reserving the right to object, I yield to the gentleman from Florida.

Mr. GOSS. That is the only part of the unanimous-consent request that I have presently on the floor on which the gentleman from Ohio [Mr. HALL] reserved the right to object.

Mr. OBEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. CAMP). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GOSS. Mr. Speaker, I am pleased to bring this rule to the floor today. While it is not a remarkable rule, it does share certain qualities with most of the rules of the new majority that we have reported this year.

First, it is open. It has a very limited number of specific waivers, and it is fair to both sides of the aisle.

Specifically, the rule for the foreign operations bill accomplishes several things. First, it is an open rule, allowing any Member to offer an amendment that is in order under the standing rules of the House. In fact, this rule does go a little bit beyond that, allowing for debate on four separate amendments, two Democratic amendments and two Republican amendments, that might not be allowed under a regular rule, might not, I say, because we are not entirely sure of the parliamentary rulings on all of them.

There are only three specific waivers given to the bill for unauthorized appropriations, reappropriations, and for a technical trade provision.

The first two are needed because there has not been a foreign operations authorization bill that has made it into law since 1985, as just about everybody knows. This year the House passed an authorizing bill. We have done our work, and it is worth noting the Committee on Appropriations has worked closely with the Committee on International Relations to ensure this bill is in line with the House-passed authorization.

The last technical waiver I mentioned is required because the bill contains a provision expanding the President's existing authority to impose trade sanctions to Iraq, Serbia, and Montenegro. While this provision is included in the bill for very sound foreign policy reasons, trade issues fall under the primary jurisdiction of the Committee on Ways and Means. Therefore, this section needs a waiver from clause 5(b) of rule XXI.

previous rules this year, we have included a preprinting option, I stress the word "option," for priority and recognition.

And, finally, this rule provides for a motion to recommit with or without instructions, as is the right of the minority.

Mr. Speaker, as we discussed in the Committee on Rules hearing yesterday, it is important for this House to have a full and complete debate over the issue of foreign aid especially over the true amount of tax dollars involved and the policies that drive these expenditures. I am pleased that this rule allows for this debate, and I look forward to it.

This year's foreign aid rule is, in many ways, a tremendous improvement over previous bills. To begin with, it is $1.6 billion below last year's bill and $2.8 billion below the President's requests. Those are significant amounts of money, and, in my view, they are responsible cuts that represent the kind of spending reform that is necessary to achieve the balanced budget we set out to do.

In addition, there is much greater accountability for the funds spent under this bill. Americans have demanded that. And we make these two issues, affordability and accountability, our top priority in any foreign aid bill, and I think we have done that pretty well here.

We are now down to less than 1 percent of the budget for foreign aid, something under $12 billion.

There is one area in which I would like to see even greater accountability, however, and that is aid to the Government of Haiti. The Clinton administration has committed an enormous amount of taxpayers' dollars to Haiti, actually without much explanation or accounting so far. There is an important pair of elections scheduled for this calendar year, elections for Haiti's parliament this weekend and the Presidency in December of this year.

I plan to offer an amendment that will require that before United States dollars are sent to Haiti, those elections be conducted in a democratic and constitutional manner. This will provide greater accountability for the foreign aid dollars that are spent in Haiti and ensure that they are utilized to enhance democracy and provide a real incentive to Haiti to stay on the road to democracy.

Mr. Speaker, I believe the rule before us today is both fair and open. It was voted out of our committee on a voice vote, and I urge my colleagues to support its adoption.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of June 20, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open[2]	46	44	30	73
Modified Closed[3]	49	47	11	27
Closed[4]	9	9	0	0
Totals:	104	100	41	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be pre-printed in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of May 12, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/1/95)
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95)
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95)
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95)
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95)
H. Res. 146	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95)
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95)
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95)
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191 A: 233–183 (6/13/95)
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ:223–180 A: 245–155 (6/16/95)
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95)
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as my colleague has described, House Resolution 170 is essentially an open rule. It provides 1 hour of general debate on the foreign operations appropriation bill for fiscal year 1996.

The rule does provide waivers of clause 2 of rule XXI, to allow unauthorized appropriations provisions in the bill, as well as clause 6 of rule XXI, prohibiting reappropriations in some provisions.

The rule does reflect an agreement between the authorizing committee and the appropriators by making in order two amendments to be offered by the gentleman from New York [Mr. GILMAN], chairman of the Committee on International Relations.

The rule also makes in order my children's amendment, which is called the Hall amendment, to transfer $108 million in funds to the new child survival fund and to include basic education activities for millions of poor children overseas.

I want to thank the gentleman from New York [Mr. SOLOMON] and the members of the Republicans and the Democrats on the Committee on Rules for making this in order. I appreciate that.

Other amendments allowed under the rule include one by the gentleman from New Jersey [Mr. SMITH], the gentleman from New Jersey [Mr. MENENDEZ] on Cuba, the gentleman from Florida [Mr. GOSS] on Haiti, and under the normal amending process in the House, any other amendment which does not violate House rules will be in order under this rule.

So, Mr. Speaker, while I do support this rule, I have some misgivings about the bill as it currently stands. As I indicated during the debate on the American Overseas Interest Act, the international affairs budget represents only 1.3 percent of total Federal spending. It has already been cut by 40 percent since 1985, and under this bill the fund for Africa absorbs a 34-percent cut and another 40 percent is squeezed out of development aid. Funds in these areas go for self-help, preventive programs which alleviate more money down the road.

Mr. Speaker, I am pleased the Committee on Rules was able to make the Hall amendment, which is my amendment, in order to transfer $108 million in funds to the new child survival and disease programs fund. This fund is created to take care of vital child survival and disease prevention activities that alleviate malnutrition and death among the world's poorest children.

My amendment will also allow basic education programs to be funded through this new children's account.

Disease and malnutrition and basic education are the core of self-sufficiency, and without a renewed emphasis on these kinds of programs, we cannot expect people to raise themselves out of poverty or improve their situations. For each additional year of schooling children from developing countries receive, their incomes rise as much as 10 percent.

My amendment pays for itself by transferring small amounts from other foreign aid programs that can absorb the cuts.

And finally, in the Committee on Rules hearing, the gentleman from Oklahoma [Mr. BREWSTER] did request an amendment know as the deficit reduction lockbox amendment. This would have allowed any savings obtained from floor votes to go into a special deficit reduction trust fund. Given the interest many of us have in deficit reduction, I believe the Committee on Rules should have made the Brewster amendment in order.

My colleague, the gentleman from California [Mr. BEILENSON] did offer the lockbox measure as an amendment to the rule, but, unfortunately, it failed.

I plan to support the rule. I think it is a good rule.

Mr. Speaker, I reserve the balance of my time.

Mr. GOSS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Glens Falls, NY [Mr. SOLOMON], the chairman of the Committee on Rules, formerly of Okeechobee, FL.

Mr. SOLOMON. As a matter of fact, I will be down near there this weekend.

Let me say the two speakers, the gentleman from Florida [Mr. GOSS] and the gentleman from Ohio [Mr. HALL], have accurately described this rule as being fair and open, and it is.

It allows Republicans and Democrats, it allows liberals, conservatives, anybody else, the right to come on this floor and work their will. That is the way it should be. I will not go into that any further.

Let me just say this appropriations bill itself represents yet another installment in our march toward a balancing of the Federal budget. That, to me, means so much. It means that the total appropriation in this bill is almost 20 percent below the administration's request, and more than that, it is almost 12 percent below the appropriated level from fiscal year 1995. And that is the only way that we are ever going to balance the budget. We have to spend less this year than we spent last year, and we have got to continue to do that year in and year out at least for 7 years. I wish it could be sooner.

The truth of the matter is we are following the Ronald Reagan philosophy. He said that instead of giving people fish and foreign aid, we ought to teach them how to fish, and that is exactly what this bill does. Otherwise, we have to keep giving them fish year in and year out. This way, let us teach them how to fish. That is what we are doing in restructuring our foreign aid programs, as well as the domestic programs.

So I commend the sponsors of this legislation on the Committee on Appropriations for a job well done, and I hope that everybody votes for this fair rule and then for the bill itself.

It will be the first appropriations bill on foreign operations that I have ever voted for, and that is because it begins to turn things around and reduce the Federal deficit.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, let me simply observe, with respect to the statement by the gentleman from New York, that the foreign aid bills for the last 10 years have reduced the level of foreign assistance. They used to be $18 billion, and in the last decade they have been brought down to $13 billion. So this is not, by any means, the first foreign assistance bill which was lower than the previous year. We have had that occur on a number of occasions during the years that I have chaired that subcommittee.

Let me say that I have opposed the authorization bill because I felt that it represents some of the most incredible micromanagement of foreign assistance in the history of the foreign assistance program, and I think that much of the micromanagement in that bill is idiotic.

But I have been intending to support the appropriation bill because despite the fact that I believe it has a poor allocation of priorities and, despite the reckless manner with which it deals with issues such as NATO and our relationship with the Soviet Union, it does, in fact, not have a lot of the micromanagement that is contained in the authorization bill.

I was informed earlier that it was the intention of the committee not to accept legislative language, save two amendments which everyone understood would be offered, one being the one by the gentleman from Ohio [Mr. HALL] and the other by the gentleman from New Jersey [Mr. SMITH]. The abortion issue is so contentious that we almost always have an issue like that, and that cannot be avoided.

But there are two other legislative amendments which are now being made in order which have, in my view, no business on an appropriation bill which would tie our entire relationship with the Soviet Union to one narrow question of what happens in Cuba, and another amendment which would tie our entire aid relationship to Haiti to legislative language which I have not even yet had an opportunity to review, let alone staff out.

And so, under these circumstances, what I had thought would be a rule which would be a straight appropriation rule bill, in fact, allow for a number of policy issues which, in my view, properly ought to be debated on the authorization bill and not on the appropriations bill. And because of that, and because I believe that the amendment with respect to our relationship with the Soviet Union further adds to the recklessness with which that issue has generally been dealt with by this committee, I am sorry to say that I will have to oppose the rule and will, in fact, oppose the previous question on the rule and would ask that if the previous question is not approved, that the House support an amendment correcting the fact that there are two legislative amendments on this proposal that do not belong here.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

I would just note in response to the gentleman's comments that one of those amendments was brought forward by a distinguished Member of the gentleman's party, the gentleman from New Jersey [Mr. MENENDEZ], and he was treated very fairly. It was thought to be an important amendment.

And the other amendment, the one about Haiti which was brought forward by myself, actually probably does not need protection, because it is a cutting amendment, a limitation amendment, not a legislating amendment, we are told.

Mr. Speaker, I yield 4 minutes to my colleague, the distinguished gentleman from Florida [Mr. DIAZ-BALART].

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Mr. DIAZ-BALART. Mr. Speaker, I thank my distinguished colleague, the gentleman from Florida [Mr. GOSS] for yielding me this time.

I think it is curious that we just heard that the issue that was made in order by virtue of the Menendez amendment having been made in order by the Committee on Rules, and I am going to try to paraphrase, is a narrow issue that will tie our relationship to the Soviet Union to an incident or a situation in Cuba.

To call a nuclear power plant that is being built 180 miles from the United States, and that is being built of a model that after the reunification of Germany four nuclear power plants which had been built by the Soviets there of that same model were immediately closed down by the Government of Germany because of their lack of safety, to call the national interests of the United States that that kind of nuclear power plant not be completed 180 miles from our shore a narrow interest is quite a curiosity.

That is precisely, however, why the gentleman from New Jersey [Mr.

MENENDEZ] came before the Committee on Rules, because of the grave nature of the threat to the U.S. national security that would ensue if this nuclear power plant were completed.

That is why the gentleman from New Jersey [Mr. MENENDEZ] came before the Committee on Rules and asked we make in order, and we did, his amendment which will simply say to Russia that, if they contribute to the completion of that nuclear power plant 180 miles from the United States in Cuba, that the amount that Russia contributes to that nuclear power plant's completion on a dollar-for-dollar basis will be deducted from United States taxpayer assistance to Russia.

Now that is not, Mr. Speaker, I would maintain, nor did the majority of the Committee on Rules maintain, a narrow interest. It is the national security interests of the United States being protected by this Congress in making sure that we make the strongest possible statement to Russia that we will not accept a VVER, a VVER model nuclear power plant being completed a hundred 180 miles from the soil of the United States.

Now in Europe the entire environmental movement is mobilized at this point to close down the other VVER power plants that are still in operation throughout Eastern Europe that the Soviets had constructed, and they are able to close them down. They have been able to close already all of them down in Germany, and they are making substantial progress in closing down the other ones.

This is not a narrow interest. This is something that the gentleman from New Jersey [Mr. MENENDEZ] I think brought forth very correctly, and I think he has to be commended for bringing it forth in this bill as an amendment. He brought it to our attention in the Committee on Rules, and we made it in order, as we made in order the request of the gentleman from Florida [Mr. GOSS] that, if we are going to send taxpayer dollars to Haiti, that they have to have free elections.

Now I think it would be really an extreme absurdity if we were going to continue to send U.S. taxpayer dollars to Haiti if a government there, whatever the government is, proceeds to steal elections.

So that is all we are saying, and it is not a narrow interest. It is something that is in our national interest. It is something that is in our national interest, and that is why, despite the possible, the possible allegations that some points of order could conceivably, and we are not sure, be made with regard to those amendments, the Committee on Rules made them in order.

It is a good rule, Mr. Speaker, and I would ask for my colleagues' support of this fair rule.

Mr. HALL of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Speaker, I want to make clear that I agree with both gentlemen on substance; I agree with the previous speaker. I do not want to see that reactor built in Cuba either. I think it is an idiotic, asinine, and stupid thing for the Soviets to do, and I think we ought to do everything possible to stop it.

The question is whether the method chosen by the gentleman is the most effective way to accomplish that end, and I do not believe it is, and that is the simple issue here.

I do not want for one moment for anyone to believe that I do not agree with both gentlemen with respect to their policy positions on either Haiti or with respect to that reactor. I say to them, "I agree with you on both of them. I do, however, have substantial question about whether or not the method you have chosen to try to accomplish that purpose will do it."

I, in fact, think it may have the opposite reaction, and that is one reason why I believe that on short order, on the basis of a very brief discussion in the Committee on Rules, this amendment should not have been made in order, because frankly I do not think the Congress at this point knows what it is doing on either one of these subjects.

Mr. GOSS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Florida [Mr. DIAZ-BALART] so he may respond to that.

Mr. DIAZ-BALART. Mr. Speaker, I thank the gentleman from Florida [Mr. GOSS] for these 2 minutes. I do not think I will need 2 minutes. I just want to thank the gentleman from Wisconsin [Mr. OBEY] for his support on the substantive issue.

I say to the gentleman, "If over and above our efforts you have further suggestions, we are more than open to receive your suggestions on how to make sure that those powerplants won't be completed in Cuba and how to make sure that democracy is continued and furthered and protected in Haiti. We happen to believe that this is not only an appropriate vehicle, but a most appropriate vehicle to put maximum pressure on both of these situations with regard to the national interests of the United States, but if over and above these efforts you have additional suggestions, we will be more than open to review them and hopefully work together with you."

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. DIAZ-BALART. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I would just like to point out that the original sponsor of the amendment, the gentleman from New Jersey [Mr. MENENDEZ], is a Democrat, and certainly the gentleman from Florida is a Republican, and so am I. But we all had interest in this because time is critical right now.

As a matter of fact, the truth of the matter is we delayed the markup of this rule in the Committee on Rules in order to go back to the Appropriations Committee, both sides of the aisle, staff on the Democrat side and Republican side, to find out if perhaps there was a better way or perhaps other suggestions. We did change it based on their recommendations.

So we have done everything we could. If the gentleman has a better way, we will consider that, too.

Mr. OBEY. Mr. Speaker, will the gentleman yield?

Mr. DIAZ-BALART. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Speaker, he keeps indicating that one of the authors of one of the amendments was a Democrat. It is immaterial to me whether it comes from either side, which side of the aisle it comes from. The fact is our committee knows about as much about that subject as the gentleman can put in his left ear. It ought to be handled by the authorizing committee.

Mr. SOLOMON. Mr. Speaker, the gentleman from Wisconsin [Mr. OBEY] has been around here for 20 years. He is probably one of the most knowledgeable Members on the subject of foreign affairs, and I have praised him to the sky for many years.

Mr. DIAZ-BALART. Mr. Speaker, we do not want these——

The SPEAKER pro tempore (Mr. CAMP). The time of the gentleman from Florida [Mr. DIAZ-BALART] has expired.

Mr. HALL of Ohio. Mr. Speaker, I yield 7 minutes to the gentleman from California [Mr. BEILENSON], a very distinguished member of the Committee on Rules.

Mr. BEILENSON. Mr. Speaker, I appreciate very much my colleague and friend yielding so much time to me.

Mr. Speaker, I rise in mild opposition to the rule and in strong opposition to the bill that it would make in order, the fiscal 1996 foreign operations appropriations bill.

Mr. Speaker, what is at stake in this bill is nothing less than the future of America's leadership in the world. While we need to cut Federal spending, we ought to be extremely concerned about the potentially disastrous effects the spending cuts in this bill will have on U.S. influence abroad, on our ability to protect our national interests, and on the lives of hundreds of millions of people in the developing world.

The bill cuts foreign aid by $1.6 billion below this year's level, a level that already reflects a vastly reduced foreign aid budget compared to that of, say, 10 years ago when Ronald Reagan was President. In 1985, the United States spent $18.1 billion on foreign aid. This year we are spending just $13.5 billion, a 25 percent reduction, not adjusted for inflation. Adjusted for inflation is closer to 40 to 45 percent.

One of the great myths that has been perpetrated in the media is that the

Federal Government spends a significant portion of its budget on foreign aid. Indeed, in a recent study three of four Americans said they believe the United States spends too much on foreign aid. But when asked how much they thought the Nation spends, the median response was 15 percent of the Federal budget. And when respondents were asked how much the United States should spend on foreign aid, the median response was 5 percent, with most agreeing that 3 percent would be too little.

As we all know, U.S. foreign aid is actually less than 1 percent of the Federal budget. In fact, as a percentage of the our gross national product [GNP], the United States is now the lowest aid contributor of the world's top 23 industrialized nations.

For a minuscule fraction of what we spend on defense, the prudent use of foreign aid helps us meet escalating threats to our national and to global security, including chronic poverty, rapid population growth, environmental degradation, forced migration, and in protecting against political instability in countries that cannot adequately take care of their own people. The long-term effect of the cuts in this bill will be a substantial reduction in the President's ability to conduct foreign policy, leaving him, and leaving us, with only a military option in too many circumstances.

Many people do not realize how much our modest investment in foreign assistance programs benefit U.S. businesses and citizens. When the Marshall plan was announced in 1947, only 18 percent of Americans supported that effort to rebuild Europe. But U.S. assistance helped to establish social and political stability, and created some of our best trading partners and, of course, our most staunch political allies. In the 1960's and 1970's, many criticized United States assistance to countries such as South Korea, Taiwan, Mexico, and India. But once again, U.S. assistance ushered in a period of unprecedented growth in those countries. With United States help, for example, India has seen dramatic increases in agricultural production and, as a consequence partially of our foreign aid, a politically stable India now offers a promising and growing market of more than 900 million people for United States goods.

The fastest-growing segment of the U.S. export market is in trade with developing countries. Today developing countries import almost 40 percent of U.S. exports, accounting for at least 2 million U.S. American jobs. In the past decade alone, exports to developing countries have more than doubled from $71 to $180 billion a year.

The United States is today exporting products and services to many of the nations we were giving assistance to in the 1960's and the 1970's. More than 24 countries since that time have moved from being foreign aid recipients to becoming trading partners with us.

Foreign aid has also dramatically improved the lives of hundreds of millions of people and reduced the risk of, and the occurrence of, humanitarian crises. Since 1960, development assistance has helped reduce infant mortality rates in developing countries by 50 percent, has helped increase life expectancy from 46 years to 63 years, has helped increase primary school enrollment from 48 percent to 78 percent. Foreign aid has resulted in important breakthroughs in agriculture; investments made by the United States in better seeds and agriculture techniques has helped make it possible to feed an extra billion people in the developing world.

More than 50 million couples in the developing world use family planning as a direct result of U.S. assistance for overseas family planning services. Over the past 35 years, the average number of children per family in the world has been reduced by one-third, from six children to four.

U.S. aid is largely credited with fully immunizing 80 percent of all children in developing countries, eradicating smallpox worldwide, and virtually eliminating polio in the Western hemisphere.

And, since 1980—in just the past 15 years—U.S. foreign assistance has helped three dozen nations make the transition to democratic governance. The spending reductions in this bill threaten to reverse these positive trends, especially as the number of poor around the world, currently an estimated 1.3 billion people, continues to soar.

One area of particular concern to me in this bill is the nearly 50-percent cut in funding for our efforts to stabilize global population growth, which underlies virtually every developmental, environmental, and national security problem facing the world today.

Global population is now nearly 5.7 billion people, and it is growing by almost 100 million every year—by 260,000 every 24 hours. Future prospects, moreover, are even more staggering. If effective action is not taken in the next few years—as today's 1.6 billion children in the developing world under the age of 15, reach their childbearing years—the earth's population could nearly quadruple to 20 billion people by the end of the coming century.

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In much of the developing world, high birth rates caused largely by the lack of access of women to basic reproductive health services and information, are contributing to intractable poverty, malnutrition, widespread unemployment, urban overcrowding, and the rapid spread of disease. Population control growth is outstripping the capacity of many nations to make even modest gains in economic development, leading to political instability and negating other U.S. and other international development efforts.

So for these and many other reasons, which will be in my extended remarks, I urge our colleagues to vote against what I believe to be the unwise, counterproductive, and ultimately destructive cuts in our Nation's foreign assistance budget contained in this bill. These programs work. Combating rapid population growth, enhancing maternal health, ensuring child survival, reducing the spread of disease, providing basic education and improving agriculture and sustainable development are some of the most humane, farsighted, and economically effective efforts we can undertake. Maintaining adequate funding for these programs now will save many times its expense in future U.S. foreign assistance, will promote global peace and security, and will promote and protect U.S. foreign policy interests. I urge a "no" vote on the rule and the bill.

Mr. Speaker, the impact of exponential population growth, combined with unsustainable patterns of consumption, is also evident in mounting signs of stress on the world's environment. Under conditions of rapid population growth, renewable resources are being used faster than they can be replaced. Other environmental consequences of the world's burgeoning population are tropical deforestation, erosion of arable land and watersheds, extinction of plant and animal species, and pollution of air, water, and land.

For almost 30 years, population assistance has been a central component of U.S. development assistance. While much more remains to be done, population assistance has had a significant positive impact on the health of women and their children and on society as a whole in most countries. In many parts of Asia, Latin America, and Africa, fertility rates have decreased, often dramatically. Couples are succeeding in having the smaller families they want because of the greater availability of contraceptives that our assistance has made possible.

Today, approximately 55 percent of couples worldwide use modern methods of contraception, compared with 10 percent in the 1960's. Despite this impressive increase in contraceptive use, the demand for family planning services is growing, in large measure because populations are growing. Indeed, over the next 20 years, the number of women and men who wish to use contraception will almost double.

Similarly, population assistance has contributed to the significant progress that has been made in reducing infant and child mortality rates. Child survival is integrally linked to women's reproductive health, and specifically to a mother's timing, spacing and number of births. Despite substantial progress, a large proportion of children in the developing world—particularly in sub-Saharan Africa and some Asian countries—still die in infancy.

And, while many countries in the developing world have succeeded in reducing maternal mortality rates, the incidence of maternal death and disability remains unacceptably high, constituting a serious public health problem facing most developing countries. According to the World Health Organization, an estimated 500,000 women die every year as a result of pregnancy and childbirth.

U.S. population assistance is preventive medicine on an international scale. Congress has long recognized this to be the case and over the years has reaffirmed the importance of population assistance in securing U.S. interests abroad. By addressing the basic health and educational needs of women and their families, population assistance provides building blocks for strong democratic government and sets the stage for economic growth. Furthermore, it helps prevent social and political crises, thereby averting the need for costly relief efforts.

At the International Conference on Population and Development [ICPD], held in Cairo last year, the United States was instrumental in building a broad consensus behind a comprehensive Program of Action, which was signed by almost all of the 180 countries that participate in the conference, and which will help guide the population and development programs of the United Nations and national governments into the next century. Central to this plan is the recognition that with adequate funding this decade for family planning and reproductive health services, as well as educational, economic, and social opportunities necessary to enhance the status of women, we can stabilize world population in the first half of the next century.

This bill, however, seems to abandon the goals of the ICPD and the international community. Throughout the Bush administration, and in the last two budgets, the President and Congress have seen fit to increase funding for population assistance, believing strongly that population funding is one of the most cost effective and important uses of our foreign aid dollars. In fact, I recently submitted a letter to the gentleman from Alabama [Mr. CALLAHAN] with the signatures over 100 of our colleagues, urging the committee to fund population programs at the level requested by the President—$635 million.

Instead, the Appropriations Committee has recommended reducing population funding to roughly $300 million, and eliminating the population and development account all together.

These significant cuts in population programs will have devastating and irreversible consequences for the future course of fertility decline in developing countries. The effects of a 50 percent population funding reduction will be felt most immediately in the health and well-being of women and children in developing countries, but will also be felt by the larger global community. Without these funds, there will likely be an estimated 1.6 million unwanted pregnancies per year, resulting in 1.2 million unwanted births, more than 350,000 abortions, and 8,000 maternal deaths.

In addition to these sharp reductions in population assistance, related programs for maternal health, disease prevention, general education, agricultural improvement and rural development will devastated by the cuts in this bill. Although the Appropriations Committee has quite laudably attempted to place an emphasis on helping the world's children, this bill would cut many of the programs that will benefit children the most. It contains large cuts in maternal health—$50 million—in efforts to strengthen health care systems which deliver services to both children and adults—$88 million—and in water sanitation programs—$27 million.

Of these proposed cuts, one of the most startling and destructive is the reduction for maternal health. In the set of 18 countries central to USAID's goal of reducing maternal mortality, drastic reductions in the funding for delivery of safe pregnancy services will contribute to an estimated 24,000 maternal deaths annually that would have been otherwise averted. In addition to these preventable maternal deaths, an additional 336,000 stillbirths and early newborn deaths are likely to occur as a result of USAID's virtual withdrawal from this program. Finally, the delivery of safe pregnancy and related services not only averts maternal deaths, it also helps to avert long-term—chronic—disabilities that occur due to pregnancy and childbirth. In these 18 key countries, estimates of the number of pregnancy-related chronic disabilities are as high as 7 million annually.

I would also like to say a few words about the Smith amendment to this bill, which has been granted a waiver in the rule for violating the prohibition against legislating in an appropriations bill.

Aside from the fact that this waiver is strongly opposed by the chairman of the International Relations Committee, Mr. GILMAN, and should not have been granted, the Smith amendment will deny millions of women access to family planning, prenatal care, safe delivery services, maternal and infant health programs, treatments for infertility, and STD prevention services. It could result in over hundreds of thousands of abortions that could have been averted had these women had access to basic health services.

Contrary to what Mr. SMITH and other proponents of this amendment will argue, this is not about abortion—it is about family planning, and the fact that this amendment will cut population assistance funding to its lowest level in 25 years, when adjusted for inflation. The fact remains that U.S. funds do not pay for abortions. For over 20 years, under the Helms amendment to the Foreign Assistance Act, Federal law has prohibited any U.S. funds from being used for abortions, or to promote abortion. H.R. 1868 retains this prohibition.

The proponents of this amendment also claim that it simply restores anti-abortion policies of the Reagan administration. But it goes further than the so-called Mexico City policy, which prohibited funding to organizations that perform abortion with private funds. It also targets the political messages of family planning providers. It would prevent organizations that receive U.S. population assistance from using their non-U.S. funds in efforts to influence their own country's abortion law, either for or against. Thus, although it is already illegal to use U.S. funds to lobby, groups on both sides of the abortion issue would be penalized for exercising their rights to express their views on abortion.

Finally, Mr. SMITH, in past debates, has misstated the role and involvement of the United Nations Population Fund [UNFPA] in China. No one disagrees that the coercive Chinese population program is abhorrent, and the UNFPA in fact categorically condemns the use of coercion in any form or manner in any population program, including China. Mr. SMITH has said that the UNFPA cannot say enough good things about the Chinese program, and that China could not ask for a better front than the UNFPA. But Mr. SMITH relies on a 1989 quote from UNFPA executive director, Dr. Nafis Sadik, that was taken out of context, at a time when the Chinese seemed to be making progress towards improving the program. The fact is that no evidence has ever been presented of complicity by international agencies, including the UNFPA, in Chinese human rights abuses and, as confirmed by USAID during the Reagan administration, UNFPA does not fund abortion or support coercive practices in any country, including China.

Mr. SMITH's amendment ignores the benefits of the UNFPA's presence in China and over 140 other countries. One of the reasons the international community has information about the horrors of the Chinese program is because of the presence in China of international organizations such as the UNFPA. Moreover, many countries believe that by providing assistance to China, UNFPA is in a unique position to positively influence China's population policies and to promote human rights. UNFPA is in constant dialog with Chinese officials at every level on matters pertaining to human rights, and UNFPA's programs expose Chinese officials to international standards through international training in foreign institutions, including several United States universities. Moreover, denying funding to the UNFPA would have a drastic effect on the UNFPA's programs in the rest of the world. Nearly half of UNFPA assistance is used for family planning services and maternal and child health care in the poorest and most remote regions of the world.

Mr. Speaker, for these and other reasons, I urge our colleagues to vote against the unwise, counterproductive, and ultimately destructive cuts in our Nation's foreign assistance budget contained in this bill. These programs work. Combating rapid population growth, enhancing maternal health, insuring child survival, reducing the spread of disease, providing basic education, and improving agriculture and sustainable development are some of the most humane, farsighted and economically effective efforts we can undertake. Maintaining adequate funding for these programs now will save many times this expense in future U.S. foreign assistance, will greatly reduce human suffering, will promote global peace and security and will promote and protect U.S. foreign policy interests.

I urge a "no" vote on the rule, and on the bill.

Mr. GOSS. Mr. Speaker, may I ask for an accounting on the time?

The SPEAKER pro tempore. The gentleman from Florida [Mr. GOSS] has 16 minutes remaining, and the gentleman from Ohio [Mr. HALL] has 15 minutes remaining.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from the Commonwealth of Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, I appreciate the yielding of time, because I want to rise in support of the rule that is pending, largely because it will be accommodating an amendment to be offered by the gentleman from Illinois [Mr. PORTER] at a later point in the proceedings, which will seek to modify the behavior of the Turkish Government vis-a-vis the Kurds and the record of human rights violations that has become replete over the last few years.

I would not pay so much attention to it as an individual Member of the Congress as I normally would, except that this record, attached to the Turkish behavior with the Kurds, is only but the latest of other reported, documented, and severe human violations perpetrated by the Turkish Government previously, and next to the current government, in Cyprus, for instance. There we are in the untenable position of furnishing aid to a government which turns American weapons, as it were, on to the Cypriot population, and commits human rights violations there using American money and guns.

Now, the United Nations took note of that. The international community, even on the floor of the Congress, there was commentary after commentary and action after action taken at those particular times. But now there is just too much. We cannot tolerate this kind of behavior anymore.

The Kurds' situation allows us to begin to modify the behavior of Turkey with respect to that segment of the world. I have heard the gentleman from Florida, who wants to modify behavior in Haiti through this amendment process. The gentleman from Florida [Mr. GOSS] seeks to conduct or help conduct foreign policy with respect to Haiti with the elections that are pending there. The gentleman from New Jersey [Mr. MENENDEZ] seeks to modify, along with the help of the gentleman from Florida, the issue of Russia and Cuba and a nuclear reactor.

I ask those individuals and all the remaining Members on the floor of the House and in their offices to pay attention to this particular vital issue on the Porter amendment, which can bring about a better future for the Kurds and to begin to curb the human rights violations perpetrated for decades now by the Government of Turkey.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentlewoman from California [Ms. HARMAN].

Ms. HARMAN. Mr. Speaker, we have heard a lot of talk about the careful tailoring in this rule for various interests, but we have not heard a word about the vastly popular deficit reduction lockbox. This is the third appropriations bill we are considering, and the third time the Committee on Rules has not made the lockbox in order. For that reason, I rise in opposition to this rule.

The lockbox is widely popular here; 418 votes to 5 passed it as part of the rescissions bill. All members of the Committee on Rules voted for it. Most of America wants it. It is our best available tool now to make sure that money cut from these appropriations bills goes to deficit reduction.

Just yesterday we passed the military construction appropriations bill. We cut over $20 million from that bill in floor amendments. None of that money will go to deficit reduction. All of it will be reprogrammed. That is wrong.

The rule is wrong too. The lockbox should be in order. The lockbox should be in order under the rule on every appropriations bill, and should be passed, as most Members of this House wanted it to as an amendment to the budget act.

So vote "no" on this rule and vote for the bipartisan Brewster-Harman deficit lockbox.

Mr. GOSS. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, I thank my friend and colleague for yielding.

Mr. Speaker, I reluctantly oppose the rule we are considering for the Foreign Operations bill today. I have great respect for the chairman of our Committee on rules and great respect for the chairman of the appropriations subcommittee and for the good work that he has done to try to find common ground in the bill, and I support the bill. But I cannot support a rule that will waive points of order against an amendment that is pure authorizing language and that will effectively gut our country's bilateral and multilateral population programs.

Mr. Speaker, the Smith amendment has no place in this bill. I am, frankly, very surprised it was made in order under the rule. A nearly identical Smith amendment was adopted during consideration of the foreign aid authorizing bill earlier this year. While I disagreed with the amendment then and spoke out against it, I did not question the Member's right to offer it at the time. That was the appropriate bill and the correct forum for that debate.

But now, however, the Committee on Rules has given extraordinary consideration to those who oppose voluntary family planning by making this amendment in order on a totally inappropriate bill. This is, in my judgment, not fair, since the bill as reported contains no funds whatsoever for abortion, no funds whatsoever for China. The Smith amendment confirms this, but goes further to gut the voluntary familiar family planning programs in the bill, harming millions of couples around the world.

Mr. Speaker, I have the highest respect for the gentleman from New Jersey, who is my friend and colleague. And he and I and the gentleman from Virginia [Mr. WOLF] in fact are joining together on the amendment that the gentleman from Pennsylvania [Mr. GEKAS] mentioned, the fact that we are aiding a country that is committing genocide against its Kurdish population. Mr. SMITH and Mr. WOLF and I are joining together to offer an amendment that will cut aid to Turkey, who is committing genocide against its Kurdish population, is preventing our aid from reaching our allies in Armenia, and is continuing its 21 year occupation of the Island of Cyprus and its intransigence in helping to reunite that island as a country.

So I have the greatest respect for the gentleman from New Jersey [Mr. SMITH]. But, very frankly, his amendment does not belong on this piece of legislation. For that reason, I would urge the Members to send this rule back to the Committee on Rules for rewriting, and will have to oppose the rule.

Mr. HALL of Ohio. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I would like to thank the majority and minority of the Committee on Rules for allowing three amendments that I will be offering on a bipartisan basis. I also wish to thank Mr. CALLAHAN and Mr. OBEY and their staffs for their assistance in helping me deal with these amendments.

Mr. Speaker, the open rule that we will be debating allows an open debate on the harsh realities that exist today in Burma. My most recent trip to that country was extremely disappointing on account of the Burmese regime's entrenchment on human rights and democratization efforts. As a result of this entrenchment I will be offering two amendments with the gentleman from California [Mr. ROHRABACHER] intended to further isolate this repressive regime by cutting all counternarcotics assistance and providing additional funds for the refugee crisis along both sides of the Thai-Burma border.

Burma's ruling military government has established itself as unquestionably the heavyweight champion of repressive governments by violating human rights and detaining the leader of Burma's Democrat movement, Aung San Suu Kyi, for the past 6 years. She courageously is in house arrest without any kind of prospects for being released. Recent efforts to obtain visas by the authors of this amendment have either been denied or granted only after preconditions were met. Leading opposition members of the National League for Democracy in Burma were arrested after I met with them last month.

Perhaps as the most egregious of all human rights violations, Dr. Michael Aris, Aung San Suu Kyi's husband, has been denied access to his imprisoned wife. Just last week the International Committee for the Red Cross abandoned efforts to work with the Burmese Government because of unacceptable conditions imposed by the SLORC on the activities of the Red Cross. So, after permitting the Red Cross to come in to inspect prisons in Burma, they were thrown out.

What we have here is a case of a policy that right now is moving in the direction of dealing with the heroin crisis. That is important. But it does not mean that this administration or any administration should reward a repressive regime with counternarcotics assistance. The amendment that I will be offering with the support of many Members of the majority and minority hopefully will make sure that this does not happen.

Mr. Speaker, let me conclude with a discussion of the refugee crisis from both sides of the Thai-Burma border that is worsening. The launching of an offensive against the Karen refugees this spring resulted in an outflow of an estimated additional 20,000 refugees to Thailand, bringing the population there to over 90,000.

Mr. GOSS. Mr. Speaker, I yield 3 minutes to my distinguished colleague and friend, the gentlewoman from the State of Florida, Ms. ILEANA ROS-LEHTINEN.

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to thank the gentleman for yielding.

Mr. Speaker, first I would like to thank the gentleman from Alabama, Chairman CALLAHAN, and especially Bill Englee from the chairman's staff, for their great help on this very important bill. The Menendez amendment which was granted a waiver from the Committee on Rules is a correct one and not a narrow interest amendment, because I believe that we must use all of the instruments at our disposal to pressure the Russian Government to immediately halt their intentions of aiding the Communist regime of Fidel Castro in finishing construction of the Juragua nuclear powerplant in Cienfuegos, Cuba. If completed, this nuclear plant will pose a serious threat to the safety of the United States, Central America, and the Caribbean.

Construction of the Juragua nuclear plant was halted in 1992 after the Castro regime was not able to obtain the foreign exchange necessary to finish construction. However, this past May, Russia and Cuba announced their intention to finish construction of this plant.

Completion of this nuclear powerplant could constitute the introduction of a real and permanent threat to the health and safety of our hemisphere. Numerous experts, including former technicians at the plant now living in the United States, have denounced its inadequate construction, as well as inferior equipment that was used in its construction. Moreover, the General Accounting Office reported allegations in 1992 that the Juragua nuclear plant was unsafe, and similar Soviet style plants in Eastern Europe have already suffered accidents. In fact, four such plants were shut down by the German Government after reunification of that country.

Mr. Speaker, we cannot allow this type of threat to the security of the United States to be present just a few hundred miles from our shores, especially in the hands of a totalitarian tyrant like Fidel Castro, who has no respect for the dignity of human life.

□ 1630

We must pressure the Government of Russia to stop helping the Castro regime in finishing construction of this nuclear plant. There are several amendments presented in this bill to accomplish this. Do our constituents want their tax dollars to build a Chernobyl-style nuclear facility just miles from the coast of the United States? Do our constituents want an unsafe nuclear reactor operated by one of the last Communist strongholds being built with U.S. funds? I think the answer clearly is "no."

The Committee on Rules was correct in granting the waiver, and I urge a "yes" vote on this rule.

Mr. HALL of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Speaker, I rise to express concern about a provision that has been included in this bill which would effectively change existing law through the appropriations process. The provision, which was put in the bill in the Subcommittee on Foreign Operations, would severely weaken section 907 of the Freedom Support Act of 1992. This provision bans direct United States Government assistance to the Government of Azerbaijan until Azerbaijan lifts its blockade of neighboring Armenia. This law made good sense when it was adopted 3 years ago in the wake of the breakup of the Soviet Union. It is morally justified and in U.S. interests, it should not be gutted through the appropriations process.

Mr. Speaker, the Azerbaijan blockade of Armenia has continued for 5 years, cutting off the transport of food, fuel, medicine, and other commodities. This ruthless blockade has caused a humanitarian crisis that has required the United States to send emergency assistance to Armenia. At a time when Armenia is trying to move forward with major market reforms and integrating its economy with the West, the Azerbaijan stranglehold has forced a shutdown of Armenian industry, caused massive unemployment, and obstructed rebuilding of areas damaged by the 1988 earthquake. Armenian children have had to do without schooling, and hospitals have been unable to care for the sick and the dying. There is no justification for this type of behavior. American taxpayers should not be asked to reward or appease these actions by Azerbaijan.

On the positive side, Mr. Speaker, I wish to commend the Foreign Ops Subcommittee, and in particular the gentleman from Illinois [Mr. PORTER], for the inclusion in the legislation of language incorporating the Humanitarian Aid Corridor Act. This provision would deny U.S. assistance to countries which block the shipment of American humanitarian aid to other countries. This has been the case with the Republic of Turkey, which has maintained its own blockade of Armenia while collecting generous amounts of United States aid. Mr. Speaker, I think common sense and decency would argue that countries that block U.S. aid to other recipients should not themselves benefit from American largesse. I commend the committee for including this language, which was also part of the American Overseas Interests Act, and would urge Members to oppose any efforts to remove this provision.

I also understand the gentleman from Illinois [Mr. PORTER] has also an amendment to limit assistance to Turkey in part linked to its blockade of Armenia. I would also urge support of this amendment.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOSS. Mr. Speaker, I yield myself such time as I may consume.

First of all, I would point out that some of the discussion has been talked about with regard to Haiti and Turkey and so forth. We are talking about cutting amendments, and we do have an open rule. So that is in the area of the spirit of things that are traditional and available to any Member under this type of legislation, as we all know, nothing really extraordinary there. And the fact that we have an open rule on an appropriations bill, I think, is very important for the deliberative process, something we promised we would do as often as possible.

With regard to the concern of the gentleman from Illinois [Mr. PORTER], on the Smith amendment, indeed we have not followed exactly the authorizing language because we did pass an authorizing bill and that is what we want to follow.

With regard to the concern of the gentlewoman from California [Ms. HARMAN], about the lockbox, she needs to know that we are dealing with that issue. We have planned debate and hearings and so forth, and she has been advised that she will be invited to participate.

So there is process in the legislative mill. It just does not happen to be ready yet for the appropriations round that we are in now. Many of us wish it were. I hope we get there soon. We are trying.

Finally, I think a very important point on this rule, I do not think anybody has really suggested this is not fair rule, but I would point out that last year the Committee on Rules, this was under the previous majority, the Committee on Rules made in order only eight amendments on this appropriations bill, five by Republicans and three by Democrats. We thanked them for those five. The rule waived all points of order against all eight amendments. By our count, five of the eight involved violations of clause 2 of rule XXI. So if your concern is that, we are definitely making progress and doing a better job of getting our authorizers and appropriators in sync. I think that is important. I think it makes for a better product and an easier vote.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. CAMP). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 221, nays 178, not voting 35, as follows:

[Roll No. 418]

YEAS—221

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martinez
Martini
McCollum
McCrery
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Petri
Pombo
Porter
Portman
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—178

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Furse
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Lantos
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Reynolds
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Tanner
Tejeda
Thompson
Thornton
Thurman
Towns
Traficant
Tucker
Velázquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—35

Ackerman
Bilbray
Burton
Chrysler
Clayton
Crane
DeFazio
Dooley
Frost
Gejdenson
Geren
Graham
Hansen
Hastert
Houghton
Istook
Jefferson
Kingston
LaFalce
LaTourette
Laughlin
Levin
McDade
McHugh
Mica
Moakley
Parker
Payne (VA)
Pryce
Rose
Seastrand
Serrano
Stupak
Tate
Torres

□ 1656

Mr. BROWN of California and Mr. VOLKMER changed their vote for "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. CAMP). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 217, noes 175, not voting 42, as follows:

[Roll No. 419]

AYES—217

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Doolittle
Dreier
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Green
Greenwood
Gunderson
Gutknecht
Hall (OH)
Hancock
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Jacobs
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Klug
Knollenberg
Kolbe
LaHood
Latham
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Miller (FL)
Molinari
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon

Petri
Pombo
Portman
Quillen
Quinn
Radanovich
Ramstad
Regula
Richardson
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schumer
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Torricelli
Traficant
Upton
Vento
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—175

Abercrombie
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Duncan
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gephardt
Gibbons
Gonzalez
Gordon
Gutierrez
Hall (TX)
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnston
Kanjorski
Kaptur
Kennedy (RI)
Kennelly
Kildee
Klink
Lantos
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Morella
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Porter
Poshard
Rahall
Rangel
Reed
Reynolds
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Scott
Shays
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Tanner
Tauzin
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Towns
Tucker
Velázquez
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—42

Ackerman
Barton
Bilbray
Burton
Chrysler
Clayton
Crane
DeFazio
Dooley
Dornan
Doyle
Frost
Gejdenson
Geren
Graham
Hansen
Hastert
Houghton
Istook
Jefferson
Kennedy (MA)
Kingston
Kleczka
LaFalce
Largent
LaTourette
Laughlin
Levin
McDade
McHugh
Mica
Moakley
Parker
Pastor
Payne (VA)
Pryce
Rose
Seastrand
Serrano
Stupak
Tate
Torres

□ 1705

Mr. HALL of Texas and Mr. NADLER changed their vote from "aye" to "no."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. SERRANO. Mr. Speaker, I spoke to the graduates, teachers, and families at 15 public school graduation exercises in my district. I consider it one of my most important duties as a Representative to celebrate these events and acknowledge publicly that these young people of the South Bronx, often in spite of terrible odds, have successfully completed major stages in their education.

However, I missed several votes in the House. If I had been present, I would have voted as follows:

On further consideration of H.R. 1854, Legislative Branch Appropriations, 1996:

Rollcall No. 408, approval of the Journal—no.

Rollcall No. 409, motion to permit Committees to sit—no.

Rollcall No. 410, Fazio amendment, amended by Mr. HOUGHTON—yes.

Rollcall No. 411, Clinger amendment to cut Folklife Center, increase CBO to do unfunded mandate analyses—no.

Rollcall No. 412, Orton amendment to cut the Botanical Garden, increase depository libraries—no.

Rollcall No. 413, Klug amendment to cut GPO staffing—no.

Rollcall No. 414, Christensen amendment to ban funds for elevator operators—no.

Rollcall No. 415, Zimmer amendment to return unspent funds for deficit reduction—no.

Rollcall No. 416, motion to recommit—yes.

Rollcall No. 417, passage of H.R. 1854—yes.

On H. Res. 170, the rule for consideration of H.R. 1868, Foreign Operations, Export Financing, and Related Programs Appropriations, 1996:

Rollcall No. 418, ordering the previous question—no.

Rollcall No. 419, passage of H. Res. 170—no.

LEGISLATIVE PROGRAM

(Mr. GEPHARDT asked and was given permission to address the House for 1 minute.)

Mr. GEPHARDT. Mr. Speaker, I yield to the distinguished majority leader to inquire about the schedule for next week.

Mr. ARMEY. I thank the gentleman for yielding.

Mr. Speaker, on Monday, June 26, the House will meet in pro forma session. There will be no recorded votes on Monday.

On Tuesday, the House will meet at 10:30 a.m. for morning hour and 12 noon for legislative business. We plan to consider one bill under suspension of the rules, H.R. 1565, legislation extending health care to veterans who have been exposed to Agent Orange. We will then continue consideration of H.R. 1868, the fiscal year 1996 foreign operations appropriations bill.

On Wednesday, the House will meet at 10 a.m. to take up House Joint Resolution 79, a resolution proposing a constitutional amendment prohibiting desecration of the U.S. flag, subject to a rule. We then plan to spend the balance of the week working on appropriations bills. We will complete the foreign operations legislation and, time permitting, consider the fiscal year 1996 energy and water, Interior, and Agriculture appropriations bills. On Thursday and Friday, the House will meet at 10 a.m. for legislative business.

Mr. Speaker, it is our hope to have Members on their way home to their families and their districts by no later than 3 p.m. on Friday.

Mr. GEPHARDT. If the gentleman will answer a question or two here. I wonder if the gentleman can advise Members how late he expects the House to work on Tuesday, Wednesday, and Thursday.

Mr. ARMEY. If the gentleman will yield further, I think the Members should be prepared to work very late on all three of those evenings, Tuesday, Wednesday, and Thursday.

I would point out that we are prepared and hopeful that we can during next week deal with a budget conference report, perhaps the Medicare select report, and hopefully we would be able to do something on a rescissions or supplemental assistance bill.

Mr. GEPHARDT. On that score, on an earlier version of the schedule provided by the majority, the rescissions bill was listed. It is not on the schedule that you just outlined. You just mentioned it. I assume that you are thinking it might come forward as well next week?

Mr. ARMEY. If the gentleman will yield further, we are still hopeful to have some continued discussions with the White House, but I believe that it is very likely that we will be able to do that next week.

Mr. GEPHARDT. The Committee on Rules is scheduled to meet on Tuesday to consider a rule regarding the constitutional amendment on the flag. Could the gentleman or the distinguished chairman of the Committee on Rules advise Members what rule is expected for that resolution?

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from New York, the distinguished chairman of the Committee on Rules.

Mr. SOLOMON. I would say to the minority leader that the Committee on Rules will be meeting, I believe, at 2 p.m. on Tuesday afternoon. The Interior appropriations bill has been pulled from that meeting and we will only consider the constitutional amendment that would allow States to ban the physical desecration of the American flag. It certainly will come to the floor under a rule and probably with 1 hour of debate and some time for a substitute by those that might be in opposition to the bill. We are in negotiation now as to just exactly how the rule would be brought to the floor.

Mr. GEPHARDT. I thank the gentleman.

A couple of further questions. Could the gentleman advise Members as to when he expects the House to consider the budget conference report? I think he answered that and said it might be coming forward next week. I assume at this point you are not sure of that, but it could happen?

Mr. ARMEY. If the gentleman will yield further, we are optimistic and we would hope if everything comes together that we might be able to do that on Thursday. Possibly Friday morning.

However it works, we will do our utmost to maintain our commitment to the 3 p.m. departure for the district work period. But I should expect it would be Thursday or Friday morning.

Mr. GEPHARDT. Finally, at the end of the week, we begin the Fourth of July recess.

Could the gentleman advise Members whether he expects votes on Monday, July 10?

Mr. ARMEY. If the gentleman will yield further, I believe we would probably need to be prepared to have votes by, say, 5 p.m. on Monday, July 10. We will try to examine that and make an announcement later next week if there is any change from that.

Mr. GEPHARDT. I thank the gentleman.

Mr. Speaker, I would just end with one statement for consideration. I know the gentleman is trying, as we said this morning, to have a family friendly situation here and that was part of the reason I assume we had problems with cutting off times on votes. We appreciate that.

I would just hope that if it can be worked out next week if there is one of the nights next week that could not be extra late, that might be helpful to people. I realize you are trying to juggle a lot of different bills and conference reports. But to the extent we could work to make that happen, I am sure Members would appreciate that.

Mr. ARMEY. I do appreciate that. I do think the Members ought to certainly make sure they make good arrangements for Monday night next week.

Mr. GEPHARDT. I thank the gentleman.

GENERAL LEAVE

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 1868, and that I be able to insert tabular and extraneous material.

The SPEAKER pro tempore (Mr. CAMP). Is there objection to the request of the gentleman from Alabama?

There was no objection.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. Pursuant to House Resolution 170 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1868.

The Chair designates the gentleman from Utah [Mr. HANSEN] as Chairman of the Committee of the Whole, and requests the gentleman from Ohio [Mr. BOEHNER] to assume the chair temporarily.

□ 1714

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, with Mr. BOEHNER, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Alabama [Mr. CALLAHAN] will be recognized for 30 minutes, and the gentleman from Texas [Mr. WILSON] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before I address the contents of this appropriations bill, let me take a moment to thank the staff of our Subcommittee on Foreign Operations, Export Financing and Related Programs. This newly assembled little group got together only a few months ago, they are very professional. I want to tell you, it is a pleasure to work with them, particularly Charlie Flickner, Bill Inglee, John Shank, Lori Maes, and our CRS detail, Larry Nowels, and also to work with Terry Peel on the minority staff as well as Nancy Tippins on my own staff.

□ 1715

They were all very professional, and without their professional help we would not be here today with this bill.

Mr. Chairman, as far as I know, each and every member of the subcommittee supported bringing this bill to the House floor and each and every one had to go along with things they did not want. This is what legislation in the Congress is all about, compromise.

I want to thank our chairman, the gentleman from Louisiana [Mr. LIVINGSTON], for all his help at the early stage of the process. And I appreciate the efforts of my predecessor, the gentleman from Wisconsin [Mr. OBEY], and the ranking member of our subcommittee, the gentleman from Texas [Mr. WILSON], for their patience, understanding, and guidance. Everything we are doing is building on the record that the gentleman from Louisiana [Mr. LIVINGSTON], made in the last Congress, along with the former chairman, the gentleman from Wisconsin [Mr. OBEY].

Mr. Chairman, now let me simply address the contents of this bill. It is a foreign aid bill for sure, but it is more than that. It is the instrument for this President, and any future President, to work out foreign problems with more than talk but less than military force.

If Members find time to look at our committee report this weekend, I urge them to take a close look at the general introduction, beginning on page 3. Those pages express better than I can this afternoon what this bill is about and why it is necessary.

It is the instrument for American businesses and private groups to help less fortunate nations develop economically. The first items in this bill, in title I, are for export and investment assistance, and they are a priority for this committee this year. The best way to demonstrate a market economy is to do it, and that is what our businesses and investors enable others to do: learn about business by buying, selling, building, and working with American capitalists.

Because of the budget, we have had to reduce the more traditional types of development assistance, particularly when it is done through the multilateral banks. The committee does protect two categories of aid: children's programs and efforts to fight infectious diseases. In fact, we recommend a new account in the Treasury to ensure that children are protected and we continue a vigorous fight against diseases that affect both children and adults.

I am not sure that many Americans are aware that our public health officials are moving toward the eradication of polio. Rotary International has been the sparkplug of this effort, and they have brought that to our attention.

In title III of the bill we have tried to go along with as much of the President's request for military assistance as we were able to afford. We have included the economic support fund and the military finance moneys that are sufficient to fulfill the Camp David accord needs. We also went along with the President's Warsaw initiative to help new democracies in Central Europe contribute to European security.

The final title, multilateral economic assistance, has had to bear the bulk of the reductions we made. That is not because our subcommittee does not appreciate what many of these banks and agencies do, but we simply had a higher priority on bilateral programs undertaken by our own Government. I would note that funding for UNICEF has been moved from title IV to the child survival and disease programs account in title II, at the current level of $100 million.

The subcommittee has removed many of the general provisions from title V. Some of them have been picked up in the authorization bill. Others were no longer needed. Many of the amendments that have been filed will occur during consideration of the general provisions title.

Let me close by going over a few of the numbers. The dollar levels that the House provides in this bill, history indicates, will be very close to what the final, enacted numbers are.

This bill is less than $12 billion in budget authority. That is $1.5 billion less than the current year, and almost $10 billion less than the level of a decade ago. It is the lowest level in a decade.

At $11.99 billion, this bill is $2.8 billion less than the President's request, a reduction of 19 percent. That may be the largest reduction in history. We know it is the largest reduction within the last two decades.

Finally, this bill is under the congressional budget. In fact, it is over $200 million under our subcommittee allocation.

Mr. Chairman, this is a good bill. We have tried to come up with a fair bill and we worked hard to balance the priorities of the new Republican majority and our veteran Democratic Members. I think we have accomplished what we set out to do.

There will be those who will come to the floor today and next week when we continue this bill who will want to spend more money on foreign aid, but I would ask each and every one of them to recognize the message that the American people sent to us in November. They said to cut spending. They did not say to cut spending in every area that we deal in except foreign aid. They said to cut everything.

There will be those that want to increase that, but there is no money to increase that. We have given the President the latitude he needs to have an effective foreign policy. We give him in this bill all of the money that we can afford for foreign operations for the next fiscal year.

So I think we have been fair to the administration. Certainly the minority party has been fair in negotiating how we spend this limited amount of money next year. It is the best that we can do.

So those of you who that are planning to come forward next week and indicate that you want to spend more, that you want to give the President more, forget about it. We are not going to go any higher. We cannot go any higher.

Mr. Chairman, I include for the RECORD:

ROTARY INTERNATIONAL,
THE ROTARY FOUNDATION,
Evanston, IL, June 16, 1995.

Hon. SONNY CALLAHAN,
Chairman, Subcommittee on Foreign Operations, Committee on Appropriations, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN CALLAHAN: I join with the 1.2 million Rotarians worldwide in thanking you for your leadership on polio eradication. We were pleased to find out that the House Foreign Operation Appropriations Subcommittee included Report Language recommending up to $20,000,000 for targeted polio eradication efforts in fiscal year 1996.

We believe this direction from the Subcommittee is a critical first step in our fight to eradicate polio by the year 2000. This language is essential to focusing our humanitarian assistance programs on efforts that can be successful in providing important health benefits for the world's children, while at the same time saving money here in the United States.

We are encouraged by the Report Language in the Foreign Operations Subcommittee, which has demonstrated the broad consensus on the value of polio eradication. We look forward to celebrating the eradication of this disease in the year 2000.

Sincerely,

HERBERT A. PIGMAN,
General Secretary.

FOREIGN OPERATIONS APPROPRIATIONS BILL (H.R. 1868)

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
TITLE I - EXPORT AND INVESTMENT ASSISTANCE					
EXPORT-IMPORT BANK OF THE UNITED STATES					
Limitation of Program Activity:					
Subsidy appropriations	786,551,000	823,000,000	786,551,000	....	-36,449,000
Administrative expenses	45,228,000	47,000,000	45,228,000	....	-1,772,000
Negative subsidy	-49,656,000	-89,646,000	-89,646,000	-39,990,000	....
Total, Export-Import Bank of the United States	782,123,000	780,354,000	742,133,000	-39,990,000	-38,221,000
OVERSEAS PRIVATE INVESTMENT CORPORATION					
Operating expenses	7,933,000	16,000,000	15,500,000	+7,567,000	-500,000
Non-credit administrative expenses	16,389,000	11,000,000	11,000,000	-5,389,000	....
Insurance fees and other offsetting collections	-151,620,000	-202,500,000	-202,500,000	-50,880,000	....
Direct loans:					
Loan subsidy	8,214,000	4,000,000	4,000,000	-4,214,000	....
(Loan authorization)	(19,895,000)	(79,523,000)	(79,523,000)	(+59,628,000)	....
Guaranteed loans:					
Loan subsidy	25,730,000	75,000,000	75,000,000	+49,270,000	....
(Loan authorization)	(481,913,000)	(1,491,054,000)	(1,491,054,000)	(+1,009,141,000)	....
Total, Overseas Private Investment Corporation	-93,354,000	-96,500,000	-97,000,000	-3,646,000	-500,000
FUNDS APPROPRIATED TO THE PRESIDENT					
Trade and Development Agency					
Trade and development agency	44,986,000	67,000,000	40,000,000	-4,986,000	-27,000,000
International Financial Institutions					
Contribution to the International Finance Corporation	68,743,028	67,556,000	67,550,000	-1,193,028	-6,000
Enterprise for the Americas Multilateral Investment Fund	75,000,000	100,000,000	70,000,000	-5,000,000	-30,000,000
Total, International Financial Institutions	143,743,028	167,556,000	137,550,000	-6,193,028	-30,006,000
Total, title I, Export and investment assistance	877,498,028	918,410,000	822,683,000	-54,815,028	-95,727,000
(Loan authorizations)	(501,808,000)	(1,570,577,000)	(1,570,577,000)	(+1,068,769,000)	....
TITLE II - BILATERAL ECONOMIC ASSISTANCE					
FUNDS APPROPRIATED TO THE PRESIDENT					
Agency for International Development					
Child survival and disease programs fund	....	....	484,000,000	+484,000,000	+484,000,000
Development assistance fund	840,500,000	1,300,000,000	669,000,000	-171,500,000	-631,000,000
Population, development assistance	450,000,000	....	....	-450,000,000	....
Development Fund for Africa	802,000,000	802,000,000	528,000,000	-274,000,000	-274,000,000
International disaster assistance	169,998,000	200,000,000	200,000,000	+30,002,000	....
Debt restructuring	7,000,000	25,500,000	7,000,000	....	-18,500,000
(By transfer)	....	....	(15,500,000)	(+15,500,000)	(+15,500,000)
Micro and Small Enterprise Development program:					
Subsidy appropriations	1,500,000	12,000,000	1,500,000	....	-10,500,000
Administrative expenses	500,000	2,500,000	500,000	....	-2,000,000
(Direct loan authorization)	(1,000,000)	(3,540,000)	(1,435,000)	(+435,000)	(-2,105,000)
(Guaranteed loan authorization)	(18,564,000)	(138,880,000)	(16,700,000)	(-1,864,000)	(-122,180,000)
Housing and other credit guaranty programs:					
Subsidy appropriations	19,300,000	16,760,000	....	-19,300,000	-16,760,000
Operating expenses	8,000,000	7,240,000	7,000,000	-1,000,000	-240,000
(Guaranteed loan authorization)	(137,474,000)	(141,886,000)	....	(-137,474,000)	(-141,886,000)
Subtotal, development assistance	2,298,798,000	2,366,000,000	1,897,000,000	-401,798,000	-469,000,000
Payment to the Foreign Service Retirement and Disability Fund	45,118,000	43,914,000	43,914,000	-1,204,000	....
Operating expenses of the Agency for International Development	517,500,000	529,000,000	465,750,000	-51,750,000	-63,250,000
Reform and downsizing	....	....	29,925,000	+29,925,000	+29,925,000
Operating expenses of the Agency for International Development Office of Inspector General	39,118,000	39,118,000	35,200,000	-3,918,000	-3,918,000
Subtotal, Agency for International Development	2,900,534,000	2,978,032,000	2,471,789,000	-428,745,000	-506,243,000
Other Bilateral Economic Assistance					
Economic support fund	2,349,000,000	2,494,300,000	2,326,700,000	-22,300,000	-167,600,000
International fund for Ireland	19,600,000	....	19,600,000	....	+19,600,000
Assistance for Eastern Europe	359,000,000	480,000,000	324,000,000	-35.000,000	-156,000,000
Assistance for the New Independent States of the Soviet Union	842,500,000	788,000,000	595,000,000	-247,500,000	-193,000,000
Procurement: General provisions	-1,598,000	....	....	+1,598,000	....
Subtotal, Other Bilateral Economic Assistance	3,568,502,000	3,762,300,000	3,265,300,000	-303,202,000	-497,000,000
Total, Agency for International Development	6,469,036,000	6,740,332,000	5,737,089,000	-731,947,000	-1,003,243,000

FOREIGN OPERATIONS APPROPRIATONS BILL (H.R. 1868)—Continued

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Independent Agencies					
African Development Foundation					
Appropriations	16,905,000	17,405,000	10,000,000	-6,905,000	-7,405,000
Inter-American Foundation					
Appropriations	30,960,000	31,760,000	20,000,000	-10,960,000	-11,760,000
Total, Funds Appropriated to the President	6,516,901,000	6,789,497,000	5,767,089,000	-749,812,000	-1,022,408,000
Peace Corps					
Appropriations	219,745,000	234,000,000	210,000,000	-9,745,000	-24,000,000
Department of State					
International narcotics control	105,000,000	213,000,000	113,000,000	+8,000,000	-100,000,000
Migration and refugee assistance	671,000,000	671,000,000	671,000,000		
Refugee resettlement assistance	6,000,000		5,000,000	-1,000,000	+5,000,000
United States Emergency Refugee and Migration Assistance Fund	50,000,000	50,000,000	50,000,000		
Anti-terrorism assistance	15,244,000	15,000,000	17,000,000	+1,756,000	+2,000,000
Nonproliferation and Disarmament Fund	10,000,000	25,000,000	20,000,000	+10,000,000	-5,000,000
Total, Department of State	857,244,000	974,000,000	876,000,000	+18,756,000	-98,000,000
Total, title II, Bilateral economic assistance	7,593,890,000	7,997,497,000	6,853,089,000	-740,801,000	-1,144,408,000
(By transfer)			(15,500,000)	(+15,500,000)	(+15,500,000)
(Loan authorizations)	(157,038,000)	(284,306,000)	(18,135,000)	(-138,903,000)	(-266,171,000)
TITLE III - MILITARY ASSISTANCE					
FUNDS APPROPRIATED TO THE PRESIDENT					
International Military Education and Training	25,500,000	39,781,000	39,000,000	+13,500,000	-781,000
(By transfer)	(850,000)			(-850,000)	
Military to military contact	12,000,000			-12,000,000	
Foreign Military Financing Program:					
Grants	3,151,279,000	3,262,020,000	3,211,279,000	+60,000,000	-50,741,000
(Limitation on administrative expenses)	(22,150,000)	(24,020,000)	(24,000,000)	(+1,850,000)	(-20,000)
Direct concessional loans:					
Subsidy appropriations	47,917,000	89,888,000	64,400,000	+16,483,000	-25,488,000
(Loan authorization)	(619,650,000)	(765,000,000)	(544,000,000)	(-75,650,000)	(-221,000,000)
FMF program level	(3,770,929,000)	(4,027,020,000)	(3,755,279,000)	(-15,650,000)	(-271,741,000)
Total, Foreign military assistance	3,199,196,000	3,351,908,000	3,275,679,000	+76,483,000	-76,229,000
Special Defense Acquisition Fund: Offsetting collections	-282,000,000	-220,000,000	-220,000,000	+62,000,000	
Peacekeeping operations	75,000,000	100,000,000	68,300,000	-6,700,000	-31,700,000
Total, title III, Military assistance programs	3,029,696,000	3,271,689,000	3,162,979,000	+133,283,000	-108,710,000
(By transfer)	(850,000)			(-850,000)	
(Limitation on administrative expenses)	(22,150,000)	(24,020,000)	(24,000,000)	(+1,850,000)	(-20,000)
(Loan authorization)	(619,650,000)	(765,000,000)	(544,000,000)	(-75,650,000)	(-221,000,000)
TITLE IV - MULTILATERAL ECONOMIC ASSISTANCE					
FUNDS APPROPRIATED TO THE PRESIDENT					
International Financial Institutions					
World Bank Group					
Contribution to the International Bank for Reconstruction and Development:					
Paid-in capital	23,009,101	28,189,963	23,009,000	-101	-5,180,963
(Limitation on callable capital)	(743,923,914)	(911,475,013)	(743,900,000)	(-23,914)	(-167,575,013)
Contribution to the Global Environment Facility	90,000,000	110,000,000	50,000,000	-40,000,000	-60,000,000
Total, contribution to the International Bank for Reconstruction and Development	(856,933,015)	(1,049,664,976)	(816,909,000)	(-40,024,015)	(-232,755,976)
Contribution to the International Development Association	1,175,000,000	1,368,168,000	575,000,000	-600,000,000	-793,168,000
Total, World Bank Group	(2,031,933,015)	(2,417,832,976)	(1,391,909,000)	(-640,024,015)	(-1,025,923,976)
Budget authority	1,288,009,101	1,506,357,963	648,009,000	-640,000,101	-858,348,963
(Limitation on callable capital)	(743,923,914)	(911,475,013)	(743,900,000)	(-23,914)	(-167,575,013)
Contribution to the Inter-American Development Bank:					
Inter-regional paid-in capital	28,111,959	25,952,110	25,950,000	-2,161,959	-2,110
(Limitation on callable capital)	(1,594,568,180)	(1,523,767,142)	(1,523,000,000)	(-71,568,180)	(-767,142)
Fund for special operations	21,338,000	20,835,000		-21,338,000	-20,835,000
Inter-American Investment Corporation	190,000			-190,000	
Total, contribution to the Inter-American Development Bank	(1,644,208,139)	(1,570,554,252)	(1,548,950,000)	(-95,258,139)	(-21,604,252)

FOREIGN OPERATIONS APPROPRIATIONS BIL (H.R. 1868)—Continued

	FY 1995 Enacted	FY 1996 Estimate	Bill	Bill compared with Enacted	Bill compared with Estimate
Contribution to the Asian Development Bank:					
Paid-in capital		13,221,596	13,200,000	+13,200,000	-21,596
(Limitation on callable capital)		(647,858,204)	(647,000,000)	(+647,000,000)	(-858,204)
Development fund	167,960,000	304,528,525	167,960,000		-136,568,525
Total, contribution to the Asian Development Bank	(167,960,000)	(965,608,325)	(828,160,000)	(+660,200,000)	(-137,448,325)
Contribution to the African Development Fund	62,215,309	127,247,025		-62,215,309	-127,247,025
Contribution to the African Development Bank:					
Paid-in capital	133,000			-133,000	
(Limitation on callable capital)	(2,002,540)			(-2,002,540)	
Total, contribution to the African Development Bank	(2,135,540)			(-2,135,540)	
Contribution to the European Bank for Reconstruction and Development:					
Paid-in capital	69,180,353	81,916,447	69,180,000	-353	-12,736,447
(Limitation on callable capital)	(161,420,824)	(191,138,376)	(161,400,000)	(-20,824)	(-29,738,376)
Total, contribution to the European Bank for Reconstruction and Development	(230,601,177)	(273,054,823)	(230,580,000)	(-21,177)	(-42,474,823)
North American Development Bank:					
Paid-in capital		56,250,000	56,250,000	+56,250,000	
(Limitation on callable capital)		(318,750,000)	(318,750,000)	(+318,750,000)	
International Monetary Fund					
Contribution to the enhanced structural adjustment facility	25,000,000	25,000,000		-25,000,000	-25,000,000
Total, contribution to International Financial Institutions	(4,164,053,180)	(5,754,297,401)	(4,374,599,000)	(+210,545,820)	(-1,379,698,401)
Budget authority	1,662,137,722	2,161,308,666	980,549,000	-681,588,722	-1,180,759,666
(Limitation on callable capital)	(2,501,915,458)	(3,592,988,735)	(3,394,050,000)	(+892,134,542)	(-198,938,735)
International Organizations and Programs					
International organizations and programs	374,000,000	425,000,000	155,000,000	-219,000,000	-270,000,000
(By transfer)			(15,000,000)	(+15,000,000)	(+15,000,000)
Total, title IV, contribution for Multilateral Economic Assistance.	(4,538,053,180)	(6,179,297,401)	(4,529,599,000)	(-8,454,180)	(-1,649,698,401)
Budget authority	2,036,137,722	2,586,308,666	1,135,549,000	-900,588,722	-1,450,759,666
(By transfer)			(15,000,000)	(+15,000,000)	(+15,000,000)
(Limitation on callable capital)	(2,501,915,458)	(3,592,988,735)	(3,394,050,000)	(+892,134,542)	(-198,938,735)
Grand total, all titles:					
New budget (obligational) authority	13,537,221,750	14,773,904,666	11,974,300,000	-1,562,921,750	-2,799,604,666
(By transfer)	(850,000)		(30,500,000)	(+29,650,000)	(+30,500,000)
(Limitation on administrative expenses)	(22,150,000)	(24,020,000)	(24,000,000)	(+1,850,000)	(-20,000)
(Limitation on callable capital)	(2,501,915,458)	(3,592,988,735)	(3,394,050,000)	(+892,134,542)	(-198,938,735)
(Loan authorizations)	(1,278,496,000)	(2,619,883,000)	(2,132,712,000)	(+854,216,000)	(-487,171,000)
TITLE I - EXPORT AND INVESTMENT ASSISTANCE					
Export Assistance Appropriations	1,078,774,028	1,210,556,000	1,114,829,000	+36,054,972	-95,727,000
Negative Subsidies and Offsetting Collections	-201,276,000	-292,146,000	-292,146,000	-90,870,000	
Total, Export Assistance	877,498,028	918,410,000	822,683,000	-54,815,028	-95,727,000
TITLE II - BILATERAL ECONOMIC ASSISTANCE					
Bilateral Development Assistance	4,025,388,000	4,235,197,000	3,587,789,000	-437,599,000	-647,408,000
Other Bilateral Economic Assistance	3,568,502,000	3,762,300,000	3,265,300,000	-303,202,000	-497,000,000
Total, Bilateral Economic Assistance	7,593,890,000	7,997,497,000	6,853,089,000	-740,801,000	-1,144,408,000
TITLE III - MILITARY ASSISTANCE					
Foreign Military Financing Program:					
Grants	3,151,279,000	3,262,020,000	3,211,279,000	+60,000,000	-50,741,000
Direct loans, subsidy costs	47,917,000	89,888,000	64,400,000	+16,483,000	-25,488,000
(Estimated level of direct loans)	(619,650,000)	(765,000,000)	(544,000,000)	(-75,650,000)	(-221,000,000)
Subtotal, Foreign Military Financing Program:					
Budget authority	3,199,196,000	3,351,908,000	3,275,679,000	+76,483,000	-76,229,000
(Program level)	(3,770,929,000)	(4,027,020,000)	(3,755,279,000)	(-15,650,000)	(-271,741,000)
Other, Military	112,500,000	139,781,000	107,300,000	-5,200,000	-32,481,000
Special Defense Acquisition Fund	-282,000,000	-220,000,000	-220,000,000	+62,000,000	
Total, Military Assistance Programs	3,029,696,000	3,271,689,000	3,162,979,000	+133,283,000	-108,710,000
TITLE IV - MULTILATERAL ECONOMIC ASSISTANCE					
Contributions to International Financial Institutions	1,637,137,722	2,136,308,666	980,549,000	-656,588,722	-1,155,759,666
International Monetary Fund (IMF)	25,000,000	25,000,000		-25,000,000	-25,000,000
International organizations and programs	374,000,000	425,000,000	155,000,000	-219,000,000	-270,000,000
Total, contribution for Multilateral Economic Assistance	2,036,137,722	2,586,308,666	1,135,549,000	-900,588,722	-1,450,759,666

Mr. Chairman, I reserve the balance of my time.

Mr. WILSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of the passage of the foreign operations bill.

Although I hope that some funding adjustments can be made as the bill moves through the legislative process, I think the bill should be supported vigorously in its current form.

As the chairman has said, the committee has recommended a bill of $12 billion for fiscal year 1996, which is $1.5 billion, 11 percent, below last year, and more importantly, $2.8 billion below the President's request or 19 percent below the President's request. I dare say there will not be another appropriation bill presented to this House that is that much below the President's budget.

Funds are provided in the bill to meet the administration request for Camp David, and other commitments in the Middle East including Jordan and programs for the West Bank and for the Gaza Strip.

The bill also provides a significant program to help increase U.S. exports abroad, which is in my opinion one of the most important characteristics of the bill. The $822 million in export assistance in the bill will provide for more than $20 billion in guaranteed loans through the Export-Import Bank and more than $1 billion in assistance through the Overseas Private Investment Corporation.

I would like to say at this point that regarding OPIC, the Overseas Private Investment Corporation, that that is one of the very few agencies in the U.S. Government that pays more back into the Treasury, that remits more to the Treasury of the United States, than is appropriated for its operation.

So, it not only pays more back than we appropriate, but it also significantly affects in a positive way the balance of payments of the United States, as well as creating jobs and exports in every State in the Union.

The bill also helps meet our humanitarian commitment abroad by providing the amount requested by the administration for both refugee assistance and international disaster assistance.

The bill also, at the initiative of the chairman, sets aside significant funds for child survival and funds to meet our international commitment to fighting worldwide diseases.

I would also say, Mr. Chairman, that this bill is the result of very strenuous and vigorous negotiation and compromise on the part of all of the members of the committee and particularly of the chairman of the subcommittee, the chairman of the full committee, and the ranking member of the full committee.

The bill is truly bipartisan in nature and truly enjoys at this point bipartisan support. I can only express my hope that damaging amendments are not added to the bill which will upset the bipartisan balance that we have achieved.

I want to compliment the chairman again. I want to compliment the chairman of the full committee. I certainly want to compliment the ranking member, because everyone stretched their tolerance to the limit to reach a truly, truly, bipartisan compromise. I urge Members to stay with the bill as reported in the House and not to make changes that will endanger this bipartisan support.

Mr. Chairman, I reserve the balance of my time.

Mr. CALLAHAN. Mr. Chairman, I would like to thank the gentleman from Texas [Mr. WILSON] for his comments and I would like to say that I omitted to recognize the gentleman's very able staff person, Kathleen Murphy, who did an outstanding job as well.

Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Louisiana, [Mr. LIVINGSTON], the chairman of the full committee.

Mr. LIVINGSTON. Mr. Chairman, I thank the gentleman from Alabama [Mr. CALLAHAN], my good friend, the able chairman of the subcommittee, and rise in support of the fiscal year 1996 foreign operations bill.

First, let me pay special tribute to the great gentleman from Alabama [Mr. CALLAHAN] the distinguished chairman of the subcommittee. The gentleman has displayed not only great leadership, but diplomatic skills worthy of Henry Kissinger in shepherding this bill through the committee.

My friends, the gentleman from Texas [Mr. WILSON] and the gentleman from Wisconsin [Mr. OBEY], the ranking member, also deserve special praise for their hard work and willingness to develop a bipartisan consensus on what could have been a very difficult bill, but has not been because of their tremendous assistance and cooperation.

The gentleman from Alabama [Mr. CALLAHAN], the chairman worked with all of the members of the subcommittee, many members of the authorizing committee, and the administration to allocate the shrinking foreign assistance dollars in the fairest and most balanced manner possible. Due to the gentleman's inclusive leadership, we are able to present a bill with bipartisan support which we hope to pass.

I want to echo the comments of the gentleman from Texas [Mr. WILSON] that I hope also that it can be done with a minimum of amendments.

We are continuing the downward trend in foreign aid spending that has occurred in the last decade. We spent $18.3 billion on foreign operations appropriations in fiscal year 1985, which is $25 billion in today's dollars. Since today's bill is less than $12 billion, we have basically cut foreign aid in half over these last 11 years.

This bill makes the tough choices to cut $1.5 billion from last years's level and $2.8 billion from the President's request.

Despite the difficult cuts, we have protected the most vulnerable of those who rely on us, the young children and the victims of disease and disaster.

Therefore, I strongly support the decision of the chairman, the gentleman from Alabama [Mr. CALLAHAN] to create a new account called the child survival and disease program fund. At $484 million, it slightly increases the spending for protection of young children worldwide and it encourages the administration to fund programs to eradicate polio and reduce other infectious diseases, including AIDS.

While maintaining support for children and refugees, this bill reduces the old-style government-to-government foreign aid in favor of market-oriented, private-sector-driven economic growth. Genuine and sustainable development will be promoted far faster by investment by real entrepreneurs and expanded trade and capital formation by U.S. companies in emerging private sectors around the globe.

We have invested in programs that allow private companies to work with export assistance agencies to make broad-based economic growth a reality in developing free markets. The bill contains no earmarks, instead providing the President with maximum flexibility possible to develop foreign policy without micromanagement.

We could have used this bill to score political points against the President's foreign policy, or raised flowery rhetoric on controversial issues. We avoided pejorative political statements and instead provided the President with resources to conduct a global foreign policy letting the numbers speak for themselves.

We have accepted the reorganization savings made by the authorizing committee and kept the funding levels generally in line with the levels provided in H.R. 1561, the American Overseas Interest Act. If you voted for the authorization bill, you should support this appropriations bill.

We have maintained the funding levels to meet our Camp David commitments for Egypt and Israel. We have made children a priority and moved our aid program in the direction of promoting trade and free markets instead of government-to-government handouts.

Mr. Chairman, this is a responsible and balanced bill, and I urge all of our Members to cooperate with us and try to keep their amendments to the minimum, and I urge their support for the good work of the gentleman from Alabama [Mr. CALLAHAN] and the good work of all of the members of the subcommittee.

□ 1730

Mr. WILSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. OBEY], the ranking member of the full committee.

Mr. OBEY. Mr. Chairman, I thank the gentleman for yielding.

Let me, first of all, congratulate both the gentleman from Alabama [Mr. CALLAHAN] and the gentleman from Texas [Mr. WILSON] for the work they have done in putting together a bipartisan approach to this bill and to say that I feel that for a long time, regardless of partisan differences on many other issues, I believe this subcommittee has always served as an example of the way the Congress ought to work, putting policy ahead of party and putting the country ahead of personal considerations.

I do not think in the time that Mickey Edwards from Oklahoma was the ranking member or in the time that the gentleman from Louisiana [Mr. LIVINGSTON] was ranking member, and I chaired the subcommittee, that you could tell who was a Democrat and who was a Republican when we were addressing issues on this bill. There were no partisan scenes, and I think that the gentleman from Alabama [Mr. CALLAHAN] has made every effort, as has the chairman, the gentleman from Louisiana [Mr. LIVINGSTON], now that the Republicans are in control of this institution, to see to it that that tradition remains, and I congratulate them for it because that is the only way this country can function on foreign policy.

That does not mean we are going to agree on everything, because, as Will Rogers said, when two people agree on everything, one of them is unnecessary.

But the fact is that we have many times stood in the well in the last 10 years defending the positions and the prerogatives of the President of the United States, whether that President was a Republican or a Democrat, and I think it is essential on this bill that that tradition continue.

Having said that, I also feel an obligation to point out the priorities in this bill are not necessarily my priorities. I would prefer that military aid not be as high as it is in the bill, and I would prefer that some of the economic accounts be somewhat higher.

I also have very great doubts about both the administration's position and the subcommittee's position with respect to NATO. I would urge everyone to read the article by Mr. Hoagland in the Washington Post today if they want to understand what I mean.

And I am concerned very much about what I feel to be an insufficient appreciation for the delicate situation that exists in the Soviet Union, and I think that this Congress runs a very major risk of not dealing with that relationship in the most constructive way possible. I think there are significant defects in this bill with respect to that issue.

But having said that, I still intend at this moment to support this bill because it does represent a reasonable bipartisan effort to hold this institution together. It does not try, as the authorization bill sometimes does, to incredibly micromanage the Nation's foreign affairs. It does state clear policy preferences, but it does not try to micromanage, and I think that is a crucial difference.

I would simply concur in the statement made by the distinguished gentleman from Texas who indicated that this bill is very delicately put together and it will remain a bipartisan bill so long as it stands in roughly this shape.

The House has two choices it can make. It can choose, if it wants, to pass a partisan bill with nominal but not very enthusiastic support on this side of the aisle, in which case that bill may make a lot of people feel good temporarily. But it will in the end go nowhere because the President in the end has the veto pen, and I have no doubt he will use it if this bill is not consistent with his vision of the national interest.

But the other choice it can make is to try to do what we have tried to do many times in this country's history, which is to produce a bipartisan product which meets the needs of the United States without regard to ideological preference, and while this bill certainly has a strong philosophical bent in the direction of the gentleman from Alabama [Mr. CALLAHAN], that is to be expected because they have the votes for the time being, and I think what we need right now on both sides of the aisle is a determination that we will try to keep this bill as bipartisan as possible because in foreign affairs, and this is much more crucial than any other area of governance, although it would be useful in both, in foreign affairs it is crucial that we have continuity of policy so that we do not confuse our friends and that we do not confuse our adversaries.

I think this bill tries to do that to a significant degree, and that is why, at least at this moment, I support the legislation with all of my doubts about some of the edges.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the comments of the gentleman from Wisconsin and say that philosophically I agree with your statement that, with respect to the administration, I think the Constitution gives the responsibility and the authority to handle foreign affairs to the administration, and I think Congress has been too involved.

But we are here today, talking about money under today's circumstances.

Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Illinois [Mr. PORTER], a member of our subcommittee.

Mr. PORTER. Mr. Chairman, I support this bill and I want to commend the gentleman from Alabama for making the best of a very difficult budgetary situation. The bill is nearly $2 billion smaller than last year's, which represents a large cut in a relatively small bill, yet Mr. CALLAHAN worked tirelessly to ensure that the concerns and priorities of all the members of the subcommittee and committee were taken into account.

This is not to say that this bill is perfect—or could be in my view given the constraints the subcommittee is working under. But I believe the United States has not only an opportunity, but a responsibility, to take a leadership role in the world and promote our values of human rights, rule of law, democracy and free markets to the far corners of the globe. I am concerned that the cuts to the development assistance account—40 percent—gravely weaken our development programs, including voluntary family planning, environment, education, and microenterprise.

I strongly oppose any effort that may be made to further cut the development assistance account on the floor today or that will inhibit AID from undertaking much needed streamlining.

Perhaps the most important item in this bill in my view is the funding to the government of Turkey. Together with FRANK WOLF and CHRIS SMITH, I will be offering an amendment to cut some of these funds in order to send a clear message to Turkey that their ongoing genocide of the Kurds and that their treatment of their neighbors—Armenia and Cyprus—is absolutely unacceptable. This bill provides $320 million in loans to Turkey to allow it to purchase weapons and $46 weapons and $46 million in economic aid in the form of cash transfers to the Turkish Government. It is hypocritical, it seems to me, that our Nation, the freest ever, should be helping to prop-up and arm a government that the State Department has repeatedly cited for gross and worsening violations of human rights. As I said, at the appropriate time I will be offering an amendment to cut aid to Turkey.

I am very pleased, however, that the report to this bill makes clear that the committee continues to strongly support funds to bring together the two communities in Cyprus, which have been separated for over 20 years following the Turkish invasion of the island.

Another grave concern I have with this bill is the retreat on funding for voluntary family planning programs. To understand this concern, I would like to ask one question, "Do you think the quality of life for people on Earth, including Americans, will be better or worse when the global population is double what it is today?"

If we do not take action to provide couples with the means to plan the number and spacing of pregnancies, the world's population will double by 2050. This will put huge pressures on food and energy supplies and the environment, not to mention the political instability that will be created by huge numbers of young people in the developing world. Adequate funding for bilateral and multilateral voluntary family planning programs today helps to ensure that our children and grandchildren will live in a safer more prosperous world. I encourage Members to keep that in mind when an amendment is offered later by Rep. SMITH of New Jersey to effectively eliminate our multilateral population program and hamstring our bilateral program so the most effective family planning providers cannot receive U.S. funds.

This bill addresses, as best it can given the budget squeeze, the need to help other nations conserve and protect their environments. AID has for a number of years, been focusing resources on protecting the biodiversity in areas like South America, central Africa, and Papua New Guinea. I strongly support this ongoing effort.

I am also very supportive of the continuing work of the Global Environmental Facility—the GEF—which is the environmental lending program, of the World Bank. I think the best way to describe the GEF is that it is a fund that helps developing nations help themselves in ways that help us. The GEF lends funds to developing nations for environmental projects that address the loss of forests and species, ozone depletion, and pollution of international waters. Although the bill cuts the U.S. contributions to the GEF nearly in half, this level of U.S. participation is essential to ensure that other donors continue to participate. In the next 4 years, Japan has pledged $500 million and Germany has pledged $240 million. I strongly support our contribution and oppose any effort to cut it further on the floor.

This bill also puts at a high priority the democratization and development of free markets in nations of the former Soviet Union, particularly Armenia. Armenia has a young, but fully functioning democracy that is far ahead of its neighbors in privatization. This bill provides funds for both humanitarian assistance for Armenia and for long-term development that will, coupled with an end to the blockades imposed by its neighbors, ultimately make Armenia a self-sufficient country. The State Department plans to end assistance to the NIS countries before the end of the century. Assistance, like that to Armenia, is essential to set them on the right track and ensure that they will develop sufficiently to be able to stand on their own in the near future.

I am also very pleased that this bill continues to meet our Nation's commitment to the Camp David accords. Both Israel and Egypt are fully funded in this bill, as they should be. This bill helps fulfill our commitment to Israel's keeping a qualitative military edge over its neighbors as well as rewarding those who are willing to take reasonable risks to pursue peace.

Finally, I would like to commend the staff of the subcommittee for their excellent and tireless work with Members and their staffs to find common ground on what are often very difficult issues and to bring this bill to the floor today. Thanks to Charlie Flickner, the new clerk who the chairman was fortunate enough to lure away from the other body, and to John Shank and Bill Inglee of the subcommittee staff, and to Nancy Tippines, the chairman's very able associate staffer. And special thanks to Lori Maes, who is the institutional memory on the subcommittee and a real professional.

Also thanks to Terry Peel the minority staff whose knowledge of this bill was essential to our getting to this point today. I also want to commend the associate staff of the members of the subcommittee including Tripp Funderburk, Bill Deere, Ann Campbell, Chris Peace, Martha Harrison, Jim Doran, Jerome Hartl, Kathleen Murphy, Rep WILSON's very able and accommodating staffer, Steve Marchese, who grew up in Arlington Heights which is in my district, Carolyn Bartholomew, and Nancy Alcalde.

Mr. Chairman, I thank Chairman CALLAHAN and urge Members to support this bill.

Mr. CALLAHAN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. PACKARD], another distinguished member of the subcommittee.

Mr. PACKARD. Mr. Chairman, I have the distinct pleasure and privilege of serving on this subcommittee with the chairman, the gentleman from Alabama [Mr. CALLAHAN], and the ranking minority member, the gentleman from Texas [Mr. WILSON], and I find that they have crafted a very, very good bill, and I would like to recognize them for that effort.

I also recognize the staff and all of their hard work that they have done, as well.

Mr. Chairman, I rise in strong support of the fiscal year 1996 foreign operations appropriations bill. This bill cuts 11 percent or $1.5 billion from fiscal year 1995 levels. It represents a $2.8 billion cut from the President's request. And more importantly, this bill continues the Republican transformation and downsizing of Government that we in Congress promised back in November.

Mr. Chairman, this bill maintains many of our traditional foreign aid priorities such as humanitarian assistance and foreign military financing. In addition, this bill moves our foreign assistance program away from traditional bilateral aid which is ineffective and bureaucratic, and toward a more market oriented development which uses the private sector to promote economic growth.

Finally, Mr. Chairman, this bill includes no earmarks. This is a clean bill, it is one that puts this country on the right track toward a deficit-free future.

Once again, I wish to commend the chairman and the ranking minority member for their excellent work in crafting this very good and bipartisan bill, and I recommend all Members support it in final passage.

Mr. CALLAHAN. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Iowa [Mr. LIGHTFOOT], a member of our panel.

Mr. LIGHTFOOT. Mr. Chairman, I rise in support of the bill.

Let me begin by commending the gentleman from Alabama [Mr. CALLAHAN] and the gentleman from Texas [Mr. WILSON] for their hard work on this legislation.

A foreign aid bill is neither an easy nor popular bill to bring to the floor of the House for a vote. But Mr. CALLAHAN and Mr. WILSON have worked in the bipartisan tradition of the committee to develop a bill we should all support.

Mr. Chairman, I would like to begin by discussing the administration's attitude throughout this year's foreign aid debate. The administration's budget proposal did not reflect the fact foreign assistance spending must also contribute toward our goal of a balanced Federal budget. Further, the administration, as well as a number of special interest groups, have convinced themselves that if the American people just understood the foreign aid program, they would support increased foreign aid. This is a dangerously misguided view.

That misguided belief apparently is fostered by a University of Maryland poll on American attitudes toward foreign assistance. As someone who has read and interpreted polls from time to time, I suspect the University of Maryland's poll conclusions would change dramatically if, for example, specific domestic programs were offered up as the funding source for increased foreign aid.

In addition, a number of ambassadors have visited with me this year and expressed concern that Republican foreign policy means a return to isolationism. In light of Anthony Lake's speech equating a reduction in foreign aid with back door isolationism and Ambassador Albright's equating opposition to increasing the number of peacekeeping operations with membership in the "Flat Earth Society," it is clear the administration has deliberately orchestrated this climate in order to draw attention away from its own pathetic foreign policy record.

Now let me turn to this year's bill. Despite the bipartisan work of the committee, I believe the bill does reflect the priorities of the new majority. The emphasis of the bill is on export promotion activities, a continued commitment to supporting Israel, and a leaner more efficient agency for international development.

There are two aspects of the bill which I would like to briefly discuss. The first concerns our continued support for export promotion programs.

I believe the export assistance agencies fulfill a very important role in advancing American foreign policy. They are not corporate welfare. As you know, our three export assistance agencies support projects in parts of the world where commercial institutions are reluctant to participate. They also help level the playing field for American business in the global market.

Neither Chairman CALLAHAN nor I believe in corporate welfare. In fact, I do not believe we believe in any kind of welfare. But it is clear that foreign governments help their businesses compete in developing markets. In a perfect world it would be nice to reduce this type of funding. However, if we cut this funding we only succeed in harming American business abroad.

Second, I think we are getting to the point where we need to think seriously about the future of bilateral aid programs. This bill and the budget resolution clearly indicate that future spending on foreign aid will continue to drop. We need to think about the most effective way to best spend those diminishing dollars.

I think the best way may be to shift from bilateral programs to using the leveraging power we have with the multilateral development banks.

Secretary Rubin and his staff have once again done an excellent job in demonstrating the utility of our funding the MDB's. As you know, the funds we appropriate as part of our previously negotiated share of MDB financing results in exports many times larger than our annual contribution.

Every dollar of our MDB contribution leverages into $22 in total MDB lending. Additionally, we must continue to contribute to the MDB's if we are to continue to play a leadership role in the management of the individual multilateral banks.

In closing, let me again commend Chairman CALLAHAN and Mr. WILSON for bringing to the floor a good bill. I also want to acknowledge the fine work of the staff in getting us here.

I urge all my colleagues to support this bill.

□ 1745

Mr. WILSON. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Chairman, I appreciate the gentleman's courtesy in yielding this time to me, and I rise in support of the legislation and to commend Chairman CALLAHAN and the gentleman from Texas for the fine job they have done under very trying circumstances. I also rise to express my strong support for maintaining the integrity of section 907 of the Freedom Support Act which sanctions Azerbaijan for its blockade of Armenia and Nagorno Karabagh. I am extremely concerned about one provision—in this bill which would gut section 907. The purpose of section 907 is specifically to prohibit direct United States Government assistance to the Government of Azerbaijan until Azerbaijan ceases its blockade of Armenia.

I want to be clear about this: Section 907 prohibits direct government to government aid. It does not deny United States humanitarian aid to Azerbaijan, as the bill's language would lead us to believe. As a matter of fact, as of March 31, 1995, Azerbaijan has received $61.8 million in incountry, United States humanitarian assistance through nongovernment organizations and private volunteer organizations.

Section 907 states:

> United States Assistance under this or any other act (other than assistance under Title V of this act) may not be provided to the government of Azerbaijan until the President determines, and so reports to Congress, that the government of Azerbaijan is taking demonstrable steps to cease all blockades and other offensive uses of force against Armenia and Nagorno Karabagh.

To date I am not aware that the President has filed a report with the Congress indicating that the blockade is being lifted.

The Azerbaijan blockade against Armenia and Nagorno Karabagh is now in its 5th year and it has made Armenia the poorest of the 15 former Soviet Republics.

According to United States AID's 1995 country profile of Azerbaijan, Azerbaijan continues to enforce a complete rail, road, and fuel blockade of Armenia throughout its territory, effectively cutting off fuel supplies and humanitarian supplies.

As a result, the blockade has forced a shut-down of almost all Armenian industries.

In fact, as many as one-third of Armenia's 3.6 million people have fled the country because the winters are unbearable and the factories stand idle.

Lifting the ban now would only encourage Azerbaijan to resist a peaceful solution to the Karabagh conflict and keep their blockade in place. The effort in the bill to weaken United States law that restricts United States aid to Azerbaijan represents a retreat from the principal position adopted by this body in 1992 that Azerbaijan must make progress towards peace by lifting its blockade. Congress would send the wrong message now by moving to weaken this restriction when the Azerbaijan Government in more than 2 years has failed to act on the United States demands.

Mr. CALLAHAN. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. KNOLLENBERG] a member of the subcommittee.

Mr. KNOLLENBERG. Mr. Chairman, I rise to express my strong support for this bill which reflects the subcommittee's careful crafting and compromise. I particularly wanted to salute the gentleman from Alabama [Mr. CALLAHAN], the chairman of the full committee, the gentleman from Louisiana [Mr. LIVINGSTON], and of course the gentleman from Texas [Mr. WILSON] who has been a strong advocate for bringing together this compromise. It deserves bipartisan support. It is not a Republican idea, it is not a Democratic idea, it is an American idea.

H.R. 1868 recognizes the fiscal situation we face and reduces the amount of money that we spend on foreign assistance. But H.R. 1868 also reflects our continued belief in the importance of maintaining our role as a leader in global events.

This bill does not blindly slash foreign aid. We make some serious cuts that reflect careful consideration and the review of every program. We have eliminated and reduced funding to those programs that have failed to justify continued support.

Foreign aid is a crucial component of our foreign policy. With the end of the cold war, there exists a sentiment in our country to place foreign affairs on the back burner and focus on domestic problems, and I admit we cannot ignore the domestic problems of crime, health care, education, and the economy, but I believe that recent events in the former Soviet Union, North Korea, and Bosnia illustrate that America must not insulate itself from the international community.

Faced with a national debt that is strangling our economy, Congress is operating under severe pressure to reduce spending and rightfully so. But we must work toward these goals as the world's only superpower and the sole proprietor of democracy. We have reduced foreign aid in this bill but we have not eliminated our ability to participate in the world.

Foreign aid, which makes up less than 1 percent of our Federal budget, is a good investment and has benefited our interests around the globe by furthering the development of economic and political stability in the international community.

H.R. 1868 allows us to continue to remain active in world event while it reflects our budgetary constraints.

I support this bill very strongly, and I urge my colleagues to do likewise.

Mr. WILSON. Mr. Chairman, I yield 3 minutes to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, I want to comment on three issues that will come up in the context of the fiscal year 1996 foreign aid appropriations bill. First is the Humanitarian Aid Corridor Act. This is a provision in the bill that would bar U.S. assistance to countries that bar the delivery of U.S. humanitarian aid to another country. The Republic of Turkey, a major recipient of United States assistance, has maintained a blockade on its neighbor Armenia. Asking our allies to allow American humanitarian assistance to reach its intended recipients is a reasonable condition for U.S. aid, and any country that fails to abide by this basic condition is undeserving of our aid. This provision was approved by the Foreign Operations Subcommittee, and was part of the foreign aid authorization bill which has already passed the House. The Senate Foreign Relations Committee has also adopted this provision. Any attempt to remove the Humanitarian Aid Corridor Act from the bill must be opposed.

Second, Mr. Chairman, I support conditional aid to Turkey on compliance with human rights. Our colleague, the gentleman from Illinois [Mr. PORTER] a member of the Foreign Ops Subcommittee and the cochairman of the Armenian issues caucus, is planning to introduce an amendment that would cut assistance to Turkey until that country makes substantial improvements in its human rights record. The Porter amendment is intended to draw attention to Turkey's immoral and illegal blockade of Armenia, the Cyprus issue, the rights of the Kurdish people, and the restrictions on free expression in Turkey. I strongly support the Porter amendment.

Third, I would urge the House to maintain the economic sanctions on Azerbaijan until it lifts its blockade of Armenia. Language was inserted into the foreign aid appropriations bill which severely weakens section 907 of the Freedom Support Act, which became law in 1992. This provision prohibits government-to-government assistance between the United States and Azerbaijan until that country lifts its devastating blockade of Armenia. Given that the Azerbaijani Government has not made any progress toward lifting its blockade, as was previously stated by my colleague, the gentleman from Indiana [Mr. VISCLOSKY], there is no basis for changing the law, and Azerbaijan should not be rewarded for its intransigence. Indeed, the law has not prevented humanitarian aid disbursed by nongovernmental and private voluntary organizations from getting to Azerbaijani refugees. Our colleague PETER VISCLOSKY of Indiana, a member of the Appropriations Committee and also the Armenian issues caucus, may offer an amendment to strike this provision or to explicitly forbid direct governmental assistance to Azerbaijan. The Visclosky amendment would prevent the gutting of the existing law, and I urge support for that amendment.

Finally, Mr. Chairman, Armenia has made tremendous strides toward democracy and a market economy since the breakup of the Soviet Union despite the relentless hostility of its neighbors, Turkey and Azerbaijan. Turkey and Azerbaijan, in my opinion, continue this blockade illegally. The United States should support countries that share America's values and not give encouragement to those countries that oppose our principles so flagrantly.

Mr. CALLAHAN. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. FORBES], one of the hardest working new Members of this Congress that has come in this year to join us. We are blessed that he was also put on our subcommittee, and he has been a valuable contributor, a man who works hard, a man who understands this bill as much as anybody in this Congress.

Mr. FORBES. Mr. Chairman, I thank the gentleman for those wonderful words.

I rise in support today of the foreign operations bill, and I compliment the ranking minority leader of this great committee and my distinguished chairman for all their hard work.

Mr. Chairman, I would say that this document is a responsible document, to say the least. There are many across the country who question this Nation's commitment to foreign operations and foreign assistance, and I have to say to those people who think that we should be spending more around the globe that they will be disappointed because this document is a responsible document that blends a responsible approach for this Nation as a leader in making sure that we help children, that we make sure that those who are so dedicated to freedom and democracy around the world have appropriate assistance, but it does not allow us to move around and perhaps be the world's policemen.

So I compliment the committee and the committee staff particularly for their help in crafting what I would say is a most responsible document. It calls for $11.9 billion. It is a responsible document that results in the lowest spending in foreign operations in 20 years. It is in line with this Nation's ability to move toward a balanced budget. It is $200 million below the budget authority. It is $400 million below the authorizers' document, and, as I said, it is a very responsible spending plan that is in line with this Nation's responsibilities to its allies and to the preservation of democracy and freedom around the world. This document preserves funding for peace, strategic allies like Israel and Egypt, and helps to move forward on the Middle East agreements, and addresses new priorities for this Nation in counterterrorism and drug interdiction.

By zeroing out or severely reducing funding for soft loan windows at the multilateral banks, we are moving away from the statist model of development in favor of a more free market approach. On the other hand, the bill creates a new child survival account, as I have referenced, and ensuring that nearly half a billion dollars will be spent on basic needs for children rather than the nebulous and often wasteful, quote, development assistance account. It maintains and even increases funding for export assistance, something that is vital to this Nation's economy and where the small business sector looks for new opportunities. It enhances U.S. competitiveness abroad and certainly will result in the creation of jobs here at home.

The bill maintains enough funding for the United States to carry out what I said is its proper foreign policy obligations and ensures that national security functions as the world's leader continue. It brings us back from the brink of becoming the world's policemen and nanny to a more responsible place for this Nation as the guardians of peace, freedom, and democracy around the world.

□ 1800

The CHAIRMAN. The gentleman from Alabama [Mr. CALLAHAN] has 5 minutes remaining, and the gentleman from Texas [Mr. WILSON] has 15 minutes remaining.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from Nebraska [Mr. CHRISTENSEN].

Mr. CHRISTENSEN. Mr. Chairman, I want to thank the committee and its chairman for rejecting any attempt to close down the Overseas Private Investment Corporation [OPIC]. I support downsizing Government more than anyone, but abolishing OPIC will not further either of these goals.

OPIC is not some foreign boondoggle program, as some have charged. OPIC provides loans and political risk insurance to American companies doing business abroad. It does not do this for free. It charges market rate for its services, which is how it makes money. For example, recently OPIC charged an 11.9-percent financing rate for a company that is constructing a powerplant overseas. If it was not for OPIC, that company would have had to purchase $500 million worth of goods from Japan, rather than from the United States.

Unlike almost every other Federal agency, OPIC actually takes in more than it spends. In fact, it showed a net income of $167 million last year, and it writes a check at the end of each year returning most of its profits to the Government. Since 1971, OPIC has contributed almost $2 billion back to the Federal Government to reduce the debt.

OPIC is a successful business because it negotiates on a government-to-government basis. Its services are simply not available in the private sector. OPIC does not cost the taxpayers anything, and it actually makes money for the Government, so its elimination would actually increase the deficit, not reduce it. In my opinion, OPIC is an example of how a Federal agency should be run. Its elimination would hurt U.S. interests and result in higher deficits.

I want to thank the committee and its chairman for fighting to keep it, and also I look forward to working with the chairman to make sure we stem the tide of any elimination as this process goes on.

Mr. WILSON. Mr. Chairman, I yield myself 30 seconds to ask a question of the gentleman from Nebraska [Mr. CHRISTENSEN]. I would like to ask the gentleman from Nebraska to reiterate what he said. I think many Members of this body do not understand that OPIC actually returns more money to the Treasury than we appropriate for it.

Mr. CHRISTENSEN. Mr. Chairman, if the gentleman will yield, that is correct.

Mr. WILSON. As well as creating jobs, as well as positively affecting the balance of payments, as well as creating more taxpayers.

Mr. CHRISTENSEN. It does the things that the private sector cannot do, because the private sector does not have an arm where it will take political risks. OPIC takes that risk for the American enterprise, for the entrepreneur, for the corporation, loaning out at market rates and returning back to the Federal Government the cost.

Mr. WILSON. I thank the gentleman.

Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Chairman, I thank the distinguished ranking member for yielding.

Mr. Chairman, in my absence a lot has been said about the amendment that I have offered and which the Committee on Rules made in order, which I want to publicly thank the gentleman from New York [Mr. SOLOMON] who, in his wisdom, along with the members of the Committee on Rules, agreed to have this amendment made in order, particularly in view of the serious nature and the timing of what is involved.

For someone to say that it is a rather narrow focus about the issue of the nuclear power plant in Cuba, they should have seen the 60 Minutes program 2 weeks ago. It is not a narrow focus.

If we look at the September 1992, GAO report, for those of us who have been following this for quite some time, we know this is a very serious issue, and not just to those who follow Cuba policy vis-a-vis the United States and Cuba.

This is what this report said about the nuclear power plant. It said that reports by a former technician from Cuba examining with x rays weld sites believed to be part of the auxiliary plumbing system found 10 to 15 percent of those were defective; that the operation of this reactor would be criminal. In fact, it says, for those of you who are Members from Texas, Louisiana, Mississippi, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, and Washington, DC, according to a study by the National Oceanographic and Atmospheric Administration, that summer winds could carry radioactive pollutants from a nuclear accident at that powerplant throughout all of Florida and parts of the States on the gulf coast as far as Texas, and northern winds could carry it as far northeast as Virginia and Washington, DC. That affects the lives of hundreds of millions of Americans and in fact it makes it so imperative that we consider this amendment and move forward on it. We do not need to be supplying money to countries who want to permit another Chernobyl-like accident 90 miles away from the United States. That is why I appreciate the amendment being considered.

Mr. WILSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. OBEY], the ranking member of the full committee.

Mr. OBEY. Mr. Chairman, I would simply like to take a second to respond to the comments of the gentleman who just spoke. I very much admire the way the gentleman attends to the needs of his district and his constituents and his substantive concerns. But I want to make clear something which I said earlier with respect to that nuclear power plant in Cuba, since he was referring to me in his comments.

As I said earlier in my exchange with the gentleman from Florida, I very much agree with people on the substance of the question of the nuclear power plant in Cuba. I think it should not be built. I think it is very bad business. I think the Russians should not be financing it in any way, shape, or form. There is no disagreement whatsoever on substance.

I would simply point out that the GAO report to which the gentleman referred was a 1992 report. My understanding is that that nuclear operation has been mothballed since 1993, and it is quite clear that the administration shares the gentleman's concerns about that plant and is trying to find the best way to see to it that it does not proceed and is not ever put in place. The only question before us is what the best way is to discourage that. The only question is how do you prevent it from actually happening. That is what is in dispute here.

So, with all due respect to people's concerns about it, which are legitimate, I would simply suggest that it is occasionally possible to be correct in terms of one's goal, while being very mistaken in terms of the means that one chooses to get to that goal. Sometimes you have a law of unintended consequences, which means that what you start out to try to stop, you in fact create because of inadvertence. I do not want that to happen here, which is why I am concerned that this amendment is considered on this bill, when I think it ought to be considered by another committee that knows a whole lot more about it than this committee does.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I want to tell the gentleman that I agree wholeheartedly with you. We would not want to mislead anybody in this House or this country that we are in support of Russia affording this opportunity to Cuba. We think his destination is right, he is just on the wrong bus to get to that destination.

I agree with you, the gentleman should have done it in the authorization bill, not in this bill. So I agree with you, but I want everybody to know that I do not disagree with the destination. We do not want that plant in Cuba under any circumstances, and we do not want Russia contributing to that.

Mr. OBEY. Mr. Chairman, reclaiming my time, none of us do. It could be a significant threat to the security of the United States. Everybody recognizes that. The question is, what is the best way to see to it that it never happens, and I think to achieve that we all need to work together on another vehicle.

Mr. WILSON. Mr. Chairman, if the gentleman will yield, does the ranking member agree with me that as a matter of national pride and national dignity and probably of politics in Moscow, that if the United States tells Russia they cannot do it, then they have to do it?

Mr. OBEY. Mr. Chairman, I know how we would react as Americans. If somebody tells America, "You cannot do something or we are going to do X to you," that is when the Americans have the fur on the back of their neck go up and they say, "Tough, buddy, we are going to do it." That is human nature. So the question is how do you handle this in a way that people do not do dumb things because they are following emotion rather than logic.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I thank my good friend for yielding.

Mr. Chairman, I rise in strong support of this committee's proposal, and I am especially grateful for the work that Chairman CALLAHAN and Chairman LIVINGSTON have done to establish a new child survival account. Since I have been in Congress, since the early 1980's, there has been a bipartisan effort to preserve and fence off money for immunizations and for oral rehydration money, which has literally saved millions of children because of that very modest investment.

I have witnessed during the 1980's two mass vaccination days in Central America and saw thousands of kids vaccinated against preventable diseases like diphtheria, tetanus, and other preventable diseases. Yet we find that millions of kids still die. We have still not brought the blessings of the child survival revolution to all those to whom we could bring it, and this account will go very, very far in trying to advance that, especially in times of budget austerity.

I would just remind Members that when we consider the authorizing bill, I had offered language that was accepted by the committee to fence off money, to earmark money, that would be used for child survival activities. It passed in a bipartisan way in committee, and a soft earmark has been retained on the floor of the House.

Let me just say why I think that is so important. When Brian Atwood testified before our committee 2 days before our markup, he said that a 30 percent cut in USAID's child survival program, and there was no cutting in the program, it was a cut in DA, would mean that more than 4 million children will likely not be vaccinated, greatly heightening their risk of death from severe illness.

He went on to say if there was a cut across the board in DA, development authority, that that would automatically translate into a cut for child survival. It is a matter of who manages the cuts.

Mr. Chairman, I think it is important for us to say we do not want to see any of these cuts. But if cuts have to be, children should come first.

I again want to salute the gentleman from Alabama [Mr. CALLAHAN] for making sure that children do indeed come first and are protected from cuts.

Mr. Chairman, foreign aid has its share of critics, and perhaps more than its share. This fact was reflected in our recently enacted foreign relations bill, which made significant cuts in foreign aid and was nonetheless subject to criticism in some quarters that it did not cut deeply enough. To some extent, the voters' distrust of foreign aid is warranted. In far too many cases, foreign aid has proved to be the ticket to the high life for corrupt bureaucrats in developing nations, while their people remain mired in poverty.

But let us be clear about what it is that people object to when they object to foreign aid. Everyone objects to corruption in the system. Many object to spending money on infrastructure projects in developing countries while money is running out for similar projects here at home. And many object to funding abortion and heavy-handed population control tactics. But what virtually no one objects to is the aid that goes directly to saving lives.

People are not skeptical about foreign aid because they believe that foreign aid has vaccinated too many children, fed too many starving people, or turned too many swords into plowshares. They are skeptical because they believe that foreign aid has paid for too many unnecessary government offices and limousines, or has been siphoned off by yet another corrupt politician. So the best political solution is also the best policy: accept the reality that resources are limited, cut the limousines, and save the food and medicine.

The intent of Congress in preserving child survival funds in an era of budget austerity is emphatically to save the funds for medicine, micronutrients, and vaccine. We intend to keep such funds from being siphoned off, either to luxurious perks, or to forms of foreign aid that lack a measurable positive impact on child morbidity.

Even in this age of advanced medical progress, this world still witnesses the preventable deaths of millions of children. We still have:

More than a million deaths per year due to measles, according to UNICEF.

Still over 100,000 cases per year of polio, despite large strides toward eradicating it, according to Dr. Jong Wook Lee of the World Health Organization.

Half of all child deaths are caused by either diarrhea or pneumonia, according to UNICEF. Yet these deaths are highly preventable: by early detection and antibiotics, in the case of pneumonia, and by oral rehydration therapy, in the case of diarrhea.

Furthermore, the World Health Organization reports:

Over a million child deaths per year from malaria; 17 million cases of river blindness and elephantiasis; 25,000 new cases per year of African sleeping sickness; 10–12 million case worldwide of leprosy, or Hansen's Disease.

Unfortunately, when Congress does not speak clearly enough on how the funds it appropriates for child survival are to be spent, they are sometimes spent in ways that do not put child survival first. In a hearing before the International Relations Committee earlier this year, Brian Atwood, Administrator of AID, told us that funds designated for child survival had been drawn down for emergency relief, while population funds had not been similarly touched. The operating assumption seems to be: population means population, but child survival means a general humanitarian fund.

Congress must state clearly that child survival means child survival—not population control or anything else. Whatever the proper place of family planning in U.S. foreign aid, it should not operate at the expense of child survival. Family planning implicates fundamental disagreements about morality, family life, and, in the case of abortion, about life itself. But child survival is something that all of us, on both sides of the population and abortion issues, can support. Child survival can and should bring us together, whatever battles we may need to fight over other issues.

Unfortunatly, the Clinton administration is conspicuously absent from this broad coalition in favor of putting children first. At a recent hearing, Mr. Atwood explained how he would manage the one-third cut in Development Assistance funding:

A 30-percent cut in USAID's child survival program would mean that more than 4 million children will likely not be vaccinated, greatly heightening their risk of death or severe illness from such preventable diseases as measles, whooping cough, and diphtheria.

But there is one fact that puts Mr. Atwood's remarks in an alarming light. Our bill does not cut child survival. It cuts foreign aid overall, while attempting to protect child survival. Mr. Atwood, it seems, was not expressing a fear—he was issuing a threat. He was saying, if you cut Development Assistance, we will take that cut out of child survival.

Mr. Atwood continued:

Oral Rehydration Therapy [ORT] prevents an estimated 1 million deaths a year due to acute diarrhea. Usage rates for ORT in all areas of the world have risen to 40–65 percent. Despite the steady growth in ORT use, 3 million children still die from diarrheal disease annually. A cut of 30 percent in child survival resources would likely mean at least 100,000 children's lives would be lost each year for lack of this cheap and simple treatment.

Chilling facts indeed—especially when you consider that such consequences could easily be avoided if USAID were to concentrate its Development Assistance cuts on something other than child survival.

This is why Congress must not send up language that gives USAID any leeway on child survival.

The Child Survival Account that the Appropriations Committee's bill would establish is a step in the direction of broadly supported humanitarian foreign aid. These funds will go, for instance:

Toward oral rehydration therapy, which saves more than a million lives a year;

Toward vaccination, so that the effective extinction of polio and measles can be brought about, as has already been done with smallpox;

Toward eliminating Vitamin A and iodine deficiencies, thereby preventing blindness, illness, and death for untold numbers of children in the developing world; and

To UNICEF, which has a long record of saving children's lives.

UNICEF's research shows us how far we have come—and how far we still have to go—in fighting childhood diseases and improving childhood nutrition. Consider the case of polio.

Worldwide estimates of polio cases have fallen from 400,000 in 1980 to just over 100,000 in 1993. But at the same time, there are still 68 countries where the polio virus is crippling children. Carrying out a vaccination program in places where outbreaks are still occurring can be expensive. Furthermore, the perception that polio is almost extinct makes it hard to generate the political will to make those expenditures, especially when other diseases seem to pose a much graver threat. Yet if the final extermination of polio is not achieved, the disease could mount a mighty comeback when a generation of unvaccinated children starts to grow up. Funds for UNICEF can help prevent this vicious circle from becoming a reality.

Consider measles. Not as terrifying as polio, perhaps—yet UNICEF estimates that it causes 1 to 2 million child deaths each year, and often leaves even its survivors with severe malnutrition. Like polio, measles can be eliminated—provided the funding for vaccination continues even after the disease becomes rare. In 1994, Indonesia held a national immunization day targeted at both polio and measles, but health authorities there had to scale it back to polio alone due to inadequate funds. Indonesia is therefore at greater risk of a resurgence of measles.

Consider child nutrition. Vitamin A is increasingly recognized as a low-cost way to reduce child mortality by between a quarter and a third in many developing nations. UNICEF calls vitamin A the most cost-effective of all interventions for children. One study showed that malnourished children with adequate vitamin A were less likely to die than well-nourished children who were deficient in vitamin A. Consequently, UNICEF is undertaking a campaign to promote the fortification of common foods with vitamin A, and to make vitamin capsules available in areas of acute need.

I have both high hopes and great fears about UNICEF. High hopes that it will continue as a pathbreaker in child survival projects, as it has done for decades. And great fears that it will veer from its core mission into areas such as family planning, which are dealt with by other U.N. agencies, and which tend to fracture the coalition that supports UNICEF.

Over the years, liberals and conservatives alike have bought UNICEF greeting cards, encouraged their children to trick or treat for UNICEF, and even supported larger and larger contributions over the years by the United States. Continuation of this unusual consensus is most unlikely if UNICEF ventures into the most morally landmined field in all of foreign aid.

The Subcommittee on International Operations and Human Rights, which I chair, will be holding oversight hearings on UNICEF. We hope and expect to find through these hearings that UNICEF has remained faithful to its core mission of fighting child morbidity and promoting child health. In that regard, I welcome the declaration on family planning that UNICEF makes in its 1995 report called The Progress of Nations. That declaration makes clear that under the division of labor that characterizes U.N. agencies, UNICEF's mission of improving the well-being of children and women is different from that of the agencies that promote family planning.

The core mission of UNICEF, and other important child survival activities, will be helped greatly by the child survival and disease program fund set up by this bill. This fund is foreign aid as it was meant to be. This Congress is making cuts, but it is not making them blindly or callously. It is cutting waste and extravagance, while preserving the heart of foreign aid. I commend the appropriators for their work, and I urge a "yes" vote on the foreign operations appropriations bill.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I want to respond to the gentleman from New Jersey, and give him a lot of credit, because he, along with the gentleman from Virginia [Mr. WOLF] and the gentleman from Ohio [Mr. HALL] came and suggested that we do something to ensure that as we dramatically downsize foreign aid, that we do not preclude the ability of the administration to have a sufficient amount of money to feed starving children, and to provide the immunizations programs that will help eradicate polio. So I compliment the gentleman.

Mrs. MALONEY. Mr. Chairman, I rise in support of the foreign operations funding bill.

I do so with the view that this is not a perfect bill. In many respects, it represents a step backward in U.S. commitment to promoting development and democracy around the world.

I am concerned about the 34-percent cut in African aid. This is bad public policy on humanitarian grounds. These cuts also make no fiscal sense. Investing a small amount in African development today will save many more tax dollars in emergency intervention in the future.

I am also concerned that the bill contains language allowing for continued United States aid to Azerbaijan, despite that nation's unconscionable blockade of Armenia. Allowing our allies to block U.S. humanitarian assistance represents a complete undermining of our foreign policy objectives.

Despite these problems, the bill contains many important provisions, and I want to thank Chairman CALLAHAN and my good friend DAVE OBEY for their work.

I strongly support the inclusion of $3 billion in economic and military assistance for Israel. As our only democratic ally in the Middle East continues to travel down the historic—and often dangerous—road toward peace, it is imperative that our country ensure Israel's economic viability and military advantage in the region.

I am pleased that the bill maintains $15 million for Cyprus. It has been two decades since the brutal Turkish invasion of this beautiful island nation. This relatively small amount of money goes a long way toward helping the Cypriot people with critical economic development and peace-enhancing activities.

I also want to convey my strong support for the funding for the International Fund for Ireland. President Clinton and the Congress have much to be proud of with respect to the profound and peaceful changes in Ireland. We therefore must renew our commitment to the heroic Irish people.

I ask my colleagues to support this bill. It is not perfection, but it is very important nevertheless.

Mr. ROTH. Mr. Chairman, this legislation poses a dilemma. Some of its provisions, such as the funding for export-related functions, are vitally necessary for our economic growth and job creation.

The bill continues current levels of funding of the Export-Import Bank, which helps finance U.S. exports.

The bill also provides $100 million for the Exim Warchest, which is used to counteract unfair trade practices by foreign governments. This, too, is essential for our competitive position in global markets. Further, the bill provides a substantial increase in the operating levels for the Overseas Private Investment Corporation [OPIC].

This is consistent with our authorizing bill last year, in which we tripled OPIC's authorizing levels to $9.5 billion. Let me point out that OPIC does not use any taxpayer funds—it pays for itself and even makes money for the Government—last year earning $167 million. OPIC also maintains reserves to cover its liabilities, with $2.3 billion currently on deposit in the Treasury.

None of these funds come from the taxpayer. Everything was earned through OPIC's business activities. The truth is, this appropriations bill simply allows OPIC to use the money that it has already earned on its own.

The bill also provides funds for the Trade and Development Agency, which generates U.S. exports by funding the engineering and feasibility studies for major construction projects overseas.

Our subcommittee's oversight hearings have shown that TDA generates $25 in exports for every $1 it spends. That is an excellent return on our investment. Therefore, I am concerned that this bill cuts TDA by $5 million. I hope this provision can be revisited later.

The importance of each of these export programs is underscored by the latest trade data, which came out yesterday. The overall deficit in April was $11 billion, the worst month in 3 years. The deficit in goods was $16 billion. That is $1.7 billion worse than in March.

In April, our exports actually went down by nearly a billion dollars, while imports went up by $700 million.

In other words, our trade deficit, which last year was the worst in our history, is getting even worse. The bottom line is, if our exports do not recover, we will certainly fall into a recession.

In recent years, exports have provided most of our economic growth, as much as 80 percent. Clearly, we need the export programs in this bill.

Therefore, I commend the Gentleman from Alabama [Mr. CALLAHAN] and the gentleman from Louisiana [Mr. LIVINGSTON] for these vital job-creating provisions. Unfortunately, other parts of the bill represent business as usual in doling out foreign aid.

The bill makes some cuts in foreign aid, but not enough, in my judgment. AID still gets $5.7 billion, including $530 million in operating expenses. Why does it cost a half a billion dollars to run a $5 billion program? Over the past 10 years, AID's programs have gone down 23 percent, but its operating costs have gone up 40 percent.

It makes no sense that operating costs go up when the overall program is going down. In particular, I oppose the $29 million which is provided for AID downsizing. What sense does it make to appropriate more money to shut down missions and reduce the Agency? That represents the triumph of bureaucratic thinking over common sense.

Yes, we absolutely should cut down AID, but let us not give the bureaucrats even more money to carry this out. Many amendments will be offered to this bill.

Some will propose further reductions in foreign aid. Some will propose ill-considered reductions in support for our exporters. And some would actually increase foreign aid spending. The fate of this bill hangs in the outcome of these amendments.

I urge my colleagues to join me in supporting the export-related provisions and in making further reductions in foreign aid.

Mr. WILSON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. CALLAHAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. MCKEON] having assumed the Chair, Mr. BOEHNER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 1868), making appropriations for foreign operations export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, had come to no resolution thereon.

CONFERENCE REPORT ON H.R. 483, MEDICARE SELECT POLICIES

Mr. BILIRAKIS submitted the following conference report and statement on the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes:

CONFERENCE REPORT (H. REPT. 104–157)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 483), to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. PERMITTING MEDICARE SELECT POLICIES TO BE OFFERED IN ALL STATES FOR AN EXTENDED PERIOD.

Section 4358(c) of the Omnibus Budget Reconciliation Act of 1990, as amended by section 172(a) of the Social Security Act Amendments of 1994, is amended to read as follows:

"(c) EFFECTIVE DATE.—(1) The amendments made by this section shall only apply—

"(A) in 15 States (as determined by the Secretary of Health and Human Services) and such other States as elect such amendments to apply to them, and

"(B) subject to paragraph (2), during the 6½-year period beginning with 1992.

For purposes of this paragraph, the term 'State' has the meaning given such term by section 210(h) of the Social Security Act (42 U.S.C. 410(h)).

"(2)(A) The Secretary of Health and Human Services shall conduct a study that compares the health care costs, quality of care, and access to services under medicare select policies with that under other medicare supplemental policies. The study shall be based on surveys of appropriate age-adjusted sample populations. The study shall be completed by June 30, 1997.

"(B) Not later than December 31, 1997, the Secretary shall determine, based on the results of the study under subparagraph (A), if any of the following findings are true:

"(i) The amendments made by this section have not resulted in savings of premium costs to those enrolled in medicare select policies (in comparison to their enrollment in medicare supplemental policies that are not medicare select policies and that provide comparable coverage).

"(ii) There have been significant additional expenditures under the medicare program as a result of such amendments.

"(iii) Access to and quality of care has been significantly diminished as a result of such amendments.

"(C) The amendments made by this section shall remain in effect beyond the 6½-year period described in paragraph (1)(B) unless the Secretary determines that any of the findings described in clause (i), (ii), or (iii) of subparagraph (B) are true.

"(3) The Comptroller General shall conduct a study to determine the extent to which individuals who are continuously covered under a medicare supplemental policy are subject to medical underwriting if they change the policy under which they are covered, and to identify options, if necessary, for modifying the medicare supplemental insurance market to make sure that continuously insured beneficiaries are able to switch plans without medical underwriting. By not later than June 30, 1996, the Comptroller General shall submit to the Congress a report on the study. The report shall include a description of the potential impact on the cost and availability of medicare supplemental policies of each option identified in the study.".

And the Senate agree to the same.

TOM BLILEY,
MICHAEL BILIRAKIS,
DENNIS HASTERT,
BILL ARCHER,
WILLIAM THOMAS,
NANCY L. JOHNSON,
Managers on the Part of the House.

BOB PACKWOOD,
BOB DOLE,
DANIEL PATRICK MOYNIHAN,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment that is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clerical changes.

EXTEND MEDICARE SELECT TO ALL STATES FOR THREE YEARS

PRESENT LAW

The Omnibus Reconciliation Act of 1990 (P.L. 101–508) established a demonstration project called Medicare Select under which insurers can market Medicare supplemental policies (called "Medigap" policies) that are the same as other Medigap policies except that supplemental benefits are paid only if services are provided through designated providers. The demonstration was limited to 15 states and expired December 31, 1994. The demonstration was extended to June 30, 1995, in the Social Security Act Amendments of 1994 (P.L. 103–432).

HOUSE BILL

Medicare Select authority is extended to all states which wish to participate until June 30, 2000. The Secretary of Health and Human Services is to conduct a study of Medicare Select prior to 1998 to study cost, quality and access for Medicare Select compared to other Medigap policies. Medicare Select remains in effect unless the Secretary finds that Medicare Select has: (1) not resulted in savings of premium costs to beneficiaries compared to non-select Medigap policies; (2) resulted in significant additional expenditures for the Medicare program; or (3) resulted in diminished access and quality of care.

SENATE AMENDMENT

Same as the House bill except the extension is until December 31, 1996. The Secretary is to complete the study by June 30, 1996. The General Accounting Office (GAO) is to conduct a study on Medigap insurance and report to Congress by June 10, 1996. The report is to include: (1) an analysis of whether there are problems in the current Medigap system for beneficiaries who wish to switch Medigap policies without medical underwriting or pre-existing condition exclusions; (2) options for modifying the Medigap market to address any problems identified; and (3) an analysis of the impact of each option on the cost and availability of Medigap insurance, with particular reference to problems with Medicare Select policies.

CONFERENCE AGREEMENT

The conference agreement adopts the Senate amendment with the following changes: (1) Medicare Select is extended to all States for three years (until June 30, 1998); and (2) the GAO study is clarified to require analysis of all types of Medigap insurance by removing specific reference to Medicare Select. Reference to pre-existing condition exclusions is also removed as they are already prohibited under current law for Medigap replacement policies.

TOM BLILEY,
MICHAEL BILIRAKIS,
DENNIS HASTERT,
BILL ARCHER,
WILLIAM THOMAS,
NANCY L. JOHNSON,
Managers on the Part of the House.

BOB PACKWOOD,
BOB DOLE,
DANIEL PATRICK MOYNIHAN,
Managers on the Part of the Senate.

ADJOURNMENT TO MONDAY, JUNE 26, 1995

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

□ 1815

HOUR OF MEETING ON TUESDAY, JUNE 27, 1995

Mr. LIVINGSTON. Mr. Speaker, I ask unanimous consent that when the

House adjourns on Monday, June 26, 1995, it adjourn to meet at 10:30 a.m. on Tuesday, June 27, 1995, for morning hour debates.

The SPEAKER pro tempore (Mr. McKEON). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SIGNS OF A RECESSION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. DUNCAN] is recognized for 5 minutes.

Mr. DUNCAN. Mr. Speaker, yesterday, the front page of the New York Times reported that some members of the Federal Reserve Board "have publicly expressed concern that the economy is now in considerably worse shape than they had expected."

Two days ago, Washington Post columnist James K. Glassman wrote: "Don't look now, but the recession may already have started."

Mr. Glassman wrote that the White House is going to try to convince voters that this is a Gingrich recession, but then he says this:

> Such a charge, of course, is nonsense, and it's hypocritical coming from a President whose budget plan isn't so different from that of his adversaries.

Are we in a recession now? Well, the economy lost 101,000 jobs in May. Single family housing starts are at a 2-year low. Unsold inventories have, in the words of the New York Times, risen sharply.

According to Bridgewater Associates, a respected Connecticut firm that measures the economy, retail sales are wretched and second quarter GDP growth is about minus 0.5 percent.

I have spoken at least twice on this Floor about our tremendous problem of underemployment.

If you talk to any of these college graduates who can only find work in fast food outlets or restaurants, if they can find jobs at all, then you would know what I mean. I am sure they would say we are in a recession.

Like all recessions, though, the average consumer will not notice the full effects of this one until several months after it starts.

Thus most people will not notice this one, according to most economists, until very late this year, but really more probably a few months into 1996.

What is the cause of this new recession, or if not a recession, at least this severe slowdown?

Well, I think most people would agree that our obscene national debt of almost $5 trillion and our continuing deficits, or losses, of almost $1 billion a day, are the main problems.

Congressman ARMEY, a PhD economist, says the fault lies with the huge tax increase passed by President Clinton and the Democratic Congress in 1993.

Lending credence to this view is John Mueller, chief economist for Lehrman Bell Mueller Cannon, Inc. The columnist Glassman says Mueller believes there is a lag time of 2 years between actions of the Federal Reserve Board and their effects.

There is also a similar lag time with most major legislation passed by the Congress, too.

Anyone who blames a recession or economic slowdown in the next year or so on Republicans in Congress is either forgetting or ignoring the obvious.

First, most of the real changes passed by the House have not been passed by the Senate or have not been signed by the President. Most of the actions by the House have not even yet taken effect or actually gone into law.

Second, despite all the publicity about so-called spending cuts, none of these will go into effect until the next fiscal year begins in October.

Even then, the cuts do not exceed the growth in some programs, and thus overall Federal spending continues to go up and will do so every year under the most conservative budget that has been proposed.

Obviously our economy is on thin ice. So, what should we do?

First, we need to drastically reduce the Federal regulatory burden. The most conservative estimates are that Federal regulations now cost our economy approximately $500 billion each year.

Second, we need to bring Federal spending under control, cut our losses completely, and even start paying off our national debt is the only way to really help the economy, and that is with uninflated dollars.

It is ridiculous that we cannot even balance our budget until seven years from now, at the least. If we balanced the budget right now, we would still be spending over $1½ trillion by just our Federal Government this year. We would not have a lean government, we would still have a fat, sassy government. A strong, active, vibrant government is what we should have for that kind of spending.

Third, we need to overhaul, and greatly simplify and reform our federal tax code. We should greatly downsize and decrease the power and cost of the IRS.

It is just crazy that our Federal tax laws are so complicated and convoluted. I am told that we waste at least $200 billion a year in time lost and expense incurred in IRS compliance costs, keeping records, filling out forms, and so forth.

Finally, we need to lower taxes at all levels. The average person—not the wealthy, but the average—pays about half of his or her income in taxes of all types, Federal, State, and local, sales, property, income, excise, Social Security, and so forth.

The least efficient, least economical way to spend money is to have Government do it, because there is no real incentive or pressure on Government employees to work hard and/or save money, as there is in the private sector.

Money left in the private sector creates 2 to 2½ times as many jobs as does money turned over to Government.

Times are good now for some people. But they could and should be good for everyone.

Our country could be booming beyond belief—people could be doing two or three times as good as they are—if we would do the four things I just mentioned: first, deregulate our economy; second, balance our budget and start paying off the national debt; third, greatly simplify our tax code and basically eliminate the IRS; and fourth, lower the tax burden on our people, at all levels, so they can spend their own money wisely instead of having bureaucrats do it wastefully.

We could be booming, Mr. Speaker, but because real change has not yet taken place, there are many signs that we are headed into a recession that has been produced by our own Federal Government.

HISTORY OF AGRICULTURE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. SMITH] is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, we will soon consider a farm bill that warrants an examination of the history of agriculture and a study of the lessons learned. There is linkage between the modern American farmer and ancient Sumerian who worked the land between the Tigris and the Euphrates. Both were responsible, indeed farmers throughout history have been responsible, for their countries and the progress of civilization.

It has been said that in the last reckoning, all things are purchased with food. This was true in the cradle of civilization, and it holds true now.

Today American agriculture is this country's largest industry. Agriculture accounts for a full 16 percent of our current gross domestic product; 355 billion dollars' worth of food and fiber were produced this past year. That is more than any other industry.

And so it is especially important that we learn the lessons taught by the successes and failures of the past. History is awash with the remains of societies that failed to maintain their soil, who let it succumb to erosion, who let the channels that fed it get chocked with silt. The ancient city of Babylon, 2,600 years ago developed a productive agriculture. It allowed their civilization to grow to 17 million people and a remarkably diversified society. King Nebuchadnezzar even boasted that because he developed a great productive agriculture the rest of his society excelled. But eventually agriculture and farmers became a lesser priority in that country, and it ultimately failed. Farmers abandoned the farms and eventually the city collapsed.

Another example is the Promised Land of the Sinai Peninsula. Moses called it "the land of milk and honey." Farm production and conservation were neglected and eventually only dregs of fertile soil remain at the bottom of narrow valleys.

But there are also successes. Societies with plans promoting farmers and farming survived and flourished. For the last 1,000 years, farmers in the French Alps with an eye toward conservation have terraced hillsides in a dramatic effort to prevent soil loss, resulting in continuously fertile soil, fertile agriculture, and abundant production.

□ 1830

In this country the Dust Bowl of the 1930's affected over 150,000 square miles of fields in areas of New Mexico, Texas, Oklahoma, Kansas, and Colorado. For 6 years, drought and blinding dust storms were constant. The fertile ground of much of the Great Plains was stripped and deposited in drifts over millions of acres. Farms were buried and families fled. The counties of the Dust Bowl lost nearly 60 percent of their population through migration.

The cause of this ecological disaster was largely the result of an overuse of the land. Following World War I, high grain prices enticed farmers to head for the Plains. But those high prices didn't last. As the wheat prices fell, the farmers became financially stressed and looked for short-term gain by planting more wheat. The long-term advantages of strip cropping, summer fallow and other conservation measures were abandoned. In fact, by 1930 farmers had planted three times as much wheat as they had in 1920. To a large degree, the extra planting was an act of desperation to survive. Soil conservation suffered.

The drought began in 1933; the overuse made the land vulnerable to the winds that followed in 1934. Farmers continued to harvest what little of their crops they could, often driving their tractors in conditions so blinding that they couldn't see their radiator caps, much less the fields they worked as the fertile topsoil blew away. When wheat prices hit bottom during the Great Depression, more and more farmers abandoned their farms.

In 1933 President Roosevelt started a Federal program to limit production in order to help keep farm prices stable and encourage special farming techniques like contour plowing, crop rotation, and terracing that kept soil on the farm and kept it fertile. However, prices stayed low and poor farmers continued to leave the land. In 1936 the Agriculture Adjustment Administration was created to promote soil conservation by issuing checks to farmers who adopted acreage reductions and wind controls on their farms.

In the United States Congress we're now engaged in a great agricultural debate. We're deciding what proper Federal agricultural policy should be. It is important that the American people understand that agricultural programs had been designed to encourage a continuous but slight over-production. A hidden goal has been to keep enough farmers and ranchers producing so that an abundant supply would result in not only lower food and fiber prices in this country, but exports of low-priced commodities to assist in our balance of trade. Huge stores of grain were held by Government to be sold when farm prices went "too high."

Since the time of the first Dust Bowl we have enticed farmers to become more and more dependent on Government subsidy programs. As we move to a more market-oriented farm policy, it is important that we phase out subsidies smartly. Research and technology is needed to conserve water and topsoil, increase the efficiency of pesticides and fertilizers, and maximize yields. Farmers must ultimately make a profit if they are to continue to produce for today's needs and preserve productive land for tomorrow.

American consumers now spend 9.5 percent of their take-home dollars for food. With that 9.5 percent, they are able to buy the best quality, lowest-priced food in the world. In our haste, we cannot undermine the agricultural base that made our country strong. We must not forget our own history. New Federal farm policy needs to help assure a strong agricultural industry.

REPUBLICANS CARE MORE ABOUT MILITARY CONTRACTORS THAN THOSE WITH THE AIDS VIRUS

The SPEAKER pro tempore (Mr. McKEON). Under a previous order of the House, the gentlewoman from California [Ms. WOOLSEY] is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, last week my best friend's son died. He was 33 years old, HIV positive, and died from cancer—considered an opportunistic disease related to HIV.

Also last week, this House voted to invest $9 billion more than the President and the Secretary of Defense wanted, for bombers, missiles, and star wars.

I wonder how my best friend's son would have felt about that if he were still alive today. I wonder how he would have felt had he known that the new Republican majority were going to take money away from AIDS research and put it into wasteful military pork.

Mr. Speaker, what are the values of this body? Where are our priorities? The cold war is over, but we are spending billions of dollars on additional B–2 bombers and Trident D–5 missiles.

The war rages on for AIDS patients and their families, but we are taking their weapons away. Congress has placed an arms embargo on the most vulnerable people in this Nation, all because the Republican leadership cares more about military contractors than those who have contracted the AIDS virus.

FEEDING THE HUNGRY OF THE NATION'S CAPITAL, AND REDUCING THE DEFICIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. FOLEY] is recognized for 5 minutes.

Mr. FOLEY. Mr. Speaker, I would first like to talk about an issue of feeding the hungry in our Nation's Capital. I would like to thank my colleagues for the overwhelming response to our Dear Colleague letter, for the donations of sweet potatoes that were distributed to their office.

I would like to especially thank the gentlemen from Louisiana, CLEO FIELDS and RICHARD BAKER, for their work with the Sweet Potato Council of the United States, who gave each Member of Congress two cans of whole sweet potatoes. Mr. FIELDS and Mr. BAKER generously donated three cases of sweet potatoes for the hungry. The sweet potatoes will be given to D.C. Central Kitchens, a local not-for-profit organization that provides 2,500 meals a day to men, women and children in area shelters and feeding programs.

Over 100 offices of the Members of Congress have donated so far. It has been so successful that we hope to repeat this again. Several offices have donated additional items. Every item is much appreciated.

Mr. Speaker, I would like to commend my staffer, Jennifer DelVecchio, who came up with this idea. Many times people come by our offices and bring us small tokens or some products from back home. When we get such abundant products, some of which sit on our shelves and go to waste, she thought it only appropriate that we reach out and help those in our Nation's Capital, that the food really go to use for those who truly need our help.

Again, I would like to congratulate my colleagues in Congress for supporting this very, very worthwhile project.

Mr. Speaker, let me speak for a moment on something that I think really needs reform in the United States Congress. Yesterday in the Committee on

Science I had the good fortune of striking what I considered wasteful spending in Congress. Twenty-five thousand dollars was allocated to gas-cooled nuclear technology, which has been underway for over 30 years. The Department of Science, the Department of Energy, all conclude that this proposal is going nowhere, that commercial application of this gas-cooled technology is going nowhere.

The President's budget for three times has consistently voted against it. The Senate turned it down in 1993. However, somehow the $25 million has shown up in House appropriations. I won an amendment 25 to 15 to strike this $25 million from the budget.

Today in the committee, however, Mr. Speaker, one of the Members decided $25 million is too much to pass up, and offered an amendment which was successful, to transfer that $25 million to another program.

There is a problem here in Washington, and the problem is people in Congress cannot get their hands out of the wallet, out of the checkbook of our Nation's taxpayers; that every dollar that is on the table, any dollar that is missed by an appropriator, any dollar that is offered up as sacrifice for deficit reduction, is instantly claimed as found money, so they say "Let us get every cent of that $25 million and find something else to spend it on."

Mr. Speaker, I can only reach in my pocket so deeply to find the very few dollars that are in it. Every dollar I come out with is my dollar. However, in this institution, the dollars are somebody else's. The card that we vote with is the world's most expensive credit card. We stick this in the machine and we can spend billions of dollars without any consequence.

Mr. Speaker, I am somewhat appalled when this Congress cannot come up with a mechanism that when a Member offers a deficit reducing formula to save the taxpayers money, that saves money from wasteful spending, that we cannot take that money and earmark it and lockbox it away to bring down the Nation's deficit. It is clearly one of our greatest problems. It clearly is driving up the cost of credit for consumers.

Clearly, the cost of credit for buying a home today, a 30-year mortgage, 7½ to 8 percent, would be brought down over 2 points if we get the Federal Government's appetite for credit to be minimized, and the private sector would then see relief for the average consumer.

However, no, not in this body. I see money, I spend money. I see money they do not want, I will spend it over here. Mr. Speaker, I say to the Members who are listening to this, they need to clearly reflect on what our priorities are. I think we should be in a race to see who can save the most money.

The prior speaker suggested that the Republicans are only interested in voting for bombers and missiles and are not concerned with AIDS and other issues. This Member of Congress voted against the B–2 bomber. This Member of Congress does indeed support increased funding for AIDS research, because I think the cost to the taxpayers will be exacerbated by the cost of AIDS in our community.

Mr. Speaker, it is not fair to characterize all Republicans as mean-spirited, only interested in defense and not interested in social services.

RESCISSIONS, BUDGET, AUTHORIZATIONS, APPROPRIATIONS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentlewoman from Texas, [Ms. JACKSON-LEE] is recognized for 60 minutes as the designee of the minority leader.

Ms. JACKSON-LEE. Mr. Speaker, rescissions, budget authorization, appropriation. Mr. Speaker, I imagine the American people are wondering what holds up in the U.S. Congress, what is the job and the tasks of those that would represent us.

We have heard these words: rescission, budget, authorization, and appropriation.

Mr. Speaker, I rise today to speak to an issue of great importance, not only to the people of my Houston district, the 18th Congressional District, but to the entire country. It is interesting, Members will hear my colleagues on the other side of the aisle chastise, criticize, and disjoint the pleas of the American people. What they will claim is that this particular Congress is filled with nothing but special interests, special interests here, special interests there, special interests over there.

I would simply say that this Nation is not filled with special interests, it is filled with special aspirations. We want to be inspired and challenged. We want to dream. We want a Nation that is not on the brink of a recession. We want economic enhancement and development.

Mr. Speaker, I would simply say, as we begin to look at this process—rescissions, budget authorization and appropriation—why do we not understand what the special aspirations are of Americans?

I would simply say that this young lady, possibly an honors graduate, simply wants an opportunity for higher education; or would you say that she does not deserve it? I would venture to say if she is typical, she has about 70 percent student loans that have to be paid back, and we understand that we must make sure and ensure that we have a system that ensures that recommitment back to the student loan program, and maybe only 30 percent scholarship. She is typical of the student in America today: hardworking.

Many campuses that I go and visit in my district alone, which is only an example, whether they are the Houston Community College, whether it is a 4-year college in Chicago, IL, or maybe a private college in Atlanta, GA, there are hardworking students there. All they simply want is an opportunity and a chance.

What do we have out of this process of rescissions, budget, authorization, and appropriations? Cutting student loans, not for fiscal responsibility, which I have standing to be here, because I voted for a balanced budget, but we do not have our interests and our goals and our focus right.

When we go to the House floor and begin to talk about deadbeats in America, does that include those citizens who have fallen upon tragic hard times in Oklahoma City? Does it include those who have faced tragedy and loss in Florida, with the weather and hurricanes? Does it include those individuals and citizens in California suffering in the recent earthquake just about a year ago or so?

America is a country of people. It is people with aspirations. Yes, we should balance the budget, but what are we doing? During the rescissions process, which is taking back money, it seemed that we could find nowhere else to cut but summer jobs. That seems like someone would be able to stand up and talk about "Oh, another handout." I argue vigorously not, for summer jobs, which must include the partnership of corporate America, give young people the opportunity to work. It gives them the culture of work. It allows them to have an understanding of what work is all about.

Although these particular youngsters are not necessarily real, they do symbolize what is good about America, the fact that we have children who have an opportunity to grow up strong, hopefully healthy, like many of the babies and young people and elementary school youngsters that I see in Wesley Elementary School or Turner Elementary School or Peck Elementary School or Pleasantville Elementary School, located in the 18th district, along with the wonderful elementary schools in the North Forest Independent School District, and Ailine, and parts of Ailey.

□ 1845

It simply exhibits that we have as a responsibility in this Nation to be fiscally responsible but to take care of our children.

Do you think it makes sense, then, to cut a program called WIC, women and infant children, that not only provides nourishment and nutrition for children but in fact it provides opportunity for young mothers to get their children immunized? What is the ultimate impact of that? It means that we will have less of those be subject to disease, and lower health costs, and all of us would like to see that.

What we have had happen is rescission, so the first part of this half a year has been taking back money. It seems that the knife-cutting has been on the aspirations of young people and children, clearly taking away hope, and not playing the role that the government should, not in charge, not dominating, but actually being a partner. That is what we should be.

We have heard your cry from America, and we know there are those who may be a little misguided. I read an errant writer who wrote to a local paper,

> Don't ask me to feel guilty for the innocent children of someone who is too lazy to provide for them. Sorry, it just does not work anymore. When you can find several generations of welfare recipients living in public housing, who live off of others from birth until death, something is wrong and it's just not my fault.

An easy statement to make. In fact, as my children would say, that's the "in" thing. "That's fresh. That's cool." That is what everybody is saying. That is what the polls say is something good and cool and receptive to say: "Get rid of the deadbeats. I don't want to support them."

But when you actually probe who is on welfare, it happens to be many people who want to get off. Should we provide an incentive to get off? Of course. Should we purge those who have been on and not seeking employment? Of course. But to blanket and to label all of those folks as individuals who are not my problem, somebody else's problem, is misguided, is not an example of the true spirit of America, which is to challenge people to be better and to give people a better opportunity.

As the Committee on Appropriations marks up the various bills for fiscal year 1996, I am concerned that many programs such as education and housing and job training will not receive adequate funding. They equal investment in America.

We can fight articulately and well for programs like defense and space and research, vital programs. But you cannot tell me you cannot imagine the value of matching that, creating the scientist through education that will then be at NASA, the technologist who will then be at the Defense Department who will help us be militarily ready. Why would we want to counter this young woman's opportunity and my wonderful dolls who are symbolic of all the children in America?

Have you listened to some of our children talk about their hopes and dreams? Some youngsters today talk about their feat of living past a certain age, many in the inner city, some in our rural communities, because they are exposed, if you will, to more than we have ever been exposed to with respect to violence and threats against their lives. They are feeling that maybe they will not be able to get to come up to this young lady's stage in life, happy, graduating from high school, looking for a dream.

I understand that it is the "in" thing to talk about the other fellow. The Republican majority has produced a document they call Cutting Government. There is not a one of us who would not sit down to the table of reason and talk about downsizing, talk about making government efficient.

You know what the real dream is and the real focus? You should have a plan behind cutting, not a mishmash of scissors, going here and going there. I believe in a lock box. If we save some dollars, there is an opportunity to put it in a lock box for deficit reduction. But let us not lose our dream, our path, the hope that we give to these young people.

The document proposes to eliminate three Cabinet departments, this Cutting Government document, 284 programs and 69 commissions and 13 agencies, some of which we can get along without, many of which have made it through their time period of survival or purpose.

But yet if we look seriously and honestly about where we want to go in this Nation in the 21st century, we would be appalled at the cost cutting in vocational job training. We would be literally appalled at the programs for Goals 2000. We would be literally overly overwhelmed, if you will, by the proposals that would undermine the role of Government, giving hope to those who would seek hope.

These proposals do not represent budgetary surgery with intelligent scalpel-like precision. Instead, Mr. Speaker, these goals are tantamount to crafting a fiscal policy with a meat cleaver.

Some people would say, well, these only impact on these soft programs. But when you cut housing, when you cut veterans' benefits, when you go into the infrastructure and cut transportation dollars, you are literally turning the clock back.

You might have heard some years ago the commitment of this Government to rebuild America. Many of you may have read in your local newspapers about the pending or the possibility of a recession. That is why I am hopeful, with the President's budget, that it is another opportunity for discussion of the best way to go.

It does not take us away from a balanced budget. It simply provides a reason and rationale for moving forward a little slowly in a 10-year period. I would simply say to you that it is important that we rebuild the highways of America, the bridges of America, the infrastructure work of America.

We are finding out that, as we have come under the Clean Water Act, and the Clean Air Act as well but particularly the Clean Water Act, many of our local communities find themselves with impure water, bad sewer conditions, and not able to enjoy the quality of life we would like for Americans.

Did you read recently the report from the Center for Communicable Diseases told most Americans, "Boil your water before you drink it"? Someone would say, "Are you sure you didn't see that in the paper back in the 1800's?" No, we saw that today.

It is extremely important that we not take short shrift to the role Government can play. Let me simply share with you as we begin to look at how we can be more successful in focusing in a more reasoned manner in dealing with some of these issues.

I am a strong supporter of the defense of this Nation and of course, as I said, military readiness. That is a theme that everyone likes to promote and I think it is important. We want our young men and women, our enlisted men and women, to be secure and protected and prepared.

However, I am also concerned about families, children and the elderly. They, too, need our help as a partner. Let us not take the ugly way out, the castigating, the throwing stones, "It's not my fault," "I don't care about innocent children if the bums want to be on welfare."

Yes, I am reiterating this because I think it is tragic, because Americans have always been individuals that have risen to the challenge. But as we look at this budget chart, we show the budget allocations for 1996, and I ask you to pay particular attention to the deep reductions in Transportation, Labor, Health and Human Services, Education, VA, and HUD appropriations.

Do you know what some of those HUD appropriations are all about? Well, it takes some of the folk that many of you see under the bridges, some who can be redeemed, some of the homeless folk under the McKinney Act we were providing and going at full steam ahead to house individuals and begin to turn them away from the mindset of homelessness.

I know it well, for when I served in the city of Houston on its local city council, I began to craft for that city a formula for working with its city's homeless, maybe about 10,000. There were many naysayers: "You can't do anything with them. They like living under the bridges." But when we began to look, they were families, some of whom were living from paycheck to paycheck and because of some tragedy in the household, they were made homeless.

Let me tell you, we have turned that problem around. We have got folk housed in what we call transitional housing. We have got the private sector working with us. We have a downtown corporate community actively engaged in helping the homeless, and we are getting folk off of the homeless rolls, back into housing and being able to work as much as they want to work.

It is my challenge that we cannot abide by such draconian cuts and a withdrawal from investment in the future. We must be considerate and thoughtful.

When we look at these cuts and we see that it has been reduced, as I have said, by $9.8 billion, look very carefully at what we are going after. We are hurting cities. Cities are in fact the bastion, if you will, the heart and soul of civilization. Rome likes to think that, but cities are in fact where people are energized.

Let me include rural America, as well, because as I talk to my colleagues from rural America, they assure me that many of the ills that confront us in cities are there in rural America, and they need help with AIDS, they need help with housing for the homeless, they need help with health reform and health care, for I sat on a committee in the State of Texas, and it appalled me to see the number of rural hospitals closing because of the inability to fund indigent patients in rural America.

Can we stand for that? We can stand for more fiscally responsible health reform. We can be assured that we do the right thing and don't have people abusing the system. But can we have hospitals closing because we are in the budget-cutting business?

Mr. Speaker, what this evidences is the fact that we have forgotten our direction. We have forgotten the future of America.

I see my colleague from Illinois and I know how hard he has worked on many of these issues. In fact, he comes from a district that has called upon him to be of great service in this battle, and he has fought not for his single issues but he has fought for Americans.

I am very proud to yield to the gentleman from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I want to thank the gentlewoman from Texas for taking this special order. I was back in my office going through my mail and I listened to her, and I said I want to come by and join my friend from Texas, because her message is my message. When you told the story about the college student loans, that touches me very, very deeply.

I was a recipient of Federal college student loans. My father passed away when I was a sophomore in high school. My mother was a payroll clerk for a railroad. We literally did not have the savings or resources to take care of my college education.

My mother and father had made it through the eighth grade. That was the extent of their education. They of course hoped I would do better, as every parent does. But when the time came to pay for those college expenses, I took a job, as every student would, and worked during the school year and during the summer months, and it just was not enough.

I got a little scholarship assistance here and there, but frankly had to turn to the U.S. Federal Government and something called the National Defense Education Act, that loaned me the money necessary to complete college and law school. It came to a grand total back in the 1960's of $7,500, which I thought was a mountain of debt I would never get out from under. Yet my wife and I worked and paid it off as we promised we would, so that younger kids behind us could have their opportunity.

When I listen to the proposals for budget deficit reduction from many of our friends among the Gingrich Republicans that suggest that we need to cut back on college student loans, that suggest we need to make the expense of a college education that much more for kids from working families, I think many of them have forgotten where they came from. They have forgotten that at a time in their life, this Government, this Nation, reached out a helping hand to them and was paid back in a great measure because for each of them who got that helping hand, there was an education, an opportunity, and I guess an opportunity to contribute to America, not only as a Member of Congress but in business and in so many different areas.

It seems to me so shortsighted for us to be cutting back on college student loans. I sincerely hope that my colleagues on both sides of the aisle will remember how significant this is.

If I might mention one other point along these lines, 75 percent of the young people who graduate from high school are not going to end up graduating from college. They are going to go out in the work force looking for good-paying jobs. They will need other types of assistance, job training, to make sure that they are qualified for good-paying jobs.

I worry, too, as the gentlewoman points out the cutbacks that we are making in training and employment programs. She and I will be the first in line to suggest we need to modernize those programs, make them better.

I would commend to my friend from Texas, if she has not read it, a book by Hedrick Smith entitled "Rethinking America," where he basically compares the educational systems in Germany, in Japan, and in the United States, and shows some real deficiencies in our system that need to be corrected. But we also have to understand that in those countries that are successful in taking kids right out of high school, putting them into good-paying jobs, career jobs, they have made a massive investment in training and education that is important to them.

Last week we had a debate here on a defense authorization bill, a question about building multibillion-dollar bombers.

□ 1900

Let me tell you, I think a few less bombers and a few more dollars spent on education and training would go a long way for a much more secure America in the future. The gentlewoman is right on track here, and I thank her for her leadership in this special order, and I will continue to stay here and join in, if I can, as she raises issues of mutual concern.

Ms. JACKSON-LEE. I thank the gentleman for his very, very kind comments but as well very, very pointed comments. He has taken me back for a moment. If I may have the gentleman indulge me just a moment, sometimes when you come to share, you are so busy focusing on numbers that you do not put the face on who may be impacted, and he took me back to my early years, and I think it is important because, let us be very frank, we are somewhat different. I think that is the face of America. It is important to realize that as the gentleman's history was, so was my history. I remember being the first to go to college in my family. Hardworking parents, their main goal was to make sure their children had a better opportunity and the time came for college and, of course, was I even then going to college, much less did we have funding to do so. Lo and behold came this opportunity for financial aid through and by a scholarship and grant and loan. The gentleman is right. The numbers seemed enormous at that time because I had them in college as he did and fortunately was able to go forth out of college and then decided, being inspired and really viewing America as a place that is a place of special aspirations, as I have mentioned, to go on to law school. Those numbers seemed enormous, but I think as the gentleman has said we can count those who have made good on those student loans and the broad brush of the problems with these programs that the Government involves itself in is not the way that we should go.

I know the gentleman spent many of his days in his district in May and June at graduations and he actually got to talk to students I would imagine, as I did. Each of them I think had stars in their eyes, holding that diploma, being able to look for an opportunity. There was not a dry eye in the place. I had to talk to those parents, many of whom had spent their life savings and were in trouble, but they were there clutching that purse, clutching that diploma, and hugging that child to say we can work with you to make sure you go, and I know that there will be a little bit of change here and a little bit of change there, but these are hardworking people. Should I come to the U.S. Congress and take that dream away from them?

The gentleman is right. What year is this: 1995 going into 1996. In 4 years almost we will be in the 21st century. Do we want to be any less of a nation than Japan, and as you mentioned England and Germany and France and Italy, in terms of any focus they may have on work, job creation, and the training of our young people?

Mr. DURBIN. If the gentlewoman will yield, I would like to also comment we spend so much time on this floor talking about statistics and numbers and percentages and budget outlays, and all sorts of things which I am sure most of the viewers back home say, what in the world is that all about.

Ms. JACKSON-LEE. That is why I started out with budgets appropriations, authorizations.

Mr. DURBIN. I am so glad the gentlewoman did, and I think what we have to do too is try to translate some of the debate here on the floor to the real lives, to the people we represent.

If I can use an example, I went to a community college in my homeland, Lincoln Land Community College, to talk about the increased costs of college student loans from the Gingrich Republican proposals, and I asked the students what impact this would have on them when the average student will see an increase of $5,000 in the cost of their college education because of Gingrich Republican proposals, and a number of students said: This is tough, Congressman, it is tough enough now. We want to get out of school and get to work. We stretch out our education because it is so expensive, and now you tell me it is going to be more expensive.

So we broke up the meeting as I started to leave and a young lady came up to me, an African-American lady. She said: I was a little too embarrassed to raise my hand, but let me tell you my story. I am a welfare mother, I have two children. I am coming out to this community college and I have a college student loan. I said, "What are you studying to be?" "I want to be a chef. I am trying to get the courses and training so I can be a chef and make a good living and get off welfare," she says. "Now you tell me it is going to cost me more for this college student loan." She looked me in the eye and said, "What am I doing wrong? Why are you making it tougher."

We talk about welfare around here as if it is an easy thing for a person to get off. In many cases it might be, but sometimes it takes hard work. She was putting in hard work, finding somebody to watch the kids, going on out to school, taking the courses borrowing money to pay a college student loan, and community college tuition is pretty low, but she did not have it and had to borrow it, and now we are telling her it is going to be more expensive for her to try to get off welfare and go to work and have some personal responsibility. I think we have to remember some people like her around this country who are behind these statistics and standing behind these budgetary names. I think you have pointed it out here, and there are so many other areas too that we ought to be addressing.

Ms. JACKSON-LEE. You tell her she need not be ashamed because I confronted her sister, who happened to be a white woman in Houston with two children who came up to me, how ironic, and said the very same thing and looked almost panicked because she was trying to grapple with and understand was I telling her tomorrow she would not have a student loan, but certainly expressing a fear because she too was leaping into the arena of independence.

The gentleman remembers how vigorously we worked as Democrats for real welfare reform. He remembers how vigorously we argued against welfare punishment and what was the deal? Work was the cornerstone of that proposal. It was again an investment back into America and Americans so that we would take less people into the 21st century on welfare. How proud we could be as a nation to be able to go into the 21st century and look back on real welfare reform that had welfare, job training, child care and health care, and a work element to it. How proud we would have been. How much we could have pointed to what the Government would have been able to say, not that it dominated, not that it took over, not that it spent too much, but it partnershiped with the States and local government to get masses of people off of welfare and to be working Americans in the 21st Century.

Mr. DURBIN. If the gentlewoman would yield, I think what we determined during the course of that debate on welfare, we analyzed on the Democratic side and the Republicans did it on their side, and I think frankly we understood the parameters of welfare. Certainly there are people on welfare as there are people in business and in other walks of life who are going to try to take advantage of the system and game the system and stay on as long as they can. But I am impressed by how many people we meet who want to get off this welfare tangle. They really want to do something with their lives, and we have to decide whether as a nation we will invest in them and their future. And that investment is training, it is education, it is transportation, it is day care, it is some health care assistance for them during this period of time.

But think about it, if we do not do it, if we just leave that person in the depths of despair, stuck on welfare, hopeless, they are not only a drain on society, they have lost their own self-worth, and they really do not have a chance to succeed. So what we tried to do on the Democratic side was say all right, we will draw the line. You cannot be on welfare forever, but for goodness' sakes let us have a goal for each person. Let us move from welfare to work. Let us make people productive citizens in America today. That is an investment that will pay off for a long time to come. It is one we made after World War II.

Ms. JACKSON-LEE. Clearly did.

Mr. DURBIN. We said to the returning veterans, we really invested in you as soldiers and sailors and airmen, and now we are going to invest in you as American citizens and your families, and boy, did it pay off.

Ms. JACKSON-LEE. What a boom in the fifties, was it not?

Mr. DURBIN. The greatest growth in the size of America's middle class in our history. We may never rival it again. I hope we do some day. But the country said as a nation our biggest and most important resource is our people, and these veterans and their families are an investment we are going to hold very dearly when it comes to their education and housing and businesses.

Ms. JACKSON-LEE. The gentleman raises, if I can move to two other issues that he reminded me of, and goes to the issue of investment and partnership. I think what we did when the veterans came back was actually the Government being affirmative, but it was a partnership. It was to give those returning veterans a leg up, and they got their leg up. They made good on their investment in terms of having served time. If they got some loans or some other governmental help, they became working Americans. They built all of the kind of tract houses throughout this Nation, but they became homeowners, taxpayers, and they raised their families.

The gentleman talked about how he had to work his way through, and most of us did, with that summer job or some kind of job. Interestingly enough many of us rose to the floor of the House to fight vigorously against cutting our kids, cutting them off from summer work.

Somebody made a lot of loose jokes about this baby-sitting camp, they are standing around. I made it my business to go back home and to reintroduce myself, if you will, because I have had youngsters work in my office in summer jobs, and I can tell you I did not see anyone being baby sat, if you will.

I tell you one personal story of a youngster, I will never forget her, came from a different background, was a recent immigrant of some years, family is now naturalized, Vietnamese, and called back one day after she was hired and said, "Ma'am, I think I won't be able to come." We kind of calmed her down a little bit and prodded a little bit, and she said, "I don't have the right clothes." We said whatever you have, we kind of tried to make it light, said if you have a paper bag, come on to our office. But that young lady was concerned she did not even have the clothes to come sit in an office. She worked harder than any other young intern during that summer. She learned something as well. I have heard great things about her since, graduating from college.

This is not a baby-sitting program. If we have got some, we will fix it. No one has said not to fix those programs that are not working, but I can go to the city of Houston and find youngsters getting good skills, getting an incentive to finish high school and go on to college because they have been exposed to a workplace relationship. I would not deny any corporate American to participate with us in this program. I do not think any of us said that that was not possible. But the Government steps in to give incentive and to provide and to invest dollars in a worthy manner.

Let me add another point for your thought about this. You come from an urban area. What would we do without transportation? We can all debate on whether your urban transportation is mass transportation, train, rail, or someone else's bus or someone else's highway or bridge, but what would this Nation be? Our forefathers left the 13 Colonies and found a way to go west, go west, young man, young woman, to explore, and they got there through transportation, and of course the way they got there was a four-legged animal. We now today are prepared to make massive cuts. That is taking away from the opportunity for people to grow.

I see people up here, tourists who have visited this Capitol, many of whom have come by the transportation that includes the highways and the bridges of America. We are glad that they are here. We are glad they have the opportunity to freely flow throughout this Nation in freedom. What would they think if they got to the end of one bridge having traveled halfway across the country and it was nothing but an open pit because it had collapsed because it was in such disrepair? Is that a focus on what is good for Americans? Is that the cleaver mentality of the Republican majority? Yes, it is, the meat-cleaver approach. It does not invest capital in Americans, in jobs, in businesses, that help us design and build these infrastructures that are needed for us to be the kind of 21st-century nation.

Mr. DURBIN. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE. I yield to the gentleman from Illinois.

Mr. DURBIN. What we should recall too is there is nothing partisan about what the gentlewoman has just said. Possibly the greatest investment in modern times in America's infrastructure was made under a Republican President, President Eisenhower, who decided in the fifties that the United States would embark on an Interstate Highway System. It was unheard of. He was going to link up every corner of America through a modern highway system. In my part of the world, my hometown, Springfield, IL, is on old Route 66. It used to be the subject of a lot of songs and a lot of Americana. But Route 66 was replaced by Interstate 55, and so many other interstate systems. At the same time the middle class is growing after World War II with our GI bill and our investment, America made an investment in infrastructure that has paid off so handsomely for us. It is the greatest thing in the world when one of my communities, Quincy, IL, was recently designated as being on an interstate highway. All of a sudden now they have a chance to brag and say not only have we got a great highway, it is interstate standard. So you think about what this means to a community. If we do not keep up that investment in not only our highways and our bridges and our airports and ports, but in the people who build them, then frankly we will pay dearly in the future.

I watch some of these cuts that are coming down the line here.

Ms. JACKSON-LEE. $1.1 billion in transportation, by the way.

Mr. DURBIN. $1.1 billion, and it not only affects what I have just described, but it also affects mass transit. In the city of Chicago, for example, so many working families get on that mass transit every day to get down to their workplace. It is their only way to do it. They cannot afford to drive and park. They have to take mass transit. Now we are seeing massive cuts in operating assistance. So these communities will see the fare box go up in cost, which means that families struggling now to get by, husbands and wives both working hard trying to make ends meet, have a new added expense because of this decision to cut back on operating assistance. It really raises a question about whether we are helping the right people.

I worry as much as the gentlewoman does that we have to help all of America, but I am particularly concerned about those who are struggling down at the bottom, those forgotten families at the bottom of the economic pyramid, who pay their taxes, play by the rules, and keep falling behind. When we see cuts in operating assistance for mass transit, we are not making it any easier for them to get to work.

Ms. JACKSON-LEE. If the gentleman would yield, I am glad he said that we are here for all Americans, because if I can get just a little bit feisty for a moment, I am darn mad about the accusation. I do not know about the gentleman. He has got Springfield and parts of Chicago. I know he has a corporate community, and I know he has worked with them, because I have worked with the corporate community in Houston.

□ 1915

Because I have worked with the corporate community in Houston and we have worked along the lines of making their needs come before the United States Congress and insure the activity for a climate that will create jobs and a good business climate. No one, I guess, is against that.

But I think that we fail and do not reach the mark. We do not get to the finish line if we do not do what is good for people.

We take that $1.1 billion away from transportation, including mass transportation, and Mr. and Mrs. Smith, who do not have a car or cannot afford the gasoline that will take them downtown on a regular basis, are then kept, and that is a lot of dollars, the transportation costs of going back and forth and maybe the youngsters are going to school on public transportation. It adds up, and every penny is counted in some families in America. You know, 14 million of the families in America earn under $10,000 a year, and so what we have is a situation where we are turning around and slicing ourselves in the wrong place because we are not investing in Americans and giving them the opportunity to go to that workplace and be part of the system.

And so I do not take very lightly any suggestions that the climate for business has not been good when Democrats have been in, because I think we have not come this far for them to be able to achieve in the best Nation in the world for the kinds of corporations that we have. They have enjoyed the bounty of this Nation.

And yet we now come to a point where we may undermine that very structure that they have, the talent, and the trained employees that I have had corporate executives tell me they depend on. They wonder where the trained workers will come from for the 21st century. We are cutting transportation for them to get there, and we are aimed, for cutting, if you will, the training for them, but yet I think, you know, this issue, we still have a billionaire tax loophole. We allow those folks to enjoy the bounty of this Nation. That means that they enjoy the green lands, the wonderful capital. I heard one colleague tell me what the percentage of what we are invested in America, what each of us owns. We are millionaires, to be certain, about what we own in this Government, and yet those individuals will enjoy the bounty, all of this goodness, and then have to abdicate their citizenship and live somewhere else where they will not pay taxes. They are billionaires, and we are losing about $3.5 billion a year.

Mr. DURBIN. The gentlewoman makes an important point. Most people may have missed it. There was a television special about folks who became so rich that in order to avoid paying Federal taxes, they renounced their citizenship, and by renouncing their citizenship and becoming citizens of some other country, they avoided their Federal tax liability, so they used our Nation, they used our resources, they used our people, they filled up their bank account, and then they skipped town, and what we have been trying to do, actually skipped the country, what we have been trying to do here is to change that and to say that is all over. If you owe the Federal Government of the United States taxes and you have made a profit in doing it simply by renouncing your citizenship, we are not letting you off the hook. I am sorry we could not get our colleagues on the other side of the aisle to join us in this effort.

Ms. JACKSON-LEE. Repeatedly we have tried, have we not?

Mr. DURBIN. We tried it several times. It strikes me as eminently sensible if a person earned his or her fortune in this country, they should not be able to get off the hook and escape the tax liability. These families getting on the mass transit every day in your hometown and the city of Chicago, they are paying their taxes. It is coming right out of their paycheck. They never think about renouncing their citizenship. They are proud of their country.

I am sure they get a little catch in their throat at the "Star Spangled Banner" and watching the flag.

Here we are protecting these folks who would walk away from America. That does not make any sense whatsoever.

I sincerely hope we can address this in the near term because it is really a loophole in the Tax Code that must be changed.

Ms. JACKSON-LEE. Let me just draw you, as we begin to conclude on where we are trying to take this Nation, because I believe what has been misunderstood, as I have understood it, I have worked hard to be a part of the process, is that we have solutions. We did not totally ignore a tax cut. We had a reasoned tax cut for citizens making under $75,000.

There are solutions that can be bipartisan. We, as Democrats, looked at whether or not any citizen making over $200,000 need a tax cut. I have had them tell me they do not need it.

And so the tax cut that was offered, a fair one, I might add, really spoke to the issue of getting to those working families.

Mr. DURBIN. I just will ask the gentlewoman to yield so it is clear the tax cut package the Democrats support was for families making $75,000 a year and less.

Ms. JACKSON-LEE. That is correct.

Mr. DURBIN. The tax break package supported under the Gingrich Republican contract actually gives tax breaks to families making $200,000 a year and more. A family could be making $4,000 a week and qualify for the Gingrich Republican contract tax break, and I think the gentlewoman makes an important point here. We ought to focus on helping people who ready need it.

Ms. JACKSON-LEE. We had a plan. I think that is what is important.

The other difficulty that I have is that many of the rescissions, remember I started out saying rescissions, budget, authorizations, appropriations but many of the rescissions, taking away money, was not even to place it with a focus, to help us move into the 21st century, maybe giving some more money to education. Those cuts they were doing was to give these people making over $200,000 more money, and not really focus on transportation, on military construction, or dealing with the training program or having a real welfare reform package. That is the exasperation.

That is what I think the American people need to understand. There is not a lot of talk here without action. We worked on real packages that, if accepted, would have been a fair bipartisan approach to this whole idea of, one, reducing the deficit, having a balanced budget over a period of years, which I think many of us may agree with, but we want to have focus and direction and we want to protect the working families of America.

We could not strike that chord, that unifying chord. What we actually had were pages and pages of cuts going to the very heart of veterans, like our good friend who is not a veteran but certainly our hero we had in Bosnia. He came back. We all praised him. Why were we praising him? Because he had the training, the training to know what to do. He saved himself, and he made us proud of America.

All through here are cuts that would impact on some aspects of what happened with that young man, who is a hero, aspects on his early education, training, secondary education, high school, college, impact on housing on those who are trying to get job training, all of these, a myriad of cuts.

I do not think anybody paid any attention to what they were impacting. They just got lists.

Mr. DURBIN. That point is an important one. The question is whether or not we have to make cuts to balance the budget. The answer is "yes." The question is: Should we make more cuts in order to give a tax break to wealthy people and to profitable corporations?

What the Republicans proposed in their Contract on America was a package of about $350 billion in tax breaks. That meant, in order to move toward a balanced budget, we had to cut another $350 billion in spending on other programs, and we are down to the point now, there is still waste we can find, we are also finding they are proposing cuts in education and health care and things so critically essential to our Nation.

So does it make sense to cut a college student loan in order to give a tax break to somebody making $200,000 a year? That is upside down.

If we have limited resources, focus it on the people who need it.

What we said in our tax cut package was let us focus it, for example, on families that want to deduct the cost of college education for their kid. That is sensible. That says let them put together a little account for their kids' college education and get some favorable tax treatment as a result of it. That is a good investment all around, families doing the right thing for their son or daughter, the son or daughter gets a chance of an education, and the tax code is basically giving them incentive instead of for the person making $4,000 a week, handing them a tax break which they will never even notice.

Ms. JACKSON-LEE. I have had many say this is not the time for that income level to receive one. I have had them actually say that. I appreciate the employer or a constituent who would say they are concerned about the deficit, they do want to ensure they have got the kind of youngsters trained and other adults who need retraining, by the way.

Let me speak just a moment to something that is somewhat unpopular. That is what we are going to be facing as foreign aid. I know many of our citizens claim a great opposition to that.

What is the direction of the Republican Party, to cut aid to developing nations, that they want to get off, if you will, the dependence that they have on this Nation? And I support that.

And so some of the programs that help independence, humanitarian aid; I do not want to call any particular countries, but in particular to Africa where you are able to ensure that these individuals can stop coming to the United States, and that is where we all want to be. We want to see a world that is standing on its own two feet, that has people working, that has a country that stands up for helping their economic development.

We do not know how that vote is going to come out, but what I have seen to date, it seems that they have taken the ax again, or the cleaver, to programs that would allow those small countries to be independent, and I think we do the wrong thing when we think taking dollars away, because we do not know if those countries will fall then to some misguided political philosophy, because they have not had the opportunity, not to get a fish from us, but for us to teach them how to fish and to be able to go ongoing into the 21st century to be independent.

Mr. DURBIN. Foreign aid is not popular in any quarter in America. People are very upset about it. Many do not understand it. Sometimes it is humanitarian in nature.

We have seen these heart-rending pictures of people who are literally starving to death, mothers holding their children as they starve to death in their arms, and we sense as Americans a feeling of compassion and caring to come and provide our extra bounty so that they do not die literally in the dust covered with flies. That is what

America has always been about, we have always stood for.

I will tell you an area of foreign aid the gentlewoman would agree with me on, and we really ought to take a look, and I am afraid we have not. That is military foreign aid. When it comes to sending our millions and often billions of dollars overseas to protect Germany and Japan, this Member has a real problem. Here we are, 50 years after World War II, and we are still defending Japan? For goodness sakes, these folks are cleaning our clock when it comes to the trade account. They ship all of their products here. They have a trade surplus with the United States, and we are sending millions of dollars overseas for troops and ships and planes to protect Japan?

The same thing is true in Europe. For goodness sakes, now, the Berlin Wall is down. The cold war is over, and we still defend Europe 50 years later, while the Germans are investing and uniting their country and educating their work force, making better products, a higher, I might say, standard of living, unfortunately, than the United States, in many areas. That is military foreign aid which we tried to address on this floor in the name of burdensharing, saying to our allies, "It is about time you share this burden that we have carried for 50 years in this country."

But many of our friends who are the first to say they hate foreign aid would not even consider touching this military foreign aid which costs us so dearly.

Ms. JACKSON-LEE. That is why I wanted to spend some time on solutions, because what comes out of the media and what trickles down to constituents is what are the solutions. We have had solutions.

What you have just talked about, yes, I join you on that. It made perfect sense, reasoned, logical planning of what we want this Nation to look like in the 21st century.

We all applauded the 50th-year celebration this past spring that we had celebrating the great coming together and the great victories we had in Europe in World War II. We celebrated, we embraced it, we went back to salute the heroes, they saluted us. We are in sync. We are committed to each other, Europe and Japan.

But the question is, the question becomes a very commonsense proposal that do we want to continue to pay for military, and it leads very well, as we move to July 4, what we are doing to our veterans.

It makes sense. We sit down to the bargaining table, we work out a process, we say if you get in jeopardy, we come to the table, we come and rise to the occasion.

But during peacetime, to continue to pay, time after time after time after time, over and over again, dollars to a peacetime relationship, it seems to me that you are not investing your money right. You are not making the right decision. It is not saying that we are isolationists or moving away from the international role that we need to have, because I support that.

I think America needs to be strong. I think we need to be there for our allies, but it makes no sense, to me, cutting veterans' benefits, having seniors come to me who are veterans saying that they are losing their benefits in health care, as someone has told them, because they have got to cut costs. These are people giving almost the extent of their life, and we are grateful they did not lose it, to this country, and yet we are cutting the very benefits of those who are in need.

We do not know what we may face in Desert Storm or what we may continue to face with Agent Orange with Vietnam veterans and others, and we need to ensure that we pay both our respects, like we like to do on these holidays, of which I join my veterans on Memorial Day, but we must show them, as we celebrate July 4, the founding of this Nation, and what we stand for, that we respect and appreciate them.

Why are we still taking care of the military overseas for other nations?

Mr. DURBIN. One of the things that I think is significant, and most Americans are not aware of this fact, is that we will spend about $270 billion in the next fiscal year on our military. I often ask in my town meetings if anybody in the audience knows which country in the world is No. 2 in military spending and how much they spend.

Well, most do not know, and it is almost a tie between Great Britain and France. Each of them spend about $45 billion a year, one-sixth of the amount that the United States spends, and yet despite all of this expenditure, $270 billion, six times more than any other nation in the world, we still have soldiers and sailors on food stamps.

Ms. JACKSON-LEE. They are not being paid enough in the service not to qualify for food stamps; still, their income is too low.

So the quality of life for men and women in the service is being sacrificed at a time when they are our most important investment. We put money into these weapons, billions and billions of dollars, and overlook the most important weapons system, the men and women giving their lives and their time to serve in our American military.

□ 1930

Ms. JACKSON-LEE. As exhibited by the captain that was so heroic in this last month in terms of his coming out of Bosnia.

Mr. DURBIN. Lieutenant O'Grady.

Ms. JACKSON-LEE. Yes.

Mr. DURBIN. I like him a lot. I think all of America fell for this fellow, because he came out and it does us proud to have fellow who has come through such terrible ordeal and who says, "Don't give me credit. Give the credit to the rescuers. I was acting like a bunny, hiding in the bushes." But when he tells his story, we know it took a lot of guts and bravery for him to make it through that.

There are many more like him in the service, and thank God there are. They deserve first-class treatment. And instead of building these weapons system that cost so much money like star wars, we have put $40 billion in star wars, this Ronald Reagan concept that is going to protect the United States. We have little or nothing to show for it. And now our friends on the Republican side say, let us spend another $30 billion and see what we can find.

I say put the money in defending this country and making sure that the people who serve in the service are treated with respect and dignity.

Ms. JACKSON-LEE. If the gentleman will yield, I tried to elevate the young man to captain, but maybe because I was so impressed with his demeanor and how he presented himself to the American people.

Which reminds me of one of my invitations to visit 6,000 men and women on one of our nuclear submarines. And, really, the most impressive part of it was the young men and women. Particularly the young men; I think this was a ship that did not yet have young women on the ship.

In any event, in addition to seeing the expertise that they had, I got some personal stories as well. And I think you realize that those who are on submarine duty are out 6 months or so at a time and they leave their families back home.

And one in particular came up to me and mentioned that he was a single father with two girls who were living with the grandmother. And he pleaded with me about the need for a higher salary, because his youngsters were probably on food stamps with his mother who was taking care of them. He did not see them on a regular basis and he was struggling to make ends meet. But he was trying to be a good father and a good parent.

That breaks your heart when you hear those kinds of stories, because you know when we call upon him, if anything was to happen and he had to risk his life for us, for Americans, he would be right there to do it. I would hesitate to have him have on his mind the needs of his children. And they do.

The same thing with housing for our enlisted men and women. I again will bring up veterans. The same thing with facilities for veterans. Why would we want to put them through that? Where is the focus? Where is us capturing the aspirations of Americans?

Let me add one other thing. I am wearing this little patch because I was today with the physically challenged. And they are out supporting the Americans with Disabilities Act, which will be impacted by many of these cuts, because as you realize, the act requires modification.

And these folks were not here asking for handouts. They were not here whining about their condition. They were here in full force. They came from across the country; many of them in different challenged conditions, but yet they got here saying, We just want a chance.

I promised them today in front of the U.S. Capitol that I will give them a chance and that is what we are missing out here. We are not giving Americans a chance.

I yield to the gentleman from Illinois.

Mr. DURBIN. If the gentlewoman will yield, I had a presentation last Monday in my hometown of Springfield, IL, at the Land of Lincoln Goodwill Industries. They have been accredited for their rehabilitation activity and they take a lot of people facing physical and mental challenges and them to work in good jobs. They pay them a modest amount of income, but really turn their lives around.

I visited a license plate factory in Decatur, IL, several years ago and the administrator told me a story. She pointed to a young woman who was working on the assembly line for these license plates and said, "When she first came to this facility we literally carried her in. She was considered to be an impossible case; never capable of doing a thing. We trained her and stuck with her. You know what the problem is now, Congressman? When we have a big snowstorm and I want to close down this factory, I know she is going to show up anyway. She feels so dedicated to the job."

Many people with these challenges and disabilities just need a chance. And the Government comes through with that chance, giving them a helping hand so they can be productive and have real lives.

Your commitment is one I share. And I really fear that the disabled will be the first casualties of these budget cuts and it would be sad for the future of our country if that occurs.

Ms. JACKSON-LEE. I think your fears are well founded. They indicated they felt concern about the education act that related particularly to the mentally and physically challenged, the Americans with Disabilities Act, the SSI, and Medicare and Medicaid which they depend upon.

And what I started out saying, sometimes we think it is in to talk about folk like that. Articles in newspapers or letters to the editor saying, Sorry, I am not going to feel guilty. These people are deadbeats that are on welfare.

But let me tell you that out of that session I had today in front of U.S. Capitol came a young woman who said, "I was an architect, but after a tragic car accident and brain injury I am here today to say I just need a chance."

We had a good time out there. A few tears were shed. Because I think Americans need to realize that people who find themselves in these conditions, physically challenged, mentally challenged, are not just the other guy that you might see that unfortunately was born that way, but many of us in life's journey may come upon these hard times, whether it is a tragic accident, but we live, and we thank God for that, but it may be leaving us in a condition where we need the kind of support that this training program could give or SSI could give.

And I have heard some really, I think, thoughtless comments that some mothers are misrepresenting on forms so that a child could be listed as autistic. I do not know if anyone has seen an autistic child. I do not think that any parent would go to that length to be able to label the child autistic, just to be on SSI.

I have seen real life cases. And we need to really invest in the American people and the cases that we have seen before us for the future of this Nation.

Mr. DURBIN. I noticed, too, in my own district, a young lady who was a single mother with two children and one suffered from a severe learning disability. She was able to continue to go to work, and continue to make money to help raise her family, because of the assistance she received from the Government.

And they asked her in this interview, What are you going to do if you do not receive that assistance? And she said, "It is hopeless for me. I would have to stay home and take care of my child. I would not be able to work."

At a time when we are trying to reduce welfare dependency, she is doing the right thing. She is facing a challenge that many of us would wither under and doing the right thing. And we are giving her a helping hand for that purpose.

I would hate to see us turn that hand and slap her and say, No, now you're on your own. Show us how you can do it personally without our help, because we know that just a little bit of help has made a significant difference in her family's future.

Ms. JACKSON-LEE. I don't know what the answer would be for that young woman, and that is why I am trying to get this clear message that we need a focus and a direction; that none of us are apart on the fact that we want the Nation to be strong with a strong bottom line, moving toward deficit reduction.

But where is the focus? Today I happen to have voted against the congressional appropriations bill. I did that because I would almost imagine we could cut a little bit more. But I will say the direction was wrong.

Here they were, as I see tourists coming to this Nation and this Capital represents so much good. The Botanical Gardens, which needed some enhancement, we get someone on the other side of the aisle, a Republican, who wants to cut the flowers out from Americans.

That is the kind of misguided direction. It does not mean we cannot come to some conclusion about cutting the budget. But I would think that if you asked an average American if they enjoy a botanical garden where flowers grow and enhance the beauty of this Capital, whether or not the few pennies that were going to be saved, and I can tell them it was a few pennies that would be saved, or whether or not that was worth it.

What happened? No focus. Just a haphazard approach. Everybody with a meat cleaver. Me, me, me. I want to be the one that cuts. So, I think it is very important that we place the American people first. That we ensure that we understand what the Constitution says, but more importantly what the Declaration of Independence said; we are all created equal with certain inalienable rights. And that equality is a promise to Americans and a promise of job opportunity.

And I might add just a note, it is a promise to those of us who came from different locales and look differently. And that is why I think affirmative action is something that Americans need to understand. It is not a negative; it is an even playing field.

What we should say to Americans is: Understand that Democrats have solutions. We have solutions. Your Member has a solution. I have a solution for the 18th Congressional District. I do not want the State of Texas to lose $1.1 billion in rescissions and not go back to any deficit reduction, but go to tax cuts for those making over $200,000.

What I want is a plan; a plan to invest in America. Those investments would count for infrastructure, for education, for housing, for energy development, for space development for some of us who are interested in making sure we are at the high technological cutting edge for the 21st century. It has to be, I believe, an investment.

TERMINATION OF SUSPENSION OF ISSUANCE OF LICENSES FOR EXPORT OF MUNITIONS LIST ARTICLES TO PEOPLE'S REPUBLIC OF CHINA—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 104–87)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Pursuant to the authority vested in me by section 902(b)(2) of the foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246) ("the Act"), and as President of the

United States, I hereby report to the Congress that it is in the national interest of the United States to terminate the suspension under subsection 902(a)(3) of the Act with respect to the issuance of licenses for the export to the People's Republic of China of U.S. Munitions List articles, insofar as such suspension pertains to export license requests for cryptographic items covered by Category XIII on the U.S. Munitions List.

License requirements remain in place for these exports and require review and approval on a case-by-case basis. The Department of State, in consultation with the Department of Defense and other relevant agencies, will review each request, including each proposed use and end-user, and will approve only those requests determined to be consistent with U.S. foreign policy and national security.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 22, 1995.*

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. TORRES (at the request of Mr. GEPHARDT), for June 21 and today, on account of personal business.

Mr. ACKERMAN (at the request of Mr. GEPHARDT), for today, on account of a death in the family.

Mr. SERRANO (at the request of Mr. GEPHARDT), for today, on account of official business.

Mr. MCHUGH (at the request of Mr. ARMEY), after 3:15 p.m. today, on account of official business.

Mr. LAZIO of New York (at the request of Mr. ARMEY), between noon and 2 p.m. today on account of attending the Women's Veterans Memorial groundbreaking ceremony at Arlington National Cemetery.

Mr. LATOURETTE (at the request of Mr. ARMEY), after 4:30 p.m. today, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. WILSON) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. SKAGGS, for 5 minutes, today.

Mrs. KENNELLY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

(The following Members (at the request of Mr. CHRISTENSEN) to revise and extend their remarks and include extraneous material:)

Mr. CLINGER, for 5 minutes, today.

Mr. DUNCAN, for 5 minutes, today.

Mr. DORNAN, for 5 minutes, today.

Mr. FOLEY, for 5 minutes, today.

Mr. SCARBOROUGH, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes each day on June 27 and 29.

Mr. SMITH of Michigan, for 5 minutes each day, today and on June 28.

Mr. HORN, for 5 minutes each day on June 28 and 29.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. WILSON) and to include extraneous matter:)

Mr. BROWN of California.

Mr. PETERSON of Florida.

Mr. TOWNS in two instances.

Mr. HAMILTON.

Mr. FILNER.

Mr. RAHALL.

Ms. HARMAN.

Mrs. MEEK of Florida in two instances.

Mr. CLYBURN.

Mr. TORRES.

Mr. SKELTON.

Mr. MCDERMOTT.

Mr. GORDON

Mrs. KENNELLY.

Mr. CLEMENT.

Mr. DINGELL.

Mr. SKAGGS.

Mr. MATSUI.

Mr. CONYERS.

Mr. BARCIA in two instances.

Mrs. MALONEY.

(The following Members (at the request of Mr. WILSON) and to include extraneous matter:)

Ms. DELAURO.

Mr. STUPAK.

Mr. SERRANO.

Mr. WAXMAN in two instances.

Mr. HINCHEY.

Mr. JACOBS.

Mr. STARK.

Mr. FOGLIETTA.

Mr. POMEROY.

(The following Members (at the request of Mr. CHRISTENSEN) and to include extraneous matter:)

Mr. SOLOMON in three instances.

Mrs. MORELLA.

Mr. PORTMAN in three instances.

Mr. WOLF.

Mr. HORN.

Mr. DORNAN.

Mr. BAKER of California.

Mr. BRYANT of Tennessee.

Mrs. CHENOWETH.

Mr. COBLE.

Mr. DOOLITTLE.

Mr. RIGGS.

Mr. HYDE.

Mr. FRANKS of New Jersey.

Mr. TAYLOR of North Carolina.

Mr. STUMP in two instances.

(The following Members (at the request of Ms. JACKSON-LEE) and to include extraneous matter:)

Mr. BENTSEN.

Mr. JONES.

Mr. COYNE.

Mr. HASTINGS of Florida.

Mr. CAMP.

ADJOURNMENT

Ms. JACKSON-LEE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 41 minutes p.m.), under its previous order, the House adjourned until Monday, June 26, 1995, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1075. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of a proposed license for the export of major defense equipment and services sold commercially to Norway (Transmittal No. DTC–33–95), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

1076. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

1077. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–63, "Rental Housing Conversion and Sale Act of 1980 Reenactment and Amendment Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1078. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–64, "Arena Tax Payment Temporary Amendment Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1079. A letter from the Federal Co-Chairman, Appalachian Regional Commission, transmitting the semiannual report on activities of the inspector general for the period October 1, 1994, through March 31, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1080. A letter from the Secretary, Department of Defense, transmitting the semiannual report of the activities of the Department's Office of Inspector General for the 6-month period ending March 31, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1081. A letter from the Chairman, Federal Election Commission, transmitting proposed new FEC Form 3P for use by authorized committees of Presidential and Vice Presidential candidates, pursuant to 2 U.S.C. 438(d); to the Committee on House Oversight.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BLILEY: Committee on Commerce. H.R. 1062. A bill to enhance competition in the financial services industry by providing a prudential framework for the affiliation of banks, securities firms, and other financial service providers; with an amendment (Rept. 104–127 Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on the Judiciary. House Joint Resolution 79. Resolution proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States (Rept. 104–151). Referred to the House Calendar.

Mr. GOODLING: Committee on Economic and Educational Opportunities. H.R. 1617. A bill to consolidate and reform workforce development and literacy programs, and for other purposes; with an amendment (Rept. 104–152). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOODLING: Committee on Economic and Educational Opportunities. H.R. 1720. A bill to amend the Higher Education Act of 1965 to provide for the cessation of Federal sponsorship of two Government sponsored enterprises, and for other purposes; with an amendment (Rept. 104–153). Referred to the Committee of the Whole House on the State of the Union.

Mr. QUILLEN: Committee on Rules. House Resolution 171. Resolution providing for consideration of the bill (H.R. 1905) making appropriations for energy and water development for the fiscal year ending September 30, 1996, and for other purposes (Rept. 104–154). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Resources. H.R. 1077. A bill to authorize the Bureau of Land Management, with an amendment; (Rept. 104–155). Referred to the Committee of the Whole House on the State of the Union.

Mr. CLINGER: Committee on Government Reform and Oversight. A Citizen's Guide on Using the Freedom of Information Act and the Privacy Act of 1974 to Request Government Records (Rept. 104–156). Referred to the Committee of the Whole House on the State of the Union.

Mr. BLILEY: Committee of Conference. Conference report on H.R. 483. A bill to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes (Rept. 104–157). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STARK:

H.R. 1912. A bill to deter and penalize health care fraud and abuse and to simplify the administration of health benefit plans; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BAKER of Louisiana:

H.R. 1913. A bill to reform and improve the rural electrification loan programs under the Rural Electrification Act of 1936; to the Committee on Agriculture.

By Mr. COYNE (for himself and Mr. STARR, and Mr. LEWIS of Georgia):

H.R. 1914. A bill to require the mandatory reporting of deaths resulting from the prescribing, dispensing, and administration of drugs, to allow the continuation of voluntary reporting programs, and for other purposes; to the Committee on Commerce, and in addition to the Committees on Ways and Means, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SMITH of Texas (for himself, Mr. BYRANT of Texas, Mr. GALLEGLY, Mr. MOORHEAD, Mr. MCCOLLUM, Mr. BRYANT of Tennessee, Mr. BONO, Mr. HEINEMAN, Mr. GEKAS, Mr. COBLE, Mr. CANADY, Mr. INGLIS of South Carolina, Mr. GOODLATTE, Mr. BARR, Mr. BAKER of California Mr. BALLENGER, Mr. BEILENSON, Mr. BILBRAY, Mr. BONILLA, Mr. BREWSTER, Mr. CALVERT, Mr. CONDIT, Mr. CUNNINGHAM, Mr. DEAL of Georgia, Mr. DREIER, Mr. DUNCAN, Mr. FOLEY, Mr. HAYES, Mr. HERGER, Mr. HUNTER, Mr. SAM JOHNSON, Mrs. MEYERS of Kansas, Mr. PACKARD, Mr. ROHRABACHER, Mrs. ROUKEMA, Mr. SHAYS, Mr. STENHOLM, Mr. TAUZIN, and Mrs. VUCANOVICH):

H.R. 1915. A bill to amend the Immigration and Nationality Act to improve deterrence of illegal immigration to the United States by increasing Border Patrol and investigative personnel, by increasing penalties for alien smuggling and for document fraud, by reforming exclusion and deportation law and procedures, by improving the verification system for eligibility for employment, and through other measures, to reform the legal immigration system and facilitate legal entries into the United States, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on National Security, Economic and Educational Opportunities, Government Reform and Oversight, Ways and Means, Commerce, Agriculture, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HYDE:

H.R. 1916. A bill to reform certain statutes regarding civil asset forfeiture; to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. LOWEY (for herself, Ms. DELAURO, Mr. GEJDENSON, Mrs. KENNELLY, Mr. BONIOR, Mr. SMITH of New Jersey, Mr. STUDDS, Mr. YATES, Mr. MILLER of California, Mr. FRANK of Massachusetts, Mr. ACKERMAN, Mr. ENGEL, Mr. MANTON, Mr. SERRANO, Ms. ESHOO, Mr. FILNER, Ms. PELOSI, Ms. WOOLSEY, Ms. FURSE, Mr. REED, Mr. TORRES, Ms. HARMAN, Ms. NORTON, Mr. PALLONE, Mr. MCDERMOTT, Ms. LOFGREN, Mr. TOWNS, Mr. WAXMAN, Ms. WATERS, Mr. DICKS, Mr. VENTO, Mr. WYNN, Mr. GONZALEZ, Ms. VELAZQUEZ, Mr. JOHNSTON of Florida, Mr. MARTINEZ, Mr. MARKEY, Mr. BERMAN, Mr. HINCHEY, Mr. CONYERS, Mr. ROMERO-BARCELÓ, and Mr. FALEOMAVAEGA):

H.R. 1917. A bill to amend the Federal Water Pollution Control Act to provide special funding to States for implementation of national estuary conservation and management plans, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. MATSUI (for himself and Mr. ENGLISH of Pennsylvania):

H.R. 1918. A bill to amend the Internal Revenue Code of 1986 to modify the exclusion of gain on certain small business stock; to the Committee on Ways and Means.

By Mrs. MINK of Hawaii:

H.R. 1919. A bill to amend the Internal Revenue Code of 1986 with respect to the treatment of certain personal care services under the unemployment tax; to the Committee on Ways and Means.

By Ms. MOLINARI (for herself, Mr. ENGLISH of Pennsylvania, Mr. RAMSTAD, Ms. ROS-LEHTINEN, Mrs. VUCANOVICH, Mr. BURTON of Indiana, Mr. KING, and Mr. PAXON):

H.R. 1920. A bill to protect victims of domestic violence from health insurance discrimination; to the Committee on Commerce.

By Mr. SERRANO:

H.R. 1921. A bill to award a congressional gold medal to Francis Albert Sinatra; to the Committee on Banking and Financial Services.

By Mr. SKAGGS (for himself and Mr. MCINNIS):

H.R. 1922. A bill to provide for the exchange of certain lands in Gilpin County, CO; to the Committee on Resources.

By Mr. SOLOMON (for himself, Mr. GOSS, Mr. HANCOCK, Mr. UPTON, Mr. ZELIFF, Mr. NEUMANN, and Mr. ZIMMER):

H.R. 1923. A bill to balance the budget of the U.S. Government by restructuring Government, reducing Federal spending, eliminating the deficit, limiting bureaucracy, and restoring federalism; to the Committee on Government Reform and Oversight, and in addition to the Committees on National Security, Banking and Financial Services, International Relations, Science, Commerce, Resources, Rules, Transportation and Infrastructure, Agriculture, Small Business, the Judiciary, Ways and Means, Economic and Educational Opportunities, the Budget, Veterans' Affairs, House Oversight, and Intelligence (Permanent Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. VUCANOVICH (for herself and Mr. ENSIGN):

H.R. 1924. A bill to designate a site for the interim storage of spent nuclear fuel; to the Committee on Commerce.

By Mr. DINGELL:

H.J. Res. 97. Joint resolution proposing an amendment to the Constitution of the United States to permit the Congress to limit expenditures in elections for Federal office; to the Committee on the Judiciary.

By Mr. EVANS:

H. Res. 172. Resolution supporting the National Railroad Hall of Fame, Inc., of Galesburg, IL, in its endeavor to erect a monument known as the National Railroad Hall of Fame; to the Committee on Transportation and Infrastructure.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

116. By the SPEAKER: Memorial of the House of Representatives of the State of Louisiana, relative to Federal supported sugar programs; to the Committee on Agriculture.

117. Also memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to memorializing Congress to support the George C. Marshall Commemorative Coin; to the Committee on Banking and Financial Services.

118. Also memorial of the House of Representatives of the Commonwealth of Pennsylvania, relative to memorializing the Congress of the United States to propose a constitutional amendment to authorize a prohibition against flag desecration; to the Committee on the Judiciary.

119. Also memorial of the House of Representatives of the State of Maine, relative to memorializing the Congress of the United States to extend the Maine territorial sea limits from 3 miles to 12 miles; to the Committee on the Judiciary.

120. Also memorial of the General Assembly of the State of Indiana, relative to claiming sovereignty for Indiana with regard to all powers not granted by the U.S. Constitution to the Federal Government; to the Committee on the Judiciary.

121. Also memorial of the House of Representatives of the State of Louisiana, relative to repealing the imposition of a 4.3 cents per gallon tax on jet fuel which will otherwise become effective on October 1, 1995; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. PETRI introduced a bill (H.R. 1925) for the relief of Thomas McDermott, Sr.; which was referred to the Committee on Resources.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 53: Mr. FAZIO of California and Mr. CONDIT.

H.R. 54: Mr. DOOLITTLE, Mr. CONDIT, and Mr. FARR.

H.R. 104: Mr. COLEMAN, Mr. KLUG, and Mr. BALDACCI.

H.R. 218: Mr. BRYANT of Tennessee.

H.R. 248: Mr. MINETA and Mr. STUDDS.

H.R. 371: Mr. RAHALL.

H.R. 373: Mr. HERGER and Mr. LIPINSKI.

H.R. 470: Mr. HOLDEN, Mr. CONYERS, and Mr. MCHUGH.

H.R. 491: Mr. NORWOOD, Mrs. VUCANOVICH, and Mr. LIPINSKI.

H.R. 530: Mr. SCHAEFER, Mr. BONILLA, and Mr. ROYCE.

H.R. 580: Mr. KLUG and Mr. HAYWORTH.

H.R. 703: Mr. REYNOLDS.

H.R. 752: Mr. KNOLLENBERG, Mr. SOUDER, Mr. POMEROY, Mr. HYDE, Mrs. KELLY, Mr. QUILLEN, Mr. WISE, Mr. DEFAZIO, Mr. LEWIS of California, Mr. CLYBURN, Mr. JOHNSON of South Dakota, Mr. LIGHTFOOT, and Mr. EVERETT.

H.R. 789: Mr. WALSH and Mr. PALLONE.

H.R. 820: Mr. ROHRABACHER, Mr. HOBSON, Mr. LEVIN, Mr. FRISA, Mr. EDWARDS, and Mr. GOODLATTE.

H.R. 863: Mr. MARTINEZ.

H.R. 882: Mr. YATES, Mr. LAHOOD, Mr. DINGELL, Mr. BAKER of California, and Mr. FLAKE.

H.R. 945: Mr. BROWN of California, Mr. QUINN, Mr. DAVIS, Mr. YOUNG of Alaska, Mr. FRANKS of New Jersey, Ms. ROS-LEHTINEN, Mr. OBERSTAR, Mr. MANTON, Mr. BEREUTER, and Mr. FATTAH.

H.R. 989: Mr. CONYERS.

H.R. 997: Mr. BARTLETT of Maryland, Mr. CHAPMAN, Mr. ENGLISH of Pennsylvania, Ms. KAPTUR, Mr. LIPINSKI, and Mr. POMEROY.

H.R. 1005: Mr. BARRETT of Nebraska.

H.R. 1021: Mr. BALDACCI.

H.R. 1023: Mr. EVANS, Mr. BROWN of California, and Mr. LEACH.

H.R. 1100: Mr. GUTIERREZ, Ms. PELOSI, Mr. WAXMAN, and Mr. POSHARD.

H.R. 1143: Mr. KNOLLENBERG and Mr. DORNAN.

H.R. 1144: Mr. BRYANT of Tennessee, Mr. KNOLLENBERG, and Mr. DORNAN.

H.R. 1145: Mr. DORNAN and Mr. KNOLLENBERG.

H.R. 1176: Mr. PORTER.

H.R. 1229: Ms. SLAUGHTER.

H.R. 1242: Mr. BAKER of Louisiana.

H.R. 1274: Mr. HOKE and Mr. FRANK of Massachusetts.

H.R. 1279: Mr. COOLEY, Mr. RADANOVICH, Mr. BAKER of Louisiana, Mr. BARTON of Texas, Mr. HEFLEY, and Mr. JONES.

H.R. 1299: Mr. BAKER of Louisiana.

H.R. 1362: Mr. FAZIO of California, Mr. BARCIA of Michigan, Mr. JACOBS, Mr. PETERSON of Minnesota, Mr. STUMP, and Mrs. SMITH of Washington.

H.R. 1381: Mr. BONIOR, Ms. VELAZQUEZ, Ms. NORTON, Mr. FATTAH, and Mr. DELLUMS.

H.R. 1496: Ms. NORTON, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. HILLIARD, Mrs. JOHNSON of Connecticut, Mr. CRAMER, and Ms. JACKSON-LEE.

H.R. 1499: Mr. WELLER and Mr. BARTLETT of Maryland.

H.R. 1500: Mrs. CLAYTON, Mr. FLAKE, Mr. GONZALEZ, Mr. HASTINGS of Florida, Mr. MARKEY, Ms. MCKINNEY, Mr. NEAL of Massachusetts, Mr. PALLONE, and Mr. REYNOLDS.

H.R. 1544: Mr. MORAN, Mr. THOMPSON, Ms. VELAZQUEZ, and Mr. REYNOLDS.

H.R. 1580: Mr. SCHAEFER.

H.R. 1594: Mr. BAKER of Louisiana.

H.R. 1595: Mr. SOUDER, Mr. DIAZ-BALART, Mr. HASTINGS of Washington, Mr. JOHNSON of South Dakota, Mr. FROST, Mr. STUMP, Ms. DUNN of Washington, Mrs. SMITH of Washington, Mr. FORBES, Mr. THORNBERRY, Mr. SAXTON, Ms. ROS-LEHTINEN, Mr. MICA, Mr. LINDER, Mr. TALENT, Mr. SAM JOHNSON, Mr. STEARNS, Mr. BLUTE, and Mr. GENE GREEN of Texas.

H.R. 1610: Ms. SLAUGHTER.

H.R. 1614: Mr. REYNOLDS and Ms. SLAUGHTER.

H.R. 1660: Mr. STUPAK, Mr. REYNOLDS, Mr. ENGLISH of Pennsylvania, Mr. GENE GREEN of Texas, Mr. TORRES, Mr. FRANK of Massachusetts, and Mr. ROMERO-BARCELO.

H.R. 1680: Mr. POMEROY.

H.R. 1700: Mr. MILLER of California and Mr. EVANS.

H.R. 1715: Mr. BARRETT of Nebraska, Mr. BEREUTER, Mr. BISHOP, Mr. BOEHNER, Mr. BURR, Mr. CANADY, Mr. CLYBURN, Mr. COBLE, Mr. COMBEST, Mr. GALLEGLY, Mr. GREENWOOD, Mr. GUNDERSON, Mr. HOLDEN, Mr. JACOBS, Mr. LEWIS of California, Mr. MCCOLLUM, Mr. OLVER, Mr. ORTIZ, Mr. PICKETT, Mr. THOMAS, and Mr. WELDON of Florida.

H.R. 1735: Ms. SLAUGHTER.

H.R. 1744: Mr. KLECZKA and Mr. ROHRABACHER.

H.R. 1753: Mr. STOCKMAN, Mr. STUMP, Mr. SERRANO, Mr. FILNER, Mr. ROMERO-BARCELO, Mr. WALSH, Mr. TOWNS, Mr. MATSUI, Mr. MOAKLEY, Mr. HOLDEN, Mr. CALLAHAN, Mr. COSTELLO, Mr. MILLER of California, Ms. BROWN of Florida, Mr. CONYERS, Mr. STOKES, Mr. CLINGER, Mr. LIPINSKI, Mr. LEWIS of California, Mr. WAXMAN, and Mr. BLILEY.

H.R. 1764: Mr. ROHRABACHER.

H.R. 1774: Mr. HALL of Ohio, Mr. UNDERWOOD, and Ms. JACKSON-LEE.

H.R. 1775: Mr. FILNER.

H.R. 1791: Mr. BURR, Mr. EHLERS, and Mr. CARDIN.

H.R. 1821: Mr. BAKER of California and Mr. TORKILDSEN.

H.R. 1876: Mr. PALLONE, Mr. LIPINSKI, Mr. ACKERMAN, and Mr. GONZALEZ.

H.R. 1893: Mr. PAYNE of Virginia and Mr. LAFALCE.

H.R. 1897: Mrs. MINK of Hawaii.

H.J. Res. 79: Mr. CLYBURN.

H.J. Res. 89: Mr. DAVIS, Mr. BURTON of Indiana, Mr. RAHALL, Mr. KIM, Mr. GUNDERSON, Mr. MCCRERY, Mr. CHAMBLISS, and Mrs. THURMAN.

H. Con. Res. 10: Mr. JACOBS, Mr. MCDADE, and Mr. WAXMAN.

H. Con. Res. 12: Ms. PELOSI.

H. Con. Res. 26: Mr. MARTINI, Mr. BENTSEN, Mr. ENGEL, Mr. BLUTE, Mr. DORNAN, Mr. SHAYS, Mr. WAXMAN, Mr. HUTCHINSON, Ms. NORTON, Mrs. MORELLA, Mr. WELLER, Mr. BERMAN, Mr. FORBES, Mr. PALLONE, Mr. SMITH of New Jersey, and Ms. SLAUGHTER.

H. Con. Res. 54: Mr. PALLONE.

H. Con. Res. 63: Ms. PELOSI and Mr. SALMON.

H. Con. Res. 76: Mrs. SCHROEDER, Mr. WAXMAN, Mr. VENTO, Ms. PRYCE, Mr. VISCLOSKY, and Ms. MCKINNEY.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R.

(Interior and Related Agencies Appropriations for Fiscal Year 1996)

OFFERED BY: MR. CUNNINGHAM

AMENDMENT NO. 1: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. . None of the funds made available in this Act may be used by the Department of the Interior—

(1) to conduct a lease sale or issue a lease for oil or gas under the Outer Continental Shelf Lands Act in the Southern California, Central California, of Northern California Planning Areas; or

(2) to approve any exploration plan, development and production plan, or application for permit to drill, or permit any drilling, for oil or gas under the Outer Continental Shelf Lands Act on any lands of the Outer Continental Shelf in the Southern California, Central California, or Northern California Planning Areas.

H.R.

(Interior and Related Agencies Appropriations for Fiscal Year 1996)

OFFERED BY: MR. UNDERWOOD

AMENDMENT NO. 2: In title I of the bill, decrease the amount appropriated for technical assistance and maintenance assistance under the heading "Territorial and International Affairs", by $2,580,000 and $2,000,000, respectively.

In title I of the bill, appropriate $4,580,000 to Guam for impact aid under Public Law 99–239 (relating to the Compact of Free Association).

H.R. 1868

OFFERED BY: MR. BROWNBACK

AMENDMENT NO. 64: Page 12, line 8, strike "$7,000,000" and insert "$3,000,000".

Page 13, strike line 18 and all that follows through page 14, line 11.

Page 16, line 24, strike "$595,000,000" and insert "$619,000,000".

H.R. 1868

OFFERED BY: MR. BURTON of Indiana

AMENDMENT NO. 65: Page 78, after line 6, insert the following new section:

LIMITATION ON ASSISTANCE TO INDIA

SEC. 564. None of the funds appropriated in this Act under the heading "Development Assistance Fund" may be made available to the Government of India or non-governmental organizations and private voluntary organizations operating within India.

H.R. 1868

OFFERED BY: MR. ENGEL

AMENDMENT NO. 66: Page 63, after line 4, insert the following new section:

SEC. 540A. RESTRICTIONS ON THE TERMINATION OF SANCTIONS AGAINST SERBIA AND MONTENEGRO.

(a) RESTRICTIONS.—Notwithstanding any other provision of law, no sanction, prohibition, or requirement described in section 1511 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160), with respect to Serbia or Montenegro, may cease to be effective, unless—

(1) the President first submits to the Congress a certification described in subsection (b); and

(2) the requirements of section 1511 of that Act are met.

(b) CERTIFICATION.—A certification described in this subsection is a certification that—

(1) there is substantial progress toward—

(A) the realization of a separate identity for Kosova and the right of the people of Kosova to govern themselves; or

(B) the creation of an international protectorate for Kosova;

(2) there is substantial improvement in the human rights situation in Kosova;

(3) international human rights observers are allowed to return to Kosova; and

(4) the elected government of Kosova is permitted to meet and carry out its legitimate mandate as elected representatives of the people of Kosova.

H.R. 1868

OFFERED BY: MR. ENGEL

AMENDMENT NO. 67: Page 63, after line 4, insert the following new section:

SEC. 540A. SENSE OF CONGRESS RELATING TO RESTRICTIONS ON THE TERMINATION OF SANCTIONS AGAINST SERBIA AND MONTENEGRO.

(a) RESTRICTIONS.—It is the sense of the Congress that, notwithstanding any other provision of law, no sanction, prohibition, or requirement described in section 1511 of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103-160), with respect to Serbia or Montenegro, should cease to be effective, unless—

(1) the President first submits to the Congress a certification described in subsection (b); and

(2) the requirements of section 1511 of that Act are met.

(b) CERTIFICATION.—A certification described in this subsection is a certification that—

(1) there is substantial progress toward—

(A) the realization of a separate identity for Kosova and the right of the people of Kosova to govern themselves; or

(B) the creation of an international protectorate for Kosova;

(2) there is substantial improvement in the human rights situation in Kosova;

(3) international human rights observers are allowed to return to Kosova; and

(4) the elected government of Kosova is permitted to meet and carry out its legitimate mandate as elected representatives of the people of Kosova.

H.R. 1868

OFFERED BY: MR. GOSS

AMENDMENT NO. 68: Page 78, after line 6, insert the following new section:

LIMITATION ON FUNDS FOR HAITI

SEC. 564. None of the funds appropriated in this Act may be made available to the Government of Haiti when it is made known to the President that such Government is controlled by a regime holding power through means other than the democratic elections scheduled for calendar year 1995 and held pursuant to the requirements of the 1987 Constitution of Haiti.

H.R. 1868

OFFERED BY: MR. MENENDEZ

AMENDMENT NO. 69: Page 78, after line 6, add the following:

WITHHOLDING OF ASSISTANCE TO COUNTRIES SUPPORTING NUCLEAR PLANT IN CUBA

SEC. 564. The President shall withhold from assistance made available with funds appropriated or made available pursuant to this Act an amount equal to the sum of assistance and credits, if any, provided on or after the date of the enactment of this Act by that country, or any entity in that country, in support of the completion of the Cuban nuclear facility at Juragua, near Cienfuegos, Cuba.

H.R. 1868

OFFERED BY: MR. MILLER OF FLORIDA

AMENDMENT NO. 70: Page 16, line 24, strike "$595,000,000" and insert "$565,000,000".

H.R. 1905

OFFERED BY: MR. BARRETT OF WISCONSIN

AMENDMENT NO. 3: Page 16, line 1, after the dollar amount, insert the following: "(less $5,000,000)".

H.R. 1905

OFFERED BY: MR. BARRETT OF WISCONSIN

AMENDMENT NO. 4: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 505. Of the funds appropriated in this Act under the heading "Energy Supply, Research and Development Activities", not more than $10,000,000 shall be available for hydrogen research.

H.R. 1905

OFFERED BY: MR. BREWSTER

AMENDMENT NO. 5. At the end of the bill, add the following new title:

TITLE —DEFICIT REDUCTION LOCKBOX

DEFICIT REDUCTION TRUST FUND; DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS

SEC. . (a) ESTABLISHMENT.—There is established in the Treasury of the United States a trust fund to be known as the "Deficit Reduction Trust Fund" (in this title referred to as the "Fund").

(b) CONTENTS.—The Fund shall consist only of amounts transferred to the Fund under subsection (c).

(c) TRANSFERS OF MONEYS TO FUND.—The Secretary of the Treasury shall transfer to the Fund an amount equal to the allocations under section 602(b)(1) of the Congressional Budget Act of 1974 to the subcommittee of the Committee on Appropriations with jurisdiction over this Act minus the aggregate level of new budget authority and outlays resulting from the enactment of this Act, as calculated by the Director of the Office of Management and Budget.

(d) USE OF MONEYS IN FUND.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amounts in the Fund shall not be available, in any fiscal year, for appropriation, obligation, expenditure, or transfer.

(2) USE OF AMOUNTS FOR REDUCTION OF PUBLIC DEBT.—The Secretary of the Treasury shall use the amounts in the Fund to redeem, or buy before maturity, obligations of the Federal Government that are included in the public debt. Any obligation of the Federal Government that is paid, redeemed, or bought with money from the Fund shall be canceled and retired and may not be reissued.

(e) DOWNWARD ADJUSTMENTS IN DISCRETIONARY SPENDING LIMITS.—Upon the enactment of this Act, the Director of the Office of Management and Budget shall make downward adjustments in the adjusted discretionary spending limits (new budget authority and outlays) as set forth in section 601(a)(2) of the Congressional Budget Act of 1974 by the aggregate amount of estimated reductions in new budget authority and outlays transferred to the Fund under subsection (c) for such fiscal year, as calculated by the Director.

H.R. 1905

OFFERED BY: MR. KLUG

AMENDMENT NO. 6: Page 16, line 2, insert before the period the following:

Provided, That, of such amount, not less than $74,129,000 shall be available for photovoltaic energy systems, not less than $25,329,000 shall be available for solar thermal energy systems, not less than $40,000,000 shall be available for wind energy systems, not less than $28,115,000 shall be available for geothermal, and not more than $323,628,000 shall be available for materials sciences: *Provided further*, That within such $323,628,000, not more than $113,954,000 shall be available for non-research, including (but not limited to) facilities and operations.

H.R. 1905

OFFERED BY: MR. KLUG

AMENDMENT NO. 7: Page 16, line 1 strike "$2,596,700,000" and insert "$2,576,700,000".

H.R. 1905

OFFERED BY: MR. KLUG

AMENDMENT NO. 8: Page 25, line 6, strike "$142,000,000" and insert "$0".

H.R. 1905

OFFERED BY: MR. KLUG

AMENDMENT NO. 9: Page 29, line 1, strike "$103,339,000" and insert "$0".

SENATE—*Thursday, June 22, 1995*

(Legislative day of Monday, June 19, 1995)

The Senate met at 8:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Great is the Lord, and greatly to be praised and His greatness is unsearchable. I will meditate on the glorious splendor of Your majesty—Psalm 145: 3, 5.

Almighty God, help us to think magnificently about You: Your glory and grace, Your greatness and goodness, Your peace and power. We acknowledge that our prayer is like dipping water from the ocean with a teaspoon. Whatever we receive of Your infinite wisdom and guidance, it is infinitesimal in comparison to Your limitless resources. So we come humbly and gratefully to receive, to draw from Your divine intelligence what we need for today's deliberations and decisions. We thank You for the women and men of this Senate and their staffs who support their work. Help them humbly to ask for Your perspective on perplexities and then receive Your direction. Give them new vision, innovative solutions, and fresh enthusiasm. We commit this day to love and serve You with our minds. Today, when votes are counted on crucial decisions, help them neither to relish victory nor nurse the discouragement of defeat, but do everything to maintain the bond of unity in the midst of differences and then move forward. This we pray in Your holy name. Amen.

The PRESIDENT pro tempore. The Chair, in his capacity as a Senator from the State of South Carolina, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SANTORUM. I thank the Chair.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business.

BALANCING THE BUDGET

Mr. SANTORUM. Mr. President, I rise this morning to begin the freshman focus. The freshman class, all 11 of us of the 104th Congress, have taken about the role of coming to the floor on a regular basis to focus the Senate on issues of importance really to the next generation of Americans. We believe that as freshmen we have a special role to play in looking toward the future and seeing how we can focus the attention of the Senate on solving the long-term problems that face this country.

Today, under the able leadership of Senator THOMAS from Wyoming, who has been a real champion in organizing this effort and bringing the freshman class in the Chamber on a very regular basis, we are going to talk about the Clinton "budget." When I say Clinton "budget," I use the term "budget" in quotes because we do not really have what I think anyone would seriously consider a detailed budget of how the President is going to solve the deficit problem that faces this country. In fact, we have 6 pages—photocopied on both sides, that is 12 pages total—of budget specifics as to how he is going to reduce the budget deficit to zero over the next 10 years.

Now, it is interesting; if you look at what is going to be required to balance the budget over the next 10 years, it requires about $1.6 trillion in spending cuts. That is according to the Congressional Budget Office.

Now, you say: How do they figure that out? How does the Congressional Budget Office come up with the assumption that we need to cut spending an aggregate amount of $1.6 trillion? They make certain basic assumptions, economic assumptions.

The economic assumptions that the Congressional Budget Office makes is a percentage growth in the economy. They say, well, we estimate over the next 10 years that the economy will grow on average a certain percentage per year. The estimates, frankly, if you look at them, are pretty flat. I think about 2.3 percent growth per year over the next 7 years because they were doing a 7-year budget.

Now the President has come up with 10. They extended it up to 10 years. It does not take into account recessions. And most economists will tell you, over the next 10 years we are scheduled to have at least one recession, probably two recessions. Now, they may not be deep recessions, but they will talk about much lower rates of growth and maybe even some negative growth during that period of time.

Now, what happens when we have recessions? Well, when we have recessions, tax revenues go down, expenditures to the Federal Government go up because unemployment claims go up, welfare payments go up, other kinds of Government supports, safety net programs, are much more in use.

The Congressional Budget Office, I think, was sort of averaging out the high and low periods of growth above 2 or 3 percent and periods of growth below and saying, on average, it is roughly 2.3 percent or maybe a little higher, 2.4 percent in the future.

They also make an assumption on interest rates. Why are interest rates important? Well, when you have nearly $5 trillion of debt that you have to finance, interest rates are important. The higher the interest rates, the higher the interest costs, the higher the deficit. So interest rate projections also affect what the bottom line deficit will be. So they have projected out interest rates, again on a conservative basis, because again interest rates fluctuate. If you look at the last 10 years of the history of this country, the interest rates went from double digits to 3 to 4 percent. So you may see a wide variation in the next 10 years. In the next 10 years, you will see a wide variation. They try to work it out, act conservatively. You want to have realistic numbers here. And they came out with some interest rate projections.

Now, they use the combination of growth projections and interest rate projections to determine their basic economic assumptions of what the deficit will be. And then they say, "Now, to meet zero, you have to cut so much money out of Government programs or raise taxes to get to zero."

How does the President accomplish his 10-year balanced budget? Well, he does not do it by looking at what the Congressional Budget Office has done and then making the spending cuts or tax increases necessary to get to a balanced budget. In fact, in his plan he has, instead of $1.6 trillion over 10 years which is needed to balance the budget according to the Congressional Budget Office, he has $1 trillion in cuts, substantially less than what is necessary. Yet he gets the balance.

You say, How does he do that? How does he cut less money than is required to get the balance and still get there? Here is how he does it. He does it by changing the assumptions. He assumes a higher rate of growth in the economy. He assumes lower interest rates. Sort of wishes it away. Just decides, "Well, we know we will have higher growth and lower interest rates, and as a result we will have less financing costs. Because interest rates are lower,

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

we will have higher rates of growth, which means more tax revenues and less Government expenditures. So we will reduce the debt through economic assumptions."

Well, that is nice. It is an easy way to do it. I guess if he wanted to, he could go back and just estimate even higher growth rates and lower interest rates and not have to do anything. But that is not real.

What is the actual effect on the numbers? It is interesting. Look at Medicare. Under the President's budget, if you look at the President's Medicare number, not what he says he is going to have to reduce spending by in Medicare, but the actual amount of money he spends on Medicare every year over the next 10 years, in the first 3 years the President spends less on Medicare than we do, but it is not as big a cut as we have. Now, you say, "Wait a minute. How can that be? If he spends less on Medicare next year than we do under the Republican budget, less on Medicare in year two than we do on Medicare and less on Medicare in year three, how can his cuts be less?"

Well, he assumes a lower rate of growth in Medicare and then cuts from that. So what he has done is—we have growth of 10 percent per year programmed in because that is what Medicare is doing. It is growing at about 10 percent a year. We have that programmed in for the next 10 years. What the President has done is he assumes, first, that Medicare growth is not going to continue at 10 percent, it will only continue at 7 percent and then cuts from that. So, as a result, the cut is not as much, but the number is actually lower than the number that we are using. So he sort of cuts in part by assuming it away and cuts the other part by actually doing it.

So, to suggest that the President is going to cut Medicare less than we are or change Medicare less than we are is just ridiculous. His numbers actually are lower than our numbers.

So, I would just suggest, if you look at the specifics of what the President has done, he has assumed away this budget deficit. He has suggested that we can get rid of the budget deficit by having rosy economic projections, rosy projections on growth and interest rates and not do the hard work of actually having to make decisions on how we are going to pare back the size of Government.

As a result of that, as a result of his unwillingness to face the music, to use the Congressional Budget Office projections, which he said in the State of the Union, just down at the other end of this hallway, right down here. Walk out the middle door here and just keep walking and you will come to the House of Representatives. And you walk through that door and keep walking, you will walk right into the podium of the House of Representatives. Right there, right at the other end of the hall, the President got up and said, "We will use the Congressional Budget Office scoring because they have been the best at doing it. We all have to use the same numbers." He said that.

Now, I know it is going to come as a shock to many that he has not lived up to his promise, but he did not. He is not using their numbers anymore. Why? Well, the same reason every President has not used their numbers. Because their numbers are tougher. It is harder to balance the budget when you use real numbers. It is easier when you get your friends at the Department of the Treasury to sort of wish this stuff away. Well, unfortunately we cannot wish it away.

Mr. THOMAS. Will the Senator yield?

Mr. SANTORUM. If the Senator will suspend for 1 second. I want to make sure that we end with day 34 of the President's unwillingness to come to the American people with a serious budget proposal to balance the budget. We are now in day 34, as I said before. We only have 101 days to go before the next fiscal year. As I said before, I will probably put a little thing over here for the "1." Hopefully I will not have to. Hopefully I will not have to come back. But until the President gets serious about this and is honest with the American public about how they are going to balance the budget, I am going to be back.

I will be happy to yield.

Mr. THOMAS. If the Senator would yield. Let me first say how much I appreciate and congratulate the Senator on his continuing efforts to get some real understanding. I think some time ago the freshman class, those elected to the body in November, came here more dedicated to more serious work to balance the budget than about any other issue. One of the most difficult things for all of us, particularly people listening and voters, is what are the real facts? I mean, we start out and everybody wants to balance the budget. "Well, we do not need an amendment," they say. "We will do it." Then we come down to do it. But we cannot do it on the backs of these. You cannot do it here.

I guess my question is: It is sort of interesting that most of the President's budget is backloaded, and it happens after the year 2000. Now, that is 6 years from now. That is the rest of this Presidential term and one other term. Is there any significance to the fact that most of the pain comes after the year 2000?

Mr. SANTORUM. As a matter of fact, if you look at the percentage of the cuts the President makes in discretionary and mandatory programs, all the cuts he has to make, 20 percent of them—we have 10 years in the President's budget. You would think that the responsible thing to do would be to cut the budget—if you are going to do 100 percent of his cuts, if you take all the cuts he is going to make, you do it equally over the period of years, a straight line, 10 percent a year; 10 years, 100 percent of the cuts.

What the President does is cut very little the first year, cuts virtually nothing. In fact, of all the cuts he suggests, only 2 percent occur in the first year. If you look at the second year, only 3 percent occur in the second year. After the first 2 years, when you should have cut 20 percent to get on your line of 100 percent, he has cut 5 percent. You go to the third year, he cuts 5 percent. So over the first 3 years he has cut 10 percent of the amount needed to cut over the 10 years.

Where are the big cuts? Where is the big lifting, the heavy burden the last 2 years, the last 3 years? Twenty percent in the last year; 18 percent the year before that; 15 percent the year before that.

I mean, well over—well, about 50 percent of the cuts occur in the last 3 years. So he back-end loads this thing. He does not do heavy lifting early on. It is left to the next generation, not surprisingly, and next Presidents to deal with this.

Again, that is another form of wishing it away. I am sure every President has presented budgets at one point in time that suggest they will balance the budget, but they never suggest we do it starting now, they always suggest we do it down the road sometime. That is not the responsible way to do it.

Mr. ASHCROFT assumed the Chair.

Mr. THOMAS. It is interesting that Mark Phillips from the Concord Coalition says:

> Funny thing about these elusive outyears, they never seem to arrive.

Is it not also true that the tax reductions, the tax cuts the President has go into effect much earlier than do the spending cuts?

Mr. SANTORUM. That is always the way it is with taxes. For example, you can look at the Clinton budget in 1993. We had tax increases and spending cuts. Tax increases went into effect right away. We felt all those tax increases immediately. What we have not felt yet from the first budget in 1993 of the President is the spending cuts. They do not come around. They have not occurred. So now we are back and having to make the tough decisions on actually reducing spending.

Again, the Senator is right with the tax cuts. The President wants to get the tax cuts in now because it is election time; you want to help people out, give back a little of their taxes. Now he wants to cut them right before the election. It is clear, the spending cuts do not come.

Mr. THOMAS. One question. This is sort of unclear. We had the President, of course, and his advisers saying it was not prudent to set a time. That is when we had 7 years and he had no budget. Now he has a time and Mrs.

Tyson says that is exactly what we should do, even though she decried it before.

Mr. SANTORUM. Decried it, she was outraged that someone would do this. This was going to be the fatal blow to our economy. She went at great length to say that setting a time certain to bring the budget into balance would be disastrous for the economy, and now that the President has been convinced to do it, it is now a good idea.

It amazes me, it absolutely amazes me how they just—as Representative OBEY from Wisconsin said about the President of his party—President Clinton's decision is like the weather, if you do not like it, wait and it will change. I think that is pretty much the way his advisers see it, that he has no responsibility to tell the country what they believe; their responsibility is to tell the President a line on what they believe.

Mr. THOMAS. The Senator is right. Mrs. Tyson, on February 6, said that their deficit path is a sound deficit path, both for the economy in the near term and forcasting the economy, something she said they were dealing with, that they have it under control.

This was in February, and then this body rejected that budget 99 to zip. She said more recently that we have to balance the budget, we want to get a balanced budget and to do it in a time certain that makes some sense.

My question is, though, under the best analysis—it is confusing—will this 10-year budget that has been sent down by the President balance in 10 years?

Mr. SANTORUM. This is hard. It is very hard for Members of the Senate and I know the general public to look and say, How does this all work, because you are looking 10 years down the road, in the case of the Republican budget 7 years down the road.

How do they know what they are going to do is actually going to accomplish a balanced budget? Like anybody else who has to deal with projections in the future, whether you are a businessman making projections or a family trying to save for a college education, whatever the case may be, if you are looking into the future and trying to plan things, everyone will tell you, every financial adviser, everybody else will say,

> Be conservative in your projection; don't assume that things are going to be great, and everything. Let's try to take a realistic, not worst case—because you don't want to always assume worst case—but take a realistic underestimation of what you think will happen and plan on that. That is sort of a good conservative way to look at it. Don't give it up, don't give the store all away by wishing rosy projections.

That is what the Congressional Budget Office has done. What the President has done has really not been the prudent thing to do. What he has done is just assume everything is going to be great, that we will not have a recession.

Think about this, that we will not have a recession in the next 10 years; that we will not have high interest rates over the next 10 years, that everything is going to continue to grow at a very steady and healthy pace over 10 years. Never has that occurred in a post-World War II economy. Never has that occurred. But yet the President estimates that to be able to achieve his goals.

So as a result, I think most economists who have looked at this have said this is unrealistic, this is not going to happen and what the President has done is simply not belly up to the bar and tell us how he is going to really do this. As a result, we are going to see deficits. If we go the Clinton route, we are going to see deficits well into triple figures, well into the billions.

THOMAS. I thank the Senator. I have to say, again, I cannot think of anything more important to this country and more important to all of us than having a legitimate debate about facts with regard to balancing the budget, and the idea that somehow we can politically balance the budget and the pain comes in 10 years and we doctor the figures so that it looks good simply does not deal with the problem that is a real national problem to you and to me and to our kids and our grandkids.

So I appreciate very much the efforts that the Senator has made to seek to get these facts out.

Mr. SANTORUM. I say to the Senator that the view he just expressed is a view that is shared by folks across the political spectrum. The Washington Post yesterday, or the day before, I do not remember which, editorialized—one of the great staunch defenders of this President—editorialized against the President and his budget and his assumptions and how he went about coming to his balanced budget and said that the President hurt himself and his credibility, which is difficult to do, but it hurt his credibility by proposing a budget that simply is a smoke-and-mirrors, wishing-the-problem-away kind of budget.

So I think objective sources have looked at what the President has done and rejected it out of hand as a political document, going up on national television, with a 5-minute address trying to, again, through speeches, convince the American public he is on their side. But when you see the actions, the actions do not match the words. Whether it was on his health care speeches or whether it is on his welfare reform speeches or whether it is on the budget deficit, the President will give a great speech. He will give a great speech. He always does. He is a good communicator, and he will get up and give a great speech about what he believes in. But do not listen to the speech, watch what he does. Look at the documents. Look at the plans. Look at what he actually is proposing. Ignore the speech and watch the actions, and you will find that the speech does not match the actions and the actions come well short of what is needed to solve these problems.

Mr. INHOFE. Will the Senator yield on that point for a moment?

Mr. SANTORUM. Yes, I yield.

Mr. INHOFE. I had an experience I will share with the Senator. As I do every Thursday morning, I did a talk radio show back in my State of Oklahoma. I am sensing something that I did not sense in the last few years and that is an awareness—and I think maybe this came with the election of November 1994—the people are finally aware of what is really going on in this country.

They brought this up and I went back and looked it up. They said they have added up the figures—maybe you already talked about this—but in this revised budget he sent down, the figures come up, according to CBO, to over $1 trillion added to our debt.

Keep in mind, this is from a talk radio show, listeners calling in from Oklahoma today stating that they are actually aware of how much this is being added to the debt. For so many years, the average person in America did not really stop and think about the difference between deficit and debt. So they listened to the President come in and talk about, as President Clinton did during his campaign, that he had a program that was going to eliminate the deficit and had great deficit reductions.

I have often recommended to people to read an article that was in December's Reader's Digest called "Budget Baloney" where they describe how politicians try to deceive the people back home as Clinton is trying to do today by making them think that they have a program that is going to eliminate or cut the debt in some way. They describe it this way: Suppose you want a $10,000 car but only have $5,000; you tell everybody you really want a $15,000, so you settle for a $10,000 car, so you have cut the deficit by $5,000. That is essentially what he is trying to do.

The American people are awake now and the people know the difference. They are better informed. And if any message came from the election of November 8, it is that we are tired of the smoke and mirrors, as the Senator from Pennsylvania describes it so accurately, and we want action for a change.

I remember in 1993, in his budget message, the President stood in the House Chamber and said that the CBO is the most reliable operation here—not OMB, not any of the rest, but CBO. Yet, CBO says that his deficits are going to average, over the next 10 years, about $200 billion. So we are talking about a $2 trillion increase in our national debt. The people are not going to tolerate that.

Mr. THOMAS. If the Senator will yield, it seems to me there are a couple of reasons why we are becoming more aware—tangible reasons. We have had a debt and deficit for a long time and we all kind of brushed it off and put it on the credit card. But now we are going to have to raise the debt limit $5 trillion this year and probably another one before this administration is out.

Second, interest payments become probably the largest single line item in the budget next year—probably more than defense. So that becomes real. It takes money out of people's pockets and from other things. Finally, there is the example, it seems to me, of Medicare. It is not a question of whether you do something; it is a question of whether you have reform, or you will be into reserves in 2 years and broke in 7 years. So we have played with this as an abstract thing over the years, I believe, and now all of us are beginning to believe it is not abstract. It is very real and it is there. I just think it is so important that we deal with facts. There is some pain involved. But to try and act as if there is none, that just will not handle the problem.

Mr. INHOFE. I agree with the Senator. But when you say there is pain involved, look at the pain that is associated with continuing on the road we are on right now. The Senator from Pennsylvania just had a young child, and I congratulate him. I hope people realize this young man just had a brand-new baby boy. During that baby boy's lifetime, if we do not change the pattern that we are on right now, according to all of those who are prognosticators of the future, he will have to pay 82 percent of his lifetime income just to support Government.

I remember the other day during our national prayer breakfast we had somebody from one of the Communist countries prior to the time they got their freedom. He bragged and said they only have to give the Government—he said, "We get to keep 20 percent." I said, "What do you mean?" He said, "Every month or so, we have to give the Government 80 percent of everything we make." And he is celebrating that. I thought about that. Senator SANTORUM's newborn baby is going to have to pay 2 percent more than that to support Government if we do not make a change. He is too young to be able to come in and lobby and say do not do that to us.

So we hear from all these people saying they are going to cut these social programs. Here we are with a defense system right now that is going to be down below what it was in 1980 when we could not afford spare parts. Those things we really need Government for are being neglected by this administration, and I think the people have awakened.

Mr. SANTORUM. I want to say that the Joint Economic Committee is going to have a hearing on the President's budget. I am a member of that committee. I am looking forward to hearing the President's people on his budget and these economic assumptions.

It is, in my opinion, a very cruel hoax on future generations, and on the current electorate, to suggest that we can balance the budget without doing the things that are necessary in reducing spending and changing Government, and that are required by any sound economic view of the future. We are going to talk about that today. Senator MACK has stepped up and said we are going to look at the Clinton budget, examine it and give him an opportunity to convince us that he is right. I am looking forward to that. I am willing to give the President and his people their day, but I am very distressed at this continuing pattern of this President, just trying to pull the wool over the eyes of the American public.

The fact of the matter is that the folks, like my son, Daniel, who was born on Father's Day, are the people that are going to have to pay the price and consequences of the actions we have today. Somebody has to come to the floor of the Senate and defend those children's future. The Senator from Oklahoma is right. They do not have a chance to talk for themselves, so someone has to stand up and do it for them.

My father is an immigrant to this country, and I remember talking to my grandfather on many occasions about why he came to this country and brought my father over as a relatively young person. He said, "Well, the biggest reason he came to America is because he wanted a better life for his children."

Now, have we gone so far in this country, where this generation of Americans cares more about themselves than about their families and their futures? If we have, what does that say about the likely prospects for the future of this country?

What we have is a bunch of people, including the President, who come before the American people and try to scare them into believing that somehow we are going to hurt them and that we, the Republicans, do not care about them, and scare them into keeping the status quo in place, which they know hurts future generations, but, frankly, future generations do not vote now.

Mr. INHOFE. I suggest to the Senator from Pennsylvania, your father sounds like he was a student of history and he looked at what this country is all about. It reminds me that if we remember in our history, when de Tocqueville came here, he came over to study our business system. He was so impressed with the great wealth this Nation had accumulated that he wrote a book. The last paragraph says that once the people of this country find out they can vote themselves money out of the public trust, this system will fail.

We are so close to that point, and yet, this great discovery that was reflected in the election of November shows me that people are saying that we are almost there and we cannot afford to let it continue.

The one thing that the three of us have in common is we are all freshmen, we are new here. I think maybe that is why we are a little bit more exercised on this. We remember the mandate very well. That is all I heard during not just the election, but I have had 77 town meetings since the election. The first thing coming out of the chute is the budget. "I do not care what you do, do something to stop the deficit." That is what we are committed to doing.

Mr. THOMAS. The Senator mentioned something about de Tocqueville. Earlier in his book he said, as he looked at the new democracy and he looked at the new system of people governing themselves, which at that time was a new experiment, he said that the strength of this country was people doing for themselves and helping each other on a local community basis. That is very true. Now we move more and more—and the budget has to do with the direction we take in Government, certainly. When we decide to have less Government which is less costly, we do that as a philosophy, and most everybody subscribes to that. This is the labor that goes with it to cause that to happen. You know, it is all tied together, and we cannot be responsible morally and fiscally, unless we do something about this imbalance that has gone on for 25 years.

Mr. INHOFE. We also have to realize—I do not want to take us off the track of the budget, but de Tocqueville was also concerned about some of the social problems he saw forecast in this country. He said,

> America is great because America is good. When America ceases to be good, America will cease to be great.

So a lot of people in our history, going all the way back to Washington, talked about and addressed public debt, and Jefferson was also outspoken on this. I think we are here in a political revolution in this country, and I think it is an exciting thing. The President will have to be very persuasive.

Mr. THOMAS. Does Senator SANTORUM have a de Tocqueville quote, also?

Mr. SANTORUM. No, I do not, but I do have an editorial from one of my papers, in the Lancaster Intelligencer, which said that the difference between the Republican budget and the President's budget, and they were very supportive of the President's budget, is that the President's budget is compassionate. The President's budget is compassionate because it does not tear apart all these programs that are here in place in Washington.

I would suggest to them that compassion—if compassion is measured by a group of people in Washington willing to take people's hard-earned money and give it to people that they see fit to give it to, if that is the measure of compassion I can tell you it is very easy for me. It is no skin off my back to vote money from somebody else and give it to somebody else.

Some people say that is compassion. If I go to someone who is working 16-hour days, 6 days a week, and I tax him more money and give it to somebody else who may not be working as hard or may have a problem, whatever the case may be—I am sort of removed from this. It is not hurting me. I am not taking any money from me here. I am taking it from somebody else and giving it to somebody else. Where is that compassion?

The word compassion, if you look at the derivation of the word compassion, it means "with suffering." I am not suffering with anybody. I am not suffering with anybody. I am telling you to give money. And I am taking it from you and giving it to him. Where am I involved in the suffering here? There is no suffering.

It makes you look nice. It is great to be able to go into a community where you are handing out money. Look, I love to present checks. Oh, it is great to take other people's money, who worked hard for it, and have me give it to people. It is a wonderful feeling. You feel great. But are you really compassionate? Is that action truly compassionate? Is there any "suffering with," that is going on here? No, no, it is not compassion at all. It is politics. And it is easy and it is fun. Oh, I know it is fun to just take that money away from those people who are making too much money and give it to folks who are not making enough. It is sort of the modern day Robin Hood. But there is no suffering here.

What the Senator from Wyoming said is absolutely right. This country is a great country because we have people who cared about people, who did "suffer with," who did care about their neighbor, who did know who their neighbors were and went out and did something about it. And because Government has gotten so big and is starting to do so much for people, we stop doing so much for each other because it is not our job anymore. It is not our job to help take care of our fellow neighbor. There is a Government program that does that and just call this office, toll free.

That is not what made America great. Toll-free numbers for calling a Government bureaucrat is not what made America great. What made America great, what the Senator from Oklahoma said, is the goodness of America. I can tell you there is nothing good about taking money away from people who work hard for it and giving it to people who we want to for whatever reason we want to. That is not good. That may be necessary in some cases. There are people in this country who do need help and there are Government programs that do it. But do not come here and say that is good, or that is compassionate. It may be necessary sometimes.

What is good is if you participate individually, if you get out there and help your neighbor and become part of the fabric of community, which is what de Tocqueville wrote about over 100 years ago. That is what makes America great. That is what we are trying to get back to—understanding that families and communities and neighborhoods are important to the fabric of our society. And if we continue to lose them we will lose America.

So, the Lancaster Intelligencer is dead wrong. There is nothing compassionate about keeping the Federal Government in control of people's lives. It is anything but compassionate because there is no suffering here. There is only more suffering out there.

Mr. THOMAS. The Senator has made a great point. One of the exciting things, it seems to me, about this Congress is that we have for the first time in many years an opportunity to take a look at Government programs that have been in place for 30 or 40 years, such as the War on Poverty—which has failed. There are more people in poverty now than when it began.

So we are not talking about taking away the safety net. We are not talking about doing away with the assistance to people who need assistance. In welfare we want to help those, but help them back into the workplace. And that is exciting, to have for the first time a chance to say, Is there a better way to provide this assistance? Is there a more efficient way to do something, rather than just continuing to fund failed programs? I think that is the exciting thing we are doing.

Mr. INHOFE. I think it is inherent in the bureaucracy. We have to address it that way.

I can remember a very famous speech that was made, back in 1965. My colleague and I, we may be freshmen here but we are the two oldest Members of the freshman class. We can remember this well. The speech was called "A Rendezvous With Destiny" by Ronald Reagan. It was his first political speech. It was back during the Goldwater campaign.

In this speech he said something very profound. He said, "There is nothing closer to immortality on the face of this Earth than a Government program once started."

I learned this lesson when I was mayor of the city of Tulsa. This is kind of an interesting story and tells you what is happening here today.

I went in and made a decision that over a 5-year period I would keep the level of government, city government, the same size yet increase the delivery of services. I did this because at that time the average large city doubled in size every 5 years. I thought, let us try to stop that. So I started firing people for inefficiency. And when I saw them later and said, "I thought I fired you," and they said, "Well I have been reinstated," I found out in government you cannot fire people for inefficiency. I found the way to do it. You defund departments and get them all.

There are some bureaucracies that were at one time performing a function that was needed; the problem went away, but the bureaucracy continues. This is what we are talking about, going through, having sunset provisions where we can say, Is this thing really needed? Is this in the public interest anymore, as it was 40 years ago when that particular agency was started?

It is not a lack of compassion, as the Senator from Pennsylvania has said in such an articulate way, because we are compassionate. But when I have town-hall meetings, I talk to senior citizens. Sometimes when I have them during the day, 90 percent of them are senior citizens or retired people. They come up. Of course when you tell them what is going to happen if we continue on this road, what is going to happen to their grandchildren and great grandchildren and generations to come, I find these people are not selfish. They just do not want to be cut unless others are cut.

The Senator might remember when the Heritage Foundation did a study here a few years ago where they said if you put on a growth cap of 2 percent for just a matter of 5 years on all Government spending, you will balance the budget in that period of time and will not have to cut or eliminate one Federal program. Just stop the increase, the accelerated growth. That is, I think, what we are trying to do.

Mr. THOMAS. That is the interesting and not well understood point. Two years ago—when the President talks about deficit reduction, the fact is there was no cut in spending. The fact is the spending still continues at 5 percent and the cuts, the deficit reductions were bookkeeping things and raising taxes. We still continued. So we are talking not about cutting overall spending. We are talking about reducing the growth. I thank the Senator.

Mr. INHOFE. The Senator might remember, he and I were both in the House of Representatives back when President Bush—I criticized him publicly because of some of the assumptions he came up with in his budget resolution as to growth assumptions. A lot of people do not realize for each 1 percent growth in economic activity, there is a generation of new revenue of about $24 billion. He was a little overly optimistic on some of the projections his people put forward for him also on gas tax revenues and some of the other things.

I think we want to be realistic. We want to get to where we are going and that is to eliminate the deficit by the year 2002. I would like to do it by the year 2000 instead of 2002. I think most of us would. But we are on the road to doing something realistic. Let us stay with it.

Mr. THOMAS. We are. I thank the Senator for his comments.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

SMALL RURAL HOSPITALS

Mr. GRASSLEY. Mr. President, I will join Senator BAUCUS and Senator ROCKEFELLER in introducing the Rural Health Improvement Act of 1995.

The purpose of this legislation is to establish within Medicare a rural hospital flexibility program.

Such a program is badly needed. Many smaller rural communities, and their hospitals, are unable to sustain the full range of hospital services necessary to qualify for participation in the Medicare Program. There are several reasons for this. Among the most important is that the Medicare rules and requirements for full service hospitals are burdensome and inflexible. Compliance with them is difficult for smaller rural facilities. Furthermore, Medicare reimbursement is inadequate. This latter problem is compounded by the fact that these hospitals are likely to be dependent on the program—most of their patients in any given year are likely to be Medicare beneficiaries. Thus, most of their reimbursement comes from the Medicare Program.

As a consequence, under the current Medicare rules and reimbursement levels, many of these small, rural hospitals across the country could go out of business. If they do, their communities would lose their current access to emergency medical services.

This legislation could make the difference between survival and closure for these hospitals. In Iowa, there are at least 10 hospitals, perhaps more, which could qualify for participation in the program this legislation would establish.

This legislation would help those hospitals to continue offering essential hospital services in at least four ways: It would provide more appropriate and flexible staffing and licensure standards. It would reimburse both inpatient and outpatient services on a reasonable cost basis. It would promote integration of these hospitals in broader networks by requiring participating States to develop at least one rural health network in which the rural critical access hospital would participate. And it would require the Secretary of Health and Human Services to recommend to the Congress an appropriate reimbursement methodology under Medicare for telemedicine services.

Hospitals which participate in this program could thus continue to provide an essential point of access to hospital level services in their rural communities. Essentially, these hospitals could pare back the services they offer to emergency care services and to 24-hour nursing services, while continuing to participate in the Medicare Program on a reasonable cost basis. In this way, they would continue to be the major point of access to emergency medical care in their communities.

Again, I am pleased to join my colleagues, Senator BAUCUS and Senator ROCKEFELLER, and I commend their leadership on this problem.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. Mr. President, I ask unanimous consent to speak as if in morning business for 6 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE PRESIDENT'S BUDGET

Mr. FRIST. Mr. President, I wish to continue the discussion begun this morning by my fellow freshman Senators on the President's budget proposal introduced last week.

Mr. President, I am pleased to see that President Clinton has joined Republicans in at last recognizing the need—the critical need—to balance the Federal budget.

But while the President's new position is a dramatic policy reversal from his previously stated view, and his new budget proposal is an improvement over his last one which did nothing to reign in the growth of government, the President's budget does not go nearly far enough.

Mr. President, the President's logic that slowing the path of deficit reduction would ease the pain on the elderly, on students, on the disabled, and the economy just does not hold up. In fact, the reverse is true. Delaying balancing the budget is more costly in the long run, as we run up more and more debt and higher and higher interest payments. And according to CBO, expected reductions in interest rates that would result under the Republican balanced budget plan are not certain to materialize under the President's plan. This means that under the President's plan, home mortgages, business loans, credit card interest, and virtually everything that is affected by interest rates in this country would be more expensive. And finally, delaying balance for 10 years runs the risk that we may never get there if we do not put our country on a strict diet of spending discipline beginning now.

President Clinton has recognized that there must be spending restraint on entitlement programs, such as Medicare and Medicaid, if we are to achieve balance, and I commend him for at least talking the talk of entitlement reform. But the President's specific proposals are troublesome. The Clinton June budget actually spends $1 billion more in nondefense discretionary spending than did his February budget. And it relies on overly optimistic estimates relating to economic growth and the cost of increases in Medicare and Medicaid. These rosy estimates, while appearing to be only slightly different from congressional estimates in the early years, are greatly magnified over a 10-year period. As a result, deficits will be much higher if analyzed using Congressional Budget Office figures.

According to the Congressional Budget Office—who Mr. Clinton once exalted and now deplores—Mr. Clinton's latest budget will fall far short of its goals, and like the last budget Mr. Clinton sent to Capitol Hill, will still leave the Nation in debt by as much as $234 billion by the year 2002.

It is clear to me what the President wants to do. He very much wants to balance the budget. He knows that balancing the budget is the right thing to do. But he really does not want to make the hard choices that must be made if we are going to truly put America back on the road to fiscal health.

The President's budget proposals relating to health care are indicative of the President's split-personality budget. He first takes a lower baseline for Medicare and Medicaid, which in plain terms means how much these programs are projected to cost over the next 10 years. This averts some pain by saying, "It's really not as bad as we thought." Then the President's budget proposal reduces spending for Medicare—only by cutting payments to providers. In effect, the President is saying, "Let's reduce spending for Medicare, but only if it doesn't hurt anyone." There are no proposed changes for payments to beneficiaries or real reform of the system.

Mr. President, this approach does not make any sense in 1995. We must reform Medicare to save Medicare, to improve it, to preserve it. We have to change the program so that it is preserved for generations to come. We will never ensure long-term solvency of the Medicare program by just continuing to cut payments to health care providers. Republicans have instead proposed restructuring the Medicare program to save it and improve it. The Republican plan would expand choice, for our seniors and our disabled, and would increase market efficiencies and reduce waste. The President's plan, on the other hand, would only postpone bankruptcy of the Medicare program until 2005.

Mr. President, while I admire the President's goals, I believe that the President's latest budget submission is yet one more case of failing to adequately address the crisis at hand and choosing instead to respond to critics by producing a budget designed for domestic political consumption rather than the welfare of the American people.

I hope the President will work with the Republicans. We, on our side of the aisle, have made some tough choices, and there are more to come. But I know the American people are with us, and they will put the interests of the country ahead of special interests. They voted for the fundamental change that Republicans have proposed and we must honor our commitment to the Americans who sent us to Washington last November.

I thank the Chair and yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to commend our distinguished colleague. We are indeed fortunate, not only here in the Senate but the United States, to have one who made this important career change having dedicated his life to saving lives in his career. Now, he brings to the institution of the Senate enormous knowledge, not only personal but that gained from working with his colleagues in the medical profession for these many years, such that we can have the benefit of his wisdom and experience as we address the critical issues relating to health care. I express my appreciation to the Senator for these remarks this morning. They are very timely.

TRIBUTE TO GEORGE STAFFORD

Mr. DOLE. Mr. President, one of the most remarkable public servants in Kansas history was Frank Carlson, who served in this Chamber for 18 years.

During his career, Senator Carlson also served for 4 years as a member of the Kansas House of Representatives, 12 years in the U.S. House of Representatives, and 4 years as Governor.

Senator Carlson did many great things in his career, including helping to draft Dwight Eisenhower for President in 1952.

But I am here this morning to talk about another great thing that Frank Carlson did. And that is the fact that he brought George Stafford to Washington, DC.

George passed away last week, and I wanted to take a minute to remember this outstanding Kansan and outstanding American.

George was executive secretary to Frank Carlson during his term as Governor, and followed him to Washington as his Senate administrative assistant.

He served in that role for 17 years with great intelligence and integrity, always reaching out to provide advice and support to young Kansans who were new in town.

In 1967, then-President Johnson appointed George to serve on the Interstate Commerce Commission. He remained on the commission until 1980, serving as its chairman for 7 years.

George's years in Topeka and Washington are not the only examples of the service he gave to his country. He also defended freedom in World War II, rising to the rank of Captain, and receiving both the bronze star and the purple heart.

Like many in Kansas and in Washington, I was proud to call George Stafford my friend.

I know that Senator KASSEBAUM joins with me in extending our sympathies to Lena Stafford, George's wife of 48 years; his children; Bill, Susan, and Quincy; and his five grandchildren.

RETIREMENT OF GEN. GORDON SULLIVAN

Mr. DOLE. Mr. President, I rise today to commend a truly remarkable individual, Gen. Gordon R. Sullivan, on his retirement after 36 years of service to our Army and to our Nation.

I had the distinct honor of working closely with General Sullivan over the years when he served as the deputy of the Command and Staff College at Fort Leavenworth, KS and during his command of the Big Red One at Fort Riley, KS.

Indeed, it was my pleasure to introduce General Sullivan before the Senate Armed Services Committee during his confirmation as chief of staff of the Army just 4 years ago.

In my view, Gordon Sullivan was exactly the right man at the right time to lead our Army during one of the most difficult periods of restructuring and downsizing. He kept the right perspective, and put it best in his own words, "smaller is not better, better is better."

Throughout his 4 years as Army Chief of Staff, General Sullivan kept his focus and vision. His priorities were our soldiers whom he prepared to fight and win our Nation's wars. And their families who support our solders and willingly sacrifice for their purpose.

I frequently conferred with General Sullivan throughout this term as Army Chief. His views and counsel were always on the mark. Gordon Sullivan brought tremendous wisdom to the job and a style of leadership which reflected his greatness.

Our Army will sorely miss General Sullivan, but it is stronger and better for his service. The legacy he leaves, a ready Army, a future force that will be unmatched, and the deep love and devotion of his solders is fitting of this great man.

I ask my colleagues to join me in commending Gen. Gordon R. Sullivan for his sacrifice, his leadership, and his commitment to our solders and to our Nation.

God's speed and blessings to him and to his wife Gay, and their family.

TRIBUTE TO CLAIRE STERLING

Mr. MOYNIHAN. Mr. President, on Saturday last, in Arezzo, Italy, Claire Sterling died, age 76. So passed, as her great friend Meg Greenfield put it, "one of the great journalists of all time."

She was born in Queens, took her degree from Brooklyn College, and went from there to the Columbia graduate school of journalism. In time she joined the staff of the Reporter where she was a colleague of Ms. Greenfield for some 17 years, albeit from her post in Rome.

In her youth, as a student involved with student politics at Brooklyn College, and later as a union organizer, she came in contact with the Stalinist left which gave her a perspective, almost a second sense concerning ideological politics that ever thereafter informed her accounts of world politics at the highest, and yes, lowest, even criminal and clandestine levels. What liberals did not wish to know—many liberals, that is—and conservatives could not grasp, she instantly understood, and sublimely construed. There is a Hebrew saying, ha mevin yavin: those who understand, understand. Claire Sterling understood and not just at metaphysical heights. Who else would have persuaded the rebels opposing French rule in Algeria to let her know which trains she could take back to the coast which were not scheduled to be blown up.

Meg Greenfield allows as how "it is hard to think of her as dead, for she was so alive." And so we will remember her, even as we offer our condolences to her beloved husband Tom, and her son Luke, daughter Abigail, and her sister Ethel.

Mr. President, I ask unanimous consent that the full text of the articles from the New York Times and the Washington Post be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, June 18, 1995]

CLAIRE STERLING, 76, DIES; WRITER ON CRIME AND TERROR

(By Eric Pace)

Claire Sterling, an American author and correspondent based in Italy, who was known for her writings on terrorism, assassination and crime, died yesterday in a hospital in Arezzo, Italy. She was 76 and lived outside of Cortona, near Arezzo.

She had cancer of the colon, her husband said.

Mrs. Sterling was based in Italy for more than 30 years and traveled widely. Her most recent book, "Thieves' World: The Threat of the New Global Network of Organized Crime" (1994, Simon & Schuster), was praised by Stephen Handelman, of the Harriman Institute of Advanced Soviet Studies at Columbia University, as making "a significant contribution to post-cold-war debate" by affirming "that the growing interdependence among nation-states and financial institutions has made it easier for crime syndicates to cooperate across national boundaries."

In an earlier book, "Octopus: the Long Reach of the International Sicilian Mafia" (1990), she examined the Sicilian Mafia and charged gangster-chieftains based in Palermo with creating a multinational empire with the United States as its longtime main target.

In her 1984 book "The Time of the Assassins," Mrs. Sterling examined the attempt by a Turk, Mehmet Ali Agca, to kill Pope John Paul II in 1981. She contended that Mr. Agca had "come to Rome as a professional hit man, hired by a Bulgarian spy ring." She presented what she called "massive proof that the Soviet Union and its surrogates have provided the weapons, training and sanctuary for a worldwide terror network aimed at the destabilization of Western democratic society."

Mrs. Sterling's contention about a Bulgarian role in the attack was disputed, but writing in 1991, she maintained that Italian courts in 1988 had "expressed their moral certainty that Bulgaria's secret service was behind the papal shooting."

She also attracted wide attention with her 1981 book "The Terror Network," which traced connections among terrorist groups around the globe. William Abrahams, who edited the book for Holt, Rinehart & Winston, said that while she was writing it, the Italian Government posted a guard at her house to protect her.

A decade later, the New York Times columnist Anthony Lewis reported that William J. Casey, the Director of Central Intelligence in the Reagan Administration, had held up a copy of "The Terror Network" before a group of official intelligence experts and had "said contemptuously that he had learned more from it than from all of them."

Mrs. Sterling's first book was "The Masaryk Case" (1969), about Jan Masaryk, the Czechoslovak Foreign Minister who was reported to have leaped to his death in 1948 from a window of his Prague apartment. She concluded that he had been killed by Soviet or Czechoslovak Stalinists to keep him from defecting to the West.

In her decades abroad, she also wrote articles for The New York Times, Atlantic Monthly, The Reporter magazine, Life, Reader's Digest, Harper's, The New Republic, The Washington Post, International Herald Tribune and The Financial Times.

Mrs. Sterling was born Claire Neikind in Queens, received a bachelor's degree in economics from Brooklyn College, and worked for a time as a union organizer among electrical workers.

In 1945 she received a master's degree from the Columbia Graduate School of Journalism, which awarded her a Pulitzer Traveling Scholarship.

She went on to work in Rome for what she described in a 1981 interview as "a fly-by-night American news agency." She learned Italian, and when the agency went out of business, she returned to the United States and joined the staff of The Reporter magazine, which began publication in early 1949.

Mrs. Sterling recalled that when she applied for the Reporter job, Max Ascoli, the magazine's Italian-born publisher and editor, said, "If anybody's going to write about Italy around here, it's me."

In 1951, she married Tom Sterling, a writer. She remembered that "Max Ascoli's wedding present to me was a six-month assignment in Rome."

Mrs. Sterling's six-month assignment lasted 17 years, ending only when The Reporter ceased publication in 1968. By then, the Sterlings were accustomed to life in Italy, where Mr. Sterling had written some of his more than a dozen books. So Mrs. Sterling, keeping Italy as her base, began writing her Masaryk book.

She is survived by her husband; a son, Luke, of Cortona; a daughter, Abigail Vazquez of San Francisco; two grandchildren, and a sister, Ethel Braun of Manhattan.

[From the Washington Post, June 18, 1995]

CLAIRE STERLING, INVESTIGATIVE WRITER, DIES

(By Bart Barnes)

Claire Sterling, 75, a U.S. journalist and author of investigative books that explored connections between the Soviet government and terrorist organizations around the world, died of cancer June 17 at a hospital in Arezzo, Italy.

In a journalistic career that spanned almost five decades, Mrs. Sterling covered and wrote about armed revolutionary movements in Third World countries, U.S. gangsters, World War II refugees and political assassinations. She was based in Italy for most of that period, and from there she wrote stories for The Washington Post and other newspapers. But her work also took her to Eastern Europe, Africa, the Middle East and Asia.

Her books included "The Masaryk Case" (1969), in which she argued that the 1948 death of Czech Foreign Minister Jan Masaryk was murder, not suicide; "The Terror Network" (1981), in which she argued that the Soviets were sponsoring and supporting terrorist organizations in several countries; and "The Time of the Assassins" (1984), in which she accused the Soviet Union of complicity in the 1981 attempted assassination of Pope John Paul II.

She began her career in journalism shortly after World War II, working in Italy for the now-defunct Overseas News Service. It was an era when women were rare and often unwelcome in the news business, and Mrs. Sterling became known as an adventuresome and energetic reporter who sometimes used creative methods to get her stories.

In Italy, she boarded a Palestine-bound ship with Jewish war refugees, taping her U.S. passport to her arm, which she had encased in a cast as if it were broken. The ship was intercepted by British authorities, and she was taken to an internment camp. But she was released when she produced the passport proving her U.S. nationality.

During the 1950s, she wrote about independence movements in North Africa, and she often traveled with bands of armed insurgents, including once when she was five months pregnant. When her husband expressed concern about this, she told him not to worry—the rebels had promised not to blow up any trains she was on.

Mrs. Sterling was born in New York. She graduated from Brooklyn College and received a degree in journalism from Columbia University.

After a short stint with the Overseas News Service, she joined the staff of Reporter magazine in 1949. She interviewed New York mob boss Lucky Luciano and wrote an unflattering profile of Clare Booth Luce, the U.S. ambassador to Italy during the Eisenhower administration. She wrote stories from sub-Saharan Africa, the Middle East and Asia.

After Reporter folded in 1968, Mrs. Sterling wrote articles for Harper's magazine, did freelance writing and wrote books.

In 1968, she covered the brief period of social and political liberalization in Czechoslovakia under the leadership of Alexander Dubcek, which became known as the Prague Spring. In the course of reporting that story, she began looking into the 1948 death of Masaryk, the foreign minister, who had been found dead in the courtyard of Prague's Czernin Palace, apparently after falling from a window. The death had been ruled a suicide.

From previously published material, interviews and new documents, Mrs. Sterling concluded that Masaryk, a popular political figure and a leader of the Czech government in exile during the wartime occupation by Germany, had been murdered by Communist agents, probably to prevent his defection to the West. She speculated in her book "The Masaryk Case" that he had been overpowered by security agents, suffocated with pillows and flung from the window.

Her second book, "The Terror Network," was based on an article she had written for Atlantic Monthly in which she explored similarities between the kidnappings and murders in the 1970s of former Italian premier Aldo Moro by the Italian Red Brigades and of West German industrialist Hans-Martin Schleyer by the German Red Army Faction.

In this book, Mrs. Sterling traced what she said were extensive political and military links between terrorist organizations, all of which, she suggested, received material but clandestine support from Moscow. "In effect," she wrote, "the Soviet Union simply laid a loaded gun on the table, leaving the others to get on with it." The book was well received by the newly inaugurated administration of Ronald Reagan, but liberal critics complained that Mrs. Sterling's argument was unsupported by conclusive evidence.

In "The Time of the Assassins," Mrs. Sterling investigated claims by Mehmet Al Agca that he was acting on orders from the Bulgarian secret service in his 1981 attempt on the life of Pope John Paul II. In 1986, an Italian jury acquitted three Bulgarians and three Turks of conspiracy in the plot for lack of proof. Mrs. Sterling continued to insist that the Soviet Union was behind it.

She married novelist Thomas Sterling in 1951. They lived in Rome and Cortona, Italy.

In addition to her husband, she is survived by two children, Luke Sterling, a painter who lives in Cortona, and Abigail Vazquez of San Francisco; and two grandchildren.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, on that memorable evening in 1972 when I learned that I had been elected to the Senate, I made a commitment to myself that I would never fail to see a young person, or a group of young people, who wanted to see me.

It has proved enormously beneficial to me because I have been inspired by the estimated 60,000 young people with whom I have visited during the nearly 23 years I have been in the Senate.

Most of them have been concerned about the magnitude of the Federal debt that Congress has run up for the coming generations to pay. The young people and I always discuss the fact that under the U.S. Constitution, no President can spend a dime of Federal money that has not first been authorized and appropriated by both the House and Senate of the United States.

That's why I began making these daily reports to the Senate on February 22, 1992. I wanted to make it a matter of daily record precisely the size of the Federal debt which as of yesterday, Wednesday, June 21, stood at $4,898,068,854,045.71 or $18,593.15 for every man, woman, and child in America.

THE RECALL OF THE CHINESE AMBASSADOR

Mr. PELL. Mr. President, I learned with regret last week that the People's Republic of China has recalled its ambassador to the United States, Li Daoyu, because of the visit of Taiwan President Lee Teng-hui. I am disappointed that the Chinese government has chosen this step as a form of protest over Lee's visit.

President Lee came to the United States on a private visit after he was invited to speak at his alma mater. He was granted a visa as a simple act of courtesy and his trip does not represent a change in our government's one-China policy. The United States believes strongly that notable speakers from around the world should be free to travel here to speak their views. I feel that Beijing's reaction to Lee's visit is both excessive and unproductive. Lee's visit was a small matter and should be seen as insignificant for overall Sino-United States relations.

There is a great reservoir of friendship between the peoples of China and the United States. I think of that friendship as an iceberg. Right now we may see problems at the tip, but underneath is a large, enduring solidness. I feel certain that sturdy base will help us outlast minor irritants to the relationship, such as this one. It is my deep wish that Beijing would simply agree to disagree with Washington on this matter, return Ambassador Li to his post quickly, and move on to the truly important matters we have between the two countries.

AMERICAN CENTER PLZEN

Mr. PELL. On May 6, 1995, I was honored to be part of the delegation headed by Ambassador Madeleine Albright and accompanied by Gen. Charles G. Boyd, commander in chief, U.S. European Command, to represent President Clinton at ceremonies marking the 50th anniversary of the liberation of Plzen in the Czech Republic.

Having served as a foreign service officer in Prague in 1946 after World War II, it was a particular personal honor to be present at such a warm outpouring of appreciation and gratitude shown by the people of the Czech Republic toward the gallant contributions made by the service men and women of Gen. George Patton's Third Army.

While in Plzen I was also honored to participate in the opening of American Center Plzen, with Prime Minister Klaus, the United States Ambassador to the Czech Republic, Adrian Basora, Ambassador Albright, and General Boyd. The creation of the American Center in Plzen was the personal accomplishment of a U.S. Peace Corps volunteer from Barrington, RI, John R. Hess.

The Center is a tribute to the enthusiasm and commitment of John Hess and the citizens of Plzen. Significantly, it was completed without having to commit any U.S. tax dollars. I asked Mr. Hess if he would send me a report on the creation of American Center Plzen, so that his work could serve as an example to others reaching out to our neighbors around the world. I ask unanimous consent that his report on American Center Plzen be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

REPORT ON AMERICAN CENTER PLZEN

This is a report requested by U.S. Senator Claiborne Pell about my activities as a U.S. Peace Corps Volunteer in establishing American Center Plzen without use of American taxpayers money. Senator Pell was in Plzen at the time of the Center's opening.

The idea of having an American Center for American-Czech business and cultural exchange in Plzen began with then Deputy Mayor of Plzen, Zdenek Prosek when in 1993 he discussed the thought with the U.S. Ambassador, Foreign Commercial Service, USIS, and representatives of the Czech American Enterprise Fund (CAEF). All thought well of the concept. CAEF liked the plan because there would be business investment opportunities for them and the others because it could help to create U.S. and Czech business growth as well as expand U.S. and Czech cultural understanding. The purpose of the Center would offer something to both the United States and to Plzen. A Center would make it easier for U.S. businesses to establish themselves in Western Bohemia as investors and for export possibilities. It would also enhance and build upon the warm feelings held by the West Bohemian people toward the U.S. resulting from General Patton's liberation of this area in 1945. Plzen would benefit as the Center will open access to U.S. business for joint ventures and could obtain the balanced economy sought by city leaders. CAEF offered to donate the equivalent of $35,000.00 as "seed money" for the project to cover any first year operating deficits. The United States Embassy clearly stated that no U.S. funds were available for the purpose of establishing the Center. Advisory assistance would be offered.

The city of Plzen made it known that it would bear all costs. Deputy Mayor Prosek (now Lord Mayor) told the Embassy and CAEF that the City would donate a historic building in the city center and would restore it at Plzen's expense. Plzen certainly did that spending the equivalent of $1,250,000 on the renovation as well as donating the building. Mayor Prosek also stated that a Foundation would be created with a Czech Director to operate the Center under Czech law and would be self supporting. It was agreed among the parties that a Peace Corps Business Volunteer as a catalyst to ensure that the project would be designed and implemented in a manner to assure success would be assigned to Plzen.

As that volunteer I discussed with project planners and architects hired by the city the layout of the building to meet the purpose of the project. It was agreed among the project designers, the architects, and myself that the building must be competitive for well into the 21st Century and must meet western standards. The building would have a social center, a meeting room for seminars, permanent offices, temporary offices for companies seeking partners, an information area, and a place for cultural displays. The building has over 100 communication outlets for phones, faxes, and computers. It is centrally air conditioned and handicap accessible. In addition, all offices have raised floors for ease of cabling. Ability to communicate was a major thrust and attention to computer, fax, and telephone access was a priority of the building infrastructure. The City also wanted the building completed in time for the 50 year Liberation Ceremony to take place in May 1995.

A working committee consisting of ten people was formed and met regularly to review plans. The committee assisted in hiring the Director for the Center as well as talking with the U.S. and Czech business communities about the Center. The makeup of the committee included five Czechs and five Americans. Four Czechs were from Plzen and one Czech and three Americans were from Prague.

Plans for the building were completed in June 1994 and were approved by the City. Building restoration began in September 1994 and was completed in late April 1995. The City paid all the expenses for the building. No U.S. taxpayer money was a part of the building renovations. The building is expected to be self sufficient financially by January 1997 through rental charges for offices, meetings, special services, etc.

The Foundation has been established and has two Boards, one advisory which includes American Chamber of Commerce in the Czech Republic, Peace Corps, an American Embassy person, and Chamber of Commerce Plzen. The voting Board is chaired by a Czech who is also Chair of the Business Innovation Center in Plzen. There are four Czechs and one American on the voting Board.

A few American and Czech companies have made donations of operating equipment such as fax machines and computers to the Center which are greatly appreciated.

A Peace Corps Business Volunteer will continue as an advisor to the Center until late January 1996. Peace Corps does not plan to assign another volunteer to this project after that date.

CONCLUSION OF MORNING BUSINESS

Mr. WARNER. Mr. President, am I correct that the Senate now turns to S. 440?

The PRESIDING OFFICER. Morning business is closed.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 440, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

The Senate resumed consideration of the bill.

Mr. WARNER. Mr. President, I see in the Chamber joining me the distinguished Senator from Rhode Island, the chairman of the committee, and I anticipate the arrival very shortly of the distinguished Senator from Montana, the comanager of the bill.

Mr. President, at the conclusion of the session last night, the Senate gave unanimous consent to a list of amendments. They are printed in today's RECORD, and the managers are very anxious to work with Members to resolve these amendments. I think several of them can be accepted. At this time, I cannot predict whether or not there will be further rollcall votes other than final passage associated with this bill.

The leadership is quite anxious to finish this bill today, and I indicate to all Members a willingness to deal with these amendments, and I am hopeful that Members will shortly come to the floor to work with us.

Mr. CHAFEE. Mr. President, I wish to echo what the distinguished Senator from Virginia has said. We are here to do business. The shop is open. If people have amendments, bring them on over. We are working on several now to resolve them. But others who have problems, now is the time.

The schedule is such that between now and 11:30 there is time for discussion and debate. There will be no votes before 11:30. At 11:30, we have a chance to vote. I would like to see us move to final passage and vote then. But if not, at 12 o'clock, we go back on the cloture motion. And the vote on that, as I understand, is at 2 o'clock. At the conclusion of that vote, if we have not finished this bill, we will be back on it again. But I know the leadership is very anxious to get this over with because there is a host of other measures with which they want to deal.

So I say to all within listening and viewing distance, come over, bring your amendments and let us dispose of them.

Mr. WARNER. Mr. President, for the ready reference of Senators, the list of amendments adopted by unanimous consent last night appears on page 2 of today's Calendar of Business.

Mr. President, seeing no Senator seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COVERDELL). The absence of a quorum having been suggested, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for a period of not more than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

HELP FOR THE FARMERS

Mr. FRIST. Mr. President, during the most recent recess, I had the privilege of meeting with 36 farmers, who make up an agriculture advisory board from across the State of Tennessee. We actually met in Knoxville, TN. The women and men on that board are real farmers, not just representatives of farmers, but people who personally earn their living on a farm.

One gentleman, exhausted from the dawn-to-dusk pace of a farm in early summer, told my staff quite candidly that he simply would not have time to meet with a Senator unless it turned out to be a rainy day. That kind of humble feedback is in itself an important reason for us in the U.S. Senate, as elected representatives, to go home and talk to real people. Some members of this agriculture board from the western part of my State could not join me at that meeting because that very day they were struggling with the floodwaters that were destroying and threatening to destroy their crops. Nothing—nothing—could have served to make the need for Federal disaster relief more concrete and more real for me than the voice of a good man on the phone near panic over the rising waters.

It was a fascinating day. When I had asked these 30 farmers to tell me what they would like their duly elected Senator to know today about agriculture, they were forthright and firm in their advice and their counsel. On two points they were very clear. Sam Worley of Hampshire, TN, said:

> We want a smaller Federal Government that thinks not short term but long term.

He went on and expressed that they wanted to be treated fairly in the spending reductions that they expect and that they know are necessary for the long-term health of this country for that next generation.

These hard-working Tennesseans resent the media portraying them as parasites. They are willing to sacrifice, each and every one, as long as all Americans do, to balance the budget. They shuddered when I shared with them the fact that a child born today acquires an $18,000 share in the Federal debt—a share of the Federal debt that they will be expected to pay the interest on over the course of a lifetime. They made it very clear to me that they are ready to do their part, as long as we do not try to balance the budget on the backs of the farmers.

What else did these men and women have to tell me? They are frustrated with the perverse incentives of our welfare system. Mike Vaught of Lacassas, TN, told me of being unable to find an overseer to live on his farm because he could not provide the cable TV that was available in the public housing just miles away. They are frustrated with the intrusive Federal agencies that often act at cross purposes with each other. The Environmental Protection Agency orders action that the Soil Conservation Service prohibits. Jimmy Shellabarger of Jackson, TN, told me that he is frustrated by the huge fines for minor infractions of complicated rules. David Robinson of Jonesboro said,

> We are tired of being held to expensive standards of production when our global competitors are allowed to ignore these same standards.

These farmers also asked for tax relief. This may surprise some of my colleagues across the aisle, but the tax relief that they asked me for, that they spoke about, was a cut in the capital gains tax rate. These are mainly middle-class Tennesseans. Some have experienced or been very close to bankruptcy, riding the roller coaster of commodity prices. But they fully understand what seems to elude so many of my colleagues, that a cut in the capital gains tax rate is critical to middle-income Americans; that it will stimulate the economy to the benefit of everyone in America.

In closing, I want to tell you what James Wooden of South Pittsburg, TN, said. He said, "I am going to talk to you just like we do under the shade tree." I will remember those words of James Wooden when the 700-page farm bill, full of Washington lingo, comes by my way. We all need to go out under the shade tree and listen to the people across this country and let the people, firsthand, tell us what they know.

Mr. President, I yield the floor and suggest the absence of a quorum.

Mr. DOLE. Will the Senator withhold?

The PRESIDING OFFICER. The Chair recognizes the majority leader.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, first I want to remind my colleagues the two managers are here on the highway bill and have been here since 9:30 and would very much like to complete action on this bill by noon today because at noon we have 2 hours of debate on the Foster nomination and then another vote. And then hopefully after that we would go to securities litigation legislation.

I have just talked with Virginia Senator, Senator WARNER. Maybe many of these amendments will never be called up, but it will be helpful if our colleagues on either side will let the managers know. If we are not going to call up the amendments or if you have an amendment, it would certainly be better to offer it at 10:30 in the morning rather than 10:30 tonight. The reason we are here every night until 10 o'clock, 11 o'clock, is because people will not cooperate during the daytime. They are the same ones who complain in the evening after 7 or 8 o'clock. So

I would tell my colleagues, if you have an amendment, the managers are here.

Mr. WARNER. Mr. President, if I might say to the distinguished leader, half of these amendments are not matters related to the bill. They are not matters either the Senator from Montana nor I can really settle out because other chairmen and ranking members of other committees are involved in the subject of the amendments.

It seems to me it takes a good deal of work to get these things done by persons other than the managers of the pending bill.

Mr. DOLE. I note the presence of the distinguished chairman of the committee, Senator CHAFEE. There are a number of amendments under the jurisdiction of the Commerce Committee, Energy Committee, whatever. As the Senator from Virginia has pointed out, they are not under the jurisdiction of the committee that has the bill on the floor.

In any event, I know many of my colleagues may have conflicts at this moment because there are amendments here by Senator BOXER, three by Senator EXON, one by Senator FORD, Senator HATFIELD, Senator KERRY, Senator LAUTENBERG, Senator NICKLES, Senator MCCAIN, Senator SARBANES, Senator SMITH, Senator STEVENS, and Senator MURKOWSKI. We would hope whoever is willing to come to the floor would do so. If they do not intend to offer their amendments, if they would notify the managers on either side then we can move on because we do have a lot of legislation we will finish before the July 4 recess begins. It is up to our colleagues when that may happen.

Mr. WARNER. Mr. President, I might inform the leader Senator HATFIELD has just withdrawn his amendment.

Mr. DOLE. We are making progress.

Mr. WARNER. Now we are making progress.

Mr. DOLE. Now can we have a bit from the other side?

Mr. BAUCUS. I might say to the leader, in response to his question, that means automatically one or two others are dropped. Automatically, too, that means others are dropped.

Mr. DOLE. I think that means Senator MCCAIN's amendment will disappear.

Mr. BAUCUS. Also another one on this side, too, will not be offered as a consequence of that last development.

Mr. DOLE. We are making progress as we speak.

Mr. BAUCUS. Maybe the Senator could find another one that has the same ripple effect?

Mr. DOLE. Could I ask, will there be any of these other amendments requiring rollcall votes?

Mr. WARNER. Mr. President, I say to the distinguished leader and others, at this present time the managers of the bill do not know of a request for a rollcall vote other than final passage.

The PRESIDING OFFICER. The Chair recognizes the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I agree with the analysis of the distinguished Senator from Virginia. We are making some progress.

We would appreciate your sticking around a little longer, though. We have just disposed of three in 30 seconds. It is like a house of cards. If we pull one card out, perhaps the whole thing will come collapsing down and we will finish. In any event, we are striving. We will call on these individual Senators to see if they are satisfied.

I think the point the managers make here is a very valid one. These amendments, many of them, do not involve this committee. They involve other committees. And we are caught in a crossfire here. The Commerce Committee or the Energy Committee—they have nothing to do with us. I do not even know why they are on this bill.

Mr. WARNER. Mr. President, there are a number of them relating to the Banking Committee. As such, I know Senator D'AMATO has been trying to be very helpful on it. Other committee chairmen are working together with their ranking members. It is most unusual.

Mr. DOLE. Perhaps—perhaps we can, if our colleagues do not object, then we can go to third reading, say at 11:30? That would be one way too expedite the process. We have indicated to one of our colleagues, the eldest, there may not be any votes until 11:30. But that does not mean we should not proceed. I think we are making progress and I want to congratulate the managers. I do believe I can see some of these may be tied together. Some may not have any—some may be more related to the next bill than this bill, as I understand it. Some that do not want the other bill to come up.

In the meantime, while we are waiting for our colleagues to come, I know there must be a rush on the subway as I speak. They are all heading for the floor at the same time.

Mr. President, while we are waiting additional action on this bill, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FAIRCLOTH). Without objection, it is so ordered.

Mr. WARNER. The managers wish to thank Senators. We are making considerable progress. I would like to make a report, together with my distinguished colleague.

On the horizon is the opportunity perhaps to vote final passage at about 11:30, or at such time thereafter, or before 12, as the leadership of the Senate may designate.

But to bring Senators up to date, referring to page 2 of today's calendar, the amendments pending from last night by the Senator from California, Mrs. BOXER, are withdrawn; Senator CHAFEE withdrawn; Senator FORD, we have reason to believe that is going to be withdrawn; Senator HATFIELD, withdrawn; Senator KERRY, we have reason to believe that will be withdrawn; Senator LAUTENBERG has resolved his amendment. We have reason to believe Senator NICKLES' amendment will be withdrawn. Senator MCCAIN has been resolved.

That leaves Senator SARBANES, and Senator SMITH is very close to reconciliation. Senator CHAFEE is working on that with Senator SMITH. There still remains an amendment by Senators STEVENS and MURKOWSKI, the Senators from Alaska, but we are hopeful that that matter can be resolved. It relates to the Committee on Energy, of which Senator MURKOWSKI is the chairman. We hope that can be resolved. Neither of the managers of the pending bill have any dealings with that.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I would like to join in commending Senators who have worked out resolutions of amendments. The Senator from Virginia has done an admirable job, a wonderful job talking with Senators and working out resolutions.

On the Democratic side, we are about finished. Senator EXON has three amendments. I hope, because those are Commerce Committee amendments, that the chairman of the Commerce Committee and his staff can work out agreements with Senator EXON. Senator EXON is on the floor now ready to proceed with his amendments. I hope that those can be worked out. We are very close to final passage. Very close. I expect we can finish this bill before noon.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. EXON. I thank the Chair, and I thank the managers of the bill. While the dialog was just briefly going on between the two managers, I have received information we have clearance for the second Exon amendment now on both sides of the aisle. I will take those in order.

Mr. WARNER. Mr. President, the Senator from Nebraska is correct. On the second amendment, clearance has been arranged.

AMENDMENT NO. 1462

(Purpose: To increase safety where the rails meet the roads)

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Nebraska [Mr. EXON] proposes an amendment numbered 1462.

Mr. EXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

SEC. . SHORT TITLE.

This amendment may be cited as the "Federal Highway and Railroad Grade Crossing Safety Act of 1995".

SEC.—INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

(a) In General.—In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary of Transportation shall ensure that the National Intelligent Vehicle-Highway System Program addresses, in a comprehensive and coordinated manner, the use of intelligent vehicle-highway technologies to promote safety at railroad-highway grade crossings. The Secretary of Transportation shall ensure that two or more operational tests funded under such Act shall promote highway traffic safety and railroad safety.

SEC.—STATE HIGHWAY SAFETY MANAGEMENT SYSTEMS.

(a) Amendment of Regulations.—The Secretary of Transportation shall conduct a rulemaking proceeding to amend the regulations under section 500.407 of title 23, Code of Federal Regulations to require that each highway safety management system developed, established, and implemented by a State shall, among countermeasures and priorities established under subsection (b)(2) of that section—

(1) include public railroad-highway grade-crossing closure plans that are aimed at eliminating highrisk or redundant crossings (as defined by the Secretary);

(2) include railroad-highway grade-crossing policies that limit the creation of new at-grade crossings for vehicle or pedestrian traffic, recreational use, or any other purpose; and

(3) include plans for State policies, programs, and resources to further reduce death and injury at high-risk railroad-highway grade crossings.

(b) Deadline.—The Secretary of Transportation shall complete the rulemaking proceeding described in subsection (a) and prescribe the required amended regulations, not later than one year after the date of enactment of this Act.

SEC. . VIOLATION OF GRADE-CROSSING LAWS AND REGULATIONS.

(a) Federal Regulations.—Section 31311 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(h) Grade-crossing Violations.—

"(1) Sanctions.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations, by persons operating commercial motor vehicles, of laws and regulations pertaining to railroad-highway grade crossings.

"(2) Minimum Requirements.—Regulations issued under paragraph (1) shall, at a minimum, require that—

"(A) the penalty for a single violation shall not be less than a 60-day disqualification of the driver's commercial driver's license; and

"(B) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of such a law or regulation shall be subject to a civil penalty of not more than $10,000.".

(b) Deadline.—The initial regulations required under section 31310(h) of title 49, United States Code, shall be issued not later than one year after the date of enactment of this Act.

(c) State Regulations.—Section 31311(a) of title 49, United States Code, is amended by adding at the end the following new paragraph:

"(18) Grade-Crossing Regulations.—The State shall adopt and enforce regulations prescribed by the Secretary under section 31310(h) of this title.".

SEC. . SAFETY ENFORCEMENT.

(a) Cooperation Between Federal and State Agencies.—The National Highway Traffic Safety Administration, and the Office of Motor Carriers within the Federal Highway Administration, shall on a continuing basis cooperate and work with the National Association of Governors' Highway Safety Representatives, the Commercial Vehicle Safety Alliance, and Operation Lifesaver, Inc., to improve compliance with and enforcement of laws and regulations pertaining to railroad-highway grade crossings.

(b) Report.—The Secretary of Transportation shall submit a report to Congress by January 1, 1996, indicating (1) how the Department worked with the above mentioned entities to improve the awareness of the highway and commercial vehicle safety and law enforcement communities of regulations and safety challenges at railroad-highway grade crossings, and (2) how resources are being allocated to better address these challenges and enforce such regulations.

SEC. . CROSSING ELIMINATION; STATEWIDE CROSSING FREEZE.

(a) Statement of Policy.—

(1) Railroad-highway grade crossings present inherent hazards to the safety of railroad operations and to the safety of persons using those crossings. It is in the public interest—

(A) to eliminate redundant and high risk railroad-highway grade crossings; and

(B) to limit the creation of new crossings to the minimum necessary to provide for the reasonable mobility of the American people and their property, including emergency access.

(2) Elimination of redundant and high-risk railroad-highway grade crossings is necessary to permit optimum use of available funds to improve the safety of remaining crossings, including funds provided under Federal law.

(3) Effective programs to reduce the number of unneeded railroad-highway grade crossings, and to close those crossings that cannot be made reasonably safe (due to reasons of topography, angles of intersection, etc.), require the partnership of Federal, State, and local officials and agencies, and affected railroads.

(4) Promotion of a balanced national transportation system requires that highway planning specifically take into consideration the interface between highways and the national railroad system.

(b) Partnership and Oversight.—The Secretary shall foster a partnership among Federal, State, and local transportation officials and agencies to reduce the number of railroad-highway grade crossings and to improve safety at remaining crossings. The Secretary shall make provision for periodic review to ensure that each State (including State subdivisions and local governments) is making substantial, continued progress toward achievement of the purposes of this section.

(c) Crossing Freeze.—If, upon review, and after opportunity for a hearing, the Secretary determines that a State or political subdivision thereof has failed to make substantial, continued progress toward achievement of the purposes of this section, then the Secretary shall impose a limit on the maximum number of public railroad-highway grade crossings in that State. The limitation imposed by the Secretary under this subsection shall remain in effect until the State demonstrates compliance with the requirements of this section. In addition, the Secretary may, for a period of not more than 3 years after such a determination, require compliance with specific numeric targets for net reductions in the number of railroad-highway grade crossings (including specification of hazard categories with which such crossings are associated).

(d) Regulations.—The Secretary shall issue such regulations as may be necessary to carry out this section.

Mr. EXON. Mr. President, I appreciate the cooperation of the two managers. I have been trying to work with them to move this expeditiously ahead. I think we have made some great progress overnight. At least two of the amendments that were in question have now been resolved.

The first amendment that I have just offered is the Federal highway-railroad grade-crossing safety amendment. This legislation builds on the important work already done by the U.S. Senate. The provisions in this amendment should be familiar and are familiar to the Senate, and it is noncontroversial.

Mr. President, I am pleased to offer the Federal highway and railroad grade crossing safety amendment. This legislation builds on important work already done by the U.S. Senate. The provisions in this amendment should be familiar to the Senate and noncontroversial.

Most deaths and injuries which occur in the rail industry are as a result of trespassers and motorist violation of railroad grade crossing laws. About 600 people a year die as a result of railroad crossing accidents and about 600 people a year die as a result of trespassing on railroad property. An automobile and a train collide once about every 90 minutes in the United States. In 1992 approximately 2,500 people were either killed or seriously injured as a result of railroad grade crossing accidents.

This is one area of death and injury which is almost entirely preventable. The amendment I offer is meant to complement landmark rail safety legislation approved last year as part of the so-called Swift Rail Act, named in honor of former House Chairman Al Swift.

As the former chairman of the Senate Surface Transportation Subcommittee, I chaired a number of hearings on railroad and grade crossing safety. Those hearings indicated that although significant progress has been made in reducing the number of rail related deaths, there is still room for improvement, especially when it comes to grade crossing safety. Unfortunately, in the past, jurisdictional disputes with the House of Representatives got in the way of a number of important Senate grade crossing safety initiatives. Now that the House of Representatives has reorganized, I am hopeful that good ideas will not be slain by the sword of jurisdiction.

States and local governments must be encouraged to enforce their laws against grade crossing violations and must be encouraged to finally close crossings. The split jurisdiction between the Federal Highway Administration, The Federal Rail Administration, States, local governments, and railroads has led to a gridlock of responsibility. This amendment helps shatter that gridlock.

It is time to make the places where rails meet roads safer for rail workers, drivers, and pedestrians.

This amendment should be very familiar to the Senate. Its provisions are taken from legislation unanimously approved by the Senate last year.

Provisions taken from the railroad safety bill unanimously approved by the Senate in 1994 consist of provisions dropped from the final Swift Rail Act because they were outside the jurisdiction of the House Energy and Commerce Committee.

These provisions require that grade crossing safety be made part of at least two intelligent vehicle highway systems projects; ensure that States include grade crossing closure and safety enhancement plans in their highway safety management plans; stiffen penalties for truck violations of grade crossing safety laws and encourage cooperation between State and Federal authorities on grade crossing safety.

Finally, the amendment gives the Secretary power—but only as a last resort—to impose a statewide freeze on grade crossings where a State has failed to make substantial, continued progress toward crossing reduction and improvement.

Mr. President, with the amendment, the Senate can vote to save lives. Again, this amendment should be noncontroversial and simply represents unfinished business from last year.

I say to the managers of the bill that we have agreed to strike the two provisions that your committee had objection to, and we are going simply with the proposition that was originally cleared by the Commerce Committee.

Mr. WARNER. Mr. President, we accept the amendment.

Mr. BAUCUS. Mr. President, before accepting the amendment, I would like to commend the Senator from Nebraska. About 600 people a year die at railroad crossings. It seems to me we in Congress have an obligation to do what we can do to reduce that number.

The Senator from Nebraska came up with an ingenious idea to reduce the deaths. All the Members are indebted to him for his efforts. I commend the Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1462) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1463

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Nebraska [Mr. EXON] proposes an amendment numbered 1463.

Mr. EXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following:

SEC. . TRUCK LENGTH AND THE NORTH AMERICAN FREE TRADE AGREEMENT.

Any Federal regulatory standard for single trailer length issued pursuant to negotiations and procedures authorized under the North American Free Trade Agreement, shall not exceed fifty-three feet.

Mr. EXON. Mr. President, the Exon truck-length amendment is a very simple and straightforward provision. It only applies to Federal regulations on length issued pursuant to the North American Free-Trade Agreement.

Last year, I chaired a hearing on this issue. Pursuant to the NAFTA agreement, the governments of Mexico, Canada, and the United States of America are negotiating the harmonization of traffic safety laws. The Senate has been very concerned about these negotiations and following the approval of NAFTA approved a resolution expressing the sense of the Senate that these negotiations should bring Canadian and Mexican traffic safety up to United States levels, not to lower United States standards. I am pleased to report that the Clinton administration expressed their desire to involve Congress in the adoption of any new safety rules arising out of these negotiations.

Since the Federal Government maintains no single trailer length standard, there is a risk that a future administration could use the NAFTA negotiations to increase lengths beyond the generally accepted 53-foot standard. If the administration sets a single trailer length standard pursuant to NAFTA negotiations, that exceeds 53 feet, congressional action would be necessary to implement the longer Federal standard.

The amendment does not restrict State action.

The amendment does not affect Federal legislative action.

The amendment does not affect Federal regulatory action not related to the North American Free-Trade Agreement.

The amendment is consistent with the intent of the Reigle-Exon NAFTA-truck safety resolution approved by the Senate following the approval of NAFTA and in no way disrupts the long combination vehicle freeze Senator LAUTENBURG and I authored as part of ISTEA.

I ask my colleagues to adopt this narrow amendment which will preserve congressional discretion over truck safety and the NAFTA.

This does not affect truck lengths at all, as far as normal processes are concerned. What this amendment would do is to prevent the administration, through any real or imagined parts of the NAFTA agreement, to increase truck lengths unilaterally without any consideration at all by the Congress. I think this is a safety matter, but it is very narrowly drawn and has been cleared by, as far as I know, all participants who have an interest in this matter.

Mr. WARNER. Mr. President, indeed, we have endeavored to clear this amendment, but we have just been notified that a Senator has interposed an objection to the amendment. Perhaps given that objection, the Senator from Nebraska might wish to expand his explanation of this amendment in the hopes that that expanded explanation might meet the objections of the Senator who has interposed it.

Mr. EXON. I thank my friend. I will be glad to expand on it a little bit further and maybe satisfy the concerns of all in this particular area.

We have so many last-minute objections by so many people that I do not know who they are. It has been very difficult to kill these rats when they keep coming out of the hay bin.

I repeat again, we have had in the Commerce Committee and in the committee of jurisdiction on this particular piece of legislation various studies and indepth hearings all aimed at safety, safety on the highways of America. There is a discussion ongoing right now as to whether or not we should increase by law the length and the width of trucks traveling on our highways.

Generally speaking, this is a matter that has been split. The Commerce Committee has been generally recognized to have jurisdiction over truck lengths. The committee that is headed by the two distinguished managers of this bill have always had jurisdiction over the width. I cannot go into an explanation of why one committee has length and the other committee has width. That is too complicated a matter for me to understand, and I cannot explain it because I do not know the reason for it myself.

But we are not changing any of that, and we are not changing any lengths of trucks in this amendment. All that we are saying in this amendment—very clearly defined—is that the administration, under the authority granted the administration in the NAFTA agreement, cannot automatically extend the lengths of trucks over and beyond what is the law of the land at the present time.

There is some indication that in order to facilitate the movement and to make it easier for some of the Mexican trucks to enter the United States, the administration might have the authority, under the terms of NAFTA, to supersede the laws presently in place in the United States with regard to lengths of trucks.

All this narrowly defined amendment does is it writes into law and snatches away that part of the law that some might interpret as authority for the administration unilaterally, without any consultation with the Congress, let alone laws, unilaterally to authorize longer trucks on our highways under NAFTA that would otherwise be prohibited. That is a simple, straightforward explanation. With that, I do not know what the objection would be. If there is an objection, I would be glad to attempt to address it.

Mr. WARNER. An objection will be interposed, and we will discuss the objection with the Senator from Nebraska.

At this time, I ask unanimous consent that the pending amendment be temporarily laid aside, such that the managers can continue with other amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, the managers are continuing to make steady progress. We retain our hope that we can vote on final passage before 12 noon. I urge those very few Senators—it is down to two or three Senators now that would require further reconciliation of their views.

Mr. President, on a personal matter, if I might make a few remarks. I commend the chairman of the Environment and Public Works Committee. Twenty-five years ago, I first met the then Governor of Rhode Island. In 1969, we formed a team in the Department of the Navy where he, as Secretary, and I, as principal deputy and Under Secretary, undertook a task at the height of the Vietnam war to give leadership to the Department of the Navy and to participate in other activities in the Department of Defense.

Now, 25 years later, we are still together. I do not say this with regret, but I do note that he is still the boss and I am still the first deputy, so not much has changed in a quarter of a century. There sits a man that has always stepped forward to lead in this country, be it in the time of war, as he did in World War II, as a marine fighting in the Pacific, and then being recalled back to duty during the Korean conflict, as a captain, company commander, and then as Governor. And now as a U.S. Senator, he has distinguished himself as a public servant. He is greatly respected in the U.S. Senate, as well as in his own State. It is a privilege for me to once again be in partnership, but as always, No. 2.

I thank the Chair.

Mr. CHAFEE. Mr. President, I thank the distinguished Senator from Virginia for his generous remarks. He is right that in our long-time friendship we have worked together. It has not been a one-two relationship. It has been a partnership. He and I worked together in the Defense Department starting in January 1969 in the Navy, as Secretary and Under Secretary, and we were in those posts together for 3½ years.

The distinguished Senator from Virginia then became Secretary of the Navy and went on after that to head the bicentennial commission, was elected to the U.S. Senate in 1978, and he has served here with great distinction. So it is indeed a marvelous friendship and association that we have had together. And now on the Environment Committee, where he is handling this legislation so effectively, doing such an excellent job as chairman of the subcommittee dealing with this type of legislation.

So I thank my long-time friend—I will not say "old" friend, but "long-time" friend—for the joys that we have had together and the joint achievements that I believe we have accomplished.

Mr. WARNER. Mr. President, I thank my good friend and colleague. I hope we have many more years working together here in the U.S. Senate.

I note the presence on the floor of the Senator from Maine. I extend to him an apology. On two occasions I have indicated the clearance of the Senator's amendment. But subsequent thereto, objections arose. I believe it is now resolved, and I would appreciate if the Senator from Maine could advise the managers. The Senator from Virginia will continue to ascertain the status of the Senator's amendment. I am hopeful that it can be resolved. I thank the Senator from Maine, however, for his patience on this matter.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine is recognized.

THE NOMINATION OF DR. HENRY FOSTER

Mr. COHEN. Mr. President, I would like to offer a few comments on the nomination of Dr. Foster to be Surgeon General. We are going to have further debate this afternoon. We are going to have one more rollcall vote in terms of whether or not the proceedings should come to a close and a vote take place on Dr. Foster.

I must say that this is one of those issues which has really galvanized the American people, those who are interested in this issue. We have letters and calls pouring into our offices from those who are strongly in favor, and those who are equally determined to oppose his nomination. The rhetoric is hot. It is, in fact, intemperate. I think the passion of the letters finds its voice right here in the U.S. Senate. That voice, at times, is angry, raw, and even ugly.

Mr. President, the charge has been made that we are sacrificing Dr. Foster on the altar of right-wing radicalism. I must say that there have been a number of good and decent people who have found their integrity and character shredded on the altar of left-wing liberalism. That is one of the problems that I see taking place in this Chamber and elsewhere. There seems to be a double standard on display, what we might call a case of situational ethics.

What comes to mind is the debate that took place when Ronald Reagan, for example, nominated Robert Bork to be a member of the Supreme Court. I recall that debate very well. Judge Bork's writings were plucked from the past. Those writings were provocative. He was, in fact, a provocative professor who challenged conventional wisdom. He disagreed with the rationale that was found and articulated in Roe versus Wade. He found no right of privacy lurking or hidden in the penumbra of the Constitution.

What took place with Bob Bork is that he was demonized. It was charged that he would take us back to the boneyard of conservatism, to the dark ages, maybe even to hell itself. I say that by virtue of a photograph that I remember that was on the cover of Time magazine.

It was a portrait, a photograph, of Robert Bork with his judicial robes on looking much like a cape. Of course, he had the beard. There was a red glow to the entire cover. And one could almost see the hint of horns emerging from the top of his head. One would have thought that Mephistopheles himself was about to be appointed to the Court, would corrupt the Court, would rip up the Constitution and shred our rights of privacy.

I might point out, sometime thereafter Judge Ruth Bader Ginsburg, who actually was endorsed by Robert Bork, also found fault with the Court's reasoning in Roe v. Wade. She said the Court had reached the right result but for the wrong reason. Yet we did not hear much criticism coming from the left, the liberal element in our society, at that time.

I mention that because I think we are reaching a point in the confirmation process in which it is going to be very difficult to have good and decent people willing to step forward and subject themselves to the confirmation process. My own friend, John Tower —I think what took place in this Chamber against John Tower was a disgrace. I saw a good man who had his character shredded by allegations and innuendo and false charges. He was so bloodied up that the critics said, "He has been too damaged to be a successful Secretary of Defense. President Bush, why don't you just cut him down from that tree that he is swinging from and take him back to Texas?" So we saw another challenge to an individual which I felt was unwarranted.

How many Republican nominees were rejected because of membership at all-white clubs? It did not matter that they were not racist. It did not matter that they had employed blacks or Hispanics or other minorities in their businesses or even in their homes. If they were members or had memberships in an all-white club, that was enough to bring down their nomination.

The same rule, however, was not applied when it came to people like Webster Hubbell, who also belonged to an all-white club at that particular point. But we had a different standard imposed.

So I suggest we have to get away from this double standard that when those who raise questions about someone's nomination by virtue of their difference of philosophy, that we not charge it is based upon right-wing radicalism any more than it is based on left-wing radicalism. We have to put a stop to this situation. We have to remember that Bill Clinton won the election. He is the President of the United States. It is my own judgment he is entitled to the nominees of his choice.

We may disagree with those nominees, but every time we disagree with Bill Clinton's philosophy, President Clinton's philosophy, or that of the individuals he nominates, we should not then, by virtue of our disagreement with their ideology or practice, turn it into a character issue and then begin an all-out assault on character.

We obviously have a duty to challenge philosophy and policies when they are fundamentally in conflict with our own. But we also have to deal fairly with these individuals. We have to remember, also, the axiom that bad appointments make bad politics. The President of the United States, when he makes an appointment, is held accountable for that individual's record, that individual's character, that individual's performance. And, barring evidence of incompetence as far as technical qualifications are concerned, professional qualifications, barring clear and convincing evidence of moral deficiencies that would prevent that person from occupying that position, I think we have an obligation to confirm the President's nominees.

What we have to stop in this system is, really, shredding the character of the individuals who come before the body for confirmation. If we disagree philosophically, let us be very up front about it and base it on that. What I see taking place is something of a variation of what Senator MOYNIHAN of New York talked about in his brilliant piece a couple of years ago, called "Defining Deviancy Down." What he was talking about at that time was events that took place in the 1920's or 1930's, some decades ago, that we would look at and say, "What a horrible thing that was." The Saint Valentine's Day massacre was one he pointed to. There were, as I recall, seven people involved in that. Four were killed by three others, or vice versa. That incident made worldwide news. It has gone in the history books. Today, it is likely that might not appear in bold headlines in the Metro section of the New York Times or the Post or elsewhere.

We have seen so much violence spread in our society we have become inoculated against it, almost. We have been immunized against a sense of outrage about the level of deviancy because we defined it down.

It seems to me we have to also talk about defining civility down. We have, I think, lost some of our moorings. We now resort not only to challenges of philosophy but to challenges of character. In doing so, I think we have lowered the standard for civil debate and discourse in this country.

The anger we see outside of these Chambers is being reflected inside the Chambers. We do not want to tolerate or promote barbarism outside the gates. We do not want to promote it inside the gates. I think what we have to do is lower the rhetoric and the charges and the countercharges about who is sacrificing whom on which altar and stop imposing double standards and situational ethics and come back to what I believe to be the correct standard. Either we find Dr. Foster to be medically, professionally unqualified to serve in this position, or we find him to be so morally bankrupt that it would be a discredit and an injustice to have him serve in that position.

Frankly, I do not find that we have measured up to that burden of proof. I believe Dr. Foster is a good and decent man. I believe President Clinton is entitled to have his nominee confirmed, even though we might disagree or I might disagree with his particular views or practice. Nonetheless, that is not the test that should be imposed. The test should be, Is he professionally qualified and does he have a moral character to serve in that position?

There are those on this side who believe fundamentally he has misrepresented the number of abortions that he performed during the course of a long practice. That is, perhaps, a legitimate issue to be raised. But I do not think we ought to be engaged in savaging each other, in attacking each others' motives. This is a serious issue and is one that ought to be debated in that fashion without resorting to a lot of hurtling of invective.

Mr. President, I hope my colleagues will in fact allow a consideration of Dr. Foster on the merits. That was in fact allowed for Judge Bork. He was defeated. It was allowed for Senator Tower, whose nomination was also defeated, and others whose names never really made it to the floor by virtue of their membership in what were described as racist clubs or organizations.

My hope is that we can return to a level of civil discourse in this society of ours, rather than the shouting and the anger that we see being displayed from day to day, and really try to deal with these issues on the merits.

I think Dr. Foster is entitled to have his name considered on the merits. We hope there will be enough Members who will vote to terminate any attempt to filibuster his nomination.

Seeing the hour of 11:30 is about to be reached, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The Senated continued with the consideration of the bill.

Mr. WARNER. Mr. President, on behalf of the management, we continue to make good progress. It is obvious we will not have a vote before 12 o'clock, at which time under the previous order the Senate then goes forward to debate the Foster nomination.

Mr. BAUCUS. Mr. President, I thank the Senator. I do not know if the Senator knows this, but Senator EXON has withdrawn both his other amendments.

Mr. WARNER. Good.

Mr. BAUCUS. The only potential amendments remaining, in addition to the managers' amendment, are potential amendments by Senator LAUTENBERG, Senator NICKLES, Senator SARBANES, Senator SMITH, and Senators STEVENS and MURKOWSKI.

Mr. WARNER. Mr. President, I am pleased to say to my colleague—and to announce to the Senate—that Senator SMITH's amendment is now in a situation where it will be resolved. I am not sure of the final outcome. But we will be informed.

Mr. CHAFEE. There will be an amendment.

Mr. WARNER. There will be an amendment, which I have learned of from the distinguished chairman of the committee.

Mr. CHAFEE. Mr. President, the Smith amendment we are working out now, and the language. It is my understanding that will be an amendment that will be acceptable.

Mr. BAUCUS. It may be acceptable. We are still running the trap lines over on this side.

Mr. CHAFEE. Well, in other words, I would not envision a vote on it.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

EXECUTIVE SESSION

NOMINATION OF HENRY W. FOSTER, JR., TO BE MEDICAL DIRECTOR IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE AND TO BE SURGEON GENERAL OF THE PUBLIC HEALTH SERVICE

The PRESIDING OFFICER. Under the previous order, the hour of 12 noon having arrived, the Senate will now go into executive session to consider the nomination of Dr. Henry W. Foster, Jr., to be Surgeon General. The clerk will report the nomination.

The legislative clerk read as follows:

The nomination of Henry W. Foster, Jr., to become Medical Director in the Regular Corps of the Public Health Service, subject to qualifications therefor as provided by law and regulations, and to be Surgeon General of the Public Health Service.

The Senate resumed consideration of the nomination.

Mr. KENNEDY. Mr. President, as I understand, there is an agreement to vote at 2 o'clock. So there is a 2-hour time limitation, an hour to be controlled by the Senator from Kansas, Senator KASSEBAUM, and the other hour to be controlled by the Senator from Massachusetts.

The PRESIDING OFFICER. That is the order.

Mr. KENNEDY. I yield myself 8 minutes.

Mr. President, over the period of the last 24 hours, I have tried to look at this whole nomination, including the extensive hearings that we had as well as the debate on the floor, to try to determine what is really before the U.S. Senate.

What we have before the U.S. Senate is an extraordinary nominee—an extraordinary human being—who is eminently qualified to serve as the nation's Surgeon General. And I thought back to the beginning, and asked myself: "What shape did the process take?"

We know that Dr. Henry Foster's name was brought to the attention of President Clinton by a very distinguished former Republican Cabinet Member, Dr. Louis Sullivan, with whom many of us worked very closely during his leadership at the Department of HHS. We know that Dr. Foster's nomination was seconded, effectively, by the presence of Lamar Alexander, a Republican Governor, who recognized the work of Dr. Henry Foster and his leadership ability in confronting the problem of teenage pregnancy and asked him to develop a program to do so. Those are two Republicans that right from the start recommended Dr. Henry Foster for this important position.

And even on the Labor Committee, Senator FRIST—Dr. FRIST—the one Member of the U.S. Senate who is a doctor and who knows Dr. Foster and who has supported his nomination, coming forward and speaking on behalf of Dr. Foster's extraordinary record and qualifications as a physician, educator and community leader.

So, looking back from the very beginning, we see that this nomination was borne of the effort to put forth someone who has been recognized as having a distinguished record—and he has had a distinguished record, which I will speak to—but also someone who was not going to be necessarily identified with any one particular political party, but rather with strong bipartisan support.

We have heard a great deal on the floor of the Senate and in the press, that Dr. Foster was selected for narrow partisan or political reasons. The fact of the matter is that he was nominated because of a very distinguished record.

And what a record it has been—what a record it has been. Dr. Foster possesses an extraordinary record of service. We have a nominee who has demonstrated his commitment to the neediest people in our country and our society. After he graduated from medical school, he could have practiced medicine in any of the cities of this country and in many rural areas and had a very comfortable life. But, no, he did not do that.

What did he do? He went to the poorest areas of America. Why? Because he wanted to serve his fellow human beings. He went to the rural South—and treated women and their children. Most of Dr. Foster's patients had never even seen a doctor before. He went into homes and houses down there that, in many instances, did not even have electricity or hot water. He went there to help and assist deliver babies. To provide pre-natal care to women who had never had access to pre-natal care before. He is a baby doctor. A baby doctor who is about service to his community. Service to people. He is a good and decent man who has committed his entire life—his entire life—to service. Not only did he engage in an program of service in rural Alabama, but his record shows that he was widely recognized for his dedication, ability, leadership and expertise.

He was recognized as a physician. He was recognized as an educator. He was recognized as a researcher in sickle cell anemia and infant mortality and the problems facing the youngest and most vulnerable in our society.

He was recognized by the Institute of Medicine, perhaps the most prestigious assemblage of the medical profession in our country, being elected to that prestigious body with a regular membership of only 500 members. In 1992, he was elected by the membership to serve as one of only 21 members of the Institute's governing council—one of only 21 members selected by the members of the Institute—his peers. What an extraordinary, extraordinary recognition of a man who was selfless, dedicated and passionate about serving those living in the poorest areas of this country.

During his career, after numerous accomplishments, he was selected to be Dean of the Meharry School of Medicine—a distinguished medical school. Did he stop with that? No. What did he want to do? He wanted to be a teacher in the classroom as well as dean of the medical school. Why? Because he wanted to work with young people. He wanted to help train them, and bring more qualified and compassionate doctors into the field of medicine.

Was he satisfied with that? No. He went to his community and developed a program to deal with the problems of teenage pregnancy and the school dropout problem. He developed a program that has made such a difference in the lives of young people, that it has been recognized by a President, George Bush, a Republican President of the United States.

Now that is the record of Dr. Foster. That is the record that is before the U.S. Senate. That is the record of service before us. By voting for Dr. Foster, we are not doing Dr. Foster a favor, we are doing a favor to all Americans. We are doing a favor to those parents of those teenagers who are confronted with the sad prospects of teenage pregnancy, welfare dependency, and hopelessness. We are doing a favor to all those who struggle with the life-threatening illness of cancer. We are doing a favor to all those whose families or friends or neighbors are afflicted with AIDS. We are doing the United States of America a favor, which needs a highly principled and dedicated person to serve his country. That is what we have here: A good, outstanding, selfless individual.

Now, you would not understand that, necessarily, from those who have spoken in opposition to this nomination, because they have their own message, and their message is very clear. They want to send a very particular message. Sure, they have distorted his record, misrepresented his record, and in spite of the fact that Dr. Foster at the committee hearings, and the committee itself, thoroughly answered and refuted the shallow allegations against him, they are repeated again and again and again and again and again. And those that repeat them do a disservice to themselves, they do a disservice to themselves.

What their message is and why this is being done is very clear to me. They are doing this because they want to say to any and every doctor in America, "If you ever perform an abortion, if you ever do so, even to save the life of the mother, you'll never get a position of confidence or leadership in the U.S. Government, because you'll never make it through the confirmation process by the U.S. Senate."

That is the message. We understand that. They are not fooling anyone. When, on one hand you have Dr. Foster's extraordinary record of service and on the other, you have the repeated distortions, misrepresentations, and shallow allegations, the message is very clear and it is motivated by narrow political concerns and interests. That is the message that is being sent to doctors in this country. That is the message that is here.

Dr. Foster's opponents prefer to play a negative card. When all of America is struggling to look upward, higher—to reach out for a better future for themselves and their children—his opponents would have us languish in darkness. They do not want to recognize the light, the hope, that Dr. Foster represents for the future of this country.

During the course of Dr. Foster's testimony at the hearings, Senator PELL asked him what has been one of the most inspiring moments of his life. And Dr. Foster answered, "Well, it was just after I and my classmates had graduated from seventh grade, and my father brought us out to the edge of town and treated all the children in our class to an airplane ride." Two children in the front with the pilot, children in the back—Dr. Foster described the way he felt when that plane took off.

He said, "When we got up in that air, every child that was in that class looked out and they could see trees as far as the eye could see. They could see that there was a broader land, that there are lakes out there and there are hills."

Perhaps for the first time, they saw that there was a broader America than just the school house where they went to the school, and their own small home where they grew up, in a segregated society with little opportunity.

He said:

> That plane ride was one of the most inspiring moments of my life, because it taught me that there is a future out there, and that I could be a part of it. My hope and dream of service is to provide that same "airplane ride" to the young people all across this country.

That is the soul of Dr. Foster. You would not know it listening to the distortions and misrepresentations of the opposing side; you would not know the true record of the nominee who is before us. You would not know it when they repeat and repeat and repeat these charges that any fair-minded person would understand have been responded to.

How many political primaries are we going to have on the floor of the U.S. Senate? The election is 18 months away. What was yesterday? Super Wednesday? What is today? Super Thursday? What are we going to say to every person that is nominated? Do we tell them that they are going to go through this pillory to serve the American people?

That is the issue. Are we going, in this institution and in this body, to appeal to the better instincts of its membership? Or are we going to be slaves to those kinds of interests that are holding hostage the nomination process here before the U.S. Senate? I hope, Mr. President, that the higher angels of our character will come out today when we vote at the hour of 2 o'clock.

I see my colleague on the floor, the Senator from Washington, who has been such a leader on this issue and who speaks with such eloquence and insight into the qualifications of this nomination.

I yield her 5 minutes.

Mrs. MURRAY. I thank my colleague from Massachusetts for his outstanding work on this nomination. I remind my colleagues that we should be here debating the nomination of Dr. Henry Foster and what message and tone he can bring to this office. But we are not. We are here debating whether or not Dr. Foster will have the opportunity to have an up-or-down vote on the floor of the Senate.

I have been working with Dr. Foster for a number of months now. It is extremely disappointing to see this fine man, after all he has been through, being denied a vote on the floor of the Senate. I hope our colleagues across the aisle can step back today and think about the larger message. Think about what will happen if we block this vote today and do not allow this man with great dignity to have the vote that he deserves after the last 5 months.

Throughout this debate, I have been focusing on what Dr. Foster brings to this office. Certainly, he brings the issues of women's health care clearly to the forefront of this Nation for the first time in our history, and that is a good thing. Certainly, he brings the ability to send a message to our teenagers, a vision of hope, a vision that they can be somebody. That is something that is needed in this Nation.

But I fear, Mr. President, that many of our American viewers today do not realize that that is not what this vote is all about. This vote has become a vote about Presidential politics, and I find that very sad. As we have worked to get to the last three votes, it has been surprising and saddening to hear what some of my colleagues have expressed. They do not feel they can vote for this candidate—not because he is not qualified, not because they think the process should be fair. They tell me they do not want to be seen as giving one Presidential candidate a vote over another Presidential candidate. It has become an issue of winners and losers. Who are the winners? Who is going to win? I can tell you who the losers are. The losers are the American people. The American people will be the losers because not only will they lose a fine candidate for Surgeon General, they will lose because the process has been sullied, and I think that is a sad statement for this Nation.

I think the winner—no matter what the outcome of this vote—is Dr. Foster. He is a man of dignity, a man of courage, and he is a man of honor. Every one of us—every one in this Nation—should stand up and give this man a loud round of applause. He deserves it. He has lived through torture—name calling, watching his whole, entire life be put in print—and he has shown all of us, as he sat before the committee, that he is a man of dignity. Dr. Foster certainly is the kind of person that deserves to be in the Surgeon General position, and he is also a man we all want to be like. He is a man of honor, and he should be very proud today that he has shown this Nation how to be a leader and what we should expect of leaders and what we want our Nation's leaders to look like.

I hope that all of our colleagues will step back and think about the larger message as they vote today. This man deserves a vote on the floor of the Senate. But above all, he deserves our applause for going through this process and showing us what a leader really looks like.

I thank my colleagues and I yield the floor.

Mr. KENNEDY. I yield 5 minutes to the Senator from California, Senator BOXER.

The PRESIDING OFFICER. The Senator from California [Mrs. BOXER] is recognized.

Mrs. BOXER. Mr. President, I thank my friend from Massachusetts and my friend from Washington for their extraordinary leadership in trying to get a very simple premise fulfilled, and that premise is that Dr. Foster deserves an up-or-down vote. It is wrong to deny this man a vote. Let him stand or fall on his merits or demerits.

I saw him standing next to the President yesterday at the White House, saying, "All I ask for is fairness." He wants a vote, and 57 Members of the Senate—Democrats and Republicans—said, "That is right, Dr. Foster; you deserve a vote." But a minority said no.

If I were one of them, I would not have slept very well last night because it is a mean-spirited thing to do to a decent American. It is not fair. If Americans are anything, they are fair.

Dr. Foster is a pawn in a political game—a pawn in a political game—a physician who went to work in rural America when he could have had a cushy job. He is a physician who went into the toughest, most difficult parts of our Nation to help lower the infant mortality rate, and he did. He is one who took on the problem of teenage pregnancy. It is incredible that my colleagues on the other side of the aisle who are trying to block this vote criticize his program. What did they ever do in their lives to help stop teenage pregnancy? Let us hear what they have done. Oh, they throw the stones. What have they done? Have they walked into the toughest parts of America and taken a problem on that nobody else wants to take on? I do not think so.

They have a pretty cushy job right here. But they throw stones at a man who should be honored—and, by the way, he has been honored by President Bush, a Republican, I might say, who gave him a Thousand Points of Light Award. He was honored by Dr. Louis Sullivan, a former Republican Secretary of HHS, who recommended him for this job. People say President Clinton was playing politics. I have to tell you, this was the most bipartisan appointment I have seen. Senator KENNEDY made that point at a press conference yesterday. It is a truly bipartisan appointment.

Dr. Foster is being denied a vote because two Republican candidates for President want to block a vote on him. The Republicans are being told, "You have to be loyal. Do not allow a vote on this man. It will hurt our chances."

Playing politics is not what a U.S. Senator is supposed to do. They are supposed to be fair. They are supposed to be just. They are supposed to step up to the plate and put political considerations behind them and give a man a chance.

I have to tell you, maybe these two political candidates for President will do well in the short run. But do you know what I think? In the long run, I do not think they will do very well because they are out of step with mainstream America. If you ask the American people what are the two important things they want to see in a President, it is fairness and courage. And it is not fair to deny this man his day. It is not courageous to cower to the right wing of one political party. So, in the long run, mainstream America is not going to look kindly at these two candidates—mark my words.

I think this debate has been somewhat disturbing. Last night I was on a TV show with one of the leading opponents of Dr. Foster, and that Senator called Dr. Foster an abortionist. I think it is an outrage. He owes Dr. Foster an apology. Dr. Foster brought thousands of babies into this world and he is called an abortionist? Thirty-nine abortions over 38 years, a legal medical procedure, and he calls him an abortionist on national TV. He is lucky he cannot be sued for defamation of character.

Dr. Foster is an ob-gyn, an obstetrician/gynecologist, a decent man, and he deserves a vote. I stand very proudly with the Senator from Massachusetts, with the Democratic women Senators, with the 11 Republicans who had the guts to stand up and say fair is fair, and I hope and pray that we have a different result today. If we do not, I think the fallout will be much greater than anyone now anticipates.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Massachusetts has 40 minutes remaining.

Mr. KENNEDY. I just yield myself 15 seconds, and then I will yield 5 minutes to the Senator from California.

In one of the most important considerations in debate, the silence on the other side is deafening—their willingness to engage in this debate and discussion, and we have nothing to speak about on the other side.

I yield 5 minutes to the Senator from California.

Mrs. FEINSTEIN. Mr. President, I thank the Senator from Massachusetts. I thank the Senator from Washington for all the work she has done on this matter.

I really address my remarks, Mr. President, to 43 Members of this body, and I want to share with them some of my thoughts and see where they register with them.

Let me start by saying that my basic belief regarding this nominee is that—in the absence of any compelling evidence of misconduct, insufficiency of professional qualifications, or flaws in character—the Senate owes it to the President and the nominee to conclude its advise-and-consent role and grant its approval. I say that particularly in view of what has happened to his predecessor.

In my belief, it is not appropriate for a minority of the Senate to prevent a vote on a Presidential selection based on unsubstantiated arguments about what Dr. Foster might have known or should have said. That is not the Senate's role.

In addition, it is unprecedented to deny the President even an up or down vote on a well-qualified nominee for a public health position such as Surgeon General.

Therefore, I believe that Dr. Foster is entitled to an up or down vote by the Senate. Not a procedural vote, but a real majority vote that will show the Nation that a majority of Senators favor Dr. Foster.

Let me also say that I believe that many of the concerns raised by Dr. Foster's opponents over the last 5 months have been a smokescreen of false issues, innuendo, and other distractions designed to obscure the central issue here, which is a woman's right to choose an abortion.

However, I am grateful that Dr. Foster's nomination has been investigated approved by the Labor Committee by a 9–7 vote and finally been brought to the Senate floor. It is my hope that in the remaining time for debate, Dr. Foster's real qualifications can be made clear and any remaining issues can be raised and answered, once and for all, and that a few more Senators can be persuaded.

The concerns of Dr. Foster's critics boil down to a few basic elements, which we have continued to hear over and over. These arguments are:

Dr. Foster has insufficient professional qualifications and credentials to serve as Surgeon General;

Dr. Foster provided contradictory information on the number of abortions he has performed;

Dr. Foster knew about the Tuskegee experiment, in which 400 black men with syphilis were left untreated, before it was revealed in 1972;

Dr. Foster performed sterilizations of mentally retarded women during the 1970's; and

Dr. Foster's I Have a Future teenage pregnancy prevention program focuses on contraception rather than abstinence.

While most of these issues have already been thoroughly addressed and dismissed, I would like to briefly summarize the factual responses to each of them, based on what I have learned:

On the issue of Dr. Foster's qualifications and credentials, I believe that they are impressive. Dr. Foster, is in rough chronological order:

A graduate of Morehouse College and the University of Arkansas medical school;

A former U.S. Air Force captain;

An examiner for the American College of Obstetricians and Gynecologists;

An advisor to the National Institutes on Health and the FDA on maternal and child health;

A member of the National Board of Medical Examiners, the accreditation council for graduate medical education, and the board of the March of Dimes;

A Distinguished Practitioner recognized in 1987 by the National Academies of Practice;

Acting president of Meharry Medical College, where he has served for the last 21 years as dean of Medicine and Chairman of Obstetrics.

On the issue of the contradictory estimates of abortions Dr. Foster performed and his overall credibility:

A review of 38 years of medical records determined that the actual number of abortions Dr. Foster has performed or been the doctor of record are small in number [39]—particularly in view of his estimated delivery of 10,000 live babies.

The initial confusion surrounding this number resulted from Dr. Foster having been listed as the attending physician for additional procedures that he himself did not perform, as well as disputes over whether hysterectomies Dr. Foster performed to protect the health of women should be counted as abortions if pregnancies were discovered during the procedure.

During his hearing, Dr. Foster provided the following explanation of the early contradictions: "In my desire to provide instant answers to the barrage of questions coming at me, I spoke without having all the facts at my disposal." The majority of the committee found this explanation reasonable enough to approve the nominee.

On the claim that Dr. Foster consented to the infamous experiments at the Tuskegee Institute:

While Dr. Foster was at Tuskegee during the time of the study, his expertise was maternal and child health rather than sexually transmitted diseases;

A full committee investigation showed that the possibility Dr. Foster knew about the study is tenuous at best, resting on assumptions about what he should have known or might have been told, rather than direct evidence; the doctor whose statements have been used to suggest Dr. Foster failed to act promptly has stated repeatedly that Dr. Foster did not know of the study before it was revealed in 1972.

Without any direct or concrete evidence that Dr. Foster actually knew about the experiments and failed to take action, it is not reasonable to judge him a participant or to burden him with the responsibility of having to shut down an experiment he did not control nor was he a party of this ill-conceived study.

On the assertion that Dr. Foster performed sterilizations of mentally retarded women:

Dr. Foster sterilized retarded girls at the request of their parents under the established practice guidelines and ethics of the times, and wrote sensitively about these cases and the danger and tragedy of forced sterilization in 1974;

If there were any real questions about Dr. Foster's ethics, he would not have been endorsed by every major medical association in the United States.

On the claim that I Have a Future Program does not promote abstinence:

This after-school program focuses on delaying teenage pregnancy, including providing education about abstinence and increasing self-esteem as a way of preventing early sexual activity. Only if necessary are participants referred to medical personnel for information about contraception;

Every press article and description I have seen talks about how the program emphasizes abstinence and does not just throw condoms at the kids. Whether or not all program brochures include the word "abstinence" or not is not the central issue.

In fact, the central motivation for the I Have a Future Program was Dr. Foster's observation that simply providing contraceptives to at-risk teens was not an effective form of pregnancy prevention for at-risk teens, and self-esteem and personal goal-setting must be included.

Should he be denied because abstinence was not on a piece of paper?

In all, here is a man who has impressive qualifications, an upstanding character, and reputation for integrity in his home community and among his professional peers. He has no glaring flaw that justifies denying him confirmation.

Instead—and this is increasingly clear—there is just one real reason that he is being opposed: he performed 39—the number is disputed—medically necessary legal abortions as part of a career that includes 10,000 deliveries of live babies.

What I would like to point out is that 39 is an amazingly small number, considering the human situations that Dr. Foster has encountered—women who have been raped; women whose mental or physical condition is such that they could not give birth; questions of major fetal deficiencies.

The fact is that out of 10,000 live babies delivered, there were few cases where Dr. Foster performed a medically necessary and appropriate abortion. To me, this is a very small number.

Were the procedures legal? Were they in accord with medical standards and performed as part of his established responsibilities? The answer to these questions, of course, is yes. Nothing has been raised to contradict this statement.

What is clear to me from the last 5 months of debate over Dr. Foster's nomination is that there is now a question whether any obstetrician could ever hold the office of Surgeon General if they have performed even one legal, medically appropriate abortion.

That clearly is the question in my mind. I really believe the issue is that simple. And I strongly believe that the answer to that question should be yes.

I believe this body has but one choice and I am hopeful that, of the 43 there are 3 who will come forward and simply say, in fairness, Dr. Henry Foster deserves a vote in this body.

I yield the floor.

Mr. COATS. Mr. President, I doubt that anything I say will shatter the deafening silence the Senator from Massachusetts alluded to. But it will at least interrupt. We have a number of speakers. Mrs. KASSEBAUM, who normally would be managing this, is chairing a hearing of the Labor Committee. I know the Senator from Massachusetts, who was a former chairman of that committee, understands that sometimes they do not end as quickly as you would hope. She will be here as soon as she can. A number of other Members plan to speak on our side. Several of them are tied up in that same hearing but will be here shortly.

Mr. President, if yesterday's vote is any indication, Dr. Foster will not be confirmed as the next Surgeon General of the United States when we take this vote at 2 o'clock. I believe that conclusion is justified by the record. The Labor and Human Resources Committee held what everyone has described as thorough and fair hearings. Dr. Foster was given every opportunity to present, at whatever length of time he required and in whatever detail or depth he required, his qualifications, his experience, and to present his answers to the questions that were raised.

Many have concluded, on the basis of that hearing, those who sat through the hearing and those who have examined the record, that Dr. Foster did not satisfactorily answer the many disturbing questions that were raised, that a disturbing pattern of behavior and of responses—whether directed by the White House or not I do not know for sure—emanated from those hearings and left many with serious questions. I detailed many of those in a letter to my colleagues, a very lengthy letter comparing the public documents, matters of public record, which in many numerous instances was in direct contradiction to Dr. Foster's version of the various incidents; issues in this debate that arose. Some of those will be addressed here today. That, however, has been a matter of examination for all Senators. They have all had the opportunity to do that, and in a sufficient length of time to do that.

I believe that the conclusion that Dr. Foster is not the right man for this job is justified by the record. Questions of medical ethics that were raised are not just disturbing, in my opinion they are disqualifying. Questions of credibility in this Senator's opinion have never been adequately answered leaving us with a candidate that the New York Times says "fails the candor test."

These problems, problems that the administration and problems that the nominee himself were largely responsible for, I believe have decided the outcome of this procedure. But I would like to spend a moment this afternoon on the broader lessons that should be taken from the tenure of the former Surgeon General, Dr. Elders, and the apparent failure of this nominee to receive the necessary support for this position, lessons that hopefully will inform the selection of the next nominee for this office.

The President of the United States needs to understand that there are millions of Americans committed to the protection of innocent life and the protection of the innocence of childhood. They are not fanatics to be demonized. They are part of the responsible mainstream of American life.

They understand that this administration disagrees with them. But what they do not understand is why this administration has chosen to actively assault their deepest beliefs, to disdainfully dismiss their highest ideals, to treat them as if they were beneath civility.

This bias has been particularly obvious in the Office of Surgeon General. The former occupant of the Surgeon General's Office, Dr. Joycelyn Elders, abdicated her role as spokesman for public health entirely, and became what appeared to be a full-time spokeswoman for radical causes. And this nominee has shown, as I believe the record indicates, little sensitivity for the moral concerns of countless Americans whom he himself called "right-wing extremists."

There is almost a mantra coming out of the White House, a mantra coming out of the Democrat Campaign Committee, a mantra being heard on this floor that any opposition to the President, almost on any subject, is the work of right-wing extremists. Boy, what a powerful group they are. I am not sure even if we can identify who they are. But any opposition raised to what the President deems his priority, his agenda for America, is dismissed either by the President or by his spokespeople as just the work of the right-wing extremists and, therefore, to be dismissed.

I would suggest it goes to something far deeper than that. It goes to an undercurrent that threads its way throughout American life, American culture. It goes to the values that many Americans hold dear, people who do not even belong to any particular political party, people who would not begin to identify themselves as right wing or extremist or anything else—just concerns that affect everyday Americans, American families, American parents, those of us that are concerned with some of the breakdown in our culture and some of the undermining of our values.

So we raise questions about the bully pulpit that is being used by the administration, by the President and by the Office of Surgeon General to advocate an agenda that many of us feel is out of the mainstream of what the Democrats describe as the mainstream, but very much in the mainstream of what America has tried as America's agenda. We can debate this. We can debate what is the best course of action to take, and what direction we ought to go and what our values ought to be. We are not very successful at legislating those values. And I do not think it is possible to legislate those values. These problems are not going to be solved in this Chamber. They are going to be decided and solved around the kitchen table, in the family rooms, and where Americans live and work, and where the most discourse takes place among our citizens.

But there are many who are concerned that the Office of Surgeon General has been used as an advocacy post for a certain agenda, an agenda that many of us feel is out of step with America's agenda, and the agenda of at least a very substantial majority of our people.

This use of this position for this purpose makes the work of the Surgeon General literally impossible because the role of that office traditionally has been—and I think in most of our definitions should be—the role of building consensus around important public health issues. Instead, it is hard to argue any other way but that the administration has turned public health into an ethical battleground by enphasizing not issues that unite us but issues that divide us. And more than that, they have ridiculed anyone who dares to disagree, including the Catholic Church, the pro-life movement, and millions of parents who do not believe that condoms are a universal substitute for moral conviction.

This administration by this attitude has undermined the public health discussion in America, and it has squandered the potential that exists for the Surgeon General and the Office of Surgeon General.

Now the President, it appears, will have again a choice to make with another nominee—whether that nominee will bind our Nation or rend it, whether it will unite the Senate or divide us. I have some questions for the administration, questions that I think deserve serious consideration and deserve an answer. Mr. President, when will you finally nominate someone who can unite us as Americans around important issues of public health instead of polarizing us? When, Mr. President, will you choose a candidate for this office who is not an advocate of the most divisive issues of our times but is an advocate for those issues that can bring us together as a people? When, Mr. President, will you allow us to return our focus from moral controversies to issues of public health? We are not asking you to send us someone that we always agree with. But we are asking you to send us someone who does not bitterly divide us as a people. If your administration fails to do this, the consequences will be immediate, and I am afraid unfortunate. Because if the President insists that the Office of Surgeon General is a bully pulpit for radicalism, for advocacy, we will be forced to ask if the office should exist at all. I hope this is a decision we do not have to make. And I hope that the President will make his next choice with a lot more care than he exercised on his last two choices.

Mr. President, I yield the floor.

Mr. KENNEDY. Mr. President, I yield 5 minutes to the Senator from Maryland.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. I thank the Chair.

Mr. President, this is decision day on Henry Foster. This is not decision day on Joycelyn Elders. This is not decision day on Bill Clinton. We get to do that in November 1996.

This is decision day on Henry Foster. We should be talking about Henry Foster and is he or is he not qualified to be the Surgeon General of the United States of America. I believe he is.

Now, when one wants to ask: Where are those people who will unite us on broad issues of public health? Bill Clinton has done it. He gave us Dr. Phil Lee, a distinguished physician, who is our Assistant Secretary of Health, who is coordinating health policy in a time during shrinking budgets and higher need. He has given us Dr. Varmus to head the National Institutes of Health when George Bush delayed the appointment of the head of NIH because of a litmus test on fetal tissue. But Dr. Varmus is attracting the kind of young talent and retaining the seasoned talent for NIH to continue to be the flagship of research of the life science issues in America.

Bill Clinton is meeting his responsibility. Today, it is our responsibility to pick a Surgeon General. And we are not voting on Dr. Elders. We did that. We are voting on Henry Foster.

Henry Foster is a man unique unto himself, bringing his own credentials and expertise. He is not Joycelyn Elders in wingtips.

Now, let us get it straight. I regret that abortion has become the focal point of this debate rather than the broad policy issues of public health. We should be focusing on who can focus on prevention, primary care, and personal responsibility in a public health agenda. That is what it is all about, and Dr. Foster has done that.

We knew that, yes, there would be those who would focus on the big A word, abortion, so in a public hearing at the Labor Committee, chaired in a very outstanding way by Senator KASSEBAUM, I asked Henry Foster tough questions because I felt the public had a right to know. I said to Dr. Foster, "Did you ever perform an illegal abortion?" He said, "Absolutely not. I have only done those things that were legal and medically necessary." I said, "Did you ever do a trimester abortion?" He said, "Absolutely not." I said, "Did you ever do an abortion for sex selection?" He said, "Absolutely not." I said, "Did you ever sterilize mentally retarded girls without parental involvement?" And he said, "Absolutely not."

So that is the record, and it is on the record. "Absolutely not." And on this sterilization study that has been discussed, the record is clear. Dr. Foster's name is on a study of a variety of people who conducted hysterectomies on retarded women, and on those three in which he was involved—and he was involved in only three—there was parental involvement and parental consent. They were acting in loco parentis, in the guardianship role of parents. Now, we believe parents should be involved. I support parental consent for abortion. There was parental consent in this area. Henry Foster did the right thing as a clinician, and he did the right thing in involving parents.

So that is where we are on these issues. Now, the question becomes with Henry Foster, when is good good enough? This man has devoted his life to public service and the practice of medicine. To be Surgeon General of the United States, to serve your country, when is good good enough? Thirty-eight years in the practice of medicine. When is good good enough to be Surgeon General? When you serve in the U.S. military as a captain, as a physician, when you have done that job for your country, when is good good enough to be Surgeon General? When you practice medicine in a town like Nashville, and you are chosen to be head of your own bioethics committee, you are asked to be the dean of a medical school, is that not good enough credentials? What more do we want? Competency, well respected by your peers, 38 years of devotion, volunteer work in the community, starting a program called "I Have a Future," going into the public housing projects to say to kids that you just say no.

Schoolmarmist admonitions with these Victorian values only get good headlines. They do not get good results. You have to go to those kids and reach out to them. And the way you get them to say no is when they say yes to the possibilities of a life where they can define themselves as full men and women, not only in terms of their sexual prowess.

That is what he did. And that is why George Bush wanted him to be a point of light, because these kinds of programs are a point of light.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. MIKULSKI. Could I have 1 additional moment?

Let me just conclude by saying this. In a room in a meeting with Dr. Foster, I said to him, "What do you want to do as Surgeon General?" He said, "I want to help all Americans live better and I want to help poor kids do better and make sure they have a future."

Dr. Foster has devoted his life to giving other people a chance. Let us give him a chance and not hide behind parliamentary procedure. Let us make this decision day for Henry Foster.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. I believe the Senator from New Hampshire has been waiting. Am I correct on that?

Mr. SMITH. I have been here. Yes.

Mrs. KASSEBAUM. I would like to yield to the Senator from New Hampshire 15 minutes.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. The Senator from Pennsylvania has said he is only asking for 3 minutes. I will be happy to yield and then take my time after the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. I thank the Senator from New Hampshire.

The PRESIDING OFFICER. Is the Senator from Kansas or the Senator from Massachusetts yielding time to the Senator from Pennsylvania?

Mr. SPECTER. I ask the Senator from Massachusetts to yield 3 minutes.

Mr. KENNEDY. Three minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized.

Mr. SPECTER. Mr. President, it is my hope that at least three additional Senators will vote in favor of closing debate so that Dr. Foster can receive a vote on the merits.

I believe Dr. Foster is entitled to his day in court. He is entitled to his vote in the Senate. The sole issue which is holding up this confirmation is the issue of abortion. Cutting to the bone, that is it, pure and simple. And I think it is simply wrong to deny Dr. Foster confirmation because he has performed an operation which is lawful under the Constitution of the United States. And you see the pattern emerging. In yesterday's Washington Times, it is Ralph Reed, Jr., who is calling the tune for those who are opposing Dr. Foster, and in today's Washington Post it is Gary Bauer who is handing out plaudits to those in the Senate who are opposing Dr. Foster. I believe it is inappropriate for this body to deny this man a vote on the merits and to deny confirmation for performing a medical procedure, abortions, lawful under the U.S. Constitution.

I would remind my colleagues, Mr. President, that there is nothing in the Contract With America, which was the basis of our Republican victory last November, nothing in the Contract With America, on abortion. And that is not a mandate from the American people defining the Republican stand. I would also remind my colleagues that if this body is going to become embroiled in this kind of an ideological battle, we are not going to be able to take up the issues which the American people elected us for. They did not elect us in 1994 on the abortion issue. They elected us to have smaller Government, less spending, reduced taxes, and strong national defense. Those are our core values and, if I may say, our core Republican values. And it is a very dangerous precedent for this body to have an ideological debate.

If we are going to subject people who want to be public servants to 60 votes, not the democratic majority, we are going to discourage people like Henry Foster and other qualified individuals from coming to this town, this Government, to serve. If there had been a demand for 60 votes for Justice Clarence Thomas, he would not be sitting on the Supreme Court of the United States today. And I know there have been nominees who have had a past filibuster test. But the appropriate standard, the nonideological standard is to say, "Is he qualified when he performs a medical procedure which is constitutional?" I yield the floor.

Mr. KENNEDY. We reserve whatever time we have. I believe the Senator from New Hampshire has been typically courteous to permit the Senator from Iowa to proceed for 3½ minutes.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 3½ minutes.

Mr. HARKIN. Thank you, Mr. President.

Mr. President, I want to focus my comments a little on the comments made yesterday by the majority leader, Senator DOLE. I have been for some time involved in the whole issue of filibusters. Senators may remember I tried earlier this year to do something about filibusters. The filibuster is being used here today. So, I looked it up in the RECORD, and here is what Senator DOLE said yesterday. He said, "Yes, supporters must obtain 60 votes." That is the way it works. I had the Congressional Research Service do a little work in that area. I have heard people say, "Oh, this never happened before." It has happened a lot." He goes on to say, "Since 1968 24 nominations have been subjected to cloture votes." As Paul Harvey might say, "Now for the rest of the story," because that is not quite correct. The fact is, Mr. President, that nominations have been defeated by filibuster after failure to invoke cloture in only two cases: the first was Abe Fortas to be the Chief Justice of the Supreme Court in 1968; the other was Sam Brown to be an Ambassador in 1994. Both nominations were made by Democratic Presidents and defeated by Republican filibusters.

Senator DOLE was half right. He said that there had been 24 filibusters. What he did not say was that 22 of them went through, and they got their nominations. Only two did not make it—Abe Fortas and Sam Brown.

I might also point out, Mr. President, that Democrats have never blocked a nomination of a Republican President by filibuster and defeat of a cloture motion. Never. Not once. Now, until recently we never had cloture votes on nominations. Up until 1949 you could not filibuster a nomination. Then the rules were changed and you could. And even then comity prevailed on both sides of the aisle. During the Eisenhower administration we let Ike have whatever nominees he wanted. It was not until 1968 that the first filibuster was held. That was on Abe Fortas. And cloture was not invoked.

The second, I said, was in 1994 on Sam Brown. But during all those years when there were Republican Presidents, a Democratic Senate never defeated, not once, by a filibuster a nomination of a Republican President. Those are the facts. And they cannot be disputed, Mr. President. Those are the facts.

So I would say to my friends on the other side of the aisle, do not hide. Do not hide behind this procedure. Have the guts to come out and vote up or down on whether Dr. Foster ought to be the Surgeon General of the United States. And for once and for all, put behind us this filibuster procedure on nominations. I believe, Mr. President, we are going down a very bad road, a very bad road, because if we continue this, the worm will turn. There will be a Republican President and there will be a Democratic Senate. And then the shoe will be on the other foot. And I say that is the wrong road for us to go down. Let us invoke cloture and have an up or down vote. Let us not hide behind procedure.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I yield 15 minutes to the Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire is recognized.

Mr. SMITH. I thank the Senator from Kansas for yielding me this time. Mr. President, I rise in very strong opposition to Dr. Foster being confirmed as President Clinton's nomination to be Surgeon General of the United States. I also at this point would like to thank Senator KASSEBAUM for the fine job that she did with the hearings that were conducted very fairly, and I thank Senator COATS for his leadership in bringing information to the forefront regarding this nomination.

As Senator COATS has ably pointed out during this debate, there are many troubling issues surrounding the confirmation of Dr. Foster. And I always feel somewhat sad to have to be involved in these debates when individuals like Dr. Foster are brought into the arena, so to speak, because appropriate research was not done on the nomination prior to placing that person in the arena, which has happened in this case, I believe.

The issues that I am concerned about include the credibility of Dr. Foster's responses to questions about his knowledge of the Tuskegee syphilis study, the infamous experiment with hundreds of black men with syphilis where they were deliberately left untreated in the name of medical research.

In addition, several members of the Labor Committee have indicated they remain unconvinced that Dr. Foster was, as he claimed, "in the mainstream" of medical practice when he performed hysterectomies on mentally retarded women without securing independent-party written consent and even years after the State and Federal courts, as well as the U.S. Department of Health, Education and Welfare had proscribed those and similar practices.

One of the principal issues surrounding this nomination is the credibility of Dr. Foster with respect to the number of abortions that he has performed. Various times since he was chosen by the President to be Surgeon General, Dr. Foster has claimed 1, 12, 39, and 55 abortions. And there is even a transcript of a public proceeding in which he appears to have claimed that he performed 700. The interesting thing about this, whether it is 1 or whether it is 700, one of those individuals, you never know, could very well, had they had the opportunity to live a full life, been the nominee for Surgeon General of the United States of America at some point in the future.

All of these doubts about Dr. Foster were summed up just right I thought by the New York Times editorial entitled "Ending the Foster Nomination," calling Dr. Foster a flawed nominee whose nomination involved sacrificing the principle that candidates for high office must fully disclose relevant facts and attitudes. The Times concluded that Dr. Foster's nomination deserves to be rejected.

Mr. President, even though there are many reasons to oppose the nomination other than his performance of and advocacy of abortions, let me focus my remarks this afternoon on just how extreme—I emphasize the word "extreme"—Dr. Foster's abortion policy views are. Polls by Gallup and others have consistently found that over three-fourths of the American people believe that abortion should be prohibited except to save the life of the mother after the first 12 weeks of pregnancy. Yet in the 1984 speech to Planned Parenthood of Eastern Tennessee, Dr. Foster expressed his strong opposition to restrictions on abortion after 12 weeks, about 150,000 of which are performed annually. Dr. Foster said—and I quote—"We in the movement must work to prevent the erection of such barriers to late abortion access." That is after 12 weeks. In other words, Mr. President, Dr. Foster's view is that abortion should be legal, on demand, throughout pregnancy at any time. Let us explore for just a couple of moments what that means.

Last Friday Senator GRAMM and I introduced S. 939, the partial-birth abortion ban of 1995. Our bill is companion legislation to a bill called H.R. 1833 reported favorably by the House Judiciary Subcommittee yesterday.

Mr. President, partial-birth abortions are first performed at 19 to 20 weeks of gestation, very often much later.

To give my colleagues a clear understanding of how well developed an unborn child is that late in pregnancy, I have with me an anatomically correct model of a child—not a fetus, it is a child. It is a little child. Its face is formed; its arms, toes, fingers, eyes—this is a child.

Dr. Foster said he never performed a late-term abortion, and I have no reason to doubt that. I do not know. That is the statement that he made, and I am not accusing him of performing late-term abortions, but he is not blocking them either. So if you are not a murderer but you do not stop a murder, I think you can draw the conclusion.

I brought some photographs to show that premature babies of this very age are the victims of these partial-birth abortions. In this photograph, this is Faith Materowski. She was born at 23 weeks of gestation, just 3 weeks older than this little model would be, weighing 1 pound and 3 ounces, Mr. President. This photograph was taken about a month after she was born, and I am happy to report that Faith survived. She survived because her mother wanted her to live not die.

Let me explain, with the aid of a series of illustrations, exactly what is done to children about the same age in a partial-birth abortion. As I do, keep in mind that Dr. Martin Haskell, who by his own admission has performed 700 of these partial-birth abortions as of 1993—Lord knows how many after that—has told the American Medical News, the official newspaper of the AMA, that the illustrations and descriptions that I am about to present are accurate, technically accurate. In the first illustration, the abortionist——

Mrs. MURRAY. Will the Senator yield?

Mr. SMITH. I will not yield. I will be happy to yield when I finish and engage in questions and answers on your time.

In the first illustration, the abortionist, guided by ultrasound, grabs the baby's leg with forceps.

As you see in illustration 2, the baby's leg is then pulled from the birth canal. So you see the forceps now have grabbed the legs, pulling the baby from the birth canal.

In the third picture, in this so-called partial-birth abortion process, the abortionist delivers the entire baby, with the exception of the head—the entire baby. So I ask my colleagues to think about this, as to whether or not this is some impersonal thing or whether this is a child now in the hands of the abortionist. It could be a doctor, Mr. President. If it were a doctor who wanted to save that life, the life would be saved; the baby would be born and the life would be saved. The only difference is it is an abortionist.

In illustration No. 4, the abortionist takes a pair of scissors and inserts the scissors into the back of the skull and then opens the scissors up to make a gap in the back of the skull in order to insert a catheter to literally suck the brains from the back of that child's head.

That is what happens in the so-called partial-birth abortion. Anywhere from the 19th or 20th week up, this can happen. It is unspeakably brutal, and yet some say the child does not feel this. Take a pair of scissors and slowly insert them into the skin in the back of your neck a little way and see how that feels to you.

According to neurologist Paul Renalli, premature babies born at this stage may be more sensitive to painful stimulation than others. I would think my colleagues would be repulsed by this and most Americans would be appalled, sickened, and angered that such a brutal act could be carried out against a defenseless child. This is a child, I say to my colleagues. This is a child; a defenseless child.

I ask you, would you put your dog to sleep by inserting scissors in the back of the neck and using a catheter to suck out its brains? Yet, under the Supreme Court Roe versus Wade decision, the brutal partial-birth abortion procedure that I just described is legal in all 50 States—all 50 States. And, in fact, the National Abortion Federation has written:

> Don't apologize, this is a legal abortion procedure.

Exactly my point and exactly the connection with Dr. Foster. And before my colleagues stand up and accuse me of saying it, I am not accusing Dr. Foster of doing this. What I am accusing Dr. Foster of is ignoring the fact that it is taking place and accepting the fact that by any means, any means legal—and this is legal—by any means legal, a life can be taken. So lest my views get misrepresented on the floor of this Senate, I am making it very clear.

So when Dr. Foster says he wants to prevent the erection of barriers to late-abortion access, he is tolerating and condoning this. That is a late abortion, and he is tolerating it and allowing it to happen. Based on Dr. Foster's own statement, one can only conclude that he would oppose, and oppose strongly, the very bill that I have introduced. I have not heard otherwise.

The grotesque and brutal partial-birth abortion procedure that I just described and illustrated on the floor of the Senate today can and should be outlawed. And if the Surgeon General of the United States, whoever he or she may be, spoke out against it, it would be outlawed, and that is the kind of Surgeon General that I want.

The bill that Senator GRAMM and I have introduced would outlaw it, and our bill amends title 18 of the United States Code so that:

> Whoever, in or affecting interstate or foreign commerce, knowingly performs a partial-birth abortion and thereby kills a human fetus should be fined . . .

Not the woman, the doctor—called a doctor—the abortionist.

So, Mr. President, when Dr. Foster speaks of these barriers, he is talking, in effect, about bills like mine, like the bill that would ban partial-birth abortions. He is providing, when he says a woman's right to choose, a woman's right to choose partial-birth abortions. This is what it means. Let us put some meaning to the words, because that is what it means.

Out of all of the controversy surrounding Joycelyn Elders, all of the unbelievable statements and the controversy that we endured during her all-too-long and lengthy tenure, I cannot understand why the President would choose as his successor someone whose past record and policy views on the pressing social questions of our time are so out of tune, so far out of sync, with the rest of the American people.

The Surgeon General should be someone that the American people have confidence in, someone who would put the intense controversy of the Elders years behind us. Yet, President Clinton apparently, without even reviewing carefully Dr. Foster's record, which places him, unfortunately, in this debate, did not do a good job of investigating his past and even recklessly went ahead and made this nomination.

Mr. President, there are over 650,000 physicians in the United States of America—black, white, male, female, Asian, Hispanic, Indian. Surely, surely there is one out of 650,000 that could be brought to the floor of the U.S. Senate that would not have this kind of controversy and this kind of debate following the Elders reign.

My friend and colleague, Senator MIKULSKI, a few moments ago said on the floor that she could not understand why this whole thing was about abortion, why the debate was so focused on abortion. In the Washington Post this morning—I might answer the Senator from Maryland by saying this—here is what President Clinton said:

> Make no mistake about it, this was not a vote about the right of a President to choose a Surgeon General. This was really a vote about every American woman's right to choose.

That is why it is about abortion, because the President is making it about abortion, because he wants this kind of thing to occur.

Mr. President, I am confident that when the votes are counted, it is going to be the same result as yesterday, and Dr. Foster will not be the next Surgeon General.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time? The Senator from Washington.

Mrs. MURRAY. I yield myself 1 minute, and then I will yield to my colleague.

Mr. President, I am appalled and shocked that there would be this kind of display on the floor of the U.S. Senate. Certainly, Dr. Foster has made it very clear, as Senator MIKULSKI explained to all of us, that he does not support third trimester abortions, that he does not support abortions for sex selection, nor does he support illegal abortions.

I think it is really outrageous that guilt by association occurs on the floor of the Senate. I think the American people deserve a debate with dignity. I think Dr. Foster deserves a debate with dignity, and I hope that all of us can remember that.

Again, I remind you, Dr. Foster's nomination is in front of us because he is a man with a tremendous history of service—community service—delivering more than 10,000 babies, and I think that is what we should be debating today.

I yield my colleague from New Jersey 2 minutes.

The PRESIDING OFFICER. The Senator from New Jersey is recognized.

Mr. LAUTENBERG. Mr. President, I thank the distinguished Senator and urge her to continue her quest to see that fairness is finally delivered on this floor. I am astounded by what we have just seen. I assume that the pictures that we saw reflect a woman's decision, that she chose to have that abortion. You can make it look as ugly as you want. But the fact is that it is a medical procedure, and this woman chose to have it. This same Senator—a distinguished Senator and a friend of mine—from New Hampshire voted the other day and led the fight to take helmets off motorcycle riders. They could be laying all over the road, and they wind up in a hospital as paraplegics and quadriplegics, and we pay for it. That is OK. But to permit a woman who, under the law, has a right to make a choice, no, no.

Here we are watching a small minority deciding how the behavior of the majority ought to perform. This is an outrage. Yes, this is about abortion because the other side made it about abortion, instead of taking this man with superb credentials, who did what he had to under his oath as a physician and under his compassion as a human being. He obeyed the law and delivered excellent service. Over 10,000 babies delivered. The Senator from New Hampshire wants to pick out a procedure that was required and make that the subject of this discussion.

No, it is a narrow minority who says to the women across this country that you have no right to choose, even though the law says so. In his very statement, he said that. He said if we had a Surgeon General who spoke against it, then it would be OK with this Senator and those whom he represents—Senator GRAMM and the others.

This is an outrage. What we are witnessing here is the truth about this issue. This has nothing to do with Dr. Foster. This has to do with politics, raw politics. I appeal to the people across this country, if you think you are being dealt with fairly, just look at what took place: Decrying a law that is on the books and a physician for doing his duty. We ought to get a couple of friends here with enough courage to stand up and say we are not going to take it anymore and we are going to vote on behalf of the women in this country.

Mrs. MURRAY. Mr. President, I yield my colleague from Illinois 4 minutes.

Ms. MOSELEY-BRAUN. Mr. President, everybody is talking about what the issue is here. I think there are a number of American people who think that the only real issue is fairness. It is whether or not a minority of this body will stop this nomination, using the time-honored trick of the filibuster in order to enforce an extreme agenda on the President of the United States through his nominee. It is just that simple.

The extreme agenda, I think, is pretty evident. I have never seen anything as horrific, as horrendous, as awful, as ugly and graphic as the posters and the doll figure I saw on the floor a few minutes ago. It is outrageous to bring something like that on the floor of the U.S. Senate to make whatever point. Whether you are for or against choice, to bring that kind of graphic depiction of ugliness on this floor, I think, only serves the purpose of inflaming people around an issue that really inflames and divides the American people, and that does go to the heart of the opposition's extreme agenda here.

People who say the Supreme Court was wrong in terms of Roe versus Wade are finding 9,000 ways to overturn it in subtle ways. People who do not believe that a woman has a right to choose—by the way, everybody is entitled to their own view on that issue. American people are and will be divided. That is a profoundly divisive issue in our body politic. But the question is: Why would that profoundly divisive issue be applied to Dr. Foster's nomination?

Here is a man who is not an abortionist. He is a women's doctor. He has delivered tens of thousands of babies, and he has made the point that he supports the laws in terms of a woman's right to choose, but that is not his practice and never has been. Dr. Foster has played by the rules, has promoted women's health over the years, and he has a stellar background.

I join my colleague from New Jersey in saying that this really is a nomination now that is wrapped up in games and politics. Indeed, I will go as far as to say that Dr. Foster is a political hostage to extremism. That is the issue here—whether or not we are going to allow that extremism to derail this nomination through use of the filibuster, or whether we are going to allow this man to have a majority vote of this body. Fifty-seven Members of this body, yesterday, voted to allow the nomination to come to a vote. That is more than half. That is more than a majority. What it is not is enough to overcome the time-honored trick of the filibuster. It is continuing that filibuster that is at the heart of the vote that will take place this afternoon.

I urge my colleagues to strike a blow for fairness and say to the American people that we are prepared to allow a majority to rule in the U.S. Senate, like it does on other matters—the budget, the appropriations, and all the other things we do. Let us say we are going to allow the majority vote to prevail regarding this nomination for the President's administration.

Dr. Foster was nominated by the President over 136 days ago. We have been sitting here in the U.S. Senate with all of the public issues we have before us—violence and crime, the issues in the communities, AIDS, you can go down the list—and they have not been attended to. Why? Because of the politics of abortion and politics of the Presidential campaign. I say let us free Dr. Foster and have his nomination vote take place today.

Mrs. KASSEBAUM. Mr. President, I yield 10 minutes to the Senator from Texas.

Mr. GRAMM. Mr. President, I thank the distinguished chairman for yielding. We are coming down to the final moments of the debate. We will have our final vote here in a few minutes.

I would like simply to review the key issues. First of all, let me address the issue of the cloture vote. To listen to our colleagues, it would sound as if we never vote on cloture in the U.S. Senate. Yet, hardly a week goes by that we do not have a cloture vote. It is part of the fabric of American democracy. It was part of the process making the Senate the deliberative body of Congress that George Washington described to Thomas Jefferson when Jefferson came back from France. Thomas Jefferson had been the American Minister to France while the Constitutional Convention was occurring.

Our colleagues talk about cloture votes and filibuster. Yet, since 1968, 24 times we have had cloture votes on nominations, and nearly every one of them occurring when we had Democratically controlled Congresses.

The way our system works is, if there is a determined minority, that minority has the right to speak in the U.S. Senate. There is, today, a determined minority. And to accommodate the Senate, an agreement was worked out so that the proponents of this nomination had not one vote, but two. That was agreed to by unanimous consent. Any Member of the Senate could have objected. No one objected. So this is a process that we chose and that every Member agreed to. This is a process that we all understand, and it is a process called "democracy." It has served us well in the past. It will serve us well today when we reject this nomination.

I remind my colleagues that there was a Democratic effort to stop the confirmation of Chief Justice Rehnquist of the Supreme Court. That nomination went to a cloture vote. In that case, cloture was invoked. But the point was somebody on the Democratic side of the aisle felt so strongly about that nomination to one of the three most important offices in the land—the head of an entire branch of American Government—that they exercised their right. Many people did not like it, but that is how our system works. In that case, the process worked. We invoked cloture. Judge Rehnquist was confirmed. And in this case it is going to work as well. We are not going to invoke cloture, and Dr. Foster is not going to be confirmed.

Now, let me address the issue of Dr. Foster's credentials, and let me make it very clear that there is absolutely nothing in this debate that has anything to do with anything other than his qualifications to hold this office. There are two principal qualifications that our colleagues go on and on about with Dr. Foster. No. 1, he was the department head at a medical school in America. That is true. It is also true that the department he headed lost its accreditation while he was head of that department. Was it his fault? Were there extenuating circumstances? Were there other factors involved? Certainly there were. There always are. But the bottom line is that he served as the department head of a department that lost its accreditation.

The second argument given is that he established a program with a wonderful name, "I Have a Future." That program's stated goal was to reduce teen pregnancy. Our colleagues make a big point that this program was given a Point of Light Award. It was given that award because of its objective, a noble and great objective, and one that we need to promote all over America. But the bottom line is there were two objective assessments of that program, and both of them were made after it was given this award. Both evaluations concluded exactly the same thing: This program did not in any statistically significant way reduce teen pregnancy among those who participated in the program.

I said it yesterday. I will say it again today. And every Member of the Senate knows it. If we had set up a distinguished panel of physicians to go out and look at qualifications of physicians in America and to come up with a list of 1,000 physicians who were eminently qualified to hold the position as America's first physician, Surgeon General, Dr. Foster's name would not have been on that list. I do not think anybody here believes that Dr. Foster is qualified to be Surgeon General when considering his two major credentials: One being the head of a department that lost its accreditation; the other being the director of wonderful-sounding program with a noble objective which, according to two objective assessments, proved totally ineffective in promoting those objectives.

Because it has been the focal point of the debate, as it should be, I am not going to get into again the problem of Dr. Foster's credibility. Maybe it was his fault, maybe it was the White House's fault, maybe it is failing memory, maybe it is simply a lack of understanding of the political process and how it works. But the bottom line is, on virtually every issue that has been raised, there has been a problem of credibility.

Finally, on the whole issue of abortion. I did not see the presentation that my dear colleague, Senator SMITH, made about partial-birth abortions. Maybe some people were offended by the presentation. But I am offended that this is happening in America. I think people do have different views on abortion, and I respect the opinion of people who disagree with me.

But I think it is an extreme view when you take the view which Dr. Foster takes, in opposition to parental consent in cases involving abortion and minors. Polls show that is an extreme view; 80 percent of the people in America think that parents ought to be notified when abortion is going to be performed on a minor. I think it is an extreme view when a child is in the process of being born, and its life is extinguished. I think it is an extreme view that when a lady is being taken down the hallway toward the delivery room, that it is perfectly acceptable in America to make a left turn to perform an abortion. The American people, by a margin of over 70 percent, think that is an extreme view.

Why filibuster? Why force a 60-percent vote? The answer to that is very, very simple. A lot of us felt very strongly about Joycelyn Elders. When I read the things that she had said about the Roman Catholic Church, when I read the her comments which made her sound more potentially successful as a radio talk show host than a Surgeon General of the United States, when I looked at how extreme her views were, I did not think she ought to have that job.

But this was the President's first nomination for this position, and there was no way of knowing in advance exactly what she would be like. I voted no; I opposed her nomination; I fought it; I wanted to defeat it, but I did not use the power that the minority has in the Senate, and that is the power to debate. Having made that mistake on Joycelyn Elders, I and others were determined that we were not going to make that mistake again.

I believe Dr. Foster is not qualified for this position. I believe that there are real credibility problems concerning the facts that have been presented to the country and the Congress. And finally, I believe that his views are radical and outside the mainstream of American thinking.

Yesterday, I quoted our President four times from his campaign, talking about the values of our people, talking about family values, talking about traditional values. I do not believe that Dr. Foster's views match the President's 1992 campaign rhetoric.

I think one thing we have a right to expect Presidents to do once they are elected is to put forth nominees whose views are consistent with their campaign rhetoric. We have a right to expect that those campaign views will be reflected in their nominees. Do not get me wrong. When people voted for Bill Clinton, they voted for more spending, more taxes, more regulation, more Government, and for the appointment of liberals. If they did not know it, they should have known it. That is what democracy is about.

But they did not vote for the radicals that this President has appointed. This is an appointment where the views of this candidate are outside the mainstream of American thinking, and I believe we are making the right decision in saying no.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. PRYOR. Mr. President, I thank the Chair and I thank the distinguished manager.

I do not know whether this debate is more about politics or more about abortion or exactly what it is about. But I do not truly believe this debate is about Dr. Henry Foster. There are two Henry Fosters: The one that is depicted and portrayed by his opposition; and there is the real Henry Foster, a man of deep compassion and certainly a man of great ability.

There have been a lot of articles written, a lot of stories on TV and radio and in newspapers, about who is winning in this Foster fight; whether it is one of the candidates for the Republican nomination for President or the other candidate.

Mr. President, I can say the loser in this fight, if we do not get 60 votes today, will be the American people. It will be the American people who are going to be the great loser if we do not confirm this man.

He has stated time and time and time again his position on abortion is very, very simple: That they should be safe, that they should be legal, and that they should be rare. That is his position on abortion.

I urge my colleagues to vote for this splendid man as our next Surgeon General of the United States.

Mr. President, it gives me great pleasure to support the nomination of Henry W. Foster Jr., M.D. to one of the most important health care posts in our Government, Surgeon General. As you know, the Surgeon General is the national spokesperson to promote good health activities and to alert the nation regarding things that are harmful or potentially harmful. In May, Dr. Foster convinced the Labor and Human Resources Committee that he was the right man for the job.

Today, I am here to explain to my colleagues why I know Dr. Foster is the right person for that job. To reiterate, soon after I set out to learn more about our nominee for Surgeon General, I realized that there are actually two Dr. Henry Fosters. One is the Dr. Foster created by inside-the-beltway groups using diversionary tactics to derail the nomination of a respected physician. The other is the Dr. Foster who grew up in Pine Bluff, AR, attended University of Arkansas as the only African-American in his class, served his country as a medical officer in the Air Force, and set up a practice in Tennessee where he trained hundreds of the nation's finest medical practitioners.

Mr. President, I am here to tell you that I am convinced that this second Dr. Foster is the real Dr. Foster. For those who doubt this and want to see something tangible, I urge you to visit Nashville to see his accomplishments, such as the doctors he trained, the day care centers he created, and the individuals, young and old, he has delivered into this world over his many years of practice.

I would be remiss if I did not mention one of Dr. Foster's greatest accomplishments, his I Have a Future Program, a pioneering effort to reduce the number of teen pregnancies by improving teens' self-esteem. As you may know, President George Bush named Dr. Foster's program as one of American's Thousand Points of Light in 1991. President Bush's own Secretary of HHS, Dr. Louis Sullivan, has lauded Dr. Foster's nomination.

Let me also talk about what Dr. Foster's peers say about him. The American Medical Association, the American College of Obstetricians and Gynecologists, the National Medical Association, the American College of Preventive Medicine, are just some of the professional organizations that have come out in support of Dr. Foster.

Mr. President, in addition to letters from his peers, I have also gotten letters from other groups. One organization, the Council for Health and Human Service Ministries of the United Church of Christ wrote:

> We are people of faith, committed to promoting and maintaining optimum health of all people. We believe that the professional credentials and experiences of Dr. Foster are impressive and provide sufficient evidence of his ability to be the nation's spokesperson

> on matters of public health policies and practices.

In sum, Mr. President, let me make these points about Dr. Foster:

He is a practicing physician, a scholar and academic administrator of national stature, and a community leader.

Dr. Foster is a skilled communicator who emphasizes consensus-building over confrontation.

Dr. Foster has bipartisan support.

Dr. Foster is one of the nation's leading experts on, and advocates for, maternal and child health, and has developed and directed teen pregnancy and drug-abuse prevention programs that bolster self-esteem and encourage personal responsibility.

Mr. President, let us look at the Dr. Foster from Tennessee, the man who has done so much for people who others have ignored. Let us follow the Labor and Human Resource Committee's lead and confirm Dr. Foster's nomination.

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 2 minutes.

Mrs. BOXER. Mr. President, I was not going to take the floor back, but I have to respond to some of the things done and said on this floor. I feel very strongly that it is my responsibility as a U.S. Senator from the largest State in the Union to say a couple of things here.

No. 1, to my colleague from Texas, people in America want a fair President. This is not fair. To deny this man a vote is not fair—period. And then to keep bringing up Joycelyn Elders. I do not say about my colleague that he is like Richard Nixon or he is like Herbert Hoover. If I agree with him, I agree with him because it is him. I do not say he is like someone else. So let us cut it out. If you want to fight a guy, fight it on fair terms.

My colleague from New Hampshire shows us pictures meant to divide this country. He shows us pictures that should never be shown in front of the Senate pages who sit here. They should have been spared that. You want to outlaw abortion? You want to make it a crime? You want to put women in jail for having them? You want to put doctors in jail? Bring the legislation to the floor. I will debate with you toe to toe—toe to toe. And I will win that battle because, thank you very much, the women of America do not want Senators telling them how to handle their private lives.

I am always amazed that the very people who say get Government out of our lives want to put Government in the bedrooms of the women and men of this country.

You are out of the mainstream, and you are stopping this nomination with a minority vote here. It is wrong to do that.

I want to end my remarks with a positive picture—and I wish I had it—of 10,000 little babies.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. BOXER. May I have 30 additional seconds?

Mrs. KASSEBAUM. Mr. President, I yield the additional time.

Mrs. BOXER. I thank my colleague.

If I had only known we were going to do this picture situation, I would have tried to get the picture of thousands of new babies—10,000 brought into the world by this physician who went into the Deep South, where no one would go, who turned around the infant mortality rate. Did you ever see a picture of a baby who was born without prenatal care? I will tell you about it. I happen to have one. I have two who were born premature with prenatal care. But I want to tell you, it is not a pretty picture. They have tubes up their noses. They suffer. They struggle. They get high bilirubin. They turn yellow. And I will never forget, before my baby was born prematurely, I remembered then President Kennedy had a baby that was born prematurely. It is not a pretty sight.

He turned it around. He showed those pictures. Dr. Foster never performed a late-term abortion that was not to save the life of the mother. That is on the record. It is an unfair thing to do to this man.

I urge my colleagues, in light of those pictures, to change your vote, show that you have a conscience, and stand up for what is right and just.

I yield the floor.

Mrs. KASSEBAUM. Mr. President, I yield 15 minutes to the Senator from Ohio.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized for up to 15 minutes.

Mr. DEWINE. Mr. President, I rise today to discuss the nomination of Dr. Henry Foster to be Surgeon General of the United States.

The role of the Surgeon General is to be a public advocate—to persuade Americans to change their private behavior and lead healthier lives. That is why the credibility of the Surgeon General—his or her ability to communicate with the American people—is vital to his success in that job. The Surgeon General has to be able to connect with the general public in a truly personal way.

To do this, the Surgeon General has to be sensitive to people's real concerns. He cannot be someone who appears to shrug off important issues.

That is why Dr. Foster's record on the very important issue of sterilizations is so troubling.

What are the facts? The facts are that in the early 1970's, it was becoming increasingly clear, to a broad public, to the medical profession, that mentally retarded individuals needed special protections—to prevent abuses of the practice of sterilization.

In 1970, the American College of Obstetricians and Gynecologists issued the following statement of policy:

> If an operation to accomplish sterilization is recommended by the physician for medical indications, the recorded opinion of a knowledgeable consultant should be obtained.

Four years later, in 1974, Dr. Foster wrote an article in which he said—and I quote: "Recently, I have begun to use hysterectomy in patients with severe mental retardation."

The operative words are "recently" and "begun."

"I have recently begun".

In a written inquiry, I asked Dr. Foster whether he had obtained the recorded opinion of a consultant prior to performing those hysterectomies. His answer was—and I quote—"I do not believe I obtained the recorded opinion of a consultant."

But he adds:

> I believed that * * * the manner in which they were performed was fully consistent with prevailing rules governing informed consent.

Dr. Foster is now—and was then—a member of the American College of Obstetricians and Gynecologists. But in response to my question, Dr. Foster said he believes that the policies of the American College of Obstetricians and Gynecologists simply are not binding.

I have a problem with that. I think that the position of the American College of Obstetricians and Gynecologists—their insistence on a recorded opinion from a consultant—should not be dismissed so cavalierly. Indeed, the whole trend of history was moving toward protecting the rights of the mentally retarded, and away from Dr. Foster's position, at the time he wrote that article.

Let me add a few more comments to put it into really historic context.

In 1972, a Federal district court—in the case of Wyatt versus Stickney—had placed Alabama's institutions for the mentally ill and mentally retarded under sweeping and detailed court orders forbidding experimental research and certain kinds of treatment without express and informed consent.

In June 1973, two girls—ages 12 and 14—were surgically sterilized in Montgomery, AL.

Without going into all the details, it was an absolutely shocking set of facts.

When the sterilizations came to light, there was immediate public reaction—and a move toward nationwide reform. By the end of that same month—June 1973—there was already a lawsuit filed. In the following month—July 1973—Senator EDWARD KENNEDY held hearings on this controversy. The Secretary of HEW announced that new regulations on the use of Federal funds for sterilizations would be published within weeks.

And the regulations were published. They sought to protect the rights of all persons—including the mentally retarded—with respect to federally funded sterilizations.

These regulations never took effect, because in 1974 a Federal district court found—in the case of Relf versus Weinberger—that HEW had no authority to perform any nonconsensual—that is what we are talking about, nonconsensual—sterilizations whatsoever.

On January 8, 1974—the very beginning of 1974—Federal District Judge Frank M. Johnson, Jr., issued an order that specified the procedures that would have to be followed in cases of the sterilization of institutionalized mentally handicapped individuals. Judge Johnson required that any sterilization would have to be approved by the director of the institution, a review committee, and the court.

That was January 1974.

That tells us a little bit about what the climate was.

That was the moral and legal climate in which Dr. Foster was justifying and defending the practice of sterilizing mentally handicapped women.

In the summer of that same year—months after the decision by Judge Frank Johnson, and a year after the Kennedy hearings—Dr. Foster made his statement that he had "recently * * * begun to use hysterectomy in patients with severe mental retardation."

The physician—even more than the average citizen—owes what our Declaration of Independence calls "a decent respect to the opinions of mankind." That is way Dr. Foster's responses on the issue of sterilization gives cause to me for grave concern. They lead one to believe that Dr. Foster can be tone deaf to some very important issues.

It is one thing to have a controversial position on some issue. It is something else entirely when someone chooses to remain totally indifferent to the moral controversies of his time.

If you are going to be Surgeon General, you have to be able to reach people. You have to be sensitive to them. You have to care about what is going in their hearts and their fundamental moral sensibilities.

Dr. Foster, as I have said on several different occasions, Mr. President, is a good man. He is a caring person. He is a loving human being. That is not the issue. I believe, based upon the hearings, on my own conversations with him, on his responses to my written questions, that Dr. Foster simply cannot adequately perform this job; that he cannot use the job of the Surgeon General of the United States to its fullest capability; that he cannot use it as the bully pulpit that it should be used as; that he cannot maximize the great potential that office has.

That is why I will again today vote no on his nomination.

I yield the floor.

Mr. BRADLEY. Mr. President, I rise reluctantly today to join the debate on Dr. Henry Foster's nomination as Surgeon General. I am reluctant because this has gone on too long; there should not be such fierce opposition to a candidate so clearly qualified as Dr. Foster. However, the debate continues, and I feel it is important to point out his qualifications, and thereby separate the germane issues from distractions, wordplay, and rhetoric.

The facts of Dr. Foster's career speak for themselves. His work at Meharry Medical College, his service for a long list of organizations, including the March of Dimes Foundation and the American Cancer Society, are evidence of his dedication and professionalism. His I Have a Future Program has helped young men and women leave housing projects and embark on field trips, jobs, and college educations. The program was aptly chosen as No. 404 of the Thousand Points of Light. Who can deny that teaching job skills, self-esteem, communication skills, and counseling for at-risk youths is a light in these troubled times? Who can question the values of a man who builds up a community, provides support for teenagers, and encourages family participation in crucial life decisions?

Dr. Foster was there for the teenagers of Nashville when their decisions were anything but simple. Violence, pregnancy, drugs, and poverty are problems that faced these youths, and which face us here today. We have a chance to provide America with a Surgeon General who has said that as the People's Doctor, he would try to "replace a culture of hopelessness with one that gives young people a clear pathway to healthy futures." We can debate endlessly, lamenting the lack of values in America and condemning violence, but when we prevent Dr. Foster's nomination, we prevent him from continuing and expanding his fight against today's problems.

Dr. Foster has used his position as a medical doctor and an educator to encourage abstinence and to give teenagers hope for the future, so that they will take the responsible path. He has used his knowledge and his expertise to bring adolescent health services to places where they are desperately needed. He has performed a function beyond the call of a traditional physician. In his own words, his work "involves the entire families and the total social matrix of the surrounding community."

In holding back this nomination, we hold back possible solutions to problems which face all of us, problems which will not be solved without work like Dr. Foster's, problems which will not go away, and problems which will not wait for political delays.

We must listen to the facts in this case. By now, we are all familiar with Dr. Foster's outstanding achievements as a doctor, an educator, a scholar, and a community leader. We know that Dr. Foster has the support of the American Medical Association, the American College of Obstetricians and Gynecologists, the American College of Physicians, the Association of American Medical Colleges, and hundreds of other respected institutions and individuals. We cannot ignore the letters which pour in from informed organizations like these, all supporting Dr. Foster, and all condemning the politicization of this issue. We should look at Dr. Foster's numerous achievements, instead of creating a smokescreen of accusations. We should confirm Dr. Foster, and allow him to continue his hard work for at-risk teenagers, for families, for each and every one of us in this Chamber, and for this country.

Mr. FRIST. Mr. President, I ask unanimous consent that the following statement of support for Dr. Henry Foster's nomination as Surgeon General be printed in the CONGRESSIONAL RECORD. The statement was presented on May 26, 1995, at the Labor and Human Resources Committee vote on the nomination, and fully explains my reasons for supporting this nominee.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR BILL FRIST ON DR. HENRY W. FOSTER, JR.—MAY 26, 1995

Last November, the people of Tennessee elected me to make difficult decisions. And this has been a decision I've struggled with. I know that thoughtful people honestly and fundamentally differ on whether Hank Foster should be Surgeon General.

What makes my statement different from those you have heard today? I know Hank Foster. I know him as a fellow Tennessean. I know him as a fellow physician and colleague, who worked 4 miles from my office. We are both members of the Nashville Academy of Medicine, on whose Ethics Board he has served. And I know him as a fellow Nashvillian, who has done what few physicians do—step out of the clinic into their community to address the really tough problems in our society.

Since February 2, the day the President announced his choice, I've listened carefully to every conceivable argument for and against the nominee. And over the past 3 months, I've done my very best to remain neutral—neither to blindly endorse Hank Foster because he is a fellow Nashvillian, nor to condemn him because of allegations drawn from the attics of his past. I have waited until final testimony was submitted just last Friday so that I could thoughtfully, and carefully, consider every aspect, every ramification, of his nomination. Several days ago, I again met with Hank Foster—one-on-one, face-to-face—to specifically and directly ask him about his plans as Surgeon General.

I asked him the tough questions. Would he be like his predecessor, Dr. Elders? Would he allow himself to be used as a political tool for an out-of-step President, who time and time again has promoted radical agendas? Or would he represent mainstream America and family values?

Dr. Foster told me, without hesitation, that his number one goal was to reduce teen pregnancy—a problem that we as a people have done a miserable job addressing. It's a problem that literally threatens the very fabric of America. His approach? He looked me straight in the eye, and said "number one, build self-esteem; number two, promote abstinence; and number three, instill family values."

He told me that the other main issues on his agenda would include screening for breast cancer and prostatic cancer, addressing the AIDS epidemic, and teenage smoking. Dr. Foster stressed to me that he places primary emphasis on family, that he understands the importance of leading by building a consensus, and that he understands that his agenda as Surgeon General must appeal to, and be embraced by, mainstream America.

Madam Chairman, many have told me that this nomination is no longer about Hank Foster, the man. They say it's about the inept way in which the Administration has handled his nomination. They say it's about the tardy and roundabout manner in which information has been provided to this Committee and to the American people. They say it's about a radical social agenda that is beyond the bounds of mainstream America and traditional values.

But, I don't buy it. I guess as a newcomer to this body, I see it all very differently. I believe it is about Hank Foster, the man—the man who had delivered thousands of babies into this world; the man who has committed his life not to making money, not to promoting himself, but to serving others' needs; the man who has cared for and nursed to health thousands of women; the man who in addition to the practice of medicine, has courageously and unselfishly stepped out into his community to give others a chance to step out of a world of poverty; and the man who 4 days ago, looked me in the eye and described a fundamental commitment to the principles of self-esteem, personal responsibility, and family values.

As I stated at the Committee hearings, it should not be our purpose to search for every possible mistake or imperfection in Hank Foster's life. The question before us is a much more narrow one: does this man have the commitment, the intelligence, the training, the honesty, and the integrity to be the chief spokesman for Americans on matters concerning public health? These are the issues that I've considered, and I'm satisfied with what I've seen and heard.

Having known Hank Foster as a fellow Tennessean, having heard his testimony, having had the opportunity to talk to him extensively face-to-face, and having considered every aspect of his nomination very carefully, I believe his nomination should be referred out of Committee favorably and brought before the U.S. Senate. And I also believe we should move forward with this process. We've got a lot of important business to attend to and the American people want this Congress to press on.

Madam Chairman, I think it is also important to mention, as I did in the Committee hearing, my belief that this confirmation process is not the place or the time to revisit our national policy on abortion. Americans of conscience will remain deeply divided over this issue regardless of who is appointed Surgeon General. It's important to remember that the office of Surgeon General does not set social policy, nor convey with it the right to vote on any legislation—whether affecting abortion or otherwise. When this body confirmed Dr. C. Everett Koop as Surgeon General, a staunch opponent of abortion, that confirmation did not outlaw abortion. If this body confirms Hank Foster, that confirmation won't condone abortion.

No doubt, the unfortunate events that immediately followed Hank Foster's nomination cast a shadow on his viability to be Surgeon General. Conflicting information raised questions about his credibility. I, too, was angered that the Clinton Administration had badly mishandled yet another nomination by failing to adequately prepare Dr. Foster—a physician who had never had to face such aggressive public scrutiny.

Questions arose about Dr. Foster's ability as an administrator, his involvement in 4 hysterectomies performed 25 years ago, and his knowledge of a study on black men conducted over a 40 year period in rural Alabama. These issues concerned many, and each and every one concerned me. But I believe that Hank Foster's testimony, evidence submitted to the Committee, and my own one-on-one interviews with him, put to rest those concerns.

Dr. Foster, I feel, came through the hearing process with his credibility and integrity intact, and with is qualifications to be Surgeon General apparent.

In the end, when people ask me why I support Hank Foster's nomination, I'll tell them simply because he's qualified to carry out the duties of Surgeon General. I am confident that he will perform his job well.

Finally, Madame Chairman, I ask my colleagues to consider this nomination, not based on politics, but rather on qualifications and ability. In the past, the Democrats have so often brought politics into the equation—we all remember the nominations of John Tower, Robert Bork and Clarence Thomas. I wasn't here, but as a private citizen, I recall the anger I felt and the disappointment in the process. Let us not make the same mistakes. The American people are tired of politics as usual—that was the message of November 8.

For that reason, I urge all of my colleagues to view this candidate away from the distractions and the hype of political expediency, and without regard to who nominated him. Rather, look at his accomplishments, his qualifications, his statements, his goals, and the testimonials of other who know him.

And then—based on serious reflection—make your decisions.

I've done that, and I choose to support Dr. Henry Foster.

Mr. CRAIG. Mr. President, the concerns that have led me to oppose the nomination of Dr. Henry W. Foster, Jr., to be Surgeon General of the United States are not trivial. They are also not intended as a criticism of the nominee personally. He is a fine individual and deserves our respect.

However, in deciding whether to support a nominee, character cannot be the only consideration. We must also examine the nominee's ability to serve the American people in the office to which he or she was nominated.

It is important to note that my decision to oppose the nomination of Dr. Henry W. Foster was made after a great deal of thought and consideration. I do not take lightly the responsibility of the Senate in confirming Presidential nominees. Nor do I take lightly the right of the President to nominate individuals who share his philosophy. My own philosophy, opinions or views have run contradictory to most of the nominees presented by this administration. However, I have opposed very few of those nominees.

Mr. President, as I have noted, I have concerns about Dr. Foster. I do not agree with him on a number of issues, including abortion. However my opposition on his confirmation is not based on differing opinions. I am opposing Dr. Foster's nomination because the many problems surrounding his nomination are issues that will be divisive.

An individual can have many fine qualities and excellent experience and yet not be qualified to serve as a public official in the position of Surgeon General. That position, sometimes referred to as "America's Family Doctor," requires someone who also has the ability to bring groups together to work toward resolving the health problems of this Nation. To his credit, Dr. Foster has some fine qualities and experience. I do not dispute that fact. However, the controversy surrounding his nomination, the disclosure—or lack of disclosure—of the number of abortions he has performed, as well as the questions surrounding his knowledge of the Tuskegee syphilis study lessen his ability to bring Americans together on the multitude of health issues our Nation faces.

Mr. President, the role of Surgeon General requires the ability to bring people together, not to be divisive. The controversy surrounding Dr. Foster's nomination has diminished his ability to play the unifier.

In addition, I would add that I have received numerous letters from Idahoans expressing concerns and opposition to the confirmation of Dr. Foster.

Therefore, I have decided to vote "no" on the confirmation of Dr. Henry Foster for the office of Surgeon General for the United States.

Mr. KOHL. Mr. President, some today have presented Dr. Foster's credentials and discussed his integrity. Others simply do not support the candidate. We have heard the arguments. We should be ready to vote—to go on record, yes or no, whether we approve of this nominee.

Unfortunately, Mr. President, some in this body do not want a vote on the nomination of Dr. Henry Foster. The debate we are now engaged in is not about the qualifications of the candidate for the job of Surgeon General. This is about a political game.

Machiavelli would enjoy how the Nation's business is handled in Washington, D.C. today. Bipartisanship is a word easily tossed around, but seldom practiced. The bottom line is how to prevail in the next election, not how to solve this Nation's problems.

Do we really think the best way to find qualified candidates to serve the United States Government is to pick apart their careers and their characters, groping for something that will justify a political end? Is that what faces all those who wish to serve their country?

Ever since the President announced Dr. Foster as the Surgeon General nominee, the Nation has witnessed a non-stop exercise in abusive politics.

For months Dr. Foster was attacked by those opposed to his profession and who questioned his integrity. Based on allegations by ideological factions and media scrutiny, some called for the nomination to be pulled before allowing Dr. Foster a chance to respond. That is not how this body should consider Presidential nominations. Nominations should proceed in a fair manner, allowing candidates to fully present their story.

We should debate those whose views differ from our own. That is called Democracy. But I do not believe every event in a person's life should be held under a national microscope—especially when the person in question has no chance to respond. That is called persecution.

Fortunately, Dr. Foster finally received a fair hearing in the Labor and Human Resources Committee. He responded well to questions raised about his background and proved to be an honest, caring and dedicated individual.

After all that Dr. Foster and his family has endured in the past several months, does he not deserve a vote?

Dr. Foster has committed his life to helping others and promoting public health. He is well respected by his professional peers and those whose lives he has touched through community service. In short, this candidate is qualified to serve as Surgeon General and deserves a final decision.

The Labor Committee approved of Dr. Foster and passed his nomination. It is now time for the full Senate to exercise its responsibility. I urge my colleagues to end this sad political spectacle and vote on the nomination of Dr. Henry Foster.

Mr. HATFIELD. Mr. President, yesterday I voted against limiting debate on the nomination of Dr. Henry Foster as Surgeon General of the United States. It is my intention to do so again today.

I will vote against cloture today because I am disappointed by the handling of Dr. Foster's nomination and because I do not believe debate should be limited before it begins. This is a misuse of the cloture motion. Cloture should be a tool of last resort rather than a tactic employed as soon as an issue hits the Senate floor.

In addition, I believe it is improper to raise a single issue and use it as the litmus test for the nomination of a Surgeon General. The President did that yesterday by stating that this vote was really a vote about abortion. I am deeply disappointed that the debate has come to this.

The Surgeon General serves an important role as the national spokesperson on matters of public health. Over the years we have seen individuals serving in their capacity as Surgeon General make important statements on the health effects of smoking, the spread of AIDS, and teenage pregnancy. This person often becomes a lightening rod for controversy.

In recent years, a number of individuals who have been nominated as Surgeon General have been controversial figures. Their nominations did not pass the Senate without a full debate. Dr. Foster's nomination is controversial. Much of the initial information provided to the Senate was misleading or inadequate. In addition, there are a number of issues that have been raised relating to Dr. Foster's qualifications to serve as Surgeon General and I believe that both sides should have an opportunity to fully debate these issues.

Mr. BINGAMAN. Mr. President, I rise to express my strong support for the confirmation of Dr. Henry Foster to be Surgeon General of the Public Health Service. In my view, it is time that the Senate put personal agendas and Presidential primary politics aside.

It is time we let Dr. Foster get on with the important job he has been preparing for throughout his professional career: the job of chief public health advocate for our country.

Based on the public hearings held by the Labor and Human Resources Committee and the very detailed questioning those hearings involved, I have come to the conclusion that Dr. Foster is imminently qualified to serve as Surgeon General.

Just as Presidential politics should not define when and under what conditions the Senate conducts its business, neither should we in the Senate attempt to define, based on ideology alone, the boundaries of a Surgeon General's professional experiences.

We in the Senate need to focus on the real world we live in, not the world we wish we lived in. The reality is that our Nation has deplorably high rates of teen pregnancy, infant mortality, and poverty. Too many of our children are abused, troubled, hungry, and hopeless. Childhood violence and death due to suicide are increasing at alarming rates. Incidence of AIDS and other sexually transmitted diseases are increasing in every population in our country.

Statistics from my home State of New Mexico illustrate these facts in graphic detail:

We have the third worst rate of births to unmarried teens in the nation: From 1985 to 1992, the number of births to unmarried teens grew from 41.6 to 60.1 births per 1,000 females age 15 to 19. That is an increase of 44 percent over 7 years.

In 1991, 18,234 cases of child abuse were reported in New Mexico, an increase of 21.4 percent from 1990.

More than 10 percent of New Mexico's children live in extreme poverty, with family incomes below 50 percent of the poverty level; 27.2 percent of our children live in poverty, compared to the national average of less than 20 percent.

Nearly 40 percent—4 out of 10—of our children live in families with incomes 150 percent of the poverty level or less.

Our teen violent death rate, though declining, was still hovering at more than 70 deaths per 100,000 teens in 1992.

I could go on, but I believe I have made my point.

The real world is tough. The problems we face are tremendous. It will take a person who has faced reality and dealt with the problems he has seen with compassion and commitment to find solutions to the enormous public health challenges confronting our nation.

My impression is that Dr. Foster is such a person. His background as a practicing physician, a scholar, and academic administrator, and an advocate for poor children, combined with his proven ability to lead are evidence of his strength and compassion.

Dr. Foster has proven his commitment to public service and public health. He deserves to be judged by the Senate on his merits as a physician and an educator. And he deserves the opportunity to serve his country as the next Surgeon General.

Mr. FEINGOLD. Mr. President, I would like to express my support for the confirmation of Henry Foster as Surgeon General of the United States.

In making my decision to support Dr. Foster, I reflected upon many of the comments on this nomination that I have received from constituents in my home State of Wisconsin. Most Wisconsinites wish that fewer women had abortions, hope that fewer young women got pregnant unintendedly, and want sufficient access to comprehensive health care services for women and children.

Dr. Foster's capabilities and accomplishments in addressing women's and community health are noteworthy. He is a respected medical educator and president of Meharry Medical School. He is the past president of the Association of Professors of Gynecology and Obstetrics, and has been a leader in addressing teenage pregnancy issues in Nashville, TN. Lastly, by all accounts, he is a sincere, compassionate, and respected gynecologist who has delivered thousands of babies and seeks quality health care for women and their families.

All of us heard numerous opinions on the nomination of Dr. Foster. I have received letters from practitioners, leading medical education departments, and professional associations, and have heard nothing from the medical community which would impeach Dr. Foster's skills, abilities, and integrity. For example, when President Clinton nominated Dr. Foster, Dr. Douglas Laube, chair of obstetrics and gynecology at the University of Wisconsin-Madison wrote the President in support of that decision, and sent me a copy of his letter. Dr. Laube has personally worked with Dr. Foster for 7 years, serving on a number of national committees designed to develop the education of medical students and resident physicians in the United States. Dr. Laube writes "Dr. Foster's commitment to medical education nationally and his activities in Tennessee underscore the efforts of an altruistic and well-intentioned person." He continues, "In my personal dealings with him, and in my observations of his dealings with others, I can attest to his integrity, consistency, and dogged attention to detail. More importantly, Dr. Foster is a physician who has spent his entire career attempting to better the life of others while serving as a role model for countless medical students and resident physicians in training."

With his profession behind him, how, then, has all this controversy over Dr. Foster arisen? In his 37 years as an obstetrician and gynecologist, despite his work to reduce teen pregnancy, sexually transmitted disease and drug abuse, and his role in delivering more than 10,000 babies, Dr. Foster has also performed some 39 abortions.

I do not believe that Dr. Foster should be penalized for acting under the law. The legalization of abortion is an issue for Congress and the courts, ultimately to be decided by the American people, and currently abortion is legal in this country. I have been very concerned that individual Members are using this nomination to express their personal views about abortion. The controversy over the number of abortions Dr. Foster performed, and his recollection of that number, is really a smoke screen designed to attack and demean Dr. Foster and other health care providers who are involved in providing comprehensive women's health care. The underlying message is that one can forget holding public office as a physician if you provide health services to women that includes abortion services.

As a practitioner, the decision to perform abortions is already risky enough. In January of this year, I joined my colleague, the Senator from California [Mrs. BOXER], in condemning violence at reproductive health clinics. I explained then that many of the doctors in my home State of Wisconsin have taken to wearing bullet proof vests to go to clinics to do their work. Are we now saying, that in addition to enduring the threats of stalking, bombings, and shootings, physicians like Dr. Foster must also pay the public political price of ostracism and denouncement of professional credibility?

Despite the controversy surrounding his nomination, Dr. Foster conducted himself in the Labor and Human Resources Committee hearings in a manner which convinces me both of his skill as a communicator and his compassion as a practitioner. I believe he was responsive to questions asked of him, and that he clearly explained his practice record including his tenure and involvement at Meharry in Nashville, at Tuskegee in Alabama, and now on sabbatical at the Association of Academic Health Centers in Washington, DC.

In sum, Mr. President, I have evaluated the entire body of Dr. Foster's record, and I believe him to be well qualified for this position. I also generally believe that the President is entitled to select key members of his administration and due deference should be paid to his choice, where the individual is qualified to serve. I will cast my vote to confirm Dr. Foster, and I admire throughout all the controversy his continued commitment and desire to serve our country in this capacity.

Mr. GLENN. Mr. President, I rise today in support of Dr. Henry Foster for the post of Surgeon General of the U.S. Public Health Service.

Since his nomination several months ago, Dr. Foster's public and private history has been subjected to an exceptional level of public scrutiny, and has become a pawn in an unfair political game. I believe it is a compliment to Dr. Foster's character and achievements, that when given the opportunity to answer his critics, a majority of the Labor and Human Resources Committee voted to forward his nomination to the full Senate.

Mr. President, after reviewing the testimony presented at Dr. Foster's hearing and examining his credentials and accomplishments, I strongly believe that Henry Foster possesses the skills and experience necessary to address the many public health challenges that face our Nation.

During his 38 years as a practicing obstetrician-gynecologist, Dr. Foster has received national recognition as a scholar, academic administrator, and advocate for maternal and child health. He has devoted much of his career to educating medical practitioners at Meharry Medical College—serving as a professor, department chairman, dean of medicine, and president. As a practicing physician and educator, Dr. Foster chose to work with low-income families and children who might not otherwise have access to health care.

Dr. Foster was a pioneer in the movement to introduce the concept of responsibility to at-risk youth. This concept has received a lot of attention in Congress lately. In 1988, Dr. Foster founded the highly successful I Have a Future Program devoted to preventing teen pregnancy and drug abuse. Unlike teen pregnancy prevention efforts which focus on contraception, the I Have a Future Program concentrates on improving self-esteem, cultivating a sense of optimism in the lives of disadvantaged young people, and providing incentives to delay sexual activity and childbearing. "I Have a Future" has won wide recognition from many sources, including the American Medical Association, and was designated as one of America's Thousand Points of Light by President Bush in 1991.

Mr. President, I regret that the vote on Dr. Foster's nomination has really come down to a vote on abortion. An individual's beliefs about reproductive choice, or the number of abortions performed during the course of a medical career, should not be a litmus-test for a nominee to the Surgeon General post. Through his delivery and care of over 10,000 children, commitment to research and education, promotion of healthy lifestyles, and efforts to prevent unwanted pregnancies, Dr. Foster has proven his dedication to improving the health of all Americans.

Dr. Foster has an outstanding private, public, and professional record. He is uniquely qualified to lead our Nation as an advocate for healthy and responsible lifestyles. Mr. President, this country has been without a Surgeon General for over 6 months and we now have the opportunity to confirm a man who will bring both experience and enthusiasm to our efforts to combat public health crises such as infant mortality, substance abuse, sexually-transmitted diseases, teen pregnancy, HIV infection, and others. Unfortunately, it appears that the will of a small minority will block a fair and democratic up-or-down vote on Dr. Foster's nomination.

Mr. President, I believe that Dr. Foster deserves more than a politically motivated procedural vote. I strongly urge my colleagues to vote for cloture and support Dr. Foster's nomination to the post of Surgeon General of the United States.

Mr. FAIRCLOTH. Mr. President, much has already been said on the Senate floor about why Dr. Henry Foster is unfit to serve as Surgeon General. Yesterday, I voted against the petition to invoke cloture on debate concerning Dr. Foster's nomination. As far as I am concerned, nothing has happened since yesterday to cause me to change my opinion about Dr. Foster's qualifications to serve as Surgeon General. He was the wrong man for the job yesterday, and he is the wrong man for the job today.

ny have testified as to their personal knowledge that Dr. Foster is a fine man—a nice man. I have no reason to disagree with that assessment. Despite those testimonials, many—myself included—do not believe that we are conducting a congeniality contest to fill the vacancy created by Dr. Elders' forced resignation. In rushing to fill the position, the Clinton administration failed—once again—to do their homework and thoroughly investigate a nominee's qualifications for the job for which he is nominated. The saga of Dr. Foster is yet another in a long string of failed efforts by the White House to send to the Senate nominees who are prepared to fully disclose important information about their background—information essential for the Senate to exercise its constitutional duty to advise and consent on Presidential nominations.

After 2½ years in office, I would think that the White House staff would take more seriously their responsibility toward the Senate and toward administration nominees. Time after time, we in the Senate are subjected to unqualified nominees from the White House gang that can't shoot straight. How much longer will our Nation continue to tolerate this sort of negligence in office?

Yesterday, 43 Senators sent a clear message to the Clinton administration that we cannot support a nominee whose credibility is in serious doubt as a result of numerous inconsistencies in statements by Dr. Foster and the White House. Beginning on February 2 when the President nominated Dr. Foster, a steady stream of inaccuracies were uncovered concerning crucial details about his professional medical background. Either Dr. Foster has a selective memory disability or the White House early on concluded that the full truth about Dr. Foster would sink his chances in the Senate.

After hastily confirming other Clinton nominees like Ron Brown and Henry Cisneros, both of whom have serious ethical and possibly even criminal misconduct charges outstanding against them, it is incomprehensible that the White House would not more carefully screen its nominees. Mr. President, let us not forget that President Clinton originally promised that his administration would be the most ethical in American history. It is remarkable how far President Clinton has fallen from the mark which he set for his administration.

I will not recount the long list of inconsistencies in Dr. Foster's record. Suffice it to say, that any nominee with such a tainted record before the Senate is de facto unqualified to hold high public office in this Nation. President Clinton should never have nominated Dr. Foster and when learning of the many inaccuracies in information provided to the Senate, President Clinton should have withdrawn the nomination.

Many months have passed while the administration attempted to rehabilitate Dr. Foster's reputation for veracity. However, nothing will change the fact that Dr. Foster and the White House consistently provided the Senate with false information. I cannot in good conscience support such a nominee.

Moreover, I have begun to think that we no longer need a Surgeon General. Many of the responsibilities of this Office could easily be fulfilled by others in the Department of Health and Human Services. Savings from elimination of the Surgeon General's Office could be contributed toward deficit reduction. With the total mishandling of the Foster nomination, President Clinton has demonstrated better than any of his predecessors the irrelevancy of the Office of Surgeon General.

Mr. KEMPTHORNE. Mr. President, I rise today to speak on the nomination of Dr. Henry Foster as surgeon general of the United States.

Let me begin by stating that I am unequivocally opposed to confirming Dr. Foster for this post.

I have been concerned about this nomination from the time it was announced. We are all well aware of the conflicting reports which came out of the White House about Dr. Foster's background. I do not think I need to go into the confusion created by the continually changing reports about the number of abortions which the doctor has performed. But those inconsistencies quickly cast a shadow over the nomination as to whether the administration had done its job of properly investigating a potential nominee.

While I do not believe Dr. Foster should be held responsible for the blunderings of the White House staff, the situation raised doubts about his forthrightness which have, in my mind, never been resolved.

One of the most glaring examples of this lack of candidness involved the Tuskegee Syphilis Study, in which black men with the disease went untreated as part of a study to examine the long-term effects of syphilis. While Dr. Foster claims he had no knowledge of the study prior to 1972, Public Health Service records indicate the Macon County Medical Society, of which Dr. Foster was vice-president, and later president, knew of the study as early as 1969.

We have received conflicting reports about whether or not Dr. Foster attended the meeting in which the society agreed to cooperate with the PHS in the study. Even if he did not attend, documents from PHS officials indicate further efforts were made to share information on the study with all the members of the Macon County Medical Society. I simply do not see how Dr. Foster, as the vice-president of a 10-member society, could have completely avoided any knowledge of this study while so many efforts were being made to keep the society fully informed on this matter.

But let us not focus entirely on the past. What about the future? What kind of role would Dr. Foster play as surgeon general? He has stressed his concern about the rate of teenage pregnancy in this country. Surely, this is a concern which all of us share. Illegitimacy, especially among teens, is at a crisis level in the United States. Equally important, however, is the manner in which this issue would be addressed if Dr. Foster were confirmed.

The basis of Dr. Foster's efforts to reduce teen pregnancy may be seen in the "I Have a Future" program. From my knowledge of the program, it leans toward the attitude that, "Kids will be kids." It assumes that when it comes to sex, we must teach children to be careful rather than responsible. I could not possibly disagree more with this view. Yes, children must be allowed to make some decisions for themselves. But we, as adults and parents, have a responsibility to instill strong values in today's youth.

Dr. Foster's "I Have a Future" program failed to provide such guidance. Teaching young people about sex, without stressing the importance of abstinence, at best, gives young people an incomplete message. At worst, it actually encourages the kind of behavior which we should be trying to discourage.

Mr. President, we are all well aware of the controversy which has surrounded the Office of the Surgeon General in recent years. The next surgeon general must be able to repair the damage which has been done to that position. The focus must be shifted from the personality of the office holder to the important health issues which face our Nation.

While I would not question Dr. Foster's level of concern about the issues he embraces, I do not believe he would be able to achieve this goal. For this reason, I will oppose Dr. Foster's nomination.

The PRESIDING OFFICER. Who yields time?

The Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. The Senator has 14 minutes and 10 seconds.

Mrs. KASSEBAUM. And how much on the other side?

The PRESIDING OFFICER. The Senator from Massachusetts has 6 minutes 17 seconds.

Mrs. KASSEBAUM. Mr. President, I would like to yield myself 3 minutes.

As we close the debate today on the nomination of Dr. Foster, I would like to make just a few further comments about the process.

I think it has been a good debate the last 2 days. Prior to that time, the Labor and Human Resources Committee spent a considerable amount of time focusing on the substantive issues and raising substantive questions regarding this nomination.

Some, including a majority of the committee, were satisfied with the answers that Dr. Foster gave, and the vote was 9 to 7 to report him favorably from committee. Others, including myself, were not.

With respect to the process in the Chamber, the majority leader had a number of options, including the option of not bringing up the nomination of Dr. Foster at all. I have always believed we should have an up-or-down vote on nominations. Nevertheless, the course that was chosen by the majority leader is one that is a perfectly legitimate option, well within the rules of the Senate. These are rules that have been used frequently in the past by Members on both sides of the aisle—as has been pointed out in the course of this debate.

The majority leader has made this debate and these votes possible in less than 1 month after the nomination was reported from the committee.

There is nothing that would have made this process pleasant for any of us, most of all Dr. Foster. We may regret how we handle confirmation processes and nominations for members of a President's Cabinet and agency heads. It is not an easy process, and it has become, I think, increasingly a grueling one.

In this case, I believe it has been handled in a way which is well within the parameters of appropriate conduct. There are those who have questioned that, but I think there has been an opportunity to air strong feelings on both sides in ways that have fit the rules and the procedures of the Senate. I am not sure, Mr. President, that we can ask for more than that. It has been my own belief that Dr. Foster has answered successfully and well the questions that were put before him in the committee.

The PRESIDING OFFICER. The Senator's time has expired.

Mrs. KASSEBAUM. I will yield myself 1 more minute.

And those were important and substantive questions. For myself, I do not believe he is the person to be a successful Surgeon General of the United States at this time and that is why I have opposed his confirmation. Nevertheless, I feel strongly that the nomination has been debated and handled fairly within the scope of legitimate procedures of the Senate.

I yield the floor, Mr. President.

The PRESIDING OFFICER. Who yields time?

Mr. KENNEDY. Mr. President, I yield 2 minutes to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 2 minutes.

Mr. JEFFORDS. Mr. President, I rise in strong support of cloture, as I believe it is the right of the President to have an opportunity to have a vote up or down on a very fine man who is willing to dedicate his time to public service, who has an unblemished career of dedication to those people who need help, those who are economically disadvantaged, and those who have not seen the advantages that have been brought to so many others.

It is unfortunate that we find ourselves in this situation because there is no question that this man was picked because he would not "Raise the specter of abortion," because his record, first of all, of being an ob/gyn doctor who only performed 39, 40, if you want to count another, abortions in 38 years is certainly not of one who is out seeking to make a career of abortions, by any stretch of the imagination.

In addition to that, by serving the poor and starting his program I Have a Future, he set an example we must replicate around this country of how we can get the young people in our schools to look towards the future with hope, to understand that teenage pregnancy is a bad situation and that he had all those kinds of rules that he followed in respect to that, teaching abstinence, of teaching parental guidance when possible, things that I do not think anyone disagrees with. It is true that the study was marred by utilization of statistics, but that does not in any way diminish the importance of the message he was giving to those young people.

Mr. President, I want to remind my colleagues what this vote is about. We are here to consider whether or not we will limit debate on this nomination, whether we not allow a minority of this Chamber to take this nominee hostage.

We are going to vote now, not on whether Dr. Henry Foster is qualified for the job of Surgeon General—which I believe he is—but on whether we will allow the President's nominee the courtesy, the due process, of an up or down vote on his nomination.

What reason could we possibly have not to vote? Whose interests are served by allowing a minority of Senators to deny a presidential nominee a confirmation vote?

The charges against Dr. Foster that we heard yesterday and today are just that—charges. They are allegations, not fact. During the committee process I spent hours and hours familiarizing myself with Dr. Foster's record and the specifics of his critics' charges. I became convinced of several facts:

Henry Foster did not learn of the Tuskegee experiments in 1969 at the briefing given by public health officials. Not only is he documented as attending at a complicated Caesarean section birth shortly after the meeting started, but I believe the doctors who were at that meeting were not given the full story. Foster did not know anything about the denial of treatment for these men.

In fact, no one did, because even the doctors at the meeting were not told about it. According to the FBI, the public health officials were already covering their tracks and when they briefed these six or eight doctors they did not tell them the truth about the experiment. How could they have?

Certainly someone given the facts would have spoken out publicly and halted the 40-year-long project.

Foster did not know because nobody knew. Decades later, we cannot prove the content of the meeting because the minutes, trip report and file have long ago disappeared from the CDC archives as the officials tried to cover their tracks.

Dr. Foster has had a distinguished medical career, treating patients within the medical norms of his time and even advancing new and better treatments in many cases. I hope my colleagues will resist the temptation to judge treatments given decades ago—like the sterilizations of severely mentally impaired women—by the medicine of today.

Then as well as now, Dr. Foster has enjoyed the admiration and acclamation of his peers, and he has been supported in this nomination by every medical group that I can think of, ranging from the AMA, not known for its liberalism, to the American College of OB/GYNs to the American Association of Medical Colleges.

It is undeniably true that the administration did not serve Henry Foster's nomination well in its characterization of his record on abortion. Ever since they misinformed Senator KASSEBAUM's office about the number of procedures he had performed back in January, there has been confusion in the numbers game.

But after he had the opportunity to review his patients' medical records, Dr. Foster gave us a number; he is the physician of record for 39 surgical procedures since 1973. That number has not changed.

I can understand why he did not know off the top of his head, because I would be hard pressed to give an accurate count of the votes I have taken on a particular issue over the past 20 years. I might volunteer an estimate, but I would certainly have to do research to verify the number.

Some have implied that we should not vote on Henry Foster's nomination because he was once—once in a 30-year career—charged with medical malpractice. The charges were dropped. The case was not adjudicated. Yes, the allegation of improper conduct was made, but it was not substantiated.

I would suggest to my colleagues that we have a similar situation here and now with this nomination. There is no substance to the charges against this good man, this talented and hardworking doctor.

Let us not let ideology and politics get in the way of fairness. We have a collective responsibility to vote, even on controversial nominees. I do hope my colleagues will join me in supporting Dr. Foster's nomination, but at the very least I believe he deserves an up or down vote. Let us not deny him that. Please join me in voting for cloture.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time? The Senator from Massachusetts.

Mr. KENNEDY. I yield 2 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 2 minutes.

Mr. DODD. Mr. President, I thank the distinguished Senator from Massachusetts.

Mr. President, I spoke yesterday on this nomination, but I wish to emphasize again today my strong support for this nominee and my strong hope that this very fine American will be given a chance to be voted on, yes or no. I think it is regrettable that there are those who cast their votes against this man, who never even bothered to talk to him, never met him, did not participate in the hearings. I would invite my colleagues in the short time that remains to talk to their colleague from Tennessee, Dr. Frist. The rest of us talk about Dr. Foster. Although some of us met him and spent time with him, it has been just since February. Dr. Frist, our new colleague from Tennessee, has not only known him but worked with him. I would invite my colleagues to read his comments in the Senate Labor Committee hearings, just prior to the favorable vote coming out of that committee.

Some of us talk at least from some experience, having spent some time with him, but here is someone who actually worked with him, knows him from his State, knows people he has worked with. You can listen to speeches by those who oppose him, never met him, never sat down with him, in fact in some cases within hours after his name was sent up announced they were against him. That is almost unheard of. I respect those who let the hearing process go forward, gave him a chance to express his views, listened to him, and then said they were against him. But to never meet the man, never give him the benefit of a hearing, even a personal one, and then decide that he did not deserve to be voted on by this body, I think is a sad moment in this Chamber.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. KENNEDY. I yield 1 minute to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized for 1 minute.

Mrs. MURRAY. I thank the chair. I thank my colleague.

I want to thank Senator KASSEBAUM for having conducted fair hearings and allowing the process to move forward. I hope that today's vote is one again of fairness.

A filibuster on nominations has only occurred 24 times. Twenty-two of those times in this body, the body has said the nomination deserves an up-or-down vote; two of those other times they were nominations made by Democratic Presidents and defeated by Republican filibusters.

I hope that fairness prevails as it has 22 times in the past and that this Senate votes today to allow this nomination to come forward so we can finally vote up or down on the nomination of Dr. Henry Foster. He deserves that vote, and he deserves our confidence.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. Mr. President, no matter how they have tried to distort and misrepresent the record of Dr. Foster, he is an outstanding physician, selected by the Institute of Medicine, selected to be on the governing board of the most prestigious board in the United States of America for a doctor, outstandingly well qualified.

On the one hand you have the sense of hope, the belief in the young people of this country, someone that really wants to give something back to this country for all that it has done for him. And on the other side you have gross distortions, misrepresentations, and negativism. That is what we have seen during the course of this debate. And the opposition is basically as a result of Presidential politics.

I say again, let us leave Presidential politics in Iowa and in the other primaries, and let us get on and give this outstanding individual the fair vote that he deserves.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Kansas controls 10 minutes 20 seconds.

The Democratic leader is recognized.

Mr. DASCHLE. I understand the time allocated to this side has been expired. So, I will use my leader time to accommodate that.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DASCHLE. Mr. President, this is an important moment. The vote we are about to cast will affect more than one man or one position. It will help dictate the way this Senate discharges one of its most important duties. And I ask each of my colleagues to think about that as we cast our vote. Each of us has been afforded the right to make our case to the American public. That is how we got here. We cannot deny this afternoon the same right to a man who is clearly qualified to be the next Surgeon General.

The Surgeon General has been rightly called America's family doctor. And in that capacity he or she is called upon to grapple with some of the most difficult problems of our day; problems like AIDS, problems like teen pregnancy, problems like substance abuse and breast cancer, problems that are devastating to the American people and to families all over this country.

This Senate has talked too little about these problems during the course of the last 5 hours. Instead of focusing on America's future, many Members of this Senate have chosen to focus on the past and, frankly, distorting it. That is regrettable. The distinguished majority leader said yesterday that this is not such an unusual occurrence. Twenty-six times in the last 27 years, he said, nominees have been denied confirmation by filibuster.

Well, just moments ago I heard the distinguished Senator from Iowa set the record straight on that issue. Senator HARKIN—as others have indicated on several occasions already during this debate—has attempted to correct the record on this and so many other matters that have been misreported or on which only half the facts were presented. The fact is that on every occasion during the 27 years Senator DOLE cited, when it was a Republican nominee, that nominee ultimately was approved with bipartisan support. Two nominees were prevented from being confirmed by a filibuster, and both were Democrats—Abe Fortas, who was nominated by President Johnson to sit on the Supreme Court, and Sam Brown, who was nominated by President Clinton for the rank of Ambassador. So the only filibusters that have prevented nominees from receiving a fair vote were Republican filibusters. Let us be clear about that.

So the question before us today is not whether Henry Foster is qualified to be Surgeon General. That is the question we will face should we take the next step forward. Mr. President, the question we face this afternoon with this vote before us now is one of fairness. And the American people have made themselves abundantly clear on the question of fairness. The majority of people have said in poll after poll, Henry Foster deserves a vote. And the majority of this body agrees with that sentiment.

Are we going to confront the health problems that are devastating America's families and give Dr. Foster the opportunity to combat those problems as Surgeon General? Will we do that? Or are we going to allow partisan Presidential politics to stifle that debate?

The question we face right here, right now, is simply that. It is a question of fairness. What message are we sending to Dr. Foster, to the American people who believed in his right to a fair vote? What message are we sending to the people who look up to Dr. Foster as a role model and to all the Americans who need the services of a qualified Surgeon General today if we refuse to extend to Dr. Foster the opportunity given every one of his predecessors? Mr. President, the issue this afternoon is simply one of fairness.

What is really being judged here, unfortunately, is not Dr. Henry Foster. For 6 months, Dr. Foster has been subjected to intense scrutiny from the Labor Committee, from the media, and from the American people. And he has passed every test. The only test he did not pass was the litmus test of the far right. What is being judged here is the Senate itself and the way the Senate deals with those who come before us to offer their public service.

Henry Foster is an extraordinary physician and leader. If this were not an election cycle, I have no doubt that he would be Surgeon General already, that this Senate would have confirmed him overwhelmingly long ago. Henry Foster is a selfless man who wants to serve his country and is being wasted for the selfish political ambitions of a few. If we prevent him from receiving a fair vote, we will make it even more difficult to attract good, qualified people to public service. And this body, the U.S. Senate, will be judged harshly.

Mr. President, I close with this thought: It is the position of this Senator that the process we have just seen is clearly wrong. It is wrong for the United States and it must be stopped. The business of interest groups fanning out through the country, digging up dirt on a nominee, the business of leaks, of confidential documents put out to members of the press, the idea that absolutely anything goes that is necessary to stop a nominee, this whole process must end. We in the Senate have the power to encourage that process or the power to stop it. We have that power by the vote we are about to cast.

Mr. President, those are not my words. They belong to a former colleague, Senator John Danforth. Senator Danforth issued that eloquent plea nearly 4 years ago in the defense of Clarence Thomas' right to a vote on his nomination to sit on the Supreme Court. Justice Thomas received that vote. He received that vote with the backing of some of the very same people who now would deny that vote to Dr. Foster. And I urge Members, in particular today on this nomination, to put politics aside just for the moment and allow Dr. Foster's nomination to move forward. It is a question of fairness, Mr. President. And the answer—well, the answer is in our hands.

I yield the floor.

The majority controls 10 minutes.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. As I said yesterday, I would like to begin with just a few facts, facts we sometimes are not using in debate or are not reported by the media. Let me again say, because I did not read it anywhere and did not hear it on television—maybe it was on radio: During these 2½ years in office, President Clinton has submitted 251 names to the Senate for confirmation of civilian positions. Of these 251, 115 have been confirmed, 1 withdrawn and none defeated. The rest are in the confirmation pipeline.

Let us get the record clear right up front. You talk about fairness. That is 251, and not one defeated. And, second, I heard about a filibuster. I do not know of any filibuster going on. If so, I missed it. By unanimous consent we agreed to this procedure. I think it is a good one. We are giving Dr. Foster the same thing we gave Chief Justice Rehnquist back in 1986 when I had to file cloture because the Senator from Massachusetts would not let it come to a vote.

So Dr. Foster's nomination was reported out of the Labor Committee on May 26. We began this debate on June 21, and during that period there has been a 7- or 8-day recess. So Dr. Foster has been treated fairly. The Labor Committee has acted promptly and his nomination has been placed before the full Senate for debate and a vote.

Again, as I said yesterday, I have always felt that the President should have a right to his nominees, but there may be exceptions from time to time, and I have voted against nominees from time to time—not very often. I believe the record will show that we have cooperated in nearly every case; in fact, even helped the President with some of the nominations which might have been in trouble without assistance from this side of the aisle.

There is plenty of precedent for rejecting a nomination on a cloture vote. Again, as I said, I will put in the RECORD for everyone to see that there were 24 nominations, including the nomination of William Rehnquist to be Chief Justice, which had to face cloture vote hurdles.

So overnight, I have done a little research on the Rehnquist nomination, and I learned that 19 of my Democratic colleagues who are still in the Senate today voted against invoking cloture on this nomination: Senators BAUCUS, BIDEN, BRADLEY, BYRD, DODD, EXON, GLENN, HARKIN, INOUYE, JOHNSTON, KENNEDY, KERRY, LAUTENBERG, LEVIN, MOYNIHAN, PRYOR, ROCKEFELLER, SARBANES, and SIMON, and also then Senator ALBERT GORE. Now, certainly, he would not be unfair, but he was, according to all the rhetoric I heard coming from the other side.

In fact, I filed a cloture motion on the Rehnquist nomination because my colleague from Massachusetts, Senator KENNEDY, was apparently unwilling to end debate. Do not take my word for it, just take a look at page 23336 of the Congressional RECORD for September 15, 1986. Senator KENNEDY also urged his colleagues to follow the Abe Fortas example: Defeat cloture so the Rehnquist nomination will be withdrawn. That can be found on page 22805 of the CONGRESSIONAL RECORD of September 11, 1986.

So, Mr. President, we hear a lot of talk about fairness, we hear a lot of talk about the need for an up-or-down vote, but I do not remember all the hand wringing about fairness back in 1986, or many times since that time, when at that time the Chief Justice Rehnquist nomination was on the line.

What does history tell us? History tells us that 31 of my colleagues on the other side of the aisle were prepared to filibuster a nominee to one of the highest positions of our Government, and today many of those who supported this filibuster allege unfairness when Republicans exercise the same right—the same right—only this is a minor office compared to the Chief Justice of the Supreme Court.

We are talking about a nominee to an office with a budget of under $1 million with a staff of six. But he is supposed to make certain everybody is taken care of, all the medical problems are going to be taken care of if we just vote yes on this nomination, according to my distinguished colleague from South Dakota, Senator DASCHLE.

In fact, I remember my colleague from Massachusetts arguing against the Justice Rehnquist confirmation because he "lacked candor in testifying before the Senate Judiciary Committee" and because of Justice Rehnquist's "alleged pattern of explanations * * * that are contradicted by others or are misleading or do not ring true."

Does that sound familiar? Many of us said this time the same thing about Dr. Foster.

I have talked to him personally, others have talked to him, others who are on the committee. We should not have the right to make that judgment because we are Republicans, but it is all right to make it against the Chief Justice nominee for the U.S. Supreme Court.

So, Mr. President, facts can be stubborn things. They are rarely noted by the media, not often used in this Chamber. But they show that we have a double standard and it is alive and well in Washington, DC. And it goes on and on and on. We hear all the hand wringing over there and all the talk of Presidential politics on this side and nothing about Presidential politics downtown. This is not about Presidential politics. That may be a good sound bite. This is about Dr. Foster and his qualifications for the office, and it is about our right to advise and consent.

I must say, as I look back on it, we could have chosen other options, but it seemed to me this was a fair option, just as fair as it was for Justice Rehnquist who was nominated to be Chief Justice.

Cloture was invoked in that case. Cloture can be invoked in this case. The issue is not whether cloture was invoked on 22 of the 24 nominations that have been subjected to cloture procedure. This is a false distinction. What is important is we have had 24 nominations subjected to a cloture vote. So he can get an up-or-down vote, all he needs to do is get 60 votes on this, as others have done in the past.

I do not question those who say Dr. Foster is probably a fine person. I do not know Dr. Foster that well. I have had one visit with him. I do not snoop around about his past. I think Senator DANFORTH was right when he made that statement: Tell it to the family of John Tower when you talk about allegations and stuff over the transom, under the transom and wrecking somebody's character; tell it to John Tower's family. He is gone.

Tell it to Robert Bork. Tell it to his wife when they were harangued and harassed day after day after day by the Judiciary Committee.

Tell it to Bill Lucas and his family, the fine outstanding sheriff of Wayne County, MI, an outstanding black American who did not even get a vote, any kind of a vote on this floor, because the Judiciary Committee voted, in a 7–7 tie, and would not report him out.

That is the thing the Democrats do not tell us: How many Republicans never had a hearing, were never reported out of the committee, and when they were reported out, they stayed on the calendar; never had the courtesy to even have a cloture vote. They died on the calendar.

I have not heard anybody say anything about that over there, and I put those facts in the RECORD. I thought surely somebody would get up and explain why the Democrats would do that when they talk about fairness and their hearts ache and they cannot sleep at night. Why do they not read the RECORD and go back and call all the families of the people who did not even get a hearing or were on the calendar week after week after week, month after month after month and never even had the courtesy of a vote, not even a cloture vote.

So I know all about it. I have been here a while, and I keep track of these things. What comes around goes around, and none of us are perfect. When we make arguments on the Senate floor, we ought to go back and look at the last argument we made and the one before that to see if it is consistent and how did we vote on Rehnquist before standing up to make a speech.

I can recall in 1980 joining with the Senator from Massachusetts, Senator KENNEDY, when they wanted to block John Breyer's nomination. I said it should not be blocked, and I voted for cloture, and we succeeded. He was a Democrat, so it is not politics.

This nomination was flawed from the start, and the President knows it. But he sought to divide the American people on the issue of abortion. That is all this nomination is about, trying to divide the American people for political purposes, and the President talks about politics and his Chief of Staff Leon Panetta goes on television this morning in some outrageous statement about a vengeance up here—vengeance—which means they must be losing.

So I wish Dr. Foster well. No one likes to see someone who may want to have a job denied that opportunity. I met with a lot of the families who did not even get a vote of any kind because they were Republicans in a Democratic Senate. Well, Dr. Foster is getting a vote. I promised him that, and he is getting it very quickly, in 2 days.

I met with him on Monday, and here it is Thursday, and we are going to have the second vote. I think his initial lack of candor and certainly lack of truthfulness on the part of the White House made this nomination in doubt from the start.

So whether it is his misleading statements concerning his abortion record, or his alleged knowledge of the infamous Tuskegee syphilis study or involvement in sterilizing several mentally retarded women, there are just too many questions. If the Senator from Massachusetts can say that somebody lacks candor, maybe we can say it with the same credibility on this side of the aisle. Maybe we are not entitled to that because we are Republicans, only the liberals are entitled to make those judgments. But we are, too.

As I said yesterday, we need somebody in that position to be America's doctor—not Republicans, not pro-life, not pro-choice, not Democrats, not conservatives, not liberals, but America's doctors. It is not a policy position, it is a public relations job, with a staff of six. The world will not come to an end if we do not ever fill this office or if it is abolished.

So it seems to me we do not want somebody to divide us, as the previous Surgeon General did, about legalization of drugs and all the other statements made by that Surgeon General, but that has nothing to do with this nomination. My point is, if there is somebody out there, there are thousands and thousands of good people out there who can unite America, unite Americans, whatever they can do in that office, and this is not the right nomination.

Again, I agree with Senator DANFORTH. I wonder sometimes why anybody would accept a nomination, but I do not know anybody on this side who has been personal about Dr. Foster. I am proud of the fact he is a veteran. As far as I can see, he is a good person. We had a nice visit. But also we have to have a record, and the record, I think, is the problem: His lack of candor.

So we are proceeding, I think, in a very fair way, as we look at history and look at the record and look at how quickly this nomination has moved.

It seems to me cloture should not be invoked and this nomination would go back on the calendar, as the unanimous-consent agreement indicates.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. THOMPSON). The hour of 2 p.m. having arrived, under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Executive Calendar No. 174, the nomination of Dr. Henry W. Foster, to be Surgeon General of the United States:

Senators Christopher Dodd, Carl Levin, Dianne Feinstein, James Exon, Harry Reid, Daniel K. Akaka, Claiborne Pell, Richard Bryan, Patty Murray, Bob Graham, Max Baucus, Frank R. Lautenberg, Russell D. Feingold, Barbara Mikulski, Barbara Boxer, Edward Kennedy, Tom Daschle, and Carol Moseley-Braun.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the nomination of Henry W. Foster, Jr., to be Surgeon General, shall be brought to a close?

The yeas and nays have been required.

The clerk will call the roll.

The legislative clerk called the roll.

The yeas and nays resulted—yeas 57, nays 43, as follows:

[Rollcall Vote No. 280 Ex.]

YEAS—57

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Campbell
Chafee
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Simpson
Snowe
Specter
Wellstone

NAYS—43

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Kempthorne
Kyl
Lott
Lugar
Mack
McCain
McConnell
Murkowski
Nickles
Pressler
Roth
Santorum
Shelby
Smith
Stevens
Thomas
Thompson
Thurmond
Warner

The PRESIDING OFFICER. On this vote, the yeas are 57, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to.

Under the previous order, the nomination is returned to the calendar.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

The Senate continued with the consideration of the bill.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Virginia.

Mr. WARNER. Mr. President, the managers wish to report steady progress on this bill. However, we have an amendment now being reviewed by all parties involved in the Stevens-Murkowski amendment. We are awaiting a report back on their negotiations, which I am hopeful will resolve these issues.

Mr. BAUCUS. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will come to order.

Mr. WARNER. Mr. President, I believe we can now proceed.

Once again, I wish to inform the Senate on behalf of the managers that we are making progress. The one remaining amendment which is yet to really be fully reconciled is that regarding the issues in Alaska, the amendment proposed, of course, by the senior Senator and junior Senator, Mr. STEVENS and Mr. MURKOWSKI.

Until that matter is further refined, I have nothing further at this time and I yield the floor.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

AMENDMENT NO. 1464

Mr. CHAFEE. Mr. President, on behalf of Senator SMITH and Senator GREGG, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for Mr. SMITH, for himself and Mr. GREGG, proposes an amendment numbered 1464.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place on the bill add the following new section:

SEC. .

The State of New Hampshire shall be deemed as having met the safety belt use law requirements of section 153 of title 23 of the U.S. Code, upon certification by the Secretary of Transportation that the State has achieved—

(a) a safety belt use rate in each of fiscal years ending September 30, 1995 and September 30, 1996, of not less than 50 percent; and

(b) a safety belt use rate in each succeeding fiscal year thereafter of not less than the national average safety belt use rate, as determined by the Secretary of Transportation.

Mr. GREGG. Mr. President, I rise in support of this amendment which allows New Hampshire to meet the safety belt use law requirements under section 153 of ISTEA. Under this amendment, highway safety funds would not be transferred from highway construction projects to highway safety programs if the safety belt use rate in fiscal years ending September 30, 1995, and September 30, 1996, is not less than 50 percent. In fiscal years thereafter safety belt rate shall not fall below the national average as determined by the Secretary of Transportation.

It is my belief that the Federal Government should not mandate seatbelts; those decisions should be left to the States. I believe all individuals should wear seatbelts whenever they ride in a vehicle. Furthermore, I believe that local government, not the Federal Government, should continue to play a role in educating people regarding the need to take every precaution when operating a vehicle.

As a former Governor, I realize firsthand the frustration local government experiences when the Federal Government attempts to micromanage public policy. Americans no longer want big brother looking over their shoulder attempting to force compliance with regard to seatbelt compliance.

I am pleased that this amendment, which allows New Hampshire to be judged on its safety record for safety belt usage, has been adopted. This amendment will remove the current unfair mandatory penalties forced on New Hampshire without regard for its excellent seatbelt compliance record.

Mr. CHAFEE. Mr. President, this is an amendment that takes care of a particular situation that has arisen in New Hampshire and addresses the desires of the Senators there. They are doing extremely well as far as their seatbelt usage goes. This makes them continue in that path and move up to the national average as time goes on.

It is an amendment that has been cleared by both sides, and I think it is a good one.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. May I ask the distinguished chairman of the committee, is this the same version the chairman showed me not too long ago, maybe about an hour or so ago?

Mr. CHAFEE. Yes.

Mr. BAUCUS. Mr. President, we have examined this amendment and we think it is acceptable.

Mr. SMITH. Mr. President, I want to thank the managers of this bill, the Senators from Rhode Island, Virginia, and Montana, for working with me on a compromise amendment that would provide relief to the State of New Hampshire from certain highway-related penalties. The issue we have been debating for the last 2 days in section 153 of ISTEA, which sanctions States that have not enacted mandatory motorcycle helmet and seatbelt laws.

This section of current law penalized the State of New Hampshire by diverting its scarce highway maintenance and construction funds to its safety program—whether or not this makes any sense. In other words, the penalties are assessed regardless of whether New Hampshire already has an adequately funded safety program directed toward helmet and seatbelt usage, and irrespective of New Hampshire's safety record. States constantly tell us that they are in a better position to address these types of issues than the Federal Government is, and I strongly agree.

Yesterday, the Senate voted to repeal the penalties for noncompliance with motorcycle helmet laws. Today, we have reached an agreement on an amendment that would provide an incentive for the State of New Hampshire, which does not have mandatory seatbelt law, to maintain its 50 + seatbelt use rate and strive to reach the national average within 2 years. If they do not meet these goals, then the sanctions will be imposed as current law dictates.

This is a very reasonable amendment and it does not compromise the Senator from Rhode Island's objective of achieving a higher percentage of individuals wearing seat belts. In fact, it creates a more effective incentive, without being punitive or infringing on States rights.

New Hampshire will continue to education its citizens on the benefits of seatbelt use. Educational programs like those we have in New Hampshire certainly play an important role in increasing highway safety. States do have the expertise and know-how to develop their own programs without Federal intimidation.

In conclusion, I strongly believe that it is through education, not necessarily a mandatory law, that we will achieve higher rates of seatbelt use. New Hampshire is capable of ensuring the safety of its citizens without the paternalistic arm of the Federal Government dictating to us how we should accomplish this goal.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, is there an amendment pending before this, the Exon amendment?

The PRESIDING OFFICER. There are two amendments pending at the present time, the Smith amendment——

Mr. CHAFEE. Is the Smith amendment ready for consideration?

The PRESIDING OFFICER. It is.

Mr. CHAFEE. All right. I urge its adoption.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1464) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHAFEE. Mr. President, if there is no other business to come before us immediately, I suggest the absence of a quorum.

Mr. COCHRAN. Mr. President, I wonder if the Senator will withhold just for a comment or two about the bill?

Mr. CHAFEE. I certainly will.

Mr. COCHRAN. Mr. President, it is my understanding it would be in order for comments to be made about the bill, not necessarily about the amendment that is pending. Is that correct, as a parliamentary inquiry?

Mr. WARNER. Mr. President, the Senator is correct. The managers of the bill are awaiting reconciliation of several amendments. At that point in time, we will move toward final passage, but we welcome the comments of our distinguished colleague from Mississippi beforehand.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, let me commend the managers of the bill for the good work they have done in bringing this legislation to the floor. It is an important contribution to the infrastructure of this country for the Congress to take action on this bill in a timely fashion so States and localities who depend upon these allocations of funds can make plans to do it in a systematic way and to carry forward some of the important road and bridge projects that would be funded in this legislation.

I know in our State of Mississippi hardly a bill is passed by the Congress that is more important to the continued economic progress and development of our State than this legislation that is before the Senate today.

I know that there is also a continuation of a study called corridor 18. That may very well provide a new major corridor and interstate type highway which could go through Mississippi, and it may very well, I am sure, traverse many States in the central part of the country, from Ohio down to Houston, TX, and maybe beyond. There are many communities along this potential corridor that would benefit substantially in an economic way from the opportunities to grow and develop, providing jobs, producing economic activity and business activity along the way. We hope that study can be successfully completed, and the feasibility of it established so that in a timely way we can see the ultimate construction of that.

There are other parts of the bill in which we are interested as well. It was brought to the attention of the manager that there is some language that we would like to see included in a managers' amendment at the appropriate point to permit our State to have access to a visitors center just south of the Tennessee line. This was something that was provided for in the 1994 appropriations bill but has not yet been finally resolved. We hope that this bill can include some language that would help that situation be resolved in a satisfactory way.

But all in all, this is a good bill. It is an important bill. It is a restrained bill. The Senators have been encouraged not to get involved in new demonstration type projects in the bill. I know we cooperated in that.

We want the managers to know that we appreciate the way that they have maintained discipline in this process and have shown that restraint.

Mr. WARNER. Mr. President, I thank my distinguished colleague.

I wish to bring this to his attention. He said we have asked them not to add projects. We have not added any. I think this bill can meet whatever test as a clean test in terms of demonstration projects. The American public does not want to see these anymore. The various Governors and highway commissions in the several States do not want to see them anymore. I think this bill is a landmark bill in terms of its absence of that type of project. That is owing to the full cooperation of the Senate on both sides of the aisle.

So I thank the Senator for bringing it up. I was fearful when he said add not a lot, some might in turn interpret that as that some had been added.

Mr. COCHRAN. Mr. President, I thank the distinguished Senator from Virginia for his comments. I certainly agree with him. I recall in my early days in the Congress. I served in the other body, and I was assigned to the Public Works and Transportation Committee. I served on the Surface Transportation Subcommittee. I had some good experience in working with Senators, like Senator CHAFEE, and other members of committee over here on this side of the Capitol.

This is important work. I think it is work that has been well done, and I commend all Senators who have had an active role in the development of the bill and the managing of it on the floor of the Senate.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I want to thank the Senator from Mississippi for his very generous comments. I appreciate the kind words he had to say about the work we have done.

I discovered that I have come to the conclusion after a while around here that there are a few bills that attract more attention than highway bills. Everybody shows up when there is a highway bill. And I must say the Senators have exhibited tremendous restraint. Maybe the restraint came about because we did not adopt any. I do not think there is a single demonstration project in this bill. I would not know. Because if there was one, I would have one in there for Rhode Island.

But the distinguished chairman of the subcommittee has resisted any such demonstration grants or specific authorizations for projects within this State or that State. And, so far, we are not through yet. We are not across the finish line. But we have done pretty well so far. If the word should get out that we did any, if we did, I am sure that we would have not four amendments left but 100.

So, Mr. President, I hope we can continue the restraint we have shown. I appreciate the wonderful support of the Senator from Mississippi who has been long interested in these matters.

Mr. WARNER. Mr. President, I say to our distinguished chairman of the committee, I wish to reiterate it has been a bipartisan effort. There has been complete cooperation. Many Senators thinking this was an appropriate piece of legislation, as it has been in the past for such projects, came up and, when we acquainted them with the policy decision, they accepted it; indeed, in many respects endorsed it knowing that history shows that so many projects of that type that were adopted by the Congress have gone back to the States and have proven not to be in terms of priorities what the States really need. Now the States are given greater discretion and the money with which to exercise that discretion.

I thank the distinguished chairman.

Mr. CHAFEE. Mr. President, I want to echo what the Senator from Virginia said about the bipartisan effort, that the senior Senator from Montana has been tremendously helpful in this. It is not easy. We all have friends that come up and want to remind us of what we want from their committee; and, two, what a modest little item it is that they are requesting. So far, so good. I hope we can continue in that regard.

Mr. DOLE. Mr. President, I wonder if the Senator from Rhode Island—I know there are four amendments. Are they going to be offered? Should we move on to another bill and come back to this next week? We do not want to sit here in a quorum call for a couple of hours while Members are floating around the Capitol.

Mr. WARNER. If I could most respectfully address our leader, I would urge that he give us a brief period of time within which to urge the presentation of these amendments.

Mr. DOLE. Which four are they? Maybe we can identify the players and have them get over here.

Mr. WARNER. The principal amendment for which there could be some concern is the amendment of the two Senators from Alaska. Within the hour I have consulted with them on it. Frankly, they are questions in my judgment, and very legitimate ones. It is a problem involving State rights. It goes back many years in Alaska. I left one of the two Senators with the clear impression that he was going to present the amendment, and unless he is able to effect a resolution of the matter—I am prepared to accept the amendment from the Senator from Alaska. I would have to allow the other side to speak for itself on this issue.

Mr. CHAFEE. I wonder if we might have a quorum?

Mr. DOLE. Is it a managers' amendment? I do not know which amendments they are. I am serious.

Mr. WARNER. There is a managers' amendment.

Mr. DOLE. Is that one of the four?

Mr. WARNER. Yes.

Mr. DOLE. An Exon amendment.

Mr. WARNER. Mr. President, that amendment has been resolved, the Exon amendment. At this time, I ask unanimous consent that that amendment be deleted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. So that would leave Stevens-Murkowski.

Mr. WARNER. That is correct. That is one amendment.

Mr. DOLE. Chafee-Warner, a managers' amendment. That is the second amendment. Are there two others? Smith?

Mr. CHAFEE. That is resolved. There are only two.

Mr. WARNER. Mr. President, there is a remaining one from the Senator from Maryland [Mr. SARBANES]. I have spoken with him within the hour, and indicating—and I will take responsibility—that I cannot accept the amendment. It relates to the Baltimore-Washington Parkway. I am fearful it would be construed by other Senators as being in the nature of a—even though it is authorized already—project. And I felt that I could not accede to his request, regrettably. So that amendment would not be accepted on this side.

Mr. DOLE. I certainly want to thank the managers. I do not have any quarrel with the managers. But those who have amendments, you know—people are going to be wanting to get out of here for an August recess. They do not want to be here late at night. But they do not want to be here in the afternoon. We cannot have it both ways.

Mr. CHAFEE. We would prefer not to be here in the morning either.

Mr. DOLE. They do not want to be here in the morning either. It is very difficult for the managers who are down to three amendments. They have been on this bill long enough—last week, and 4 days this week. The bill was supposed to take 2 days. It has taken almost 5. Because we want to go to securities litigation next, the only thing I know, without prejudicing the managers, if we cannot conclude it by 3:30, then we would move to another matter and this would come back sometime when we finished the next bill.

Mr. WARNER. I would say to the distinguished leader that the managers' amendment is prepared in the nature of a technical amendment.

Mr. DOLE. Sure.

Mr. WARNER. There really is only one amendment, and that is the one by the two Senators from Alaska. I will go back to them immediately to determine what their desire is.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

PRIVATE PROPERTY RIGHTS

Mr. GRAMS. Mr. President, I would like to engage in a short colloquy with the Senator from Rhode Island, the distinguished chairman of the Environment and Public Works Committee, the manager of this bill.

Mr. President, I had intended to offer an amendment which would broaden the definition of like-kind property that would allow affected landowners to defer the capital gains tax after the forced sale of property which is taken for use in various infrastructure projects. I simply do not believe it is fair to expect property owners who do not wish to sell their property to be unable to defer their capital gains tax if they are not able to reinvest the amount of the gain in an expanded like-kind property. It is my desire to work with you in your capacity as a member of the Finance Committee to achieve a broader definition of like-kind property.

I have discussed this matter with the Finance Committee staff. However, I would respectfully ask your assistance in ensuring that the Finance Committee will examine this issue when it considers reconciliation this year.

If that is possible, I would be pleased to withdraw my amendment from consideration.

Mr. CHAFEE. I understand the problem the Senator from Minnesota has raised. I will ask the chairman of the Finance Committee to examine this issue when the committee considers reconciliation, and specifically to consider the problem highlighted by the Senator's amendment.

Mr. WARNER. Mr. President, there is on the list of amendments an amendment by the Senator from Maryland [Mr. SARBANES]. That amendment, regrettably, cannot be accepted and, therefore, it will not be considered as a part of this bill.

That leaves on the list the only amendments being that of the Senators from Alaska and the managers' amendment. I understand there is an amendment by the Senator from Oklahoma [Mr. NICKLES] that is still on the list, and I am not prepared to act on that right now.

I ask my comanager if this is a time and moment to go to the managers' amendment.

Mr. BAUCUS. Mr. President, if the Senator will yield, it is, I think, very timely. I might say, I do not know what progress we are going to make, if any, on the Nickles amendment. This side does not know what it is. I see the Senator from Oklahoma on the floor right now. Maybe he is in a position to tell us.

Mr. NICKLES. Mr. President, I will be happy to inform my colleagues. The essence of the amendment is to allow States that do not have Amtrak service to use some of their mass transit moneys to subsidize Amtrak service. Senator D'AMATO indicated some reservations about it. We are trying to work with him. Hopefully, we will have that worked out in a few moments.

Mr. WARNER. So I understand, a few moments could be a few minutes?

Mr. NICKLES. That is correct.

AMENDMENT NO. 1465

(Purpose: To improve the bill)

Mr. WARNER. Mr. President, I send to the desk now the managers' amendment on behalf of myself, Mr. CHAFEE and the Senator from Montana, Mr. BAUCUS.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. CHAFEE and Mr. BAUCUS, proposes an amendment numbered 1465.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 22, between lines 2 and 3, insert the following:

SEC. 1___. APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.

Section 133(d) of title 23, United States Code, is amended by adding at the end the following:

"(5) APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of a transportation enhancement activity funded from the allocation required under paragraph (2), if real property or an interest in real property is to be acquired from a qualified organization exclusively for conservation purposes (as determined under section 170(h) of the Internal Revenue Code of 1986), the organization shall be considered to be the owner of the property for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

"(B) FEDERAL APPROVAL PRIOR TO INVOLVEMENT OF QUALIFIED ORGANIZATION.—If Federal approval of the acquisition of the real property or interest predates the involvement of a qualified organization described in subparagraph (A) in the acquisition of the property, the organization shall be considered to be an acquiring agency or person as described in section 24.101(a)(2) of title 49, Code of Federal Regulations, for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

"(C) ACQUISITIONS ON BEHALF OF RECIPIENTS OF FEDERAL FUNDS.—If a qualified organization described in subparagraph (A) has contracted with a State highway administration or other recipient of Federal funds to acquire the real property or interest on behalf of the recipient, the organization shall be considered to be an agent of the recipient for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).".

On page 26, between lines 8 and 9, insert the following:

(3) ORANGE STREET BRIDGE, MISSOULA, MONTANA.—Notwithstanding section 149 of title 23, United States Code, or any other law, a project to construct new capacity for the Orange Street Bridge in Missoula, Montana, shall be eligible for funding under the congestion mitigation and air quality improvement program established under the section.

On page 26, between lines 13 and 14, insert the following:

(c) TRAFFIC MONITORING, MANAGEMENT, AND CONTROL FACILITIES AND PROGRAMS.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) to establish or operate a traffic monitoring, management, and control facility or program if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the facility or program is likely to contribute to the attainment of a national ambient air quality standard.".

On page 30, strike line 14 and insert the following:

SEC. 119. INTELLIGENT TRANSPORTATION SYSTEMS.

On page 30, lines 15 and 16, strike "INTELLIGENT VEHICLE-HIGHWAY SYSTEMS" and insert "INTELLIGENT TRANSPORTATION SYSTEMS".

On page 31, lines 1 and 2, strike "INTELLIGENT VEHICLE-HIGHWAY SYSTEMS" and insert "INTELLIGENT TRANSPORTATION SYSTEMS".

On page 31, lines 10 and 11, strike "intelligent vehicle-highway systems" and insert "intelligent transportation systems".

On page 31, between lines 20 and 21, insert the following:

(c) CONFORMING AMENDMENTS.—

(1) The table in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2048) is amended—

(A) in item 10, by striking "(IVHS)" and inserting "(ITS)"; and

(B) in item 29, by striking "intelligent/vehicle highway systems" and inserting "intelligent transportation systems".

(2) Section 6009(a)(6) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2176) is amended by striking "intelligent vehicle highway systems" and inserting "intelligent transportation systems".

(3) Part B of title VI of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 307 note) is amended—

(A) by striking the part heading and inserting the following:

"PART B—INTELLIGENT TRANSPORTATION SYSTEMS";

(B) in section 6051, by striking "Intelligent Vehicle-Highway Systems" and inserting "Intelligent Transportation Systems";

(C) by striking "intelligent vehicle-highway systems" each place it appears and inserting "intelligent transportation systems";

(D) in section 6054—

(i) in subsection (a)(2)(A), by striking "intelligent vehicle-highway" and inserting "intelligent transportation systems"; and

(ii) in the subsection heading of subsection (b), by striking "INTELLIGENT VEHICLE-HIGHWAY SYSTEMS" and inserting "INTELLIGENT TRANSPORTATION SYSTEMS";

(E) in the subsection heading of section 6056(a), by striking "IVHS" and inserting "ITS";

(F) in the subsection heading of each of subsections (a) and (b) of section 6058, by striking "IVHS" and inserting "ITS"; and

(G) in the paragraph heading of section 6059(1), by striking "IVHS" and inserting "ITS".

(4) Section 310(c)(3) of the Department of Transportation and Related Agencies Appropriations Act, 1995 (Public Law 103–331; 23 U.S.C. 104 note), is amended by striking "intelligent vehicle highway systems" and inserting "intelligent transportation systems".

(5) Section 109(a) of the Hazardous Materials Transportation Authorization Act of 1994 (Public Law 103–311; 23 U.S.C. 307 note) is amended—

(A) by striking "Intelligent Vehicle-Highway Systems" each place it appears and inserting "Intelligent Transportation Systems"; and

(B) by striking "intelligent vehicle-highway system" and inserting "intelligent transportation system".

(6) Section 5316(d) of title 49, United States Code, is amended—

(A) in the subsection heading, by striking "INTELLIGENT VEHICLE-HIGHWAY" and inserting "INTELLIGENT TRANSPORTATION"; and

(B) by striking "intelligent vehicle-highway" each place it appears and inserting "intelligent transportation"

On page 33, line 19, strike "intelligent vehicle-highway systems" and insert "intelligent transportation systems".

On page 36, line 12, strike the quotation marks and the following period.

On page 36, between lines 12 and 13, insert the following:

"(24) State Route 168 (South Battlefield Boulevard), Virginia, from the Great Bridge Bypass to the North Carolina State line.".

On page 38, beginning on line 2, strike "and shall not" and all that follows through "program" on line 4.

On page 40, strike lines 1 through 3.

On page 43, between lines 14 and 15, insert the following:

SEC. 1___. REPORT ON ACCELERATED VEHICLE RETIREMENT PROGRAMS.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall transmit to Congress a report evaluating the effectiveness of all accelerated vehicle retirement programs described in section 108(f)(1)(A)(xvi) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)(xvi)) in existence on the date of enactment of this Act. The report shall evaluate—

(1) the certainties of emissions reductions gained from each program;

(2) the variability of emissions of retired vehicles;

(3) the reduction in the number of vehicle miles traveled by the vehicles retired as a result of each program;

(4) the subsequent actions of vehicle owners participating in each program concerning the purchase of a new or used vehicle or the use of such a vehicle;

(5) the length of the credit given to a purchaser of a retired vehicle under each program;

(6) equity impacts of the programs on the used car market for buyers and sellers; and

(7) such other factors as the Administrator determines appropriate.

On page 57, line 4, insert "and" at the end.

On page 57, line 8, strike "and" at the end.

On page 57, strike lines 9 through 11.

Mr. WARNER. Mr. President, this amendment makes technical changes to S. 440 and minor modifications that have been cleared on both sides. Such modifications include, first, streamlining the enhancements program and the traffic monitoring program; second, changing the name of "intelligent vehicle highway systems" to "intelligent transportation systems"; and, third, require a report on effectiveness of accelerated retirement vehicle programs, and other purposes.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, this is basically, as most managers' amendments are, an amendment which contains minor modifications and technical corrections. One I would like to point out to the Senate is the change in reference to the "intelligence vehicle highway systems" to "intelligent transportation systems."

The theory of the ISTEA legislation that this is the heart of is that we are trying to broaden the definition of "transportation" to include intelligent functions; that is, more advanced technologies in highway travel to include not only highways but other transportation modes. It, obviously, includes seaports and also intermodal connectors.

I urge the adoption of the managers' amendment.

The PRESIDING OFFICER. Is there further debate on the managers' amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 1465) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, the two remaining amendments are being very actively worked on by their sponsors. The managers hope to be able to report to the Senate in a very brief period of time.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise to describe what I think is the result of the discussions that we have been having these past few days.

First of all, let me say that I support passage of legislation to designate the National Highway System as directed by ISTEA, the Intermodal Surface Transportation Efficiency Act of 1991. I was, in fact, an original cosponsor of legislation in both the 103d and the 104th Congresses to accomplish this task. This $6.5 billion bill authorizes critically needed funds, and I would like to consider just a few of the facts.

Almost one-fourth of our highways are in poor or mediocre condition, while another 36 percent are rated in the fair category. One in five of the Nation's bridges is structurally deficient—20 percent—meaning that weight restrictions have been set to limit truck traffic.

On urban interstate highways, the percentage of peak hour travel approaching gridlock conditions increased from 55 percent in 1983 to 70 percent in 1991, costing the economy $39 billion.

Experts indicate that an additional annual investment of $32 billion is needed to bring our highway and bridge infrastructures up to date, and failure to make those investments increases the costs, both in the short and long term.

For example, failure to invest a dollar today in needed highway resurfacing can mean up to $4 in highway reconstruction costs 2 years from now.

The ability of our country to sustain higher productivity is the key to economic growth and a higher standard of living.

Higher productivity is, in part, a function of the public and private investment. Recognizing that reality, over 400 of our Nation's leading economists have urged Government to increase public investment. They urged us to remember that public investment in our people and in our infrastructure is essential for economic growth.

Clearly, the National Highway System program was designed to be part of a comprehensive program of public investment.

However, as much as I support moving this legislation forward, I will vote against the NHS bill.

Provisions in this bill are totally inconsistent with, and as a result radically undermine, the goal of increasing investment and productivity.

My concern here is that specific provisions, amendments to this bill, undermine safety and will substantially increase human and economic costs.

While one amendment to the bill was excellent and requires States to institute zero tolerance laws—that means almost no acceptance of any presence of alcohol behind the wheel is accepted. It is .02, very low, and that is the way it ought to be. That is very positive. It is a proposal that I strongly supported, having been the author or father of the 21-age drinking bill and seeing how successful we were over the last 10 years. It was a very positive step. It will save lives and reduce expenditures. But in total, as a result of this bill, more lives will be lost than will be saved.

Opponents of speed limits and motorcycle helmet laws—which passed this body—argue that decisions in these areas should be the responsibility of the State. I could not agree more. I want to give some decisions to the States that would increase their flexibility in using Federal transportation assistance. But I cannot buy into the concept that removing speed limits, increasing speeds across our Nation's highways and roads, is going to help anything except to create mayhem. More people will die and more expenses will be incurred.

The same thing is true with the helmet laws. To remove helmets is, in my view, positively ludicrous. I do not understand what it is that motivated this body to say take off your helmets, let the wind blow in your hair, and God help you if someone runs over you. I supported the concept in ISTEA for flexibility for States and, again, allowing the States to use NHS funding to support intercity rail service. This is human rights, the right of the individual to be safe. It is the right that all of us have not to have to spend money because people do foolish things in our society.

Mr. President, one-third of all traffic accidents are caused by excessive speed. The National Highway Traffic Safety Administration estimates that total repeal of Federal speed limit requirements will increase the number of Americans killed on our Nation's highways by about 4,750 persons per year.

In addition, there will be substantial financial consequences associated with a repeal. Death and injuries will increase as a result of ending Federal speed limit restrictions. But it is going to cost taxpayers $15 billion more each year in lost productivity, taxes, and increased health care costs.

This loss would be on top of the $24 billion we already lose as a result of motor vehicle accidents which are caused by excessive speed.

So, Mr. President, I want to restate that this bill is a $6.5 billion investment in our Nation's infrastructure, our highways. But, at the same time, we have added an amendment that is going to cost us $15 billion more over the life of this bill than we are presently spending. The total investment for the whole bill is $6.5 billion.

Mr. President, the same argument applies to the helmet provisions in the bill. More than 80 percent of all motorcycle crashes result in injury or death to the motorcyclist. Head injury is the leading cause of death in motorcycle crashes. Now, compared to a helmeted rider, an unhelmeted rider is 40 percent more likely to incur a fatal head injury and 15 percent more likely to incur a head injury when involved in a crash.

The NHTSA estimates that the use of helmets saved $5.9 billion between 1984 and 1982. Now, repeal of mandatory helmet requirements will increase the death rate projected for motorcycle riders by 391 persons per year and will increase the costs to society by $389 million each year. And all of us chip in to pay for those expenses.

The American public supports a strong Federal role in transportation safety initiatives because they understand the benefit of mandatory helmet and safety belt laws, mandatory 21 drinking age laws, and maximum speed limit laws.

Unfortunately, the Senate has chosen to ignore the majority will and the public, and all of the empirical data on the value of transportation safety measures.

As a result, Mr. President, this bill gives with one hand and takes away with the other. It authorizes $6.5 billion worth of spending in infrastructure investment, while adding almost $15.5 billion in additional costs to our society.

My colleagues recognize this fact as evidenced by the rejection of the amendment by the Senator from Texas, Senator HUTCHISON, which would have, in effect, required States to directly absorb medical costs associated with motorcycle riders who were not wearing helmets and were injured in an accident.

She said, very simply—and I agreed with her and we got lots of votes—if a State does not want to take prudent measures to have people protect themselves on our highways, they ought to pay for it when accidents and expenses are incurred.

I want the Congress and the country to understand what is at stake in that debate—4,900 lives, tens of thousands more injuries each year, hundreds of millions of dollars in added health care costs and economic opportunities forgone.

Very simply, this bill takes one step forward but three steps backward.

Mr. President, it pains me to say that I am not going to support this bill, because I believed for all of the years that I have been in the Senate that we do not invest enough in our highways, bridges, and our transportation system, in transit and in intercity rail. So I hate to be one of the people who is going to say no to this bill. But as the underlying legislation dictates, it says that we are going to take more away than we give.

It is painful to witness what has happened to what was a program intended to do our country some good. But when each of the interests raised their heads, we wound up taking care of a few at the expense of the many, and that is, unfortunately, what happened to the NHS bill which so many worked on so diligently for so many years.

Mr. LAUTENBERG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I am very optimistic that we will reach within the next few minutes final passage of this bill, and therefore I would like to give some closing remarks.

As we approach the end of our debate on the designation of the National

Highway System, I am pleased to have a bill that will keep America moving, moving ahead with progress.

This is a big day. The National Highway System is intact and America will move forward with another very important chapter.

Last year, the Senate, under the able leadership of my colleague, Senator BAUCUS, passed a clean bill, that is, a bill with no demonstration projects. Today, and again this year, the Senate has spoken likewise—no projects. Let our States direct their funding on their own priorities, not those of the Congress.

Throughout these proceedings, my own goal has been simple: To see that this measure moved ahead in a timely manner to meet the deadline of September 30, 1995, to ensure the States would receive the $6.5 billion in National Highway System and interstate maintenance funds that they deserve.

With our actions today, we are well ahead of schedule.

But, Mr. President, I am concerned. While I applaud our inclusion of the zero alcohol tolerance, Mr. President, that noise does not disturb me. It is good noise. It is the noise of settlement. I accept it and tolerate it.

The PRESIDING OFFICER. We will, nonetheless, withhold so it will not interfere with the Senator giving his remarks.

Mr. WARNER. Mr. President, if I may continue, I would like to repeat myself. But I am concerned, Mr. President. I say that in all seriousness. While I applaud the Senate's inclusion of the "zero alcohol tolerance" for minors, I am concerned that the safety, which I strongly support, of the public may be placed in jeopardy as a result of the amendments to this bill; namely, the lifting of the Federal law on speed limits and opening the door for dual speed limits on trucks and automobiles.

States rights, a clarion call that I almost invariably support, prevailed throughout the debate on this bill. But the wisdom of experience failed to prevail. Experience has clearly demonstrated that uniform national speed limits reduce the daily tragic losses of life and limb and economic resources on our highways.

Likewise, experience has demonstrated that different speed limits for trucks and cars contribute to highway accidents. Our future, our fate now rests with the State legislators, not the Federal Government. States rights now means States responsibilities, as well as the burdens now on the individual States. Legislators of those States are now on the firing line. I urge them in the name of safety to hold the line. Speed can be as intoxicating as alcohol.

A future Congress, when ISTEA is reauthorized in 1997, will closely examine the results of our actions on this bill. I would hate to see the Congress once again on a roller coaster, enacting and repealing and enacting and then repealing these laws as the constant lobbying between the Congress and the States drives these legislative initiatives.

Mr. President, I would like to commend and thank the chairman of our committee, Senator CHAFEE, as well as the distinguished ranking member, Senator BAUCUS. They are both splendid working partners, and Senator BAUCUS has helped immeasurably as a full partner and as a manager with this Senator in seeing that this bill will be adopted.

With their strong support, this bill moved promptly through the committee to the floor. Their cooperation and skill may soon help me to complete action on this bill.

My colleagues on the Environment and Public Works Committee have also my great respect and appreciation for their commitment and their hard work.

I would also like to thank a very able professional staff for their efforts. From the beginning of our work to designate the National Highway System there has been a great deal of cooperation on both sides of the aisle. So I thank Jean Lauver, Ann Loomis, Linda Jordan, Larry Dwyer, Ellen Stein, Tom Sliter, Kathy Ruffalo, Alex Washburn, and the one and only Steve Shimberg, staff director.

Mr. President, the National Highway System will, indeed, keep America moving toward our next generation of transportation challenges. For these reasons, I support the bill and urge my colleagues to vote for passage of this important legislation.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I am pleased the Senate is nearing completion of S. 440, the National Highway System Destination Act of 1995. And I want to thank all my colleagues for their cooperation on this legislation. The passage of this legislation brings us a big step closer to the deadline we must meet of September 30, if we are to receive a very substantial distribution of some $6.5 billion—that is "b" for "billion"—of needed highway funds.

And I want to commend the manager of the bill, the chairman of the Transportation and Infrastructure Subcommittee, Senator WARNER, for the wonderful job that he has done during the consideration of this legislation. He worked diligently to develop it and to secure the committee's approval by a vote of 15–1.

I also want to thank Senator BAUCUS as a member of the Environment and Public Works Committee, who is also ranking member of this subcommittee, for the excellent work that he has done on this bill. He has been very cooperative in moving it forward. In fact, he provided the leadership in beginning this process, as mentioned by Senator WARNER, in that Senator BAUCUS last year brought this legislation to the floor of the Senate. It passed, but unfortunately we were unable to reach an agreement with the House before Congress adjourned.

So I am pleased the Senate has approved the National Highway System as the Secretary of Transportation and the local and State officials presented it to us. I think this underlines the fact that the process to designate this system has worked well and resulted in a high degree of consensus among Federal and State and local officials.

Under this bill the cooperative process will continue. State and local officials, with the Secretary of Transportation's approval, will have the ability to continue to make changes in the National Highway System as long as the total mileage of 165,000 miles is not exceeded. This is a dynamic entity with which we are involved.

This legislation preserves the important principles that the Intermodal Surface Transportation Efficiency Act of 1991, the so-called ISTEA legislation, put in place, emphasizing flexibility. I regret that we were not able to provide the States more flexibility with respect to the Davis-Bacon provisions. As you know, it emerged from the committee with a revocation of the Davis-Bacon language as it pertained to highway construction. That was removed on the floor of the Senate due to the presence of a filibuster on that item. I hope we will be able to deal with this Davis-Bacon situation in the future.

I deeply regret that this legislation, in, my judgment, represents a giant step backward in a particular area; that is, highway safety. I am extremely disappointed that the Senate made the decision to repeal the Federal speed limit as it pertains to automobiles. It was maintained as to trucks. That was a half a victory. As to automobiles, it was not maintained. And as for the motorcycle helmet requirements, they were repealed. Again, it was half a victory, if you would, or half a loss, in that of the two items, seatbelts and motorcycle helmets, the seatbelts were retained and the motorcycle helmet provision was repealed.

I think that is a bad decision and will result in extremely unfortunate consequences. I believe lives will be lost that could have been preserved otherwise. I believe there will be more serious injuries that could have been avoided. And I believe the cost to Federal and State governments will go up. But that is life. We had a long debate on it. There is no question that the will of the Senate was expressed. Nothing went through in the dark of night on that one. Everybody knew the issues and a vote was held. The vote was very, very clear to repeal the helmet provision.

I want to take this opportunity to thank the Secretary of Transportation, Mr. Peña, and Mr. Rodney Slater, the

Administrator of the Federal Highway System. They did a splendid job in working with the States to develop this whole system. The system was adopted by the Senate as was proposed, as it came up to us. That is a testimony to the effective job that was done by the States and the Federal officials, particularly Mr. Slater, who has been very helpful to us not only during the designation of the National Highway System, but in the consideration of this measure on the floor, and his Deputy Administrator, Jane Garvey, and their staff. The staff they have was working with us over the past several days.

Finally, I want to join in thanks to the staff who worked on this legislation. On our side, Steve Shimberg, Jean Lauver, Ann Loomis, Linda Jordan, and Larry Dwyer. And for the Democratic side, Tom Sliter, Kathy Ruffalo, and Alice Washburn. All have been absolutely splendid. There is no question we rely to a great degree on them, because we have confidence in them built up over the years.

So I want to thank the Chair and thank all my colleagues for their assistance in this measure.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am pleased today the Senate is finally about to pass S. 440, the National Highway System Designation Act of 1995. I want to thank particularly the chairman, Senator CHAFEE, for his outstanding leadership, and also Senator WARNER, the chairman of the subcommittee, who has done an excellent job shepherding this bill to this point.

This is a critical bill for our States. Billions of dollars in highway funds are at stake. We need to enact this bill, and I remind my colleagues, by September 30; that is, passed by both Houses and signed into law. Otherwise, the State highway programs will be seriously disrupted.

I hope the House will take this bill up soon so we can resolve our differences and get a bill to the President by that deadline.

The National Highway System is the backbone of our transportation system today and the framework for its growth in the 21st century. The NHS is designed to have a seamless transportation network of roads that link all modes of transportation between airports, seaports, and rail yards with our population and economic centers. It will make our businesses more competitive in our global economy. And by choosing the most important roads, it will help States to determine the most appropriate transportation investments.

That is particularly true in the rural West, like Montana, where highways are often the only mode of transportation. Whether it is in the transporting of goods and services, traveling for family vacations, business, or taking our kids to college, our highways always play a vital role in our lives and our jobs. We do not have the mass transit or water transportation systems like other States have. So highways are critical to the lifeblood of our State's economy, which increasingly depends on travel and tourism, and it is our way of life.

The bill includes nearly 4,000 miles of roads in Montana. That is 23 percent or about 800 miles more than the Bush administration's original proposal. The additional routes include Highway 200 between Great Falls and Missoula, and from Lewistown going west to Winnett, Jordan, Circle, Sidney, and Fairview. Highway 12 from Helena to Garrison Junction; Highway 59 from Miles City to Broadus; Highway 87 between Billings, Roundup, and Grassrange; and Highway 212 from Crow Agency to Lame Deer and Alzada.

That is good news for Montana. And the other roads in the bill mean just as much for the entire region across the Great Plains and down the Rocky Mountains. All these roads are included in the bill the Senate is considering today.

Mr. President, this bill also makes major reforms by lessening the regulatory burdens on our States, giving them more flexibility. It allows States to set their own speed limits for passenger cars and also repeals Federal mandates on motorcycle helmets, management systems, use of the metrics on highway signs, and crumb rubber. These are all good changes.

As I said before, this bill is not only in our State's interest, but in our national interest. It means jobs; it means growth. So I congratulate the chairmen of our committee and subcommittee for their leadership, for their diligence, and for their extreme patience in managing this bill. And I particularly want to thank the staffs on both sides, particularly on the minority side, Tom Sliter and Kathy Ruffalo, who have done a wonderful job; and on the majority side, Jean Lauver and Ann Loomis, who have done an equally good job.

Particularly at this point, Mr. President, I want to thank the Federal Highway Administrator, Rodney Slater. He has been here. He has been in the wings helping advise us. There were technical problems we had as amendments came up. Jane Garvey, who is the Deputy Administrator, has been just very valuable, along with other FHA staff, and I must say that were it not for their expertise, this legislation would be in pretty rough shape. Again, I thank all concerned, and again particularly the chairman, and the subcommittee chairman, Senator WARNER. They have done a great job.

Mr. WARNER. Mr. President, I thank my colleague for his kind remarks. I join him in acknowledging the positive, constructive contribution of the Administrator of the Federal Highway Administration. Indeed, he has been here keeping watch, and any Senator could speak with him at any time. He has done an excellent job, a very, very commendable job for this Nation.

I see the distinguished Senator from Oklahoma. I yield the floor.

Mr. NICKLES addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 1466

(Purpose: To permit States to use assistance provided under the mass transit account of the highway trust fund for capital improvements to, and operating support for, intercity passenger rail service)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. ABRAHAM). The clerk will report.

The legislative clerk read as follows:

The Senator from Oklahoma [Mr. NICKLES] proposes an amendment numbered 1466.

Mr. NICKLES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . INTERCITY RAIL INFRASTRUCTURE INVESTMENT FROM MASS TRANSIT ACCOUNT OF HIGHWAY TRUST FUND.

Section 5323 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(m) INTERCITY RAIL INFRASTRUCTURE INVESTMENT.—Any assistance provided to a State that does not have Amtrak service as of date of enactment of this Act from the Mass Transit Account of the Highway Trust Fund may be used for capital improvements to, and operating support for, intercity passenger rail service.".

Mr. NICKLES. Mr. President, one, I wish to thank my colleagues, Senator WARNER and Senator BAUCUS, as well as Senator D'AMATO and Senator SARBANES, for their supporting this amendment and cooperating with us in the drafting of this amendment.

This amendment, basically, would allow States to use their mass transit funds to subsidize Amtrak. Many States, as you know, have had reductions in Amtrak. There happen to be 3 States in the lower 48 that do not have Amtrak. We have narrowed this amendment to apply to those three States that do not have Amtrak where they could use mass transit funds to subsidize Amtrak acquisition.

I am pleased this amendment is supported. This will help us in our State to regain Amtrak. We are the only State in the Nation that has had Amtrak and lost it. It will allow us to use mass transit—we only receive $3 million now, we contribute $30 million but only get $3 million back—this will allow us to use part of that money to subsidize Amtrak and bring about the day when we have restoration of Amtrak in my State.

I wish to compliment my colleagues for management of this bill. They have shown great patience and forbearance. A lot had different ideas.

I introduced legislation some time ago to allow the States to set speed limits, thereby repealing the Federal national speed limit. That was adopted by this body. I think it is a giant step in the right direction. I am pleased it is part of this package. I look forward to the final action and completion of this bill.

Mr. BAUCUS. Mr. President, the substance of this amendment is, frankly, not within the jurisdiction of this committee. Rather, it is in the jurisdiction of the Banking Committee. I have been in contact with Senator SARBANES, who is the ranking member of the Banking Committee. I have been assured he agrees with this amendment and has no problem with it.

Mr. WARNER. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1466) was agreed to.

Mr. NICKLES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, many commendations have been paid to the managers of the bill. I also would like to pay a commendation to the distinguished majority leader and the Democratic leader who have given us full, complete support and, indeed, has shown great patience and indulgence in the last hour and a half as we bring this matter to a close.

Mr. President, there is one remaining matter.

I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I join in saying we are happy the highway bill is being passed. As one who has a very pressing problem, I know this bill presents an opportunity to raise an issue and have it decided by the Congress and have it to the President next week. I see nothing wrong with that. That is part of the history of the Senate. In a few minutes, we may work out a situation—or we will postpone the decision—but we cannot work it out now and, as far as I am concerned, we will stay on this bill until we can get a decision from the Senate as to whether we are right about this issue.

So let me respond to my friend from Rhode Island—and he is my friend—Senator CHAFEE and I stood behind one another in the line going into law school more than 50 years ago, Mr. President, so we know each other very well.

We do have some differences. I have heard my friend talk about the fact that there is a limit of 165,000 miles in the Interstate Highway System. How would you like to be from a State one-fifth the size of the United States and have a thousand of those miles, Mr. President, and have the post office keep telling you, "You have to find some way to deliver the mail up here, we can't pay the subsidy for flying mail?" Then you find that Federal agencies are denying you the right to use rights-of-way across Federal lands that were developed by the miners in 1866 and have been used since that time.

What happened? In 1976, we decided that we would repeal revised statute 2477, which provided every State in the West the right to use established, public rights-of-way across Federal lands as continued rights-of-way for use by the public. They became the basis for the State highways, the Federal highways and the interstate highways in what we call the south 48.

Has that happened in Alaska? No. Why? Because of arrogant bureaucrats.

In 1976, we passed a law which absolutely stated, without any question, that the action of Congress in repealing the revised statute 2477 would not affect our rights-of-way that had been established prior to 1976. That law said in section 701(a), which was signed on October 21, 1976:

> Nothing in this act or in any amendment made by this act shall be construed as terminating any valid lease, permit, patent, right-of-way or other land use right or authorization existing on the date of approval of this act.

We interpreted that in past Congresses and past administrations have interpreted that to mean that the rights-of-way that were established pursuant to State law before 1976 were valid, if the State determined they were valid.

As a matter of fact, there have been specific holdings by the Federal courts of appeals, particularly the Ninth Circuit Court of Appeals, that those rights-of-way were to be established and determined on the basis of State law.

Now the Department of the Interior says, "Oh, wait a minute now, we have established since 1976 a whole series of wilderness areas, and in those wilderness areas are some of these rights-of-way which, in fact, access privately held lands, Native-held lands, and State-held lands in our State. Other States have similar problems.

I want to point out, Utah has the greatest problem of all the Western States as far as the Bureau of Land Management is concerned. The last schedule I saw showed they had 3,815 claims pending to be validated. Validated by whom? There is no administrative process required to validate these claims. Now the Department of the Interior says they are going to determine whether these rights-of-way are valid. This is not what we said in 1976. If they were valid in 1976 under State law, they were to be valid forever.

The language was very simple—very simple. Congress said in 1866:

> The right-of-way for the construction of highways over public lands not reserved for public uses is hereby granted.

That became revised statute 2477. It was part of the original highway act of the United States. The managers of the bill are saying, "What are you doing out on the floor raising this now?" This is part of the highway system. The highway system in the western United States came into being because of revised statute 2477. And now in my State, unfortunately in other States now, the Department of the Interior has decided it is going to determine what is valid, and why? Because it has made reservations of lands since 1976 that it says have validity and have prior rights over the rights established by the people of those States over Federal lands before that date.

This to me is not a simple issue. My distinguished friend, Senator MURKOWSKI, the other Senator from Alaska, is here and he knows just how important this is. It is a matter that we both have tried to figure out what to do with.

We have no way to have construction of the highways proceed that we get money for under this bill if the Department of the Interior is to tell us that the rights-of-way we are going to use now are subject to their interpretation of whether they are valid or not.

To me it is a simple matter of States rights. But it goes beyond States rights. It is the incessant determination of people downtown to try to reverse a decision that the Congress made in 1958 when it allowed Alaska to become a State. If we are a State, we should have the same rights as the other States did under this statute, and in 1976 we preserved that. I helped work on that section. We wanted to make sure we had the rights that were there. We knew we were not going to establish any new rights across Federal lands after that time, but certainly the rights we had established prior to that time were valid pursuant to State law, and there is no question that they continue to be the basic right for the expansion of the highway system in Alaska and other western States.

Someone said to me once, "Why do you worry about that? Is there that much Federal land out there?" I just wish more people would come up and see the amount of Federal land we have in Alaska. You cannot get anywhere in Alaska without crossing Federal land. The Federal Government controls access to almost every piece of land that is in private, State, or Native ownership in Alaska.

Now, I do believe that there is no question about it that there are a lot of forces out there which, if they had their way now, would reverse statehood. They would take away from us the right to be a State. Not having that ability, what they do is take away from us the right to have the same access to our land mass that other States in the lower 48 have had.

The Interior Department has now come up with some very narrow terms to define "highways" for the purpose of revised statute 2477. That is none of their business. Our rights existed in 1976 or they do not exist at all today. But if they existed in 1976, no Secretary of the Interior is going to tell me what those rights were or what they are going to allow us to claim today. We had the right in 1976 and he has no business being involved in this.

I know that there are very powerful groups in this country that would like to find ways to invalidate those claims. And in the past these groups have taken the claims to court. These groups have lost, because a right established prior to 1976 for public access across Federal lands continues to be our right.

Alaska law defines highways in terms of roads, streets, trails, walkways, bridges, tunnels, drainage structures, ferry systems, and other related facilities. Obviously, nobody is going to get in our way on ferry systems. We have the right to navigable waters.

Protection of the RS 2477 grant of right-of-way is essential to the preservation of statehood for my State. And it is one of the reasons that I come to this floor at times just a little bit excited, because I do not believe many people take much time to learn much about our State. You crisscross the continental United States, but not many of you even come to our State. When you do, we welcome you, we are pleased to have you. But you do not take much time to learn some of the problems that exist there. Our problem is transportation, transportation, transportation. We have to have access to our lands.

There is one other item I will mention to the Senate. When we were seeking statehood, we first sought 30, 40 million acres of land. Congress at that time kept saying: But you cannot survive as a State unless you have more land. You have to have a land base in order to survive. So we ended up by getting the right to use 103.5 million acres of Federal lands as State lands.

Mr. President, having received the right to select 103.5 million acres of the Federal domain in Alaska, we proceeded to do that. Our rights pertain to Federal lands that were vacant, unreserved, and unappropriated as of 1959. A subsequent Congress decided that there ought to be a limitation on our rights. So we had a process which lasted about 7 years and led to the enactment of a law in 1980, the Alaska National Interest Land Claims Act, which withdrew a substantial amount of lands that were vacant, unappropriated, and unreserved in 1959. In effect, they took away from us the right to select a portion of the lands that we originally had the right to consider in exercising rights under the Statehood Act. Similarly, the Alaska Natives received some 40-plus million acres in settlement of their historic claims against the United States, and some of those lands were to be taken from vacant unappropriated, unreserved lands. And they also were faced with the prospect of having to select lands that were not reserved, because the Congress had reserved lands.

We ended up by selecting lands that were less valuable, did not contain minerals, and were not timbered. Most of the valuable lands of Alaska was set aside and not available to either the State or the Natives, as originally intended. That is going to lead, in my opinion, to a historic lawsuit by my State against the Federal Government. I am informed we must complete our land selections before we can bring that case. But I do think it is a valid case against the United States. And the perpetrators of the wrong were right here on the floor of the Senate. Some of them continue to be here, Mr. President. Some Members of the Senate continue to try to deny Alaska access to the lands that Congress gave us a right to when we became a State, in order to try and support the new State.

Now, we come down to 1976 when we decided to repeal revised statute 2477. Mr. President, without that law, the West would never have been settled. Without that law, we would not have the Interstate Highway System. Without that law, we would not really have the unity we have as a nation.

Now, it is sad, in my opinion, to see this penchant of some members of our society to deny our new State the same rights, to say that we have no right to establish a network of highways in our State. As I said, we have one major highway in our State. It is the system that connects Alaska to Canada. It goes from Seward, AK, up to Fairbanks, and out to the border.

I see the leader here. I will yield.

Mr. DOLE. I wonder if we can move on to the next bill and not, in any way, undercut any of the rights of any of the Senators. As soon as you get the language and agreement, we can come back to this bill. In the meantime, let us go ahead and start the other bill, the securities litigation bill. And then, hopefully, you will have the language. The first vote would be on this, back-to-back with final passage of this bill, plus the amendment on litigation.

Mr. STEVENS. I might say to my friend, we had an agreement last night that I would have the opportunity to offer an amendment to this bill. Now there has been a suggestion that we have an amendment that is being reviewed by the Senator from Arkansas, as I understand it. That would delay the urgency of this amendment of mine. I am happy to agree to cooperate with our leader at any time. I would not want to see us be put in the position that we are limited as to what we might do when we get back on this bill.

Mr. DOLE. I assume, in talking with Senator BUMPERS, it is something everybody can agree on. You can offer the amendment when we bring the bill up. If it is not satisfactory, you can do what you want. In the meantime, we can go ahead with the litigation bill. When you have it worked out——

Mr. STEVENS. There may be more amendments before we are through.

Mr. DOLE. Well, amendment or amendments.

Mr. STEVENS. Under the circumstances, I am happy to continue my comments at a later time, if the leader wishes to go on the other bill at this time.

Mr. BAUCUS. Mr. President, if the majority leader will yield, it is my understanding that the amendment has been agreed to.

Mr. STEVENS. That was this Senator's understanding, too, but that is not the case.

Mr. MURKOWSKI. Mr. President, we are currently waiting to hear from Senator BUMPERS with regard to the pending agreement. I assume that he will be forthcoming.

Mr. STEVENS. If my colleague will yield, we have not been able to check that out with the Senator from Utah because we have not seen the final version that is agreeable to Senator BUMPERS yet.

The leader is right. There is nothing we can move ahead on now. That is why this Senator is venting a little air, to try to make people understand why we feel so strongly about this amendment.

Mr. BAUCUS. I wonder, Mr. President, if the majority leader will yield, if we can wait maybe 1 minute here. There is a possibility we can get this cleared right now.

Mr. DOLE. Then it has to be reviewed by the Senator from Utah.

Mr. BAUCUS. If we could just withhold for a few more minutes? Maybe the other Senator from Alaska could speak for just a few more minutes. We are just that close to getting this thing wrapped up. I would want to do it now rather than later.

Mr. DOLE. We were going to move on to something else at 3:30. Now it is 4:30. I would like to finish the bill. I know the managers would. They have done an excellent job. I certainly want to accommodate the Senators from Alaska. I understood the Senator from Arkansas, Senator BUMPERS, thought he had a satisfactory resolution.

Mr. BAUCUS. Mr. President, if the Senator will again yield, it is my understanding Senator BUMPERS has not yet personally seen the language and he does want to see it.

Mr. DOLE. That could take a while and we could be halfway down the trail on the litigation bill. As soon as it is worked out, we will come right back and finish it. I am not going to lay it aside for a day or even an hour. We will come back, finish it, get the yeas and nays on final passage and have that vote occur along with the first vote on any amendment on the litigation bill. Is that right?

Mr. BAUCUS. Fine.

Mr. MURKOWSKI. Mr. President, I wonder if I could inquire of the manager and the leader, if, indeed, it is set aside and not taken up for a time, if Senator STEVENS and I may have a time to be recognized at that time certain, right after the leader calls up the bill? I wonder if the leader could indicate when he intends to do that?

Mr. DOLE. I think what we would do is make certain you have agreed or disagreed on whatever has been offered. Both Alaska Senators are on the floor, obviously, and the Senator from Utah—

Mr. STEVENS. If I may interrupt, the Senator from Utah has as great a stake or greater in the immediate outcome. We have been willing to clear this with them, but we have not been able to get an agreed version yet on this tentative moratorium.

Will the leader yield to the Senator from Utah so he might get involved in this, Mr. Leader?

Mr. DOLE. Yes.

Mr. BENNETT. I have just had a quick opportunity to review this. Clearly I will want to talk to my senior colleague, Senator HATCH. But my first reaction to this is that this would be agreeable. It would delay the implementation, as I understand it, of the present rules until December and give us that much more time to try to work things out with the Department of the Interior.

Our Governor made it clear to Secretary Babbitt that the proposals, as they currently stand, are not acceptable and cannot be fixed. We have to start completely from scratch. So that is the position we have taken and I take on behalf of the Governor.

But I obviously want to check with Senator HATCH before I give a final signoff on this issue.

Mr. STEVENS. Mr. President, does the leader still have the floor?

The PRESIDING OFFICER. The leader has the floor.

Mr. DOLE. I think from what I see developing here, it is just going to take a little time. I think it can be worked out. But if we need to contact the senior Senator from Utah, Senator HATCH, and the Senator from Arkansas, Senator BUMPERS, I know that is not going to happen in 2 minutes or 5 minutes or 30 minutes. In the meantime, we could be started on the litigation bill. Then, as soon as you get the agreement, we can come back to this bill, wrap it up, and have a vote on final passage.

Mr. STEVENS. The question is, if we do not get the agreement, do we have the understanding this will come back and be the regular order after we finish the securities bill?

Mr. DOLE. That is right.

Mr. STEVENS. I would have no objection to that proceeding.

Mr. MURKOWSKI. Then, if I could ask the leader again, roughly, he anticipates being back on the securities bill on Monday?

Mr. DOLE. Yes. We hope to finish the bill tomorrow night. If not, we will be on it Monday. But we could finish this bill, the present bill, before then, in particular if we get an agreement.

Mr. MURKOWSKI. Mr. President, if the leader gets an agreement, then it is my understanding that he will potentially come back to this bill, the highway bill, at which time we would be recognized and pursue our amendments with no time limitation and try to resolve the differences that we currently have been unable to clear. Then there would be final passage. Is that correct?

Mr. DOLE. But if you can reach agreement with all parties and it can be done very quickly, we will do it at any time you get the agreement, like 30 minutes from now or an hour from now or 2 hours from now.

Mr. MURKOWSKI. Mr. President, we should know very soon.

Mr. DOLE. Right. That is what they told me at 3:30. Let me get the consent. There will be one additional amendment here and then we will go on.

Let me ask unanimous consent that the Senate, after adoption of the managers' amendment, turn to the consideration of Calendar 128, S. 240, the securities litigation bill, and that no call for the regular order bring back S. 440 except one call by the majority leader after consultation with the Democratic leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask, when the Senate resumes S. 440, the only amendments remaining in order to the committee substitute be the following: They are going to offer the managers' amendment, and then the only following amendment would be the Stevens-Murkowski amendment or amendments. And that would also include the Senators from Utah, Senator BENNETT and Senator HATCH.

Mr. WARNER. Mr. President, reserving the right to object, I shall not. We also have an understanding that the closing statements of the managers appear in the RECORD as the last.

Mr. DOLE. I did get consent you could offer the managers' amendment right now.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1464, AS MODIFIED

Mr. WARNER. Mr. President, I send to the desk a technical amendment to be added to the managers' amendment.

Mr. STEVENS. Has the agreement been entered into?

The PRESIDING OFFICER. Yes, it has. Without objection, the agreement is entered into.

Mr. WARNER. Mr. President, this is a technical amendment which includes the State of Maine as covered by the amendment of the Senator from New Hampshire.

I ask that it be accepted. It is to a previously agreed to amendment.

The PRESIDING OFFICER. Without objection, amendment No. 1464 is modified and is agreed to in that form.

The amendment (No. 1464), as modified, was agreed to, as follows:

At the appropriate place in the bill add the following new section:

SEC. .

The State of New Hampshire and the State of Maine shall be deemed as having met the safety belt use law requirements of section 153 of title 23 of the U.S. Code, upon certification by the Secretary of Transportation that the State has achieved—

(a) a safety belt use rate in each of fiscal years ending September 30, 1995 and September 30, 1996, of not less than 50 percent; and

(b) a safety belt use rate in each succeeding fiscal year thereafter of not less than the national average safety belt use rate, as determined by the Secretary of Transportation.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. CHAFEE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VISIT TO THE SENATE BY MEMBERS OF THE CHILEAN SENATE

Mr. DODD. Mr. President, I wanted to take a moment, if I could, to say that we just had a very wonderful opportunity in the Senate Foreign Relations Committee room to have a very healthy and productive discussion with a group of our colleagues, Senators from Chile, who are here in the United States, to meet with their counterparts in the Senate and some Members of the House and the administration on a variety of subject matters, not the least of which—and it will not come as a great surprise—is NAFTA.

I know many colleagues share the view that Chile would be a welcome partner in the NAFTA agreements. That is a matter we will address in the future.

I would like to take this opportunity to introduce to my distinguished colleagues four Members of the Chilean Senate. With us today are Senator Arturo Allessandri, Senator Sebastian Pinera, Senator Hernan Larrain, and Senator Jaime Gazmuri.

We are pleased to welcome four of our colleagues from Chile to the U.S. Senate. We are delighted you are here on an important visit to our country.

[Applause]

PRIVATE SECURITIES LITIGATION REFORM ACT

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 240) to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs, with an amendment to strike out all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Private Securities Litigation Reform Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF ABUSIVE LITIGATION

Sec. 101. Elimination of certain abusive practices.
Sec. 102. Securities class action reform.
Sec. 103. Sanctions for abusive litigation.
Sec. 104. Requirements for securities fraud actions.
Sec. 105. Safe harbor for forward-looking statements.
Sec. 106. Written interrogatories.
Sec. 107. Amendment to Racketeer Influenced and Corrupt Organizations Act.
Sec. 108. Authority of Commission to prosecute aiding and abetting.
Sec. 109. Loss causation.
Sec. 110. Applicability.

TITLE II—REDUCTION OF COERCIVE SETTLEMENTS

Sec. 201. Limitation on damages.
Sec. 202. Proportionate liability.
Sec. 203. Applicability.

TITLE III—AUDITOR DISCLOSURE OF CORPORATE FRAUD

Sec. 301. Fraud detection and disclosure.

TITLE I—REDUCTION OF ABUSIVE LITIGATION

SEC. 101. ELIMINATION OF CERTAIN ABUSIVE PRACTICES.

(a) PROHIBITION OF REFERRAL FEES.—Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) is amended by adding at the end the following new paragraph:

"(8) PROHIBITION OF REFERRAL FEES.—No broker or dealer, or person associated with a broker or dealer, may solicit or accept, directly or indirectly, remuneration for assisting an attorney in obtaining the representation of any person in any private action arising under this title or under the Securities Act of 1933.".

(b) ATTORNEY CONFLICT OF INTEREST.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(f) ATTORNEY CONFLICT OF INTEREST.—In any private action arising under this title, if a plaintiff is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such ownership or other interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the party.".

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

"(i) ATTORNEY CONFLICT OF INTEREST.—In any private action arising under this title, if a plaintiff is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such ownership or other interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the party.".

(c) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(g) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Except as otherwise ordered by the court upon motion by the Commission, or, in the case of an administrative action, as otherwise ordered by the Commission, funds disgorged as the result of an action brought by the Commission in Federal court, or as a result of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking distribution of the disgorged funds.".

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following new paragraph:

"(4) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Except as otherwise ordered by the court upon motion by the Commission, or, in the case of an administrative action, as otherwise ordered by the Commission, funds disgorged as the result of an action brought by the Commission in Federal court, or as a result of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking distribution of the disgorged funds.".

SEC. 102. SECURITIES CLASS ACTION REFORM.

(a) RECOVERY RULES.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(h) RECOVERY RULES FOR PRIVATE CLASS ACTIONS.—

"(1) IN GENERAL.—The rules contained in this subsection shall apply in each private action arising under this title that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure.

"(2) CERTIFICATION FILED WITH COMPLAINTS.—

"(A) IN GENERAL.—Each plaintiff seeking to serve as a representative party on behalf of a class shall provide a sworn certification, which shall be personally signed by such plaintiff and filed with the complaint, that—

"(i) states that the plaintiff has reviewed the complaint and authorized its filing;

"(ii) states that the plaintiff did not purchase the security that is the subject of the complaint at the direction of plaintiff's counsel or in order to participate in any private action arising under this title;

"(iii) states that the plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary;

"(iv) sets forth all of the transactions of the plaintiff in the security that is the subject of the complaint during the class period specified in the complaint;

"(v) identifies any action under this title, filed during the 3-year period preceding the date on which the certification is signed by the plaintiff, in which the plaintiff has sought to serve as a representative party on behalf of a class; and

"(vi) states that the plaintiff will not accept any payment for serving as a representative party on behalf of a class beyond the plaintiff's pro rata share of any recovery, except as ordered or approved by the court in accordance with paragraph (3).

"(B) NONWAIVER OF ATTORNEY-CLIENT PRIVILEGE.—The certification filed pursuant to subparagraph (A) shall not be construed to be a waiver of the attorney-client privilege.

"(3) RECOVERY BY PLAINTIFFS.—The share of any final judgment or of any settlement that is awarded to a representative party serving on behalf of a class shall be calculated in the same manner as the shares of the final judgment or settlement awarded to all other members of the class. Nothing in this paragraph shall be construed to limit the award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class to any representative party serving on behalf of the class.

"(4) RESTRICTIONS ON SETTLEMENTS UNDER SEAL.—The terms and provisions of any settlement agreement of a class action shall not be filed under seal, except that on motion of any party to the settlement, the court may order filing under seal for those portions of a settlement agreement as to which good cause is shown for such filing under seal. For purposes of this paragraph, good cause shall exist only if publication of a term or provision of a settlement agreement would cause direct and substantial harm to any party.

"(5) RESTRICTIONS ON PAYMENT OF ATTORNEYS' FEES AND EXPENSES.—Total attorneys' fees and expenses awarded by the court to counsel for the plaintiff class shall not exceed a reasonable percentage of the amount of damages and prejudgment interest awarded to the class.

"(6) DISCLOSURE OF SETTLEMENT TERMS TO CLASS MEMBERS.—Any proposed or final settlement agreement that is published or otherwise disseminated to the class shall include each of the following statements, along with a cover page summarizing the information contained in such statements:

"(A) STATEMENT OF PLAINTIFF RECOVERY.—The amount of the settlement proposed to be distributed to the parties to the action, determined in the aggregate and on an average per share basis.

"(B) STATEMENT OF POTENTIAL OUTCOME OF CASE.—

"(i) AGREEMENT ON AMOUNT OF DAMAGES.—If the settling parties agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement concerning the average amount of such potential damages per share.

"(ii) DISAGREEMENT ON AMOUNT OF DAMAGES.—If the parties do not agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement from each settling party concerning the issue or issues on which the parties disagree.

"(iii) INADMISSIBILITY FOR CERTAIN PURPOSES.—A statement made in accordance with clause (i) or (ii) concerning the amount of damages shall not be admissible in any Federal or State judicial action or administrative proceeding, other than an action or proceeding arising out of such statement.

"(C) STATEMENT OF ATTORNEYS' FEES OR COSTS SOUGHT.—If any of the settling parties or their counsel intend to apply to the court for an award of attorneys' fees or costs from any fund established as part of the settlement, a statement indicating which parties or counsel intend to make such an application, the amount of fees and costs that will be sought (including the amount of such fees and costs determined on an

average per share basis), and a brief explanation supporting the fees and costs sought.

"(D) IDENTIFICATION OF LAWYERS' REPRESENTATIVES.—The name, telephone number, and address of one or more representatives of counsel for the plaintiff class who will be reasonably available to answer questions from class members concerning any matter contained in any notice of settlement published or otherwise disseminated to the class.

"(E) REASONS FOR SETTLEMENT.—A brief statement explaining the reasons why the parties are proposing the settlement.

"(F) OTHER INFORMATION.—Such other information as may be required by the court.".

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

"(j) RECOVERY RULES FOR PRIVATE CLASS ACTIONS.—

"(1) IN GENERAL.—The rules contained in this subsection shall apply in each private action arising under this title that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure.

"(2) CERTIFICATION FILED WITH COMPLAINTS.—

"(A) IN GENERAL.—Each plaintiff seeking to serve as a representative party on behalf of a class shall provide a sworn certification, which shall be personally signed by such plaintiff and filed with the complaint, that—

"(i) states that the plaintiff has reviewed the complaint and authorized its filing;

"(ii) states that the plaintiff did not purchase the security that is the subject of the complaint at the direction of plaintiff's counsel or in order to participate in any private action arising under this title;

"(iii) states that the plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary;

"(iv) sets forth all of the transactions of the plaintiff in the security that is the subject of the complaint during the class period specified in the complaint;

"(v) identifies any action under this title, filed during the 3-year period preceding the date on which the certification is signed by the plaintiff, in which the plaintiff has sought to serve as a representative party on behalf of a class; and

"(vi) states that the plaintiff will not accept any payment for serving as a representative party on behalf of a class beyond the plaintiff's pro rata share of any recovery, except as ordered or approved by the court in accordance with paragraph (3).

"(B) NONWAIVER OF ATTORNEY-CLIENT PRIVILEGE.—The certification filed pursuant to subparagraph (A) shall not be construed to be a waiver of the attorney-client privilege.

"(3) RECOVERY BY PLAINTIFFS.—The share of any final judgment or of any settlement that is awarded to a representative party serving on behalf of a class shall be calculated in the same manner as the shares of the final judgment or settlement awarded to all other members of the class. Nothing in this paragraph shall be construed to limit the award to any representative party serving on behalf of a class of reasonable costs and expenses (including lost wages) directly relating to the representation of the class.

"(4) RESTRICTIONS ON SETTLEMENTS UNDER SEAL.—The terms and provisions of any settlement agreement of a class action shall not be filed under seal, except that on motion of any party to the settlement, the court may order filing under seal for those portions of a settlement agreement as to which good cause is shown for such filing under seal. For purposes of this paragraph, good cause shall exist only if publication of a term or provision of a settlement agreement would cause direct and substantial harm to any party.

"(5) RESTRICTIONS ON PAYMENT OF ATTORNEYS' FEES AND EXPENSES.—Total attorneys' fees and expenses awarded by the court to counsel for the plaintiff class shall not exceed a reasonable percentage of the amount of damages and prejudgment interest awarded to the class.

"(6) DISCLOSURE OF SETTLEMENT TERMS TO CLASS MEMBERS.—Any proposed or final settlement agreement that is published or otherwise disseminated to the class shall include each of the following statements, along with a cover page summarizing the information contained in such statements:

"(A) STATEMENT OF PLAINTIFF RECOVERY.—The amount of the settlement proposed to be distributed to the parties to the action, determined in the aggregate and on an average per share basis.

"(B) STATEMENT OF POTENTIAL OUTCOME OF CASE.—

"(i) AGREEMENT ON AMOUNT OF DAMAGES.—If the settling parties agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement concerning the average amount of such potential damages per share.

"(ii) DISAGREEMENT ON AMOUNT OF DAMAGES.—If the parties do not agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement from each settling party concerning the issue or issues on which the parties disagree.

"(iii) INADMISSIBILITY FOR CERTAIN PURPOSES.—A statement made in accordance with clause (i) or (ii) concerning the amount of damages shall not be admissible in any Federal or State judicial action or administrative proceeding, other than an action or proceeding arising out of such statement.

"(C) STATEMENT OF ATTORNEYS' FEES OR COSTS SOUGHT.—If any of the settling parties or their counsel intend to apply to the court for an award of attorneys' fees or costs from any fund established as part of the settlement, a statement indicating which parties or counsel intend to make such an application, the amount of fees and costs that will be sought (including the amount of such fees and costs determined on an average per share basis), and a brief explanation supporting the fees and costs sought.

"(D) IDENTIFICATION OF LAWYERS' REPRESENTATIVES.—The name, telephone number, and address of one or more representatives of counsel for the plaintiff class who will be reasonably available to answer questions from class members concerning any matter contained in any notice of settlement published or otherwise disseminated to the class.

"(E) REASONS FOR SETTLEMENT.—A brief statement explaining the reasons why the parties are proposing the settlement.

"(F) OTHER INFORMATION.—Such other information as may be required by the court.".

(b) APPOINTMENT OF LEAD PLAINTIFF.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(i) PROCEDURES GOVERNING APPOINTMENT OF LEAD PLAINTIFF IN CLASS ACTIONS.—

"(1) EARLY NOTICE TO CLASS MEMBERS.—

"(A) IN GENERAL.—In any private action arising under this title that is brought on behalf of a class, not later than 20 days after the date on which the complaint is filed, the plaintiff or plaintiffs shall cause to be published, in a widely circulated national business-oriented publication or wire service, a notice advising members of the purported plaintiff class—

"(i) of the pendency of the action, the claims asserted therein, and the purported class period; and

"(ii) that, not later than 60 days after the date on which the notice is published, any member of the purported class may move the court to serve as lead plaintiff of the purported class.

"(B) ADDITIONAL NOTICES MAY BE REQUIRED UNDER FEDERAL RULES.—Notice required under subparagraph (A) shall be in addition to any notice required pursuant to the Federal Rules of Civil Procedure.

"(2) APPOINTMENT OF LEAD PLAINTIFF.—

"(A) IN GENERAL.—Not later than 90 days after the date on which a notice is published under paragraph (1)(A), the court shall consider any motion made by a purported class member in response to the notice, and shall appoint as lead plaintiff the member or members of the purported plaintiff class that the court determines to be most capable of adequately representing the interests of class members (hereafter in this subsection referred to as the 'most adequate plaintiff') in accordance with this paragraph.

"(B) CONSOLIDATED ACTIONS.—If more than one action on behalf of a class asserting substantially the same claim or claims arising under this title has been filed, and any party has sought to consolidate those actions for pretrial purposes or for trial, the court shall not make the determination required by subparagraph (A) until after the decision on the motion to consolidate is rendered. As soon as practicable after such decision is rendered, the court shall appoint the most adequate plaintiff as lead plaintiff for the consolidated actions in accordance with this paragraph.

"(C) REBUTTABLE PRESUMPTION.—

"(i) IN GENERAL.—Subject to clause (ii), for purposes of subparagraph (A), the court shall adopt a presumption that the most adequate plaintiff in any private action arising under this title is the person or group of persons that—

"(I) has either filed the complaint or made a motion in response to a notice under paragraph (1)(A);

"(II) in the determination of the court, has the largest financial interest in the relief sought by the class; and

"(III) otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

"(ii) REBUTTAL EVIDENCE.—The presumption described in clause (i) may be rebutted only upon proof by a member of the purported plaintiff class that the presumptively most adequate plaintiff—

"(I) will not fairly and adequately protect the interests of the class; or

"(II) is subject to unique defenses that render such plaintiff incapable of adequately representing the class.

"(iii) DISCOVERY.—For purposes of clause (ii), discovery relating to whether a member or members of the purported plaintiff class is the most adequate plaintiff—

"(I) may not be conducted by any defendant; and

"(II) may be conducted by a plaintiff only if the plaintiff first demonstrates a reasonable basis for a finding that the presumptively most adequate plaintiff is incapable of adequately representing the class.

"(D) SELECTION OF LEAD COUNSEL.—The most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class.".

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new subsection:

"(k) PROCEDURES GOVERNING APPOINTMENT OF LEAD PLAINTIFF IN CLASS ACTIONS.—

"(1) EARLY NOTICE TO CLASS MEMBERS.—

"(A) IN GENERAL.—In any private action arising under this title that is brought on behalf of a class, not later than 20 days after the date on which the complaint is filed, the plaintiff or

plaintiffs shall cause to be published, in a widely circulated national business-oriented publication or wire service, a notice advising members of the purported plaintiff class—

"(i) of the pendency of the action, the claims asserted therein, and the purported class period; and

"(ii) that, not later than 60 days after the date on which the notice is published, any member of the purported class may move the court to serve as lead plaintiff of the purported class.

"(B) ADDITIONAL NOTICES MAY BE REQUIRED UNDER FEDERAL RULES.—Notice required under subparagraph (A) shall be in addition to any notice required pursuant to the Federal Rules of Civil Procedure.

"(2) APPOINTMENT OF LEAD PLAINTIFF.—

"(A) IN GENERAL.—Not later than 90 days after the date on which a notice is published under paragraph (1)(A), the court shall consider any motion made by a purported class member in response to the notice, and shall appoint as lead plaintiff the member or members of the purported plaintiff class that the court determines to be most capable of adequately representing the interests of class members (hereafter in this subsection referred to as the 'most adequate plaintiff') in accordance with this paragraph.

"(B) CONSOLIDATED ACTIONS.—If more than one action on behalf of a class asserting substantially the same claim or claims arising under this title has been filed, and any party has sought to consolidate those actions for pretrial purposes or for trial, the court shall not make the determination required by subparagraph (A) until after the decision on the motion to consolidate is rendered. As soon as practicable after such decision is rendered, the court shall appoint the most adequate plaintiff as lead plaintiff for the consolidated actions in accordance with this paragraph.

"(C) REBUTTABLE PRESUMPTION.—

"(i) IN GENERAL.—Subject to clause (ii), for purposes of subparagraph (A), the court shall adopt a presumption that the most adequate plaintiff in any private action arising under this title is the person or group of persons that—

"(I) has either filed the complaint or made a motion in response to a notice under paragraph (1)(A);

"(II) in the determination of the court, has the largest financial interest in the relief sought by the class; and

"(III) otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

"(ii) REBUTTAL EVIDENCE.—The presumption described in clause (i) may be rebutted only upon proof by a member of the purported plaintiff class that the presumptively most adequate plaintiff—

"(I) will not fairly and adequately protect the interests of the class; or

"(II) is subject to unique defenses that render such plaintiff incapable of adequately representing the class.

"(iii) DISCOVERY.—For purposes of clause (ii), discovery relating to whether a member or members of the purported plaintiff class is the most adequate plaintiff—

"(I) may not be conducted by any defendant; and

"(II) may be conducted by a plaintiff only if the plaintiff first demonstrates a reasonable basis for a finding that the presumptively most adequate plaintiff is incapable of adequately representing the class.

"(D) SELECTION OF LEAD COUNSEL.—The most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class.".

SEC. 103. SANCTIONS FOR ABUSIVE LITIGATION.

(a) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(j) SANCTIONS FOR ABUSIVE LITIGATION.—

"(1) MANDATORY REVIEW BY COURT.—In any private action arising under this title, upon final adjudication of the action, the court shall include in the record specific findings regarding compliance by each party and each attorney representing any party with each requirement of Rule 11(b) of the Federal Rules of Civil Procedure.

"(2) MANDATORY SANCTIONS.—If the court makes a finding under paragraph (1) that a party or attorney violated any requirement of Rule 11(b) of the Federal Rules of Civil Procedure, the court shall impose sanctions on such party or attorney in accordance with Rule 11 of the Federal Rules of Civil Procedure.

"(3) PRESUMPTION IN FAVOR OF ATTORNEYS' FEES AND COSTS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), for purposes of paragraph (2), the court shall adopt a presumption that the appropriate sanction for failure of the complaint to comply with any requirement of Rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

"(B) REBUTTAL EVIDENCE.—The presumption described in subparagraph (A) may be rebutted only upon proof by the party or attorney against whom sanctions are to be imposed that—

"(i) the award of attorneys' fees and other expenses will impose an undue burden on that party or attorney; or

"(ii) the violation of Rule 11(b) of the Federal Rules of Civil Procedure was de minimis.

"(C) SANCTIONS.—If the party or attorney against whom sanctions are to be imposed meets its burden under subparagraph (B), the court shall award the sanctions that the court deems appropriate pursuant to Rule 11 of the Federal Rules of Civil Procedure.".

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

"(l) SANCTIONS FOR ABUSIVE LITIGATION.—

"(1) MANDATORY REVIEW BY COURT.—In any private action arising under this title, upon final adjudication of the action, the court shall include in the record specific findings regarding compliance by each party and each attorney representing any party with each requirement of Rule 11(b) of the Federal Rules of Civil Procedure.

"(2) MANDATORY SANCTIONS.—If the court makes a finding under paragraph (1) that a party or attorney violated any requirement of Rule 11(b) of the Federal Rules of Civil Procedure, the court shall impose sanctions in accordance with Rule 11 of the Federal Rules of Civil Procedure on such party or attorney.

"(3) PRESUMPTION IN FAVOR OF ATTORNEYS' FEES AND COSTS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), for purposes of paragraph (2), the court shall adopt a presumption that the appropriaie sanction for failure of the complaint to comply with any requirement of Rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

"(B) REBUTTAL EVIDENCE.—The presumption described in subparagraph (A) may be rebutted only upon proof by the party or attorney against whom sanctions are to be imposed that—

"(i) the award of attorneys' fees and other expenses will impose an undue burden on that party or attorney; or

"(ii) the violation of Rule 11(b) of the Federal Rules of Civil Procedure was de minimis.

"(C) SANCTIONS.—If the party or attorney against whom sanctions are to be imposed meets its burden under subparagraph (B), the court shall award the sanctions that the court deems appropriate pursuant to Rule 11 of the Federal Rules of Civil Procedure.".

SEC. 104. REQUIREMENTS FOR SECURITIES FRAUD ACTIONS.

(a) SECURITIES ACT OF 1933.—

(1) STAY OF DISCOVERY.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(k) STAY OF DISCOVERY.—In any private action arising under this title, during the pendency of any motion to dismiss, all discovery and other proceedings shall be stayed unless the court finds, upon the motion of any party, that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party.".

(2) PRESERVATION OF EVIDENCE.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(l) PRESERVATION OF EVIDENCE.—It shall be unlawful for any person, upon receiving actual notice that a complaint has been filed in a private action arising under this title naming that person as a defendant and that describes the allegations contained in the complaint, to willfully destroy or otherwise alter any document, data compilation (including any electronically recorded or stored data), or tangible object that is in the custody or control of that person and that is relevant to the allegations.".

(b) SECURITIES EXCHANGE ACT OF 1934.—Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 36. REQUIREMENTS FOR SECURITIES FRAUD ACTIONS.

"(a) MISLEADING STATEMENTS AND OMISSIONS.—In any private action arising under this title in which the plaintiff alleges that the defendant—

"(1) made an untrue statement of a material fact; or

"(2) omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading;

the complaint shall specify each statement alleged to have been misleading, the reason or reasons why the statement is misleading, and, if an allegation regarding the statement or omission is made on information and belief, the plaintiff shall set forth all information on which that belief is formed.

"(b) REQUIRED STATE OF MIND.—In any private action arising under this title in which the plaintiff may recover money damages only on proof that the defendant acted with a particular state of mind, the plaintiff's complaint shall, with respect to each act or omission alleged to violate this title, specifically allege facts giving rise to a strong inference that the defendant acted with the required state of mind.

"(c) MOTION TO DISMISS; STAY OF DISCOVERY.—

"(1) DISMISSAL FOR FAILURE TO MEET PLEADING REQUIREMENTS.—In any private action arising under this title, the court shall, on the motion of any defendant, dismiss the complaint if the requirements of subsections (a) and (b) are not met.

"(2) STAY OF DISCOVERY.—In any private action arising under this title, during the pendency of any motion to dismiss, all discovery and other proceedings shall be stayed unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

"(3) PRESERVATION OF EVIDENCE.—It shall be unlawful for any person, upon receiving actual

notice that a complaint has been filed in a private action arising under this title naming that person as a defendant and that describes the allegations contained in the complaint, to willfully destroy or otherwise alter any document, data compilation (including any electronically recorded or stored data), or tangible object that is in the custody or control of that person and that is relevant to the allegations.

"(d) LOSS CAUSATION.—In any private action arising under this title, the plaintiff shall have the burden of proving that the act or omission alleged to violate this title caused any loss incurred by the plaintiff. Damages arising from such loss may be mitigated upon a showing by the defendant that factors unrelated to such act or omission contributed to the loss.".

SEC. 105. SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

(a) SECURITIES ACT OF 1933.—Title I of the Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 13 the following new section:

"SEC. 13A. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

"(a) SAFE HARBOR.—

"(1) IN GENERAL.—In any private action arising under this title that is based on a fraudulent statement, an issuer that is subject to the reporting requirements of section 13(a) or section 15(d) of the Securities Exchange Act of 1934, a person acting on behalf of such issuer, or an outside reviewer retained by such issuer, shall not be liable with respect to any forward-looking statement, whether written or oral, if and to the extent that the statement—

"(A) projects, estimates, or describes future events; and

"(B) refers clearly (and, except as otherwise provided by rule or regulation, proximately) to—

"(i) such projections, estimates, or descriptions as forward-looking statements; and

"(ii) the risk that actual results may differ materially from such projections, estimates, or descriptions.

"(2) EFFECT ON OTHER SAFE HARBORS.—The exemption from liability provided for in paragraph (1) shall be in addition to any exemption that the Commission may establish by rule or regulation under subsection (e).

"(b) DEFINITION OF FORWARD-LOOKING STATEMENT.—For purposes of this section, the term 'forward-looking statement' means—

"(1) a statement containing a projection of revenues, income (including income loss), earnings (including earnings loss) per share, capital expenditures, dividends, capital structure, or other financial items;

"(2) a statement of the plans and objectives of management for future operations;

"(3) a statement of future economic performance contained in a discussion and analysis of financial condition by the management or in the results of operations included pursuant to the rules and regulations of the Commission;

"(4) any disclosed statement of the assumptions underlying or relating to any statement described in paragraph (1), (2), or (3); or

"(5) a statement containing a projection or estimate of such other items as may be specified by rule or regulation of the Commission.

"(c) EXCLUSIONS.—The exemption from liability provided for in subsection (a) does not apply to a forward-looking statement that is—

"(1) knowingly made with the expectation, purpose, and actual intent of misleading investors;

"(2) except to the extent otherwise specifically provided by rule, regulation, or order of the Commission, made with respect to the business or operations of the issuer, if the issuer—

"(A) has been, during the 3-year period preceding the date on which the statement was first made, convicted of any felony or misdemeanor described in clauses (i) through (iv) of section 15(b)(4)(B), or has been made the subject of a judicial or administrative decree or order arising out of a governmental action that—

"(i) prohibits future violations of the antifraud provisions of the securities laws, as that term is defined in section 3 of the Securities Exchange Act of 1934;

"(ii) requires that the issuer cease and desist from violating the anti-fraud provisions of the securities laws; or

"(iii) determines that the issuer violated the anti-fraud provisions of the securities laws;

"(B) makes the forward-looking statement in connection with an offering of securities by a blank check company, as that term is defined under the rules or regulations of the Commission;

"(C) issues penny stock, as that term is defined in section 3(a)(51) of the Securities Exchange Act of 1934, and the rules, regulations, or orders issued pursuant to that section;

"(D) makes the forward-looking statement in connection with a rollup transaction, as that term is defined under the rules or regulations of the Commission; or

"(E) makes the forward-looking statement in connection with a going private transaction, as that term is defined under the rules or regulations of the Commission issued pursuant to section 13(e) of the Securities Exchange Act of 1934; or

"(3) except to the extent otherwise specifically provided by rule or regulation of the Commission—

"(A) included in a financial statement prepared in accordance with generally accepted accounting principles;

"(B) contained in a registration statement of, or otherwise issued by, an investment company, as that term is defined in section 3(a) of the Investment Company Act of 1940;

"(C) made in connection with a tender offer;

"(D) made by or in connection with an offering by a partnership, limited liability corporation, or a direct participation investment program, as those terms are defined by rule or regulation of the Commission; or

"(E) made in a disclosure of beneficial ownership in a report required to be filed with the Commission pursuant to section 13(d) of the Securities Exchange Act of 1934.

"(d) STAY PENDING DECISION ON MOTION.—In any private action arising under this title, the court shall stay discovery during the pendency of any motion by a defendant (other than discovery that is specifically directed to the applicability of the exemption provided for in this section) for summary judgment that is based on the grounds that—

"(1) the statement or omission upon which the complaint is based is a forward-looking statement within the meaning of this section; and

"(2) the exemption provided for in this section precludes a claim for relief.

"(e) AUTHORITY.—In addition to the exemption provided for in this section, the Commission may, by rule or regulation, provide exemptions from liability under any provision of this title, or of any rule or regulation issued under this title, that is based on a statement that includes or that is based on projections or other forward-looking information, if and to the extent that any such exemption is, as determined by the Commission, consistent with the public interest and the protection of investors.

"(f) COMMISSION DISGORGEMENT ACTIONS.—

"(1) IN GENERAL.—If the Commission, in any proceeding, orders or obtains (by settlement, court order, or otherwise) a payment of funds from a person who has violated this title through means that included the utilization of a forward-looking statement, and if any portion of such funds is set aside or otherwise held for or available to persons who suffered losses in connection with such violation, no person shall be precluded from participating in the distribution of, or otherwise receiving, a portion of such funds by reason of the application of this section.

"(2) JUDGMENT FOR LOSSES SUFFERED.—In any action by the Commission alleging a violation of this title in which the defendant or respondent is alleged to have utilized a forward-looking statement in furtherance of such violation, the Commission may, upon a sufficient showing, in addition to all other remedies available to the Commission, obtain a judgment for the payment of an amount equal to all losses suffered by reason of the utilization of the forward-looking statement.

"(g) EFFECT ON OTHER AUTHORITY OF COMMISSION.—Nothing in this section limits, either expressly or by implication, the authority of the Commission to exercise similar authority or to adopt similar rules and regulations with respect to forward-looking statements under any other statute under which the Commission exercises rulemaking authority.".

(b) SECURITIES EXCHANGE ACT OF 1934.—Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 37. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

"(a) SAFE HARBOR.—

"(1) IN GENERAL.—In any private action arising under this title that is based on a fraudulent statement, an issuer that is subject to the reporting requirements of section 13(a) or section 15(d) of the Securities Exchange Act of 1934, a person acting on behalf of such issuer, or an outside reviewer retained by such issuer, shall not be liable with respect to any forward-looking statement, whether written or oral, if and to the extent that the statement—

"(A) projects, estimates, or describes future events; and

"(B) refers clearly (and, except as otherwise provided by rule or regulation, proximately) to—

"(i) such projections, estimates, or descriptions as forward-looking statements; and

"(ii) the risk that actual results may differ materially from such projections, estimates, or descriptions.

"(2) EFFECT ON OTHER SAFE HARBORS.—The exemption from liability provided for in paragraph (1) shall be in addition to any exemption that the Commission may establish by rule or regulation under subsection (e).

"(b) DEFINITION OF FORWARD-LOOKING STATEMENT.—For purposes of this section, the term 'forward-looking statement' means—

"(1) a statement containing a projection of revenues, income (including income loss), earnings (including earnings loss) per share, capital expenditures, dividends, capital structure, or other financial items;

"(2) a statement of the plans and objectives of management for future operations;

"(3) a statement of future economic performance contained in a discussion and analysis of financial condition by the management or in the results of operations included pursuant to the rules and regulations of the Commission;

"(4) any disclosed statement of the assumptions underlying or relating to any statement described in paragraph (1), (2), or (3); or

"(5) a statement containing a projection or estimate of such other items as may be specified by rule or regulation of the Commission.

"(c) EXCLUSIONS.—The exemption from liability provided for in subsection (a) does not apply to a forward-looking statement that is—

"(1) knowingly made with the expectation, purpose, and actual intent of misleading investors;

"(2) except to the extent otherwise specifically provided by rule, regulation, or order of the

Commission, made with respect to the business or operations of the issuer, if the issuer—

"(A) has been, during the 3-year period preceding the date on which the statement was first made, convicted of any felony or misdemeanor described in clauses (i) through (iv) of section 15(b)(4)(B), or has been made the subject of a judicial or administrative decree or order arising out of a governmental action that—

"(i) prohibits future violations of the anti-fraud provisions of the securities laws;

"(ii) requires that the issuer cease and desist from violating the anti-fraud provisions of the securities laws; or

"(iii) determines that the issuer violated the anti-fraud provisions of the securities laws;

"(B) makes the forward-looking statement in connection with an offering of securities by a blank check company, as that term is defined under the rules or regulations of the Commission;

"(C) issues penny stock;

"(D) makes the forward-looking statement in connection with a rollup transaction, as that term is defined under the rules or regulations of the Commission; or

"(E) makes the forward-looking statement in connection with a going private transaction, as that term is defined under the rules or regulations of the Commission issued pursuant to section 13(e); or

"(3) except to the extent otherwise specifically provided by rule or regulation of the Commission—

"(A) included in financial statements prepared in accordance with generally accepted accounting principles;

"(B) contained in a registration statement of, or otherwise issued by, an investment company;

"(C) made in connection with a tender offer;

"(D) made by or in connection with an offering by a partnership, limited liability corporation, or a direct participation investment program, as those terms are defined by rule or regulation of the Commission; or

"(E) made in a disclosure of beneficial ownership in a report required to be filed with the Commission pursuant to section 13(d).

"(d) Stay Pending Decision on Motion.—In any private action arising under this title, the court shall stay discovery during the pendency of any motion by a defendant (other than discovery that is specifically directed to the applicability of the exemption provided for in this section) for summary judgment that is based on the grounds that—

"(1) the statement or omission upon which the complaint is based is a forward-looking statement within the meaning of this section; and

"(2) the exemption provided for in this section precludes a claim for relief.

"(e) Authority.—In addition to the exemption provided for in this section, the Commission may, by rule or regulation, provide exemptions from liability under any provision of this title, or of any rule or regulation issued under this title, that is based on a statement that includes or that is based on projections or other forward-looking information, if and to the extent that any such exemption is, as determined by the Commission, consistent with the public interest and the protection of investors.

"(f) Commission Disgorgement Actions.—

"(1) In general.—If the Commission, in any proceeding, orders or obtains (by settlement, court order, or otherwise) a payment of funds from a person who has violated this title through means that included the utilization of a forward-looking statement, and if any portion of such funds is set aside or otherwise held for or available to persons who suffered losses in connection with such violation, no person shall be precluded from participating in the distribution of, or otherwise receiving, a portion of such funds by reason of the application of this section.

"(2) Judgment for losses suffered.—In any action by the Commission alleging a violation of this title in which the defendant or respondent is alleged to have utilized a forward-looking statement in furtherance of such violation, the Commission may, upon a sufficient showing, in addition to all other remedies available to the Commission, obtain a judgment for the payment of an amount equal to all losses suffered by reason of the utilization of the forward-looking statement.

"(g) Effect on Other Authority of Commission.—Nothing in this section limits, either expressly or by implication, the authority of the Commission to exercise similar authority or to adopt similar rules and regulations with respect to forward-looking statements under any other statute under which the Commission exercises rulemaking authority.".

(c) Investment Company Act of 1940.—Section 24 of the Investment Company Act of 1940 (15 U.S.C. 80a–24) is amended by adding at the end the following new subsection:

"(g) Regulatory Authority for Forward-Looking Statements.—

"(1) In general.—The Commission shall review and, if necessary to carry out the purposes of this title, promulgate such rules and regulations as may be necessary to describe conduct with respect to the making of forward-looking statements that the Commission deems does not provide a basis for liability in any private action arising under this title.

"(2) Requirements.—A rule or regulation promulgated under paragraph (1) shall—

"(A) include clear and objective guidance that the Commission finds sufficient for the protection of investors;

"(B) prescribe such guidance with sufficient particularity that compliance shall be readily ascertainable by issuers prior to issuance of securities; and

"(C) provide that forward-looking statements that are in compliance with such guidance and that concern the future economic performance of an issuer of securities registered under section 12 shall be deemed not to be in violation of this title.

"(3) Effect on other authority of Commission.—Nothing in this subsection limits, either expressly or by implication, the authority of the Commission to exercise similar authority or to adopt similar rules and regulations with respect to forward-looking statements under any other statute under which the Commission exercises rulemaking authority.".

SEC. 106. WRITTEN INTERROGATORIES.

(a) Securities Act of 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(m) Defendant's Right to Written Interrogatories.—In any private action arising under this title in which the plaintiff may recover money damages only on proof that a defendant acted with a particular state of mind, the court shall, when requested by a defendant, submit to the jury a written interrogatory on the issue of each such defendant's state of mind at the time the alleged violation occurred.".

(b) Securities Exchange Act of 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

"(m) Defendant's Right to Written Interrogatories.—In any private action arising under this title in which the plaintiff may recover money damages, the court shall, when requested by a defendant, submit to the jury a written interrogatory on the issue of each such defendant's state of mind at the time the alleged violation occurred.".

SEC. 107. AMENDMENT TO RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(c) of title 18, United States Code, is amended by inserting before the period ", except that no person may rely upon conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962".

SEC. 108. AUTHORITY OF COMMISSION TO PROSECUTE AIDING AND ABETTING.

Section 20 of the Securities Exchange Act of 1934 (15 U.S.C. 78t) is amended—

(1) by striking the section heading and inserting the following:

"LIABILITY OF CONTROLLING PERSONS AND PERSONS WHO AID AND ABET VIOLATIONS"; AND

(2) by adding at the end the following new subsection:

"(e) Prosecution of Persons Who Aid and Abet Violations.—For purposes of any action brought by the Commission under paragraph (1) or (3) of section 21(d), any person that knowingly provides substantial assistance to another person in the violation of a provision of this title, or of any rule or regulation issued under this title, shall be—

"(1) deemed to be in violation of such provision; and

"(2) liable to the same extent as the person to whom such assistance is provided.".

SEC. 109. LOSS CAUSATION.

Section 12 of the Securities Act of 1933 (15 U.S.C. 77l) is amended—

(1) by inserting "(a) In General.—" before "Any person";

(2) by inserting ", subject to subsection (b)," after "shall be liable"; and

(3) by adding at the end the following:

"(b) Loss Causation.—In an action described in subsection (a)(2), the liability of the person who offers or sells such security shall be limited to damages if that person proves that any portion or all of the amount recoverable under subsection (a)(2) represents other than the depreciation in value of the subject security resulting from such part of the prospectus or oral communication, with respect to which the liability of that person is asserted, not being true or omitting to state a material fact required to be stated therein or necessary to make the statement not misleading, and such portion or all of such amount shall not be recoverable.".

SEC. 110. APPLICABILITY.

The amendments made by this title shall not affect or apply to any private action arising under title I of the Securities Exchange Act of 1934 or title I of the Securities Act of 1933 commenced before the date of enactment of this Act.

TITLE II—REDUCTION OF COERCIVE SETTLEMENTS

SEC. 201. LIMITATION ON DAMAGES.

Section 36 of the Securities Exchange Act of 1934, as added by section 104 of this Act, is amended by adding at the end the following new subsection:

"(e) Limitation on Damages.—

"(1) In general.—Except as provided in paragraph (2), in any private action arising under this title, the plaintiff's damages shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the value of that security, as measured by the median trading price of that security, during the 90-day period beginning on the date on which the information correcting the misstatement or omission is disseminated to the market.

"(2) Exception.—In any private action arising under this title in which damages are sought, if the plaintiff sells or repurchases the subject security prior to the expiration of the 90-day period described in paragraph (1), the *plaintiff's damages shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the security and the median market value of the security during the period beginning immediately after dissemination of information correcting the misstatement or omission and ending on the date on which the plaintiff sells or repurchases the security.''.*

SEC. 202. PROPORTIONATE LIABILITY.

Title I of the Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 38. PROPORTIONATE LIABILITY.

''(a) APPLICABILITY.—This section shall apply only to the allocation of damages among persons who are, or who may become, liable for damages in any private action arising under this title. Nothing in this section shall affect the standards for liability associated with any private action arising under this title.

''(b) LIABILITY FOR DAMAGES.—

''(1) JOINT AND SEVERAL LIABILITY.—A person against whom a judgment is entered in any private action arising under this title shall be liable for damages jointly and severally only if the trier of fact specifically determines that such person committed knowing securities fraud.

''(2) PROPORTIONATE LIABILITY.—Except as provided in paragraph (1), a person against whom a judgment is entered in any private action arising under this title shall be liable solely for the portion of the judgment that corresponds to that person's degree of responsibility, as determined under subsection (c).

''(3) KNOWING SECURITIES FRAUD.—For purposes of this section—

''(A) a defendant engages in 'knowing securities fraud' if that defendant—

''(i) makes a material representation with actual knowledge that the representation is false, or omits to make a statement with actual knowledge that, as a result of the omission, one of the material representations of the defendant is false; and

''(ii) actually knows that persons are likely to rely on that misrepresentation or omission; and

''(B) reckless conduct by the defendant shall not be construed to constitute knowing securities fraud.

''(c) DETERMINATION OF RESPONSIBILITY.—

''(1) IN GENERAL.—In any private action arising under this title in which more than 1 person is alleged to have violated a provision of this title, the court shall instruct the jury to answer special interrogatories, or if there is no jury, shall make findings, concerning—

''(A) the percentage of responsibility of each of the defendants and of each of the other persons alleged by any of the parties to have caused or contributed to the violation, including persons who have entered into settlements with the plaintiff or plaintiffs, measured as a percentage of the total fault of all persons who caused or contributed to the violation; and

''(B) whether such defendant committed knowing securities fraud.

''(2) CONTENTS OF SPECIAL INTERROGATORIES OR FINDINGS.—The responses to interrogatories, or findings, as appropriate, under paragraph (1) shall specify the total amount of damages that the plaintiff is entitled to recover and the percentage of responsibility of each person found to have caused or contributed to the damages sustained by the plaintiff or plaintiffs.

''(3) FACTORS FOR CONSIDERATION.—In determining the percentage of responsibility under this subsection, the trier of fact shall consider—

''(A) the nature of the conduct of each person; and

''(B) the nature and extent of the causal relationship between that conduct and the damages incurred by the plaintiff or plaintiffs.

''(d) UNCOLLECTIBLE SHARE.—

''(1) IN GENERAL.—Notwithstanding subsection (b)(2), in any private action arising under this title, if, upon motion made not later than 6 months after a final judgment is entered, the court determines that all or part of a defendant's share of the judgment is not collectible against that defendant or against a defendant described in subsection (b)(1), each defendant described in subsection (b)(2) shall be liable for the uncollectible share as follows:

''(A) PERCENTAGE OF NET WORTH.—Each defendant shall be jointly and severally liable for the uncollectible share if the plaintiff establishes that—

''(i) the plaintiff is an individual whose recoverable damages under the final judgment are equal to more than 10 percent of the net financial worth of the plaintiff; and

''(ii) the net financial worth of the plaintiff is equal to less than $200,000.

''(B) OTHER PLAINTIFFS.—With respect to any plaintiff not described in subparagraph (A), each defendant shall be liable for the uncollectible share in proportion to the percentage of responsibility of that defendant, except that the total liability under this subparagraph may not exceed 50 percent of the proportionate share of that defendant, as determined under subsection (c)(2).

''(2) OVERALL LIMIT.—In no case shall the total payments required pursuant to paragraph (1) exceed the amount of the uncollectible share.

''(3) DEFENDANTS SUBJECT TO CONTRIBUTION.—A defendant against whom judgment is not collectible shall be subject to contribution and to any continuing liability to the plaintiff on the judgment.

''(e) RIGHT OF CONTRIBUTION.—To the extent that a defendant is required to make an additional payment pursuant to subsection (d), that defendant may recover contribution—

''(1) from the defendant originally liable to make the payment;

''(2) from any defendant liable jointly and severally pursuant to subsection (b)(1);

''(3) from any defendant held proportionately liable pursuant to this subsection who is liable to make the same payment and has paid less than his or her proportionate share of that payment; or

''(4) from any other person responsible for the conduct giving rise to the payment that would have been liable to make the same payment.

''(f) NONDISCLOSURE TO JURY.—The standard for allocation of damages under subsections (b) and (c) and the procedure for reallocation of uncollectible shares under subsection (d) shall not be disclosed to members of the jury.

''(g) SETTLEMENT DISCHARGE.—

''(1) IN GENERAL.—A defendant who settles any private action arising under this title at any time before final verdict or judgment shall be discharged from all claims for contribution brought by other persons. Upon entry of the settlement by the court, the court shall enter a bar order constituting the final discharge of all obligations to the plaintiff of the settling defendant arising out of the action. The order shall bar all future claims for contribution arising out of the action—

''(A) by any person against the settling defendant; and

''(B) by the settling defendant against any person, other than a person whose liability has been extinguished by the settlement of the settling defendant.

''(2) REDUCTION.—If a person enters into a settlement with the plaintiff prior to final verdict or judgment, the verdict or judgment shall be reduced by the greater of—

''(A) an amount that corresponds to the percentage of responsibility of that person; or

''(B) the amount paid to the plaintiff by that person.

''(h) CONTRIBUTION.—A person who becomes liable for damages in any private action arising under this title may recover contribution from any other person who, if joined in the original action, would have been liable for the same damages. A claim for contribution shall be determined based on the percentage of responsibility of the claimant and of each person against whom a claim for contribution is made.

''(i) STATUTE OF LIMITATIONS FOR CONTRIBUTION.—Once judgment has been entered in any private action arising under this title determining liability, an action for contribution shall be brought not later than 6 months after the entry of a final, nonappealable judgment in the action, except that an action for contribution brought by a defendant who was required to make an additional payment pursuant to subsection (d) may be brought not later than 6 months after the date on which such payment was made.''.

SEC. 203. APPLICABILITY.

The amendments made by this title shall not affect or apply to any private action arising under title I of the Securities Exchange Act of 1934 commenced before the date of enactment of this Act.

TITLE III—AUDITOR DISCLOSURE OF CORPORATE FRAUD

SEC. 301. FRAUD DETECTION AND DISCLOSURE.

(a) IN GENERAL.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting immediately after section 10 the following new section:

"SEC. 10A. AUDIT REQUIREMENTS.

''(a) IN GENERAL.—Each audit required pursuant to this title of the financial statements of an issuer by an independent public accountant shall include, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission—

''(1) procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts;

''(2) procedures designed to identify related party transactions that are material to the financial statements or otherwise require disclosure therein; and

''(3) an evaluation of whether there is substantial doubt about the ability of the issuer to continue as a going concern during the ensuing fiscal year.

''(b) REQUIRED RESPONSE TO AUDIT DISCOVERIES.—

''(1) INVESTIGATION AND REPORT TO MANAGEMENT.—If, in the course of conducting an audit pursuant to this title to which subsection (a) applies, the independent public accountant detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have a material effect on the financial statements of the issuer) has or may have occurred, the accountant shall, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission—

''(A)(i) determine whether it is likely that an illegal act has occurred; and

''(ii) if so, determine and consider the possible effect of the illegal act on the financial statements of the issuer, including any contingent monetary effects, such as fines, penalties, and damages; and

''(B) as soon as practicable, inform the appropriate level of the management of the issuer and assure that the audit committee of the issuer, or the board of directors of the issuer in the absence of such a committee, is adequately informed with respect to illegal acts that have been detected or have otherwise come to the attention of such accountant in the course of the

audit, unless the illegal act is clearly inconsequential.

"(2) RESPONSE TO FAILURE TO TAKE REMEDIAL ACTION.—If, after determining that the audit committee of the board of directors of the issuer, or the board of directors of the issuer in the absence of an audit committee, is adequately informed with respect to illegal acts that have been detected or have otherwise come to the attention of the accountant in the course of the audit of such accountant, the independent public accountant concludes that—

"(A) the illegal act has a material effect on the financial statements of the issuer;

"(B) the senior management has not taken, and the board of directors has not caused senior management to take, timely and appropriate remedial actions with respect to the illegal act; and

"(C) the failure to take remedial action is reasonably expected to warrant departure from a standard report of the auditor, when made, or warrant resignation from the audit engagement; the independent public accountant shall, as soon as practicable, directly report its conclusions to the board of directors.

"(3) NOTICE TO COMMISSION; RESPONSE TO FAILURE TO NOTIFY.—An issuer whose board of directors receives a report under paragraph (2) shall inform the Commission by notice not later than 1 business day after the receipt of such report and shall furnish the independent public accountant making such report with a copy of the notice furnished to the Commission. If the independent public accountant fails to receive a copy of the notice before the expiration of the required 1-business-day period, the independent public accountant shall—

"(A) resign from the engagement; or

"(B) furnish to the Commission a copy of its report (or the documentation of any oral report given) not later than 1 business day following such failure to receive notice.

"(4) REPORT AFTER RESIGNATION.—If an independent public accountant resigns from an engagement under paragraph (3)(A), the accountant shall, not later than 1 business day following the failure by the issuer to notify the Commission under paragraph (3), furnish to the Commission a copy of the accountant's report (or the documentation of any oral report given).

"(c) AUDITOR LIABILITY LIMITATION.—No independent public accountant shall be liable in a private action for any finding, conclusion, or statement expressed in a report made pursuant to paragraph (3) or (4) of subsection (b), including any rule promulgated pursuant thereto.

"(d) CIVIL PENALTIES IN CEASE-AND-DESIST PROCEEDINGS.—If the Commission finds, after notice and opportunity for hearing in a proceeding instituted pursuant to section 21C, that an independent public accountant has willfully violated paragraph (3) or (4) of subsection (b), the Commission may, in addition to entering an order under section 21C, impose a civil penalty against the independent public accountant and any other person that the Commission finds was a cause of such violation. The determination to impose a civil penalty and the amount of the penalty shall be governed by the standards set forth in section 21B.

"(e) PRESERVATION OF EXISTING AUTHORITY.—Except as provided in subsection (d), nothing in this section shall be held to limit or otherwise affect the authority of the Commission under this title.

"(f) DEFINITION.—As used in this section, the term 'illegal act' means an act or omission that violates any law, or any rule or regulation having the force of law.".

(b) EFFECTIVE DATES.—The amendment made by subsection (a) shall apply to each annual report—

(1) for any period beginning on or after January 1, 1996, with respect to any registrant that is required to file selected quarterly financial data pursuant to the rules or regulations of the Securities and Exchange Commission; and

(2) for any period beginning on or after January 1, 1997, with respect to any other registrant.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, S. 240, the Private Securities Litigation Reform Act of 1995, is the bill we take up today. There is no doubt that this bill is considered by some to be rather contentious. But this legislation is important and necessary to fix the problem caused by frivolous lawsuits that are making it difficult for companies to raise the capital needed to fuel our economy.

This bill seeks to strike the right balance, which is always difficult, between protecting the rights of those who are truly aggrieved and yet not opening the door to frivolous litigation. This legislation is necessary as there has developed a small but very effective cadre of lawyers who bring suits not to help recover losses for those who are truly aggrieved but because they see an opportunity to strike it rich for themselves.

There is a term for this kind of lawsuit, they are called "strike suits." A strike suit occurs when a lawyer searches very carefully for negative news announcements by a company or a decline in a company stock price. Then these lawyers race to the courthouse to file a suit alleging securities frauds, alleging mismanagement, or misinformation. I look to my colleagues on the floor from Alaska for an analogy—there is gold in the hills if a firm offers a security. There are lawyers who are mining that gold for themselves. Sometimes, even if a stock price goes up, lawyers will race to bring suits because they allege that they were not given information that this company would have higher earnings than anticipated. Imagine. If there is bad news, you are vulnerable. If there is good news, you are vulnerable.

Mr. President, the purpose of the courts and the American judicial system is not to make these lawyers rich. It is to legitimately protect those who have been aggrieved; those who have been taken advantage of, who have suffered due to fraud, or who have suffered due to the deliberate withholding of information or insider trading.

The question is not should these suits be stopped. The contentious nature of this legislation comes from the question of how to protect the rights of our citizens and the integrity of the capital markets to assure there is not insider trading, taking advantage of information, withholding information, or misrepresenting facts to steal people's money, and at the same time protect companies from strike suits.

Let me first commend my distinguished colleagues, Senators DOMENICI and DODD, for their tireless work in spearheading the effort to reform securities litigation. I also want to thank Senator GRAMM for his leadership on this issue as chairman of the Securities Subcommittee.

Over the past 2 years, the Banking Committee has heard substantial testimony that certain lawyers file frivolous strike suits alleging violations of Federal securities laws in hopes that defendants will quickly settle. These suits, which unnecessarily interfere with, and increase the cost of, raising capital, are often based on nothing more than a company's announcement of bad news, not evidence of fraud. In addition, the fact that many of these lawsuits are brought as class actions has produced an in terrorem effect on corporate America.

S. 240 provides a strong disincentive for filing abusive lawsuits. It hits strike suit artists where it hurts—in the pocketbook. S. 240 does not contain a loser-pays provision. That would go too far. A loser-pays provision makes it difficult, if not impossible, for injured investors to maintain a legitimate cause of action.

Instead, the bill requires courts to make specific findings about whether an attorney violated rule 11 and to sanction attorneys who do.

One study showed that, in the early 1980's every company in one part of the business sector that had a market loss of $20 million or more in its capitalization was sued. Another survey of venture-backed companies in existence for less than 10 years—small companies that are the engine of economic growth—showed that one in six of those companies had been sued at least once.

These lawsuits are expensive. The statistics show that although many suits are still pending, these suits have consumed on average over 1,000 hours of management time and legal cost—per case—of over $690,000 that the company has had to pay out. That is a lot of time and that is a lot of money.

Does Congress want to let this trend continue? This Senator cannot sit idly by and permit small businesses to be the target of abusive lawsuits. Most of these companies are startup or high-technology businesses, which play an important role in our economy. These businesses provide new, innovative products to consumers, improving the quality of life and the way we conduct business.

Small startup, high-technology firms depend on research and development for their new products. As products succeed, fail, or sometimes just take longer to develop, the stock price of these companies may fluctuate. This stock price fluctuation or product development slowdown is not, on its face, evidence of fraud. Yet, in many States, alleging that a product did not succeed and the price of the company's stock dropped is enough to sustain a complaint in a securities fraud lawsuit.

S. 240 creates a uniform pleading standard that will help to weed out frivolous complaints before companies must pay heavy legal bills. S. 240, codifies the pleading standard of the second circuit in New York, which requires that a plaintiff plead facts giving rise to a strong inference of the defendant's fraudulent intent.

Small, startup, and high-technology companies have become sitting ducks for securities fraud lawsuits. The costs of defending a securities fraud complaint, which does not have to show any evidence of fraud, is enormous. According to the American Electronics Association, who testified at one of the committee's hearings, of the 300 or so lawsuits filed every year, almost 93 percent settle at an average settlement cost of $8.6 million.

Furthermore, it is not just the company that is sued. Other, peripheral, deep-pocket defendants are joined to ensure there is enough money available to produce a meaningful recovery. As a result, underwriters, lawyers, accountants, and other professionals have become prime targets of securities fraud lawsuits. Insurance companies that provide director and officer liability insurance also pay up in these settlements. In 1994 alone, insurers and companies paid out $1.4 billion to settle securities fraud lawsuits.

Mr. President, this is not to say that some of those suits may not have been bona fide. But all too often companies are paying simply to stop the litigation because they cannot afford the legal bills or they cannot afford the incredible negative exposure that a case can bring, especially under the system of joint and several liability.

S. 240 modifies the doctrine of joint and several liability for peripheral defendants, who are named in the lawsuit more for their deep pockets than their culpability.

In the current system, if you have any connection to the defendant companies, if they can tie you in at all, you can be held liable for the full amount of the judgment. Even that defendant who has only a scintilla of liability for wrongdoing, or culpability or negligence—not gross negligence, not knowing or wanton misconduct, not fraud—has a chance of being held 100 percent liable for damages. That is just not fair. That is wrong.

Who benefits from these settlements? Not the plaintiffs. According to the statistics, the victims of these so-called frauds generally get pennies on the dollar. They are just being used.

Not only is this unfair, but often the investors do not understand exactly what the settlement represents, what their portion of the settlement is, or why the lawyers even recommended the settlement.

S. 240 requires that certain information be provided to class members and that counsel be available to answer questions about the settlement.

No longer will attorneys be able to make a settlement for $6 million, $7 million, and not properly inform the people in the class. Nor will the attorneys be able to pocket most of the settlement while class members receive pennies for their losses.

As one witness told the committee, and I quote:

> As a stockholder, I feel that lawyers use the stockholders as a steppingstone, preying on their misfortune, as a means to file a lawsuit that will inevitably settle, in which the lawyers will reap millions in fees while their clients recover pennies on the dollar in their losses.

S. 240 limits the award of the attorney's fees to a "reasonable" percentage of the damages awarded to investors. Notably, it is the investors who end up paying the costs of these lawsuits.

Institutional investors, with about $9.5 trillion in assets, approximately $4.5 trillion of which are pension funds, are long-term investors. This means that the value of retirees' pension fund investments are adversely affected by abusive litigation. As the Council for Institutional Investors advised the committee, and I quote:

> We are . . . hurt if the system allows someone to force us to spend huge sums of money in legal costs by merely paying ten dollars and filing a meritless cookie cutter complaint against a company or its accountants.

Abusive litigation also severely impacts the willingness of corporate managers to disclose information to the marketplace. Many companies refuse to talk or write about future business plans, knowing that projections that do not materialize will inevitably lead to lawsuits, many of which will simply allege that a prediction did not come true. Once discovery begins, plaintiff's counsel begins what we call a fishing expedition for evidence. And as one witness told the committee, the overbroad discovery request in this typical case ended up with the company producing over 1,500 boxes of documents at an expense of $1.4 million. Companies cannot continue to spend the time and the money that these cases cost. So many times they are forced to settle meritless cases.

As a result, investors do not have the benefit of knowing about the future plans of a company because companies are afraid to make that information available. As a former SEC Chairman told the committee, and I quote:

> Shareholders are also damaged due to the chilling effect of the current system on the robustness and candor of disclosure. Understanding a company's own assessment of its future potential would be amongst the most valuable information shareholders and potential investors could have.

S. 240 will encourage companies to make what we call forward-looking statements by reducing the threat of abusive litigation. Companies that make projections and that provide a clear warning to investors that the projections may not be accurate will be protected from costly litigation.

Some have said that this safe harbor for forward looking statements would give license for companies to say anything. That it will give license to the quick buck artist, the penny stock guys, the people who come out with IPO's. This is not true. We have excluded newly started companies which have not established a track record from this protection. Only recognized companies with substantial interests will get this protection. Most importantly, if a defendant knowingly makes a false or misleading forecast, they are not protected.

The statement that this legislation will allow companies to knowingly lie and get away with it—and that statement has been made—is just not true. If you knowingly lie, if you intentionally mislead, you can be held liable. There is no safe harbor for initial public offerings, for blank check offerings, for rollups, for penny stocks, for tender offers and leveraged buyouts. Safe harbor does not affect the power to bring an enforcement case.

Now, exactly who are the victims of securities fraud? Many times, there is no victim. Instead there is just a professional plaintiff whose name appears in the lawsuits, these names appear time after time after time. In one case, a retired lawyer appeared as the lead plaintiff in 300 lawsuits, he bought small numbers of shares in many companies and then served when they were sued. Last year, an Ohio judge refused to permit class action certification, noting that the lead defendant had filed 182 class action suits in 12 years.

Now, that is not what the private right of action is intended to do.

S. 240 discourages the use of professional plaintiffs by eliminating the bonus payments to plaintiffs and prohibiting referral fees. In other words, if you are one of these people who bought 10 shares in 700, 800, or 900 companies you can no longer receive a bonus when a lawyer uses your name for a suit.

The practice of using professional plaintiffs permits the lawyers to hire the client. Professional plaintiffs also permit the lawyer to win the "race to the courthouse" in filing a complaint. Often whoever files a claim first becomes the lead plaintiff, the lead counsel, even when multiple complaints are filed against the companies alleging securities fraud.

Because the huge settlements in these cases provide significant fees to counsel, the competition is fierce. This bill creates a new procedure to ensure that the plaintiffs who are legitimately damaged, who have a real stake, who are not these professional plaintiffs, who own 1 share or 10 shares in multiple companies, can control the suit. This bill says the institutional investors, the people who have billions in pension funds, the retirees, those managers will have a greater stake in the case.

Can you imagine empowering somebody who owns 10 shares to represent you when you represent 500 million.

Someone who has a half billion dollars invested could have no say in who the attorney will be, or what the eventual settlement will be while the case is managed by someone who has only 10 shares.

Mr. DOMENICI. Will the Senator yield for some observations?

Mr. D'AMATO. Certainly.

Mr. DOMENICI. The Senator said it would be managed by shareholders with 10 shares.

Mr. D'AMATO. That is what is taking place now.

Mr. DOMENICI. Actually, it is even worse than that because it is managed by the lawyer of the shareholder of 10 shares.

Mr. D'AMATO. Correct. Because in many cases the shareholder receives a bonus from the lawyer but is not otherwise involved in the case.

Mr. DOMENICI. The lawyer calls himself an entrepreneurial lawyer in this case. He is in business. It is not the shareholder; it is the lawyer who is in the business of managing the lawsuit. In fact, I will quote some courts that have found that to be the case.

Mr. D'AMATO. That is correct. I thank the Senator for bringing this point to the floor. Again I would like to commend Senator DOMENICI and Senator DODD who have labored for years to craft a bill that is fair, that is balanced, that protects those investors, the small investors, the pension people, who have invested their life savings and also protects businesses who raise the capital that keeps our communities healthy, from lawyers who go after deep pocket firms and file suits against people just because their projections did not come true. This bill will curb private securities fraud lawsuits, but only the frivolous ones that result from abusive practices. Victims of securities fraud will not be left without remedy. The time for reform of this system is now. This bill has 51 cosponsors and I urge all of my colleagues to support this legislation. It is well crafted. It is contentious only because it tries to strike a balance. Whenever you try to find a middle ground there are people on either side who think you should go further in their direction. No one can doubt that the system is out of control and it needs fixing; that is what we attempt to do with this legislation.

Mr. President, I yield the floor.

Mr. DOMENICI. Senator DODD, why do you not proceed and I will follow you, if it is all right?

Mr. DODD. Let me inquire, Mr. President, of my colleague from Maryland, does my colleague from Maryland, the ranking member of the banking committee if he wishes to proceed first. I am obviously interested in the bill, but I also appreciate immensely the seniority system.

Mr. SARBANES. We are quite happy to hear the three proponents of the bill who are on the floor now. We heard from Senator D'AMATO, and we would be happy to hear from the Senator from Connecticut and Senator DOMENICI. And then those of us who oppose it might have a chance to make our statements. But I would be happy to defer to the Senator from Connecticut. Then we can address his comments.

Mr. DODD. I thank my colleague from Maryland.

Mr. President, let me begin by thanking my colleague from New Mexico. I worked with him for a long time on this issue, Mr. President. We go back several years. This is not a recent event but rather goes back into the previous Congress and before, so I thank him for his tremendous efforts in helping us fashion a piece of legislation here that we hope will attract the support of a substantial number of our colleagues. It has already, as my colleague from New York pointed out—and I thank my colleague from New York, the chairman of the Banking Committee, for his leadership on this issue for setting up a set of hearings for us, timely hearings, and a markup of this legislation and bringing the bill to the floor.

I also want to commend my colleague from Maryland who has a different point of view on this legislation but nonetheless is working cooperatively with us, expressing his points of view very forcefully and offered various amendments in the committee, and I am confident he will again on the floor.

Mr. President, this is an important day for American investors and for the American economy. This is the day we start a full Senate debate on a bill that would restore, in my view, fairness and integrity to our securities litigation system.

To some this may sound like a dry and technical subject. But in reality it is crucial to our investors, our economy and our international competitiveness. We are all counting on our high-technology firms to fuel our economy into the 21st century. We are counting on them to lead the charge for us in the global marketplace, so to speak. Those are the same firms that are most hamstrung, I would point out, by a securities litigation system that, frankly, works for no one, save plaintiffs' attorneys.

Over the past year-and-a-half the process by which private individuals bring securities lawsuits has been under the microscope. The result of this intense scrutiny has been to dramatically change the terms of the debate. We are no longer arguing about whether the current system needs to be repaired. We are now focused on how best to repair it. Even those who once maintained that the litigation system needed no reform are now conceding that substantive and meaningful changes are required if we are to maintain the fundamental integrity of private securities litigation.

The flaws, Mr. President, of the current system are simply too obvious to deny. The record is replete with examples of how the system is being abused, and misused. In fact, the Chairman of the Securities and Exchange Commission, Arthur Levitt, said at the beginning of this year—and I quote him—"There is no denying," he said, "that there are real problems in the current system,"—speaking of securities litigation—"problems that need to be addressed not just because of abstract rights and responsibilities, but because investors and markets are being hurt by litigation excesses."

The legislation under consideration today is based upon a bill that the distinguished Senator from New Mexico and I have introduced for the last several Congresses. While there are some provisions from the original version of S. 240 that, frankly, I would have liked to have seen included in this bill—and we will discuss that later—I understand, as I think my colleagues do, the need to produce a consensus document if you are going to proceed. Producing a balanced bill is never easy. The old saw, Mr. President, that "if a compromise makes everyone somewhat angry, then it must be fair" is perfectly apt for today's debate. But that is what we have today, Mr. President, a bill that carefully and considerately balances the need for our high-growth industries with the legitimate rights of investors, large and small.

I am proud of the spirit of fairness and equity that permeates this legislation. I am also proud, Mr. President, of the fact that this legislation tackles a very complicated and difficult issue in a thoughtful way that avoids excess and achieves, I believe, and I think my colleagues from New York and New Mexico do, a meaningful equilibrium under which all of the interested parties can survive and thrive.

Moreover, Mr. President, perhaps most importantly, this is a broadly bipartisan effort. This bill passed the Banking Committee 11–4, with strong support from both sides of the political aisles. And the 51 cosponsors of S. 240 in this body are composed of U.S. Senators from both parties, reflecting all points on the so-called ideological spectrum. H.L. Mencken once said, every problem has a solution that is neat, simple, and usually wrong. Believe me, if there were a simple solution to the problem besetting securities litigation today almost everyone in this Chamber would have jumped at it. But those problems are so pervasive and complex that we have moved far beyond the point where the public interest is served by waiting for the courts or other bodies to fix them for us.

The private securities litigation system is far too important to the integrity and vitality of American capital markets to continue to allow it to be undermined by those who seek to line their own pockets with abusive and meritless suits. Let me be clear, Mr. President, private securities litigation is an indispensable tool with which defrauded investors can recover their losses without having to rely upon Government action.

Mr. President, I cannot possibly overstate just how critical securities lawsuits brought by private individuals are to ensuring public and global confidence in our capital markets. I believe that very deeply. These private actions help deter wrongdoing, help guarantee that corporate officers, auditors and directors, lawyers and others properly perform their jobs. That is the high standard to which this legislation seeks to return the securities litigation system. But as it stands today, the current system has drifted so far from that noble role that we see more buccaneering barristers taking advantage of the system than we do corporate wrongdoers being exposed by it.

But there is more at risk, Mr. President, if we fail to reform this flawed system. Quite simply put, the way the private litigation system works today is costing millions of investors, the vast majority of whom do not participate in these lawsuits, their hard-earned cash. As Ralph Whitworth of the United Shareholders Association told the securities subcommittee—I quote him—"The winners in these suits are invariably lawyers who collect huge contingency fees, professional 'plaintiffs,' who"—as our colleague from New York has already described—"collect bonuses, and, in cases where fraud has been committed, executives and board members who use corporate funds and corporate-owned insurance policies to escape personal liability. The one constant," he went on to say, "is that the shareholders pay for it all."

And Maryellen Anderson from the Connecticut Retirement and Trust Funds testified that the participants in the pension funds,

> * * * are the ones who are hurt if a system allows someone to force us to spend huge sums of money in legal costs * * * when that plaintiff is disappointed in his or her investment.
>
> Our pensions and jobs depend on our employment by and investment in our companies.
>
> If we saddle our companies with big and unproductive costs * * *. We cannot be surprised if our jobs and raises begin to disappear and our pensions come up short as our population ages.

There lies the risk of allowing the current securities litigation system to continue to run out of control. Ultimately, it is the average investor, the retired pensioner who will pay the enormous costs clearly associated with this growing problem.

Much of the problem lies in the fact that private litigation has evolved over the years as a result of court decisions rather than explicit congressional action.

Private actions under rule 10(b) were never expressly set out by Congress, but have been construed and refined by courts, with the tacit consent of Congress.

But the lack of congressional involvement in shaping private litigation has created conflicting legal standards and has provided too many opportunities for abuse of investors and companies.

First, it has become increasingly clear that securities class actions are extremely vulnerable to abuses by entrepreneurs masquerading as lawyers. As two noted legal scholars recently wrote in the Yale Law Review:

> * * * The potential for opportunism in class actions is so pervasive and evidence that plaintiffs' attorneys sometimes act opportunistically so substantial that it seems clear that plaintiffs' attorneys often do not act as investors' "faithful champions."

It is readily apparent to many observers in business, academia—and even Government—that plaintiffs' attorneys appear to control the settlement of the case with little or no influence from either the "named" plaintiffs or the larger class of investors.

For example, during the extensive hearings on the issue before the Subcommittee on Securities, a lawyer cited one case as a supposed showpiece—using his words—of how well the existing system works. This particular case was settled before trial for $33 million.

The lawyers asked the court for more than $20 million of that amount in fees and costs. The court then awarded the plaintiffs' lawyers $11 million and the defense lawyers for the company $3 million.

Investors recovered only 6.5 percent of their recoverable damages. That is 6½ cents on the dollar.

That is a case cited by those who are opposed to this legislation as a showcase example of how the system works.

This kind of settlement sounds good for entrepreneurial attorneys, but it does little to benefit companies, investors or even the plaintiffs on whose behalf the suit was brought.

It should not surprise anyone that those who benefit most from the flaws in the current system are the same people who are the most vociferous in opposing the provisions in this bill that would clean up the mess.

It is not the companies, nor investors nor even plaintiffs—large or small—who are fueling the opposition.

The loudest squeals come from the lawyers who will no longer be able to feather their nests by picking clean as many corporate defendants as possible.

A second area of abuse is frivolous litigation. Companies, particularly in the high-technology and bio-technology industries, face groundless securities litigation days or even hours after adverse earnings announcements.

In fact, the chilling consequence of these lawsuits is that companies, especially new companies in emerging industries, frequently release only the minimum information required by law so that they will not be held liable for any innocent, forward-looking statement that they may make.

In fact, I received a letter just this past Monday from Raytheon Co., one of the Nation's largest high-technology firms.

Raytheon made a tender offer of $64 a share for E-Systems, Inc., a 41-percent premium over the closing market price. Let me allow Raytheon to explain what happened next:

> Notwithstanding the widely held view that the proposed transaction was eminently fair to E-Systems shareholders, the first of eight purported class action suits was filed less than 90 minutes after the courthouse doors opened on the day that the transaction was announced. Ninety minutes, Mr. President. This was a letter sent to me on June 19.

You tell me we do not have a problem here. Minutes after announcement, the lawsuits, before any examination, any inquiry is made, 90 minutes later there is a lawsuit being filed for millions of dollars claiming unfairness. That is what is wrong, and that is what this bill tries to correct. This ought not to be a matter of division in this body. This is a mess, and it should be cleaned up.

No one lawyer could possibly have investigated the facts this quickly. What the lawyers want is to force a quick settlement. That is all this is. This is a holdup. You would get arrested in most States if you try to do this to a retailer.

The Supreme Court in Blue Chip Stamps versus Manor Drug Store echoed this concern about abusive litigation, pointing out:

> [I]n the field of Federal securities laws governing disclosure of information, even a complaint which by objective standards may have very little success at trial has a settlement value to the plaintiff out of any proportion to its prospect of success at trial . . . the very pendency of the lawsuit may frustrate or delay normal business activity of the defendant which is totally unrelated to the lawsuit.

The third area of abuse is that the current framework for assessing liability is simply unfair and creates a powerful incentive to sue those with the deepest pockets, regardless of their relative complicity in the alleged fraud.

The result of the existing system of joint and severable liability is that plaintiffs' attorneys seek out any possible corporation or individual that has little relation to the alleged fraud—but which may have extensive insurance coverage or otherwise may have financial reserves.

Although these defendants could frequently win their case were it to go to trial—we all know it happens—the expense of protracted litigation and the threat of being forced to pay all the damages makes it more economically efficient for them to settle with the plaintiffs' attorneys, and that is what happens.

The current Chairman of the SEC, Arthur Levitt, as well as two former Chairmen, Richard Breeden and David Ruder, have all spoken out against the abuses of joint and several liability.

Chairman Levitt said at the April 6 hearing of the Securities subcommittee that he was concerned, in particular, "about accountants being unfairly charged for amounts that go far beyond their involvement in particular fraud."

Frequently, these settlements do not appreciably increase the amount of losses recovered by the actual plaintiffs, but instead add to the fees collected by the plaintiff's attorneys.

Again, the current system has devolved to a point where it favors those lawyers who are looking out for their own financial interest over the interest of virtually everybody else involved, and that is the fact.

The bill before us today contains four major initiatives to deal with these complex problems. Let me identify them briefly.

First, the legislation empowers investors so that they, not their lawyers, have greater control over their class action cases by allowing the plaintiff with the greatest claim to be the named plaintiff and allowing that plaintiff to select their counsel.

That sounds so commonsensical, I do not know why we have to write it into law, but that is what you have to do. In fairness to the plaintiff, that ought to be the lead plaintiff.

Second, it gives investors better tools to recover losses and enhances existing provisions designed to deter fraud, including providing a meaningful safe harbor for legitimate forward-looking statements so that issuers are encouraged, instead of discouraged, from volunteering much-needed disclosures that potential investors ought to have in making decisions about whether to invest or not.

Third, it limits opportunities for frivolous or abusive lawsuits and makes it easier to impose sanctions on those lawyers who violate their basic professional ethics.

Fourth, it rationalizes the liability of deep-pocket defendants, while protecting the ability of small investors to fully collect all damages awarded them through a trial or settlement.

I would like to go into each of these provisions in a bit more detail.

EMPOWERING INVESTORS

The legislation ensures that investors, not a few marauding attorneys, decide whether to bring a case, whether to settle, and how much the lawyers should receive, and that is the way it ought to work.

The bill strongly encourages the courts to appoint the investor with the greatest losses—usually an institutional investor like a pension fund—to be the lead plaintiff.

This plaintiff would have the right to select the lawyer to pursue the case on behalf of the class.

So for the first time in a long time, plaintiffs' lawyers would have to answer to a real client, not one they have hired.

We are bringing an end to the days when a plaintiffs' attorney can crow to Forbes magazine that "I have the greatest practice of law in the world. I have no clients."

That is one of the lawyers talking. A practice without clients, and that is what this has turned into.

The bill requires that notice of settlement agreements that are sent to investors clearly spell out important facts such as how much investors are getting—or giving up—by settling and how much their lawyers will receive in the settlement.

This means that plaintiffs would be able to make an informed decision about whether the settlement is in their best interest—or in their lawyers' best interest.

Again, what a radical thought to be included in the bill, allowing the plaintiffs to decide what is in their interest rather than the attorneys deciding it. The fact we even have to write this into law tells you volumes about the mess the present system is in.

And the bill would end the practice of the actual plaintiffs receiving, on average, only 6 to 14 cents for every dollar lost, while 33 cents of every settlement dollar goes to the plaintiffs' attorneys. This is the average you get back as a plaintiff under the present system.

The bill would require that the courts cap the award of lawyers' fees based upon how much is recovered by the investors. And that is what it ought to be, how much do the investors get back as plaintiffs, then you set the fees.

Simply putting in a big bill will not guarantee the lawyers multimillion-dollar fees if their clients are not the primary beneficiaries of the settlement.

Taken together, Mr. President, these provisions should ensure that defrauded investors are not cheated a second time by a few unscrupulous lawyers who siphon huge fees right off the top of any settlement.

The bill requires auditors to detect and report fraud to the SEC, thus enhancing the reliability of independent audits.

The bill maintains current standards of joint and several liability, for those persons who knowingly engage in a fraudulent scheme, thus keeping a heavy financial penalty for those who would commit knowing security fraud.

The bill restores the ability of the Securities and Exchange Commission to pursue those who aid and abet in securities fraud, a power that was diminished by the Supreme Court in last year's Central Bank decision.

The bill clarifies current requirements that lawyers should have some facts to back up their assertion of securities fraud by adopting the reasonable standards established by the Second Circuit Court of Appeals. Again, Mr. President, imagine that—you have to have facts to back up your assertion. I thought that is what they taught you. I learned that in the first year of law school. Now I have to write it into the legislation here because we get these 90-minute lawsuits being filed. So we require that in the bill as well.

This legislation is there for using a pleading standard that has been successfully tested in the real world. This is not some arbitrary standard pulled out of a hat or crafted in committee; it follows the Federal courts.

The bill requires the courts, at settlement, to determine whether any attorney violated rule 11 of the Federal Rules of Civil Procedure, which prohibits lawyers from filing claims that they know to be frivolous.

If a violation has occurred, the bill mandates that the court must levy sanctions against the offending attorney. Though the bill does not change existing standards of conduct, it does put some teeth into the enforcement of these standards.

The bill provides a moderate and, I think, thoughtful statutory safe harbor for predicative statements made by companies that are registered with the SEC.

Further, the bill provides no such safety for third parties, like brokers, or in the case of merger offers, tenders, roll-ups, or the issuance of penny stocks. There are a number of other exceptions to the safe harbor provisions, as well, Mr. President, which my colleagues can look at.

Importantly, anyone who deliberately makes a false and misleading statement in a forecast is not protected by the safe harbor. My colleague from New York made that point, and I emphasize it again here this afternoon.

By adopting this provision, the Senate will encourage, we think, responsible corporations to make the kind of disclosures about projected activities that are currently missing in today's investment climate.

This legislation preserves the rights and claims of small investors. The legislation preserves the rights of investors whose losses are 10 percent or more of their total net worth of $200,000.

These small investors will still be able to hold all defendants responsible for paying off settlements, regardless of the relative guilt of each of the named parties.

But while the bill will fully protect small investors, so that they will recover all of the losses to which they are entitled, the bill establishes a proportional liability system to discourage the naming of deep-pocket defendants, merely because they have deep pockets.

The court would be required to determine the relative liability of all the defendants and thus deep-pocket defendants would only be liable to pay a settlement amount equal to their relative role in the alleged fraud.

A defendant who was only a 10 percent responsible for the fraudulent actions would be required to pay 10 percent of the settlement amount.

In some circumstances, the bill requires solvent defendants to pay 150 percent of their share of the damages to help make up for any uncollectible amount in the lawsuit.

By creating a two-tiered system of both proportional liability and joint and several liability, the bill preserves the best features, I think, of both systems.

ere has been an unfortunate tendency during the course of many debates on these proposed reforms for advocates on both sides to increase the rhetoric, to use increasingly extreme examples in order to politicize and polemicize the atmosphere of this debate.

When the steam of overheated rhetoric blows off, when the extremists on both sides have been discounted, I believe we are left with the inescapable conclusion: Action is needed—and needed now, Mr. President—to make the securities litigation system work in the manner for which it was designed.

A system of litigation in which merits and facts matter little, in which plaintiffs recover less than lawyers, in which defendants are named solely on the basis of the amount of their insurance coverage, or the size of their wallets, does not serve us well at all.

In short, we have a system in which there is increasingly little integrity and confidence—a system incapable of producing confidence and integrity in our Nation's capital markets.

This bill is an important step in repairing an ailing system. It is a bill that has strong bipartisan support within this Chamber. And it has broad support outside these walls, as well, from virtually every segment of the business and investment community.

Mr. President, this legislation needs to be enacted and I urge my colleagues to support it.

Mr. President, I noted that our colleague from New Mexico was on the floor. I do not know whether or not he is still here. I see him now.

I yield the floor, and we will now hear from the Senator from New Mexico.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, might I first say that when I first started working on this legislation—actually, it came to me after reading some articles about the litigation and the contention of both sides as to what was happening to class action lawsuits as they applied to securities and to companies that issued stocks and securities and bonds—I came to a conclusion that it would be a very interesting thing to look into and, perhaps, see what I could do.

I made one glaring mistake. I had arrived at the conclusion that there was something very, very wrong, but I failed to understand, I say to my friend and cosponsor—and we varied. I put it in one time and the Senator put it in the next time. It was Domenici-Dodd and then Dodd-Domenici. But I failed to recognize how those lawyers, small in number, for this is not the whole of America, this is a small group. I failed to recognize or perceive how tough they were going to be in saving their domain—and tough they are, and tough they are to this day. They are getting people to run advertisements in our States—in my State, it is not so easy because Representative RICHARDSON, a Democrat, voted for the House reform; I am for it here, and all the Representatives from New Mexico voted for it. I do not know where Senator BINGAMAN is, but he was a cosponsor. Maybe he does not like the bill on the floor. So I am not talking for myself on these ads. Can you imagine what point we have reached, in terms of lawyering, and the old concept of who the lawyers work for? Who do they belong to? They belong to the justice system and they work for the courts of America. Here they are running ads and protecting their domain. It is rather amazing. I never thought we were going to get into this when we started down this path, but I soon found out.

I want to say that, while this cries out for reform, apparently our judges are not going to make the reform, although they created the rules; these are court-created private rights of action, as I understand it. Section 10b private lawsuits are not statutory. Judges created it. They are not going to fix it. Although, there seems to be a tendency, in the last 6 months, for the judges to be a little more through this process. Senator DODD explained that somewhere they caught them red-handed. Ninety minutes after an announcement of a merger intention, they are suing for collusion or fraud and just claiming huge damages. The courts are beginning to say, "What is this?"

But I began to find out, when we started having our first hearings, that we were talking about some very, very rich lawyers—not rich over 40 years of practice or an accumulation of assets, but because they made millions every year—not a few hundred thousand dollars, but millions. And surely it would be tough for them to ever appreciate that maybe they were not adding very much of a positive nature to the United States society, or to securities or bonds or stocks, or to the plaintiffs that they sued for as a class.

Now, our country is suffering from hyperlexia. That is a nice word, and I believe it means a serious disease caused by an excessive reliance on law and lawyers. Hyperlexia. It is a disease—and a disease it is. For those who think that hyperlexia, relying upon law and lawyers, is the basic ingredient for good regulation, for good behavior, you have just told the American people that it is going to cost you an awful lot of money for that, because it is inconclusive, and very vague. Each case sets its own pattern. So people do not know how to behave and what the law is.

So from this Senator's standpoint, I do not think we would be here if it were not for the chairman of the Banking Committee, the distinguished Senator from New York, Senator D'AMATO, who took this cause on and, obviously, is leading it here on the floor today. He brought a balance to it, because he had a feel for both sides. I thank him tonight because we are going to make some good, solid law. When it is interpreted by our courts and by the bar of America, we are going to end up doing right, because those who are cheating and ripping off stockholders—they are going to still get stuck, but those doing almost nothing wrong, except their company's stock price goes up or down, they are no longer going to get stuck for millions in settlements just to pay to the lawyers.

So, from this Senator's standpoint, I do not usually use words like vexatious or vexatiousness, but I found that the Supreme Court described this confusing system, "presents a danger of vexatiousness, different in degree and kind from that which accompanies litigation in general." I believe my good friend Senator DODD alluded to that; that is, there is a degree and a kind of vexatiousness about this that is much different from a normal complaint in a lawsuit in negligence or other Common Law torts.

So let me define the word. I tried to find out what does the word means, because to me it meant to bring fear or such. It comes from a verb, to vex, which means, "to harass, to torment, to annoy, to irritate and to worry." And, as a noun it is synonymous with "troublesome." In the legal context it means "a case without sufficient grounds brought in order to cause annoyance to the defendant or a proceeding instituted maliciously and without probable cause."

It is time that we stop vexatious securities litigation, and fix it we will. During our hearings—and I am no longer on the Banking Committee, and I will help the chairman out wherever I can for the next couple of days as we attempt to pass this legislation, but obviously the responsibility and the credit is to the Banking Committee and those who are working on it now.

During the hearings, we found that the threat of a huge jury award is being misused to sue emerging, rapidly growing companies, especially in the high-technology and biomedical technologies where stock prices are volatile under the best of circumstances. A drop in a stock price is all that these—and I will call them, for the remainder of my discussion on the floor, I will name those lawyers involved in this as a new kind of lawyer. I will call them entrepreneurial lawyers, because they are in it to manage the suit, and in a very real sense the lawsuit becomes their business rather than the business of the plaintiff. The way it is currently structured, they do not even have to respond to anyone.

Let me proceed.

Cases settle regardless of merit. We could go on with many, many reasons for this litigation not serving the public good. But let me wrap up with just one on this first part of my comments. This system is not deterring fraud because insurance companies, most of the time, make the settlements and pay the money. So what we have and what is wrong with this system is very, very fundamental. Lawyers, not clients, control these cases. That is number one.

Number two, this system obstructs voluntary disclosure of information. Who will voluntarily disclose information when they are apt to be liable for just doing that?

And the last is defendants are forced to settle meritless cases. When you add that up, it is time to change the system.

The Wall Street Journal labeled these cases as "the class action shakedown racket." That is what it is, a shakedown racket.

Let me talk about who wins when one of these lawsuits is settled, for this is the most significant part of it all. Investors are only recovering about 7 cents on the dollar when compared with the amount of losses alleged. The lawyers earned on average $2.12 million per settlement, about 30 percent of the whole, during a 12-month period ending July of 1993 according to a study by the National Economic Research Association.

Other studies confirm that investors recover only 6 to 14 cents under the system. Obviously, the system is not working, because the SEC and others who have analyzed it say that a system, to be working, is supposed to do the following. The primary yardstick is that it enables defrauded investors to seek compensatory damages and thereby recover the full amount of their losses. So we ought to start by measuring this system against the criterion of full amount of losses recovered. You will find it fails. On a scale of A through F—F being failure. It gets worse than an F in terms of its ineffectiveness.

As investors are recovering a few cents on the dollar, attorneys are boasting that these securities class actions are a perfect practice, according to—I think my friend from Connecticut quoted this one—one of these distinguished lawyers, who said in Forbes magazine, "The reason this is a great practice is because there are no clients."

These are clientless lawsuits. These are clientless lawyers who claim to be acting in the best interests of investors. The institutional investors believe that these lawsuits are merely transferring money from one set of shareholders to another with the plaintiffs' class action lawyers taking a lion's share. That looks a lot like greenmail.

Mr. BENNETT. Will the Senator yield for a question?

Mr. DOMENICI. I will be pleased to yield.

Mr. BENNETT. You speak of clientless lawyers and clientless cases. Is that the reason all of the money goes to the lawyers and not to the clients?

Mr. DOMENICI. You got it. As a matter of fact, what it really means is that the lawyers have quickly become more interested in settling a lawsuit on terms that are satisfactory to their pockets. So, if it looks like they can fight on but they are going to get $6 million in this settlement and the others are going to get 8 cents on their shares, that is looking pretty good.

What prevents it from happening? Maybe the judges are getting more involved now. But, normally, for many and many a year, nobody had anything to say about it. In reality, although if you had a lawyer here, he would tell you that he is bound by this and he is bound by that and the judge can do this and the judge can do that. But history says they are getting the lion's share of the money and the client or plaintiff is not getting very much.

Does one think the client is managing the case and calling the shots? In many cases the members of the class do not even know what is happening. Let me also tell you, plaintiffs are not making very much unless they are very fortunate. If they are professional plaintiffs, they are doing pretty well because they receive bonuses of $10,000 to $15,000 for letting the lawyers use their names, and, frankly, we are going to prohibit that. I think that ought to be prohibited and should have been prohibited. It has no place in solid lawyering. What happens is some people have shares in 300 or 400 companies and the lawyers the same person's name on 20, 30, 50 lawsuits. These are individuals with 10 shares and the lawyers give them this bonus. The rest of the class does not make very much, but that fellow does very well. I think we had one, Mr. President, who was 92 or 94 years old that we found out—do you remember that case? He had a lot of these. He had 10 shares of stock and he was a very big friend of these entrepreneurial law firms. He was readily available. He pulled the trigger.

Mr. BENNETT. Will the Senator yield further?

Mr. DOMENICI. I am pleased to.

Mr. BENNETT. It is my understanding that the judge referred to him in one case as "the unluckiest investor in the world" because he was always suing for losses. He did not invest in order to make any money. He invested so he could be a professional plaintiff, and he was in court so often the judge referred to him in that manner.

Mr. DOMENICI. I was not there when that was done and I do not recall it, but it surely seems right to me. And if you say it, it happened. It is exactly what is happening.

The race to the courthouse has been described by both the chairman of the full committee and by Senator DODD. I will not proceed beyond saying that whenever you find, in the American judicial system, that a substantial portion of a certain kind of lawsuit is based upon the premise that whoever gets to the courthouse first gets to control the lawsuit, then it seems to me you do not have to have that situation very long until you ought to look and see what is this all about? Because it is an invitation to craft poor complaints, to state anything you want or invent things and then waste a year and a half of time, money, and take depositions to try to find out whether you have a lawsuit or not. When I started practicing law—maybe that is passe—that was not the way to practice. Now it seems to be for many of those, and they would like to keep it that way for this system.

It also makes us do sloppy legal work—not us but those who are doing it—sloppy legal work. The cookie-cutter complaint, which is probably the one the Senator referred to as to Raytheon—cookie-cutter complaint. All the allegations are the same, case after case. Senator D'AMATO, we have one, they always use the same allegations and the same words. The lawyers just change the name of the company being sued—it pops out of the computer. In fact, I think some of them have terminals where they are hooked into the stock market. The stock is going to fluctuate and the computer is going to spit out a lawsuit.

The lawyer just signs his name on it. But a judge took one of these not so lightly because a plaintiff's lawyer inserted in the complaint the name of the company he was suing: Philip Morris. They accused Philip Morris of fraudulently manufacturing toys, t-o-y-s, not cigarettes. Philip Morris does not manufacture toys, a typical cookie cutter complaint—a demand for hundreds of millions of dollars in damages. This bill is about stopping this kind of lawsuit. It is shoot, aim, ready. Instead of ready, aim, shoot, it is shoot, aim, ready.

The National Association of Securities and Commercial Lawyers suggests that 56 percent of the cases they had hand picked to provide data on to the Securities Subcommittee were filed within 30 days of the triggering event. A triggering event is usually a missed earnings projection, a so-called earnings surprise. Twenty-one percent of the cases were filed within 48 hours of the triggering event. The stock prices dropped, and class action suits are filed with little due diligence to investigate the basis of the case.

But you can count on it. If the lawyer is a good entrepreneur and sticks with it, he will get paid something even for that kind of suit, whether there is anything to the suit. Companies have to settle.

Of the 111 cases filed in 1990 and 1991, 25 percent were filed by pet plaintiffs, the plaintiff that we described a while ago. In 25 percent of the cases, they went out and hired the plaintiff and paid them a bonus. Even if they had a lawsuit that was decent, the point of it is that was an effort to get to the courthouse quick with the pet plaintiff. So you could be the lead counsel, or at least you could maybe be representing $500 million worth of securities for a $150, $200, $300 pet plaintiff.

So from this Senator's standpoint, the bill before us is a very good approach to settling and solving these problems. As I see it, the details of this bill will be debated and amendments will be offered. So I am not going to go into details.

But I would like to just close with one current situation. I know about it because a company has one of its biggest production plants in New Mexico. The general counsel for Intel testified that Intel had been sued. When it was a startup, such a suit probably would have bankrupted the company long before it investigated in microchips.

This is an example of the innovation and entrepreneurship that these cases are threatening to snuff out. So let me give you one about Intel. If this had been filed when it was a young company, we would not have Intel.

On December 19, 1994, Intel was sued over the flaw in the Pentium chip. Despite the fact that it would take 29,000 years for the chip's flaw to become apparent, and despite the fact that on December 20, 1994, Intel responded to market concerns about the chip by implementing its "no questions asked" replacement policy. The lawyers who filed on December 19 are asking $6 million in fees for 1 day's work. Even though they dropped the suit and Intel did not have to pay anything to the shareholders, the lawyers have inserted a provision in the settlement which forbids defendants, the defendant Intel, from publicly discussing the fee or any other provision of the settlement.

S. 240 before this Senate would require disclosure of settlements, even this kind of settlement—nothing to the plaintiffs, everything to the lawyers. With better disclosure I doubt whether that will happen very often.

Can you imagine a public disclosure for that? We did not do anything for anyone, but we get $6 million. That is nice. It is interesting. Would you not like to be doing that? It is pretty good. It might even be better than being a Senator. Who knows?

Well, there are many more like this. I have a great deal of explanation.

Prof. Joseph Grundfest of Stanford Law School has said that the plaintiffs lawyers have done little if anything to earn their hefty request.

Says Grundfest: "much of the settlement would have come about even if no lawsuit was filed * * * to reward lawyers for that at all is the equivalent of double-dipping."

Mesa Airlines' officers and directors were sued for keeping their mouth shut. They had a corporate policy not to talk to analysts. The analysts make some projections about Mesa. The airline neither confirmed nor denied whether they agreed or disagreed with the analysts. The mesa officers just tried to run an efficient airline. The plaintiff's lawyers have alleged that Mesa's failure to talk about analysts' projections was "deemed to be acceptance" of the content of the analysts' prediction. The company missed the earnings projections, their stock price dropped, and they got sued.

Prudential Bache Securities. Investors represented by the firm who testified before the committee received 4 cents on the dollar under the class action lawsuit settlement. The firm took $6 million plus expenses. Other investors who hired their own lawyers, and went to arbitration came away fully compensated.

Frivolous litigation is time-consuming and distracts chief executive and other corporate officials from productive economic activity. It has been estimated that defending one of these lawsuits is as costly as starting up a totally new product line.

These frivolous lawsuits are such a menace to publicly traded companies on the NASDAQ that the NASDAQ Self-Regulatory Organization decided to recommend reforms to Senator DODD and me.

SYSTEM IS BROKEN

The conclusion of any one who has examined the issue carefully is: The current securities implied private litigation system is broken. The system is broken because too many cases are pursued for the purpose of extracting settlements from corporations and other parties, without regard to the merits of the case. The settlements yield large fees for plaintiffs' lawyers but compensate investors only for a fraction of their actual losses. Janet Cooper Alexander of Stanford University has proven that most securities class actions are settled by the parties without regard to whether the case has merit. Chairman of the SEC, Arthur Levitt acknowledged that "virtually all securities class actions are settled for some fraction of the claimed damages, and some alleged that settlements often fail to reflect the underlying merits of the cases. If true, this means that weak claims are overcompensated and strong claims are undercompensated." Prof. John Coffee has concluded the plaintiffs' attorneys in many securities class actions appear to "sell out their clients in return for an overly generous fee award," and that the defendants may also join in this collusion by passing on the cost of the settlement to absent parties, such as insurers."

The plaintiffs' lawyers like to sue the officers and directors, and the accountants, underwriters and issuers. These cases are brought under joint and several liability which means that any one defendant could be made to pay the entire judgment even if he or she were only marginally responsible. If a person is one percent liable he/she could be asked to write a check for 100 percent of the awarded damages. That is not fair.

Our bill builds upon the State law trend of imposing proportionate liability.

Under proportionate liability each person found responsible pays a share of the damages that is equivalent to the harm he or she caused.

Our bill would retain joint and several liability for the really bad actors, but would provide proportionate liability for those parties only incidentally involved. In response to the Securities and Exchange Commission's staff concern we also included a special provision to address the problem of the insolvent codefendant. We believe this provision strikes the correct balance. This liability reform is important to outside officers and directors, auditors and others who often get named in the law suit but who have little if any true liability. It helps change the economics that drive these frivolous cases.

BIG MONEY DAMAGES

The system seeks huge monetary recoveries from outside directors, outside lawyers, and independent accountants who may be only marginally involved in activities for which corporate officers should be primarily liable. Experienced people are declining to serve on boards because of the liability exposure. This denies growing companies the expertise they need to succeed. The system is not deterring fraud because insurance companies pay most of the settlement amount.

The current system also discriminates against defendants. People who have deep pockets are often named in the law suits to coerce settlements. Accountants bear the brunt of our current system of joint and several liability. Suing the accountant insures that the settlement will be 50 percent larger because of their deep pocket.

The fundamental purposes of the Federal securities laws are to promote investor confidence and deter fraud. But the system is failing its deterrent mission. A system where the merits don't matter isn't a deterrent. A system where most settlement funds are paid by insurance companies isn't a deterrent.

A system that is having a chilling effect on corporate disclosure is actually working at cross-purposes with its objective. Class action securities cases inhibit voluntary disclosure by corporations, discouraging them from making any public statements except when absolutely required, for fear that anything they say which might move the company's stock price might trigger a lawsuit.

In order for our capital markets to function efficiently, for Wall Street analysts to evaluate stocks, or for main street investors to buy, hold, or sell a stock, they need a lot of information. An important type of information is the projections of how the company will do in the future—the so-called forward-looking statement.

By its definition, a forward looking statement is a prediction about the future. Earnings projections, growth rate projections, dividend projections, and expected order rates are examples of forward looking statements. Predictions about the future have become one of the more common types of frivolous securities lawsuits filed.

Few people know why it is important for the bill to provide a safe harbor for predictive statements. Let me ask a few questions to help my colleagues understand.

First, do you believe that earnings projections about the future are promises?

Second, do you believe stock volatility is stock fraud?

Third, do you believe that projections about future earnings should be unanimous among every single employee in the company in order for that prediction to be eligible for protection for abusive lawsuits?

Fourth, do you believe that it is fraud when an officer or director or other employee receives a significant portion of his compensation in stock options sells stock regularly?

Fifth, if you believe that any statement about future performance can, and should be used against you no matter how well intended, no matter how well reasoned, regardless of how dramatic circumstances change?

The five statements I just read are the basis for most predictive statement, class action securities cases.

To me, these cases represent everything that I find discouraging about our legal system—professional plaintiffs, fishing expeditions for documents, boiler-plate fraud accusations, contingency fee lawyers, and settlement that resemble legal blackmail.

A safe harbor is needed to encourage companies to make information available. To keep the system honest, there are laws on the books to make sure that executive trades do not create even the appearance of illegal insider trading, the process is highly regulated by the SEC. In addition, most companies have their own internal policies regulating when executives can make trades. These controls ensure that executives do not trade during lengthy black out periods within months of important announcements. The SEC also has imposed rules regarding executive selling that require prompt reports, which are then available to the investing public.

First, if you believe that efficient capital markets need information, you agree with investors, the SEC, and securities analysts. As the California Public Employees Retirement System [CALPERS] recently stated, "forward-looking statements provide extremely valuable and relevant information to investors."

SEC Commissioner Arthur Levitt recently wrote: "There is a need for a stronger safe harbor than currently exists. The current rules have largely been a failure * * *."

Former SEC Chairman Richard Breeden testified:

> Shareholders are also damaged due to the chilling effect of the current system on the robustness and candor of disclosure. . . . Understanding a company's own assessment of its future potential would be among the most valuable information shareholders and potential investors could have about a firm.

Second, if you believe that disclosure of information helps investors make intelligent decisions you should be calling for reform because the very nature of forward-looking statements makes them particularly fertile ground for abusive lawsuits. If a company fails to meet analysts' profit expectations, or production of a new product is delayed, it is often faced with a law suit. As a result, companies are increasingly reluctant to disclose forward-looking information. Numerous studies have documented this trend. According to testimony given by James Morgan, National Venture Capital Association, one study found that over two-thirds of venture capital firms were reluctant to discuss their performance with analysts or the public because of the threat of litigation.

Keeping quiet is not an escape route from these frivolous cases. One company in my State had a policy not to talk to analysts which developed from a fear of being sued. But they were sued anyway for failing to disagree with an analysts' projection. The legal theory was that the company incorporated by silence the analysis's estimations. Mesa Airlines is not the only company to be sued for keeping its mouth shut.

Third, if you recognize that predictions about the future do not always come true and that investing has some risks attached, you should support the statutory safe harbor: Institutional investors are the most professional, sophisticated investors in our markets. In addition, they have a fiduciary duty to retirees to prudently manage their pension funds. These institutional investors have argued that forward looking statements accompanied by warnings should be per se immune from liability. The Council of Institutional Investors told the SEC that any safe harbor must be 100 percent safe. This means that all information in it must be absolutely protected from law suits even if it is irrelevant or unintentionally or intentionally false or misleading. The bill does not go as far as the institutional investors suggested. We think it strikes the correct balance.

The SEC Rule 175 permits issuers to make forward looking statements about certain categories of information provided that the prediction is made in good faith with a reasonable basis. Currently, this SEC safe harbor rule actually discourages issuers from voluntarily disclosing this information. To quote the SEC:

> Some have suggested that companies that make voluntary disclosure of forward-looking information subject themselves to a significantly increased risk of securities antifraud class actions." As such, "contrary to the Commission's original intent, the safe harbor is currently invoked on a very limited basis in the litigation context." Critics state that the safe harbor is ineffective in ensuring quick and inexpensive dismissal of frivolous private lawsuits. (SEC Securities Act of 1993 Release No. 7101, October 1994)

An American Stock Exchange survey supports that conclusion. It found that 75 percent of corporate CEO's limit the information disclosed to investors out of fear that greater disclosure would lead to an abusive lawsuit.

As the SEC has realized, forward-looking statements are predictions—not promises. This bill recognizes that a reasonable basis for such information doesn't have to be a unanimous basis. This bill creates a statutory safe harbor which:

Provides a clear definition of "forward looking statement" for both the 1933 and 1934 acts;

Covers written and oral statements;

Requires that the predictive statement contain a Miranda warning describing the statement as a prediction and a disclosure that there is a risk that the actual results may differ materially from those predicted;

No safe harbor protection for statements knowingly made with the expectation, purpose, and actual intent of misleading investors. There is no so-called license to lie under this bill;

Protects statements made by issuers, persons acting on their behalf such as officers, directors, employees, and outside reviewers retained by the issuer. Accounting and law firms are eligible for the safe harbor, brokers and dealers are not;

No safe harbor protection for initial public offerings [IPOs], penny stocks, roll-up transactions and issuers who have violated the securities laws;

Provides the SEC with new authority to sue for damages on behalf of investors in predictive statement cases. The SEC's recovery should be much better than the average of 6 cents on the dollar currently recovered by private attorneys;

Encourages SEC to review the need for additional safe harbors.

New Mexico is a high-technology State. It is the home to Los Alamos and Sandia National Laboratories. We have more engineers and PhD's per capita than any State in the Union. High technology and high growth companies are our future, yet they are the companies that are hit most often by frivolous lawsuits. They have volatile stock. I do not really see how New Mexico can expect to develop the spin-off companies from the labs and to grow high technology companies unless we pass legislation that has a meaningful safe harbor for predictions about the future.

I am pleased that the final bill includes a statutory safe harbor. Originally, S. 240 contained an instruction to the SEC to develop a new safe harbor. However, the SEC has been working on it for more than a year and they are gridlocked. They held some very good hearings and some of the material presented before them has been very useful to the committee in developing its statutory safe harbor.

We want to get back to basics. The central principle underlying the securities laws is that investors should receive accurate and timely disclosure of the financial condition of publicly traded companies.

The objective of this bill is to recognize that litigation isn't George Orwell's 1994 version of Big Brother looking out for investors' best interest. We reject "stock volatility is fraud"; we reject "justice is pennies for lawyers"; We reject "equity is millions for lawyers."

S. 240 will encourage disclosure, strengthen confidence, realine the role of the entrepreneurial plaintiffs' lawyers with the best interests of their clients, and change the risk/benefit equation of taking cases to the jury.

The basis of our bill is to make the plaintiffs' bar, "Stop, think, investigate, and research."

The spirit motivating this bill is the obligation that Chairman Levitt identified, "to make sure the current system operates in the best interest of all investors. This means focusing not just on the interests of those who happen to be aggrieved in a particular case, but also on the interests of issuers and the markets as a whole."

With S. 240, we have decided to take a historic step. For the first time since Congress created the Federal securities laws in 1933 and 1934, we have decided to revisit section 10(b) and rule 10b–5 in order to fix many of the problems created by the courts and our own failure to act during the past 60 years. If you would like to put an end to the inconsistency and confusion, you should support S. 240. If you would like to relieve the courts of the burden of revisiting 10b–5 every year and put an end to the judicial activism associated with this area of the law, vote for this bill. If you want to allow the abuse of investors and companies, the stifling of job creation and the continued shaping of the contours of the law to continue, you should vote against it. In the end, S. 240 will give courts greater guidance to deal with meritorious securities class actions and greater incentive to eliminate most, if not all, of the frivolous ones. We owe it to investors, companies, and our capital markets to take this historic step.

Mr. President, hopefully, in the next few days, we will change this law and go to conference with the House, and maybe before this year is out, set some of these things straight.

I yield the floor.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER (Mr. BENNETT). The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I have listened to my colleagues now for well over an hour very carefully. This is an important piece of legislation, and it deserves very careful attention. I think perhaps the best summary, in a sense, of some of the statements we have heard was the comment made by my distinguished colleague from Connecticut, who said that there might well be a tendency in the course of debating this bill to use increasingly extreme examples and overheated rhetoric. I think that was his exact quote. And we have already seen some of that at work over the opening debate that has taken place now for well over an hour.

I do not know of anyone who differs with the goal of deterring frivolous lawsuits, and sanctioning appropriate parties when such lawsuits are filed. My colleague from Connecticut at one point said this bill is an important step in repairing an ailing system. Parts of this bill are an important step in doing that. Other parts of this bill will, in my judgment, contribute to an unhealthy system. And the challenge that is before the Senate over the next few days as we work through this legislation is to be able to distinguish between those parts in this legislation.

In the course of this consideration, amendments will be offered. Amendments were offered in committee. Some were decided by very close votes. We hope by proposing those amendments to be able to focus on what the problems are. But let me just generally make the point that this legislation as now drafted will affect far more than frivolous suits. The examples that have been cited, the horror cases, are examples that any of us would want to address and try to deal with. This bill goes beyond that. This bill overreaches that mark and, in fact, in my judgment, will make it more difficult for investors to bring legitimate fraud actions. That is the essential question. That is the discernment we have to make here.

Jane Bryant Quinn said in an article less than a week ago in the Washington Post, entitled "Making it Easier to Mislead Investors," and I quote from the opening of this article:

> A lawsuit protection bill speeding through Congress will give freer rein to Wall Street's eternal desire to hype stocks. It's cast as a law against frivolous lawsuits that unfairly torture corporations and their accountants, but the versions in both the House and Senate do far more than that. They effectively make it easier for corporations and stockholders to mislead investors. Class action suits against the deceivers would be costly for small investors to file and incredibly difficult to win. I'm against frivolous lawsuits. Who is not? But these bills would choke meritorious lawsuits, too.

At the end of this long article, she concludes as follows, and I quote:

> Baseless lawsuits do indeed exist. Lawyers may earn too much from a suit, leaving defrauded investors too little. The incentives to sue should be reduced, but not with these bills. They let too many crooks get away.

And an article in the U.S. News & World Report, the most recent issue, by Jack Egan entitled, "Will Congress Condone Fraud," says in part, and I quote, speaking about this legislation:

> It just might come to be remembered as legislation that has steeply tilted the playing field against investors. It makes it very hard for shareholders to sue over legitimate grievances.

And, at the end, it goes on to say:

> The pendulum has swung too far toward the lawyers, and now it is swinging too far the other way. Unfortunately, some major investor frauds may have to take place before it again moves back toward the center.

The challenge for the Senate is to get this pendulum in the right place to begin with, here, now, over the course of the next few days so that they do not have to have major investor frauds in order to swing the pendulum back toward the center.

This legislation, and certain of its provisions, goes too far. In fact, two provisions that were in the original bill as introduced were dropped in the course of evolving this legislation. Those provisions, had they remained in the bill, would deal with a number of the problems which we intend to outline over the next few days in the course of its consideration. That was in the original proposed legislation, and was taken out. As a consequence, the legislation, in my judgment, has been weakened, and the balance has tilted in an unfair and unjust way.

The fact is that this bill will make it harder to bring securities fraud actions and to recover losses. Individual investors, local governments, pension plans, all will find it more difficult to bring fraud actions and to recover their full damages as a result of this legislation.

I know examples are going to be used, but I say to my colleagues, you have to move beyond those examples. The provisions in the bill which deal with the egregious examples that would be cited ought to be in this bill and they ought to be passed. The difficulty is that the bill overreaches and it goes too far. Let me give you some instances of that.

The safe harbor provision will for the first time protect fraudulent statements within the Federal securities laws. Individual investors will not be able to sue people who make fraudulent projections of important items such as revenues and earnings.

The SEC has been working to address the question of forward looking statements, but the Chairman of the SEC, Arthur Levitt, has raised very serious questions about the safe harbor provision in this legislation. If I wanted to engage in the Senator's rhetorical combat that he spoke about earlier, I would say, rather than safe harbor, it is a pirate's cove that is in this legislation. The proportionate liability provision will for the first time put fraud participants ahead of innocent victims and individual investors. Fraud victims will not recover their full damages.

The argument is made that you have people who are held liable, they vary in their proportionate share of the responsibility, and the deep-pocket people are held entirely liable when the principal malefactor goes bankrupt or cannot pay the award. This is in a suit that is proven to be successful, been upheld as being meritorious in court. Well, there is a problem amongst the malefactors. But to throw the burden on the innocent victim as a solution to that problem is a departure which really astounds one.

In other words, you are the victim of the fraud. A number of people have participated in it in varying degrees, and you are going to be held to assume a large part of the burden before the participants in the fraud have to be responsible. As a consequence, fraud victims will not recover the full damages.

The managers of the bill speak about its balance. In fact, the bill has a tilt, as this column in U.S. News & World Report said, and I quote it again:

> It just might come to be remembered as legislation that's steeply tilted the playing field against investors.

There is not included in this legislation provisions that the SEC and the State securities regulators feel are necessary to protect victims of securities fraud. I was interested that the Senator from Connecticut quoted Arthur Levitt as saying in a hearing there is a need for change.

That is quite true. But Chairman Levitt criticizes the measure that is now before us. If you are going to cite Arthur Levitt as supporting the proposition for change, which actually none of us is contending against here—we are not coming to the floor and saying do nothing, just leave the existing law. We are saying that there are some provisions in this legislation that ought to be passed, but there are other provisions that overreach and go too far, and Arthur Levitt says the same.

The very person cited in a sense as an expert for the proposition that change ought to be made has also told us that some of the changes contained in this legislation are undesirable.

In addition to the safe harbor issue, which we will come back and revisit in the course of the amending process, is the proportionate liability issue. This bill does not extend the statute of limitations for securities fraud actions. Fraud victims will not have time to bring their cases to court. That in fact was a provision that was in the original bill as introduced and has been dropped from the provision now before us.

The bill does not restore the ability of investors to sue individuals who aid and abet violations of the securities laws. Fraud victims will not be able to pursue everyone who helped commit a securities fraud.

It is asserted that this bill as is has reached the proper balance, but the fact remains that it is opposed, the legislation as before us, by a host of securities regulators, by State and local government officials, by consumer groups, by labor unions, by bar associations, and others, including the North American Securities Administrators Association, the Government Finance Officers Association, the National League of Cities, the U.S. Conference of Mayors, the Consumer Federation of America, and a number of the large trade unions, including the Teamsters and the United Auto Workers.

The assault from the other side has been on the lawyers. These groups do not represent the lawyers. These groups represent the public, consumers, investors, and they have all reached the judgment that this bill is unbalanced—unbalanced.

Let me just speak for a moment or two about the background. It is asserted by some that there is a crisis in the securities litigation system that is threatening our capital markets. Let us take a look very quickly at our capital markets and some statistics about it.

For 1993, the U.S. equity market capitalization stood at $5.2 trillion, over one-third of the world total. More than 600 foreign companies from 41 different countries are listed on our exchanges and more foreign companies come every year. Average daily trading volume on the New York Stock Exchange has increased from 45 million shares in 1980 to 291 million shares in 1994. From 1980 to 1993, mutual fund assets increased by more than 10 times to $1.9 trillion.

In effect, Mr. President, what this demonstrates is that the U.S. capital markets remain the largest and the strongest in the world.

Now, this, I would submit, is not in spite of the Federal securities laws but in part because of the Federal securities laws. This tremendous growth in the American marketplace and its preeminent position worldwide is not in spite of Federal securities laws but in part because of Federal securities laws. The Federal securities laws have generally provided for sensible regulation and self-regulation of exchanges, brokers, dealers, and issues.

This regulation has helped to sustain investor confidence in our markets. Without that confidence in the markets, you are not going to get the kind of dominant position that we have had. And confidence in the markets on the part of investors is a consequence not only of the public regulatory scheme administered by the SEC but also because investors know that they have effective remedies against people who try to swindle them.

In other words, if you weaken unreasonably or improperly these remedies, you are going to affect investor ability to have recourse in instances in which they have been unfairly or improperly exploited, and the consequence of that is you begin to cast a doubt over the integrity of the securities markets.

Both Republican and Democratic Chairmen of the Securities and Exchange Commission have stressed the crucial role of the private right of action in maintaining investor confidence.

In 1991, then-Chairman Richard Breeden testified before the Banking Committee, and I quote:

> Private actions . . . have long been recognized as a "necessary supplement" to actions brought by the Commission and as an "essential tool" in the enforcement of the Federal securities laws. Because the Commission does not have adequate resources to detect and prosecute all violations of the Federal securities laws, private actions perform a critical role in preserving the integrity of our securities markets.

Current Chairman Arthur Levitt echoed this very point in testimony delivered this year.

The Securities Subcommittee held hearings over the past 2 years reviewing the Federal securities litigation system. It received testimony from plaintiffs' lawyers, from corporate defendants, from accountants, from academics, from securities regulators, and from investors. There was considerable disagreement among the witnesses over how well the existing securities litigation system is functioning. Some argued, and my colleagues who have already spoken argue, American business, particularly younger companies in the high-technology area, face a rising tide of frivolous securities litigation. Corporate executives suggested that securities class actions are filed when a company fails to meet projected earnings or its stock drops.

Clearly, some frivolous securities cases are filed as, indeed, some frivolous cases of every sort are filed. However, the Director of the SEC's Division of Enforcement testified in June 1993 with respect to statistics from the Administrative Office of the U.S. Courts:

> The approximate aggregate number of securities cases, including Commission cases, filed in Federal district courts does not appear to have increased over the past 2 decades. Similarly, while the approximate number of securities class actions filed during the past 3 years is significantly higher than during the 1980's, the numbers do not reveal

> the type of increase that ordinarily would be characterized as an "explosion."

Some said that these actions were inhibiting the capital formation process. In fact, initial public offerings have been setting records in recent years: $39 billion in 1992; $57 billion in 1993. The $34 billion in initial public offerings in 1994 was exceeded only by the records set in the previous 2 years.

On May 22, the New York Times reported, and I quote:

> One of the great booms in initial public offerings is now under way, providing hundreds of millions in new capital for high-tech companies, windfalls for those with good enough connections to get in on the offerings and millions in profit for the Wall Street firms underwriting the deals.

Asserting a crisis in securities litigation, which the figures do not seem to bear out, this bill makes it harder to bring lawsuits. We should ask ourselves not simply whether these changes will result in fewer lawsuits, but whether each proposed change will make the securities laws serve our Nation better. We should ask whether legitimate cases can still be brought or whether the provisions in this legislation, which it is asserted are designed to screen out the frivolous cases, will go beyond that and, in effect, make it difficult to bring legitimate cases.

I hope Members will focus on this very issue. It is very important not to become, as it were, mesmerized by these extreme examples which my colleague from Connecticut said would obviously be cited, because no one is protecting the extreme examples.

The question is whether the provisions here will make it impossible or highly difficult to bring legitimate actions, whether it will swing the pendulum too far in the other direction. One of the articles I quoted said:

> Unfortunately, some major investor frauds will have to take place before it, again, moves back toward the center.

We do not want that to happen. We have an opportunity here on the floor by correcting this legislation to prevent that from happening.

Let me very quickly turn to some of the major defective provisions in the legislation.

First is the so-called safe harbor provision. This legislation has a statutory definition of an exemption from liability for forward-looking statements which the bill broadly defines to include both oral and written statements. Examples include projections of financial items such as revenues and income for the quarter or for the year, estimates of dividends to be paid to shareholders, and statements of future economic performance, such as sales trends and development of new products. In short, forward-looking statements include precisely the type of information that is most important to investors deciding whether to purchase a particular stock.

The SEC currently has a safe harbor regulation for forward-looking statements that protects specified forward-looking statements that were made in documents filed with the SEC. To sustain a fraud suit, the investor must show that the forward-looking information lacked a reasonable basis and was not made in good faith.

The SEC, recognizing the desirability of having some safe harbor for forward-looking statements, has been seeking to define it in regulation.

It has been conducting, in fact, a comprehensive review of its safe harbor regulation. This legislation, as originally introduced by Senators DOMENICI and DODD, would have allowed the SEC to continue this regulatory effort. And Chairman Levitt endorsed that approach. However, the committee print substitute for S. 240, unlike the bill as introduced, abandoned this approach in favor of enacting a statutory safe harbor.

The committee print now before us, in effect, protects fraudulent forward-looking statements. For the first time, such statements would find shelter under the Federal securities law. In a letter to the committee, Chairman Levitt, expressing his personal views about a legislative approach to safe harbor, stated:

> A safe harbor must be thoughtful so that it protects considered projections but never fraudulent ones.

The bill, as reported, provides safe harbor protection for all statements except those knowingly made with the expectation, purpose, and actual intent of misleading investors. The committee report states that expectation, purpose, and actual intent are separate elements, each of which must be proven by the investor, otherwise the maker of the statement is shielded.

This language so troubled Chairman Levitt that he wrote to committee members on May 25, the morning of the markup. He stressed that the substitute committee print failed to adhere to his belief that a safe harbor should never protect fraudulent statements.

I want to be very clear about this. No one is arguing whether there should be some provision for a safe harbor. The question is: What should that provision be? What is reasonable? What is proper? What is balanced? What constitutes overreaching? The chairman of the SEC said the following in that letter to the committee on the morning of the markup:

> I continue to have serious concerns about the safe harbor fraud exclusion as it relates to the stringent standard of proof that must be satisfied before a private plaintiff can prevail. As Chairman of the Securities and Exchange Commission, I cannot embrace proposals which would allow willful fraud to receive the benefit of safe harbor protection. The scienter standard in the amendment may be so high as to preclude all but the most obvious frauds.

He warned that the bill's standard of "knowingly made with the expectation, purpose, and actual intent of misleading investors" was a far more stringent standard than currently used by the SEC and the courts. The committee report states that the safe harbor provision is intended to encourage disclosure of information by issuance. Encouraging reasonable disclosure is one thing. Encouraging fraudulent projections is obviously yet another.

The safe harbor provision that is in this bill, which was not in the original bill as introduced by Senators DODD and DOMENICI—this safe harbor provision before us would hurt investors trying to make intelligent investment decisions and penalize companies trying to communicate honestly with their shareholders. It runs counter to the entire philosophy of Federal securities laws, the very laws that have helped give us such strong markets, laws that rest on the premise that fraud must be deterred and punished when it occurs. That is one of the major areas in which attention will have to be focused over the next few days.

Next I turn to the proportionate liability provision in the bill. The difficulty with the proportionate liability section in the bill is we need to understand the issue of liability for reckless conduct.

In 1976, the Supreme Court held that a defendant is liable under Federal securities antifraud provisions only if he or she possesses the state of mind known in the law as "scienter." Conduct that is intended to deceive or mislead investors satisfies the scienter requirement. While the Supreme Court did not decide the question, courts in every Federal circuit have held that reckless conduct also satisfies the scienter requirement. This follows the guidance of hundreds of years of court decisions in fraud cases. As the Restatement of Torts states, "The common law has long recognized recklessness as a form of scienter for the purposes of proving fraud."

Now, the most commonly accepted definition of reckless conduct was set forth by the Seventh Circuit in the Sundstrand case. That standard—and I will quote it, an order which attached joint and several liability—said:

> A highly unreasonable omission involving not merely simple, or even gross, negligence, but an extreme departure from the standards of ordinary care and which present a danger of misleading buyers or sellers that is either known to the defendant or is so obvious that the actor must have been aware of it.

Now, recklessness liability is often applied to the issuers' professional advisers—attorneys, underwriters, accountants. And under joint and several liability, all parties who participate in a fraud are liable for the entire amount of the victim's damages—both those parties who intended to mislead the investors, and those whose conduct was reckless.

The rationale for this is that a fraud cannot succeed without the assistance of each participant, so each wrongdoer is held equally liable.

This bill limits joint and several liability under the Federal securities laws to certain defendants, specifically excluding defendants whose conduct was reckless. This change will hurt investors in cases where the perpetrator of the fraud is bankrupt, has fled, or otherwise cannot pay the investors' damages. In those cases, innocent victims of fraud will be denied full recovery of their damages. Chairman Levitt said:

> The Commission has consistently opposed proportionate liability.

Before the Securities Subcommittee, he said:

> Proportionate liability would inevitably have the greatest effect on investors in the most serious cases (for example, where an issuer becomes bankrupt after a fraud is exposed). It is for this reason that the Commission has recommended that Congress focus on measures directly targeted at meritless litigation before considering any changes to the liability rules.

Now, even the authors of the measure before us recognize something of a problem, so they have tried to make some compensating features with respect to proportionate liability, and we will address those in greater detail when we propose an amendment.

Let me just simply make this point. They would provide coverage to victims with a net worth under $200,000 who lose more than 10 percent of that net worth. Well, that hardly is meaningful. Virtually anyone who owns a home has a net worth of $200,000. And to require many small investors to lose more than 10 percent of that net worth—in other words, you would have to lose $20,000 before you would be made whole by those who have participated in or condoned the fraud.

There is another provision for a 50-percent overage, but neither provision will make fraud victims whole. They will protect only a tiny number of investors. For most investors, the balance of their losses may be uncollectible. So the innocent party is going to be called upon to bear this burden. Just think of the equities of that.

Reckless participation. Participants will no longer be responsible for the result of their conduct. Innocent investors—individuals, pension funds, county governments—will have to make up the loss. This is not fairness—certainly not to the investors.

In addition, I am disappointed that this legislation, as reported, does not contain provisions to help investors bring meritorious suits. In his letter to the members of the Banking Committee, Chairman Levitt stated:

> In addition to my concerns about the safe harbor, there is not complete resolution of two important issues for the Commission. First, there is no extension of the statute of limitations for private fraud actions from 3 to 5 years.

My very able, distinguished colleague from Nevada, who is a member of the subcommittee that considered this legislation, and is extremely knowledgeable on all aspects of it, will later, in the course of the amending process, address this specific provision.

For over 40 years, courts held that the statute of limitations for private rights of action under section 10(b) of the Securities Exchange Act of 1934, the principal antifraud provision of the Federal securities laws, was the statute of limitations determined by applicable State law. While these statutes varied, they generally afforded securities fraud victims sufficient time to discover and bring suit.

In 1991, in the Lampf case, the Supreme Court significantly shortened the period of time in which investors may bring such securities fraud actions. By a 5 to 4 vote, the Court held that the applicable statute of limitations is 1 year after the plaintiff knew of the violation and in no event more than 3 years after the violation occurred. This is shorter than the statute of limitations for private securities actions under the law of more than 60 percent of the States today.

This shorter period does not allow individual investors adequate time to discover and pursue violations of securities laws. Testifying before the Banking Committee in 1991, SEC Chairman Richard Breeden stated "the timeframes set forth in the [Supreme] Court's decision is unrealistically short and will do undue damage to the ability of private litigants to sue." Chairman Breeden pointed out that in many cases,

> Events only come to light years after the original distribution of securities and the . . . cases could well mean that by the time investors discover they have a case, they are already barred from the courthouse.

The FDIC and the State securities regulators joined the SEC in favor of overturning the Lampf decision.

On this basis, the Banking Committee in 1991 without opposition adopted an amendment to a banking bill. The amendment lengthened the statute of limitations for securities fraud actions to 2 years after the plaintiff knew of the securities law violation, but in no event more than 5 years after the violation occurred.

When the bill reached the Senate floor in November 1991, some Senators indicated they would seek to attach additional provisions relating to securities litigation. They argued that the statute of limitations should not be lengthened without additional reform of the litigation system. No arguments were raised specifically against the extension of the statute of limitations. To expedite consideration of the bill, the extension of the statute of limitations was dropped. Senators DOMENICI and DODD included the extended statute of limitations in their comprehensive securities litigation reform bill, both in the last Congress and in this Congress.

There was no rationale for dropping that provision out. Chairman Levitt testified before the Securities Subcommittee in April 1995, "extending the statute of limitations is warranted because many securities frauds are inherently complex, and the law should not reward the perpetrator of a fraud who successfully conceals its existence for more than 3 years."

I defy any of my colleagues to explain to us why the perpetrator of the fraud ought to be given a shorter period of time in which to get away with this fraudulent conduct.

Finally, let me turn to the failure to restore aiding and abetting liability. This was another matter touched on by Chairman Levitt when he expressed his disappointment that "the draft bill does not fully restore the aiding and abetting liability eliminated in the Supreme Court's Central Bank of Denver opinion."

Prior to that decision, courts in every circuit in the country had recognized the ability of investors to sue aiders and abettors of securities frauds. Most courts required that an investor show that a securities fraud was committed, that the aider and abettor gave substantial assistance to the fraud, and that the aider and abettor has some degree of scienter—intent to deceive or recklessness toward the fraud.

Why should the aiders and abettors of the fraud escape any liability? As Senator DODD stated at a May 12, 1994, Securities Subcommittee hearing, "aiding and abetting liability has been critically important in deterring individuals from assisting possible fraudulent acts by others." Testifying at that hearing, Chairman Levitt stressed the importance of restoring aiding and abetting liability for private investors:

> Persons who knowingly or recklessly assist the perpetration of a fraud may be insulated from liability to private parties if they act behind the scenes and do not themselves make statements, directly or indirectly, that are relied upon by investors. Because this is conduct that should be deterred, Congress should enact legislation to restore aiding and abetting liability in private actions.

The North American Securities Administrators Association and the Association of the Bar of the City of New York also endorsed restoration of aiding and abetting liability in private actions.

In summing up, let me simply say I support the goal of deterring and sanctioning frivolous securities litigation. This bill, though, will deter legitimate fraud actions as well. By protecting fraudulent forward looking statements, and by restricting the application of joint and several liability, this bill may undermine the investor confidence on which our markets depend. Further, it fails to include provisions that are needed to ensure that investors have adequate time and means to pursue securities fraud actions.

We are not alone in concluding this legislation will threaten our markets by undermining investor confidence. Since the Banking Committee approved this bill we have received letters of opposition from securities regulators, State and local government officials, consumer groups and others, which I will place in the RECORD following this statement.

The assertion is, on the other side, there is a certain private interest involved. We are trying to get at the abuse of the existing securities laws. But, in effect, independent observers, as it were, the securities regulators, local government officials, State government officials, have looked at this thing and they say this is excessive. This is overreaching.

In a June 8, 1995 letter, the Government Finance Officers Association [GFOA] strongly supported our position. Consisting of more than 13,000 State and local government financial officials, the GFOA's members both issue securities and invest billions of dollars of public pension and taxpayer funds. In its letter, the GFOA opposed S. 240 as reported:

> We support efforts to deter frivolous securities lawsuits, but we believe that any legislation to accomplish this must also maintain an appropriate balance that ensures the rights of investors to seek recovery against those who engage in fraud in the securities markets. We believe that S. 240 does not achieve this balance, but rather erodes the ability of investors to seek recovery in cases of fraud.

The North American Securities Administrators Association, which represents the 50 State securities regulators, wrote earlier this week "to express * * * opposition to S. 240 as it was reported out of the Banking Committee." The letter expresses "NASAA's view that the bill succeeds in curbing frivolous lawsuits only by making it equally difficult to pursue rightful claims against those who commit securities fraud."

And they mention the amendments pertaining to safe harbor, proportional liability, the statute of limitations, and aiding and abetting liability as being desirable changes to be made in this legislation.

On May 23, 1995, 12 separate groups wrote to the Committee, including the National League of Cities, the American Council on Education, and the California Labor Federation of the AFL–CIO. They wrote that the committee print "has not moved at all in the direction of the achieving the balance we believe is so critical."

The St. Louis Post Dispatch had an editorial headed "Don't Protect Securities Fraud"; the Los Angeles Times, "This Isn't Reform—It's a Steamroller: GOP bill curbing lawsuits would flatten the small investor"; the Philadelphia Inquirer, "Going easy on crooks in 3-piece suits"; and other papers across the country.

Mr. President, I ask unanimous consent that the letters that I cited and earlier made reference to, the articles, and these editorials be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 2)

Mr. SARBANES. Mr. President, the securities markets are crucial to our economic growth; we should evaluate efforts to tamper with them very, very carefully. I hope in the course of our consideration of this measure over the next few days that Members will focus on the issues. I mean, the issue is not an extreme example for which there are provisions in the bill to deal with, with which no one quarrels. The issues are these items which I have cited about which we have heard from the Chairman of the Securities and Exchange Commission, from the Government Finance Officers Association, from the North American Securities Administrators Association, from a broad range of consumer groups, and from leading editorials and columnists across the country.

I very much hope my colleagues will support amendments to correct the flaws in this legislation. If that were to be done, then we could move forward with a piece of legislation that I think would accomplish the proper balance.

Mr. President, I yield the floor.

EXHIBIT 1

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, May 19, 1995.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As Chairman of the Securities and Exchange Commission I have no higher priority than to protest American investors and ensure an efficient capital formation process. I know personally just how deeply you share these goals. In keeping with our common purpose, both the SEC and the Congress are working to find an appropriate "safe harbor" from the liability provisions of the federal securities laws for projections and other forward-looking statements made by public companies. Several pieces of proposed legislation address the issue of the safe harbor and the House-passed version, H.R. 1058, specifically defines such a safe harbor.

Your committee is now considering securities litigation reform legislation that will include a safe harbor provision. Rather than simply repeat the Commission's request that Congress await the outcome of our rulemaking deliberations, I thought I would take this opportunity to express my personal views about a legislative approach to a safe harbor.

There is a need for a stronger safe harbor than currently exists. The current rules have largely been a failure and I share the disappointment of issuers that the rules have been ineffective in affording protection for forward-looking statements. Our capital markets are built on the foundation of full and fair disclosure. Analysts are paid and investors are rewarded for correctly assessing a company's prospects. The more investors know and understand management's future plans and views, the sounder the valuation is of the company's securities and the more efficient the capital allocation process. Yet, corporate America is hesitant to disclose projections and other forward-looking information, because of excessive vulnerability to lawsuits if predictions ultimately are not realized.

As a businessman for most of my life, I know all too well the punishing costs of meritless lawsuits—costs that are ultimately paid by investors. Particularly galling are the frivolous lawsuits that ignore the fact that a projection is inherently uncertain even when made reasonably and in good faith.

This is not to suggest that private litigation under the federal securities laws is generally counterproductive. In fact, private lawsuits are a necessary supplement to the enforcement program of the Commission. We have neither the resources nor the desire to replace private plaintiffs in policing fraud; it makes more sense to let private forces continue to play a key role in deterrence, than to vastly expand the commission's role. The relief obtained from Commission disgorgement actions is no substitute for private damage actions. Indeed, as government is downsized and budgets are trimmed, the investor's ability to seek redress directly is likely to increase in importance.

To achieve our common goal of encouraging enhanced sound disclosure by reducing the threat of meritless litigation, we must strike a reasonable balance. A carefully crafted safe harbor protection from meritless private lawsuits should encourage public companies to make additional forward-looking disclosure that would benefit investors. At the same time, it should not compromise the integrity of such information which is vital to both investor protection and the efficiency of the capital market—the two goals of the federal securities law.

The safe harbor contained in H.R. 1058 is so broad and inflexible that it may compromise investor protection and market efficiency. It would, for example, protect companies and individuals from private lawsuits even where the information was purposefully fraudulent. This result would have consequences not only for investors, but for the market as well. There would likely be more disclosure, but would it be better disclosure? Moreover, the vast majority of companies whose public statements are published in good faith and with due care could find the investing public skeptical of their information.

I am concerned that H.R. 1058 appears to cover other persons such as brokers. In the Prudential Securities case, prudential brokers intentionally made baseless statements concerning expected yields solely to lure customers into making what were otherwise extremely risky and unsuitable investments. Pursuant to the Commission's settlement with Prudential, the firm has paid compensation to its defrauded customers of over $700 million. Do we really want to protect such conduct from accountability to these defrauded investors? In the past two years or so, the Commission has brought 18 enforcement cases involving the sale of more than $200 million of interests in wireless cable partnerships and limited liability companies. Most of these cases involved fraudulent projections as to the returns investors could expect from their investments. Promoters of these types of ventures would be immune from private suits under H.R. 1058 as would those who promote blank check offerings, penny stocks, and roll-ups. It should also address conflict of interest problems that may arise in management buyouts and changes in control of a company.

A safe harbor must be balanced—it should encourage more sound disclosure without encouraging either omission of material information or irresponsible and dishonest information. A safe harbor must be thoughtful—so that it protects considered projections, but never fraudulent ones. A safe harbor must also be practical—it should be flexible enough to accommodate legitimate investor protection concerns that may arise on both sides of the issue. This is a complex issue in a complex industry, and it raises almost as many questions as one answers: Should the safe harbor apply to information required by Commission rule, including predictive information contained in the financial statements (e.g. pension liabilities and over-the-counter derivatives)? Should it extend to oral statements? Should there be a requirement that forward-looking information that has become incorrect be updated if the company or its insiders are buying or selling securities? Should the safe harbor extend to disclosures made in connection with a capital raising transaction on the same basis as more routine disclosures as well? Are there categories of transactions, such as partnership offerings or going private transactions that should be subject to additional conditions?

There are many more questions that have arisen in the course of the Commission's exploration of how to design a safe harbor. We have issued a concept release, received a large volume of comment letters in response, and held three days of hearings, both in California and Washington. In addition, I have met personally with most groups that might conceivably have an interest in the subject: corporate leaders, investor groups, plaintiff's lawyers, defense lawyers, state and federal regulators, law professors, and even federal judges. The one thing I can state unequivocally is that this subject eludes easy answers.

Given these complexities—and in light of the enormous amount of care, thought, and work that the Commission has already invested in the subject—my recommendation would be that you provide broad rulemaking authority to the Commission to improve the safe harbor. If you wish to provide more specificity by legislation, I believe the provision must address the investor protection concerns mentioned above. I would support legislation that sets forth a basic safe harbor containing four components: (1) protection from private lawsuits for reasonable projections by public companies; (2) a scienter standard other than recklessness should be used for a safe harbor and appropriate procedural standards should be enacted to discourage and easily terminate meritless litigation; (3) "projections" would include voluntary forward-looking statements with respect to a group of subjects such as sales, revenues, net income (loss), earnings per share, as well as the mandatory information required in the Management's Discussion and Analysis; and (4) the Commission would have the flexibility and authority to include or exclude classes of disclosures, transactions, or persons as experience teaches us lessons and as circumstances warrant.

As we work to reform the current safe harbor rules of the Commission, the greatest problem is anticipating the unintended consequences of the changes that will be made in the standards of liability. The answer appears to be an approach that maintains flexibility in responding to problems that may develop. As a regulatory agency that administers the federal securities laws, we are well situated to respond promptly to any problems that may develop, if we are given the statutory authority to do so. Indeed, one possibility we are considering is a pilot safe harbor that would be reviewed formally at the end of a two year period. What we have today is unsatisfactory, but we think that, with your support, we can expeditiously build a better model for tomorrow.

I am well aware of your tenacious commitment to the individual Americans who are the backbone of our markets and I have no doubt that you share our belief that the interests of those investors must be held paramount. I look forward to continuing to work with you on safe harbor and other issues related to securities litigation reform.

Thank you for your consideration.

Sincerely,

ARTHUR LEVITT.

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, May 25, 1995.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I understand that this morning you and the members of the Banking Committee will be considering S. 240 and that you will be offering an amendment in the nature of a substitute. While I have not had the opportunity to analyze fully the May 24th manager's amendment to the Committee print, I appreciate your leadership and efforts to address the concerns of the Commission in drafting your alternative.

The safe harbor provision in the amendment, in my opinion, is preferable to the blanket approach of H.R. 1058. It addresses a number of the concerns pertaining to the size of the safe harbor and the exclusions from the safe harbor. The Committee staff appears to be genuinely interested in the Commission's views of its draft legislation and has attempted to be responsive. I was pleased to see the latest draft deleted the requirement that a plaintiff must read and actually rely upon the misrepresentation before a claim is actionable. Your attempt to tailor the breadth of the safe harbor of the Securities Exchange Act of 1934 to the more narrow safe harbor of the Securities Act of 1933 was encouraging. However, I continue to believe that the definition should be further narrowed to parallel the items contained in my letter of May 19th. Moreover, there remain a number of troubling issues.

I continue to have serious concerns about the safe harbor fraud exclusion as it relates to the stringent standard of proof that must be satisfied before a private plaintiff can prevail. As Chairman of the Securities and Exchange Commission, I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection. The scienter standard in the amendment may be so high as to preclude all but the most obvious frauds. I believe that there should be a direct relationship between the level of scienter required to prove fraud and the types of statements protected by the safe harbor. My letter of May 19th indicated the discreet list of subjects that are suitable for safe harbor protection, assuming a simple "knowing" standard. Accordingly, if the Committee is unwilling to lower the proposed scienter level to a simple "knowing" standard, the safe harbor should not protect forward-looking statements contained in the management's discussion and analysis section. This would be better left to Commission rulemaking.

In addition to my concerns about the safe harbor, there is no complete resolution of two important issues for the Commission. First there is no extension of the statute of limitations for private fraud actions from three to five years. Second, the draft bill does not fully restore the aiding and abetting liability eliminated in the Supreme Court's Central Bank of Denver opinion. I am encouraged by the Committee's willingness to restore partially the Commission's ability to prosecute those who aid and abet fraud; however, a more complete solution is preferable.

I also wish to call your attention to a potential problem with the provision relating to Rule 11 of the Federal Rules of Civil Procedure. I worry that the standard employed in your draft may have the unintended effect of imposing a "loser pays" scheme. The greater the discretion afforded the court, the less likely this unintended consequence may appear.

I would like to express my particular gratitude for the courtesy and openness displayed by the Committee and its staff. I hope we will continue to work together to improve the bill so as to reduce costly litigation without compromising essential investor protections.

Thank you for your consideration.

Sincerely,

ARTHUR LEVITT.

GOVERNMENT FINANCE
OFFICERS ASSOCIATION,
Washington, DC, June 8, 1995.

Hon. PAUL S. SARBANES,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: I am writing on behalf of the more than 13,000 state and local government financial officials who comprise the membership of the Government Finance Officers Association (GFOA) to bring to your attention serious concerns we have with the Securities Litigation Reform Act, S. 240, recently approved by the Senate Banking Committee. As you know, the GFOA is a professional association of state and local officials who are involved in and manage all the disciplines of public finance. The state and local governmental entities our members represent bring a unique perspective to this proposed legislation because they are both investors of billions of dollars of public pension funds and temporary cash balances, and issuers of debt securities as well.

We support efforts to deter frivolous securities lawsuits, but we believe that any legislation to accomplish this must also maintain an appropriate balance that ensures the rights of investors to seek recovery against those who engage in fraud in the securities markets. We believe that S. 240 does not achieve this balance, but rather erodes the ability of investors to seek recovery in cases of fraud.

The strength and stability of our nation's securities markets depend on investor confidence in the integrity, fairness and efficiency of these markets. To maintain this confidence, investors must have effective remedies against those persons who violate the antifraud provisions of the federal securities laws. In recent years, we have seen how investment losses caused by securities laws violations can adversely affect state and local governments and their taxpayers. It is essential, therefore, that we fully maintain our rights to seek redress in the courts.

S. 240 would drastically alter the way America's financial system has worked for over 60 years—a system second to none. Following are the major concerns state and local governments have with this "reform" legislation:

Fraud victims would face the risk of having to pay the defendant's legal fees if they lost. S. 240 imposes a modified "loser pays" rule that carries the presumption that if the loser is the plaintiff, all legal fees should be shifted to the plaintiff. The same presumption, however, would not apply to losing defendants. The end result of this modified "loser pays" rule is that it would strongly discourage the filing of securities fraud claims by victims, regardless of the merits of the cases. This is particularly true for state and local governments that have lost taxpayer funds through investments, involving financial fraud in derivatives, for example, but who simply cannot afford to risk further taxpayer funds by taking the risk that they might lose their case and have to pay the legal fees of large corporations. The argument is made that a modified loser pays rule is necessary to deter frivolous lawsuits, but we understand there are only 120 companies sued annually—out of over 14,000 public corporations, and that the number of suits has not increased from 1974.

Fraud victims would find it exceedingly difficult to fully recover their losses. Our legal standard of "joint and several" liability has enabled defrauded investors to recover full damages from accountants, brokers, bankers and lawyers who help engineer securities frauds, even when the primary wrongdoer is bankrupt, has fled or is in jail. S. 240 sharply limits the traditional rule of joint and several liability for reckless violators. This means that fraud victims would be precluded from fully recovering their losses.

Wrongdoers who "aid and abet" fraud would be immune from cases brought by fraud victims. As you know, aiders had been held liable in cases brought by fraud victims for 25 years until a 5-4 Supreme Court ruling last year eliminated such liability because there was not specific statutory language in federal securities law. If aiders and abettors are immune from liability, as issuers of debt securities, state and local governments would become the "deep pockets," and as investors they would be limited in their ability to recover losses. The Securities and Exchange Commission and the state securities regulators have recommended full restoration of liability of aiders and abettors and GFOA supports that recommendation.

Wrongdoers would be let off the hook by a short statute of limitations. We had supported the modest extension of the statute—from one year from discovery of the fraud but no more than three years after the fraud to two years after the violation was, or should have been, discovered but not more than five years after the fraud was committed—that was contained in an earlier version of S. 240. We are disappointed that this extension was removed in the Committee's markup of the legislation and hope it will be restored when the full Senate considers the bill.

Under S. 240, corporations could deceive investors about future events and be immunized from liability in cases brought by defrauded investors. Corporate predictions are inherently prone to fraud as they are an easy way to make exaggerated claims of favorable developments to attract investors. The "safe harbor" in S. 240 is a very broad exemption and immunizes a vast amount of corporate information so long as it is called a "forward-looking statement" and states that it is uncertain and there is risk it may not occur. Such statements are immunized even if they are made recklessly. We believe this opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery.

Access to fair and full compensation through the civil justice system is an important safeguard for state and local government investors, and is a strong deterrent to securities fraud. We believe. S. 240 as written does not provide such access to state and local governments or to other investors. Just as state and local government investors are urged to use extreme caution in investing public funds, the Senate should use extreme caution in reforming the securities regulation system.

We hope you will work to bring about needed changes in the legislation when it is considered by the full Senate. If there is any way we can help in this effort, please do not hesitate to call on us.

Sincerely,

CATHERINE L. SPAIN,
Director, Federal Liaison Center.

NORTH AMERICAN SECURITIES
ADMINISTRATORS ASSOCIATION, INC.,
Washington, DC, June 20, 1995.

Re S. 240, the "Private Securities Litigation Reform Act."

Hon. PAUL S. SARBANES,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: The full Senate may consider as early as Wednesday or Thursday of this week, S. 240, the "Private Securities Litigation Reform Act of 1995." On behalf of the North American Securities Administrators Association (NASAA), we are writing today to express the Association's opposition to S. 240 as it was reported out of the Banking Committee. In the U.S., NASAA is the national voice of the 50 state securities agencies responsible for investor protection and the efficient functioning of the capital markets at the grassroots level.

While everyone agrees on the need for changes to the current securities litigation system, not everyone is prepared to deny justice to defrauded investors in the name of such reform. Proponents of the bill make two claims: first, that they have modified the bill to satisfy many of the objections to the earlier version; and second, that the bill will not prevent meritorious claims from going forward. Neither claim is accurate. First, the changes made to the bill do little to resolve the serious objections to S. 240 raised by NASAA and its members. In fact, it may be argued that during the Banking Committee's deliberations the bill was made less acceptable from the perspective of investors. Second, it is NASAA's view that the bill succeeds in curbing frivolous lawsuits only by making it equally difficult to pursue rightful claims against those who commit securities fraud.

The reality is that the major provisions of S. 240 will work to shield even the most egregious wrongdoers among public companies, brokerage firms, accountants and others from legitimate lawsuits brought by defrauded investors. Do we really want to erect protective barriers around future wrongdoers?

NASAA agrees that there is room for constructive improvement in the federal securities litigation process. The Association supports reform measures that achieve a balance between protecting the rights of defrauded investors and providing relief to honest companies and professionals who may unfairly find themselves the targets of frivolous lawsuits. Regrettably, S. 240 as approved by the Senate Banking Committee fails to achieve this necessary balance.

Although this bill has been characterized in some quarters as an attempt to improve the cause of defrauded investors in legitimate lawsuits, that simply is not the case. Attempts to incorporate into the bill provisions that would work to the benefit of defrauded investors were rejected when the Banking Committee considered the bill. At the same time, the few provisions in the original bill that may have worked to the benefit of defrauded investors were deleted.

For example, during the Committee' deliberations: (1) the rather modest extension of the statute of limitations for securities fraud suits contained in the original version was deleted; (2) attempts to fully restore aiding and abetting liability under the securities laws were rejected; (3) a regulatory safe harbor for forward-looking statements contained in the original version of S. 240 was replaced with an overly broad safe harbor for such information, making it extremely difficult to sue when misleading information causes investors to suffer losses; and (4) efforts to loosen the strict limitations on the applicability of joint and several liability were rejected, making it all but impossible for more than a very few to ever fully recover their losses when they are defrauded. The truth here is that this is a one-sided measure that will benefit corporate interests at the expense of investors.

As state government officials responsible for administering the securities laws in our jurisdictions, we know the important role private actions play in the enforcement of our securities laws and in protecting the honesty and integrity of our capital markets. The strength and stability of our nation's securities markets depend in large measure on investor confidence in the fairness and integrity of these markets. In order to maintain this confidence, it is critical that investors have effective remedies against persons who violate the anti-fraud provisions of the securities laws.

When S. 240 is considered on the Senate floor, it is expected that several pro-investor amendments will be offered in an attempt to inject some balance into the measure. Among the amendments we expect to be offered are those that would: (1) extend the statute of limitations for private securities fraud actions; (2) fully restore aiding and abetting liability under the securities laws; (3) replace the expansive safe harbor for foward-looking statements with a directive to the Securities and Exchange Commission to continue its rulemaking efforts and report back to Congress; and (4) lift the severe limitations on joint and several liability so that defrauded investors may fully recover their losses.

On behalf of NASAA, we respectfully encourage you to vote in favor of all such amendments when they are offered on the Senate floor. If all four amendments are not adopted, we respectfully encourage you to oppose S. 240 on final passage.

NASAA regrets that the Association cannot support the litigation reform proposed as reported out of the Senate Banking Committee. The Association believes that this issue is an important one and one that should be addressed by Congress. However, NASAA believes that is more important to get it done right than it is to get it done quickly. S. 240 as it was reported out of the Banking Committee should be rejected and more carefully-crafted and balanced legislation should be adopted in its place.

If you have any questions about NASAA's position on this issue, please contact Maureen Thompson, NASAA's legislative adviser.

Sincerely,

PHILIP A. FEIGN,

Securities Commissioner, Colorado Division of Securities, President, North American Securities Association.

MARK J. GRIFFIN,
Director, Utah Securities Division, Chairman, Securities Litigation Reform Task Force of the North American Securities Administrators Association.

AMERICAN COUNCIL ON EDUCATION, CALIFORNIA LABOR FEDERATION—AFL-CIO, CONGRESS OF CALIFORNIA SENIORS—LA COUNTRY, CONSUMER FEDERATION OF AMERICA, CONSUMERS FOR CIVIL JUSTICE, INTERNATIONAL BROTHERHOOD OF TEAMSTERS, GOVERNMENT FINANCE OFFICERS ASSOCIATION, GRAY PANTHERS, NATIONAL LEAGUE OF CITIES, NEW YORK STATE COUNCIL OF SENIOR CITIZENS, NORTH AMERICAN SECURITIES ADMINISTRATORS ASSOCIATION, U.S. PUBLIC INTEREST RESEARCH GROUP,

May 23, 1995.

Re: securities litigation reform.

Hon. ALFONSE D'AMATO,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN D'AMATO: Our organizations have been actively involved in the securities litigation reform debate. We are writing today to express the very serious concerns our organizations and individual members have with the major provisions of S. 240, the "Private Securities Litigation Reform Act," introduced by Senators Dodd and Domenici, and with the substitute language that emerged on Monday.

Let us be clear: our organizations strongly believe that any securities litigation reform must achieve a balance between protecting the rights of defrauded investors and providing relief to honest companies and professionals who may find themselves the target of a frivolous lawsuit. We agree that abusive practices should be deterred, and where appropriate, sternly sanctioned. At the same time, the doorway to the American system of civil justice must remain open for those investors who believe they have been defrauded.

Although we understand that some of the specifics of S. 240 remain under discussion, we are extremely disappointed to see that the substitute language now being circulated (and expected to be marked up on Thursday, May 25th) has not moved at all in the direction of achieving the balance we believe is so critical to resolving this debate. While we appreciate the fact that some of the provisions we found most objectionable in the bill as introduced were deleted, we are dismayed to find other equally troubling provisions inserted in the new draft. Perhaps most disturbing is that the one pro-investor provision found in S. 240 as introduced—the extension of the statute of limitations—has been dropped entirely in the latest version of the bill.

Collectively, our organizations and those with which we have worked closely on this issue represent tens of millions of ordinary Americans who increasingly must rely on investments to build retirement nest eggs, finance the college education of children, and to save for major purchases, such as a home. The organizations represent the thousands of state and local governments, that participate in the securities markets both as investors of pension funds and temporary cash balances and as issuers of municipal debt. Our ranks also include colleges and universities and other institutions of higher learning, as well as labor organizations, that participate in the securities markets as investors of endowment and pension funds.

Our general and primary concerns with respect to the provisions of S. 240, as well as with other proposals that now are under discussion or are present in the House version of this legislation, include;

Unreasonable standards for fraud pleadings, burden of proof and damages;

Any form of "means testing" for access to justice of recovery, including conferring a special status on certain, larger investors;

Limits on joint and several liability that will work to immunize from liability certain professional groups;

"Loser pays" rules;

Expansive safe harbor exemptions from private liability for forward looking statements (we believe the more appropriate response is SEC rulemaking in this area); and

Expanding the scope of this bill to go beyond cases involving private class actions brought under the 1934 Securities Exchange Act.

At the same time, we have expressed support for major reform proposals, including:

An early evaluation procedure designed to weed out clearly frivolous cases, with sanctions imposed in certain instances;

A more rational system of determining liability based on proportionate liability for reckless violators and joint and several liability for knowing violators, with provisions made for special circumstances in which knowing securities violators are unable to satisfy a judgment;

The right to contribute among liable defendants according to proportionate responsibility.

Certification of complaints and improved case management procedures;

Improved disclosure of settlement terms;

Curbs on potentially abusive practices on the part of plaintiffs' attorneys;

A reasonable extension of the statute of limitations for securities fraud suits; and

Restoration of liability for aiding and abetting securities fraud.

Although some people may mistakenly believe that the markets run on money, the truth is that the markets run on public confidence. As investors ourselves and as representatives of investors, we can tell you that the confidence we have in the marketplace will be dramatically altered if we come to believe that not only are we at risk of being defrauded, but that we will have no recourse to fight back against those who have victimized us. We fear that is exactly what will be the case if S. 240 or its substitute version is enacted. There should be little doubt that under such a scenario many investors will seriously reconsider whether they want to remain in the marketplace.

Finally, we want to take this opportunity to put to rest the frequently voiced claim that no defrauded investor with a meritorious case will be denied justice under these reform proposals. That is just plainly and demonstrably untrue.

Any questions about this letter should be directed to any of the contacts listed below:

Contacts;

American Council on Education: Shelly Steinbach.

CA Labor Federation—AFL-CIO: Bill Price.

Congress of CA Seniors—LA County: Max Turchen.

Consumer Federation of America: Mern Horan.

Consumers of Civil Justice: Walter Fields.

International Brotherhood of Teamsters: Bart Naylor.

Government Finance Officers Association: Cathy Spain.

Gray Panthers: Dixie Horning.

National League of Cities: Frank Shafroth.

New York State Council of Senior Citizens: Eleanor Litwak.

North American Securities Administrators Association: Maureen Thompson.

U.S. Public Interest Research Group: Ed Mierzwinski.

MAY 24, 1995.

Re oppose S. 240—devastating for consumers, seniors, investors.

Hon. PAUL S. SARBANES,
Senate Committee on Banking, Housing, and Urban Affairs, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: We are writing to express our strong opposition to S. 240, the so-called "Private Securities Litigation Reform Act." In our earlier analysis of the bill (January 25, 1995), we discussed the eight most harmful provisions for consumers, seniors, and investors. We stressed that S. 240 would effectively eliminate private enforcement of the securities law and greatly reduce the likelihood that innocent victims of fraud could recover their losses from corporate and individual wrongdoers.

Now that the Banking Committee's substitute has been issued in preparation for the markup on Thursday, May 25, we are deeply concerned that the bill has not moved in the direction of balanced reform. On the whole, the bill is now even worse for average Americans. The intentions of the Senate Banking Committee's substitute bill are clear—to promote the interests of big corporations, big accounting firms, big brokerage firms and big investment banking houses at the expense of average Americans. The bill is now entirely anti-consumer, anti-senior, anti-investor, and pro-defendant, pro-industry, and pro-wealthy. Any pretensions of protecting small investors and meritorious fraud actions have been abandoned.

Only one of our concerns (the insider-dominated disciplinary board for accountants) has been addressed, while seven deeply troubling provisions remain or have gotten even worse. We have attached a consumer critique of the Banking Committee's substitute which explains our strong opposition, as well as a recent article which highlights the urgency of our concerns.

S. 240 strikes a blow to the heart of the middle class and average, hard-working Americans who depend on the federal securities system to protect their savings, investments, and retirements. A study published in the 1991 Maine Law Review found that 87% of managers surveyed were willing to commit financial statement fraud, more than 50% were willing to overstate assets, 48% were willing to understate loss reserves, and 38% would "pad" a government contract. In addition, securities fraud is increasing at an alarming rate. Cases brought by federal and state regulators have increased by more than 45% in just five years.

Moreover, a new major financial fraud that could rival the savings and loan fiasco—involving high-risk, highly speculative derivative securities—is just being discovered. Orange County is not alone. Already, 40 American communities and public institutions across the country have reported derivatives losses totalling some $3 billion. And indications are that fraud may have played a large role in many of those disasters.

Clearly, this is no time to be immunizing fraud and removing vital investor protection laws that have served American consumers so well for decades. We urge you to vote against S. 240 in the markup on Thursday.

Sincerely,

RICHARD VUERNICK,
Legal Policy Director, Citizen Action.
MERN HORAN,
Legislative Representative, Consumer Federation of America.
MARY GRIFFIN,
Counsel, Consumers Union.
JOAN CLAYBROOK,
President, Public Citizen.
EDMUND MIERZWINSKI,
Consumer Program Director, U.S. Public Interest Research Group.
M. KRISTEN RAND,
Director of Federal Policy, Violence Policy Center.

Attachment.

[From the New York Times, May 22, 1995]

FRIENDS OF FRAUD?

(By Anthony Lewis)

Of all the bills making their way through this Congress, the most devastating to its area of the law may be one that has had relatively little attention: legislation to weaken the protection of the public against securities fraud.

The House passed a bill in March. Now the Senate Banking Committee is working on its version. To judge how devastating the legislation would be, consider what it would have done to some of the most notorious recent fraud cases.

In the 1980's Prudential Securities brokers lure customers to invest in risky securities with deliberately false statements about how much they would make. The defrauded investors and the Securities and Exchange Commission sue Prudential Securities, and in the S.E.C. case alone the firm agreed to repay more than $700 million to the victims.

The victims would probably have been unable to sue if one section of the current House bill had been law. Known as the "safe harbor" provision, it immunizes from suits by the defrauded all "forward-looking statements" about securities. Companies and their agents could make false "projections" and "estimates" of future performance, even if they were deliberate lies, without fear of lawsuits by those defrauded.

The chairman of the S.E.C., Arthur Levitt Jr., is concerned about the "safe harbor" provision. He has just written to the Senate committee urging it not thus to protect "purposefully fraudulent" financial predictions.

That is not the only part of the pending legislation that would make it difficult—perhaps impossible—for victims of fraud to sue. Another is a provision of the House bill requiring anyone who brings a securities fraud suit to show at once, when he or she sues, the state of mind of the defendant indicating fraudulent intent. That kind of information is usually found only during the discovery phase of a case.

For example, two months ago shareholders in Koger Properties Inc. won an $81.3 million judgment in a fraud suit against its accounting firm, Deloitte & Touche. During pretrial discovery, the plaintiffs' lawyers found that the partner in charge of the audit owned stock in Koger, a violation of accounting standards. They could not have known that when they sued.

Still another provision of the House bill, and the Senate's as it stands, would limit what is called "joint and several liabilities." That allows the victims of fraud to recover from others involved if the principal fraud perpetrator is not able to pay.

Last month, for example, Steven Hoffenberg of Towers Financial Corporation pleaded guilty to securities fraud and criminal conspiracy in a Ponzi scheme that cost investors $460 million. He said his accountants and lawyers helped carry out the fraud by issuing false financial statements and making misleading statements to the S.E.C. Towers is bankrupt, so the victims are suing the lawyers and accountants.

Some of the worst scams in recent history would have left the defrauded investors with little or no recourse if the "joint and several liability" limit had been in effect. The victims of Charles Keating, the great savings and loan swindler, would have been out of luck when he went to prison and said he was broke.

The legislation sounds highly specialized, and it is. But it would have widespread effects on real people. In addition to individual investors who have been defrauded, many local governments have lost large sums in recent years and are suing brokerage firms and others. The big example is Orange County, California, which lost more than $1 billion, but there are dozens more.

It is a peculiar time to weaken legal protections: a time of spectacular financial frauds. The latest involves the Foundation for New Era Philanthropy, whose scam attracted many charities and such investors as Lawrence S. Rockefeller and William E. Simon. New Era collapsed last week, and the S.E.C. charged its founder with "massive" securities fraud.

But this Congress evidently does not care a lot about the victims of fraud. It is listening to the lobbyists for accounting firms and insurance companies, whose political action committees have made large campaign contributions, and others who want to operate without fear of being sued for securities fraud.

CONSUMERS UNION, CONSUMER FEDERATION OF AMERICA, U.S. PUBLIC INTEREST RESEARCH GROUP, CITIZEN ACTION, PUBLIC CITIZEN, VIOLENCE POLICY CENTER

CONSUMER CRITIQUE OF S. 240 "PRIVATE SECURITIES LITIGATION REFORM ACT"

(1) Abrogation of joint and several liability, which would effectively immunize professional wrongdoers. The original S. 240 eliminated joint and several liability in a wide class of cases, favoring large corporations, accountants, brokers and bankers—who have been found liable—over defrauded victims. The substitute S. 240 restricts joint and several liability even further.

Under joint and several liability, if one wrongdoer is found liable but has no assets, the victim can be reimbursed fully by the other wrongdoers, without whose assistance the fraud could not have succeeded. This traditional aspect of America's legal system for fraud is based on the policy that it is more fair for other wrongdoers to pay for a loss that cannot be collected from one of the coconspirators than it is for the victims to go uncompensated. The rule has enabled swindled consumers to recover full damages from accountants, brokers, bankers, lawyers and other wrongdoers who participate in securities scams, even when the primary wrongdoer has no assets left, has fled, or is in jail.

The original S. 240 sharply limited this rule, immunizing reckless wrongdoers from joint and several liability. If S. 240 had been in effect, most investors would not have recovered their life savings in the Charles Keating/Lincoln Savings & Loan debacle. Although Keating had become bankrupt, the victims recovered their damages from the accountants, bankers, and lawyers who assisted Keating. Despite extensive testimony to Congress that restricting joint and several liability will reduce recoveries for defrauded victims and encourage more fraud, the substitute bill restricts joint and several liability even further.

Under the substitute, in the all-too-often cases where a knowing violator's share is uncollectible, the liability of reckless violators for the uncollectible share would be subject to a lower "cap" than under the original bill. The rest of the uncollectible share simply will be lost to the defrauded victims. Although the "cap" would not apply to victims with a net worth over $200,000 and recoverable damages of more than 10% of their net worth, that basically eliminates anyone who owns a house.

Adjudged perpetrators of securities fraud are given a gift while fraud victims are denied full recover of the money that was stolen from them—that is the policy of S. 240. Under the substitute, it will be virtually impossible for many victims of fraud to recover a large part of their losses.

(2) Failure to restore the liability of those who aid and abet fraud. The original S. 240 failed to restore aiding and abetting liability for accountants, lawyers, brokers, bankers and others who assist primary wrongdoers in committing securities fraud. The substitute also fails to do so.

Last year, in the Central Bank of Denver case, the Supreme Court overturned in a 5-4 ruling 25 years of established precedent (including all 11 federal appellate courts that addressed the issue) by wiping out aiding and abetting liability of accountants, lawyers, brokers, bankers and others who assist primary wrongdoers in committing securities fraud. This right of action has played a vital role in compensating swindled consumers in the major financial frauds of the last several decades and must be restored by Congress. Central Bank severely weakens the deterrence of securities fraud because it sends a dangerous signal to the markets that a primary enforcement tool has been eliminated. That not only hurts defrauded consumers, it hurts all Americans. S. 240 fails to address this issue for obvious reasons—the entire thrust of the bill is to further immunize defendants from liability.

In their Congressional testimony, the Securities and Exchange Commission ("SEC") and state regulators recommended restoring aiding and abetting liability. Even Senator Dodd has stressed the importance of restoring the liability of those who aid and abet securities fraud. During a May 12, 1994 hearing before the Senate Subcommittee on Securities, Senator Dodd stated "Lawyers, accountants, and other professionals should not get off the hook, in my view, when they assist their clients in committing fraud . . . The Supreme Court has laid down a gauntlet for Congress . . . In my view, we need to respond to the Supreme Court decision promptly and I emphasize promptly."

(3) Discrimination against small shareholders. The original S. 240 contained a blatantly discriminatory wealth-test for filing securities fraud class actions. The substitute replaces the wealthiest with an equally discriminatory wealth-control provision.

The substitute adds a new provision that sets up a strong presumption that the "most adequate plaintiff" in any private class action is the plaintiff that has the largest financial interest in the outcome of the action. The bill then grants this "most adequate plaintiff" the power to select the lead counsel and control the case, including settling for any amount or even dismissing the case.

Perhaps no other change to S. 240 makes plainer the real motives behind the bill and makes hollower any pretensions to protect meritorious fraud actions. This "most affluent plaintiff" requirement would have a devastating effect on average consumers who are defrauded in the securities markets. Mutual funds and large investors, who may have close ties to big corporate fraud defendants (e.g., mutual fund managers enjoy ready access to information from corporate managers) and who may care less about full recovery because its loss reflects a smaller proportion of total investment than smaller investors' losses, can afford to accept less than full recoveries, would have complete control over class actions at the expense of average investors. What makes a mutual fund that has lost $1 million of its $1 billion portfolio more adequate to represent a class of defrauded investors than an elderly widow who has lost $27,000 out of her $30,000 net worth?

Aside from raising the specter of collusive intervention by large investors simply to dismiss cases or enter into sweetheart settlements, the substitute virtually precludes small investors from being able to obtain attorneys willing to invest their time on cases in which they can have no control and may not be paid fairly (or at all) by lead counsel.

This provision also directly contradicts the primary rationale for class actions—to give average investors who cannot afford to litigate against major corporate defendants on their own a means by which they could band together to seek a remedy for their losses.

(4) Inadequate efforts to deal with unwarranted secrecy. As we outlined in our January letter, the original S. 240 made no effort to address the serious problem of defendant-coerced secrecy orders covering all the underlying documents relevant to the fraud. These orders remain in effect throughout the litigation and generally require that, once a case is terminated, the documents be destroyed or returned to the defendants. Such secrecy orders block significant corporate wrongdoing from public scrutiny and allow defendants, at the time of settlement, to proclaim their innocence without fear of contradiction. The substitute continues to ignore this problem, further demonstrating that the bill is not really intended to solve the real problems in securities litigation.

(5) Imposition of "loser pays" fee shifting. The original S. 240 abrogated a 200-year-old legal principle reflecting our national policy in favor of access to justice. It did so by requiring losing parties who decline to accept out-of-court resolution of their cases to pay all of the prevailing parties' legal fees and costs.

The substitute simply replaces this "loser pays" rule with a different "loser pays" rule—mandatory sanctions under Rule 11 of the Federal Rules of Civil Procedure which includes a strong presumption in favor of shifting all legal fees and costs to the loser. The new provision suffers from the same flaw as the original—average consumers who have just lost their retirement savings in a financial fraud cannot afford to take the risk that they might lose their house as well if they lose their case. Moreover, the new rule would prolong cases, waste more resources on litigating additional issues, and add to the money spent on legal fees by requiring the court to make specific findings regarding compliance by every party and every attorney, even when no party requests it.

The end result of this "loser pays" rule will be a severe chill on the assertion of securities fraud claims, regardless of their merits.

(6) Free reign for false statements. The original S. 240 allowed the SEC to consider creating a safe harbor exemption for corporate predictive statements—the substitute creates a "safe ocean" exemption from fraud liability for corporate predictions that essentially grants would-be wrongdoers a license to lie. The substitute adopts a wholesale exemption which would completely immunize a vast amount of corporate information ("any statement, whether made orally or in writing, that projects, estimates, or describes future events") so long as it is called a forward-looking statement and states that it is uncertain and may not occur, even if they are made with reckless disregard for their accuracy. This is a gaping loophole through which wrongdoers could escape liability while fraud victims would be denied recovery.

Corporate "forward-looking statements" are prone to fraud as they are an easy way to make exaggerated claims of favorable developments in order to attract cash. They continue to be a favorite tool of con artists, promoters and illegal insider traders to artificially pump up the price of public company stock in order to profit at investors' expense. The substitute's safe harbor provision creates an incentive to provide bad information to consumers and a disincentive to provide the best available information. It would effect an upheaval in the mandatory corporate disclosure system in the United States, with immense potential adverse market consequences.

Finally, by itself, the safe harbor would eliminate many, if not most, fraud class actions. The safe harbor provision would require, with limited exemptions, that every class action member prove actual knowledge of and reliance on the fraudulent statement, an (almost) impossible requirement in class action suits. Under this provision, even purposefully fraudulent forward-looking statements could be made without the possibility of redress through a class action lawsuit.

The SEC is currently in the middle of a rulemaking proceeding to study forward-looking statements and has requested that Congress allow it to complete its process. We believe that Congress should defer establishing a safe harbor provision until the agency experts have thoroughly reviewed this matter.

(7) A flawed limitations period. The current statute of limitations—1 year from discovery of the fraud but in no event more than 3 years after the fraud—is generally regarded as too short. The original S. 240 extended the period to 2 years after the violation was or should have been discovered but not more than 5 years after the fraud. Rather than heed the SEC and the state securities regulators, who testified that the limitations period should be even longer, the substitute simply drops the extension entirely. There is now not a single provision in the bill that would increase recoveries for fraud victims—it is totally one-sided and should really be called the "Wrongdoer Protection Act of 1995."

(8) An insider-dominated disciplinary board for accountants. The substitute deletes the provision of the bill that would have allowed the trade association for the accountants—the AICPA—to be a sham self-disciplinary board for public accountants. This is the only one of our original concerns that has been adequately addressed by the substitute bill.

[From the Washington Post, June 18, 1995]

MAKING IT EASIER TO MISLEAD INVESTORS

(By Jane Bryant Quinn)

A lawsuit-protection bill speeding through Congress will give freer rein to Wall Street's eternal desire to hype stocks.

It's cast as a law against frivolous lawsuits that unfairly torture corporations and their accountants. But the versions in both the House and Senate do far more than that. They effectively make it easier for corporations and stockbrokers to mislead investors. Class action suits against the deceivers would be costly for small investors to file and incredibly difficult to win.

I'm against frivolous lawsuits. Who isn't? But these bills would choke meritorious lawsuits, too. They affect only claims filed in federal court, so bilked investors would still have the option of seeking justice in a state courts. But the federal law would set a terrible precedent and leave the markets more open to fraud.

The congressional proposals started out as a way of protecting companies against so-called strike suits—lawsuits filed against companies whose stock price unexpectedly plunges.

The companies complain that "vulture lawyers" lie in wait for these drops in price. When they occur, the lawyers find willing plaintiff and immediately file suit. The usual charge: that the firm, its executives and accountants misled investors with falsely optimistic statements. That's not true, the companies say, but they tend to settle just to avoid the legal expense. If so, this represents a grave cost—on corporations, shareholders and economic efficiency.

But are strike suits really overwhelming corporations? There's evidence on both sides of this issue, but most of it fails to document the executives' broad complaints.

As an example, take the new study by Baruch Lev, a professor at the University of California at Berkeley. He looked at public companies whose share price fell more than 20 percent in the five days around the time of a disappointing quarterly earnings report. There were 589 such cases, from 1988 through 1990. But related class action suits were filed against only 20 of the firms.

Lev compared those 20 companies with similar firms where no lawsuits were filed. Among other things, the litigated companies tended to put out rosy statements—in some cases, just before releasing the bad earnings report. By contrast, the firms that weren't sued tended to publish more sober statements and to warn investors in advance that earnings would be lower than expected.

Lev warns that his sample is too small to reach statistical conclusions. But his basic data undermine the claims that companies are bombarded with lawsuits whenever their stock goes down.

The new bills contain many provisions to worry investors. For example, if you lost a class action suit, you might have to pay the legal fees for the other side. Psychologically, that could stop you from suing no matter how badly you'd been burned.

The bills also give excessive protection to so-called forward statements, which are the business projections that corporations make.

Under current law, it's all right to make a reasonable projection, even if it doesn't come true. But a company can be held liable for making an unreasonable projection that misleads investors. In many of the cases where lawsuits are brought, "executives are telling the public that everything is going to be great while they're bailing out and selling their own stock," Jonathan Cuneo, general counsel of the National Association of Securities and Commercial Law Attorneys, told my associate Louise Nameth.

If these bills become law, however, companies could get away with making misleading, even reckless statements. To win a class action lawsuit, you would have to prove that a falsehood was uttered with a clear intent to deceive. That's incredibly tough to do.

This provision, in particular, troubles Arthur Levitt Jr., chairman of the Securities and Exchange Commission. "The law should not protect persons who make material statements they know to be false or misleading," he says, "nor should it protect offerings such as penny stocks, nor persons who have committed fraud in the past."

Baseless lawsuits do indeed exist. Lawyers may earn too much from a suit, leaving defrauded investors too little. The incentives to sue should be reduced. But not with these bills. They'd let too many crooks get away.

[From U.S. News & World Report, June 26, 1995]

WILL CONGRESS CONDONE FRAUD?

(By Jack Egan)

Some of the most unpopular people in Washington these days are shareholders' lawyers who sue companies at the drop of a stock, usually claiming that management deceived investors about the outlook and is liable for losses when shares fall.

Lawmakers have concluded—without much supporting evidence—that this happens far too frequently, hamstringing corporations and causing executives to be wary of making forecasts. And so legislation is zipping through Congress to curb "frivolous" or "speculative" lawsuits against public companies. The high-sounding Private Securities Litigation Reform Act of 1995 easily passed the House in March. It was approved by the Senate's banking panel and will soon be taken up by the full body.

It just might come to be remembered as legislation that steeply tilted the playing field against investors. The bill may make executives feel easier about discussing what they see ahead, with shareholders benefiting from more candid disclosure. But it makes it very hard for shareholders to sue over legitimate grievances. The House version even protects management when it lies, provided the deception is a projection.

Unhappy Levitt. The Securities and Exchange Commission, which has always viewed private actions as complementing its own limited enforcement abilities, is not happy. In a letter to Senate Banking Committee Chairman Alfonse D'Amato sympathizing with "the punishing costs of meritless lawsuits," SEC Chairman Arthur Levitt also wrote that the House-passed bill might "compromise investor protection." And while the Senate Banking Committee's bill is more moderate, the SEC chairman complained in another letter that shareholders were still hampered from bringing suits against "all but the most obvious frauds."

The crusade to throttle shareholder lawsuits has been spearheaded by high-tech companies and the big accounting firms. The stocks of technology companies tend to be quite volatile, flying high and suddenly nosediving, often when companies fail to meet ambitious earnings expectations. That makes them especially vulnerable to mugging by lawsuit; according to the American Electronics Association, which represents the industry, 9 out of 10 suits are settled out of court—averaging $8.6 million—simply to avoid the cost of lengthier litigation.

But claims that nuisance lawsuits are hurting the ability of such companies to raise capital come at a time when technology shares have led the stock market to an all-time high and initial public offerings are running at record levels. "There are 200 to 300 companies sued each year out of 20,000 that are registered," notes Democratic Sen. Richard Bryan of Nevada—about the same as 20 years ago. "I also oppose frivolous lawsuits, but that issue is really a trojan horse for firms that simply want to limit their liability."

The accounting firms felt stung by large liability verdicts against them in connection with the S&L scandal of the early 1990s. But the cases that produced the biggest judgments were brought not by individual shareholders but by the federal government, seeking to recoup its depleted S&L insurance fund. Nevertheless, the "Big Six" are eagerly backing the bill because it would bar shareholders from suing outsiders who are parties to securities fraud—like accountants.

When the full Senate debates the bill, perhaps at the end of June, efforts may be made to make it less hostile to shareholders and to deal with some of the SEC's objections. The Clinton administration has yet to weight in. But a veto threat from the president would be risky, since the lopsided vote in the House is enough for an override.

Shareholders already are barred from suing brokerages and must arbitrate instead. "The pendulum had swung too far toward the lawyers, and now it's swinging too far the other way," notes Richard Kraut, an attorney with Washington-based Storch & Brenner, which specializes in securities law. "Unfortunately, some major investor frauds may have to take place before it again moves back toward the center."

[From the St. Louis (MO) Post-Dispatch, May 9, 1995]

DON'T PROTECT SECURITIES FRAUD

The House has passed and the Senate is considering a bill to make it much harder for defrauded investors to bring class-action suits against investment firms that defraud them, as well as the accountants who helped them. The impetus for such legislation is the same as that driving tort revision, only with even less justification.

The Senate bill is sponsored by New Mexico Republican Pete Domenici and, surprisingly, Christopher Dodd, Democrat of Connecticut. Though its final provisions have yet to be settled, it is likely to restrict significantly the rights of small investors to sue for fraud.

The industry's complaint: The explosion of securities litigation needs to be curbed. But there isn't one; the number of suits has remained nearly constant in the last 20 years, despite huge growth in the volume of securities. However, recent events have created a new problem: Many accounting firms that put their names to false documents during the junk bond craze and the thrift debacle are finding themselves in court more often than ever before. They want protection. This bill would give it to them.

It would prohibit lawyers and accountants from being named as primary defendants in a class action unless the plaintiffs first can show that these defendants had actual knowledge of the fraud and the precise state of mind of those they helped perpetrate it. That can only be done by the discovery process in a lawsuit, not beforehand. The bill would also bar any plaintiff from suing who had less than 1 percent or $10,000 invested in the securities in question. This will keep a lot of people out of court.

When they do get in, if they lose, they will be responsible for court costs if they have holdings of more than very limited size, clearly a deterrent to small-investor suits for securities fraud.

These are just the highlights of a complex bill whose provisions work against not only the rights of small investors, but even large government bodies, such as Orange County or the city of Joplin, Mo., which lost huge amounts on derivatives that may have been sold to them without full disclosure.

Among those senators on the Banking Committee who are in a position to slow down the bill is Missouri's Christopher S. Bond. He should do so. His new colleague from Missouri, John Ashcroft, who has yet to take a position on the bill, should join him.

[From the Los Angeles (CA) Times, Mar. 12, 1995]

THIS ISN'T REFORM—IT'S A STEAMROLLER: GOP BILL CURBING LAWSUITS WOULD FLATTEN THE SMALL INVESTOR

Once again House Republicans have put the timetable for their "contract with America" ahead of the substance of the bills they are ramming through the lower chamber. On Wednesday the House approved a drastic revision of the nation's securities laws as part of the GOP's agenda for legal reform. The proposed Securities Litigation Reform Act, which is a key provision in the "contract," would sharply curb the ability of investors and shareholders to sue stockbrokers, accounting firms and companies for fraud.

The measure, authored by Rep. Christopher Cox (R-Newport Beach), simply goes too far. It is one thing to craft legislation directed at curbing specific abuses of securities litigation, but the House measure would amount to a wholesale dismantling of the system that enables investors and shareholders to seek redress for financial fraud.

Opponents, including state securities administrators as well as consumer groups, maintain that the bill would virtually destroy the ability of citizens of modest means to sue when they are victims of fraud. Arthur Levitt Jr., the chairman of the Securities and Exchange Commission, who has worked to improve investor protections, has reservations about the measure. So has U.S. Atty. Gen. Janet Reno. Small wonder.

The proposed law would tilt the legal system in favor of corporations and their accounting firms, lawyers and investment firms by making it too easy for them to defend themselves against shareholder suits.

What might such a law portend for cases like Orange County? County officials are seeking legal recourse against Merrill Lynch Co., which sold high-risk securities to the county's ill-fated investment pool, utilmately triggering its bankruptcy. The fear is that the proposed law could be interpreted by the courts in ways that would work against plaintiffs in cases like this one.

Under the House bill, a judge could require the losers in a securities fraud case to pay the legal expenses of the winner if the judge determined that the investors' complaint did not originally possess substantial merit. Currently there is no "loser pays" general provision. The proposed law also would demand that the plaintiff show that the company or its officials acted knowingly and recklessly in committing the fraud. The current standards are simpler: They allow investors to sue for fraud if a company withholds information or issues misleading information that affects the market price.

Between these two standards there perhaps is a sensible middle ground—but that's not to be found in the House bill.

Cox casts his bill as a limitation against so-called "strike suits," brought by shareholders who file lawsuits when the share price drops in a company in which they own a small part of the stock. The congressman likes to point out that high-technology companies are a favorite target of such lawsuits. Abuses of such lawsuits absolutely do exist and should certainly be curbed, but the House bill, as drawn, is overly broad in its potential application.

The Senate will take up the securities reform bill soon. We urge it to take a reasoned approach to the problems posed by frivolous securities lawsuits. The current House bill is not the answer.

[From the Philadelphia (PA) Inquirer, June 4, 1995]

GOING EASY ON CROOKS IN 3-PIECE SUITS

(By Jeff Brown)

True or false: Republicans are the law-and-order people who want to see more crooks go to jail and stay there longer?

True—unless the crook wears a three-piece suit instead of a ski mask. Corporate executives, accountants, securities industry pooh-bahs—they need special protection against claims they're thieves.

This, in a nutshell, is the point of the Private Securities Litigation Reform Act of 1995, approved, 11 to 4, by the Senate Banking Committee on May 24 and likely to reach the Senate floor this month. It's meant to discourage "frivolous" claims. But what about legitimate ones?

Unlike a similar House bill passed in March, the version sponsored by Sen. Alfonse D'Amato (R., N.Y.), the committee chairman, doesn't include a sweeping requirement that the loser in a stock-fraud case pay the winner's legal fees. But a trial judge could implement "loser pays" by finding the plaintiff had engaged in "abusive litigation."

Loser pays could deter stockholders from filing legitimate lawsuits by making it too risky to challenge rich corporations.

The D'Amato bill has other flaws as well, says Securities and Exchange Commission Chairman Arthur Levitt. "Willful fraud" would be made easier by a "safe harbor" provision, he says, because executives would be overly protected from lawsuits regarding misleading projections about a company's performance.

Stock frauds usually use bloated financial projections to entice investors. D'Amato would require a new, higher level of proof—essentially, that a company intended to mislead, giving defrauded investors the nearly insurmountable task of establishing a corporate executive's state of mind. An executive could make virtually any projection, then insulate himself against a fraud verdict by adding that things might not turn out that way.

The bill has some good provisions to protect investors joining in a class action from abuse by their own attorneys, and it would ensure that plaintiffs are illegitimate victims and not stooges for ambulance-chasers.

But federal court figures don't support Republican claims there's a flood of frivolous suits. There are only a few hundred class-action securities cases filed a year, while there are more than 14,000 public companies. And, of course, many securities suits are legitimate—just ask the victims in the Crazy Eddie or Lincoln Savings & Loan cases. Class actions are the cheapest way for small investors to fight abuses by well-heeled corporations.

SEC lawyers say most people who commit stock fraud could be charged with criminal violations that carry prison terms. But they aren't because in criminal cases, prosecutors need proof beyond a reasonable doubt. So most stock-fraud cases, which are tough for jurors to grasp, go to civil court, where only a preponderance of evidence is required.

Still, a crook is a crook, whether he burgled your home or lied to sell you stocks at an inflated price. And the D'Amato bill would relax the penalties for many stock crooks.

It would scrap rules that make each participant in a fraud liable for the entire sum-ordered returned to investors or paid in fines. Under the current "joint and several" liability rules if one defendant can't come up with his share, the others have to pay it.

Instead, D'Amato would establish "proportional liability," in which, with few exceptions, each defendant would pay a percentage of the penalty equal to his share of guilt, as determined at trial. Thus, if the defendant who owes 80 percent is bankrupt, the defrauded investors would be unable to recover most of what they are owed, even if another defendant has the money.

This provision was aggressively sought by the accounting profession after some firms were assessed hefty penalties for S&L frauds.

Proportional liability is like letting the getaway driver off with a speeding ticket if he didn't *intend* for his partner to shoot the bank teller. It protects the partially guilty at the expense of the investor who is completely innocent.

Surely, most corporate executives are honest. But since there's little evidence that frivolous lawsuits are a real problem, it looks as if business groups seek "reform" *legitimate* lawsuits.

A cynic could guess what goes through their minds when they see a thief in a three-piece suit held to account:

"There, but for the grace of God, go I.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I rise in strong support of S. 240. I was an original cosponsor of this bill in this Congress, and in the last Congress.

Mr. President, securities litigation reform is not a household issue. It is not one that many people follow. But the fact is that it is very important for our economy, and very important for job creation in our country.

Very simply, this bill will attempt to put an end to frivolous class action lawsuits that are filed against America's publically traded companies. These are lawsuits that have little and often no bearing. They are filed for the sole purpose of blackmailing the companies. They are not lawsuits; they are legalized blackmail into settling suits rather than going to court. Everyone that has followed the issue at all knows, or who has ever been sued knows, that it is often cheaper to settle up front than it is to go all the way to trial with the cost of lawyers today. Of course, once the suit is settled, the attorneys that brought them keep the money. They keep the larger portion of it. It has become a cottage industry for certain lawyers that has been created over the last 20 years. I think it is time to put an end to it. And that is the purpose of this bill.

The problem is dramatic. Since 1980, there has been a 73-percent increase in the number of civil suits filed in Federal court. It is estimated that class action suits have increased three fold in just the last 5 years.

The cost of these suits is no small matter. At the end of 1993, class action suits were seeking $28 billion in damages.

The impact of these suits is having a detrimental effect on our economy. Many companies are afraid to go public and sell stock. By remaining private, they can avoid these kinds of suits, but they also sacrifice an increase in growth and jobs that can come from going public. This is costing America jobs.

Some have suggested that companies from overseas are afraid to establish businesses in America out of fear that they too will fall victim to these suits. This is costing America jobs as well and economic growth.

Money that would otherwise be spent on new job growth, and on research and development is paid out to lawyers to settle these suits or money is spent fighting them.

Furthermore, excessive costs are passed along to consumers in the form of higher prices. All of this has a ripple affect on our economy. Mr. President, it is making America less competitive and creating fewer jobs at a time in this country's history when we should become competitive, and we should be creating more jobs in order to stay competitive.

In my home State of North Carolina alone, 116 companies have contacted me and asked for help in passing this bill. They are united in their effort to end the abusive lawsuits that are being filed. Together, these companies in one small State alone, in North Carolina, employ 118,000 people. That is why the bill is so important not only to North Carolina but to the Nation as a whole.

Mr. President, let me assure you that nothing in this bill will prevent anyone from filing a legitimate fraud case against any company. Not one sentence in this bill will restrict anyone's rights who has a legitimate complaint.

If it did, I do not think 50 Members of the Senate would have cosponsored the bill.

Also, please do not be fooled by the ads you are seeing or hearing on this bill. They are not paid for by consumers. They are paid for by trial lawyers—wanting to protect their lucrative industry.

Consumers will be helped by this bill. Any consumer that has a job—or wants a job—or wants to keep a job will be helped by this bill. Not one consumer with a legal, legitimate lawsuit will be hurt by this bill.

Mr. President, a point that is not often made is that the consumers and plaintiffs in the class action suits rarely benefit from these lawsuits. You would think that the consumers and plaintiffs are receiving the benefits. But they are not. Study after study shows that lawyers get the vast major portion of any settlement.

We had testimony that the average investor received 6 or 7 cents for every $1 lost in the market because of these suits—and this is before the lawyers are paid. So after the lawyers are paid, there is practically nothing left.

Mr. President, I particularly want to note that an important part of this bill is the reform of proportionate liability rules. This bill requires that those who are responsible for causing a loss pay their fair share. But it does not require them to pay more than their fair share except in certain extenuating circumstances.

This will stop the tactic of going after the deep pockets—like the accountants. The rule is sue everybody and anybody, and then get the rich defendants to do the paying.

Under this bill, if a party to the suit is found to have contributed to a loss but did not do so knowingly, that person pays only the percentage of the loss he or she caused. For example, if this person caused 2 percent of the loss, they pay 2 percent of the liability claim.

Mr. President, I strongly support S. 240. I think we need to act on it now. And I am going to oppose any amendment that I think will weaken this bill. I think it needs to be passed as it is. This bill has already been moderated enough in committee to give it bipartisan support. So I urge the Senate to pass S. 240 as soon as possible.

Mr. President, I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER (Mr. MACK). The Senator from Nevada.

Mr. BRYAN. Mr. President, I thank the Chair.

Mr. President, I rise in opposition to S. 240. I should like to make a couple of preliminary observations.

This is not the kind of riveting stuff that keeps everybody in America who is watching on television at the edge of their seats. Much of this discussion is esoteric, technical, and full of legal nuances, but no one should conclude from that preliminary observation that it does not have an enormous impact on millions and millions of Americans. Everyone who has a retirement account in which he or she has invested in securities, millions of small investors, all have a stake in this legislation.

The American securities market is acknowledged by all to be the world's safest and most effectively regulated, and the underpinning for this system has been twofold. No. 1, the powers which the Congress has vested in the Securities and Exchange Commission to regulate and keep the marketplace honest, fair and open to investors is one important aspect, in addition to the adjunctive support provided by State securities administrators in the respective 50 States. But as has been pointed out by my distinguished colleague, the senior Senator from Maryland, the ranking member of the Banking Committee, private causes of action are recognized by security regulators to be an equally important part in keeping the marketplace free from fraud.

Mr. President, we are not talking about something that is academic, as if there were problems in the past and all of those have been taken care of. The New York Times in an article dated Friday, June 9 of this year makes this observation, and I quote:

> Securities regulators say they are opening investigations into insider trading at a rate not seen since the mid 1980's, the era in which Ivan Boesky, who went to jail for trading on inside information, became a household name.

And then later I quote again.

> "It's a growth industry," said William McLucas, Director of the Division of Enforcement of the Securities and Exchange Commission. "In terms of raw numbers, we have as many cases as we have had since the 1980's, when we were in the heyday of mergers and acquisition activity."

The North American Association of Securities Administrators estimates that each year there is approximately $40 billion of fraud in the securities marketplace. So millions of investors, people who do not think of themselves as stock barons but have their small retirements invested in the securities market, can be affected by what this Congress does on this legislation.

In my view, Mr. President, the bill pits innocent investors, many of whom are elderly and are dependent upon those investments for their sole source of retirement, on one side and those who are trying to immunize themselves from liability by reason of their own fraud on the other side.

I recognize the need for some changes in our securities litigation system. I do not appear before my colleagues this evening as a defender of the status quo.

I commend the distinguished chairman and the sponsors of this bill because in a number of areas the bill which they have introduced improves the present system, and it does so in these areas without disadvantaging the innocent investors who may have been defrauded. These areas include the prohibition of referral fees to brokers, prohibition on attorney's fees paid from SEC settlements, no bonus payments to class plaintiffs, elimination of conflicts of interest, payment of attorney's fees on a percentage basis, and improved settlement notices.

Mr. President, I think all of us would agree that those are important and positive changes which impact the securities litigation system in America. And if we are not in unanimity, there is virtually a consensus everywhere that these go a long way to correcting abuses in the securities litigation system. But any system must be balanced, and it must be fair so that it does not preclude meritorious suits.

The Trojan horse that brings this legislation to the floor unfurls the ensign of preventing frivolous lawsuits. I share that conclusion, as does the distinguished ranking member, who previously spoke in the Chamber. But the passengers inside this Trojan horse have very little interest in deterring frivolous lawsuits. Their primary objective is to shield themselves, to immunize themselves from liability as a result of their own, in some instances, intentional fraud and, in other instances, reckless misconduct.

It is for that reason my colleague and friend, the junior Senator from Alabama, Senator SHELBY, and I introduced our own bill earlier this year, S. 667, as an alternative to the legislation that is before us today. Our bill is a carefully tailored, fair approach that would prevent frivolous actions from proceeding while at the same time protecting meritorious actions.

Let me make a comment about frivolous lawsuits. I think there is a legitimate problem there, but the way in which we deal with frivolous lawsuits is to impose sanctions on attorneys who file frivolous lawsuits and make them be financially responsible for their misconduct in filing those frivolous lawsuits. I favor enhancements to rule 11 under the Federal Rules of Civil Procedure, and earlier this year I was privileged to offer the Frivolous Lawsuit Prevention Act which is designed to provide an additional power to Federal judges once a determination is made that a frivolous lawsuit or claim is made to impose sanctions, and that means financial responsibility so that the defendant who is required to defend that frivolous lawsuit can make his or her or its expenses whole again. I support that.

I submit to my colleagues that this legislation which we have before us this evening is far more than an attempt to curb frivolous lawsuits because if that were its purpose, I would be in the vanguard of urging my colleagues to adopt this legislation.

S. 667, which has been endorsed by numerous groups including the North American Association of Securities

Regulators, the U.S. Conference of Mayors, and the Government Finance Officers Association contains reform measures that will improve the system for all Americans.

S. 667 also contains many provisions to eliminate abusive suits and to protect all parties to litigation including a novel proposal for an early evaluation procedure designed to weed out those cases that are clearly frivolous cases and, as I said previously, to impose sanctions when necessary. It provides for a rational, proportionate liability system.

Mr. President, it protects the defrauded investors fully so that when there is an uncollectible judgment against the primary wrongdoer, they can fully recover the amounts of their losses. It provides a reasonable regulatory safe harbor provision, as my distinguished friend and colleague, the Senator from Maryland, pointed out earlier this evening. And importantly, S. 667 also contains other measures to preserve meritorious suits.

It restores aiding and abetting liability eliminated last year by the Supreme Court in the Central Bank of Denver case by a 5 to 4 decision. The effect of that case was to wipe out liability of aiders and abetters and to immunize them from lawsuits based upon their own reckless misconduct that has been responsible for losses incurred by innocent investors.

S. 667 would also extend the statute of limitations for security fraud action in a manner suggested by the SEC and virtually every other unbiased witness who appeared before the Banking Committee. It codifies the reckless standard of liability with current law with the Sunstrand case, which Senator SARBANES referred to, and it restricts, Mr. President, secret settlements, protective orders, and the sealing of cases so that the public really knows what happens in these cases.

In my judgment, the bill that Senator SHELBY and I sponsored is reasonable, targeted, and balanced. It solved those problems that have been identified while preserving the system that has made our capital markets the envy of the world as the strongest and most safe. By contrast, Mr. President, the bill before us today makes radical changes in our securities laws, laws that have worked exceedingly well over the past six decades.

Let me discuss some of the arguments made for these radical changes. The primary premise of those who support S. 240 deals with an allegation that there has been an explosion of class action security lawsuits and that we must undertake these radical reforms in order to prevent this abuse.

The Congressional Research Service, at my request, prepared a report that was issued on May 16 of this year and entitled "Securities Litigation Reform: Have frivolous shareholder suits exploded?" Let me read to you some of the findings of the CRS study. Again, Mr. President, I quote:

> While some current legislation . . . and the outcry of various corporate executives suggest that the volume of warrantless securities litigation has exploded to crisis proportions, evidence of this "explosion" is far from definitive. We know that in the 1990's, the number of annual Federal class action, securities cases filed has returned to the proximate level of such filings during the early and mid-1970's.

And I continue with the quote.

> By the standards of the docket sizes faced by Federal courts, the upper limits of these potentially "abusive" securities suits remain exceptionally small; the filings have never exceeded 315 yearly in 20 years.

"* * * 315 cases a year in the past 20 years." Let me reiterate that point again. "* * * 315 cases in 20 years."

In fact, when multiple filings are consolidated, because some companies face more than one lawsuit as a result of the allegation of securities fraud, approximately 120 to 150 companies are sued each year.

Mr. President, that is out of some 14,000 registered companies —14,000 registered companies. And approximately 120 to 150 companies get sued each year.

The CRS goes on to say:

> There are observers who argue that shareholder suits legally and unfairly exploit the high stock price volatility often observed among high tech firms.

However, another analysis of these high tech firms indicates that their unusually short, and unpredictable product cycles may, in fact, predispose their management toward a greater tendency to suppress proper disclosure or to provide false ones.

> On balance, the evidence does not appear to be compelling enough for one to definitively assert that warrantless class action suits have exploded.

Mr. President, let us take an even closer look at the underlying premise upon which opponents would rewrite, in my view, in a radical way, our highly successful 60-year-old securities law. First, we are told there is an explosion of securities fraud cases. The CRS report demonstrates that this simply is not the case.

Let me invite my colleagues' attention to a chart that I have had prepared. These are securities class action lawsuits filed from 1974 to 1993. In 1974, over here, perhaps 290 cases; 20 years later, in 1993, approximately 290 cases. So in more than 20 years, when the population of America has geometrically increased, when the amount of general civil litigation—general civil litigation, not securities class actions—has grown dramatically, the number of class actions brought on behalf of securities plaintiffs has remained relatively constant, somewhere at the highest point, 315, and currently 290 cases.

Mrs. BOXER. Will the Senator yield for a question on that point?

Mr. BRYAN. I will be pleased to yield.

Mrs. BOXER. I am astounded by this chart. The proponents of this bill have been saying, since we started in the committee, that there has been an explosion in class action lawsuits filed—an explosion. We are going to hear tonight from all quarters. What the Senator is showing us tonight is really extraordinary. There has been no explosion.

Mr. BRYAN. My colleague is correct. Over the past 20 years, the numbers have been relatively constant. This represents one-tenth of 1 percent of the 235,000 Federal suits filed in 1994—one-tenth of 1 percent. There were 235,000 cases filed in the Federal court system in America last year, and one-tenth of 1 percent involved class action securities lawsuits. So my distinguished colleague is correct in her observation.

Mrs. BOXER. May I just say to my friend, thank you for this very straightforward chart because we are going to hear it all over the place in this U.S. Senate. And I am going to refer back to your chart, I say to my friend. Thank you very much for setting the record straight. There is no explosion of these class action lawsuits: Those are the facts. And I thank my friend for presenting it in such a clear fashion.

Mr. BRYAN. And I thank my colleague for posing the question. Securities class action suits have actually declined sharply in the last 20 years relative to both the number and the proceeds—the number and the proceeds—of initial and secondary public offerings, stock market trading volume, and every other measure of economic activity. To claim that suits by victims of financial swindles have constituted an explosion in civil litigation is patently false.

Now, we are also told, Mr. President, that so many companies are being sued that they are being distracted from other businesses. This is simply not true. According to figures from Securities Class Action Alert, only about 140 public companies were sued in securities fraud actions last year out of some 14,000 public companies reporting to the SEC. The only suits that have been going up are business suits against each other; that is, companies suing companies—companies suing companies, not suits by individuals against businesses. So if the companies who are suing each other are so troubled by litigation, why do they not just stop suing each other?

Mr. President, I think I have the answer. It is because they do not want to prevent themselves from being able to sue. They just want to prevent private individuals from being able to sue them. It is as simple as that. These companies would also have us believe that because of these suits, companies are fearful of going public, that they cannot raise the capital in the securities market.

Mr. President, there is no credible evidence that I am aware of that supports this astounding proposition. The existence of these suits has had no discernible impact on capital formation of business. The Dow Jones Industrial Average has just surpassed 4,000—an all-time high. I would invite my colleagues' attention to this chart. In terms of the initial public offerings, over the period of time that we have referenced here, they have gone up by approximately 9,000 percent in the last 20 years.

In the last 20 years, initial public offerings have risen by 9,000 percent—now, that is the number, Mr. President, of initial public offerings—while the capital raised, that is the amount raised by these initial public offerings, has increased by 58,000 percent. So both in terms of numbers and in terms of the dollars raised, they have gone up 9,000 and 58,000 percent, respectively. Let me say, I am glad to hear that, because that is important that we have the necessary capital formation to finance new enterprises. That is the essence of the free enterprise system.

The contention is invariably made that every time a stock drops to any degree, regardless of the reason, that there is a great rush to the courthouse and lawsuits are filed based solely upon the fact that the stock has declined in value. I want to address that assertion.

In examining this contention, there are three studies that have been called to my attention that reject that thesis.

One study by Prof. Baruch Lev of the University of California at Berkeley, involved public companies whose share price dropped by more than 20 percent in the 5 days following a disappointing earnings report.

Although there were 589 such cases where the stock dropped at least 20 percent from 1988 through 1990, class action suits were filed against only 20 of those firms, approximately 3.4 percent.

Moreover, Professor Lev compared those 20 firms with similar firms that were not sued and found that the firms that faced litigation tended to put out rosy projections, or forward-looking statements, just before releasing the bad earnings report, the issue that my distinguished colleague from Maryland so ably addressed that operates under the rubric of safe harbor, of which much more will be said during the course of this debate by him and, I am sure, my other colleagues.

By contrast, the firms that were not sued tended to publish more sober statements warning investors in advance that earnings would be lower than expected.

There was another study conducted by the firm of Francis, Philbrick, Schipper from the University of Chicago which searched for lawsuits against companies sustaining 20 percent declines in earnings and sales.

The author reported that, out of 51 such at-risk firms during 1988 to 1992, only 1 of the 51 was the target of a shareholder suit related to an earnings announcement.

And still a third such study performed by Princeton Venture Research shows that between 1986 and 1992, less than 3 percent of the companies whose stock dropped by more than 10 percent a day were sued.

So the claim that companies are bombarded with suits whenever their stock goes down is simply not supported by the studies I have seen. None of these studies, even using a 20-percent stock drop, found even 3.5 percent of the companies in this classification that were sued.

Even the Senate Banking Committee staff report published last year, under the able direction and support of Senator DODD and his staff, concluded, and I quote:

> There is also no clear evidence of the extent to which price declines drive securities class actions to be filed.

But the proponents of S. 240 tell us, most of these suits are filed just so the plaintiffs can get a settlement. Again, the documentation does not support this conclusion.

The Senate staff report, to which I previously referred, examined sentiments of Federal judges regarding meritless litigation and found, and this again is directly from the staff report:

> Seventy-five percent of the judges surveyed . . . thought that frivolous litigation was a small problem or no problem at all.

The SEC told the subcommittee that surveys had shown that "most judges believed that frivolous litigation was not a major problem and could be dealt with through prompt dismissals." And I believe the enhanced provisions of the Federal Code of Civil Procedures, that deals with frivolous lawsuits, is an absolutely appropriate and responsible way to deal with errant and irresponsible lawyers who file clearly frivolous lawsuits.

I believe the strengthening of those provisions under the law, targeted and tailored, is the most effective way of curtailing lawyer abuse.

The evidence clearly shows we ought not to throw the baby out with the bathwater.

S. 240 goes well beyond what is needed to deal with the abuses that exist in today's system. Every Member has cause to be concerned, because once this bill is passed and the next fraud comes along, whether it be a derivative disaster in your State, another Keating, a Milken or a Boesky, your constituents will want to know why you supported legislation that took their rights away to recover for their losses as a result of such fraudulent activity.

Unfortunately, there are provisions in S. 240 that would effectively gut private actions under the securities laws, eliminate deterrence and hurt average Americans who depend on the system to protect their savings, their investments, and their retirements. These provisions would give free rein to the next Charles Keating and could cause incalculable damage to States and localities that suffer the same fate that Orange County has recently faced.

Among the most troublesome provisions in S. 240 is the safe harbor exemption from fraud liability for forward-looking statements that essentially allows executives to say almost anything and be immunized from liability as a result of such misstatements.

Senator SARBANES has indicated he will be offering an amendment to correct this problem, and I intend to join him as a cosponsor of that amendment. It is something that concerns the Federal and State regulators; the SEC has written, the National Association of Securities Administrators has written, government finance officers, and consumer groups all have written the committee expressing their concern.

Corporate predictions, called forward-looking statements, inherently are prone to fraud as they are an easy way to make exaggerated claims of favorable developments to attract investors to part with their cash.

In fact, the Federal securities laws were passed in large part because of the speculative stock projections that led to the stock market crash in 1929.

Recognizing the inherent potential for exaggerated claims, forward-looking statements by public companies were not even permitted until 1979.

I think that bears repeating. Until 1979, no forward-looking statements were made as a result of the experience that we had in the 1920's and the predilection of those seeking to embellish their own prospects for earnings to attract investors to invest as a result of these extravagant and flamboyant claims.

Since 1979, the SEC, recognizing some forward-looking statements may be important, has allowed limited predictions and protected them from liability if they are made in good faith and with a reasonable basis. Nevertheless, false predictions continue to be a favored tool of con artists, promoters and the illegal inside traders to pump up the price of their stock in order to profit at the expense of innocent investors.

S. 240 sponsors have not explained to my satisfaction why corporate statements that are made in bad faith with no reasonable basis or even with reckless disregard for their falsity need to be immunized from liability when fraud has occurred. I hope during the course of this debate we might have such an explanation. We are talking about statements made in bad faith with no reasonable basis and with reckless disregard for their falsity. I know of no public policy, Mr. President, that suggests that kind of conduct ought to be shielded from liability. Unhappily, S. 240 in its present form would do just that.

Moreover, the SEC is in the middle of a rulemaking process to study forward-looking statements and has asked Congress to allow it to complete its process. The original S. 240, as my colleague from Maryland has pointed out, would have done so. It is a technical area, highly complex and, frankly, it is a subject best left to the administrative agency in a rulemaking process rather than in a broad legislative enactment.

However, in committee, a virtual unlimited exemption or safe harbor—my colleague has aptly referred to this, not as a safe harbor but a pirate's cove, and I think he makes a compelling argument. Any statement either made orally or in writing that projects estimates or describes future events, so long as it is called a forward-looking statement, is immunized as a result of the legislative draft that is before us, even if that statement is made recklessly.

This is a gaping loophole through which wrongdoers or victims of fraud would be denied recovery. The effects of these changes, I think, are difficult to forecast, but I think they would have a devastating impact on the market.

I remind my colleagues that it is already extremely difficult to win a securities case. Under the 1934 Securities Act, a plaintiff must prove fraud or reckless behavior. Recklessness is defined as "highly unreasonable conduct that involves not merely simple or even gross negligence, but an extreme departure from standards of ordinary care."

So I think it is important for our colleagues to understand that no one under the 1934 act is liable as a result of his or her simple negligence, ordinary negligence, or even gross negligence. It requires a higher standard of misconduct—namely, reckless conduct. That seems tough enough to me. Anyone who makes a projection and meets this standard ought to pay his or her victims.

A second troublesome provision in S. 240 is the severe limits on joint and several liability, even when the primary wrongdoer is insolvent. America's legal system for fraud traditionally has been based on joint and several liability. Under this standard, if one wrongdoer is found liable but has no assets, the victim can be reimbursed fully by the other wrongdoers without whose assistance the fraud could not have succeeded. The underlying premise for this legal rationale is in that scale of justice—in the balance. Who should bear the burden of the loss? The innocent investor, who is totally without fault—no fault whatsoever—or a defendant whose conduct is at least reckless and may be subject to intentional fraud? Who ought to bear the burden? The philosophy that undergirds the American system of jurisprudence for centuries has said that under those cases, the scales of justice weigh in favor of the innocent victim, the one who had no responsibility, did not in any way contribute to the misdeed which caused the loss.

The rule has enabled swindle victims to recover full damages from accountants, brokers, bankers and lawyers who participate in securities scams when the primary wrongdoer has no assets left, has fled the jurisdiction, or may be in jail. The original S. 240 sharply limited this rule, immunizing reckless wrongdoers from joint and several liability.

If that had been the law, most investors would not have recovered their life savings in the Charles Keating/Lincoln Savings & Loan debacle. Although Keating had become bankrupt, the victims recovered their damages from the accountants, bankers, and lawyers who assisted Mr. Keating. Of the $240 million in judgments imposed in favor of class action plaintiffs, nearly 50 percent—or $100 million of those recoveries—were against accountants, bankers and lawyers—not the primary wrongdoers, but individuals who conducted and assisted Mr. Keating in perpetrating the fraud.

Despite extensive testimony, particularly by the SEC, that restricting joint and several liability will reduce recoveries for defrauded victims and encourage more fraud, the bill, as reported, restricts joint and several liability even further.

In the all-too-often cases in which a knowing violator is bankrupt, in jail, has fled, the liability of reckless violators to the uncollectible share would be capped. That is, there would be a limitation. Those who are proportionately liable under the system that is incorporated in this print of S. 240 would be subject only to their proportionate share, even though the innocent victim is unable to recover his or her full amount.

There is one exception, as was pointed out, and that would be with respect to victims whose net worth is under $200,000 and have recoverable damages of more than 10 percent of their net worth.

May I suggest, Mr. President, that is a very narrow window of opportunity. People who own their own homes, automobiles, and have the most modest of assets frequently might have a net worth of $200,000. So we are not talking about the goliaths of business people who are extraordinary affluent; we are talking about tens of millions of Americans who would be excluded from recovery under this provision. That cap on joint and several liability means it will be virtually impossible for a great many of those victims to recover their losses.

The bill also does several other very damaging things. The bill would also turn over control of class actions to the wealthiest investors, even though their interests may not be as extensive as the small investors' that the class action device was designed to protect. It relegates small investors to a second-class status and makes the securities markets strictly a playground for the big boys—the wealthy.

In committee, a new provision was added that requires courts to designate the "most adequate plaintiff"—words of art—in a private class action. This "most adequate plaintiff"—defined as the plaintiff with the largest financial interest in the case—is given the power to select lead counsel, control the case, and even to make settlement agreements for any amount or even dismissing the case.

This change to S. 240 makes plain the real motives behind the bill and makes hollow any protections that this is to protect meritorious fraud actions. This "most affluent plaintiff" requirement would simply wipe out average investors who are defrauded. The wealthiest investors may have close ties to big corporate defendants who can afford to accept less than the full recoveries. But it gives them complete control over class actions at the expense of average investors.

Aside from raising a specter of collusive intervention by large investors, and simply dismiss cases or enter into sweetheart settlements, the substitute virtually precludes small investors from being able to obtain attorneys willing to invest their time on cases over which they have no control and for which they may not be paid.

This also directly contradicts the reason why class actions were devised in the first instance, and that is to give average investors, who cannot afford to fight big corporations by their own means, the ability to band together and collectively seek a remedy for their relief. Instead, this provision gives preference to wealthy investors who can afford to seek redress for their losses on their own.

S. 240 also eliminates a principal investor protection provision that was originally part of S. 240, as the distinguished ranking member of the committee, the senior Senator from Maryland, points out. That deals with the statute of limitations issue. Currently, the statute of limitations is 1 year from the point of the discovery of the fraud on the part of the victim, but in no event for more than 3 years after the fraud. The SEC, the North American Association of Securities Administrators—every regulator that I am aware of, who offered testimony or correspondence, indicated that this period is simply too short. It provides insufficient time for meritorious, legitimate plaintiffs to bring their action. The original S. 240 extended the period to 2 years after the violation was, or should have been, discovered by the injured plaintiff, not more than 5 years after the fraud itself.

As the Senator from Maryland pointed out, we dealt with this issue back in

1991 under the Lampf case. That case will have particular relevance to a number of my colleagues, because immediately after the Lampf case, which gave a retroactive interpretation to the law, surprising most securities litigators by concluding that there was only a one to three-year statute of limitations, immediately thereafter, Charles Keating filed a motion to dismiss.

A number of my colleagues joined me in supporting an amendment to the legislation that restored the 2–5 year provision retroactively, so that those cases for dismissal would not find themselves dismissed simply because the statute of limitation provision came as a surprise.

What this provision seeks to do with respect to the prospective cases is the same 2–5 year. As the distinguished Senator from Maryland pointed out, when this proposal came to the floor to correct the retroactive abridgement or shortening of the statute of limitation from 2–5 to 1–3, there was no objection. Everyone agreed.

The only issue—and it was a legitimate question—should we not take a broader look at security litigation reform? There was no objection to the premise you need a longer period of time.

I must say that the SEC has been very clear, and their testimony has been compelling, that even with all of the resources that the SEC can command and marshal, it takes an average of 2.25 years to complete an investigation of an alleged securities fraud. That is the SEC, with immense resources.

We, by failing to provide for the statute of limitations correction which was originally part of this bill and in rejecting the advice of the SEC, the North American Association of Security Administrators, and virtually everyone that testified from a regulatory public policy point of view, we give comfort to those who perpetrate fraud on innocent investors.

I will offer an amendment that deals with that issue either later this evening or tomorrow, as our time permits.

I might just add that Senator DODD, one of the prime sponsors, indicated he, too, believes S. 240 needs to be amended to reflect that statute of limitations issues we just talked about. Obviously we will welcome his support.

S. 240 also fails to restore the aiding and abetting liability for private suits and eliminates the ability of the SEC to sue aiders and abettors for reckless behavior as opposed to fraudulent conduct.

Members will recall, Mr. President, I cited in the Keating case that recovery of $100 million was from aiders and abettors. If S. 240, as this legislation is being processed today, was the law back in 1991, that $100 million could not have been recovered. It could not have been recovered because the court, just last year, in another case that was a surprise to those who follow the securities industry issues, held that a ruling that had been in effect for 25 years, namely, that aiders and abettors were covered under the provisions of the securities law, that aiders and abettors were, in fact, not covered, and under a 5–4 Supreme Court decision, Central Bank of Denver, such liability for aiders and abettors is eliminated.

We are not talking about proportionately. We are not talking about joint and several liability. We are talking about aiders and abettors. They have a free ride. They are home free. All you need to do is get yourself in the aider and abettor category and you can have a field day. It is "Katie bar the door," do whatever you wish, and insofar as a private cause of action, you are precluded from recovery.

Mr. President, no matter how anyone feels on securities litigation reform, can it possibly be in the best interest of America to insulate from liability a category of persons whose conduct has inflicted upon innocent investors enormous financial loss, maybe even wiping out everything that a retired person might have in his or her investment?

I indicated that the Supreme Court also imposed a limitation even on the SEC—even on the SEC. They can only move against aiders and abettors under a much stricter standard. The defendant must knowingly—and that is the standard which even the SEC is forced to meet now as a consequence of the decision. We will be offering an amendment on this, Mr. President.

I note that Senator DODD, who has worked for many, many years—and all who work with him on the committee and consider ourselves his friend and close colleague acknowledge Senator DODD's fine work. Last year, in an April 29, 1994, "Dear Colleague" letter, Senator DODD made this observation:

> Allowing private actions against aiders and abettors is an indispensable part of our securities enforcement system, and I believe Congress must consider legislation to reinstate liability in this area.

Senator DODD was absolutely right on the mark in 1994. The reason is even more compelling in 1995, based upon some of the information that I shared with Members earlier from those on the SEC that tell us about the amount of fraudulent activity. In this particular instance we talked of insider trading.

Senator DODD reiterates:

> Lawyers, accountants and other professionals should not get off the hook, in my view, when they assist their clients in committing fraud. . . . The Supreme Court has laid down a gauntlet for Congress. . . . In my view, we need to respond to the Supreme Court's decisions promptly and I emphasize promptly.

As Senator DODD so often does, he speaks with precision, eloquence, and cogency. He is right on the mark, Mr. President. We need to do that in the course of processing any securities legislation.

Mr. President, this bill, also as reported by the Banking Committee, deals with the Securities Act of 1933—that is another provision—not the 1934 act. The 1933 act targets fraud in initial offerings of securities to the public. Initial public offerings historically have been rife with fraud by huckster promoters peddling new securities.

The 1993 act holds such wrongdoers strictly liable. The bill as reported, however, makes it nearly impossible to hold crooks who sell phony securities strictly liable for their fraud.

S. 240 also retains some highly burdensome pleading requirements—burdens that must be met by fraud victims, plaintiffs in these class actions. By "pleadings," we are talking about an illegal document that commences a lawsuit in which a plaintiff—in this instance a victim of fraud—states forth his cause of action. Those pleading requirements under S. 240 are exceedingly burdensome.

Under current law, fraud plaintiffs are not required to state specific facts establishing the defendant's intent. That is a subjective state of mind. It seems pretty reasonable. It is a pretty onerous burden to be able to allege with particularity what the subjective thought process would be of a defendant.

The reason for that is because such facts are normally only uncovered later during a deposition or discovery process when there is a chance to examine the defendant or defendants under oath.

One of the ways the original S. 240 tried to block cases was through impossible pleading standards requiring plaintiffs to state specific acts demonstrating the state of mind of each defendant. Witness after witness indicated that this would prevent, for all practical purposes, many fraud victims from recovering their money.

The bill as reported merely replaces the impossible standard with the harshest standard currently used. In my view, and in the view of those who regulate the securities market, it is not much of an improvement over the original language and would prevent legitimate plaintiffs from even asserting a cause of action.

S. 240 also contains an unfair and inflexible limit on victims for recovery. The bill contains a formula designed to limit the amount wrongdoers have to pay their victims. Basically, if the company stock goes up during a 3-month period following public exposure of the fraud, for whatever reason, the victims' recovery is reduced accordingly.

Finally, Mr. President, S. 240 would shield evidence of fraud from the public. S. 240 purports to attempt to eliminate secret settlements. The bill fails to ban the almost universal secrecy orders that are required by defendants as a condition of producing documents during discovery.

These orders remain in effect throughout litigation and generally require that, once a case is over, documents be destroyed or returned.

Such secrecy orders block significant corporate wrongdoing from public scrutiny.

Moreover, these orders allow defendants to proclaim their innocence after settlement without fear of contradiction—and permit them to claim the cases are frivolous when they visit with Members of Congress. And because the documents upon which the case was predicated are sealed, there is no effective rebuttal.

I would note one final irony of S. 240. The bill violates one of the primary tenets of Republican theory—this is, returning government functions to the private sector.

For 60 years, private attorneys general have supplemented the antifraud efforts of Federal regulators at the SEC and at the Justice Department.

Such an enforcement scheme is entirely consistent with the Republican contract.

But as CBO noted in its cost estimate on S. 240, if private rights of action are curtailed, substantial government involvement, including increased SEC efforts, will be needed to assure that the markets remain fair.

Morever, as CBO stated in its June 19 letter to the committee, the SEC will have to double or triple its resources allocated to this function—and the cost to the American taxpayer could be up to $250 million over the next 5 years.

That is to say, by reason of the restrictions placed on private causes of action, if one has a view of regulating the marketplace effectively the burden essentially now falls almost exclusively to the SEC, and they would have to up staff and the cost as estimated by CBO is $250 million; $250 million paid by the American taxpayer.

I invite my colleagues' attention to pages 30–32 of the committee report for CBO's estimate.

This confirms the view of the last Republican Chairman of the SEC, Richard Breeden, who testified that the elimination of private actions would require the Commission to hire 800–900 more lawyers to police the markets.

Even if Congress should choose to appropriate the added money—which I seriously doubt—the system will not be as effective.

I hope each Member of this body will remember that when the next financial debacle hits, average Americans, many of whom may be people who live in your district, will be unable to runner their losses.

Last week, my constituents who were victims of the Keating scandal visited Washington, along with other Keating victims from other States.

One way Jeri Mellon from Henderson, NV, a community just 10 miles out of Las Vegas. She is head of the Lincoln bondholders committee. She and Joy Delfosse came to see me.

Every Member of Congress should be standing up for the Joy Delfosses and Jeri Mellons in their States, not the Charles Keatings.

These are retirees whose life savings would have been wiped out if they had not been able to recover as a result of the Keating fraud. And that ability to recover would have been lost if aiders and abettors had not been liable. And that ability to recover may have been lost if the statute of limitations had not been extended. And that recovery may have been lost as a result of the proportionate liability proposal contained in this legislation.

Mrs. BOXER. Will the Senator yield for a question?

Mr. BRYAN. I will be pleased to do so.

Mrs. BOXER. The Senator is right to bring up real people in this conversation. Because oftentimes we get into the legalese and we forget what we are doing here. So I appreciate the fact that the Senator from Nevada brings up the people that he met. I was with him at that occasion. We met people from Florida. We met people from Arizona. We met people from Nevada and California.

I want to ask the Senator a question, because I think anyone watching this debate ought to listen to the response of the Senator. My friend from Nevada who is addressing this Chamber is a learned attorney. He has great experience in seeking justice for people.

Is it the Senator's opinion that the people who were bilked by Charles Keating would have recovered as much as they have recovered, which as I understand it is between 40 percent and 60 percent of their losses, if S. 240 had been the law of the land?

Mr. BRYAN. The answer to the question of the Senator is unequivocally clear. They would have been unable to recover as much as they did. I would simply point out to my distinguished colleague from California, these are innocent people. These are not people who in any way participated in any scam. They are not lawyers. They are ordinary folks whose retirement was on the line. These were retirees.

It is interesting. As I know the distinguished Senator knows, they went to what they describe kind of as a neighborhood bank, Lincoln Savings and Loan. They knew everybody and they would come in and say, "How are you Suzy?" And, "How are you John?" And, "How is the golf game and how are you enjoying retirement?"

And they would say, "Look, what is this stock offering you have, American Continental Corp.?"

And they were told, "You know, you would be crazy not to put money in that, absolutely crazy. There is a much larger return than you would get just if you put this in a regular savings account in the bank."

These are the people, I tell my distinguished colleague from California, real Americans from every State of all political persuasions, of all political philosophies—real people, and the impact upon them is what this debate is all about this evening.

Mrs. BOXER. I have one last question for my friend. As we saw these people tell their stories, it was very moving. They are older. They were targeted by Charles Keating. And what they told us is—and this is the question for my friend—they went to file their suits, because they were clearly led to believe that their investments were protected, and the salespeople for Charles Keating were told to lead them down this primrose path. They called them the meek and the ignorant. They sought out "the meek, the weak and the ignorant." That is a quote from Charles Keating's brochures to their salesmen.

We know that Charles Keating put his whole family on the payroll and drained all this money that he stole. And is it not true, I say to my friend, that he went bankrupt?

Mr. BRYAN. He went bankrupt.

Mrs. BOXER. I say to my friend, he could not be touched by these people because he had a lot of lawyers who protected him. And he went bankrupt. Is it not true that these good, decent senior citizens had to go to the aiders and abettors?

Mr. BRYAN. That is precisely the case.

As the distinguished California Senator knows, having read the provisions of the print before us, the thing that is particularly alarming is that there are several provisions in this law that is being proposed in its current form, as to the pleading standard, safe harbor, the ability to stay or to prevent discovery—that is ascertaining what the facts are—so long as there is a motion to dismiss; all of those were tactics that were used by Mr. Keating and his lawyers. All of those.

If the law in 1991 was the same as it will be if this is passed, together with the Supreme Court decisions that S. 240 fails to correct, those people might never have gotten into the courthouse door.

Mrs. BOXER. Let me thank my friend again for bringing this down to what happens to people when we act here in this body, and to say to my friend that we ought to make any bill pass the Keating test.

We ought to look at any bill when we are done amending it. I hope we amend this bill and make it better, and put it to the Keating test. Would those good people, those innocent senior citizens, be able to recover when we are "done with reforming," I put in quotes, the securities law? Yes. We should go after those frivolous lawsuits. We all want to do that. But there are an awful lot of good companies out there that need to have the frivolous lawsuit aspect of this bill looked at. But, my goodness, let us not forget the real people, the retirees, the people who are the targets. Let us not forget them because it reminds me of the S&L scandal. We made one mistake once. I do not want to see us make another one.

I thank my friend for yielding.

Mr. BRYAN. Mr. President, I thank my distinguished colleague from California. I know some of my colleagues have waited for a while. I will finish, and yield the floor in a couple of minutes.

The Senator from California speaks with such clarity and conviction. She is absolutely right to remind us that a little more than a decade ago a big mistake was made with respect to the savings and loan industry. We spent billions and billions of dollars as a result. If we do not correct this legislation, as my distinguished colleague from Maryland, the distinguished colleague from California, and others will point out, we are opening the door to every charlatan and con artist in America to prey on innocent investors with impunity, and there almost a sense of deja vu. It may not happen tomorrow. But it will happen, and the consequences will be frightening. I do not think we want to make that mistake. America's securities markets have served as the world's finest. The Lincoln Savings & Loan in Orange County could be in my State. It could be in your State. I do not want to have to explain to the good citizens of my State why I allowed this happen, and why my failure to take action precluded them from being recovered as a result of frauds perpetrated upon them. Each and every one of us share that concern.

I have a number of letters from State and local officials. I am not going to belabor my colleagues this evening with all of those. But let me point out as this issue has been framed that it is the lawyers. Frankly, the lawyers do bear some responsibility here.

We talked about rule 11. And I am in favor of banging the lawyers that file frivolous lawsuits over the head and hit them in the pocketbook. Count me at the head of the line for them. But under the guise of getting the lawyers, unpopular since Shakespeare's time. "Kill the lawyers first"—every student of Shakespeare recalls that quote. Let us try to give here a more objective view.

You have people such as the Association of Governing Boards of Universities and Colleges who have expressed their concern and support the kinds of amendments that we are going to be offering, and oppose the legislation in its current form; the Association of Jesuit Colleges and Universities; the Council of Independent Colleges; the Government Finance Officers Association. These are not closet groups of trial lawyers. The Association of Clerks and Recorders; Election Officials and Treasurers; the Municipal Treasurers Association of the United States and Canada; the National Association of College and University Business Officers; the National Association of County Treasurers and Finance Officers; the National Association of State Universities and Land Grant Colleges; the North American Security Administrators.

Mr. President, I do not believe that one can make the case that these are simply closet advocates for trial lawyers, who I understand are the most disdained group of professionals in America. I understand that. I am not unmindful of that.

But we ought not with the antipathy that we feel toward them for whatever reason wipe out the right of innocent investors to sue. And the bill before us in its current print will do precisely that unless we accept the amendments that the Senator from Maryland, the Senator from California, and I believe the Senator from Florida as well maybe have.

I thank my colleagues for yielding.

Ms. MOSELEY-BRAUN. Mr. President, I would like to speak on the bill.

Mr. President, the United States has the largest and the best capital markets in the world. In no small part that is because markets in the United States are seen as open and fair. And it is one important reason over 50 million Americans are able to participate in our securities markets. Every investor can be confident that our markets are honest, and it is very clear that private securities litigation has played an important role in keeping them honest.

At the same time, there is real need for reform. One study conducted in the 1980's that was cited in the Banking Committee's report on S. 240 found that every single American corporation that suffered a market loss of $20 million or more in its capitalization had been sued. In other words, every corporation whose stock at one time declined in value by $20 million or more was sued for securities fraud during the period covered by the study.

Another study included in the committee report stated that one out of every six companies less than 10 years old that received venture capital had been sued at least once and that such lawsuits consumed an average of over 1,000 hours of time of the management of these companies and an average of $692,000 in legal fees.

What these statistics demonstrate is that either our capital markets are literally overrun with fraud or that there are at least some unsupportable lawsuits being filed. The clear consensus of the Banking Committee was that the evidence did not and does not support the conclusion that our markets are suffering an epidemic of fraud. Rather, the committee's conclusion was very clear that there are abusive security lawsuits being filed, that these suits result in significant adverse consequences for our capital markets and for our economy generally and that, therefore, the reform is necessary. The fact is that securities fraud litigation can be very lucrative, even in cases where there is no fraud. Some would say particularly in cases where there is no fraud.

The Supreme Court made that point very clear in the case of Blue Chip Stamps versus Manor Drug Store. The Court in dictum stated that in securities fraud cases "even a complaint which by objective standards may have very little success at trial has a settlement value to the plaintiff out of proportion to its prospect of success * * *."

The Court's opinion was, of course, stated in the driest possible language. In the language of my hometown of Chicago what the Court was really saying was in this area of the law plaintiffs and lawyers who are willing to game the system have all the clout. These few people, and they are a few people, know that they have the corporations and other ancillary parties over a barrel, and they are taking advantage of that fact. They win settlements in all too many cases because of that leverage rather than because of the merits of the case.

What is more, Mr. President, under current law, small investors in a class action case do not really control the case, their lawyers do. One plaintiff lawyer demonstrated the temptation that a few lawyers have succumbed to all too clearly. He said:

> I have the greatest practice of law in the world; I have no clients.

The opportunity for coercive settlements is not the only problem in this area. The Supreme Court made it clear again in the Blue Chip case that "the very pendency of the lawsuit may frustrate or delay normal business activity of the defendant which is totally unrelated to the lawsuit."

The reason for that is not just the cost of defending against litigation, it is the cost and disruption that flow from the company's attempts to respond to plaintiff's request for discovery, and discovery is not a minor matter. The committee report again stated:

> According to the general counsel of an investment bank, "discovery costs account for roughly 80 percent of the total litigation costs in security fraud cases."

Companies have had to produce over 1,500 boxes of documents and to spend well over $1 million just to comply with the costs of fact-finding, of discovery. It is not just a matter of documents. The time the key employees of the company may have to spend responding to requests for information may keep them and, often does keep them, from tending to the business of the company and, therefore, that also works to coerce settlements.

Some might argue that this is a technical legal issue and one that is not important to the general American public. However, I would suggest that just the opposite is true. Every American, whether he or she invests in our capital markets or not, has an interest in seeing to it that reform is enacted.

The Director of Enforcement of the Securities and Exchange Commission made that point very well. Testifying before the Senate Banking Committee in the last Congress, he stated that:

> There is a strong public interest in eliminating frivolous cases because, to the extent that baseless claims are settled solely to avoid the costs of litigation, the system imposes what may be viewed as a tax on capital formation.

Chairman Arthur Levitt of the SEC reinforced the point in his testimony before the Banking Committee. He stated that:

> There is no denying that there are real problems in the current system—problems that need to be addressed not just because of abstract rights and responsibilities, but because investors and markets are being hurt by litigation excesses.

Mr. President, these excesses and the tax they impose on our capital markets and on our economic growth are particularly onerous because they do not even achieve what they are ostensibly designed to achieve—the protection of investors who suffer losses. All too often, under the current system, investors receive settlements that amount to only about 10 percent, or even less, of their damages, and that is another whole set of problems, to hold out false hopes to people in which they may receive less than 10 percent recovery.

The direct legal expenses in settlements paid are, again, only part of the tax. There are also a variety of indirect costs, costs that fall particularly heavy on the entrepreneurial and high-tech companies on which our future economy depends.

Of course, investors want to be protected from fraud, but they also want to be able to get as much information as possible, and they also want to be sure that their companies are focused on their business instead of on potential lawsuits and litigation.

Mr. President, it is important for us all to remember that investors are not just investors. Investors are also employees who want their companies to do well. There are also parents who want to see expanded economic opportunity for their children. They are also participants in the United States economy, and they want to see the kind of strong growth and job creation that goes along with a strong economy.

Our world economy is more and more competitive. Our future prosperity depends on our ability to meet and beat that international competition, and that means we need a continuing supply of new ideas, new products, and new companies that can produce the jobs for tomorrow. These major issues may seem a long way from the arcane securities law issues we are debating and discussing this evening. But, Mr. President, the connection is both strong and direct.

A recent book by Hendrick Smith entitled "Rethinking America," I think, illustrates the connection. That book has chapter after chapter recounting the challenges facing American business in this new global economy. It talks about how some American businesses are succeeding and how some are not.

One of the points it makes in some detail is the short-term focus that afflicts so many American corporations, an affliction that is not shared by our major international competition.

American corporations are all too often intensely focused on the short-term price of their stock instead of the long-term growth and prosperity of the business. This short-term focus, which the current state of our securities laws helps to foster, distracts senior management, makes too many of our businesses less creative, and undermines the ability of American businesses to make the investments that have the best long-term payoff.

Our securities laws have also rendered many of our businesses mute, virtually unable to talk to their investors and owners because of the fear of lawsuits. And that fear not only disadvantages the companies and investors, it also hurts all of us because it is an impediment to the smooth functioning of our capital markets. It makes it less likely that capital is allocated in a way that produces the most and best new jobs and new products.

Let me emphasize that point. New jobs and new products. The engine of our economy depends in large part on the vitality of our capital markets and, in the final analysis, Mr. President, that is what this debate is all about.

I cosponsored S. 240, along with Senator DODD and other members of the committee because this bill has been based on the recognition of all of these facts. S. 240 acknowledges the multiple rolls and multiple interests that we all have in this area, and it is based, I think, on an understanding that we are all in this together. We must maintain strong investor protection while making it more difficult to file frivolous or abusive lawsuits.

We must create a climate where new businesses that create new jobs and new products can get the capital they need while ensuring that defrauded investors have the right to recover their damages.

S. 240, as introduced by Senators DODD and DOMENICI, went a long way toward achieving all of those objectives. The bill attempted to reduce transaction costs so that investors who are harmed see a smaller portion of their recoveries consumed by attorney's fees and other miscellaneous costs. It was designed to help our capital markets create more jobs and create greater long-term economic growth, something that is also very good for investors.

The original bill has been modified in a number of important ways. Some of these changes represent improvements in the original bill, others represent new concepts. The bill before us is not perfect. In some areas, quite frankly, I would have written it differently and I suspect everybody in the Senate almost always feels the same way about major legislation.

I think it is clear, however, that this bill is a good-faith attempt to balance the competing public objectives in this area and that looking at the overall legislation it successfully achieves balance and that, I think, is a very important notion as we address this issue. Achieving balance is important to keeping our capital markets vital, and it is important to our economic prosperity.

It is important, Mr. President, again to keep in mind what this area of the law is all about and what the bill does and does not do. This may get a little technical, but I guess a lot of the conversation here has gone into the particular aspects of the bill that are the most controversial.

What we are talking about has to do with private rights of action for fraud under section 10(b) of the Securities Exchange Act and rule 10b-5 of the Securities and Exchange Commission. Those laws did not expressly provide private parties with a right to sue corporations or other parties involved in the issuance and sale of securities. However, this area of law has evolved out of a long series of judicial decisions, not legislative actions.

S. 240 will help reduce frivolous and abusive security suits, and it achieves that objective without encouraging fraud and without undermining the rights of investors, and particularly small investors, to recover where there actually is fraud.

Some argue that the bill is somehow unbalanced because it limits joint and several liability and because it does not extend the statute of limitations in private section 10(b) cases. The bill, however, holds everyone—I emphasize that—everyone who commits "knowing" securities fraud jointly and severally liable. Other defendants may be only "proportionately" liable; that is, they may be only responsible for the share of the harm that they cause. That ensures that parties who may be only 1 percent or 2 percent responsible for the fraud are not added defendants in cases simply because they have deep pockets.

Proportionate liability is far from a new concept. We have had it in the tort area in my own State of Illinois for a number of years. It is an important and necessary change. Without it, many people will not deal with the small entrepreneurial, startup companies that are the most likely to be sued—and I point out that are most likely to create jobs—because the potential liability is so much greater than the profit that can be earned from doing business with these companies. Many companies are increasingly unable to find accounting firms and law firms willing to do business with them and are having increasing difficulty in attracting the best people to sit on their boards of directors. And the result of that is, again, less information and less protection for investors and greater hurdles for the new companies on which our economic future depends.

Of course, in some cases, the parties most responsible for fraud are judgment proof; that is, they have no assets at all that can be found. In those situations, this bill provides, I think, substantial protection for small investors. First, it says that defendants that are proportionately liable have their share of responsibility increased up to 50 percent of their proportionate share, so that all investors are better compensated for the losses they have suffered. For small investors, those with a net worth of under $200,000, who suffer a loss of at least 10 percent of their net worth, every defendant is jointly and severally liable for paying those damages—a provision in this bill that I think ensures that small investors get that extra protection.

The proportionate liability provisions are not the only provisions, however, that have been the subject of criticism. Some argue that S. 240 is flawed because of a provision that it does not include, and that is the provision that has to do with an extension of the statute of limitations.

Mr. President, it is true that S. 240 is silent on the issue of the statute of limitations. But this is not to disadvantage small investors or any other investors. Four years ago, in a case known as the Lampf decision, the Supreme Court of the United States decided that the implied rights of action for private parties under section 10(b) were subject to the same statute of limitations that applied more generally in other areas of the securities law—1 year from the date of discovery of the fraud, or 3 years from the date of the fraud.

It is worth noting that the court did not disadvantage section 10(b) cases relative to other security cases; it simply said that the same statute of limitations applies, which is hardly a revolutionary idea. In the 4 years since the Lampf decision was rendered, there has been no substantial evidence presented that investors are being harmed by that decision.

Statutes of limitation, by their very nature, have some degree of arbitrariness to them. In this area, the evidence is that the overwhelming number of cases are being brought within a year of the time the alleged fraud occurs, which tends to indicate that a longer statute may not be needed. Most cases are not filed just before the statute of limitations expires, so the 1-year/3-year statute of limitations does not seem to be making it difficult for plaintiffs to prepare their complaints.

My own conclusion is that, in light of the evidence, a case has not been made for giving section 10(b) implied private rights of action in fraud cases a longer statute of limitations than other Federal securities law related cases.

Mr. President, one of the provisions of this bill that has been the subject of some attention has to do with the issue of whether or not it includes something that has been called the English rule or losers pay. That has been a rule that never frankly has been applied in American jurisprudence. It is the English rule that says if you file the lawsuit and you lose, then you have to pay the cost of litigation. However, this bill does not have loser pay in it. The bill simply requires the judge to look at rule 11 of the Federal Rules of Civil Procedure, a rule that already exists and pertains to all kinds of civil litigation and which calls for sanctions for frivolous lawsuits to determine in these securities cases whether or not any party has violated rule 11 and, if so, to impose sanctions.

That is a far cry, Mr. President, from the English rule, from what has been called "loser pays."

The bill also establishes what is called a "safe harbor." This provision in some ways offers more protection for investors and less, frankly, for issuers of security than do some of the leading court decisions in this area today.

And so what is at issue here with the safe harbor question has to do with what are known as forward-looking statements, statements by issuers of securities that describe future events or that estimate the likelihood of selected future events occurring.

SEC rule 175 states that forward-looking statements made with a reasonable basis and in good faith cannot be used as a basis for a fraud action. That is already law.

However, Mr. President, as a practical matter, the safe harbor that it provides turned out to be not very safe at all. What added real protection was a third circuit case that recognized what is called the bespeaks caution doctrine, a doctrine that is now recognized in at least five circuits. Under this doctrine, under the bespeaks caution doctrine, forward-looking statements accompanied by meaningful cautionary statements, that is, statements that indicate the risks the forward-looking statements will not come true, are as a matter of law immaterial and therefore cannot be used as a basis for fraud action.

Under this bill, however, the bespeaks caution doctrine would not apply to issuers who made statements with the actual intent of misleading investors even if they were accompanied by meaningful cautionary statements.

To that extent, Mr. President, this legislation is more protective of investor's interests in that regard than the evolving state of the law in at least five circuits in this country.

Again, these are all highly technical areas, and there is a lot more that I can say about the issues and other issues raised by this legislation. However, I instead want to make one final point.

A simplistic analysis of this bill says this is a fight between the lawyers and the corporations and that the proponents of the bill, the people who support the bill, are somehow engaged in lawyer bashing. I cannot speak for every supporter of this bill, but I wanted to make it as clear as I can that as a lawyer myself, I care very much about the profession, and my view is that lawyer bashing has no place in this debate. The great bulk of the work of lawyers in the securities litigation area has been of enormous benefit to investors and to the public generally. The securities plaintiffs bar, frankly, has been particularly helpful in helping small investors, and it has played an instrumental role in keeping our capital markets respected worldwide. They have provided a necessary check in a system that, again, presumes honesty.

I would not have agreed to cosponsor this bill if I concluded that it would limit their important and legitimate role of the trial bar, of the securities bar, or if I believed this bill would take away from investors opportunities to recover damages from those who, in fact, had defrauded them.

What makes this bill necessary, however, are the abuses by a relatively small number of people who have thrown the system out of balance. S. 240 does nothing more than restore that balance, Mr. President.

I want to conclude by congratulating again Senator DODD and Senator DOMENICI and the leadership of the Banking Committee for all the hard work that has been put into this legislation and for the way everyone has worked together in a bipartisan fashion and in good faith to resolve some of the complicated issues in this area as they have arisen.

This bill may be a bill that leaves none of us fully satisfied, everybody is going to have another idea. But the compromises represented in S. 240 are good ones. They will be good for our capital markets. This bill will be good for economy. This bill will be good for job creation, and it will be good for the American people, generally, in all their roles.

On that basis, I support this legislation and I urge its passage by the Senate. I yield the floor.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the Chair.

Mr. President, I have sought recognition to comment briefly on the pending legislation and to offer a motion on behalf of Senator BIDEN, Senator SHELBY, Senator FEINGOLD, and myself to refer the bill to the Committee on the Judiciary in order to consider some very important issues which have not had a hearing in the Banking Committee, because the Banking Committee under its own procedures does not customarily take up questions on the Federal Rules of Civil Procedure regarding which the pending legislation makes a great number of very significant changes.

The rules which govern court procedure are customarily fashioned by judges, and they are established by the Supreme Court of the United States with an advisory committee which considers the details of these provisions. They are complicated on matters such as how pleadings are formulated, how specific you have to be, and what to say to get in court before you are entitled to discovery; what rules govern when you take depositions, for example; that is, when questions are asked by one side of the parties on the other side. What happens with respect to sanctions when lawyers do not operate in good faith or bring frivolous lawsuits, or what happens on class representation.

These are the kinds of questions which I have had some experience with, although not recently. But I had experience when I practiced civil law before coming to the U.S. Senate. And on the Judiciary Committee, having been a member there for 14½ years, I have had some continuing familiarity with these issues, but nothing compared to the individuals who are in the courts every day.

On that subject, I discussed some of the issues raised by this bill with a longstanding friend of mine going back to college days at the University of Pennsylvania, Judge Edward R. Becker, who is now a very distinguished jurist on the U.S. Court of Appeals for the Third Circuit, and one of the premier Federal judges in the country.

Judge Becker was appointed to the Federal Court in 1971. He served for 10 years as a trial judge day in and day out, and for the past 14 years he has been on the court of appeals and is a recognized expert on Federal procedure, lectures in the field, and is highly regarded as one of the most knowledgeable of the Federal judges.

Some of the comments which Judge Becker has made to me in a relatively brief letter illustrate to some extent the problems which are present in the current legislation.

I compliment the Senator from California, the Senator from Nevada, and the Senator from Maryland, the ranking member of the committee, the chairman of the committee, and also the Senator from New Mexico, Senator DOMENICI, and the Senator from Connecticut, Senator DODD, who have drafted this legislation, for the very constructive work which they have done. But there are many very, very important provisions which have not been subjected to the kind of analysis which comes only with real experience in the courts on a day-in and day-out basis.

Having had that experience, I know the difference between the legislative process and the judicial interpretive process. Those judges see these matters day in and day out. They know what happens in a very practical sense. They have a much deeper familiarity with the way they work out than we do in the Congress.

As the Presiding Officer knows, and as my colleagues know, frequently in our hearings in the Senate, only one or two Senators are present. When markup occurs it is done as carefully as we can, but not with the kind of craftsmanship which judges employ day in and day out.

These are some of the comments which Judge Becker has made which I think are worthy of consideration. They are not dispositive of all of the issues but are illustrative of the kinds of complex matters which we think require a great deal more consideration than we have had so far.

This legislation is enormously important. It is enormously important as it governs the securities field where capital is formed so that the free enterprise system can function, so that when representations are made in the prospectuses that sufficient information is given to investors to know what is happening, to see to it that the representations are honest, and that the millions and millions of people who invest in securities are protected—and not that there is any absolute guarantee that they will earn dividends or make money on capital gains because there is a certain amount of risk, but that there are representations honestly made, that they are protected against fraud, and that the procedures balance the concerns of the companies, not subjecting them to frivolous litigation but balance the concerns of the investors.

Judge Becker has made this comment, for example, on the rule of procedure which governs the designation of lead counsel:

> Most of the provisions prescribe things the courts already do—for example, designating lead counsel—or at least can do within the exercise of their discretion. Section 102 constitutes congressional micromanagement with the untoward effect of depriving judges of the flexibility which is indispensable for effective case management.

One of the bill's important provisions relates to sanctions, which are important in litigation to ensure that the court has the flexibility to manage the case and that lawyers do not abuse the process, that is, they do not bring frivolous lawsuits, and frivolous lawsuits are brought. We know that as a matter of fact. Really no one contests that. Or no one contests the need for limiting frivolous lawsuits. And there is a generally recognized need that we ought to have reform in this field.

Some of the provisions of current law, for example on joint and several liability, have imposed very extensive liability on accountants who do not know the inner workings of the representations but are held under the concept of joint liability. There needs to be a close look at the kind of liability imposed.

So that when you talk about frivolous lawsuits and how to deter them, we do need to have very substantial review of that issue. But I have found that the provision of the bill regarding the rule which requires mandatory sanctions by the court perhaps goes too far, and we do not know that for sure really until we analyze it in some detail. But this is what Judge Becker had to say about that:

> Mandatory sanctions are a mistake and will only generate satellite litigation.

And by satellite litigation, Judge Becker was referring to the situation where, after the case is over, then a whole new litigation process starts as to whether sanctions are really required.

Under present law, the judge has discretion to award sanctions, and there has to be a motion made by the party that thinks that the other party has acted inappropriately. Before a party can ask for sanctions, the party must give notice to the other party of its view that something wrong has been done in order to give the allegedly offending party an opportunity to correct it.

That is done in litigation to try to have the parties work it out. If somebody does not like what the other party is doing, they say, "Wait a minute; you ought to stop that." It gives that party a chance to reflect on the reasons. If it does not stop, then the party can make a motion for sanctions. But under this legislation, the judge has the obligation on his own to review the record and to impose sanctions. That is contrary to the American system of adversarial litigation where the judge does not have the responsibility for making that determination on his own; one of the parties who feels aggrieved says to the court: Something wrong has been done here, and I make a motion to have it corrected. This is more like the inquisitorial system which the French have where the judge is the moving party.

Judge Becker has this to say after commenting on the satellite litigation.

> The flexibility afforded by the current regime enables judges to use the threat of sanctions to manage cases effectively. Well managed cases almost never result in sanctions. The provision for mandatory review—

That is, without prompting by the parties—

> will impose a substantial burden on the courts and prove completely useless in the

vast majority of cases. Requiring courts to impose sanctions without a motion by a party also places the judge in an inquisitorial rule which is foreign to our legal culture, which is based on the judge as a neutral arbiter model.

The judge then refers to a rule drafted by a very distinguished judge, Judge Patrick Higginbotham of the Court of Appeals for the Fifth Circuit, who is chairman of the Judicial Conference of the Advisory Committee on Civil Rules. And this is what Judge Higginbotham says ought to be done:

> In any private action arising under this title, when an abusive litigation practice is brought to the District Court's attention by motion or otherwise, the Court should promptly decide, with written findings of fact and conclusions of law, whether to impose sanctions under rule 11 or rule 26(g)(3) of the Federal Rules of Civil Procedure or its inherent power.

And that is really giving discretion to the court. Perhaps on analysis the provision in the bill on mandatory would be retained. But I think it is indispensable, Mr. President, that that kind of careful analysis be made.

Other provisions set out in the current bill make very substantial changes to the Federal rules. There is a requirement that the potential outcome of the suit be disclosed, and there are special disclosures relating to settlement terms. These provisions have an impact on rule 23, the class action rule. The bill also contains certain unique provisions governing the appointment of lead counsel in class actions, none of which have been given a hearing.

I discussed with the chairman of the committee, the Senator from New York, Senator D'AMATO, the procedures used by the committee, and I think I am accurate in stating—and he can comment on this if the truth is to the contrary—that this is a provision added very late, and there had not been hearings.

There are also changes in the rules relating to discovery under rule 26, and there are differences in rules relating to the specificity of allegations of pleadings, affecting rule 9.

Without going into any great detail, these are all matters which really ought to be reviewed by the Judiciary Committee, which has the expertise under our Senate rules for handling matters of this sort. It is not the kind of a matter which is customarily brought before the Banking Committee.

This same issue was raised by the Chairman of the Securities and Exchange Commission, Arthur Levitt, in a letter dated May 25, 1995, to Senator D'AMATO. Chairman Levitt commented as follows:

> I also wish to call your attention to a potential problem with the provision relating to rule 11 of the Federal Rules of Civil Procedure. I worry that the standard employed in their draft may have the unintended effect of imposing a loser-pays scheme. The greater the discretion afforded the court, the less likely this unintended consequence may appear.

The loser-pays scheme, Mr. President, is one which Great Britain has where the loser has to pay the costs of litigation, and that is a very, very abrupt and drastic change in our litigation procedure.

The bill currently provides for mandatory sanctions and contains a presumption that the loser will pay sanctions and that the appropriate sanction is the other party's attorneys' fees. This would have a very major, chilling effect on bringing any litigation. And that presumption can be overcome but it starts off on an unequal footing where the same requirement is not imposed on the defense, on the other side in the litigation. I am sure that there will be consideration of this substantive revision in the course of the analysis of this bill. But this again is something which really ought to have the benefit of a hearing in the Judiciary Committee.

Mr. President, I had advised the chairman, the Senator from New York [Mr. D'AMATO], that I would not be in the position to vote on this matter until others had a chance to come to the floor, specifically Senator BIDEN. I know that there are other Senators on the floor who wish to speak at this time. And it would be my hope that we can move to a vote this evening. I do not want to keep Senators here unnecessarily but I believe that Senators are present with the expectation of having a vote on final passage on the highway bill where there is still one matter which is left to be worked out.

But I do want to make that stressed statement that until Senator BIDEN returns we have an opportunity to have debate on this subject. There are some matters I want to discuss with the Senator, the chairman, the Senator from New York, who is necessarily absent at this time.

Before yielding the floor—I shall not hold the floor very much longer—there will not be more than one final statement that I will make, as I see my colleague from Utah, rising. I do want to make a brief comment about the bill generally as to information provided to me by the chairman of the Pennsylvania Securities Commission who has raised very substantial problems with the bill. I want to call those to the attention of my colleagues. This is a letter to me from Chairman Robert Lam, dated April 19, 1995, in which Chairman Lam makes this statement. "I have considered the major elements of both" Senate bill 240, which is the one currently being considered, and Senate bill 667, which is a different bill introduced by Senators SHELBY and BRYAN. It is the conclusion of Chairman Lam of the Pennsylvania Securities Commission that the other bill, the one not on the floor, is much preferable. Chairman Lam concludes by saying, Senate bill "240, on the other hand, tilts the balance too far in favor of corporate interests and would have the practical effect of depriving many defrauded investors the ability to cover their losses."

In a letter dated June 20, 1995—I shall include both of these letters for the record, so I do not have to take much time. Chairman Lam writes as follows,

> As presently constituted, S.240 not only would affect negatively Pennsylvania investors but also Pennsylvania taxpayers should the Commonwealth Treasury Department again become a potential victim of wrongdoing in securities transactions undertaken on behalf of the Commonwealth. The importance of the potential negative effects of this Bill on the Commonwealth is reflected by the Treasury Department's recent suit against Salomon Brothers for damages resulting from alleged wrongful conduct engaged in by Salomon in connection with its bidding on government bonds.

And Chairman Lam of the Pennsylvania Securities Commission concludes with this statement.

> As a participant in the capital formation process, I would like to emphasize that our financial markets run most efficiently when there is a high degree of public confidence in the integrity of the marketplace. Money is merely the medium of exchange between this confidence and the honest entrepreneur. As written, S.240 will not advance the goal of making capital available to growing U.S. companies. It will result in small investors avoiding participation in our capital markets when they discover that they are unable to bring suit against the perpetrators of aiders and abettors of a securities fraud or, upon winning such a suit, fail to be made whole because the Bill adopts the concept of "caps" on total defendant liability.

I do ask unanimous consent, Mr. President, that the full text of these two letters from Chairman Lam be made a part of the record at the conclusion of my speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1)

Mr. SPECTER. In conclusion, Mr. President—the favorite words of any speech, and with finality—I will pursue this motion as the evening progresses and do believe that it is very important that the full range of considerations raised by Chairman Lam be considered, issues that have otherwise been raised, but especially these procedural questions be considered by the Judiciary Committee which under our rules has the jurisdiction to consider them.

MOTION TO COMMIT

Mr. SPECTER. On behalf of Senator BIDEN, Senator SHELBY, Senator FEINGOLD, and myself, I do move to commit the pending bill, Senate 240, to the Committee of the Judiciary.

I thank the Chair and yield the floor.

EXHIBIT 1.

PENNSYLVANIA SECURITIES COMMISSION,
April 19, 1995.

Hon. ARLEN SPECTER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

RE: Pending Securities Litigation Reform Bills S. 240 and S. 667

DEAR ARLEN: In my capacity as the Chairman of the Pennsylvania Securities Commission, I am writing to express my views on the two major securities litigation reform bills now before the Senate. The Pennsylvania Securities Commission is responsible for investor protection and overseeing the capital formation process in the Commonwealth.

It is my view that any securities litigation reform legislation must be carefully balanced so that it provides relief to companies and professionals who may be the subject of frivolous lawsuits while preserving a meaningful private remedy for defrauded investors. While much of the debate in Washington has focused on how to protect honest companies and professionals from vexatious lawsuits, I believe there is an equally compelling need to maintain the ability to deter and detect wrongdoing in the financial marketplace.

From my vantage point, there continues to be an unacceptably high level of fraud and abuse in today's capital markets, particularly with respect to small investors. As the limited resources of government are insufficient to pursue every case of wrongdoing, the ability of defrauding investors to maintain a private cause of action to recover their investment without fear of financial ruin remains critically important to the overall successful enforcement of the securities laws.

It is against this backdrop that I have considered the major elements of both S. 240, the "Private Securities Litigation Reform Act," introduced by Senators DOMENICI and DODD, and S. 667, the "Private Securities Enforcement Improvements Act," introduced by Senators SHELBY and BRYAN. It is my conclusion that S. 667 is very much the preferable legislative vehicle for resolving the securities litigation reform debate. S. 667 achieves the critical balance between making the litigation system more fair and more efficient, while preserving the critical role that private actions play in maintaining the integrity of our financial markets. S. 240, on the other hand, tilts the balance too far in favor of corporate interests and would have the practical effect of depriving many defrauded investors the ability to recover their losses.

Among the provisions of S. 667 that I support are: (1) an innovative early evaluation procedure designed to weed out clearly frivolous cases; (2) a more rational system of determining liability among defendants; (3) certification of complaints and improved case management procedures; (4) curbs on potentially abusive attorney practices; (5) improved disclosure of settlement terms; (6) a reasonable safe harbor for forward looking statements; (7) restoration of aiding and abetting liability; (8) a reasonable extension of the statute of limitations for securities fraud suits; (9) codification of the recklessness standard of liability as adopted by virtually every U.S. Circuit Court of Appeals; and (10) rulemaking authority to the SEC with respect to fraud-on-the-market cases. A detailed comparative analysis between S. 667 and S. 240 is enclosed.

S. 667 proves that it is possible to craft securities litigation reform measures that target abusive practices without sacrificing the opportunity for recovery by defrauding investors. Therefore, I strongly encourage you to become a co-sponsor of S. 667.

Securities litigation reform is one of the most important issues for small investors that will be considered by the 104th Congress. It is my hope that the Senate will give serious consideration to S. 667 as the appropriate response for constructive improvement in the federal securities litigation process. If you have any questions about my position on securities litigation reform, please do not hesitate to contact me at (215) 635-6262 or Deputy Chief Counsel G. Philip Rutledge at (717) 783-5130. I would be pleased to provide you or your staff with any additional information you may require on this most important issue to individual Pennsylvania investors.

Very truly yours,

ROBERT M. LAM,
Chairman

PENNSYLVANIA
SECURITIES COMMISSION,
COMMONWEALTH OF PENNSYLVANIA,
June 20, 1995.

Re: amendments to Senate bill 240, "Private Securities Litigation Reform Act"

Hon. ARLEN SPECTER,
U.S. Senate, 530 Hart Senate Office Building, Washington, DC.

DEAR ARLEN: It is my understanding that Senate Bill 240 is now before the full U.S. Senate for consideration.

The Pennsylvania Securities Commission is charged under the Pennsylvania Securities Act of 1972 with the protection of investors. While the Commission has stated its position in previous correspondence (April 17, 1995) that it favors certain securities litigation reforms (as contained in S. 667), it believes that S. 240, as currently constituted, does not achieve the appropriate balance between protecting investors and discouraging frivolous lawsuits against honest companies and professionals. Instead, the practical effect of S. 240 would be the elimination of private actions under federal law for Pennsylvanians who found themselves to be a victim of securities fraud.

It is my understanding that amendments to S. 240 will be offered on the Senate floor to strengthen its investor protection provisions, i.e. extending the statute of limitations for civil securities fraud actions (Pennsylvania recently extended its statute of limitations period for securities fraud to four years); fully restoring liability for aiding and abetting securities fraud; restoring joint and several liability so defrauded investors can be made whole; and peeling back the immunity for companies to make outrageous claims of future profits or performance.

The Commission asks you to support adoption of these amendments. If, however, all these vital investor protection amendments are not adopted, the Commission, on behalf of Pennsylvania investors, strongly urges you to vote against S. 240.

As presently constituted, S. 240 not only would affect negatively Pennsylvania investors but also Pennsylvania taxpayers should the Commonwealth Treasury Department again become a potential victim of wrongdoing in securities transactions undertaken on behalf of the Commonwealth. The importance of the potential negative effects of this Bill on the Commonwealth is reflected by the Treasury Department's recent suit against Salomon Brothers for damages resulting from alleged wrongful conduct engaged in by Salomon in connection with its bidding on government bonds.

As a participant in the capital formation process, I would like to emphasize that our financial markets run most efficiently when there is a high degree of public confidence in the integrity of the marketplace. Money is merely the medium of exchange between this confidence and the honest entrepreneur. As written, S. 240 will not advance the goal of making capital available to growing U.S. companies. It will result in small investors avoiding participation in our capital markets when they discover that they are unable to bring suit against the perpetrators or aiders and abettors of a securities fraud or, upon winning such a suit, fail to be made whole because the Bill adopts the concept of "caps" on total defendant liability.

Thank you for considering our views. If you or your staff have any questions concerning how this Bill negatively affects Pennsylvania and Pennsylvania investors, please contact G. Philip Rutledge or K. Robert Bertram of the Commission staff at (717) 783-5130.

Very truly yours,

ROBERT M. LAM,
Chairman.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, the Senator from Illinois has been patient and is scheduled to be the next speaker.

Before we hear from her, I have been asked to perform a few housekeeping details. Senator HATCH, the chairman of the Judiciary Committee, has asked me to announce on his behalf that he cannot come here at the moment. I am sure the Senator from Illinois is delighted that that means she will not be delayed further. But he did ask that the statement be made on his behalf that as chairman of the Judiciary Committee he opposes the referral contained within this motion.

I ask unanimous consent that at 8:30 this evening Senator D'AMATO be recognized to make a motion to table the motion to commit the bill.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Reserving the right to object, there are issues, and I need to discuss them with the chairman which I talked to him about earlier. And also my principal cosponsor, Senator BIDEN, is not available yet to make an argument.

Mr. BENNETT. Mr. President, I renew the unanimous consent request that at 8:30 this evening Senator D'AMATO be recognized to make a motion to table the motion to commit the bill.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SARBANES. Mr. President, parliamentary inquiry? What is the parliamentary situation here?

The PRESIDING OFFICER. There is a motion to commit the bill to the Judiciary Committee pending.

Mr. SARBANES. Is there further debate in order?

The PRESIDING OFFICER. There is.

Mr. SARBANES. On the motion or on the bill? Either?

The PRESIDING OFFICER. The motion is pending. You can debate either.

Mr. D'AMATO. At the conclusion of Senator BIDEN's remarks, I ask unanimous consent that he yield the floor back to me for the purpose of making a tabling motion. I would like to simply state that Senator HATCH has indicated that he is not in favor of the motion for sequential referral, and that this is not a new matter. This matter has legislatively been on an agenda now for some four years. That is the only comment I will make.

I will yield the floor.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, I thank the Senator from New York. What I am about to say, I say standing next to my good friend from Connecticut, Senator DODD, who has worked tirelessly on this bill, with which I disagree, but I want to make a very brief statement.

I strongly support the position taken by the Senator from Pennsylvania. This litigation makes numerous precedent-setting changes in the country's judicial system. While my colleagues in the Banking Committee had a chance to examine the changes the bill would make to our Nation's security laws, it seems to me that we may have skipped a very important step. The so-called Securities Reform Act makes significant revisions to the Federal rules of evidence relating to mandatory rule 11 sanctions and rule 26 discovery proceedings, and yet, it has not been referred to the Judiciary Committee.

I hold myself partially responsible for that. In truth, I say to my friend from Connecticut, I should have been hollering for this in my committee before this time. I was mildly preoccupied with other things before the committee. To tell you the truth, it was called to my attention by my friend from Pennsylvania, and I realize this is a serious mistake, in my view, and that we have not had this before the Judiciary Committee.

In the past, bills that have made changes to the Federal rules of evidence were referred to the Judiciary Committee to enable the committee with expertise to review the work on this legislation. This bills is no different. Similarly, limiting joint and several liability, restricting the statute of limitations, changing the rules of class action suits in favor of large investors, are all judiciary-related issues. Yet, the Judiciary Committee never had a day of hearing on any of these specific issues.

If the bill becomes law, companies could potentially get away with making misleading, even fraudulent, statements about their earnings. Yet, to win a class action suit, you would have to prove a falsehood was made with a clear intent to deceive. That is an incredibly tough standard. I will admit some frivolous lawsuits are filed. Some lawyers do make too much from a suit, leaving defrauded investors with little. But I do not believe this massive bill is the answer.

So in order to protect the small investors, it seems to me that we should at least look at the significant changes in the rules of evidence. If this bill passes, I make the prediction to us all here, we will be back in two, three, four years undoing it, after another Orange County or another insider trading scandal, or after millions of people are defrauded with some other scam that occurs.

Quite frankly, I think we would be wise to take a close look, with a specific time for referral, if need be, to the Judiciary Committee, to look at these changes in the rule of ethics.

I do not profess to have expertise in the securities industry, but we do know something about the rules of evidence and the shifting burden of truth.

I thank my colleague for his indulgence, and I thank the Senator from Illinois. I thank the Senator from Connecticut for not getting up and saying, "Why, JOE, did you not do this earlier?"

I yield the floor.

Mr. D'AMATO. Mr. President, I intend to make a motion to table.

Mr. DODD. Mr. President, will my colleague yield?

Mr. D'AMATO. I am happy to yield.

Mr. DODD. Just to say, Mr. President, this has been about 4 years on this matter.

This hour, we are now under consideration of the bill—I say this with all due respect to my good friends on the Judiciary Committee; it has been no secret that this legislation has been pending—at this particular hour to secure sequential referral, in effect, would kill the legislation.

I think all of our colleagues ought to be aware of that at this juncture. This is our opportunity in a moment to move on this. We have had extensive hearings, heard from lawyers and others on all sides, and worked closely with them.

With all due respect to our colleagues on the Judiciary Committee, I would hope this motion to table would be approved.

Mr. D'AMATO. Mr. President, I move to table the motion. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the motion to commit. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DOLE. I announce that the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Idaho [Mr. [KEMPTHORNE], and the Senator from Mississippi [Mr. LOTT] are necessarily absent.

Mr. FORD. I announce that the Senator from New Mexico [Mr. BINGAMAN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Arkansas [Mr. BUMPERS], the Senator from Hawaii [Mr. INOUYE], the Senator from Nebraska [Mr. KERRY], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 19, as follows:

[Rollcall Vote No. 281 Leg.]

YEAS—69

Abraham
Ashcroft
Baucus
Bennett
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Faircloth
Feinstein
Ford
Frist
Glenn
Gorton
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kerry
Kohl
Kyl
Levin
Lieberman
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Robb
Rockefeller
Roth
Santorum
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—19

Akaka
Biden
Boxer
Breaux
Bryan
Byrd
Daschle
Feingold
Graham
Heflin
Hollings
Kennedy
Leahy
McCain
Sarbanes
Shelby
Simon
Specter
Wellstone

ANSWERED 'PRESENT'—1

Bond

NOT VOTING—11

Bingaman
Bradley
Bumpers
Gramm
Helms
Inouye
Kempthorne
Kerrey
Lautenberg
Lott
Pryor

So the motion to lay on the table the motion to commit was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF VOTE

Mr. REID. Mr. President, on rollcall vote 281, I was recorded as voting "no." It was my intention to vote "aye." Therefore, I ask unanimous consent that I be permitted to change my vote. This will in no way change the outcome of the vote.

This request has been cleared by both the majority and the minority.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

Mr. STEVENS. Regular order.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

The Senate continued with the consideration of the bill.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, let me explain that under our previous agreement, when I call for the regular order, the highway bill comes back. I understand they have agreed to the Stevens-Murkowski amendment with Senator BUMPERS. That would be adopted. There would be speeches for the record; very short. Then we would proceed to final passage of the highway bill.

Mr. CHAFEE. Right, by voice vote.

Mr. DOLE. Does anybody request a rollcall on final passage?

I ask unanimous consent that once the amendment is agreed to, and the committee substitute, as amended, is agreed to, the bill will be advanced to third reading, the bill passed, and the motion to reconsider be laid on the table, with the above occurring without any intervening action.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DOLE. There will be no more votes tonight. There will be a vote at 10:55 tomorrow morning. The first vote will be at 10:55. It will be on the amendment by the Senator from Alabama, Senator SHELBY, and Senator BRYAN.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 1467

Mr. STEVENS. Mr. President, I have an amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. At the request of the majority leader, S. 440 is now the pending business.

The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself, Mr. MURKOWSKI, Mr. HATCH, and Mr. BENNETT, proposes an amendment numbered 1467.

At the appropriate place in title I of the bill insert the following new section:

SEC. . MORATORIUM.

(a) IN GENERAL.—Notwithstanding any other provision of law, no agency of the Federal government may take any action to prepare, promulgate, or implement any rule or regulation addressing rights of way authorized pursuant to Revised Statutes 2477 (43 U.S.C. 932), as such law was in effect prior to October 21, 1976.

(b) This section shall cease to have any force or effect after December 1, 1995.

Mr. STEVENS. Mr. President, in response to the request, we have agreed to this amendment which is a moratorium on proceeding with the regulations as proposed by the Department of the Interior that have not been issued in final form yet, but we know they are under consideration.

Let me state that this amendment does not affect any judicial action or decision instituted since 1976, any pending judicial action or any future judicial action. It is not intended to affect any case law with respect to rights of way granted pursuant to Revised Statutes 2477. This deals simply with the proposal to issue regulations to, in effect, determine through sovereign power that the rights of the States would be invaded as those States rights were known under Revised Statutes 2477, which was repealed in 1976.

I have offered this on behalf of my colleague Senator MURKOWSKI and the two Senators from Utah, Senator HATCH and Senator BENNETT. I do believe it will achieve the goal of just having a moratorium on the preparation of regulations so that the committees involved and the States involved may try to work this out without very expensive litigation that would ensue, and in the case of our State it would be just a disastrous prospect of litigating some 600 or more separate rights-of-way.

I am grateful to the Senate for having delayed the action until this time to enable us to have a proposal go to the House, which I hope the House will agree with, to establish this moratorium. It will simply delay the process as far as the administrative regulations that were proposed by the Department of the Interior.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator Alaska.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I am glad we could come to an agreement on an amendment to restrict the Department of the Interior or any other Federal agency from taking any action on finalizing a rule or regulation with respect to Revised Statute 2477 until December 1, 1995. This will allow some of my colleagues, including my colleague from Arkansas, to take a careful look at this issue. I want to make it clear that we will be offering legislation in the future to resolve this problem for Alaska.

R.S. 2477 simply states: The right-of-way for the construction of highways over public lands, not reserved for public uses, is hereby granted. The 1866 law was repealed by FLPMA in 1976. But between 1866 and 1976, R.S. 2477 allowed the creation of property rights across Federal lands for rights-of-way. These rights-of-way have provided essential access through the Western States—and especially in Alaska. Recognizing this, Congress intentionally protected the R.S. 2477 rights-of-way in FLPMA. However, the Department of the Interior proposed regulations in August of 1994 to make it much more difficult to establish right-of-way claims across Federal lands established under the Revised Statutes 2477.

DOI claims the reason they are doing the regulations is to make a logical process to get R.S. 2477 rights-of-way recognized. But the regulations would actually:

Override State law with restrictive new definitions of highway and construction;

Put a cloud on the title to R.S. 2477 roads, treating them as invalid until proven valid;

Prevent any future expansion of scope of an R.S. 2477 right-of-way, preventing making the right-of-way any wider, so a dogsled trail will remain a dogsled trail;

Set a sunset on administrative and court action on validity of R.S. 2477 by extinguishing claims not filed within 2 years and 30 days after final rule is issued;

Although a claimant could still turn to the courts, DOI states that the regulations serve as notice to claimants for purpose of the Quiet Title Act, which provides a 12-year statute of limitations—but true to form, DOI did not put a time limit on themselves to process the claims;

Construction and maintenance will not be permitted without approval of DOI with 3 days notice, preventing the fixing of washed out roads until DOI approval.

The draft R.S. 2477 regulations from the Department of the Interior are nothing more than an attempt to prevent legal access across our public lands. It would impose an impossible task on State and local governments to make all claims for rights-of-way on Federal lands and then have to validate each one of the claims. Nowhere would this be more burdensome than in my State which is one-fifth the size of the United States and more than twice the size of Texas—yet has less roads than Vermont.

These regulations are clearly an effort to make sure Alaska and other Western States cannot have access across Federal lands. This amendment to stop the Department of the Interior from taking any action to implement the final rules and will provide us time to look at the best approach to finally resolving the R.S. 2477 issue.

I want to thank the Senator from Arkansas for his cooperation on the Stevens' R.S. 2477 amendment. As chairman of the Energy and National Resources Committee I intend to have hearings on this matter soon and will be working on a legislative or administrative solution. The Senator from Arkansas has expressed interest in working with me on this issue, and I appreciate that offer. However, if we work in good faith, but fail to find a solution by the December date in the Stevens' amendment, the Senator from Arkansas has assured me that there will be a further extension.

I want to join with the senior Senator from Alaska and also thank our colleagues: Senator WARNER, Senator BUMPERS, Senator CHAFEE, and Senator BAUCUS, and as a consequence of their willingness to acknowledge the concerns expressed by the Western States, I would like for the RECORD to submit a list of States that currently have an interest in R.S. 2477. There are 16 States, and I might add for the RECORD that the Eastern States are included but they are taken collectively and not listed by name. So clearly this is a western issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

USDI DRAFT REPORT TO CONGRESS—R.S. 2477, THE HISTORY AND MANAGEMENT OF R.S. 2477 RIGHTS-OF-WAY CLAIMS ON FEDERAL AND OTHER LANDS, MARCH 1993

Existing public land records indicate that approximately 1,453 R.S. 2477 rights-of-way have been recognized to date across BLM lands. At least two R.S. 2477 highways have been recognized in National Park Units—the Burr Trail located in both Capitol Reef National Park and Glen Canyon National Recreation Area in Utah and the Glade Park Road in the Colorado National Monument.

Information regarding other Federal land management agencies was not available for this draft report. Few recognized claims are thought to exist across other agency lands.

PENDING CLAIMS

Currently, there are approximately 3,947 pending claims on file with the BLM nationwide. Utah has the greatest number pending, with claims to 3,815 roads. Most other BLM States have very few claims pending. Some new assertions, that are not reflected on the table below, have been filed with various Federal agencies since the initiation of this study. However, the table below does reflect the general situation regarding filed claims. Few assertions are pending with Federal land management agency offices overall except for Utah BLM.

CURRENT R.S. 2477 CLAIMS ON BLM PUBLIC LANDS, MARCH 1993

States	Recognized claims	Pending claims
Alaska	2	10
Arizona	173	50
California	17	36
Colorado	53	8
Eastern States	1	10
Idaho	55	2
Montana	12	11
Nebraska	2	0
Nevada	137	4
New Mexico	171	0
North Dakota	0	0
Oklahoma	0	0
Oregon	450	1
South Dakota	0	0
Utah	10	3,815
Washington	17	0
Wyoming	353	0
Total	1,453	3,947

Mr. MURKOWSKI. I also want to assure my colleagues that such an effort to accommodate us is deeply appreciated, and I assure them as chairman of the Energy Committee I will hold hearings at the first opportunity on this matter to address the necessity of moving along under the stipulation for R.S. 2477 to the States that were affected, and that we do this in an expeditious manner. And the fact that we can have this input prior to the Department of Interior promulgating regulations is the interest that we share.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. WARNER. Mr. President, I know of no further debate. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So the amendment (No. 1467) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the committee substitute, as amended, is agreed to. The bill is considered read the third time.

The question is, Shall the bill pass?

So the bill (S. 440), as amended, was passed, as follows:

S. 440

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "National Highway System Designation Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HIGHWAY PROVISIONS

Sec. 101. National Highway System designation.
Sec. 102. Eligible projects for the National Highway System.
Sec. 103. Transferability of apportionments.
Sec. 104. Design criteria for the National Highway System.
Sec. 105. Applicability of transportation conformity requirements.
Sec. 106. Use of recycled paving material.
Sec. 107. Limitation on advance construction.
Sec. 108. Preventive maintenance.
Sec. 109. Eligibility of bond and other debt instrument financing for reimbursement as construction expenses.
Sec. 110. Federal share for highways, bridges, and tunnels.
Sec. 111. Applicability of certain requirements to third party sellers.
Sec. 112. Streamlining for transportation enhancement projects.
Sec. 113. Non-Federal share for certain toll bridge projects.
Sec. 114. Congestion mitigation and air quality improvement program.
Sec. 115. Limitation of national maximum speed limit to certain commercial motor vehicles.
Sec. 116. Federal share for bicycle transportation facilities and pedestrian walkways.
Sec. 117. Suspension of management systems.
Sec. 118. Intelligent transportation systems.
Sec. 119. Donations of funds, materials, or services for federally assisted activities.
Sec. 120. Metric conversion of traffic control signs.
Sec. 121. Identification of high priority corridors.
Sec. 122. Revision of authority for innovative project in Florida.
Sec. 123. Revision of authority for priority intermodal project in California.
Sec. 124. National recreational trails funding program.
Sec. 125. Intermodal facility in New York.
Sec. 126. Clarification of eligibility.
Sec. 127. Bristol, Rhode Island, street marking.
Sec. 128. Public use of rest areas.
Sec. 129. Collection of tolls to finance certain environmental projects in Florida.
Sec. 130. Hours of service of drivers of ground water well drilling rigs.
Sec. 131. Rural access projects.
Sec. 132. Inclusion of high priority corridors.
Sec. 133. Sense of the Senate regarding the Federal-State funding relationship for transportation.
Sec. 134. Quality through competition.
Sec. 135. Federal share for economic growth center development highways.
Sec. 136. Vehicle weight and longer combination vehicles exemption for Sioux City, Iowa.
Sec. 137. Revision of authority for congestion relief project in California.
Sec. 138. Applicability of certain vehicle weight limitations in Wisconsin.
Sec. 139. Prohibition on new highway demonstration projects.
Sec. 140. Treatment of Centennial Bridge, Rock Island, Illinois, agreement.
Sec. 141. Moratorium on certain emissions testing requirements.
Sec. 142. Elimination of penalties for noncompliance with motorcycle helmet use requirement.
Sec. 143. Clarification of Eligibility.
Sec. 144. Toll roads, bridges, tunnels, nontoll roads that have a dedicated revenue source, and ferries.
Sec. 145. Transfer of funds between certain demonstration projects in Louisiana.
Sec. 146. Northwest Arkansas regional airport connector.
Sec. 147. Intercity rail infrastructure investment.
Sec. 148. Operation of motor vehicles by intoxicated minors.
Sec. 149. Contingent commitments.
Sec. 150. Availability of certain funds for Boston-to-Portland rail corridor.
Sec. 151. Revision of authority of multiyear contracts.
Sec. 152. Feasibility study of evacuation routes for Louisiana coastal areas.
Sec. 153. 34th Street corridor project in Moorhead, Minnesota.
Sec. 154. Safety belt use law requirements for New Hampshire and Maine.
Sec. 155. Report on accelerated vehicle retirement programs.
Sec. 156. Intercity rail infrastructure investment from Mass Transit Account of Highway Trust Fund.
Sec. 157. Moratorium.

TITLE II—NATIONAL CAPITAL REGION INTERSTATE TRANSPORTATION AUTHORITY

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Purposes.
Sec. 204. Definitions.
Sec. 205. Establishment of Authority.
Sec. 206. Government of Authority.
Sec. 207. Ownership of Bridge.
Sec. 208. Capital improvements and construction.
Sec. 209. Additional powers and responsibilities of Authority.
Sec. 210. Funding.
Sec. 211. Availability of prior authorizations.

TITLE III—FEDERAL HIGHWAY AND RAILROAD GRADE CROSSING SAFETY

Sec. 301. Short title.

Sec. 302. Intelligent vehicle-highway systems.
Sec. 303. State highway safety management systems.
Sec. 304. Violation of grade-crossing laws and regulations.
Sec. 305. Safety enforcement.
Sec. 306. Crossing elimination; statewide crossing freeze.

TITLE I—HIGHWAY PROVISIONS

SEC. 101. NATIONAL HIGHWAY SYSTEM DESIGNATION.

(a) In General.—Section 103 of title 23, United States Code, is amended by inserting after subsection (b) the following:

"(c) National Highway System Designation.—

"(1) Designation.—The most recent National Highway System (as of the date of enactment of this Act) as submitted by the Secretary of Transportation pursuant to this section is designated as the National Highway System.

"(2) Modifications.—

"(A) In general.—At the request of a State, the Secretary may—

"(i) add a new route segment to the National Highway System, including a new intermodal connection; or

"(ii) delete a route segment in existence on the date of the request and any connection to the route segment;

if the total mileage of the National Highway System (including any route segment or connection proposed to be added under this subparagraph) does not exceed 165,000 miles (265,542 kilometers).

"(B) Procedures for changes requested by states.—Each State that makes a request for a change in the National Highway System pursuant to subparagraph (A) shall establish that each change in a route segment or connection referred to in the subparagraph has been identified by the State, in cooperation with local officials, pursuant to applicable transportation planning activities for metropolitan areas carried out under section 134 and statewide planning processes carried out under section 135.

"(3) Approval by the secretary.—The Secretary may approve a request made by a State for a change in the National Highway System pursuant to paragraph (2) if the Secretary determines that the change—

"(A) meets the criteria established for the National Highway System under this title; and

"(B) enhances the national transportation characteristics of the National Highway System.".

(b) Route Segments in Wyoming.—

(1) In general.—The Secretary of Transportation shall cooperate with the State of Wyoming in monitoring the changes in growth along, and traffic patterns of, the route segments in Wyoming described in paragraph (2), for the purpose of future consideration of the addition of the route segments to the National Highway System in accordance with paragraphs (2) and (3) of section 103(c) of title 23, United States Code (as added by subsection (a)).

(2) Route segments.—The route segments referred to in paragraph (1) are—

(A) United States Route 191 from Rock Springs to Hoback Junction;

(B) United States Route 16 from Worland to Interstate Route 90; and

(C) Wyoming Route 59 from Douglas to Gillette.

SEC. 102. ELIGIBLE PROJECTS FOR THE NATIONAL HIGHWAY SYSTEM.

(a) In General.—Section 103(i) of title 23, United States Code, is amended—

(1) by striking paragraph (8) and inserting the following:

"(8) Capital and operating costs for traffic monitoring, management, and control facilities and programs."; and

(2) by adding at the end the following:

"(14) Construction, reconstruction, resurfacing, restoration, and rehabilitation of, and operational improvements for, public highways connecting the National Highway System to—

"(A) ports, airports, and rail, truck, and other intermodal freight transportation facilities; and

"(B) public transportation facilities.

"(15) Construction of, and operational improvements for, the Alameda Transportation Corridor along Alameda Street from the entrance to the ports of Los Angeles and Long Beach to Interstate 10, Los Angeles, California. The Federal share of the cost of the construction and improvements shall be determined in accordance with section 120(b).".

(b) Definition.—Section 101(a) of title 23, United States Code, is amended by striking the undesignated paragraph defining "startup costs for traffic management and control" and inserting the following:

"The term 'operating costs for traffic monitoring, management, and control' includes labor costs, administrative costs, costs of utilities and rent, and other costs associated with the continuous operation of traffic control activities, such as integrated traffic control systems, incident management programs, and traffic control centers.".

SEC. 103. TRANSFERABILITY OF APPORTIONMENTS.

The third sentence of section 104(g) of title 23, United States Code, is amended by striking "40 percent" and inserting "60 percent".

SEC. 104. DESIGN CRITERIA FOR THE NATIONAL HIGHWAY SYSTEM.

Section 109 of title 23, United States Code, is amended—

(1) by striking subsection (a) and inserting the following:

"(a) In General.—The Secretary shall ensure that the plans and specifications for each proposed highway project under this chapter provide for a facility that will—

"(1) adequately serve the existing and planned future traffic of the highway in a manner that is conducive to safety, durability, and economy of maintenance; and

"(2) be designed and constructed in accordance with criteria best suited to accomplish the objectives described in paragraph (1) and to conform to the particular needs of each locality.";

(2) by striking subsection (c) and inserting the following:

"(c) Design Criteria for the National Highway System.—

"(1) In general.—A design for new construction, reconstruction, resurfacing (except for maintenance resurfacing), restoration, or rehabilitation of a highway on the National Highway System (other than a highway also on the Interstate System) shall take into account, in addition to the criteria described in subsection (a)—

"(A) the constructed and natural environment of the area;

"(B) the environmental, scenic, aesthetic, historic, community, and preservation impacts of the activity; and

"(C) as appropriate, access for other modes of transportation.

"(2) Development of criteria.—The Secretary, in cooperation with State highway agencies, shall develop criteria to implement paragraph (1). In developing the criteria, the Secretary shall consider the results of the committee process of the American Association of State Highway and Transportation Officials as adopted and published in 'A Policy on Geometric Design of Highways and Streets', after adequate opportunity for input by interested parties."; and

(3) by striking subsection (q) and inserting the following:

"(q) Environmental, Scenic, and Historic Values.—Notwithstanding subsections (b) and (c), the Secretary may approve a project for the National Highway System if the project is designed to—

"(1) allow for the preservation of environmental, scenic, or historic values;

"(2) ensure safe use of the facility; and

"(3) comply with subsection (a).".

SEC. 105. APPLICABILITY OF TRANSPORTATION CONFORMITY REQUIREMENTS.

(a) Highway Construction.—Section 109(j) of title 23, United States Code, is amended by striking "plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended." and inserting the following: "plan for—

"(1) the implementation of a national ambient air quality standard for which an area is designated as a nonattainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or

"(2) the maintenance of a national ambient air quality standard in an area that was designated as a nonattainment area but that was later redesignated by the Administrator as an attainment area for the standard and that is required to develop a maintenance plan under section 175A of the Clean Air Act (42 U.S.C. 7505a).".

(b) Clean Air Act Requirements.—Section 176(c) of the Clean Air Act (42 U.S.C. 7506(c)) is amended by adding at the end the following:

"(5) Applicability.—This subsection shall apply only with respect to—

"(A) a nonattainment area and each specific pollutant for which the area is designated as a nonattainment area; and

"(B) an area that was designated as a nonattainment area but that was later redesignated by the Administrator as an attainment area and that is required to develop a maintenance plan under section 175A with respect to the specific pollutant for which the area was designated nonattainment.".

SEC. 106. USE OF RECYCLED PAVING MATERIAL.

(a) In General.—Section 1038 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 23 U.S.C. 109 note) is amended—

(1) by striking subsection (d) and inserting the following:

"(d) Asphalt Pavement Containing Recycled Rubber.—

"(1) Crumb rubber modifier research.—Not later than 180 days after the date of enactment of the National Highway System Designation Act of 1995, the Administrator of the Federal Highway Administration shall develop testing procedures and conduct research to develop performance grade classifications, in accordance with the strategic highway research program carried out under section 307(d) of title 23, United States Code, for crumb rubber modifier binders. The testing procedures and performance grade classifications should be developed in consultation with representatives of the crumb rubber modifier industry and other interested parties (including the asphalt paving industry) with experience in the development of the procedures and classifications.

"(2) Crumb rubber modifier program development.—

"(A) IN GENERAL.—The Administrator of the Federal Highway Administration shall make grants to States to develop programs to use crumb rubber from scrap tires to modify asphalt pavements. Each State may receive not more than $500,000 under this paragraph.

"(B) USE OF GRANT FUNDS.—Grant funds made available to States under this paragraph may be used—

"(i) to develop mix designs for crumb rubber modified asphalt pavements;

"(ii) for the placement and evaluation of crumb rubber modified asphalt pavement field tests; and

"(iii) for the expansion of State crumb rubber modifier programs in existence on the date the grant is made available."; and

(2) in subsection (e), by striking paragraph (1) and inserting the following:

"(1) the term 'asphalt pavement containing recycled rubber' means any mixture of asphalt and crumb rubber derived from whole scrap tires, such that the physical properties of the asphalt are modified through the mixture, for use in pavement maintenance, rehabilitation, or construction applications; and".

(b) FUNDING.—Section 307(e)(13) of title 23, United States Code, is amended by inserting after the second sentence the following: "Of the amounts authorized to be expended under this paragraph, $500,000 shall be expended in fiscal year 1996 to carry out section 1038(d)(1) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 109 note) and $10,000,000 shall be expended in each of fiscal years 1996 and 1997 to carry out section 1038(d)(2) of the Act.".

SEC. 107. LIMITATION ON ADVANCE CONSTRUCTION.

Section 115(d) of title 23, United States Code, is amended to read as follows:

"(d) REQUIREMENT OF INCLUSION IN TRANSPORTATION IMPROVEMENT PROGRAM.—The Secretary may not approve an application under this section unless the project is included in the transportation improvement program of the State developed under section 135(f).".

SEC. 108. PREVENTIVE MAINTENANCE.

Section 116 of title 23, United States Code, is amended by adding at the end the following:

"(d) PREVENTIVE MAINTENANCE.—A preventive maintenance activity shall be eligible for Federal assistance under this title if the State demonstrates to the satisfaction of the Secretary that the activity is a cost-effective means of extending the life of a Federal-aid highway.".

SEC. 109. ELIGIBILITY OF BOND AND OTHER DEBT INSTRUMENT FINANCING FOR REIMBURSEMENT AS CONSTRUCTION EXPENSES.

(a) IN GENERAL.—Section 122 of title 23, United States Code, is amended to read as follows:

"SEC. 122. PAYMENTS TO STATES FOR BOND AND OTHER DEBT INSTRUMENT FINANCING.

"(a) DEFINITION OF ELIGIBLE DEBT FINANCING INSTRUMENT.—In this section, the term 'eligible debt financing instrument' means a bond or other debt financing instrument, including a note, certificate, mortgage, or lease agreement, issued by a State or political subdivision of a State, the proceeds of which are used for an eligible Federal-aid project under this title.

"(b) FEDERAL REIMBURSEMENT.—Subject to subsections (c) and (d), the Secretary may reimburse a State for expenses and costs incurred by the State or a political subdivision of the State, for—

"(1) interest payments under an eligible debt financing instrument;

"(2) the retirement of principal of an eligible debt financing instrument;

"(3) the cost of the issuance of an eligible debt financing instrument;

"(4) the cost of insurance for an eligible debt financing instrument; and

"(5) any other cost incidental to the sale of an eligible debt financing instrument (as determined by the Secretary).

"(c) CONDITIONS ON PAYMENT.—The Secretary may reimburse a State under subsection (b) with respect to a project funded by an eligible debt financing instrument after the State has complied with this title to the extent and in the manner that would be required if payment were to be made under section 121.

"(d) FEDERAL SHARE.—The Federal share of the cost of a project payable under this section shall not exceed the pro-rata basis of payment authorized in section 120.

"(e) STATUTORY CONSTRUCTION.—Notwithstanding any other law, the eligibility of an eligible debt financing instrument for reimbursement under subsection (a) shall not—

"(1) constitute a commitment, guarantee, or obligation on the part of the United States to provide for payment of principal or interest on the eligible debt financing instrument; or

"(2) create any right of a third party against the United States for payment under the eligible debt financing instrument.".

(b) DEFINITION OF CONSTRUCTION.—The first sentence of the undesignated paragraph defining "construction" of section 101(a) of title 23, United States Code, is amended by inserting "bond costs and other costs relating to the issuance of bonds or other debt instrument financing in accordance with section 122," after "highway, including".

(c) CONFORMING AMENDMENT.—The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 122 and inserting the following:

"122. Payments to States for bond and other debt instrument financing.".

SEC. 110. FEDERAL SHARE FOR HIGHWAYS, BRIDGES, AND TUNNELS.

Section 129(a) of title 23, United States Code, is amended by striking paragraph (5) and inserting the following:

"(5) LIMITATION ON FEDERAL SHARE.—The Federal share payable for an activity described in paragraph (1) shall be a percentage determined by the State, but not to exceed 80 percent.".

SEC. 111. APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.

Section 133(d) of title 23, United States Code, is amended by adding at the end the following:

"(5) APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of a transportation enhancement activity funded from the allocation required under paragraph (2), if real property or an interest in real property is to be acquired from a qualified organization exclusively for conservation purposes (as determined under section 170(h) of the Internal Revenue Code of 1986), the organization shall be considered to be the owner of the property for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

"(B) FEDERAL APPROVAL PRIOR TO INVOLVEMENT OF QUALIFIED ORGANIZATION.—If Federal approval of the acquisition of the real property or interest predates the involvement of a qualified organization described in subparagraph (A) in the acquisition of the property, the organization shall be considered to be an acquiring agency or person as described in section 24.101(a)(2) of title 49, Code of Federal Regulations, for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

"(C) ACQUISITIONS ON BEHALF OF RECIPIENTS OF FEDERAL FUNDS.—If a qualified organization described in subparagraph (A) has contracted with a State highway administration or other recipient of Federal funds to acquire the real property or interest on behalf of the recipient, the organization shall be considered to be an agent of the recipient for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).".

SEC. 112. STREAMLINING FOR TRANSPORTATION ENHANCEMENT PROJECTS.

Section 133(e) of title 23, United States Code, is amended—

(1) in paragraph (3)—

(A) by striking "(3) PAYMENTS.—The" and inserting the following:

"(3) PAYMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the"; and

(B) by adding at the end the following:

"(B) ADVANCE PAYMENT OPTION FOR TRANSPORTATION ENHANCEMENT ACTIVITIES.—

"(i) IN GENERAL.—The Secretary may advance funds to the State for transportation enhancement activities funded from the allocation required by subsection (d)(2) for a fiscal year if the Secretary certifies for the fiscal year that the State has authorized and uses a process for the selection of transportation enhancement projects that involves representatives of affected public entities, and private citizens, with expertise related to transportation enhancement activities.

"(ii) LIMITATION ON AMOUNTS.—Amounts advanced under this subparagraph shall be limited to such amounts as are necessary to make prompt payments for project costs.

"(iii) EFFECT ON OTHER REQUIREMENTS.—This subparagraph shall not exempt a State from other requirements of this title relating to the surface transportation program."; and

(2) by adding at the end the following:

"(5) TRANSPORTATION ENHANCEMENT ACTIVITIES.—

"(A) CATEGORICAL EXCLUSIONS.—To the extent appropriate, the Secretary shall develop categorical exclusions from the requirement that an environmental assessment or an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) be prepared for transportation enhancement activities funded from the allocation required by subsection (d)(2).

"(B) NATIONWIDE PROGRAMMATIC AGREEMENT.—The Administrator of the Federal Highway Administration, in consultation with the National Conference of State Historic Preservation Officers and the Advisory Council on Historic Preservation established under title II of the National Historic Preservation Act (16 U.S.C. 470i et seq.), shall develop a nationwide programmatic agreement governing the review of transportation enhancement activities funded from the allocation required by subsection (d)(2), in accordance with—

"(i) section 106 of the National Historic Preservation Act (16 U.S.C. 470f); and

"(ii) the regulations of the Advisory Council on Historic Preservation.".

SEC. 113. NON-FEDERAL SHARE FOR CERTAIN TOLL BRIDGE PROJECTS.

Section 144(l) of title 23, United States Code, is amended by adding at the end the following: "Any non-Federal funds expended for the seismic retrofit of the bridge may be credited toward the non-Federal share required as a condition of receipt of any Federal funds for seismic retrofit of the bridge made available after the date of the expenditure.".

SEC. 114. CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.

(a) AREAS ELIGIBLE FOR FUNDS.—

(1) IN GENERAL.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(A) by inserting "for areas in the State that were designated as nonattainment areas under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d))" after "may obligate funds"; and

(B) in paragraph (1)(A)—

(i) by striking "contribute to the" and inserting the following: "contribute to—

"(i) the"; and

(ii) by adding at the end the following:

"(ii) the maintenance of a national ambient air quality standard in an area that was designated as a nonattainment area but that was later redesignated by the Administrator of the Environmental Protection Agency as an attainment area under section 107(d) of the Clean Air Act (42 U.S.C. 7407(d)); or".

(2) APPORTIONMENT.—Section 104(b)(2) of title 23, United States Code, is amended—

(A) in the second sentence, by striking "is a nonattainment area (as defined in the Clean Air Act) for ozone" and inserting "was a nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2))) for ozone during any part of fiscal year 1994"; and

(B) in the third sentence—

(i) by striking "is also" and inserting "was also"; and

(ii) by inserting "during any part of fiscal year 1994" after "monoxide".

(3) ORANGE STREET BRIDGE, MISSOULA, MONTANA.—Notwithstanding section 149 of title 23, United States Code, or any other law, a project to construct new capacity for the Orange Street Bridge in Missoula, Montana, shall be eligible for funding under the congestion mitigation and air quality improvement program established under the section.

(b) REMOVAL OF CERTAIN FUNDING LIMITATIONS.—Section 149(b)(1)(A) of title 23, United States Code, is amended by striking "(other than clauses (xii) and (xvi) of such section), that the project or program" and inserting ", that the publicly sponsored project or program".

(c) EFFECT OF LIMITATION ON APPORTIONMENT.—Notwithstanding any other law, for each of fiscal years 1996 and 1997, any limitation under this section or an amendment made by this section on an apportionment otherwise authorized under section 1003(a)(4) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 1919) shall not affect any hold harmless apportionment adjustment under section 1015(a) of the Act (Public Law 102–240; 105 Stat. 1943).

(d) TRAFFIC MONITORING, MANAGEMENT, AND CONTROL FACILITIES AND PROGRAMS.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) to establish or operate a traffic monitoring, management, and control facility or program if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the facility or program is likely to contribute to the attainment of a national ambient air quality standard.".

SEC. 115. LIMITATION OF NATIONAL MAXIMUM SPEED LIMIT TO CERTAIN COMMERCIAL MOTOR VEHICLES.

(a) IN GENERAL.—Section 154 of title 23, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§ 154. National maximum speed limit for certain commercial motor vehicles";

(2) in subsection (a)—

(A) by inserting ", with respect to motor vehicles" before "(1)"; and

(B) in paragraph (4), by striking "motor vehicles using it" and inserting "vehicles driven or drawn by mechanical power manufactured primarily for use on public highways (except any vehicle operated exclusively on a rail or rails) using it";

(3) by striking subsection (b) and inserting the following:

"(b) MOTOR VEHICLE.—In this section, the term 'motor vehicle' has the meaning provided for 'commercial motor vehicle' in section 31301(4) of title 49, United States Code, except that the term does not include any vehicle operated exclusively on a rail or rails.";

(4) in the first sentence of subsection (e), by striking "all vehicles" and inserting "all motor vehicles"; and

(5) by redesignating subsection (i) as subsection (f).

(b) CONFORMING AMENDMENTS.—

(1) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 154 and inserting the following:

"154. National maximum speed limit for certain commercial motor vehicles.".

(2) Section 153(i)(2) of title 23, United States Code, is amended to read as follows:

"(2) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.".

(3) Section 157(d) of title 23, United States Code, is amended by striking "154(f) or".

(4) Section 410(i)(3) of title 23, United States Code, is amended to read as follows:

"(3) MOTOR VEHICLE.—The term 'motor vehicle' means any vehicle driven or drawn by mechanical power manufactured primarily for use on public highways, except any vehicle operated exclusively on a rail or rails.".

SEC. 116. FEDERAL SHARE FOR BICYCLE TRANSPORTATION FACILITIES AND PEDESTRIAN WALKWAYS.

Section 217(f) of title 23, United States Code, is amended by striking "80 percent" and inserting "determined in accordance with section 120(b)".

SEC. 117. SUSPENSION OF MANAGEMENT SYSTEMS.

Section 303 of title 23, United States Code, is amended—

(1) by striking subsection (c) and inserting the following:

"(c) STATE ELECTION.—A State may, at the option of the State, elect, at any time, not to implement, in whole or in part, 1 or more of the management systems required under this section. The Secretary may not impose any sanction on, or withhold any benefit from, a State on the basis of such an election."; and

(2) in subsection (f)—

(A) by striking "(f) ANNUAL REPORT.—Not" and inserting the following:

"(f) REPORTS.—

"(1) ANNUAL REPORTS.—Not"; and

(B) by adding at the end the following:

"(2) REPORT ON IMPLEMENTATION.—Not later than October 1, 1996, the Secretary, in consultation with States, shall transmit to Congress a report on the management systems required under this section that makes recommendations as to whether, to what extent, and how the management systems should be implemented.".

SEC. 118. INTELLIGENT TRANSPORTATION SYSTEMS.

(a) IMPROVED COLLABORATION IN INTELLIGENT TRANSPORTATION SYSTEMS RESEARCH AND DEVELOPMENT.—Section 6054 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 307 note) is amended by adding at the end the following:

"(e) COLLABORATIVE RESEARCH AND DEVELOPMENT.—In carrying out this part, the Secretary may carry out collaborative research and development in accordance with section 307(a)(2) of title 23, United States Code.".

(b) TIME LIMIT FOR OBLIGATION OF FUNDS FOR INTELLIGENT TRANSPORTATION SYSTEMS PROJECTS.—Section 6058 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 307 note) is amended by adding at the end the following:

"(f) OBLIGATION OF FUNDS.—

"(1) IN GENERAL.—Funds made available pursuant to subsections (a) and (b) after the date of enactment of this subsection, and other funds made available after that date to carry out specific intelligent transportation systems projects, shall be obligated not later than the last day of the fiscal year following the fiscal year with respect to which the funds are made available.

"(2) REALLOCATION OF FUNDS.—If funds described in paragraph (1) are not obligated by the date described in the paragraph, the Secretary may make the funds available to carry out any other activity with respect to which funds may be made available under subsection (a) or (b).".

(c) CONFORMING AMENDMENTS.—

(1) The table in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2048) is amended—

(A) in item 10, by striking "(IVHS)" and inserting "(ITS)"; and

(B) in item 29, by striking "intelligent/vehicle highway systems" and inserting "intelligent transportation systems".

(2) Section 6009(a)(6) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2176) is amended by striking "intelligent vehicle highway systems" and inserting "intelligent transportation systems".

(3) Part B of title VI of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 23 U.S.C. 307 note) is amended—

(A) by striking the part heading and inserting the following:

"PART B—INTELLIGENT TRANSPORTATION SYSTEMS";

(B) in section 6051, by striking "Intelligent Vehicle-Highway Systems" and inserting "Intelligent Transportation Systems";

(C) by striking "intelligent vehicle-highway systems" each place it appears and inserting "intelligent transportation systems";

(D) in section 6054—

(i) in subsection (a)(2)(A), by striking "intelligent vehicle-highway" and inserting "intelligent transportation systems"; and

(ii) in the subsection heading of subsection (b), by striking "INTELLIGENT VEHICLE-HIGHWAY SYSTEMS" and inserting "INTELLIGENT TRANSPORTATION SYSTEMS";

(E) in the subsection heading of section 6056(a), by striking "IVHS" and inserting "ITS";

(F) in the subsection heading of each of subsections (a) and (b) of section 6058, by striking "IVHS" and inserting "ITS"; and

(G) in the paragraph heading of section 6059(1), by striking "IVHS" and inserting "ITS".

(4) Section 310(c)(3) of the Department of Transportation and Related Agencies Appropriations Act, 1995 (Public Law 103–331; 23 U.S.C. 104 note), is amended by striking "intelligent vehicle highway systems" and inserting "intelligent transportation systems".

(5) Section 109(a) of the Hazardous Materials Transportation Authorization Act of 1994 (Public Law 103–311; 23 U.S.C. 307 note) is amended—

(A) by striking "Intelligent Vehicle-Highway Systems" each place it appears and inserting "Intelligent Transportation Systems"; and

(B) by striking "intelligent vehicle-highway system" and inserting "intelligent transportation system".

(6) Section 5316(d) of title 49, United States Code, is amended—

(A) in the subsection heading, by striking "INTELLIGENT VEHICLE-HIGHWAY" and inserting "INTELLIGENT TRANSPORTATION"; and

(B) by striking "intelligent vehicle-highway" each place it appears and inserting "intelligent transportation".

SEC. 119. DONATIONS OF FUNDS, MATERIALS, OR SERVICES FOR FEDERALLY ASSISTED ACTIVITIES.

Section 323 of title 23, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following:

"(c) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, OR SERVICES.—Nothing in this title or any other law shall prevent a person from offering to donate funds, materials, or services in connection with an activity eligible for Federal assistance under this title. In the case of such an activity with respect to which the Federal Government and the State share in paying the cost, any donated funds, or the fair market value of any donated materials or services, that are accepted and incorporated into the activity by the State highway agency shall be credited against the State share.".

SEC. 120. METRIC CONVERSION OF TRAFFIC CONTROL SIGNS.

(a) Notwithstanding section 3(2) of the Metric Conversion Act of 1975 (15 U.S.C. 205b(2)) or any other law, no State shall be required to—

(1) erect any highway sign that establishes any speed limit, distance, or other measurement using the metric system; or

(2) modify any highway sign that establishes any speed limit, distance, or other measurement so that the sign uses the metric system.

(b) Upon receipt of a written notification by a State, referring to its right to provide notification under this subsection, the Secretary of Transportation shall waive, with respect to such State, any requirement that such State use or plan to use the metric system with respect to designing, preparing plans, specifications and estimates, advertising, or taking any other action with respect to Federal-aid highway projects or activities utilizing funds authorized pursuant to title 23, United States Code. Such waiver shall remain effective for the State until the State notifies the Secretary to the contrary: *Provided*, That a waiver granted by the Secretary will be in effect until September 30, 2000.

SEC. 121. IDENTIFICATION OF HIGH PRIORITY CORRIDORS.

Section 1105(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102–240; 105 Stat. 2032) is amended—

(1) by striking paragraph (5) and inserting the following:

"(5)(A) I–73/74 North-South Corridor from Charleston, South Carolina, through Winston-Salem, North Carolina, to Portsmouth, Ohio, to Cincinnati, Ohio, to termini at Detroit, Michigan and Sault Ste. Marie, Michigan.

"(B)(i) In the Commonwealth of Virginia, the Corridor shall generally follow—

"(I) United States Route 220 from the Virginia-North Carolina border to I–581 south of Roanoke;

"(II) I–581 to I–81 in the vicinity of Roanoke;

"(III) I–81 to the proposed highway to demonstrate intelligent transportation systems authorized by item 29 of the table in section 1107(b) in the vicinity of Christiansburg to United States Route 460 in the vicinity of Blacksburg; and

"(IV) United States Route 460 to the West Virginia State line.

"(ii) In the States of West Virginia, Kentucky, and Ohio, the Corridor shall generally follow—

"(I) United States Route 460 from the West Virginia State line to United States Route 52 at Bluefield, West Virginia; and

"(II) United States Route 52 to United States Route 23 at Portsmouth, Ohio.

"(iii) In the States of North Carolina and South Carolina, the Corridor shall generally follow—

"(I) in the case of I–73—

"(aa) United States Route 220 from the Virginia State line to State Route 68 in the vicinity of Greensboro;

"(bb) State Route 68 to I–40;

"(cc) I–40 to United States Route 220 in Greensboro;

"(dd) United States Route 220 to United States Route 1 near Rockingham;

"(ee) United States Route 1 to the South Carolina State line; and

"(ff) South Carolina State line to Charleston, South Carolina; and

"(II) in the case of I–74—

"(aa) I–77 from Bluefield, West Virginia, to the junction of I–77 and the United States Route 52 connector in Surry County, North Carolina;

"(bb) the I–77/United States Route 52 connector to United States Route 52 south of Mount Airy, North Carolina;

"(cc) United States Route 52 to United States Route 311 in Winston-Salem, North Carolina;

"(dd) United States Route 311 to United States Route 220 in the vicinity of Randleman, North Carolina.

"(ee) United States Route 220 to United States Route 74 near Rockingham;

"(ff) United States Route 74 to United States Route 76 near Whiteville;

"(gg) United States Route 74/76 to the South Carolina State line in Brunswick County; and

"(hh) South Carolina State line to Charleston, South Carolina.

"(iv) Each route segment referred to in clause (i), (ii), or (iii) that is not a part of the Interstate System shall be designated as a route included in the Interstate System, at such time as the Secretary determines that the route segment—

"(I) meets Interstate System design standards approved by the Secretary under section 109(b) of title 23, United States Code; and

"(II) meets the criteria for designation pursuant to section 139 of title 23, United States Code, except that the determination shall be made without regard to whether the route segment is a logical addition or connection to the Interstate System.";

(2) in paragraph (18)—

(A) by striking "and"; and

(B) by inserting before the period at the end the following: ", and to the Lower Rio Grande Valley at the border between the United States and Mexico"; and

(3) by adding at the end the following:

"(22) The Alameda Transportation Corridor along Alameda Street from the entrance to the ports of Los Angeles and Long Beach to Interstate 10, Los Angeles, California.

"(23) The Interstate Route 35 Corridor from Laredo, Texas, through Oklahoma City, Oklahoma, to Wichita, Kansas, to Kansas City, Kansas/Missouri, to Des Moines, Iowa, to Minneapolis, Minnesota, to Duluth, Minnesota.

"(24) The Dalton Highway from Deadhorse, Alaska to Fairbanks, Alaska.

"(25) State Route 168 (South Battlefield Boulevard), Virginia, from the Great Bridge Bypass to the North Carolina State line.".

SEC. 122. REVISION OF AUTHORITY FOR INNOVATIVE PROJECT IN FLORIDA.

Item 196 of the table in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2058) is amended—

(1) by striking "Orlando,"; and

(2) by striking "Land & right-of-way acquisition & guideway construction for magnetic limitation project" and inserting "1 or more regionally significant, intercity ground transportation projects".

SEC. 123. REVISION OF AUTHORITY FOR PRIORITY INTERMODAL PROJECT IN CALIFORNIA.

Item 31 of the table in section 1108(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2062) is amended by striking "To improve ground access from Sepulveda Blvd. to Los Angeles, California" and inserting the following: "For the Los Angeles International Airport central terminal ramp access project, $3,500,000; for the widening of Aviation Boulevard south of Imperial Highway, $3,500,000; for the widening of Aviation Boulevard north of Imperial Highway, $1,000,000; and for transportation systems management improvements in the vicinity of the Sepulveda Boulevard/Los Angeles International Airport tunnel, $950,000".

SEC. 124. NATIONAL RECREATIONAL TRAILS FUNDING PROGRAM.

(a) CONTRACT AUTHORITY.—Section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) is amended—

(1) by redesignating subsection (g) as subsection (i); and

(2) by inserting after subsection (f) the following:

"(g) CONTRACT AUTHORITY.—Funds authorized to be appropriated under this section shall be available for obligation in the manner as if the funds were apportioned under title 23, United States Code, except that the Federal share of any project under this section shall be determined in accordance with this section.

"(h) FEDERAL SHARE.—The Federal share of the cost of a project under this section shall be 50 percent.".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) IN GENERAL.—Section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) is amended—

(A) by striking subsection (c) and inserting the following:

"(c) STATE ELIGIBILITY.—A State shall be eligible to receive moneys under this part if—

"(1) the Governor of the State has designated the State agency responsible for administering allocations under this section;

"(2) the State proposes to obligate and ultimately obligates any allocations received in accordance with subsection (e); and

"(3) a recreational trail advisory board on which both motorized and nonmotorized recreational trail users are represented exists in the State.";

(B) in subsection (d), by striking paragraph (3);

(C) in subsection (e)—

(i) in paragraphs (3)(A), (5)(B), and (8)(B), by striking "(c)(2)(A) of this section" and inserting "(c)(3)"; and

(ii) in paragraph (5)(A)(i), by striking "(g)(5)" and inserting "(i)(5)"; and

(D) in subsection (i) (as redesignated by subsection (a)(1)), by striking paragraph (1) and inserting the following:

"(1) ELIGIBLE STATE.—The term 'eligible State' means a State (as defined in section 101 of title 23, United States Code) that meets the requirements of subsection (c).".

(2) Section 104 of title 23, United States Code, is amended—

(A) by redesignating subsection (h) as subsection (i); and

(B) by inserting after subsection (g) the following:

"(h) NATIONAL RECREATIONAL TRAILS FUNDING.—The Secretary shall expend, from administrative funds deducted under subsection (a), to carry out section 1302 of the Intermodal Surface Transportation Efficiency Act of 1991 (16 U.S.C. 1261) $15,000,000 for each of fiscal years 1996 and 1997.".

SEC. 125. INTERMODAL FACILITY IN NEW YORK.

(a) IN GENERAL.—The Secretary of Transportation shall make grants to the National Railroad Passenger Corporation for—

(1) engineering, design, and construction activities to permit the James A. Farley Post Office in New York, New York, to be used as an intermodal transportation facility and commercial center; and

(2) necessary improvements to and redevelopment of Pennsylvania Station and associated service buildings in New York, New York.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section a total of $69,500,000 for fiscal years following fiscal year 1995, to remain available until expended.

SEC. 126. CLARIFICATION OF ELIGIBILITY.

The improvements to, or adjacent to, the main line of the National Railroad Passenger Corporation between milepost 190.23 at Central Falls, Rhode Island, and milepost 168.53 at Davisville, Rhode Island, that are necessary to support the rail movement of freight shall be eligible for funding under sections 103(e)(4), 104(b), and 144 of title 23, United States Code.

SEC. 127. BRISTOL, RHODE ISLAND, STREET MARKING.

Notwithstanding any other law, a red, white, and blue center line in the Main Street of Bristol, Rhode Island, shall be deemed to comply with the requirements of section 3B-1 of the Manual on Uniform Traffic Control Devices of the Department of Transportation.

SEC. 128. PUBLIC USE OF REST AREAS.

Notwithstanding section 111 of title 23, United States Code, or any project agreement under the section, the Secretary of Transportation shall permit the conversion of any safety rest area adjacent to Interstate Route 95 within the State of Rhode Island that was closed as of May 1, 1995, to use as a motor vehicle emissions testing facility. At the option of the State, vehicles shall be permitted to gain access to and from any such testing facility directly from Interstate Route 95.

SEC. 129. COLLECTION OF TOLLS TO FINANCE CERTAIN ENVIRONMENTAL PROJECTS IN FLORIDA.

Notwithstanding section 129(a) of title 23, United States Code, on request of the Governor of the State of Florida, the Secretary of Transportation shall modify the agreement entered into with the transportation department of the State and described in section 129(a)(3) of the title to permit the collection of tolls to liquidate such indebtedness as may be incurred to finance any cost associated with a feature of an environmental project that is carried out under State law and approved by the Secretary of the Interior.

SEC. 130. HOURS OF SERVICE OF DRIVERS OF GROUND WATER WELL DRILLING RIGS.

(a) DEFINITIONS.—In this section:

(1) 8 CONSECUTIVE DAYS.—The term "8 consecutive days" means the period of 8 consecutive days beginning on any day at the time designated by the motor carrier for a 24-hour period.

(2) 24-HOUR PERIOD.—The term "24-hour period" means any 24-consecutive-hour period beginning at the time designated by the motor carrier for the terminal from which the driver is normally dispatched.

(3) GROUND WATER WELL DRILLING RIG.—The term "ground water well drilling rig" means any vehicle, machine, tractor, trailer, semitrailer, or specialized mobile equipment propelled or drawn by mechanical power and used on highways to transport water well field operating equipment, including water well drilling and pump service rigs equipped to access ground water.

(b) GENERAL RULE.—In the case of a driver of a commercial motor vehicle subject to regulations prescribed by the Secretary of Transportation under sections 31136 and 31502 of title 49, United States Code, who is used primarily in the transportation and operation of a ground water well drilling rig, for the purpose of the regulations, any period of 8 consecutive days may end with the beginning of an off-duty period of 24 or more consecutive hours.

(c) REPORT.—The Secretary of Transportation shall monitor the commercial motor vehicle safety performance of drivers of ground water well drilling rigs. If the Secretary determines that public safety has been adversely affected by the general rule established by subsection (b), the Secretary shall report to Congress on the determination.

SEC. 131. RURAL ACCESS PROJECTS.

Item 111 of the table in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2042) is amended—

(1) by striking "Parker County" and inserting "Parker and Tarrant Counties"; and

(2) by striking "to four-lane" and inserting "in Tarrant County to freeway standards and in Parker County to a 4-lane".

SEC. 132. INCLUSION OF HIGH PRIORITY CORRIDORS.

Section 1105(d) of the Intermodal Surface Transportation Efficiency Act of 1991 (Pub. L. 102-240; 105 Stat. 2033) is amended by adding at the end the following: "The Secretary of Transportation shall include High Priority Corridor 18 as identified in section 1105(c) of this Act, as amended, on the approved National Highway System after completion of the feasibility study by the States as provided by such Act.".

SEC. 133. SENSE OF THE SENATE REGARDING THE FEDERAL-STATE FUNDING RELATIONSHIP FOR TRANSPORTATION.

(a) FINDINGS.—

(1) The designation of high priority roads through the National Highway System is required by the Intermodal Surface Transportation Efficiency Act (ISTEA) and will ensure the continuation of funding which would otherwise be withheld from the States.

(2) The Budget Resolution supported the re-evaluation of all Federal programs to determine which programs are more appropriately a responsibility of the States.

(3) Debate on the appropriate role of the Federal Government in transportation will occur in the re-authorization of ISTEA.

(b) SENSE OF SENATE.—Therefore, it is the sense of the Senate that the designation of the NHS does not assume the continuation or the elimination of the current Federal-State relationship nor preclude a re-evaluation of the Federal-State relationship in transportation.

SEC. 134. QUALITY THROUGH COMPETITION.

(a) CONTRACTING FOR ENGINEERING AND DESIGN SERVICES.—Section 112(b)(2) of title 23, United States Code, is amended by adding at the end the following new subparagraphs:

"(C) PERFORMANCE AND AUDITS.—Any contract or subcontract awarded in accordance with subparagraph (A), whether funded in whole or in part with Federal-aid highway funds, shall be performed and audited in compliance with cost principles contained in the Federal acquisition regulations of part 31 of title 48 of the Code of Federal Regulations.

"(D) INDIRECT COST RATES.—In lieu of performing its own audits, a recipient of funds under a contract or subcontract awarded in accordance with subparagraph (A) shall accept indirect cost rates established in accordance with the Federal acquisition regulations for 1-year applicable accounting periods by a cognizant Federal or State government agency, if such rates are not currently under dispute. Once a firm's indirect cost rates are accepted, the recipient of such funds shall apply such rates for the purposes of contract estimation, negotiation, administration, reporting, and contract payment and shall not be limited by administrative or de facto ceilings of any kind. A recipient of such funds requesting or using the cost and rate data described in this subparagraph shall notify any affected firm before such request or use. Such data shall be confidential and shall not be accessible or provided, in whole or in part, to another firm or to any government agency which is not part of the group of agencies sharing cost data under this subparagraph, except by written permission of the audited firm. If prohibited by law, such cost and rate data shall not be disclosed under any circumstances.

"(E) EFFECTIVE DATE/STATE OPTION.—Subparagraphs (C) and (D) shall take effect upon the date of enactment of this Act: *Provided however*, That if a State, during the first regular session of the State legislature convening after the date of enactment of this Act, adopts by statute an alternative process intended to promote engineering and design quality, reduce life-cycle costs, and ensure maximum competition by professional companies of all sizes providing engineering and design services. Such subparagraphs shall not apply in that State.".

SEC. 135. FEDERAL SHARE FOR ECONOMIC GROWTH CENTER DEVELOPMENT HIGHWAYS.

Section 1021(c) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240) (as amended by section 417 of the Department of Transportation and Related Agencies Appropriations Act, 1993 (Public Law 102-388; 106 Stat. 1565)) is amended—

(1) in paragraph (2), by striking "and" at the end and inserting "or"; and

(2) in paragraph (3), by striking "section 143 of title 23" and inserting "a project for the construction, reconstruction, or improvement of a development highway on a Federal-aid system, as described in section 103 of such title (as in effect on the day before the date of enactment of this Act) (other than the Interstate System), under section 143 of such title".

SEC. 136. VEHICLE WEIGHT AND LONGER COMBINATION VEHICLES EXEMPTION FOR SIOUX CITY, IOWA.

(a) VEHICLE WEIGHT LIMITATIONS.—The proviso in the second sentence of section 127(a) of title 23, United States Code, is amended by striking "except for those" and inserting the following: "except for vehicles using Interstate 29 between Sioux City, Iowa, and the border between Iowa and South Dakota and vehicles using Interstate Route 129 between Sioux City, Iowa, and the border between Iowa and Nebraska, and except for".

(b) LONGER COMBINATION VEHICLES.—Section 127(d)(1) of title 23, United States Code, is amended by adding at the end the following:

"(F) IOWA.—In addition to vehicles that the State of Iowa may continue to allow to be operated under subparagraph (A), the State of Iowa may allow longer combination vehicles that were not in actual operation on June 1, 1991, to be operated on Interstate Route 29 between Sioux City, Iowa, and the border between Iowa and South Dakota and Interstate 129 between Sioux City, Iowa, and the border between Iowa and Nebraska.".

SEC. 137. REVISION OF AUTHORITY FOR CONGESTION RELIEF PROJECT IN CALIFORNIA.

Item 1 of the table in section 1104(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2029) is amended by striking "Construction of HOV Lanes on I-710" and inserting "Construction of automobile and truck separation lanes at the southern terminus of I-710".

SEC. 138. APPLICABILITY OF CERTAIN VEHICLE WEIGHT LIMITATIONS IN WISCONSIN.

Section 127 of title 23, United States Code, is amended by adding at the end the following:

"(f) OPERATION OF CERTAIN SPECIALIZED HAULING VEHICLES ON CERTAIN WISCONSIN HIGHWAYS.—If the 104-mile portion of Wisconsin State Route 78 and United States Route 51 between Interstate Route 94 near Portage, Wisconsin, and Wisconsin State Route 29 south of Wausau, Wisconsin, is designated as part of the Interstate System under section 139(a), the single axle weight, tandem axle weight, gross vehicle weight, and bridge formula limits set forth in subsection (a) shall not apply to the 104-mile portion with respect to the operation of any vehicle that could legally operate on the 104-mile portion before the date of enactment of this subsection.".

SEC. 139. PROHIBITION ON NEW HIGHWAY DEMONSTRATION PROJECTS.

(a) IN GENERAL.—Notwithstanding any other law, neither the Secretary of Transportation nor any other officer or employee of the United States may make funds available for obligation to carry out any demonstration project described in subsection (b) that has not been authorized, or for which no funds have been made available, as of the date of enactment of this Act.

(b) PROJECTS.—Subsection (a) applies to a demonstration project or program that the Secretary of Transportation determines—

(1)(A) concerns a State-specific highway project or research or development in a specific State; or

(B) is otherwise comparable to a demonstration project or project of national significance authorized under any of sections 1103 through 1108 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2027); and

(2) does not concern a federally owned highway.

SEC. 140. TREATMENT OF CENTENNIAL BRIDGE, ROCK ISLAND, ILLINOIS, AGREEMENT.

For purposes of section 129(a)(6) of title 23, United States Code, the agreement concerning the Centennial Bridge, Rock Island, Illinois, entered into under the Act entitled "An Act authorizing the city of Rock Island, Illinois, or its assigns, to construct, maintain, and operate a toll bridge across the Mississippi River at or near Rock Island, Illinois, and to a place at or near the city of Davenport, Iowa", approved March 18, 1938 (52 Stat. 110, chapter 48), shall be treated as if the agreement had been entered into under section 129 of title 23, United States Code, as in effect on December 17, 1991, and may be modified in accordance with section 129(a)(6) of the title.

SEC. 141. MORATORIUM ON CERTAIN EMISSIONS TESTING REQUIREMENTS.

(a) MORATORIUM.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this subsection as the "Administrator") shall not require adoption or implementation by a State of a test-only or I/M240 enhanced vehicle inspection and maintenance program as a means of compliance with section 182 of the Clean Air Act (42 U.S.C. 7511a), but the Administrator may approve such a program if a State chooses to adopt the program as a means of compliance.

(2) REPEAL.—Paragraph (1) is repealed effective as of the date that is 1 year after the date of enactment of this Act.

(b) PLAN APPROVAL.—

(1) IN GENERAL.—The Administrator of the Environmental Protection Agency (referred to in this subsection as the "Administrator") shall not disapprove a State implementation plan revision under section 182 of the Clean Air Act (42 U.S.C. 7511a) on the basis of a regulation providing for a 50-percent discount for alternative test-and-repair inspection and maintenance programs.

(2) CREDIT.—If a State provides data for a proposed inspection and maintenance system for which credits are appropriate under section 182 of the Clean Air Act (42 U.S.C. 7511a), the Administrator shall allow the full amount of credit for the system that is appropriate without regard to any regulation that implements that section by requiring centralized emissions testing.

(3) DEADLINE.—The Administrator shall complete and present a technical assessment of data for a proposed inspection and maintenance system submitted by a State not later than 45 days after the date of submission.

SEC. 142. ELIMINATION OF PENALTIES FOR NONCOMPLIANCE WITH MOTORCYCLE HELMET USE REQUIREMENT.

Section 153(h) of title 23, United States Code, is amended by striking "a law described in subsection (a)(1) and" each place it appears.

SEC. 143. CLARIFICATION OF ELIGIBILITY.

The improvements to the former Pocono Northeast Railway Company freight rail line by the Luzerne County Redevelopment Authority that are necessary to support the rail movement of freight, shall be eligible for funding under sections 130, 144, and 149 of title 23, United States Code.

SEC. 144. TOLL ROADS, BRIDGES, TUNNELS, NON-TOLL ROADS THAT HAVE A DEDICATED REVENUE SOURCE, AND FERRIES.

Section 129 of title 23, United States Code, is amended—

(1) by revising the title to read as follows:

"§129. Toll roads, bridges, tunnels, non-toll roads that have a dedicated revenue source, and ferries"; and

(2) by revising paragraph 129(a)(7) to read as follows:

"(7) LOANS.—

"(A) IN GENERAL.—A State may loan an amount equal to all or part of the Federal share of a toll project or a non-toll project that has a dedicated revenue source, specifically dedicated to such project or projects under this section, to a public entity constructing or proposing to construct a toll facility or non-toll facility with a dedicated revenue source. Dedicated revenue sources for non-toll facilities include: excise taxes, sales taxes, motor vehicle use fees, tax on real property, tax increment financing, or such other dedicated revenue source as the Secretary deems appropriate.".

SEC. 145. TRANSFER OF FUNDS BETWEEN CERTAIN DEMONSTRATION PROJECTS IN LOUISIANA.

Notwithstanding any other law, the funds available for obligation to carry out the project in West Calcasieu Parish, Louisiana, authorized by section 149(a)(87) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100-17; 101 Stat. 194) shall be made available for obligation to carry out the project for Lake Charles, Louisiana, authorized by item 17 of the table in section 1106(a)(2) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2038).

SEC. 146. NORTHWEST ARKANSAS REGIONAL AIRPORT CONNECTOR.

Notwithstanding any other provision of law, the Federal share for the intermodal connecter to the Northwest Arkansas Regional Airport from U.S. Highway 71 in Arkansas shall be 95 percent.

SEC. 147. INTERCITY RAIL INFRASTRUCTURE INVESTMENT.

(a) INTERSTATE RAIL COMPACTS.—

(1) CONSENT TO COMPACTS.—Congress grants consent to States with an interest in a specific form, route, or corridor of intercity passenger rail service (including high speed rail service) to enter into interstate compacts to promote the provision of the service, including—

(A) retaining an existing service or commencing a new service;

(B) assembling rights-of-way; and

(C) performing capital improvements, including—

(i) the construction and rehabilitation of maintenance facilities;

(ii) the purchase of locomotives; and

(iii) operational improvements, including communications, signals, and other systems.

(2) FINANCING.—An interstate compact established by States under paragraph (1) may provide that, in order to carry out the compact, the States may—

(A) accept contributions from a unit of State or local government or a person;

(B) use any Federal or State funds made available for intercity passenger rail service (except funds made available for the National Railroad Passenger Corporation);

(C) on such terms and conditions as the States consider advisable—

(i) borrow money on a short-term basis and issue notes for the borrowing; and

(ii) issue bonds; and

(D) obtain financing by other means permitted under Federal or State law.

(b) ELIGIBILITY OF PASSENGER RAIL AS SURFACE TRANSPORTATION PROGRAM PROJECT.—Section 133(b) of title 23, United States Code, is amended—

(1) in paragraph (1), by inserting ", railroads," after "highways)";

(2) in paragraph (2)—

(A) by inserting ", all eligible activities under section 5311 of title 49, United States Code," before "and publicly owned";

(B) by inserting "or rail passenger" after "intercity bus"; and

(C) by inserting before the period at the end the following: ", including terminals and facilities owned by the National Railroad Passenger Corporation"; and

(3) in paragraph (6), by inserting ", and for passenger rail services," after "programs".

(c) ELIGIBILITY OF PASSENGER RAIL UNDER CONGESTION MITIGATION AND AIR QUALITY IMPROVEMENT PROGRAM.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) if the project or program will have air quality benefits through construction of and operational improvements for intercity passenger rail facilities, operation of intercity passenger rail trains, and acquisition of rolling stock for intercity passenger rail service, except that not more than 50 percent of the amount received by a State for a fiscal year under this paragraph may be obligated for operating support.".

SEC. 148. OPERATION OF MOTOR VEHICLES BY INTOXICATED MINORS.

Section 158(a) of title 23, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) OPERATION OF MOTOR VEHICLES BY INTOXICATED MINORS.—

"(A) FISCAL YEAR 1998.—If the condition described in subparagraph (C) exists in a State as of October 1, 1998, the Secretary shall withhold, on October 1, 1998, 5 percent of the amount required to be apportioned to the State under each of paragraphs (1), (2), (5), and (6) of section 104(b) for fiscal year 1998.

"(B) FISCAL YEARS THEREAFTER.—If the condition described in subparagraph (C) exists in a State as of October 1, 1999, or any October 1 thereafter, the Secretary shall withhold, on that October 1, 10 percent of the amount required to be apportioned to the State under each of paragraphs (1), (2), (5), and (6) of section 104(b) for the fiscal year beginning on that October 1.

"(C) CONDITION.—The condition referred to in subparagraphs (A) and (B) is that an individual under the age of 21 who has a blood alcohol concentration of 0.02 percent or greater when operating a motor vehicle in the State is not considered to be driving while intoxicated or driving under the influence of alcohol."; and

(2) in paragraph (2), by striking "AFTER THE FIRST YEAR" and inserting "PURCHASE AND POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS".

SEC. 149. CONTINGENT COMMITMENTS.

At the end of section 5309(g)(4) of title 49, United States Code, add the following new sentence: "The Secretary may enter future obligations in excess of 50 percent of said uncommitted cash balance for the purpose of contingent commitments for projects authorized under section 3032 of Public Law 102–240.".

SEC. 150. AVAILABILITY OF CERTAIN FUNDS FOR BOSTON-TO-PORTLAND RAIL CORRIDOR.

Section 5309 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(p) BOSTON-TO-PORTLAND RAIL CORRIDOR.—Notwithstanding any other provision of law, up to $3,600,000 of the funds made available under this section for the rail corridor between Boston, Massachusetts and Portland, Maine may be used to pay for operating costs arising in connection with such rail corridor under section 5333(b).".

SEC. 151. REVISION OF AUTHORITY OF MULTIYEAR CONTRACTS.

Section 3035(ww) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102–240; 105 Stat. 2136) is amended by adding at the end the following: "Of the funds provided by this subsection, $100,000,000 is authorized to be appropriated for regionally significant ground transportation projects in the State of Hawaii.".

SEC. 152. FEASIBILITY STUDY OF EVACUATION ROUTES FOR LOUISIANA COASTAL AREAS.

Notwithstanding any other provisions of law, section 1105(e)(2) of Public Law 102–240 is amended by adding at the end the following new sentence: "A feasibility study may be conducted under this subsection to identify routes that will expedite future emergency evacuations of coastal areas of Louisiana.".

SEC. 153. 34TH STREET CORRIDOR PROJECT IN MOORHEAD, MINNESOTA.

Section 149(a)(5)(A) of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (Public Law 100–17; 101 Stat. 181) is amended—

(1) in clause (i), by striking "and" at the end; and

(2) by inserting "and (iii) a safety overpass," after "interchange,".

SEC. 154. SAFETY BELT USE LAW REQUIREMENTS FOR NEW HAMPSHIRE AND MAINE.

The State of New Hampshire and the State of Maine shall be deemed as having met the safety belt use law requirements of section 153 of title 23, United States Code, upon certification by the Secretary of Transportation that the State has achieved—

(1) a safety belt use rate in each of fiscal years ending September 30, 1995 and September 30, 1996, of not less than 50 percent; and

(2) a safety belt use rate in each succeeding fiscal year thereafter of not less than the national average safety belt use rate, as determined by the Secretary of Transportation.

SEC. 155. REPORT ON ACCELERATED VEHICLE RETIREMENT PROGRAMS.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall transmit to Congress a report evaluating the effectiveness of all accelerated vehicle retirement programs described in section 108(f)(1)(A)(xvi) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)(xvi)) in existence on the date of enactment of this Act. The report shall evaluate—

(1) the certainties of emissions reductions gained from each program;

(2) the variability of emissions of retired vehicles;

(3) the reduction in the number of vehicle miles traveled by the vehicles retired as a result of each program;

(4) the subsequent actions of vehicle owners participating in each program concerning the purchase of a new or used vehicle or the use of such a vehicle;

(5) the length of the credit given to a purchaser of a retired vehicle under each program;

(6) equity impacts of the programs on the used car market for buyers and sellers; and

(7) such other factors as the Administrator determines appropriate.

SEC. 156. INTERCITY RAIL INFRASTRUCTURE INVESTMENT FROM MASS TRANSIT ACCOUNT OF HIGHWAY TRUST FUND.

Section 5323 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(m) INTERCITY RAIL INFRASTRUCTURE INVESTMENT.—Any assistance provided to a State that does not have Amtrak service as of date of enactment of this Act from the Mass Transit Account of the Highway Trust Fund may be used for capital improvements to, and operating support for, intercity passenger rail service.".

SEC. 157. MORATORIUM.

(a) IN GENERAL.—Notwithstanding any other provision of law, no agency of the Federal Government may take any action to prepare, promulgate, or implement any rule or regulation addressing rights-of-way authorized pursuant to Revised Statutes 2477 (43 U.S.C. 932), as such law was in effect prior to October 21, 1976.

(b) SUNSET.—This section shall cease to have any force or effect after December 1, 1995.

TITLE II—NATIONAL CAPITAL REGION INTERSTATE TRANSPORTATION AUTHORITY

SEC. 201. SHORT TITLE.

This title may be cited as the "National Capital Region Interstate Transportation Authority Act of 1995".

SEC. 202. FINDINGS.

Congress finds that—

(1) traffic congestion imposes serious economic burdens on the metropolitan Washington, D.C., area, costing each commuter an estimated $1,000 per year;

(2) the volume of traffic in the metropolitan Washington, D.C., area is expected to increase by more than 70 percent between 1990 and 2020;

(3) the deterioration of the Woodrow Wilson Memorial Bridge and the growing population of the metropolitan Washington, D.C., area contribute significantly to traffic congestion;

(4) the Bridge serves as a vital link in the Interstate System and in the Northeast corridor;

(5) identifying alternative methods for maintaining this vital link of the Interstate

System is critical to addressing the traffic congestion of the area;

(6) the Bridge is—

(A) the only drawbridge in the metropolitan Washington, D.C., area on the Interstate System;

(B) the only segment of the Capital Beltway with only 6 lanes; and

(C) the only segment of the Capital Beltway with a remaining expected life of less than 10 years;

(7) the Bridge is the only part of the Interstate System owned by the Federal Government;

(8)(A) the Bridge was constructed by the Federal Government;

(B) prior to the date of enactment of this Act, the Federal Government has contributed 100 percent of the cost of building and rehabilitating the Bridge; and

(C) the Federal Government has a continuing responsibility to fund future costs associated with the upgrading of the Interstate Route 95 crossing, including the rehabilitation and reconstruction of the Bridge;

(9) the Woodrow Wilson Bridge Coordination Committee, established by the Federal Highway Administration and comprised of representatives of Federal, State, and local governments, is undertaking planning studies pertaining to the Bridge, consistent with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable Federal laws;

(10) the transfer of ownership of the Bridge to a regional entity under the terms and conditions described in this title would foster regional transportation planning efforts to identify solutions to the growing problem of traffic congestion on and around the Bridge;

(11) any material change to the Bridge must take into account the interests of nearby communities, the commuting public, Federal, State, and local government organizations, and other affected groups; and

(12) a commission of congressional, State, and local officials and transportation representatives has recommended to the Secretary of Transportation that the Bridge be transferred to an independent authority to be established by the Capital Region jurisdictions.

SEC. 203. PURPOSES.

The purposes of this title are—

(1) to grant consent to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to establish the National Capital Region Interstate Transportation Authority; and

(2) to authorize the transfer of ownership of the Bridge to the Authority for the purposes of owning, constructing, maintaining, and operating a bridge or tunnel or a bridge and tunnel project across the Potomac River.

SEC. 204. DEFINITIONS.

In this title:

(1) AUTHORITY.—The term "Authority" means the National Capital Region Interstate Transportation Authority authorized by this title and by similar enactment by each of the Capital Region jurisdictions.

(2) AUTHORITY FACILITY.—The term "Authority facility" means—

(A) the Bridge (as in existence on the date of enactment of this Act);

(B) any southern Capital Beltway crossing of the Potomac River constructed in the vicinity of the Bridge after the date of enactment of this Act; or

(C) any building, improvement, addition, extension, replacement, appurtenance, land, interest in land, water right, air right, franchise, machinery, equipment, furnishing, landscaping, easement, utility, approach, roadway, or other facility necessary or desirable in connection with or incidental to a facility described in subparagraph (A) or (B).

(3) BOARD.—The term "Board" means the board of directors of the Authority established under section 206.

(4) BRIDGE.—The term "Bridge" means the Woodrow Wilson Memorial Bridge across the Potomac River.

(5) CAPITAL REGION JURISDICTION.—The term "Capital Region jurisdiction" means—

(A) the Commonwealth of Virginia;

(B) the State of Maryland; or

(C) the District of Columbia.

(6) INTERSTATE SYSTEM.—The term "Interstate System" means the Dwight D. Eisenhower National System of Interstate and Defense Highways designated under section 103(e) of title 23, United States Code.

(7) NATIONAL CAPITAL REGION.—The term "National Capital Region" means the region consisting of the metropolitan areas of—

(A)(i) the cities of Alexandria, Fairfax, and Falls Church, Virginia; and

(ii) the counties of Arlington and Fairfax, Virginia, and the political subdivisions of the Commonwealth of Virginia located in the counties;

(B) the counties of Montgomery and Prince Georges, Maryland, and the political subdivisions of the State of Maryland located in the counties; and

(C) the District of Columbia.

(8) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

SEC. 205. ESTABLISHMENT OF AUTHORITY.

(a) CONSENT TO AGREEMENT.—Congress grants consent to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to enter into an interstate agreement or compact to establish the National Capital Region Interstate Transportation Authority in accordance with this title.

(b) ESTABLISHMENT OF AUTHORITY.—

(1) IN GENERAL.—On execution of the interstate agreement or compact described in subsection (a), the Authority shall be considered to be established.

(2) GENERAL POWERS.—The Authority shall be a body corporate and politic, independent of all other bodies and jurisdictions, having the powers and jurisdiction described in this title and such additional powers as are conferred on the Authority by the Capital Region jurisdictions, to the extent that the additional powers are consistent with this title.

SEC. 206. GOVERNMENT OF AUTHORITY.

(a) IN GENERAL.—The Authority shall be governed in accordance with this section and with the terms of any interstate agreement or compact relating to the Authority that is consistent with this title.

(b) BOARD.—The Authority shall be governed by a board of directors consisting of 12 members appointed by the Capital Region jurisdictions and 1 member appointed by the Secretary.

(c) QUALIFICATIONS.—One member of the Board shall have an appropriate background in finance, construction lending, or infrastructure policy.

(d) CHAIRPERSON.—The chairperson of the Board shall be elected biennially by the members of the Board.

(e) SECRETARY AND TREASURER.—The Board may—

(1) biennially elect a secretary and a treasurer, or a secretary-treasurer, without regard to whether the individual is a member of the Board; and

(2) prescribe the powers and duties of the secretary and treasurer, or the secretary-treasurer.

(f) TERMS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a member of the Board shall serve for a 6-year term, and shall continue to serve until the successor of the member has been appointed in accordance with this subsection.

(2) INITIAL APPOINTMENTS.—

(A) BY CAPITAL REGION JURISDICTIONS.—Members initially appointed to the Board by a Capital Region jurisdiction shall be appointed for the following terms:

(i) 1 member shall be appointed for a 6-year term.

(ii) 1 member shall be appointed for a 4-year term.

(iii) 2 members shall each be appointed for a 2-year term.

(B) BY SECRETARY.—The member of the Board appointed by the Secretary shall be appointed for a 6-year term.

(3) FAILURE TO APPOINT.—The failure of a Capital Region jurisdiction to appoint 1 or more members of the Board, as provided in this subsection, shall not impair the establishment of the Authority if the condition of the establishment described in section 205(b)(1) has been met.

(4) VACANCIES.—Subject to paragraph (5), a person appointed to fill a vacancy on the Board shall serve for the unexpired term.

(5) REAPPOINTMENTS.—A member of the Board shall be eligible for reappointment for 1 additional term.

(6) PERSONAL LIABILITY OF MEMBERS.—A member of the Board, including any nonvoting member, shall not be personally liable for—

(A) any action taken in the capacity of the member as a member of the Board; or

(B) any note, bond, or other financial obligation of the Authority.

(7) QUORUM.—

(A) IN GENERAL.—Subject to subparagraph (B), for the purpose of carrying out the business of the Authority, 7 members of the Board shall constitute a quorum.

(B) APPROVAL OF BOND ISSUES AND BUDGET.—Eight affirmative votes of the members of the Board shall be required to approve bond issues and the annual budget of the Authority.

(8) COMPENSATION.—A member of the Board shall serve without compensation and shall reside within a Capital Region jurisdiction.

(9) EXPENSES.—A member of the Board shall be entitled to reimbursement for the expenses of the member incurred in attending a meeting of the Board or while otherwise engaged in carrying out the duties of the Board.

SEC. 207. OWNERSHIP OF BRIDGE.

(a) CONVEYANCE BY SECRETARY.—

(1) IN GENERAL.—After the Capital Region jurisdictions enter into the agreement described in subsection (c), the Secretary shall convey all right, title, and interest of the Department of Transportation in and to the Bridge to the Authority. Except as provided in paragraph (2), upon conveyance by the Secretary, the Authority shall accept the right, title, and interest in and to the Bridge, and all duties and responsibilities associated with the Bridge.

(2) INTERIM RESPONSIBILITIES.—Until such time as a new crossing of the Potomac River described in section 208 is constructed and operational, the conveyance under paragraph (1) shall in no way—

(A) relieve the Capital Region jurisdictions of the sole and exclusive responsibility to maintain and operate the Bridge; or

(B) relieve the Secretary of the responsibility to rehabilitate the Bridge or to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and all other requirements applicable with respect to the Bridge.

(b) CONVEYANCE BY THE SECRETARY OF THE INTERIOR.—At the same time as the conveyance of the Bridge by the Secretary under subsection (a), the Secretary of the Interior shall transfer to the Authority all right, title, and interest of the Department of the Interior in and to such land under or adjacent to the Bridge as is necessary to carry out section 208. Upon conveyance by the Secretary of the Interior, the Authority shall accept the right, title, and interest in and to the land.

(c) AGREEMENT.—The agreement referred to in subsection (a) is an agreement among the Secretary, the Governors of the Commonwealth of Virginia and the State of Maryland, and the Mayor of the District of Columbia as to the Federal share of the cost of the activities carried out under section 208.

SEC. 208. CAPITAL IMPROVEMENTS AND CONSTRUCTION.

The Authority shall take such action as is necessary to address the need of the National Capital Region for an enhanced southern Capital Beltway crossing of the Potomac River that serves the traffic corridor of the Bridge (as in existence on the date of enactment of this Act), in accordance with the recommendations in the final environmental impact statement prepared by the Secretary. The Authority shall have the sole responsibility for the ownership, construction, operation, and maintenance of a new crossing of the Potomac River.

SEC. 209. ADDITIONAL POWERS AND RESPONSIBILITIES OF AUTHORITY.

In addition to the powers and responsibilities of the Authority under the other provisions of this title and under any interstate agreement or compact relating to the Authority that is consistent with this title, the Authority shall have all powers necessary and appropriate to carry out the duties of the Authority, including the power—

(1) to adopt and amend any bylaw that is necessary for the regulation of the affairs of the Authority and the conduct of the business of the Authority;

(2) to adopt and amend any regulation that is necessary to carry out the powers of the Authority;

(3) subject to section 207(a)(2), to plan, establish, finance, operate, develop, construct, enlarge, maintain, equip, or protect the Bridge or a new crossing of the Potomac River described in section 208;

(4) to employ, in the discretion of the Authority, a consulting engineer, attorney, accountant, construction or financial expert, superintendent, or manager, or such other employee or agent as is necessary, and to fix the compensation and benefits of the employee or agent, except that—

(A) an employee of the Authority shall not engage in an activity described in section 7116(b)(7) of title 5, United States Code, with respect to the Authority; and

(B) an employment agreement entered into by the Authority shall contain an explicit prohibition against an activity described in subparagraph (A) with respect to the Authority by an employee covered by the agreement;

(5) to—

(A) acquire personal and real property (including land lying under water and riparian rights), or any easement or other interest in real property, by purchase, lease, gift, transfer, or exchange; and

(B) exercise such powers of eminent domain in the Capital Region jurisdictions as are conferred on the Authority by the Capital Region jurisdictions, in the exercise of the powers and the performance of the duties of the Authority;

(6) to apply for and accept any property, material, service, payment, appropriation, grant, gift, loan, advance, or other fund that is transferred or made available to the Authority by the Federal Government or by any other public or private entity or individual;

(7) to borrow money on a short-term basis and issue notes of the Authority for the borrowing payable on such terms and conditions as the Board considers advisable, and to issue bonds in the discretion of the Authority for any purpose consistent with this title, which notes and bonds—

(A) shall not constitute a debt of the United States, a Capital Region jurisdiction, or any political subdivision of the United States or a Capital Region jurisdiction; and

(B) may be secured solely by the general revenues of the Authority, or solely by the income and revenues of the Bridge or a new crossing of the Potomac River described in section 208;

(8) to fix, revise, charge, and collect any reasonable toll or other charge;

(9) to enter into any contract or agreement necessary or appropriate to the performance of the duties of the Authority or the proper operation of the Bridge or a new crossing of the Potomac River described in section 208;

(10) to make any payment necessary to reimburse a local political subdivision having jurisdiction over an area where the Bridge or a new crossing of the Potomac River is situated for any extraordinary law enforcement cost incurred by the subdivision in connection with the Authority facility;

(11) to enter into partnerships or grant concessions between the public and private sectors for the purpose of—

(A) financing, constructing, maintaining, improving, or operating the Bridge or a new crossing of the Potomac River described in section 208; or

(B) fostering development of a new transportation technology;

(12) to obtain any necessary Federal authorization, permit, or approval for the construction, repair, maintenance, or operation of the Bridge or a new crossing of the Potomac River described in section 208;

(13) to adopt an official seal and alter the seal, as the Board considers appropriate;

(14) to appoint 1 or more advisory committees;

(15) to sue and be sued in the name of the Authority; and

(16) to carry out any activity necessary or appropriate to the exercise of the powers or performance of the duties of the Authority under this title and under any interstate agreement or compact relating to the Authority that is consistent with this title, if the activity is coordinated and consistent with the transportation planning process implemented by the metropolitan planning organization for the Washington, District of Columbia, metropolitan area under section 134 of title 23, United States Code, and section 5303 of title 49, United States Code.

SEC. 210. FUNDING.

(a) SET-ASIDE.—Section 104 of title 23, United States Code (as amended by section 125(b)(2)(A)), is further amended—

(1) in the first sentence of subsection (b), by striking "subsection (f) of this section" and inserting "subsections (f) and (i)";

(2) by redesignating subsection (i) as subsection (j); and

(3) by inserting before subsection (j) the following:

"(i) WOODROW WILSON MEMORIAL BRIDGE.—Before making an apportionment of funds under subsection (b), the Secretary shall set aside $17,550,000 for fiscal year 1996 and $80,050,000 for fiscal year 1997 for the rehabilitation of the Woodrow Wilson Memorial Bridge and for the planning, preliminary design, engineering, and acquisition of a right-of-way for, and construction of, a new crossing of the Potomac River.".

(b) APPLICABILITY OF TITLE 23.—Funds made available under this section shall be available for obligation in the manner provided for funds apportioned under chapter 1 of title 23, United States Code, except that—

(1) the Federal share of the cost of any project funded under this section shall be 100 percent; and

(2) the funds made available under this section shall remain available until expended.

(c) STUDY.—Not later than May 31, 1997, the Secretary, in consultation with each of the Capital Region jurisdictions, shall prepare and submit to Congress a report identifying the necessary Federal share of the cost of the activities to be carried out under section 208.

(d) DISTRIBUTION OF OBLIGATION AUTHORITY.—Section 1002(e)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 23 U.S.C. 104 note) is amended by inserting before the period at the end the following: "and the National Capital Region Interstate Transportation Authority Act of 1995".

(e) REMOVAL OF ISTEA AUTHORIZATION FOR BRIDGE REHABILITATION.—Section 1069 of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2009) is amended by striking subsection (i).

SEC. 211. AVAILABILITY OF PRIOR AUTHORIZATIONS.

In addition to the funds made available under section 210, any funds made available for the rehabilitation of the Bridge under sections 1069(i) and 1103(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2009 and 2028) (as in effect prior to the amendment made by section 210(e)) shall continue to be available after the conveyance of the Bridge to the Authority under section 207(a), in accordance with the terms under which the funds were made available under the Act.

TITLE III—FEDERAL HIGHWAY AND RAILROAD GRADE CROSSING SAFETY

SEC. 301. SHORT TITLE.

This title may be cited as the "Federal Highway and Railroad Grade Crossing Safety Act of 1995".

SEC. 302. INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary of Transportation shall ensure that the National Intelligent Vehicle-Highway Systems Program addresses, in a comprehensive and coordinated manner, the use of intelligent vehicle-highway technologies to promote safety at railroad-highway grade crossings. The Secretary of Transportation shall ensure that two or more operational tests funded under such Act shall promote highway traffic safety and railroad safety.

SEC. 303. STATE HIGHWAY SAFETY MANAGEMENT SYSTEMS.

(a) AMENDMENT OF REGULATIONS.—The Secretary of Transportation shall conduct a rulemaking proceeding to amend the regulations under section 500.407 of title 23, Code of Federal Regulations, to require that each highway safety management system developed, established, and implemented by a State shall, among countermeasures and priorities established under subsection (b)(2) of that section—

(1) include public railroad-highway grade-crossing closure plans that are aimed at eliminating high-risk or redundant crossings (as defined by the Secretary);

(2) include railroad-highway grade-crossing policies that limit the creation of new at-grade crossings for vehicle or pedestrian traffic, recreational use, or any other purpose; and

(3) include plans for State policies, programs, and resources to further reduce death and injury at high-risk railroad-highway grade crossings.

(b) Deadline.—The Secretary of Transportation shall complete the rulemaking proceeding described in subsection (a) and prescribe the required amended regulations, not later than one year after the date of enactment of this Act.

SEC. 304. VIOLATION OF GRADE-CROSSING LAWS AND REGULATIONS.

(a) Federal Regulations.—Section 31311 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(h) Grade-Crossing Violations.—

"(1) Sanctions.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations, by persons operating commercial motor vehicles, of laws and regulations pertaining to railroad-highway grade crossings.

"(2) Minimum requirements.—Regulations issued under paragraph (1) shall, at a minimum, require that—

"(A) the penalty for a single violation shall not be less than a 60-day disqualification of the driver's commercial driver's license; and

"(B) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of such a law or regulation shall be subject to a civil penalty of not more than $10,000.".

(b) Deadline.—The initial regulations required under section 31310(h) of title 49, United States Code, shall be issued not later than one year after the date of enactment of this Act.

(c) State Regulations.—Section 31311(a) of title 49, United States Code, is amended by adding at the end the following new paragraph:

"(18) Grade-crossing regulations.—The State shall adopt and enforce regulations prescribed by the Secretary under section 31310(h) of this title.".

SEC. 305. SAFETY ENFORCEMENT.

(a) Cooperation Between Federal and State Agencies.—The National Highway Traffic Safety Administration, and the Office of Motor Carriers within the Federal Highway Administration, shall on a continuing basis cooperate and work with the National Association of Governors' Highway Safety Representatives, the Commercial Vehicle Safety Alliance, and Operation Lifesaver, Inc., to improve compliance with and enforcement of laws and regulations pertaining to railroad-highway grade crossings.

(b) Report.—The Secretary of Transportation shall submit a report to Congress by January 1, 1996, indicating (1) how the Department worked with the above mentioned entities to improve the awareness of the highway and commercial vehicle safety and law enforcement communities of regulations and safety challenges at railroad-highway grade crossings, and (2) how resources are being allocated to better address these challenges and enforce such regulations.

SEC. 306. CROSSING ELIMINATION; STATEWIDE CROSSING FREEZE.

(a) Statement of Policy.—

(1) Railroad-highway grade crossings present inherent hazards to the safety of railroad operations and to the safety of persons using those crossings. It is in the public interest—

(A) to eliminate redundant and high risk railroad-highway grade crossings; and

(B) to limit the creation of new crossings to the minimum necessary to provide for the reasonable mobility of the American people and their property, including emergency access.

(2) Elimination of redundant and high-risk railroad-highway grade crossings is necessary to permit optimum use of available funds to improve the safety of remaining crossings, including funds provided under Federal law.

(3) Effective programs to reduce the number of unneeded railroad-highway grade crossings, and to close those crossings that cannot be made reasonably safe (due to reasons of topography, angles of intersection, etc.), require the partnership of Federal, State, and local officials and agencies, and affected railroads.

(4) Promotion of a balanced national transportation system requires that highway planning specifically take into consideration the interface between highways and the national railroad system.

(b) Partnership and Oversight.—The Secretary shall foster a partnership among Federal, State, and local transportation officials and agencies to reduce the number of railroad-highway grade crossings and to improve safety at remaining crossings. The Secretary shall make provisions for periodic review to ensure that each State (including State subdivisions and local governments) is making substantial, continued progress toward achievement of the purposes of this section.

(c) Crossing Freeze.—If, upon review, and after opportunity for a hearing, the Secretary determines that a State or political subdivision thereof has failed to make substantial, continued progress toward achievement of the purposes of this section, then the Secretary shall impose a limit on the maximum number of public railroad-highway grade crossings in that State. The limitation imposed by the Secretary under this subsection shall remain in effect until the State demonstrates compliance with the requirements of this section. In addition, the Secretary may, for a period of not more than 3 years after such a determination, require compliance with specific numeric targets for net reductions in the number of railroad-highway grade crossings (including specification of hazard categories with which such crossings are associated).

(d) Regulations.—The Secretary shall issue such regulations as may be necessary to carry out this section.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PRIVATE SECURITIES LITIGATION REFORM ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I now propound a unanimous consent request that Senator GRAMS, who has been waiting for several hours now, be permitted to put in his opening statement, Senator BOXER her opening statement, and that then we go to Senator SHELBY for the purposes of submitting his amendment on proportional liability that we have already agreed to vote on at 10:55. So I propound that as a unanimous consent request.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. D'AMATO. I thank the Chair.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I rise in support of S. 240, the Private Securities Litigation Reform Act of 1995.

As we all know, the United States is facing a litigation crisis. Piles of new and often frivolous lawsuits are being filed every day in our Nation's courtrooms, bottling up our judicial system and crowding out those suits which have merit and demand justice.

Already, the Senate has addressed the problems in our product liability laws and debated the issue of medical malpractice reform.

But few areas of our tort system deserve and require as comprehensive a review as the field of securities litigation.

Let me briefly describe the problem. For years, a small number of attorneys have made it their life's work to bring class-action lawsuits against companies whose stock values—for one reason or another—have fallen.

These so-called strike suits are rarely filed with any evidence of fraud or wrongdoing—in fact, they are often filed simply with the knowledge that the value of a stock has dropped.

This is possible because of the implied right of action developed by the courts under rule 10(b)-5 of the Securities Act of 1934. Because Congress has failed to limit this right of action through statute, it is relatively simple for attorneys to file frivolous cases and harass defendants under these judge-made rules.

Even worse, these attorneys rarely serve any real injured class of investors. Instead, they use professional plaintiffs who buy nominal amounts of stock, simply to serve as the pawns of an expensive chess match.

Due to the costly array of litigation expenses, such as extensive discovery, defendants will often choose to settle cases, rather than bring them to a final judgment in court.

In addition, under joint and several liability, plaintiffs' attorneys can bring secondary defendants, such as accountants, directors, and others, into these cases and force them to settle as well.

These settlements are often too small to benefit the alleged class of injured investors. But they are not too small to make a healthy living for an attorney who is motivated solely by profit, not justice.

To call this the practice of law would be inaccurate. It is more appropriately called legal blackmail or extortion, and it is happening every day, at the expense of job providers, workers, and consumers.

S. 240 addresses this problem by placing some important limitations on the implied right of action in rule 10(b)–5.

By helping put the brakes on the attorneys' race to the courthouse, this legislation would make it easier for defendants to protect themselves from frivolous "strike" suits, encourage voluntary disclosure of information from issuers of stock to potential investors, and reduce the cost of raising capital which is so necessary for jobs creation.

It includes a number of important provisions, including tougher pleading requirements for securities fraud actions, mandatory sanctions for attorneys who file needless litigation, and restrictions on windfall recoveries for plaintiffs who profit from a rebound in the market after an alleged fraud.

I am also pleased that S. 240 reforms the rules governing secondary defendants. This measure establishes a two-tiered system which allows most parties to be held proportionately liable only for the percentage of damages attributable to their actions; in other words, it puts an end to the practice of "deep pockets" litigation.

Mr. President, this legislation is not a perfect bill. There are many of us who believe it should do more.

We could, for example, have a stronger safe harbor protection for forward-looking statements or a "loser pays" provisions similar to the bill passed by the House. Today, however, we cannot let the perfect be the envy of the good.

Likewise, there will be attempts made to weaken this bill—efforts which I urge my colleagues to reject. In particular, I hope this body will resist any attempt to extend the statute of limitations already found in law. If our purpose is to reduce frivolous litigation and protect consumers from higher prices, any such effort must be rejected.

There are some critics of the bill who suggest that this legislation is bad for the average American.

Well, Mr. President, tell that to the innocent defendant who's forced to settle for millions of dollars simply because of one crafty lawyer, tell it to the worker who was laid off because his employer had to pay attorneys' fees instead of his salary, tell it to the consumer who has to pay higher prices for everyday products simply because of the cost of frivolous litigation.

And most importantly, tell it to the hard-working, honest attorneys who watch the public image of their profession being stomped into the ground by a few quick change artists. They are the ones who suffer because of the abuses in our current system. They are the ones who need our help.

By voting for this legislation, we will take an important step forward in helping reduce the cost of frivolous litigation, litigation which robs job providers the opportunity to buy new equipment for plant safety, provide higher pay and better benefits for employees, and to create new jobs.

And that hurts average, hard-working, middle-class Americans—my kids and yours.

For their sake—in the name of justice—we must pass this important measure to fix our badly broken tort system. I, tonight, urge my colleagues to join me in this effort and to vote for S. 240.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you very much, Mr. President. I know it has been a very long and hard day for many of us. Some of us felt very strongly about Dr. Foster, and we had a tough day on that one. Some of us had our bases closed, and it has been awfully difficult sometimes to face disappointments like this.

But here we are, it is 9:20 and we have a bill before us that is very important. I want to speak to this bill and as I told the chairman, my friend, I will do it as quickly as I can, but I wanted to cover some of the important issues that we face.

I speak to this bill not only as a Senator from California but as a former stockbroker, a former stockbroker will understand the sacred responsibility of recommending investments to people who need those investments to be sound. I can tell you, in those days, if I invested in a stock for an elderly person, I literally worried a lot about them, and if things turned around, I was very quick to get on the phone and talk with them about it. I took this responsibility very seriously, and most stockbrokers do.

But there are those broker-dealers, investment advisers, and others who do not take their responsibilities as seriously as they should. So I think it is very important, in light of Orange County—and those were my constituents who were left holding the bag because there were some broker-dealers who were more than dishonest, unscrupulous, and they had done it before and they continued to do it. I want to make sure that investors are protected.

When the debate opened on S. 240, we heard a great deal of discussion by its proponents about companies who were being sued unfairly. No one, Mr. President, should be sued unfairly. The vast majority of businesses are decent, are good, and they do not deserve frivolous lawsuits. Those frivolous lawsuits should be stopped. I am ready to stop them. They do happen. But as my friend from Nevada, Senator BRYAN, said, let us not use the issue of frivolous lawsuits to take this legislation so far that it hurts legitimate plaintiffs, legitimate lawyers. We do not want to stop decent people in their tracks, innocent investors. We do not want them to be stuck or ruined. We do not want them, in some cases, frankly, to be financially destroyed because we are writing a law that perhaps goes too far.

Our colleague from Nevada showed us very clearly that there is no explosion of these investor lawsuits. Indeed, it is extraordinary. They have remained very level—the same number now as we saw 20 years ago. That does not mean they are all perfect lawsuits. Some of them are frivolous. But the fact is we have no explosion here, and that has been clearly stated by my friend from Nevada.

We need to approach this bill from our own experience. I want to say that this is a very complicated issue. I want to say to those who may be watching this debate, it may be complicated, but it could easily affect you. It is just like the S&L crisis, when the Congress acted to deregulate and walked away. It was a complicated bill. People did not follow it, and then they got burned. So we have to be very careful.

I have met the victims of Charles Keating. I talked about that with my friend from Nevada. I met the victims from the Orange County bankruptcy, and I say to them that I do not intend to forget them as we go through this bill. I want to try to make this bill better. I will support it and perhaps offer amendments to do that. I want to make sure investors are not shut out of the courtroom. That is not the American way. That is what motivates me.

I want to tell a little bit about this bill by way of some charts that I have. I want to show you what newspapers have been saying about this bill, S. 240. There are many people who take it to the floor and they have extolled this bill in its current form. They like it. Many of them have worked very hard on it and they are very close to it. I want you to see what some of the newspapers are saying about S. 240.

The Palm Beach Post of June 5, 1995:

> Congress has set out to help stop market con artists. Congress is creating legislation that would virtually strip the rights of defrauded investors—the bill installs heat shields around white collar crooks and brokers or accountants who aid and abet their scams. Investors who know the legislation do not like it.

This is Jane BRYANt Quinn from Newsweek. She is an advocate for investors, and she says:

> S. 240 makes it easier for corporations and stockbrokers to mislead investors. Class action suits against deceivers would be costly for small investors to file and incredibly difficult to win.

How about the Seattle Times, May 29, 1995, a month ago. They say this, and so many colleagues have embraced this, and some say it does not go far enough:

> This legislation has proceeded almost unnoticed because it is hideously complicated, and there may be a feeling it does not touch many lives. Wrong. Taxpayers have a vital stake in these changes. Longstanding protections are in jeopardy.

The Raleigh, NC, News and Observer:

> S. 240 is bad news for investors, private and public. It would tie victims in legal knots while immunizing white-collar crooks against having to pay for their misdeeds.

The Philadelphia Inquirer, in June 1995:

> A crook is a crook, and S. 240 would relax penalties for many stock crooks.

The St. Louis Post Dispatch, May 1995:

> Don't protect securities fraud.

The Contra Costa Times in my home State:

> Why would any Member of Congress vote to protect those involved in fraud at the expense of investors?

That is a reasonable question.

The Seattle Post Intelligencer:

> The legislation is opposed by the U.S. Conference of Mayors, the Government Finance Officers Association, the American Association of Retired Persons, and the North American Securities Administrators Association.

Mr. SARBANES. Will the Senator yield?

Mrs. BOXER. Yes, I am happy to.

Mr. SARBANES. Not only is that a diverse group from which you just cited, the U.S. Conference of Mayors, the Government Finance Officers Association, the American Association of Retired Persons, and the North American Securities Administrators Association. Now, none of those groups has a vested interest, so to speak, in this conflict.

I understand that you have the trial lawyers who have a vested interest and the corporations who have a vested interest, and they are at one another, and they are at sort of loggerheads over this thing. One makes one set of assertions and the other makes another set of assertions.

Everyone whom you cited there—as did the Senator from Nevada earlier in the debate, who listed additional organizations as well—all of whom are sort of outside the fray, they are coming and taking an outside, objective look at this thing. They have reached the judgment that this legislation is deficient. We are not getting outside groups reaching the judgment that the legislation, as is, is OK. The outside groups that say it is OK are players in the legislation. There are groups that say it is bad who are also players. But these are all organizations, in effect, that represent the public interest, the consumer. We have a whole list of consumer organizations as well. I think it is very important. I think Members really have to stop and think about this, because we are getting the same thing out of the editorial boards of the newspapers around the country. Overwhelmingly, those editorial boards are critical of this legislation.

They see it goes too far. Most write editorials and say there are some bad practices that need to be corrected, but this legislation goes well beyond that and overreaches.

I appreciate the Senator yielding. I think it is a very important point. None of those organizations have a vested interest in this conflict, unlike many other groups that do have such an interest.

Mrs. BOXER. I thank my colleague, the ranking member of the full committee, for his statements.

I would say what we are doing here is just showing what the one newspaper is quoted as saying. There is a list of many, many pages, and I will at some point in this debate go further into it.

My friend is so right. So many consumer groups oppose this: Consumer Federation of America, Consumers for Civil Justice, Consumers Union, the Fraternal Order of Police oppose this. Why? Because they are worried about their retirement. They do not want some scam artist to get away with it.

As this debate moves forward, we will go more and more into the groups who oppose this legislation.

I am going to ask for the next series of charts which show who are the main targets of investor fraud. We talk about the companies, and believe me, I want to help the good companies. I do not want to help the companies that defraud investors. I think we need to look at who the targets are.

This is an article that appeared in the New York Times in May of this year, a month ago. "If the Hair is Gray, Con Artists See Green, the Elderly are Prime Targets."

When we talk about changing security laws that protect investors, we need to step back and look at who the targets are, who are the ones most likely to get hurt if we weaken these laws too much.

Let me read a little bit:

> Betty Norman was no match for the telephone con men who emptied her pockets of more than $40,000.
>
> A plain-talking widow who runs a small motel in Michigan, a town of State prisons and apple orchards, Mrs. Norman, born and raised here, was taught to believe that people are essentially honest. So she trusted salespeople who picked up details about her life in seemingly casual telephone chats while pitching her pens, costume jewelry and other trinkets. After being swindled out of thousands of dollars, she lost even more to people promising to recover her original investments.

Now, this is what Mrs. Norman says:

> "It makes you feel like taking your life, to think you you've been skinned," said Mrs. Norman, 68, who for months was too mortified to reveal it to her grown children. "I've been struggling along. People here have lent me money and I'm trying to get it paid back."

So, we are seeing that—whether it is selling goods to the elderly or selling them investments—clearly, the elderly are the prime targets.

Now, I want to show something that I think is extraordinary. It is really something that ought to go to the Smithsonian. It is actually one Charles Keating gave to his salespeople when they were trying to con innocent senior citizens. I know that every single Senator, from both parties, would be sick if they took a look at this.

You are now a trainee for Charles Keating, and they blow up this paper. Here is what it says. They want to get someone to write a check for $20,000 to Charles Keating's company, American Continental Corp., in care of Lincoln Savings & Loan. You remember Lincoln Savings & Loan, right?

Here is the training document for the salespeople. To show how cruel these people are, how awful they are, this is the name they put, the fictitious name: Edna Gert Snidlip, 1 Geriatric Way, Retiredville, California, account number. And they are trying to get this sample elderly person to write a check for $20,000. This is the way they think of senior citizens.

I will show what they said on another piece of paper that we have blown up, another document that shows what they handed out.

At the very end, number 13, and these are all the things they have to think about, "Always remember, the weak, meek, and ignorant, are always good targets."

Now, what we have to do as we look at S. 240 is make sure that it passes the Keating test. Can we get a crook like Charles Keating, if we weaken our securities laws too much?

What the Senator from Maryland, Senator SARBANES, is trying to do, and the Senator from Nevada is trying to do, and the Senator from Alabama, and this Senator, and I hope others, we are trying to fix S. 240, so we do not allow these charlatans, these crooks, these criminals, to target elderly people, to go after the weak, the meek, and the ignorant as targets, and get away with it.

Remember, the Senator from Nevada, who was a prosecutor, has said if S. 240 had been the law of the land, the people who were conned by Charles Keating would not have recovered what they have now recovered. It is about 40 to 60 percent of their losses.

Mr. SARBANES. Is that an instruction sheet they gave to their salesmen?

Mrs. BOXER. This is an instruction sheet they gave to their salespeople, exactly. This was in the period of discovery, when the attorneys went in to make their case against Charles Keating, they were able to come up with these documents which are on file at the court. We took them out.

I thought it shows the people of America that there are, sad to say, bad people, bad people who will try to get the elderly to make investments that are no good.

As the Senator knows, the Keating case, they led people to believe that their investments were, in fact, insured by the Federal Government, and people lost everything.

Mr. D'AMATO. Might I make an inquiry?

Mrs. BOXER. Certainly.

Mr. D'AMATO. I understand the horrible and the terrible things that were done to these people, the unscrupulous tactics that were used, but I ask what the relevance of insider trading is to the legislative proposal that we have before us.

This legislation does not deal with insider trading. Insider trading remains completely banned. There are other existing sections of the securities law which deals with insider trading. We do not make it any easier for insider trading to occur.

The fact is that this bill does not protect fraudulent conduct. It absolutely does not.

If you knowingly advertise falsely, you will be in violation of this bill, the safe harbor does not protect these false statements nor does it apply to ITO's or to small emerging companies. Also, the Securities Exchange Commission will still have the authority to bring any suit that it can bring today.

When we bring up the name of Charles Keating, and the terrible things that his salespeople were trained to do, we imply that this legislation will allow this kind of conduct. This legislation will not sanction that kind of conduct.

Mrs. BOXER. And I respond to my friend that we are changing the laws that protected the people who were conned by Charles Keating.

The fact of the matter is, Charles Keating ripped off the assets of the savings and loan, went bankrupt, and these poor people who were left with nothing had to go after other people. And in this bill you make it far more difficult. That is why Senator SHELBY is offering an amendment on this.

Mr. D'AMATO addressed the Chair.

Mrs. BOXER. The other point—I would like to just finish my point because my friend raised two issues. My colleague is asking me about insider trading. The Senator is exactly right.

Mr. D'AMATO. Does the Senator know what fraud provisions we are changing? I would like to know. If she can point out to me a particular provision that will permit fraud, then I want to strike it. You say we have changed the law without identifying what section we have changed and allude to the practices of somebody we all agree was contemptible but his actions are not relevant. If you can point it out these provisions I would be delighted to review them.

The comment that we will make it possible for people to engage in fraudulent conduct and wipe away the protections that now exist, is not, in my opinion, square with the facts.

Mrs. BOXER. I would like to respond to my friend very clearly. I am making an opening statement tonight. I told my friend, I will be supporting amendments to make this bill better; amendments that will not leave people prey to people like Charles Keating. The Senator wants to know specifically? You can talk about the safe harbor. We are going to do that. I was happy to hear my friend from Connecticut saying maybe he will have a little change there. We welcome that. We are going to look at pleadings. And on insider trading, which we are going to talk about, the bill is silent about it. That is my problem.

Mr. D'AMATO. But this legislation does not deal with insider trading. Insider trading provisions are as vigilant and tough as ever. If there are constructive suggestions to make insider trading laws more effective, to appropriately protect defrauded people, we should certainly consider them. But this bill, as it does not address insider trading.

Mrs. BOXER. That is my point.

Mr. D'AMATO. To suggest that this bill will somehow make it easier for insider trading, because that is the implication when you cite Charles Keating and his misdeeds, that somehow we are going to make it easier for these people to prey on the elderly to is not true. I might just make one observation, this bill does, makes it possible for those who are truly aggrieved, not the entrepreneurial lawyer, to bring suit against violators and to receive their fair share of the settlement money.

It allows the institutional investors and the pension managers who are at risk, whose clients are at risk, to have the opportunity to manage a lawsuit, instead of giving this control to lawyers who have no concern for the defrauded investors. These lawyers do not give two hoots and a holler about the stockholders, and walk off with millions of dollars in settlement fees when the stockholders get a penny or 2 pennies per share. I suggest to the Senator that this bill helps pensioners, who hold $4.5 trillion in securities, by giving them the authority to choose the lawyers who control the suits. It gives them the ability to agree to a settlement as opposed to a charlatan, who owns 10 shares of stock and now is employed by lawyers.

That is what we tried to do with this legislation. I point this out because as I listen to my colleague's statement it sounds to me like this legislation will open a door for the Charles Keatings, this is just not accurate.

Mrs. BOXER. If I could just reclaim my time—and I will yield in a moment—I really need to say to my friend from New York: He may not agree with me, but to stand there and say that it —and my friend is a good debater—it is unequivocal that pensioners are better off—you should see the people who oppose your bill.

It seems to me—

Mr. D'AMATO. I know the people who oppose the bill.

Mrs. BOXER. Let me read the list: American Association of Community Colleges, American Association of Retired Persons, American Council on Education, American Federation of State, County and Municipal Employees, the Association of the Bar of the City of New York, the Association of Community College Trustees, the Association of Governing Boards of Universities and Colleges. It goes on. The Consumer Federation of America. Et cetera, et cetera.

I just read before—the Senator was not on the floor—some incredible, incredible editorials that have been written across this Nation by people who have no vested interest at all.

How about the Investors Rights Association of America? How about the Municipal Treasurers Association of the United States and Canada?

My friend has to, I hope, leave a little bit of room for dissension here. I know the bill was voted out overwhelmingly. But in the course of this debate I am going to be supporting amendments and perhaps offering some that are going to improve this bill. Because I do not agree with my friend. I do not agree with my friend that investors are better protected. I will be happy to yield to my friend from Maryland who sought to engage in a colloquy.

Mr. SARBANES. I would say to the distinguished Senator from New York, on the morning of the markup of this bill in the committee, the Chairman of the Securities and Exchange Commission wrote to us and stressed that the substitute committee print failed to adhere to his belief that a safe harbor should never protect fraudulent statements. This is what he said:

> I continue to have serious concerns about the safe harbor fraud exclusion as it relates to the stringent standard of proof that must be satisfied before a private plaintiff can prevail. As Chairman of the Securities and Exchange Commission, I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection. The scienter standard in the amendment may be so high as to preclude all but the most obvious frauds.

That is not me talking. That is me quoting the Chairman of the Securities and Exchange Commission. He expressing very deep concern about the safe harbor provision in this legislation. So there is a very direct answer to the Senator from New York.

Second, we offered in the committee an aiding-and-abettingamendment. Earlier in the debate the distinguished Senator from Nevada pointed out about half of the recovery in the Keating case that helped these elderly citizens who had been swindled to get at least some of their money back, about half of the money they got back was because they were able to move against aiders and abettors.

There is no aider and abettor provision in this legislation for private litigants—which is, of course, how they were able to proceed in order to get their money back. And later there will be an amendment offered to provide aider and abettor liability in private actions.

So there again, unless we get that provision in, the ability that people who have been swindled in the Keating matter had to recover at least some of their losses would otherwise not be available to them.

So I say to my friend from California, there are two very clear examples to support the proposition she was just arguing.

I thank the Senator for yielding.

Mr. DODD. May I make a comment?

Mrs. BOXER. Without losing my right to the floor, and briefly, I yield to my friend.

Mr. DODD. I thank my colleague from California.

Mr. President, we are dealing here with apples and oranges. Talking about the Keating case has the desired effect because people recall what happened to innocent investors. But under the Keating situation we were talking about a failure of the bank regulatory system. Here we are talking about securities laws, two entirely different areas of the law.

What Mr. Keating and his cohorts were charged with was not violation of fraud and forward-looking statements, they lied to them about present facts. That is a vastly different situation. No safe harbor provisions were necessary in the Keating case, because he told those people, in these absolutely ridiculous and outrageous statements and instructions, that "your money is being guaranteed. You are protected." It was not forward looking, he was lying about the present situation.

What the safe harbor provisions deal with are forward-looking statements, entirely different fact situations than existed in the Keating case.

I want to go into that at some length and I will later on, on this, but that is a very different fact situation than what we are talking about here.

Last, I just make this one point.

One of the major provisions of S. 240 has to deal with the requirement that we have the auditors reach out. Look, this is a provision that was added by Congressman WYDEN on the House side who for years had 30 hearings on this provision which we have incorporated in this bill. Had that provision, by the way—one provision of this bill that does apply to Keating—had the auditors been required to seek out the fraud which does not exist on the books, that is the one area, I would argue, in S. 240 that might have made a difference in the Keating case.

What we have done with this bill is add a new requirement that auditors must do that. That would have assisted in the prosecution of Mr. Keating. That is a part of this bill. But forward-looking statements and lying about present facts are very different, and safe harbor would not have applied.

I thank my colleague for yielding.

Mrs. BOXER. I am happy to yield.

I say it is my understanding—and we are going to debate this—that it is not as clear as the Senator made it. We are going to bring that out as we move forward in this debate.

My friend from New York says insider trading is not in this bill; exactly my point. I would like to see us connect insider trading to these forward-looking statements. And I want to explain what I am talking about. We know insider trading. "It's back, but with a new cast of characters." That is Business Week. That is December 1994.

I want to quote from a book written by Gene Marcial, "The Secrets of Wall Street":

> Don't kid yourselves: Very little has changed on Wall Street. Half a dozen years after the scandals of the 1980's, when any number of Street veterans were charged with violations of securities laws and several high-profile insiders were marched off to jail, insider trading and market manipulation—in cases 100 percent illegal—are still the most zealously desired play in the financial world. It's almost the only way to make the truly big bucks. All the market savvy in the world will come up short if you're playing against other investors who have market savvy plus inside information: Sorry, but that is the way the game is played.

How does that fit into this bill? What this bill does not address is forward-looking statements made in combination with insider trading.

Let me show you what I mean. Here is a forward-looking statement. Crazy Eddie. Some of you may remember a business run by a crook. Here comes the forward-looking statement.

> We are confident that our market penetration can grow appreciably . . .
>
> Glowing evidence of consumer acceptance of the Crazy Eddie "Name" augurs well for continuing growth outside of New York . . .

All during the time of this forward-looking statement, Crazy Eddie and his friends are unloading the stock, and they are unloading it at a high point. And after awhile, just a little bit later, you see this forward-looking statement was fraudulent and the top officer flees the country with millions of dollars, and the CEO is convicted of fraud.

So my point, I say to my friends—and what I tried to do in the committee, but we could not get agreement at that time, I am hoping we can get an agreement—is to make a point that, if you have a forward-looking statement in connection with insider trades, in other words, you can show—because, by the way, the insider trades are definitely recorded with the SEC, fortunately; some have 40 days to do it; I would like to make it 5 business days—if you can show that there is a forward-looking statement in connection with an insider trade, that you meet the heightened Keating requirement and you cannot take advantage of the safe harbor. My understanding is that if we made that change, it would be very helpful to this bill.

Mr. DODD. Will my colleague yield?

Mrs. BOXER. Sure.

Mr. DODD. As I see the fact situation here, in the Crazy Eddie case, these are knowingly false statements that were made. The provisions of S. 240 are fine. My point is that the insider trading laws are on the books. Frankly, if you have some new ideas on insider trading—we do not cover cattle rustling in this bill either. It does not mean it may not be important.

Mrs. BOXER. May not be important?

Mr. DODD. My point is you have very good laws today. We wrote some laws on insider trading which I dealt with in our committee a few years ago. But the implication here is somehow that Crazy Eddie would have gone scot-free if S. 240 were the law of the land.

Mrs. BOXER. No.

Mr. DODD. The Senator is not suggesting that, is she?

Mrs. BOXER. No. I would like to explain it before my friend gets too agitated. Let me explain it to my friend.

What I am suggesting—and I tried to explain it to my friends in the committee, but no one was interested in talking about it. I am trying to explain it now. The Senator is right. He made clearly false statements. But he might get away with it under the new safe harbor because it is a more difficult standard to meet. What we are saying is that, if you can show, going into the case, unequivocally that in connection and conjunction with a false statement, a forward-looking statement, there is insider trading, you do not have to meet the requirements of the new safe harbor, and you do not have to meet the pleadings requirement because what we are really saying is here ipso facto, if you are unloading a stock the day after you make a phony statement, that should meet the heightened requirement.

Mr. DODD. Is there anything that you believe—we now know in this case there were knowingly false statements that were made. Is there anything in S. 240 that would in any way make it possible for a Crazy Eddie to have gone scot-free?

Mrs. BOXER. Yes.

Mr. DODD. Why?

Mrs. BOXER. Because the safe harbor is quite different the way it is written in S. 240, and it would be much more difficult for investors to move against this particular company.

Mr. DODD. S. 240 says knowingly false statements.

Mrs. BOXER. I know. But it is a much higher level. You have to know the intent and all the rest.

All we are saying is in cases of insider trading—I hope my friends can go along with this because I think it is good law; that is, ipso facto, if you can show that there is insider trading in connection with a forward-looking statement, that you meet the new safe harbor and the pleading requirements. That is all we are suggesting.

We will be offering that amendment. I hope we can have some support. I think it makes a lot of sense.

I want to say something about the laws that deal with insider trading. I hope my friends can help me on this because I think we all want to go after the bad people. I know we do.

Mr. SARBANES. Will the Senator yield?

Mrs. BOXER. Yes.

Mr. SARBANES. I say to the Senator from Connecticut, I cannot give a definitive answer to his question because there has not been a court interpretation of the standard that you had put in this bill, the safe harbor. But it is clear that under this standard, that Crazy Eddie was held to a standard that was not as stringent as the standard you have written into this legislation. That is clear. There is no argument about that. The standard by which Crazy Eddie was held under the existing law was a less stringent standard than the standard the Senator has written into this bill, because his standard—he says it is knowingly made with the expectation, purpose, and actual intent of misleading investors, and, of course, the Chairman of the SEC indicated he was fearful that this would allow willful fraud and still enjoy the benefit of safe harbor protection.

The other thing, I say to my friend, because I wanted to make this point earlier, is that I do think that the insider trading issue is more related to this bill by far than cattle rustling, if I may state that to my colleague, because, as I understand it, his effort was to counter my good friend from California to say, "Well, you know, what has insider trading got to do with this bill? What does cattle rustling have to do with this bill?" I think there is a difference between insider trading as it relates to this kind of legislation and cattle rustling.

Mr. DODD. I think my colleague from Maryland fully understood the point I was making on this. Yes, there is a different standard we are applying here. But the implication of using Crazy Eddie as an example I think is wrong.

But, second, what we are trying to do here is to minimize the kind of frivolous litigation where some people have a position that there should be no safe harbor, that we should do away with safe harbor altogether. I disagree with that. I think you can make a case for that.

But the idea of arguing, on the one hand, that we ought to have a safe harbor, and, second, making it so transparent that anyone can bring a lawsuit based on any kind of forward-looking statement is going against the trend of the balance we are trying to strike here where you have companies withholding information, pulling back, fearful that anything they say, no matter how well intended, becomes the automatic subject of a litigation when stocks fluctuate.

So we are trying to strike that balance, if I might just say to my colleague from Maryland.

Mr. SARBANES. If I could bring my dear friend back into the parameters, no one that I know of out here has argued that there should be no safe harbor whatever, which is the statement the Senator just made.

Mr. DODD. I said some may. I do not know.

Mr. SARBANES. It is a red herring. It is a diversionary thing.

Mr. DODD. Crazy Eddie is a red herring.

Mr. SARBANES. We are trying to get at what is a proper approach on the safe harbor issue. Now, it is a complicated issue. The Senator himself said that earlier in the day, a very complicated issue. But the potential for harm and damage, if you do not get it right, is enormous.

Mr. DODD. On both sides.

Mr. SARBANES. Is enormous.

Mr. DODD. Will my colleague agree, on both sides?

Mr. SARBANES. Not quite. Because until 1979 the SEC would not even permit forward-looking statements and yet our markets did very well. They grew. People prospered. Investments were made. The SEC would not even allow a forward-looking statement because they were so worried about what might happen to the investors.

Then people came in and made the argument, well, you know, this is difficult; we ought to be able to make some projection. And they began to try to accommodate that, which is what they have been trying to do. So we have been trying to make some changes. But you have to get it right. And when the chairman of the SEC comes in with a letter when he came to the committee, it ought to give you pause. You ought to pause. You ought to stop and think about this thing.

We ought not to have to enact something, then have devastation happen to investors and then come back and try to get it right, I say to my friend.

Mr. DODD. If my colleague will yield on that, we are already seeing—the reason the bill exists at all is because of the kind of devastation that can occur here. And so we are trying to strike that balance here.

Mr. SARBANES. That is right. And we have to strike the balance in the right place. That is all I am saying to my distinguished friend.

Mrs. BOXER. If I may reclaim my time at this point, I have enjoyed the give and take but I am bringing it back to real people. And my friends can talk all they want about safe harbor and all that. Let me tell you what I am talking about.

I used to be a stockbroker, I say to my friend, and I took that job very seriously. And I had a lot of widows and they came into me and, God, I worried. I am not concerned about the good people that my friend from Connecticut talks about. I want to help them. I want to protect them from frivolous lawsuits. I wish to also, however, say while I am doing that I do not want to hurt the average investor, and they can tell you from today until tomorrow it has nothing to do with the Keating case. Fine, they can say it all they want. But I will prove it as we go through this debate. But I wish to take you back to what happened to real people. This is just one case. There are many. I will show you another article behind here.

"Regulatory Alarms Ring on Wall Street" New York Times, Friday June 9, 1995:

> With the frenzy of merger deals and takeover battles these days, it seems like old times on Wall Street in more ways than one. Securities regulators say they are opening investigations into insider trading at a rate not seen since the mid 1980's, the era in which Ivan Boesky, who went to jail for trading on inside information, became a household name.

The point I am trying to make, my friends, yes, I want to have a safe harbor. I voted for the safe harbor that was in the Dodd-Domenici bill. And my friend from Connecticut said, well, we have moved past that. We can do better.

I think what was in the Dodd-Domenici bill made sense to give this to the SEC and let them develop a safe harbor. They know more than any of us.

Mr. DODD. Will my colleague yield on this one?

Mrs. BOXER. Yes.

Mr. DODD. The Senator is absolutely correct. I asked a year and a half ago. A year and a half ago I said to the SEC, in response to the letter by the chairman, a year and a half ago I said, "Look, let's let you do it. Would you get some answers back."

Month after month we inquired: What are you going to do on this? We would like to know. A year and a half went by and the SEC basically, because they wanted no change whatsoever, refused to provide any response. I say that to my colleague in frustration. We have had this happen with other agencies. They were not interested in doing this at all, despite their claims to the contrary. That is why we put the provision in here. Frankly, I would have preferred that they would have done it. But, frankly, after a year and a half, the patience of a Senator runs out when an agency refuses to respond.

Mrs. BOXER. I say to my friend, I know of his good faith and his good will and his good patience, but you know what? I think it is dangerous: Well, we tried and they did not do it, so we are going to write this our way.

I was in the House when we started the whole mess with the S&L's. Everyone thought: We can handle it; we know what is best; we will regulate them. Great. We do not need the agency to tell us how to do it. We are going to legislate.

I say to my friend from Connecticut, whom I admire—and we are friends, and we agree on 98 percent of the things around here—on this particular case, I hope he can get some more patience because I am a little concerned about the direction, and it is not just me. It is list after list of consumer groups and senior groups and securities administrators. They have no ax to grind. They are scared for the investors.

We do not want to go too far. We should find that balance. We should crack down on frivolous lawsuits, but let us be careful.

The point I am making with this, as my friend from Maryland pointed out, there is a tougher standard now. That is the whole point of the bill. Let us not play games with it. It is a tougher standard to meet, on purpose. The Senator himself has said, others have said we are worried about these suits against good, decent people and we are raising the bar; we are making it tougher.

What I am suggesting is if in connection with a forward-looking statement there is insider trading and it is clear and convincing and everyone knows it because they have to file it, then that should meet the standard right away, and the case moves over.

That is all I am saying. I hope I can work with my friend from Connecticut. I think when he looks at it he is going to think this is good. He does not want to protect people who make these statements; they are false; they dump their stock.

You know what happened? All the people in here that bought it on the basis of this lost so much. And I think there are ways we can work together to strengthen this bill so that when we have this connection—by the way, it happens many, many times with this insider trading, with these false statements, and the public gets it in the neck. And now they have to meet a higher standard.

And my friend from New York, I do not agree with him on this business about choosing the attorney. Now, in this bill we say the richest person, the person with the most invested gets to pick the attorney.

Mr. D'AMATO. If I might ask, does the Senator mean to tell me that, for example, the pension manager of the city of New York, a $20-some-odd billion fund, should not be given greater latitude given the magnitude of the investment they manage than a professional plaintiff who buys 10 shares of stock and who is retained basically by a lawyer who rushes to file a suit? You would not want to give to the pension managers the ability to have a greater say in who is selected when half of the dollars lost are invested by pension funds?

I would say I would rather have that any time. So when you say who is going to pick the lawyer, I would rather have people who have a real stake, who really invested billions of dollars, who really have something at risk, pick the lawyer. Than entrepenurial lawyers who simply watch for the stock to move 5 points one way or the other way. The Senator feels one way, I feel the public needs to be protected, and the way to protect the stockholders, the little people is to give them a say. They do not get a say now. They absolutely do not. What is going on now is a travesty.

Mrs. BOXER. Well, I assume that was a question, and so I will attempt to answer it this way. I say to my friend, we have a disagreement, and so does the SEC. They do not agree. They want to work on this provision. Just to say because someone has the most money, that is the end of it, they get to pick the lawyer, I think is a problem.

If you look at the Keating case, by the way, it is very interesting because in some of these cases, as the SEC pointed out in their recent communication, it may well be that the largest stockholder is somehow in cahoots with the fraudulent individual.

Now, I would rather give—

Mr. D'AMATO. Are you really suggesting—

Mrs. BOXER. May I finish my point, I say to my friend? I so admire my friend's tenacity, but let me finish my point and then I will be so happy to yield. Two people from Brooklyn, and I know it is hard. Two people from Brooklyn, I know it is hard. I want to yield to my friend.

Mr. D'AMATO. You do not have to.

Mrs. BOXER. I would like to remember my point, which is that under the current law, the judge gets to make the decision based on who is the most competent lawyer. I would assume judges are not dumb. They know if there is a phony plaintiff. I think that is another area on which we can perhaps compromise that the SEC has found problems with.

My colleagues will be glad to know that I am reaching the end of my remarks tonight. I know my chairman is absolutely thrilled with that, but I want to point out that I was yielding to many of my colleagues throughout this time. I wanted to do that. I think we have some legitimate differences.

Look, I only have one goal here. This is a tough issue for me. I represent so many wonderful companies who are complaining about this. I want to resolve this in the right way. I represent so many investors that got bilked.

Why do I represent all these people? Because I come from the largest State. I have 32 million people. I have thousands and thousands of investors, thousands of companies, and I want to be able to support a bill that strikes the balance that my friend from Connecticut talked about.

I think this bill, in its current form, does not do that. Now, I am not the only one to say that. Respected people in this Senate have said it tonight, people like DICK BRYAN, people like PAUL SARBANES. These are not people who do not know their facts. These are fair people.

We have a list of people who look after consumers, who look after investors who are begging us to fix this bill. I want to make sure that when this process ends, we have adopted some amendment, we have made sure that we do not have unintended consequences. We certainly had them in the S&L debacle. Not one of us ever dreamed we would have the problems we had when we deregulated.

Please, please view my comments tonight in the spirit in which they are offered. I want to be able to support a bill that does the right thing, but let us heed what Arthur Levitt and the SEC is saying in regard to the safe harbor, in regard to joint and several, in regard to the statute of limitations, in regard to the provisions regarding selecting an attorney. These are complicated matters, but the bottom line for me is making sure we protect the investors and that we protect the good business people, and if we do the wrong thing, we could be very, very sorry.

So let us proceed with caution, with comity. I hope we can improve this bill, and I look forward to working with my colleagues on the amendments that will be offered.

I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I will be brief considering the late hour.

I cannot let go unchallenged the statement that would imply that somehow this legislation will open up the door for people like Charles Keating to do the kinds of things that he did. This legislation does not deal with the criminal law or criminal conduct.

This bill does deal with the civil suits which are being brought and stating that there has to be a showing of intent to cause harm when making forward statements. These forward statements are defined in a very limited fashion, they include only projections. In order for a statement to be a projection, the company must state that it is a projection and warn investors that these projections may not come true.

If we want companies to be able to make these projections, and most people agree that it is in the consumers interest that they make them, then you have to give them this protection against frivolous suits. The question of who should represent the people, is not, in my opinion, a question of rich investors trampling the concerns of small investors. We are trying to give pension funds which operate on behalf of millions of people, many of whom are in the public sector, more control over their suits. We want to address more investors' concerns, not fewer. That is what we are attempting to do with this legislation.

Fraudulent conduct is not protected by the safe harbor section in this bill. This bill specifically excludes from protection any statements made with the expectation, purpose, and intent of misleading investors. If you are trying to mislead your investors you do not get protection. It is designed to protect honest companies from abusive suits.

There will be amendments to attempt to improve on the language of the bill. We will have exhaustive debate on all the issues on which my colleagues have concern and we will have votes on those amendments.

I just do not think it is fair to bring up the cases of Charles Keating or Crazy Eddie in which criminal violations were committed and which have absolutely no relation to the provisions in this legislation. One could easily assume when they hear the names of these outstandingly monstrous cases that are indelibly imprinted on so many people that somehow we are going to open the door to these kinds of actions. That is just not fair, and it is not an accurate representation of what we are attempting to do here. Although I certainly believe that reasonable people can disagree, as is their right, but I do not believe these analogies are correct or fair, with respect to this legislation.

Finally, I will conclude by saying that I did not sponsor this legislation, because I thought that the initial provisions of the legislation would have precluded and made it impossible for many people who are truly wronged to bring a suit. It was only after we were able to craft a compromise and some of the most onerous provisions, both of the original legislation and of the draft, were dropped, did I sponsor this bill.

For example, along the way, there was thought that an intentional misstatement would be protected in the safe harbor if a person did not rely upon it; which meant that somebody could actually deliberately distort the facts and could not be sued unless the person who brought the suit actually read that statement.

I could not support that, and I insisted that provision in the draft be dropped. We now have a provision which says only that there has to be an intentional misstatement.

It is in that spirit that we crafted an agreement. I might point to the House bill which has loser pays provision. We do not have a provision like that, but, yes, we do have a provision that says the courts shall ascertain, upon a dismissal of a suit, whether or not there has been an abuse, because too many of my colleagues in the law have brought these suits because it is an easy thing to get a company to settle. And that is not what the judicial system should be about, to wring out settlements from people because they have wealth or because they cannot stand the litigation that might hurt them for 2 or 3 years; litigation that is meritless, or will keep them from doing business or obtaining the necessary financing. That is simply wrong. So, yes, we have sought to change that.

Do we seek to change that to disadvantage people? No, but to make the system operate on the basis that it should, to protect the truly aggrieved, to give them the right to sue, and to give the people who really lose the ability to decide who is going to represent them. A lawyer who finds his plaintiffs by pressing a button on a computer and calling up his list of investors with 10 shares in any particular company should not speak for the class of defrauded investors. That is wrong and is making a mockery of the system. That is why people are angry. The business community is absolutely right when they say we need fundamental change.

As I have said, I initially had great reservations about this legislation. My friend Senator DODD knows that, as does Senator DOMENICI. I studied this legislation and became convinced that many of the original reforms were necessary, while others, I felt went too far. I mention this to explain why I have not been a cosponsor—because I wanted to achieve a balance. When you have balance, there are parties on both sides who are not happy because, unfortunately, they all want their side to be more balanced. Some want loser pays. Some want a larger safe harbor; they would like companies to have no responsibility and no ability for anyone to sue them. Well, that is wrong. Of course on the other side, some of the lawyers want to be able to bring suit on anything that moves and some things that do not. They do not want to have accountability. The judges do not want to have to finding. They are overburdened and overworked, sometimes they have a year or 2-year backlog of cases. Here is Congress telling them they have made those findings, that they are in the public interest and the public has to be served. We are suffering in this country as a result of these frivolous lawsuits.

So one way for us to find the balance is ask the Judges only to look at cases which are dismissed, to find out whether or not sanctions should be brought. We hope that will help deter frivolous suits. Maybe after one or two sanctions are imposed we will have sent a message to those who are abusing the system.

Mr. President, I hope that we can proceed on this tomorrow. As I understand it, Senator SHELBY will lay down the first amendment. We will come into session at 9 o'clock. We will move to this bill at 9:30, when Senator SHELBY will offer his amendment dealing with proportionate liability, and I hope to hear debate from both sides. We will vote at 10:55.

If there is nothing further——

Mr. SARBANES. Mr. President, I will be very quick. I think we have had a good opening debate. I very strongly commend to my colleagues the very thoughtful and perceptive statements that were made by Senator BRYAN and Senator BOXER. I hope Members will review those very carefully.

We have to focus this debate on what the real issues are that divide us. There are provisions in this legislation—I was listening to the chairman of the committee talking just now, and he mentioned a number of provisions that we are not contesting. We accept those and think they are designed to deal with some abuses that have been taking place. But we do want to get the focus on other provisions where we think a proper balance has not been struck, where we think investors will be jeopardized, and where we think immunity is being provided to potential wrongdoers that ought not to be provided to them.

This is a very complicated question, there is no doubt about it. My good friend from New York, the chairman now, got very excited about the appointment of the lead plaintiff in a class action. Well, let me read you what the SEC said about that, and it is not all black and white, I admit that. Here is what they said:

> One provision of section 102 requires a court generally to appoint as lead plaintiff the class member that has the largest financial interest in the case. While this approach has merit, it may create additional litigation concerning the qualification of the lead plaintiff, particularly when the class member with the greatest financial interest in the litigation has ties to management or interests that may be different from other class members.

Now, I am not pretending this is simple. There is the problem. The SEC has stated this, and we need to think about it and address it. We may be making a mistake. I am sort of puzzled a bit by the absolute certainty of the people on the other side of this. I think this is complicated. I am not absolutely certain that the position I am advocating anticipates all of the problems. But, clearly, outside observers, in many respects, are far more knowledgeable than we are—the State securities regulators, the chairman of the SEC, and the finance officer people have all come in here expressing a lot of misgivings. One group said, "We think you need these amendments. If you get these amendments in, we will take a different view of the bill. Without these amendments, we oppose the bill."

They, in effect, are saying they recognize that there are other aspects or features of the bill that are acceptable or desirable.

As I said earlier, parts of this bill are desirable; parts of it are not desirable. We need to address, in my judgment, the undesirable parts. If we can do that, I think we can end up strengthening the bill, changing its thrust, achieving a better balance, and eliminating, hopefully, the differences between us.

As the very able Senator from California pointed out, that is the quest that she is on now, as we come to address this legislation.

So, again, I strongly commend to my colleagues the opening statement of Senator BRYAN and the opening statement of Senator BOXER. I say to them that this is a complicated issue. They need to consider it very carefully, because we will have to live with the consequences of this thing. As one commentator observed, "The pendulum had swung too far toward the lawyers, and now it is swinging too far the other way. Unfortunately, some major investor frauds may have to take place before it again moves back toward the center."

I want to get it to the center before we send it out of here, so the major investor frauds will never happen. I do not want a situation where we send it out of here, then the major investor frauds happen, and everybody comes back and says, oh, my goodness, we overreached. Let us correct it now and avoid it. Get the pendulum, as this says, in the center to begin with.

I thank the Chair.

Mr. DODD. Mr. President, very briefly, I do not debate what my colleague has said. Some of us have been at this for 4 or 5 years trying to strike a balance.

As I pointed out earlier today, the first couple of years, any suggestion about doing anything in this area was greeted, in many quarters, with total hostility. A threshold has been reached in the last year or so now, and the people are finally agreeing that the present system is not working well. And it has taken some time to get people to agree to that particular position.

As my colleague from Maryland knows far better than I, as you try and put together a legislative package here, it is in a complicated area where, unfortunately, only a relatively small number of people get involved in issues like this. The galleries are empty.

Not for lack of people who are probably in the building covering these matters, but this does not help itself to the 30-second sound bite, to the 30-second campaign ad or a bumper sticker. These are highly complicated areas.

Striking the balance is truly my interest here. In the years I have spent as chairman of the Security Subcommittee and as ranking minority member, I have authored many pieces of legislation in this area, and forever keeping in mind confidence.

Investor confidence. Confidence in our markets is what has made our markets so attractive to people. Why people, as the Senator from Maryland pointed out, why people come from around the world. It is not just because the dollars are here, but the confidence they have in our markets.

I think there has been an erosion in that confidence because of some of the activities we have seen. Trying to strike that balance is truly the interest of this Senator, the Senator from New York, the Senator from New Mexico, and others.

There will be some amendments. Some of them, as my colleagues know, I support. The statute of limitations, I support that. My colleague from New York wants that. I wanted to keep that in the bill.

We will be together on a few of these things. When we deal with the legislative process, it is darn near impossible to strike that perfect balance all the time.

The Senator from Maryland is correct. Anyone who sits here and says with absolute certainty they know what will happen as a result of legislation they pass, has not been here very long, or never been in the legislative process. We know the system is not working well. We are trying to correct it.

Obviously, how the markets respond, what happens down the road in many ways, we will have to deal with as it occurs. Maybe we have not gone far enough. Maybe we have gone far in some areas.

No one here claims perfection. Clearly, we need to address a present situation that is not working. My hope and desire over the next 2 or 3 days, we have the four, five, six amendments that I think we will have, that possibly we can address some of these issues, modify the bill if that is necessary, in a few areas to accommodate some of these interests, but move the process along so we have a chance to address the underlying concerns people have raised about the present situation.

I thank my colleague for listening. I yield the floor.

MORNING BUSINESS

Mr. D'AMATO. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination which was referred to the Committee on the Judiciary and a withdrawal.

(The nomination and withdrawal received today are printed at the end of the Senate proceedings.)

NOTICE OF THE TERMINATION OF THE SUSPENSION OF LICENSES FOR THE EXPORT OF CRYPTOGRAPHIC ITEMS TO THE PEOPLE'S REPUBLIC OF CHINA—MESSAGE FROM THE PRESIDENT—PM 57

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Pursuant to the authority vested in me by section 902(b)(2) of the Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (Public Law 101–246) ("the Act"), and as President of the United States, I hereby report to the Congress that it is in the national interest of the United States to terminate the suspension under subsection 902(a)(3) of the Act with respect to the issuance of licenses for the export to the People's Republic of China of U.S. Munitions List articles, insofar as such suspension pertains to export license requests for cryptographic items covered by Category XIII on the U.S. Munitions List.

License requirements remain in place for these exports and require review and approval on a case-by-case basis. The Department of State, in consultation with the Department of Defense and other relevant agencies, will review each request, including each proposed use and end-user, and will approve only those requests determined to be consistent with U.S. foreign policy and national security.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 22, 1995.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1039. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on Commerce, Science, and Transportation.

EC–1040. A communication from the Chairman of the Interstate Commerce Commission, transmitting, pursuant to law, a report relative to transportation rates; to the Committee on Commerce, Science, and Transportation.

EC–1041. A communication from the Secretary of Commerce, transmitting, pursuant to law, the report on the International Commission for the Conservation of Atlantic Tunas; to the Committee on Commerce, Science, and Transportation.

EC–1042. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report relative to eligible export vessels; to the Committee on Commerce, Science, and Transportation.

EC–1043. A communication from the Under Secretary for Oceans and Atmosphere, Department of Commerce, transmitting, pursuant to law, the report on the National Oceanic and Atmospheric Administration's Chesapeake Bay Office; to the Committee on Commerce, Science, and Transportation.

EC–1044. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Electric and Hybrid Vehicles program for fiscal year 1994; to the Committee on Commerce, Science, and Transportation.

EC–1045. A communication from the Administrator of the Federal Aviation Administration, transmitting, pursuant to law, the report on developing and certifying the traffic alert and collision avoidance system for the period January 1 through March 31, 1995; to the Committee on Commerce, Science, and Transportation.

EC–1046. A communication from General Counsel of the Department of Commerce, transmitting, a draft of proposed legislation entitled "The Coastal Zone Management Act Reauthorization Amendments of 1995"; to the Committee on Commerce, Science, and Transportation.

EC–1047. A communication from the Chairman of the Federal Trade Commission, transmitting, pursuant to law, the report relative to the International Energy Program; to the Committee on Energy and Natural Resources.

EC–1048. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on Energy and Natural Resources.

EC–1049. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report relative to the National Natural Landmarks; to the Committee on Energy and Natural Resources.

EC–1050. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report on the operation of the Colorado River; to the Committee on Energy and Natural Resources.

EC–1051. A communication from the Secretary of the Interior, transmitting, pursuant to law, the report on the continuing studies of the quality of water in the Colorado River; to the Committee on Energy and Natural Resources.

EC–1052. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to the refunds of offshore lease revenues where a recoupment or refund is appropriate; to the Committee on Energy and Natural Resources.

EC–1053. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to the refunds of offshore lease revenues where a recoupment or refund is appropriate; to the Committee on Energy and Natural Resources.

EC–1054. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to the refunds of offshore lease revenues where a recoupment or refund is appropriate; to the Committee on Energy and Natural Resources.

EC–1055. A communication from the Deputy Associate Director for Compliance, Royalty Management Program, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, a report relative to the refunds of offshore lease revenues where a recoupment or refund is appropriate; to the Committee on Energy and Natural Resources.

EC–1056. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report on the Youth Conservation Corps for fiscal year 1994; to the Committee on Energy and Natural Resources.

EC–1057. A communication from the Acting Assistant Secretary of the Interior [Territorial and International Affairs], transmitting, a draft of proposed legislation to provide for the territories, and for other purposes; to the Committee on Energy and Natural Resources.

EC–1058. A communication from the Assistant Secretary of the Interior [Fish and Wildlife and Parks], transmitting, a draft of proposed legislation to improve the administration of the national park system by providing general leasing authority for the National Park Service, and for other purposes; to the Committee on Energy and Natural Resources.

EC–1059. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report on the alternative transportation modes feasibility study; to the Committee on Energy and Natural Resources.

EC–1060. A communication from the Secretary of Energy, transmitting, pursuant to law, the report relative to clean coal technologies; to the Committee on Energy and Natural Resources.

EC–1061. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Coke Oven Emission Control Program for fiscal year 1994; to the Committee on Energy and Natural Resources.

EC–1062. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation entitled "The Federal Power Administration Transfer Act"; to the Committee on Energy and Natural Resources.

EC–1063. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the status of Exxon and Stripper Well oil overcharge funds as of December 31, 1994; to the Committee on Energy and Natural Resources.

EC–1064. A communication from the Secretary of Energy, transmitting, a draft of proposed legislation to amend the National Energy Conservation Policy Act; to the Committee on Energy and Natural Resources.

EC–1065. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on Federal Government energy management and conservation programs for fiscal year 1993; to the Committee on Energy and Natural Resources.

EC–1066. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Strategic Petroleum Reserve for the period January 1 through March 31, 1995; to the Committee on Energy and Natural Resources.

EC–1067. A communication from the Secretary of Energy, transmitting, pursuant to law, the report entitled "The Study of Export Promotion Practices"; to the Committee on Energy and Natural Resources.

EC–1068. A communication from the Secretary of Energy, transmitting, pursuant to law, the report of the "Program Update 1994" for the Clean Coal Technology Demonstration Program; to the Committee on Energy and Natural Resources.

EC–1069. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled "The National Highway System Designation Act of 1995"; to the Committee on Environment and Public Works.

EC–1070. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report entitled "Alaska Demonstration Programs"; to the Committee on Environment and Public Works.

EC–1071. A communication from the Secretary of Transportation, transmitting, pursuant to law, the report of the study of the feasibility of constructing a four-lane highway in the vicinity of Pensacola, FL; to the Committee on Environment and Public Works.

EC–1072. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the report of the informational copies of 12 lease prospectuses for fiscal year 1996; to the Committee on Environment and Public Works.

EC–1073. A communication from the Chairman of the Nuclear Regulatory Commission, transmitting, pursuant to law, the report on the Nondisclosure of Safeguards Information for the period January 1 through March 31, 1995; to the Committee on Environment and Public Works.

EC–1074. A communication from the Assistant Administrator of the Environmental Protection Agency, transmitting, pursuant to law, the report under the Toxic Substances Control Act for fiscal years 1992 and 1993; to the Committee on Environment and Public Works.

EC–1075. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation to authorize funding for wastewater infrastructure projects for hardship cities; to the Committee on Environment and Public Works.

EC–1076. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation to authorize funding for improvements to the New Orleans, LA, wastewater collection system; to the Committee on Environment and Public Works.

EC–1077. A communication from the Administrator of the Environmental Protection Agency, transmitting, a draft of proposed legislation to authorize funding for infrastructure improvements in Bristol County, MA; to the Committee on Environment and Public Works.

EC–1078. A communication from the Assistant Secretary of State (Legislative Affairs), transmitting, pursuant to law, the report of a Presidential Determination relative to the Republic of Romania; to the Committee on Finance.

EC–1079. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of the initial estimate of the applicable percentage increase in inpatient hospital payment rates for fiscal year 1996; to the Committee on Finance.

EC–1080. A communication from the Acting Executive Director of the Physician Payment Review Commission, transmitting, pursuant to law, the report entitled "Fee Update and Medicare Volume Performance Standards for 1996"; to the Committee on Finance.

EC–1081. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of the physician fee schedule update for calendar year 1996; to the Committee on Finance.

EC–1082. A communication from the U.S. Trade Representative, transmitting, pursuant to law, the report on eliminating or reducing foreign unfair trade practices; to the Committee on Finance.

EC–1083. A communication from the Chairman of the Prospective Payment Assessment Commission, transmitting, pursuant to law, the report entitled "Medicare and the American Health Care System"; to the Committee on Finance.

EC–1084. A communication from the Assistant Secretary of State [Legislative Affairs], transmitting, pursuant to law, notice of the intention to obligate funds in fiscal year 1995; to the Committee on Foreign Relations.

EC–1085. A communication from the Assistant Secretary of State [Legislative Affairs], transmitting, pursuant to law, the report of efforts made by the United Nations and specialized agencies to employ Americans; to the Committee on Foreign Relations.

EC–1086. A communication from the Assistant Secretary of State [Legislative Affairs], transmitting, pursuant to law, the report of a Presidential Determination relative to an assistance program for New Independent States of the Former Soviet Union; to the Committee on Foreign Relations.

EC–1087. A communication from the Assistant Secretary of State [Legislative Affairs], transmitting, pursuant to law, the report of a Presidential Determination relative to African peacekeeping efforts in Liberia; to the Committee on Foreign Relations.

EC–1088. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the text of international agreements other than treaties, and background statements; to the Committee on Foreign Relations.

EC–1089. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the text of international agreements other than treaties, and background statements; to the Committee on Foreign Relations.

EC–1090. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the report under the Inspector General's Act for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

EC–1091. A communication from the Comptroller General of the United States, transmitting, pursuant to law, the report and recommendation on a claim; to the Committee on the Judiciary.

EC–1092. A communication from the Secretary of Labor, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–1093. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–1094. A communication from the Director of the U.S. Arms Control and Disarmament Agency, transmitting, a draft of proposed legislation entitled "The Chemical Weapons Convention Implementation Act of 1995"; to the Committee on the Judiciary.

EC–1095. A communication from the Postmaster General, Chief Executive Officer, U.S. Postal Service, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–1096. A communication from the Chairman of the Board of Directors of the Tennessee Valley Authority, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1994; to the Committee on the Judiciary.

EC–1097. A communication from the Director of the National Legislative Commission of the American Legion, transmitting, pursuant to law, the report of financial statements for calendar year 1994; to the Committee on the Judiciary.

EC–1098. A communication from the Acting Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, pursuant to law, the report of settlements for calendar year 1994; to the Committee on the Judiciary.

EC–1099. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of the Federal Open Market Committee for calendar year 1994; to the Committee on the Judiciary.

EC–1100. A communication from the Attorney General, transmitting, pursuant to law, the report on Federal Prison Industries, Inc.; to the Committee on the Judiciary.

EC–1101. A communication from the Chairman of the U.S. Sentencing Commission, transmitting, pursuant to law, the annual report for fiscal year 1994; to the Committee on the Judiciary.

EC–1102. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, the report of the proposed regulations governing the public financing of the Presidential Primary and General Election Candidates; to the Committee on Rules and Administration.

EC–1103. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled "The Substance Abuse and Mental Health Performance Partnership Act of 1995"; to the Committee on Labor and Human Resources.

EC–1104. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled "The Preventive Health Performance Partnership Act of 1995"; to the Committee on Labor and Human Resources.

EC–1105. A communication from the Secretary of Health and Human Services, transmitting, a draft of proposed legislation entitled "The Health Centers Consolidation Act of 1995"; to the Committee on Labor and Human Resources.

EC–1106. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report on the implementation of the National Child Abuse and Neglect Data System; to the Committee on Labor and Human Resources.

EC–1107. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of the Administration on Developmental Disabilities for fiscal year 1993; to the Committee on Labor and Human Resources.

EC–1108. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the National Advisory Council on Educational Research and Improvement; to the Committee on Labor and Human Resources.

EC–1109. A communication from the Secretary of Education, transmitting, pursuant to law, the report under the Inspector General Act for the period October 1, 1994 through March 31, 1995; to the Committee on Labor and Human Resources.

EC–1110. A communication from the Secretary of Education, transmitting, pursuant to law, the report on the performance standards and measurement systems developed by States for their vocational education programs; to the Committee on Labor and Human Resources.

EC–1111. A communication from the Administrator of the Small Business Administration, transmitting, a draft of proposed legislation relative to the SBA; to the Committee on Small Business.

EC–1112. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to amend Title 38, United States Code, to authorize the termination of Servicemen's Group Life Insurance when premiums are not paid; to the Committee on Veterans' Affairs.

EC–1113. A communication from the Comptroller General, transmitting, pursuant to law, the report of proposed rescissions of budget authority; referred jointly, pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986, to the Committee on Appropriations, to the Committee on the Budget, to the Committee on Commerce, Science, and Transportation, and to the Committee on the Judiciary.

EC–1114. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, the cumulative report on rescissions and deferrals dated June 1, 1995; referred jointly pursuant to the order of January 30, 1975, as modified by the order of April 11, 1986 to the Committee on Appropriations, the Committee on Agriculture, Nutrition, and Forestry, the Committee on Banking, Housing, and Urban Affairs, the Committee on the Budget, the Committee on Commerce, Science and Transportation, the Committee on Environment and Public Works, the Committee on Labor and Human Resources, the Committee on Small Business, the Committee on Finance, the Committee on Foreign Relations, and to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 457. A bill to amend the Immigration and Nationality Act to update references in the classification of children for purposes of United States immigration laws.

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 27. A joint resolution to grant the consent of the Congress to certain additional powers conferred upon the Bi-State Development Agency by the States of Missouri and Illinois.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary:

Donald C. Nugent, of Ohio, to be United States District Judge for the Northern District of Ohio.

Wiley Y. Daniel, of Colorado, to be United States District Judge for the District of Colorado.

Peter C. Economus, of Ohio, to be United States District Judge for the Northern District of Ohio.

Carlos F. Lucero, of Colorado, to be United States Circuit Judge for the Tenth Circuit.

Janie L. Shores, of Alabama, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1997.

Terrence B. Adamson, of the District of Columbia, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1997.

Andrew Fois, of New York, to be an Assistant Attorney General.

Nancy Friedman Atlas, of Texas, to be United States District Judge for the Southern District of Texas.

(The above nominations were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HATCH (for himself, Mr. GREGG, Mr. FRIST, Mr. KENNEDY, Mrs. KASSEBAUM, Mr. GRAMS, Mr. WELLSTONE, Mr. CHAFEE, Mrs. HUTCHISON, and Mr. D'AMATO):

S. 955. A bill to clarify the scope of coverage and amount of payment under the medicare program of items and services associated with the use in the furnishing of inpatient hospital services of certain medical devices approved for investigational use; to the Committee on Finance.

By Mr. GORTON (for himself, Mr. BURNS, Mr. MURKOWSKI, Mr. STEVENS, Mr. KEMPTHORNE, Mr. CRAIG, Mr. PACKWOOD, and Mr. HATFIELD):

S. 956. A bill to amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes; to the Committee on the Judiciary.

By Mr. BURNS (for himself, Mr. KYL, Mr. THOMAS, Mr. HELMS, Mr. SANTORUM, Mr. NICKLES, Mr. THOMPSON, and Mr. BROWN):

S. 957. A bill to terminate the Office of the Surgeon General of the Public Health Service; to the Committee on Labor and Human Resources.

By Mr. HELMS:

S. 958. A bill to provide for the termination of the Legal Services Corporation; to the Committee on the Judiciary.

By Mr. HATCH (for himself, Mr. LIEBERMAN, and Mr. FAIRCLOTH):

S. 959. A bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mr. GREGG, Mr. FRIST, Mr. KENNEDY, Mrs. KASSEBAUM, Mr. GRAMS, Mr. WELLSTONE, Mr. CHAFEE, Mrs. HUTCHISON, and Mr. D'AMATO):

S. 955. A bill to clarify the scope of coverage and amount of payment under the Medicare Program of items and services associated with the use in the furnishing of inpatient hospital services of certain medical devices approved for investigational use; to the Committee on Finance.

THE ADVANCED MEDICAL DEVICES ACCESS ASSISTANCE ACT OF 1995

Mr. HATCH. Mr. President, today I am introducing S. 955, the Advanced Medical Devices Access Assurance Act of 1995, which is aimed at addressing two serious threats to high quality health care in the United States: restricted access for our senior citizens to the most advanced medical technologies; and our country's loss of clinical research activities to overseas facilities.

I am pleased to be joined in cosponsorship of this bill by Senators GREGG, FRIST, KENNEDY, KASSEBAUM, GRAMS, WELLSTONE, CHAFEE, HUTCHISON, and D'AMATO.

At the outset, I want to recognize the outstanding leadership of our House colleague, Chairman BILL THOMAS, who introduced the companion measure as H.R. 1744 on June 6. Representative THOMAS was the first in Congress to step forward and take steps to correct the problem this legislation addresses. His leadership has been—and will continue to be—invaluable as we seek to move this legislation forward.

Mr. President, the Thomas-Hatch legislation was prompted as a result of recent changes in Health Care Financing Administration [HCFA] reimbursement practices for medical procedures which include the use of so-called next generation devices, that is, medical devices that are undergoing clinical trials, yet which have a precursor device which has been approved by the Food and Drug Administration as safe and effective.

In December 1994, HCFA advised its regional administrators that Medicare must only reimburse for items and services that are reasonable and necessary; according to HCFA, reimbursement of reasonable and necessary procedures precludes payment for the use of experimental or investigational services.

The HCFA policy change came on the heels of an HHS inspector general inquiry in which patient records were subpoenaed from over 100 hospitals nationwide, including virtually all of the premier medical research bodies in this Nation.

The effect of this change in HCFA policy is to deny Medicare contractors discretion to pay for any of a beneficiary's hospital costs and related services if an investigational device were being used, even if such a device were a refinement of a proven, FDA-approved technology.

Examples might be a pacemaker which is made in a smaller version or a pacemaker with a new type of lead.

This policy denies patients in the Medicare population the benefits of the best available medical therapies which are often life-saving and life-enhancing.

In effect, in adopting such a policy, HCFA has created a two-tiered health care delivery system, consisting of privately insured individuals who can access these improved devices and Medicare beneficiaries who cannot. That is a situation which must be corrected.

Although our senior citizens are the immediate victims of this unwise policy, all Americans will ultimately suffer.

Medicare's position not only deprives this Nation's elderly population of the most advanced, efficacious care and treatment available, but it also significantly interferes with clinical advancements that might otherwise be available for generations to come.

In addition, I wish to note there are other negative effects of the HCFA policy.

First, it undermines the Food and Drug Administration's efforts to press for clinical trials to prove the scientific validity of device studies.

Second, it delays advances in medical device technology for all Americans, not just those eligible for Medicare.

Third, it has a disproportionate impact on small-to-medium medical device companies, those who traditionally have been the leaders in developing innovative technology, and who simply cannot afford millions of dollars for clinical trials.

Fourth, the policy exacerbates current over-regulatory trends in the United States which are driving manufacturers offshore and jobs to other countries.

And fifth, it runs contrary to the recent report of the Physician Payment Review Commission, which stated that Congress should authorize an additional coverage option for Medicare so that:

> For devices subject to Food and Drug Administration approval, and for other services that the Health Care Financing Administration has not approved for coverage, Medicare should pay up to the cost of standard care when the device or service is clearly substituting for an established one and is being evaluated in a Food and Drug Administration-approved or other approved study.

The situation giving rise to the legislation we offer today was first brought to my attention a year ago by officials of the LDS Hospital in Salt Lake City, UT.

LDS Hospital, which ranks among the top in the Nation for cardiac procedures, was among the more than 100 hospitals which had received a subpoena from the HHS inspector general for records relating to Medicare reimbursement of cardiac procedures reaching as far back as 10 years ago.

Included on the list of devices that are affected by this policy are implantable cardiac defibrillators, which are devices that are implanted in a patient's body and assist in correcting life threatening, irregular heart rhythms.

My colleagues may be aware of the problem with reimbursement for state-of-the-art defibrillators, as it was reported by John Carey in the June 12 issue of Business Week.

In reporting on the HCFA policy and its impact on clinical research and patient care, Mr. Carey wrote:

> In some cases, the impact on the quality and cost of care was dramatic. Cardiac arrest survivors typically need defibrillators to shock their hearts back to normal whenever the fragile organ races out of control. For several years, the standard device was so large that it had to be implanted in patients' abdomens. But Minneapolis-based Medtronic, Inc. built a much smaller version that could fit in the pectoral region. In trials at the Mayo Clinic, says cardiologist Stephen C. Hammill, the new device reduced deaths from the actual operation from 3.8% of patients to zero—and cut hospital costs after implantation from $24,000 to $18,000. Yet Mayo's doctors could no longer use the device for Medicare patients—unless they found another way to pay the bills.

Let me put this in the words of one of Utah's preeminent cardiologists, Dr. Jeffrey L. Anderson, professor of medicine and chief of the division of cardiology at LDS Hospital in Salt Lake. Dr. Anderson has advised me:

> Since notification of the OIG investigation and statement of the HCFA policy, the Division of Cardiology at LDS Hospital has been instructed by its Counsel to avoid use of any newer, incremental technologies in Medicare patients, including pacemakers, defibrillators, and interventional coronary devices (such as angioplasty catheters and stents) that are not final market approved.
>
> Unquestionably, this has made our Medicare patients second class citizens, as these newer devices are generally smaller, more efficient and effective, last longer, and can be implanted with lower operative risk.

Dr. Anderson also notes a recent tendency for these new devices to be developed overseas and not readily available here. Several firms have indicated to him that initial research is now being done in Europe and elsewhere and that the devices will be only available here after final FDA approval, often with a delay of years.

Or, let me put it in the words of another distinguished Utah cardiologist, Dr. James W. Long, attending cardiothoracic surgeon at LDS Hospital. Dr. Long, has related to me:

> As a cardiothoracic surgeon, I am extremely troubled by the growing restrictions which are preventing us from implementing great medical technologies for our patients in Utah. Clearly, three major impediments exist: First, reimbursement problems; second, product liability concerns; and third, FDA constraints. Those barriers are exercising a major chilling effect on the development and implementation of medical technologies which offer the hope of improving quality of life while offering cost-effectiveness.

Dr. Long goes on to state:

> The current posture of HCFA to deny Medicare reimbursement for any hospital charges when a new, "investigational" device is used is an example of how problems with reimbursement lead to discrimination against the Medicare population. To illustrate, I can no longer implant a new, improved heart valve undergoing clinical evaluation because reimbursement for ALL hospital charges for the surgery and care (not just the heart valve charges) will be denied. This is even more frustrating when one considers that these clinical evaluations are being conducted with the approval of the FDA as well as local, hospital internal review boards or medical devices whose efficacy and safety have already been demonstrated in preclinical testing.

Mr. President, as has been demonstrated, over time, increasingly improved devices have been developed that are far more efficient and efficacious than each prior version of the device. Such refinements have not only improved the functioning of the device from a patient perspective, but also have: First, increased the longevity of the device, thereby minimizing the need for replacement; second, improved the ability to monitor the device without the need for hospitalization; and third, minimized the invasiveness of the procedure require to implant the device.

Not only have patient outcomes been greatly improved, but the overall costs and consumption of resources within the health care system have been reduced.

My concerns about the HCFA policy were reinforced by evidence revealed at a recent hearing before the Finance Committee.

During the committee's May 16 hearing on the solvency of the Medicare Program, Dr. John W. Rowe, president of the Mount Sinai Hospital and the Mount Sinai School of Medicine in New York City, shocked members by revealing that his medical center has virtually discontinued clinical research on investigational devices for Medicare beneficiaries because of the HCFA ruling.

Dr. Rowe related to the committee that:

> The Inspector General of HHS has indicated that if a patient is given an investigational device—that is something that is not approved by the Food and Drug Administration for general use—during their experience in the hospital—let me be clear on this—then the entire reimbursement or payment for the admission to the hospital is not allowed and the hospital is liable for treble damages.

Dr. Rowe went on to make the point that, whereas Medicare historically has not paid for research, there are differences between real research and marginal refinements of innovations.

In subsequent correspondence to me, Dr. Rowe added another critical point. He said:

> Mount Sinai's decision to stop all clinical trials was made after careful deliberation and with great regret and consternation, but is the only rational position that can be taken by an institution which, under normal circumstances, performs a large number of such trials.
>
> This outcome is also a particularly unfortunate one given our belief that the controls put in place by the FDA's IDE approval process and Mount Sinai's own Institutional Review Board assure that there is an appropriate level of safety, efficacy, and oversight with respect to each such device. In the end, we believe that Medicare's position not only deprives this nation's elderly population of the most advanced, efficacious care and treatment available, but significantly interferes with clinical advancements that might otherwise be available for generations to come.

A survey released June 7 by the Health Industry Manufacturers Association reveals the problems inherent in this new HCFA policy.

HIMA found that 71 companies have had clinical trials with their products brought to a halt due to the new HCFA policy. The response of 40 percent of those companies was to limit the clinical research to non-Medicare patients, in other words, denying those seniors access to the latest medical technologies.

Even more indicative of this policy's ill effects, 59 percent surveyed had moved clinical trials overseas, and 57 percent said they plan to move future trials overseas.

It is clear that due the uncertainty generated by the recent change, clinical trials are being stopped around the country. Many medical technology companies are moving their life-saving research technologies out of the United States to Europe, Canada, and Japan.

This loss of research will erode the base of expertise in an industry where the United States has traditionally led the world.

Mr. President, this policy must be changed for the benefit of our Nation's elderly and all Americans. The bill I am introducing today will accomplish this, and will do so without increasing Medicare costs.

Under S. 955, coverage would be limited to circumstances in which the device in question is used in lieu of an approved device or otherwise covered procedure. This latter provision permits the use of devices that are often used in lieu of far more invasive and costly procedures. Because these investigational devices reduce hospital stays, mortality and the need for repeat procedures, it is likely that this legislation will reduce total treatment costs over the long term.

In fact, the legislation specifically states that the amount of payment for any item or service associated with the use of an investigational device may not exceed the amount which would have been made for the approved device. This will ensure the bill's budget neutrality.

Before closing, Mr. President, I want to discuss for a moment one other factor which led us to introduce S. 955.

After Senator GREGG and I decided to explore legislation in this area, we contacted both HCFA and the OIG.

The IG's office advised us that "This is an open active investigation in the

OIG. It is the policy of the OIG not to comment on investigations which are active."

HCFA officials, however, were extremely helpful, and shared with us the results of the considerable time they have spent on this issue.

Two factors, however, led us to conclude that legislation is necessary.

First, we were not persuaded that the agency's efforts would be concluded as quickly as we would like. And, second, while we agreed with HCFA's conclusion that Medicare should not be subsidizing pure research, we did not feel that these clinical investigations could be termed as such.

We were, however, concerned that the concept underlying the agency's proposed rulemaking could lead to more regulation at the Food and Drug Administration, in that FDA is considering a system whereby investigational devices would be certified as eligible for Medicare reimbursement. With the device approval rate lag already the subject of mounting congressional concern, a process which adds even more review is not viable.

As I close, I would like to note the considerable support this legislation enjoys. It is supported by the American Academy of Orthopedic Surgeons, American College of Cardiology, American Hospital Association, American Medical Association, Association of American Medical Colleges, Association of Professors of Medicine, California Health Care Institute, Catholic Health Association, Cleveland Clinic, Coalition of Boston Teaching Hospitals, Federation of American Health Systems, Greater New York Hospital Association, Health Industry Manufacturers Association, Mayo Clinic, Medical Device Manufacturers' Association, North American Society of Pacing and Electrophysiology, Society of Thoracic Surgeons, and last but not least, the Utah Life Science Industries Association.

In introducing this legislation today, it is our hope that the bill can be incorporated in this year's reconciliation legislation and moved swiftly to the President for signature. I urge my colleagues to support the Advanced Medical Devices Access Act of 1995.

Mr. GREGG. Mr. President, I am pleased to join my colleagues, especially my colleague from Utah, Senator HATCH, in introducing this important piece of legislation. The Advanced Medical Devices Access Assurance Act of 1995 was developed to ensure that our senior population can be treated with the most advanced—and most cost-effective—medical technology available in the United States.

As chairman of the Aging Subcommittee in the Senate, I hear constantly from older individuals who are concerned about their medical options: They read about a breakthrough technology that is being explored, and want an opportunity to have access to such a product. Believe me, these folks are often more up-to-speed about their medical choices than you or I; they take the time to do their homework on their health care.

As my colleague, Senator HATCH, has mentioned, this bill is designed to get at the heart of a problem which has arisen from a Health Care Financing Administration policy. HCFA has ruled that it will not provide Medicare reimbursement for any episode—any portion of the care associated with the device, including the hospital stay—which uses a medical device not defined as "reasonable or necessary." "Reasonable and necessary" excluded medical devices which are being implanted under an FDA investigation device exemption, or IDE.

In other words, if a surgeon who is performing state-of-the-art medicine wants to take advantage of a product which has been granted an IDE, he or she can only do so on their population under age 65. The random nature of a person's date of birth controls their ability to receive the most modern care, to get that technology that we are constantly touting as the "best in the world."

A clear backlash from this policy has also been seen in the form of a mass exodus of clinical trials being conducted in the United States. The brain drain in medical device development and manufacturing in this country has already begun to have devastating results. Not only does the United States now have an atmosphere unconducive to research and development, but it has evolved into an environment that is unattractive for investment capital to be risked on medical devices. Not only does this relegate the citizens of this country to antiquated generations of technology, it moves jobs and innovation overseas.

I am hopeful that the administration will listen to the plea we are making here today to address this critical issue. While it may seem like a small item on the agenda of the day, it is probably the greatest accomplishment we could achieve for those individuals whose lives and medical care we can so easily improve.

Mr. KENNEDY. Mr. President, it's an honor to join Senator HATCH and other Members of the House and Senate in sponsoring this important bipartisan legislation. Insurance coverage for physician and hospital costs in clinical trials is essential to the progress of medicine.

The current policy under Medicare is especially counterproductive, because it denies reimbursement even if expensive care would be required if the patient does not participate in the clinical trials.

The current rules are clearly impeding research at leading hospitals around the country. Needed medical care is being denied to many elderly patients. It's time to change the rules and take this step to enhance research and improve patient care.

Mr. WELLSTONE. Mr. President, I am pleased to be a cosponsor of the Advanced Medical Devices Access and Assurance Act of 1995 which would ensure that seniors can participate in clinical trials that involve investigational medical devices. It signifies a bipartisan first step toward addressing patient concerns about access to the latest technologies. It also addresses the medical research community's concerns about its ability to continue clinical trials and keep our Nation at the forefront of state-of-the-art medicine, and industry's concerns about being forced to ship all of its resources and brainpower overseas.

Minnesota's patients, researchers, and world-famous medical device industry have a clear stake in both the upcoming Medicare and FDA reform debates. Researchers and industry need to know that the Government will create a favorable environment for innovation, thus propelling this country's leadership position into the 21st century. And, Minnesota's patients need to know that they will have access to the best technologies and the latest treatments and that, when appropriate, these will be covered by their health insurance policies.

Unfortunately, access to leading-edge technologies and next generation medical devices for seniors—the population for whom they are often most appropriate—has recently been jeopardized by the Medicare Program's refusal to pay for them in clinical trials.

A next generation device could be a pacemaker that enables a person to lead a more normal life than a traditional pacemaker. It could be a pacemaker that would last longer than an older model and be more reliable. Next generation devices are medical devices which are undergoing clinical trials, yet which have a precursor device which has been approved by the Federal Food and Drug Administration [FDA] as safe and effective. Medical devices—unlike drugs—are continually updated and improved incrementally even after they are approved by the FDA.

But currently, Medicare just flat-out denies payment for the surgery or illness if an investigational device is used. Medicare will pay for the costs associated with the hospital stay and procedure only if the soon-to-be-obsolete device is used and not the newest model. Therefore, even though the patient potentially benefits from receiving a modified and updated pacemaker and clinical studies are necessary to prove what works and what does not, hospitals and physicians are being forced to exclude seniors from clinical trials. Providers and manufacturers would rather more their studies to Europe where everybody has health insurance than confront reimbursement practices that discourage participation in clinical trials. But patients want the leading-edge technologies available in the United States as quickly as possible.

Some may surmise that Medicare has refused to pay for this technology because of safety concerns. But any next generation device involved in a clinical trial has already received approval from the FDA to test the device in humans. During a study of an FDA-approved investigational device, physicians and hospitals follow strict procedures. Hospitals and physicians must have the informed consent of the patient in order for the patient to be eligible to participate in the investigational device studies. And the manufacturer of the device is prohibited from promoting or commercializing the device or charging a price that exceeds the amount necessary to recover its costs.

So how much would it cost the Medicare Program to pay for the most advanced technologies? Currently, Medicare pays a lump sum for surgeries and hospitalization based on the illness of the patient. If you need a pacemaker and choose to be a part of an FDA-approved clinical trial, it shouldn't matter to the Medicare Program whether you get the next generation model of the pacemaker or the current model—as long as the FDA has approved the clinical trial and you gave your informed consent to participate. In other words, Medicare should pay the hospital a lump sum based on the illness of the patient regardless of which device is used.

This legislation provides a commonsense solution that protects patient safety, access to high-quality health care, and Federal dollars. For the sake of Minnesotans, we must meet these standards during the broader Medicare and FDA reform debates.

By Mr. HELMS:

S. 958. A bill to provide for the termination of the Legal Services Corporation; to the Committee on the Judiciary.

LEGAL SERVICES CORPORATION TERMINATION ACT

Mr. HELMS. Mr. President, with a Federal debt of $4,898,068,854,045.71 as of the close of business yesterday, Wednesday, June 21, it is time to ask ourselves a question: Should Congress continue to force the American taxpayers to provide $400 million every year to pay the salaries of, and to otherwise fund, a cadre of liberal lawyers to push their social policies down the throats of local governments and citizens?

I think not—and I suspect most Americans will agree, which is why I today offer legislation to put an end to Federal funding of the Legal Services Corporation.

North Carolina has been harassed by the LSC for years and, adding insult to injury, LSC attorneys in my State—whose salaries are federally subsidized—are now demanding through the courts that the State of North Carolina pay them $320,000 in additional attorney's fees.

Mr. President, a few details about this specific outrage may be in order.

In 1975, Legal Services attorneys successfully took on the State of North Carolina on behalf of applicants enrolled in the Federal Aid to Families with Dependent Children and Medicaid programs. And what was the great offense by North Carolina's local Departments of Social Services to justify this law suit? In the arrogant judgment of the Legal Services lawyers, it was taking the local Departments of Social Services too long to process benefits.

Since that time, the local Departments of Social Services have done their best to follow the numerous court-imposed requirements. In the meantime, the Legal Services attorneys have collected—now get this, Mr. President—an estimated $1 million in attorney's fees from the State of North Carolina. But that doesn't satisfy them. On June 14, a little more than a week ago, the Legal Services attorneys demanded another $320,000 in attorney's fees.

So, Mr. President, these Legal Services attorneys are paid with Federal funds through the Legal Services Corporation and with State and local Legal Services agencies to sue the State of North Carolina. In addition to the taxpayers' money they receive to dismantle local government policies, the Legal Services attorneys are demanding additional money for themselves—out of the pockets of North Carolina's taxpayers.

The legislation I introduce today will fix this costly problem—by ending Federal funding of Legal Services Corporation, which like most other social programs spawned in the 1960's, has strayed far from any meaningful purpose and deserves a quiet funeral.

For the record, the Legal Services Corporation was created in 1974 ostensibly to provide legal assistance to low-income citizens in civil, noncriminal matters. Its first annual budget, for fiscal year 1976 was $92 million. It will cost the taxpayers $400 million in 1995. It does not provide services directly, it makes grants to local agencies which in turn are charged with providing legal services to those who can't afford a lawyer—low-income individuals, migrants and immigrants, and minorities.

Mr. President, it is precisely these local agencies throughout the country which, instead of carrying out the mission of providing legal assistance to those who can't afford it, have promoted a liberal public policy and propaganda mechanism. It has unmercifully harassed law-abiding citizens and has imposed countless dollars in litigation costs upon hapless small businessmen, farmers, and so forth.

Another example from North Carolina:

The Department of Labor, in conjunction with local legal services agencies, has done its best to dismantle the H-2A Immigrant Farm Labor Program—a Federal program allowing small farmers to employ temporary immigrant workers for seasonal harvests. Since North Carolina's farmers have had difficulty finding citizens to work on their farms, this program is a must for the survival of many of these small farms.

There is no other reason for the local legal service agency to harass North Carolina's farmers beyond furthering the protection and rights of immigrants brought in to work.

Mr. President, the North Carolina Growers Association is today mired in a legal battle to protect the rights of farmers to participate in a program designed by Congress to assist farming production. The irony is that the American taxpayer is forced to fund the LSC and its liberal assault on law-abiding citizens, North Carolina's farmers included.

Of course, the LSC has not limited its activities to bullying citizens. The corporation has set its sights on changing State laws through litigation and direct lobbying as well as tearing apart programs designed to help the poor and needy.

For example, as the Heritage Foundation notes in its publication "Rolling Back Government: A budget plan to rebuild America," the LSC recently filed a lawsuit in New Jersey challenging that State's welfare reform initiatives. In New York City, the LSC filed suit against HELP, a proven nonprofit organization that assists the homeless. The LSC has even pursued cases to provide free public education for illegal aliens. The Heritage Foundation report concludes, "rather than helping the poor settle landlord disputes, wills, and other common legal problems, the LSC increasingly is concerned with public policy."

Perhaps William Mellor, president of the Washington-based Institute for Justice, said it best in his February 1, 1995, editorial, "Want Welfare Reform? First Fight Legal Services Corporation." Mr. Mellor writes:

> Instead of just helping the poor with problems such as child support and rent disputes, LSC lawyers have worked for years to get the courts to enshrine a constitutional right to welfare.

Mr. President, is this the kind of arrogant absurdity that was intended for LSC? Why should the U.S. Congress be concerned with—as candidate Bill Clinton put it—"changing welfare as we know it," when the taxpayers are required to pay lawyers to convince the Federal courts to make welfare a constitutional right?

The American people in the 1994 election emphatically stated that government is running their lives. There is far more waste in government than the American people should be forced to pay for.

Congress, for a half century, has been wasting billions of dollars, running up a Federal debt of about $4.9 trillion. Fortunately, for the American people, the House of Representatives has proposed eliminating funding for the Legal Services Corporation, the cost of which has exploded from $92 million in fiscal year 1976 to $400 million in fiscal year 1995. And according to the Heritage Foundation, despite this large budget and tremendous growth, only 4 percent of the Nation's poor directly benefited from the LSC in 1993.

So, Mr. President, the legislation I offer today, to eliminate Federal funding of the Legal Services Corporation, is long past due. While saving the taxpayers millions of dollars, my bill will end the forced sponsorship by the U.S. taxpayers of an agency the purpose and mission of which was laid aside and forgotten long ago in its rush to promote a leftwing social agenda. It's time for the Legal Services Corporation to be discarded—forever.

By Mr. HATCH (for himself, Mr. LIEBERMAN, and Mr. FAIRCLOTH):

S. 959. A bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes; to the Committee on Finance.

CAPITAL GAINS FORMATION ACT OF 1995

Mr. HATCH. Mr. President, on behalf of myself, Senator LIEBERMAN, and Senator FAIRCLOTH, I rise today to introduce the Capital Gains Formation Act of 1995.

Mr. President, reducing the high rate on capital gains has long been a priority of mine. Earlier this year, I joined my good friend, the chairman of the House Ways and Means Committee, BILL ARCHER, in introducing the Archer-Hatch capital gains bill in Congress. In the Senate, this was S. 182. A modified version of this bill was passed by the House in April.

Now that the Congress is on the verge of passing a budget resolution that will almost certainly allow for some tax reductions, Senator LIEBERMAN and I concluded that it is now the right time to introduce a bipartisan capital gains tax reduction bill that will contribute to economic growth and job creation. We are exceptionally pleased to be joined in this effort by Senator FAIRCLOTH.

Our bill combines the best elements of the House-passed capital gains bill with a targeted incentive to give an extra push for newly formed or expanding small businesses. Like the capital gains measure the House passed in April, our bill would allow individual taxpayers to deduct 50 percent of any net capital gain. This means that the top capital gains tax rate for individuals would be 19.8 percent. Also like the House bill, it grants a 25-percent maximum capital gains tax rate for corporations. Our bill also includes the important provision of the House-passed bill that would allow homeowners who sell their personal residences at a loss to take a capital gains deduction.

Unlike the House measure, however, the bill we are introducing today does not include provisions for indexing assets. Many of our Senate colleagues have expressed concern that indexing capital assets would results in undue complexity and possibly lead to a resurgence of tax shelters. While I support the concept of indexing capital assets to prevent the taxation of inflationary gains, we felt it important to streamline this bill to ease its passage in the Senate. I hope that some form of indexing can be developed, perhaps by a Senate-House conference committee, that will achieve the goals of indexing without adding undue complexity, or the potential for abuse, to the code.

In addition to the broad-based provisions listed above, our bill also includes some extra capital gains incentives targeted to individuals and corporations who are willing to invest in small businesses. We see this add-on as an inducement for investors to provide the capital needed to help small businesses get established and to expand.

Mr. President, this additional targeted incentive works as follows: If an investor buys newly issued stock of a qualified small business, which is defined as one with up to $100 million in assets, and holds that stock for 5 or more years, he or she can deduct 75 percent of the gain on the sale of that stock, rather than just the 50 percent deduction provided for other capital gains.

In addition, anytime after the end of the 5-year period, if the investor decides to sell the stock of one qualified small business and invest in another qualified small business, he or she can completely defer the gain on the sale of the first stock and not pay taxes on the gain until the second stock is sold. In essence, the investor is allowed to roll over the gain into the new stock until he or she sells the stock and keeps the money. We think that this additional incentive will make a tremendous amount of capital available for new and expanding small businesses in this country.

Let me just add, Mr. President, that these special incentives should really make a difference in the electronics, biotechnology, and other high-technology industries that are so important to our economy and to our future. The software and medical device industries in Utah are perfect examples of how these industries have transformed our economy. While these provisions are not limited to high-tech companies by any means, these are the types of businesses that are most likely to use them because it is so hard to attract capital for these higher risk ventures.

Our economy is becoming more connected to the global marketplace every day. And, it is vital for us to realize that capital flows across national boundaries these days at the speed of light. Therefore, we need to be concerned with how our trading partners tax capital.

Unfortunately, the United States has the highest rate on individual capital gains of all of the G–7 nations, except the United Kingdom. And, even in the United Kingdom, individuals can take advantage of indexing to alleviate capital gains caused solely by inflation. Germany totally exempts long-term capital gains on securities. In Japan, investors pay the lesser of 1 percent of the sales price or 20 percent of the net gain. I think it is no coincidence, Mr. President, that Germany's saving rate is twice ours and Japan's is three times as high as ours. In order to stay competitive in the world, it is vital that our tax laws provide the proper incentive to attract the capital we need here in the United States.

We are aware that some of the opponents of capital gains tax reductions have asserted that such changes would inordinately benefit the wealthy, leaving little or no tax relief for the lower- and middle-income classes. Nothing could be further from the truth. In fact, capital gains taxation affects every homeowner, every employee who participates in a stock purchase plan, or every senior citizen who relies on income from mutual funds for their basic needs during retirement.

The current law treatment of capital gains only gives preferential treatment to those taxpayers who incomes lie in the highest tax brackets. Under the Capital Formation Act of 1995, the benefits will tilt decidedly toward the middle-income taxpayer. A married couple with $39,000 in taxable income who sells a capital asset would, under our bill, pay only a 7.5 percent tax on the capital gain. Further, this bill would slash the taxes retired seniors pay when they sell the assets they have accumulated for income during retirement.

I also believe there is a misperception about the term "capital asset." We tend to think of capital assets as something only wealthy persons have. In fact, a capital asset is a savings account—which we should all have—a piece of land, a savings bond, some stock your grandmother bought you, your house, your farm, your 1964 Mustang convertible, or any number of things that have monetary worth. It is misleading to imply that only the wealthy would benefit from this bill.

I want to elaborate on this point, Mr. President. Current law already provides a sizeable differential between ordinary income tax rates and capital gains tax rates for upper income taxpayers. The wealthiest among us pay up to 39.6 percent on ordinary income but only 28 percent on capital gains. We certainly feel that this 28 percent is too high. But, my point is that taxpayers in the lower bracket of 28 percent and the lowest bracket of 15 percent enjoy no difference between their capital gains rate and their ordinary income rate. Our bill would correct this problem and give the largest percentage rate reduction to the lowest income taxpayers.

Frankly, Mr. President, the introduction of a bipartisan capital gains bill couldn't come at a better time than now. There are currently some indications that our economy is slowing down. In fact, some experts feel we may be on the verge of a mild recession. Such a concern is always important, but right now, it is critical. Congress is in the midst of formulating a 7-year plan to balance the Federal budget. The elements of this plan will have consequences far beyond this year or even beyond 2002 when we hope to achieve our goal.

Crucial to the achievement of a balanced budget is the underlying growth and strength of our economy. Small changes in the behavior of the economy can make or break our ability to put our fiscal house in order. Thus, especially right now, we can ill afford to have our economy slow down. Such a recession could make it impossible for us to balance the budget. With recession comes the fear of future job insecurity. Both Republicans and Democrats alike can agree that the creation of new and secure jobs is imperative for a vibrant and growing economy.

This is where a reduction of the capital gains rate can be so important. By stimulating the economy and spurring job creation, a cut in the capital gains rate can stave off the downturn that appears to be on its way.

This is not just our opinion. Senator LIEBERMAN and I received a letter yesterday from Allen Sinai, a well-known and respected mainstream economist. In his letter, Dr. Sinai concludes that "The enactment of this bipartisan Senate bill* * *could well help offset forces contributing to the current cooling of the U.S. economy."

Many Americans have expressed concern about the wisdom of a tax reduction while we are trying to balance the budget. However, Mr. President, we see this bill as a change that will help us balance the budget. The evidence clearly shows that a cut in the capital gains tax rate will increase, not decrease, revenue to the Treasury. During the period from 1978 to 1985, the tax rate on capital gains was cut from almost 50 percent to 20 percent. Over this same period, however, tax receipts increased from $9.1 billion to $26.5 billion. The opposite occurred after the 1986 Tax Reform Act raised the capital gains tax rate. The higher rate resulted in less revenue.

Mr. President, the capital gains tax is really a tax on realizing the American dream. For those Americans who have planted seeds in savings accounts, small or large companies, family farms, or other investments, and who have been fortunate enough and worked hard enough to see them grow, the capital gains tax is a tax on success. It is an additional tax on the reward for taking risks. The American dream is not dead; it's just that we have been taxing it away.

I urge my colleagues on both sides of the aisle to take a close look at this bill. We believe it offers a solid plan to help us achieve our goal of a brighter future for our children and grandchildren. When it comes down to it, jobs, economic growth, and entrepreneurship are not partisan issues. They are American issues. This bill will help us get there.

Mr. President, I ask unanimous consent that the text of the bill and additional material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 959

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.

(a) SHORT TITLE.—This Act may be cited as the "Capital Formation Act of 1995".

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

TITLE I—CAPITAL GAINS REFORM

Subtitle A—Capital Gains Deduction for Taxpayers Other Than Corporations

SEC. 101. CAPITAL GAINS DEDUCTION.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 (relating to treatment of capital gains) is amended by redesignating section 1202 as section 1203 and by inserting after section 1201 the following new section:

"SEC. 1202. CAPITAL GAINS DEDUCTION.

"(a) GENERAL RULE.—If for any taxable year a taxpayer other than a corporation has a net capital gain, 50 percent of such gain shall be a deduction from gross income.

"(b) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.

"(c) COORDINATION WITH TREATMENT OF CAPITAL GAIN UNDER LIMITATION ON INVESTMENT INTEREST.—For purposes of this section, the net capital gain for any taxable year shall be reduced (but not below zero) by the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii).

"(d) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In the case of a taxable year which includes January 1, 1995—

"(A) the amount taken into account as the net capital gain under subsection (a) shall not exceed the net capital gain determined by only taking into account gains and losses properly taken into account for the portion of the taxable year on or after January 1, 1995, and

"(B) if the net capital gain for such year exceeds the amount taken into account under subsection (a), the rate of tax imposed by section 1 on such excess shall not exceed 28 percent.

"(2) SPECIAL RULES FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In applying paragraph (1) with respect to any pass-thru entity, the determination of when gains and losses are properly taken into account shall be made at the entity level.

"(B) PASS-THRU ENTITY DEFINED.—For purposes of subparagraph (A), the term 'pass-thru entity' means—

"(i) a regulated investment company,

"(ii) a real estate investment trust,

"(iii) an S corporation,

"(iv) a partnership,

"(v) an estate or trust, and

"(vi) a common trust fund."

(b) DEDUCTION ALLOWABLE IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 is amended by inserting after paragraph (15) the following new paragraph:

"(16) LONG-TERM CAPITAL GAINS.—The deduction allowed by section 1202."

(c) TECHNICAL AND CONFORMING CHANGES.—

(1) Section 1 is amended by striking subsection (h).

(2) Paragraph (1) of section 170(e) is amended by striking "the amount of gain" in the material following subparagraph (B)(ii) and inserting "50 percent ($^{25}/_{35}$ in the case of a corporation) of the amount of gain".

(3) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

"(B) the deduction under section 1202 and the exclusion under section 1203 shall not be allowed."

(4) The last sentence of section 453A(c)(3) is amended by striking all that follows "long-term capital gain," and inserting "the maximum rate on net capital gain under section 1201 or the deduction under section 1202 (whichever is appropriate) shall be taken into account."

(5) Paragraph (4) of section 642(c) is amended to read as follows:

"(4) ADJUSTMENTS.—To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain from the sale or exchange of capital assets held for more than 1 year or gain described in section 1203(a), proper adjustment shall be made for any deduction allowable to the estate or trust under section 1202 (relating to deduction for excess of capital gains over capital losses) or for the exclusion allowable to the estate or trust under section 1203 (relating to exclusion for gain from certain small business stock). In the case of a trust, the deduction allowed by this subsection shall be subject to section 681 (relating to unrelated business income)."

(6) The last sentence of section 643(a)(3) is amended to read as follows: "The deduction under section 1202 (relating to deduction of excess of capital gains over capital losses) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account."

(7) Subparagraph (C) of section 643(a)(6) is amended by inserting "(i)" before "there shall" and by inserting before the period ", and (ii) the deduction under section 1202 (relating to capital gains deduction) and the exclusion under section 1203 (relating to exclusion for gain from certain small business stock) shall not be taken into account".

(8) Paragraph (4) of section 691(c) is amended by striking "sections 1(h), 1201, 1202, and 1211" and inserting "sections 1201, 1202, 1203, and 1211".

(9) The second sentence of section 871(a)(2) is amended by inserting "or 1203" after "section 1202".

(10)(A) Paragraph (2) of section 904(b) is amended by striking subparagraph (A), by redesignating subparagraph (B) as subparagraph (A), and by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

"(B) OTHER TAXPAYERS.—In the case of a taxpayer other than a corporation, taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income."

(B) Subparagraph (A) of section 904(b)(2), as so redesignated, is amended—

(i) by striking all that precedes clause (i) and inserting the following:

"(A) CORPORATIONS.—In the case of a corporation—", and

(ii) by striking in clause (i) "in lieu of applying subparagraph (A),".

(C) Paragraph (3) of section 904(b) is amended by striking subparagraphs (D) and (E) and inserting the following new subparagraph:

"(D) RATE DIFFERENTIAL PORTION.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as the excess of the highest rate of tax specified in section 11(b) over the alternative rate of tax under section 1201(a) bears to the highest rate of tax specified in section 11(b)."

(D) Clause (v) of section 593(b)(2)(D) is amended—

(i) by striking "if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year,", and

(ii) by striking "section 904(b)(3)(E)" and inserting "section 904(b)(3)(D)".

(11) The last sentence of section 1044(d) is amended by striking "1202" and inserting "1203".

(12)(A) Paragraph (2) of section 1211(b) is amended to read as follows:

"(2) the sum of—

"(A) the excess of the net short-term capital loss over the net long-term capital gain, and

"(B) one-half of the excess of the net long-term capital loss over the net short-term capital gain."

(B) So much of paragraph (2) of section 1212(b) as precedes subparagraph (B) thereof is amended to read as follows:

"(2) SPECIAL RULES.—

"(A) ADJUSTMENTS.—

"(i) For purposes of determining the excess referred to in paragraph (1)(A), there shall be treated as short-term capital gain in the taxable year an amount equal to the lesser of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

"(II) the adjusted taxable income for such taxable year.

"(ii) For purposes of determining the excess referred to in paragraph (1)(B), there shall be treated as short-term capital gain in the taxable year an amount equal to the sum of—

"(I) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b) or the adjusted taxable income for such taxable year, whichever is the least, plus

"(II) the excess of the amount described in subclause (I) over the net short-term capital loss (determined without regard to this subsection) for such year."

(C) Subsection (b) of section 1212 is amended by adding at the end the following new paragraph:

"(3) TRANSITIONAL RULE.—In the case of any amount which, under this subsection and section 1211(b) (as in effect for taxable years beginning before January 1, 1996), is treated as a capital loss in the first taxable year beginning after December 31, 1995, paragraph (2) and section 1211(b) (as so in effect) shall apply (and paragraph (2) and section 1211(b) as in effect for taxable years beginning after December 31, 1995, shall not apply) to the extent such amount exceeds the total of any capital gain net income (determined without regard to this subsection) for taxable years beginning after December 31, 1995."

(13) Paragraph (1) of section 1402(i) is amended by inserting ", and the deduction provided by section 1202 and the exclusion provided by section 1203 shall not apply" before the period at the end thereof.

(14) Subsection (e) of section 1445 is amended—

(A) in paragraph (1) by striking "35 percent (or, to the extent provided in regulations, 28 percent)" and inserting "25 percent (or, to the extent provided in regulations, 19.8 percent)", and

(B) in paragraph (2) by striking "35 percent" and inserting "25 percent".

(15)(A) The second sentence of section 7518(g)(6)(A) is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) applies", and

(ii) by striking "28 percent (34 percent" and inserting "19.8 percent (25 percent".

(B) The second sentence of section 607(h)(6)(A) of the Merchant Marine Act, 1936 is amended—

(i) by striking "during a taxable year to which section 1(h) or 1201(a) of such Code applies", and

(ii) by striking "28 percent (34 percent" and inserting "19.8 percent (25 percent".

(d) CLERICAL AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 is amended by striking the item relating to section 1202 and by inserting after the item relating to section 1201 the following new items:

"Sec. 1202. Capital gains deduction.
"Sec. 1203. 50-percent exclusion for gain from certain small business stock."

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to taxable years ending after December 31, 1994.

(2) CONTRIBUTIONS.—The amendment made by subsection (c)(2) shall apply to contributions on or after January 1, 1995.

(3) USE OF LONG-TERM LOSSES.—The amendments made by subsection (c)(12) shall apply to taxable years beginning after December 31, 1995.

(4) WITHHOLDING.—The amendment made by subsection (c)(14) shall apply only to amounts paid after the date of the enactment of this Act.

Subtitle B—Capital Gains Reduction for Corporations

SEC. 111. REDUCTION OF ALTERNATIVE CAPITAL GAIN TAX FOR CORPORATIONS.

(a) IN GENERAL.—Section 1201 is amended to read as follows:

"SEC. 1201. ALTERNATIVE TAX FOR CORPORATIONS.

"(a) GENERAL RULE.—If for any taxable year a corporation has a net capital gain, then, in lieu of the tax imposed by sections 11, 511, and 831 (a) and (b) (whichever is applicable), there is hereby imposed a tax (if such tax is less than the tax imposed by such sections) which shall consist of the sum of—

"(1) a tax computed on the taxable income reduced by the amount of the net capital gain, at the rates and in the manner as if this subsection had not been enacted, plus

"(2) a tax of 25 percent of the net capital gain.

"(b) TRANSITIONAL RULE.—

"(1) IN GENERAL.—In the case of any taxable year ending after December 31, 1994, and beginning before January 1, 1996, in applying subsection (a), net capital gain for such taxable year shall not exceed such net capital gain determined by taking into account only gain or loss properly taken into account for the portion of the taxable year after December 31, 1994.

"(2) SPECIAL RULE FOR PASS-THRU ENTITIES.—Section 1202(d)(2) shall apply for purposes of paragraph (1).

"(c) CROSS REFERENCES.—

"For computation of the alternative tax—

"(1) in the case of life insurance companies, see section 801(a)(2),

"(2) in the case of regulated investment companies and their shareholders, see section 852(b)(3)(A) and (D), and

"(3) in the case of real estate investment trusts, see section 857(b)(3)(A)."

(b) TECHNICAL AMENDMENT.—Clause (iii) of section 852(b)(3)(D) is amended by striking "65 percent" and inserting "75 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1994.

Subpart C—Capital Loss Deduction Allowed With Respect to Sale or Exchange of Principal Residence

SEC. 121. CAPITAL LOSS DEDUCTION ALLOWED WITH RESPECT TO SALE OR EXCHANGE OF PRINCIPAL RESIDENCE.

(a) IN GENERAL.—Subsection (c) of section 165 (relating to limitation on losses of individuals) is amended by striking "and" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; and", and by adding at the end the following new paragraph:

"(4) losses arising from the sale or exchange of the principal residence (within the meaning of section 1034) of the taxpayer."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales and exchanges after December 31, 1994, in taxable years ending after such date.

TITLE II—SMALL BUSINESS VENTURE CAPITAL STOCK

SEC. 201. MODIFICATIONS TO EXCLUSION OF GAIN ON CERTAIN SMALL BUSINESS STOCK.

(a) INCREASE IN EXCLUSION PERCENTAGE.—

(1) IN GENERAL.—Section 1203(a), as redesignated by section 101, is amended—

(A) by striking "50 percent" and inserting "75 percent", and

(B) by striking "50-PERCENT" in the heading and inserting "Partial".

(2) CONFORMING AMENDMENTS.—

(A) Section 1203, as so redesignated, is amended by adding at the end the following new subsection:

"(l) CROSS REFERENCE.—

"For treatment of eligible gain not excluded under subsection (a), see sections 1201 and 1202."

(B) The heading for section 1203, as so redesignated, is amended by striking "**50-percent**" and inserting "**partial**".

(C) The table of sections for part I of subchapter P of chapter 1, as amended by section 101(d), is amended by striking "50-percent" in the item relating to section 1203 and inserting "Partial".

(b) EXCLUSION AVAILABLE TO CORPORATIONS.—

(1) IN GENERAL.—Subsection (a) of section 1203, as redesignated by section 101, is amended by striking "other than a corporation".

(2) TECHNICAL AMENDMENT.—Subsection (c) of section 1203, as so redesignated, is amended by adding at the end the following new paragraph:

"(4) STOCK HELD AMONG MEMBERS OF CONTROLLED GROUP NOT ELIGIBLE.—Stock of a member of a parent-subsidiary controlled group (as defined in subsection (d)(3)) shall not be treated as qualified small business stock while held by another member of such group."

(c) REPEAL OF MINIMUM TAX PREFERENCE.—

(1) IN GENERAL.—Subsection (a) of section 57 is amended by striking paragraph (7).

(2) TECHNICAL AMENDMENT.—Subclause (II) of section 53(d)(1)(B)(ii) is amended by striking ", (5), and (7)" and inserting "and (5)".

(d) STOCK OF LARGER BUSINESSES ELIGIBLE FOR EXCLUSION.—

(1) Paragraph (1) of section 1203(d), as redesignated by section 101, is amended by striking "$50,000,000" each place it appears and inserting "$100,000,000".

(2) Subsection (d) of section 1203, as so redesignated, is amended by adding at the end the following new paragraph:

"(4) INFLATION ADJUSTMENT OF ASSET LIMITATION.—In the case of stock issued in any calendar year after 1996, the $100,000,000 amount contained in paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1995' for 'calendar year 1992' in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of $10,000, such amount shall be rounded to the nearest multiple of $10,000."

(e) REPEAL OF PER-ISSUER LIMITATION.—Section 1203, as redesignated by section 101, is amended by striking subsection (b).

(f) OTHER MODIFICATIONS.—

(1) REPEAL OF WORKING CAPITAL LIMITATION.—Paragraph (6) of section 1203(e), as redesignated by section 101, is amended—

(A) by striking "2 years" in subparagraph (B) and inserting "5 years", and

(B) by striking the last sentence.

(2) EXCEPTION FROM REDEMPTION RULES WHERE BUSINESS PURPOSE.—Paragraph (3) of section 1203(c), as so redesignated, is amended by adding at the end the following new subparagraph:

"(D) WAIVER WHERE BUSINESS PURPOSE.—A purchase of stock by the issuing corporation shall be disregarded for purposes of subparagraph (B) if the issuing corporation establishes that there was a business purpose for such purchase and one of the principal purposes of the purchase was not to avoid the limitations of this section."

(g) QUALIFIED TRADE OR BUSINESS.—Section 1203(e)(3), as redesignated by section 101, is amended by inserting "and" at the end of subparagraph (C), by striking ", and" at the end of subparagraph (D) and inserting a period, and by striking subparagraph (E).

(h) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to stock issued after the date of the enactment of this Act.

(2) SPECIAL RULE.—The amendments made by subsections (a), (c), (e), and (f) shall apply to stock issued after August 10, 1993.

SEC. 202. ROLLOVER OF GAIN FROM SALE OF QUALIFIED STOCK.

(a) IN GENERAL.—Part III of subchapter O of chapter 1 is amended by adding at the end the following new section:

"SEC. 1045. ROLLOVER OF GAIN FROM QUALIFIED SMALL BUSINESS STOCK TO ANOTHER QUALIFIED SMALL BUSINESS STOCK.

"(a) NONRECOGNITION OF GAIN.—In the case of any sale of qualified small business stock with respect to which the taxpayer elects the application of this section, eligible gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

"(1) the cost of any qualified small business stock purchased by the taxpayer during the 60-day period beginning on the date of such sale, reduced by

"(2) any portion of such cost previously taken into account under this section.

This section shall not apply to any gain which is treated as ordinary income for purposes of this title.

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) QUALIFIED SMALL BUSINESS STOCK.—The term 'qualified small business stock' has the meaning given such term by section 1203(c).

"(2) ELIGIBLE GAIN.—The term 'eligible gain' means any gain from the sale or exchange of qualified small business stock held for more than 5 years.

"(3) PURCHASE.—A taxpayer shall be treated as having purchased any property if, but for paragraph (4), the unadjusted basis of such property in the hands of the taxpayer would be its cost (within the meaning of section 1012)."

"(4) BASIS ADJUSTMENTS.—If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any qualified small business stock which is purchased by the taxpayer during the 60-day period described in subsection (a).

"(c) SPECIAL RULES FOR TREATMENT OF REPLACEMENT STOCK.—

"(1) HOLDING PERIOD FOR ACCRUED GAIN.—For purposes of this chapter, gain from the disposition of any replacement qualified small business stock shall be treated as gain from the sale or exchange of qualified small business stock held more than 5 years to the extent that the amount of such gain does not exceed the amount of the reduction in the basis of such stock by reason of subsection (b)(4).

"(2) TACKING OF HOLDING PERIOD FOR PURPOSES OF DEFERRAL.—Solely for purposes of applying this section, if any replacement qualified small business stock is disposed of before the taxpayer has held such stock for more than 5 years, gain from such stock shall be treated eligible gain for purposes of subsection (a).

"(3) REPLACEMENT QUALIFIED SMALL BUSINESS STOCK.—For purposes of this subsection, the term 'replacement qualified small business stock' means any qualified small business stock the basis of which was reduced under subsection (b)(4)."

(b) CONFORMING AMENDMENTS.—

(1) Section 1016(a)(23) is amended—

(A) by striking "or 1044" and inserting ", 1044, or 1045", and

(B) by striking "or 1044(d)" and inserting ", 1044(d), or 1045(b)(4)".

(2) The table of sections for part III of subchapter O of chapter 1 is amended by adding at the end the following new item:

"Sec. 1045. Rollover of gain from qualified small business stock to another qualified small business stock."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to stock sold or exchanged after the date of the enactment of this Act.

SUMMARY OF CAPITAL FORMATION ACT OF 1995

The Capital Formation Act of 1995 would reduce the tax rate on capital gains and encourage investment in new and growing business enterprises through the following provisions:

I. BROAD-BASED TAX RELIEF (SIMILAR TO PROVISIONS IN HOUSE-PASSED H.R. 1215):

(1) Individual taxpayers would be allowed a deduction of 50 percent of any net capital gain. The top effective tax rate on capital gains would thus be 19.8 percent.

(2) Corporations would be subject to a maximum capital gains tax rate of 25 percent.

(3) Capital loss treatment would be allowed with respect to the sale of a taxpayer's principal residence.

(4) Indexing of capital assets would not be included.

(5) Would be effective for taxable years ending after December 31, 1994.

II TARGETED INCENTIVE TO INVEST IN SMALL BUSINESS ENTERPRISES:

(1) Provides an exclusion of 75 percent of capital gains from sale of investment in qualified small business stock held for more than five years.

(2) Allows 100 percent deferral of capital gains tax, after the five year period, if proceeds from the sale of qualified small business stock are rolled over within 60 days into another qualified small business stock. Gains accrued after the rollover would qualify for a 50 percent deduction if held for more than one year, 75 percent exclusion if held for more than another five years, or at any time, could be rolled over yet again into another qualified small business stock for 100 percent deferral.

(3) Would be effective upon date of enactment.

Example: A taxpayer buys qualified small business stock in 1996 for $10,000. She sells the stock in 2002 for $20,000. She would be allowed to exclude 75 percent of the gain, or $7,500. Of, if she chose to roll over the $20,000 proceeds from the sale into another qualified small business stock within 60 days, she would defer all tax until she ultimately sold the second stock.

Qualified small business stock is defined as newly issued stock of corporations with up to $100 million in assets and is an expansion of the current law targeted small business capital gains exclusion added by the 1993 tax act. The changes in the targeted small business stock incentive from current law would:

(1) Allow corporations to participate.

(2) Remove the current law per-issuer limitation.

(3) Repeal the working capital limitation.

(4) Expand the list of qualified businesses in which the corporation may engage.

LEHMAN BROTHERS,
June 21, 1995.

Hon. ORRIN HATCH,
U.S. Senate,
Hon. JOSEPH LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATORS HATCH AND LIEBERMAN: The Hatch-Lieberman Capital Gains Tax Reduction Proposal would have positive impacts on U.S. economic growth, employment and investment. The enactment of this bipartisan Senate bill, whose main features include a 50 percent exclusion for individual capital gains (a top marginal rate of 19.8 percent), a 25 percent maximum capital gains rate for corporations, and expansion of the current 50 percent exclusion for small business capital stock to 75 percent, as well as other small business provisions, could well help offset forces contributing to the current cooling of the U.S. economy.

Indexing capital gains, not included in the Hatch-Lieberman proposal, also would help stimulate economic activity and has the positive dimension of eliminating the distortion from the taxation of illusory gains that come from inflation. It would also be good to have. But of the two measures, capital gains rate reduction and indexing under limitations set by the very important first priority of moving the federal budget into balance, the rate reductions and small business provisions provide more "bang-for-a-buck".

A stronger economy would be stimulated by the lower cost of capital from a reduction in capital gains taxes, also business and personal saving would rise, and more business capital spending occur. This would come about, in part, from increased stock prices and higher household net worth as investors shifted funds away from other investments into stocks. The stronger economy would lead to increased hiring and new jobs. Wealth, income and profits improvement would raise spending, saving, and purchases of financial assets.

With a stronger economy and increased capital formation, greater entrepreneurship, as measured by new business incorporations, ought to raise productivity and thus the potential output of this economy. This supply-side effect, although modest, would tend to limit any potential inflationary effect of the capital gains tax reductions. In addition, an unlocking effect on tax receipts from the unrealized capital gains that would be realized ought to reduce the ex-post cost of this tax measure.

Of all the tax reductions being considered by the Congress, the most beneficial, in a balanced way, to both the demand-side and supply-sides of the economy, potentially at the least net cost, would be the capital gains tax rate reductions that are proposed.

On several criteria for judging changes in taxes—allocative efficiency, economic growth, savings and investment, international competition and fairness—capital gains tax reduction wins on almost all. The one exception is equity, because higher income families tend to hold proportionately more of the assets that could be subject to capital gains.

Sincerely,

ALLEN SINAI.

Mr. LIEBERMAN. Mr. President, I am delighted and proud to join Senator HATCH in this bipartisan introduction of the Capital Formation Act of 1995. As a Democrat, I have often borrowed Paul Tsongas' line that you can't be pro-jobs and anti-business, because the jobs we want for people are going to come from business. The bill we are introducing today is pro-jobs and pro-business. It gives people at all income levels a reason to put their money in places where that money will help businesses start and grow and that means more jobs for Americans and more economic prosperity for our country.

We are introducing this bill at a time when the American economy may be on the verge of recession. There are those who say we are already in a recession. One of the most effective things Congress can do to give our economy a boost is to cut the capital gains tax rate.

We also have a shortage of savings and investment in this country. Our personal savings rate is now about one-third of Japan's rate and about one-half of Germany's rate. We are ill prepared to deal with the effects of recession, and we are ill prepared for the economic battles of the global marketplace. Unlike most other industrialized nations, we stifle savings and investment by over-taxing it. Nations like Japan and Germany value capital gains. Germany exempts long-term capital gains from taxes for individuals and Japan taxes these gains at either 1 percent of the sales price or 20 percent of the net gain. They reward investment.

Not only have we done too little to encourage investment, too often it is actively discouraged. To attack capital gains tax relief as a bonanza for the wealthy is quite simply missing the point.

The benefits of this capital gains tax cut will not flow just to people of wealth. Anyone who has stock, who has money invested in a mutual fund, who has investment property, who has a stock option plan at work has a stake in capital gains tax relief. That represents millions and millions of middle class American families. We have information on 310 major firms that offer their employees stock options and stock purchase plans—companies like GTE, Pfizer and Stanley Works, to name a few of the companies in my State.

Each of those workers and their spouses and children stand to gain from what we propose today. And these firms are just the tip of the iceberg.

And we're talking about direct beneficiaries—not even counting the many middle and lower income people who will get and keep jobs thanks to the investments spurred by the capital gains tax cut.

Of course, people who are wealthy can benefit from this proposed capital gains cut, but that is the point. They will benefit if they invest more of their money in ways that help our economy and create jobs. That benefits everyone. Government doesn't make people rich. But Government can and should encourage people who have money to use that money in a way that helps the economy as a whole. That is what this is about. We are simply talking about letting people who are willing to risk their money keep a little bit more of it if they invest that money in our economy.

People who oppose cutting the capital gains tax are treating profit as if it were to be avoided. I believe that we should recognize profit as being an advantage of the free market, and we want to encourage it, reward it, help it spread its benefits throughout the economy to more and more of our people. Opponents also frame this debate in a winners-and-losers context that is totally inappropriate to what is at stake here. Because a rising tide of economic growth raises all ships, there need be no losers when capital gains taxes are cut by our bill.

Finally, let me point out that this capital gains tax is broad but it also has a targeted element. It aims at directing investment in a way that maximizes the benefit for our economy. It promotes investment in small businesses—the firms that are driving job creation in our economy. It encourages people to leave their investments in small businesses, start-up businesses for a longer period of time, giving entrepreneurs the kind of predictable cash flow they need to make their businesses succeed.

The targeted feature of our capital gains tax cut will be very helpful to the kinds of small businesses we need for our future—the high technology businesses that will be the source of many new jobs in the next century, and that will be the source of our success in global markets. These businesses are high risk. They require a lot of capital investment early on. The payoff is down the road. And the benefits for America are, potentially, enormous. Not just jobs and profits for Americans. But exciting new technological innovations. New ways to educate our children. New medicines and medical devices. New services, and new opportunities for recreation. All these positive changes need the kind of investment our Capital Formation Act will encourage.

In closing, let me say that I see this bill as the first leg of a tripod of tax relief for the American people. The second leg is the President's tax credit for children and tax deduction for higher education costs, which I support.

The third leg will be a research and development tax credit that is being developed now and I hope will be introduced in the near future.

With these tax proposals, we can help more Americans raise their kids today, educate them tomorrow, and provide them with good job opportunities in thriving American businesses in the future.

Mr. FAIRCLOTH. Mr. President, today I am joining with Senators HATCH and LIEBERMAN to introduce the Capital Formation Act of 1995. This bipartisan effort sends a clear signal that there is broad-based support for a capital gains tax cut to stimulate job creation, foster sound economic growth, and enhance U.S. international competitiveness.

Prior to my election to the Senate, I spent 45 years in the private sector running a small business and meeting a payroll. I learned firsthand that a cut in the capital gains tax rate would stimulate the release of billions of dollars of unproductive capital, unlock economic assets, and encourage new investment by both mature and new businesses. Moreover, a reduction in capital gains taxes would have a powerful impact on the entrepreneurial segment of the economy, thereby creating new start-up companies and new jobs.

I commend Senators HATCH and LIEBERMAN for working together to craft a bipartisan capital gains tax cut proposal. I am proud to be the first cosponsor of this bill, and I sincerely hope that many of our colleagues—Democrats and Republicans—will join this important effort to provide much needed tax relief and encourage further economic growth.

ADDITIONAL COSPONSORS

S. 400

At the request of Mrs. HUTCHISON, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 400, a bill to provide for appropriate remedies for prison conditions, and for other purposes.

S. 401

At the request of Mr. LEAHY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 401, a bill to amend the Internal Revenue Code of 1986 to clarify the excise tax treatment of hard apple cider.

S. 495

At the request of Mrs. KASSEBAUM, the names of the Senator from Washington [Mr. GORTON] and the Senator from Tennessee [Mr. FRIST] were added as cosponsors of S. 495, a bill to amend the Higher Education Act of 1965 to stabilize the student loan programs, improve congressional oversight, and for other purposes.

S. 593

At the request of Mr. HATCH, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 593, a bill to amend the Federal Food, Drug, and Cosmetic Act to authorize the export of new drugs and for other purposes.

S. 854

At the request of Mr. LUGAR, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 854, a bill to amend the Food Security Act of 1985 to improve the agricultural resources conservation program, and for other purposes.

S. 896

At the request of Mr. CHAFEE, the names of the Senator from Rhode Island [Mr. PELL], the Senator from West Virginia [Mr. ROCKEFELLER], the Senator from Colorado [Mr. CAMPBELL], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 896, a bill to amend title XIX of the Social Security Act to make certain technical corrections relating to physicians' services, and for other purposes.

SENATE RESOLUTION 85

At the request of Mr. CHAFEE, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of Senate Resolution 85, a resolution to express the sense of the Senate that obstetrician-gynecologists should be included in Federal laws relating to the provision of health care.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the names of the Senator from Alabama [Mr. HEFLIN], the Senator from Rhode Island [Mr. CHAFEE], and the Senator from Hawaii [Mr. AKAKA] were added as cosponsors of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

AMENDMENTS SUBMITTED

THE NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

EXON AMENDMENT NO. 1462

Mr. EXON proposed an amendment to the bill (S. 440) to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes; as follows:

At the appropriate place in the bill insert the following:

SEC. 301. SHORT TITLE.

This amendment may be cited as the "Federal Highway and Railroad Grade Crossing Safety Act of 1995".

SEC. . INTELLIGENT VEHICLE-HIGHWAY SYSTEMS.

(a) IN GENERAL.—In implementing the Intelligent Vehicle-Highway Systems Act of 1991 (23 U.S.C. 307 note), the Secretary of Transportation shall ensure that the National Intelligent Vehicle-Highway Systems Program addresses, in a comprehensive and coordinated manner, the use of intelligent vehicle-highway technologies to promote safety at railroad-highway grade crossings. The Secretary of Transportation shall ensure that two or more operational tests funded under such Act shall promote highway traffic safety and railroad safety.

SEC. . STATE HIGHWAY SAFETY MANAGEMENT SYSTEMS.

(a) AMENDMENT OF REGULATIONS.—The Secretary of Transportation shall conduct a rulemaking proceeding to amend the regulations under section 500.407 of title 23, Code of Federal Regulations, to require that each highway safety management system developed, established, and implemented by a State shall, among countermeasures and priorities established under subsection (b)(2) of that section—

(1) include public railroad-highway grade-crossing closure plans that are aimed at eliminating high-risk or redundant crossings (as defined by the Secretary);

(2) include railroad-highway grade-crossing policies that limit the creation of new at-grade crossings for vehicle or pedestrian traffic, recreational use, or any other purpose; and

(3) include plans for State policies, programs, and resources to further reduce death and injury at high-risk railroad-highway grade crossings.

(b) DEADLINE.—The Secretary of Transportation shall complete the rulemaking proceeding described in subsection (a) and prescribe the required amended regulations, not later than one year after the date of enactment of this Act.

SEC. . VIOLATION OF GRADE-CROSSING LAWS AND REGULATIONS.

(a) FEDERAL REGULATIONS.—Section 31311 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(h) GRADE-CROSSING VIOLATIONS.—

"(1) SANCTIONS.—The Secretary shall issue regulations establishing sanctions and penalties relating to violations, by persons operating commercial motor vehicles, of laws and regulations pertaining to railroad-highway grade crossings.

"(2) MINIMUM REQUIREMENTS.—Regulations issued under paragraph (1) shall, at a minimum, require that—

"(A) the penalty for a single violation shall not be less than a 60-day disqualification of the driver's commercial driver's license; and

"(B) any employer that knowingly allows, permits, authorizes, or requires an employee to operate a commercial motor vehicle in violation of such a law or regulation shall be subject to a civil penalty of not more than $10,000.".

(b) DEADLINE.—The initial regulations required under section 31310(h) of title 49, United States Code, shall be issued not later than one year after the date of enactment of this Act.

(c) STATE REGULATIONS.—Section 31311(a) of title 49, United States Code, is amended by adding at the end the following new paragraph:

"(18) GRADE-CROSSING REGULATIONS.—The State shall adopt and enforce regulations prescribed by the Secretary under section 31310(h) of this title.".

SEC. . SAFETY ENFORCEMENT.

(a) COOPERATION BETWEEN FEDERAL AND STATE AGENCIES.—The National Highway Traffic Safety Administration, and the Office of Motor Carriers within the Federal Highway Administration, shall on a continuing basis cooperate and work with the National Association of Governors' Highway Safety Representatives, the Commercial Vehicle Safety Alliance, and Operation Lifesaver, Inc., to improve compliance with and enforcement of laws and regulations pertaining to railroad-highway grade crossings.

(b) REPORT.—The Secretary of Transportation shall submit a report to Congress by January 1, 1996, indicating (1) how the Department worked with the above mentioned entities to improve the awareness of the highway and commercial vehicle safety and law enforcement communities of regulations and safety challenges at railroad-highway grade crossings, and (2) how resources are being allocated to better address these challenges and enforce such regulations.

SEC. . CROSSING ELIMINATION; STATEWIDE CROSSING FREEZE.

(a) STATEMENT OF POLICY.—

(1) Railroad-highway grade crossings present inherent hazards to the safety of railroad operations and to the safety of persons using those crossings. It is in the public interest—

(A) to eliminate redundant and high risk railroad-highway grade crossings; and

(B) to limit the creation of new crossings to the minimum necessary to provide for the reasonable mobility of the American people and their property, including emergency access.

(2) Elimination of redundant and high-risk railroad-highway grade crossings is necessary to permit optimum use of available funds to improve the safety of remaining crossings, including funds provided under Federal law.

(3) Effective programs to reduce the number of unneeded railroad-highway grade crossings, and to close those crossings that cannot be made reasonably safe (due to reasons of topography, angles of intersection, etc.), require the partnership of Federal, State, and local officials and agencies, and affected railroads.

(4) Promotion of a balanced national transportation system requires that highway planning specifically take into consideration the interface between highways and the national railroad system.

(b) PARTNERSHIP AND OVERSIGHT.—The Secretary shall foster a partnership among Federal, State, and local transportation officials and agencies to reduce the number of railroad-highway grade crossings and to improve safety at remaining crossings. The Secretary shall make provision for periodic review to ensure that each State (including State subdivisions and local governments) is making substantial, continued progress toward achievement of the purposes of this section.

(c) CROSSING FREEZE.—If, upon review, and after opportunity for a hearing, the Secretary determines that a State or political subdivision thereof has failed to make substantial, continued progress toward achievement of the purposes of this section, then the Secretary shall impose a limit on the maximum number of public railroad-highway grade crossings in that State. The limitation imposed by the Secretary under this subsection shall remain in effect until the State demonstrates compliance with the requirements of this section. In addition, the Secretary may, for a period of not more than 3 years after such a determination, require compliance with specific numeric targets for net reductions in the number of railroad-highway grade crossings (including specification of hazard categories with which such crossings are associated).

(d) REGULATIONS.—The Secretary shall issue such regulations as may be necessary to carry out this section.

EXON AMENDMENT NO. 1463

Mr. EXON proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place in the bill add the following:

SEC. . TRUCK LENGTH AND THE NORTH AMERICAN FREE TRADE AGREEMENT.

Any federal regulatory standard for single trailer length issued pursuant to negotiations and procedures authorized under the North American Free Trade Agreement, shall not exceed fifty three feet.

SMITH (AND GREGG) AMENDMENT NO. 1464

Mr. CHAFEE (for Mr. SMITH for himself and Mr. GREGG) proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place on the bill add the following new section:

SEC. .

The State of New Hampshire shall be deemed as having met the safety belt use law requirements of section 153 of title 23 of the U.S. Code, upon certification by the Secretary of Transportation that the State has achieved—

(a) a safety belt use rate in each of fiscal years ending September 30, 1995 and September 30, 1996, of not less than 50 percent; and

(b) a safety belt use rate in each succeeding fiscal year thereafter of not less than the national average safety belt use rate, as determined by the Secretary of Transportation.

WARNER (AND OTHERS) AMENDMENT. NO. 1465

Mr. WARNER (for himself, Mr. CHAFEE, and Mr. BAUCUS) proposed an amendment to the bill S. 440, supra; as follows:

On page 22, between lines 2 and 3, insert the following:

SEC. 1___. APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.

Section 133(d) of title 23, United States Code, is amended by adding at the end the following:

"(5) APPLICABILITY OF CERTAIN REQUIREMENTS TO THIRD PARTY SELLERS.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of a transportation enhancement activity funded from the allocation required under paragraph (2), if real property or an interest in real property is to be acquired from a qualified organization exclusively for conservation purposes (as determined under section 170(h) of the Internal Revenue Code of 1986), the organization shall be considered to be the owner of the property for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

"(B) FEDERAL APPROVAL PRIOR TO INVOLVEMENT OF QUALIFIED ORGANIZATION.—If Federal approval of the acquisition of the real property or interest predates the involvement of a qualified organization described in subparagraph (A) in the acquisition of the property, the organization shall be considered to be an acquiring agency or person as described in section 24.101(a)(2) of title 49, Code of Federal Regulations, for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

"(C) ACQUISITIONS ON BEHALF OF RECIPIENTS OF FEDERAL FUNDS.—If a qualified organization described in subparagraph (A) has contracted with a State highway administration or other recipient of Federal funds to acquire the real property or interest on behalf of the recipient, the organization shall be considered to be an agent of the recipient for the purpose of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).".

On page 26, between lines 8 and 9, insert the following:

(3) ORANGE STREET BRIDGE, MISSOULA, MONTANA.—Notwithstanding section 149 of title 23, United States Code, or any other law, a project to construct new capacity for the Orange Street Bridge in Missoula, Montana, shall be eligible for funding under the congestion mitigation and air quality improvement program established under the section.

On page 26, between lines 13 and 14, insert the following:

(c) TRAFFIC MONITORING, MANAGEMENT, AND CONTROL FACILITIES AND PROGRAMS.—The first sentence of section 149(b) of title 23, United States Code, is amended—

(1) in paragraph (2), by striking "or" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(4) to establish or operate a traffic monitoring, management, and control facility or program if the Secretary, after consultation with the Administrator of the Environmental Protection Agency, determines that the facility or program is likely to contribute to the attainment of a national ambient air quality standard.".

On page 30, strike line 14 and insert the following:

SEC. 119. INTELLIGENT TRANSPORTATION SYSTEMS.

On page 30, lines 15 and 16, strike "INTELLIGENT VEHICLE-HIGHWAY SYSTEMS" and insert "INTELLIGENT TRANSPORTATION SYSTEMS".

On page 31, lines 1 and 2, strike "INTELLIGENT VEHICLE-HIGHWAY SYSTEMS" and insert "INTELLIGENT TRANSPORTATION SYSTEMS".

On page 31, lines 10 and 11, strike "intelligent vehicle-highway systems" and insert "intelligent transportation systems".

On page 31, between lines 20 and 21, insert the following:

(c) CONFORMING AMENDMENTS.—

(1) The table in section 1107(b) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2048) is amended—

(A) in item 10, by striking "(IVHS)" and inserting "(ITS)"; and

(B) in item 29, by striking "intelligent/vehicle highway systems" and inserting "intelligent transportation systems".

(2) Section 6009(a)(6) of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 105 Stat. 2176) is amended by striking "intelligent vehicle highway systems" and inserting "intelligent transportation systems".

(3) Part B of title VI of the Intermodal Surface Transportation Efficiency Act of 1991 (Public Law 102-240; 23 U.S.C. 307 note) is amended—

(A) by striking the part heading and inserting the following:

"PART B—INTELLIGENT TRANSPORTATION SYSTEMS";

(B) in section 6051, by striking "Intelligent Vehicle-Highway Systems" and inserting "Intelligent Transportation Systems";

(C) by striking "intelligent vehicle-highway systems" each place it appears and inserting "intelligent transportation systems";

(D) in section 6054—

(i) in subsection (a)(2)(A), by striking "intelligent vehicle-highway" and inserting "intelligent transportation systems"; and

(ii) in the subsection heading of subsection (b), by striking "INTELLIGENT VEHICLE-HIGHWAY SYSTEMS" and inserting "INTELLIGENT TRANSPORTATION SYSTEMS";

(E) in the subsection heading of section 6056(a), by striking "IVHS" and inserting "ITS";

(F) in the subsection heading of each of subsections (a) and (b) of section 6058, by striking "IVHS" and inserting "ITS"; and

(G) in the paragraph heading of section 6059(1), by striking "IVHS" and inserting "ITS".

(4) Section 310(c)(3) of the Department of Transportation and Related Agencies Appropriations Act, 1995 (Public Law 103–331; 23 U.S.C. 104 note), is amended by striking "intelligent vehicle highway systems" and inserting "intelligent transportation systems".

(5) Section 109(a) of the Hazardous Materials Transportation Authorization Act of 1994 (Public Law 103–311; 23 U.S.C. 307 note) is amended—

(A) by striking "Intelligent Vehicle-Highway Systems" each place it appears and inserting "Intelligent Transportation Systems"; and

(B) by striking "intelligent vehicle-highway system" and inserting "intelligent transportation system".

(6) Section 5316(d) of title 49, United States Code, is amended—

(A) in the subsection heading, by striking "INTELLIGENT VEHICLE-HIGHWAY" and inserting "INTELLIGENT TRANSPORTATION"; and

(B) by striking "intelligent vehicle-highway" each place it appears and inserting "intelligent transportation"

On page 33, line 19, strike "intelligent vehicle-highway systems" and insert "intelligent transportation systems".

On page 36, line 12, strike the quotation marks and the following period.

On page 36, between lines 12 and 13, insert the following:

"(24) State Route 168 (South Battlefield Boulevard), Virginia, from the Great Bridge Bypass to the North Carolina State line.".

On page 38, beginning on line 2, strike "and shall not" and all that follows through "program" on line 4.

On page 40, strike lines 1 through 3.

On page 43, between lines 14 and 15, insert the following:

SEC. 1___. REPORT ON ACCELERATED VEHICLE RETIREMENT PROGRAMS.

Not later than 180 days after the date of enactment of this Act, the Administrator of the Environmental Protection Agency shall transmit to Congress a report evaluating the effectiveness of all accelerated vehicle retirement programs described in section 108(f)(1)(A)(xvi) of the Clean Air Act (42 U.S.C. 7408(f)(1)(A)(xvi)) in existence on the date of enactment of this Act. The report shall evaluate—

(1) the certainties of emissions reductions gained from each program;

(2) the variability of emissions of retired vehicles;

(3) the reduction in the number of vehicle miles traveled by the vehicles retired as a result of each program;

(4) the subsequent actions of vehicle owners participating in each program concerning the purchase of a new or used vehicle or the use of such a vehicle;

(5) the length of the credit given to a purchaser of a retired vehicle under each program;

(6) equity impacts of the programs on the used car market for buyers and sellers; and

(7) such other factors as the Administrator determines appropriate.

On page 57, line 4, insert "and" at the end.

On page 57, line 8, strike "and" at the end.

On page 57, strike lines 9 through 11.

NICKLES AMENDMENT NO. 1466

Mr. NICKLES proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place in title I, insert the following:

SEC. 1 . INTERCITY RAIL INFRASTRUCTURE INVESTMENT FROM MASS TRANSIT ACCOUNT OF HIGHWAY TRUST FUND.

Section 5323 of title 49, United States Code, is amended by adding at the end the following new subsection:

"(m) INTERCITY RAIL INFRASTRUCTURE INVESTMENT.—Any assistance provided to a State that does not have Amtrak service as of date of enactment of this Act from the Mass Transit Account of the Highway Trust Fund may be used for capital improvements to, and operating support for, intercity passenger rail service.".

STEVENS (AND OTHERS) AMENDMENT NO. 1467

Mr. STEVENS (for himself, Mr. MURKOWSKI, Mr. HATCH, and Mr. BENNETT) proposed an amendment to the bill S. 440, supra; as follows:

At the appropriate place in title I of the bill insert the following new section:

SEC. . MORATORIUM.

(a) IN GENERAL.—Notwithstanding any other provision of law, no agency of the Federal government may take any action to prepare, promulgate, or implement any rule or regulation addressing rights of way authorized pursuant to Revised Statutes 2477 (43 U.S.C. 932), as such law was in effect prior to October 21, 1976.

(b) This section shall cease to have any force or effect after December 1, 1995.

NOTICE OF HEARINGS

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. ROTH. Mr. President, I would like to announce for the information of the Senate and the public that the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs, will hold hearings regarding the investigation of friendly fire incident during the Persian Gulf war.

This hearing will take place on Thursday, June 29, 1995, in room 342 of the Dirksen Senate Office Building. For further information, please contact Harold Damelin of the subcommittee staff at 224–3721.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on Thursday, June 22, 1995, at 10:15 a.m. in SD 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the Oversight of OSHA, during the session of the Senate on Thursday, June 22, 1995, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INDIAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Thursday, June 22, 1995, beginning at 9:30 a.m., in room G–50 of the Dirksen Senate Office Building on S. 487, a bill to amend the Indian Gaming Regulatory Act, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DRINKING WATER, FISHERIES, AND WILDLIFE

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Drinking Water, Fisheries, and Wildlife be granted permission to meet Thursday, June 22, at 10 a.m., to conduct an oversight hearing on the National Marine Fisheries Service policy on spills at Columbia River hydropower dams, gas bubble trauma in endangered salmon, and the scientific methods used under the Endangered Species Act which gave rise to that policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Thursday, June 22, 1995, for purposes of conducting a subcommittee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 852, a bill to provide for uniform management of livestock grazing on Federal land, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE TELECOMMUNICATIONS BILL

• Mr. ABRAHAM. Mr. President, I want to take a few moments to set forth the reasoning behind a number of my votes with respect to S. 652, the telecommunications bill. Although S. 652 would not deregulate the telecommunications industry as much or as quickly as I would like, it eventually would lead to competition in a number of telecommunications markets that currently are monopolistic. Specifically, the bill would remove artificial barriers to competition in the phone services markets as well as in the cable, equipment manufacturing, and other markets. I, therefore, supported final passage of S. 652.

Much of the debate concerning the bill focused on the issue of RBOC entry into the long-distance market. An amendment offered by Senator MCCAIN, No. 1261, would have defined the term "public interest" as it relates to the FCC's decision as to whether to allow a Bell to enter the long-distance market. The bill as introduced did not define that term. I voted for the McCain amendment because the absence of such a definition would give the FCC virtually absolute discretion as to whether a Bell can enter the long-distance market—or, put differently, as to whether consumers will enjoy the benefits of full competition in that market.

The Senate's rejection of McCain amendment No. 1261 was part of the reason for my vote against the Dorgan-Thurmond amendment, No. 1265. The Dorgan-Thurmond amendment would have added yet another layer of regulatory obstacles to the RBOC's entry into the long-distance market. The bill already would have required a Bell to satisfy an extensive competitive checklist and to secure the FCC's public interest determination before entering the long-distance market; and even then, the Bell could enter that market only through a separate subsidiary. Moreover, the bill would for the first time allow utility and cable companies to compete for the Bells' local customers, thereby further reducing the Bells' ability to subsidize predatory pricing in the long-distance market by raising the prices paid by local customers. Thus, the Dorgan-Thurmond amendment, by requiring the Bells additionally to secure the approval of the Department of Justice before entering the long-distance market, would only delay unnecessarily the arrival of full competition in that market. To paraphrase Holmes, three layers of regulatory obstacles is enough.

From the outset of the Senate's consideration of S. 652, I was concerned that the bill might mandate discounted telecommunications rates for selected groups. The cost of such mandatory discounts is inevitably passed on to customers whose rates are not set by Congress, and thus often falls, at least in part, on poorer customers who cannot muster the lobbying clout necessary to secure special treatment. Moreover, apart from the equities of the issue, I think Government exceeds its legitimate role when it sets special telecommunications rates for favored groups. I, therefore, supported McCain amendment No. 1262, which would have struck bill language, contained in section 310, that would force telecommunications providers to provide their services to schools and hospitals at discounted rates. After the Senate rejected amendment 1262, I voted for another McCain amendment, No. 1285, that at least would subject section 310 to means testing. The amendment passed.

Finally, I want to set forth in detail my reasons for supporting McCain amendment No. 1276. This amendment would jettison our current crazy-quilt of universal-service subsidies, in favor of a means tested voucher system. The universal-service subsidies and rate-averaging schemes currently in place have as their principal effect the perpetuation of telephone service monopolies in rural areas. These schemes exclude competitors from rural telephone service markets in two ways. First, by keeping rural rates artificially low, rate averaging reduces if not eliminates the incentive of would-be competitors to enter the rural services market. Second, the subsidization of existing providers effectively bars the entry into those markets of competitors who would not be similarly subsidized. In contrast, a voucher system would not distort market signals or suppress competition in the markets whose customers it seeks to help. Thus, the need-based voucher system described in the McCain amendment would be vastly preferable to the current and proposed cost-based schemes, which make the inner-city poor pay higher phone rates so that customers in remote areas, including wealthy resort areas, can enjoy lower rates.•

THE ABOLITION OF THE DEATH PENALTY IN SOUTH AFRICA

• Ms. MOSELEY-BRAUN. Mr. President, the new Government of South Africa has just abolished the death penalty.

As we all know, South Africa has undergone incredible changes in the last 2 years. They have achieved nothing short of a revolution—peacefully, via the ballot box. They have abolished apartheid and rebuilt their government and institutions to reflect real majority rule. The American people can take pride in the fact that American leadership in imposing international sanctions played a significant role in making this negotiated revolution possible, and the Government of Nelson Mandela a reality.

South Africa has looked to the United States as a model as it creates its institutions of government. I recently met with member of Parliament Johnny DeLange, chairman of the equivalent of our Judiciary Committee in the South African Parliament, who was in the United States to study how Congress and the Justice Department interact. Likewise, the new Constitutional Court, the equivalent of the Supreme Court, has looked to American jurisprudence for guidance in a variety of areas of the law.

As a lawyer and a Senator, I take pride in the fact that South Africa is looking to our legal system and our body of laws as a model. But in the case of the death penalty, after thoroughly examining its practice in the United States, the 11 justices of the Constitutional Court of South Africa unanimously concluded the death penalty is cruel and unusual punishment subject to elements of arbitrariness and the possibility of error.

The case before the Constitutional Court, *Makwanyane and McHunu* versus *State*, stemmed from an intra-family murder-for-hire which occurred in July 1987. Five people died when their hut was set on fire. Both men who carried out the attack and the man who hired them were convicted of murder and sentenced to death. The issues raised before the court concerned not the facts of the crime, but rather the constitutionality of the death penalty. Attorneys for the defendants cited the long history of racial discrimination and the arbitrary application of the death penalty in the United States as grounds for outlawing this ultimate punishment. The South African court heard that the United States practice of leaving capital punishment to the discretion of the judge and jury opens the door to the inevitable influences of race, poverty, and the quality of representation.

In effect, the South African court came to the same conclusion as former United States Supreme Court Justice Harry Blackmun, who concluded that the death penalty experiment has failed. Although Blackmun repeatedly voted to uphold capital punishment in the belief that the law could be channeled to guarantee its fair application, he ultimately decided that he could no longer "Tinker with the machinery of death."

South Africa had a history of applying the death penalty in an even more arbitrary fashion than the United States. Until the use of the death penalty was suspended in February 1990, South Africa had one of the highest rates of judicial executions in the world. The previous government executed 1,217 people between 1980 and 1989. And, as in the United States, it was much more common for a black defendant to be sentenced to death than a white defendant. In 1988, 47 percent of black defendants convicted of murdering whites were sentenced to death; 2.5 percent of blacks convicted of murdering other blacks were sentenced to death; while no whites convicted of killing blacks were given the death penalty.

I want to emphasize that the abolition of the death penalty will not result in impunity for those who commit the most heinous of crimes. But South Africa concluded that even in the country they looked to for guidance, the United States, the death sentence had not been shown to be materially more effective at deterring or preventing murder than the alternative sentence of life imprisonment.

The Government of South Africa has come to the decision that the recognition of the right to life and dignity is incompatible with the death penalty. I applaud them for it.•

MAJ. GEN. DAVID P. DE LA VERGNE

• Mr. GORTON. Mr. President, I am honored to offer my congratulations to Maj. Gen. David P. de la Vergne, who retires on June 25, 1995, as commanding general and civilian executive officer of Fort Lawton, WA.

The general's career has been exemplary. A native of Meriden, CT, he graduated from the Citadel and was commissioned a second lieutenant in 1961. After attending the infantry officer's basic and counterintelligence officers course, he served as special agent in charge of the Hartford Resident Office of the 108th Intelligence Corps Group. He did tours in Germany as operations officer of the 207th Military Intelligence Detachment and as commander of the Columbia Field Office of the 111th Military Intelligence Group. Posted to I Corps Advisory Group, Military Assistance Command Vietnam, he served as order of battle advisor and sector intelligence advisor, and then returned from Vietnam to serve as security officer for the Defense Language Institute in Monterey, CA.

After leaving active military duty in 1971, Major General de la Vergne was assigned to the 6211th U.S. Army Garrison, Presidio of San Francisco, where he served as inspector general, S–1, comptroller, and deputy commander before leaving to assume command of the 2d Battalion, 363d Regiment, 4th Brigade, 91st Division, training; Returning to the 6211th in 1981, he served as the garrison commander for 3 years before leaving for the 124th ARCOM, where he served as deputy chief of staff, resource management, as deputy chief of staff, operations, and then as chief of staff and deputy commander prior to his current assignment as commanding general.

Major General de la Vergne is a graduate of the Command and General Staff College and the Army War College, and he has completed courses at the Intelligence School, the Defense Language Institute, the Industrial College of the Armed Forces, the Inspector General School, the U.S. Army Institute for Administration and the Army Logistics Management Center.

His decorations include the Bronze Star, the Meritorious Service Medal with Oak Leaf Cluster, the Air Medal, the Joint Service Commendation Medal, the Army Commendation Medal with two Oak Leaf Clusters, the Republic of Vietnam Cross of Gallantry with Bronze Star and the Republic of Vietnam Honor Medal First Class.

Time and time again, the general has proven his mettle and displayed most excellent leadership. To quote from the citation for his Distinguished Service Medal, which will be awarded on the occasion of his official change of command ceremony on June 25, 1995:

> . . . for exceptionally meritorious service of great responsibility:
>
> Major General David P. de la Vergne distinguished himself by exceptionally meritorious service in successive positions of great responsibility from 15 March 1988 to 27 March 1995. In all assignments, General de la Vergne displayed unexcelled leadership and absolute dedication. As Chief of Staff and later Deputy Commander, 124th United States Army Reserve Command (ARCOM), Fort Lawton, Washington, he displayed exceptional vision, skill, and tenacity in the management and direction of major Army activities. Culminating his distinguished service as Commander of the 124th ARCOM, General de la Vergne took immediate steps to provide the ARCOM with a positive image of its leaders and mission. General de la Vergne's energetic approach for improvement in training, logistics, and recruiting resulted in the molding of a mission-capable unit. His dynamic leadership and unique managerial abilities were instrumental in achieving significant improvements in the readiness posture of the 124th ARCOM elements. This was most evident during the mobilization of nine units to support Operation DESERT SHIELD and Operation DESERT STORM. Major General de la Vergne's unswerving dedication, outstanding service, professional skill, and superb leadership reflect great credit upon him, the United States Army Reserve and the United States Army."

I want to thank Major General de la Vergne for his many years of service to this country, and I wish him and his wife, Elinor, all the best.•

RECOGNIZING THE ACHIEVEMENTS OF DISTINGUISHED ANNE ARUNDEL COUNTY YOUTH

• Ms. MIKULSKI. Mr. President, it is with a great deal of pride and satisfaction that I commend to your attention a number of young adults from Anne Arundel County. These outstanding individuals are listed below, and they are outstanding because of their character, their academic achievements, and their contributions to their home communities.

Three years ago, an organization was formed in Anne Arundel County by one of my college classmates, Dr. Orlie Reid. He and other caring individuals gathered together to discuss what could be done to encourage our youth to perform at their highest levels and to be community minded, to reinforce the positive and discourage the negative. The Concerned Black Males of Annapolis has done just that since its inception in 1992.

On Monday, June 26, 1995, CBM is recognizing 88 young men and women at its first annual awards dinner. These students were nominated by church, school and community leaders. I extend my heartiest congratulations to them all for their efforts, and to the organizers of the Awards Dinner and the founders of Concerned Black Males of Annapolis. A concerned community working with youth sets a fine example, and CBM has proven over the years that it works. My best to all of them.•

WHITE HOUSE CONFERENCE ON SMALL BUSINESS

• Mr. KYL. Mr. President, the White House Conference on Small Business met earlier this month to consider issues of concern to small business men and women around the country, and to make recommendations to this Congress about what it can do to make Federal policy more responsive to small business's needs.

The men and women who attended the conference represent a vital economic force in the country. There are more than 20 million small businesses in the United States, and they represent the fastest growing sector of the economy. Small businesses provided all of the net new jobs created between 1987 and 1992. They employed 54 percent of the private work force in 1990. Small businesses provide two of every three new workers with their first job. Small businesses contributed 40 percent of the Nation's new high-technology jobs during the past decade. Together, they truly represent the engine that drives our Nation's economy.

So when small business leaders speak out on issues of concern, it would behoove the Members of the Senate and the House to listen. These small business people are the innovators and the job creators. They are the ones on the front lines who have to wade through government rules and regulations every day, pay the taxes, and still find a way to compete in domestic and international markets.

If we are interested in economic growth and opportunity in this country—if we want an economy that is healthy and creating new jobs, and can compete around the world—we ought to take note of what small business men and women have to tell us.

And, Mr. President, this is what the delegates to the White House Conference had to say—these are the top-ten vote-getting resolutions approved by the Conference:

No. 1: Clarify the definition of independent contractor for tax purposes—1,471 votes. The Conference called on Congress to recognize the legitimacy of an independent contractor; to develop more realistic and consistent guidelines for IRS auditors, courts, employers and State agencies to follow.

No. 2: Permit a 100 percent deduction for business meal and entertainment expenses—1,444 votes. Small businesses typically rely on close personal relationships and customer service to compete for sales, rather than expensive advertising campaigns. Expenditures for meals and entertainment are often an important part of that effort.

No. 3: Strengthen the Regulatory Flexibility Act—1,398 votes. In addition to making the act applicable to all Federal agencies, the Conference recommended that cost-benefit analyses, scientific benefit analyses, and risks assessments be required.

No. 4: Repeal the Federal estate, gift, and generation-skipping transfer tax laws—1,385 votes. As the members of the Conference noted in their resolution, "the negative effect (of these transfer taxes) on small business, and others, far exceeds the net income to the Government when all administrative costs to individuals, businesses, and government are considered."

No. 5: Reform the Superfund law—1,371 votes. Delegates recommended the elimination of retroactive and strict liability prior to 1987, and called for sound science, realistic risk assessments, and cost-benefit analyses in assessing health and environmental hazards.

Mr. President, we ought to act promptly on all of these issues; bring them to the floor, debate them and vote on each of them at the earliest date practicable. I wanted to begin today, however, by speaking about one of the top five resolutions in particular, the one that received the fourth highest number of votes, a resolution that endorsed the Family Heritage Preservation Act, S. 628.

I introduced that measure earlier this year with the distinguished Senator from North Carolina, Senator HELMS. Representative CHRIS COX introduced the companion bill in the House of Representatives.

The Federal estate tax is actually one of the most wasteful and unfair taxes on the books today, and it is no wonder that small business leaders are urging its repeal. By confiscating up to 55 percent of a family's after-tax savings, it penalizes people for a lifetime of hard work, savings, and investment. It hurts small business and costs jobs. The result is that people spend their time, energy, and money trying to avoid the tax—for example, by setting up trusts and other devices—rather than devoting their resources to more productive economic uses.

The estate tax hits small family businesses particularly hard. It strips companies of much-needed capital at the worst possible time—under a change of ownership and oversight following the principle owner's death.

According to a 1993 survey by Prince and Associates—a Stratford, CT research and consulting firm—9 out of 10 family businesses that failed within 3 years of the principal owner's death said that "trouble paying estate taxes" contributed to their companies' demise. Sixty percent of family-owned businesses fail to make it to the second generation, and 90 percent do not make it to a third generation.

If the Tax Code were revised to eliminate these transfer taxes, small businesses would have a fighting chance; and the Nation would likely experience significant economic benefits by the year 2000. According to a report by the Institute for Research on the Economics of Taxation [IRET] "GDP would be $79.22 billion greater, 228,000 more people would be employed, and the amount of accumulated savings and capital would be $630 billion larger than projected under present law" by the end of the century.

Small business leaders recognize how counterproductive the estate tax really is, and that's why they specifically endorsed the Family Heritage Preservation Act at the White House Conference. That's why my bill is supported by the Small Business Council of America, the Small Business Survival Committee, Americans for Tax Reform, and the 60 Plus Association. The National Federation of Independent Business and the Independent Forest Products Association have called for estate tax reform.

Mr. President, I want to conclude by thanking the delegates to the White House Conference for their thoughtful, hard work. And, I wanted to make special note of the work of Mary Lou Bessette, who chaired the Arizona State delegation and carried out her responsibilities in an exemplary manner. She kept the group focused and on track, and was well respected by its members. Another member of the delegation, Sandy Abalos, served as Arizona tax chair. Her hard work and determination were reflected in the successful outcome of the Conference.

And finally, I wanted to commend Joy Staveley, who was my appointment to the Conference, and who served as environmental chair for the State. All four of her environmental resolutions made it into the top 60 final recommendations to emerge from the Conference session.

A job well done to all the members of Arizona's delegation and to all the delegates from around the country. Now it's time for the Senate and House to act on the good advice from the leaders of the Nation's small businesses. I invite my colleagues to join me as a cosponsor of the Family Heritage Preservation Act, and to begin addressing the other recommendations of the White House Conference as well.•

THE 25TH ANNUAL IRISH HERITAGE FESTIVAL

• Mr. BRADLEY. Mr. President, our country is a remarkable mosaic—a mixture of races, languages, ethnicities, and religions—that grows increasingly diverse with each passing year. Nowhere is this incredible diversity more evident than in the State of New Jersey. In New Jersey, schoolchildren come from families that speak 120 different languages at home. These different languages are used in over 1.4 million homes in my State. I have always believed that one of the United States greatest strengths is the diversity of the people that make up its citizenry and I am proud to call the attention of my colleagues to an event in New Jersey that celebrates the importance of the diversity that is a part of America's collective heritage.

On June 4, 1995, the Garden State Arts Center in Holmdel, NJ, began its 1995 Spring Heritage Festival Series. This heritage festival program salutes many of the different ethnic communities that contribute so greatly to New Jersey's diverse makeup. Highlighting old country customs and culture, the festival programs are an opportunity to express pride in the ethnic backgrounds that are a part of our collective heritage. Additionally, the spring heritage festivals will contribute proceeds from their programs to the Garden State Arts Center's cultural center fund which presents theater productions free of charge to New Jersey's school children, seniors, and other deserving residents. The heritage festival thus not only pays tribute to the cultural influences from our past, it also makes a significant contribution to our present day cultural activities.

On Sunday, June 25, 1995, the heritage festival series will celebrate the 25th annual Irish Heritage Festival. Twenty-five years ago, when John Gallagherr chaired the very first Irish Heritage Festival, he initiated what has become a grand tradition. This year's celebration, chaired by Kathleen Hyland continues this tradition of highlighting Irish entertainers, food, and crafts. The day begins early in the morning with a piping competition and will feature traditional Irish sports like hurling and Gaelic football. Additionally, a concelebrated liturgy with Msgr. Kevin Flanagan of St. Peter's Roman Catholic Church, in Parsippany assisted by numerous Irish clergy from throughout New Jersey, will be offered for lasting peace and justice in Ireland. After the liturgy a noon mall show will feature many gifted Irish entertainers including: Daniel O'Donnell, Celtic Cross, Richie O'Shea, Willie Lynch, Barley Bree, Mary McGonigle, and Mike Byrne Band. Over 25,000 people are expected to turnout to eat good food, enjoy traditional music and dance, and to avail themselves of the opportunity to pay tribute to their Irish heritage.

On behalf of the almost 1 million New Jerseyans of Irish descent, who contribute so much energy and vitality to my great and diverse State, I offer my congratulations on the occasion of the 25th annual Irish Heritage Festival.•

CAMBODIA

• Mr. THOMAS. Mr. President, I would like to make a brief comment today about a recent development in Cambodia which I believe does not bode well for the emergent democracy in that country. Last Monday, June 19, the Cambodian National Assembly expelled the representative of northern Siem Reap khet and an outspoken critic of corruption in his country's government, former Finance Minister Sam

Rainsy. The move was to be officially announced today.

Cambodia held its first democratic elections in May 1993, under the guidance of the U.N. Transitional Authority. The fragile multiparty coalition that emerged, less a result of electoral processes than power politics and accommodations among the different factions, has depended for its survival mainly on the expedient relationship between the co-prime ministers: Prince Norodom Ranariddh of the Royalist National United Front for an Independent Neutral Peaceful and Cooperative Cambodia [FUNCINPEC] and Hun Sen of the Cambodian People's Party [CPP]. Since 1993, outside observers have often characterized the growth of democracy there as two steps forward, one step back.

Mr. President, the expulsion of Rainsy is just one such step backward. Rainsy was a founding member of FUNCINPEC, and was appointed the party's second representative to the Supreme National Council—the preelection transitional governing body. As the first Finance Minister in the newly established government, Sam Rainsy won praise for successfully balancing the country's first budget. Unfortunately for him, he was also a critic of the country's pervasive and entrenched political corruption which brought him into conflict with members of his own, as well as other parties. He complained publicly that Cambodia's banking system was riddled with corruption and that most private banks were simply fronts for money laundering. His decision to contract with a French company—Total—to promote efficiency in the country's kickback-racked oil distribution system brought him into a jurisdictional dispute with the CPP-headed Commerce Ministry, and made enemies of some powerful and politically influential distributors. Similarly, his decision to take on Thai Boon Rong Co. over the latter's attempts to extract payments from vendors in the Olympic Marketplace made him few high placed friends.

Rainsy's continuing allegations became sufficiently embarrassing to the powers-that-be that he was fired from the Cabinet in October last year. Although fired from the Cabinet, Rainsy became even more vocal in his criticisms. For example, he led an attempt in the assembly to review a series of nontransparent contracts between the government and several influential private contractors, but was rebuffed. Still apparently uncomfortable with Rainsy's position, Prince Ranariddh —in a move that many analysts saw as a power play, a flexing of his political muscle as leader of FUNCINPEC—lobbied to have Rainsy ousted from the party as well. He was successful, and Rainsy was expelled in May.

Things did not stop there, though. Ranariddh then sought to have Rainsy expelled from Parliament on the grounds that he was elected as a member of a specific party and that, having decided to leave that party, should not be allowed to keep his seat. At one point, he even threatened to resign if Rainsy was not expelled. Rainsy waged an international campaign to retain his seat, arguing that he was elected by the voters of Siem Reap to represent them and not the party. He was not successful, however. Rainsy was expelled by a 9 to 3 vote by a permanent committee of the assembly headed by assembly Chairman Chea Sim, his deputy, and several standing committee chairmen.

I view this move with great concern. Mr. President, this situation would be analogous to a Member of the U.S. House of Representatives deciding to vote against the party line or change her party affiliation—a move with which we are not unfamiliar—and consequently being unseated and replaced by the House leadership. The move was made without a vote of the assembly, or recourse to the Member's constituency; in fact, that the vote would be on the committee agenda was secret from its members until they had gathered to vote on unrelated legislation. Moreover, yesterday a report in the Hong Kong press indicated that at least two of the deputies whom purportedly signed the expulsion petition—Prince Norodom Sirivut and another MP who preferred to remain anonymous—have said they did no such thing. This is not how representative government works.

The point behind the expulsion is clear: internal discontent with the leader of the government will not be tolerated. The move is sure to have a chilling effect on other MP's who do not toe the exact party line such as Ieng Muli, the present Information Minister and member of the Buddhist Liberal Democratic Party. It also signals a severe blow to what many saw as the only opposition voice to the government outside the Khmer Rouge. I fear that it signals the transformation of the National Assembly from an open deliberative body into one that simply serves to rubber-stamp the decisions of the leadership. As one MP put it, if the No. 2 man in the country's largest party can be brought down, regardless of the wishes of his constituents, solely for the reason of expressing his personal and political opinions, then who is safe?

Mr. President, I realize that my disapproval will likely mean little to the forces allied against Sam Rainsy. But they should know that I and other Members are watching them closely, and with each increasing threat they pose to democracy there they make one less friend here, and make much less likely the coming forth of support—economic or otherwise—for their country.●

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Senate proceed to executive session and immediately proceed to executive calendar nomination numbers 196 through 204, and all nominations be placed on the Secretary's desk in the Air Force, Army, Navy, en bloc; I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table en bloc, and any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

AIR FORCE

The following-named officer for reappointment to the grade of general while assigned to a position of importance and responsibility under title 10, United States Code, section 601:

To be general

Gen. James L. Jamerso [redacted], United States Air Force.

ARMY

The following-named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be lieutenant general

Lt. Gen. Kenneth R. Wykl [redacted], United States Army.

The following-named officer for appointment to the grade of lieutenant general while assigned to a position of importance and responsibility under title 10, United States Code, section 601(a):

To be lieutenant general

Maj. Gen. Hubert G. Smit [redacted], United States Army.

The following United States Army National Guard officers for promotion in the Reserve of the Army to the grades indicated under Title 10, United States Code, sections 3385, 3392 and 12203(a).

To be major general

Brig. Gen. Crayton M. Bower [redacted]
Brig. Gen. James D. Davis [redacted]
Brig. Gen. Robert J. Mitchel [redacted]
Brig. Gen. John E. Prendergas [redacted]
Brig. Gen. Robert E. Schult [redacted]
Brig. Gen. Walter L. Stewart, Jr. [redacted]
Brig. Gen. Carroll Thackstor [redacted]

To be brigadier general

Col. Lance A. Talmage, Sr [redacted]
Col. Robert A. Morgar [redacted]
Col. John E. Blair [redacted]
Col. Phillip O. Peay [redacted]
Col. Robert D. Whitworth [redacted]
Col. Ronald W. Henry [redacted]
Col. Vandiver H. Carter [redacted]
Col. Troy B. Oliver [redacted]
Col. Don C. Morrow [redacted]
Col. Smythe J. Williams [redacted]
Col. William W. Austin [redacted]
Col. Jean A. Romney [redacted]
Col. James T. Dunn [redacted]

Col. Paul T. Ot[redacted]
Col. Reid K. Beveridge[redacted]
Col. Bertus L. Sisc[redacted]
Col. Jim E. Morforc[redacted]
Col. Willie A. Alexander[redacted]
Col. Steven P. Solomon[redacted]
Col. Jerry V. Grizzle[redacted]
Col. James V. Torgerson[redacted]

NAVY

The following-named Rear Admirals (lower half) in the line of the United States Navy for promotion to the permanent grade of Rear Admiral, pursuant to title 10, United States Code, section 624, subject to qualifications therefore as provided by law:

UNRESTRICTED LINE OFFICER

To be rear admiral

Rear Adm. (lh) Charles Stevens Abbot[redacted] [redacted] U.S. Navy

Rear Adm. (lh) Michael Lee Bowman[redacted] [redacted] U.S. Navy

Rear Adm. (lh) Frank Matthew Dirren, Jr., [redacted] U.S. Navy

Rear Adm. (lh) Marsha Johnson Evans[redacted] [redacted] U.S. Navy

Rear Adm. (lh) Henry Collins Giffin, III, [redacted] U.S. Navy

Rear Adm. (lh) Lee Fredric Gunn, [redacted] [redacted] U.S. Navy

Rear Adm. (lh) Michael Donald Haskins, [redacted] U.S. Navy

Rear Adm. (lh) Henry Francis Herrera, [redacted] [redacted] U.S. Navy

Rear Adm. (lh) Francis William Lacroix, [redacted] U.S. Navy

Rear Adm. (lh) Thomas Fletcher Marfiak, [redacted] U.S. Navy

Rear Adm. (lh) Richard Willard Mies[redacted] [redacted] U.S. Navy

Rear Adm. (lh) Robert Joseph Natter, [redacted] [redacted] U.S. Navy

Rear Adm. (lh) Robert Michael Nutwell, [redacted] U.S. Navy

Rear Adm. (lh) James Gregory Prout III, [redacted] U.S. Navy

Rear Adm. (lh) James Reynolds Stark, [redacted] [redacted] U.S. Navy

Rear Adm. (lh) Robert Sutto[redacted], U.S. Navy

Rear Adm. (lh) Jay Bradford Yakeley III, [redacted] U.S. Navy

ENGINEERING DUTY OFFICER

To be rear admiral

Rear Adm. (lh) Paul Matthew Robinson, [redacted] U.S. Navy

The following-named captains in the staff corps of the Navy for promotion to the permanent grade of rear admiral (lower half), pursuant to title 10, United States Code, section 624, subject to qualification therefore as provided by law:

MEDICAL CORPS

To be rear admiral (lower half)

Capt. Michael Lynn Cowa[redacted], United States Navy

SUPPLY CORPS

To be rear admiral

Capt. Raymond Aubrey Archer III, 283–38–0393, United States Navy

Capt. Justin Daniel McCarth[redacted], United States Navy

Capt. Paul Oscar Soderber[redacted], United States Navy

CIVIL ENGINEERING CORPS

To be rear admiral (lower half)

Capt. Robert Lewis Moelle[redacted], United States Navy

Capt. Michael William Shelto[redacted], United States Navy

MEDICAL SERVICE CORPS

To be rear admiral (lower half)

Capt. Harold Edward Phillip[redacted], United States Navy

MARINE CORPS

The following named officer for appointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Paul K. Van Ripe[redacted]

The following named officer for reappointment to the grade of lieutenant general in the United States Marine Corps while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Charles E. Wilheln[redacted]

The following named officer to be placed on the retired list in the grade indicated under the provisions of title 10, United States Code, section 1370:

To be general

Gen. Carl E. Mundy, Jr[redacted] United States Marine Corps.

IN THE AIR FORCE, ARMY, NAVY

Air Force nominations beginning Danny N. Armstrong, and ending James R. Wilson, which nominations were received by the Senate and appeared in the Congressional Record of April 24, 1995

Air Force nominations beginning Maj. William M. Altman, III, and ending Maj. Philip M. Abshere, which nomination were received by the Senate and appeared in the Congressional Record of May 23, 1995

Army nominations beginning Richard F. Anderson, and ending Igwekala E. Njoku, which nominations were received by the Senate and appeared in the Congressional Record of May 19, 1995

Army nominations beginning Ronald C. Bredlow, and ending Kay F. Stanton, which nominations were received by the Senate and appeared in the Congressional Record of May 19, 1995

Army nominations beginning James E. Agnew, and ending Jeffrey M. Young, which nominations were received by the Senate and appeared in the Congressional Record of May 19, 1995

Army nominations beginning Robert T * Aarhus, and ending Annette L * Wuest, which nominations were received by the Senate and appeared in the Congressional Record of May 19, 1995

Army nominations of Robert G. Kowalski, which was received by the Senate and appeared in the Congressional Record of May 23, 1995

Army nominations beginning Joseph F. Miller, and ending Douglas A. Schow, which nominations were received by the Senate and appeared in the Congressional Record of May 23, 1995

Navy nominations beginning Vincent John Andrews, and ending Jerry F. Rea, which nominations were received by the Senate and appeared in the Congressional Record of March 23, 1995

Navy nominations beginning Robert J. Adams, and ending Georgene B. Waecker, which nominations were received by the Senate and appeared in the Congressional Record of April 24, 1995

Navy nominations beginning Milton D. Abner, and ending Thomas G. Warner, which nominations were received by the Senate and appeared in the Congressional Record of Ma, 1995

Navy nominations beginning Camilo L. Abalos, and ending Charlotte A. Thompson, which nominations were received by the Senate and appeared in the Congressional Record of May 19, 1995

Navy nominations beginning Carlton L. Jones, and ending Patrick C. Wrencher, which nominations were received by the Senate and appeared in the Congressional Record of May 23, 1995

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO PEACE AND STABILITY IN THE SOUTH CHINA SEA

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of calendar number 129, Senate Resolution 97.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 97) expressing the sense of the Senate with respect to peace and stability in the South China Sea.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution, which had been reported from the Committee on Foreign Relations with amendments; as follows:

(The parts of the resolution intended to be stricken are shown in boldface brackets and the parts of the resolution intended to be inserted are shown in italic.)

S. RES. 97

Whereas the South China Sea is a strategically important waterway through which transits approximately 25 percent of the World's ocean freight, including almost 70 percent of Japan's oil supply;

Whereas the South China Sea serves as a crucial sea lane for naval vessels of the United States and other countries, especially in times of emergency;

Whereas the People's Republic of China, the Republic of the Philippines, the Socialist Republic of Vietnam, the Republic of China on Taiwan, the State of Brunei Darussalam, and Malaysia have overlapping and mutually exclusive claims to portions of the South China Sea, especially in the Spratly Island group;

Whereas some of the nations which have claims to portions of the South China Sea are modernizing their military forces, strengthening their ability to project power outside their domestic boundaries, and consequently, are altering the strategic balance of power in the region;

Whereas this power projection capability further drives the concern of nations with territorial claims over acts of aggression in the South China Sea by other nations with claims;

Whereas these competing claims have led to armed conflicts between several of the claimants;

Whereas these conflicts threaten the peace and stability of all of East Asia; and

Whereas the 1992 Manila Declaration of the Association of South East Asian Nations, also recognized by the Socialist Republic of Vietnam and the People's Republic of China, calls on the claimants to exercise restraint and seek a peaceful negotiated solution to the conflicts: Now, therefore, be it

Resolved, That the Senate—

(1) [urges the executive branch to reiterate] *reiterates* to the claimants in the South China Sea that the United States does not take a position on any individual claim;

(2) calls upon all of the claimants to refrain from using military force *or similarly aggressive action* to assert or expand territorial claims in the South China Sea;

(3) urges the executive branch to declare the active support of the United States for the 1992 Manila Declaration of the Association of South East Asian Nations, and calls upon all the claimants to observe faithfully its provisions; and

[(4) calls upon the claimants to scrupulously observe the January, 1995 status quo ante pending any negotiations or resolution of the conflicts between such claimants over such claims.]

(4) would view with profound concern and disapproval any maritime claim or restriction on maritime activity in the South China Sea not strictly consistent with international law.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the resolution, as amended, be considered and agreed to, the preamble as amended be agreed to, and the motion to reconsider be laid upon the table, and any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 97), as amended, was considered and agreed to.

The preamble, as amended, was agreed to.

The resolution, as amended, with its preamble, as amended, is as follows:

The resolution was not available for printing. It will appear in a future issue of the RECORD.

ORDER FOR STAR PRINT—REPORT TO ACCOMPANY S. 240

Mr. D'AMATO. Mr. President, I ask unanimous consent that the report accompanying S. 240 be star printed to reflect the following changes, which I now send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR FRIDAY, JUNE 23, 1995

Mr. D'AMATO. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 9 a.m., on Friday, June 23, 1995, that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until the hour of 9:30 a.m., with Senators to speak for up to 5 minutes each with the exception of the following: Senator DORGAN, 20 minutes, and Senator BAUCUS, 10 minutes.

Further, that at the hour of 9:30 the Senate resume consideration of S. 240, the securities litigation bill and that Senator SHELBY be immediately recognized to offer an amendment relating to proportional liability, and that at the hour of 10:55 a.m., the Senate proceed to a vote on or in relation to the Shelby amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. D'AMATO. For the information of all Senators, the Senate will resume consideration of the securities bill tomorrow at 9:30. Under the previous order the Senate will vote on or in relation to the Shelby amendment regarding proportional liability at 10:55 a.m.

RECESS UNTIL 9 A.M. TOMORROW

Mr. D'AMATO. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 10:34 p.m., recessed until Friday, June 23, 1995, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 22, 1995:

THE JUDICIARY

TENA CAMPBELL, OF UTAH, TO BE U.S. DISTRICT JUDGE FOR THE DISTRICT OF UTAH, VICE BRUCE S. JENKINS, RETIRED.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 22, 1995:

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be general

GEN. JAMES L. JAMERSON [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be lieutenant general

LT. GEN. KENNETH R. WYKLE [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. HUBERT G. SMITH [redacted]

THE FOLLOWING UNITED STATES ARMY NATIONAL GUARD OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, UNITED STATES CODE SECTIONS 3385, 3392 AND 12203(A):

To be major general

BRIG. GEN. CRAYTON M. BOWEN [redacted]
BRIG. GEN. JAMES D. DAVIS [redacted]
BRIG. GEN. ROBERT J. MITCHELL [redacted]
BRIG. GEN. JOHN E. PRENDERGAST [redacted]
BRIG. GEN. ROBERT E. SCHULTE [redacted]
BRIG. GEN. WALTER L. STEWART, JR. [redacted]
BRIG. GEN. CARROLL THACKSTON [redacted]

To be brigadier general

COL. LANCE A. TALMAGE, SR. [redacted]

COL. ROBERT A. MORGAN [redacted]
COL. JOHN E. BLAIR [redacted]
COL. PHILLIP O. PEAY [redacted]
COL. ROBERT D. WHITWORTH [redacted]
COL. RONALD W. HENRY [redacted]
COL. VANDIVER H. CARTER [redacted]
COL. TROY B. OLIVER [redacted]
COL. DON C. MORROW [redacted]
COL. SMYTHE J. WILLIAMS [redacted]
COL. WILLIAM W. AUSTIN [redacted]
COL. JEAN A. ROMNEY [redacted]
COL. JAMES T. DUNN [redacted]
COL. PAUL T. OTT [redacted]
COL. REID K. BEVERIDGE [redacted]
COL. BERTUS L. SISCO [redacted]
COL. JIM E. MORFORD [redacted]
COL. WILLIE A. ALEXANDER [redacted]
COL. STEVEN P. SOLOMON [redacted]
COL. JERRY V. GRIZZLE [redacted]
COL. JAMES V. TORGERSON [redacted]

IN THE NAVY

THE FOLLOWING-NAMED REAR ADMIRALS (LOWER HALF) IN THE LINE OF THE UNITED STATES NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

UNRESTRICTED LINE OFFICER

To be rear admiral

REAR ADM. (LH) CHARLES STEVENS ABBOT [redacted]
REAR ADM. (LH) MICHAEL LEE BOWMAN [redacted]
REAR ADM. (LH) FRANK MATTHEW DIRREN, JR. [redacted]
REAR ADM. (LH) MARSHA JOHNSON EVANS [redacted]
REAR ADM. (LH) HENRY COLLINS GIFFIN, III [redacted]
REAR ADM. (LH) LEE FREDRIC GUNN [redacted]
REAR ADM. (LH) MICHAEL DONALD HASKINS [redacted]
REAR ADM. (LH) HENRY FRANCIS HERRERA [redacted]
REAR ADM. (LH) FRANCIS WILLIAM LACROIX [redacted]
REAR ADM. (LH) THOMAS FLETCHER MARFIAK [redacted]
REAR ADM. (LH) RICHARD WILLIAM MIES [redacted]
REAR ADM. (LH) ROBERT JOSEPH NATTER [redacted]
REAR ADM. (LH) ROBERT MICHAEL NUTWELL [redacted]
REAR ADM. (LH) JAMES GREGORY PROUT, III [redacted]
REAR ADM. (LH) JAMES REYNOLDS STARK [redacted]
REAR ADM. (LH) ROBERT SUTTON [redacted]
REAR ADM. (LH) JAY BRADFORD YAKELEY, III [redacted]

ENGINEERING DUTY OFFICER

To be rear admiral

REAR ADM. (LH) PAUL MATTHEW ROBINSON [redacted]

THE FOLLOWING-NAMED CAPTAINS IN THE STAFF CORPS OF THE NAVY FOR PROMOTION TO THE PERMANENT GRADE OF REAR ADMIRAL (LOWER HALF), PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 624, SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW:

MEDICAL CORPS

To be rear admiral (lower half)

CAPT. MICHAEL LYNN COWAN [redacted]

SUPPLY CORPS

To be rear admiral

CAPT. RAYMOND AUBREY ARCHER III [redacted]
CAPT. JUSTIN DANIEL MCCARTHY [redacted]
CAPT. PAUL OSCAR SODERBERG [redacted]

CIVIL ENGINEER CORPS

To be rear admiral (lower half)

CAPT. ROBERT LEWIS MOELLER [redacted]
CAPT. MICHAEL WILLIAM SHELTON [redacted]

MEDICAL SERVICE CORPS

To be rear admiral (lower half)

CAPT. HAROLD EDWARD PHILLIPS [redacted]

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. PAUL K. VAN RIPER [redacted]

THE FOLLOWING NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL IN THE UNITED STATES MARINE CORPS WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

LT. GEN. CHARLES E. WILHELM [redacted]

THE FOLLOWING NAMED OFFICER TO BE PLACED ON THE RETIRED LIST IN THE GRADE INDICATED UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 1370:

To be general

GEN. CARL E. MUNDY, JR. [redacted]

IN THE AIR FORCE

AIR FORCE NOMINATIONS BEGINNING DANNY N. ARMSTRONG, AND ENDING JAMES R. WILSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 24, 1995.

AIR FORCE NOMINATIONS BEGINNING MAJOR WILLIAM M. ALTMAN III, AND ENDING MAJOR PHILIP M. ABSHERE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 23, 1995.

IN THE ARMY

ARMY NOMINATIONS BEGINNING RICHARD F. ANDERSON, AND ENDING IGWEKALA E. NJOKU, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 19, 1995.

ARMY NOMINATIONS BEGINNING RONALD C. BREDLOW, AND ENDING KAY F. STANTON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 19, 1995.

ARMY NOMINATIONS BEGINNING JAMES E. AGNEW, AND ENDING JEFFREY M. YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 19, 1995.

ARMY NOMINATIONS BEGINNING *ROBERT T. AARHUS, AND ENDING *ANNETTE L. WUEST, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 19, 1995.

ARMY NOMINATION OF ROBERT G. KOWALSKI, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF MAY 23, 1995.

ARMY NOMINATIONS BEGINNING JOSEPH F. MILLER, AND ENDING DOUGLAS A. SCHOW, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 23, 1995.

IN THE NAVY

NAVY NOMINATIONS BEGINNING VINCENT J. ANDREWS, AND ENDING JERRY F. REA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 23, 1995.

NAVY NOMINATIONS BEGINNING ROBERT J. ADAMS, AND ENDING GEORGENE B. WAECKER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON APRIL 24, 1995.

NAVY NOMINATIONS BEGINNING MILTON D. ABNER, AND ENDING THOMAS G. WARNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 11, 1995.

NAVY NOMINATIONS BEGINNING CAMILO L. ABALOS, AND ENDING CHARLOTTE A. THOMPSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 19, 1995.

NAVY NOMINATIONS BEGINNING CARLTON L. JONES, AND ENDING PATRICK C. WRENCHER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 23, 1995.

WITHDRAWAL

Executive message transmitted by the President to the Senate on June 22, 1995, withdrawing from further Senate consideration the following nomination:

U.S. MARINE CORPS

I WITHDRAW THE NOMINATION OF:

THE FOLLOWING-NAMED OFFICER FOR REAPPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601, WHICH WAS FORWARDED ON MAY 15, 1995:

To be lieutenant general

LT. GEN. GEORGE R. CHRISTMAS [redacted]

EXTENSIONS OF REMARKS

AMERICA NEEDS THE MARITIME SECURITY ACT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. SOLOMON. Mr. Speaker, 50 years ago our world was entrenched in a brutal world war that transformed many facets of the global arena. We would not have won World War II if it were not for the strength of the U.S. merchant marine. If our Nation is to continue being a world leader, we must strengthen our merchant marine fleet. Once the largest in the world, the 5,000-ship fleet has been diminished to a mere 375 ships. We as a Nation cannot afford to lose anymore ground to the countries who are taking over the worlds oceans.

Many people ask where a threat is coming from that justifies the cost of strengthening the U.S. merchant marine. I would answer that question with a question. Think back to the night of November 9, 1989, just 6 years ago, when we all rejoiced to see the Berlin Wall being breached and the many Berliners who were dancing at the Brandenburg Gate.

On that night when we celebrated the lifting of the Iron Curtain in Europe and the downfall of the former Soviet Empire, who could have imagined that only 14 months later more than 1 million troops would be poised for battle in the Persian Gulf? Who could have imagined that the United States and its allies would shortly have to begin the largest logistical movement of troops and material since World War II?

My point is simply this: The world remains an extraordinarily dangerous and unpredictable place. There is room for legitimate argument about what the specific priorities in the defense budget should be. But there can be little doubt that we are rapidly reaching the point where America's defense maritime capabilities will be in real jeopardy. This is a risk our country cannot afford to take and we should do anything in our power to see to it that America never repeats the mistakes of the past, the mistakes that produced a hollow military as recently as the late 1970's.

A strong U.S. flag ship fleet will also lead to many economic benefits for our Nation. The creation of over 100,000 at sea and ashore would bring in over $4.5 billion in household earnings. With major seaports on three coasts, there is no reason why there should not be hundreds of ships being built. At the present time there are only two ships being built in U.S. ports. This production level puts the United States behind Brazil, Croatia, and even Romania in shipbuilding. We cannot afford to lose the technological shipbuilding capabilities that we have at our disposal in America.

If something is not done today to strengthen our merchant marine fleet, the size of the fleet could drop to 100 ships. We are already 16th in the world in fleet size and we simply cannot drop any further. No world power has ever survived without a merchant fleet and we cannot afford to lose more ground in the global competition.

That is why Congress is now taking steps to fortify our Nation's merchant marine. House Resolution 1350—the Maritime Security Act—which I wholeheartedly support and have sponsored, will stabilize our national security fleet. This bill proposes that $2 million be set aside each year for 10 years in order to increase the amount of merchant vessels in the U.S. fleet. This same bill passed the House last year, but stalled in the Senate. This year, however, Senator TRENT LOTT has spearheaded the drive to get this bill through the Senate and he believes that this year will be different.

Aside from creating hundreds of thousands of jobs and enhancing our economic base in the maritime industry, the Maritime Security Act will ensure security overseas for all American citizens who depend on the merchant marines. During the Persian Gulf war over 20 percent of goods, ammunition, and supplies were transported on foreign subsidized flag ships. Some of these ships refused to enter into enemy waters to deliver vital goods to our soldiers. This fact is frightening. If we do not strengthen our merchant marine fleet, we will be putting our men and women in the Armed Forces in tremendous danger.

The United States must have a strong fleet of American ships with American trained crews to supply our troops in the event of an emergency or war. During World War II, our own merchant fleet with its American crews sacrificed their lives to provide their comrades in foreign lands with needed supplies. We need to have that security in today's world also, for there are thousands of men and women in the Armed Forces overseas who must not be neglected.

The United States has many global interests that must be preserved. In order to maintain these interests and further America's lead in the global sphere, we must have access to foreign markets through the oceans. The Maritime Security Act will be the first step toward accomplishing that goal by strengthening America's merchant marine fleet. I urge support for this vital legislation.

THE PRESIDENT'S BALANCED BUDGET PLAN

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. HAMILTON of Indiana. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 21, 1995 into the CONGRESSIONAL RECORD.

THE PRESIDENT'S BALANCED BUDGET PLAN

In a nationally televised speech President Clinton recently joined congressional leaders in calling for an historic reduction in the federal budget deficit and for a reduction in the size of government. He stepped from the sidelines on the budget debate and laid out a ten-year route to a balanced budget which dramatically scales back much of what government does. He wants to balance the budget by the year 2005 while still investing in education and training, taking serious steps toward health care reform while protecting its beneficiaries, and targeting modest tax cuts to working families. He calls for real cuts in most areas of government spending other than Social Security.

DIFFERENCES

Although the President and congressional leadership agree on the broad outlines of balancing the budget, many differences remain. President Clinton would balance the budget over ten years; their plan says seven. He would cut taxes only for the middle class; the House leadership would also cut taxes for upper-income taxpayers. And their tax cuts would be much more costly—$350 billion versus the $96 billion the President proposes. The President eliminates $25 billion in corporate subsidies; they would not. He trims spending for the poor while they cut it sharply. He squeezes Medicare and Medicaid; they cut back these programs much more. Both he and the congressional leadership reach a balanced budget by making fairly optimistic economic projections, such as assuming that interest rates will fall sharply.

The President increases spending on education, training, and medical and scientific research, areas the congressional leadership would cut. On health care the President offers a plan far less ambitious than his original health care reform proposal of a year ago. But he does propose to save $124 billion from Medicare and $55 billion from Medicaid; the congressional leadership's cutbacks would be more than twice as much. He reaches the Medicare savings by reducing growth in health care costs, not by asking beneficiaries to pay more.

NEW STRATEGY

The President has clearly chosen the path of conciliation as a better way for him than continued confrontation with the congressional leadership. He dropped his stand-pat budget which he submitted to Congress in February and joins the chorus to eliminate the deficit. The President has received sharp criticism from some members of his own party as well as some indications of openness from the congressional leadership. He is positioning himself as an independent, centrist leader. He has rightly rejected the strategy of just counterpunching against congressional budget proposals and has indicated that he believes a President's responsibilities rise above politics to leadership.

GROWING CONSENSUS

There isn't any doubt that Congress and the President are now very serious about bringing the budget into balance. That means the question is not whether to balance the budget into balance. That means the question is not whether to balance the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

budget but when and how. This is good news. The federal budget has been in the red every year but one, 1969, since the Eisenhower Administration. Public opinion polls which show 80% of the American people favoring a balanced budget have had a strong impact. But quite apart from politics, the economic arguments for a balanced budget are also very strong. Consistently large budget deficits endanger the country's economic future and cheat future generations of Americans. Balancing the budget will increase national savings and that means greater national investment in physical, human, and technological capital. That in turn will increase productivity and boost incomes for Americans.

Many Americans believe that balancing the budget is not just an economic issue but almost a moral issue—that the government's inability to balance the budget means the country has lost a moral sense of fiscal responsibility. They see the huge deficits as shifting the burden to the next generation. Others look at deficits as shifting the burden to the next generation. Others look at deficits in more practical terms. They see no great harm with a deficit in any one year, but believe the continuing deficits undermine the economic underpinnings of the country. So a growing consensus has come to the view that deficit spending must end.

The details of balancing the budget still remain. In the current political climate neither Social Security nor defense spending can be cut and taxes cannot be raised. That puts enormous pressure on a rather small part of the government's total budget composed of Medicare, Medicaid, and other social welfare programs. Rather than gutting important programs such as health care for older Americans, our emphasis needs to be on reforms to make government work better and cost less.

ASSESSMENT

I think the President's new position on the budget is much better than his old one. He now wants to continue the deficit reduction that he started in the first two years of his administration, but he wants to do it more gently than others have proposed. Cutting the deficit too hard too fast could lead to a lot of pain which could undermine political support for a balanced budget. The President believes that a more gradual approach increases the chances of getting to a balanced budget.

I believe that both the congressional leadership and the President are wrong in providing for tax cuts now. The President's tax cut is much smaller and more targeted than the congressional leadership's. By the stretchout in years and the smaller tax cut he gets to his goal of a balanced budget without cutting as much from important programs like Medicare. But I believe any tax cut at this time is a bad idea. It does not make sense to me to borrow more money to provide a tax cut now. It is better to cut the spending, get the budget into balance, and then give ourselves a tax cut. We simply make the problem much more difficult if we add to the deficit we want to reduce.

Although I disagree with some of its specifics, I think the President has put forth a sensible plan for budgetary discipline. I am pleased to see that both parties are now on the same course. At the same time, no one should think the battle has been won. Much of the budget debate from this point on will be seen more as a skirmish over details, but some major decisions still lie ahead.

TRIBUTE TO MAJ. GEN. ENOCH H. WILLIAMS

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. TOWNS. Mr. Speaker, I rise today with pleasure to pay tribute to an extraordinary public servant from Brooklyn, NY—Maj. Gen. Enoch H. Williams. General Williams retired as Commander of the New York Army National Guard on May 31, 1995, after over 30 years of active military service.

Major General Williams earned his commission in 1950 after serving as an enlisted member during World War II. Rising from the rank of second lieutenant to colonel, he served in many positions, among them—artillery officer, transportation officer, liaison to the Deputy Chief of Staff for Logistics, and Commander of Selective Service, and Headquarters Detachment. General Williams was appointed commander of the New York Army National Guard in 1990. His military education includes Field Artillery School, the Air Defense School Command and General Staff Colllege, and the Industrial War College. Military decorations General Williams has earned include the Legion of Merit, Army Commendation Medal, and both the Bronze and Silver Selective Service System Meritorious Service Medals.

General Williams received a B.S. in business management from Long Island University. He also attended New York University and the New School for Social Research.

In his civilian occupation, General Williams is serving his fifth term as a New York City councilman, representing the 41st Councilmanic District. The 41st district covers the multiethnic Brooklyn communities of Bedford-Stuyvesant, Brownsville, East Flatbush, and Crown Heights. General Williams also gives freely of his time to serve in many governmental positions. He is a member of the American Institute of Housing Consultants, Community Service Society, and the New York Urban League. He is currently civilian director of the New York City Selective Service System. General Williams' dedicated service to the U.S. military merits special recognition. I take great pleasure and pride in entering these words of commendation into the RECORD.

IN TRIBUTE TO LT. GEN. CHARLES DOMINY

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. WOLF. Mr. Speaker, I am pleased to rise today to recognize the service of Lt. Gen. Charles E. Dominy to the U.S. Army and to our Nation as he prepares to retire.

General Dominy's career in the Army has spanned 33 years, including his service as a cadet at the U.S. Military Academy. During these three decades he has served our Nation in a number of important capacities. In his final assignment prior to retirement, General Dominy serves as chief of the Army legislative liaison and as director of the U.S. Army staff, a position from which he has had to confront the numerous issues and developments surrounding the Armed Forces in the 1990's. His work has received widespread praise and commendation.

As chief of the Army's Office of Legislative Liaison, he worked with Members of Congress and their staffs on the numerous issues affecting our Nation's military. Before his tenure in Washington, General Dominy was a platoon leader as well as a leader and trainer for Army troops.

Mr. Speaker, I want to thank Lt. Gen. Charles Dominy for all of his dedicated service and hard work, and I am honored to join with his family, friends, and colleagues in recognizing his accomplishments and wishing him well in his future endeavors.

EDSAT

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. BROWN of California. Mr. Speaker, today Congresswoman CONNIE MORELLA and I will be reintroducing legislation designed to facilitate the development of an integrated, nationwide telecommunications system dedicated to education. This bill would guarantee the acquisition of a satellite system to be used solely for communications among State and local instructional resource providers.

Certainly every student in America deserves equal access to quality education. Unfortunately, not every small rural or poor inner-city school can afford to hire specialized instructors to provide the education for children the way that schools in larger and wealthier communities can.

One way to bridge this gap is through the use of satellite technology for distance learning. With the efficient use of an integrated, satellite-based communications system linked by cable and telephone lines, distance learning can provide children access to vase educational resources, regardless of wealth or geographic location.

I have long been interested in helping to strengthen and improve the utilization of telecommunications in the U.S. economy and educational institutions. The need for a satellite dedicated solely to education programming has been apparent since the issue was raised at the 1989 education summit. Since that time, the nonprofit National Education Telecommunications Organization [NETO], along with its wholly owned subsidiary, the Education Satellite Corp. [EDSAT], has been working to improve the availability of educational programming for schools, universities, and libraries across the country.

The EDSAT Institute found that while the education sector is expanding and investing heavily in telecommunications systems, they are often not able to commit to expensive long-term contracts with satellite providers. This puts them at a competitive disadvantage with other buyers of satellite time. In addition, as occasional users, the education sector is forced to pay high and variable prices for undependable services.

Finally, the current system is set up so that educational programs are often spread out among 12 to 15 satellites. Every time the user wants to switch to a different program, they have to adjust their satellite dish. NETO's goal is to create the infrastructure necessary to establish an integrated telecommunications system at affordable costs to the education sector.

Dedicating a satellite for education and collocating programming that is now scattered across numerous satellites will allow schools to receive far more educational programming—without constantly reorienting their satellite dishes. Collocation will also enhance the marketing of programming, reduce technical problems, and stabilize the pricing of satellite time.

Federal backing of such a system will not only heighten the educational opportunities for our children, but it will also benefit State and local educational agencies by ultimately reducing their expenses for satellite services and equipment. Further, while distance learning can never replace classroom teachers, it does provide educators with an additional tool with which to teach.

This is just the first step and certainly not the only answer to solving the problems that schools face in using satellites. However, I believe that it is an important step for the Federal Government to take to help encourage the use of technology in the education sector. Improving the accessibility and quality of education will help our children and our national economy as a whole to become stronger and more competitive in the global marketplace.

INTRODUCTION OF LEGISLATION TO ESTABLISH DISTANCE LEARNING THROUGH SATELLITE TECHNOLOGY

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mrs. MORELLA. Mr. Speaker, America's distance education programs are in jeopardy. Escalating costs and a decline in the availability of satellite capacity are putting distance learning programs across the country at risk.

The distance education industry in the United States provides a much needed service to health facilities and schools in hard-to-reach areas. More than 90 American colleges provide education and instruction to school districts, colleges, and libraries, nationally and internationally. If we do not address the shortage in satellite capacity and the increased costs, these programs will be curtailed.

The legislation that I am introducing today would create an adequate satellite system dedicated to education. My bill would authorize the Secretary of Commerce to carry out a loan guarantee program under which a nonprofit, public corporation could borrow funds to buy or lease satellites dedicated to instructional programming. Distance learning programs, which are now scattered across numerous satellites, could be collocated into one satellite. This will facilitate access to educational programming, reduce technical problems, and stabilize costs.

A satellite dedicated to education is an obvious way to improve educational opportunities for all Americans. An education satellite would afford students a high quality of education regardless of where they live or how much money they make.

An education satellite will enable students in rural America to take advanced placement chemistry, even though their school district does not have an advanced chemistry teacher. An education satellite will ensure that hearing-impaired students will have access to instructors that are certified in sign language. An education satellite will excite young minds and bring the finest instructors to our inner cities, where they are most needed.

I have long supported the establishment of an education satellite through my involvement with the Education Satellite Corp. [EDSAT], a subsidiary of the nonprofit National Education Telecommunications Organization [NETO]. This organization has been working to enhance educational opportunities for our Nation's students through distance learning technology.

Other countries have education satellites. Japan and Great Britain recognize the important role that television plays in education. Japan relies heavily on in-school use of television to education children, and the British require all stations, commercial and noncommercial, to carry educational and informative programming for children.

An education satellite is in the Nation's best interest. A satellite-based infrastructure dedicated to education will bring equity to our educational system. While distance learning will never replace classroom teachers, it does provide educators with an additional tool with which to teach. An education satellite will afford all Americans the opportunity they deserve to achieve their fullest potential.

PROTECT CALIFORNIA'S ECONOMY AND BEAUTY: KEEP THE BAN ON OFFSHORE OIL DRILLING

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. FILNER. Mr. Speaker, for more than 14 years, Californians have enjoyed protection from the dangers of offshore oil drilling. It is imperative that the moratorium on offshore oil drilling be extended permanently.

This is an issue on which all Californians agree:

First, local, State, and Federal elected officials support the ban: I have been contacted by Governor Wilson, our representatives in the State legislature, and our local city councils in support of extending the ban.

Second, business and environmentalist leaders support the ban: at a recent press conference in San Diego, business, environmental, and tourism officials came together to indicate their support for the permanent extension of the ban on offshore oil drilling.

Third, the voters of San Diego agree: in 1986, more than 75 percent of San Diegans voted in favor of a ban on offshore oil drilling within 100 miles of our coast.

Our key concern is the devastation that oil drilling would cause to San Diego's $3.6 billion-a-year tourism industry! Quite frankly, the small amount of oil that some people guess is available in our kelp beds is simply not worth the damage to our economy that offshore oil drilling would cause.

We all know—no matter how careful we are—accidents happen. We cannot—we will not—accept the risk of offshore oil drilling so that a few large oil companies can add to their wealth. We will not allow the economic and environmental damage caused in Santa Barbara, Prince William Sound, or the Gulf of Mexico to be repeated anywhere on California's coast.

We urge this Congress to act now and protect California's economy and beauty—extend the ban on offshore oil drilling permanently.

INTRODUCTION OF THE CENTRAL VALLEY PROJECT REFORM ACT OF 1995

HON. JOHN T. DOOLITTLE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. DOOLITTLE. Mr. Speaker, today, we are fulfilling another important part of our Contract With America; to bring Government to the people, to respond to their concerns on a bipartisan basis, to make Government more efficient. I have been contacted by members of the public from all sides of the political spectrum to address the issues of CVPIA implementation. There is general agreement that we must break new ground to improve our water management in California. Members on both sides of the aisle are here today to support new ways to approach these problems.

In 1992, Congress passed the Central Valley Project Improvement Act, which substantially altered the way water is managed in California. Among its major provisions, the CVPIA provided for 800,000 acre-feet of water from the CVP to be primarily dedicated to fish and wildlife. It also established the CVP restoration fund and assessed charges against both water and power interests into the fund.

We have spoken with a number of our constituents in California, including irrigation districts, municipalities, environmental organizations and power customers who have expressed concerns about the way certain provisions of the VCPIA are being implemented or interpreted. They would like to see these issues addressed.

It has become increasingly apparent that there are some provisions of the CVPIA that need modification. At the same time, there is recognition by all the parties that now is not the time for radical changes in the act, but rather, for well thought out improvements which ensure that the basic principles of the act are achieved in a manner which meets the real needs of the parties concerned. This bill provides reasonable and badly needed reforms. It also clarifies and builds on the Bay-Delta accord. It will ensure that there is no double-counting of the 800,000 acre-feet of water devoted to environmental programs under the original CVPIA.

Finally, we are returning common sense to the CVPIA in the area of water pricing. It was the stated intent of the CVPIA to create greater incentives for the conservation of water. Implementation of the act discouraged some good water practices. For instance, there are areas served by the Central Valley Project where there is significant overdraft of the aquifers. We need to provide opportunities for the recharge of underground acquifers. Tiered pricing was designed to charge higher prices as more water is used. In a year such as this, when we have significant amounts of water in California, it is foolish to have a policy that discourages a water district from recharging its aquifer.

The reforms we propose today are balanced. They address common sense issues which must be changed. It is a bipartisan bill which will improve California's ability to manage its water.

QUALITY MAMMOGRAPHY FOR OUR VETERANS

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. DINGELL. Mr. Speaker, I am pleased to add my name as a cosponsor of H.R. 882, which requires the Department of Veterans Affairs, consulting with the Secretary of Health and Human Services, to put in place standards that will ensure quality mammography for our veterans who receive their health care in Veterans Department facilities.

As a principal sponsor of the Mammography Quality Standards Act of 1992, I have been gratified to observe the impact of this legislation. The Department of Health and Human Services, through the Food and Drug Administration, moved quickly to establish and put in place a credible process for accrediting mammography facilities. As of today, more than 90 percent of the mammography facilities in the country have been certified as meeting the standards of the American College of Radiology. With its expert advisory committee, including input from mammography facilities themselves, the FDA continues to work toward development of additional standards as defined in the statute, which will be in place for future inspections and certification of facilities.

Breast cancer is the second leading cause of cancer deaths in American women. The potential success of treating this frightening and devastating illness is in large measure contingent on accurate early diagnosis. Since mammography is a critical and effective method for detecting breast cancer early, it is crucial that this service be available, safe, and accurate. The Mammography Quality Standards Act is intended to achieve this result, and early indications are that it is a whopping success.

The exemption of Veterans Affairs facilities from the requirements of the MQSA should not mean that women who seek mammograms in Veterans Department facilities must fear receiving lower quality service. H.R. 882 seeks to ensure that these facilities are in line with those of the rest of the country, so that our women veterans can be assured of the safest and highest quality mammography.

WALLACE GAILOR, SARATOGA COUNTY'S SANTA CLAUS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. SOLOMON. Mr. Speaker, I rise today to pay tribute to a man who has brought joy to the lives of countless children and adults alike in Saratoga County, NY. Wallace Gailor has portrayed a real-life Santa Claus since 1940, over 50 years now. Clearly, he personifies the sense of giving and caring exemplified by the mythical Santa Claus we all adore.

What better way, Mr. Speaker, to spread the spirit of Christmas than to voluntarily entertain one's neighbors for such a prolonged period of time. Much has changed in this country since 1940. However, thanks to Wallace Gailor, the depiction of Santa Claus around the communities of Saratoga County has remained a constant. His faithful service has bridged the gap by retaining those values which are critical for a healthy sense of community. By teaching such traditional American values as voluntarism, selflessness, and generosity, Wallace Gailor exemplifies the things that have made this country great. In the process, Wallace has become not only a great public servant, but a model for the young people of Saratoga County, a critical service in this day and age.

Mr. Speaker, I have always judged people based on how much they return to their community. By that measure, Wallace Gailor is a truly great American. I ask that you and all Members join me now in paying tribute to this real-life Santa Claus. We would all do well to emulate his spirit of community service and giving.

TRIBUTE TO SANFORD RUBENSTEIN

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. TOWNS. Mr. Speaker, Sanford A. Rubenstein is the majority leader of the Rockland County legislature. He has served five terms as a country legislator representing the town of Ramapo.

As a practicing lawyer he has been described by Joana Molloy of the New York Post as one of New York's "High Powered Personal Injury Attorneys." Rubenstein, for over 20 years has represented and presently represents victims of the city's most terrible tragedies which have been the subject of headlines in all of New Yorks daily newspapers. He has appeared on numerous television news and talks shows including "The Phil Donahue Show," "CNN World News," "Sally Jesse Raphael," "Montel Williams," "Good Day New York," and "The McCory Report". He hosts a weekly Manhattan cable television show called "Lawyers Corner". He also has been interviewed by foreign journalists from Melbourne, Australia and by the BBC in England.

He is a member of the board of directors of the New York State Trial Lawyers Association and the board of governors of the Association of Trial Lawyers of the City of New York. He is a trustee of the New York State Democratic Committee.

Rubenstein has been recognized by President Clinton for his work for democracy in Haiti and peace in the Middle East. He is presently working with President Aristide of Haiti on the economic revitalization of that country's badly battered economy.

A TRIBUTE TO JOE KENNEDY

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. RAHALL. Mr. Speaker, I rise today to pay tribute to Mr. Joe Kennedy, who on July 3, will retire from the National Park Service and his position over the last 8½ years as Superintendent of the New River Gorge National River in West Virginia.

It is sad, but true, that many in this body these days take pride in denigrating Federal employees, especially those in uniform. I will not be a party to those antics, and committed public servants like Joe Kennedy illustrate the degree of professionalism that swells the ranks of many agencies such as the National Park Service.

Since January 1987, Joe has served with distinction and dedication as the Superintendent of the New River Gorge National River. He arrived at a time when very little in the way of basic infrastructure was in place at the park unit. I am pleased to report that under Joe's leadership, a great deal has been accomplished including the construction of a state-of-the-art visitor center at Canyon Rim, a park headquarters complex at Glen Jean, a boardwalk at Sandstone Falls that is a naturalist's delight, modern river access facilities at Cunard and Fayette Station, the restoration of historic Thurmond, and the establishment of an extensive trail system. During Joe's tenure, he also supervised a very active land acquisition program, and park operations and services improved vastly. These are just a few of his accomplishments.

Throughout this period, Joe Kennedy never shirked from the call of duty, often going above and beyond what was required of him. After moving the park headquarters to Glen Jean, Joe received a phone call from an elderly lady in the community who wanted him to go over to her home and remove a snake that was in the basement. The Superintendent did not hesitate to do so. Moreover, Joe has had the distinction of serving as the Superintendent of not just one, but three, units of the National Park System at the same time. A little more than 1 year after arriving at West Virginia, through my efforts, Congress passed legislation to establish the Gauley River National Recreation Area and the Bluestone National Scenic River on tributaries of the New River. Joe has served as the Superintendent of all three park units, making him the "River King" of the National Park Service.

Joe Kennedy now retires after serving the public as an employee of the National Park Service for 34 years. Starting his career at Kings Mountain National Military Park in South Carolina during July 1961, he then served briefly at Fort Pulaski National Monument in

Georgia before being transferred to the Nation's Capital in July 1964 where he worked at the Department of the Interior until October 1968. After that, he headed south again and served at the Everglades National Park until October 1971 when he heeded that age old call of "go West young man." Between October 1971 and August 1979, Joe worked at the Glen Canyon National Recreation Area, and then, as Superintendent of Dinosaur National Monument until moving to West Virginia in 1987.

I have been extremely proud to have had the honor to know and work with Joe Kennedy. We have gone through a lot of dedication ceremonies together, ran a goodly number of whitewater rapids on both the New and Gauley together—during which he never fell out of the raft, hiked a trail or two, and had some great discussions. To say the least, I am dismayed that he is retiring. His humor, patience, fortitude, and vision will be sorely missed.

In conclusion, it is my understanding that Joe and his wife Jayne will move back to their native State of North Carolina. He will bring with him a wealth of memories from his years with the National Park Service, and he will bring with him our friendship and respect.

On behalf of myself and Jim Zoia of my staff, we wish Joe and Jayne Kennedy the very best.

HEALTH CARE ANTIFRAUD AND ABUSE INITIATIVE OF 1995

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. STARK. Mr. Speaker, today I am introducing H.R. 1912, the Health Care Fraud Prevention and Paperwork Reduction Act. This bill establishes an effective national program to control fraud, waste, and abuse in our health care system.

When Willie Sutton was asked why he robbed banks, he responded: "Because that's where the money is." Today's criminals continue to be attracted to where the money is—in health care. State officials in Florida report that drug traffickers are changing professions because the money is bigger in health care fraud and the risk is less.

Fraudulent activities involve both Government programs and private payers. Federal outlays for Medicare along totaled $162.5 billion in fiscal year 1994, and are expected to exceed $177 billion in 1995 and $198 billion in 1996. GAO estimates that fraud and abuse in the health care industry accounts for an estimated 10 percent of our yearly private and public expenditures. In 1994, this would have approached $94 billion. That amounts to approximately $258 million a day or $11 million every single hour.

The bill would establish an all-payer health care fraud and abuse program, coordinated by the Office of the Inspector General [OIG] of the Department of Health and Human Services. In fiscal year 1994, the OIG generated savings, fines, restitutions, penalties, and receivables of over $8 billion. This represents $80 in savings for every Federal dollar invested in their office, or $6.4 million in savings per OIG employee.

H.R. 1912 would extend Medicare and Medicaid's proven enforcement remedies of civil monetary penalties and criminal penalties to private payers. The policies are proven and represent 25 years of experience in fighting fraud and abuse under Medicare. The bill is an improved version of the antifraud measures included in last year's health reform legislation.

Equally important as preventing and detecting fraud and abuse in the health care system is the deletion of waste. Forms, other paperwork, and burdensome administrative requirements increase the patient costs and frustrate the provider.

The bill would improve the efficiency and effectiveness of the health care system by establishing standards and requirements for electronic transmission of certain health information. H.R. 1912 would reduce the administrative cost of the current system and make health insurance documents easier for patients and providers to understand. A uniform health claims card would be distributed to each beneficiary of a health plan, and all medical records and reporting would be transmitted using a uniform electronic format.

Hearing after hearing has outlined the heavy fraud, waste, and abuse in health care, yet little is done to remedy the problem. Ample evidence exists to show that this activity is costing us millions of wasted dollars each day. We must not wait to enact tougher penalties and enforcement procedures for health care fraud nor should we wait to simplify the administrative processes associated with our health care system. The wasted dollars are far too valuable. This bill should be passed this year.

The following is a summary of the bill:

ANTI-FRAUD AND ABUSE INITIATIVE OF 1995

TITLE: FRAUD AND ABUSE

Subtitle A: Amendments to anti-fraud and abuse provisions applicable to Medicare, Medicaid, and State health care programs

I. Amendments to anti-kickback statutory provisions

A. An intermediate civil monetary penalty of up to $50,000 would be established for anti-kickback violations

B. The current criminal fine would be increased to no more than $50,000

II. Amendments to exceptions to anti-kickback statutory provisions

A. Current exception for discounts would be modified to prevent providers from giving discounts in the form of a cash payment

B. Current exception for bona fide employment relationships would be modified to require that any remuneration be consistent with fair market value, and not be determined in a manner that takes into account the volume or value of any referral

C. Current exception for waiver of coinsurance would be modified to allow for such arrangements if—

(1) A waiver or reduction of coinsurance is made pursuant to a public schedule of discounts which the person is obligated as a matter of law to apply; or

(a) The person determines in good faith that the individual is indigent, or

(b) The person fails to collect coinsurance or deductible amounts after making reasonable efforts, and

D. An exception would be provided for certain arrangements where providers are paid wholly on a capitated basis

III. Amendments to civil monetary penalty statutory provisions

A. A civil monetary penalty would be established for the following improper conduct:

(1) Offering inducements to individuals to receive from a particular provider an item or service

(2) Engaging in a practice which has the effect of limiting or discouraging the utilization of health care services

(3) Substantially fails to cooperate with a quality assurance program or a utilization review activity

(4) Substantially fails to provide or authorize medically necessary items or services that are required to be provided under the health plan, if the failure has adversely affected (or had a substantial likelihood of adversely affecting) the individuals

B. Civil monetary penalties would be increased to no more than $10,000 for each false or improper item or service

C. The assessment would be increased to three times the amount claimed and interest shall accrue on the penalties and assessments after a final decision

D. If within one year the Attorney General does not initiate a criminal or civil action the Secretary could initiate a civil monetary penalty proceeding

IV. Private Right of Action

A. Any person that suffers harm as a result of any activity of an individual or entity which makes the individual or entity subject to a civil monetary penalty may bring a civil action

V. Amendments to exclusionary provisions in fraud and abuse program

A. The Secretary would have the additional authority to exclude individuals and entities based on felony convictions relating to fraud, theft, embezzlement, breach of fiduciary responsibility or other financial misconduct in connection with the delivery of a health care item or service

B. The Secretary's current discretionary exclusion authority would be extended to permit the Secretary to exclude individuals who retain an ownership or control interest in a sanctioned entity

C. Minimum period of exclusion for certain violations already specified in statute would be established

VI. Amendments to quality of care sanctions

A. Practitioners or persons who violate quality of care obligations as determined by the Peer Review Organization would be subject to a civil monetary penalty of not more than $10,000

B. The additional requirement that the practitioner be shown to be "unwilling or unable" to meet PRO quality of care obligations before the Secretary may exclude the individual from participating in Medicare would be deleted.

VII. Revision of criminal penalties

A. For providers who violate specified fraud and abuse provisions, penalties would include fines, treble damages, and imprisonment

VIII. Amendments to criminal and civil laws

A. A criminal violation for health care fraud would be created for the following crimes

(1) Whoever knowingly executes a scheme to defraud any health plan or person, in connection with the delivery of or payment for health care items or services

(2) Penalties would include a fine and a prison term of not more than 5 years

B. Forfeitures for violations of fraud statutes

(1) If the court determines that a Federal health care offense is of a type that poses serious threat to a person's health, or has significant detrimental impact on the health care system, the court could order the person to forfeit property used in or derived from proceeds from the offense and is of value proportionate to the offense

Subtitle B: Establishment of all-payer health care fraud and abuse control program

I. The Secretary of Health and Human Services (acting through the Inspector General of HHS) and the Attorney General would establish and coordinate an all-payer national health care fraud and abuse control program

II. The Attorney General and Inspector General would be authorized to conduct investigations, audits, evaluations and inspections relating to the delivery of and payment for health care and to have access to all records available to health plans relating to the program

III. Coordination with law enforcement agencies and third party insurers

A. The Secretary and the Attorney General would be required to consult with, and arrange for the sharing of resource data with State law enforcement agencies, State Medicaid fraud control units, State agencies responsible for the licensing and certification of health care providers, health plans, and public and private third party insurers

IV. General provisions regarding all-payer fraud and abuse program

A. All health plans, providers, and others would be required to cooperate with the national fraud control program and to provide such information as is necessary for the investigation of fraud and abuse

(1) Procedures would be established to assure the confidentiality of the information required by the national fraud and abuse program and the privacy of individuals receiving health care services

B. Health plans and providers would be required to disclose information that the Secretary deems appropriate, including information relating to the ownership, control and management of a health care entity

IV. Establishment of fraud and abuse account

A. Civil money penalties, fines, forfeitures and damages assessed in criminal, civil or administrative health care cases, along with any gifts and bequests would be deposited in an "All Payer Health Care Fraud and Abuse Control account"

B. The assets in the Account would be used, in addition to such appropriated amounts, to meet the operating costs of the national health care fraud control program

Subtitle C: Application of fraud and abuse authorities under the Social Security Act to other payers

I. Application of civil monetary statutory penalties to all payers

A. The provisions under the Medicare and Medicaid programs which provide for civil monetary penalties for specified fraud and abuse violations (as amended by this Act) would apply to similar violations with respect to all payers

B. The following activity would be prohibited and subject to a civil monetary penalty not to exceed $10,000:

(1) Expelling or refusing to re-enroll an individual in violation of federal standards for health plans or State law

(2) Engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment in a health plan on the basis of a medical condition

(3) Engaging in any practice to induce enrollment in a health plan through representations which the person knows or should know are false

Subtitle D: Advisory opinions on kickbacks and self-referral

I. Issuance of Advisory Opinions

A. The Secretary would require an individual requesting an advisory opinion to pay a fee equal to the costs incurred by the Secretary to issue the opinion.

Subtitle E: Preemption of State corporate practice laws

I. Preemption of State Laws Prohibiting Corporate Practice of Medicine

A. No provision of State or local law would apply that prohibits a corporation from practicing medicine.

TITLE II: INFORMATION SYSTEMS AND ADMINISTRATIVE SIMPLIFICATION

I. Uniform health claims card

A. Each beneficiary of a health benefit plan, including Medicare, would be issued a uniform health claims card

B. Each card would include a uniform health claims identification number which would be the Social Security number of the beneficiary

C. The card would be in a form similar to that of a credit card and would have information encoded in electronic form

II. Requirement for entitlement verification systems

A. The Secretary would provide for an electronic system for the verification of an individual's enrollment in a health plan, including Medicare and entitlement to benefits

B. The Secretary would establish standards respecting the requirements for certification of entitlement verification systems

(1) The system would be required to be able to coordinate benefit information among health plans and Medicare

(2) The system would also be required to accept inquiries from health care providers and health benefit plans electronically through the use of electronic card readers, touch-tone telephones, or computer modems

(3) Health benefit plans that fail to provide for an electronic verification system would be subject to civil monetary penalties

III. Uniform claims and electronic claims data set

(A) All claims submitted by providers would be transmitted using a uniform electronic format to be developed by the Secretary

(B) The Secretary would develop a single, uniform coding system for procedures and diagnoses

(C) The Secretary would provide for a unique identifier code for each health service provider and health plan

(D) Health service providers and health plans that fail to submit a claim for payment in a form and manner consistent with the standards would be subject to civil monetary penalties

(E) All claims for clinical lab tests would be submitted directly by the person or entity that performed the test.

IV. Electronic medical records and reporting

(A) The Secretary would promulgate standards for hospitals concerning electronic medical records

(B) As a condition of Medicare participation each hospital would be required to maintain hospital clinical data in electronic form in accordance with these standards

(C) State quill pen laws that require medical or health information to be maintained in written form would be pre-empted

V. Uniform hospital cost reporting

(A) Each hospital would be required to report information on costs to the Secretary in a uniform manner consistent with standards established by the Secretary

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DELAURO HONORS DOROTHY BROWN OF STRATFORD UPON HER RETIREMENT

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22 1995

Ms. DELAURO. Mr. Speaker, on Friday, June 23, 1995, the town of Stratford will pay tribute to Dorothy Irene Brown in honor of her retirement. After 48 years of exemplary service to the residents of Stratford, Dorothy Brown will be retiring from the position of town purchasing agent.

Dorothy Brown began her career with the town of Stratford in 1947. Since then, she has worked tirelessly to provide the highest standard of service to the town's citizens. Indeed, her dedication and attention to detail have become legendary. Among her many achievements are the implementation of numerous cost-saving measures that have greatly benefited the town of Stratford and its residents. Dorothy is an extremely conscientious and dedicated employee and will be sorely missed by her colleagues.

Dorothy has also served with distinction as president of the Stratford Supervisors Union, and chairwoman of the Stratford employees pension fund. Her strong and insightful leadership skills have earned her enormous respect among her colleagues. For almost half a century she has been the epitome of a public servant.

Mr. Speaker, I am proud to salute Dorothy Brown for a lifetime of service to her community. It is people like Dorothy who make local government work for its citizens, by addressing their needs on a personal level. The contributions of these exemplary public servants should not be overlooked. Their hard work and commitment are the cornerstone of strong and effective local government. Individuals such as Dorothy Brown deserve our strong support and admiration.

I extend my warmest congratulations to Dorothy on this well-deserved tribute, and commend her for 48 years of distinguished work. I wish her many years of good health and happiness in her retirement.

TRIBUTE TO MINA AND JORDAN RUSH

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. WAXMAN. Mr. Speaker, please join me in saluting Mina and Jordan Rush, who will receive the service award for their vision of the future at the 47th Annual Tribute Dinner of B'nai David-Judea Congregation on June 25, 1995.

Mina Rush has served B'nai David-Judea Congregation in numerous capacities for many years. She has been a member of the board of directors, membership chairman, and co-chairman of the annual banquet.

Mina Rush has always generously and selflessly devoted herself to worthwhile causes. She has served the State of Israel and cooperated with the Israel Defense Forces in her work with the Volunteers for Israel. She also led the recent Kiev emergency relief project that provided enormous quantities of food for a starving community.

Jordan Rush has had a distinguished career in entertainment as a producer, director, and actor. He served in these roles in "The Mirror," which was honored at the Southwest Film Festival. As a humanitarian, he has chaired Volunteers for Israel and Adopt a Soviet Family, a program of the Jewish Federation.

Proud parents of Tzvia, Atara, and Harel, the Rushes have always been concerned with the future of our Jewish youth. Their entire family worships regularly at B'nai David-Judea Congregation. They have participated in numerous Torah study classes and have been active in the Eliztur Sports League, of which Jordan Rush was a founder.

Mr. Speaker, I ask you and my colleagues to join me in congratulating Mina and Jordan Rush for receiving the prestigious Service Award of B'nai David-Judea Congregation and in expressing appreciation for their many contributions to our community. I extend to them great thanks and wish them every happiness and success in all future endeavors.

THE CRISIS IN BOSNIA

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. SOLOMON. Mr. Speaker. I commend to the attention of Members a thoughtful statement concerning the crisis in Bosnia that was delivered on May 29, 1995 at the North Atlantic Assembly by our good friend and colleague, Representative DOUG BEREUTER:

NORTH ATLANTIC ASSEMBLY DEBATE ON BOSNIA

Thank You, Mr. President. The events which have led this Assembly to undertake today's special debate on Bosnia are both compelling and tragic. At the outset, I know I can speak for the Congress and the American people in one regard and that is to convey our grave concern for the safety of all personnel serving for the UN in Bosnia. On this America's Memorial Day our thoughts and prayers are now especially for those troops who have been detained as hostages or who are under imminent threat by the Bosnian Serbs. We especially convey our condolences to the families and the French government for the French soldiers who were so recently killed in the line of duty.

There is very little consensus on the situation in Bosnia but strong views in America as in your own countries.

The Clinton Administration supports the view that UNPROFOR should remain in Bosnia. Present circumstances may dictate that UNPROFOR will have to leave, but America's view is that every effort must be made to keep the UN there—but I stress under acceptable conditions.

We must all recognize that there has always been a tension and a contradiction between the tough mandates adopted at the UN Security Council in New York and the hard realities on the ground in Bosnia. The current crisis dictates that we have to decide once and for all whether UNPROFOR is a peacekeeping force or a peace making force, i.e., an enforcer. As we tragically learned in Somalia it cannot be both.

We must work together within the UN framework to firm-up the UNPROFOR mandate and eliminate its ambiguities to the extent possible. We must examine the increasingly cumbersome and dangerous relationship between NATO and the UN in Bosnia; it is disastrously slow and obviously, in my personal view, Mr. Akashi is not the right man for this position. Specifically, we must allow military commanders on the ground more decision-making discretion, especially concerning the disposition, safety and well-being of peacekeeping troops. I have confidence in General Rupert Smith and his key multinational officers.

Many countries represented here today have troops serving honorably in Bosnia. I want to reassure those colleagues here that we in the U.S. Congress, despite criticism you may have heard from time to time from individual Members, both prominent and obscure—despite that criticism, the Congress and informed Americans remain very appreciative and sensitive to the extremely difficult but very necessary role these UNPROFOR troops have assumed in Bosnia. France and Britain, in particular, have played a central role in this operation and their troops have suffered accordingly.

As our NATO allies, you have our support and solidarity and will continue to have it as your troops try to conduct their difficult mission in Bosnia.

America is fully engaged as your ally in NATO in the advanced contingency planning to withdraw UNPROFOR from Bosnia if this proves necessary. If NATO needs to assist the UN in withdrawing from Bosnia, I would urge that NATO goes in with overwhelming force and that the operation is executed swiftly. We are committed by our President to provide approximately half of the personnel for such an operation.

Certainly we must recognize that UNPROFOR cannot stay in Bosnia forever. The force has already been there for three years. It may be that the parties in Bosnia no longer want UNPROFOR to stay or that they will continue to try to manipulate UNPROFOR for their own interests. In November, if UNPROFOR has not already been withdrawn, and if the parties have not agreed on the outline of a peace settlement, we should then consider not renewing the current mandate as it expires. In approaching that decision, however, we also must recognize that the prospect of the withdrawal of UNPROFOR may influence the warring sides in Bosnia to come to a negotiated settlement. Or withdrawing UNPROFOR may only be the prelude to a total bloodbath that will be appalling to the civilized world. Which will it be? There have never been any single or easy solutions to the conflict in Bosnia. There are none in the current crisis either.

The American Government strongly believes that despite the stark conditions in Bosnia we must keep the negotiating track open. The work of the Contract Group should continue. Together as allies we must keep striving to find a negotiated solution to the conflict acceptable to all sides. Hopeless as that seems, we cannot give up, but neither should we delay remedies to the current dangers faced by UNPROFOR and civilians while we seek a negotiated settlement.

In conclusion, I would say that the present turn of events in Bosnia makes it plain that our policies and the means provided to conduct them are not bringing the conflict in Bosnia closer to an end. It seems plain that either we alter our objectives and strategy, or we must escalate UNPROFOR's resources and their use.

Our policymakers, myself included, do understand that the Bosnian ethnic conflict or civil war is probably not an isolated situation. The aftermath of the age of Communism and the end of the Cold War has left Europe and other continents with hundreds of situations of potential ethnic conflict or severe civil strife, many of them with the potential of being as serious as Bosnia. How then do we send the right signal to those elsewhere in Europe, the parts of the former Soviet Union and Africa that the West can and will take measures necessary to ensure that there is not a violent spiralling or ethnicly driven violence in or around Europe?

I do not have an answer for this question, but I would like to close with an observation by Robert Tucker, a distinguished American professor of diplomacy, "Interdependence itself is not constitutive of order. . . . Interdependence creates the need for greater order because it is as much a source of conflict as consensus."

Some may therefore submit that the UN and the international community has been couching its strategy for the Bosnian conflict in a desire to control and limit the violence. While that strategy may have worked to some degree within Bosnia, it does not address the question of avoiding further conflict driven by ethnic hatreds elsewhere. And in the long run, such a strategy concedes the game to the party that is willing to be the worst thug on the block.

Quite understandably a great many people in my country, and in yours as well, believe that it is the parties in the Yugoslavian conflict themselves who ultimately will decide whether to live or die with one another, in other words they have concluded that we cannot force peace in Bosnia among people whose deep hatred sets them to kill each other. In the end, the most the international community may be able to say about Bosnia is that we tried, albeit haltingly, inadequately, and timidly. But humanity demands that the effort be made.

The American delegation supports the resolution.

TRIBUTE TO NAVY LT. COMDR. TOM DEITZ

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. DORNAN. Mr. Speaker, I rise today to recognize Lt. Comdr. Tom Deitz—our resident Navy Seal and special operations warfare specialist here in Congress—for his distinguished service to the U.S. Special Operations Command, the U.S. Navy, and the entire Nation as the Special Operations Command legislative liaison for Naval Special Warfare programs. In this capacity, Tom quickly established a solid reputation with both members of Congress and their staff due to his extensive knowledge of all special operations issues. Fresh from his daring and highly decorated exploits in the Persian Gulf during Desert Storm, Tom was able to give us an insider's view to the unique and powerful special operations force which we in Congress have worked so hard to support during defense budget deliberations.

Tom Deitz has played a vital part in building this congressional support by earning our trust and respect. His effective work on Capitol Hill is legendary. Because of Tom's dedication and commitment to excellence, the U.S. Navy Seals, the U.S. Special Operations Command,

and the entire Department of Defense will long reap the benefits of his tenure on Capitol Hill. All of my colleagues and I bid Tom, his wife Pam, and their son and future Seal Tyler, a fond farewell. Good luck and Godspeed at your next assignment at Seal Central on Coronado Island, California.

RECOGNITION OF SENIOR CHIEF GROSS

HON. WALTER B. JONES, JR.

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. JONES. Mr. Speaker, I rise today to recognize and honor Ship's Serviceman Senior Chief David Gross, as he retires upon completion of over 23 years of faithful service to our Nation.

A native of Moyock, NC, Senior Chief Gross was inducted in the Navy in 1972. After graduating from recruit training at Naval Training Center, Great Lakes, IL, he served in various managerial billets including Navy exchanges and bachelor enlisted quarters. In addition, he served as a shore patrol officer and as a recruiter. During his most recent shore duty, he served as a logistics management assessment team member at the NAVSURFLANT Readiness Support Group.

Senior Chief Gross accumulated 16 years of sea duty aboard various ships including the U.S.S. *Vulcan* (AR–5), U.S.S. *Conolly* (DD–979), U.S.S. *America* (CV–66), U.S.S. *Coontz* (DDG–40), and the U.S.S. *Hayler* (DD–997). He was a plank owner aboard U.S.S. *Supply* (AOE–6), the Navy's newest class of fast combat support ships, during his last tour afloat.

His impact on crew morale and readiness has been immeasurable. In addition to providing the finest ship's store, laundry, and barber services to crew members, he maintained tight financial accountability. Senior Chief Gross was also instrumental in providing logistics support to the fleet during his tour as a logistics management team member.

Producing one success story after another, Senior Chief Gross was awarded three Navy Commendation Medals, the Navy Achievement Medal, the Meritorious Unit Commendation, the Battle "E," five Good Conduct Medals, two Navy Expeditionary Medals, two National Defense Service Medals, Southwest Asia Service Medal with Bronze Star, four Sea Service Deployment Ribbons and Kuwait Liberation Medal. In addition, he attained Enlisted Surface Warfare Specialist qualification.

A man of Ship's Serviceman Senior Chief Gross' talent and integrity is rare indeed. While his honorable service will be genuinely missed, it gives me great pleasure to recognize him before my colleagues and to wish him "Fair Winds and Following Seas," as he concludes a long and distinguished career in the U.S. naval service.

TRIBUTE TO THE LATE HONORABLE MATHEW E. WELSH, FORMER GOVERNOR OF INDIANA

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. JACOBS. Mr. Speaker, former Governor, Matthew E. Welsh, was nothing less than a noble legend in Indiana and to a considerable extent our entire Nation.

He was a giant among Hoosiers. We lost him on May 28, 1995.

He was a man of extraordinary scholarship and civility, quite literally a scholar and a gentleman.

The following tributes were editorials in both the Indianapolis Star and the Indianapolis News:

[From the Indianapolis Star, May 31, 1995]

MATTHEW E. WELSH

As Indiana's 41st governor from 1961 to 1965, Matthew E. Welsh was one of the state's busiest and most productive public servants.

In public life for half a century, as an attorney and Democratic elected official, he was respected by members of both parties.

In his first year as governor, he gave 260 speeches, traveled 27,000 miles by car and plane, and visited 13 states and 42 Indiana counties.

Major accomplishments of his administration were creation of the Indiana Civil Rights Commission, which investigates complaints of discrimination; formation of the Department of Administration; and improving the general quality of state government by extending the merit system.

As Gov. Evan Bayh said, he led the state at a time of great growth and presided over the building of the state's interstate highway system, construction of flood-control reservoirs, improvement in the mental health system and the first land acquisition plan for public recreation since the 1920s.

Welsh took pride in biting the bullet in proposing Indiana's first sales tax. But much of the public expressed pain and resentment when the 2 percent bite was enacted in 1963.

Forming Indiana Citizens Against Legalized Gambling, working to improve mental health treatment facilities, serving on a task force on property tax control and the Mayor's Intergovernmental Relations Task Force, serving on the Greater Indianapolis Progress Committee and heading its task force on poor relief were but a few of his many contributions to city, state and national life.

Always a modest and able leader, a perfect gentleman, gracious, with a sparkling sense of humor, Matt Welsh won many honors, made many friends and had many admirers during a productive public life. His death at 82 takes an honorable, respected and charming public servant from the Indiana scene.

[From the Indianapolis News, May 30, 1995]

MATTHEW E. WELSH

Matthew E. Welsh, Indiana's 41st governor and one of the most decent and able men ever to serve in Indiana politics, passed away over the weekend.

Welsh, a lawyer and former state legislator, first attempted to capture the governor's seat in 1956, losing the Democratic nomination to Ralph Tucker. Many considered that loss a blessing in disguise for Welsh, believing that the election of Republican Harold Handley was inevitable.

Four years later, Welsh got his party's nomination and, with some help from a strong presidential run by John Kennedy, won with a 23,177-vote victory over former Lt. Gov. Crawford Parker.

A moderate Democrat, Welsh was credited with boosting merit employment in state government, creating the Indiana Civil Rights Commission, pushing school consolidation and presiding over construction of the interstate highway commission. He has also been credited with, or blamed for, imposing the state sales tax.

Strongly believing in the necessity for overhauling the state's revenue system, including the imposition of the sales tax. Welsh had to battle a Republican-controlled Indiana General Assembly to get the job done.

The Indiana Constitution prevented him from seeking another consecutive term. In 1972, however, he ran for governor again.

Scars from that sales tax battle, coupled with having weak presidential coattails from Democratic presidential nominee George McGovern and a strong Republican opponent, Otis Bowen, led to Welsh's defeat the second time he sought the governor's office. With Welsh and Bowen running for the office, however, it was a race Hoosier voters could not lose.

"There was no one in government or politics I respected more," said Bowen of his former opponent. "Matt Welsh was a most honorable and dedicated public servant. Indiana is better off for his having been governor."

Losing the 1972 election did not end Welsh's public service or his contributions to Indiana.

He served on numerous boards, commissions and agencies for both the city of Indianapolis and the state. Welsh was particularly instrumental in working for the improvement of mental health facilities and treatment in Indiana. He also joined other political, educational, religious and civic leaders in lobbying against legalized gambling in the state.

Furthermore, he maintained an active involvement in the Democratic Party and served as an advisor to many Hoosier politicians, including former Indiana Sen. Birch Bayh.

"Governor Welsh was a great man," said Gov. Evan Bayh, who also received considerable help and advice from Welsh. "He was greatly loved by all Democrats and admired and respected by Democrats and Republicans alike."

He will be sorely missed by Hoosiers of all political persuasions who benefited from his leadership.

TRIBUTE TO REPUBLIC, MI, IN HONOR OF ITS 125TH ANNIVERSARY

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. STUPAK. Mr. Speaker, I rise today to offer my sincere congratulations to the Village of Republic in Michigan's Upper Peninsula which is celebrating its 125th anniversary this year.

The pioneers who settled in northern Michigan, and especially in the area later known as Republic, survived boom times and bad times with traditional American fortitude.

From the first recorded purchase of land in the area by William Pratt on March 13, 1851, the town, originally known as Iron City, flourished.

From the beginning, iron mining was an important industry to Republic. In 1856, an iron vein was discovered by explorer Silas Whetstone Smith, for whom the bay and mountain or iron were named. The first and most successful of the iron companies was formed in 1870. On November 3, 1871, Peter Pascal, an agent of the Republic Iron Mining Co., directed clearance of lands for the company. The first permanent settlers arrived in 1872, and mining operations began by 1873. Mining and lumbering industries attracted railroads, and the town flourished.

Like many other towns in Michigan, Republic had a prosperous lumbering industry, especially from the 1870's to the early 1900's. Lumbering was an important source of employment, and it continues to be a thriving industry.

By 1928, the economy slowed down, and Republic residents, along with the rest of the country, found themselves in the midst of the Great Depression. With the advent of the New Deal and the creation of the Works Progress Administration, many improvements were made to the town and surrounding area.

Although Republic was for many years a mining community, the closing of the mine in 1980 presented an enormous challenge to local residents. Fires in the area also took a tool, but the village rebuilt. Today, Republic is a viable, dynamic, and friendly community.

As part of its celebration of its 125th anniversary, Republic residents, the Republic Area Historical Society, and the Ethnic Days Committee have planned several events, including a Mid-Summer Festival in Munson Park, a Quasquicentennial Home Tour, and construction of a Heritage Quilt.

I know my colleagues join me in honoring the residents of the Village of Republic as they celebrate the 125th anniversary of the founding of Republic.

TRIBUTE TO THE LATE LINDSAY NELSON

HON. ED BRYANT

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. BRYANT of Tennessee. Mr. Speaker, I wish to make all of my colleagues in this body aware that one of America's most famous voices in sports television and radio recently passed away. Mr. Lindsey Nelson was a longtime announcer for numerous sporting teams and events at both the collegiate and professional level. I am proud to say that Mr. Nelson was a native of the Seventh Congressional District of Tennessee, hailing from Columbia in Maury County. One of my good friends, Don Hinkle, is the editor of the Daily Herald in Columbia, and he recently wrote a fitting editorial in memory of Mr. Nelson and his illustrious career. I would like to bring Mr. Hinkles' work to the attention of my colleagues, for it would do each of us well to reflect upon the life of one of the most celebrated sports announcers in the history of this country. Mr. Hinkles' moving editorial reads as follows:

> Lindsey Nelson was arguably the most famous person to ever come out of Maury County.
>
> Though the Polk daughters and the Sterling Marlin fans can rightly claim an equally lofty position for their beloved sons, perhaps no one has been as enduring to living Maury countians—and to all American sports fans—as the talented Nelson.
>
> Known for his colorful sports jackets, Nelson began his career in the news media here at the Daily Herald in the early 1930's, working first as a carrier then later as this newspaper's first sports writer.
>
> He went on to the University of Tennessee and a Hall of Fame career as a sportscaster—both on radio and television. He distinguished himself as "The Voice" of the New York Mets in the 1960's and 1970's and the Cotton Bowl football game for 26 years. He also founded the far-flung UT Radio Network, now one of the largest in the nation.
>
> "Hello Everybody, I'm Lindsey Nelson," became one of the most familiar introductions in all of sports broadcasting. Those words became so famous, that Nelson elected to use them as the title of his autobiography published in 1985.
>
> His articulate descriptions of the action were not only exciting, but downright comfortable—kind of like your favorite easychair. His voice was clear and his style gracious, typical of the Southern gentleman he truly was.
>
> Sadly we have all lost an old friend.
>
> Even those who never had the privilege of meeting Nelson felt like they knew him anyway. Too many of us sat huddled up against our radios to hear him call a Tennessee football game or sat in our dads' laps and watched him on Sunday afternoon NLF telecasts.
>
> Today Maury County mourns the loss of one of its greatest native sons.
>
> Lindsey Nelson was loved and we will all miss him.

ASSOCIATED GENERAL CONTRACTORS OF AMERICA

HON. BILL BAKER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. BAKER of California. Mr. Chairman, on June 29, 1920, California's first chapter of the Associated General Contractors of America [AGC] met in Los Angeles. Since then, the California AGC has played a vital role in the growth of California's economy and become the largest regional construction association west of the Mississippi River.

Next year, the AGC is likely to contribute over one-half million jobs to our economy. Tens of thousands of men and women, from Redding to Escondido, will find rewarding employment in construction and its related crafts.

Membership of the AGC includes building, highway, underground, and utility construction contractors, as well as subcontractors, material producers, and service providers. The AGC works closely with professional groups like the American Institute of Architects and State organizations such as the Bay Area Rapid Transit District and the California departments of transportation and corrections. Such affiliations result in the specifications that set the standard for California's construction industry.

It is pleasure for me to recognize the AGC, and to thank the many dedicated people who have literally helped build California. My best to the AGC for many years of continued success.

IN HONOR OF SISTER ANNE VIRGINIE

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Ms. DELAURO. Mr. Speaker, I would like to congratulate one of Connecticut's most outstanding citizens, Sister Anne Virginie, whose wealth of good works has earned her the Easter Seal Goodwill Rehabilitation Center's Laurel Award.

Growing up in Waterbury, CT, Margaret Mary Grimes joined the Sisters of Charity of St. Elizabeth and has ever since embodied the loving service characteristic of her order. Devoting her life to the Sisters of Charity and their mission, Sister Anne has brought many skills acquired during her undergraduate study of business at the College of Saint Elizabeth and her graduate study in hospital Administration at Saint Louis University.

The Sisters of Charity have made good use of Sister Anne's tremendous talents and her tireless commitment to serving others. She tended to the sick as an administrator of two hospitals in New Jersey and then strengthened her order by serving as provincial superior of the Northern Province of the Sisters of Charity. We in Connecticut are eternally grateful that upon her return to her home State, Sister Anne has continued to help those in need. We constantly benefit from her efforts to model for others the values she upholds as a servant to the Church of Christ.

In New Haven, Sister Anne has continued her mission of healing and comforting the sick for over two decades at Saint Raphael's Hospital. First as associate administrator, then as president of the hospital, and finally as president and chief executive officer of the Saint Raphael Healthcare System, Sister Anne has provided Connecticut residents with the highest quality health care. It has been my personal pleasure to work with her to extend health care to those in the Greater New Haven area. Her inner strength has been a true inspiration.

Sister Anne's commitment to enhancing the community by helping others extends well beyond Saint Raphael's and includes efforts on behalf of causes as diverse and worthwhile as the Mercy Center and the Shubert Opera Board.

Her many contributions, especially her outstanding work to further the Easter Seal Goodwill Rehabilitation Center's mission, have earned her the Laurel Distinguished Service Award. Sister Anne knows that many people with special challenges, not just those who are able to pay, need the rehabilitation center's help to become more independent. As chairperson of the Easter Seals Telethon over the last 2 years, Sister Anne has been the key to the fundraising operation, raising over $285,000 to make sure that the rehabilitation center will be able to help all those in need.

I congratulate Sister Anne on this well-deserved honor and express my sincere gratitude for all of her good works.

TRIBUTE TO NANDOR MARKOVIC

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. WAXMAN. Mr. Speaker, I ask my colleagues to join me in paying tribute to Nandor Markovic, who will be honoree of the evening of B'nai David-Judea Congregation's 47th Annual Tribute Dinner on June 25, 1995.

Mr. Markovic survived the Holocaust, the most horrible episode in Jewish history, but not before witnessing the destruction of his hometown and suffering the travail of six concentration camps, including the notorious camp at Auschwitz.

Despite his terrible suffering during this dark period, Nandor Markovic never abandoned his faith in God or his confidence in the ultimate survival of the Jewish people.

Steeped in the sophisticated Judaic studies of the Yeshivot of his native Czechoslovakia, he became a leader in the struggle for the creation of the State of Israel and served as a commander in the war of independence.

Nandor Markovic and his wife, Frances, have devoted themselves to numerous worthwhile activities in Los Angeles and Israel. Mr. Markovic has served as president or chairman of the board of B'nai David-Judea Congregation for 15 years and has applied his erudition in matters of Jewish law to the work of B'nai David-Judea Congregation since 1960.

Mr. Speaker, I ask the Members of the House of Representatives to join me in saluting Nandor Markovic, his courage, and the great achievements he has made in his extraordinary life. I wish him happiness, good health, and enduring vigor to lead B'nai David-Judea Congregation and to continue in his role as prominent leader of our community.

SUPPORT FOR AGRICULTURAL EXPORT PROGRAMS

HON. HELEN CHENOWETH

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mrs. CHENOWETH. Mr. Speaker, I would like to have the following letter from my friends at the Idaho Farm Bureau Federation inserted into the CONGRESSIONAL RECORD.

IDAHO FARM BUREAU FEDERATION,
Boise, ID, June 13, 1995.

Re Agricultural export program appropriations.

Hon. HELEN CHENOWETH,
House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CONGRESSMAN CHENOWETH: The Idaho Farm Bureau Federation recognizes the importance of foreign markets to United States' agriculture. We support FY 1996 full funding of the following programs at the indicated levels:

Foreign Market Development (FMD)—$33 million.

Market Promotion Program (MPP)—$110 million.

Export Enhancement Program (EEP)—$912.3 million.

Vegetable oilseed products SOAP&COAP—$53 million.

Dairy products & livestock—$203.1 million.

Please enter this letter into the record and express our support of these programs and funding levels at the mark-up of the FY '96 agriculture appropriations bill during the House Appropriations Subcommittee hearing on Wednesday, June 14.

Thank you very much for all you do for Idaho and Idaho agriculture. We've heard many very positive remarks from our members who attended and testified at the recent Boise hearing. Thank you again.

Sincerely,

V. THOMAS GEARY,
President.

TRIBUTE TO DENNIS DeLEON PRESIDENT OF THE LATINO COMMISSION ON AIDS

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Dennis DeLeon, a human rights advocate, AIDS activist, Hispanic community leader, and, I am proud to say, a friend. He will be honored today for his great contribution to the community by Manhattan Borough President Ruth W. Messinger at the "Unity in Community" event.

Born in Los Angeles to Mexican-American parents, young Dennis started a career of community activism, serving as the president of the student body at Occidental College. He later graduated from Stanford School of Law. His school years were marked by his academic achievements and leadership in law and Latino organizations.

Dennis soon became active in Latino civil rights issues. He was one of the founders of the largest Latino employee organization in the Department of Justice and later, in California, he worked as regional counsel for California Rural Legal Assistance, an organization which provided legal assistance to migrant workers.

In 1982, he was appointed to serve as senior assistant corporation counsel in the New York City Law Department where he provided litigation supervision on civil rights issues including immigration, gay and lesbian anti-discrimination, and gender discrimination.

Besides being an excellent attorney, Dennis has written a number of publications on human rights, Hispanic labor and discrimination issues.

In 1986, New York City Mayor Edward Koch appointed Dennis to serve as executive director of the Commission on Hispanic Concerns. In 1988, Manhattan Borough President David Denkins appointed him to serve as deputy borough president. He later served as chairman of the New York City Commission on Human Rights.

Dennis continued fighting for the rights of Latinos, gays, women, lesbians, immigrants, and other minorities. Presently, he leads the Latino Commission on AIDS. Dennis is tireless in his commitment to the enhancement of services for Latino AIDS victims and their families.

He is a board member of a number of organizations, including the New York State Bar Association, Puerto Rican Bar Association, Gay and Lesbian Alliance Against Defamation, Persons with AIDS Coalition, and the Latino Coalition for a Fair Media.

Mr. Speaker, I ask my colleagues to join me to recognize this outstanding individual who is being honored today for his human rights efforts and his dedication to the Latino community.

TRIBUTE TO SOMERSET R. WATERS III

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. TORRES. Mr. Speaker, I wish to express the appreciation of this body regarding Mr. Somerset R. Waters III, because of his tireless support of the Baltimore Theatre Project over more than a decade, and his championing of the key role that that institution has played in the growth and development of the International Theatre Institute—both the U.S. Centre and the international body.

The values of the International Theatre Institute—a UNESCO-founded institution that encompasses 75 countries—promote the free exchange of theater artists, build bridges across the supposed boundaries of culture, language, and politics, refute the cynicism of our time, and offer, through the clearer eyes of art, hope for the future.

The Baltimore Theatre Project, celebrating its 25th anniversary season, embodies that sense of hope and international fellowship—as Mr. Waters retires as Theatre Project chair, he can take much of the credit for sustaining and giving direction and vision to this important American theater.

ALWAYS IN MY HEART

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. HINCHEY. Mr. Speaker, during the Memorial Day recess, I had the privilege of visiting the Republic of China on Taiwan. I was especially pleased that my visit coincided with President Clinton's decision to grant President Lee a visa to visit our country on the occasion of his reunion at Carnell University in Ithaca, NY, in my district. President Lee was clearly very pleased and grateful to have the opportunity to return to his alma mater. New Yorkers were delighted to see him, and he received a warm welcome.

His Olin lecture on June 9 conveyed his message and the message of his country exceptionally well—a story of hopes, expectations, and determination and Taiwan's every changing status in the global community. I would like to share it with the House in its entirety.

Mr. Speaker, I therefore ask for your permission to print President Lee Teng-hui's Olin lecture, "Always in My Heart," in its entirety in the RECORD for the enjoyment of my colleagues and others interested in Taiwan.

ALWAYS IN MY HEART

It is a great honor for me to be invited to deliver the Olin Lecture at my alma mater, Cornell University. It has been a long and challenging journey, with many bumps in the road, yet my wife and I are indeed very happy to return to this beloved campus.

This trip has allowed both of us to relive our dearest Cornell experiences. The long, exhausting evenings in the libraries, the soothing and reflective hours at church, the hurried shuttling between classrooms, the evening strolls, hand in hand—so many memories of the past have come to mind, filling my heart with joy and gratitude.

I want to thank you, President Rhodes, for your hospitality and for your unflagging support of my visit here to my alma mater.

I thank you, my fellow alumni, for your understanding and support as I undertake this important sentimental journey.

I thank the many, many friends in the United States who have been so supportive of my visit to your great country again.

And I also want to thank the people of this academic community, my professors and classmates, for the deep and lasting influence that Cornell University has had on my life. The support each of you has given means a great deal to me.

I deem this invitation to attend the reunion at Cornell not only a personal honor, but, more significantly, an honor for the 21 million people in the Republic of China on Taiwan. In fact, this invitation constitutes recognition of their remarkable achievements in developing their nation over the past several decades. And it is the people of my nation that I most want to talk about on this occasion.

LISTENING TO THE PEOPLE

My years at Cornell from 1965 to 1968 made an indelible impression on me. This was a time of social turbulence in the United States, with the civil rights movement and the Vietnam War protest. Yet, despite that turbulence, the American democratic system prevailed. It was also the time I first recognized that full democracy could engender ultimately peaceful change, and that lack of democracy must be confronted with democratic methods, and lack of freedom must be confronted by the idea of freedom before it would be possible to hasten the day of genuine democracy and freedom. I returned to my homeland determined to make my contribution toward achieving full democracy for our society.

Ever since I became president of the Republic of China in 1988, I have sought to ascertain just what the people of my country want and to be always guided by their wishes. Ancient China's Book of History from over 2000 years ago, contains the phrase, "Whatever the People desire, the realm must follow." My criterion for serving as president is that I do it with the people in my heart. And it is obvious to me that most of all they want democracy and development. Democracy entails respect for individual freedom, social justice, and a sense of directly participating in the destiny of their nation. Economic development goes beyond attaining prosperity, it also involves equitable distribution of wealth.

Today we are entering a new post-Cold War era, where the world is full of many uncertainties. Communism is dead or dying, and the peoples of many nations are anxious to try new methods of governing their societies that will better meet the basic needs that every human has. There are many pitfalls in this search for a new rationale, and Man must strive to make the right choices with all the wisdom and diligence he can command.

Czech President Vaclav Havel said, "The salvation of this human world lies nowhere else but in the human heart." In my heart, I believe that the Taiwan Experience has something unique to offer the world in this search for a new direction. This is not to say that our experience can be transplanted entirely to fit the situation faced by other nations, but I believe that, without a doubt, there are certain aspects of this experience that offer new hope for the new age.

THE TAIWAN EXPERIENCE

By the term Taiwan Experience I mean what the people of Taiwan have accumulated in recent years through successful political reform and economic development. This experience has already gained widespread recognition by international society and is being taken by many developing nations as a model to emulate. Essentially, the Taiwan Experience constitutes the economic, political and social transformation of my nation over the years, a transformation which I believe has profound implications for the future development of the Asia-Pacific region and world peace.

It is worth remembering what we in the Republic of China on Taiwan have had to work with in achieving all that we now have: a land area of only 14,000 square miles (slightly less than 1/3 the area of New York State) and a population of 21 million. My country's natural resources are meager and its population density is high. However, its international trade totaled US$180 billion in 1994 and its per capital income stands at US $12,000. Its foreign exchange reserves now exceed US$99 billion, more than those of any other nation in the world except Japan.

The Taiwan Experience bases peaceful political change on a foundation of stable and continuous economic development. Taiwan, under Presidents Chiang Kai-shek and Chiang Ching-kuo, experienced phenomenal economic growth. Currently, aside from economic development, Taiwan has been undergoing a peaceful political transformation to full democracy.

For many developing nations, the process of moving to a democratic system has been marked by a coup d'etat, or by the kind of "political decay" suggested by Professor Samuel P. Huntington. In short, it is not unusual for such a process of transformation to be accompanied by violence and chaos. However, the case of the Republic of China on Taiwan is a notable exception. Non-existent is the vicious cycle of expansive political participation, class confrontation, military coup and political suppression, which have occurred in many developing countries. The process of reform in Taiwan is remarkably peaceful indeed, and as such is virtually unique. In addition to the "economic miracle," we have wrought a "political miracle," so to speak.

The Taiwan Experience has regional and international dimensions as well. In 1994, the indirect trade between Taiwan and mainland China reached US$9.8 billion. Taiwan's indirect investment in southern mainland China, made through Hong Kong, amounted to nearly US$4 billion, according to estimates from various quarters. Taiwan's trade and investment have also been extended to members of the Association of Southeast Asian Nations, Vietnam, Russia, U.S. and countries in Central America and Africa.

Although the Republic of China on Taiwan has been excluded from the United Nations, it has accelerated the formation of an international network with economic ties as the key link. Recently, it has even begun to launch a project to build Taiwan into an Asian-Pacific Regional Operations Center, aiming at further liberalization and globalization of our economy.

I never allow myself to ever forget for a moment that Taiwan's achievements have been realized only through the painstaking effort and immense political wisdom of the people. However, success comes from difficulty, and the fruits of the Taiwan Experience are all the sweeter today from a recognition of the arduousness of the process.

POPULAR SOVEREIGNTY

We in the Republic of China on Taiwan have found that peaceful transformation must take place gradually, and with careful planning. Five years ago, on my inauguration day, I pledged to initiate constitutional reform in the shortest possible period of time. My goal was to provide the Chinese nation with a legal framework that is in accord with the times, and to establish a comprehensive model for democracy. These goals have since been realized with the support of the people.

Our constitutional reform was conducted in two stages. First, all the senior parliamentarians last elected in 1948 were retired. Then, in the second stage, comprehensive elections for the National Assembly and the Legislature were held in 1991 and 1992 respectively. This enabled our representative organs at the central government level to better represent the people.

Last year, the governor of Taiwan province, and the mayors of Taipei and Kaohsiung, the two largest cities in Taiwan which used to be directly administered by the central government as special municipalities, were directly elected by the people for the first time. Next spring, the president and vice president of the Republic will also be directly elected by the people for the first time.

With the completion of constitutional reform, we have established a multiparty system and have realized the ideal of popular sovereignty. This has led to full respect for individual freedom, ushering in the most free and liberal era in Chinese history. I must reiterate that this remarkable achievement is the result of the concerted efforts of the 21 million people in the Taiwan area.

Today, the institutions of democracy are in place in the Republic of China; human rights are respected and protected to a very high degree. Democracy is thriving in my country. No speech or act allowed by law will be subject to any restriction or interference. Different and opposing views are heard every day in the news media, including harsh criticism of the President. The freedom of speech enjoyed by our people is in no way different from that enjoyed by people in the United States.

I believe that the precept of democracy and the benchmark of human rights should never vary anywhere in the world, regardless of race or region. In fact, the Confucian belief that only the ruler who provides for the needs of his people is given the mandate to rule is consistent with the modern concept of democracy. This is also the basis for my philosophy of respect for individual free will and popular sovereignty.

Thus, the needs and wishes of my people have been my guiding light every step of the way. I only hope that the leaders in the mainland are able one day to be similarly guided, since then our achievements in Taiwan can most certainly help the process of economic liberalization and the cause of democracy in mainland China.

I have repeatedly called on the mainland authorities to end ideological confrontation and to open up a new era of peaceful competition across the Taiwan Straits and reunification. Only by following a "win-win" strategy will the best interests of all the

Chinese people be served. We believe that mutual respect will gradually lead to the peaceful reunification of China under a system of democracy, freedom and equitable distribution of wealth.

To demonstrate our sincerity and goodwill, I have already indicated on other occasions that I would welcome an opportunity for leaders from the mainland to meet their counterparts from Taiwan during the occasion of some international event, and I would not even rule out the possibility of a meeting between Mr. Jiang Zemin and myself.

YEARNING TO PLAY A POSITIVE ROLE

When a president carefully listens to his people, the hardest things to bear are the unfulfilled yearnings he hears. Taiwan has peacefully transformed itself into a democracy. At the same time, its international economic activities have exerted a significant influence on its relations with nations with which it has no diplomatic ties. These are no minor accomplishments for any nation, yet, the Republic of China on Taiwan does not enjoy the diplomatic recognition that is due from the international community. This has caused many to underestimate the international dimension of the Taiwan Experience.

Frankly, our people are not happy with the status accorded our nation by the international community. We believe that international relations should not be solely seen in terms of formal operations regulated by international law and international organizations. We say so because there also are semi-official and unofficial rules that bind the international activities of nations. This being so, we submit that a nation's substantive contribution to the international community has to be appreciated in light of such non-official activities as well.

During last year's commencement, President Rhodes brought up the old saying, "Be realistic. Demand the Impossible!" Well, over the last four decades, we have been extremely realistic while always trying to look forward, not backward, and to work, not complain. Accordingly, we have created the very fact of our existence and economic prosperity. We sincerely hope that all nations can treat us fairly and reasonably, and not overlook the significance, value and functions we represent.

Some say that it is impossible for us to break out of the diplomatic isolation we face, but we will do our utmost to "demand the impossible." Ultimately, I know that the world will come to realize that the Republic of China on Taiwan is a friendly and capable partner for progress!

If we view the recent economic, political and social developments in the ROC in this light, we have a basis for defining the status of my country in the post-Cold War and post Communist era. Only in this way can we propose a new direction for the new world order as we enter the 21st century.

CLOSE TRADITIONAL TIES

I want to once again express how grateful I am to be with you. My gratitude extends not only to Cornell but also to the United States as a whole. When we look back in history, we can immediately realize how close the traditional ties between our two countries are. Indeed, our shared ideals for human dignity, and peace with justice have united our two peoples in the closest of bonds.

The United States was extremely helpful in the early stages of Taiwan's economic development. We have never forgotten America's helping hand in our hour of adversity, so your nation occupies a special place in our hearts. Today, as the 6th largest trading partner of the United States, the Republic of China imports and exports US$42.4 billion worth of goods through our bilateral trade. We also are the number two buyer of US treasury notes. About thirty-eight thousand students from Taiwan are studying in the United States. Students who have returned have made important contributions to our society.

The Republic of China's development has been partly influenced by the experiences of its people while studying abroad. I gained substantial know-how in the mechanics of national growth and development from the faculty and students I worked with here in America at both schools where I studied. I had the chance to see democracy at its best in the United States, and to observe its shortcomings as well. We in Taiwan believe that we have much to learn from an advanced democracy such as the United States; however, we also believe we should develop our own model. The success of our democratic evolution has provided tremendous hope for other developing nations, and we wish to share our experience with them. Our efforts to help others through agricultural development have been well received, and we are eager to expand our technical assistance programs to friendly nations in the developing world.

Taiwan has grown from an agricultural exporting economy to a leading producer of electronics, computers and other industrial goods. We are "paving the information highway" with disk drives, computer screens, laptop computers and modems. We are poised to become a major regional operations center as well as to buy more American products and services to develop our infrastructure.

We stand ready to enhance the mutually beneficial relations between our two nations. It is my sincere hope that this visit will open up new opportunities for cooperation between our two countries.

It is for this reason that I want to publicly express my appreciation and admiration to President Clinton for his statesman-like decision. We are equally grateful to others in the administration, to the bipartisan leadership in Congress, and to the American people.

ALWAYS IN MY HEART

Whatever I have done as president of my nation, I have done with the people in my heart. I have thought long and hard about what my people want, and it is clear that most of all, they desire democracy and development. These wishes are no different than those of any other people on this planet, and represent the direction in which world trends will certainly continue.

As I have spoken to you today, I have done so with the people in my heart. I know that what my people would like to say to you now can be expressed by this simple message:

The people of the Republic of China on Taiwan are determined to play a peaceful and constructive role among the family of nations.

We say to friends in this country and around the world:

We are here to stay;

We stand ready to help;

And we look forward to sharing the fruits of our democratic triumph.

The people are in my heart every moment of the day. I know that they would like me to say to you, that on behalf of the 21 million people of the Republic of China on Taiwan, we are eternally grateful for the support—spiritual, intellectual and material—that each of you has given to sustain our efforts to build a better tomorrow for our nation and the world. In closing, I say God bless you, God bless Cornell University, God bless the United States of America, and God bless the Republic of China.

Thank you very much.

CONGRATULATIONS LEXINGTON, LEDFORD, AND ANDREWS BASKETBALL TEAMS

HON. HOWARD COBLE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. COBLE. Mr. Speaker, before we bring this year's basketball season to a close, I must say a few words about three basketball teams in my congressional district. The Sixth District of North Carolina was fortunate enough this year to have three high school squads capture State championships.

We are proud that Lexington High School of Davidson County won the boys' 2–A championship, Ledford High School also of Davidson County won the girls' 2–A championship, and High Point Andrews High School of Guilford County won the boys' 3–A championship.

On Saturday, March 25, 1995, two Davidson County high schools captured North Carolina basketball titles. The Lexington boys and Ledford girls won their respective State 2–A championships. Let's begin with the Lexington Yellow Jackets, a team many people did not think could win a championship this year.

Lexington finished third in the Carolina Conference with a 22–9 record. The Yellow Jackets were playing the title game against the 27–1 Whiteville Wolfpack, considered to be the best 2–A team in the State. Lexington won the title game with a thrilling 69–67 victory when center Bernard McIntosh followed his own missed free-throw attempt with a putback basket at the buzzer. McIntosh, who scored 28 points and pulled down 12 rebounds in the game was named MVP of the game which was played at the Dean Smith Center in Chapel Hill.

The Wolfpack coach told the Lexington Dispatch that the loss to the Yellow Jackets was hard to believe. "We thought we were going to win the State title," Wolfpack coach Glenn McKoy told the Davidson County newspaper. "I guess we still have something to work for next year. Hey, Lexington has a real fine ball club. My hat goes off to them."

Our hats go off to all of the members of the Yellow Jacket basketball squad. Congratulations to head coach Michael Gurley and his assistant coaches Robert Hairston and Jim Snyder. Congratulations are extended to every member of the team: Courtney Adams, Chad Griffith, Vince Williams, LeMar Hargrave, Rocke Shivers, Jason Zimmerman, Chad Walker, Antonio Threadgill, Marcus Hargrave, Toy Cade, Martin Saddler, Bernard McIntosh, J.D. Harris, Bert Davis, Chad Hearst, and Todric Jenkins.

As with every successful endeavor, the new champions could not have achieved what they did without a great supporting cast. A tip of the cap is in order for administrative assistant coaches Ellen Garner and Heather Gurley, student assistant coach Paul Lyon, managers Rick Conner, Tyrone McCandies, Michael

Evans, Jake Rowe, and Josh Lovell and mascot Hayden Gurley. Three cheers for cheerleading director Ginger Fritts and her squad of cheerleaders: Antionette Kerr, Carsha Cravon, Angie Harris, Heather Cox, Tory Wilson, Emily Halverson, and Tamika Anderson.

To Principal Ashley Hinson, Athletic Director West Lamoureaux, the faculty, staff, students, families, and friends of Lexington High School, we offer our congratulations on winning the North Carolina 2–A high school boys' basketball championship.

The other Davidson County high school to win a State basketball title this year was the Lady Panthers of Ledford High School of Thomasville, NC. On March 25, the Lady Panthers traveled to Chapel Hill to play in Carmichael Auditorium and capture the girls' 2–A crown with a 65–60 win over Southwest Guildord, another Sixth District high school.

Head Coast John Ralls told the Thomasville Times that it was the third straight game of the playoffs that his team used a timely last-minute drive to seal the victory. "That's hitting the nail on the head," Ralls told the Thomasville newspaper. "They had poise and composure under pressure . . . and lots of pressure, especially (tonight). They just handled themselves well and did the things they had to do to win." That included turning to a youngster for leadership—when needed. Freshman Stacey Hinkle was named MVP for her 15-point performance in the title contest.

Congratulations to Coach Ralls and his assistant coaches Joe Davis and Allen Patterson. In addition to Hinkle, the freshman MVP, every member of the Lady Panther team can equally share this year's championship: Ruth Armstrong, Laurie Smith, Kelly Thomas, Quinn Homesley, Amy Wells, Amanda Reese, Misty Sharp, Ginger Cox, Sara Day, Courtney Patterson, Marcy Newton, and Tracie New. Strong support was given to the Lady Panthers throughout the year by manager Sarah Hester, video manager Aaron Kindley, statistician Zac Herrmann, and scorekeeper Shelly Barrett.

This is the second time Coach Ralls has led the Lady Panthers to a State title. In 1991, Ledford High School won the State softball crown. Coach Ralls told the Thomasville Times, "It's kinda neat. I really like it. I mean whatever sport you're coaching in that's what you're working for—to try to get your team to win a state championship. So, it's something we wanted to do." This year's Lady Panthers finished their championship season with a record of 29–3. Over the past five basketball seasons, Coach Ralls has guided the Ledford girl hoopsters to a 113–27 record, an 80.7 winning percentage.

Congratulations to Principal Max Cole, Athletic Director Gary Hinkle, the faculty, staff, students, families, and friends of Ledford High School for joining with Lexington High School to make sure that the State's 2–A basketball championship trophies reside within the boundaries of Davidson County.

The third high school in the Sixth District to win a basketball championship this year was T. Wingate Andrews High School of High Point, NC. On March 25, the Red Raiders dominated Wake Forest-Rolesville High School 71–51 to secure the State boys' 3–A basketball championship.

Andrews thoroughly dominated a Rolesville team that entered the title contest on—as its name implies—a roll. The Cougars had won their previous 20 contests this season and have won six State titles over the years. But at the Dean Smith Center in Chapel Hill this year, the Cougars couldn't even score for the first 4 minutes 40 seconds of the contest against the Red Raiders of Andrews.

"We had a lot of support," Andrews Head Coach Robert Clemons told the Greensboro News & Record, "the kids played hard and we won this thing. I feel relieved. I put a lot of pressure on myself. Our administration, they were very supportive. They didn't put any pressure on me. I did it all myself. And then I just put the responsibility on the kids and they responded well."

That may be the understatement of the year. I am sure that Coach Clemons will be the first to say it was a total team effort, but special mention must be made of championship MVP David Wall who led all scorers with 20 points. Each Red Raider, however, played a vital role in the title drive for Andrews. Congratulations are given to Torrey Bright, Jason Blackwood, Antwan Hilton, Cory Dawkins, Jimmy Mangum, Marcus Wilson, Cardise Reed, Brian Gane, Quincey Dixon, B.J. Rogers, Rico Leach, J.J. McQueen, and Steve Myers for bringing home the trophy.

In addition to Coach Clemons we offer our thanks to assistant coaches Myron Grimes and Dana Conte and scorekeeper Liz Kimbro for their efforts during the run to the top. Congratulations to Principal Jerry Hairston, Athletic Director Sue Shinn, the faculty, staff, students, families and friends of T. Wingate Andrews for capturing the State 3–A boys' basketball championship.

North Carolina is known as a basketball hotbed. Thanks to Lexington, Ledford, and Andrews, those of us who call the Sixth District home can truthfully say that we are at the center of the North Carolina basketball universe.

POSTHUMOUS TRIBUTE TO MR. DEWEY W. KNIGHT

HON. CARRIE P. MEEK

OF FLORIDA

ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mrs. MEEK of Florida. Mr. Speaker, Mr. HASTINGS of Florida and I rise to pay tribute to Dade County's quintessential leader, the late Dewey W. Knight. His untimely demise last Wednesday, June 21, 1995, is indeed a great loss for our community, and for all in south Florida.

Mr. Dewey was indeed a delicately drawn character of honest leadership whose power and influence contributed to the transformation of Dade County into the cultural and racial mosaic that it is. Although he lived within the ambience of power, he did not lose his common touch with the common folks from Miami's Liberty City, teaching them the rudiments of government and personal responsibility.

From the sweat of his brow he subsequently earned the financial wherewithal to live comfortably in suburbia. But he chose to stay put in his innercity abode for more than 36 years. Underneath a tree by his home, he held court for the ordinary folks who came and shared with him their problems and concerns, as well as their hopes and dreams. Virtually, he became the innercity's government-in-action par excellence.

Born in Daytona Beach into a home of accomplished Black professionals, he learned early on the basics of honest living, from his grandfather who became Florida's first Black police officer. In the 1930's his lawyer-uncle served in President Franklin Roosevelt's administration. Another uncle spearheaded the Nation's first Black radio station in Atlanta, while an aunt became New York's first Black woman judge.

The years of segregation burdened by the onerous separate-but-equal doctrine molded his character so deeply. He pursued his college education at Bethune-Cookman College after which he volunteered to serve in the U.S. Air Force. Having given his share of service to the Nation, he sought to get his master's degree in social work due to his immense love and caring for children.

It is this compassionate trait that he brought with him when he came to Miami to live for good. Working through the ranks he succeeded immensely in every endeavor, until he was appointed assistant, then deputy county manager. Subsequently, his superiors called upon his wisdom and expertise to serve twice as interim county manager until a permanent successor could be named.

Although he was offered the top job many times, he did not court the pump and glamour that came with it. By then he was already imbued with the more enduring respect and camaraderie from his Liberty City neighbors. He opted to retire in 1989, relishing to serve from time to time as a consultant to both government and business.

While his leadership style charmed the mighty and the powerful in county politics and the business elite, he never lost his commonsense approach to government. He played an eloquent, memorable role during the 1980 riots in Miami in a manner evoking a calm but forceful leadership that comes once in a lifetime. He always projected the subtle serenity of maintaining the grace and insight of an old pro. He was indeed a class act, and his personality will cast a giant shadow of void among those he left behind. His presence was at once endlessly fascinating and entirely unforgettable.

We have since learned from him that common people convinced of their role in ameliorating the lives of their fellow human beings are in a better position to shift the balance of power-sharing and coalition-building much more so that those who hold the reins of government. Communality of interests, he advocated, should begin with our doing away with any negative perceptions we have with one another. Any overt or covert suggestion of any form of subtle superiority or inferiority by the one ethnic group over another should never be entertained if we are to bridge the gaps that divide us.

We are touched by his most cogent exhortations during the many community meetings he spearheaded to resolve the ethnic-racial tensions which were then gripping Miami. He would unabashedly state over and over again that living in harmony with each other does not rest in resolutions or promises alone. It ultimately lies in the hearts and minds of common, ordinary folks.

He sought to embolden us into believing that the problems and the opportunities of diversity in any given urban community are not beyond the reach of those who are willing to share the fruits of success won for us by those who came from generations past. He took a bold stand by moving our community to live together in harmony sensitive to our diversity on one hand, and yet strengthened by the power that emanates from it on the other.

"E Pluribus Unum * * *" From many, we are one. This is the American way, he urged us. His enduring legacy to our community is indeed forever etched in our covenant with one another. We shall miss him so. But we are blessed that his noble presence graced our lives.

COMMENDING THE MEMBERS OF LA SIERRA UNIVERSITY

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. CALVERT. Mr. Speaker, it is with great pleasure that I commend the members of the La Sierra University chapter of Students In Free Enterprise [SIFE] for winning the 1995 International Championship at the SIFE International Exposition in Kansas City, MO, May 19.

The students brought back six giant trophies and $7,500 for their championship title and for their win in four special competitions: Success 200, Halt the Deficit, G.E. Foundation "Teaching America to Compete," and Best In-Depth Education.

This year's presentation team consists of eight students: Andy Wongworawat, Redlands; John-Patterson (J–P) Grant, Newbury Park; Heidi Serena, Long Beach; Maria Lafser, Escondido; Patria Wise, Calmesa; Tamara Talbot, Redlands; Steve Taggart, Colton; and Ismael Valdez, Hemet. John Thomas, assistant professor of economics and finance and SIFE faculty sponsor, accompanied the team to Kansas City.

"The Next Generation" was the title of La Sierra University's winning presentation, which summarizes the 122 projects the team created this year. Project highlights include the "Find a Dollar in the Debt" giant sandbox in February trip helped the community visualize the size of the national debt, the annual Adopt-a-Child Christmas Party for area Headstart children, "Touch the World/Tech" a child reading and mathematics tutoring program at a local elementary school, homeless shelter employment weekly seminars, a signature campaign to halt the deficit, SIFE collector "Slam the Deficit" POGs for elementary schoolchildren, SIFE-Net cyberspace bulletin board and training sessions, "Rent-a-Brain" consulting service for local businesses, SIFE ABC publication series to provide fundamental information on important topics to the community such as drug abuse, interest rates, free trade, social responsibility, and the national debt, Strive-On minority role modeling, and many others.

Some 500 students from 50 college and university teams in the eight regions competed at the international exposition. Dow Chemical CEO and Chairman Frank Popoff was the keynote speaker. The 150 judges for competition were CEO's from Fortune 500 companies.

Approximately 75 La Sierra University students led out in this year's projects, which reached some 15,000 schoolchildren and a total of about 33,000 community people. Fifty of the projects were new this year, while more than 70 were continued from previous years.

The La Sierra University SIFE team swept the western regional competition April 10 in San Francisco, winning the Success 2000 Award and the Halt the Deficit Award, along with the Regional Finalist Award. They came home with three regional trophies and $3,500 cash from that competition, and a chance to compete at the international exposition.

The students of the La Sierra University SIFE team have made their community and their Congressman proud. It is truly an honor to represent such fine individuals and I give them the highest compliments. They deserve it.

IN MEMORY OF JAMES ARTHUR CALLAHAN

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. TAYLOR of North Carolina. Mr. Speaker, I rise today to honor a very special person from western North Carolina, James Arthur Callahan. Jim Callahan passed away on June 2 at the age of 72. With great sadness, I offer my condolences to his wife, Janie Callahan and his children, Chris Callahan, and Susan McGowan. He was a native of Rutherfordton, NC and a life long member of the First United Methodist Church.

He was active for many years in the Republican Party, serving as county chairman and was also district chairman of the Republican Party for the 10th Congressional District. Jim served the State of North Carolina in many different capacities, he was appointed by Gov. Jim Holshouser to the North Carolina Banking Commission and later, served on the North Carolina Board of Transportation.

Mr. Callahan was a devoted father and leader in the business community. He was president and owner of Callahan Building Supply Co., and a former board member of Lumberman's Merchandising Corp. He contributed much of his time to public service as a former president of the Kiwanis Club, a member of the Rutherford-Spindale Jaycees and as a member of the Rutherfordton County Chamber of Commerce.

His direction helped lead the Rutherfordton County Republican Party to new heights. We should all admire a person like Jim Callahan who believed in the principles of honesty and hard work. When thinking of Jim Callahan, words such as friend, business leader, and patriot come to mind. His efforts in the community will be sorely missed as will he.

THE ENTERPRISE CAPITAL FORMATION ACT OF 1995

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. MATSUI. Mr. Speaker, I am pleased to join my House colleague and fellow member of the Ways and Means Committee, Congressman PHIL ENGLISH, and my Senate colleagues, Senator ORRIN HATCH and Senator JOE LIEBERMAN, in their efforts to promote economic growth and job creation through capital gains incentives. Senators HATCH and LIEBERMAN are introducing the Capital Formation Act of 1995. Hatch/Lieberman utilizes a two-tiered approach: broad capital gains relief and a second targeted capital gains provision. The House has already passed a broad-based capital gains provision earlier this year. The Matsui/English legislation is designed to be complimentary with the Hatch/Lieberman bill and with broad based capital gains passed by the House. Accordingly, it includes only the targeted capital gains provision.

I have worked for many years to enact legislation which provides capital incentives for high-risk, high-growth firms. In 1993, I was able to work with Senator BUMPERS to enact the Enterprise Capital Formation Act of 1993. Matsui/English is bipartisan legislation built on the 1993 legislation. It will be called the Enterprise Formation Act of 1995. Like the Hatch/Lieberman bill, the legislation will provide a 75-percent exclusion for capital gains resulting from direct investments in the stock of a small company—defined as $100 million or less in aggregate capitalization—if the stock is held for 5 years or more.

Biotech and high technology companies are particularly dependent upon direct equity investments to fund research and to grow. A targeted capital gains incentive is crucial for encouraging investors, including venture capital investors, to purchase the stock of these companies, thus putting their capital at risk with a long-term speculative investment. These small venture backed companies create high-skilled jobs, grow to create more jobs—at an average rate of 88 percent annually—and are aggressive exporters. According to one survey, their export sales grew by 171 percent annually. Finally, these companies are R&D intensive which means they are essential in keeping American workers and products on the cutting edge of innovation.

REFORM OF THE REA ELECTRIC LOAN PROGRAM

HON. RICHARD H. BAKER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. BAKER of Louisiana. Mr. Speaker, I rise to discuss an important issue that has received little attention thus far in the 104th Congress: reform of the REA's subsidized loan program for electric cooperatives.

The REA has long been the target of loud criticism by many who believe the Federal

Government's role in direct, subsidized lending to utilities should be curtailed. The REA has changed its name to the Rural Utilities Service [RUS], but it continues to provide subsidized loans to many healthy, financially stable electric co-ops at a cost of millions of dollars each year. Legislation I have introduced today, the Rural Electrification Loan Reform Act, would bring reform to this program which needs an overhaul.

I believe we should reform the REA electric loan program in a manner consistent with the free-market principles that motivate our balanced budget proposal. The concept driving this reform legislation is simple: If an electric co-op is able to obtain credit at a reasonable rate and terms from private lenders, then that co-op should not be able to participate in the taxpayer-subsidized REA program. The Federal Government simply should not be the lender of first resort for many of these co-ops. Other Federal programs, including Small Business Administration [SBA] and Farmers' Home loans, now use this reasonable credit-elsewhere test in an effective manner. Farmers and small businesses must try to obtain credit from banks and other private lenders before turning to Federal loan programs. We should enact this reform to bring the REA program in line with other Federal lending programs.

Instituting a credit-elsewhere test is a responsible way to reform the program in order to push the healthier electric co-ops toward private lenders, while preserving a scaled-back REA subsidized loan program for the struggling co-ops in the most distressed parts of rural America. My legislation will not terminate this REA program. Rather, it would concentrate the loan program for only those co-ops that can show a true need for assistance. Many do not realize that most electric co-ops now must obtain 30 percent of their financing from private sources, while the other 70 percent comes from the REA loan program at a subsidized interest rate. Congress should require co-ops to try to obtain 100 percent of their credit from a source other than the Federal Government, and retain the REA program for those co-ops that cannot access private capital. I certainly recognize the continuing need for subsidized credit assistance in some parts of rural America—including some parts of rural Louisiana. And if this legislation is enacted, these areas would continue to receive loan assistance from the REA program. But Congress must now make many difficult choices if we want to reach a balanced budget by 2002. I believe these are Federal dollars which could be better spent.

As a longtime member of the House Banking Committee and the current chairman of the Subcommittee on Capital Markets, I have an interest in encouraging the use of private sources of credit wherever possible. I believe there is a larger, more active role private lenders can play in addressing the credit needs of electric co-ops. I ask the House Agriculture Committee to hold hearings to explore these reforms of the electric loan program.

FORTY YEARS TO CARE, MOST WITH A FOCUS OF HOPE

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. BARCIA. Mr. Speaker, what do you do when you have someone who keeps coming to you saying that there is a problem, and something needs to be done about it? You let them come up with the solution. That is exactly what happened nearly 27 years ago when the Bishop of the archdiocese of Detroit told Father William T. Cunningham, Jr., that he had his permission to stop teaching as an English professor at Sacred Heart Seminary, become a pastor of Madonna Catholic Church, and the full-time director of Focus: HOPE, an organization he cofounded. In this fashion was born a wonderful organization many of us know as Focus: HOPE, and the beginning of a relationship for millions of Michiganders who have come to know and love Father William Cunningham, who this weekend celebrates his 40th anniversary as a Roman Catholic priest, with masses at his home parish of our Lady of the Madonna.

I am privileged to call attention to the accomplishments of Father Cunningham because he originally comes from Ruth and Ubly, in the thumb of Michigan in my congressional district. He comes back frequently and is well-known to many of my constituents. He has been a parish priest, a teacher, and a leader. He has been a friend and helper to many, and a bane to others who failed to share his belief that people need a helping hand out of poverty. He is caring. He is irascible. He is tender. He is tenacious. He is unique.

Father Cunningham has helped spearhead efforts to revitilze portions of Detroit that had been ravaged by riots, and more importantly to reinvigorate the people who had to live with the riots themselves, or with the aftereffects of the riots. He helped push for food programs for women, infants, and children. He helped push for food assistance to the needy elderly. He worked tirelessly for the creation of a machinists training institute that has grown to a world-class facility, winning quality awards, and helping people get well-paying jobs have a future. He has succeeded in using food as the first step toward independence, and many of us have heard him say time and time again that his fondest hope is that one day he can close the food program and throw away the key because everyone has all the food they need.

Over the years, people never cease to be amazed by his seemingly inexhaustible energy. They are warmed by his bright smile, sometimes beguiled and other times delighted by the twinkle in his eye. After a period of time one learns better than to ask "so what is your next project," especially when one understands that his churning mind is 50 percent innovation, 50 percent determination, and 50 percent divine intervention. It just isn't fair for anyone to deal with him.

Mr. Speaker, Father Cunningham is devoted to his church, devoted to his cause, and devoted to people. He is truly a model of what is best in our Nation. If each State had just one Bill Cunningham. I shudder to think what we could accomplish. I urge all of our colleagues to join me in wishing him the happiest and most blessed 40 anniversary of his ordination to the priesthood.

A CONSTITUTIONAL AMENDMENT TO LIMIT CAMPAIGN EXPENDITURES

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. DINGELL. Mr. Speaker, in a recent meeting between you and the President, it was agreed that you would support the creation of a blue-ribbon panel to recommend long-overdue reforms to our campaign finance system.

It has been almost two decades since some of the reforms enacted by Congress in the Federal Election and Campaign Act of 1971 [FECA] were overturned in the landmark Supreme Court case Buckley versus Valeo. The Court ruled that while the Federal Government has an overriding interest in limiting campaign contributions to candidates, it has no compelling reason to limit expenditures under any First Amendment test of free speech and expression. The Court concluded that, unlike limits on contributions, spending caps serve no legitimate purpose in guarding against corruption of the electoral process.

However, several years ago a bipartisan commission, the Committee on the Constitutional System, concluded that one of the greatest threats to our political system is the rapidly escalating cost of campaigns and the growing dependence of incumbents and candidates on money from donors who might expect a favorable vote in exchange for a contribution. Moreover, the Commission found that gridlock could take hold by leaving office holders open to multiply-conflicted opponents, all of whom may believe their contributions should engender a legislator's support. Such activities frustrate all participants in the system and encourage the promulgation of unsound public policy.

The Committee on the Constitutional System concluded that there was only one effective way to fix the problem, through an amendment to the United States Constitution. There is no doubt that concerns about limiting the quantity of speech will be vigorously debated. They should be, since no one should take lightly any proposal to amend that sacred document. However, limits on some kinds of speech, such as debate on the floor of this chamber, are well established as necessary to orderly deliberation. The underlying logic of time limits on debate is the realization that unlimited speech inhibits our ability to govern.

In his dissenting opinion to Buckley versus Valeo, Justice White wrote, "Expenditure limits have their own potential for preventing the corruption of Federal elections themselves." 424 U.S. 264, (1976).

The amendment I propose contains 13 words: "The Congress shall have authority to limit expenditures in elections for Federal office." While brief, the weight of these words is mighty. This amendment, possibly combined with other reforms, would allow the Federal election process to be returned to the people, and permit those who seek and hold elective office to place their energies into solving public policy problems rather than political problems.

I hope that any commission designated to make a recommendation to Congress on campaign finance reform consider the virtue of turning off the constant flow of cash into Federal campaigns through a constitutional amendment to limit campaign expenditures.

INTRODUCTION OF GILPIN COUNTY EXCHANGE LEGISLATION

HON. DAVID E. SKAGGS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. SKAGGS. Mr. Speaker, I am joining my colleague from Colorado, Mr. MCINNIS, to introduce a bill to facilitate acquisition by the United States of more than 8,700 acres of lands elsewhere in Colorado that are important for recreational and environmental purposes, in exchange for about 300 acres of Federal lands near the town of Black Hawk, in Gilpin County. The bill is similar to one I introduced in the last Congress, on which action was not completed before adjournment.

Under the exchange, the Gilpin County lands would be transferred to Lake Gulch, Inc. There are 133 separate parcels, ranging in size from 38 acres to 0.01 acre, and 90 of them are less than an acre. This part of Colorado was originally acquired by the United States from France through the Louisiana Purchase. After the discovery of gold in Gilpin County, most of the lands in question were claimed under the mining laws and thus passed into private ownership. The 133 parcels the bill would earmark for transfer are leftover fragments.

The Gilpin County lands are essentially unmanageable, and have been identified as suitable for disposal by the Bureau of Land Management [BLM]. However, they can be consolidated with other lands already held by Lake Gulch. Thus, they do have some value for Lake Gulch, but because of their fragmented nature the United States cannot readily realize that value through normal BLM disposal procedures because of the high costs of surveys and other necessary administrative expenses. Enactment of the bill will enable the United States to realize this value, through the acquisition of lands with values, including potential for recreational uses, which give them priority status for acquisition by Federal land-management agencies.

Under the bill, the Gilpin County lands would be transferred to Lake Gulch if that corporation, within 90 days after enactment, offers to transfer the specified lands to the United States. Lake Gulch would be required to hold the United States harmless for any liability related to use of the Gilpin County lands after their transfer, and future uses of those lands could not include gaming. The bill also protects the interests of local governments in the lands, including an easement for a county road.

The lands that the United States would receive under the exchange include about 40 acres within Rocky Mountain National Park—known as the Circle C Church Camp tract—that has been a long-time acquisition priority for the National Park Service; nearly 4,000 acres in Conejos County—known as the Quinlan Ranches parcel—bordering on the scenic La Jara Canyon, that is intermingled with Federal lands managed by the BLM and the Forest Service and that has recreational values as well as elk winter range and other wildlife habitat; and about 4,700 acres—known as the Bonham Ranch—that is intermingled with BLM-managed lands along Cucharas Canyon in Huerfano County and whose acquisition will enable BLM to protect more than 5 miles of the scenic canyon, with its important wildlife habitat—including raptor nesting areas—cultural resources, and recreational uses.

In addition, if the Secretary of the Interior should determine that the value of the Gilpin County lands is greater than the value of the lands transferred to the United States, Lake Gulch will be required to pay the difference. Any such payment would be used to acquire from willing sellers land or water rights to augment wildlife habitat in the BLM-managed Blanca wetlands near Alamosa, an area with crucial winter habitat for bald eagles and a very productive area for ducks and geese.

Mr. Speaker, this bill is good for economic development in Gilpin County and good for protecting the priceless environment of Colorado. I believe it is completely noncontroversial. It has the support of Governor Romer, the Colorado Division of Wildlife, and affected local governments including Black Hawk, Central City, and Gilpin County. It is also supported by a broad coalition of environmental and conservation organizations, including the Colorado Environmental Coalition, the Colorado Wildlife Federation, the National Parks and Conservation Association, the National Audubon Society, the National Wildlife Federation, the Wilderness Society, and the Rocky Mountain chapter of the Sierra Club. I intend to work hard for its enactment into law during this session of Congress.

SAM HELWER AND FRANK P. BELOTTI MEMORIAL FREEWAYS

HON. FRANK RIGGS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. RIGGS. Mr. Speaker, this month, two portions of U.S. Highway 101 in California's First Congressional District will be dedicated in honor of noted Californians—Sam Helwer and Frank P. Belotti.

Sam Helwer was born in Russell, KS, on August 23, 1913. He served as district engineer for the State of California, Department of Transportation, district 1, from 1957 to 1967. Beginning his career in 1936, he eventually served with five department of transportation districts. He developed a particular expertise in freeway interchange design. As district 1 engineer, he was responsible for all units of the northwestern California highway system, running approximately 300 miles north and south, and 70 to 80 miles from east to west, including a portion of historic Highway 101. In 1964, he was able to expedite the recovery of the north coast's highway system from a record winter storm.

Frank P. Belotti served as a member of the California Legislature from 1950 to 1972. He was an effective advocate of preserving the unique scenic beauty of the redwood groves and was instrumental in securing the legislation that made possible the freeway bypass of the groves and the preservation of the existing State highway designated as the "Avenue of the Giants."

It is a fitting tribute to each of these men that portions of the highway that meant so much to them is being named in their honor. I offer my congratulations to their families, including Mrs. Sam "Dordy" Helwer of west Sacramento, and Mrs. Delphine Belotti of Eureka.

PERSONAL EXPLANATION

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. POMEROY. Mr. Speaker, on rollcall number 216, I was unavoidably detained at the Base Closure and Realignment Commission [BRAC] meeting. The Commission members were voting on matters directly impacting my State of North Dakota. Had I been present, I would have voted "aye" on rollcall number 216.

GRANDPA MOSES

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. HYDE. Mr. Speaker, ingenuity and imagination are cherished commodities in an era which demands that we do more with less. Our continued prosperity demands that we challenge our minds, see beyond the obvious, and extend our vision. It is our intellect that sets us apart.

Mr. John Urbaszewski of Oak Park, IL, provides a very practical example of the creativity of the mind and the power of imagination.

A retired, State-government employee, keenly intent on staying active and keeping his mind sharp, Urbaszewski, without benefit of a single art lesson, has become a very popular, local folk artist, affectionately referred to as "Grandpa Moses."

What most of us identify as abandoned soda bottles, plastic coffee creamers, old buttons, film packs, cereal boxes, cocktail stirrers, and other such "trash," Urbaszewski sees as the basic building blocks for his versions of Frank Lloyd Wright's Mile High Center skyscraper, the Taj Mahal, Rome's Piazza di Spagna, Brasilia's baroque opera house, and Disney's castles. His creations, all constructed from rubbish, also include birdhouses, restaurants, office buildings and cathedrals.

Packing many of his art works into the Grandpa Moses Mobile Traveling Museum, Urbaszewski has visited numerous schools and shopping centers exhibiting his creative talents and stimulating the minds of his audiences. His storefront and museum exhibits are instant show stoppers and crowd pleasers.

Grandpa Moses clearly demonstrates the creative powers of the mind in a very entertaining and practical manner.

CONGRATULATIONS DELPHI CHASSIS SYSTEMS SAGINAW—LIGHTWEIGHT BRAKE CORNER CAPITAL OF THE WORLD

HON. JAMES A. BARCIA

OF MICHIGAN

HON. DAVE CAMP

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. BARCIA. Mr. Speaker, many of us have believed for years that the best cars are made in the United States, and that the best continue to be build here today. I rise today with my colleague, Representative DAVE CAMP, to honor these world-class workers who are celebrating 25 years of manufacturing automotive brake components and systems at Delphi Chassis Systems—Saginaw Operations.

The 1,400 workers and management of this outstanding facility will celebrate this 25th anniversary with a Family Day, this Monday, June 26. They will celebrate the production of the 175 millionth quality brake corner at this location. Plant manager Pat Straney and UAW Local 467 shop chairman Kent Wurtzel can be proud of their achievement. They have worked to produce the best product that they possibly can, while recognizing that they must constantly enhance the skills of their workers to keep their competitive edge. The plant quality council composed of both labor and management has implemented quality network action strategies that have improved the product for the benefit of consumers.

Car and truck buyers have been positively impacted by this facility every time they push their brake pedal. The consistently high quality of the components and the simplification of the brake mechanism bring people throughout the country to safe stops millions of times each day.

Mr. CAMP. I fully concur with the remarks of my colleague. The investment of over $90 million to bring in new brake manufacturing technology will set world class manufacturing benchmarks for future General Motors products. Supported by the city of Saginaw and the State of Michigan, this upgrade secures the future of this outstanding facility in the Saginaw Valley.

Mr. Speaker, our workers and our businesses are world leaders, and can compete with anyone in the world in a fair and open market. They have succeeded before, are succeeding now, and will continue into the future. Congressman BARCIA and I urge all of our colleagues to join us in wishing Delphi Chassis Systems Saginaw Operations—the Lightweight Brake Corner Capital of the World—a very happy 25th anniversary, and best wishes for a most prosperous future.

TRIBUTE TO THE 125TH ANNIVERSARY OF THE PHILADELPHIA CHINATOWN

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. FOGLIETTA. Mr. Speaker, I rise to commemorate the 125th anniversary of Philadelphia's magnificent Chinatown.

In 1870, a small laundry was established on Race Street, between 9th and 10th. From that single, small business a bustling community grew. In 1995, the Chinese-American community is proudly celebrating the 125th anniversary of Chinatown with events throughout the year. Chinatown has developed into one of the most significant contributors to the social, economic, and cultural vitality of Philadelphia. Indeed, Chinatown is the city's premier marketplace for Chinese food and oriental products, but it is so much more. It is a meeting place for friends and relatives. It is a home and source of comfort for newly arrived immigrants. Chinatown is where traditional culture is preserved and ethnic identify perpetuated. The central event of Chinatown's 125th anniversary will be a parade and dedication ceremony at 2 p.m. on Sunday, June 25. The starting and ending point of the parade and the location of the ceremony will be where Chinatown started—Race Street between 9th and 10th. Other celebration events include an art exhibit by Asian-American artists; a benefit recital; and an "Honor The Elders Day."

Chinatown's rich, historical roots and ethnic diversity have contributed greatly to the City of Brotherly Love. I am proud of the contributions of the Philadelphia Chinatown and I congratulate Chinatown on its 125th anniversary.

10TH ANNUAL FILM FESTIVAL OF PARIS

HON. KEN BENTSEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. BENTSEN. Mr. Speaker, today I rise to bring the attention of the House to an extremely special constituent in my district, Ms. Julie L. Harms. Ms. Harms, a student at Bellaire High School, has recently added another major accomplishment to an already impressive list. Ms. Harms has been selected to represent the United States as a member of the jury panel at the 10th Annual Film Festival of Paris. The selection process, which is coordinated by the U.S. Information Agency, is a nationwide competition that picks only 2 candidates, one male and one female.

Young men and women from 15 countries will be taking part in the festival as jurors and judge various films from all over the world. While in Paris, the film jurors will meet with political and film industry leaders. The 10th Annual Film Festival will also provide these outstanding men and women the opportunity to view many of the outstanding historical and cultural landmarks in Paris.

Mr. Speaker, I want to recognize this exceptional young woman and her distinguished colleagues for this wonderful accomplishment. Thank you.

WOMEN IN MILITARY SERVICE

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mrs. KENNELLY. Mr. Speaker, today, our country honors U.S. servicewomen at a groundbreaking ceremony for the Women in Military Service for America Memorial at Arlington Cemetery.

When this memorial is completed, it will contain the names of all U.S. servicewomen, past and present, along with a photo and biography. They will be women who served in peacetime and war, women who still serve this country as veterans and those who gave their lives.

The list will include Connecticut women like Wanda Charlinski who is alternate State director of her local WAVES unit; Viola Bernstein, active in the Jewish War Veterans; Linda Schwartz, a member of the National Board of Vietnam Veterans of America, and Cindy Beaudoin who gave her life during the Persian Gulf war.

This memorial will be a reminder to the Nation that our liberty and freedom were secured with the efforts of more than 2 million women who dedicated themselves to our country and our ideals.

It is also a symbol of the respect of a grateful country.

SAFE MEDICATIONS ACT OF 1995

HON. WILLIAM J. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. COYNE. Mr. Speaker, I rise today on behalf of myself and my colleagues Representatives PETE STARK and JOHN LEWIS to reintroduce the Safe Medications Act. This bill improves public health and safety by creating a clear and uniform reporting system for deaths that occur while prescribing, administering, or dispensing drugs. Needless tragedies would be avoided by its enactment.

Billions of prescriptions are written, dispensed, or administered in hospitals, pharmacies, and other health care facilities across the United States every year. Yet, if something goes wrong during drug therapy there is no requirement for facilities to report adverse incidents. As a result, the public could be vulnerable to recurring drug-related mishaps and fatalities that are preventable.

Occasionally, a health care professional misreads a prescription, administers the wrong dosage of a drug, or dispenses medication incorrectly. These errors will sometimes have little or no consequence. Other times, they may produce fatal results. When an individual dies in these cases, there is no place for the practitioner to report the death. Ultimately, the same mistake can be made a number of times. Repeated errors lead to unacceptable risks to patient safety and public health.

Let me sketch how patients and consumers are susceptible to multiple errors. A young boy in New York died when he was administered the wrong dosage of a sedative. A similar incident happened with the same drug to a 4-year-old girl in Texas. In another instance, a community pharmacist confused the names of morphine and meperidine which resulted in the death of a child. A parallel event proved fatal when a physician confused the names of painkillers. Finally, confusion over like drug names led to a mistaken and ultimately fatal dosage of a medication for a bone-marrow-transplant patient. This drug was involved in a comparable case when, again the name of the drug was confused and the patient was overmedicated. These events show a pattern of drug therapy deaths that could have been avoided and prevented had they been monitored and had medical workers been made more aware of the potential for mistakes.

In October, 1993, the Pittsburgh Post-Gazette published a series of articles that detailed medication errors. Reporter Steve Tweedt's series contained some disturbing statistics in this area. He reported that a Pittsburgh-Post Gazette study of 250 hospital pharmacists across the country estimated that there were 16,000 medication errors in their institutions in 1992; 106 of them caused patient deaths.

Presently, there are a variety of reporting systems. Only two States require reporting; New York has a mandatory program for hospitals and North Carolina has a required reporting system for pharmacies. However, nothing obliges these States to share the information they collect with other States.

Nationally, there are two primary voluntary reporting systems that track errors and deaths that result from drug therapy. The U.S. Pharmacopeia [USP], working with the Institute for Safe Medication Practices, has received over 1,100 reports since it was established in 1991. And, it is estimated that the voluntary system operated by the Food and Drug Administration [FDA], MedWatch, collects information on only 1 percent of the errors that occur. Since these reports are voluntary, however, it is unclear what the actual error and death rate is what their tracking represents.

At the Ways and Means Health Subcommittee hearing on this issue last September, David Work, the executive director of the North Carolina Board of Pharmacy, testified that "about 10,000 deaths occur nationwide from pharmaceuticals each year." Joshua Perper, M.D., chief medical examiner, Browder County, FL, cited in his testimony a study published in the New England Journal of Medicine in 1991 that charted an annual mortality rate of 503 per 100,000 hospital discharges due to drug errors.

These trends can and must be changed. We must have a greater understanding of these incidents and take precautions to see that they are not repeated. The Safe Medications Act of 1995, which I am introducing today, provides a solution to this problem and would significantly improve the public health.

The Safe Medications Act creates a national data bank for information on deaths that result from the prescribing, dispensing, or administering of drugs. This data bank would be maintained by the USP for the Secretary of Health and Human Services.

Within 10 working days after the discovery of a death due to the prescribing, dispensing, and administering of drugs, the health care facility in which the error occurred would be required to report the incident to the U.S. Pharmacopeia.

The Secretary will analyze these reports and work with USP and the appropriate health care provider associations so that they can notify and alert their constituencies of potential problems.

The identity of the facilities that report deaths would remain confidential.

Finally, this bill would not supersede any voluntary reporting systems or State systems in place.

It is clear that a central reporting system is long overdue and needed. The medical community must develop a greater awareness and understanding of fatal drug reactions and must ensure that they are not repeated. The fundamental goals and benefits of the Safe Medications Act are indisputable. I urge my colleagues to support this important health care measure.

HONORING THE 40TH ANNIVERSARY OF THE ORDINATION OF FATHER CUNNINGHAM INTO THE PRIESTHOOD

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. CONYERS. Mr. Speaker, I rise today to celebrate the 40th anniversary of the ordination of Father William T. Cunningham into the priesthood, which he will observe this Sunday, June 25, at the Catholic Church of the Madonna, in Detroit, MI. Father Cunningham has served as pastor there since 1969.

Father Cunningham is a life-long Detroiter and has committed his life to social and economic justice in Detroit. In 1968, following the Detroit riots, Father Cunningham founded Focus: HOPE, a civil and human rights organization with the goal of resolving the effects of discrimination and injustice and to build integration in our riot-torn community. Over the years, Focus: HOPE grew to develop the Food Prescription Program, which distributes USDA commodities to 52,000 low-income mothers and children each month, and developed the Food for Seniors Program, which provides a monthly food supplement to 34,000 elderly poor in the Detroit area.

Under Father Cunningham's leadership, Focus: HOPE expanded its scope in the 1980's to include manufacturing training. Today three manufacturing technology training programs function for minority youth and others. The latest, and most advanced, is the Center for Advanced Technologies which opened 2 years ago. This national demonstration project offers a 6-year curriculum which combines structured work experience with applied engineering study conducted by a consortium of Michigan universities. Graduates will be engineer/technicians; able to build, operate, maintain, repair, and modify advanced manufacturing equipment at world-competitive levels.

Father Cunningham has served on a number of public service boards including the State of Michigan's Task Force on Vandalism and Violence in the Schools, the State and city Task Forces on Hunger and Malnutrition, the State Holiday Commission for Martin Luther King Jr., the Citizens Commission to Improve Michigan Courts, and many others.

Father Cunningham's accomplishments have not gone unnoticed. He has been honored with many notable awards including the NAACP's Ira W. Jayne Memorial Medal, the Temple Israel Brotherhood Award, the Bishop Donnelly Alumni Award, the Jefferson Award, the UCS Executive of the Year Award, the Jessie Slaton Award of the Detroit Association of Black Organizations, the National Governor's Association Award, twice, the 1987 Detroit News Michiganian of the Year Award, the Salvation Army's William Booth Award, the Marquette University Alumni Award, and the University of Michigan 1993 Business Leadership Award and honorary membership in the Society of Manufacturing Engineers.

Father Cunningham has dedicated his life to serving others. After 40 years in the priesthood and more than 26 at the helm of Focus: HOPE, Father Cunningham has touched the lives of thousands. In this day and age, with our city suffering from decades of neglect, it is important to recognize the accomplishments of those who have dedicated themselves to improving the lives of those less fortunate. So I hope that you will all join me in congratulating Father Cunningham for his years of hard work and perseverance. Detroit is a better place to live because of Father Cunningham's hard work and dedication to making Detroit healthier, stronger, friendlier and more prosperous. Father Cunningham is a true hero.

OUTSTANDING VOLUNTEERISM FROM RIVERSIDE ROTARY CLUB

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, June 22, 1995

Mr. CALVERT. Mr. Speaker, one of the things that makes America truly great is our spirit of volunteerism—the willingness of citizens from all backgrounds to give of their time and their efforts to make the community better in which they live and work. One organization that has been a shining example of this is the Riverside Rotary Club. During its 75-year history, members have worked to make Riverside a better place for all its residents.

In its recent history, Sherm Babcock was our Rotary Club president for the 1970–71 year. Sherm started out by going to the international convention in Atlanta, GA. He also led a large delegation of Rotarians to the district assembly the following month.

A significant administrative charge took place with the new position of sergeant at arms. Frank Lindeburg, an entertaining character, was the fine master and made the change a success. To this day the position of sergeant at arms is a coveted position in our club.

Sports were a big transition in Rotary in Sherm's year. Some of the activities were: the club sponsored a team in the UCR baseball tournament; the club fielded a team in the service club bowling league; and a number of golf tournaments were conducted.

The scholarship fund that had been initiated the prior year by past president John Cote was enhanced considerably. Today, this scholarship fund exceeds $170,000 and numerous academic scholarships are awarded each year to deserving high school students.

During the 1970's, Rotary was led by many prominent individuals. Jack Williams, president in 1971–72 led our club in constructing platforms for tents at the Boy Scout camp in Idylwild—was also instrumental in having our club donate a wheelchair to the UCR Health Center.

Ralph Hill, President in 1972–73 kept up the good work from prior years and added to it by hosting the United Fund Kickoff luncheon. This was significant since many of our members were key contributors to the United Fund.

In 1973–74 Rotary was involved in many events. Irv Hall led the club this year. Some different things Rotary became involved in included sending scholarships to Cuautia, Mexico, which was a sister city of Riverside. Rotary also contributed to the Ralph Johnson Memorial at Twin Pines Ranch. The old YMCA building, known as the Gheel House, had its interior painted by Rotarians. The club also enjoyed itself through a trip to the *Queen Mary*.

In 1974–75 Jim Davidson, our president, continued work at Twin Pines Ranch through the club's donation for the ranch's swimming pool. We also celebrated a joint meeting with the Soroptomists, a women's organization dedicated to community service.

The Mission Inn had been closed for some time but in 1975–76, Herman Reed's year as president, we moved back to the Mission Inn. Apparently, it was a welcomed return since the club had been having problems with the different establishments in which it had been meeting.

During this 1975–76 year many service projects were accomplished. Rotary contributed carpeting and linoleum to the Riverside County Association for Crippled Children. We also contributed significantly to the Special Olympics. As usual, we celebrated our special meetings for our significant others as well as our continued sponsorship of the ROTC awards at Poly High School.

In 1976–77 Bill Williams was our president and he led the club in starting the ambitious project of repairing and remodeling the kitchen portion of the Carriage House which is located in the Heritage House property. This required many Rotarians to roll up their sleeves and do some worthwhile manual labor. The results, which were realized some years later, were outstanding and very much appreciated by the community.

Frank Lindeburg, our president for 1977–78 was active in continuing the Carriage House project. We also organized an auction which was tied into the party for a club fundraiser. Being the UCR athletic director, he organized a baseball game against the Riverside Kiwanians. He was also instrumental in designing a program for the fire department's emergency program. The club's budget seemed to be in good shape because Frank led the club to invest its surplus funds. And, of course, the food service at the Mission Inn came under some criticism. Some things never change.

In 1978–79, San Landis was club president and kept the club operating smoothly. The work at the Carriage House was still going on and the usual special meetings with our wives and others brought enjoyment to all.

Ron Drayson, our president in 1979–80, kept the Carriage House project going. He was also responsible for sponsoring the 4H contest which was held at the Agricultural Park. He redesigned club banners presented to visiting Rotarians and organized a Riverside-San Bernadino golf match at Arrowhead Country Club.

The new work project was undertaken under the presidency of Greg MacDonald in 1980–81. Greg being one of our youngest presidents, had a lot of energy and was responsible for starting the work on Agricultural Park.

John Beal, our president in 1981–82, had an extraordinary year for the club. He was reponsibile for inviting the then Rotary International president, Stan McCraffey, to Riverside to speak at the Paul Harris Foundation Dinner at Raincross Square. This was the only time in Riverside Rotary's history that the international president had visited our community.

John also organized the only joint effort ever held with the Kiwani's Club of Riverside. The joint meeting was held to honor members of the law enforcement community. The speaker was the then-Attorney General, George Deukmejian. John also had the club host the District 4 speech contest along with having club members man the Salvation Army kettle.

In 1982–83 Gene LaHusen became president and continued the work on the Agricultural Park. Harvey Ostzon, president in 1983–84, was most responsible for making the Agricultural Park a reality. He led the work parties to refurbish the park. He also led the club in organizing an auction which was a major fundraiser.

In 1984–85, Frank Gooley was our president and promptly faced a problem about where we would meet since the Mission Inn was closing down for restoration purposes. We finally moved to the UCR commons and then to the Holiday Inn. Frank's major accomplishment was organizing a raffle with the other Rotary Club's in the city which raised $13,500 for the Agricultural Park.

Paul Birgdain, our leader during the 1985–86 year kept the club moving along in fine fashion. We finished our work at the Agricultural Park during Paul's year.

Bill McGuian became our president for the 1986–87 year which became significant in club history since ours was the first club in the district to admit a woman member. Sandra Leer, a family law practitioner, was sponsored by Tom Holienhorst and was our first female member. Bill also saw our meetings moved to the Sheraton Hotel as the Mission Inn was still being restored. The Riverside East Club, a new Rotary club, was nurtured by our club as well as hosting the GSE team from Australia. This was the year we established our scholarship committee as a permanent standing committee.

Lee Lombard, our president in 1987–88, started the Dinner Theater which became our principal fundraiser. We also hosted the GSE team from Denmark. It was in Lee's year that the Rotary International committed to eradicating polio worldwide. Our club successfully contributed to the program under Lee's leadership.

Palle Gylov became our president in 1988–89 and vigorously promoted the Dinner Theatre which was a resounding success. Palle also held up well during his year considering that our long time executive secretary, Floretta Pico, retired during his tenure.

In 1989–90 Bob Probizanski, our new president, continued the tradition of the Dinner Theatre. He involved many Rotarians and it continued to be the highlight of our Rotary year. He also organized a tour of the jail newly constructed in downtown Riverside.

Hark Kline, our president in 1990–91, continued the Dinner Theatre tradition with a new twist: it became the Mystery Dinner Theatre. Although a little lengthy, it still raised funds for our club for the good works we were contributing to. We also attended a Red Wave baseball game, a new minor league team, based in Riverside and playing out of the UCR Sports Center.

De Armstrong, our president for 1991–92, continued trying to solve the problem about where our club should meet. We moved to the Art Museum during his year. De, being a musician, did a tremendous job in organizing our Dinner Theatre, adding a touch of class with his musical talents.

The highlight of Jim Milam's year was the visit of then President Bush to Riverside. Rotary was the host and it was a great success as many Rotarians from all over the district attended to listen to our President.

During Jim's Year, Rotary reached out to our youth by adopting an elementary school in the downtown area. Bryant School became the recipient of work projects by Rotarians, of books donated to the school, and of the presence of Rotarians at monthly school assemblies.

Gary Orso, club president in 1993–94, saw the club return to the Mission Inn as well as continuing the Bryant School project. The Dinner Theatre tradition continued but was augmented by a silent auction which was responsible for raising a significant sum of money for our community projects. Of course, our youth continued to be served by our club through our contributions to RYLA and our scholarship program.

Bob Brown became our president in 1994–95 and had overseen the celebration of the club's 75th anniversary. Being recognized by our District 5330 at numerous district events has brought price to our club. The Bryant School project has been expanded to include tutoring and mentoring to club members. Students from Bryant School worked with our club and the Riverside Downtown Association in planting a Rotary garden in the downtown area. Although finances have always been a problem Bob has led the club through the toughest of recessionary times and the future looks very bright.

Indeed, Mr. Speaker, the Riverside Rotary Club has been an important fixture in the Riverside community. On behalf of the people of the 43d Congressional District, I wish to extend my thanks and sincere congratulations for their exceptional work throughout the community during their 75-year history.

SENATE—*Friday, June 23, 1995*

(Legislative day of Monday, June 19, 1995)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious Lord, You have placed within each of us a conscience as the voice of our deep inner self. Over the years our consciences have been impacted by what we have been taught is true and right. We thank You for a conscience rooted in the Ten Commandments and guided by Your Spirit. You are the potter, our conscience the clay; mold our values after Your way. We ask this not just for our own personal relationships, but also for the responsibilities of leadership You have entrusted to us.

You want to develop the future of this Nation through the leadership of the women and men of this Senate and all of us who labor with them. So refine our consciences; purify any dross until You can see Your own nature reflected in the refined gold of Your priorities of righteousness, justice, mercy. Give us Your heart for the poor and those who suffer. Keep us faithful to Your vision for this Nation so clearly revealed to our Founding Fathers and Mothers. Set us ablaze with patriotism and loyalty. Then continue to speak to us through our consciences. May we work out in specifics what You have worked into the fiber of our character. We commit ourselves anew to seek Your guidance and follow it this day. In Your holy name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. INHOFE. Mr. President, this morning the leader time has been reserved.

There will be a period for morning business until the hour of 9:30 a.m., with Senators to speak for up to 5 minutes each.

At 9:30, the Senate will resume consideration of S. 240, the securities litigation bill. At 9:30, Senator SHELBY will be recognized to offer an amendment regarding proportionate liability, with a rollcall vote occurring on or in relation to the amendment at 10:55 a.m. this morning. Further rollcall votes are expected throughout the session today.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 9:30 a.m., with Senators permitted to speak therein for not to exceed 5 minutes each.

OFFICE OF SURGEON GENERAL TERMINATION ACT

Mr. BURNS. Mr. President, yesterday I introduced a bill to eliminate the Office of the Surgeon General in the Public Health Service. In light of what we have just been through with Dr. Foster's nomination, what Dr. Elders went through, and even Dr. Koop, I think it has never been more clear that this position is a lightning rod. Let me say at the outset, this has nothing to do with Dr. Henry Foster, and everything to do with politics.

For years, this office has been used by both parties as a political football. Instead of fulfilling the duties as spokesperson for public health, the Surgeon General has found himself or herself as a puppet for the administration, pushing forward rhetoric on whatever pet topic peaks their interest.

I guess as a political appointee, you would expect this. However, when it comes to the public's health, politics should not come into play.

But what makes this bill timely is the effort being made by both the administration and Congress to shrink the size of Government. Being a voice for good health habits is not a job that only a Surgeon General can do.

There have been times in our recent history when we had no Surgeon General. Was the public's health in danger during that time? No. The duties were picked up by the Assistant Secretary for Health. In fact, through most of the 1970's there was no Surgeon General. During the Carter administration, the Assistant Secretary for Health doubled as Surgeon General. And it worked. It wasn't until Dr. Koop was named to the position, that the offices were again split.

Do not get me wrong—those who have filled this position have done some remarkable things. But the position is redundant. And if we are serious about wanting to reduce the size of Government and save the taxpayers money, then we have to take a close look at why this position is still there.

The Office of the Surgeon General has six employees and costs the taxpayer close to $1 million each year. In the scheme of things, that may not sound like a lot, but to folks in Montana, folks in Arizona, in fact, folks anywhere outside the beltway, a million dollars is a lot of money.

Am I saying the public doesn't need the information they get from the Surgeon General? No. They will still get the information that is important to preventing disease promoting wellness and learning how to live healthy lives. But that information will come from the Assistant Secretary for Health, who by the way should be no less credible. This position is consistently filled by a medical doctor. And again, it's been done before.

Mr. President, I think it is time we stop playing games with the public's dollar. This is one level of bureaucracy that we don't need. It has been proven in the past and we can make it work again. Eliminating the Office of the Surgeon General would not only save money—without hurting the public, I might add—it will also remove the football that has been used by both Republicans and Democrats to control a pulpit that the public has come to count on.

We do not need a separate Office of the Surgeon General, Mr. President. I have been joined by Senators KYL, THOMAS, HELMS, SANTORUM, NICKLES, THOMPSON, and BROWN in introducing this bill and I urge my colleagues to join with me in this effort to restore common sense to the Government.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 957

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Surgeon General Termination Act".

SEC. 2. TERMINATION OF OFFICE OF SURGEON GENERAL OF PUBLIC HEALTH SERVICE.

With respect to the Office of Surgeon General of the Public Health Service—

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

(1) all authorities and personnel of the Office are transferred to the Assistant Secretary for Health of the Department of Health and Human Services;

(2) all unobligated portions of budget authority allocated for the Office are rescinded; and

(3) the Office, and the position of such Surgeon General, are terminated.

CHANGE OF VOTE

Mr. BIDEN. Mr. President, on rollcall vote No. 274, I voted "nay." It was my intention to vote "aye." Therefore, I ask unanimous consent that I be permitted to change my vote. This will not change the outcome of the vote. I have checked with both leaders.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL HIGHWAY SYSTEM DESIGNATION ACT

Mr. BYRD. Mr. President, on June 21, 1995, I proposed an amendment, No. 1446, to S. 440, the National Highway System Designation Act. When the amendment was printed in the RECORD, the name of Senator McCONNELL was inadvertently omitted as a cosponsor, even though he was so recorded in the official papers. I wanted to take this opportunity to note that Senator McCONNELL was, in fact, a cosponsor of my amendment.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, as of the close of business yesterday, Thursday, June 22, the Federal debt stood at $4,885,968,241,521.21. On a per capita basis, every man, woman, and child in America owes $18,547.22 as his or her share of that debt.

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. INHOFE). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

PRIVATE SECURITIES LITIGATION REFORM ACT

The PRESIDING OFFICER. Under the previous order, the hour of 9:30 a.m. having arrived, the Senate will now proceed to consider S. 240, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 240) to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

The Senate resumed consideration of the bill.

Mr. D'AMATO. Mr. President, Senator SHELBY has an amendment dealing with proportionate liability. It is an amendment really that goes to the heart of the legislation. He is going to offer it and take it up at this time. I believe we have agreed that at 10:55 we will have a vote on it. At this time, I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SHELBY. Mr. President, I would like to commend Chairman D'AMATO, Senators DOMENICI, DODD, and GRAMM for their hard work in trying to forge a consensus behind reforming our securities litigation system to weed out abuses and eliminate frivolous suits.

I am concerned and disappointed, however, that the bill before the Senate will do more to impair the rights of the small investor than it will to place checks on abusive conduct and frivolous litigation. For this reason, I continue to oppose S. 240.

Earlier this spring, Senator BRYAN and I introduced a bill aimed at striking a balance between preserving the rights of the small investor and eliminating incentives for frivolous and abusive litigation.

Senate bill 667 incorporated many of the widely supported provisions incorporated in the bill before us like prohibiting referral fees, and the payment of attorney fees from the SEC disgorgement fund, increasing fraud detection and enforcement, and ensuring adequate disclosure of settlement terms.

In addition, our bill addressed many of the concerns that Chairman Levitt and the SEC have raised against S. 240 regarding pleading requirements, liability standards, and statute of limitations issues.

While the bill before us responds to some of these concerns—it still fails to ensure adequate protection of the rights of the innocent victim of securities fraud and effectively leaves the little guy who seeks redress for professional wrongdoing out in the cold.

On several key issues, S. 240 fails to preserve the important role that legitimate private securities litigation plays in checking abusive conduct and, in fact, makes it more difficult for the small investor to gain access to the courts and obtain full recovery for securities fraud.

I believe that individual investors, particularly small shareholders, must be assured a full recovery against professional wrongdoers if we are to maintain integrity in our securities markets.

Like Chairman Levitt and many other colleagues, I believe the bill can still be improved.

I, therefore, intend to offer a couple of amendments that I believe will help assure that meritorious claims are not inhibited in our effort to prevent frivolous and abusive ones.

Mr. President, S. 240 makes important reforms, many of which I support. Sadly, however, the bill would come at too great a cost to the small individual shareholder.

I urge my colleagues to oppose S. 240 as currently drafted and support amendments to reinstate important investor protections against securities fraud.

AMENDMENT NO. 1468

(Purpose: To amend the proportionate liability provisions of the bill)

Mr. SHELBY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Alabama [Mr. SHELBY], for himself and Mr. BRYAN, proposes an amendment numbered 1468.
>
> On page 134, strike lines 5 through 24, and insert "uncollectible share in proportion to the percentage of responsibility of that defendant, as determined under subsection (c).".

Mr. SHELBY. Mr. President, the amendment that I am offering I am offering on behalf of myself and the Senator from Nevada, Senator BRYAN.

S. 240, which is the bill before us, provides for proportionate liability for defendants found guilty of reckless conduct by limiting joint and several liability to defendants found guilty of knowing securities fraud.

As an equitable matter, I generally support proportionate liability as between wrongdoers. Less culpable defendants should not, I believe, necessarily be liable to the same extent as more culpable defendants. I think that is just common sense.

However, proportionate liability should not act to deprive the innocent victim of a full recovery—in other words, defraud people of their basic rights. Much more important than ensuring equity among defendants, I believe is ensuring that as between the wrongdoer and the innocent victim, it is the wrongdoer that bears the burden—yes, Mr. President, bears the burden—of any uncollectible judgment caused by an insolvent defendant, not the victim.

S. 240 turns the principle on its head. S. 240 before us today would make the innocent victim bear the loss of an insolvent defendant by capping the liability of proportionate defendants to only an additional 50 percent of their share. Beyond that, the victim bears the loss.

Additionally, S. 240 would only allow the victim to recover his full damages against the remaining defendants if his or her net worth is less than $200,000 and the victim's damages are greater than 10 percent of their net worth.

Mr. President, why we would want to place restrictions on a victim's full recovery, to limit a defendant's liability is beyond me in the first place. But the provision also fails in its purpose. Many retirees own their own homes and have significant equity in their property. Many have saved and invested for years and years for retirement. This is not a bad thing. We usually encourage such behavior. Yet, many older retirees would be precluded from a full recovery here because their net worth is over $200,000 and their damages are less than 10 percent or $20,000. Why we would want to intentionally punish an individual who is productive, who saves and invests for the future, is not completely clear to me.

Further, Mr. President, I must seriously question, as others have, a bill like this that makes a judgment that these productive members of our society should somehow be less entitled to recovery because they have more net worth than the next guy.

Mr. President, as I have stated, this amendment that I offer on behalf of myself and Senator BRYAN is simple. It would strike the net worth and damage requirements and make proportionate defendants responsible for the uncollectible share of an insolvent codefendant in proportion to their percentage of responsibility or culpability. It puts the victim before the defendant, as I believe it should in this society, as it rightly should. I urge my colleagues to support it.

This bill has some good things in it, but this is not one of them. I think it is time we think up here today—and I hope we will—about the victim and not the perpetrator of fraud and abuse in securities.

I urge my colleagues to support this amendment.

Mr. D'AMATO. Mr. President, I feel this amendment addresses one of the areas that is in the most significant need of reform.

Imagine yourself being named as a defendant in a class action suit where the damage claims are $100 million. Further imagine that a jury finds you reckless or negligent, because you are an insurance company, or because you are a securities firm, or because you are a bank, or because you are a large accounting firm associated with the people who committed the fraud. Your liability could be 2 percent, because you failed to see the violation and take action against it; you, therefore, were negligent and should be held accountable.

Well, you could settle and pay that 2 or 3 or 5 percent, or you might want to fight and say that given your tangential relation to the fraud, the duty was not yours to uncover it, but if you are found liable you could be held accountable for the full $100 million. For example, an accounting firm who cannot go beyond the numbers that were put forth in the audits that they conducted, who has had almost nothing to do with the alleged grievance, could be named as a defendant because they have a large asset base—we call these firms deep pockets.

I, myself, would never have to worry about being named as one of those defendants because I do not have deep pockets. Deep pockets are generally firms of economic substance who are generally well insured. They find themselves dragged into these suits, and their lawyers tell them it will cost $700,000, $800,000, maybe $1 million to defend themselves, even if the company has had literally little, if anything, to do with the alleged fraud that was perpetrated on stockholders. Let me say again, that these firms are brought in only because they represent an economic interest of some substance. As I said last night, in these lawsuits, they sue everybody and anything that moves and some things that do not move. Your involvement in the fraud could as little as you walked into the building on the days the fraud was committed, but if you have deep pockets you will be sued. They will sue an outsider on the board of directors, who had no knowledge of the schemes, but he will face a $100 million suit, notwithstanding the fact that he had little or nothing to do with the fraud. Even the standard of proof does not help the director; the plaintiffs will claim he should have known, or could have found out about this, or with more diligence could have stopped the fraud, the distinction legally between reckless conduct and negligent conduct is rather unclear. Let me say that again. It is very blurry.

So now the director, or the accounting firm, has a corporate decision to make. Whether they will settle the case for what is nothing more than a legal payoff to get rid of the suit, or whether they try to defend themselves, because they think they can win. By staying in the suit the firm could risk a $100 million when they could settle it for $2, $3, or $4 million, and avoid the legal costs. Ordinarily, I expect, firms would fight it out, but under joint and several liability, it does not matter what damage the firm caused, because they have the deep pockets; they can be held liable for the full amount of the settlement.

Now, we hear that we should not put the burden on the victims, nor do I think we should. What we have said here is that if somebody committed a tortious act, he will be held responsible for his portion of the damage. If it is 2 percent, he will pay 2 percent of the damages. We even went beyond that. If the fraudulent defendant is bankrupt and cannot pay, we would double the liability of the other defendants. So if a defendant was found 5 percent negligent, but the main defendant was not able to pay, the 5 percent negligent defendant would be held responsible for 10 percent of the damages.

If we really want to be fair, and we all want fairness, we should protect the small investor who is legitimately aggrieved but, also protect people who are unfairly dragged into a suit that is nothing less than legal blackmail. These firms are forced to settle because their business cannot be subjected to years of this litigation, or the possibility of having to pick up the entire cost —notwithstanding that their contribution to this scheme was not fraudulent. If a person has contributed 2 percent to the fraud, they should pay the 2 percent of the damages.

Why does the plaintiff's bar not want this? Because more firms would be willing to stand up and say, "Okay, we will battle it out," and because more of the charges that the cases are frivolous would be proven. These lawyers are suing the people because they are given an opportunity to hold them up.

Now the victim is fighting back. The victim in this is not just the shareholder. The victims in many of these cases are the people with deep pockets who may just associated with the fraudulent company, and because of their connection with a company, they are dragged in.

That is not what the law should be about. If you do the act, then you should pay. I absolutely agree. But do not bring in some guy who just happens to be in close proximity or has some connection with the company, has not really participated in this.

But let me tell you, if you commit fraudulent conduct, or intentional wrongdoing, there is no escape from paying the full settlement.

In our attempt to be fair, we have said quite clearly, that if you are knowingly participating—knowingly—in a fraudulent act then even if you committed only 2 percent of the fraud, you can be held liable for all of it. If you intentionally participate—intentionally—then even though you may have been only 1, 2, or 3 percent liable, who can be held responsible for the entire amount.

We do not, as some have claimed, make it possible for people to lie, to cheat, and escape their liability. That is an oversimplification. It demonstrates the lack of knowledge of this legislation on the part of some of the editorial writers. I wish their newspapers had to be held to the same standard that they would ask the business community to be held to. That would be nice. That would be incredible.

Imagine, they would have to be accurate, and truthful. It would be quite something. Quite something.

We want to be fair, and I think we have tailored this legislation in such a way that we make it clear—if you intentionally mislead, even if that act causes only 1 to 2 percent in damages, you will be held for the whole. We have not changed that.

I hope the Senate will not however, make it possible for people to become further exposed to these plots of extortion. That is wrong. Our Founding Fathers did not want it that way. This has developed over the years, and it has come about as a result of the lawyers practicing law, who act not on behalf of the poor stockholders, but on behalf of their own economic aggrandizement. That is not what the practice of law should be about.

Mr. DODD. Will my colleague yield?

Mr. D'AMATO. I am happy to yield to the Senator.

Mr. DODD. I think something deserves to be repeated here, and that is, of course what we are talking about here is the process of intimidation, quite frankly, to achieve settlement.

What needs to be pointed out, rarely do these cases ever go to court. We have seen that 98 percent, I think, is the number, ends up being settled. The reason is because, as our colleague from New York has pointed out, is because of that protracted lengthy process, where a person who is marginally involved can end up being held accountable for the entire cost.

Of course, who pays for all of that? It is also investors who pay for this. At the end of the day, this is not a cost that is just absorbed by one group of business people or another. This ends up being passed on.

The very investors that we talk about that can be damaged, and where there is intentional fraud, obviously, they collected from anyone who is involved, but in the cases where it was not fraudulent intent, then the investors on the other side of this end up paying, because those costs get shifted.

So my colleagues make the point here, it is not just the individual companies that end up being damaged as a result of this, where they literally today write into their budgets in preparation for these kinds of lawsuits being filed, which ends up costing consumers, costing business, costing jobs, as a result of a present scheme which allows for people who literally happen to be hanging around, as the distinguished chairman has pointed out, on the margins of this, being drawn into this. That is patently unfair by anyone's standard.

In fact, Jane Bryant Quinn, whose column has been referred to on numerous occasions here in the last 24 hours, makes the point in a column. She has criticisms about some aspects of the bill and supports others. She makes a point that the issue of the proportional liability, to quote her column, she says "Some sort of proportional payment is fair," as the proposal suggests here, and what we have tried to do is fashion a scheme that would make those who are even marginally involved, fully culpable, where you have fraudulent intent; where that is not the case, at all, then proportional liability would trigger in.

What the amendment from the distinguished Senator from Alabama would do is eliminate virtually that entirely.

Again, whatever differences people may have with this bill on safe harbor and securities, statute of limitations and so forth, there is, I think, some general consensus that some notion of proportional liability and protection against the small investor, particularly the investor who does not have the kind of resources which this bill also protects, ought to be a part of this legislation.

We have tried to do that here in a way that is fair and balanced, and takes into consideration the legitimate concerns of bona fide plaintiffs that have been intentionally defrauded, those who are even intentionally defrauded, but fall into the smaller category, so there is a way to protect their particular interest.

We also must try and keep in mind the legitimate interests of those who are not fully culpable. Those businesses out there that are then being drawn in and asked to pay the entire freight on a matter where they are not at fault to that extent. That is fair, as well.

This amendment would gut that, destroy that entirely. We would go back to the status quo, and once again we get into this hijacking process here where those individuals and those companies have to be held accountable.

In fact, the Supreme Court observed in the Central Bank of Denver,

> Newer and small companies may find it difficult to obtain advice from professionals because professionals may fear that a newer or smaller company may not survive, that business failure would generate securities litigation against the professional. In addition, the increased costs incurred by professionals because of the litigation and settlement costs may be passed on to their client companies and in turn incurred by the company's investors, and intended beneficiaries of the statute.

The point being they are the investors that pay the price as result of destroying the proportional liabilities provisions of this legislation.

I hope this amendment would be defeated.

Mr. D'AMATO. I yield the floor.

Mr. SHELBY addressed the Chair.

The PRESIDING OFFICER (Mr. JEFFORDS). The Senator from Alabama.

Mr. SHELBY. Mr. President, I think what we need to do here this morning is focus on what we are really doing here; focus between a wrongdoer, perpetrator of wrong, and the victim of the action.

It is not the process of intimidation—I would reject that—but the process of wrongdoing that we should be concerned with.

We should not, Mr. President, we should not protect the perpetrator of wrongdoing over the victim. That turns American jurisprudence upside down. I believe here in the Senate today that we should be thinking about the innocent victim and not the perpetrator, not the people who put these things in motion and then they want a statute to protect them to some extent. That is what that is about here. I think, if the Members of the Senate would really focus on the content of this bill and what it will do to the innocent victim, they would feel a lot better about the amendment.

The phrase "hijacking" was used. That is right, "hijacking." Who is going to be hijacked if this bill passes? I will tell you who it is going to be, it is going to be the innocent victims, it is going to be the innocent people who are going to be hard pressed to press their claims or to collect anything for the wrongdoing in the future.

I am real concerned and really disappointed that this bill before the Senate will do more to impair the rights of the small investors in America—and there are millions of them—than it will do to place checks on abusive conduct and frivolous litigation. None of us are interested in frivolous litigation. There is no room for that in our courts. You know, that is one of the reasons, I suppose—one of the reasons, not the only reason—this bill was brought.

But there are bonafide cases in America and there will be in the future where, if this bill passes, the innocent victims will not be able to redress their injuries.

Mr. President, I ask unanimous consent that an article that appeared in Newsweek by Jane Bryant Quinn, "Losing Your Right To Sue? Congress may make it hard for you to pursue a case of securities fraud," be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SHELBY. Mr. President, something I thought was ironic here, if you look at S. 240 it starts out and says:

> A bill to amend the Securities Exchange Act of 1934, to establish a filing deadline and [listen to this] to provide certain safeguards to ensure that the interests of investors are well protected.

Is that what this bill is really about? I submit that it is not. I hope the Members of the Senate will focus on this amendment because it has a lot of merit to it. It will strengthen this bill. It will strengthen the rights of victims in America, victims of securities fraud. I do commend my colleague from Nevada, Senator BRYAN, for his cosponsoring this, and his leadership in this direction.

[From Newsweek, June 26, 1995]

EXHIBIT 1

LOSING YOUR RIGHT TO SUE?

CONGRESS MAY MAKE IT HARD FOR YOU TO PURSUE A CASE OF SECURITIES FRAUD

(By Jane Bryant Quinn)

Talk about a twist of fate. Rep. Christopher Cox, a California Republican, wrote a tough, aggressive bill on securities-law reform, which passed the House of Representatives in March. If it becomes law, investors who think they've been defrauded will find it incredibly hard to bring a class-action lawsuit to recoup their loss.

Just two months after this bill passed, Cox found himself tagged by just such a suit, brought by some victims of the noxious First Pension fraud. In a second suit last week, First Pension's court-appointed receiver charged Cox, among others, with contributing to the hoax. "Defamatory and wildly false," Cox fumes.

First Pension handled the paperwork for tax-deferred retirement accounts. It also sold clients fraudulent real-estate investments and secretly tapped their accounts for cash. The company is in receivership, its principals in jail and its customers out $136 million. To recover some money, investors are going after the supporting players. That includes Cox and his former law firm, Latham & Watkins. Cox's job was to set up a company that could have absorbed the purported mortgage investments. The lawsuits allege that he knew, or recklessly failed to find out, that the mortgages weren't sound. Says Cox, "I did not know. First Pension concealed the fraud."

So is Cox the innocent victim of scorched-earth lawyering? Or is he an enabler who deserves to be called to account? The courts will decide this specific case. But the issue encapsules the conflicts that swirl around securities-law reform.

The objective of reform is to staunch what companies claim is a flood of frivolous lawsuits. Greedy lawyers, they say, sue on flimsy grounds. The companies pay as the cheapest way out. But the Cox bill and another bill before the Senate would stifle honest lawsuits, too. Among other things, they:

Preserve a Supreme Court decision that sharply limits the time for bringing a securities suit. Formerly, you had three years to sue in federal court, starting from when the fraud was discovered. In 1991, the court cut that back to just one year but in no event more than three years after the date you bought. So if a crook can deceive you long enough, you lose the protection of these laws. Most of First Pension's investors have been caught in that trap, says San Diego attorney Michael Aguirre. The scam began more than a decade ago but investors just recently found it out. So they can't sue for securities fraud, either in federal or state court. Aguirre is suing for common-law fraud, but says that it's not an easy fit.

Preserve another Supreme Court decision that lets some of the people who helped with a fraud escape liability for the loss. It's the lawyers/accountants/consultants self-protection clause (although those who are central to the fraud remain on the hook). This rule would have limited the sums recovered by those who bought bad bonds from the notorious Charles Keating, chief of the Lincoln S & L. Keating's company went broke and he went to jail. His duped investors got most of their money back, says San Diego lawyer Bill Lerach, but only because they successfully sued the minions who helped him operate. (I do think, however, that marginal players shouldn't have to foot the entire bill. Some sort of proportional payment is fair, as the proposals suggest.)

Make it harder to sue a company that grievously misleads investors. Under current law, it's OK for execs to make good-faith business predictions, even if their guess is wrong. They're liable only for deliberate fibs. But because they worry about lawsuits, they may suppress even reasonable forecasts that might help investors make a decision about the stock. Hence, this proposal, which makes it safer for managers to talk. But like so much else in these slipshod bills, it goes too far. A shady promoter could safely say almost anything. You'd call it a lie; he'd say it was innocent optimism. To win a lawsuit you'd have to prove that the speaker intended to deceive—which is pretty tough to do. Cox's bill (but not the bill in the Senate) could protect even a deliberate lie.

Put investors and their lawyers at risk of owing the defendants' legal fees if they lose their case. Cox scoffs at the thought that judges would actually order individuals to pay. "The lawyer would pay" and adds the cost to your fee, he says. But the mere threat of owing a corporation's costs will scare people off—and scare all but the best-funded lawyers, too. Sen. Richard Bryan has a better idea. He proposes a screening process that would test the merits of a suit. If the screener thought it was frivolous—and you brought it and lost—then you'd risk paying all the costs. Ditto on the other side, if the company refused to settle what looked like a meritorious claim.

Some reasonable, Bryan-like compromises need to be reached because Congress (especially the House) is throwing a bomb at a problem that just needs a switchblade. There's not even a litigation explosion, says James Newman, publisher of Securities Class Action Alert in Cresskill, N.J. The number of lawsuits is up, but that's because more are filed in each dispute. The number of companies sued remains in a constant range. There were only 140 in 1993, he says.

Another myth is the oft-heard claim that "vulture lawyers" automatically sue if a company's stock falls by 10 percent in a single day. Baruch Lev, a professor at the University of California, Berkeley, tested a version of this idea for the three years ending in 1990. Of 589 companies whose stock price dropped by more than 20 percent in the five days around the time of a disappointing earnings report, only 20 were hauled into court. And rarely on the strength of the price drop alone, says Jonathan Cuneo, general counsel of the National Association of Securities and Commercial Law Attorneys. In many of these cases, he says, "executives are telling the public that everything is going to be great while they're bailing out and selling their own stock."

There's some good stuff in these bills, especially in the Senate version. They stop lawyers from paying a bounty to people who find them clients, block stockholders who sue for a living and try to discourage frivolous suits. But they overreach. In a nation of laws, you're disenfranchised if you lose your day in court.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. I see my good friend, Senator BRYAN, would like to speak and although I do not want to dominate this debate I think it is important to note that as a result of the give and take in shaping a bill that is balanced, we have put into this bill a provision, on page 138 of the bill, called the Audited Disclosure Of Corporate Fraud. That provision was suggested by our colleague from Massachusetts, Senator KERRY.

By the way, I do not think including this provision is going to change his final vote on the bill, nor was it an attempt to do that. It was an attempt to make this bill better at the suggestion of our colleague. Senator KERRY pointed out that after our accountants come across situations which are fraudulent, they have a duty to report that to the board but they should not be allowed to sit back and relax and say, "I reported it to the board." When we say we are trying to protect the little guy, we are. This provision means that if the board does not do anything the accountants have to follow up on their report. They must then go to the Securities and Exchange Commission and report this wrongdoing.

Why do I mention this? Because when the bill has been characterized in some of the media, there is no mention of the protections we have built in. I continue to hear that this bill allows people to commit fraud. Let me say, as it relates to proportional liability, if you knowingly are involved in a fraud you do not escape being liable for the entire suit. And that is the way it should be. In other words, if you participate in a fraudulent scheme then you should be and would be accountable for the entire loss.

Let us understand what this legislation does is not let the fraudulent conduct, or the people who participate in that, off the hook.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I acknowledge this is an extraordinarily complicated area of the law. But it has profound implications for millions of Americans who have lost money as a result of investment fraud. So, as I commented last night, this is not just an argument among lawyers, accountants, bankers, and securities underwriters. Everybody who has one nickel in a retirement fund, who invests in the stock market, everybody who owns a single share of stock, can be potentially affected by this.

Historically, under the law, since "the memory of man runneth not to the contrary," defendants were jointly and severally liable, irrespective of their degree of culpability. That is to say, in a case in which several defendants are joined and are found liable, an individual who is 5 percent liable was jointly and severally liable just as the individual who may have been 50, 60, or 70 percent liable.

The theory is one of equity, balancing the scales of justice that are such an important symbol of the American judicial system. And that is, basically, who ought to bear the burden?

The innocent plaintiff—in this case the investor? Or an individual whose conduct was responsible for the loss? I think it is important to understand that under the Securities Act of 1934, if a defendant is guilty of ordinary negligence—no recovery at all; no recovery at all. An individual defendant who is guilty of gross negligence—no recovery at all.

In order for liability to attach to any defendant under the Securities Act, the conduct must be either intentional or knowing or reckless conduct. So when we are talking about balancing the burden we are not talking about somebody who just made a little mistake. We all make mistakes. We are not talking about somebody who did something accidental. We are talking about somebody whose conduct was intentional or knowing, or somebody whose conduct was reckless. In my judgment that is not an unreasonable standard to hold somebody liable for.

What S. 240 does is to change centuries of American jurisprudence by dividing categories of defendants, some jointly and several, and some proportionate liability. Let me say, I agree in part with what our colleagues who drafted S. 240 have attempted to do. The amendment, which my distinguished colleague from Alabama offers, recognizes that distinction.

What we say, and what S. 240 in its current form says, is that if the conduct is intentional or knowing, then all such defendants whose conduct rises to that level of misconduct are jointly and severally liable, which means that a plaintiff can recover against any one of those the full 100 percent of his or her or its loss.

A new category is established under S. 240, and also under the amendment offered by my distinguished colleague from Alabama, that says with respect to those who are reckless—not intentional, not knowing misconduct, but reckless misconduct, they will be guilty in a proportionate liability sense. That is their legal responsibility.

I am willing to recognize that in terms of trying to seek that equilibrium on the scales of justice that is not an unreasonable proposition. But here is the fundamental distinction between S. 240 in this, and the amendment of my distinguished colleague that I am happy to support. Remember the basic premise: Who ought to bear the burden, the totally innocent investor or those whose conduct rises to the level of intentional and knowing fraud or reckless misconduct? That is not a difficult proposition for me. I think, between those two categories, those who are totally innocent of any misconduct ought to have the right to recover for their economic loss.

I might just say, over my years as a Member of this institution, we have debated product liability endlessly.

That was one of the titanic battles of the last Congress, the Congress before that, and this Congress. And, as the distinguished occupant of the chair and my colleagues on the floor know, we passed product liability. Some of us were against it; some of us for it. But it is interesting to note that with respect to product liability and economic loss as opposed to pain and suffering, there was never a suggestion that we ought to, in effect, make some of those defendants proportionately liable and not jointly and severally liable.

So for those who followed that debate closely, it was never suggested that someone who was only 5 or 10 or 15 percent liable for the economic loss in a product liability lawsuit would only be responsible for 10 or 15 percent. Each and every defendant is jointly and severally liable under the new product liability bill that passed this Congress.

So whether the misconduct is 5 or 95 percent, the plaintiff has the right to recover 100 percent of his or her or its economic loss. The only thing we did—many of us disagreed with that—is we put a cap on pain and suffering but not economic damage.

What we are talking about in this legislation is not pain and suffering. We are talking about economic loss for investors who have purchased securities and, as a result of securities fraud, they have lost money.

So I just share with my colleague the irony that all of this great ordeal that we have gone through over the past—this will be the fourth Congress that I have been privileged to serve in—it was never suggested in product liability that we ought to, in effect, create these categories of proportionate or joint and several liability. The plaintiff was entitled to 100 percent of his or her or its recovery.

This is in the abstract. My distinguished colleague from California, my distinguished colleague from Maryland, and I yesterday mentioned the Keating case. The reason why we mentioned the Keating case is, if you look at the malefactors' greed in that great decade of the eighties and you look at the icons, you see the Milkens, the Boeskys and the Charles Keatings. Those are household names in terms of frauds perpetrated upon the American people costing innocent people hundreds of millions of dollars.

Somehow it has been suggested that this action 240 has nothing to do with the Keating case. Let me remind my colleagues that I will be offering in the RECORD that the actions brought on behalf of a class of defrauded investors against Mr. Keating were brought under the Securities Act, the very act that we are amending. We are talking about the Securities Act of 1934, the RICO provisions, and the Securities Act of 1933.

Mr. D'AMATO. Mr. President, will my colleague yield?

Mr. BRYAN. Yes. I am happy to yield.

Mr. D'AMATO. I am not certain, but I believe—and I know that we all watch legal proceedings today—that the securities actions that were brought against Charles Keating were brought by the Government. Is not that true?

Mr. BRYAN. That is not true. In responding to my good friend and distinguished chairman, they were brought as part of a private cause of action on behalf of a class. Mr. Keating was a defendant together with a whole host of others. I will not belabor the chairman's time. But it was a whole category.

The point I want to make in responding to my good friend's question is that the heart and soul and essence of the recovery, $262 million, was brought under the Securities Act. That was the underpinning, the foundation, the premise, the essence of the cause of action.

Mr. D'AMATO. Is it not true, though, that there was knowing fraud being committed?

Mr. BRYAN. The answer to that would be, in some instances, yes. But there were other defendants which, under S. 240, would fit under the proportionate liability classification. And in the Keating case, as the distinguished chairman knows, Mr. Keating was bankrupt. There is no question he was a primary offender; no question he would be jointly and severally liable under the bill as drafted by the chairman.

But what makes the Keating case so significant is that the amount of recovery by the plaintiffs would have been reduced dramatically because there were others who were not in the category of potential and knowing fraud whose conduct was knowingly reckless.

Mr. D'AMATO. In fairness, my friend did answer that. I would like to make the point that those people whose conduct under this bill was knowingly fraudulent, even if they were only partially responsible, will still be liable for the entire amount if the others have gone bankrupt. In other words, and in layman's terms, if you committed fraud intentionally, and others have gone bankrupt, you can be held liable for the entire amount. I think we need to keep that fact in sight. That was my the point.

Mr. BRYAN. Before responding to a question from my colleague from California, the chairman is correct that those who are intentional in their fraud, and knowingly, are jointly and severally liable. In the Keating case, there was a whole list of people, however, who would be aiders and abettors. Under the provisions of S. 240, aiders and abettors are home scot-free; no recovery at all.

There was another category of individuals. Some of them were firms and some of them were securities underwriters who would fit under the new classification of reckless conduct. And they would come under only the proportionate liability. Much of the recovery, much of the $260 million the innocent plaintiffs in the Keating case recovered, was from the reckless category.

I say in all due respect to the chairman, whom I greatly respect, that recovery would be greatly and dramatically reduced because under S. 240 there is only proportionate liability.

Mr. SARBANES. Will the Senator yield?

Mr. BRYAN. Yes.

Mr. SARBANES. Mr. President, I just want to point out that the recklessness standard has long been a part of the common law for purposes of fraud. It is a very high standard. The chairman of the committee earlier said, Well, you know, someone could come in and be negligent, and they are going to be held jointly and severally liable. That has never been the law. It is not the law. It will not be the law under the amendment of the distinguished Senator from Alabama.

The definition of reckless conduct—let me read the definition that is generally used by the courts: "A highly unreasonable omission involving not merely simple or even gross negligence"—so it is higher than simple negligence, it is higher than gross negligence—"involving not merely simple or even gross negligence but an extreme departure from the standards of ordinary care, and which present a danger of misleading buyers or sellers that is either known to the defendant, or is so obvious that the actor must have been aware of it."

The way the bill is written now, the phrase "ignorance is bliss" is going to take on a meaning that just staggers the imagination.

The problem that is being talked about, about the strike suits, is dealt with up front in the bill. You try to make it harder to bring those suits. We support a lot of those provisions. This is, simply put, a question whether fraud participants are going to be put ahead of innocent victims and individual investors. I mean, why in the world, if a fraud has been committed, should the burden fall on the innocent victim of the fraud and not on the people who have been participants in the fraud?

I defy anyone to explain to me the logic or the rationale for protecting the participant of the fraud ahead of the innocent victim of the fraud.

I thank the Senator for yielding.

Mr. BRYAN. Mr. President, I yield to the Senator from California. I just assure my friend from North Carolina that I intend to be very brief because I know he wishes to speak. It is not my purpose to preempt the time of those who share a different point of view.

I am delighted to respond to my friend.

Mrs. BOXER. I thank my friend from Nevada and my friend from Alabama for this amendment because if we are not here to protect innocent victims, then what are we here for? That is the bottom line. Yes, we want to correct problems and we want to do it right, but we have to look at the bottom line. That is why I am so grateful to my friend for bringing up the Keating case, because when this Senator brought up the Keating case late in the night she was told—in some very agitated tones, frankly—that the Keating case had nothing to do with this section of the law we are amending.

Well, I have the documents in front of me, and it is very clear they are class action lawsuits based on violations of the Securities Act of 1934 and the Securities Act of 1933. And at some point I am going to put these in the RECORD, as I promised my chairman last night that I would do, for all to see.

I am so grateful to my friend from Nevada for bringing this up. This bill is about the Charles Keatings of the future and whether they are going to commit the kind of financial atrocities they committed in the past.

Now, that is not the goal of the authors of this, but it is an unintended consequence of this if we are not careful, if we do not listen to Arthur Levitt of the SEC, if we do not listen to the consumers, if we do not listen to the securities people in each and every State including my own State, including those in Connecticut, including those in New York, and all over this country who are against this bill, and a New York Times editorial today, which really takes on this bill.

So the question I have for my friend is this. The Senator from Alabama and the Senator from Nevada are putting before us what they consider to be a correction. It is technical; it is difficult for people to understand, but I wish to ask my friend a direct question because I know he is a student of the Keating case and I know he has stated that the Keating case is involved here.

If S. 240 had been in effect and the joint and several liability had been changed, would it have adversely affected those people who eventually collected because they were able to go to these other actors in the suit?

Mr. BRYAN. To answer my distinguished colleague from California, it would have adversely affected the plaintiffs. It would have reduced their amount of recovery by tens of millions of dollars. The overall amount of the recovery was $262 million as a result of the class action filed under the securities laws. It would have reduced that amount by tens of millions of dollars, and I will try—I do not have the number right before me—to develop that number to give more particularity.

Mrs. BOXER. I am finished with my questions. But what I really appreciate about his presentation is it is not some academic debate. You are telling this Senate, and I hope they are listening, that if we change the laws too much, if we go too far—and, yes, we should correct it—the people who collected in the Keating case would not have collected tens of millions of dollars, and it includes this amendment that is standing before us.

I thank my friend.

Mr. BRYAN. I thank the Senator from California. I am going to be very brief, as I assured my colleague——

Mr. DODD. Will my colleague yield on that point?

Mr. BRYAN. I would be happy to yield. I recognize that others want to speak on this issue, and I do not want to dominate, and I do need to make a couple other points. But I would be happy to yield.

Mr. DODD. I just ask my colleague here: If the provisions of this legislation, in fact, had been in place at the time, my colleague from Nevada is not suggesting, I hope, by his comments that the Keating case would have, as it was finally concluded as we know, changed necessarily the awards to the plaintiffs in that case because of the proportionate liability provisions of this legislation, because we are not dealing with that?

Mr. BRYAN. I would respond with all due respect—the Senator knows how greatly I respect his insight into this process—dramatically, categorically and emphatically. If S. 240 had been in effect at the time of the Keating action, the recoveries would have been tens of millions of dollars, maybe even more than $100 million, less.

Mr. DODD. I say to my colleague, I totally disagree with that conclusion. In fact, I think we might have enhanced, had the provisions of this bill been in place, the collection rather than deny, because of the requirement of accountants to actually report the kind of problems that they were not required to under existing law at the time of the Keating proceedings.

Mr. BRYAN. I thank the Senator. I am just going to make one point. The fundamental difference between the Bryan-Shelby amendment and S. 240 is that it recognizes, as does the chairman and the distinguished Senator from Connecticut, that we create two classes of liability. One is joint and several, and the other is proportionate. But the fundamental distinction is that in the Shelby-Bryan amendment, if those who are jointly and severally liable are judgment proof, that is, they are insolvent, they are in prison, they have taken flight, they are unable to respond to the full amount of damages, our legislation in the amendment would require you to look first to the joint and several liability. But if the innocent investor was unable to recover the full amount of his or her losses, then you could look to the proportionate liability, those people whose conduct was reckless, and the plaintiff can fully recover.

Under the print before us, that would not be possible; there is a limitation, and you can only recover against the proportionate liability the amount that is determined to be the proportionate liability plus another 50 percent.

So let us say, for example, that the loss was $1 million, that there was a 10-percent responsibility on the part of a reckless defendant. With proportionate liability, the full amount that you could recover would be $100,000. Under the bill that is currently before us, the full amount that you could recover would be $150,000, even though the loss might be $1 million.

Mr. SARBANES. Would the Senator yield for a question?

Mr. BRYAN. I would be happy to.

Mr. SARBANES. Who would bear the burden of the other $850,000 in that case?

Mr. BRYAN. The innocent plaintiff.

Mr. SARBANES. The plaintiff.

Mr. BRYAN. The investor, who was not at fault at all.

Mr. SARBANES. Why should that investor, who was the victim of a fraud, have to swallow $850,000 of the loss when there are parties who were participants in the fraud who ought to be held accountable?

Mr. BRYAN. I would agree with the observation made by the Senator from Maryland. I cannot comprehend the public policy of saying, look, those who are active and are involved in reckless misconduct in this case, they should have their liability limited so that the innocent plaintiff, innocent investor, should bear the loss. I do not think that is responsible public policy, I would say in response to the Senator.

Mr. SARBANES. If the Senator would yield further, because I wish to be fair to my friend from Connecticut and the distinguished chairman of the committee, they say, well, there are these strike suits and we have to try to preclude them because these deep pocket people are being held up, as it were.

The way you handle that problem, as is done in this bill, is you make it more difficult to bring the strike suit so you clear out the so-called frivolous suits that have been asserted. And we agree that that is a desirable objective. But by definition, the cases we are talking about are cases where there is liability and there has been fraud, and in that instance there is no rationale that I can think of that warrants putting the participant in the fraud ahead of the innocent victim of the fraud.

Mr. BRYAN. I simply respond to my friend's question by saying I share that view.

I know others desire to speak. I must say the view shared by the Senator from Maryland and the distinguished Senator from Alabama and I is a view that is endorsed by the Securities and Exchange Commission and the North American Association of Securities Administrators. So we are not alone in making that determination.

Mr. SHELBY. I wonder if the distinguished Senator from Nevada would yield for one question.

Mr. BRYAN. I am happy to yield.

Mr. SHELBY. Does the Senator from Nevada know anywhere in American jurisprudence where the victim is left out in the cold like they would be if this bill passes?

Mr. BRYAN. In responding to the question, I would not presume to know all jurisprudence, but I can think of no instance in which, as a matter of public policy, a determination is made where the wrongdoer should benefit and that the innocent victim should suffer the consequence of the wrongdoer's conduct.

Mr. SHELBY. I thank the Chair.

Mr. BRYAN. I yield the floor.

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. FAIRCLOTH. Mr. President, I heard the questions and the arguments back and forth on the Shelby-Bryan amendment, and certainly both are distinguished Senators and very good friends, so I somewhat with hesitation oppose the Shelby-Bryan amendment. But as I mentioned yesterday, one of the key provisions of this bill is the reform of the proportionate liability rules. This is unethical lawyers going after deep pockets.

It says very simply that you or a company pay your fair share of the losses that you or your company might have caused. If 10 percent was your share of the loss, then you pay 10 percent. I think it is a reasonable provision that you pay for the damages that you cause, but not others.

Moreover, Mr. President, the bill already goes several steps in the direction that Mr. SHELBY and Mr. BRYAN would like.

First, for those persons or companies that engage in knowing fraud, they become jointly and severally liable. So they do not come under the proportionate rules. They will have to pay more than their share and if any of the fellow defendants—anybody else in the suit—are insolvent, then they are committed to paying that portion. If knowing fraud was committed, they are not covered, and they simply have to pay it all if they are the only ones with any money.

Second, investors with a financial net worth under $200,000 will be made whole even if there are insolvent defendants. This is not a small pool of people. This is about 99 percent of America. This was supposed to be the so-called widows and orphans provision that I assume was one of the things being talked about this morning.

This was a provision whereby we protect the small investor. I think the current bill goes further, so the bill is already protecting widows, orphans and a lot more.

The Shelby-Bryan amendment would go even further. His amendment proposes to protect the little fellow, which we have already covered, but also it would protect the sophisticated investor without distinction.

I have to oppose the amendment. Too often the lawyers that deal in these type of securities suits go after one thing: The deep pockets, knowing that the deep pockets will have to pick up the whole tab of the litigation. That is why they get sued in the first place. The fact that they can go after the deep pockets is probably one of the principal reasons the suit was filed to begin with.

Of course, the lawyers hope it will never go to trial. They hope that the person with the deep pockets will simply settle the case and they will simply never have to take a weak case to court. We know that the lawyers collect the lion's share of the money that is settled before or during court. The investors get pennies, if even that, on the dollar.

Mr. President, as I say, I have a great deal of respect for both Senator BRYAN and Senator SHELBY, but I am adamantly in opposition to this amendment.

I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The majority manager of the bill is recognized.

Mr. D'AMATO. Mr. President, let us take a look at this. My distinguished colleague from Nevada has put forth a very compelling case on the principles underlying joint and several.

Let us turn to the abstract—let us look at reality. Do you want to know what the reality is? About 300 cases being brought a year—and, believe me, they are not being brought on behalf of stockholders, the stockholders are being used; 93 percent of those cases are settled. Do you think they are being settled because the people have done something wrong? The vast majority of those cases are being settled because an innocent person cannot face the exposure and cost of this kind of suit.

Minimal participation, not knowing fraud, but just being around the company, being the auditor, being the lawyers, being the investment adviser can bring you to the case. Let me tell you something, when you are facing a $100 million or a $200 million lawsuit and you can buy your way out for $6 or $7 million, and your lawyer says and the board of directors says settle it, you have no choice but to settle. These cases take people and put them up against a wall. They cannot fight; they have to surrender. It is as if you held them up. We are providing the ability for legal blackmail. We have to stop that.

This bill does assign greater responsibility. If you know the fraud is taking place, that this business that is going on, this hanky-panky in the company, if you are the auditor, you have to report it.

Some people in the past did report it. They said, "We reported it to the managing directors," and that is the end of our responsibility. We go further and say you have to report it and see that the directors act, and if they do not, you have to go to the SEC. That is how you deal with fraud.

I want to assure you that Senator DOMENICI and Senator DODD do not want to protect fraudulent acts. But just because they are alleged does not mean the companies should be forced to settle without a chance to defend themselves. Is it right to force people who are coerced into settling to pay for the losses of the so-called victims? I say so-called. Some of these cases are totally without merit. I am not talking about the Keating case. Of the 300 cases that are settled, most of them are meritless, but what we have constructed is a system where a person cannot defend him or herself because the cost of that defense, is prohibitive and the effects of the negative exposure, even though the exposure may be minimal, are so great.

A company can be wiped out by these suits, a company can be hit for $300, $400 million, so how can they not settle for $2 or $3 million? Investors are not being made whole. You would believe and think somehow investors are being made whole, but they get pennies for their losses.

What we are talking about is giving people the ability to defend themselves. Most of these defendants have not even reached negligence standards. But the law is not clear on those standards, and a jury decision is never a sure thing. How can a firm put in the hands of the jury the decision of whether they are totally wiped out? Some 600, 700, 800, 900 people who everyday go to work and depend on those jobs, wiped out? They cannot afford to defend themselves. A lawyer can say, "Look, I think you are going to win; you have a 90-percent chance of winning."

"Ninety percent? You mean to tell me that I have a 10-percent chance of losing and getting hit with the entire settlement which could wipe out this firm just because I'm the guy with the deep pockets?"

The answer is "yes." This causes a huge cost to society? When you pay your insurance premiums, you are paying for these settlements. Also, the cost of insurance for the firms has gotten so high, because the insurance firm is worried it will be sued, that many small firms cannot afford it. These costs are passed out to everybody.

We are not protecting somebody who commits fraud. What we want to do is give people a reasonable opportunity to defend themselves; to have that opportunity and not to face this incredibly destructive process in which they really cannot defend themselves; 93 percent of these cases are being settled because the firms cannot afford to defend themselves.

That is not what the American justice system is about: You should send somebody a summons and they have to surrender. That is what is happening. You have the entrepreneurial lawyers who have made this an art form, who basically hire these plaintiffs. They have them on the payroll. They bring them in and race to the courthouse. They are not interested in getting money back for poor defrauded people and, in many cases, there has been no fraud.

I will tell you what is a fraud in this system. When you coerce somebody to pay and they have not done anything wrong, that is a fraud. I have not heard anybody say anything about the fraud of coercing honest, hard-working people because they find they would face financial ruin if they defended themselves or there were some finding against them and they would be responsible for the entire settlement. They cannot even fight it out because the risks are so great, they must surrender.

What about that kind of fraud? Is that what our system is about—that we strip away the ability of a person to stand up for his or her rights because to do so would be totally destructive to them? I do not think that is what our system is about, but that is what they have turned the system into. If you intentionally committed fraud you should pay the piper. That is what we are saying.

Do you know why the lawyers are against this? I will tell you why. It is because this will give to the entrepreneur who built a building, the fellow that is the accountant, the securities people, the investors, the ability to stand up and fight. The strike suit lawyers do not want that. These lawyers be able to hit everyone with that summons—just like holding a gun to them—and then say, OK, how much you are going to pay us. They do not want the guy to have the ability to reach back and take that gun and say, in return, OK, let us fight it out. They do not want cases to be heard on whether or not there was real fraud.

This Senator does not want to protect anybody who commits fraud. That is nonsense that I read in these insipid editorials—insipid. We want to give people their day in court. If you want to protect the holdup artists we should keep joint and several liability.

I hear people say, you are going to be defending the Keatings. No way. If the fraud is intentional, we are going to get you. Charles Keating was selling products for a bank and suggested that the Federal Government was insuring it. Senator DODD and I cosponsored legislation we introduced on May 5, 1995, that financial institutions cannot sell these products and imply they are backed by the Government. That is how you stop the Charles Keating types. We will hold these people responsible, and we are going to stop them from conducting these actions. Let us not talk about defending fraudulent conduct. We do not. But we must give a person an opportunity to fight for himself instead of giving up to the holdup artists.

Mr. DODD. Mr. President, let me try to bring this back to the point at hand here. Let us get some matters off the table. We are not talking about intentional and knowing fraud. "Joint and several" still applies on intentional and knowing fraud. We have tried to deal in this legislation with the issue of recklessness, because it is in that area of recklessness that we feel the issue of proportionate liability ought to have some application—not intentional, not knowing, but in reckless behavior.

Let me share with my colleagues the thoughts of those who spent a great deal of time on this issue. In fact, as pointed out by one authority, the vagueness of the recklessness standard is one of the principal reasons, Mr. President, that the joint and several liability provisions ought to be modified. In practice, the legal standard does not provide protection against unjustified and abusive claims, because juries can—and as a practical matter do—misapply the standard. Juries today, quite frankly, have considerable difficulty in distinguishing innocent mistakes, negligence, and even gross negligence—none of which, by the way, Mr. President, is actionable under rule 10(b)(5) from recklessness.

One commentator observed that the courts have been less than precise in defining what exactly constitutes a reckless misrepresentation. The imprecision of the court, he went on to say, has resulted in ad hoc, if not arbitrary and reckless, determinations. The result is that the actual and potential parties to section 10 and rule 10(b)(5) actions cannot predict with any degree of certainty how a trier of fact would characterize alleged conduct and thus whether it may serve the basis for liability.

There is a whole series of discussions about the problems in determining that particular criteria. So in the recklessness area, we apply the proportional liability provisions. Much of the reason goes to the heart of what the Senator from New York was talking about. Once you are into it, and if it is only joint and several, and if you are a marginal player and you could be held for the whole amount, that is unfair and lacks balance, just as it would be if you would deprive a legitimate plaintiff of any kind of compensation at all.

Go back and look, if you will, at the statements of all of the preceding members of the Securities and Exchange Commission on this very point. Carter Beese said:

> Allocating liability on the basis of the proportion of each defendant's contribution to a plaintiff's harm would address these problems by changing incentives. Plaintiffs may be less likely to name secondary market participants if the potential recovery from these entities was relatively small. Secondary market participants who are nonetheless sued would be more willing to defend those cases they believed were without merit, rather than entering into a quick settlement in order to avoid broader liability exposure.

Adversely, I point out, affecting these investors as well.

The Senator from New York is correct. Let us make the system work. Let us get to court if that is where you have to go. This involves very little court participation because of this particular standing. "You are an idiot not to pay." That is what their lawyers and accountants tell them, rather than jeopardize the entire operation, in some cases, because of the size of the claims.

Richard Breeden, former SEC Chairman noted:

> The current application of joint and several liability results in a system that should perhaps be called inverted disproportionate liability. Under this system, parties who are central to a perpetrating of fraud often pay little if anything. At the same time, those whose involvement might be only peripheral and lack any deliberate or knowing participation in the fraud often pay the most in damages.

That is not right. That is unfair, Mr. President. He concluded by saying:

> Paying your fair share but no more than your fair share of liability is hardly a radical proposal.

That is what we are suggesting.

David Ruder, a former Chairman of the SEC, said:

> The threat that the secondary defendants can become liable for all of the damage caused by the primary wrongdoers has had a dramatic affect upon the settlement negotiations in large class action suits. These actions frequently have been settled by secondary defendants for significant sums because of the possibility that they will be required to pay the entire amount claimed and thus destroying them.

He concluded:

> Reform of joint and several liability is necessary because the fees received by accountants, lawyers, and banks for their commercial services do not justify enormous dollar judgments against them on securities class action cases.

So, Mr. President, what we have tried to do in this bill is to strike that balance that everybody talks about rhetorically but denies we have achieved here. We do not include the intentional knowing specifically. We protect the small investor—$200,000. Only 1 percent of the people in this country have incomes in excess of $100,000. We are talking about a very small number of people who would actually be affected. The overwhelming majority are still protected as a result of the widows or orphans provision we put in.

Also, recent data indicate that the median net worth of American families is $47,200. So we protect those people when we have intentional and knowing fraud. Even if you are marginally involved, you pay all of it. That is what we have tried to do. To wipe all of that out strikes out the balance of this legislation. That is what the years of work have tried to achieve here.

Now, do we know how perfectly it is going to work? No. To my colleagues who cite potential future cases, how do I argue against a potential future case without knowing the facts except to cite some draconian case that conjures up the worst fears in people. I do not know the exact application. I know that presently the system stinks. That much I know. We have made an effort to change this, to avoid the kind of problem that exists where 93 percent of the cases are settled because people make the conclusion you would be an idiot not to do so because you are jeopardizing your entire business.

There is something wrong with the system that results in that kind of conclusion.

Now, we hope this will work. Time will tell whether or not we have done it absolutely perfectly. I suspect we have not done it perfectly.

This much we know: The present system does not work. It says to innocent, relatively innocent, marginal players, "You must assume the entire responsibility for the vague standard of recklessness," I think is unfair.

Intentional knowing—pay the price. Protect the widows and orphans—that you must do. To say we are sorry, those on the periphery here will pay a full tab where a reckless standard is applied, I think is unfair.

We have applied the standard in the law to see if we can get some balance into the system, get people to court. If there is a real fight, fight it out. Do not just achieve these huge awards because people are afraid to go into court, knowing what the price would be if they are ultimately asked to pay the entire tab, when they are only marginally involved.

That is the whole purpose. Citing future cases and what may happen down the road, engaging in the scare tactic approach—the Senator from New York, the Senator from New Mexico, myself, and others who put this bill together—do my colleagues really believe we are trying to do something here that would potentially expose people to future Keatings? By God, how could any Member possibly draw that conclusion?

We are trying to get balance into a system that is out of balance. That is all this is intended to do. My hope is that the Shelby amendment will be resoundingly defeated.

Mr. SHELBY. Mr. President, I ask unanimous consent that Senators BOXER and SARBANES be added as original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SHELBY. Mr. President, I ask that a statement by the Chairman of the Securities and Exchange Commission regarding proportionate liability be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> SEC Chairman Levitt has been forceful about the need to protect fraud victims in the insolvency situation, even when it forces parties who are only partially responsible for the harm to bear more than their proportionate share of the damages. In 1994 House testimony, Levitt explained:
>
> "Since securities fraud cases often involve insolvent issuers or individuals, however, some defendants in such cases may not be able to pay their fair share of the damages they have jointly caused. Advocates of proportionate liability argue that joint and several liability produces an inequitable result in such circumstances because it forces parties who are only partially responsible for the harm to bear more than their proportionate share of the damages. . . ."
>
> "The response to this argument is that, although the traditional doctrine of joint and several liability may cause accountants and others to bear more than their proportional share of liability in particular cases, this is because the current system is based on equitable principles that operate to protect innocent investors. In essence, as between defrauded investors and the professional advisers who assist a fraud by knowingly or recklessly failing to meet professional standards, the risk of loss should fall on the latter. Defrauded investors should not be denied an opportunity to recover all of their losses simply because some defendants are more culpable than others."

Mr. SHELBY. Mr. President, I believe the bottom line here is balance. The balance is, who should bear the cost of fraud? That is the question before the Senate today. Who should bear the cost of fraud?

Should it be the perpetrators, or should it be the victims? It should be the perpetrators, and never the victims. I think that is a bottom line of American jurisprudence.

This bill, if it were to pass, would change that, unless we adopted the amendment that I have offered on behalf of myself, Senators BRYAN, BOXER, and SARBANES.

This amendment makes sense. Why do we think the Chairman of the Securities and Exchange Commission supports it? We do not need any more Keatings in America. We did not need anything close to that in America. We do not need to pass a bill up here without protection of the innocent people that invest. We should never, never, Mr. President, try to protect the perpetrators of wrong in America.

I believe this amendment makes a lot of sense. I urge my colleagues at the proper time to vote for it.

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. Mr. President, under the agreement, we indicated we would vote at 10:55. Let me suggest at 10:55 we vote.

I yield the floor to Senator DOMENICI.

Mr. DOMENICI. Mr. President, first, I want to commend both Senator D'AMATO and Senator DODD for their splendid arguments today.

While I normally find the distinguished Senator, Senator SHELBY, to be rational and reasonable, let me suggest in this case I would summarize this, this way: What we have had heretofore in the United States, before this new approach, is a cookie-cutter complaint.

What they do is draft up a complaint, and it contains the right words, regardless of the facts.

Now, we can count on it, I say to my good friend from Mississippi, make this joint and several, dependent upon recklessness—which nobody understands—and every complaint will accuse the whole crowd of being reckless.

It will not be just a case of "under certain circumstances." The issue will be, those reckless people will have to be subject to joint and several total liability for a little tiny bit of negligence. It will be all of them in the same suit, under the word "reckless," and we are right back where we started, and we will not have accomplished the reforms that we seek, to balance a very unfair system.

I yield the floor.

(At the request of Mr. DOLE, the following statement was ordered to be printed in the RECORD.)

• Mr. MCCAIN. Mr. President, because of a longstanding commitment to address the Veterans of Foreign Wars, I will be necessarily absent on Friday. If I were to be present, I would vote for the Shelby-Bryan amendment on joint and several liability.

This amendment would continue to allow victims of securities fraud to recover their losses by holding all those who participated in the fraud joint and severally liable for the damages.

In many instances, the primary culprit in a securities fraud declares bankruptcy. The only resource for an innocent victim is to recover their full losses from others who contributed to the fraudulent activity.

While the pending bill would hold those who "knowingly" contribute to a fraud severally liable, it would limit the liability of those who "recklessly" contribute. This provision means that innocent victims will pay for the fraud inflicted on them, rather than those who recklessly contributed to their victimization. That is simply not right.

Mr. President, there is serious abuse of our litigation system. Too often, frivolous suits are brought in order to wrest money from defendants who find it far easier and less expensive to settle the case out of court than to pay the exorbitant cost of defending themselves. While we must take steps to address such abuse, we must take great care that in that effort we do not unfairly diminish the ability of truly innocent victims of fraud to fully recover their losses from those who participated.•

The PRESIDING OFFICER. Under the previous order, the hour of 10:55 a.m. having arrived, the Senate will now proceed to vote on or in relation to the Shelby amendment.

The question is on agreeing to the amendment. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Colorado [Mr. CAMPBELL], the Senator from Texas [Mr. GRAMM], the Senator from Idaho [Mr. KEMPTHORNE], the Senator from Arizona [Mr. KYL], the Senator from Arizona [Mr. MCCAIN], the Senator from Wyoming [Mr. SIMPSON], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Wyoming [Mr. THOMAS] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. SIMPSON] would vote "nay."

Mr. FORD. I announce that the Senator from Arkansas [Mr. BUMPERS], the Senator from Iowa [Mr. HARKIN], the Senator from New York [Mr. MOYNIHAN], the Senator from Arkansas [Mr. PRYOR], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

The result was announced—yeas 30, nays 56, as follows:

[Rollcall Vote No. 282 Leg.]

YEAS—30

Akaka
Biden
Boxer
Bradley
Breaux
Bryan
Cohen
Daschle
Dorgan
Exon
Feingold
Feinstein
Graham
Heflin
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Rockefeller
Sarbanes
Shelby
Snowe
Thompson
Wellstone

NAYS—56

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Brown
Burns
Byrd
Chafee
Coats
Cochran
Conrad
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Faircloth
Ford
Frist
Glenn
Gorton
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Robb
Roth
Santorum
Smith
Stevens
Thurmond
Warner

ANSWERED "PRESENT"—1

Bond

NOT VOTING—13

Bumpers
Campbell
Gramm
Harkin
Kempthorne
Kyl
McCain
Moynihan
Pryor
Simon
Simpson
Specter
Thomas

So the amendment (No. 1468) was rejected.

The PRESIDING OFFICER (Mr. ABRAHAM). The majority leader is recognized.

UNANIMOUS-CONSENT AGREEMENT

Mr. DOLE. Mr. President, a number of my colleagues are inquiring about the schedule for the remainder of the day, and I want to congratulate the managers for their good work until late last evening after somewhere around 10:30. This is a major bill.

What I would like to do is propound a unanimous-consent request. I have been told it has been worked out with the managers for action on Monday, and if we can do this on Monday, then there will be no more votes today.

So I would ask consent that when the Senate resumes S. 240 at 12 noon on Monday—there is going to be additional debate this afternoon. This refers only to Monday. We go on the bill at 12 noon—Senator SARBANES be recognized to offer an amendment relative to proportional liability, and there be a time limitation of 2 hours to be equally divided in the usual form, with no second-degree amendments in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I further ask that at 2 p.m. the Sarbanes amendment be laid aside, and that Senator BOXER be recognized to offer a relevant amendment, on which there be 90 minutes equally divided, with no second-degree amendment in order prior to a failed motion to table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. Could I just make an inquiry, reserving the right to object.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I have no objection. In other words, we are leaving the Boxer amendment open to a second-degree amendment, is that right?

Mr. DOLE. Right. We were not certain what the subject matter is.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. And I further ask that at 3:30 p.m. the Senate resume the Bryan statute of limitations amendment, and there be 90 minutes of debate to be divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. The Senator indicated he needed additional time.

I further ask that at 5 o'clock on Monday, the Senate proceed to vote on or in relation to the Bryan amendment, to be followed by a vote on or in relation to the Sarbanes amendment, to be followed by a vote on or in relation to the Boxer amendment; that there be 2 minutes for explanation between the second and third stacked votes to be in the usual form. In other words, Members get a brief explanation. Senator BYRD suggested, I think, a good idea. So that when they vote, they will have the latest information on that particular amendment.

Mr. SARBANES. There will be 2 minutes to a side?

Mr. DOLE. One.

Mr. SARBANES. One minute to each side.

Mr. DASCHLE. Reserving the right to object, I would ask the majority leader—I am told we have one Member who is returning at 5 o'clock—if we could move that to 5:15 to accommodate his schedule I think it would probably work a little bit better.

Mr. DOLE. As long as it does not cause any problem. The time of 5:15 is fine with me.

Mr. SARBANES. Senator BURNS actually spoke to me earlier, and we slipped it from 4:30 to 5 to accommodate him, or as I understood it was slipped from 4:30 to 5 to accommodate Senator BURNS, and if we could slip it another 15 minutes——

Mr. DOLE. At 5:15.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. The first vote will be at 5:15, and the rest will follow.

Mr. BYRD. Mr. President, before the distinguished majority leader proceeds—reserving the right to object, and I will not object—I thank the distinguished majority leader for providing time for explanation before the vote on each of the stacked amendments. My question is, Will there only be three stacked votes for Monday?

Mr. DOLE. Yes.

Mr. BYRD. I thank the majority leader.

Mr. DODD. There may be votes after 5:15.

Mr. BYRD. That was not my question.

Mr. DODD. Stacked votes.

Mr. BYRD. Only three stacked votes. I thank all leaders.

I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. For the information of all Senators, a lot of amendments will be debated during the day on Monday and the first vote will occur at 5:15. We will notify all offices, certainly the Democratic side and the Republican side, and I again wish to thank the managers for the progress. It is a very important bill. I listened to the debate last night and learned a little bit after I got home. You were still debating. It is an important bill, very important bill. In view of the progress made and the fact there is going to be an amendment debated this afternoon, I think it is safe to announce—and I have checked with the Democratic leader—no more votes today.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, as we return to the bill, Senator BRYAN has an amendment to offer.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I ask unanimous consent to speak in morning business.

Mr. D'AMATO. May I say to the Senator, because others have asked to proceed in morning business, we are ready to take the amendment which our colleague wants to put up, and if it is going to be protracted, I do not want to open the door.

Mr. FEINGOLD. I only asked to speak in morning business for 10 minutes.

Mr. D'AMATO. Might I ask my colleague—because he has a time problem, we have provided that we would go to this—that Senator BRYAN be at least permitted to proceed and then I would have no objection to moving forward.

Mr. BRYAN. If I might, I can assure my colleague that I am simply going to lay an amendment down, speak for approximately 5 minutes, so that I do not in any way—we did make a commitment to lay this down, and I have a time commitment in terms of a flight to get so I will accommodate the Senator.

Mr. FEINGOLD. Mr. President, in light of that comment, I will defer for a few moments. And I thank the Senator from New York and the Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 1469

(Purpose: To amend the Securities Exchange Act of 1934 to provide for a limitations period for implied private rights of action)

Mr. BRYAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. BRYAN] proposes an amendment numbered 1469.

Mr. BRYAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 129, between lines 16 and 17, insert the following:

SEC. 111. STATUTE OF LIMITATIONS.

Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 38. STATUTE OF LIMITATIONS.

"(a) IN GENERAL.—Except as otherwise provided in this title, an implied private right of action arising under this title may be brought not later than the earlier of—

"(1) 5 years after the date on which the alleged violation occurred; or

"(2) 2 years after the date on which the alleged violation was discovered.

"(b) EFFECTIVE DATE.—The limitations period provided by this section shall apply to all proceedings commenced after the date of enactment of this section.".

On page 131, strike line 1, and insert the following:

"SEC. 39. PROPORTIONATE LIABILITY."

Amend the table of contents accordingly.

Mr. BRYAN. I thank the Chair.

Mr. President and my colleagues, this is an amendment dealing with the statute of limitations. Some of my colleagues will recall that in 1991, the Supreme Court of the United States decided by a 5-to-4 vote a case that is referred to as the Lampf decision. The Supreme Court in that decision determined that there would be with respect to securities actions a statute of limitations that would limit an investor from bringing a cause of action to 1 year from the point that the fraud was discovered and in no event longer than 3 years.

The Supreme Court gave that a retrospective interpretation as well as a prospective interpretation. A number of us came to the floor in 1991, because this would have wiped out a number of the cases in which Charles Keating had been named the defendant, and the Congress corrected it. It changed the law—that it would be 2 to 5 years.

Now, this deals prospectively. Under the Lampf case, the 1- to 3-year statute was identified as the appropriate statute of limitation. This amendment would provide rather than a 1- to 3-year statute of limitation, a 2- to 5-year statute of limitation.

I must say that S. 240 in its original form as introduced contained the identical provision.

So, in effect, this amendment, if adopted, would restore S. 240 to its original form.

The importance of the statute of limitations, as the Securities and Exchange Commission and other regulators point out, is that by the very nature of these securities frauds, they are not easily detected. The last thing in the world we would want to do is to give comfort to those who are clever enough to conceal their fraud to effectively preclude a plaintiff from bringing his or her cause of action.

There will be much more debate on this on Monday, but suffice it to say what we are trying to do is to provide 2 years from the date of discovery, in no event longer than 5 years, recommended by the Securities and Exchange Commission, recommended by the North American Association of Securities Administrators, and just one point for my colleagues to contemplate.

In testimony before the Banking Committee, the Chairman of the SEC advised us that even with the enormous resources available to the SEC, all of the staffing that they have, and the sophistication that they have acquired over the past 60 years, it takes approximately 2.25 years to conduct such an investigation.

Obviously, individual plaintiffs have much less in the way of resources available, and their likelihood of completing an investigation in the timeframe is considerably more limited.

What we seek to do is provide a 2- to 5-year statute of limitations prospectively, and we will point out in the debate with more detail on Monday the overwhelming public policy argument in favor of this.

Suffice it to say this has nothing to do with frivolous lawsuits—nothing to do with frivolous lawsuits. There are provisions in the mark which deal with enhanced enforcement provisions under rule 11 of the Federal Rules of Civil Procedure to deal with the issue of frivolous lawsuits. This simply is a provision that will provide some fairness to investors to be able to present their claim in the first instance.

I thank my colleagues for permitting me to go forward at this time.

Mr. SARBANES. Will the Senator yield?

Mr. BRYAN. I will be pleased to do so.

Mr. SARBANES. Mr. President, I want to underscore the importance of this amendment.

I ask the distinguished Senator from Nevada, did the Banking Committee not report an amendment lengthening the statute of limitations for securities fraud actions to 2 years after the plaintiff knew of the violation and to 5 years after the violation occurred, following that Supreme Court decision?

Mr. BRYAN. Responding to the distinguished ranking member, that was, in fact, what the Banking Committee did, and on the floor of the Senate, the Senate followed the lead of the Banking Committee and ultimately, as the Senator from Maryland will recall, we protected those cases that were pending in the 1991 action we took.

Mr. SARBANES. So the proposal, your amendment, in effect, is seeking to put into the law the very provision that we had previously reported.

Mr. BRYAN. That is essentially correct. This operates prospectively. What we did, as the Senator from Maryland will recall, is to try to protect all of those actions that were pending in 1991 which had been wiped out by the Supreme Court decision and we, in effect, provided at that time that the operable State law would apply, which had been, in effect, the interpretation of the courts over the years.

In essence, we kept those cases active so that they could be decided on their merits, not having been precluded by a decision, which surprised many, that the Court gave and particularly the retroactive portion of that.

Mr. SARBANES. As I understand it, following the Supreme Court decision in the Lampf case, the then-Chairman of the Securities and Exchange Commission, Richard Breeden, a Republican nominee—because I think it is very important to understand, as far as Chairman of the SEC is concerned, they are bipartisan in their view about this matter—testified or stated, and I quote him:

> The timeframe set forth in the Court's decision is unrealistically short and will do undue damage to the ability of private litigants to sue.

Chairman Breeden pointed out that in many cases:

> . . . events only come to light years after the original distribution of securities and the cases could well mean that by the time investors discover they have a case, they are already barred from the courthouse.

As I understand it, the States securities regulators and the FDIC at the time joined the SEC in this position. As I understand it, the States securities regulators today feel very strongly that the amendment which the Senator is offering is an extremely important amendment.

Mr. BRYAN. The Senator from Maryland is correct. This has had bipartisan support with the Commission. Chairman Breeden, as the Senator points out, strongly urged upon the committee a 2- to 5-year statute of limitations. That same position has been taken by Chairman Levitt under the current administration.

The North American Association of Securities Administrators then and now have urged this course of action. I simply point out to my friend and colleague that S. 240, in the last session of the Congress its counterpart, had a 2- to 5-year statute of limitations, and in this Congress, the very bill we are debating in its original form, as introduced by Senators DODD, DOMENICI, and others, had a 2- to 5-year statute of limitations.

So what this amendment would do is simply restore S. 240, with respect to the statute of limitations, to its original form as introduced by a number of colleagues.

Mr. SARBANES. Mr. President, this is an extremely important amendment. The 1- and 3-year time periods are unrealistically short, and the danger that is associated with an unrealistically short time period for the application of the statute of limitations is that people with meritorious causes will be barred from the courthouse door.

We have statute of limitations because we say, "Well, we do not want this thing just hanging out there indefinitely, and people ought to assert their rights," and so forth and so on. But the time periods have to be reasonable.

Under the amendment, there is a 5-year time period regardless, so that the victim may never know of it. If 5 years goes by, he is closed out. The bill would reduce that to 3 years. People have to make their judgment, but why should you come down on the side of concealment instead of on the other side in terms of protecting the investor?

The 1 and the 2 years is very important because you may discover, or think you have discovered, the fraud, but then you have to work it up to determine whether you have a case or not, and 1 year is a very unrealistically short time period. In fact, I think the Senator yesterday quoted a time period that it took the SEC from when they began working on a case before they felt they could bring it. Was I correct in that?

Mr. BRYAN. The Senator is correct. I cited Chairman Breeden, I believe, who indicated it was 2.25 years for the average case to fully investigate. I might just say in response to the distinguished Senator's point about the inherent complexity, Chairman Levitt testified earlier this year on April 6, and I will read a very short quote, in support of the proposition before us:

> Extending the statute of limitations is warranted because many securities frauds are inherently complex and the law should not reward a perpetrator of fraud who successfully conceals its existence for more than 3 years.

I think that is a compelling policy argument, I say to my good friend from Maryland.

Mr. SARBANES. I think that is an extremely important point. This does not affect the basis on which you can bring the suit in any way. All the other provisions are unaffected. This only affects the time period within which the suit must be brought.

Mr. BRYAN. The Senator is correct.

Mr. SARBANES. I say to my colleagues, this is a very rough bill on innocent investors who have been victimized, as it were swindled, and I certainly hope that at a minimum, the Senate would be willing to restore an appropriate statute of limitations back to the time periods that have prevailed, generally speaking, throughout most of our experience with the securities laws. It has been related to the State laws, and most of the State laws are 2 to 5 and some even longer than that, if I am not mistaken.

Mr. BRYAN. The Senator is correct, and I think his observation is particularly insightful. If you look at S. 240 in its original form, there is only one provision that could reasonably, arguably be supported in providing a consumer, investor, a victim of fraud, with an additional benefit, and that is the statute of limitations provision. That was in the original bill, as the distinguished Senator from Maryland knows. During the course of processing that legislation, for reasons which I do not understand, the provision was deleted.

But even those who are the most fervent advocates of the bill—I know our distinguished colleague, Senator DODD, has spoken eloquently on behalf of the statute of limitations—we may have differences with respect to proportionate liability and some other issues. But I point out, in response to the Senator's question, that the introducers of the bill, Senator DODD, Senator DOMENICI, and many others on both sides of the aisle, felt that it was inherently fair for the reasons which the Senator from Maryland so aptly pointed out, and that the statute of limitations needs to be extended to 2 to 5 years so those who perpetrate fraud do not benefit by the cleverness of their ability to conceal.

I yield the floor.

Mr. BOND. Mr. President, S. 240, the private securities litigation legislation addresses a very important issue of concern to many Americans, securities litigation reform. While this is a subject that I believe needs to be addressed and one I have some personal views and experience in, I will not be participating in the debate or votes on the floor.

I inform the Senate that I am currently engaged in securities litigation of the kind this legislation seeks to reform. As a result, I have decided to recuse myself from the debate. Given the status of my current suit and the issues before the Senate, I have been advised that I should not participate in the proceedings or voting on the floor.

Mr. DOLE. Mr. President, the high cost of litigation imposes an enormous burden on our economy. According to some estimates, legal judgments account for 2.3 percent of our gross national product. Plaintiffs' lawyers earn nearly $20 billion annually in legal fees, often as a result of contingency-fee arrangements guaranteeing a 30 or 40 percent share of any jury award.

These are the big-picture statistics. But, as we all know, the fear of litigation can hit much closer to home:

Playgrounds and little leagues shut down because local communities can't afford the insurance. Boy Scout troops disband because there aren't any adults around who are willing to be troop leaders. Doctors practice defensive medicine, increasing the cost of health care in the process. Volunteers stay home instead of offering their services to the community. Police officers start second-guessing their own actions, wondering whether they're going to be hauled into court for some minor misstep.

Even worse, people start to lose faith in the system. They begin to view the system not with respect, but as an opportunity to make a quick buck. Everyone becomes a potential victim. Every social transaction, no matter how minor or benign, becomes a potential lawsuit leading to a multimillion-dollar jackpot.

That is why comprehensive legal reform is so important—not only to reduce costs for businesses and consumers alike, not only to protect the innocent from frivolous lawsuits, but also to restore a sense of perspective and personal responsibility.

So, earlier this year, the Senate took the historic step of passing landmark product liability reform legislation.

And, today, we continue the reform process in another key area—the area of securities litigation.

Why securities litigation? Because our securities markets provide the fuel that drives our economy. When these markets run efficiently, allocating capital to established companies and to newer, emerging businesses, we all win out with more economic growth, more jobs, a stronger economy.

Of course, those who seek to invest in our securities markets need to be confident that these markets operate efficiently and fairly. And that is why Congress acted more than 60 years ago to promote investor confidence by passing the Landmark Securities Act of 1933 and the Securities Exchange Act of 1934.

Unfortunately, a handful of lawyers today devote their professional lives to gaming the system by filing strike suits alleging violations of the Federal securities laws—all in the hope that the defendant will quickly settle in order to avoid the expense of prolonged litigation. The lawyers who file these suits often rely on professional plaintiffs, shareholders with only small stake in the company being sued, but who are nonetheless willing to stand on the sidelines ready to lend their names to the litigation.

Needless to say, these strike suits are often baseless, triggered not by any evidence of fraud, but by a drop in stock price or the announcement of some bad news by the company. In effect, the lawsuits act as a litigation tax that raises the cost of capital and chills disclosure of important corporate information to shareholders. High-technology, high-growth companies are particularly vulnerable to these baseless strike suits because of the volatility of their stock prices.

S. 240, the Private Securities Litigation Reform Act of 1995, seeks to reduce the number of meritless securities fraud cases, while protecting investors, by proposing several commonsense reforms:

First, it puts an end to the use of professional plaintiffs by requiring that the court appoint as the lead plaintiff the party willing to serve in this capacity who has the greatest financial stake in the outcome of the litigation.

Second, it clamps down on skyrocketing attorney's fees by requiring that fees be awarded as a percentage of the actual recovery based on the efforts of the attorney.

Third, it retains joint and several liability for those who knowingly commit fraud, but establishes a system of proportionate liability for other, less culpable defendants.

Fourth, it adopts the second circuit's pleading standard, which requires specificity when pleading securities fraud cases. As a result, general allegations of fraud will no longer be enough to justify a lawsuit.

And fifth, it creates a statutory safe harbor for those companies whose good-faith estimates about future earnings do not materialize. Statements that are knowingly false, however, are not protected by the safe harbor.

Mr. President, I want to commend my colleagues, the chairman of the Banking Committee, Senator D'AMATO, and the chairman of the Budget Committee, Senator DOMENICI, for their leadership in moving this bill through Senate. I also want to commend my colleague from Connecticut, Senator DODD, whose involvement in this issue is proof that there is nothing partisan about securities litigation reform.

Mr. BURNS. Mr. President, I rise today to add my voice to those who are supportive of this legislation and to also take the opportunity to commend the sponsors of S. 240, Senator DOMENICI and Senator DODD. It is through their hard work and effort that we now have a balanced bill that protects both investors, and defendants of securities litigation.

It almost seems as if the class—action securities fraud suit has become a feature of doing business for just about every size and type of company in the United States. In 1990 and 1991, a record 614 securities class action suits were filed in Federal courts against American businesses. In an article printed in the Wall Street Journal on September 10, 1991, Mr. Vincent O'Brien reported that he collected data on more than 330 Federal class-action securities-fraud cases involving common stock. In every case, the plaintiffs alleged material misrepresentations and omissions by management regarding the true health and potential of the defendant company. Of the 330 case sample, only 3 cases were decided by a jury; an additional 5 were dismissed or withdrawn, and an astonishing 96 percent were settled out of court.

Proponents of securities class actions say that the suits prevent fraud and help maintain the integrity of financial markets. It is certainly true that one aspect of a fair marketplace is that those persons who have been injured by fraud in connection with a securities transaction, have some avenue available to retrieve their losses.

While the current system does provide for a means to address fraud, the evidence is overwhelming that the real victims of securities fraud are not receiving adequate compensation for their losses. In fact, the plaintiffs in a lawsuit, those who were actually damaged, obtain only about 60 percent of the settlement while attorneys' fees and litigation expenses eat up the rest. Moreover, because plaintiffs' attorneys only pursue cases involving large offerings, the lion's share of the stock at issue tends to be held by institutional investors. Small investors often account for only an insignificant percentage of the shares at issue.

Many of these lawsuits, whether they are with or without merit, generally come to the same end. Settlement amounts depend entirely on the amount of damages claimed or the defendants' insurance coverage. The sad part is, that between 5 and 15 cents on each dollar sought is actually returned to the plaintiffs while the lawyers average $1 million in fees for each case.

Mr. President, it has become far too easy and profitable to file securities suits. Computer tracking of stock prices has led to nearly instantaneous suits filed by class action plaintiffs' attorneys. The incentive to the lawyers for being first is simple: Usually the judge who ultimately presides over the case will name the lawyers who got their cases filed first to be lead counsel. On what basis do they file? If a company's earnings are less than projected, a suit is filed claiming shareholders were not told of the dangers. If earnings shoot through the roof, they can be sued for withholding good information that would have prevented impatient stockholders from selling their stock. Such suits, or threats of suits, have a serious consequence of deterring valuable risk-taking and cause qualified persons to be unwilling to serve as directors because of the risks of liability. American business and the American consumers are the big losers.

Mr. President, once a suit is filed, defendants face enormous incentives to settle. Those who choose to fight the allegations face large legal fees even if they ultimately prevail. For some defendants, the stakes are even higher because the law currently does not distinguish differing degrees of fault and you could very well be liable for losses attributed to other parties. Even though claims might be completely meritless, firms feel coerced to settle rather than assume the open-ended risk.

The legislation we have before us today will go a long way toward curbing abuses in securities litigation. It will provide a filter at the earliest stage of a lawsuit to screen out those that have no factual basis. A complaint should outline the facts supporting the lawsuit and not just a simple assertion that the defendant acted with intent to defraud. If the complaint does not set forth the facts supporting each of the alleged misstatements or omissions, the law suit may be terminated.

In order for the judge to be able to determine whether the case has any merit prior to subjecting the defendants to the time and expense of turning over the company's records, a stay of discovery is included in this bill. A typical tactic of plaintiff lawyers is to request an extensive list of documents and to schedule an ambitious agenda of depositions that take up the time and resources of a company. The discovery costs comprise 80 percent of the expense of defending a securities class action lawsuit. The stay of discovery provision will provide the defendants with the opportunity to have a motion for a dismissal considered prior to entering into the costly discovery process.

Securities laws are intended to help investors by ensuring a flow of accurate information about public companies. However, the present system reduces the amount of information as companies limit their public statements to avoid allegations of fraud. In fact, an American Stock Exchange survey found that 75 percent of corporate CEO's limit the information disclosed to investors out of fear that greater disclosure would lead to an abusive lawsuit. To encourage disclosure of information, the bill will create a statutory safe harbor.

To deter plaintiffs' attorneys from filing meritless securities class actions, judges will have the authority to review the conduct of attorneys and discipline those who file frivolous suits. Suits filed with little or no research into their merits can cost companies thousands of dollars in legal fees and company time. According to a sample of cases provided by the National Association of Securities and Commercial Law Attorneys [NASCAT] 21 percent of the class action cases were filed within 48 hours of a triggering event such as the announcement of a missed earnings projection. Innocent companies pay millions of dollars defending these frivolous cases and are left with large attorney bills even when they win. If a judge finds that an attorney filed a frivolous suit, he can award sanctions as appropriate.

This bill ensures that those primarily responsible for the plaintiff's loss bear the primary burden in making the plaintiff whole. Under current law, codefendants each have liability for 100 percent of the damages irrespective of their role in a fraudulent scheme. In this bill, the courts would determine who has committed knowing securities fraud, and hold them fully responsible for all damages. Any other defendants named in the suit would be held proportionately liable.

As we all know, there are instances when a defendant is insolvent and is unable to pay their share of damages. This bill contains provisions to ensure that investors are compensated in cases where there is an insolvent codefendant. When plaintiffs are unable to collect a portion of their damages from an insolvent codefendant, the proportionally liable codefendants would be required to pay up to 150 percent of their share of damages.

Mr. President, we have heard a lot of talk that this legislation would adversely impact small investors. Nothing could be further from the truth because this bill actually provides special protection for them. All defendants, whether they are jointly and severally liable or proportionately liable, would be held fully responsible for the uncollectible shares of plaintiffs whose damages are more than 10 percent of their net worth, if their net worth is less than $200,000. Providing special protection for small investors is a critical component of this bill and one I support strongly.

Mr. President, there has been an effort by the critics of this bill to misrepresent the facts. Several opponents have claimed that if the bill had been law during the savings and loan crisis, investors defrauded by Charles Keating would have been left without remedy. However, they fail to tell you that most of the losses from the S&L crisis did not result from securities fraud and this bill would not apply. The primary enforcement mechanism in dealing with the S&L crisis was the bank regulatory system, not the Federal securities law.

Finally, oppoinents allege that S. 240 would make it impossible for municpalities to recoup losses from securities fraud involving derivatives. However, the Domenici-Dodd bill preserves investors' rights to sue. Just as under current law, defrauded investors who purchased or sold derivatives would still be able to sue defendants who had actual knowledge of the fraud or who acted recklessly.

In concluding, Mr. President, legislative reform is needed to return rationality to the system so that meritorious claims are compensated and meritless claims are neither rewarded nor encouraged. Business desperately needs relief from both the financial and management burdens attending these abusive suits. I encourage my colleagues to support this legislation and I once again want to commend Senator DOMENICI and Senator DODD for their tremendous work on this bill.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET RESOLUTION AGREEMENT

Mr. FEINGOLD. Mr. President, I would like to say a few words about what has happened with regard to the concurrent budget resolution. The Republican leadership have unveiled their final conference budget proposal. I just have to say that I am appalled at the fiscal irresponsibility that it represents.

I, for one, disagree with some other Democrats in that I am glad the President came in with a budget that had a date certain for balancing the budget. I am glad that the Republicans are working on a date certain to balance the budget. I happen to think both of them wait too long. I think it can be done before the year 2000, if you really put everything on the table.

I recognize that the President himself has proposed a tax cut—certainly, a much more modest tax cut than the various Republican proposals. I happen to disagree with any tax cut at this time if we are going to balance the budget as fast as we can, Mr. President. But this agreement last night really takes the cake. It includes a massive, $245 billion tax cut—not the $50 or $60 billion the President was talking about, or $90 billion that some said the process would end up with, but really an unbelievably high figure, at a time when this country has a $5 trillion debt. A $245 billion tax cut over the next 7 years.

Mr. President, such a tax cut at this time is so fiscally irresponsible as to be downright reckless. To me, Mr. President, this is not just a budget compromise, it is a compromising of the economic health of the American people. It could not come at a worse time. It could not be more irresponsible. This is a deal cut in the back room by members of one party, which sacrifices the whole principle of fiscal discipline for very shallow political ends, Mr. President. I am afraid the Senate budget conferees have totally caved in to political gamesmanship, Presidential politics, and the Contract With America.

I was watching TV this morning. On the Today Show, I saw the Speaker's comment when the reporters asked him what this deal was all about. With a wink, the Speaker said, "You are going to have more take-home pay. You will like it." He knows what he is doing. He is trying to tell the American people they can have their cake and eat it, too. They can have a $245 billion tax cut and a balanced budget by 2002.

But the American people know better. They know that cannot be done. In fact, I would almost understand it if this deal was based on a political understanding of what the people in America really want. But I cannot find anywhere in the State of Wisconsin, which I represent, people clamoring for a tax cut. I have been watching this carefully every day since last November. The people of my State, whether Republicans or Democrats, millionaires or working-class people, are not clamoring for tax cuts. They know you cannot have a $245 billion tax cut and balance the budget by 2002 or 2005, or any time in the foreseeable future.

So I find this hard to understand. It does not seem to fit politics. It certainly does not fit policy, and certainly does not fit in with our economic needs and the goal of eliminating the deficit. I remember a few months ago that the chair of the other body's Budget Committee went to a town meeting in his district, and he got confirmation that the American people in his district want a balanced budget. He said, "You folks want a tax cut, too, do you not?" Guess what, the crowd overwhelmingly told the budget chair in the other body they did not want a tax cut because we need to balance the budget now. Well, the chair of that committee completely ignored the wishes of the people at his town meeting, and he went ahead and joined in this deal to take $245 billion that could be used for deficit reduction and give it particularly to those who are the wealthiest among us.

Mr. President, the proposed tax cut jeopardizes not only an opportunity to eliminate the Federal deficit and balance our books, it risks our Nation's economy. Mr. Greenspan and the Federal Reserve may be considering lowering interest rates because of the possibility now of some sort of recession. But a fiscally irresponsible tax cut of $245 billion could put any plans to lower interest rates on hold, and might even lead to an interest rate increase.

To accommodate this unnecessary tax cut and to accommodate an unjustified increase of $58 billion, to an already bloated defense budget, this document that was cooked up in the last few days adds to defense and forces draconian cuts in the most important programs in the budget. There are stark parallels between the level of the tax cuts, also, and the proposed cuts to Medicare, Mr. President. The tax cut figure from last night is $245 billion. The Medicare cuts that the Republicans say we have to have is $270 billion. It is not hard to conclude, Mr. President, a very simple proposition: Medicare cuts are being made to fund tax cuts, especially for upper income people.

I happen to be one who has said on this floor repeatedly that some cuts in Medicare can be made. Certainly, we can make some cuts in administrative aspects, in some formula-driven overpayments, and other areas. But what this tax cut means is that the very harsh Medicare cuts included in the budget agreement have to happen. They could be reduced significantly, cut in half, or almost completely eliminated, if we did not have this $245 billion tax cut. The same goes for the Medicaid cuts. There has been a lot of talk about Medicare, but what about the impact on the poor because of these $180 billion in Medicaid cuts? You could completely wipe out that cut and still have $65 billion left over if you did not do this irresponsible tax cut.

The Senator from Massachusetts has prepared a list here of what the priorities really are represented by the decision to do tax cuts instead of having an earlier balanced budget while taking care of people. The priorities for the Republican agenda here with this big tax are slashing Medicare, slashing education, reducing college opportunities that are already very thin, and lowering wages for working families.

Mr. President, we do not even have to have most of the Medicare cuts. We do not have to have the Medicaid cuts. We do not have to have the cuts in student loans, if we use a little willpower and resist the temptation to hand out goodies to people in the form of tax cuts they do not want anyway.

Mr. President, this budget imposes devastating cuts to essential programs in order to fund increases to the defense industry. In fact, the way I like to talk about it, there are at least three sacred cows protected by this budget resolution: The first one is the tax cut; a $245 billion sacred cow that could help solve our problems and should be taken care of and eliminated.

Second, corporate tax loopholes, growing at a rate of 24 percent, second only to entitlements at 27 percent, are not touched. They are completely protected by this budget resolution.

Finally, almost unbelievable to my constituents, the third sacred cow—the Defense Department budget, which not only is not cut, it is actually increased. Everybody in this game at this point says, "Gee, we have to increase the defense budget at a time when we are trying to balance the Federal budget."

More important than Medicaid, education, and college is protecting tax loopholes, protecting tax cuts, and giving up more money to the Defense Department.

Mr. President, possibly an even greater tragedy of this budget agreement is that it missed an opportunity. This compromise missed maybe the opportunity to set forth the plan to balance the budget that would have had bipartisan support in Congress, and more importantly, broad-based support from the American people.

I suppose there is a tiny hope that this budget agreement still could be prevented. I do not hold much hope for it, but there is a chance, nevertheless, if we defeat this irresponsible budget agreement, we could go back to the drawing board.

I know we could fashion a budget plan that would have the support of the majority of this body, and in this case the Members on both sides of the aisle. It would be a plan that could achieve a balanced budget not only by the year 2002 or 2000, but even earlier; a plan that would have a very good chance of enacting all the ensuing appropriations and reconciliation bills into law. Most importantly, Mr. President, it would be a plan that would have the support of the American people.

I know the votes are there. In their hearts, I think many of my colleagues on both sides of the aisle know it, too. If the leadership would allow Senators to do it, I bet we could have a plan drawn up and passed within a week.

Of course, that is almost certainly not going to happen. The leadership will not permit Members to vote their conscience. There are many Members in this body on the other side of the aisle who know and have said to me that tax cuts do not make sense at this time.

Whatever happened to the charade in the Senate during the budget resolution debate? We heard Members on the other side say there is no tax cut in the budget resolution; what are you talking about? Some Members tried to point out there was a $170 billion item that said if certain things happened, we would have $170 billion available that could be used for a tax cut.

On the television and on the Senate floor the fraud was perpetrated that that $170 billion was not specifically devoted to tax cuts. Some of the Members on the other side were more straightforward, including the Chair. He did not mess around. He put out an amendment that said if there is $170 billion, it shall be used for a tax cut. That at least was honest. He was not pretending. The Chair does believe in the tax cut and was straightforward about it.

He had a good day yesterday. Not only did that $170 billion get locked in, he got it up to $245 billion with the help of the Members of the other body. This whole charade that was played out in the national media that the Senate Republicans were trying to fight the tax cut has been permanently put to rest.

Both the other House and this body are led by folks who intend to deliver a tax cut, at the same time they are trying to tell the American people their top priority is balancing the Federal budget.

Extreme elements have made it clear what happens to Members when they vote their conscience. Presidential politics has further taken a budget that is already thoroughly contaminated. But, there is still the tiniest hope.

I urge my colleagues on the other side to consider that avenue. I worked on deficit reduction packages with Members of both parties, and the spirit and willingness to work together for a fair package is there. The group led by the Senator from Nebraska [Mr. KERREY] and the Senator from Colorado [Mr. BROWN] is one example of a bipartisan deficit reduction effort in which I had the chance to participate.

And I am proud to be working with my good friend from Arizona, Mr. MCCAIN, on a number of budget reforms. I know there are Members on both sides of the aisle who want to work together. I know there are Members on the Republican side who are simply embarrassed to put forward an irresponsible tax cut at this time.

Mr. President, I urge them to look at this again, to consider rejecting this agreement and forcing the body to consider, instead, a responsible budget.

Mr. President, we need to pull back from this tax cut. We need to make a budget that is tough, that makes justifiable cuts to all areas of Government. Mr. President, we need a budget that gets rid of this unwarranted tax cut.

I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first of all, I want to commend my friend and colleague from Wisconsin for his excellent presentation. He has spoken with great eloquence about the role that we will be faced with here in the U.S. Senate in these next several days.

Most importantly, he has pointed out responsible alternatives that can help this Nation deal with its fiscal challenges. I think all Members would be wise to heed the clarity of his thinking and the power of his persuasion.

I thank him very much for an excellent presentation. I certainly hope our colleagues will pay attention to it. I?

Mr. President, as the Senator from Wisconsin has pointed out, and what is increasingly apparent to the Members of this body and I think to the American people, is that there is an ongoing process that is taking place in both the House of Representatives and Senate as to what is going to be the investment policy of the United States; how we are reflecting our priorities of what we are going to invest in or cut back in; what groups are going to benefit from these decisions and judgments, and who is going to pay a price for it.

That process has been going on for a number of weeks. Now, with the announcement that was made last evening, the focus has become sharper as to the direction that the Congress will follow.

Mr. President, the Republican budget deal announced yesterday is one more salvo in the Republicans' continuing war on working American families. In fact, it's another attack on senior citizens, children, families, and veterans.

It pretends to protect Social Security, while making harsh cuts in Medicare. But the distinction is a false one, because Medicare is part of Social Security. Like Social Security, Medicare is a compact between the Government and the people that says "Pay into the trust fund during your working years, and we will guarantee good health care in your retirement years."

Any senior citizen who has been hospitalized or who suffers from a serious chronic illness knows full well there is no security without Medicare; the cost of illness is too high. A week in an intensive care unit can cost more than the total yearly income of most senior citizens.

In fact, the Republican attack on Social Security is even more direct. The Medicare part B premium is deducted directly from Social Security checks.

In particular, it is the low and moderate-income elderly who will suffer most from Medicare cuts. Eighty-three percent of all Medicare spending is for older Americans with annual incomes below $25,000; two-thirds is for those with incomes below $15,000.

The conference agreement maintains the misplaced priorities of the bills passed separately by each House.

The Medicare cuts are so deep as to break America's contract with the elderly—even worse than the draconian cuts passed by the Senate.

Over the life of the resolution, the average senior will have to pay an additional $3,200. Elderly couples will have to pay $6,400. Seniors with the highest health costs will pay even more.

The authors of the resolution do not seem to understand that the elderly cannot afford these cuts. The average senior only has an income of $17,750 a year. Seniors already pay 21 percent of their income for health care—a greater amount than they paid before Medicare was even enacted. Eighty-three per cent of Medicare spending is for seniors with incomes of less than $25,000. Two-thirds is for seniors with incomes of less than $15,000.

These cuts are so deep that they will devastate not only seniors but our health care system as a whole. Rural hospitals, public hospitals, and academic health centers will be particularly hard hit. The leaders of academic medicine concluded that these cuts will mean that "Every American's quality of life will suffer."

Cutbacks in Medicare and Medicaid will shift costs to every working family in the form of higher health care charges and higher insurance premiums.

Medicare is part of Social Security. Seniors have worked hard all their lives. They have earned their Medicare. They deserve it. It is wrong to break the promise of Medicare to pay for tax cuts for the wealthy. It is a false economy to shift costs from the Federal budget to the family budgets of senior citizens and working families.

The Medicaid cuts are equally wrong. Five to seven million children will lose their coverage. One million seniors will lose coverage. States will face huge new fiscal burdens.

This proposal is wrong for seniors. It is wrong for working families. It is wrong for children. And it is wrong for America.

The fundamental unfairness of this proposal is plain. Because of gaps in Medicare, senior citizens already pay too much for the health care they need. Average elderly Americans pay an astounding one-fifth of their income to purchase health care—more than they paid before Medicare was enacted 30 years ago. And the reason we enacted Medicare was because the elderly faced a health care crisis then.

Lower income, older seniors pay more than a fifth of their income for health care. Medicare does not cover prescription drugs. And its coverage of home health care and nursing home care is limited.

Unlike private insurance policies, Medicare does not have a cap on out-of-pocket costs. It does not cover eye care or foot care or dental care. Yet this budget plan piles additional medical costs on every senior citizen—while the Republican tax bill that has already passed the House gives a lavish tax break to the rich.

It is interesting to compare the generous benefits that the authors of this resolution enjoy under the FEHBP plan available to every Member of Congress to the much less comprehensive benefits provided by Medicare. Medicare has no coverage at all for outpatient prescription drugs, although they are fully covered under Blue Cross-Blue Shield Standard, the most popular FEHBP plan. The combined deductible for doctor and hospital services under Blue Cross/Blue Shield is $350. For Medicare, the combined deductible is $816. Blue Cross/Blue Shield covers unlimited hospital days with no copayments. Under Medicare, seniors face a $179 per day copayment after 60 days and $358 after 90 days. After 150 days, Medicare pays nothing at all.

Medicare covers a few preventive services, but it does not cover screenings for heart disease, colorectal cancer, and prostate cancer—all covered by FEHBP benefits. Dental services are covered for Members of Congress—but not for senior citizens. Members of Congress are protected against skyrocketing out-of-pocket costs by a cap on their total liability, but there is no cap on how much a senior citizen has to pay for Medicare copayments or deductibles.

Members of Congress earn $133,600 a year. The average senior's income is $17,750. For the limited Medicare benefits they receive, seniors pay $46 a month, but for their comprehensive insurance coverage Members of Congress will pay a grand total of $44 a month. Senior citizens pay $2 more out of incomes only about one-eighth as large.

Republicans do not seem to understand that the average senior citizen has an income of only $17,750 a year. The Republican budget will force millions of elderly Americans to go without the health care they need. Millions more will have to choose between food on the table, heat in the winter, paying the rent, and paying for medical care. Any plan that does that is cruel and unjust.

Senior citizens have earned their Medicare. They have paid for them, and they deserve them. Yet our Republican friends would deny them these much deserved benefits.

How do they explain this to senior citizens? This is a budget that Marie Antoinette would love—"let them eat cake." And it is Medicare that is being sent to the guillotine.

The Medicare cuts in this resolution harm more than senior citizens. These proposals will also strike a severe blow to the quality of American medicine—damaging hospitals and other health care institutions that depend heavily on Medicare.

These institutions provide essential health care for Americans of all ages, not just senior citizens. Progress in medical research and training of health professionals depends on the financial stability of these institutions academic health centers, public hospitals, and rural hospitals will bear an especially heavy burden. As representatives of the academic health centers that guarantee our world-renowned excellence in health care said of the Republican budget, "Every American's quality of life will suffer as a result."

In addition, these massive costs will inevitably impose a hidden tax on workers and businesses. They will face increased costs and higher insurance premiums, as physicians and hospitals shift even more costs to the non-elderly. Accordingly to recent statistics, Medicare now pays only 68 percent of what the private sector pays for comparable physicians' services; for hospitals care, the figure is 69 percent. The proposed Republican cuts will widen this already ominous gap.

Republicans have argued that the deep cuts are needed to save Medicare from bankruptcy. The hypocrisy of this claim is astonishing. Just a few weeks ago—before they began to feel the political heat on Medicare cuts—the Republicans passed a tax bill in the House that took almost $90 billion in revenues of the Medicare hospital insurance trust fund over the next 10 years—and brought it that much closer to insolvency. We did not hear a word then about the impending bankruptcy of Medicare.

We also did not hear about it when last year's Medicare trustee's report was issued. Republicans were too busy last year blocking health reform and pretending there was no health care crisis at all.

This year's trustees report actually shows the Medicare trust fund to be in a stronger financial position than last year. The new-found Republican concern for the solvency of the Medicare trust fund is a sham—a convenient pretext to rob Medicare to pay for tax breaks for the rich. Medicare is nowhere near as bankrupt as Republican priorities.

It is true that the April 3 report of the Medicare trustees projects that the Medicare hospital insurance trust fund will run out of money by 2002. But few if any Republicans would be talking about Medicare cuts of this magnitude, absent the need to finance their tax cuts for the wealthy. As the Medicare trustees themselves noted in their report, modest adjustments can keep Medicare solvent for an additional decade—plenty of time to find fair solutions for the longer term.

Similar projections of Medicare insolvency have been made numerous times in the past, but adjustments enacted by Congress were able to deal with the problem without jeopardizing beneficiaries. Now is no different. For example, an estimated 20 percent of all Medicare hospitalizations could be avoided with better preventive services and more timely primary and outpatient care. As much as 10 percent of all Medicare expenditures may be due to fraud, and could be reduced or eliminated by better oversight.

Some Republicans have accused Democrats of attempting to scare America's senior citizens. Senior citizens do have reason to fear what this budget resolution will do to their Medicare benefits. But the real fearmongers are those who attempt to cloak their misguided budget in demagoguery about the bankruptcy of Medicare.

We do not have to destroy Medicare in order to save it.

Another false Republican argument in defense of Medicare cuts is that they are not really a cut, because the total amount of Medicare spending will continue to grow. The fact is that the Republican plan calls for spending far less on Medicare than the Congressional Budget Office says is necessary to maintain the current level of services to the elderly.

Every household in America knows that if the cost of your rent, the cost of your utilities, and the cost of your food go up—and your income stays the same—you have taken a real cut in your living standard.

Only in Washington could someone say with a straight face that making senior citizens pay hundreds of dollars a year more for their medical needs is not a cut in their benefits. Every senior citizen understands that.

Republicans speak of a cut in defense, even though defense spending has stayed stable. Apparently, the same Republican logic does not apply to senior citizens that applies to defense. Well, I say to them—a cut is a cut is a cut—whether it is in Medicare or Social Security or national defense.

The third specious Republican argument is that Medicare costs can be cut by encouraging senior citizens to join managed care. True, such care may help bring Medicare costs under control—in the long run. Enrollment by senior citizens in managed care is already increasing rapidly. It is up 75 percent since 1990. But no serious analyst believes that increased enrollment in managed care will substantially reduce Medicare expenditures in the timeframe of the proposed Republican cuts.

In fact, according to the General Accounting Office, Medicare now actually loses money on managed care, because the healthiest senior citizens tend to enroll in managed care and the payment formula is too generous. This kind of problem can easily be worked out, and will help to restore the fiscal stability of the program. But the only way to save serious money in the short term on managed care is to penalize those who refuse to join. This harsh option has already been suggested by the Republican health task force in the House of Representatives.

I say to my Republican colleagues—it is wrong to force senior citizens to give up their freedom to choose their own doctors and hospitals. It is wrong to penalize them financially if they refuse to enroll in managed care.

The American people will never accept a policy that tells senior citizens they have a right to go to the hospital and doctor of their choice, or that puts unfair financial pressure on senior citizens to give up that right.

A further Republican argument is that deep cuts in Medicare are necessary to balance the budget. That argument refutes itself. It is nothing of the kind. All it proves is that Republican priorities are wrong. There is a right way to balance the budget, and a far-right way. And unfortunately, the Republicans have picked the latter.

It is true that we need to bring health care spending under control. But that applies to all health spending, not just Medicare. As President Clinton told the White House Conference on Aging last month, 40 percent of the projected increase in Federal spending in coming years will be caused by escalating health costs.

But what this Republican budget fails to recognize is that the current growth in Medicare spending is a symptom of the underlying problems in the entire health care system—not a defect in Medicare alone.

In fact, Medicare has done a better job than the private sector in restraining costs in recent years. Since 1984, Medicare costs have risen at an annual rate that is 24 percent lower than comparable private sector health spending. As a result, Medicare now pays only 68 percent of what the private sector charges for comparable physicians' services; for hospital care, the figure is 69 percent.

Slashing Medicare unilaterally is no way to balance the budget. It will simply shift costs from the budget of the Federal Government to the budgets of senior citizens, their children, and their grandchildren. That's not a real saving.

Moreover, senior citizens will also face greater discrimination from physicians and hospitals less willing to accept them as patients, because Medicare reimbursements are already much lower than the reimbursements available under private insurance. Previous cuts in Medicare have already led to serious cost shifting, as physicians and hospitals seek to make up their reduced income from Medicare patients by charging higher fees to other patients. The result has been higher health costs and health insurance premiums for everyone, as cost shifting becomes a significant hidden tax on individuals and businesses.

The right way to slow rising Medicare costs is in the context of broader health reforms that will slow health cost inflation in the system as a whole. That is the way to bring Federal health costs under control, without cutting benefits or shifting costs to working families. In the context of broader reform, the needs of academic health centers, rural hospitals, and inner city hospitals can also be met. Unilateral Medicare cuts alone, by contrast, will reduce the availability and quality of care for young and old alike.

The cuts in Medicaid proposed in the Republican budget are equally unfair—a total of $175 billion over 7 years. The double whammy of huge Medicare cuts and huge Medicaid cuts will hit hospitals and other health care providers even harder than Medicare cuts alone. Struggling State governments and State and local taxpayers will also face heavy burdens. Massachusetts would lose billions of dollars in Federal matching funds over the next 7 years. By the year 2002, we would need to increase State spending by 26 percent to maintain current program levels. Other States with higher Federal matching rates would be hit even harder.

States cannot afford these huge increases. And the impact of these arbitrary cuts on working American families is even more disturbing. Medicaid is a key part of the safety net for senior citizens, the disabled, and children. Two-thirds of all Medicaid spending is for senior citizens and the disabled. If an elderly American becomes sick enough to need long-term nursing home care, Medicaid is the only source of funding after personal savings are exhausted. Cuts in Medicaid will mean that needed care for senior citizens is denied. Heavy additional burdens will be imposed on their children and grandchildren.

At a hearing in the last Congress by the Labor and Human Resources Committee in Quincy, MA, one of the witnesses was a retired veteran named Clifford Towne, who lived with his wife Marie in South Dartmouth.

Clifford Towne is a veteran who fought in World War II. He worked hard all his life in the textile business. When he retired, he had over $100,000 in the bank. He owned his own home, and he had a good pension from Social Security. But both he and his wife developed serious medical problems. High medical costs that Medicare did not cover well enough—especially prescription drugs—had wiped out his savings. He had to run up large debts. As he told our committee, he tried to qualify for Medicaid, but his Social Security income was too high. "They told me," he said, "that the only way I could get help for my wife was to leave her. But after 48 years, I just couldn't do that. I'd rather kick the bucket than be forced to get a divorce. So my wife and I talked it over and decided that when we couldn't pay for the drugs any more, we just would have to stop taking the prescription drugs. We'd rather pass away together—or at least as close together as we can. About 3 or 4 months ago, I already cut down on drugs for my blood pressure. I don't want my wife to have to cut down on her medications until we have no other choice."

Children depend on Medicaid as well. Eighteen million children—more than a quarter of all children in our country—receive health care under Medicaid. More than half of these children are members of working families. Their parents work hard—most of them 8 hours a day, 40 hours a week, 52 weeks a year. Without Medicaid's help, all their hard work will not buy their children the health care they need.

We often hear that the reason to balance the budget is for America's children. A budget that denies health care to millions of children is the wrong way to express concern for their future.

Not only does the Republican budget slash health benefits for low-income children, it cashes out the investments we have made in the Nation's youth by cutting education programs severely over the next 7 years.

And for what purpose? To "ensure a better future for our children?" To provide them with "more and better opportunities than we now enjoy?" Nothing could be further from the truth.

Every parent knows that education is the foundation of a better life for their children. Deep Republican cuts in education betray the hopes and dreams of parents for their children and undermine the Nation's future strength. As America moves into the high-technology world of the 21st century, our schools and colleges and students need more help, not less.

The Senate budget contained the largest education cuts in U.S. history—over one-third of the investment in education by the year 2002, and $30 billion in cuts in financial aid to college students.

This budget conference agreement makes these completely unacceptable cuts worse. During floor debate on the Senate budget resolution, we passed a bipartisan amendment by a vote of 67 to 42 to restore $9.4 billion to student loan accounts so that students would not face increases in personal indebtedness of up to 50 percent. Republicans and Democrats in both the House and the Senate wrote to the conferees to urge them to adopt the Senate number on student loans. Fourteen Senate Republicans signed a "Dear Colleague" letter to the conferees reinforcing this point.

And what does this budget agreement do? It requires $10 billion to be taken from students in the form of increased fees and interest rates on student loans; 88 percent of the cuts in student aid contained in this budget fall on families earning $75,000 or less. The Republicans claim to balance the budget to protect the next generation. But they are more than willing to bury this generation of students in debt. And for what? To pay for tax cuts for the wealthy.

The following is a summary of the consequence of the conference education cuts:

Overall: Largest education cuts in U.S. history; eliminates 33 percent of the Federal investment in education by year 2002 based on Congressional Budget Office estimates.

College aid: Cuts $30 billion in Federal aid to college students over the next 7 years. Half of all college students receive Federal financial aid; 75 percent of all student aid comes from the Federal Government.

Increases personal debt for students with subsidized loans by 20 to 48 percent by eliminating the in-school interest subsidy. Affects up to 4 million students a year; undergraduate students who borrow the maximum of $17,125 will pay an extra $4,920.

Reduces Pell grants for individual students by 40 percent by the year 2002, or terminates Pell grants altogether for over 1 million students per year, even assuming a freeze at 1995 funding levels.

Could increase up-front student loan fees by 25 percent, raise interest rates on student loans, or eliminate grace period for students to defer payment on loans after graduation.

School aid: Elementary and Secondary Education Act—Cuts funding for improving math and reading skills to 2 million children; reduces funding for 60,000 schools.

Safe and drug free schools—Cuts over $1 billion in antidrug and antiviolence programs serving 39 million students in 94 percent of the Nation's school districts.

Head Start: Denies preschool education to between 350,000 and 550,000 children.

Special education: Eliminates $5 billion in Federal support for special education services for 5.5 million students with disabilities.

Goals 2000: Denies assistance to 47 States and more than 3,000 school districts helping students to achieve higher education standards.

School-to-work: Cuts $5.3 billion from initiatives to improve job skills for up to 12 million students through local partnerships of businesses, schools and community colleges.

Technology: Eliminates Federal initiatives to develop and provide educational technology for the classroom through collaboration with private funders.

In the last Congress, Republicans and Democrats stood together as the education Congress. In the last Congress, we voted 98 to 1 to expand Head Start to make preschool available to more children. Yet the Republican budget eliminates hundreds of thousands of eligible children from Head Start over the next 7 years.

In the last Congress, we voted 77 to 20 to improve the way the Federal Government supports elementary and secondary education. We strengthened our commitment, through title I, to help children improve their basic reading and math skills. The Republican budget denies those services to millions of children and reduces funding for tens of thousands of schools. These damaging cuts would affect virtually every public school in the country, and many parochial and private schools as well.

In the last Congress, we enacted Goals 2000—again with a bipartisan vote—to support States in their efforts to develop high standards for students. The Republican budget denies assistance to States and thousands of school districts, drastically reducing Federal support for these essential reform efforts.

In the last Congress, we joined together to create school-to-work initiatives that provide seed money to every State to design and implement systems that will provide more effective connections for young people between classroom learning and real job opportunities in local communities. The Republican budget repeals this highly successful legislation. Additionally, it cuts billions of dollars over 7 years from a number of education and work preparation initiatives designed to improve the job skills for students.

In the last Congress, we launched the National and Community Service Program—another bipartisan effort—to support local efforts throughout the Nation that encourage young people to serve in their communities. Under the Republican budget, AmeriCorps and service learning are eliminated, denying funds for the 40,000 students planning to devote themselves to a year of full-time service in 1996 and the 550,000 students in American schools who could take advantage of service learning opportunities in and out of the classroom.

And what about the Nation's students and working families struggling to pay for college? In the last Congress we enacted the Student Loan Reform Act, which is saving the Nation's students over $2 billion in loan fees, lower interest rates, and more favorable repayment terms.

The Republican budget cuts Federal support for student financial aid by billions of dollars over the next 7 years. And this is not an area where States will pick up the slack; 75 percent of all student aid comes from the Federal Government, and one-half of the Nation's students receive Federal aid.

Under the Republican budget, no aspect of student aid would remain untouched. For 30 years, the Federal Government has paid the interest on federally subsidized Stafford loans while students are in college, so that the interest does not build up before students graduate and can begin paying back their loans. Under this Republican budget, that vital support would be denied.

Something has to give, and apparently the Republicans have decided that it is the Nation's students who must give.

And it is not only student loans that will be slashed by the Republican budget. Over the next 7 years, Pell grants will drop steeply. This decline in buying power comes at a time when the cost of attending State universities is rising by an average of 5 percent per year.

Three other major sources of Federal student aid—supplemental educational opportunity grants, State student incentive grants, and Perkins loans—would also be drastically cut by this budget.

This is not sharing the pain. This is a full-scale assault on the Nation's students and working families.

Thousands of students from across the country have written to me by mail and on the Internet to describe in personal terms what these cuts in student aid would mean to them. They speak of the sacrifices their parents are making, the extra jobs they are holding down, and the value of every dollar in financial aid making it possible for them to pursue their education.

Let me share with you a few examples of the moving testimony I have received from students across the country.

A student attending medical school in Massachusetts writes:

> I am a 24-year-old African-American woman, born and raised in St. Louis, Missouri. I come from a poor, working class, two-parent household. I am proud to say that I was the first African-American valedictorian at my high school. I went on to college at a private institution. I received very much needed financial aid while there, including loans and scholarships. My parents helped as much as they could, but with two other children, they could only help a little . . . Without the Stafford and Perkins loans that I received, I would not have been able to continue my education. After graduating from college I was accepted to an Ivy League medical school where I am still very much dependent on federal financial aid. I hope to practice primary care pediatrics in an indigent community. I am close to finishing school and may not be affected by such harsh cutbacks, but I am very concerned for the future generation of students.

Under the Republican budget a student following this course of study could well face over $40,000 in additional interest payments at the end of her medical training.

A student from New York writes:

> My mother just got laid off today. I only have one year left before I receive my bachelor's degree. I don't want my opportunity and those of others to be cut short.

Everyone in the White House, on Capitol Hill, and in the State governments had their opportunity. Why are you taking away ours?

A college graduate from Colorado writes:

> I am not a student, but I'm raising my voice in support of government backing for student loans. If it were not for student loans, I would not have been able to attend college. My mother was supporting two kids and we lived in government subsidized housing—the projects. There was simply no way she could have paid for a college education for us, so we applied for loans and more loans. I received some grants and a great deal of loan assistance, and still I worked at McDonald's. I am now a consulting writer and I never have to look for work . . . it looks for me. This is a most wonderful life and I wouldn't have had any chance at all of attaining it without those student loans and grants. Please do whatever it takes to ensure that others get this chance . . . it is what allowed me to become who I am today, and I thank you all.

Another student, from Maine, summed up the situation: "If you think education is expensive—try ignorance."

The Republican budget turns its back on investing in our future—our children's education. It is the wrong priority for the Nation, and that makes no sense.

Children will also suffer because the Republican budget cuts back on the earned income tax credit. The earned income tax credit gives families with incomes of up to $28,000 a year the incentive to enter the work force and become self-sufficient. It makes work pay by providing a tax credit up to 40 cents for every dollar a low-income worker earns. The average credit is $1,400 a year. It offers major assistance to working families to raise their standard of living and climb out of poverty.

The Senate Republican budget slashes billions of dollars from the earned income tax credit over the next 7 years. That's an unacceptable tax increase of $1,400 for 12 million working American families and their children.

Tax increases for the working poor—and tax cuts for the rich. What a shameful commentary on Republican priorities and the Republican budget. No wonder the country is turning against the Republican Congress.

Republicans claim that they are interested in moving welfare recipients into work. But slashing the earned income tax credit, along with the other punitive proposals in the Republican welfare reform bill, makes a mockery of that claim. These cuts will encourage dependence, not independence. They will weaken the safety net that protects working families and children from falling into poverty.

The earned income tax credit has always had bipartisan support in the past. President Reagan called it "the best anti-poverty, the best pro-family, the best job creation measure to come out of Congress." It is shocking that the Republicans are proposing to cut this tax credit for low-income workers to pay for tax breaks for the rich.

During the budget debate last month, Democrats offered amendments to use the $170 billion tax cut fund not only to restore the earned income tax credit for working families, but protect Medicare and Medicaid as well as reverse the cuts in the student loan program. On amendment after amendment, the Republican majority voted to protect only one thing—their tax breaks for the rich and the special interests, instead of helping working families and their children.

One of the worst examples of Republican misplaced priorities is their blatant attempt vote to keep the tax loophole open for billionaires who renounce their American citizenship in order to avoid paying taxes on the massive wealth they've accumulated in America. These unpatriotic bums get a tax loophole—and hard-working low-income Americans get a tax increase. Does anyone in America seriously agree with those shameful Republican priorities?

The Joint Committee on Taxation recently completed its long-awaited study on the billionaires' tax loophole, and the report was a further blatant attempt to save the loophole, rather than close it.

According to earlier revenue estimates, closing the loophole would raise $3.6 billion over the next 10 years. Clearly, substantial revenues are at stake.

At least the Finance Committee tried to close this flagrant loophole.

But it reappeared in the bill in conference with the House, supposedly because a few so-called technical issues needed to be addressed.

It turns out that the only serious technical issue was how to keep the loophole open. Well, our Republican friends studied the issue as hard as they could, and a few days ago, they came up with a way to save as much of the billionaires' loophole as possible.

It took a bit of work. But the Ways and Means Committee has finally found the ways and means to keep the loophole open. Earlier this month, they reported out a bill to do it. They have even given the bill an appropriate number: H.R. 1812. What a perfect number for a tax loophole bill—1812. That is about the year their thinking on tax reform stopped. Well, I think we will just try to bring their 1812 bill into the 20th century when it gets to the Senate—and close that loophole the way it ought to be closed—closed tight on those unpatriotic billionaires.

I just wish our Republican friends would put as much time and effort into closing tax loopholes and reducing corporate welfare as they put into keeping these loopholes open. We would save tens of billions of dollars, and be able to balance the budget fairly, instead of balancing it on the backs of Medicare and education and low-income working families.

The chairman of the Ways and Means Committee proposed to tinker with the existing law—and in a way which does not address the fundamental problems of this tax loophole.

First, the proposal allows expatriates to pay no U.S. tax on their gains if they are willing to wait 10 years before they sell their assets. This part of the loophole already exists in current law, and has been repeatedly pointed out. There is no logical reason to leave it open.

Second, one of the major problems of current law is the fact that gains from foreign assets built up during U.S. citizenship are not subject to U.S. tax after expatriation. Yet, some of the most flagrant cases of expatriate tax abuse involve individuals who avoided taxes on foreign income.

Any serious proposal to address these issues must tax the gains on the expatriate's worldwide assets, and this tax must be imposed at the time of expatriation.

Third, expatriates will continue to use tax planning gimmicks to avoid taxes on gains from domestic assets by shifting income from the domestic to the foreign side of the ledger. As long as the Tax Code exempts foreign assets from taxes upon expatriation, taxpayers will find new ways to shift their assets and avoid their taxes.

Fourth, the proposal allows billionaires to avoid the expatriation tax by taking up residence in certain countries with which the United States has a tax treaty that prevents taxation of former citizens. An expatriate and their lawyer can easily find tax havens with such tax treaties, and we ought to reject that easy means of tax avoidance.

Fifth, the so-called reform cannot be effectively enforced. Expatriates can leave U.S. tax jurisdiction without paying a tax or posting security. Expatriates will merely fill out a form at the time of expatriation, and the IRS will be left holding the bag.

At the very time when Republicans in Congress are cutting Medicare, education, and other essential programs in order to pay for tax cuts for the rich, they are also maneuvering to salvage this unjustified loophole for the super wealthy. I say, this loophole should be closed now and closed tight—no ifs, ands, or buts. I intend to do all I can to see that it is.

Working families have been asked to shoulder too much of the burden of deficit reduction in the Republican budget. The cuts in important health, education, and income assistance programs will diminish the opportunities of millions of Americans to improve their lives and their future. I urge the Senate to reject this unconscionable budget.

All Members urge our colleagues and the American people to take the time to focus on exactly what the alternatives are that are being recommended by the Republican leadership in the House of Representatives and in the Senate of the United States.

The reason that we urge this very careful attention over these next few days is because of the enormous consequences that it is going to have on them, on their children, and on their parents.

No judgment will have been made in recent times that will be more decisive as to the impact on American families than the outcome of these budget considerations.

The actions that we took here in the last Congress that saw the changes in the Head Start Program to reach younger children and improve the quality of its services, in the title I education program for disadvantaged children, in Goals 2000, in the School-to-Work Program, in the direct loan program—all are reflective of Republican and Democratic efforts to protect the priorities of working families in this country, that education is important. With this budget, that effort is significantly undermined. And it is undermined not just in this Congress but it is undermined for the next 7 years. That is what we are talking about. That is why this whole debate and discussion is of such importance.

We are not just talking about what is going to be appropriated in 1 particular year. We are deciding a glidepath for the next 7 years and we are making judgments about what is going to be invested in the children of this country over the next 7 years. What we are talking about is what is going to be the increase in out-of-pocket payments for our seniors over the period of the next 7 years. And what we are talking about, which is the most unconscionable item, is what is going to be going into the pockets of the wealthiest individuals and corporations over the period of the next 7 years.

That is the issue that is before this country. That is the issue of importance for every American family to take note of. We are urging their focus and attention on this issue today and over the period of these next several weeks.

Mr. SARBANES. Will the Senator yield?

Mr. KENNEDY. I will be glad to yield.

Mr. SARBANES. This 7-year blueprint which the Republican budget plan is laying out for the country, is it not correct that the cuts in the investments in the future—cuts in education, in college opportunities, in work training programs, all of the things that build a stronger economy—that those cuts intensify in each of the subsequent years as you move through the 7-year period?

So that people need to understand. I think the Senator is making an extremely important point. This is not just the plan for next year. It is the plan for 7 years. Furthermore, the way this plan is structured, as I understand it, the impact will intensify as we move through the time period so what people will experience in the first year of the plan, which I submit will be very draconian, will worsen as the time passes through the 7-year period. Is that correct?

Mr. KENNEDY. The Senator is absolutely right and is focused on what might be considered a subtlety because it is not talked about and is deemphasized by those who are supporting this program. But in reality the Republican budget is going to adversely impact our seniors and our children over the next 7 years, in a cumulative way, which I believe will do serious damage to the next generation as well as older generations as well.

Mr. SARBANES. Will the Senator yield? Do the tax cuts for the wealthy that are provided in this plan—in other words, what the plan is doing is sharply curtailing opportunities for working people, taking the money that is realized from that, and then using it, as I understand it, to give a tax cut to the very wealthy. Do those tax cuts occur in the beginning or in the front of this 7-year period? Or do they occur at the end of the 7-year period?

As I understand it, with the changes made in the budget conference the tax cuts now will be part of the reconciliation and therefore will become applicable at once, or in the near future, for the benefit of the very wealthy while the rest of the population will begin to bear these cuts and then bear them throughout the 7-year period, is that correct?

Mr. KENNEDY. The Senator is absolutely correct. Not only do you have the imbalance of the cuts on working families, on their children, and on senior citizens, but you also have this enormous benefit to the wealthiest individuals through this tax break.

I would just ask my friend and colleague, if these cuts went in as incentives to improve our economy and create more jobs, you might be able to find some justification. But the nature of these cuts—it is like taking billions of dollars and throwing them off the Capitol. Some people will pick them up and buy tee shirts and hotdogs, but the benefits will go in the most extraordinary way to the wealthiest individuals without having the real, positive impact in terms of encouraging investment in our society.

Would the Senator agree with that?

Mr. SARBANES. I think the Senator is absolutely right. People have to understand, because people say we want to eliminate the deficit, then they say we ought to cut spending, but with this plan, a good part of the cut in spending is not to eliminate the deficit but to provide a pool of money which can then be given as tax cuts for the people at the very top of the income scale. In effect, what this budget plan is doing is, it says to people on Medicare, our senior citizens: You are going to take a reduction in your Medicare services. It says to young people who want to go to college, it is going to become much more costly for you to go to college. And the reason this is happening, a good part of the reason this is happening, is to create a pot of money with which to give these tax cuts.

I submit, anyone weighing the equities of this and the desirability of this in terms of investing in the future would conclude it would be better to keep open the opportunities for college, not to subject our senior citizens to higher risks with respect to medical treatment and medical care, not to impact on child nutrition and feeding programs, school lunches, and so forth —not to hit those programs so heavy and to give up on the notion of giving a large tax cut to very wealthy people.

I do not understand the rationale for doing that, in terms of the priorities of the country, I say to my distinguished colleague.

Mr. KENNEDY. The Senator has stated it well. I think it is important for all Americans who are going to pay attention to this debate to understand who are really being adversely impacted—working families and their children.

First of all, for the very young members of their families, they are going to be adversely impacted by the cutbacks in terms of the support for education reform in the schools across this Nation. If they have children that qualify for the Head Start Program, there will be 500,000 fewer children who will participate in this program. If they were dependent upon any kind of help and assistance in the Summer Job Program, that opportunity will be cut back. Their smaller children will be adversely impacted with the reduction in support for the public schools of this country.

Second, they are going to be adversely impacted if they have sons and daughters who go on to the fine schools and colleges in this country. One of the great phenomena that has taken place since the end of World War II is how American universities have dominated the world. Of the 140 great universities, 127 of them are in the United States of America. That is because of the policies which provide help and assistance to children; why we have a research program, and how those universities now are working with the private sector. They have been absolutely a phenomenal success to the benefit of our young people, the sons and daughters of working families. And 75 percent of all the funding for help and assistance to those children comes from the Stafford Loan Program and the other Federal support programs. Seventy percent of the children in the State of Massachusetts are dependent for that help and assistance. This is going to mean a $30 billion reduction in this program over the next 7 years—$30 billion in the education support programs for the young men and women.

Now let me just mention that not only will we see a reduction in the support for the education programs for children, we will see an increase of what their parents are going to have to pay as well. This is not just a family that is out somewhere in Main Street America. If they were working on the lowest level of the economic ladder, they would have qualified for the earned income tax credit that would help keep them off welfare and in jobs. We see the $20 billion earned income tax credit expansion being effectively taken off the plate as to not benefit those working families.

What we are saying to the Medicare recipients, two-thirds of which are only making $17,000 a year, is that they will have an average increase of $3,200 over the next 7 years.

So we see the damage that is being done to the children of working families. We see the damage which is being done to the seniors who have paid into the Medicare Program and are entitled to that benefit. We see the reduction in the support of individuals that are going to those schools. And we see the slashing of the EITC Program for working families. The leadership in the Congress is opposed to an increase in the minimum wage, and is trying to bring a reduction under Davis-Bacon to diminish working families' income, which averages $27,000. You have to ask yourself, what have working families done to deserve this?

Does the Senator from Maryland agree that this is not a wholesale assault on the working families of this country?

Mr. SARBANES. That is right. What is happening is there is a massive effort to shift the economic benefits to a small group at the top of the income scale, a trend that has already been going on over the last decade and a half.

I ask the Senator from Massachusetts, does the provision from the conference committee drop the forgiveness of paying interest on your student loans while you are in school?

Mr. KENNEDY. The Senator is correct. If I could just mention in responding to that, does the Senator remember when this body, Republicans and Democrats alike, saw a restoration of billions of dollars to the Student Loan Program? I think it was an amendment of the Senator from Maine, OLYMPIA SNOWE, cosponsored by the Senator from Illinois. And after all the speeches that were made in support of that program, all the speeches of individuals who went on record to increase our investment in education, the ink was not even dry before the Republican conferees dropped it in conference.

I mean, does the Senator from Maryland find that is a way in which we attempt to reflect our commitment to higher education? And second, going back to the increase in interest payments on borrowing while the student is in school and college, mark this, every young person in America: You will pay an additional 30 percent in student loans as a result. And, as the Senator from Maryland said, why? To give $245 billion to the wealthiest individuals. The young people of this country will say: All right. We are prepared to tighten our belts if everyone else is doing it. We are prepared to try to deal with the national challenge and a national need.

But are you prepared to support a program that says you are going to put that on the backs of the young people under the phony argument that we are doing this in order to get the country out of debt? Young Americans will be in debt for years and years to come as a result of this.

Does the Senator from Maryland think that makes any sense?

Mr. SARBANES. Absolutely not. People have to understand that under the existing program, which is now about to be changed, young people and their families take out loans in order to finance their college education. That is tough because it means they come out of school with a burden hanging over them which they then have to pay off as they go through their working lives. Not to compound that problem, under the current system, the interest on those loans is abated or forgiven while they are in school, so you are not in this situation where you took out a loan and then you have to pay interest on the loan while you are in school. I think that is reasonable. That is sensible.

It is bad enough that you are taking on this heavy burden of paying off in the future. At least, do not compound the financial problem which these families confront at the very time they are trying to get a college education for their young men and women.

This proposal, as I understand it, will drop that provision, so they will be confronted then with the task of an additional burden added onto their loan responsibility in order to get a college education. It is tough enough now. I have talked with these families. They come to see me. They are desperate to find a way for their young son or daughter to get through college. The young people themselves are desperate. Sometimes they go out there holding three or four jobs at the same time to try to get enough money. They are committed to getting through college. Many families have never sent children to college before. It represents a breakthrough. They are out on an uncharted path.

Mark this: Other industrialized countries do not put their young people under this kind of stress and strain in terms of furthering their higher education. They make it possible for their young people with talent and ability to get a higher education. Why do they do that? Because they recognize that the benefit of further education is not only to the individual who gets it. That is an obvious benefit. But it is a benefit to society. They build a stronger society by making it possible for their young people to get an education. Here we are retreating from that challenge.

Mr. KENNEDY. The Senator has stated it accurately. But it is even worse than that. Last year, we moved in a very gradual way toward a direct loan program to permit young people to borrow at the same level at which the Federal Government borrows. That would mean lower interest rates, allowing an additional $2 billion to be available for education to try to get a handle on the ever-increasing escalation of costs for tuition.

Effectively, with the action of the Budget Committee, that very modest but important step that can save kids anywhere from $1,000 to $2,000 over the period when they are going to school is effectively wiped out. Here we had a bipartisan effort to do it.

Beyond this, the Senator from Maryland is familiar with the President's program that says in this area of education, he had a small tax deduction as well. His program in terms of the reduction in taxes is focused on education. The Republicans are going to make it more difficult for the students of this country to be able to afford to get an education. And what was on the other side? What we ought to be debating out here on the floor of the U.S. Senate is what the President suggested, and that is the following: That families with incomes up to $100,000 would be able to deduct up to $10,000 in tuition from their taxes to make it more affordable. Second, that they would be able to deduct the interest that they are paying on their debt.

Why does it make any sense when we permit deductions on interest on homes for wealthy individuals and we permit the deduction of other expenses for industry, why should we say education is of less importance?

That is what this President was fighting for. That is what we ought to be debating. If there is anything out here, any resources that could be used for tax cuts, would the Senator not agree with me that it makes a great deal more sense than taking the kinds of cuts in Medicare, in education, in slashing wages for working families and using it for the wealthiest individuals?

Mr. SARBANES. May I ask the Senator a question. Does the budget resolution cut back the earned-income tax credit program which was established to help working families get above the poverty line? This helps families, I think, with incomes up to $27,000 or $28,000.

Mr. KENNEDY. The Senator is correct. We have some 84,000 families, and we have about 300,000 individuals in my own State of Massachusetts.

Mr. SARBANES. Just in the Senator's State alone.

Mr. KENNEDY. In my State alone. And this was targeted, as the Senator understands. It had strong support from President Reagan and other Republicans. It had bipartisan support as well. And as the Senator understands, the reason for that is because of the increasing obligation that these families have in terms of paying the increase in Social Security and other tax programs just when they were moving off that bottom rung to the second rung of the ladder.

Mr. President, $26,000 a year is not a lot to pay a mortgage, put food on the table, clothe your kids, and try to give them at least some limited relief.

As the Senator knows, in that budget there is a continuation of about $4 trillion over the next 7 years of what we call tax expenditures which are available to wealthy corporations and companies.

At the same time they kept these tax breaks for the rich, they targeted the earned income tax credit. They took that away. They effectively raised the taxes on the lowest income people.

I would just finally ask, does the Senator not find it somewhat extraordinary they have eliminated the EITC, the earned income tax credit, without addressing the billionaire's tax loophole?

We found those economic forces working their way in that conference committee after our Finance Committee and the Senate went on record to close that tax loophole that says to Americans, become modern Benedict Arnolds; renounce your citizenship; take your money and go overseas and do not pay any taxes.

We have been out here trying to get that closed. They need some additional money. Why are they closing that loophole? Oh, yes, there is quietness about it, no explanation.

It does not take a lot to figure out how that ought to be closed. However, they found all different ways of cutting back on children, the smallest children, the most vulnerable, cutting back on education, targeting our senior citizens. But they refuse to close the biggest and most unjustified loophole of all.

I just wonder if the Senator does not feel that that is something which the American people ought to begin to wonder about. They have read about it. They have heard about it months ago. They should be wondering why is it that we cannot have that loophole closed as well.

Mr. SARBANES. The Senator is absolutely right. It is very important for the public to understand that a tax measure built into the law before, which would have allowed working families to get an earned income tax credit in order to improve their position to support their family—these are people making up to $27,000 a year—that is being cut back, that is being cut back at the same time that it is proposed to give tax breaks to people making hundreds of thousands of dollars a year.

Where is the fairness or the equity in that? If you were not giving a tax break, then you would have an argument about where the cuts should come, and there I think this program is draconian, but at least it would be in that context. But what is happening is you are cutting a tax provision to benefit working families in order to give a tax break to people making six-figure incomes, and to compound the bizarre nature of this, they are unwilling to close the billionaire's expatriate tax loophole on which the Senate has gone on record, I think unanimously or almost unanimously——

Mr. KENNEDY. No, two votes on that side of the aisle.

Mr. SARBANES. All right—to do away with it. And these are people, extremely wealthy people, literally billionaires we are talking about, who renounce their American citizenship in order to avoid paying American taxes. And the Treasury has worked out a proposal whereby they will not be able to get away with that. The conference was unwilling to encompass that proposal and to include it in the report.

So you have these tremendously wealthy people in effect walking scot-free from paying reasonable taxes. When you talk about this, the other side says, well, there you are; it is class warfare.

The class warfare is coming from the people at the top who are pulling in these benefits. That is the real class warfare that is happening here. Those who have much want more, more, more, and they throw the burden on those who have little, those who are struggling to make it through the day, struggling to educate their children, senior citizens who are struggling to meet their medical need problems, young families that are worried about how they are going to provide for their parents, worried about how they are going to provide for their children.

They cut back on the very programs designed to address those problems—Medicare, college loans, child nutrition programs, earned-income tax credit for working families—they cut back on those programs and at the same time that they are cutting back on those programs, they are giving large tax breaks to people with six-figure incomes, well above $100,000 a year.

Now, what is the sense of that? Where is the equity in that? Where is the wisdom in that in terms of investing in America's future? Those making those large incomes ought to be concerned about what is happening to working families and their children because you cannot reside at the top of the house with any sense of security and comfort when the foundations down below are not solid. And those foundations need to be solid. We have to break out of this mentality of trickle-down economics: You put it all in at the top, and somehow it is going to trickle its way down to ordinary people. We need percolate-up economics where you create prosperity in the great base of American society. The people at the top will benefit from that, as will everybody else. But it will work its way up; it will come up from the grassroots; it will come up from working people; we will have a strong middle class, which was always the hallmark of a strong American economy and which we are losing. This budget resolution is a classic example of how to intensify those negative trends.

Mr. KENNEDY. Let me just review with the Senator from Maryland one other major impact that this has. Let us take the State of Massachusetts. This kind of reduction on the budget is going to mean $1.2 billion less in scholarship assistance for students in the next 7 years. We can say, well, maybe the States are going to make up that difference. Just ask what has happened in Massachusetts over the last 5 and 7 years in terms of tuition.

The States have not been making it up. The States have not been making that contribution. And that has been true in every State of the country.

In my State of Massachusetts, with this Republican budget, it is going to mean a loss of $9.8 billion in Medicare and $4.6 billion in Medicaid over the next 7 years to the elderly and to the neediest people in our State, as well as to education. I do not know what it is in the State of Maryland, but the cuts in Medicare and Medicaid will likely be equally harsh.

Who are the ones getting the help and assistance of Medicaid? Sixty-seven percent of the Medicaid money is spent for long-term care for the elderly poor and the rest for the disabled. And the rest are going to be the 5 to 7 million American children that are the poorest children in this country that are going to be off the list. Where are the States going to be coming up with that kind of money?

Who is going to pick that up? What has been the record of the States over the last 15 years in terms of the poorest children? It has been unacceptable.

They say, "Look, we can do this here, we will just shift all of this back to the States." I know in Massachusetts, those kinds of offsets are not indicated in the Governor's budget, and I have not found any Governors across this country that have said they are prepared to make up the difference.

So what is going to happen? Here it is, long-term care, frail elderly who have no other resources, have qualified for the Medicaid; and the disabled, with all of the attendant costs and needs that families have when they have a disabled child—the emotion of that—the Medicaid program just providing enough to get along and provide some of those essential services are being told that they are going to have a $175 billion cutback.

If you are talking about the Medicare, which our seniors have paid into, if you are talking about the Medicaid, which serves the most vulnerable people in our society, if you are talking about the children of working families and you do not qualify for these Stafford loans or Pell grants. The Pell grants, in terms of purchasing, are alone going to decrease 40 percent in value over the next 7 years. You have to be needy in order to qualify for those grants. We are talking about men and women, workers in America, playing by the rules, working 45 hours a week, 52 weeks out of the year, paying taxes and trying to bring up families, and this is going to hit every aspect of their life.

I am just wondering whether the Senator feels that the States, as former chairman of the Joint Economic Committee, are going to be in an position to be able to make all of this up?

Mr. SARBANES. If the Senator will yield, most of the Governors have been very clear that they cannot make it up. They are just not in a position to do so. Now what that means, because you talk about these cuts and you talk about numbers, you have to talk about services and people.

And what it means, as the Senator from Massachusetts so eloquently pointed out, is the frail elderly who are now benefiting from the Medicaid program in terms of long-term care in nursing homes and so forth and so on. What is going to happen to those people? What is going to happen to them and to their families? Some families are stretched beyond the limits trying to handle the problem of their aged parents—beyond the limits.

Is it not enough of a burden to face the emotional and the psychological stress and strain which goes with that kind of problem? Talk to a young couple, with a parent who has Alzheimer's and is in a nursing home, about what they are up against, just emotionally what they are up against, the stress in their lives. Then you are going to add to it an intense financial and economic stress.

Why are we doing this? Why are we subjecting so many of our people to this incredible pressure? We have to cut so we can give big tax breaks, that is one reason. We will not reform the medical care system, which might well help us to deal with these problems; we are unwilling to do that.

So we leave this incredible pressure and burden on ordinary families all across America to face what for many of them are desperate problems. It is the same thing with educating their children. Any young couple will tell you that is one of the prime worries in their mind, how they are going to educate their young children.

We tried to put together a system. We had the Pell grants, which is a grant, not a loan. It has diminished in impact because we say we cannot afford it, so we shift it over to loans. We said, "All right, you take a loan, you will enhance your earning capacity, you will pay it back over your working career." Now the loan is going to be compounded because we are not going to forgive the interest charge. So this is what has happened.

Mr. KENNEDY. I ask the Senator just to draw his attention to the issue of fairness with regard to Medicare. I think the Senator from Maryland is familiar with what happened at the start of this year about whatever laws we apply and pass here we ought to make applicable to the Congress and to the Senate. That is a principle with which I agree. We could have done it last year. We had resistance from our Republican friends. Now we have passed it.

But there is an interesting flip side to that issue, which is about the benefits that we get. Should we not make sure that the people across the country are going to get the benefits that we get?

The Senate and the House of Representatives have resoundingly said no when it comes to health care reform. You have that little blue form, any Member of Congress or the Senate does not have to fill it out in order to participate in the Federal employees program. I do not know of any Senator who has filled that out. They are all taking advantage of it. So we see what happens under the program that is being put forward.

The annual incomes of Members of Congress is $133,000; for seniors, $17,750.

The monthly premiums, $44; the seniors, $46.

Deductible, $350; for the seniors, $816.

On the hospital care, we have unlimited care and theirs is defined and limited.

We have prescription drugs covered; not covered for our seniors. That is a key area we had included in President Clinton's program last year.

On the dental care, we are covered; our seniors are not covered.

And then a whole range of preventive services which are included, and they have some benefits but not nearly as extensive.

Then we take care of our out-of-pocket limit of $3,700 and there is no out-of-pocket limit for the senior citizens.

It seems to me if you have that $245 billion out there in the Republican budget, that we ought to be able to look out after our senior citizens and try to at least make these more equitable, some of these more fair, some of these that are important lifelines for our senior citizens to live in some peace and some dignity.

These are the issues, Mr. President. We are talking essentially about who is going to bear the burden of these economic cuts. Make no mistake about it, it is going to be the youngest people in this country who are going to find it more difficult, more expensive to go on to the schools and colleges. It is going to be the reduction of services that working families are going to need. It is going to be the concern of working families in recognizing that their parents are going to have to pay much more out of their pockets for the Medicare coverage which they are receiving now.

It is basically unfair to put that kind of burden on working families and to have the benefits for the wealthiest individuals.

So, Mr. President, these are the issues which we are going to have a chance to debate as we move on through. This debate is enormously important and of great consequence. It is going to have a direct impact on every family in this country, not just for this year, but over the period of the next 7 years. It is going to affect every parent and every child. That is what is going to be before this Senate and before the House in these days and weeks to come. We urge them to give it their attention, and let their Members of Congress know where they stand.

Do they think we ought to have these kinds of cuts in education and in the quality of life of our seniors in order to have a tax benefit for the wealthiest individuals? I say "no." That will be an issue we should debate, and we ought to hear from the American people as to what they believe.

I yield the floor.

PRIVATE SECURITIES LITIGATION REFORM ACT

The Senate continued with the consideration of the bill.

Mr. D'AMATO. Mr. President, I would like to speak on the amendment that was submitted by my colleague, Senator BRYAN. The issue of whether we should extend the statute of limitations to bring an implied right of action is fraught with confusion.

In 1991, the Supreme Court, for the first time, set the statute of limitations on implied private rights of action. Before the Court's ruling there was no unified statute of limitations in these kinds of cases. The statute of limitations varied from State to State. Whether you could bring suit depended entirely on what the statute of limitations was in any particular State.

In the 1991 Lampf case, the Court finally set a standard statute of limitations. There has been no evidence shown that extending this Supreme Court set statute to 5 years will benefit wronged investors. In fact, extending the statute of limitations will do nothing more than hold a sword over businesses, and create more of an unreasonably long opportunity for litigation.

That is why we will be opposing this amendment to extend the statute of limitations. The bill holds to the statutes of limitations set by the Lampf case, 1 year from the time of discovery. It seems to me that once you discover fraud, you should be able to bring a lawsuit within 1 year. To extend that to 2 years is unreasonable. If you have discovered a fraud, then bring the suit. Why would you need 2 years?

Also, the SEC has the authority to bring suit at any time on behalf of investors who have been wronged; the SEC has no statute of limitations. Extending the statute of limitations to 2 years will make our judicial system a paradise for these lawyers.

We have not diminished the right to bring a suit after fraud has been discovered, you can bring a suit 5, 10 years later through the SEC. However, the lawyers do not make money in huge settlements when the SEC brings suit, so they oppose the provision. I would rather have the SEC bring suit so that the defrauded investors actually recover their losses when a settlement is made. In fact, the function of the Securities and Exchange Commission is to protect the investor.

The SEC recently forced Prudential to set up an open-ended disbursement fund to compensate investors who were defrauded in the 1980's. I am confident that these investors are actually getting that money. The SEC had the authority to require this firm to set aside $330 million for investors, and the SEC did not skim off $30 million of that settlement for lawyers. Is that not the way the system should operate?

We debate whether 1 year is enough time after the fraud is discovered to bring suit. I ask, why would 1 year not be enough time? Investors are protected by the SEC's authority after that 1 year has expired. By limiting the statute of limitations to 1 year, however, we are able to stop lawyers from shopping around for years, looking for any possible violation to allege. If there is fraud which comes to light after the statute of limitations has expired the SEC can always bring suit. Understand that in most cases there is no fraud, the lawyers search until they find something with which to allege fraud so that they can force the defendants to settle. We need to stop this wasteful practice.

We are not protecting people who commit fraudulent actions. We are saying that you cannot allege fraud year after year, just to make the charge. Again, I stress if there is a real fraud, doggone it, we know that the SEC will bring suit. This is not a new practice for the SEC, they have done it before and they will do it again. The SEC, however, will not waste time or money on a multiplicity of specious, spurious claims. So when the proponents of the extension of the statute of limitations say that investors brought 300 suits and the SEC only brought 1, I would note that those 300 suits were mostly frivolous. I would rather have one meritorious suit that recovers money for investors and is not used as a vehicle to extort money, than hundreds of meritless suits.

So when we talk about extending the statute of limitations understand that we are not doing anything more, in most cases, than giving people an opportunity to fish around until they catch a way to allege fraud and file a lawsuit. Once fraud has been discovered, I think it is preposterous to say that more than 1 year is needed to bring suit. Remember, most of these cases allege fraud although no fraud has been committed. They allege fraud in order to force defendants to settle because they cannot defend themselves without putting themselves at risk of even greater losses.

So I very strenuously oppose the extension of the statute of limitations, which I think would do a great disservice to the litigation system. The Supreme Court, the highest court in the land, established this statute of limitations and stated the need for uniformity in that statute.

I would like to make two other observations. I read in a New York Times editorial that we are making it impossible to bring suit. This is not the case, we are only limiting the ability of lawyers to use these cases as a collection vehicle to enrich themselves just by alleging fraud. I will repeat that the SEC can bring a case where it believes fraud has been committed, without any statute of limitations, and the private right of action is still available in the State court system. If a State court, or State legislature extends the statute of limitations to 5 years from the commission of fraud and 2 years from the time of discovery, investors will be able to file suit. Of course, even in the terrible Keating case suit was brought within a year of discovery and within 2 years of fraud. So when people say we are against extending the statute of limitations, I answer, yes, we are going to bar specious claims, ridiculous claims brought only to enrich the lawyers, however we keep protections against real fraud. In fact, the Securities and Exchange Commission, I believe, is in a much better position to judge where there is merit and where there is not in these cases.

Mr. President, I have nothing further to add on the amendment put forth by my distinguished colleague, Senator BRYAN.

Mr. SARBANES. Mr. President, I will be very brief.

The amendment offered by the distinguished Senator from Nevada [Mr. BRYAN] on the statute of limitations question is a very important amendment. I hope my colleagues will consider it very carefully over the weekend and again on Monday, when we will debate the amendment and have a vote on or in relation to the amendment.

Let me say that Senators DODD and DOMENICI, when they introduced their bill, included a provision on the statute of limitations that closely parallels what Senator BRYAN has offered.

They recognized the statute of limitations problem and they sought to correct it in the package which they introduced. In fact, they apparently thought it was of such consequence that in the title to their bill, they put it first and foremost.

Their bill as introduced is to amend the Securities Exchange Act of 1934 to establish a filing deadline, and to provide certain other things. They put it right up front. That gives Members, perhaps, some indication of recognition of its importance.

That provision was then dropped out in the committee's consideration—very unwisely, some Members think—and the measure now before the Senate does not contain that provision, which was in the original bill as introduced by Senators DOMENICI and DODD. Of course, the amendment offered by the distinguished Senator from Nevada, Senator BRYAN, is trying to correct that situation.

Now, once again, we hear this argument made about the frivolous suits or the strike suits, but that really is not related to the statute of limitations problem.

A shorter statute of limitations may well knock out meritorious suits, as well. Now, we tried to get a distinction between meritorious suits and frivolous suits with other provisions of the bill—provisions that we are not trying to amend here on the floor.

In other words, there has been an acceptance of the proposition that there is something of a problem that we need to try to deal with. Certain provisions in this bill do that, and represent an appropriate change in the existing securities litigation system.

Other provisions, we submit, go well beyond that. They are excessive and constitute overreach, and will in effect, reduce investor protections. We hope, in the course of the consideration of this measure, to change those provisions, to strengthen investor protections and, in effect, to make this a better bill, and eventually, if one could alter it sufficiently, make it worthy of broad-based general support.

The statute of limitations problem does not reach the question of the distinction between meritorious suits and frivolous suits, unless one is going to assert the proposition: "Well, the more immediate the statute of limitations, the more suits you can knock out."

It makes no distinction whether we are knocking out meritorious suits or frivolous suits. In fact, probably you will more likely knock out meritorious suits, since those usually take time to work out, and if people are responsible, they do not bring the suit until they have asserted a substantial basis for it.

Now, Senator BRYAN earlier today said it takes the SEC itself—with all of the resources that it has, all of the expertise that it has, all of the experience that it has—about 2.2 years to bring a suit once they begin working on it.

That is the SEC. What does that mean for investors who are trying to bring private suits in terms of what constitutes a reasonable statute of limitations for them?

Second, the 2- and 5-year time periods were what was generally applicable throughout a good period of our experience with the Securities and Exchange Act. It worked well. I have heard very little criticism of how it worked over that time period.

I have heard criticisms of other aspects of the litigation system, but not really sharp criticism with respect to the statute of limitations question. As I indicated earlier, in fact, a provision was included in the bill that Senators DODD and DOMENICI are pushing, this effort to revise the securities litigation system, very strongly. They included that in the legislation which they proposed.

The Senate Banking Committee, in 1991, unanimously, just a couple of years ago, unanimously approved a provision that provided for the 2- and 5-year statute of limitations. The 2 years would mean that from the time you learned of the fraud, you would have 2 years to bring your action. These are complicated cases. You want people to bring responsible actions, and bringing responsible actions means it takes time to prepare them.

In some respects, a shorter statute of limitations is an invitation for the filing of, in a sense, not well-grounded suits, because you just want to get in under the wire and you will go ahead and file the suit. The 5-year period would be the statute no matter what, even if you had not discovered the fraud.

Now, unless we change that, it is only a 3-year period. Some of these things are concealed—they are concealed from the victims. In fact, the previous Chairman of the SEC, Mr. Breeden, testified to that effect:

> Adoption of these measures will give private litigants a more realistic timeframe in which to discover that they have been defrauded, while also accommodating legitimate interests in providing finality to business transactions and avoiding stale claims.

The shorter period does not allow investors adequate time to discover and pursue violations of securities laws. Many of these things are very complicated. There is a lot of deception and concealment involved. The 1- and 3-year limits really break with 40 years of legal precedent.

I just hope that the Senate, when it considers this matter, will adopt the Bryan amendment, and go to the 2- and 5-year limitation period. I think it is reasonable. Some States have longer periods, as a matter of fact. I think it is reasonable to go to the 2- and 5-year standard, which is generally what prevailed over four decades of experience with the security laws.

I am very hopeful my colleagues, in considering this amendment on Monday, will be supportive of it.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Bryan amendment.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. BAUCUS pertaining to the introduction of S. 963 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. LEAHY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The pending business is the Bryan amendment to the securities litigation bill.

Mr. LEAHY. I thank the Presiding Officer.

Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

LET US KEEP TRYING TO WORK WITH RUSSIA

Mr. LEAHY. Mr. President, Vice President GORE is going to travel to Moscow this week to meet with Russian Prime Minister Victor Chernomyrdin. The meeting takes place amid a renewed challenge to President Yeltsin and the Prime Minister by conservative elements of the Russian Duma. Certainly just this morning's newspapers gives us a pretty clear understanding of what is happening.

I want our Vice President and their Prime Minister to know that I support their efforts to strengthen cooperation between our two countries. I believe here in the United States, despite our concerns about issues like Chechnya, Russia's continuing efforts to establish democracy and an open market economy actually merit our support. I believe that the American people want to engage the Russians constructively. We want to assist them with reform. Most of all, we want to prevent a return to the authoritarianism of the old Soviet regime.

One topic of conversation between the Vice President and the Prime Minister will be the future of United States aid to Russia. Some Senators have argued that the aid should be terminated, or at least substantially curtailed, and I do not agree.

Indeed, I find that after a slow start 3 years ago, the United States aid program to Russia is now making a significant contribution to advancing political and economic reform. I would like to just lay out a few examples.

The largest element of U.S. aid is to provide technical assistance to help the Russians privatize their state-owned enterprises. Think what we have here. We have people who have lived their entire lives in a centrally planned economy. They do not have any idea how to run a private enterprise. They have never had to sell their products. They have never had to worry about productivity. In fact, when the Berlin Wall fell, there probably were not more than 100 people in the Soviet Union who actually knew how to analyze an honest corporate profit-and-loss statement. They also did not have stock markets, banks or the legal system necessary to support private enterprise. You could not enter a contract in Moscow and have it enforced in St. Petersburg. You could not enter a contract in Moscow and have it enforced in other parts of Moscow.

I think it is in our national interest to help them acquire this know-how. Thanks in large part to our assistance, 50 percent—50 percent—of the Russian gross domestic product now comes from the private sector, and with United States help the Russians are drafting a commercial code, setting up stock markets, and training their police to fight the organized crime that could so easily stifle entrepreneurship.

I support this aid effort. I support the aid effort because I think that the more successful private enterprise Russia has, the more people are going to be resisting any attempt to reestablish Communist dictatorship.

I want to assure other Senators we are simply not shoveling money out the door to them. In fact, many aid dollars are going to Americans. We are sending Americans over to show people how to run a private enterprise economy.

More and more, we are leveraging our taxpayer dollars with contributions from the private sector. There are private enterprises that are interested in participating in the assistance program as a part of an effort to sell products. There are also lots of volunteers. In fact, these enterprises and volunteers allow us to multiply what we do.

Another significant element is bringing Russians to the United States. Most of us remember the days of the Soviet Union. The Government prevented most Russians from seeing what life outside their country was like. Unless you held a special privileged position in academe or the government, you could not leave. Most people only had a vague notion of the advantage of living in an open society. I think that the more Russians actually visit the West, talk to Americans, see how we live, the more likely it is they will resist a return to totalitarianism.

Some have suggested that we suspend all aid to show our objections to the sale of nuclear reactors to Iran, or Russian actions in Chechnya. Of course, I am intensely concerned about what is happening in Chechnya. Russian military violence against civilians has far exceeded accepted standards of civilized behavior, regardless of what they claim was the provocation by Chechen separatists. Use of landmines aimed primarily at the civilian population is just one of the egregious things they have done.

By its actions in Chechnya over the last 6 months, the Russian Government shows it still has a lot to learn about democratic values and respect for human rights. I hope now with the current negotiations they are finally learning. In fact, that is why I joined with Senator MCCONNELL this spring in insisting on shifting some of our proposed aid to Russia to provide humanitarian assistance to the Chechens as a token of our disapproval.

Let us think about what we are talking about as far as aid to Russia is concerned. We are talking about $200-$300 million overall in aid. Think about what we spent in waging the cold war over the years with the former Soviet Union. This does not even cover the interest on what we used to spend. It is also a drop in the bucket compared to the Russian Government budget. If we cut the aid off, nobody in the central government in Russia is going to notice, because the amounts would not be that large. The people who will notice are those reformers and those entrepreneurs and those in the private sector in Russia who are pointing to the West and the United States especially as somebody who is helping them move to democracy. They will notice, because they are the ones who will find their voices not heard as well if aid is cut off.

And so, Mr. President, I support the Vice President's mission to Moscow. I believe that promoting democratization of the second greatest military power in the world enhances U.S. security. I know that the Vice President will convey forcefully to Prime Minister Chernomyrdin America's concerns regarding Chechnya and the Iran reactor sale. I also know that he will work to strengthen dialog and cooperation between our two countries. And I do not know of any better way to promote world peace.

MAJOR LEAGUE BASEBALL ANTITRUST REFORM ACT

Mr. LEAHY. Mr. President, I note that we are approaching the end of June. We are approaching the July Fourth weekend. I must say, I hear staff and everybody else's sigh of relief, and I agree.

But as we approach the July Fourth weekend, we know the all star game, featuring the finest major league baseball players, cannot be all that far behind. It looks like the all star game will actually be played this year and the year-old dispute about player pension fund payments has now been resolved.

We should also note that this year the major league season did not begin until a Federal judge granted an injunction, and the owners and the players, who shut the game down last August and robbed the fans of pennant races and the world series, finally declared a cease-fire in their ongoing hostilities. They then had to scramble to begin a shortened 144-game schedule.

Another unfair labor practice proceeding against the owners is still pending, although that hearing has now been postponed. I hope that this is a sign that the owners and the players will finally do the right thing, finally be responsible, finally get back to the bargaining table and reach a collective bargaining agreement that will remove the cloud that is hanging over the rest of the season and all of major league baseball.

I am not the only one who expresses that concern, Mr. President. Look at the fans. Interest in major league baseball is undeniably down. Attendance figures show it. They are down between 20 and 30 percent. I suspect the viewership figures show it and certainly advertising and merchandising revenue show it as well.

In fact, in another major blow to the grand old game this morning, both NBC and ABC have indicated that they are not even going to bid on broadcast rights for baseball in the future.

When I go to a baseball game this evening, I suspect for the first time in years I am going to see empty seats. I think that is really something we should all be concerned about, those who love baseball.

Older fans have been turned off, and the younger ones have decided to spend their time and attention on other pursuits.

Of course, injuries to some of the star players have not helped. Those injuries are not the cause of baseball's decline, however. Indeed, other players and teams are having outstanding seasons and major league rosters are full of bright, young, talented players.

The problems are anger, disillusionment, and disdain. As the season began, the acting commissioner was quoted as saying:

> We knew there would be some fallout. It's very tough to assess, but there is a residue from the work stoppage, there's no question. There is a lot of anger out there.

Let me tell him, there is. At our February 15 hearing on legislation to end baseball's antitrust exemption, I asked the acting commissioner how fans get their voices heard. I will quote what I said at that time:

> Fans are disgruntled; I mean, they are really ripped. Do they vote with their feet?

I asked that question of the acting commissioner at that hearing. Unfortunately, that was in February. The strike dragged on, fans suffered through the owner's experiment with so-called replacement teams—and what a laugh that was—and the matter remains unsettled and unsettling.

Mr. Selig answered me last February by declaring he understood the frustration fans were feeling, but he observed that when the strike ended, there would be an enormous healing process. I told him back in February, "The longer you go, the harder that healing process is going to be."

I wish I had been wrong; I believe I was right. Because it is sad that for some, the wounds will not heal; for others, it will take a very long time; for still others, they will never have the attachment to the game that begins in childhood and binds generations and nurtures over time.

I do not think that those who are the game's current caretakers appreciate the damage they have done. I do not believe those who are running major league baseball today, with few exceptions, realize the enormous damage they have done to baseball. Slick advertising and discount tickets and special giveaway nights are not going to make up the difference. The last year has been disastrous. There are a lot of people who are more interested in their own egos and own pocketbooks than they were in the true interest of the fans.

What the fans are saying is,

> You took us for granted, you hurt us, you insulted us, you disregarded us, you worried only about your own egos and your own pocketbooks, so now maybe we will let you know how we feel.

With broadcast networks, who were partners with the baseball owners in the baseball network, today indicating that they will be abandoning the game, fans across the country who had expected to follow their teams over free television will likely be forced to suffer another blow.

Nothing has been solved. The problems and differences persist, and things are getting worse. There is no collective bargaining agreement and, as far as the public is aware, no prospects of one any time soon. To borrow from an old baseball observer, "It ain't over."

Why should people return to the game or, as we are apparently viewed, why should we patronize this commercial activity if the risk remains of having affections toyed with again and having hopes of a championship dashed—not by a better team but by competing economic interests?

So I believe the time has come for the Senate to act. The Senate Antitrust Subcommittee has reported a bill to the Judiciary Committee. This consensus bill, S. 627, is sponsored by Senators HATCH, THURMOND, MOYNIHAN, GRAHAM, and myself. It would cut back baseball's judicially created and aberrational antitrust exemption. Congress may not be able to solve every problem or heal baseball's self-inflicted wounds, but we can do this: We can pass legislation that will declare that professional baseball can no longer operate above the law. We can say the same laws that apply to every other business apply to baseball. The antitrust laws that apply to all other professional sports and commercial activity should apply to professional baseball, as well. Professional baseball has a very special exemption that no other business got. It was given to them with the trust and expectation that they would use it in the best interests of the game. They have violated that trust. They have had people testify before us who were less than candid with the Congress. And they turned their backs on the most important people—the hundreds of thousands, even millions, of fans throughout this country.

Along with the other members of the Judiciary Committee, I recently received a report of the section on antitrust law of the American Bar Association that examines the Hatch-Thurmond-Leahy, et al., bill. The antitrust section of the ABA reasons that professional baseball's antitrust exemption is not tailored to achieve well-defined, justified public goals. The antitrust section, therefore, supports legislative repeal of the exemption of professional major league baseball from the Federal antitrust laws. Moreover, the report notes that putting professional baseball on an equal footing with other professional sports and business and having the antitrust laws apply "cannot fairly be criticized as 'taking sides'" in baseball's current labor-management battle.

I look forward to working with our Judiciary Committee chairman to have our bill, S. 627, considered by the Judiciary Committee at our earliest opportunity and then promptly by the Senate. It is time the Senate act and end this destructive aberration in our law. Then maybe when baseball is subject to the same laws as everybody else, when they are subject to the same laws as all other professional sports, as all other commercial activity, maybe they will realize that they are not above the law—just as I hope they begin to realize they are not above the fans' interests.

So, Mr. President, when I go to the baseball game this evening—something I will thoroughly enjoy doing with friends and family—I hope I see more people than we have seen in the past. But I also hope I see owners and players coming together to put the interests of baseball above themselves.

Mr. President, I ask unanimous consent that the report of the ABA section on antitrust law be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REPORT OF THE SECTION OF ANTITRUST LAW OF THE AMERICAN BAR ASSOCIATION ON THE PROPOSED MAJOR LEAGUE BASEBALL ANTITRUST REFORM ACT OF 1995—JUNE 9, 1995

These views are presented on behalf of the Section of Antitrust Law of the American Bar Association. They have not been approved by the Board of Governors or House of Delegates of the American Bar Association and, accordingly, should not be construed as representing the position of the Association.

INTRODUCTION

On March 27, 1995, Senators Hatch, Thurmond, Moynihan, Leahy and Graham introduced the Major League Baseball Antitrust Reform Act of 1995 (the "Baseball Antitrust Act").[1]

The bill would amend the Clayton Act[2] to subject the business of professional major league baseball to the federal antitrust laws.

EXECUTIVE SUMMARY

The Senate is considering legislation to reverse major league professional baseball's judicial exemption from the antitrust laws. The exemption dates to a 1922 Supreme Court decision that the business of major league professional baseball was not engaged in interstate commerce.

Supreme Court decisions affirming the baseball exemption on the grounds of *stare decisis* in 1953 and 1972 indicate that judicial reversal of the exemption is highly unlikely. These decisions cite repeated Congressional consideration and inaction in support of the conclusion that it is up to Congress to repeal the exemption.

The American Bar Association disfavors any exemptions that are not narrowly tailored to achieve well-defined goals. The baseball exemption, rooted in a limited, long-since-abandoned, view of interstate commerce, does not meet this test. Accordingly, the Section of Antitrust Law of the American Bar Association (the "Section" or the "Antitrust Section") supports legislative repeal of the exemption of professional major league baseball from the federal antitrust laws.

Repeal of the baseball exemption can and should permit uniform development of antitrust law in the sports industry. The Supreme Court has ruled that other sports businesses are subject to the federal antitrust laws, giving rise to a substantial body of sports-related antitrust law, notably in connection with football and basketball. The very interest in uniform application and development of antitrust law that prompts support for repeal of baseball's anomalous exemption demands that Congressional consideration of any such provision be industry-wide rather than baseball-specific.

DISCUSSION

In 1922, the Supreme Court ruled that the business of professional baseball was not engaged in interstate commerce, and, consequently, was exempt from antitrust scrutiny.[3] Both professional baseball and judicial interpretation of the commerce clause subsequently evolved. In 1953, the Court upheld the exemption in a *per curiam* opinion.[4] By 1972, the Court, acknowledging that professional baseball was in fact a business engaged in interstate commerce,[5] refused to overturn the exemption on the ground that Congressional failure to reverse it was tantamount to endorsement.[6]

The Court's adherence to precedent, in 1953 as well as 1972, was based on Congress' positive record of inaction. Removal of professional baseball's antitrust exemption has been the subject of various unsuccessful legislative efforts. At least one such effort, in the early 1950's, was abandoned in the belief that the Supreme Court would reverse its earlier position with respect to baseball.[7] In baseball terms, the Supreme Court and Congress have been pointing to one another and shouting, "Yours" for decades.[8]

It has long been the position of the American Bar Association that any exceptions to antitrust regulation should be narrow and focused to achieve well-defined goals.[9] Professional baseball's exemption is neither. Accordingly, we recommend that major league baseball should be made subject to the same antitrust laws generally applicable to all other American businesses in general and sports businesses in particular.[10] To that end, we support the bill, S. 627, proposed by Senators Hatch, Thurmond, Leahy, Moynihan and Graham, to the extent that each reverses baseball's anomalous antitrust exemption and places professional baseball on the same footing as other professional sports.

The courts have readily acknowledged, and the Section agrees, that a certain level of cooperation among franchises is essential to the business of baseball and that this is an important difference from most other businesses. Although, for example, the Dodgers and Giants may want to dominate one another on the field, they do not want their rivals to go out of business. There is little dispute that sports businesses can agree on many matters, such as scheduling and rules of play, essential to the joint enterprise.[11]

Accordingly, baseball owners may persuasively argue that they may lawfully enter into agreements as joint venturers that owners of other business could not. However, much the same can be said of other American sports businesses. While baseball owners particularly emphasize franchise relocation issues and their commitment to the minor leagues in support of the exemption, all professional sports leagues face franchise relocation issues and at least one, professional hockey, supports a minor league player development structure. With parity in circumstances should come parity in treatment under the law.

Footnotes at end of article.

Arguments as to the alleged necessity of various trade restraints can and should be made in court. Like professional baseball and commerce clause interpretation, antitrust law has also evolved since 1922. The "rule of reason" standard of review, which has largely supplanted the labeling of various acts as *per se* antitrust violations, and which is routinely applied to antitrust cases involving sports,[12] will afford baseball ample opportunity to demonstrate that specific cooperative activities among its franchises do not unreasonably restrain competition. Any truly pro-competitive conduct should be adequately protected by proper application of the rule of reason. The existing baseball exemption is not based on any determination to the contrary; indeed, because of the exemption, there is essentially no judicial history upon which to base a contention that the rule of reason cannot be properly applied to professional baseball. Nor do fact-specific applications of the rule of reason in cases involving other sports support such a contention.

In addition, professional baseball cannot and should not be prevented from seeking explicit Congressional authority for internal governance of, for example, minor league player development or the location of major league franchises.[13] The antitrust laws sanction legitimate efforts to petition the government for legislative action. While we take no position at this time on the need for any particular grant of such authority, we note that the current judicial exemption immunizes professional baseball from antitrust scrutiny without the factual predicate necessary for Congress to make an informed determination. Continuation of this exemption is therefore inconsistent with the goal of narrow, focused exceptions to antitrust principles and the status of the other major sports businesses that do not enjoy exemptions.

The proposed legislation would permit judicial determination of the proper application to baseball of the labor and antitrust laws. The non-statutory labor exemption, and the statutory labor exemption, embody the delicate and sometimes elusive balance between the oft-conflicting goals of antitrust law and labor law. Properly striking this balance is no small task, particularly in the context of professional sports. The contours of this body of law have been shaped by decisions rendered over more than half a century.[14] The judicial process of resolving the proper application of the non-statutory exemption to professional sports is well under way,[15] and the proposed legislation will further this process.

We neither endorse nor reject the major league player associations' argument that were professional baseball subject to antitrust laws, the non-statutory labor exemption would not exempt from antitrust scrutiny the owner's unilateral imposition of a salary cap.[16] Such an argument should be made in court, so that it may be resolved in harmony with analogous cases. Similarly, the courts are also the proper forum for resolution of any dispute over whether and to what extent labor markets are a proper subject of antitrust regulation.

Putting professional baseball on an equal footing with other professional sports cannot fairly be criticized as "taking sides" in favor of players in baseball's current labor strife. Representatives of the baseball owners have repeatedly argued that baseball's current exemption is irrelevant to its bargaining relationship with major league players because the owners' conduct is protected by the labor laws and the non-statutory labor exemption.[17] Repeal of the exemption will afford the owners the opportunity to prove this contention. Freeing them from the responsibility to do so, by Congressional inaction, would be "taking sides" in favor of the owners.

We look forward to working with the members of the Judiciary Committee on legislation to reverse major league baseball's exemption from the antitrust laws.

FOOTNOTES

[1] A copy of the proposed legislation, S. 627, is appended hereto. Differing versions of legislation on this topic had been introduced by Senators Hatch, Moynihan and Graham (S. 415) and Senators Thurmond and Leahy (S. 416) earlier. Hearings on both of these bills were conducted by Senator Thurmond's Subcommittee on Antitrust, Business Rights and Competition on February 15, 1995.

[2] 15 U.S.C. 12 *et seq.*

[3] *Federal Baseball Club of Baltimore* v. *National League of Professional Baseball Clubs*, 259 U.S. 200, 208–209 (1922).

[4] *Toolson* v. *New York Yankees*, 346 U.S. 356, 357 (1953); *see also United States* v. *Shubert*, 348 U.S. 222 (1955) (Commenting on *Toolson*: "Congress, although it had actively considered the [*Federal Baseball*] ruling, had not seen fit to reject it by amendatory legislation." 348 U.S. at 229.)

[5] *Flood* v. *Kuhn*, 407 U.S. 258, 282 (1972) (Respondent Baseball Commissioner Kuhn's Answer to Flood's Complaint included the admission that "under present concepts of interstate commerce defendants are engaged therein.") 407 U.S. at 291 (Marshall J., dissenting).

[6] "Remedial legislation has been introduced repeatedly in Congress but none has ever been enacted . . . [t]his, obviously, has been deemed to be something other than mere congressional silence and passivity." 407 U.S. at 283.

[7] Subcomm. on Study of Monopoly Power of the House Comm. on the Judiciary, Organized Baseball, H.R. Rep. No. 2002, 82d Cong., 2d Sess. (1952).

[8] "If there is any inconsistency or illogic in [baseball's retention of the exemption after Supreme Court rulings that other professional sports are subject to the antitrust laws], it is an inconsistency and illogic of long standing that is to be remedied by the Congress and not by this court." *Flood, supra*, at 284.

[9] *See, e.g.*, McCarran-Ferguson Act Recommendations of ABA Commission to Improve Liability Insurance System (Feb. 1989).

[10] In every other instance in which a court has had to decide whether an organized sport is subject to the antitrust laws, the court has decided in the affirmative. *Radovich* v. *National Football League*, 352 U.S. 445 (1957) (professional football); *Haywood* v. *National Basketball Association*, 401 U.S. 1204 (1971) (professional basketball); *Nassau Sports* v. *Peters*, 352 F. Supp. 870 (E.D.N.Y. 1972) (professional hockey); *Deesen* v. *Professional Golfers' Ass'n of America*, 358 F.2d 165 (9th Cir.), *cert. denied*, 385 U.S. 846 (1966) (professional golf); *Washington State Bowling Proprietors Ass'n* v. *Pacific Lanes, Inc.*, 356 F.2d 371 (9th Cir.), *cert. denied*, 384 U.S. 963 (1966) (professional bowling); *Amateur Softball Ass'n of America* v. *United States*, 467 F.2d 312 (10th Cir. 1972) (amateur softball). Comm. on the Judiciary, H.R. Rep. No. 103–871, 103d Congress, 2d Sess. 15 n. 71 (1994).

[11] *National Collegiate Athletic Ass'n* v. *Board of Regents of University of Oklahoma*, 468 U.S. 85 (1984).

[12] *National Collegiate Athletic Ass'n.* v. *Board of Regents of University of Oklahoma*, 468 U.S. 85 (1984); *Los Angeles Mem. Coliseum Comm'n* v. *National Football League*, 726 F.2d 1381 (9th Cir. 1984), *cert. denied, sub. nom. National Football League* v. *Oakland Raiders*, 469 U.S. 990 (1984).

[13] The proposed legislation addresses both the minor league and franchise relocation issues, stating that nothing in the proposed legislation shall be construed to affect the applicability or non-applicability of the antitrust laws to minor league or franchise relocation issues. The legislation also would not affect the application of the Sports Broadcasting Act of 1961.

[14] *Apex Hoisery* v. *Leader*, 310 U.S. 469 (1940); *United States* v. *Hutcheson*, 312 U.S. 219 (1941); *Allen Bradley Co.* v. *Local Union No. 3, IBEW*, 325 U.S. 797 (1945); *United Mine Workers* v. *Pennington*, 381 U.S. 657 (1965); *Local Union No. 189, Amalgamated Meat Cutters* v. *Jewel Tea Co.*, 381 U.S. 676 (1965); *Connell Constr. Co.* v. *Plumbers & Steamfitters Local 100*, 421 U.S. 616 (1975).

[15] *Mackey* v. *National Football League*, 543 F.2d 606 (8th Cir. 1976), *cert. dismissed*, 434 U.S. 801 (1977); *McCourt* v. *California Sports, Inc.*, 600 F.2d 1193 (6th Cir. 1979); *Bridgeman* v. *National Basketball Ass'n*, 675 F. Supp. 960 (D.N.J. 1987); *Powell* v. *National Football League*, 930 F.2d 1293 (8th Cir. 1989(, *cert. denied*, 498 U.S. 1040 (1991); *Brown* v. *Pro Football, Inc.*, 782 F. Supp. 125 (D.D.C. 1991); *appeals docketed*, Nos. 93–7165, 94–7071 (D.D.C. Sept. 27, 1993, Mar. 31, 1994); *National Basketball Ass'n* v. *Williams*, 857 F. Supp. 1069, 1071 (S.D.N.Y. 1994), aff'd, 1995 U.S. App. Lexis 1531 (2d Cir. Jan. 24, 1995).

[16] On February 15, 1995, Kevin J. Arquit, an attorney representing the Major League Baseball Players Association, testified before the Senate Subcommittee on Antitrust, Business Rights and Competition that "efforts by owners unilaterally to impose new conditions would not be protected by the labor exemption and would be subject to antitrust scrutiny if the baseball exemption were lifted." Statement of Kevin J. Arquit, at 8.

That same day, Major League Baseball Players Association executive director Donald Fehr testified that the provision of proposed S. 415 which states that the non-statutory labor exemption shall not apply to unilaterally imposed terms which differ substantially from the provisions of the basic agreement which expired on December 31, 1993 is "no more than a restatement of current law." Statement of Donald Fehr, at 10.

[17] For example, on February 15, 1995, the baseball's owners' attorney James Rill testified before the Senate Subcommittee on Antitrust, Business Rights and Competition that, "[t]he National Labor Relations Act governs the relationship between teams and players . . . Thus, the elimination of baseball's antitrust exemption would have no effect on matters involving major league players' salaries or working conditions, the subjects of the current strike, now or in the future, so long as the players remain unionized" (p. 10).

That same day, acting baseball commissioner Allan Selig testified that, "because the Union would not bargain collectively with us on the overriding issue of the players' salaries . . . we have not been able to reach an agreement . . . [W]e will play the 1995 season, including spring training, with those players who want to come to work . . . None of that has a scintilla to do with the antitrust laws or the antitrust exemption enjoyed by Baseball. Our relationship with the players is governed by the federal labor laws" (pp. 3–4).

Mr. LEAHY. Mr. President, I note that the distinguished Senator from Ohio is on the floor.

I yield the floor.

Mr. DEWINE. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

AT-RISK YOUTH

Mr. DEWINE. Mr. President, this Congress and the American people are now engaged in a historic debate about welfare. I would like to talk this afternoon about the people we need to focus on in that debate.

Mr. President, when I was in Youngstown, OH, a couple of months ago, I visited a church that ran a program for what is termed "at-risk youth." The kids that I saw that evening were seated in a circle talking about their lives, talking about their problems. One of the teenagers was asked this question: "Why do you get up in the morning?" That is a simple question. This young man responded: "Because I don't want to be dead."

Mr. President, people that were there that evening thought he might have missed the meaning of the question and misunderstood it. So they asked him his goals for the rest of the day. He said, again, that he did not want to die.

That was his objective for an average day.

Mr. President, that teenager, that young man, is growing up in a different country from most of the rest of us—a country most of us would have a very difficult time recognizing.

Now, the sociologists call that teenager at risk. That is kind of a strange term. As parents, we know that, in a sense, all children are at risk at all times. But these children are at risk in a different sense, in a different way. They are in grave danger of living very sad, very unhappy, very tragic lives.

By the term "at-risk," we mean children who are not learning the skills they need to really participate at all in society; children who are more than a grade behind in school; children who drop out; children who are abused, assaulted and live in constant danger of violent crime; children who are homeless or who run away from home. By at-risk, we mean children who are having children, children who are juvenile offenders themselves, already experiencing the justice system because of the crimes that they have committed.

By at-risk, we mean children who live in neighborhoods where work is more the exception than the rule, children who do not have any responsible adults playing a meaningful role in their lives—no role models, no one to look up to, no one to trust.

These young people are growing up so far outside the mainstream that they are going to have really very little chance of ever joining what you and I know as the American community.

They will certainly have very little chance to ever participate in the American dream.

Mr. President, these young people do not share in the values of America. It is not so much that they reject our values. It is not that they are protesting against our values. Rather, they never learned these values to begin with. This group of young people is, unfortunately, tragically, growing.

Since 1965, the juvenile arrest rate for violent crime has tripled. Children are the fastest growing segment of the criminal population.

Mr. President, since 1975, homelessness has been on the rise, and it has increased faster among families with children than among any other group. Every year, nearly one million young people between the age of 12 and 19 are themselves victims of violent crime.

Mr. President, too many young people are not getting the education they need either. Since 1960, we have spent 200 percent more on public schools, in real dollars. But the quality of education is not improving. A 1988 study found that of all the nations tested, the United States finished dead last in science.

In my home State, the State of Ohio, the Ohio Department of Education says that they really do not have complete statistics on graduation. But the statistics they do have suggest that of the children who enter Ohio high schools, only 75 percent graduate 4 years later. But that statistic really sugarcoats the much more dismal reality in many of our cities. In Youngstown, OH, for example, the reported figure is that only 46 percent graduate after 4 years; in Columbus, only 44 percent; and in Toledo, only 37 percent. I suspect that these figures would not be different in any major city in this country today.

Mr. President, these children are really not being educated. We all know what not educating a young person leads to. According to the educational testing service, half of the heads of households on welfare are dropouts. That should not be a surprise. The Ohio Department of Rehabilitation and Corrections—our State prison system—reports that at least 25 percent of the inmates in Ohio prisons are dropouts.

I would say, Mr. President, based on my own experience as Lieutenant Governor in Ohio and being in charge of our prison system and working with the Governor in this area, that figure is probably a lot higher than that.

Mr. President, these young people are falling behind every day. They are falling behind too far and too fast. Almost 5 million children are growing up in neighborhoods where the majority of men are unemployed for most of the year.

And certainly too many children are having children. Since 1960, the rate of unmarried teenagers having children has increased almost 200 percent.

Since 1960, the percentage of families headed by single parents has also tripled. You hear a lot, of course, about single-parent families. But I feel that too many people really are missing the point. They are missing the point about why this is really an important issue and what all of the ramifications really are.

Let me point out for the Senate, Mr. President, one reason why that statistic, that figure, is so very important. It is important because children growing up in single-parent families are poorer than children, on the average, who live with two parents.

Children who do not have fathers around are five times more likely to be poor. They are also 10 times more likely to be extremely poor, to live in the kind of grinding poverty which is very hard to escape.

Mr. President, it is hard to escape this poverty because it is more than economic poverty. It is a poverty, really, of the spirit, the poverty especially of young men who are growing up with no role models.

It is a basic fact of human existence that when boys grow up without fathers, they become men without knowing what mature manhood really is supposed to be. That is really what fatherhood is all about, giving young people an adult male, a role model, to learn from. Young people need to have strong adult role models around if they are going to break out of the cycle of dysfunctional behavior.

All the social pathologies I talk about in this speech really reinforce each other. Only the involvement of strong, caring adults in children's lives can ever truly break this vicious cycle.

Consider another fact: 54 percent of all females who drop out of school are either pregnant at the time or already have children. Mr. President, the early, decisive intervention of a strong adult role model can certainly prevent a lot of problems. The young people I am talking about many times lack fathers. They lack role models, they lack education, they lack hope. That is why America today is losing these young people.

The class of young people I am talking about who are seriously at risk is growing, and it is heading toward an explosion, right in the middle of what is and what should remain the richest, greatest, the most powerful country in the world.

Mr. President, that is simply wrong. We, as a society, cannot afford to lose more and more young people to social trends that hurt people and destroy lives. We simply cannot let this problem continue to grow. We have to do everything we can to roll back that tide of what really is a social collapse.

Now, this is not going to be an easy tack. It will be an extremely difficult task. It will take a lot more than Government programs to get America through what amounts to a full-scale social crisis. We need churches, businesses, labor groups, and, indeed, all of American society to reach out to these young people in a way that is truly effective.

This past Wednesday, the Labor and Human Resources Committee reported out the Work Force Development Act. This is, of course, the Senate's job training bill. Mr. President, as we shift responsibility for job training to the States, because I think we should, there will be a temptation to focus the job training effort to a relatively—I say "relatively"—easier task, like assisting the skilled and educated workers who are temporarily out of work. They certainly need help.

I think that our Nation must have a different primary focus. I believe we must target America's No. 1 problem and tackle it head on. There are millions of young people in this country who are growing up in an environment that really all but guarantees their failure. If our job training legislation does not make a difference in the lives of these young people, we will be sacrificing not just an entire generation, but because these kids are having kids, we will be sacrificing the generation to follow.

We will sacrifice more than that, really, because this is an issue not just about these children's future, it is about who we are as a people. These young people are really not strangers among us. They are us. We will not be able to rest until we have brought the young people back into the American mainstream—a mainstream of work, a mainstream of responsibility, and a mainstream of opportunity.

That is why, Mr. President, during Wednesday's hearing, I proposed an amendment that would establish, as part of the Senate job training block grant, a $2.1 billion fund for programs to help these threatened young people.

My amendment passed the committee by a vote of 12 to 4. I believe that our committee's intent could really not be more clear. We must have a national focus on at-risk youth.

Mr. President, I held a job training field hearing in Ohio a few weeks ago. I heard from people on the front lines, the people who get up every morning and try to make a difference by helping train some of these young people. I also heard at that hearing from some of these young people themselves. It is pretty clear from what we heard that their needs are not being met by our current system.

In fact, State job training programs many times simply do not focus on this very difficult but crucial task. If we, as Americans, want to do something about this problem, I believe that we have to have a national commitment.

Now, it remains as true as ever that Federal mandates are not—let me repeat, are not—an effective way to tackle social problems. That is why it is essential we not try to prescribe particular solutions from Washington, DC. We do not need more micromanagement out of this Capitol.

However, I do believe what we should do is make a national commitment to target this at-risk youth population. At the same time we make this national commitment, we must match that national commitment and a national setting of priorities with a commitment to give the States the maximum amount of flexibility to design their own programs to target this group of our young people.

Mr. President, the history of the last 30 years proves that the Federal Government does not have the answers. We have to give the States the funding and the flexibility they need to design and support programs that will, in fact, work.

I also believe we must, as a nation, as a people, say that the saving of this group of young people is, in fact, a national priority. Even now, as we speak today, a number of communities are pointing the way to possible solutions. They are doing it with programs that may be partially federally funded, may not be federally funded at all, may have some State money in them, or some of the programs I have seen have no government money. A number of the communities I have visited are really leading and pointing the way.

The Youngstown church, for example, which I mentioned earlier at the beginning of my remarks, is a place where kids can go between the end of school, when they get out of school, and bedtime. It is a place where they have things to do and a place where they are safe.

Being safe from physical violence is a good start. In Cleveland, OH, Charles Ballard started a program 13 years ago that helped teach these young people how to be fathers. His organization, the Institute for Responsible Fatherhood, is making a big difference; 2,700 men have participated so far, and 97 percent of the program's graduates are, in fact, supporting their own children.

Last week, Mr. Ballard announced he will be expanding his program to five new cities. I had the opportunity to see him last week when he stopped by my office here in Washington.

In San Jose, CA, there is a project called CET that provides 3 to 6 months of vocational training to disadvantaged young people and adults. A study of this local San Jose program indicates that the young people who participate in it end up doing substantially better many years into the future. Their annual earnings increase by more than $3,000 a year. That is one of the best results ever achieved by such a youth training program.

Their success in San Jose is really because the program is tied closely—very closely, intimately—to the local labor market. The CET program's staff keeps in close touch with local employers so they know what jobs really exist in the community, so that they are training people for jobs that really exist. CET emphasizes practical job training over more rigid, classroom-focused instruction.

Mr. President, Cleveland, OH, has a program called Cleveland Works. This program provides training, day care, and health care for welfare recipients. Each welfare recipient receives some 400 or 500 hours of training, and then gets placed with one of the 630 employers who participate in that area in the program. These workers get full-time wages and health care benefits for themselves and for their families. Cleveland Works has tracked all of its clients over the last 9 years and about 80 percent of them —80 percent—never go back on welfare.

Cleveland Works breaks down the barrier between the two cultures of work and welfare. It can be done. Cleveland Works is a success story that is already being replicated by dedicated people in six other American cities.

At the other end of the State is Cincinnati. In Cincinnati's Over-the-Rhine district there is a program called Jobs Plus, which I personally visited, which gives intensive training and counseling to at-risk individuals. All Jobs Plus clients are enrolled in a 90-day program, a crash course in the values and skills that are required in the working world. But the Jobs Plus program does not stop when the client gets a job. The client is then encouraged to join the Jobs Plus Club, to get moral support for what can be a very tough transition to a life of work and responsibility.

Should we mandate any of these programs nationally? No. I do not think so. But they look like good programs, and I think it would be wise for local communities across the country who are concerned about their at-risk youth to consider programs such as these.

The bottom line is that we have to keep on looking for the answers. There is no one right answer. We have to keep the focus on this problem. We have to keep the focus on this challenge. We have to do that. We have to keep reminding ourselves about the problem because there is simply too much of an incentive for us to forget these kids. There is a wall between these children and the rest of America, a wall every bit as real as if it were the stone wall of a prison or a jailhouse. We need to bring that wall down.

That is why, as we discuss the job training legislation and the welfare reform bill that will certainly follow, we must not lose sight of these particular children who have simply been forgotten for too long.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I congratulate the Senator from Ohio for his very thoughtful and indepth statement on the job training programs and how they should be adjusted to better deal with the issue of actually training people versus just creating bureaucracy. I think his proposals are excellent and I hope this Senate will take heed of what he has said and follow them closely. As a member of the Labor Committee, I have certainly tried to do that relative to his recommendations.

Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET CONFERENCE AGREEMENT

Mr. GREGG. Mr. President, I want to talk a little bit here today, however, about the budget conference agreement which has just been reached, because I do think there has been some information presented in the community at large that is inaccurate and misleading. This budget conference, which I had the opportunity to serve on, has reached agreement between the House and the Senate as announced last night by Leader DOLE and Speaker GINGRICH. It is a very positive event for America. It is the first balanced budget in 25 years, something we are in dire need of if we are as a nation to put our fiscal house in order and to pass on to our children a country which is prosperous rather than a country which is bankrupt.

Those of us who have been working hard in the effort of trying to bring fiscal responsibility to this Government, to make sure we have a nation that does not continually spend away the legacy of our children, are proud that we have been successful in developing this budget. I think there are some points about the balanced budget that need to be noted. As we go into the debate next week, I am sure there will be a lot of discussion and a lot of hyperbole. But I hope we begin from a basis of fact.

Some of the facts that are important are these. First, if we continue on our present course of spending, the Medicare trustees have told us—and four of the Medicare trustees happen to be members of the administration, including the Secretary of HHS and the Secretary of the Treasury—have told us that the Medicare trust fund will go bankrupt in the year 2002. Under the law, once the Medicare trust fund goes bankrupt it cannot spend any money. There will, therefore, be no health insurance program for our seniors. This needs to be addressed. The conference agreement which we have reached addresses that issue and reverses that insolvency situation.

Second, we know that if the Federal Government continues to spend in the pattern which is presented in the original budget of the President and in the President's budget as recalculated, the President's most recent budget as recalculated by CBO, that we would add over $1 trillion of new debt to our children's shoulders over the next 7 years. That would be a burden that would be unfair to load on them and which we cannot afford to do. I am glad to report that this budget conference does not do that.

This conference leads us to a balanced budget and, as a result of leading us to a balanced budget, it takes out of the debt stream almost $1 trillion. That is debt our children will not have to pay. That is interest on that debt that we and our children will not have to pay. That is very important.

Of course there are a lot of side effects that are very positive to reaching a balanced budget and to passing this resolution. They include the fact that for the first time in 25 years, the world community will be able to look at this country and say we have our fiscal house in order. As a result, interest rates will come down for Americans and that will benefit us as a Government, but more important, it will benefit our citizens for, in borrowing to buy a home or improve on their home or to buy a car or to educate themselves or their children, they will pay significantly less because interest rates will have come down as a result of us passing this conference report, which is a balanced budget. So that is some of the good news that comes from this proposal.

I heard reported on the news—and this is what I wanted to specifically address this morning—as I was coming in, by a national organization funded by the Federal Government, that this budget proposal cuts Medicare by $270 billion and increases defense spending by $33 billion. If you wish to compare apples to oranges, and you wish to take great leave with the English language, maybe you could say something like that. But if you wish to be at all accurate or fair, you would have trouble defending that statement.

The fact is, Medicare spending goes up significantly under this budget. Under the present projected spending patterns, Medicare will increase at 10 percent annually for as far as the eye could see. We cannot afford that rate of growth. That is three times the rate of inflation. It happens to be 10 times the rate of inflation in the private sector's premium costs on health care. And if it continued to grow at that rate, as I mentioned earlier, the trustees of the Medicare trust fund have told us that the Medicare system would go bankrupt.

But there is no proposal to cut Medicare. There is no proposal at all to cut Medicare. There is a proposal to slow that rate of growth, to slow that rate of growth to 6.4 percent, which happens to be twice the rate of inflation. What does that mean in real dollars? It means over the next 7 years we will be adding in spending to Medicare, $349 billion over what would be a freeze baseline. In other words, if you froze spending today, you would pull that straight line out, and this is what we spend on Medicare today. How much will we spend over the next 7 years? We will be increasing spending by $349 billion. In fact, over the next 7 years, we will spend more on Medicare than was spent over the last 7 years. What will the average recipient see as a result of this increased spending? They will see that instead of getting $4,300 today in benefit support payments, they will be getting $6,300 by the year 2000. And in the year 2002 alone, the increase in Medicare spending will be $96 billion.

How some national news media say we are cutting Medicare is beyond me, but they say it. Unfortunately, they are supported in that frame of reference by folks who are activists here in Washington. But it is inaccurate. It is inappropriate.

What we are doing in this proposal is proposing to slow the rate of growth in Medicare. That is accurate. We are proposing it because, if we do not do that, the Medicare trustees have told us that the system will go bankrupt. The way we are proposing to slow that rate of growth is, I think, constructive. We are going to say to senior citizens in this country, you can have more choices for health care. Instead of using fee-for-service, which is the most expensive system, we are going to give you the choice of also using fixed-cost health care such as HMO's, PPO's, things like that. It will allow you to purchase a health care system at the beginning of the year for a fixed cost and get all of the health care provided to you by one group. It will not say that you have to do that. You can still stay with fee-for-service, if you want. But if you decide to go to an HMO, we will encourage you to do that. As a result, we will slow the rate of growth.

There will also be some other action taken but it will be directed at making the system more efficient, more cost responsive, and continue to deliver first-class quality care. But under no circumstances will there be any cut in Medicare.

The same is true of Medicaid. There is no proposal to cut Medicaid. Yet, if we are to listen to some of the media descriptions of this budget conference, you would assume there was, because they say there is. Actually, Medicaid spending will go up $149 billion over the next 7 years. Yes, we are going to slow the rate of growth in Medicaid spending again. We have to. Otherwise, we end up bankrupting our children's future. But there is no proposal here to cut it; it is to slow the rate of growth. And we will continue to deliver first-class service and, in fact, I think we will end up with better services because hopefully we will send these dollars back to the States with fewer strings attached. As a result of doing that, I am sure the State governments—as the Presiding Officer, who was Lieutenant Governor from the great State of Ohio, knows—will deliver those services much more efficiently and better once they are freed from this huge bureaucracy which is the Federal Government. More people get more dollars in support of their needs, rather than more bureaucrats getting more dollars in support of their needs.

So the statement that we are cutting Medicare is inaccurate on its face. We are increasing Medicare spending by almost $349 billion over what would be a freeze level of 6.4 percent annually, a huge increase. Probably most healthy, it will still be the fastest growing function of the Federal Government.

Yet, if you were to listen to this news report, you would presume that we were slashing Medicare in order to increase defense. Well, Medicare will be the largest and fastest growing function of the Federal Government as result of this conference report.

And what will happen to defense? It goes down. It does not go up, it goes down. The representation that we are increasing defense spending is once again on its face wrong. If you were to take today's defense number and freeze it for 7 years, of that number defense spending will go down by $15 billion over next 7 years. Essentially, it is flat funding. That would be the best way to describe it. But in real terms, it goes down $15 billion.

So the Defense Department accounts go down, and the Medicare accounts go up dramatically, which is the policy that is correct, by the way. That is exactly what we should be doing. We should be trying to get the Medicare system into a position where we can afford it, and into a position where the trust fund will be solvent. We must face the fact that we are going to have to downsize the military in the face of the post-cold-war period, and as a result of downsizing the military, less military spending will occur.

This is what this conference accomplishes. Overall, what the conference accomplishes is something that no other Congress has been able to do for 25 years. It balances the Federal budget. It slows the rate of growth of the Federal Government. It does not actually cut spending over that period, overall Federal outlays. In fact, overall Federal outlays will go from $1.5 trillion in 1995 up to $1.875 trillion in the year 2002. There will be an annual rate of growth of the Federal Government of 3 percent. But, as I stated earlier, in getting to a balanced budget, it eliminates almost $1 trillion of what would have been deficit spending had we stayed on the glidepath presented by the President. Well, there was no glidepath presented by the President. It was sort of a take-off path by the President in the deficit area; or if we just let things be as they are.

The reason we have done this is very simple. If we continue to run these deficits, if we do not address this issue now, as I said earlier, we will pass on to our children a nation which is bankrupt. That is not fair, and it is not right. It has been said many times on this floor by many members of our party that our reason, our purpose, in seeking this position here in the Senate is to put the fiscal house of the Federal Government in order—to downsize the Federal Government, and to return authority and the dollars to the States. This budget is the first step in accomplishing that goal.

I certainly congratulate Senator DOMENICI, who is the driving force behind developing this budget on the Senate side; Chairman KASICH, on the House side; and, obviously, Speaker GINGRICH and Leader DOLE, for having the foresight, the vision, and the courage to put together this most extraordinary budget which will pass to our children a very critical gift, which is the gift of a Government that is fiscally sound.

Mr. President, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DEWINE). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 12:27 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1854. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1854. An act making appropriations for the legislative branch for the fiscal year ending September 30, 1996, and for other purposes; to the Committee on Appropriations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1115. A communication from the Principal Deputy Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report of a violation of the Antideficiency Act, case No. 94–10; to the Committee on Appropriations.

EC–1116. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation to revise the manner in which the Army will participate in the establishment and operation of the National Science Center for Communications and Electronics; to the Committee on Armed Services.

EC–1117. A communication from the Acting Director of the Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report on the implementation of the Community Reinvestment Act; to the Committee on Banking, Housing, and Urban Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HELMS, from the Committee on Foreign Relations, without amendment:

S. 961. An original bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize reduced levels of appropriations for foreign assistance programs for fiscal years 1996 and 1997, and for other purposes (Rept. No. 104–99).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SANTORUM:

S. 960. A bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns, and for other purposes; to the Committee on the Judiciary.

By Mr. HELMS:

S. 961. An original bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act to authorize reduced levels of appropriations for foreign assistance programs for fiscal years 1996 and 1997, and for other purposes; from the Committee on Foreign Relations; placed on the calendar.

S. 962. A bill to extend authorities under the Middle East Peace Facilitation Act of 1994 until August 15, 1995; considered and passed.

By Mr. BAUCUS (for himself, Mr. GRASSLEY, and Mr. ROCKEFELLER):

S. 963. A bill to amend the medicare program under title XVIII of the Social Security Act to improve rural health services, and for other purposes; to the Committee on Finance.

By Mr. JOHNSTON:

S. 964. A bill to amend the Land and Water Conservation Fund Act of 1965 with respect to fees for admission into units of the National Park System and for other purposes; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Res. 141. A resolution to authorize representation by Senate Legal Counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SANTORUM:

S. 960. A bill to amend title 18, United States Code, to exempt qualified current and former law enforcement officers from State laws prohibiting the carrying of concealed handguns, and for other purposes; to the Committee on the Judiciary.

THE 1995 COMMUNITY PROTECTION INITIATIVE ACT

• Mr. SANTORUM. Mr. President, today I am introducing the 1995 Community Protection Initiative Act, a bill to aid in the fight against crime in America. This bill exempts qualified current and former law enforcement officers from state laws prohibiting the carrying of concealed weapons. The effect is to increase law enforcement potential by making thousands of highly trained law enforcement personnel available to deter crime in emergency situations, all at no additional cost to the taxpayer. We will strike a strong blow for crime prevention without further burdening the Federal budget.

Further, this bill eliminates jurisdictional limitations and provides a clear and uniform rule to replace a complex variety of State and local laws. In an increasingly mobile society, it is important to eliminate confusion and provide these public servants the opportunity to react in a way that protects potential victims of crime throughout the country.

This is a commonsense and cost-effective step in the direction of crime control. To do otherwise would be similar to preventing someone trained in CPR from assisting a dying person merely because he or she was licensed in another jurisdiction. Law enforcement personnel are trained to think in a manner that protects lives. We need to allow them to act in the same manner by lifting current regulatory burdens.

This bill takes the precautions necessary to ensure that former and retired law enforcement officers have been properly trained in the use of firearms, have proper identification, and were in good standing during their prior employment. Moreover, the bill allows them to protect themselves, their families, and other citizens in need of assistance.

I look forward to enactment of this legislation. I also look forward to working with Representative CUNNINGHAM from California, who has introduced a similar measure in the House of Representatives. Together we can bring about a much needed reform and strengthen the crime fighting capabilities of our Nation's law enforcement community.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 960

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTON 1. SHORT TITLE.

This Act may be cited as the "1995 Community Protection Initiative".

SEC. 2. EXEMPTION OF QUALIFIED CURRENT AND FORMER LAW ENFORCEMENT OFFICERS FROM STATE LAWS PROHIBITING THE CARRYING OF CONCEALED HANDGUNS.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by inserting after section 926A the following new section:

"§ 926B. Carrying of concealed handguns by qualified current and former law enforcement officers

"(a) Notwithstanding any other provision of the law of any State or any political subdivision thereof, an individual who is a qualified law enforcement officer or a qualified former law enforcement officer and who is carrying appropriate written identification of such status may carry a concealed handgun.

"(b) As used in this section—

"(1) the term 'qualified law enforcement officer' means an officer, agent, or employee of a public agency who—

"(A) is a law enforcement officer;

"(B) is authorized by the agency to carry a handgun in the course of duty;

"(C) is not the subject of a disciplinary action by the agency that prevents the carrying of a handgun; and

"(D) meets such requirements as have been established by the agency with respect to handguns;

"(2) the term 'qualified former law enforcement officer' means an individual who—

"(A) retired from service with a public agency as a law enforcement officer, other than for reasons of mental disability;

"(B) immediately before such retirement, was a qualified law enforcement officer;

"(C) has a nonforfeitable right to benefits under the retirement plan of the agency;

"(D) meets such requirements as have been established by the State in which the individual resides with respect to training in the use of handguns; and

"(E) is not prohibited by Federal law from receiving a firearm;

"(3) the term 'law enforcement officer' means an individual authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law, and includes corrections, probation, parole, and judicial officers; and

"(4) the term 'appropriate written identification' means, with respect to an individual, a document that—

"(A) was issued to the individual by the public agency with which the individual serves or served as a law enforcement officer; and

"(B) identifies the holder of the document as a current or former officer, agent, or employee of the agency.".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 926A the following new item:

"926B. Carrying of concealed handguns by qualified current and former law enforcement officers.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 180 days after the date of the enactment of this Act.●

By Mr. BAUCUS (for himself, Mr. GRASSLEY and Mr. ROCKEFELLER):

S. 963. A bill to amend the Medicare Program under title XVIII of the Social Security Act to improve rural health services, and for other purposes; to the Committee on Finance.

THE RURAL HEALTH CARE IMPROVEMENT ACT OF 1995

Mr. BAUCUS. Mr. President, I rise to introduce, along with Senator GRASSLEY and Senator ROCKEFELLER, the Rural Health Care Improvement Act of 1995.

They say that if you have your health, you have everything. Well, I must say that for the small communities all across Montana and America, access to health care is in danger. It is very tough to get good health care in rural parts of our country. What with cuts in Medicare reimbursement, 10 percent of the America's rural hospitals closed in the last decade. Ten percent of our rural hospitals have closed. The trend, unfortunately, shows no signs of improving.

And the rural health care crisis goes beyond access. That is because insurance policies are going up faster for the people who cán least afford to pay—that is self-insured people like farmers, ranchers, and small business owners all across our country.

Rural areas also find it harder than cities and suburbs to attract doctors, to attract nurses, to attract people to provide health care. And health care providers in rural areas have less access to state-of-the-art medical technology than their colleagues do in the big cities and in the suburbs.

Yet, the Federal Government's usual approach to rural health care issues is one of indifference. No top-level official has the task of keeping rural health care firmly in line.

Renewing the tax credit for self-insured people was just a start. We need to preserve health care services in small towns. Rural doctors and nurses must be able to use the best available technology. And the Government must give permanent, top-level attention to rural health care issues.

That is the comprehensive strategy that this bill provides.

Let me review it in just brief detail.

First, keeping hospitals and clinics in small rural towns open. It is critical that these clinics stay open.

Our small rural hospitals have suffered for years with rigid and expensive Medicare regulations and Medicare reimbursements too low to let them stay open. So a few years ago I helped pass a bill giving some rural hospitals greater flexibility and Medicare reimbursements high enough to stay open.

This project is called the Medical Assistance Facility, otherwise known as MAF. They operate in Culbertson, Jordan, Circle, Terry, and Ekalaka, serving over 20,000 people.

That might not sound like very many people when you add the towns together, but let me tell you, when you are a town like Circle or Ekalaka, hundreds of miles away from the best of health care service in the world, these small clinics make a big, big difference. They are very important to them. The MAF maintains access to basic, acute, and emergency care services and provides inpatient care for up to 4 days. They have received glowing reviews from health experts, and other States have called in to ask how they can set up similar facilities.

But most important, people in these towns believe it is irreplaceable. Walter Busch, the administrator of Roosevelt Medical Center in Culbertson, had this to say:

> The medical assistance facility has improved access to quality health care services in a cost-effective manner. It has restored health care services to four remote, rural communities and prevented loss of services

in two others. It is a very flexible program and yet one that has provided consistently high quality care.

Let me underline that point, Mr. President. Without MAF's, medical assistance facilities, or similar clinics, many small towns would have virtually no health care service. The MAF preserves health services and it saves money. A new GAO report will show that the MAF saved over $60,000 per 172 patients. So especially when the leadership's proposed Medicare and Medicaid cuts will so drastically increase the pressure on rural hospitals, we must keep them open. Our legislation makes the MAF permanent and allows similar facilities to open up all over rural America.

The second section offers grants for what is called telemedicine. These grants will let rural doctors and nurses upgrade their telecommunications and use modern computer networks to confer with specialists in other parts of our country. So a family practitioner, for example, with a tough case in Fergus County or on the Hi-line can have access to diagnostic files and also access to techniques at the National Institutes of Health or the Centers for Disease Control.

Just think of it. With the computer, a doctor or a nurse in a very small town in a small clinic can have access to files and techniques of the very best all around the Nation. They might not be able to use all the techniques, but at least he or she knows what is available and has a lot better access, a lot better information and can give better treatment for that patient.

We also include another program of grants to encourage networking among rural health care providers. This would let them share information on equipment and also, again, share techniques specifically designed for rural areas and also help allow much more cooperation and also more effective cooperation than exists today.

Third and last is a new permanent position of Assistant Secretary for Rural Health at the Department of Health and Human Services in Washington, DC. My State of Montana and a lot of States need more advocates within the Federal Government. People living in very rural, isolated areas need better advocates and more advocates in the Federal Government, more people who understand our unique problems and will push for solutions because, after all, there are a lot more people in the cities who push for city solutions. We need some way to kind of counterbalance, Mr. President, the advantage that the city folks have so that people in rural areas at least have someone to stand up for them and argue their case so that problems are not further exacerbated because they do not have someone.

So when this bill passes, the Department of Health and Human Services, with its hundreds of thousands of employees, will have a top-level official whose job it is to remember small towns like Culbertson, MT.

This will put a higher priority on rural health care and make sure that we have someone in the room when final decisions are made, for example, on Medicare or Medicaid and other health care programs.

Mr. President, rural America deserves fairness just like urban, big city America needs fairness. We in rural America deserve the same access to top-quality doctors and nurses, to new medical technologies and to basic health care just as everybody else does in America. And through this bill, without much expense, rural America can get fairness. It is just that simple.

I ask unanimous consent, Mr. President, to include a copy of the bill in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 963

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Health Improvement Act of 1995".

SEC. 2. MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.

(a) FINDINGS AND PURPOSE.—

(1) FINDINGS.—The Congress finds the following:

(A) One-quarter of the United States population, or about 65 million persons, reside in rural areas. Rural areas have a larger proportion of elderly residents. Rural populations have a higher infant mortality rate, and a 40-percent higher rate of death from accidents.

(B) Rural hospitals are forced to comply with burdensome and inflexible medicare requirements that do not fit the realities of the rural environment.

(C) Rural hospitals are inadequately reimbursed by the medicare program.

(D) Inadequate medicare reimbursement and burdensome and inflexible requirements contribute to the high closure rate among rural hospitals, resulting in reduced access to primary care and emergency services for millions of rural residents.

(E) Medical assistance facilities have been operating in Montana since 1990 and rural primary care hospitals have been operating since 1993. Both programs help rural hospitals adapt to the changing health care needs of the local community.

(F) The Inspector General of the Department of Health and Human Services has found that medical assistance facilities—

(i) provide access to health care in remote rural areas; and

(ii) are cost efficient.

(G) The Inspector General of the Department of Health and Human Services found that flexible medicare requirements are key to the success of medical assistance facilities.

(H) Twenty-one States applied to the Essential Access Hospital (EACH) program authorized in the Omnibus Budget Reconciliation Act of 1989. Seven States, West Virginia, California, Colorado, Kansas, New York, North Carolina, and South Dakota were awarded grants. Eleven hospitals have been designated rural primary care hospitals since final Federal regulations became effective in 1993.

(I) Medical assistance facilities and rural primary care hospitals promote the development of rural health care networks and result in increased access for rural residents to a variety of health care services.

(2) PURPOSE.—The purpose of this section is to establish the medicare rural hospital flexibility program and to allow all States to develop critical access hospitals.

(b) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—Section 1820 of the Social Security Act (42 U.S.C. 1395i-4) is amended to read as follows:

"MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM

"SEC. 1820. (a) PURPOSE.—The purpose of this section is to—

"(1) ensure access to health care services for rural communities by allowing hospitals to be designated as critical access hospitals if such hospitals limit the scope of available inpatient acute care services;

"(2) provide more appropriate and flexible staffing and licensure standards;

"(3) enhance the financial security of critical access hospitals by requiring that medicare reimburse such facilities on a reasonable cost basis; and

"(4) promote linkages between critical access hospitals designated by the State under this section and broader programs supporting the development of and transition to integrated provider networks.

"(b) ESTABLISHMENT.—Any State that submits an application in accordance with subsection (c) may establish a medicare rural hospital flexibility program described in subsection (d).

"(c) APPLICATION.—A State may establish a medicare rural hospital flexibility program described in subsection (d) if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

"(1) assurances that the State—

"(A) has developed, or is in the process of developing, a State rural health care plan that—

"(i) provides for the creation of one or more rural health networks (as defined in subsection (e)) in the State,

"(ii) promotes regionalization of rural health services in the State, and

"(iii) improves access to hospital and other health services for rural residents of the State;

"(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

"(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the process of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

"(3) such other information and assurances as the Secretary may require.

"(d) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM DESCRIBED.—

"(1) IN GENERAL.—A State that has submitted an application in accordance with subsection (c), may establish a medicare rural hospital flexibility program that provides that—

"(A) the State shall develop at least one rural health network (as defined in subsection (e)) in the State; and

"(B) at least one facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

"(2) STATE DESIGNATION OF FACILITIES.—

"(A) IN GENERAL.—A State may designate one or more facilities as a critical access hospital in accordance with subparagraph (B).

"(B) CRITERIA FOR DESIGNATION AS CRITICAL ACCESS HOSPITAL.—A State may designate a facility as a critical access hospital if the facility—

"(i) is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)) that—

"(I) is located more than a 35-mile drive from a hospital, or another facility described in this subsection, or

"(II) is certified by the State as being a necessary provider of health care services to residents in the area; and

"(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

"(iii) provides not more than 15 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period not to exceed 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 96-hour restriction on a case-by-case basis;

"(iv) meets such staffing requirements as would apply under section 1861(e) to a hospital located in a rural area, except that—

"(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present,

"(II) the facility may provide any services otherwise required to be provided by a full-time, on site dietician, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off site basis under arrangements as defined in section 1861(w)(1), and

"(III) the inpatient care described in clause (iii) may be provided by a physician's assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

"(v) meets the requirements of subparagraph (I) of paragraph (2) of section 1861(aa).

"(e) RURAL HEALTH NETWORK DEFINED.—

"(1) IN GENERAL.—For purposes of this section, the term 'rural health network' means, with respect to a State, an organization consisting of—

"(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital, and

"(B) at least 1 hospital that furnishes acute care services.

"(2) AGREEMENTS.—

"(A) IN GENERAL.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

"(B) ITEMS DESCRIBED.—The items described in this subparagraph are the following:

"(i) Patient referral and transfer.

"(ii) The development and use of communications systems including (where feasible)—

"(I) telemetry systems, and

"(II) systems for electronic sharing of patient data.

"(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

"(C) CREDENTIALING AND QUALITY ASSURANCE.—Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least 1—

"(i) hospital that is a member of the network;

"(ii) peer review organization or equivalent entity; or

"(iii) other appropriate and qualified entity identified in the State rural health care plan.

"(f) CERTIFICATION BY THE SECRETARY.—The Secretary shall certify a facility as a critical access hospital if the facility—

"(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (d);

"(2) is designated as a critical access hospital by the State in which it is located; and

"(3) meets such other criteria as the Secretary may require.

"(g) PERMITTING MAINTENANCE OF SWING BEDS.—Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a critical access hospital solely because, at the time the facility applies to the State for designation as a critical access hospital, there is in effect an agreement between the facility and the Secretary under section 1883 under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed the total number of licensed inpatient beds at the time the facility applies to the State for such designation (minus the number of inpatient beds used for providing inpatient care in the facility pursuant to subsection (d)(2)(A)(iii)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a critical access hospital.

"(h) GRANTS.—

"(1) MEDICARE RURAL HOSPITAL FLEXIBILITY PROGRAM.—The Secretary may award grants to States that have submitted applications in accordance with subsection (c) for—

"(A) engaging in activities relating to planning and implementing a rural health care plan;

"(B) engaging in activities relating to planning and implementing rural health networks; and

"(C) designating facilities as critical access hospitals.

"(2) RURAL EMERGENCY MEDICAL SERVICES.—

"(A) IN GENERAL.—The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for the establishment or expansion of a program for the provision of rural emergency medical services.

"(B) APPLICATION.—An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii), (A)(iii), and (B) of subsection (c)(1) and paragraph (3) of such subsection.

"(i) GRANDFATHERING OF CERTAIN FACILITIES.—

"(1) IN GENERAL.—Any medical assistance facility operating in Montana and any rural primary care hospital designated by the Secretary under this section prior to the date of the enactment of the Rural Health Improvement Act of 1995 shall be deemed to have been certified by the Secretary under subsection (f) as a critical access hospital if such facility or hospital is otherwise eligible to be designated by the State as a critical access hospital under subsection (d).

"(2) CONTINUATION OF MEDICAL ASSISTANCE FACILITY AND RURAL PRIMARY CARE HOSPITAL TERMS.—Notwithstanding any other provision of this title, with respect to any medical assistance facility or rural primary care hospital described in paragraph (1), any reference in this title to a 'critical access hospital' shall be deemed to be a reference to a 'medical assistance facility' or 'rural primary care hospital'.

"(j) WAIVER OF CONFLICTING PART A PROVISIONS.—The Secretary is authorized to waive such provisions of this part and part C as are necessary to conduct the program established under this section.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for making grants to all States under subsection (h), $25,000,000 in each of the fiscal years 1996 through 2000.".

(c) REPORT ON ALTERNATIVE TO 96-HOUR RULE.—Not later than January 1, 1996, the Administrator of the Health Care Financing Administration shall submit to the Congress a report on the feasibility of, and administrative requirements necessary to establish an alternative for certain medical diagnoses (as determined by the Administrator) to the 96-hour limitation for inpatient care in critical access hospitals required by section 1820(d)(2)(B)(iii).

(d) PART A AMENDMENTS RELATING TO RURAL PRIMARY CARE HOSPITALS AND CRITICAL ACCESS HOSPITALS.—

(1) DEFINITIONS.—Section 1861(mm) of the Social Security Act (42 U.S.C. 1395x(mm)) is amended to read as follows:

"CRITICAL ACCESS HOSPITAL; CRITICAL ACCESS HOSPITAL SERVICES

"(mm)(1) The term 'critical access hospital' means a facility certified by the Secretary as a critical access hospital under section 1820(f).

"(2) The term 'inpatient critical access hospital services' means items and services, furnished to an inpatient of a critical access hospital by such facility, that would be inpatient hospital services if furnished to an inpatient of a hospital by a hospital.".

(2) COVERAGE AND PAYMENT.—(A) Section 1812(a)(1) of such Act (42 U.S.C. 1395d(a)(1)) is amended by striking "or inpatient rural primary care hospital services" and inserting "or inpatient critical access hospital services".

(B) Section 1814 of such Act (42 U.S.C. 1395f) is amended—

(i) on subsection (a)(8)—

(I) by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(II) by striking "72" and inserting "96";

(ii) in subsection (b), by striking "other than a rural primary care hospital providing inpatient rural primary care hospital services," and inserting "other than a critical access hospital providing inpatient critical access hospital services,"; and

(iii) by amending subsection (*l*) to read as follows:

"(*l*) Payment for Inpatient Critical Access Hospital Services.—The amount of payment under this part for inpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(3) Treatment of critical access hospitals as providers of services.—(A) Section 1861(u) of such Act (42 U.S.C. 1395x(u)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(B) The first sentence of section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended by striking "a rural primary care hospital" and inserting "a critical access hospital".

(4) Conforming amendments.—(A) Section 1128A(b)(1) of such Act (42 U.S.C. 1320a–7a(b)(1)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(B) Section 1128B(c) of such Act (42 U.S.C. 1320a–7b(c)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(C) Section 1134 of such Act (42 U.S.C. 1320b–4) is amended by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(D) Section 1138(a)(1) of such Act (42 U.S.C. 1320b–8(a)(1)) is amended—

(i) in the matter preceding subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(ii) in the matter preceding clause (i) of subparagraph (A), by striking "rural primary care hospital" and inserting "critical access hospital".

(E) Section 1816(c)(2)(C) of such Act (42 U.S.C. 1395h(c)(2)(C)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(F) Section 1833 of such Act (42 U.S.C. 1395*l*) is amended—

(i) in subsection (h)(5)(A)(iii), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (i)(1)(A), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (i)(3)(A), by striking "rural primary care hospital services" and inserting "critical access hospital services";

(iv) in subsection (*l*)(5)(A), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital"; and

(v) in subsection (*l*)(5)(B), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(G) Section 1835(c) of such Act (42 U.S.C. 1395n(c)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(H) Section 1842(b)(6)(A)(ii) of such Act (42 U.S.C. 1395u(b)(6)(A)(ii)) is amended by striking "rural primary care hospital" and inserting "critical access hospital"..

(I) Section 1861 of such Act (42 U.S.C. 1395x) is amended—

(i) in the last sentence of subsection (e), by striking "rural primary care hospital" and inserting "critical access hospital";

(ii) in subsection (v)(1)(S)(ii)(III), by striking "rural primary care hospital" and inserting "critical access hospital";

(iii) in subsection (w)(1), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(iv) in subsection (w)(2), by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(J) Section 1862(a)(14) of such Act (42 U.S.C. 1395y(a)(14)) is amended by striking "rural primary care hospital" each place it appears and inserting "critical access hospital".

(K) Section 1866(a)(1) of such Act (42 U.S.C 1395cc(a)(1)) is amended—

(i) in subparagraph (F)(ii), by striking "rural primary care hospitals" and inserting "critical access hospitals";

(ii) in subparagraph (H), in the matter preceding clause (i), by striking "rural primary care hospitals" and "rural primary care hospital services" and inserting "critical access hospitals" and "critical access hospital services", respectively;

(iii) in subparagraph (I), in the matter preceding clause (i), by striking "rural primary care hospital" and inserting "critical access hospital"; and

(iv) in subparagraph (N)—

(I) in the matter preceding clause (i), by striking "rural primary hospitals" and inserting "critical access hospitals", and

(II) in clause (i), by striking "rural primary care hospital" and inserting "critical access hospital".

(L) Section 1866(a)(3) of such Act (42 U.S.C 1395cc(a)(3)) is amended—

(i) by striking "rural primary care hospital" each place it appears in subparagraphs (A) and (B) and inserting "critical access hospital"; and

(ii) in subparagraph (C)(ii)(II), by striking "rural primary care hospitals" each place it appears and inserting "critical access hospitals".

(M) Section 1867(e)(5) of such Act (42 U.S.C. 1395dd(e)(5)) is amended by striking "rural primary care hospital" and inserting "critical access hospital".

(e) Payment Continued to Designated EACHs.—Section 1886(d)(5)(D) of such Act (42 U.S.C. 1395ww(d)(5)(D)) is amended—

(1) in clause (iii)(III), by inserting "as in effect on September 30, 1995" before the period at the end; and

(2) in clause (v)—

(A) by inserting "as in effect on September 30, 1995" after "1820(i)(1)"; and

(B) by striking "1820(g)" and inserting "1820(e)".

(f) Part B Amendments Relating to Critical Access Hospitals.—

(1) Coverage.—(A) Section 1861(mm) of the Social Security Act (42 U.S.C. 1395x(mm)) as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

"(3) The term 'outpatient critical access hospital services' means medical and other health services furnished by a critical access hospital on an outpatient basis.".

(B) Section 1832(a)(2)(H) of such Act (42 U.S.C. 1395k(a)(2)(H)) is amended by striking "rural primary care hospital services" and inserting "critical access hospital services".

(2) Payment.—(A) Section 1833(a) of such Act (42 U.S.C. 1395*l*(a)) is amended in paragraph (6), by striking "outpatient rural primary care hospital services" and inserting "outpatient critical access services".

(B) Section 1834(g) of such Act (42 U.S.C. 1395m(g)) is amended to read as follows—

"(g) Payment for Outpatient Critical Access Hospital Services.—The amount of payment under this part for outpatient critical access hospital services is the reasonable costs of the critical access hospital in providing such services.".

(g) Effective Date.—The amendments made by this section shall apply to services furnished on or after October 1, 1995.

SEC. 3. OFFICE OF RURAL HEALTH POLICY.

(a) Appointment of Assistant Secretary.—

(1) In general.—Section 711(a) of the Social Security Act (42 U.S.C. 912(a)) is amended—

(A) by striking "by a Director, who shall advise the Secretary" and inserting "by an Assistant Secretary for Rural Health (in this section referred to as the 'Assistant Secretary'), who shall report directly to the Secretary"; and

(B) by adding at the end the following new sentence: "The Office shall not be a component of any other office, service, or component of the Department.".

(2) Conforming amendments.—(A) Section 711(b) of the Social Security Act (42 U.S.C. 912(b)) is amended by striking "the Director" and inserting "the Assistant Secretary".

(B) Section 338J(a) of the Public Health Service Act (42 U.S.C. 254r(a)) is amended by striking "Director of the Office of Rural Health Policy" and inserting "Assistant Secretary for Rural Health".

(C) Section 464T(b) of the Public Health Service Act (42 U.S.C. 285p–2(b)) is amended in the matter preceding paragraph (1) by striking "Director of the Office of Rural Health Policy" and inserting "Assistant Secretary for Rural Health".

(D) Section 6213 of the Omnibus Budget Reconciliation Act of 1989 (42 U.S.C. 1395x note) is amended in subsection (e)(1) by striking "Director of the Office of Rural Health Policy" and inserting "Assistant Secretary for Rural Health".

(E) Section 403 of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (42 U.S.C. 300ff–11 note) is amended in the matter preceding paragraph (1) of subsection (a) by striking "Director of the Office of Rural Health Policy" and inserting "Assistant Secretary for Rural Health".

(3) Amendment to the executive schedule.—Section 5315 of title 5, United States Code, is amended by striking "Assistant Secretaries of Health and Human Services (6)" and inserting "Assistant Secretaries of Health and Human Services (7)".

(b) Expansion of Duties.—Section 711(a) of the Social Security Act (42 U.S.C. 912(a)) is amended by striking "and access to (and the quality of) health care in rural areas" and inserting "access to, and quality of, health care in rural areas, and reforms to the health care system and the implications of such reforms for rural areas".

(c) Effective Date.—The amendments made by this section shall take effect on January 1, 1996.

SEC. 4. MEDICARE REIMBURSEMENT FOR TELEMEDICINE SERVICES.

(a) Sense of the Congress.—It is the sense of the Congress that—

(1) the use of telemedicine services can increase access to specialized health care for rural residents; and

(2) although telemedicine services are currently being furnished to medicare beneficiaries across the country, providers of telemedicine services do not receive reimbursement for such services under the medicare program.

(b) Purpose.—It is the purpose of this section to improve access to specialized health services for rural medicare beneficiaries by requiring the medicare program to reimburse providers for furnishing telemedicine services.

(c) METHODOLOGY FOR DETERMINING PAYMENT.—Not later than January 1, 1996, the Secretary of Health and Human Services shall develop and submit to the Congress a recommendation on a methodology for determining payments under title XVIII of the Social Security Act for telemedicine services (as defined by the Secretary).

By Mr. JOHNSTON:

S. 964. A bill to amend the Land and Water Conservation Fund Act of 1965 with respect to fees for admission into units of the National Park System and for other purposes; to the Committee on Energy and Natural Resources.

THE PARK RENEWAL FUND ACT

Mr. JOHNSTON. Mr. President, today I am introducing the Park Renewal Fund Act. This legislation would grant the Secretary of the Interior additional authority to impose and collect entrance fees at units of the National Park System and deposit those increased revenues in a special fund—the park renewal fund. These moneys could then be used, without the need for further appropriation, to help cover the cost of priority park maintenance and repair projects. The legislation also includes other provisions designed to enhance the Park Service's ability to generate badly needed funds from park users and other non-Federal sources.

Last year, I introduced park fee legislation at the request of the administration. The committee unanimously reported an amended version of that bill late in the session, but no further action was taken in the Senate. The bill I am introducing today is very similar to the version I introduced last year and incorporates the current administration position on park fees. Like last year, it is possible that changes will be made to this bill before it is reported from the committee. I welcome the attention of my colleagues to this bill and urge their support. I also look forward to their input and the input of others on how to improve the legislation. Although I am flexible on many provisions in this bill, there is, in my view, one concept that must be included in the final version of any park fee bill. New fee revenue generated by this legislation must go directly to the parks for use in the parks and not be diverted for nonpark purposes. There is considerable public support for paying higher park entrance fees if those fees are used to enhance the parks and visitor use and enjoyment of them. Without such a provision, there is no need to raise fees and certainly no incentive for the parks to collect them.

Mr. President, I ask unanimous consent that a section-by-section analysis and the text of the bill appear in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 964

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This act may be cited as the "The Park Renewal Fund Act."

SEC. 2. FEES.

(a) ADMISSION FEES.—Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(a)) is amended as follows:

(1) Delete "fee-free travel areas" and "lifetime admission permit" from the title of this section.

(2) In paragraph (a)(1)(A)(i) by striking the first and second sentences and inserting in lieu thereof, "For admission into any such designated area, an annual admission permit (to be known as the Golden Eagle Passport) shall be available for a fee and under such conditions as to be determined by the Secretary of the Interior and the Secretary of Agriculture."

(3) In paragraph (a)(1)(B) by striking the second sentence.

(4) Delete paragraph (a)(2) in its entirety and insert in lieu thereof: "Reasonable admission fees for a single visit to any designated unit shall be established by the administering Secretary for persons who choose not to purchase the annual permit. A "single visit" means a continuous stay within a designated unit. Payment of a single visit admission fee shall authorize exits from and reentries to a designated unit for a period to be defined for each designated unit by the administering Secretary based upon a determination of the period of time reasonably and ordinarily necessary for such a single visit.

(5) In paragraph (a)(3) by inserting the word "Great" in the third sentence before "Smoky".

(6) In paragraph (a)(3) delete the last sentence.

(7) Delete paragraph (a)(4) in its entirety and insert in lieu thereof: "The Secretary of the Interior and the Secretary of Agriculture shall establish procedures for discounted admission fees to any citizen of, or person legally domiciled in, the United States sixty-two years of age or older, such discount to be received upon proof of age. Any such discount will be non-transferable, applied only to the individual qualifying on the basis of age, and given notwithstanding the method of travel. No fees of any kind shall be collected from any persons who have a right of access for hunting or fishing privileges under a specific provision of law or treaty or who are engaged in the conduct of official Federal, State, or local Government business."

(8) Delete paragraph (a)(5) in its entirety and insert in lieu thereof: "The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of a lifetime admission permit to any citizen of, or person legally domiciled in, the United States, if such citizen or person applies for such permit and is permanently disabled. Such procedures shall assure that such permit shall be issued only to persons who have been medically determined to be permanently disabled. Such permit shall be nontransferable, shall be issued without charge, and shall entitle the permittee and one accompanying individual to general admission into any area designated pursuant to this subsection, notwithstanding the method of travel.

(9) In paragraph (a)(6)(A) by striking "No later than 60 days after December 22, 1987" and inserting "No later than six months after enactment" and striking "Interior and Insular Affairs" and inserting "Resources".

(10) Delete paragraphs (a)(9) and (a)(11) in their entirety. Renumber current paragraph "(10)" as "(9)" and current paragraph "(12)" as "(10)".

(b) RECREATION FEES.—Section 4(b) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(b)) is amended as follows:

(1) Delete "fees for Golden Age Passport permittees" from section title.

(2) Delete the following: "personal collection of the fee by an employee or agent of the Federal agency operating the facility".

(3) Deleting "Any Golden Age Passport permittee, or" and inserting thereof "Any".

(c) CRITERIA, POSTING AND UNIFORMITY OF FEES.—Section 4(d) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(d)) is amended by deleting from the first sentence, "recreation fees charged by non-Federal public agencies," and inserting in lieu thereof "fees charged by other public and private entities,".

(d) RULES AND REGULATIONS.—Section 4(e) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(e)) is amended by deleting "of not more than $100." and inserting in lieu thereof "as provided by law."

(e) FEDERAL AND STATE LAWS UNAFFECTED.—Section 4(g) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(g)) is amended by deleting the following in the first sentence "or fees or charges for commercial or other activities not related to recreation," and inserting "*Provided*, however, in those park areas under partial (if applicable) or exclusive jurisdiction of the United States where state fishing licenses are not required, the National Park Service may charge a fee for fishing.".

(f) TECHNICAL AMENDMENTS.—Section 4(h) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(h)) is amended—

(1) by striking "Bureau of Outdoor Recreation" and inserting in lieu thereof, "National Park Service";

(2) by striking "Interior and Insular Affairs of the United States House of Representatives and United States Senate" and inserting in lieu thereof, "Resources of the United States House of Representatives and on Energy and Natural Resources of the United States Senate"; and

(3) by striking "Bureau" and inserting in lieu thereof, "National Park Service".

(g) USE OF FEES.—Section 4(i) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(i)) is amended as follows:

(1) After "(i)" by inserting "USE OF FEES.—".

(2) In the first sentence of subparagraph (B) by striking "fee collection costs for that fiscal year" and inserting in lieu thereof, "fee collection costs for the immediately preceding fiscal year" and by striking "section in that fiscal year" and inserting in lieu thereof, "section in such immediately preceding fiscal year."

(3) In the second sentence of subparagraph (B) by striking "in that fiscal year".

(4) By adding the following at the end of paragraph (1): "(C) Notwithstanding subparagraph (A), beginning in fiscal year 1996 and each fiscal year thereafter, all additional fee revenue generated by the National Park Service through enactment of this legislation, as authorized to be collected pursuant to subsection 4 (a) and (b), shall be covered into a special fund established in the Treasury of the United States to be known as the 'National Park Renewal Fund'. In fiscal year 1997 and each fiscal year thereafter, the

amount of additional fee revenue generated in the immediately preceding fiscal year by the National Park Service through enactment of this legislation shall be available to the Secretary of the Interior, without further provision in appropriations acts, for infrastructure needs at parks including but not limited to facility refurbishment, repair and replacement, interpretive media and exhibit repair and replacement, and infrastructure projects associated with park resource protection. Such amounts shall remain available until expended. The Secretary shall develop procedures for the use of the fund that ensure accountability and demonstrated results consistent with the purposes of this Act. Beginning the first full fiscal year after the creation of the "National Park Renewal Fund", the Secretary shall submit an annual report to the Congress, on a unit-by-unit basis, detailing the expenditures of such receipts. In fiscal year 1996 only, fees authorized to be collected pursuant to subsections 4 (a) and (b) of this Act may be collected only to the extent provided in advance in appropriations acts.

(5) Paragraph (4)(A) is amended by striking "resource protection, research, and interpretation" and inserting in lieu thereof, "park operations".

(h) SELLING OF PERMITS.—Section 4(k) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(k)) is amended by:

(1) striking "selling of annual admission permits by public and private entities under arrangements with collecting agency head" from the title of this section, and

(2) deleting the last two sentences, regarding the sale of Golden Eagle Passports, from this section.

(i) CHARGES FOR TRANSPORTATION PROVIDED BY THE NATIONAL PARK SERVICE—

(1) Section 4(l)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(l)) is amended by striking the word "viewing" from the section title and inserting in lieu thereof "visiting".

(2) Section 4(l)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(l)) is amended by deleting the word "view" and inserting in lieu thereof "visit".

(3) Section 4(l)(2) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(l)) is amended by deleting paragraph (2) and inserting in lieu thereof: "Notwithstanding any other provision of law, the charges imposed under paragraph (1) shall be retained by the unit of the National Park System at which the service was provided. The amount retained shall be expended for costs associated with the transportation systems at the unit where the charge was imposed."

(j) COMMERCIAL TOUR FEES.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a(n)) is amended by striking section (2) in its entirety and inserting in lieu thereof: "(2) The Secretary shall establish a flat fee, per entry, for such vehicles. The amount of the said flat fee shall reflect both the commercial tour use fee rate and current admission rates."

(k) FEES FOR SPECIAL USES.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a) is amended by adding the following at the end thereof:

"(o) FEES FOR COMMERCIAL/NONRECREATIONAL USES.—Utilizing the criteria established in Section 4(d) (16 U.S.C. 460*l*–6a(d)), the Secretary of the Interior shall establish reasonable fees for non-recurring commercial or non-recreational uses of National Park System units that require special arrangements, including permits. At a minimum, such fees will cover all costs of providing necessary services associated with such use, except that at the Secretary's discretion, the Secretary may waive or reduce such fees in the case of any organization using an area within the National Park System for activities which further the goals of the National Park Service. Receipts from such fees may be retained at the park unit in which the use takes place, and remain available, without further appropriation, to cover the cost of providing such services. The portion of such fee which exceeds the cost of providing necessary services associated with such use shall be deposited into the National Park Renewal Fund."

(l) FEE AUTHORITY.—Section 4 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–6a) is amended by adding the following new subsection at the end thereof:

(p) ADMISSION OR RECREATION USE FEES.—No admission or recreation use fee of any kind shall be charged or imposed for entrance into, or use of, any federally owned area operated and maintained by a Federal agency and used for outdoor recreation purposes, except as provided for by this Act.".

SEC. 3. PROHIBITION OF COMMERCIAL VEHICLES, DELAWARE WATER GAP NATIONAL RECREATION AREA.

(a) IN GENERAL.—Effective at noon on September 30, 2005, the use of Highway 209 within the Delaware Water Gap National Recreation Area by commercial vehicles, when such us is not connected with the operation of the recreation area, is prohibited, except as provided in section (b).

(b) LOCAL BUSINESS USE PROTECTED.—Subsection (a) does not apply with respect to the use of commercial vehicles to serve businesses located within or in the vicinity of the recreation area, as determined by the Secretary.

(c) CONFORMING PROVISIONS.—(1) Paragraphs (1) through (3) of the third undesignated paragraph under the heading "ADMINISTRATIVE PROVISIONS" in chapter VII of title I of Public Law 98–63 (97 Stat. 329), are repealed, effective September 30, 2005.

(2) Prior to noon on September 30, 2005, the Secretary shall collect and utilize a commercial use fee from commercial vehicles in accordance with paragraphs (1) through (3) of such third undesignated paragraph. Such fee shall not exceed $25 per trip.

SEC. 4. CHALLENGE COST SHARE AGREEMENTS.

(a) AGREEMENTS.—The Secretary of the Interior is authorized to negotiate and enter into challenge cost-share agreements with cooperators. For purposes of this section, the term—

(1) "challenge cost-share agreement" means any agreement entered into between the Secretary and any cooperator for the purpose of sharing costs or services in carrying out authorized functions and responsibilities of the Secretary with respect to any unit or program of the National Park System (as defined in section 2(a) of the Act of August 8, 1953 (16 U.S.C. 1c(a)), any affiliated area, or designated National Scenic or Historic Trail; and

(2) "cooperator" means any State or local government, public or private agency, organization, institution, corporation, individual, or other entity.

(b) USE OF FEDERAL FUNDS.—In carrying out challenge cost-share agreements, the Secretary is authorized to provide the Federal funding share from any funds available to the National Park Service.

SEC. 5. DONATIONS

(a) REQUESTS FOR DONATIONS.—In addition to the Secretary's other authorities to accept the donation of lands, buildings, other property, services, and moneys for the purposes of the National Park System, the Secretary is authorized to solicit donations of money, property, and services from individuals, corporations, foundations and other potential donors who the Secretary believes would wish to make such donations as an expression of support for the national parks. Such donations may be accepted and used for any authorized purpose or program of the National Park Service, and donations of money shall remain available for expenditure without fiscal year limitation. Any employees of the Department to whom this authority is delegated shall be set forth in the written guidelines issued by the Secretary pursuant to paragraph (d).

(b) EMPLOYEE PARTICIPATION.—Employees of the National Park Service may solicit donations only if the request is incidental to or in support of, and does not interfere with their primary duty of protecting and administering the parks or administering authorized programs, and only for the purpose of providing a level of resource protection, visitor facilities, or services for health and safety projects, recurring maintenance activities, or for other routine activities normally funded through annual agency appropriations. Such requests must be in accordance with the guidelines issued pursuant to subparagraph (d).

(c) PROHIBITIONS.—(1) A donation may not be accepted in exchange for commitment to the donor on the part of the National Park Service or which attaches conditions inconsistent with applicable laws and regulations or that is conditioned upon or will require the expenditure of appropriated funds that are not available to the Department, or which compromises a criminal or civil position of the United States or any of its departments or agencies or the administration authority of any agency of the United States.

(2) In utilizing the authorities contained in this section employees of the National Park Service shall not directly conduct or execute major fund raising campaigns, but may cooperate with others whom the Secretary may designate to conduct such campaigns on behalf of the National Park Service.

(d) GUIDANCE.—(1) The Secretary shall issue written guidelines setting forth those positions to which he has delegated his authority under paragraph (a) and the categories of employees of the National Park Service that are authorized to request donations pursuant to paragraph (b). Such guidelines shall also set forth any limitations on the types of donations that will be requested or accepted as well as the sources of those donations.

(2) The Secretary shall publish guidelines which set forth the criteria to be used in determining whether the solicitation or acceptance of contributions of lands, buildings, other property, services, moneys, and other gifts or donations authorized by this section would reflect unfavorably upon the ability of the Department of the Interior or any employee to carry out its responsibilities or official duties in a fair and objective manner, or would compromise the integrity or the appearance of the integrity of its programs or any official involved in those programs. The Secretary shall also issue written guidance on the extent of the cooperation that may be provided by National Park Service employees in any major fund raising campaign which the Secretary has designated others to conduct pursuant to paragraph (c)(2).

SEC. 6. COST RECOVERY FOR DAMAGE TO NATIONAL PARK RESOURCES.

Public Law 101–337 is amended as follows:

(a) In section 1 (16 U.S.C. 19jj), by amending subsection (d) to read as follows:

"(d) 'Park system resource' means any living or nonliving resource that is located within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.".

(b) In section 1 (16 U.S.C. 19jj) by adding at the end thereof the following:

"(g) 'Marine or aquatic park system resourse' means any living or non-living part of a marine or aquatic regimen within or is a living part of a marine or aquatic regimen within the boundaries of a unit of the National Park System, except for resources owned by a non-Federal entity.".

(c) In section 2(b) (16 U.S.C. 19jj-1(b)), by striking "any park" and inserting in lieu thereof, "any marine or aquatic park".

SECTION-BY-SECTION—PROPOSED FEE LEGISLATION

Section 1. Entitles the bill the "The Park Renewal Fund Act."

Section 2. Makes several changes to the Land and Water Conservation Fund Act of 1965 to provide the Secretary of the Interior additional authority to manage the National Park Service fee program. Specific changes follow:

(a) Admission Fees:

(1) Strikes "fee-free travel areas" and "lifetime admission permits" from the section title as they were also striken in the text of this section.

(2) Strikes the first and second sentence to eliminate the cap on the amount to be charged for a Golden Eagle Passport ($25) and the language mandating entry coverage under the passport. The new language would authorize the Secretaries of the Interior and Agriculture to set the fee and conditions of coverage.

(3) Strikes the second sentence to eliminate the cap for annual park specific permits. The rest of the section stays intact and ties coverage of this permit to the same conditions to be developed for the Golden Eagle Passport.

(4) Deletes the length of stay limitations, allowing the administering Secretary to establish length of stays for specific units. It would also eliminate the cap on fees to be charged for single visit permits and other restrictions, which would be determined by the administering Secretary.

(5) Makes a technical correction by inserting "Great" before Smoky Mountains National Park.

(6) Deletes the sentence that exempts urban areas from fees. Current law prohibits admission fees at any unit of the National Park System which provides significant outdoor recreational opportunities in an urban environment and to which access is available at multiple locations. While not specifically saying fees would be charged, this change would provide authority for a review of the feasibility of charging fees at these areas.

(7) Authorizes the Secretaries of Interior and Agriculture to modify the Golden Age Passport program as it currently exists. The Secretaries would still be able to establish discounted admission fees upon proof of age. However, the discount would apply only to the eligible individual, and not to persons accompanying that individual, regardless of the method of travel.

(8) Limits coverage under the Golden Access Passport for the disabled to the individual holding the passport and one accompanying individual, regardless of method of travel. It also deletes the word "blind" throughout the paragraph and the portion having to do with the receipts of federal benefits.

(9) Directs the Secretary to provide to Congress within 6 months after enactment a report outlining the changes to be implemented.

(10) Deletes paragraph (a)(9), which states specific areas where fees will not be charged. This would not mean that fees would be charged, but would provide an opportunity for review (e.g., Canaveral National Seashore). Deletes paragraph (a)(11) which established special rates for Grand Tetons, Yellowstone, and Grand Canyon. With new fee authority, special rates as established for these areas would essentially become caps are unnecessary.

(b) Recreation Fees:

(1) Deletes personal collection of camping fees as one of the criteria used in determining whether a fee can be charged at a campground. Many campgrounds have gone to self-registration systems over the years in the effort to more efficiently use personnel. It is an outdated criterion, especially as more efficient and technological changes in collections occur. This section also removes the 50% discount in user fees for those 62 and over, but retains that discount for the disabled.

(c) Amends the criteria used for setting fees to include comparable recreation fees charged by other public and private entities. Current law requires comparison with fees charged by non-federal public entities.

(d) Deletes a $100 cap on fines to comply with the Criminal Fine Improvement Act of 1987 (P.L. 100-185). This Act established uniform maximum fine levels for all Federal petty offenses at $5,000 for individuals and $10,000 for organizations (18 U.S.C. section 3571).

(e) Removes the prohibition on fees or charges for non-recreational and commercial uses. The language inserted addresses those few park areas where state fishing licenses do not apply and are not required because the areas are under either partial or exclusive jurisdiction of the United States. In these park areas (e.g., Glacier, Yellowstone) the legislative jurisdiction means that the United States (National Park Service) has, by cession or retention, all the authority of the state and state fishing laws and regulations do not apply.

(f) Changes the committee names to reflect current titles and conditions.

(g) Use of Fees:

(1) Technical change in the title.

(2 & 3) Allows the 15% retained by the Park Service and other agencies for fee collection costs to be figured on the collections of the previous year, instead of the current year. This will provide for a more accurate figure to be retained, based on a full year's collections, rather than partial year and estimates.

(4) Establishes a National Park Renewal Fund to be used for infrastructure repair, interpretive media and exhibit repair and replacement, and infrastructure projects associated with park resources. The fund would be established in 1996 with funds available beginning in 1997. It would authorize the National Park Service to retain and use, without further appropriation, all new revenue generated by this legislation. Procedures are to be developed for the distribution of these funds by the agency.

(5) Allows amounts covered into the existing U.S. Treasury special account for the National Park Service that are generated from admission fees, to be used for park operations as opposed to limiting their expenditure to resource protection, research, and interpretation.

(h) Deletes language requiring that private entities willing to sell Golden Eagle Passports pay the amount "up front". Also deletes this portion from the section title.

(i) Allows each park to retain 100 percent of receipts from fees for transportation services, when charged in lieu of an admission fee. Parks currently have authority to retain 50 percent of such fee receipts and deposit the remainder in the existing U.S. Treasury special account for the National Park Service, although no fees are currently collected under this authority.

(j) Combines the commercial tour use fee and admission fees for commercial vehicles into a flat fee per entry, for such vehicles. This would simplify fee collection and increase revenue.

(k) Authorizes "reasonable" fees for nonrecreational or commercial uses of units that require special arrangements. Receipts from such fees would be retained at the park unit in which the use takes place and remain available to cover the cost of providing such services.

(l) Applies the Land and Water Conservation Fund Act to any federally owned area operated and maintained by a federal agency for outdoor recreation purposes.

Section 3. Renews the Secretary's expired authority to collect fees for commercial vehicles driving through the Delaware Water Gap National Recreation Area in Pennsylvania. Effective September 30, 2005, the park would be closed to commercial vehicles, except for local traffic. This section is identical to HR 536 as passed by the House of Representatives on March 14, 1995.

Section 4. Authorizes the Secretary to enter into challenge cost-share agreements with public or private entities to share the costs of authorized National Park Service activities.

Section 5. Authorizes the Secretary and certain National Park Service employees to seek donations for park purposes, subject to limitations established by guidelines.

Section 6. Allows the Federal government to recover the cost of damages to national park resources and the Secretary to use the money collected to repair damages. This authority would be provided by amending P.L. 101-337, which authorizes the Secretary to recover the cost of damages to national park marine resources, to cover damages to all national park resources.

ADDITIONAL COSPONSORS

S. 426

At the request of Mr. SARBANES, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 426, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes.

S. 585

At the request of Mr. SHELBY, the name of the Senator from Florida [Mr. MACK] was added as a cosponsor of S. 585, a bill to protect the rights of small entities subject to investigative or enforcement action by agencies, and for other purposes.

S. 607

At the request of Mr. WARNER, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 607, a bill to amend the Comprehensive Environmental Response,

Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 691

At the request of Mr. SHELBY, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 691, a bill to amend title XVIII of the Social Security Act to provide for coverage of early detection of prostate cancer and certain drug treatment services under part B of the medicare program, to amend chapter 17 of title 38, United States Code, to provide for coverage of such early detection and treatment services under the programs of the Department of Veterans Affairs, and to expand research and education programs of the National Institutes of Health and the Public Health Service relating to prostate cancer.

S. 724

At the request of Mr. KOHL, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 724, a bill to authorize the Administrator of the Office of Juvenile Justice and Delinquency Prevention Programs to make grants to States and units of local government to assist in providing secure facilities for violent and chronic juvenile offenders, and for other purposes.

S. 890

At the request of Mr. KOHL, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 890, a bill to amend title 18, United States Code, with respect to gun free schools, and for other purposes.

SENATE RESOLUTION 141—TO AUTHORIZE REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 141

Whereas, in the case of *William D. (Bill) Peterson* v. *The Honorable Senator Orrin G. Hatch*, No. 95–C–0352–S, pending in the United States District Court for the District of Utah, the plaintiff has named Senator Orrin G. Hatch as the defendant;

Whereas, pursuant to sections 702(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1)(1994), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Orrin G. Hatch in the case of *William D. (Bill) Peterson II* v. *The Honorable Senator Orrin G. Hatch*.

AMENDMENTS SUBMITTED

THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

SHELBY (AND OTHERS) AMENDMENT NO. 1468

Mr. SHELBY (for himself, Mr. BRYAN, Mrs. BOXER, and Mr. SARBANES) proposed an amendment to the bill (S. 240) to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act; as follows:

On page 134, strike lines 5 through 24, and insert "uncollectible share in proportion to the percentage of responsibility of that defendant, as determined under subsection (c).".

BRYAN AMENDMENT NO. 1469

Mr. BRYAN proposed an amendment to the bill S. 240, supra, as follows:

On page 129, between lines 16 and 17, insert the following:

SEC. 111. STATUTE OF LIMITATIONS.

Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 38. STATUTE OF LIMITATIONS.

"(a) IN GENERAL.—Except as otherwise provided in this title, an implied private right of action arising under this title may be brought not later than the earlier of—

"(1) 5 years after the date on which the alleged violation occurred; or

"(2) 2 years after the date on which the alleged violation was discovered.

"(b) EFFECTIVE DATE.—The limitations period provided by this section shall apply to all proceedings commenced after the date of enactment of this section.".

On page 131, strike line 1, and insert the following:

"SEC. 39. PROPORTIONATE LIABILITY.

Amend the table of contents accordingly.

BINGAMAN AMENDMENTS NOS. 1470–1471

(Ordered to lie on the table.)

Mr. BINGAMAN submitted two amendments intended to be proposed by him to the bill S. 240, supra, as follows:

AMENDMENT NO. 1470

Beginning on page 105, strike line 1 and all that follows through page 108, line 17.

On page 108, line 24, strike "(k)" and insert "(j)".

On page 109, line 8, strike "(*l*)" and insert "(k)".

On page 126, line 19, strike "(m)" and insert "(*l*)".

On page 127, line 6, strike "(m)" and insert "(*l*)".

Redesignate sections 104 through 110 as sections 103 through 109, respectively.

Amend the table of contents accordingly.

AMENDMENT NO. 1471

On page 85, strike line 24.

On page 86, line 1, strike "(1) SECURITIES ACT OF 1933.—" and insert the following:

"(a) SECURITIES ACT OF 1933.—".

On page 91, line 11, strike "(2) SECURITIES EXCHANGE ACT OF 1934.—" and insert the following:

"(b) SECURITIES EXCHANGE ACT OF 1934.—".

Beginning on page 96, strike line 25 and all that follows through page 104, line 22.

On page 105, line 5, strike "(j)" and insert "(i)".

On page 106, line 25, strike "(*l*)" and insert "(k)".

On page 108, line 24, strike "(k)" and insert "(j)".

On page 109, line 8, strike "(*l*)" and insert "(k)".

On page 126, line 19, strike "(m)" and insert "(*l*)".

On page 127, line 6, strike "(m)" and insert "(*l*)".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet for a hearing on the future of the Legal Services Corporation, during the session of the Senate on Friday, June 23, 1995, at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

MEDICARE REIMBURSEMENT OF INVESTIGATIONAL MEDICAL DEVICES

Mr. GRAMS. Mr. President, I have come to the floor today to express my strong support for S. 955, the Advanced Medical Devices Access Assurance Act, introduced by Senator HATCH.

I believe enactment of this legislation will correct a problem facing many of Minnesota's medical device manufacturers, physicians, and academic medical centers.

The U.S. medical device industry is recognized throughout the world for the unsurpassed quality of its products and innovative technologies which have positioned us as the world's leader in medical device technology.

If we do not address Medicare's failure to reimburse for investigational medical devices involved in clinical trials, we will lose this position.

Large and small medical device manufacturers, many of which are located in my home State of Minnesota, are aggressively developing new devices every day.

The future of these manufacturers is dependent on their ability to bring these technologies to the market through clinical trials and the FDA approval process.

Unfortunately, today, these companies are unable to conduct clinical trials because of the fear and uncertainty surrounding HCFA's reimbursement policy.

By ignoring the benefits of medical device clinical trials, HCFA's policy

will increase hospital stays, increase health care costs, and increase mortality rates.

Each day that we delay reform efforts, doctors continue to be denied the opportunity for needed training, medical device companies continue to move their technologies and jobs overseas, and senior citizens continue to be denied access to the latest, most innovative medical technology.

America's medical technology community deserves better and most importantly, America's senior citizens deserve better.

We can no longer allow HCFA to ignore this pending crisis and as chairman of the Senate medical technology caucus, I look forward to working with Senator HATCH to make this legislation a top priority in the Senate.

PENNSYLVANIA STATION AND THE NATIONAL HIGHWAY SYSTEM DESIGNATION ACT OF 1995

• Mr. MOYNIHAN. Mr. President, last night the Senate passed the National Highway System legislation, and in so doing determined the future of our Nation's intermodal infrastructure. New York has an important role in an efficient national intermodal system.

A month ago I rose before the Senate to remark how pleased I was that the conference report for the Department of Defense supplemental appropriations bill included an appropriation of $21.5 million for capital improvements associated with safety-related emergency repairs to Pennsylvania Station in New York City. The station is the busiest intermodal station in the Nation, with almost 40 percent of Amtrak's passengers nationwide passing through every day. It is the linchpin for intermodal travel in the United States.

Unfortunately, it is also the most decrepit of the Northeast corridor stations, others of which, such as Washington DC's own Union Station, have been renovated with Federal grants. Today, Pennsylvania Station handles almost 500,000 riders daily in a subterranean complex that demands improvement. According to the New York City Fire Commissioner, there have been nine major fires at the station since 1987. Luckily, these fires have occurred at off-hours. As it stands, the station could not cope with an emergency when it is crowded with the 42,000 souls who pass through every workday between 8 and 9 a.m. In addition, structural steel in the station has shown its age and needs immediate repair. And these are just the most pressing needs.

There is also a need to add capacity as ridership grows. The station, designed in 1963, will not be able to accommodate the growing volume of people. It is projected that by the year 2005, New Jersey Transit ridership will increase 44 percent, Amtrak, 26 percent, and the Long Island Railroad, 9 percent. If we do not act now, pedestrian gridlock will shut us down in 10 years.

Happily, there is a redevelopment plan to change things for the better, a $315 million project to renovate the existing station in the only way possible: across the street into a portion of the neighboring historic James A. Farley Post Office. The plan will nearly double the access to the station's platforms, which lie far below street level beneath both buildings. Moreover, there is a financing plan in place that will accomplish this with $100 million from the Federal Government—$31.5 million has already been appropriated—$100 million from the State and city, and $115 million from a combination of historic tax credits, bonds supported by revenue from the project's retail component, and building shell improvements by the Postal Service, owner of the James A. Farley Building. Governor Pataki of New York and Mayor Giuliani of New York City strongly support the project and have made available funding in their budgets in accordance with a memorandum of agreement signed in August 1994.

Now, $26½ million can be used immediately for pressing safety repairs at the existing station, in the first step of the overall redevelopment effort. These are the first Federal funds into the project that will actually go toward construction, and they will count towards the Federal share of the $315 million project to transform the station into a complex capable of safely handling the crowds that have made Pennsylvania Station the Nation's busiest intermodal facility. The authorization approved in this bill for the remaining Federal share of the project will assure the viability of Pennsylvania Station into the 21st century.•

A TRIBUTE TO GEORGE E. NORCROSS, SR.

• Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to a man who never failed to rise to the challenge of serving his fellow human beings; George E. Norcross, Sr.

George started as a union organizer in the 1940's. He got involved in the labor movement because he understood that working people needed to come together to protect their common interests and promote their common goals. He translated that theory into practice when he founded and served as president of RCA Local 106 in Morrestown, NJ. His responsibilities to the local kept him busy, but they did not prevent him from becoming involved in other activities. His commitment to the labor movement ultimately resulted in his serving as president of the AFL–CIO Central Labor Council of South Jersey. In that capacity, he made sure that the union movement contributed to the community as a whole as well as its members.

George took steps to get the 80,000 members of the central labor council's 73 locals involved in community events. He became active in the United Way and served as chairman of the campaign in 1982 as well as holding other post of responsibility in that organization.

While George recognized the need for larger organizations like the United Way, he never lost sight of the obligation that labor unions themselves had to assist those in needs. He served as president of the union organization for social service which provided services to the community ranging from food banks to job training and clothing drives.

George is the kind of man who believed that Americans ought to care about their neighbors and accept a responsibility to help them. His life has been devoted to basic values: seeing all men and women as brothers and sisters, realizing that we share common dreams and face a common destiny, accepting the obligation and opportunity to give those in need a helping hand.

Mr. President, because of George, literally tens of thousands of lives have been improved and enriched. I join with those tens of thousands in wishing him a rewarding retirement and expressing our appreciation for all he has done, and all that he will continue to do.•

RURAL HEALTH IMPROVEMENT ACT OF 1995

• Mr. ROCKEFELLER. Mr. President, I am very pleased to be here with my colleagues from Montana and Iowa, Senators BAUCUS and GRASSLEY, to introduce a bill for rural America. The point of our bill is to help make sure that the people living in rural areas—who are disproportionately elderly—will be assured access to vital health care services, especially primary care and emergency care services. Our legislation is an effort to make sure that senior citizens are not forced to travel long distances in emergency situations or for simple, but life-saving reasons like getting certain tests.

Getting reliable access to health care services has always been a struggle for the people of rural West Virginia and the rest of the country. Now, as major changes are unfolding in the delivery of health care and throughout the health care system, many rural hospitals are being forced to re-examine and re-focus their mission and their capabilities.

Our bill steps in by giving rural hospitals across the country an important option that rural hospitals in West Virginia and 7 other States already have to be more responsive to the people in their areas. Under this bill, rural hospitals will be relieved of burdensome regulations that may interfere with their ability to meet the most critical health needs of their local community.

Currently, most rural hospitals have only one choice when faced with declining occupancy rates, declining Medicare and Medicaid reimbursement rates, and intense market pressures to lower their costs: closing their doors. Small, rural hospitals are simply not able to take advantage of the "law of large numbers" and economize like larger hospitals can. Under our legislation, when a full-service hospital is no longer sustainable, critical access hospitals will assure rural residents basic access to essential primary care and emergency health care services.

This legislation is modeled on two separate, ongoing rural hospital demonstration projects. It is modeled after a demonstration project in Montana, called the Medical Assistance Facilities or MAF Program which has been in existence since 1990 and the Essential Access Community Hospital and Rural Primary Care Hospital Program, more commonly referred to as the EACH/RPCH Program which exists in seven States.

Under these demonstration programs, limits are placed on the number of licensed beds and patient length of stays in the participating rural hospitals. In exchange, hospitals receive slightly higher Medicare payments to cover the important services they do provide—along with relief from Federal regulations that are intended for full-scale, acute care hospitals.

We believe, based on new cost information collected by the General Accounting Office, that our legislation will actually save the Medicare Program money. By giving hospitals some flexibility on staffing and other Federal regulations, hospitals can staff-up based on their patients' need, not just to meet regulations meant for completely different situations. We want to encourage the development of rural health networks, to help small, rural hospitals save money and improve quality by tapping into the resources of larger, full-service hospitals. The labors of health care should be divided according to who can do what best, but there absolutely is a role for rural hospitals and a reason for Congress to help them survive.

Mr. President, this legislation will make sure that rural residents will have immediate access to emergency care, and that they and their families won't be forced to travel long distances for routine medical care. Rural residents who need just a short stay in the hospital can stay and receive their care at the local hospital rather than traveling to a usually more expensive medical center.

The magnitude of Medicare cuts that are included in this year's budget resolution make this legislation especially critical. We must make sure that rural hospitals have the ability to react to huge Medicare cuts by becoming more efficient and closing down unused beds rather than by simply closing their doors.

I am very proud to note that West Virginia has been a leader in helping small, rural hospitals figure out how to adapt and cope with rapidly changing economic circumstances. Webster County Memorial Hospital and Broaddus Hospital in Philippi were two of the first few hospitals to be designated rural primary care hospitals nationwide. Seven other West Virginia hospitals are currently considering making the transition.

According to Steve Gavalchik, the administrator of the Webster County Memorial Hospital, if they had not been able to take advantage of the EACH/RPCH Program, the hospital might have been able to hang on for only about 16 to 18 months more before being forced to shut its doors. Now, Webster County hospital can focus on doing a few things well. Networking with an essential access community hospital has been invaluable as Webster County has made the transition to a rural primary care hospital. United Hospital Center, their hospital partner, has provided technical assistance, financial advice, quality assurance and quality improvement support.

For the people of Webster County, access to basic and emergency health care services would have been severely curtailed if Webster County Hospital had been forced to close. The nearest hospital is 43 minutes away—in the summer. In the winter, the drive is much more treacherous and takes up to 1½ hours or more. Patients with chronic obstructive pulmonary disease [COPD], diabetes, pneumonia, and congestive heart failure are the most common diagnoses of patients admitted for short term stays. Just imagine if these patients, most of them elderly were forced to travel an hour or so to get routine hospital care, not to mentioned the extra costs that would be involved for them and their families.

Family practice services are now available on site at the hospital because the doctors in the town moved into unused space. The doctors' practice have benefited from sharing resources, and the local health department has moved its headquarters to the hospital complex. As a result, the hospital and the local health department are now working together in ways they would have never thought of before. More important, patients benefit from the ease of having a central place to go to take care of their routine health care needs.

According to the hospital administrator at Broaddus Hospital, Susannah Higgins, Broaddus Hospital was also faced with possible closure prior to being designated an RPCH hospital. Now, Broaddus can function as a mini-hospital. Through its relationships with partner hospitals, Broaddus offers oncology, general surgery, ob-gyn clinic services on-site on a weekly basis. Family practice and internal medicine services are available on a daily basis. Lifesaving emergency services are on-site. Just recently a local resident severed his leg in a logging accident. He was transported to Broaddus Hospital in a private car. By the time he arrived at the emergency room he was in extremely, extremely critical condition. Fortunately, he was able to be stabilized and was later transported to a medical center. If emergency services had not been available in the area, there is a very good chance that man would not be alive today. When minutes and seconds literally count, a helicopter landing pad cannot take the place of having highly trained and qualified emergency doctors and nurses available immediately to stabilize and begin emergency care.

Webster County Memorial Hospital and Broaddus Hospital are examples of how rural communities can adapt to a changing health care marketplace. This legislation builds on the strengths of the current EACH/RPCH program and the Montana MAF program; improves them; and expands them to all 50 States so that rural hospitals all across America will have the same opportunities.

Mr. President, under our bill, newly designated critical access hospitals would be limited to 15 inpatient days and patient stays would have to be the kind involving limited duration—up to 96 hours, although exceptions are allowed in special circumstances, such as inclement weather or a patient's medical condition.

In this bill, we ease up on hospital regulations so that critical access hospitals can meet the needs of their community and not the needs of a Federal bureaucracy. We are not easing up on quality standards but have rather allowed hospitals to use common sense when it comes to staffing and certain other Federal standards. For instance, if there are no inpatient beds occupied, hospitals do not have to have a full complement of hospital staff on duty. Medicare reimbursement would take into account a small, rural hospital's fixed costs and the inability of small, rural hospitals to take advantage of some of the cost-saving measures that larger hospitals can implement.

Our legislation is targeted at the 1,186 rural hospitals nationwide with fewer than 50 beds. While these hospitals are essential to assuring access to health care services in their local communities, these hospitals account for only 2 percent of total Medicare payments to hospitals. Our country's small rural hospitals needs special attention. This legislation gives them that attention and the ability to adapt to a rapidly changing health care world.

Finally, this legislation would require the Secretary of HHS to submit a report by next January on a methodology for Medicare reimbursement of telemedicine services. I recently, along with my colleague from Maine, Senator SNOWE, included an amendment in the telecommunications bill—that was passed by the Senate just last week—that will guarantee rural health care providers affordable transmission costs when it comes to telemedicine and other telecommunications technology. The provision in the bill we are introducing today is another important step to improving access to specialty and state-of-the-art medical care for rural residents.

Mr. President, I believe this legislation is critically important and, if enacted, will have an important difference on the health of rural residents across America. I am honored to be part of this effort, and intent on continuing to respond to the health care needs of the people in my State and rural America.•

DECLINE OF DEMOCRACY IN NIGERIA

• Mr. SIMON. Mr. President, today I remind my colleagues that June 12, 1995, was the second anniversary of the annulled election of Mashood Abiola as President of Nigeria. The people of Nigeria commemorated this anniversary with a general strike that brought business in Lagos and other cities to a standstill. The military regime of Gen. Sani Abacha marked the anniversary by rounding up and arresting dozens of Nigeria's prodemocratic leaders. As I speak today, General Abacha continues to hold in prison the legitimately elected leader of Nigeria; the general also continues to deny President Abiola badly needed medical attention.

Nigeria is a nation rich in natural and human resources. Besides producing 2 million barrels of oil a day, Nigeria mines significant amounts of coal, lead, zinc, and other minerals. Nigeria is also the most populous nation in Africa. In the 1960's and 1970's, the people of Nigeria set the standard for improving educational standards and promoting economic development in Africa. By the early 1980's, 100,000 men and women were graduating each year from Nigerian postsecondary institutions and one-third of the population belonged to the middle class. Observers of postcolonial Africa predicted that Nigeria would lead the way in building democracy and prosperity in sub-Saharan Africa.

Since that time, however, this optimistic outlook has been shattered. The military leaders of Nigeria have systematically looted their country's wealth and brought Nigeria to the edge of economic and political ruin. Today the Nigerian Government cannot even make interest payments on its foreign debt and is losing control over many of its territories. Fifteen years ago, Nigeria had a per capita income of $1,000, while today per capita income in Nigeria has dropped to $200 and the middle class has almost completely disappeared into poverty. This economic turmoil has undermined Nigeria's efforts to fight the spread of diseases like polio, riverblindness, and AIDS. Under the regime of General Abacha and his predecessors, Nigeria has become one of the busiest heroin trafficking points in the world.

In the past year General Abacha convened a constitutional conference to decide the future of the Nigerian Government. It is now clear that this conference was stacked with pro-military delegates. The conference ignored the views of the National Democratic Coalition and other groups both in Nigeria and in exile which advocate the restoration of democratic institutions in Nigeria. Quite predictably, the conference voted to indefinitely extend General Abacha's term.

The international community needs to intensify its efforts to restore democratic rule to Nigeria and end the flagrant human rights violations this military regime inflicts daily on the people of Nigeria. President Clinton has taken a good first step by suspending commercial flights to Nigeria and denying entrance to the United States to those people who are suppressing democracy in Nigeria. Up to now, however, these sanctions seem to have had no effect on the behavior of the military regime. I encourage the administration to make further efforts to push Nigeria toward democracy. The United States, along with the rest of the international community must support the prodemocracy movement in Nigeria with the same resolve we showed for the anti-apartheid movement in South Africa.

Support for democracy in South Africa required a unified response that increasingly isolated the South African Government from the rest of the global community. If General Abacha refuses to take any steps toward relinquishing his power, the United States should look at ways to increase diplomatic pressure on Nigeria. The administration should consider the recommendations of groups such as TransAfrica and the Parliamentary Human Rights Group to strengthen sanctions, including, perhaps, a temporary oil embargo on Nigeria. The future of Africa hinges on the development of democracy in countries like Nigeria. It is in our national interest to force Nigeria's military leaders to stop their human rights abuses and begin the transition to a legitimate democratic government.•

ORDER TO PRINT H.R. 956 AND S. 562 AS PASSED

Mr. DOLE. Mr. President I ask unanimous consent that H.R. 956 and S. 562 be printed as passed by the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

MIDDLE EAST PEACE FACILITATION ACT

Mr. DOLE. I ask unanimous consent that the Senate proceed to the immediate consideration of S. 962, a bill introduced earlier today by Senator HELMS.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the bill by title.

A bill (S. 962) to extend authorities under the Middle East Faciltation Act of 1994 until August 15, 1995.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. DOLE. Mr. President, I ask unanimous consent that the bill be considered read the third time, passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be placed at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the bill (S. 962) was considered read the third time, and passed, as follows:

S. 962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORITIES.

Section 583 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103-236) is amended by striking "July 1, 1995" and inserting in lieu thereof "August 15, 1995".

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 141, submitted earlier today by myself and Senator DASCHLE.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the resolution by title.

A resolution (S. Res. 141) to authorize representation by Senate legal counsel.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, the plaintiff in William D. (Bill) Peterson II versus the Honorable Senator ORRIN G. HATCH, a case pending in the U.S. District Court for the District of Utah, contends that his constitutional rights, including his first amendment right to petition the Government, have been violated because Senator HATCH has followed economic policies that differ from those the plaintiff advocates.

Lawsuits alleging that citizens have been aggrieved by Members' failures to act in accordance with the citizens' views have been filed against Members of Congress from time to time. As the Senate has noted previously in response to such lawsuits, every citizen has a constitutionally protected right to petition the Government for the redress of grievances. However, elected officials have the discretion to agree or disagree with communications they receive, and must be allowed to decide how best to respond to the many problems and points of view which are presented to them.

The following resolution would authorize the Senate legal counsel to represent Senator HATCH in this matter.

Mr. President, I ask unanimous consent that the resolution be considered and agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 141) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 141

Whereas, in the case of *William D. (Bill) Peterson II* v. *The Honorable Senator Orrin G. Hatch*, No. 95–C–0352–S, pending in the United States District Court for the District of Utah, the plaintiff has named Senator Orrin G. Hatch as the defendant;

Whereas, pursuant to sections 703(a) and 704(a)(1) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1)(1994), the Senate may direct its counsel to defend Members of the Senate in civil actions relating to their official responsibilities: Now, therefore, be it *Resolved*, That the Senate Legal Counsel is authorized to represent Senator Orrin G. Hatch in the case of *William D. (Bill) Peterson II* v. *The Honorable Senator Orrin G. Hatch*.

ORDERS FOR MONDAY, JUNE 26, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11 a.m., Monday, June 26, 1995; that following the prayer, the Journal of the proceedings be deemed approved to date, that the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until the hour of 12 noon, with Senators permitted to speak therein for up to 5 minutes each, with the exception of Senator HATCH, who will speak for up to 15 minutes; further, that at the hour of 12 p.m., the Senate resume consideration of S. 240, the securities litigation bill, under the provisions of the previous agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. DOLE. Mr. President, for the information of all Senators, we will resume consideration on Monday at 12 noon on S. 240. We have reached agreement earlier today that we will have votes starting at 5:15 p.m. on Monday. There will be three votes, and prior to each vote there will be a brief 2 minute explanation of the pending amendment.

There could be additional votes after we have had a disposition of the amendments that I have referred to earlier today. It could be—though it probably will not happen—that they can complete action on S. 240 on Monday.

ORDER FOR RECESS

Mr. DOLE. I have a number of statements to make and I think also the Senator from South Dakota, the Democratic leader, has a statement to make.

I ask unanimous consent that after our statements, unless there should be further business, the Senate stand in recess.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONGRATULATING SCOTT BATES FOR 25 YEARS OF SENATE SERVICE

Mr. DOLE. Mr. President, I want to take a moment today and call the attention of the Senate to the accomplishments of a good friend of the Senate community and an individual who performs one of the most vital functions in the Senate: The calling aloud and reporting by hand of each Senator's vote.

Mr. President, I know all of my colleagues join me in expressing a hearty congratulations to Scott Bates, the Senate's legislative clerk, on the occasion of his 25th anniversary of work in the Senate.

Scott began his Senate employment 25 years ago today, on June 23, 1970, when he was appointed the assistant bill clerk of the Senate. After growing up in Pine Bluff, AR, and graduating from Hendrix College, Scott came to Washington for what was to be a summer job in the Senate. Twenty-five years later—the longest summer on record—Scott finds himself seated at the rostrum of the Senate attending to the important duties of the legislative clerk.

Scott performed the duties of the assistant bill clerk and bill clerk from 1970 to 1975, when he became an assistant legislative clerk. As the Senate's bill clerk, Scott efficiently executed the important functions of assigning bill numbers to legislation, processing bills for printing, and entering information in the Senate's Legis computer system to indicate the status of bills and amendments. In fact, Scott was instrumental in converting the legislative tracking system from cumbersome index cards to a computerized system.

Due to his exemplary service and performance of duties, he was appointed as the Senate's legislative clerk on January 1, 1993. He continues to serve in this important role today. All of us who serve in the Senate are familiar with the meticulous care with which he manually takes and tallies rollcall votes and quorum calls and reads aloud bills and amendments when so ordered by the Senate's Presiding Officer.

Scott is quite experienced in the taking of rollcall votes, because he started doing so at the young age of 27. Since he probably has taken more votes than anyone in recent memory, it is no surprise that viewers of C–SPAN witness such an expert execution of that particular duty. I know all Senators appreciate his accuracy and professionalism under the frequent conditions of long and intense Senate sessions.

So it is with much gratitude that I congratulate Scott on this 25th anniversary of his Senate employment, and extend best wishes to Scott and his wife, Ricki, and their children Lisa, Lori, and Paul.

GRATITUDE FOR SCOTT BATES' 25 YEARS OF SENATE SERVICE

Mr. DASCHLE. Mr. President, the distinguished majority leader has not only spoken for both of us, but I think for all of us, in expressing our sincere gratitude to Scott.

To look at him, you would think he was five when he started, not 27. He still looks young and full of energy and vibrance. And that is the way he conducts himself each and every day. Many of us who have had the great fortune to work with Scott for a number of years have grown to admire him and his professionalism each and every day when he comes to work. It is not just the days when he has to call out each of our names, but it is the long days when he has to read a bill, page by page by page, that we have a great sympathy for him and for the positions he finds himself in from time to time.

But I know that all of us express today our sincere appreciation and congratulations to Scott. He epitomizes public service. He epitomizes what we hope to be the real model of public life each and every day.

As the distinguished leader said, it is his voice and his persona that people have the opportunity to see and hear each and every time they tune into C–SPAN. Let me also say how grateful we are to his family, because these jobs sometimes take people away from their families more than they should. It is only because we have understanding families, and families willing to support what it is we do here, that we can be here at all.

So to Scott's family, and to Scott personally, we say congratulations and thank you.

Mr. DOLE. I might say, too, that it is particularly hard when Senators mutter and mumble sometimes, and whether they voted "yes" or "no" or "I do not care." But it generally works out alright, because the RECORD is always accurate.

THE WAR ON CRIME

Mr. DOLE. Mr. President, in just over a week, Americans will celebrate Independence Day. But as we pay tribute to our heritage and our freedom; and as we remember what is right with America, we must also rededicate ourselves to fixing what is wrong.

And one thing that is most definitely wrong is that millions of Americans still live in fear of crime. Last fall, Republicans promised Americans that if they gave us a majority in Congress, we would do all in our power to bring an end to crime without punishment.

I have asked Judiciary Committee Chairman ORRIN HATCH to be ready to bring to the floor a crime bill sometime after the Fourth of July recess.

To his credit, President Clinton has spoken frequently and eloquently about the need to combat crime and drugs. But, as an important article in June 19th's Investor's Business Daily makes clear, the President seems to believe that rhetoric—and not resources—will win the fight against crime.

As the article states, President Clinton has repeatedly sought to reduce funding and personnel from the FBI, the DEA, and U.S. attorney's offices.

The effect of this withdrawal of resources can most clearly be seen in the war against drugs.

In 1992, 347 new DEA special agents underwent training. In President Clinton's first year in office, that number fell to zero. And his 1995 budget proposal forecast training no new agents in either 1994 or 1995. Under the President's proposals, total DEA personnel is slated to fall by nearly 800—from 6,149 in 1993 to 5,388 in 1995.

As a result, DEA arrests have decreased dramatically—from more than 7,800 in the last year of the Bush administration, to 5,279 in 1994. In those same years, Federal narcotics prosecutions have fallen by 25 percent.

All this is taking place at a time when surveys show that drug use among adolescents has climbed in the last 2 years.

President Clinton has also spoken eloquently about guns. Yet, as Investor's Business Daily details, the number of Federal prosecutions for firearms-related violations has fallen by 20 percent in the last 2 years.

Mr. President, I believe these numbers are very disturbing, and they will be analyzed more closely during the crime bill debate.

Talking tough is one thing. But getting tough is another. And Senator HATCH and I share a commitment to passing legislation that will give our law enforcement community the resources they need to stop the tidal wave of crime and drugs that has washed over so many of our communities.

Mr. President, I ask unanimous consent that the article by John Barnes in June 19th's Investor's Business Daily be printed in the CONGRESSIONAL RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Investor's Business Daily, June 19, 1995]

CLINTON'S REAL RECORD ON CRIME

(By John A. Barnes)

President Clinton's high-profile demand for an anti-terrorism bill has no doubt beefed up his image as "tough on crime."

Indeed, he has made co-opting the crime issue—traditionally a Republican preserve—a high priority for his administration and his party.

To that end, he pushed hard to pass last year's widely attacked crime bill, which the president bragged would add 100,000 new police officers to the streets. (The law is being rewritten by the new Republican Congress.)

But Clinton's "tough on crime" posturing has not been backed up by money for federal law enforcement since he took office.

In listing his priorities for funding, he repeatedly has sought to withdraw resources from the sharp end of federal law enforcement—the FBI, the DEA, U.S. attorneys' offices—while transferring funds to such areas as antitrust law, child abuse and civil rights.

For instance, 320 new FBI agents were trained in 1992 at the FBI's Academy, the last full year of the Bush administration. But not a single new agent graduated from the academy in 1993.

And Clinton asked for no new funding for new agents in his fiscal 1995 budget either, the first one for which he had a full year to prepare. Congress has approved around 600 new agents for this year.

In that same fiscal 1995 budget, Clinton forecast dropping the number of full-time equivalent FBI positions by 854, from 21,568 in 1993 to 20,714 by 1995, including a reduction of 436 special agents. The 1994 number was 21,034.

The argument could be made, of course, that with the winding down of the Cold War, the FBI no longer needs as many agents to fight domestic spying as it once did. And several hundred agents have been transferred from such work to more conventional law enforcement duties.

One would think that moving agents from espionage work to fighting more conventional street crime, however, would mean an increase in mid-career retraining. But that doesn't appear to be the case.

The number of agents receiving such training at the FBI academy has fallen sharply, from 14,741 in 1992 to 2,677 in 1994. The number of state and local police officers receiving training at the academy has likewise seen a sharp drop, from 7,395 in 1992 to 3,710 in 1994.

The Cold War may be over, but the war on drugs has not let up, and the cuts have been felt just as keenly at the Drug Enforcement Administration as at the FBI.

In 1992, 347 new DEA special agents underwent training. Like the FBI, that number fell to zero in 1993. The Clinton administration's fiscal 1995 budget forecast training no new DEA agents in 1994 or 1995 either.

The number of special agents fell by 123 between 1992 and 1994 and total DEA personnel was slated under the Clinton budget to fall from 6,149 in 1993 to 5,388 in 1995. The number in 1994 was 5,450.

DEA arrests fell from 7,878 in the last full year under Bush to 5,279 in 1994. Drug-related arrests made in cooperation with overseas law enforcement fell from 1,856 in 1992 to 1,522 in 1994.

Clandestine drug labs seized by specially trained DEA teams fell from 335 in 1992 to 272 in 1994.

Laboratory exhibits analyzed by DEA lab technicians in 1994 totaled 37,667, down from 41,225 two years earlier.

Forensic chemists trained by the DEA fell from 20 in 1992 to zero in 1994.

"Diversion" specialists—who investigate the diversion of prescription drugs from the licit to the illicit market—undergoing training fell from 40 in 1992 to none in 1994.

New DEA intelligence specialists, 140 of whom were trained in 1992, dropped to exactly zero in 1994.

The Interagency Organized Crime Drug Enforcement Task Forces have seen their budgets stagnate, meaning they have been reduced in real terms after inflation has been taken into account. Total spending on these task forces was $390.3 million in 1992. That outlay dropped to $387.4 million in 1993 and then to $385.2 million in 1994.

DROPPING PROSECUTIONS

Not surprisingly, given this withdrawal of resources, narcotics prosecutions have fallen 25% in just those two years, from 6,936 to 5,177.

And all this is taking place at a time when the University of Michigan's 1994 High School Drug Survey shows that drug use among adolescents has climbed in the last two years, coming after the end of the Reagan-Bush era's "Just Say No" campaign.

Marijuana use has doubled among eighth-graders, jumped two-thirds among 10th graders and one-third among 12th graders.

The Drug Abuse Warning Network of the National Institutes of Health has reported that emergency room admissions for cocaine-related emergencies rose 8% in 1993 and those for heroin are up 31%.

ANTI-DRUG PROGRAMS

At the same time, the Justice Department's funding for anti-drug-abuse programs has been cut back. From $497.5 million in the last year of the Bush administration, the program was reduced to $474.5 million in 1994.

"There's no question they've de-emphasized drug enforcement," said conservative legal analyst Bruce Fein. "I'm not sure if you could call the change dramatic, but it is noticeable."

Despite all the publicity given the Bureau of Alcohol, Tobacco and Firearms for its ill-fated raids in Waco, Texas, and in Idaho, the number of federal prosecutions for firearms-related violations has also fallen consistently under Clinton. There were 3,917 such prosecutions in 1992, a number that fell to 3,636 in 1993 and then 3,113 in 1994, a 20.5% fall.

At the same time, Clinton has been adding to the number of crimes on the federal statute books. In last year's crime bill, for instance, the following became federal crimes for the first time: murder by a federal prisoner or federal prison escapee; drive-by shootings; murder of a state or local police officer assisting in a federal investigation; use of a weapon of "mass destruction" resulting in death.

But it hasn't been all cutting at the Clinton Justice Department. Some programs have received large increases in funding and clearly have Clinton's approval.

One is the antitrust division, presided over by Ann Bingaman, wife of Sen. Jeff Bingaman, D-N.M.

In the fiscal 1995 budget, the president asked to have its net outlays increased from $40.2 million to $50.8 million, a better than 20% increase. The actual outlays, as is almost always the case, turned out to be less than the requested figure, $47.3 million.

This division's major triumph recently was forcing Microsoft Corp.—one of the country's most successful companies—to give up its effort to merge with Intuit Inc., the leading publisher of personal finance software.

In addition, the unit announced it was looking into Microsoft's planned on-line service for possible antitrust problems.

Appropriations for programs that help victims of child abuse, a particular favorite of Attorney General Janet Reno, more than tripled during the first two years under Clinton, rising from barely $2 million in Bush's last year to $7.5 million in 1994.

Interestingly, missing children—which was the alarm bell issue of a decade ago—is apparently no longer "hot." From just over $10 million in 1993, the budget for this program was cut back to $6.6 million a year later.

Yet the budget for "conflict resolution programs" in the department's Community Relations Service was increased from $9.1 million in 1992 to $9.3 million a year later to $9.6 million in 1994.

The Justice Department is also now responsible for enforcing the Violence Against Women Act, which was a part of the 1994 Clinton crime bill.

The president's speech March 21 at the opening of the department's new office to enforce the act reflects Clinton's view of law enforcement well.

The president reeled off a stream of statistics supposedly showing that crime against women was soaring.

The president claimed that rapes were increasing three times faster than the overall crime rate. "Domestic violence," the president declared, was the "No. 1 health risk" to women between the ages of 15 and 44, "a bigger threat than cancer or car accidents."

But his numbers do not accord with government data or academic research in the area. Sociologists Dwayne Smith and Ellen Kuchta, writing in Social Science Quarterly, concluded there is no evidence that crimes against women are increasing faster than the overall crime rate and that, if anything, the rate seems to have decreased somewhat.

The study that supposedly showed domestic violence to be the "No. 1 threat" to young and middle-aged women was done in a single hospital emergency room in a high-crime neighborhood in inner-city Philadelphia. It counted street crime victims as well as victims of domestic violence.

CIVIL RIGHTS ACTIONS

The civil rights unit of Justice has received a 20% increase in funding under Clinton. Under Deval Patrick, the unit has become one of the busiest and highest profile agencies in government.

Patrick has specialized in using threats of civil rights lawsuits—and attendant bad publicity—to reach "consent decrees" with banks to loan more money to blacks and other minorities. This despite the fact that the proof of intentional discrimination by such institutions is sketchy at best.

The administration has engaged in plenty of other questionable law enforcement.

The Housing and Urban Development Department, for instance, has sought to bulldoze opposition to plans to place criminal halfway houses and drug rehabilitation centers in middleclass neighborhoods by threatening opponents with civil rights violations.

BUDGET RESOLUTION AGREEMENT

Mr. DOLE. Mr. President, I was pleased to join last night with Speaker GINGRICH and the chairmen of the Budget Committees, Senator DOMENICI and Congressman KASICH, in announcing an agreement between the Senate and House on the budget resolution—a monumental budget which will balance our Nation's books for the first time in more than a quarter of a century. As we said last night, this agreement is another historic step in bringing the Federal budget into balance in 7 years by slowing the growth of Government spending, by making Government leaner, more efficient and more cost-effective.

This budget finally turns off the out-of-control big government spending machine, and puts us on a responsible path to prosperity America can rely on well into the next century.

While we ratchet down the deficit to zero by the year 2002, we also provide for $245 billion in long overdue tax relief, putting more money in the pockets of American families and providing incentives for savings, economic growth and job creation. Importantly, this budget takes action to preserve, improve, and protect Medicare, while permitting Medicare and Medicaid spending to increase dramatically in the next 7 years. Furthermore, this budget does not touch Social Security, and it maintains our commitment to national security second to none.

The American people have been drowning in a sea of red ink, and this budget provides the liferaft they have been waiting for. Now, I know our opponents will try to deflate that liferaft with their sharp partisan darts and routine scare tactics, but the American people will not be fooled. They know the status quo is no longer acceptable, and they know leadership means making tough decisions.

Mr. President, this agreement reflects the product of countless hours of hard work, and on the Senate side, that effort has been led by my friend from New Mexico, Senator DOMENICI. The taxpayers of America are fortunate to have Senator DOMENICI on their side. He has done a remarkable job leading this historic effort, and I look forward to continuing to work with him to ensure enactment of the balanced budget. I would also like to commend our Senate Republican conferees for their crucial role in forging this agreement: Senators LOTT, BROWN, GRASSLEY, GORTON, GREGG, and NICKLES.

I think the icing on the cake would be if the President of the United States would announce his public support for a constitutional amendment for a balanced budget.

We are just one vote short in the Senate. I am certain the President of the United States could find that one vote with the six Senators who voted against the balanced budget this year, when they voted for it last year on the Democratic side.

Mr. President, I look forward to bringing this balanced budget conference report to the floor next week. We hope it will be no later than Thursday, but it could be on Friday. By statute, there are 10 hours of debate, and we will complete action on the budget resolution next week.

BAD NEWS FOR BOSNIA

Mr. DOLE. Finally, Mr. President, I have made a number of statements over the past couple of years on Bosnia. I keep thinking maybe someday there will be some good news about Bosnia; that people who do not really focus on it very much—Democrats, Republicans, it is not a partisan issue—maybe there is some good news that people might feel good about if they watch TV or listen to the radio or watch television.

But I am afraid there is more bad news on the Bosnian fronts.

First, word leaked out of a letter from Boutros Boutros-Ghali's Special Envoy, Yasushi Akashi, to Radovan Karadzic, the Bosnian Serbs' militant leader, intended to assure the Bosnian Serbs that despite the deployment of the European Rapid Reaction Force [RRF], the United Nations. would continue business as usual in Bosnia.

I have obtained a copy of that letter. I would note that the letter is addressed to H.E. Dr. Radovan Karadzic—the H.E. stands for His Excellency—a term usually reserved for dignitaries and government officials, not alleged war criminals.

The letter reads, and I quote:

> I wish to assure you that these theatre reserve forces will operate under the existing United Nations peace-keeping rules of engagement and will not in any way change the essential peace-keeping nature of the UNPROFOR mission. While the reserves will enhance UNPROFOR's security, the understanding and cooperation of the parties themselves will be the best guarantor of the force's continued effectiveness as an impartial force. The United Nations, troop contributing states and the Security Council have all recognized that the reserve force cannot and will not be a substitute for a political process aimed at an overall peaceful settlement of the Bosnian conflict.

Once again, Yasushi Akashi did what he does best as the United Nations' appeaser on the front lines: delivers good news to the Serbs, and bad news to the Bosnians.

This morning, we read that the French held secret negotiations with the Serbs—in Pale and in the ethnically cleansed city of Zvornik. Reportedly, the French promised that in return for the release of the U.N. hostages, NATO would not conduct any further airstrikes on Serb positions. A lot of people suspected that and maybe this now makes it a fact.

Mr. President, the message is crystal clear: The United Nations has abandoned its mandate of protecting the so-called safe areas and intends to continue to bend to the will of the Serbs. And, it has done so not in the Security Council through a vote, but in back rooms with Serb militants whom French President Jacques Chirac publicly called "Terrorists."

When President Chirac met with congressional leaders he called for an end to the humiliation of the peacekeepers. In my view, letting war criminals blackmail the leaders of the Western World is humiliating—and an absolute outrage.

This brings us to the matter of the rapid reaction force, which is intended by the British and French to protect the U.N. forces in Bosnia. From these reports it is obvious that the rapid reaction force will not change the way UNPROFOR conducts its business. In other words, UNPROFOR will not do the job it was tasked to do by the Security Council in numerous resolutions—whether or not the rapid reaction force is deployed. In fact, the rapid reaction force appears designed to protect UNPROFOR so that it can continue not doing its job.

And this brings us finally to the question of why the United States should subsidize the rapid reaction force, let alone the entire UNPROFOR operation. We know that the taxpayer's dollars are being dumped in a big black hole because international leaders do not have the courage to do what is right and what is smart—and that is to withdraw the U.N. forces and lift the arms embargo on Bosnia. Can we in good conscience continue to appropriate funds for such a failure?

Well, the administration appears committed to this massive multilateral mess. In today's New York Times, administration officials were cited as considering the use of funds designated for humanitarian aid to pay for a U.S. contribution of about $100 million to the rapid reaction force. While there are budgetary reasons such a shift would be difficult, congressional opposition would likely be strong. The fact that anyone in the administration is thinking along these lines is shocking. People in Sarajevo and elsewhere in Bosnia are hungry—they cannot eat European pride. Furthermore, virtually the only effective United States activity in Bosnia and Herzegovina has been the provision of emergency humanitarian assistance.

Mr. President, the U.N. operation in Bosnia is in a meltdown. Now is the time to cut our losses, not sink more resources into a failed investment.

Mr. President, I ask unanimous consent a letter I referred to be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.N. PEACE FORCES HEADQUARTERS,
Zagreb, June 19, 1995.

DR. RADOVAN KARADZIC,
Special Representative of the Secretary-General for the Former Yugoslavia.

DEAR DR. KARADZIC: I wish to inform you that the Security Council has recently reviewed the latest report of the Secretary-General on the implementation of the mandate of UNPROFOR. On 16 June 1995, it adopted resolution 998 (1995), a copy of which is attached for your information. This resolution covers a number of different issues, including the status of the safe areas, and makes provision for the establishment of a rapid reaction capacity to enable UNPROFOR to carry out its mandate in a secure and safe environment.

Despite the recent intensification in hostilities, the United Nations and troop contributors remain committed to the continued presence of UNPROFOR in order to alleviate the suffering of all the people of Bosnia, and to facilitate the earliest possible end to hostilities through peaceful means. However, risks to UNPROFOR have increased dramatically and there has been a marked lack of respect by all sides with the security, safety and freedom of movement of UNPROFOR personnel. The Security Council has accepted the offer of a number of countries to provide flexible and mobile reserve military reinforcements in order to reduce the vulnerability of UNPROFOR personnel and to enhance the Force's capacity to carry out its humanitarian tasks.

I wish to assure you that these theatre reserve forces will operate under the existing United Nations peace-keeping rules of engagement and will not in any way change the essential peace-keeping nature of the UNPROFOR mission. While the reserve will enhance UNPROFOR's security, the understanding and cooperation of the parties themselves will be the best guarantor of the Force's continued effectiveness in an impartial force. The United Nations, troop contributing states and the Security Council have all recognized that the reserve force cannot and will not be a substitute for a political process aimed at an overall peaceful settlement of the Bosnian conflict.

I would like to emphasize that assistance for the delivery of humanitarian aid, and the protection of civilians from deliberate attacks, continue to be central to UNPROFOR'S mandate. Alleviation of the very serious humanitarian situation created by recent events in Sarajevo and other enclaves will be one of UNPROFOR's primary objectives. In this regard, the Security Council has demanded that all parties respect the status of the safe areas and has underlined the need for their demilitarization by mutual agreement, in order that attacks both into and out of the safe areas cease forthwith. I am confident that urgent action to achieve progress in this direction would be of enormous benefit to all parties. It would go a long way towards realizing an overall stabilization of the current situation.

The Secretary-General has, in his recent report on UNPROFOR, emphasized that the United Nations cannot operate in a political vacuum. In the past few days, leaders of the international community have also repeatedly emphasized that there can be no military solution to the conflict in Bosnia and Herzegovina, and the measures set out in Security Council Resolution 998 (1995) should be seen in this light. In view of the critical situation facing us all, I would urge you to take advantage of the current international climate in order that we may promote initiatives favourable to a dynamic and comprehensive peace settlement.

Yours sincerely,

YASUSHI AKASHI.

SENATE SCHEDULE

Mr. DOLE. Mr. President, there were a couple of reports that the August recess would start on August 4. That has not yet been determined. I saw in a couple of the Hill publications—one called the Hill, and I think the other was Roll Call—that that matter had been settled. We hope it will start as previously scheduled but it depends on what unfinished business there may be. I think August 4 would be the day we hope to start the recess, but it may go into the next week. It could be the 11th or even shortly after the 11th, if we have unfinished business.

We still have some very major pieces of legislation to deal with. One is certainly regulatory reform. We are working, in a bipartisan effort, Republicans and Democrats, to try to come together. If we can do that and complete action on that next week, that will be a big step in the right direction. I have been asked by the Democrat leader to sit down with him next week on that issue.

Also, before the recess, we have agreed to take care of the gift reform legislation and lobbying reform legislation. Again, we are attempting to work in a bipartisan way.

I have asked Senator LOTT to lead a group on our side to meet with a like group on the Democratic side to see if we cannot come to some conclusion for good, sound gift reform and lobbying reform legislation.

Welfare reform is another very important issue that will take some time to dispose of. I think it is fair to say—I can say on the Republican side, we are having problems coming together on some of the issues. That may be true on the other side. But we believe we can resolve any differences, at least on this side. That is a matter we want to do before the August recess.

In addition, there will be a number of appropriations bills that will be ready for action and a number of conference reports that will be ready for action.

Hopefully, in the month of July, we can consider crime legislation. That will depend on whether or not the Judiciary Committee will have the time to report out reform of the present crime statutes. Hopefully, again, that will have bipartisan support.

I am just speaking here from memory. I may have left out some critical pieces of legislation. But the point I want to make is that obviously we want to start the recess as early as we can, hopefully on time. That decision has not been made. I know many of my colleagues have already made commitments in their own States for meetings, meeting with constituents, and I certainly want to honor all those commitments if we can. But the other side of the coin is, if we do not complete it, it means we are going to be here longer this fall. Hopefully, we can arrive at some agreement that will accommodate nearly all the views of Members on each side of the aisle.

RECESS UNTIL 11 A.M., MONDAY, JUNE 26, 1995

The **PRESIDING OFFICER**. Under the previous order, the Senate now stands in recess until 11 a.m. Monday, June 26, 1995.

Thereupon, the Senate, at 3:04 p.m, recessed until Monday, June 26, 1995, at 11 a.m.

SENATE—*Monday, June 26, 1995*

(Legislative day of Monday, June 19, 1995)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, the Divine Sovereign of this land and Lord of our lives, You have told us in the Scriptures that, "Righteousness exalts a nation" (Prov. 14:34) and "when the righteous are in authority, the people rejoice" (Prov. 29:2).

As we begin a new week we reaffirm our commitment to exalt our Nation under You by seeking to be righteous leaders. We know that righteousness is to be right with You. We humbly confess whatever may keep us from being in a right relationship with You, both in our personal lives and in our work. Forgive the idols of our hearts. We also acknowledge that righteousness involves how we treat others. Forgive us when we are insensitive to their needs. How shall we be righteous in our deliberations and decisions without seeking and then doing Your will? Forgive any self-sufficiency that makes it difficult to be accountable to You.

In this bracing moment of a fresh encounter with You, we gratefully accept that it is by faith in You that we are made righteous with You. What You desire most is that we humbly trust You and follow Your guidance in all that we do and say. Lord, bless the women and men of this Senate and empower them to be the righteous leaders America urgently needs in this strategic hour. In Your holy name. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The able majority leader, Mr. DOLE, is recognized.

Mr. DOLE. Thank you, Mr. President.

SCHEDULE

Mr. DOLE. Mr. President, leader time has been reserved, and there will be morning business until 12 noon.

At 12 noon we will resume S. 240, the securities litigation bill. There will be debate throughout the afternoon, and votes start at 5:15 today. The first vote is on a Bryan amendment regarding the statute of limitations; second, a Sarbanes amendment concerning proportionate liability; third, a Boxer amendment, which is relevant. I do not have the details on that amendment.

Further votes are expected throughout the evening. We would like to complete action on this bill today or before noon tomorrow morning.

Mr. President, leader time has been reserved.

MORNING BUSINESS

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. INHOFE). The Senator from North Dakota.

Mr. DORGAN. Mr. President, my understanding is that the Senate is now in morning business. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. DORGAN. Mr. President, I ask unanimous consent to be permitted to speak for 20 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. DORGAN. Mr. President, in recent weeks we in the Senate have been treated to a political pony show on the floor of the Senate by those who seem to think it is their duty to wake up crabby and then share that mood with the rest of us. They come to the floor and parade around in political harness day after day complaining mostly about the President's budget or the lack of it. But more generally, they complain about anything they think they can blame on Democrats—spring rains, high winds, new diseases, cultural disorders.

And we have been patient in recent weeks while watching all of this and have been polite enough not to ask those who come to the floor, "Where is the budget?" that is required to be submitted to the Senate by the majority party. We have not asked that question because we have known where their budget is. It is 71 days late, 71 days beyond when the law requires the Congress to have passed a budget. These folks that had a plan for everything in the first 100 days apparently did not have a plan to meet their responsibility to have a budget by April 15. So it is 71-days later, and we are now told that this Thursday the budget will come to the floor of the Senate.

Where has it been? In conference, we are told. In conference with Democrats? No. Conference committees are usually between two parties. But not this one. This is in conference huddling behind closed doors, hatching new ideas about how to give the wealthy another tax cut and how to have the middle-income taxpayers in this country pay for it. Now they have figured it out, and they are going to unveil it here on the floor of the Senate.

So close your eyes just for a moment while I describe it and ask yourself: Is this not a curtain call to a play you have seen before? It is the let-them-eat-cake budget. They bring to the floor a budget that says let us have tax cuts for the very wealthy, let us have spending cuts for the very poor, and let us spend more money for defense and spend it on things that the Secretary of Defense says we do not need. This budget says we cannot afford star schools, but we must begin immediately building star wars. It says college should be made more expensive for young people and middle-income families and health care should cost more for the elderly and the poor. And all of this when finished, they claim, will produce a balanced budget.

Sound familiar? Well, this kind of budget represents the same old, tired ideas swaddled in designer clothes for the 1990's. America has seen this fashion show once before. It was about $4 trillion ago in debt. This is a budget with phony figures, bogus promises, and twisted priorities. I know they will explain it this week in sweet language and seductive promises. But as they do, remember the words of Emerson who said, "The louder he talked of his honor the faster we counted our spoons."

One hundred years from now historians will look back at 1995 and none of us will be able to explain what we did in 1995 because we will not be here. But they will be able to view a little bit about how we felt, what we felt the priorities were in our country by what we spent the public resources on.

This budget will surely cause future historians to scratch their heads and wonder how a country deep in debt with the wealthy getting wealthier and the poor getting poorer could develop a budget which says that the rich have too little and the poor have too much and the solution is to simply cut our revenue by offering tax cuts to the most affluent and cutting back on our commitment to kids, the veterans, and to the elderly.

There is still time, it seems to me, for all of us, Republicans and Democrats, to have conference committees

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

in which both parties conference and in which we establish real priorities that make sense for our country, that invest in our future, and that fight for the economic interests of the job creators and the workers in our country. We can do that. But it will not happen with the priorities established in the budget we are about to debate this week. This does not represent, sadly enough, a new direction. It is tired, failed old political dogma long since discredited. And we will have a lot of debate about this budget.

U.S. TRADE POLICY

But let me go beyond the budget to the source of our Federal budget. Even more important than the way we spend our public resources is the kind of economy America has with which to produce these public resources. What kind of a private sector, what kind of initiatives that create jobs and opportunities and economic growth in our country, can produce a country that advances our Nation and its people?

During the 50 years since World War II we have seen it in two distinct economic stories in America. The first 25 years after the Second World War we saw a country in which opportunities were abundant in America for working families. America saw its working families' incomes grow, real growth; opportunities expand, real opportunities.

So for 25 years people in this country received the fruit of an economy that worked and expanded. In the second 25 years we have seen a different kind of story. We have struggled as international competition has become tough and sharper.

We have seen in the last 20 years that the American families now have less income than they had 20 years ago, if you adjust for inflation. They have fewer opportunities than they had before.

Why is all of that happening? Because there is another deficit no one is talking about: the trade deficit. This nation has a record trade deficit; last year it was the highest deficit in human history.

What does that mean? It means American jobs going overseas, opportunity leaving our country. Frankly, there have not been more than two or three of us in this Chamber regularly talking about this trade deficit which shrinks opportunity in America.

You can make the case—not necessarily accurately—that a budget deficit is simply money we owe to ourselves, but you cannot make the same case on the trade deficit because the trade deficit must be repaid with a lower standard of living in our country.

It is interesting that today, on Monday, the stock market is at record highs, corporate profits at record levels, and last week the U.S. Department of Labor reported that real hourly wages dropped by 3 percent in 1994. A record decline in hourly compensation in this Nation.

Is it not interesting, the disconnection here?

They are having a high old time on Wall Street; corporate profits are doing fine. There is happiness in the boardroom. But what about around the dinner table with the American family whose real wages are decreasing? And the question today is: Why? What causes that disconnection?

I would like to go through a few charts that show what is happening in this country. First of all, our trade policy is a trade policy that injures our country from within and ships American jobs overseas.

I am not someone who believes we ought to erect walls around our country, but I do believe we ought to protect our economic base with good jobs, with good income, and expanded opportunities abroad.

Here are the trade deficits. All you have to do is look at the red lines, our trade losses, and these lines represent jobs. You will see where we are headed—the largest trade deficit in human history last year in this country.

Who are these deficits with? Well, I brought a chart to show what is happening with bilateral trade balances.

Everything on this side of the chart is a deficit, and we have a few surpluses with very small trading partners. Japan: big deficit; China: big deficit; Canada: big deficit; Germany, Taiwan, Italy, Venezuela. Over a $160 billion merchandise trade deficit last year.

Who do we have a surplus with? Well, the Netherlands, Argentina, Belgium—all very small surpluses. But the fact is we are being buffeted by very large trade deficits. In fact, these are last year's numbers. The first quarter of this year showed an all-time record high trade deficit—$45 billion in the first quarter.

Now, it is not an accident that these trade deficits are exploding. Our manufacturing and other productive sectors are withering. Good jobs are being replaced. Americans are working for less.

Why is that happening? It is happening because more and more corporations, the artificial persons we recognize in law, are interested in international, global profits, not American profits.

How do you do that? You simply find a foreign location where it is cheap to produce and send your products here. Produce your shoes in Indonesia and sell them in Pittsburgh. Produce your shirts in China and sell them in Bismarck.

That is the disconnection that is happening in this country, a wholesale movement of American jobs overseas to produce where it is dirt cheap, produce where you can hire 12-year-old kids to work for 12 cents an hour for 12 hours a day and then ship your product back into our marketplace, back into America.

I ask you, is that fair competition for an American business to have to compete with? The answer is no. Is that fair competition for any American worker to have to compete with? The answer is no.

We fought for 50 years in this country for higher standards, saying you ought to have to pay a living wage; you ought to have a safe workplace for your workers; you ought not to dump pollution into the air and chemicals into the water.

Those are battles we have had, and we have put them behind us in our country. We have a minimum wage; we have a safe workplace; we have OSHA; we have pollution laws; and, yes, they are a nuisance, but the fact is we now have cleaner air and cleaner water than 20 years ago. Why? Because we succeeded.

However, those who control our economic output, the agents of production, all too often say, well, that is fine, but if that is the way you want to be, if you want to force us to pay living wages to people, if you want to force us not to degrade the environment, if you want to force us to have safe workplaces, then we will go elsewhere where we are not encumbered, where we are not a nuisance. And the plant leaves America and a job goes somewhere else and an American family is out of work. But the plant produces a product that then comes back to America and undercuts the manufacturer who stayed here, undercuts the worker who toils here. And that is the dilemma.

Let me turn to China. I wish to talk about a couple of countries and just take a look at what is happening with our trade with these countries.

China: In 1987, we had a surplus with China; this year, a $30 billion deficit with China. This country has to say to China: We are sorry; you are friends of ours. We like you to be a trading partner, but we are tired of being a cash cow for hard currency for China. If you want to ship all your goods to America, then start buying more from America.

Do you know that when you send wheat to China, we have to subsidize it below the cost of production to get the Chinese to buy it? That is an example of the absurd trade policy in this country. So American jobs are now in China. The agents of production believe they can produce cheaper in China and sell it back in New York and Cincinnati. And maybe they can. But is that fair trade? Is that what we ought to subject the American worker and the American business to in the name of competition? It is not fair where I come from.

Mexico. Well, we just had a Mexican trade agreement called NAFTA. In 1992, we had a big trade surplus with Mexico. This year, we are going to have a big deficit, more than $15 billion. The same is true with Canada. It seems to me that we ought to be able to win a trade agreement now and then. For the last 20 years have we sent our folks out to negotiate trade agreements, and we have lost.

Japan: a $65 billion trade deficit. Now, the President, to his credit, for the first time in a long time, has stood up and said to the Japanese: We are sorry, but we are going to insist you open your markets and if you do not there will be consequences.

I mentioned NAFTA. When we debated NAFTA here in Congress, the prophets of nirvana said if we just pass this NAFTA with Mexico, we will have all these new jobs in America. They predicted 170,000 new jobs in America, and some predicted many, many more. Guess what? This year, our trade deficit with Mexico means we will lose 200,000 jobs overall.

The surge of wholesale imports from Mexico this year results in part because of the devaluation of the peso, but also because the trade agreement with Mexico was negotiated in a way that was, in my judgment, just fundamentally incompetent. It did not serve America's economic interests.

You can see our actual experience with NAFTA on this chart. Here you can see the rapidly growing trade deficits in the same high-skilled manufacturing sectors where we were supposed to see more U.S. exports and more jobs. The charts show just the opposite has happened since NAFTA in our trade with Mexico in scientific instruments, electric equipment, autos, and auto parts.

This is not as was advertised. NAFTA was advertised as a plus for high-skill jobs in this country. They are still low-wage jobs in Mexico, but they are sending to us electronics, electronics parts, autos, auto parts. These used to be the good jobs in our country.

So we see the promises from all of these trade agreements. We see the promises about China, the promises about Japan. We see the promises with NAFTA, the promises with GATT, and they do not work.

Every single year, we go deeper in debt on trade. And what does that mean? It means fewer jobs with less income here in this country. The question is, what are we going to do about it? When are we going to decide in this country that we are going to stand up for our economic interests? This issue is not about the profits of international corporations who produce anywhere in the world and ship their products here. This issue is about American jobs. The American economic engine runs with good jobs that pay good income. As a country we cannot advance by seeing corporate profits reach record highs but, at the same time, see the earnings and benefits of American families cut back. Last week I saw a memo from one of this country's larger financial institutions, also involved in international competition. That company decided to get rid of 80 percent of its clerical workers and then contract out to workers who will not receive benefits. If you can hire people without benefits, you can save a lot of money.

Well, that is fine, but it seems to me that is a giant retreat from what we ought to be doing in this country. This country is not just about profit. It is also about advancing the standard of living of the American people.

I am a big fan of the private sector, the private market, the free market. I am a big fan of those who create jobs and opportunity in this country. I am a big fan of those who want to wean themselves from post-Second World War trade policies, that were largely foreign aid, and decide that we are going to insist, with every trading partner in this world—hold up a mirror—"treat us well because we are going to treat you like you treat us."

We, Uncle Sam, the United States of America, demand fair trade. We demand fairness for our workers. We demand fairness for our businesses. We are sick and tired of being pushed around, sick and tired of one-way free trade, sick and tired of American jobs moved overseas so the products of those jobs can be shipped back to us to be viewed on the market shelf by someone who is unemployed. That is not what I view to be an adequate future for our country.

What can we do about all this? We can finally begin to decide that the trade policy we followed after World War II does not work any longer. There is nothing at all wrong with standing up for American economic interests. It is not inconsistent with fostering free trade or expanded trade to stand up for economic interests in our country. We should and we must decide as Americans when we expand trade agreements, when we expand trade opportunities, to insist with others in our world who are our competitors, and are skilled, true competitors, that they treat us fairly.

We were perfectly able, in the first 25 years after the Second World War, to extend a hand of foreign aid and trade policy to Western Europe and the Pacific rim. When I walked to school in a town of 300 people I knew every single day—because it was evident all around me—that the United States was the biggest, the best, the most, and we won in international competition just by waking up in the morning.

But it has changed. The Japanese are tough. The Germans are shrewd. They are good competitors. China is able to produce some things at much less cost than we do. So the question is, are we going to recognize that change and develop public policies that protect the economic interests of our country, or are we going to be willing to continue to be washed away in a sea of red trade ink that compromises American jobs and compromises American income?

I indicated some weeks ago that I was going to give a series of four or five discussions on the floor of the Senate on the subject of trade, where we are and where we ought to be heading. This is the second time I have come to the floor to discuss this.

You see what is happening in our country with respect to income in the past half century. In the first 25 years, every portion of the income group—the green bars on the chart—experienced significant real income gains; in the past 25 years, losses in real income for the bottom 60 percent.

It does not take, it seems to me, someone to be out in the work force losing their job to understand this. The evidence is clear. It ought to be clear to everybody. We now see a circumstance where the American families have to increase the number of people in the households working in order to add income. The chart shows that families reached higher income not by individuals earning more, but by putting more family members into the work force. That is the only way they can add any income, because the income per capita per worker is declining in our country.

And one last chart. This shows more graphically than any what has happened with respect to real income in our country, real hourly compensation. Income during the first 25 years after World War II, the green line, goes steadily up, and in the second 25 years, the red line, real income is down.

If we do not wake up in this country and decide to do something about this, this country's economy is not going to be the economic engine that produces the resources to even allow us to debate priorities in a budget.

Budget represents the priorities of public resources. Adequate public resources must come from a healthy, growing, vibrant economy, and it darn sure is not growing much when you have trade policies that move America's strength overseas.

I will return to the floor with other presentations on trade, along with proposed solutions. I appreciate your indulgence.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

Mr. THURMOND. Mr. President, I ask unanimous consent to speak for 3½ minutes as in the morning hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO GEN. CARL MUNDY, COMMANDANT OF THE U.S. MARINE CORPS

Mr. THURMOND. Mr. President, I rise today to recognize one of this country's most distinguished military leaders, Gen. Carl E. Mundy, 30th Commandant of the U.S. Marine Corps.

General Mundy is retiring after 38 distinguished years of service to our country during which he has served this Nation honorably in a number of very important posts. Among these are the commanding general of the Fleet Marine Force Atlantic, the II Marine Expeditionary Force, and the Allied Command Atlantic Marine Striking Force. General Mundy has received numerous decorations for his service including the Legion of Merit, the Bronze Star, and the Purple Heart which he received while serving in the jungles of Vietnam.

Mr. President, General Mundy is a leader, visionary, and a warrior. As he completes his watch, he leaves behind a Corps of Marines that is ready to respond instantly to the Nation's "911" calls, relevant to meet the defense needs of the Nation into the next century, and capable of meeting the requirements of today's national military strategy.

As Commandant of the Marine Corps, General Mundy has been a central figure in shaping the post-cold-war military. He has acted as a principal author on a number of key Department of Defense white papers. Among these papers, "From the Sea" and "Forward . . . From the Sea," have been instrumental in outlining the future role of naval and marine forces. He has been a tireless spokesman for the Department of Defense and has traveled extensively throughout the country to speak to citizens on key issues related to national security.

Mr. President, it is with deep regret that I wish General Mundy and his wife, Linda, farewell. He has always provided us the benefits of his great wisdom. He has continuously lived up to the Marine Corps motto: Semper Fidelis.

Mr. President, General Mundy is truly one of the few, one of the proud. He is, and always will be, a U.S. marine. Our Nation is proud of him, and we wish him well in the future.

I yield the floor. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 50TH ANNIVERSARY OF THE U.N. CHARTER

Mrs. KASSEBAUM. Mr. President, 50 years ago today, the victorious nations of World War II gathered in San Francisco to sign the charter that created the new United Nations. It was a time of enormous hope and promise, and the world's expectations ran high. No country had more influence in shaping that international organization than the United States. From the details in the charter to the name of the new organization itself, American leadership—then at its strongest on the heels of victory in the war—was everywhere in evidence. Just as American hesitation doomed the League of Nations a quarter-century earlier, so American leadership in 1945 gave the world the United Nations.

I would like, Mr. President, today to express a strong belief that America must again lead in the significant reforms that are now necessary to save this valuable organization for generations to come.

There is much criticism of the United Nations, and much of that is well-deserved. The Secretariat has ballooned into a collection of bloated, often ill-operated bureaucracies. The structure of the Security Council reflects a bygone era. The Trusteeship Council has outlived its usefulness.

There is mismanagement, waste, and general lack of accountability. Too often, there is no focus and no real sense of priorities.

But there also is much muddled thinking in America's approach to the United Nations. In much of the country—including Washington—there is much misunderstanding and confusion about the organization's purposes and structures. The standards by which we judge its success or failure have become unrealistic. And there are some who would take us again down the failed path of the League of Nations and sacrifice a valuable international organization for domestic political gain. I believe we must fix the United Nations, and only the United States can provide the leadership to get the job done. There are several reforms that I think we can achieve without amending the charter.

First, we should lead those reforms that can be accomplished without amending the charter. I have joined with Congressman LEE HAMILTON, the ranking member of the International Relations Committee in the House of Representatives, in putting forward some thoughts on reforms that can be accomplished without opening the Pandora's box of amending the charter. Let me summarize some of the suggestions:

First, focus on the core agencies. The United Nations today has more than 70 agencies under its umbrella. We would finance only a handful of agencies that serve core purposes of the organization, for instance the International Atomic Energy Agency [IAEA], the World Health Organization, and the High Commission on Refugees. Other agencies should be abolished, merged, or financed at the discretion of one or more of the core agencies.

Second, peacekeeping. This is a difficult one, Mr. President. In the heady days of the cold war, and after the cold war, expectations for peacekeeping grew far out of control. But the truth is that peacekeeping has inherent limits, and many of the failed hybrid operations we have undertaken—such as nation building in Somalia—which probably ultimately turned out to be better than was assumed at the time that the forces were withdrawn, and peace enforcement in Bosnia—which has ignored those limits. Future peacekeeping should be limited to classic operations.

Third, conferences. Conferences have come to dominate far too much of the United Nations time, resources, and attention. The United Nations should get out of the conference business and focus itself on more meaningful activities. Otherwise, we run the risk of just being a traveling road show from summit to summit.

Last, accountability. Today, the United Nations is accountable to no one. We should significantly strengthen the Office of the Inspector General and give it some real teeth. The member states should also reform the process by which they select the Secretary-General, to ensure that his or her accountability and selection is primarily one of skills and ability to administer the Organization.

I think this is enormously important and probably very difficult to achieve. It is one of the more sensitive areas to deal with, and yet it is the key to making much of it work as it should.

I think we should take the lead in reforms that would require amending the charter. I, for one, believe membership in the Security Council should be reformed to better reflect the realities of contemporary international politics.

Nations such as Japan and Germany, which pay large portions of the U.N.'s bills and are powerful international players, should have permanent seats on the Council; and, of course, the Charter's reference to them as enemy states should be struck. The number of nonpermanent members should be expanded to better accommodate major regional powers.

We should also eliminate the Trusteeship Council established to handle the problems of decolonization. It has outlived its purpose. Rather than search for a new purpose for this Council, we should ask whether it should exist at all.

Mr. President, the other major area for reform is in our thinking about what the United Nations is and what its role should be in American foreign policy. We cannot expect the United Nations to be clearer in purpose than is its most powerful member state.

At its core, the United Nations is a collection of sovereign states and is beholden to them for guidance, funding, and, ultimately, legitimacy. The political decisions that drive the Organization and define its proper role in international politics must be made in national capitals, not in New York.

I have grown increasingly concerned about the tendency toward a fuzzy multilateralism that has come to mark U.N. policy toward the United Nations. We have shown a penchant for dumping difficult problems in the lap of the United Nations and then complaining when no solution is forthcoming. The tragedy in former Yugoslavia may be the most dramatic current example of this phenomena. The truth is, we cannot so easily wash our hands of difficult decisions.

The United Nations is not a substitute for American leadership in international affairs. Rather, it is one avenue available to exercise that leadership.

I believe we must own up to the truth about our role in the United Nations. The United Nations has many failures, but we fool ourselves if we merely point fingers at New York and blame the United Nations for its shortcomings. The United States is first among equals in the U.N. system. The failures of the United Nations are, in reality, our own.

We would do well to reflect honestly on that unavoidable truth. On this golden anniversary, we must decide whether we will continue to muddle along, or whether the United States once again will assume its unique mantle of leadership at the United Nations. I, for one, believe we must lead.

CONGRATULATING THE SOUTH AFRICAN RUGBY TEAM

Mrs. KASSEBAUM. Mr. President, on Saturday South Africa defeated heavily favored New Zealand in the world rugby championship. I rise today to congratulate the South African rugby team, as well as the people of South Africa, on this historic victory.

For years, because of its apartheid policies, South Africa has stood on the outside of international sports competitions. From the Olympics to the World Cup, South Africa—a country of intense sports fans—had become isolated and banned from many competitions. And more than most other sports, rugby had become closely associated with the former white government and its apartheid policies.

After this history, the image of President Nelson Mandela—a man imprisoned for 27 years in his fight against apartheid—handing the World Cup trophy to the white captain of the rugby team is indeed a powerful symbol of the dramatic changes in South Africa. Throughout the country, whites and blacks alike celebrated the victory of the Springboks, the mascot of the national team.

Mr. President, I join with the international community in congratulating the people of South Africa on winning the rugby World Cup. It has been a dramatic and historic time in South Africa. This victory, bringing together all South Africans, exemplifies the progress to date and the hope for the future of a great country.

CYBERPORN

Mr. GRASSLEY. Mr. President, there is an article from Time magazine and an article from the Spectator magazine that I ask unanimous consent to have printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRASSLEY. Mr. President, this morning I want to speak on a topic that has received a lot of attention around here lately. My topic is cyberporn, and that is, computerized pornography. I have introduced S. 892, entitled the Protection of Children from Computer Pornography Act of 1995.

This legislation is narrowly drawn. It is meant to help protect children from sexual predators and exposure to graphic pornography.

Mr. President, Georgetown University Law School has released a remarkable study conducted by researchers at Carnegie Mellon University. This study raises important questions about the availability and the nature of cyberporn. It is this article I ask to have printed in the RECORD.

Later on, on this subject, some time during the middle of July, I will be conducting hearings before the full Judiciary Committee to fully and completely explore these issues. In the meantime, I want to refer to the Carnegie Mellon study, and I want to emphasize that this is Carnegie Mellon University. This is not a study done by some religious organization analyzing pornography that might be on computer networks.

The university surveyed 900,000 computer images. Of these 900,000 images, 83.5 percent of all computerized photographs available on the Internet are pornographic. Mr. President, I want to repeat that: 83.5 percent of the 900,000 images reviewed—these are all on the Internet—are pornographic, according to the Carnegie Mellon study.

Now, of course, that does not mean that all of these images are illegal under the Constitution. But with so many graphic images available on computer networks, I believe Congress must act and do so in a constitutional manner to help parents who are under assault in this day and age. There is a flood of vile pornography, and we must act to stem this growing tide, because, in the words of Judge Robert Bork, it incites perverted minds. I refer to Judge Bork from the Spectator article that I have permission to insert in the RECORD.

My bill, again, is S. 892, and provides just this sort of constitutional, narrowly focused assistance in protecting children, while also protecting the rights of consenting adults to transmit and receive protected pornographic material—protected, that is, under the first amendment.

Also, according to the Carnegie Mellon University study, cyberporn is really big business. Some computer networks which specialize in computer pornography take in excess of $1 million per year.

Later this week, I am going to introduce the Antielectronic Racketeering Act of 1995 which will target organized crime which has begun to use the awesome powers of computers to engage in criminal activity.

As we all know from past debates in this body, organized crime is heavily involved in trafficking illegal pornography. The Antielectronic Racketeering Act will put a dent into that.

In closing, Mr. President, I urge my colleagues to give this study by Carnegie Mellon University serious consideration, and I urge my colleagues to support S. 892. I yield the floor.

EXHIBIT 1

[From the Spectator, Feb. 4, 1995]

AN ELECTRONIC SINK OF DEPRAVITY

NEW YORK.—If last year it was merely modish to be seen speeding down the information superhighway, this year it is fast becoming essential, at least in America. Hitch your wagon to cyberspace, says the new Speaker of the House, Mr. Newt Gingrich, and your democracy will become absolute, with all America joined together for the first time into one vast and egalitarian town meeting.

Mr. Gingrich made this all clear two weeks ago when he unveiled a new system for bringing Congress to the electronically connected populace, which in honour of President Jefferson is called "Thomas". Anyone with a computer and a modem at home or in the office (or even up in the skies, courtesy of USAir's new back-of-the-seat telescreens) may now, with only the click of a few buttons, find the text of any bill, any resolution, any government statement.

Mr. Gingrich is hugely excited by this idea—going so far as to suggest, and not at all facetiously, that perhaps every citizen be given a thousand-dollar tax deduction to allow him to buy himself a laptop computer. Thus will all America be conjoined, he argues, and thus will its democracy be ever strengthened as in no other country on earth.

Fine, say I, and not just because I will become richer by $1,000. For the last three years or so I have been a dedicated and enthusiastic user of the Internet. (The Internet—"the net" to those in the know—began innocently enough 20 years ago as a vast worldwide network of computers, linked together by government-funded telephone lines, with high-powered government-funded "exchanges" to speed calls on their way, which enabled universities and governments to swap information. Five years or so ago, its controllers opted to make it more democratic, and now anyone is able to connect to it; tens of thousands of new subscribers join every day, and the net is becoming truly global, with at least 20 million regular users.)

I am a typical enough user. I send electronic mail—e-mail—to everyone who is similarly hooked up (it is lightning fast and essentially free); and I browse through the world's libraries and data-bases to do research for whatever book I happen to be writing. I bask happily in the Panglossian principle that the Internet seems to enshrine. By virtue of the net, I have complete freedom to explore and trawl for anything I want in what has become by custom an untrammelled, uncontrolled, wholly liberated ocean of information. The Internet seems and sounds to be something almost noble. One can understand why the US Congress named its own portion of the net after Jefferson: all knowledge there is is on hand for all the people—just the kind of thing the great man would have liked.

But this week, while I was peering into an area of the Internet where I have hitherto not lingered, I discovered something so appalling as to put all such high-minded sentiments into a quite different perspective.

I had stumbled, not entirely accidentally, into a sinkhole of electronic but very real perversion. The first thing I read, almost as soon as I entered it, was a lengthy, very graphic and in stylistic terms quite competently composed narrative that presented in all its essentials the story of a kidnapping, and the subsequent rape, torture, mutilation and eventual murder of the two victims. That author called himself by a codename, Blackwind; and while it is quite likely that he is American, almost as certain that he is well-educated and quite possible that he is at least a peripheral member of the academic community, we know, and are allowed to know, nothing else about him.

His anonymity is faultlessly safeguarded by a system of electronics which has been built into the Internet, and which even the police and the other agents of the state are unable, technically or in law, to penetrate. This is, from their point of view, highly regrettable. Blackwind's offerings—and the very similar stories currently being published on the Internet by scores of men who are in all likelihood as deranged as he seems to be—should be subject to some kind of legal sanction, and for one very understandable reason: the victims of the story he has written are small children.

One is a six-year old boy named Christopher, who, among other indignities, suffers a castration—reported in loving detail—before being shot. The other is a girl named Karen, who is seven years old and is raped repeatedly by no fewer than nine men, before having her nipples cut off and her throat slashed.

At the moment of my writing this, I find that there are perhaps 200 similar stories presently circulating and available on one of the so-called "newsgroups" on the Internet. The choice of tales is endlessly expanded and refreshed by new and ever more exotic stories that emerge into this particular niche in the other every day, almost every hour. You want tales of fathers sodomizing their three-year-old daughters, or of mothers performing fellatio on their prepubescent sons, or of girls coupling with horses, or of the giving of enemas to child virgins? Then you need do no more than visit the newsgroup that is named "alt.sex.stories" and all will reliably be there, 24 hours a day, for everyone with a computer and a telephone, anywhere on (or above) the face of the earth.

There are about 5,000 separate newsgroups on the net, each one of them presenting chatter about some scintilla of human knowledge or endeavour. I have long liked the system, and found it an agreeable way to discover people around the world who have similar interests. I used to tell others who were not yet signed up to the net that using newsgroups was like going into a hugely crowded pub, finding in milliseconds those who wanted to talk about what you wanted to know, having a quick drink with them before leaving, without once having encountered a bore.

And so, with an alphabetical list running from 'ab.fen'—which shows you how much fun you can have in Alberta—down to something in German called 'zer.zmetz.Wissenschaft.physlk', the enthusiasms of the world's Internet-connected population are distilled into their electronic segments. Alberta-philes can chat with each other, as can German physicists, and those who would bore these are left to chat among themselves. In theory, an admirable arrangement.

By Jeffersonian rights it should be uplifting to the spirit. In reality it is rather less so. In far too many groups the level of discussion is execrable and juvenile. Arguments break out, insults are exchanged, the chatter drifts aimlessly in and out of relevance. This is a reality of the electronic world that few like to admit. It is prompting many browsers to suspect, as I do, that a dismayingly large number of users of this system are not at all the kind of sturdy champions of freedom and democracy and intellect that Mr. Gingrich and Mr. Gore would like them to be.

More probably, to judge from the tone and the language in many of the groups, they are pasty-faced and dysfunctional men with halitosis who inhabit damp basements. And it is for them, in large measure, that the newsgroups whose titles begin with the code-letters 'alt.sex' seem to exist.

There are 55 of these, offering manna for all diets. Some are fairly light-hearted; 'alt.sex.anal', for example contains much spirited chat about amusing uses to which you can put the colonic gateway; 'alt.sex.voyeurism' seems to contain reasonably harmless chatter between a whole worldful of civic-minded Peeping Toms, who like to advise one another which public loos in which national parks have eye-sized knotholes in their doors. There is also 'alt.sex.nasal.hair', into which I have not thus far been tempted.

There are a number of the groups, though, which are not so amusing. There is 'alt.sex.intergen', where the last letters stand for 'intergenerational', which is the current paedophile bulletin-board; and there is my current target, 'alt.sex.stories'. I came across it by accident, and I double-clicked my mouse to open it, briefly enthralled. It did not take many seconds before I realized I had been ill-prepared for what was on offer.

There is a kind of classification system. Each story entry lists a title, an author (invariably either a pseudonym, or posted via an anonymous computer that has laundered the words and made the detection of the author impossible), and a series of code-words and symbols that indicate the approximate content.

Blackwind's many offerings—there were about 200 stories in all, with Blackwind contributing perhaps 15 of them—usually fell into the categories that are denoted by the codes 'm-f, f-f, scat.pedo.snuff', meaning that they contain scenes of male-female sex, female-female sex, scatological imagery, paedophiliac description and the eventual killing of the central victim. You quickly get, I think, the drift. Others are more horrifying still—those that end with the invariable 'snuff' scene, but whose enticements on the way include 'best', 'torture', 'gore' or 'amputees', and which refer to sex with animals, bloodlettings, sadistic injury, and the limitless erotic joy of stumps.

It is important to note that no one polices or, to use the Internet word, 'moderates', this group. (Some of the more obscure and non-sexual newsgroups do have a volunteer, usually a specialist in the field, who tries to keep order in what might, if unchecked, become an unruly discussion.) On 'alt.sex.stories' there is only one man, a Mr. Joshua Laff of the University of Illinois at Urbana, who oversees the group, in a somewhat lethargic way. He helpfully suggests the code-words for the various kinds of perverse interests. He indicates to people who want to talk about sex stories, rather than actually contributing them, that they would be better advised to post their gripes on 'alt.sex.stories.discussion', next door, and so on.

But Mr. Laff has no admitted scruples about what is permitted to go out over the air. So far as he is concerned, the First Amendment to the Constitution protects all that is said on 'alt.sex.stories' as free speech. What is demonstrated on these thousands of electronic pages is a living exhibition of the birthright of all who are fortunate enough to be born in the land that has given us the National Rifle Association, the Reverend Jimmy Swaggart, and Blackwind.

In truth, Mr. Laff and those who support the published existence of such writings are technically right. No obscene pictures are published—these could be banned in law. No obscene truths are proffered, so far as we know—no confessions of real rapes, nor of actual acts of pedorasty. And since all the stories are prefaced with warnings that those under 18, or those of sensitive disposition, should read no further—devices that presumably attract precisely those they purport to deter—so, the authors seem to agree, their ramblings do no harm at all.

Most individual States legislate firmly or less so against printed pornography: but so far no one has successfully prosecuted the Internet—not least for the reason that with so amorphous, so global and so informal a linking of computers, who out there can be held responsible? People like Blackwind simply open accounts at what are known as 'anonymous posting systems', and their words become filtered through two or three computers in such a way that the original source can never be known, and the perpetrator of any possible crime becomes impossible to find. And, anyway, those who endlessly cry First Amendment! Here we want to say that the publishing of more words, even those from so clearly depraved an individual as Blackwind, can do no harm at all.

Commonsense would argue otherwise. A long and graphic account of exactly how and at what hour you wait outside a girls' school, how best to bundle a seven-year-old into your van, whether to tell her at the start of her ordeal that she is going to be killed at the end of it (Blackwind's favoured *modus operandi*), how best to tie her down, which aperture to approach first, and with what—such things can only tempt those who verge on such acts to take a greater interest in them.

Surely such essays tell the thinker of forbidden thoughts that there exists somewhere out there a like-minded group of men for whom such things are really not so bad, the enjoyment of which, if no one is so ill-starred as to get caught, can be limitless. Surely it is naive folly—or, at the other end of the spectrum, gross irresponsibility—to suppose otherwise.

Such material is not, I am happy to say, universally available. Some of the big corporations which offer public access to the Internet—America On-Line, CompuServe, Prodigy, Mr. Murdoch's Delphi—have systems in place that filter out the more objectionable newsgroups. On America On-Line you may read the ramblings on 'alt.sex.voyeurism' and probably even 'alt.sex.nasal.hair', but you may read no 'alt.sex.stories', nor may you learn techniques for having real relationships, as paedophiles like to say they have, with young children.

But for those with the wherewithal to find more robust and uncontrolled access to cyberspace—and that means, quite frankly, most of the world's computer users, be they 90 years old or nine—all newsgroups are equally available, the evil along with the excellent. The question we have to ask is whether that should continue to be the case.

One might not mind so much if the material were being confined to the United States, where most of it originates. But in fact it manages to seep its electronic way everywhere, from Wiltshire to Waziristan. And crucially, no mechanism is yet in place allowing foreigners—whose laws might well be far less tolerantly disposed to it—to filter it out.

A computer owner in Islington or Islamabad can have easy and inexpensive access to material over the net which would be illegal for him or her to read or buy on any British or Pakistani street. In China, pornographers would be imprisoned for publishing material that any Peking University students can read at the click of a mouse; and the same is true in scores of other countries and societies. The Internet, we smugly say, has become a means of circumventing the restrictive codes of tyrannics. But the reverse of this coin is less attractive; it also allows an almost exclusively American contagion to ooze outwards, unstoppable, like an oil spill, contaminating everyone and everything in its path.

We cannot, of course, prevent: such things being thought. We may not prevent them being written for self-gratification alone. But, surely, science and the public can somehow conspire and co-operate to see that such writings as are represented by 'scat.pedo.torture.snuff' and the like are neither published nor read, and that they do not in consequence have the opportunity to spread outwards as an electronic contagion from the minds of those who, like Blackwind, first create them.

The Jeffersonian model for universal freedom which Mr. Gingrich so rightly applauds could not take into account the barbarisms of the modern mind. Nor could it imagine the genius by which such barbarisms can be disseminated as they are today, in seconds, to the remotest and still most innocent corners of the world. Someone, perhaps even the Speaker of the House of Representatives, is going to have to consider soon the implications, for ill as well as good, of our venture out onto the information superhighway, or else there are going to be some very messy electronic traffic accidents.

[From Time Magazine, June 1995]

CYBERPORN—ON A SCREEN NEAR YOU

(By Philip Elmer-Dewitt)

It's popular, pervasive and surprisingly perverse, according to the first survey of online erotica. And there's no easy way to stamp it out.

Sex is everywhere these days—in books, magazines, films, television, music videos and bus-stop perfume ads. It is printed on dial-a-porn business cards and slipped under windshield wipers. It is acted out by balloon-breasted models and actors with unflagging erections, then rented for $4 a night at the corner video store. Most Americans have become so inured to the open display of eroticism—and the arguments for why it enjoys special status under the First Amendment—that they hardly notice it's there.

Something about the combination of sex and computers, however, seems to make otherwise worldly-wise adults a little crazy. How else to explain the uproar surrounding the discovery by a U.S. Senator—Nebraska Democrat James Exon—that pornographic pictures can be downloaded from the Internet and displayed on a home computer? This, as any computer-savvy undergrad can testify, is old news. Yet suddenly the press is on alert, parents and teachers are up in arms, and lawmakers in Washington are rushing to ban the smut from cyberspace with new legislation—sometimes with little regard to either its effectiveness or its constitutionality.

If you think things are crazy now, though, wait until the politicians get hold of a report coming out this week. A research team at Carnegie Mellon University in Pittsburgh, Pennsylvania, has counted an exhaustive study of online porn—what's available, who is downloading it, what turns them on—and the findings (to be published in the Georgetown Law Journal) are sure to pour fuel on an already explosive debate.

The study, titled Marketing Pornography on the Information Superhighway, is significant not only for what it tells us about what's happening on the computer networks but also for what it tells us about ourselves. Pornography's appeal is surprisingly elusive. It plays as much on fear, anxiety, curiosity and taboo as on genuine eroticism. The Carnegie Mellon study, drawing on elaborate computer records of online activity, was able to measure for the first time what people actually download, rather than what they say they want to see. "We now know what the consumers of computer pornography really look at in the privacy of their own homes," says Marty Rimm, the study's principal investigator. "And we're finding a fundamental shift in the kinds of images they demand."

What the Carnegie Mellon researchers discovered was:

There's an awful lot of porn online. In an 18-month study, the team surveyed 917,410 sexually explicit pictures, descriptions, short stories and film clips. On those Usenet newsgroups where digitized images are stored, 83.5 percent of the pictures were pornographic.

It is immensely popular. Trading in sexually explicit imagery, according to the report, is now "one of the largest (if not the largest) recreational applications of users of computer networks." At one U.S. University, 13 of the 40 most frequently visited newsgroups had names like alt.sex.stories, rec.arts.erotica and alt.sex.bondage.

It is a big moneymaker. The great majority (71 percent) of the sexual images on the newsgroups surveyed originate from adult-oriented computer bulletin-board systems (BBS) whose operators are trying to lure customers to their private collections of X-rated material. There are thousands of these BBS services, which charge fees (typically $10 to $30 a month) and take credit cards; the five largest have annual revenues in excess of $1 million.

It is ubiquitous. Using data obtained with permission from BBS operators, the Carnegie Mellon team identified (but did not publish the names of) individual consumers in more than 2,000 cities in all 50 states and 40 countries, territories and provinces around the world—including some countries like China, where possession of pornography can be a capital offense.

It is a guy thing. According to the BBS operators, 98.9 percent of the consumers of online porn are men. And there is some evidence that many of the remaining 1.1 percent are women paid to hang out on the "chat" rooms and bulletin boards to make the patrons feel more comfortable.

It is not just naked women. Perhaps because hard-core sex pictures are so widely available elsewhere, the adult BBS market seems to be driven largely by a demand for images that can't be found in the average magazine rack: pedophilia (nude photos of children), hebephilia (youths) and what the researchers call paraphilia—a grab bag of "deviant" material that includes images of bondage, sadomasochism, urination, defecation, and sex acts with a barnyard full of animals.

The appearance of material like this on a public network accessible to men, women and children around the world raises issues too important to ignore—or to oversimplify. Parents have legitimate concerns about what their kids are being exposed to and, conversely, what those children might miss if their access to the Internet were cut off. Lawmakers must balance public safety with their obligation to preserve essential civil liberties. Men and women have to come to terms with what draws them to such images. And computer programmers have to come up with more enlightened ways to give users control over a network that is, by design, largely out of control.

The Internet, of course, is more than a place to find pictures of people having sex with dogs. It's a vast marketplace of ideas and information of all sorts—on politics, religion, science and technology. If the fast-growing World Wide Web fulfills its early promise, the network could be a powerful engine of economic growth in the 21st century. And as the Carnegie Mellon study is careful to point out, pornographic image files, despite their evident popularity, represent only about 3 percent of all the messages on the Usenet newsgroups, while the Usenet itself represents only 11.5 percent of the traffic on the Internet.

As shocking and, indeed, legally obscene as some of the online porn may be, the researchers found nothing that can't be found in specialty magazines or adult bookstores. Most of the material offered by the private BBS services, in fact, is simply scanned from existing print publications.

But pornography is different on the computer networks. You can obtain it in the privacy of your home—without having to walk into a seedy bookstore or movie house. You can download only those things that turn you on, rather than buy an entire magazine or video. You can explore different aspects of your sexuality without exposing yourself to communicable diseases or public ridicule. (Unless, of course, someone gets hold of the computer files tracking your online activities, as happened earlier this year to a couple dozen crimson-faced Harvard students.)

The great fear of parents and teachers, of course, is not that college students will find this stuff but that it will fall into the hands of those much younger—including some, perhaps, who are not emotionally prepared to make sense of what they see.

Ten-year-old Anders Urmacher, a student at the Dalton School in New York City who likes to hang out with other kids in the Treehouse chat room on America Online, got E-mail from a stranger that contained a mysterious file with instructions for how to download it. He followed the instructions, and then he called his mom. When Linda Mann-Urmacher opened the file, the computer screen filled with 10 thumbnail-size pictures showing couples engaged in various acts of sodomy, heterosexual intercourse and lesbian sex. "I was not aware that this stuff was online," says a shocked Mann-Urmacher. "Children should not be subjected to these images."

This is the flip side of Vice President Al Gore's vision of an information superhighway linking every school and library in the land. When the kids are plugged in, will they be exposed to the seamiest sides of human sexuality? Will they fall prey to child molesters hanging out in electronic chat rooms? It's precisely these fears that have stopped Bonnie Fell of Skokie, IL, from signing up for the Internet access her three boys say they desperately need.

"They could get bombarded with X-rated porn, and I wouldn't have any idea," she says. Mary Veed, a mother of three from nearby Hinsdale, makes a point of trying to keep up with her computer-literate 12-year-old, but sometimes has to settle for monitoring his phone bill. "Once they get to be a certain age, boys don't always tell Mom what they do," she says.

"We face a unique, disturbing and urgent circumstance, because it is children who are the computer experts in our Nation's families," said Republican Senator Dan Coats of Indiana during the debate over the controversial anti-cyberporn bill he co-sponsored with Senator Exon.

According to at least one of those experts—16-year-old David Slifka of Manhattan—the danger of being bombarded with unwanted pictures is greatly exaggerated. "If you don't want them you won't get them," says the veteran Internet surfer. Private adult BBSs require proof of age (usually a driver's license) and are off-limits to minors, and kids have to master some fairly daunting computer science before they can turn so-called binary files on the Usenet into high-resolution color pictures. "The chances of randomly coming across them are unbelievably slim," says Slifka.

While groups like the Family Research Council insist that online child molesters represent a clear and present danger, there is no evidence that it is any greater than the thousand other threats children face every day. Ernie Allen, executive director of the National Center for Missing and Exploited Children, acknowledges that there have been 10 or 12 "fairly high-profile cases" in the past year of children being seduced or lured online into situations where they are victimized. Kids who are not online are also at risk, however; more than 800,000 children are reported missing every year in the U.S.

Yet it is in the name of the children and their parents that lawmakers are racing to fight cyberporn. The first blow was struck by Senators Exon and Coats, who earlier this year introduced revisions to an existing law called the Communications Decency Act. The idea was to extend regulations written to govern the dial-a-porn industry into the computer networks. The bill proposed to outlaw obscene material and impose fines of up to $100,000 and prison terms of up to two years on anyone who knowingly makes "indecent" material available to children under 18.

The measure had problems from the start. In its original version it would have made online-service providers criminally liable for any obscene communications that passed through their systems—a provision that, given the way the networks operate, would have put the entire Internet at risk. Exon and Coats revised the bill but left in place the language about using "indecent" words online. "It's a frontal assault on the First Amendment," says Harvard law professor Laurence Tribe. Even veteran prosecutors ridicule it. "It won't pass scrutiny even in misdemeanor court," says one.

The Exon bill had been written off for dead only a few weeks ago. Republican Senator Larry Pressler of South Dakota, chairman of the Commerce committee, which has jurisdiction over the larger telecommunications-reform act to which it is attached, told Time that he intended to move to table it.

That was before Exon showed up in the Senate with his "blue book." Exon had asked a friend to download some of the rawer images available online. "I knew it was bad," he says. "But then when I got on there, it made Playboy and Hustler look like Sunday-school stuff." He had the images printed out, stuffed them in a blue folder and invited his colleagues to stop by his desk on the Senate floor to view them. At the end of the debate—which was carried live on c-span—few Senators wanted to cast a nationally televised vote that might later be characterized as pro-pornography. The bill passed 84 to 16.

Civil libertarians were outraged. Mike Godwin, staff counsel for the Electronic Frontier Foundation, complained that the indecency portion of the bill would transform the vast library of the Internet into a children's reading room, where only subjects suitable for kids could be discussed. "It's government censorship," said Marc Rotenberg of the Electronic Privacy Information Center. "The Amendment shouldn't end where the Internet begins."

The key issue, according to legal scholars, is whether the Internet is a print medium (like a newspaper), which enjoys strong protection against government interference, or a broadcast medium (like television), which may be subject to all sorts of government control. Perhaps the most significant import of the Exon bill, according to EFF's Godwin, is that it would place the computer networks under the jurisdiction of the Federal Communications Commission, which enforces, among other rules, the injunction against using the famous seven dirty words on the radio. In a Time/CNN poll of 1,000 Americans conducted last week by Yankelovich Partners, respondents were sharply split on the issue: 42 percent were for FCC-like control over sexual content on the computer networks; 48 percent were against it.

By week's end the balance between protecting speech and curbing pornography seemed to be tipping back toward the libertarians. In a move that surprised conservative supporters, House Speaker Newt Gingrich denounced the Exon amendment. "It is clearly a violation of free speech, and it's a violation of the right of adults to communicate with each other," he told a caller on a cable-TV show. It was a key defection, because Gingrich will preside over the computer-decency debate when it moves to the House in July. Meanwhile, two U.S. Representatives, Republican Christopher Cox of California and Democrat Ron Wyden of Oregon, were putting together an anti-Exon amendment that would bar federal regulation of the Internet and help parents find ways to block material they found objectionable.

Coincidentally, in the closely watched case of a University of Michigan student who published a violent sex fantasy on the Internet and was charged with transmitting a threat to injure or kidnap across state lines, a federal judge in Detroit last week dismissed the charges. The judge ruled that while Jake Baker's story might be deeply offensive, it was not a crime.

How the Carnegie Mellon report will affect the delicate political balance on the cyberporn debate is anybody's guess. Conservatives thumbing through it for rhetorical ammunition will find plenty. Appendix B lists the most frequently downloaded files from a popular adult BBS, providing both the download count and the two-line descriptions posted by the board's operator. Suffice it to say that they all end in exclamation points, many include such phrases as "nailed to a table!" and none can be printed in Time.

How accurately these images reflect America's sexual interests, however, is a matter of some dispute. University of Chicago sociologist Edward Laumann, whose 1994 Sex in America survey painted a far more humdrum picture of America's sex life, says the Carnegie Mellon study may have captured what he calls the "gaper phenomenon." "There is a curiosity for things that are extraordinary and way out," he says. "It's like driving by a horrible accident. No one wants to be in it, but we all slow down to watch."

Other sociologists point out that the difference between the Chicago and Carnegie Mellon reports may be more apparent than real. Those 1 million or 2 million people who download pictures from the Internet represent a self-selected group with an interest in erotica. The Sex in America respondents, by contrast, were a few thousand people selected to represent a cross section of all American. Still, the new research is a gold mine for psychologists, social scientists, computer marketers and anybody with an interest in human boards, they left a digital trail of their transactions, allowing the pornographers to compile data bases about their buying habits and sexual tastes. The more sophisticated operators were able to adjust their inventory and their descriptions to match consumer demand.

Nobody did this more effectively than Robert Thomas, owner of the Amateur Action BBS in Milpitas, California, and a kind of modern-day Marquis de Sade, according to the Carnegie Mellon report. He is currently serving time in an obscenity case that may be headed for the Supreme Court.

Thomas, whose BBS is the online-porn market leader, discovered that he could boost sales by trimming soft- and hard-core images from his data base while front-loading his files with pictures of sex acts with animals (852) and nude prepubescent children (more than 5,000), his two most popular categories of porn. He also used copywriting tricks to better serve his customers' fantasies. For example, he described more than 1,200 of his pictures as depicting sex scenes between family members (father and daughter, mother and son), even though there was no evidence that any of the participants were actually related. These "incest" images were among his biggest sellers, accounting for 10 percent of downloads.

The words that worked were sometimes quite revealing. Straightforward oral sex, for example, generally got a lukewarm response. But when Thomas described the same images using words like choke or choking, consumer demand doubled.

Such findings may cheer antipornography activists; as feminist writer Andrea Dworkin puts it, "the whole purpose of pornography is to hurt women," Catharine MacKinnon, a professor of law at the University of Michigan, goes further. Women are doubly violated by pornography, she writes in Vindication and Resistance, one of three essays in the forthcoming Georgetown Law Journal that offer differing views on the Carnegie Mellon report. They are violated when it is made and exposed to further violence again and again every time it is consumed. "The question pornography poses in cyberspace," she writes, "is the same one it poses everywhere else: Whether anything will be done about it."

But not everyone agrees with Dworkin and MacKinnon, by any means; even some feminist think there is a place in life—and the Internet—for erotica. In her new book, Defending Pornography, Nadine Strossen argues that censoring sexual expression would do women more harm than good, undermining their equality, their autonomy and their freedom.

The Justice Department, for it part, has not asked for new antiporn legislation. Distributing obscene material across state lines is already illegal under federal law, and child pornography in particular is vigorously prosecuted. Some 40 people in 14 states were arrested two years ago in Operation Longarm for exchanging kiddie porn online. And one of the leading characters in the Carnegie Mellon study—a former Rand McNally executive named Robert Copella, who left book publishing to make his fortune selling pedophilia on the networks—was extradited from Tijuana, and is now awaiting sentencing in a New Jersey jail.

For technical reasons, it is extremely difficult to stamp out anything on the Internet—particularly images stored on the Usenet newsgroup. As Internet pioneer John Gilmore famously put it, "The Net interprets censorship as damage and routes around it." There are border issues as well. Other countries on the Internet—France, for instance—are probably no more interested in having their messages screened by U.S. censors than Americans would be in having theirs screened by, say, the government of Saudi Arabia.

Historians say it should come as no surprise that the Internet—the most democratic of media—would lead to new calls for censorship. The history of pornography and efforts to suppress it are inextricably bound up with the rise of new media and the emergence of democracy. According to Walter Kendrick, author of The Secret Museum: Pornography in Modern Culture, the modern concept of pornography was invented in the 19th century by European gentlemen whose main concern was to keep obscene material away from women and the lower classes. Things got out of hand with the spread of literacy and education, which made pornography available to anybody who could read. Now, on the computer networks, anybody with a computer and a modem can not only consume pornography but distribute it as well. On the Internet, anybody can be Bob Guccione.

That might not be a bad idea, says Carlin Meyer, a professor at New York Law School whose Georgetown essay takes a far less apocalyptic view than MacKinnon's. She argues that if you don't like the images of sex the pornographers offer, the appropriate response is not to suppress them but to overwhelm them with healthier, more realistic ones. Sex on the Internet, she maintains, might actually be good for young people. "[Cyberspace] is a safe space in which to explore the forbidden and the taboo," she writes. "It offers the possibility for genuine, unembarrassed conversations about accurate as well as fantasy images of sex."

That sounds easier than it probably is. Pornography is powerful stuff, and as long as there is demand for it, there will always be a supply. Better software tools may help check the worst abuses, but there will never be a switch that will cut it off entirely—not without destroying the unbridled expression that is the source of the Internet's (and democracy's) greatest strength. The hard truth, says John Perry Barlow, co-founder of the EFF and father of three young daughters, is that the burden ultimately falls where it always has: on the parents. "If you don't want your children fixating on filth," he says, "better step up to the tough task of raising them to find it as distasteful as you do yourself."

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I thank my friend and colleague from my neighboring State of Iowa, whose usual good judgment has never been questioned by this individual. I thank him very much for addressing this matter.

I, too, read the article that he referenced in Time magazine. I got in on just the end of his remarks.

May I inquire of my friend from Iowa, did he have printed in the RECORD that portion of the Time magazine article from this morning's Time magazine?

The PRESIDING OFFICER. The Chair will observe he did.

Mr. EXON. I thank the Chair.

If it was not referenced, I would reference the graphic picture on the front of Time magazine today, which I think puts into focus very distinctly and directly what my friend from Iowa and this Senator has been talking about for a long, long time.

I would also reference for the RECORD and ask unanimous consent to have printed in the RECORD, interestingly enough, simultaneously a similar story along the same lines that appeared in this morning's weekly edition of Newsweek magazine.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Newsweek, July 3, 1995]

NO PLACE FOR KIDS?

A PARENT'S GUIDE TO SEX ON THE NET

(By Steven Levy)

When the annals of cyberspace are uploaded for future generations, digital historians will undoubtedly include a scene from the Senate chamber earlier this month: Nebraska Democrat James Exon brandishing a thin binder now known as the blue book. Inside were images snatched from the shadows and thrust into the center of public discourse. Women bound and being burned by cigarettes. Pierced with swords. Having sex with a German shepherd. As Exon puts it, images that are "repulsive and far off base." Images from the Net.

Exon compiled his blue book to persuade his Senate colleagues to pass his Communications Decency Act. Partially moved by a private showing in the Senate cloakroom, they did so, overwhelmingly. It is not clear whether the act, which places strict limits on all speech in computer networks, will find its way into law, but its Senate passage was a transforming blow against the Internet empire. Even the most vehement of the Internet's defenders now face a real problem: how to maintain free speech when well-chronicled excesses give the impression that much of cyberspace is a cesspool.

Indeed, most of the dispatches from the electronic world these days seem to dwell on the dark side. The most prevalent type of anecdote involves someone like Susan Tilghman, a medical doctor in Fairfax, Va. Last fall she hooked the family computer to America Online (AOL). Her sons, 12 and 15 years old, enjoyed it so much that she and her husband sought to find out why. Clicking on files their boys had read, the astonished parents found "pornographic pictures in full color," says Tilghman, "We were horrified." She pulled the modem plus immediately.

Then there are the actual busts of online pornographic rings. Just as in the physical world, traffic in obscene material is illegal in cyberspace, and authorities are beginning to prosecute zealously. The most recent raid occurred last week in Cincinnati, targeting not only purveyors of porn but more than 100 individuals who had allegedly downloaded pornographic images of children via AOL.

Most disturbing of all are the tales of sexual predators using the Internet and commercial online services to spirit children away from their keyboards. Until now parents have believed that no physical harm could possibly result when their progeny were huddled safely in the bedroom or den, tapping on the family computer. But then came news of cases like the 13-year-old Kentucky girl found in Los Angeles after supposedly being lured by a grown-up cyberpal.

These reports have triggered a sort of parental panic about cyberspace. Parents are rightfully confused, faced with hard choices about whether to expose their children to the alleged benefits of cyberspace when carnal pitfalls lie ahead. As our culture moves unrelentingly toward the digital realm, some questions—and answers—are finally coming into focus.

HOW MUCH SEX IS THERE IN CYBERSPACE?

A lot. Brian Reid, director of the Network Systems Laboratory at Digital Equipment Corp., reports that one of the most popular of the thousands of Usenet discussion groups is the "alt.sex" group. He estimates that on a monthly basis between 180,000 and 500,000 users drop in. A glance at some World Wide Web sites shows that while the digital home of the Smithsonian Institution took seven weeks to gather 1.9 million visits, or "hits," Playboy's electronic headquarters received 4.7 million hits in a seven-day period last month.

And this week the Georgetown Law Journal will release a survey headed by Marty Rimm, a 30-year-old researcher at Carnegie Mellon University. In his paper, "Marketing Pornography on the Information Superhighway," Rimm concentrated mostly on adults-only bulletin boards (the equivalent of X-rated bookshops). He provides solid evidence that there's loads of hard-core stuff in cyberspace. Rimm wrote a computer program to analyze descriptions of 917,410 dirty pictures (he examined about 10,000 actual images, to check the realiability of the descriptions). His conclusion: "I think there's almost no question that we're seeing an unprecedented availability and demand of material like sadomasochism, bestiality, vaginal and rectal fisting, eroticized urination . . . and pedophilia."

HOW EASY IS IT TO AVOID THE SEXUAL MATERIAL?

Donna Rice Hughes (yes, that Donna Rice), spokesperson for an anti-pornography group called Enough is Enough!, claims that "children are going online innocently and naively running across material that's illegal even for adults." But the way the Internet works, that sort of stuff doesn't tend to pop up uninvited. "When you watch TV it comes right to you," says Donna Hoffman, associate professor of business at Vanderbilt University. "But on the Internet, you're in an environment with 30 million channels. It's up to you to decide where to go. You don't have to download the images on alt.sex.binaries."

Groups with "binaries" are the picture files, the ones containing the most shocking images. To find them, one needs a good sense of digital direction. Depending on the software you have, you may need a mastery of some codes in the notoriously arcane Unix computer language, or it can involve a few well-chosen clicks of the mouse. In any case, there's no way you get that stuff by accident.

Kids are very hungry to view sexual materials, and left to their own devices they will find that the Internet provides them with an unprecedented bonanza. In predigital days, getting one's hands on hot pictures required running an often impenetrable gantlet of drugstore clerks and newsstand operators, and finding really hardcore material was out of the question. Not so with the Net. Frank Moretti, associate headmaster of the Dalton School in New York City, which offers Internet access beginning in junior high, thinks that we can deal with that. "There's a candy store around the corner from our school that has just about every kind of pornographic image," he says. "The challenge is to help our children use self-discipline."

IS THE INTERNET A HAVEN FOR PREDATORS?

After years of online activity, "there have been about a dozen high-profile cases," says Ernie Allen, president of the Arlington, Va.-based National Center for Missing and Exploited Children. "It's not a huge number, but it does indicate that there are risks. But there are risks in everything a child does. Our concern is the nature of the technology. It creates a false sense of security."

What parents should warn kids about is the classic scenario described by Detective Bill Dworn, head of the Sexually Exploited Child Unit of the Los Angeles Police Department: "The pervert can get on any bulletin board and chat with kids all night long. He lies about his age and makes friends. As soon as he can get a telephone number or address, he's likely to look up the kid and molest him or her." In real life, this hardly ever happens. Most online services have policies to monitor chat rooms, particularly those designated as "kids-only." No guarantees, but not many kidnappers.

And if the child is propositioned? "It happens, but it's less upsetting if a child is prepared for it," says Sherry Turkle, an MIT professor whose coming book, "Life on the Screen," includes data about the experiences of nearly 300 kids on the Net. "Better to warn the child and instruct him to say, 'I'm not interested,' and just leave."

All the publicity about predators has tarnished the image of chat rooms. But the talk areas may have value. "Kids are finding ways to experiment with self-presentation," says Turkle. She's talked with kids about "Net sex," where kids dabble in interactive erotica like this:

I'm kissing you.
You fondle my hair.
I fondle your breast.

Sometimes there is conscious gender-swapping. Sometimes things go farther than the kids intended. Still, Turkle thinks that there may be benefits in this; after all, no one gets pregnant in cyberspace. "Adolescence used to be a timeout, sexually speaking," she says. "But in the age of AIDS, sexual experimentation is a deadly game. The Internet is becoming a way to play with identity, where adolescents can develop a sense of themselves."

CAN NEW LAWS SUCCESSFULLY ADDRESS THE PROBLEM?

The Exon amendment is very broad. It could hamper communication between adults—the essence of online activity—and might not even solve the problems that kids face. "It would be a mistake to drive us, in a moment of hysteria, to a solution that is unconstitutional, would stultify technology, and wouldn't even fulfill its mission," argues * * * Berman, director of the Center for Democracy and Technology.

But Berman and others have a secret weapon: the House of Representatives. "There's a generational difference between the House and Senate," says Berman. "They understand the technology and they're not afraid of it." The only question was whether this pro-technology impulse, along with a loathing for government regulation, would lead Speaker Newt Gingrich and his minions to defy their allies in the religious right, whose "Contract With the American Family" calls for "protecting children from exposure to pornography on the Internet."

The question was answered last Tuesday night when a caller on a cable-TV talk show asked Gingrich what he thought of Exon's amendment. "I think it has no meaning and no real impact . . .," the speaker said. "It is clearly a violation of free speech and it's a violation of the rights of adults to communicate with each other."

But that was not the worst news for would-be monitors of cyberspace. Conservative Republican Chris Cox of California has teamed with liberal Democrat Ron Wyden of Oregon to develop the grandiosely entitled Internet Freedom and Family Empowerment Act. Basically, the bill would forbid the federal government from creating any regulatory agency to govern the Internet, relying instead on a variety of means (not yet determined) to protect children. Cox hopes that such legislation will encourage a free-market solution to cybersex from . . . more new technology.

CAN HIGH-TECH SOLUTIONS HELP?

Ultimately, James Exon's greatest contribution to the protection of children may not be his legislation but the fear of it has created in Silicon Valley and its virtual environments. Already parents can buy some sophisticated software to block children's access to questionable material. More is on the way; two weeks ago Microsoft, Netscape and the Progressive Networks joined together to develop new prophylactic devices. "The Exon amendment certainly raised consciousness," says Mike Homer of Netscape. "But we believe there is a variety of fairly straightforward tools that would allow us to self-regulate." More than 100 companies have called, asking to help. Another, paragraph complementary, scheme in the works is KidCode, a means by which the addresses on the World Wide Web will have voluntary ratings embedded. "Places that provide erotica on the Internet are wild about the idea of voluntary ratings," says Nathaniel Borenstein, designer of KidCode. "They don't want to sell to kids."

Meanwhile, one solution has already hit the market: SurfWatch, created by an eponymous Silicon Valley firm. Its software works by matching a potential Net destination to a proprietary list of forbidden sites. In addition, the $50 software package looks for objectionable language. Once parents or educators install it, they have at least one line of defense. "This is the kind of software that can offer the individual choice as opposed to censorship," says SurfWatch vice president Jay Friendland.

Last week a bogus press release circulated on the Net for a fictional product called Babe Watch that "looks exactly like SurfWatch but instead of blocking access, actually goes out and locates Web sites with good pictures of babes." Undoubtedly a real-life version is in the works. "If you're a 16-year-old A-quality hacker, you'll be able to turn us off," says Friendland.

WILL THE PROBLEM EVER GO AWAY?

The bottom line when it comes to kids, sex and the Internet is that no matter what laws we pass and what high-tech solutions we devise, the three of them together will never be less volatile than the first two alone. We can mitigate but not eliminate the drawbacks of high tech; there's no way to get its benefits without them.

It's a trade-off that Patricia Shao understands. About six weeks ago, her 13-year-old daughter, visiting a friend, was in an online-service chat room when they were propositioned to have "cybersex." Shao was shocked, and even more so when her daughter casually told her, "This is what happens when we're online." "They thought it was just a crackpot," says Shao, a Bethesda, Md., marketing executive. Instead of pulling the cyberplug, however, Shao took pains to educate herself about online sex. She even engaged in some political activism, signing on with a pro-Exon anti-pornography group. And ultimately, Shao's family purchased its own America Online subscription after her daughter's close encounter with a pixilated stranger.

If there were more built-in programs like SurfWatch available to her, Shao ways, she'd probably use them. But in the meantime she is making do with the more old-fashioned method of talking to her kids—and trusting them. "I've warned my children about the obscene material out there, and I trust them not to access it." As careful parents will do, she monitors the family online activity somewhat, by tracking the hours they are logged on. But as with other passages—going out alone, driving a car—ultimately, you have to let kids grow up. Even if some of the growing up happens online.

Mr. EXON. The story Newsweek tells is not dissimilar. Alarming facts have been brought out into the open even further with the publication in these two national magazines. The Newsweek article is entitled "Sex Online: What Parents Should Know."

I very much appreciate having the time to take a look at the legislation the Senator from Iowa has introduced. I do not know how it is significantly different from the measure that was introduced by Senator COATS and myself, known as the Decency Act, and approved on the Senate floor by a vote of 86 to 14, if I remember it correctly.

I simply say, this is an ongoing battle. If we have not done anything else, I hope all will recognize today at least Americans know that there is a real,

real problem, primarily with regard to our children, our innocent children—at least as we like to think of them.

It seems to me all of the profit-making motives are now sizing the Internet to make money on, and I applaud the efforts of the Senator from Iowa and the legislation that he just indicated he intended to introduce with regard to crime taking over a more important part of the Internet. That happens wherever there is an exciting new development.

Once again, I emphasize this Senator has followed with keen interest the development of the Internet. It so happens this Senator probably is one of the few Members of this body who was on the original Internet. The original Internet, the only thing like it, was the amateur radio network that I became involved as a very young lad, 16 or 17 years old, growing up in Lake Andes, SD, and I communicated, dit-dit da-dit, with people all over the United States. Of course you had to have a license to be an amateur radio operator; you had to pass certain tests. I guess no one ever thought about that first Internet being used for the purposes that this Internet is being used.

Nevertheless, as the senior member of the Armed Services Committee I was very much involved in the Internet development. Some people wonder where did the Internet come from? It came from and was borne by taxpayers' dollars, out of the national defense budget. It spread far beyond that at this time, and I certainly say and emphasize once again, I am a strong supporter of the Internet, the information superhighway. But for a long, long time, beginning seriously a little over a year ago, I began to develop legislation that would hopefully make the information superhighway a safer highway for kids and families to travel. The legislation that was passed by the Senate on a 86 to 14 vote within the last week or so was a follow-on to a proposal that I addressed and attached to the telecommunications bill out of the Commerce Committee last year.

The concept of all of these has been to make a constructive suggestion, recognizing constitutional rights. Like that portion referred to by the Senator from Iowa, the measure crafted by myself and Senator COATS and our staffs, with the help of an awful lot of people, does provide protection, constitutional guarantees oftentimes supported by the courts in a whole series of areas including the laws that we have always had regarding obscenity on the telephone lines and also laws similarly against transportation of pornographic and obscene materials through the U.S. mail. Further, our law incorporates the protections under the first amendment that have been argued out and thoroughly discussed and held by the courts under the Dial-a-Porn statutes, which is another form of pornography.

It is safe to say, the issue has been engaged. I think that is for the good. Once again, I cannot speak for my cosponsor, Senator COATS, or any cosponsor of the measure that passed the Senate, but this Senator simply says I am willing to listen to any improvements or changes that should be made in this bill. But I certainly am not going to stand by and see it watered down to the place where it is totally meaningless.

Therefore, I say I think we have accomplished a great deal by clearly, for the first time, illuminating and bringing this to the attention of parents of the United States of America. And parents still are required, I suggest, to play a key role in how we develop this and how it is administered. But the parents, I think, cannot do it alone. Therefore, I hope we can continue to work together in a constructive fashion and not listen to the voices that simply say, "I want what I want when I want it on the Internet and I don't care what ill effect that might have on kids."

We have to continue to work together. I hope there is a way to solve this problem for the good of all.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

The Senator from New Mexico is advised we have 1 more minute remaining in morning business.

Mr. BINGAMAN. Mr. President, I ask unanimous consent I be allowed to speak in morning business for up to 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCIENCE EDUCATION

Mr. BINGAMAN. Mr. President, I want to speak for a few minutes here this morning to oppose cuts for science education that were made June 20, in the House Appropriations Committee, related to the Energy Department. Congress is engaged in an important process to reduce the Federal budget and I support that process. I recognize very difficult choices will have to be made. But I want to be sure, to the extent I can, that the process remains thoughtful and maintains our national commitment to improvement in education and our national investment in education, at the same time that we proceed toward a balanced budget. Cuts being proposed for science education in the Department of Energy appropriation do not meet that test of thoughtfulness and support for investment in education.

In 1989, President Bush met with the 50 Governors throughout this country in an education summit in Charlottesville, VA. That was a historic occasion because for the first time the Governors and the President met together to discuss that important issue of how to improve education in the country.

In 1990, they published goals for this country, and one of those goals, which I believe was an extremely important goal for us to commit ourselves to, was the goal of making this country first in the world in math and science education by the year 2000. This is the backdrop against which we need to judge what we are doing in this appropriations process here in the Congress in these weeks.

I am told that the House appropriations bill, that I referred to before, significantly reduces the $160 million for science education embedded in various parts of the Department of Energy, and it eliminates altogether the funding for two line items which are focused entirely on education. Those two line items are:

First, the University and Science Education Program in the Department of Energy Office of Science Education and Technical Information. The House appropriations mark for this program has reduced the funding from the proposed $55 million, which the President asked for in his budget, to absolutely zero.

The second of these two line items is the Department of Energy Technology Transfer and Education Program for Department of Energy Office of Defense Programs. The House mark for this program was reduced from $249 million in fiscal year 1996—that was the proposed level—to $15 million, including a cut to zero funding for the $20 million line item earmarked for science education at our three national weapons laboratories.

Obviously, Mr. President, this is of concern to me because this directly affects two of those national laboratories in my home State of New Mexico, Sandia and Los Alamos National Laboratories.

First, let me describe the impact of the elimination of the Science Education and Technical Information Program. This cut eliminates the central coordinating and evaluation mechanism for all of the Department of Energy education activities, which is the Office of Science Education and Technical Information. In eliminating this office, Congress would eliminate the administrative infrastructure for other Department of Energy science education offices' programs, the only Department of Energy office in which education is not just an ancillary function.

In addition, this cut would eliminate the laboratory cooperative science centers, which leverage the much larger investment in science and technology expertise residing in the Department of Energy Laboratory System. These centers connect thousands of students and teachers each year in high schools, colleges, and graduate programs with scientists at our Department of Energy laboratories. The centers provide training and mentoring, and hands-on laboratory experiences both at the laboratories themselves and at local public schools and universities. They provide internships, faculty research opportunities, and professional development enhancements and lab-school partnerships. They also help support the Department of Energy's scientists' participation in a variety of State and local systemic education reform activities, such as the National Science Foundation's State systemic reform initiatives.

These cuts will weaken the pipeline of well-trained scientists supported by the 73 percent of programs funds that go to universities to train future engineers, technicians, and scientists for current and future work force needs. They will eliminate Department of Energy work to support and strengthen the caliber of science and math education at the secondary and at the college levels, and the 1996 priorities for work force development, systemic education reform, science literacy, evaluation, and dissemination.

Mr. President, the Department of Energy education cuts will have a particularly damaging effect for those who benefit from the education activities of Sandia National Laboratory and Los Alamos National Laboratory in my home State of New Mexico.

First, they will suffer education cuts as part of the centers that I just described. Second, they will also suffer the loss of their part of the additional $20 million for education programs concentrated at Sandia, Los Alamos, and at Lawrence Livermore National Laboratories, the Nation's three weapons laboratories.

For Sandia National Laboratory, this would eliminate education outreach funding which in 1995 was $6 million from the Office of Defense Programs, $2.3 million from the Office of Science Education, and almost $2 million from other internal funds to reach a total of over $10 million.

This will mean the loss of K through 12 student enrichment programs, K through 12 teacher professional development programs, college and university programs, and programs for educational technology.

For Los Alamos National Laboratory, it would eliminate educational outreach funding again for the 1995 fiscal year, which amounted to $6.3 million from the Office of Defense Programs, $1.3 million from the Office of Science Education, $600,000 from other parts of the Office of Energy Research, for a total of about $8 million.

This would mean the loss of nationally recognized model science and math programs relied upon by the States that they serve for high-quality professional development for our teachers.

Together, these cuts in the two programs will hurt science education in the country, and it will especially hurt science education in my home State of New Mexico. They will weaken the infrastructure support for science education and work force preparation. These are the kinds of priorities that we need to protect. We need to reassert our commitment to reaching the education goals that were established by President Bush and the Governors in 1989. We should not undermine those goals by making these kinds of shortsighted cuts.

Mr. President, as we work to reach deficit reduction and to reach a balanced budget, we need to make our priorities clear. One of our priorities needs to be retaining funding for science and math education. I hope that when the Senate passes its appropriations bill, it will see to it that the funds for these programs are retained, and that we can prevail in conference with the House.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be allowed to proceed for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BUDGET

Mr. INHOFE. Mr. President, I want to take a moment or two to respond to something that was said earlier in morning business when the Senator from North Dakota gave his usual eloquent discourse on populism, and the fact that he used phrases that Republicans have a philosophy where the rich are paid too little and the poor are paid too much. That was in reference to a budget that will eliminate the deficit by the year 2002.

It is always difficult to stand on the floor and defend an effort to really do something about the deficit because those individuals who want to continue the social programs, who want to continue business as usual, will stand up and make it look as if those of us who are trying to be fiscally responsible, those of us who recognize that it is not any of us in this Chamber but future generations that are going to have to pay for all of this fun we are having right now, that somehow we are not acting responsibly. I think the elections of November 8, 1994, were very clear warning signals that we are going to change, we are not going to have business as usual in America.

But the thing that disturbed me more than anything else that was said by the distinguished Senator from North Dakota [Mr. DORGAN], was the reference to a national defense system, national missile defense system, star wars. This is the first warning sign that I have heard in this cycle that we are going to have in fact opposition, people wanting to make it look like those of us who want to have a national missile defense system, somehow we are looking up in the stars in a Buck Rogers kind of syndrome, that it is something that is very expensive and something we cannot have.

I would like to suggest, Mr. President, that we have an opportunity to prepare now to defend ourselves against a future national missile attack. It was not long ago that Jim Woolsey, who was the chief security adviser to the President of the United States, President Clinton, made the observation that our intelligence informs us that there are between 20 and 25 countries that either have or are developing weapons of mass destruction—either nuclear, chemical, or biological—and are developing the missile, the means of delivering those warheads.

This is a very frightening thing, when we stop and realize that we in America do not have a missile defense system. Most people think we do have it somehow, but we do not.

Many of us can remember what happened back in 1972 when the ABM Treaty was agreed to, that back in 1972 it was a treaty predicated on the assumption that there were two superpowers in the world, the Soviet Union and the United States. I suggest, Mr. President, that there are many of us who believe that the threat out there to the United States security could be greater now than it was back then because at least then we could identify who the enemy was. And now, as Jim Woolsey said, there is a proliferation, a number of countries that have this technology, and many countries that have already demonstrated they are not friends of United States are getting a missile system to deliver warheads.

So I believe that we must be very cautious and not use the normal populace, partisan patter that you hear around this Chamber so much when people start talking about star wars. It is not star wars. We have an ability—and we demonstrated that we are going to use the current Aegis system that we have a $50 billion investment in—to have a high-tier missile defense system that we will be desperately needing in the very near future.

So I hope my colleagues will refrain from taking political advantage of the situation we are in by not saying exactly what it is, and that is that there is a threat out there and the United States of America does not have a national missile defense system.

I thank the Chair. I yield the floor.

50TH ANNIVERSARY OF THE UNITED NATIONS

Mr. DOLE. Mr. President, today is the 50th anniversary of the signing of the U.N. Charter. Amid high hopes at the end of the Second World War in Europe, the United Nations Charter was signed in San Francisco. Fifty years later, the record of the United Nations is mixed, and the expectations of its founders have not been met.

The United Nations has had some important accomplishments—on international air travel, eradicating smallpox, and sharing information about global concerns ranging from weather to health. But the United Nations at 50 is an organization at a crossroads—if the United Nations is to survive another 50 years, there must be fundamental change. If the United Nations is to be more than a debating society with 185 members, there must be fundamental change. And if the United Nations is ever to fulfill the hopes of its founders, there must be fundamental change.

Much was written this last weekend about the past and future of the United Nations. In my view, the best single piece was by Senator NANCY KASSEBAUM and Congressman LEE HAMILTON—one a Republican and the other a Democrat, I might add. On each of the key issues facing the United Nations, they made important points.

On peacekeeping, they conclude the United Nations has overreached. Much criticism of the United Nations in the last 5 years has centered on the failures of U.N. peacekeeping. The tragic record of Somalia and Bosnia make one fact very clear—the United Nations is not capable of mounting serious military operations. Nor should it be. Monitoring an agreement between two or more parties is one thing the United Nations can do. Imposing an agreement is something it cannot. The United Nations should be limited to peacekeeping, not peace enforcing.

Senator KASSEBAUM and Congressman HAMILTON also suggested the United Nations focus on key agencies and functions—such as the International Atomic Energy Agency—and quit wasting time and money on the dozens of agencies which no longer serve a useful purpose—if they ever did. In my view the United States should push to abolish wasteful organizations—and withdraw if we are unsuccessful. Examples of unnecessary or duplicative bureaucracies include the International Labor Organization, the United Nations Industrial Development Organization, the U.N. Conference on Trade and Development, and many more.

The Kassebaum-Hamilton article suggests an end to U.N.-hosted conferences which cost millions and accomplish very little.

Finally, and most importantly, Senator KASSEBAUM and Congressman HAMILTON focus on the importance of accountability at the United Nations. Last year, Congress tried to move the United Nations toward an inspector general. Progress has not been sufficient. An individual was appointed, but with limited powers, and under the authority of the U.N. Secretary General. I expect Congress to revisit the issue this year. Much more needs to be done: Promotions based on merit, real investigations of U.N. waste, shutting down bloated bureaucracies. Reforming the United Nations is a tall order—but the alternative is to give up on an organization that could still live up to the ideas of some of its founders.

Mr. President, the United Nations can be an important tool to advance American interests—as long as America leads the way. The answer to the problems of the United Nations is not getting the United States out of the United Nations, it is getting common sense into the United Nations.

There are two very different U.S. approaches toward the United Nations—one pursued by the Bush administration and one pursued by the Clinton administration. In 1990–91, the United Nations gave valuable support for American and allied efforts to liberate Kuwait. But 2 years later in Somalia, the United Nations changed the mission and began a vendetta against one Somali faction. Many brave Americans died in the ensuing disaster. Nation building was complete failure, and the United Nations finally left Somalia little better than when the humanitarian mission began.

The lesson is clear—if the United States is not in the driver's seat at the United Nations, the United Nations will take us for a ride. If the United Nations is to realize its potential—and if American support for the United Nations is to continue—real reforms must begin now. No more window dressing but real reform to build a foundation for future U.S. support for the United Nations. I expect the Congress will continue to lead the way to reform as it has before. And I expect to work with Senator KASSEBAUM, Congressman HAMILTON, and other interested colleagues in this 50th anniversary year. I ask unanimous consent that their article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 25, 1995]

FIX THE U.N.

(By Nancy Landon Kassebaum and Lee Hamilton)

As we celebrate the 50th anniversary of the United Nations Charter this month, it is time to ask what we want the United Nations to be and what we realistically can expect it to do. These hard questions are neither academic nor abstract. Our answers will determine whether the United Nations can be an effective international forum or is merely a debating society destined for irrelevance.

To mark this golden anniversary, we believe the United States must lead a bold and broad effort to reinvent the United Nations and give it new life. While it may be an indispensable institution, the United Nations today is a terrible mess. We need a decisive change of course that produces a smaller, more focused, more efficient United Nations with clearly defined missions.

For America, the U.N. is not a charity but an important tool for advancing our vital national interests abroad. Our foreign policy requires an effective United Nations, just as we need a powerful military, vigorous diplomacy, solid alliances, prudent foreign aid and healthy international financial institutions. Taking away these tools one by one, or sharply restricting their use, will inevitably diminish our ability to build coalitions and construct the sort of strong policy that Americans expect.

If the United States abdicates leadership at the United Nations, we will weaken our ability to pursue our vital national interests around the world. To allow the U.N. to continue drifting would be to squander, in large part, the opportunity that now exists for creating a more stable, peaceful and prosperous world in the 21st century.

Clearly, the U.N. has fallen short of its potential. During the Cold War, superpower rivalry paralyzed the Security Council and marginalized the General Assembly. With its central organs in deadlock, the U.N. shifted resources to secondary activities staffed by a bloated bureaucracy more intent on advancing its own goals than the cause of world peace. Today, lines of authority are confused, blurred and duplicated. Basic missions and activities have ballooned into plodding exercises that produce mountains of paper and little, if any, real results.

Despite this harsh assessment, we consider ourselves friends of the United Nations. The U.N. detractors are far less generous or forgiving, and they are prepared to draw the purse strings to a close. If we fail to meet this urgent need for bold reform, we will witness the slow death of the one institution that can direct both the international community's attention and its resources toward the common problems before us and can provide the moral and legal authority to build coalitions that serve our common interests.

One way or another, change will come. Congress is prepared to compel changes in the U.S. role at the United Nations by continuing the piecemeal approach to U.N. reform that we have employed for many years. We believe, however, that the time has come for a comprehensive reorganization. Legislation now before Congress would call upon the President to develop a plan for the "strategic reorganization" of the United Nations. We hope the President will join with us to seize this opportunity. Reforming the United Nations is too important and too complex a job for Congress to undertake alone with only the blunt instruments at its disposal.

We propose several areas on which to concentrate reform:

FOCUS ON CORE AGENCIES

Today the United Nations has more than 70 agencies under its umbrella. They range from the high-profile International Atomic Energy (IAEA) to the obscure U.N. Research Institute for Social Development (UNRISD). At a time when we are eliminating low-priority programs from our own foreign policy institutions, we need to take similar bold steps at the United Nations.

We must focus resources and energy on a handful of core agencies that are most important and best reflect the range of purposes of the U.N. system. These core agencies would be an integral part of that system and would report directly to the secretary general. Three agencies that already serve core purposes of the U.N. system should be strengthened: the IAEA to combat the threat of weapons of mass destruction, the World Health Organization to deal with all important trans-national health issues and the

High Commission for Refugees, which ought to be empowered to deal with all refugee and humanitarian relief issues.

The United States should finance only core agencies rather than the long list of U.N. organizations that now find their way into appropriations bills. Other agencies should be abolished, merged or financed at the discretion of one of the core agencies. This prescription is dramatic, but we believe that only triage can save the institution as a whole.

PEACEKEEPING

Expectations for U.N. peacekeeping have grown far beyond what is rational, and there has been a corresponding rise in ambiguity about peacekeeping's nature and capabilities. Peacekeeping is diplomacy with light arms. It is not designed to fight wars. We believe that recent failures show that "peace-enforcement" should be struck from the U.N.'s vocabulary and that future peacekeeping should be limited to classic operations in which "Blue Helmets" stand between suspicious parties only after diplomacy has secured a peace to be kept.

Peacekeeping is successful when it respects these limitations, as it did in Namibia, Cambodia, Mozambique and El Salvador. Situations that require more robust military action are better handled directly by the member states, as we learned in the effective response to Iraq's invasion of Kuwait.

CONFERENCES

We fear that the United Nations is in peril of becoming little more than a road show traveling from conference to conference. If an issue is serious, a conference will not solve it; if it is not serious, a conference is a waste of time.

The number and cost of U.N. conferences have exploded—the recent "social summit" in Copenhagen may have cost $60 million—and they often focus on subjects usually reserved for domestic politics. Conferences are seen by many as a cheap way to placate narrow but vocal constituencies. But the truth is they carry a steep price. The domestic backlash against conference-produced agreements has been strong, not because Americans oppose their noble purposes but because people doubt that international agreements are the best means for securing them. The price is paid in diminished public and congressional support for the U.N. system as a whole and in the diversion of scarce funds from more pressing needs.

We propose ending U.N.-sponsored conferences. To the extent countries deem a specific international conference essential, it should be organized and financed on an ad hoc basis, outside the U.N. system, with user fees paid by countries that choose to participate.

ACCOUNTABILITY

Today, the United Nations is accountable to no one. Despite thousands of pages of budget documents produced each year, we don't know how many employees it has, how funds are spent or which programs work. After a decade of "no real budget growth," the budget has almost doubled. Sexual harassment, mismanagement, and cronyism are all too common at the U.N. Those engaged in such practices are not punished, but those who report them are.

Congress tried to address these problems by mandating the establishment of an inspector general at the United Nations. To date, this office has been a disappointment. We are prepared to take strong measures, including withholding funds, until this office is strengthened and functions properly. The U.N. must be accountable to the nations that pay its bills.

We also believe the time has come to inject more accountability into the Secretariat by reforming the process by which the secretary general is selected. Unlike a head of state, the secretary general is a chief administrative officer—not a chief executive. Skills and administrative ability, not nationality or political connections, should be the decisive qualifications for the secretary general. It is important that the selection process become more open and transparent.

We offer these proposals to kick off a debate that must occur soon. The United Nations as it exists today is not sustainable. The Cold War excuses for inaction are gone. If the United Nations does not begin to fulfill its true potential, it will be left to suffocate in endless debates over meaningless issues or will become a side show in the realm of international politics. The danger of irrelevance is imminent.

The preamble to the charter sets forth bold objectives To "save succeeding generations from the scourge of war . . . to reaffirm faith in fundamental human rights . . . to establish conditions under which justice . . . can be maintained, and . . . to promote social progress and better standards of life in large freedom." These purposes remain as important today as they were half a century ago. The task for our generation is to ensure that the machinery of the United Nations works. Today it does not.

ADMINISTRATION VETO THREAT ON REGULATORY REFORM

Mr. DOLE. Mr. President, as I stated on the floor last Thursday, I and other Senators, particularly Senators JOHNSTON and HEFLIN, have been working to craft a bipartisan regulatory reform bill that we can take up tomorrow. Senator JOHNSTON and I placed a discussion draft in the RECORD that incorporated many of the ideas included in various bills. We then worked through last weekend, and are still working, on final text that takes into acccount comments and suggestions by Democrat and Republican Senators to improve the bill. I understand that at 6 o'clock today a group of us will meet with Senator DASCHLE, the Democratic leader, to see if we can make further improvements.

So I must say I was surprised and dismayed, in the middle of these negoatiations, to receive a letter last Friday night from the OMB Administrator for Regulatory Affairs threatening a veto of any bill that closely followed the discussion draft. Let me point out this was just a discussion draft.

The timing of this veto threat is not helpful, nor I suspect was it intended to be. For one thing, the letter relied on generalizations so bland as to be meaningless. But it also continued a pattern of distortions of the regulatory reform bill which call for a response.

Among the list of complaints in this letter was a description of the bill as containing a "supermandate," that is, a requirement to consider costs that would override other statutory goals such as promoting health and safety and protecting the environment. One can debate the merits of a supermandate, but it is irrelevant to this bill. The text of the bill makes clear that it is intended to "supplement, and not supersede" other laws. This type of staff work does not serve the President well.

But it is not the first time that President Clinton's rhetorical embrace of regulatory reform has been undermined by his own handpicked officials publicly attacking any meaningful attempt to enact such reforms. One example stands out because it is an example both of the distortions at play in this debate and, ironically, of the value of the reforms we propose.

At various times, the present Administrator of EPA has stated that cost-benefit analysis requirements would have prevented a rule getting lead out of gasoline and consigning a generation to lead poisoning. This is false.

In fact, EPA refused to do a cost-benefit analysis initially in 1982 when a rule on lead phaseout was being considered. However, after a cost-benefit analysis was performed that showed the social benefits outweighed the costs of a quick phaseout of lead, EPA issued a new rule in 1984 providing for a quick phaseout of lead. That rule also introduced a new concept—market-based mechanisms—that allowed trading in lead permits that sped up the phaseout of lead and reduced the economic costs of the regulation.

So, not only has the Administrator gotten her facts wrong, she chose the wrong example. Getting lead out of gasoline occurred precisely because a cost-benefit analysis supported doing so. And that analysis helped produce a regulation to achieve that goal through market-based mechanisms that reduced the economic impact.

Both cost-benefit analysis and market-based mechanisms are at the heart of the reforms we propose. We should have a debate on these important issues, but that debate will not be furthered if President Clinton continues to duck the issue and allow his officials to muddy the debate with arguments that have nothing to do with the bill the Senate will actually consider.

I want to point out again, we are working, I think, in good faith, Members of both sides of the aisle, Democrats and Republicans, to see if we can put together a good regulatory reform bill; and hopefully one that will be signed by the President.

A PRESIDIO TRUST

Mr. DOLE. Mr. President, today I am pleased to cosponsor S. 594, legislation which provides for the administration of the Presidio in California. I have discussed this legislation with my colleagues, Senator CAMPBELL and Senator FEINSTEIN, and feel that this legislation allows for the national recognition of the Presidio while also taking into account concerns about the growing demand for Federal funding for National Park Services. Through this innovative approach to managing one of our Nation's finest landmarks, we can ensure the preservation of the Presidio while also providing significant opportunities to the local community.

The unique history of the Presidio's operation as a military post dates back to 1776. Its designation as a national historic landmark in 1962 recognized the importance of the post in many military operations. After the Army closed the post, the National Park Service took over the Presidio. When comparing our limited resources against the increasing number of national parks and historic sites which have become the responsibility of the Federal Government, it becomes apparent that we must find new ways to manage and preserve such important resources.

This legislation proposes a Presidio trust, ensuring the continued preservation of the post with assistance from the local community. This trust, established within the Department of the Interior, would manage the renovation and leasing of specific Presidio properties. The revenues generated from these leases would then offset the cost of maintaining the Presidio as a national park, reducing the need for Federal funding. In my view, this legislation represents the best approach to ensure the efficient management and preservation of the Presidio at the least cost to the taxpayer. The importance of public sector participation in this effort to maintain the Presidio sets this initiative apart from others, and I am pleased to support it.

CHIEF JUSTICE OF THE SUPREME COURT WARREN BURGER

Mr. GRAMS. Mr. President, I rise to pay tribute to a great Minnesotan—former Chief Justice of the U.S. Supreme Court Warren Burger, who passed away yesterday.

Warren Burger was a native of St. Paul, MN.

He got is first taste of law taking night classes at the University of Minnesota while working during the day selling insurance. Warren Burger later received his law degree from the old St. Paul College of Law.

In his early career, he never gave much thought to pursuing a career on the bench, one time telling friends, "I never had a passion to be a judge."

But he accepted the challenge when, as an assistant attorney general in the Justice Department, President Eisenhower offered him a seat on the U.S. Circuit Court of Appeals for the District of Columbia.

Thirteen years later, President Nixon elevated him to the High Court.

As Chief Justice for 17 years, Warren Burger lead the Court through a tumultuous period in American history—first Vietnam, and later Watergate.

The Burger Court could be tough, and the Chief Justice's own law and order reputation was well deserved, but Warren Burger's judicial opinions were fair and often reflected his conservative Midwestern upbringing.

Fortunately, his legacy did not end with his retirement from the bench in 1986. Warren Burger continued his crusade to educate the public about the Constitution and the courts. And he never forgot his Minnesota roots.

Returning home often, he would stop by his alma mater, now called the William Mitchell College of Law, to share his years of knowledge and experience with the students and judges of tomorrow.

Mr. President, the Nation has lost a great leader, and Minnesota has lost a great friend. I join my colleagues in expressing our deepest sympathies to the family of Chief Justice Warren Burger.

STATEMENT OF PRESIDENT LEE TENG-HUI OF TAIWAN

Mr. DASCHLE. Mr. President, during a recent visit to Cornell University, the President of the Republic of China on Taiwan, Lee Teng-hui, recently outlined his views about democracy. In his speech, President Lee underscores a number of reasons for the close ties between the American people and the people of Taiwan. I commend the full text of President Lee's remarks to my colleagues' attention and ask unanimous consent that it be printed in the RECORD at this point.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

ALWAYS IN MY HEART

(By Dr. Lee Teng-hui)

It is a great honor for me to be invited to deliver the Olin lecture at my alma mater, Cornell University. It has been a long and challenging journey, with many bumps in the road, yet my wife and I are indeed very happy to return to this beloved campus.

This trip has allowed both of us to relive our dearest Cornell experiences. The long, exhausting evenings in the libraries, the soothing and reflective hours at church, the hurried shuttling between classrooms, the evening strolls, hand in hand—so many memories of the past have come to mind, filling my heart with joy and gratitude.

I want to thank you, President Rhodes, for your hospitality and for your unflagging support of my visit here to my alma mater.

I thank you, my fellow alumni, for your understanding and support as I undertake this important sentimental journey.

I thank the many, many friends in the United States who have been so supportive of my visit to your great country again.

And I also want to thank the people of this academic community, my professors and classmates, for the deep and lasting influence that Cornell University has had on my life. The support each of you has given means a great deal to me.

I deem this invitation to attend the reunion at Cornell not only a personal honor, but, more significantly, an honor for the 21 million people in the Republic of China on Taiwan. In fact, this invitation constitutes recognition of their remarkable achievements in developing their nation over the past several decades. And it is the people of my nation that I most want to talk about on this occasion.

LISTENING TO THE PEOPLE

My years at Cornell from 1965 to 1968 made an indelible impression on me. This was a time of social turbulence in the United States, with the civil rights movement and the Vietnam War protest. Yet, despite that turbulence, the American democratic system prevailed. It was also the time I first recognized that full democracy could engender ultimately peaceful change, and that lack of democracy must be confronted with democratic methods, and lack of freedom must be confronted by the idea of freedom before it would be possible to hasten the day of genuine democracy and freedom. I returned to my homeland determined to make my contribution toward achieving full democracy for our society.

Ever since I became president of the Republic of China in 1988, I have sought to ascertain just what the people of my country want and to be always guided by their wishes. Ancient China's Book of History from over 2000 years ago, contains the phrase, "Whatever the People desire, the realm must follow." My criterion for serving as president is that I do it with the people in my heart. And it is obvious to me that most of all they want democracy and development. Democracy entails respect for individual freedom, social justice, and a sense of directly participating in the destiny of their nation. Economic development goes beyond attaining prosperity, it also involves equitable distribution of wealth.

Today we are entering a new post-Cold War era, where the world is full of many uncertainties. Communism is dead or dying, and the peoples of many nations are anxious to try new methods of governing their societies that will better meet the basic needs that every human has. There are many pitfalls in this search for a new rationale, and Man must strive to make the right choices with all the wisdom and diligence he can command.

Czech President Vaclav Havel said, "The salvation of this human world lies nowhere else but in the human heart." In my heart, I believe that the Taiwan Experience has something unique to offer the world in this search for a new direction. This is not to say that our experience can be transplanted entirely to fit the situation faced by other nations, but I believe that, without a doubt, there are certain aspects of this experience that offer new hope for the new age.

THE TAIWAN EXPERIENCE

By the term Taiwan Experience I mean what the people of Taiwan have accumulated in recent years through successful political reform and economic development. This experience has already gained widespread recognition by international society and is being taken by many developing nations as a model to emulate. Essentially, the Taiwan Experience constitutes the economic, political and social transformation of my nation over the years, a transformation which I believe has profound implications for the future development of the Asia-Pacific region and world peace.

It is worth remembering what we in the Republic of China on Taiwan have had to work with in achieving all that we now have: a land area of only 14,000 square miles (slightly less than 1/3 the area of New York State) and a population of 21 million. My country's natural resources are meager and its population density is high. However, its international trade totaled US$180 billion in 1994 and its per capita income stands at US$12,000. Its foreign exchange reserves now exceed US$99 billion, more than those of any other nation in the world except Japan.

The Taiwan Experience bases peaceful political change on a foundation of stable and continuous economic development. Taiwan, under Presidents Chiang Kai-shek and Chiang Ching-kuo, experienced phenomenal economic growth. Currently, aside from economic development, Taiwan has been undergoing a peaceful political transformation to full democracy.

For many developing nations, the process of moving to a democratic system has been marked by a coup d'etat, or by the kind of "political decay" suggested by Professor Samuel P. Huntington. In sort, it is not unusual for such a process of transformation to be accompanied by violence and chaos. However, the case of Republic of China on Taiwan is a notable exception. Non-existent is the vicious cycle of expansive political participation, class confrontation, military coup and political suppression, which have occurred in many developing countries. The process of reform in Taiwan is remarkably peaceful indeed, and as such is virtually unique. In addition to the "economic miracle," we have wrought a "political miracle," so to speak.

The Taiwan Experience has regional and international dimensions as well. In 1994, the indirect trade between Taiwan and mainland China reached US$9.8 billion. Taiwan's indirect investment in southern mainland China, made through Hong Kong, amounted to nearly US$4 billion, according to estimates from various quarters. Taiwan's trade and investment have also been extended to members of the Association of Southeast Asian Nations, Vietnam, Russia, and countries in Central America and Africa.

Although the Republic of China on Taiwan has been excluded from the United Nations, it has accelerated the formation of an international network with economic ties as the key link. Recently, it has even begun to launch a project to build Taiwan into an Asian-Pacific Regional Operations Center, aiming at further liberalization and globalization of our economy.

I never allow myself to ever forget for a moment that Taiwan's achievements have been realized only through the painstaking effort and immense political wisdom of the people. However, success comes from difficulty, and the fruits of the Taiwan Experience are all the sweeter today from a recognition of the arduousness of the process.

POPULAR SOVEREIGNTY

We in the Republic of China on Taiwan have found that peaceful transformation must take place gradually, and with careful planning. Five years ago, on my inauguration day. I pledged to initiate constitutional reform in the shortest possible period of time. My goal was to provide the Chinese nation with a legal framework that is in accord with the times, and to establish a comprehensive model for democracy. These goals have since been realized with the support of the people.

Our constitutional reform was conducted in two stages. First, all the senior parliamentarians last elected in 1948 were retired. Then, in the second stage, comprehensive elections for the National Assembly and the Legislature were held in 1991 and 1992 respectively. This enabled our representative organs at the central government level to better represent the people.

Last year, the governor of Taiwan province, and the mayors of Taipei and Kaohsiung, the two largest cities in Taiwan which used to be directly administered by the central government as special municipalities, were directly elected by the people for the first time. Next spring, the president and vice president of the Republic will also be directly elected by the people for the first time.

With the completion of constitutional reform, we have established a multiparty system and have realized the ideal of popular sovereignty. This has led to full respect for individual freedom, ushering in the most free and liberal era in Chinese history. I must reiterate that this remarkable achievement is the result of the concerted efforts of the 21 million people in the Taiwan area.

Today, the institutions of democracy are in place in the Republic of China: human rights are respected and protected to a very high degree. Democracy is thriving in my country. No speech or act allowed by law will be subject to any restriction or interference. Different and opposing views are heard every day in the news media, including harsh criticism of the President. The freedom of speech enjoyed by our people is in no way different from that enjoyed by people in the United States.

I believe that the precept of democracy and the benchmark of human rights should never vary anywhere in the world, regardless of race or region. In fact, the Confucian belief that only the ruler who provides for the needs of his people is given the mandate to rule is consistent with the modern concept of democracy. This is also the basis for my philosophy of respect for individual free will and popular sovereignty.

Thus, the needs and wishes of my people have been my guiding light every step of the way. I only hope that the leaders in the mainland are able one day to be similarly guided, since then our achievements in Taiwan can most certainly help the process of economic liberalization and the cause of democracy in mainland China.

I have repeatedly called on the mainland authorities to end ideological confrontation and to open up a new era of peaceful competition across the Taiwan Straits and reunification. Only by following a "win-win" strategy will the best interests of all the Chinese people be served. We believe that mutual respect will gradually lead to the peaceful reunification of China under a system of democracy, freedom and equitable distribution of wealth.

To demonstrate our sincerity and goodwill. I have already indicated on other occasions that I would welcome an opportunity for leaders from the mainland to meet their counterparts from Taiwan during the occasion of some international event, and I would note, even rule out, the possibility of a meeting between Mr. Jiang Zemin and myself.

YEARNING TO PLAY A POSITIVE ROLE

When a president carefully listens to his people, the hardest things to bear are the unfulfilled yearnings he hears. Taiwan has peacefully transformed itself into a democracy. At the same time, its international economic activities have exerted a significant influence on its relations with nations with which it has no diplomatic ties. These are no minor accomplishments for any nation, yet, the Republic of China on Taiwan does not enjoy the diplomatic recognition that is due from the international community. This has caused many to underestimate the international dimension of the Taiwan Experience.

Frankly, our people are not happy with the status accorded our Nation by the international community. We believe that international relations should not be solely seen in terms of formal operations regulated by international law and international organizations. We say so because there also are semi-official and unofficial rules that bind the international activities of nations. This being so, we submit that a nation's substantive contribution to the international community has to be appreciated in light of such non-official activities as well.

During last year's commencement, President Rhodes brought up the old saying, "Be realistic. Demand the Impossible!" Well, over the last four decades, we have been extremely realistic while always trying to look forward, not backward, and to work, not complain. Accordingly, we have created the very fact of our existence and economic prosperity. We sincerely hope that all nations can treat us fairly and reasonably, and not overlook the significance, value and functions we represent.

Some say that it is impossible for us to break out of the diplomatic isolation we face, but we will do our utmost to "demand the impossible." Ultimately, I know that the world will come to realize that the Republic of China on Taiwan is a friendly and capable partner for progress!

If we view the recent economic, political and social developments in the ROC in this light, we have a basis for defining the status of my country in the post-Cold War and post Communist era. Only in this way can we propose a new direction for the new world order as we enter the 21st century.

CLOSE TRADITIONAL TIES

I want to once again express how grateful I am to be with you. My gratitude extends not only to Cornell but also to the United States as a whole. When we look back in history, we can immediately realize how close the traditional ties between our two countries are. Indeed, our shared ideals for human dignity, and peace with justice have united our two peoples in the closest of bonds.

The United States was extremely helpful in the early stages of Taiwan's economic development. We have never forgotten America's helping hand in our hour of adversity, so your nation occupies a special place in our hearts. Today, as the 6th largest trading partner of the United States, the Republic of China imports and exports US $42.4 billion worth of goods through our bilateral trade. We also are the number two buyer of US treasury notes. About thirty-eight thousand students from Taiwan are studying in the United States. Students who have returned have made important contributions to our society.

The Republic of China's development has been partly influenced by the experiences of its people while studying abroad. I gained substantial know-how in the mechanics of national growth and development from the faculty and students I worked with here in America at both schools where I studied. I had the chance to see democracy at its best in the United States, and to observe its shortcomings as well. We in Taiwan believe that we have much to learn from an advanced democracy such as the United States; however, we also believe we should develop our own model. The success of our democratic evolution has provided tremendous hope for other developing nations, and we wish to share our experience with them. Our efforts to help others through agricultural development have been well received, and we are eager to expand our technical assistance programs to friendly nations in the developing world.

Taiwan has grown from an agricultural exporting economy to a leading producer of electronics, computers and other industrial goods. We are "paving the information highway" with disk drives, computer screens, laptop computers and modems. We are poised to become a major regional operations centers as well as to buy more American products and services to develop our infrastructure.

We stand ready to enhance the mutually beneficial relations between our two nations. It is my sincere hope that this visit will open up new opportunities for cooperation between our two countries.

It is for this reason that I want to publicly express my appreciation and admiration to President Clinton for his statesman-like decision. We are equally grateful to others in the administration, to the bipartisan leadership in Congress, and to the American people.

ALWAYS IN MY HEART

Whatever I have done as president of my nation. I have done with the people in my heart. I have thought long and hard about what my people want, and it is clear that most of all, they desire democracy and development. These wishes are no different than those of any other people on this planet, and represent the direction in which world trends will certainly continue.

As I have spoken to you today, I have done so with the people in my heart. I know that what my people would like to say to you now can be expressed by this simple message:

The people of the Republic of China on Taiwan are determined to play a peaceful and constructive role among the family of nations.

We say to friends in this country and around the world;

We are here to stay;

We stand ready to help;

And we look forward to sharing the fruits of our democratic triumph.

The people are in my heart every moment of the day. I know that they would like me to say to you, that on behalf of the 21 million people of the Republic of China on Taiwan, we are eternally grateful for the support—spiritual, intellectual and material—that each of you has given to sustain our efforts to build a better tomorrow for our Nation and the world. In closing, I say God bless you, God bless Cornell University, God bless the United States of America, and God bless the Republic of China.

Thank you very much.

FBI AGENTS REMEMBERED

Mr. PRESSLER. Mr. President, today marks the 20th anniversary of the murder of two fine young men who served their country in the Federal Bureau of Investigation. They were Special Agents Jack Coler and Ron Williams. They were murdered by Leonard Peltier, who is now serving two life terms in Leavenworth Penitentiary.

Ron liked living in South Dakota and particularly enjoyed the Black Hills. After coming to my State in 1975, he purchased a home in a quiet section of Rapid City, my State's second largest city, Jack was a guest in South Dakota. His home was in Colorado. He was halfway through a 60-day temporary duty assignment in the Rapid City FBI office when he was killed.

Special Agents Coler and Williams were law enforcement officers, serving our country, doing a job the Congress of the United States authorized them to do. They were young men—Jack was 28 years old; Ron was 27—at the very beginning of promising careers with a premier Federal law enforcement agency. They performed their duties with a great deal of pride.

Mr. President, the current issue of Outdoor magazine features an article by Scott Anderson, entitled "The Martyrdom of Leonard Peltier." Despite the rather sympathetic title, the article does a fairly good job of debunking the myth that has been created over the years by the non-native American, liberal Eastern establishment and Hollywood elites. When the article does portray Peltier as victim, it is not in the way previously done, ad nauseam, as a victim of some Government conspiracy to frame Peltier for murder. Rather, Peltier is portrayed as a stooge of attorneys, newspaper and book publishers, print and media journalists, and movie moguls who have used Peltier for two decades now to line their own pockets and advance their own liberal agenda and warped view of the world.

I particularly liked Mr. Anderson's comments about the book, "In the Spirit of Crazy Horse," by Peter Matthiessen. Mr. Anderson is to be commended for calling Matthiessen to task for writing what essentially is a work of fiction—subjected to two libel suits—not the work of fact he purported it to be. Unfortunately, over the years, Matthiessen's apologia for Peltier has been regarded biblically by those who choose not to rely on the facts and the trial proceedings for what really happened 20 years ago today. Matthiessen's comic book version of reality has been spun into various movies and pseudo-documentaries by the liberal establishment.

Mr. President, it seems all too predictable that Oliver Stone is using that book to make a movie about Peltier. Let us not forget that this is the same Oliver Stone who has distorted the collective public memory by foisting upon us the movie "JFK." I suspect that the American people will learn very little about what really happened 20 years ago today on the Pine Ridge Indian Reservation if they rely on the Stone version of the case.

Regrettably, should this pulp fiction eventually hit the big screen, I am sure we will see a resurgence of calls for a Presidential commutation of Peltier's life sentences. I would hope that President Clinton would hold to the recommendation of the man he appointed to a 10-year term to head the FBI, Louis Freeh, who has said "There should be no commutation of his [Peltier's] two life terms in prison." President Clinton has spoken laudably of his respect for law enforcement during the debate on last year's crime bill and in the wake of the Oklahoma City bombing. The men and women of law enforcement are more than worthy of his and other's words of praise. I hope he will always remember what a supreme display of disrespect it would be to these fine individuals if he caved in to the calls of the radical left and freed the man who murdered two of law enforcement's finest, 20 years ago today.

Mr. President, I ask unanimous consent that following my remarks there be printed a copy of an open letter to the President, published in the Washington Post on July 15, 1994, which was written by the representatives of more than 15,000 active duty and former FBI agents. It is one of the most concise and accurate accounts of the facts of the murders ever to appear in print. I would recommend its reading to all my colleagues on the 20th anniversary of the deaths of Special Agents Jack Coler and Ron Williams.

We should never forget the sacrifice made by these two fine men, nor forgive the man lawfully convicted and justly sentenced to spend the rest of his life behind bars for their murders.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 15, 1995]

Dear Mr. President: Leonard Peltier Murdered Two FBI Agents—He Deserves No Clemency

June 26, 1975, was a hot, dusty Thursday on the Pine Ridge Indian Reservation in southwestern South Dakota when two young FBI agents arrived from their office in Rapid City. It was about noon when Special Agents Ronald A. Williams, 27, and Jack R. Coler, 28, pulled into the Jumping Bull Compound area of the remote reservation seeking to arrest a young man in connection with the recent abduction and assault of two young ranchers in nearby Manderson, S.D.

Spotting a red and white Chevrolet Suburban van in which they believed the fugitive suspect to be riding, the two agents pursued it toward an open grassy bowl-like area. Unknown to Special Agents Coler and Williams, one of the three men in the vehicle was Leonard Peltier, a violent man with a violent past, a fugitive wanted for attempted murder of an off-duty Milwaukee police officer. Knowing the two vehicles pursuing him were occupied by FBI agents and believing they were seeking to arrest him on the attempted murder case, Peltier and his two associates abruptly stopped their vehicles and began firing their rifles at the agents.

Out of range of the agents' revolvers, Peltier and his friends continued firing. Other militants and radical members of the American Indian Movement (AIM) joined them in shooting at the disabled and trapped agents.

Surprised by the sudden violence, outmanned, outgunned and at an extreme tactical disadvantage, Coler and Williams were both wounded and defenseless within minutes. Coler sustained a severe wound, the force of a bullet nearly tearing his right arm off. Williams, wounded in the left shoulder and right foot, removed his shirt during the hail of incoming rifle fire and fashioned a tourniquet around the arm of Coler, who had fallen unconscious. Coler, a former Los Angeles Police Department sergeant with two small sons, and Williams, an affable, friendly former FBI clerical employee, were at the mercy of Peltier and his associates. But there was to be no mercy that day for the fine young law enforcement officers.

Not satisfied with the terrible injuries they had inflicted, Peltier and two other men walked down the hill toward the ambushed officer. Three shots were heard. Williams, kneeling and apparently surrendering, was shot in the face directly through his outstretched, shielding hand. He died instantly. Coler, still unconscious, was shot twice in the head at close range. He died instantly after the second shot. Before leaving the murder scene, Peltier and his criminal associates stole the two dead agents' handguns and the .308 rifle Coler was going after when shot.

The crime scene examination testified to the brutality of the ambush. Coler and Williams had little chance to defend themselves. They had fired only five shots. In contrast, over 125 bullet holes were found in their two cars.

The investigation quickly focused on Leonard Peltier as the executioner. The murder weapon was determined to be a .223-caliber rifle. Witnesses identified Peltier as the only person at the murder scene in possession of a weapon that would fire a .223-caliber bullet, his weapon being a .223-caliber AR-15 semi-automatic rifle. Witnesses later testified that Peltier had possessed this rifle before, during and after the ambush. The murder weapons, with others used in the attack, was hidden, AIM sympathizers later spirited it from the area.

In September 1975, a stationwagon, heavily laden with weapons and explosives, caught fire and blew up on the Kansas Turnpike near Wichita. The murder weapon and Coler's stolen .308 rifle were recovered from the wreckage. One of the vehicle's occupants later testified that he had seen Peltier carrying the recovered .233-caliber rifle by the two FBI agent's cars on the day and at the time of their murder.

Following the June 26 murders, Leonard Peltier fled the Pine Ridge Indian Reservation. The FBI added him to its Ten Most Wanted list. Then, in November, 1975, an Oregon State trooper stopped a recreational vehicle in which Peltier was hiding. Peltier ran from the RV, fired at the officer and escaped. Coler's revolver, stolen when he was murdered, was found in a paper bag under the front seat of the RV. Peltier's thumbprint was on the bag.

When later arrested in Canada by the Royal Canadian Mounted Police, Peltier remarked that, had he known the officers were there to arrest him, he would have blown them out of their shoes. These are not the comments of an innocent man and portray the true character and violent nature of Leonard Peltier.

During his trial in U.S. District Court in Fargo, N.D., in April 1977, a jury convicted Peltier of the murders of Coler and Williams. A judge sentenced him to two consecutive life sentences. While incarcerated in the Lompoc, Calif., Federal Prison, and with outside assistance, Peltier shot his way out of jail, using a smuggled semi-automatic .223-caliber rifle to make the escape. A fellow AIM member was killed by guards during the escape. Several days later, after assaulting a rancher and stealing his truck, Peltier was captured. He was tried and convicted of the escape and of being a felon in possession of a firearm. Separate consecutive prison terms of two and five years were added to his two consecutive life sentences.

Peltier has since appealed his various convictions numerous times. Each time, the federal courts have upheld earlier court actions. The U.S. Supreme Court has twice denied Peltier petitions for certiorari, without comment. The record is clear. There are no new facts. The old facts have not changed and Peltier is guilty as charged.

Twice on national television, Peltier has admitted to firing at the two agents. He has openly stated that he feels no guilt or remorse for the murders. One has only to review his murderous misconduct when confronted by law enforcement officers to be convinced of that fact. Leonard Peltier has lived a life of crime. He has earned and deserves a lifetime of incarceration. Leonard Peltier is a murderer without compassion or feeling for his fellow man. In turn, he deserves no compassion.

Mr. President, on many occasions you have described this country's law enforcement officers as heroes and heroines. You have said that we must work together to ensure that hardened criminals who prey on the innocent receive punishment commensurate with the harm—physical, emotional and financial—that they have inflicted. We agree.

Peggy Coler, Special Agent Coler's widow, can't believe anyone would consider freeing Peltier, the man convicted of shooting her husband point-blank in the face while he lay unconscious. Her son, Ron, four years old when his dad died and now 22, can't understand how anyone could portray Peltier as the victim of this tragedy. Peggy and Ron Coler are against any thought of a pardon or commutation of Peltier's sentence. We agree.

Special Agent Ron Williams' mother, Ellen Williams, worries that Peltier's release into an unsuspecting society would only add to the list of grieving loved ones. She is convinced Peltier will commit violent acts against others. We agree.

Mr. President, it's time for Leonard Peltier to pay up. Our judicial system is overwhelmed, overworked and has spoken in this case, again and again. It's time to move on. Leonard Peltier is a vicious, violent and cowardly criminal who hides behind legitimate Native American issues. Leonard Peltier was never a leader in the Native American community. Peltier is simply a vicious thug and murderer with no respect or regard for human life, especially when law enforcement officers are involved. Our citizens, on and off the reservations, must be protected from predators such as Peltier. Our laws must be respected and obeyed or the penalty must be paid. The punishment must also fit the crime—and it does here.

Mr. President, since Leonard Peltier couldn't fool the federal courts, he is now trying to fool you and the public. He is shading and hiding the facts—and playing on sympathy. Don't let him get away with it, Mr. President. Sympathy is appropriate only for the dead heroes and their surviving families. Don't let their sacrifice be forgotten.

THE 50TH ANNIVERSARY OF THE UNITED NATIONS

Mr. DASCHLE. Mr. President, when President Truman addressed the opening session of the conference that met in San Francisco in April 1945, he told the gathered delegates, "You members of the conference are to be the architects of the better world. In your hands rests our future. By your labors at this conference we shall know if suffering humanity is to achieve a just and lasting peace."

Neither Truman nor any other realistic person then or later believed that an organization of the international community could, by itself, bring about an end to war. And, of course, the United Nations has not been able to achieve that.

But in regretting what an organization has not done, we should not overlook its achievements, and those of its associated organizations.

Today marks the 50th anniversary of the creation of the United Nations. It is the only world body which has endured for so long.

Commemorative ceremonies are taking place in San Francisco today to mark the occasion. The Senate and the Nation can be proud of the fact that, among the delegates to those ceremonies is a man who was present when the original delegates began to meet, Senator CLAIBORNE PELL of Rhode Island.

It is a tribute to the enduring ideals of public service in our Nation that many of those who served 50 years ago in San Francisco continued in long and distinguished careers of public service. We are fortunate that Senator PELL was able to return after 50 years.

The history of the world since the creation of the United Nations has been turbulent.

The United Nations Organization often has been as unpopular as it has been admired in the United States and around the world. Its shortcomings have been criticized, and its errors have been magnified by those who opposed its creation and their political heirs.

Like every organization created and manned by human beings, it is far from perfect.

But the same observation can be made about every form of human organization, governmental and corporate, public and private. None are perfect; all can bear improvement. What's significant isn't how far an organization falls short of perfection, but how close it has come to achieving its goals.

It is a remarkable fact that in a century drenched with the blood of innocents in wars both large and small, the United Nations has provided a forum in which some of the world community's most dangerous disagreements could be controlled, if not reconciled.

Those who argue that the organization is a failure because it hasn't stopped war forget that throughout the long history of humankind, nothing has successfully stopped war. Huge, tyrannical empires like the former Soviet Union successfully curtailed wars among their component states—but that's not a model for peace that any free people can admire.

Today, when the painful costs of war in human life, human health, and hard-earned treasure is less visible to us in the fortunate nations of the Western World, it is tempting to suggest that the United Nations' shortcomings are so great, its failures so substantial, that it serves no further purpose that is in the American national interest.

There are many voices willing to make that claim. But they are mistaken.

In the post-cold war world, our Nation is the only remaining superpower. Our global trading partnerships and our security interests alike mean that American must be involved with the world.

It is not in the American interest to unilaterally take on the mediation of each and every conflict that may arise between nations. Yet a peaceful and stable world community is very much in our national interest.

There is no body other than the United Nations that can serve as a mediating forum for the disputes and conflicts that inevitably arise among the members of the international community. With all its shortcomings, if the organization did not exist, we would be forced to invent it.

In April 1945, when the idea of a world body was taking shape, President Truman observed, "When Kansas and Colorado have a quarrel over the water in the Arkansas River, they don't call out the National Guard in each state and go to war over it. They bring a suit in the Supreme Court of the United States and abide by the decision. There isn't a reason in the world why we cannot do that internationally."

In the wake of a half-century in which states have repeatedly gone to war, not to the negotiating table, Truman's words sound sadly idealistic. We think we know better.

But perhaps it is we who are being foolishly cynical. Perhaps it was Truman, that Midwestern man of great common sense, who understood more deeply what was at stake. He understood that if we did not strive to create a great organization, we would not achieve even a good one. He knew that if we approached the task with less than our ideals, we would reap much greater disappointment.

At a distance of 50 years, there is much many of us have forgotten about the times in which the United Nations was forged, and about the forces that made men and women work for its creation. On the anniversary of its creation, it is a good time to think back and remember that we are all charged with the responsibility Truman expressed 50 years ago: "We must build a new world, a far better world—one in which the eternal dignity of man is respected." That is a task every bit as important for our generation as it was for Truman's.

FORMER CHIEF JUSTICE WARREN BURGER

Mr. THURMOND. Mr. President, from the earliest days of our republic, the Supreme Court has always been one of the most important institutions in the land. Sitting at the top of the judicial branch, nine individuals pass judgment on cases of constitutional importance that are argued before them. Managing and administering this process is the Chief Justice, part referee, part historian, full time judge. It is a demanding job that requires patience, intelligence, and tact. I rise today to pay tribute to a man who excelled in that position, Warren E. Burger, who regrettably passed away yesterday.

Warren Burger grew up on a farm in Minnesota, the Heartland of America. He worked his way through college and law school, earning degrees from the University of Minnesota and the St. Paul College of Law, before beginning his career as an attorney. In 1953, President Dwight D. Eisenhower made Mr. Burger an Assistant U.S. Attorney General, beginning the Minnesotan's journey to the highest seat on the highest court of the land. Before joining the Supreme Court, Warren Burger would also serve on the Court of Appeals for the District of Columbia Circuit.

During the 17 years that he served as Chief Justice, the Court decided many issues that had a tremendous impact on American society. The results of many of the cases reviewed by the Burger Court came to be known as landmark decisions, ones that are likely to be studied by law students, professors, and historians for decades, if not centuries to come. It is not exaggerating to say that the actions of Warren Burger and his court did much to change life in America.

In 1986 Warren Burger resigned as Chief Justice of the Court, ending his two decade presence there, to chair the Committee on the Bicentennial of the Constitution. I served on this committee and I worked closely with the former Chief Justice to promote this special anniversary in the history of our Nation. I found Chief Justice Burger to be a man of integrity, ability, and dedication, whose deep interest in American history made him an effective and enthusiastic spokesman for this undertaking.

Mr. President, the Chief Justice and I differed on some issues, but he was an outstanding man who served this Nation ably and selflessly. He was a thoughtful adjudicator of cases, a strong advocate for the judicial branch, and most importantly, he cared for and believed deeply in the Constitution. He is a man who will certainly be missed by a host of friends, and I extend my deepest sympathy to the members of his family.

SERVICE, COMMITMENT, DEDICATION

Mr. ASHCROFT. Mr. President, it is an honor and a privilege to serve the people of Missouri and of this great country. Those of us who were elected in 1994 came here with a mandate from the people to change the way Washington does business. We were asked to reopen the door of self-government and to respect the liberties which have made our democracy a model for the world.

With this mandate before us, I want to share with my fellow Senators the pledge that every Member of my office has taken. It is a pledge of service, of commitment, and of dedication. It is a pledge we want to share with the American people. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OATH OF OFFICE

We do solemnly swear that we will support and defend the Constitution of the United States against all enemies, foreign and domestic; and that we will bear true faith and allegiance to the same.

STATEMENT OF BELIEF, PURPOSE, PRINCIPLE, AND PRACTICE

We dedicate ourselves to principled public policy. We believe that Americans are endowed by their Creator with certain unalienable Rights, and among these are life, liberty and the pursuit of happiness. The power we exercise is granted by Missourians and the American people; we serve to secure their rights. Our commitment is to respect diverse political views and serve all people by whose consent we govern.

As people of liberty reach for opportunity and achieve greatness, our nation prospers. A government that lives beyond its means and reaches beyond its limits violates our basic liberties, and the nation suffers.

We dedicate ourselves to quality service. America's future will be determined by the character and productivity of our people. In this respect, we seek to lead by our example. We will strive to lead with humility and honesty. We will work with energy and spirit. We will represent the American people with loyalty and integrity. Our standard of productivity is accuracy, courtesy, efficiency, integrity, validity, and timeliness.

We hold that these principles are a sacred mandate. We take responsibility for these standards.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, one need not be a rocket scientist to know that the U.S. Constitution forbids any President's spending even a dime of

Federal tax money that has not first been authorized and appropriated by Congress—both the House of Representatives and the U.S. Senate.

So when you hear a politician or an editor or a commentator declare that "Reagan ran up the Federal debt" or that "Bush ran it up," bear in mind that the Founding Fathers, two centuries before the Reagan and Bush Presidencies, made it very clear that it is the constitutional duty of Congress—of Congress—a duty Congress cannot escape—to control Federal spending—which Congress has not done for the past 50 years.

Thus, it is the fiscal irresponsibility of Congress that has created the incredible Federal debt which stood at $4,887,614,064,494.86 as of the close of business Friday, June 23. This outrageous debt—which will be passed on to our children and grandchildren—averages out to $18,553.47 on a per capita basis.

A TRIBUTE TO FRED DuBRAY

Mr. PRESSLER. Mr. President, I rise today to extend my congratulations to Fred DuBray, an exceptional South Dakotan, who recently was awarded a Newsweek Achievement Award. Fred DuBray was recognized by the weekly magazine Newsweek for his vision and commitment to reviving the bison population in South Dakota and across the country.

Mr. DuBray is a member of the Cheyenne River Sioux Tribe, and is founder and president of the InterTribal Bison Cooperative [ITBC].

Bison always have held a special place in the hearts of many Native Americans, and in the history of the American continent. Often referred to as buffalo, bison play a significant role in tribal ceremonies and in other traditional customs of the Native Americans. Knowing what the bison mean to the Native American culture, Fred DuBray came up with the idea of reviving the bison population—and encouraging reservations to reap the economic benefits.

The InterTribal Bison Cooperative [ITBC], headquartered in Rapid City, SD, has proven to be a great success. It has brought economic development to Native American tribes across the country, where other economic projects had previously failed. In 1991, when it was founded, the ITBC consisted of only seven Indian tribes. Since then, it has expanded to include 36 tribes from 15 different States across the country.

Under Mr. DuBray's leadership, the ITBC has created more than 500 new jobs through the production and distribution of bison meat and bison byproducts. The number of consumers purchasing bison products has increased dramatically over the past 4 years.

In my home State of South Dakota, raising bison has proven to be a profitable venture for the Cheyenne River Sioux Tribe. In fact, the Cheyenne River Sioux recently received Federal assistance from the U.S. Department of Agriculture for the purchase of a mobile meat processor.

This state-of-the-art technology will allow the tribe to slaughter bison in a traditional manner, while processing and packaging the meat on the spot. The tribe also intends to allow other nearby tribes and private ranchers to benefit from the use of the mobile bison meat processor.

Fred's ingenuity is an inspiration to all Native Americans who, through creativity and hard work, are striving to achieve self-sufficiency, rather than dependency on Federal Government assistance. I am very proud of Fred DuBray's achievements, and I am very happy to see that he is receiving well-earned recognition from *Newsweek* magazine.

My wife, Harriet, and I extend our congratulations to Fred DuBray for his accomplishments thus far, and wish him continued success in his future efforts.

TRIBUTE TO WARREN BURGER

Mr. DOLE. Mr. President, a century-and-a-half ago, the great Daniel Webster said,

> We may be tossed upon an ocean where we can see no land—nor, perhaps, the sun or stars. But there is a chart and a compass for us to study, to consult, and to obey. That chart is the Constitution.

Today, Mr. President, the Senate joins with the rest of the country in mourning the passing of former Chief Justice of the United States, Warren Burger, a man who devoted his life to studying, consulting, and obeying the Constitution.

Chief Justice Burger's public life began in 1953, when he came to Washington to serve as an Assistant Attorney General in the Eisenhowewr administration.

Prior to that time, he was a respected attorney and civic leader in his home State of Minnesota. And when he arrived in Washington, he brought with him a great deal of midwestern common sense, practical experience, and an understanding of the importance of communities, neighborhoods, and families.

In 1956, President Eisenhower appointed Chief Justice Burger to the U.S. Court of Appeals for the District of Columbia circuit. He served there with distinction until 1969, when President Nixon selected him as Chief Justice of the United States.

During his 17 years as Chief Justice of the United States—a tenure which made him the longest serving Chief Justice in this century—Warren Burger authored over 244 majority opinions and assigned over 1,000 others.

Like most Americans, I agreed with some of those opinions, especially those that restored a sense of balance to our criminal justice system—and disagreed with others. But I never doubted Warren Burger's devotion to his country.

And I never doubted his devotion to making our judicial system and our courts run more efficently. Chief Justice Burger is due the credit he has received for the leadership he provided in improving education and training of judges and court personnel, and in the implementation of technological advances.

He created the National Center for State Courts, the Institute for Court Management, and the National Institute for Corrections, institutions which will continue to serve as his legacy for years to come.

Chief Justice Burger also spoke bluntly about the need of the members of the legal profession to always maintain the highest degree of ethics and professionalism.

When Chief Justice Burger left the court, he assumed the chairmanship of the commission honoring the Bicentennial of the Constitution. And he presided over that celebration's activities with great dignity and ability.

Warren Burger's devotion to increasing awareness of the Constitution continued until this year, when he published a book recounting 14 major Supreme Court cases.

Mr. President, I know all Senators join with me in extending our sympathies to Chief Justice Burger's son, Wade, his daughter, Margaret, and his two grandchildren.

AUTHORIZATION TO THE ARCHITECT OF THE CAPITOL

Mr. DOLE. Mr. President, at this time, on behalf of myself and Senator DASCHLE, I send a concurrent resolution to the desk and ask for its immediate consideration.

This resolution authorizes the removal of the catafalque from the Capitol to the Supreme Court where Chief Justice Burger's casket will lie in state.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 18) authorizing the Architect of the Capitol to transfer the catafalque to the Supreme Court for a funeral service.

The PRESIDING OFFICER. Without objection, the concurrent resolution is agreed to.

So the concurrent resolution (S. Con. Res. 18) was agreed to, as follows:

S. CON. RES. 18

Resolved by the Senate (the House of Representatives concurring), That the Architect of the Capitol is authorized and directed to transfer to the custody of the Chief Justice of the United States the catafalque which is presently situated in the crypt beneath the rotunda of the Capitol so that the said catafalque may be used in the Supreme Court Building in connection with services to be conducted there for the late Honorable Warren Burger, former Chief Justice of the Supreme Court of the United States.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

PRIVATE SECURITIES LITIGATION REFORM ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 240, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 240) to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

The Senate resumed consideration of the bill.

Pending:

Bryan Amendment No. 1469, to provide for a limitation period for implied private rights of action.

Mr. BENNETT. Mr. President, I have listened to the debate on this issue from both sides of the aisle with great interest and have several observations that I would like to share with you and the others in the Senate as we come to this point.

As is pointed out often to me, and sometimes as I have pointed out during my political career, I am not a lawyer. I have not been blessed with the experience of having gone through law school or passed the bar or practiced law or any of the other kinds of experiences that go with being an attorney, which so many of our colleagues in the Senate have. Indeed, a majority, Mr. President, of the Members of this body are lawyers.

I have not kept exact tally, but I believe that the vast majority, if not 100 percent, of the people who have commented on this bill, have been lawyers.

No, I must correct myself. Mr. President, the Senator from California [Mrs. BOXER] is not a lawyer, and she has been very forthright in her opposition to this bill. So I would back away from that. But most of the people who have spoken on this have been lawyers. And I have noticed that they have addressed this issue on the basis of what will happen in court if S. 240 were to pass.

They have argued that back and forth, with lawyers saying: Oh, no, if S. 240 were passed, why, then this is how the courts would be forced to rule. And then other lawyers have risen and said: You are wrong; if S. 240 passes, the courts would not have that ruling at all; they would rule this way. Back and forth, so the argument goes between those who have had the experience of a legal education.

I wish to share with the Senate my view of this, which is based not on a legal background but upon direct experience and observation with what has been happening with strike suits as these have come to be known.

My first experience is a vicarious one, but I do my best to make sure that it is accurate. It is the experience that my father had after he left the Senate and began his last career, which was back in the business world serving on a variety of boards of directors.

I have told this story in the committee hearing, but I think it is appropriate to repeat here because it makes the point I intend to make.

One of the boards that my father went on after he left the Senate was a board of a mutual fund. The compensation of the directors was tied to the performance of the mutual fund. This is the kind of thing people are saying we ought to do with directors and chief executives, not just set a compensation and let it stay there, but have a compensation tied to the performance of the fund.

Once a year, the compensation of the directors would be adjusted as a result of the better performance of the fund during the year, and since the fund, at least during the time my father served on the board, always did better each year, the compensation went up each year.

My father received a stack of legal papers suing him for looting the assets of that particular mutual fund. He was a little startled, and he called the general counsel of the mutual fund and said, "What is this all about?"

"Oh," said the general counsel, "don't worry about that, Senator, it is just because 'Bennett' comes before all of the other directors in our alphabetical list, and there is a lawyer in New York who every year sues us, sues all of the directors, for looting the fund by virtue of the increase in compensation that comes as a result of the formula that we have." He said, "Because, as I say, your name is first alphabetically, you are the one filed with the papers. You notice it says 'Wallace Bennett, et al.' The 'et al.' means all of the other directors. If we had another director whose name began with 'A,' he would be the one on whom the papers would be served. Don't worry about it. We'll take care of it."

Dad said, "How are you going to take care of it? This is a very impressive lawsuit."

"Oh," he said, "we have in the budget $100,000 to send to that lawyer in settlement of this lawsuit. We do this every year. He files the lawsuit, we send him a check for $100,000, he goes away. It is a standard kind of thing that we have built into our budget."

"Why in the world are we paying this man $100,000 simply to file the lawsuit?"

"Well, Senator," he said, perhaps a little nonplused at my father's naivete, "the legal bills of our fighting this suit would be substantially in excess of $100,000. So the financially responsible thing for us to do for our shareholders is to settle it at the lowest possible price, and we found that this fellow will go away if we send him $100,000. And, therefore, we do the financially responsible thing by sending him $100,000."

Dad said, "That's extortion, that's blackmail, that's like the protection rackets, if you will, that the mafia runs when they come in and say in a particular storefront, 'You need some protection from somebody who might bomb this place.'"

He said, "Well, Senator, we have better things to do than respond to these kinds of lawsuits. The cheapest way out of this dilemma is simply send the man his $100,000 every year."

We are told during this debate, "Oh, these are hypotheticals." We are told, "Oh, we have to look at what might happen here, what might happen there." We are told, "Oh, the proponents of the bill are raising scare tactics of the worst possible case, and that is not the normal procedure at all."

I can assure you, Mr. President, this was an actual case, an actual circumstance where automatically the lawyer, by simply hitting the button on his word processor and turning out the same set of papers, received a check for $100,000 every year.

As I understand the case, to finish the story, that particular lawyer is no longer doing that, simply because he got greedy. He started to overreach and do this not only with the funds where my father was serving as a member of the board but other funds, assuming he would get the same treatment. Finally, one of them, managed by Merrill Lynch, decided to call his bluff and go to court with him.

Merrill Lynch had deeper pockets than the mutual fund on whose board my father sat, and they decided to reach into those pockets and pay the legal expenses necessary to close this operation down. So they called the man's bluff. They forced him to come up with the legal fees necessary to go to court, and he found he could not survive if he had to pay all the legal fees to actually prosecute the lawsuit and, thus, ultimately the whole thing was shut down.

I cite that because of the rhetoric that has surrounded this bill. We are not talking about what will happen in court in a theoretical lawsuit when we are talking about the impetus behind the writing and filing of this bill. We are talking about the fact that the vast majority of these lawsuits never get to court and do not intend to go to court. They are filed not because the lawyer has discovered some great evil on behalf of the investor. They are filed because the lawyer knows full well that the company or mutual fund or pension fund, or whatever it is that is being accused, will find it cheaper to settle out of court than go through the legal hassle of paying all the bills necessary to resolve the issue in the courts.

During the hearing on this bill, Ralph Nader made the statement: No one settles out of court unless he has something to hide, and challenged me personally on that issue saying, no CEO who is responsible would ever settle a lawsuit out of court unless he had something to hide, and he then proceeded to lecture me as to what my duty would be assuming, perhaps erroneously, that I was a lawyer.

I said to him and I say here on the floor today, again, I am not a lawyer but I was a CEO of a company who settled a suit out of court about which we had nothing to hide. Indeed, all of the issues that were involved in that lawsuit were clearly on the public record, but the legal bills to prosecute that lawsuit were bankrupting our company.

Now, the company at the time was very, very small, it was very fragile and our legal bills were running $25,000 a month. I spoke to our lawyer and said, "What happens if we go to trial?"

Our lawyer said, "They will then go to a minimum of $25,000 a week."

There was no way that company could survive the drain of legal bills of $25,000 a week. So I said, "What will it take to settle?"

We signed an agreement settling that lawsuit that called upon us to pay the other party $2,500 a month. Some of our shareholders did not like it. They said, "Oh, we think it is terrible we have to pay them anything, because we're convinced we're right."

I said, "Look, you can be convinced you're right all you want. The issue is, can we afford to continue to press our legal position at a $25,000 a month tab all the way into court and then $25,000 a week? Swallow your pride about saying we want our position absolutely vindicated, take the $2,500 a month settlement and put this behind us and get on with our business."

It was one of the smartest business decisions we ever made.

I pointed this out to Mr. Nader in the hearing. I resent the suggestion that the reason we settled out of court was that we had something to hide. And I say absolutely that settlements out of court are made, 90 percent of the time, on the basis of pure economics; it is cheaper to settle than to continue to litigate. And if it is, swallow your position about making a point, do the wise economic thing and settle this suit.

That is where these strike suits come from—lawyers who recognize that reality. Settlements out of court are made on the basis of economics. They are not made on any other basis. That is why so many of these suits are filed. That is why the vast bulk of these suits are settled out of court, and that is why this has become—as the Senator from New Mexico [Mr. DOMENICI], pointed out—a magnificent way for some lawyers to practice because, as the Senator said, this is a practice without clients. What could be more fun than to be a lawyer with a practice without any clients, and with, in the case that I have cited in my father's circumstance, a guaranteed $100,000 per year income doing nothing more than mailing off a set of documents to a company that will write out the check because it is easier to do that than to go to court.

I point out to those who say, "Oh, this is not very widespread," that we had some testimony in the committee from a lawyer who says this is, in fact, never done. I asked him directly. I said, "Are you telling us that no lawyer ever files a strike suit solely on the belief that he will get a settlement out of court and not have to litigate it?" He said, "Senator, no lawyer ever does that." At that point, the credibility of that witness disappeared, as far as I was concerned, because I knew that it was done.

Well, this practice has created enough concern that we have a bipartisan basis of support for this bill. Indeed, the initial supporter, the initial mover and shaker on this bill was the Senator from Connecticut [Mr. DODD]—not known for his hard right-wing propensities and leanings. He is one of my good friends. We disagree about a number of things. He is a liberal Democrat and I am a conservative Republican. But I consider him one of the more thoughtful Members of this body. He was the moving force behind this bill in the first instance. He knows that these suits are filed for the purpose of getting settlements, not ever going to court. He was joined by Senator DOMENICI.

Senator DOMENICI told me over the weekend—we were in Utah together—he has been accused of the fatal sin of being a moderate by some portions of the conservative press. I said, "What did you do, plead guilty?" This is one of the more thoughtful Members of the Senate, as well. He is a careful lawyer. He understands all of the legal issues. He has pushed this bill right from the very beginning, and he, along with Senator DODD, is the principal cosponsor of the bill in this Congress.

It is a smokescreen, in my view, to spend all of your time talking about what may or may not happen in court if S. 240 passes, because that ignores the fact that the purpose of S. 240 is to deal with those people who file suits without any intention of going to court. We need to understand that as we are debating this bill.

Now, there have been some things said about this bill that I would like to set straight. One of the myths that has come out of this debate is that if S. 240 had been law at the time of the failure of the Lincoln Savings & Loan, Mr. Charles Keating would have gone scot-free and his victims would have been denied any kind of recovery. That is simply not the case, Mr. President. The safe harbor provisions of S. 240 would not have protected Keating and his codefendants.

Keating's statements that bonds were federally insured and as safe as a bank deposit were fraudulent and obviously false and not covered by the safe harbor. The safe harbor applies to forward-looking projections, not to statements of fact that can be checked out in the past. For Keating to say the bonds were federally insured is not a forward-looking statement. Its very nature is a statement of past and existing circumstances, and they did not happen to be true. That is one of the reasons Mr. Keating is now out of the savings and loan business and under the protection and custody of the Federal Government.

Mr. SARBANES. Will the Senator yield for a moment?

Mr. BENNETT. Yes, I am happy to yield.

Mr. SARBANES. I wonder if we can get the time situation straightened out. Could I ask the Chair what time did we go on the bill?

The PRESIDING OFFICER. We resumed the bill at 12:16.

Mr. SARBANES. Mr. President, I ask unanimous consent that the time between 12:16 and 2 o'clock be treated as equally divided between the Senator from Utah and myself. When he completes his statement, I will put down the amendment. But the time he is using would come out of his side, and there will still be time left, unless he is going to go on for a very long time. I think that would equalize the situation in which we find ourselves.

Mr. BENNETT. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. I know that the Senator from Maryland was scheduled to speak first, but no one was here, so I started. I would be happy to yield now if the Senator wishes to speak.

Mr. SARBANES. If the Senator would yield, I was going to offer an amendment on which the time would be equally divided. I am happy to withhold offering the amendment until the Senator completes his general statement. But I did not want the general statement to go on without getting this straightened out because there might not be much time left for the amendment.

Mr. BENNETT. I agree that the time of my statement will be charged against our time on the amendment.

Mr. SARBANES. Thank you.

Mr. BENNETT. I shall conclude so that we can move to the amendment of the Senator from Maryland.

We should understand that this debate and conversation about what may or may not have been the case in the Keating circumstance had S. 240 been in place is, in fact, irrelevant to the purpose of this legislation and to the direction that it will take in the future. The Keating codefendants could remain fully liable if S. 240 had been in place. The aiders and abettors would still be held accountable. The Keating claims are within the current statute of limitations, and the other 10(b)(5) reforms do not affect the recoveries.

So, Mr. President, I hope as we examine this whole circumstance, we keep in mind the purpose for which S. 240 was written in the first place. It is to deal with those people who file lawsuits without any expectation that they will ever come to trial but in the hope that the economics of the circumstance will force people to settle with them short of a trial, so that they can enjoy what, as I say, the Senator from New Mexico calls the "perfect" law practice—a law practice without clients and a law practice that does not require you to ever go to court, to ever hold discovery, to ever go through any procedure—simply file a set of papers and wait, as the lawyer in New York did who dealt with my father, for the check to arrive in the mail. That kind of thing is bad—it is bad for investors, it is bad for the country. That is the reason we are supporting S. 240.

I now yield the floor to the Senator from Maryland.

AMENDMENT NO. 1472

(Purpose: To amend the proportionate liability provisions of the bill)

Mr. SARBANES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Maryland [Mr. SARBANES] proposes an amendment numbered 1472.

Mr. SARBANES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> On page 134, strike line 6, and insert the following:
>
> "(A) NET FINANCIAL WORTH.—Each
>
> On page 134, strike lines 9 through 15, and insert the following: "that the net financial worth of the".
>
> On page 134, line 23, strike "50 percent" and insert "100 percent".

Mr. SARBANES. Mr. President, I ask the Chair to state the time situation.

The PRESIDING OFFICER. The Senator from Maryland has 52 minutes. The manager of the bill has approximately 30 minutes.

Mr. SARBANES. Mr. President, before I turn to the provisions of the amendment, I want to make a few comments with respect to what my distinguished colleague from Utah said in his opening remarks on the consideration of this legislation today.

It is very important to understand that there are parts of this bill that Members are trying to amend and there are parts we are not trying to amend. There are parts which we think are desirable and worthwhile having. There are other parts that we think are excessive. They overreach. They go too far.

Those are the ones we are trying to correct. If we could get it corrected, we would have a total package of which one could be supportive.

Examples that are cited, many of them that are being cited, are, in fact, things we are prepared to try to correct with the provisions of this legislation, that we are not opposing. It is very important that that be understood.

The New York Times on Friday has an editorial headed "Protection for Corporate Fraud." It says, speaking of the Senate security bill:

> . . . goes far beyond their stated purpose of ending frivolous litigation. The Senate securities bill sets out to protect corporate officials from being sued when they issue overly optimistic predictions of corporate profitability that are simply innocent misjudgment. Sponsors cite cases for opportunist shareholders who waited for a company's share price to nosedive, then sued on the grounds that their investment was based on fraudulent representations of the company's health. But to solve this infrequent problem, the bill would erect a nearly insurmountable barrier to suing officials who peddle recklessly false information. It would block suits against the accountants, lawyers, and other professionals who look the other way when the companies they serve mislead investors. The bill requires that suits be filed within a short statute of limitations and threatens plaintiffs who technically violate the court's procedures with heavy fines, including payment of the defendant's legal fees. These provisions would ward off frivolous suits. But they just as surely ward off valid suits. Securities markets work well when investors are confident that the data on which they base decisions is honest. The bill threatens that confidence.

Mr. President, I ask unanimous consent that that editorial be printed at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. The Baltimore Sun has an editorial "Safe Harbors for Financial Fraud." Let me quote very briefly from it:

> In the wake of the Nation's savings and loan debacle, the financial derivative shock to U.S. pension systems, the junk bond manipulations of Mike Milken, one could expect Congress to bolster the rights of investors in securities fraud cases. Instead, Capitol Hill legislators are rallying to protect the interests of corporate executives, securities dealers, lawyers and accountants against the claims of victims of financial crimes.

Further on it says:

> Originally drafted to reduce the number of frivolous investor lawsuits against corporations. . . .

And then it goes on to say:

> But the sweeping protections included have fired the opposition of investor groups, advocates for the elderly and even the Federal Securities and Exchange Commission.

It closes by saying:

> The arsenal of weapons against investors in the legislation shows that it is more about protecting the shadowy dealings of corporate leaders and their professional confederates than in limiting frivolous class action lawsuits.

This is the question. No one is protecting the frivolous class action lawsuit. The question is whether the provisions of the bill have gone beyond that and are excessive. We submit that they are. Those are some of the provisions we are now trying to change.

Mr. President, I ask unanimous consent that the Baltimore Sun editorial be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SARBANES. Mr. President, I made reference to an article that appeared in the New York Times on Sunday, authored by Mark Griffin, the director of the Utah securities division who is a board member of the North American Securities Administrators Association, comprising the securities regulators from the 50 States. Mr. Griffin is chairman of the Securities Litigation Reform Task Force of the North American Securities Administrators Association. In other words, all of the 50 State securities administrators.

That article entitled "Securities Litigation Bill Is Reform in Name Only." Just to quote briefly:

> What's in a name? In the case of the Private Securities Litigation Reform Act of 1995, consumers will find a world class misnomer. Now before the Senate, the bill is more accurately described as securities litigation repeal. For millions of middle-class American investors, the fate of this bill—and the even more radical version passed by the House of Representatives in March—could spell the difference between recovering or losing billions of dollars from securities fraud.
>
> Securities litigation reform began with the intent of putting some weights around the ankles of a few fleet-footed lawyers; but the measure now dangerously close to Senate passage would wind up being a noose around the neck of defrauded investors. While everyone agrees on the need for reasonable reform, numerous public-minded groups are strongly opposed to radical steps in the Senate bill, S. 240, that would snuff out key investor rights.
>
> If securities litigation reform was the real goal here, the widespread support that exists for reasonable steps to curb lawsuit abuses would have ensured easy passage. But the bill now before the Senate would rein in frivolous lawsuits only by making it virtually impossible for consumers to pursue rightful claims.

He goes on later to say,

> The reality is that the main intent of this legislation, despite what its proponents say,

is to provide a shield for all but the most extreme cases of fraud.

Mr. President, I ask unanimous consent that this article be printed in the RECORD at the close of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. SARBANES. I will come back to this article because I think it is a perspective analysis of the situation in which we find ourselves.

Now, Mr. President, let me turn to the amendment which I sent to the desk, which deals with the issue of proportional liability and the departure from the concept of joint and several liability.

Let me recap very quickly the broader issue that was dealt with last and then the more narrowly focused amendment which I have offered and which I will then discuss. The bill changes the current system of joint and several liability to a new system of proportionate liability. Joint and several liability is the legal principle that says that each participant in a fraud may be held liable for all of the fraud victim's losses.

Under the Federal securities laws as they now are—not as they are being changed in this bill but as they are right now—each participant in a securities fraud—a corporate executive, an outside accountant, lawyer, investment banker—may be held liable for all of a victim's losses. In other words, if one of the fraud participants is bankrupt or if one of the fraud participants has fled the country, the other fraud participants make up the difference. So the burden, if one of the fraud participants is bankrupt or flees, does not fall on the innocent investor. It seems to me a rather simple concept. It is between those who have participated in the fraud—perhaps in varying degrees but nevertheless participated in it—they should be held accountable and have to sustain the burden before it is thrust upon the innocent investor. In fact, under the current system, the defrauded investors are able to recover their entire losses against any of the participants in the fraud. This bill will change that. The bill will change the system from joint and several liability to proportional liability for reckless defendants.

Who are reckless defendants under the securities laws as they now exist? The Federal securities law currently punishes two types of people who participate in a fraud: People who plan the fraud who intended to deceive the investors, and people who acted recklessly, who knew nothing about the fraud and did nothing about it—who knew about the fraud and did nothing about it.

The standard of recklessness used in the courts is not—last week, in fact, some of the people supporting this legislation talked about it as though it was negligent or just by chance that one got involved. The standard is—this is a quote out of the Sundstrand case:

> . . . a highly unreasonable omission involving not merely simple or even gross negligence but an extreme departure from the standards of ordinary care and which present a danger of misleading buyers or sellers that is either known to the defendant or is so obvious that the actor must have been aware of it.

The recklessness liability, under Federal securities fraud, is usually asserted against the fraud artist's professional advisers, his lawyers, accountants, appraisers, investment bankers, and so forth. Unfortunately, sometimes these people know about a fraud and do nothing about it. In those instances, the law holds them jointly and severally liable in that fraud. The bill changes that. It changes that. And the reckless participant will be liable only for a proportionate share of the investor's losses. If one of the fraud participants is bankrupt or fled the country or cannot be found, the losses will no longer be made up by other participants in the fraud. Instead, the innocent investor—the innocent investor will not recover his losses, even when other participants in the fraud are available to pay. Reckless participants in a fraud will be favored over innocent victims of a fraud, over individual investors, over State and local governments, over pension plans, over charitable organizations.

Securities regulators, Government officials, consumer groups, and others oppose this provision. The Chairman of the SEC wrote the Congress saying:

> The Commission has consistently opposed proportionate liability.

The North American Securities Administrators Association, which represents the 50 State securities regulators, wrote, urging the Senate "to lift the severe limitations on joint and several liability so that defrauded investors may fully recover their losses."

The Government Finance Officers Association, representing thousands of county treasurers, city managers, and so on, people who invest taxpayer funds and pension funds, are opposed to this provision. They wrote, on June 8, in a letter that was printed last week in the RECORD—and I ask unanimous consent their letter, along with the one from the North American Securities Administrators Association, again be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. SARBANES. They wrote:

> Fraud victims would find it exceedingly difficult to fully recover their losses. S. 240 sharply limits the traditional rule of joint and several liability for reckless violators. This means the fraud victims would be precluded from fully recovering their losses.

The National League of Cities, the Consumer Federation of America, the U.S. Conference of Mayors have all opposed this version of proportionate liability that puts fraud participants ahead of fraud victims. On Friday, we received a letter from the American Association of Retired Persons, which I would like to have printed in the RECORD.

I ask unanimous consent to do so.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN ASSOCIATION
OF RETIRED PERSONS,
Washington, DC, June 23, 1995.

Re S. 240, the "Private Securities Litigation Reform Act."

U.S. SENATE,
Washington, DC.

DEAR SENATOR: The Senate will soon be voting on S. 240, the Private Securities Litigation Act. While the American Association of Retired Persons (AARP) supports efforts to eliminate truly frivolous lawsuits, we cannot support this bill as reported out of the Banking, Housing, and Urban Affairs Committee. As currently written, many aggrieved investors with legitimate claims will be vulnerable to abusive practices in the securities marketplace.

More than 28 million Americans over the age of 65 rely in part on investment income to meet expenses. Though older investors once relied heavily on federally insured products such as certificates of deposit or savings accounts, lower interest rates have prompted many, including those who are not financially sophisticated, to invest in securities. In addition, because of the increasing use of defined-contribution (versus defined-benefit) pension plans, more and more people are using securities products when planning for retirement.

Older Americans fall prey not only to financial fraud, but also are injured by some practices within the "legitimate" investment industry. Some older investors are hit with hefty fees or subjected to "churning" of accounts to maximize profits for salespeople. Others routinely lose money in regulated investments that are unsuitable to their needs, are promoted in a misleading fashion, or are accompanied by inadequate and unclear disclosures. This money may represent a lifetime of savings, a lump sum pension payout, or proceeds from the sale of a home. Financial losses for retirees can mean a loss of basic support, with little opportunity to recapture lost income.

As currently drafted, S. 240 will shield wrongdoers from liability in a number of ways. As a result, the bill needs to be improved to help strike a better balance between protecting investors and eliminating claims without merit. AARP urges you to support amendments which may be offered calling for the following:

Maintenance of traditional joint and several liability among defendants. Under the bill as currently drafted, liability for reckless behavior would be narrowed to such an extent that it would be difficult, if not impossible, for small investors to be made whole for losses suffered. This amendment would protect investors against jailed, missing, or bankrupt malfeasors by restoring existing joint and several liability; and

Replacement of the safe harbor provision in the bill with a directive to the SEC to issue a rule which structures a safe harbor that protects both legitimate businesses and investors. S. 240 weakens current law by allowing an expansive safe harbor for forward-looking corporate statements that make exaggerated claims to attract investors, even if these statements are made recklessly. Clearly, such statements would harm investors greatly and should not be immunized from liability.

If AARP can be of further assistance or if you have any questions, please have your staff contact Kent Burnette at (202) 434-3800.

Sincerely,

HORACE B. DEETS,
Executive Director.

Mr. SARBANES. That letter states:

> As currently drafted, S. 240 will shield wrongdoers from liability in a number of ways. As a result, the bill needs to be improved to help strike a better balance between protecting investors and eliminating claims without merit.

Last week, an amendment was offered by Senators SHELBY, BRYAN, BOXER, and I, to try to strike a better balance with respect to the broad issue of joint and several liability. That amendment was defeated. I very much regret that was the case. The amendment that has just been sent to the desk is, therefore, not dealing with the broader issue of joint and several liability, which I have just outlined, but with a more narrow aspect of it.

I urge my colleagues to focus very carefully on the fact situation. Even the authors of the bill that is before us recognize that it is unfair to favor reckless lawyers, accountants, and investment bankers who participate in a fraud entirely over the individual investor victimized by the fraud. In fact, the bill has two provisions, one that would require reckless accountants and reckless lawyers to pay investors more than the proportionate share of the reckless advisers when a fraud artist is bankrupt or has fled the country, and another provision designed to make up for the entire losses of so-called small investors.

Let me examine these two provisions, and the amendment goes to these two provisions. The first provision says that all the defendants shall be jointly and severally liable for the uncollectible share of the small investor, but only under these very limited circumstances—first of all, only if the net worth of the investor is under $200,000. The committee report says that net worth includes all of the plaintiffs' financial assets including stocks, bonds, real estate, and jewelry.

How many investors are we talking about here? People who are able to buy stocks, are going to have a net worth under $200,000, particularly when the net worth includes the value of their home? How many elderly people who have saved for a lifetime have a net worth over $200,000? Their home is usually paid for or close to it. They have some other assets. For such a person, $200,000 is not a large net worth. I guess they would have to value the engagement ring, value the wedding ring, value the heirlooms. So it is a $200,000 net financial worth of the plaintiff.

The other provision says that the plaintiff will be held whole only if the recoverable damages are equal to more than 10 percent of the net financial worth of the plaintiff. Listen to this. You are only going to protect—the bill supposedly makes an effort to protect the small investor. But the definition of the protection is that the investor's net worth has to be under $200,000, and then you protect recoverable damages only if they are equal to or more than 10 percent of the net financial worth.

(Mr. THOMPSON assumed the Chair.)

Mr. SARBANES. Mr. President, let me just give you this example. A retired person, a small investor, retired person has a $190,000 net worth. A fraudulent stock scheme is practiced upon this person, and he loses $17,000. The person who perpetrated the scheme, this scam artist, has gone bankrupt. They flee the country, or whatever. The lawyer who advised the scam artist knew about this or was reckless in terms of knowing about this fraud, the standard I quoted earlier. Under current law, that person would be jointly and severally liable and would have to pay all of the damages. Under this provision, since the damages are not 10 percent of the net worth, the investor does not get that protection.

What is the meaning of this provision in the bill, if it has that kind of exclusion that simply swallows up any meaning? Here is a small investor, $190,000 net worth, loses $17,000 which is not 10 percent of the $190,000, and the small investor is not protected in that situation, and the participants in the fraud are able to avoid having to make that small investor whole. If you really mean trying to provide some protection for the small investor, this provision needs to be corrected.

Clearly, as written, hardly anyone is going to be protected. And the amendment that I have offered, one part of it, provides greater protection to small investors, people of modest means. The bill says you are protected only if you lose 10 percent of your net worth in a fraud. In other words, you have to lose $20,000 of a $200,000 net worth or $15,000 of a $150,000 net worth. My amendment deletes this 10 percent requirement. It says you do not have to lose 10 percent of your net worth in the fraud. Regardless of how much you lose in the fraud, if your net worth is $200,000 or less, you are protected.

So you have the very small investor who ought to be protected, not the reckless advisers to the corporate scam artists who participated in the fraud.

So we strike the provision in the bill that requires that the damages be equal to 10 percent of the net worth. So you have someone with a $200,000 net worth. If they lose something to this scam artist, they are going to be protected, and all the defendants will continue to be held jointly and severally liable in that instance. If you really want to talk about protecting small investors, you obviously have to make that change.

The second provision that is in this legislation, in the course of changing the joint and several liability scheme and shifting it to proportionate liability, even the authors recognize that was a very heavy weighting of the balance against the investors. So they said, "Well, in all instances we are going to require the reckless participants in the fraud to pay investors an additional amount over their proportionate share."

The additional amount, though, that is provided for is 50 percent. Let me give you an example. A con artist perpetrates a fraud. He is assisted by the reckless conduct of his lawyer or his accountant who knows about the fraud but does nothing to stop it. When the fraud is exposed, the con artist skips the country. The reckless adviser is found to be 10 percent responsible for the investor's losses.

Under the bill, there is an overage, and the reckless adviser could be held liable for up to 15 percent of the investor's losses; in other words, a 50-percent overage. So you give some additional marginal recovery to the investor.

The extra 50 percent payment required under the bill, in my judgment, does not go far enough toward making the investor whole. So the other part of this amendment increases the additional payment the reckless defendants pay, when the con artist is bankrupt or flees, from 50 percent of their proportionate share to 100 percent.

Under the example I gave a moment ago, a reckless adviser, a lawyer, investment banker, an accountant to the corporate swindler who did nothing to stop it was later found responsible for 10 percent of the fraud. As the bill is written, he could be held to 15 percent of it. This amendment would raise that to 20 percent. It would allow investors to recover a little bit more of their losses in cases of fraud.

I note that just on Friday when we were debating this bill my distinguished colleague from New York said in speaking about addressing this problem that we were outlining at the time:

> If the fraudulent defendant is bankrupt and cannot pay, we would double the liability of the other defendants. So if a defendant was found 5 percent negligent but the main defendant is not able to pay, the 5 percent negligent defendant would be held responsible for 10 percent of the damages.

Well, that is what my amendment is trying to accomplish. The bill as written provides a 50 percent overage. So if you were 5 percent liable, under the bill you would go to 7½ percent. I actually think that this was, in effect, really the recognition of an appropriate increase, and this would double it. In that instance, you go from 5 to 10. If they were 10 percent liable, they would go to 20 percent liable.

So those are the two amendments here. I disagree with abandoning the joint and several liability principle. That was voted on the other day. What we are now trying to do is to take the provision in the bill and to make it more reasonable with respect to the small investor. In some respects, I regard this as the "have-you-no-shame" amendment in terms of the provisions that are in the bill. We have provisions in this bill that if you are a very small investor with a net worth of under $200,000, you have to lose at least $20,000——

The PRESIDING OFFICER. The Senator has 20 minutes remaining.

Mr. SARBANES. Mr. President, I yield myself 1 minute.

You have to lose over $20,000 in order to be held whole by these defendants who have participated in this fraudulent scheme. If you are going to recognize the concept of the small investor and the need to provide some additional protection, do not render it meaningless by having this 10 percent requirement on losses. It is bad enough that you have defined the small investor as $200,000 of net worth including, including the person's home—including the person's home. Now, that is an awful lot of people.

The PRESIDING OFFICER. The Senator has 19 minutes.

Mr. SARBANES. I yield 1 more minute.

And then, in addition, to require that they lose at least 10 percent of their net worth, more than $20,000—you take a person, they have $200,000 of net worth. They have a home worth $150,000, which is modest in today's markets in most places in the country—worth $150,000. They have $50,000 worth of items for net worth which the bill has defined as including the jewelry and heirlooms and everything else. They are drawn into a fraudulent scheme. They lose $19,500, not 10 percent of the $200,000, and you are not going to hold them harmless. You are going to put the fraudulent perpetrators, the perpetrators of the fraud, ahead of the innocent investor.

Mr. President, it is an outrage. At a minimum we need to change this; otherwise, there is no shame left whatever.

Now, Mr. President, I understand that the Senator from the other side of the aisle has returned, and I will reserve the remainder of my time.

EXHIBIT 1

[From the New York Times, June 23, 1995]

PROTECTION FOR CORPORATE FRAUD

Two bills before Congress reveal how reckless the Republicans have become in their zeal to reduce regulation. The bills—which would "reform" laws governing securities firms and banks—go far beyond their stated purpose of ending frivolous litigation. What they would actually do is insulate corporate officials who commit fraud from legal challenge by their victims.

The Senate securities bill sets out to protect corporate officials from being sued when they issue overly optimistic predictions of corporate profitability that are simply innocent misjudgments. Sponsors cite cases where opportunistic shareholders waited for a company's share price to nosedive, then sued on the grounds that their investment was based on fraudulent representations of the company's health.

But to solve this infrequent problem, the bill would erect a nearly insurmountable barrier to suing officials who peddle recklessly false information. It would block suits against accountants, lawyers and other professionals who look the other way when the companies they serve mislead investors. The bill requires that suits be filed within a short statute of limitations and threatens plaintiffs who technically violate the court's procedures with heavy fines, including payment of the defendant's legal fees.

These provisions would ward off frivolous suits. But they just as surely ward off valid suits. Securities markets work well when investors are confident that the data on which they base decisions is honest. The bill threatens that confidence.

Banking legislation working its way through the House would also cause damage, both socially and economically. It would remove the Justice Department's authority to sue bankers and realtors who systematically block blacks and other minorities from renting apartments or getting mortgages. Apparently Justice has been too vigilant fighting discrimination for the G.O.P.'s taste. Astonishingly—in the wake of the fraud that brought down savings and loan institutions during the 1980's—the bill would weaken regulatory oversight over bank directors, requirements to provide independent audits and prohibitions against preferential loans to bank officials.

The bill leaves few customer protections in place. It would eliminate some requirements that banks report interest rates on customer accounts in uniform, easy-to-compare terms. It would also gut the Community Reinvestment Act, which requires banks to lend money in the neighborhoods where they take deposits or else possibly relinquish the right to merge or open and close branch offices. The act requires reform because enforcement is needlessly expensive. But the answer is to clarify and tighten standards, the solution the Administration has already taken.

The bill will make banks more profitable. But it will also invite some of the sordid practices that contributed to the $500 billion that the savings and loans failures cost taxpayers.

The Administration has expressed opposition to many of the banking provisions. But it has remained silent on the securities bill. Apparently, powerful Democrats, like Christopher Dodd of the insurance state of Connecticut, have pressured the White House to remain mum.

President Clinton seems eager to run as a candidate who could work with the Republican Congress but protect Americans from G.O.P. excesses. He could demonstrate his worth by vowing to veto the securities and banking bills—and any others that would put the interests of deceptive executives above those of ordinary voters.

EXHIBIT 2

[From the Baltimore Sun, June 26, 1995]

SAFE HARBORS FOR FINANCIAL FRAUD

In the wake of the nation's savings and loan debacle, the financial derivatives shock to U.S. pension systems, the junk bond manipulations of Mike Milken, one could expect Congress to bolster the rights of investors in securities fraud cases.

Instead, Capitol Hill legislators are rallying to protect the interests of corporate executives, securities dealers, lawyers and accountants against the claims of victims of financial crimes.

Legislation approved by the House and awaiting a Senate floor vote today would grant virtual immunity to these participants in securities fraud lawsuits. Executives who hype their companies' financial projections to jack up the stock price would be sheltered from legal action.

Bondholders defrauded by Charles Keating and his S&L scam, the largest in U.S. history, would find it almost impossible to sue the co-defendants for relief under the pending bill. They recovered $240 million from Keating's accountants, lawyers and securities dealers, although still losing nearly 40 percent of their money.

Originally drafted to reduce the number of frivolous investor lawsuits against corporations, the bill was pushed by Silicon Valley companies whose fortunes are highly volatile. But the sweeping protections included have fired the opposition of investor groups, advocates for the elderly and even the federal Securities and Exchange Commission.

The number of federal securities fraud cases has nearly doubled over the past decade. But the SEC, which polices securities fraud, says that investor lawsuits are important in accomplishing its mission. A study released last month by the Congressional Research Service finds the number of securities suits against companies "exceptionally small."

The loudest complaints have come from the elderly, whose retirement assets are most vulnerable to fraud. Senior citizens account for over 30 percent of securities fraud victims, according to a study by the Gray Panthers.

The House bill includes the chilling proviso that the losers of a fraud lawsuit must pay lawyer bills of those they sued. The Senate measure would limit defendant responsibility in lawsuits only to their degree of proven guilt, instead of making all parties liable for fraud settlements.

The arsenal of weapons against investors in the legislation shows that it is more about protecting the shadowy dealings of corporate leaders and their professional confederates than in limiting frivolous class action lawsuits. If the integrity of the marketplace is to be truly protected, the Senate will vote down this invitation to expanded investor fraud.

EXHIBIT 3

[From the New York Times, June 25, 1995]

SECURITIES LITIGATION BILL IS REFORM IN NAME ONLY

(By Mark Griffin)

What's in a name? In the case of the "Private Securities Litigation Reform Act of 1995," consumers will find a world-class misnomer. Now before the Senate, the bill is more accurately described as securities litigation repeal. For millions of middle-class American investors, the fate of this bill—and the even more radical version passed by the House of Representatives in March—could spell the difference between recovering or losing billions of dollars from securities fraud.

Securities litigation reform began with the intent of putting some weights around the ankles of a few fleet-footed lawyers; but the measure now dangerously close to Senate passage would wind up being a noose around the neck of defrauded investors. While everyone agrees on the need for reasonable reform, numerous public-minded groups are strongly opposed to radical steps in the Senate bill, S. 240, that would snuff out key investor rights.

If securities litigation reform was the real goal here, the widespread support that exists for reasonable steps to curb lawsuit abuses would have insured easy passage. But the bill now before the Senate would rein in frivolous lawsuits only by making it virtually impossible for consumers to pursue rightful claims. Here we see the financial world's equivalent of the notorious Vietnam "hamlet strategy": we must destroy this village in order to save it.

The reality is that the main intent of this legislation, despite what its proponents say, is to provide a shield for all but the most extreme cases of fraud. Have the members of the Senate already forgotten the financial scandals of the 1980's that cost investors and taxpayers billions of dollars? Is it really good public policy to erect protective barriers around future wrongdoers who will be emboldened to emulate Lincoln Savings and Loan and Prudential Securities?

At the heart of consumer concerns over this legislation are two key problems.

Under current rules, public companies are prevented from deceiving investors by reasonable restrictions on statements concerning future corporate performance, known as "forward-looking statements." The original S. 240 created a limited "safe harbor" for such statements, but the harbor was changed to an ocean. So now the Senate is considering a measure that protects any reckless or irresponsible statement by a company about its future as long as the statement is represented as forward-looking and notes that actual results may differ.

The Senate bill narrowly defines as fraudulent only those statements "knowingly made with the expectation, purpose and actual intent of misleading investors." As if this was not a loose enough standard the bill require that each of the three conditions be proven separately in court.

Consequently, S. 240 is a dagger aimed at the heart of what makes possible strong public confidence in the markets: full, fair disclosure mandated under Federal securities law. Arthur Levitt, Jr., the Securities and Exchange Commission chairman, has noted: "I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection."

Perhaps the clearest sign, however, that the bill's proponents have sold middle-class investors down the river is their refusal to lengthen the time in which consumers can bring cases to court. The current rule derives from a 1991 Supreme Court decision that created a statute of limitations for Federal securities law cases of one year from discovery of a misdeed or three years from the commission of the act in question. This represented a serious reduction in the time available for such lawsuits, since Federal courts previously had relied on state standards for statutes of limitation.

Currently, 31 states permit longer than the "1 and 3" standard for the filing of state securities cases. What possible case can the backers of this bill make for keeping the time limit as short as possible so that future swindlers who cover their tracks carefully will get off the hook for good?

Fortunately, efforts are under way to pull the measure back toward the interests of small investors. Among the amendments expected to be deliberated on the Senate floor this week are measures that would: replace the expansive safe harbor for forward-looking statements with a directive to the S.E.C. to continue its rulemaking efforts in this area; lengthen the statute of limitations for private securities fraud actions; fully restore aiding and abetting liability under the securities laws, an established concept that before it was recently removed by a Supreme Court decision, made it possible to sue even indirect participants in a fraud, and lift the severe limitations the bill imposes on joint and several liability, allowing investors to continue recovering from all participants in the fraud.

The difference between reform and repeal of securities litigation is an enormous one for middle-class investors in America. Based on current payments to securities class-action claimants, it should be expected that shutting the doors of America's courthouses over the next five years to securities fraud victims will result in 1.79 million investors losing the right to recover approximately $2.87 billion. Even these numbers may underestimate matters.

By loosening the Federal laws that now empower citizens to go to court to restrain misconduct in our financial marketplace, Congress has the potential to unleash a new, painful era of financial fraud.

EXHIBIT 4

GOVERNMENT FINANCE OFFICERS ASSOCIATION,
Washington, DC, June 8, 1995.

Hon. PAUL S. SARBANES,
U.S. Senate, Washington, DC.

DEAR SENATOR SARBANES: I am writing on behalf of the more than 13,000 state and local government financial officials who comprise the membership of the Government Finance Officers Association (GFOA) to bring to your attention serious concerns we have with the Securities Litigation Reform Act, S. 240, recently approved by the Senate Banking Committee. As you know, the GFOA is a professional association of state and local officials who are involved in and manage all the disciplines of public finance. The state and local governmental entities our members represent bring a unique perspective to this proposed legislation because they are both investors of billions of dollars of public pension funds and temporary cash balances, and issuers of debt securities as well.

We support efforts to deter frivolous securities lawsuits, but we believe that any legislation to accomplish this must also maintain an appropriate balance that ensures the rights of investors to seek recovery against those who engage in fraud in the securities markets. We believe that S. 240 does not achieve this balance, but rather erodes the ability of investors to seek recovery in cases of fraud.

The strength and stability of our nation's securities markets depend on investor confidence in the integrity, fairness and efficiency of these markets. To maintain this confidence, investors must have effective remedies against those persons who violate the antifraud provisions of the federal securities laws. In recent years, we have seen how investment losses caused by securities laws violations can adversely affect state and local governments and their taxpayers. It is essential, therefore, that we fully maintain our rights to seek redress in the courts.

S. 240 would drastically alter the way America's financial system has worked for over 60 years—a system second to none. Following are the major concerns state and local governments have with this "reform" legislation:

Fraud victims would face the risk of having to pay the defendant's legal fees if they lost. S. 240 imposes a modified "loser pays" rule that carries the presumption that if the loser is the plaintiff, all legal fees should be shifted to the plaintiff. The same presumption, however, would not apply to losing defendants. The end result of this modified "loser pays" rule is that it would strongly discourage the filing of securities fraud claims by victims, regardless of the merits of the cases. This is particularly true for state and local governments that have lost taxpayer funds through investments, involving financial fraud in derivatives, for example, but who simply cannot afford to risk further taxpayer funds by taking the risk that they might lose their case and have to pay the legal fees of large corporations. The argument is made that a modified loser pays rule is necessary to deter frivolous lawsuits, but we understand there are only 120 companies sued annually—out of over 14,000 public corporations, and that the number of suits has not increased from 1974.

Fraud victims would find it exceedingly difficult to fully recover their losses. Our legal standard of "joint and several" liability has enabled defrauded investors to recover full damages from accountants, brokers, bankers and lawyers who help engineer securities frauds, even when the primary wrongdoer is bankrupt, has fled or is in jail. S. 240 sharply limits the traditional rule of joint and several liability for reckless violators. This means that fraud victims would be precluded from fully recovering their losses.

Wrongdoers who "aid and abet" fraud would be immune from cases brought by fraud victims. As you know, aiders had been held liable in cases brought by fraud victims for 25 years until a 5-4 Supreme Court ruling last year eliminated such liability because there was not specific statutory language in federal securities law. If aiders and abettors are immune from liability, as issuers of debt securities, state and local governments would become the "deep pockets," and as investors they would be limited in their ability to recover losses. The Securities and Exchange Commission and the state securities regulators have recommended full restoration of liability of aiders and abettors and GFOA supports that recommendation.

Wrongdoers would be let off the hook by a short statute of limitations. We had supported the modest extension of the statute—from one year from discovery of the fraud but no more than three years after the fraud to two years after the violation was, or should have been, discovered but not more than five years after the fraud was committed—that was contained in an earlier version of S. 240. We are disappointed that this extension was removed in the Committee's markup of the legislation and hope it will be restored when the full Senate considers the bill.

Under S. 240, corporations could deceive investors about future events and be immunized from liability in cases brought by defrauded investors. Corporate predictions are inherently prone to fraud as they are an easy way to make exaggerated claims of favorable developments to attract investors. The "safe harbor" in S. 240 is a very broad exemption and immunizes a vast amount of corporate information so long as it is called a "forward-looking statement" and states that it is uncertain and there is risk it may not occur. Such statements are immunized even if they are made recklessly. We believe this opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery.

Access to fair and full compensation through the civil justice system is an important safeguard for state and local government investors, and is a strong deterrent to securities fraud. We believe. S. 240 as written does not provide such access to state and local governments or to other investors. Just as state and local government investors are urged to use extreme caution in investing public funds, the Senate should use extreme caution in reforming the securities regulation system.

We hope you will work to bring about needed changes in the legislation when it is considered by the full Senate. If there is any way we can help in this effort, please do not hesitate to call on us.

Sincerely,

CATHERINE L. SPAIN,
Director, Federal Liaison Center.

NORTH AMERICAN SECURITIES
ADMINISTRATORS ASSOCIATION, INC.,
Washington, DC, June 20, 1995.

Re S. 240, the "Private Securities Litigation Reform Act."

Hon. PAUL S. SARBANES,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SARBANES: The full Senate may consider as early as Wednesday or Thursday of this week, S. 240, the "Private Securities Litigation Reform Act of 1995." On behalf of the North American Securities Administrators Association (NASAA), we are writing today to express the Association's opposition to S. 240 as it was reported out of the Banking Committee. In the U.S., NASAA is the national voice of the 50 state securities agencies responsible for investor protection and the efficient functioning of the capital markets at the grassroots level.

While everyone agrees on the need for changes to the current securities litigation system, not everyone is prepared to deny justice to defrauded investors in the name of such reform. Proponents of the bill make two claims: first, that they have modified the bill to satisfy many of the objections to the earlier version; and second, that the bill will not prevent meritorious claims from going forward. Neither claim is accurate. First, the changes made to the bill do little to resolve the serious objections to S. 240 raised by NASAA and its members. In fact, it may be argued that during the Banking Committee's deliberations the bill was made less acceptable from the perspective of investors. Second, it is NASAA's view that the bill succeeds in curbing frivolous lawsuits only by making it equally difficult to pursue rightful claims against those who commit securities fraud.

The reality is that the major provisions of S. 240 will work to shield even the most egregious wrongdoers among public companies, brokerage firms, accountants and others from legitimate lawsuits brought by defrauded investors. Do we really want to erect protective barriers around future wrongdoers?

NASAA agrees that there is room for constructive improvement in the federal securities litigation process. The Association supports reform measures that achieve a balance between protecting the rights of defrauded investors and providing relief to honest companies and professionals who may unfairly find themselves the targets of frivolous lawsuits. Regrettably, S. 240 as approved by the Senate Banking Committee fails to achieve this necessary balance.

Although this bill has been characterized in some quarters as an attempt to improve the cause of defrauded investors in legitimate lawsuits, that simply is not the case. Attempts to incorporate into the bill provisions that would work to the benefit of defrauded investors were rejected when the Banking Committee considered the bill. At the same time, the few provisions in the original bill that may have worked to the benefit of defrauded investors were deleted.

For example, during the Committee' deliberations: (1) the rather modest extension of the statute of limitations for securities fraud suits contained in the original version was deleted; (2) attempts to fully restore aiding and abetting liability under the securities laws were rejected; (3) a regulatory safe harbor for forward-looking statements contained in the original version of S. 240 was replaced with an overly broad safe harbor for such information, making it extremely difficult to sue when misleading information causes investors to suffer losses; and (4) efforts to loosen the strict limitations on the applicability of joint and several liability were rejected, making it all but impossible for more than a very few to ever fully recover their losses when they are defrauded. The truth here is that this is a one-sided measure that will benefit corporate interests at the expense of investors.

As state government officials responsible for administering the securities laws in our jurisdictions, we know the important role private actions play in the enforcement of our securities laws and in protecting the honesty and integrity of our capital markets. The strength and stability of our nation's securities markets depend in large measure on investor confidence in the fairness and integrity of these markets. In order to maintain this confidence, it is critical that investors have effective remedies against persons who violate the anti-fraud provisions of the securities laws.

When S. 240 is considered on the Senate floor, it is expected that several pro-investor amendments will be offered in an attempt to inject some balance into the measure. Among the amendments we expect to be offered are those that would: (1) extend the statute of limitations for private securities fraud actions; (2) fully restore aiding and abetting liability under the securities laws; (3) replace the expansive safe harbor for foward-looking statements with a directive to the Securities and Exchange Commission to continue its rulemaking efforts and report back to Congress; and (4) lift the severe limitations on joint and several liability so that defrauded investors may fully recover their losses.

On behalf of NASAA, we respectfully encourage you to vote in favor of all such amendments when they are offered on the Senate floor. If all four amendments are not adopted, we respectfully encourage you to oppose S. 240 on final passage.

NASAA regrets that the Association cannot support the litigation reform proposed as reported out of the Senate Banking Committee. The Association believes that this issue is an important one and one that should be addressed by Congress. However, NASAA believes that is more important to get it done right than it is to get it done quickly. S. 240 as it was reported out of the Banking Committee should be rejected and more carefully-crafted and balanced legislation should be adopted in its place.

If you have any questions about NASAA's position on this issue, please contact Maureen Thompson, NASAA's legislative adviser.

Sincerely,

PHILIP A. FEIGN,
Securities Commissioner, Colorado Division of Securities, President, North American Securities Association.

MARK J. GRIFFIN,
Director, Utah Securities Division, Chairman, Securities Litigation Reform Task Force of the North American Securities Administrators Association.

Mr. DOMENICI. Mr. President, we have 29 minutes on this amendment?

The PRESIDING OFFICER. There are 28 minutes 25 seconds.

Mr. DOMENICI. I yield myself 15 minutes.

Mr. President, I would like to speak to the Senate about this reform measure and in my own way lead up to the amendment which is the subject matter of today's discussion.

This new system—and that is what it is—builds a better system for investors in 12 very succinct, easy to understand ways.

First, it puts investors with real financial interests, not lawyers, in charge of the cases. It puts investors with real financial interests, not professional plaintiffs with one or two shares of stock, in charge of the case.

Second, it requires notification to investors that a lawsuit has been filed so that all investors can decide if they really want to bring a lawsuit. It is likely that people trusted to manage pension funds and mutual funds, that is, institutional investors, will get more involved under this new system. Actually, at this point, for the most part, they sit on the sidelines and let the class action lawsuit affecting them proceed, managed by the lawyer that filed it and the plaintiffs that were with them.

Third, this bill puts the lawyer and his clients on the same side. Reforms that change the economics of cases, proportionate liability, settlement terms and disclosure, are part of that.

Fourth, it prohibits special side deals where pet plaintiffs get $10,000, $15,000, or $20,000 for their part in a suit. It protects all investors, not just the lawyers' pet plaintiffs so that settlements will be fair to all investors.

Fifth, it stops brokers from selling names of investors to lawyers.

Sixth, it creates an environment where those running our corporations, CEO's or chairmen of the board, can and will talk about their predictions about the future without fear of being sued every time they make a prediction that turns out to be not exactly what happens to the company or somewhat off the mark. So it gives investors a system with better disclosure of important information. And this has to do with safe harbor, which will be discussed later today as we proceed with this bill.

Seventh, it provides better disclosure of how much a shareholder might get under a settlement and how much the lawyers will get so that shareholders can challenge excessive lawyers' fees.

Eighth, it prohibits secret settlements where attorneys can keep their fees a secret. This is a restriction on settlements under seal.

Ninth, limits the amount that attorneys can take off the top. Limits attorney's fees to a reasonable amount instead of the confusing calculations which are currently part of this system we want to amend and modify.

Tenth, provides a uniform rule about what constitutes a legitimate lawsuit. So that it will no longer matter where a case is filed. Investors in Albuquerque, N.M.; Atlanta, GA; New York City; or Nashville, TN, will have the same rules as investors in any of the other cities. That is pleading reform. It stops fishing expeditions where lawyers can force thousands of dollars, worth of discovery money and demand thousands of company documents before a judge can decide if the complaint really states a cause of action, so that it might be dismissed before the costs of discovery are ever incurred.

Eleventh, the last two make merit matter so that strong cases recover more than weak cases. It makes sure that people committing fraud compensate victims. It improves upon the current system so that victims will recover more than 6 cents on a dollar.

Twelfth, it will weed out frivolous cases. It gives lawyers and judges more time to do a good job to protect investors in meritorious cases. High-technology company executives can focus on running their companies and growing their businesses. Investors will get higher stock prices and bigger dividends.

This Senate bill, S. 240, which is before us does exactly what Chairman Arthur Levitt said the system should do—protect all investors, not just a few.

Having said that, obviously there are groups of Americans that may be considered to be more vulnerable than others in the American profile of people, but let me talk a little bit about senior citizen investors and what we were able to find out about what they want and what they do not want.

In March 1995, the National Investor Relations Institute commissioned a poll of Americans age 50 and over who invest in either stock or mutual funds.

Eighty-seven percent said they worried that lawsuits are diverting resources that could be used on product research and business expansion to create jobs; 79 percent said defendants should only pay damage awards according to their percentage of fault, the very issue that is partially at stake in the Sarbanes amendment; 81 percent said they would like to see mandatory penalties against lawyers who aid in bringing a frivolous suit; 70 percent said the lawyer of a frivolous lawsuit should pay the legal fees of both sides; 70 percent said at least one member of their household was a member of the American Association of Retired Persons.

I state that because this is what they think when asked about these subjects. Yet, the AARP seems somewhat on the other side, although it is hard to tell exactly what it is they want.

Those polls are correct. The Banking Committee record backs up the opinions of senior citizen investors.

Eighty-seven percent of senior citizen investors said lawsuits are diverting resources that could be used on product research and business expansion to create jobs. They are right. The Banking Committee hearing revealed, and I can go through a whole series of situations where precisely what that concern is, is revealed case by case by small- and medium-size and startup American companies.

John Doerr, venture capitalist was involved in three law suits: Settlement, $66 million; legal fees to defend, $12 million; management time, 20 person years, total over 10 years, $120 million.

The sum of $120 million will employ 200 first-rate engineers for a decade, creating faster, cheaper better products.

John G. Adler, CEO Adaptec, litigation costs of the "million dollar fishing expedition" would have paid for 20 additional engineers.

Dennis W. Bakke, AES spent an amount equal to one-half its annual budget for developing new power project throughout the world. Just one plant creates 1,300 jobs and $4 billion in economic activity.

D&O increased sevenfold over last decade. Adept Technology, the only U.S. robotics company, pays $450,000 for $5 million in D&O insurance. A similar Canadian company pays $40,000 for a $4 million policy.

The litigation tax represents a team of five or six engineers, a new product or new technology.

Ed McCracken, CEO Silicon Graphics: current system is "uncontrolled tax" on innovation that is "impacting real creation of jobs."

Seventy-nine percent of senior citizen investors say defendants should pay the damage award according to percentage of default. They are right. Present and former SEC Chairmen Levitt, Breeden, and Ruder agree with them, so do former SEC Commissioners Beese and Sommer.

Under current law, someone who is only 1 percent responsible can be made to pay the entire amount, the entire judgment, the entire award. Breeden, former SEC Chairman, called the present system "inverted, disproportionate liability." Parties who are central to perpetrating a fraud often pay little, if anything. At the same time, those whose involvement might be only peripheral and lacked any deliberation or any knowing participation in the fraud often pay most of the damage.

Joint and several is the engine that drives abusive securities lawsuits. Plaintiffs' class action lawyers know this and use it to extract settlements. We should not turn professionals into insurers. We should not turn accounting firms, lawyers, and others who are the professionals involved in securities into insurers. Inclusion of deep pocket defendants increase the likelihood of settlement. Including an accounting firm or underwriter, they might add about one-third to the expected settlement value of the case. That is what the National Economic Research Associate study said.

One accounting firm was sued for $200 million, paid $999,000 in settlement, spent $8.4 million in defense in a case growing out of gross fees to that firm of $91,000. No auditors for high-technology companies; hard-to-find directors—all of these things are happening—no choice but to settle. These are qualities that the current system is creating in our economic environment. No auditors for high-technology companies; hard-to-find directors; no choice but to settle.

These cases have a settlement rate between 85 and 95 percent. This is because no one can chance going to trial. The settlement rate for most civil litigation is 40 to 45 percent, a huge difference in these kinds of cases. Limiting joint and several liability will significantly reduce the number of frivolous suits brought against defendants who have done nothing wrong but are seen as deep pockets. One of the most active plaintiff class action lawyers wrote:

> Class actions are judicial monstrosities.

Enacting two-tiered liability will make sure we have fewer frivolous judicial monstrosities. This bill, S. 240, would retain current law for defendants who engage in knowing fraud. So when we speak of safe harbor and proportionate liability, let us understand that in this new law, defendants who engage in knowing fraud are liable for the entire amount and there is no safe harbor for them. Other defendants who have some culpability are responsible for their share of the judgment, with two exceptions, and they are two items we are speaking about on the floor today.

Small investors: All defendants are jointly and severally liable for small investors; that is, a net worth of $200,000 or less who lost 10 percent or more of their net worth.

In a very real sense, what we are doing there is providing some insurance for them and saying that this system ought to provide that kind of insurance.

Also, in the case of insolvent codefendants, we say the solvent defendants must make an additional payment up to 50 percent of their own liability.

All of these were efforts to make this bill unquestionably fair and fair-intentioned.

Let us move on to 81 percent of the senior citizen investors said they would like to see mandatory penalties against lawyers who aid in bringing frivolous suits; 70 percent said the loser of a frivolous suit should pay the legal fees of both sides. S. 240 makes a modest step to do what the seniors want and what they want us to do. It makes the judges—and I repeat, it makes the judges—look closer at these cases and to discipline lawyers who file frivolous suits.

Whenever one of these lawsuits is finished, dismissed, settled, or taken to trial, the judge is required to make a determination regarding all attorneys: Did the attorneys comply with rule 11? Did the case have some basis? Did the defense have some basis? If not, the judge must impose penalties, and if the judge finds that rule 11 was violated, the case was frivolous and the case was thrown out of court on a motion to dismiss, the presumption is the class action attorney will pay the prevailing attorney's legal fees. That is a far cry from loser pay but a small step in the direction of trying to get what 81 percent of the senior citizen investors said, and that is bring some accountability to lawyers who file frivolous lawsuits in this area of the law.

Seniors in the poll thought Congress should go further. Frankly, I would have preferred something stronger, but this is a good compromise and it ought to be retained and clearly will be a step in the right direction.

Seventy percent of the senior investors said at least one member of their households was a member of the AARP. AARP wrote the committee a letter on May 24. They oppose loser pay even though the poll showed seniors said it was a good idea. The bill has no loser pay provision. It has the provisions I have just described.

They oppose proportionate liability, yet the seniors polled thought it was a good idea. Any attempt to raise scienter knowledge from the standard of reckless to intentional omissions. The bill does not alter the conduct actionable under the securities law.

The PRESIDING OFFICER. The Senator has consumed his 10 minutes.

Mr. DOMENICI. I yield myself 5 additional minutes. They added to their opposition a concern about safe harbor which we will discuss later.

I ask that as part of my discussion here this morning with the Senate, that these poll results in detail be printed in the RECORD. They are only 2½ pages long.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEW POLL FINDS SENIOR AMERICAN INVESTORS SUPPORT SECURITIES LITIGATION REFORM

WASHINGTON, March 22.—By an overwhelming margin, Americans aged 50 and over who invest in stocks or mutual funds say they favor legislation that would make it harder for lawyers to file frivolous securities lawsuits against America's high growth companies.

Nearly seven out of ten investors surveyed say they favor legal reforms to crack down on lawsuit abuse. According to a new survey conducted by Public Opinion Strategies for The National Investor Relations Institute (NIRI), eight out of ten (81 percent) say they would like to see mandatory penalties against lawyers "who aid in bringing a frivolous lawsuit"; more than two-thirds (70 percent) say the loser of a frivolous suit should pay the legal fees of both sides; and 79 percent say defendants should only pay damage awards according to their percentage of fault. Only 21 percent of those polled oppose litigation reform.

The survey, completed shortly after a 325–99 bipartisan vote by the House of Representatives for securities litigation reform, was released in advance of Senate consideration of reform measures.

It shows that older investors are concerned that excessive lawsuits hurt American competitiveness. Some (87 percent) say they worry that lawsuits are diverting resources that could be used on product research and business expansion to create jobs.

A similar number (88 percent) believe lawyers, not shareholders, are the primary beneficiaries of securities lawsuits. Asked about a variety of legislative options, investors favored measures to penalize those who abuse the system:

Question. Please tell me whether you would FAVOR or OPPOSE each of the following proposals.

[In percent]

	Total favor	Total oppose	Don't know/refused to answer
Requiring the loser of a frivolous lawsuit to pay legal fees for both sides	69	24	7
Requiring mandatory penalties for lawyers who aid in bringing a frivolous lawsuit	81	12	7
Forcing defendants to only pay damage awards according to their percentage of fault, instead of forcing them to pay damages they are not responsible for	79	12	9
Limiting so-called professional plaintiffs to five class action suits every three years	57	25	18
Prohibiting participation in a suit by an attorney owning the stocks or mutual funds at issue	58	31	11

Louis M. Thompson, NIRI President & CEO, said the survey demonstrates that many American investors are concerned that lawsuits erode the value of their investment savings as they near retirement age. More than one-third of those polled are age 65 or older and 70 percent said that at least one member of their household was a member of the American Association of Retired Persons.

"Frivolous lawsuits pose a direct threat to the financial well being of those Americans who are investing for their future, including retirement," Thompson said. "These lawsuits don't just target companies, they paste a bullseye on American investors."

Survey respondents also say stock price declines are a normal investment risk and not, by themselves, evidence of fraud or grounds for a lawsuit. Only 15 percent say an annual decline of 50 percent in a stock's value was grounds for a lawsuit, and only one in ten believe a 10 percent decline in a few days is grounds for legal action. However, 85 percent say a company that knowingly provides false information to investors should be sued.

The survey of 800 American investors aged 50 or above was conducted by Public Opinion Strategies on March 18-21. The survey has a margin of error of plus or minus 3.5 percent. All those surveyed reported investments in stocks or mutual funds. Copies of the full study can be obtained by calling NIRI at 703-506-3570.

The National Investor Relations Institute, now in its 25th year, is a professional association of 2,650 corporate officers and investor relations consultants responsible for communication between corporate management, shareholders, security analysts and other financial publics.

Mr. DOMENICI. Mr. President, S. 240 is good for small investors. Investor empowerment increases control over lawsuits and settlements. The current system involves class members who sign on the dotted line to claim their share of a settlement or recovery, usually amounting to 6 to 8 cents on the dollar. Investors receive also insufficient settlement information.

Lawyers often compromise the classes' best interests to maximize lawyer fees. Example: In the Prudential Insurance case, the attorneys wanted to settle for $37 million. The California securities director, Gary Mendoza, objected, and got the class $90 million. Then they wanted to base their fees on the bigger settlement, even though they originally were willing to settle the case for much less.

The bill shifts some of the power in these cases from the entrepreneurial class action attorneys to the people who have an expertise in managing retirement funds and other members of the class who are not "pet plaintiffs." It also vests more power in the judges who have to be the final arbiter of these cases, including the money that goes to the lawyers.

It requires lawyers to actually locate plaintiffs who genuinely are aggrieved before filing the suit. Notice of settlement proposals have to be sent to the class, be in a user-friendly format which they can understand, provide clear and specific information relevant to investors' decision whether to accept settlement, challenge legal fees, opt out or say no thanks.

Under the current system, individuals can be bound by the settlement without knowing anything about it. But under S. 240 investors will get a phone number to call for information, and we can go on with more and more details that make this a good bill for the investors of this country. Small investors, large investors, institutional investors, I hope, will be playing a more significant role in the future as we move to the courts of our land on these kinds of class action suits.

Now, Mr. President, I ask unanimous consent that a statement I have prepared regarding millions of dollars for the lawyers and coupons for the plaintiffs be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MILLIONS FOR LAWYERS, COUPONS FOR PLAINTIFFS

Members of the plaintiff class each received a $400 nontransferable coupon good for a year toward a new Ford in litigation concerning leaky roofs in Ford Mustangs. The lawyers received about $1 million in fees and expenses and "A Fistful of Coupons," New York Times, May 26, 1995.

Professors are known for their academic temperament. Professors are thoughtful and scholarly in their writings.

Professor John Coffee of Columbia Law School wrote about class action lawsuits where the plaintiffs get coupons and the lawyer takes the cash:

"These script settlements tend to be used by lawyers who are not zealous on behalf of the class."

Plaintiffs weren't so scholarly in their commentary:

"The whole idea that the lawyer collects a million and the person collects nothing is the most asinine thing that I have ever heard."

This plaintiff class would have benefited from S. 240: Most adequate plaintiff; disclosure of settlement terms; and attorney fee reform.

Mr. DOMENICI. Proportionate liability. According to Arthur Levitt, the current system is bad for all investors. So let me talk about that for a minute. Creating a sound liability scheme is a balancing exercise, all investors versus the plaintiffs' class action lawyers and investors who happen to be plaintiffs in the case. Investors who are plaintiffs get 6 to 14 cents on the dollar. The current system obviously is not working very well and, clearly, litigation has an adverse impact on investors and on businesses.

The current system is working even worse than many think. Investors are harmed when their company is frivolously sued. Stock prices are depressed. Dividends are less than they would have been, and management is sidetracked and loses much energy in figuring out what to do with a lawsuit instead of making the company work, grow, and prosper. Small companies cannot obtain outside directors and professional advisers; directors' and officers' insurance gets more and more expensive. That means they pay less for their company's activities. There would be smaller raises, fewer new jobs, and fewer new products.

Arthur Levitt, in his April 6 written testimony, after discussing the interest in compensating plaintiff/investors, said:

> The Commission recognizes that there are competing policy considerations that are also derived from concern with the long-term interests of investors.

It is true that Chairman Levitt has made what I consider "sequentially evolving statements." His three most recent pronouncements indicate that he disagrees with the premise of the Sarbanes amendment that joint and several liability is always appropriate when a codefendant is insolvent.

Arthur Levitt supports modifying joint and several liability in certain contexts. Support for a two-tier liability system is one modification and S. 240 is a two-tier system.

In response to questions from Senators D'AMATO and SARBANES during the April 6 hearing, Arthur Levitt said:

> I think in those instances where conduct was willful fraud or in those instances where we're talking about an issuer, that joint and several liability should still apply.

The bill retains joint and several liability for knowing fraud.

Arthur Levitt said further:

> I think when we're talking about other instances, a proportionate liability scheme that was limited to fraud on the market cases where the conduct may have been reckless, I believe that would be a fair way of balancing it.

A May 25 letter to Chairman D'AMATO identifying problems with the committee print did not mention joint and several liability.

In the SEC's submission to OMB, they did not oppose the joint and several provision of S. 240 and did not argue for change sought by this amendment.

The SEC did not indicate any dissatisfaction with the way responsibility is allocated in the event of an insolvent codefendant.

Jane Bryant Quinn's article in Newsweek endorses proportionate liability.

We have to be concerned about real world effect of these litigation rules.

Mr. President, I ask unanimous consent that the Boston Globe editorial called "Stock Response," in which they end up saying the bill, as modified, before the Senate is a bill that should be adopted, be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Boston Globe]

STOCK RESPONSE

Younger, high-tech Massachusetts corporations give the state much of its economic vitality. But their volatility has provided fodder for litigants who exploit weaknesses in tort law to make extra bucks from the vulnerable. A bill now moving through Congress would tighten terms under which suits could be brought against corporations when performance fails to match expectations. It would also reverse the trend toward reducing information available to genuine investors.

So-called strike suits sometimes follow sharp drops in stock prices associated with unexpected bad news, usually failure to meet predicted performance in sales or profits. Such disappointments are more frequent among newer corporations that are often dependent on a single product or a narrow range of products. Performances are apt to be erratic, and the loss of a single customer can inflict serious but temporary injury to sales figures.

Enterprising lawyers specializing in identifying such situations sometimes team with stockholders—some with minor stakes—to bring quick suits when company officers had predicted better results. Too often it is the business equivalent of suing your tout sheet, or maybe the horse, if you lose money at the track. Managements frequently settle rather than engage in costly litigation, even though they might ultimately win at trial. Furthermore, they have become increasingly wary of making any projections, to the detriment of the full disclosure that underlies a free market.

A move to make such suits more difficult while protecting shareholders from fraud by unscrupulous managements has been evolving in Congress for three years. It permits managements, with important exceptions, to make forward-looking projections that identify risks involved.

Recent improvements in the bill have eliminated a loser-pays provision that would have chilled legitimate challenges to management practices, an important concession that preserves shareholder rights. It is essential that this protection be preserved in the conference committee as the bill inches toward final passage.

Mr. DOMENICI. Mr. President, State and local officials support reform. There are about 14 quotes from State officials who support it.

Mr. President, supporters of the securities litigation—we have about four sheets of them. And I just would like to call to the attention of the Senate in submitting these that State pension fund administrators and regulators from the States of Colorado, Delaware, Illinois, Massachusetts, North Carolina, Ohio, Oregon, South Carolina, and California are among those State supporters from the State regulatory side.

I ask unanimous consent that all of these be made a part of the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE OVERWHELMING CONSENSUS IN FAVOR OF SECURITIES LITIGATION REFORM

INVESTORS WANT REFORM

There is no denying that there are real problems in the current system—problems that need to be addressed not just because of abstract rights and responsibilities, but because investors and markets are being hurt by litigation excesses.—SEC Chairman Arthur Levitt ("Between Caveat Emptor and Caveat Vendor: The Middle Group of Litigation Reform," Remarks at the 22nd Annual Securities Regulation Institute, January 25, 1995).

Most shareholder suits are brought by people who care little, if at all, for shareholders as a group. The plaintiffs and their lawyers make grant statements about the integrity of the markets, but the primary motivation—and the primary outcome—is their own returns. Typically, plaintiffs get a small award, and their lawyers get a large one.—Nell Minow, LENS, Inc. ("Time to Wake the Sleeping Bear," Legal Times, February 13, 1995).

Our nation's securities laws were enacted to protect investors and to improve our capital markets. However, the perverse incentive of attorneys to file meritless claims has created the exact opposite of the intended effects of our securities laws. Abusive lawsuits triggered by a small group of lawyers, inflict tremendous harm on our nation's financial system and on the individuals and organizations drawn into them.—Richard A. Eckstom, State Treasurer, South Carolina (Letter to Sen. Hollings, April 17, 1995).

. . . [T]he current system is not working and needs reform. Under our current system, defrauded investors are receiving too little compensation while plaintiffs' lawyers take the lion's share of any settlement.—Managers of Ten Pension Funds representing: The Massachusetts Bay Transportation Authority; The Teachers Retirement System of Texas; New York City Pension Funds; Champion International Pension Plan; The Connecticut Retirement and Trust Funds; The Oregon Public Employees Retirement System; The State of Wisconsin Investment Board; State Universities Retirement System of Illinois; Eastman Kodak Retirement Plan and The Washington State Investment Board (Letter to Sen. Dodd and Sen. Domenici, July, 1994).

[T]he amount of damages that plaintiffs have typically recovered represents only a percentage of their initial claim; but the lawyers who bring the claim extract substantial fees from any lawsuit filed. A system that was intended to protect investors now primarily benefits their lawyers.—J. Kenneth Blackwell, Treasurer, State of Ohio (Letter to Sen. D'Amato, March 10, 1995).

Because shareholders are on both sides of this litigation, it merely transfers wealth from one group of shareholders to another. However, it wastes millions of dollars in company resources for legal expenses and other transaction costs that otherwise could be invested to yield higher returns for company investors.—Judy Baar Topinka, State Treasurer, State of Illinois (Letter to Sen. Moseley-Braun, March 16, 1995).

Investors are also being harmed by the current system, as it shortchanges people who are victimized by real fraud . . . The plaintiffs' lawyers who specialize in these cases profit from bringing as many cases as possible and quickly settling them, regardless of the merits. Valid claims are being undercompensated in the current system because lawyers have less incentive to vigorously pursue them.—Janet C. Rzewnicki, Treasurer, State of Delaware (Letter to Sen. D'Amato, March 21, 1995).

The current situation in the law permits and even encourages the filing of lawsuits with very little merit against corporations. The benefits derived from these suits are going primarily to attorneys. However, the payments are actually coming from the pockets of serious, lifetime owners of the corporations like our members.—Thomas E. O'Hara, Chairman, National Association of Investors Corporation (Letter to Sen. Dodd, July 19, 1994).

Nearly seven out of ten investors surveyed say they favor legal reforms to crack down on lawsuit abuse. According to a new survey conducted by Public Opinion Strategies for the National Investor Relations Institute, . . . [s]ome (87 percent) say they worry that lawsuits are diverting resources that could be used on product research and business expansion to create jobs. A similar number (88 percent) believe lawyers, not shareholders, are the primary beneficiaries of lawsuits.—National Investor Relations Institute (Press Release, March 22, 1995).

The system of penalties and incentives contemplated by Congress is turned upside down. The winners in these suits are invariably lawyers who collect huge contingency fees, professional "plaintiffs" who collect bonuses and, in cases where fraud has been committed, executives and board members who use corporate funds and corporate owned insurance policies to escape personal liability. The one constant is that the shareholders pay for it all.—Ralph V. Whitworth, President, United Shareholders Association (Testimony before the Securities Subcommittee, Senate Banking Committee, July 23, 1993).

We are ones who are hurt if a system allows someone to force us to spend huge sums of money in legal costs by merely paying ten dollars and filing a meritless cookie cutter complaint against a company or its accountants when that plaintiff is disappointed in his or her investment. Our pensions and jobs depend on our employment by and investment in our companies. If we saddle our companies with big and unproductive costs that other companies do not pay, we cannot be surprised if our jobs and raises begin to disappear and our pensions come up short as the population ages.—Mayellen Andersen, Investor and Corporate Relations Director, Connecticut Retirement and Trusts Funds (Testimony before the Senate Banking Securities Subcommittee, July 21, 1993).

Shareholders . . . are likely to realize only a small percentage of their claims and have little active involvement in the lawsuit. Plaintiff's attorneys are clearly in the drivers seat.—Kurt N. Schacht, General Counsel, State of Wisconsin Investment Board (Letter to Sen. Domenici, September 27, 1993).

[T]he plaintiffs typically recover only a small percentage of their claim, as the lawyers extract large fees for bringing the suit. A system that was intended to protect investors now seems to benefit the lawyers.—Bill Owens, State Treasurer, State of Colorado (Letter to Sen. D'Amato, April 19, 1995).

The concern about, and the reaction to, meritless lawsuits has caused industry, as well as accounting, law and insurance companies, to increase their costs with price tags ultimately paid by the consumer and the investing public, including a large percentage of our retirees and pension holders.—Joseph D. Malone, Treasurer and Receiver General, Commonwealth of Massachusetts (Letter to Sen. D'Amato, March 22, 1995).

[M]eritless litigations cost companies millions of dollars—money that could be generating greater profit for the company and higher returns for investors.—Jim Hill, Treasurer, State of Oregon (Letter to Sen. Dodd and Sen. Domenici, June 21, 1994).

I believe there is a compelling need to reform the current system of securities litigation. The problem with the current system is two-fold. First, the current system too often promotes the filing of meritless claims. Perhaps more importantly, the current system does not adequately serve the interest it is designed to protect—the interests of defrauded investors.—Gary S. Mendoza, Commissioner of Corporations, State of California (Letter to Representative Fields, February 9, 1995).

Investors will be the beneficiaries of meaningful reform. The current system fails to distinguish cases of actual fraud from frivolous cases. Typical class members receive less than $.14 for their losses. A system where private attorneys have an incentive to seek out cases of genuine fraud and litigate them to conclusion will compensate investors properly and will not coerce settlements which are paid by the shareholders of innocent companies.—Christopher J. Murphy, Chairman, Association of Publicly Traded Companies (Testimony before the Securities Subcommittee, Senate Banking Committee, March 2, 1995, at 1).

[We] are all victims. The mere threat of a securities suit makes us reluctant to provide the marketplace with voluntary disclosures. This impedes the efficiency of the marketplace by preventing investors from receiving full and complete information. Investors are harmed because investment decisions will not be made on a fully informed basis and their stocks will be improperly valued. . . . Please help us turn the securities litigation system right side up by putting investors first and plaintiffs' attorneys last.—219 California High Tech Executives (Letter to Dianne Feinstein, July 21, 1994).

Much has been said about the fact that investors receive little, "pennies on the dollar", in terms of the actual settlement between the company and plaintiffs' attorneys. However, just as important is the point that the vast number of investors lost in these cases because during the period an emerging growth company is being sued its stock becomes moribund. Investors, large and small, are forced to wait the process out, sell off at a price that does not accurately reflect the company's true status and potential or exert pressure on company officials to settle the suit regardless of the fact that the suit is meritless.—James Morgan, President, National Venture Capital Association (Testimony before the Securities Subcommittee, Senate Banking, March 2, 1995, at 7).

Investors are ill-served by the present system. Because issuers fear abusive litigation, they have sharply curtailed the amount of information they are willing to disclose, leaving investors without information essential for intelligent decision making. To the detriment of shareholders, abusive securities litigation distracts companies from their principal tasks, discourages the development of new businesses and inhibits sound risk taking. Finally, the existing litigation system encourages suit regardless of merit and cost forces defendants to settle regardless of merit.—Lynn D. Dudley, Director of Retirement Policy, Association of Private Pension and Welfare Plans (Letter to Sen. Domenici and Sen. Dodd, March 17, 1995).

[M]eritless law class actions have skyrocketed. The need to defend unfounded litigation imposes a "litigation tax" on capital formation that must ultimately be paid by the investing public.—Marc E. Lackritz, President, Securities Industry Association (Testimony before the Securities Subcommittee, Senate Banking Committee, March 2, 1995, at 3).

If a suit is filed, it should be to redress a legitimate wrong. If a company pays a settlement, it should be because the company did something wrong. If an injured investor sues, that investor should get more than a few cents on the dollar. I think it is fair to say that the views I express today are held by a majority of institutional investors.—Joh Lukomnik, Deputy Comptroller, City of New York (Testifying before the Subcommittee on Telecommunications and Finance, House Energy and Commerce Committee, August 10, 1994).

MANAGERS OF PRIVATE OR PUBLIC PENSION FUNDS

Champion International Pension Plan: Champion International Pension Plan controls over $1.8 billion in total assets.

Connecticut Retirement and Trust Fund: The Connecticut Retirement and Trust Fund invests over $11 billion on behalf of over 140,000 employees and beneficiaries.

Eastman Kodak Retirement Plan: Eastman Kodak Retirement Plan manages over $10.9 billion in total assets and is ranked as one of the largest 60 pension plans in the U.S.

Massachusetts Bay Transportation Association: With over 12,000 participants, the Massachusetts Bay Transportation Association controls over $772 million in total assets.

New York City Pension Funds: Over $49 billion have been invested in the fund to insure the retirement security of 227,000 retirees and 130,000 vested employees.

Oregon Public Employees' Retirement System: Assets controlled by the fund total over $17.2 billion. The Oregon Public Employees' Retirement System is ranked among the largest 30 pension plans in the U.S.

State of Wisconsin Investment Board: One of the 10 largest pension funds in the United States, the State of Wisconsin Investment Board manages over $33 billion contributed by the State's public employees.

State Universities Retirement System of Illinois: The State Universities Retirement System is ranked as one of the country's 100 largest pension funds with total assets of $5.3 billion.

Teachers Retirement System of Texas: The Teachers Retirement System of Texas controls over $36.5 billion in total assets on behalf of its 700,000 members.

Washington State Investment Board: With assets totaling over $19.7 billion, the Washington State Investment Board is ranked in the largest 25 pension funds.

STATE PENSION FUND ADMINISTRATORS AND REGULATORS

Commissioner of Corporations, State of California.

Treasurer, State of Colorado.

Treasurer, State of Delaware.

Treasurer, State of Illinois.

Treasurer, Commonwealth of Massachusetts.

Treasurer, State of North Carolina.

Treasurer, State of Ohio.

Treasurer, State of Oregon.

Treasurer, State of South Carolina.

Mr. SARBANES. What is the time situation, Mr. President?

The PRESIDING OFFICER. The Senator has 17 minutes, 30 seconds, with 6 minutes 48 seconds on the other side.

Mr. SARBANES. I yield myself 5 minutes. I say to my colleague that I listened carefully to his statement and it really does not address this amendment. The statement really addresses the overall bill and the provisions of the overall bill.

There were some of the points he made with which I agree and some with which I disagree, but it did not really get to the question of the amendment before us. We had the debate on Friday on the joint and several issue, on Thursday night and Friday on the broad principle. We are now addressing the provision that is in the bill.

I want the Senator to explain to me the fairness or equity—obviously, the proponents of this legislation have recognized a necessity to protect the small unsophisticated investor. What they have provided is that if a plaintiff has a net worth of less than $200,000, he will be regarded as such a person—$200,000. This, by their own statement, includes all of the plaintiff's financial assets, including stocks, bonds, real estate, and jewelry. So if you own a home, that is going to get an awful lot of people close to the $200,000 right there. But in addition, it would be bad enough if they said if your net worth is $200,000 or less—you have to have a net worth of $200,000 or less in order to be fully protected. If you are slightly above that figure, you do not get full protection.

In addition, there is also a requirement that to be fully protected on recoverable damages, you have to have lost more than 10 percent of your net worth by this fraudulent scheme. So, in other words, if you are at the $200,000 figure, you have to have lost more than $20,000 in order to be fully protected. Why should someone who has a net worth of only $200,000 not be fully protected if they get caught in a fraudulent scheme and they lose $12,000? Or $15,000? Or $18,000? Where is the equity or the fairness in that?

If you are going to limit the small people—I think the limit is too great at $200,000, but this amendment does not address that part of the provision that is in the bill. This amendment addresses the provision that in addition to being limited to a $200,000 net worth, you have to have lost more than 10 percent of your net financial worth if you are going to be fully protected in recovering your damages.

The small people are really going to be hit hard. The small people are really going to be hit hard because someone who has a $200,000 net worth, but only $5,000 of risk, loses it all.

We say, "Well, that is too bad. You will not get full protection."

I cannot, for the moment, begin to understand the equity of that provision, and therefore the amendment that I have sent to the desk seeks to change that in order to provide additional protection for the small, unsophisticated investors who have been recognized in this bill as requiring some form of special protection.

Mrs. BOXER. Will the Senator yield?

Mr. SARBANES. I yield for a question.

Mrs. BOXER. I want to thank the Senator for this amendment. I wonder if the Senator has seen the extraordinary list of national, State, county, and local public officials—it is really from A to W, from Alabama to Wyoming—that opposes this bill in its current form.

I say to my friend that if some of these amendments are passed, this is going to make a great difference to a lot of these people, and I think to this administration, and certainly to this Senator.

We have the Government Finance Officers Association against it, the Municipal Treasurers Association of the United States against it, the National League of Cities, the National Association of County Treasurers and Finance Officers, the North American Security Administrators Association, and attorneys general from all over the country, including, I notice, from New Mexico and others.

These are people that do not have an ax to grind. I wonder if my friend has seen this incredible list. It is 10 pages, single spaced, of all the people who oppose this bill, and I have not even mentioned the consumer groups on this issue.

Mr. SARBANES. I am not sure I have seen the list, but I hope the Senator will include it in the RECORD so your colleagues will have the benefit of seeing the list.

We have a clash amongst interest groups, no question about it. We have a group of lawyers who very much are involved in the securities litigation which my colleagues on the other side say are abusing the existing system. They are trying to address that. We also have a lot of corporate people who want to shield themselves from liability on the other hand.

So we have vested economic interests coming from both directions, most of the judgment coming from groups that have no vested interest in it, questioning the provisions of this bill as being excessive and as going too far.

As the article in the New York Times on Sunday by Mark Griffin, the director of the Utah Securities Division, states:

> What's in the name? In the case of Private Securities Litigation Reform Act of 1995, consumers will find a world-class misnomer now before the Senate. The bill is more accurately described as securities litigation repeal.

In effect, what we have is a situation in which this is excessive; it goes too far. Even the proponents recognize that it went too far. They put this provision in that I am now trying to change, in a rather modest way, in order to make it have some meaning, rather than being almost meaningless.

It has a double requirement. You have to be below $200,000 net worth, and you have to lose 10 percent of your net worth. If you are some small, unsophisticated person with very limited means, below $200,000 net worth—that is, your house, your jewelry, your real estate, any stocks or bonds that you own, all of that added up gets you below $200,000—you would think at least we will protect that person fully, fully protect them.

Oh, no, no. In addition to having to be below the $200,000 net worth, you have to lose in this stock swindle more than 10 percent of your net worth. If your net worth is $195,000, all these things added up, you have to lose more than $19,500.

Suppose you are a small investor with a net worth of $195,000, all of these things I enumerated. Someone talks you into making an investment. A lot of elderly people get fast-talked on the telephone or in person and make an investment of $5,000. They lose it; they lose it. The stock swindler goes bust, flees. There is no recovery there. The people advise the stock swindler, who were participants in the fraud on a reckless standard—on a reckless standard, the stock swindlers, lawyers, accountants, investment advisor, people drawn into this thing—they are protected ahead of this innocent investor who has lost $5,000. I cannot understand it.

I said before that this is a "have-you-no-shame amendment," I say to my colleagues on the other side with respect to what you are doing to these small investors. Senators recognize the problem of the small investor, the unsophisticated person, and fail to adequately give them any protection, is what it amounts to.

That is a very important aspect. I would like to get the response from the other side focused on the provisions of the amendment. All we do, we put the amendments forward, and then we hear a statement about the bill as a whole.

We said earlier, at the very beginning of the debate, that we accept certain aspects of this bill. The real question now is on the amendments which go to particular provisions in the legislation.

I yield the floor. Perhaps we can get a focus on this particular amendment and its provisions.

Mr. DOMENICI. Mr. President, I think the distinguished Senator knows that I was one of the Senators, along with Senator DODD, that introduced this legislation. I did not serve on the Banking Committee when this legislation was marked up.

Let me see if I can explain. I do not have any apologies for this. I think the committee went, in one sense, too far. We are here to say, "Okay, that is fine." Here is the theory: The Senator now would like to say this bill has gone a long way to try to get rid of the problems that joint and several liability brings to this kind of class action suit.

Now, if one does not believe that joint and several has created any problems for deep pockets who are almost in an infinitesimal amount involved in this case and makes them liable for the whole thing; if one does not believe that the accountants are not necessarily as liable unless knowingly participating in the fraud, that they should not be liable for the whole settlement or the whole verdict, if one does not believe that, obviously, those Senators ought to be for the Sarbanes amendment.

If a Member is for changing that—and I spent a considerable amount of time, not necessarily as well as it can be done—explaining that the unfairness of the application that law to cases of this type by lawyers in America today, if a person does not believe it has been applied unfairly, or that it is causing litigation to be filed that is meaningless, putting huge burdens on America's startup companies, if Members do not believe that and they want to go forward, then go with Senator SARBANES.

If you want to leave joint and several liability as it is, this essentially means no matter how much of the culpability is yours, you pay the whole amount whatever that amount is. We know what that is doing to the system. It is not helping clean up the system at all.

It is causing everybody in the chain of this kind of activity to buy huge insurance policies. We have an example here of one that I put in the RECORD. If you were in business in the United States, and exactly the same kind of business with exactly the same kind of activity in Canada, in one country it would cost $40,000, and in America it would cost $450,000.

That would not matter to some who do not think it matters what business has to pay. If that is a medium-sized business, $450,000 versus $40,000 for insurance coverage is a pretty big deal. It is like six to eight full-time engineers that could work at one of these companies. But they pay it in insurance so you can have this liability of joint and several. So every board of directors, every official, everybody in the company, the CPA's and everyone else, can be liable for the entire malfeasance of one.

If you do not agree with that statement, if you do not agree with that position, which is basis of this new bill, S. 240, which reformulates class action suits on securities, then you start considering, who should we exclude? Who should we exclude from what is now perceived to be a more fair system for everybody at large? I would assume that if you want to change that joint and several, that you no longer consider each and every possible defendant as the insurer of stockholders—whether they are little stockholders or big stockholders—they are not the insurer, that they will not lose money because somebody in the chain of this company did something wrong.

So what did the committee do? I say to my fellow Senators, they said OK, there could be some situations when we want to provide more than the proportionate liability, when we want to give a little bit of a break to some small investors who are poor. It did not mean that they were throwing the new system out. In fact, they have gone to great lengths in this bill saying the new system of proportionate liability will be better for everyone.

The answer to Senator SARBANES is much the same as one would give if we were on the floor discussing a Federal statute. When I was practicing law, if you stole $51 you committed a felony. If you stole $48 it was a misdemeanor. So you would come to the floor and say why $50? Or why did we not do $80? Or why did we not do $52? Why did we not cover the next little step? Just $51 should not be guilty of a felony. You have to draw the line somewhere.

So the committee said, we want to take care of a small group of investors whom this change in the law might affect adversely. So they drew some lines. That is all they did.

The Senator would like to draw the lines differently. Of course. The Senator from Maryland would like to draw a line very differently. He would like to throw this whole bill out. That is the line he would like. He would like to leave it like it is with maybe a few little soft amendments. He clearly does not want this bill to pass.

From my standpoint, there is no answer to why you draw lines of this type. If you want to have a debate in the Senate and say instead of $200,000 worth of net worth it should be $300,000, have the debate. If you want to say it should be $250,000, have the debate. Sooner or later you will draw the line somewhere or you will return to the old law.

Mr. SARBANES. Will the Senator yield on that point?

Mr. DOMENICI. I will be pleased to yield.

Mr. SARBANES. I have not tried to draw the line on the net worth issue at all. The Senator says if you want to put it at $250,000 or $300,000—I have not tried to change that line. I have not drawn that line at all. I have left the line at $200,000.

That response does not go to the amendment in any respect.

Mr. DOMENICI. OK. So, I answer the Senator's question before he finishes it by saying you delete the requirement that small investors lose at least 10 percent of their net worth.

Mr. SARBANES. That is right.

Mr. DOMENICI. You say it does not matter how much they lose of their net worth.

Mr. SARBANES. I am saying if you have a small investor, $200,000 worth of net worth—I am not trying to change the Senator's net worth—it could be $300,000, could be $100,000—your net worth includes their home, includes everything they have——

Mr. DOMENICI. So the Senator does not want any?

Mr. SARBANES. I am saying keep it at $200,000.

Mr. DOMENICI. Right.

Mr. SARBANES. But do not require, before they are held harmless they lose 10 percent of their net worth. You have someone with a $200,000 net worth, they loose $5,000 and you say, "Tough." That is a small investor. It is an unsophisticated person who is taking a real pounding. I am saying, why do you not let them at least collect what they lost? You have limited it to a class of less than $200,000 net worth. At least whatever they lose, let them recover.

Mr. DOMENICI. Let me just say, from this Senator's standpoint, as I look at this law, proportionate liability is fair. It is better for the entire system than the joint and several before. And there have been hours of statements on the floor on why the new system is better for the country, more fair and all the other things that have been said about it.

If you want to start talking about changing that small group of investors that, somehow or another, the committee in reporting out this bill wanted to protect in some way, then I am not going to say the committee was perfect in every one of its lines. But I do not believe we ought to start with the premise that it is unfair when it could have been that there would not have been any exceptions, and that would have been a fair system. They decided to help small investors in some specific way. What they have done is not unfair. It may be unfair to you, Senator, and maybe to enough Senators to vote with you.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SARBANES. I just point out to the Senator that the notion that it was unfair was encompassed by the Senator when he put his bill in. This was in the bill, put in by the Senator. So the Senator himself departed from the absolutely rigorous application of moving to proportionate liability because he recognized it was not fair.

I am just making the point, the way it has been defined makes it so restrictive that these small, unsophisticated investors—which my colleague is asserting he is providing some protection for —are not going to get protection. I am urging my colleagues to change it in this respect in order to provide protection for these small people.

The fact of the matter is, the shift the Senator is doing is he is shifting the burden of uncollected damages off of the codefendant, who has abused the system, over to the insolvent defendant, the victim.

The Senator used an example between a misdemeanor and a felony, and he says you have to have a line. The line you have is you are still punishing the wrongdoer. The shift from a misdemeanor to a felony does not enable you to put the burden off on the victim of the crime. Here we are throwing it off on the victims, and you are doing it in such a way that they have no adequate protection. I think these small investors ought to be protected. I think the proportionate liability ought to be doubled. As the Senator from New York indicated the other day himself in making a statement, that is what this is directed to do. I say to my colleague, the way it is written now my colleague is going to have someone with a small net worth, they lose a small amount of money—he says, "Too bad."

They say, "But this fellow was a participant in the fraud. They were in this scheme that cheated me."

"Tough. Very sorry." And Mr. and Mrs. Small investor, all across the country, are going to feel the brunt. They are going to feel the brunt of this.

I should have tried to amend the net worth as well. I think the figure is much too low. But for the sake of drawing the distinctions we left the net worth. We just said all right, you got $200,000 net worth, you lose $15,000 in this fraudulent scheme. The person who directly perpetrated the scheme has fled. But his lawyer is around, his accountant is around, his investment counselor is around. And all of them were so reckless that they became participants in the scheme. They did not blow the whistle on this person and therefore you are entitled to collect from them. And I think you ought to be able to collect if you are the small person.

If you have lost less than 10 percent, you have a smaller loss—why should they not? That may be the only investment funds these people have. We are not talking about wealthy people here. And you are putting the burden—it is very important to understand, the law to date has been that all of the defendants can be held. If one of them goes bankrupt, then the others can be brought in and made to pay. And the victim is held harmless.

Now we are making the perpetrators of the fraud harmless as opposed to the victims.

Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator's time has expired. The hour of 2 o'clock now having arrived, the Senator from California is recognized to offer an amendment on which there will be 90 minutes debate.

The Senator from California.

AMENDMENT NO. 1473

(Purpose: To instruct the Securities and Exchange Commission to report to the Congress on whether senior citizens and retirement plans need enhanced protection from securities fraud)

Mrs. BOXER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 1473.

At the appropriate place, insert the following:

SEC. . STUDY AND REPORT ON PROTECTIONS FOR SENIOR CITIZENS AND QUALIFIED RETIREMENT PLANS.

(a) FINDINGS.—The Congress finds that—

(1) senior citizens and qualified retirement plans are too often the target of securities fraud of the kind evidenced in the Charles Keating, Lincoln Savings & Loan Association, and American Continental Corporation situations;

(2) this Act, in an effort to curb unfounded lawsuits, changes the standards and procedures for securities fraud actions; and

(3) the Securities and Exchange Commission has indicated concern with some provisions of this Act.

(b) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall—

(1) determine whether investors that are senior citizens or qualified retirement plans require greater protection against securities fraud than is provided in this Act and the amendments made by this Act; and

(2) if so, submit to the Congress a report containing recommendations on protections that the Commission determines to be appropriate to thoroughly protect such investors.

(c) DEFINITIONS.—For purposes of this section—

(1) The term 'qualified retirement plan' has the same meaning as in section 4974(c) of the Internal Revenue Code of 1986; and

(2) the term 'senior citizen' means an individual who is 62 years of age or older as of the date of the securities transaction at issue.

Mrs. BOXER. Mr. President, thank you very much.

The reason I had the wonderful employee of the Senate read the amendment in its entirety is that it is pretty straightforward. As has been stated before, I am not an attorney. Because I tend to see these things in a very straightforward way, I have a rule that I have to really be able to show my amendment to the people I represent and make sure that they speak clearly to the point.

Is it not the case, Mr. President, that I have 45 minutes on my side, and Senator DOMENICI has 45 minutes on his side?

The PRESIDING OFFICER (Mr. FRIST). That is correct.

Mrs. BOXER. Mr. President, I yield myself such time as I might consume, but I ask if the President will let the Senator know when she has used about 20 minutes.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, since we are putting into the RECORD names of people and organizations, I wanted to make the point that in California a partial list of those who think this bill goes too far is as follows: The California State Association of Counties, the county of San Francisco, Napa County Deputy District Attorney, the Stanislaus County Board of Supervisors by resolution, the city of Barstow Finance Director, the city of El Monte Treasurer, the Glendale Treasurer, the city of Whittier Clerk-Treasurer, the Modesto Irrigation District, and that is a partial list.

I ask unanimous consent that be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATE-BY-STATE OPPONENTS TO S. 240, AS OF JUNE 22, 1995

ALABAMA

City of Mobile, Investment-Treasury Officer Arthur J. Barnes.

Pike County Commission, Administrator Steven W. Hicks.

State of Alabama, Securities Commission, Director Joseph P. Borg.

ARIZONA

City of Bullhead City.

City of Yuma, Accounting Director Gerald A. Zochowski.

ARKANSAS

City of Stuttgart, Finance Officer Jane W. Jackson.

Craighead County, Treasurer Russell H. Patton III.

State of Arkansas, Attorney General Winston Bryant.

CALIFORNIA

ACC Bond Holders.

California State Association of Counties, Executive Director Steven C. Szalay.

California Labor Federation—AFL-CIO.

City of El Monte, Treasurer Henry J. Velasco.

City of Barstow, Finance Director Evelyn Radel.

City of Glendale, Treasurer Elizabeth W. Evans.

City of Whittier, Clerk-Treasurer Gertrude L. Hill.

Congress of California Seniors, President Lois Wellington.

Congress of California Seniors—Los Angeles.

County of San Francisco, Chief Administrative Officer William L. Lee.

Gray Panthers of Marin, Convenor John Kouns.

Modesto Irrigation District, General Manager Allen Short.

Napa County, Deputy District Attorney Daryl A. Roberts.

Stanislaus County Board of Supervisors, Chairman Paul W. Caruso (resolution).

Contra Costa Times editorial opposing S. 240 (April 17, 1995).

COLORADO

Abbey of St. Walburga, Boulder.

Adams County, Treasurer Helen HIll.

Alamosa County, Treasurer Charlene Cockrum.

Arapahoe County, Treasurer Bernie Ciazza.

Benet Hill Monastery, Colorado Springs.

Capuchin Province of North America, Denver.

City of Denver, District Attorney A. William Ritter, Jr.

City of Denver, Employees Retirement Plan, Executive Director Michael Heitzman.

Chafee County Board of Commissioners, County Administrator Frank M. Thomas.

Colorado AFL-CIO, Jack Hawkins.

Colorado AFSCME, Cathy Bacino.

Colorado County Treasurers' Association, President Sherry M. Rose (resolution).

Colorado Public Interest Research Group, Rich McClintock.

Colorado Senior Organization of Active Retirees of International Steelworkers (SOAR), President Matt Peulen.

Colorado Seniors Lobby, President Richard Tucker.

Denver Federation of Teachers, Local 858, President Fleta Nockels.

Eagle County, Treasurer Sherry Brandon.

Freemont County, Treasurer Jenny Woltemath.

Gray Panthers of Colorado, President Eric Boyer.

Gunnison County, Treasurer Alva May Dunbar.

Jefferson County, Treasurer Bob Bammerlin.

La Plata County, Treasurer Edward Murray.

Machinists Union, District Lodge 86, President Ray Rivera.

Mesa County, Treasurer Gena Harrison.

Moffat County, Treasurer Joy Hammat.

Morgan County, Treasurer Robert Sagel.

National Council of Senior Citizens, Region 8, Director Matt Peulen.

Oil, Chemical & Atomic Workers Union of Colorado, Robert Wages.

Otero County, Treasurer Dennis Smith.

Ouray County, Treasurer Ramona Radcliff.

Retired Mens' Organization of International Steelworkers of Colorado, President Mike Baca (resolution).

Rio Grande County, Treasurer Peggy Kern.

San Miguel County, Treasurer Sherry Rose.

Sisters of St. Francis of Colorado Springs.

Sisters of St. Francis of Penance, Denver.

State of Colorado, Division of Securities, Commissioner Philip A. Feigin.

Summit County, Treasurer Larry Galliland.

Weld County, Treasurer Arthur Willis.

Yuma County, Treasurer Mary Lou Rose.

CONNECTICUT

City of New Britain, Finance Director John Jedrzejczyk.

City of Shelton, Finance Director Louis M. Marusici.

Connecticut Government Finance Officers Association, President Glenn S. Klocko.

Newington Public Schools, Business Administrator Alfred L. Villa.

Town of Darien, Finance Director Kathleen A. Clarke.

Town of Stonington, First Selectman David S. Burdge.

Town of Waterford, Finance Director Arthur H. Davis III.

DELAWARE

City of Dover, Finance Director Mike Karia.

City of Newark, Finance Director Patrick E. McCullar.

Delaware Association of Government Finance Officers, President Patrick E. McCullar.

FLORIDA

Benedictine Sisters of Florida.

Broward AFL-CIO.

Consumer Fraud Watch.

Dade County Board of Commissioners (resolution).

Dade League of Cities, President Helen L. Miller (resolution).

Delray Senior Citizens.

Escambia County Board of Commissioners, Chairman Willie J. Junior (resolution).

Florida AFL-CIO.

Florida AFSCME.

Florida Association of Court Clerks and Comptrollers.

Florida Association of Tax Collectors.

Florida Chapter, National Bar Association.

Florida Coalition to Protect Investor's Rights, Coordinator Susan Glickman.

Florida Consumer Action Network.

Florida Education Association.

Florida Government Finance Officers Association, President Rick Atkinson.

Florida Public Interest Research Group.

Florida Silver Haired Legislature, Inc.

Florida State Council of Machinists.

Florida State Council of Senior Citizens.

Gray Panthers of Sarasota-Manatee.

Gray Panthers of South Dade.

Northeast Florida Area Council of Senior Citizens.

Palm Beach County Sheriff's Office, Sheriff Charles A. McCutcheon.

South Florida Water Management District, Director of Finance E. Barrett Atwood, Sr.

United Faculty of Florida.

United Teachers of Dade.

Palm Beach Post editorials opposing S. 240 (June 3 and 5, 1995).

GEORGIA

City of Albany, Controller Chuck Olmsted.

City of Columbus, Mayor Bobby G. Poters.

City of Forest Park, Finance Director Sarah Davis.

Gwinett County, Director of Financial Services Charlotte J. Nash.

Municipal Electric Authority of Georgia, President and General Manager Frank L. Olson.

Municipal Gas Authority of Georgia, Executive V.P. and CFO Richard W. McCullough.

State of Georiga, Employees' Retirement System, Director Rudolph Johnson.

HAWAII

State of Hawaii, Employees Retirement System, Administrator Stanley Siu.

City and County of Honolulu, Finance Director Russell W. Miyake.

IDAHO

City of Pocatello, Clerk-Treasurer Peter B. McDougall.

ILLINOIS

American Province of Little Company of Mary Sisters, Provincial Offices, Evergreen Park.

Benedictine Sisters, Chicago.

Chicago and Suburbs Senior Senate, President Joseph Ramski.

Christian Brothers of Ireland, Chicago.

City of Alton, Treasurer Daniel V. Beiser.

City of Chicago, Mayor Richard Daley.

City of Danville, Comptroller Ron E. Neufeld.

City of Darien, Accoutant Marie Plunkett.

City of Decatur, Treasurer Beth B. Couter.

City of Galena, City Administrator Richard A. Schutlz.

City of Joliet, Management and Budget Director Robert D. Fraser.

City of Moline, Finance Officer Kathleen A. Carr.

City of Peoria, City Treasurer Mary A. Ulrich.

City of Rolling Meadows, Acting City Manager Gerald Aponte.

City of West Chicago, Director of Finance W.C. Warren.

Coalition of Active and Retired Employees P.A.C. (Police & Firemen).

Cook County, Assessor Thomas C. Hynes.

Felician Sisters, Mother of Good Council Province, Chicago.

Illinois Government Finance Officers Association, Executive Director William Stafford.

Illinois Municipal Treasurers Association, President Judith E. Madonia.

Illinois State Council of Senior Citizens' Organizations, President Gerald Prete.

LaSalle County, Treasurer Thomas C. Setchell.

Madison County, Chief Deputy-Treasurer Robert H. Chappell.

Missionary Sisters of St. Charles Borrome, Melrose Park.

Passionist Community, Holy Cross Province, Rev. Michael J. Hoolahan.

School Sisters of St. Francis of Christ the King, Lemont.

Servants of the Holy Heart of Mary, Provincial Administration Kankakee.

Sisters of Mercy of the Americas, Regional Community of Chicago.

Sisters of St. Casimir, Chicago.

Sisters of St. Francis, Joliet.

Village of Bolingbrook, Deputy Village Treasurer Harriet C. Allbee.

Village of Carol Stream, Finance Director Stan W. Helgerson.

Village of Carpentersville, Finance Director A. Donald Mazza.

Village of Niles, Finance Director/Treasurer George R. Van Geem.

Village of Sauk Village, Finance Officer Bev Sterrett.

INDIANA

Conference on Corporate Responsibility of Indiana and Michigan, Chairperson Mary John Walsh.

IOWA

Iowa Association of Counties, Executive Director Bill Peterson.

Iowa Municipal Finance Officers Association, President Marian K. Karr.

Jackson County Board of Supervisors, Chair John J. Wiley.

City of Cedar Rapids, Controller-Auditor Robert E. McMahan

City of Iowa City, Finance Director Donald J. Yucuis

KENTUCKY

Commonwealth of Kentucky, Kentucky Retirement Systems, General Manager Pamela S. Johnson

LOUISIANA

Parish of St. Charles, President Chris A. Tregre

Parish of Terrebonne Consolidated Government, Chief Administrative & Financial Officer Doug Maier

MAINE

City of Lewiston, Finance Director Richard T. Metivier

Maine Council of Senior Citizens, President John H. Marvin

Maine Municipal Association, State and Federal Relations Director Kenneth C Young, Jr.

Maine Retired Teachers Association, Vice President Philip A. Gonyar

Maine State AARP, Legislative Committee, Chair William H. Layman

Maine State Employees Association, Retirees Steering Committee Chair Eunice Cotton

Southern Maine Area Agency on Aging, Executive Director Laurence W. Gross

MARYLAND

Howard County, Director of Finance Raymond F. Servary, Jr.

Marianist Provincial House, Baltimore

State of Maryland, Office of the Attorney General, Securities Division, Commissioner Robert N. McDonald

MASSACHUSETTS

AFSCME Council 93, Executive Director Joseph M. Vonavita

Augustinians of the Assumption, Brighton

Citizen Action of Massachuetts, Director Edward Kelly

Essex County, Retirement Board, Chairman-Treasurer Katherine O'Leary

Fraternal Order of Police, Greater Boston Lodge, President Michael Giannetti

Hampshire County Commission, Legislative, Charter, and Code Committee, Chairman Vincent J. O'Connor

Industrial Cooperative Association Group, Director James Megson

Massachusetts Association of County Commissioners, President Robert Stone

Massachusetts Consumers' Coalition, Chairman Paul J. Schlaver

Massachusetts Jobs with Justice, Director Rand Wilson

Massachusetts Public Interest Research Group, Executive Director Janet Domenitz

Massachusetts Teachers Association, Vice President Melanie Kasperian

Norfolk County Board of Commissioners, President William O'Donnell (resolution)

Plymouth County Board of Commissioners, Chair John R. Buckley, Jr.

Sons of Mary, Framingham

State of Massachusetts, Attorney General Scott Harshbarger

Tax Equity Alliance for Massachusetts, Director Jim Braude

Teamsters Local 25, Recording Secretary/Field Representative Richard Reardon

Teamsters Local 122, Secretary/Treasurer John Murphy

Teamsters Local 504, Secretary/Treasurer Dave Robbins

Town of Concord, Finance Director Anthony T. Logalbo

Town of Wellesley, Treasurer/Collector Marc V. Waldman

Xaverian Brothers, American Northeastern Province, Milton

MICHIGAN

City of Ann Arbor, Finance Director Allen D. Moore

City of Bay City, Treasurer Judy M. Volk

City of Berkeley, Clerk/Treasurer Leona M. Garrett

City of Grayling, Treasurer Verna M. Meharg

City of Kalamazoo, Administrative and Financial Services Managing Director R. Keith Overly

City of Mount Pleasant, Finance Director Rick L. Sanborn

City of Southfield, Treasurer Roman J. Gronkowski

Charter Township of Ada, Treasurer Soberberg

Charter Township of Delta, Board of Trustees (resolution)

Charter Township of Garfield, Treasurer Judy McManus

Charter Township of Independence, Treasurer John Lutz

Charter Township of Van Buren, Treasurer Helen Foster

Conference on Corporate Responsibility of Indiana and Michigan, Chairperson Mary Joan Walsh

Genesee County, Controller Leonard D. Smorch

Grand Rapids Dominicans, Prioress Barbara Hansen

Macomb County Treasurer Association, President Pamela Kondziolka

Michigan Association of Counties, Executive Director Timonthy K. McGuire

Passionist Community, St. Paul of the Cross, Rev. Michael Hoolahan

Saginaw County, Treasurer Marvin D. Hare

State of Michigan, Auditor General Ramona Henderson Pearson

MISSISSIPPI

State of Mississippi, Office of the Secretary of State, Assistant Secretary of State for Securities and Business Services Susan Shands

MISSOURI

Boone County, Treasurer Kay Murray

Chesterfield Fire Protection Distric, District Administrator John W. Klos

City of Blue Springs, Director of Financial Isabel Stocklein

City of Brentwood, Finance Officer Susan L. Zimmer

City of Des Peres, Director of Finance Brett Vuagniaux

City of Ellisville, Director of Finance David S Daniels

City of Ferguson, Director of Finance Jo Ann Bordeleau

City of Fulton, Chief Financial Officer Jerry D. Ponder

City of Harrisonville, Mayor C. A. "Chuck" Jones

City of Lee's Summit, Treasurer Kathy VanGordom

City of Lexington, City Administrator Abigail Tempel

City of Macon, Finance Clerk Cathay Swan

City of Manchester, Director of Finance C. Lynn Wei

City of Moberly, Director of Finance and Personnel Nick Burton

City of O'Fallon, Director of Finance Laura Lashley Chiles

City of Richard Heights, City Manager Carl L. Schwing

City of Rolla, Finance Director Daniel L. Murphy

City of Sedalia, City Controller/Treasurer Pamela Burlingame

City of Shelbina, City Clerk Charlette Schwieter

City of Sugar Creek, City Clerk/Finance Officer Veronica A. Powell

City of Webster Groves, Acting City Manager Milton W. Matthews

Clay County, Treasurer Beverly Corum

Communication Workers of America District 6, Vice President Vic Crawley

Hickory County Commission, Presiding Commissioner Bob Breshears

Jesuits of the Missouri Province, St. Louis

Little Blue Valley Sewer District, Finance Director Jay Sells

Missouri AFL-CIO, State Director Daniel J. "Duke" McVey

Missouri AFSCME, Council 72, Bob Carico

Missouri Citizen Action

Missouri Council of Senior Citizens

John R. Perkins, Former Securities Division Director, Missouri Secretary of State

Municipal Finance Officers and Treasurer Association of Missouri, President Daniel L. Murphy

Society of the Sacred Heart, United States Province, St. Louis

St. Charles County, Finance Director Joseph M. Kernell

St. Louis County Municipal League, Executive Director Tim Fischesser

St. Mary's Institute, O'Fallon

Sistors of the Most Precious Blood, O'Fallon

State of Missouri, Attorney General Jeremiah W. (Jay) Nixon

Union of American Hebrew Congregations--Missouri

United Auto Workers, Region 5

St. Louis Post Dispatch editorial opposing S. 240 (May 9, 1995)

MONTANA

Butte Area Chapter of AARP, President Harold Kammerer

Butte Human Rights Coalition, Chair George Waring

Carbon County, Commissioner Mona Nutting (MACO resolution)

Coalition of Montanans Concerned with Disabilities, President Michael Regnier

Custer County Commission, Commissioner Janet Kelly (Custer resolution)

Dawson County, Treasurer Cindi Byron

Fergus County, Commissioner Vern Petersen (MACO resolution)

Flathead County, Commissioner Howard Gipe (MACO resolution)

Gallatin County Commission, Chairman Kris Dunn (resolution and MACO resolution)

Gallatin County, Treasurer Stan Hughes

Hotel Employees & Restaurant Employees Union, Local 427, Organizer Secky Fascione

Montana Association of Counties, Executive Director Gordon Morris (Resolution)

Montana Coalition For Nursing Home Reform, President Alice Campbell

Montana People's Action, Executive Director Jim Fleischman

Montana Public Interest Research Group, Executive Director Linda Lee

Montana Trial Lawyers, Executive Director Russel Hill

State of Montana, State Auditor Mark O'Keefe

Stillwater County, Commission Chairman Vicki Hyatt (MACO resolution)

Yellowstone County, Commissioner Mike Mathew (MACO resolution)

NEBRASKA

General Drivers and Helpers, Local Union No. 554, Secretary Treasurer Jerry Younger

Nebraska Association of Public Employees, Executive Director Bill Arfman

Nebraska Citizen Action, Director Walt Bleich

State of Nebraska, Department of Banking and Finance, Assistant Director Jack E. Herstein

NEVADA

City of Las Vegas, Treasurer Michael K. Olson

City of Wells, Clerk Michael T. Cosgrove

Clark County School District, Treasurer Kenneth D. Selch

NEW JERSEY

Consumers for Civil Justice

New Jersey Conference of Mayors, Executive Director Don Fauerbach

New Jersey Fraternal Order of Police, President Richard Whelan

New Jersey Government Finance Officers Association, President Barry Eccleston

Tax Collectors and Treasurers Association of New Jersey, President Vincent A. Belluscio

NEW MEXICO

City of Farmington, Mayor Thomas C. Taylor

New Mexico Federation of Labor, President George "Jeep" Gilliland

New Mexico Pro-PAC, President Gerry Bradley

Progressive Alliance for Community Empowerment, President Pablo Trujillo

New Mexico Public Interest Research Group, Executive Director Matthew White

San Juan County, Treasurer Sid Martin

State of New Mexico, Attorney General Tom Udall

State Representative Mimi Stewart (Bernadillo)

NEW YORK

AFSCME, District Council 37, Executive Director Stanley Hill

AFSCME, New York State, Political and Legislative Director Edward F. Draves

American Military Retirees Association, National and New York President Thomas E. Burton

Citizen Action of New York

City of Newburgh, Director of Finance/Comptroller Hargovind S. Patel

City of New York, Public Advocate Mark Green

Congregation of Christian Brothers, Eastern American Province, New Rochelle

Interfaith Center on Corporate Responsibility, Executive Director Tim Smith

Long Island Progressive Coalition, Executive Director David Sprintzen

New York Government Finance Officers' Association, President Michael A. Gealto

New York Hotel Trades Council, AFL–CIO, Pensioners Society

New York Public Interest Research Group, Legislative Director Blair Horner

New York State Council of Senior Citizens, Executive Director Maureen H. Campbell

New York Statewide Senior Action Council, Board of Directors President Max Berman

Presbyterian Senior Services, Executive Director Dave Taylor

Sisters of Mary Reparatrix, Bronx

State of New York, State Comptroller H. Carl McCall

NORTH CAROLINA

Raleigh News & Observer editorial opposing S. 240 (May 27, 1995)

NORTH DAKOTA

North Dakota AFL–CIO, President David L. Kamnicz

North Dakota AFSCME, Kevin Riconas

State of North Dakota, Treasurer Kathi Gilmore

State of North Dakota, Securities Commissioner Cal Hoovestol

OHIO

Ashtabula County, Treasurer Robert L. Harvey

City of Barberton, Finance Director Raymond E. Flickinger, Jr.

City of Cleveland, Treasurer Mary Christine Jackman

City of Dublin, Finance Director Marsha I. Grigsby

City of Jackson, Auditor Carl Barnett

City of Lyndhurst, Finance Director Joseph G. Mirtel

City of Mansfield, Finance Director Sandra L. Converse

City of Painesville, Director of Finance James W. Onello

City of Tallmadge, Treasurer Steven C. Brunot

City of Upper Arlington, Finance Director Pete Rose

City of Vandalia, Finance Director Linda Chapman

City of West Carrolton, Finance Director Roberta A. Donaldson

City of Zanesville, Treasurer Walter K. Norris

County Commissioners Association of Ohio, Executive Director Larry L. Long

County Treasurers Association of Ohio, President John Donofrio

Cuyahoga County Board of Commissioners, President Mary O. Boyle

Euclid City Schools, Treasurer Lowell B. Davis

Glenmary Home Missioners, Director Robert Knueven

Greene County, County Auditor Luwanna A. Delaney

Lake County, Treasurer John C. Crocker

Municipal Treasurers Association of the United States and Canada, Ohio Chapter, Chairman Anthony L. Ianiro

Montgomery County Board of Commissioners, President Vicki Pegg

Summit County, Treasurer John A. Donofrio

Village of Edgerton, Clerk-Treasurer Kathleen Whitman

Village of North Kingsville, Clerk-Treasurer Barbara R. Lambert

Village of Richfield, Finance Director Eleanor Lukovics

Dayton Daily News editorial opposing S. 240 (5/10/95)

OREGON

City of Astoria, Finance Director John J. Snyder

City of Coos Bay, Finance Director Gail George

City of Coquille, Recorder/Finance Director Shirley J. Patterson

City of Gresham, Financial and Information Services Manager Axel Bergman

City of Rouge River, City Recorder/Treasurer Leahnette M. York

City of West Lynn, Finance Director Willie Gin

Crook County, Treasurer Mary J. Johnson

Curry County, Treasurer Trudi J. Sthen

Deschutes County, Treasurer Helen Rastovich

Douglas County, Treasurer Joanne L. Motschenbacher

Gray Panthers of Salem, Convener Nate Davis

Jefferson County, Treasurer Bonnie K. Namenuk

Josephine County, Treasurer Jan Elsnasser

Lincoln County, Treasurer Linda Pitzer

Linn County, Treasurer Shannon Willard

Malheur County, Treasurer Janice L. Belnap

Multnomah County, County Auditor Gary Blackmer

Northwest Oregon Labor Council, AFL–CIO, Executive Secretary Ron Fortune

Oregon Public Employees Union/Local 503, President Karla Spence

Oregon State Council of Senior Citizens, Secretary Lois Prince

Oregon State Public Interest Research Group

Oregon Trial Lawyers Association, President A. Michael Adler

Polk County, Treasurer Carolyn Wall

PENNSYLVANIA

City of Philadelphia, Mayor Edward G. Rendell

Commonwealth of Pennsylvania, Securities Commission, Chairman Robert M. Lam

Lehigh County Authority, General Manager Aurel M. Arndt

Pennsylvania State Council of Senior Citizens President David M. Lockhardt

Vincentian Sisters of Charity

Philadelphia Inquirer op-ed opposing S. 240 (June 4, 1995)

SOUTH CAROLINA

Aiken County, Administrator William M. Shepherd

Berkeley County, Supervisor James H. Rozier, Jr.

City of Columbia, Mayor Robert D. Coble

City of Greer, Finance Director Mary P. Greer

City of Mount Pleasant, Cheryll N. Woods-Flowers

City of Sumter, Mayor Stephen M. Creech

City of Union, Mayor T. Burton Williamson, Sr.

Lexington County, Treasurer William O. "Bill" Rowell

State of South Carolina, State Comptroller General Earle A. Morris, Jr.

South Carolina Association of Counties, Executive Director Michael B. Cone

SOUTH DAKOTA

Charles Mix County, Auditor Norman Cihak

Marshall County, Treasurer Nelva Kristofferson

South Dakota AFL–CIO, President Jack Dudley

South Dakota AFSCME, President Paul Aylward

State of South Dakota, Department of Commerce and Regulation, Division of Securities, Director Debra M. Bollinger

Yankton County, Commissioner Kathleen Piper

TENNESSEE

East Tennessee International UAW Retired Workers Council, President James W. Renshaw

Hamilton County, County Executive Claude Ramsey

Tennessee Association of County Executives, Executive Director Fred E. Congdon

Tennessee State Senate Majority Leader Ward Crutchfield

TEXAS

City of Cleburne, Finance Director Greg Wilmore

City of Meadows, Secretary/Treasurer Elaine Herff

UTAH

State of Utah, Division of Securities, Director Mark J. Griffin

City of Bountiful, Treasurer Galen D. Rasmussen

City of Ferron, Treasurer Brenda S. Bingham

City of Ogden, Department of Management Services, Treasury Division, Fiscal Operations Manager J. Norman Burden

VERMONT

AFSCME Council 93, Vermont Coordinator George A. Lovell, Jr.

Central Vermont Council on Aging

City of Burlington, Mayor Peter Clavelle

Council of Vermont Elders

Older Women's League

Southwestern Vermont Council on Aging

State Representative Jerry Kreitzer, Chair, House Government Operations Committee

State Representative Kathleen Keenan, Chair, House Commerce Committee

Teamsters Union Local 597

Vermont Labor Forum

Vermont NEA, President Marlene R. Burke

Vermont Public Interest Research Group

Vermont State Labor Council, AFL–CIO

Vermont Trial Lawyers Association

VIRGINIA

Benedictine Sisters of Virginia, Bristow

City of Falls Church, Treasurer H. Robert Morrison

City of Hopewell, Finance Director Elesteen Hager

City of Roanoke, Finance Director James D. Grisso

City of Suffolk, Finance Director Carroll L. Acors

City of Waynesboro, City Auditor Frank Fletcher

Commonwealth of Virginia, State Corporation Commission, Division of Securities and Retail Franchising, Director Ronald W. Thomas

Henrico County, Finance Director Dennis W. Kerns

Montgomery County Board of Supervisors, County Administrator Betty Thomas

Town of Rocky Mount, Finance Director Don E. Fecher

Town of Warrenton, Mayor J. Willard Lineweaver

Vinginia Association of Counties, General Counsel C. Flippo Hicks

WASHINGTON

Association of Washington Cities, President Judy Boekholder

City of Anacortes, Finance Director George Khtaian

City of Chelais, Finance Director Jo Ann Hakola

City of Spokane, Mayor Jack Geraghty

Clark County, Treasurer Doug Lasher

Cowlitz County, Treasurer Donna Rolfe

King County, County Executive Gary Locke

King County Union Retirees Council, AFL–CIO, President E.G. Kroener

Seattle Community College District, Edward Woodel

Skagit County, Treasurer Judy Menish

Thurston County, Treasurer Michael J. Murphy

State of Washington, Department of Financial Institutions, Securities Administrator Deborah R. Bortner

State of Washington, Department of Retirement Systems, Director Sheryl Wilson

State of Washington, Treasurer Daniel K. Grimm

The Seattle Times editorial opposing S. 240 (May 29, 1995)

Seattle Post-Intelligencer editorial opposing S. 240 (June 2, 1995)

WEST VIRGINIA

City of Bridgeport, Finance Director Keith L. Boggs

State of West Virginia, Treasurer Larrie Bailey

State of West Virginia, Board of Investments, Executive Director H. Craig Slaughter

WISCONSIN

City of Green Bay, Assistant Finance Director Brian C. Ruechel

City of Horicon, Clerk-Treasurer David J. Pasewald

City of Hudson, Clerk-Treasurer Gerald P. Berning

City of Oak Creek, Treasurer Barbara R. Davison

City of Oshkosh, Finance Director Edward A. Nokes

Holy Cross Sisters, Merrill

Milwaukee County, Treasurer Thomas W. Meaux

School Sisters of St. Francis, Milwaukee

Sisters of the Divine Savior, Milwaukee

Sisters of the Sorrowful Mother, Brown Deer

Town of Delavan, Treasurer Dorothy Fladten

Village of Greendale, Clerk-Treasurer Dianne S. Robertson

Wisconsin State Council of Senior Citizens, President Charlie Williams

WYOMING

Wyoming Association of Municipal Clerks and Treasurers, President Kathleen Whitney.

Mrs. BOXER. Mr. President, my amendment takes a very conservative approach to what I think could be a terrible, unintended consequence of this bill.

Many times when we pass legislation with the best of intentions, with the best of minds, we come up short and we find out that in fact we hurt people instead of helping them. Since I know that every one of us is here to help people, every one of us is here to protect investors, every one of us is here to show that we are fair, reasonable and that we are just, I think the amendment I am offering ought to be accepted by the other side. I hope it will be.

It simply asks the SEC to report to us in 180 days as to whether senior citizens and qualified retirement plans need more protection than that which is called for under S. 240.

All I am doing in this amendment is ensuring that the most vulnerable targets of securities fraud, the elderly, are not going to be even more vulnerable as a result of this bill, S. 240. Frankly, I am afraid that they will be. This is not just my opinion; many senior groups oppose this bill in its current form. They want us to amend it. They are very concerned about the impact of this bill on their retirement plan, on their ability to not become a burden to their families.

This bill's entire focus is to make it more difficult to bring a class action lawsuit involving fraud. That is its purpose. I understand it. We want to make sure there are no frivolous lawsuits filed. We do not like these strike suits. We want to get rid of them. But I am concerned that, if the proconsumer amendments continue to be beaten back in this Senate as they were in committee and the first one which was here in the Senate, clearly the ones who will be hurt the most are the ones who are the clearest targets for crooks.

I want to share with my colleagues a couple of articles that appeared in the recent press showing that senior citizens are, in fact, the target of crooks. I am going to show you a couple of articles. Here we have an article from the AARP Bulletin, a publication of the American Association of Retired Persons.

"Targeting the Vulnerable."

"Stock Schemes a New Peril."

I am going to read it.

> To Earl Bonsey of Dover, Maine, it sounded almost too good to be true. As it turned out, it was. The 69-year-old retired carpenter thought he was investing $15,000 in a safe, high-yield mutual fund. Instead, he got a high-risk junk bond fund and lost a third of his money.
>
> Thousands of older Americans now find themselves in similar situations, and the problem is worsening, experts say. "Although there are no firm statistics, we know that countless numbers of older persons are being bilked out of millions of dollars every year—dollars that often represent the savings of a lifetime."

Here is an article from the New York Times just last month.

"If the Hair is Grey, Con Artists See Green." "The Elderly Are Prime Targets."

I am going to read just a portion of this.

> Finding victims is simple. Older people are fairly easy to contact, either through zip codes or mailing lists. Sometimes they are taken for a ride by a parent or friend, whether it is young people who turn up on their doorsteps offering to carry groceries, or middle-aged people . . . in church groups. Even trusted local business people can turn into predators. The elderly "just like the Marcus Welby view of the world, believe that people in business are basically honest," says Philip Feigin, Colorado's Communities Commissioner and President of the North American Securities Administrators Association which tracks investor fraud.

And I might add that that organization, the North American Securities Administrators Association, opposes S. 240. This is what he says:

> So many times when we track a scam the investors who call us are absolutely furious that we broke it up. Of course, any investment made at any age can go sour, but if you blow it when you are 30, you have 35 years to make it up before you retire. If you blow it at 65, you may have to go back to work for the rest of your life.

Now, my God, the last thing we want to do here is send people back to work at age 65 and 70 when they have lost their life savings or part of their life savings. That is just what happened in the Keating case, so let us be careful with what we do here.

Now, the next chart shows the Keating scam in all its beauty. It is a draft; it is actually used here as a salesman's training course where they showed their scam artists how to go after the elderly and it just shows how they look at the elderly: "Edna Snidlip, 1 Geriatric Way, Retiredville, CA."

That is the person they put up as the target here, and they are trying to get her to write a $20,000 check, and that is how they refer to her. And I think more important than that is the next chart which shows what Keating said to his staff.

> Capitalize On This.
>
> And always remember the weak, meek and ignorant are always good targets.

It is unbelievable what goes on with certain bad apples in this country, who would target the elderly and call them the "weak, meek and ignorant." That is why senior citizens oppose this bill, and they are going to remember what we do with this bill. To me, that is the most extraordinary thing. This is the way they talk about our grandmas and grandpas—"the weak, meek and ignorant." They are going to target them, and they are going to get them into some scheme. And then, if we do not strengthen this bill, they are not going to be able to recover. And so Senator SARBANES is offering some amendments, I will be offering some amendments, Senator SHELBY, Senator BRYAN, and others. I hope we will get some support.

Let me give you some of the stories of the senior citizens who were hoodwinked by Charles Keating, and let us be clear. The laws we are amending in S. 240 are the very laws that were used by these seniors to go after Keating and his cohorts.

Last week, Senator BRYAN was questioned by the chairman of the committee, who said: How does this have anything to do with the Keating people? It is very clear. We have the pleadings of the people who were hoodwinked by Keating, collected under these very laws. So when you change it—and by the way, there were forward-looking statements put out by Charles Keating which I will show later in the debate.

When you change the laws, you make it harder for these people, whether it is on the proportionate liability or the safe harbor or the pleading requirements or any of the other things that we change by S. 240. That is why. SEC has problems with this. The SEC has many problems with many of the provisions—with the safe harbor provision, with the lead plaintiff provision—and we are trying to fix this bill so that it is, indeed, a good bill and what it winds up doing is making sure we protect the good business people, not the bad ones. I wish to protect the good business people of California, of which there are many, most. But there are some who are not. And I used to be a stockbroker, and I can tell you this from that experience. People are very nervous when they give you their money to invest. It is a sacred trust. And to call these people "weak, meek and ignorant" does not deserve to be rewarded by legislation that makes it easier for these crooks.

We should be careful. These seniors are warning us not to go too far. The seniors who were bilked by Keating showed up here in Washington, DC, to stand with some of us. Here is one of their stories. Barbara Marks of Burbank, CA. Here is what she says.

> I have my home. I have my car, but I have no savings. I invested my savings but Charles Keating swindled it from me. I lost $25,000 in American Continental Corporation bonds I bought at Keating's Lincoln Savings. I've received about 50 percent back from class action lawsuits. It's made things much more difficult. I hate having no money,

she says.

> I live check to check. If I didn't have any pension and Social Security, I'd be on skid row. If a check doesn't show up, I have nothing. Everything I do I have to pay on time. If my battery goes, I have to pay. I cannot go to the bank and draw out money if I don't have food or coffee. I have to wait until the next check. Last week I had no money for 3 days.

This is a woman who was swindled out of her money. Why would we want to do anything to make it harder for her to recover, or others like her? I ask that question. Now, I know my friends on the other side and my friends on this side who support S. 240 say I am wrong on this point. I say do not listen to me. Listen to the hundreds and hundreds of people and organizations and consumer groups that absolutely oppose S. 240 in strong form. Join with me in this amendment so that we can have a study done by the SEC to tell us if we have gone too far and we are hurting seniors. Let us see what else she says.

> As an older person you want to think people are honest. I thought everything was protected and everything was on the up and up. I thought my investment was insured. People should be able to collect the money taken from them from all who are responsible,

she says.

This goes to Senator SARBANE's amendment.

> We should benefit from those who benefit from taking from us. The money belongs to us. The Senate shouldn't take away our rights.

I ask unanimous consent to have printed in the RECORD the statement of Ms. Jeri Mellen and Ms. Joy Delfosse, both of Nevada, Don and Judy Maxfield of Arizona, John and Ethel Rabkin, Granada Hills, CA, and Evangeline Ivy of Glendale, CA.

There being no objection, the material was ordered to be printed in the the RECORD, as follows:

PEOPLE WHO WERE SWINDLED BY CHARLES KEATING AND WHO OPPOSE S. 240 WASHINGTON, D.C. VISIT, JUNE 13, 14, 1995

NEVADA

1. Ms. Jeri Mellon, Henderson, NV.

Jeri Melon lost $40,000 in American Continental Corp. (ACC) bonds, which she purchased at Lincoln Savings & Loan in Sherman Oaks, California in the last 1980's.

She says, "The bank had set aside a desk near the front of the bank so that you were seen coming and going. The individual selling the bonds was always a well-dressed, young college graduate. He was charismatic, charming, good-looking, attentive, and very well versed in his approach to clients.

"The tellers advised you to put your money in the bonds rather than a CD. Lincoln Savings was insured, so I felt that if the bank was endorsing these bonds, they would have to be insured."

2. Ms. Joy Delfosse, Henderson, Nevada.

Joy Delfosse lost $21,000 in ACC bonds that she purchased at Lincoln Savings & Loan in Sherman Oaks, Ca. She had been a customer of Lincoln Savings since 1969; and when a CD of hers came due, the Lincoln tellers she trusted convinced her to put her money into ACC bonds.

ARIZONA

1. Don and Judy Maxfield.

Don and Judy Maxfield lost $21,000 in ACC bonds, when they were living in Lakewood, CA. in the 1980's. They purchased the bonds at their local Lincoln Savings bank in the Lakewood Mall. when their CD's came due, Lincoln tellers persuaded them to put their money into ACC bonds. At the time, the Maxfields were looking forward to retirement and felt the bonds were an attractive investment, since they were being sold by Lincoln Savings.

CALIFORNIA

1. Sam and Ethel Rabkin, Granada Hills, CA.

Sam and Ethel Rabkin lost $100,000 in ACC bonds, which they purchased at the Lincoln Savings & Loan where they banked at Granada Hills, CA. They said, "Lincoln was a family bank with all the tellers knowing you by your first name and they made you feel part of the family."

2. Evangeline (Van) Ivy, Glendale, CA.

Evangeline (Van) Ivy and her husband lost $100,000 in ACC bonds, which they brought at the Lincoln Savings & Loan in their town of Glendale CA. They were regular customers of the Lincoln Savings in Glendale; they purchased their bonds when their CDs came due, based on information from Lincoln sales people that the bonds were safe.

Mrs. BOXER. Sam and Ethel Rafkin lost $100,000 in junk bonds. They said:

> Lincoln was a family bank with all the tellers knowing you by your first name and they made you feel part of the family.

Sure, they did. But in the back rooms they laughed at them and called them the "weak, meek and ignorant."

We better be careful when we change our securities laws that we do not as an unintended consequence—I do not think anyone, of course, intends to do that—reward that kind of crook. We know Charles Keating targeted the elderly. We know many others target the elderly. I showed you some of those articles. Charles Keating ran afoul of the securities laws. The securities laws that this bill will change will be changed deeply and adversely: 18,000 of the 23,000 people who bought Charles Keating's junk bonds were elderly—well, we know why; they targeted the elderly; junk bonds that did not drop 10, 20, or 30 percent in value but junk bonds that became 100 percent worthless; 18,000 people swindled. That is a small city. Make no mistake, the elderly are the target, and that is why my amendment is such a good amendment, because it simply says to the SEC: Take a look at what the Senate has done and the House has done with S. 240 and let us know in 180 days. Should we take some actions to make sure that senior citizens are better protected?

Mr. President, have I used up the 20 minutes at this time?

The PRESIDING OFFICER. The Senator has used 16 minutes.

Mrs. BOXER. I say we better make sure we know what we are doing. We better make sure that at the end of the day, as the proponents of S. 240 celebrate their victory, it is not a short lived victory, because I will tell you, Mr. President, there is no wrath like the wrath of the elderly. There is no wrath like the wrath of people who took their hard-earned retirement money and invested it, only to turn around and find out they were swindled. And that wrath will come down on those people who changed the laws in such a way that good people like this could not invest.

Let me give you another unintended consequence, and it is something that my friend, CHRIS DODD, has said over and over and over again, and he is right on this particular point. We have to make sure that people are interested in making investments in this Nation. We want to make sure they feel good about it, they feel protected. Or what will happen? Money will dry up. They will buy a Government bond. Why would they not? At least they know it is protected by the FDIC and that the full faith and credit of the Treasury stands behind it.

But we want people to invest in the business world. We want the capital to flow to innovation, to new technology so that jobs are created. So what I am saying is, as an unintended consequence of this bill, we better be careful that we do not go so much to one side because we do not want frivolous lawsuits that we, in fact, make people afraid that the protections are not there, that they will never collect if they are swindled and, therefore, they refuse to invest their money in the private sector. And they might very well.

I will tell you, I would have a lot of pause. I know a lot about this rewrite of securities laws, and I am very concerned.

Investment schemes that target the elderly are not the exception; they are the rule. The Senate Committee on Aging held hearings 2 years ago on elderly and retirement investor fraud. The assistant commissioner from my State securities regulators testified. Let me quote from his testimony:

> If I were conducting a seminar on investment fraud techniques for aspiring con artists, lesson one would be: Target the elderly and the retired.

So we have proof from people who are out there that the elderly, senior citizens, and retirement plans are the focus of some of these bad appeals, these swindlers, these crooks, these corrupt people who have no heart at all. I used to call them hard-hearted. I do not think they have a heart. How do you have a heart when you take a grandma's money, a widow? She has $20,000. You imply that it is safe, as I read to you before the case of that elderly person. How do you take that money and lose it knowing all along that is what was going to happen and then even claim to have a heart?

No. 1, target the elderly and the retired.

The State securities regulators announced what they described as an alarming surge in investment schemes targeting IRA's.

The PRESIDING OFFICER. The Senator has used 20 minutes.

Mrs. BOXER. Mr. President, I yield myself 5 minutes. They reported that tens of thousands of unwary Americans already have invested hundreds of millions of dollars of their savings for old age through IRA's and other tax-deferred savings.

So we know who the targets are. And the Boxer amendment simply says to the SEC, "Help us out a little. After S. 240 is the law of the land, take a special look, from the standpoint of our seniors and retirement plans, and let us know if there is something we should do to strengthen the law."

I would be surprised if people fight us on this amendment. If they do, I will listen to their arguments, but it is hard for me to understand why we would not want to have this information.

Mr. President, today I took an early morning walk around the Capitol on the west front, and I do not know if you have ever seen the statue of John Garfield. It was put up there by his Army buddies.

For the first time, I decided to take a look at it. It is surrounded by five classical sculptures, and one of them is a man who is holding a tablet, and the tablet has three words on it: Law, justice, prosperity. Those three words—law, justice, prosperity.

I thought to myself, how interesting that I happened to look at that this morning. Law, justice, and prosperity. What we are trying to do here is to make sure in S. 240 that our companies can be prosperous by protecting them from frivolous lawsuits. Law, justice, prosperity. But, on the other hand, there is a balance. Are we going to go too far and take prosperity away from our seniors or, shall I say, survival away from our seniors? So, law, justice and prosperity. We are dealing with those words today. We do not want to protect the bad guys; we want to help the good guys, and we certainly do not want to hurt the senior citizens and those who are saving diligently for their retirement.

I know lawyer bashing is the latest thing of the nineties. We bash everything in the nineties, but particularly we bash lawyers, and I am against lawyers who file frivolous lawsuits. I will do whatever I can to stop that.

But let us be clear, we are doing a lot more here. We are going very far, as this Congress has done on a number of issues, we are going too far. We are going to hurt our grandmas and grandpas and average, decent people who deserve to be protected and they do not deserve to have a law that protects them literally torn apart—torn apart—so that they can be sitting targets: "the weak, the meek and the ignorant with no laws to help them." That is wrong.

We are changing many rules about securities laws in S. 240. The least we can do—the least we can do—is require that the SEC come back to us in 180 days telling us what they believe the impact of these changes are on senior citizens and retirement plans. I hope my colleagues on both sides of the aisle can support the Boxer amendment.

I retain the remainder of my time, Mr. President. I yield the floor at this time.

I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I was listening to the concern my colleague from California raised that senior citizens might be particularly vulnerable to unscrupulous predators who prey on them because of their lack of sophistication and, in many cases, take advantage of an established fiduciary relationship to defraud senior citizens of their savings.

I agree with my colleague that, in the case of Charles Keating and his bank, it is hard to imagine that a large and reputable institution, insured by the Federal Deposit Insurance Corporation, would engage in the kind of reprehensible activities which defraud depositors and investors of hundreds of millions of dollars. People often think that banks have the Federal Government's stamp of approval and that they are therefore protected from these kinds of fraudulent practices, because of the various supervisory agencies—the Federal Reserve, the Office of the Comptroller—which review these banks. However, I reject the Senator's contention that S. 240 would open the door to this kind of activity. Fraud is not countenanced by this bill. Indeed, deliberate or intentional misstatements do not receive the safe harbor or any other protections. In fact, those who make intentional misstatements can be held liable, potentially, for all of the damages, even damages beyond those which they are found to be directly responsible. Further, the Securities and Exchange Commission is empowered under this legislation to bring suits that before now they did not have the authority to bring.

This legislation's purpose is to control the race to the courthouse by greedy, avaricious lawyers, who look not to the benefit of innocent investors or the elderly who have been defrauded, but look only to enrich themselves. They have become legal holdup artists. Ninety-three percent of these cases are settled because it costs less for defendants to settle them than the millions of dollars they cost to try. The lawyers win their settlements by alleging fraud; they do not prove fraud.

It is about time that we say we are not going to allow the American judicial system to be used in this manner; to allow lawyers to pirate profits from companies who have done nothing wrong, whose only mistake is that they are in business and that they are subject to the marketplace fluctuations. It is about time that we stood up to the lawyers who have made filing these cases a business. These lawyers are not concerned with the interests of the investors who have been abused.

I do not want to see people's rights to seek redress limited. However, this bill does not do that. Later, I intend to refer to a statement by Mr. Levitt, in which he is highly complimentary of many of the provisions of S. 240. Also I intend to point to a comparison between our bill and the bill that was passed in the House of Representatives.

I have not heard anybody point out that this bill does stop these attorneys from racing to the courthouse, and prohibits them from hiring plaintiffs so that the people with real financial interests are represented. These attorneys would rather file suit on behalf of a person who owns 10 shares of stock and who the lawyer selects than have to consider the interests of the defrauded investor. S. 240 stops this abusive behavior and it should be complimented for that. S. 240 would also legislate that if you are an accountant, and you discover fraud, you have an obligation to bring that up to the board of directors. However, S. 240 goes further than that; it requires that your obligation does not end with the board of directors. If the board of directors does not act, you have to go one step further, and report the fraud to the SEC. These provisions protect the senior citizens.

I am tired of hearing this nonsense that this legislation will just open up the doors to take advantage of people. People are being taken advantage of, this legislation tries to put a stop to that. Where do you think those senior citizens invest their money? They invest in pension funds that account for 25 percent of all the moneys invested. However, I did not hear my colleagues say, you have done a good thing by giving to these pension funds the authority to pick their lawyers and control their litigation. While I share my colleagues' concern that senior citizens not be hurt, I think it is unfair, that it is beyond the pale, to say that this bill protects fraud. I have heard that statement a half dozen times from my colleagues. But this bill does not protect fraud. I ask my colleagues to show me where in this legislation we protect fraud. Any intentional misstatement and you can be held liable. There is no safe harbor for fraud. It is neither right nor accurate to say that we protect fraud in this bill, and I resent the fact that my colleagues continue to make these statements.

For several weeks, my colleague has been talking about offering amendments to help protect senior citizens. I have yet to see those amendments. This is the first amendment that has been introduced. It calls for a study. I believe that it is reasonable, and I am prepared, under certain circumstances, to accept this amendment. But I do not think it is unreasonable for me to ask what other amendments are going to be offered so that they are not just sprung on us. I hope that my colleagues are willing to share their amendments so that we can see if we might be able to accept them. I would like to be able to do that, but I certainly cannot accept amendments blindly.

I yield the floor.

Mrs. BOXER. Mr. President, how much time do I have left?

The PRESIDING OFFICER. Twenty minutes.

Mrs. BOXER. Before I yield to my good friend from Alabama, I want to respond to my friend from New York. My friend from New York, the chairman of the committee, worked very hard on S. 240. He simply has a different view of the consequences. You know, if it all was exactly the way my friend said it was, everyone would be supporting S. 240. But I have already put into the RECORD the names of hundreds of people from Alabama to Wyoming, people who are there to look out for the people, who have said S. 240 goes too far.

I already mentioned the Congress of California Seniors. Listen to what they said, and they are smart people:

> DEAR SENATOR BOXER: In behalf of the Congress of California Seniors, I want to reiterate our strong opposition to S. 240 as it emerged from the Senate on May 25. This bill threatens the retirement savings of every Californian.

My friend can pound the podium all he wants. He is effective when he does that. But so can I.

Listen:

> This bill threatens the retirement savings of every Californian. It is one of the most anti-senior citizen pieces of legislation to be considered by the Congress in recent years.

That is such strong talk from the Congress of California Seniors.

So I just have to say there is a legitimate disagreement here. I am very hopeful that my friend, the chairman, will accept my amendment, because I think that is the minimum we can do. I hope that he will. But we can all pound the table and get upset because we see the bill differently, which is what the legislative process is about. I hope my friend will not take it personally that I see it in a different way than he does.

At this time, I yield 10 minutes to my friend from Alabama, Senator HEFLIN.

Mr. HEFLIN. Mr. President, I rise in support of the Boxer amendment which basically is to require a study as to the effect of securities litigation on senior citizens and to then come forward with ideas on how basically they might be protected in the event there are disadvantages that arise relative to the matters that are involved in securities litigation.

I also rise in opposition to the bill. This bill has been called a reform bill. I think that is really a misnomer. It has been called by some—and they go, I think, a little too far—the Crooks and Swindlers Protection Act. However, the bill which proclaims to curb frivolous lawsuits would essentially put at a substantial disadvantage and penalize the victims of securities fraud and give protection to corporate wrongdoers and their aiders and abettors.

This bill has many opponents, including the very people who are responsible for investor protection and overseeing capital formation in the States, the North American Securities Administrators Association. Also the Association for Retired People, AARP; the U.S. Conference of Mayors, and the Government Finance Officers Association number among those that are opposed to S. 240.

All oppose the bill for good reason, as noted by the Raleigh News Observer, "The bill is bad news for investors private and public and it would tie victims in legal knots while immunizing white-collar crooks against having to pay for their misdeeds."

The sponsors of this bill claim, with very little supporting evidence, that there is a litigation explosion in the securities class action arena. The studies regarding the number of these types of cases do not reflect anything close to an explosion. In fact, they prove that the level of actual cases has remained constant for the past 20 years. In 1993 alone there were only 140 companies sued; there are over 20,000 companies registered with the Securities and Exchange Commission. This small number of companies sued, only 140, hardly amounts to a litigation explosion.

The proponents of the bill also claim that most of the cases which were filed are frivolous and that companies feel that they must settle the cases to avoid protracted litigation expenses. Well, if we were to base this reform bill only on what companies believe are frivolous suits, we would believe that the charges filed against the accountants, lawyers, and brokers involved in the Charles Keating, Lincoln Savings fraud case were frivolous. Although they claimed the charges were frivolous, they settled for ten's of millions of dollars with investors who had lost considerably.

There probably are cases in which companies have been wrongly sued for stock price decreases not due to fraud or based on actions for which they should not be held accountable. Predominately this is not the case. In fact, according to a study performed by the University of California for 3 years ending in 1990, only 20 companies were hauled into court of the 589 companies whose stocks dropped more than 20 percent in 5 days around the time of a disappointing earnings report. In many of those 20 cases, executives were telling the public that everything looks great, while bailing out of the company and selling their own stock.

The amendments offered by Senators BRYAN and SARBANES will go far to achieve a balance between protecting the rights of defrauded investors and providing protection from frivolous lawsuits to honest companies. These amendments include language which was part of the original version of S. 240. I believe that the cosponsors of the original version of S. 240 will agree that the bill as reported out of the Banking Committee steeply tilts the playing fields against investors. Without these amendments, I cannot support this legislation which will strip the rights of defrauded investors.

The amendments are supported by the Securities Regulators Association, Government Finance Officers Association, and many others. Acceptance of them could resolve many concerns of these organizations. One amendment would allow the SEC to fashion through its rulemaking an effective safe harbor for forward-looking statements. The SEC and others are concerned that the safe harbor in the bill makes it possible for defendants to avoid liability for false statements. Another amendment would extend the statute of limitations to allow investors enough time to file a securities fraud suit. Currently the bill provides for a time period which is widely regarded as too short.

Other amendments which greatly improve this bill involve the ability to pursue accountants, brokers, and other professionals who may have aided in a securities fraud and the apportionment of damages to those secondary violators. One amendment would return to prviate parties the ability to pursue aiders and abetters in securities fraud suits. This amendment is supported by State securities regulators as well as by the SEC. Both of these enforcement agencies have limited resources available and realize the need for private actions to pursue aiders and abetters. The other amendment would allow the innocent victim to be compensated rather than penalized due to the bankruptcy of the primary violator. This amendment would simply restore joint and several liability so that the equities are in favor of the innocent investor.

It seems odd that now we are moving to reform securities litigation with a result that would protect those who may create investor scams. If any reform needs to be addressed, based on the current actions on Wall Street, it should come in the form of greater investor protection, not making it easier for corporations and stockbrokers to mislead investors. There is currently a recent frenzy of mergers and takeovers. According to the New York Times securities regulators are opening investigations into insider trading at a rate not seen since the 1980's. Unfortunately, I believe that if this bill were to become law, many of its provisions would soon be tested to the detriment of investors.

Our financial markets do not run on money, they run on public confidence. The stock market is trading at all-time highs and companies are earning record profits. This is greatly due to the confidence that investors have in the marketplace. This confidence will be drastically altered if investors come to believe that not only are they at risk of being defrauded, but that they have no recourse to fight back against those who defraud them.

I urge my fellow Senators to support all the amendments offered to put investor protection back into this bill. If these amendments are not adopted I will find it difficult to vote for a bill which supports those involved in fraud while tearing down long-standing protection in our securities law.

In closing I would like to quote from a letter I received from Mr. Joe Borg, the director of the Alabama Securities Commission. In his letter, Mr. Borg considers the question of whether this bill would achieve a balance between protecting investors and granting relief to honest companies and professionals. He concludes that "the bill would tilt the balance too far in favor of corporate interest and would have the effect of depriving many defrauded investors of the ability to recover their losses." He further states that "I agree there is room for constructive improvement of the Federal securities process. However, S. 240 as reported by the Banking Committee goes beyond the stated goal of curbing frivolous lawsuits and instead would in practical effect, eradicate most private actions under the Federal securities laws."

Mr. President, I ask unanimous consent that the full letter be printed in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ALABAMA SECURITIES COMMISSION,
Montgomery, AL, June 19, 1995.
Via facsimile: 202–224–3149.
Attn: Winston Lett.
Hon. HOWELL HEFLIN, U.S. Senate, Washington, DC.
Re: S. 240, the "Private Securities Litigation Reform Act".

DEAR SENATOR HEFLIN: I understand that the Senate may consider as early as this week S. 240, the "Private Securities Litigation Reform Act." In my capacity as the Director of the Alabama Securities Commission, I am writing today to express my serious concerns with S. 240 as it was reported out of the Senate Banking Committee. As you know, the Alabama Securities Commission is responsible for investor protection and for overseeing the capital formation process in Alabama.

In evaluating the variety of securities litigation reform measures that have been introduced in the 104th Congress, I applied one test: Does the bill achieve a balance between protecting the rights of defrauded investors and provide relief to honest companies and professionals who may find themselves the target of a frivolous lawsuit?

Regrettably, S. 240, as it was reported by the Senate Banking Committee, does not achieve this balance. Instead, the bill would tilt the balance too far in favor of corporate interests and would have the effect of depriving many defrauded investors of the ability to recover their losses.

It is my understanding that pro-investor amendments will be offered at the time S. 240 is considered on the Senate floor. Among the amendments expected to be offered are the following: Extending the statute of limitations for civil securities fraud actions; fully restoring liability for aiding and abetting securities fraud; narrowing the scope of a safe harbor for forward looking statements so that the Securities and Exchange Commission (SEC), which has the necessary expertise, is directed to engage in rulemaking to develop a reasonable and effective safe harbor without giving corporate executives free rein to make misleading statements; and modifying the severe limitations on joint and several liability so that innocent defrauded investors have a chance to fully recover their losses.

The Securities and Exchange Commission, the North American Securities Administrators Association (the organization representing the 50 state securities regulators of which I am a member), and others generally have expressed concerns over the bill's treatment of these issues. The amendments expected to be offered on the floor (as discussed above) respond to those concerns and are deserving of your support. Please vote in favor of these amendments when they are offered on the floor.

If these amendments are offered and rejected, I respectfully encourage you to vote against S. 240 on final passage.

I want to emphasize that I agree there is room for constructive improvement of the federal securities litigation process. However, S. 240 as reported by the Banking Committee goes beyond the stated goal of curbing frivolous lawsuits and instead would, in practical effect, eradicate most all private actions under the federal securities laws.

In closing, I want to stress that our financial markets do not run on money; they run on public confidence. It is my view that the confidence that investors have in the marketplace will be dramatically altered if they come to believe that not only are they at risk of being defrauded, but that they have no recourse to fight back against those who have defrauded them. I urge you to support balanced and targeted reform measures and to reject S. 240 if it does not incorporate the amendments discussed above.

You may reach me at 334-242-2984 should you have any questions or need additional information.

Sincerely,

JOSEPH P. BORG,
Director.

Mr. HEFLIN. Mr. President, I yield my remaining time to the distinguished Senator from California, Senator BOXER.

Mrs. BOXER. Mr. President, I reserve the balance of my time.

The PRESIDING OFFICER. The Senator from California will have 8 minutes, with 36 minutes on the other side.

Mr. D'AMATO. I would like to take a moment to state, as I indicated to the Senator from California, that we certainly would like to review her amendment. While I might have difficulty with the language used in the amendment, I do not have a problem asking the Securities and Exchange Commission to look at the impact this legislation would have, particularly as it relates to senior citizens.

Certainly, I think that is reasonable. I say that in the spirit of cooperation I hope that we can iron out our differences. I would also like to point out, Mr. President, that I have a statement from the Chairman of the Securities and Exchange Commission, who indicates that he, as a businessman, finds there is a need for a stronger safe harbor.

I quote from Chairman Levitt:

> The current rules have largely been a failure and I share the disappointment of issuers that the rules have been ineffective in affording protection for forward-looking statements.

He goes on to say:

> . . . I know all too well the punishing costs of meritless lawsuits—costs that are ultimately paid by investors. Particularly galling are the frivolous lawsuits that ignore the fact that a projection is inherently uncertain even when made reasonably and in good faith.

That is the Chairman of the Securities and Exchange Commission who my colleagues like to quote so often.

My colleagues would have us believe that all is well with the securities industry. All is not well. All is not well when you have a band of lawyers who literally hire the people they represent, race to the courthouse to file the suit and allege fraud, and are then selected as lead counsel.

The statement that we are protecting fraud, gets the hackles up on this Senator. Not only are we not protecting fraudulent conduct, but we are making sure that people are held liable for intentionally making a misstatement. Again, I say there is no safe harbor anyplace for fraud. There were other legislative proposals that would have brought such a safe harbor, but not this bill. It is a disservice to this legislation to say it protects fraud. There is neither intent nor language in this bill nor is there any way to interpret this bill to say that fraudulent conduct is protected under S. 240.

The cost of these abusive cases is incalculable. It has cost business the ability to communicate and to give the information to people to which they are entitled. This inability is particularly troublesome to the small startup business in the high-technology area. It has a chilling impact on these firms and it is wrong.

The fact is that there were 1.3 billion dollars' worth of settlements, settlements in 1993-94, that is 93 percent of the cases filed. No one can afford to stand up and defend themselves in these cases. Do we really believe out of all 300 cases that were brought, every one of them engaged in fraudulent conduct? That is absurd. Those cases were not tried; they were settled. What we are attempting to do in S. 240 is to seek balance; to demonstrate that those who truly commit fraud will not be let off the hook, but by the same token, we will not expose an entire class of people who are associated with the securities business to meritless suits. That is what this legislation does, and it does strike a balance.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

The Senator from Tennessee.

Mr. FRIST. Mr. President, I rise to speak today in support of S. 240, the Private Securities Litigation Reform Act of 1995, and against the proposed amendment.

S. 240 is a moderate and carefully balanced compromise bill that permits investors in securities to continue to file and win legitimate lawsuits. However, the bill does something that is much needed at this time: It gives issuers of securities the ability to quickly dismiss meritless and abusive lawsuits.

The current system of securities litigation is clearly broken. Why? Because it makes millionaires out of attorneys who repeatedly file frivolous lawsuits. As a matter of fact, securities litigation costs American industry $2.4 billion a year, one-third of this amount being paid to plaintiffs' attorneys. This results in companies being forced to lay off workers and consumers paying higher prices for goods and services.

The bottom line is that the current system of securities litigation does not benefit investors or consumers: It benefits a handful of attorneys.

Here is how this perverse system of securities litigation currently works: There are a handful of plaintiff law firms in this country today that specialize in filing securities class action lawsuits. This is shown by the fact that seven plaintiff law firms in this country receive 63 percent of the legal fees generated by securities class action cases. That is seven law firms receiving 63 percent of all of these legal fees.

These law firms monitor the stock prices of businesses with computers every day. When a corporation stock price suffers a major drop, the plaintiff's law firm immediately files a lawsuit. Indeed, some 20 percent—or one out of five—of these securities lawsuits are filed within 48 hours of a major drop in the stock price.

The reason these law firms are able to file their lawsuits so quickly is that they sue on behalf of professional plaintiffs. These professional plaintiffs actually receive a fee, in many cases, for permitting themselves to be named in the lawsuit. The Securities Subcommittee found that there were some plaintiffs who had as many as 14 securities action lawsuits filed on their behalf.

These law firms justify the filing of these lawsuits by generally alleging that the drop in the stock price was caused by the corporation or its management acting fraudulently or recklessly. The lawsuits seek the corporation to pay to its shareholders damages in the amount of the difference between the stock price before and after the stock's drop in value.

Even if the lawsuit is meritless, the corporation is forced to settle, even if it is meritless, even if it does not make sense? Why? First, litigating a lawsuit is costly—even if your only goal is to get the lawsuit dismissed for failing to state a cause of action. This is because it is very difficult to dismiss such lawsuits, and defense expenses for complex securities class action lawsuits can total between $20,000 and $100,000 a month.

Second, the depositions and extensive document review associated with these lawsuits are so time consuming that they disrupt the management of the business. On average, companies that are sued devote as much as 1,000 management and employee hours per case per suit.

The end result is that it is worthwhile for a business to settle even a frivolous securities litigation lawsuit because there is rarely, if ever, any cheap way of dismissing it.

Opponents to securities litigation reform are going to tell you that notwithstanding all of the foregoing, investors still benefit from the current system of securities litigation. But I submit that the current system actually harms investors.

The first problem, as was stated by former SEC Commissioner Carter Beese, is that the current system encourages, and I quote Mr. Beese, ". . . counsel to settle for amounts that are too low for fees that are too high." The plaintiffs in a securities class action have a conflict of interest with their lawyers. The lawyers' incentive is for an uncomplicated settlement and avoidance of a trial. This is because the difficulty and time-consuming work for the plaintiffs' attorneys comes at the trial phase. If it can be avoided by a settlement, the lawyers still get their percentage for relatively little effort. Thus, the lawyer-driven nature of these lawsuits tends to shortchange investors who have truly been defrauded and would benefit from litigating the lawsuit to conclusion.

The second problem is that in securities class action lawsuits, when a corporation makes a settlement payment to a class of shareholders, the shareholders who still own the corporation's stock are not really getting any tangible benefit in return. If the settlement amount is coming from the corporation's money, then it is no more than a type of quasi-dividend, with a law firm taking on average a 33-percent cut for giving the shareholder the privilege of having the quasi-dividend occur.

This will generally cause the corporation's stock price to drop, which indeed nullifies the benefit of the settlement. If the settlement amount comes from the corporation's directors and officers liabilities insurance, the corporation will be faced with partly paying it back through a staggeringly high premium the very next year. Either way, an investor who continues to own a share of stock in a sued corporation does not gain much from settlement of the lawsuit.

The third and final problem is that investors can no longer get useful forward-looking information about corporations. As former SEC Commissioner Carter Beese testified before the Securities Subcommittee:

> Companies go out of their way to disclose every conceivable bit of innocuous information, but very little useful forward-looking information. At the same time, legions of lawyers scrub required filings to ensure that disclosures are as milquetoast as possible, so as to provide no grist for the litigation mill.

With all of these problems we have with our current system of securities litigation, the moderate relief offered by S. 240 is necessary to protect investors, to protect consumers, and to protect jobs.

I urge all of my colleagues to vote against amendments which weaken the very carefully balanced aspect of S. 240 and to vote for S. 240's final passage.

I thank the Chair. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mrs. BOXER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. BOXER. Mr. President, do I have 8 minutes remaining? Is that accurate?

The PRESIDING OFFICER. That is correct.

Mrs. BOXER. I will not take but 2 minutes of my time.

My friend from New York is going to yield back his time so we can get to a very important amendment by the Senator from Nevada.

I am very pleased that the chairman has indicated to me, although he has not said it definitively, that he may well be supporting my amendment.

I think that we have pointed out by virtue of charts and some very serious examples that I do not think I need to repeat because they are very, very difficult here in this Chamber where senior citizens have been the target of fraud.

I believe, because we are changing so many aspects of the law in this bill, that the SEC ought to take a look at what we have done and all the amendments that we have incorporated or turned down should this bill become the law of the land, and then tell us whether or not senior citizens are as well protected as they should be.

So I think that this amendment should have broad support. It will give me some comfort to know that in 180 days, we will have a report from the SEC which has expressed reservations about this bill.

I ask unanimous consent to have printed in the RECORD at this time some of the comments they have made regarding many aspects of this bill. They have questions about a lot of areas, including the safe harbor, which is the basic provision of the bill, proportionate liability, appointment of lead plaintiff, aiding and abetting, and damages.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESPONSE TO OMB REQUEST FOR VIEWS OF THE SECURITIES AND EXCHANGE COMMISSION REGARDING S. 240

The Securities and Exchange Commission submitted testimony on S. 240, as introduced by Senators Domenici and Dodd, on April 6, 1995.[1] As noted in the testimony, the Commission supported many of the provisions of S. 240 as introduced. The Commission views S. 240 as ordered reported on May 25, 1995 by the Committee on Banking, Housing, and Urban Affairs as a significant improvement over its counterpart in the House, H.R. 1058. However, the Commission has significant concerns regarding certain provisions of S. 240 as reported, and also believes that the legislation should address certain additional issues not included in S. 240.

Provisions of S. 240 endorsed by the Commission—The Commission supports, or does not oppose, the following measures:

Class Action Reform Provisions: Except as discussed below, the Commission supports, or does not oppose, the measures set forth in Section 101, "Elimination of Certain Abusive Practices," and Section 102, "Securities Class Action Reform."

Requirements for Securities Fraud Actions: The Commission supports, or does not oppose, the measures set forth in Section 104, "Requirements for Securities Fraud Actions," and Section 106, "Written Interrogatories."

RICO: The Commission supports the provision of Section 107, eliminating the overlap between private remedies under RICO and the Federal securities laws.

Contribution and Settlement Discharge: The Commission supports those provisions of Section 202 that provide for a right or proportionate contribution among defendants, and for the reduction of a judgment upon a settlement by an amount equal to the greater of the settling defendant's percentage of responsibility or the amount of the settlement.

Fraud Detection and Disclosure: The Commission supports Section 301,"Fraud Detection and Disclosure."

Limitation on Rescission under Section 12(2): The Commission does not oppose the amendment offered by Senator Bennett that would allow a defendant to avoid rescission under Section 12(2) of the Securities Act and reduce the damages upon proof that part of the plaintiff's loss was the result of factors unrelated to the fraud.

Provisions that should be included in S. 240—The Commission has recommended that Congress adopt the following measures, which are not included in S. 240:

Statute of Limitations: The Commission recommends extending the statute of limitations for private securities fraud actions to five years after a violation occurs. Although S. 240 as originally introduced addressed this issue, the provision was deleted from the reported bill.

Aiding and Abetting in Private Actions: The Commission has recommended restoring liability for aiding and abetting in private actions. As discussed below, Section 108 of S. 240 only provides authority for the Commission to bring actions based on aiding and abetting under the Exchange Act, and limits such actions to persons who act knowingly.

Recklessness: The Commission has recommended that Congress expressly provide that recklessness is sufficient for liability under Section 10(b), and codify the definition of recklessness which was enunciated by the Seventh Circuit in the Sundstrand case.[2] S.

Footnotes at the end of article.

240 provides that defendants are proportionately liable unless they commit "knowing securities fraud," which necessarily implies that there is liability for reckless conduct, but does not expressly provide that recklessness is sufficient.

Provisions of S. 240 that the Commission does not support—The Commission opposes the following measures as currently set forth in S. 240:

Safe Harbor Scienter Standard: Section 105 creates a safe harbor for forward-looking statements. The Commission believes that the complex task of fashioning an effective safe harbor for forward-looking statements would be better addressed through Commission rulemaking pursuant to express statutory authority. The safe harbor in S. 240 contains important exclusions, not present in H.R. 1058, that address some areas of particular concern. However, the measure might make it possible for some defendants to avoid liability for certain false statements.

We believe that the safe harbor scienter standard would be better if modified to include the following exclusions.

(c) Exclusions—The exclusion from liability under subsection (a) with respect to a "forward—looking statement" that is materially false or misleading is not available: (i) for a natural person, if such person made such statement knowing that such statement was materially false or misleading when made; or (ii) for an issuer, if such statement was made by or with the approval of an executive officer (as defined by the Commission) of that issuer, if such executive officer made, or approved the making of, such statement knowing that such statement was materially false or misleading when made.[3]

Provisions of S. 240 that cause concern or that need clarification—The following provisions raise concerns or need clarification and may require some adjustment in order to achieve the desired effect:

Proportionate Liability: Section 202 generally limits the application of joint and several liability to defendants determined to have committed knowing securities fraud. Other defendants would be proportionately liable; except that, if a defendant's share of the damages were uncollectible, each proportionately liable defendant would be liable for a proportionate share of the uncollectible amount, up to an additional amount equal to 50% of his own share.

The Commission has recommended that Congress first enact other reform measures before adopting any form of proportionate liability under which the burden of uncollectible damages owned by an insolvent defendant must be borne by the defrauded investor, rather than by solvent co-defendants who violated the federal securities laws. If Congress determines to adopt a system of proportionate liability, such as that provided in S. 240, the Commission has recommended that it not include issuers (who should remain liable for all damages suffered) and that it be limited to fraud-on-the-market cases, rather than applying also to cases of direct, considered reliance.

Damages: Section 201 limits a plaintiff's damages to the difference between the price paid by the plaintiff and the value of the security during the 90-day period following correction of the misstatement or omission. This provision should be limited to fraud-on-the-market cases. In other cases, this measure of damages may be wholly inappropriate. In addition, the 90 day period should be shortened since losses attributable to fraudulent statements may be offset by price rises that are unrelated to the fraudulent activity.

Aiding and Abetting in Commission Actions: Section 108 clarifies the availability in Commission actions under the Exchange Act of liability for "knowingly" aiding and abetting. This provision should also cover reckless aiding and abetting and should be extended to the Securities Act, and the Investment Company Act.

Appointment of Lead Plaintiff in Class Action: One provision of Section 102 requires the court generally to appoint as lead plaintiff the class member that has the largest financial interest in case. While this approach has merit, it may create additional litigation concerning the qualifications of the lead plaintiff, particularly when the class member with the greatest financial interest in the litigation has ties to management or interests that may be different from other class members. The Commission believes that there should be greater clarification as to how this concept will work in practice.

FOOTNOTES

[1] Testimony of Arthur Levitt, Chairman, U.S. Securities and Exchange Commission, Concerning Litigation Reform Proposals, Before the Subcommittee on Securities, Committee on Banking, Housing, and Urban Affairs, United States Senate (April 6, 1995).

[2] In *Sundstrand Corporation v. Sun Chemical Corporation*, 553 F.2d 1033, 1045 (7th Cir.), *cert denied*, 434 U.S. 875 (1977), the court used the following definition of recklessness: "a highly unreasonable omission, involving not merely simple, or even inexcusable negligence, but an extreme departure from the standards of ordinary care, and which presents a danger of misleading buyers or sellers that is either known to the defendant or is so obvious that the actor must have been aware of it."

[3] If the scienter standard is modified as suggested, the Commission would support the safe harbor in S. 240. If, however, the scienter standard is not so modified, the Commission believes that the definition of forward-looking statement in the safe harbor should be further narrowed, although Commissioner Wallman believes that certain forward-looking elements of the financial statements should receive safe harbor protection, such as stock option valuation disclosures.

Mrs. BOXER. Mr. President, the SEC has questions about this bill.

I look at the Boxer amendment as a way to say OK, in 180 days, let us have a written report from the SEC to tell us if in fact this bill puts a greater burden on our seniors, takes away some of their privileges and their rights.

Mr. President, I am going to retain the remainder of my time, although I will not use it unless some of my colleagues make some comments that I feel I must respond to. So I will reserve the remainder of my time only to be used in case that does occur.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I intended to yield back our time because I believe that we will accept the Senator's amendment as it relates to the study of the SEC. That will be my recommendation. Having said that, I know Senator DODD, who is a cosponsor of this amendment, would like to speak to it so I yield such time as he will need.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I thank the Chair. Let me thank my colleague from New York. Let me just say to my very good friend—and those words are used lightly around here; when I speak of my colleague from California, they are meant as more than just a collegial gratuity—my very good friend from California has offered a good amendment. My intention is to support it because none of us, as I said the other day, Mr. President, can say with absolute certainty every time we change the law what the implications will be. We think over 4 years and more than 4,000 pages of congressional hearings and testimony, having put together what we think is a balanced bill here, we know what the implications will be.

We made strong efforts in this legislation to try and protect those who are truly defrauded, and hence proportionate liability does not apply in those cases. We try and take care of smaller investors with a net worth of $200,000 or less, so that they are protected as well.

I would like to say to my colleagues I am absolutely 100 percent certain that there will not be some implications here for smaller investors and seniors. I think the amendment covers seniors and smaller investors.

Mrs. BOXER. Seniors and retirees.

Mr. DODD. Looking at this makes some sense. I think they would have done it anyway but requiring it here in the law is not a bad provision to have. If I may point out to my colleague—and I do not know whether she is interested in doing it—I do not know what the timeframe on the study is.

Mrs. BOXER. It is 180 days.

Mr. DODD. It is 180 days from passage. I might suggest that not only you do it then, but it may be done every 6 months for a space of 2 or 3 years because I would suggest that in just 6 months you may not get a picture. It may not be an adequate picture. You may need a bit longer time to get at various increments along the way as to what the implications are. Sometimes in 180 days you may not see any indication and you may get a false reading as to whether or not we have done something here that has a negative implication.

So the Senator may want to modify the amendment to require it at various stages along the way here so we do get snap shots taken at various milestones over the next several years. So I appreciate the comments of my colleague from New York that this is an amendment we ought to accept, and I would concur in that conclusion and thank my colleague from California for offering the amendment.

Let me if I can just briefly, Mr. President, also address, while I have the floor, the amendment raised by our colleague from Maryland. Let me first of all point out here when we set a net worth figure of $200,000 or less, we did it with the understanding that the average median net worth of people in this country is quite a bit less. We had two different studies, I would say to my colleagues. One study done by the Census Bureau in 1993 has the median net worth of all people in this country at $37,587. Another study done by the Federal Reserve has the median net worth—this is a 1992 study—at $52,200 a year. So when Senator D'AMATO, myself, and Senator DOMENICI set a net worth of $200,000 or less a year, we are going extensively beyond the median net worth of families in this country. Depending on which study, either the Census Bureau or the Federal Reserve at $37,000 or $52,000, our figure at 200,000 goes well beyond the median income of people in this country, to try and protect the smaller investor. In fact, it goes four times beyond the median net worth.

I do not know the percentage of families, but I suspect it is in the top 5 percent or so, maybe less, who would have net worth in excess of $200,000 a year.

So we made a significant effort here to not only just protect smaller investors. Now, maybe the people who live in Washington and those of us who serve in Government with our incomes being what they are fail to recognize that most people in this country have net worth substantially less than what people in Washington, DC, might accept as a reasonable net worth.

At any rate, we set it at that level, and anyone who has a net worth less than that and has a loss of 10 percent of their net worth, obviously, is protected by the joint and several and not proportionate liability.

Now, with regard to the 10-percent figure, let me suggest that if we were to eliminate that, you are in effect eliminating proportionate liability because, as I said, it is such a high level that you basically exempt almost everybody in the country except for maybe 5 percent of the population. So you really have not done anything in terms of trying to inject proportionate liability into the process, which is what the goal of S. 240 is, to apply proportionate liability where you do not have the kind of intentional fraud and you have people who are not that wealthy.

Now, why did we do that? Why proportionate liability? Is this some gratuitous favor to try and bail out some people here who would otherwise be held fully accountable?

It is not that at all, Mr. President. I would say the core, central issue here, aside from one of simple fairness, where someone who is marginally, marginally involved gets saddled with the full load of paying up all of these costs—and as we have pointed out over and over again over the last several days of debate—it is not that we are getting litigated results. It is not litigated results; 93 to 98 percent of these cases are settled. Why are they settled? They are settled because your company lawyer says, "Let me tell you something, Mr. CEO, or Ms. Chief Executive Officer, or Mr. Chief Financial Officer, or Ms. Chief Financial Officer. You run the risk here of losing everything. If you go to trial on this, you lose everything." You have a choice of settling or losing everything. And they opt to say, "Look, we will settle." That is what they do in 93 to 98 percent of the cases. They settle.

Now, you say, well what is so terrible about all of that? I would draw my colleagues' attention to an article in today's Wall Street Journal, which is entitled "Big Accounting Firms Weed Out Risky Clients." The article points out the problem, and my colleagues ought to come to appreciate why there is a sense of urgency about trying to deal with this problem. Lee Berton, the author of the article, points out that the large accounting firms—and the large accounting firms, particularly in this country, are like the Good Housekeeping seal of approval for a firm—are abandoning these clients.

They are not picking them up, and there is a real economic danger, I think, in this country to have that trend line continue.

I quote from the article:

> Big accounting firms say they have begun dropping risky audit clients to lower their risk of lawsuits for allegedly faulty audits. New companies, which have a particularly high chance of failure, are affected most, because almost nothing triggers lawsuits against accountants faster than company failures.
>
> . . . Peat Marwick, the fourth-biggest U.S. accounting firm, is currently dropping 50 to 100 audit clients annually, up from only zero only 20 years ago. . .. "When a client we audit goes bust . . . it costs a bundle in court if we're sued by investors, whether we win or lose the case."
>
> . . . Mr. Lambert says that legal costs were "staggering" for a lawsuit filed in a Federal court in Texas, alleging a faulty review of a bank's books by Peat [Marwick]. The bank was taken over by the Federal Government in 1992 after big losses. The jury ruled in Peat's favor in 1993.

So you had a lawsuit that did not end up going anywhere—actually, it went to trial in this particular case, and the decision was for Peat Marwick. Then listen to what happens.

> The jury ruled in Peat's favor in 1993, but the firm had to spend $7 million to defend itself.

The contract to handle the account that got them involved in the lawsuit was $15,000. That was the contract, but the lawsuit cost them $7 million, even though they won in the end. The intelligent business decision here is to say, "Look, stay away from these firms, these new technologies that are emerging where there is a lot of volatility in them, don't go near them."

The net effect of all this is we are losing the benefit of having the top accounting firms in this country get in where they can make a huge difference in these firms, but because of the fear of expending amounts vastly in excess of what the contracts are worth to them, they stay away.

Arthur Andersen "has either dropped or declined to audit over 100 companies" in the past 2 years.

I ask unanimous consent that this article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 26, 1995]

BIG ACCOUNTING FIRMS WEED OUT RISKY CLIENTS

(By Lee Berton)

If you have a big-name auditor, hold on tight. It's getting tougher to find—and keep—prestigious outside auditors to certify annual financial statements.

Big accounting firms say they have begun dropping risky audit clients to lower their risk of lawsuits for allegedly faulty audits. New companies, which have a particularly high chance of failure, are affected most, because almost nothing triggers lawsuits against accountants faster than company failures.

But established companies are getting the ax too. KPMG Peat Marwick, the fourth-biggest U.S. accounting firm, is currently dropping 50 to 100 audit clients annually, up from only zero to 20 five years ago, says Robert W. Lambert, the firm's new director of risk management. "When a client we audit goes bust," he says, "it costs us a bundle in court if we're sued by investors, whether we win or lose the case."

Mr. Lambert says that legal costs were "staggering" for a lawsuit filed in a federal court in Texas alleging a faulty review of a bank's books by Peat. The bank was taken over by the federal government in 1992 after big losses. The jury ruled in Peat's favor in 1993, but the firm had to spend $7 million to defend itself "even though the fee for the job was only $15,000," Mr. Lambert says. "We just can't afford to take on risky audit clients anymore."

Lawrence Weinbach, managing partner of Arthur Andersen & Co., another leading accounting firm, says his organization has either dropped or declined to audit more than 100 companies over the past two years. "When a company has a risky profile and its stock price is volatile, we're just not going to jump in and do the audit and invite a lawsuit," says Mr. Weinbach.

Audit clients dropped by the Big Six are often furious because investors tend to feel safest with companies audited by the biggest accounting firms. A Big Six opinion is "like the Good Housekeeping Seal of Approval on Wall Street," maintains Chriss Street, chairman and chief executive of Comprehensive Care Corp., a Newport Beach Calif., medical-rehabilitation center operator that Andersen recently dropped.

But the accounting firms say they have no choice. Litigation settlement costs of the Big Six accounting firms now exceed $1 billion a year. The firms say that even after insurance reimbursement, these costs equal 12% of their annual audit and accounting revenue.

No risky client can pay us enough money to defend ourselves after the client develops problems," asserts J. Michael Cook, chairman of Deloitte & Touche, the third biggest U.S. accounting firm. "We must reduce our legal risks to remain viable."

And he and other heads of Big Six firms say that if Congress doesn't pass pending legislation reducing accountants' litigation exposure, the firms will turn down even more audit clients.

The biggest legal drain on accounting firms involves settling lawsuits brought by disgruntled investors against the auditors of collapsed companies. These suits usually accuse the auditors of professional negligence in failing to warn the public of the problems of a troubled client company.

To protect his firm against these costs, Mr. Cook says, Deloitte has begun weeding out audit clients with potential problems and refusing to handle the audits of companies making initial public offerings, or IPOs, because so many of them fail. And all of his competitors among the Big Six are doing likewise. The portion of all IPOs audited by these prestigious firms declined to 75% last year from 84% in 1992, according to Emerson's Audit Change Report, a trade publication.

Andersen's Mr. Weinbach says his firm uses new computer software to measure the litigation risk of an audit client. The software looks at the company's financial health, industry performance, stock fluctuations and financial controls among other information. Other firms have begun asking clients to agree to arbitration or mediation rather than filing lawsuits in case of disputes over fees or performance.

Andersen now asks tax and consulting clients to sign indemnification clauses that require the client to pay Andersen's court costs if the accounting firm is sued by a third party. For instance, litigation might arise if a real-estate buyer got into a dispute over a project's performance or price with the seller and Andersen had provided a financial projection for the project. "If the client doesn't agree to indemnify us, we generally won't do the work," says Mr. Weinbach.

BDO Seidman, the ninth-biggest U.S. accounting firm, two years ago began asking clients of five U.S. offices to agree to arbitrate disputes over fees and service quality rather than go to court. And Ernst & Young, the second biggest U.S. accounting firm, says that later this year it will begin asking clients to agree to resolve disputes with it through arbitration or mediation rather than by court suits. Philip Laskawy, Ernst's chairman, says this shift will save Ernst and its clients "millions of dollars in legal fees."

The accounting firms are swinging hardest at companies that have actually experienced financial trouble. For instance, Mr. Street of Comprehensive Care is irate that his company recently got a terse letter from Andersen saying the company no longer meets Andersen's audit profile and should seek another auditor.

Andersen had been Comprehensive's auditor for three years for an annual fee of $125,000. But in the past two years, Andersen has "qualified" the company's annual report, questing whether Comprehensive could continue as a "going concern." The company has reported losses in each of its past five years, totaling close to $100 million.

Mr. Street, who was brought into Comprehensive about a year ago, says that Andersen gave no warning that it planned to drop the company. "We were caught completely off guard and were in the midst of restructuring and recapitalizing the company with Andersen's help," he says. "We feel that Andersen abandoned us when we most needed them."

Andersen won't comment specifically on why it dropped Comprehensive as an audit client. But it says that "in the current litigious business environment, accounting firms are forced to assess risks associated with current and future clients." It adds: "Comprehensive's historic performance speaks for itself."

Mr. DODD. Mr. President, it goes to the very heart of why we put this bill together. We saw the trend lines where we are losing the expertise and ability. One of the provisions, by the way, we put in this bill is to require these accounting firms, if everything else is adopted, to seek out a report when they discover problems of fraud. That has not been a requirement in the law in the past, to actually serve as a quasi-governmental agency, if you will.

Obviously, the Federal Government cannot go around and audit every firm in the country to determine whether it is doing its job or not. But having these accounting firms do it, requiring them to report when they discover any kind of wrongdoing, I think, is going to enhance tremendously our ability to pursue those firms where you have the intentional fraud, but also cause these firms to be far more careful about how they do their business.

So if we adopt the Sarbanes amendment by eliminating the 10 percent, in effect, it is just the median income of $200,000, you have just destroyed the whole purpose of proportionate liability. It goes right to the heart of what this Wall Street article points out today—the fact you are seeing these firms leave these audits, audits that serve all of us and also serve the investor.

That investor making the decision about where to put those hard-earned dollars is going to be less inclined to invest in these firms that may be, in the overwhelming number of cases, highly deserving of that investment, because they do not have that "Good Housekeeping seal of approval." The investor would probably shy away from it. Everybody loses in that kind of situation.

We are trying to help solve that problem by the provisions we have included in S. 240. Is it perfect? Is it guaranteed success? Absolutely not. I would be the first one to tell you, no guarantees here. We think it will go to the heart of the problem, maybe help us solve it. But as the Senator from California has offered with her amendment to take a good look and see what the implications of this are, I think, makes good sense, is sound judgment.

For those reasons, I support her amendment. But I oppose the amendment offered by our colleague from Maryland. I would rather there be an amendment offered eliminating proportionate liability, just striking all proportionate liability because that is the net effect of the amendment.

If you just have a net worth of $200,000, you have only 5 percent of your investors at that, so it is really gone, in effect. It seems to me when median net worth is either $37,000 or $52,000—we have set it at $200,000—it is really going, to a large extent, beyond what many have suggested we ought to do here. But I thought, and the Senator from New York did, that by setting that higher bar, as well as including the 10-percent loss, that what we were trying to protect against with this provision is the total economic devastation of someone. Again, obviously, if you eliminate that 10 percent, you lose that altogether.

So with that, Mr. President, I urge, with all due respect to my friend and colleague from Maryland, rejection of his amendment, that we accept the amendment by the Senator from California, and I gather next we will be talking about an amendment which I support, which is the amendment being offered by the Senator from Nevada dealing with the statute of limitations.

With that, Mr. President, I will be happy to yield the floor.

Mrs. BOXER. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. BOXER. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, at a later time, I will ask the Senator from California to consider whether she really wants to vote on this amendment, because we are willing to accept it. Having said that, I want to commend my colleague, the prime sponsor of this legislation, Senator DODD, for very eloquently and very cogently stating the incredible burden that has been placed on the fine accounting firms of America.

I might refer those who are interested to the report of the committee. I quote:

> Accounting firms particularly have been hard hit by securities litigation. The six largest firms face $10 billion worth of 10b-5 claims. Their gross audit-related litigation costs amounted to $783 million in 1992—more than 14 percent of their audit revenues for that year. Former SEC Commissioner Sommer, who heads the Public Oversight Board, the independent body that oversees the accounting profession's self-regulatory efforts, testified that, in view of "some recent judgments and the amounts being sought in pending cases, it is not beyond the pale to believe, and some responsible people do believe—that one or more major [accounting] firms may ultimately be bankrupted."

But the problem goes beyond just bankruptcy. The accounting firms are being priced out of the marketplace. They cannot afford, as Senator DODD indicated, to give their services to clients due to the great exposure they face, through no fault of their own, to being brought in to suits because they are the deep pockets, particularly where there is a small firm or small company as the primary defendant.

That small firm then, or many small firms, are being deprived of having the best accounting firms; the American public are being deprived of having the audit capacity and functions of our best; and, third, the accounting profession is placed unnecessarily under a great, great strain.

It is just simply intolerable and unfair. Part of this bill is crafted to eliminate that unfairness. It will eliminate the situation where people have no choice but to surrender to these lawsuits—something that happens in 93 percent of these suits. They cannot afford to go to trial and I do not think that is what the capital system should be about.

AMENDMENT NO. 1472

Mr. MCCONNELL. Mr. President, the doctrine of joint liability permits an injured plaintiff to collect the full judgment from any defendant found liable for any part of the injury. It means that no matter how remotely connected a defendant is to the events leading to plaintiff's injury, a defendant could be required to satisfy the entire judgment.

The result is that lawyers for the plaintiffs add a whole host of defendants to a lawsuit in an effort to ensure the plaintiff can get the full judgment paid. With joint liability, it doesn't matter if you had anything to do with the events leading up to the plaintiff's injury. Instead, the chances of your getting sued depend upon how deep your pockets are. The deeper the pocket, the more likely to be sued.

I'll illustrate with a negligence case: if a drunk driver injures an individual on someone else's property, the property owner will be joined in the lawsuit. It happened to the Cincinnati Symphony Orchestra, only it wasn't even the property owner. The accident happened near one of the orchestra's performance facilities. And the orchestra, a nonprofit entity, was needlessly dragged into a $13 million lawsuit and put at risk for the judgment.

Nonprofit organizations, municipalities and small businesses can be hardest hit by joint liability. Although we don't think of these defendants as wealthy or rich, they are usually adequately insured, which also makes them good candidates to be deep pockets. New York City spends more on personal injury awards and settlements—$270 million—than it spends on funding public libraries.

In securities litigation, accountants, bankers, and insurers are targets of abusive suits because of their deep pockets. One Big Eight accounting firm, Laventhol & Horwath, went bankrupt because the cost of fighting these suits became too prohibitive. The consequence of dragging these professional firms into these kinds of lawsuits is obvious: it becomes increasingly difficult for new businesses to get advice from business professionals. And, it gets harder to find people to serve on corporate boards due to the fear of lawsuits.

This litigation explosion burdens the economy, retarding economic growth. It is essentially a tax imposed on every American. And every potential defendant has to take account, in the prices they set, for the possibility of being dragged into a lawsuit.

During the product liability debate, I received a letter from the Institute for the National Black Business Council, an association of minority business owners. Mr. Lou Collier, the president of the council, wrote in support of expanding the product liability bill. Without an expansion of the joint and several liability reform, Mr. Collier states, "Millions of small businesses—restaurants, gas station owners, hair stylists, nearly every small business you can think of, would still face the threat of bankruptcy. That includes most African-American firms." The latest census data shows that 49 percent of all black-owned firms are service firms, and Mr. Collier, on behalf of minority small business owners, asked us to improve the climate for small business, "Small business owners and entrepreneurs have to overcome staggering odds to build a successful company. They shouldn't have to face a legal system where one frivolous lawsuit can force them to close their doors."

The same arguments ring true in the context of securities litigation. This amendment must be defeated because restoring joint liability means little improvement in the litigation climate.

Injured plaintiffs will still recover their full economic loss. But for the subjective noneconomic loss, each defendant would be responsible only for his or her proportionate share of harm caused.

This bill is fair and consistent with principles of individual responsibility. It will put an end to the gamble taken by the trial bar when they join everyone in sight of an alleged harm. I urge that the amendment be rejected.

AMENDMENT NO. 1469

The PRESIDING OFFICER. The pending business is the Bryan amendment No. 1469.

Mr. BRYAN. Mr. President, am I correctly informed? I believe we have a time agreement of 1½ hours equally divided. Am I correct, I inquire of the Chair?

The PRESIDING OFFICER. The Senator is correct.

Mr. BRYAN. Since I am the advocate of the amendment, may the Senator from Nevada presume that he controls 45 minutes of the time that is allotted to those who are in support of the amendment?

The PRESIDING OFFICER. That is correct.

Mr. BRYAN. I yield myself 15 minutes at this point, Mr. President.

My colleagues will recall that we began the debate on this amendment last Friday shortly before we recessed for the weekend. I want to make just a couple of points in general about this.

There are a number of things that have divided us as we have debated S. 240, but there are some things in which the prime sponsor of this legislation, Senator DODD, and I are in agreement, and I acknowledge, as he has previously indicated on the floor, Senator DODD, as the prime sponsor of S. 240, is in support of the amendment, which I will describe in a moment.

But first let me give a little bit of background. My colleagues will recall in 1991 the Supreme Court of the United States decided the Lampf case, as it was called—and the Lampf case, in effect, imposed a statute of limitations which is a bar to securities litigation 1 year from the point that the plaintiff discovers the fraud and in no event more than 3 years in the actual occurrence of the fraud.

Now, that came as quite a shock and surprise to those that are in the securities business, because the accepted interpretation prior to that had been that you looked to the statute of limitations in the State in which the action originated. Immediately, as a result of that, because the Court's decision was retroactive; that is, there were a number of cases pending, as well as prospective; that is, to place a bar on any actions to be filed in the future, a number of us came to the floor, and the Senate Banking Committee at that time unanimously reported out the 2-to-5-year statute of limitations proposal—2 years from the date of discovery of the fraud, in no event beyond 5 years. That is what this amendment does. Under the current print, 1-to-3 is the statute of limitations timing. Under the Bryan amendment, it could be 2 to 5 years. This is what the Banking Committee, in 1991, had unanimously agreed should go forward.

Moreover, I think it is important for my colleagues—and there are approximately 50 of them who have signed onto this legislation—S. 240, as introduced, contains the 2-year/5-year statute of limitations. So this amendment, somewhat of an anomaly, does not change the original language of S. 240 but seeks to restore to the bill the language which was originally in the bill at the time it was introduced and language, at least by implication, that 50 of our colleagues, as cosponsors of the legislation, have supported.

So this is not something that comes as after the fact—2-to-5 years.

Why is the 2-to-5 years important? I realize that people are not literally hanging over the edges of their seats in the galleries as we discuss what appears to be a very abstract legal issue. First, let me say that it has absolutely nothing about frivolous lawsuits—not one thing. We are talking about a lawsuit which, by definition, is meritorious but cannot be filed under the current law if indeed it is after the 1-year point in which the plaintiff discovers the fraud, or in no event beyond 3 years.

So this does not have a thing to do with frivolous litigation. I understand the concern of my colleagues and I share it. We ought to act against frivolous lawsuits, and there are provisions in S. 240 that deal with rule 11 and some other provisions that I think are meritorious. So no one who is approaching this amendment ought to be misled that somehow a vote against this amendment protects the innocent from frivolous litigation. This simply gives you the right to get into the courthouse door. Without this amendment, you are saying 1 year, 3 years, and you are barred.

Now, who supports the amendment? Well, first, let me indicate to my colleagues that the Chairman of the Securities and Exchange Commission has repeatedly testified in favor of extending the statute of limitations. Most recently, on April 6, 1995, Chairman Levitt testified before the subcommittee that:

> Extending the statute of limitations is warranted because many securities frauds are inherently complex, and the law should not reward a perpetrator of a fraud who successfully conceals its existence for more than three years.

So the present Chairman of the Securities and Exchange Commission says that it is important to protect innocent investors who have been defrauded from those who are inherently clever enough to conceal it to provide for a longer statute of limitations. Then he went on by way of explanation to say that even with all of the resources that are available to the SEC, the staff that is available with the expertise that they have, with all of the kind of background information they have as to what is happening in the marketplace generally, that it takes approximately 2.25 years to complete an investigation. Now, that is beyond the period of time that the 1-to-3 year statute would provide. This is not partisan, this is not a Democratic chairman and the Republican SEC under President Bush who felt differently. The former chairman, the last Republican chairman was Richard Breeden. He had this to say about the proposed 2-to-5 year statute, and specifically about the unfairness and the limiting ability of a 2-year statute:

> Had a 3-year statute of limitations been in effect and had it been applied to the SEC, approximately one-half of the cases against Drexel Burnham, a large part of the case of Equity Funding, one of the largest frauds in the history of the United States, and the entire case against E.F. Hutton for check kiting would have been barred from the courthouse.

Again, these were meritorious cases. The recovery would have been prevented because the statute of limitations would have constituted a bar. In that period of the 1980's where we have talked about Charles Keating and we talked about Ivan Boesky, another name has had prominence and that is Michael Milken. Here is what the sentencing judge had to say to him with respect to the complexity of securities matters and their difficulty:

> You may have committed only subtle crimes—

This was being addressed to Mr. Milken at the time of sentencing.

> . . . not because you were not disposed to any criminal behavior but because you were willing to commit only crimes that were unlikely to be detected. We see often in this court individuals who would be unwilling to rob a bank, but who readily cash Social Security checks that are not theirs when checks come to them in the mail because they are not likely to be caught in doing so . . . You also committed crimes that are hard to detect, and crimes that are hard to detect warrant greater punishment in order to be effective in deterring others from committing them.

These are crimes that are very hard to detect and are particularly very difficult to detect when we are talking about small plaintiffs who do not have the resources available to them that the Securities and Exchange Commission, the North American Association of Securities Dealers and others might have.

In the Lampf case itself, which was a very narrowly divided case, 5-4, one of the dissenting Justices, Justice Kennedy, had this to say:

> Concealment is inherent in most securities fraud cases. The most extensive and corrupt schemes may not be discovered within the time allowed for bringing an express cause of action under the 1934 act. Ponzi schemes, for example, can maintain the illusion of a profit-making enterprise for years, and sophisticated investors may not be able to discover the fraud until long after its perpetration. The practicalities of litigation, indeed the simple facts of business life, are such that the rule adopted today—

Referring to the majority of the court that adopted the more limiting 1 and 3 year statute of limitations.

> will "thwart the legislative purpose of creating an effective remedy" for victims of securities fraud. By adopting a 3-year period of repose, the Court makes a section 10(b) action all but a dead letter for injured investors who by no conceivable standard of fairness or practicality can be expected to file a suit within 3 years after the violation occurred.

In its brief before the Supreme Court, the SEC pointed out the difficulty that the shorter limitation period "would deprive many defrauded investors of a satisfactory opportunity to vindicate their rights." Here is what the SEC, in the brief, went on to say:

> Especially in complex cases, plaintiffs often "do not discover the fraud until long after its perpetration." Violations involving financial fraud, for instance, often go undetected until the enterprise fails, an event that may occur years after the violation. Moreover, as the securities markets have grown in size and complexity, frauds have become increasingly difficult to discover.

An example of that, Mr. President, is the municipal bond. They are particularly susceptible to concealment. In a typical municipal bond offering, 2 to 3 years of interest payable to the bondholder is placed in an escrow account, so the bondholders can have no inkling anything has gone awry until they do not receive an interest payment—oftentimes many years after the closing of the offering. The average timespan between issue date in municipal bonds and the date of default in repayment is approximately 4.5 years.

Limited partnerships have the same susceptibility. Again, as the North American Securities Administrators Association—and some of my colleagues may not have had the opportunity to interface with them; these are the securities administrators of the 50 States, who are charged with enforcement of securities law at the State level—as they have testified, limited partnerships in which investors have poured more than $150 billion since 1980—

> . . . often run for as many as 7 to 10 years. Customer account statements—a primary means of detecting fraud or misconduct—reflect only the original purchase price of the partnership, not the current market value. Therefore, it may only be at the expiration of the partnership that an investor uncovers misconduct or wrongdoing. Under Lampf, [the 1- to 3-year statute decided in that case] that investor would be precluded from seeking redress in the courts, for no reason other than the decision to purchase a long-term investment. Holders of zero coupon bonds will face similar difficulties in uncovering fraud in the short period of time allowed under Lampf.

The point, I think, that is to be made here is that we have talked a great deal about balance. Every provision that I can see that is contained in S. 240 is designed to provide additional protection for securities underwriters. Aiders and abetters are not included. Safe harbor statements are made more generous.

The wealthiest investor, in effect, becomes the chief of the last, and one can go on and on. Of all of the provisions contained in this legislation, in its original form, only the extension of the statute of limitations could be fairly said to benefit the innocent investor.

For those of my colleagues who are truly seeking balance as they approach this legislation, and who support and will vote for the final version of S. 240, this is really your only opportunity at this stage to provide that kind of balance by extending the statute of limitations.

Here is what Mark Griffin, who is the head of the Utah Securities Division, had to say in testimony before the Banking Committee. He said the current period for filing fraud actions is "unduly short." Going on, he said:

> . . . [it] is the experience of State securities regulators that victims of investment fraud often have no way of knowing, nor reason to suspect for what may be many years, the truth about the mishandling or abuse of their investments.

That comes from the security administrator in the State of Utah.

Mr. President, in looking at what States have done, the testimony is that 60 percent of the jurisdictions have longer statutes, and "13 States recognize the concept of equitable tolling, in which the limitations period starts running only after the fraud is discovered."

Among those States are Alabama, Arizona, Kansas, Massachusetts, New Jersey, Washington, and Wisconsin. Many other States have longer statutes, as well, including California, Pennsylvania, my own state of Nevada, Michigan, Ohio, Florida, Texas, Illinois, and New York.

It seems to me that in an era in which we believe that not all wisdom resides in the banks of the Potomac, looking at the experiences at the State level could be particularly instructive as we process this statute of limitations amendment.

The effect of the shortened statute of limitations is simply devastating, and has absolutely nothing, Mr. President, to do with frivolous lawsuits.

For example, had the Lampf rule been in effect, investor cases with respect to such notorious fraud as Lincoln Savings and Loan, Washington Public Power Supply System, Executive Life Insurance, Home-Stake Production Co., and Crazy Eddie would have been barred.

Mr. President, I yield myself an additional 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I thank the Chair for keeping me cognizant of the time.

In fact, Charles Keating attempted to have his case dismissed on Lampf grounds, and that was the genesis of our effort to keep those cases alive. The Congress responded by making sure that the Court's decision did not have a retroactive effect on those cases that were pending. According to a study released by the House Subcommittee on Telecommunications and Finance in 1991 after the Lampf decision, over $5 billion in pending fraud claims were dismissed or threatened with dismissal based on the shortened statute of limitations.

This amendment tracks the exact formula that is urged upon us by the SEC, an extension that would allow cases to be filed up to 5 years after violation has occurred, provided they are brought within 2 years after discovery of the violation.

As I pointed out at the outset, S. 240 in its original form contained an extension of the statute of limitations. I commend my colleague and good friend, the distinguished senior Senator from Connecticut, who has taken a lead on this case. He has long supported the longer statute of limitations. I commend his effort.

I might say that in previous Congresses, subsequent to the Lampf decision, efforts to make changes in the securities litigation system have all recognized the wisdom of the longer statute of limitations of 2 to 5 years.

I note it is somewhat anomalous—we have the situation in which the amendment on the floor is designed to restore what the introducer of the bill must surely have intended, because they cast it in the identical language that we are seeking to place back into the bill.

In addition to the securities regulators at the national level and the State level, this amendment enjoys the support of the Consumer Federation of America, the Public Citizen, the Council of Institutional Investors, the United Shareholders Association, the Bond Investors Association, the U.S. Conference of Mayors, the Government Finance Officers Association, and the National Association of County Treasurers and Finance Officers, to list but a few.

So for my colleagues who may have some motivation in saying "Look, the lawyers are responsible for all of the ills in America and have done terrible things with respect to the securities litigation," they have an opportunity to support other provisions in the law.

Please, in the interest of striking back at these securities lawyers, do not deprive, do not undermine the right of innocent investors to simply present their case, to simply present their case; simply give them the key to get into the courthouse door. And all these other provisions that are included with respect to lawyer sanctions, which I happen to agree with if it is a frivolous case, then they can come into place and operate to serve as a bar to the frivolous case.

This is a case that deprives the innocent investor with a meritorious cause of action from ever having his or her case presented because of the cleverness of the wrongdoer, the defrauder. We ought not, it seems to me, as a matter of public policy, say, "Look, we ought to provide the benefits in our society to those who are clever enough to conceal their wrongdoing and perpetrate frauds before the victims find out."

I do not think any Member of the Senate can defend that kind of a public policy.

I note the distinguished majority leader is on the floor and may seek recognition. I reserve the balance of my time.

The PRESIDING OFFICER. Who yields time on the pending amendment?

The Senator from New York.

Mr. D'AMATO. Mr. President, let me point out that one of the finest, most skilled, and eloquent lawyers, when it comes to interpretation of the law, is my friend, the Senator from Nevada. I find myself at a distinct disadvantage when having to take any position that is contrary to one that he is expounding on. Such is the case here. I do not pretend to be his equal.

However, I will attempt to explain a concern to my colleagues regarding the extension of the statute of limitations. That concern is that if we extend the statute of limitations we will open the door to more mischief.

At first, I was ambivalent on this particular question, as to whether the statute of limitations should be 1 and 3 years or 2 and 5; I considered extending the time as is done in some of the State statutes. My friend and colleague explained how this came about, how we had, actually, no statutory law until the Supreme Court in its Lampf decision in 1991 said: the 1-year and 3-year statute of limitations is rooted in common law and should be the uniform limit.

Some said that this statute would preclude meritorious suits. Indeed, there may be some curtailment of individual investor suits, However, having said that, this statute of limitations will not preclude suits being brought under longer State statutes, nor will it preclude the Securities and Exchange Commission from bringing suits in cases of fraud, where the SEC has no statute of limitations.

There are examples of the SEC bringing suits, after the statute of limitations has expired; suits in which large settlements have been recovered. In one rather recent case, the Prudential case, there the settlement was $660 million. The SEC has recovered notable settlements in some other large cases—the Drexel-Burnham-Lambert case brought $400 million in disgorgement. Again, the statute of limitations is not a bar for the SEC.

So, while the statute of limitations may be a bar to some individuals are aggrieved, if there is a serious case there is no doubt in my mind, nor, I think, in anybody's mind, that the Securities and Exchange Commission will bring a suit. My staff has reviewed some of the historical debate on the general question of how long the statute of limitations should be.

Back in 1934, when this issue was first debated in the context of the need for a fraud statute, Senator Kean made a statement on what he felt was the reason we should limit the filing of suits to within 1 year from the actual time of discovery. I quote from Senator Kean:

> If a man buys something today and discovers tomorrow that some mistake has been made and perhaps he has grounds to sue because of fraud, under the terms of the bill he must bring the suit within 1 year. But suppose he thinks perhaps the bonds I have bought will go up. I will not bring suit until I find out about that. If the bonds go down, then I will have the option of suing these people and trying to recover. If the bonds go up, then I will not sue because I can get a profit on them.

Mr. President, I suggest to you that by extending the statute of limitations, what we do is open the door for those people who wait and see if anything comes out over time. It becomes much easier to create a lawsuit and to force a settlement if we allow a longer period of time for something, anything, to be discovered. This extended statute of limitations opens the door to the kinds of litigation we see now, but these enterprising entrepreneurial lawyers will have a longer period of time in which to bring their claim. Certainly this Senator does not want to protect anyone who has been involved in fraud. Again, if there has been an egregious fraud, there is no doubt in this Senator's mind that the Securities and Exchange Commission will do the business of the people, which they have done in the past.

But businesses are entitled to some certainty that they will not be sued. I think my friend, Senator DODD, quite aptly stated his argument as it relates to the inventive, creative entrepreneurial petitioner of the law. I believe my friend called them buccaneering barristers. I think extending the statute of limitations just gives them a longer period of time to practice their craft of filing suits without merit.

If there is a legitimate fraud, even if it is discovered and 10 years down the road and it has brought harm, then as far as I am concerned I want the situation to be rectified. I know that there is a body who can do that; that is, the Securities and Exchange Commission.

Let me say again this is an area where I think reasonable people can have some differences. I, myself, have gone back and forth on this issue. It was only when I was convinced that there was the opportunity to close down some of the people who are not practicing law as they should, who are more interested in creating situations where they force settlement, and at the same time we would not leave that door open for defrauded people to be further victimized, that I decided on the statute of limitations in this legislation.

That is why I will be forced to oppose my colleague's amendment, as thoughtfully and as articulately as he has presented it.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN. Mr. President, I yield time to the distinguished senior Senator from Connecticut, after which I hope to be able to respond to the debate of my good friend, the distinguished chairman.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, will the Senator from Nevada yield to me 5 minutes?

Mr. BRYAN. I do.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I rise to support this amendment by my colleague from Nevada.

Like my good friend from New York, I understand the arguments on the other side. I suppose one might say in this debate what is magical about 1 and 3 or 2 and 5? I presume that if we made it 2 and 5, there would be those who would say it ought to be 3 and 7, or 4 and 8. You could run the string out. Then there are some who think you should not have any statute of limitations, I say to the distinguished Presiding Officer. So you are never going to satisfy everybody with some of these provisions.

Senator DOMENICI and I originally offered this bill back several years ago, and we included an extension of the statute of limitations here to 2 and 5 years on the theory that it contributed to the balance of the legislation. It is a crucial part of the balance between investor's and defendant's rights, plaintiff's and defendant's rights. Our colleague from Nevada has promptly pointed out the legislative or legal history of this.

The Supreme Court decision in Lampf versus Gilbertson established the limits of 3 years after fraud occurred, or 1 year after it was discovered. It is simply too little time, in my view, to ensure that investors have the necessary time to bring an action. Justice Anthony Kennedy, in his dissent in the Lampf decision said, and I think it is worth noting: "Concealment is inherent in most of the securities fraud cases." And it is tough fraud to find, I point out to the Chair.

> The most extensive and corrupt schemes may not be discovered within the time allowed. Ponzi schemes, for example, can maintain the illusion of a profit-making enterprise for years, and sophisticated investors may not be able to discover the fraud until long after its perpetration.

The SEC and the Council of Institutional Investors support extending the statute of limitations, and, frankly, I am concerned that unlike S. 240, this amendment does not contain language that requires an investor to use reasonable diligence.

This is the one point on which I have some disagreement with on the amendment offered by my colleague from Nevada. Even though we disagree on this point, I still intend to support the amendment. I think requiring reasonable diligence on the part of investors is not asking too much. There has to be some burdens and responsibilities people assume when they engage in this activity. In our original bill that included an extension of the statute of limitations, we required reasonable diligence on the part of the investor. That reasonable diligence is no longer included in the amendment being offered by the distinguished Senator from Nevada. The reason I say that is because I think it ought to be a distinction made between the lazy investor and the diligent investor. We make no distinction with this amendment; that is, the current standard in most private actions under our securities laws.

Frankly, I am concerned that the unintended impact of this amendment, should it be adopted, will be to grant more time in effect to investors who know nothing about their investments or care nothing about them and those who exercise reasonable care.

I think we ought to be trying to inject responsibility on the part of everybody involved in these activities. While this is a significant departure from the original Domenici-Dodd language on the statute of limitations, as I mentioned a moment ago, I will not oppose the amendment on that basis alone.

So when this amendment is considered and voted on, I will cast a vote for it for the reasons I have identified. I think in this day and age of technology, being what it is with the sophistication that is out there, it is an awful lot to expect even a knowledgeable investor to be able to pick up on some of these activities, as they might have even a few short years ago, in the absence of high technology.

So trying to keep pace with that high technology, providing a bit more time here, is not an unreasonable request in my view.

For that reason, I commend the Senator from Nevada for his comment. I urge my colleagues to support it.

I yield the floor.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, may I inquire how much time do I have under my control?

The PRESIDING OFFICER. The Senator controls 20 minutes and 4 seconds.

Mr. BRYAN. I thank the Chair. I yield myself 7 minutes.

The able distinguished chairman of the Banking Committee, who is my friend, raised two objections as I understand the thrust of his argument. I must just say as an aside, it makes me very, very nervous when the able chairman lavishes great praise upon a more junior member of the committee because no one is more sophisticated than the distinguished chairman in making his point. He speaks in the idiomatic language of the street and people understand where he is coming from, and he speaks with clarity that every lawyer in America can only hope to equal. So I am quite concerned when I receive this praise.

He made two points. One, he said that by extending the statute of limitations as we propose to do in this amendment we would thereby increase the amount of litigation.

Let me just suggest that the experience shows quite to the contrary. My colleagues will note that I have had a chart prepared tracing the experience of the past 20 years, from 1974 to 1993. As my colleagues will note, that represents a fairly level activity. In fact, the most number of cases filed in any one year was 315. Last year was 290. And as you will note, the statute of limitations case was not cited until 1991. Prior to that, the longer statute of limitations existed. There were actually in many years fewer cases than had been filed since the statute of limitations result.

So may I say, with all due respect, I think the experience is contrary to his assertion that more cases would be filed. In point of fact, I think an argument can be made that the shorter statute of limitations may encourage haste in filing such actions which is clearly contrary to the purpose that he and I think all of our colleagues have in terms of trying to discourage such litigation.

Second, he makes the point that the SEC is available, and he is quite correct, but I think it is important to point out that when the SEC brings an action, it brings an action to impose a fine, penalty or sanction, but it does not—I think this is a very important distinction—seek to recover money that investors have lost. So it is a philosophically different role. One is akin to a prosecutorial agency in which sanctions, fine and imprisonment may result. The purpose of the individual filing is to recover his or her loss.

Even if one thought the SEC might do an adequate job, the testimony by Mr. Breeden, the former chairman, was that it would require another 800 to 900 people serving in that office to offset the inability of private causes of action to be brought under S. 240 as constituted, and in the committee report on this particular bill it indicates that the cost of providing those additional resources to the SEC would be another $250 million over the previous 5 years.

Let me say that I think, like most of us, we gain considerable insight over the years as we have served, and I was pleased to have my friend's support and his leadership in 1991 when we sought to do the very thing we are seeking to do in the Chamber this afternoon, and that is to extend the statute of limitations from 1 to 3 to 2 to 5. And I wish to give my friend an opportunity to engage me in a colloquy if he chooses to do so. But may I respectfully say I think the Senator from New York was absolutely right in 1991, as we sought to process the corrective legislation in the aftermath of the Lampf case by supporting then a 2- to 5-year statute of limitations, and I hesitate to say he has not grown in wisdom over the intervening years but I think that he clearly was more correct then than he is now.

I would be happy to engage my colleague in any conversation he might care to in terms of this debate. I just do not see that there is any reason today, of course, not to go for the 2- to 5-year statute of limitations. The same circumstances exist, it seems to me, and I want to give my good friend a chance to share with me the benefit of his additional wisdom.

Mr. D'AMATO. I appreciate the opportunity to engage my friend in dialog in the spirit of the Senate. As I said, I was ambivalent on this issue. I have had numerous constituents and groups who have come to me and said: Senator, we are very much concerned that leaving the door open, particularly extending the statute of limitations to 5 years, will just create added exposure to these suits. We cannot extend the statute of limitations, unfortunately, because of those individuals who do not and have not practiced law with the same spirit and enlightenment of my colleague from Nevada.

I understand he has joined with us and voted with us on a number of matters, which some might consider procedural but are awfully important, aimed at reducing the abuses in this system; the race to the courthouse, the buying of people to put oneself in a position to bring these suits, and the plaintiffs for hire who let their names be used for bonuses.

When my colleague says to me he wants to stop this abuse, I know that to be the case. But those in the industries, in the emerging companies say, "You know, if you keep that door open, there is just a stronger likelihood that there will be that inventive lawsuit later on that holds them harmless."

I feel I must be supportive of those companies and that theory. We must not abandon these firms. Let me say once again, even if there has been fraud and it is discovered only 5 years or 6 years after the statute of limitations has expired the Securities and Exchange Commission can bring suit.

Nor have we placed a disproportionate burden on the SEC. They have repeatedly said that they do not want to be in the position where they have to be the eyes and ears for all, that, there is a proper place for individuals and their lawyers to bring these class action cases.

I think that by limiting private rights of action to 1 and 3 years and yet having no limit, no statute of limitations for the Securities and Exchange Commission, that we strike a proper balance. It was in that spirit that I came to this decision.

Second, it was also in that spirit that I could put together a majority——

Mr. BRYAN. May I interrupt my friend?

Mr. D'AMATO. To pass out this bill. I want to be candid.

Mr. BRYAN. And I appreciate that. The concern that I have is that we are engaging in this discussion and the time may run out.

Mr. D'AMATO. I yield to my friend any time that he may need.

Mr. BRYAN. Will the Senator be willing to take part of his time to engage in the colloquy?

Mr. D'AMATO. Oh, yes. I ask unanimous consent that the last 5 minutes be charged to myself.

Mr. BRYAN. I thank the Senator.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. I finished my statement, and I will be glad to yield to my friend any additional time. How much time remains, might I inquire of the Chair?

The PRESIDING OFFICER. The Senator from New York has 31 minutes 40 seconds remaining and the Senator from Nevada has 17½ minutes remaining with the exchange of time conceding 5 minutes.

Mr. BRYAN. I think we are going to be fine. Let me say, I appreciate his fairness. He did not have to do that, and I think that speaks well for him. I did not want to cut him off. I did not want to be precluded from making final comments. If the Senator has concluded, I would like to make a response and yield the floor back to him.

Mr. D'AMATO. I had completed my observations how we find ourselves in this position. And there is that necessity, in any attempt to craft legislation—I have to say that my colleague is offering amendments because he is not happy with all the provisions of this bill and wants to make it better, to enhance the bill—to put together a package that can build a coalition, and this was a major concern to quite a few Senators on my side, a very, very big concern.

I can see their point. If I had my druthers, I might say what is wrong with 2 and 5, but I heard from many groups, and numerous associations, who were quite persuasive as to why this would be a retreat.

One last observation. In this legislation we are attempting to reduce the exposure to unfair suits; it sends a very different message if we extend the statute of limitations. How can we say this cuts down on frivolous suits when people think "My gosh, you are broadening the time to bring them."

The Supreme Court has said 1 year and 3 years is sufficient, and now we have amendments to extend it to 2 and 5. We cannot support that. I must tell you there are a number of my colleagues who felt very, very strongly, that 1 year and 3 years was the right statute of limitations and that is why, given the fact I knew we had the support of the SEC, I supported this position. I share that with my friend and colleague.

Mr. BRYAN. I thank the distinguished chairman. I ask unanimous consent to yield 2 additional minutes to myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Let me say, I appreciate the explanation the chairman has given. It is a matter of balance. Again, I respond with great respect that the role of the SEC is not to recover those losses, and that is something that greatly troubles me, that individuals who have lost money, who are totally innocent, although the SEC would not be precluded from bringing an action, that action is not to recover money for them but simply to impose the appropriate fine, penalty, sanction, that may exist for the violation.

Second, I, too, was exposed to the arguments made by those who reach a different conclusion than I do that the shorter statute of limitations protects them from some lawsuits.

On the other hand, I must say that in balancing, I found the arguments of the securities regulators—the SEC, the States securities, the State and local government finance officials—who all argued that the 2 to 5 was necessary. We all put into the scales of justice our individual component parts, and I would just respectfully say, engaging my good friend in colloquy, that ultimately that is what persuaded me on the longer statute.

Mr. SARBANES. Will the Senator yield?

Mr. BRYAN. I will be pleased to yield.

Mr. SARBANES. I would like to ask the Senator, as I understand it, not only the SEC but the FDIC and State securities regulators all joined the SEC in seeking to, in effect, overturn the Lampf decision and go to the 2-and-5-year standard for the statute of limitations; is that correct?

Mr. BRYAN. That is correct. The distinguished ranking member from Maryland is correct. They all uniformly support that position.

Mr. SARBANES. And, in fact, I have a quote from SEC Chairman Breeden. This was in 1991. This is the Republican Chairman of the Securities and Exchange Commission, in which he said:

> The timeframe set forth in the Supreme Court's decision is unrealistically short and will do undue damage to the ability of private litigants to sue.

He then went on to point out that in many cases:

> Events only come to light years after the original distribution of securities and the cases could well mean that by the time investors discover they have a case, they are already barred from the courthouse.

Will the Senator yield me just 3 minutes?

Mr. BRYAN. I will be pleased to yield to the distinguished ranking member such time as he needs.

Mr. SARBANES. Mr. President, what is the time situation?

The PRESIDING OFFICER (Mr. D'AMATO). The Senator from Nevada has 14½ minutes; the Senator from Minnesota has 30 minutes 27 seconds.

Mr. SARBANES. I will defer and let the Senator from Minnesota proceed before we use the time on this side.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I rise in opposition to the amendment offered by the Senator from Nevada. In Lampf versus Gilbertson, the U.S. Supreme Court established the period of time in which attorneys may file claims under the implied right of action found in 10b-5, and that was 1 year after the plaintiff knew of the alleged violation and 3 years after the alleged violation occurred.

While critics of this legislation have seized upon the statute of limitations as a wedge to defeat this important reform measure, they have failed to present a convincing case of why this period should be extended. In the years since the Lampf decision, we have not seen a surge in the number of actions dismissed because of the limitation period. Instead, the evidence points to just the opposite conclusion. Since the Lampf decision, we have witnessed an increase in the number of complex claims filed within days, even hours, after a movement in the market.

Plaintiffs with meritorious claims have more than enough time to file their claims, but, unfortunately, so do strike suit attorneys. There are a number of reasons, however, why the current statute of limitations should be preserved. For example, a longer period of limitations makes it more difficult for innocent defendants to defend themselves in court. As a result, strike suit attorneys will have an easier time forcing these defendants into exorbitant settlements.

These settlements, by the way, rarely benefit any real injured class of investors. They simply go to enrich an attorney and, worse, the result of these settlements are higher prices for consumers, lost jobs for workers, and a weaker economy. In other words, consumers lose, it is the workers who lose, victims of real valid securities fraud actions lose—everyone loses, again, except for the attorneys.

S. 240 is designed to reverse this trend, to weed out the frivolous litigation that robs consumers of their hard-earned dollars, to make it easier for innocent parties to defend themselves against meritless charges, to free our economy from the litigation bonanza that has made us less competitive in the global marketplace.

If the Senate adopts this amendment, it will do the opposite, and we will do a major disservice to the people we represent.

Again, for these reasons, I urge my colleagues to reject this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Will the Senator from Minnesota yield for a question?

Mr. GRAMS. Yes.

Mr. SARBANES. The chart that the Senator from Nevada put up back there indicates that there was no major number of lawsuits filed subsequent to the Lampf decision. I do not know where, in fact, the highest figure preceded the Lampf decision. As I understand it, that was 315, and since then, it is now 290. On what basis does the Senator make the assertion that following the Lampf decision there was an upsurge in the number of cases filed?

Mr. GRAMS. Well, I hate to differ, but the statistics, according to some of the research that we have done, do not correspond with the statistics that the Senator from Nevada has produced. So we still maintain that the 1 and 3——

Mr. SARBANES. These figures, as I understand it, are from the Administrative Office of the U.S. Courts. What figures is the Senator using? What are they, and where do they come from?

Mr. GRAMS. I was talking with my staff, and that is according to the SEC and, I guess, also the Judicial Conference begs to differ with the numbers that the Senator from Nevada presented. I also wanted to comment on what the Senator from Connecticut had mentioned in talking about the new technologies and the speed with which things are done and the complexity of the programs.

That also gives an advantage to those who are able to find fault, or to find fraud, or to find these problems and have a real advantage then in trying to file these claims within a year or within the 3 years. So the technology has probably worked in favor of those, as well as against them. And this timetable, if I am not mistaken, was adopted in 1934, and has served those years since. That would also provide adequate time. The main thing is that it would weed out the frivolous lawsuits and, as the Senator from New York pointed out, even if these time periods elapse and real fraud is found, they can still be rectified in the courts.

Mr. SARBANES. How would they be rectified in the courts if the statute of limitations had run? That is the whole problem. See, the people who file a——

Mr. GRAMS. The SEC would be able to bring the suits.

Mr. SARBANES. The people who file the frivolous suits, by the Senator's own statement, would file them within the 1-year period. He was just complaining about that, and he said subsequent to Lampf, the numbers jumped because they were doing exactly that. Our numbers do not show that.

In fact, the SEC used these numbers when they testified before the committee in 1993. But the frivolous suits, the persons that are doing these things with a cookie-cutter, they can file them within the 1-year period. The people that are going to be blocked out by the 1 and 3 requirement are people who really have reasonable claims and do not find out about them. By definition, there is a lot of deception that goes on here, and a lot of people with meritorious claims are going to be blocked out by the failure to adopt this 2 and 5-year amendment, which I think is a very constructive proposal.

Mr. GRAMS. I wanted to make one note, that all these what we would consider frivolous lawsuits are not filed within hours, but some wait 3 to 5 years, requiring businesses to produce even more records, which would make it even more expensive to debate or fight this in court.

Mr. BRYAN. Would the Senator yield for a question?

Mr. SARBANES. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Maryland has 14 minutes 15 seconds, and the Senator from Minnesota 23 minutes.

Mr. SARBANES. Is this colloquy on the time of the Senator from Minnesota?

The PRESIDING OFFICER. Yes. Who yields time?

Mr. GRAMS. I will yield to the Senator from Nevada for a question.

Mr. BRYAN. If I might inquire of my good friend. The Senator from Minnesota made the point that a 2-year statute of limitations will help investors and disadvantage lawyers. If that were the case, I would argue on behalf of his position. But if in his State of Minnesota, or in my State of Nevada, an innocent victim of fraud, because of the cleverness of the perpetrator of the fraud, does not discover that fraud until after 3 years from the date of its occurrence, would not the Senator agree that, in that situation, the investor recovers not at all? The SEC can bring an action, but it is not brought to recover on behalf of the investor. The investor may be penalized civilly or criminally, but the recovery is not on behalf of the investor. I would be interested in the Senator's response.

Mr. GRAMS. Sometimes all the cleverness is not on behalf of the defendant but on behalf of the plaintiff who is bringing the suit. This is basically the attorney. So I believe that with the speed and technology, this always can be a debate or an argument of who benefits most from that. But I do believe that in the far majority of the cases, the plaintiff has adequate time, and in the serious cases where real fraud has been perpetrated by such a company, would always have an opportunity, if I am not mistaken, for the SEC to bring legal action.

Mr. SARBANES. If the Senator will yield on that point, the SEC can bring action against the bad actor to punish the bad actor, but that action would not recover the damages for the innocent investor. I ask the Senator from Nevada, is that not correct?

Mr. BRYAN. That is the point.

Mr. SARBANES. For the private party to recover the damages, the private party must bring this suit. So your private party would be left, in effect, holding the bag.

Mr. GRAMS. I was just advised that the plaintiff can recover from the disgorgement fund if this were the case.

Mr. BRYAN. If the Senator might answer one other question about frivolous litigation——

The PRESIDING OFFICER. Does the Senator yield on his time?

Mr. GRAMS. Yes.

Mr. BRYAN. If I might engage in a continuing dialog, we all agree—and there is no disagreement—with respect to taking the appropriate action against the frivolous lawsuits, as I have commended the chairman of the Banking Committee. There are provisions in there that I agree with, as do the Senator from Minnesota and the Senator from Maryland, with respect to the sanction provisions under rule 11. But I must say—and I ask the Senator this—when you have the SEC, the Securities and Exchange Commission, the State Securities Administrators, the North American Association of Securities Administrators, you have the State Government Finance Officers, the local government finance officers, all of whom advocate the 2- and 5-year statute, is it the Senator's view that they are advocating that on behalf of the Nation's trial lawyers as opposed to the public? Unless there is a conspiracy I am not aware of, I would be interested in the Senator's response.

Mr. GRAMS. I think as you noted in your colloquy, there have been arguments on both sides. And in weighing the differences in those two arguments, you might agree with the group that you have just mentioned. But I also agreed with some of the others and agree that the 1 and 3 still provides adequate protection.

Mr. BRYAN. I respect the response of the Senator. I yield the floor, reserving the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. What is the time situation?

The PRESIDING OFFICER. The Senator from Nevada has 14 minutes 15 seconds.

Mr. SARBANES. Will the Senator yield 4 minutes?

Mr. BRYAN. The Senator from Nevada will be happy to yield 4 minutes.

Mr. SARBANES. I thank the Senator.

Mr. President, first of all, I want to have printed in the RECORD a letter from the American Bar Association expressing its opposition to S. 240, and stating:

> In its present form the ABA opposes S. 240 since many of the provisions of the legislation would dramatically reduce the protection now afforded shareholders who are defrauded. The ABA agrees that some adjustments to existing procedures and securities class actions are warranted.

They are making a very important point. I say to my distinguished colleagues, I hear the assertions, the people proposing the amendments want no changes made. That is not the case.

From the very first in this debate, we agreed to the proposition that some changes needed to be made. The question now is, what changes, how far? We are trying to cut back on the excesses.

Here is a letter—and many others I have quoted take exactly the same position—which concludes by saying, urging us:

> . . . to amend many of the proposals in S. 240. Instead of accomplishing the laudable purposes that the proponents assert, the legislation in its present form will have a fundamental negative effect upon private enforcement of the securities law which is an essential and effective ingredient to maintaining the integrity of our markets.

Mr. President, I ask unanimous consent that the full text of the letter be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER (Mr. GRAMS). Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. Mr. President, I very strongly support the amendment offered by the Senator from Nevada. I think it is important to restore some balance to this bill.

The statute of limitations governs a period of time that an investor has to bring a securities fraud lawsuit. If it is not brought within that period of time, it cannot be brought at all, no matter how valid the claim is.

So, it is very important to understand the impact the statute of limitations will have upon all suits. It is being portrayed here as impacting only frivolous suits. It will, in fact, impact all suits, including meritorious suits.

For over 40 years, the courts held that the statute of limitations for security fraud actions is the State statute of limitations determined by analogous State law. While these statutes varied, they afforded securities fraud victims sufficient time, generally speaking, to discover fraud and to file suits. More than 60 percent of the States had statutes of limitations longer than what has now been provided in the Lampf case and that is in this bill.

That was a 5-to-4 decision, that the lawsuit must be brought within a year after learning of the fraud, and in no event, more than 3 years after it takes place, even if you do not know about it —even if you do not know about it.

There are two standards. One, you know; how soon must you bring your suit? The other is, you do not know about it; how many years must transpire before you are closed out? If you find out about it 7 years later, even under the old statute of limitations, well, it is too long. Now that is being cut from 5 to 3 years.

The time period in this bill is shorter than the statute of limitations for private security actions under the law of 31 of the 50 States. Security law experts say the statute of limitations imposed by the Supreme Court is too short. It does not provide investors with enough time to discover a fraud and then to file a lawsuit.

I quoted earlier a quote from Chairman Breeden, in which he said that it could "well mean that by the time investors discover they have a case, they are already barred from the courthouse."

As my distinguished colleague from Nevada has pointed out, not only the SEC but State securities administrators and the FDIC have all agreed that the shorter period as reflected in this legislation does not allow individual investors adequate time to discover and pursue violations of securities law. In fact, the State securities regulators said about the shorter statute of limitations, that it:

> . . . effectively forecloses any means of recovery for defrauded investors whose only mistake may be to not discover a concealed fraud.

We are talking about people who are the victims of fraud. Their only mistake is they have not discovered this concealed fraud.

I want to commend Senator BRYAN for offering this amendment. It is a matter he has pursued before. In fact, it was without opposition, adopted as an amendment to a banking bill in 1991. Many here thought it was important. In fact, this bill, as initially introduced by Senator DOMENICI and Senator DODD, contained this provision. In fact, it was put right in the title:

> To amend the Securities and Exchange Act of 1934 to establish a filing deadline.

Obviously, it was regarded as an important matter, since it was put front and center.

As I indicated, the objective, independent parties have all testified that the 2 and 5 years is the standard that we ought to have. The Government Finance Officers Association wrote:

> Wrongdoers would be let off the hook by a shorter statute of limitations.

Mr. President, I very strongly support this.

Let me close with this observation: Extending the statute of limitations has nothing to do with frivolous cases. It will allow individual investors more time to bring legitimate cases, time they need, because fraud artists often conceal their fraud. The experts in this area, the securities regulators, know more than anyone about bringing securities fraud cases. They have been supportive of the proposition being offered by my distinguished colleague from Nevada.

I very much hope my colleagues will support this amendment. I yield the floor.

EXHIBIT 1

AMERICAN BAR ASSOCIATION,
GOVERNMENTAL AFFAIRS OFFICE,
Washington, DC, June 26, 1995.

Hon. CHRISTOPHER J. DODD,
Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, DC.

DEAR SENATOR DODD: I write on behalf of the American Bar Association concerning legislation entitled Reform of Private Securities Litigation—S. 240—presently before the United States Senate. In its present form the ABA opposes S. 240 since many of the provisions of the legislation would dramatically reduce the protection now afforded shareholders who are defrauded.

The ABA agrees that some adjustments to existing procedure in securities class actions are warranted. Legislative amendments which require full disclosure of settlement terms, promote finality in settlements and encourage voluntary and non-binding ADR foster those goals without sacrificing the integrity of our markets and the interests of public investors. Accordingly, we support provisions of S. 240 which contain such reforms.

The ABA's concerns are directed to those provisions in proposed legislation which would, in effect, eviscerate the remedy which makes the capital market in the United States the envy of the world. In particular, we oppose the "Loser Pays" provisions, the change in the long-standing principle of joint and several liability, and the expanded "safe-harbor" which will not protect even fraudulent forward looking statements. In addition, we oppose the mandating of heightened requirements for pleading scienter, and mandatory stay of discovery when a motion to dismiss is filed, the limitations on discovery even after a complaint has been sustained, and the limitation to a single amendment to a complaint in a securities class action.

The legislation detailed above, if enacted, would not simply, as proponents assert, prevent frivolous litigation. It would dramatically undermine the ability of public shareholders who have been injured through violations of the federal securities laws to achieve redress. In our view, the federal class action for securities fraud remains a vital and necessary component of the federal regulatory scheme. Moreover, the present trend in the case law to eliminate frivolous claims and to ensure adherence to relatively stringent pleading and proof requirements, calls into question the need for many of the provisions of S. 240.

At a minimum, any proposed changes to Federal Rules of Civil Procedure should follow the Rules Enabling Act in which Congress specified such changes will go to the Judicial Conference of the United States which receives input from the public, the bench and the bar. The need for this review by the Judicial Conference is particularly compelling given the provisions of the legislation which seek to have different pleading, proof and discovery rules for federal securities fraud cases, a dramatic departure from the uniform approach to all claims taken by the Federal Rules of Civil Procedure ever since their enactment in 1937.

The reasons for our objections to particular provisions of S. 240 are detailed below:

MODIFIED "LOSER PAYS" UNDER RULE 11

The requirements of Section 103 (a) and (b) requires the court (i) to make specific findings on compliance by all parties and all attorneys with regard to each requirement of Rule 11(b) and (ii) mandating sanctions for any violations. The court is also directed to presume that the appropriate sanction is reasonable attorneys' fees and expenses of the opposing party. Although this presumption may be rebutted by evidence that such sanctions would impose an undue burden on the violator, we agree with Chairman Levitt of the SEC that this section "may have the unintended effect of imposing a 'Loser Pays' scheme".

The in terrorem effect of such a change in the law will largely close the Federal courts to securities class actions including the most meritorious of cases because the vast majority of litigants are unable to run the risk of being forced to pay for the other side's fees. The merits of litigation are rarely, if ever, clear at the outset and what is one side's clearly meritorious case is often the other side's frivolous litigation. Thus, in the absence of assurances from counsel, which counsel will be unable to provide, all but the very wealthy likely will be prevented from bringing a securities action in Federal court and no one likely will ever bring a class action.

If any "Loser Pays" provision is enacted, securities class actions in the federal courts will largely become a thing of the past, and private securities litigation in general may all but disappear, except for disputes between wealthy adversaries. The resulting loss in accountability, investor confidence, and the proper functioning of our capital markets would be wholly against the public interest. A major deterrent to corporate wrongdoing would be lost. This cannot be the desire of Congress and we urge you to reject these proposals.

EXCESSIVE SAFE HARBOR FOR FORWARD LOOKING STATEMENTS

S. 240, in Section 105, adopts a sweeping exemption from fraud liability for forward looking statements by including a scienter standard which, in the words of Chairman Levitt of the SEC, "may be so high as to preclude all but the most obvious frauds." S. 240 should be amended to assure that there is no safe harbor for a forward looking statement that is materially false or misleading.

ENDING OF JOINT AND SEVERAL LIABILITY

The ABA strongly supports the existing joint and several liability principles of today's laws. As SEC Chairman Levitt stated, "[t]he Commission has consistently opposed proportionate liability, because [u]nder the existing system of joint and several liability, the solvent defendants [in cases where one of the wrongdoers in insolvent] must bear the share of the bankrupt defendants. Under a system of strict proportionate liability, the defrauded investors would be required to absorb the loss." As he elaborated: "although the traditional doctrine of joint and several liability may cause defendants to bear more than their proportional share of liability in particular cases, this is because the current system is based on equitable principles that operate to protect innocent investors. Joint and several liability is based on the equitable principle that, as between defrauded investors and defendants who are found to have knowingly or recklessly participated in a fraud, the risk of loss should fall on the latter. The goal of ensuring that defrauded investors are fully compensated for their losses, in other words, overrides any distinction based on the relative culpability of the defendants. . . .

S. 240 should therefore be amended to restore the joint and several liability princples.

PLEADING AND DISCOVERY, AND LIMITATIONS ON AMENDED PLEADINGS AND DISCOVERY

S. 240 mandates a number of procedural requirements none of which have serious merit and all of which represent a violation of the procedures established by the Rules Enabling Act. Simply put, the cumbersome nature of these proposals and their unintended consequences demonstrate anew why the far more thoughtful process established by Congress in the Rules Enabling Act ought to be followed here.

Rule 23 contains ample safeguards today to assure that named plaintiffs adequately represent the class and their lawyers pursue the cases vigorously. The new pleading and discovery proposals of S. 240 are troublesome in that for the first time under the Federal Rules special requirements are established for a particular class of cases. Moreover, the proposals contradict the present Rule 9(b) of the Federal Rules of Civil Procedure. Given the evidence that courts are already enforcing heightened pleading requirements today, the proposal is not only mischievous but unnecessary. The last thing Congress should be endorsing is the dismissal of meritorious cases at the pleading state. The pleading standards in S. 240 require a plaintiff to plead the "state of mind" of each defendant, which is impossible to do prior to any discovery.

Finally, the limitations on the ability of plaintiffs to amend their pleadings and to pursue discovery while undoubtedly having the effect of preventing frivolous claims from going forward, also has the pernicious effect of barring claims with substantial merit. It is only through significant discovery and repleading that these important claims get adjudicated, an unlikely result if these proposals are adopted.

In sum, the American Bar Association urges you to amend many of the proposals in S. 240. Instead of accomplishing the laudable purposes that their proponents assert, the legislation in its present form will have a fundamental negative effect upon private enforcement of the securities law, which is an essential and effective ingredient to maintaining the integrity of our markets.

Sincerely,

ROBERT D. EVANS.

Mr. D'AMATO. Mr. President, the question before us, on the statute of limitations, is an interesting one.

I think we really have to ask whether or not you really cannot discover a fraud in the 3 years?

Now, there have been some Ponzi schemes and other schemes that have gone on and worked for a long time. There have been some fraudulent investment practices at large, very well respected, institutions, where it has taken a period of time for people to bring them to the bar. In those cases, I suggest that it has been the SEC who has brought these cases. They have done it because people have broken the law, people have committed fraud. They have not filed specious, frivolous suits.

That does not mean every time they bring a suit, the are right; but more often than not, they are. Indeed, where people have defrauded investors and have made profits unfairly, the SEC has been quite successful in gaining penalties and fines, and in some cases disgorgement of those ill-gotten gains. Again I state that the SEC is not precluded by the statute of limitations. In the Prudential case the SEC got $660 million in disgorgement. The wonderful thing is that when the SEC recovers in a case those moneys go to the people who have been victimized. It is not a case where they recover pennies on the dollar.

If we look at most of the successful cases that have not been brought by the SEC, the cases brought by the private sector bar, they literally recover pennies, pennies on the dollar of lost investment. As a matter of fact, there have been a series of articles that after these cases have been settled—most of these cases end in settlements being made—the people who the lawyers settle on behalf of get literally nothing, in some cases box tops, or the ability to receive even more products that they do not want. They say, "What was this? What did I gain from this suit?" But, the lawyers got millions and millions of dollars.

We are really here making a statement, saying, we will put into law what the Supreme Court, in its wisdom, feels is right. Of course we have a right to disagree, but they said 3 years is plenty of time in which to discover that fraud; 1 year after the time of discovery and I agree.

Let me raise a question. Why should it take 2 years to bring a lawsuit after the time of discovery?

Mr. SARBANES. Will the Senator yield?

Mr. D'AMATO. Why, after 1 year upon discovery, can you not bring a suit?

Mr. SARBANES. Will the Senator yield on that point?

Mr. D'AMATO. I am happy to yield. But on my colleague's time, because we are pretty much even now. I have done that deliberately, evened it up.

Mr. BRYAN. I yield such time as the Senator needs.

Mr. SARBANES. As I understand it, the Senator from Nevada said it takes the SEC 2.2 years from the time they start working on it to bring the case. So if it takes the SEC 2.2 years, I do not think it is unreasonable that a private party ought to have 2 years.

The SEC cannot recover. The disgorgement which the Senator made reference to is only for illegal gains that a party realizes. Then you can force them to disgorge it. They may not have illegal gains, or the disgorgement may not be enough to pay the private parties. The private party suit goes against the wrongdoer with respect to all of their assets. The disgorgement only gets at some bonanza which they have hit upon which you force them to give back and then you can allocate that out. That does not begin to cover the problem of the plaintiff recovering.

But, in any event, on the particular point, the SEC takes 2.2 years. I do not think it is unreasonable to give private parties 2 years to bring their suit.

Mr. D'AMATO. If I might, the point is, if after the discovery of a fraud it takes more than a year to bring that case I think we are just really holding captive and in bondage, so to speak, a small business entrepreneur who is the possible plaintiff of a suit. Also, I think that the SEC does not take 2.2 years to bring that case; but I believe to finish that case; not to just investigate that case.

Let me suggest that, extending the statute of limitations makes it possible to hold this sword of alleged fraud over someone; I have found it or someone will find it. Instead of bringing a case within a year they dangle it over the company for 18 months, 2 years, attempting to get a settlement, then maybe file the papers just before that 2 years is up—I do not think we want to do that. How is that advancing the cause of justice?

If there is wrongdoing this Senator wants to see the people who have undertaken that wrongdoing punished. I want to see their illegal profits given back. And again, there is a procedure whereby those who have gotten ill-gotten gains who have profited by defrauding others can be brought to justice by the Securities and Exchange Commission. And the SEC has used that authority. They have done it in the case of Prudential, and, I daresay, that in other cases where outrageous practices have taken place they will continue to bring suit.

Mr. President, what we are seeking here is a balance. I think to basically double the statute of limitations will not bring about the kind of balance we are looking for. I think it would be a mistake.

Again, this Senator has been willing to look at this question carefully but I think the overwhelming body of opinion in the business community, in the legal community, and in the Congress, is that 3 years is a sufficient period of time given the fact that the SEC has authority to bring suit.

By the way, there may be cases that the SEC should not undertake, which it does, but there is the difference. I have some trust in them. I do not have any trust in the entrepreneurial spirit of a handful of lawyers who have managed to hold captive, to a certain extent, legitimate business activities in this country. When the accountants of this country are placed in the position that some of them may go out of business because of the incredible liability that they face in practicing their profession as a result of these type lawsuits, then it is time to say, "Enough is enough. We have to change this."

That is what we are attempting to do with this legislation, and that is why the 1 and 3 years statute of limitations is the provision we used. I recognize reasonable people may disagree, but I hope I have been able to lay out the methodology and the motive, for why we have chosen what we think is a fair balance. One year from the time the fraud is discovered, 3 years from the time the fraud has been committed; I think that is very, very reasonable.

I yield the floor.

Mr. BRYAN. May I inquire of the Chair, how much time remains?

The PRESIDING OFFICER. The Senator from Nevada has 4 minutes and 45 seconds remaining. The Senator from

New York has 12 minutes and 7 seconds remaining.

Mr. BRYAN. Mr. President, it is my understanding that a motion will be made shortly to seek unanimous consent, to which I have no objection, to have the rollcall begin at 5:30. If in fact the Senator from Nevada is correctly informed of that, I inquire of the distinguished chairman of the Banking Committee whether he would be agreeable to providing a little additional time for us to engage in discussion?

Mr. D'AMATO. May I ask if my colleague might like an additional 15 minutes or half-hour equally divided?

Mr. BRYAN. That I would think would be fair. If we do not need it all, we can yield it back.

Mr. D'AMATO. Mr. President, I ask unanimous consent we be given an additional 30 minutes to debate, 15 minutes on each side.

The PRESIDING OFFICER. There is about 15 minutes remaining in the debate.

Mr. D'AMATO. I am asking an additional 15 minutes and extend the time for voting an additional half-hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. SARBANES. Mr. President, will the Senator yield for just a moment?

Mr. BRYAN. The Senator from Nevada will be happy to yield.

Mr. SARBANES. Will the Chair indicate the parliamentary situation for us now?

The PRESIDING OFFICER. Will the Senator repeat the question, please?

Mr. SARBANES. Will the Chair repeat the parliamentary situation now?

The PRESIDING OFFICER. There was just consent given for an additional 30 minutes of debate.

Mr. SARBANES. Equally divided?

The PRESIDING OFFICER. Equally divided, 15 minutes for each side.

Mr. D'AMATO. That would bring us to 5:45.

Mr. SARBANES. Then when would the vote occur?

Mr. D'AMATO. At 5:45.

The PRESIDING OFFICER. Right, under the time that was just consented to, it would be at 5:45.

Mr. SARBANES. As I understood the request, it was to move the vote to 5:30 and have half an hour equally divided. The vote is now scheduled for 5:15, is that correct?

The PRESIDING OFFICER. The request was for an additional 30 minutes of debate time and there was 15 minutes remaining on the clock between the two sides, so that would now give 45 minutes debate remaining, equally divided between both sides.

Mr. SARBANES. That was not my understanding.

Mr. BRYAN. Mr. President, if I might?

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. If I misspoke myself I apologize.

What I was seeking to do was to get a combined 30, which was the time that, as I understood it, the vote was to occur, and the use of additional time. I am not trying to preclude my friend from New York from exercising the full amount of his time.

Mr. D'AMATO. Mr. President, might I ask that the two votes that are scheduled after the Bryan vote be limited to 10 minutes each?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SARBANES. When will the first vote occur under this request?

The PRESIDING OFFICER. According to the unanimous-consent agreement, it would be at 5:45.

Mr. SARBANES. The subsequent two votes would be 10 minutes each; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. SARBANES. The time between now and 5:45 will be divided equally?

The PRESIDING OFFICER. The additional time is divided equally. The Senator from Nevada would now have 16 minutes and 57 seconds; the Senator from New York would have 28 minutes and 1 second. But the additional 30 minutes was equally divided between the two sides.

Mr. BRYAN. Mr. President, again, I think I created some confusion. I apologize. It was my intent to get additional time but to begin our voting at 5:30. The reason I say that to my friend from New York is to try to accommodate him. I intend to offer several amendments this evening. I think the sooner that we get to those probably the better off we are.

So somehow the state of the Record might reflect that whatever time the Senator needs, I would like a little bit more time, and start voting at 5:30. It is not my intent by some parliamentary artifice to reduce or limit his time. But I need a little bit more time. That is why I was requesting that be done in that fashion.

Mr. SARBANES. Mr. President, I think maybe we can work this out if we begin the vote at 5:45, and divide the time between now and then equally and make the two votes after the first vote 10-minute votes.

Mr. D'AMATO. I have no objection.

The PRESIDING OFFICER (Mr. ABRAHAM). Is there objection? But the time is still not divided equally with the 45 minutes remaining.

Mr. D'AMATO. Let me ask that the time from this time on be divided equally; that both sides start off with the same time, and we commence our first vote at 5:45.

Mr. SARBANES. And then the subsequent two votes will be 10-minute votes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I think this has been an interesting and a constructive debate.

Let me just say that this is an issue that I know is dry as dust, but I think it is important to point out that across the country there is some understanding that we are not just talking about legalisms, and what we are about to do will have a serious impact on millions and millions of Americans.

I invite my colleagues' attention to a number of editorial responses from across the United States, from a broad number of newspapers, not regionally focused, not philosophically on one side, but I think a broad spectrum. They raise very, very legitimate concerns about S. 240 in its present print.

The Miami Herald, "License to Steal"; the Bergen County Record, "Protection for Con Artists"; the News & Observer, "Safe Harbor for Fraud"; the New York Times, "Protection for Corporate Fraud"; Jonesboro Sun, "Bad Measure"; the Denver Post, "Senate Bill Would Give Free Ride to Securities Fraud"; the Seattle Post-Intelligencer, "Securities Bill Hurts Investors"; the Napa Valley Register, "Securities Fraud Bill is a Fraud"; the Palm Beach Post, "One Big Stock Swindle"; North Sioux City Times, "Your Money At Risk"; the Seattle Times, "Congress is Wrong to Limit Investor Suits"; Dayton Daily News, "Securities 'Reform' Bill Backwards"; St. Louis Post-Dispatch, "Don't Protect Securities Fraud"; Contra Costa Times, "Shielding Securities Fraud"; Los Angeles Times, "This Isn't Reform—It's a Steamroller"; and, again, the Palm Beach Post, "Making the Nation Safe for Fraud."

So the notion that somehow this is an argument that only involves those who are involved as securities lawyers I think can misstate the scope and the concern of this provision.

Let me say that if you look at the history of what has occurred since the last case in 1991, that issue was brought before the Congress. At that time, my good friend, the distinguished chairman of the Banking Committee, was a cosponsor with me in trying to extend the statute of limitations from 1 to 3 years, as that court decided the case, to 2 to 5. The distinguished Senator from Connecticut was a supporter of that change, as well. He continues to support the 2-to-5-year statute of limitations.

His very able cosponsor, the distinguished senior Senator from New Mexico, Senator DOMENICI, also expressed his support in 1991. The only concern the Senator had was that he felt that the statute of limitations issue ought not to be considered in an isolated sense. This is what he had to say on the floor of the U.S. Senate on November 19, 1991.

First, I am not opposed to the extension or retroactivity if we are able to attach some amendments that address the issues of attorney fees, who pays the cost for these various lawsuits which are going to be extended, all of which is done in S. 240.

So we have those people who have been over the years most actively involved at one time or another, all of whom supported S. 240 with a 2-to-5-year statute of limitations.

Those who know the circumstances best, those who investigate fraud at the State level and at the Federal level, the North American Securities Administrators Association and the Securities and Exchange Commission, all say that one fact that is central to securities fraud is the cleverness of the defrauders in concealing their fraud. They have from time to time pointed out the Ponzi scheme, in which you do not know until at the very end that you have been a victim of a fraud; or municipal bond fraud, which has front loaded an escrow account in which payments are made for several years so the unwary investor is totally unaware that he or she has been defrauded. You have limited partnerships, in which those frauds are not detected for years, and the SEC itself saying that to conduct an investigation takes an average of 2.25 years.

That strikes me as a very persuasive argument for a 2-to-5-year statute of limitations.

In addition, you have the State financial officers and local government financial officers. Now, I am not unmindful of the fact that accountants and securities underwriters and others do not like the longer statute of limitations, and they are obviously entitled to make their point. But I do not think it would shock anybody on the floor to suggest that their positions are tinged with self-interest.

Who speaks for the public? The Congress of the United States ought to speak for the public. And those who represent the public interest in both Republican and Democratic administrations, the Chairmen of the SEC, each have expressed their support for a 2- to 5-year statute of limitations. State securities administrators, many of whom, I suspect, probably most, are appointed by Governors directly representing the people of their respective States, have also spoken in behalf of the 2- to 5-year statute of limitations. State financial officers, many of whom are directly elected by the people, others of whom may be appointed by the Chief Executive of the respective States, again representing the public interest, have expressed their support. And the same thing is true with local government financial officers.

Mr. SARBANES. Will the Senator yield on that very point?

Mr. BRYAN. The Senator would be happy to yield.

Mr. SARBANES. In just yesterday's New York Times an article appeared written by Mark Griffin, the director of the Utah Securities Division. He is a board member of the North American Securities Administrators Association, which comprises the 50 States' securities regulators. In fact, he is the chairman of the Securities Litigation Reform Task Force and testified in front of our committee, and I think, in fairness, all members of the committee would agree that he was a very rational, thoughtful witness. Now, he in this article, in which he takes a very strong position, says, "The securities litigation bill is reform in name only." But on this very point that the Senator is now arguing, having addressed other provisions of the bill that he thought were deficient, he said, and I quote him:

> Perhaps the clearest sign, however, that the bill's proponents have sold middle class investors down the river is their refusal to lengthen the time in which consumers can bring cases to court. The current rule derives from a 1991 Supreme Court decision that created a statute of limitations for Federal securities law cases of 1 year from discovery of a misdeed or 3 years from the commission of the act in question. This represented a serious reduction in the time available for such lawsuits since Federal courts previously had relied on State standards for statute of limitations. Currently 31 States permit longer than the 1 and 3 standard for the filing of State securities cases.

And then he closes this discussion on this very point with this question:

> What possible case can the backers of this bill make for keeping the time limit as short as possible so that future swindlers who cover their tracks carefully will get off the hook for good?

Mr. President, this is not a party to the issue. This is not someone who has a vested economic interest on one side or another of this. This is a State director of the State securities division.

I thank the Senator for yielding.

Mr. BRYAN. I think the Senator makes a very compelling point, and I think he speaks on behalf of the Nation's security regulators at the State level. And that view is shared by his counterpart at the Federal level.

I would yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I think we just have a fundamental difference of opinion. There are those people who advocate extending the period of time to 5 years to detect fraud. To them I say, look at the sophistication to study markets and to review documents that we have today. Given the ability to learn more about a company, more about its activities, given all of the information that is available, I think that extending the statute of limitations gives this group of hawks—that is a kind word; more descriptive would be "vultures"—who look at every turn to seize an opportunity to bring suit, not on behalf of the poor or the downtrodden but on behalf of themselves, too much time and opportunity to find something with which to bring a frivolous suit. There is a page in the Committee report on S. 240 which quotes a lawyer who talks about his clientele. He is one of those lawyers who brings these meritless suits, and he describes it.

I do not pretend, nor do I suggest at all, all lawyers operate in this manner, because they do not. That would be wrong. That would be a disservice. But a sufficient number operate in this way in this particular area. I have asked if we could get some figures on this. It would be very interesting to ascertain, for example, in the second circuit, where one law firm in particular brings all these suits, how many of the plaintiffs are the same. I mean, they are the same people and they own almost no stock whatsoever—sometimes as little as 10 shares each. They just get shares in every company. And if stock in that company goes up or down—even if it goes up—then they sue. They say: You did not tell us; you withheld information from us; and we should have known; and I am injured. They sue, and they get paid. They get paid for loaning their names. These lawyers, these same lawyers pay these individuals. This one lawyer said—I do not want to give the wrong name:

"I have the greatest practice of law in the world," this one lawyer said. He acknowledges once telling a meeting of corporate directors—imagine telling this to a group of corporate directors—"I have the greatest law practice in the world." And why? Why? Senator BOXER talks about the aged, the sick, the infirm, the poor investors, here is what he thinks about them. Here is what he thinks about them; he said, "I have no clients."

He is operating for himself. He is just looking to make money, pile it up. Here it is on page 6 of the committee report, which has been submitted, "Report of the Committee of Banking, Housing and Urban Affairs," I knew it was here because I did read it. The comment by one plaintiff's lawyer:

> I have the greatest practice in the world. I have no clients.

"William T. Barrett, 'I have no clients,' Forbes, October 11, 1993." The fellow's name was Bill Barrett. Mr. Barrett was a partner in the law firm that brings most of these suits perhaps even more than anybody else. And he is proud of that. He is proud of that.

I do not think that is something to be proud about. If you want to say I recover on behalf of the little guy, and I take on those who have inveigled them and swindled them, I understand that.

But when you brag: I have the greatest practice of law in the world—"I have no clients"—that is a heck of an admission.

I do not want to give Mr. Barrett and those who practice with that kind of attitude an additional period of time to chum up the waters, to try to create situations, to try to look for that which does not exist. I will support them if they are bring cases that involve fraud absolutely, that involve deliberately giving misinformation, absolutely, but I will not support the creation of specious lawsuits, lawsuits that are not well grounded and only designed to shake down—shake down—businesses, shake down insurers, shake down people, to make them pay.

That is wrong, and we have got to stop it. The fact is we are paying billions of dollars out and consumers are paying because we have allowed this practice to continue, and it has become a very sophisticated art form. Look at the record. Just look at the record. Ninety-three percent of those cases are settled, and they are not settled because anybody was going to prove fraud. They are settled because a small company or even a large successful company cannot afford to carry that litigation on for many years; litigation that costs them millions of dollars. Even if they win, they lose.

You heard my friend, Senator DODD, bring up the case where the accounting firm was sued and won, they won the lawsuit. It cost them $6 million to win. They were only paid on the initial contract $15,000. That probably epitomizes the worst of what takes place, but it takes place too often.

Open the door longer? No, I do not see what benefit that would hold. And I really have a difficult time understanding, and I do not refer to my colleagues, those in the media who say we are trying to give a license to people to commit fraud. Why do they not wake up? They could not operate under the same standards that business does. They are given a shield. We are simply saying, in this legislation, that you ought to be able, if you discover the fraud within a year, to bring the suit. Why would you need 2 years?

Now, it is true that at the Securities and Exchange Commission, once they have completed all their depositions; they go through very thoroughly; takes 2-plus years to bring suit.

But in 2.2 years their suit is absolutely totally ready, they have laid the cupboard bare and have made all their discoveries, they use the power of their office to bring suit where there is fraud and they can recover for the investors. So, indeed, it may take them 2 years to completion. We are not saying somebody has to complete their lawsuit in 2 years, but certainly, they should be able to start it within 1 year if they believe a fraud has really taken place. Extending it to 2 years just goes beyond the realm of reason.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN. Mr. President, may I inquire how much time remains?

The PRESIDING OFFICER. On your side, 11 minutes 30 seconds, and Senator D'AMATO has 12 minutes 56 seconds.

Mr. BRYAN. I yield as much time as the Senator from Maryland desires.

Mr. SARBANES. If the Senator will just yield me 3 minutes.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I want to again commend the Senator from Nevada for offering this amendment. It is a very important amendment. This is an issue he has dealt with over the years with a great deal of attention and understanding and thought.

The distinguished Senator from Nevada is, of course, a former Governor of that State, and prior to that the attorney general of the State of Nevada, and before that a member of the Nevada Legislature on the judiciary committee. So he has had experience in dealing with these issues, and I am sure out of his tenure as attorney general can appreciate what small investors come up against when they are confronted with these fraud situations.

This provision to extend the statute of limitations does not reach the kind of horror examples that people on the proponents of this legislation are asserting.

This statute of limitations issue affects meritorious suits as well as frivolous suits. There are other ways in the bill that we are trying to do away with the frivolous suits, to which the Senator from New York was just making reference. And, in fact, many of us trying to amend this bill have indicated that we support many of the provisions aimed at dealing with the frivolous suits. But we have to draw the line when the provisions are carried to excess, when you have overreaching and, in effect, you are negatively going to impact upon the small investor who has been bilked, who has been taken gross advantage of.

This statute of limitations we previously dealt with here with relatively little controversy. As a matter of fact, most people, when we previously considered it, were supportive of the 2- to 5-year period, which is what the standard has been for 40 years under the securities laws, for 40 years.

The 1- to 3-year standard that is now in this bill is shorter than what applies in over 60 percent of the States. If you know about the fraud, you ought to be able to bring a suit within a year. The SEC takes over 2 years to bring a suit once it knows about it. So I think it is unfair to expect the private party to meet a higher standard than you expect the Securities and Exchange Commission to meet with all the expertise and with all the resources that it has.

The 3 years, in effect, says if you perpetrate a fraud and no one finds out about it and 3 years go by, you are scot-free.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SARBANES. Will the Senator yield me 1 more minute?

Mr. BRYAN. I will be pleased to.

Mr. SARBANES. What that says is if you do a fraud, you are a fast operator, you perpetrate a fraud, and you manage to conceal it for 3 years, that under this statute, you are then scot-free. What the distinguished Senator from Nevada is saying is that period at least ought to be 5 years.

Some say why should it not even be longer and some States, in fact, have a longer period. The argument for having a statute of limitations generally speaking in the law is that at some point you want to have finality, you want to bring things to an end, you do not want to have always open the prospects of a lawsuit. So you try to have a reasonable statute of limitations. The one we have always used in this area now for more than four decades has been 5 years in terms of the period that could run in which you could then find out about the fraud.

Now it is proposed to cut that back to 3 years. So if the fast operator can conceal and deceive his fraud for a 3-year period, then he escapes, he comes out scot-free.

I say to my colleagues, I suggest to you this is a very meritorious amendment, and I very much hope the Members will support it.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. How much time remains?

The PRESIDING OFFICER. Twelve minutes fifty-six seconds.

Mr. D'AMATO. I yield the Senator 5 minutes.

The PRESIDING OFFICER. The Senator from Utah.

AMENDMENT NO. 1472

Mr. BENNETT. Mr. President, I appreciate the opportunity to come—and I understand there will be stacked votes—and talk on several amendments, one that was the subject of debate earlier. I asked my distinguished chairman if I could make a quick comment on it, and he agreed that might be appropriate.

There is an article in today's Wall Street Journal that I think has bearing on the debate, today's news today, if you will, which says: "Big Accounting Firms Weed Out Risky Clients."

> If you have a big-name auditor, hold on tight. It's getting a lot tougher to find—and keep—prestigious outside auditors to certify annual financial statements.

The statement that I think is appropriate in this article, to this debate, referring to a partner at Peat Marwick, is where he talks about:

> When a client we audit goes bust . . . it costs us a bundle in court if we're sued by investors, whether we win or lose the case.
>
> Mr. Lambert says that legal costs are "staggering" for a lawsuit filed in a Federal court in Texas alleging a faulty review of a bank's books by Peat. The bank was taken over by the Federal Government in 1992 after big losses. The jury ruled in Peat's favor in 1993, but the firm had to spend $7 million to defend itself even though the fee for the job was $15,000. Mr. Lambert says, "We just can't afford to take on risky audit clients anymore."

That is what will happen if we do not pass this legislation, Mr. President. People are going to be denied access to accountants, who will not run the risk of a $7 million legal fee, even when they are exonerated, for a $15,000 auditing fee. They will simply not be available, and the end that we are all seeking in this legislation, which is to protect investors, will be frustrated if the amendment dealing with the joint and several liability is adopted.

Mr. SARBANES. Will the Senator yield on that point?

Mr. BENNETT. I will be happy to.

Mr. SARBANES. The other day, we rejected the amendment that would have restored joint and several. So the bill now has proportionate liability in it. The only thing the amendment offered earlier addresses is a provision in the bill that would still keep joint and several for small investors.

So if you had a small investor with a net worth of under $200,000—and that figure is retained—we would drop out of it the requirement that that small investor had to lose at least 10 percent of his net worth, namely $20,000. So if he lost $15,000 or $5,000, he could be held whole instead of the participant in the fraud escaping the burden.

Mr. BENNETT. Mr. President, we are talking about strike suits on behalf of professional plaintiffs, and a professional plaintiff could easily fit within the category of the Senator's amendment.

Mr. DODD. Will my colleague yield?

Mr. BENNETT. I will be happy to yield.

Mr. DODD. My colleague from Maryland was not here when I expressed my remarks. I will say to the Senator from Utah, I submitted that article for the RECORD.

Mr. BENNETT. I apologize.

Mr. DODD. If you go to the Census Bureau and Federal Reserve study on what the median net worth is in this country, you get two different numbers. The Census Bureau says the median net worth is $37,000. The Federal Reserve said in 1992 it is $52,000.

When you set the standard at $200,000 of net worth, which we do, basically, you are including about 95 percent of the people in this country. Only a small percentage is left that have a net worth in excess of $200,000. So if you then do not have some of the standard here, then de facto—not de jure, but de facto—you have eliminated proportionate liability.

Mr. SARBANES. I ask the Senator from Connecticut, what is the net worth of the median investor?

Mr. DODD. I do not have that statistic.

Mr. SARBANES. I know, but you are——

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. BENNETT. I think my time has probably expired. I thank my colleague from Connecticut. I apologize that I was not listening to him when that was put into the RECORD. I will not ask that it be printed in the RECORD.

Mr. D'AMATO. I yield another 2 minutes to the Senator from Utah.

AMENDMENT NO. 1469

Mr. BENNETT. The amendment before us is on the statute of limitations. We have heard all of these arguments. I do not want to repeat them over and over again. Simply, from my business experience, I tell you the impact of the statute of limitations which is hanging over business. If you have a statute of limitations that is 5 years, you have to keep all your records for 5 years; you have to be concerned about what is going to happen to you in 5 years, even though you know nothing has gone wrong, and you get yourself into that circumstance.

If there were time, I could describe circumstances where the lawyers wait until the last moment before the expiration of the statute, no matter when it is, in order to panic the situation. It becomes a device, if you will, that plays into the hands of the people that are seeking to do the kinds of things we are talking about here.

I believe 3 years is long enough. I believe that it is a salutary thing to say to the lawyers, if you suspect there is fraud, get on with it quickly and do not play the game of playing it out those extra 2 years and hoping in that extra 2-year period that people will be a little sloppy in recordkeeping and you will be able to create greater uncertainty than you would if you acted in a timely fashion. Memories fade after 3 years, legal suits become much more difficult to pursue after 3 years. I think the 3 years that are in the bill are appropriate. For that reason, I am opposing the amendment. I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. The Senator from North Carolina would like 3 minutes.

I yield to the Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I want to address some of the amendments that have been discussed on the Senate floor today. First, I oppose extending the statute of limitations for securities private rights of action. I think the current 3-year statute is quite adequate. The Securities and Exchange Commission Act of 1934 put this into law. That was 60 years ago. It has been unchanged ever since.

Certainly, in this age of computers, fax machines, and the rapid communications that we have, particularly in the financial community, I do not see the need to extend the statute that has been more than adequate for 60-plus years.

Mr. President, there is little evidence that a longer period is needed. Three years from the discovery of a securities fraud violation is adequate.

The problem has not been a longer period—the problem has been that class action suits are now filed literally within hours of a stock price dropping. I cannot understand why anyone would think that a longer period is justified with the current practices that we are dealing with.

I am also concerned that by extending the statute to 5 years, we make it harder for firms to defend themselves against lawsuits that are totally baseless to begin with.

Companies will have to search business records that have not been used for years. They will have to interview employees whose recollections are hazy. Moreover, they will have to track down employees that probably no longer work for the firm and probably are on the other side of the country. All of this is to defend themselves against a possible claim for 5 years. Business records and recollections get hazy, and 5 years gets to be a long time.

In my home State of North Carolina, we have a 2-year statute of limitations, and to my recollection, no one has ever suggested that it needed to be changed.

With respect to Mr. SARBANES' amendment, I think the Senate has covered this ground already. On Friday, the Senate defeated Mr. SHELBY's amendment by a large margin.

Mr. President, S. 240 already has an extremely balanced and reasonable proportionate liability section. First, it requires that in the case where other defendants are insolvent, every other defendant must pay an additional 50 percent of the losses he caused to help pay the plaintiffs.

Also, the bill takes care of small investors. It covers those with a financial net worth of under $200,000.

Mr. President, this covers 90 percent of the families in the United States. There is no need to go further, as Senator SARBANES is suggesting. Yes, there are many victims and some victims who are not made whole. But there are very few. If, however, we do not leave this provision alone, there will be many victims on the other side of the equation, those companies that are sued simply because they have deep pockets.

These companies are often forced into settling because large lawsuits loom and it is cheaper to settle. They, too, are victims of a flawed legal system and untrustworthy lawyers. This needs to be changed. S. 240 changes this, and that is why I am opposed to the Sarbanes amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BRYAN. I yield to the Senator from Connecticut.

Mr. DODD. I will take 1 minute. Again, for the purpose of debate and discussion here, my colleagues will not be surprised. The original bill we put in, of course, did include a statute of limitations very much along the lines being offered by the Senator from Nevada. I support this amendment. There is one major difference here between this amendment and what was originally proposed, and that is the requirement of reasonable diligence on the part of the investor to determine whether or not there has been any fraud. Reasonable diligence is not included in this amendment. I regret that because I think there is a difference between the investor who must bear a responsibility to keep an eye out for what is going on and the one that does not pay any attention whatsoever. The absence of that language is not so fatal that I oppose the amendment. There is a difference between the original language and the language here. So you treat both investors alike and people who engage in this activity bear a responsibility to watch out for themselves in many ways, which is not included in the amendment.

I think that technology being what it is, the world having changed to the point where you can actually have pretty sophisticated operations today, makes it difficult for the average investor to be aware of what is going on. I support the language Senator DOMENICI and I originally had in the bill and, for that reason, I support this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. How much time is remaining?

The PRESIDING OFFICER. Two minutes two seconds, and Senator BRYAN has 4 minutes 44 seconds.

Mr. BRYAN. Thank you very much, Mr. President. This has been an interesting discussion. Because the time is running out, let me be brief on several points. For my colleagues who are concerned about the abuses that lawyers visit upon the system, let me suggest that this amendment is not at issue. The able chairman and the sponsor of the bill have crafted a number of provisions—prohibition of referral fees to brokers, prohibition on attorney's fees paid from SEC disgorgement funds, and several others.

Let nobody be misled that this bill or debate is about whether you favor reforms in the litigation system as it deals with attorney abuse. We have dealt with that issue. I find myself a bit confused. The distinguished Senator from Utah is arguing against my amendment and he says if the statute of limitations is extended, those lawyers who file suits will wait until the last minute. He has extensive experience in business, and I greatly respect him. The distinguished Senator from North Carolina, also experienced in business, tells us that the problem is that lawyers file instantaneously when the stock prices go down. I must say, I do not think it can be both ways.

The basic problem here is one of concealment. The very nature of these frauds that are perpetrated upon the investment public involve the concealment of fraud through any artifice or device possible, and although there is much new technology out in the market, the technology changes are not a response to the basic cleverness of those who perpetrate these frauds in keeping their frauds from the victim.

The North American Association of Securities Administrators and the SEC point out to a number of those cases—municipal bond frauds, limited partnership, to cite just two.

Mr. President, I think it also needs to be made note of those who have looked at this over the years, as Senator D'AMATO, Senator DOMENICI, and Senator DODD have all at one point taken the position the statute of limitations ought to be extended from 2 to 5 years.

I recognize there are those that have a vested financial interest who want to preclude suits from being filed. I understood that. That ought not to dictate policy response.

Those who have the public interest and the public trust at issue as to their only responsibility, the SEC, State Securities Association, the State Financial Officers, Local Government Financial Officers, all are together. All of the regulators agreed that in the interest of fairness, the statute of limitations ought to be extended from 2 to 5 years. That represents both a national perspective, a State perspective, and a local government perspective.

Unless we subscribe to a conspiracy in history, all cannot be in league with trial lawyers. They have reached the conclusion, as I have, based upon the compelling evidence before us, concealment is the problem, and 2 to 5 years is a reasonable time to provide an opportunity for plaintiffs to file.

Mr. D'AMATO. Mr. President, this is admittedly incomplete, but let me just share some statistics from one law firm in New York between 1990 and 1992. One plaintiff was a plaintiff in 14 cases—14. The second plaintiff was in 10; the third fellow, 7; another fellow, 7; another fellow, 7. I will not mention the names of these plaintiffs, because I want to be respectful and not embarrass them. But, I should mention their names, because I am sure these plaintiffs are not legitimately aggrieved. It is incredible. I would like to find out how many shares they owned in each of these firms—I bet not more than one owns more than 10 shares. These plaintiffs buy shares in multiple companies so the firm can be designated lead counsel, and then the plaintiffs get paid a bonus.

That is the kind of practice we have had taking place. I do not think we should keep this door open for 5 years for these lawyers to find supposed frauds so they can bring these kinds of cases. That is why I have to oppose this amendment.

Do I want to hurt those who truly have been hurt? Absolutely not. When I see one plaintiff in 14 cases in 3 years, and another plaintiff in 10, and 1, 2, 3, 4, 5, 6 others who have been involved in a multiplicity of cases during this same period, I say it is time to change things.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada has 1 minute and 18 seconds remaining.

Mr. BRYAN. I think this perhaps has been discussed fully. I want to acknowledge the leadership the ranking member, Senator SARBANES, provided in viewing this legislation. I thank him very much for his leadership; and the courtesy of the chairman of the committee. Although we find ourselves in disagreement, his courtesy is much appreciated.

Mr. D'AMATO. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. I move to table.

The PRESIDING OFFICER (Mr. BROWN). The question is on agreeing to the motion to table the amendment numbered 1469, offered by the Senator from Nevada [Mr. BRYAN].

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM] and the Senator from Pennsylvania [Mr. SANTORUM] are necessarily absent.

Mr. FORD. I announce that the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from New York [Mr. MOYNIHAN], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that the Senator from Rhode Island [Mr. PELL] is absent on official business.

I further announce that, if present and voting, the Senator from Illinois [Ms. MOSELEY-BRAUN] would vote "aye."

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 41, as follows:

[Rollcall Vote No. 283 Leg.]

YEAS—52

Abraham
Ashcroft
Baucus
Bennett
Brown
Bumpers
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Exon
Faircloth
Feinstein
Frist
Gorton
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lott
Lugar
Mack
McConnell
Murray
Nickles
Packwood
Pressler
Pryor
Robb
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—41

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Byrd
Cohen
Conrad
Daschle
Dodd
Dorgan
Feingold
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
McCain
Mikulski
Murkowski
Nunn
Reid
Rockefeller
Roth
Sarbanes
Shelby
Specter
Wellstone

ANSWERED "PRESENT"—1

Bond

NOT VOTING—6

Gramm
Moseley-Braun
Moynihan
Pell
Santorum
Simon

So the motion to table the amendment (No. 1469) was agreed to.

AMENDMENT NO. 1472

The PRESIDING OFFICER. The question now occurs on the Amendment 1472 offered by the Senator from Maryland, Mr. SARBANES. Is there a request for the yeas and nays?

Mr. D'AMATO. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mrs. BOXER. Mr. President, parliamentary inquiry? It was my understanding that the author of the amendment had the option to take a minute of time before the vote was taken. I understand that it was part of the unanimous consent agreement. I want to make sure that I am correct on that, because I would like that opportunity with my amendment. I was not certain whether the Senator from Maryland waived that right or what the parliamentary situation was.

The PRESIDING OFFICER. The Senator is correct. That time is available if Senators wish to take it. It certainly would be available to the Senator from California when her amendment is considered.

The question is on agreeing to the amendment of the Senator from Maryland. On this question, the yeas and nays have been ordered.

Mr. BYRD. Mr. President, the explanation of the amendment was included in the order. I ask that the explanation be given.

The PRESIDING OFFICER. The agreement called for an explanation, and the explanation is requested. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, I will be very quick.

This amendment takes a provision that is in the bill that departs from proportionate liability. The bill says that in a situation in which you have a small investor, with a net worth of less than $200,000, and if that small investor loses over 10 percent of his net worth—in other words, $20,000—then you will in effect hold them harmless, all the defendants will continue to be jointly and severally liable. I leave the $200,000 net worth provision but eliminate the 10 percent requirement as to the amount of loss, so if someone has a net worth of $200,000 and loses $5,000, they still would be protected. The notion of this is to try to protect small investors, and I am very frank to tell you I think they ought to be protected.

Under the other provision in the bill, they provide—

Mr. CONRAD. May we have order, Mr. President, so we can hear.

Mr. SARBANES. That in an instance of proportionate liability——

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, this amendment is really another attempt to knock out one of the most meaningful provisions of S. 240 and double the amount that defendants would have to pay if there was an insolvent codefendant. The basis upon which we attempt to give some relief is to say, yes, for some small investors, if they have under $200,000 and a 10 percent cap. What we are doing here is just knocking it aside. We have to stop people going after people just because they have deep pockets, just because they have lots of money. And so I urge my colleagues to vote no.

The PRESIDING OFFICER. The question now occurs on agreeing to amendment No. 1472 offered by the Senator from Maryland, Mr. SARBANES. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. BOND (when his name was called). Present.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM] is necessarily absent.

Mr. FORD. I announce that the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from New York [Mr. MOYNIHAN], the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that the Senator from Rhode Island [Mr. PELL] are absent on official business.

I further announce that, if present and voting, the Senator from Illinois [Ms. MOSELY-BRAUN] and the Senator from Rhode Island [Mr. PELL] would each vote nay.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 29, nays 65, as follows:

[Rollcall Vote No. 284 Leg.]

YEAS—29

Akaka
Biden
Boxer
Bradley
Breaux
Bryan
Cohen
Conrad
Daschle
Dorgan
Feingold
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Lautenberg
Leahy
Levin
McCain
Rockefeller
Sarbanes
Shelby
Snowe
Thompson
Wellstone

NAYS—65

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Brown
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Exon
Faircloth
Feinstein
Ford
Frist
Glenn
Gorton
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kerry
Kohl
Kyl
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Murkowski
Murray
Nickles
Nunn
Packwood
Pressler
Pryor
Reid
Robb
Roth
Santorum
Simpson
Smith
Specter
Stevens
Thomas
Thurmond
Warner

ANSWERED "PRESENT"—1

Bond

NOT VOTING—5

Gramm
Moseley-Braun
Moynihan
Pell
Simon

So the amendment (No. 1472) was rejected.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Mr. SARBANES. Mr. President, as I understand it, under the unanimous consent request, the Senator from California now has the opportunity to address the substance of her amendment for 1 minute and the Senator from New York has 1 minute to reply; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. SARBANES. Mr. President, I make the point of order that the Senate is not in order, and I request the Chair to obtain order in the Senate before we go to the explanation of the amendment and the response thereto, out of courtesy to our colleagues.

The PRESIDING OFFICER. The Senator's point is well taken. The Senate will be in order. Members will cease conversation.

The Senator from California is recognized.

AMENDMENT NO. 1473

Mrs. BOXER. I will be less than 1 minute. Mr. President, I say to my friends, S. 240 changes many aspects of our securities laws, and many senior citizen groups have voiced concern.

My amendment simply says if S. 240 becomes law, the Securities and Exchange Commission shall report to the Congress in 180 days as to its impact on senior citizens who are the main targets of securities fraud.

So we are calling on the SEC to come and report to us as to the impact of this legislation on senior citizens.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, we have agreed to ask the Securities and Exchange Commission to make this statement. We understand the vulnerability of seniors. We are prepared to accept the amendment without a rollcall vote.

Mrs. BOXER. Mr. President, I ask for a rollcall vote in accordance with the previous order.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The distinguished majority leader is recognized.

ORDER OF PROCEDURE

Mr. DOLE. This is in reference to the remainder of the evening, so it will be important to every Member. I understand we are not able to convince anybody to continue on this evening, except there will be amendments offered and there will be debate this evening, but there will be no more votes after this rollcall vote.

There will be votes starting at 10:30 a.m. tomorrow: Two votes, under the same provision. There will be 2 minutes to explain before each vote, and then following those two votes, I understand there will be another amendment laid down. Senator SARBANES will be recognized to lay down his amendment at about 11:15, I assume. We still very much would like to finish this bill in the early afternoon. There are five amendments, I understand, outstanding.

Mr. D'AMATO. It appears there are five amendments.

Mr. DOLE. Again, there has not been any delay on either side. There has been a lot of good debate all day today. But we would like to complete action on this bill to move to something else, hopefully regulatory reform. There will be no more rollcall votes tonight, but two votes starting at 10:30 a.m.

Mr. ROCKEFELLER. Will the majority leader yield? The Senator was just interested in when the Medicare Select conference report will take place?

Mr. DOLE. I hope that will happen this evening. As I understand, the Senator from West Virginia wanted 20 minutes for debate. We will dispose of that this evening.

Mr. ROCKEFELLER. I thank the majority leader.

VOTE ON AMENDMENT NO. 1473

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 1473 offered by the Senator from California, Mrs. BOXER. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BOND (when his name was called). Present.

Mr. LOTT. I announce that the Senator from Texas [Mr. GRAMM] is necessarily absent.

Mr. FORD. I announce that the Senator from Illinois [Ms. MOSELEY-BRAUN], the Senator from New York [Mr. MOYNIHAN], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that the Senator from Rhode Island [Mr. PELL] is absent on official business.

I further announce that, if present and voting, the Senator from Rhode Island [Mr. PELL] and the Senator from Illinois [Ms. MOSELEY-BRAUN] would each vote "aye."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 1, as follows:

[Rollcall Vote No. 285 Leg.]

YEAS—93

Abraham
Akaka
Ashcroft
Baucus
Bennett
Biden
Bingaman
Boxer
Bradley
Breaux
Brown
Bryan
Bumpers
Burns
Byrd
Campbell
Chafee
Coats
Cochran
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
DeWine
Dodd
Dole
Domenici
Dorgan
Exon
Feingold
Feinstein
Ford
Frist
Glenn
Gorton
Graham
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Heflin
Helms
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerrey
Kerry
Kohl
Kyl
Lautenberg
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Murkowski
Murray
Nickles
Nunn
Packwood
Pressler
Pryor
Reid
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner
Wellstone

NAYS—1

Faircloth

ANSWERED "PRESENT"—1

Bond

NOT VOTING—5

Gramm
Moseley-Braun
Moynihan
Pell
Simon

So the amendment (No. 1473) was agreed to.

Mrs. BOXER. I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. Mr. President, I am very pleased to offer my enthusiastic support to the Private Securities Litigation Reform Act of 1995.

I was an original cosponsor of S. 240, and have been deeply interested in remedying the current abuses in the securities litigation system—particularly those abuses that have arisen from the misuse of class action lawsuits to prosecute securities fraud. Companies in Utah as well as across the country are being adversely affected by unfair lawsuits brought under the current system.

This is only one area of the law in which litigation abuse has become rampant, and I commend the many cosponsors of this bill—who number over 50—for their recognition that it is time to address some of the significant litigation abuses in this country.

In particular, I would like to commend and thank Senators DODD and DOMENICI for their longstanding leadership on this issue. They have once again worked long and hard to come up with an excellent bill, which so many of us have been able to support wholeheartedly. I also want to thank Senator D'AMATO for his support of securities litigation reform and for his key role in developing the fine version of the bill reported out of the Banking Committee that we are considering here on the floor today.

This bill seeks to make securities litigation more fair by curbing the abusive litigation practices that have been employed by a small number of plaintiffs' lawyers in securities litigation class action lawsuits. The hallmark of this small group has been the so-called strike suit. In such suits, attorneys typically file a securities fraud lawsuit against a company as soon as possible after the company's stock drops in price—often regardless of whether there has been any fraud on the part of the company.

In the complaint, those attorneys accuse the company of securities fraud, either in issuing the stock or in other company statements, and seek to obtain damages to make up for the stock price drop—a drop that is in fact typically caused by nothing more than natural market forces.

Here is one example. In a case—or I should say cases—filed in New York this past year, Philip Morris had announced that it was reducing the price of Marlboro cigarettes by 40 cents per pack. [*In re Philip Morris Securities Litigation*, 1995 U.S. Dist. LEXIS 92 (S.D.N.Y. Jan. 6, 1995).] Shortly thereafter, the company's price per share lost nearly 24 percent of its value. That is not so surprising in a reactive market that could easily have interpreted such action as leading to a loss in profits, at least in the short term.

What was surprising was the reaction of lawyers. Within just 2 business days, 10 securities litigation lawsuits involve 34 law firms were filed against Philip Morris. That kind of litigiousness on such short notice is absolutely astounding. Unfortunately, that kind of action has become commonplace and is plaguing our finest companies, be they large corporations or smaller businesses.

It is so widespread that a 1992 National Law Journal article reported that of 46 stock fraud cases studied, 12 were filed within 1 day and another 30 within 1 week of the publication of unfavorable news about the defendant company. [Source: Milt Policzer, "They've Cornered the Market," National Law Journal, April 27, 1992.]

In 1990, when L.A. Gear, the sportswear and sneaker manufacturer, announced lower than expected earnings, one law firm filed 15 lawsuits just three days after the announcement. [Source: William Lash, "Securities Law Reform: Too Little, Too Late" (Center for the Study of American Business, Washington University, May 1995).]

Particularly hard hit by strike suits have been high technology computer companies. A Stanford University law professor who conducted a study of shareholder class actions filed in the early 1980's, most involving high tech firms, found that every single company that experienced a market loss in stock price of at least $20 million was sued. Every single company. [See Janet Cooper Alexander, "Do the Merits Matter? A Study of Settlements in Securities Class Actions," 43 Stan. L. Rev. 497 (1991).] That is mindboggling. These are some of the most successful American companies in recent decades, and they are being besieged with lawsuits. Why could this be?

The answer is found in the securities litigation system. In her study, the Stanford professor—Professor Janet Cooper Alexander—concluded that, due to the pressures of the litigation system, companies were being sued for reasons that had little or nothing to do with the presence of any real underlying securities fraud and that companies were being forced into settlements that had nothing to do with the merits of the case. That is not how the legal system is supposed to work, and that is now how the securities laws were meant to be used.

Although the securities laws were designed to punish and prevent fraud and abuse in the securities market, they are currently being abused by certain attorneys who seek to make a profit from simple stock losses. But the securities laws were not designed to insure against stock loss. Far from it. The securities laws were designed to protect American investors from fraud.

When most of our major high-technology firms have been the target of a securities fraud class action lawsuit, and when hundreds of millions of dollars are spent each year on the litigation costs relating to such suits, a number of which show no evidence of wrongdoing whatsoever on the part of the defendant, I think we have to take a long hard look at this and ask ourselves—is corporate fraud really so widespread that it exists in every single firm in America? Or is this system encouraging litigation when there is no evidence of any wrongdoing whatsoever on the part of the defendant?

I think the answer is clear. I think the reason these suits yield so many costly settlements has to do with the high costs to companies of defending against these suits. Due to the threat of exorbitant legal fees that would be required to defend against such strike suits, companies will settle securities lawsuits even when those suits are entirely meritless. The plaintiffs' attorneys then collect a hefty portion of that settlement through their contingent fees.

While accurate statistics are not available on the breakdown of attorneys fees, because this information is often not public, the Banking Committee has heard testimony that plaintiffs in these types of lawsuits typically receive only 14 cents for every dollar of damages while the attorneys collect 39 percent of the settlement. Other studies have suggested even lower recoveries by the shareholders.

This area of legal abuse is truly the work of a few attorneys. It has been widely reported—both in congressional testimony and in cases and articles—that only a small number of law firms are involved in these abusive strike suits. Often, the firms use the same professional plaintiffs in multiple suits. Some will pay referral fees to get plaintiffs. Typically, these firms will rush to the courthouse to try to be the firm that files suit first.

One problem is that, under current law, that firm will often be designated the lead class counsel and will be able to receive a larger share of the settlement. Clearly, with so many suits being filed on such short notice, the law firms involved cannot possible have thoroughly considered the possible existence of fraud. Instead, these firms are simply reacting to the skewed incentives in the current system that reward them for filing a lawsuit first.

These few, rapacious law firms have made this kind of abusive litigation their specialty. They are the ones who have taken advantage of the system and harmed our businesses and our economy. Let us all be perfectly clear in our understanding that the only group this bill harms is that small group of specialized lawyers.

Their actions come at a very high cost. Companies pay needless litigation, settlement, and insurance costs with money that could be going to create jobs or to further research and development. Testimony before the Banking Committee demonstrated again and again how much excessive securities litigation costs companies, who must then pass those costs on.

Let me just mention one example. Testimony was received about a Silicon Valley corporation named Adept Technology. Adept Technology is the only U.S. robotics corporation and it employs over 275 people. They were contemplating an initial public offering of shares, or what is commonly referred to as going public. They were advised, however, that due to the threat of litigation if they went public, they would have to carry a liability insurance policy of $5 million in coverage which would cost upwards of $450,000 per year. They were advised that they had to bear that cost, because, as a high-technology company going public, they would undoubtedly be sued for securities fraud within a year or two of going public. The upshot of securities litigation lawsuit abuse is that Adept must pay a litigation tax in order to be a publicly traded company. The money spent this way could easily pay for five or six engineers who might be creating new products and helping keep American business competitive.

By limiting the access of some firms to the capital market—for example, those that decide they cannot afford to go public—the current system damages our economy and stunts its ability to grow. The irony is that, while securities litigation laws were designed to safeguard investors, in reality the current system ends up hurting investors. It harms those investors who could have invested successfully in those companies, had they gone public, and it hurts those investors who could have earned more profits on their shares, had those companies been more profitable. In this system, whose intent was to protect investors, the sad fact is that investors end up getting hurt while certain lawyers rake in exorbitant fees.

Another cost this abusive system imposes is in the perverse incentives created when companies decide to disclose less information about their companies simply for fear that they will inevitably be sued on the basis of the information. That goes completely against the grain of the securities laws—all of which were designed to encourage openness and full information in our securities markets.

These costs must be addressed. We need to eliminate abuses in the system, so that we can efficiently preserve the core values of the American stock market—honesty, integrity, openness, and the free exchange of information. Those values are what gives the American stock market its respect, both here and abroad.

This act is an attempt to do just that. It represents the culmination of a bipartisan effort that has evolved over several Congresses. I believe this bill balances several competing interests. There can be no question that it ensures that the class action device will remain available for those shareholders who have been the victims of securities fraud. It also improves on that class action device so that injured investors—not a small group of greedy lawyers—can control the litigation and have a greater share of any settlement.

The bill does this in a number of ways.

First, the bill contains a number of reforms of securities litigation class actions that are designed to increase participation of the real shareholder plaintiffs and decrease the control of attorneys. For example, the court will select the most adequate plaintiff who will then direct litigation decisions. Securities lawsuits have often been brought and controlled by a relatively small group of lawyers whose incentives are frequently at odds with those of the plaintiffs and with the goals of the securities laws. This provision would ensure that litigation decisions are truly in the best interests of the shareholders and are not merely in the best interest of the law firm that won the race to the counthouse door.

Where the parties enter into a class action settlement agreement, the bill requires the disclosure of settlement terms to class members so that plaintiffs know what they are getting and the attorneys fees involved.

The bill increases pleading requirements so that a potential violation must be clearly laid out in a complaint. In securities actions involving misleading statements or omissions, plaintiffs will have to specify each allegedly misleading statement or omission and why it is misleading. Where a defendant's state of mind must be proven, plaintiffs must plead specific facts supporting that state of mind.

Those provisions make sense. They do not require a plaintiff to prove the entire case at the pleading stage. Instead, they merely require that that case be set out and that all the allegations be supported by sufficient allegations of fact.

The bill also provides for a stay of discovery during the pendency of any motion to dismiss, unless the court finds that particularized discovery is necessary to preserve evidence or prevent undue prejudice. This reduces one of the highest litigation costs that have been used to badger defendants into settling. This way, some of the merits of the case can be considered by the court before the defendant can be forced to settle through the threat of mounting unpayable legal bills.

Another problem the bill addresses is the problem of predictive of so-called forward-looking statements. Some companies have faced damaging lawsuits merely on the basis of vague but optimistic projections that they would do well even though it was clear that the prediction was somewhat speculative and future-orented. The bill does so by establishing what has been referred to as a safe harbor to protect issuers and others from liability under the securities laws for forward-looking statements.

This provision has been mischaracterized by opponents of this legislation. It should be clearly understood, however, that intentionally misleading statements would never be covered by the safe harbor provision. In addition, a number of other exceptions apply to insure that investors can be protected adequately from fraud. In this way, the bill does not permit companies to misrepresent their future performance or intentions knowingly. It simply permits them to suggest what they predict their future will entail without being subject to harassing lawsuits when, for one reason or another, reality differs from their suggestions.

The bill also reforms joints and several liability in private securities lawsuits. Often, accounting firms and others involved in issuing securities have been held liable and ultimately responsible for fraud that was at best the primary responsibility of the issuing company. This provision is carefully structured to be fair, and to ensure that injured investors are protected to the greatest extent possible. As a general rule, liability would be several only, in proportion to a defendant's responsibility for wrongdoing.

Significantly, in cases involving knowing fraud, defendants would remain jointly and severally liable. That is something that opponents of this bill seem to have missed entirely. Where any defendant engages in knowing fraud, that defendant can be liable for the investors' entire loss. This bill does not give any leeway to knowing wrongdoers.

In addition, the bill also employs certain modifications to the joint and several rule where one defendant's share may be uncollectible. Those are designed to fairly balance the responsibilities and needs of plaintiffs and defendants. Thus, it helps improve a shareholder's ability to gain full recovery, for instance, where the defendant company has gone bankrupt. In those cases, the other defendants' contributions will be stepped up.

While this bill will grant some relief to accountants and others who have been unfairly held jointly and severally liable, at the same time the bill seeks to ensure that accountants take responsibility for detecting fraud. The bill requires accountants to put in place procedures to detect securities fraud. Then, if the accountant discovers or suspects fraud, the accountant must inform management. If management fails to act accordingly, the accountant must then notify the SEC concerning the suspected fraud.

In another provision designed to balance the need to ensure that true fraud does not go unpunished, the SEC is given authority to prosecute those who aid and abet securities fraud. By giving this authority to the SEC, it will not be misused by some of the securities lawyers who have misused so many other provisions of the securities laws.

As one final point, I emphasize that the pervasive litigation abuses in securities class action lawsuits are not the only litigation misuses plaguing our civil justice system. In other areas of the law, reform is needed just as desperately.

I was very proud to see the Senate pass product liability reform in May, and I look forward to the passage of securities litigation reform. I only note that these two areas of legal reform are only the tip of the iceberg. Americans have been subject to all sorts of litigation abuses that are imposing unjustifiable costs on our economy, our businesses, and our workers.

Those costs are passed on throughout the Nation and they cause harm whenever a company, a school, or a volunteer organization must defend against outrageous legal claims. That occurs whether the lawsuits are securities litigation lawsuits, product liability actions, or garden variety fraud, breach of contract, or other types of civil lawsuits.

I hope to have the Senate consider the problem of the multiple imposition of punitive damages for the same act or course of conduct. While it is not my intent to offer to this legislation amendments that pertain to other, broader civil justice reforms, I see this bill as one step in a progression of more extensive reforms to improve our litigation system. I am pleased to see the support for this bill, and I look to my colleagues for continuing efforts against litigation abuse.

Again, I thank Senators DOMENICI, DODD, and D'AMATO for their leadership and commend them for their efforts.

Mrs. MURRAY. Mr. President, I rise today in support of S. 240—the Private Securities Litigation Reform Act.

Mr. President, Americans need to be assured that their investment are secure—that our money has been invested in good faith.

And, if an American investor has been the victim of fraud—no matter how big or little—how rich or poor—they should get equal treatment under the law.

Guilty parties must be held accountable.

Mr. President, I am not rich. I know that investments are risky. There is no guarantee that you will make money in the stock market, or the bond market, or on any investment.

I learned a long time ago—from my parents—that you should not invest money you cannot afford to lose. So, now as a parent myself, I am very conservative in my investments.

I believe in personal responsibility.

But, Mr. President, there is an appropriate Federal role in this process, as well. We cannot abdicate our responsibility to protect the American people.

And, Mr. President, we in Congress have a unique role in promoting investor confidence.

We have a duty to encourage critical investments—it is needed for capital formation—it is needed for economic growth and job creation.

This is especially true in my home State of Washington—where many consumers invest in small high-technology companies.

For Washington State and for the entire country—we must be vigilant to ensure proper protection for investors.

That is why I am a big supporter of the work of the Securities and Exchange Commission: Chairman Arthur Levitt and his staff do a great job in exposing fraud and protecting even the smallest of investors.

Section 105 of this bill gives the SEC new authority to sue for damages from securities fraud—so that victims of fraud will recover more of their losses.

Right now, Americans—who have been defrauded—have been getting only pennies on the dollar for their losses. Victims of fraud deserve better; they deserve more. This bill will help change that.

Mr. President, that is why this bill is so critical. It returns some common sense to our legal system.

I have been pleased to work with my good friend from Connecticut, Senator DODD, on this legislation. He has provided real leadership on this issue together with the distinguished chairman of the Budget Committee, Senator DOMENICI.

This bill is the best of bipartisan cooperation—it passed the Banking Committee by a vote of 11 to 4, with the majority of Democrats, voting in favor of this much needed reform.

I have heard from so many people in my home State of Washington on this issue. Many have told me the present system operates at the expense of the investors it was intended to protect—everyday, hard-working Americans.

We have all heard the stores of court cases which diminish investments. They inhibit job creation. They slow economic growth.

How many times do small business people settle suits out of court just to make them go away?

And, as I said, how many times do small investors—who have actually been the victims of fraud—only receive pennies on the dollar of their investment?

This bill returns power and benefits to the little guy. Sections 101 and 102 of the D'Amato substitute are critical in this regard.

This reform will provide a mechanism for real plaintiffs—instead of a few lawyers—to take charge of the cases.

That way, the interest of plaintiffs are taken into account.

And, investors are the ones who lose money when fraud occurs—they have a right to have more of a say in steering the course of litigation.

Right now, small investors lose out—we all lose out—because company resources are wasted on settling suits, instead of inventing new products.

Biotech companies waste their resources on settling nuisance lawsuits instead of finding the cure for AIDS and breast cancer.

High-technology companies waste their time and resources on legal fees—instead of giving us a cutting technological edge that will bring us into the 21st century.

I have heard from many of these companies in my home State. Companies such as these—new, growing, forward-looking—are a point of civic pride in the Pacific Northwest. They reflect the high-technology, high-wage economy of the future.

I have real letters from real people expressing the importance of this bill. I ask unanimous consent that these letters be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE NORTHERN GROUP,
Seattle, WA, June 1, 1995.

Senator PATTY MURRAY,
U.S. Senate, Washington, DC.

DEAR SENATOR MURRAY: I would like to voice my strong support for Senate Bill 240. This long overdue legislation is critical to the continued success of our nation's entrepreneurial underpinnings.

It is unfortunate that our judicial system has allowed a small group of unscrupulous attorneys to create such havoc among the community of public companies, particularly given the evidence that shows the lawyers as primary beneficiaries.

Enough! S. 240 deserves your full support.

Sincerely,

GLENN KALNASY,
President.

IMRE CORP.,
Seattle, WA, June 7, 1995.

Re Senate Bill 240.

Hon. PATTY MURRAY,
U.S. Senator, Washington, DC.

DEAR SENATOR MURRAY: We urge you to continue to support SB 240, a bill which would reduce the ability of parties to bring groundless stockholder suits. IMRÉ Corporation is a small, publicly held, biomedical company which is seeking to develop therapeutic products to treat patients with certain immunologically mediated conditions such as rheumatoid arthritis and difficulties with kidney transplants. Given the investor environment for biotechnology companies, wide fluctuations in a company's stock price can occur because of rumors, perceptions, and other factors outside the control of the company.

While there are circumstances in which shareholder suits should be brought to protect investors, many stockholder suits which are filed are based solely on a sudden drop in stock price which may have nothing to do with information that was or was not disseminated to the public by the company. Groundless shareholder suits consume vital corporate resources that should be used for more productive purposes such as research and development.

If we can be of any assistance in answering questions that you or your staff may have about this subject matter, please call me at (206) 298-9400.

Sincerely yours,

EDWARD M. YOSHIDA, ESQ.,
Director, Legal Affairs.

WASHINGTON NATURAL GAS,
Seattle, WA, May 25, 1995.

Hon. PATTY MURRAY,
Senate Russell Building, Washington, DC.

DEAR SENATOR MURRAY: I am writing to urge your support of S. 240, the Private Securities Litigation Reform Act of 1995. This legislation, designed to curb abusive securities suits, is very important to Washington Energy Company (WECO). We believe that it is time to restore balance and fairness to the securities litigation system.

The number of shareholder suits have escalated dramatically in recent years. Many are unsubstantiated, however, companies are forced to address them in protracted and extremely costly processes. In addition, these suits may produce indirect expenses, such as insurance costs and stock price fluctuations. As you may know, Washington Energy Company currently is involved with a shareholder suit. While the court dismissed the claim as one without merit, we've been forced to commit considerable resources. These costs will continue to climb as the decision has been appealed.

S. 240 seeks to establish disincentives against filing frivolous suits. It encourages voluntary disclosures, transfers control of suits from lawyers to investors, and enhances ways to address bona fide shareholder claims.

The Senate Budget Committee soon will be considering the "Chairman's Mark" which reflects a good compromise. Your support would be greatly appreciated.

Sincerely,

WILLIAM J. WORTLEY,
Vice President Public Affairs.

KEY TECHNOLOGY, INC.,
Walla Walla, WA, June 5, 1995.

Re S. 240, The Securities Litigation Reform Act.

Hon. PATTY MURRAY,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MURRAY: I am writing to express my support for the provisions in the Private Securities Litigation Reform Act (S. 240). This reform will benefit the growth of companies, like Key Technology, that provide jobs and economic expansion in our local communities. In addition, the proposed reform will provide protection for those who have invested these companies.

It is important that we work to provide a more fair basis on which to establish the degree of liability for defendants, to provide a safe harbor for statements by a company regarding future economic performance, and to put an end to litigation suits filed without any substantial evidence.

I am pleased to see that you are a co-sponsor of S. 240 and encourage your continued support of this needed reform. Thank you for taking a leadership position on this important issue.

Sincerely,

TOM MADSEN,
President.

WHIRLPOOL CORP.,
Benton Harbor, MI, May 24, 1995.
Hon. PATTY MURRAY,
U.S. Senate, Washington, DC.

DEAR SENATOR MURRAY: As a company with a constituent facility in Redmond, I am writing to request your support of the Securities Litigation Reform Act. Senate Banking Committee Chairman D'Amato's substitute for S. 240 is scheduled to be marked up in the Senate Banking Committee on Thursday, May 25, 1995.

We especially request your support for a "safe harbor" which would correct the "chilling effect" on voluntary disclosure of information to investors by providing companies with protection from investor lawsuits based upon forward-looking information. Disclosures that would be protected by a safe harbor provision are predictive statements on business trends, possible price movements and other market factors which investors want and expect companies, such as Whirlpool, to provide.

Unfortunately, the threat of private securities litigation, should these predictions not be realized, is causing many companies to hesitate before sharing such information. A strong safe harbor provision will help correct the chilling effect on disclosure and will force American businesses to redirect their focus away from baseless lawsuits. In turn, this will allow us to redirect scarce resources toward competing more effectively in the global market place.

Thank you for your consideration of this important issue. Please support the Securities Litigation Reform Act with a safe harbor provision as it is considered in future Committee and Floor action.

Very truly yours,
ROBERT KENAGY,
Associate General Counsel.

DARWIN MOLECULAR CORP.
Bothell, WA, June 6, 1995.
Hon. PATTY MURRAY,
U.S. Senate, Washington, DC.

DEAR SENATOR MURRAY: I am writing on behalf of Darwin Molecular, a start-up biotechnology company based in Bothell. It has come to our attention that the U.S. Senate is contemplating SB 240, a bill that would dramatically reduce the ability of lawyers to file meritless stockholder lawsuits. I am writing to encourage your continued support for this bill.

As you well know, high technology business and especially biotechnology companies face many uncertainties on the road to produce development. This is an industry whose potential may continue to be in jeopardy because of the inherent difficulty of balancing out the financial opportunities and obligations against truly innovative scientific and medical productivity. It is difficult enough to raise sufficient funding to do useful and beneficial research without the additional burdens imposed by other types of "risks" often from individuals who may be looking to enhance their own situations. New companies in particular are vulnerable to these risks.

Reform legislation in this area would be extremely beneficial not only to assist companies but most importantly to provide a more productive marketplace for the ultimate beneficiary, the consumer.

We thank you for your support of this bill.
DIANE ISONAKA,
Director, Scientific and Business Development.

CONDUCTIVE RUBBER TECHNOLOGY, INC.,
Bothell, WA, June 6, 1995.
Hon. PATTY MURRAY,
U.S. Senator, Washington, DC.

DEAR SENATOR MURRAY: As the President of a small, high-tech company in Bothell, Washington, I am concerned about the S. 240 legislation drafted to curb the extravagant number of meritless lawsuits filed against high tech companies. As it now stands, the bill has been altered from its original intent and purpose and no longer provides the "safe harbor" provision for forward-looking and predictive statements by companies.

S. 240 is a modest, reasonable and balanced piece of legislation which assured the right of private action as a deterrent to fraud. The high-tech community has acted very responsibly in their desire to provide access for truly defrauded investors to sue for recovery. The U.S. House of Representatives has already passed Securities Litigation Reform Legislation by a veto-proof majority of 325 to 99.

I am asking you to support the original intent and purpose of S. 240 by cosponsoring the bill and further to add your vote to strengthening amendments for safe harbor, without which reform will be meaningless for the high-tech community.

Please give your unqualified support to this important bill. I look forward to the successful passage of S. 240 as soon as possible.

Best regards,
R.B. LAWRENCE,
President.

LEASE CRUTCHER LEWIS,
CONTRACTORS,
Seattle, WA, June 8, 1995.
Hon. PATTY MURRAY,
U.S. Senate, Washington, DC.

DEAR SENATOR MURRAY: I understand that the U.S. Senate is considering a bill (SB 240) which would reduce frivolous stockholder lawsuits. As both a small investor and an employee of a company that provides services to high technology companies, I strongly encourage your support of such legislation.

High-tech companies, particularly high risk biomedical companies, are susceptible to what amounts to extortion by attorneys bringing meritless lawsuits. By nature, their stock values fluctuate widely, and almost any sharp drop can trigger a stockholder suit.

Officers of high-tech companies have become so fearful of stockholder suits that disclosure of information of any type can be a risky proposition. Such an intimidating business atmosphere stifles the entrepreneurial spirit found in most young high-tech enterprises.

Unscrupulous attorneys have stunted the growth of high-tech companies, have cost the small investor money, and have made themselves rich in the process. Again, I strongly encourage your support of SB 240, as such legislation is a positive step in limiting stockholder suits to only those cases which have merit.

Respectfully,
MARK JOHNSON,
Division Manager, Biomedical Projects.

EAGLE HARDWARE & GARDEN,
June 2, 1995.

Hon. PATTY MURRAY,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR MURRAY: I want to express our thanks and appreciation for your vote for Senate Bill 240. It is very important for businesses and employees in the state of Washington.

Eagle Hardware & Garden, Inc. had a basically unfounded class action suit filed against the company by Steve Berman. It was a frivolous suit and the insurance company will settle the case, but we know these suits can damage a fledging company and affect the price of the stock for all shareholders.

Again, your vote for Senate Bill 240 is greatly appreciated.

Very truly yours,
DAVID J. HEERENSPERGER.

HI-REL LABORATORIES,
Spokane, WA, June 2, 1995.
To: Senator Slade Gorton, Senator Patty Murray.

DEAR SENATORS: I would like to take a moment and thank each of you for being cosponsors for S. 240.

As you know, we need strong laws to protect the rights of the people, However, business needs support on many laws which cause great harm.

We urge you to continue to support this bill and hope that you will work hard to convince others that this bill as written, needs to be passed and not a watered down version,

Hi-Rel Laboratories, Inc, and the American Electronics Association will always stand behind a person who in fact has a legitimate suit against a company, but to have the suits for no reason other than to be able to settle a suit on an un-earned basis just to make sure the defense lawyers have income, borders on fraud.

Thank you again for the support.

Respectfully,
JOHN LEVEL,
VP Gen. Manager.

Mrs. MURRAY. I want to read just a portion of another letter I received. It is from Michael Darling, who wrote:

> Digital Systems International settled two securities cases in 1993 for payments of cash and stock valued at $7.5 million, not including litigation expenses. The costs of the litigation forced the company to lay off 30 workers—and to ask those remaining to accept pay cuts.

Mr. President, I have also heard from the opponents of the legislation. I have listened carefully to every argument against the bill. I have worked to make this legislation good for all the parties involved.

In fact, I have studied this issue for more than 2 years with members of both sides of the aisle—in a strong bipartisan fashion—to make this bill work for the American people.

As we debate this bill, there are ads running in the papers and inflammatory attack ads being broadcast by both sides in this debate. Given the lengthy debate we have had on this bill, I find these campaigns very disturbing.

Let me say to these groups, Mr. President, they are not serving anyone's purpose but their own.

They are not helping craft legislation that works for America—they are slugging it out trying to seek advantage.

I stand here on the floor today and say clearly to both sides of this issue—

Keep things in perspective. Use some common sense. Stop attacking and start cooperating.

Mr. President, I have seen some unfortunate—and inaccurate—statements made about this bill. Many have referred to an editorial from a Seattle newspaper which overlooked some of the bill's most important provisions.

First, their editorial states that high-profile, meritorious cases of securities fraud could not be brought once S. 240 becomes law.

That is simply not true. The SEC can always fight fraud, and they do so with vigor and clear purpose.

This point is made quite clearly in the committee report:

> None of the provisions in S. 240 affects the SEC's ability to bring enforcement actions.

Second, the editorial stated the bill contains a loser-pays provision.

Again, this is untrue. S. 240 does not contain any fee-shifting provisions.

It merely modifies rule 11 of the Federal Rule of Civilian Procedure. And, rule 11 does not sanction anyone just for losing their case.

This provision actually favors the small investor. S. 240 states that the sanction does not apply if it will cause undue financial hardship on the sanctioned party.

Mr. President, this editorial has been challenged aggressively by public officials, business people, and many constituents in my State. I now ask unanimous consent to have printed in the RECORD a series of letters-to-the-editor to Washington newspapers on this issue.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Seattle Post-Intelligencer, June 19, 1995]

EDITORIAL ON FRAUD LAW SHOWS HOMEWORK WASN'T DONE

(By John Level)

Your June 2 editorial regarding Sens. Patty Murray and Slade Gorton was certainly not good reporting. Both senators became co-sponsors of S. 240 because the bill is long overdue. If you had done your homework, you would have found the following information.

High-growth companies have become targets of abusive securities litigation. There are about 300 lawsuits filed in each of the past few years. Ninety-three percent are settled before they go to court with settlements that amount to $8.6 million or a $2.4 billion a year industry.

The only reason that these cases are settled out of court is that it is cheaper in the long run. The trail lawyers are the only big winners in these suits. In many cases, over 60 percent of the settlement goes to the legal system.

Nearly seven out of 10 investors surveyed by Public Opinion Strategies for the National Investor Relations Institute say they want the bill passed. The only people who do not want the bill passed are the lawyers, people who make a living from lawsuits and some people who have not read the bill or even seen it. I suspect that is the case with you.

Your editorial was written without a full understanding of the bill, and your remarks about Murray are fully uncalled for. A retraction should be made to her. While I don't agree with Murray all of the time, she certainly made a good decision in supporting this bill and it appears that she "read" it.

[From Seattle Times, June 7, 1995]

INVESTORS RETAIN RIGHT TO SUE

(By Scott G. Hallquist)

The misleading information printed by The Times concerning securities litigation reform has been a disservice to Times readers. In both an editorial published May 29 and a news article published May 31, Times writers incorrectly suggested that the proposed legislation will strip investors of their right to sue companies for fraud. This is simply not true.

The legislation to be considered by the Senate represents a negotiated compromise that preserves an investor's right to sue, while implementing reforms intended to curb lawsuits that are filed without reasonable basis.

By providing a safe harbor for forward-looking company forecasts made in good faith, the legislation is expected to improve the quality of information companies can make available to investors.

Most troubling to me was a personal attack upon the integrity of Sen. Patty Murray by a local attorney who specializes in securities litigation. Unlike her accuser, I do not believe that Sen. Murray can be "bought off" and applaud her courage for voting in favor of this legislation.

In our securities markets, the ability of individual investors to sue for damages for fraud by securities issuers does provide an important incentive for companies to provide accurate and timely information to investors. In approving the legislation now being considered by Congress, Sen. Murray and other members of Congress balanced the need to preserve redress for investors in fraud cases, against the need for public companies to be able to discuss future performance without the fear that unanticipated developments will invariably result in costly and protracted litigation.

Growing public companies are primary engines of job creation and economic growth in our state. Appropriately balanced legislation such as the securities litigation reform bill supported by Sen. Murray is a reasonable step that need not be feared by individual or public investors.

[From Seattle Times, June 19, 1995]

REFORM MEASURE DOESN'T LIMIT LIABILITY OF ACCOUNTING FIRMS

(By John A. Moga)

Your May 29 editorial and your May 31 news report on congressional efforts to repair a securities litigation system that is drowning investors and businesses in a sea of unmerited lawsuits included a number of disturbing factual errors.

Your report that legislation (S. 240) introduced in the Senate by Republican Sen. Pete Domenici would relieve accounting firms of liability is simply not true. Rather, the bill establishes a system of proportionate liability that would base liability on a defendant's degree of responsibility for any plaintiff damages. In cases of "knowing fraud" where the defendant was guilty of deliberate misconduct, the defendant would remain liable for the total amount of damages assessed by the court. By the way, this provision applies to all defendants—not just accounting firms as you suggest.

The report also erroneously says that the bill eliminates the "fraud on the market" provision of current law. This, too, is untrue. S. 240 retains fraud on the market—which enables shareholders to recover even when they are unaware of the erroneous statement—an important provision for investors.

Finally, I was distressed by the flat assertion in your editorial that the proposed reform measures strip investors and government of their right to sue. Neither the Senate bill nor a measure passed by the House earlier this year does any such thing. I believe you should re-visit this issue and make sure you have all the facts right. Your readers deserve it.

LAWYERS THE ONLY ONES TO REAP BENEFITS

(By Austin L. Wolff)

Your editorial in defense of the current class-action securities law is very wrong. You have not looked at the real issue. Stockholder class-action suits enrich the lawyers at the expense of the stockholders and the consumer.

Most suits against small public companies are never proved but instead settle out of court because, regardless of right or wrong, it is cheaper to pay than to defend. A word that would describe this type of settlement is "blackmail." Carol Bartz, president of Autodesk, a CADD software company, explained it this way at President Clinton's business conference. A lawyer, using the name of a couple of shareholders, instigated a class-action suit. Autodesk's lawyers reviewed the claim and concluded that the company was not in the wrong but advised the company to pay $10 million because it would cost $100 million to defend. That is called a "negotiated" settlement.

In a recent stockholder case against Egghead, the Issaquah-based software retailer, I personally heard the judge approve a similarly arrived-at settlement that paid the suing lawyer about $700,000, which computes out at the rate of $700 per "billable" hour. That is almost 200 times minimum wage.

The two stockholders in whose name the suit was brought had lost a total of less than $1,200. The managers who were running the company at that time paid nothing because they were covered by a company guaranty. The total cost to the company, and thus to the rest of the stockholders, was in the order of $3 million, plus the loss of much management and employee time. Among those stockholders, and thus among those who in essence paid, was my nephew, a minor, whose savings account for college was invested in the company. . . .

The judge implied that settlements like this would encourage more such suits. Woe to small businesses, woe to the investing public.

There are adequate criminal laws regarding fraud that are handled by state and federal agencies; let those agencies prosecute. . . .

[From Seattle Post-Intelligencer, June 16, 1995]

EDITORIAL FAILS TO ACKNOWLEDGE THE NEED TO REFORM EXISTING LAW

(By Dan Grimm)

As state treasurer and a member of the State Investment Board, I read with interest your June 2 editorial on securities litigation reform. The SIB has been involved in costly and protracted litigation involving allegations of securities fraud. (Your editorial noted the SIB's recent recovery of $1 million in the settlement of a securities fraud case. And like some corporations, the SIB has had to deal with hastily drafted lawsuits filed by

> attorneys who were out to make a quick buck.
>
> I was disappointed that you failed to acknowledge the need to reform the securities litigation law. The fact is, many organizations representing investors and government entities support legislation designed to deter costly and frivolous litigation while preserving vital investor rights and remedies.
>
> Your editorial correctly pointed our that legislation under consideration by Congress could unduly burden investors and limit their access to the courts. That's why I sent a letter to our Senate delegation urging them to oppose legislation that does not strike an appropriate balance between the concerns of investors and corporations.
>
> I have been in contact with Sen. Patty Murray to share those concerns, and contrary to the assertions of your editorial, she shares the view that securities-reform legislation must protect the rights of investors as well as address the problems of frivolous lawsuits. In fact, Murray was instrumental in making sure that legislation under consideration by Congress will reasonably protect the rights of small and large investors. With her assistance, the draconian "loser pays" provision was tempered in the Banking Committee. I am optimistic that Murray will be successful in her efforts to see that other anti-investor language is moderated or even removed from the bill as it moves through the Senate.

Mrs. MURRAY. Mr. President, this system needs reform. S. 240 will retain the rights of investors to bring suit if they have been the victims of securities fraud.

At the same time, it will clamp down on the abusive suits that prey on investors and small business owners.

It is an honest effort to reduce the excessive costs to investors and our economy. It enjoys bipartisan support.

It is a good compromise.

For those of us concerned about the rights of investors—let me be very clear.

It is absolutely critical to me that businesses and entrepreneurs remain bound to their obligations to maximize the return-on-investment—to seniors and average American families who invest in stocks and bonds.

I will not support a bill which goes further than this in changing the current system.

I will not support a loser pays provision.

I will fight efforts to remove the protections for small investors in the bill.

I will reject any legislation that takes away the SEC's powers to fight fraud.

These are lines I will not cross, and in fact, no Senator should cross.

They set my standards publicly for Senators offering amendments today—and Senators who go into conference with the House.

As it stands now, S. 240 brings rationality and perspective and common sense to the system.

And, I urge its swift adoption.

Mr. LEAHY. Mr. President, I have many questions about S. 240, the so-called Private Securities Litigation Reform Act. This bill is intended to curb frivolous lawsuits by private investors claiming securities fraud. But I fear that this bill would also stifle honest lawsuits. I cannot support a bill that will infringe on the rights of innocent securities fraud victims.

Our Federal securities laws provide enforceable legal rights to the Securities and Exchange Commission (SEC) and private investors. The ability of private investors to enforce their rights is indispensable to enforcing our Federal securities laws. As one former Commissioner of the SEC said:

> Because the Commission does not have adequate resources to detect and prosecute all violations of the federal securities laws, private actions preform a critical role in preserving the integrity of our securities market.

A perfect example of this critical role is the securities fraud case involving Charles Keating, known for his role in the largest savings and loan debacle in U.S. history. After Keating, as president of the Lincoln Savings & Loan of California, sold uninsured bonds in the lobbies of Lincoln branches by making misrepresentations, private investors sued under our Federal securities laws. A class of 23,000 investors recovered $240 million of their $288 million in losses through private securities fraud actions.

I am sure that the vast majority of professionals working in the securities industry strive to provide accurate information and there are some abuses of the private securities litigation system. This legislation would, undoubtedly, curb many of these abuses. For instance, I support the bill's provisions to prohibit lawyers from paying bounties to professional plaintiffs, those who buy a few shares of different stocks so they may bring shareholder suits for a living.

But this bill also overreaches beyond these abuses and penalizes innocent investors. Under S. 240, for example, aiders and abettors cannot be sued in private securities actions, even if they knowingly assist securities fraud. The defendants in the Charles Keating case whose liability depending on aiding and abetting, which included Keating's lawyers, accountants and consultants, paid over $100 million to fraud victims.

In addition, the nonpartisan Congressional Budget Office estimated that enactment of S. 240 would increase costs to the SEC for enforcement actions by $125 million to $250 million over the next 5 years. In these tight budget times, I am very doubtful that Congress will increase the SEC's budget by such a large amount. As a result, enforcement of our securities laws will suffer.

I have heard from many Vermonters, including the commissioner of the Vermont Department of Banking, Insurance and Securities—the State's chief securities regulator—who feel S. 240, as reported by the Senate Banking Committee, would severely limit private actions under securities laws. Vermont institutional investors, such as the Towns of Colchester, Brandon and Stowe, Teamster Union Local 597, the Vermont NEA, AFSCME Council 93, the Vermont State Labor Council and others have also alerted me to their opposition to this bill. Vermont consumer and senior groups including Vermont Public Interest Research Group, Council of Vermont Elders, Older Women's League, Southwestern Vermont Council on Aging and the Central Vermont Council on Aging opposed S. 240. Moreover, the Commissioner of the SEC—the national's chief securities regulator—also has significant concerns about S. 240 as reported.

I believe we are moving too fast on this bill, ignoring the SEC and others concerns. That is why I supported a motion on the Senate floor to refer this bill to the Senate Judiciary Committee, of which I am a member. This legislation would make significant changes to Federal litigation rules and should be carefully reviewed by the Senate Judiciary Committee before the full Senate votes on it. Unfortunately, that motion was defeated.

Thousands of Vermonters and millions of Americans depend on our Federal securities laws to protect their investments, savings and retirements. These laws are just too important to add questionable curbs that may protect companies and individuals who commit fraud at the expense of innocent investors. Unless this bill is significantly amended, I will vote against it.

UNANIMOUS-CONSENT AGREEMENTS

Mr. D'AMATO. Mr. President, I would like to propound a number of unanimous-consent agreements which we have worked out in order to accommodate Members and in order to move the legislative flow.

I ask unanimous consent that Senator BRYAN be recognized to offer an amendment relative to aiding and abetting on which there will be 1 hour for debate to be equally divided in the usual form, and any second-degree amendments may be limited to half that debate time, and must be relevant in the first degree they propose to amend.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I further ask that following the debate on the Bryan amendment, the amendment be laid aside, and Senator BOXER be recognized to offer an amendment relative to lead plaintiffs, on which there will be 90 minutes for debate equally divided in the usual form, and any second-degree amendment be limited to half the debate time and must be relevant to the first-degree amendment they propose to amend.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I further ask that at 9:15 on Tuesday, the

Senate resume consideration of S. 240, and that there be time for 30 minutes of debate on the Bryan amendment to be equally divided in the usual form, and following that debate there will be 30 minutes for debate on the Boxer amendment, to be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I ask unanimous consent that at the hour of 10:15 on Tuesday, the Senate proceed to vote on or in relation to the Bryan amendment, to be followed immediately by a vote on or in relation to the Boxer amendment, with 2 minutes prior to the second vote for Senator BOXER in the usual form, to set forth an explanation, 1 minute on each side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I further ask, following the two stacked votes at 10:15, Senator SARBANES be recognized to offer an amendment relative to safe harbor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I ask unanimous consent that Senator ABRAHAM be recognized, and that the time he utilizes be charged against the time that we would be allocated in considering the Bryan amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. Mr. President, I rise today to express my support for S. 240. This legislation makes a number of important reforms that are designed to prevent abuse in litigation connected with the issuance of securities.

This in turn will improve the investment climate in this country, which will make it easier to start businesses and create jobs.

These changes will be made without, in my judgment, in any way undermining protection for investors against genuine fraud or other misconduct by issuers.

There is one particular set of reforms the bill would make on which I would like to focus. The bill will require courts to sanction attorneys who file frivolous pleadings. This reform will apply when the lawyers file frivolous proceedings on behalf of plaintiffs and on lawyers filing on behalf of defendants. I think it is an extremely sound proposal which should command strong support from Members on both sides of the aisle.

Indeed, as the Presiding Officer will recall, he himself offered a similar provision with regard to the product liability issue some weeks ago, a provision which I supported and which a majority of Senators supported at that time.

Mr. President, under present law, Federal Rules of Civil Procedure No. 11 requires all attorneys to have some factual and legal basis for filing any claim or defense. If attorneys violate this requirement, courts may award sanctions against the violator. Right now, however, the courts are not required to take any action against the violator.

The changes proposed by S. 240 would do three things. First, they would require courts to find, at the end of all securities cases, whether any attorney violated rule 11. Second, the court would then have to impose a sanction if they found a violation. Third, that sanction would presumptively require the attorney in violation to pay the other side's attorney fees, although the court could select another sanction if the attorney shows that the presumptive sanction would impose an undue burden on the sanctioned party.

Two important features of this reform should particularly be known. First, the court would only be obligated to impose a sanction on an attorney who filed a frivolous pleading; that is, a pleading wholly lacking in a legal or factual basis. This reform will in no way kill legitimate litigation.

Second, the sanction is paid by the person signing the frivolous pleading; that is to say the attorney responsible, not by the party the attorney is representing.

The Supreme Court itself has noted the securities litigation has been especially prone to be misused as a tool to extort settlements. It is Congress' responsibility to do something to put an end to this abuse. The rule 11 provisions are one mechanism this legislation puts in place to do just that.

This leaves me, however, with one problem about what we are doing here this week. It is certainly good we are taking serious steps to enact litigation reforms that will address abusive practices in the securities area. Similarly, it was good we took similar steps to enact reforms that address abusive practices in the field of product liability, which we did just a few weeks ago.

I ask, Mr. President, why are we stopping here? Brokerage firms, accountants, and manufacturers, and the people who buy their products or use their services, are far from the only victims of our out-of-control civil justice system.

Our homeowners, farmers, volunteer groups, charitable organizations, small businesses, State and local governments, architects, engineers, doctors and patients, employers and employees, are likewise injured by our civil justice system on a daily basis.

Every day, lawsuits suffering from the same defects as those the sponsors of this litigation have brought up are filed against all of these people.

Indeed, when their plight was brought to the attention of the Senate during the product liability debate, along with several other colleagues, I led an effort to broaden the reforms that bill would have made.

We wanted reforms that would benefit all Americans. A majority of Senators supported many of our broadening proposals, yet the will of that majority was frustrated by opponents of broader reform, who made clear they would filibuster a bill that made civil justice reforms that would benefit all Americans. I considered mounting a similar effort in conjunction with this bill, but sponsors of this legislation were assured that it would suffer a similar fate. Therefore, and with some regret, I yielded to their request not to offer broadening amendments at this time. However, I do not believe the Senate can forever avoid confronting the fact that, while it is making important reforms in specific areas of civil justice, it is refusing to make broad-based reforms that will help small businesses, charities, and other institutions that form the backbone of this country. I, for one, will continue to bring these reforms up, again and again. I will not rest until broad-based reforms to our civil justice system are adopted.

Mr. President, I think it is important that we take the actions we take today to protect the people in the securities industry and people who are shareholders in corporations that are affected by these frivolous lawsuits, just as I think it was appropriate that we take those actions in conjunction with product liability actions. But across America, every day the small business people, the farmers, and the charitable organizations in our communities suffer from frivolous lawsuits brought against them. They suffer when the joint and several liability provisions cause deep pockets to end up paying for damages they had virtually no connection with creating. I think it is time for across-the-board reforms that protect, not just certain areas of civil justice, but all areas.

For those reasons, I intend to come back to this Chamber at a future time to offer some of those types of reforms, and I look forward to working with other Members of the Senate who agree we need them and we need them soon.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I commend my colleague from Michigan because he does have, and has had, a number of proposals that I believe would have strengthened the bill. He has agreed, in order to get legislation that would pass and begin to address some of the shortcomings in the present system, to withhold them—I deeply appreciate that—so we can make some progress. I fully anticipate in the future he will go forward with those legislative initiatives.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

AMENDMENT NO. 1474

(Purpose: To amend provisions relating to liability for aiding or abetting violations)

Mr. BRYAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Nevada [Mr. BRYAN], proposes an amendment numbered 1474.

Mr. BRYAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 127, strike line 20 and all that follows through page 128, line 15, and insert the following:

SEC. 108. AUTHORITY OF COMMISSION TO PROSECUTE AIDING AND ABETTING.

(a) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(n) PROSECUTION OF PERSONS WHO AID OR ABET VIOLATIONS.—For purposes of subsections (b) and (d), any person who knowingly or recklessly provides substantial assistance to another person in the violation of a provision of this title, or of any rule or regulation promulgated under this title, shall be deemed to violate such provision to the same extent as the person to whom such assistance is provided. No person shall be liable under this subsection based on an omission or failure to act unless such omission or failure constituted a breach of a duty owed by such person.".

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 20 of the Securities Exchange Act of 1934 (15 U.S.C. 78t) is amended—

(1) by adding at the end the following new subsection:

"(e) PROSECUTION OF PERSONS WHO AID OR ABET VIOLATIONS.—For purposes of paragraphs (1) and (3) of section 21(d), or an action by a self-regulatory organization, or an express or implied private right of action arising under this title, any person who knowingly or recklessly provides substantial assistance to another person in the violation of a provision of this title, or of any rule or regulation promulgated under this title, shall be deemed to violate such provision and shall be liable to the same extent as the person to whom such assistance is provided. No person shall be liable under this subsection based on an omission or failure to act unless such omission or failure constituted a breach of a duty owed by such person."; and

(2) by striking the section heading and inserting the following:

"SEC. 20. LIABILITY OF CONTROLLING PERSONS AND PERSONS WHO AID OR ABET VIOLATIONS.".

(c) INVESTMENT COMPANY ACT OF 1940.—Section 42 of the Investment Company Act of 1940 (15 U.S.C. 80a-41) is amended by adding at the end the following new subsection:

"(f) PROSECUTION OF PERSONS WHO AID OR ABET VIOLATIONS.—For purposes of subsections (d) and (e), any person who knowingly or recklessly provides substantial assistance to another person in the violation of a provision of this title, or of any rule, regulation, or order promulgated under this title, shall be deemed to violate such provision to the same extent as the person to whom such assistance is provided. No person shall be liable under this subsection based on an omission or failure to act unless such omission or failure constituted a breach of a duty owed by such person.".

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 209(d) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-9) is amended—

(1) in subsection (d)—

(A) by striking "or that any person has aided, abetted, counseled, commanded, induced, or procured, is aiding, abetting, counseling, commanding, inducing, or procuring, or is about to aid, abet, counsel, command, induce, or procure such a violation,"; and

(B) by striking "or in aiding, abetting, counseling, commanding, inducing, or procuring any such act or practice"; and

(2) by adding at the end the following new subsection:

"(f) PROSECUTION OF PERSONS WHO AID OR ABET VIOLATIONS.—For purposes of subsections (d) and (e), any person who knowingly or recklessly provides substantial assistance to another person in the violation of a provision of this title, or of any rule, regulation, or order promulgated under this title, shall be deemed to violate such provision to the same extent as the pension to whom such assistance is provided. No person shall be liable under this subsection based on an omission or failure to act unless such omission or failure constituted a breach of duty owed by such person.".

Mr. BRYAN. Mr. President, I yield myself such time as I may require.

Mr. President, our colleagues will recall, under the unanimous consent agreement propounded by our distinguished chairman, that this is an amendment that deals with restoring aiding and abetting liability. The amendment which I offer is to restore the state of the law as everyone in America believed it to be prior to last year's Supreme Court decision in a case involving Central Bank of Denver versus First Interstate Bank of Denver.

With one stroke of the judicial pen, so to speak, this 5-to-4 decision wiped out private liability for crooked professionals who aid and abet, but who are not defined as primary participants in securities fraud under the provision of the law. What we are talking about are those people who counsel and assist in furtherance of the perpetration of fraud. Some of them are disreputable lawyers—who ought to be disbarred. Others are accountants. Others are professionals who, by virtue of their own affirmative action, have aided and contributed to the securities fraud involved.

Aiding and abetting liability was the primary method through which professional assistors of fraud—these lawyers, accountants and investment banks—have historically been held liable to defrauded investors. In my view, if this decision is allowed to stand without action having been taken by the Congress, it will seriously weaken and erode the effectiveness of our Federal securities laws because it overturns three decades of established precedent in which Federal courts have permitted private investors to sue aiders and abettors of securities fraud.

Every circuit court of appeals to address the issue—11 circuits—has upheld aiding and abetting liability. Investors have long had the right to sue accountants, brokers, bankers and lawyers who, by their actions, have assisted the primary perpetrators of such securities schemes. This right of action has played a critical role in compensating those investors who have been swindled in major financial frauds of recent times. I will comment a bit more on that in just a moment.

The damage caused by the Central Bank decision is immeasurable. Dozens, if not hundreds, of participants in securities frauds have had cases against them dismissed on the basis of the Central Bank decision. An unknown number of other cases against clear wrongdoers have been precluded, based on the Central Bank decision. And the deterrence of securities fraud, which ought to be one of the prime reasons for the law in the first place, has suffered a major blow. The problem is that in immunizing wrongdoers who substantially assist fraud, we clearly give fraudulent behavior a green light.

I cannot think of any argument that could be advanced, as a matter of social or economic justice, in which we ought to reward fraudulent behavior on the part of those who aid and abet a primary perpetrator in a securities fraud to the detriment and loss of literally tens of thousands of innocent investors. Under the Central Bank case, it is simply OK to help others commit securities fraud so long as you are careful not to make any direct statements or direct the wrongdoing.

I know a good bit of animosity is directed to America's lawyers, and I must say that I am not happier than anybody else who has seen in America, speaking generically, a proliferation of a lot of litigation that ought not to be filed. If I might cite an outrageous case in my own State that has nothing to do with the issue currently, but it is the kind of case that just engenders real hostility on the part of the public—and count me on the part of those being hostile. It is a person who, under the workers compensation law in our State, had been denied recovery. Subsequent to that, he drove his automobile into the worker compensation office in the Las Vegas area, nearly killed several people who were working, and then a year or two later had the temerity to file a lawsuit against the SIS, which is the worker compensation system in Nevada, blaming the system for causing his action in doing extensive damage to the building and literally terrifying those employees.

So I am not unmindful of the hostility that has been generated. But this is a case that rewards lawyers. If you are clever enough not to make a direct statement or participate directly in the wrongdoing, then you are home free. You do not go to jail, you go home free. I cannot imagine that is the sort of thing that we want to encourage.

To put this into some historical context, if this decision had been on the books earlier, the substantial recoveries by the victims in the Keating case—which is the Lincoln Savings and Loan case—would have been impossible. As you will recall, in the Lincoln Savings and Loan case, the primary wrongdoer was the nefarious Charles Keating. By the time the class action is filed, Mr. Keating is bankrupt.

There was a judgment entered of about $240 to $262 million in the class action. But about half, a little more than $100 million of recovery for the 23,000 bondholders, would have been denied to these 23,000 bondholders. These are people who are totally innocent, have no culpability at all other than the fact that they relied upon some representations made at the savings and loan which they kind of thought was a local, home-based outfit. Everybody knew each other. Mr. and Mrs. Smith would be greeted every morning. "Have you walked your dog? Your cat?" "How are the grandkids doing?" That sort of thing. But the aiders and abettors responded with more than $100 million of recovery that otherwise would have been denied to these 23,000 bondholders. Had this case, Central Bank, been the law, that $100 million recovery would not have been possible.

These are aiders and abettors, people who have assisted in the fraud. Again, if the scales of justice mean anything, should those who have aided and abetted, in terms of their own conduct, not be held responsible, to respond to damages incurred by their conduct to those who are totally innocent?

That is what this whole issue is all about. Federal District Judge Stanley Sporkin, a former SEC enforcement chief, in his opinion in the Keating case asked critical questions that sum up the theory behind aiding and abetting:

> Where were the professionals when these clearly improper transactions were being consummated? Why didn't any of them speak up or disassociate themselves from the transactions? Where also were the outside accountants and attorneys when these transactions were effectuated?

In a subsequent speech, Judge Sporkin elaborated,

> For this kind of massive, very sophisticated fraud to have occurred, it required the complicity of certain professionals that we all know of—CPAs, lawyers and appraisers. I am suggesting that perhaps these professionals did not discharge their responsibilities to the broader public interest.

The responsibility of corrupt accountants and lawyers for the savings and loan debacle of the 1980's can hardly be overstated. On August 12, 1992, then SEC Chairman Richard Breeden wrote Senator DOMENICI:

> Securities fraud actions against accounting firms that participate in or assist in fraudulent activity by not properly preforming their auditing functions are important to the maintenance of high standards of quality and integrity among public accounting firms.

Parenthetically, I should say I think the public has a right to expect that level of integrity.

Then Chairman Breeden went on to say:

> Investors rely heavily on the accuracy of all of audited financial statements of public companies as do creditors, investment analysts and others. When others fail to adhere to generally accepted accounting principles or generally accepted auditing standards, many innocent parties may suffer. Indeed, inaccuracies in audited financial statements of banks and savings and loans have contributed billions of dollars in investor losses during the past 10 years. Public policy should seek to maintain high expectations of integrity and accuracy in the performance by others and accountants of their tasks.

Mr. President, that is what the Republican Chairman of the SEC had to say about the importance of holding aiders and abettors responsible for their actions.

A number of notable statistics from cases brought by the Federal Government highlight the importance of holding professional assistors liable: In 1990, the RTC banned six of the largest accounting firms—Ernst & Young, Deloitte & Touche, Coopers & Lybrand, Peat Marwick, Arthur Andersen, and Grant Thornton—from receiving thrift reorganization work because they were being sued by the Government for failure to perform their audits of S&L's in a professional manner.

According to the General Accounting Office, when all categories of professionals are considered, Resolution Trust Corp. attorneys suspected wrongdoing on the part of one or more professionals affiliated with over 80 percent of failed thrift institutions. More than 80 percent. There is some indication that professionals were responsible, and attorneys in particular were suspected of wrongdoing.

In one astounding example of the pervasive role of accountants in S&L wrongdoing, a Federal judge stated in 1992 that:

> [The Office of Thrift Supervision] advised the court that approximately one-third of the 690 financial institutions that have failed were audited by Ernst & Young or its predecessor.—*Director of the Office of Thrift Supervision* v. *Ernst & Young*, 786 F. Supp. 46, 52 (D.D.C. 1992).

In a speech before the American Bar Association, Timothy Ryan, former Director of the Office Thrift Supervision, stated:

> The federal agencies have uncovered actionable abuse in a third of the failed thrifts investigated to date. It is clear that many of the unlawful scheme hatched at those failed institutions could not have proceeded without the active assistance of professional service providers, especially lawyers. They have abandoned their ethics for expediency, and sold their good name to satisfy their greed.

Mr. President, the point I seek to make is that unless the law is changed, that kind of conduct, so articulately denounced, will remain unpunished and innocent investors will be unable to recover from lawyers, accountants, and other professionals.

So, Mr. President, the loss of aiding and abetting liability undermines fundamental protections for investors and the securities markets. Many defrauded investors will not recover their losses because, typically, the perpetrator of the fraud is insolvent, in jail, or has fled by the time the case is completed. In addition to wiping out private actions against aiders and abettors, the Central Bank case calls into question the SEC's own enforcement actions against aiders and abettors.

S. 240 fails to restore aiding and abetting liability for private actions. Although it authorizes the SEC to take action against aiders and abettors who knowingly violate the securities laws, it effectively eliminates the ability of the Commission to proceed against reckless professional assistors, which is now permitted by most courts.

This amendment, which was drafted with the technical assistance of the SEC, reverses the Central Bank decision, and restores the status quo ante. It restores the law to the way it was prior to the Central Bank case last year by restoring aiding and abetting authority in individual securities fraud actions and clarifying the SEC's authority to pursue aiders and abettors for reckless and knowing fraud.

The original sponsor of securities litigation reform, Senator DODD, has recognized the importance of aiding and abetting liability and has urged a response to Central Bank. At a May 12, 1994, hearing before this committee, he said:

> In my view, aiding and abetting liability has been critically important in deterring individuals from assisting possible fraudulent acts by others. Until the Supreme Court changed the landscape a few weeks ago, aiding and abetting liability was an important tool in ensuring honesty and high professional standards by individual professionals who facilitate access to the securities markets. In my view, we need to respond to the Supreme Court's decision promptly and I emphasize promptly.

In a February 27, 1995, "Dear Colleague," Senator DODD and Senator DOMENICI reiterated that a reversal of Central Bank should occur "as a part of a comprehensive package to fix our broken securities class action system." In his additional views to the committee report on S. 240, Senator DODD again expressed his concern about the restoration of aiding and abetting liability for private actions.

Even the Supreme Court majority opinion in Central Bank which was based solely on the lack of the actual words "aiding and abetting" in the statute, recognized the need for restoring aiding and abetting liability. In the words of Justice Kennedy:

> To be sure, aiding and abetting a wrongdoer ought to be actionable in certain instances. The issue, however, is not whether imposing private liability on aiders and abettors is good policy, but whether aiding and abetting liability is covered by the statute.

The SEC argued strongly in the Supreme Court that "aiding and abetting" liability was critical to enforcement of the Federal securities laws. Since the Court decision, the SEC has repeatedly urged Congress to restore aiding and abetting liability. Most recently, on April 6, 1995, SEC Chairman Arthur Levitt testified before the Subcommittee on Securities that:

> Unless another theory of liability can be applied in a particular case, persons who knowingly or recklessly assist the perpetration of a fraud may be insulated from liability to private parties if they act behind the scenes and do not themselves make statements, directly or indirectly, that are relied upon by investors. Because this is conduct that should be deterred, Congress should enact legislation to restore aiding and abetting liability in private actions. Such legislation should also clarify the Commission's ability to use the aiding and abetting theory of liability where it is not expressly provided by statute.

Levitt previously testified that, of 400 pending SEC cases, 80 to 85 rely on aiding and abetting theories of liability.

I must say, Mr. President, as I read the current version of S. 240, even the ability of the SEC to recover for aiding-and-abetting liability seems to be more narrowly confined than those circumstances where there is knowledge or scienter involved.

On May 25, 1995, the day S. 240 was voted out of the Banking Committee, Chairman Levitt again raised the aiding-and-abetting issue, noting that, while some of the SEC's authority had been restored, "a more complete solution is preferable."

The bar association of the city of New York—undoubtedly the leading organization of plaintiff and defense attorney's in the securities field—has taken an extremely strong position on this issue. As Mr. Sheldon Elsen testified in the House,

> Let me turn, finally, to lawsuits against lawyers, accountants, underwriters and other professionals. Experience in these cases has shown that securities frauds do not succeed very often without the aid of such professionals, but that it is almost impossible to prove the professionals' involvement . . . The Association feels particularly strongly about this matter, which involves lawyer misconduct. In our view, the primary problem of abuse by lawyers lies in the conduct of securities lawyers involved in fraudulent transactions.

That is a scorching indictment by the most distinguished and knowledgeable and the most sophisticated bar in America dealing with this subject. And it deals with lawyer misconduct. Thus our purpose here simply is to deter lawyer misconduct on the part of the plaintiffs bar, and that we certainly ought to do. If the changes which our able chairman has crafted to rule 11 do, indeed, deal with misconduct in the form of frivolous actions by the plaintiffs bar, why would we not also want to impose liability on lawyers, accountants and others who are helping to assist in the perpetration of this fraud? The policy disconnect, Mr. President, I find difficult to comprehend.

Mr. President, as I have indicated previously, the securities regulators in their respective States also support this proposition. And it seems to me that in light of the indications that we have seen that the amount of securities fraud is estimated to be about $40 billion annually—the SEC has commented recently in an article which I shared with our colleagues on Friday that securities fraud is not something out of the 19th century; it is very much alive, very sophisticated—the sophisticated aiders and abettors, the clever lawyers, the smooth accountants who assist in this fraud behind the scenes, they ought to be brought to the bar of justice, and economic recovery for innocent victims is the way of achieving that economic justice.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition? The Senator from Connecticut is recognized.

Mr. DODD. Mr. President, I thank the Chair. I will try not to take a great deal of time on this. I have said privately, Mr. President, I am going to hire the Senator from Nevada as my lawyer if I am ever in need of a lawyer, after the Senator from New York apparently.

I have known the Senator from Nevada for a long time. No one is better in crystallizing an argument and making a thoughtful presentation on a point. Certainly we have seen his incredible ability here over the last several days on a number of amendments that he has offered to this bill.

On this particular issue of aiding and abetting, he has once again displayed those skills which should probably earn him a distinguished reputation as great debater of causes. But we disagree on this amendment. I say that because we agree on aspects of this. The tendency of these debates on amendments is to lose sight of where you agree.

One of the things this bill does do is, of course, extend to the SEC the authority to bring aiding and abetting cases, which was not the case prior to this legislation as a result of Supreme Court decisions so we have strengthened it.

Second, when it comes to the issue of fraud, knowing intentional fraud, we do not change anything in effect. The joint and several provisions apply. People who are knowingly involved in those activities, all can be subject to the maximum financial penalties.

What we are talking about here is a much lower standard and one that would apply, as the amendment indicates, to knowing or reckless behavior. It is a result of that standard and the amendment of the Senator from Nevada that I would take exception, particularly the recklessness standard. The knowing standard, if you could really tighten that up to some degree and actual knowledge, and so forth, I think you might have something that we would like to talk about. But the recklessness standard here is a standard that is so difficult to apply that it in effect would destroy the attempts of this legislation to mitigate against this explosion of unwarranted litigation in the area of securities.

Let me just, if I can, Mr. President, as a matter of background point out that until the Central Bank of Denver case was decided last year, many circuit courts recognized aiding-and-abetting liability.

I want to come back to that point in a minute because one of the points I wish to make here is that it is being implied or suggested if we adopt this amendment, all we are doing is going back and just applying the law as it was prior to the Central Bank of Denver case. I would argue very strenuously here in a moment that, in fact, we are going by and applying a different standard than existed prior to the decision on Central Bank of Denver and, in fact, going further back than I think the courts at least in many cases would like to see us go.

At any rate, that was the situation. Prior to Central Bank of Denver there was a controversy about aiding-and-abetting. In that case, the Supreme Court decided that there was no aiding and abetting liability for private lawsuits involving fraud and that in fact that idea evolved as a result of section 10(b), rule 10b-5. And many can argue, in fact, that probably was the case; that we had not legislatively determined that, this has been more of an evolution of an idea over the years, and so the issue comes back to us if we want to expand it.

The Supreme Court did not believe that section 10(b) intended to cover aiding-and-abetting liability. You can argue about that, but that is how the Court ruled. Providing for aiding and abetting liability under section 10(b) would be contrary to the goal of this legislation.

I remind my colleagues to come back to the central goal of this legislation, and that is to reduce the number of frivolous lawsuits that are being brought under 10(b) and to try and avoid what my colleague from New York, I think, has appropriately described as sort of a hijacking scheme that goes on where you end up with these settlements because if you do not settle, the small percentage of risk that you may end being held accountable causes people to settle for amounts vastly in excess of their involvement.

The case we talked about earlier today where Peat Marwick in a $15,000 contract to go in and do an audit of some banks books were brought to trial, and it went on for some time. The courts ultimately decided that in that case Peat Marwick was not responsible, did not meet the aiding-and-abetting standard, but the legal fees for Peat Marwick for a $15,000 contract, which is a nothing contract, were in excess of $7 million. That is what it cost that company over a $15,000 contract.

We want to stop that kind of stuff. That should not have to go on, frankly. And that is where the crux of this whole legislation is designed to try and minimize those sorts of problems.

At any rate, the Supreme Court said in the Central Bank of Denver case—and it is highly appropriate that we have as the Presiding Officer this evening the distinguished Senator from Denver—from Colorado. I apologize—in that case litigation under rule 10b-5 presents a danger of vexatiousness—it is a mouthful, that word, "vexatiousness"—different in degree and kind and would require secondary actors to expend large sums even for pretrial defense and the negotiation of settlement.

That is exactly what happened to Peat Marwick—a $15,000 contract, a $7 million legal fee. Peat Marwick, it was painful to them. They probably passed that cost on to a lot of other clients out there, so it is not as if somehow the company just absorbed it, as bad it was for them, but there is where you get the economic ripple effect as a result of a lawsuit where again the allegation is that they were marginally involved, aiding and abetting on a $15,000 contract. The Court said no, they were not ultimately but not before that company spent $7 million to defend against a $15,000 contract.

The Supreme Court did not consider whether the SEC was able to bring cases for aiding and abetting, and the committee print, as I mentioned a moment ago, restores aiding and abetting liability for the Securities and Exchange Commission. Allowing the SEC to bring cases against aiders and abetters strikes, we think, a balance. It allows the SEC to punish bad actors without opening the door to a flood of unnecessary litigation.

So, Mr. President, that is the reason that we reluctantly oppose the amendment of our colleague, because it does change the standard.

Now, let me come back to the point I made earlier, because the suggestion that all we are doing is making whole the situation prior to the Supreme Court's decision on the Central Bank of Denver case is just not borne out.

Let me point out that prior to the Central Bank of Denver the courts across the country adopted different types of scienter, standards, for the aiding-and-abetting context. Some courts concluded that, as with the primary violators, recklessness was sufficient.

I would say to my colleague from Nevada he is correct in that. There were courts that did hold the recklessness standard adds enough to net someone under the aiding-and-abetting provisions. Other courts, I would point out just as quickly, Mr. President, held that where the alleged primary violators did not have an independent duty to disclose information to the plaintiff, proof of actual knowledge of the fraud was required. Still other courts adopted what the SEC described to the Supreme Court as the sliding scale approach to aiding and abetting under which the degree of scienter required for aiding-and-abetting liability varied depending upon the nature of the defendant's conduct and the presence or absence of a duty to disclose.

So here we had a lot of different standards being used. Recklessness was one, in some courts. But in many others, it was actual knowledge or sliding scales.

The Seventh Circuit had essentially eliminated aiding-and-abetting claims by requiring proof of all elements of a primary violation of 10b–5 in order to impose liability.

Accordingly, expanding to private suits the provision included in the committee print would not provide any real protection against abusive claims. And that approach, if we adopted this amendment, would actually represent, as I said a moment ago, an expansion of liability, not a return to pre-Central Bank of Denver status quo, because it would overrule those decisions that had set the higher standard. That is, actual knowledge before you can get a minor player in terms of the aiding-and-abetting clause.

Again, my point is—and again I say this with all due respect to the author of the amendment—throughout the amendment it is knowing or reckless, and on the reckless standard, let me, just for the purpose of my colleagues, point out how difficult that standard is to apply. Again, this is citing some work that has been done on the issue. I will footnote them accordingly.

Let me begin with this. The prevailing reckless standard does not limit, as I am sure the case can be made, liability to highly culpable wrongdoers, and that is the suggestion here. Again, the highly culpable wrongdoers are not covered. We get them under this bill, in fact. And this is where the problem comes with recklessness. The vagueness of the recklessness standard is one of the principal reasons that joint and several liability should be modified, and that is what we do in this bill.

In practice, the legal standard does not provide protection against unjustified or abusive claims because juries can and do misapply the standard. Juries today have considerable difficulty in distinguishing innocent mistakes, negligence, and even gross negligence—none of which, by the way, Mr. President, is actionable under rule 10b–5—from recklessness.

So, while to the layman recklessness sounds like something else, recklessness can actually be a minor mistake, a mathematical mistake. In effect, you could get netted under the recklessness standard.

One commentator observed:

> The courts have been less than precise in defining what exactly constitutes a reckless misrepresentation. This imprecision has resulted in ad hoc, if not arbitrary, recklessness, if I may use the word, determinations. The result is that the actual and potential parties to section 10(b) and rule 10b-5 actions cannot predict with any degree of certainty how a trier of fact will characterize alleged conduct and, thus, whether it may serve as the basis of liability.

I am quoting from Johnson, "Liability for Recklessness Representations and Omissions" under section 10(b) of the Securities and Exchange Act of 1934 in the Cincinnati Law Review, 1991.

Let me quote further from Commissioners of the SEC. Commissioner Beese argues:

> Because the standard of recklessness is a vague one and its interpretation by both the court and the jury is difficult to predict accurately, defendants that may not have acted in a reckless fashion cannot be assured of being vindicated at trial.

Former SEC Chairman Breeden observed:

> The problem is that almost anything can be said to be reckless.

He goes on to say:

> It is all too easy to apply 20/20 hindsight to a complex problem and conclude that someone behaved less than perfectly.

The standard of reckless behavior has tended to expand in recent years as courts and even at times the SEC tried to reach out to compensate investor losses. Even the SEC, with all its expertise, has misjudged the standard. In a case arising out of a 1982 bankruptcy of one of an accounting firm's clients, the SEC alleged a violation of rule 10b–5 asserting that the firm had acted recklessly in failing to comply with the professional standards in an audit. A Federal court rejected every claim, including the claim that the firm had acted recklessly. The court found that the SEC's claim "involved complex issues of accounting as to which reasonable accountants could reach different conclusions. It follows that no finding of fraud or recklessness can rationally be made in that case."

That was SEC versus Price Waterhouse, decided in 1992.

Mr. SARBANES. Will the Senator yield for a question?

Mr. DODD. I will be glad to yield.

Mr. SARBANES. Does your bill allow for any private right of action against an aider and abettor?

Mr. DODD. No, it does not.

Mr. SARBANES. Not even knowingly. I have been listening to the Senator very carefully, and he is talking about recklessness.

Mr. DODD. Right.

Mr. SARBANES. My own view is, if you are reckless, you ought to be able to be reached as an aider or abettor. I understand the Senator is opposed to that. The Senator's bill, as I understand it, would not allow a knowing aider and abettor to be reached by a private securities suit; is that correct?

Mr. DODD. Let me say to my colleague, the problem with just the word "knowing" is that it is far too vague a word. I said at the outset of my remarks that if you could apply where you had actual knowing, knowledge of the fraud itself, then you might raise a different standard. I said that at the outset of my remarks.

My problem is your amendment says "knowing or recklessness." I focused my remarks on the recklessness side of this because under the amendment, you could be nabbed under the recklessness standard. Again, as I pointed out, with a series of court decisions——

Mr. SARBANES. The bill does not have a knowing standard in it; is that correct? The bill leaves out aider and abettor altogether in a private action.

Mr. DODD. No. What we have said here is where you have the knowledge, knowing fraud involved here, then obviously the whole question of joint-and-several liability applies. In almost every case an aider and abettor, where you have that kind of knowledge situation, would be snagged. Yes, we do cover that in that situation.

What they are attempting to do with this amendment is to reach a different level. So when you have that fact situation, clearly as we made that case all the way through this debate dealing with proportionate liability, we do not allow proportionate liability to apply. Where you meet that standard of the actual knowledge and intent to defraud, then you get everybody involved.

Mr. SARBANES. The aiding-and-abetting issue is separate from the joint-and-several issue, is it not?

Mr. DODD. De facto they end up not being separate. If this amendment were adopted, that is not the case, because you have a reckless standard here which is a much, much lower threshold than the other ones we require you to meet.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. DODD. I will be glad to yield.

Mr. D'AMATO. If one is tangentially involved, let us say an accountant, and knowingly and intentionally participates in a fraud, is that person, regardless of their portion of liability, held jointly-and-severally liable?

Mr. DODD. Absolutely. Absolutely.

Mr. D'AMATO. So that a person, would be considered as a minor participant, an aider and abettor, as a result of this amendment. We have made very clear, that if they knowingly and intentionally participate in fraud, that defendant can really be held as a primary culprit, so to speak; he or she would be libel for all the damages under the present situation; is that not true?

Mr. DODD. My understanding is that is correct.

Mr. D'AMATO. Of course, as it is clearly stated in the S. 240 the Securities and Exchange Commission, still has the ability to go after those for their intentional wrongdoing.

Mr. DODD. That is there, also. We include that in the bill specifically. As I pointed out a minute ago, everybody said let us go back to Central Bank of Denver. Prior to that case, different standards were being used on the aiding and abetting provisions. Some courts did recklessness. Obviously, if you are an attorney for the plaintiff in that case, of course you are going to allege that. In effect, you have wiped out our efforts in the bill to try and minimize that. So you are back in the negotiation phase again. But up to the 93 or 98 percent of these cases people are settling out of court. That is what every good attorney would advise his clients. They would say, "You are exposed to the whole cost on this. With the reckless standards being so low, my advice is you better settle, because if do you not, that is a pretty low standard." In a sense, you get snagged for the whole amount. We are trying to avoid that.

Mr. SARBANES. You let the knowing aider and abettor go free. How can you justify that? I will argue the recklessness with you, and I understand that is a more complicated issue. But how can you let the knowing aider and abettor go free?

Mr. DODD. It is not a question of letting him go free. I think in the most recent colloquy the Senator from New York and I had, we made it clear that where you have that standard, I think we establish very clearly what the intent of the legislation is.

I say to my colleague, having to face the law firm of Sarbanes and Bryan or Bryan and Sarbanes is difficult under any set of circumstances. But the word "knowing" alone is a rather loose term in terms of what constitutes knowledge. So I say to my colleague from Maryland that if, in fact, it is the desire of the Senator from Nevada and the Senator from Maryland to offer an amendment that truly raises the level of knowledge to a point where legal definitions would apply, I, for one—not speaking for my colleague from New York or others—would entertain such an amendment. That is what you have done. The word "knowing"—you have to be much more definitive.

Mr. SARBANES. If the Senator will yield further, I am trying to point out what you have done with the bill. In other words, what you have done with the bill is let a knowing aider and abettor go free. Now, I cannot, for the life of me, understand how you can possibly justify that. A knowing aider and abettor cannot be reached and held liable when a securities fraud is perpetrated. How can you justify that?

Mr. DODD. That is not what the case is here. You are applying two different standards here. When you have actual knowledge and intent to defraud, again, we do not allow an aider and abettor, in that case, to get off the hook at all. It is a different standard you are applying here.

Mr. SARBANES. I would refer the Senator to pages 131 and 132 of his bill, where they define a knowing securities fraud. "Defendant engages in knowing securities fraud if that defendant, (1), makes a material misrepresentation with actual knowledge that the representation is false * * *. And it also requires other things.

The central—

Mr. DODD. To reclaim my time, that is under the section dealing with proportionate liability. Again, my colleague is fully aware that, obviously, it would only apply it to proportionate liability. When you have the knowledge and intent to defraud, then the joint and several applies.

Mr. SARBANES. Will the Senator repeat that again?

Mr. DODD. We do not apply proportionate liability when you have the knowledge and intent to defraud. You cannot escape and get proportionate liability. Joint and several applies.

Mr. SARBANES. By your own admission, under this bill, an aider and abettor cannot be reached in a private action suit, is that correct?

Mr. DODD. An aider and abettor can be reached through Government action, but not private action, correct. Under the standards you have set here—

Mr. SARBANES. How can you justify that?

Mr. DODD. To go back to the point I am trying to make to my colleague over and over again, under the proportionate liability standard—which is the section we are talking about here—recklessness is such a low standard.

Mr. SARBANES. You are not even reaching the aider and abettor; you only go to recklessness.

Mr. DODD. My colleague from Maryland has a fundamental and inherent objection to proportionate liability.

Mr. SARBANES. I am trying to get over that. I am trying to point out that there are a lot of other problems with this bill.

The PRESIDING OFFICER. The time the Senator has been allocated has expired.

Mr. BRYAN. Mr. President, I would be happy to yield more time. How much time remains?

The PRESIDING OFFICER. There are 11 minutes 27 seconds remaining.

Mr. BRYAN. I yield five more minutes to the Senator.

Mr. SARBANES. What I am trying to point out to my colleague is that there is a joint and several liability problem in this bill. We have tried to deal with that—unsuccessfully. There was a statute of limitations problem in this bill. I think these are large problems. These are what the independent objective groups have been writing to us about.

Now we are addressing the aider and abettor problem. The way you have written the bill, aiders and abettors in a private action go scot-free—whatever the test is. They go scot-free on recklessness and on knowingly. The way you have written the bill —

Mr. DODD. I say to my colleague, if he will yield, the way you have written your amendment, what you are asking us to support is that you would apply that standard of reckless behavior, which is an unfair standard to apply.

Mr. SARBANES. I do not think it is unfair. But I do want to make this point. The question is, who is going to go scot-free? For years, we caught aiders and abettors on recklessness and knowingly, on both of those standards. That was the law.

Mr. DODD. Not in every court, no, no. There were courts that set a much higher standard in this country than that. Actual knowledge was required by many courts in the country prior to the decision by Central Bank of Denver. You are going back and weakening a standard applied in many courts.

Mr. SARBANES. If the Senator will yield, the general prevailing standard on reaching aiders and abettors was, in effect, thrown out in the Denver case.

Mr. DODD. I point out to my colleague—and you may not have been here when I pointed out the cases where the SEC used sliding scales in cases. Other courts used actual damages.

Mr. SARBANES. Fine. I am prepared to concede to the Senator that, in certain jurisdictions, there were sliding scales and all the rest. But you have eliminated all of that.

Mr. DODD. I did not, the Supreme Court eliminated that.

Mr. SARBANES. You do not have a sliding scale encompassing knowing standard. You have knocked it out, and all the aiders and abettors are dancing their way down the street.

Mr. DODD. I did not do it, the Supreme Court did it.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BRYAN. I am enjoying this colloquy. If the Senator requires more time, I yield three more minutes.

Mr. SARBANES. The final point is that, obviously, tomorrow we are going to do the so-called safe harbor. I call it pirate's cove because it is being carved out here for all the sharks and barracudas to find sort of a comfort and solace——

Mr. DODD. Including the buccaneer barristers.

Mr. SARBANES. The Senator from Nevada and I have conceded that we want to do some things about frivolous suits. We are trying to get at the extraordinary lengths to which you have gone to immunize from liability and, therefore, throw the burden upon innocent investors. I think the Senator from Nevada put it very well the other day. He said this is a "Trojan horse." It is waving the pennant of frivolous suits, but hidden within the Trojan horse are lots of other things as well. That is exactly the case. That is what we have been trying to, in effect, lay out in the course of this debate.

Mr. DODD. If my colleague will yield on that point, would you not admit that the present situation, in the absence of passing this legislation, is certainly as big a Trojan horse as anything he might describe with this legislation being adopted?

Mr. SARBANES. What I want to do is pass a good piece of legislation. I want to avoid the comment that was at the end of the article that I put in the RECORD the other day about the pendulum swing. And that in the course of swinging the pendulum too far, what you are going to require are some investors to actually be defrauded and not gain any recovery before you will straighten out the law. We ought to straighten it out now and not allow that situation to happen. We tried to address the issue of joint and several liability versus proportionate liability. We had this extension of the statute of limitations, and we are doing aiders an abettors today, and tomorrow we are going to do the "pirate's cove."

The Senator from California has, I think, some very worthwhile amendments to offer as well. This is not a balanced bill. That point needs to be made and needs to be made very clear. This is not a balanced bill. There are certain problems we want to get at, and we ought to do that. This bill overreaches. It is unbalanced. I think we will pay a high price for it.

The PRESIDING OFFICER. The Senator from New York has used all of his time.

Mr. BRYAN. Mr. President, I will yield back the remainder of my time. I want to thank my colleague, Senator SARBANES, for making the point that I think needs to be made here, that if the recovery is premised and predicated upon aider and abettor recovery; whether the conduct is intentional, whether it is knowing, or reckless, no recovery. The only way in which you can attach liability is under an aiding and abetting theory. That is the point he has made.

The Senator from Connecticut quite correctly points out that with respect to others that are primary, then the level of misconduct, whether intentional or knowing, creates the joint and several liability situation, and the reckless conduct which the Senator from Maryland and I agree ought to be included as well.

That is when you get the proportionate liability. There is no question about proportion or joint and several. There is no recovery if the cause of action is based upon aiding and abetting. That is the point he has made so clear.

Mr. SARBANES. The Senator put it very clearly. The point we were trying to make, the aiders and abettors walk scot-free as far as private lawsuits are concerned under this legislation.

Mr. BRYAN. This is my understanding.

Mr. SARBANES. We try to attach liability that way.

Under the different theories of liability, there is an argument over recklessness and knowingly and so forth.

The bill never attaches liability to the aider and abettor; is that correct?

Mr. BRYAN. That is my understanding.

Mr. SARBANES. I understand in many suits that an important part of the recovery, on the part of the innocent investor, is from the aiders and the abettors.

Mr. BRYAN. That is my understanding.

Tomorrow, as we complete the debate, I will have additional data to share with my colleagues. I have never been involved in this area as an attorney representing a class action or defending this, but the issue is quite substantial, and the impact, I think, will astonish some of our colleagues. It is not just an academic discussion among Senators in good faith trying to craft a piece of legislation.

The impact is profound. There must be reasons, when these actions are brought, they are brought under a theory of aiding and abetting. It must be the only way to get into court against some of this misconduct with lawyers, accountants, bankers, and others. We simply wipe them out. "You folks can do whatever you want. You are home free." That is a public policy that, in my view, is indefensible.

Mr. SARBANES. If the Senator will yield for a second, I would like to bring this discussion towards close by saying there is a point where I agree very strongly with the Senator from Connecticut.

At the outset of his statement he gave praise to the very strong statement which the Senator from Nevada had made on this issue. I want to fully associate myself with that judgment. I think he is absolutely right. I urge all my colleagues, and their staffs that are following this issue, to go very carefully through the opening statement which the Senator from Nevada made when he presented his amendment. It was a very powerful statement as to why aiders and abettors ought not to be completely free from liability.

Mr. BRYAN. I notice a number of colleagues are about ready to join the floor with other amendments.

I will simply share one additional statistic in closing and yielding the remainder of my time. Chairman Levitt has stated, of 400 pending SEC cases, 80 to 85 rely on aiding and abetting theories of liability. We are talking about a substantial number.

I yield the floor and yield back the remainder of my time.

Mr. ROCKEFELLER. I ask unanimous consent that the Senator from West Virginia be allowed to speak for 5 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE SELECT

Mr. ROCKEFELLER. Mr. President, because I know a lost cause when I see one, I concede that the majority leader is succeeding in passing what is known as the Medicare select legislation tonight. The conference report will pass tonight. Nobody else will comment on it, but I will. I just hope I will not be tempted into saying, "I told you so" a year from now if some troubling signs turn out to be an omen of serious problems.

For some reason, many of my colleagues on the other side of the aisle are adamant about rushing to expand a pilot project limited to 15 states into one for all 50 States. The conference report is an agreement to make this extension, but only for 3 years instead of the 5 years that had been passed by the House. I still think 3 years is too long, but I have assurances from the chairman of the Finance Committee that we will have a hearing or hearings, and a good faith process, to consider whether any changes are warranted.

What is Medicare select? Medicare select is a managed care insurance policy that is sold to senior citizens to fill in the gaps of Medicare coverage, of which there are many. It differs from other MediGap policies because it only pays Medicare's cost sharing amounts if the senior citizen receives his or her medical care from an insurer's selected network of health care providers.

What bothers me is the rush to expand this limited program before an evaluation of this demonstration project, done at the direction of Congress is completed and reviewed in oversight hearings. As the proponents of this push to expand the program know, the independent researchers evaluating the pilots will have their analyses completed by mid-August and a draft final report submitted by October.

Leapfrogging over a careful effort to review a demonstration project, in order to decide if and how to expand the approach, is not the way to do business with Medicare and its beneficiaries. I think it is a mistake. I think it is bad precedent. I have to wonder whether it has to do with special interests eager to see this program quickly expanded. I think it is a mistake to ignore emerging signs that this approach to the marketing of medigap policies may be costing Medicare rather than achieving savings. When the majority of this body has just told senior citizens of America they want to cut Medicare by $270 billion, where is the sense in also extending a program for 3 years that might drain Medicare even more.

Just in recent days, another yellow line started flashing. Based on reports routinely submitted to the Government from the top notch research firms conducting the Medicare select study for HCFA, some startling findings have been reported on how the Medicare select program is operating. They are finding that Medicare select enrollees had significantly higher Medicare costs in comparison to seniors with regular medigap insurance. The Congressional Budget Office agrees that the new study raises serious questions about the operation of the Medicare select program.

On average, Medicare's costs have increased 17½ percent—higher—under Medicare select, which we are expanding to all 50 States. Only one State, Missouri, experienced lower Medicare costs for its Medicare select enrollees. Mr. President, 8 States had higher Medicare costs for its Medicare select. Alabama, 12 percent higher; Arizona, 23 percent; Florida, 8 percent; Indiana, 57 percent higher; almost 6 percent in Kentucky; 7.5 percent in Minnesota; 12 percent higher in Texas; and 14 percent higher in Wisconsin. And so it goes. Researchers believe the bulk of these cost increases were a result of greater hospital costs.

This information was not available to the Congressional Budget Office when it did its cost estimate of the original Medicare select legislation. At that time, CBO was forced to rely on very preliminary research that was done by these same researchers. The information then was limited to case-study information and did not include actual analyses or a comparison of utilization data.

Mr. President, this is why I remain troubled about this legislation, this conference report, which will be passed tonight and then become the law of the land. Serious questions have been raised about the operation of the Medicare select program, yet a conference report is about to be passed that gives the green light to 3 years of taking this program to every single State.

It is maddening that just when there is all the railing about the Medicare trust fund and its solvency, some of my colleagues are so anxious to expand this program with a disregard for its potential drain on the part A trust fund.

There are all kinds of questions to answer before I would be comfortable expanding or extending this program. That is why Congress for this evaluation. That is why I believe we wait for the final report and take 3 hours out of our day in the Finance Committee to hold a hearing on what was learned. Instead, we are seeing this rush to pass a bill.

The independent researchers have a full year of data from 1994 and are currently in the process of analyzing this data. It will take them about a month to complete their analysis of this insurance data. The data cited previously mostly reflects Medicare's cost experience in 1993. While the researchers have already controlled form many variables, they plan to try to better pinpoint the reason for these very significant Medicare cost increases. This additional information—which will be available in only 1 month—would provide Congress with much better information and will tell us if the Medicare cost increases of Select enrollees are a one-time phenomena or a continuing trend. It would also help us figure out the reasons for the higher Medicare costs of beneficiaries enrolled in Medicare select plans. It would provide us with information which would make sure we didn't enact a major new expansion that primarily benefits insurance companies without making sure the Part A trust fund was not going to be drained of funds.

Are sick seniors merely signing up for Medicare select managed care products in record numbers? This would be an unexpected finding since people with serious health care problems normally avoid managed care plans, if they can. Or, are sick seniors somehow being steered into Medicare-select plans by insurance companies and away from risk-based HMO's? In addition to analyzing 1994 utilization data, the research team is also completing work on beneficiary survey which will include beneficiaries' own stated reasons for signing up with the Medicare select plan.

Mr. President, it is not often that legislators are able to have research of this caliber available on a Medicare legislative initiative. Yet, we are choosing to ignore the red flag that these research findings have raised.

According to the Congressional Budget Office, the Medicare Program is currently overpaying HMO's by about 5.7 percent per person because of Medicare's payment methodology which does not take into account the tendency of healthier seniors to sign up with HMO plans. This legislation before us today could—because of the special advantages Medicare select insurers have been granted in obtaining discounts from hospitals—have a similar effect. Insurance companies make money while the Medicare Program loses money.

Mr. President, the legislation before us today is preferable to the House bill that was originally brought to the Senate floor. Instead of extending the Medicare select program to 50 States for 5 years, this legislation expands it to 50 States for 3 years. This is still longer than I would have liked. It is longer than the original Senate bill which was the result of a compromise reached between myself and the majority leader, Senator DOLE, and Senators PACKWOOD and CHAFEE. The legislation will also allow the HHS Secretary to discontinue the program if the Secretary determines that the Medicare select programs is resulting in higher premium costs to beneficiaries or in higher program costs to the Medicare Program.

Mr. President, I look forward to an oversight hearing in the Finance Committee on the Medicare select program which—under a prior agreement with Senators DOLE and PAKCWOOD—will be held once the final evaluation study has been completed. And I am committed to working with the chairman of the Medicare Subcommittee, Senator DOLE, on any legislative modifications that may be necessary based on the committee's oversight hearing, the RTI study, or from the results of a GAO study—that was added to the Senate bill and retained in the conference agreement—that requires a study of the medical underwriting practices of Medigap insurance policies. Again, I hope I will never have to say "I told you so" on behalf of the Medicare Program and the senior citizens who count on us to look before we act.

Mr. President, I yield the floor.

MEDICARE SELECT POLICIES ACT—CONFERENCE REPORT

Mr. CHAFEE. Mr. President, I submit a report of the committee of conference on H.R. 483 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 483, a bill to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of June 22, 1995.)

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask unanimous consent the conference report be considered and adopted, the motion to reconsider be laid upon the table, and a statement by Senator PACKWOOD be included in the RECORD at the appropriate place.

The PRESIDING OFFICER. Without objection, it is so ordered.

The conference report was agreed to.

Mr. PACKWOOD. Mr. President, I am very pleased with the conference agreement on Medicare select. The agreement is very close to the bill passed by the Senate. The only major change is extending the program 3 years instead of 18 months. This is reasonable extension. It gives States sufficient time to take the necessary legislative or administrative actions to allow Medicare select policies to be sold in their states. It also allows insurers sufficient time to develop products, bring them to market, and accumulate enough experience for a meaningful evaluation of Medicare select policies.

This legislation will allow people in all the States to have access to very popular, lower cost type of Medicare supplemental insurance. Remember, Medicare supplemental insurance is private insurance that people buy with their own money to cover medical expenses not paid for by Medicare. There is no Federal money involved.

Some concerns have been raised about Medicare select. Since Medicare select is a new type of supplemental insurance and the full implications of Medicare select for the Medicare Program are not known, this legislation contains a safety valve. The Secretary of Health and Human Services is to study Medicare select. If the Secretary finds that Medicare select is saving seniors money on supplemental insurance, is not adding additional costs to the Medicare Program, and has not negatively affected quality or access to health care, Medicare select automatically becomes a permanent option after 3 years. If, on the other hand, the Secretary finds serious problems with Medicare select, the program expires June 30, 1998.

This is a very sensible compromise. It protects the Government against unintended consequences while also allowing the program, if successful, to become permanent without having Congress take additional action.

CORRECTION IN THE ENROLLMENT OF H.R. 483

Mr. CHAFEE. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Senate Concurrent Resolution 19, submitted earlier today by Senator PACKWOOD.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 19) to correct the enrollment of the bill H.R. 483.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. CHAFEE. Mr. President, I ask unanimous consent the concurrent resolution be considered and agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 19) was considered and agreed to as follows:

S. CON. RES. 19

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes, the Clerk of the House of Representatives shall make the following correction: Amend the title so as to read as follows: "An Act to amend the Omnibus Budget Reconciliation Act of 1990 to permit medicare select policies to be offered in all States.".

Mr. CHAFEE. Mr. President, I thank the manager of the bill very much for permitting us to proceed like this.

Mr. SARBANES. If the Senator will yield, I think his thanks should really be directed to the distinguished Senator from California, who, under the unanimous consent request, was in order to offer her amendment and deferred from doing so in order to allow the Senator to proceed.

Mr. CHAFEE. The Senator from Maryland is absolutely correct. I stand admonished.

I thank the Senator from California for her kindness in letting me proceed as we did. Otherwise, I would have been here, hanging upon every word of her amendment, but that might have taken me past important appointments at home.

So I thank the lovely lady from California. I count it fortunate that she is a member of the Environment and Public Works Committee, where she does distinguished service, and has ever since she has been in the Senate.

Mr. President, I thank the Senator from California, the distinguished Senator from Maryland, and the floor manager of the bill, the honorable Senator from New York.

The PRESIDING OFFICER. The distinguished Senator from California is recognized.

Mrs. BOXER. Mr. President, let me say to my chairman of the Public Works and Environment Committee, if I could get his attention, I greatly appreciate the kind words he said about me. If he votes for my amendment, I will appreciate it even more.

I hope he will do that because, Mr. President, I think I do have a good amendment.

PRIVATE SECURITIES LITIGATION REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1475

(Purpose: To establish procedures governing the appointment of lead plaintiffs in private securities class actions)

Mrs. BOXER. Mr. President, I send an amendment to the desk on behalf of myself and Senator BINGAMAN, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from California [Mrs. BOXER], for herself and Mr. BINGAMAN, proposes an amendment numbered 1475.

Mrs. BOXER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 98, strike line 3, and all that follows through page 100, line 22, and insert the following:

"(2) APPOINTMENT OF LEAD PLAINTIFF OR PLAINTIFFS.—Not later than 90 days after the date on which a notice is published under subparagraph (A) or (B) of paragraph (1), the court shall determine whether all named plaintiffs acting on behalf of the purported plaintiff class who have moved the court to be appointed to serve as lead plaintiff under paragraph (1)(A)(ii) have unanimously selected a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class, and—

"(A) if so, shall appoint such named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class; or

"(B) if not, after considering all relevant factors, including, but not limited to financial interest in the relief sought, work done to develop and prosecute the case, the quality of the claim, prior experience representing classes, possible conflicting interests, and exposure to unique defenses, shall select and appoint a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class.

"(3) SELECTION OF LEAD COUNSEL.—The lead plaintiff or plaintiffs appointed under paragraph (2) shall, subject to the approval of the court, select and retain counsel to represent the class.".

On page 102, strike line 3, and all that follows through page 104, line 22, and insert the following:

"(2) APPOINTMENT OF LEAD PLAINTIFF OR PLAINTIFFS.—Not later than 90 days after the date on which a notice is published under subparagraph (A) of (B) of paragraph (1), the court shall determine whether all named plaintiffs acting on behalf of the purported plaintiff class who have moved the court to be appointed to serve as lead plaintiff under paragraph (1)(A)(ii) have unanimously selected a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class, and—

"(A) if so, shall appoint such named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class; or

"(B) if not, after considering all relevant factors, including, but not limited to financial interest in the relief sought, work done to develop and prosecute the case, the quality of the claim, prior experience representing classes, possible conflicting interests, and exposure to unique defenses, shall select and appoint a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class.

"(3) SELECTION OF LEAD COUNSEL.—The lead plaintiff or plaintiffs appointed under paragraph (2) shall, subject to the approval of the court, select and retain counsel to represent the class.".

Mrs. BOXER. Mr. President, let me explain my amendment. My amendment deletes language in the bill which instructs the judge to make the largest investor in a securities class action suit the lead plaintiff in that suit. To me, on its face, as a nonlawyer, this is an amazing proposition. The richest investor gets to be the lead plaintiff.

My amendment is designed to give the little investor, people with IRA's, Keoghs, a 401-K plan, the chance to be the lead plaintiff.

My amendment is simple, reasonable, fair and, I believe, democratic. This bill assumes the wealthiest investor is somehow better suited to represent smaller investors in the suit.

Mr. President, class action securities lawsuits are supposed to protect the average and the small investor—not only the largest investor. Of course we want to protect them as well. But clearly we are concerned about the small investor. In fact, class action lawsuits are the only practical chance that the small investor has to recover if he or she has been defrauded.

Why do I say that? The small investor, let us say, has been defrauded out of $500 or $1,000 or $5,000. That small investor simply cannot afford to bring an individual action against a fraudulent party. It would cost way more than even the $5,000 to do so, maybe even more than the investor's total net worth, just to recover the small investment.

So in practical terms, class actions are the small and average investor's only chance to recover. This bill, S. 240, without my amendment, would deny them control over their own lawsuits. It would put the largest investor in control.

I said my amendment is democratic. I say that because it allows the members of the class to decide who will pick their representative called a "lead plaintiff." The lead plaintiff will then represent the class, control the litigation, and hire lawyers to serve as class legal counsel.

The candidates for lead plaintiff are all named plaintiffs who file motions with the judge saying they want to serve as the lead plaintiff.

My amendment, and the bill, require that notices be placed in a widely circulated national business-oriented publication or wire service, which then gives notice to all the class members that there is a class action. That way, every member of the class has an opportunity to be named the lead plaintiff.

Under my amendment, the court will appoint as lead plaintiff anyone unanimously selected by the named plaintiffs who have filed lawsuits. And that seems to me the way it ought to be. Everybody has an opportunity to decide who will be the lead plaintiff. I think it is fundamentally undemocratic to do it otherwise—to do what this bill does, to prevent the members of the class from picking their lead plaintiff; to require that the largest investor be appointed.

Under my amendment, only if the plaintiffs cannot agree unanimously among themselves on the lead plaintiff would the court decide who the lead plaintiff should be. So, first we have all the plaintiffs decide who they want. If they reach unanimous agreement, it is so done. If they do not, then the judge or the court would decide who the lead plaintiff would be.

Again, the bill without the Boxer amendment requires that the judge appoint the largest investor. Again, my amendment merely says if the plaintiffs at first do not agree, the judge, after considering all relevant factors, shall select the lead plaintiff.

The court, under the Boxer amendment, could very well pick the largest investor. But the court does not have to at that point. So, if everybody agrees on the lead plaintiff, it is done. If they cannot unanimously agree, then the court will select, and they can certainly look at who the largest investor is, but that should not be the only criterion.

My bill requires the court to consider all relevant factors in selecting a lead plaintiff or plaintiffs. These factors include—and they are in my amendment—but are not limited to the following:

First, the financial stake that the lead plaintiff would have in the lawsuit. So we agree with the chairman. Let us take a look at that.

Second, how much work and money he or she has expended on the suit thus far. We think it is important for the judge to see who has made the biggest investment so far.

Third, the quality of that work.

Fourth, the quality of their individual claim.

Fifth, whether they have any potential conflicts.

Sixth, whether the defendants would have any unique defenses to this lead plaintiff—which I will describe later.

So, again I say to my friends, as Senator BRYAN has said, this is not an exciting issue. No one is glued to their TV sets saying, "Gee, we have been looking forward to this all day, Senator BOXER." But clearly a lot is at stake. If you are a small investor and automatically the largest investor is picked, even if that large investor has a conflict of interest—and I will go into that—you are going to really take it in the neck. You are going to be out of luck, and I am going to explain this.

It could be that the defendants are accused of having targeted the elderly. This is not uncommon. I made that point today. I am glad my colleagues agree that senior citizens are the targets here. Would the largest investor be the best plaintiff in a fraud against targeted senior citizens, small investors? Not necessarily. And this is where maybe some people will wake up and will take notice.

Let us look at the Keating case, a case my colleagues on the other side of this issue keep telling us not to bring up. I have news for them, we are going to bring it up because it is on point and it is on target.

Listen to this. Keating was sued by small investors who bought his securities. One of the largest investors eventually became a defendant in the small investor lawsuit. If this bill had become law it would have been clear that the judge should appoint that large investor as the lead plaintiff. Talk about foxes in charge of the chicken coop. Many of the biggest investors in Keating's junk bonds were friends of Keating and associates of Michael Milken, including Executive Life Insurance Co. of California, and a Minneapolis brokerage company called Offerman & Co. These relationships were not public when the lawsuit was filed. Under this bill Offerman & Co. would have been put in charge of the Keating class action. That would have meant that Keating's friends and junk bond cronies would have been in the position to stifle the lawsuit.

I say thank God this bill was not law and the small investors were in charge. They eventually uncovered the hidden relationship. But they never could have uncovered those relationships at the point at which the judge was deciding who the lead plaintiff should be, and he would have had to pick the largest investor.

Here is the thing. The largest investor became a codefendant and eventually paid $55 million to the small investor. If this bill had been the law of the land, the largest investors would have been in control of the suit. They would have been the lead plaintiff in the suit. And I say the Keating case is just an isolated example.

Mr. SARBANES. Will the Senator yield?

Mrs. BOXER. I am happy to yield to my friend.

Mr. SARBANES. Mr. President, this is an extraordinarily important point which the Senator from California is making. In fact, the SEC in commenting on this provision of the bill that is before us said, and I quote them:

> One provision of section 102 requires the court generally to appoint as lead plaintiff the class member that has the largest financial interest in the case.

Exactly the provision the Senator is addressing.

The SEC then says:

> While this approach has merit, it may create additional litigation concerning the qualification of the lead plaintiff, particularly when the class member with the greatest financial interest in the litigation has ties to management, or interest that may be different from other class members.

As I understand it, you permit having the largest financial interest to be a factor to be considered by the judge if all the plaintiffs cannot get together on who the lead plaintiff should be. Then the judge has to pick a lead plaintiff, and the Senator concedes the one factor to be looked at would be financial interest. But the bill as written provides the presumption to the large financial interest plaintiff which carries with it the risk, as the SEC points out, where the lead plaintiff may have ties to management or interest that may be different from other class members.

As the Senator points out, they later found that out in the Keating case. Well, you say they will find it out in the beginning. They cannot find it out in the beginning. In fact, the bill as written denies the discovery in the early stages unless you already have a reasonable basis for doubting the lead plaintiff. This whole thing is structured in such a way that a lead plaintiff who has ties to the defendant, a party that has ties to the defendant, can end up being the lead plaintiff.

Mrs. BOXER. My friend is right on target, and as usual presents the point magnificently. This is a total outrage. It is a total outrage because at the time when the judge will decide who the lead plaintiff could be, they say there is a rebuttable presumption, but it is really irrebuttable because of the high standard that has to be met. It will be the largest investor. And after I yield to my friend from Nevada, I am going to show you another case on point so that we show the Keating case and how it would have worked to have the people who eventually wound up paying the small investors under this bill be the lead plaintiff. There would not even have been a case, if that had been the law. I shudder to think about the miscarriage of justice.

Here we are today. You know one of the reasons I think so. We are making our points here. Obviously, we can tell by the votes that so far we were not carrying the day except my one amendment that requires a report. We are not carrying the day. But, by God, let us make the record and let us be clear on it so that if there is an explosion, and investors get defrauded, and we have another S&L-like scandal on our hands, and people are scared to death to invest and all they do is buy Government bonds, I think some of us can point to this debate and say we tried; we made the record.

Mr. BRYAN. Will the Senator yield?

Mrs. BOXER. I am happy to.

Mr. BRYAN. I want to compliment the Senator. We have heard many times during the course of this debate the word "balance." I think what the Senator has done in revisiting this particular section of the bill represents the essence of balance. As the Senator has pointed out, the Senator's amendment does not preclude the consideration of wealth, if I am reading the Senator's amendment correctly.

Mrs. BOXER. That is correct.

Mr. BRYAN. But it simply indicates that where there is not a unanimous agreement it is simply a factor. Am I correct?

Mrs. BOXER. Exactly.

Mr. BRYAN. Let me say it is my understanding—the Senator can correct me if she has a different view—that the very essence of a class action is to allow individuals who are very small with relatively modest investments to band together, that there is a unity of interest, a commonalty of purpose; can band together, and that same commonalty of interest may or may not exist with respect to a large security underwriting house which may have other dealings with the defendants who may indeed have a little self-dealing. "We will wash your back on this one if you will wash our back on the next one."

Is that the essence of the Senator's concern?

Mrs. BOXER. The Senator from Nevada, the former attorney general of that State, is so right on point here.

If a relatively small investor who, let us say, owns a home and a car, and is retired and has a $50,000 investment, I say to my friend that means so much to that individual. The large investor could be a big brokerage house. We have a brokerage house that is worth $50 billion. They may be the largest investor in this particular company. They may have $1 million. That $1 million is a lot more than $50,000, but to that large company it is nothing. Whereas, the $50,000 to a small investor is virtually everything.

Today I put in the RECORD a story of one of my constituents who was one of the victims of Keating. She lost $20,000. It was the difference between her being dependent or independent. She talked about the pain of knowing she just waited for that Social Security check because they bilked her out of her money; the savings she needed.

So the Senator is so right. This bill, I do not know how to put it, it is so elitist. I do not like that word, but I cannot think of another word. It is not fair, it is elitist. It is looking at a small investor as if they were worth nothing.

I want to give my friends another example. This is a recent example. The Wall Street Journal reported only last month that a large Wall Street investment bank—and I am going to name the bank because it is in the paper; they have a great reputation—Wertheim Schroeder—filed a class action against Avon Products for securities fraud. Wertheim Schroeder filed a class action against Avon for securities fraud. Wertheim was supposed to represent the interests of the small investor. But the Journal reported that Wertheim tried to get Avon to settle the case by giving Wertheim $50 million to invest. That is no way to benefit the small investor, to settle a lawsuit.

It does not even think about the small investors. This bill would prevent those small investors from discovering the secret deal, because they would have to know about it before they could use subpoenas to find out about it.

So here is the largest investor who has its own agenda, clearly, and that agenda did not benefit the small investors. But under this bill, the small investors could not have found that out and automatically, therefore, the largest investor would have been the lead plaintiff.

We talked about the rebuttable presumption so I will not go into that. It really is simply not there, because my friend, the Senator from Maryland, explained the bill precludes the small investor from being able to subpoena or discover a large investor's hidden conflict.

In other words, if you cannot read about it in the newspapers, forget it. Only if the conflict is obvious would the small investor be able to prove it, and it is just very unfair. In other words, the rules are stacked against the small guy and the rules are in favor of the large guy. Now I have shown you two examples, the Keating case and this other Avon case, and I am sure there are many more.

In other words, if the large investor can hide its conflict of interest, it is home free, it is going to be the lead plaintiff. Small investors will not be able to uncover the conflict. My God, I know we want to stop frivolous lawsuits, we all do, but I do not know anyone who would say that the suit against Charles Keating was frivolous, but we are standing on the floor of the Senate, a few of us, trying to show you that it would have totally changed the outcome of that case, and we have to be very, very careful.

Mr. President, I see nothing in the record which supports the thesis that the largest investor is more honest or more trustworthy. In fact, history suggests there are reasons to believe that the opposite is true, and I showed you a few of those.

In response to my friend from Nevada, I pointed out that a $50,000 investment from an individual's IRA sometimes is worth much more than a huge investment by a huge company.

I want to make another point——

Mr. BRYAN. Will the Senator yield for one more question? I know the hour is late.

Mrs. BOXER. Yes, I will be happy to yield.

Mr. BRYAN. I compliment the Senator for her fine work. As I am reading the print before us, I am almost offended with the language "the most adequate plaintiff." Somehow if you have $10,000 in this investment and that is all you have, somehow you are less adequate to be the lead plaintiff in the action.

My question really deals with the origin of this. I sat in on as many of the hearings as I could. The chairman was extremely fair in posting notice and giving us opportunity to present our arguments and to make the point, but I do not recall this being in the original bill. I do not recall any testimony offered in behalf of this measure. I do not recall any discussion or debate about this at all. Perhaps the distinguished Senator from California can enlighten me further on that.

Mrs. BOXER. My friend is right on target again. The language about lead plaintiff was added only 4 days before the committee markup, weeks after the last hearing. I see nothing in the committee records that supports giving the large investor virtual control over class actions. This was added 4 days before markup, and it is very meaningful. I have one more point and then I am going to yield to my friend from Maryland, but I want him to listen carefully to this as well. We believe on our reading, and we have put a lot of legal minds to work on this, that the bill makes it possible for the largest plaintiff to sneak into a class action and become the lead plaintiff without going through any of the requirements that all the other investors have to go through.

A large investor can hijack a small investor's case. Listen to this. It is our understanding that large investors do not even have to file a lawsuit in order to take control of the suit. A large investor only has to sit back and wait to see if a small investor files a suit, see if the suit has merit and then pounce on it. The small investor will have invested his or her scarce time and money investigating the case and filing it.

At that point, this bill permits the largest investor to take over without even having to file the lawsuit. He does not even have to be a party to the lawsuit. It means the largest investor does not have to run the risk of rule 11 sanctions of filing a frivolous complaint, sanctions that small investors who bring the original complaint are subject to by this bill, which a lot of us support.

But the largest investor is scot-free. This forces the small investor to take the risk but rewards the big investor. It is to me extraordinary. The bill permits a large investor to control the class action and the rights of small investors without having to describe in a sworn certification filed with the court how the largest investor came to buy the securities that made it the largest investor. Small investors who file a lawsuit have to include a sworn certification describing how they purchased the security. That is good. But why should the largest investor not have to do that?

Let me bring that home. This means that the largest investor would not have to disclose even a sweetheart deal with the defendant that might have resulted in his buying the securities, a sweetheart deal that should disqualify the largest investor from being the lead plaintiff.

This type of sweetheart deal was very common in the eighties when Michael Milken gave preferential shares of junk bonds to his insider friends. Like Ivan Boesky—I am bringing up names from the past, not because I want to try people again. They went through a lot of pain. I am trying to make a point, if we do not learn from the eighties, what are we doing here? So this bill would put Ivan Boesky in charge of a class-action lawsuit. How well do you think Ivan Boesky would have represented small investors? It would have put Boesky in a position to take over lawsuits against Michael Milken.

Mr. SARBANES. Will the Senator yield on that point?

Mrs. BOXER. Yes.

Mr. SARBANES. I do not think the Senator from California ought to express reluctance or apologize for bringing these names out of the past in order to remind people what has occurred in this area and the tremendous damage and harm that was done to thousands of innocent investors. And we are running the risk here—I thought the Senator was absolutely right earlier when she said, we are, in effect, writing some history here, making a record so that down the road we can look back and say, it was at that point that a decision was made that led to these terrible consequences.

One of the articles in U.S. News & World Report was headed "Will Congress Condone Fraud?" and then the article ends by saying:

> The pendulum had swung too far toward the lawyers, and now it is swinging too far the other way. Unfortunately, some major investor frauds may have to take place before it again moves back toward the center.

And we are trying to prevent that here and now. We do not want those major investor frauds to take place, and it is our contention that many of the provisions that we are trying to change will make it possible for that to happen. That is why I think that the points the Senator from California is making are so extremely important. Things of these measures have consequences, and the consequences may be very harmful and detrimental. Her reference back to earlier abusers is very much on point in underscoring that fact.

Mrs. BOXER. I want to thank my friend, the ranking member of the committee, and my friend from Nevada.

But it is painful to bring back these issues. To me, it is extraordinary that we are giving insiders, real insiders who may have had a sweetheart deal with a company, the chance to be the lead plaintiff.

That is really hard to swallow. And I think the Boxer amendment is very fair. It basically says let us have fairness and justice to this section of the bill. We do not discriminate against the largest investor or the smallest investor. We say let all the plaintiffs get together and unanimously pick their lead plaintiff. If they cannot agree, let us have the judge take a look at it. Let us have him or her take into account who the largest investor is. Let us have him or her take into account the legal work that has been done and then we will have him or her choose who the lead plaintiff will be.

So, Mr. President, I truly hope that this debate has been enlightening to any of those who have listened to it. Let us not turn the clock back to the 1980's. Let us not get into a situation where small investors are so scared that they start putting their dollar bills under the mattress. We want the moneys out there. We want them to invest their moneys for economic growth. But let us not skew the system so much against them they feel they do not have enough protection.

I reserve whatever time I have remaining. I will yield the floor at this time.

The PRESIDING OFFICER. The Senator reserves the remainder of her time. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I find it interesting that we talk about preserving the system to help the little people. Let me tell you something. What is actually taking place is the small investors are being used, and they are not representatives of any class. The only class they are representatives of is the greed and avarice of the attorneys who are milking the system and are spending the millions of dollars they make from the settlements right now. The lawyers are financing the public interest groups, which are lobbying to keep this system. It is the lawyers protection act to enrich themselves. That is what this amendment is.

Let us look at the lead plaintiffs, the big law firms in New York and California that are manufacturing most of these cases. Who do they have? Steven Cooperman was named in 14 cases between 1990 and 1993. Is he the little guy who got bilked out of $10,000? How many shares does he own in how many companies? He is a hired gun. And who is he going to select to be his lawyer? I will tell you what he has done 14 times; 14 times he has decided between 1990 and 1993 to take the same firm. Sheldon Shore, 10 times, same firm. Mr. Shore, do you think he really represents the working people? I bet he did not even know there was a suit until he got a call because his name is in a computer and that stock dropped 6 points, and then he gets right on in there and he brings a suit.

Now, that is not what the legal system is supposed to be about. Do you want to go through them again? Rodney Shields, seven; David Steinberg, seven; William Steiner, six; Ronald Kassover, five. We are talking about just a small handful of people who have been involved in suits multiple times in 3 years. It is a racket. It is not the little homeowner. It is not the pensioner investing for his retirement.

So what do we try to do? We try to say let us stop the race to the courthouse by a bunch of quick scam artists. Let us see to it that the people who have a real stake, if there are some shenanigans going on, let us see to it that the small investor with a real stake is given control over the suit. This legislation protects the small investor by creating a rebuttable presumption that the person who has the largest financial stake should lead the case.

And who do you think we are talking about? You think we are talking about an investment banking firm? A securities firm? No.

My colleagues say they have knowledge of securities areas, in fact some of them have worked in securities. If you worked in the securities area, do you know that 51 percent of all of the funds that are invested are by institutional investors? And guess what? Half of that, $5.5 billion is in pension funds—pension funds. Those are the little guys. They have every nickel and dime they have earned for their retirement in there, and I think those pension fund managers, the institutional investors should be consulted when lawsuits are brought. And if they have a position in a company and they have invested hundreds of millions and they represent tens of thousands, hundreds of thousands of small investors, I want them to lead the case and I do not want Mr. Cooperman and the other guys over there picking the class.

You better believe I wish to change it. I am sick and tired of having a system that rips off the American people so a handful of lawyers can get rich. They do not give two hoots and a holler about the small investor. Let us stop them from taking over the lawsuits. Do not come in here telling us that with this legislation we are trying to protect the fat cats. I want a system where if there is an institutional investor, and they have got some losses, that they have an opportunity to come to the Court, and by a rebuttable presumption they have an opportunity to be picked as lead counsel.

Now, let me ask you, the only time that you have all the plaintiffs line up and agree on the lawyer is when these seven or eight plaintiffs race in to the courtroom at the same time—and they all say to the judge: Guess what, we all want the same law firm. Is that fairness? S. 240 creates a rebuttable presumption that the Court should look at the size of the financial interest, by the way, all the other standards under the Federal code of procedures. They still have to meet any challenges, but the lawyer who represents the pension fund should at least be given that presumption that they are the best counsel to keep the interests of the small investor.

And by the way, if everyone agrees—and it would seem to me that all the small investors would want to be represented by somebody who would have a stake in the case. I want true plaintiffs, and if it is that person who has lost their life savings of $25,000, they are certainly going to want that pension manager who has a real stake on behalf of tens of thousands of similar people to be there to be supervising, to be watching.

I look at this legislation, and I see that the amendment that is crafted talks more about the lawyers—the plaintiffs counsel. It says the judge should consider the work done to develop and prosecute the case. We are talking about 90 days in which this has been filed when the judge is going to have to make a decision. I would like to know what work is done by a plaintiff within 90 days.

The judge should also consider the quality of the claim, prior experience representing the classes and possible conflicting interest. This is the lawyers protection amendment. This is not a class action amendment. This is not an amendment designed to see to it that the little guy is really represented. This is to continue the same kind of charade as exists now. And as well-intentioned as my colleague might be—and I believe she is very well intentioned—I believe that what this amendment will do is just allow another way for the entrepenurial lawyer to get around the door and race to the courthouse to stake his claim and keep control of the case—not on behalf of the truly aggrieved but on behalf of the fat law firms who want to get fatter. There are only a handful of these firms, but that handful has been a plague, that handful has kept the securities industry from doing what it does best, which is to provide capital for jobs, provide creativity, let firms experiment, let them go forward, let them do what they can do best without being unduly harassed.

For those who break the law, for those who commit fraud, we have kept a strong SEC presence at every turn. We have provided that those who truly commit fraud will have no way out, whether it be through the so-called aiding and abetting, although, if you knowingly commit, you are not an aider and abettor, you are a perpetrator under this act and will be held liable.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I listened very carefully to my chairman, and I have to tell you I did not hear him give me any reasons to be against this amendment. He said this amendment protects lawyers. Well, I have news. If I wanted to do that, I would have just struck this whole section which other colleagues had wanted to do, but I did not do that. I said yes, I think my chairman has a point. We ought to look at the largest investor, and we have put it in here very clearly so the judge can consider the larger investor.

So I really take exception to the fact that this is keeping business as usual. We are not keeping business as usual. And my friend does not address the point of the examples that we gave on the Keating case, the examples we gave on the Avon case, where the largest investor happens to be involved in a sweetheart deal which never could have been discovered by the time the attorney was appointed.

Now, I agree with my friend, if you are talking about a pension plan, that is fine; that pension plan would probably be appointed under the Boxer amendment, because if the pension plan comes on board and is one of the plaintiffs and files a suit and holds out and does not agree with the appointment of the lead plaintiff, then the pension plan would go before the judge and, under the Boxer language, no doubt would be selected.

So I have not heard my friend argue against the basic premise of the Boxer amendment, which is this: Just because you are the richest does not make you the best. Just because you are the richest does not mean that it is fair to appoint you as the lead plaintiff. I do not think anything my friend said really attacks the basic premise of the Boxer legislation.

Now, I have to say that my friend talks about this bill as if it is supported by the SEC. I have the latest comments of the SEC. Yes, they support certain parts of the bill, as do I, and as does my ranking member and the Senator from Nevada. But it has a number of problems. And they raise the issue of lead plaintiff, and they say this could have merit but there are some unintended consequences here. And I would say that the Senator from California, the Senator from Maryland, and the Senator from Nevada are raising these unintended consequences. We will continue to do that tomorrow when we have our time, when Senator BINGAMAN has asked me for some time.

Mr. President, again, there are lawyers on both sides of all of these issues. There are lawyers on both sides. So to me, what is important is, who is against this bill? Virtually every consumer organization in America: community colleges, the Association of Retired Persons, the American Bar Association, the American Council on Education, the Association of the Bar of the City of New York, the Association of Jesuit Colleges and Universities, Citizen Action. And I mentioned the consumer's groups: the Consumer Union, Consumers for Civil Justice, Consumer Federation of America, Council of Independent Colleges, the Fraternal Order of Police, International Association of Machinists and Aerospace Workers, Investor's Rights Association of America, Municipal Treasurer's Association of the United States—and Canada, I might add—the National Association of County Treasurers and Officers, the National Association of State Universities and Land Grant Colleges, and National Council of Senior Citizens. I read the letter from the California branch of that group today. They said it is the most antisenior citizen piece of legislation to come before the Congress in years. There is the North American Securities Administrators. And it goes on and on.

So I hope that some of these amendments will be voted up.

Mr. SARBANES. Will the Senator yield?

Mrs. BOXER. I am glad to yield.

Mr. SARBANES. I want to agree with the Senator from California when she said that nothing the Senator from New York said really negates her amendment. I think she is absolutely right. What we just saw was another example of what is taking place in the course of considering this legislation. An amendment was offered, which is focused fairly narrowly in its scope, directed at correcting a flaw in the legislation that is before us. The counter argument that then is made to the amendment is the whole universe. We go right back to the basic argument that, well, something is amiss here and we need to correct it. We have conceded we want to correct some things. But how far should the correction go? If you overcorrect, you are creating another problem.

Now, the problems the Senator from New York referred to when he cited the so-called professional plaintiffs—there are provisions in the bill to get at those. This amendment does not touch those provisions. There is a provision called no bonus to the named plaintiff, which has been going on, which we do not think ought to be happening. The lawyer cannot pay brokers for referring clients. That is in this bill. That is going to be prohibited. No one is seeking to take that provision out. Requiring the plaintiff to file a sworn certificate that he did not buy the stock in order to file the lawsuit, and requiring notice to class members that the lawsuit has been filed, they can ask the judge to take over the suit.

Those are all provisions designed to get at the kind of problem which the Senator from New York cited.

Now, the amendment of the Senator from California addresses a different issue. Those professional plaintiffs can be knocked out by all of those provisions that I am talking about. The question now comes down to whether, when you pick the lead plaintiff, you ought to establish this presumption. And as the Senator says, it is supposedly a rebuttable presumption; but if you read carefully, it amounts to an irrebuttable presumption that it ought to be the wealthiest plaintiff.

I want to commend the Senator for offering this amendment. She does not preclude giving it to the party with the largest financial interest. In fact, it is permitted for the judge to consider that as one of the factors to be weighed. But it is not made the sort of dominant factor. I think it would bring a much greater balance and equity to the problem of selecting the lead plaintiff.

All of the horror stories that were outlined by the Senator from New York are addressed by other provisions that are in the legislation. Those are provisions that we are not seeking to amend in the consideration of this legislation.

Mrs. BOXER. I thank the ranking member again for his support on this. As a matter of fact, I say to my friend and my chairman that we say, first and foremost, the judge should look at the financial interests of the parties. So we, by virtue of listening, at first say absolutely it ought to be looked at. I agree, if it is a pension plan and there are no conflicts and all the rest, that would be fine. We are trying to protect small investors from a situation that actually would have developed in the Keating case and developed in the Avon case, where the largest investor had a clear conflict of interest, and you know that can only lead to injustice. I am putting it mildly.

Again, I make a plea to my colleagues to look at these amendments as they come before us, because I am just concerned that if this moves forward in the condition it is in, we are going to be revisiting it.

I urge my colleagues to be on the side that I think is the appropriate side, which is fairness, justice for individual investors, who may have their whole life, in a way, tied up in these investments.

My friend from New York, in his way—and he is very strong in his beliefs, and I respect that—said it is the fat cats that are being protected in the Boxer amendment. Well, that is laughable. The bill says the richest investor shall be the lead plaintiff. What the Boxer amendment says is, well, maybe sometimes. But there is nothing inherently god-like about the richest person.

I think we should respect those who may not be rich but who are hanging on everything we do—maybe not tonight because maybe they cannot follow the argument—but believe me, if they are unfortunate and they have an experience like the Keating people did, they will be hanging on everything we did.

Mr. SARBANES. I want to say to the Senator that the assertion of making the argument is that the pension funds are going to come forward in order to be the lead plaintiff. The fact of it is that, as the bill is written, there is nothing that assures that the pension funds will come forward. In fact, pension funds have been notorious for hanging back in terms of being the lead plaintiff.

So when this proposition is put forward in the legislation and it is then asserted or interpreted that this means the pension funds will come forward to be the lead plaintiff, there is no reason to suppose that will be the case. In fact, the lead plaintiff may well be an investor with a great financial interest in the litigation who has ties to management.

Mrs. BOXER. Right.

Mr. SARBANES. As exactly happened in the Keating case, as I understand the Senator from New York, or as other interests that may be different from the broad range of the class members.

So it is very important to understand that. I think the Senator from California, as I understand it, in effect, has said, let all the plaintiffs decide amongst themselves, or, alternatively, let the judge decide; and the judge, in deciding, should consider this list of factors. But it is up to the judge to make the decision. So you do not try to predetermine the outcome, as I think has been done in the legislation before us.

Mrs. BOXER. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from California has 5 minutes 46 seconds.

Mrs. BOXER. I retain that time.

Mr. D'AMATO. Mr. President, the hour is growing late and I do not intend to use all of my time.

Let me first make an observation that the person or entity who has the greatest financial interest, does not necessarily mean rich people. It does not mean that we want a fat cat.

Indeed, if we are talking about someone who is acting as a manager, we are talking about a class of people who, for the most part, are exactly the people who I would presume my colleague from California is interested in protecting, those people who have lost their entire investment portfolio, their 401 K., or their IRA. They are the people who I am concerned about.

Now, this amendment, if passed would knock out one of the most critical provisions of S. 240. We call it the most adequate plaintiff. Who is the most adequate plaintiff for the class? One of the areas of abuse which was pointed out time and time again was the strike suit lawyers who file these class actions by racing to the courthouse to file a complaint and using a whole host of professional plaintiffs to file the lawsuit.

I have to believe that the lawyer will continue to encourage that. Right now, an entrepreneur lawyer can draft a complaint, select one of his many ready prepared plaintiffs, and I have read the list, and race off to the courthouse to file the complaint. Nine out of ten times the first lawyer who arrives at the courthouse with the complaints in hand will be chosen to represent the rest of the class. This is the lucrative race that lawyers stand to make between 30 to 35 percent of multimillion dollar coerced settlements. Do we want to continue that or do we want to stop that practice? Nine out of ten times the so-called named plaintiff has no idea that the suit has been filed. My colleague has not put any provisions in her amendment that will stop that race. We have. We have.

The professional plaintiff has no idea what is in that complaint, never mind pretending that this is the type of lead plaintiff who actually is aggrieved. They are not aggrieved. They have been working in cahoots with a cast of characters who are defrauding the public.

This is not the way our legal system should work. Plaintiffs who have been harmed, or have been defrauded should be able to file lawsuits to recover damages. Professional plaintiffs should not be allowed to clog up this system. S. 240 contains a provision to take care of these pernicious problems. It attempts to allow institutional investors who account for 51 percent of the market and who manage $4.5 trillion of pension funds to serve as lead plaintiffs. Maybe they have not served in this capacity before because they have not had a chance, because they have not been fast enough to race into the courthouse and they only read about the lawsuits after they are filed and lead counsel has been appointed. Make no mistake about it, and it is not the intention of my colleague to bring this about, but this amendment will help perpetuate this system—the race to the courthouse.

By giving institutional investors an opportunity to more fully control and be involved in litigation, the class will have meaningful representation. We will have an institutional representative who represents hundreds of thousands of aggrieved parties control the case instead of someone who is looking for a quick buck and who is not helping the class but is helping himself. The members of the class can only wonder what happened when they get a check for 22 cents in the mail. I will tell you what happened, the lawyer made $8 million and the class got 22 cents. Now, that is not right, but that is what is going on.

Now, what about the selection of a person who has a great financial interest or who represents the class that has the largest financial interest through a pension fund, an institutional investor.

We say there will be a presumption, a rebuttable resumption, and if there is no deficiency, the court will choose the counsel who represents the largest financial interest to lead the class. If they do not meet the standards pursuant to the Federal rules of civil procedure, they will not be able to serve as lead plaintiffs.

There are a number of those provisions. Although the hour is late I will read a few of those Federal procedures.

> Prerequisites to a Class Action. One or more members of a class may sue or be sued as representative parties on behalf of all only if, first, the class is so numerous that joinder of all members is impractical; second, there are questions of law or fact common to the class; third, the claims of defenses of the representative parties are typical of the claims of defense of the class, and fourth, the representative parties will fairly and adequately protect the interest of the class.

That is called for in law.

The amendment offered today seeks to change the standard for selecting lead plaintiff. This amendment provides for those seeking to serve as lead plaintiff to decide unanimously who should serve as lead plaintiff. If there is no unanimous agreement, the court will pick the lead plaintiff based on certain factors. Those factors have nothing to do with the class. They are incredible.

They talk about how many times you brought class action suits, what the legal work to date has been. It says "financial interest in the relief sought," and after that, it is just a critique of lawyers who have brought these actions.

I cannot understand why we would put these considerations in—for the people to be chosen as the plaintiffs. I say this, because this was probably drafted by LeFrac and Company.

Mrs. BOXER. Will the Senator yield to me?

Mr. D'AMATO. No, I will not. I have listened patiently.

The PRESIDING OFFICER. The Senator from New York has the floor.

Mr. SARBANES. The Senator ought to yield to the author of the amendment.

Mr. D'AMATO. Section (B) is more interested in developing the qualities that one would look for as a lawyer, than the qualities of a good lead plaintiff.

Now, let me say why I say that, and I mentioned it before: (B) after considering all relevant factors including but not limited to financial interest in the relief sought, the section I am concerned with starts with work done to develop and prosecute the case.

Well, that the plaintiff is not doing. That plaintiff is not developing and prosecuting the case. "The quality of the claim." The plaintiff has not brought this claim; a lawyer brings the claim on behalf of these plaintiffs, it is up to the lawyer to assess the quality of the claim.

"Prior experience"—listen to this—that is why I say I believe this is the lawyer's protection amendment. "Prior experience representing classes." That does not seem to me to be looking out for the small investor. That seems to me to be selecting a lawyer. Why should a small investor interested in representing the defrauded class have prior experience representing classes, unless he is a professional plaintiff. That is why I ask, how did this amendment come about?

I do see some good criteria in this amendment, possible conflicting interest. That is excellent. And, exposure to unique defenses. That is in the legislation. The same thing we have. Also for lead plaintiffs to serve as lead plaintiff of the appointed plaintiff class. I might more adequately suggest it should say pick the lawyer, because in the final analysis, it is the lead plaintiff, it is the plaintiff who is assigned, who picks the lawyer.

That is what I am concerned about. I am concerned about this amendment perpetuating the same scheme. Do I want to protect the little guy? Absolutely. I have told my colleague that if there are ways—and we have cooperated in the past to do this—to give greater protection to those who are aggrieved, I want to do it.

That is one of the reasons we have entered, at my colleagues' behest, the provisions giving the ability to those people who have $200,000 or less and who sustain up to 10 percent, the ability to recover their losses. We do not just shut the door on the little guy.

My colleague mentioned a woman who lost $25,000 and had no recourse, this bill would provide to that person an opportunity to recover those funds.

I yield the floor.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Mr. President, I find it really incredible that my friend would say that this language is the lawyer protection act when, in fact, three of the six requirements that the judge has to look at are requirements that came from your side of the argument; namely they should look at the financial interests. In other words, whom is the biggest investor? That is my friend's point. We put it in here first. He is telling me that the lawyers whom he names want that in this bill? I tell you "no."

So I cannot understand how my friend could tell me that this section is the lawyers protection act when I put in as the first requirement a very important concept that comes from the opposing side. Maybe my friend wants to sit and talk to me about what he would accept that the judge could look at. If my friend from New York is willing, I would take out some of these, if he finds them objectionable, if he will support me on this. No one wrote this but me. Did I ask for help from my staff? You bet. I am not a lawyer. I have to make sure.

To me it sounds reasonable to think that the quality of the claim is important; that the arguments are laid out well. But if my friend thinks that is not a good thing and he will support me, I will take out those things he finds objectionable in a New York minute. I would do it.

So, tomorrow we finish this argument up. It is getting awfully late. Even I am losing my will to argue at 9 at night. So I would, at this time, be very happy to yield back my time, except if my ranking member wanted to make a few closing remarks, and I look forward to picking this debate up in the morning.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. D'AMATO. Mr. President, might I inquire of time remaining to both parties?

The PRESIDING OFFICER. The Senator from New York retains 27 minutes and 45 seconds. The Senator from California has 3½ minutes remaining of her time.

Mr. D'AMATO. Mr. President, I do not intend to use much of my time. I think I have made my point. I think we both made our points.

I believe as an unintended consequence—because I do believe my friend, the Senator from California, is interested in trying to protect small investors, particularly senior citizens—this amendment would not be a service to them. It would continue the race to the courthouse.

I find particularly difficult to accept that part of the amendment on page 3 starting at line 13, "work done to develop and prosecute the case, the quality of the claim, prior experience representing classes." That is absolutely the kind of language that suggests to me this amendment will continue the race to the courthouse.

If my friends and colleagues find ways to deal with an admitted concern of the Securities and Exchange Commission, who, for the most part is strongly supportive of what we are attempting to do in this bill, but recognizes that there are problems in the system, I will be happy to work with them. I might call to the attention of my colleagues a letter from the SEC, and I believe my distinguished ranking member, Senator SARBANES, has already called this letter to our attention:

> One provision of Section 102 requires the court generally to appoint as lead plaintiff the class member that has the largest financial interest in the case. While this approach has merit, it may create additional litigation concerning the qualifications of the lead plaintiff, particularly when the class member with the greatest financial interest in the litigation has ties to management or interests that may be different from other class members.

I hope in the managers' amendment we might be able to address that concern with some language. That is a concern I think many of us have. It would be good to clarify that all possible conflicts under all cases must be avoided.

We have to be careful because you do not want to unintentionally open the door to a different unintended consequence. Certainly I would have to strongly oppose my friend's legislation as it presently stands, because it would continue, as I see it, the race to the courthouse.

Let me say this, if my colleague from California is prepared to yield her time, I will yield all of my time.

I yield.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Mr. President, I only have 3 minutes left. I want to make a point. This section deals with the plaintiffs. It does not deal with the lawyers. And the way I read it, if there has been a repeat of a plaintiff, the judge can throw out that plaintiff. So, my friend cites a section that deals with plaintiffs, not with lawyers.

His other point about a rush to the courthouse. If he thinks this Senator has a bill that is a rush to the courthouse, we took the language out of his bill. Mr. President, 90 days they have to file in a newspaper of general circulation. It is boilerplate language. It is the same exact timeframe as my friend from New York has. He says I am rushing to the courthouse, then he is rushing to the courthouse.

Again I have to say I know my friend vociferously opposes this. But I have not heard anything that makes me feel he has undermined my basic argument. If he wants to work on language I am happy to work on language.

I yield to my friend from Maryland.

Mr. SARBANES. If the Senator will yield, one of the provisions that the Senator from New York pointed to, that the Senator has listed, prior experience representing classes, could be used by the judge to disqualify plaintiff, not to qualify the plaintiff. The very plaintiffs you have cited who you said have represented—I do not know, seven times or whatever the number was—who were just buying professional plaintiffs.

Mr. D'AMATO. Fourteen.

Mr. SARBANES. All right, fourteen. He could be ruled out by the judge by considering that factor. It says, "after considering all relevant factors including prior experience representing classes." That could be a negative factor as well as a positive factor. It is up to the judge. That is the very thing you would argue to the judge.

You would say to the judge, "This person should not be the lead plaintiff. He has fourteen instances of doing this. He is just playing a game with you."

And the judge would say, "Oh, yes, you are right. And under the Boxer amendment I am entitled to consider that factor, prior experience representing classes, and considering that factor I am not going to make this person the lead plaintiff."

The Senator from California has in effect taken one of your contentions and put it in her amendment.

Mrs. BOXER. Yes. Yes. The Senator from Maryland is correct. Because this section does not talk about lawyers, it talks about the plaintiffs.

Mr. SARBANES. It does not say positively or negatively. That is for the judge to weigh.

Mr. D'AMATO. Mr. President, if I might?

The PRESIDING OFFICER. The Senator from New York is recognized.

The Senator from California retains 38 seconds.

Mr. D'AMATO. I have to tell you that is one of the most novel, interesting, intriguing arguments I have ever heard.

Mr. SARBANES. It is right there in black and white.

Mr. D'AMATO. I want to salute and take my hat off to my friend from Maryland for putting that twist on. Certainly, it is a stretch to read this as a disqualification. All relevant factors including but not limited to financial interest, work done, prosecution of case, quality of the case, prior experience. I suggest no one could really interpret this literally and say to the judge, "You should disqualify someone, if they have been in on two or three or four of these cases, from being considered as lead plaintiffs, or taking their vote or their determination, because they are professionals and have been doing it for years."

I have to agree with my colleague, could the judge do it? Sure. But I have not seen a judge exercise that kind of right to interpretation. Of course we have not passed this bill. But that certainly is unique and novel as an interpretation. I have to tell my colleague, "I could have some support for this amendment—and maybe we should put this provision in a managers' amendment—if it said we are going to look expressly at the qualifications to see that there are not professionals leading the class."

Of course, how do you really tell? You get into how do you define who "professional plaintiffs" are? There may be some people we classify as gadflies who bring these suits, not because they have been prompted by somebody but because they want to do what is right, to bring the case, maybe they have been aggrieved, maybe they do not have a great financial stake, but they think others have been aggrieved.

It is, I think, stretching—even beyond that limit to which most of us stretch, including this Senator at times—the credibility of this argument, to suggest you are really telling the court to look and see whether or not this person has been involved in multiple suits and therefore should be dropped.

I find that difficult to interpret in that manner. But I do say "It is novel. It shows great dexterity." And it shows, I believe, why we should not even get involved in this.

Mrs. BOXER. In my 38 seconds, Mr. President——

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. In this section the Boxer amendment lists 6 things. They are neither positive nor negative. My friend seems to think financial interest is a relief sought as a positive. I would think it is a negative. I could change it to the number of times the plaintiff has represented a class. I am well meaning here. This section does not relate to lawyers. Even though my friend said it did does not make it so. Just read it. It has to do with who the lead plaintiff is.

If my friend is serious, we could work this out. We could have a good amendment. We could agree to it. We could pass it, and we could I think prevent a real problem from developing out there when we find ourselves in a situation where a co-defendant winds up as a lead plaintiff. I think that would be dangerous.

I yield the floor.

Mr. D'AMATO. Mr. President, I am very serious. If we cannot read this amendment to say financial interest and relief sought should be considered, what are we talking about? If work done to be developed and prosecute the case is considered—I mean you can obviously say, "Well, was there a lot of work done, or was not their work done?" But is that something obviously that should be taken into consideration? The quality of the claim—are we to say it is good quality? These are determinative factors that we will make. Are we using the English language or turning it upside down? Are we back to Alice in Wonderland now? I mean really, maybe the hour is late. But to suggest that by writing "prior experience representing a class", one would really say we are calling upon the judge to limit those people who serve often, if there have been those who have been representing a class over and over and in other suits, that would disqualify them. I think that is rather preposterous. If that is what the intent is, then we will need to spell it out. Maybe we should have spelled this out when we forth this legislation. But certainly, as I see it, it is difficult to believe that is the intent of this particular amendment.

Mr. SARBANES. If the Senator will yield, I mean the way the amendment is written it is absolutely neutral in terms of whether the judge shall consider the factor positively or negatively. It only says these are factors to be looked at, and the judge upon looking at the factor could weigh in a positive way or weigh it in a negative way. I mean I think the Senator has tried very hard to just lay out some items the judge should look at. The Senator tried in arguing against it to read it a certain way. But the amendment does not read a certain way. It is very clear on the face of the amendment.

Mr. D'AMATO. My friend and colleague, as I read it, these are conditions that the court will look at in making a determination. They are going to consider these factors. It says it quite clearly. We could argue about whether or not they should take them into consideration. Reasonable people can disagree.

Mr. SARBANES. Will the Senator say this amendment with respect to considering financial interest in the relief sought—is that a plus or a minus?

Mr. D'AMATO. It is something that has to be considered. Obviously, it would seem to me that we should select someone who had a financial stake. That would be a factor, a positive factor. If something had been done in developing work, that would be a positive factor, and prior experience and exposure to unique defenses would be a positive factor. Why would you otherwise put these in the amendment? Then possible conflicts of interest, we read that as a negative factor, obviously. I think though that we go beyond.

We have had a good debate on this. I am prepared to yield back the balance of my time, and we can take this up tomorrow morning.

Mr. President, I yield the remainder of my time.

MORNING BUSINESS

Mr. D'AMATO. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees and a treaty.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1118. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's fiscal year 1994 report on environmental compliance and restoration; to the Committee on Commerce, Science and Transportation.

EC–1119. A communication from the Deputy Associate Director for Compliance, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–1120. A communication from the Deputy Associate Director for Compliance, Minerals Management Service, Department of the Interior, transmitting, pursuant to law, notice of the intention to make refunds of offshore lease revenues where a refund or recoupment is appropriate; to the Committee on Energy and Natural Resources.

EC–1121. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the text of international agreements other than treaties entered into by the United States on April 20, 1995; to the Committee on Foreign Relations.

EC–1122. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Implementations of the Government Managers Accountability Act of 1995 and the Merit Personnel Law"; to the Committee on Governmental Affairs.

EC–1123. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Fiscal Year 1992 Annual Report on Advisory Neighborhood Commissions"; to the Committee on Governmental Affairs.

EC–1124. A communication from the Federal Co-Chairman of the Appalachian Regional Commission, transmitting, pursuant to law, the semiannual report of the Inspector General for the period October 1 through March 31, 1995; to the Committee on Governmental Affairs.

EC–1125. A communication from the Secretary of Defense, transmitting, pursuant to law, the semiannual report of the Inspector General for the period October 1 through March 31, 1995; to the Committee on Governmental Affairs.

EC–1126. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the semiannual report of the Inspector General and the Management Response for the period October 1, 1995 through March 31, 1995; to the Committee on Governmental Affairs.

EC–1127. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-63; to the Committee on Governmental Affairs.

EC–1128. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11-64; to the Committee on Governmental Affairs.

EC–1129. A communication from the Inspector General of the Board for International Broadcasting, transmitting, pursuant to law, the semiannual report of the Inspector General for the period October 1, 1994 through March 31, 1995; to the Committee on Governmental Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WARNER:

S. 965. A bill to designate the United States Courthouse for the Eastern District of Virginia in Alexandria, Virginia, as the Albert V. Bryan United States Courthouse; to the Committee on Environment and Public Works.

By Mr. SIMPSON:

S. 966. A bill for the relief of Nathan C. Vance, and for other purposes; to the Committee on the Judiciary.

By Mr. LOTT (for himself, Mr. SMITH, Mr. SHELBY, Mr. BINGAMAN, Mr. HELMS, Mr. HOLLINGS, Mr. KEMPTHORNE, Mr. LIEBERMAN, Mr. FAIRCLOTH, Mr. DOLE, Mr. INHOFE, Mr. WARNER, and Mr. MCCAIN):

S. 967. A bill to provide a fair and full opportunity for recognizing with awards of military decorations the meritorious and valorous acts, achievements, and service performed by members of the Army in the Ia Drang Valley (Pleiku) campaign in Vietnam in 1965; to the Committee on Armed Services.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself and Mr. DASCHLE):

S. Con. Res. 18. A concurrent resolution authorizing the Architect of the Capitol to transfer the catafalque to the Supreme Court for a funeral service; considered and agreed to.

By Mr. PACKWOOD:

S. Con. Res. 19. A concurrent resolution to correct the enrollment of the bill H.R. 483; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WARNER:

S. 965. A bill to designate the United States Courthouse for the Eastern District of Virginia in Alexandria, VA, as the Albert V. Bryan United States Courthouse; to the Committee on Environment and Public Works.

ALBERT V. BRYAN UNITED STATES COURTHOUSE ACT

Mr. WARNER. Mr. President, I introduce legislation to transfer the name of the Albert V. Bryan United States Courthouse to the New Federal Courthouse in Alexandria, VA.

The current Federal courthouse at 200 South Washington Street in Alexandria, Virginia bears the name of one of Virginia's most distinguished jurists, Albert V. Bryan.

My legislation simply ensures that when the new courthouse is opened it shall be known as the Albert V. Bryan United States Courthouse.

Mr. President, the recognition of the many accomplishments and contributions of Judge Bryan to his chosen profession—the law—and to his community is not a new matter for this body.

On October 9, 1986, the Senate passed by unanimous consent S. 2890 to designate the Federal courthouse in Alexandria in honor of Judge Bryan's lifetime of public service. Since 1987, the Alexandria courthouse has carried his name.

Appointed to the U.S. district court in 1947 by President Truman and promoted to the appeals court by President Kennedy in 1961, Judge Bryan developed a record as a legal conservative and a strict constructionist. He was known for his tolerance on the bench, demonstrating reluctance to cut off lawyers in mid argument, and reacting sternly to those who flouted his judicial orders.

Throughout his 37 years on the Federal bench, Judge Bryan was known to be fair, firm, and thorough. His was a low-key personality, his demeanor marked by modesty, politeness and courtliness spiked with a good dose of dry wit. Chief Judge Harrison L. Winter of the Fourth Circuit Court of Appeals once remarked that Judge Bryan represented "old Virginia at its very best."

Judge Bryan's renowned wit was further evidenced in his dislike of pomposity. He worked diligently to ensure that his writings were clean and precise, often laboring lengthily to identify the exact wording he sought. Once, seeking a simple synonym for "gravamen," the essential part of a legal complaint, he rejected such complexities as "quintessence," settling instead on the word "nub."

Born in 1899, Judge Bryan grew up in Alexandria just one block from the courthouse where he would later preside. He attended Alexandria public schools, then distinguished himself at the University of Virginia and, ultimately, its law school. He is said to have taken great pride in having been named rector of the university in later life.

Returning to Alexandria in 1921, he became something of a fixture in the city. He was comfortable riding the bus to his west end home, and he was frequently seen taking lunch in modest, small restaurants near the courthouse.

A conservative on racial issues, Judge Bryan, while a district court judge, ordered that four black students be enrolled in Arlington's all-white Stratford Junior High School in 1958. The students' admission the following February marked the first day of desegregation in Virginia. He also served on the Federal judicial panel that ordered racial integration for Prince Edward County's public schools. The Prince Edward case later became part of the Supreme Court's historic Brown versus Board of Education decision.

In 1969, Judge Bryan and two additional appeals judges struck down Virginia's tuition grant program—the last vestige of massive resistance to integration. One year later, he gained considerable notice when he rejected an appeal by Yippie leader Jerry Rubin, sending the Vietnam protestor to jail for 30 days for disorderly conduct during a 1967 demonstration at the Pentagon.

Judge Bryan is credited with writing 322 opinions as a circuit judge and an additional 18 opinions while he was a district judge. He was reversed in only four cases—a dramatic record which few could equal.

Judge Bryan's accomplishments are perhaps best summarized by the comments made at the original courthouse dedication in 1987, by Supreme Court Justice Lewis Powell, Jr.

He was indeed an exceptionally able and scholarly judge. Every lawyer who ever argued a case before the fourth circuit court was happy to find Judge Bryan had been assigned to the panel.

Judge Powell also quoted a beautiful tribute to Judge Bryan made by Chief Judge Harrison Winter at the Fourth Circuit Judicial Conference: "Albert Bryan was a man to love, a man to respect, and a man to emulate."

The new Federal courthouse in Alexandria will be located at Courthouse Square South and Jamieson Avenue. My legislation provides that when this facility is completed it shall be known as the Albert F. Bryan Courthouse.

By Mr. SIMPSON:

S. 966. A bill for the relief of Nathan C. Vance, and for other purposes; to the Committee on the Judiciary.

NATE VANCE PRIVATE RELIEF ACT

Mr. SIMPSON. Mr. President, I rise today to offer a bill for private relief of a citizen who has fallen victim both to the 1988 Yellowstone fires and to an insensitive Government bureaucracy.

The tragic Yellowstone "Mink" Forest Fire of 1988 devastated Nathan Vance's outfitting business when it burned through his Teton wilderness camp. The fire destroyed essential outfitting equipment, forcing Nathan Vance to cancel 12 prepaid trips and to forfeit valuable revenue from those trips. Mr. Vance incurred both equipment replacement costs and lost revenue, a deadly combination to a small, seasonal business with a small profit margin even in the best of times. This legislation would compensate him for the equipment losses he suffered—as the Congress had intended when it passed the original legislation following those tragic fires.

That law, Public Law 101-302, authorized the Forest Service to settle certain personal damage claims from the 1988 Yellowstone fires. Mr. Vance mailed his claim on August 19, 1990 to meet the August 23 deadline. Through no fault of his own, it took 5 business days for Nate Vance's letter to travel from Wyoming to Utah—longer than it takes a letter to reach Washington, DC from San Francisco, CA.

The Forest Service officially received the Vance claim less than 24 hours after the deadline. The Forest Service initially seemed unconcerned by the deadline and continued the claim process by asking Mr. Vance to provide a detailed accounting of his lost equipment and revenue.

More than 3 months after the Forest Service received his accounting and appeared ready to pay the claim, Mr. Vance was informed by a Forest Service employee that his claim was invalid because of the missed deadline. Mr. Vance has since attempted to appeal to the Forest Service, but has been met with repeated refusals.

Public Law 101-302 states the "Forest Service is directed to negotiate, compromise, and reach a determination on the original claims." It is clear that the Forest Service failed to negotiate, to compromise, or reach a determination even when directly ordered by law to do so—all based on unusually slow mail service. The tragic combination of a devastating forest fire and Government insensitivity has turned Mr. Vance's life upside down. He is still struggling to pay the additional mortgages on his home and on the business assets he was forced to assume in order to continue his business.

Nate Vance's story is an unnecessary and an unintended inequity. Insensitive Government actions contributed to his hardship through an unreasonable and unresponsive process. We should not allow Government to forget that we are here to "serve" the people, not to impose unfair burdens upon them.

This legislation will allow us to ease part of the unfair burden imposed on Nate Vance by requiring the Secretary to pay Mr. Vance $4,850 which is authorized under section 1304—the judgments, awards, and compromised settlements section—of title 31 of the United States Code. This amount represents his equipment loss and is the amount that would have been approved if the postal service had taken 4 rather than 5 days to deliver his claim from Wyoming to its adjacent neighbor, Utah.

By Mr. LOTT (for himself, Mr. SMITH, Mr. SHELBY, Mr. BINGAMAN, Mr. HELMS, Mr. HOLLINGS, Mr. KEMPTHORNE, Mr. LIEBERMAN, Mr. FAIRCLOTH, Mr. DOLE, Mr. INHOFE, Mr. WARNER, and Mr. MCCAIN):

S. 967. A bill to provide a fair and full opportunity for recognizing with awards of military decorations the meritorious and valorous acts, achievements, and service performed by members of the Army in the Ia Drang Valley (Pleiku) campaign in Vietnam in 1965; to the Committee on Armed Services.

IA DRANG VALLEY MILITARY AWARDS ACT

Mr. LOTT. Mr. President, at 10:48 in the morning on November 14, 1965, 450 men from the 1st Battalion of the 7th Cavalry hit the ground at Landing Zone X-Ray, Ia Drang Valley, Republic of Vietnam. Over the next 96 hours, the fighting men of the 1st Battalion joined by men from the 2nd Battalion of the 7th Cavalry, would engage the enemy—over 2,000 strong. At the conclusion of these 4 days of battle more than 230 Americans were dead and 240 more were wounded.

This engagement marked the first battalion-sized engagement of United States Army personnel with North Vietnamese regulars. It was a hellish battle. Ground was seized. Ground was lost. Positions were overtaken, and counterattacks repulsed. The men who fought on that morning were stronger than the ground on which they fought. Theirs is a story of gallantry, victory, sacrifice—an example of human strength in the face of overwhelming odds and a numerically superior enemy.

But unlike most significant military engagements, this time the military recognition for the numerous acts of bravery, sacrifice and dignified service to the flag of the United States has largely gone unrecognized. It is a wrongful shame which should—and must—be undone, corrected and made right.

Only 25 months before Lt. Col. Harold Moore led his troops into the teeth of battle at Landing Zone X-Ray, then-President Kennedy addressed the students of Amherst College with these words:

> A nation reveals itself not only by the men it produces, but also by the men it honors, the men it remembers.

Just 2 years after the President spoke these words, the fallen Americans of the Ia Drang Valley, Pleiku campaign, and the men who served there in November 1965, discovered a void of silence and inaction from their government. It was a government which failed to heed the words of their President. The Nation's leadership had failed to reveal itself—by remembering the men who served—by honoring the men who sacrificed.

But nations also learn from history, and in learning are reminded. Now is such a time. From the pages of a book documenting the service of those who sacrificed in the Ia Drang Valley in November of 1965—a book entitled "We Were Soldiers Once . . . And Young"—our Nation is reminded. Through this account we are now able to remember those who fought, who died, who gave and served. Once again, history reminds us of our obligation and responsibility. And as we recognize this responsibility, the nation can go back and correct the failures of the past by honoring those very men who served.

Today, I am introducing legislation directly aimed to honor the men who served, sacrificed, and in many cases died, in the Ia Drang Valley in the Republic of Vietnam in November 1965. Joining me as cosponsors in this effort are Senators SMITH, SHELBY, BINGAMAN, HELMS, HOLLINGS, KEMPTHORNE, LIEBERMAN, FAIRCLOTH, INHOFE, DOLE, WARNER, and MCCAIN.

The bill we collectively introduce today has one singular goal: to ensure that the men who served in the Ia Drang Valley in November 1965 are not forgotten. Over the past 5 years, it has become clear that many who fought, sacrificed and died in the Pleiku campaign in the Ia Drang were not recognized for their deeds. In some instances individuals killed even failed to receive recognition for their sacrifice through the award of Purple Hearts. Our Nation can and should do better.

Under existing law and regulation, the Department of Army refuses all award recommendations submitted after 2 calendar years. It is a restriction callously enforced without regard to the very confluence of circumstances which precluded the assembly of facts in the case of the men who led the first of the 7th into battle in the Ia Drang almost 30 years ago.

After almost continuous fighting for the better part of 4 days, unit commanders lost hundreds of men. Exhausted, they huddled under lanterns each night writing letters to parents and wives explaining the loss of their sons and husbands who died in battle. In many cases the only witnesses to the valor and sacrifice of Americans felled by combat were either dead or severely wounded—neither of which were available to document the acts which justify recognition.

Over the intervening years, former commander in the Ia Drang and now retired Gen. Harold Moore, USA and Joseph Galloway, a UPI war correspondent who was in the Ia Drang in November 1965, conspired to write the history of the men served in the Pleiku campaign. After conducting hundreds of interviews to research their book, they discovered that numerous acts of heroism, sacrifice, and valor went unrecognized. Over the years efforts were made to convince the Department of Army to reconsider these men for military awards. In each instance, these efforts failed.

On July 6, 1994, the Adjutant General of the U.S. Army wrote Brig. Gen. Henry Thorpe, USA, (retired)—himself commander of Delta Company, 2d Battalion, 7th Cavalry in the Ia Drang in November 1965—to say:

> The Department of the Army has rigidly adhered to the rules pertaining to the two-year time limit and the *only recourse available to recognize these soldiers is special legislation by Congress.*" [emphasis added.]

This bill seeks to fulfill the casual advice of the Adjutant General of the Army. While it is unfortunate that legislative action is required to correct an oversight of the past 30 years, it should not be an insurmountable obstacle. The bill we introduce today removes the barricade erected by the Army, not by dictating the award of specific medals to individuals, but by directing the Army to waive the 2-year restriction and consider awards recommendations under existing Army criteria.

Should my colleagues question the wisdom of this legislation, I recommend you read two letters I have received from veterans of Ia Drang Valley, Pleiku campaign. At this point, I request unanimous consent that two letters supporting this bill be inserted in the RECORD. The first letter is from Joseph Galloway and the other is from Jack Smith.

Joseph Galloway was a 23-year-old war correspondent for United Press International when he accompanied elements of the 7th Cavalry into the Ia Drang Valley in November 1965. Thirty years later, his words ring in reverent tones as he describes the sacrifice of men lost, fallen comrades who served yet received no recognition.

Jack Smith was an enlisted specialist in Charlie Company, 2d Battalion, 7th Cavalry. Today, Jack Smith is an accomplished journalist with ABC News. His account is perhaps more personal as the book describes his experiences on the afternoon of November 17, 1965, on a trail to Landing Zone Albany—the extraction point for a tired group of soldiers who had already faced the dangers of battle and were weary from it.

As you read these letters, I urge you to envision the faces of the hundreds of young men who fought, not so much out of fear, but out of duty, honor, and commitment to the men with whom they served. This is a history which deserves recognition. And this legislation deserves passage, so that our Nation can once again reveal itself by the men it honors and the men it remembers.

I urge my colleagues to join me in cosponsoring this legislation and I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. NEWS & WORLD REPORT,
Washington, DC, March 30, 1995.

Hon. TRENT LOTT,
U.S. Senate, Washington, DC.

DEAR SENATOR LOTT: This letter is to advise that I fully and completely support the Bill which you are introducing to permit U.S. Army consideration of delayed awards recommendations for some individuals who fought in the Pleiku (Ia Drang) Campaign in the Central Highlands of South Vietnam in October and November, 1965.

I was present on a number of those battlefields as a civilian war correspondent for United Press International, in the campaign which begin with the siege of Plei Me Special Forces Camp on 23 October, 1965, and ended with the tragic clash at Landing Zone Albany, 17–18 November, 1965.

I personally witnessed repeated acts of valor and sacrifice in three days and nights at Landing Zone X-Ray, 14–16 November, 1965, and at that time assumed that such acts would in due course be recognized by the Army by appropriate awards of valor.

It was not until Lt. Gen. (ret.) Hal Moore and I had begun the detailed interviews and research that would lead to publication of our book, "We Were Soldiers Once . . . and Young," that we realized how many men had been completely overlooked, and why.

There is, for instance, the tale of the two Charlie Companies, 1st Battalion and 2nd Battalion, 7th Cavalry. At LZ X-Ray on the terrible morning of 15 November, 1965, Charlie Company 1/7 Cavalry held the line for all of us against a full battalion of the 66th North Vietnamese Army Regiment, reinforced by another battalion of Main Force Viet Cong. The company began that morning with 5 officers and 107 men on its roster. By noon it had no officers and only 49 men left standing. A total of 42 officers and men had died and 20 more had been wounded in two and one-half hours of hand-to-hand combat. Yet they held the line and saved the rest of the battalion.

Two days later, two and a half miles away at LZ Albany, Charlie Company, 2nd Battalion 7th Cavalry began the day with 112 officers and men. By the following morning, 18 November, there were only eight officers and men present and accounted for. All the others were either dead, wounded or missing in action. The battalion had been ambushed in thick jungle and tall elephant grass; the company commanders had all been called to the head of the column and were not with their men. Of all the companies present, Charlie Company 2/7 died on its feet in a desperate charge into the muzzles of the machine guns trying to save the battalion. They died following the bravest of the brave, company executive officer Lt. Don C. Cornett, who died leading them.

Who knows their stories? Who writes their award recommendations in the shock and immediacy of the moment when battalions are being loaded down with replacements and the few surviving officers sit under gasoline lanterns in base camp tents, night after night, writing letters of condolence to the mothers and fathers, wives and children of those men?

Three-hundred-six American soldiers and one U.S. Air Force pilot died in the Pleiku Campaign, in the first major battle of the Vietnam War between U.S. and North Vietnamese Army regulars. Ours was a peacetime Army just getting its war legs under it—an Army without even a proper casualty notification system. The families learned news of their loved one's death from telegrams delivered by taxi drivers, often at 2 or 3 a.m. This was an Army still operating on peacetime awards policies, miserly and damned proud of being miserly when it came time to recognize the soldier in the ranks.

All these things conspired to insure that those men, living and dead, who had fought the first and bloodiest battle of a 10-year war, would in large measure find that their deeds went unrecognized. And, as for the thanks of a grateful nation, well, we all know how that song went.

What I found in interviewing the survivors, my battlefield comrades, is that these are the most modest of men. They, each of them, seek nothing for themselves. But each will tell you how his closest buddy sacrificed his life to save another man. Or how the skinny young medic from Washington, D.C., tried to shelter the wounded with his body as enemy guns homed in on them. Or how Charles R. (Doc) Lose, the medic of the Lost Platoon (B Company, 1/7 Cavalry) at LZ X-Ray, used up all his bandages, all his morphine and then used c-ration toilet paper and strips torn off his own tee-shirt and somehow kept 13 badly wounded men alive for 26 harrowing hours under direct enemy fire. Only Doc Lose moved on that tiny knoll surrounded by the enemy, moving ceaselessly from man to man, tending his patients. During that time Doc Lose was himself wounded two times.

So many of those who would have stepped forward to recommend awards for the heroic actions they had witnessed were wounded and evacuated to hospitals in the United States. Many others had only a few days left on their term of service in the Army when they emerged from the Ia Drang battles. They were processed out and put on planes bound for home and civilian life, beginning one or two days later.

This legislation seeks no wholesales bemedalling of old soldiers for deeds long forgotten. It simply seeks an opportunity, a window, by which official Army awards channels can legally consider Ia Drang awards recommendations, properly drawn and properly endorsed by witnesses and the officers and non-commissioned officers of the units involved. It is a small opportunity to convey the country's and the Army's thanks and recognition to a few dozen men, living and dead, who did far more than simple duty demanded in the service of the United States.

These men are America's neighbors. They come from virtually every state in the Union. They are quiet and productive citizens. I was proud to stand beside them in the Ia Drang Valley in 1965, and it is a great honor and privilege to stand up for them and the families who lost loved ones in these battles and urge favorable consideration of this legislation.

Sincerely,

JOSEPH L. GALLOWAY,
Senior Writer.

ABC NEWS,
Washington, DC, April 3, 1995.

Hon. TRENT LOTT,
Russell Senate Office Building, Washington DC.

DEAR SENATOR LOTT: As a decorated veteran of the Battle of the Ia Drang Valley, 14–18 November, 1965, in the Republic of Vietnam, I strongly endorse your efforts to re-open the awards process for the men who fought in that major engagement and in the Pleiku Campaign (October-November, 1965) of which it was a part.

It was at the Ia Drang that US soldiers fought their first pitched battle against North Vietnamese regulars. The 1st Cavalry Division (Airmobile) decisively defeated a North Vietnamese division in one of the fiercest clashes of the war. My company, C company, 2d Battalion, 7th Cavalry Regiment, for instance, suffered 93% casualties. I was wounded twice, and am 20% disabled. (I am now a correspondent for ABC News in Washington, till recently on This Week with David Brinkley, and we have met.)

The heroism of many deserving friends and fellow-Cav troopers was overlooked in the aftermath of the battle. Partly because of the terrible losses suffered by some US units and the Army's consequent effort to sanitize the battle for public relations purposes, and partly because in many cases there were simply too few survivors to document the heroism that occurred in a timely fashion.

Even though the Army is now understandably reluctant to re-open the awards process for fear of being overwhelmed by a flood of frivolous claims, I believe the fears are groundless. No one is talking about the wholesale revision of awards, rather a long-overdue chance to allow consideration of delayed award recommendations for acts of heroism that went unreported at the time.

The fighting was so ferocious, the action so important, and the valor of those who fought so exemplary that introducing a bill to do this, as you are doing, is a public service. It is an opportunity to convey the nation's thanks to a few men who answered their country's call and did more than duty demanded, but who afterwards were overlooked.

Yours sincerely,

JACK SMITH,
Correspondent.

ADDITIONAL COSPONSORS

S. 324

At the request of Mr. WARNER, the names of the Senator from Minnesota [Mr. GRAMS] and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 324, a bill to amend the Fair Labor Standards Act of 1938 to exclude from the definition of employee firefighters and rescue squad workers who perform volunteer services and to prevent employers from requiring employees who are firefighters or rescue squad workers to perform volunteer services, and to allow an employer not to pay overtime compensation to a firefighter or rescue squad worker who performs volunteer services for the employer, and for other purposes.

S. 483

At the request of Mr. HATCH, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 483, a bill to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes.

S. 582

At the request of Mr. HATFIELD, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 582, a bill to amend title 28, United States Code, to provide that certain voluntary disclosures of violations of Federal laws made pursuant to an environmental audit shall not be subject to discovery or admitted into evidence during a Federal judicial or administrative proceeding, and for other purposes.

S. 585

At the request of Mr. SHELBY, the name of the Senator from Colorado [Mr. BROWN] was added as a cosponsor of S. 585, a bill to protect the rights of small entities subject to investigative or enforcement action by agencies, and for other purposes.

S. 594

At the request of Mrs. BOXER, the name of the Senator from South Dakota [Mr. DASCHLE] was added as a cosponsor of S. 594, a bill to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer.

S. 678

At the request of Mr. AKAKA, the names of the Senator from South Dakota [Mr. DASCHLE], the Senator from Washington [Mr. GORTON], and the Senator from Texas [Mrs. HUTCHISON] were added as cosponsors of S. 678, a bill to provide for the coordination and implementation of a national aquaculture policy for the private sector by the Secretary of Agriculture, to establish an aquaculture development and research program, and for other purposes.

S. 684

At the request of Mr. HATFIELD, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 684, a bill to amend the Public Health Service Act to provide for programs of research regarding Parkinson's disease, and for other purposes.

S. 830

At the request of Mr. SPECTER, the name of the Senator from Wisconsin [Mr. KOHL] was added as a cosponsor of S. 830, a bill to amend title 18, United States Code, with respect to fraud and false statements.

S. 917

At the request of Mr. DOMENICI, the names of the Senator from Kansas [Mr. DOLE], the Senator from Mississippi [Mr. COCHRAN], the Senator from Michigan [Mr. ABRAHAM], the Senator from Texas [Mrs. HUTCHISON], and the Senator from Iowa [Mr. GRASSLEY] were added as cosponsors of S. 917, a bill to facilitate small business involvement in the regulatory development processes of the Environmental Protection Agency and the Occupational Safety and Health Administration, and for other purposes.

S. 959

At the request of Mr. HATCH, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 959, a bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes.

SENATE CONCURRENT RESOLUTION 11

At the request of Ms. SNOWE, the names of the Senator from California [Mrs. FEINSTEIN], the Senator from Illinois [Ms. MOSELEY-BRAUN], and the Senator from Massachusetts [Mr. KERRY] were added as cosponsors of Senate Concurrent Resolution 11, a concurrent resolution supporting a resolution to the longstanding dispute regarding Cyprus.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the names of the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

SENATE CONCURRENT RESOLUTION 18—AUTHORIZING THE ARCHITECT OF THE CAPITOL TO TRANSFER THE CATAFALQUE

Mr. DOLE (for himself and Mr. DASCHLE) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 18

Resolved by the Senate (the House of Representatives concurring), That the Architect of the Capitol is authorized and directed to transfer to the custody of the Chief Justice of the United States the catafalque which is presently situated in the crypt beneath the rotunda of the Capitol so that the said catafalque may be used in the Supreme Court Building in connection with services to be conducted there for the late Honorable Warren Burger, former Chief Justice of the Supreme Court of the United States.

SENATE CONCURRENT RESOLUTION 19—CORRECTING THE ENROLLMENT OF H.R. 483

Mr. PACKWOOD submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 19

Resolved by the Senate (the House of Representatives concurring), That, in the enrollment of the bill (H.R. 483) to amend title XVIII of the Social Security Act to permit medicare select policies to be offered in all States, and for other purposes, the Clerk of the House of Representatives shall make the following correction: Amend the title so as to read as follows: "An Act to amend the Omnibus Budget Reconciliation Act of 1990 to permit medicare select policies to be offered in all States.".

AMENDMENTS SUBMITTED

PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

SARBANES AMENDMENT NO. 1472

Mr. SARBANES proposed an amendment to the bill, S. 240, to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act; as follows:

On page 134, strike line 6, and insert the following:

"(A) NET FINANCIAL WORTH.—Each".

On page 134, strike lines 9 through 15, and insert the following: "that the net financial worth of the".

On page 134, line 23, strike "50 percent" and insert "100 percent".

BOXER (AND GRAHAM) AMENDMENT NO. 1473

Mrs. BOXER (for herself and Mr. GRAHAM) proposed an amendment to the bill, S. 240, supra; as follows:

At the appropriate place, insert the following:

SEC. . STUDY AND REPORT ON PROTECTIONS FOR SENIOR CITIZENS AND QUALIFIED RETIREMENT PLANS.

(A) FINDINGS.—The Congress finds that—

(1) senior citizens and qualified retirement plans are too often the target of securities fraud of the kind evidenced in the Charles Keating, Lincoln Savings & Loan Association, and American Continental Corporation situations;

(2) this Act, in an effort to curb unfounded lawsuits, changes the standards and procedures for securities fraud actions; and

(3) the Securities and Exchange Commission has indicated concern with some provisions of this Act.

(b) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall—

(1) determine whether investors that are senior citizens or qualifed retirement plans require greater protection against securities fraud than is provided in this Act and the amendments made by this Act, and

(2) if so, submit to the Congress a report containing recommendations on protections that the Commission determines to be appropriate to thoroughly protect such investors.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "qualified retirement plan" has the same meaning as in section 4974(c) of the Internal Revenue Code of 1986; and

(2) the term "senior citizen" means an individual who is 62 years of age or older as of the date of the securities transaction at issue.

NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to review the Secretary of Energy's strategic realignment and downsizing proposal and other alternatives to the existing structure of the Department of Energy.

The hearing will take place Tuesday, July 11, 1995, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Karen Hunsicker (202) 224-3543 or Betty Nevitt at (202) 224-0765.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Committee on Armed Services and its subcommittees be authorized to meet June 26 to mark up the Department of Defense Authorization Act for fiscal year 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

IN MEMORY OF THE LATE SENATOR MARGARET CHASE SMITH

• Ms. SNOWE. Mr. President, last Friday I joined with the people of Maine and America in celebrating the life of Senator Margaret Chase Smith, who had a distinguished 32 years of service in Congress on behalf of my home State of Maine.

Senator Smith passed away this Memorial Day at the age of 97. With characteristic modesty, she asked that no funeral be held, and that instead that a memorial service be scheduled at a later date. That service is scheduled to occur this afternoon in Senator Smith's home town of Skowhegan, ME, at the Margaret Chase Smith Library.

During her tenure in Congress, Margaret Chase Smith became known for her independence and her conscience as well as for her legislative accomplishments. In 1953, she identified her creed that guided her both in life and in the Senate.

Her creed is as follows:

> My Creed is that public service must be more than doing a job efficiently and honestly. It must be a complete dedication to the people and to the nation with full recognition that every human being is entitled to courtesy and consideration, that constructive criticism is not only to be expected but sought, that smears are not only to be expected but fought, that honor is to be earned but not bought.—MARGARET CHASE SMITH, November 11, 1953.

Senator Smith—always prepared to speak for what is right in society—also identified, in her book "Declaration of Conscience," some of the perils that face our society. I think that, as we mark Senator Smith's passing today, it is appropriate to again consider Margaret Chase Smith's "tribute to the square":

> In today's growing, but tragic emphasis on materialism, we find a perversion of the values of things in life as we once knew them. For example, the creed once taught children as they grew up was that the most important thing was not in whether you won or lost the game, but in "how you played the game".
>
> That high level attitude that stresses the moral side no longer predominates in this age of pragmatic materialism that increasingly worships the opposite creed that "the end justifies the means" or in the attitude of get what you can in any way, manner, or means that you can . . .—"A Tribute to the

Square," December 21, 1964. Quoted in Margaret Chase Smith, "Declaration of Conscience."

Now, three decades after Senator Smith wrote those words and four decades after her "Declaration of Conscience" speech, her words ring as true as they did when Margaret Chase Smith first uttered them. We may learn from them even today, as we celebrate Senator Smith's memory, her conscience, and her values.●

THE SOUTHERN CALIFORNIA ATF FIREARMS TRACE STUDY

● Mr. SIMON. Madam President, I would like to draw my colleagues' attention to a recent report released by the southern California field office of the Bureau of Alcohol, Tobacco and Firearms [BATF]. This report details a firearms trace study conducted on firearms found in crime scenes in southern California. The BATF's objective in conducting this study was to help determine the source of crime guns and suggest practices to counter the threat posed by illicit traffic in firearms. The results of the study provide evidence that many firearms used in crimes come from licensed firearms dealers. The results also reveal the problems of interstate trafficking in firearms, and the need for uniform, national firearms regulations.

The report, titled "Sources of Crime guns in Southern California" describes the results of a firearms trace study in which special agents and intelligence analysts reviewed police reports and submitted trace requests for 1,764 guns recovered by selected law enforcement agencies in Los Angeles, Orange, and San Diego Counties between January 1, 1994 and November 10, 1994.

The results of the study raise serious questions about some of the rhetoric used to oppose firearms regulations. Last year, as I worked to tighten licensing requirements for Federal firearms dealers, many who opposed my proposals claimed that licensed gun dealers are not the source of guns used in crimes. This report shows that, at least in southern California, that is just not true. The ATF report outlined six sources of the guns recovered from crime scenes. By far the largest source was licensed gun dealers: Commercial gun dealers accounted for 80 percent of the guns recovered.

According to the study, many significant gun trafficking cases involved at-home dealers who purchased large quantities of firearms from distributors, then resold them without paperwork. Recent legislation, from the Brady law to my gun dealer licensing reforms in last year's crime bill, has begun to address the serious lack of oversight on licensed gun dealers. As a result of my reforms, Federal firearms licenses now require a photograph and fingerprints, dealers are required to comply with State and local laws, and the ATF now has 60 days, instead of 45, to investigate before granting a license. Additional reforms raised the licensing fee from a mere $30 to $200. In fact, several recent cases have led to prosecution and conviction on felony licensing and recordkeeping violations.

The report also shows the problems with interstate trafficking of firearms, and provides yet another argument in favor of national firearms regulations. Many of the guns recovered from crime scenes in southern California were traced to dealers in neighboring States with less stringent regulations: 30 percent of the guns included in the study were traced to dealers in 40 States other than California. Arizona and Nevada comprised 25 percent of the out-of-State purchases.

California is a State with strong gun trafficking laws. All gun transfers, including those involving private parties, must go through a dealer and be approved by the California Department of Justice. Prospective purchasers of handguns and long guns are screened during a 15-day waiting period and approved buyers are perpetually recorded in a computer database. California forbids the possession of certain assault weapons and forbids felons from possessing any type of firearm whatsoever.

By comparison, the laws of surrounding States, such as Nevada and Arizona, are highly permissive. Neither State imposes any restrictions other than the minimum Brady Bill requirements. Long gun sales and private transactions are not regulated and there is no central registry of handgun sales.

I would like to commend the ATF for conducting this important firearms trace study. The results of their report should help to inform the debate on gun control legislation.●

THE LIFE OF GEORGE HENRY WILLIAMS

● Mr. HATFIELD. Mr. President, throughout its colorful history, the State of Oregon has been blessed with the talents of many distinguished leaders. In my readings, I have been struck by the number of these great Oregon citizens who have received little notice from the writers of U.S. history. One such individual is Senator George Henry Williams.

I was reminded of Judge Williams' important role in Oregon history by an article which recently appeared in the Oregon State Bar Bulletin. The article, excerpted from Judge Williams' obituary, was skillfully edited by Julie Hankin of the Bulletin. This excellent piece of history gives us a glimpse into the extraordinary life of a great American and I recommend it to my colleagues.

A contemporary and close friend of Abraham Lincoln, Judge Williams came to Oregon following his appointment as Chief Justice of the Oregon territory in 1853. His ambition, however, was to serve in the U.S. Senate.

Having worked actively as a Free Soil Democrat, he eventually left the party for that of Lincoln and was elected to the U.S. Senate in 1864 on the Republican ticket. There, he quickly earned the respect of his colleagues and, later, the notice of his President, Gen. Ulysses S. Grant. President Grant nominated Williams to serve as his Attorney General. Williams withdrew his name from consideration, however, following a set of intriguing circumstances, all of which are detailed in the article which I will submit for the RECORD following my remarks.

Mr. President, in a city guided all too often by ego, I am always pleased to discover unsung heros, those who sought only to serve their countrymen, not themselves. As noted author Walter Lippman once said: "The final test of a leader is that he leaves behind in other men the conviction and the will to carry on." George Henry Williams was such an inspirational figure.

I ask that the article from the Oregon State Bar Bulletin appear in the RECORD.

[From the Oregon State Bar Bulletin, May 1995]

OREGON'S GENTLE GIANT—THE LIFE OF GEORGE HENRY WILLIAMS: SENATOR, ATTORNEY GENERAL, AND LAWYER

(By C.E.S. Wood)

George Henry Williams was born in a log cabin in New York state in 1823. Both of his grandfathers served in the Continental Army during the Revolutionary war. He studied law, and in 1844, at the age of 21, he was admitted to the bar at Syracuse. Soon afterward he started West to seek his fortunes as a lawyer.

Nationwide there were but a few miles of railroad at the time—none west of Indiana. There were no telegraph lines. Travel was by river, canal and coach. Pittsburgh and St. Louis were the Western frontier. Chicago did not exist. He made his way by the Erie Canal, the Ohio Canal, the Ohio River as far as St. Louis and then up the Mississippi to Fort Madison, Iowa. His wealth was the Statutes of New York and some bank notes of New York state banks.

Unfortunately, while Williams was counting backnotes in Pittsburgh in order to exchange them for western notes, they were snatched from him in a robbery. By virtue of his honest face he procured passage on boats to St. Louis and then Fort Madison.

In 1847, on the admission of Iowa as a state, he was elected a district judge. The same year he first met Abraham Lincoln at a conference in Chicago. Here began a great, lifelong friendship between these two with much background in common—born in poverty in log cabins, growing to the rugged strength and height of giants, athletic and sympathetic to the great masses. Judge Williams would later be selected as one of the escorts of honor and one of the pall bearers at Lincoln's funeral.

As an anti-slavery Democrat, Judge Williams campaigned throughout Iowa for Franklin Pierce and was elected one of the presidential electors on the Democratic ticket. Shortly after Pierce's inauguration in

1853, at the suggestion of his friend, Sen. Stephen A. Douglas, Williams was appointed chief justice of Oregon Territory. He was 30 years old. The appointment was without his knowledge and contrary to his wish.

He had gotten married in 1850 in Iowa to Miss Kate Van Antwerp and found his $1,000 annual salary as an Iowa district judge too small to meet the expenses of married life. He sent in his resignation, with the intention of resuming the practice of law. Lawyers of both Whig and Democrat persuasion begged him to remain on the bench.

In the end, the young and romantic Mrs. Williams decided their fortunes. Oregon was the unknown land of the West, and the excitement of voyaging there appealed to her. The couple fully intended to return to Iowa as soon as Judge Williams' term in Oregon expired.

The young couple made their home in Salem. President Buchanan appointed Judge Williams to a second term, but private practice still tempted him. He resigned, and in 1858 opened an office in Portland in a small frame building on the river bank between Washington and Alder streets.

These were stirring times in Oregon. The admission of the territory into the Union as a state was a vital issue and necessarily involved whether it should come in as a free or as a slave state. One of the desires that induced Williams to leave the bench was not only to add to his income by practicing law, but that he might enter the active arena of politics. His ambition was to be United States senator.

As a Democrat he championed the anti-slavery cause. He became a Free Soil Democrat, elected to the state constitutional convention and appointed chairman of the judiciary committee there. Apparently by the force of argument and eloquence, he greatly aided in having the free constitution adopted by the state.

Judge Williams' strong anti-slavery work in Oregon had antagonized the administration in Washington, with the result that he was not appointed United States senator. Also at the first election he was defeated by the opposition.

Judge Williams had joined in the call for an amalgamation of anti-slavery-war-Democrats with Republicans, to be called the Union Party, and by this transition he entered the Republican party and in 1864 was elected to the United States Senate. His long-held ambition was fulfilled. He entered the Senate at the close of the war and beginning of the reconstruction period. He was the sole author of the Reconstruction Act substantially as it was adopted. He drew the 15th Amendment essentially as it now stands. He was a member of the Joint High Commission, which met in Washington to determine how the disputes between Great Britain and the United States should be settled. He was a leader in the Senate during the impeachment of Andrew Johnson.

The enforcement of his Reconstruction Act also fell to Williams as Grant's attorney general at the expiration of his senatorial term: In all the troubled times following the Civil War, the responsibility of enforcement law and order by civil remedies was on Williams' shoulders. The task included confronting the Ku Klux Klan's lawlessness. Also, he had to decide between two governments in Louisiana, Alabama and Arkansas, conflicts which he resolved in favor of the Republicans in Louisiana, the Democrats in Arkansas and by a compromise in Alabama.

It therefore surprised no one (except Oregonians) that General Grant sent his name to the Senate to be chief justice of the United States. Judge Williams eventually insisted on his name being withdrawn. The causes have been variously stated as political animosity in the East due to his reconstruction work and Republican partisanship; social antagonism to his second wife, then ambitious to be a leader in Washington society; and opposition in Oregon, because in the course of his Washington career, he had necessarily failed to please everyone back home.

As the story goes, he went to see Grant to insist that his name be withdrawn. They drove out behind Grant's favorite pair of trotters, and the president became so absorbed in the discussion that he overdrove the horses and one of them died. In the end, Grant took Williams' suggestion of Morrison R. Waite of Ohio, saying, "Wire him in your own name and ask him if he will take the office of chief justice of the United States." The result is a matter of history.

It seems that Judge Williams only narrowly missed being chief justice, but he used to sum up the whole matter by saying, "I believe I have lived longer and happier than if I had been raised to that exalted office."

He returned to Portland and resumed the practice of law. He was a two-term mayor of the city from 1902–1905. He died in his sleep at home in Portland, April 4, 1910.

WHAT KIND OF MAN WAS HE?

These are the milestones in Williams' life. Taken alone, they are impressive enough. On the other hand, other men have held high office and lived long lives, busy in civic affairs on all levels. Those who knew Judge Williams want to emphasize what manner of man he was.

In all that he did he was filled with common sense and the spirit of justice. As a judge he was calm, impersonal and impartial, sensible, passionless and just. As a lawyer he was forceful, eloquent, sincere and never let justice be obscured by technicalities. Although learned in the law, his ruling trait was plain, good sense. He disliked dissension or contention either in public or private life.

At 87 he was still youthful in mind, belonging to the present and not the past. He was as interested in the problems of the day and as progressive in thought as a man of 25.

He exhibited his own childlike simplicity of character in his fondness for children. One of the last images his partners had of him was of Williams gazing gravely at a 2-year old girl was had toddled into his office from the hallway and stood staring at him.

After a moment's mutual viewing each other in silence, not knowing they were observed, the judge was heard to say solemnly to his small visitor, "Were you looking for a lawyer?" In a few days he was dead, and there passed one of the kindliest and most lovable of men.•

CONTINUE THE OFFSHORE DRILLING BAN

• Mr. BIDEN. Mr. President, I rise today to voice my strong opposition to efforts by some in the House of Representatives to remove the current moratorium on offshore oil and gas drilling on the Outer Continental Shelf. Last Tuesday, the House Interior Appropriations Subcommittee voted to lift this 14-year-old ban without soliciting any input from the coastal states directly affected. The full committee will have an opportunity to reverse this misguided action this week, and I call on them to reinstate this prohibition.

Mr. President, lifting this moratorium is short-sighted and unnecessary, and threatens to litter our coastline with mammoth drilling rigs. This will only increase the likelihood of oil and gas spills and other environmental disasters.

We faced this battle roughly 20 years ago in Delaware when oil and gas interests wanted to drill in the Baltimore Canyon off the coast of the Delmarva Peninsula. This is clearly one instance where Federal law is necessary and effective and we ought to keep the ban.

Mr. President, I am terribly concerned that this move is yet another part of an overall antienvironmental agenda now being advanced. Whether it is the air we breath, the water we drink, or the food we eat, there are increasing attempts to do away with reasonable health and safety protections.

Lifting the ban on offshore drilling—at a time when world oil supply and prices remain stable, and when the Republican budget proposal includes billions in oil sales from the north slope of Alaska—is unnecessary, misguided and just plain wrong.

Just one oil or natural gas spill, similar to the tragic *Valdez* accident, could permanently destroy miles and miles of pristine State beaches and boardwalk. Such an accident could also easily erase the decade of progress made in restoring the fragile ecosystems of the Chesapeake and Delaware Bays.

Due largely to concerns over these environmental risks, the Congress, in 1982, struck a fair balance between the need for expedited exploration and development, and the need to protect coastal environments.

This policy has been effective and has enjoyed bipartisan support. Oil and natural gas extraction in the most abundant areas has continued and even increased, generating tens of billions of Federal revenue, while the sanctity, beauty and safety of our coastlines has been preserved. A fair balance.

Yet now, in total disregard for the interests of coastal states, and "States rights" which is so often invoked and embraced, the House is attempting to upset this balance.

Mr. President, this is a perfect example of the proper role for Government in ensuring the safety of our environment and the health of our citizens. At a bare minimum, coastal states should have the authority to extend the moratorium to the Outer Continental Shelf adjacent to the States' coastline. That is why I have joined with the distinguished Senator from California [Mrs. BOXER] in introducing legislation enabling States to reimpose this needed drilling restriction on their Outer Continental Shelf waters.

Yet, I remain terribly concerned that a more comprehensive approach, covering all of the Outer Continental Shelf, as we have had in the past, is what is needed.

Mr. President, I intend to fight vigorously to ensure the continued sanctity of our coastal communities and remain committed to the ban on offshore drilling.●

THE 1995 ELLIS ISLAND MEDALS OF HONOR RECIPIENTS

● Mr. PRESSLER. Mr. President, as the former honorary chairman of Ethnic American Day, I have the distinct privilege of entering into the RECORD the names of the individuals who have been awarded the National Ethnic Coalition of Organizations [NECO] 1995 Ellis Island Medal of Honor.

NECO's distinguished board chairman is Mr. William Denis Fugazy. NECO, founded in 1984, is the only organization in the United States of America that celebrates the ethnic diversity of the American population. NECO also serves as a watchdog for ethnic, racial, and religious injustice, and has been a constant voice and vigorous advocate for ethnic unity and pride in America. One of its programs is the Ellis Island Medals of Honor.

Each year since 1986, NECO has recognized America's ethnic diversity by honoring the achievements and contributions of ethnic Americans in all professions, including government, entertainment, business and industry, sports, health care, and communications. NECO's Ellis Island Medals of Honor embody the true spirit of what makes the United States unique among the world's nations.

Many of our country's ethnic groups have no direct connection to Ellis Island. However, NECO rightly views Ellis Island as a landmark and symbol of the shared experiences of all immigrant groups that have landed on our soil. Most have come to our shores because they were the targets of ethnic, racial, and religious hatred, discrimination, stereotyping, and prejudice. Many continued to experience this intolerance in America itself.

NECO strives to eliminate this hatred. Through the Ellis Island Medals of Honor, NECO celebrates ethnic diversity and the great contributions of immigrants to the American experience. Whether they have entered past Lady Liberty in New York Harbor, John F. Kennedy International Airport, or through San Francisco Bay; whether they are native Americans, African-Americans, Asian-Americans, or others who have not entered this country through Ellis Island; NECO's Ellis Island Medals of Honor embrace all ethnic Americans who call this great country home.

Mr. President, I ask to have printed in the RECORD the National Ethnic Coalition of Organizations 1995 Ellis Island Medals of Honor recipients. I extend my congratulations to this very distinguished group of Americans.

The recipients follow:

1995 ELLIS ISLAND MEDALS OF HONOR RECIPIENTS

Dr. Mihran S. Agbabian; Mr. Raul Alarcon, Jr.; Hon. Madeleine Korbel Albright; Mr. George E. Altomare; Mr. Richard T. Anderson; Mr. Marion H. Antonini; Mr. Carlos J. Arboleya; Mr. Robert T. Aspromonte; Mr. Ronald G. Assaf; Mr. Frank Assumma; Mr. William L. Ayers, Jr.; Mr. Alan L. Bain; Dr. Gwendolyn Calvert Baker; Mr. Stephen Bartolin, Jr.; Ms. Barbara W. Bell; Mr. Geza T. Bodnar; Ms. Helen F. Boehm; Mr. Edgar Bronfman, Jr.; Hon. Joseph L. Bruno; Ms. Donna Grucci Butler; Stanley Q. Casey; Hon. Bernadette Castro; Mr. Leon H. Charney; Mr. Muzaffar A. Chishti; Mr. Philip Christopher; Mr. Richard J. Ciecka; Mr. Anthony J. Colavita, Esq.; Hon. Clay Constantinou; Rev. John J. Cremins, Ph.D.; Sr. Camille D'Arienzo; Mr. Vic Damone; Ms. Donna de Varona; Mr. Papken S. Der Torossian; Brig. Gen. Robert C.G. Disney; Ms. Kathleen A. Donovan; Mr. Robert B. Engel; Dr. Anthony S. Fauci, MD; Mr. Arthur V. Verrara; Dr. George S. Ferzli, M.D., F.A.C.S.; Mr. Arnold L. Fisher; Mr. George P. Gabriel; Hon. Charles A. Gargano; Mr. Arie Genger; Ms. Kathie Lee Gifford; Mr. David Giladi; Ms. Bozenna Urbanowicz Gilbride; Mr. James F. Gill; Mr. Sandy Ginsberg; Mr. Michael Goodwin; Mr. Per Hellman; Hon. Alan G. Hevesi.●

INCREASING PARTICIPATION OF UNITED STATES-FLAG VESSELS IN UNITED STATES-JAPAN TRADE

● Mr. COHEN. Mr. President, during the ongoing debate about autos and autoparts, much has been said about how our domestic companies have been denied a chance to compete in Japan on the basis of quality and price. I rise today to describe to my colleagues a similar problem faced by United States companies seeking to enter the trade carrying automobiles between Japan and the United States under the United States flag.

At present, only three United States-flag vessels operate in the United States-Japan trade. I understand the Department of Defense and our trade negotiators are aware of proposals to increase United States-flag participation in this trade, including a significant one to construct a fleet of 10 refrigerated car carriers to carry vehicles from Japan to the United States and produce and other refrigerated products, as well as automobiles, to Japan at commercially competitive rates.

I am particularly interested in this type of proposal because it would lead to the construction of new ships in U.S. shipyards. As my colleagues no doubt appreciate, we must do something to help our shipyards supplement their military work with commercial orders. The president of the American Shipbuilding Association, for example, recently pointed out in a letter to Members of Congress that "[c]onstruction of military sealift ships is critical to the Nation's defense, to sustaining the Navy's shipbuilding base, and to our industry's efforts to supplement declining orders with commercial work." By encouraging the entry of new U.S.-built vessels equipped with national defense features in this trade, Congress and the administration can help preserve rapidly dwindling seafaring manpower and skills, save or create a significant number of jobs in the shipbuilding and supplier industrial base, and assist U.S. shipyards in re-entering the commercial shipbuilding market.

At my request, the Department of Defense recently completed a study of the costs and benefits of an active Ready Reserve Force Program employing privately owned commercial ships equipped with national defense features as an alternative to the currently inactive Ready Reserve Force fleet. The report demonstrates that an active Ready Reserve Force Program, comprised of newly U.S.-built commercial vehicle carriers equipped with national defense features, would have important benefits and would be substantially more cost effective than acquiring and converting existing foreign-built ships. The report noted, however, that securing entry into the commercial market will be a critical element for the success of the program.

In my view, entry of these vessels into the United States-Japan trade would enhance our national security. Equipped with national defense features, such as hoistable strengthened decks, these vessels would be well adapted for carrying both heavy equipment and ammunition. Moreover, a fleet of this size in normal commercial operation in the United States-Japan auto trade would ensure vessels would be available for loading at designated ports of embarkation within the time demands for the Ready Reserve Force contemplated in an emergency.

I therefore urge the Department of Defense and our trade negotiators in ongoing discussions and negotiations to emphasize to the Government of Japan the importance of augmenting American participation in this trade as a means of advancing the mutual defense and security interests of our two nations.●

DR. KERRY BEEBE—OPTOMETRIST OF THE YEAR

Mr. GRAMS. Mr. President, I would like to take this opportunity to recognize an outstanding Minnesotan who has been chosen as the American Optometric Association's 1995 "Optometrist of the Year."

A resident of Brainerd, MI, Dr. Kerry Beebe was selected from more than 27,000 doctors for his significant contributions to the discipline of optometry.

Since 1985, Dr. Beebe has taken an active role in promoting the agenda of Minnesota's Optometric Association's legislative steering committee by spending countless hours lobbying, fundraising and speaking on issues important to optometry and the patients it serves.

In addition, Dr. Beebe has participated in a number of community service activities including serving as a member of the Brainerd Area Chamber of Commerce, Brainerd Lions Club, Brainerd Jaycees, Ducks Unlimited, and as an advisory board member to the Kingwood Good Samaritan Nursing Home.

In 1992, Minnesota Gov. Arne Carlson appointed Dr. Beebe to the Rural Health Advisory Commission which was established to facilitate the implementation of health care reform on a regional basis. He was also appointed by the Minnesota Commissioner of Health to serve on the universal standard benefit set committee to recommend a benefit set of services.

I would like to quote from Dr. Beebe's hometown paper, the Brainerd Daily Dispatch:

> He has to be one of, if not the most patient, understanding and courteous business/non-business persons I have encountered. . . . During all the years I have dealt with Dr. Beebe, he has never failed in his friendly, courteous and patient manner."

Mr. President, I hope that our Senate colleagues will join me in congratulating one of America's outstanding health care providers. Dr. Beebe has made Minnesota proud and today, Dr. Beebe is making America proud.

REMOVAL OF INJUNCTION OF SECRECY—TREATY DOCUMENT NO. 104–10

Mr. D'AMATO. Mr. President, as in executive session, I ask unanimous consent that the injunction of secrecy be removed from the Investment Treaty with Mongolia (Treaty Document No. 104–10), transmitted to the Senate by the President on June 26, 1995; and the treaty considered as having been read the first time; referred, with accompanying papers, to the Committee on Foreign Relations and ordered to be printed; and ordered that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Treaty Between the United States of America and Mongolia Concerning the Encouragement and Reciprocal Protection of Investment, with Annex and Protocol, signed at Washington on October 6, 1994. Also transmitted for the information of the Senate is the report of the Department of State with respect to the Treaty, with Annex and Protocol.

The bilateral investment Treaty (BIT) with Mongolia will protect U.S. investors and assist Mongolia in its efforts to develop its economy by creating conditions more favorable for U.S. private investment and thus strengthening the development of the private sector.

The Treaty is fully consistent with U.S. policy toward international and domestic investment. A specific tenet of U.S. policy, reflected in this Treaty, is that U.S. investment abroad and foreign investment in the United States should receive national treatment. Under this Treaty, the Parties also agree to international law standards for expropriation and compensation for expropriation; free transfer of funds associated with investments; freedom of investments from performance requirements; fair, equitable, and most-favored-nation treatment; and the investor's or investment's freedom to choose to resolve disputes with the host government through international arbitration.

I recommend that the Senate consider this Treaty as soon as possible, and give its advice and consent to ratification of the Treaty, with Annex and Protocol, at an early date.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 26, 1995*.

EXECUTIVE CALENDAR

EXECUTIVE SESSION

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations: Executive calendar nomination numbers 101, 186 through 195, and 205, and the nominations placed on the Secretary's desk in the Foreign Service.

I further ask unanimous consent that the nominations be considered en bloc, the motions to reconsider be laid upon the table en bloc, that any statements relating to the nominations appear at the appropriate place in the RECORD, the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

RAILROAD RETIREMENT BOARD

Virgil M. Speakman, of Ohio, to be a Member of the Railroad Retirement Board, for a term expiring August 28, 1999.

DEPARTMENT OF STATE

Larry C. Napper, of Texas, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of American to Latvia.

R. Grant Smith, of New Jersey, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Tajikistan.

Donald K. Steinberg, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Angola.

Lawrence Palmer Taylor, of Pennsylvania, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Estonia.

Peter Tomsen, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Armenia.

Jenonne R. Walker, of the District of Columbia, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Czech Republic.

Mosina H. Jordan, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Central African Republic.

Lannon Walker, of Maryland, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cote d'Ivoire.

Timothy Michael Carney, of Washington, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Sudan.

James Alan Williams, of Virginia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, for the rank of Ambassador during his tenure of service as the Special Coordinator for Cyprus.

CENTRAL INTELLIGENCE

George J. Tenet, of Maryland, to be Deputy Director of Central Intelligence, vice Admiral William O. Studeman.

IN THE FOREIGN SERVICE

Foreign Service nominations beginning Robert A. Kohn, and ending Robert A. Taft, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of March 23, 1995.

Foreign Service nominations beginning Judith A. Futch, and ending Joy Ona Yamamoto, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 15, 1995.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR TUESDAY, JUNE 27, 1995

Mr. D'AMATO. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:15 a.m. on Tuesday, June 27, 1995; that following the prayer, the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and that the Senate then immediately resume consideration of S. 240, the securities litigation bill under the provisions of the previous agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I now ask unanimous consent that the Senate stand in recess between the hours of 12:30 p.m. and 2:15 p.m. tomorrow for the weekly policy luncheons to meet.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. D'AMATO. For the information of all Senators, the Senate will resume consideration of the securities bill tomorrow at 9:15 a.m. under the previous order. At 9:15 a.m., the Senate will begin a total of 60 minutes of debate on the Bryan amendment, on aiding and abetting, and the Boxer amendment regarding lead plaintiff. At the hour of 10:15 a.m. on Tuesday, there will be two consecutive votes on or in relation to those amendments. It is the intent of the majority leader to complete action on the securities bill at an early hour on Tuesday. The majority leader has also announced that following the securities litigation bill, it will be his intention to begin consideration of the regulatory reform bill.

Mr. President, there would be the usual time reserved in between those 2 votes to explain for 2 minutes, 1 minute on each side, the contents of the amendments.

Mr. SARBANES. Mr. President, will the Senator yield? I understand that following the second of those votes, the Senator from Maryland would then be recognized to offer an amendment relating to the so-called safe harbor, which is one of two amendments I have on that aspect of the bill?

Mr. D'AMATO. That is correct. That has been included in the earlier unanimous-consent request.

Mr. SARBANES. I thank the Senator.

RECESS UNTIL 9:15 A.M. TOMORROW

Mr. D'AMATO. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 9:08 p.m., recessed until Tuesday, June 27, 1995, at 9:15 a.m.

NOMINATIONS

Executive nominations received by the Senate June 26, 1995:

DEPARTMENT OF ENERGY

DERRICK L. FORRISTER, OF TENNESSEE, TO BE AN ASSISTANT SECRETARY OF ENERGY (CONGRESSIONAL AND INTERGOVERNMENTAL AFFAIRS), VICE WILLIAM J. TAYLOR III, RESIGNED.

FOREIGN SERVICE

THE FOLLOWING-NAMED CAREER MEMBER OF THE FOREIGN SERVICE FOR PROMOTION INTO THE SENIOR FOREIGN SERVICE TO THE CLASS STATED, AND FOR THE APPOINTMENT AS CONSULAR OFFICER AND SECRETARY AS INDICATED:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF COUNSELOR; AND CONSULAR OFFICER AND SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF AGRICULTURE

JOHN H. WYSS, OF TEXAS

THE FOLLOWING-NAMED PERSONS OF THE AGENCIES INDICATED FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF THE CLASSES STATED, AND ALSO FOR THE OTHER APPOINTMENTS INDICATED HEREWITH:

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS TWO, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

DAVID J. MURPHY, OF MASSACHUSETTS

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS THREE, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

JANICE A. CORBETT, OF OHIO
MICHAEL P. KEAVENY, OF CALIFORNIA
GREGORY D. LOOSE, OF CALIFORNIA
REBECCA L. MANN, OF FLORIDA

FOR APPOINTMENT AS FOREIGN SERVICE OFFICERS OF CLASS FOUR, CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

DEPARTMENT OF COMMERCE

DONALD G. NAY, OF COLORADO

DEPARTMENT OF STATE

ANNE MARIE KREMIDAS AGUILERA, OF NEW HAMPSHIRE
JAKE COSMOS ALLER, OF WASHINGTON
MELISSA BUCHANAN ARKLEY, OF TEXAS
BARBARA L. ARMSTRONG, OF GEORGIA
BRIAN DAVID BACHMAN, OF VIRGINIA
CAROLYN R. BARGERON, OF MARYLAND
MARY MONICA BARNICLE, OF ILLINOIS
ERICA J. BARKS, OF VIRGINIA
RUSSELL ALTON BAUM, JR., OF CALIFORNIA
KEITH DERMONT BENNETT, OF WASHINGTON
DONALD SCOTT BOY, OF MASSACHUSETTS
JEREMY BECKLEY BRENNER, OF CONNECTICUT
DAVID KERRY BROWN, OF WASHINGTON
RAVI S. CANDADAI, OF WASHINGTON
LISA G. CONNER, OF CALIFORNIA
DAVID FRANCIS COWHIG, JR., OF VIRGINIA
THEODORE J. CRAIG, OF VIRGINIA
JEFFREY R. DAFLER, OF OHIO
JASON DAVIS, OF ALASKA
GRANT CHRISTIAN DEOYE, OF MARYLAND
BENJAMIN BEARDSLEY DILLE, OF MINNESOTA
JAMES EDWARD DONEGAN, OF NEW YORK
ELIZABETH ANN FRITSCHLE DUFFY, OF MISSOURI
THOMAS M. DUFFY, OF CALIFORNIA
LIISA ECOLA, OF ILLINOIS
ANDREW S.E. ERICKSON, OF CALIFORNIA
SARAH J. ESKANDAR, OF TENNESSEE
OSCAR R. ESTRADA, OF FLORIDA
KATHERINE E. FARRELL, OF INDIANA
TAMARA K. FITZGERALD, OF COLORADO
RECEBBA L. GAGHEN, OF MONTANA
KIRA MARIA GLOVER, OF CALIFORNIA
RUTH W. GODFREY, OF FLORIDA
STEVEN ARTHUR GOODWIN, OF ARIZONA
ELIZABETH PERRY GOURLAY, OF SOUTH CAROLINA
PETER D. HAAS, OF ILLINOIS
MATTHEW T. HARRINGTON, OF GEORGIA
ANDREW B. HAVILAND, OF IOWA
MARGARET DIERDRE HAWTHORNE, OF ILLINOIS
JAMES WILLIAM HERMAN, OF WASHINGTON
LAWRENCE LEE HESS, OF WASHINGTON
DEBRA LENDIEWICZ HEVIA, OF NEW YORK
JACK HINDEN, OF CALIFORNIA
RICHARD HOLTZAPPLE, OF CALIFORNIA
NATALIE ANN JOHNSON, OF ARIZONA
MARION LOUISE JOHNSTON, OF CALIFORNIA
KEITH C. JORDAN, OF OHIO
RICHARD M. KAMINSKI, OF NEVADA
ANNE KATSAS, OF MASSACHUSETTS
JONATHAN STUART KESSLER, OF TEXAS
PAMELA FRANCIS KIEHL, OF PENNSYLVANIA
KARIN MARGARET KING, OF OHIO
JOHN C. KMETZ, OF KANSAS
MICHAEL B. KOPLOVSKY, OF MASSACHUSETTS
SAMUEL DAVID KOTIS, OF NEW YORK
MARNIX ROBERT ANDREW KOUMANS, OF NEW HAMPSHIRE
STEVEN HERBERT KRAFT, OF VIRGINIA
KAMALA SHIRIN LAKHDHIR, OF CONNECTICUT
JOHN M. LIPINSKI, OF PENNSYLVANIA
GAYLE WAGGONER LOPES, OF NEBRASKA
DONALD LU, OF CALIFORNIA
PAMELA J. MANSFIELD, OF ILLINOIS
DUBRAVKA ANA MARIC, OF CONNECTICUT
WILLIAM JOHN MARTIN, OF CALIFORNIA
WILLIAMS SWIFT MARTIN IV, OF THE DISTRICT OF COLUMBIA
JOHN J. MEAKEM III, OF NEW YORK
CARLOS MEDINA, OF NEW YORK
ALEXANDER JACOB MEEROVICH, OF PENNSYLVANIA
MARIO ERNESTO MERIDA, OF COLORADO
JAMES P. MERZ, OF MARYLAND
ANDREW THOMAS MILLER, OF MICHIGAN
KEITH W. MINES, OF COLORADO
GREGG MORROW, OF NEW HAMPSHIRE
EDWARD R. MUNSON, OF UTAH
JOYCE WINCHEL NAMDE, OF CALIFORNIA
ROBERT S. NEEDHAM, OF FLORIDA
STACY R. NICHOLS, OF TENNESSEE
JOSEPH L. NOVAK, OF PENNSYLVANIA
STEPHEN PATRICK O'DOWD, OF VIRGINIA
SANDRA SPRINGER OUDKIRK, OF FLORIDA
NEDRA A. OVERALL, OF CALIFORNIA
SUSAN PAGE, OF WASHINGTON
MARK A. PATRICK, OF NEW MEXICO
MARY CATHERINE PHEE, OF THE DISTRICT OF COLUMBIA
BRAIN HAWTHORNE PHIPPS, OF FLORIDA
THEODORE STUART PIERCE, OF NEW YORK
JEFFREY D. RATHKE, OF PENNSYLVANIA
WHITNEY A. REITZ, OF FLORIDA
TIMOTHY P. ROCHE, OF VIRGINIA
DANIEL A. ROCHMAN, OF NEBRASKA
DANIEL EDMUND ROSS, OF TEXAS
NICOLE D. ROTHSTEIN, OF CALIFORNIA
KRISTINA LUISE SCOTT, OF IOWA
BRIAN K. SELF, OF CALIFORNIA
DOROTHY CAMILLE SHEA, OF OREGON
APAR SINGH SIDHU, OF CALIFORNIA
JOHN CHRISTOPHER STEVENS, OF CALIFORNIA
LEILANI STRAW, OF NEW YORK
MONA K. SUTPHEN, OF TEXAS
LANDON R. TAYLOR, OF VIRGINIA
ALAINA B. TEPLITZ, OF MISSOURI
JAMES PAUL THEIS, OF SOUTH DAKOTA
MICHAEL DAVID THOMAS, OF VIRGINIA
GREGORY DEAN THOME, OF WISCONSIN
SUSAN ASHTON THORNTON, OF TENNESSEE
LESLIE MEREDITH TSOU, OF VIRGINIA
THOMAS L. VAJDA, OF TENNESSEE
CHEVER XENA VOLTMER, OF TEXAS
EVA WEIGOLD-HANSON, OF MINNESOTA
MATTHEW ALAN WEILLER, OF NEW YORK
COLWELL CULLUM WHITNEY, OF THE DISTRICT OF COLUMBIA
DAVID C. WOLFE, OF TEXAS
ANTHONY C. WOODS, OF TEXAS
THOMAS K. YADGERDI, OF FLORIDA
JOSEPH M. YOUNG, OF PENNSYLVANIA
MARTA COSTANZO YOUTH, OF NEW JERSEY

THE FOLLOWING-NAMED MEMBERS OF THE FOREIGN SERVICE OF THE DEPARTMENTS OF STATE AND COMMERCE AND THE U.S. INFORMATION AGENCY TO BE CONSULAR OFFICERS AND/OR SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA, AS INDICATED:

CONSULAR OFFICERS AND SECRETARIES IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

VICKI ADAIR, OF WASHINGTON
STEPHEN E. ALLEY, OF THE DISTRICT OF COLUMBIA
VICTORIA ALVARADO, OF CALIFORNIA
TRAVIS E. ANDERSON, OF VIRGINIA
PATRICIA OLIVARES ATTKISSON, OF VIRGINIA
COURTNEY E. AUSTRIAN, OF THE DISTRICT OF COLUMBIA
BARBARA S. AYCOCK, OF THE DISTRICT OF COLUMBIA
DOUGLAS MICHAEL BELL, OF CALIFORNIA
ROBERT GERALD BENTLEY, OF CALIFORNIA
JERALD S. BOSSE, OF VIRGINIA
BRADLEY D. BOURLAND, OF VIRGINIA
STEVEN FRANK BRAULT, OF WASHINGTON
ERIC SCOTT COHAN, OF VIRGINIA
LUISA M. COLON, OF VIRGINIA
PATRICIA ANN COMELLA, OF MARYLAND
CLAYTON F. CREAMER, OF MARYLAND
THOMAS EDWARD DALEY, OF ILLINOIS
MARK KRISTEN DRAPER, OF WASHINGTON
JEANNE M EBLE, OF MARYLAND
ERIC ALAN FLOHR, OF MARYLAND
DAVID WILLIAM FRANZ, OF ILLINOIS
JUSTIN PAUL FREIDMAN, OF VIRGINIA
STACEY L. FULTON, OF VIRGINIA
SUSAN HERTHUM GARRISON, OF FLORIDA
WILLIAM ROBERT GILL, JR., OF VIRGINIA
CAROLYN B. GLASSMAN, OF ILLINOIS
DAVID L. GOSSACK, OF WASHINGTON
THERESA ANN GRENCIK, OF PENNSYLVANIA
RICHARD SPENCER DADDOW HAWKINS, OF NEW HAMPSHIRE
CATHERINE B. JANYNKA, OF THE MARIANA ISLANDS
RICHARD M. JOHANNSEN, OF ALASKA
ARTURO M. JOHNSON, OF FLORIDA
JOANNE JORIA-HOOPER, OF SOUTH CAROLINA
NATALIE JOSHI, OF VIRGINIA
ERICA JENNIFER JUDGE, OF NEW YORK
JACQUELYN JANET KALHAMMER, OF VIRGINIA
KIMBERLY CHRISTINE KELLY, OF TEXAS
ROBERT C. KERR, OF NEW YORK
FARNAZ KHADEM, OF CALIFORNIA
HELEN D. LEE, OF VIRGINIA
NANCY R. LE ROY, OF THE DISTRICT OF COLUMBIA
GREGORY PAUL MACRIS, OF FLORIDA
ARTHUR H. MARQUARDT, OF MICHIGAN
CHARLES M. MARTIN, OF VIRGINIA
JOEL FOREST MAYBURY, OF CALIFORNIA
SEAN IAN MC CORMACK, OF MAINE
HEATHER D. MC CULLOUGH, OF ARKANSAS
JULIE A. NICKLES, OF FLORIDA
PATRICIA D. NORLAND, OF THE DISTRICT OF COLUMIA
ELIZABETH ANNE NOSEWORTHY, OF DELAWARE
BARRY CLIFTON NUTTER, OF VIRGINIA

WAYNE M. ONDIAK, OF VIRGINIA
PATRICK RAYMOND O'REILLY, OF CONNECTICUT
DALE K. PARMER, JR., OF VIRGINIA
KAY ELIZABETH PAYNE, OF VIRGINIA
TERENCE J. QUINN, OF VIRGINIA
TIMOTHY MEADE RICHARDSON, OF VIRGINIA
EDWINA SAGITTO, OF MISSOURI
MARK ANDREW SHAHEEN, OF MARYLAND
ANN G. SORAGHAN, OF VIRGINIA
RONALD L. SORIANO, OF CONNECTICUT
KAREN K. SQUIRES, OF ILLINOIS
CYNTHIA A. STOCKMAN, OF MARYLAND
JAMES F. SULLIVAN, OF FLORIDA
WILFREDO A. TORRES, OF VIRGINIA
HORACIO ANTONIO URETA, OF FLORIDA
MIGUEL VALLS, JR., OF VIRGINIA
JAVIER C. VILLARREAL, OF VIRGINIA
LESLEY MOORE VESSEN, OF MARYLAND
PHILIP G. WASIELEWSKI, OF VIRGINIA
JOEL D. WILKINSON, OF IDAHO

SECRETARY IN THE DIPLOMATIC SERVICE OF THE UNITED STATES OF AMERICA:

SEAN D. MURPHY, OF MARYLAND

THE FOLLOWING-NAMED INDIVIDUAL FOR PROMOTION IN THE SENIOR FOREIGN SERVICE TO THE CLASS INDICATED, EFFECTIVE OCTOBER 6, 1991:

CAREER MEMBER OF THE SENIOR FOREIGN SERVICE OF THE UNITED STATES OF AMERICA, CLASS OF MINISTER-COUNSELOR:

JAMES J. BLYSTONE, OF VIRGINIA

PUBLIC HEALTH SERVICE

THE FOLLOWING CANDIDATES FOR PERSONNEL ACTION IN THE REGULAR CORPS OF THE PUBLIC HEALTH SERVICE SUBJECT TO QUALIFICATIONS THEREFORE AS PROVIDED BY LAW AND REGULATIONS:

1. FOR APPOINTMENT

To be assistant surgeon

PATRICA A. BERRY
CHRISTINE CASEY
STEPHANIE E. MARKMAN
MICHAEL E. TOEDT
CATHERINE L. WOODHOUSE

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601:

To be lieutenant general

MAJ. GEN. GEORGE K. MUELLNER [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. JARED L. BATES [redacted]

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF LIEUTENANT GENERAL WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, UNITED STATES CODE, SECTION 601(A):

To be lieutenant general

MAJ. GEN. JOHN A. DUBIA [redacted]

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF VICE ADMIRAL IN THE U.S. NAVY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 UNITED STATES CODE, SECTION 601:

To be vice admiral

REAR ADM. DENNIS C. BLAIR [redacted]

IN THE MARINE CORPS

THE FOLLOWING-NAMED OFFICER TO BE PLACED ON THE RETIRED LIST OF THE U.S. MARINE CORPS IN THE GRADE INDICATED UNDER SECTION 1370, OF TITLE 10, UNITED STATES CODE:

To be lieutenant general

LT. GEN. ROBERT B. JOHNSTON [redacted]

IN THE AIR FORCE

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION TO THE GRADE INDICATED IN THE RESERVE OF THE U.S. AIR FORCE UNDER SECTION 307 OF TITLE 32, UNITED STATES CODE AND SECTIONS 12203 AND 8363 OF TITLE 10, UNITED STATES CODE:

LINE

To be colonel

JAMES W. AMASON [redacted]
ROBERT W. ANDERSON [redacted]
RONALD J. BATH [redacted]
MICHAEL J. BEBON [redacted]
ROWAN W. BRONSON [redacted]
ROBERT A. BRUCE [redacted]
THOMAS J. BUNTING [redacted]
RICHARD W. BURRIS [redacted]
RALPH J. CLIFFT [redacted]
ROGER E. COMBS [redacted]
WILLIAM J. COPELAND [redacted]
RICHARD CZARNOTA [redacted]
STEVEN J. DALPORTO [redacted]
TIMOTHY T. DEARING [redacted]
JANET S. DREW [redacted]
ALDER J, DUBOIS [redacted]
EDWARD F. FARWELL, JR [redacted]
DENNIS R. GANNON [redacted]
JUAN A. GARCIA [redacted]
HARRY R. GORHAM [redacted]
JOHN R. HADDON [redacted]
PAUL K. HENNESSEY [redacted]
CALVIN J. HOBSON II [redacted]
BARRY M. JOHNSON [redacted]
MICHAEL D. KELLEY [redacted]
JEROLD E. KREIDLER [redacted]
CHARLES T. KRING [redacted]
PHILIP C. LEHMAN [redacted]
CHRISTOPHER A. LOWRY [redacted]
LAWRENCE J. MASTNY [redacted]
RODNEY A. MATHISEN [redacted]
WILLIAM T. MCGLATHERY II [redacted]
FRANCIS M. MEZZATESTA [redacted]
HARLAN R. MICKELSON [redacted]
JOHN E. MOLLOY [redacted]
CHARLES A. MORGAN III [redacted]
DENNIS E. MURRAY [redacted]
ROY H. PANSEY [redacted]
WILLIAM J. PETERS, JR [redacted]
JESSE P. PRITCHETT [redacted]
LAWRENCE W. REEDY [redacted]
JAMES M. REUSS [redacted]
WILLIAM A. RICHMOND III [redacted]
MICHAEL T. RIESS [redacted]
DAVID R. ROBINSON, JR. [redacted]
LARRY L. ROWE [redacted]
PHILIP C. SAMMONS [redacted]
JACOB S. SEHER [redacted]
MICHAEL R. SMITH [redacted]
MALCOLM R. SNEDDON [redacted]
MICHAEL S. STEWART [redacted]
PHILIP E. THORNTON [redacted]
ANTHONY M. TOSI [redacted]
SAMUEL A. VOLTZ [redacted]
STEPHEN L. VONDERHEIDE [redacted]

JUDGE ADVOCATE

To be colonel

JOHN E. ANDERSON [redacted]
PETER R. BUCHLER [redacted]
EPIFANIO MORALES, JR. [redacted]
AVRUM M. RABIN [redacted]

MEDICAL CORPS

To be colonel

TROY F. BARNETT, JR [redacted]
ALFONSO A. MADARANG [redacted]
SIDNEY J. MORGAN, JR [redacted]
FRED L. PASTERNACK [redacted]

NURSE CORPS

To be colonel

EDITH I. DOMINGUEZ [redacted]
MARY A. EPPS [redacted]
MARIETTA L. LOO [redacted]
CATHY A. NAVIN [redacted]

MEDICAL SERVICE CORPS

To be colonel

FRED T. BROWN, JR., 243–68–7473

BIOMEDICAL SCIENCES CORPS

To be colonel

RONALD D. POWELL [redacted]

IN THE ARMY

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 12203(A), 3370, AND 1552:

ARMY PROMOTION LIST

To be colonel

FRANK M. HUDGINS [redacted]

THE FOLLOWING-NAMED OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTIONS 12203(A), 3366, AND 1552:

ARMY PROMOTION LIST

To be lieutenant colonel

FRED S. BENDINGER [redacted]
WILLIAM R. BRADLEY [redacted]
BRUCE S. CRONK [redacted]
SANTIAGO DELAVALLE [redacted]
DANIEL F. DONOHUE [redacted]
WILLIAM B. FERRELL [redacted]
ROY J. FLEISHER [redacted]
PETER C. FULLER [redacted]
ROBERT L. FURU [redacted]
IRA A. GOSS [redacted]
GAYLE B. HAMRICK [redacted]
WILLIAM H. HASKELL [redacted]
JAMES L. HODGE [redacted]
JAMES L. HOLLAND [redacted]
J. W. HOSKINS [redacted]
GARY J. MARENNA [redacted]
JAMES R. SMITH [redacted]
DONALD N. VARTANIAN [redacted]
AMELIA J. WESTON [redacted]
DAVID G. WHITE [redacted]

THE FOLLOWING-NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE ARMY OF THE UNITED STATES, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE. SECTIONS 12203 AND 3385:

ARMY PROMOTION LIST

To be colonel

ROBERT D. ALLEN [redacted]
ROBERT J. ANGUS, JR [redacted]
GEORGE W. BODDY [redacted]
DANIEL P. COFFEY [redacted]
ARNOLD D. DROKE [redacted]
GEORGE B. FAULHABER, JR [redacted]
JAMES H. LAMBACK [redacted]
JERRY A. MCFARLAND [redacted]
JOHN A. MOORE [redacted]
EDWARD C. O'NEILL [redacted]
GEORGE D. SHULL [redacted]
RAMON Q. SUDO [redacted]
CHRISTOPHER T. WHITTAKER [redacted]
J. DALLAS WINSLOW, JR [redacted]

ARMY NURSE CORPS

To be colonel

HELEN D. PARRISH [redacted]
KRISTINE J. SCHULTZ [redacted]

CHAPLAIN CORPS

To be colonel

JACK D. FERGUSON [redacted]

MEDICAL CORPS

To be colonel

JOHN R. HILLMAN [redacted]
HOWARD S. NUNN, JR. [redacted]
CHRISTOPHER T. RORES [redacted]

ARMY PROMOTION LIST

To be lieutenant colonel

ROGER B. ALLISON [redacted]
CHARLES W. AYERS [redacted]
ROBERT K. BALSTER [redacted]
DAVID E. BORNTNEM [redacted]
FRANK J. GRASS [redacted]
JOHN L. GRONSKI [redacted]
ERIC A. HANSON [redacted]
GEORGE W. HARRIS [redacted]
WILLIAM A. HILLING [redacted]
MATTHEW L. KAMBIC [redacted]
KENNETH W. KELNHOFER, JR [redacted]
RALPH L. LEDGERWOOD, JR. [redacted]
KENNETH B. MCNEEL [redacted]
DAVID L. PARKER [redacted]
EDWIN I. RIVERA [redacted]
ISABELO RIVERA [redacted]
LARRY E. RYALS [redacted]
STEVEN D. SAUNDERS [redacted]
BRUCE D. SPEAR [redacted]
DAVID H. TUCKER [redacted]
DAVID L. UPDEGRAFF [redacted]
HARLAN M. WALKER II [redacted]
FRANCIS B. WILLIAMS III [redacted]
GREGORY J. ZANETT [redacted]

ARMY NURSE CORPS

To be lieutenant colonel

JOHN N. SCHANK [redacted]

JUDGE ADVOCATE GENERAL CORPS

To be lieutenant colonel

AUGUSTUS D. AIKENS, JR. [redacted]
MARC D. BRIERRE [redacted]

MEDICAL CORPS

To be lieutenant colonel

MICHAEL A. TODD [redacted]

MEDICAL SERVICE CORPS

To be lieutenant colonel

KENNETH F. SELOVER [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate June 26, 1995:

RAILROAD RETIREMENT BOARD

VIRGIL M. SPEAKMAN, OF OHIO, TO BE A MEMBER OF THE RAILROAD RETIREMENT BOARD, FOR A TERM EXPIRING AUGUST 28, 1999. (REAPPOINTMENT.)

DEPARTMENT OF STATE

LARRY C. NAPPER, OF TEXAS, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO LATVIA.

R. GRANT SMITH, OF NEW JERSEY, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TAJIKISTAN.

DONALD K. STEINBERG, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ANGOLA.

LAWRENCE PALMER TAYLOR, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ESTONIA.

PETER TOMSEN, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ARMENIA.

JENONNE R. WALKER, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CZECH REPUBLIC.

MOSINA H. JORDAN, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE CENTRAL AFRICAN REPUBLIC.

LANNON WALKER, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF COTE D'IVOIRE.

TIMOTHY MICHAEL CARNEY, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SUDAN.

JAMES ALAN WILLIAMS, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS THE SPECIAL COORDINATOR FOR CYPRUS.

CENTRAL INTELLIGENCE

GEORGE J. TENET, OF MARYLAND, TO BE DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

FOREIGN SERVICE

FOREIGN SERVICE NOMINATIONS BEGINNING ROBERT A. KOHN, AND ENDING ROBERT A. TAFT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MARCH 23, 1995.

FOREIGN SERVICE NOMINATIONS BEGINNING JUDITH A. FUTCH, AND ENDING JOY ONA YAMAMOTO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON MAY 15, 1995.

HOUSE OF REPRESENTATIVES—*Monday, June 26, 1995*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. GOODLATTE].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 26, 1995.

I hereby designate the Honorable BOB GOODLATTE to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following Prayer:

O gracious God, from whom comes every good gift, our hearts are filled with thanksgiving for all Your marvelous gifts to us and to all people. As we enter this week with all the responsibilities of the day and the many tasks ahead, may our lives never get so cluttered that we fail to express our innermost feelings of prayer, praise, and thanksgiving. Remind us, too, that our abilities are gifts of Your hand so may we dedicate ourselves to be good custodians of the marvels of Your creation and by being faithful in deeds of justice and acts of mercy to all those about us. In Your name, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from California [Mr. ROHRABACHER] come forward and lead the House in the Pledge of Allegiance.

Mr. ROHRABACHER led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

PERMISSION TO HAVE UNTIL MIDNIGHT TONIGHT TO FILE CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 67, CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1996

Mr. ROHRABACHER. Mr. Speaker, I ask unanimous consent that the Committee on the Budget have until midnight tonight to file the conference report on the concurrent resolution (H. Con. Res. 67), the concurrent resolution on the budget for fiscal years 1996, 1997, 1998, 1999, 2000, 2001 and 2002.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 67

Mr. KASICH submitted the following conference report and statement on the bill (H. Con. Res. 67), setting forth the congressional budget for the United States Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

CONFERENCE REPORT (H. CON. RES. 67)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (H. Con. Res. 67), setting forth the congressional budget for the United States Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment, insert the following:

SECTION 1. CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 1996.

(a) DECLARATION.—The Congress determines and declares that this resolution is the concurrent resolution on the budget for fiscal year 1996, including the appropriate budgetary levels for fiscal years 1997, 1998, 1999, 2000, as required by section 301 of the Congressional Budget Act of 1974, and including the appropriate levels for fiscal years 2001 and 2002.

(b) TABLE OF CONTENTS.—The table of contents for this concurrent resolution is as follows:

Sec. 1. Concurrent resolution on the budget for fiscal year 1996.

TITLE I—LEVELS AND AMOUNTS

Sec. 101. Recommended levels and amounts.
Sec. 102. Debt increase.
Sec. 103. Social Security.
Sec. 104. Major functional categories.
Sec. 105. Reconciliation.

TITLE II—BUDGETARY RESTRAINTS AND RULEMAKING

Sec. 201. Discretionary spending limits.
Sec. 202. Extension of pay-as-you-go point of order.
Sec. 203. Tax reserve fund in the Senate.
Sec. 204. Welfare reform reserve fund.
Sec. 205. Budget surplus allowance.
Sec. 206. Sale of government assets.
Sec. 207. Credit reform and direct student loans.
Sec. 208. Extension of Budget Act 60-vote enforcement through 2002.
Sec. 209. Repeal of IRS allowance.
Sec. 210. Tax reduction contingent on balanced budget in the House of Representatives.
Sec. 211. Exercise of rulemaking powers.

TITLE III—SENSE OF THE CONGRESS, HOUSE OF REPRESENTATIVES, AND SENATE

Sec. 301. Sense of the Congress on the elimination of fraud, waste, and abuse in the medicare system.
Sec. 302. Sense of Congress regarding privatization of the student loan marketing association (Sallie Mae).
Sec. 303. Sense of the Congress regarding the debt limit.
Sec. 304. Sense of the Congress assumptions.
Sec. 305. Sense of the Senate that tax reductions should benefit working families.
Sec. 306. Sense of the Senate on the distribution of agriculture savings.
Sec. 307. Sense of the Senate on the establishment of a medicare solvency commission.
Sec. 308. Sense of the Senate regarding protection of children's health.
Sec. 309. Sense of the Senate on the assumptions.
Sec. 310. House Statement on agriculture savings.
Sec. 311. Sense of the House on baselines.
Sec. 312. Sense of the House regarding a commission on the solvency of the Federal military and civil service retirement funds.
Sec. 313. Sense of the House regarding the repeal of House Rule XLIX.
Sec. 314. Sense of the House on emergencies.

TITLE I—LEVELS AND AMOUNTS

SEC. 101. RECOMMENDED LEVELS AND AMOUNTS.

The following budgetary levels are appropriate for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002:

(1) FEDERAL REVENUES.—For purposes of the enforcement of this resolution—

(A) The recommended levels of Federal revenues are as follows:

Fiscal year 1996: $1,042,500,000,000.
Fiscal year 1997: $1,082,700,000,000.
Fiscal year 1998: $1,134,200,000,000.
Fiscal year 1999: $1,186,700,000,000.
Fiscal year 2000: $1,245,400,000,000.
Fiscal year 2001: $1,313,400,000,000.
Fiscal year 2002: $1,384,200,000,000.

(B) The amounts by which the aggregate levels of Federal revenues should be changed are as follows:

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Fiscal year 1996: $100,000,000.

Fiscal year 1997: $100,000,000.

Fiscal year 1998: $200,000,000.

Fiscal year 1999: $200,000,000.

Fiscal year 2000: $200,000,000.

Fiscal year 2001: $200,000,000.

Fiscal year 2002: $200,000,000.

(C) The amounts for Federal Insurance Contributions Act revenues for hospital insurance within the recommended levels of Federal revenues are as follows:

Fiscal year 1996: $103,800,000,000.

Fiscal year 1997: $109,000,000,000.

Fiscal year 1998: $114,900,000,000.

Fiscal year 1999: $120,700,000,000.

Fiscal year 2000: $126,900,000,000.

Fiscal year 2001: $133,600,000,000.

Fiscal year 2002: $140,400,000,000.

(2) New Budget Authority.—For purposes of the enforcement of this resolution, the appropriate levels of total new budget authority are as follows:

Fiscal year 1996: $1,285,500,000,000.

Fiscal year 1997: $1,324,300,000,000.

Fiscal year 1998: $1,362,300,000,000.

Fiscal year 1999: $1,396,900,000,000.

Fiscal year 2000: $1,445,600,000,000.

Fiscal year 2001: $1,476,300,000,000.

Fiscal year 2002: $1,518,800,000,000.

(3) Budget Outlays.—For purposes of the enforcement of this resolution, the appropriate levels of total budget outlays are as follows:

Fiscal year 1996: $1,288,100,000,000.

Fiscal year 1997: $1,316,800,000,000.

Fiscal year 1998: $1,338,200,000,000.

Fiscal year 1999: $1,379,600,000,000.

Fiscal year 2000: $1,426,500,000,000.

Fiscal year 2001: $1,453,600,000,000.

Fiscal year 2002: $1,492,600,000,000.

(4) Deficits.—For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

Fiscal year 1996: $245,600,000,000.

Fiscal year 1997: $234,100,000,000.

Fiscal year 1998: $204,000,000,000.

Fiscal year 1999: $192,900,000,000.

Fiscal year 2000: $181,100,000,000.

Fiscal year 2001: $140,200,000,000.

Fiscal year 2002: $108,400,000,000.

(5) Public Debt.—The appropriate levels of the public debt are as follows:

Fiscal year 1996: $5,210,700,000,000.

Fiscal year 1997: $5,510,100,000,000.

Fiscal year 1998: $5,779,800,000,000.

Fiscal year 1999: $6,038,900,000,000.

Fiscal year 2000: $6,288,900,000,000.

Fiscal year 2001: $6,503,500,000,000.

Fiscal year 2002: $6,688,600,000,000.

(6) Direct Loan Obligations.—The appropriate levels of total new direct loan obligations are as follows:

Fiscal year 1996: $37,600,000,000.

Fiscal year 1997: $40,200,000,000.

Fiscal year 1998: $42,300,000,000.

Fiscal year 1999: $45,700,000,000.

Fiscal year 2000: $45,800,000,000.

Fiscal year 2001: $45,800,000,000.

Fiscal year 2002: $46,100,000,000.

(7) Primary Loan Guarantee Commitments.—The appropriate levels of new primary loan guarantee commitments are as follows:

Fiscal year 1996: $193,400,000,000.

Fiscal year 1997: $187,900,000,000.

Fiscal year 1998: $185,300,000,000.

Fiscal year 1999: $183,300,000,000.

Fiscal year 2000: $184,700,000,000.

Fiscal year 2001: $186,100,000,000.

Fiscal year 2002: $187,600,000,000.

SEC. 102. DEBT INCREASE.

The amounts of the increase in the public debt subject to limitation are as follows:

Fiscal year 1996: $307,800,000,000.

Fiscal year 1997: $299,300,000,000.

Fiscal year 1998: $269,800,000,000.

Fiscal year 1999: $259,100,000,000.

Fiscal year 2000: $249,900,000,000.

Fiscal year 2001: $214,600,000,000.

Fiscal year 2002: $185,100,000,000.

SEC. 103. SOCIAL SECURITY.

(a) Social Security Revenues.—For purposes of Senate enforcement under sections 302, 602, and 311 of the Congressional Budget Act of 1974, the amounts of revenues of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1996: $374,700,000,000.

Fiscal year 1997: $392,000,000,000.

Fiscal year 1998: $411,400,000,000.

Fiscal year 1999: $430,900,000,000.

Fiscal year 2000: $452,000,000,000.

Fiscal year 2001: $475,200,000,000.

Fiscal year 2002: $498,600,000,000.

(b) Social Security Outlays.—For purposes of Senate enforcement under sections 302, 602, and 311 of the Congressional Budget Act of 1974, the amounts of outlays of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund are as follows:

Fiscal year 1996: $299,400,000,000.

Fiscal year 1997: $310,900,000,000.

Fiscal year 1998: $324,600,000,000.

Fiscal year 1999: $338,500,000,000.

Fiscal year 2000: $353,100,000,000.

Fiscal year 2001: $368,100,000,000.

Fiscal year 2002: $383,800,000,000.

SEC. 104. MAJOR FUNCTIONAL CATEGORIES.

The Congress determines and declares that the appropriate levels of new budget authority, budget outlays, new direct loan obligations, and new primary loan guarantee commitments for fiscal years 1996 through 2002 for each major functional category are:

(1) National Defense (050):

Fiscal year 1996:

(A) New budget authority, $264,700,000,000.

(B) Outlays, $263,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

Fiscal year 1997:

(A) New budget authority, $267,300,000,000.

(B) Outlays, $265,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

Fiscal year 1998:

(A) New budget authority, $269,000,000,000.

(B) Outlays, $263,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

Fiscal year 1999:

(A) New budget authority, $271,700,000,000.

(B) Outlays, $267,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

Fiscal year 2000:

(A) New budget authority, $274,400,000,000.

(B) Outlays, $270,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

Fiscal year 2001:

(A) New budget authority, $277,100,000,000.

(B) Outlays, $270,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

Fiscal year 2002:

(A) New budget authority, $280,000,000,000.

(B) Outlays, $270,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $1,700,000,000.

(2) International Affairs (150):

Fiscal year 1996:

(A) New budget authority, $15,800,000,000.

(B) Outlays, $17,000,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

Fiscal year 1997:

(A) New budget authority, $14,000,000,000.

(B) Outlays, $15,100,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

Fiscal year 1998:

(A) New budget authority, $12,400,000,000.

(B) Outlays, $13,900,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

Fiscal year 1999:

(A) New budget authority, $11,200,000,000.

(B) Outlays, $12,600,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

Fiscal year 2000:

(A) New budget authority, $12,700,000,000.

(B) Outlays, $11,900,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

Fiscal year 2001:

(A) New budget authority, $12,800,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

Fiscal year 2002:

(A) New budget authority, $12,800,000,000.

(B) Outlays, $11,800,000,000.

(C) New direct loan obligations, $5,700,000,000.

(D) New primary loan guarantee commitments, $18,300,000,000.

(3) General Science, Space, and Technology (250):

Fiscal year 1996:

(A) New budget authority, $16,700,000,000.

(B) Outlays, $16,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $16,300,000,000.

(B) Outlays, $16,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $15,900,000,000.

(B) Outlays, $16,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $15,600,000,000.

(B) Outlays, $15,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $15,300,000,000.

(B) Outlays, $15,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $15,300,000,000.

(B) Outlays, $15,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $15,300,000,000.

(B) Outlays, $15,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(4) Energy (270):

Fiscal year 1996:

(A) New budget authority, $4,600,000,000.

(B) Outlays, $4,500,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $4,200,000,000.

(B) Outlays, $3,500,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $3,800,000,000.

(B) Outlays, $3,100,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $3,600,000,000.

(B) Outlays, $2,600,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $3,400,000,000.

(B) Outlays, $2,200,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $3,300,000,000.

(B) Outlays, $2,200,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $3,300,000,000.

(B) Outlays, $2,200,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $0.

(5) Natural Resources and Environment (300):

Fiscal year 1996:

(A) New budget authority, $19,500,000,000.

(B) Outlays, $20,300,000,000.

(C) New direct loan obligations $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $19,200,000,000.

(B) Outlays, $20,000,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $17,700,000,000.

(B) Outlays, $18,700,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $18,200,000,000.

(B) Outlays, $19,000,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $17,900,000,000.

(B) Outlays, $18,500,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $17,100,000,000.

(B) Outlays, $17,400,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $17,500,000,000.

(B) Outlays, $17,700,000,000.

(C) New direct loan obligations, $100,000,000.

(D) New primary loan guarantee commitments, $0.

(6) Agriculture (350):

Fiscal year 1996:

(A) New budget authority, $13,100,000,000.

(B) Outlays, $11,800,000,000.

(C) New direct loan obligations, $11,500,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

Fiscal year 1997:

(A) New budget authority, $12,500,000,000.

(B) Outlays, $11,100,000,000.

(C) New direct loan obligations, $11,500,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

Fiscal year 1998:

(A) New budget authority, $11,700,000,000.

(B) Outlays, $10,500,000,000.

(C) New direct loan obligations, $10,900,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

Fiscal year 1999:

(A) New budget authority, $11,500,000,000.

(B) Outlays, $10,300,000,000.

(C) New direct loan obligations, $11,600,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

Fiscal year 2000:

(A) New budget authority, $10,900,000,000.

(B) Outlays, $9,800,000,000.

(C) New direct loan obligations, $11,400,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

Fiscal year 2001:

(A) New budget authority, $9,800,000,000.

(B) Outlays, $8,700,000,000.

(C) New direct loan obligations, $11,100,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

Fiscal year 2002:

(A) New budget authority, $9,600,000,000.

(B) Outlays, $8,500,000,000.

(C) New direct loan obligations, $10,900,000,000.

(D) New primary loan guarantee commitments, $5,700,000,000.

(7) Commerce and Housing Credit (370):

Fiscal year 1996:

(A) New budget authority, $2,600,000,000.

(B) Outlays, −$6,900,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

Fiscal year 1997:

(A) New budget authority, $1,800,000,000.

(B) Outlays, −$5,100,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

Fiscal year 1998:

(A) New budget authority, $900,000,000.

(B) Outlays, −$6,700,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

Fiscal year 1999:

(A) New budget authority, $400,000,000.

(B) Outlays, −$4,800,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

Fiscal year 2000:

(A) New budget authority, $2,100,000,000.

(B) Outlays, −$2,200,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

Fiscal year 2001:

(A) New budget authority, $800,000,000.

(B) Outlays, −$2,900,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

Fiscal year 2002:

(A) New budget authority, $600,000,000.

(B) Outlays, −$3,000,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $123,100,000,000.

(8) Transportation (400):

Fiscal year 1996:

(A) New budget authority, $36,600,000,000.

(B) Outlays, $38,900,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $43,100,000,000.

(B) Outlays, $37,600,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $43,900,000,000.

(B) Outlays, $36,600,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $42,600,000,000.

(B) Outlays, $34,100,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $42,900,000,000.

(B) Outlays, $33,200,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $42,200,000,000.

(B) Outlays, $32,400,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $41,800,000,000.

(B) Outlays, $32,000,000,000.

(C) New direct loan obligations, $200,000,000.

(D) New primary loan guarantee commitments, $0.

(9) Community and Regional Development (450):

Fiscal year 1996:

(A) New budget authority, $6,600,000,000.

(B) Outlays, $9,900,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

Fiscal year 1997:

(A) New budget authority, $6,500,000,000.

(B) Outlays, $7,800,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

Fiscal year 1998:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $6,500,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

Fiscal year 1999:

(A) New budget authority, $6,400,000,000.

(B) Outlays, $6,200,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

Fiscal year 2000:

(A) New budget authority, $6,300,000,000.

(B) Outlays, $6,200,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

Fiscal year 2001:

(A) New budget authority, $5,700,000,000.

(B) Outlays, $6,100,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

Fiscal year 2002:

(A) New budget authority, $5,600,000,000.

(B) Outlays, $6,100,000,000.

(C) New direct loan obligations, $2,700,000,000.

(D) New primary loan guarantee commitments, $1,200,000,000.

(10) Education, Training, Employment, and Social Services (500):

Fiscal year 1996:

(A) New budget authority, $48,400,000,000.

(B) Outlays, $53,400,000,000.

(C) New direct loan obligations, $13,600,000,000.

(D) New primary loan guarantee commitments, $16,300,000,000.

Fiscal year 1997:

(A) New budget authority, $47,800,000,000.

(B) Outlays, $48,900,000,000.

(C) New direct loan obligations, $16,300,000,000.

(D) New primary loan guarantee commitments, $15,900,000,000.

Fiscal year 1998:

(A) New budget authority, $47,600,000,000.

(B) Outlays, $47,300,000,000.

(C) New direct loan obligations, $19,100,000,000.

(D) New primary loan guarantee commitments, $15,200,000,000.

Fiscal year 1999:

(A) New budget authority, $48,400,000,000.

(B) Outlays, $47,500,000,000.

(C) New direct loan obligations, $21,800,000,000.

(D) New primary loan guarantee commitments, $14,300,000,000.

Fiscal year 2000:

(A) New budget authority, $49,100,000,000.

(B) Outlays, $48,200,000,000.

(C) New direct loan obligations, $21,900,000,000.

(D) New primary loan guarantee commitments, $15,000,000,000.

Fiscal year 2001:

(A) New budget authority, $48,600,000,000.

(B) Outlays, $47,700,000,000.

(C) New direct loan obligations, $22,000,000,000.

(D) New primary loan guarantee commitments, $15,800,000,000.

Fiscal year 2002:

(A) New budget authority, $48,800,000,000.

(B) Outlays, $47,800,000,000.

(C) New direct loan obligations, $22,200,000,000.

(D) New primary loan guarantee commitments, $16,600,000,000.

(11) Health (550):

Fiscal year 1996:

(A) New budget authority, $121,000,000,000.

(B) Outlays, $121,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1997:

(A) New budget authority, $127,600,000,000.

(B) Outlays, $127,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1998:

(A) New budget authority, $131,600,000,000.

(B) Outlays, $131,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 1999:

(A) New budget authority, $135,700,000,000.

(B) Outlays, $135,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 2000:

(A) New budget authority, $140,100,000,000.

(B) Outlays, $139,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 2001:

(A) New budget authority, $144,500,000,000.

(B) Outlays, $144,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

Fiscal year 2002:

(A) New budget authority, $149,200,000,000.

(B) Outlays, $149,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $300,000,000.

(12) Medicare (570):

Fiscal year 1996:

(A) New budget authority, $176,100,000,000.

(B) Outlays, $173,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $184,300,000,000.

(B) Outlays, $182,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $194,000,000,000.

(B) Outlays, $192,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $205,700,000,000.

(B) Outlays, $203,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $216,500,000,000.

(B) Outlays, $214,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $231,800,000,000.

(B) Outlays, $229,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $249,200,000,000.

(B) Outlays, $247,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(13) Income Security (600):

Fiscal year 1996:

(A) New budget authority, $225,900,000,000.

(B) Outlays, $227,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

Fiscal year 1997:

(A) New budget authority, $231,600,000,000.

(B) Outlays, $236,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

Fiscal year 1998:

(A) New budget authority, $250,300,000,000.

(B) Outlays, $245,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

Fiscal year 1999:

(A) New budget authority, $253,100,000,000.

(B) Outlays, $255,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

Fiscal year 2000:

(A) New budget authority, $269,500,000,000.

(B) Outlays, $269,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

Fiscal year 2001:

(A) New budget authority, $274,800,000,000.

(B) Outlays, $274,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

Fiscal year 2002:

(A) New budget authority, $288,700,000,000.

(B) Outlays, $288,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $100,000,000.

(14) Social Security (650):

Fiscal year 1996:

(A) New budget authority, $5,900,000,000.

(B) Outlays, $8,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $8,100,000,000.

(B) Outlays, $10,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $8,800,000,000.

(B) Outlays, $11,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $9,600,000,000.

(B) Outlays, $12,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $10,500,000,000.

(B) Outlays, $12,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $11,100,000,000.

(B) Outlays, $13,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $11,700,000,000.

(B) Outlays, $14,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(15) Veterans Benefits and Services (700):

Fiscal year 1996:

(A) New budget authority, $37,500,000,000.

(B) Outlays, $36,900,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $26,700,000,000.

Fiscal year 1997:

(A) New budget authority, $37,900,000,000.

(B) Outlays, $38,000,000,000.

(C) New direct loan obligations, $1,100,000,000.

(D) New primary loan guarantee commitments, $21,600,000,000.

Fiscal year 1998:

(A) New budget authority, $38,200,000,000.

(B) Outlays, $38,400,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $19,700,000,000.

Fiscal year 1999:

(A) New budget authority, $38,800,000,000.

(B) Outlays, $39,000,000,000.

(C) New direct loan obligations, $1,000,000,000.

(D) New primary loan guarantee commitments, $18,600,000,000.

Fiscal year 2000:

(A) New budget authority, $39,100,000,000.

(B) Outlays, $40,600,000,000.

(C) New direct loan obligations, $1,200,000,000.

(D) New primary loan guarantee commitments, $19,300,000,000.

Fiscal year 2001:

(A) New budget authority, $39,700,000,000.

(B) Outlays, $41,300,000,000.

(C) New direct loan obligations, $1,400,000,000.

(D) New primary loan guarantee commitments, $19,900,000,000.

Fiscal year 2002:

(A) New budget authority, $40,200,000,000.

(B) Outlays, $41,800,000,000.

(C) New direct loan obligations, $1,700,000,000.

(D) New primary loan guarantee commitments, $20,600,000,000.

(16) Administration of Justice (750):

Fiscal year 1996:

(A) New budget authority, $19,800,000,000.

(B) Outlays, $18,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $19,800,000,000.

(B) Outlays, $18,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $20,200,000,000.

(B) Outlays, $19,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $21,000,000,000.

(B) Outlays, $20,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $21,100,000,000.

(B) Outlays, $20,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $20,700,000,000.

(B) Outlays, $20,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $20,600,000,000.

(B) Outlays, $20,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(17) General Government (800):

Fiscal year 1996:

(A) New budget authority, $12,400,000,000.

(B) Outlays, $12,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $12,300,000,000.

(B) Outlays, $12,300,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $12,200,000,000.

(B) Outlays, $12,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $12,100,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $12,000,000,000.

(B) Outlays, $12,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $11,600,000,000.

(B) Outlays, $11,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $11,600,000,000.

(B) Outlays, $11,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(18) Net Interest (900):

Fiscal year 1996:

(A) New budget authority, $298,400,000,000.

(B) Outlays, $298,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, $310,500,000,000.

(B) Outlays, $310,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, $319,400,000,000.

(B) Outlays, $319,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, $331,500,000,000.

(B) Outlays, $331,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, $342,900,000,000.

(B) Outlays, $342,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, $349,900,000,000.

(B) Outlays, $349,900,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, $357,600,000,000.

(B) Outlays, $357,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(19) The corresponding levels of gross interest on the public debt are as follows:

Fiscal year 1996: $369,900,000,000.

Fiscal year 1997: $381,600,000,000.

Fiscal year 1998: $390,900,000,000.

Fiscal year 1999: $404,000,000,000.

Fiscal year 2000: $416,100,000,000.

Fiscal year 2001: $426,800,000,000.

Fiscal year 2002: $436,100,000,000.

(20) Allowances (920):

Fiscal year 1996:

(A) New budget authority, −$6,400,000,000.

(B) Outlays, −$4,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, −$6,300,000,000.

(B) Outlays, −$6,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, −$5,300,000,000.

(B) Outlays, −$5,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, −$4,700,000,000.

(B) Outlays, −$5,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, −$3,700,000,000.

(B) Outlays, −$4,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, −$3,700,000,000.

(B) Outlays, −$4,000,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, −$3,700,000,000.

(B) Outlays, −$4,100,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

(21) Undistributed Offsetting Receipts (950):

Fiscal year 1996:

(A) New budget authority, −$33,700,000,000.

(B) Outlays, −$33,700,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1997:

(A) New budget authority, −$34,200,000,000.

(B) Outlays, −$34,200,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1998:

(A) New budget authority, −$36,400,000,000.

(B) Outlays, −$36,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 1999:

(A) New budget authority, −$35,500,000,000.

(B) Outlays, −$35,500,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2000:

(A) New budget authority, −$37,400,000,000.

(B) Outlays, −$37,400,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2001:

(A) New budget authority, −$36,800,000,000.

(B) Outlays, −$36,800,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

Fiscal year 2002:

(A) New budget authority, −$41,600,000,000.

(B) Outlays, −$41,600,000,000.

(C) New direct loan obligations, $0.

(D) New primary loan guarantee commitments, $0.

SEC. 105. RECONCILIATION.

(a) Reconciliation of Spending Reductions.—

(1) Senate committees.—Not later than September 22, 1995, the committees named in this subsection shall submit their recommendations to the Committee on the Budget of the Senate. After receiving those recommendations, the Committee on the Budget shall report to the Senate a reconciliation bill carrying out all such recommendations without any substantive revision.

(A) Committee on Agriculture, Nutrition, and Forestry.—The Senate Committee on Agriculture, Nutrition, and Forestry shall report changes in laws within its jurisdiction that provide direct spending (as defined in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985) to reduce outlays $2,503,000,000 in fiscal year 1996, $29,059,000,000 for the period of fiscal years 1996 through 2000, and $48,402,000,000 for the period of fiscal years 1996 through 2002.

(B) Committee on Armed Services.—The Senate Committee on Armed Services shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $1,571,000,000 in fiscal year 1996, $1,888,000,000 for the period of fiscal years 1996 through 2000, and $2,199,000,000 for the period of fiscal years 1996 through 2002.

(C) Committee on Banking, Housing, and Urban Affairs.—The Senate Committee on Banking, Housing, and Urban Affairs shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $481,000,000 in fiscal year 1996, $1,698,000,000 for the period of fiscal years 1996 through 2000, and $2,391,000,000 for the period of fiscal years 1996 through 2002.

(D) Committee on Commerce, Science, and Transportation.—The Senate Committee on Commerce, Science, and Transportation shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $114,000,000 in fiscal year 1996, $9,088,000,000 for the period of fiscal years 1996 through 2000, and $15,036,000,000 for the period of fiscal years 1996 through 2002.

(E) Committee on Energy and Natural Resources.—The Senate Committee on Energy and Natural Resources shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $354,000,000 in fiscal year 1996, $4,292,000,000 for the period of fiscal years 1996 through 2000, and $4,001,000,000 for the period of fiscal years 1996 through 2002.

(F) Committee on Environment and Public Works.—The Senate Committee on Environment and Public Works shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $118,000,000 in fiscal year 1996, $1,308,000,000 for the period of fiscal years 1996 through 2000, and $2,250,000,000 for the period of fiscal years 1996 through 2002.

(G) Committee on Finance.—(i) The Senate Committee on Finance shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $15,328,000,000 in fiscal year 1996, $272,974,000,000 for the period of fiscal years 1996 through 2000, and $530,359,000,000 for the period of fiscal years 1996 through 2002.

(ii) The Senate Committee on Finance shall report changes in laws to increase the statutory limit on the public debt to not more than $5,500,000,000,000.

(H) Committee on Governmental Affairs.—The Senate Committee on Governmental Affairs shall report changes in laws within its jurisdiction to reduce the deficit $524,000,000 in fiscal year 1996, $5,357,000,000 for the period of fiscal years 1996 through 2000, and $9,844,000,000 for the period of fiscal years 1996 through 2002.

(I) Committee on the Judiciary.—The Senate Committee on the Judiciary shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $0 in fiscal year 1996, $238,000,000 for the period of fiscal years 1996 through 2000, and $476,000,000 for the period of fiscal years 1996 through 2002.

(J) Committee on Labor and Human Resources.—The Senate Committee on Labor and Human Resources shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $809,000,000 in fiscal year 1996, $6,956,000,000 for the period of fiscal years 1996 through 2000, and $10,779,000,000 for the period of fiscal years 1996 through 2002.

(K) Committee on Veterans' Affairs.—The Senate Committee on Veterans' Affairs shall report changes in laws within its jurisdiction that provide direct spending to reduce outlays $274,000,000 in fiscal year 1996, $3,614,000,000 for the period of fiscal years 1996 through 2000, and $6,392,000,000 for the period of fiscal years 1996 through 2002.

(2) House committees.—

(A) General rules.—(i) Not later than September 22, 1995, the House committees named in clauses (i) through (xii) of subparagraph (B) shall submit their recommendations to the House Committee on the Budget. After receiving those recommendations, the House Committee on the Budget shall report to the House a reconciliation bill carrying out all such recommendations without any substantive revision.

(ii) Each committee named in clauses (i) through (xi) of subparagraph (B) shall report changes in laws within its jurisdiction that provide direct spending such that the total level of direct spending for that committee for—

(I) fiscal year 1996,

(II) the 5-year period beginning with fiscal year 1996 and ending with fiscal year 2000, and

(III) the 7-year period beginning with fiscal year 1996 and ending with fiscal year 2002,

does not exceed the total level of direct spending in that period in the clause applicable to that committee.

(iii) Each committee named in clauses (i)(II), (iv)(II), (v)(II), and (vi)(II) of subparagraph (B) shall report changes in laws within its jurisdiction as set forth in the clause applicable to that committee.

(iv) The Committee on Ways and Means shall carry out subparagraph (B)(xii).

(B) Committee amounts.—(i)(I) The House Committee on Agriculture: $10,506,000,000 in outlays in fiscal year 1996, $44,741,000,000 in outlays in fiscal years 1996 through 2000, and $59,232,000,000 in outlays in fiscal years 1996 through 2002.

(II) In addition to the changes in law reported pursuant to subclause (I), the House Committee on Agriculture shall report changes in laws within its jurisdiction that provide direct spending (other than that defined within subparagraph (A) or (B) of section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985) such that the total level of direct spending (as so defined) for that committee does not exceed: $26,748,000,000 in outlays in fiscal year 1996, $133,246,000,000 in outlays in fiscal years 1996 through 2000, and $192,270,000,000 in outlays in fiscal years 1996 through 2002.

(ii) The House Committee on Banking and Financial Services: −$13,087,000,000 in outlays in fiscal year 1996, −$50,061,000,000 in outlays in fiscal years 1996 through 2000, and −$65,112,000,000 in outlays in fiscal years 1996 through 2002.

(iii) The House Committee on Commerce: $285,537,000,000 in outlays in fiscal year 1996, $1,592,240,000,000 in outlays in fiscal years 1996 through 2000, and $2,361,708,000,000 in outlays in fiscal years 1996 through 2002.

(iv)(I) The House Committee on Economic and Educational Opportunities: $16,026,000,000 in outlays in fiscal year 1996, $77,346,000,000 in outlays in fiscal years 1996 through 2000, and $110,936,000,000 in outlays in fiscal years 1996 through 2002.

(II) In addition to changes in law reported pursuant to subclause (I), the House Committee on Economic and Educational Opportunities shall report program changes in laws within its jurisdiction that would result in a reduction in outlays as follows: −$720,000,000 in fiscal year 1996, −$5,810,000,000 in fiscal years 1996 through 2000, and −$8,770,000,000 in fiscal years 1996 through 2002.

(v)(I) The House Committee on Government Reform and Oversight: $57,743,000,000 in outlays in fiscal year 1996, $310,364,000,000 in outlays in fiscal years 1996 through 2000, and $449,583,000,000 in outlays in fiscal years 1996 through 2002.

(II) In addition to changes in law reported pursuant to subclause (I), the House Committee on Government Reform and Oversight shall report changes in laws within its jurisdiction that would reduce the deficit by: $85,000,000 in fiscal year 1996, $775,000,000 in fiscal years 1996 through 2000, and $1,127,000,000 in fiscal years 1996 through 2002.

(vi)(I) The House Committee on International Relations: $14,243,000,000 in outlays in fiscal year 1996, $62,072,000,000 in outlays in fiscal years 1996 through 2000, and $83,221,000,000 in outlays in fiscal years 1996 through 2002.

(II) In addition to changes in law reported pursuant to subclause (I), the House Committee on International Relations shall report changes in laws within its jurisdiction that would reduce the deficit by: $1,000,000 in fiscal year 1996, $14,000,000 in fiscal years 1996 through 2000, and $22,000,000 in fiscal years 1996 through 2002.

(vii) The House Committee on the Judiciary: $2,580,000,000 in outlays in fiscal year 1996, $13,734,000,000 in outlays in fiscal years 1996 through 2000, and $19,530,000,000 in outlays in fiscal years 1996 through 2002.

(viii) The House Committee on National Security: $39,601,000,000 in outlays in fiscal year 1996, $226,931,000,000 in outlays in fiscal years 1996 through 2000, and $331,210,000,000 in outlays in fiscal years 1996 through 2002.

(ix) The House Committee on Resources: $1,535,000,000 in outlays in fiscal year 1996, $7,816,000,000 in outlays in fiscal years 1996 through 2000, and $12,871,000,000 in outlays in fiscal years 1996 through 2002.

(x) The House Committee on Transportation and Infrastructure: $16,615,000,000 in outlays in fiscal year 1996, $83,070,000,000 in outlays in fiscal years 1996 through 2000, and $116,811,000,000 in outlays in fiscal years 1996 through 2002.

(xi) The House Committee on Veterans' Affairs: $19,041,000,000 in outlays in fiscal year 1996, $106,163,000,000 in outlays in fiscal years 1996 through 2000, and $154,864,000,000 in outlays in fiscal years 1996 through 2002.

(xii)(I) The House Committee on Ways and Means shall report changes in laws within its jurisdiction that provide direct spending such that the total level of direct spending for that committee for—

(aa) fiscal year 1996,

(bb) the 5-year period beginning with fiscal year 1996 and ending with fiscal year 2000, and

(cc) the 7-year period beginning with fiscal year 1996 and ending with fiscal year 2002,

does not exceed the following level in that period: $349,172,000,000 in outlays in fiscal year 1996, $2,010,751,000,000 in outlays in fiscal years 1996 through 2000, and $3,002,706,000,000 in outlays in fiscal years 1996 through 2002.

(II) The House Committee on Ways and Means shall report changes in laws within its jurisdiction such that the total level of revenues for that committee for fiscal year 2000 is not less than $1,304,215,000,000 and for fiscal years 1996 through 2002 is not less than $17,938,254,000,000.

(III) The House Committee on Ways and Means shall report changes in laws to increase the statutory limit on the public debt to not more than $5,500,000,000,000.

(C) DEFINITION.—For purposes of this paragraph, the term "direct spending" has the meaning given to such term in section 250(c)(8) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) RECONCILIATION OF REVENUE REDUCTIONS IN THE SENATE.—

(1) CERTIFICATION.—In the Senate, upon the certification pursuant to section 205(a) of this resolution, the Senate Committee on Finance shall submit its recommendations pursuant to paragraph (2) to the Senate Committee on the Budget. After receiving those recommendations, the Committee on the Budget shall add these recommendations to the recommendations submitted pursuant to subsection (a) and report a reconciliation bill carrying out all such recommendations without any substantive revision.

(2) COMMITTEE ON FINANCE.—Not later than five days after the certification made pursuant to section 205(a), the Senate Committee on Finance shall report changes in laws within its jurisdiction necessary to reduce revenues by not more than $50,000,000,000 in fiscal year 2002 and $245,000,000,000 for the period of fiscal years 1996 through 2002.

TITLE II—BUDGETARY RESTRAINTS AND RULEMAKING

SEC. 201. DISCRETIONARY SPENDING LIMITS.

(a) DEFINITION.—As used in this section and for the purposes of allocations made pursuant to section 302(a) or 602(a) of the Congressional Budget Act of 1974, for the discretionary category, the term "discretionary spending limit" means—

(1) with respect to fiscal year 1996—

(A) for the defense category $265,406,000,000 in new budget authority and $264,043,000,000 in outlays; and

(B) for the nondefense category $219,668,000,000 in new budget authority and $267,725,000,000 in outlays;

(2) with respect to fiscal year 1997—

(A) for the defense category $267,962,000,000 in new budget authority and $265,734,000,000 in outlays; and

(B) for the nondefense category $214,468,000,000 in new budget authority and $254,561,000,000 in outlays;

(3) with respect to fiscal year 1998—

(A) for the defense category $269,731,000,000 in new budget authority and $264,531,000,000 in outlays; and

(B) for the nondefense category $220,961,000,000 in new budget authority and $248,101,000,000 in outlays;

(4) with respect to fiscal year 1999, for the discretionary category $482,207,000,000 in new budget authority and $510,482,000,000 in outlays;

(5) with respect to fiscal year 2000, for the discretionary category $489,379,000,000 in new budget authority and $514,234,000,000 in outlays;

(6) with respect to fiscal year 2001, for the discretionary category $496,601,000,000 in new budget authority and $516,403,000,000 in outlays; and

(7) with respect to fiscal year 2002, for the discretionary category $498,837,000,000 in new budget authority and $515,075,000,000 in outlays;

as adjusted for changes in concepts and definitions and emergency appropriations.

(b) POINT OF ORDER IN THE SENATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), it shall not be in order in the Senate to consider—

(A) any concurrent resolution on the budget for fiscal year 1996, 1997, or 1998 (or amendment, motion, or conference report on such a resolution) that provides discretionary spending in excess of the sum of the defense and nondefense discretionary spending limits for such fiscal year;

(B) any concurrent resolution on the budget for fiscal years 1999, 2000, 2001, or 2002 (or amendment, motion, or conference report on such a resolution) that provides discretionary spending in excess of the discretionary spending limit for such fiscal year; or

(C) any appropriations bill or resolution (or amendment, motion, or conference report on such appropriations bill or resolution) for fiscal year 1995, 1996, 1997, 1998, 1999, 2000, 2001, or 2002 that would exceed any of the discretionary spending limits in this section or suballocations of those limits made pursuant to section 602(b) of the Congressional Budget Act of 1974.

(2) EXCEPTION.—

(A) IN GENERAL.—This section shall not apply if a declaration of war by the Congress is in effect or if a joint resolution pursuant to section 258 of the Balanced Budget and Emergency Deficit Control Act of 1985 has been enacted.

(B) ENFORCEMENT OF DISCRETIONARY LIMITS.—Paragraph (1)(A) and the application of paragraph (1)(B) to fiscal years 1997 through 2002 shall not take effect until the enactment of a reconciliation bill pursuant to section 105 of this resolution.

(c) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(d) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the concurrent resolution, bill, or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(e) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, new entitlement authority, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

SEC. 202. EXTENSION OF PAY-AS-YOU-GO POINT OF ORDER.

(a) PURPOSE.—The Senate declares that it is essential to—

(1) ensure continued compliance with the balanced budget plan set forth in this resolution; and

(2) continue the pay-as-you-go enforcement system.

(b) POINT OF ORDER.—

(1) IN GENERAL.—It shall not be in order in the Senate to consider any direct spending or revenue legislation that would increase the deficit for any one of the three applicable time periods as measured in paragraphs (5) and (6).

(2) APPLICABLE TIME PERIODS.—For purposes of this subsection the term "applicable time period" means any one of the three following periods:

(A) The first year covered by the most recently adopted concurrent resolution on the budget.

(B) The period of the first five fiscal years covered by the most recently adopted concurrent resolution on the budget.

(C) The period of the five fiscal years following the first five fiscal years covered in the most recently adopted concurrent resolution on the budget.

(3) DIRECT-SPENDING LEGISLATION.—For purposes of this subsection and except as provided in paragraph (4), the term "direct-spending legislation" means any bill, joint resolution, amendment, motion, or conference report that affects direct spending as that term is defined by and interpreted for purposes of the Balanced Budget and Emergency Deficit Control Act of 1985.

(4) EXCLUSION.—For purposes of this subsection, the terms "direct-spending legislation" and "revenue legislation" do not include—

(A) any concurrent resolution on the budget; or

(B) any provision of legislation that affects the full funding of, and continuation of, the deposit insurance guarantee commitment in effect on the date of enactment of the Budget Enforcement Act of 1990.

(5) BASELINE.—Estimates prepared pursuant to this section shall—

(A) use the baseline used for the most recently adopted concurrent resolution on the budget; and

(B) be calculated under the requirements of subsections (b) through (d) of section 257 of the Balanced Budget and Emergency Deficit Control Act of 1985 for fiscal years beyond those covered by that concurrent resolution on the budget.

(6) PRIOR SURPLUS.—If direct spending or revenue legislation increases the deficit when taken individually, then it must also increase the deficit when taken together with all direct spending and revenue legislation enacted since the beginning of the calendar year not accounted for in the baseline under paragraph (5)(A), except that the direct spending or revenue effects resulting from legislation enacted pursuant to the reconciliation instructions included in that concurrent resolution on the budget shall not be available.

(c) WAIVER.—This section may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

(d) APPEALS.—Appeals in the Senate from the decisions of the Chair relating to any provision of this section shall be limited to 1 hour, to be equally divided between, and controlled by, the appellant and the manager of the bill or joint resolution, as the case may be. An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under this section.

(e) DETERMINATION OF BUDGET LEVELS.—For purposes of this section, the levels of new budget authority, outlays, and revenues for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate.

(f) CONFORMING AMENDMENT.—Section 23 of House Concurrent Resolution 218 (103d Congress) is repealed.

(g) SUNSET.—Subsections (a) through (e) of this section shall expire September 30, 2002.

SEC. 203. TAX RESERVE FUND IN THE SENATE.

(a) IN GENERAL.—In the Senate, on or after October 1, 1995, revenue and spending aggregates shall be reduced and allocations may be revised for legislation that reduces revenues within a committee's jurisdiction if such a committee or the committee of conference on such legislation reports such legislation, if, to the extent that the costs of such legislation are not included in this concurrent resolution on the budget, the enactment of such legislation will not increase the deficit in this resolution for—

(1) fiscal year 1996;

(2) the period of fiscal years 1996 through 2000; or

(3) the period of fiscal years 2001 through 2005.

(b) REVISED ALLOCATIONS.—Upon the reporting of legislation pursuant to subsection (a), and again upon the submission of a conference

report on such legislation (if a conference report is submitted), the Chairman of the Committee on the Budget of the Senate may file with the Senate appropriately revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised functional levels and aggregates to carry out this section. These revised allocations, functional levels, and aggregates shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations, functional levels, and aggregates contained in this concurrent resolution on the budget.

(c) REPORTING REVISED ALLOCATIONS.—The appropriate committee shall report appropriately revised allocations pursuant to sections 302(b) and 602(b) of the Congressional Budget Act of 1974 to carry out this section.

SEC. 204. WELFARE REFORM RESERVE FUND.

(a) IN GENERAL.—

(1) DIRECT SPENDING.—In the Senate and the House of Representatives, budget authority and outlays, and (in the House) entitlement authority, allocated to a committee may be revised, pursuant to subsection (b)(1), for legislation in that committee's jurisdiction that has the effect of reducing direct spending for a welfare program and authorizes an increase in discretionary spending for that welfare program, if that committee reports such legislation.

(2) DISCRETIONARY SPENDING.—In the Senate and the House of Representatives, budget authority and outlays allocated to the Committee on Appropriations, and (in the Senate) the discretionary spending limits in section 201 of this resolution, may be increased, pursuant to subsection (b)(2), for an appropriation measure that provides new discretionary budget authority for a welfare program pursuant to authority provided in legislation described in paragraph (1), if the Committee on Appropriations reports such an appropriation measure.

(b) REVISED ALLOCATIONS.—

(1) DIRECT SPENDING.—Upon reporting of legislation pursuant to subsection (a)(1) and again upon submission of a conference report on such legislation, the chairman of the Committee on the Budget of the House or Senate (whichever is appropriate) may submit to that House revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 to carry out this section. Such revised allocations shall be considered for the purposes of the Congressional Budget Act of 1974 to be the allocations under this concurrent budget resolution. In the Senate, the revision shall reflect that amount of the direct spending savings estimated to result from such legislation to the extent they exceed the savings assumed in this concurrent resolution on the budget.

(2) DISCRETIONARY SPENDING.—Upon reporting of legislation pursuant to subsection (a)(2) and again upon the submission of a conference report on such legislation, the chairman of the Committee on the Budget of the House or Senate (whichever is appropriate) may submit to that House revised allocations under sections 302(a) and 602(a) of the Congressional Budget Act of 1974 and revised discretionary spending limits. The revision shall reflect that amount of the new discretionary budget authority provided for the welfare program up to the level authorized in the legislation reported pursuant to subsection (a)(1), except that the budget authority and outlay revisions shall not exceed the adjustments made pursuant to paragraph (1) for that welfare program. Such revised allocations and discretionary spending limits shall be considered, for the purposes of the Congressional Budget Act of 1974, to be the allocations and spending limits under this concurrent resolution on the budget.

(c) COMMITTEE ON APPROPRIATIONS.—The Committees on Appropriations may report appropriately revised suballocations pursuant to sections 302(b)(1) and 602(b)(1) of the Congressional Budget Act of 1974 following the revision of the allocations pursuant to subsection (b)(2), to carry out this section.

SEC. 205. BUDGET SURPLUS ALLOWANCE.

(a) CBO CERTIFICATION OF LEGISLATIVE SUBMISSIONS.—

(1) SUBMISSION OF LEGISLATION.—Upon the submission of legislative recommendations pursuant to section 105(a) and prior to the submission of a conference report on legislation reported pursuant to section 105, the chairman of the Committee on the Budget of the Senate and the House of Representatives (as the case may be) shall submit such recommendations to the Congressional Budget Office.

(2) BASIS OF ESTIMATES.—For the purposes of preparing an estimate pursuant to this subsection, the Congressional Budget Office shall include the budgetary impact of all legislation enacted to date, use the economic and technical assumptions underlying this resolution, and assume compliance with the total discretionary spending levels assumed in this resolution unless superseded by law.

(3) ESTIMATE OF LEGISLATION.—The Congressional Budget Office shall provide an estimate to the Chairman of the Budget Committee of the Senate and the House of Representatives (as the case may be) and certify whether the legislative recommendations would balance the total budget by fiscal year 2002.

(4) CERTIFICATION.—If the Congressional Budget Office certifies that such legislative recommendations would balance the total budget by fiscal year 2002, the Chairman shall submit such certification in his respective House.

(b) PROCEDURE IN THE SENATE.—

(1) ADJUSTMENTS.—For the purposes of points of order under the Congressional Budget Act of 1974 and this concurrent resolution on the budget, the appropriate budgetary allocations and aggregates shall be revised to be consistent with the instructions set forth in section 105(b) for legislation that reduces revenues by providing family tax relief and incentives to stimulate savings, investment, job creation, and economic growth.

(2) REVISED AGGREGATES.—Upon the reporting of legislation pursuant to section 105(b) and again upon the submission of a conference report on such legislation, the Chairman of the Committee on the Budget of the Senate shall submit appropriately revised budgetary allocations and aggregates.

(3) EFFECT OF REVISED ALLOCATIONS AND AGGREGATES.—Revised allocations and aggregates submitted under paragraph (2) shall be considered for the purposes of the Congressional Budget Act of 1974 as allocations and aggregates contained in this resolution.

(c) CONTINGENCIES.—This section shall not apply unless the reconciliation legislation—

(1) complies with the sum of the reconciliation directives for the period of fiscal years 1996 through 2002 provided in section 105(a); and

(2) would balance the total budget for fiscal year 2002 and the period of fiscal years 2002 through 2005.

(d) DEFINITIONS.—For the purposes of this section, the term "balance the total budget" means total outlays are less than or equal to total revenues for a fiscal year or a period of fiscal years.

SEC. 206. SALE OF GOVERNMENT ASSETS.

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that—

(1) the prohibition on scoring asset sales has discouraged the sale of assets that can be better managed by the private sector and generate receipts to reduce the Federal budget deficit;

(2) the President's fiscal year 1996 budget included $8,000,000,000 in receipts from asset sales and proposed a change in the asset sale scoring rule to allow the proceeds from these sales to be scored;

(3) assets should not be sold if such sale would increase the budget deficit over the long run; and

(4) the asset sale scoring prohibition should be repealed and consideration should be given to replacing it with a methodology that takes into account the long-term budgetary impact of asset sales.

(b) BUDGETARY TREATMENT.—For purposes of any concurrent resolution on the budget and the Congressional Budget Act of 1974, the amounts realized from sales of assets shall be scored with respect to the level of budget authority, outlays, or revenues.

(c) DEFINITIONS.—For purposes of this section, the term "sale of an asset" shall have the same meaning as under section 250(c)(21) of the Balanced Budget and Emergency Deficit Control Act of 1985.

(d) TREATMENT OF LOAN ASSETS.—For the purposes of this section, the sale of loan assets or the prepayment of a loan shall be governed by the terms of the Federal Credit Reform Act of 1990.

SEC. 207. CREDIT REFORM AND DIRECT STUDENT LOANS.

For the purposes of any concurrent resolution on the budget and the Congressional Budget Act of 1974, the cost of a direct loan under the Federal direct student loan program shall be the net present value, at the time when the direct loan is disbursed, of the following cash flows for the estimated life of the loan:

(1) Loan disbursements.

(2) Repayments of principal.

(3) Payments of interest and other payments by or to the Government over the life of the loan after adjusting for estimated defaults, prepayments, fees, penalties, and other recoveries.

(4) Direct expenses, including—

(A) activities related to credit extension, loan origination, loan servicing, management of contractors, and payments to contractors, other government entities, and program participants;

(B) collection of delinquent loans; and

(C) writeoff and closeout of loans.

SEC. 208. EXTENSION OF BUDGET ACT 60-VOTE ENFORCEMENT THROUGH 2002.

Notwithstanding section 275(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (as amended by sections 13112(b) and 13208(b)(3) of the Budget Enforcement Act of 1990), the second sentence of section 904(c) of the Congressional Budget Act of 1974 (except insofar as it relates to section 313 of that Act) and the final sentence of section 904(d) of that Act (except insofar as it relates to section 313 of that Act) shall continue to have effect as rules of the Senate through (but no later than) September 30, 2002.

SEC. 209. REPEAL OF IRS ALLOWANCE.

Section 25 of House Concurrent Resolution 218 (103d Congress, 2d Session) is repealed.

SEC. 210. TAX REDUCTION CONTINGENT ON BALANCED BUDGET IN THE HOUSE OF REPRESENTATIVES

(a) ESTIMATES AND CERTIFICATION.—

(1) ESTIMATES.—Upon reporting a reconciliation bill to carry out this resolution, the chairman of the Committee on the Budget of the House shall submit such legislation to the Director of the Congressional Budget Office (hereinafter in this section referred to as the "Director"). The Director shall provide an estimate of whether the enactment of the bill, as reported, would result in a balanced total budget by fiscal year 2002.

(2) CERTIFICATION.—(A) If the enactment of the bill as estimated by the Director would so balance the budget, the chairman of the Committee on the Budget is authorized to so certify.

(B) If the enactment of the bill as estimated by the Director would not so balance the budget,

the chairman of the Committee on the Budget shall notify the chairman of the Committee on Rules. The Committee on Rules may recommend to the House a resolution providing for the consideration of an amendment in the nature of a substitute consisting of the text of the reconciliation bill reported by the Committee on the Budget, modified by amendments to achieve a balanced budget by fiscal year 2002 and amendments described in section 310(d) of the Congressional Budget Act of 1974, as an original bill for purposes of amendment.

(C) If the Committee on Rules so recommends, the chairman of the Committee on the Budget shall submit the substitute text to the Director, who shall provide an estimate of whether the substitute text would balance the total budget by fiscal year 2002. If the enactment of the bill as estimated by the Director would so balance the budget, the chairman of the Committee on the Budget is authorized to so certify.

(3) BASIS OF ESTIMATE.—In preparing any estimate under this section, the Director shall include the budgetary impact of all legislation enacted through the date of submission of that estimate and of all legislation incorporated by reference in the reconciliation bill, use the economic and technical assumptions underlying this resolution, assume compliance with the total discretionary levels assumed in this resolution unless superseded by law, and include changes in outlays and revenues estimated to result from the economic impact of balancing the budget by fiscal year 2002 as estimated by the Congressional Budget Office in Table B-4 in Appendix B of its Analysis of the President's Budgetary Proposals for Fiscal Year 1996.

(b) PROCEDURE IN THE HOUSE OF REPRESENTATIVES.—

(1) ADJUSTMENTS.—Upon certification by the chairman of the Committee on the Budget of the House under subsection (a), the chairman shall submit a report to the House that revises the appropriate budgetary allocations, aggregates, and totals to be consistent with the instructions set forth in section 105(a)(2)(B)(xii)(II).

(2) EFFECT OF REVISED ALLOCATIONS, AGGREGATES, AND TOTALS.—In the House of Representatives, revised allocations, aggregates, and totals submitted under paragraph (1) shall be deemed as the allocations, aggregates, and totals contained in this resolution for all purposes under the Congressional Budget Act of 1974.

(3) STATEMENT REGARDING POINT OF ORDER.—If the chairman of the House Committee on the Budget does not certify a balanced budget by 2002, then the reconciliation bill to carry out this resolution would be subject to a point of order under the Congressional Budget Act of 1974.

SEC. 211. EXERCISE OF RULEMAKING POWERS.

The Congress adopts the provisions of this title—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change those rules (so far as they relate to that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

TITLE III—SENSE OF THE CONGRESS, HOUSE OF REPRESENTATIVES, AND SENATE

SEC. 301. SENSE OF THE CONGRESS ON THE ELIMINATION OF FRAUD, WASTE, AND ABUSE IN THE MEDICARE SYSTEM.

It is the sense of the Congress that, in order to meet the aggregate levels in this budget resolution—

(1) the committees of jurisdiction should give high priority to proposals that identify, eliminate, and recover funds expended from the medicare trust funds due to fraud and abuse in the medicare program in order to address the long-term solvency of medicare; and

(2) any funds recovered from enhanced anti-fraud and abuse efforts should be used to enhance the solvency of medicare.

SEC. 302. SENSE OF CONGRESS REGARDING PRIVATIZATION OF THE STUDENT LOAN MARKETING ASSOCIATION (SALLIE MAE).

It is the sense of that the Student Loan Marketing Association should be restructured as a private corporation.

SEC. 303. SENSE OF THE CONGRESS REGARDING THE DEBT LIMIT.

It is the sense of the Congress that—

(1) the reconciliation legislation under section 105 of this budget resolution should be enacted prior to passage of legislation that will extend the public debt limit; and

(2) the extension of the public debt should be set at levels and for durations that ensure a balanced budget by fiscal year 2002, consistent with this budget resolution.

SEC. 304. SENSE OF THE CONGRESS ASSUMPTIONS.

It is the sense of the Congress that the aggregates and functional levels included in this budget resolution assume that—

(1) Federal programs should be restructured to meet identified priorities in the most effective and efficient manner, to eliminate obsolete programs, and to reduce duplication;

(2) Federal programs should be reviewed to determine whether they are more appropriately the responsibility of the States and, for programs that should be under State responsibility, that—

(A) Federal funding of these programs should be provided in a manner that rewards work, promotes families, and provides a helping hand during times of crisis;

(B) the programs should be returned in the form of block grants that provide maximum flexibility to the States and localities to ensure the maximum benefit at the least cost to the American taxpayer;

(C) Federal funds should not supplant existing expenditures by other sources, both public and private; and

(D) the Federal interest in the program should be protected with adequate safeguards, such as auditing or maintenance of effort provisions, and that Federal goals and principles may be appropriate;

(3) Congress should examine Federal functions to determine those that could be more conveniently, efficiently, and effectively performed by the private sector and, in order to facilitate the privatization of these functions—

(A) provisions of law that prohibit or "lock-out" the private sector from competing for the provision of certain services should be eliminated;

(B) section 257(e) of the Balanced Budget and Emergency Deficit Control Act of 1985 should be repealed or modified to permit the sale of assets when appropriate to privatization goals;

(C) each Federal agency and department should be encouraged to develop and evaluate privatization initiatives; and

(D) the "Common Rule", modified by Executive Order 12803, should be modified to delete grant repayment provisions which restrict local governments and prevent private sector investments in Federal-aid facilities;

(4) Congress, in fulfilling its responsibility to future generations, should—

(A) enact a plan that balances the budget by 2002 and develop a regimen for paying off the Federal debt; and

(B) once the budget is in balance, use the surpluses to implement that regimen;

(5) in considering child nutrition programs—

(A) reductions in nutrition program spending should be achieved without compromising the nutritional well-being of program recipients;

(B) school lunches should continue to meet minimal nutrition requirements and should not have to compete with alternative foods of minimal nutritional value during lunch hours; and

(C) the content of the Women, Infants, and Children (WIC) food package should continue to be based on scientific evidence; and

(6) science and technology development are critical to sustainable long-term economic growth and priority should be given to Federal funding for science and basic and applied research.

SEC. 305. SENSE OF THE SENATE THAT TAX REDUCTIONS SHOULD BENEFIT WORKING FAMILIES.

It is the sense of the Senate that this concurrent resolution on the budget assumes any reductions in taxes should be structured to benefit working families by providing family tax relief and incentives to stimulate savings, investment, job creation, and economic growth.

SEC. 306. SENSE OF THE SENATE ON THE DISTRIBUTION OF AGRICULTURE SAVINGS.

It is the sense of the Senate that, in response to the reconciliation instructions in section 105 of this resolution, the Senate Committee on Agriculture, Nutrition, and Forestry should provide that no more than 20 percent of the savings be achieved in commodity programs.

SEC. 307. SENSE OF THE SENATE ON THE ESTABLISHMENT OF A MEDICARE SOLVENCY COMMISSION.

It is the sense of the Senate that, in order to meet the aggregates and levels in this budget resolution—

(1) a special bipartisan commission should be established immediately to make recommendations on the most appropriate response to the short-term solvency crisis facing medicare;

(2) the commission should report its recommendations under paragraph (1) at the earliest possible date, in order that the committees of jurisdiction may give due consideration to those recommendations in fashioning their response pursuant to section 105 of this resolution; and

(3) the commission should study, evaluate, and make recommendations to sustain the long-term viability of the medicare system and should report those recommendations to Congress by February 1, 1996.

SEC. 308. SENSE OF THE SENATE REGARDING PROTECTION OF CHILDREN'S HEALTH.

It is the sense of the Senate that, in meeting the aggregates and levels in this resolution, the committees of jurisdiction of the Senate—

(1) should give careful consideration to the impact of medicaid reform legislation on children's health; and

(2) should encourage States to place a priority on funding for low-income pregnant women and children within any medicaid reform legislation that allows greater flexibility to the States in the delivery of care and in controlling the rate of growth in costs under the program.

SEC. 309. SENSE OF THE SENATE ON THE ASSUMPTIONS.

It is the sense of the Senate that the aggregates and functional levels included in this budget resolution assume that—

(1) beginning with fiscal year 1997, the Federal government should establish, implement, and maintain a uniform accounting system and provide financial statements in accordance with accepted accounting principles under standards and interpretations recommended by the Federal Accounting Standards Advisory Board;

(2) Congress should revise the Internal Revenue Code to ensure that very wealthy individuals are not able to reduce or avoid United States income, estate or gift tax liability by relinquishing their U.S. citizenship and, that, any savings resulting from this revision should be used to reduce the deficit;

(3) in furtherance of the goals of the Decade of the Brain, full funding should be provided for research on brain diseases and disorders;

(4) the essential air service program should receive sufficient funding to continue to provide air service to small rural communities;

(5) funds will be made available to reimburse States for the costs of implementing the National Voter Registration Act of 1993; and

(6) a temporary nonpartisan commission should be established to make recommendations concerning the appropriateness and accuracy of the methodology and calculations that determine the Consumer Price Index (CPI) and those recommendations should be submitted to the Bureau of Labor Statistics at the earliest possible date.

SEC. 310. HOUSE STATEMENT ON AGRICULTURE SAVINGS.

The House of Representatives shall re-examine budget reductions for agricultural programs in the United States Department of Agriculture for fiscal years 1999 and 2000 unless the following conditions are met:

(1) Land values on agricultural land on January 1, 1998, are at least 95 percent of the same values on the date of adoption of this resolution.

(2) There is enacted into law regulatory relief for the agricultural sector in the areas of wetlands regulation, the Endangered Species Act, private property rights and cost-benefit analyses of proposed regulations.

(3) There is tax relief for producers in the form of capital gains tax reduction, increased estate tax exemptions and mechanisms to average tax loads over strong and weak income years.

(4) There is no government interference in the international market in the form of agricultural trade embargoes in effect and there is successful implementation and enforcement of trade agreements, including the General Agreement on Tariffs and Trade (GATT) and the North American Free Trade Agreement (NAFTA) to lower export subsidies and reduce import barriers to trade imposed by foreign governments.

SEC. 311. SENSE OF THE HOUSE ON BASELINES.

(a) FINDINGS.—The House of Representatives finds that—

(1) baselines are projections of future spending if existing policies remain unchanged;

(2) under baseline assumptions, spending automatically rises with inflation even if such increases are not provided under current law;

(3) baseline budgeting is inherently biased against policies that would reduce the projected growth in spending because such policies are scored as a reduction from a rising baseline; and

(4) the baseline concept has encouraged Congress to abdicate its constitutional responsibility to control the public purse for programs which are automatically funded under existing law.

(b) SENSE OF THE HOUSE.—It is the sense of the House of Representatives that baseline budgeting should be replaced with a form of budgeting that requires full justification and analysis of budget proposals and maximizes congressional accountability for public spending.

SEC. 312. SENSE OF THE HOUSE REGARDING A COMMISSION ON THE SOLVENCY OF THE FEDERAL MILITARY AND CIVIL SERVICE RETIREMENT FUNDS.

(a) FINDINGS.—The House of Representatives finds that the Federal retirement system, for both military and civil service retirees, currently has liabilities of $1,100,000,000,000, while holding assets worth $340,000,000,000 and anticipating employee contributions of $220,000,000,000, which leaves an unfunded liability of $540,000,000,000,000.

(b) SENSE OF HOUSE.—It is the sense of the House of Representatives that a high-level commission should be convened to study the problems associated with the Federal retirement system and make recommendations that will ensure the long-term solvency of the military and civil service retirement funds.

SEC. 313. SENSE OF THE HOUSE REGARDING THE REPEAL OF HOUSE RULE XLIX.

It is the sense of the House that rule XLIX of the Rules of the House of Representatives (popularly known as the Gephardt rule) should be repealed.

SEC. 314. SENSE OF THE HOUSE ON EMERGENCIES.

(a) FINDINGS.—The House of Representative finds that—

(1) The Budget Enforcement Act of 1990 exempted from the discretionary spending limits and the Pay-As-You-Go requirements for entitlement and tax legislation funding requirements that are designated by Congress and the President as an emergency.

(2) Congress and the President have increasingly misused the emergency designation by—

(A) designating funding as an emergency that is neither unforeseen nor a genuine emergency; and

(B) circumventing spending limits or passing controversial items that would not pass scrutiny in a free-standing bill.

(b) SENSE OF THE HOUSE.—It is the sense of the House that Congress should study alternative approaches to budgeting for emergencies, including codifying the definition of an emergency and establishing contingency funds to pay for emergencies.

And the Senate agree to the same.

JOHN R. KASICH,
DAVE HOBSON,
BOB WALKER,
JIM KOLBE,
CHRISTOPHER SHAYS,
WALLY HERGER,
WAYNE ALLARD,
BOB FRANKS,
STEVE LARGENT,
SUE MYRICK,
MIKE PARKER,
Managers on the Part of the House.

PETE DOMENICI,
CHUCK GRASSLEY,
DON NICKLES,
TRENT LOTT,
HANK BROWN,
SLADE GORTON,
JUDD GREGG,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the Senate and the House at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the concurrent resolution (House Concurrent Resolution 67) setting forth the congressional budget for the United States Budget for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House resolution after the resolving clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House resolution and the Senate amendment.

EXPLANATION OF THE CONFERENCE AGREEMENT

AGGREGATES AND FUNCTIONAL LEVEL SUMMARY TABLES

(Secs. 2 and 3 of the House resolution, Secs. 101 and 104 of the Senate amendment, and Secs. 101 and 104 of the conference agreement)

Aggregates and function levels

The following tables show the budget aggregates and functional levels included in the conference agreement, the House resolution, and the Senate amendment. While the conference agreement includes only the on-budget figures, pursuant to law, these tables also display the off-budget and total budget figures. The last table in this part compares the conference agreement to the 1995 and current law levels.

HOUSE RESOLUTION

[Dollars in billions]

		1995	1996	1997	1998	1999	2000	2001	2002
050: National Defense	BA	$261.4	$267.3	$269.3	$277.3	$281.3	$287.3	$287.3	$287.2
	OT	269.6	265.1	265.3	265.3	271.3	279.3	279.3	$279.2
150: International Affairs	BA	18.9	15.8	13.7	11.3	9.7	10.5	12.0	12.0
	OT	18.9	17.0	15.1	13.3	11.5	10.0	11.1	10.7
250: Science, Space and Technology	BA	17.2	16.7	16.3	15.7	15.3	14.9	14.9	14.9
	OT	17.5	16.9	16.6	16.0	15.4	15.0	14.9	14.9
270: Energy	BA	6.3	4.4	3.9	3.6	3.9	3.6	3.6	3.5
	OT	4.9	4.3	3.2	2.9	3.1	2.7	2.5	2.3
300: Natural Resources and Environment	BA	22.3	19.3	19.1	17.2	18.6	17.4	17.9	17.8
	OT	21.7	20.2	19.9	17.8	19.1	17.8	18.2	18.1
350: Agriculture	BA	14.0	13.0	12.8	11.6	11.4	10.2	8.1	8.1
	OT	12.7	11.8	11.5	10.4	10.1	9.2	7.1	7.0
370: Commerce and Housing Credit:									
On-budget	BA	5.4	2.3	4.1	2.8	2.2	1.9	1.3	1.0
	OT	−13.7	−6.9	−2.6	−4.7	−3.0	−2.2	−2.5	−2.6

HOUSE RESOLUTION—Continued

[Dollars in billions]

		1995	1996	1997	1998	1999	2000	2001	2002
Off-budget	BA	3.5	4.1	6.8	1.2	2.9	−0.2		
	OT	0.2	−0.0	−0.8	−1.4	−0.1	−1.4		
Total	BA	8.9	6.4	10.9	4.0	5.0	1.7	1.3	1.0
	OT	−13.5	−7.0	−3.5	−6.1	−3.1	−3.6	−2.5	−2.6
400: Transportation	BA	42.5	40.5	42.7	43.5	43.7	44.3	43.8	43.3
	OT	39.3	38.8	37.5	36.6	35.6	34.9	39.3	33.7
450: Community and Regional Development	BA	9.2	6.7	6.7	6.7	6.7	6.7	6.2	6.1
	OT	11.6	9.9	7.8	6.7	6.5	6.6	6.4	6.4
500: Education, Training, Employment and Social Services	BA	58.3	45.7	45.0	44.9	45.4	45.9	45.0	44.6
	OT	54.7	52.3	46.4	44.6	44.7	45.2	44.2	43.7
550: Health	BA	116.6	121.9	127.7	132.1	136.7	141.5	146.3	149.1
	OT	115.8	122.3	127.8	132.2	136.7	141.4	146.2	148.9
570: Medicare	BA	162.6	179.1	188.7	196.5	209.0	213.9	224.0	234.0
	OT	161.1	176.8	187.1	194.9	206.4	212.0	222.0	231.8
600: Income Security	BA	219.9	222.7	231.8	248.4	255.4	265.9	267.6	277.6
	OT	222.2	225.0	235.3	243.9	254.3	267.6	269.0	279.1
650: Social Security									
On-budget	BA	6.8	5.9	8.1	8.8	9.6	10.5	11.1	11.7
	OT	9.3	8.5	10.5	11.3	12.1	12.9	13.5	14.1
Off-budget	BA	330.1	348.4	366.0	385.5	404.3	423.4	443.9	465.5
	OT	326.9	345.7	362.5	381.9	400.5	419.8	440.2	461.6
Total	BA	336.9	354.3	374.0	394.3	413.9	433.9	454.9	477.2

HOUSE RESOLUTION

[Dollars in billions]

		1995	1996	1997	1998	1999	2000	2001	2002
	OT	336.2	354.2	373.1	393.1	412.6	432.7	453.7	475.7
700: Veterans Benefits	BA	37.7	37.6	38.1	38.5	39.1	39.2	39.7	40.1
	OT	37.4	36.9	38.1	38.5	39.0	40.6	41.2	41.6
750: Administration of Justice	BA	18.5	17.8	16.9	16.6	16.4	16.4	16.0	15.9
	OT	17.1	17.8	17.1	16.9	16.7	16.6	16.2	16.1
Total Spending:									
On-budget	BA	1,260.9	1,287.3	1,324.2	1,356.5	1,391.7	1,421.3	1,436.2	1,459.8
	OT	1,243.7	1,288.4	1,315.9	1,327.6	1,366.7	1,400.2	1,419.5	1,437.3
Off-budget	BA	292.6	306.2	321.1	329.5	343.9	353.5	367.2	381.3
	OT	286.1	299.4	310.0	323.3	337.2	348.8	363.5	377.4
Total	BA	1,553.6	1,593.6	1,645.3	1,686.0	1,735.6	1,774.9	1,803.4	1,841.1
	OT	1,529.9	1,587.8	1,625.9	1,650.9	1,703.9	1,749.0	1,783.0	1,814.7
Revenues:									
On-budget		997.8	1,057.5	1,058.5	1,099.6	1,138.7	1,189.3	1,247.2	1,316.6
Off-budget		357.4	274.7	392.0	411.4	439.9	452.0	475.2	498.6
Total		1,355.2	1,432.2	1,450.5	1,511.0	1,569.6	1,641.3	1,722.4	1,815.2
Deficit:									
On-budget		−245.9	−230.9	−257.4	−228.0	−228.0	−211.0	−172.3	−120.7
Off-budget		71.3	75.3	81.9	88.1	93.7	103.2	111.7	121.2
Total		−174.6	−155.6	−175.5	−139.9	−134.3	−107.8	−60.6	0.5
800: General Government	BA	13.3	11.6	11.6	12.5	11.7	12.1	11.3	11.3
	OT	13.4	12.4	11.8	12.6	11.5	12.0	11.1	11.0
900: Net Interest:									
On-budget	BA	269.9	295.8	304.3	308.7	314.7	319.9	320.6	323.3
	OT	269.9	295.8	304.3	308.7	314.7	319.9	320.6	323.3
Off-budget	BA	−34.5	−39.5	−44.5	−49.7	−55.1	−60.9	−67.2	−74.0
	OT	−34.5	−39.5	−44.5	−49.7	−55.1	−60.9	−67.2	−74.0
Total	BA	235.4	256.4	259.8	259.0	259.5	258.9	253.4	249.4
	OT	235.3	256.4	259.8	259.0	259.5	258.9	253.4	249.4
920: Allowances	BA		−2.3	−2.4	−2.4	−2.5	−2.6	−2.6	−2.6
	OT		−1.9	−2.3	−2.5	−2.7	−2.8	−2.9	−2.9
950: Undistributed Offsetting Receipts:									
On-budget	BA	−39.8	−34.4	−34.2	−37.6	−36.4	−38.1	−37.9	−39.0
	OT	−39.8	−34.4	−34.2	−37.6	−36.4	−38.1	−37.9	−39.0
Off-budget	BA	−6.4	−6.8	−7.1	−7.6	−8.1	−8.7	−9.5	−10.3
	OT	−6.4	−6.8	−7.1	−7.6	−8.1	−8.7	−9.5	−10.3
Total	BA	−46.2	−41.2	−41.3	−45.2	−44.5	−46.9	−47.9	−49.3
	OT	−46.2	−41.2	−41.3	−45.2	−44.5	−46.9	−47.4	−49.3

SENATE AMENDMENT

[Dollars in billions]

		1995	1996	1997	1998	1999	2000	2001	2002
050: National Defense	BA	$261.4	$257.7	$253.4	$259.6	$266.2	$276.0	$275.9	$275.9
	OT	269.6	261.1	257.0	254.5	259.6	267.8	267.7	269.2
150: International Affairs	BA	18.9	15.4	14.3	13.5	12.6	14.1	14.3	14.2
	OT	18.9	16.9	15.1	14.3	13.5	13.1	13.4	13.3
250: Science, Space and Technology.									
	BA	17.2	16.7	16.3	16.1	16.0	15.8	15.8	15.8
	OT	17.5	16.7	16.6	16.3	16.0	15.9	15.9	15.9
270: Energy	BA	6.3	2.9	1.7	3.3	4.2	4.1	4.0	4.0
	OT	4.9	2.7	1.0	2.6	3.1	2.8	2.9	2.9
300: Natural Resources and Environment	BA	22.3	19.5	18.2	15.4	16.6	16.2	14.9	15.7
	OT	21.7	20.4	20.1	17.9	18.3	17.3	15.8	16.5
350: Agriculture	BA	14.0	13.1	12.2	11.8	11.7	11.7	10.5	10.1
	OT	12.7	11.9	10.9	10.6	10.4	10.6	9.4	9.1
370: Commerce and Housing Credit:									
On-budget	BA	5.4	2.5	1.5	0.6	0.1	1.7	0.5	0.2
	OT	−13.7	−7.0	−5.4	−7.0	−5.1	−2.5	−3.3	−3.4
Off-budget	BA	3.5	4.1	6.8	1.2	2.9	−0.2		
	OT	0.2	−0.0	−0.8	−1.4	−0.1	−1.4		
Total	BA	8.9	6.6	8.3	1.8	3.0	1.5	0.5	0.2
	OT	−13.5	−7.0	−6.2	−8.4	−5.2	−3.9	−3.3	−3.4
400: Transportation	BA	42.5	36.5	38.8	39.4	40.2	41.2	41.0	40.8
	OT	39.3	38.3	32.8	31.8	31.3	31.1	31.1	31.1
450: Community and Regional Development	BA	9.2	5.8	5.5	5.3	5.3	5.2	4.6	4.5
	OT	11.6	9.8	7.3	5.6	5.2	5.2	5.1	5.1
500: Education, Training, Employment and Social Services	BA	58.3	49.0	48.4	48.4	48.8	49.4	48.9	49.1

SENATE AMENDMENT—Continued

[Dollars in billions]

		1995	1996	1997	1998	1999	2000	2001	2002
	OT	54.7	52.6	49.0	48.2	48.2	48.8	48.3	48.5
550: Health	BA	116.6	121.1	127.6	133.1	138.0	142.1	146.2	150.6
	OT	115.8	121.0	127.4	133.2	137.9	141.9	146.0	150.3
570: Medicare	BA	162.6	171.9	180.5	193.1	207.4	221.4	238.9	258.9
	OT	161.1	169.5	178.9	191.4	204.8	219.5	236.9	256.7
600: Income Security	BA	219.9	226.3	233.7	253.0	256.0	272.6	277.5	291.9
	OT	222.2	225.9	235.6	246.1	257.9	272.6	277.4	291.7
650: Social Security:									
On-budget	BA	6.8	5.9	8.1	8.8	9.6	10.5	11.1	11.7
	OT	9.3	8.5	10.5	11.3	12.1	12.9	13.5	14.1
Off-budget	BA	330.1	348.4	366.0	385.5	405.4	426.2	448.5	472.0
	OT	326.9	345.7	362.5	381.9	401.7	422.7	444.8	468.1
Total	BA	336.9	354.3	374.0	394.3	415.0	436.7	459.6	483.7
	OT	336.2	354.2	373.1	393.1	413.7	435.6	458.3	482.2
700: Veterans Benefits	BA	37.7	37.4	37.5	37.6	37.9	37.9	38.3	38.7
	OT	37.4	36.9	37.7	38.0	38.2	39.4	40.1	40.4
750: Administration of Justice	BA	18.5	20.0	20.7	21.4	22.3	22.3	21.9	21.8
	OT	17.1	19.6	21.2	22.4	23.1	23.7	23.3	23.2
800: General Government	BA	13.3	12.5	12.4	12.2	12.1	12.0	11.6	11.6
	OT	13.4	13.0	12.4	12.3	12.0	11.9	11.7	11.6
900: Net Interest:									
On-budget	BA	269.9	297.9	308.9	316.6	327.8	338.6	345.5	353.3
	OT	269.9	297.9	308.9	316.6	327.8	338.6	345.5	353.3
Off-budget	BA	−34.5	−39.5	−44.5	−49.7	−55.1	−60.9	−67.2	−74.0
	OT	−34.5	−39.5	−44.5	−49.7	−55.1	−60.9	−67.2	−74.0
Total	BA	235.4	258.5	264.4	266.9	272.7	277.7	278.3	279.3
	OT	235.3	258.5	264.4	266.9	272.7	277.7	278.3	279.3
920: Allowances	BA	....	−9.6	−9.5	−8.3	−7.8	−6.7	−6.7	−6.7
	OT	....	−6.9	−9.4	−8.6	−8.1	−7.1	−7.1	−7.1
950: Undistributed Offsetting Receipts:									
On-budget	BA	−39.8	−33.1	−33.8	−36.3	−37.7	−39.7	−41.1	−42.3

SENATE AMENDMENT

[Dollars in billions]

		1995	1996	1997	1998	1999	2000	2001	2002
	OT	−39.8	−33.1	−33.8	−36.3	−37.7	−39.7	−41.1	−42.3
Off-budget	BA	−6.4	−6.8	−7.1	−7.6	−8.1	−8.7	−9.5	−10.3
	OT	−6.4	−6.8	−7.1	−7.6	−8.1	−8.7	−9.5	−10.3
Total	BA	−46.2	−39.9	−40.9	−43.9	−45.8	−48.5	−50.5	−52.6
	OT	−46.2	−39.9	−40.9	−43.9	−45.8	−48.5	−50.5	−52.6
Total Spending:									
On-budget	BA	1,260.9	1,269.4	1,296.5	1,344.7	1,387.3	1,446.3	1,473.7	1,519.7
	OT	1,243.7	1,275.7	1,293.8	1,321.1	1,368.7	1,423.6	1.452.6	1,500.1
Off-budget	BA	292.6	306.2	321.1	329.5	345.1	356.4	371.9	387.8
	OT	286.1	299.4	310.0	323.3	338.4	351.6	368.1	383.9
Total	BA	1,553.6	1,575.7	1,617.6	1,674.2	1,732.4	1,802.7	1,845.5	1,907.5
	OT	1,529.9	1,575.1	1,603.8	1,644.3	1,707.1	1,775.3	1,820.7	1,884.0
Revenues:									
On-budget	....	997.8	1,043.3	1,083.9	1,135.5	1,189.8	1,248.9	1,315.7	1,386.7
Off-budget	....	357.4	374.7	392.0	411.4	430.9	452.0	475.2	498.6
Total	....	1,355.2	1,418.0	1,475.9	1,546.9	1,620.7	1,700.9	1,790.9	1,885.3
On-budget	....	−245.9	−232.4	−209.9	−185.6	−178.9	−174.7	−136.8	−113.4
Off-budget	....	71.3	75.3	81.9	88.1	92.5	100.4	107.1	114.7
Total	....	−174.6	−157.1	−127.9	−97.5	−86.4	−74.3	−29.8	1.3

CONFERENCE AGREEMENT

[Dollars in billions]

		1995	1996	1997	1998	1999	2000	2001	2002
050: National Defense	BA	$261.4	$264.7	$267.3	$269.0	$271.7	$274.4	$277.1	$280.0
	OT	269.6	263.1	265.0	263.8	267.2	270.9	270.0	270.0
150: International Affairs	BA	18.9	15.8	14.0	12.4	11.2	12.7	12.8	12.8
	OT	18.9	17.0	15.1	13.9	12.6	11.9	12.0	11.8
250: Science, Space and Technology	BA	17.2	16.7	16.3	15.9	15.6	15.3	15.3	15.3
	OT	17.5	16.8	16.6	16.1	15.7	15.5	15.4	15.4
270: Energy	BA	6.3	4.6	4.2	3.8	3.6	3.4	3.3	3.3
	OT	4.9	4.5	3.5	3.1	2.6	2.2	2.2	2.2
300: Natural Resources and Environment	BA	22.3	19.5	19.2	17.7	18.2	17.9	17.1	17.5
	OT	21.7	20.3	20.0	18.7	19.0	18.5	17.4	17.7
350: Agriculture	BA	14.0	13.1	12.5	11.7	11.5	10.9	9.8	9.6
	OT	12.7	11.8	11.1	10.5	10.3	9.8	8.7	8.5
370: Commerce and Housing Credit:									
On-budget	BA	5.4	2.6	1.8	0.9	0.4	2.1	0.8	0.6
	OT	−13.7	−7.0	−5.1	−6.7	−4.8	−2.2	−2.9	−3.0
Off-budget	BA	3.5	4.1	6.8	1.2	2.9	−0.2	....	....
	OT	0.2	0.0	−0.8	−1.4	−0.1	−1.4	....	....
Total	BA	8.9	6.7	8.6	2.1	3.3	1.9	0.8	0.6
	OT	−13.5	−6.9	−5.9	−8.1	−4.9	−3.6	−2.9	−3.0
400: Transportation	BA	42.5	36.6	43.1	43.9	42.6	42.9	42.2	41.8
	OT	39.3	38.9	37.6	36.6	34.1	33.2	32.4	32.0
450: Community and Regional Development	BA	9.2	6.6	6.5	6.4	6.4	6.3	5.7	5.6
	OT	11.6	9.9	7.8	6.5	6.2	6.2	6.1	6.1
500: Education, Training, Employment and Social Services	BA	58.3	48.4	47.8	47.6	48.4	49.1	48.6	48.8
	OT	54.7	53.4	48.9	47.3	47.5	48.2	47.7	47.8
550: Health	BA	116.6	121.0	127.6	131.6	135.7	140.1	144.5	149.2
	OT	115.8	121.1	127.5	131.7	135.7	139.9	144.3	149.0
570: Medicare	BA	162.6	176.1	184.3	194.0	205.7	216.5	231.8	249.2
	OT	161.1	173.7	182.8	192.3	203.1	214.6	229.7	247.0
600: Income Security	BA	219.9	225.9	231.6	250.3	253.1	269.5	274.8	288.7
	OT	222.2	227.6	236.4	245.3	255.8	269.9	274.6	288.3
650: Social Security:									
On-budget	BA	6.8	5.9	8.1	8.8	9.6	10.5	11.1	11.7

CONFERENCE AGREEMENT—Continued

[Dollars in billions]

		1995	1996	1997	1998	1999	2000	2001	2002
	OT	9.3	8.5	10.5	11.3	12.1	12.9	13.5	14.1
Off-budget	BA	330.1	348.4	366.0	385.5	405.4	426.2	448.5	472.0
	OT	326.9	345.7	362.5	381.9	401.7	422.7	444.8	468.1
Total	BA	336.9	354.3	374.1	394.3	415.0	436.7	459.6	483.7
	OT	336.2	354.2	373.0	393.2	413.8	435.6	458.3	482.2
700: Veterans Benefits	BA	37.7	37.5	37.9	38.2	38.8	39.1	39.7	40.2
	OT	37.4	36.9	38.0	38.4	39.0	40.6	41.3	41.8
750: Administration of Justice	BA	18.5	19.8	19.8	20.2	21.0	21.1	20.7	20.6
	OT	17.1	18.7	18.9	19.7	20.4	20.9	20.5	20.5
800: General Government	BA	13.3	12.4	12.3	12.2	12.1	12.0	11.6	11.6
	OT	13.4	12.9	12.3	12.2	12.0	12.0	11.6	11.5
900: Net Interest:									
On-budget	BA	269.9	298.4	310.5	319.4	331.5	342.9	349.9	357.6
	OT	269.9	298.4	310.5	319.4	331.5	342.9	349.9	357.6
Off-budget	BA	−34.5	−39.5	−44.5	−49.7	−55.1	−60.9	−67.2	−74.0
	OT	−34.5	−39.5	−44.5	−49.7	−55.1	−60.9	−67.2	−74.0
Total	BA	235.4	258.9	266.0	269.7	276.4	282.0	282.7	283.6
	OT	235.3	258.9	266.0	269.7	276.4	282.0	282.7	283.6
920: Allowances	BA	—	−6.4	−6.3	−5.3	−4.7	−3.7	−3.7	−3.7
	OT	—	−4.8	−6.4	−5.5	−5.0	−4.0	−4.0	−4.1
950: Undistributed Offsetting Receipts:									
On-budget	BA	−39.8	−33.7	−34.2	−36.4	−35.5	−37.4	−36.8	−41.6
	OT	−39.8	−33.7	−34.2	−36.4	−35.5	−37.4	−36.8	−41.6
Off-budget	BA	−6.4	−6.8	−7.1	−7.6	−8.1	−8.7	−9.5	−10.3
	OT	−6.4	−6.8	−7.1	−7.6	−8.1	−8.7	−9.5	−10.3
Total	BA	−46.2	−40.5	−41.3	−44.0	−43.6	−46.1	−46.3	−51.8
	OT	−46.2	−40.5	−41.3	−44.0	−43.6	−46.1	−46.3	−51.8
Total Spending:									
On-budget	BA	1260.9	1285.5	1324.3	1362.3	1396.9	1445.6	1476.3	1518.8
	OT	1243.7	1288.1	1316.8	1338.2	1379.6	1426.5	1453.6	1492.6
Off-budget	BA	292.6	306.2	321.2	329.4	345.1	356.4	371.8	387.7
	OT	286.1	299.4	310.1	323.2	338.4	351.7	368.1	383.8
Total	BA	1553.6	1591.7	1645.5	1691.7	1742.0	1802.0	1848.1	1906.5
	OT	1529.9	1587.5	1626.9	1661.4	1718.0	1778.2	1821.7	1876.4
Revenues:									
On-budget		—	997.8	1042.5	1082.7	1134.2	1186.7	1245.4	1313.4	1384.2
Off-budget		—	357.4	374.7	392.0	411.4	430.9	452.0	475.2	498.6
Total		—	1355.2	1417.2	1474.7	1545.6	1617.6	1697.4	1788.6	1882.8
Deficit:									
On-budget		—	−245.9	−245.6	−234.1	−204.0	−192.9	−181.1	−140.2	−108.4
Off-budget		—	71.3	75.3	81.9	88.2	92.5	100.3	107.1	114.8
Total		—	−174.6	−170.3	−152.2	−115.8	−100.4	−80.8	−33.1	6.4

CONFERENCE AGREEMENT COMPARED TO CURRENT LAW LEVELS

[Dollars in billions]

		1996	1997	1998	1999	2000	2001	2002	Total
050: National Defense	BA	$9.7	$15.6	$10.7	$6.8	$2.8	$5.6	$8.5	$59.8
	OT	5.7	8.2	7.7	9.3	9.4	8.6	8.6	57.6
150: International Affairs	BA	−2.1	−3.4	−4.6	−5.4	−5.7	−5.7	−5.7	−32.6
	OT	−0.4	−1.7	−2.9	−3.9	−4.7	−4.8	−5.0	−23.4
250: Science, Space and Technology	BA	−0.5	−0.9	−1.3	−1.6	−1.8	−1.8	−1.8	−9.7
	OT	−0.1	−0.6	−1.0	−1.4	−1.7	−1.8	−1.8	−8.5
270: Energy	BA	−1.0	−1.1	−1.5	−2.1	−2.1	−2.2	−2.2	−12.2
	OT	−0.2	−0.5	−1.0	−1.7	−2.0	−2.0	−2.0	−9.3
300: Natural Resources and Environment	BA	−2.5	−2.8	−3.9	−3.3	−3.4	−3.8	−3.3	−22.9
	OT	−1.1	−1.9	−3.2	−2.8	−3.1	−3.7	−3.2	−19.0
350: Agriculture	BA	−1.4	−1.8	−2.4	−2.3	−2.7	−2.8	−3.0	−16.4
	OT	−1.2	−1.7	−2.4	−2.3	−2.7	−2.8	−3.0	−16.1
370: Commerce and Housing Credit:									
On-budget	BA	−1.3	−1.5	−1.9	−2.2	−0.4	−1.7	−2.0	−11.0
	OT	−0.9	−1.3	−1.8	−2.2	−0.5	−1.7	−2.0	−10.4
Off-budget	BA	....	....	....	....	....	....	....	....
	OT	....	....	....	....	....	....	....	....
Total	BA	−1.3	−1.5	−1.9	−2.2	−0.4	−1.7	−2.0	−11.0
	OT	−0.8	−1.3	−1.8	−2.2	−0.5	−1.7	−2.0	−10.4
400: Transportation	BA	−1.6	−1.5	−1.7	−4.0	−4.7	−5.2	−5.3	−24.1
	OT	−0.7	−2.1	−3.1	−5.7	−6.8	−7.6	−8.0	−33.9
450: Community and Regional Development	BA	−2.5	−2.6	−2.7	−2.7	−2.8	−2.8	−2.9	−19.0
	OT	−0.4	−1.2	−2.0	−2.5	−2.7	−2.7	−2.7	−14.2
500: Education, Training, Employment and Social Services	BA	−8.8	−9.1	−9.7	−9.9	−10.0	−10.1	−10.2	−67.7
	OT	−2.8	−7.5	−9.3	−9.8	−9.9	−10.0	−10.2	−59.4
550: Health	BA	−5.7	−10.2	−18.6	−27.7	−37.0	−47.6	−58.6	−205.3
	OT	−5.0	−10.2	−18.6	−27.7	−37.1	−47.6	−58.6	−204.6
570: Medicare	BA	−8.0	−17.7	−26.6	−37.2	−49.2	−60.0	−71.4	−270.0
	OT	−8.0	−17.7	−26.6	−37.2	−49.2	−60.0	−71.4	−270.0
600: Income Security	BA	−2.2	−11.0	−3.5	−13.1	−11.9	−13.6	−16.3	−71.6
	OT	−3.7	−10.8	−11.5	−12.7	−14.5	−16.7	−19.6	−89.5
650: Social Security:									
On-budget	BA	....	....	....	....	....	....	....	....
	OT	....	....	....	....	....	....	....	....
Off-budget	BA	....	....	....	....	....	....	....	....
	OT	....	....	....	....	....	....	....	....
Total	BA	....	....	....	....	....	....	....	....
	OT	....	....	....	....	....	....	....	....
700: Veterans Benefits	BA	−0.6	−0.7	−0.9	−1.6	−1.7	−1.8	−1.9	−9.3
	OT	−0.3	−0.5	−0.7	−1.4	−1.7	−1.7	−1.9	−8.2
750: Administration of Justice	BA	1.4	1.4	1.5	2.4	2.5	2.5	2.5	14.1
	OT	0.5	0.7	1.2	1.8	2.4	2.4	2.4	11.3
800: General Government	BA	−0.8	−1.0	−1.1	−1.2	−1.3	−1.3	−1.3	−7.9
	OT	−0.6	−0.8	−0.9	−1.1	−1.2	−1.3	−1.3	−7.2
900: Net Interest:									
On-budget	BA	−1.0	−3.8	−8.5	−15.1	−23.5	−34.1	−47.1	−133.1
	OT	−1.0	−3.8	−8.5	−15.1	−23.5	−34.1	−47.1	−133.1
Off-budget	BA	....	....	....	....	....	....	....	....

CONFERENCE AGREEMENT COMPARED TO CURRENT LAW LEVELS—Continued

[Dollars in billions]

		1996	1997	1998	1999	2000	2001	2002	Total
	OT								
Total	BA	−1.0	−3.9	−8.6	−15.2	−23.7	−34.3	−47.3	−134.1
	OT	−1.0	−3.9	−8.6	−15.2	−23.7	−34.3	−47.3	−134.1
920: Allowances	BA	−6.4	−6.3	−5.3	−4.7	−3.7	−3.7	−3.7	−33.8
	OT	−4.8	−6.4	−5.5	−5.0	−4.0	−4.0	−4.1	−33.8
950: Undistributed Offsetting Receipts:									
On-budget	BA	−2.4	−3.0	−4.4	−2.6	−2.6	−0.7	−4.1	−19.8
	OT	−2.4	−3.0	−4.4	−2.6	−2.6	−0.7	−4.1	−19.8
Off-budget	BA								
	OT								
Total	BA	−2.4	−3.0	−4.4	−2.6	−2.6	−0.7	−4.1	−19.8
	OT	−2.4	−3.0	−4.4	−2.6	−2.6	−0.7	−4.1	−19.8
Total Spending:									
On-budget	BA	−37.9	−61.3	−86.4	−127.5	−159.4	−190.9	−230.0	−893.4
	OT	−27.3	−62.7	−94.7	−124.1	−156.3	−192.4	−235.1	−892.6
Off-budget	BA								
	OT								
Total	BA	−37.9	−61.3	−86.4	−127.5	−159.4	−190.9	−230.0	−893.4
	OT	−27.3	−62.7	−94.7	−124.1	−156.3	−192.4	−235.1	−892.6
Revenues:									
On-budget		0.1	0.1	0.2	0.2	0.2	0.2	0.2	1.1
Off-budget									
Total		0.1	0.1	0.2	0.2	0.2	0.2	0.2	1.1
Deficit/Surplus:									
On-budget		27.4	62.8	94.8	124.3	156.5	192.6	235.3	893.7
Off-budget									
Total		27.4	62.8	94.8	124.3	156.5	192.6	235.3	893.7

CONFERENCE AGREEMENT COMPARED TO 1995

[Dollars in billions]

		1996	1997	1998	1999	2000	2001	2002	Total
050: National Defense	BA	$3.3	$5.9	$7.6	$10.3	$13.0	$15.7	$18.6	$74.2
	OT	−6.5	−4.6	−5.8	−2.4	1.3	0.4	0.4	−17.4
150: International Affairs	BA	−3.1	−4.9	−6.5	−7.7	−6.2	−6.0	−6.0	−40.4
	OT	−1.8	−3.8	−5.0	−6.3	−7.0	−6.9	−7.1	−38.0
250: Science, Space and Technology	BA	−0.5	−0.9	−1.2	−1.5	−1.8	−1.8	−1.8	−9.5
	OT	−0.7	−0.9	−1.4	−1.8	−2.1	−2.1	−2.1	−11.3
270: Energy	BA	−1.8	−2.2	−2.5	−2.8	−3.0	−3.0	−3.1	−18.3
	OT	−0.4	−1.4	−1.8	−2.4	−2.7	−2.7	−2.8	−14.3
300: Natural Resources and Environment	BA	−2.8	−3.1	−4.6	−4.1	−4.4	−5.2	−4.8	−29.1
	OT	−1.5	−1.8	−3.0	−2.7	−3.3	−4.3	−4.0	20.6
350: Agriculture	BA	−0.9	−1.5	−2.3	−2.5	−3.0	−4.2	−4.4	−18.7
	OT	−0.9	−1.6	−2.2	−2.5	−3.0	−4.0	−4.2	−18.2
370: Commerce and Housing Credit:									
On-budget	BA	−2.8	−3.6	−4.5	−5.0	−3.3	−4.6	−4.8	−28.5
	OT	6.8	8.7	7.0	9.0	11.5	10.8	10.7	64.5
Off-budget	BA	0.6	3.3	−2.3	−0.7	−3.7	−3.5	−3.5	−9.9
	OT	−0.2	−1.0	−1.6	−0.3	−1.6	−0.2	−0.2	−5.1
Total	BA	−2.2	−0.3	−6.8	−5.6	−7.0	−8.1	−8.4	−38.5
	OT	6.6	7.6	5.4	8.7	10.0	10.6	10.5	59.4
400: Transportation	BA	−6.0	0.6	1.3	0.0	0.3	−0.3	−0.7	−4.6
	OT	−0.4	−1.8	−2.7	−5.2	−6.1	−6.9	−7.4	−30.6
450: Community and Regional Development	BA	−2.6	−2.7	−2.8	−2.8	−2.9	−3.4	−3.6	−20.8
	OT	−1.7	−3.8	−5.1	−5.4	−5.4	−5.5	−5.5	−32.4
500: Education, Training, Employment and Social Services	BA	−9.9	−10.5	−10.7	−9.9	−9.2	−9.7	−9.5	−69.4
	OT	−1.3	−5.8	−7.4	−7.2	−6.5	−7.1	−6.9	−42.3
550: Health	BA	4.3	11.0	15.0	19.1	23.5	27.9	32.6	133.4
	OT	5.4	11.8	15.9	20.0	24.1	28.6	33.2	138.9
570: Medicare	BA	13.4	21.7	31.3	43.1	53.8	69.1	86.6	319.1
	OT	12.7	21.7	31.3	42.1	53.6	68.7	85.9	315.9
600: Income Security	BA	6.0	11.7	30.3	33.2	49.5	54.8	68.7	254.3
	OT	5.4	14.2	23.1	33.6	47.7	52.4	66.0	242.3
650: Social Security:									
On-budget	BA	−0.9	1.3	2.0	2.8	3.7	4.3	4.9	18.1
	OT	−0.8	1.2	2.0	2.8	3.6	4.2	4.8	17.7
Off-budget	BA	18.3	35.9	55.4	75.4	96.1	118.4	142.0	541.5
	OT	18.8	35.6	55.0	74.8	95.7	117.9	141.2	538.9
Total	BA	17.4	37.2	57.4	78.2	99.8	122.7	146.8	559.6
	OT	17.9	36.8	56.9	77.5	99.4	122.1	146.0	556.6
700: Veterans Benefits	BA	−0.1	0.2	0.6	1.2	1.4	2.0	2.5	7.9
	OT	−0.5	0.6	1.0	1.6	3.2	3.9	4.4	14.3
750: Administration of Justice	BA	1.3	1.3	1.6	2.5	2.6	2.2	2.1	13.6
	OT	1.6	1.8	2.6	3.3	3.8	3.4	3.3	19.8
800: General Government	BA	−0.9	−1.0	−1.1	−1.1	−1.3	−1.6	−1.7	−8.7
	OT	−0.5	−1.1	−1.1	−1.4	−1.4	−1.8	−1.9	−9.2
900: Net Interest:									
On-budget	BA	28.5	40.6	49.5	61.6	73.0	80.0	87.7	421.0
	OT	28.5	40.6	49.5	61.6	73.0	80.0	87.7	421.0
Off-budget	BA	−4.9	−10.0	−15.1	−20.6	−26.4	−32.7	−39.4	−149.1
	OT	−4.9	−10.0	−15.1	−20.6	−26.4	−32.7	−39.4	−149.0
Total	BA	23.6	30.6	34.4	41.1	46.6	47.4	48.3	271.9
	OT	23.6	30.6	34.4	41.1	46.6	47.4	48.3	272.0
920: Allowances	BA	−6.4	−6.3	−5.3	−4.7	−3.7	−3.7	−3.7	−33.8
	OT	−4.8	−6.4	−5.5	−5.0	−4.0	−4.0	−4.1	−33.8
950: Undistributed Offsetting Receipts:									
On-budget	BA	6.1	5.6	3.4	4.3	2.4	3.0	−1.8	23.0
	OT	6.1	5.6	3.4	4.3	2.4	3.0	−1.8	23.0
Off-budget	BA	−0.4	−0.7	−1.1	−1.6	−2.3	−3.0	−3.8	−13.0
	OT	−0.4	−0.7	−1.1	−1.6	−2.3	−3.0	−3.8	−13.0
Total	BA	5.8	4.9	2.2	2.6	0.1	−0.0	−5.6	10.0
	OT	5.8	4.9	2.2	2.6	0.1	−0.0	−5.6	10.0
Total Spending:									
On-budget	BA	24.4	63.4	101.3	135.9	184.6	215.3	257.8	982.9
	OT	44.4	73.1	94.5	135.8	182.8	209.9	248.8	989.4
Off-budget	BA	13.6	28.5	36.8	52.5	63.7	79.2	95.1	369.4
	OT	13.3	23.9	37.1	52.2	65.5	82.0	97.7	371.7

CONFERENCE AGREEMENT COMPARED TO 1995—Continued

[Dollars in billions]

		1996	1997	1998	1999	2000	2001	2002	Total
Total	BA	38.1	91.9	138.1	188.4	248.4	294.5	352.9	1352.3
	OT	57.7	97.0	131.6	188.1	248.3	291.9	346.5	1361.1
Revenues:									
On-budget	....	44.8	84.9	136.4	189.0	247.6	315.6	386.4	1404.7
Off-Budget	....	17.2	34.5	54.0	73.4	94.6	117.7	141.2	532.6
Total	....	62.0	119.5	190.4	262.4	342.2	433.4	527.5	1937.4

Discretionary and mandatory spending levels

The following tables show the discretionary and mandatory spending levels in the aggregate and by function included in the conference agreements.

CONFERENCE AGREEMENT—DISCRETIONARY TOTALS

[Dollars in billions]

		1995	1996	1997	1998	1999	2000	2001	2002
050: National Defense	BA	$262.3	$265.4	$268.0	$269.7	$272.4	$275.1	$277.8	$280.7
	OT	270.3	264.0	265.7	264.5	267.9	271.6	270.8	270.8
150: International Affairs	BA	20.4	18.3	17.1	15.8	15.1	14.7	14.7	14.7
	OT	21.1	20.7	19.2	17.7	16.5	15.6	15.5	15.3
250: Science, Space and Technology	BA	17.1	16.7	16.3	15.9	15.6	15.3	15.3	15.3
	OT	17.5	16.8	16.5	16.1	15.7	15.4	15.4	15.3
270: Energy	BA	6.3	5.5	5.1	4.7	4.8	4.8	4.7	4.7
	OT	6.6	6.4	5.6	5.2	5.1	5.0	4.9	4.8
300: Natural Resources and Environment	BA	22.0	19.1	18.8	18.5	18.4	18.3	18.4	18.4
	OT	21.5	20.2	19.7	19.6	19.3	19.0	18.9	18.8
350: Agriculture	BA	4.0	3.6	3.6	3.6	3.6	3.6	3.6	3.6
	OT	4.2	3.8	3.7	3.6	3.6	3.6	3.6	3.6
370: Commerce and Housing Credit	BA	3.3	2.3	1.9	1.6	1.4	3.2	1.8	1.5
	OT	3.1	2.6	2.1	1.6	1.4	3.1	1.8	1.5
400: Transportation	BA	15.5	13.9	14.0	13.8	11.6	10.8	10.4	10.3
	OT	38.9	38.4	37.1	36.1	33.6	32.7	31.9	31.5
450: Community and Regional Development	BA	8.9	6.6	6.5	6.4	6.4	6.4	6.3	6.3
	OT	11.6	10.3	7.9	7.1	6.7	6.5	6.5	6.5
500: Education, Training, Employment and Social Services	BA	42.0	36.0	35.9	35.6	35.6	35.6	35.6	35.6
	OT	39.3	40.3	37.0	35.5	35.3	35.3	35.3	35.3
550: Health	BA	22.8	20.9	20.7	20.5	20.1	19.9	19.6	19.3
	OT	22.4	21.2	20.6	20.5	20.1	19.9	19.6	19.3
570: Medicare	BA	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0
	OT	3.0	3.0	3.0	3.0	3.0	3.0	3.0	3.0
600: Income Security	BA	34.0	35.2	34.0	43.5	36.0	39.4	39.4	39.5
	OT	38.7	39.2	41.5	41.1	41.2	42.0	41.5	41.5
650: Social Security	BA	....	....	....	....	....	....	....	....
	OT	2.5	2.6	2.5	2.5	2.5	2.5	2.5	2.5
700: Veterans Benefits	BA	18.3	18.0	18.0	18.0	17.9	17.9	17.9	17.9
	OT	18.0	18.9	18.3	18.2	18.1	18.0	17.9	17.9
750: Administration of Justice	BA	18.1	19.5	19.5	19.7	20.5	20.6	20.6	20.6

CONFERENCE AGREEMENT—DISCRETIONARY TOTALS

[Dollars in billions]

		1995	1996	1997	1998	1999	2000	2001	2002
	OT	16.8	18.4	18.7	19.3	20.0	20.5	20.5	20.5
800: General Government	BA	12.3	11.6	11.5	11.3	11.2	11.1	11.1	11.1
	OT	12.4	12.0	11.5	11.5	11.1	11.0	11.0	11.0
920: Allowances	BA	....	−6.4	−6.3	−5.3	−4.7	−3.7	−3.7	−3.7
	OT	....	−4.8	−6.4	−5.5	−5.0	−4.0	−4.0	−4.1
Total Discretionary	BA	510.4	489.2	487.4	496.2	488.7	495.9	496.6	498.8
	OT	547.9	534.0	524.1	517.5	516.1	520.5	516.4	515.1
Defense	BA	262.3	265.4	268.0	269.7	272.4	275.1	277.8	280.7
	OT	270.3	264.0	265.7	264.5	267.9	271.6	270.8	270.8
Nondefense	BA	248.1	223.8	219.5	226.5	216.3	220.8	218.8	218.1
	OT	277.6	269.9	258.4	253.0	248.2	248.9	245.6	244.3
050: National Defense	BA	−0.9	−0.7	−0.7	−0.7	−0.7	−0.7	−0.7	−0.8
	OT	−0.7	−0.9	−0.7	−0.7	−0.7	−0.7	−0.7	−0.8
150: International Affairs	BA	−1.5	−2.5	−3.1	−3.4	−3.9	−2.0	−1.9	−1.9
	OT	−2.3	−3.7	−4.1	−3.8	−3.9	−3.7	−3.5	−3.5
250: Science, Space and Technology	BA	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
	OT	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
270: Energy	BA	0.0	−1.0	−0.9	−0.9	−1.3	−1.4	−1.4	−1.5
	OT	−1.6	−1.9	−2.1	−2.1	−2.6	−2.8	−2.7	−2.7
300: Natural Resources and Environment	BA	0.3	0.4	0.4	−0.8	−0.2	−0.4	−1.3	−0.9
	OT	0.2	0.1	0.3	−0.9	−0.3	−0.5	−1.5	−1.1
350: Agriculture	BA	10.0	9.5	8.9	8.1	7.9	7.4	6.2	6.0
	OT	8.5	8.0	7.5	6.8	6.6	6.1	5.1	4.9
370: Commerce and Housing Credit	BA	5.6	4.3	6.7	0.6	1.9	−1.3	−1.0	−1.0
	OT	−16.6	−9.5	−8.0	−9.7	−6.2	−6.6	−4.7	−4.6
400: Transportation	BA	27.1	22.7	29.1	30.0	31.0	32.0	31.8	31.5
	OT	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5
450: Community and Regional Development	BA	0.3	−0.0	−0.0	−0.0	−0.0	−0.1	−0.6	−0.7
	OT	−0.1	−0.3	−0.2	−0.6	−0.6	−0.3	−0.4	−0.4
500: Education, Training, Employment and Social Services	BA	16.3	12.4	11.9	12.1	12.8	13.6	13.0	13.2
	OT	15.4	13.1	12.0	11.8	12.2	12.9	12.3	12.5
550: Health	BA	93.8	100.0	106.9	111.2	115.6	120.2	124.9	129.9
	OT	93.4	100.0	106.9	111.2	115.6	120.0	124.7	129.7
570: Medicare	BA	159.6	173.1	181.3	191.0	202.7	213.5	228.8	246.2
	OT	158.1	170.7	179.8	189.3	200.2	211.6	226.7	244.0
600: Income Security	BA	185.9	190.7	197.6	206.8	217.1	230.1	235.4	249.2
	OT	183.5	188.4	194.9	204.2	214.6	227.9	233.1	246.8
650: Social Security	BA	336.9	354.3	374.0	394.3	415.0	436.7	459.6	483.7
	OT	333.7	351.6	370.6	390.7	411.3	433.1	455.8	479.7
700: Veterans Benefits	BA	19.3	19.5	19.9	20.3	20.9	21.2	21.8	22.3
	OT	19.4	18.0	19.7	20.2	20.9	22.6	23.4	23.9
750: Administration of Justice	BA	0.4	0.4	0.3	0.5	0.5	0.5	0.0	−0.0
	OT	0.3	0.3	0.3	0.4	0.4	0.4	0.0	−0.0
800: General Government	BA	1.0	0.8	0.8	0.9	0.9	0.9	0.6	0.5
	OT	1.0	0.9	0.7	0.8	0.9	1.0	0.6	0.6
900: Net Interest	BA	235.4	258.9	266.0	269.7	276.4	281.9	282.7	283.6
	OT	235.3	258.9	266.0	269.7	276.4	281.9	282.7	283.6
950: Undistributed Offsetting Receipts	BA	−46.2	−40.5	−41.3	−44.0	−43.6	−46.1	−46.3	−51.8

CONFERENCE AGREEMENT—DISCRETIONARY TOTALS—Continued

[Dollars in billions]

		1995	1996	1997	1998	1999	2000	2001	2002
	OT	−46.2	−40.5	−41.3	−44.0	−43.6	−46.1	−46.3	−51.8
Total Spending	BA	1043.2	1102.4	1158.0	1195.5	1253.3	1306.0	1351.7	1407.7
	OT	981.9	1053.7	1102.8	1144.0	1201.7	1257.6	1305.4	1361.3

Credit levels

The following tables show the credit levels in the aggregate and by function included in the conference agreement.

CREDIT LEVELS IN CONFERENCE AGREEMENT BY FUNCTION

[Dollars in billions]

	1996	1997	1998	1999	2000	2001	2002
Function 050:							
Direct loans	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Guaranteed loans	1.7	1.7	1.7	1.7	1.7	1.7	1.7
Function 150:							
Direct loans	5.7	5.7	5.7	5.7	5.7	5.7	5.7
Guaranteed loans	18.3	18.3	18.3	18.3	18.3	18.3	18.3
Function 270:							
Direct loans	1.2	1.2	1.2	1.2	1.2	1.2	1.2
Guaranteed loans	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Function 300:							
Direct loans	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Guaranteed loans	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Function 350:							
Direct loans	11.5	11.5	10.9	11.6	11.4	11.1	10.9
Guaranteed loans	5.7	5.7	5.7	5.7	5.7	5.7	5.7
Function 370:							
Direct loans	1.4	1.4	1.4	1.4	1.4	1.4	1.4
Guaranteed loans	123.1	123.1	123.1	123.1	123.1	123.1	123.1
Function 400:							
Direct loans	0.2	0.2	0.2	0.2	0.2	0.2	0.2
Guaranteed loans	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Function 450:							
Direct loans	2.7	2.7	2.7	2.7	2.7	2.7	2.7
Guaranteed loans	1.2	1.2	1.2	1.2	1.2	1.2	1.2
Function 500:							
Direct loans	13.6	16.3	19.1	21.8	21.9	22.0	22.2
Guaranteed loans	16.3	15.9	15.2	14.3	15.0	15.8	16.6
Function 550:							
Direct loans	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Guaranteed loans	0.3	0.3	0.3	0.3	0.3	0.3	0.3
Function 600:							
Direct loans	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Guaranteed loans	0.1	0.1	0.1	0.1	0.1	0.1	0.1
Function 700:							
Direct loans	1.2	1.1	1.0	1.0	1.2	1.4	1.7
Guaranteed loans	26.7	21.6	19.7	18.6	19.3	19.9	20.6
Grand total:							
Direct loans	37.6	40.2	42.3	45.7	45.8	45.8	46.1
Guaranteed loans	193.4	187.9	185.3	183.3	184.7	186.1	187.6

RECONCILIATION

(Sec. 4 of the House resolution, sec. 105 of the Senate amendment, and sec. 105 of the conference agreement)

The following tables show the instructions to the various authorizing committees of the House and Senate pursuant to section 301(b)(2) and section 310 of the Congressional Budget Act. Those sections authorize the concurrent resolution on the budget to include reconciliation instructions to the various committees to implement the amounts and levels in that resolution. The reconciliation instructions in this concurrent resolution of the budget require the committees to report changes in law that, based on CBO and Budget Committee scoring, meet the specified targets in their instructions. Those legislative changes are to be reported to the appropriate Budget Committee by September 22, 1995.

SENATE COMMITTEE RECONCILIATION INSTRUCTIONS

[Dollars in millions]

Committee		1996	5-Year	7-Year
Agriculture, Nutrition and Forestry	OT	−$2,503	−$29,059	−$48,402
Armed Services	OT	−1,571	−1,888	−2,199
Banking, Housing and Urban Affairs	OT	−481	−1,698	−2,391
Commerce, Science and Transportation	OT	−114	−9,088	−15,036
Energy and Natural Resources	OT	−354	−4,292	−4,001
Environment and Public Works	OT	−118	−1,308	−2,250
Finance	OT	−15,328	−272,974	−530,359
Governmental Affairs	DR	−524	−5,357	−9,844
Judiciary	OT	....	−238	−476
Labor and Human Resources	OT	−809	−6,956	−10,779
Veterans' Affairs	OT	−274	−3,614	−6,392
Total reconciliation instructions	OT	−22,076	−336,472	−632,129

RECONCILIATION BY HOUSE COMMITTEE

[In millions of dollars]

Committee	1996	1996 to 2000	1996 to 2002
Agriculture:			
Food stamps	26,748	133,246	192,270
All other programs	10,506	44,741	59,232
Banking and Financial Services: Direct spending	−13,087	−50,061	−65,112
Commerce: Direct spending	285,537	1,592,240	2,361,708
Economic & Educational Opportunities:			
Direct spending	16,026	77,346	110,936
Authorization	−720	−5,810	−8,770
Government Reform & Oversight:			
Direct spending	57,743	310,364	449,583
Deficit reduction	−85	−775	−1,127
International Relations:			
Direct spending	14,243	82,072	83,221
Deficit reduction	−1	−14	−22
Judiciary: Direct spending	2,580	13,734	19,530
National Security: Direct spending	39,601	226,931	331,210
Resources: Direct spending	1,536	7,816	12,871
Transportation & Infrastructure: Direct spending	16,615	83,070	116,811
Veterans Affairs: Direct spending	19,041	106,163	154,884
Ways & Means: Direct spending	349,172	2,010,751	3,002,706
Offset to Multiple Jurisdictions:			
Direct spending	−9,830	−140,151	−269,826
Deficit reduction	1	14	22
Total			
Direct spending	816,630	4,478,262	6,550,004
Deficit reduction	−85	−875	−1,387
Revenues	0	1,304,215	7,938,254
Authorization	−720	−5,810	−8,770
Ways & Means Revenues	....	1,304,215	7,938,254

The conference agreement includes in the reconciliation directives an instruction to increase the statutory limit on the public debt. The conferees intend that the debt limit be enacted as separated legislation and not as part of reconciliation. However, if debt limit legislation has not been enacted this instruction would authorize the committees of jurisdiction to include the debt limit in the reconciliation bill.

Because the goal of this resolution is to achieve a balanced budget in 2002 in a manner that generates economic dividends, the conferees discourage committees from attempting to meet their reconciliation instructions with changes that only appear to reduce the deficit (through timing changes or other artifices) rather than changes with real economic effects. For example, the 1993 budget reconciliation bill included a provision directing the Federal Reserve to transfer $213 million from its surplus capital account to the Treasury over 1997 and 1998. Because the Federal Reserve is not included in the unified budget, the slated transfer was counted as savings for reconciliation purposes even though there is general agreement that the transfer is a timing gimmick, acts like an intragovernmental transfer, and leaves the private sector and the rest of the economy unaffected. The Congressional Budget Office concurs with the conferees that such a transfer has no real economic impact on the deficit. Given this understanding, the conferees (using the authority provided to the budget committees for estimating outlays and revenues by section 310(d)(4) of the Congressional Budget Act) direct the Congressional Budget Office to not score any savings for any new legislation that might affect the Federal Reserve's transfer of the surplus capital account to the Treasury.

ALLOCATIONS AMONG COMMITTEES

Sections 302(a) and 602(a) of the Congressional Budget Act of 1974 (the Budget Act) require the joint explanatory statement of managers accompanying the conference report on a concurrent resolution on the budget (the budget resolution) to include committee allocations, based on the amounts in the budget resolution as recommended in the conference report. These allocations allocate the appropriate level of total new budget authority, outlays, new entitlement authority (for the House only), and Social Security outlays (for the Senate only) in the budget resolution among each committee of the Senate and the House of Representatives that has jurisdiction over legislation providing those amounts.

Section 602 further requires that the allocations include an allocation for the first fiscal year covered by the budget resolution (fiscal year 1996) and for the total of the first fiscal year and the four succeeding fiscal years covered by the budget resolution (fiscal years 1996 through 2000). These allocations form the basis for congressional enforcement of the budget resolution through points of order under the Budget Act. These allocations follow:

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT BUDGET YEAR TOTAL: 1996

[In millions of dollars]

Committee	Direct spending jurisdiction		Entitlements funded in annual appropriations	
	Budget authority	Outlays	Budget authority	Outlays
Appropriations	772,349	807,374		
Appropriations (Violent Crime Trust Fund)	4,087	2,227		
Agriculture, Nutrition, and Forestry	6,896	4,859	18,566	8,096
Armed Services	40,159	39,806		
Banking, Housing, and Urban Affairs	4,143	−8,527		
Commerce, Science, and Transportation	2,619	−33	584	581
Energy and Natural Resources	1,121	951	48	37
Environment and Public Works	19,811	1,750		
Finance	631,582	628,118	119,856	120,666
Foreign Relations	13,926	14,093		
Governmental Affairs	51,873	50,760		
Judiciary	2,227	2,170	230	229
Labor and Human Resources	6,117	6,276	2,155	1,869
Rules and Administration	94	204		
Veterans Affairs	1,400	1,423	19,235	17,686
Select Indian Affairs	409	378		
Small Business	3	−450		
Not allocated to committees	−273,356	−263,279		
Total	1,285,500	1,288,100	160,674	149,164

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT FIVE-YEAR TOTAL: 1996–2000

[In millions of dollars]

Committee	Direct spending jurisdiction		Entitlements funded in annual appropriations	
	Budget authority	Outlays	Budget authority	Outlays
Agriculture, Nutrition, and Forestry	16,389	4,241	86,339	46,402
Armed Services	228,914	227,993		
Banking, Housing, and Urban Affairs	21,890	−33,850		
Commerce, Science, and Transportation	5,389	−8,794	3,254	3,236
Energy and Natural Resources	4,490	4,179	228	232
Environment and Public Works	121,753	5,724		

SENATE COMMITTEE BUDGET AUTHORITY AND OUTLAY ALLOCATIONS PURSUANT TO SECTION 302 OF THE CONGRESSIONAL BUDGET ACT FIVE-YEAR TOTAL: 1996–2000

[In millions of dollars]

Committee	Direct spending jurisdiction		Entitlements funded in annual appropriations	
	Budget authority	Outlays	Budget authority	Outlays
Finance	3,393,472	3,377,584	657,433	658,546
Foreign Relations	57,253	61,166		
Governmental Affairs	280,326	275,090		
Judiciary	11,593	11,305	1,153	1,149
Labor and Human Resources	26,159	25,023	12,186	11,427
Rules and Administration	470	556		
Veterans Affairs	6,228	7,247	100,341	99,237
Select Indian Affairs	2,149	1,987		
Small Business	12	−1,745		

FISCAL YEAR 1996—ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 602(a) OF THE CONGRESSIONAL BUDGET ACT

[In millions of dollars]

	Budget authority	Outlays	Entitlement authority
HOUSE APPROPRIATIONS COMMITTEE			
Current level (enacted law):			
050 National Defense	214	214	0
150 International Affairs	169	169	0
300 Natural Resources and Environment	2,094	1,947	0
350 Agriculture	11,967	1,530	0
370 Commerce and Housing Credit	38	138	0
400 Transportation	584	581	0
500 Education, Training, Employment, and Social Services	11,298	11,243	0
550 Health	103,457	103,461	0
570 Medicare	54,785	54,785	0
600 Income Security	53,673	54,192	0
650 Social Security	23	23	0
700 Veterans Benefits and Services	19,346	17,783	0
750 Administration of Justice	411	409	0
800 General Government	7,902	7,890	0
900 Net Interest	15	15	0
Subtotals	265,976	254,381	0
HOUSE APPROPRIATONS COMMITTEE:			
Discretionary appropriations action (assumed legislation):			
050 National Defense	265,406	264,043	0
150 International Affairs	18,292	20,718	0
250 General Science, Space and Technology	16,656	16,754	0
270 Energy	5,545	6,403	0
300 Natural Resources and Environment	19,107	20,153	0
350 Agriculture	3,585	3,793	0
370 Commerce and Housing Credit	2,333	2,575	0
400 Transportation	13,887	38,444	0
450 Community and Regional Development	6,601	10,261	0
500 Education, Training, Employment, and Social Services	35,962	40,345	0
550 Health	20,943	21,164	0
570 Medicare	2,992	2,992	0
600 Income Security	35,204	390,234	0
650 Social Security	0	2,574	0
700 Veterans Benefits and Services	18,022	18,933	0
750 Administration of Justice	15,387	16,154	0
800 General Government	11,581	12,033	0
920 Allowances	−6,429	−4,805	0
Subtotals	485,074	531,768	0
Violent Crime Reduction Trust Fund:			
750 Administration of Justice	4,087	2,227	0
Discretionary action by other committees (assumed entitlement legislation):			
500 Education, Training, Employment, and Social Services	−1,686	−1,138	0
550 Health	−3,719	−3,719	0
600 Income Security	20,197	20,200	0
700 Veterans Benefits and Services	−208	−195	0
750 Administration of Justice	−4	−4	0
800 General Government	4	4	0
Subtotals	14,584	15,148	0
Committee totals	769,720	803,523	0
HOUSE AGRICULTURE COMMITTEE			
Current level (enacted law):			
150 International affairs	−474	−474	0
270 Energy	0	−645	0
300 Natural Resources and Environment	471	483	0
350 Agriculture	9,041	7,636	8,896
400 Transportation	40	40	0
450 Community and Regional Development	257	237	0
600 Income Security	0	0	11
800 General Government	251	250	0
900 Net Interest	0	0	15
Subtotals	9,585	7,527	8,922
Discretionary action (Assumed legislation):			
350 Agriculture	−992	−992	−992
600 Income Security			1,169
Subtotals	−992	−992	177
Committee totals	8,593	6,535	9,099
HOUSE NATIONAL SECURITY COMMITTEE			
Current level (enacted law):			
050 National Defense	12,592	12,355	0
300 Natural Resources and Environment	3	2	0
400 Transportation	0	−5	0
500 Education, Training, Employment, and Social Services	4	3	0
600 Income Security	28,534	28,427	0
700 Veterans Benefits and Services	197	190	190
Subtotals	41,330	40,971	190
Discretionary action (assumed legislation):			
600 Income Security	382	382	382
950 Undistributed offsetting receipts	−1,550	−1,550	0
Subtotals	−1,168	−1,168	382
Committee totals	40,162	39,803	572
HOUSE BANKING AND FINANCIAL SERVICES COMMITTEE			
Current level (enacted law):			
150 International Affairs	−585	−1,930	0
370 Commerce and Housing Credit	364	−9,258	0
450 Community and Regional Development	5	−79	0
600 Income Security	50	100	0
800 General Government	6	−27	0
900 Net Interest	3,118	3,118	0
Subtotals	2,959	−8,074	0
Discretionary action (assumed legislation):			
370 Commerce and Housing Credit	−210	−210	0
450 Community and Regional Development	−271	−271	0
Subtotals	−481	−481	0
Committee totals	2,478	−8,555	0
HOUSE ECONOMIC AND EDUCATIONAL OPPORTUNITIES COMMITTEE			
Current level (enacted law):			
500 Education, Training, Employment, and Social Services	3,891	3,726	4,833
600 Income Security	153	143	9,575
Subtotals	4,044	3,870	14,409
Discretionary action (assumed legislation):			
500 Education, Training, Employment, and Social Services	−1,068	−723	−723
600 Income Security	940	845	−1,292
Subtotals	−128	122	−2,015
Committee totals	3,916	3,992	12,394
HOUSE COMMERCE COMMITTEE			
Current level (enacted law):			
300 Natural Resources and Environment	0	3	0
500 Education, Training, Employment, and Social Services	1	1	0
550 Health	496	489	99,517
800 General Government	8	8	0
Subtotals	506	501	99,517
Discretionary action (assumed legislation):			
270 Energy	0	150	0
370 Commerce and Housing Credit	−69	−69	0
550 Health	−86	−86	−3,619
950 Undistributed offsetting receipts	−400	−400	0
Subtotals	−555	−405	−3,619
Committee totals	−49	96	95,898
HOUSE INTERNATIONAL RELATIONS COMMITTEE			
Current level (enacted law)			
150 International Affairs	13,416	13,580	0
400 Transportation	7	10	0
600 Income Security	506	506	494
800 General Government	5	5	0
Subtotals	13,933	14,100	494
Discretionary action (assumed legislation):			
950 Undistributed offsetting receipts	−3	−3	0
Subtotals	−3	−3	0
Committee totals	13,930	14,097	494
HOUSE GOVERNMENT REFORM AND OVERSIGHT COMMITTEE			
Current level (enacted law):			
550 Health	0	−44	3,818
600 Income Security	39,209	38,140	38,140
750 Administration of Justice	40	40	40
800 General Government	12,870	12,870	0
900 Net Interest	93	93	0
Subtotals	52,212	51,099	41,998
Discretionary action (assumed legislation):			
550 Health	0	0	−100
750 Administration of Justice	0	0	−4
800 General Government	−100	−100	−2
950 Undistributed offsetting receipts	−336	−336	0
Subtotals	−436	−436	−106
Committee totals	51,776	50,663	41,892
HOUSE OVERSIGHT COMMITTEE			
Current level (enacted law):			
500 Education, Training, Employment, and Social Services	21	18	0
800 General Government	72	186	275
Subtotals	93	204	275
Committee totals	93	204	275
HOUSE RESOURCES COMMITTEE			
Current level (enacted law):			
270 Energy	−93	−377	0
300 Natural Resources and Environment	772	700	0
370 Commerce and Housing Credit	67	11	0
450 Community and Regional Development	405	373	0
550 Health	5	5	0
800 General Government	863	865	165
Subtotals	2,018	1,577	165
Discretionary action (assumed legislation):			
300 Natural Resources and Environment	−29	−27	0
950 Undistributed offsetting receipts	−77	−77	0
Subtotals	−106	−104	0
Committee totals	1,912	1,473	165
HOUSE JUDICIARY COMMITTEE			
Current level (enacted law):			
370 Commerce and Housing Credit	197	197	0
600 Income Security	62	18	9
750 Administration of Justice	1,451	1,439	233
800 General Government	517	517	0
Subtotals	2,227	2,170	242
Committee totals	2,227	2,170	242
HOUSE TRANSPORTATION AND INFRASTRUCTURE COMMITTEE			
Current level (enacted law):			
270 Energy	943	820	0
300 Natural Resources and Environment	417	361	0
400 Transportation	22,227	12	581
450 Community and Regional Development	5	105	0

FISCAL YEAR 1996—ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SEC. 602(a) OF THE CONGRESSIONAL BUDGET ACT—Continued

[In millions of dollars]

	Budget authority	Outlays	Entitlement authority
600 Income Security	14,795	14,774	0
800 General Government	16	16	0
Subtotals	38,403	16,088	581
Discretionary action (assumed legislation):			
300 Natural resources and environment	−6	−6	0
400 Transportation	−45	−45	0
450 Community and regional development	−12	−12	0
Subtotals	−63	−12	0
Committee totals	38,340	16,025	581
HOUSE SCIENCE COMMITTEE			
Current level (enacted law):			
250 General science, space, and technology	39	39	0
500 Education, training, employment, and social services	1	1	0
Subtotals	40	40	0
Committee totals	40	40	0
HOUSE SMALL BUSINESS COMMITTEE			
Current level (Enacted law):			
370 Commerce and housing credit	3	−164	0
450 Community and regional development	0	−286	0
Subtotals	3	−450	0
Committee totals	3	−450	0
HOUSE VETERANS AFFAIRS COMMITTEE			
Current level (enacted law):			
700 Veterans Benefits and Services	1,519	1,532	19,303
Subtotals	1,519	1,532	19,303
Discretionary action (assumed legislation):			
700 Veterans Benefits and Services	−79	−79	−195
Subtotals	−79	−79	195
Committee totals	1,440	1,453	19,108
HOUSE WAYS AND MEANS COMMITTEE			
Current level (enacted law):			
500 Education, training, employment, and social services	0	0	8,152
550 Health	0	−28	0
570 Medicare	206,253	203,935	199,066
600 Income security	43,611	42,484	36,916
650 Social Security	7,371	7,371	0
750 Administration of Justice	405	370	0
800 General government	540	534	0
900 Net interest	373,259	373,259	373,259
Subtotals	631,438	627,926	617,393
Discretionary action (assumed legislation):			
500 Education, training, employment, and social services	0	0	−1,138
570 Medicare	−8,000	−8,000	0
600 Income security	1,821	1,369	−2,380
900 Net interest	−984	−984	−984
Subtotals	−7,164	−7,615	−4,502
Committee totals	624,275	620,311	612,891
UNASSIGNED			
Current level (enacted law):			
050 National Defense	−13,511	−13,512	0
150 International Affairs	−15,018	−15,064	0
250 General Science, Space, and Technology	5	8	0
270 Energy	−1,794	−1,850	0
300 Natural Resources and Environment	−3,329	−3,315	0
350 Agriculture	−10,501	−167	0
370 Commerce and Housing Credit	−123	−120	0
400 Transportation	−101	−137	0
450 Community and Regional Development	−389	−428	0
500 Education, Training, Employment, and Social Services	−26	−77	0
550 Health	−96	−141	0
570 Medicare	−79,930	−80,012	0
600 Income Security	−13,235	−13,214	0
650 Social Security	−1,494	−1,468	0
700 Veterans Benefits and Services	−1,296	−1,263	0
750 Administration of Justice	−1,977	−1,935	0
800 General Government	−22,439	−22,457	0
900 Net interest	−77,102	−77,102	−62,907
920 Allowances	29	5	0
950 Undistributed offsetting receipts	−31,334	−31,334	0
Subtotals	−273,663	−263,585	−62,907
Discretionary action (assumed legislation):			
800 General government	306	306	....
Subtotals	306	306	0
Committee totals	−273,357	−263,279	−62,907
Total—Current level	792,623	749,875	740,583
Total—Discretionary action	492,876	538,225	−9,878
Grand totals	1,285,500	1,288,100	730,705

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTIONS 302(a)/602(a) OF THE CONGRESSIONAL BUDGET ACT

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	1996 to 2000
Appropriations Committee						
Current level:						
Budget authority	265,976	290,731	312.480	340,215	375,556	1,584,958
Outlays	254,381	281,819	304,617	332,962	370,563	1,544,342
Discretionary action:						
Defense:						
Budget authority	265,406	267,962	269,731	272,380	275,064	1,350,543
Outlays	264,043	265,734	264,531	267,883	271,571	1,333,762
International:						
Budget authority	18,292	17,081	15,780	15,100	14,733	80,986
Outlays	20,718	19,192	17,680	16,490	15,620	89,700
Domestic:						
Budget authority	205,463	202,387	210,608	201,227	206,082	1,025,839
Outlays	249,234	239,216	235,322	231,747	233,268	1,188,786
Subtotal:						
Budget authority	489,161	487,430	496,192	488,707	495,879	2,457,369
Outlays	533,995	524,141	517,533	516,121	520,459	2,612,249
Discretionary action by other committees:						
Budget authority	14,584	6,430	735	−8,551	−18,065	−4,867
Outlays	15,148	6,638	212	−8,644	−18,126	−4,772
Committee total:						
Budget authority	769,720	784,591	809,406	820,370	853,370	4,037,457
Outlays	803,523	812,599	822,361	840,439	872,896	4,151,818
Agriculture Committee						
Current level (Enacted law):						
Budget authority	9,585	9,448	9,331	9,125	8,877	46,366
Outlays	7,527	7,121	7,092	6,747	6,504	34,991
Discretionary action:						
Budget authority	−992	−1,332	−1,960	−1,915	−2,278	−8,477
Outlays	−992	−1,332	−1,960	−1,915	−2,278	−8,477
Committee total:						
Budget authority	8,593	8,116	7,371	7,210	6,599	37,889
Outlays	6,535	5,789	5,132	4,832	4,226	26,514
New entitlement authority	177	−112	−696	−608	−925	−2,164
National Security Committee						
Current level (Enacted Law):						
Budget authority	41,330	43,031	44,997	47,812	50,017	227,187
Outlays	40,971	42,825	44,864	47,640	49,840	226,140
Discretionary action:						
Budget authority	−1,168	1,119	1,120	354	308	1,733
Outlays	−1,168	1,119	1,120	354	308	1,733
Committee total:						
Budget authority	40,162	44,150	46,117	48,166	50,325	228,920
Outlays	39,803	43,944	45,984	47,994	50,148	227,873
New entitlement authority	382	642	650	−91	−116	1,467

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTIONS 302(a)/602(a) OF THE CONGRESSIONAL BUDGET ACT—Continued

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	1996 to 2000
Banking and Financial Services Committee						
Current level (enacted law):						
Budget authority	2,959	2,345	1,767	1,265	1,447	9,783
Outlays	−8,074	−6,105	−7,441	−5,484	−4,782	−31,886
Discretionary action:						
Budget authority	−481	−284	−297	−311	−325	−1,709
Outlays	−481	−284	−297	−311	−325	−1,698
Committee total:						
Budget authority	2,478	2,061	1,470	954	1,122	8,085
Outlays	−8,555	−6,389	−7,738	−5,795	−5,107	−33,584
Economic Opportunity Committee						
Current level (enacted law):						
Budget authority	4,044	3,224	3,084	3,377	3,617	17,346
Outlays	3,870	3,067	2,726	2,898	3,133	15,694
Discretionary action:						
Budget authority	−128	−211	−406	−613	−618	1,976
Outlays	122	−174	−334	−537	−611	−1,534
Committee total:						
Budget authority	3,916	3,013	2,678	2,764	2,999	15,370
Outlays	3,992	2,893	2,392	2,361	2,522	14,160
New entitlement authority	−2,015	−3,281	−2,056	−2,135	−1,978	−11,465
Current level (enacted law):						
Budget authority	506	499	487	442	423	2,357
Outlays	501	495	484	441	422	2,343
Discretionary action:						
Budget authority	−555	−1,862	−2,466	−3,197	−3,301	−11,381
Outlays	−405	−1,854	−2,476	−3,285	−3,460	−11,480
Committee total:						
Budget authority	−49	−1,363	−1,979	−2,755	−2,878	−9,024
Outlays	96	−1,359	−1,992	−2,844	−3,038	−9,137
New entitlement authority	−3,619	−7,886	−15,840	−24,361	−33,229	−84,935
International Relations Committee						
Current level (enacted law):						
Budget authority	13,933	12,778	11,140	9,373	10,064	57,288
Outlays	14,100	13,440	12,359	10,922	10,380	61,201
Discretionary action:						
Budget authority	−3	−4	−4	−4	−4	−19
Outlays	−3	−4	−4	−4	−4	−19
Committee total:						
Budget authority	13,930	12,774	11,136	9,369	10,060	57,269
Outlays	14,097	13,436	12,355	10,918	10,376	61,182
New entitlement authority	0	0	−1	−2	−3	−6
Government Reform and Oversight Committee						
Current level (enacted law):						
Budget authority	52,212	54,388	56,472	58,656	60,980	282,708
Outlays	51,099	53,381	55,541	57,652	59,799	277,472
Discretionary action:						
Budget authority	−436	−558	−580	−636	−693	−2,903
Outlays	−436	−558	−580	−636	−693	−2,903
Committee total:						
Budget authority	51,776	53,830	55,892	58,020	60,287	279,805
Outlays	50,663	52,823	54,961	57,016	59,106	274,569
New entitlement authority	−106	−227	−475	−759	−1,162	−2,729
Oversight Committee						
Current level (enacted law):						
Budget authority	93	93	93	94	95	468
Outlays	204	28	26	54	242	554
Public Lands and Resources Committee						
Current level (enacted law):						
Budget authority	2,018	2,172	2,254	2,221	2,231	10,896
Outlays	1,577	1,765	2,230	2,296	2,282	10,150
Discretionary action:						
Budget authority	−106	−882	−2,564	428	426	−2,698
Outlays	−104	−881	−2,563	428	427	−2,693
Committee total:						
Budget authority	1,912	1,290	−310	2,649	2,657	8,198
Outlays	1,473	884	−333	2,724	2,709	7,457
Judiciary Committee						
Current level (enacted law):						
Budget authority	2,227	2,320	2,330	2,425	2,529	11,831
Outlays	2,170	2,264	2,273	2,367	2,469	11,543
Discretionary action:						
Budget authority	0	0	0	−119	−119	−238
Outlays	0	0	0	−119	−119	−238
Committee total:						
Budget authority	2,227	2,320	2,330	2,306	2,410	11,593
Outlays	2,170	2,264	2,273	2,248	2,350	11,305
Transportation and Infrastructure Committee						
Current level (enacted law):						
Budget authority	38,403	42,369	16,419	16,658	16,752	130,601
Outlays	16,088	15,858	15,906	16,109	16,291	80,252
Discretionary action:						
Budget authority	−63	2,218	29,295	30,215	31,179	92,844
Outlays	−63	−71	−73	−124	−126	−457
Committee total:						
Budget authority	38,340	44,588	45,714	46,873	47,931	223,446
Outlays	16,025	15,787	15,833	15,985	16,165	79,795
Science Committee						
Current level (Enacted Law):						
Budget authority	40	41	41	41	41	204
Outlays	40	41	41	41	41	204
Small Business Committee						
Current level (Enacted law):						
Budget authority	3	3	2	2	2	12
Outlays	−450	−170	−526	−452	−147	−1,745
Veterans' Affairs Committee						
Current level (Enacted Law):						
Budget authority	1,519	1,450	1,389	1,315	1,241	6,914

ALLOCATION OF SPENDING RESPONSIBILITY TO HOUSE COMMITTEES PURSUANT TO SECTIONS 302(a)/602(a) OF THE CONGRESSIONAL BUDGET ACT—Continued

[By fiscal year, in millions of dollars]

	1996	1997	1998	1999	2000	1996 to 2000
Outlays	1,532	1,538	1,559	1,568	1,473	7,670
Discretionary action:						
Budget authority	−79	−82	−169	−175	−181	−686
Outlays	−79	−82	−169	−175	−181	−686
Committee total:						
Budget authority	1,440	1,368	1,220	1,140	1,060	6,228
Outlays	1,453	1,456	1,390	1,393	1,292	6,984
New entitlement authority	−195	−265	−323	−988	−1,157	−2,928
Ways and Means Committee						
Current level (Enacted Law):						
Budget authority	631,438	669,276	707,615	754,639	802,487	3,565,455
Outlays	627,926	666,305	704,666	750,789	799,709	3,549,395
Discretionary action						
Budget authority	−7,163	−22,273	−36,432	−53,445	−73,586	−192,899
Outlays	−7,615	−22,270	−36,458	−53,433	−73,569	−193,345
Committee total:						
Budget authority	624,275	647,003	671,183	701,194	728,901	3,372,556
Outlays	620,311	644,035	668,208	697,356	726,140	3,356,050
New Entitlement Authority	−4,502	−9,505	−14,956	−22,376	−31,556	−82,895
Unassigned to Committee						
Current level (Enacted Law):						
Budget authority	−273,663	−280,148	−291,012	302,806	−321,143	−1,468,772
Outlays	−263,585	−271,832	−283,116	−295,979	−315,185	−1,429,697
Discretionary action:						
Budget authority	306	569	946	1,308	1,763	4,892
Outlays	306	569	946	1,308	1,763	4,892
Committee total:						
Budget authority	−273,357	−279,579	−290,065	−301,497	−319,380	−1,463,878
Outlays	−263,279	−271,264	−282,169	−294,671	−313,422	−1,424,805
Total current level:						
Budget authority	792,623	854,021	878,891	944,854	1,015,216	4,485,605
Outlays	749,875	811,843	863,304	930,572	1,003,035	4,358,629
Total discretionary action:						
Budget authority	492,876	470,278	483,409	452,046	430,384	2,328,993
Outlays	538,225	504,957	474,897	449,028	423,465	2,390,572
Grand totals:						
Budget authority	1,285,500	1,324,300	1,362,300	1,396,900	1,445,600	6,814,600
Outlays	1,288,100	1,316,800	1,338,200	1,379,600	1,426,500	6,749,200
Total new entitlement authority	−9,878	−20,634	−33,697	−51,319	−70,126	−185,654

ECONOMIC ASSUMPTIONS

Section 301(g)(2) of the Congressional Budget Act requires the joint explanatory statement accompanying a conference report on a budget resolution to set forth the common economic assumptions upon which the joint statement and conference report are based. The conference agreement is based on the economic forecast and projections prepared by the Congressional Budget Office, adjusted for anticipated revisions to the consumer price index (CPI) beginning in 1998.

House resolution

The House budget resolution assumed that beginning in 1999, the CPI growth projection is revised by 0.6 percentage points a year compared to CBO's assumptions published in its January economic and budget report. CBO's new assessment that the planned 1998 benchmark revision of the CPI by the Bureau of Labor Statistics will lower CPI growth explains 0.2 percentage points of the revision. An assumption that fully funding proposed research will remove upward biases in the CPI amounting to 0.4 percentage points accounts for the remaining revision to the CPI.

Senate amendment

The Senate amendment assumed that CPI growth would be corrected by 0.2 percentage points from CBO's January assumptions beginning in 1998 when the benchmark revisions are completed. The revision reflects CBO's assessment of the impact of the benchmark revision that CBO did not consider previously.

Conference agreement

The conference agreement assumes the Senate amendment.

ECONOMIC PROJECTIONS

[Calendar years]

	Actual 1994	Projected							
		1995	1996	1997	1998	1999	2000	2001	2002
Nominal GDP [Billions of dollars]	6,735	7,127	7,456	7,847	8,256	8,680	9,128	9,604	10,105
Percent change, year over year:									
Real GDP	4.1	3.1	1.8	2.4	2.3	2.3	2.3	2.3	2.3
Implicit GDP deflator	2.1	2.6	2.8	2.8	2.8	2.8	2.8	2.8	2.8
CPI–U	2.6	3.1	3.4	3.4	3.2	3.2	3.2	3.2	3.2
Percent, annual:									
Unemployment rate	6.1	5.5	5.7	5.8	5.9	6.0	6.0	6.0	6.0
Three-month Treasury bill rate	4.2	6.2	5.7	5.3	5.1	5.1	5.1	5.1	5.1
Ten-year Treasury note rate	7.1	7.7	7.0	6.7	6.7	6.7	6.7	6.7	6.7

FUNCTION AND REVENUES

(Secs. 2 and 3 of the House resolution, Secs. 101 and 104 of the Senate amendment, and Secs. 101 and 104 of the conference agreement)

FUNCTION 050: NATIONAL DEFENSE

The House budget resolution provides $2.0 trillion in budget authority and $1.9 trillion in outlays over seven years. The Senate amendment provides $1.9 trillion in budget authority and $1.8 trillion in outlays over seven years. The conference agreement provides $1.9 trillion in budget authority and $1.9 trillion in outlays over seven years.

House resolution

The House resolution adds $9.6 billion in budget authority and $4.0 billion in outlays to the Administration's request for 1996. The House resolution assumes that most of the increase is for Procurement and Research, Development, Test and Evaluation activities within the Department of Defense. After 1996, the House resolution assumes that national defense budget authority would grow at about one percent in 1997, three percent in 1998, one percent in 1999, two percent in 2000, and then stay at that level through 2002.

The House resolution adds $69.7 billion to the Administration's requested budget authority over five years and $92.4 billion over seven years.

The House resolution assumes a 10 percent reduction in the civilian workforce of the Department of Defense beyond reductions already planned.

The House resolution assumes no changes to mandatory spending in Function 050.

Senate amendment

The Senate amendment assumes the President's budget submission for national defense.

The Senate amendment includes seven-year firewalls between defense and non-defense discretionary spending.

The Senate amendment assumes no changes to mandatory spending in Function 050.

Conference agreement

The conference agreement adds $6.0 billion in budget authority and $2.0 billion in outlays to the Administration's request for 1996. Most of the increase is assumed to be for the procurement of weapons and for research and development activities of the Department of Defense. After 1996, the conference agreement would have national defense budget authority grow at a rate of one percent each year through the year 2002. Outlay calculations are based upon budget authority increases to the Administration's budget request. For the period 1997 through 2001, budget authority increases are assumed to be equally split between procurement and operations and maintenance. In the year 2002 the budget authority increase is assumed to be for procurement.

The conference agreement adds $32.2 billion to the Administration's requested budget authority over five years and $39.5 billion over seven years. Conceptually, the agreement does three things. First, it ends the decline in defense spending with last year's budget. Second, it "fills the trough" of Administration's defense spending plan for the period 1996 through 1998 by providing $28.3 billion more than requested. Finally, it provides a steady and increasing stream of budget authority with which the Department of Defense can plan for the future.

In providing additional defense funds, the conferees were most persuaded by two programmatic arguments. First, the President's program is underfunded. The Congressional Budget Office estimates that defense costs will rise by more than $25 billion over the 1997 through 2000 period for: congressionally mandated military pay raises and locality pay adjustments; weapons systems cost growth; un-realized base closure savings; and contingency operations. These costs could more than double if weapons systems costs and environmental clean-up costs are higher than anticipated.

Second, additional defense funds lessen the need for decisionmakers to sacrifice future readiness to meet current readiness requirements. In particular, additional defense funds, in the next few years, can be used to reverse the 60 percent decline in procurement spending since 1985, and the $13 billion backlog in real property maintenance. The real property backlog has resulted in more than a quarter of military housing falling into substandard condition. Problems include asbestos, corroded pipes, poor ventilation, faulty heating and cooling systems, and lead-based paint. Reversing these trends without additional funds will result in cancellation of training, postponement of required maintenance, and troops and families having to continue to live in substandard housing.

Within the funds provided for national defense, the conferees feel that savings can be achieved. The conferees believe that the defense authorizing and appropriations committees should realize savings wherever possible. These savings should include a reduction of at least three percent in the overhead of fiscal year 1996 programs of defense agencies, in a manner so as not to reduce funding for the programmatic activities of these agencies.

The conference agreement includes three-year firewalls between defense and non-defense discretionary spending, applicable in both Houses.

FUNCTION 150: INTERNATIONAL AFFAIRS

The House budget resolution provides $85.0 billion in budget authority and $88.7 billion in outlays over seven years. The Senate amendment provides $98.4 billion in budget authority and $99.5 billion in outlays over seven years. The conference agreement provides $91.7 billion in budget authority and $94.3 billion in outlays over seven years.

House resolution

The House agreed to restructure the various foreign affairs activities by consolidating the Agency for International Development, the U.S. Information Agency, and the Arms Control and Disarmament Agency into the Department of State. In addition, significant reductions—or in some cases outright eliminations—were assumed in development assistance, educational and cultural exchanges, overseas broadcasting, multilateral banks, PL 480, export financing and trade promotion, and international organizations.

Senate amendment

Senate amendment assumes consolidations of programs and structure within the Agency for International Development and the U.S. Information Agency and leaves room for their incorporation into the Department of State. The Arms Control and Disarmament Agency is assumed to be incorporated into the Department of State. In other areas, the Senate amendment makes similar assumptions as the House for discretionary spending in Function 150, although total Senate reductions are not as steep after 1996.

Conference agreement

The conference agreement endorses the notion that the entire foreign affairs apparatus of the United States needs to be completely reassessed and restructured. The House has already considered and the Senate will soon consider legislation that begins that process. The conference agreement recognizes that changes are required in the Department of State, U.S. Agency for International Development, the Arms Control and Disarmament Agency, the U.S. Information Agency, various multilateral development banks and international organizations, and numerous miscellaneous foreign affairs activities.

FUNCTION 250: SCIENCE, SPACE, AND TECHNOLOGY

The House budget resolution provides $108.5 billion in budget authority and $109.6 billion in outlays over seven years. The Senate amendment provides $112.5 billion in budget authority and $113.3 billion in outlays over seven years. The conference agreement provides $110.4 billion in budget authority and $111.5 billion in outlays over seven years.

House resolution

The House agreed to prioritize basic research at the National Science Foundation (NSF) and emphasize National Aeronautics and Space Administration's (NASA) core missions. Specifically, the House would increase NSF civilian research and related activities (except social, behavioral and economic studies) by three percent annually. In addition, the House would implement NASA management and operational reforms and provide sufficient funds to complete the space station. For high energy and nuclear physics, the House would reemphasize basic research and decommission outmoded facilities.

Budget savings as a result of these changes are estimated to be $11.6 billion in budget authority and $10.3 billion in outlays over seven years.

Senate amendment

The Senate amendment assumes NSF refocussing on its original mission of basic scientific research. As with the House, academic research and infrastructure is maintained at the level proposed in the President's Budget.

The Senate amendment assumes the President's proposal to streamline NASA through contract management and operational reforms and assumes the President's freeze and reduction for DOE in the outyears.

Conference agreement

While function 250 must contribute to deficit reduction, the conference agreement recognizes it must also provide for future research opportunities. Consequently, it assumes that basic research will be a priority.

Relative to the House resolution, the conference agreement provides approximately $2 billion in additional funds over seven years. The conferees focused on NASA and NSF as candidates for this restored funding.

FUNCTION 270: ENERGY

The House budget resolution provides $26.4 billion in budget authority and $20.9 billion in outlays over seven years. The Senate amendment provides $24.3 billion in budget authority and $18.2 billion in outlays over seven years. The conference agreement provides $26.2 billion in budget authority and $20.3 billion in outlays over seven years.

House resolution

The House resolution assumes the termination of the Department of Energy (DOE) as one of three Cabinet-level Departments proposed for termination.

For discretionary spending, the House resolution eliminates funding for applied energy research and development, saving $13.6 billion in budget authority and $10.9 billion in outlays over seven years. The House assumes the expedited construction of an interim storage facility to store spent nuclear fuel and the termination of DOE's program to develop a deep repository for high level nuclear waste, saving $2.0 billion over seven years. Reductions are made in unnecessary overhead and bureaucracy, saving $0.4 billion during the period.

For mandatory spending, the House resolution proposes to sell or otherwise transfer out of the Federal government some $7.8 billion in assets. These include four power marketing administrations (Alaska, Southeastern, Southwestern and Western, expected to generate $4.2 billion in asset sales receipts), the U.S. Enrichment Corporation, and the Naval petroleum reserves.

Senate amendment

The Senate amendment does not assume the termination of the Department of Energy.

The Senate amendment makes similar assumptions as the House for discretionary spending with the following exceptions. The Senate does not assume elimination of funding for applied research. The Senate would reduce corporate subsidies for fossil, nuclear, solar, and conservation technologies by $5.6 billion in budget authority and $4.9 billion in outlays over seven years. Unlike the House, the Senate does not assume the termination of the Department of Energy's high level nuclear waste deep repository program. The Senate amendment assumes $2.4 billion in budget authority and $2.1 billion in outlay savings over seven years by consolidating, streamlining, and realigning DOE activities.

Mandatory savings appear larger in the Senate amendment because the Senate displays the proceeds from asset sales as offsetting receipts in this function. The Senate-reported resolution assumes net mandatory savings of $77 million in 1996, $779 million for the period 1996 through 2000, and $167 million for the period 1996–2002 from the sale of power marketing administration (PMA) assets. However, during floor consideration, the Senate adopted a sense of the Senate provision stating that these savings should be achieved from other unspecified mandatory programs in this function. The Senate amendment also assumes the sale of 62 million barrels of oil stored at the Weeks Island strategic petroleum reserve facility, which must be decommissioned, generating a total of $900 million in offsetting receipts and the extension of the requirement that the Nuclear Regulatory Commission (NRC) collect fees equal to 100 percent of its budget.

Conference agreement

The conferees agree to disagree on the future status of the Department of Energy. They recognize that ultimately the committees of jurisdiction will determine whether the Department is terminated.

The conference agreement resolves the differences for DOE discretionary funding by assuming a total reduction of $13.5 billion in budget authority and $10.4 billion in outlays over seven years through the following reforms: reductions in corporate technology subsidies for fossil and energy supply research and development accounts; reductions in energy conservation programs, including grants; and through the elimination of unnecessary bureaucracy and overhead. The conference agreement also assumes the extension of NRC fees and that these fees will continue to offset NRC appropriations for the period from 1999 through 2002. The conference agreement assumes the sale of the United States Enrichment Corporation and the naval petroleum reserves, but the gross proceeds from the sale of these assets are displayed in function 950, undistributed offsetting receipts. Other assumptions for energy asset sales are discussed in function 950.

FUNCTION 300: NATURAL RESOURCES

The House budget resolution provides $127.3 billion in budget authority and $131.1 billion in outlays over seven years. The Senate amendment provides $116.6 billion in budget authority and $126.4 billion in outlays over seven years. The conference agreement provides $127.1 billion in budget authority and $131.6 billion in outlays over seven years.

House resolution

The House agreed to refocus the National Oceanic and Atmospheric Administration (NOAA) on its core mission as part of terminating the Department of Commerce (see Function 370), fund wastewater treatment at $2.3 billion, open a small portion of the Arctic National Wildlife Refuge (ANWR) for exploration, dissolve the National Biological Service, implement a land moratorium for the various land management agencies, and reform the various land management agencies. In addition it would apply a cost-benefit test to superfund projects, terminate helium production, and eliminate unneeded bureaucracy in the Department of the Interior. Finally, it would accept the President's proposal to reduce funding for the agriculture conservation program and terminate the Environmental Protection Agency's environmental technology initiative.

Senate amendment

The Senate amendment assumes a five percent reduction for the NOAA, includes the privatization of specialized weather services and accepts the President's request for construction. These proposals would save $0.8 billion in outlays over seven years.

The Senate assumes the phase-out of water infrastructure grants over three years which saves $10.0 billion over seven years. The Senate budget resolution accepts most of the Administration's reductions for the Army Corp of Engineers and the Bureau of Reclamation which reduces outlays by $1.8 billion over seven years. The Senate budget resolution assumes the reform of the various land management agencies.

For mandatory spending, the Senate amendment assumes the lease of approximately eight percent of the 19 million acre ANWR as also proposed by the House. The Senate amendment also assumes the sale or other saving proposals for the Presidio in the City of San Francisco.

Conference agreement

The conference agreement accepts the House reduction in 1996 for water infrastructure state revolving funds. The conference agreement assumes a reduction of $1.9 billion in outlays over seven years for the operations of the land management agencies of the Departments of the Interior and Agriculture. The Administration proposed a five percent reduction for National Park Service (NPS) operations and an 11 percent reduction for NPS construction by 2000. The conference agreement assumes a five percent reduction for the NPS and assumes no national park closures. The conference agreement also assumes the House reductions for NOAA.

For mandatory programs, the conference agreement assumes the lease of ANWR. The conference agreement does not assume the sale of the Presidio or other changes. Nevertheless, reforms should take place that would minimize federal costs and not increase the federal deficit or debt of the Federal Government. The Presidio is the most expensive national park to operate with annual costs of approximately $25 million. The funding requirements for the Presidio are equivalent to the amounts needed to operate 88 of the smallest parks in the National Park System.

FUNCTION 350: AGRICULTURE

The House budget resolution provides $75.2 billion in budget authority and $66.9 billion in outlays over seven years. The Senate amendment provides $81.1 billion in budget authority and $72.9 billion in outlays over seven years. The conference agreement provides $79.1 billion in budget authority and $70.7 billion in outlays over seven years.

House resolution

The House agreed to refocus Federal support for agricultural research and extension activities, saving $1.9 billion over seven years. The resolution also called for reforming mandatory agricultural production programs, saving $17 billion in outlays over seven years.

Senate amendment

The Senate amendment makes similar assumptions as the House for agriculture research and extension activities. The Senate assumes a 10 percent reduction in funding for the Agriculture Research Service (ARS) and the Cooperative State Research Education and Extension Service (CSREES), accepts the Clinton Administration's funding request for ARS and CSREES buildings and facilities and accepts the Administration's request for CSREES special research grants. These proposals would save $1.4 billion in outlays over seven years.

For mandatory programs, the Senate assumes spending reductions of $11.8 billion over seven years which can be accommodated under the 1995 farm bill when reauthorized.

Conference agreement

The conference agreement assumes a reduction in agriculture research and extension activities and accepts the President's request for ARS and CSREES buildings and facilities. For mandatory programs, the conference agreement assumes spending reductions of $13.4 billion in budget authority and outlays over seven years.

FUNCTION 370: COMMERCE AND HOUSING CREDIT

The House budget resolution provides $30.4 billion in budget authority and -$28.4 billion in outlays over seven years. The Senate amendment provides $21.9 billion in budget authority and -$37.4 billion in outlays over seven years. The conference agreement provides $24.0 billion in budget authority and -$35.3 billion in outlays over seven years.

House resolution

The House assumes elimination of the Department of Commerce—one of three cabinet agencies slated for termination by the House—with critical functions being transferred to more appropriate agencies. This would save approximately $5 billion from function 370 over seven years. The House also proposes to budget $7.2 billion in function 370 for the Administrations proposal to "mark to market" multifamily housing mortgages insured by the Federal Housing Administration (FHA). It further assumes ending new FHA mortgage insurance policies for multifamily projects, saving $1.3 billion over seven years. The House resolution recognizes that the USDA's rural multifamily housing program has not been authorized, and therefore assumes not funding this program will save $0.7 billion over seven years.

Senate amendment

The Senate amendment assumes the elimination of the Department of Commerce by 1999, which would save $6.8 billion in outlays over seven years (more than the House assumes), while retaining funding for the Patent and Trademark Office, the Bureau of the Census, Bureau of Economic Analysis, National Oceanic and Atmospheric Administration, the standards bureau and the national quality program of the National Institute of Standards and Technology, and most of the Export Administration. The Senate assumes reductions in program areas similar to where the House assumes savings: the Small Business Administration (SBA), the Rural Housing and Community Development Service (RHCDS), and the FHA multifamily property mortgage insurance program. Unlike the House resolution, the Senate amendment assumes sufficient funding will be provided to conduct the next census in 2000. However, the Senate assumes that almost $1 billion could be saved compared to the cost of past censuses if certain recommendations of the General Accounting Office are implemented.

On the mandatory side, the Senate amendment assumed new and extended fees to be paid by the users of the services of certain federal regulatory agencies.

Conference agreement

The conference agreement assumes the elimination of the Department of Commerce, except that scientific and technical research is funded at the House level, thereby reducing spending in this function for the department by $6.6 billion over seven years. In addition, the conference agreement assumes a mix of the savings proposals for the SBA, FHA, and the RHCDS included in the House and Senate budget resolutions. Further, the conference agreement includes the Senate assumption of funding for the periodic census. While the agreement does not assume funds for the costs of the FHA mark-to-market proposal, it does assume savings from further reform of the FHA multifamily property disposition process as proposed by the House.

The conferees believe that the federal government's exposure in connection with its obligations, both in Section 8 rental assistance subsidy and FHA multifamily insurance, is extreme to the point of requiring the insured and assisted housing multifamily portfolio to be restructured. Consequently, the conferees believe the committees of jurisdiction should explore a methodology for resolving this portfolio in a cost-effective manner that utilizes private market forces, that removes government intervention in setting rent levels, and that terminates many project-based subsidies. Continuing present policies may result in the default of FHA insured mortgages, the dislocation of assisted tenants residing in projects with these mortgages, and great cost to the federal government. The conferees urge the committees of jurisdiction to consider legislation restructuring FHA mortgage insurance and Section 8 rental subsidies. To the extent that current scorekeeping rules complicate consideration of such legislation, the budget committees will work with the appropriate committees to examine ways to provide FHA the authority necessary to undertake the restructuring, within current rules, existing scoring authorities or within budget process reform legislation.

FUNCTION 400: TRANSPORTATION

The House budget resolution provides $301.7 billion in budget authority and $251.3 billion in outlays over seven years. The Senate amendment provides $278.0 billion in budget authority and $227.3 billion in outlays over seven years. The conference agreement provides $293.1 billion in budget authority and $244.8 billion in outlays over seven years.

House resolution

The House assumes reductions in transportation spending generally will be met by eliminating highway demonstration projects; significantly downsizing the federal role in mass transit; phasing out federal support for Amtrak, and eliminating outdated and unnecessary programs, including the Interstate Commerce Commission, the Federal Maritime Commission, High Speed Rail, Essential Air service, Intelligent Vehicle Transportation systems, Local Rail Freight Assistance programs, and the Civil Aeromedical and FAA Training Institutes. The House also assumes extension of the current rail safety and vessel tonnage fees.

The House resolution also provides an additional $4.2 billion in mandatory budget authority to offset the projected reduction in contract authority mandated by Section 1003 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA).

Senate amendment

The Senate amendment assumes the privatization of the Federal Aviation Administration (FAA) air traffic control (ATC) system beginning in 1997 and assumes the phaseout of Amtrak and mass transit operating subsidies by 2001.

Similar to the House, the Senate amendment eliminates funding for highway demonstration projects.

Conference agreement

The conference agreement assumes broad reforms to the Department of Transportation, including but are not limited to—program downsizing, streamlining and consolidation, and air traffic control privatization.

The conferees recognize that the infrastructure needs of the nation are not being met fully by the current centralized financing structure. The conferees urge the committees of jurisdiction to explore comprehensive changes to federal transportation financing, emphasizing private sector participation and federalism.

The conference agreement assumes phaseout of mass transit and Amtrak operating subsidies, and eliminating earmarks and several obsolete programs.

FUNCTION 450: COMMUNITY AND REGIONAL DEVELOPMENT

The House budget resolution provides $45.8 billion in budget authority and $50.4 billion in outlays over seven years. The Senate amendment provides $36.3 billion in budget authority and $43.2 billion in outlays over seven years. The conference agreement provides $43.5 billion in budget authority and $48.8 billion in outlays over seven years.

House resolution

The House resolution assumes reduction in spending in the Community Development Block Grant (CDBG) program of 20 percent. This proposal includes the assumption that funding would be focused on low-income communities and retains the option of including the program in a larger development, housing and special populations block grant.

The House also calls for terminating Federal support for the Tennessee Valley Authority, saving $864 million over seven years. It eliminates the Appalachian Regional Commission (ARC), saving $2 billion over seven years, and ends funding for the Economic Development Administration, saving $2.3 billion over seven years. The House resolution also creates a rural development block similar to the one proposed by the President, and a new Native American block grant.

Senate amendment

The Senate amendment makes similar assumptions as the House for discretionary spending with the following exceptions. The Senate amendment assumes a 50 percent reduction for (CDBG), reducing outlays by $12.2 billion over seven years. Unlike the House, the Senate does not assume the creation of a Native American Block Grant. The Senate also assumes the creation of a rural development block grant but at a lower level than the House. The rural development block grant would save $1.1 billion over seven years.

The Senate-reported resolution assumed the phase-out of the ARC. However, during floor consideration, the Senate adopted an amendment that restored funding for the Appalachian Regional Commission below the 1995 appropriated level. This amendment would reduce outlays for the ARC by $0.5 billion over seven years.

For mandatory spending, the Senate assumes a similar proposal than the House, except that the subsidy is completely eliminated. The Senate proposal would reduce outlays by $2.9 billion over seven years.

Conference agreement

The conference agreement assumes a 28 percent reduction for the CDBG and assumes the Senate reduction for the ARC. In addition, both the House and Senate agree on the consolidation and streamlining of several rural development programs to create a rural development block grant which would be funded at the level assumed by the Senate. Further, the conference agreement would eliminate 75 percent of the flood insurance subsidy for buildings constructed before January 1, 1975.

FUNCTION 500: EDUCATION, TRAINING, EMPLOYMENT, AND SOCIAL SERVICES

The House budget resolution provides $316.4 billion in budget authority and $321.1 billion in outlays over seven years. The Senate amendment provides $342 billion in budget authority and $343.8 billion in outlays over seven years. The conference agreement provides $338.7 billion in budget authority and $340.8 billion in outlays over seven years.

House resolution

For discretionary spending, the House assumes additional spending of $688 million over seven years as a result of policies contained in HR 4, the House-passed welfare reform legislation. In function 500, the welfare bill consolidates nine discretionary programs targeted at abused children into a single block grant to the states.

In the area of education, the House assumes the termination of the Department of Education. Major programs including Chapter 1 basic grants, Impact Aid for "a" students, Special Education, Vocational Rehabilitation, Pell Grants, unsubsidized Student Loans, funding for Historically Black College and Campus-Based Aid, would be preserved, but transferred to other agencies and departments. The resolution assumes the elimination of over 150 education programs that are duplicative, and in many cases, too small to be effective on a national scale.

More than 60 job training programs would be consolidated into four block grants. By eliminating duplicative programs and increasing management efficiency, funding is reduced by 20 percent. Spending for Vocational Rehabilitation for the disabled is not cut.

The House proposes to fund Head Start at the fiscal year 1994 level. The House eliminates the Corporation for National and Community Service with the recommendation that the Senior Volunteer Programs be moved to the Administration on Aging and authorized as part of the Older Americans Act.

Funding for the National Endowment for the Arts (NEA) and the National Endowment for the Humanities (NEH) is assumed to be terminated. The Corporation for Public Broadcasting is privatized by 1998.

For mandatory spending, the House assumes enactment of HR 4, the House-passed welfare reform legislation, which results in savings of $11.4 billion over seven years in Function 500, primarily from termination of the AFDC JOBS program and consolidation of several child protection programs into a single child protection block grant to states. The House budget resolution would eliminate the student loan in-school interest subsidy. This proposal saves taxpayers $18.66 billion over seven years. The resolution also assumes savings of $655 million over seven years in this function resulting from termination of Trade Adjustment Assistance.

Senate amendment

The Senate amendment does not assume the termination of the Department of Education.

The Senate amendment makes similar assumptions as the House for discretionary spending with some exceptions. For example, the Senate does not assume the elimination of TRIO programs, or elimination of subsidies to Howard University. In addition, unlike the House, the Senate does not assume any reductions in Chapter 1 or elimination of the NEA and NEH.

The House resolution and the Senate amendment assume a job training block grant. The Senate amendment assumes a 25 percent reduction in funding for job training; the House assumes a 20 percent reduction. In addition the Senate amendment assumes funding for schools impacted by federal activities at a level higher than the President's request.

Mandatory savings are smaller in the Senate amendment because the Senate does not assume the elimination of the in-school interest subsidy for undergraduate students. In addition, during floor action on the Senate resolution, the Labor Committee reconciliation instruction was lowered by $9.4 billion over seven years.

The House resolution assumes the transfer of funding for the JOBS out of function 500 and into function 600 as part of the AFDC block grant. The Senate amendment assumes that JOBS is part of the job training block grant in function 500.

Conference agreement

The conference agreement assumes $6.0 billion in budget authority and $1.0 billion in outlays in discretionary reductions in 1996 and $44.3 billion in budget authority and $37.4 billion in outlays over seven years. Specific discretionary items highlighted in the agreement include: no reductions in Chapter 1 or in subsidies to Howard University. Because of the recent downgrading of Howard University's revenue bonds, the conferees agreed to restore funding but urge the committees of jurisdiction to require Howard to develop a plan toward full financial independence at a date certain.

The conferees agree to disagree on the future status of the Department of Education. They recognize that ultimately the committees of jurisdiction will determine whether the Department will be terminated.

In addition, the conference agreement assumes a 20 percent reduction in funding for job training programs. No reductions are proposed for the Vocational Rehabilitation Act and it is not assumed to be part of the block grant.

For mandatory programs, the conference agreement assumes the JOBS program will be included in an AFDC block grant as opposed to a job training block grant. This assumption reflects the current jurisdictional placement of the program in the Finance and Ways and Means Committees. The conferees also assume reforms in student loan programs totalling $10 billion in outlays over seven years. These savings can be achieved without the elimination of the interest subsidy for undergraduate students.

FUNCTION 550: HEALTH

The House budget resolution provides $955.3 billion in budget authority and $955.4 billion in outlays over seven years. The Senate amendment provides $958.9 billion in budget authority and $957.7 billion in outlays over seven years. The conference agreement provides $949.7 billion in budget authority and $949.2 billion in outlays over seven years.

House resolution

For the Medicaid program, the House resolution provides $768.1 billion in budget authority and outlays over seven years. The House resolution assumes that the Medicaid program will be converted into a block grant to the states. Medicaid outlays would grow by 8 percent in 1996, 5.5 percent in 1997, and 4 percent each year thereafter. No assumption is made about the distribution of funds among the various states.

Function 550 discretionary spending in the House resolution is $146.8 billion in budget authority and $147.7 billion in outlays over seven years. The resolution assumes a five percent reduction in funding for the National Institutes of Health, elimination of the Agency for Health Care Policy Research, and a 50 percent reduction in National Health Service Corps, Maternal and Child Health Care and Preventative Care block grants. Also, it assumes elimination of a number of duplicative and non-essential programs, primarily those that could not be justified as federal functions.

Senate amendment

The Senate amendment assumes that a restructuring of Medicaid will occur, in which significant amounts of flexibility will be given to the States. The Senate amendment is designed to be compatible with a wide range of Medicaid restructuring proposals. The Senate makes no assumption about individual entitlement, eligibility groups, benefits, payment rates, financing structures, or the distribution of Federal funds among the states within the total Federal funding levels specified. The Senate does assume that the present aggregate ratio of Federal to State funding (57 percent Federal, 43 percent State) would continue.

The Medicaid outlay levels in the Senate amendment could be achieved in several ways, including a Medicaid block grant, in which aggregate Federal payments to states grew at the following rates from the 1995 Federal base level:

Benefits and Adminstration

	Percent
1996	8
1997	7
1998	6
1999	5
2000	4
2001	4
2002	4
After 2002	4

The Senate recognizes that block grants represent a significant change in the fiscal relationship between the States and the Federal government. Such a change can take time to implement. The Senate urges the Finance Committee to consider, where appropriate, other means of achieving the first year savings targets to provide States with the time necessary to adapt to a block grant.

The Senate's discretionary assumptions are quite similar to the House's. The Senate amendment assumes that 19 Public Health Service programs would be consolidated into a single State Health Block Grant. There is significant overlap between the Senate's list for the block grant and programs the House assumes will be reduced or terminated. The Senate assumes a one percent reduction in funding for the National Institutes of Health.

The Senate amendment assumes a change to the Federal Employee Health Benefit (FEHB) program. This assumption is described below in the conference agreement.

Conference agreement

The conference agreement provides $773.1 billion in budget authority and outlays on Medicaid over seven years. This level is compatible with Medicaid growth of 7.2 percent in 1996, 6.8 percent in 1997, and 4 percent each year thereafter, or with higher growth rates of benefits and administration if disproportionate share hospital payments are frozen at 1995 levels. The conference agreement assumes that the present aggregate ratio of Federal to State funding (57 present Federal, 43 percent State) would continue. The conference agreement does not make explicit assumptions about individual entitlement, or about eligibility groups, benefits, payment rates, financing structures, or the distribution of funds among the states. These decisions will be made by the committees of jurisdiction, and ultimately by the House and Senate.

Medicaid Outlays in the Conference Agreement

	Billions
1995	$89.216
1996	95.673
1997	102.135
1998	106.221
1999	110.469
2000	114.888
2001	119.483
2002	773.132

The conference agreement accepts the Senate's assumption on the Federal Employee Health Benefit program. This assumption would save $6.3 billion over seven years in discretionary spending for current Federal workers, and $4.9 billion over seven years in mandatory spending for Federal retirees. Federal agencies would follow the lead of the private sector by contributing a fixed dollar amount to Federal employees' health plans, thus encouraging Federal employees to make more cost-effective decisions in the allocation of their compensation. This fixed dollar amount would be indexed to inflation. Federal agencies would no longer provide extra subsidies to those Federal employees who choose more expensive health plans. Federal employees would be able to avoid most of the burden of this policy change by choosing more cost-effective health plans. Those Federal employees who continued to choose more expensive health plans would bear the full economic burden above the amount of the Federal contribution. In an era in which health spending is rapidly spiraling upward, the Federal government should encourage employees to purchase more cost-effective health plans. These savings are included in function 550.

The conference agreement has lower discretionary spending than both the House and the Senate. This is a result of House acceptance of the Senate FEHB assumption, and Senate acceptance of several other House discretionary changes. The conference agreement compromises on the National Institutes of Health, assuming a one percent reduction in 1996, and a three percent reduction from the 1995 level thereafter. This results in a $2.1 billion reduction in outlays over seven years, compared with $0.8 billion in the Senate and $3.6 billion in the House

The conference agreement assumes that the Office of the Surgeon General will be terminated.

FUNCTION 570: MEDICARE

The House budget resolution provides $1,440.2 billion in budget authority and $1,425.9 billion in outlays over seven years. The Senate amendment provides $1,471.9 billion in budget authority and $1,457.7 billion in outlays over seven years. The conference agreement provides $1,457.6 billion in budget authority and $1,443.3 billion in outlays over seven years.

House resolution

In response to the Medicare trustees warning of the imminent bankruptcy of the Medicare Hospital Insurance Trust Fund, the House resolution increases Medicare at a rate of growth that is lower than the current rate but high enough to continue providing Medicare beneficiaries with very broad coverage and excellent quality of care. The House resolution assumes a number of market-based provisions that will encourage the pursuit of efficient, high quality care and discourage overutilization of medical services.

These provisions will help to bring the 1960's style Medicare program, which is growing at more than 11 percent per year, in line with innovative health delivery systems in the private sector. Health care in the private sector has evolved to provide a high level of recipient satisfaction while effectively containing costs at less than 5 percent growth per year. If Medicare is to survive the turn of the century, the program must take advantage of these same innovations. The House budget committee working group on health analyzed three strategies that would move the Medicare program securely into the next century while expanding choices for beneficiaries and providing a consumer oriented health care program.

Each of these three approaches has been recognized by the Congressional Budget Office as a viable way to extend the solvency of the Medicare trust fund and to reduce the growth of Medicare spending to a rate that is more consistent with that of health care in the private sector. The three strategies are only illustrative examples of ways to preserve the Medicare program and have been offered as such to the Committee on Ways and Means and the Committee on Commerce, which share jurisdiction for the Medicare program.

Three main principles were used as a guide during the development of these plans: first and foremost, fee-for-service Medicare must remain an option for those who want it. Second, the Medicare program should keep pace with the private insurance system, and beneficiaries should be able to maintain the same kinds of insurance arrangements in Medicare that they had during their working years. Finally, beneficiaries should have a greater choice of health care plans, such as a variety of coordinated care and indemnity options, as well as medical savings accounts.

Under the three reform options, spending on every Medicare beneficiary would increase from an average of about $4,800 today to an average of about $6,400 in 2002. Total program spending would be allowed to grow from $178 billion in 1995 to $258 billion—a seven-year increase of 45 percent. These options would open the way for the health care industry to create a multitude of new choices for beneficiaries and would empower beneficiaries to select health care that is tailored to their precise needs.

Senate amendment

The Senate amendment is based on the recommendations of the Public Trustees of Medicare, as described in the Summary of the 1995 Annual Report on the Social Security and Medicare Trust Funds. Specifically, the Senate amendment addresses both the short and long-term insolvency of the entire Medicare program. Based on the recommendations of the Public Trustees and experts, the Senate chooses to think about Medicare in its entirety, and not to be bound by historical distinctions between parts A and B.

The Senate amendment assumes that:

Medicare reform will be addressed urgently as a distinct legislative initiative;

Comprehensive Medicare reforms will be undertaken this year to make the program financially sound now;

Reductions in the rate of growth of Medicare expenditures will be focused on making Medicare itself sustainable;

A special bipartisan commission will be created to address the long-term solvency of Medicare;

This commission will address the questions raised by the Public Trustees; and

This commission will review the program's financing methods, benefit provisions, and delivery mechanisms.

The Senate amendment makes no specific assumptions about how the Medicare outlay levels in the resolution will be achieved.

Conference agreement

The Medicare outlay levels in the conference agreement were based on spending levels necessary to preserve and protect Medicare. Specifically, the levels are necessary to protect the solvency of the program, to avoid the bankruptcy in 2002 projected by the Medicare trustees under current law, and to begin structural reforms with the goal of ensuring Medicare's long-term viability. Although this agreement does not dictate specific policies, the conferees urge the committees of jurisdiction to examine the principles reflected in the House and Senate committee reports on the concurrent resolution on the budget.

FUNCTION 600: INCOME SECURITY

The House budget resolution provides $1,769.3 billion in Budget Authority and $1773.8 billion in outlays over seven years. The Senate amendment provides $1,811.0 billion in Budget Authority and $1,807.1 billion in outlays over seven years. The conference agreement provides $1,793.9 billion in budget authority and $1,797.9 billion in outlays over seven years.

House resolution

On the discretionary side, a variety of assumed reforms in public housing programs yields a total savings of $9.5 billion over seven years. The reforms include ending new public housing construction; deregulating public housing authorities to reduce operating and modernization funding; and ending wasteful rehabilitation programs. In addition, the House assumes a block grant for housing, development, and special populations that yields savings of $8.8 billion over seven years. Section 8 assisted housing contracts require adding funds back into the budget, but assumed policy options—such as recapturing vouchers and certificates turned back to the government, and increasing tenant contributions—reduce the magnitude of that cost to approximately $23 billion.

For mandatory spending, the resolution assumes enactment of the House-passed welfare reform legislation, H.R. 4. Affected programs include Aid to Families with Dependent Children, Food Stamps, Supplemental Security Income and Child Nutrition. In Function 600, the proposals result in mandatory savings of $111.3 billion in outlays over seven years. Reforms in federal civilian retirement, eliminating more generous pension treatment for Members of Congress and Congressional staff and changing the method of calculating initial retirement annuities to the average of the highest five salary years, are also assumed. These reforms result in savings of $1.6 billion over seven years. Trade Adjustment Assistance is assumed to be terminated, saving $1.3 billion over seven years.

The resolution assumes states will be required to charge a 15 percent fee for non-AFDC child support collections, to recoup the administrative costs for non-AFDC collections. This offsetting collection would result in savings of $7.1 billion over seven years.

The House-passed welfare reform plan also affects discretionary spending in Function 600, resulting in additional spending of $13.7 billion in outlays over seven years. In addition, the Low Income Home Energy Assistance Program (LIHEAP) is assumed to be terminated, saving $10.2 billion over seven years.

Senate amendment

The Senate amendment assumes the addition of sufficient funds, about $39.9 billion in outlays, to renew all existing contracts for housing assistance (section 8) that will expire over the next seven years. In addition, the Senate amendment would incorporate many of the existing housing programs into a public housing block grant and an assisted housing block grant, while terminating certain other programs, saving a total of $9.5 billion over seven years.

The Senate amendment proposes similar mandatory savings as compared to the House in welfare reform and Earned Income Tax Credit reform. However, the Senate proposed changes to EITC that were not a part of the House assumptions. The House proposed changes to Food Stamps, SSI and child nutrition programs that were not part of the Senate resolution.

The Senate amendment assumes mandatory spending levels of $188.6 billion in budget authority and $186.2 billion in outlays in 1996, a decrease of $5.9 billion in outlays from the 1996 projected level. Spending would rise to $246.9 billion in outlays or 33 percent over the 1996-2002 period. The amendment assumes $47 billion over five years, and $80 billion over seven years in savings from Welfare Reform (of which $45 billion over five years is in function 600.) In addition the Senate assumes reforming the EITC program to slow the rate of growth. Over the period of 1996-2002, the Committee recommends funding of over $800 billion for Food Stamps, SSI, EITC, AFDC, Child Care and Child Nutrition.

The Senate amendment assumes a conformance of the military retiree COLA date and the civilian retiree COLA date. The Senate assumes the same elimination of more generous retirement benefits for Members of Congress and their staff. The Senate amendment assumes that the basis for pensions would rise from the average of the highest three annual salaries to the highest five annual salaries.

Conference agreement

The conference agreement assumes a public housing block grant, an assisted housing block grant, and certain program terminations, as well as renewal of section 8 contracts, that together require an addition to function 600 for housing programs of an amount approximately in between the higher amount added by the Senate amendment and the lower amount added back by the House resolution.

The conferees agreed to reconciliation instructions to the Agriculture and Finance Committees in the Senate and instructions to the House Ways and Means, Agriculture and Education and Economic Opportunities Committee. The instructions include assumptions for Welfare Reform, Child Support Enforcement reform, and EITC reform.

The conference agreement assumes the House recedes to the Senate on Federal retirement reform in Function 600, and phases in the Senate's assumed changes in the computation basis for federal pensions.

FUNCTION 650: SOCIAL SECURITY

The House budget resolution provides $2,902.5 billion in budget authority and $2895.0 billion in outlays over seven years. The Senate amendment provides $2,917.7 billion in budget authority and $2910.2 billion in outlays over seven years. The conference agreement provides $2,917.7 billion in budget authority and $2,910.2 billion in outlays over seven years.

House resolution

The House resolution assumes no changes to the Social Security program.

Senate amendment

The Senate amendment assumes no changes to the Social Security program.

Conference agreement

The conference agreement assumes no changes to the Social Security program.

FUNCTION 700: VETERANS BENEFITS AND SERVICES

The House budget resolution provides $272.4 billion in budget authority and $276.0 billion in outlays over seven years. The Senate amendment provides $265.3 billion in budget authority and $270.7 billion in outlays over seven years. The conference agreement provides $271.4 billion in budget authority and $276.0 billion in outlays over seven years.

House resolution

Major projects construction is limited in the discretionary account to achieve deficit reduction savings of $1.0 billion over seven years. In mandatory accounts, the resolution assumes eight provisions of current law are permanently extended, for a seven-year savings of $4.0 billion. It also assumes that prescription copayments are increased to $5 in 1996 and 1997 and to $8 in 1999 and beyond, for a seven-year savings of $1.1 billion. An OBRA 1990 compensation limitation on certain veterans is re-enacted, for a seven-year savings of $1.3 billion. The total seven-year savings in mandatory spending is $6.4 billion.

Senate amendment

The Senate amendment assumes the following major policy options to achieve the discretionary funding levels: No changes in veterans medical funding. Under the Senate's amendment, spending on veterans health programs would be $780 million over the President's recommended level in 2000. Phase out construction of Department of Veterans Affairs (DVA) facilities, while incorporating the needs for improvement, repairs, new cemeteries, long term care facilities and conversion that must be performed over the short term, but expects that past 1999 the DVA system will use existing capacity. In 1996, the committee assumes the 1995 level of funding for general operating expenses less the funds for the one time modernization effort in the 1995 base.

The Senate amendment assumes the following major policy options to achieve the mandatory funding levels: No changes in compensation or in cost of living adjustments for all veterans currently receiving compensation from service connected disabilities; a repeal of the "Gardner decision" that extended compensation to DVA medical patients suffering an adverse outcome in cases where no fault was found with DVA; targeting compensation in the future to veterans disabled in combat and veterans disabled during performance of duty; a phase in of a higher prescription co-payment for upper income veterans; extension of expiring current law provisions from the Omnibus Reconciliation Act of 1993; a restoration of the funding ratio for GI Bill benefits to the pre-Gulf War level.

Conference agreement

The conference agreement assumes that the Senate recedes to the House with the following exceptions: the House recedes to the Senate with respect to a compromise on streamlining General Operating Expenses and with respect to repeal of parking garage revolving fund.

FUNCTION 750: ADMINISTRATION OF JUSTICE

The House budget resolution provides $116 billion in budget authority and $117.3 billion in outlays over seven years. The Senate amendment provides $150.4 billion in budget authority and $151.4 billion in outlays over seven years. The conference agreement provides $143.2 billion in budget authority and $139.6 billion in outlays over seven years.

House resolution

The House resolution assumes a reduction in the Violent Crime Reduction Trust Fund, saving $5.0 billion in outlays over five years and $7.8 billion over seven years. Total Trust Fund outlays would be $2.1 billion in 1996, $18 billion over five years, and $28 billion over seven years. The House also agreed to phase out funding for the Legal Services Corporation over three years. This provision would produce savings of $1.6 billion over five years and $2.4 billion over seven years.

In addition, the House proposed to block grant funding for Justice Assistance Programs.

Senate amendment

The Senate amendment assumes full funding of the Violent Crime Reduction Trust Fund and assumes continuation of the fund through the year 2002. Total Trust Fund outlays would be $2.3 billion in 1996, and $35.5 billion over seven years.

The Senate amendment assumes a 35 percent reduction in funding for the Legal Services Corporation and additional investments in Federal Law Enforcement.

For Mandatory programs, the Senate amendment assumes that Judges pay will be frozen through 2002.

Conference agreement

The conference agreement provides for substantial funding of the Violent Crime Reduction Trust Fund in order to demonstrate the federal commitment to support federal law enforcement and state and local efforts to reduce and prevent crime.

In addition, it assumes the termination of federally funded entities including: the State Justice Institute, the US Parole Commission, and the Administrative Conference of the US Courts.

In addition, the conference agreement assumes a reform of the US Marshals Service to end the political appointment process in that organization. The Administration and the US Marshals Service support this reform.

The conferees are concerned that debts owed the federal government continue to grow into a significant backlog. The conferees recommend that appropriate committees of jurisdiction look into implementing a program that would require Executive Branch departments to contract with private debt collectors on an as-needed basis to collect delinquent debt. It also may be appropriate to move debt of sufficient age to the Justice Department for collection. The Department of Justice, through its U.S. Attorneys, is tasked with the collection of federal debt after other federal departments have exhausted all efforts short of litigation. Due to the growth of their federal, civil and criminal caseload, debt collection is given a lower priority. The conferees recommend that the appropriate committees of jurisdiction examine methods of moving the federal governments' substantial debt out of Executive Branch departments to the Department of Justice for collection on a timely basis. The conferees further recommend that appropriate committees of jurisdiction look into implementing a program that follows the General Accounting Office's recommendation to expand the Department of Justice pilot program to all federal judicial districts and to allow the Attorney General to contract with private counsel firms on an as-needed basis to collect delinquent debt.

FUNCTION 800: GENERAL GOVERNMENT

The House budget resolution provides $82.1 billion in budget authority and $82.3 billion in outlays over seven years. The Senate amendment provides $84.5 billion in budget authority and $84.9 billion in outlays over seven years. The conference agreement provides $84.2 billion in budget authority and $84.5 billion in outlays over seven years.

House resolution

For discretionary spending, the House resolution assumes a seven-year moratorium on construction and acquisition of new Federal buildings. This proposal saves $2.5 billion over seven years. The House resolution also assumes elimination of certain General Services Administration (GSA) and Legislative Branch activities, including: the Office of Technology Assessment (OTA), the Advisory Commission on Intergovernmental Relations (ACIR), and the Federal Supply Service. In addition, the House resolution assumes reduced funding for the Executive Office of the President and the General Accounting Office (GAO).

Senate amendment

For discretionary spending, the Senate amendment assumes savings from the Senate Republican Conference plan to reduce Legislative Branch spending by $200 million from the 1995 level. Similar to the House resolution, the Senate Republican Conference plan proposes reducing funding for committee staffs, GAO, and other functions and terminating OTA. The Senate amendment assumes significant savings from streamlining operations and consolidating functions in Treasury, GSA, and the Office of Territorial Affairs in the Department of Interior. The Senate amendment reflects a 25 percent reduction in funds for construction of new Federal buildings. The Senate also assumes the Office of Personnel Management (OPM) would be phased down to a Civil Service Commission. Employee benefit and retirement functions would remain centralized while most other functions would be delegated to the agencies. The Senate amendment assumes full funding of the President's request for the Internal Revenue Service (IRS) tax law enforcement functions, including the compliance initiative begun in 1995, within the discretionary cap.

For mandatory spending, the Senate amendment assumes savings from freezing pay for Members of Congress until the budget is balanced in 2002 and from charging fees for parking at Federal buildings.

Conference agreement

For discretionary spending, the conference agreement assumes that Legislative Branch spending will be reduced by at least $200 million from the 1995 level. The conferees strongly support efforts to reform government printing policies and encourage committees of jurisdiction to examine the proposals discussed in the House report on the budget resolution.

Since 1955, it has been the policy of the Federal government that it will not provide a service or product for its own use if such product or service can be procured from the private sector. Each federal agency should obtain all goods and services necessary or beneficial to the accomplishment of its authorized functions by procurement from private sources unless the goods or services are required by law to be produced or performed, respectively, by the agency, or the head of an agency determines and certifies to the Congress that government production, manufacture or provision of a good or service is necessary for the national defense; a good or service is so inherently governmental in nature that it is in the public interest to require production or performance, respectively, by a government employee; or there is no private source capable of providing the good or service. The conferees recommend that committees of jurisdiction examine impediments to accomplishing this objective.

The conference agreement accepts the Senate assumption for IRS tax law enforcement, including funding the continuation of the 1995 tax compliance initiative within the discretionary cap. The conferees strongly endorse continued funding of this initiative, which, according to the Treasury Department, is expected to increase revenue collections by $9.2 billion over the 1995-1999 period. The conference agreement assumes many of the Senate savings in Treasury agencies and a 30 percent reduction in funds for Federal building construction. The conference agreement also reflects the Senate assumption for downsizing OPM.

FUNCTION 920: ALLOWANCES

The House budget resolution provides −$17.5 billion in budget authority and −$18.1 billion in outlays over seven years. The Senate amendment provides −$55.4 billion in budget authority and −$54.3 billion in outlays over seven years. The conference agreement provides −$33.8 billion in budget authority and outlays over seven years.

House resolution

The House resolution assumes savings of $8.4 billion over seven years in outlays by reducing federal agency overhead. The House resolution also assumes savings from the repeal of the Davis-Bacon Act, $4.4 billion over seven years in outlays, and the McNamara-O'Hara Service Contract Act, $4.6 billion over seven years in outlays. In addition, the House resolution assumes the termination of 63 boards and commissions.

Senate amendment

The Senate amendment assumes a 15 percent reduction in the overhead of non-defense agencies that remain funded in the budget, which saves $65.8 billion over seven years. The Senate amendment also assumes the repeal of the Davis-Bacon Act and a modification in the Service Contract Act, thereby reducing federal contract costs. In addition, the Senate amendment adds funding to cover half of agencies' costs of providing annual pay raises (based on the employment cost index-ECI) to federal employees (except Senior Executive Service and Executive Schedule).

Conference agreement

The conference agreement assumes overhead savings that are roughly halfway in between the savings assumed in the House resolution and the Senate amendment. The agreement also assumes the House's full repeal of the Service Contract Act, the House assumption of savings for agencies from using a VISA credit card for GPO orders less than $1,000, and the repeal of the Davis-Bacon Act. Finally, the agreement assumes funding to cover half of the cost of scheduled ECI raises.

FUNCTION 950: UNDISTRIBUTED OFFSETTING RECEIPTS

The House budget resolution provides −$315.7 billion in budget authority and outlays over seven years. The Senate amendment provides −$322.1 billion in budget authority and outlays over seven years. The conference agreement provides −$313.7 billion in budget authority and outlays over seven years.

House resolution

The largest policy impact in this function is expected to come from extending and broadening the Federal Communications Commission's (FCC) authority to auction spectrum. The resolution assumes additional receipts from this authority of $15 billion over seven years.

The House also anticipates proceeds of $4.2 billion from transferring the Alaska Power Marketing Administration to Alaska, and converting the Southeastern, Southwestern, and Western power agencies into private corporations.

Finally, the resolution assumes the 2.5 percent increase in federal employee retirement contributions that were part of H.R. 1215, as passed by the House earlier this year.

Senate amendment

The Senate amendment assumes broad and permanent authority would be provided to the FCC to recover value through auction or fees from the spectrum, amounting to $29 billion over seven years. The Senate amendment includes no assumption relating to payments into the federal civilian retirement plans. All effects of asset sales are displayed in function 270.

Conference agreement

The conference agreement assumes the FCC is provided sufficient authority to recover value from the spectrum amounting to $14 billion over seven years. In addition, the agreement assumes either that federal workers would contribute an additional 0.25 percent of their salary in 1996 and 1997 (increasing to 0.5 percent in 1998 and thereafter) towards their retirement and that employing agencies would pay an additional 1 percent per year beginning in 1996, or some other changes in federal employee policies that would be sufficient to achieve these savings. The budgetary effect of the employees' contributions appear in the revenues part of the budget, while the agencies' contributions, which are intrabudgetary and are paid from most budget functions, appear as $2.7 billion of offsetting receipts in Function 950.

The conference agreement assumes net mandatory savings from energy assets sales of $77 million in 1996, and $737 million for the period 1996 through 2002. The House resolution assumed net mandatory savings from the sale of the Alaska, Southeastern, and Southwestern, and Western power marketing administrations (PMAs) of $77 million in 1996, and $1.4 billion over 7 years. The Senate assumed a narrower proposal for the sale of PMA assets, which would achieve net mandatory savings of $77 million in 1996, and $167 million over 7 years. The conferees note that the most significant difference for energy mandatory spending between the House resolution and the Senate amendment was the sale of PMA assets.

While the Senate adopted a sense of the Senate amendment that the savings should be achieved in other energy mandatory programs, the conferees were unable to identify sources in other energy mandatory programs to achieve this level of savings. The conference agreement drops the Senate's assumptions in function 270, Energy, to achieve savings of $900 million from the sale of 62 million barrels of Weeks Island strategic petroleum reserve oil and $154 million from hydropower leasing to give the committees of jurisdiction maximum flexibility to achieve savings assumed from energy asset sales.

The conferees note that the Senate Energy and Natural Resources Committee's reconciliation instruction in the conference agreement is smaller than the Senate amendment's instruction. The conferees note that the entire unspecified energy asset savings could be achieved by the sale of PMA assets. Alternatively, these savings could be achieved through a combination of the sale of Weeks Island oil, hydropower leasing, and even a narrower proposal for the sale of PMA assets than assumed in the Senate-reported budget resolution.

Ultimately, the committees of jurisdiction must determine how to meet their reconciliation instructions. If the committees of jurisdiction pursue PMA sales as a means of achieving the savings assumed in the conference agreement, the conferees believe the sale should be structured to ensure that ratepayers are protected from unreasonable rate increases. The conferees are concerned that allegations are being made that the sale of the PMAs could cause exorbitant increases in the cost of electricity to ratepayers. The conferees believe these facilities can be operated more efficiently and that the sale of these assets can be accomplished with appropriate safeguards that can ensure no or minimal increase in customers' electricity rates.

REVENUES

Federal revenues are taxes and other collections from the public that result from the government's sovereign or governmental powers. Federal revenues include individual income taxes, corporate income taxes, social insurance taxes, estate and gift taxes, customs duties and miscellaneous receipts (which include deposits of earnings by the Federal Reserve System, fines, penalties, fees for regulatory services, and others).

In 1995, total revenue collections are expected to be $1.355 trillion. The House budget resolution projects federal revenues to be $1.815 trillion by the year 2002, representing 36 percent growth from the 1995 level. The Senate amendment projects federal revenues to be $1.885 trillion by the year 2002, representing 39 percent growth from the 1995 level.

House resolution

The House revenue projections reflect CBO's December 1994 estimates and economic assumptions. It includes the enactment of H.R. 831 which restores the 25 percent deduction for health insurance costs of self-employed individuals for 1994, and would increase it permanently to 30 percent thereafter.

The House resolution assumes enactment of H.R. 1215, the replacement of the one-dollar bill with a new dollar coin, and the elimination of several corporate tax subsidies.

H.R. 1215, the Tax Fairness and Deficit Reduction Act of 1995, includes provisions that would provide tax relief to families with a $500 per child tax credit, reduce the tax penalty on two-earner married couples, restore universality to IRAs, repeal the 1993 tax increase on social security benefits, and reduce the cost of capital and increase incentives for risk taking by indexing and reducing the effective tax rate on capital gain income.

The House resolution anticipates that the Committee on Ways and Means will explore restoration or continuation of certain tax and trade provisions which have expired or will soon expire as well as certain other tax measures. It is expected that the Committee on Ways and Means—in seeking to offset the cost of these measures—will look to changes reducing inappropriate corporate tax benefits, other appropriate revenue offsets, and spending reductions within the Committee's jurisdiction.

Senate amendment

The Senate amendment assumes no net change in revenues from the current law level over the period 1996-2000 or over the period 1996-2002. The Finance Committee is given no revenue reconciliation instructions.

The Senate amendment incorporates the revenue losses associated with the prior enactment of H.R. 831, the Self-Employed Health Insurance bill. The Senate amendment also incorporates small revenue increases associated with assumptions regarding reform of the Earned Income Tax Credit (EITC) (roughly 90 percent of the budget effect of the EITC reform proposals is shown in function 600). During floor consideration, the Senate agreed to the Snowe amendment which assumes a five-year revenue increase of $6.2 billion and a seven-year revenue increase of $9.4 billion from reducing corporate tax subsidies. The Senate amendment contains Sense of the Senate language which recommends that the expatriate loophole be closed (raising $3.6 billion in revenue over ten years) and that the revenues be used for deficit reduction.

The Senate amendment assumes that the Finance Committee acts to extend expiring provisions so long as the net revenue reductions are no greater than $3.7 billion over five years and $3.8 billion over seven years. The Finance Committee may decide to raise some revenues by extending expiring taxes, and reduce some revenues by extending other expiring provisions. Possible extensions of current taxes that raise revenue include: corporate tax dedicated to Superfund, FUTA 0.2 percentage point surtax, luxury tax on passenger vehicles, 1.25 cents/gallon railroad diesel fuel tax, 2.5 cents/gallon motorboat gasoline tax, and the 20.1 cents/gallon motorboat diesel fuel tax. Possible extensions of expiring provisions that lose revenue include: the commercial aviation exemption from the fuel tax, deduction for contributions to private foundations, targeted jobs tax credit, exclusion for employer-provided education assistance, orphan drug tax credit, research and experimentation tax credit and allocation rules, generalized system of preferences, deny deduction for some noncomplying health plans (ERISA waiver), and the nonconventional fuels tax credit.

The Senate amendment assumes that the Federal Reserve would be required to transfer reserves to the Treasury, saving $1.7 billion in 1999 and $2.0 billion in 2000.

In the section on procedural provisions, the Senate amendment includes two "reserve funds" that would provide for further tax reductions. The first reserve fund would provide, after passage of a conference report on reconciliation, a reserve fund to accommodate deficit-neutral tax reduction legislation. The second reserve fund would provide, after enactment of reconciliation, a reserve fund to allow CBO's "fiscal dividend" to be made available for tax reduction legislation. The language in the resolution makes it clear that the fiscal dividend savings must be "locked-in" before they can be dedicated to tax cuts. The reserve fund provides that in the event reconciliation is enacted, the Congressional Budget Office (CBO) would certify, broken down on a year-by-year basis, the amount of the fiscal dividend achieved as a result of enacting this balanced budget plan. That "fiscal dividend" could be used to offset the revenue loss from a tax cut. Numerous amendments designed to use the fiscal dividend to increase the size of government by increasing spending on various programs were defeated. By voting down various amendments, the Senate expressed its view that the fiscal dividend should not be used to restart the tax and spend cycle that this fair, but tough, balanced budget plan was designed to stop.

The Committee adopted a Boxer-Brown Sense of the Senate resolution providing that approximately ninety percent of the benefits of any tax cuts should be targeted to middle class working families with incomes below approximately $100,000. The Committee's interpretation of the appropriate definition of "income" is adjusted gross income. It is the Committee's view that adjusted gross income is the most commonly understood definition of income. Taxpayers and the Internal Revenue Service use "adjusted gross income" to calculate federal income tax liability. The Committee expressly rejected the use of "family economic income" to calculate income for the purpose of defining the middle class tax cut. It expressly rejected the view that income should be calculated to include the value of the "imputed rent" on owner-occupied housing, the value of employer-provided benefits such as health insurance and pension contributions, the value of the inside build-up of life insurance, pension plans, capital gains that have not yet been realized because the taxpayer has not sold the capital asset, an estimate of income that an average family should have reported for tax purposes but did not, or Social Security and AFDC payments. Each of these items are included in the definition of family economic income. Any calculation based on family economic income results in families appearing to be in higher income brackets and income tax brackets than they actually are.

The specific requirements for both reserve funds are discussed in more detail in the description of procedural provisions.

Conference agreement

The conference agreement incorporates the revenue losses associated with the prior enactment of H.R. 831, the Self-Employed Health Insurance bill and does not assume extension of the oil and feedstock excise tax dedicated to Superfund. The conference agreement assumes that some savings will be achieved from EITC reform, and that the Finance and Ways and Means Committees will act to extend expiring provisions. The conference agreement does not assume additional revenues from requiring Federal Reserve transfers to the Treasury. The conference agreement does not assume additional revenues from replacing the one-dollar bill with a one-dollar coin. However, the Conferees believe the proposal has significant merit and encourage the Banking Committees to seriously consider this proposal to update our money system.

The conference agreement assumes that federal employees will increase contributions toward their retirement by 0.25 percent of their salary in 1996 and 1997 and an additional 0.25 percent in 1998 and thereafter. This phased-in one-half percent increase in employee contributions results in additional revenues of $1.1 billion over seven years.

The conference agreement includes a "budget surplus allowance" that could provide for further tax reductions which is discussed in the section on Procedural Provisions.

The conference agreement anticipates that the respective House and Senate authorizing committees will comply with the deficit-reduction reconciliation directives in this resolution, thereby allowing a net seven-year tax cut of $245 billion to be included in the final reconciliation bill. The conferees agree that the $245 billion net tax cut represents an appropriate balance between accommodating the tax cuts in the House-passed "Contract with America" and the need to put the deficit on a declining path to a balanced budget in the year 2002. The conference agreement allows a net tax cut which the conferees agree can accommodate provisions which will strengthen the American family by reducing the tax burden on families with children and on two-earner married couples, and encourage savings, capital investment, job creation and economic growth by reducing taxes on savings and investment.

The conferees also urge the Finance and Ways and Means Committees to explore the closing of corporate tax loopholes that confer inappropriate tax benefits on individual corporations or industries. The elimination of these tax loopholes should either be included in the reconciliation process or in other legislation affecting revenues, such as legislation designed to extend expiring tax provisions.

PROCEDURES

DISCRETIONARY SPENDING LIMITS

(Sec. 201 of the Senate amendment; Sec. 201 of the conference agreement)

The 1990 Budget Enforcement Act (BEA) established caps on defense, international, and domestic discretionary spending. These caps were enforced by sequesters and a points of order in the Senate. The separate caps covered 1990 through 1993. The BEA provided a cap on total discretionary spending for 1994 through 1995. The Omnibus Budget Reconciliation Act of 1993 extended caps on total discretionary spending through 1998. The 1995 budget resolution (H. Con. Res. 218) reduced these discretionary caps for purposes of enforcement in the Senate.

House resolution

The House resolution contains no provisions regarding discretionary spending limits.

Senate amendment

Section 201 of the Senate amendment establishes caps on defense and nondefense discretionary spending for 1996 through 2002. For 1996 through 2000, the discretionary caps do not include funding from the Violent Crime Reduction Trust Fund, consistent with the intent of public law 103-322, which established the fund. This section also provides for the enforcement of these discretionary spending caps by creating a point of order in the Senate against consideration of a budget resolution that would exceed the aggregate cap on discretionary spending. This section also provides a point of order in the Senate against an appropriations bill that would exceed the defense or non-defense levels for a fiscal year or that would exceed the section 602(b) suballocation of those levels. This point of order can be waived by an affirmative vote of three-fifths of the Senate.

Conference agreement

The conference agreement contains the Senate provision with an amendment. The conference agreement modifies the Senate amendment to provide individual caps for defense and nondefense spending for 1996 through 1998. In addition, the agreement provides that the application of the point of order to budget resolutions after 1996 is contingent on the enactment of a reconciliation bill pursuant to this resolution. The discretionary spending limits are applicable in both Houses, but are enforced by a point of order only in the Senate. The following table indicates the discretionary spending limits for 1996 through 2002.

DISCRETIONARY CAP TOTALS

[Dollars in millions]

	1996	1997	1998	1999	2000	2001	2002
Defense:							
Budget Authority	265,406	267,962	269,731				
Outlays	264,043	265,734	264,531				
Nondefense:							
Budget Authority	219,668	214,468	220,961				
Outlays	267,725	254,561	248,101				
Total Discretionary:							
Budget Authority	485,074	482,430	490,692	482,207	489,379	496,601	498,837
Outlays	531,768	520,295	512,632	510,482	514,234	516,403	515,075

EXTENSIONS OF THE SENATE PAY-AS-YOU-GO POINT OF ORDER

(Sec. 202 of the Senate amendment; Sec. 202 of the conference agreement)

Subsection 12(c) of the 1994 budget resolution (H. Con. Res. 64) established a pay-as-you-go point of order in the Senate that prohibited consideration of legislation that would cause an increase in the deficit over a ten year period. The 1995 budget resolution (H. Con. Res. 218) modified and extended this point of order to provide that legislation was out of order if it caused a deficit increase in the first year covered by the budget resolution, the sum of the first five years covered by the budget resolution, and the sum of the five years following the first five year period. The current pay-as-you-go point of order expires in 1998.

House resolution

The House resolution contains no provisions regarding the pay-as-you-go point of order.

Senate amendment

Section 202 of the Senate amendment extends this point of order through 2002 and revises the point of order to make one additional change. The current pay-as-you-go point of order permits the use of budgetary savings generated by legislation enacted since 1993 as an offset for legislation that would increase the deficit. The Senate would modify the pay-as-you-go point of order to eliminate the ability to use prior year surpluses.

Conference agreement

The conference agreement contains the Senate provision with an amendment. This amendment provides that the budgetary effects of the reconciliation legislation enacted pursuant to this resolution should not be taken into account for the purposes of the pay-as-you-go point of order. This ensures that the budgetary savings achieved from enactment of reconciliation legislation are devoted to deficit reduction and cannot be used as an offset for future legislation.

RESERVE FUNDS

(Sec. 203 of the Senate amendment; Sec. 203 and Sec. 204 of the conference agreement)

A budget resolution establishes binding ceilings on spending and binding floors on revenues. These ceilings and floors are enforced by points of order in the Senate that, if raised, can only be waived by an affirmative vote of three-fifths of the Senate. A reserve fund provides the Chairman of the Budget Committee with the authority to modify the outlay ceiling and the revenue floor to accommodate deficit-neutral legislation. The Budget Act specifically authorizes the inclusion of reserve funds in a budget resolution and past budget resolutions have included reserve funds for a variety of purposes. For example, the 1995 budget resolution contained 11 such reserve funds.

House resolution

The House resolution contains no reserve funds.

Senate amendment

Section 203 of the Senate amendment provides a reserve fund for deficit-neutral legislation that reduces revenues following passage of the conference report on reconciliation. This reserve fund provides the Chairman authority to modify the aggregates for legislation that reduces revenues.

Conference agreement

The conference agreement contains two reserve funds: section 203 provides a reserve fund in the Senate for tax reduction legislation and section 204 provides a reserve fund in both Houses for welfare reform legislation.

Section 203 gives the Senate Budget Committee Chairman the authority to revise budget aggregates and allocations for deficit-neutral tax reduction legislation. This first reserve fund is not available until after September 30, 1995. The conferees chose this deadline because it falls after the reconciliation reporting deadline (including time to respond to the second reconciliation instruction).

The conference agreement gives the Chairman the discretion to modify the aggregates for deficit-neutral tax reduction legislation. The conferees intend that committees meet their reconciliation instructions first and that these savings are enacted before this reserve fund is used. The conferees are particularly opposed to efforts to take provisions from reconciliation legislation that are necessary to balance the budget and use them in separate legislation to pay for tax reductions. However, if reconciliation legislation clearly fails in the Congress or the President vetoes the reconciliation bill and such veto is not over turned, this reserve fund is provided to allow Congress the flexibility to consider tax reform legislation as long as it does not increase the deficit.

Section 204 of the conference agreement provides a welfare reserve fund for both Houses. This reserve fund provides a mechanism to increase the discretionary caps for welfare reform legislation that converts welfare entitlement programs to discretionary programs. The conference agreement assumes significant savings in welfare reform programs. This reserve fund only can be triggered for legislation if the mandatory savings associated with the conversion are in excess of the savings necessary to comply with the reconciliation directives of this resolution. While the Chairmen are given discretion to revise allocations and aggregates pursuant to this section, the conferees intend and fully expect that the Chairmen will make these revisions if the conditions of the welfare reserve fund are met. The fact that the conferees do not make explicit assumptions about converting welfare entitlement programs to discretionary programs should not be viewed as a bias against such proposals, and this reserve fund provides a mechanism to accommodate such legislation.

BUDGET SURPLUS ALLOWANCE

(Sec. 204 of the Senate amendment; Sec. 205 of the conference agreement)

The budget surplus allowance is a procedure to accommodate tax reduction legislation if the budget is balanced by 2002. The budget surplus allowance would make the additional savings resulting from a balanced budget available for tax reduction legislation.

CBO has calculated that adoption of a balanced budget could generate additional budgetary savings of $170 billion over seven years as the result of reduced interest rates and higher economic growth brought on by budget balance that eliminates the need for additional federal borrowing. This additional budgetary savings has been referred to as the "fiscal dividend" or "economic dividend".

Past budget resolutions have contained reserve funds, contingencies or allowances that provide the Budget Committee Chairman with the authority to modify the aggregate levels in the budget resolution for future legislation. For example, the 1995 budget resolution gave the Chairman the authority to add $405 million in budget authority and outlays to the levels in the budget resolution to accommodate higher spending by the Internal Revenue Service (IRS).

House resolution

The House resolution contains no budget surplus allowances.

The House budget resolution assumes CBO's $170 billion fiscal dividend from balancing the budget. The House budget resolution is based on CBO's January economic forecast and projections. The House modified CBO's economic projections of interest rates and real GDP growth to include CBO's estimate of fiscal dividend. This modification reduces CBO's deficit projection by $170 billion for the period 1996 through 2002.

Senate amendment

The Senate amendment did not include the $170 billion fiscal dividend in the baseline. Instead, the Senate amendment provides a procedure that would make the fiscal dividend available for tax reduction legislation only after enactment of a reconciliation bill that balances the budget by 2002.

Section 204 of the amendment provides a budget surplus allowance that requires the Chairman of the Senate Budget Committee to reduce the budget resolution's revenue floor by an amount equal to the additional budgetary savings as estimated by CBO that will be achieved as a result of the enactment of legislation that produces a balanced budget.

This section also establishes a number of contingencies that accommodate tax reductions only if certain conditions are met. The primary contingency is a requirement that the Congressional Budget Office (CBO) certify that the reconciliation bill will produce a balanced budget by 2002. Once CBO certifies that the enacted reconciliation bill will produce a balanced budget by 2002, the Chairman is required to lower the revenue floor to accommodate legislation that provides family tax relief and incentives to stimulate savings, investment, job creation, and economic growth.

Conference agreement

Section 205 of the conference agreement establishes a budget surplus allowance that provides that tax reductions only will be enacted as part of a legislative package that will produce a balanced budget by 2002. Under the conference agreement, if this bill does not achieve balance by 2002, the tax reductions are not to be included in the reconciliation bill.

Section 105 of the conference agreement includes two reconciliation instructions. The first reconciliation instruction, section 105(a), comprises the outlay savings necessary to reach balance by 2002. The second instruction, section 105(b) of the resolution, comprises the revenue reductions and is triggered by the section 205 of the conference agreement, the budget surplus allowance.

Section 205 of the conference agreement requires the Chairmen of the Budget Committees to submit committees' responses to the first reconciliation instruction to the Congressional Budget Office (CBO). If CBO certifies that these legislation recommendations will reduce spending by an amount that will lead to a balanced budget by 2002, the second reconciliation instruction is triggered. On the other hand, if CBO finds that the first submission would not lead to a balanced budget by 2002 and committees are unable to submit legislation that would produce a balanced budget, then the Budget Committees are to report the reconciliation bill absent the tax reductions.

Section 205(a) also requires the Chairman of the Budget Committees to submit the conference report on reconciliation legislation to CBO prior to the submission of this conference report. In conducting the assessment of legislative submissions made pursuant to section 105(a), the conferees intend that CBO not include the fiscal dividend. If the conference report contains tax reductions pursuant to section 105(b), CBO's assessment of the conference report should take into account the fiscal dividend in its assessment of whether the conference report would achieve a balanced budget by 2002.

If the second reconciliation instruction is triggered, the tax writing committees are instructed to reduce revenues by a total of not more than $245 billion over 7 years and by not more than $50 billion in 2002. The tax writing committees are given 5 days to submit tax legislation to the Budget Committees. The Budget Committees are then required to add this tax reduction legislation with the earlier submissions and report one bill that encompasses both the spending reductions and the tax reductions.

If CBO certifies that the committees' reconciliation submissions made pursuant to section 105(a) will achieve a balanced budget, Section 205(b) requires the Chairman of the Budget Committee to reduce the revenue aggregates by an amount that is consistent with the reconciliation instructions. The budget resolution revenue aggregates and reconciliation instructions are not parallel in this instance. The conferees intend that the Chairman reduce the revenue aggregates by an amount that would accommodate a seven year tax reduction of $245 billion as long as this revision does not result in a deficit in 2002.

The conference agreement is predicated on a balanced budget plan. Section 205(e) provides that the revenue reconciliation instruction and the authority to modify the revenue aggregates to accommodate reconciliation legislation is only available if the reconciliation directives are achieved and the reconciliation legislation produces a balanced budget based on CBO's estimates.

Under section 205(e), the Senate Budget Committee Chairman is responsible for assuring that the revenue aggregates are not reduce below a level that would cause a deficit in 2002. If CBO's assessment of the conference report under section 204(a) concludes that it will result in a deficit in 2002, in compliance with this subsection, the conferees intend that the Chairmen work with committees to modify the conference report to achieve a balanced budget by 2002. If this is not possible, it is the Senate Budget Committee Chairman's responsibility to raise the revenue floor by an amount to ensure that the reconciliation conference report achieves balance by 2002 and if the tax reductions in the conference report are not modified, the conference report could be subject to a point of order under section 311 of the Budget Act.

SCORING OF EMERGENCY LEGISLATION

(Sec. 205 of the Senate amendment)

Section 606(d)(2) of the Congressional Budget and Impoundment Control Act of 1974 provides that the budgetary impact of legislation is not taken into account for Budget Act points of order if legislation is designated as an emergency by the President and the Congress.

House resolution

The House resolution contains no changes in rules or procedures for emergency legislation, but section 9 of the House resolution does contain sense of the Congress language on emergency legislation.

Senate amendment

Section 205 of the Senate amendment provides that beginning with 1996 all legislation will be scored for the purposes of the budget resolution and the Budget Act even if it is designated as an emergency. The Senate amendment does not affect current law provisions that provide adjustments to the caps so that emergency legislation does not cause a sequester under the Balanced Budget and Emergency Deficit Control Act. This section does provide that the discretionary caps established by section 201 of this resolution will be adjusted after the enactment of any emergency legislation to hold the Appropriations Committee harmless for the cost of the emergency legislation.

Conference agreement

The conference agreement contains no procedural provisions regarding the scoring of emergency legislation.

SALE OF GOVERNMENT ASSETS

(Sec. 6 of the House resolution; Sec. 206 of the Senate amendment; Sec. 206 of the conference agreement)

In 1987, the Congress adopted a change in the scoring of legislation to provide that the proceeds from assets sales should not be taken into account for budget enforcement purposes. Each budget resolution since 1986 has contained language prohibiting the scoring of savings associated with asset sales. In addition, section 257(e) of the Balanced Budget and Emergency Deficit Control Act prohibits the scoring of the proceeds from asset sales.

House resolution

Section 6 of the House resolution provides that for the purposes of the Budget Act and budget resolutions the proceeds from asset sales will be scored.

Senate amendment

Section 106 of the Senate amendment contains the same language as section 6 of the House resolution.

Conference agreement

The conference agreement contains the House language. The conferees are concerned about the long-term budgetary impact of asset sales and do not support asset sales that would cost the Federal government money in the long run. The conferees believe that the Congress should consider adoption of a new scoring rule that would take into account the long-term budgetary impact of asset sales.

Subsection (d) of the conference agreement includes language providing that loan prepayments and loan asset sales should be governed by the terms of the Federal Credit Reform Act of 1990. Both the Congressional Budget Office (CBO) and the Office of Management and Budget (OMB) currently score proposed loan prepayments and loan asset sales under credit reform. The conferees believe OMB and CBO have properly scored these transactions. The conferees are including this language to make it clear that the repeal of the asset sale scoring rule does not impact the scoring of loan asset sales or prepayments, which will continue to be governed by the Federal Credit Reform Act of 1990.

CREDIT REFORM AND DIRECT STUDENT LOANS

(Sec. 207 of the Senate amendment; Sec. 207 of the conference agreement)

The 1990 Federal Credit Reform Act modified the budgetary treatment of Federal credit programs to take into account the long-term cost of Federal credit activities. More specifically, this law required the cost of direct loans and guaranteed loans to be measured by taking the net present value of the cash flows over the life of the direct loan or loan guarantee.

House resolution

The House resolution does not contain procedural provisions regarding the scoring of student loans, but section 13 of the House resolution includes sense of the Congress language on the scoring of student loans.

Senate amendment

Section 207 of the Senate amendment puts the measurement of administrative expenses of guaranteed student loans on equal footing with legislation that would expand direct student lending by the Federal government. More specifically, this section provides that for the purposes of Congressional scoring the administrative costs for new direct student loans to be measured on a net present value basis.

Conference agreement

The conference agreement contains the Senate provision with an amendment. The conference agreement would apply the new scoring of administrative costs for all legislation affecting student loans.

The conferees recommend this change to correct a disparity that has arisen under the Federal Credit Reform Act of 1990 for the scoring of student loans. Currently, the administrative costs for direct student loans are measured on a cash basis, with the budget reflecting only that year's cost of administering the loan. For guaranteed student loans, the administrative costs are measured on a net present value basis for the entire length of the loan. The result is that direct lending appears to be much less expensive than guaranteed student lending. Both the Congressional Research Service and the Congressional Budget Office have acknowledged the bias that this treatment of administrative expenses has created.

EXTENSION OF BUDGET ACT 60-VOTE ENFORCEMENT

(Sec. 208 of the Senate amendment; Sec. 208 of the conference agreement)

Under current law, the three-fifths requirement in the Senate to waive many of the Budget Act's points of order is permanent. The 1995 concurrent resolution on the budget provided a 1998 sunset date for the three-fifths waiver requirement for many of these points of order.

House resolution

The House resolution contains no provisions regarding the sunset date for super majority points of order in the Senate.

Senate amendment

Section 208 of the Senate amendment extends the sunset date for this three-fifths waiver requirement through 2002. The Senate amendment does not affect section 313 of the Budget Act (the Byrd rule), which has a permanent requirement for a three-fifths waiver.

Conference agreement

The conference agreement contains the Senate provision.

REPEAL OF THE IRS ALLOWANCE

(Sec. 7 of the House resolution; Sec. 209 of the Senate amendment; Sec. 209 of the conference agreement)

Section 25 of the 1995 budget resolution (H. Con. Res. 218) created a $405 million budget authority and outlay allowance to fund an Internal Revenue Service (IRS) compliance initiative outside the discretionary caps. This section provided that the budget resolution's discretionary caps, allocations, and aggregates would be revised upward by $405 million upon the reporting of appropriations legislation that fully funded an IRS compliance initiative.

House resolution

Section 7 of the House resolution restates section 25 of H. Con. Res. 218 and provides a $405 million budget authority and outlay allowance for the IRS.

Senate amendment

Section 209 of the Senate amendment repeals this allowance and expresses the sense of the Senate concerning the Taxpayers Bill of Rights and the priority to be given to compliance programs in IRS funding.

Conference agreement

The conference agreement contains the Senate provision on the repeal of the IRS allowance. The conferees are concerned about efforts to circumvent the caps and do not believe that the IRS should be funded outside the discretionary caps. The conferees believe that the IRS compliance initiative should be fully funded and the conference agreement assumes funding for this initiative in function 800, General Government.

While the conference agreement does not contain the sense of the Senate provisions on taxpayer bills of rights, the Senate conferees urge the Senate to pass the taxpayer bill of rights to this Congress.

TAX REDUCTION CONTINGENT ON THE BALANCED BUDGET IN THE HOUSE

(Sec. 210 of the conference agreement)

House resolution

Section 4 of the House resolution contains a reconciliation instruction to the House Ways and Means Committee to reduce revenues. That instruction assumes enactment of the Tax Fairness and Deficit Reduction Act, replacement of the one-dollar bill, and the elimination of several corporate tax subsidies.

Senate amendment

The Senate amendment contains a tax reserve fund that would accommodate deficit neutral legislation that reduced revenues after passage of the reconciliation conference report. The amendment also contains a budget surplus allowance that makes CBO's "fiscal dividend" available after enactment of the reconciliation measure for legislation that reduces revenues for family tax relief and incentives to stimulate savings, investment, job creation, and economic growth.

Conference agreement

The conference agreement establishes a process for certifying a balanced budget before the House takes up a reconciliation bill that would reduce taxes. The Congressional Budget Office would score all legislation submitted to the Budget Committee (or any amendment by the Rules Committee self-executed into the bill) and the economic dividend that would result from a balanced budget. On the basis of a CBO estimate of a balanced budget, the Chairman of the Budget Committee would certify a balanced budget.

If the Chairman certifies a balanced budget, then the revenue floor in the budget resolution would be reduced. In the absence of such certification, the reconciliation bill would be subject to a point of order under Section 311 of the Budget Act because it would cause revenues to be less than revenue floor established in the budget resolution.

EXERCISE OF RULEMAKING POWERS

(Sec. 210 of the Senate amendment; Sec. 211 of the conference agreement)

The Constitution reserves to each of the Houses the authority to determine its own rules. When Congress adopts new rules or procedures in legislation, the Congress frequently includes a provision stating that the changes represent an exercise of the rulemaking authority of the House of Representatives and the Senate and the two Houses reserve their right to modify their rules at anytime. For example, section 904(a) of the Congressional Budget and Impoundment Control Act of 1974 provides a provision reserving the rulemaking authority of the House of Representatives and the Senate.

House resolution

The House resolution contains no provision regarding the rulemaking authority of the Houses.

Senate amendment

Section 210 of the Senate amendment states that the procedural provisions in the amendment are made in recognition of the Constitutional right of the Senate to make its own rules and to change those rules at any time in an appropriate manner.

Conference agreement

The conference agreement contains the Senate provision with an amendment to expand the application of the language to the House of Representatives.

MISCELLANEOUS PROVISIONS

SENSE OF CONGRESS LANGUAGE

(Secs. 5 and 8 through 14 of the House resolution, title III of the Senate amendment, and title III of the conference agreement)

House resolution

Section 5 of the House resolution includes a statement that Congress will re-examine the reductions in the agricultural programs for fiscal years 1999 and 2000 unless: 1998 agricultural land values are at least 95 percent of their value today, regulatory relief for the agriculture sector is enacted, certain tax relief is enacted, and trade agreements are implemented that result in lower subsidies and fewer import barriers.

The House resolution includes provisions that express the sense of Congress that: baseline budgeting should be replaced with a form of budgeting that requires full justification and analysis of proposals and that maximizes Congressional accountability for public spending (section 8); that Congress should study alternative approaches to budgeting for emergencies (section 9); that Sallie Mae should be restructured as a private corporation (section 10); that House rule XLIX should be repealed and the extension of the public debt should be set at levels and at such durations as to ensure a balanced budget by 2002 (section 12); that the costs of direct student loans should be the net present value of the disbursement, principal repayment, and other payments and costs including administrative expenses (section 13); and that a commission should be established to make recommendations concerning the long-term solvency of the military and civil retirement funds (section 14).

In addition, the House resolution includes one provision expressing the sense of the House of Representatives regarding the payment of the debt (section 11).

Senate amendment

Title III of the Senate amendment includes seven provisions that express the sense of the Congress that: the Federal government should develop a uniform Federal accounting system (section 305), that 90 percent of the benefits of any tax cuts should be targeted to working families earning less than $100,000 annually (section 306), that a bipartisan commission should be established to make recommendations concerning the solvency of Medicare in the short and long-term (section 307), that the health care needs of pregnant women and children should receive priority under Medicaid reform (section 309), that funding for brain research should receive priority in furtherance of the goals of the Decade of the Brain (section 313), that Congress should consider the Independent Budget for Veterans Affairs (section 314), and that the use of campaign funds or privately-donated funds should be prohibited for expenses in relation to sexual harassment suits (section 317).

In addition, Title III of the Senate amendment contains 22 sense of the Senate provisions: on program terminations (section 301), on returning programs to the States (section 302), on encouraging turning certain Federal functions over to the private sector (section 303), on the creation of a non-partisan commission on the Consumer Price Index (section 304), on the distribution of agriculture savings (section 308), on the continued nondeductibility of lobbying expenses (section 310), on the revision of the expatriate tax (sections 311 and 319), on Medicare fraud and abuse (section 312), on funding to States for Motor Voter expenses (section 315), on the use of Presidential Election Campaign funds for expenses in relation to sexual harassment suits (section 316), on Impact Aid (section 318), on Stafford student loans (section 320), on children's nutritional health (section 321), on law enforcement and the Crime Trust Fund (section 322), on long-term health care (section 323), on the sale of power marketing administrations (section 324), on overhead expenses in the Department of Defense (section 325), on the essential air service (section 326), on renewable energy research (section

327), and on reductions in student loans (section 328). In addition, section 209 was amended to include sense of the Senate language concerning funding for tax compliance efforts and enactment of the "Taxpayers Bill of Rights II."

Conference agreement

Title III of the Conference agreement includes three separate provisions that express the sense of the Congress that: the committees of jurisdiction, in meeting the levels in the resolution, should give priority to proposals that identify, eliminate, and recover funds lost due to fraud and abuse in the Medicare system (section 301); that Sallie Mae be restructured as a private corporation (section 302); and that the extension of the public debt limit be set at such levels and for such duration as to ensure the budget be balanced by 2002 (section 303).

Section 304 of the conference agreement also expresses the sense of the Congress that the aggregates and functional levels in the budget resolution assume: that Federal programs should be restructured; that Federal programs should be reviewed to determine whether they would be more appropriately the responsibility of the States; that Congress should examine Federal functions to determine those that would be more efficiently and effectively performed by the private sector; that Congress has a responsibility to future generations to balance the budget and to pay down the debt; that funding for nutrition programs may be reduced without compromising the nutritional health and well-being of the program recipients; and that priority should be given to funding for science and basic and applied research.

The Conference agreement includes four separate sections that express the sense of the Senate: that the budget resolution assumes that the taxes will be restructured to benefit working families (section 305); that the Senate Agriculture Committee should provide no more than 20 percent of the savings under Reconciliation from the commodity programs (section 306); that a bipartisan commission should be established immediately to make recommendations concerning the short-term solvency of the medicare system (section 308); and that the health care needs of pregnant women and children should receive priority under Medicaid reform (section 309).

In addition, section 307 expresses the sense of the Senate that the aggregates and functions levels in the budget resolution assume: that the Federal government should establish a uniform accounting system, that the expatriate tax should be revised and any savings should go to deficit reduction, that research on brain diseases and disorders should be funded in furtherance of the goals of the Decade of the Brain, that the essential air service should receive sufficient funding to continue to provide air service to small rural communities, that funds should be made available to the States to reimburse for expenses in implementing Motor Voter, and that a non-partisan commission should be established to examine and make recommendations concerning the accuracy of the methodology used to determine the Consumer Price Index.

The Conference agreement also includes five separate provisions that express the sense of the House of Representatives that: reductions in agricultural programs in fiscal years 1999 and 2000 the House of Representatives shall be re-examined unless certain conditions are met (section 310); that baseline budgeting should be replaced with a method that requires justification and analysis of proposals and that maximizes Congressional accountability (section 311); that a commission should be established to study and make recommendations to ensure the long-term solvency of the military and civil service retirement funds (section 312); that rule XLIX of the rules of the House of Representatives should be repealed (section 313); and that an alternative approach to the scoring of emergencies should be studied (section 314).

DISPLAY OF LEVELS AND AMOUNTS

House resolution

The House resolution contains all of the displays of levels and amounts required by it under section 301(a) of the Congressional Budget Act, and includes a display of new secondary loan guarantee commitments within the functional levels and amounts. The House resolution contains no other alternative displays.

Senate amendment

The Senate amendment contains all of the displays of levels and amounts required under section 301(a) of the Congressional Budget Act, including displays the levels of Social Security revenues and outlays, as required by paragraph (6) for enforcement purposes in the Senate. As authorized by section 301(b)(5), of the Senate amendment displays the amounts of the increase in the public debt subject to limitation. For informational purposes, the Senate amendment also includes a display of the gross interest on the public debt consistent with the levels of net interests shown in functional category 900 and a display of the aggregate levels and functional amounts without including the Hospital Insurance Trust Fund.

Conference agreement

The conference agreement includes all of the required displays of levels and amounts, including those of Social Security outlays and revenues. The agreement also includes the amounts of the increase in the public debt subject to limit. With respect to the informational displays, the conference agreement contains the display of the gross interest on the public debt consistent with the levels of net interest in function 900. The conference agreement recedes to the House concerning the informational display of levels and amounts without the Hospital Insurance trust fund amounts and the House recedes to the Senate on the display of secondary loan guarantee commitments.

JOHN R. KASICH,
DAVE HOBSON,
BOB WALKER,
JIM KOLBE,
CHRISTOPHER SHAYS,
WALLY HERGER,
WAYNE ALLARD,
BOB FRANKS,
STEVE LARGENT
SUE MYRICK,
MIKE PARKER,
Managers on the Part of the House.

PETE DOMENICI,
CHUCK GRASSLEY,
DON NICKLES,
TRENT LOTT,
HANK BROWN,
SLADE GORTON,
JUDD GREGG,
Managers on the Part of the Senate.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE BIGGEST RIPOFF IN AMERICAN HISTORY

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from California [Mr. ROHRABACHER] is recognized for 60 minutes as the designee of the majority leader.

Mr. ROHRABACHER. Mr. Speaker, yesterday I had a telephone call from an old friend who was concerned about American trade policy, and he was opposed to NAFTA, the free-trade agreement that we passed with Mexico, and that we will soon will be considering including Chile in the NAFTA agreement, and he was also concerned about GATT, the world trade agreement that we reached and we voted on late last year.

His question to me was: "How can the United States possibly compete with Third World countries? How can we compete when our labor force is paid $10 an hour, and their labor force is paid 15 cents, 25 cents, 75 cents an hour? Doesn't trade with overseas countries, especially those in the developing world, mean that the American people will lose in the long run and that our own working people will have a lower standard of living?"

Well, my answer to my friend was an answer that really has been the answer that the American people have given to this very same question for many, many years. This is not a new fear that the American people have, because the American people have had a higher standard of living and a better way of life throughout our history as compared to the working men and women of other countries.

Mr. Speaker, how did we do it? How did we out-compete? How did the American worker out-compete those workers in Third World countries that were willing to work for such lower wages? The answer is we have done that because our working people and our businessmen have had the technology that is necessary to out-compete the competition, even when the labor costs are much lower.

Mr. Speaker, after World War II, we experienced a major jump in our standard of living in the United States of America. Were the wages around the world, were they any higher after the end of World War II than they are today, as compared to the price of the American worker? No. Yet at the same time we experienced a major increase in our standard of living, and America was out-competing everyone throughout the planet.

In fact in the 1950's and 1960's, Mr. Speaker, America was looked to throughout the entire planet as a source of goods and materials to be purchased by people for consumer items all over the world. Yet their own people were working for much lower wages. That is because after World War II, as in the time period before World War II, Americans had a technological lead on the world. It is technology and knowledge that have given us the competitive edge throughout our Nation's history. It was not the fact that our people were necessarily willing to work harder, because many people around the world work harder. Many, many people throughout the world work as hard, if not harder, than Americans, yet the American worker, coupled with technology, that work ethic that our people have coupled with technology, have made America the prosperous country that it is today and the prosperous country that it was in years past. We have had the technological edge.

This did not just happen, and it did not just happen after World War II. I say to my colleagues, "If you look back in our history, the United States was the country that developed the reaper which magnified the amount of crops that could be harvested. We were the ones that took the steam engine, which was originally developed by the ancient Greeks, and turned it into an engine for progress and prosperity, an engine for the creation of new wealth. We were the ones who developed the telegraph and the telephone."

The list goes on, and on, and on. In fact, technological development was seen by our Founding Fathers as the means for which the United States would become that shinning city on the hill that all of our Founding Fathers wanted her to be. No other country in the world put patent protections of technological innovation into its constitution. There is no other country. Yet, if we look in our Constitution, our Founding Fathers insisted that there be a Patent Office. It is written into the Constitution.

Why is that? I say to my colleagues, "If you look back at the men who created this great democracy of ours, you will see that they had two things that they believed in. There was—well, they had many things they believed in, but the two important things they believed in in terms of government was they believed in freedom of the individual, which included peoples' religious freedom, and their rights to speak, and their rights to gather together, their rights to petition their government and to control their own destiny; they believed in that freedom, and they also believed in technology."

Mr. Speaker, with technology and freedom, America would become an example for all the world to see, that the common man can live in decency, and can control his or her own destiny, and that our country could be an example to the world, and that instead of vast military might, that our country would have the allegiance of free people all over the world or those people all over the world who long to be free.

Yes, Thomas Jefferson himself was a technologist. Those of you who visit Monticello might be impressed to see the many inventions that he himself developed to help life around that 19th century agricultural compound be more easy for the people of this compound. But Benjamin Franklin, also one of the great Founding Fathers of our country, is reowned even today for his exploration of ideas and his development of technology.

These men made sure that American investors and American inventors would have the incentive to develop the technology that would be necessary to make America the example of progress and freedom that they foresaw. One of the things that they put into the Constitution, as I say, was the Patent Office, and Americans have, over our 100 year history, enjoyed some of the most extensive and strongest patent protection of any people on this planet.

Now patent protection is a dull and uninteresting subject. Just like in many cases when we talk about our other freedoms, people just take them for granted. In fact it has been said "Freedom is very much like the air, and that is the air is—you can't see it, you can't touch it, and it is very easy to take air for granted."

That is the same way it is for freedom. Freedom is the fact that there is not someone who comes to your church every Sunday and has to approve the sermon of your minister. Freedom is that the school teachers and our university professors do not have to have their subject matter approved, because that sensor is not there. Freedom is when a person can open a book store or someone can quit his job without asking for government approval. This is what freedom is. It is the absence of the Government coming down and destroying freedom.

Well, you can take freedom for granted, just like the air. But when the air is cut off, when your air is cut off for even one millisecond, you begin realizing how important air is to you, and that is the same with freedom. Once you cut it off, even for a short period of time, those people who have enjoyed it understand the importance of air and understand the importance of freedom. They go together because they can be taken for granted. But when you are denied your freedom or denied air, you understand how important they are. They are important to the life of mankind, and they are essential, freedom has been essential, to what Americans have felt our country is all about.

Well, that is the same with one of our rights, one of our very fundamental rights that people have always taken for granted, and that is the right of patent protection. That means, if you come up with an idea, and you get an investor to invest in your development of that idea, you own that idea for a given period of time. In fact, you register it like a piece of property with the Government, and, when you file for your registration, the Government will peruse that, and after perusing your application, provide you what is basically a deed. It is a patent for your creation so that you and the investors in your idea can reap some profit, some benefit, from that.

That is the secret of the American miracle. We provided an incentive for investors and investors throughout our history to invent the new machines, the new technology, that catapulted the standard of living of the common man. Our people were able to live decent lives and have good jobs, and they could provide for their families, and we had enough wealth in our society so we had education and an infrastructure for our people because the investors and the inventors were given the incentive to come up with the ideas that changed the condition of humankind.

This has been going on throughout our history. Over the last 100 years our inventors and our investors have had the protection guaranteed that, if they would file an invention with the Patent Office seeking a patent, that no matter how long it took them to be issued that patent, once it was issued, they would be given 17 years of protection, at which time anyone using that technology would have to pay them for the right to do so. It is called royalties.

Well, this has just changed. Unbeknownst to the American people and unbeknownst to most Members of Congress, there has been a dramatic change in the patent rights, and believe me, when the effect of this begins being felt by the American people, it will be as if someone is strangling them and denying them what they have taken for granted, their air, because this will have a dramatic impact, in the long run, on the standard of living of our people. We have changed the fundamental rules that have provided the prosperity and the jobs and the economic well-being that our people have learned to take for granted.

Mr. Speaker, that change was put into the GATT implementation legislation. The GATT, as you are aware, is an agreement among the nations. It is a trading agreement that said these are a set of rules which will guide us, and any nation that signs onto this set of rules will be part of this global trading structure.

The fundamental idea is a sound idea, and we were promised that, if we would vote for fast track—now that is a term that means we in Congress gave the right to the President to negotiate any of this agreement with GATT, and when he brought the treaty to us, we would have 60 days to look it over, and that he also agreed not to put anything into that treaty, or into that implementation legislation of the treaty, that was not required by the treaty.

What happened was, a provision was snuck into the GATT implementation legislation last year that was not required by the treaty itself, and although it is very difficult for the American people to understand the ramifications of this very small part and this very complicated issue of patent protection, they will feel the consequences unless we correct this misdeed that has taken place in this body. What happened was that in the implementing legislation we changed the rules so that now, when an American inventor applies for a patent, he applies. In the past, no matter how long it took him to get his patent, he would have 17 years as soon as the patent was issued. He would have 17 years of protection. Now what will happen after the GATT implementation legislation is put into effect, is that when the patent applicant files, the clock starts ticking. Those people who put this change into the law thought, "Well, gee, we are going to make it sound like we are actually expanding the patent rights of the American people," and so the clock starts ticking and it is all over in 20 years.

Now if the average patent does take only 19 months, which some people are claiming, then that would be a good deal for the American people. But what has happened is that the American people, and even the people who passed the laws, have been given misinformation about the patent process itself. Significant patents, whether it is the laser, or whether it is plastic bottles, or whether it is technology that will make us more competitive with the rest of the world, breakthrough technologies, take not just 19 months, not just 3 years, not just 5 years. Most of the major technologies that have given us our competitive edge in world competition, most of these have taken 10 to 15 years and often longer to have a patent issued.

Now what does that mean? That means we have, in reality, dramatically reduced, if not eliminated, the patent protection of America's inventors and investors. If someone comes up with a breakthrough technology and it takes them 15 years in order to get that patent issued, he is at the mercy of the bureaucrats at the Patent Office. He is at the mercy of international, multinational, and foreign corporations who might try to put legal hindrances in the way of issuing that patent. He is at the mercy of those people because the clock is ticking and it is on his time. That person, who could develop the technology that would make us competitive with mainland China or make us competitive with Asia or Europe in the future, that technology will not have anywhere near, if any, of the protection that past inventors and investors had in the United States of America.

What we have seen in this body is a change of law which was difficult to understand, but it will have major ramifications. What will that mean? What will this change of law in the patent law mean? And, by the way, it was not required by GATT, and they wanted to give us only a few days to consider the whole GATT implementation legislation. So they broke their word to us by putting something into this treaty that was not required for us to vote on, but yet it was put in because they knew that this was the way they could sneak it past this body, and what does it mean?

It means that billions of dollars that should be going into the pockets of American inventors in the form of royalties for multinational and foreign corporations now will stay in the pockets of those multinational and foreign corporations because we have so dramatically reduced the patent protection for significant technological developments. We are talking about billions and billions of dollars that should be going to Americans, that will now stay overseas.

Worse than that, we are reducing the time in which our inventors and investors can control the technology that they have created. Thus foreign interests, multinational corporations and foreign corporations can now use the technology after a few short years that would have had 17 years of protection, and what will they be using it for? They will be using it to out-compete the American people.

Mr. Speaker, what we have done is, as we are entering this new era of technological development in the world, this new era when genius will be so important and creativity will give us the edge, we have disarmed our own people. We have basically put ourselves at the worst competitive advantage, because what we have done is taken our greatest asset, our creative people and our investors in new creative ideas, and we have taken away their incentive and taken away their protection.

This will result in foreign corporations not paying royalties and foreign corporations using our technology against itself. It is the biggest ripoff in American history. Yet it continues to this day.

I have submitted a piece of legislation, H.R. 359, which has 177 cosponsors. That is 177 of my colleagues; I managed to speak with them, and talk to them personally, and to get their attention, because there are many, many issues of importance here on the floor of the House that divert peoples' attention. This is only a small issue to most people, and it is hard to understand. Yet 177 of my colleagues have signed on as cosponsors to my bill, H.R. 359, to restore the American patent rights to what they were before the GATT ripoff was implemented late last year—177. In the Senate, Senator DOLE has cosponsored a similar bill that, if passed, will do the same thing, which will restore American patent rights. That is S. 284.

Senator DOLE and I, all we want is basically not to see a diminishing of the patent rights that Americans have enjoyed for many, many years.

Mr. Speaker, as of yet we have not been permitted, my legislation has not been permitted, to come to this floor for a vote. Now what is Congress all about if you have 177 cosponsors, and by the way, for those of you who do not understand this, this is an enormous number of colleagues to join together, both Republicans and Democrats, on one piece of legislation saying we want this to be passed. I have not been on a bill that had so many cosponsors before. Yet it is being hindered; there are roadblocks being put in the way of the bill which prevent the legislation from coming to a vote on the floor.

Now why would this happen? Why would someone be so arrogant enough to say, "Well, you may have 177 cosponsors, but you're not going to get your vote on the floor because my point of view is more important than 177 of my colleagues"?

Well, what has happened is one Congressman, one Congressman who is the chairman of an obscure subcommittee, which my piece of legislation must go through before it comes to the floor, the one person, the chairman, is opposed to it. His name is CARLOS MOORHEAD, CARLOS MOORHEAD of Glendale, CA. Mr. MOORHEAD refuses. He will not be satisfied with voting against my legislation. Instead, Mr. MOORHEAD is holding it up in subcommittee, refusing all of his colleagues the right to make the decision.

Now you might ask what is his motivation. We in the House of Representatives always take for granted that the motives of our colleagues are good motives, and let us examine what is the possible good motive for someone wanting to—what I believe to support is a dramatic reduction in American patent rights. Why would someone do this?

Well, it is the belief that some people have that American patent rights have been too strong because we are out of sync with the rest of the world, and thus we are out of sync with the rest of the world. This is an attempt by the head of the Patent Office, Bruce Lehman, and Mr. MOORHEAD, and several others in this town, who believe that our rights, in terms of our economic rights and our patent rights, should be harmonized with the rights of other people in the world.

In other words, they are seeking to implement an agreement that Mr. Bruce Lehman, head of our Patent Office, made with the head of the Japanese patent office.

I ask, "You understand what's happening here?" They are harmonizing

America's economic rights, our fundamental patent rights of our citizens, harmonizing it with the Japanese by what? By lowering the standard that our people have enjoyed, the rights of our people.

If we are going to harmonize our rights, our economic rights, especially our patent rights, with other countries, especially countries like Japan who have no love for individual freedom whatsoever, we should be harmonizing them upward toward us, rather than them bringing our system down toward them. But these people believe that, if you have a harmonization, and our patent rights are similar to the Japanese patent rights, that it will be better for a world trading system.

Mr. Speaker, that is absolute nonsense. This is the equivalent of someone telling us, as Americans, that we have too many human rights, and in fact the Bill of Rights is way out of sync with all of the other democracies. Thus, what we are going to do is harmonize our individual rights by diminishing the Bill of Rights by two or three amendments.

What would the American people think about that? What would they think about it? They would reject it out of hand if they were given the choice.

What has happened here is an issue of vital importance to our prosperity and the well-being of our people. A very complicated issue has been determined by some power brokers behind the scenes, and they are preventing this house from voting on a piece of legislation that would negate a back-room deal that they made with the Japanese.

In the long run, what will this do? Well, I can tell you that in the short run it has already had a horrible impact on our society. What has happened is that American investors now, unlike last year and the year before and the hundred years before that, American investors now are not certain that they will have the 17 years that they used to have to recoup their investment.

Already American investors in the venture capital industry are hesitating about investing in new capital because—our investing new capital in new technology because they realize it might take, the process of getting a patent might take 15 years or 20 years for new technology to get through, and they would have no time to recoup their investment.

This makes—I will tell you, when Americans do not invest in new technology, we are at the mercy of other countries like the Chinese and the Japanese who are willing to put money into their—from their government into government-created technology.

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What is happening is if we permit this change in the patent law to continue, MITI, which is an organization in Japan which directs their investment, will be directing their investment in technologies to destroy our economic competitiveness, and at the same time, on our side, we have eliminated the incentive for American investors and inventors to invest in new technology. This is total insanity. It is a formula for disaster for the American people, and, on the face of it, it is a ripoff of American patent rights.

I am hoping that my colleagues, and I have 177 already as cosponsors, will join with me and insist that we have a direct vote on the floor, and that if CARLOS MOORHEAD, the chairman of the subcommittee that is holding this up, does not want a vote on the floor, then he can express that. If he opposes the vote, that is fine, but he should not have the power to stop a vote on the floor. A chairman of a subcommittee who prevents a bill, even if he disagrees with it, from coming to a vote, is doing a great disservice to the American people and the cause of democracy in a situation like this.

I would hope that Mr. MOORHEAD understands that in good faith, if he disagrees with the idea that we should maintain our level of patent protection, that he can vote against that. He can vote against my piece of legislation that would restore patent protection. But he should not prevent the rest of us from voting.

Adding insult to injury, recently something just happened that might indicate even worse things about the plans that these people have for American patent protection. While my legislation has not been permitted to come to the floor for a vote, there is another piece of legislation that went through Mr. MOORHEAD's committee. It was a piece of legislation that only had two cosponsors. It was H.R. 1733. The American people should know what was in this piece of patent legislation.

This piece of patent legislation, which Mr. MOORHEAD already had hearings on in his subcommittee, states the following: That if someone files for a patent, an American inventor files for a patent, even if it is not issued, after 18 months that patent will be published for the world to see.

Is there anyone who cannot see the implications for this? This is the equivalent of erecting a huge neon sign over the American Patent Office saying to the rest of the world, "Come and steal America's technological secrets." Because even before the patent is issued, it will be published, and I can tell you the Japanese and the Chinese and everybody else who want to copy American technology, will be in line at the Xerox machine in order to get their copies, and then running back to their offices to use the fax machine in order to get those plans to their own industrial leaders to copy America's technological genius. We are talking more than a ripoff here. We are talking about wholesale robbery of America's inventions. We are talking about an invitation by our Government to do so.

What will this mean to the American people? What it will mean is that American workers, who have always enjoyed the competitive edge because we have had the machines that permitted us to work better and to produce more than the competition who might have had workers that would work for lower wages, slowly but surely you will see our competitive edge erode, and the standard of living of our people, now in decline, will turn into a tailspin.

I say to you today that we owe it to the American people to see that our country remains the No. 1 technological power in the world. What that means is we owe it to our inventors and our investors to provide them an incentive to invest their time and their resources in the technologies we will need to maintain the standard of living of our people.

This is a difficult issue to understand. But what should not be difficult for people to understand is there are forces in this world today that not only do not care about the standard of living of the American people, but see it as a negative, because the standard of living of the American people gives high hopes to their own people. The other people, people in other countries, want to live at higher standards of living because the American people do.

We should not be destroying the American dream for the citizens of the United States. We should be extending the American dream so that people everywhere, in every country, know that they too, with freedom and technology, can improve their lot and provide for their families.

We stand at a crossroads because we are in a new era of human history. The cold war is over. We are now entering an era of global competition. It is imperative that we restore the patent rights of the American people, because in this new era of global competition, our very lives and our standard of living depend upon it.

I would ask my colleagues to join me in supporting 359, and would ask that the subcommittee chairman who is holding this bill up permit it to come to the floor; and if he opposes it, to honestly state his opposition, but to let the rest of the Members of Congress have a say and let them express themselves as well, and give the Members of Congress a chance to vote up or down in front of the American people on this issue, that may be complicated, but is so vital to the standard of living and maintaining the well-being of our citizens throughout this country.

IN DEFENSE OF FREEDOM

The SPEAKER pro tempore (Mr. GOODLATTE). Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. POSHARD] is recognized for 60 minutes as the designee of the minority leader.

Mr. POSHARD. Mr. Speaker, this week we will be debating and voting on a constitutional amendment to allow the States to prohibit desecration of the American flag. We have many important items on our agenda this week and time for debate will be short so, therefore, I would like to address this issue today, and I would like to do so, at least in the beginning, from a historical perspective.

Our Founders, the people who settled this country, were men and women of great faith. They came to this country and lived here for a long while under the edict of the King of England. They came here to escape the suppression of their freedoms, but found as colonists they were still under the control of the King. They were not free to speak their minds, to criticize the government. They were not free to assemble, to discuss their problems, because the government, the King, was afraid it might end up being a grievance against him.

They were not free to choose their own religious beliefs according to the dictates of their conscience. They worshipped in the Church of England, or they did not worship at all. The Church of England had the official blessing of the state. The church and the state had formed an alliance linking themselves together, so the church never had to fear the loss of parishioners to other faiths, and the state could continue to control the people through the church.

Newspapers were not free to criticize the government, or they would be shut down. The government, if they even suspected a citizen of criticizing them, even in private, could take a citizen from his home in the middle of the night, charge him with sedition against the government, and that citizen could be jailed or punished without ever having been allowed a trial. Time and again, they tried to confiscate the firearms of the citizens because they feared an armed protest against the government.

In short, the people were not free. Government controlled their lives in attempts to force its will upon the people.

As it is always true whenever a government attempts to force its will on the people, the people rebelled. They sent their representatives to Philadelphia to form the First Continental Congress, and that Congress decided to throw off the bonds of slavery that bound them to England. They declared their independence, raised an army, made George Washington its commander, and, in their own revolution, won their freedom from the oppressive Government of England.

After the Revolutionary War they went back to their individual States and a great debate arose as to whether or not they should even form a national government. They so distrusted a central government and its potential for ruling their lives that when they thought of a national government, all they could remember was oppression.

But there were certain national issues that had to be dealt with. Foreign trade had to be considered, paying off their war debts, and so on, and so they sent their representatives back to Philadelphia to form a Second Continental Congress, and it was this Congress that had the task of putting together a new government. They wrote a Constitution of the United States of America.

Notice how they said the "United" States of America. Before, they were not so united. They had operated under the Articles of Confederation, which gave great powers to the individual colonies. They had vast disagreements between themselves, and this new government was their attempt at becoming united.

The Constitution they had written said this new government would consist of three branches. No. 1, the legislative, would be elected from among the people to make the laws; No. 2, the executive, would be elected by the people to execute the laws; and, No. 3, the judicial, would be appointed by the executive and approached by the legislative, and they would judge and interpret the laws.

The judicial, the Supreme Court, was appointed for life, because the Founding Fathers knew that if the Supreme Court had to be subjected to the popular opinion of the people every so many years just to keep their jobs, they may do as many members of the legislative branch do and vote the popular thing, rather than the thing they believe to be right. So they said this sacred trust of judging the law is so important, that we will remove this branch from political pressure.

They took this Constitution that they were so proud of back to the people of the Thirteen Colonies to be ratified, to be approved. They said to themselves, "Boy, this will be a snap. The people don't have to worry about a king. They get to elect two of the three branches of government. Many rights are reserved for the states. This is the perfect government." And they must have sighed a sigh of relief. It had been a long struggle, fighting the war, putting this new government together. Now all it needed was the people's stamp of approval, and that would be easy.

But the people said, "No, no, not so fast. Sure, this is a form of government with which we agree. It allows us to participate. But we just got rid of oppression, and this Constitution doesn't say anything about our freedom." And the people said, "Wait just a minute. We want our basic freedoms guaranteed in writing, or we don't approve this government at all." The Founding Fathers, being men of great faith, some of them ministers, sat down to amend this Constitution, to guarantee the people these rights, their freedoms. They wrote 10 amendments to the Constitution, which have become known as the Bill of Rights, and for over 200 years of America's existence the Bill of Rights has remained unchanged, unamended, unaltered.

I will not mention all of the freedoms articulated in the Bill of Rights, but here are just a few: Freedom of speech, assembly, religion, press, a fair and speedy trial before our peers, the right to bear arms, not having to testify against one's self, protection against unreasonable search and seizure.

But we must speak not only of freedom, but of faith, for the two are in inextricably bound together. Nothing will bolster your faith more than to read the personal accounts of these great men of faith in their struggle with the concept of freedom.

My understanding over the years of my own faith has been bolstered by my understanding of their concept of faith and freedom. In 1990, when this issue was before the Congress, I was struggling to try to make some sense out of it, and I took my family up to Gettysburg for the weekend. Being from Illinois and representing a couple of the same counties Mr. Lincoln represented when he was in the Congress, I have been a Lincoln scholar my entire life.

As I walked over that great battlefield, I was reminded of his words on the day he dedicated that field. He started his address with these words: "Four score and seven years ago, our fathers brought forth on this continent a new nation."

Now, the importance of that opening is this: Four score and seven years ago did not take them back to the Constitution and the Bill of Rights drafted in 1787. Four score and seven years took them back to 1774 and the Declaration of Independence. Mr. Lincoln considered the Declaration of Independence to be the founding document of this Nation, the document that bound us together as one Nation.

And what was the premise of this Declaration of Independence? Let me state it for you again in Mr. Jefferson's words: "We hold these truths to be self-evident, that all men are created equal, and are endowed by their creator with certain unalienable rights, and that among these are life, liberty, and the pursuit of happiness."

Listen to this again. "We hold these truths," not falsehoods, but universal principles, givens, "* * * to be self-evident." They do not need to be pointed out or proven or justified. Some things are so true that any reasonable examination of the conscience would reveal the evidence of their truthfulness. And what is this true that should be so self-evident? That all men are created equal and endowed with certain unalienable rights.

Created equal? How? Well, certainly not by position, or power, or influence, or even physical or emotional or mental capacity, but equal in the eyes of the Creator with regard to love and respect for their being, and equal in the eyes of the law.

And what are these unalienable rights, these rights that cannot be taken away? Life, not death; liberty, our freedoms; and the pursuit, not the guarantee, the pursuit of happiness.

And who endows us with these rights? Does man? Does the State? No. The founding document of our country says we are endowed those rights by our Creator. Government cannot endow us with these rights. Government can only affirm or deny what is already given to us just by virtue of being created by God.

President Kennedy spoke of this in his inaugural address, when he said, "These same revolutionary beliefs for which our forefathers fought are still at issue around the globe today. The belief that the rights of man come not from the generosity of the state, but from the hand of God." He went on to say that we dare not forget today that we are the heirs of that first revolution.

President Lincoln, in the Gettysburg Address sought to affirm by the Government what the Creator had endowed all of our people, equality before the law. The Bill of Rights, which our Founding Fathers penned some 13 years after the Declaration of Independence, sought to articulate some of those God-given rights of life, liberty, and the pursuit of happiness in a more concrete fashion, and so they guaranteed with some specificity what God had already granted, given by virtue of creation.

Now, why do I speak of our country's historical beginnings, and especially those beginnings with respect to our rights given to us by the Creator and acknowledged so by both the Declaration and the Constitution? Because of this reason: This week we will be debating and voting upon a constitutional amendment to make it a criminal offense for anyone to desecrate the American flag.

Some will argue that we should not pass this amendment for various reasons. One, how do you define desecration? Some believe wearing clothing, ties, shirts, and so on that resemble the flag is a form of disrespect and constitutes desecration. Others believe lack of respect by not standing or sitting when appropriate desecrates the flag. Still others believe that burning or walking on the flag is desecration.

Many argue the mere act of defining desecration creates a legal nightmare for enforcement of such a law. Others point out that millions of dollars spent trying to pass and ratify this amendment by three-fourths of the States could better be spent on veterans' health care and other necessities of our people.

Most agree that the flag is held in higher respect today than at almost any time in our history, as witnessed by only a scattered number of flag desecrations among our Nation among 260 million people, as well as the tremendous outpouring of flag displays in our country at this time. And many wonder aloud why this is even an issue, with all the seemingly complex, almost unsolvable problems facing America today.

Others will say, "This flag is mine. I earned my money. I went down to the corner hardware store. I purchased this flag with my money. It is my private property, and government won't tell me what to do with it."

But I want us to consider this issue in the light of our beliefs that our rights are God-given, what that means to us as a people and a nation, and whether we actually believe that as a principle anymore. Let me say again that we must speak here not only of freedom, but of faith, for the two are inextricably bound together.

This is what I believe, and I believe it is entirely consistent with the beliefs of our forefathers who penned this precious Bill of Rights, and I believe it is consistent with the words of my own Bible. If we are to examine the nature of the freedoms or rights which God has given us, then we must examine the nature of God Himself.

This is what I believe. God is love, unconditional love. He created us as an object of His love because love needs an object upon which to lavish itself. God needed us, so He could love us, so He created us in His image so that He might love us and fellowship with us and so that we might love Him in return.

The Bible says we love because He first loved us. Our response to Him, our purpose for being, is to learn to love in the way that He loves us, unconditionally; to love others, but especially to love Him.

God wants our love. But the great loving merciful heart of God knew something from the beginning. He knew even before He created us that if we were going to learn to love as He loves, He had to give us the freedom not to love.

God is God. He is sovereign. He could have created us with no choice, no freedom to choose to love or not to love. He could have demanded our love, our respect. He is God. But He knew that love that is not freely given cannot be real, if we have no choice. He knew that we could learn to love only if we are free. Even our love for God must be freely given. He will never force you to love Him. So God, creating us as the object of His love, gave us a free will to love or not to love, to respect or not to respect. He even gave us the freedom not to love Him.

I am confident our Founding Fathers understood their faith in these very terms. They understood that the great loving heart of God was grieved when His children chose in the free will that He Himself had given them, to hate Him, to despise Him, to sin against love. But they also understood that God continued to love, that He continued to be patient with His rebellious children, that He had faith that eventually love would win them over. And our forefathers said, to the extent possible, we will model this government upon the principles of our faith, the principle that we will allow our people the free will to choose, to choose to love or not to love, to care or not to care, to respect or not to respect, and we will have the faith to believe that in their freedom they will choose to love. But, in any case, we will not demand it, we will not command it; we will have faith in love winning the hearts of our people.

This issue before us this week goes to the heart of that fundamental belief of allowing free will with regard to the issue of respect and love.

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Of course there are limitations upon the individual citizens' free will with respect to the endangerment of the safety, or health, or welfare of our fellow citizens, but these issues do not touch upon the heart of this matter which is criminalizing the manner in which an individual chooses to differ with his or her government.

Do we want to criminalize an act of free will when it comes to dissent against the Government? Do we really believe that Government can legislate love and respect? Remembering that the most precious right any American has is the right to speak out against the Government when they feel in their hearts that Government is no longer responsive to their needs.

It is only the right to dissent which keeps the Government in line and when that right of the citizen is diminished, then the power of Government to control grows proportionately.

However, those who propose this amendment will say, there are a hundred ways to show your dissatisfaction with the Government.

You can march, you can show up at a town meeting and blast your Congressperson, you can organize rallies, you can write letters, you can vote.

You do not have to desecrate the flag to show your disagreement, and if you do, we are going to punish you.

But what if a citizen is so in disagreement with this Government over an action it has taken which he feels is morally and ethically wrong and he chooses to emphasize that disagreement in the most emphatic way he knows how, not by the sacrifice of a few hours time marching or writing a letter or going to a town meeting, but by taking the most precious possession he owns, the American flag, and sacrificing it at the feet of his Congress in protest of his Government?

The question is, Shall we limit dissent against an overbearing Government to just those ways that do not matter much, to just those ways of which the Government approves?

Justice Jackson wrote words especially relevant here in Board of Education versus Barnett in 1943. He said, and I quote:

> The case is made difficult not because the principles of its decision are obscure but because the flag involved is our own. Nevertheless, we apply the limitations of the Constitution with no fear that freedom to be intellectually and spiritually diverse or even contrary will disintegrate the social organization. Freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order. If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not occur to us.

This principle of sacrificing that which is most precious occurred to me for the first time as a young man when I was growing up. I asked the pastor in my church "Why did God have to sacrifice the most precious thing he owned, his Son, as a protest against sin, so we may be forgiven? Why could he not have sent something that was not so precious, a cow, a goat, a bull, something else? Why was it necessary to sacrifice his most precious possession?" The pastor said to me "Because sacrificing something less precious would not have gotten the job done."

I believe it should be the purpose of the flag, as it is the Constitution, to invite respect and love, but not to command it, because that violates the free will of the individual and love and respect not freely given cannot be real.

It is only the insecure that demands and commands love. That is why dictators all over the world must have armies to keep them in power. But do their people really love a government which demands their respect at the point of a gun? Have the events in Eastern Europe the last few years taught us nothing?

America is secure, not because we have an army to defend the Government, but because we have a Constitution, a Bill of Rights, to defend the people against the Government, but because we have a Constitution, a Bill of Rights, to defend the people against the Government.

We will remain secure not by suppressing the free will of the people, regardless of what national or political purpose we believe that serves, but by allowing the free will of every single citizen to love or not to love.

If a country is big enough to say to its people, "I love you and I want you to love me but I give you the right not to love if that's what you choose. I'm never going to stand over you with a machine-gun in my hand and force you to care for me, even though it is your care that I need. You are free to love or not to love, to care or not to care, to respect or not to respect."

If a country is that big in its heart, that secure in its being, that loving in its respect for its own people, what choice do you think the people are going to make, to love or not to love?

We have nothing to fear. Neither America nor the flag is in any danger, as long as the precious Bill of Rights, which gives both their meaning and purpose, stays as it has for the past 200 years, unamended. Listen to the words included in the first amendment one more time; Congress shall make no law abridging the freedom of speech.

In 1990, when I was struggling with the previous flag amendment vote, I wrote this piece of prose which I called "Family Matters."

> Glenn?
>
> Yes?
>
> It's God.
>
> Yes?
>
> Still struggling?
>
> Yes.
>
> What's the problem?
>
> The problem is I'm nearly 45 years old, and I'm still filled with questions about purpose and meaning and who you are. Who are you anyway?
>
> I'm love. Unconditional love.
>
> Who am I?
>
> You're the object of my love. I created you because I needed you. Love must have others upon which to lavish itself. It creates only that it may love more and I love all of my creation.
>
> What's my purpose for being then?
>
> To learn to love unconditionally. To learn to love me and others in the same way I love you.
>
> Why should I have to learn that? You're God. Why didn't you just create me in such a way that I loved you automatically?
>
> Because love cannot be commanded. How can I be sure you really love me, or your neighbor, if you have no choice? I created you to be free, free to choose, because it is only in your freedom that you can truly learn to love.
>
> But what if I choose not to love you?
>
> That is the risk love takes. It is always the hope of love that the one upon whom love spends itself will freely choose to return that love. But in any case, it can never demand love be returned.
>
> What will you do then if I choose not to love you.
>
> I will continue to love you. I will wait. I will trust. Love never fails.
>
> Glenn?
>
> Yes.
>
> It's Thomas.
>
> Yes?
>
> You walked over to my memorial last night.
>
> Yes.
>
> Why?
>
> Because I'm struggling with a decision on a constitutional amendment to alter the Bill of Rights, and I need some help.
>
> What's the problem?
>
> Some people burned our flag and the country's upset. The President and several members of Congress want to forbid the practice.
>
> What do you want to do?
>
> I don't know. I'm torn. I'm a history teacher. I've taught the Bill of Rights and the Constitution to hundreds of young people. I've emphasized the importance of those freedoms that you and others penned in that precious document. I've told those children that these freedoms cannot be compromised. But now we have this issue with the flag. I love the flag. It symbolizes all those freedoms the Bill of Rights guarantees. Couldn't we make just this one exception? Couldn't we forbid just this one way of dissent? Couldn't we pass just this one amendment?
>
> Would you be willing to pass a second constitutional amendment forbidding the burning of the Bill of Rights?
>
> No, that's not an issue. Nobody thinks about the Bill of Rights. We see the flag a hundred times a day. It's so visible.
>
> You mean the symbol has become greater in the mind of the people than the substance behind the symbol? How did that happen? You were a teacher, not to mention a State Senator and now a Congressman.
>
> Well, what do I do now?
>
> Maybe you start teaching again, as a Congressman. And trust the people to understand. It's the only way to insure that you leave your children no less freedom than we left you.
>
> Dad.
>
> Yes.
>
> I hate this place.
>
> Why?
>
> For lots of reasons. Your stupid rules that say I have to be in by midnight. You won't buy me a car. I'm sick of church every week and it's silly activities. There's a lot more. I . . .
>
> But we feel those things are best for you. It's only because we love you that . . .
>
> Well, I don't love you. Right now I don't love you at all. As soon as I'm eighteen I'm out of here.
>
> Glenn?
>
> Yes.
>
> What do we do?
>
> We remember the proverb, "Bring up a child in the way he should go and when he is old he will not depart from it."
>
> Yes.
>
> We love. We wait. We trust.
>
> Are you sure?

Well, I have decided—I am sure. I am sure the American people love this country enough to be able to look past the surface nature of this debate and examine its real meaning. The American people, given the chance, will show they love this country, and there is no need to force them to do it by changing the very document that insures our freedom and invites that love.

And this is the truth. For over 200 years now the faith of our Founding Fathers has been justified because we are still the freest Nation on the face of the Earth and every country in the world yearns for the freedoms in the Bill of Rights.

Every nation has a flag, but only America has a Bill of Rights. For over

200 years now neither the Supreme Court nor the Congress of this Nation has seen fit to change even one small letter in this precious Bill of Rights.

Yes, it is true we have gone through periods of time when rebellious children in disrespect for the great goodness of this country have shown their contempt. They march, they cry injustice, some burn the flag, some join the Communist Party.

In the 1950's, people demanded a constitutional amendment to forbid the Communist Party in this country. In the 1960's and 1970's there were flags burned all across America in the civil rights and Vietnam war protests, and people demanded then a constitutional amendment to protect the flag. Today there are more flags flying in America than ever before in our history. The Communist Party is not even on the ballot in most States, and gets less than one-half of 1 percent in the States where it is on the ballot.

In the last several years, we have had a handful of people out of 260 million arrested for desecrating the flag. Some are demanding now another constitutional amendment to amend the Bill of Rights, to demand that we show respect by not allowing a form of disrespect. The Supreme Court said no, and Congress agreed. I was one of the Members of Congress that agreed.

I believe our Forefathers would have said "Leave them alone. If they are desecrating this flag out of meanness or ill will, rather than honest differences with their own Government, they will reap their own reward. They cannot destroy the Bill of Rights by destroying the symbol for the freedoms the Bill of Rights gives us. Their ideas will never match up to freedom, no matter what they are.

"Leave them alone. The ignorance of their act will show the bankruptcy of their ideas. However, if you take away their free will, even to show disrespect, you will do more injustice to the principles upon which this government was formed than they ever could.

"Just as we in our sins against the Creator end up bankrupt by our rebellion, they will end up the same way in their sins against the Nation. Have faith. Have faith that love and freedom will win. Love never fails."

If we could command respect by the law, we would not need faith, but our Forefathers said that faith will be the foundation of our freedoms, the faith that people, because they are free, will in the end choose to be responsible.

This is the history book from which I taught the principles of Government the Constitution, and the Bill of Rights. This is my Bible, upon whose words I have staked by life.

This Fourth of July, because I will do this week what I think is consistent with my faith, Old Glory for me personally will fly higher and brighter than ever before. God bless America, God bless the Bill of Rights, and God bless our flag.

ON COMPACT-IMPACT AID

The SPEAKER pro tempore (Mr. GOODLATTE). Under a previous order of the House, the gentleman from Guam [Mr. UNDERWOOD] is recognized for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, I wish to bring to the attention of this body an issue which combines all of the worst elements of a failed Federal policy in which immigration with huge unfunded mandates and which stands as an exemplar of how to make and break a promise. Mr. Speaker, I am speaking of the Federal Government's failure to compensate the people of Guam for expenses incurred as a result of a treaty we—as the people of Guam—had no part in shaping.

Mr. Speaker, do Members of this body or the citizens of this country know that there are countries in this world, independent nations which have free and unrestricted access to this country?

Mr. Speaker, do Members of this body or the citizens of this country know that there are nationals of other countries who can walk through immigration check points with only an identification card; with no visa, with no passport, with no restriction on their movement or time of stay?

Mr. Speaker, do Members of this body or the citizens of this country know that there are citizens of other countries who can come into the United States and work, receive public assistance and other benefits available to citizens and permanent residents apparently without restrictions?

It is true that citizens of the newly formed countries of the Republic of the Marshalls, the Federated States of Micronesia and the Republic of Palau—all in free association with the United States—can come and have come to the United States, primarily to the State of Hawaii and the Territory of Guam and the Commonwealth of the Northern Marianas. And many have come to work and be productive participants in the economy.

But there is the matter of the Federal Government making a commitment to free access by foreign nationals via a treaty which falls disproportionately on local governments like that of Guam. This is not to many areas of the country where a similar situation has resulted in what we have labeled "unfunded mandates."

This is a serious enough situation, but in the case of Guam—it is far more egregious in its negative impact because of our small size and limited population. And in terms of the issue of the unfunded mandates, the commitment was not made verbally or through exchanges of letters by the Federal Government to help Guam in recovering from the costs involved in this migration. It was authorized in statute passed by this body in Public Law 99–239.

Public Law 99–239, section 103(e)(6) reads:

> There are hereby authorized to be appropriated for fiscal years beginning after September 30, 1985, such sums as may be necessary to cover the costs, if any, incurred by the State of Hawaii, the territories of Guam and American Samoa, and the Commonwealth of the Northern Mariana Islands resulting from any increased demands placed on educational and social services by immigrants from the Marshall Islands and the Federated States of Micronesia.

We call this issue compact impact aid—the assistance due local governments in consideration of the financial impact of the Compacts of Free Association. Guam, due to its proximity, has received the greatest share of this immigration. Since the treaties went into effect, we now estimate that 6 percent of the total population of Guam is from these freely associated states. This entirely legal immigration would proportionately number 15 million persons of the entire U.S. population. And what is more startling is that is entirely legal; a process which only requires an identification card.

The total cost to the Government of Guam since its inception is in excess of $70 million. The Guam Memorial Hospital estimates an impact of $750,000 in costs in fiscal year 1994, and $2.55 million since 1986 to the Medically Indigent Program due to compact immigrants. Public housing assistance cost Guam $2 million in fiscal year 1994 and $7.5 million since 1986. I have also heard reports from one elementary school principal who must devote three classrooms, with teachers and aides, just to deal with the overflow of students who show up on our doorstep.

The total reimbursement given to Guam based on the law has been $2.5 million.

This is all that has been given to Guam in compensation for this dramatic impact on our society and educational system. Mr. Speaker, given this legacy of the Federal Government's seeming inability to make good on its promises, we should ask the questions, What is Guam asking for in the Interior appropriations and what is Guam getting in the Interior appropriations?

These are easy questions. Guam is asking only that the Federal Government start living up to its commitment by putting in $4.58 million that the administration requested for fiscal year 1996. Guam is not asking for Government assistance, Guam is not asking for special projects, Guam is only asking for a downpayment of a long overdue bill.

And what is Guam getting? Well, the answer is simple. Currently, the Interior budget is giving Guam zero, nothing, nada, tayá—no money in whatever language you wish to use. It is time to begin resolving the finances of this issue.

But this issue cannot end here. We must take a look at collaborative solutions with the Federal Government, the Government of Guam, and the surrounding nations to clarify the intent of the right to freely migrate as it was originally negotiated. No one saw these consequences at the time of negotiation. No one asked Guam what would happen if unrestricted immigration became Federal policy. And apparently, very few Members of Congress seem to remember the commitments made to Guam to fund this Federal policy.

We will have the opportunity to correct this situation. We will have the chance to deal with this in a way which does the right thing for a patient people, and which fulfills a commitment.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ROHRABACHER) to revise and extend their remarks and include extraneous material:)

Mr. UNDERWOOD, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ROHRABACHER) and to include extraneous matter:)

Mr. STOKES.

Ms. PELOSI.

Mr. SKELTON.

Mr. HOYER.

Mrs. KELLY.

Mr. FORBES.

(The following Member (at the request of Mr. UNDERWOOD) and to include extraneous matter:)

Mr. ANDREWS.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate has passed bills of the following titles, in which the concurrence of the House is requested:

S. 440. An act to amend title 23, United States Code, to provide for the designation of the National Highway System, and for other purposes.

S. 962. An act to extend authorities under the Middle East Peace Facilitation Act of 1994 until August 15, 1995.

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 4) "An act to grant the power to the President to reduce budget authority," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. ROTH, Mr. STEVENS, Mr. THOMPSON, Mr. COCHRAN, Mr. MCCAIN, Mr. GLENN, Mr. LEVIN, Mr. PRYOR, Mr. SARBANES, Mr. DOMENICI, Mr. GRASSLEY, Mr. NICKLES, Mr. GRAMM, Mr. COATS, Mr. EXON, Mr. HOLLINGS, Mr. JOHNSTON, and Mr. DODD, to be conferees on the part of the Senate.

ADJOURNMENT

Mr. UNDERWOOD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 25 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, June 27, 1995, at 10:30 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. STUMP: Committee on Veterans' Affairs. H.R. 1565. A bill to amend title 38, United States Code, to extend through December 31, 1997, the period during which the Secretary of Veterans Affairs is authorized to provide priority health care to certain veterans exposed to Agent Orange, ionizing radiation, or environmental hazards; with an amendment (Rept. 104–158). Referred to the Committee of the Whole House on the State of the Union.

Mr. KASICH: Committee of Conference. Conference report on House Concurrent Resolution 67. Resolution setting forth the congressional budget for the U.S. Government for fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002 (Rept. 104–159). Ordered to be printed.

REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

[Submitted June 23, 1995]

H.R. 1655. Referred to the Committee on Government Reform and Oversight for a period ending not later than July 19, 1995, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(g), rule X.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of rule X the following action was taken by the Speaker:

[Submitted June 23, 1995]

H.R. 1655. Referral to the Committee on National Security extended for a period ending not later than July 19, 1995.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 359: Mr. NEY and Mr. LEWIS of California.

H.R. 899: Mr. BASS.

H.R. 927: Mr. BURR and Mr. ANDREWS.

H.R. 972: Mr. SPRATT and Mr. ACKERMAN.

H.R. 995: Mr. SOLOMON.

H.R. 996: Mr. SOLOMON.

H.R. 1006: Mr. FILNER and Mr. FLAKE.

H.R. 1073: Mr. LINDER, Mr. WYNN, Mr. BALDACCI, Mr. STUDDS, Mr. CLAY, Mr. POMEROY, Mr. TRAFICANT, and Mr. YATES.

H.R. 1074: Mr. HASTINGS of Florida, Mr. DICKS, Mr. WYNN, and Mr. TRAFICANT.

H.R. 1100: Ms. LOFGREN.

H.R. 1299: Mr. LUTHER.

H.R. 1482: Mr. SANDERS.

H.R. 1483. Mr. SANDERS.

H.R. 1608: Mr. WAXMAN.

H.R. 1749: Mr. SHAYS, Mr. JACOBS, Mr. GOSS, Mr. NEUMANN, Mr. DEUTSCH, and Mr. VISCLOSKY.

H.R. 1802: Ms. LOFGREN.

H.R. 1834: Mr. BARTON of Texas, Mr. BONO, Mr. COX, Mr. CRAPO, Mr. DREIER, Mr. LATHAM, Mr. LIVINGSTON, Mr. MCCRERY, Mr. MILLER of Florida, Mr. PARKER, and Mr. TAYLOR of North Carolina.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

[Omitted from the Record of June 22, 1995]

Petition 4 by Mr. BRYANT on House Resolution 127: William P. Luther, Karen McCarthy.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1868

OFFERED BY: MS. ROS-LEHTINEN

AMENDMENT NO. 71: Page 16, line 24, strike "$595,000,000" and insert "$565,000,000".

H.R. 1868

OFFERED BY: MR. WILSON

AMENDMENT NO. 72: On Page 78 following line 6 insert a new general provision:

"None of the funds in this Act may be used to provide assistance to the Government of Armenia if it is made known to the President that the Government of Armenia is participating in the blockade of Nakhichevan.

H.R. 1868

OFFERED BY: MR. WOLF

AMENDMENT NO. 73: Page 19, after line 8, insert the following:

(k) Of the funds appropriated under this heading and under the heading "Assistance for Eastern Europe and the Baltic States", not to exceed $30,000,000 shall be made available for police training and exchanges, and investigative and technical assistance activities related to international criminal activities.

H.R. 1905

OFFERED BY: MR. ACKERMAN

AMENDMENT NO. 10: Page 2, line 18, strike "$129,906,000" and insert "$130,156,000".

Page 20, line 8, strike "$362,250,000" and insert "$362,000,000".

Page 20, line 25, strike "$239,944,000" and insert "$239,694,000".

EXTENSIONS OF REMARKS

OPPOSITION TO CLINTON ADMINISTRATION MOVES TO RECOGNIZE THE COMMUNIST GOVERNMENT OF VIETNAM

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 26, 1995

Mr. FORBES. Mr. Speaker, I rise today to recognize our responsibility as a nation to account for all of those who have bravely served our country, especially in time of war. But to date, there are still over 2,200 unaccounted for POW's and MIA's in Indochina. And that is why I am so dismayed at the Clinton administration's rash drive to recognize Vietnam. Our country should not hastily recognize and normalize relations with the Communist Government of Vietnam without the fullest possible accounting of those who selflessly put their lives on the line for our great Nation. We should not let their efforts be forgotten. The families and friends of lost service members deserve to know the true fates of their loved ones.

The cooperation of the Vietnamese Government on the investigation of the fate of POW's and MIA's has been insufficient to warrant rewarding them with their cherished recognition. In addition, let us remember who we are dealing with here. This is an unelected illegitimate, Communist dictatorship with a consistent record of duplicity and brutality. Year in and year out, the Government of Vietnam ranks right near the top of the list of human rights violators in the world.

This is the same regime that lied to us about how many men they were holding at the time of the Paris Peace accords in 1973. The same regime that began violating those accords immediately and then launched a massive, conventional invasion of South Vietnam in 1975, armed with Soviet tanks and a vote of confidence from the United States Congress. The same regime that gave us the boat people and reeducation camps. And it is important to remember that, despite their subsequent split, North Vietnamese soldiers fought side-by-side with the genocidal Khmer Rouge in Cambodia before 1975 and helped immensely to bring those murderers to power.

Mr. Speaker, I categorically oppose the moves by President Clinton to normalize relations with and recognize the Communist Government of Vietnam. America should not bestow this honor on such a heinous and brutal government that has done so much harm to so many people and which may still be doing harm to Americans. The American Government has a responsibility to use all of its diplomatic might to further investigate the fate of our missing sons and daughters. We have not yet exhausted that might and recognizing Vietnam now will take away our last bit of leverage with that government.

We absolutely must get the fullest possible accounting of POW's and MIA's in Indochina so that their families and friends can finally be put at ease with the knowledge of the fate of their loved ones, and to ensure that no one was, God forbid, left behind.

I doubt we will ever get that if we recognize Vietnam and I implore the administration to step back from this unwise course.

SALUTE TO SHALIMAR ABIGAIL ORDONEZ FOJAS

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 26, 1995

Mrs. KELLY. Mr. Speaker, at this time I would like to recognize the academic achievements of Shalimar Abigail Ordonez Fojas. This talented young woman won third prize in the 1995 Young Scholars Contest sponsored by the New York Council for the Humanities.

Started in 1993 by the council, this essay contest is an effort to promote an awareness of the humanities at the secondary school level of education. Each student is required to write a research paper with a humanitarian theme which changes on a yearly basis. This years theme, entitled "A Life Worth Knowing," was dedicated to the life of a historical figure.

Shalimar Abigail Ordonez Fojas, a student at Brewster High School in New York, wrote an essay that embodied the life of Charles Lamb. Her essay titled "An Anatomy of Selflessness: Charles Lamb's Lifelong Sacrifice," proved to the council that Shalimar had carefully researched and learned to understand the significance people have in shaping their own worlds. The prize, $1,250, hopefully will be used to further Ms. Fojas' education.

Mr. Speaker, I close with a salute to Shalimar Abigail Ordonez Fojas for her intellectual achievements, and the bright promise that her future holds.

RECOGNITION OF EDWARD COX

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, June 26, 1995

Mr. HOYER. Mr. Speaker, it is with great pleasure that I rise today to herald the accomplishments of my good friend and community leader, Mr. Edward V. Cox. On June 30 Ed Cox will retire from his position as the county administrator of St. Mary's County, MD. Ed's retirement will mark the end of 22 years of public service to St. Mary's County. As a resident of St. Mary's County, I know that Ed's departure will be a great loss for his colleagues and, most importantly, the citizens who have been well served by his leadership.

As the administrator of St. Mary's County, Ed established an extraordinary record of fairness, decency, and a faithfulness to the interests of all of our residents. During his 22 years of service, Ed has served as the administrator to six different boards of county commissioners. He led St. Mary's County through periods of great turmoil and unprecedented growth. His work in the community has been consistently guided by a commitment to excellence and an unwavering loyalty to the public good.

Ed is an advocate of community participation in government. He worked tirelessly to provide the citizens of our county with access to the decisionmaking process. Time and time again, he has found the means and served as a catalyst for improvement in St. Mary's County.

It is impossible to list all of the programs and initiatives that Ed Cox has championed in his 22 years of service. His work is respected by our entire community and he has brought a level of integrity to public service that is unmatched. Ed Cox will be sadly missed.

TRIBUTE TO STEVE SILVER

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, June 26, 1995

Ms. PELOSI. Mr. Speaker, I rise today to express my personal sense of loss, and the loss of the entire San Francisco community, at the passing of Steve Silver. A master showman, a philanthropist of boundless heart, and creative genius, Steve passed away this Monday.

It is difficult to distill the life and journey of Steve Silver in any way that adequately describes his impact upon San Francisco. A San Francisco native, Steve's artistic and creative talents were readily apparent to all who knew him. On a budget of $900 and a cast of 11, on June 7, 1974, the first "Beach Blanket Babylon"—complete with sand—opened in San Francisco's famed North Beach. For over 20 years—making it the longest running musical revue in the Nation—"Beach Blanket Babylon" has packed over 3 million fans in over 7,700 shows.

Queen Elizabeth, President Reagan, countless of the famous and not-so-famous, and tourists from every part of the globe have been enchanted and captivated by Silver's magical cabaret at Club Fugazi. Topical, over-the-top, hysterically funny, with puns, campy dialog, double-entendres, outrageous costumes, and even more outrageous, imaginative, and gigantic hats, all thrown around like loose change, "Beach Blanket" is a cherished San Francisco institution.

Steve's success with "Beach Blanket" was poured back into the community of his birth.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

He was responsible for construction of the main portal at the AIDS Memorial Grove in Golden Gate Park. Even his last birthday this past February—his 51st—Steve used the occasion to celebrate the dedication of the new portal to the Memorial Grove. He gave generously to Project Open Hand, the AIDS Emergency Fund, the High School of the Arts, and California Pacific Medical Center, the main library, and the new Museum of Modern Art. The site that Steve chose for his memorial, Grace Cathedral, has a children's garden he donated.

One American theologian wrote that "Humor is a prelude to faith and Laughter is the beginning of prayer". For those who knew Steve Silver, his optimism in the goodness of mankind, the role that merriment and joy played in his life, and his good works on behalf of the community all stemmed from his unshakable belief in the power of humor and laughter to transform the world. And the biggest recipient of his faith were the people of his beloved city, San Francisco.

At Steve's memorial service, a poem written by Glenn Rifkin was part of the program. At the request of Jo Schuman Silver, Steve's wife and best friend, I have enclosed its text, which beautifully captures Steve's legacy.

Mr. Speaker, Steve Silver's life was an enormous gift to the people of San Francisco and this Nation. As San Francisco mourns him, let us join in sending condolences to his wife, Jo, his brother Roger, his nieces Leigh and Gillian, nephew Nicholas, and his sister-in-law, Kate Silver. Let us also join the San Francisco community in paying tribute to this master showman, philanthropist, a purveyor of life and laughter, Steve Silver.

FOR STEVE—JUNE 13, 1995

They called to say Steve Silver died,
The stage was dark, the city cried.
And laughter faded to the Bay,
a stillness cast upon the day.

The gentle soul of evenings spun,
had passed as if he'd just begun.
And decade songs that echo still,
Across the space of ever will.

For what he'd touched was deep and strong,
a chance to hear a different song.
A chance to dance upon a cloud,
to know it and to say it loud.

The gift he gave will long survive,
the music stands as if alive,
the laughter rolling like a quake,
the deal he knew he had to make.

He leaves but never shuts the door,
he leaves us wanting all the more,
And to the shores of Babylon,
his dreams will flourish ever on.—Glenn Rifkin, New York Times.

70TH ANNIVERSARY OF THE INCORPORATION OF CLEMENTON

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, June 26, 1995

Mr. ANDREWS. Mr. Speaker, I rise today to recognize a significant milestone of an outstanding community, the borough of Clementon. On February 13, 1925, the New Jersey State Legislature enacted legislation incorporating the borough of Clementon in the county of Camden. This year the borough recognizes its 70th anniversary. In this year of celebration, I commend the "Village of People" for its resilience and diversity.

Timber Creek has been central to the history of Clementon. It is the creek that drew the Armewamex Indians to this area as a campground in the times prior to the settlement of Europeans. In the prerevolutionary war days of the early 18th century, Clementon was the site chosen by Andrew Newman to dam Timber Creek to harness power for Newman's Mills in 1735. This dam formed the body of water now known as Clementon Lake.

The Industrial Revolution, at the beginning of the 19th century, brought Samuel Clement from Haddonfield to the settlement. Mr. Clement purchased the mill properties along with the surrounding properties, including a glass works, the third such facility in New Jersey. During the mid and late 19th century Clementon grew rapidly due to the influx of hundreds of new families which participated in the mills, glassworks, and farming of the area. During this time of growth Walt Whitman was a frequent visitor to the Grist Mill and Indian Spring.

By the beginning of the 20th century Clementon Township was the home of a new railroad line, several taverns, and an amusement park, Clementon Lake Park, which was serviced by a trolly that brought visitors from Philadelphia and Camden. Clementon Park was one of the largest and most modern facilities in the country at the time. Many of our grandmothers and grandfathers met at this park.

The borough of Clementon became independent in 1925 and experienced another growth boom at the end of World War II. Many veterans settled in the area choosing to locate their families in the smaller community of Clementon and utilize the excellent transportation system to travel to work in Philadelphia or Camden.

I am honored to represent the proud working tradition that is Clementon. Today, the diversity and strength of the town is evident in the close-knit business community, strong religious community, excellent schools, and active civic organizations of Clementon. On its 70th anniversary Clementon is a town which embraces the gifts of young and old. The town continues to benefit from an entertainment economy: The Clementon Water Amusement Park is now a primary summer activity for residents and visitors alike. Clementon Towers, a senior citizens residence, is a local landmark and center of history and civic involvement within the town.

In this anniversary year, I commend the town and people of Clementon for their progress and accomplishments. With continued civic involvement by all residents, Clementon will continue to grow and thrive. I would also like to recognize John H. Fisher, Jr., a Clementon resident and historian whose extensive work on the history of Clementon I have relied upon heavily for these remarks. Happy anniversary.

A SPECIAL TRIBUTE TO MAX RATNER, CLEVELAND BUSINESS LEADER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, June 26, 1995

Mr. STOKES. Mr. Speaker, the Cleveland community recently mourned the passing of a distinguished member of the business community. We were saddened at the passing of Mr. Max Ratner. This outstanding individual was the chairman of Forest City Enterprises, Inc.; he was a major scholarship and arts contributor; and he was a leading benefactor to the state of Israel. With his passing, the Greater Cleveland area has lost a staunch business leader and advocate for the city. Many of us also mourn the loss of a close, personal friend. I want to share with my colleagues and the Nation some information regarding Max Ratner.

Max Ratner came to the United States in 1920 from the city of Bialystok, in old Russia. He came to America at the encouragement of his older brother, Charles. Other family members followed as the Ratners settled on Cleveland's east side. Max attended Glenville High School and earned a law degree from Cleveland-Marshall Law School, which is now part of Cleveland State University.

Mr. Speaker, the birth of Forest City Enterprises, Inc., can be attributed to the hard work and dedication of the Ratner family. The Ratners invested in a lumber store in the 1920's. From the purchase of another facility, Rockport Lumber Co. in 1939, and the subsequent expansion of building activities, was born Forest City Enterprises. With the strong leadership of Max Ratner, Forest City Enterprises has grown to become one of Cleveland's most successful businesses. The Greater Cleveland area has benefited from shopping centers, apartment buildings, and other home-building projects undertaken by Forest City. Max Ratner and his family can also be credited with the expansion of the Cleveland population to suburban areas including Maple Heights, Parma, Willowick, and Brook Park.

Mr. Speaker, Max Ratner not only exhibited a concern for the welfare and economic state of residents of the Cleveland community, but he was committed to helping those in other parts of the world. Max Ratner was one of the giants of the North American Jewish community. He visited the State of Israel more than 150 times, and was a driving force in the effort to help the State build its economy. In recognition of Max Ratner's longstanding efforts, last year Hebrew University in Jerusalem conferred an honorary degree upon him.

Mr. Speaker, in an editorial which appeared in the Plain Dealer newspaper, Max Ratner is described as "a man who was hard-working, strong, kind and honorable." Those words are accurate in describing a man who devoted his life to helping others. I join the Cleveland business community and many others in expressing our deepest sympathy to the Ratner family. We pause today to pay tribute to Max Ratner, a giant who will never be forgotten.

SALUTE TO DAVID MATSA

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, June 26, 1995

Mrs. KELLY. Mr. Speaker, at this time I would like to recognize the academic achievements of David A. Matsa. This talented young man won an honorable mention in the 1995 Young Scholars Contest sponsored by the New York Council for the Humanities.

Started in 1993 by the council, this essay contest is an effort to promote an awareness of the humanities at the secondary school level of education. Each student is required to write a research paper with a humanitarian theme which changes on a yearly basis. This years theme, entitled "A Life Worth Knowing," was dedicated to the life of a historical figure.

David A. Matsa, a student at White Plains High School in New York, wrote an essay that embodied the life of Louis D. Brandeis. His essay, titled "Louis D. Brandeis: Social Reformer," proved to the council that David had carefully researched and learned to understand the significance people have in shaping their own worlds. The prize, $500, hopefully will be used to further Mr. Matsa's education.

Mr. Speaker, I close with a salute to David A. Matsa for his intellectual achievements, and the bright promise that his future holds.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, June 27, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 28

9:00 a.m.
Armed Services
Acquisition and Technology Subcommittee
Closed business meeting, to mark up those provisions which fall within the subcommittee's jurisdiction of a proposed National Defense Authorization Act for fiscal year 1996.
SR–232A

9:30 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD–366

Finance
To hold hearings to examine ways to control the cost of the Medicaid program, focusing on the States's perspectives.
SD–215

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD–430

Indian Affairs
To hold hearings on S. 814, to provide for the reorganization of the Bureau of Indian Affairs.
SR–485

10:00 a.m.
Banking, Housing, and Urban Affairs
Business meeting, to mark up S. 883, to amend the Federal Credit Union Act to enhance the safety and soundness of federally insured credit unions, and to protect the National Credit Union Share Insurance Fund, and proposed legislation to extend and reauthorize the Defense Production Act, and to consider pending nominations.
SD–538

Judiciary
Immigration Subcommittee
To hold joint hearings with the House Committee on the Judiciary's Subcommittee on Immigration and Claims to review a report of the U.S. Commission on Immigration. 2141 Rayburn Building

1:00 p.m.
Armed Services
Closed business meeting, to mark up a proposed National Defense Authorization Act for Fiscal Year 1996, and to receive a report from the Senate Select Committee on Intelligence on the Intelligence Authorization Act for Fiscal Year 1996.
SR–222

JUNE 29

9:00 a.m.
Armed Services
Closed business meeting, to continue mark up of a proposed National Defense Authorization Act for Fiscal Year 1996, and to receive a report from the Senate Select Committee on Intelligence on the Intelligence Authorization Act for Fiscal Year 1996.
SR–222

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nominations of Robert Talcott Francis II, of Massachusetts, and John Goglia, of Massachusetts, each to be a Member of the National Transportation Safety Board, and Robert Clarke Brown, of New York, to be a Member of the Board of Directors of the Metropolitan Washington Airports Authority.
SR–253

Finance
To continue hearings to examine ways to control the cost of the Medicaid program, focusing on the program's historical perspective.
SD–215

Foreign Relations
To hold hearings on the nominations of John Todd Stewart, of California, to be Ambassador to the Republic of Moldova, Michael William Cotter, of the District of Columbia, to be Ambassador to the Republic of Turkmenistan, A. Elizabeth Jones, of Maryland, to be Ambassador to the Republic of Kazakhstan, Victor Jackovich, of Iowa, to be Ambassador to the Republic of Slovenia, and John K. Menzies, of Virginia, to be Ambassador to the Republic of Bosnia and Herzegovina.
SD–419

Labor and Human Resources
Aging Subcommittee
To hold hearings on proposed legislation authorizing funds for programs of the Older Americans Act.
SD–430

Small Business
Business meeting, to mark up S. 895, to amend the Small Business Act to reduce the level of participation by the Small Business Administration in certain loans guaranteed by the Administration.
SD–538

10:00 a.m.
Energy and Natural Resources
To hold oversight hearings with the Committee on Environment and Public Works on energy and environmental implications of the Komi oil spills in the former Soviet Union.
SD–366

Environment and Public Works
To hold oversight hearings with the Committee on Energy and Natural Resources on energy and environmental implications of the Komi oil spills in the former Soviet Union.
SD–366

Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings to review the friendly fire incident during the Persian Gulf War.
SD–342

2:00 p.m.
Energy and Natural Resources
Parks, Historic Preservation and Recreation Subcommittee
To hold hearings on S. 594, to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer.
SD–366

Environment and Public Works
Clean Air, Wetlands, Private Property, and Nuclear Safety Subcommittee
To hold oversight hearings on the Clean Air Act's inspection and maintenance program.
SD–406

JUNE 30

10:30 a.m.
Foreign Relations
To hold hearings on the nominations of David L. Hobbs, of California, to be Ambassador to the Co-operative Republic of Guyana, and William J. Hughes, of New Jersey, to be Ambassador to the Republic of Panama.
SD–419

JULY 11

10:00 a.m.
Veterans' Affairs
To hold hearings to examine options for compliance with congressional budget resolution (H.Con.Res. 67) instructions relating to veterans' programs.
SR–418

JULY 13

9:30 a.m.

Indian Affairs

To hold hearings on S. 479, to provide for administrative procedures to extend Federal recognition to certain Indian groups.

SR-485

POSTPONEMENTS

JUNE 29

9:30 a.m.

Small Business

To hold hearings to examine the future of the Small Business Investment Company program.

SD-538

SENATE—*Tuesday, June 27, 1995*

(Legislative day of Monday, June 19, 1995)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

The PRESIDENT pro tempore. Today's prayer will be offered by Commissioner Hodder, national commander of the Salvation Army.

PRAYER

The guest Chaplain, Commissioner Kenneth L. Hodder, national commander of the Salvation Army, offered the following prayer:

Let us pray:

Lord, at the beginning of this new workday, we ask for an enlarged capacity to care for others.

Help us to care—really care—for all those with whom we serve in this Chamber. Many of us are carrying personal and painful burdens of which others are unaware. So help us to work with each other with a gracious spirit of caring, one that reaches beyond the obvious and ministers to the hidden.

And help us to care—really care—for this Nation of others. Surely people matter most. Assist us, then, as we struggle to balance our ideas with others' aspirations, our causes with others' concerns, and our passions with others' needs.

We pledge to assist You in answering this prayer by our thinking, speaking, and doing this day.

And it is in Your strong name that we ask these things and offer ourselves. Amen.

PRIVATE SECURITIES LITIGATION REFORM ACT

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 240, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 240) to amend the Securities and Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

The Senate resumed consideration of the bill.

Pending:

Bryan amendment No. 1474, to restore the liability of aiders and abettors in private actions.

Boxer-Bingaman amendment No. 1475, to establish procedures governing the appointment of lead plaintiffs in private securities class actions.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The distinguished acting majority leader.

SCHEDULE

Mr. BROWN. Mr. President, this morning, the leaders' time has been reserved, and the Senate will immediately resume consideration of S. 240, the securities litigation bill. There will be 30 minutes of debate in relation to the pending Bryan amendment regarding aiding and abetting, to be followed by 30 minutes on the Boxer amendment regarding lead plaintiff.

At the hour of 10:15 this morning, there will be two stacked rollcall votes on or in relation to the pending amendments.

The Senate will stand in recess today from the hour of 12:30 p.m. to 2:15 p.m. for the weekly policy luncheons to meet.

Mr. President, at this time I suggest the absence of a quorum, and I ask unanimous consent that the time be divided equally.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

PRIVATE SECURITIES LITIGATION REFORM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1474

Mr. BRYAN. Mr. President, if I might inquire of the Chair, it is my understanding that on the Bryan amendment, there is a time agreement in which the distinguished chairman of the Banking Committee has 15 minutes allotted to him and the proponents of the Bryan amendment have 15 minutes; is that correct?

The PRESIDENT pro tempore. The Senator is correct.

Mr. BRYAN. Mr. President, I yield myself 8 minutes out of my allocated time.

Mr. President, for the benefit of my colleagues, for six decades, the foundation upon which public confidence in the American securities market has been built rests upon two fundamental premises: First, effective regulation by the Securities and Exchange Commission; second, the right of individual investors who have been defrauded to pursue a private cause of action against those wrongdoers.

Mr. President, I greatly fear that S. 240, as it is being processed through this Chamber, will, for all intents and purposes, emasculate that private cause of action, which has been so important in keeping the American securities market safe and sound and investor confidence high. Those are not just statements made by the Senator from Nevada. The former Chairman of the SEC, Mr. Breeden, the last Republican Chairman, made similar statements in testimony before the Banking Committee during his tenure. The current Chairman, Mr. Levitt, has also made that proposition.

The amendment before us seeks to correct a decision by the Supreme Court decided last year by a narrow 5-to-4 margin that wipes out liability for aiders and abettors.

Now, there has been much debate on the floor of the Senate about proportionate liability, joint and several liability, intentional misconduct, knowing misconduct, and reckless misconduct. None of those distinctions makes a whit of difference if this amendment is not granted, because under the current State of the law, no aider and abettor is liable under that theory, irrespective of his or her misconduct. Everyone is home free.

I cannot conceive of a public policy that would support that conclusion. And, indeed, the prime sponsors of this legislation have previously written—I refer to the distinguished Senator from Connecticut and the senior Senator from New Mexico—expressing their support for restoration of aider and abettor liability.

Interspersed throughout all of this debate has been a great antipathy to plaintiff's lawyers. I understand that antipathy and I do not, for a moment, doubt that there has been some misconduct, and some provisions in S. 240 deal with that misconduct. But let me point out that aiders and abettors are also lawyers, and if misconduct on the part of the plaintiff's bar ought to be addressed—as it ought to—under what theory of social or economic justice, can we assert that those who are part of the conspiracy itself—lawyers and accountants, primarily, and to some extent bankers—in effect, be given a blank check? If they did not sign their names to any of the statements, in effect, they have no liability.

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Now, is this theoretical? Is it esoteric? No. If the state of law at the time of the Keating actions—one of the most notorious securities frauds of this century—were in the form that it is today, here is what would occur. My colleagues will recall that Mr. Keating, the primary wrongdoer, was bankrupt. No recovery from him. Some $262 million were recovered as a result of the Keating fraud by private investors. Jeri Mellon, a retired woman who lives in Henderson, NV, a suburb of Las Vegas, who came back, most of her savings were lost as a result of the fraud. She joined with others similarly situated in a class action to recover money. They recovered $262 million.

If that action were brought today, because aiding and abetting is no longer a part of the law as a result of the Central Bank of Denver case—I might add, the Court, in deciding that case, said, look, we do not believe that the statute can be construed to apply to aider and abettor liability, but we sure as the devil believe that there ought to be liability. So this was not a value judgment made by the Court that aiders and abettors ought not to be available. Here are some of the aiders and abettors: Parker Milliken, Kay Sholer, Sidley & Austin, Michael Milken; $121 million of the overall value of $262 million would be wiped out if that action was filed today. So we are down now to $141 million.

Previously, I offered for the consideration of the Senate a recommendation shared by the SEC, by the State Securities Association, by every regulator, by consumer groups, by those charged with public finance responsibilities at the State and local government level, to extend the statute of limitations, which is currently limited to 1 to 3, to make it a 2-year to 5-year statute of limitations.

Had the action against Charles Keating been brought today, 20 percent of the class claims would have been barred because of this restricted statute of limitations. Another $28 million in recovery, wiped out.

These are people like the Jeri Mellons. I suspect that virtually every Member of this Senate has had individuals who lost money as a result of the Keating fraud.

The recovery is down $262 million, to $113 million. Joint and several liability: Under the provisions of S. 240, in order to be jointly and severally liable, you have to either have knowing misconduct or intentional misconduct. Reckless misconduct no longer does it.

Although I recognize a distinction can be made between the two of those, the amendment that Senator SARBANES and I sought to offer in one form or another, sought to make sure that if the primary violator is insolvent, that those who are guilty of reckless misconduct—it is not ordinary negligence, not simple negligence—if a Member of this Chamber goes out this evening, gets in his or her automobile, is involved in an accident and is negligent, that Member is responsible to the party to whom he or she has inflicted the injury. Not so with securities law. Only if they are guilty of reckless misconduct.

In effect, as a result of the changes we make in the joint and several liability, those who are proportionally liable pay only their share. It is estimated that another $67 million would be wiped out in terms of investor recovery if the Keating case were brought today. S. 240 also wipes out the Rico treble damages provision, and another $30 million.

So if the Keating case were brought today, with the state of the law as it exists on this morning as this debate continues, rather than $262 million recovered by innocent investors, many of whom lost their life savings—and a disproportionately large number, small, elderly, retired investors who had little likelihood of ever regaining their loss—$262 million of recovery would be reduced to $16 million.

Mr. President, I ask my colleagues, under what theory of social or economic justice do we want to do this? Sure, we want to get at the plaintiff's lawyers that file frivolous actions, and the enhanced provisions of rule 11 under the Federal Rules of Civil Procedure address that issue.

The amendment before the Senate would simply restore aiding and abetting liability. Zippo, no recovery at all. Intentional misconduct, knowing misconduct, reckless misconduct—not 1 cent could be recovered under a theory of aider and abettor liability under the state of the law today, unless the Bryan amendment is enacted.

May I inquire, I have used my time; how is the time being charged at this point?

The PRESIDING OFFICER (Mr. COVERDELL). The Senator has approximately 3 minutes remaining on his side.

Mr. D'AMATO. Mr. President, this is, admittedly, a very complex subject. We must distinguish between knowingly and intentionally having committed a fraudulent act and recklessly committing an act.

What is the difference between reckless conduct and intentional and knowing fraud? What standard of proof is there between gross negligence, negligence, and recklessness? These are not clear distinctions and it is because of these blurred distinctions that there has been a large body of case law, over the years, trying to make the definitions clear. This is particularly true in the area of reckless conduct; over the years a number of courts have given the interpretation that someone who was not the primary wrongdoer, but participated in the fraud and knowingly and substantially assisted in the fraud could be held liable. This does not seem to me to be reckless conduct but knowing fraud.

Courts have found, over the years, that a firm could be held fully liable for conduct which the average person would consider imprudent, negligent, or careless. Some circuit courts have recognized this so-called aiding and abetting liability as part of the recklessness standard.

Aiding and abetting liability holds the business community to an incredibly high standard, particularly when they can be held liable for damages that are far greater that any damage that they have caused. There is a real culprit to hold liable. The primary wrongdoer is somebody that has really committed fraud, who has practiced avarice and greed, who has wantonly and knowingly broken the law.

The Supreme Court decided that aiding and abetting liability applies to someone who is not the primary wrongdoer but participated in a fraud and knowingly and substantially assisted in the fraud. In the Central Bank of Denver case, the Court decided there was no aiding and abetting liability for private lawsuits involving fraud.

The Supreme Court did not believe that section 10(b) intended to cover aiding and abetting liability. Providing for aiding and abetting liability under section 10(b) would be contrary to the goals of this legislation.

This bill is aimed at reducing frivolous litigation. Even the Supreme Court recognized that expanding 10(b) to include aiding and abetting liability would lead many defendants to settle to avoid the expense and risk of going to trial.

The Supreme Court said, "Litigation under rule 10b-a presents a danger vexatiousness, different in degree and in kind, and would require secondary actors to expend large sums even for pretrial defense and the negotiation of settlement."

As I have said, aiding and abetting liability would require secondary actors—not the primary wrongdoer, the person who has committed the fraud—to expend large sums, even for pretrial defense, and the negotiation of settlement.

Indeed, I do not believe that just because people have made settlements that they were guilty of fraud or that it was right and proper that they were sued.

When 93 percent of the cases—and I know not all the defendants were brought in to these suits for aiding and abetting, I grant that—but 93 percent of the defendants settled. These aiders and abettors are people tangentially involved in the fraud; they are brought into the suits only because they were involved with a scoundrel—a Keating—who was deliberately breaking the law. Often these aiders and abettors are accountants who did not notice the fraud, but possibly should have, yet we would hold them liable as if they committed the fraud. The Supreme Court said last year that aiding and abetting liability did not belong in private lawsuits involving fraud.

Of course, if someone has knowingly, intentionally, misled investors or been involved in committing fraud, they are no longer just aiders and abettors, and can be held liable for their actions.

Under S. 240, people who commit fraud will be treated as primary wrongdoers, as the culpable party, and can be held jointly and severally.

Further, S. 240 grants the Securities and Exchange Commission express authority to prosecute cases against wrongdoers who knowingly aid and abet primary wrongdoers.

This issue is both very interesting and very complex. It is not easy. First, the circuit courts recognized aiding and abetting liability, then the Supreme Court decided there is no place in these lawsuits for this liability. Using the aiding and abetting liability to proceed under rule 10(b) with a lawsuit, which is what this amendment would do, would take us to a standard that the Supreme Court decided should not be applied. Again, I quote that this liability standard "presents a danger of vexatiousness, different in degree in kind and would require secondary actors to expend large sums, even for pretrial defense and negotiations of settlements."

This amendment would actually destroy a good part of what this legislation attempts to do in terms of keeping lawyers honest and protecting those people who did not commit fraud, but were associated with those who did. It is my belief that these firms, the so-called aiders and abettors, are only brought in to these suits because of their deep pockets. They are professionals; securities analysts, accountants, and bankers who are involved in some way with the fraudulent party. They get brought in to the lawsuits and have to spend millions of dollars defending themselves. And their lawyers tell them that there is a chance that "you may be held liable for the full amount." Why? Because when the name of a primary wrongdoer like Keating comes up, you are "guilty by association."

Any prudent lawyer would have to say that there is a chance you will be held liable if you were involved with a rogue—and there will be more rogues, make no mistake about it. I do not care what kind of legislation we pass here, there will be others who break the laws, who will do terrible things. It is not right that an accountant, law firm or securities broker is dragged in and linked to the fraud because they were asked to counsel and they gave some advice. They did not tell the wrongdoers to lie, they did not participate in fraud, but if they rendered some professional service, by virtue of their being linked with by that fraud they may be held liable by a jury. Do you think that a defendant is going to be able to establish clearly what is reckless conduct and what is not? The jury can find against them and then hold them for hundreds of millions of dollars in damages. That risk is why you have the incredible percentage of settlements.

You heard Senator DODD last evening explain how it was that a prominent firm, one of the big six accounting firms, did $15,000 worth of work, a contract to review something, and was then brought in to the suit. This accounting firm did defend itself and won the case, but in winning the case expended over $6 million. We cannot subject people to that kind of choice. I tell you when that accounting firm is hauled in the next time, it will settle. This amendment would allow a firm that was associated with the fraudulent firm to be fully liable for the damages. This would move us in the wrong direction, so I have to oppose this amendment.

I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BRYAN. Mr. President, may I inquire what the state of time is?

The PRESIDING OFFICER. The Senator from Nevada has 2½ minutes. The Senator from New York has 2 minutes.

Mr. BRYAN. Mr. President, let me, in 2½ minutes, tell my colleagues this amendment has nothing to do with frivolous lawsuits, absolutely nothing. This amendment simply indicates whether or not the Senate of the United States believes that those who counsel, who aid, who provide assistance to those who perpetrate investor fraud, ought to be held responsible. Under the current law, aiders and abettors are not liable. Among that group are the lawyers who have been the focus of much criticism during the course of the debate.

Sidley & Austin, Jones Day. These are law firms. A vote against the Bryan amendment places the individual Senator and this Congress on record as saying this kind of conduct—misconduct in my view—ought to be tolerated, approved, and tacitly accepted. I cannot conceive of such a result.

A decade ago the Congress of the United States enacted a piece of legislation, Garn-St Germain, that led, within a decade, to a savings and loan industry which cost the American taxpayers tens and tens of billions of dollars.

It is my view that S. 240, in its present form, without the kinds of amendments the distinguished Senator from Maryland and I have tried to add, will cause investor losses of those magnitudes over the ensuing years, and essentially private causes of action will be destroyed.

Mr. SARBANES. Will the Senator yield for a question?

Mr. BRYAN. I will be pleased to yield to the Senator.

Mr. SARBANES. Am I correct, under the legislation before us, there could be no liability whatever imposed in a private action for aiding and abetting?

Mr. BRYAN. The Senator is correct, no liability.

Mr. SARBANES. In the Keating case, a large part of the recovery of the victims came from aiders and abettors, did it not?

Mr. BRYAN. If I might respond to the Senator, out of $262 million recovered in a private cause of action—because Mr. Keating himself was bankrupt—$121 million of the $262 million was recovered from aiders and abettors. Under the state of law currently, that $121 million is wiped out.

Mr. SARBANES. What public policy reason could there possibly be for letting aiders and abettors go completely free? I understand there could be an argument about what standards to impose. But on what basis in public policy is it that aiders and abettors go free?

The PRESIDING OFFICER. The time of the Senator from Nevada has expired.

Mr. BRYAN. Might I inquire if the acting floor manager will yield me 1 minute to respond to the question of the Senator from Maryland?

Mr. SARBANES. Mr. President, I ask unanimous consent the Senator be allotted 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, in responding to the question of the Senator from Maryland, I am at a total loss. It is beyond my comprehension, whether one positions himself or herself in the political spectrum to the left of Fidel Castro or to the right of the Sheriff of Nottingham, under what theory you could say this kind of conduct ought to be encouraged and to simply say to these folks, by and large: Hey, as long as you are looking the other way and not signing any documents, you can, with total impunity under the private cause of action, counsel, aid, and provide tangible help to perpetrators of investor fraud. It is simply incomprehensible, I respond to my good friend.

Mr. SARBANES. I thank the Senator.

The PRESIDING OFFICER. Does the Senator from Colorado seek recognition? You have 2 minutes left. The Chair recognizes the Senator from Colorado.

Mr. BROWN. Mr. President, the distinguished Senator from Nevada, I think, is a very thoughtful Member and brings persuasive arguments to the floor on this and other issues that he takes on. The concern I find, as I listen to this, is the potential of holding someone liable for another's actions when they had no idea that fraud, that action, was taking place. That is what this amendment does. This would hold someone, an accountant, someone else involved in this process who has no idea that a fraud is taking place, this would hold them liable even though they did not commit the fraud and they did not even know about the fraud.

Making someone liable, taking millions of dollars away from them, putting them through this when they did not even know about the action seems to me to be outrageous.

We yield the remainder of our time on this side.

AMENDMENT NO. 1475

The PRESIDING OFFICER. Under the previous order, there will now be 30 minutes debate on the Boxer amendment No. 1475, to be equally divided in the usual form.

The Senator from Colorado.

Mr. BROWN. Mr. President, if the Senator from California is willing, I would like to address an inquiry to her concerning her amendment.

Mrs. BOXER. Certainly.

Mr. BROWN. On the first page of the amendment, on page 98, following through line 100, you put in a subsection and insert the following subsection that reads:

> Not later than 90 days after the date on which a notice is published under subparagraph (A) or (B) of paragraph (1), the court shall determine whether all named plaintiffs acting on behalf of the purported plaintiff's class who have moved the court to be appointed to serve as lead plaintiff under paragraph (1)(A)(ii) have unanimously selected a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class . . . .

I did not read all of that. My question relates to it, and I frankly find it a bit confusing. When we say "all named plaintiffs acting on behalf of the purported plaintiff class," who is it we are describing?

Mrs. BOXER. Everyone in the class. We took it right from your bill. I guess the bill the Senator is supporting; that you have to advertise that class actions are about to take place and every named plaintiff has a chance to vote on who the lead plaintiff shall be. We think this is very democratic. Unlike your bill, the richest investor will be the lead plaintiff.

Mr. BROWN. If the Senator would, my question is I think very specific. When it says all named plaintiffs, who are those? Are those solely the ones who brought the suit?

Mrs. BOXER. Every plaintiff of the class who responded to become part of the suit. There is a 90-day period where they go out and advertise.

Mr. BROWN. It would be the people who brought the suit as well as people who decided to add their names?

Mrs. BOXER. Everyone; all plaintiffs who are interested in being part of the suit gets to vote on who the lead plaintiff shall be.

Mr. BROWN. If that is the case, why do we have language "acting on behalf of the purported plaintiff class who have moved the court to be appointed to serve as lead plaintiff?" What if one of the outside plaintiffs has not moved the court to serve to be plaintiff?

Mrs. BOXER. I think the Senator is confusing a very simple straightforward point. We take the language straight out of S. 240. In 90 days, there are newspaper advertisements of general circulation, and everyone who is part of the class is invited to join in the class. At that point in time, all the plaintiffs who are in the suit—and everyone is invited to be in—get to vote on who they want the lead plaintiff to be. If there is not a unanimous selection then the judge appoints.

Mr. BROWN. My question was very specific. The question I have is this: If the intention is to have it include all plaintiffs, why do we modify this by saying "who have moved the court to be appointed to serve as lead plaintiff"? What if one of the outside plaintiffs that joined the suit does not petition the court to serve as lead plaintiff? Does that mean that they have no voice under subparagraph (a) and they are not required to consent to the naming of lead plaintiff?

Mrs. BOXER. My understanding of this amendment is clear. Everyone who has joined in the suit has an equal say. And if they cannot agree, then the court shall appoint. In S. 240 it is the richest investor. So the answer is all the plaintiffs get to choose.

Mr. BROWN. Let me just say, at least for this Member, I was intrigued by the arguments of the Senator from California last night. As I read the bill, it appears to me that the language here seems to imply that someone who is not in the original filing, or more specifically had not moved the court to be appointed to serve as lead plaintiff, would not have a voice in that unanimous consent required under selection for subparagraph (a).

Mrs. BOXER. No. I would address my friend to page 3 on the selection of lead counsel. The lead plaintiff or plaintiffs appointed under paragraph 2 shall be subject to the approval of the court selecting the named counsel. So everyone has a chance. All the plaintiffs have a chance to vote.

Mr. BROWN. My suggestion would be if the Senator does not want to limit that plaintiff class, having the words "who have moved the court to be appointed to serve as lead plaintiff," I think gives the impression that you have to have been in that group. But the Senator mentioned "rich" under the bill. I have looked in the bill. I do not find that term. Could she show me where in the bill this indicates that the richest one determines?

Mrs. BOXER. Certainly I will. Unfortunately, at this point I would need a quorum call to find the exact place because I am working off my amendment. My friend did not tell me he was going to question me about the exact wording of the bill itself. So could we put a quorum call in place? I could find the section.

Mr. BROWN. Mr. President, I suggest the absence of a quorum.

Mr. SARBANES. If the Senator will withhold, the bill says "in the determination of the court has the largest financial interest in the relief sought by the class" on page 99 of the bill.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. Will the Senator yield so I may respond to his question?

Mr. BROWN. Surely.

Mr. SARBANES. On page 99 of the bill, the language is "in the determination of the court has the largest financial interest in the relief sought by the class." That is the language.

Mr. BROWN. That was not the question. That is an unresponsive answer. The question was where in the bill is "rich"? The Senator had made the point.

Mr. SARBANES. "The largest financial interest in the relief sought by the class."

Mr. BROWN. The Senator from Maryland is telling me "rich" is not in the bill, that they use terms with regard to the "largest financial."

Mr. SARBANES. The richest person in the sense of having the "largest financial interest in the relief sought by the class" is the one you are putting forward.

Mr. BROWN. Mr. President, let me simply note this.

Mr. SARBANES. "The largest financial interest."

Mr. BROWN. I believe it is my time. Mr. President, who has the time?

The PRESIDING OFFICER. The Senator from Colorado has the floor.

Mr. BROWN. Mr. President, we all make mistakes in debate on the floor. I certainly am included. The point I wanted to make was that the terms used by the Senator from Maryland and the Senator from California are in fact not in the bill. The recitation and description of what was in the bill is not in the bill. What was said was inaccurate. Mr. President, I think there is an important point here.

Let us assume you have two lawyers from New York who bring a class action against Wells Fargo. Each one of them is worth $10 million each. The public employees pension fund is also a shareholder of Wells Fargo. The manager of that public employees association has total assets about one-tenth of what the lawyers from New York have. Who is rich? Who is the richest? Are the people worth $10 million, the lawyers in New York, who are professional plaintiffs, the poor ones in this? The answer is obvious. The professional plaintiffs who are worth $10 million each are a lot richer than the person who happens to work for a living and manage the assets of the California employees' pension fund. But the California employees' pension fund has a great deal larger financial interest.

Mr. President, I simply want to assure the Senator from California, for whom I have great respect, that if she is concerned about improving on who we select to be the lead plaintiff, I will join her. But setting up a provision where professional litigants get to name the lead plaintiff and close other people out I think is a problem. The way I read this measure is it says that the people who bring the suit agree, and they may only have one share each. They may be in this only for the purposes of getting a lawsuit and naming the plaintiff and getting to name the lawyer. But if the people who are professional litigants agree and bring the suit, they can name the lead plaintiff. They can control the lawsuit. They can name the lawyer and they can benefit indirectly from the attorney's fees. That is what this is all about.

The Senator has indicated that it is not her intention to exclude those who did not specifically move the court to be appointed as lead plaintiff. It is not her intention to exclude plaintiffs. It may not have done that. But that is the wording of the amendment. If that is not the intention, the language ought to be corrected.

Mr. President, more important than anything else, if her purpose is to get the best lead plaintiff possible, I would suggest that we ought to focus on that question, and that we should not carve out an exception for those who are professional litigants who may have brought the suit.

I reserve the remainder of my time.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from California.

Mrs. BOXER. I have heard a lot of distortions on this floor, but this one takes the cake. I say to my friends on the other side, if you ask the public who they stand and represent, most people would say it is those in the upper income brackets. And this argument proves the point better than I ever could.

That is correct, I said the "richest" investor, and my friend takes great umbrage with that. Let us just say largest investor. That is what you say in the bill. Let us stick with that. Because let me tell you, if S. 240 had been the law of the land during the Keating case, you know who the largest investor was? A company that turned out to be guilty in that case, a codefendant in that case. So just because somebody has the largest investment should not make them automatically the lead plaintiff.

Now, my friend can ignore it all he wants, all he wants, but that is exactly what S. 240 does. And I think it is elitist, I think it is antidemocratic, and I say to my friend that just because you may be wealthier, richer, if you will—and I am not going to change my language—have a bigger investment than everyone else does not make you better than anyone else. And if America stands for anything, it stands for that premise.

Now, I want my friend to know—and he cares a lot about process—that this provision he defends here today—and I ask my friend, was my friend involved in the writing of this bill? I ask my friend from Colorado, did he participate in the markup on this bill?

Mr. BROWN. I am not a member of the committee.

Mrs. BOXER. I think that is a point. He stands up here, and he argues about something he never marked up. The fact is we held a lot of hearings on this, and no one ever brought this issue forward about selecting the lead plaintiff. It was brought 4 days before the markup, with not one hearing. The SEC has concerns about it. The SEC is very concerned about it. They do not know how it would work. They think it is going to lead to more litigation, because what if what the Senator from California says is accurate, that in many cases you are going to have the lead plaintiff be someone who is eventually named as a coconspirator, a codefendant? Imagine the kind of lawsuits that would bring about.

Look, I do not care who is appointed attorney. I could care less. There is going to be an attorney for the class. The question is, should it be automatically the prerogative of the largest investor to determine the course of the case?

Now, in the Boxer amendment, we say, if the plaintiffs cannot agree unanimously—and any plaintiff can be part of that discussion—then the judge gets to select the lead plaintiff based on a number of criteria.

I am very proud that Senator BINGAMAN and many others are supporting me in this amendment. We can twist and turn and chastise people for using plain English on this floor, and maybe my friend just wants to talk about the exact language in the bill. I never thought we did that around here. I thought we tried to get it down to where people can understand. My friend wants me to say the "largest" investor? I say the "richest" investor, and he takes me on as if I have committed some kind of a sin. I stand by it. I think we need the Boxer amendment. I think we need to send a message from this Chamber that just because you are the largest investor does not give you the right to take over from everybody else, because let me tell you sometimes the largest investor does not really stand that much to lose because maybe he has a very large dollar investment but in accordance with his net worth it is not much, and someone who has invested $5,000 or $10,000 or $20,000 has much more to lose.

I brought to my colleagues' attention yesterday a woman from California who was bilked of $20,000 by Charles Keating. That may not sound like a lot to my Republican friend on the other side, who chastised me for using the word "rich," but I can tell you that $20,000 was the difference for this woman in being able to sleep at night and pay her bills and have a sense of security.

Mr. President, at this time I reserve the remainder of my time and ask, if there is a quorum call, it be divided from each side equally.

The PRESIDING OFFICER. Who yields time?

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER (Mr. CAMPBELL). The Senator from Colorado.

Mr. BROWN. Mr. President, I feel bad that the Senator from California has responded the way she has. At least my experience in this Chamber and the legislative process is that when you read the language and there is a problem with the language and you offer to work on that, Senators are grateful. All of us have an interest in good legislation.

As I read this amendment—and I have quoted the exact language—it says, "acting on behalf of the purported plaintiff class who have moved the court to be appointed as lead plaintiff."

As I read that—and I certainly could be wrong; I do not mean to hold myself out as the authority—I think it suggests in very plain English you have to move the court to be appointed as lead plaintiff to come under that category. That means some people could be plaintiffs that would be excluded. That is a drafting problem. It may not be a drafting problem, but it certainly ought to be clarified, and it ought to be clarified for the benefit of the Senator from California.

Now, the Senator from California has talked about democracy in this process. Mr. President, what we are involved with here today, if this amendment passes, is stuffing the ballot box. And let me be specific. You can have one share of stock and bring the class action, and the California public employees trust fund that may have a million shares of stock and represent 100,000 people may be excluded from the process of selecting the lead plaintiff.

Now, that is not right, and that is not democracy. Should the California public employees trust fund, a retirement fund, that owns a million times as many shares as a professional plaintiff, have more voice? I think they should. If they own a million times as many shares, they surely should have a larger voice in the selection of this.

This amendment stuffs the ballot box. It says the people who brought the suit and who have moved the court to be appointed to serve as lead plaintiff end up, under the first option, being able to dictate who the lead plaintiff is and end up being able to dictate who the lawyer is who gets the fees and ends up being able to help guide the case.

Now, that is wrong. To have a person with one share or five shares control an action where the California public employees trust fund may have a million shares is wrong.

Let me reiterate. If there is interest in adding fairness to this process, we ought to do it. One thing I might mention, because I think what was mentioned on this floor was that the person who has the largest financial interest may well have a conflict of interest, the bill deals with that on page 100.

> 1. Will not fairly and adequately protect the interests of the class.

Now, that is one of the grounds in which you can exclude someone, even though they may have the largest financial interest.

> 2. Is subject to unique defenses that render such plaintiff incapable of adequately representing the class.

Both of those, Mr. President, would apply as we have talked.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from California has 7 minutes 52 seconds remaining.

Mr. SARBANES. Will the Senator yield me just 1 minute?

Mrs. BOXER. Certainly.

The PRESIDING OFFICER. The Senator from Maryland is recognized for 1 minute.

Mr. SARBANES. Mr. President, I wish to say to the Senator from Colorado that my perception of the dispute that arose as between him and the Senator from California was his taking issue with her reference to the "richest" plaintiff being named as the lead plaintiff under the bill.

The Senator says, well, the word "richest" is not in the bill. That is correct. But what is in the bill is that the lead plaintiff shall be the one who has the largest financial interest, and in that sense I think it is fair to say that is the richest of the plaintiffs, the largest financial interest.

Now, second, the Senator says, well, we have covered the problem of a conflict of interest in the bill. That is a rebuttable presumption and, as someone said last night, it is really written to be almost irrebuttable.

The SEC, which examined this provision of the legislation, having looked at it and having looked at the very provision the Senator is making reference to, said that:

> It may create additional litigation concerning the qualifications of the lead plaintiff, particularly when the class member with the greatest financial interest in the litigation has ties to management or interests that may be different from other class members.

So clearly there is a problem here. And the way the bill is written it may place the lead plaintiff position in the hands of people about whom the SEC has raised large and significant questions.

I thank the Senator for yielding.

Mrs. BOXER. I thank my friend.

Mr. BROWN. May I respond?

Mrs. BOXER. Mr. President, how much time do I have?

The PRESIDING OFFICER. Five minutes fifty seconds.

Mrs. BOXER. How much time does the Senator from Colorado have remaining?

The PRESIDING OFFICER. The Senator from Colorado has none.

Mrs. BOXER. I will be glad to yield if I have time at the end, but we are getting down to the last 5 minutes of this discussion.

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senator from Colorado have 1 minute—I had 1 minute—to make a point in response, so the Senator from California can preserve her time in order to make her closing statement.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Colorado has an additional 1 minute.

Mr. BROWN. Mr. President, I want to thank the Senator from Maryland for his kindness. I simply want to join the Senator from Maryland to indicate that I think he has a valid point. If someone has a conflict of interest, obviously that ought to be addressed.

I believe the plain language of the bill on page 100 covers that: "will not fairly and adequately protect the interest of the class." I think that covers it. But if there is better language or more language, I want to assure him I will support it, and I will be glad to join him in that effort.

But, Mr. President, the point remains, we are not dealing with disqualifications on that basis. What we are dealing with is a whole new way to stack the deck, where someone with very few shares who brings the suit can control the action and pick the attorney, and someone who has a lot more shares and yet not be as rich, as has been used on this floor, will be closed out of the process. Stacking the deck is the problem with this amendment. If we eliminate that portion of it, I think we would have something that all parties could work together on.

I yield back any remaining time.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mrs. BOXER. Mr. President, I want to ask my friend from Colorado a question. My friend from Colorado made two attacks on this Senator's amendment, certainly not on the Senator, so I do not take it personally at all. The two attacks were, one, that the Senator from California said the richest investor and he took umbrage and said, "Well, wait a minute, the word 'richest' is not in the bill." OK, that is right, the largest investor—I say the richest investor. I stand by that, with all due respect.

Second, the Senator says that only a certain number of the plaintiffs can, in fact, vote on who the plaintiff should be. The fact is if the Boxer amendment becomes law, every single potential plaintiff in the country, member of the class action, has an opportunity to be part of the selection. This is not some secret thing of stuffing the ballot box. Any plaintiff who joins the class, petitions the court, votes.

Now, if the Senator believes that the largest investor would not get involved in that, I do not know what the Senator thinks. But the fact is I do not care who the attorney is who gets to represent either side. It does not make a whit's worth of difference to me. What I care is that the lead plaintiff be selected in a way that is fair.

The fact of the matter is that the Banking Committee never held a hearing on this and it shows up in the bill 4 days before the markup. It is wrong to legislate this way. I believe it is elitist.

I pointed out to this Chamber last night that if S. 240 had been law during the Keating case and the richest investor, or as my friend would prefer, the largest investor had been named lead plaintiff, it would have been someone who was guilty along with Keating, someone who actually wound up paying to make those——

Mr. DODD. Will my colleague yield?

Mrs. BOXER. I will not yield at this time. I have very little time. I ask my friend from New Mexico if he wishes to have a couple of minutes in this debate. I will reserve that for him.

Mr. BINGAMAN. Mr. President, I will respond that I would like a couple minutes to support the amendment by the Senator from California.

Mrs. BOXER. I say to my friend, how much time do I have?

The PRESIDING OFFICER. The Senator has 3 minutes.

Mrs. BOXER. I yield 2 minutes to my friend, and then I will conclude.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Let me briefly say I support the effort of the Senator from California to amend the bill in this regard. This provision, this most adequate plaintiff idea, as I understand, was proposed as part of a substitute in committee. There was no hearing held on it. I believe that is the case.

Mr. SARBANES. If I could say, the Senator is correct, there have been no hearings on this issue. It was not considered at any point until it appeared in the draft.

Mr. BINGAMAN. Mr. President, I think one of the hallmarks of our legal system has always been that a person's right to go to court or a person's right to have his or her case presented in court should not be strictly tied to the person's financial condition. We should not means test justice, as the saying goes.

I think where you get a provision like this where there is a presumption that the plaintiff who has the most invested is the most adequate plaintiff and, therefore, should control the litigation, that comes very close to means testing justice. It causes me great concern that we would have this kind of a provision.

Clearly, there have been groundless lawsuits brought, and that is the purpose. The purpose of this legislation is to deal with that. I understand that. I support this legislation. I am a cosponsor of this legislation, but when I cosponsored it, there was no provision in it for most adequate plaintiff.

Now there is a presumption that those who have the most invested should control the litigation. I do not know that that is always true. I do not know that that should always be the case. Therefore, I do have problems with the bill as it now stands.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mrs. BOXER. I yield the Senator another 25 seconds.

Mr. BINGAMAN. I will just say, the Senator from California has made a very good-faith effort to correct this. I support her efforts. I hope the Senate will adopt her amendment.

The PRESIDING OFFICER. The Senator has 43 seconds remaining.

Mrs. BOXER. Mr. President, I gave an example of if S. 240 was the law and who would be the lead plaintiff in the Keating case. Let me give another example.

The Wall Street Journal reported last night that a Wall Street investment bank filed a class action suit against Avon Products for securities fraud. That Wall Street bank was supposed to represent the interest of small investors, but the Journal reported that that Wall Street bank tried to get Avon to settle the case by giving them $50 million to invest. That is the way they thought they would act in the best interest of the class.

Now I say to my friends, this is absurd. There is no way that small investors would have benefited from that type of a settlement, and this bill would prevent those small investors from discovering the secret deal because they would have to know about it before they could use subpoenas.

I hope my colleagues will support the Boxer-Bingaman amendment.

Mr. BENNETT. Section 102 of the legislation would require courts to consider a motion by a purported class member to become a lead plaintiff and would require courts to appoint as lead plaintiff the class member "most capable of adequately representing the interests of the class member." The bill sets up a rebuttable presumption that the most adequate plaintiff is the person who has made such a motion, who has the largest financial interest in the relief sought by the class, and who satisfies the requirements of rule 23 of the Federal Rules of Civil Procedure. This presumption may be rebutted if a member of the class proves that the presumptively most adequate plaintiff will not fairly and adequately protect the interests of the class or is subject to unique defenses.

What is the purpose of this provision?

Mr. DODD. This provision has two essential purposes. First, it will improve class member choice, by giving class members an opportunity to request service as lead plaintiff. Second, it will enhance a court's ability to appoint as lead plaintiff any class member who has requested service and who otherwise meets the conditions of the provision.

Mr. BENNETT. Would this provision require courts to name any institutional investor as lead plaintiff?

Mr. DODD. No. Under the bill, a court may only appoint a plaintiff who has asked, in a motion to the court, to serve as lead plaintiff. Moreover, the institutional investor who asks to serve must satisfy the conditions of rule 23, which authorizes the court to determine whether such a party should serve as representative plaintiff in order to facilitate management of the case. The court also has to determine that the party who asks to serve has the largest financial interest in the relief sought. Finally, the presumption as to most adequate lead plaintiff could be rebutted under the bill.

Mr. BENNETT. Would the bill require any institutional investor to request that it be appointed as lead plaintiff?

Mr. DODD. No. The bill merely gives each class member the opportunity to request service. In no way does it obligate any member to do so. Institutional and other investors would continue to have the right simply to remain class members and not serve as lead plaintiff, and they may select that approach independent of any responsibility to the other class members or to anyone else.

Mr. BENNETT. Does this bill impose any new fiduciary duty on an institutional investor to its shareholders or beneficiaries, or to other class members, to request service as lead plaintiffs?

Mr. DODD. No. The bill imposes no fiduciary or other obligation on institutions or other plaintiffs to serve or not to serve as lead plaintiffs. Moreover, the court would have no authority to impose such an obligation. For example, rule 23 authorizes the court to make certain determinations about who should serve as representative plaintiff. These determinations concern management of the case, and they do not authorize the court to require a plaintiff to serve as representative due to any perceived responsibility to the other class members or to anyone else.

The PRESIDING OFFICER. All time has expired.

AMENDMENT NO. 1474

The PRESIDING OFFICER. Under the previous order, the question now is on agreeing to amendment No. 1474, offered by the Senator from Nevada [Mr. BRYAN]. The yeas and nays have been ordered.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The yeas and nays have not been ordered. The Senator from Maryland.

Mr. SARBANES. Mr. President, I believe under the procedure we are following, the Senator has 1 minute to set out his amendment; is that correct?

The PRESIDING OFFICER. That is 2 minutes for debate prior to the second vote.

Mr. D'AMATO. I ask unanimous consent that there be 1 minute equally divided for Senator BRYAN.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. D'AMATO. I do not believe the yeas and nays have been ordered.

The PRESIDING OFFICER. The Senator is correct.

Mr. D'AMATO. I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. D'AMATO. As relates to the Boxer amendment, have the yeas and nays have been ordered?

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. D'AMATO. I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I want to make this very clear. I have said it ad nauseam. The Bryan amendment has nothing to do with frivolous lawsuits. The question is whether or not the Senate wants to go on record as tolerating, allowing, and permitting the conduct of aiders and abettors, whether intentional, knowingly, or reckless, to go unpunished. That is the state of the law.

This amendment would say that lawyers, accountants, bankers, and others that aid and abet securities fraud will be held liable. That was the law until the Central Bank case was decided, and the Supreme Court in deciding that case made it clear that they were not saying that aiders and abettors ought not to be liable. They just very narrowly interpreted the statute. We have hit the plaintiffs' lawyers for their frivolous actions, but how can we ignore the conduct of lawyers who counsel those perpetrating securities fraud? If we fail to adopt the Bryan amendment, we are simply saying to that group of lawyers that you can continue and be free to continue your activities, and that may cost literally hundreds of millions of dollars to innocent investors.

Mr. D'AMATO. Mr. President, I yield 1 minute to Senator DODD.

Mr. DODD. Mr. President, very briefly, what the Senator from Nevada is doing here is raising a whole new standard that was never universally the case prior to the Central Bank of Denver. Here, in the amendment, the standard is knowing and reckless—knowing or reckless. And to include recklessness here, a standard that is so vague the courts have had great difficulty defining it, would be to open up a whole new area of law and allow proportionate liability to be gutted as a result of this amendment. What we have done with this bill is, of course, allowed the SEC to bring a Government action in the aiding and abetting.

Where you do have fraudulent intent, joint and several applies. Proportionate liability does not. In that case, where you have even the casual conduct of an aider and abettor, they would be trapped. We try to avoid when you do not have that standard being met, just a small mistake, which can be the case of a lawyer or accountant, In the process, should not be held fully accountable for the entire cost. So the adoption of this amendment would destroy that very effort which is central to this bill. So, for those reasons, because recklessness is used here—were this to be an actual knowledge—words of art in describing that—I might have some different views on this amendment. But the fact of it is, using the recklessness standard, I think, takes this far beyond where we even were before—before the Supreme Court ruled in the Central Bank of Denver case, where certain courts in this land held it to a much higher standard than recklessness.

So for that reason, I reluctantly urge my colleagues to reject this amendment.

Mr. D'AMATO. May I inquire? I did not know if the Senator from California wanted to use her 1 minute now.

Mrs. BOXER. In between the votes, I believe, is what the unanimous-consent says. I would prefer it before the next vote, before the vote on the Boxer amendment, which is what it said in the unanimous-consent request.

Mr. D'AMATO. Fine.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1474 offered by Mr. BRYAN.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. BOND (when his name was called). Present.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 39, nays 60, as follows:

[Rollcall Vote No. 286 Leg.]

YEAS—39

Akaka
Baucus
Biden
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dorgan
Feingold
Feinstein
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
McCain
Moynihan
Pryor
Robb
Rockefeller
Sarbanes
Shelby
Simon
Wellstone

NAYS—60

Abraham
Ashcroft
Bennett
Bingaman
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Exon
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Roth
Santorum
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thompson
Thurmond
Warner

ANSWERED "PRESENT"—1

Bond

So the amendment (No. 1474) was rejected.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1475

The PRESIDING OFFICER. Under the previous order there will now be 2 minutes equally divided for debate prior to the second vote, which will be on the Boxer amendment No. 1475. The Senator will withhold until we have order. The Senate will be in order.

The Senator from California [Mrs. BOXER] has 1 minute.

Mr. FORD. Mr. President, the Senate is still not in order. She deserves to be heard.

The PRESIDING OFFICER. The Senate will be in order. The Senator from California.

Mrs. BOXER. Mr. President, very briefly, if S. 240 as currently written had been the law then, the lead plaintiff in the Keating case would have been one of the guilty parties in the Keating case. That is because S. 240 says the judge must choose the largest investor as the lead plaintiff and the largest investor in the Keating case turned out to be a party to the fraud.

Let us not allow this outrage. This "largest investor" language was added, without public hearings, 4 days before markup. The SEC has problems with it. The Boxer-Bingaman amendment says the following, that after advertising for 90 days, all the plaintiffs——

The PRESIDING OFFICER. The Senator will withhold until we have order. The Senate will be in order.

The Senator from California.

Mrs. BOXER. The Boxer-Bingaman amendment says that after advertising for 90 days, all the plaintiffs get to select the lead plaintiff. If they cannot agree unanimously, then the judge will choose the lead plaintiff, taking into consideration all factors, including conflicts of interest, who the largest investor is, et cetera. Just because someone is rich should not automatically make them the lead plaintiffs. Support Boxer-Bingaman.

The PRESIDING OFFICER. The Senator from New York [Mr. D'AMATO] is recognized for 1 minute.

Mr. D'AMATO. Mr. President, our bill stops the kind of outrageous conduct where the same handful of plaintiffs bring multiple complaints. Mr. Cooperman has been a plaintiff 14 times and has always chosen the same law firm.

Mr. Shore, 10 times, a professional plaintiff.

Mr. Shields, seven times.

Mr. Steinberg, seven times.

William Steiner, six times. They become the lead plaintiffs, they pick the attorneys. Our legislation would prohibit that.

This legislation would give due deference to lead the case to someone who has a real financial stake, not a phony professional plaintiff. This amendment would keep alive that race to the courthouse. That is why I urge a "no" vote.

The PRESIDING OFFICER. Does the Senator yield the remainder of his time?

Mr. D'AMATO. Yes.

The PRESIDING OFFICER. The question occurs on the amendment of the Senator from California. The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. BOND (when his name was called). Present.

The PRESIDING OFFICER (Mr. THOMAS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 41, nays 58, as follows:

[Rollcall Vote No. 287 Leg.]

YEAS—41

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dorgan
Feingold
Ford
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
McCain
Moynihan
Pell
Pryor
Robb
Rockefeller
Roth
Sarbanes
Shelby
Simon
Specter
Wellstone

NAYS—58

Abraham
Ashcroft
Bennett
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Exon
Faircloth
Feinstein
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Nunn
Packwood
Pressler
Reid
Santorum
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

ANSWERED "PRESENT"—1

Bond

So the amendment (No. 1475) was rejected.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1476

Mr. D'AMATO. Mr. President, I believe under the consent order my friend and colleague from Maryland, Senator SARBANES, is to be recognized for the purpose of offering an amendment. I have asked him to give me the opportunity—and if it looks like I am looking around, I am, because staff was supposed to prepare an amendment dealing with the issue of safe harbor. And in that provision we call for knowingly, intent, and expectation.

If I could have a copy of the bill itself, at page 121 of the bill it says, "knowingly made." These are statements that are knowingly made with the expectation, purpose and actual intent of misleading investors.

There is a very real question as to what do we mean by "expectation," and do we go too far? I do not believe it is a word that is necessary. I think it is gilding the lily, and for that purpose I would submit an amendment, the purpose of which is to delete the word "expectation," so that it would then read: "knowingly made with the purpose and actual intent of misleading investors."

I ask unanimous consent that I might be able to submit this amendment and have it considered at this time.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report the amendment.

The bill clerk read as follows:

The Senator from New York [Mr. D'AMATO] proposes an amendment numbered 1476:

On page 121, line 1, delete the word "expectation,".

Mr. D'AMATO. Mr. President, I have no illusions. I recognize that this amendment does not answer all those questions or go as far as some might like. But I certainly think it clears up something that would raise a question and is a move in the right direction, and I urge its adoption.

Mr. SARBANES. Mr. President, I welcome the amendment from the Senator from New York. We spoke earlier about introducing it at this point ahead of the general debate on safe harbor. I am quite amenable to that because I want to get a substantive result. This provision was going to be a part of the debate had this not happened, I think as the Senator from New York well recognizes, but we are willing to forego the debate points in order to try to clean something out of the bill. There is still plenty wrong with it, and I am going to address that when we have the general debate on safe harbor. But I support this modification that is being made in the bill, and I hope the Senate will accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. D'AMATO. I am advised—and I mention this to my colleague and friend—that there is another area of the bill that we will have to modify because it is referred to a second time. But rather than do that at this point in time, I suggest that we go forward, and then later on I will make that modification.

Mr. SARBANES. Why not go ahead?

Mr. D'AMATO. On page 114, line 7, we delete the word "expectation" as well. This was not done in the first. I ask that the amendment be modified.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 121, line 1, delete the word "expectation,".

On page 114, line 7, delete the word "expectation,".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

So the amendment (No. 1476), as modified, was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, I think under the order I am to be recognized at this point?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 1477

(Purpose: To amend the safe harbor provisions of the bill)

Mr. SARBANES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Maryland [Mr. SARBANES], for himself and Mr. LAUTENBERG, proposes an amendment numbered 1477.

Mr. SARBANES. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 112, strike line 1 and all that follows through page 126, line 14, and insert the following:

SEC. 105. SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

(a) CONSIDERATION OF REGULATORY OR LEGISLATIVE CHANGES.—In consultation with investors and issuers of securities, the Securities and Exchange Commission shall consider adopting or amending rules and regulations of the Commission, or making legislative recommendations, concerning—

(1) criteria that the Commission finds appropriate for the protection of investors by which forward-looking statements concerning the future economic performance of an issuer of securities registered under section 12 of the Securities Exchange Act of 1934 will be deemed not be in violation of section 10(b) of that Act; and

(2) procedures by which courts shall timely dismiss claims against such issuers of securities based on such forward-looking statements if such statements are in accordance with any criteria under paragraph (1).

(b) COMMISSION CONSIDERATIONS.—In developing rules or legislative recommendations in accordance with subsection (a), the Commission shall consider—

(1) appropriate limits to liability for forward-looking statements;

(2) procedures for making a summary determination of the applicability of any Commission rule for forward-looking statements early in a judicial proceeding to limit protracted litigation and expansive discovery;

(3) incorporating and reflecting the scienter requirements applicable to implied private actions under section 10(b); and

(4) providing clear guidance to issuers of securities and the judiciary.

(c) SECURITIES EXCHANGE ACT OF 1934.—Title I of the Securities Exchange Act of 1934 (15 U.S.C. 73a et seq.) is amended by inserting after section 13 the following new section:

"SEC. 37. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

"(a) IN GENERAL.—In any implied private action arising under this title that alleges that a forward-looking statement concerning the future economic performance of an issuer registered under section 12 was materially false or misleading, if a party making a motion in accordance with subsection (b) requests a stay of discovery concerning the claims or defenses of that party, the court shall grant such a stay until the court has ruled on the motion.

"(b) SUMMARY JUDGMENT MOTIONS.—Subsection (a) shall apply to any motion for summary judgment made by a defendant asserting that a forward-looking statement was within the coverage of any rule which the Commission may have adopted concerning such predictive statements, if such motion is made not less than 60 days after the plaintiff commences discovery in the action.

"(c) DILATORY CONDUCT; DUPLICATIVE DISCOVERY.—Notwithstanding subsection (a) or (b), the time permitted for a plaintiff to conduct discovery under subsection (b) may be extended, or a stay of the proceedings may be denied, if the court finds that—

"(1) the defendant making a motion described in subsection (b) engaged in dilatory or obstructive conduct in taking or opposing any discovery; or

"(2) a stay of discovery pending a ruling on a motion under subsection (b) would be substantially unfair to the plaintiff or to any other party to the action.".

Mr. SARBANES. Mr. President and Members of the Senate, this is the issue of safe harbor. I know many Members have heard about this issue. In my judgment, it is an extremely important issue which we now seek to develop. We have actually addressed five major issues in this bill: Joint and several liability, statute of limitations, aiding and abetting, and safe harbor, and the lead plaintiff amendment that was offered by my distinguished colleague from California.

Now, Mr. President, this is an extremely important amendment. It is a very complex issue and some very able people have worked very hard to understand it and try to address it. I hope to develop it here over a reasonably short period.

This amendment that I have sent to the desk, this particular amendment, does not try to define in the statute the standard for safe harbor. That may come later. What this amendment seeks to do is simply to put into this bill the provision on the issue of safe harbor that was in the bill introduced by Senator DODD and Senator DOMENICI.

I want to say to my colleagues who sponsored that bill that this amendment is the provision you cosponsored. The provision that is in the bill before us dealing with safe harbor is not the provision that was in the bill which you cosponsored.

Some may say, "Well, that's all right, I want the provision that's in this bill." But others may not say that. Every Member should understand that the provision that was in the bill which they cosponsored—a significant number of Members cosponsored—is the provision that is in the amendment at the desk. That is the safe harbor provision that people signed on to.

And what Senator DODD and Senator DOMENICI had done is, in effect, create a regulatory safe harbor. They had placed the burden, as it were, on the Securities and Exchange Commission to come up with a definition of safe harbor, and it set out certain standards by which the Commission would be governed.

This is an extremely important matter. It is one about which the Chairman of the Commission is very much concerned. And I submit to my colleagues, at some point in this legislative process, Members ought to stop, look and listen and ask themselves whether they want to continue to be at variance or at odds with very strongly held opinions of the regulators, of the Chairman of the SEC, of the States securities regulators, particularly in a matter as difficult and as complex as the safe harbor issue.

The regulators disagree with a majority of this body on the statute of limitations issue, but the statute of limitations issue is a relatively easily understood issue. The question was, are you going to have 1 and 3 years, or 2 and 5 years? That is not the safe harbor issue.

On May 19, the Chairman of the Securities and Exchange Commission wrote to the Banking Committee a four-page letter entirely devoted to the safe harbor issue. Only the safe harbor issue was discussed in that four-page letter.

The letter itself is complex, let alone the issue. The letter reflects the complexity of the issue.

In that letter, the Chairman states his interest in trying to have changes in the securities litigation issue. He concedes that he would like to see improvements in existing safe harbor provisions. He talks about the need to get accurate forward projections, but he also talks about the need to protect investors.

Mr. President, I ask unanimous consent that the full letter be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. Mr. President, I am quoting:

> A carefully crafted safe harbor protection for meritless private lawsuits should encourage public companies to make additional forward looking disclosure that would benefit investors. At the same time, it should not compromise the integrity of such information which is vital to both investor protection and the efficiency of the capital markets, the two goals of the Federal securities law.

Later he says, and I quote him:

> A safe harbor must be balanced. It should encourage more sound disclosure without encouraging either omission of material information or irresponsible and dishonest information.

Let me repeat that:

> A safe harbor must be balanced. It should encourage more sound disclosure without encouraging either omission of material information or irresponsible and dishonest information.
>
> A safe harbor must be thoughtful so that it protects considered projections but never fraudulent ones. A safe harbor must also be practical. It should be flexible enough to accommodate legitimate investor protection concerns that may arise on both sides of the issue.
>
> This is a complex issue in a complex industry and it raises almost as many questions as it answers. Should the safe harbor apply to information required by Commission rule, including predictive information contained in the financial statements, for example, pension liabilities and over-the-counter derivatives? Should it extend to oral statements? Should there be a requirement that forward looking information that has become incorrect be updated if the company or its insiders are buying or selling securities? Should the safe harbor extend to disclosures made in connection with a capital raising transaction on the same basis as more routine disclosures as well? Are there categories of transactions, such as partnership offerings or going private transactions, that should be subject to additional conditions?
>
> There are many more questions that have arisen in the course of the Commission's exploration of how to design a safe harbor. We have issued a concept release, received a large volume of comment letters in response and held 3 days of hearing, both in California and Washington. In addition, I have met personally with most groups that might conceivably have an interest in the subject—corporate leaders, investment groups, plaintiffs lawyers, defense lawyers, State and Federal regulators, law professors and even Federal judges.
>
> The one thing I can state unequivocally is that this subject eludes easy answers.

Let me repeat that last statement. This is Chairman Levitt:

> The one thing I can state unequivocally is that this subject eludes easy answers.

Then he goes on to say:

> Given these complexities and in light of the enormous amount of care, thought and work that the Commission has already invested in the subject, my recommendation would be that you provide broad rulemaking authority to the Commission to improve the safe harbor.

He then goes on to address considerations if the committee tries to put in a legislative standard, instead of having a regulatory safe harbor. I think Chairman Levitt was absolutely right. That is obviously what Senators DODD and DOMENICI thought when they put in their bill. I do not know how many other people who cosponsored that bill agreed that, in effect, giving this assignment to the Securities and Exchange Commission was the way to do it. As Chairman Levitt said:

> Given these complexities and in light of the enormous amount of care, thought and work that the Commission has already invested in the subject, my recommendation would be that you provide broad rulemaking authority to the Commission to improve the safe harbor.

That is not what was done. The provision that was in the original bill, which is the amendment that is at the desk, was dropped from the bill and instead a legislative standard was substituted.

The provision that was in the bill that is on Members' desks, the original bill, is at page 19 through 22, and those pages, as Members can all see, have been stricken. That is what Members originally signed on to, and that provision has been, as you can see, lined out in this bill, and instead an effort has been made for this body to define the standard in an extremely complex matter. As Chairman Levitt said:

> The one thing I can state unequivocally is that this subject eludes easy answers.

We have just seen an example of that. My distinguished colleague from New York, just before I offered this amendment, got up to offer an amendment to amend the standard that is in the bill. In other words, here we are, they are conceding that the standard in the bill goes too far and needs to be corrected, so we just amended it. I indicated I welcome that amendment because I think this standard that is in the bill, even with the amendment, is an improper standard. But the fact that the amendment was offered is a demonstration of the point I am trying to make about the complexity of this issue and the wisdom of the original approach to, in effect, charge the Commission with the responsibility of defining the safe harbor provision, a matter which the chairman has indicated he was, in fact, working on. Now, as people who were here just a few minutes ago noted, not only was it amended, but then my distinguished colleague from New York neglected to amend another section of the bill which also needed to be amended. So you get some sense of how we are dealing with a very difficult issue. Here we are trying to jury-rig it at the last minute. Now, later, if I have to, I will try to deal with the legislative standard, but I think that fools are rushing in where angels fear to tread, with all due respect to my colleagues. This is a matter that ought to be put to the Securities and Exchange Commission, just as Senators DODD and DOMENICI proposed in their initial legislation.

On May 19, Chairman Levitt wrote the Banking Committee a four-page letter on safe harbor only. This safe harbor is a catastrophe waiting to happen. And Members must keep in mind the danger that the safe harbor is going to become a haven for pirates. As I have said earlier, it will turn into a pirate's cove. That is where they will shield themselves in order to really perpetrate some egregious frauds on the investing public.

Subsequent to the letter of May 19 from the Chairman of the Securities and Exchange Commission, the majority within the Banking Committee, including the sponsors of the earlier bill, departed from their approach in terms of charging the Commission with the responsibility of developing a safe harbor. I mean, the Commission are the experts, they can hold the hearings, and I will discuss in a minute the hearings they held in trying to resolve this matter. But a majority decided that, well, no, they were going to do a legislative standard.

Efforts began to develop an appropriate legislative standard in discussions with the SEC and others and with members of the committee on both sides, including those of us that are now opposing this legislation. But the end result of that discussion, unfortunately, was an inability to come to an agreement. The definition, the standard in the bill I think is just fraught with danger. In fact, it was just amended by the proponents of this legislation here on the floor only a moment or two ago. They took out one element of it right here, obviously recognizing themselves the deficiencies in it. That illustrates the problem with this body trying to formulate a legislative standard.

I welcome that substantive change, but I do think it illustrates, in a rather demonstrative way, the problem with this body trying to write the legislative standard rather than letting the SEC do it. Now, if we have to write it, I will try to do it, but I think it is a mistake. This is an opportunity for Members, in effect, to go back to the provision that was in the bill.

Let me read what Chairman Levitt said about the provision that was in the markup document. In other words, after this week of working, the committee moved with a document that had this definition, and this is what the Chairman said:

> As Chairman of the Securities and Exchange Commission—

This letter came on the morning of the markup.

> I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection.

And then he discussed the problems that he saw with the provision that is in this legislation. The Chairman of the Securities and Exchange Commission said, "I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection."

Mr. DOMENICI. Will the Senator yield for a question?

Mr. SARBANES. Certainly.

Mr. DOMENICI. Does not the safe harbor provision do just that—make sure that willful fraud is still covered, expressly stating that the safe harbor does not apply to knowing fraud?

Mr. SARBANES. I say to the Senator that I do not believe it does so.

Mr. DOMENICI. I do not know what else we can put in.

Mr. SARBANES. That is why Chairman Levitt wrote the letter. He read the provision in the bill.

Mr. DOMENICI. He wrote the letter about a lot of other issues besides that. We addressed his concerns about willful fraud. We have knowledge and intent, which exempt people from the safe harbor.

Mr. SARBANES. This letter was written the morning of the markup and was directed to the very provision in the bill, as brought out of the committee. Senator Levitt wrote an earlier letter, which I quoted from earlier. I do not know if the Senator was on the floor.

Mr. DOMENICI. He is not a Senator yet, is he? Arthur Levitt is not a Senator.

Mr. SARBANES. Chairman Levitt.

Mr. DOMENICI. I wanted to correct the RECORD.

Mr. SARBANES. I am not sure who to apologize to about that.

Mr. DOMENICI. Just to clear up the RECORD.

Mr. SARBANES. I will not try to reach a conclusion, but I do lay out a general apology for anyone who may have been offended by it. There may be differing views of the matter.

But Chairman Levitt wrote an earlier letter, which I quoted from at some length. At one point, it looked like maybe, if we were going to do a statutory definition, we might be able to arrive at an appropriate one. That did not work. The comment I just quoted is what he had to say about the provision that is in the bill. This came to us on the morning of the markup.

Now, the Dodd-Domenici bill—and I must say to my two colleagues that had we stuck with your bill, the number of issues in dispute here on the floor would have been fewer. There still would have been some.

Your bill also had in it the statute of limitations issue, and it had an approach on safe harbor which I think was acceptable, which left us, of course, with the joint and several, on which there is, I think, a sharp difference in perception and philosophy. I recognize that. And there is the aiding and abetting issue.

But the bill was introduced in the last Congress on March 24, 1994. I believe I am correct. If I am in error about that, I hope the two cosponsors will correct me, both of whom are here on the floor.

Now, that bill contained in it this charge to the SEC, which is in the amendment that is at the desk, I say to my distinguished colleagues. This amendment is your language, verbatim, from the bill as you introduced it and the bill which a lot of Members cosponsored.

The SEC put out their concept release on safe harbor on October 13, 1994. Let me just read the summary of their concept release and notice of hearing:

> The Securities and Exchange Commission is soliciting comment on current practices relating to disclosure of forward-looking information. In particular, the Commission seeks comment on whether the safe harbor provisions for forward-looking statements set forth in rule 175 under the Securities Act of 1933, rule 3b-6 under the Securities Exchange Act of 1934, rule 103(a) under the Public Utility Holding Company Act of 1935, and rule 0-11 under the Trust Indenture Act of 1939 are effective in encouraging disclosure of voluntary forward-looking information and protecting investments, or, if not, should be revised, and if revised, how?
>
> The Commission also seeks comment on various changes to the existing safe harbor provisions that have been suggested by certain commentators. Finally, the Commission is announcing that public hearings will be held beginning February 13, 1995, to consider these issues.

They went on to say:

> Comments should be received on or before January 11, 1995. Public hearings will begin at 10 a.m. on February 13, 1995. Those who wish to testify at the hearings must notify the Commission in writing of their intention to appear on or before December 31, 1994.

So the Commission is moving to try to develop a safe harbor. I think it moved relatively promptly after it saw this signal of, in effect, charging them with this mandate.

The Commission received 150 responses on the safe harbor issue. That is more witnesses, by far, more witnesses by far, than the Banking Committee has heard from on all securities litigation issues. The Banking Committee hearings with respect to the safe harbor were eclipsed by the SEC.

The SEC held public hearings, 2 days in Washington, February 13 and February 14. Then a day in California on February 16.

At those public hearings they had 62 witnesses in all. Venture capitalists, law professors, corporate executives, plaintiff's lawyers, defense lawyers, institutional investors.

Mr. President, these are the hearing records of the SEC with respect to the matter of safe harbor for forward-looking statements.

Now, I submit to my colleagues that it is—I do not want to say sheer folly, because at some point we may have to try to work out a legislative standard—but it is certainly imprudent conduct, at the least, to be trying to develop a standard here instead of allowing the Securities and Exchange Commission to develop the standard, which was recognized by the original sponsors of this legislation.

I assume they will argue, "Well, the Commission had not done it, and therefore we are going to go ahead and do it." The fact is, the Commission is working to do it and trying to struggle through some very difficult and complex issues as the Chairman of the Commission has stated.

He set out a number of questions which I read earlier, and I defy any Member of this body to take those questions and go through them and give me an easy answer to them. Not only do I defy the Members, I defy their staffs to go through it, to go through those questions and work through them—the ones that the Chairman outlined in his letter; of course, there are many others, as he indicated—and give me an easy response.

As the Chairman pointed out, "A safe harbor must be balanced. It should encourage more sound disclosure without encouraging either omission of material information, or irresponsible and dishonest information."

Actually, Chairman Levitt and others recognize the need to have more disclosure of information. That is a desirable objective. The question is, what safeguards do we have to ensure that this disclosure of information is not going to set people up to be exploited in fraudulent schemes?

Chairman Levitt went on to say, "A safe harbor must be thoughtful so that it protects considered projections but never fraudulent ones. A safe harbor must also be practical. It should be flexible enough to accommodate legitimate investor protection concerns that may arise on both sides of the issue. This is a complex issue and a complex industry. It raises almost as many questions as one answers."

He then details some of those questions, and then goes on to say, "There are many more questions that have arisen in the course of the Commission's exploration of how to design a safe harbor. We have issued a concept release, received a large volume of comment letters and response, and held 3 days of hearings, both in California and Washington. In addition, I have met personally with most groups that might conceivably have an interest in the subject. Corporate leaders, investor groups, plaintiff's lawyers, defense lawyers, State and Federal regulators, law professors, and even Federal judges. The one thing I can state unequivocally, is that this subject eludes easy answers."

He then goes on to state his basic conclusion, which is, "Given these complexities and in light of the enormous amount of care, thought, and work that the Commission has already invested in the subject, my recommendation would be that you provide broad rulemaking authority to the Commission to improve the safe harbor."

Mr. President, that is what the amendment at the desk does. I urge its adoption. I yield the floor.

EXHIBIT 1

U.S. SECURITIES AND
EXCHANGE COMMISSION,
Washington, DC, May 19, 1995.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As Chairman of the Securities and Exchange Commission I have no higher priority than to protect American investors and ensure an efficient capital formation process. I know personally just how deeply you share these goals. In keeping with our common purpose, both the SEC and the Congress are working to find an appropriate "safe harbor" from the liability provisions of the federal securities laws for projections and other forward-looking statements made by public companies. Several pieces of proposed legislation address the issue of the safe harbor and the House-passed version, H.R. 1058, specifically defines such a safe harbor.

Your committee is now considering securities litigation reform legislation that will include a safe harbor provision. Rather than simply repeat the Commission's request that Congress await the outcome of our rulemaking deliberations and thereby run the risk of missing an opportunity to provide input for your own deliberations, I thought I would take this opportunity to express my personal views about a legislative approach to a safe harbor.

There is a need for a stronger safe harbor than currently exists. The current rules have largely been a failure and I share the disappointment of issuers that the rules have been ineffective in affording protection for forward-looking statements. Our capital markets are built on the foundation of full and fair disclosure. Analysts are paid and investors are rewarded for correctly assessing a company's prospects. The more investors know and understand management's future plans and views, the sounder the valuation is of the company's securities and the more efficient the capital allocation process. Yet, corporate America is hesitant to disclose projections and other forward-looking information, because of excessive vulnerability to lawsuits if predictions ultimately are not realized.

As a businessman for most of my life, I know all too well the punishing costs of meritless lawsuits—costs that are ultimately paid by investors. Particularly galling are the frivolous lawsuits that ignore the fact that a projection is inherently uncertain even when made reasonably and in good faith.

This is not to suggest that private litigation under the federal securities laws is generally counterproductive. In fact, private lawsuits are a necessary supplement to the enforcement program of the Commission. We have neither the resources nor the desire to replace private plaintiffs in policing fraud; it makes more sense to let private forces continue to play a key role in deterrence, than to vastly expand the Commission's role. The relief obtained from Commission disgorgement actions is no substitute for private damage actions. Indeed, as government is downsized and budgets are trimmed, the investor's ability to seek redress directly is likely to increase in importance.

To achieve our common goal of encouraging enhanced sound disclosure by reducing the threat of meritless litigation, we must strike a reasonable balance. A carefully crafted safe harbor protection from meritless private lawsuits should encourage public companies to make additional forward-looking disclosure that would benefit investors. At the same time, it should not compromise the integrity of such information which is vital to both investor protection and the efficiency of the capital markets—the two goals of the federal securities laws.

The safe harbor contained in H.R. 1058 is so broad and inflexible that it may compromise investor protection and market efficiency. It would, for example, protect companies and individuals from private lawsuits even where the information was purposefully fraudulent. This result would have consequences not only for investors, but for the market as well. There would likely be more disclosure, but would it be better disclosure? Moreover, the vast majority of companies whose public statements are published in good faith and with due care could find the investing public skeptical of their information.

I am concerned that H.R. 1058 appears to cover other persons such as brokers. In the Prudential Securities case, Prudential brokers intentionally made baseless statements concerning expected yields solely to lure customers into making what were otherwise extremely risky and unsuitable investments. Pursuant to the Commission's settlement with Prudential, the firm has paid compensation to its defrauded customers of over $700 million. Do we really want to protect such conduct from accountability to these defrauded investors? In the past two years or so, the Commission has brought eighteen enforcement cases involving the sale of more than $200 million of interests in wireless cable partnerships and limited liability companies. Most of these cases involved fraudulent projections as to the returns investors could expect from their investments. Promoters of these types of ventures would be immune from private suits under H.R. 1058 as would those who promote blank check offerings, penny stocks, and roll-ups. It should also address conflict of interest problems that may arise in management buyouts and changes in control of a company.

A safe harbor must be balanced—it should encourage more sound disclosure without encouraging either omission of material information or irresponsible and dishonest information. A safe harbor must be thoughtful—so that it protects considered projections, but never fraudulent ones. A safe harbor must also be practical—it should be flexible enough to accommodate legitimate investor protection concerns that may arise on both sides of the issue. This is a complex issue in a complex industry, and it raises almost as many questions as one answers: Should the safe harbor apply to information required by Commission rule, including predictive information contained in the financial statements (e.g. pension liabilities and over-the-counter derivatives)? Should it extend to oral statements? Should there be a requirement that forward-looking information that has become incorrect be updated if the company or its insiders are buying or selling securities? Should the safe harbor extend to disclosures made in connection with a capital raising transaction on the same basis as more routine disclosures as well? Are there categories of transactions, such as partnership offerings or going private transactions that should be subject to additional conditions?

There are many more questions that have arisen in the course of the Commission's exploration of how to design a safe harbor. We have issued a concept release, received a large volume of comment letters in response, and held three days of hearings, both in California and Washington. In addition, I have met personally with most groups that might conceivably have an interest in the subject: corporate leaders, investor groups, plaintiff's lawyers, defense lawyers, state and Federal regulators, law professors, and even Federal judges. The one thing I can state unequivocally is that this subject eludes easy answers.

Given these complexities—and in light of the enormous amount of care, thought, and work that the Commission has already invested in the subject—my recommendation would be that you provide broad rulemaking authority to the Commission to improve the safe harbor. If you wish to provide more specificity by legislation, I believe the provision must address the investor protection concerns mentioned above. I would support legislation that sets forth a basic safe harbor containing four components: (1) protection from private lawsuits for reasonable projections by public companies; (2) a scienter standard other than recklessness should be used for a safe harbor and appropriate procedural standards should be enacted to discourage and easily terminate meritless litigation; (3) "projections" would include voluntary forward-looking statements with respect to a group of subjects such as sales, revenues, net income (loss), earnings per share, as well as the mandatory information required in the Management's Discussion and Analysis; and (4) the Commission would have the flexibility and authority to include or exclude classes of disclosures, transactions, or persons as experience teaches us lessons and as circumstances warrant.

As we work to reform the current safe harbor rules of the Commission, the greatest problem is anticipating the unintended consequences of the changes that will be made in the standards of liability. The answer appears to be an approach that maintains flexibility in responding to problems that may develop. As a regulatory agency that administers the Federal securities laws, we are well situated to respond promptly to any problems that may develop, if we are given the statutory authority to do so. Indeed, one possibility we are considering is a pilot safe harbor that would be reviewed formally at the end of a two year period. What we have today is unsatisfactory, but we think that, with your support, we can expeditiously build a better model for tomorrow.

I am well aware of your tenacious commitment to the individual Americans who are the backbone of our markets and I have no doubt that you share our belief that the interests of those investors must be held paramount. I look forward to continuing to work with you on safe harbor and other issues related to securities litigation reform.

Thank you for your consideration.

Sincerely,

ARTHUR LEVITT.

Mr. BENNETT. Mr. President, I ask the Senator from Maryland to pay attention closely to this since it concerns him directly.

I ask unanimous consent that the vote occur on or in relation to the Sarbanes amendment No. 1477 at 2:15 today and that the time between the beginning of the debate and 2:15 be equally divided in the usual form.

Mr. SARBANES. Reserving the right to object, first of all, could I inquire of the Chair, what is the time situation?

The PRESIDING OFFICER. We began consideration of this amendment at 11:09.

Mr. SARBANES. So the Senator has used 30 minutes.

The PRESIDING OFFICER. Thirty-five.

Mr. SARBANES. Mr. President, I am agreeable to dividing the time between now and 12:30 equally, and then having half an hour after lunch, equally divided, and then going to a vote on the amendment.

Mr. BENNETT. Mr. President, I would like to confer with the chairman of the Banking Committee before agreeing to that. I have no personal objection to it. I would think we ought to bring Senator D'AMATO into the discussion.

Mr. SARBANES. Fine. I was not aware of this request until I just heard it. I do think we should have some time after the caucus on the debate—after the conference luncheon.

Mr. BENNETT. Mr. President, I propound a unanimous-consent request that the time between now and 12:30 be equally divided on this issue, and leave the unanimous-consent request as to the exact time of the vote for a later request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I have heard the Senator from Maryland talk at great length about all of the hearings and the comments and the legal aspects of this.

Once again, I would like to talk about it from the standpoint of the chief executive officer, struggling to maintain the investor confidence in his company, and bring an appropriate return to investors, and talk about how this safe harbor circumstance would actually work.

A chief executive officer, having been one, sees dozens, maybe hundreds, of memorandum, every week. He engages in any number of conversations with individuals in the company in any given week about any particular subject. That is the fact against which I want to paint the picture of how this thing works.

We have been having this discussion about weakening a standard, safe harbor; where should the threshold be? I think the issue comes down, do we want a safe harbor or not? If we want one, it has to be safe, or we should not go through the exercise.

Now, the opponents have suggested that the safe harbor in the bill is, in fact, a pirate's cove.

Let me list, Mr. President, the pirates who are not welcome in this cove. That is, the pirates who would be denied the right to sail into this particular harbor, by the bill.

A blank check company, a blind investment pool that does not tell anybody how they invest, a penny stock company, a rollup transaction, a going private transaction. Not to imply these people are pirates, but they could not get into the cove. A mutual fund. It is very significant that that is on the list because that is where most of the seniors invest their money. They do not go out and individually pick stocks unless they have some experience at that. They buy a mutual fund. A mutual fund cannot come into this particular harbor. A limited partnership. A tender officer. Anyone filing certain ownership reports with the SEC. Or information in the financial statements is excluded. And, of course, any company that has recently committed a violation of the antifraud provisions of the securities laws cannot sail into the harbor.

Those kinds of restrictions are already out there. So the safe harbor is not for the pirates. It is for the people who do not fall into those categories.

Now, for those in the harbor, they have some requirements written into the bill. They must clearly state that any projection they are making is, in fact, a statement about the future, and they must clearly state, here in the words of the bill, "The risk that actual results may differ materially from such projections, states, or descriptions."

In other words, there is not a risk that we might be off a day or two. There is not a risk that we might be off a penny or two. There is a risk that the actual results may differ materially from the projections or estimates. Then, of course, we have the language that the bill does not permit companies to take advantage of the safe harbor if they act with "the purpose and actual intent of misleading investors." This is the language of the bill that we have before us.

Those are the requirements in this particular harbor; those that prevent people from coming in in the first place and those who govern the people who are there.

Let me explain why it is important that we not further lower the threshold that we have established with the words "purpose" and "actual intent of misleading investors." Here is how things work in an actual company, as I say speaking from experience as a chief executive officer. You gather all of your people around you. You look at the memos and the other reports that come out, and you inevitably find that there is a difference of opinion about just about everything going on in your company. Let us talk about a new product.

Some of your people say to you, "Oh. Our product, product X, will be available right on schedule in August. You can depend on it. You can take it to the bank." Others will say, "No. We are a little worried. We may not make it in August. We have this problem. We have that problem. Our supplier may not come through. We may miss the target date." You are the chief executive officer. You have to decide. You have a meeting coming up with a group of security analysts, and they are going to ask you point blank, "When will product X be on the market?" You want to give them the very best information you can.

So you sift through all of this and ultimately you have to make a decision. And you decide based on the track record of the people who are advising you that you think product X is a pretty good bet to be on line in August just as you anticipated it would. You go before the analyst meeting. And they say to you, "When will product X be available?" You say, "Well, it is my best judgment that it will be available in August. I have to qualify that by saying that is my estimate. I tell you there are some people in the company who do not think it will be available in August. But the best I can tell, my guess, my prediction, is that we will deliver product X in August." He can maybe put some other caveats in. You know, this is very sophisticated. The analysts do not hear any of that. They are like pollsters. "Who is ahead? Who is going to win the election?" "No. We want to know what your numbers say right now." And they do not listen to the caveats. The CEO can put in all the caveats he wants. But they are going to walk away saying, "He predicted that is going to come out in August."

Now we get to August. What happens? Any one of a number of things happens. Frankly, they do not have to be the kinds of things projected in the memo that the division manager who said it might not happen in August included. There could be a hurricane in Florida where one of your suppliers is and the supplier cannot provide the parts that you were depending on. There was no way you could predict that. There are any number of things that could have happened. But you get to August, and the company puts out a press release saying product X has been delayed and will not be introduced until sometime later in the fall.

Bang—the analysts pound the stock. There is wild speculation. I have seen those. We have all seen those. They go through the marketplace—all kinds of rumors, the company has serious problems, their management is in difficulty, so and so is going to get fired, the stock drops 10 percent, and within a week strike suits are filed naming the company, its chief executive officer, and a bunch of other officers for conspiring to put out false information about product X and misleading the marketplace.

Product X comes out in September. It is a great hit. The stock price recovers. Presumably nobody is hurt. But, frankly, all of that is irrelevant because the legal machinery is now in motion and they do not care what is happening to the product or the company. Whether they want to or not, the top management of that company must now focus on an issue that is irrelevant to the management of the business; and, if I may, Mr. President, to the detriment of the investors in that company because the investors in that company want top management focusing on sales. They want top management focusing on efficiency. They want top management focusing on cutting costs and opening new markets. But instead they have a situation where in the name of the investors the legal machinery is forcing the top management of that company to focus on something totally unproductive—coming up with a defense against the charges that they mislead the public.

Discovery: That great word in the legal lexicon; discovery starts, and it goes to every piece of paper that has to do with product X, and every memorandum that may have crossed the CEO's desk. And they find the memo from the fellow who says, "I don't think we are going to be ready in August." And, bingo, we have a smoking gun. No reference is made to the other opinions now. In court the reference is all going to hammer in on this one fateful memo, and, "Mr. CEO, did you read this memo?" If, he says yes, he not only has knowledge that product X was not going to come in, he has actual knowledge, not just imputed knowledge, actual knowledge. He admits he read the memo. Nail him to the wall.

That is what happens if he does not have the safe harbor that we have written into this act. Let us assume that this company is not one of those that is kept out of the harbor, the list I read in the beginning. It is one of those that is allowed into the harbor and without the harbor that is what happens.

Now suppose we have the reckless standard that people have argued for. This would be a very easy standard for a plaintiff's lawyer to meet in the circumstance I have described. Arguably any projection about the future is reckless. "You do not know, Mr. CEO, that the future is going to produce this product in August. It was reckless of you to say that you would have it in August. You may have believed it but it was a reckless statement." There is no protection for the CEO in this circumstance with the term "reckless." No. He needs the safe harbor of the bill.

And the question is how safe should that harbor be? Well, if we had the simple knowledge standard that the SEC suggests, the question is, "Well, did you know that this product would not meet its date in August? Well, here is a memo in the company. It came over your desk. You read it. If you did not know, you should have known." Simple knowledge can be twisted in the hands of a careful lawyer, and the CEO has a very difficult time explaining this circumstance.

So a knowledge standard, even an actual knowledge standard, is not going to be a safe harbor. It is not going to protect the CEO. And again the point, Mr. President, it is not going to be for the benefit of the investors because the CEO is not going to be able to be doing what he is hired by the investors to do—run the company. He is going to be worrying about this particular problem.

This is the kind of thing that drives companies to settle out of court and to say, "Well, we really did not do anything wrong but in order to get back to the business of making products and out of the business of prosecuting lawsuits, we will settle even though we are pretty sure we did not do anything wrong."

No. What we need to have is what we have in this bill, a safe harbor that says not only did the CEO have knowledge but he acted with the purpose and actual intent of misleading investors. Now, that no one can tolerate. That clearly must not be allowed. But it must be the purpose and actual intent of misleading investors before the CEO is driven out of the harbor.

Why actual intent? Because without it intent can be implied in a number of circumstances. "You saw this memo, the very fact that you decided to ignore it in your presentation to the security analyst, Mr. CEO, implies that you intended to deceive them." No. The standard must be higher than that. You must prove that he had the actual intent, that he had the purpose of deceiving investors before you drag him into that area.

Is this a high threshold? I think it is an appropriate threshold because it fits the reality of the circumstances, and it prevents plaintiffs from accusing companies and officers of committing fraud simply because documents of differing opinions exist somewhere in the file. You have to go beyond that. You have to prove actual intent.

If I may stray into waters that I probably should not, since I have not gone to law school, but I have had some experience in this area, it is a little like the standards that we apply in the first amendment.

If a newspaper inadvertently prints something that is inaccurate, they cannot be held for libel unless it is proven that they acted with malice, with actual intent, if you will, to harm the reputation of the individual. Thus free speech is allowed to go forward unimpeded, however damaging it is to the individual involved. Having been the individual involved in some circumstances, I know how hard sometimes that is to accept.

But that is the standard we have created in that circumstance, and I think the language in this bill holds that same kind of standard.

Now, Mr. President, I come to the final question, which is what I think we should focus on here. Whom are we trying to protect? With all of this legislation, whom do we seek to benefit? What is the purpose of all of this? Are we trying to protect CEO's? Are we trying to protect lawyers? Are we trying to protect security analysts and newspapers that report things? Whom are we trying to protect at base by all of this legislation? The answer, Mr. President, is the investor. The purpose of this legislation is to protect the investor and his or her investment.

Look at every issue that we are talking about here through that particular lens. Is it good for the investor or is it bad for the investor? Is it good for the investor to have the CEO feel constrained about talking about the prospects of his company? Is it good for the investor to have the CEO being hedged about by lawyers who tell him when he goes before the security analyst: You cannot talk about this; you cannot talk about that; you cannot make any speculation of any kind lest you run the risk of exposing yourself to these kinds of suits later on.

I submit that it is good for the investor to have the CEO be as open and candid as he possibly can be and to say to the security analyst: Yes, it is my judgment that product X will be on the market in August. Because what if he is right and product X is on the market in August, and he did not tell anybody that and they did not have the opportunity to buy the stock in the expectation that that would be the case?

Is it good for the investors to have him say: I have differences of opinion within the company; there are some people who do not think it will be.

Yes, it is good for the investors to have him be as candid and open as possible. And the only way you can get that kind of candid, open discussion is if you have a safe harbor in which that honest CEO can sail knowing that he will be protected from the waves and whims of the shark suits that are out there.

Is it good for the investor or is it bad for the investor to have the CEO's attention diverted into lawsuits that have nothing whatever to do with the management of the company? I submit it is bad for the investor to have the CEO concentrating on things other than the things for which he was hired. And ultimately, is it good for the investor or is it bad for the investor to have the company paying out millions of dollars in legal fees on issues that are tangential to the company's performance?

I submit it is bad for the investor, and it becomes doubly bad for the investor when, as we have seen over and over again in the debate on this bill, the highest percentage of those fees and fines being paid out by the investor—those are the investor's moneys; those are not the CEO's moneys. When you say those are the company's moneys, there is only one source of company money, and that is the investor. That is the investor's money going out, with the vast bulk of it going out to the plaintiff's attorneys and not the investor. They say: Oh, look, we are protecting the investor. Look at the money that is going back to the investor.

No, the money is going back to the lawyer, and in the meantime all of the money and attention and activity on behalf of the management of the company has been focusing on this suit.

That is why they settle, Mr. President. They settle because it is good for the investors and for them to get this thing behind them. But it would be better for the investors if honest executives who have no intent and no purpose of deceiving have a safe harbor from which they can explain to the public the things that are going on in the company and make statements about the future fully hedged about with protections that say these are speculations so that the investor then has information from which to make his or her own intelligent decisions.

So, Mr. President, I oppose the amendment by the distinguished Senator from Maryland. I enjoy serving with him on the Banking Committee. I enjoy the intellect and I enjoy the thoroughness with which he approaches these decisions, and I hope he recognizes it is not an act of disrespect on my part when I say I disagree with him on this amendment and intend to vote against it and urge my colleagues to do the same.

Now, Mr. President, I ask unanimous consent that at 2:15 p.m. today, Senator KASSEBAUM be recognized in morning business for not to exceed 5 minutes, and that at the hour of 2:20 p.m. there be 40 minutes of debate on the Sarbanes amendment No. 1477, equally divided in the usual form, with the vote occurring on or in relation to the Sarbanes amendment at 3 p.m. today, with no second-degree amendments in order to the amendment; further, that following the disposition of the Sarbanes amendment No. 1477, Senator SARBANES be recognized to offer an amendment regarding safe harbor.

Mr. SARBANES. Reserving the right to object, Mr. President, I have indicated a desire to have an up-or-down vote on the amendment. Does the Senator have any problem with that?

Mr. BENNETT. Mr. President, I have no problem with that, but I cannot bind other Senators who may wish to make a motion to table.

Mr. President, I would have no objection to that.

Mr. SARBANES. So with that amendment to the unanimous consent request, I have no objection.

Mr. BENNETT. Yes, on the Sarbanes amendment there would be no motion to table.

Mr. SARBANES. Right.

The PRESIDING OFFICER (Mr. ASHCROFT). Without objection, it is so ordered.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I thank the Chair.

Let me just, if I can, make a couple of observations here about this amendment and the history——

The PRESIDING OFFICER. Who yields time?

Mr. DODD. How much time remains?

The PRESIDING OFFICER. All of the time remaining is under the control of the Senator from Maryland.

Mr. SARBANES. Mr. President, I do not think that is correct, in all fairness to my colleague. I wish to be fair. I think the agreement was we would divide equally the time between 11:10, as I understood it, when we went——

Mr. BENNETT. Mr. President, I ask unanimous consent that the previous unanimous-consent be amended to be as the Senator from Maryland remembers it.

Mr. SARBANES. I thought that is what it was.

It would not be fair to divide the time from 11:45 equally since the time before 11:45 was consumed, not quite but primarily, on one side. That is not really fair to my colleagues, and I recognize that. I think if we divided it—was it from 11:15 on?

Mr. BENNETT. It was 11:09.

Mr. SARBANES. If that time were divided equally, what would the time situation now be?

The PRESIDING OFFICER. The Senator from Maryland would have 10 minutes, and the Senator from Utah would have 10 minutes.

Mr. BENNETT. I ask unanimous consent that that be the state of the time from this time until we break for lunch.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. Who yields time?

Mr. SARBANES. And that would mean from the time we went on this amendment, all time would have been equally divided; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. SARBANES. Yes.

Mr. BENNETT. Mr. President, I yield such time as he may consume to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I thank my colleague from Utah. I yield myself 5 minutes. If the Chair would remind me at the end of 5 minutes so as not to take too much time on this because a lot has been said already about it.

Mr. President, let me make a couple of observations to underscore the point that my colleague from Utah has already addressed. Some of my colleagues have said that the safe harbor provisions of S. 240 do not go as far as some would suggest. First, our provisions of safe harbor limit significantly the circumstances in which the safe harbor applies.

I think it is very important to lay out as clearly as I can here, what is included and what is excluded.

The safe harbor provisions of S. 240 apply only—only—to statements made by issuers or outside reviewers retained by issuers. Statements by stockbrokers are not protected at all under S. 240's safe harbor. Certain issuers are excluded. Not all issuers are included; some are excluded from safe harbor, including anyone who has violated securities laws within the prior 3 years. Penny stock companies, blank check companies, investment companies, all companies, Mr. President, are excluded from the safe harbor when they engage in certain types of transactions such as IPO's, initial public offerings. The tender offers, rollup transactions, all of those are excluded. So this is a very narrow provision here. All information contained in historical financial statements is excluded as well.

Second, Mr. President, the safe harbor applies only to projections or estimates that are identified—they must be identified—as forward looking statements and that refer "clearly and proximately" to "the risk that actual results may differ materially"—that is the language, "the risk that actual results may differ materially"—from the projection or estimate.

That goes right to the heart of what the Senator from Utah was talking about. This is a very narrow area we are talking about, and the point is to create a safe harbor. Why do you create a safe harbor? Because we are trying to solicit from these issuers as much information as possible so that a potential buyer can have as much awareness as possible about where this stock or where this company is likely to go. It is in the interest of the investor that we get as much of that information as possible.

There is no requirement in law that an issuer even put out forward looking statements. In fact, what has happened lately is a lot of them have retreated from that very advantageous idea because of the very situation we find ourselves in today. So it is in our interest to solicit this kind of information, but in doing so, we say, "Look, we want you to share as much information about where you think this company is going, where this stock is going so that investors will make intelligent decisions."

In doing so, if you do anything—and we say very clearly in the bill if you do anything that knowingly with purpose or intent of misleading investors, on page 121 of this bill, we now take out the word "expectation"—knowingly made with the purpose or intent of misleading investors, then you are excluded. Not only excluded, you are subject to the penalties of the law.

So anyone who knowingly with intent to mislead in those forward looking statements is subject to the provisions of the law that apply in this piece of legislation before us. But the idea is to get that information out, and it seems to me that is in everyone's interest.

You have to strike that balance. There are those who are opposed to safe harbor. I disagree with them; I understand it. I do not think anyone who has really looked at the larger issues would agree with it. So we have attempted with this legislation to craft the safe harbor provisions.

My colleague from Maryland has correctly pointed out that in the earlier bill we introduced some 17 months ago, we asked the SEC to try to develop a regulatory scheme to deal with safe harbor. I must say, I have heard now for the last 2 days a lot of these kudos and praise over the bill that we introduced last March. I would very much have liked to have passed a bill in the previous Congress in this area, but I could not get that kind of support.

I ask unanimous consent that I may be able to proceed for 5 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I wish we had some of that support. The very people today who find the previous bill so attractive, I must say candidly, were not exactly racing to support the legislation when it potentially could have been adopted in the last Congress.

Putting that aside, let me also point out to my colleagues, having made the offer 17 months ago to have the SEC move, frankly, the SEC has not moved, and I am convinced today they would not move on this.

There is ample evidence to indicate that that suspicion of mine is correct. In a June 22 edition of the Bureau of National Affairs publication, which follows legislation dealing with financial institutions, under securities, the headline is, "SEC safe harbor initiative may be overtaken by litigation reform." Following are several pertinent paragraphs I think support what I am saying:

> Although one agency official stated in late March that SEC action in its October concept release was imminent, that has not materialized. Rather, the SEC remains at the concept-release stage on the initiative. Its inaction during the 8 months since release was issued has been attributed by some observers to some differences of opinion within the Commission on various issues connected with the initiative.

Another Commissioner, Richard Roberts, told BNA June 21 that there are bona fide reasons that the Commission did not act quickly on the concept release, including questions about the agency's authority in the area of forward looking information.

Again, we just were not getting the action in this area.

It is a complex area. The Senator from Maryland is absolutely correct. Anyone who suggests otherwise has not spent any time looking at this. But I will argue, despite the fact that our original bill tried to get the SEC to come forward in this area—in fact they have not—that there is a good case to be made that leaving these matters just up to the regulatory bodies or, as we have seen in other cases dealing with aiding and abetting, for instance, to the courts, is not a wise way to go ultimately.

In many matters here, we ought to be trying to establish through the legislative process what our intent is. So while I welcomed in the past the SEC's efforts in this regard, that was not forthcoming. Now it is being suggested by those who opposed the bill last year that I ought to go back to my earlier position on this matter, even though the SEC did not move in this area, given the 17 months they had an opportunity to do so.

Letters are being bandied about. The letter of May 19 from the Chairman of the SEC certainly recognizes that there is a need to strengthen the safe harbor provisions. In fact, in paragraph 3 of Chairman Levitt's letter on May 19, he says:

> There is a need for a stronger safe harbor than currently exists. The current rules have largely been a failure, and I share the disappointment of issuers that the rules have been ineffective in affording protection for forward-looking statements. Our capital markets are built on the foundation of full and fair disclosure. Analysts are paid and investors are rewarded for correctly assessing a company's prospects. The more investors know and understand management's future plans and views, the sounder the valuation is

> of the company's securities and the more efficient the capital allocation process. Yet, corporate America is hesitant to disclose projections and other forward-looking information because of excessive vulnerability to lawsuits if predictions ultimately are not realized.

It goes on to talk about how he was a businessman all his life, and so forth, and lays out some specific areas and talks on page 2 of this letter, in the last paragraph:

> A safe harbor must be balanced, should encourage more sound disclosure, without encouraging either omission or material information or irresponsible and dishonest information. Safe harbor must be thoughtful so that it protects considered projections, but never fraudulent ones.

I invite my colleagues to look at the language on page 121 of our bill, where we specifically lay out, No. 1, knowingly—talking about projections—knowingly made with the purpose and actual intent of misleading investors.

So we clearly there are saying if you make a knowingly fraudulent statement, a misleading—not even fraudulent but misleading statement—a knowingly misleading statement, that you are not protected by the safe harbor provisions. Is this perfect? I cannot say that it is. But I will say it conforms to what the Chairman of the SEC says, that the present situation is not working very well. We know when we see what is happening with the forward-looking statement; they are being contracted and contracted and contracted. That is the practical effect of the environment we live in today. That does not serve the investor community well, Mr. President.

With those reasons, with all due respect and great admiration for my colleague from Maryland, throwing this back into the court of the SEC I do not think is going to advance our cause in dealing with clear reform in the area of safe harbor that is needed.

I urge my colleagues to reject the amendment offered by the Senator from Maryland.

Mr. SARBANES. Mr. President, I listened very carefully to both of my colleagues and I would like to, very quickly, address some of the points they made. I think the Senator from Connecticut is being extremely unfair to the SEC in terms of saying that they did not pick up on this. They have picked up on it. Whether they should have picked up sooner is the question. But they did issue a period for comment, and that was in October 1994, and they received comments—over 150. They then held hearings in the first part of this year. The Chairman, I think, of the SEC, as the Senator quoted him in the letter, has indicated that he wants to do something about safe harbor. The Senator quoted him correctly.

Mr. President, I ask unanimous consent that a letter from Chairman Levitt, dated May 25, 1995, be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. The real question here is not whether we should improve safe harbor. The question is, who is going to try to do it? Where is the best place to do that? This amendment says that the best place to do that is at the SEC, and that this body is not equipped to try to work through this complex issue; and if it tries to do it, the law of unintended consequences is going to bring a lot of potentially devastating developments.

The proposal to have it done at the SEC is, of course, the proposal which the Senators from Connecticut and New Mexico had when they first introduced the bill—the bill which Members cosponsored. Members who cosponsored this legislation were cosponsoring a provision with respect to safe harbor, which is exactly the amendment at the desk. That provision was subsequently changed in the committee. That is not the provision that was in the legislation which Members were signing onto as cosponsors.

Chairman Levitt has warned us of the danger that the provision in the bill will protect fraud. Safe harbor is a grant of immunity, an exemption from any liability. Safe harbor, in effect, says that you are immunized altogether. So it is very important to properly define the safe harbor. I have been interested in Members—first of all, the chairman amended the statutory provision in the bill on safe harbor shortly a while ago here on the floor, recognizing that this effort to write this statutory standard was deficient, I assume.

My colleague from Connecticut is citing provisions in the bill where certain activities cannot get safe harbor. He specifically precludes them from doing that and he went through some of them. All of those are things that developed. We got concerned about penny stocks when they were used as an abuse. Who knows what the next abuse is going to be down the road? If the SEC does this, they are in the business of being able to adjust to the abuses as they come. The SEC can, in effect, modify the framework. These listings of exceptions to the safe harbor standard in the rule are a demonstration, in my judgment, of the inappropriateness of trying to write the standard here, as opposed to letting it be done by the regulatory authorities.

The forward-looking statements in this bill are broadly defined. They include both oral and written statements. Now, we want a lot of the information, but it is the kind of information investors use in deciding whether to purchase a particular stock.

Now, the Chairman of the SEC himself has said they want—in fact, the Senator quoted one member of the SEC who said maybe they were not moving as quickly because they had some doubts about their statutory authority to do so. Of course, his original proposal would have provided that statutory authority. So if that is an inhibition, the amendment eliminates that and any doubts with respect to the SEC's ability to move ahead. The Commission received 150 comment letters in response to the release. It has worked closely with a vast representation of the industry. In fact, when Chairman Levitt testified in April of this year, he said:

> From the Commission's perspective, an appropriate legislative approach is contained in the Domenici-Dodd bill. This provision would allow the Commission to complete its rulemaking proceeding and take appropriate action after its evaluation of the extensive comments and testimony already received. Based on the Commission's experience with this issue to date, we believe there is considerable value in proceeding with rulemaking which can more efficiently be administered, interpreted and, if needed, modified than can legislation.

The North American Securities Administrators Association, the Government Finance Officers Association, the National League of Cities, and nine other groups, in a letter to the committee, on the 23d of May, expressed the same view, saying:

> We believe the more appropriate response is SEC rulemaking in this area.

Unfortunately, the committee print substitute to S. 240, unlike the bill as introduced, abandoned this approach in favor of trying to formulate a statutory safe harbor.

This is contrary to all the advice we are receiving from the regulators. Everybody gets up here and says this interest group wants this and this interest group wants that. I recognize that. I have been the first to state that you have these interest groups clashing over this thing. But what are the public interest officials telling us—those whose responsibility it is to serve the public interest, not one or another of these economic interest groups—what are they telling us? Of course, what they are telling us is that the approach in my amendment is the approach to follow.

The standard that is in the legislation, I think, is going to allow fraud to occur. In fact, Chairman Levitt, on the morning of the markup, wrote about the language that is in the bill before us. He stressed that this language failed to adhere to his belief that a safe harbor should never protect fraudulent statements. Let me quote him:

> I continue to have serious concerns about the safe harbor fraud exclusion as it relates to the stringent standard of proof that must be satisfied before a private plaintiff can prevail. As Chairman of the Securities and Exchange Commission, I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection.

He had seen the language. That is a comment on the very language that is in this bill. He said:

> . . . I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection.

Others have criticized this provision as well. The Government Finance Officers Association, representing more than 13,000 State and local government financial officials, county treasurers, city managers, and so forth, wrote on the safe harbor provision in the bill:

> We believe this opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery.

I say to my colleagues, no one is arguing here that we do not need to do something to improve safe harbor. The issue framed by this amendment is, who should do it? I submit, as I indicated earlier, in an issue of this complexity, it is better that it be done by the Securities and Exchange Commission.

The North American Securities Administrators Association represents 50 State securities regulators. They said:

> We believe this opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery.

These are on the front line of defense against securities fraud. They are really the regulators closest to the individual investors. They call the provision in this bill an overly broad safe harbor, making it extremely difficult to sue when misleading information causes investors to suffer losses.

AARP has also written calling for replacement of the safe harbor provision, with a directive to the SEC to issue a rule which structures a safe harbor that protects both legitimate business and investors.

Given the broad definition in this legislation of forward-looking statements, discussed above, it is crucial that the legislation not shield such statements when they are false. Encouraging reasonable disclosures is one thing. Allowing fraudulent projections is another. Actually, that kind of safe harbor would hurt investors trying to make intelligent investment decisions and penalize companies trying to communicate honestly with their shareholders. It runs counter to the whole premise of our Federal securities laws, which has helped to give us strong markets. The fraud must be deterred, and the fraud must be punished when it occurs.

Mr. President, I think it is important that safe harbor not protect fraudulent statements and, in my judgment, the best way to address this issue is to, in effect, use the approach that was initially in the legislation charging the SEC with developing a safe harbor regulation—a process now engaged in.

These are the transcripts of the hearings they held on the issue. They received over 150 comment statements and letters, and they have engaged in an extensive discussion with a whole range of people who have acquaintance and knowledge in this area.

I very much hope the body will adopt the amendment.

EXHIBIT 1

U.S. SECURITIES AND
EXCHANGE COMMISSION,
Washington, DC, May 25, 1995.

Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I understand that this morning you and the members of the Banking Committee will be considering S. 240 and that you will be offering an amendment in the nature of a substitute. While I have not had the opportunity to analyze fully the May 24th manager's amendment to the Committee print, I appreciate your leadership and efforts to address the concerns of the Commission in drafting your alternative.

The safe harbor provision in the amendment, in my opinion, is preferable to the blanket approach of H.R. 1058. It addresses a number of the concerns pertaining to the size of the safe harbor and the exclusions from the safe harbor. The Committee staff appears to be genuinely interested in the Commission's views of its draft legislation and has attempted to be responsive. I was pleased to see the latest draft deleted the requirement that a plaintiff must read and actually rely upon the misrepresentation before a claim is actionable. Your attempt to tailor the breadth of the safe harbor of the Securities Exchange Act of 1934 to the more narrow safe harbor of the Securities Act of 1933 was encouraging. However, I continue to believe that the definition should be further narrowed to parallel the items contained in my letter of May 19th. Moreover, there remain a number of troubling issues.

I continue to have serious concerns about the safe harbor fraud exclusion as it relates to the stringent standard of proof that must be satisfied before a private plaintiff can prevail. As Chairman of the Securities and Exchange Commission, I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection. The scienter standard in the amendment may be so high as to preclude all but the most obvious frauds. I believe that there should be a direct relationship between the level of scienter required to prove fraud and the types of statements protected by the safe harbor. My letter of May 19th indicated the discreet list of subjects that are suitable for safe harbor protection, assuming a simple "knowing" standard. Accordingly, if the Committee is unwilling to lower the proposed scienter level to a simple "knowing" standard, the safe harbor should not protect forward-looking statements contained in the management's discussion and analysis section. This would be better left to Commission rulemaking.

In addition to my concerns about the safe harbor, there is no complete resolution of two important issues for the Commission. First, there is no extension of the statute of limitations for private fraud actions from three to five years. Second, the draft bill does not fully restore the aiding and abetting liability eliminated in the Supreme Court's Central Bank of Denver opinion. I am encouraged by the Committee's willingness to restore partially the Commission's ability to prosecute those who aid and abet fraud; however, a more complete solution is preferable.

I also wish to call you attention to a potential problem with the provision relating to Rule 11 of the Federal Rules of Civil Procedure. I worry that the standard employed in your draft may have the unintended effect of imposing a "loser pays" scheme. The greater the discretion afforded the court, the less likely this unintended consequence may appear.

I would like to express my particular gratitude for the courtesy and openness displayed by the Committee and its staff. I hope we will continue to work together to improve the bill so as to reduce costly litigation without compromising essential investor protections.

Thank you for your consideration.

Sincerely,

ARTHUR LEVITT.

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2:15 p.m.

There being no objection, the Senate, at 12:33 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KYL).

Mr. BROWN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I ask unanimous consent that I may proceed as if in morning business for up to 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey is recognized.

Mr. BRADLEY. I thank the Chair.

(The remarks of Mr. BRADLEY and Mrs. KASSEBAUM pertaining to the introduction of S. 969 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

PRIVATE SECURITIES LITIGATION REFORM ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. The time from now until 3 p.m. will be reserved for debate on the Sarbanes amendment with the time to be equally divided in the usual manner.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 1477

Mr. DOMENICI. Mr. President, I have discussed this with Senator D'AMATO. Some of the time remaining will be allocated to me by him. So let me start by yielding myself 7 minutes from our side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, speaking now of the safe harbor amendment that is before us, and the safe harbor language that is in the bill, I first want to call to the Senate's attention the chilling effects on voluntary disclosure that exist today because of our failure to have an adequate safe harbor for voluntary statements about future conditions.

First:

> Seventy-five percent of the American Stock Exchange CEO's surveyed have limited disclosure of forward-looking information.

That is according to an April 1994 survey.

Limited disclosure:

> Seventy-one percent of more than 200 entrepreneurial companies surveyed are reluctant to discuss the companies performance. (National Venture Capital Association, 1994.)
>
> Nearly 40 percent of investor relation personnel surveyed at 386 companies have cut back on voluntary disclosure of information to the investment community. (National Investor Relations Institute, March 1994.)
>
> Fear of litigation is the number one obstacle to enhance voluntary disclosure by corporate managers. (Harvard Business School study, 1994.)
>
> Less than 50 percent of companies with earnings result significantly above or below analysts' expectations released information voluntarily. That information, too, is from one of our great universities, the University of California, (November 1993.)

Mr. President, it has been asked why, originally in the Dodd-Domenici or Domenici-Dodd bills we did not have this statutory safe harbor language.

Mr. President, fellow Senators, the truth of the matter is that it has been 4 years since we first started this exercise of trying to get this law. And the final draft, more or less, of what is being alluded to as the Dodd-Domenici or Domenici-Dodd bill is 3 years old.

For those who are questioning why we do not adopt the original bill's language on safe harbor, let me just suggest that such an approach's time has come and gone. If the Senators suggesting the regulatory approach would have all come to the party 3 years ago, the bill would have been enacted. But nobody would. So what happened is we had in that bill asked that the Securities and Exchange Commission solve this problem.

Mr. President, for various reasons the Securities and Exchange Commission is not able to solve the safe harbor problem. They have had numerous hours of hearings, Commissioners are split, we are short two Commissioners. There are vacancies. Entrenched staff of that institution are arguing back and forth on philosophy and language. Meanwhile, the status quo continues, and here we sit with an unfixed safe harbor even though Congress has asked them to fix it.

Last year in appropriations, Mr. President, fellow Senators, I put in the appropriations bill report language that the SEC needed to create a new safe harbor and to report back to us by the end of the fiscal year. The provision called upon them to tell the people of this country what the safe harbor would be since the SEC wanted to develop it. They have not done it. It is almost time for another appropriations bill. And they have not done it.

Let me suggest that inaction and gridlock at the SEC do not mean we should not do something. In fact, I do not believe that is what the current head of the SEC, Arthur Levitt is saying, that we should not do anything because we should still leave it up to them 3 years and untold numbers of hours, and hundreds of pages of testimony. So frankly, we ought to do something statutorily about the safe harbor.

The fact that it is a problem is absolutely manifold before us here today. And the fact that those very same lawyers, that small group of sharks, that sit around waiting for litigation, are fighting so hard to keep the current, ineffective safe harbor makes it patently clear that filing frivolous lawsuits when a company misses an earnings projection is one of their great slot machines. This is one situation where they just jump out there and pick up on statements that are predictions of the future, and anything that does not turn out as it was spoken as a basis to file a lawsuit.

Forward-looking statements are predictions about the future. Frequently, these lawsuits are based on past statements of future expectations.

Why do not future predictions always come true?

Mr. President, changes in the business cycle occur beyond the control of the company or their executive or their accountants. Is that fraud?

Changes in the market occur. And ask somebody why the changes have occurred and you will get as many answers as there are people you would ask. Is that fraud?

Changing the timing of an order—is that fraud?

Because forward-looking statements often involve future products, innovations, technologies of the future, failure to meet one or another expectation, is inevitable. But it should not be inevitable that a lawsuit follows. But I ask: Is each of those a fraud if you do not meet them? No. It is simply failure of a prediction about the future to come true.

Talk about the chilling effects of disclosure. I have just explained the reality of harm this ineffective policy is causing in the marketplace. And so now let me proceed to talk about the safe harbor in this bill.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I yield myself 5 more minutes.

Arthur Levitt, for whom I have great respect, and he knows that, said he wanted a balanced safe harbor. The SEC has been promising this new safe harbor for at least 3 years. Arthur Levitt has said that the current safe harbor "is a failure."

That is not PETE DOMENICI, who proposed this bill some 4 years ago; it is Arthur Levitt saying the current safe harbor, whatever it is, is a "failure." The securities litigation reform bill that Senator DODD and I introduced, directed them to make plans for, and recommend a fix to this broken safe harbor situation. We have gone through that with you already. But I can repeat again, frustrated by this lack of progress, I put language in the appropriations bill's report.

Actually, it has been 8 months since the SEC took its first step and issued a concept proposal, and still we get nothing.

So in answer to those in the Chamber, including my friend from Maryland, Senator SARBANES, who say Senator DODD, Senator DOMENICI, if you left the bill the way it was when you originally introduced it, I would be for this provision because you did not have the provision that is before the Senate today. Of course not. We have been anxiously waiting for 3 years now for the SEC to fix this. And since they have not, we believe the committee has come up with an excellent solution to this problem.

Let me go on then and cite for the RECORD a little detail about the disagreements among the Commission and various staff at the SEC just to show that there is great imbalance.

Wallman wants a meaningful safe harbor. Beese wants a strong safe harbor. The Commission is two commissioners short and there will be three empty seats soon. With new commissioners eventually coming onboard, it will slow the process even further. It will be years.

The Senate bill recognized the problem at the SEC and the urgency of a meaningful safe harbor. The committee made the change and crafted a statutory safe harbor, even though the Securities Commission could not tell us how to do it. And I believe the committee have done it right. They had the benefit of this entire record before the SEC.

The main concern that Arthur Levitt has expressed to the Congress is that there should be no safe harbor for predictions about the future that were intentionally false.

The Council of Institutional Investors, the mutual fund managers, did not agree with Arthur Levitt and they had suggested that Congress go further than our bill. They argued that statements which are accompanied by warnings should be per se immune from liability. The Senate bill does not go that far.

CALPERS—the California public employees pension fund—in their testimony to the SEC, stated:

> By definition, projections are inherently uncertain. The more such statements are based on assumptions susceptible to change, the less useful they are in assessing prospective performance. Investors recognize this and appropriately discount the importance of such information when making investments. This being the case, we see no reason why investors should then be allowed to rely upon such statements in an action for fraud after their speculative nature has been fulfilled.

There is a warning that will accompany each of these statements if it is to be protected under the safe harbor created by the bill. It will clearly: say these forward looking statements are predictions; they may not come true. It may turn out that the actual results differ materially from this prediction about the future.

The Council of Institutional Investors—that is the professional people who manage these funds, people who have a fiduciary duty and high level of trust to manage pension funds—told the SEC that any safe harbor must be "100 percent safe." This means that all information in it must be absolutely protected even if it is irrelevant or unintentionally, or intentionally, false or misleading." The bill does not go that far.

For decades, Congress has deferred to the courts in setting the contours of class action 10b–5 litigation. We are changing that in this bill, and we should not pass the buck on to anyone on something as important as safe harbor.

The chilling effect on the willingness of companies to make disclosures is bad for investors, for analysts, for professional fund managers, for retirement stewards, companies and the market in general. The high technology companies cannot grow without a meaningful safe harbor, and we provide just that.

We provide a meaningful safe harbor. That meaningful safe harbor clearly does not protect against intentional fraud and knowing misrepresentations. We have made it very specific; individuals engaging in that type of activity cannot get into our safe harbor. Those statements are still actionable. So any statements on the floor that we will let people perpetrate fraud because of this statutory safe harbor, which includes knowledge, purpose and intention, that is not so. Nonetheless, you either have to have a safe harbor that works on future statements that are predictive only or you have it wide open again for litigation and we are right back where we started.

Mr. President, I yield the floor.

Mrs. FEINSTEIN. Mr. President, the safe harbor provisions of the bill have been criticized by some of my colleagues. I would like to address those criticisms by pointing out that S. 240 puts more responsibilities on companies seeking to use the safe harbor and puts more conditions on their use of the safe harbor than the SEC does in its current rules. It also goes further than a number of courts of appeals that have examined the issue of liability for forward-looking statements.

I wonder if the bill's manager would engage in a colloquy with me on this point?

Mr. D'AMATO. I would be delighted to.

Mrs. FEINSTEIN. First, S. 240 has a definition of forward-looking statement. It includes projections of revenues, statements about management's plans for the future, and statements about future economic performance of a company, among other things. Can you tell me where that definition came from?

Mr. D'AMATO. It came directly from rule 175. It is the SEC's own definition of forward-looking statements.

Mrs. FEINSTEIN. Now, the Banking Committee excluded a number of companies and a number of transactions from using the safe harbor. Can you explain why that was done?

Mr. D'AMATO. The Banking Committee made a policy decision to exclude from the safe harbor certain companies and certain transactions in which the incentives for making overly optimistic forward-looking statements might be present. It is important to note that the safe harbor does not apply to:

First, statements about a company that within the past 3 years has been convicted of certain violations of the Federal securities laws.

Second, statements made in an offering by a blank check company. These are companies that offer securities to the public, but which have no clear business plan and are therefore highly speculative.

Third, statements made by an issuer of penny stock. These are companies that sell very low priced stock, often through brokers who use high pressure sales tactics. There have been significant problems of fraud in the sale of these securities in the past.

Fourth, statements made in connection with a rollup transaction. These are transactions in which sponsors of limited partnerships attempt to combine many separate partnerships and rake off huge management fees. Congress passed legislation to address these abuses in 1990. We shouldn't allow these transactions to use the safe harbor.

Five, statements made in connection with a going private transaction. These are transactions in which a company buys back its shares from its public shareholders. Often, it involves management of the company buying back the shares.

Six, statements made in connection with the sale of mutual funds. Mutual funds simply should not be making projections. The SEC has a long series of rules governing mutual fund disclosure.

Seven, statements made in connection with a tender offer also are excluded. These often are hotly contested takeover battles, and we have decided not to give them any safe harbor protection.

Eight, statements made in connection with certain partnership offerings and direct participation programs. Very often, these are securities products put together in-house at a broker-dealer, and we think the temptation for making rosy performance projections may be too great in these cases.

Nine, statements made in connection with ownership reports under 13(d) also are excluded. These are the reports required under law by anyone who purchases 5 percent or more of a company's securities. The law also requires that they state their plans with respect to the company. The committee decided these statements should not be protected under the safe harbor.

Ten, finally, the safe harbor does not apply to forward-looking statements in the financial statements of a company.

So, to answer your question, we excluded a long list of companies and transactions from the safe harbor, because we were concerned that, in these companies and in these transactions, there might be a temptation for companies to make rosy projections.

Mrs. FEINSTEIN. The committee's bill also has a tough requirement that, in order to use the safe harbor, a company has to accompany any projection with a warning; is that not correct?

Mr. D'AMATO. That is true. The bill requires that there be a clear warning that actual results may differ materially from any projection, estimate, or description of future events.

Mrs. FEINSTEIN. Then, I want to compliment the committee for its work here. Clearly this is a difficult area. We want to provide certainty for companies and encourage them to make disclosure. At the same time, we want to make sure that no one takes advantage of the safe harbor to mislead investors. You have tried to strike a balance here.

The PRESIDING OFFICER. Who yields time?

If no one yields time, the time will be deducted equally.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. How much time do we have?

The PRESIDING OFFICER. The Senator still has 5 minutes 48 seconds; the other side has 18 minutes.

Mr. SARBANES. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 17 minutes remaining.

Mr. SARBANES. How much is remaining on the other side?

The PRESIDING OFFICER. About 5 minutes.

Mr. SARBANES. I thank the Chair.

Mr. President, the amendment we are about to vote on shortly is an amendment that puts into this bill the very provision that was in the bill introduced by Senators DODD and DOMENICI, which referred over to the Securities and Exchange Commission the responsibility for developing a safe harbor provision.

I have to tell you, I think it is either the height of arrogance or the height of folly to be trying to draft these standards here in the committee and in the Chamber of the Senate. Even the proponents admit this is a very complex issue. The original bill as introduced and as cosponsored provided to send this issue to the Securities and Exchange Commission in order for them to put their expertise and their rulemaking authority to work in order to develop an appropriate safe harbor provision.

Now, the Chairman of the SEC has indicated that he thinks changes need to be made with respect to safe harbor for forward-looking statements. But he has also indicated that the provision in the bill is not acceptable, that it goes much too far. And, in fact, the very morning of the markup he said in a letter to the committee, "I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection."

In other words, it is his view of the standard written in the bill that it would provide safe harbor protection for willful fraud. I challenge anyone in the Chamber to rise and defend that should be the case.

What they will try to argue is, "No, this standard does not really permit that." But here is the Chairman of the Securities and Exchange Commission, in effect, saying that this standard does permit that. And he is supported in this judgment by a range of public interest groups concerned with securities regulation. The North American Securities Administrators Association has come in with respect to this matter and have indicated that they believe that the safe harbor definition should be left to the Securities and Exchange Commission. In a May 23, 1995, letter, the North American Securities Administrators Association, the Government Finance Officers Association, the National League of Cities, and nine other groups expressed the view:

> We believe the more appropriate response is SEC rulemaking in this area.

Mr. DOMENICI. Will the Senator yield?

Mr. SARBANES. Certainly.

Mr. DOMENICI. Mr. President, I stated in the Senator's absence—you can charge this to my time; I do not mean to use his—that the SEC had been trying to do this for 3 years. And last year, we put it in the appropriations bill. I said, because I was the one who wrote it in, while funding the SEC, we expect them to do it. Is it not true they have been unable to arrive at a consensus and present one that they are willing to say will work and should be adopted? Is that not true?

Mr. SARBANES. No. I think what is true is that the SEC—the Senator put it in his bill that he introduced 15 months ago, in March 1994, was when he first brought forth in statutory language the proposition that it should be referred to the SEC. The SEC, in October 1994, issued a concept release and notice of hearing. In that concept release, they invited comments to be made before the end of the year, and they also scheduled hearings to take place in February of this year, of this very year.

Now, the SEC received over 150 comments by the end of the year. They held 3 days of hearings, 2 days in Washington and 1 day in California. This, in fact, is the hearing record from those hearings conducted by the Securities and Exchange Commission. Now, as the Chairman of the Commission pointed out in a letter to the committee about the problem of working this out, he said there is a need for a stronger safe harbor than currently exists. He has made that statement. And I think generally people accept that. The question is, who is going to write this safe harbor? Does it make sense for the Congress to be writing the safe harbor instead of the experts and the regulators who represent—who are supposed to represent the public interest in this matter to devise the safe harbor?

Mr. DOMENICI. May I ask a question?

Mr. SARBANES. Certainly.

Mr. DOMENICI. The Senator is assuming we do not have the public interest in mind when we write this?

Mr. SARBANES. We do not have the expertise.

Mr. DOMENICI. We do not?

Mr. SARBANES. We do not have the expertise of the SEC. And we do not, particularly in an area that is as difficult and complex as this one. I think that is very clear. In fact, the standard you propose in the bill was amended here on the floor by the chairman of the committee earlier today.

Mr. DOMENICI. I understand.

Mr. SARBANES. In response to criticism. If we have to define it legislatively, of course we will have to try to do that. But I invite the Senator's attention to the provisions of the bill that try to define out the safe harbor. It is obviously a very intricate and complex section. The Chairman of the Securities and Exchange Commission, upon reading this, then wrote a letter to the committee saying he could not embrace the proposal because it would allow willful fraud to receive the benefit of safe harbor protection.

So, in fact, your very bill—it is very interesting the way this bill has been structured. The proposal now before us allows the SEC to expand the safe harbor. In other words, they can provide even more of a safe harbor, but it does not allow the SEC to limit the safe harbor. So it is all a one-way voyage. It is a one-way voyage, and really giving the SEC the role that it ought to have in this situation and has been denied to them.

I think the Members are assuming an incredible responsibility here. As I pointed out earlier, the North American Securities Administrators, the Government Finance Officers, the National League of Cities, and nine other similar groups all express the view that they thought what was a more appropriate response is SEC rulemaking in this area. Now, then, I quoted earlier from the Chairman of the SEC. The Government Finance Officers Association, representing more than 13,000 State and local government financial officials, county treasurers, city managers, and so on, wrote of the safe harbor provision in the bill, and I am now quoting them:

> We believe this opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery.

Let me repeat that.

> We believe this opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery.

The North American Securities Administrators Association, which represents the 50 State securities regulators—they are really a front line of defense against securities fraud—have called the provision that is in the bill "an overly broad safe harbor making it extremely difficult to sue when misleading information causes investors to suffer losses."

Mr. President, I submit that the wise course of action here is to adopt this amendment. That is the provision that was originally in the bill. That is the provision that Members were acquainted with when they cosponsored the bill. Let the Securities and Exchange Commission, which has the expertise and the knowledge and the experience, deal with this very complex area and shape a proper safe harbor provision which is not subject to abuse and which is not subject to the objection of the Chairman of the Commission, who stated with respect to the provision that is in this bill that we are now trying to change:

> I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection.

Mr. President, I reserve the balance of my time.

Mr. DODD. Mr. President, how much time remains on this side?

The PRESIDING OFFICER. The minority has 7 minutes, 40 seconds. The majority side has 4½ minutes.

Mr. DODD. I ask consent to have 2 minutes, if I may?

The PRESIDING OFFICER. Is the Senator from Maryland yielding?

Mr. SARBANES. Yes.

Mr. D'AMATO. Yes, certainly. I yield 2 minutes to my colleague.

Mr. DODD. Let me state again, Mr. President, there are those, I suppose, who would always say, in any matter, defer to an agency to write it. We deal with a lot of complex areas of law. This is one of them. I admit that.

But the notion inherent there is that there is in the SEC an ability to deal with this issue beyond the capacity of this body. I do not think that is necessarily true. In fact, the Commission itself is so highly divided on the issue we might wait 2 or 3 years before we get an answer. If you read the two letters from Arthur Levitt, one dated May 19 and one May 25, you would hardly recognize they are coming from the same author. In the May 19 letter, it says, this area has to be cleared up. The letter of May 25, I would call a fairly strident letter. The authors might have been different people, although they were signed by the same individual.

We have in this legislation very emphatically made it clear that for any individual who knowingly and intentionally misleads, knowingly intentionally misleads an investor, that there is no protection of safe harbor. I do not know how much more clear and explicit you can be.

The idea somehow that this is a major gaping hole by which defrauded investors are somehow going to be taken advantage of is rhetoric. We close up that loophole. We close it up by saying no misleading statements.

In fact, we go further than that. We require there be warnings in these forward-looking statements. It narrows it down to who can take advantage of safe harbor, under what circumstances, what kind of people. This is not available to stockbrokers or others. It is the issuers, and it is designed specifically to give investors the kind of information they need.

We need to encourage the issuers to step forward with their statements, not cause them to step back. It does not serve the economic interest of this country, or anyone for that matter, to be faced with that kind of a problem. That is why we included safe harbor, that is why we included the language to cut out the misleading statements. We think this is a good provision, and we urge that we stick with the language of the bill.

Mr. SARBANES. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Maryland has 7 minutes 40 seconds. The Senator from New York has 2 minutes 22 seconds.

Mr. SARBANES. Mr. President, I say to my colleague from Connecticut, I think he is being extremely unfair to the Chairman of the Securities and Exchange Commission. I think the two letters that the Chairman wrote us are perfectly consistent with one another.

I know the Senator is very involved in this legislation and very anxious to try to pass it. I differ sharply with him on that issue, but I do not think in the course of the debate he ought to, in effect, demean the Chairman of the SEC.

The letter he wrote on May 19 spelled out his very considerable concern over the safe harbor provision. I quoted from it at great length earlier in the day. I am not going to repeat that here except, for instance, he says:

> A safe harbor must be thoughtful—so that it protects considered projections, but never fraudulent ones.

He then raises a lot of questions about what safe harbor can cover, and he states right in the letter, this is the earlier letter:

> Given these complexities—and in light of the enormous amount of care, thought, and work that the Commission has already invested in the subject—my recommendation would be that you provide broad rulemaking authority to the Commission to improve the safe harbor.

That is what the amendment at the desk does. That is what this amendment does.

The Chairman then went on, since the Senator from Connecticut, or at least colleagues of his were pushing hard for statutory definition, to spell out the components that he thought ought to be in any statutory definition of safe harbor.

At that time, efforts were being made to shape this. Those efforts did not prove fruitful and, in the end, on May 25, the morning of the markup, the Chairman wrote a letter to the committee expressing his view about the provision that is in this bill, the very provision we are now trying to change. And he said:

> I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection.

I think Chairman Levitt is a dedicated public servant. I think he is trying to do what is right. In his letter, he acceded to the view that something needed to be done to provide a stronger safe harbor protection, but then he raised his concerns in the nature of the protections that ought to be made. He has spent a lifetime on Wall Street. He is an experienced businessman. In fact, he quoted himself as a businessman about the problem of meritless lawsuits. He recognizes the problem of frivolous lawsuits and, in fact, has been working with the committee to try to address those. He has a sufficient removal representing the public interest as he does to be able to identify provisions in this bill which he thinks are defective.

I want the Members to realize what they are doing here. They are trying to enact a standard which the regulators—the Chairman of the Securities and Exchange Commission, the State regulators, the Government finance officers—are all telling them, "Don't do this; don't do this." This is not as though we were putting into the law a standard which the regulators acceded to or thought was reasonable. They are saying, "Don't do this, don't put this standard in."

There are two ways to correct that. One is to refer it back to the Commission, which is exactly what was in the bill as it was introduced and a matter the Commission was working at, and that is what this amendment does. The other is to try to define the standard here. If we have to do that, I am prepared to address that subject.

I do not think that is the wise thing to do. I do not think that, frankly, with all due deference to my colleagues, that there is anyone here who really knows this law intimately and well enough in a highly complex area to write the standard. I say that with all due deference, and I include myself within those about whom I am making that judgment. So it ought not to be done in the legislation.

The initial approach by Senators DODD and DOMENICI was the correct approach, and that is what this amendment does. This amendment is word for word what was in the bill. It would provide the opportunity for the Commission, through broad rulemaking authority, to improve the safe harbor provision, and I very strongly commend this amendment to my colleagues.

I yield the floor and reserve whatever time is remaining.

Mr. D'AMATO. May I ask how much time?

The PRESIDING OFFICER. The Senator from New York has 2 minutes 22 seconds. The Senator from Maryland has 1 minute 48 seconds.

Mr. D'AMATO. Mr. President, let me refer to one of the two letters mentioned by my colleague. In the letter, sent by the Chairman of the SEC, the Chairman says:

> There is a need for a stronger safe harbor than currently exists. The current rules have largely been a failure, and I share the disappointment of the issuers that the rules have been ineffective in affording protection for forward-looking statements.

He says clearly in this letter that we have not afforded protection for forward-looking statements.

History shows that we have been waiting for 3 years for the SEC to work out the safe harbor issue. Last year, the Appropriations Committee stated that the time for the SEC to act on this had come, it said, "We want some rules. We can wait no longer."

The Chairman of the SEC has been working on this but it is obvious that the Commission has some concerns on the safe harbor and cannot come to a point where it publishes rules. I say the media does not know what they are writing about. What we are attempting to do with this legislation is to allow companies the flexibility to make forward-looking statements but, holding them liable if they make knowingly and intentionally misleading statements. There is no safe harbor for any untested companies and there is not safe harbor in situations where we felt the investor was at too great a risk of being mislead. To this effect, the safe harbor provision excludes IPO's, it excludes tender offers, and excludes stockbrokers. If you want a good example of legislation that goes too far, look at the House bill.

I think some of the journalists writing on this legislation, particularly those from the New York Times, have not taken the time to really understand what this legislation does. I suggest that they take some time to read the bill before they write. There is not a safe harbor that allows companies to say anything—anything, even intentionally false or misleading statements—as long as there is a disclaimer that the statement is in the safe harbor. This legislation does not institute a caveat emptor, buyer beware, attitude. I believe that would be going too far, much too far. But to say that the safe harbor in S. 240 would do this is wrong; it is wrong.

We cannot continue to allow businessmen to be held up by a handful of buccaneering barristers. That is an artful term used by my friend and colleague from Connecticut, and that is exactly what these lawyers are doing, they do not give two hoots and a holler about the stockholders. They care only about their own personal enrichment. That is why I have to oppose this amendment. I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Maryland.

Mr. SARBANES. Mr. President, I, in fact, quoted the very sentence the Senator from New York quoted from Arthur Levitt where he says, "There is a need for a stronger safe harbor than currently exists." The question is, how are you going to develop that safe harbor?

This amendment says the SEC should do it. That is what the bill introduced by Senators DODD and DOMENICI on March 24, 1994, provided for. Then they say, well, the SEC has delayed. The SEC put out their concept release on safe harbor in October 1994. In other words, about 7 or 8 months ago. They received 150 responses on the safe harbor issue. That is more testimony than the Banking Committee has had on all securities litigation issues.

The SEC held 3 public hearings on the safe harbor issue in February—2 in Washington, 1 in San Francisco—62 witnesses in all: Venture capitalists, law professors, corporate executives, plaintiffs lawyers, defense lawyers, institutional investors.

Arthur Levitt says:

> There are many questions that have arisen in the course of the commission's explanation of how to design a safe harbor.

He then talks about the concept release, the comment letters, the 3 days of hearings, and his meeting personally with a wide range of groups that have an interest in the subject.

This matter should be handled by the SEC, just the way it was proposed in the original bill, which Members have cosponsored. That is what this amendment does.

I urge its adoption.

VOTE ON AMENDMENT NO. 1477

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 1477 offered by the Senator from Maryland.

Mr. D'AMATO. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. BOND (when his name was called). Present.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 56, as follows:

[Rollcall Vote No. 288 Leg.]

YEAS—43

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dorgan
Exon
Feingold
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Jeffords
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
McCain
Mikulski
Moynihan
Nunn
Pell
Pryor
Robb
Rockefeller
Roth
Sarbanes
Shelby
Simon
Snowe
Specter
Wellstone

NAYS—56

Abraham
Ashcroft
Baucus
Bennett
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Faircloth
Feinstein
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Johnston
Kassebaum
Kempthorne
Kerrey
Kyl
Lieberman
Lott
Lugar
Mack
McConnell
Moseley-Braun
Murkowski
Murray
Nickles
Packwood
Pressler
Reid
Santorum
Simpson
Smith
Stevens
Thomas
Thompson
Thurmond
Warner

ANSWERED "PRESENT"—1

Bond

So the amendment (No. 1477) was rejected.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Maryland is recognized to offer an amendment.

Mr. DOLE. Mr. President, will the Senator yield to me for 3 minutes?

Mr. SARBANES. Certainly.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. SARBANES. Mr. President, at the end of that time I will be recognized to offer the amendment?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. I thank the Senator.

NATURAL BORN KILLERS

Mr. DOLE. Mr. President, today's Boston Herald contains a shocking front-page story—a story that should send shivers down the spines of all Americans, especially those who have criticized my call to the entertainment industry to exercise good citizenship when it comes to producing films that celebrate mindless violence.

That is the headline: "We're 'Natural Born Killers.'" There was a movie called "Natural Born Killers." This is a story, the prosecutor says, where the suspects bragged about the slaying saying, "We're natural born killers."

"We're 'Natural Born Killers,'" the headline blares, referring to the critically acclaimed Oliver Stone film.

This is what happened. The Boston Herald story begins, and I quote:

> As they changed out of their bloody clothes, the men who plunged a knife into an elderly Avon man 27 times bragged they were "natural born killers," a Norfolk County prosecutor said yesterday.
>
> "Haven't you ever seen 'natural born killers' before?," 18-year-old suspect Patrick T. Morse allegedly bragged to a girl after the gruesome slaying.

According to the Norfolk County prosecutor, "This is one of the most vicious premeditated murders I have ever seen." And Massachusetts State Police Trooper Brian Howe said "My understanding was that they were drawing a comparison between the characters in the movie and themselves."

Of course, no movie caused this brutal killing in Massachusetts. We are all responsible for our own actions, period. But, at the same time, those in the entertainment industry who deny that cultural messages can bore deep into the hearts and minds of our young people are deceiving themselves. If the Boston Herald story is true, and if these are the kinds of role models that Hollywood is content to promote, then perhaps some serious soul-searching is in order in the corporate suits of the entertainment industry.

Let me just indicate again that is the headline. It is not BOB DOLE's headline. It is the headline this morning in the Boston Herald about how these young murderers bragged about attacking an old man and stabbing the person 27 times. In fact, it goes into graphic detail about the knife that was so bloody that they had to ask for a new knife.

Something is wrong in America with the entertainment industry, and maybe it is high time they took a look at themselves and put profit behind common decency.

Mr. President, I ask unanimous consent that the article from the Boston Herald be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WE'RE "NATURAL BORN KILLERS"

As they changed out of their bloody clothes, the men who plunged a knife into an elderly Avon man 27 times bragged that they were "Natural Born Killers," a Norfolk County prosecutor said yesterday.

"Haven't you ever seen 'Natural Born Killers' before?" suspect Patrick T. Morse allegedly bragged to a girl after the gruesome slaying of 65-year-old Philip Meskinis.

Chilling details of the trio's murderous attack and their fascination with the murder spree depicted in the motion picture "Natural Born Killers" were revealed yesterday when Morse, 18, and Leonard Stanley, 20, were arraigned on murder charges and held without bail.

Police are scouring the Brockton area for a third suspect, Michael F. Freeman, a 20-year-old fugitive and former convict who allegedly wielded the knife that slashed Meskinis' throat early Friday morning and punctured his body with 27 stab wounds.

"I've been doing violent felonies for 20 years," Norfolk County prosecutor Gerald Pudolsky said after the arraignment. "This is one of the most vicious, premeditated murders I've seen."

After an intensive investigation that led to Morse's arrest about 36 hours after the grisly murder, and Stanley's surrender shortly after 11 p.m. Sunday, police learned in interviews with Morse and the trio's associates that the men and their female friends "on occasion" watched "Natural Born Killers" after one person bought the movie, said State Police Trooper Brian L. Howe.

"My understanding was they were drawing a comparison between the characters in the movie and themselves," Howe said.

In Stoughton District Court yesterday, Morse and Stanley sat expressionless as Pudolsky recited the threesome's alleged vile deeds.

"I think the only thing they're sorry about is they got caught," Howe said after the arraignment.

The trio allegedly started plotting the slaying at a coffee-ship in Avon after Freeman—whose handicapped mother once dated the disabled victim—told Morse and Stanley that Meskinis had money and guns stashed inside in his School Street home, Pudolsky said.

At 5 p.m. Thursday, the trio went to a girlfriend's house in Avon where they discussed "pulling an armed invasion at Mr. Meskinis' house," Pudolsky said.

Armed with at least two, maybe three knives, the suspects left the girl's house in Morse's Chevrolet Cavalier at about 1:30 a.m.

"Mr. Freeman knew he was going to kill the victim and the other two went along 100 percent," Pudolsky said in an interview.

As Meskinis lay asleep in his bed, the men invaded his home and Freeman launched the bloody assault, jamming a knife repeatedly into the helpless man's body.

"So much blood was coming from Mr. Meskinis' body that Mr. Freeman actually lost the grip on the knife," Pudolsky said.

Freeman yelled to Morse for another knife and Morse complied, passing a Buck knife, Pudolsky said. The blows were so forceful that Freeman allegedly broke Meskinis' wrist and clavicle during the relentless hacking.

Stanley was "ready, willing and able" to assist in the bloody siege—although his attorney and relatives insisted yesterday that he was not in the bedroom during the murder.

The suspects stole a shotgun and a .22-caliber rifle, stashing them first in the woods, and later inside the girlfriend's house.

Police recovered two knives, two victim's guns and bags of bloodied clothing ditched in a dumpster behind a Brockton convenience store.

The trio returned to the woman's home where three other female friends were staying that night, police said. They stripped their bloodied clothing, and worried that they had left behind fingerprints. Morse and Freeman brazenly returned to the murder scene at abut 5 a.m. to remove evidence from ashtrays and door knobs, police said.

As Morse and Freeman sat down at 8:30 a.m. for breakfast, Stanley said he was not hungry.

But Stanley, using a glass of water, gurgled the liquid in his mouth to imitate "the death chortle of Mr. Meskinis as his throat was being slashed," Pudolsky said.

ELECTIONS IN HAITI

Mr. DOLE. Mr. President, long-delayed parliamentary elections were held in Haiti last weekend. The long-suffering Haitian people deserve credit in what is a momentous step in their efforts to develop democracy. For many months, it appeared elections might never take place. Since January, President Aristide has been governing by decree because elections were not held in the constitutionally mandated period.

All reports out of Haiti indicate confusion and chaos in the electoral process. Hundreds of thousands of Haitians were waiting to vote 24 hours after polls were supposed to close. Some polling stations opened very late, and some never opened at all. An election station was burned in northern Haiti. Turnout was low.

According to information my office received from Haiti today, the ballot counting process is in total disarray. The final results are not yet in, but the early returns indicate deep flaws in the process leading up to the election, deep flaws on election day, and now a complete breakdown of the process. All the signs point to an election process that is fatally flawed.

There are credible reports of ballots being destroyed, and of nonexistent ballot security. No one knows when ballot counting will be completed—or if it can ever be done credibly.

You may have seen a picture of ballot security in the Washington Post this morning, boxes and boxes of ballots stacked up and ballots spilling out of the boxes.

Witnesses today cite cases of ballots being shoveled into trash containers, and left in the street.

The International Republican Institute [IRI] documented dozens of shortcomings in the months and weeks leading up to the election. The IRI delegation, headed by Congressman PORTER GOSS, issued a statement yesterday titled: "Irregularities Mar the Electoral Process." The IRI statement details grave concerns with the Haitian elections.

The International Republican Institute deserves credit for its honest and serious effort to expose flaws in the Haitian election process. The international community should not just stand by and applaud a deeply flawed election. As Chairman GOSS' statement noted yesterday, "The Haitian people deserve better."

In light of the work done by IRI, it was all the more surprising to see the Washington Post editorialize today against IRI's work. The Post claimed IRI's criticism was not informed or constructive, but misunderstood the tough effort to rehabilitate Haiti. I agree the effort to rehabilitate Haiti will be tough—but it will not be served by turning our eyes from the very real problems in Haiti, or from an election that is fraught with problems. This is not a Republican view—it is an honest assessment of the facts. The New York Times today reported that the Haitian election unraveled further yesterday. The mayor of Port au Prince, an old ally of President Aristide, said yesterday: "There has been massive fraud. It does not seriously advance the process."

I expect hearings into Haiti's election to begin as soon as the Senate returns from recess in July. Instead of criticizing the monitors of the election, the Post should look for answers to the tough questions:

Why were thousands of candidates rejected by the election council in total secrecy?

Why was an official list of candidates never released?

Why weren't election administrators trained until it was too late—despite the availability of millions in international assistance for such training?

What happened to 1 million voter registration cards missing before election day? Why were voter registration records unavailable on election day, and then being destroyed 48 hours later?

Why was there a complete lack of ballot security on election day and subsequently?

Why were thousands of ballots and tally sheets destroyed and discarded before any official count was recorded or finalized today in Port au Prince and other departments?

Are the verifiable cases of ballot substitution part of a national pattern to influence the outcome of the elections?

Why was President Aristide silent on key issues of election integrity in the days before Sunday's balloting?

Who in the government and police force played a role in the undermining of Haitian democracy?

What has happened to the millions of dollars in election assistance given to Haiti—amid rumors that elections workers will not be paid?

Is the election chaos in Haiti orchestrated, as charged by credible international observers on the scene today?

These and other issues deserve serious scrutiny—not just cheerleading. The Haitian election process is at a standstill. I believe the election process in Haiti should be judged by the same standard used for other elections in other parts of the world—the Haitian people deserve no less. The election observers have left the country but IRI is still on the ground asking the tough questions. I am confident Congress will fully examine all issues associated with the Haitian elections in the coming weeks.

I ask consent that a summary of the preelection analysis and the International Republican Institute statement of June 26, 1995, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

INTERNATIONAL REPUBLICAN INSTITUTE,

Washington, DC, June 26, 1995.

IRREGULARITIES MAR ELECTORAL PROCESS—STATEMENT BY REP. PORTER GOSS (R-FL), DELEGATION CHAIRMAN

Good morning. This is our second press conference. On Saturday, the International Republican Institute (IRI) released its pre-electoral assessment in which we expressed our concern over a number of issues. They include the implications of the failure of the electoral authorities to create an open, transparent and verifiable process; the disqualification of parties and candidates; the lack of adequate training for electoral workers; and the failure to conduct any civic education to encourage voter participation. Today, all of us here have seen the consequences of these failings.

I want to underscore the fact that our delegates are still in the field throughout the nine departments sending in reports. Election day has only recently come to an end and the counting continues. Our serious concern about the total lack of ballot security is being borne out as I speak. We received reports from our delegates early this morning who observed disturbing irregularities at BEC level (regional collection and counting station). I have asked our delegation to determine the extent of these abuses for our evaluation of the count. The problems in this electoral process can only complicate the strengthening of democracy in Haiti.

Frankly, the Haitian people deserve better. We saw their remarkable dignity and endurance yesterday while trying earnestly to participate in an arbitrary process. We share a common objective with others in the international community—we all want a better Haiti and a stronger democracy here. IRI is not here to certify this election. Only the Haitian people themselves have the right to determine the legitimacy of this process. Already several major parties have issued statements challenging the integrity of the process. We must take their judgements seriously.

Let me share with you our observations about yesterday's events. We received radio and telephone reports from IRI delegates in the field from Les Cayes to Fort Liberte. Together, the IRI delegates have visited during the course of election day about 500 BIVs (local polling stations). Our delegates in Jacmel and Jermie reported an election we had hoped for—sufficiently organized, whose irregularities were overcome by the Haitian people and the electoral workers themselves. For myself, the only normal process I observed was at Cabaret, which is doubly ironic because it used to be Duvalierville, the former dictator's Potemkin Village. Our delegates throughout the departments in the north reported graphically about the closing of the BIVs, the intimidation of politicians and the burning down of the BEC in Limbe. Today in Port-au-Prince our delegates observed the use of xeroxed ballots, and early this morning we witnessed tally sheets being intentionally altered and ballots being substituted with newly marked ballots. This occurred in the Delmas BEC, not 10 minutes from where we are today. This raises the serious possibility of the political manipulation of this election.

So let me take a step back and point out a positive aspect of these elections. Throughout the country, all of us were surprised and impressed by the significant presence of political party observers. I would like to give credit to the Haitian private sector who filled a crucial void by providing the necessary support to field these pollwatchers. The Center for Free Enterprise and Democracy (CLED) deserves credit for putting this bold initiative together in 48 hours.

Let me summarize our grave concerns:

Security: The international military served as a deterrent to widespread violence for these elections. However, the issue of personal security for those participating in this political process remains a serious concern. This issue was permeated every step of the process, affected the quality of the campaign, the environment in which this election occurred and clearly lessened voter participation. It was magnified yesterday by threatened electoral workers and intimidated and harassed candidates. Yesterday, violent incidents closed BIVs in Port-au-Prince, Limbe, Port de Paix, Don Don, Ferrier, Jean Rabel, Carrefour and Cite Soleil. These actions disenfranchised an undeserving Haitian population. Without visible security, BIV authorities were forced to close the polls and in other cases voters went home without casting their votes.

Voter Materials: The CEP failed to deliver and distribute voter materials in the necessary time frame. Many BIVs also received incomplete election material packages. This resulted in countless delayed BIV openings. This created enormous voter frustration and even postponed the elections in La Chapelle.

Unpaid Elections Workers: As noted in our pre-electoral assessment, the failure of the CEP to pay thousands of electoral workers was attributed as one of the reasons for absenteeism which delayed and closed many BIVs. Demonstrations were reported in several departments.

Administration Capability: As noted in our pre-electoral assessment, electoral workers received minimal or no training on the duties and procedures. This resulted not only in lengthy delays but jeopardized the security and secrecy of the process.

Secrecy of the Ballot: There was widespread disregard for the secrecy of this process. IRI and other delegates reported that the ballot box seals were rarely used. Additionally, the setup of most BIV's did not afford voters secrecy in marking their ballots.

Security of the Ballot: The most flagrant lack of control occurred from the point of the count to the BEC level. Upon arrival of the ballots at the BEC's, observers reported a lack of control of used and unused ballots. The most egregious examples of this known to IRI occurred in the Delmas BEC where clean ballots were marked and substituted for ballots that had arrived from the BIV's; tally sheets were altered.

Disqualification of Candidates: The thoroughly arbitrary process of qualifying candidates led to serious consequences which we anticipated in our pre-election report. While some argued that the number of candidates that were disqualified was not statistically significant, it proved on election day to destabilize the electoral environment in certain areas. The results of this ranged from a low voter turn out in Saint Marc where five candidates for magistrate were left off the ballot to Jean Rabel, where it was reported that followers of independent candidate Henry Desamour burned ballots and closed BIV's because his name did not appear on the ballot.

Voter Turnout: IRI delegates reported low to modest voter turnout in the BIV's they visited. If this remains the case, we believe that it is the consequence of a compressed election timetable, a lack of civic education, and frustration with the electoral process.

It was important for Haiti and the international community to hold this election, but holding an election is simply not enough. The purpose of this election was to create layers of government that can serve as checks and balances on each other and decentralize power as envisioned by the 1987 Constitution. That is why it was important to have an inclusive process, not one marked by exclusion.

It has been IRI's intent throughout this process to be thorough, independent, objective and constructive. In this regard, IRI will maintain a presence in Haiti through the final round of elections and will make recommendations for the formation of the permanent electoral council.

HAITI—IRI PRE-ELECTORAL ASSESSMENT OF THE JUNE 25, 1995, LEGISLATIVE AND MUNICIPAL ELECTIONS, JUNE 24, 1995

I. EXECUTIVE SUMMARY

On June 25, 1995 Haiti will hold elections for 18 Senators, 83 Deputies, 135 mayors and 565 community councils. These elections were originally to be held in December but were postponed several times for a variety of reasons.

This election occurs at a pivotal time for Haiti as it struggles to rejoin the family of democratic nations and offer renewed hope of stability for its people. This election is also critical for the international community as it seeks a benchmark to demonstrate the transition from an internationally dominated country to a Haiti governed by Haitians. For many in the international community, these issues have made the holding of an election far more important than the quality of the election. IRI has sought to evaluate the pre-electoral process and environment for their comparision to minimal standards of acceptability.

ELECTORAL PROCESS

The legal foundation for these elections was a Presidential decree that subverted the legislative process.

The formulation of the Provisional Electoral Council (CEP) itself breached an agreement between the President of the Republic and the political parties to allow the parties to nominate all candidates from which CEP members would be chosen by the three branches of government. Only two of the nine CEP members were chosen from the parties' list.

The voter registration process, to have been administered by the CEP, was complicated by miscalculations of population size, lack of sufficient materials and registration sites, and one million missing voter registration cards.

The CEP review of the over 11,000 candidate dossiers for eligibility was a protracted process that occurred under a cloak of secrecy. When the CEP made its decisions known, by radio, no reasons were given for the thousands of candidates rejected. After vehement protests by the parties, some reasons were supplied and supplemental lists were announced through June 14, thirty-one days after the date the final candidate list was to be announced. This stripped the CEP of its credibility with the political parties. There is still not a final list of approved candidates available.

The sliding scale of registration fees imposed by the CEP—whereby political parties with fewer CEP approved candidates pay larger fees—has made it difficult for many parties to compete. As of June 20, five days before the election, protests against this unusual requirement have gone unanswered.

The ability of the CEP and those under its direction to administer an election is unclear. As of June 20, five days prior to the election, formal instructions for the procedures of election day and the count has yet to be issued; this has prevented the 45,000 persons needed to administer election day from receiving specific training.

As of June 20, those persons designated by the political parties as pollwatchers had not yet received any training from the CEP which could lead to serious confusion on election day.

These actions have led to deep misgivings across the Haitian political spectrum about the ability of the CEP to fulfill the mandate and functions normally executed by election commissions. Political parties had no idea to whom to turn with complaints in the process—the CEP, the President of the Republic, the United Nations Electoral Assistance Unit or the United States Government. Three political parties withdrew from the process as a form of protest.

ELECTORAL ENVIRONMENT

A concern for security is an issue that has permeated every step of the process. The assassination of Mireille Durocher Bertin, a well-known lawyer and leading political opponent of Aristide, only confirmed the fears of the parties and candidates. During the crisis, many elected representatives feared returning to their districts, contributing to the decay of political infrastructure. Candidates have curtailed their campaign activities and have given personal security a higher priority.

The campaign itself began late and has been barely visible until some activities in the last week prior to elections. Given the process and environment surrounding these elections, it is doubtful many of Haiti's recognized political parties could have competed effectively.

The electorate itself is basically uninformed about this election—what it stands for and who is running. There has been no civic education campaign, with the exception of some limited U.S. and U.N. military efforts, to illuminate the purpose of this election.

Similarly, there has been no educational campaign on how to vote, which for a largely illiterate population in Haiti could pose serious difficulties on election day.

Compared to other "transition elections" observed by IRI, such as in Russia in 1993, El Salvador in 1994, South Africa in 1994 and even China's Jilan Province village elections in 1994, the pre-electoral process and environment in Haiti has seriously challenged the most minimally accepted standards for the holding of a credible election.

PRIVATE SECURITIES LITIGATION REFORM ACT

The Senate continued with the consideration of the bill.

The PRESIDING OFFICER. Under the previous order, the Chair recognizes the Senator from Maryland to offer an amendment.

AMENDMENT NO. 1478

(Purpose: To amend the safe harbor provisions of the bill)

Mr. SARBANES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maryland [Mr. SARBANES] proposes an amendment numbered 1478.

On page 114, strike lines 7 and 8, and insert the following:

"(1) made with the actual knowledge that it was false or misleading;

On page 121, strike lines 1 and 2, and insert the following:

"(1) made with the actual knowledge that it was false or misleading;

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, the previous amendment, the one we just considered, which was not adopted on a vote of 43 to 56, would have sent the matter of defining the parameters of the safe harbor exemption to the Securities and Exchange Commission.

I, of course, argued very strenuously in the consideration of the amendment that that is where this ought to be done, that it ought not to be done, well, in the committee and now in this Chamber, because the existing definition in the bill has already been amended.

The Senate did not adopt that provision, and the question now arises, if you are going to have a statutory definition, what should it be? What should it be?

This amendment that has been sent to the desk would strike out the language that is in the bill. What the bill says is that the exemption from the liability provided does not apply to a forward-looking statement that is knowingly made with the expectation, purpose, and actual intent of misleading investors.

Earlier the Senator from New York modified that and struck the word "expectation," but the problem still remains, the essential problem which prompted the Chairman of the Securities and Exchange Commission to say, and I quote him, "I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection."

So we are now into the question, if the standard in the bill is inappropriate, as I believe strongly it is, and as has been indicated by the Chairman of the Securities and Exchange Commission, and indeed by other securities regulators, State securities regulators, by Government finance officers and others, all of whom in a sense are outside the controversy amongst the economic interests associated with this bill, and represent the public interest, the question now is, is this standard so difficult that all but the most egregious fraudulent efforts would be exempted from liability. And I submit that it is, and the amendment I have sent to the desk is an effort to modify that. The standard provided for in that amendment is made with the actual knowledge that it was false or misleading.

Let me repeat that: Made with the actual knowledge that it was false or misleading.

There are forward-looking statements that would be exempted from liability under the standard in the bill that would not be exempted from liability under the standard of this amendment.

The question then becomes, is the standard in this amendment an appropriate one? And I defy anyone to advance a rationale why a forward-looking statement made with the actual knowledge that it was false or misleading should be protected from liability. I have heard people talk, oh, we are not going to allow knowing fraud to be protected.

That is exactly what this amendment provides. It says that the exemption from liability provided for in this bill does not apply for a forward-looking statement that is made with the actual knowledge that it was false or misleading. And I want to hear from others, if they oppose the amendment, why they believe a forward-looking statement made with the actual knowledge that it was false or misleading ought to be protected from liability.

Mr. President, this is an issue of significance and moment. We have heard from the various securities regulators in opposition to the provision in the committee bill. The National Association of Securities Dealers has written to us in opposition to it, as has the Government Finance Officers Association. SEC, of course, I have already quoted their statement. But let me just point out the Government Finance Officers Association, which represents more than 13,000 State and local government financial officials, county treasurers, city managers, and so on, and which issues securities and invests billions of dollars of public pension and public taxpayer funds every year, wrote of the safe harbor provision in the bill, the standard that we are seeking to change, the one in the bill which says knowingly made with the purpose and actual intent of misleading investors, "We believe this opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery."

Let me repeat that: "We believe this opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery."

The provision in the bill requires you to show the actual intent of the parties making the forward-looking statement. Not only that, you have to show that it was knowingly made with the purpose of misleading investors. And as originally written also the expectation, although that was stricken earlier in our consideration. So it is now knowingly made with the purpose and actual intent of misleading the investors.

That is what you have to demonstrate in order for the forward-looking statement to lose its immunization from liability. And that is a standard that is so extreme that the Chairman of the Securities and Exchange Commission wrote to us and said, "I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection." And that is the provision which the Government Finance Officers Assocation said, "We believe this opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery."

The amendment that I have sent to the desk very simply states that the exemption from liability is lost for a forward-looking statement that is made with the actual knowledge that it was false or misleading, very simply put. You make a forward-looking statement, and you make it with the actual knowledge that it was false or the actual knowledge that it was misleading, and you lose your immunity. You lose your immunity.

Why should anyone who makes a forward-looking statement with an actual knowledge that it was false or misleading have immunity from liability for that forward-looking statement?

That is the issue that is before us by this amendment. It was my preference that this issue be worked out by the Commission. I thought that is where it ought to go in terms of expertise.

If Members want to deal with it here on the floor, then we need to examine it on the standard, address the standard that is in the bill, why I think it opens, as the Government Finance Officers said, a major loophole, or which, as the Chairman of the Commission said, would allow willful fraud to receive the benefit of safe harbor protection. That ought not to be the case. Therefore, I propose to substitute the language "made with actual knowledge that it was false or misleading." No statement made with the actual knowledge that it was false or with the actual knowledge that it was misleading ought to have safe harbor protection.

Mr. President, I yield the floor.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, what we are talking about now is what we call in legal jargon the scienter standard. It is not an easy one. It can be difficult to understand. And indeed it can open up an incredible loophole, one that we are attempting to deal with; that is, to permit people to make projections. And they must state—I can have that disclaimer—they must state this is a projection, this is a projection, and that it may not be accurate. I will get the exact verbiage. It may not be accurate.

Whole classes of issuers are exempted, the penny stocks, the mergers and acquisitions. "Refers clearly that such projections, estimates, or descriptions are forward-looking statements and the risk that the actual results may differ materially from such projections, estimates, or descriptions" has to be included.

Now, let us read the language, because I have heard this, and I have seen it written, too. It is inaccurate to describe this bill as giving a license to people to knowingly, with intent, defraud. It is just wrong.

Here is the language in the bill. We modified it today because I thought there was one standard that might go above and beyond. The exemption from liability provided for in subsection A does not apply. It does not apply. In other words, you get no exemption. Then on page 114, line 4, it says:

> (c) EXCLUSIONS.—The exemption from liability provided for in subsection (a) does not apply to a forward-looking statement that is—

In other words, you get no exemption.

> (1) knowingly made with the expectation, purpose, and actual intent of misleading investors.

So if you knowingly make a false statement, knowingly, with the purpose and actual intent of misleading investors, you are not protected. And that is as it should be. These are projections. Now, I have to ask the question, who knows what someone knows, what is knowledge to them? And once you have that, once you say, if you knowingly made this, all they have to do—the plaintiffs bar this particular group, very small group —is allege that you knowingly made a false statement.

The burden now comes upon that person who has this complaint filed against them to prove that they did not. How do you prove it? How do you prove it? That is why we say, look, it has to be a little tougher. You cannot say, "You knowingly made this. You knowingly made this, knowingly, with intent, with the purpose to mislead investors." It seems to me that that is pretty reasonable.

If a person does that, then you should go after them and hold them. We do. They are not exempt. We get down to the issue of splitting legal hairs and opening the doors for this group of bandits. That is what they are, bandits, absolute bandits; this is the group that, you know, suggests that we make it easier to bring these kinds of suits. We do not want to make it easier to bring suits that have no merit, where people allege someone knowingly, falsely made these statements. All you have to do is allege someone made the statement. Bingo, we have not solved the problem. That brings us right back into court and brings us into the situation where a person gets sued for millions, and has to settle for millions of dollars and/or pay millions of dollars in legal fees against claims that would otherwise be worthless and should get no dollars.

I have to tell you something; that we have sat back for far too long in dealing with this because it was really a very small and almost insignificant portion of the population that was affected. We did not see on a daily basis lawsuits being brought with no claim. We did not see where we had, for example, of 229 cases filed, 229 cases filed, 38 percent used the same repeat plaintiffs; 38 percent used the same cadre. In other words, they were professional plaintiffs. And I have to tell you why we may have cured that and said—by the way, they were paid bonuses. These people, for letting their names be used, got $15,000, $20,000, $25,000 for being professional plaintiffs.

So when we talk about protecting the little guy, we are not protecting the little guy. What we are trying to do is put a stop to and really protect the investors who have their money invested in these small companies, who have the mutual funds, who have those pension funds, which represent trillions of dollars and truly represent millions of people. Give them an opportunity. Give them a say. And do not have their companies savaged by people who are only looking to take care of their own interests. And those are the buccaneering barristers, those lawyers. The term was coined, at least the first time I heard it, by Senator DODD. He happens to be correct. They are sharks who are looking to eat whatever they can and the devil may care as it relates to the harm and the injury that they bring, in many cases, to good people simply by being able to allege that someone knowingly made a misleading statement.

We say, no, you have to go a little further. Knowingly, and you have to show intent. Because who knows what "knowingly" is. Show me. You say: I allege you knew it. I say I did not know. But if one has to allege that you knew and you had intent, that is a little more difficult; is it not? I think people are entitled to that presumption. I do not think they should be subjected to these scurrilous lawsuits. And they have taken place. That is why we say "knowingly, with intent," and that you deliberately did this to mislead investors.

It is one thing to have people subjected to suits where there is intent to deliberately mislead, and it is another thing where people have made accidents and now are held to a standard whereby that was an accident and they say, "You knew." You say, "I did not know." You did and you actually made, if the fellow actually made the statement, he made the statement. Nobody can say he actually did not. So the word "actually," that is nothing. They say you have knowledge, claim you have knowledge. Wait, I did not know that it was wrong. I got you in court because all I had to do is say that, well, you did. You had actual knowledge, and if you checked your papers, you would have found out that the projections you were making were off. Now I have him in under a claim of actual knowledge.

Did he really have actual knowledge? No. But it is very easy to allege. And once you allege it, you have him in this revolving door, in the chain. What do his lawyers say to him? "We can fight it. We may be able to win it." But you know what? You may stand to lose, if they get a judgment against you, tens of millions of dollars, and put the company—a startup company —out of business. Or if you are an accountant, yes, we can probably win it. But you can get hit pretty hard. Because you know, these people made this and you saw it and they dragged you in.

I think that when you look at and read what we have put in, not what somebody puts in substitution, tell me how you can read this bill and say, anybody, that we say that you can deliberately lie and mislead with intent, and that we give you safe harbor for that? We do not.

I want to do it, and I will sit down and read once more, there is no exemption from liability where, line 7, a forward-looking statement is:

> (1) knowingly made with the expectation, purpose, and actual intent of misleading investors.

They are not protected. You can be sued. And if that is the case, you should be sued, no doubt; absolutely. There is nothing that keeps the SEC from doing this, from bringing these suits. Our bill does not protect fraudulent statements or conduct. The administration does not say that it does. It does not say that it does.

A letter, from Abner Mikva, counsel to the President, asked for clarification. I do not think that our bill is unclear on this point. I can clarify it. If it is, this debate should provide important guidance that the bill does not and will not protect fraud. I think this is clarification enough. How many times should we state it? We do not do it, we will not do it, that is not my intent, and I urge my colleagues to oppose the amendment by my distinguished colleague and friend from Maryland.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, the distinguished Senator from New York read the standard that is in the bill, and that is the problem, that standard. Those who are knowledgeable in the securities field have looked at that standard and reached the conclusion that it is an enormous loophole, and it will enable people to engage in willful fraud.

The amendment which I sent to the desk, which would change that language, would not allow a forward-looking statement to claim exemption from liability where the statement was made with the actual knowledge that it was false or misleading.

What every Member has to ask themselves is on what possible basis would you want to give immunity to a forward-looking statement that was made with the actual knowledge that it was false or with the actual knowledge that it was misleading? I submit to you, statements of that sort ought not to be protected from immunity. The bill, as written, would, in effect, allow statements made of that sort to have protection from immunity.

The standard in the bill is so high and so narrow that virtually any forward-looking statement is going to have immunity. The burden of showing purpose and actual intent—before, of course, we also had expectation which the Senators struck from the bill—but to show purpose and actual intent is so heavy that a lot of very fast games by some very fast artists are going to be played on the investing public and is going to cause a lot of people a great deal of grief and harm and damage.

So I urge Members to examine this issue very carefully. This is one of those issues that will come back to haunt you because people are going to be swindled, they are not going to be reachable because of the immunity which the bill provides, and everyone is going to look at what they did and say, "Why should these people be immunized from liability," and the responsibility for immunizing them is going to rest on the people voting on this amendment and voting on this legislation.

So I very strongly urge the adoption of the amendment.

Now, the letter to which my colleague referred is a letter from the counsel to the President, Judge Mikva. I ask unanimous consent that the letter be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SARBANES. Mr. President, I quote:

> The White House
>
> *Washington, June 27, 1995.*
>
> DEAR SENATOR SARBANES: I am writing to express the administration's support of your amendment to S. 240. The administration strongly believes the bill's safe harbor provision should not protect a statement made with the actual knowledge that it was false or misleading.

Let me repeat that:

> . . . should not protect a statement made with the actual knowledge that it was false or misleading.
>
> The bill's current safe harbor standard would exclude forward-looking statements "knowingly made with the expectation, purpose, and actual intent of misleading investors."

And as I noted, let me depart from the text of the letter for a moment, not very long ago, earlier in our proceedings, the Senator from New York struck the word "expectation" from the standard that is in the bill.

So he continues then, it now reads:

> "knowingly made with the purpose, and actual intent of misleading investors."

I double checked, and I am told that does not affect the import of this letter, and that knowing of that change, the letter still stands as sent to us. I double checked that in order to be very accurate with my colleagues.

The letter goes on to say:

> The Securities and Exchange Commission has opposed the use of this standard because it might allow some defendants to avoid liability for certain false statements.
>
> In the Statement of Administration Policy forwarded to the Senate on June 23, 1995, the administration urged the Senate to clarify whether the safe harbor's current language would protect statements known to be materially false or misleading when made. The Senate can best ensure that the safe harbor would not protect fraudulent statements by adopting an actual knowledge standard, as your amendment proposes.

Let me repeat that:

> The Senate can best ensure that the safe harbor would not protect fraudulent statements by adopting an actual knowledge standard, as your amendment proposes.
>
> Sincerely,
>
> ABNER J. MIKVA,
> *Counsel to the President.*

Mr. President, my colleague from New York has suggested, well, we are just splitting legal hairs here. We are engaged in some difficult legal analysis, that is quite true. And I suggested that when we did the previous amendment that the place where this ought to be done is by the SEC. The Senator from New York did not agree with that, and a fairly narrow margin of the Members of this body supported him in that view and, therefore, the burden falls upon us to define the standard here.

The SEC and the State regulators have told us that the standard, as written in the bill, will protect fraud artists. In effect, the bill swings the pendulum too far and the language of the bill goes too far and, therefore, will end up protecting fraud and hurting investors.

This amendment is an effort to bring the pendulum back toward the middle. It still will provide an enhanced safe harbor over what now exists, but it will not go to the extreme lengths of the provision in the bill which all the experts tell us, all the people whose responsibility it is to deal with securities fraud, who work in the field full-time all the time, they all tell us that this will end up protecting fraud artists. As I said, the Chairman of the SEC said:

> I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection.

That is what we are talking about here. The substitute standard which I am proposing simply says that you are not going to give protection from liability to a forward-looking statement —listen very carefully to this—to a forward-looking statement that is made with the actual knowledge that it was false or misleading. You cannot make the statement with actual knowledge that it is false or actual knowledge that it is misleading and be protected from liability. And I invite anyone to explain to me why that kind of statement ought to get protection from liability. I would think it is as clear as can be that is the very sort of statement that ought not to get protection from liability. Therefore, I say to my colleagues, if—as apparently has been decided—we are going to write the standard right here, clearly, we must rewrite the standard in the bill. I submit that the standard contained in the amendment is an appropriate standard, if we are going to be concerned about a proper balance that will help to provide some insurance that investors will not be subjected to fraud.

Mr. President, I yield the floor.

EXHIBIT 1

THE WHITE HOUSE,
Washington, DC, June 27, 1995.

Hon. PAUL SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: I am writing to express the Administration's support of your amendment to S. 240. The Administration strongly believes the bill's safe harbor provision should not protect a statement made with the actual knowledge that it was false or misleading.

The bill's current safe-harbor standard would exclude forward-looking statements "knowingly made with the expectation, purpose, and actual intent of misleading investors." The Securities and Exchange Commission has opposed the use of this standard because it might allow some defendants to avoid liability for certain false statements.

In the Statement of Administration Policy forwarded to the Senate on June 23, 1995, the Administration urged the Senate to clarify whether the safe harbor's current language would protect statements known to be materially false or misleading when made. The Senate can best ensure that the safe-harbor would not protect fraudulent statements by adopting an actual knowledge standard, as your amendment proposes.

Sincerely,

ABNER J. MIKVA,
Counsel to the President.

Mr. D'AMATO. Mr. President, I think we have debated this point now over and over. First, let me say, that if the Securities and Exchange Commission has constructive suggestions to make in this area, we stand ready, willing, and able to adopt them. We would be happy to have hearings. But, we have been waiting for the safe harbor standards for 3 years, and we finally have felt compelled to create the safe harbor ourselves. Once again, I direct my colleagues to the letters from Chairman Levitt. He has shared with us the frustration and problems that the business community face. He alludes to these problems and he has recognized that there is a need to begin solving these problems.

Now, if you look at the language of my friend and colleagues' amendment, and then look at the language in S. 240, as it currently exists, it is very clear that the current language means that if you knowingly make a statement with the purpose and intent of misleading investors you will be held liable. This current standard means that you have to demonstrate that this statement was made with an intent to mislead investors. However, the Sarbanes amendment would reduce that standard to just knowing a misstatement was made. That is too easy to allege. That opens the door to meritless suits and that then forces firms to pay huge settlements. That is what we are attempting to stop.

We cannot countenance lying nor can we countenance the making of false statements. But the fact of the matter is, if we use this scienter provision, it will open the door to meritless litigation based only on allegation. This will prove to be a nearly impossible standard—how does one prove that he actually did not know and was not aware of the misstatement? How does one prove that? That is the high burden that we place on the defendant with this standard. With this standard, I feel that firms will be forced to settle and that means payments of millions of dollars.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Mr. President, how much time remains?

The PRESIDING OFFICER. There is no control of time.

Mr. DODD. Thank you. Mr. President, let me commend my colleague from Maryland, first of all, for offering a creative amendment here. It looks tempting with the language that is offered and the arguments he has given as to why not just support the replacement language that he has offered, which would strike paragraph one on page 121 and paragraph one on another page—I apologize for not having the page number—and replace what we now have, "knowingly made with the purpose and intent of misleading investors," to "actual knowledge of false and misleading information," I believe is the language of the amendment.

Let me begin, Mr. President, by stating what I hope all of our colleagues will accept is the point here. That is, that we are all after the same goal—certainly, those of us who have spent time over the last 3 or 4 years in trying to deal with the broader issue that this legislation attempts to address. I have tried to strike a balance that will deal with an existing problem that we have identified over these last several days in our debate.

Let us also assume that we have some six, seven, eight pages here in the bill that deal with the issue of safe harbor. An amendment being offered by the Senator from Maryland deals with one clause—an important clause, but nonetheless one aspect of safe harbor.

I said earlier today, Mr. President, that the purpose of safe harbor is designed to encourage the disclosure of information, to encourage the disclosure of information. There is no requirement, under law, that companies disclose information to potential investors. There may be those who want to require that, but the law does not require it.

So the very purpose of having a safe harbor is not just to create some island where people can make statements, futuristic statements, and avoid litigation or be immune, but because we think it is important to elicit from businesses, from industry, from corporations, statements about what they believe the company is likely to be doing.

Good news and bad news. It is not just good news. A forward-looking statement can be bad news about what may happen—product lines that are not necessarily going to live up to earlier expectations.

I hope that everyone would agree that it is in the interests of our country economically to encourage businesses to be forthcoming about information which they possess that will allow for investors to make intelligent, reasonable decisions about whether to buy stock, sell stock, whatever else they may be engaged in. That is why we create a safe harbor. That is the only reason for it.

If you had a law that required businesses to tell everything they know, you would not need safe harbor. No one is suggesting we do that. Proprietary information, businesses trying to make plans for the future, should remain private. In the whole area of securities litigation, the notion of safe harbor is a longstanding notion.

The problem, today, as identified by the Chairman of the Securities and Exchange Commission is that the present safe harbor is not working.

We have heard at length earlier today, and maybe I ought to put in the letter again, the letter of May 19, in which the Chairman of the SEC identifies in paragraph 3 of that letter, "There is a need for stronger safe harbor than currently exists."

Mr. President, I ask unanimous consent this letter be printed in the RECORD, because the Chairman of the SEC lays out why that problem exists.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SECURITIES AND EXCHANGE COMMISSION,
Washington, DC, May 19, 1995.
Hon. ALFONSE M. D'AMATO,
Chairman, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: As Chairman of the Securities and Exchange Commission I have no higher priority than to protect American investors and ensure an efficient capital formation process. I know personally just how deeply you share these goals. In keeping with our common purpose, but the SEC and the Congress are working to find an appropriate "safe harbor" from the liability provisions of the federal securities laws for projections and other forward-looking statements made by public companies. Several pieces of proposed legislation address the issue of the safe harbor and the House-passed version, H.R. 1058, specifically defines such a safe harbor.

Your committee is now considering securities litigation reform legislation that will include a safe harbor provision. Rather than simply repeat the Commission's request that Congress await the outcome of our rulemaking deliberations and thereby run the risk of missing an opportunity to provide input for your own deliberations, I thought I would take this opportunity to express my personal views about a legislative approach to a safe harbor.

There is a need for a stronger safe harbor than currently exists. The current rules have largely been a failure and I share the disappointment of issuers that the rules have been ineffective in affording protection for forward-looking statements. Our capital markets are built on the foundation of full and fair disclosure. Analysts are paid and investors are rewarded for correctly assessing a company's prospects. The more investors know and understand management's future plans and views, the sounder the valuation is of the company's securities and the more efficient the capital allocation process. Yet corporate America is hesitant to disclose projections and other forward-looking information, because of excessive vulnerability to lawsuits if predictions ultimately are not realized.

As a businessman for most of my life, I know all too well the punishing costs of meritless lawsuits—costs that are ultimately paid by investors. Particularly galling are the frivolous lawsuits that ignore the fact that a projection is inherently uncertain even when made reasonably and in good faith.

This is not to suggest that private litigation under the federal securities laws is generally counterproductive. In fact, private lawsuits are a necessary supplement to the enforcement program of the Commission. We have neither the resources nor the desire to replace private plaintiffs in policing fraud; it makes more sense to let private forces continue to play a key role in deterrence, than to vastly expand the Commission's role. The relief obtained from Commission disgorgement actions is no substitute for private damage actions. Indeed, as government is downsized and budgets are trimmed, the investor's ability to seek redress directly is likely to increase in importance.

To achieve our common goal of encouraging enhanced sound disclosure by reducing the threat of meritless litigation, we must strike a reasonable balance. A carefully crafted safe harbor protection from meritless private lawsuits should encourage public companies to make additional forward-looking disclosure that would benefit investors. At the same time, it should not compromise the integrity of such information which is vital to both investor protection and the efficiency of the capital markets—the two goals of the federal securities laws.

The safe harbor contained in H.R. 1058 is so broad and inflexible that it may compromise investor protection and market efficiency. It would, for example, protect companies and individuals from private lawsuits even where the information was purposefully fraudulent. This result would have consequences not only for investors, but for the market as well. There would likely be more disclosure, but would it be better disclosure? Moreover, the vast majority of companies whose public statements are published in good faith and with due care could find the investing public skeptical of their information.

I am concerned that H.R. 1058 appears to cover other persons such as brokers. In the Prudential Securities case, Prudential brokers intentionally made baseless statements concerning expected yields solely to lure customers into making what were otherwise extremely risky and unsuitable investments. Pursuant to the Commission's settlement with Prudential, the firm has paid compensation to its defrauded customers of over $700 million. Do we really want to protect such conduct from accountability to these defrauded investors? In the past two years or so, the Commission has brought eighteen enforcement cases involving the sale of more than $200 million of interests in wireless cable partnerships and limited liability companies. Most of these cases involved fraudulent projections as to the returns investors could expect from their investments. Promoters of these types of ventures would be immune from private suits under H.R. 1058 as would those who promote blank check offerings, penny stocks, and roll-ups. It should also address conflict of interest problems that may arise in management buyouts and changes in control of a company.

A safe harbor must be balanced—it should encourage more sound disclosure without encouraging either omission of material information or irresponsible and dishonest information. A safe harbor must be thoughtful—so that it protects considered projections, but never fraudulent ones. A safe harbor must also be practical—it should be flexible enough to accommodate legitimate investor protection concerns that may arise on both sides of the issue. This is a complex issue in a complex industry, and it raises almost as many questions as one answers: Should the safe harbor apply to information required by Commission rule, including predictive information contained in the financial statements (e.g. pension liabilities and over-the-counter derivatives)? Should there be a requirement that forward-looking information that has become incorrect be updated if the company or its insiders are buying or selling securities? Should the safe harbor extend to disclosures made in connection with a capital raising transaction on the same basis as more routine disclosures as well? Are there categories of transactions, such as partnership offerings or going private transactions that should be subject to additional conditions?

There are many more questions that have arisen in the course of the Commission's exploration of how to design a safe harbor. We have issued a concept release, received a large volume of comment letters in response, and held three days of hearings, both in California and Washington. In addition, I have met personally with most groups that might conceivably have an interest in the subject: corporate leaders, investor groups, plaintiff's lawyers, defense lawyers, state and federal regulators, law professors, and even federal judges. The one thing I can state unequivocally is that this subject eludes easy answers.

Given these complexities—and in light of the enormous amount of care, thought, and work that the Commission has already invested in the subject—my recommendation would be that you provide broad rulemaking authority to the Commission to improve the safe harbor. If you wish to provide more specificity by legislation, I believe the provision must address the investor protection concerns mentioned above. I would support legislation that sets forth a basic safe harbor containing four components: (1) protection from private lawsuits for reasonable projections by public companies; (2) a scienter standard other than recklessness should be used for a safe harbor and appropriate procedural standards should be enacted to discourage and easily terminate meritless litigation; (3) "projections" would include voluntary forward-looking statements with respect to a group of subjects such as sales, revenues, net income (loss), earnings per share, as well as the mandatory information required in the Management's Discussion and Analysis; and (4) the Commission would have the flexibility and authority to include or exclude classes of disclosures, transactions, or persons as experience teaches us lessons and as circumstances warrant.

As we work to reform the current safe harbor rules of the Commission, the greatest problem is anticipating the unintended consequences of the changes that will be made in the standards of liability. The answer appears to be an approach that maintains flexibility in responding to problems that may develop. As a regulatory agency that administers the federal securities laws, we are well situated to respond promptly to any problems that may develop, if we are given the statutory authority to do so. Indeed, one possibility we are considering is a pilot safe harbor that would be reviewed formally at the end of a two year period. What we have today is unsatisfactory, but we think that, with your support, we can expeditiously build a better model for tomorrow.

I am well aware of your tenacious commitment to the individual Americans who are the backbone of our markets and I have no doubt that you share our belief that the interests of those investors must be held paramount. I look forward to continuing to work with you on safe harbor and other issues related to securities litigation reform.

Thank you for your consideration.

Sincerely,

ARTHUR LEVITT.

Mr. DODD. Mr. President, if you disagree with safe harbor, and wish to apply a standard here that is appealing on its face, but actually undercuts the very intention of the safe harbor, then it seems to me you run the risk of destroying a very important vehicle that causes businesses to voluntarily give information out that is critical. Information, as I say, that could be positive or negative information. So that is the reason it exists.

Now let me cite examples where I believe that the actual knowledge standard, as tempting as it is, can actually just bring us back to the point we are trying to get away from, and that is the litigation that has swamped up in many ways in terms of the ability of these companies to move forward and to, as I said earlier, to give the kind of information that may be necessary.

We all want safe harbor, as I mention. We want a safe harbor that will work. When the chief executive officer of a large industry goes to his general counsel in a very practical way, and says "Should I tell pension fund investors,"—remember, that is primarily who we are talking about— "that," returning to an earlier example, "a new disk drive at the heart of their investment in this company, may not quite work as well as we planned."

We should have a safe harbor that will allow the general counsel to say "Yes, you can say this without being sued." It is so the company now has this information, not required by law, that it share that information. But the CEO says, "I do not think this disk drive will work quite as well as I planned, and I want to know whether or not to let people know," knowing full well what may be the implication in terms of the investors.

Pension funds obviously, I think, are entitled to information even if it is not required to be disclosed. We want to make sure that CEO's can say and tell us what is going on without the fear of millions of dollars in litigation costs. That is the point of this bill—trying to reduce litigation costs.

If we do not make this a very clear division, a very clear division, as to when safe harbor does not apply, it is not going to be safe enough, and that general counsel is then going to say to that CEO, "You are not required to say anything—don't say anything. Don't say anything."

Who are the winners and losers, when that decision is made? The general counsel says "Don't say anything here, don't you dare say anything. You are not required to by law." You can never be sued for what he did not say in this case. So they do not do anything.

Mr. SARBANES. Will the Senator yield?

Mr. DODD. If I could finish this train of thought, I will be glad to yield for a question.

We are trying here to get this information out. As the Council of Institutional Investors, representing literally millions of small investors in this country with hundreds of billions of dollars in assets, said in testifying before the SEC, the safe harbor must be 100 percent safe.

Let me go back at that point quickly. There is a fear that Members will think that anything that anybody does in relationship to securities can fall into this safe harbor category. That is not the case at all.

As pointed out by the distinguished junior Senator from Utah today, by the Senator from New York, and myself, let me go back, there are 6 or 7 pages in the bill dealing with safe harbor. This is one line in that entire section.

Safe harbor only applies to statements by issuance and reviewers hired. Statements by stockbrokers are not included. Certain issuers are excluded from safe harbor, including anyone found to have violated securities law, anyone involved in penny stocks, blank check companies, investment companies, IPO's, tender offers, roll-up transactions—all are exempted. Historical information contained in historical financial statements is excluded as well.

I forget to mention this earlier, but in this bill we require cautionary language be included in forward-looking statements so investors can pick up the kind of language that ought to give them a better sense to put them on notice that maybe these predictions are not going to turn out to either be as bad or as good as the company may utter and say. That was never before required.

In the discussion of safe harbor, remember, we are dealing with narrow fact situations here.

Mr. D'AMATO. Will my friend yield for a question?

Mr. DODD. I yield.

Mr. D'AMATO. Is it not true that one of the other provisions never included, safe harbor will now permit the SEC to bring suits for disgorgement, for violation of safe harbor provisions?

Mr. DODD. I was just about to get to that point. That is a second added new provision.

Mr. D'AMATO. That has never been in before?

Mr. DODD. Never before in this legislation. It is all new authority we are extending to the SEC.

To listen to this debate, we would think we have been stripping away and stripping away. What we are doing is providing different vehicles. As we listened and heard testimony, the Council of Institutional Investors represents, I said, millions of people in the country, involving billions of dollars.

They want that information. These pension funds want to know what is going on in these companies. If these companies do not provide that kind of information, these pension funds are not making decisions with all of the information they have when they decide whether or not to invest or not to invest.

So the safe harbor is a critical issue in soliciting that kind of information. That is why it is so important. I think their testimony before the SEC on truly a safe harbor, a 100 percent safe harbor is absolutely critical. Again in the context of what we are talking about, those that are excluded, from the protections of safe harbor.

Now, returning to my earlier example, I illustrate the problem with the amendment of my colleague from Maryland. The CEO in the fact situation I described does not think it will work out as well as it is, and goes to the general counsel and says, "should I share this information?"

It turns out the disk drive prediction that he had made was a panic decision; that, in fact, the disk drive turns out to be fine, turns out not to be as bad as he thought. But many shareholders, based on the earlier prediction, sold their stock. Now they sue them for actually knowing that the disk drive was really OK.

Of course when he gets before a jury he will be able to make his case. But the problem is, Mr. President, before you get to the jury, you are probably going to end up with a settlement involving millions of dollars, because there were memos or other information that came across his desk that said, "Mr. CEO, we think this disk drive will be OK." During the discovery period, as a practical matter in litigation, every single paper that crossed that CEO's desk is going to be subject to discovery.

So there on the table is a memo or two or three that says, "We think this disk drive is not as bad as you think," but he felt based on his feelings about this, with the advice of general counsel that he said "I don't think it will do that well."

Now you have yourself with actual knowledge—not with intent, not with purpose, to mislead, but with actual knowledge of information—that suggested a different result than what the CEO predicted when he put out a statement that he thought the pension funds ought to know about.

I do not believe that it is in our interest in the safe harbor context—not in other issues of aiding and abetting and joint and several and proportional liability, but in safe harbor context, if it is a standard of actual knowledge of something that existed that contradicted your own statement, thereby you said something misleading, because there was information that reached a different conclusion, and you end up with a lawyer saying "Look, you know, I don't know how a jury will find with this." The Sarbanes language in this bill says "actual knowledge."

Mr. SARBANES. Actual knowledge that it was false. Why should anyone be able to make a statement that they have actual knowledge that is false.

Mr. DODD. Misleading. That could be the subject of litigation here. You made a statement that you said you thought this disk drive was going to do poorly. You had information before you that said something else. I sold my stock on the basis of that prediction you put out, that it was not going to do well.

Now I know you had information from your people in your divisions that said it would do fine. You made a prediction it would do poorly. You had actual knowledge there was different information available to you. You cannot tell me about that. As a result, I am suing you, and I think I can collect.

Mr. SARBANES. Do you think he should have told? Do you think he should have had a forward-looking statement that said some have said we have a problem; others say we do not have a problem. Would that not be an honest statement to the potential investors?

Mr. DODD. Let me say to my colleague, another aspect of this bill, here in the safe harbor context, in the safe harbor context, it is our common desire to solicit information from these businesses that do not have to make it forthcoming. I think, frankly, going to the intent and purpose, to disregard intent and purpose of that CEO, and have the mere standard actual knowledge, I think, creates a nightmare. That is my view.

Mr. SARBANES. Is it the Senator's view—will the Senator yield for a question?

Mr. McCAIN. Regular order. If the Senator asked for the Senator to yield for a question, fine.

The PRESIDING OFFICER (Mr. GRAMS). The Chair reminds the Senator——

Mr. DODD. I am happy to yield to my colleague.

Mr. SARBANES. I just asked the Senator if he would yield for a question.

The PRESIDING OFFICER. A reminder that the Senator must address the Chair to ask a question.

Mr. SARBANES. Mr. President, I ask the Senator if he will yield.

Mr. DODD. I am happy to yield to my colleague.

Mr. SARBANES. Is it the Senator's view that all forward-looking statements are voluntary? As I understand it, the Senator says you are going to dissuade forward-looking statements because these are voluntary things; and, if they have a problem with what the standard is, they will not volunteer the information.

Is that your position?

Mr. DODD. That is the difficulty here. Yes.

Mr. SARBANES. What is your explanation of the language on page 113 of the bill which includes within the definition of a forward-looking statement in paragraph 3, lines 18 through 22, a statement of future economic performance contained in the discussion and analysis of financial condition by the management, or in the results of operations included pursuant to the rules and regulations of the Commission.

Mr. DODD. I do not understand the purpose of the statement.

Mr. SARBANES. It is my understanding that currently under the rules and regulations of the Commission you are required to provide certain information that is in effect a forward-looking statement.

Does the Senator agree to that?

Mr. DODD. I understand that. How much information you have to——

Mr. SARBANES. But you earlier made the statement in effect that this was all voluntary, and that people, if they were dissuaded, would provide no information. The fact is under current SEC requirement they are required to provide some forward-looking information.

Is that correct?

Mr. DODD. The Senator is correct. I stand corrected.

My point here is that soliciting all the necessary information one would like to have is not required by law. Some statements are. The point I was trying to make was in the case of the one that I ascribed to. But the condition of a particular product line, a case could be made that that information would not necessarily be required to be forthcoming.

So my point is that while the temptation to adopt the actual knowledge standard here, in effect we may be undoing the very purpose that I presume is unanimous here. Maybe there are some who disagree with us, but you want a good safe harbor. The purpose of having a safe harbor is that it be safe. If it just be a harbor that is sometimes safe or never safe or rarely safe, then the very purpose for its existence is undermined. As a result, you defeat the very purpose of creating it.

My point here is that a simple standard of actual knowledge can undermine that very desire that I believe is unanimously held in this body to create that safe harbor. So while the standard of actual knowledge is a difficult standard to overcome rhetorically in the subject of debate, in the practical application of it, then I think it is a standard that undermines the very purpose of safe harbor.

I say to my colleague from Maryland and others, they know I have some difficulty even with this standard. I am worried about having a good one that does create the safe harbor, and that does apply to those efforts. My colleague from New York and I and Senator DOMENICI have discussed this at some length. And there are many different ways we may finally get some language here that can be appropriate. But establishing just actual knowledge with no intent or no purpose to mislead, it seems to me, runs the risk of having the very purpose of the safe harbor destroyed.

I cite the factual kind of example involving a good meaning, well intended person—let us assume that most of the people we are talking about here are not inherent crooks. We are talking about decent, competent people who want to do their business appropriately and properly. And sharing information that can then undermine them and end up with significant litigation costs is not exactly serving the purpose of the intent when we desire to put in a safe harbor in the legislation.

The SEC itself, as I said earlier, feels as though the safe harbor needs to be strengthened. Their present standard is "acted in good faith and reasonable basis for believing what you are saying." That, of course, created a mountain of problems over the issue of reasonable basis.

But as I mentioned a moment ago, we have added language here that requires cautionary language. The Senator from New York has pointed out that we extended to the SEC the authority to go after these matters which may be the best way of recovering, I would say anyway, because they are not necessarily out to just win for themselves but rather win for the investors where they have the knowingly intentionally and with purpose attempted to mislead the investor. That may not be a perfect standard but I think our desire here to have a higher standard makes sense if you understand the value of safe harbor.

Again I will state what I said at the outset. For those who do not believe in safe harbor, adoption of the Sarbanes amendment makes sense because in my view that undermines the safe harbor.

So I would respectfully disagree with my colleague in his amendment, as appealing as it is to the rhetorical sense. I think the net effect of it at the end of the day is that we are going to abandon the safe harbor protection. Information will not be forthcoming that could otherwise help your institutional investors, particularly in terms of deciding whether or not to buy or sell the stock in a particular company.

I think that is a shortcoming, if we adopt this language as part of this bill. I think it will hurt what we have tried to do here with this legislation in trying to strike the balance.

With that, Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. LAUTENBERG. Mr. President, the Chair has an obligation to recognize the Senator who stood up first.

Mr. McCAIN. Mr. President, last September the United States——

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senate is out of order. The Senate will be in order. Both Senators were standing. The Senator from Arizona has been standing.

Mr. LAUTENBERG. I have been standing. With all due respect, I have been here, was here before the Senator from Arizona, and I called for recognition from the Chair. And the Chair, as I saw it, deliberately chose to ignore my appeal for recognition. The Chair I guess has that right. But that is not the way this body is to operate.

The PRESIDING OFFICER. The Senator from Arizona has the floor.

Mr. McCAIN. Mr. President, my friend from New Jersey is obviously upset. Could I ask how long the Senator from New Jersey intended to speak?

Mr. LAUTENBERG. Probably 15 minutes. I am not upset at the Senator from Arizona. I am upset because of common courtesy.

Mr. McCAIN. I understand. May I say that I believe it is a very close call. And, Mr. President, I ask unanimous consent to yield 15 minutes to the Senator from New Jersey, and that as I do so, I have been in these similar situations with very tough calls from the Chair as to who speaks first. I believe the rule of the Senate is who is on their feet and speaks first is who seeks recognition. I believe we were both on our feet. I do not believe that the rule of the Senate is who has been standing the longest.

With that, I ask unanimous consent that the Senator from New Jersey is to be recognized for 15 minutes, and then I would be recognized for my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. The Senator from Arizona is very courteous.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. I respect and appreciate it.

How long does he intend to speak?

Mr. McCAIN. About 10 minutes. Please go ahead. The Senator was on the floor. Please go ahead.

Mr. LAUTENBERG. I thank the Senator from Arizona.

Mr. President, I ask unanimous consent to be added as a cosponsor of the Sarbanes amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, as the Senator from Maryland explained, this amendment would modify a provision of S. 240 that I find very troubling. I know that earlier today our colleague from New York tempered somewhat the existing language relating to the safe harbor provision, but Mr. President, I do not think he went far enough.

One goal of this bill is to minimize the existing disincentives to provide detailed forward-looking statements about the economic prospects of their companies.

Everyone agrees that is a desirable goal.

I certainly do.

Indeed, my support is based on personal experience.

Prior to coming to the Senate, I worked in the private sector. I cofounded a company with two others, three of us from poor working-class homes, that today employs over 20,000 people. It is an American success story. I say that because I think it is important to occasionally call on one's background as we review some of the legislation that is proposed in front of us. After the company went public in 1961, I filed countless statements with the SEC as its CEO. As the CEO, I believed that it was important for investors to have as much information as possible.

Each year, I made it a practice to project earnings for the following year. And if it needed modification during the period due to changes and conditions, I quickly went to the public to alert them to any revision. This process had significant rewards because investor confidence in ADP—my company—caused our stock, which is listed on the New York Stock Exchange, to sell at among the highest price-earnings ratios of all listed securities on any exchange.

There used to be a company in the investment business, an old name in the financial world, Kidder-Peabody. And each month they would publish a list known as The Nifty 50. These were the highest price-earnings ratio companies that were listed. They did that for over 265 months, for more than 22 years. Every month they would publish lists of the companies that were among the investors' favorites. The company that led that list was my company, ADP. It was on the list 215 out of 265 months, far more than the next best company which listed among the top list more than 200 times. Obviously, the company did well. It performed well year after year. But it was the investors' belief, the investors' confidence, that they could always count on ADP to tell the truth about what was happening that caused the stock price to swell as the earnings grew.

As I look back at that period, I know that I was in the forefront of CEO's who provided investors with forward-looking statements on my company's financial health. It made sense to me then. It makes sense to me now.

One of the things that I know this bill would like to accomplish is to make sure that the public is as well informed as possible. It is not simply to focus on whether or not litigation is possible or whether there ought to be ceilings on certain claims but, rather, to give the public a chance to know what is going on and at the same time not to encourage frivolous or whimsical lawsuits.

It is important that investors have as much information as they can. Everyone knows, especially in the larger companies, that senior executives in the company know very well what they are expecting to happen over a year, 2, 3, 4, 5 years in advance. It may not be precise, but they have a target; they have a goal. Everyone knows that in addition to the executives within the company, the board of directors has to be notified if there are any changes.

What does that represent? It represents an advantage that people on the inside have over those on the outside who are investing their money. And there is nothing, no reason at all why anyone on the inside ought to have privileged information with which to sell stock or buy stock ahead of the investing public. It is critical that all investors have as much information about the company as they can to make informed investment decisions.

Despite the desire to provide information, many issuers, many companies do not provide sufficient information. They do not because they are concerned about their potential liability, which this bill addresses, should these forecasts turn out to be off the mark. Well, if things change, as I said in my comments, then what ought to happen is the company ought to say: Investors, be prepared. We have to take a hit on our earnings because of this product or this market or what have you, but we have confidence in the future and this is what we expect. The investors will stay with the ship. This is especially true for the small high-tech companies, which is what my company was. These are companies whose growth we want to encourage. It is not in the public interest for these companies to go out of business because of a lawsuit based on a financial forecast or information which despite the company's best efforts later turns out to be inaccurate. And that can happen despite the best intentions of the company.

I remember how much the stock of biotech companies dropped when we were discussing health care last year. And should those biotech companies be held accountable for this drop? Of course not. We want to protect the research and the innovation that develops from such firms. But I believe that this bill goes too far in the effort to do that.

The recently amended language in S. 240 provides a safe harbor from liability unless the issuer's statement is knowingly made with the purpose and actual intent of misleading investors, and on its face that legislative language looks reasonable. But the committee report notes that purpose and actual intent are separate elements that must be proven by the investor.

To me, this standard, although an improvement over the version reported out of the Banking Committee, is still too high a threshold. This amendment provides safe harbor protections for issuers who make forecasts, but we narrow this protection so that issuers who make statements with the knowledge that the information was false or misleading would be liable. That is a reasonable standard, and it is a standard supported by the SEC and by the administration. It protects those who should be protected. And it does so without creating a safe harbor for those who should be subject to litigation.

It may seem to those listening or who may be watching this debate that the Senator from Maryland and I are splitting hairs with single word changes. However, when the next financial scandal rocks our markets and investors are prevented from recovering their losses caused by intentionally misleading forecasts because they are unable to demonstrate actual intent, those affected investors will certainly feel the difference. We do not want to hurt those investors who are able to demonstrate that an issuer intentionally made a misleading statement but are unable to show actual intent.

I cannot understand this. I say that again as a person who has been on both sides of the matter—as an investor and as an issuer. I believe that the amendment as proposed provides the right balance. If you make a forward-looking statement knowing it was false or misleading, you should not be immune from liability. You have to pay the price for the deception.

Now, I understand why the Senator from New York would want to expand the current safe harbor. Everyone wants that, including the SEC. But I think this bill has gone too far in the other direction. We should not be encouraging or protecting fraudulent statements, which I believe is what S. 240 might inadvertently do.

Mr. President, we have the most efficient markets in the world, and this is due in large part to the reliability of information available to investors. I do not understand why we would want to enact legislation that might jeopardize this.

Once again, I thank my colleague from Arizona for yielding the floor.

I urge my colleagues to support this amendment, and now I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I thank my friend from New Jersey. I say to him I understand the sensitivity of recognition. I remained in the minority party for some 12 years, and I appreciate the sensitivity involved with that. I believe that in all fairness the Chair is required to recognize the person that the Chair hears first, and I as always appreciate his courtesy.

Mr. President, I rise in support of the amendment.

HAITI'S ELECTION

Mr. McCAIN. Mr. President, last September, the United States sent 20,000 of its sons and daughters to Haiti. Their ostensible mission was defined in the name given to this unopposed invasion of another country—Operation Uphold Democracy. Today, we are told by some Haitian Government Ministers, by the head of Haiti's Provisional Electoral Council, and even by our own Washington Post, that democracy—a form of government that we exported to Haiti at the risk of American lives—may be, in the end, too much to expect from this poor, troubled, violent country.

Few would disagree that what happened last Sunday at least raised questions, serious questions, about whether Haiti's elections were free and fair. But, as I just noted, among the few, were some Aristide ministers; Mr. Remy, the hopelessly incompetent chairman of Haiti's election council; and, again, the Washington Post. In truth, the gross irregularities that plagued last Sunday's election, and the polling that occurred on Monday purportedly to compensate for a small fraction of those irregularities, as well as the mounting evidence of vote counting fraud have made it, in the sensible judgment of Representative PORTER GOSS—"impossible to verify the results of this election."

Mr. GOSS led an accredited election observation team from the International Republican Institute [IRI]. I have the honor of serving the institute as chairman of its board of directors. I am proud of IRI's work generally, and its work in Haiti specifically. I will talk some more about the quality of that work a little later in my remarks.

I want to first talk briefly about the elections and the gross irregularities that indeed make it impossible to verify the results. It is important to note that no observer of the election—be it OAS observers, or observers on the White House delegation, or even one very candid Government minister in Haiti, will dispute the evidence of irregularities which IRI's observers and these other monitors uncovered. IRI observers found that these elections were, in a word, chaotic.

The headline for today's Washington Post story on the elections was "Unanimity in Haiti: Elections Were Chaotic." Unfortunately, no one seems to have told the Washington Post's editorial writers. Or, possibly, those writers do not believe that the chaos which, in truth, defined these elections seriously undermined their integrity. If that is the judgement of the Washington Post's editors it is a faulty one, and it cannot withstand the weight of the abundant evidence that the election process—from the campaign season through election day to the ballot counting—was plagued by very grave problems.

People can judge for themselves whether these problems have rendered the elections completely unfair and unfree. The IRI delegation's responsibility as impartial observers was to simply call them as they saw them. What they saw was rather discouraging, so discouraging that even Aristide's Minister for Culture, Jean-Claude Bajeux, offered an apology. "As a member of the Government," he said, "I am not proud of this." Minister Bajeux went on to observe that "instead of improving on the 1990 elections, we have done worse."

Not surprisingly, the widespread irregularities have prompted opposition parties to reject these elections as fraudulent. That charge was leveled by the mayor of Port-au-Prince, Evans Paul, as well. You will recall, Mr. President, that Mayor Paul's post support for President Aristide was often referred to by President Aristide's supporters in the United States.

Mr. President, let me offer a brief sampling of the irregularities which the IRI delegation documented. I will first read from the executive summary of IRI's pre-election report which evaluated the pre-electoral process and environment for their comparison to minimal standards of acceptability.

The elections were originally to be held in December, but were postponed several times for a variety of reasons.

Mr. President, I ask unanimous consent that the complete executive summary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXECUTIVE SUMMARY

ELECTORAL PROCESS

The legal foundation for these elections was a Presidential decree that subverted the legislative process.

The formulation of the Provisional Electoral Council (CEP) itself breached an agreement between the President of the Republic and the political parties to allow the parties to nominate all candidates from which CEP members would be chosen by the three branches of government. Only two of the nine CEP members were chosen from the parties' list.

The voter registration process, to have been administered by the CEP, was complicated by miscalculations of population size, lack of sufficient materials and registration sites, and one million missing voter registration cards.

The CEP review of the over 11,000 candidate dossiers for eligibility was a protracted process that occurred under a cloak of secrecy. When the CEP made its decisions known, by radio, no reasons were given for the thousands of candidates rejected. After vehement protests by the parties, some reasons were supplied and supplemental lists were announced through June 14, thirty-one days after the date the final candidate list was to be announced. This stripped the CEP of its credibility with the political parties. There is still not a final list of approved candidates available.

The sliding scale of registration fees imposed by the CEP—whereby political parties with fewer CEP approved candidates pay larger fees—has made it difficult for many parties to compete. As of June 20, five days before the election, protests against this unusual requirement have gone unanswered.

The ability of the CEP and those under its direction to administer an election is unclear. As of June 20, five days prior to the election, formal instructions for the procedures of election day and the count had yet to be issued; this has prevented the 45,000 persons needed to administer election day from receiving specific training.

As of June 20, those persons designated by the political parties as pollwatchers had not yet received any training from the CEP which could lead to serious confusion on election day.

These actions have led to deep misgivings across the Haitian political spectrum about the ability of the CEP to fulfill the mandate and functions normally executed by election commissions. Political parties had no idea to whom to turn with complaints in the process—the CEP, the President of the Republic, the United Nations Electoral Assistance Unit or the United States Government. Three political parties withdrew from the process as a form of protest.

ELECTORAL ENVIRONMENT

A concern for security is an issue that has permeated every step of the process. The assassination of Mireille Durocher Bertin, a well-known lawyer and leading political opponent of Aristide, only conformed the fears of the parties and candidates. During the crisis, many elected representatives feared returning to their districts, contributing to the decay of political infrastructure. Candidates have curtailed their campaign activities and has given personal security a higher priority.

The campaign itself began late and has been barely visible until some activities in the last week prior to elections. Given the process and environment surrounding these elections, it is doubtful many of Haiti's recognized political parties could have competed effectively.

The electorate itself is basically uninformed about this election—what it stands for and who is running. There has been no civic education campaign, with the exception of some limited U.S. and U.N. military efforts, to illuminate the purpose of this election.

Similarly, there has been no educational campaign on how to vote, which for a largely illiterate population in Haiti could pose serious difficulties on election day.

Compared to other "transition elections" observed by IRI, such as in Russia in 1993, El Salvador in 1994, South Africa in 1994 and even China's Jilan Province village elections in 1994, the pre-electoral process and environment in Haiti has seriously challenged the most minimally accepted standards for the holding of a credible election.

Mr. McCAIN. Those are the problems that undermined the integrity of the election before election day. We have all read newspaper accounts over the last 2 days which chronicled the abuses and irregularities that occurred on Sunday. Mr. GOSS accurately reported in a press statement yesterday the following serious problems.

While the international military served well as a deterrent to widespread violence, the elections were not free of violence and intimidation. Violent incidents closed local polling stations in Port-au-Prince, Limbe, Port de Paix, Don Don, Ferrier, Jean Rabel, Carrefour, and Cite Soleil.

The election council failed to deliver and distribute voter materials to a number of polling stations. This resulted in countless delayed voting place openings and postponed the elections in some places. Unsurprisingly, these delays and postponements caused widespread voter frustration which helps explain why turnout was low.

There was also widespread disregard for the secrecy of the ballot. Many voters had little choice but to mark their ballots in the open.

The thoroughly arbitrary process of qualifying candidates led to serious consequences which we anticipated in our preelection survey. The disqualification of some candidates proved to destabilize the electoral environment in certain areas, this was most acutely the case in Saint Marc and Jean Rabel.

The New York Times reports that at least 200,000 voters are still waiting to cast their ballots, but election officials still won't say when and if they will be allowed to do so.

Regarding the vote tally, I will quote not from IRI's report but from the Organization of American States which had a much larger observation team in Haiti. Because of administrative failings in the election it remains to be seen how effectively the count will be carried out.

As anyone who read a newspaper today discovered, allegations of widespread abuse and irregularities in the counting process are coming in by the dozens. Again and again, we are hearing from all observers that unmarked ballots are being marked at the regional counting centers to indicate a vote for Lavalas candidates.

Mr. President, this is, as I said, only a brief sampling of the problems which IRI observers and all credible observers witnessed. For calling the press' attention to these problems, the IRI mission was chastised today in a Washington Post editorial for unconstructive political science correctness.

In response to that charge let me just quote the last two paragraphs of Mr. GOSS' statement yesterday as chairman of our delegation.

> It was important for Haiti and the international community to hold this election, but holding an election is simply not enough. The purpose of this election was to create layers of government that can serve as checks and balances on each other and decentralize power as envisioned by the 1987 Constitution. That is why it was important to have an inclusive process, not one marked by exclusion.
>
> It has been IRI's intent throughout this process to be thorough, independent, objective and constructive. In this regard, IRI will maintain a presence in Haiti through the final round of elections and will make recommendations for the formation of the permanent electoral council.

This is hardly inflammatory language, Mr. President. In fact, I think most people would consider it as well as all of IRI's reporting to be constructive, informed criticism. Indeed, Brian Atwood, Director of U.S.A.I.D. and head of the Clinton administration's observation delegation in Haiti, said about IRI's reporting: "they have performed a service."

The Post's editors are being a little disingenuous, I fear, when they raise the obviously bogus charge of political correctness. After all, that is not a problem that the Post usually finds distressing.

What the Post is really saying, as are those hysterical critics of IRI's delegation in the Aristide Government and on the Provisional Electoral Council; What they are really saying is that Haiti should not be expected to adhere to minimally acceptable election process standards.

IRI has observed elections in 48 countries. Some of those countries and some of those elections were the subject of disagreements, sometimes, but not always, partisan disagreements in the U.S. Congress. Elections in Chile, Nicaragua, El Salvador, Russia come to mind. Never, not once, has there been the slightest intimation that IRI delegations were anything other than objective, scrupulously fair, committed, hard working professionals. On the contrary, IRI delegations are routinely acclaimed for their thorough professionalism.

But because IRI discovered and reported information which, apparently, the Washington Post editorial writers would have preferred to have gone unnoticed, the integrity of these observers—not the election, but the observers—is now called into question by those editorialists and others.

What the Post editorial writers and others are really saying is that whatever standards we hold El Salvador to; whatever standards we hold Nicaragua to; whatever standards we hold Croatia to; whatever standards we hold Serbia to; whatever standards we hold Albania to; whatever standards we hold Bulgaria to; whatever standards we hold Azerbaijan to; whatever standards we hold Russia to; whatever standards to which we hold all these countries where IRI observed elections without controversy, no matter how minimal those standards are we cannot expect Haiti to meet them.

Mr. President, that is what the Washington Post said today, and it is an injustice. It is an injustice to IRI; to Mr. Porter Goss and all the good and honorable people on IRI's election observation delegation in Haiti.

Most importantly, Mr. President, it is an injustice to the people of Haiti. They are human beings who yearn for freedom like any other nation, and who are capable of building and sustaining the institutions that will protect that freedom. To expect any less of Haiti is, as I said, an injustice. The people who have condescended to Haitians, including the Post editorialists, by asking the world's indulgence of their election's failings, should apologize to the Haitian people, and to those good Americans who they have maligned in the process.

Mr. President, I yield the floor.

PRIVATE SECURITIES LITIGATION REFORM ACT

The Senate continued with the consideration of the bill.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

AMENDMENT NO. 1478

Mr. D'AMATO. Mr. President, I would like to inquire of my colleagues if any of them have any statements to make with respect to the pending amendment, and how much time they intend to take. Might I ask my colleague how long he believes he will take?

Mr. BROWN. I have a brief statement that I think will be more than completed in 5 minutes.

Mr. D'AMATO. Mr. President, I ask unanimous consent that after the Senator from Colorado makes his statement that I be recognized—it is my intent to make a motion to table. Does the Senator wish to claim time to respond?

Mr. SARBANES. I may. I do not know what he is going to say. Why do we not say 10 minutes evenly divided and go to the vote?

Mr. D'AMATO. That is fine. I ask unanimous consent that after the statement of the Senator from Colorado, which will take 10 minutes equally divided, at that point in time I will ask for the yeas and nays and make a motion to table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Colorado.

Mr. BROWN. Mr. President, distributed on our desk is a statement from Abner Mikva, counsel to the President and former Member of this Congress, who has what I believe is a very distinguished record, as well as a fine record as a judge for this Nation. I have the utmost respect for Judge Mikva, and so it is with seriousness that I view his letter that has been distributed.

It addresses the subject which we are discussing, and the implication is, of course, that this is an important factor in the President deciding whether he will sign this bill. He speaks out strongly on behalf of Senator SARBANES' amendment, I think for no other reason than that it is worth taking a serious look at.

As I read the two standards, I suspect other Members will find it a challenge, as I do, in pinpointing precisely what the difference is. The bill carves out an exclusion; that is, a safe harbor. What we found under current law is that people in business, in order to avoid liability in terms of speculating about their company or commenting on their company's future, simply have clammed up. Their lawyers tell them, "Look, if you say anything and it turns out not to be totally accurate or if you speculate on the future and it goes the other way, you are going to get sued." So to avoid being sued they say, "We don't want you to say anything." Literally, that is what many companies will say.

"How is the weather at your plant?"

"Can't say."

"What do you expect your earnings to be?"

"I don't know."

What this issue revolves around is the fact that we have denied economic free speech. It is a different issue than misleading people. I think everyone here—at least I hope they would—would feel very strongly that if someone intentionally misleads you for their own gain that we give redress for that. We expect people to be honest and that is fair and reasonable. But what we have found is the penalties are so profound and enormous and the ease of bringing a suit is so great that we have tried to address the problem by at least not penalizing people who make reasonable statements about the future of their company. That is what this is all about.

The first thing the bill does is go through a series of instances where some people have been known to make misstatements about a company in the past, and they specifically exclude them from this safe harbor. In other words, they say, Look, if you are convicted of any felony or misdemeanor, you are not going to come under this provision at least for a few years. If you are offering securities by a blank check company, you're not going to come under this safe harbor provision. If you are involved in issuance of penny stocks, you are not going to come under this safe harbor provision. If you are dealing with a rollup transaction, you will not come under the safe harbor provision. If you are dealing with a going private transaction, you will not come under the safe harbor provision.

The bill has said here are some areas, and we understand in the past people have made misleading statements or false statements, and we are going to specifically exclude them from the safe harbor. Mr. President, I think that is responsible. I want to commend the chairman of the committee for doing that. I think it is a responsible approach. I want to say on this floor that if there are other areas that have had this kind of problem, we ought to pay attention and add them to this section. That is how to deal with this area. If there is a problem, we have to deal with it. What is left, which is considerably reduced, is meant to give some freedom of speech and is meant to allow people to make reasonable statements.

The problem here is that any time you attempt to forecast earnings, any time you, again, attempt to forecast what is going on, you are probably not going to have any better record of forecasting than the weather bureau has. They are conscientious, honest, and they miss it about half of the time. It does not mean that they are evil. What it means is that it is difficult to forecast. The question we have to answer is, should we simply, by putting tough penalties into place, prevent people from economic forecasting. Maybe we ought to put into law that it is illegal for anybody to come in about the future of their company. The reason we do not is that it probably does not help investors very much.

Mrs. BOXER. Will the Senator yield?

Mr. BROWN. I will yield when I finish my statement. This is an attempt. One says, "knowingly made with a purpose and actual intent of misleading investors." The amendment says, "made with the actual knowledge that it was false or misleading."

Well, "knowingly made" and "actual knowledge" sound similar and have some similarities. I believe, in reading the legislation, the big difference is this: It is in the words of "purpose" and "actual intent." I think as Members try and make a decision about how they can vote, they ought to ask themselves, if somebody makes a statement and it turns out not to be accurate, should we insist, before we penalize them, that they had the purpose and actual intent of misleading someone? Or was it an innocent statement and they did not intend to mislead someone, they did not have that actual intent? I believe the purpose of misleading someone and intent of misleading someone is at the heart of this amendment.

The amendment is offered by a very conscientious, thoughtful legislator. It is endorsed by a very thoughtful and reasonable judge, who acts as counsel to the President. I think the heart of the issue comes down to whether or not we want to extend economic free speech in these areas. Should you have the purpose and intent of misleading people, or should you be allowed to say what is appropriate without that?

Mr. President, I want to pledge one thing. I think the issue raised is appropriate and is a good one. I pledge one thing. If there are additional carved-out areas, exemptions from this that we ought to look at, I want to look at them and support them if they are reasonable. But let me say, Mr. President, that I think it is important that we be very careful about denying economic free speech. It is an important aspect of giving a full picture in describing economic opportunities and economic endeavors.

Mr. D'AMATO. Mr. President, I believe that under the present order we have 10 minutes equally divided.

The PRESIDING OFFICER. The Senator is correct.

Mr. D'AMATO. Mr. President, we have debated this issue for several days and I think the Senator from Colorado stated the concern with this amendment well. If there are areas where we need additional carve-outs—to exempt people from getting this safe harbor, I am willing to look at them. Senator DODD is willing to look at them. Senator DOMENICI is willing to look at them. If there are reasonable suggestions that the SEC has, we will look at them. We are going to go to conference if we pass this bill, and I pledge that we will keep the offer open to look at those suggestions. We have been looking for them for 3 years. If suggestions come up now, because of this legislation, and they make sense, I will certainly consider them. We have worked to modify and strengthen, S. 240, to protect the rights of the legitimate investor and understand their concerns. That is what we attempted to do in drafting this legislation.

I yield the floor.

Mr. SARBANES. Mr. President, I just want to make a couple of comments here at the close of the debate on this amendment. I have to say to my colleagues, I hope everyone understands that they are ignoring the recommendations and judgment of the Chairman of the SEC, the State Securities Regulators, Government Finance Officers Association, and so forth. It may well be that people feel so knowledgeable and have such expertise in this area that that does not trouble them. I have to tell you, it troubles me and would trouble me wherever I found myself on some issues. I would want to be very certain about ignoring those opinions.

Arthur Levitt said:

> A carefully crafted safe harbor protection from meritless private lawsuits should encourage public companies to make additional forward-looking disclosure that would benefit investors.

That is what the Senator from Connecticut has been asserting. No one is challenging that. He earlier said, "You are not going to have any safe harbor." Nobody is saying that.

Arthur Levitt goes on to say:

> At the same time, it should not compromise the integrity of such information which is vital to both investor protection and the efficiency of the capital markets—the two goals of the Federal securities law.

He has said about the language that is in the bill, the language we are trying to take out:

> I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection.

That is what the issue is. The Government Finance Officers Association has written to us that the safe harbor provision in the bill opens a major loophole through which wrongdoers could escape liability while fraud victims would be denied recovery. That is the issue.

I understand that we need a meaningful safe harbor, but the safe harbor should not be structured in such a way that pirates can find shelter in it. And, as written, the language in the legislation does exactly that. That is why the Chairman of the Securities and Exchange Commission, the Government Finance Officers Association, the North American Securities Administrators Association, which represents the 50 States' security regulators, that is why—the North American Security Administration Association called the provisions in the bill "An overly broad safe harbor making it extremely difficult to sue when misleading information causes investors to suffer losses."

The amendment is very simple. The amendment would take out the language in which all of the regulators have seen major problems, in terms of investor fraud, and substitute for it that you do not have protection in a safe harbor if you make a forward-looking statement made with the actual knowledge that it was false or misleading. And no one yet on the floor has explained to me why such statements ought to get protection from liability.

Mrs. BOXER. Will the Senator yield?

Mr. SARBANES. I yield to the Senator from California.

Mrs. BOXER. Mr. President, I think that this is the crux of the matter. And the ranking member is really the conscience of the Senate on this whole matter. I want to ask a very direct question. I am not an attorney, and my learned friend is.

If we vote for S. 240 without the Senator's amendment, is it the Senator's view that a company or an officer of a company, could make a false statement—tell a lie, put it that way—make a false statement, which is tell a lie, that he had actual knowledge was a lie?

In other words, I know I am wearing a yellow suit. If I said I am wearing a blue suit, I am telling a lie. I have to know that this is yellow. Is my friend saying that unless we adopt his amendment we could have a business person make a false statement that he knew was false, and he could still benefit from the safe harbor in S. 240 and hide behind that?

Mr. SARBANES. He could find shelter within the safe harbor even though he had actual knowledge that the statement was false—even though he had actual knowledge.

Mr. D'AMATO. Mr. President, I have heard many statements in this debate. One particular statement I have heard is about a pirate's cove. The pirate's cove exists today, those pirates are taking investors for a real ride, and they are drowning them. They are drowning companies and they are drowning good people.

All the pirates have to do is allege fraud, and companies find themselves facing millions of dollars in damages or in settlements. If we adopt the standard in this amendment, nobody will be willing to make predictions. They will not take the risk.

Now, look at what S. 240 says. It says, with no exceptions, that the safe harbor does not apply to a forward statement that is knowingly made with the purpose and actual intent of misleading investors.

We think that this standard will encourage people to make statements, make predictions, but will hold them liable if they knowingly, with intent to defraud make a statement that is false. Anything less than this standard will allow the same band of pirates that we have now to continue to bring meritless cases.

S. 240 stops lawyers from being able to pay their professional plaintiffs. They were actually paying people $10,000, $15,000, $20,000 to use their name on the suit. One of these characters has signed up 14 times with the same law firm, the same law firm that is working, lobbying, paying millions of dollars to try and defeat comprehensive reform.

If we want reform and to we want to get rid of these pirates, we need to pass S. 240. This amendment will cause a chilling effect on the ability of people to make projections about the future.

I yield the floor.

Mr. D'AMATO. Mr. President, I move to table the amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays have been ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table.

The yeas and nays have been ordered.

The clerk will call the roll.

The bill clerk called the roll.

Mr. LOTT. I announce that the Senator from Indiana [Mr. LUGAR] is necessarily absent.

The PRESIDING OFFICER (Mr. DEWINE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 48, as follows:

[Rollcall Vote No. 289 Leg.]

YEAS—50

Abraham
Ashcroft
Bennett
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Faircloth
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Mack
McConnell
Nickles
Packwood
Pressler
Reid
Santorum
Simpson
Smith

Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—48

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dorgan
Exon
Feingold
Feinstein
Glenn
Graham
Harkin
Heflin
Hollings
Inouye
Johnston
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
McCain
Mikulski
Moseley-Braun
Moynihan
Murkowski
Murray
Nunn
Pell
Pryor
Robb
Rockefeller
Roth
Sarbanes
Shelby
Simon
Specter
Wellstone

ANSWERED "PRESENT"—1

Bond

NOT VOTING—1

Lugar

So the motion to lay on the table the amendment (No. 1478) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, I would propound a unanimous-consent request which I believe will deal with all of the outstanding amendments. I believe there are six amendments, three on each side, and it would be my intent to ask that we stack those votes so we could give our colleagues the opportunity to arrange their evening schedule. Possibly, with the concurrence of the two leaders, we can agree to time limits on all of those amendments, so we can take them up tomorrow morning and then proceed to final passage. That is my intent, to see if we can reach that agreement. I bring this up because some of my colleagues have asked what the schedule will be. If we can work out that agreement, it would be my hope that we would dispose of all of the amendments this evening and then start voting at a certain time tomorrow morning.

I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I rise to speak on the bill.

DISTURBING EVENTS IN HAITI

Mr. COVERDELL. I wish to comment specifically on the remarks that were made earlier by the Senate majority leader and the Senator from Arizona with regard to the disturbing events we have witnessed in Haiti.

Mr. President, we have received reports that voting tally sheets were being intentionally altered and ballots were being substituted with newly marked ballots. While widespread violence had been deterred, there has been a lack of visible security, and closed individual polls have forced Haitians to go home without casting their vote. There have been long delays in the opening of polls in many areas and a shortage of electoral material. Many ballot boxes were not sealed properly before being turned over to the regional centers. Observers found a few cases of ballot stuffing.

In short, we have a serious situation. I conferred with the majority leader with regard to these events, and want to announce to the Senate we will conduct hearings on the week we return in the subcommittee of the Foreign Relations Committee, specifically the Western Hemisphere Subcommittee. I wanted to make that known to the Senate.

Mr. President, I yield the floor.

Mr. DODD. Mr. President, I ask unanimous consent that I may speak as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

EVENTS IN HAITI

Mr. DODD. I was not in Haiti this past weekend as part of an observer group, but as I think most of my colleagues know, I have been there on numerous occasions. In fact, I lived on the border of that country for 2½ years and have a more than passing interest in the awareness of Haiti.

As I have listened this afternoon to several speeches now made about the events in Haiti over the past several days, I find it stunning in many ways. My colleagues, by their remarks, almost imply that the situation in Haiti would have been preferable had there not been an election or had there not been the decision by the administration in previous months to go back to intercede, along with the support of the international community, to try to restore the democratically elected government of that country.

This was not a perfect election in Haiti. There were serious problems. But, remember, this is a country that can count free elections on one hand—fewer fingers in fact—that they have had over the years. The last free one was 4 or 5 years ago when President Aristide was elected. And then we watched that election be ripped from the people of that country through a coup.

President Clinton, the administration, took the courageous decision to restore President Aristide to power in that country. And I recall back in those days during that debate the almost apparent disappointment that there was not more of a tragedy. We did not lose a single soldier in that effort. In fact, the President deserves great commendation, mind you, for the courage he showed in making an unpopular move. It was not popular at the time. Today, interestingly, the majority of people in this country think the President did the right thing.

Now, over the weekend, they had an election. It is a poor country with a tremendous level of illiteracy and staggering economic problems. So it did not look like a perfect election in this country. But it is an effort of poor people to get out and freely choose its leadership, literally hundreds and hundreds of candidates for local office and national office in that country. And rather than castigate and denounce the effort for the shortcomings that certainly were obvious and apparent, why are we not applauding the fact that this country was trying to embrace democracy and do so in a noble way?

Granted they had problems with ballot boxes and people abused the process. Votes were not counted. There were shortcomings, to put it mildly, in the process. All of that I accept. But instead of picking this process apart, there ought to be at least some underlying statements that indicate that we support this effort. We hope it is not just a one-time effort, but that in coming months and years we will see democracy take hold in this poor, little country to our south.

And so I have been disappointed. It is just a continuum of almost the disappointment people expressed over the last year over the President's decision to go in and restore President Aristide, which was a success. It seems to be a continuation of that. I am disappointed by these remarks. This is working. It is not perfect. We have watched what happened in other countries, including what we are watching in the former Soviet Union, the New Independent Republics. Countries that are struggling to find their democratic feet do not do so instantaneously. It takes time.

So I commend President Aristide and commend the people of Haiti for the courageous attempt to have a free and fair election. I am terribly disappointed it did not meet our high standards of a perfect election. But rather than spend our time denouncing the imperfections, we ought to take a moment out and commend these people. Some people walked literally miles and miles to get to a polling place in order to exercise their rights. Most of them are illiterate, cannot read or write. They have to vote by looking at colors or symbols on a ballot in order to choose their party or candidates. And to watch people get out with, I think, the returns somewhere around 60 or 70 percent—in our elections in 1974 we had 38 percent that turned out to vote.

So with all its imperfections, I think the people of Haiti deserve our applause, our commendation for their efforts. And certainly the Government of Haiti does, as well, for conducting this election. And albeit with its shortcomings, my hope is in coming years we will see better results and less imperfections in the process. But they do not deserve to be denounced, in my view, for the significant efforts they have made.

Mr. President, I yield the floor.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I listened with interest to the statement just made by my friend from Connecticut. And all I can say is it is deja vu all over again. I remember the criticism that the Senator from Connecticut leveled at the election in El Salvador that was attended by me and others. And, Mr. President, he might have missed the thrust of my remarks. And that is, that this election, according to the same group, the IRI, that has observed some 48 elections around the world, did not meet high standards. They did not meet minimum standards, I say to the Senator from Connecticut.

I applaud the effort of the people of Haiti for wanting to be involved in the electoral process. I applaud the efforts that have been made by many people. But the fact is, by objective judgment, this election was chaos—chaos.

And, Mr. President, the report of our observers—I will be brief because I know the Senator from New York gets understandably impatient with this issue impeding the progress of the pending legislation. But this is the report of the objective observers, these same observation teams that, as I say, observed 48 other elections throughout the world and judged by the same standards, not high standards, Mr. President, the same standards. Here's what they said:

General: Total breakdown in reception of ballots and tally sheets to counting centers; total abandonment of materials; zero supervision of materials; counting of ballots occurring without supervision.

Tally Sheets: Tally sheets being destroyed deliberately; tally sheets have been created/replaced; tally sheets with opposition parties leading have been destroyed in front of observers; tally sheets and other electoral records are being thrown out as garbage—and trash is being removed from site.

Ballots: Ballots have been burned, both used and unused; ballots have been substituted with newly marked ballots; unused ballots by the hundreds of thousands are readily accessible at counting sites.

Let me repeat that. Perhaps the Senator from Connecticut feels it is a real high standard not to expect unused ballots by the hundreds of thousands readily available at counting sites.

Unused ballots being mixed in with marked ballots; new ballots clearly being marked at counting sites; crumpled ballots, registration materials, and ballot boxes accumulating in trash heaps, inside and outside counting sites.

Ballot Boxes: Ballot boxes universally unsealed; ballot boxes being sealed at counting sites with serial numbered seals that may not correspond to actual voting site number; sealed ballot boxes are being thrown away.

Registration Cards: Registration records in total disarray; registration records being jettisoned into the trash in large quantities; unused registration cards (remember one million missing) found in large quantities.

This is not a result of underdevelopment nor simple mismanagement; this is orchestrated chaos.

Mr. HARKIN. Would the Senator yield for a question?

Mr. McCAIN. I would be glad to.

Mr. HARKIN. You mentioned—I do not know who IRI is.

Mr. McCAINQ. The International Republican Institute, which was there monitoring this election, as they have some 48 elections throughout the world. I say to my friend from Iowa, there are certain standard procedures used in judging any election, whether it be Russia, El Salvador, Haiti, anywhere else. These minimum standards are what an election is judged by.

Mr. HARKIN. If I could ask another question.

It is the International Republican Institute. I did not know that.

Second, in this institute, did they monitor the elections that were held in Haiti about, if I am not mistaken, a little over 2 years ago when the junta, the military, was in charge and there was an election there?

I am wondering whether they monitored that election and if they drew any comparisons between this election and that election. I only ask that question because——

Mr. McCAIN. My answer is, as you know, that that election was so fraudulent there was no international observer groups allowed there. But in the words of other people who observed the 1990 election, this was far worse than the 1990 election conducted in Haiti which was observed by international organizations.

Mr. HARKIN. May I ask one more question? Does the Senator know how much money the United States or other nations may have provided and support that we may have provided in order to help that electoral process in Haiti, being a poor country? I just wonder if there are any figures on how much we did in terms of monitoring assistance to help them do the things that the Senator has pointed out were shortcomings in that election.

Mr. McCAIN. I respond to my friend from Iowa, I do not know the amount of money. I do know what the commitment on the part of the American Government was. But I know the election should have met certain minimum standards. Otherwise, there is no sense in holding an election. And the observers who came in to observe this election and others did not believe those standards were met. I mean, the front page of the Washington Post this morning, "chaos" and other descriptions along those lines clearly indicate that if we did spend money, and I am sure we did, that it was either misplaced or improperly used or something.

The real point here, I say to my friend from Iowa, is I do not know how much money was spent. I know money was spent, but I know that these are trained observers who observe election after election after election around the world and judged the election in Russia to be overall fair, the election in El Salvador to be fair, the election in Nicaragua to be fair, the recent election in Chile to be fair. This is the first time they have judged this election not to be, that I know of, one which was fair and open. But they certainly did not judge the previous election to be in any way acceptable. They did not even go to see it because everybody knew what that election was all about.

Mr. HARKIN. I thank the Senator.

Mr. McCAIN. I thank my friend. I always appreciate this dialog with my friend from Connecticut. I think he may have misunderstood the point when I made my statement. I also admire the tenacity, desire, the will of the Haitian people to obtain freedom. They are people who deserve, if any one group of people in this hemisphere deserves our assistance and help, and they deserve a freely elected government after all they have suffered through.

I am just saying to my friend from Connecticut that there are certain standards that must be observed, that must be adhered to in any election; otherwise, the people do not have that precious right, and that is to choose their own leadership.

It is not clear to me yet what all the reasons behind this failure were but, in my view, it has been a significant failure.

I yield the floor.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, it had been my intention at this point to offer an amendment, but I ask unanimous consent for time as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

OBSERVATIONS ON ELECTIONS IN HAITI

Mr. GRAHAM. Mr. President, I was in Haiti on Saturday and Sunday of this weekend, and I would like to share with my colleagues some of my observations. I intend to submit a more formal statement later, but for this afternoon, I would like to talk about some of the things that I saw.

Frankly, to my good friend from Arizona, who was represented in Haiti, he and the IRI, by another good friend, Congressman PORTER GOSS of my State of Florida, I was concerned about my first experience in Haiti this weekend. I got off the plane Saturday morning at approximately 11 o'clock, and at the foot of the plane were several U.S. reporters, including a representative of one of the major networks. The first question that was asked was what did we think about the report that had been issued a few hours earlier on Saturday morning—this is the day before the election—by the IRI criticizing the election that had not yet taken place?

Obviously, we were in no position to comment on a report that we had not seen about an election that had not yet taken place.

Mr. MCCAIN. Will the Senator yield to me to respond to that?

Mr. GRAHAM. I would like to complete my comments and then yield.

Mr. MCCAIN. The Senator made a serious charge. I would like him to let me respond.

Mr. GRAHAM. That is not a charge. It is a factual statement.

Mr. MCCAIN. As the Senator knows, it is the preelectoral process and, to be fair, the Senator from Florida ought to say that. They did not comment on the election itself, they commented on the preelectoral process. Let us not distort the record here, I say to my friend from Florida.

Mr. GRAHAM. I am not distorting the record. They were commenting and made a conclusionary statement as to what they thought the status of the election was 24 hours before the election took place.

Mr. MCCAIN. I say to my friend from Florida, I have the document in my hand: "Preelectoral Assessment of the June 25, 1995, Election."

Mr. GRAHAM. You do not have the document in your hand.

Mr. MCCAIN. Preelectoral.

Mr. GRAHAM. Because the document was approximately 300 pages long, assessing an election that was 24 hours yet before it was to commence.

Mr. MCCAIN. I have the executive summary of the 300-page document, and it clearly states "preelectoral." Preelectoral.

Mr. GRAHAM. It seems to me that it would have—and this is just my assessment, this is my editorial judgment—that it would have been more appropriate to have made such an assessment after the election had taken place as opposed to the morning prior to the election taking place. And it would have been more appropriate to have deferred to what has been the tradition of American politics, which is that partisan politics end at the Nation's boundaries.

The reality is——

Mr. MCCAIN. Will the Senator yield again? Is the Senator impugning the integrity of Congressman GOSS, who was the leader of that organization, saying that he took partisanship past the water's edge? If the Senator has evidence——

The PRESIDING OFFICER. The Senator from Florida has the floor.

Mr. GRAHAM. I am not impugning anyone's integrity. I am suggesting that I believe that where the United States sends organizations to a foreign country to serve as objective election observers, that both in terms of their objectivity as election observers and in the spirit that partisan politics end at the Nation's boundaries, that it would be appropriate to defer observations on the election until after the election has taken place.

There is a suspicion raised that the purpose of issuing a report on an election 24 hours before it commences is to either influence the election in that country or to influence domestic politics within the United States. I do not think that the process of American political party involvement is advanced by issuing a report of 300 pages on the morning before the election. That is my judgment. I would not recommend that that be done. Others may have different assessments as to the propriety of doing so, and I would not state that my values on this are biblical or absolute, but they are my values.

Mr. President, after having gotten off the plane and responding to that series of reporters' questions, we then went to a series of sessions in which we were briefed as to what we might expect on election day and some of the preparation for this election.

Let me say, this election is one that originally was supposed to have taken place in February or March of this year, coincident with the completion of the term of all of the members of the lower house of the Haitian Parliament and approximately half of the members of the Haitian Senate. Because of a variety of difficulties in getting the election organized, it was postponed several times and finally took place last Sunday.

There will be a runoff election towards the end of July in those races where there was not a majority of the vote secured by any candidate.

I think it is important—and I say this not in an attempt to create an unduly positive sense of the atmosphere, environment, but the reality of conducting an election in Haiti.

First, you are dealing with a nation that has a very high proportion of its population that is illiterate. Because of that, the ballots that were printed were some of the more complex ballots that I have ever seen. They were multicolored, in order to depict the parties by being able to fully illustrate the party symbols. If it was a rooster, it was a red rooster, with all of the coloration of the rooster. They also had pictures of all of the candidates for the Senate. And in the first voting precinct that I visited in Cite Soleil, one of the large slum areas in Port-au-Prince, there were 29 candidates for the Senate from that particular district, two of whom would be elected. There were 29 pictures of each of those candidates for the Senate. These are logistically difficult steps to take in order to assure that people, many of whom cannot read and write, would be able to cast an informed ballot.

We are also dealing with a country which has had only two elections within a whole generation. People do not have much experience—those people who are running the election, those people who are participating in the election. Basic electoral infrastructure is largely missing. Highways are extremely substandard. Telephone and other means of communication are often nonexistent.

So those are some of the practical circumstances under which an election was held. Many of the shortcomings which were cited by the Senator from Arizona and the Senator from Georgia were the result of an attempt to increase the democracy of the elections. They may have been attempts which exceeded the capability of those responsible for administering the election. As an example, a decision was made that no precinct would have more than 400 registered voters. The theory was that they did not want to overburden the people who were at the precinct and had the responsibility for managing by having an excessive number of voters at each precinct. The number 400 was selected as a manageable number.

The problem with that was that they ended up with over 12,000 precincts in order to have everybody in a precinct with no precinct more than 400. Even more than that, because of the attempt to allow as many people a chance to register as possible, registration did not close until a few days before last Sunday's election. So you had many people who registered late, who were assigned to one of these precincts with no more than 400 people, where they did not have the time or the logistical capability to get the ballots printed out to those precincts that were created in order to accommodate the late registrants. Probably, in retrospect—and maybe this will be a lesson to be applied at the runoff election next month and at the Presidential election at the end of the year—they will close the registration books earlier to assure that there is an adequate amount of time to process all of the registered people and get the materials to those precincts.

That is an example of the kind of circumstance which started from a good motive, to get as many people registered and participate as possible, which ended causing the kinds of problems that have been cited.

I talked to IRI—International Republican Institute—people who were actually out in the field in the precincts and small towns. I talked to OAS representatives in Port-au-Prince, and to others who were observing the election. I asked, "Is there any evidence that these problems were intended to benefit a party or a set of candidates?" The answer was, from all sources, "no." The problems, the shortfalls, were as a result of incompetence, maybe an overreaching in terms of the desire to extend the election to all of the people, and to the kind of basic circumstances that are the atmosphere, the environment for any election in a country like Haiti. But there was no evidence that those were intended to serve partisan political advantage.

As some have said, we are going to have an early opportunity to see whether some of the lessons learned last Sunday will be applied, because there are going to be a second round of elections in just a matter of 4 weeks. It will be the opportunity for those responsible for the electoral process to incorporate some of those lessons that have been learned, in seeing that the next round of elections are more orderly.

Let me just recite some of the vignettes that stick in my mind of this election. In 1987, there were elections scheduled in Haiti, and as people lined up at 6 o'clock in the morning to vote, the Tontons Macoutes came by with machine guns and slaughtered people in the voting lines. You would think that kind of circumstance that occurred less than a decade ago would create a sense of anxiety and apprehension for people to go out and vote on a Sunday morning in 1995. That was not the case. People were, in fact, joyful in their attitudes. They were enthusiastic about the opportunity to vote. At 6 o'clock in the morning in Cite Soleil—the same place people were being shot down 8 years ago—40 people were standing in line waiting to be able to be the first to vote at that particular precinct. It was an exciting exhilarating experience to see people who wanted so much to participate in democracy.

I was particularly impressed with the number of young people. I just read an article about the low participation in American elections by our youngest voters. In Haiti, the youngest voters seem to be the most participating. I made a point, through a translator, of asking a number of these young people why they were doing this. Why was this 18-year-old out on a Sunday morning standing in line to vote? The answer was, "This is my country, this is my future. It is important to me and my country that democracy work."

That is exactly the kind of spirit that will drive this country into a better future, the kind of spirit that will begin to eradicate those circumstances that have made holding an election in June 1995 so difficult.

So, Mr. President, as I said, I will be submitting a fuller report at a later time, but I wanted to put in context what is happening in this country. I do not intend to be naive or Pollyannaish about the difficulties, including the difficulties of this election. But I believe that we, as Americans, can take pride in what we have accomplished, taking a country which a year ago was under one of the most brutal dictatorships in modern history in the Western Hemisphere, where bodies where showing up every morning butchered as a result of the previous night's brutality by agents of a military dictatorship; and now we have people standing upright, prideful of their country, optimistic of their personal future, desirous of being a part of the future of their nation and seeing democracy as the means by which that future would be achieved.

I think we should take some pride in that and that we will be able to look back, I hope, at this experience last Sunday as an important step in what will be a long path toward the emergence of Haiti as a fully committed, operative democracy with an economy that provides opportunity and a future for its people and a government which respects the rights and dignity of each individual citizen of Haiti.

(Ms. SNOWE assumed the chair.)

Mr. DODD. If my colleague will yield. Madam President, I want to commend our colleague from Florida, who took the time, once again, as he has on numerous other occasions, to personally participate and observe routine, watching the elections in Haiti.

Senator GRAHAM of Florida has a consistent and longstanding interest in Haiti, and I think it is worth our while. We anticipate and await a more detailed report.

I was particularly interested in hearing your firsthand accounts of what actually occurred this past weekend, with all of the shortcomings that occurred.

I read with some interest the departure statement of the U.S. Presidential delegation who observed the Haitian elections and the number of places that the delegation—some 300 polling sites—observed complicated balloting procedures involving elections for more than 2,100 legislative, mayoral and local council offices, 25 political parties, and it goes on how complicated this process was.

The delegation notes here that:

> Despite repeated misunderstandings over the actions of election officials at all levels, the delegation saw little evidence of any effort to favor a single political party or of an organized attempt to intentionally subvert the electoral machinery. At many points, the Provisional Electoral Council's actions and public statements raised questions about the credibility of the process. The most significant of the problems was the failure to explain the reasons candidates were rejected. Political parties raised these and other concerns relating to the transparency of the elections in their contacts within the delegation.

It goes on. I think it points out the success of this delegation.

Last, Mr. President, in the Miami Herald, Monday, June 26, edition, "Haiti: Ballots, Not Bullets." I think it is a worthwhile headline to note, Ballots Not Bullets.

> Historic vote is mostly free of violence. Democracy scored a fragile victory Sunday as Haitians trooped to the polls under a blazing sun and a cloud of confusion to vote on all but 10 of the country's 2,205 elected offices.

I ask unanimous consent to have the article printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

HAITI: BALLOTS, NOT BULLETS

(By Don Bohning and Susan Benesch)

> PORT-AU-PRINCE.—Democracy scored a fragile victory Sunday as Haitians trooped to the polls under a blazing sun and a cloud of confusion to vote on all but 10 of the country's 2,205 elected offices.
>
> Perhaps most important, the election was virtually free of the violence that marred previous ones.
>
> Sunday's was the first and most complicated of three crucial electoral tests in the wake of the U.S.-led military intervention in September that restored President Jean-Bertrand Aristide to office after three years of exile.
>
> The next test comes July 23, with a runoff for Senate and Chamber of Deputies candidates who did not win a majority in Sunday's balloting. All 83 seats in the lower house and 18 in the 27-seat Senate were contested.
>
> Both Sunday's vote and the July 23 runoff are curtain-raisers for year-end presidential elections.
>
> "We're voting for democracy to advance," pronounced a smiling Aristide after voting near his residence on the outskirts of Port-au-Prince.
>
> Dressed in blue jeans and a white polo shirt with green trim, the diminutive Aristide, buried in a phalanx of security officials and aides, walked the half-mile from his home to the polling station at the St. John Paul II church and school complex.
>
> Aristide emerged 15 minutes later, showing a crowd of journalists and admirers his thumb coated in indelible ink, a sign he had voted.
>
> A far greater problem than the few scattered and mostly minor incidents of violence across the country, were the almost universal complaints of snafus at the 10,000 polling stations.
>
> Many polling places opened late, some by several hours. In others, ballots and other voting materials were missing. In some cases, so were poll workers. Transportation was a problem, with all but official and public vehicles banned from the streets. The ban also applied to all commercial airline flights.
>
> For the most part, Haitians waited patiently outside polling stations as electoral officials scurried to correct the deficiencies.
>
> With about 80 percent of Haitians illiterate, many voters struggled to decipher a multitude of party symbols on the ballots. Independent candidates were identified with a Haitian flag. Voters also got help from election officials in marking their ballots and depositing them correctly.
>
> Electoral officials estimated that about 90 percent of eligible Haitians—3.5 million—had registered to vote. There were no immediate figures available of how many actually voted, but turnout appeared to be heavy, although not equal to that of the December 1990 election that swept Aristide to office.
>
> Results for the local, district and the first round of parliamentary elections are not expected for at least a week, because the ballots have to be counted by hand.

FOREIGN ASSESSMENT

The tentative assessment was that Sunday's vote probably met at least the minimum standards for a credible election. A final verdict is expected today, when up to 1,000 foreign observers offer their assessment. And it's likely that even they might not agree.

"There were the kind of administrative problems we anticipated, but Haitians as a whole voted without intimidation or fraud in the electoral process," said a Clinton administration official participating in the 20-member U.S. presidential delegation witnessing the vote.

"I have been in many African countries for elections and they are doing very well here," was the midmorning assessment of Sen. Jacques Goillet, member of a French parliamentary observer delegation.

POSITIVE SIDE

While the credibility of the election may be debated, on the clearly positive side there were no reports of major election day violence.

The most serious incidents of election-related violence occurred overnight Friday in the northern areas of Limbe, Le Bourgne and Dondon. Sunday's vote was called off in all three places, with the expectation it would be rescheduled in conjunction with the July 23 runoff.

In Limbe, somebody threw a firebomb into the electoral offices, destroying thousands of ballots. In neighboring Dondon, election officials decided to shut down to prevent problems. And in Le Bourgne, a mob attacked the electoral offices, stealing seven boxes of election materials. They were later recovered but in unusable condition.

There seems to be little doubt the election violence was held to a minimum by 6,000 foreign troops—including 2,400 Americans—remaining here as part of a United Nations force. Along with about 1,000 international police monitors, they were deployed nationwide.

Florida Sen. Bob Graham, observing the vote, said he was "pleased by what I have seen so far."

Almost to a voter, Haitians in line in Cite Soleil, a Port-au-Prince slum, said they were voting for the candidates of the ticket known as The Table, who are favored by Aristide.

Mr. DODD. I want to commend my colleague for his efforts and for sharing his observations here. This was not perfect by any standards. Given what we have seen over the years here, this does offer at least some significant hope—that the comments you heard from young people about what they wish for, why they were going through the process of voting, is something that we can get behind and nourish and try to encourage in the coming years.

I thank my colleague for his efforts.

Mr. MCCAIN. Madam President, while my friend from Florida is on the floor, International Republican Institute has similar preelection reports from Nicaragua, China, El Salvador, Slovenia, just to name a few. The National Democratic Institute has issued preelection reports in the course of their monitoring of elections.

For the Senator from Florida to somehow believe that this is an unusual or inappropriate measure is simply, I think, incorrect, in light of the fact that it is a normal, standard procedure for electoral observation teams to make these reports.

I will be glad to provide for the RECORD all those that the National Democratic Institute also completed.

Because this report was very critical in no means, in my view, invalidates it. I would like to point out I know that the Senator from Florida knows that Congressman GOSS, of all people, is highly qualified. He is a former member of the CIA—I think the only member of the other body that is a member of the CIA.

I would say to my friend from Florida, at no time, in 4 years of observing 48 elections, has the International Republican Institute or the National Democratic Institute, been challenged on the basis of party bias. If they did, if there was any of that, they would have no credibility.

While we are looking at newspapers, here is a picture at a counting station in downtown Port-au-Prince. "Monique Georges reacts to the state of ballot boxes deposited by angry election workers who said they had not been paid."

The Washington Post reports:

> Parties and election observers across the political spectrum—from the government of President Jean-Bertrand Aristide—today criticized as chaotic and disorderly elections Sunday that were considered a key step in establishing democracy in this impoverished nation.

To be fair I should go on:

> But most said the disarray did not invalidate the voting, and even the Republican observer team said the irregularities were not enough to prompt a cutoff of U.S. aid.

Nor am I seeking a cutoff of U.S. aid.

> "The process is very badly organized, and we, the government, are not proud of it," said Jean-Claude Bajeaux, the Minister of Culture, in a radio interview. "Instead of improving on the 1990 elections, we have done worse."

Now, this is the Minister of Culture in Haiti.

Madam President, we are wasting the time of the Senate in a way, because the facts are going to come out on this election. These are the first initial observations made by qualified observers, and I think more and more evidence is pouring in that this election did not meet the minimum standards in order to judge an election as fair and equitable and that the people are allowed to select their leadership.

I just want to emphasize, Madam President, that this election was observed by unbiased observers. I will provide for the RECORD the names of those individuals who made the observations.

There being no objection, the ordered printed in the RECORD, as follows:

OBSERVATION DELEGATION

CHAIRMAN OF THE DELEGATION:

U.S. Representative Porter J. Goss: Congressman Goss (R–FL) is serving his fourth term in the House. He has a particular interest in Latin American policies and served as an election observer to the 1990 electoral process in Nicaragua. Congressman Goss is a member of the Select Committee on Intelligence, the House Ethics Committee, and the House Rules Committee.

DELEGATION (IN ALPHABETICAL ORDER)

Cleveland Benedict: Mr. Benedict represented the Second District of West Virginia in the U.S. House of Representatives from 1980–1982, and he has served as the state Commissioner of Agriculture, as well as a Deputy Assistant Secretary of the U.S. Department of Agriculture. He is the President of Ben Buck Farms in Lewisburg, West Virginia.

Jeff Brown: Mr. Brown is Director of Grassroots Development with the Republican Party of Virginia. Prior to joining the state Party, he served in Governor Allen's Administration as Director of the Commission on Citizen Empowerment and was with Empower America.

Malik M. Chaka: Mr. Chaka is the Director of Information for Free Angola Information Service in Washington, D.C., and editor of Angola Update, an internationally distributed monthly newspaper. As a Tanzanian-based free lance journalists in the 1970's, Mr. Chaka has observed the advance of democratic processes in southern Africa.

George Dalley: Mr. Dalley is a partner with the Washington, D.C. law firm of Holland and Knight. He is a former Counsel and Staff Director to Congressman Charles Rangel (D–NY) and was a Deputy Assistant Secretary of State in the Carter Administration.

Mary Dunea: Ms. Dunea is Assistant to Governor Jim Edgar of Illinois. She directs cultural and international initiatives for Governor Edgar and serves as his liaison with groups involved in developing international trade.

George A. Fauriol, Ph.D.: Dr. Fauriol is Director and Senior Fellow, American Programs with the Center for Strategic & International Studies in Washington, D.C. At CSIS, he directs the program in engaging policy makers in Canada, the United States, Mexico, Latin American and the Caribbean in pivotal issues of common concern, such as trade, democratization, and security matters.

Ronald Fuller: The owner of an advertising and public relations firm in Little Rock, Arkansas, Mr. Fuller serves as a consultant on governmental and media relations to businesses, trade associations, and political candidates. He served as a communications and political party trainer on an IRI mission to Latvia and Lithuania.

Rich Garon: Mr. Garon is Chief of Staff of the U.S. House of Representatives Committee on International Relations. He is a long-time assistant to Committee Chairman Ben Gilman (R–NY) and has extensive experience in developing foreign policy legislation.

Kevin T. Lamb: Mr. Lamb is a partner and chair of the creditors' rights, business restructuring, and bankruptcy practice group at Testa, Hurwitz & Thibeault in Boston, Massachusetts. Mr. Lamb represents major lending institutions and venture capital funds in corporate reorganization and workout arrangements.

Kirsten Madison: Ms. Madison is Senior Legislative Assistant to U.S. Representative Porter Goss (R–FL). She manages the Congressman's initiatives regarding U.S. policy toward Haiti, as well as has oversight responsibilities involving other foreign policy legislation.

Roger Noriega: Mr. Noriega is a professional staff member on the U.S. House of

Representatives International Relations Committee, responsible for issues involving U.S. interests in Latin America, the Caribbean, and Canada. He has actively monitored the situation in Haiti since the 1991 coup and has visited Haiti twice in the last six months and met with President Aristide. Before joining the House committee, he served at the State Department, the Agency for International Development, and the Organization of American States.

Martin Poblete: Professor Poblete is the permanent adviser on Latin American Affairs at the Northeast Hispanic Catholic Center in New York. He is also Chairman of Columbia University Seminar on Latin America and a Professor of History at Rutgers University.

Steve Rademaker: Mr. Rademaker is Chief Counsel of the Committee on International Relations of the U.S. House of Representatives. Prior to joining the committee staff in 1993, he had served as General Counsel for the Peace Corps and Associate Counsel to the President and Deputy Legal Adviser to the National Security Council during the Bush Administration.

Therese M. Shaheen: Ms. Shaheen, who has wide-ranging experience working in Asia, the Middle East, and Europe, is President, Chief Operating Officer and Co-founder of U.S. Asia Commercial Development Corporation in Washington, D.C. U.S. Asia develops and manages commercial projects for American firms in Asia.

Tim Stadthaus: Mr. Stadthaus is Legislative Assistant and Assistant Press Secretary to U.S. Representative William F. Goodling (R–PA). He monitors foreign relations matters and oversees related legislation initiated by Congressman Goodling, who is a member of the House International Relations Committee.

John Tierney Ph.D.: Dr. Tierney is a member of the faculty at Catholic University in Washington, D.C. and also teaches at the University of Virginia and Johns Hopkins. He has served as Director of the U.S. House of Representatives Caucus on National Defense, as a consult to the Heritage Foundation, and as a Special Assistant with the U.S. Arms Control and Disarmament Agency during the Reagan Administration.

Jacqueline Tillman: Ms. Tillman is Senior Staffer for National Security Affairs and Director of Issue Advocacy for Empower America in Washington, D.C. Before joining Empower America, she was Executive Vice President of the Cuban American National Foundation, Director of Latin America policy with the National Security Council during the Reagan Administration and an assistant to U.S. Ambassador to the United Nations Jeane Kirkpatrick.

Mr. McCAIN. People can honestly disagree on what they observed. But to allege that somehow agreement or disagreement with administration policy concerning Haiti would somehow affect one's view of this election, I think, does great disservice to the people what took their time and their effort.

The Senator from Florida certainly knows how unpleasant the conditions are down there. They may disagree with the Senator from Florida as to the veracity of the elections, but I cannot, without any evidence, accept any allegation that the observation of these elections and the conclusions that were reached by these observers were in any way colored by their view of United States policy toward Haiti.

I am sure that my friend from Florida would not intimate such a thing. I want to make the record clear and I want to thank the Senator from Florida for his many-year-long involvement in the issue of Haiti, for his strong advocacy for freedom and democracy in Haiti, and his continued knowledgeable and informative manner as far as the region is concerned. I yield the floor.

PRIVATE SECURITIES LITIGATION REFORM ACT

The Senate continued with the consideration of the bill.

Mr. D'AMATO. Madam President, I know the distinguished Senator from Florida, Senator GRAHAM, is about to offer an amendment.

It would be my intent when the ranking member returns, Senator SARBANES, to offer a unanimous-consent agreement, the nature of which is we would have 1 hour equally divided on Senator GRAHAM's amendment, and we then would proceed to Senator BOXER's amendment.

I see Senator SARBANES is here. I yield the floor to Senator GRAHAM so he can start and offer his amendment, and at some point in time he might break to propound the unanimous-consent agreement.

Mr. GRAHAM. Could I ask the Senator from New York a question? Your unanimous consent—are you going to provide some time in the morning prior to the vote for a brief statement for those who may not be able——

Mr. D'AMATO. It would be our intent to vote this evening, probably by about 8 o'clock.

Mr. GRAHAM. I am sorry. From earlier comments, I understood it was suggested otherwise.

Mr. D'AMATO. We had attempted to get an agreement to stack the votes, but there was an objection to stacking more than a certain number. It is my intent to dispose of the Senator's amendment prior to disposing of the Boxer amendment.

May I ask at this point unanimous consent that when the Senate considers the Graham amendment, there be 1 hour for debate, to be equally divided in the usual form, and no second-degree amendments be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Madam President, I further ask that following the conclusion or yielding back of the time on the Graham amendment, that the amendment be laid aside and Senator BOXER be recognized to offer an amendment regarding insider trading, on which there would be 90 minutes for debate to be equally divided in the usual form, and no second-degree amendments to be in order.

Mr. SARBANES. Madam President, I will have to object to that request.

The PRESIDING OFFICER. Does the Senator object? Objection is heard.

Mr. D'AMATO. Well, then, we proceed to the Graham amendment.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 1479

(Purpose: To provide for an early evaluation procedure in securities class actions)

Mr. GRAHAM. Madam President, before I offer my amendment, I would like to make a few comments relative to this legislation. When I approach a piece of legislation, I like to do so by asking some basic questions, the first of which is: What is the problem? What is it that we do not like about the status quo that has caused us to propose some alteration of the status quo?

In this case, that diagnosis has been very consistent, clear, and trumpeting, and it is that we have too many frivolous lawsuits that relate to securities fraud.

I cite as my evidence of that an ad which appeared on page A7 of today's Washington Post, under the headlines, "Who Profits? 'A Coterie of Lawyers'."

This ad was in support of S. 240, and it was placed by "America Needs More Investors, Not More Lawsuits," under the sponsorship of American Business Conference and American Electronics Association.

What did the proponents of this legislation say was the reason that we have S. 240 before us this evening? Quoting from the ad:

> Specialized securities lawyers win big bucks by filing meritless lawsuits against many of America's most promising companies. The securities lawyers profit handsomely, but Americans with money in stocks, pensions and mutual funds are the losers in the deal.
>
> This is what editorial writers across the Nation are saying about securities lawsuit abuse:

And then the ad quotes a number of newspapers which have taken a position in support of this legislation. It happens that the first of those newspapers is from my State, the Tampa Tribune, June 25, 1995:

> The situation now is that all investors are paying the costs of settling lawsuits that should never have been filed. . . . [T]he time has come to pull the legal leeches off the backs of corporations that have done no wrong.

That is from the Tampa Tribune.

The next is from the Rocky Mountain News:

> . . . the nogoodniks suffer at the same rate as the straight-shooters. Meanwhile, who profits? A coterie of lawyers with stock charts and fill-in-the-blanks fraud complaints.

That is the January 18, 1995, Rocky Mountain News.

The Chicago Tribune of March 29 of this year:

> . . . groundless lawsuits by shareholders alleging fraud . . . are often merely a way of extorting settlements from corporations whose stock prices have dropped.

Madam President, I ask unanimous consent the totality of the ad from today's Washington Post be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GRAHAM. Madam President, that is the stated problem: Frivolous, meritless lawsuits. But what do we have? Is that the prescription that has come out in S. 240? Is it legislation which is targeted at eradicating the tumor of meritless lawsuits? Unfortunately not.

If I may quote from another newspaper, the Miami Herald of yesterday, which stated, under the headline, "License to steal":

> Practically everyone in Washington, to some degree or other, has blamed "frivolous or abusive lawsuits" for sapping America's economic vigor. And judging from anecdotes, the complaint has some merit. But more often than not, the proposed cures turn out to be far more debilitating than the disease. A perfect illustration is a bill moving through Congress that supposedly protects the securities industry from "frivolous" suits by investors.
>
> The bill may come to a Senate vote today. It would bar, among many other things, charges of fraud against those who make false projections of a company's likely performance. By granting "safe harbor" to all statements of a "forward-looking" nature, it essentially tells companies and brokers: Go ahead, lie about the future. As long as you're not misrepresenting the past, you can fleece investors in any way that your imagination allows.

Madam President, I ask unanimous consent the editorial from the June 26, 1995, Miami Herald also be printed in the RECORD immediately after my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. GRAHAM. What I think has happened, Madam President, is we had a goal to eliminate frivolous lawsuits which could have been hit easily with a .22 rifle. We have now used a howitzer, which has cratered in a large area of the legitimate rights of American investors when they are subjected to abusive and to fraudulent activities. We have created a situation in which it is going to be much more difficult to maintain any kind of suit, serious or frivolous, where fraud is alleged. We have shortened the statute of limitations. We have provided protection for those who assisted in the fraudulent behavior of the principals. We have created a circumstance of a conflict of interest by designating the largest investor in the company as the principal plaintiff in these types of cases. These are just some of the things that have happened, all under the pretext that we are going to be dealing with frivolous lawsuits.

I suggest that there are serious consequences of this type of legislation, and what it is likely to lead to for the American free enterprise system. It was only 100 years ago that we had a very predatory form of free enterprise in the United States. We had large companies using their power in an abusive way to squelch small competitors, to gain monopolistic economic control. We had extreme swings in our business cycle, in large part attributed to that predatory behavior. We had the growth of populism and other forms of political dissent, as farmers and workers felt as if they were being the targets of this predatory behavior.

The free enterprise system in America was in a very precarious condition. Free enterprise has flourished in America when people felt that the rules of free enterprise were fair and that everyone was going to be treated equally, that people could invest in firms—not without risk; that is the nature of the marketplace. But at least they were going to be treated with some discretion and some level of an equal playing field.

I am afraid that legislation such as S. 240—which is going to be seen as, and I believe will in fact result in, a tilting of the economic playing field toward those who would be inclined to wish to abuse it and to use it for their own fraudulent purposes—will undermine that essential confidence of the American people in their economic institutions.

So, with that, Madam President, I have an amendment that I would like to propose. It is an amendment which I will send to the desk which actually goes directly at the issue of frivolous lawsuits.

Madam President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 1479.

Mr. GRAHAM. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 104, after line 22, insert the following:

(c) EARLY EVALUATION PROCEDURES.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(j) EARLY EVALUATION PROCEDURES IN CLASS ACTIONS.—

"(1) IN GENERAL.—In a private action arising under this title that is filed as a class action pursuant to the Federal Rules of Civil Procedure, if the class representatives and each of the other parties to the action agree and any party so requests, or if the court upon motion of any party so decides, not later than 60 days after the filing of the class action, the court shall order an early evaluation procedure. The period of the early evaluation procedure shall not extend beyond 150 days after the filing of the first complaint subject to the procedure.

"(2) REQUIREMENTS.—During the early evaluation procedure described under paragraph (1)—

"(A) defendants shall not be required to answer or otherwise respond to any complaint;

"(B) plaintiffs may file a consolidated or amended complaint at any time and may dismiss the action or actions at any time without sanction;

"(C) unless otherwise ordered by the court, no formal discovery shall occur, except that parties may propound discovery requests to third parties to preserve evidence;

"(D) the parties shall evaluate the merits of the action under the supervision of a person (hereafter in this section referred to as the 'mediator') agreed upon by them or designated by the court in the absence of agreement, which person may be another district court judge, any magistrate-judge or a special master, each side having one peremptory challenge of a mediator designated by the court by filing a written notice of challenge not later than 5 days after receipt of an order designating the mediator;

"(E) the parties shall promptly provide access to or exchange all nonprivileged documents relating to the allegations in the complaint or complaints, and any documents withheld on the grounds of privilege shall be sufficiently identified so as to permit the mediator to determine if they are, in fact, privileged; and

"(F) the parties shall exchange damage studies and such other expert reports as may be helpful to an evaluation of the action on the merits, which materials shall be treated as prepared and used in the context of settlement negotiations.

"(3) FAILURE TO PRODUCE DOCUMENTS.—Any party that fails to produce documents relevant to the allegations of the complaint or complaints during the early evaluation procedure described in paragraph (1) may be sanctioned by the court pursuant to the Federal Rules of Civil Procedure. Notwithstanding paragraph (2), subject to review by the court, the mediator may order the production of evidence by any party and, to the extent necessary properly to evaluate the case, may permit discovery of nonparties and depositions of parties for good cause shown.

"(4) EVALUATION BY THE MEDIATOR.—

"(A) IN GENERAL.—If, at the end of the early evaluation procedure described in paragraph (1), the action has not been voluntarily dismissed or settled, the mediator shall evaluate the action as being—

"(i) clearly frivolous, such that it can only be further maintained in bad faith;

"(ii) clearly meritorious, such that it can only be further defended in bad faith; or

"(iii) described by neither clause (i) nor clause (ii).

"(B) WRITTEN EVALUATION.—An evaluation required by subparagraph (A) with respect to the claims against and defenses of each defendant shall be issued in writing not later than 10 days after the end of the early evaluation procedure and provided to the parties. The evaluation shall not be admissible in the action, and shall not be provided to the court until a motion for sanctions under paragraph (5) is timely filed.

"(5) MANDATORY SANCTIONS.—

"(A) CLEARLY FRIVOLOUS ACTIONS.—In an action that is evaluated by the mediator under paragraph (4)(A)(i), upon final adjudication of the action, the court shall include in the record specific findings regarding compliance by each party and each attorney representing any party with each requirement of rule 11(b) of the Federal Rules of Civil Procedure.

"(B) MANDATORY SANCTIONS.—If the court makes a finding under subparagraph (A) that a party or attorney violated any requirement of rule 11(b) of the Federal Rules of Civil Procedure, the court shall impose sanctions on such party or attorney in accordance with rule 11 of the Federal Rules of Civil Procedure.

"(C) PRESUMPTION IN FAVOR OF ATTORNEYS' FEES AND COSTS.—

"(i) IN GENERAL.—Subject to clauses (ii) and (iii), for purposes of subparagraph (B), the court shall adopt a presumption that the appropriate sanction for failure of the complaint to comply with any requirement of rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

"(ii) REBUTTAL EVIDENCE.—The presumption described in clause (i) may be rebutted only upon proof by the party or attorney against whom sanctions are to be imposed that—

"(I) the award of attorneys' fees and other expenses will impose an undue burden on that party or attorney; or

"(II) the violation of rule 11(b) of the Federal Rules of Civil Procedure was de minimis.

"(iii) SANCTIONS.—If the party or attorney against whom sanctions are to be imposed meets its burden under clause (ii), the court shall award the sanctions that the court deems appropriate pursuant to rule 11 of the Federal Rules of Civil Procedure.

"(6) EXTENSION OF EARLY EVALUATION PERIOD.—The period of the early evaluation procedure described in paragraph (1) may be extended by stipulation of all parties. At the conclusion of the period, the action shall proceed in accordance with Federal Rules of Civil Procedure.

"(7) FEES.—In a private action described in paragraph (1), each side shall bear equally the reasonable fees and expenses of the mediator agreed upon or designated under paragraph (2)(D), if the mediator is not a judicial officer.".

(2) SECURITIES EXCHANGE ACT OF 1934—Section 21 of the Securities Act of 1933 (15 U.S.C. 78a) is amended by adding at the end the following new subsection:

"(l) EARLY EVALUATION PROCEDURES IN CLASS ACTIONS.—

"(1) IN GENERAL.—In any private action arising under this title that is filed as a class action pursuant to the Federal Rules of Civil Procedure, if the class representatives and each of the other parties to the action agree and any party so requests, or if the court upon motion of any party so decides, not later than 60 days after the filing of the class action, the court shall order an early evaluation procedure. The period of the early evaluation procedure shall not extend beyond 150 days after the filing of the first complaint subject to the procedure.

"(2) REQUIREMENTS.—During the early evaluation procedure described under paragraph (1)—

"(A) defendants shall not be required to answer or otherwise respond to any complaint;

"(B) plaintiffs may file a consolidated or amended complaint at any time and may dismiss the action or actions at any time without sanction;

"(C) unless otherwise ordered by the court, no formal discovery shall occur, except that parties may propound discovery requests to third parties to preserve evidence;

"(D) the parties shall evaluate the merits of the action under the supervision of a person (hereafter in this section referred to as the 'mediator') agreed upon by them or designated by the court in the absence of agreement, which person may be another district court judge, any magistrate-judge or a special master, each side having one peremptory challenge of a mediator designated by the court by filing a written notice of challenge not later than 5 days after receipt of an order designating the mediator;

"(E) the parties shall promptly provide access to or exchange all nonprivileged documents relating to the allegations in the complaint or complaints, and any documents withheld on the grounds of privilege shall be sufficiently identified so as to permit the mediator to determine if they are, in fact, privileged; and

"(F) the parties shall exchange damage studies and such other expert reports as may be helpful to an evaluation of the action on the merits, which materials shall be treated as prepared and used in the context of settlement negotiations.

"(3) FAILURE TO PRODUCE DOCUMENTS.—Any party that fails to produce documents relevant to the allegations of the complaint or complaints during the early evaluation procedure described in paragraph (1) may be sanctioned by the court pursuant to the Federal Rules of Civil Procedure. Notwithstanding paragraph (2), subject to review by the court, the mediator may order the production of evidence by any party and, to the extent necessary properly to evaluate the case, may permit discovery of nonparties and depositions of parties for good cause shown.

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"(A) IN GENERAL.—If, at the end of the early evaluation procedure described in paragraph (1), the action has not been voluntarily dismissed or settled, the mediator shall evaluate the action as being—

"(i) clearly frivolous, such that it can only be further maintained in bad faith;

"(ii) clearly meritorious, such that it can only be further defended in bad faith; or

"(iii) described by neither clause (i) nor clause (ii).

"(B) WRITTEN EVALUATION.—An evaluation required by subparagraph (A) with respect to the claims against and defenses of each defendant shall be issued in writing not later than 10 days after the end of the early evaluation procedure and provided to the parties. The evaluation shall not be admissible in the action, and shall not be provided to the court until a motion for sanctions under paragraph (5) is timely filed.

"(5) MANDATORY SANCTIONS.—

"(A) CLEARLY FRIVOLOUS ACTIONS.—In an action that is evaluated under paragraph (4)(A)(i) in which final judgment is entered against the plaintiff, the plaintiff or plaintiff's counsel shall be liable to the defendant for sanctions as awarded by the court, which may include an order to pay reasonable attorneys' fees and other expenses, if the court agrees, based on the entire record, that the action was clearly frivolous when filed and was maintained in bad faith.

"(B) CLEARLY MERITORIOUS ACTIONS.—In an action that is evaluated under paragraph (4)(A)(ii) in which final judgment is entered against the defendant, the defendant or defendant's counsel shall be liable to the plaintiff for sanctions as awarded by the court, which may include an order to pay reasonable attorneys' fees and other expenses, if the court agrees, based on the entire record, that the action was clearly meritorious and was defended in bad faith.

"(6) EXTENSION OF EARLY EVALUATION PERIOD.—The period of the early evaluation procedure described in paragraph (1) may be extended by stipulation of all parties. At the conclusion of the period, the action shall proceed in accordance with Federal Rules of Civil Procedure.

"(7) FEES.—In a private action described in paragraph (1), each side shall bear equally the reasonable fees and expenses of the mediator agreed upon or designated under paragraph (2)(D), if the mediator is not a judicial officer.".

On page 105, line 5, strike "(j)" and insert "(i)".

On page 106, line 25, strike "(l)" and insert "(k)".

On page 108, line 24, strike "(k)" and insert "(j)".

On page 109, line 8, strike "(l)" and insert "(k)".

On page 126, line 19, strike "(m)" and insert "(l)".

On page 127, line 6, strike "(m)" and insert "(l)".

Mr. GRAHAM. Madam President, the time I just used should be counted against the time which I was afforded to debate this matter.

Madam President, the amendment that I send to the desk I do not purport to be original.

It is in fact a version of what appeared in S. 240 as it was originally filed. It also draws heavily on language that was contained in the Bryan-Shelby bill, S. 667. What it attempts to do is to provide an early evaluation procedure for litigation filed either under the 1933 Securities Act, or the 1934 Securities Act. It would provide that on the motion of the parties, or by the motion of the court before whom the case has been filed, that there can be an independent mediator designated. That mediator would have the responsibility of reviewing all of the facts of the litigation. After that review, the mediator would submit a report. That report would contain a finding that the litigation was either one of three categories. It was either a clearly frivolous action; second, a clearly meritorious action; or, third, was neither.

If the parties in the face of that determination proceed with litigation, at the conclusion of the litigation, that report is submitted to the judge. And in the case under the 1934 act, for instance, where the report has found that this was a clearly frivolous action, and if the final judgment is entered against the plaintiff—that is, the plaintiff proceeded forward to full litigation in spite of the fact that there had been an early evaluation that this was a clearly frivolous action, and the plaintiff had in fact had the final judgment entered against the plaintiff—then the plaintiff or the plaintiff's counsel shall be liable to defendant for sanctions as awarded by the court, which may include an order to pay reasonable attorney's fees and other expenses, if the court agrees based on the entire record that the action was clearly frivolous when filed and was maintained in bad faith.

Madam President, if, on the other hand, this report of the early evaluation found that this was a clearly meritorious action, and the defendant carried it through to final judgment, and final judgment was entered against the defendant, then the defendant, or the defendant's counsel, shall be liable to the plaintiff for the sanctions awarded by the court which may include reasonable attorney's fees and other expenses; if the court agrees based on the entire record that the action was clearly meritorious and was defended in bad faith.

Madam President, that is what we are trying to do here. We are trying to create some effective sanctions against people bringing frivolous lawsuits. We are attempting to set up a procedure that will facilitate the delineation and early determination of the frivolous from the nonfrivolous and meritorious cases. It is hoped with that early determination the parties against whom this report is entered will not pursue it further, or, in the case of the defendant, that they will settle the case without the necessity of prolonged and expensive litigation.

Is not that what we are here for? We have identified the problem as being frivolous lawsuits. Why do we not solve the problem of frivolous lawsuits and not allow that problem to become a Trojan horse into which we load a lot of other issues, of shortening statute of limitations, creating conflicts of interest by designating only the most affluent investor as the lead plaintiff, giving really quite unwarranted protection to persons who make projections about the future with knowledge that those projections are false, giving increased sanction and protection to aiders and abettors who have acted in a reckless manner that has resulted in investors of being defrauded? None of those things are relevant to the issue of frivolous lawsuits.

So, Madam President, I urge my colleagues to seriously consider this amendment which is submitted in an attempt to refocus our remedies on what has been general agreement to be the problem, which is frivolous lawsuits that do not advance the cause of justice that have the economic adverse effects that are recited by the proponents of S. 240.

So, Madam President, I will reserve the remainder of my time. But I urge a favorable consideration of this amendment by my colleagues.

Thank you.

EXHIBIT 1

Who Profits? "A Coterie of Lawyers"—Rocky Mountain News.

Specialized securities lawyers win big bucks by filing meritless lawsuits against many of America's most promising companies. The securities lawyers profit handsomely, but Americans with money in stocks, pensions and mutual funds are the losers in the deal.

This is what editorial writers across the nation are saying about securities lawsuit abuse:

"The situation now is that all investors are paying the costs of settling lawsuits that should never have been filed. . . . [T]he time has come to pull the legal leeches off the backs of corporations that have done no wrong."—Tampa Tribune, June 25, 1995.

". . . the nogoodniks suffer at the same rate as the straight-shooters. Meanwhile, who profits? A coterie of lawyers with stock charts and fill-in-the blanks fraud complaints."—Rocky Mountain News, January 18, 1995.

". . . groundless lawsuits by shareholders alleging fraud . . . are often merely a way of extorting settlements from corporations whose stock prices have dropped."—Chicago Tribune, March 29, 1995.

"Enactment of either [the House or Senate] bill would remove a serious blot on the legal system, which is supposed to settle real disputes, not provide a protection racket for a few lawyers."—Boston Sunday Herald, June 18, 1995.

"These frivolous lawsuits discredit the legal profession, distract companies from their main tasks, discourage or retard the development of new, cutting edge businesses and ultimately harm the interests of shareholders."—The Hartford Courant, April 11, 1994.

"The contemporary class action has created a class of entrepreneurial lawyers. The first beagle to the court house with a tame plaintiff in tow often gets to represent the class, and collect a 33%-50% fee. . . Then the members of the class receive small compensation . . ."—Barron's, June 5, 1995.

"The chief target of the reform legislation is a small group of lawyers who have made a venal industry of filing groundless securities-fraud lawsuits . . .

". . . the securities bill [S. 240] would go a long way toward curbing egregious abuse of the legal system. Such abuse is in effect a hidden tax that costs American jobs and discourages the entrepreneurial risk-taking that stimulates economic growth."—The News Tribune (Tacoma, Washington), June 10, 1995.

Legislation introduced in the Senate (S. 240) by Republican Pete Domenici and Democrat Chris Dodd will give control back to shareholders and really protect investors.

EXHIBIT 2

[From the Miami Herald]

LICENSE TO STEAL

Practically everyone in Washington, to some degree or other, has blamed "frivolous or abusive lawsuits" for sapping America's economic vigor. And judging from anecdotes, the complaint has some merit. But more often than not, the proposed cures turn out to be far more debilitating than the disease. A perfect illustration is a bill moving through Congress that supposedly protects the securities industry from "frivolous" suits by investors.

The bill may come to a Senate vote today. It would bar, among many other things, charges of fraud against those who make false projections of a company's likely performance. By granting "safe harbor" to all statements of a "forward-looking" nature, it essentially tells companies and brokers: Go ahead, lie about the future. As long as you're not misrepresenting the past, you can fleece investors in any way that your imagination allows.

Technically, investors still could sue in cases of egregious deceit. But they'd have only one year to do so, and they'd have to show evidence, up front, that the fraud was deliberate. Not even the Securities and Exchange Commission can prove willfulness that quickly.

The problem is that companies make plenty of rosy projections in good faith. Sometimes, when the promises don't pan out, frustrated (or merely opportunistic) investors try to sue. How common is that? Experts disagree.

But the Senate bill offers a curious solution: To prevent some unknown number of unfair securities-fraud lawsuits, let's *outlaw huge categories of them.* The genuine, fair ones will just have to go unpunished.

So sorry you're swindled, old chap. Better luck next time.

This is licensed larceny, and it's unconscionable. Yet Florida Sen. Connie Mack, a member of the Banking Committee, has cosponsored and voted for the bill so far. In the time since the committee review, Mr. Mack may have had a chance to ponder its ill consequences. He'd do well to vote No today and help slay this beast for good.

Recent history is replete with colorful illustrations of deliberate, systematic fraud on small investors. Their savings were replenished, if at all, only by the courts or by the threat of litigation. It's a strange moment indeed, with the sores of the savings-and-loan fiasco still raw, for Congress essentially to declare open season for deceiving investors.

It prompts an ironic question: How does it help American investment to scare off potential investors with a promise that the law *won't aid them* if they're bilked? The point of solving the "frivolous lawsuit" problem was supposed to be to encourage more investment. By that standard, the Senate's "Private Securities Litigation Reform Act" amounts to self-strangulation.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Madam President, the distinguished Senator from Florida is correct that the amendment he is now submitting has been the subject of intense scrutiny. Indeed, it was considered in the initial draft of this legislation. One of the reasons this proposal was rejected and dropped from the initial legislation was because it requires—and will wind up costing—too much. Also, this provision would set up an entirely new bureaucracy, by setting up an early evaluation procedure for class action lawsuits.

Although early evaluation may be a laudable concept, this amendment will force parties into an early evaluation procedure. The procedure requires parties to voluntarily turn over documents or be subject to sanctions. At the end of the evaluation, if the parties do not settle or dismiss the action, they can be sanctioned if any further action is considered frivolous. I believe that parties should attempt to mediate their claims, if possible, but they should not be forced to mediate claims if they really want to seek a day in court.

This is the balance that was reached. This Senator has never attempted to keep people from having their day in court. This Senator stated that belief clearly for the record during debate on this provision and the loser pays provision when they were strongly urged by those in the private sector who sought relief. But I would not, and could not, support the losers-pays concept because, as laudable as that might sound, it would indeed infringe upon the basic rights of men to seek relief. It would just be too high a bar for those who have truly been aggrieved.

This amendment requires parties to submit to an early dispute resolution. If one of the parties, however, does not want this early procedure, then we have a very real problem. The early evaluation procedure would take place if each side agrees to it, or if either side wants it and the court acts upon such motion within 60 days of the filing the class action. I believe that this amendment goes too far in its attempt to resolve disputes. It actually sets up a standard where people would lose the ability to fight for their rights, whether they are the plaintiff or the defendant. I notice that Senator DODD is here and know that he has spent a great deal of time on this issue.

I yield the floor.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Madam President, let me first of all thank my colleague from Florida for giving me a call earlier today about what he was going to offer with this amendment.

Let me first of all, say that the spirit of this amendment, which I admit I like, in a way, has been offered as a part of the original bill alternative dispute resolution procedure to try to give litigants in securities matters an option of going a route rather than going into court to resolve their problems. We tried that on a number of bills. I go back 7 or 8 years ago in my efforts with then Senator Danforth of Missouri. We proposed some tort reform legislation that set up an alternative dispute resolution mechanism.

So there is a spirit to this amendment and I am attracted to that spirit. I say that at the outset. But let me also say that despite my attraction with the spirit of what is being offered, I see this as being a proposal which is going to complicate matters rather than help resolve them.

Under this amendment, as I understand it, any party that seeks a court order or an early evaluation—and if the court grants that order—an early evaluation might sound, and does sound very attractive, to Federal judges who are looking for a way to clear off their dockets, then you have the fishing process which can begin which I think runs counter to what we are trying to achieve even under an alternative dispute resolution, a modest one as we have in the bill.

Even if the complaint, Madam President, is clearly a matter—let us for the sake of argument assume that is the case—which would be dismissed and the case ended, when a motion to dismiss is decided, the plaintiff would get complete discovery prior to any ruling on the motion to dismiss. Now, that raises the issue of discovery and discovery costs. Of course, these are some of the principal forces and factors that cause innocent defendants to settle their cases.

In testimony before our committee, in hearings on this matter—and I am quoting from page 14 of our committee report:

> . . . discovery costs account for roughly 80 percent of the total litigation costs in securities fraud cases.

In many cases the discovery can work in determining the guilt of a party. So I am not arguing there should not be discovery, but here you are getting it completely even before you get to the process, even before the motion to dismiss.

One witness described the broad discovery requests requiring a company to produce over 1,500 boxes of documents at an expense of $1.4 million, referring to page 16 of our report.

What does all this mean, Madam President? Lawyers who can file meritless cases—and we have seen examples of that, cases that would be dismissed by the Court—will be able to circumvent the very important protection against unjustified claims that is provided by the motion to dismiss process.

Indeed, this amendment would expand attorneys' ability to coerce settlements, in my view to include a new category of cases—those that are by definition meritless and that would be dismissed by the court. Given all the evidence that these lawyers extract in settlements in unjustified cases, we cannot—in my view, should not—enact a provision that would expand their power to do so in meritless cases, and that would be the net effect were the amendment to be adopted.

So again, for one who is attracted very strongly to the alternative dispute resolution process, what you are getting here is something very different than that which raises the costs which provokes these kinds of settlements in meritless cases, and therefore, with all due respect to my good friend from Florida, I would urge the rejection of this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Madam President, we have nothing further to say on this side, unless the Senator from Florida wishes to continue. Otherwise, we will put in a quorum call.

Mr. GRAHAM. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. I ask unanimous consent that the quorum call time be taken equally off both sides.

The PRESIDING OFFICER. Without objection, the time will be applied equally.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. I suggest the absence of a quorum.

Mr. SARBANES. Will the Senator withhold on that?

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. How much time remains?

The PRESIDING OFFICER. The Senator from Florida has 14½ minutes; the Senator from New York has 22 minutes and 32 seconds.

Mr. SARBANES. I thank the Chair.

Will the Senator from Florida give me just 2 minutes?

Mr. GRAHAM. The Senator from Florida yields such time as the Senator from Maryland would choose to use.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Madam President, I wish to say to the Senator from Florida that I think he has come up with a very imaginative proposal here. His proposal in fact really gets at the question of the frivolous suits. We have been hearing a lot of discussion here over the last couple of days about trying to get at frivolous suits.

When you look at the provisions that are being used in order to get at frivolous suits, you discover that they really encompass a great number of other things as well. As my colleague from Nevada, Senator BRYAN, said at one point during the debate, this is a Trojan horse riding beneath the pennant of the frivolous suit with all sorts of other menacing, dangerous things hidden in the Trojan horse.

I am interested that the proponents of this legislation are not responsive to the amendment of the Senator, which, of all the proposals I have seen, is the one that focuses on the frivolous suit and on the frivolous suit only, as I understand it.

I ask the Senator, is it, in fact, correct that the focus of the Senator's amendment is the frivolous suit and it does not go beyond that?

We have other things that are being done. People are being denied access to the courthouse. Aiders and abettors are being protected from any liability whatsoever. Joint and several liability is being done away with, all in the name of trying to get at the frivolous suit. It may have some implications for the frivolous suit, but the unfortunate thing is it also has very significant implications for the meritorious suit.

As I understand the Senator's amendment, it is not subject to that criticism. This is the frivolous suit only.

Mr. GRAHAM. The purpose, I say to the Senator, is the difference between using a laser beam to precisely remove a tumor as opposed to amputation to remove the entire limb. I fear that what we have done in this legislation, Madam President, is to amputate the ability of most investors to bring a serious case of securities fraud. Whether it is frivolous, competitive, or highly meritorious, we have eliminated for many individuals the ability to have access to court, to have their claims adjudicated in all types of cases.

The purpose of this amendment was to be that laser that would identify those cases which in fact are, to use the amendment's term, clearly frivolous actions, and to provide some very stiff sanctions against persons who are found to have filed a clearly frivolous action but persist. If they lose that clearly frivolous action, which assumedly they are likely to do, then they face the prospect of paying not only their attorneys and their costs; they have to pay the defendant's attorneys and costs.

Conversely, if a clearly meritorious action is filed and the defendant persists in litigation to defend against that clearly meritorious action and the defendant loses, then the defendant is placed in the position of being subject to the sanction of having to pay not only his own costs but also the costs of the plaintiff.

This is not an attempt to apply a broadly based English standard of loser pays. This is an attempt to achieve the very purpose of this legislation, which is to discourage frivolous lawsuits by making the economic consequences of filing a frivolous lawsuit so onerous.

I thank my colleague for having asked that clarifying question.

Mr. SARBANES. As I understand it, the amendment of the Senator is balanced. There has been a tremendous amount of focus about the frivolous lawsuit filed by plaintiffs, but there also can be a problem with defendants resisting what are otherwise meritorious claims. Is that not correct? How does the Senator address that?

Mr. GRAHAM. Yes, Madam President, there could be a frivolous defense as well as there can be a frivolous plaintiff's filing. And this amendment would provide balance. Exactly the same sanctions would be applied under the 1934 Securities Act to a frivolous action as would be applied to a clearly meritorious action. That is, if you are the defendant, and the evaluation is this is a clearly meritorious case, but you persist, litigate, and you lose, then you are subject to the sanction of having to pay the plaintiff's attorneys fees and court costs. So this is an attempt to create some strong economic incentives for people to settle and for people not to file a frivolous action, nor to persist in frivolous defenses.

Mr. SARBANES. I have to say to the Senator, having listened to this explanation, I have difficulty understanding why the proponents of this legislation have asserted that the purpose in trying to move the legislation is to avoid expensive litigation or preparation for litigation.

Let me ask the Senator one final question. Does your process come in ahead of an extensive discovery period, or how does it work? At what point does your process come into play?

Mr. GRAHAM. The expectation would be that this would be at the discretion of the parties or of the judge that this would be the first action initiated after the litigation has been filed.

Mr. SARBANES. I see. So it would involve potentially a lot of the costs that are associated with preparing for trial, let alone the costs connected with the trial?

Mr. GRAHAM. That is correct.

Mr. SARBANES. It is difficult for me to understand the people who are opposing this amendment on the assertion they are trying to get at the cost of frivolous suits, or as I understand it, opposing the Senator's amendment. I just have difficulty squaring that.

Mr. GRAHAM. It seems to me, Madam President, that this amendment is exactly consistent with what proponents of this legislation say the evil is that we are attempting to correct, and it would avoid the necessity of having to overreach in terms of a remedy to apply an excessive amount of medication of severely restricting access to courts by people with legitimate claims, which I fear this legislation will do. And even if a legitimate claim matures into a judgment, to then protect those persons against whom the judgment might be rendered by things like the aiders and abettors provision and the joint and several liability, particularly as it relates to small investors, et cetera. All of those types of things would be less necessary if we went straight at the problem cited, the frivolous lawsuit, and tried to eliminate as many of those lawsuits by effective sanctions as I believe this will be at the initial stages.

Mr. SARBANES. Then you would not be running the risk, the very substantial risk, as I perceive this legislation, that meritorious claims would be adversely affected by these other sweeping provisions that are in this legislation. Your provision by definition is so directed that the meritorious claim would pass through the screening process, as I understand it?

Mr. GRAHAM. The early evaluation would make a determination that the case was either clearly frivolous, clearly meritorious, or neither. And if you fell into that third category, then that ought to be the kind of open, civil due process that we associate with the American judicial system.

Mr. SARBANES. Well, I thank the Senator very much for his explanation and for his very constructive and I think imaginative proposal.

Mr. GRAHAM. Madam President, unless there is someone else who would like to speak on this amendment, I am prepared to make a short concluding statement and then if the opponents are prepared to yield back their time, I would be so prepared and we could proceed.

Madam President, we have before us consensus on one issue, and that is that there is a problem relative to frivolous lawsuits in the securities area. The quandary is how to eradicate or mitigate that problem without doing excessive damage to other rights of investors, without eliminating what has been one of the principal deterrents to fraudulent behavior within our free enterprise system, what has been one of the foundations of public confidence that they could invest in our capitalistic system and be treated fairly.

I believe this amendment goes directly at the problem that we have identified. It states that early on, after a case has been filed, there will be an independent evaluation by a judicially selected mediator as to whether this is a frivolous, meritorious, or other action. The case would then be in the hands of the litigants as to whether, in the face of that determination, they wish to proceed.

But if they proceeded with a frivolous case, and if they lost that frivolous case, then they would be subject to very serious sanctions of having to pay not only their bills, but also the attorney fees and costs of their opponent. I think that would be a significant factor in terms of deterring the prosecution of frivolous suits.

Frivolous defenses are sanctioned in exactly the same manner. So if a case is determined to be clearly meritorious, and yet the defendant proceeds and loses, that defendant will be subject to these sanctions. Madam President, I believe that comes as close to solving the problem we have identified and does so in a way that does not have unintended, adverse consequences on other aspects of investors' rights.

So I urge those who are proponents of S. 240 to see this as a supportive, friendly, positive contribution to achieve their objective. And I hope that they and my other colleagues will support this amendment, which I believe moves toward achieving the very purpose that led to the introduction of this legislation in the first instance.

Thank you, Madam President.

I yield the floor, and I am prepared to yield back the balance of my time.

Mr. D'AMATO. Madam President, I want to thank the Senator from Florida. I too yield back the balance of our time, and ask unanimous consent that this matter be sent over for the purpose of giving Senator BOXER an opportunity to offer her amendment. She has indicated that she would take 40 minutes on her side and retain the balance of 5 minutes for tomorrow with the express intent that we will vote on her amendment first tomorrow after she makes her 5-minute statement. I reserve ourselves 2 minutes for tomorrow, and as much time as we need this evening. I do not intend to use more than 15 minutes at the most.

Mrs. BOXER. Reserving the right to object, and I do not want to object, when are we going to vote on the Graham amendment?

Mr. D'AMATO. It is my thought and intent that we will vote on Senator GRAHAM's amendment after your amendment. And Senator SPECTER has several amendments to offer. If we could stack them to accommodate some of our colleagues, certainly well before 9 o'clock. It is my intent to ask for unanimous consent that we proceed in that manner.

No matter, at least the Senator will have the opportunity of offering her amendment and starting to use some of her time.

(Mr. BURNS assumed the chair.)

Mrs. BOXER. I say to my friend, I am very willing. I would prefer to have my vote follow Senator GRAHAM's. I think it makes more sense.

Mr. D'AMATO. Would you like to vote on it this evening?

Mrs. BOXER. I am suggesting tomorrow morning.

Mr. D'AMATO. We will vote on Senator GRAHAM's amendment this evening.

Mrs. BOXER. I was not aware of that.

Mr. D'AMATO. That was my purpose, so you would have an opportunity.

Mr. SARBANES. If the manager will yield, as I understand the procedure now, the Graham amendment is being set aside so Senator BOXER can offer her amendment?

Mr. D'AMATO. That is correct. Possibly Senator SPECTER, as well.

Mr. SARBANES. Senator BOXER's amendment we will debate for 40 minutes. You will respond for, I think, not more than——

Mr. D'AMATO. Not more than 15 minutes.

Mr. SARBANES. Then we will move on to some other amendments?

Mr. D'AMATO. It is my hope we would take the three Specter amendments, at least two of those amendments, and dispose of them this evening, as well.

Mr. SARBANES. The Boxer amendment would go on over to the morning. Senator BOXER will have an opportunity to speak in the morning for 5 minutes.

Mr. D'AMATO. That is correct.

Mr. SARBANES. We intend to vote tonight on Senator GRAHAM and Senator SPECTER?

Mr. D'AMATO. That is correct.

Mr. SARBANES. All together, or Senator GRAHAM after Senator BOXER finishes her debate?

Mr. D'AMATO. Well, I would like to possibly stack them for the convenience of our Members so they do not have to keep coming back and forth this evening.

Mr. SARBANES. This evening.

Mr. D'AMATO. This evening.

Mr. SARBANES. So it would be the Graham amendment and Specter, some number of Specter.

Mr. D'AMATO. That is correct, either two or three.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, at the appropriate time, and if that appropriate time is now, I would like to ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from California is recognized.

AMENDMENT NO. 1480

(Purpose: To make an amendment relating to the consequences of insider trading)

Mrs. BOXER. I yield myself 30 minutes at this time.

Mr. President, I send an amendment to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from California [Mrs. BOXER] proposes an amendment numbered 1480.

Mrs. BOXER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in title I, insert the following new section:

SEC. . CONSEQUENCES OF INSIDER TRADING.

(a) SECURITIES ACT OF 1933.—Section 13A of the Securities Act of 1933, as added by section 105 of this Act, is amended by adding at the end the following new subsection:

"(h) CONSEQUENCES OF INSIDER TRADING.—

"(1) IN GENERAL.—Notwithstanding subsection (c), the exclusion from liability provided for in subsection (a) does not apply to a false or misleading forward-looking statement if, in connection with the false or misleading forward-looking statement, the issuer or any officer or director of the issuer—

"(A) purchased or sold a material amount of the equity securities of the issuer (or derivatives thereof), as reflected in filings with the Commission; and

"(B) financially benefited from the forward-looking statement.

"(2) DEFINITION.—For purposes of this subsection, the term 'material amount' means—

"(A) with respect to an issuer, equity securities of the issuer of any class having a total value of not less than $1,000,000; and

"(B) with respect to an officer or director of an issuer, holdings of that officer or director of any class of the equity securities of the issuer having a total value of not less than $50,000.".

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 37 of the Securities Exchange Act of 1934, as added by section 105 of this Act, is amended by adding at the end the following new subsection:

"(h) CONSEQUENCES OF INSIDER TRADING.—

"(1) CONSEQUENCES OF INSIDER TRADING.—Notwithstanding subsection (c), the exclusion from liability provided for in subsection (a) does not apply to a false or misleading forward-looking statement if, in connection with the false or misleading forward-looking statement, the issuer or any officer or director of the issuer—

"(A) purchased or sold a material amount of the equity securities of the issuer (or derivatives thereof), as reflected in filings with the Commission; and

"(B) financially benefited from the forward-looking statement.

"(2) DEFINITION.—For purposes of this subsection, the term 'material amount' means—

"(A) with respect to an issuer, $1,000,000 worth of any class of the equity securities of the issuer; and

"(B) with respect to an officer or director of an issuer, $50,000 worth of the holdings of that person of any class of the equity securities of the issuer.".

Amend the table of contents accordingly.

Mrs. BOXER. Mr. President, simply put, my amendment says that insider traders who financially benefit from false or misleading forward-looking statements shall not benefit from the safe harbor in S. 240. It could not be more direct. I am very hopeful colleagues will support me on this.

It is very clear that 48 colleagues are unhappy with the safe harbor as it is in S. 240. All we are doing here is saying, "Well, you didn't change it, so at least let us not allow insiders who financially benefit in connection with a false and misleading statement they issue to get the benefit of the safe harbor."

S. 240 has a safe harbor provision which basically gives insiders huge protection for false forward-looking statements, all statements, except those involving intentional fraud. In other words, there is a safe harbor for reckless fraud, knowing fraud and purposeful fraud. Let me repeat that. The S. 240 safe harbor provision, which gives insiders immunity for false forward-looking statements, involves reckless fraud, knowing fraud and purposeful fraud.

Senator SARBANES tried to change that standard. He offered two amendments. Those two amendments failed, although I would say the second one got 48 votes from both sides of the aisle. Obviously, people are troubled by the safe harbor which my friend from Maryland calls a pirate's cove. I call it a deep ocean—a deep ocean.

In the Boxer amendment, the insider trading has to appear on the records of the SEC, so it is no guesswork. You know that insider made his insider trades because it is registered with the

SEC, and it would have to involve significant insiders—the company itself or its officers or directors. So it is very narrowly drawn.

Under my amendment, the insider trading would have to involve significant sums; in the case of a company, a million dollars in insider trading or more; in the case of an officer or director, insider trading would have to involve $50,000 or more.

Let us be clear, the Boxer amendment only covers those trading on inside information who also issue false forward-looking statements in connection with that insider trading and who financially benefit from that trading.

Make no mistake, unsuspecting investors are harmed quite directly by false or misleading forward-looking statements made in connection with insider trades. Why is that? Because small investors believe the statement. Buy the stock, push up the price, the insider then sells his stock at the higher price, pockets the profit, because of a false and misleading statement. The stock collapses. When the true news hits, the small investors are left holding losses.

I am going to show a chart which I showed last week, the Crazy Eddie story. Crazy Eddie was a business. This is real. This is not a figment of anyone's imagination. Let us hear what Crazy Eddie said. This is a forward-looking statement:

"We are confident that our market penetration can grow appreciably."

"Growing evidence of consumer acceptance of the Crazy Eddie name augurs well for continuing growth outside of New York."

Crazy Eddie dumps his stock, the top officer flees the country with millions, the CEO is convicted of fraud, and to any of my colleagues who say there is another provision that covers insider trading, that is only for the stockholders who actually bought Crazy Eddie's stock. It does not cover the class of other people who suffer because the stock plummeted. I think that is an important point, because every time I raise an amendment, the opposition stands up and says this is covered in another section. Wrong. Not for the class of shareholders, only the ones who buy Crazy Eddie's stock.

If he sells a million dollars worth of stock, those people who bought it, yes, they can pursue under another provision of law. The other $2 million worth of stock bought by the general public have very little chance here.

Let us go to the next chart.

T2 Medical, Inc. Here is another business. Take a look at this one's forward-looking statements. My colleagues want to encourage forward-looking statements. So do I, but not false ones. I want to encourage honest ones. Does that mean that some businesses may make a mistake? They may make a mistake, a true mistake. But look at these guys:

"T2 plans to lead the way through the 1990's."

"We expect continued steady revenue and earnings growth."

Just at the time of those statements, look what happens: The stock goes up; insiders sell 571,000 shares for 31 million bucks; the Wall Street Journal reports insurers reducing their payments by 15 to 50 percent; the stock plunges; then the company discloses a grand jury investigation; total insider sales of $31.6 million.

And look at the story here. Now the people at T2 Medical would get the safe harbor for forward-looking statements, the very same safe harbor that Senator SARBANES tried to tighten up. They would get the protection of that safe harbor.

It is an invitation to fraud. It is exactly what Chairman Levitt of the SEC said would happen. He does not like the safe harbor. He said if you do this, by God, you crook, you cannot hide under that safe harbor. I hope my colleagues will embrace this amendment.

Look at this, it tells the story, I say to my friend. The statement is made:

"T2 plans to lead the way through the 1990's."

"We expect continued steady revenue and earnings growth."

The stock goes up, insiders sell, and the truth comes out. They disclose the grand jury investigation and bye, bye, baby, for all those poor snooks who bought it.

This individual and these insiders do not deserve the safe harbor in S. 240. If Senator SARBANES had been successful at changing the safe harbor, I would feel a lot better and I would not have offered this amendment. I told that to my friend. But we have the pirate's cove. Here are the pirates—Crazy Eddie and these people. These are just two examples. And for those who said Charles Keating never made forward-looking statements, I have a chart on that, too. So Crazy Eddie's top officer fled the country. The CEO was convicted of fraud. Investors were left with huge losses. That is the type of misbehavior this bill would encourage and reward. Why? It is not that anybody who writes this bill wants to help guys like this. But as a result of the safe harbor, these guys get the benefits. We say that they should not.

Now, I do not think we want to encourage this. These are not isolated examples. There is a great deal of insider trading. Am I picking out two examples because I am exaggerating here? No; let me show you where we are with insider trading. This is a story from Business Week, December 1994. "Insider Trading: It's Back, But With a New Cast of Characters." They looked at 100 of the largest businesses, by the way, and found that one out of every three merger deals was proceeded by stock price runups.

Here is one from the Los Angeles Times. I want to say to my friends that this is a story from Saturday, June 24, 1995. I opened the paper when I was in L.A., and there it was. "Insider Trading Probes Make a Comeback. Wall Street. SEC official notes more investigations than at any time since the takeover boom of the 1980's."

What are we doing? We are giving these people a safe harbor. I do not think this is in the best interest of the country. How about reading this a little bit:

> A wave of mergers and acquisitions in the United States is reviving an unwanted headache for regulators: Insider trading.
>
> "We have more insider trading investigations now than at any time since the takeover boom of the 1980's," said Thomas Newkirk, associate director of enforcement for the Securities and Exchange Commission.

No wonder the SEC has trouble with the safe harbor in this bill. These are the guys who have to go after these crooks. They do not want to make it harder to catch them.

I will put all of these in the RECORD at the appropriate time.

Now, here is a quote from Gene Marcial, a Business Week "Inside Wall Street" columnist. This is his book.

> Don't kid yourself: Very little has changed on Wall Street. Half a dozen years after the scandals of the 1980's, when any number of street veterans were charged with violations of securities laws and several high profile insiders were marched off to jail, insider trading and market manipulation—in most cases illegal—are still the most zealously desired play in the financial world.

He concludes and basically says, "Sorry, but that's the way the game is played."

Now, look, if the game is played that way, we should try to stop it. We should not make it easier.

Let us go to the next chart. Here is another one. New York Times, June 1995.

> Regulatory Alarms Ring on Wall Street. With the frenzy of merger deals and takeover battles these days, it seems like old times on Wall Street in more ways than one. Securities regulators say they are opening investigations into insider trading at a rate not seen since the mid-1980's, the era in which Ivan Boesky, who went to jail for trading on inside information, became a household name.

They go on to say that it is a growth industry. We are going to give insider traders a safe harbor. They do not deserve it. I am worried about the good business people. I represent a lot of them and I am proud of them. They would not cheat anyone. They deserve to be supported, and they do not deserve frivolous lawsuits. This is about the bad guys.

So let us, in good faith, say we did not change the safe harbor, but let us make sure that the worst of the worst, these inside players who issue a false or misleading statement and then sell their stock and benefit, do not get the benefit of the safe harbor.

I say, if we do not do this, the incentives for insider trading and cashing in will be greater because, clearly, there is a nice, safe harbor for these people to hide in. I hope anyone who supports this bill would not want to encourage insider trading.

Again, my amendment focuses narrowly on only one type of notorious fraud, insider trading in conjunction with false or misleading forward-looking statements, and they have to increase the insider trader's profit. That is the only way they do not get the safe harbor. It has to be a false or misleading statement made in conjunction with their sale, and they have to make a profit. So we are not opening up a loophole for anybody good. We are closing a loophole for the bad. And that is very clear.

My friend from Connecticut—and he is my friend and we go back and forth on this bill—has said many times that confidence of the investors is the most important thing. I have news. You just wait. If we do not fix this bill and this safe harbor provision goes forward, and we do not at least take this Boxer amendment, when we have the first crisis in the marketplace, when a group of investors like those burned by Keating or any of the others, when they come to Washington and stand on the steps of the Capitol and say, "What have you done? You are giving these people a safe harbor. Where is my safe harbor? Why can I not collect from these crooks?" You know, that is when confidence in the investing public will plummet.

I tell you, with what I know about this bill—and my colleague said some claims would work. I worked on Wall Street at Hemphill, Noyes & Co., Zuckerman & Smith, and J.R. Williston & Beane. I was proud of those days. I was one of the few women who had the license, passed the exam, was a registered representative. I had a very small—but important to me—practice. You can call it a practice. I had clients. They trusted me, and I will tell you, if I was in that business today, honestly knowing what I know about this bill and the fact that we did not pass the amendment offered by my friend from Maryland, I would really tell people to be very wary and to be very careful. I really would.

The small investor, the IRA owner, the 401(k) owner, is increasingly coming to believe there are two games in town, two securities markets, one for the insiders and one for the little investors. The small investor is increasingly coming to fear that little investors are being played for suckers. Gary Lynch, who oversaw the Securities and Exchange Commission's investigation of Ivan Boesky, Dennis Levine, and Michael Milken is quoted as saying, "What is happening now is exactly what everyone predicted in the 1980's, that as memories dulled, insider trading would pick up again. The temptation would be too great."

That is what this bill does—temptation in the form of a safe harbor, which my friend from Maryland calls the pirate's cove and I call an ocean. Insiders could well have a field day if this bill passes in its current form.

I talked about the loss of faith that people would feel, and I say that very seriously. We may not see securities markets as we know them today. They may not be the envy of the world, the engine of economic opportunity for ordinary Americans, because they will be rigged against the honest investor, who will stay out of the securities marketplace.

Now the bill supporters want to stop strike suits. So do I. They want to stop frivolous lawsuits. So do I. I have to say, I do not think anyone that backs S. 240 wants to help insiders who would issue a false and misleading statement, and pocket the stock. I know they do not.

I hope they look at this legislation with an open mind. I think it is very narrowly focused. It is crafted for the sole purpose of making sure the bill does not shield and encourage insider trading. I think it is quite clear.

Let me say I do have a Charles Keating chart, and I want to just say some of the things that Charles Keating said in terms of his forward looking statements: "Future prospects are outstanding." That's what he said. He tried to get people to buy the junk bonds. He said, "We offer significant profit potential over the next 5 years." That is forward looking. "Completion and sale of projects will generate huge gains." Thousands bought and lost money.

Senator BRYAN showed a chart. He showed what the impact would be if we adopt S. 240 the way it came to the floor. It would hurt those people.

I just want to say, and I will retain the balance of my time, we are very clear in what we are trying to do with S. 240. We are trying to make it a better bill.

Believe me, it would be easier for the ranking member and those members on the committee who had trouble with this bill to fold up our tents, because in this committee we could hardly get but a couple of votes.

We believed enough in these amendments that we are offering that we decided to take to the floor and try to explain them to our colleagues. As others have said, it is difficult to do that. It is a technical area of the law.

The bottom line is we do not want to give the Crazy Eddies—those who would make a false statement—a safe harbor, and then turn around when they make their money, the facts come out, the investors are left holding the bag. Why should those people get a safe harbor, I say to my friends.

I hope you will endorse the Boxer amendment.

Mr. President, I ask unanimous consent to have printed in the RECORD a New York Times article and a Los Angeles Times article.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the New York Times, June 9, 1995]

REGULATORY ALARMS RING ON WALL STREET

(By Susan Antilla)

With the frenzy of merger deals and takeover battles these days, it seems like old times on Wall Street in more ways than one. Securities regulators say they are opening investigations into insider trading at a rate not seen since the mid 1980's, the era in which Ivan Boesky, who went to jail for trading on inside information, became a household name.

Regulatory alarm bells went off again earlier this week after I.B.M. disclosed its hostile $60-a-share offer for the Lotus Development Corporation. That bid pushed up the value of Lotus shares by 89 percent on Monday, the day it was announced, and caused regulators to begin looking into suspicious trading last week.

Other cases brought to light recently involved Lockheed's merger last year with Martin Marietta, another military contractor, and AT&T's acquisition of the NCR Corporation.

"It's a growth industry," said William McLucas, director of the division of enforcement at the Securities and Exchange Commission."In terms of raw numbers, we have as many cases as we've had since the 1980's, when we were in the heyday of mergers and acquisition activity."

Through the end of May, the National Association of Securities Dealers, which overseas the Nasdaq electronic trading market, had already referred 47 cases to the S.E.C. for investigation into possible insider trading, said James Cangiano, N.A.S.D.'s senior vice president for surveillance. If the pace of suspect trading continues at that rate, it would mean the N.A.S.D. would surpass the record 110 insider trading referrals it made to the S.E.C. in 1987, he added.

The same holds true for the New York Stock Exchange, where investigators have opened three times as many insider trading cases so far this year as they had by this date in 1994.

The Lotus case seems typical. In the days before the I.B.M. announcement, trading in both Lotus stock on Nasdaq and Lotus options, which are traded on the American Stock Exchange, was unusually heavy. "I think you can presume we are looking at it," Mr. Cangiano said. And while the S.E.C. does not comment on pending investigations, Wall Street professionals say that the agency has undoubtedly already opened a case to investigate Lotus trading.

These days, those trading on insider information apparently do not come as frequently from the ranks of Wall Street's professionals as they did in the 1980's, regulators say. Those who take advantage of privileged information now tend to be corporate officers, directors, and their families, friends and lovers, according to executives at the nation's stock exchanges, and lawyers who represent defendants.

But the game—and the potential profits—are the same: get information about a proposed deal that might raise the shares of a publicly traded company before it is announced, and buy the stock ahead of the news. Better yet, buy the options, which cost less and tend to attract less regulatory scrutiny.

Then, after the public learns what the insiders knew ahead of time, it's time to get out with a quick profit.

The lure of profits from insider information regarding deals is just too much to resist for some players, the S.E.C.'s Mr. McLucas said. The potential rewards compared with the risks look better "when people look at the premiums available in takeovers," he said. "We're a few years removed from the Boesky insider trading cases, and people have short memories." Of the 1,400 unresolved cases in the S.E.C.'s current inventory, Mr. McLucas said, 20 percent involve insider trading.

The initial rounds of suspect trading of the last year or so differed from those of the 1980's in that they generally did not focus on big names in the securities business. "While Wall Street learned some lessons of the 1980's, it's not completely clear that Main Street learned all of the lessons," said Harvey Pitt, the former S.E.C. lawyer who defended Mr. Boesky.

If Wall Street appears to be more honest, though, it is largely a function of increased surveillance by brokerage firms and by regulators, say defense lawyers and securities cops. "We have not returned to the environment of the 1980's where so many defendants were investment bankers, brokerage firm employees and young lawyers," Mr. McLucas said. Still, he added, "We're seeing people in those areas start to crop up, and I wouldn't be surprised to see more of them."

Earlier this week, Frederick A. Moran, a money manager in Greenwich, Conn., said that he was the focus of an S.E.C. investigation. Regulators contend that he bought shares of Tele-Communications Inc., the big cable operator, in advance of the announcement that it planned to merge with Bell Atlantic. The S.E.C. is looking at Mr. Moran's purchases because his son is a securities analyst who was privy to information about the pending deal. Mr. Moran has said he will fight the charges.

Despite the higher numbers, regulators undoubtedly miss cases both big and small. But, in this newest round of insider trading investigations, it appears that the chances of being caught are higher than before. At the New York Stock Exchange, 100 employees work in market surveillance today, up from 76 in 1975. And white-collar criminals who are members of the Big Board face stiffer fines if they get caught. In 1988, the New York exchange removed the previous limit of $25,000 for each charge against a member, eliminating any cap on potential fines. At the same time, Congress enacted the Insider Trading Sanctions Act, which allows for triple damages to be paid when a trader is convicted on insider charges.

Moreover, the New York Stock Exchange and the Chicago Board Options Exchange, which routinely share information with each other and with the S.E.C. about suspect action in the markets, have beefed up their detection mechanisms substantially.

"When I first came here in 1981, the analysts drew genealogical trees of corporate officers and investment bankers and hung them on the wall" to analyze who had privileged information about a pending deal, said Agnes Gautier, a vice president in the Big Board's market surveillance department. Today, by contrast, computer software programs spit out the dates, times and names behind the trades that look suspicious, she said, making what used to be an onerous task a fairly simple exercise.

Thus, the S.E.C. was able to quickly investigate and settle a case against a lawyer for Lockheed only eight months after the news that the military contractor and Martin Marietta would merge. The lawyer made $42,000 in illegal profits by buying Lockheed options, Mr. McLucas recalled.

Considering all this renewed attention to insider trading, shouldn't more people be wary of breaking the rules? "We'd like to think so," Ms. Gautier said. "But, I guess, as the defense lawyers say, 'Greed will overcome.'"

[From the Los Angeles Times, June 24, 1995]

INSIDER-TRADING PROBES MAKES A COMEBACK

WALL STREET: SEC OFFICIAL NOTES MORE INVESTIGATIONS THAN AT ANY TIME SINCE THE TAKEOVER BOOM OF THE 1980'S

NEW YORK.—A wave of mergers and acquisitions in the United States is reviving an unwanted headache for regulators: insider trading.

"We have more insider-trading investigations now than at any time since the takeover boom in the 1980s," said Thomas Newkirk, associate director of enforcement for the Securities and Exchange Commission.

Several of this year's largest merger announcements have been preceded by unusual trading Thursday, shares of Scott Paper Co. jumped $2.50 to $46.875. Friday morning, the Wall Street Journal reported that Kimberly-Clark Corp. was negotiating to buy the company.

During the merger bonanza of the 1980s, insider trading was equated with greed on Wall Street as prosecutors won convictions against Ivan Boesky, Michael Milken and others. The alleged culprits of the 1990s tend to be more ordinary working folk.

In February, the SEC charged 17 people with civil violations of insider-trading laws related to trading in shares of AT&T Corp. acquisition targets, including NCR Corp. and McCaw Cellular Communications Inc. Two were former AT&T employees. Charles Brumfield, former vice president in the human resources department, pleaded guilty in connection with the case.

Earlier this month, the SEC sued a Salomon Bros. Inc. analyst, Frederick Moran, and his father, a money manager in Greenwich Conn., for alleged insider trading in the failed merger of Tele-Communications Inc., the nation's largest cable systems operator, and Bell Atlantic Corp.

"We brought 45 cases in the last fiscal year and the caseload is running about the same this year," the SEC's Newkirk said.

Opportuunities are increasing for people to use advance knowledge of a merger to make illegal profits. About $178 billion in mergers have been announced since the beginning of the year, putting 1995 on course to exceed last year's $368 billion, according to Securities Data Co.

Regulators say they are looking at such transactions for any sign of trading picking up before the agreements were announced. That was the case for shares of Telular Corp., which said June 22 that it might seek a buyer for the company, and for Lotus Development Corp., which agreed to be bought by International Business Machines Corps.

On June 20, just before a New York state agency proposed a buy-out of Long Island Lighting Co. for $17.50 a share, the utility's stock jumped $1.50 to a seven-month high of $17.

One person who isn't surprised by the recent rise in insider-trading cases in Gary Lynch, who as chief of enforcement at the SEC during the 1980s was one of the main people responsible for bringing about the convictions of Boesky and Milken.

"What's happening now is exactly what everyone predicted back in the '80s: that with the number of high-profile cases brought, the incidence of insider trading would decline for a while, but as memories dulled, insider trading would pick up again," said Lynch. "The temptation is too great for people to resist."

Mrs. BOXER. I yield such time as he desires to my friend from Maryland.

Mr. SARBANES. How much time does the Senator have?

The PRESIDING OFFICER. Nineteen minutes and 41 seconds.

Mr. SARBANES. I will be very brief so the Senator can reserve the balance of her time.

I want to say the distinguished Senator from California has made a very strong, effective statement on behalf of her amendment.

Does the Senator agree with me that there are people who—corporate insiders—who would sometimes make fraudulent forward-looking statements, to run up the stock price so they can unload their stock price before it goes down? Is that not exactly what has been happening?

Mrs. BOXER. Exactly. And we showed the same in two examples. Here is one of the charts.

Mr. SARBANES. Could we see the other chart? That is Crazy Eddie's. The other chart, as I understand it, the Senator shows on the left where we begin, making the statements. That runs their stock price up. Then they start unloading their stock, having done that.

Is that correct?

Mrs. BOXER. That is exactly right.

Mr. SARBANES. What happens further along there? They get news, then revealed, that the insurance for this medical company is falling off, is that it?

Mrs. BOXER. That is correct. The clients say they are reducing their payments to the T2 Medical Inc. by 15 to 50 percent, and the company here discloses a grand jury investigation which they knew.

Mr. SARBANES. What happens further along?

Mrs. BOXER. It goes on down list.

They have unloaded at this point, $31 million or 571,000 shares of the stock at the high price, and now as this bad news comes out, we see the stock plummet, and essentially, the company here reports the SEC is investigating them.

That is as far as this chart goes. They are under investigation. These were bad apples. People got snookered in as this stock went up, left holding the bag as it goes down. Insiders knew all of this.

And we are saying they should not have the ability to get the safe harbor.

Mr. SARBANES. I want to commend the Senator for offering this amendment, for her very clear explanation of it.

I want to underscore one other point the Senator had which I think is extremely important. Members have taken the floor in the sense of a constructive way, trying to propose and get adopted amendments which we think should straighten out some of the problems with this legislation.

In fact, I am prepared to say if all of the amendments had been adopted I would have been prepared to be supportive of this legislation.

But what is happening here is that the bill contains provisions that are far in excess of dealing with frivolous suits. The provisions in this bill are going to cut off meritorious suits, and they will make honest, legitimate investors suffer as a consequence, as the Senator has so carefully outlined. I simply want to thank the Senator for her very strong statement.

Mr. President, we have had difficulty with respect to these amendments, although we have come increasingly close on some of these amendments. I think that is reflecting a growing sense within this body that there is something amiss with this legislation.

All is not right with this legislation. I think that is increasingly becoming clear. There has been an effort to portray it by the proponents in terms of the competing economic interests. So they engage in long denunciations in that regard.

The fact is, every, as it were, independent observer or outside group, has sounded warning bells about this legislation. Members need to understand that. The Securities and Exchange Commission, the North American Securities Administrators Association, the Government Finance Officers Association.

The distinguished Senator from California put into the RECORD a long list of organizations that had difficulty with this legislation. We were sounding the warnings about this legislation. The consumer groups all have joined in doing that.

I hope, as Members approach the end of the amendment process and consider the bill itself, they will come to realize that the burden of the consequences are going to fall on the supporters. If this legislation passes, those voting to support it will bear the heavy burden in terms of what the consequences are going to be.

There is no doubt in my mind that honest people will end up being defrauded and not have a remedy as a consequence of this legislation. The regulators have warned Members of that fact. Groups that have no vested economic interest in this legislation have warned Members of that fact. I just want to sound that warning to my colleagues.

Mr. D'AMATO. Mr. President, first of all, I want to thank the Senator from California for being so gracious and so accommodating in attempting to go forward in a manner—and I know she was not feeling up to par. Although she has made a brilliant case, and has presented her case with the eloquence of someone who believes in what they are saying, and she does believe very strongly, I am forced to oppose this amendment.

Let me say, this is not easy to oppose. Let me explain why I oppose this amendment, because this is a very complex issue. The fact of the matter is that insider trading is not given safe harbor protection and is absolutely covered and will continue to be covered by section 10(b) and rule 10b–5 of the securities laws. It prohibits the kind of fraudulent conduct that we consider to be insider trading. Fraudulent conduct and insider trading? The conduct that Senator BOXER seeks to prohibit is already prohibited in the securities law.

Let me tell you what the consequences this amendment would be. They would be devastating. For example, somebody who routinely takes stock options—officers, directors in the company—would lose safe harbor protection. This amendment would bring us back to the situation that lawyers could simply allege fraud to bring a lawsuit. This amendment opens the door for the same kinds of operations that this legislation seeks to stop. That is why I must oppose this bill, notwithstanding the fact this amendment seems to indicate that it prohibits insider trading. This amendment does not do that.

What this amendment does is strip away, the opportunity for someone to make a forward looking statement that might at some point in time prove to be inaccurate. Why should a firm have the door to litigation opened just because an executive engaged in any trades or exercised an options and made $50,000?

Tell me, if someone engages in legal insider trading should they be tarred and feathered? Should they be sued? However, should you have a right of action against illegal insider trading as prohibited by rule 10b–5? Absolutely. And that right of action does exist.

So I have to oppose the amendment. But again I commend my colleague for coming forward and certainly for the manner in which she has made this presentation tonight, in an attempt to accommodate so many of our colleagues.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I am going to wait until my colleague from California is back at her desk, because I have some questions that the amendment raises, that I would legitimately like to get some answers to. I am trying to understand the implications of the amendment.

On page 2 of the amendment, as I read this, now—part of the difficulty is under the previous amendment——

The PRESIDING OFFICER. If the Senator will suspend, who controls the time?

Mr. DODD. The Senator from New York.

Mr. D'AMATO. Senator DODD is speaking on the time of the Senator from New York.

The PRESIDING OFFICER. I thank the Senator from New York.

Mr. DODD. Mr. President, one of the difficulties is trying to read and understand. The previous amendment, offered by the Senator from Florida, was a 12-page amendment. Trying to read through it and understand the implications in the space of a short amount of time is difficult.

Let me come to page 2 of this amendment. Starting on the bottom of page 1.

> Notwithstanding subsection (c), the exclusion from liability provided for in subsection (a) does not apply to a false or misleading forward-looking statement if, in connection with the false or misleading forward-looking statement, the issuer or any officer or director of the issuer—
>
> (A) purchased or sold . . .

And so forth.

My concern is this, and correct me if I am wrong. It seems to me you would be confronted with a factual situation where you have a director who had nothing to do with the problems associated with the Crazy Eddie case or whatever else. I heard my colleague, and I agreed with her, give eloquent statements on the importance of stock options. It was on an issue not too many months ago involving the value of stock options. She talked about what a valuable tool this can be.

The mere action on the part of a director to either purchase or sell a stock that may or may not—let us assume did not have anything to do with what an officer of the company was doing regarding statements. Am I correct in assuming that director, then, if in fact you are able to prove the first point, assuming they met the other qualifications of $50,000, would be penalized under your amendment, were it to be enacted?

Mrs. BOXER. I say to my friend, we indicate in the amendment who insiders are. It is pretty boilerplate. Yes, it covers insiders, people who would have inside information. But only, and I underscore only, if in conjunction with the false or misleading statement they sold stock and made a profit, they would be covered.

Mr. DODD. What about the directors themselves? Not an officer, the director. Directors—one of the compensations for directors is we offer them stock options.

The members of the board of directors did not have anything to do with this; the officers of the companies did. Let us assume that is the situation, assuming everything else is the case and that director, who had no involvement whatsoever with the insider false statements, as I read this, that innocent director who then sold or bought stock innocently, outside of whatever else the officers may be doing, would then be subject to the penalties of this?

Mrs. BOXER. That is right. I say to my friend, we are using a pretty boilerplate definition of what an insider is. The insider is the company itself or any officer or director. But only if they sold their securities in connection with a false and misleading statement, we do not give them the safe harbor. We did not go out of our way to reach them. We are just saying you have to be an officer or director——

Mr. DODD. Even though the director had nothing to do with the false and misleading statements? We all know how important stock options are, and so forth. I want to know the implications.

Mrs. BOXER. All it says is they cannot benefit from the safe harbor and the lawsuit can go forward. If, in the course of the lawsuit, it turns out that this director is senile and did not know anything about it, or whatever the defense is, that is different. But we are saying as reasonable people that insiders—and we define that as the company, any officer or director.

I have to tell my colleague, if my friend from Connecticut does not view that as a fair definition of an insider, I want to know what is—someone who sits on the board of directors, someone who knows all the good news and bad news.

All we are saying is the case will have to go forward. But in fact, if there is insider trading in connection with a false or misleading statement, they do not get the safe harbor and the case goes forward. Does it mean they are convicted? Of course not.

Mr. DODD. I am not trying to be argumentative here.

Mr. D'AMATO. Will my colleague yield?

Mrs. BOXER. I am trying to answer my friend's questions. I am not being argumentative. I am being strong in my response.

The PRESIDING OFFICER. If the Senator will suspend, I will advise the Senators they may speak in third person through the Chair.

Mr. D'AMATO. Mr. President, I would like to propound a unanimous-consent request so we might give, to those of our colleagues who are off the Hill, an opportunity to get back and request that we vote up or down on the Graham amendment.

Have the yeas and nays been ordered on the Graham amendment?

The PRESIDING OFFICER. The Chair advises they have.

Mr. D'AMATO. Mr. President, I ask unanimous consent we be permitted to vote on the Graham amendment at 8 o'clock. In this way we will give opportunity to all our Members to get back and they would get a little extra notice. That would not interfere with any of the time my colleagues have.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. I am glad to yield to my colleague. Do I not still have the floor?

The PRESIDING OFFICER. Is there objection to the unanimous consent?

Mr. SARBANES. What is the time situation on the Boxer amendment?

The PRESIDING OFFICER. Senator BOXER has 13 minutes and 14 seconds; the other side has 5 minutes and 41 seconds.

Mr. SARBANES. The time would expire at 8 o'clock under the agreement and then vote at 8 on the Graham amendment.

Mr. D'AMATO. Then maybe we might be able to dispose of the other amendment by consent.

Mr. SARBANES. After the Graham amendment, the Bingaman amendment?

Mr. D'AMATO. Possibly before, or after. Certainly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. I thank my colleagues.

Mr. DODD. Mr. President, I yield to my colleague from California who wants to make a request.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you, I say to my friend. Mr. President, I ask for the yeas and nays on the Boxer amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DODD. Mr. President, if I can, let me just come back. The point I am trying to make here, and I say this with all due respect, no one wants to protect insider trading—obviously insider trading is an abhorrent exercise and practice.

My concern here is that the mere exercise of an option by, for the sake of discussion, an innocent director—there can be innocent directors here; not the assumption that they automatically then take away the safe harbor for the entire company because there has been a sale or a purchase of an amount triggered by the amounts indicated in the amendment itself. I appreciate where my colleague from California wants to get. But my concern here is that she is reaching a legal conclusion about someone where the assertion has been made and the mere existence of that then takes away the safe harbor protections. I think that goes farther even for those who have strong reservations about safe harbor. I think that just strips away unnecessarily. That is just drawing a legal conclusion triggering a whole response to a safe harbor provision on the mere assumption that someone has engaged in an illegal activity.

As I read the amendment, that is how I see it being triggered. When you talk about any officer or any director who purchased or sold a material amount of equities and who financially benefited from the forward-looking statement in it, that is, to me, trying to put too much in this with a lot of assumptions made that I do not think are necessarily borne out by the actions. To assume there is inherently something illegal, that it is an assumption of an illegal act for someone to exercise an option, and that action becomes a presumption of guilt in this context, then stripping away safe harbor, I think, goes too far. That is how I read it and understand it.

I am going to yield the floor in a minute and give my colleague from California an opportunity to respond to how I read this. But that is my concern here. I think it is taking an abhorrent activity of insider trading and then using that vehicle as a way to try to jam it into the issue of the safe harbor.

My colleague from California and others have real problems with safe harbor. I understand that. But it seems to me that again we are taking a set of actions where there is not necessarily anything wrong with them, making a presumption about that, and then taking that activity and immediately stripping away the veil that protects the statements made in the forward-looking statements that are made in the context of predictions by companies, their direction, and thus triggered the safe harbor provisions. I for the life of me do not understand why we want to necessarily do that when I do not think those actions necessarily should trigger that kind of response.

So for those reasons, I object to the amendment. Again, I appreciate, I think, the direction they want to go in, but it seems to me to be overreaching in terms of how you deal with safe harbor. With that, I give my colleague a chance to respond to that.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Thank you, Mr. President.

Mr. President, let me say to my friend, to say that I am overreaching in this amendment could not be farther off the mark, I have made this so narrow in scope. I have said, if Senator SARBANES' safe harbor provisions had passed, I would not have gone with this. But what I am saying is, why should we give such a good, nice, warm, and cozy safe harbor to crooks? It does not mean automatically that anyone is guilty of anything, I say to my friend. All we are saying is this is about getting a case brought forward and move forward. All we are saying is if an insider—I defy my friends, seriously, I do not understand how I could have been more fair in defining who an insider is other than to say the company, an officer or director. I did not say the secretary or anybody else. I am just hitting the top people. If they sell securities in connection with a false or misleading forward-looking statement—when my friend read my amendment, he left out the words "false or misleading,"—then all we are saying is they do not get the benefit of the safe harbor. The case moves forward quicker. If they are innocent, this will take care of it.

My goodness. Let us not make small investors leap through hurdles when you have a situation such as this where clearly the insiders—by the way, there were a lot of insiders here: $31 million worth of stock. I do not think that the small investor who got caught in this downward plummet should have to leap through all sorts of hoops to get into court in this case.

I hope my friends who support S. 240 will support this. I think we drew it narrowly. I think we are fair. I just hope that we can get a good vote on this amendment.

Mr. SARBANES. Mr. President, I say to the Senator from California, the Senator from Connecticut says we are for it. If I could say, I am for legitimate safe harbor, I am not for excessive or overreaching safe harbor. That is what the whole debate has been about today.

I thought that the safe harbor issue should have been sent to the SEC the way the Senator from Connecticut proposed in his bill and that the SEC could then develop the safe harbor, taking into account all of these complications.

This body decided not to do that. So we then tried to have a different standard governing safe harbor. Again, the regulators are telling us that the standard in this bill is going to permit abuse. Under the standard in this bill, there will be abuses. The Senator from California is offering yet an even more limited amendment addressed to the insider traders. She has demonstrated in very graphic form the kind of practices that took place in two instances which she is trying to preclude and she has offered a remedy. For the life of me, I do not understand why this amendment is being resisted.

Mr. DODD. Will my colleague yield for the purpose of a question?

Mr. SARBANES. It is on the time of the Senator from California.

Mr. DODD. If you told me the officer or director who made the misleading statements, that would be one thing. You could have an outside director of a company that could live literally thousands of miles away who exercises an option, and it has nothing to do with the misleading statement. That is my point here. If the Senator said the director or officer makes the misleading statements, then I understand, I think, where the Senator is going. But I do not understand why you take an outsider——

Mrs. BOXER. Let me ask my friend on my own time. It is true, the director could have been in Paris. He could have a call from someone. "Hey, Joe, tomorrow, the Wall Street Journal is giving us a bad report."

Mr. DODD. That is different though.

Mrs. BOXER. Let me finish my point. We would not know that. The plaintiffs do not know that. If this man or woman is totally innocent, we are not taking away his or her right. We are just saying there is a smoking gun if a director unloads, by the way, a large amount, a material amount, makes a good profit, and, quess what, in conjunction with a forward-looking statement or a bad report coming out in the paper. It is worth it, we think, to allow that case to go forward. If the director is totally innocent, fine. All we are saying is they should not have the safe harbor of this particular bill as the good people should. And if, in fact, it turns out that they were far away, they are on their honeymoon, they did not take any calls, did not know anything about the fact that there was going to be a false statement, they are going to walk away. God, I hope we have faith.

Mr. DODD. The Senator has triggered a whole legal activity on the mere financial transaction. The Senator has then triggered a whole level of activity on safe harbor merely because she is assuming something that she has not been able to prove yet. But the mere fact that some director exercises an option, that then the whole safe harbor process collapses, the Senator has connected a lot of dots here on the basis of some assumptions. That, to me, is exactly what we are trying to avoid.

Mrs. BOXER. If this is what the Senator is trying to avoid, then this is, in my view, a terrible bill. In other words, if you are trying to avoid giving an insider a hard time if he dumps his stock and runs over——

Mr. DODD. The Senator has drawn a legal conclusion.

Mrs. BOXER. Not a bit. What we are saying is you will meet a certain threshold if these facts happen to come forward, a false and misleading statement in conjunction with insider sale. Look, I am not too naive about these insider trades because I have seen it happen. Business Week did a whole issue on insider trades. Let us bring that up. The Wall Street Journal has run stories on this. Everybody is saying it is coming back in vogue. That is not BARBARA BOXER. Those are people who are experts in the field. "Insider trades." "It's back, but with a new cast of characters." All we are saying with this amendment, and I think this is important, all we are saying is it is an insider, and we have narrowly defined that.

I challenge anyone to write a better definition of an insider other than the company itself, the board of directors or the officers. If they pocket huge amounts of money in connection with a false and misleading statement, they should not benefit from the safe harbor. Now, the case goes forward. If they are away and they can prove it, fine. But we are changing the law radically here. We are going far beyond anything the Senator from Connecticut proposed doing in his original bill. We have a safe harbor that has caused 48 Senators in this Chamber to say we want to change it. We have a safe harbor in S. 240 that has the SEC saying they are very worried that there will be increases in fraud.

Now, I think as a Senator from the largest State in the Union, where a lot of this happens—we look to the Keating people, and a lot of it was California—I have an obligation to make this bill better.

I would far prefer to have the safe harbor that my friend from Maryland proposed. Instead, we have this other safe harbor that my friend from Connecticut embraces. And we are saying you are opening it up for everybody. How about closing it for some obvious abuses.

Mr. DODD. Will my colleague yield on that point?

Mrs. BOXER. I will.

Mr. DODD. Again, I am not arguing about the spirit of what the Senator is trying to do. And no one is here trying to defend insider trading. But at this juncture, when we have tried to get directors to buy stock—it is one of the things we have tried to do over the years in our committee, purchase stock and get involved—I would have to say today, if this amendment were adopted, the last thing you would want to do is become even a purchaser. Forget a seller; the amendment says even purchasing stock here. You are removed from the process. All of a sudden you are trying to buy. My advice to anyone in that category, if this amendment were to be adopted, would be to stay away from this. I would stay entirely away from this. It would have absolutely the countereffect as we try to get people to acquire this stock. You are subjecting yourself to some very dangerous situations.

Mrs. BOXER. Let me take my time because my friend is distorting what this amendment does. He is distorting what this amendment does. No honest director, no honest person has to fear about this amendment. Only the crooks. Only the crooks. And all we are saying is this is a problem. "Insider-Trading Probes Make a Comeback," Saturday's edition of the L.A. Times.

I say to my friends in the Senate from both sides of the aisle, I think if you vote for this Boxer amendment, you will thank those of us who brought it forward because the handwriting is on the wall. They are saying it is back in vogue, insider trading is back in vogue. If it occurs in connection with a false or misleading statement, not a true statement but a false or misleading statement, we say why should we give the benefit of that safe harbor to those people? Let the case be brought forward. Let the officer or director make the point. But my goodness, to argue against this amendment, I just am rather stunned. I was hopeful that we could have an agreement on both sides. I thought we could from the beginning. I was hit with all kinds of arguments the first time I brought this up: well, it is covered in another section. If you bought the shares the insider sold, yes, you are covered in another section.

What about the general public? They are not covered. And yet those directors, those officers, who pocketed that money are protected by the safe harbor.

I have reiterated this on a number of occasions, and I do not feel the need to continue at this point; my energy level is running down. But I have to come back tomorrow and present this in 5 minutes. So I look forward to that conclusion tomorrow, and I hope a favorable vote. I know that my colleagues have been hanging on my every word and everything I read here. I know that they are sitting in their offices, and they are absolutely intrigued by this debate. I hope if they did watch all of it they will come down and vote yes on the Boxer amendment tomorrow after we reiterate this argument and get it down to 5 minutes tomorrow morning.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Chair advises the Senator from California she has 2 minutes.

Mrs. BOXER. I will save that time, Mr. President, in case something is stated here to which I feel I must retort. Otherwise, I will be happy to yield back.

Mr. D'AMATO. Mr. President, do we have any time remaining?

The PRESIDING OFFICER. The time remaining on the Senator's side of the aisle is 13 seconds.

Mr. D'AMATO. Well, Mr. President, I am prepared to yield back the remainder of our time. I yield the floor.

Mrs. BOXER. Mr. President, in the spirit of comity and good will across the party aisle, I will yield back my 2 minutes.

The PRESIDING OFFICER. All time is yielded back.

Mrs. BOXER. I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 1479

The PRESIDING OFFICER. The hour is 8 o'clock. The question now is on agreeing to the amendment No. 1479 offered by the Senator from Florida [Mr. GRAHAM]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BOND (when his name was called). Present.

Mr. LOTT. I announce that the Senator from Rhode Island [Mr. CHAFEE], the Senator from North Carolina [Mr. HELMS], the Senator from Vermont [Mr. JEFFORDS], the Senator from Indiana [Mr. LUGAR], and the Senator from Tennessee [Mr. THOMPSON] are necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii [Mr. INOUYE] is necessarily absent.

The PRESIDING OFFICER (Mr. ASHCROFT). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 32, nays 61, as follows:

[Rollcall Vote No. 290 Leg.]

YEAS—32

Akaka
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Byrd
Conrad
Daschle
Dorgan
Feingold
Graham
Harkin
Hatfield
Heflin
Hollings
Johnston
Kennedy
Kerrey
Kohl
Lautenberg
Levin
McCain
Moynihan
Nunn
Pell
Rockefeller
Sarbanes
Shelby
Simon
Wellstone

NAYS—61

Abraham
Ashcroft
Baucus
Bennett
Brown
Bumpers
Burns
Campbell
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Exon
Faircloth
Feinstein
Ford
Frist
Glenn
Gorton
Gramm
Grams
Grassley
Gregg
Hatch
Hutchison
Inhofe
Kassebaum
Kempthorne
Kerry
Kyl
Leahy
Lieberman
Lott
Mack
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Packwood
Pressler
Pryor
Reid
Robb
Roth
Santorum
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thurmond
Warner

ANSWERED "PRESENT"—1

Bond

NOT VOTING—6

Chafee
Helms
Inouye
Jeffords
Lugar
Thompson

So the amendment (No. 1479) was rejected.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, let me say that if we get this unanimous consent agreement, all those Members who have asked to have amendments considered will have them considered. All of the votes on those amendments will take place tomorrow, or tonight by voice. So what I am saying is there will be no further rollcall votes. And all of the debate, with the exception of, I believe, 7 minutes for one Member, and the intervening times, will take place this evening. I am going to propound that request.

UNANIMOUS-CONSENT AGREEMENT

Mr. D'AMATO. Mr. President, I ask unanimous consent that the following amendments be the only remaining first degree amendments in order, other than the committee-reported substitute, that no second-degree amendments be in order and that all amendments must be offered and debated this evening: The Biden amendment; the Bingaman amendment; the D'Amato-Sarbanes managers amendment; the Boxer amendment, re: insider trading; the Specter amendment, re: fraudulent intent; the Specter amendment, re: rule 11B; the Specter amendment, re: stay of discovery.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. I further ask that when the Senate completes its business today, it stand in recess until 8:40 a.m., and at 8:45 a.m. the Senate proceed to vote on or in relation to the first Specter amendment, and that following the conclusion of that vote, there be 4 minutes for debate, to be equally divided on the second Specter amendment, to be followed by a vote on or in relation to the second Specter amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. I further ask that following the vote on the second Specter amendment, there be 4 minutes for debate, to be equally divided, on the third Specter amendment, to be followed by a vote on or in relation to the Specter amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. I further ask that following the vote on the third Specter amendment, there be 7 minutes for debate, to be divided under the previous order, to be followed by a vote on or in relation to the Boxer amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. I further ask that following the disposition of the Boxer amendment, the committee substitute, as amended, be agreed to and S. 240 be advanced to third reading, and the Banking Committee be discharged from further consideration of H.R. 1058, the House companion bill, and the Senate proceed to its immediate consideration; that all after the enacting clause be stricken and the text of S. 240, as amended, be inserted in lieu thereof, and H.R. 1058 be considered read the third time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. I further ask unanimous consent that at that point there be 30 minutes for closing remarks, to be equally divided in the usual form, to be followed by a vote on H.R. 1058.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I further ask unanimous consent that all of the votes after the first vote in the voting sequence be limited to 10 minutes each, except for final passage.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, there will be no further rollcall votes this evening, and the first vote tomorrow is at 8:45 a.m. The first amendment to be in order will be the Biden amendment, which will be kept under 5 minutes. Thereafter, the Bingaman amendment will follow, which will also be limited to 5 minutes, to be followed by Senator Specter's three amendments.

Mr. SARBANES. The first vote in the morning will be at 8:45. I remind my colleagues, that is a vote at 8:45.

The PRESIDING OFFICER. The first vote will be 8:45.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the pending amendment be set aside so the Senator from Delaware can offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending amendment is set aside.

AMENDMENT NO. 1481

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes an amendment numbered 1481.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert:

SEC. . AMENDMENT TO RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(c) of title 18, United States Code, is amended by inserting before the period ", except that no person may rely upon conduct that would have been actionable as fraud in the purchase of sale of securities to establish a violation of section 1962", provided however that this exception shall not apply if any participant in the fraud is criminally convicted in connection therewith, in which case the statute of limitations shall start to run on the date that the conviction becomes final.

Mr. BIDEN. Mr. President, I have been here a while. When I first got here 23 years ago, I learned a lesson from Russell Long.

I went up to him on a Finance Committee day and asked to have an amendment accepted, and he said yes. I proceeded to speak on it half an hour and say why it was a good amendment. And he said, "I changed my mind. Rollcall vote." I lost. He came later and he said, "When I accept an amendment, accept the amendment and sit down."

I will take 30 seconds to explain my amendment because it is about to be accepted. I thank my friend from Pennsylvania for allowing me to move ahead. He is always gracious to me and I appreciate it.

There is a carve-out in this legislation, carving out securities fraud from the application of the civil RICO statutes. I think that is a bad idea. But I will not debate that issue tonight.

I have an amendment that is before the body that says such a carve-out exists, except that it shall not apply if any participant in fraud is criminally convicted; then RICO can apply, and the statute does not begin to toll until the day of the conviction becomes final.

Keeping with the admonition of Russell Long, I have no further comment on the amendment.

Mr. D'AMATO. Mr. President, we have no objection. We accept that amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1481) was agreed to.

Mr. BIDEN. I move to reconsider the vote.

Mr. SARBANES. I move to table the motion.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1482

(Purpose: To clarify the application of sanctions under rule 11 of the Federal Rules of Civil Procedure in private securities litigation)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment is set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN], for himself and Mr. BRYAN, proposes an amendment numbered 1482.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 105, line 25, insert ", or the responsive pleading or motion" after "complaint".

On page 107, line 20, insert ", or the responsive pleading or motion" after "complaint".

Mr. BINGAMAN. Mr. President, I send this amendment on behalf of myself and Mr. BRYAN. It is a very simple amendment.

The present bill, as it is pending before the Senate, calls for a mandatory review by the court in any private action arising under the legislation. It says that the court shall establish a record with specific findings regarding compliance by each party, and each attorney representing any party with the requirements of rule 11 of the Federal Rules of Civil Procedure, prohibiting frivolous pleading or frivolous activity by counsel.

The difficulty is that later in the bill where it specifies presumption, that we call for on page 105 and 107 of the bill, we only specify that the appropriate sanction apply to pleadings filed by the plaintiffs.

Our amendment would change that and make it more balanced, in that it would specify that the sanctions could apply either to pleadings filed by the plaintiff or to responsive pleadings or motions filed by defense.

I think this is acceptable to the managers of the bill. I think it is only reasonable that if we are going to have this provision in the bill—which is a provision, quite frankly, I do not agree with—I think that singling out these securities cases as the only cases in our court system where we require a mandatory review by the court, and the finding and imposition of specific findings, is a mistake. If we are going to have it, we should make it balanced between plaintiff and defendant.

I know the Senator from Nevada wishes to speak. I yield the floor.

Mr. BRYAN. Mr. President, first let me commend my colleague from New Mexico. I think his amendment is well-constructed. We have used the word often in the course of the debate—balanced. This is balanced. What is sauce for the goose is sauce for the gander.

Those lawyers, whether they be plaintiff's lawyers or defendant's lawyers who are involved in frivolous conduct, now feel the full effect of sanctioned rule 11 under the Federal Rules of Civil Procedure.

Much has been said about the frivolous nature of this lawsuit correction act. I must say this is one of the few amendments that actually deals with this issue. I am pleased to support my colleague and friend from New Mexico, and I am pleased that the managers have agreed to accept the amendment. I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1482) was agreed to.

Mr. SARBANES. I move to reconsider the vote.

Mr. D'AMATO. I move to table the motion.

The motion to lay on the table was agreed to.

Mr. SPECTER. Mr. President, I have sought recognition to offer three amendments which I think will provide some balance to the legislation that is now pending before the Senate.

I believe that there is a need for some modification of our securities acts, but I think it has to be very, very carefully crafted.

As I take a look at what is occurring in the courts, compared to what happens in our legislative process, I think that the very deliberative rule in the courts, case by case, with very, very careful analysis, has to take precedence over the procedures which we use in the Congress where hearings are attended, sometimes by only one or two Senators, and then provisions are added in markup very late in the process. Legislation does not receive the kind of very thoughtful encrustation that comes through common law development and interpretation of the securities acts.

I have represented both sides in securities litigation before coming to the U.S. Senate in the private practice of law. I would remind my colleagues that before we proceed to make such enormous changes by this legislation, we need to recall the importance of protecting investors, especially small investors, small unsophisticated investors, in some cases, who put a substantial part of their savings, perhaps all of their life savings, into securities, and how much is involved in the accretion of capital through corporations, through common stock, compared to what is the thrust of this legislation, really looking to curb some lawsuits which should not be brought, some frivolous lawsuits which ought not to have been filed, and perhaps some of the excesses in the plaintiffs' bar, as there may be excesses in any group.

What we are looking at is the value of shares traded in 1993 on the stock exchanges, the most recent year available for analysis. Mr. President, the $6.63 trillion traded on the stock exchanges in 1993 is more than half of the gross national product of the United States in 1963. The value of initial public offerings in 1993, was $57.444 billion.

If we take a look at the comparison as to how much is spent on attorney's fees, according to a 1990 article in the Class Action Reports, a review of some 334 securities class action cases decided between 1980 and 1990, a group of cases in which there was a recovery of $4.281 billion, only some 15.2 percent of that recovery went to fees and costs, a total of some $630 million.

In those cases, according to the court records, the attorneys for the plaintiffs spent 1,691,642 hours.

Statistics have already been presented on the floor of the Senate which show a decrease in securities litigation. I submit that it is very important to be able to continue to protect investors—especially small investors—from stock fraud.

We know that in the crash of the Depression, 1929 and thereafter, tremendous savings were lost at that time. These losses gave rise to the legislation in 1933 and 1934 to protect investors and the securities markets.

Without speaking at length on the subject, I would point to a few cases where there were very substantial losses to the public and in which private actions were brought to enforce the securities laws. For example, the ongoing Prudential Securities litigation, with over $1 billion in losses, perhaps as much as double that; the Michael Milken cases, where there were recoveries in the range of $1.3 billion, involving Drexel, Burnham & Lambert, recovered by the Federal Deposit Insurance Corporation under the securities laws; we all know the famous Charles Keating case, involving his former company, Lincoln Savings & Loan, involving some $262 million recovered and some $288 million lost; the $2 billion lost in the Washington Public Power Supply System case—mentioning only a few.

The concern that I have on the legislation as it is currently pending is that there is an imbalance which will discourage this very important litigation to protect the shareholders. I have supported the managers of the bill on a number of the amendments which have been filed, but I am going to submit a series of three amendments which, I submit, will make the bill more balanced.

The PRESIDING OFFICER. Without objection the pending amendment will be set aside.

AMENDMENT NO. 1483

(Purpose: To provide for sanctions for abusive litigation)

Mr. SPECTER. At this time, Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 1483.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 105, strike line 1 and all that follows through page 108, line 17, and insert the following:

SEC. 103. SANCTIONS FOR ABUSIVE LITIGATION.

(a) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(j) SANCTIONS FOR ABUSIVE LITIGATION.—In any private action arising under this title, if an abusive litigation practice relating to the action is brought to the attention of the court, by motion or otherwise, the court shall promptly—

"(1) determine whether or not to impose sanctions under rule 11 or rule 26(g)(3) of the Federal Rules of Civil Procedure, section 1927 of title 28, United States Code, or other authority of the court; and

"(2) include in the record findings of fact and conclusions of law to support such determination.".

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

"(*l*) SANCTIONS FOR ABUSIVE LITIGATION.—In any private action arising under this title, if an abusive litigation practice relating to the action is brought to the attention of the court, by motion or otherwise, the court shall promptly—

"(1) determine whether or not to impose sanctions under rule 11 or rule 26(g)(3) of the Federal Rules of Civil Procedure, section 1927 of title 28, United States Code, or other authority of the court; and

"(2) include in the record findings of fact and conclusions of law to support such determination.".

Mr. SPECTER. Mr. President, this amendment is designed to leave discretion with the trial judge in place of the very onerous provisions of the pending bill which require a mandatory review by the court after each securities case is concluded and then a requirement that the court impose sanctions on a party if the court finds that the party violated any requirement of rule 11(b) with the presumption being that attorney's fees will be awarded to the losing party.

I submit that this is a very harsh rule which will have a profoundly chilling effect on litigation brought under the securities acts, and will in addition spawn an enormous amount of additional work for the Federal courts by causing what is called satellite litigation.

That means that in any case where the litigation is concluded under the securities acts, the judge will be compelled, under the mandatory review provision, to review all the pleadings filed in the case to determine whether rule 11 was violated, whether or not either party chooses to have that review made, and then will be compelled to impose the sanction with the presumption being payment of attorney's fees, which is really the British system, not the United States' system, where we have had open courts. This provision risks causing a tremendous imbalance between plaintiffs and defendants in these cases because the defendants are characteristically major corporations with much greater resources to defend, contrasted with the plaintiffs who do not have those resources, or their lawyers who bring the suits on their behalf.

I have surveyed the Federal bench, the judges in the U.S. district courts and in the courts of appeals, to see how the judges respond to changes in rule 11 to take away the discretion of the trial judges and have what is, in effect, micromanagement of the judiciary by the Congress of the United States. I have done this to try to get a sense as to what is going on in the courts. It has been some time since I practiced there.

I submit that the views of a few Senators, the authors of this bill and the Senators who are voting on this legislation, are a great deal more limited than the insights of the Federal judges who preside in the administration of these cases day in and day out. The procedures which are being followed in this legislation are not those customarily followed where the rules of civil procedure are formulated by the Federal courts under the Rules Enabling Act—the Supreme Court which has the authority to do so, and the delegation of that authority to committees where the judges work with it all the time, and representatives of the bar, as opposed to the Members of Congress, who have very, very limited experience in this field and, in this particular case, had this provision added very late in the process, late in May, a few days before there was final markup of the bill in the Banking Committee, which does not normally deal with issues of the Federal Rules of Civil Procedure.

Earlier in the consideration of this bill I made an effort to have these issues on procedure referred to the Judiciary Committee, on which I serve, which has the most experience of any committee in the Congress—certainly more than the Banking Committee, which has jurisdiction over this bill—because hearings were not held and consideration was not given to this rule 11 provision.

Among the responses which I received, some 164 responses from Federal judges, there was a general sense that the trial judges ought to have the discretion and were in the best position to make a determination as to whether sanctions ought to be imposed without having a mandate from the Congress, the micromanagement from the Congress, saying you must make this determination. Even though the winning party did not ask for it, even though there are not procedures for one party to say to the other, "You are undertaking something which our side considers frivolous and, if you do not cease and desist, we will bring an action to impose sanctions," to have a chance to correct it.

A very lucid statement of the problem was made by a very distinguished judge for the Court of Appeals for the Third Circuit, Judge Edward R. Becker, who had this to say:

> The mandatory sanctions are a mistake and will only generate satellite litigation.

By satellite litigation, Judge Becker is referring to the situation where another lawsuit, another issue has to be litigated as to whether a rule 11 sanction should be instituted. Again, not at the request of the losing party. Judge Becker continues to this effect:

> The flexibility afforded by the current regime enables judges to use the threat of sanctions to manage cases effectively. Well-managed cases almost never result in sanctions. Moreover, the provisions for mandatory review, presumably without prompting by the parties, will impose a substantial burden on the courts and prove completely useless in the vast majority of cases. Requiring courts to impose sanctions without a motion of a party also places the judge in an inquisitorial role, which is foreign to our legal culture, which is based on the judge as a neutral arbiter model.

A very cogent reply was made by Judge James A. Parker, of the United States District Court for the District of New Mexico, who had this to say:

> As a member of the judiciary, I implore members of the legislative branch of government to follow the Rules Enabling Act procedures for amending rules of evidence and procedure that the courts must apply. Congress demonstrated great wisdom in passing the Rules Enabling Act which defines the appropriate roles of the legislative and judicial branches of government in adopting new rules or amending existing rules. Those who hold the strong and sincere belief that changes should be made to the current formulation of Rule 11 should present their views and proposals in accordance with the procedures set forth in the Rules Enabling Act.

Judge Parker further writes that "Rule 11 * * * gives federal judges adequate authority to impose appropriate sanctions for conduct that violates Rule 11."

Mr. President, a number of the judicial comments which I am about to read apply to my second amendment as well. That second amendment relates to a provision in the bill which requires that the court not allow discovery after a motion to dismiss is filed. On that particular line, the rule is that discovery may proceed unless the judge eliminates discovery. Under the pending legislation, there would be no discovery as a matter of mandate unless under very extraordinary circumstances, but the mandatory rule applies. And the comments of Judge Parker would apply to the second amendment as well, the second amendment which I propose to bring.

Mr. President, the statement by Judge Bill Wilson of the Eastern District of Arkansas, in a letter dated April 27, is to the same effect, as follows:

> Federal Rule . . . 11, as it now reads, gives a judge all he or she needs to handle improper conduct. And I think we should all keep in mind that we can't promulgate rules good enough to make a good judge out of a bad one.

On that point, Mr. President, I think it is fair and appropriate to note that we have a very able Federal judiciary which can administer justice if left to do so with appropriate discretion.

Judge Prentice H. Marshall of the Northern District of Illinois said this in a May 5 letter:

> Rule 11 . . . gives the judge greater flexibility in the imposition of sanctions; it affords the offending party the opportunity to correct his or her misdeed.

A letter from Martin F. Loughlin of the District of New Hampshire, dated May 2 reads:

> Federal Rule of Civil Procedure 11 is working well. It gives the judge adequate discretion to deal with frivolous litigation and untoward conduct by attorneys.

A letter from Federal Judge Miriam Goldman Cedarbaum from the Southern District of New York, dated May 10, 1995, says in part:

> I have found the general supervisory power of the court as well as 28 U.S.C., Section 1927, and Rule 11 adequate sources of judicial authority to discourage frivolous litigation.

A letter from Federal Judge J. Frederick Motz from the District of Maryland, dated May 9, 1995, referring to the mandatory rules said that they are:

> . . . counterproductive in that it increased judges' workloads and contributed to litigation cost and delay by requiring judges to impose sanctions whenever a Rule 11 violation was found. Satellite litigation in which one lawyer or party sought fees from another became commonplace.

Continuing to quote:

> I oppose any amendment to the Rule that would make imposition of sanctions mandatory.

A similar view was expressed by Judge Ilana Diamond Rovner of the Court of Appeals for the Seventh Circuit in a letter dated April 1995:

> The current Rule 11 gives the District Court ample discretion to address frivolous litigation.

A letter from Senior Judge Floyd R. Gibson from the U.S. Court of Appeals for the Eighth Circuit, dated April 20, 1995:

> I believe more discretion should be given to the district judge in the how and when to apply the sanctions under Rule 11(c) on sanctions.

Similarly, Judge Avern Cohn from the Eastern District of Michigan, dated May 5, 1995, says, in part:

> I firmly believe that Congress involves itself too deeply in the procedural aspects of the litigation process.

A letter from Martin Feldman from the Eastern District of Louisiana, says, in part:

> I believe that giving district courts more discretion in applying the Rule was good thinking.

And Judge Jimm Larry Hendren of the Western District of Arkansas, writes, in part:

> I am not sure the Congress needs to pass any legislation. I think the courts, themselves, can handle this matter with the rules already in place and their inherent powers.

And a letter from Judge Leonard I. Garth, a distinguished member of the Court of Appeals for the Third Circuit, says:

> In my opinion, abandoning mandatory sanctions and permitting district court judges to exercise their judicial discretion was a welcome measure.

A good many of these comments apply to the change in rule 11, which had been mandatory from 1983 to 1993. It would apply equally well to the kind of a rule which is in effect here.

The letter from Senior Judge William Schwarzer from San Francisco says that the sanctions ought to be discretionary.

Mr. President, I ask unanimous consent that these letters, which represent only a small sample of the responses I received supporting discretionary imposition of sanctions, appear in the RECORD at the conclusion of my statement, with the exception of the letter from Judge Becker.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SPECTER. Mr. President, I now refer again to the letter from Judge Becker citing the draft of a rule from Circuit Judge Patrick Higginbotham, who is chairman of the Judicial Conference Advisory Committee on Civil

Rules, which sets out the amendment which I have submitted, and it is to this effect: that the sanction for abusive litigation would arise in any private action when the abusive litigation practice is brought to the district court's attention by motion or otherwise. The court shall promptly decide with written findings of fact and conclusions of law whether to impose sanctions under rule 11, and upon the adjudication, the district court shall include the conclusions and shall impose the sanctions which the court in the court's discretion finds appropriate.

Mr. President, I submit to my colleagues that leaving the discretion to the judge really is the right way to handle these matters. These judges sit on these cases, know the cases, and have ample authority as a discretionary matter to impose the sanction. As one judge said, all these rules cannot make a bad judge do the right thing. But I think we can rely upon the discretion of the judges without tying their hands.

Mr. President, I would be glad to yield the floor at this time to argument by the managers if they would care to do so. We can then proceed to conclude the argument on this amendment.

EXHIBIT 1

U.S. DISTRICT COURT,
DISTRICT OF NEW MEXICO,
Albuquerque, NM, May 2, 1995.

Hon. ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary,
Wsshington, DC.

DEAR SENATOR SPECTER: Thank you for your letter of April 24, 1995 and the opportunity to express comments on issues involving Rule 11 of the Federal Rules of Civil Procedure.

For purposes of clarity, I have restated each question posed in your April 24, 1995 letter followed by my response.

(1) Is there a significant problem with frivolous litigation in the Federal Courts such as to justify "loser pays" and strengthening of FRCP 11?

Response: Rule 11, as amended effective December 1, 1993, gives federal judges adequate authority to impose appropriate sanctions for conduct that violates Rule 11. Rule 11(c) states that if Rule 11 has been violated "the Court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation." Rule 11(c)(2) describes the sanctions that may be imposed for a violation. These include directives of a non-monetary nature, an order to pay a penalty into Court, or an Order directing that an unsuccessful movant who has violated Rule 11 pay "some or all the reasonable attorneys' fees and other expenses incurred as a direct result of the violation." At this point there appears to be no need to change Rule 11, or to pass legislation, to introduce a more stringent "loser pays" sanction.

(2) How well did FRCP 11 work after the 1983 Amendment, which strengthened the rule, and since the 1993 Amendment, which weakened the rule?

Response: In this judicial district, considerable satellite litigation developed under Rule 11 after the 1983 amendment. This required judges to devote significant time to resolving squabbles among counsel unrelated to the merits of the case. The 1993 amendment of Rule 11 has dramatically reduced the number of motions alleging Rule 11 violations. This I attribute directly to the "safe harbor" provision found in Rule 11(c)(1)(A). The "safe harbor" provision has forced lawyers to communicate and to resolve their disputes in most instances without the need for Court intervention. My personal opinion is that this feature of the 1993 amendment of Rule 11 strengthened instead of weakened Rule 11. It has made the lawyers talk to each other about claims or defenses perceived by their opponents to be frivolous and this has resulted in most disputes being resolved without extensive briefing and devotion of valuable court time. Removal of the "safe harbor" provision from Rule 11 would be extremely detrimental to the orderly functioning of the courts.

(3) What suggestions, if any, do you have in relation to this issue?

Response: As a member of the judiciary I implore members of the legislative branch of government to follow the Rules Enabling Act procedures for amending rules of evidence and procedure that the courts must apply. Congress demonstrated great wisdom in passing the Rules Enabling Act which defines the appropriate roles of the legislative and judicial branches of government in adopting new rules or amending existing rules. Those who hold a strong and sincere belief that changes should be made to the current formulation of Rule 11 should present their views and proposals in accordance with the procedures set forth in the Rules Enabling Act.

If you wish, I will be happy to provide additional information on this subject either orally or in writing.

Sincerely,

JAMES A. PARKER.

U.S. DISTRICT COURT,
EASTERN DISTRICT OF ARKANSAS,
Little Rock, AR, April 27, 1995.

Hon. ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary,
Washington, DC.

DEAR SENATOR SPECTER: Thank you very much for your letter of April 6, 1995.

In the year and a half that I have been on the bench I have had no problem with frivolous litigation. I have sanctioned two lawyers for engaging in what I thought to be inappropriate discovery procedures, but have had no experience with FRCP 11 as a trial judge.

I am strongly opposed to the "loser pays" proposal. I am told by my scholarly friends that this is a British rule. With all due respect for our kinfolks across the Atlantic, many of our ancestors got on a ship and came to the United States because they were not particularly fond of the justice system in Britain. In all seriousness, I do have a lot of respect for some aspects of the system in England, but, in my opinion, ours is much superior.

The "loser pays" will obviously slam the courthouse door shut in the face of deserving citizens who are not well heeled financially.

It appears to me that the 1993 Amendment to FRCP 11 was much needed. The rule, before these changes, tended to be too rigid, at least on the surface. It encouraged satellite litigation. FRCP 11, as it now reads, gives a judge all she or he needs to handle improper conduct. And I think we should all keep in mind that we can't promulgate rules good enough to make a good judge out of a bad one.

Finally, I would like to comment on the "crisis" claims that are being made about the case load in federal district courts. I quote from Judge G. Thomas Eisele: *Differing Visions—Differing Values: A Comment on Judge Parker's Reformation Model for Federal District Courts*, 46 SMU L. Rev. 1935 (1993):

. . . In 1985 the total case filings in all U.S. District Courts came to 299,164; in 1986, 282,074; in 1987, 268,023; in 1988, 269,174; in 1989, 263,896; in 1990, 251,113; in 1991, 241,420; and in 1992, 261,698. So in a period of seven years the total filings have fallen from 299,164 to 261,698. The number of civil filings per judgeship fell from 476 in 1985 to 379 in 1990—a period when the number of judgeships remained constant at 575. In 1991 the number of judgeships increased to 649 and the number of civil cases per judgeship fell to 320. For 1992 the figure is 350.

"We are frequently told that our criminal dockets are interfering with our civil dockets, and this has certainly been true in a few of our federal districts. But the number of felony filings per judgeship only increased from forty-four in 1985 to fifty-eight in 1990. In 1992, that number fell to fifty-three. The total filings per judgeship, criminal and civil, have been lower than they were in 1991 (372) in only two years since 1975. And the weighted filings per judgeship have likewise fallen in the past five years from 461 in 1986 to 405 in 1992.

"So there is not much support for the oft-repeated assertions that 'federal court system has entered a period of crisis;' that our courts are 'on the verge of buckling under the strain;' that 'our courts are swamped and unmanageable'. . . . The actual figures and trends simply do not support such doomsday hyperbole.

"On the issue of delay we find, as always, that a few district courts are having considerable trouble moving their dockets, but overall we find the same median time from filing to disposition in civil cases (nine months) for each year from 1985 until 1992. And the period between issue and trial in 1992 (fourteen months) is the same as it was in 1985. A Rand Corporation study confirms that the rhetoric about unconscionable and escalating delays in processing and trying cases in the federal district court system is nothing more than myth. . . ."

In other words, the sky is not falling down.

Again, thank you very much for permitting me to comment on these questions.

Cordially,

WM. R. WILSON, JR.

U.S. DISTRICT COURT,
NORTHERN DISTRICT OF ILLINOIS,
Chicago, Illinois, May 5, 1995.

Senator ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary,
Washington, DC.

DEAR SENATOR SPECTER: I respond to yours of April 19 inquiring about the need to strengthen Rule 11 of the Federal Rules of Civil Procedure.

1. In my 22 years on the federal trial bench I state unequivocally that there is not a significant problem with frivolous litigation in the federal courts warranting a "loser pays" sanction. I have encountered two or three repetitious/abusive plaintiffs. But their first complaints were not frivolous. They just had difficulty taking "No" for an answer.

Of course, in all litigation which is tried, somebody wins and somebody loses. But the losers are not frivolous complainers.

2. The 1993 amendment to Rule 11 of the Federal Rules of Civil Procedure did not "weaken" it. Quite the contrary: it made the

Rule bilateral, i.e., it applies to unfounded denials as well as unfounded contentions; it gives the judge greater flexibility in the imposition of sanctions; it affords the offending party the opportunity to correct his or her misdeed. The rule should not revert to 1983.

3. I suggest that Rule 11 be left just the way it is. It is working well. The collateral litigation provoked by the 1983 version has diminished.

Respectfully yours,

PRENTICE H. MARSHALL.

UNITED STATES DISTRICT COURT,
DISTRICT OF NEW HAMPSHIRE,
Concord, NH, May 2, 1995.

Hon. ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: This is to acknowledge receipt of your letter dated April 24, 1995 with respect to the recently passed United States House of Representatives legislation providing for a form of "loser pays."

In response to question #1, I do not believe there is a significant problem with frivolous litigation in the Federal Courts to justify "loser pays."

With respect to question #2 FRCP 11 is working well. It gives the judge adequate discretion to deal with frivolous litigation and untoward conduct by attorneys.

Candidly, I hope that the Senate does not pass the "loser pays" legislation. I have one comment related to strengthening of FRCP 11. Although there may be and there is some justification for losers pay, I do not believe it is necessary. There are many cases where an indigent, well-intentioned litigant may be penalized by strict adherence to a rule that losers pay. I have been a New Hampshire Superior Court judge for sixteen years and a Federal Judge for an equal amount of time. While not strictly restricted to the Federal Courts, we are being inundated with paper, usually by the party who is well-off financially. This unfortunately sometimes puts pressure on the non-affluent litigant to settle or withdraw his or her claim.

Sincerely,

MARTIN F. LOUGHLIN.

U.S. DISTRICT COURT,
SOUTHERN DISTRICT OF NEW YORK,
New York, NY, May 10, 1995.

Hon. ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: Thank you for your letter dated April 24 inquiring about frivolous litigation in the federal courts. I have been a federal trial judge for nine and one-half years in one of the busiest districts in the country. During that period, Fed.R.Civ.P. 11 has been both strengthened and weakened. I have not observed a significant problem that requires a legislative remedy.

The only noticeable effect of the weakening of Fed.R.Civ.P. 11 has been a welcome diminution in the number of Rule 11 motions. With respect to "loser pays," it is my strongly-held view that the founders of this Republic wisely chose to eliminate certain aspects of the English legal system as contrary to the egalitarian ideals of American democracy. Two of the most important of these reforms were the abolition of the distinction between barristers and solicitors and the elimination of the British practice of requiring the losing party in civil litigation to pay the lawyers fees of the winning party. Indeed, the system of having each party bear its own legal fees has come to be known as the American Rule. It is based on the belief that people of limited means would be deterred from suing on meritorious claims by the fear that if they were not successful, the costs would ruin them.

I have found the general supervisory power of the court as well as 38 U.S.C. §1927 and Rule 11 adequate sources of judicial authority to discourage frivolous litigation, and do not believe that the American Rule should be abolished.

Sincerely,

MIRIAM GOLDMAN CEDERBAUM.

UNITED STATES DISTRICT COURT,
DISTRICT OF MARYLAND,
Baltimore, Maryland, May 9, 1995.

Hon. ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: Thank you for your letter of April 19, 1995, in which you solicit my views on a "loser pays" rule and the possible strengthening of FRCP 11.

There is, of course, a fair amount of frivolous litigation in the federal courts. However, the bulk of that litigation is conducted by impecunious litigants as to whom a "loser pay" rule would have no effect. Accordingly, I do not support the adoption of such a rule. I particularly oppose the rule in diversity cases since it would provide in such cases a significant incentive for attorneys to forum shop.

Similarly, I oppose any amendments to strengthen FRCP 11. I believe that as a general matter, Rule 11 is a valuable tool for judges to use, and I have occasionally imposed Rule 11 sanctions myself to punish or deter inappropriate behavior. However, I further believe that Rule 11, as it existed prior to the 1993 amendments, had a deleterious effect upon the professional relationships of members of the bar. Furthermore, I think that in its pre-1993 form the Rule was counterproductive in that it increased judges' workloads and contributed to litigation cost and delay by requiring judges to impose sanctions whenever a Rule 11 violation was found. Satellite litigation in which one lawyer or party sought fees from another became commonplace.

For these reasons I oppose any amendment to the Rule that would make imposition of sanctions mandatory; to a somewhat lesser extent, I also oppose elimination of the Rule's "safe harbor" provision provided in the 1993 amendments.

I hope that these comments are helpful to you. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

J. FREDERICK MOTZ,
United States District Judge.

U.S. COURT OF APPEALS
FOR THE SEVENTH CIRCUIT,
Chicago, IL, April 19, 1995.

Senator ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: Thank you for your letter requesting my views on the "loser pays" and Rule 11 issues. I very much appreciate being given an opportunity to comment. My thoughts on the specific questions you pose are as follows:

(1) In my judgment, there is no significant problem with frivolous litigation in the federal courts such as would justify "loser pays" legislation or strengthening FRCP 11. The current Rule 11 gives the district court ample discretion to address frivolous litigation. If a given case is sufficiently frivolous, a court is not hampered from invoking Rule 11 to shift the entire cost of the case to the loser. Rule 11 also grants the district court discretion to impose more modest penalties or to refrain from a penalty, depending on what is appropriate in a given case.

(2) After the 1983 amendment, FRCP 11 created a cottage industry of satellite litigation which consumed an enormous amount of court time and did not succeed in improving the overall quality of litigation. The fact that penalties were mandatory if a violation was found simply raised the stakes of Rule 11 litigation and encouraged the filing of requests for sanctions, even if the breach was slight and the damage minimal. In many cases, it turned a dispute between the litigants into a dispute between the lawyers, and hampered or prevented altogether the pre-trial settlement of cases. The 1993 amendment has improved matters greatly by making sanctions discretionary. This permits much greater flexibility and has removed the incentive to file Rule 11 motions when the case for sanctions is weak.

(3) I strongly recommend that Congress leave Rule 11 as is and not adopt the "loser pays" rule. A "loser pays" provision will not add anything substantive to the district court's arsenal of tools to deal with frivolous litigation. It is likely merely to discourage litigants with limited resources to pursue their cases, particularly when the litigant seeks a change in the law. The ability to pursue such cases seems to me one of the fundamental protections of individual rights in this country, and I believe if we want to reduce litigation, rather than disincentives for pursuing novel theories we ought to introduce incentives for settlement. "Loser pays" would act as a disincentive to settlement by introducing the question of fees and costs into settlement discussions. It would also generate an enormous amount of fees litigation. The net effect would thus be deleterious to individual liberties without significantly reducing the amount of litigation, and would in my judgment merely exacerbate the core problem—the amount of time that judges are increasingly required to devote to non-substantive matters.

Thank you again for inviting me to comment. I hope that my thoughts will be of aid to you in your deliberations, and I send, as always, warmest good wishes and my thanks for your many kindnesses through the years.

With best regards,

ILANA DIAMOND ROVNER.

U.S. COURT OF APPEALS,
EIGHTH CIRCUIT,
Kansas City, MO, April 20, 1995.

Re FRCP 11.

Hon. ARLEN SPECTER,
Committee on the Judiciary, U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: In reply to your letter of April 6, positing inquiry on three issues related to FRCP 11, I would like to respond as follows:

1. There is a significant problem with frivolous litigation in the Federal Courts. I think a trial run with "loser pays" proposal would be in order provided the district judge would have the discretion to apply or not to apply such sanction in any given case.

2. I think FRCP 11 worked better after the 1983 Amendment; and, has some difficulty since the 1993 Amendment.

3. I believe more discretion should be given to the district judge in the how and when to apply the sanctions authorized under FRCP 11(c) on sanction. Also, some revisions of subsection (d) might be in order relating to

discovery as there has been many abuses reported of extensive, unnecessary and costly discovery procedures which makes the whole legal system too expensive for many citizens to handle or even participate in the legal process.

I have been sitting with the Ninth Circuit in San Francisco since the receipt of your letter, hence my slight delay in reply.

Sincerely,

FLOYD R. GIBSON.

U.S. DISTRICT COURT,
EASTERN DISTRICT OF MICHIGAN,
Detroit, MI, May 5, 1995.

Hon. ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: Thank you for asking my views on pending "loser pays" legislation.

I firmly believe the Congress involves itself too deeply in the procedural aspects of the litigation process. Federal judges are capable of dealing with abusive lawyering. Legislation is not needed. I handle my docket just fine. I control abusive lawyering within the existing rules. Giving me more authority to deal with abusive lawyering is likely to make me more abusive.

Specifically,

1. There is no problem with frivolous litigation in the federal courts. FRCP 11 does not need to be strengthened and "loser pays" is not justified. We have gotten along very well for 220 years without much fee shifting and there is no need for it now.

2. FRCP 11 worked less well after the 1983 Amendment than it has since the 1993 Amendment. After the 1983 Amendment there were frequent occasions of overuse. That overuse no longer appears. Rarely is there a need for Rule 11 sanctions of any significant amount.

3. I suggest that Congress stay out of this area. What is pushing the Congress now is the better heeled part of society. More defendants win in court than plaintiffs. "Loser pays" and a stricter FRCP 11 would discourage otherwise potentially meritorious cases from coming to federal courts.

Lastly, published statistics show a 14% drop in the number of civil filings in federal courts between 1985 and 1994. Why all the excitement?

Sincerely yours,

AVERN COHN.

U.S. DISTRICT COURT,
EASTERN DISTRICT OF LOUISIANA,
New Orleans, LA, May 1, 1995.

Hon. ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: This is in response to your letter of April 19th, which I assume went to all members of the judiciary (unless our mutual good friend, Ed Becker, suggested that you write to me).

Let me say at the outset that after having been a lawyer who practiced principally in federal courts for some 26 years and a United States District Judge for nearly 12 years, I support some form of "loser pay" legislation.

There is indeed a problem with frivolous litigation in the Federal Courts which, in my view, justifies some form of "loser pay" rule. "Loser pay" legislation would serve as a deterrent to many lawsuits that ought not be filed, including suits by lawyers and pro se litigants. Moreover, "loser pay" legislation would also deter frivolous defenses in the early stages of the litigation. That, to me, is the main difference between "loser pay" and Rule 11.

I believe Rule 11 has worked after the 1983 Amendment, but its weakness is that Rule 11 addresses matters that might have occurred at the outset of litigation but that usually occur as an abuse of the adversary process in a later stage of the litigation. On the other hand, "loser pay" would serve as a deterrent from the very beginning of the litigation. I haven't had much involvement with Rule 11 since the 1993 Amendment, but I believe that giving district courts more discretion in applying the Rule was a good thing and I would not consider the 1993 Amendment to have been a weakening of the Rule.

As to specific suggestions, "loser pay" comes in many forms as you no doubt are aware. I don't have a specific model in mind, only a concept. I like the English rule but they have a much more sophisticated Legal Aid system. The question of whether or not pro se litigants should be dealt with the same way as lawyers and other litigants is a close call. I guess what I am saying is that there are several models of "loser pay" and your Committee would no doubt want to consider many of them and, perhaps, even a refinement of them that would accommodate the Federal system. But some form of "loser pay" is most appropriate now and I would be pleased to work with any group who was interested in drafting such legislation.

Thank you very much for writing me. You may also be interested to know that one of my present law clerks is Marc DuBois, whose father I understand is also a close friend of yours.

Sincerely,

MARTIN L.C. FELDMAN.

U.S. DISTRICT COURT,
WESTERN DISTRICT OF ARKANSAS,
Fort Smith, AR, April 20, 1995.

Re: Your Letter of April 6, 1995.
Senator ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: With respect to your request for comment, I would make the following observations:

(1) Is there a significant problem with frivolous litigation in the Federal Courts such as to justify "loser pays" and strengthening of FRCP 11?

Response: I cannot speak for all federal courts but, with respect to those with which I am involved, the answer is "no."

(2) How well did FRCP 11 work after the 1983 Amendment, which strengthened the rule, and since the 1993 Amendment, which weakened the rule?

Response: I did not commence my duties as a federal district judge until April 15, 1992. Accordingly, I don't feel qualified to make an appropriate comment on this issue.

(3) What suggestions, if any, do you have in relation to this issue?

Response: I am not sure the Congress needs to pass any legislation. I think courts, themselves, can handle this matter with the rules already in place and their inherent powers.

Respectfully,

JIMM LARRY HENDREN.

U.S. COURT OF APPEALS
FOR THE THIRD CIRCUIT,
Newark, NJ, April 24, 1995.

Hon. ARLEN SPECTER,
U.S. Senator, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: Your letter of April 6th asks for my comments respecting congressional proposals to strengthen Rule 11 and to enact "loser pays" legislation. I am pleased to respond to your inquiries as best I can.

The 1983 amendment to Rule 11 generated a rash of Rule 11 motions, which themselves often generated responding Rule 11 motions. These motions were frequently groundless. According to a 1989 Federal Judicial Center (FJC) survey, approximately 31 percent of judges believed that many or most Rule 11 motions for sanctions are themselves frivolous. Federal Judicial Center, Rule 11: Final Report of the Advisory Committee on Civil Rules §2A at 7 (1990). Indeed, the post-1983 Rule 11 jurisprudence gave rise, in my opinion, to tangential "satellite" proceedings which, in many instances, not only delayed but appeared to dwarf the controversy on the merits.

I make special reference here to the practice of counsel who file a Rule 11 motion in an attempt to recover fees, which is met with a Rule 11 motion by adversary counsel, claiming that the initial Rule 11 motion was itself frivolous. According to the Judicial Center, the majority of judges (and I count myself among them) believe that the possibility of "dueling" Rule 11 motions can make litigation even more contentious if the threat of cost shifting materializes. *Id.* §2A at 10. Further, judicial time spent defining what is "frivolous" and resolving arguments over the appropriate fee award, allowable costs, and the like deprives judges of time which they could otherwise devote to the merits of other matters.

Additionally, about 65 percent of judges believe that frivolous litigation represents a small or very small problem, accounting for only 1–10 cases per judge in a year. *Id.* §2A at page 2–3. In combination, these statistics suggest to me that the 1983 version of Rule 11 itself may have contributed to needless proceedings in the courts.

The 1993 Amendment, of course, altered Rule 11 so that district court judges may exercise their discretion over whether to impose sanctions. Further, it explicitly provides for the option of penalties (fines) paid to the court in lieu of attorney's fees, and incorporates a 21 day "safe harbor" provision. Each provision reduces the likelihood that attorneys will fine Rule 11 motions to shift costs while still permitting judges to target violators with appropriate sanctions aimed at deterring future frivolous proceedings.

In my opinion, abandoning mandatory sanctions and permitting district court judges to exercises their judicial discretion was a welcome measure. Some frivolous litigation will always exist, and judges should have the power and discretion to address such behavior. After experience on the district court and more than twenty years examining district court records on appeal, I am confident that district court judges through the exercise of their discretion can control the evil that Rule 11 was originally promulgated to cure. This is the same power and discretion which we in the Courts of Appeal exercise over litigants through Federal Rule of Appellate Procedure 38.

I am also of the opinion that there has not been sufficient time since the 1993 Amendment has gone into effect to assess the institutional and judicial problems that may have arisen. I think that before further amendment to Rule 11 is sought, or further legislation in this area is contemplated, there should be a period for judicial maturation, study and evaluation.

In this regard, let me state a final concern that I have with the proposed congressional changes to the Federal Rules. The procedure for Rule amendments provided in the Rules Enabling Act—consideration by committees, the Judicial Conference, and the Supreme

Court followed by submission to Congress—represents a prudent and conservative allocation of rulemaking authority between the judiciary and Congress. I am concerned that the initiation of rule changes by Congress without study and input from the judiciary, and without a developmental process involving the bench and bar, risks overlooking relevant considerations. Moreover, the ever-present separation of powers problems which lurk in the background of congressional attempts to fashion procedural rules for the Federal Courts suggests that Rules such as Rule 11 should be processed through traditional judicial channels before congressional action is taken.

As for my thoughts on the "loser pays" aspect of the Attorneys Accountability Act, I will be brief. It is clear to me that the primary results of such legislation can only be to (1) reduce the number of cases that go to trial, and (2) spur plaintiffs to take lower settlements than they would otherwise have accepted. However, this is just my opinion and it is not based on empirical data.

I note, for instance, that the Proposed Long Range Plan for the Federal Courts, in its March 1995 publication, recognizes that "appropriate data are needed to assess the potential impact of fee and cost shifting on users of the Federal Courts." *Id.* at 61. The Plan rejects the "English" rule but recommends continuing a study of the problem of fee shifting to decrease frivolous or abusive litigational conduct. I share those views.

I am generally of the opinion that the American Rule is consonant with our tradition of liberal access to the courts. I have always taken great pride in the fact that in our country, plaintiffs with legitimate claims may have their "day in court" without fear of sanctions should their suits prove unsuccessful. I am also concerned that public interest groups and civil rights claimants may be discouraged from filing meritorious complaints due to fears that they will be assessed "shifted" fees in excess of their ability to pay.

You have asked what suggestions I have with respect to these issues. I would retain the 1993 Amendment to Rule 11 in its present form and revisit the effect of the Amendment at some future time, perhaps in another five years. Because Federal Rule of Civil Procedure 11 and Federal Rule of Appellate Procedure 38 give the courts power to sanction frivolous actions when necessary, my inclination is not to remove that discretion, but to encourage it.

I am similarly conservative as to "loser pays." I note that even in Great Britain there has been recent criticism, both in the press and among scholars, of the English Rule. My experience tells me that "each side pays" has resulted in a just balance of interests. I am also a firm believer in the old adage, "if it ain't broke, don't fix it." I therefore recommend against abandoning our present system until such time as studies of the two system reveal the desirability of change.

I am certain that you and your office have considered all of the matters that I have written about before receiving this note, but I did want to respond and explain to you why I entertain the views that I have advanced with respect to Rule 11 and "loser pays" legislation. Certainly, I would be pleased to respond to any inquires you may have.

Thank you writing to me in this regard.

Sincerely,

LEONARD I. GARTH.

San Francisco, CA, May 1, 1995.

Hon. ARLEN SPECTER,
U.S. Senate, Committee on the Judiciary, Washington, DC.

DEAR SENATOR SPECTER: This letter responds to yours of April 19 posing the following questions relating to legislation that would amend Rule 11 of the Federal Rules of Civil Procedure.

(1) Is there a significant problem with frivolous litigation in the Federal Courts such as to justify "loser pays" and strengthening of FRCP 11?

The short answer is that there is no significant problem with frivolous litigation in the federal courts. To the extent there is frivolous litigation, it consists mostly of cases brought by prisoners. Existing law adequately enables judges to dismiss those cases summarily with a minimum of work. And neither Rule 11 nor fee shifting would have any impact on prisoners filing cases.

More generally, it is a misconception to look at Rule 11 or fee shifting as a way to deter frivolous litigation. On the whole, Rule 11 has had a beneficial impact in making lawyers more careful about the pleadings they file, i.e. encouraging them to take a closer look to see whether a particular pleading is justified. Most frequently its application has been to motions and other procedural activities rather than to complaints or answers. But if it has been a deterrent at all, its impact has been mostly on persons who are risk averse-persons who may not want to take a chance that a borderline case will be found to be in violation of Rule 11 leading to possible sanctions. In this way, it functions not so much as a filter based on frivolity but as a gauge of risk averseness. I believe that it has functioned in this way in very few cases but the civil rights bar believes that it has deterred filing of some civil rights cases.

On the question of whether there is a justification for what you call a "loser pays" rule, in my view fee shifting has little to do with control of frivolous litigation. There are of course various ways in which to approach fee shifting. The so-called English rule is not practical for the United States for several reasons: (1) it impacts everyone, plaintiff and defendant alike, on the basis of risk averseness, not frivolity, i.e. perfectly non-frivolous cases are lost every day and it makes no sense to punish defendants or plaintiffs for losing a case; (2) a loser-pays rule, unless carefully drafted, would undermine contingent fee practice and over 100 federal fee-shifting statutes, and (3) to the extent it works in England, it is made possible by legal aid which pays attorneys fees for lower income litigants and exempts them from the rule.

A more constructive approach is to amend FRCP 68 to provide for fee-shifting offers of judgment but in a way that will make the rule serve as an incentive, not as a sanction. If you are interested in this, I refer you to the enclosed copies of an article I published on the subject and of a letter I wrote recently to Senator Hatch.

(2) How well did FRCP 11 work after the 1983 Amendment, which strengthened the rule, and since the 1993 Amendment, which weakened the rule?

The Federal Judicial Center undertook a study of the operation of the 1983 amendment. It showed, among other things, that Rule 11 activity occurred only rarely (in 2 percent of the cases) and that sanctions were imposed in only about a quarter of the affected cases, that eighty percent of the judges thought that its overall effect was positive but also that it had a potential for causing satellite litigation and exacerbating relations among lawyers, and that the rule probably had a disparate impact on plaintiffs, particularly in civil rights cases. This is discussed in some detail in the enclosed article.

While I believe that on the whole the 1983 rule worked well, there is wide agreement among bench and bar that the 1993 amendment is an improvement and ought to be given a chance to operate before further changes are considered. The rule, as amended, will preserve the incentive for lawyers to use care in filing pleadings while minimizing costly and unproductive satellite litigation over sanctions by making sanctions discretionary (which in practical effect they are anyway), by providing a safe harbor, and by lessening the emphasis on the rule as a fee shifting device. The amendment will moderate what on occasion had become excessive reliance on the rule. The amendment now pending in Congress will inevitably result in more expense and delay by stimulating Rule 11 litigation without giving any assurance that the people who are prone to file frivolous cases will be deterred from doing so. I believe that the amendment will be counterproductive and self-defeating and therefore recommend that Congress leave the rule alone and observe its operation for a few years.

Sincerely,

WILLIAM W. SCHWARZER.

Mr. BENNETT. Mr. President, as I have said earlier in this debate, I am unburdened with the blessing of having been to law school, and as a consequence feel myself inadequate to respond to the learned legal arguments of one of the Senate's best lawyers. As a consequence, Mr. President, I will leave that argument to be made by the chairman of the committee at some future point. I have no response at this time.

Mr. SPECTER. Mr. President, I ask unanimous consent that the amendment be set aside so that I may proceed to offer my second amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1484

(Purpose: To provide for a stay of discovery in certain circumstances, and for other purposes)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 1484.

Beginning on page 108, strike line 24 and all that follows through page 109, line 4, and insert the following:

"(k) STAY OF DISCOVERY.—

"(1) IN GENERAL.—In any private action arising under this title, the court may stay discovery upon motion of any party only if the court determines that the stay of discovery—

"(A) would avoid waste, delay, duplication, or unnecessary expense; and

"(B) would not prejudice any plaintiff.

"(2) ADDITIONAL LIMITATIONS ON DISCOVERY.—In any private action arising under this title—

"(A) prior to the filing of a responsive pleading to the complaint, discovery shall be limited to materials directly relevant to facts expressly pleaded in the complaint; and

"(B) except as provided in subparagraphs (A) and (B), or otherwise expressly provided in this title, discovery shall be conducted pursuant to the Federal Rules of Civil Procedure.".

On page 111, strike lines 1 through 7, and insert the following:

"(2) STAY OF DISCOVERY.—

"(A) IN GENERAL.—In any private action arising under this title, the court may stay discovery upon motion of any party only if the court determines that the stay of discovery—

"(i) would avoid waste, delay, duplication, or unnecessary expense; and

"(ii) would not prejudice any plaintiff.

"(B) ADDITIONAL LIMITATIONS ON DISCOVERY.—In any private action arising under this title—

"(i) notwithstanding any stay of discovery issued in accordance with subparagraph (A), the court may permit such discovery as may be necessary to permit a plaintiff to prepare an amended complaint in order to meet the pleading requirements of this section;

"(ii) prior to the filing of a responsive pleading to the complaint, discovery shall be limited to materials directly relevant to facts expressly pleaded in the complaint; and

"(iii) except as provided in clauses (i) and (ii), or otherwise expressly provided in this title, discovery shall be conducted pursuant to the Federal Rules of Civil Procedure.

Mr. SPECTER. Mr. President, this is the amendment which I referred to earlier dealing with a provision of the bill in its current form which prohibits any discovery after a motion to dismiss has been filed, except under very limited circumstances.

The general rule of Federal procedure is that discovery may proceed after a complaint has been filed and a motion to dismiss has been filed unless on application by the defendant the judge stays the discovery.

The current bill provides as follows:

In any private action arising under this title during the pendency of any motion to dismiss, all discovery proceedings shall be stayed unless the Court finds, upon the motion of any party, that a particularized discovery is necessary to preserve evidence or prevent undue prejudice to that party.

It is more than a little surprising, Mr. President, to find securities litigation separated out from all of the other litigation in the Federal courts. And for those who may be watching this matter on C–SPAN, while this may be viewed as somewhat esoteric, somewhat hypertechnical, it will not be hypertechnical if you are a stockholder and the stock goes down and you find you have been misled and defrauded by people who have made misrepresentations.

What this means in common parlance, common English, is that a lawsuit is started. It is a class action started, and this private right of action has been developed in order to protect shareholders, especially small shareholders who band together in a class, and after the complaint is filed the plaintiffs' attorney seeks to find out the details as to what happened with the defendant; the plaintiff does not know all the details of the facts at the time of filing suit. The corporation or the officers may have made some very fine promises which sounded very good when the promises were made but no one can tell about the details of the facts unless you go into the records of that party because those facts are not generally known.

In lawsuits, discovery is permitted where one party seeks to take the deposition, that is, to ask the other party questions, or propounds interrogatories, that is, submits written questions, or makes a motion for the discovery of documents to take a look at records.

In discussing this issue with the proponents of the legislation, I was given a response—it is a little disappointing not to find somebody to argue against here. It is not easy to make an argument when there is nobody to disagree. Perhaps my distinguished colleague from Iowa wishes to disagree with me. My distinguished colleague from Utah chooses not to.

The response I got was that it changes the mindset of the litigation, and I would say that the trial judge who is sitting on the spot has ample discretion, if it is inappropriate discovery, to say the discovery is not going to go on, instead of having a mandatory change singling out this legislation from all other legislation.

Well, may I defer to my distinguished colleague from Utah, who I know, having warning in advance, now has had ample opportunity to muster the legal arguments, or am I to infer that the managers of the bill have fled the scene because there is nothing to be said in response to the overwhelming arguments I have presented?

Mr. BENNETT. I would not concede that there is nothing to be said in response to the overwhelming arguments.

Mr. SPECTER. Good. Will the Senator yield for a question or two?

Mr. BENNETT. I will concede that this Senator is not prepared to mount that response. I suggest, Mr. President, that the Senator proceed in his scholarly and learned way.

Mr. SPECTER. It is a little difficult to proceed, Mr. President, without opposition. But permit me at this time, Mr. President—and may I note ascension to power of my distinguished colleague from Pennsylvania, Senator SANTORUM.

Mr. President, in the absence of a reply, I would ask unanimous consent to proceed with the third amendment which I propose to offer.

The PRESIDING OFFICER (Mr. SANTORUM). Without objection, the pending amendment is set aside.

AMENDMENT NO. 1485

(Purpose: To clarify the standard plaintiffs must meet in specifying the defendant's state of mind in private securities litigation)

Mr. SPECTER. Mr. President, I now send a third amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 1485:

On page 110, strike lines 12 through 19, and insert the following:

"(b) REQUIRED STATE OF MIND.—

"(1) IN GENERAL.—In any private action arising under this title in which the plaintiff may recover money damages only on proof that the defendant acted with a particular state of mind, the complaint shall, with respect to each act or omission alleged to violate this title, specifically allege facts giving rise to a strong inference that the defendant acted with the required state of mind.

"(2) STRONG INFERENCE OF FRAUDULENT INTENT.—For purposes of paragraph (1), a strong inference that the defendant acted with the required state of mind may be established either—

"(A) by alleging facts to show that the defendant had both motive and opportunity to commit fraud; or

"(B) by alleging facts that constitute strong circumstantial evidence of conscious misbehavior or recklessness by the defendant.

Mr. SPECTER. Mr. President, I thank the clerk. I sense that the clerk was surprised I had not asked unanimous consent and permitted the clerk to read the amendment. But I did so just for a change of scene on C–SPAN2. Since there is nobody here to argue with me, at least let there be some break in the action. The formulation of the amendment by my distinguished chief counsel, Richard Hertling, was as clear and succinct as I could have articulated it.

Mr. President, this again involves a question which might be viewed as being esoteric and legalistic unless you are someone who has lost money in the stock market and seek to make a recovery, unless you are one of the people who has participated in the stock transactions in excess of $3.5 trillion or have been among those who have bought stock in the market, more than $54 billion worth in 1993, the most recent year available for statistical summary. And what this amendment seeks to do, Mr. President, is to amplify the language of the bill which imposes a very difficult pleading burden on the plaintiff. Let me take just a moment or two to say what goes on in a lawsuit.

When somebody loses money because they bought stock where there has been a misrepresentation, and that person goes to a lawyer, they may have a relatively small amount of stock, say $1,000 worth, or $10,000 worth, or even $100,000 worth. That is not a sufficient sum to be able to carry forward litigation which is very, very costly on all sides, so class actions are authorized under the rules of civil procedure where many plaintiffs can join together and there is a sufficient sum so that the lawsuit can be brought forward.

Then the lawyer—and I have been on both sides, filing complaints and filing motions to dismiss—has to prepare a complaint, and the complaint involves allegations. An allegation is a statement of what the party represents happened. And then there is an answer filed by the defendant or the defendant may file what is called a motion to dismiss, if the defendant makes the representation that even assuming everything in the complaint is true, there is not a sufficient statement to constitute a claim for relief under the Federal rules, to warrant a recovery.

When these rules of civil procedure were formulated back in the 1930's, and I had the good fortune in law school to have the distinguished author of the Federal Rules of Civil Procedure, Charles E. Clark, the former dean of Yale Law School who was then a judge on the Court of Appeals for the Second Circuit and came to the law school to instruct us law students—there was done what was called notice pleading so that there did not have to be any elaborate statement as to what the case was about. It could be very simple. There was a case called Jabari versus Durning, if my recollection is correct, where a person just scribbled some notes on a piece of paper, went to the clerk's office and filed it.

And the effort was made at that time to have a notice pleading, contrasted with a common law pleading under Chitty where the averments had to be very, very specific. If he did not say it exactly right, you were thrown out of court. It was very complicated. And I can recall the early days practicing, going to the prothonotary in the Philadelphia Court of Common Pleas, which draws a smile from my learned colleague who is also a lawyer. There was no way that I could draw the complaint with sufficient specificity to satisfy the clerks, who would take some delight in rejecting legal papers filed by young lawyers. So at any rate, this bill seeks to have a very tough standard for pleading. And I think that it is a good point.

And what the draftsmen have done is gone to the Court of Appeals for the second circuit, and they have drafted a type of pleading requirement which was articulated by the chief judge of the court of appeals by the name of John Newman, who was a classmate of mine in law school and studied at the same one as the distinguished jurist, Charles Clark, the chief judge. And now Judge Newman is chief judge in his place. And this required state of mind provides that:

> In any private action arising under this title, the plaintiff's complaint shall, with respect to each act or omission alleged to violate this title, specifically allege facts giving rise to a strong inference that the defendant acted with the required state of mind.

Now, that is the toughest standard around. And that is fine. We ought to move away from notice pleading and really make the plaintiff state with specificity the state of mind. But when the Court of Appeals for the second circuit handed down this very tough rule, they went just a little farther and said what would give rise to an inference so that there would not be guessing on the part of the plaintiffs. And this is what Judge John Newman, who established this standard in the case of Beck versus Manufacturers Hanover Trust Co., said:

> These factual allegations must give rise to a "strong inference" that the defendants possessed the requisite fraudulent intent.
>
> A common method for establishing a strong inference of scienter is to allege facts showing a motive for committing fraud and a clear opportunity for doing so. Where motive is not apparent, it is still possible to plead scienter by identifying circumstances indicating conscious behavior by the defendant, though the strength of the circumstantial allegations must be correspondingly greater.

Now, what my amendment seeks to do, Mr. President, is to put into the statute the same things that Judge Newman was citing when he posed this very tough standard pleading. Judge Newman and the court said that the strong inference that the defendant acted with the required state of mind may be established either:

> (a) alleging facts to show the defendant had both motive and opportunity to commit fraud, or (b) by alleging facts that constitute strong circumstantial evidence of conscious misbehavior or recklessness by the defendant.

Now, in the committee report, which accompanies this bill, the committee says this:

> The Committee does not adopt a new and untested pleading standard that would generate additional litigation. Instead, the committee chose a uniform standard modeled upon the pleading standard of the second circuit. Regarded as the most stringent pleading standard, the second circuit requires that the plaintiff plead facts that give rise to a "strong inference" of the defendant's fraudulent intent. The committee does not intend to codify the second circuit's caselaw interpreting this pleading standard, although courts may find this body of law instructive.

Now, I am a little bit at a loss—and I know that the distinguished Senator from Utah will have a response at this time, or Senator GRASSLEY will, or the Chair will—as to why the—I am just joking about that because there is nobody here to argue with me about this. And it may create some change in my agreeing to the unanimous consent for 2 minutes tomorrow to discuss this with the managers of the bill.

But the committee does say here that they are not adopting a new and untested pleading standard. They are correct. This is tested by the second circuit. But the second circuit in the whole series of cases has found that the way to make this determination is through these inferences which I have added in this amendment. And the committee does say accurately that this is the most stringent pleading standard around. And then the committee says that it does not intend to "codify the second circuit's caselaw interpreting this pleading standard, although the courts may find this body of law instructive."

Well, if we do not have it the way the second circuit says you plead it, but only saying this is instructive, then this bill allows courts to interpret this tougher pleading standard anyway they choose, and courts may impose some standards which go far beyond what the second circuit and Judge Newman had in mind in imposing this tough pleading standard. And it is one thing for the committee to say that they are not adopting a new and untested pleading standard, but it is only halfway if it does not put into the statute but leaves open the question of how you meet this standard.

I do wish I had the managers here to question them about precisely what they have in mind. And I am going to have to figure out some way, Mr. President, to raise this issue. Maybe I will offer this amendment in another form later so we can have some discussion and debate on it, because there is not really any explanation or any way to respond to or to understand what the committee has done here, because what they have done in essence is say the second circuit has a tough pleading standard; let us take it. But when the second circuit amplifies and says how you meet that standard, the committee says no, no, we are not going to adopt that.

What I am trying the do in this amendment is simply complete the picture and have in the statute this standard so that people know what they are to do on the pleading. Now, I know my colleague from Utah will have a comprehensive reply on this substantive issue.

Mr. BENNETT. Comprehensive is in the eye of the beholder, Mr. President.

Mr. SPECTER. If the Senator will yield for a question?

Can you give me in a beholder's eye what you are about to say is comprehensive?

Mr. BENNETT. I would say——

Mr. SPECTER. I think that question may be even understandable on C-SPAN2.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. The issue did come up. We did discuss it in the committee at some length. And even though I am not a lawyer, I think I did follow the conversation on this one. My understanding—which I think is what the

Senator has said, but I will repeat it so that we have a common basis here—my understanding is that there was concern about different standards and different circumstances. And the committee decided they wanted to codify the standard from the second circuit. Now, the committee intentionally did not provide language to give guidance on exactly what evidence would be sufficient to prove facts giving rise to a strong inference of fraud. They felt that adopting the standard would be sufficient.

Obviously, the Senator from Pennsylvania disagrees with that decision. But the decision was intentional. This is not an inadvertent thing that the committee did. And they felt that with the second circuit standard being written into the bill, it was best to stop at that point and allow the courts then the latitude that would come beyond that point.

Beyond assuring the Senator that this was a deliberate decision within the committee by the drafters of the bill, both staff and members, I probably cannot give him any further enlightened knowledge on this particular subject.

Mr. SPECTER. Mr. President, I thank my distinguished colleague for that response.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. But I must say, I do not understand the logic of what the committee has done when they utilize the second circuit standard which they say is the most stringent standard, and the second circuit is given a road map as to how you meet it.

The legislation might not say this is the only way to meet it, but this is one of the ways to meet it so that when somebody is drafting a pleading, a party has knowledge and notice as to how to go about it. When the committee takes credit here for not adopting a new and untested pleading standard, I give them credit, because it is something which has already been tested. It is not new, but is incomplete if it does not have the second part of what the second circuit said as to how you meet the standard. It simply to me does not follow.

I shall not pursue it because I understand the distinguished Senator from Utah is not the draftsman.

Mr. President, that concludes the argument, and I do not think there is any point at this late hour in keeping the staff here if we are not going to have any reply. So, Mr. President, I yield the floor. If my colleagues are here and intend to make some reply, if they are on the premises, I will wait a reasonable period of time, but only that, in view of the lateness of the hour.

Mr. DORGAN. Mr. President, I rise today to discuss briefly my thoughts about the securities litigation reform bill, S. 240 sponsored by Senators DODD and DOMENICI that is being considered on the Senate floor.

No one disagrees with the goals of S. 240, which are to help pull the plug on frivolous and unmeritorious securities fraud lawsuits and to secure greater protections for those innocent victims in fraud litigation. But regrettably this bill, as it is currently drafted, will make it more difficult for innocent fraud victims to bring legitimate fraud cases. It also limits their ability to recover all of their losses from fraud perpetrators in those cases that they win. For these reasons, I intend to vote no.

Some of the provisions in the bill are long overdue. The bill would limit unreasonable attorney's fees in securities fraud cases. It also prohibits bonus payments and referral fees which may create an incentive to file frivolous cases. Moreover, it requires lawyers to provide all plaintiffs with more information about the nature of a proposed settlement in class action cases—including a statement about the reasons for settlement, about an investor's average share of the award and the amount of the attorney's fees and costs. I support all of these provisions.

But other provisions in the bill could effectively shield from liability those perpetrators who knowingly mislead or defraud investors. And if there is one thing that the investors of this country have a right to expect, it is that those who commit fraud or those who substantially assist in fraud get punished and that they are forced to return their ill-gotten gains to honest victims of their misdeeds.

In the 1980's, a flood of S&L executives openly flouted the law and the trust of their investors and depositors. Some of them lived like maharajahs while building monuments of worthless paper. This charade perpetrated by these swindlers contributed to a bailout of the industry that is costing the taxpayers of America as much as $500 billion to clean up. Innocent investors were bilked out of tens of billions of dollars and their ability to recover their losses has been limited.

Congress enacted tough legislation to ensure that this debacle will not happen again. I recall legislation that I offered, which passed Congress, prohibiting S&L's from investing in risky junk bonds and requiring them to divest the ones they already own. Some S&L's were actually selling worthless junk bonds to investors out of their lobbies. It never should have happened. But still many unwary investors lost a bundle on junk bonds offered by these deceptive fast-buck artists before Congress acted to stop this activity.

We ought to pass tough, reformed-minded securities legislation that stops the abusive legal cases that are filed to simply line the financial pockets of unscrupulous lawyers and professional plaintiffs. The companies that are the targets of such lawsuits are rightfully concerned about frivolous lawsuits. Meritless cases unnecessarily divert the much-needed resources and attention of firm personnel to defending these cases rather than allowing the companies to focus on product improvement and on their global competitors.

But I think that S. 240 as drafted goes too far toward immunizing those who are guilty of securities violations from liability. The provisions that shield these wrongdoers in securities fraud cases from liability are unfair to the innocent victims of fraud. And it sends the wrong message to our securities market that fraudulent behavior will be tolerated, if not sanctioned.

We must not insulate the white collar crowd who would exploit unwary investors for their own personal gains. Those responsible for the S&L scandal and those responsible for fraud in the future should pay. That's why I will vote against S. 240, unless it is substantially improved before the Senate votes on final passage.

Mr. HATFIELD. Mr. President, the Private Securities Litigation Reform Act of 1995, of which I am a cosponsor, is not about aiding perpetrators of fraud in the financial markets or hurting small investors. This legislation is about curtailing the abuses in this country's securities litigation system and empowering defrauded investors with greater control over the class action process. This legislation would restore fairness and integrity to our securities litigation system.

This legislation assists small investors by requiring lawyers to provide greater disclosure of settlement terms, including reasons why plaintiffs should accept a settlement. This is a common sense approach which is often lacking under the current system. This legislation also incorporates public auditor disclosure language. S. 240 requires that independent public accountants report to their client's management any illegal act found during the course of an audit. If the management of the company or the board of directors fail to notify the Securities and Exchange Committee of the illegal act, the auditor is required to inform the SEC or face civil penalties. This is needed reform which assists all investors who rely on accountants to act in an independent manner on their behalf.

I would like to close my statement on the Private Securities Litigation Reform Act of 1995 by highlighting some statistics from an article in today's issue of the Wall Street Journal. The article notes that the net legal costs of accounting firms has increased from 8 percent of their total revenue in 1990 to 12 percent of revenue in 1993. That is a 50 percent increase in net legal costs in just 3 years. In one of the cases cited in the article, it notes that an accounting firm spent $7 million defending itself in a case where the jury ruled in the accounting firms favor. That is $7 million spent just to prove that the firm was innocent. As these statistics show, common sense should be reintroduced to our securities litigation system, and this legislation does just that. Common sense benefits all parties in the securities litigation system, especially investors, which is fundamental to this legislation.

Ms. MIKULSKI. Mr. President, I rise today to speak in support of the Securities Litigation Reform Act. I like this bill for three reasons: It stops the bounty hunters, it puts people who have lost money in charge, and it penalizes people who commit fraud.

Mr. President, we are finally moving on this issue. We've moved beyond discussing whether or not there is a problem—to discussing exactly what reforms are needed.

Here is what I think. First, let us stop the bounty hunters. This bill says that lawyers can't shop around for clients. I mean—a lawyer will not be able to pay a commission to someone else to find them a client.

I have heard of instances where lawyers seek out clients just so they can have cases to litigate.

Second, I think the people who lose the most money should have the most to say. By that I mean—with this bill the court will be able to pick one person—who has lost a lot of money in a class action suit—to be the leader. This way the system works for investors instead of against them.

Third, Mr. President, I am all for ending fraud and protecting businesses that are just trying to create jobs. This bill will not apply to people who knowingly cheat investors.

I have talked to several investors and I have heard from the people of Maryland on this issue. Accountants tell me that some attorneys pay stockbrokers, and others, in return for information about possible lawsuits and possible clients. That is unacceptable. Courts are for protecting the rights of people and promoting fairness, not for frivolous lawsuits.

Companies are hit with higher insurance costs, time in court and are generally distracted from the mission of creating jobs. Lawsuits mean that companies are reluctant to provide the kind of public information that can benefit investors.

In Maryland, high-technology companies are hit the most by this problem. That means these unnecessary lawsuits are costing Maryland citizens—lost jobs and lost opportunities.

Mr. President, this is not about protecting some "savings and loan con artist" as the ads say. This bill is about saving jobs and keeping the courthouse doors open to those who really need to get inside.

I support this bill because I believe it will create jobs. We needs investors. We need new companies. We need new jobs. But we will not have any new jobs if companies cannot invest or ask people to invest in their future.

Mr. President, this legislation is long overdue. I am pleased this day has come, and I am pleased that this reform has overwhelming bipartisan support.

It is time we look at liability issues and liability reform not on a partisan basis but on an American basis. It is in the best interest of business and it is in the best interest of the consumers. We can do both, because this bill does both.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 6 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I thank the Chair.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 974 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1486

(Purpose: To make certain technical amendments, and for other purposes)

Mr. BENNETT. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

The Senator from Utah [Mr. BENNETT], for Mr. D'AMATO, for himself and Mr. SARBANES, proposes an amendment numbered 1486.

Mr. BENNETT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 84, line 11, strike ", if" and insert "in which".

On page 111, beginning on line 2, strike "during the pendency of any motion to dismiss,".

On page 111, line 4, insert "during the pendency of any motion to dismiss," after "stayed".

On page 114, line 13, strike "has been,".

On page 114, strike line 15 and insert the following: "made—

"(i) was convicted of any felony or misdemeanor".

On page 114, strike line 17 and insert the following: "15(b)(4)(B); or

"(ii) has been made the subject of a ju-".

On page 114, line 20, strike "(i) prohibits" and insert the following:

"(I) prohibits".

On page 115, line 1, strike "(ii) requires" and insert the following:

"(II) requires".

On page 115, line 4, strike "(iii) determines" and insert the following:

"(III) determines".

On page 116, between lines 11 and 12, insert the following:

"(D) made in connection with an initial public offering;

On page 116, line 12, strike "(D)" and insert "(E)".

On page 116, line 17, strike "(E)" and insert "(F)".

On page 118, line 13, before the period insert "that are not compensated through final adjudication or settlement of a private action brought under this title arising from the same violation".

On page 121, line 7, strike "has been,".

On page 121, strike line 9, and insert the following: "made—

"(i) was convicted of any felony or misdemeanor".

On page 121, strike line 11 and insert the following: "15(b)(4)(B); or

"(ii) has been made the subject of a ju-".

On page 121, line 14, strike "(i) prohibits" and insert the following:

"(I) prohibits".

On page 121, line 16, strike "(ii) requires" and insert the following:

"(II) requires".

On page 121, line 19, strike "(iii) determines" and insert the following:

"(III) determines".

On page 122, between lines 20 and 21, insert the following:

"(D) made in connection with an initial public offering;

On page 122, line 21, strike "(D)" and insert "(E)".

On page 123, line 1, strike "(E)" and insert "(F)".

On page 124, line 21, insert before the period "that are not compensated through final adjudication or settlement of a private action brought under this title arising from the same violation".

On page 128, line 25, strike "the liability of" and insert "if".

On page 128, line 25, strike "offers or sells" and insert "offered or sold".

On page 129, line 1, strike "shall be limited to damages if that person".

On page 129, line 9, strike "and such portion or all of such amount" and insert "then such portion or amount, as the case may be,".

On page 131, lines 19 and 20, strike "that person's degree" and insert "the percentage".

On page 131, line 20, insert "of that person" before the comma.

Mr. BENNETT. Mr. President, I ask unanimous consent that the amendment be agreed to and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

So the amendment (No. 1486) was agreed to.

MORNING BUSINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with Senators permitted to speak therein for up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

IS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, the impression simply will not go away: The existing $4.8 trillion Federal debt is a sort of grotesque parallel to the engerizer bunny that appears and appears and appears on television—the same way that the Federal debt keeps going and going and going—up, of course, always to the added burdens on the American taxpayers.

So many politicians talk a good game—and talk is the operative word—about reducing the Federal deficit and bringing the Federal debt under control.

In any event, Mr. President, as of yesterday, Monday, June 26, at the close of business, the total Federal debt stood—down to the penny—at exactly $4,889,052,929,226.24 or $18,558.93 per man, woman, child on a per capita basis. Res ipsa loquitur.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–1130. A communication from the Secretary of Transportation, transmitting, a draft of proposed legislation entitled "The District of Columbia Emergency Highway Relief Act"; to the Committee on Environment and Public Works.

EC–1131. A communication from the Chairman of the National Labor Relations Board, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1993; to the Committee on the Judiciary.

EC–1132. A communication from the Chief Justice of the Supreme Court, transmitting, pursuant to law, the report of the proceedings of the Judicial Conference; to the Committee on the Judiciary.

EC–1133. A communication from the Board Members of the Railroad Retirement Board, transmitting, pursuant to law, the annual actuarial report for calendar year 1995; to the Committee on Labor and Human Resources.

EC–1134. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Health, United States, 1994"; to the Committee on Labor and Human Resources.

EC–1135. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, a proposal relative to authorized committees of presidential and vice presidential candidates; to the Committee on Rules and Administration.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. McCONNELL:

S. 968. A bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes; to the Committee on Finance.

By Mr. BRADLEY (for himself, Mrs. KASSEBAUM, and Mr. ROCKEFELLER):

S. 969. A bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes; to the Committee on Labor and Human Resources.

By Mrs. HUTCHISON:

S. 970. A bill to authorize the Administrator of General Services to enter into agreements for the construction and improvement of border stations on the United States international borders with Canada and Mexico, and for other purposes; to the Committee on Environment and Public Works.

By Mr. COATS (for himself, Mr. HELMS, Mr. GREGG, and Mr. ASHCROFT):

S. 971. A bill to amend the Public Health Service Act to prohibit governmental discrimination in the training and licensing of health professionals on the basis of the refusal to undergo or provide training in the performance of induced abortions, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. DASCHLE (for himself, Mr. INOUYE, Mr. HARKIN, Mr. HOLLINGS, Mr. BINGAMAN, Mrs. BOXER, and Mr. AKAKA):

S. 972. A bill to amend title XIX of the Social Security Act to provide for medicaid coverage of all certified nurse practitioners and clinical nurse specialists services; to the Committee on Finance.

By Mr. INOUYE:

S. 973. A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of residential ground rents, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY:

S. 974. A bill to prohibit certain acts involving the use of computers in the furtherance of crimes, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LAUTENBERG (for himself and Mr. BRADLEY):

S. Res. 142. A resolution to congratulate the New Jersey Devils for becoming the 1995 NHL champions and thus winning the Stanley Cup; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. McCONNELL:

S. 968. A bill to require the Secretary of the Interior to prohibit the import, export, sale, purchase, and possession of bear viscera or products that contain or claim to contain bear viscera, and for other purposes; to the Committee on Finance.

THE BEAR PROTECTION ACT

Mr. McCONNELL. Mr. President, I introduce the Bear Protection Act. This measure is aimed at controlling poaching of bears such as the American black bear which is found in Kentucky. It addresses several enforcement and jurisdictional loopholes that are caused by a patchwork of State laws. The current inconsistencies enable a wildly profitable underground black market for bear parts to flourish in the United States.

Mr. President, my bill would in no way affect legal hunting of bears. Hunters would still be allowed to keep trophies and furs of bears killed during legal hunts. This measure would only prohibit the sale or barter of the internal organs of the bear which are referred to as bear viscera.

This bill is made necessary because of the booming illegal trade in bear viscera. At least 18 Asian countries are known to participate in the illegal trade in bear parts. Bear viscera are also illegally sold and traded in large urban areas in the United States such as San Francisco, Seattle, Portland, and New York City. These cities serve as primary ports for export shipments of these goods.

Bear parts, such as gall bladders, are used in traditional Asian medicine to treat everything from diabetes to heart disease. Due to the increasing demand for bear viscera, the population of Asian black bears has been totally annihilated over the last few years. This has led poachers to turn to American bears to fill the increasing demand. I, for one, will not stand by and allow our own bear populations to be decimated by poachers.

Mr. President, it is estimated that Kentucky has only 50 to 100 black bears remaining in the wild. Black bears once roamed free across the Appalachian mountains, through the rolling hills of the bluegrass, all the way to the Mississippi river. Although we cannot restore the numbers we once had, we can insure that the remaining bears are not sold for profit to the highest bidder.

Poaching has become an astoundingly profitable enterprise. It is estimated that over 40,000 bears are poached in the United States every year. That equals the number that are taken by legal hunting.

Mr. President, the main reason behind these astounding numbers is greed. In South Korea, bear gall bladders are worth their weight in gold, and an average bear gall bladder can bring as high as $10,000 on the black market.

Currently, U.S. law enforcement officials have little power to address the poaching of bears and the sale of their parts in an effective manner. The Department of the Interior has neither the manpower nor the budget to test all bear parts sold legally in the United States. Without extensive testing, law enforcement officials cannot determine if gall bladders or other parts have from threatened or endangered species. This problem perpetuates the poaching of endangered or threatened bears.

The Bear Protection Act will establish national guidelines for trade in bear parts, but it will not weaken any existing State laws that have been instituted to deal with this issue. My bill will also instruct the Secretary of the Interior and the U.S. Trade Representative to establish a dialog with the appropriate countries to coordinate efforts aimed at curtailing the international bear trade.

Mr. President, this measure is crafted narrowly enough to deal with the poaching of the American black bear for profit, while still ensuring the rights of American sportsmen. I urge my colleagues to join me in support of this much-needed legislation.

Mr. President, I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bear Protection Act".

SEC. 2. DEFINITION OF BEAR VISCERA.

In this Act, the term "bear viscera" means the body fluids or internal organs (including the gallbladder) of a species of bear.

SEC. 3. PROHIBITED ACTS.

The Secretary of the Interior shall prohibit—

(1) the import into the United States, or export from the United States, of bear viscera or products that contain or claim to contain bear viscera; and

(2) the sale, barter, offer of sale or barter, purchase, or possession with intent to sell or barter, in interstate or foreign commerce, of bear viscera or products that contain or claim to contain bear viscera.

SEC. 4. REPORT BY SECRETARY OF THE INTERIOR.

Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of the Treasury, shall prepare and submit to Congress a report that describes—

(1) how to improve the effectiveness of the wildlife monitoring and inspection program of the Department of the Interior (including the computerized information system or any other system of the United States Fish and Wildlife Service or the United States Customs Service that records data) with respect to the importation or exportation of bear viscera and other bear and other wildlife body parts to and from the United States; and

(2) any plans of the United States Fish and Wildlife Service to monitor the illegal movement of, or commercial activity in, bear viscera or other bear body parts.

SEC. 5. DISCUSSIONS CONCERNING TRADE PRACTICES.

The United States Trade Representative and the Secretary of the Interior shall—

(1) discuss issues involving trade in bear viscera with the appropriate representatives of such countries trading with the United States as are determined jointly by the Secretary of Commerce and the Secretary of the Interior to be the leading importers, exporters, or consumers of bear viscera; and

(2) attempt to establish coordinated efforts with the countries to protect bears.

SEC. 6. RELATIONSHIP TO STATE LAW.

Nothing in this Act precludes the regulation under State law of the sale, barter, offer of sale or barter, purchase, or possession with intent to sell or barter, of bear viscera or products that contain or claim to contain bear viscera, if the regulation—

(1) does not authorize any sale, barter, offer of sale or barter, purchase, or possession with intent to sell or barter, of bear viscera or products that contain or claim to contain bear viscera, that is prohibited under this Act; and

(2) is consistent with the international obligations of the United States.•

By Mr. BRADLEY (for himself, Mrs. KASSEBAUM, and Mr. ROCKEFELLER):

S. 969. A bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes; to the Committee on Labor and Human Resources.

THE NEWBORNS' AND MOTHERS' HEALTH PROTECTION ACT

Mr. BRADLEY. Mr. President, I rise today with Senator KASSEBAUM, the distinguished chairwoman of the Labor and Human Resources Committee and Mr. ROCKEFELLER, to introduce legislation which seeks to ensure that newborn babies and their mothers receive adequate health care in the critical first few days following birth.

Mr. President, we all know that the first few days after birth are a critical and challenging time for both the infant and the mother. At this crucial stage in life, infants and their mothers truly need the support of health care providers. Yet, more and more families are finding their access to health providers at this time is being limited severely.

I say this because it is becoming common practice for health insurers to require that new mothers and their infants be discharged from the hospital 24 hours after an uncomplicated vaginal delivery, and 72 hours after a cesarean section. In some parts of the country, the hospital stay for a normal delivery is being reduced to 12 hours, and there is even talk of cutting it back to 6 hours. And in many cases, the mother and infant receive no professional follow-up care at home. The American Medical Association has dubbled these practices "drive-through deliveries."

Drive-through deliveries are not simply a matter of sending home mothers who are often exhausted and still in pain, and who may not have adequate social supports at home. They can also pose severe health risks for both the infant and the mother. National medical organizations, including the American Academy of Pediatrics, the American Medical Association, and the American College of Obstetricians and Gynecologists, have all stated that the trend toward shorter hospital stays is placing the health of many newborns and mothers at risk.

There are several reasons why they state this: First, numerous health problems faced by newborns, such as dehydration and jaundice, do not appear until after the first 24 hours of life. Since many of these illnesses can only be detected by health professionals, early hospital discharge can cause these conditions to go undetected, leading to brain damage, strokes, or even death.

Second, the mother can also develop many serious health problems, including pelvic infections, breast infections, and hemorrhaging.

Third, a 24-hour stay does not provide sufficient opportunity for the mother to be taught basic infant-care skills such as breastfeeding. This, combined with the fact that many mothers are simply too exhausted to care for their child 24 hours after delivery, often leads to newborns receiving inadequate care and nourishment during their crucial first few days of life.

Let me assure you that these concerns are not just theoretical. A range of anecdotal and scientific evidence indicates that these problems are real, and growing. A researcher at Dartmouth's medical school recently concluded that newborns discharged less than 2 days after birth are more likely to be readmitted for jaundice, malnutrition, and other problems. Physicians across the country have noted a resurgence in the number of jaundiced babies they are treating. And newspapers across the country in recent weeks have relayed devastating stories about how local mothers and infants have been affected by these policies.

Our bill seeks to counteract these negative effects of premature discharges by ensuring that newborns and mothers receive adequate care during those critical first days. It does this by requiring health insurers to allow new mothers and their infants to remain in the hospital for a minimum of 48 hours after a normal birth and 96 hours after a caesarean section. Shorter hospital stays are permitted provided that neither the mother nor the attending physician object, and that follow-up home health care is provided for the mother and infant.

To those who would argue that a 48-hour stay is longer than is medically necessary, I would like to point out that this is a significantly shorter time than medical experts recommend for uncomplicated deliveries. In their guidelines for caring for newborns and mothers, the American College of Obstetricians and Gynecologists [ACOG] and the American Academy of Pediatrics recommend stays of 48 hours for uncomplicated vaginal birth, and 96 hours following a caesarean birth—in addition to the day of delivery. ACOG has also pointed out that there is inadequate evidence to prove that early discharge is safe, and therefore that the recent trend toward shorter stays "could be the equivalent of a large, uncontrolled, uninformed experiment" on newborns and their mothers.

A 48-hour minimum stay is also consistent with steps being considered by some States. For example, our bill is very similar to one which recently was passed unanimously by the New Jersey Legislature, and which should soon be signed into law. Maryland has also recently passed a law dealing with early discharges, and similar measures are being considered in New York and California.

Mr. President, insurers may argue that they will pay for stays beyond 24 hours if there is a valid medical reason. However, many physicians have told me—off the record—that it is very difficult to convince insurers to grant an extension, no matter how valid the reason. They also state that the final decision is often made by someone with no experience in obstetrics. Finally, they state that many doctors are under financial pressures to avoid having patients stay beyond the 24-hour limit, so they are faced with a real quandary when a patient needs an extension. A recent report by Maryland's Department of Health and Mental Hygiene raises further concerns about what is considered a valid medical reason. This report found that among babies who were born prematurely, who were not fully developed, or who were diagnosed with a significant problem, about 22 percent were discharged from the hospital within 24 hours of birth. This study was based on data from 1992. I can only assume that the situation has gotten worse in the 3 years since.

Mr. President, there is no greater advocate for controlling health care costs than this Senator. And I am impressed by some health insurers' success in slowing health inflation by reducing unnecessary care. At the same time, I also recognize that there is a very fine line between eliminating unnecessary care and reducing access to care which truly is needed. And when we end up on the wrong side of that line—as I think is happening in the case of newborns and their mothers—I believe it is both appropriate and necessary for us to take steps to protect the health of the American public. Concerns about controlling costs are justified, but they must not be allowed to outweigh concerns about doing what is best for patients. And let us not forget, Mr. President, that discharging mothers and newborns early creates its own costs, the cost to insurers of treating patients for conditions which could have been prevented or lessened if caught earlier, and the costs to the individual and society when a child suffers brain damage or other permanent disabilities because they did not receive adequate early care.

Mr. President, America's newborns deserve a better welcome to the world than they are getting under the present system. Their mothers also deserve better. It is very important that health care costs be controlled, but the ultimate decision about health care must be based on medical factors, not financial ones.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 969

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "New Borns' and Mothers' Health Protection Act of 1995".

SEC. 2. REQUIRED COVERAGE FOR MINIMUM HOSPITAL STAY FOLLOWING BIRTH.

(a) IN GENERAL.—A health plan that provides maternity benefits, including benefits for child birth, shall ensure that coverage is provided for a minimum of 48 hours of in-patient care following a vaginal delivery and a minimum of 96 hours of in-patient care following a caesarean section for a mother and her newly born child in a health care facility.

(b) EXCEPTION.—

(1) IN GENERAL.—Notwithstanding subsection (a), a health plan that provides coverage for post-delivery care provided to a mother and her newly born child in the home shall not be required to provide coverage of in-patient care under subsection (a) unless such in-patient care is determined to be medically necessary by the attending physician or is requested by the mother.

(2) ATTENDING PHYSICIAN.—For purposes of paragraph (1), the term "attending physician" shall include the obstetrician, pediatrician, or other physician attending the mother or newly born child.

(c) PROHIBITION.—In implementing the requirements of this section, a health plan may not modify the terms and conditions of coverage based on the determination by an enrollee to request less than the minimum coverage required under subsection (a).

(d) NOTICE.—A health plan shall provide notice to each enrollee under such plan regarding the coverage required by this section in accordance with regulations promulgated by the Secretary of Health and Human Services, in consultation with the National Association of Insurance Commissioners. Such notice shall be in writing and prominently positioned in any literature or correspondence made available or distributed by the health plan and shall be transmitted—

(1) in the next mailing made by the plan to the employee;

(2) as part of the yearly informational packet sent to the enrollee; or

(3) not later than January 1, 1996;

whichever is earlier.

(e) HEALTH PLAN.—

(1) IN GENERAL.—As used in this Act, the term "health plan" means any plan or arrangement which provides, or pays the cost of, health benefits.

(2) EXCLUSIONS.—Such term does not include the following, or any combination thereof:

(A) Coverage only for accidental death or dismemberment.

(B) Coverage providing wages or payments in lieu of wages for any period during which the employee is absent from work on account of sickness or injury.

(C) A medicare supplemental policy (as defined in section 1882(g)(1) of the Social Security Act).

(D) Coverage issued as a supplement to liability insurance.

(E) Worker's compensation or similar insurance.

(F) Automobile medical-payment insurance.

(G) A long-term care policy, including a nursing home fixed indemnity policy (unless the Secretary determines that such a policy provides sufficiently comprehensive coverage of a benefit so that it should be treated as a health plan).

(H) Such other plan or arrangement as the Secretary of Health and Human Services determines is not a health plan.

(3) CERTAIN PLANS INCLUDED.—Such term includes any plan or arrangement not described in any subparagraph of paragraph (2) which provides for benefit payments, on a periodic basis, for—

(A) a specified disease or illness, or

(B) period of hospitalization,

without regard to the costs incurred or services rendered during the period to which the payments relate.

SEC. 3. EFFECTIVE DATE.

The provisions of section 2 shall apply to all health plans offered, sold, issued, or renewed after the date of enactment of this Act.

• Mrs. KASSEBAUM. Mr. President, I join today with my colleague from New Jersey, Senator BRADLEY, in introducing the Newborns' and Mothers' Health Protection Act of 1995.

This legislation seeks to ensure that adequate care is provided to mothers and newborns in the critical first few days following birth. Modeled after legislation recently considered in Maryland and passed unanimously by the New Jersey Legislature, it requires health insurers to allow new mothers and their infants to remain in the hospital for a minimum of 48 hours after a normal birth, and 96 hours after a cesarean delivery. If the mother and the doctor agree, shorter hospital stays are permitted, provided that there is a follow-up visit.

"Guidelines for Perinatal Care" issued by the American Academy of Pediatrics [AAP] and the American College of Obstetricians and Gynecologists [ACOG] state that in uncomplicated deliveries the postpartum hospital stay should range from 48 hours for vaginal births to 96 hours for cesarean sections, exclusive of the day of delivery.

However, as hospitalization costs continue to climb, it has become increasingly common for health insurers to require that new mothers and their babies be discharged from the hospital 24 hours after birth. In some parts of the country, hospital stays for a routine delivery can be as short as 12 hours.

The American Medical Association [AMA], ACOG, and the Academy of Pediatrics all have stated that the trend toward shorter hospital stays is placing the health of newborns and their mothers at risk.

Early hospital discharges have caused conditions such as jaundice—that do not appear until after the first 24 hours of life and which may lead to brain damage—to go undetected.

A 24-hour stay is often too short for new mothers to be taught basic infant care skills, such as breastfeeding. And many mothers are not physically capable of providing for a newborn's needs 24 hours after giving birth. This can lead to inadequate nourishment during a child's crucial first few days of life.

Mr. President, I must say that I have agreed to cosponsor this legislation with some reservation. I generally view any effort to influence private contracting arrangements with great skepticism. However, I view this situation as limited and unique. What is at stake here is not merely an impediment to the traditional doctor-patient relationship, but instead the health and safety of millions of America's children.

My primary concern is that the most recent trend toward shorter hospital stays appears to be motivated primarily by financial considerations—instead of sound medicine.

In calling for a moratorium on shorter hospital stays last week, ACOG stated that:

> The routine imposition of a short and arbitrary time limit on hospital stays that does not take maternal and infant need into account could be equivalent to a large, uncontrolled, uninformed experiment that may potentially affect the health of American women and their babies.

Like ACOG, I fear that insurers may be acting prematurely, without sufficient information about the long-term health implications of shorter hospital stays. As more conclusive data becomes available, I would be open to revisiting this issue. Until then, I believe we should proceed with caution.

I strongly believe that decisions regarding early discharge must be individualized and should place primary emphasis on the health of a mother and her child. I believe that the legislation we are introducing today will help restore that perspective to this important decision.•

By Mr. COATS (for himself, Mr. GREGG, Mr. HELMS, and Mr. ASHCROFT):

S. 971. A bill to amend the Public Health Service Act to prohibit governmental discrimination in the training and licensing of health professionals on the basis of the refusal to undergo or provide training in the performance of induced abortions, and for other purposes; to the Committee on Labor and Human Resources.

THE MEDICAL TRAINING NONDISCRIMINATION ACT OF 1995

• Mr. COATS. Mr. President, I introduce the Medical Training Nondiscrimination Act of 1995. This bill would prevent any State or Federal Government from discriminating against a health care provider because that provider does not perform induced abortions or train its ob-gyn residents to perform induced abortions.

It is, quite frankly, disturbing to me that this legislation is even necessary. I would venture that few of my colleagues could believe that our society is anywhere near to condoning a requirement that any person or any hospital be required to perform abortions or offer training in abortions.

Indeed, as it stands now, our proud tradition of tolerance toward those who abhor abortion and any participation in that act, has generally protected hospitals from having to provide or train abortions. In fact, only 12 percent of hospitals now require training in induced abortion. A third more do not offer any such training and the rest offer it only as an option. Of course, those programs still are required to train residents to manage medical and surgical complications of pregnancy. And that includes training procedures than might in the case save the life of the mother, as well as training D and C procedures involving preborn children that died as a result of a spontaneous abortion, miscarriage, or stillbirth.

But all this will change now that the Accreditation Council for Graduate Medical Education [ACGME] has voted to require all hospitals to train or arrange for training in induced abortion. The press has indicated that training in late-term, second-trimester abortions would be required. The ACGME has proposed to make exceptions only in the case of an institution that can formulate a cohesive, institutional objection based on religious or moral principles.

What is particularly shocking is that the Federal Government not only condones this compulsion but actually punishes those who do not submit. Here's how: Failure to do the abortion training could result in loss of accreditation by the ACGME. Loss of accreditation would result in loss of Federal funding. For example, Medicare will not reimburse the Part A costs of intern and resident services if the teaching program is not accredited. Further, ob-gyn residents in a program not accredited by the ACGME are ineligible for deferral of repayment on Federal Health Education Assistance Loans [HEAL]. The HEAL loan program is reauthorized in S. 555, now before the Senate.

Why the change in the standards? Internal correspondence with the ACGME panel suggests that the policy change was motivated by concern over the declining number of doctors willing to perform abortions and the need to destigmatize abortion providers. This concern over the stigmatization of abortion providers was dramatically characterized during the debate on the Foster nomination when one "pro-choice" Senator demanded an apology from another pro-life Senator who had "defamed" Dr. Foster by calling him an abortionist. Would an apology have been demanded if Dr. Foster had been called a heart surgeon or a podiatrist? No, there remains substantial negative stigma associated with being an abortion provider—stigma that might be eliminated if all obstetricians and gynecologists had to perform abortions as part of their residency training.

The Medical Training Nondiscrimination Act of 1995 would protect the civil rights of health care providers by preventing the Government from discriminating against any health care provider on the basis that it will not perform, train, or undergo training to perform an induced abortion. Discriminatory actions include denial of any benefit, assistance, or license, and the conditioning of such benefit, assistance, or license on the provider's compliance with accredition standards that require the performance, training, or arranging for training of induced abortions. The amendment applies only to State action and does not proscribe a private accrediting body from requiring abortion training.

Providers who choose to offer abortion training, and individuals who seek abortion training, may continue to do so. The amendment does not prevent any program from offering abortion training.

Providers will continue to train the management of complications of induced abortion as well as train to handle situation involving miscarriage and stillbirth or a threat to the life of the mother. The amendment requires no change in the practice of good obstetrics and gynecology.

This legislation has broad bipartisan support. On the House side Congressman HOEKSTRA, LAFALCE, VOLKMER, COBURN, and WELDON have introduced identical language in the House following hearings.

I urge my colleagues to join me and protect the rights of health providers against Federal and State government action that forces them to become involved in training or providing induced abortions against their will.

I ask unanimous consent that the text of the bill be inserted in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medical Training Non-discrimination Act of 1995".

SEC. 2. ESTABLISHMENT OF PROHIBITION AGAINST ABORTION-RELATED DISCRIMINATION IN TRAINING AND LICENSING OF PHYSICIANS.

Part B of title II of the Public Health Service Act (42 U.S.C. 238 et seq.) is amended by adding at the end the following section:

"ABORTION-RELATED DISCRIMINATION IN GOVERNMENTAL ACTIVITIES REGARDING TRAINING AND LICENSING OF PHYSICIANS

"SEC. 245. (a) IN GENERAL.—The Federal Government, and any State that receives Federal financial assistance; may not subject any health care entity to discrimination on the basis that—

"(1) the entity refuses to undergo training in the performance of induced abortions, to provide such training, to perform such abortions, or to provide referrals for such abortions;

"(2) the entity refuses to make arrangements for any of the activities specified in paragraph (1); or

"(3) the entity attends (or attended) a postgraduate physician training program, or any other program of training in the health professions, that does not (or did not) require, provide or arrange for training in the performance of induced abortions, or make arrangements for the provision of such training.

"(b) ACCREDITATION OF POSTGRADUATE PHYSICIAN TRAINING PROGRAMS.—

"(1) IN GENERAL.—With respect to the State government involved, or the Federal Government, restrictions under subsection (a) include the restriction that, in granting a legal status to a health care entity (including a license or certificate), or in providing to the entity financial assistance, a service, or another benefit, the government may not require that the entity be an accredited postgraduate physician training program, or that the entity have completed or be attending such a program, if the applicable standards for accreditation of the program include the standard that the program must require, provide or arrange for training in the performance of induced abortions, or make arrangements for the provision of such training.

"(2) RULE OF CONSTRUCTION.—With respect to subclauses (I) and (II) of section 705(a)(2)(B)(i) (relating to a program of insured loans for training in the health professions), the requirements in such subclauses regarding accredited internship or residency programs are subject to paragraph (1) of this subsection.

"(c) DEFINITIONS.—For purposes of this section:

"(1) The term 'financial assistance', with respect to a government program, includes governmental payments provided as reimbursement for carrying out health-related activities.

"(2) The term 'health care entity' includes an individual physician, a postgraduate physician training program, and a participant in a program of training in the health professions.

"(3) The term 'postgraduate physician training program' includes a residency training program.".●

By Mr. DASCHLE (for himself, Mr. INOUYE, Mr. HARKIN, Mr. HOLLINGS, Mr. BINGAMAN, Mrs. BOXER, and Mr. AKAKA):

S. 972. A bill to amend title XIX of the Social Security Act to provide for Medicaid coverage of all certified nurse practioners and clinical nurse specialists services; to the Committee on Finance.

THE MEDICAID NURSING INCENTIVE ACT OF 1995

Mr. DASCHLE. Mr. President, today I am introducing the Medicaid Nursing Incentive Act of 1995, a bill to provide direct Medicaid reimbursement to nurse practitioners.

The ultimate goal of this proposal is to enhance the availability of cost-effective primary care to our Nation's most needy citizens.

Studies have documented the fact that millions of Americans each year do without the health care services they need, because physicians simply are not available to care for them. This problem plagues rural and urban areas alike, in parts of the country as diverse as south central Los Angeles and Lemmon, SD.

Medicaid beneficiaries are particularly vulnerable, since in recent years an increasing number of health professionals have chosen not to care for them or have been unwilling to locate in the inner city and rural communities where they live. Fortunately, there is an exception to this trend: Nurse practitioners frequently accept patients whom others will not treat and serve in areas where others refuse to work.

Studies have shown that nurse practitioners provide care that both patients and cost cutters can praise. Their advanced clinical training enables them to assume responsibility for up to 80 percent of the primary care services usually performed by physicians, many times at a lower cost and with a high level of patient satisfaction.

Congress has already recognized the expanding contributions of nurse practitioners. For more than a decade, CHAMPUS has provided direct payment to nurse practioners. In 1990, Congress mandated direct payment for nurse practitioner services under the Federal employee health benefit plan. Recent legislation has required direct Medicare reimbursement for nurse practitioners practicing in rural areas and direct Medicaid reimbursement for family nurse practitioners.

Mr. President, the ramifications of this issue extend beyond the Medicaid program and its beneficiaries; there is a broader lesson here that applies to our search for ways to make cost-effective, high-quality health care services available and accessible to all of our citizens.

One of the cornerstones of this kind of care is the expansion of primary and preventive care, delivered to individuals in convenient, familiar places where they live, work, and go to school. More than 2 million of our Nation's nurses currently provide care in these sites—in home health agencies, nursing homes, ambulatory care clinics, and schools.

In places like my home State of South Dakota, nurses are often the only health care professionals available in the small towns and rural counties across the State.

These nurses and other nonphysican health professionals play an important role in the delivery of care. And, this role will increase as we move from a system that focuses on the costly treatment of illness to one that emphasizes primary care and health promotion.

But, first we must revaluate outdated attitudes and break down barriers that prevent nurses from using the full range of their training and skills in caring for patients. In 1994, the Pew Health Professions Commission concluded that nurse practitioners are not being fully utilized to deliver primary care services and recommended eliminating fiscal discrimination by paying them directly for the services they provide. This step will help nurse practitioners provide the access to primary care that so many communities currently lack.

Mr. President, I hope my colleagues will support the measure I am introducing today, recognizing the important role that nurse practitioners and other nonphysician health professionals can play in our health care delivery system and the increasing contribution they can make in the future. I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEDICAID COVERAGE OF ALL CERTIFIED NURSE PRACTITIONER AND CLINICAL NURSE SPECIALIST SERVICES.

(a) IN GENERAL.—Section 1905(a)(21) of the Social Security Act (42 U.S.C. 1396d(a)(21)) is amended to read as follows:

"(21) services furnished by a certified nurse practitioner (as defined by the Secretary) or clinical nurse specialist (as defined in subsection (t)) which the certified nurse practitioner or clinical nurse specialist is legally authorized to perform under State law (or the State regulatory mechanism provided by State law), whether or not the certified nurse practitioner or clinical nurse specialist is under the supervision of, or associated with, a physician or other health care provider;"

(b) CLINICAL NURSE SPECIALIST DEFINED.—Section 1905 of such Act (42 U.S.C. 1396d) is amended by adding at the end the following new subsection:

"(t) The term 'clinical nurse specialist' means an individual who—

"(1) is a registered nurse and is licensed to practice nursing in the State in which the clinical nurse specialist services are performed; and

"(2) holds a master's degree in a defined area of clinical nursing from an accredited educational institution.".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective with respect to payments for calendar quarters beginning on or after January 1, 1996.

• Mr. AKAKA. Mr. President, I am pleased to join Senator DASCHLE as a cosponsor of the Medicaid Nursing Incentive Act of 1995. This legislation would provide direct Medicaid reimbursement to nurse practitioners and clinical nurse specialists for services they provide within their scope of practice, regardless of whether these services are performed under the supervision of a physician.

With the current shortage of primary health care services in our Nation, millions of Americans are without essential health services. Medicaid recipients are particularly vulnerable.

By allowing direct Medicaid reimbursement to nurse practitioners and clinical nurse specialists, I believe that this legislation will not only improve access to much needed health care services, but will strengthen our health care delivery system. A number of recent studies have documented the important roles that nurse practitioners and clinical nurse specialists play in providing cost-effective, quality health care services. For example, a December 1986 study by the Office of Technology Assessment detailed the significant contributions nurse practitioners have made in reducing health care costs, improving the quality of care, and increasing the accessibility of services.

I urge my colleagues to support this legislation. It will enhance access to cost-effective, quality care for individuals with limited access to health care services.•

By Mr. INOUYE:

S. 973. A bill to amend the Internal Revenue Code of 1986 to provide for the tax treatment of residential ground rents, and for other purposes; to the Committee on Finance.

THE RESIDENTIAL GROUND RENTS ACT OF 1995

Mr. INOUYE. Mr. President, I rise today to speak on an issue of great importance to Hawaii's leasehold homeowners. In fiscal year 1992, at my request, the Congress appropriated $400,000 to study the feasibility of reforming the Internal Revenue Code to address ground lease rent payments and to determine what role, if any, the Federal Government should play in encouraging lease to fee conversions. The nationwide study was conducted by the Hawaii Real Estate and Research Center.

The legislation I am introducing today is based on the recommendations of this study. The bill would: First, provide a mortgage interest deduction for residential leasehold properties by allowing the nonredeemable ground lease rents to be claimed as an interest deduction; and, second, include a tax credit of up to $5,000 for certain transaction costs on the transfer of certain residential leasehold land for a 5-year period, ending on December 31, 1999. Transaction costs include closing costs, attorneys' fees, surveys, and appraisals, and telephone, office, and travel expenses.

In most private home ownership situations in this country, a homeowner owns both the building and land. Under a leasehold arrangement a homeowner owns the building—single-family home, condominium, or cooperative apartment—on leased land. The research conducted under the leasehold study shows that residential leaseholds are not uncommon in other parts of the United States and elsewhere in the world. Residential leaseholds exist in places such as Baltimore, MD, Irvine, CA, native American lands in Palm Springs, CA, Fairhope, AL, Pearl River Basin, MS, and New York, NY.

The study further indicates that there are few States that regulate residential leaseholds. Of those that do, the most common requirement applies only to condominium or time share units and is one requiring adequate disclosure of the lease terms. For the most part, States are unaware of any leasehold problems in their jurisdictions. However, residential leaseholds have proven to be problematic for the State of Hawaii.

The formation of Hawaii's land tenure system can be traced back to 1778 when British Capt. James Cook made his first contact with the Hawaiian civilization. Leasing was the preferred system to maintain control and retain a portfolio asset value. Residential leaseholds were first developed on the Island of Oahu after World War II. Population increases created a demand for housing and other types of real estate development. Federal income tax policy encouraged the retention of land to avoid payment of large capital gains taxes.

Hawaii's land tenure system is now anomalous to the rest of the United States because of the concentration of land in the hands of government, large charitable trusts, large agriculturally-based companies and owners of small parcels or urban properties.

High land prices and high renegotiated rents continue to create instability in Hawaii's residential leasehold system. In 1967, the Hawaii State legislature enacted a land reform act which did not become effective until the U.S. Supreme Court issued its 1984 decision, Hawaii Housing Authority versus Midkiff. The act and the Supreme Court decision basically divided the market into a "single-family home market in which leaseholds were subject to mandatory conversion, and a leasehold condominium market which did not come within the scope of the law."

Mandatory conversions on the single-family home market occurred from 1979 to 1982, and 1986 to 1990. As of 1992, there are approximately 4,600 single-family homes remaining in residential leaseholds. However, resolution over condominium leasehold reform remains uncertain. In 1990, the Honolulu City Council enacted legislation that would cap lease rent increases. The law was challenged in Federal district court as to its validity and eventually ruled as unconstitutional because the formula it used to arrive at permitted lease rent was irrational.

In 1991, due to the State legislature's unwillingness to address the leasehold problems, the Honolulu City Council again enacted a mandatory leasehold conversion law for leasehold condominiums (Ordinance 01–95). The law is currently being challenged in the Federal courts as to its constitutionality. Another bill which linked lease rent increases with the Consumer Price Index and the level of disposable income available to condominium owners was also considered. This bill, similar to the one enacted in 1990, was found to be unconstitutional.

The uncertainty in the residential leasehold market continues to create emotional distress for the leasehold residents of Hawaii. Voluntary conversion has helped to ease the situation and substantially reduce the stock of leasehold residential units in Hawaii. Yet, voluntary conversion is not enough to resolve the residential leasehold problems.

My legislation will help reduce the economic hardship due to the uncertainty in Hawaii's residential leasehold system. The leasehold study contains an analysis of the tax revenue effects of this legislation by allowing individual tax deductions for residential ground rent. The analysis suggests that there are potential revenues to the Federal Government if this legislation is enacted into law.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 973

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MORTGAGE INTEREST DEDUCTION FOR QUALIFIED NON-REDEEMABLE GROUND RENTS.

(a) In General.—Section 163(c) of the Internal Revenue Code of 1986 is amended to read as follows:

"(c) Ground Rents.—For purposes of this subtitle, any annual or periodic rental under a redeemable ground rent (excluding amounts in redemption thereof) or a qualified non-redeemable ground rent shall be treated as interest on an indebtedness secured by a mortgage."

(b) Treatment of Qualified Non-Redeemable Ground Rents.—

(1) In general.—Subsections (a), (b), and (d) of section 1055 of the Internal Revenue Code of 1986 (relating to redeemable ground rents) are amended by inserting "or qualified non-redeemable" after "redeemable" each place it appears.

(2) Definition.—Section 1055 of such Code is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) Qualified non-redeemable ground rent.—For purposes of this subtitle, the term 'qualified non-redeemable ground rent' means a ground rent with respect to which—

"(1) there is a lease of land which is for a term in excess of 15 years,

"(2) no portion of any payment is allocable to the use of any property other than the land surface,

"(3) the lessor's interest in the land is primarily a security interest to protect the rental payments to which the lessor is entitled under the lease, and

"(4) the leased property must be used as the taxpayer's principal residence (within the meaning of section 1034)."

(3) Conforming amendments.—

(A) The heading for section 1055 of such Code is amended by striking "redeemable".

(B) The item relating to section 1055 in the table of sections for part IV of subchapter O of chapter 1 of subtitle A of such Code is amended by striking "Redeemable ground" and inserting "Ground".

(c) Effective Date.—The amendments made by this section shall take effect on the date of the enactment of this Act, with respect to taxable years ending after such date.

SEC. 2. CREDIT FOR TRANSACTION COSTS ON THE TRANSFER OF LAND SUBJECT TO CERTAIN GROUND RENTS.

(a) In General.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by inserting after section 30 the following new section:

"SEC. 30A. CREDIT FOR TRANSACTION COSTS.

"(a) Allowance of Credit.—

"(1) In general.—At the election of the taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the transaction costs relating to any sale or exchange of land subject to ground rents with respect to which immediately after and for at least 1 year prior to such sale or exchange—

"(A) the transferee is the lessee who owns a dwelling unit on the land being transferred, and

"(B) the transferor is the lessor.

"(2) Credit allowed to both transferor and transferee.—The credit allowed under paragraph (1) shall be allowed to both the transferor and the transferee.

"(b) Limitations.—

"(1) Limitation per dwelling unit.—The amount of the credit allowed to a taxpayer under subsection (a) for any taxable year shall not exceed the lesser of—

"(A) $5,000 per dwelling unit, or

"(B) 10 percent of the sale price of the land.

"(2) Limitation based on taxable income.—The amount of the credit allowed to a taxpayer under subsection (a) for any taxable year shall not exceed the sum of—

"(A) 20 percent of the regular tax for the taxable year reduced by the sum of the credits allowable under subpart A and sections 27, 28, 29, and 30, plus

"(B) the alternative minimum tax imposed by section 55.

"(c) Definitions and Special Rules.—For purposes of this section—

"(1) Transaction costs.—

"(A) In General.—The term 'transaction costs' means any expenditure directly associated with a transaction, the purpose of which is to convey to the lessee, by the lessor, land subject to ground rents.

"(B) Specific expenditures.—Such term includes closing costs, attorney fees, surveys and appraisals, and telephone, office, and travel expenses incurred in negotiations with respect to such transaction.

"(C) Lost rents not included.—Such term does not include lost rents due to the premature termination of an existing lease.

"(2) Dwelling unit.—A dwelling unit shall include any structure or portion of any structure which serves as the principal residence (within the meaning of section 1034) for the lessee.

"(3) Reduction in basis.—The basis of property acquired in a transaction to which this section applies shall be reduced by the amount of credit allowed under subsection (a).

"(4) Election.—This section shall apply to any taxpayer for the taxable year only if such taxpayer elects to have this section so apply.

"(d) Carryover of Credit.—

"(1) Carryover period.—If the credit allowed to the taxpayer under subsection (a) for any taxable year exceeds the amount of the limitation imposed by subsection (b)(2) for such taxable year (hereafter in this subsection referred to as the 'unused credit year'), such excess shall be a carryover to each of the 5 succeeding taxable years.

"(2) Amount carried to each year.—

"(A) Entire amount carried to first year.—The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the 5 taxable years to which (by reason of paragraph (1)) such credit may be carried.

"(B) Amount carried to other 4 years.—The amount of unused credit for the unused credit year shall be carried to each of the remaining 4 taxable years to the extent that such unused credit may not be taken into account for a prior taxable year because of the limitation imposed by subsection (b)(2).

"(e) Termination.—This section shall not apply to any transaction cost paid or incurred in taxable years beginning after December 31, 1999."

(b) Clerical Amendment.—The table of sections for such subpart B is amended by inserting after the item relating to section 30 the following new item:

"Sec. 30A. Credit for transaction costs on the transfer of land subject to certain ground rents."

(c) Effective Date.—The amendments made by this section shall apply to expenditures paid or incurred in taxable years beginning after December 31, 1994.

By Mr. GRASSLEY:

S. 974. A bill to prohibit certain acts involving the use of computers in the furtherance of crimes, and for other purposes; to the Committee on the Judiciary.

THE ANTI-ELECTRONIC RACKETEERING ACT

Mr. GRASSLEY. Mr. President, I rise this evening to introduce the Anti-electronic Racketeering Act of 1995. This bill makes important changes to RICO and criminalizes deliberately using computer technology to engage in criminal activity. I believe this bill is a reasonable, measured and strong response to a growing problem. According to the computer emergency and response team at Carnegie-Mellon University, during 1994, about 40,000 computer users were attacked. Virus hacker, the FBI's national computer crime squad has investigated over 200 cases since 1991. So, computer crime is clearly on the rise.

Mr. President, I suppose that some of this is just natural. Whenever man develops a new technology, that technology will be abused by some. And that is why I have introduced this bill. I believe we need to seriously reconsider the Federal Criminal Code with an eye toward modernizing existing statutes and creating new ones. In other words, Mr. President, Elliot Ness needs to meet the Internet.

Mr. President, I sit on the Board of the Office of Technology Assessment. That Office has clearly indicated that organized crime has entered cyberspace in a big way. International drug cartels use computers to launder drug money and terrorists like the Oklahoma City bombers use computers to conspire to commit crimes.

Computer fraud accounts for the loss of millions of dollars per year. And often times, there is little that can be done about this because the computer used to commit the crimes is located overseas. So, under my bill, overseas computer users who employ their computers to commit fraud in the United States would be fully subject to the Federal criminal laws. Also under my bill, Mr. President, the wire fraud statute which has been successfully used by prosecutors for many users, will be amended to make fraudulent schemes which use computers a crime.

It is not enough to simply modernize the Criminal Code. We also have to reconsider many of the difficult procedural burdens that prosecutors must overcome. For instance, in the typical case, prosecutors must identify a location in order to get a wiretapping order. But in cyberspace, it is often impossible to determine the location. And so my bill corrects that so that if prosecutors cannot, with the exercise of effort, give the court a location, then those prosecutors can still get a wiretapping order. And for law enforcers—both State and Federal—who have seized a computer which contains both contraband or evidence and purely private material, I have created a good-faith standard so that law enforcers are not shackled by undue restrictions but will also be punished for bad faith.

Mr. President, this brave new world of electronic communications and global computer networks holds much promise. But like almost anything, there is the potential for abuse and harm. That is why I urge my colleagues to support this bill and that is why I urge industry to support this bill.

On a final note, I would say that we should not be too scared of technology. After all, we are still just people and right is still right and wrong is still wrong. Some things change and some things do not. All that my bill does is say you can't use computers to steal, to threaten others or conceal criminal conduct.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Electronic Racketeering Act of 1995".

SEC. 2. PROHIBITED ACTIVITIES.

(a) DEFINITIONS.—Section 1961(1) of title 18, United States Code, is amended—

(1) by striking "1343 (relating to wire fraud)" and inserting "1343 (relating to wire and computer fraud)";

(2) by striking "that title" and inserting "this title";

(3) by striking "or (E)" and inserting "(E)"; and

(4) by inserting before the semicolon the following: "or (F) any act that is indictable under section 1030, 1030A, or 1962(d)(2)".

(b) USE OF COMPUTER TO FACILITATE RACKETEERING ENTERPRISE.—Section 1962 of title 18, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) It shall be unlawful for any person—

"(1) to use any computer or computer network in furtherance of a racketeering activity (as defined in section 1961(1)); or

"(2) to damage or threaten to damage electronically or digitally stored data.".

(c) CRIMINAL PENALTIES.—Section 1963(b) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) electronically or digitally stored data.".

(d) CIVIL REMEDIES.—Section 1964(c) of title 18, United States Code, is amended by striking "his property or business".

(e) USE AS EVIDENCE OF INTERCEPTED WIRE OR ORAL COMMUNICATIONS.—Section 2515 of title 18, United States Code, is amended by inserting before the period at the end the following: ", unless the authority in possession of the intercepted communication attempted in good faith to comply with this chapter. If the United States or any State of the United States, or subdivision thereof, possesses a communication intercepted by a nongovernmental actor, without the knowledge of the United States, that State, or that subdivision, the communication may be introduced into evidence".

(f) AUTHORIZATION FOR INTERCEPTION OF WIRE, ORAL, OR ELECTRONIC COMMUNICATIONS.—Section 2516(1) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (n);

(2) by striking the period at the end of paragraph (o) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(p) any violation of section 1962 of title 18.".

(g) PROCEDURES FOR INTERCEPTION.—Section 2518(4)(b) of title 18, United States Code, is amended by inserting before the semicolon the following: "to the extent feasible".

(h) COMPUTER CRIMES.—

(1) NEW PROHIBITED ACTIVITIES.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1030A. Racketeering-related crimes involving computers

"(a) It shall be unlawful—

"(1) to use a computer or computer network to transfer unlicensed computer software, regardless of whether the transfer is performed for economic consideration;

"(2) to distribute computer software that encodes or encrypts electronic or digital communications to computer networks that the person distributing the software knows or reasonably should know, is accessible to foreign nationals and foreign governments, regardless of whether such software has been designated as nonexportable; and

"(3) to use a computer or computer network to transmit a communication intended to conceal or hide the origin of money or other assets, tangible or intangible, that were derived from racketeering activity; and

"(4) to operate a computer or computer network primarily to facilitate racketeering activity or primarily to engage in conduct prohibited by Federal or State law.

"(b) For purposes of this section, each act of distributing software is considered a separate predicate act. Each instance in which nonexportable software is accessed by a foreign government, an agent of a foreign government, a foreign national, or an agent of a foreign national, shall be considered as a separate predicate act.

"(c) It shall be an affirmative defense to prosecution under this section that the software at issue used a universal decoding device or program that was provided to the Department of Justice prior to the distribution.".

(2) CLERICAL AMENDMENT.—The analysis at the beginning of chapter 47, United States Code, is amended by adding at the end the following new item:

"1030A. Racketeering-related crimes involving computers.".

(3) JURISDICTION AND VENUE.—Section 1030 of title 18, United States Code, is amended by adding at the end the following new subsection:

"(g)(1)(A) Any act prohibited by this section that is committed using any computer, computer facility, or computer network that is physically located within the territorial jurisdiction of the United States shall be deemed to have been committed within the territorial jurisdiction of the United States.

"(B) Any action taken in furtherance of an act described in subparagraph (A) shall be deemed to have been committed in the territorial jurisdiction of the United States.

"(2) In any prosecution under this section involving acts deemed to be committed within the territorial jurisdiction of the United States under this subsection, venue shall be proper where the computer, computer facility, or computer network was physically situated at the time at least one of the wrongful acts was committed.".

(i) WIRE AND COMPUTER FRAUD.—Section 1343 of title 18, United States Code, is amended by striking "or television communication" and inserting "television communication, or computer network or facility".

(j) PRIVACY PROTECTION ACT.—Section 101 of the Privacy Protection Act of 1980 (42 U.S.C. 2000aa) is amended—

(1) in subsection (a)—

(A) by striking "or" at the end of paragraph (1);

(B) by striking the period at the end of paragraph (2) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(3) there is reason to believe that the immediate seizure of such materials is necessary to prevent the destruction or altercation of such documents."; and

(2) in subsection (b)—

(A) by striking "or" at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting "; or"; and

(C) by adding at the end the following new paragraph:

"(5) in the case of electronically stored data, the seizure is incidental to an otherwise valid seizure, and the government officer or employee—

"(A) was not aware that work product material was among the data seized;

"(B) upon actual discovery of the existence of work product materials, the government officer or employee took reasonable steps to protect the privacy interests recognized by this section, including—

"(i) using utility software to seek and identify electronically stored data that may be commingled or combined with non-work product material; and

"(ii) upon actual identification of such material, taking reasonable steps to protect the privacy of the material, including seeking a search warrant.".

ADDITIONAL COSPONSORS

S. 256

At the request of Mr. DOLE, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 256, a bill to amend title 10, United States Code, to establish procedures for determining the status of certain missing members of the Armed Forces and certain civilians, and for other purposes.

S. 267

At the request of Mr. STEVENS, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 267, a bill to establish a system of licensing, reporting, and regulation for vessels of the United States fishing on the high seas, and for other purposes.

S. 304

At the request of Mr. SANTORUM, the name of the Senator from Maine [Ms.

SNOWE] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 327

At the request of Mr. HATCH, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 327, a bill to amend the Internal Revenue Code of 1986 to provide clarification for the deductibility of expenses incurred by a taxpayer in connection with the business use of the home.

S. 426

At the request of Mr. SARBANES, the name of the Senator from Illinois [Ms. MOSELEY-BRAUN] was added as a cosponsor of S. 426, a bill to authorize the Alpha Phi Alpha Fraternity to establish a memorial to Martin Luther King, Jr., in the District of Columbia, and for other purposes.

S. 436

At the request of Mr. CAMPBELL, the names of the Senator from Kansas [Mrs. KASSEBAUM] and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 436, a bill to improve the economic conditions and supply of housing in Native American communities by creating the Native American Financial Services Organization, and for other purposes.

S. 448

At the request of Mr. GRASSLEY, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 448, a bill to amend section 118 of the Internal Revenue Code of 1986 to provide for certain exceptions from rules for determining contributions in aid of construction, and for other purposes.

S. 641

At the request of Mrs. KASSEBAUM, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 641, a bill to reauthorize the Ryan White CARE Act of 1990, and for other purposes.

S. 892

At the request of Mr. GRASSLEY, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 892, a bill to amend section 1464 of title 18, United States Code, to punish transmission by computer of indecent material to minors.

S. 955

At the request of Mr. HATCH, the names of the Senator from Wisconsin [Mr. KOHL] and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 955, a bill to clarify the scope of coverage and amount of payment under the medicare program of items and services associated with the use in the furnishing of inpatient hospital services of certain medical devices approved for investigational use.

S. 959

At the request of Mr. HATCH, the name of the Senator from Idaho [Mr. KEMPTHORNE] was added as a cosponsor of S. 959, a bill to amend the Internal Revenue Code of 1986 to encourage capital formation through reductions in taxes on capital gains, and for other purposes.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the name of the Senator from Washington [Mrs. MURRAY] was added as a cosponsor of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

SENATE RESOLUTION 117

At the request of Mr. ROTH, the name of the Senator from Washington [Mr. GORTON] was added as a cosponsor of Senate Resolution 117, a resolution expressing the sense of the Senate that the current Federal income tax deduction for interest paid on debt secured by a first or second home located in the United States should not be further restricted.

SENATE RESOLUTION 142—TO CONGRATULATE THE NEW JERSEY DEVILS

Mr. LAUTENBERG (for himself and Mr. BRADLEY) submitted the following resolution; which was considered and agreed to:

S. RES. 142

Whereas on October 5, 1982, the New Jersey Devils played their first National Hockey League game in New Jersey, embarking on a quest for the Stanley Cup which was satisfied 13 years later;

Whereas the Devils epitomize New Jersey pride with their heart, stamina, and drive and thus have become a part of New Jersey culture;

Whereas the New Jersey Devils won 10 games on the road during the Stanley Cup playoffs, thus demolishing the previous record;

Whereas the Devils have implemented an ingenious system known as the "trap" that was designed by head coach Jacques Lemaire which constantly stifled and frustrated their opponents;

Whereas Conn Smythe trophy winner Claude Lemieux led the league with 13 playoff goals, three of which were game-winners, and goalie Martin Brodeur led the league with a 1.67 goals-against average during the playoffs;

Whereas the New Jersey hockey fans are the best fans in the nation and deserve commendation for helping build the team into championship caliber and for supporting the Devils during their drive for the Stanley Cup;

Whereas the New Jersey Devils during the playoffs beat Boston, Pittsburgh, Philadelphia and in the finals swept the heavily favored Detroit Red Wings in four games giving the state of New Jersey its first-ever championship for a major league team officially bearing the state's name: Now, therefore, be it

Resolved, That the Senate congratulates the New Jersey Devils for their outstanding discipline, determination, emotion, and ingenuity, in winning the 1995 NHL Stanley Cup.

AMENDMENTS SUBMITTED ON JUNE 26, 1995

THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

BRYAN AMENDMENT NO. 1474

Mr. BRYAN proposed an amendment to the bill (S. 240) to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act; as follows:

On page 127, strike line 20 and all that follows through page 128, line 15, and insert the following:

SEC. 108. AUTHORITY OF COMMISSION TO PROSECUTE AIDING AND ABETTING.

(a) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(n) PROSECUTION OF PERSONS WHO AID OR ABET VIOLATIONS.—For purposes of subsections (b) and (d), any person who knowingly or recklessly provides substantial assistance to another person in the violation of a provision of this title, or of any rule or regulation promulgated under this title, shall be deemed to violate such provision to the same extent as the person to whom such assistance is provided. No person shall be liable under this subsection based on an omission or failure to act unless such omission or failure constituted a breach of a duty owed by such person.".

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 20 of the securities exchange Act of 1934 (15 U.S.C. 78t) is amended—

(1) by adding at the end the following new subsection:

"(e) PROSECUTION OF PERSONS WHO AID OR ABET VIOLATIONS.—For purposes of paragraphs (1) and (3) of section 21(d), or an action by a self-regulatory organization, or an express or implied private right of action arising under this title, any person who knowingly or recklessly provides substantial assistance to another person in the violation of a provision of this title, or of any rule or regulation promulgated under this title, shall be deemed to violate such provision and shall be liable to the same extent as the person to whom such assistance is provided. No person shall be liable under this subsection based on an omission or failure to act unless such omission or failure constituted a breach of a duty owed by such person."; and

(2) by striking the section heading and inserting the following:

"SEC. 20. LIABILITY OF CONTROLLING PERSONS AND PERSONS WHO AID OR ABET VIOLATIONS.".

(c) INVESTMENT COMPANY ACT OF 1940.—Section 42 of the Investment Company Act of 1940 (15 U.S.C. 81a-41) is amended by adding at the end the following new subsection:

"(f) PROSECUTION OF PERSONS WHO AID OR ABET VIOLATIONS.—For purposes of subsections (d) and (e), any person who knowingly or recklessly provides substantial assistance to another person in the violation of a provision of this title, or of any rule, regulation, or order promulgated under this title, shall be deemed to violate such provision to the same extent as the person to whom such assistance is provided. No person shall be liable under this subsection based on an omission or failure to act unless such omission or failure constituted a breach of a duty owed by such person.".

(d) INVESTMENT ADVISERS ACT OF 1940.—Section 209(d) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–9) is amended).

(1) in subsection (d)—

(A) by striking "or that any person has aided, abetted, counseled, commanded, induced, or procured, is aiding, abetting, counseling, commanding, inducing, or procuring, or is about to aid, abet, counsel, command, induce, or procure such a violation,"; and

(B) by striking "or in aiding, abetting, counseling, commanding, inducing, or procuring any such act or practice"; and

(2) by adding at the end the following new subsection:

"(f) PROSECUTION OF PERSONS WHO AID OR ABET VIOLATIONS.—For purposes of subsections (d) and (e), any person who knowingly or recklessly provides substantial assistance to another person in the violation of a provision of this title, or of any rule, regulation, or order promulgated under this title, shall be deemed to violate such provision to the same extent as the person to whom such assistance is provided. No person shall be liable under this subsection based on an omission or failure to act unless such omission or failure constituted a breach of duty owed by such person.".

BOXER (AND BINGAMAN) AMENDMENT NO. 1475

Mrs. BOXER (for herself and Mr. BINGAMAN) proposed an amendment to the bill, S. 240, supra; as follows:

On page 98, strike line 3, and all that follows through page 100, line 22, and insert the following:

"(2) APPOINTMENT OF LEAD PLAINTIFF OR PLAINTIFFS.—Not later than 90 days after the date on which a notice is published under subparagraph (A) or (B) of paragraph (1), the court shall determine whether all named plaintiffs acting on behalf of the purported plaintiff class who have moved the court to be appointed to serve as lead plaintiff under paragraph (1)(A)(ii) have unanimously selected a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class, and—

"(A) if so, shall appoint such named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class; or

"(B) if not, after considering all relevant factors, including, but not limited to financial interest in the relief sought, work done to develop and prosecute the case, the quality of the claim, prior experience representing classes, possible conflicting interests, and exposure to unique defenses, shall select and appoint a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class.

"(3) SELECTION OF LEAD COUNSEL.—The lead plaintiff or plaintiffs appointed under paragraph (2) shall, subject to the approval of the court, select and retain counsel to represent the class."

On page 102, strike line 3, and all that follows through page 104, line 22, and insert the following:

"(2) APPOINTMENT OF LEAD PLAINTIFF OR PLAINTIFFS.—Not later than 90 days after the date on which a notice is published under subparagraph (A) or (B) of paragraph (1), the court shall determine whether all named plaintiffs acting on behalf of the purported plaintiff class who have moved the court to be appointed to serve as lead plaintiff under paragraph (1)(A)(ii) have unanimously selected a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class, and—

"(A) if so, shall appoint such named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class; or

"(B) if not, after considering all relevant factors, including, but not limited to financial interest in the relief sought, work done to develop and prosecute the case, the quality of the claim, prior experience representing classes, possible conflicting interests, and exposure to unique defenses, shall select and appoint a named plaintiff or plaintiffs to serve as lead plaintiff or plaintiffs of the purported plaintiff class.

"(3) SELECTION OF LEAD COUNSEL.—The lead plaintiff or plaintiffs appointed under paragraph (2) shall, subject to the approval of the court, select and retain counsel to represent the class.".

AMENDMENTS SUBMITTED ON JUNE 27, 1995

THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995

D'AMATO AMENDMENT NO. 1476

Mr. D'AMATO proposed an amendment to the bill (S. 240) to amend the Securities Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act; as follows:

On page 121, line 1, delete the word "expectation,".

SARBANES (AND LAUTENBERG) AMENDMENT NO. 1477

Mr. SARBANES (for himself and Mr. LAUTENBERG) proposed an amendment to the bill S. 240, supra; as follows:

Beginning on page 112, strike line 1 and all that follows through page 126, line 14, and insert the following:

SEC. 105. SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

(a) CONSIDERATION OF REGULATORY OR LEGISLATIVE CHANGES.—In consultation with investors and issuers of securities, the Securities and Exchange Commission shall consider adopting or amending rules and regulations of the Commission, or making legislative recommendations, concerning—

(1) criteria that the Commission finds appropriate for the protection of investors by which forward-looking statements concerning the future economic performance of an issuer of securities registered under section 12 of the Securities Exchange Act of 1934 will be deemed not be in violation of section 10(b) of that Act; and

(2) procedures by which courts shall timely dismiss claims against such issuers of securities based on such forward-looking statements if such statements are in accordance with any criteria under paragraph (1).

(b) COMMISSION CONSIDERATIONS.—In developing rules or legislative recommendations in accordance with subsection (a), the Commission shall consider—

(1) appropriate limits to liability for forward-looking statements;

(2) procedures for making a summary determination of the applicability of any Commission rule for forward-looking statements early in a judicial proceeding to limit protracted litigation and expansive discovery;

(3) incorporating and reflecting the scienter requirements applicable to implied private actions under section 10(b); and

(4) providing clear guidance to issuers of securities and the judiciary.

(c) SECURITIES EXCHANGE ACT OF 1934.—Title I of the Securities Exchange Act of 1934 (15 U.S.C. 73a et seq.) is amended by inserting after section 13 the following new section:

"SEC. 37. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

"(a) IN GENERAL.—In any implied private action arising under this title that alleges that a forward-looking statement concerning the future economic performance of an issuer registered under section 12 was materially false or misleading, if a party making a motion in accordance with subsection (b) requests a stay of discovery concerning the claims or defenses of that party, the court shall grant such a stay until the court has ruled on the motion.

"(b) SUMMARY JUDGMENT MOTIONS.—Subsection (a) shall apply to any motion for summary judgment made by a defendant asserting that a forward-looking statement was within the coverage of any rule which the Commission may have adopted concerning such predictive statements, if such motion is made not less than 60 days after the plaintiff commences discovery in the action.

"(c) DILATORY CONDUCT; DUPLICATIVE DISCOVERY.—Notwithstanding subsection (a) or (b), the time permitted for a plaintiff to conduct discovery under subsection (b) may be extended, or a stay of the proceedings may be denied, if the court finds that—

"(1) the defendant making a motion described in subsection (b) engaged in dilatory or obstructive conduct in taking or opposing any discovery; or

"(2) a stay of discovery pending a ruling on a motion under subsection (b) would be substantially unfair to the plaintiff or to any other party to the action.".

SARBANES (AND LAUTENBERG) AMENDMENT NO. 1478

Mr. SARBANES (for himself and Mr. LAUTENBERG) proposed an amendment to the bill S. 240, supra; as follows:

On page 114, strike lines 7 and 8, and insert the following:

"(1) made with the actual knowledge that it was false or misleading;

On page 121, strike lines 1 and 2, and insert the following:

"(1) made with the actual knowledge that it was false or misleading;

GRAHAM AMENDMENT NO. 1479

Mr. GRAHAM proposed an amendment to the bill S. 240, supra; as follows:

On page 104, after line 22, insert the following:

(c) EARLY EVALUATION PROCEDURES.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(j) EARLY EVALUATION PROCEDURES IN CLASS ACTIONS.—

"(1) IN GENERAL.—In a private action arising under this title that is filed as a class action pursuant to the Federal Rules of Civil Procedure, if the class representatives and each of the other parties to the action agree and any party so requests, or if the court upon motion of any party so decides, not later than 60 days after the filing of the class action, the court shall order an early evaluation procedure. The period of the early evaluation procedure shall not extend beyond 150 days after the filing of the first complaint subject to the procedure.

"(2) REQUIREMENTS.—During the early evaluation procedure described under paragraph (1)—

"(A) defendants shall not be required to answer or otherwise respond to any complaint;

"(B) plaintiffs may file a consolidated or amended complaint at any time and may dismiss the action or actions at any time without sanction;

"(C) unless otherwise ordered by the court, no formal discovery shall occur, except that parties may propound discovery requests to third parties to preserve evidence;

"(D) the parties shall evaluate the merits of the action under the supervision of a person (hereafter in this section referred to as the 'mediator') agreed upon by them or designated by the court in the absence of agreement, which person may be another district court judge, any magistrate-judge or a special master, each side having one peremptory challenge of a mediator designated by the court by filing a written notice of challenge not later than 5 days after receipt of an order designating the mediator;

"(E) the parties shall promptly provide access to or exchange all nonprivileged documents relating to the allegations in the complaint or complaints, and any documents withheld on the grounds of privilege shall be sufficiently identified so as to permit the mediator to determine if they are, in fact, privileged; and

"(F) the parties shall exchange damage studies and such other expert reports as may be helpful to an evaluation of the action on the merits, which materials shall be treated as prepared and used in the context of settlement negotiations.

"(3) FAILURE TO PRODUCE DOCUMENTS.—Any party that fails to produce documents relevant to the allegations of the complaint or complaints during the early evaluation procedure described in paragraph (1) may be sanctioned by the court pursuant to the Federal Rules of Civil Procedure. Notwithstanding paragraph (2), subject to review by the court, the mediator may order the production of evidence by any party and, to the extent necessary properly to evaluate the case, may permit discovery of nonparties and depositions of parties for good cause shown.

"(4) EVALUATION BY THE MEDIATOR.—

"(A) IN GENERAL.—If, at the end of the early evaluation procedure described in paragraph (1), the action has not been voluntarily dismissed or settled, the mediator shall evaluate the action as being—

"(i) clearly frivolous, such that it can only be further maintained in bad faith;

"(ii) clearly meritorious, such that it can only be further defended in bad faith; or

"(iii) described by neither clause (i) nor clause (ii).

"(B) WRITTEN EVALUATION.—An evaluation required by subparagraph (A) with respect to the claims against and defenses of each defendant shall be issued in writing not later than 10 days after the end of the early evaluation procedure and provided to the parties. The evaluation shall not be admissible in the action, and shall not be provided to the court until a motion for sanctions under paragraph (5) is timely filed.

"(5) MANDATORY SANCTIONS.—

"(A) CLEARLY FRIVOLOUS ACTIONS.—In an action that is evaluated by the mediator under paragraph (4)(A)(i), upon final adjudication of the action, the court shall include in the record specific findings regarding compliance by each party and each attorney representing any party with each requirement of rule 11(b) of the Federal Rules of Civil Procedure.

"(B) MANDATORY SANCTIONS.—If the court makes a finding under subparagraph (A) that a party or attorney violated any requirement of rule 11(b) of the Federal Rules of Civil Procedure, the court shall impose sanctions on such party or attorney in accordance with rule 11 of the Federal Rules of Civil Procedure.

"(C) PRESUMPTION IN FAVOR OF ATTORNEYS' FEES AND COSTS.—

"(i) IN GENERAL.—Subject to clauses (ii) and (iii), for purposes of subparagraph (B), the court shall adopt a presumption that the appropriate sanction for failure of the complaint to comply with any requirement of rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

"(ii) REBUTTAL EVIDENCE.—The presumption described in clause (i) may be rebutted only upon proof by the party or attorney against whom sanctions are to be imposed that—

"(I) the award of attorneys' fees and other expenses will impose an undue burden on that party or attorney; or

"(II) the violation of rule 11(b) of the Federal Rules of Civil Procedure was de minimis.

"(iii) SANCTIONS.—If the party or attorney against whom sanctions are to be imposed meets its burden under clause (ii), the court shall award the sanctions that the court deems appropriate pursuant to rule 11 of the Federal Rules of Civil Procedure.

"(6) EXTENSION OF EARLY EVALUATION PERIOD.—The period of the early evaluation procedure described in paragraph (1) may be extended by stipulation of all parties. At the conclusion of the period, the action shall proceed in accordance with Federal Rules of Civil Procedure.

"(7) FEES.—In a private action described in paragraph (1), each side shall bear equally the reasonable fees and expenses of the mediator agreed upon or designated under paragraph (2)(D), if the mediator is not a judicial officer.".

(2) SECURITIES EXCHANGE ACT OF 1934—Section 21 of the Securities Act of 1933 (15 U.S.C. 78a) is amended by adding at the end the following new subsection:

"(l) EARLY EVALUATION PROCEDURES IN CLASS ACTIONS.—

"(1) IN GENERAL.—In any private action arising under this title that is filed as a class action pursuant to the Federal Rules of Civil Procedure, if the class representatives and each of the other parties to the action agree and any party so requests, or if the court upon motion of any party so decides, not later than 60 days after the filing of the class action, the court shall order an early evaluation procedure. The period of the early evaluation procedure shall not extend beyond 150 days after the filing of the first complaint subject to the procedure.

"(2) REQUIREMENTS.—During the early evaluation procedure described under paragraph (1)—

"(A) defendants shall not be required to answer or otherwise respond to any complaint;

"(B) plaintiffs may file a consolidated or amended complaint at any time and may dismiss the action or actions at any time without sanction;

"(C) unless otherwise ordered by the court, no formal discovery shall occur, except that parties may propound discovery requests to third parties to preserve evidence;

"(D) the parties shall evaluate the merits of the action under the supervision of a person (hereafter in this section referred to as the 'mediator') agreed upon by them or designated by the court in the absence of agreement, which person may be another district court judge, any magistrate-judge or a special master, each side having one peremptory challenge of a mediator designated by the court by filing a written notice of challenge not later than 5 days after receipt of an order designating the mediator;

"(E) the parties shall promptly provide access to or exchange all nonprivileged documents relating to the allegations in the complaint or complaints, and any documents withheld on the grounds of privilege shall be sufficiently identified so as to permit the mediator to determine if they are, in fact, privileged; and

"(F) the parties shall exchange damage studies and such other expert reports as may be helpful to an evaluation of the action on the merits, which materials shall be treated as prepared and used in the context of settlement negotiations.

"(3) FAILURE TO PRODUCE DOCUMENTS.—Any party that fails to produce documents relevant to the allegations of the complaint or complaints during the early evaluation procedure described in paragraph (1) may be sanctioned by the court pursuant to the Federal Rules of Civil Procedure. Notwithstanding paragraph (2), subject to review by the court, the mediator may order the production of evidence by any party and, to the extent necessary properly to evaluate the case, may permit discovery of nonparties and depositions of parties for good cause shown.

"(4) EVALUATION BY THE MEDIATOR.—

"(A) IN GENERAL.—If, at the end of the early evaluation procedure described in paragraph (1), the action has not been voluntarily dismissed or settled, the mediator shall evaluate the action as being—

"(i) clearly frivolous, such that it can only be further maintained in bad faith;

"(ii) clearly meritorious, such that it can only be further defended in bad faith; or

"(iii) described by neither clause (i) nor clause (ii).

"(B) WRITTEN EVALUATION.—An evaluation required by subparagraph (A) with respect to the claims against and defenses of each defendant shall be issued in writing not later than 10 days after the end of the early evaluation procedure and provided to the parties. The evaluation shall not be admissible in the action, and shall not be provided to the court until a motion for sanctions under paragraph (5) is timely filed.

"(5) MANDATORY SANCTIONS.—

"(A) CLEARLY FRIVOLOUS ACTIONS.—In an action that is evaluated under paragraph (4)(A)(i) in which final judgment is entered against the plaintiff, the plaintiff or plaintiff's counsel shall be liable to the defendant for sanctions as awarded by the court, which may include an order to pay reasonable attorneys' fees and other expenses, if the court agrees, based on the entire record, that the action was clearly frivolous when filed and was maintained in bad faith.

"(B) CLEARLY MERITORIOUS ACTIONS.—In an action that is evaluated under paragraph (4)(A)(ii) in which final judgment is entered against the defendant, the defendant or defendant's counsel shall be liable to the plaintiff for sanctions as awarded by the court, which may include an order to pay reasonable attorneys' fees and other expenses, if the court agrees, based on the entire record, that the action was clearly meritorious and was defended in bad faith.

"(6) Extension of Early Evaluation Period.—The period of the early evaluation procedure described in paragraph (1) may be extended by stipulation of all parties. At the conclusion of the period, the action shall proceed in accordance with Federal Rules of Civil Procedure.

"(7) Fees.—In a private action described in paragraph (1), each side shall bear equally the reasonable fees and expenses of the mediator agreed upon or designated under paragraph (2)(D), if the mediator is not a judicial officer.".

On page 105, line 5, strike "(j)" and insert "(i)".

On page 106, line 25, strike "(l)" and insert "(k)".

On page 108, line 24, strike "(k)" and insert "(j)".

On page 109, line 8, strike "(l)" and insert "(k)".

On page 126, line 19, strike "(m)" and insert "(l)".

On page 127, line 6, strike "(m)" and insert "(l)".

BOXER AMENDMENT NO. 1480

Mrs. BOXER proposed an amendment to the bill S. 240, supra; as follows:

At the appropriate place in title I, insert the following new section:

SEC. . CONSEQUENCES OF INSIDER TRADING.

(a) Securities Act of 1933.—Section 13A of the Securities Act of 1933, as added by section 105 of this Act, is amended by adding at the end the following new subsection:

"(h) Consequences of Insider Trading.—

"(1) In general.—Notwithstanding subsection (c), the exclusion from liability provided for in subsection (a) does not apply to a false or misleading forward-looking statement if, in connection with the false or misleading forward-looking statement, the issuer or any officer or director of the issuer—

"(A) purchased or sold a material amount of the equity securities of the issuer (or derivatives thereof), as reflected in filings with the Commission; and

"(B) financially benefited from the forward-looking statement.

"(2) Definition.—For purposes of this subsection, the term 'material amount' means—

"(A) with respect to an issuer, equity securities of the issuer of any class having a total value of not less than $1,000,000; and

"(B) with respect to an officer or director of an issuer, holdings of that officer or director of any class of the equity securities of the issuer having a total value of not less than $50,000.".

(b) Securities Exchange Act of 1934.—Section 37 of the Securities Exchange Act of 1934, as added by section 105 of this Act, is amended by adding at the end the following new subsection:

"(h) Consequences of Insider Trading.—

"(1) Consequences of insider trading.—Notwithstanding subsection (c), the exclusion from liability provided for in subsection (a) does not apply to a false or misleading forward-looking statement if, in connection with the false or misleading forward-looking statement, the issuer or any officer or director of the issuer—

"(A) purchased or sold a material amount of the equity securities of the issuer (or derivatives thereof), as reflected in filings with the Commission; and

"(B) financially benefited from the forward-looking statement.

"(2) Definition.—For purposes of this subsection, the term 'material amount' means—

"(A) with respect to an issuer, $1,000,000 worth of any class of the equity securities of the issuer; and

"(B) with respect to an officer or director of an issuer, $50,000 worth of the holdings of that person of any class of the equity securities of the issuer.".

Amend the table of contents accordingly.

BIDEN AMENDMENT NO. 1481

Mr. BIDEN proposed an amendment to the bill S. 240, supra; as follows:

At the appropriate place insert:

SEC. . AMENDMENT TO RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(c) of title 18, United States Code, is amended by inserting before the period ", except that no person may rely upon conduct that would have been actionable as fraud in the purchase of sale of securities to establish a violation of section 1962", provided however that this exception shall not apply if any participant in the fraud is criminally convicted in connection therewith, in which case the statute of limitations shall start to run on the date that the conviction became final.

BINGAMAN (AND BRYAN) AMENDMENT NO. 1482

Mr. BINGAMAN (for himself and Mr. BRYAN) proposed an amendment to the bill S. 240, supra; as follows:

On page 105, line 25, insert ", or the responsive pleading or motion" after "complaint".

On page 107, line 20, insert ", or the responsive pleading or motion" after "complaint".

SPECTER AMENDMENT NOS. 1483–1485

Mr. SPECTER proposed three amendments to the bill S. 240, supra; as follows:

AMENDMENT NO. 1483

Beginning on page 105, strike line 1 and all that follows through page 108, line 17, and insert the following:

SEC. 103. SANCTIONS FOR ABUSIVE LITIGATION.

(a) Securities Act of 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(j) Sanctions for Abusive Litigation.—In any private action arising under this title, if an abusive litigation practice relating to the action is brought to the attention of the court, by motion or otherwise, the court shall promptly—

"(1) determine whether or not to impose sanctions under rule 11 or rule 26(g)(3) of the Federal Rules of Civil Procedure, section 1927 of title 28, United States Code, or other authority of the court; and

"(2) include in the record findings of fact and conclusions of law to support such determination.".

(b) Securities Exchange Act of 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

"(l) Sanctions for Abusive Litigation.—In any private action arising under this title, if an abusive litigation practice relating to the action is brought to the attention of the court, by motion or otherwise, the court shall promptly—

"(1) determine whether or not to impose sanctions under rule 11 or rule 26(g)(3) of the Federal Rules of Civil Procedure, section 1927 of title 28, United States Code, or other authority of the court; and

"(2) include in the record findings of fact and conclusions of law to support such determination.".

AMENDMENT NO. 1484

Beginning on page 108, strike line 24 and all that follows through page 109, line 4, and insert the following:

"(k) Stay of Discovery.—

"(1) In general.—In any private action arising under this title, the court may stay discovery upon motion of any party only if the court determines that the stay of discovery—

"(A) would avoid waste, delay, duplication, or unnecessary expense; and

"(B) would not prejudice any plaintiff.

"(2) Additional limitations on discovery.—In any private action arising under this title—

"(A) prior to the filing of a responsive pleading to the complaint, discovery shall be limited to materials directly relevant to facts expressly pleaded in the complaint; and

"(B) except as provided in subparagraphs (A) and (B), or otherwise expressly provided in this title, discovery shall be conducted pursuant to the Federal Rules of Civil Procedure.".

On page 111, strike lines 1 through 7, and insert the following:

"(2) Stay of discovery.—

"(A) In general.—In any private action arising under this title, the court may stay discovery upon motion of any party only if the court determines that the stay of discovery—

"(i) would avoid waste, delay, duplication, or unnecessary expense; and

"(ii) would not prejudice any plaintiff.

"(B) Additional limitations on discovery.—In any private action arising under this title—

"(i) notwithstanding any stay of discovery issued in accordance with subparagraph (A), the court may permit such discovery as may be necessary to permit a plaintiff to prepare an amended complaint in order to meet the pleading requirements of this section;

"(ii) prior to the filing of a responsive pleading to the complaint, discovery shall be limited to materials directly relevant to facts expressly pleaded in the complaint; and

"(iii) except as provided in clauses (i) and (ii), or otherwise expressly provided in this title, discovery shall be conducted pursuant to the Federal Rules of Civil Procedure.".

AMENDMENT NO. 1485

On page 110, strike lines 12 through 19, and insert the following:

"(b) Required State of Mind.—

"(1) In general.—In any private action arising under this title in which the plaintiff may recover money damages only on proof that the defendant acted with a particular state of mind, the complaint shall, with respect to each act or omission alleged to violate this title, specifically allege facts giving rise to a strong inference that the defendant acted with the requested state of mind.

"(2) Strong inference of fraudulent intent.—For purposes of paragraph (1), a strong inference that the defendant acted with the required state of mind may be established either—

"(A) by alleging facts to show that the defendant had both motive and opportunity to commit fraud; or

"(B) by alleging facts that constitute strong circumstantial evidence of conscious misbehavior or recklessness by the defendant.".

D'AMATO (AND SARBANES) AMENDMENT NO. 1486

Mr. BENNETT (for Mr. D'AMATO for himself and Mr. SARBANES) proposed an amendment to the bill S. 240, supra; as follows:

On page 84, line 11, strike ", if" and insert "in which".

On page 111, beginning on line 2, strike "during the pendency of any motion to dismiss,".

On page 111, line 4, insert "during the pendency of any motion to dismiss," after "stayed".

On page 114, line 13, strike "has been,".

On page 114, strike line 15 and insert the following: "made—

"(i) was convicted of any felony or misdemeanor".

On page 114, strike line 17 and insert the following: "15(b)(4)(B); or

"(ii) has been made the subject of a ju-".

On page 114, line 20, strike "(i) prohibits" and insert the following:

"(I) prohibits".

On page 115, line 1, strike "(ii) requires" and insert the following:

"(II) requires".

On page 115, line 4, strike "(iii) determines" and insert the following:

"(III) determines".

On page 116, between lines 11 and 12, insert the following:

"(D) made in connection with an initial public offering;

On page 116, line 12, strike "(D)" and insert "(E)".

On page 116, line 17, strike "(E)" and insert "(F)".

On page 118, line 13, before the period insert "that are not compensated through final adjudication or settlement of a private action brought under this title arising from the same violation".

On page 121, line 7, strike "has been,".

On page 121, strike line 9, and insert the following: "made—

"(i) was convicted of any felony or misdemeanor".

On page 121, strike line 11 and insert the following: "15(b)(4)(B); or

"(ii) has been made the subject of a ju-".

On page 121, line 14, strike "(i) prohibits" and insert the following:

"(I) prohibits".

On page 121, line 16, strike "(ii) requires" and insert the following:

"(II) requires".

On page 121, line 19, strike "(iii) determines" and insert the following:

"(III) determines".

On page 122, between lines 20 and 21, insert the following:

"(D) made in connection with an initial public offering;

On page 122, line 21, strike "(D)" and insert "(E)".

On page 123, line 1, strike "(E)" and insert "(F)".

On page 124, line 21, insert before the period "that are not compensated through final adjudication or settlement of a private action brought under this title arising from the same violation".

On page 128, line 25, strike "the liability of" and insert "if".

On page 128, line 25, strike "offers or sells" and insert "offered or sold".

On page 129, line 1, strike "shall be limited to damages if that person".

On page 129, line 9, strike "and such portion or all of such amount" and insert "then such portion or amount, as the case may be,".

On page 131, lines 19 and 20, strike "that person's degree" and insert "the percentage".

On page 131, line 20, insert "of that person" before the comma.

NOTICE OF HEARING

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Senate Committee on Indian Affairs will be holding a hearing on Wednesday, June 28, 1995, beginning at 9:45 a.m., in room 485 of the Russell Senate Office Building on S. 814, a bill to provide for the reorganization of the Bureau of Indian Affairs, and for other purposes.

Those wishing additional information should contact the Committee on Indian Affairs at 224–2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BENNETT. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to meet Tuesday, June 27, at 9:30 a.m., to conduct an oversight hearing on proposals to supplement the legal framework for private property interests, with primary emphasis on the operation of Federal environmental laws.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, June 27, 1995, at 9:30 a.m., to hold a hearing on Department of Justice oversight.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Tuesday, June 27, 1995, at 2:15 p.m., to hold a hearing on judicial nominees.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL COMMITTEE ON AGING

Mr. BENNETT. Mr. President, I ask unanimous consent that the Special Committee on Aging be authorized to meet during the session of the Senate on Tuesday, June 27, at 9:30 a.m., to hold a hearing to discuss neurological diseases.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AIRLAND FORCES

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on Airland Forces be authorized to meet on Tuesday, June 27, 1995, at 2:00 p.m., to markup the Department of Defense Authorization Act for fiscal year 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on Readiness be authorized to meet on Tuesday, June 27, 1995, at 9:00 a.m., to markup the Department of Defense Authorization Act for fiscal year 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SEAPOWER

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on Seapower be authorized to meet on Tuesday, June 27, 1995, at 4:00 p.m., to markup the Department of Defense Authorization Act for fiscal year 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SOCIAL SECURITY AND FAMILY POLICY

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on Social Security and Family Policy of the Committee on Finance be permitted to meet on Tuesday, June 27, 1995, beginning at 10:00 a.m., in room SD–215, to conduct a hearing on the solvency of the Social Security Trust Funds.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON STRATEGIC FORCES

Mr. BENNETT. Mr. President, I ask unanimous consent that the Subcommittee on Strategic Forces be authorized to meet on Tuesday, June 27, 1995, at 6:00 p.m., to markup the Department of Defense Authorization Act for fiscal year 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE U.N. CHARTER—50 YEARS OF EXPERIENCE

• Mr. DODD. Mr. President, yesterday, June 26, 1995, marked the 50-year anniversary of the signing of the U.N. Charter. To commemorate the event, President Clinton traveled to San Francisco to participate in ceremonies at the very site where representatives of some 50 nations first gathered to hammer out that historic document.

Mr. President, I believed that President Clinton spoke for all of us yesterday when he said:

> Today we honor the men and women who gave shape to the United Nations. We celebrate 50 years of achievement. We commit

ourselves to real reforms. We reject the siren song of the new isolationists. We set a clear agenda worthy of the visions of our founders. The measure of our generation will be whether we give up because we cannot achieve a perfect world or strive on to build a better world.

In recalling that historic day, President Clinton reminded listeners as well that, "The 50 nations who came here * * * to lift the world from the ashes of war * * * included giants of diplomacy and untested leaders of infant nations. They were separated by tradition, race and language, sharing only a vision of a better safer future." It was that shared vision, in the final analysis, that made it possible to set aside differences, grievances and suspicions. It was that shared vision that empowered conference participants to craft a charter that President Truman described as, "a declaration of great faith by the nations of the Earth—faith that war is not inevitable, faith that peace can be maintained." I believe that all freedom loving peoples of the world continue to share that same faith and vision today.

Much has transpired since that day, in 1945, when the 50 founding nations of the United Nations pledged their faith and cooperation in this new world organization. Today, the U.N. family has grown nearly fourfold to 184 member states. Many of the old threats to peace have receded only to be replaced by new and more intractable ones. And, despite the many criticisms leveled against the United Nations, member states have largely heeded the words expressed by President Truman, in speaking about the charter that had just been signed, "You have created a great instrument for peace and security and human progress in the world. The world must now use it".

Much has been accomplished by the United Nations during its first 50 years. Even its severest critics have to acknowledge that during the cold war, the United Nations served to mitigate the ideological conflict between East and West that threatened the world with nuclear chaos. It also smoothed the path for new nation states seeking to break with old, outdated colonial empires.

The United Nation's various affiliate agencies have served to make the world a better place to live. The world health organization, to mention but one, has been a major player in the world-wide campaign to eradicate smallpox, measles, polio, and other dreaded but preventable diseases. The accomplishments of the United Nations have been recognized and honored by the world community. On four separate occasions, U.N. activities and agencies have been recipients of Nobel peace prizes—the blue helmet peacekeepers, the U.N. Children's Fund, the U.N. Office of High Commissioner for Refugees.

Clearly the world is a different place than it was 50 years age. The acts of aggression and threats to peace once posed by the East/West conflict have been replaced by a growing number of equally bedeviling ethnic rivalries, civil wars and humanitarian calamities throughout the globe. The demands on the United Nations for policing these conflicts, for marshaling humanitarian aid, for dispensing economic and social services in response to these events, have grown geometrically—and so too have the financial costs associated with them.

Some of the criticism leveled against the United Nations have been unfair. In the final analysis, the United Nations is only as strong and decisive as its membership. In the final analysis it can only continue to undertake activities that its membership is willing and able to support, both financially and politically.

However, the United Nations and U.N. management must share some of the responsibility for the criticisms that have arisen. Some of the more problematic endeavors clearly fall in the peacekeeping arena—Bosnia, Somalia, and others. Organizationally and managerially there have been problems, as well, throughout the U.N. system. Historically, internal financial controls and safeguards have been inadequate and ineffective in ensuring that members' contributions have been judiciously spent, with U.N. procurement fairly allocated among contributors.

There is clearly consensus within the U.N. membership that reforms should and must be undertaken. The United Nations has already made progress in implementing some of these reforms. Still more will have to occur in order to strengthen its capacity to address the challenges of the coming decade. Despite its shortcomings and problems, however, I continue to believe, Mr. President, that President Truman's fundamental conclusion about the United Nations some 50 years ago remains true today: "The charter of the United Nations which you have signed is a solid structure upon which we can build a better world." We must endeavor to do just that—build a better and safer world for our children and grandchildren. A vibrant and effective United Nations can help us to accomplish that goal.

Mr. President, I ask that the full text of President Clinton's remarks yesterday in San Francisco be printed in the RECORD.

The remarks follow:

REMARKS BY THE PRESIDENT

Thank you very much. Secretary Christopher, Mr. Secretary General, Ambassador Albright, Bishop Tutu. My good friend, Maya Angelou, thank you for your magnificent poem. (Applause.) Delegates to the Charter Conference, distinguished members of the Diplomatic Corps, the President of Poland, members of Congress, honored guests, Mayor Jordan, Mr. Shorenstein, people of San Francisco, and friends of the United Nations:

The 800 delegates from 50 nations who came here 50 years ago to lift the world from the ashes of war and bring life to the dreams of peacemakers included both giants of diplomacy and untested leaders of infant nations. They were separated by tradition, race and language, sharing only a vision of a better, safer future. On this day 50 years ago, the dreams President Roosevelt did not live to see of a democratic organization of the world was launched.

The Charter the delegate signed reflected the harsh lessons of their experience; the experience of the '30s, in which the world watched and reacted too slowly to fascist aggression, bringing millions sacrificed on the battlefields and millions more murdered in the death chambers.

Those who had gone through this and the second world war knew that celebrating victory was not enough; that merely punishing the enemy was self-defeating; that instead the world needed an effective and permanent system to promote peace and freedom for everyone. Some of those who worked at that historic conference are still here today, including our own Senator Claiborne Pell, who to this very day, every day, carries a copy of the U.N. Charter in his pocket. (Applause.)

I would last like to ask all of the delegates to the original conference who are here today to rise and be recognized. Would you please stand? (Applause.)

San Francisco gave the world renewed confidence and hope for the future. On that day President Truman said, "This is proof that nations, like men, can state their differences, can face them, and then can find common ground on which to stand." Five decades later, we see how very much the world has changed. The Cold War has given way to freedom and cooperation. On this very day, a Russian spacecraft and an American spacecraft are preparing to link in orbit some 240 miles above the Earth. From Jericho to Belfast, ancient enemies are searching together for peace. On every continent nations are struggling to embrace democracy, freedom and prosperity. New technologies move people and ideas around the world, creating vast new reservoirs of opportunity.

Yet we know that these new forces of integration also carry within them the seeds of disintegration and destruction. New technologies and greater openness make all our borders more vulnerable to terrorists, to dangerous weapons, to drug traffickers. Newly-independent nations offer rip targets for international terminals and nuclear smugglers. Fluid capital markets make it easier for nations to build up their economies, but also make it much easier for one nation's troubles first to be exaggerated, then to spread to other nations.

Today, to be sure, we face no Hitler, no Stalin, but we do have enemies—enemies who share their contempt for human life and human dignity and the rule of law; enemies who put lethal technology to lethal use, who seek personal gains in age-old conflicts and new divisions.

Our generation's enemies are the terrorists and their outlaw nation sponsors—people who kill children or turn them into orphans; people who target innocent people in order to prevent peace; people who attack peacemakers, as our friend President Mubarak was attacked just a few hours ago; people who in the name of nationalism slaughter those of different faiths or tribes, and drive their survivors from their own homelands.

Their reach is increased by technology. Their communication is abetted by global media. Their actions reveal the age-old lack of conscience, scruples and morality which have characterized the forces of destruction throughout history.

Today, the threat to our security is not in an enemy silo, but in the briefcase or the car bomb of a terrorist. Our enemies are also international criminals and drug traffickers who threaten the stability of new democracies and the future of our children. Our enemies are the force of natural destruction—encroaching deserts that threaten the Earth's balance, famines that test the human spirit, deadly new diseases that endanger whole societies.

So, my friends, in this increasingly interdependent world, we have more common opportunities and more common enemies than ever before. It is, therefore, in our interest to face them together as partners, sharing the burdens and costs, and increasing our chances of success.

Just months before his death, President Roosevelt said, "We have learned that we cannot live alone at peace, that our own well-being is dependent on the well-being of other nations far away." Today, more than ever, those words ring true. Yet some here in our own country, where the United Nations was founded, dismissed Roosevelt's wisdom. Some of them acknowledge that the United States must play a strong role overseas, but refuse to supply the nonmilitary resources our nation needs to carry on its responsibilities. Others believe that outside our border America should only act alone.

Well, of course, the United States must be prepared to act alone when necessary, but we dare not ignore the benefits that coalitions bring to this nation. We dare not reject decades of bipartisan wisdom. We dare not reject decades of bipartisan support for international cooperation. Those who would do so, these new isolationists, dismiss 50 years of hard evidence.

In those years we've seen the United Nations compile a remarkable record of progress that advances our nation's interest and, indeed, the interest of people everywhere. From President Truman in Korea to President Bush in the Persian Gulf, America has built United Nations' military coalitions to contain aggressors. U.N. forces also often pick up where United States' troops have taken the lead.

As the Secretary of State said, we saw it just yesterday, when Haiti held parliamentary and local elections with the help of U.N. personnel. We saw the U.N. work in partnership with the United States and the people of Haiti, as they labor to create a democracy. And they have now been given a second chance to renew that promise.

On every continent the United Nations has played a vital role in making people more free and more secure. For decades, the U.N. fought to isolate South Africa, as that regime perpetuated apartheid. Last year, under the watchful eyes of U.N. observers, millions of South Africans who had been disenfranchised for life cast their first votes for freedom.

In Namibia, Mozambique, and soon we hope in Angola, the United Nations is helping people to bury decades of civil strife and turn their energies into building new democratic nations. In Cambodia, where a brutal regime left more than one million dead in the Killing Fields, the U.N. helped hundreds of thousands of refugees return to their native land, and stood watch over democratic elections that brought 90 percent of the people to the polls. In El Salvador, the U.N. brokered an end to 12 years of bloody civil war, and stayed on to help reform the army and bring justice to the citizens and open the doors of democracy.

From the Persian Gulf to the Caribbean, U.N. economic and political sanctions have proved to be a valuable means short of military action to isolate regimes and to make aggressors and terrorists pay at least a price for their actions: In Iraq, to help stop that nation from developing weapons of mass destruction, or threatening its neighbors again. In the Balkans, to isolate aggressors; in North Africa, to pressure Libya to turn over for trial those indicted in the bombing of Pan Am flight 103.

The record of the United Nations includes a proud battle for child survival, and against human suffering and disease of all kinds. Every year UNICEF oral vaccines save the lives of three million children. Last year alone the World Food Program, using the contributions of many governments including our own, fed 57 million hungry people. The World Health Organization has eliminated smallpox from the face of the Earth, and is making great strides in its campaign to eliminate polio by the year 2000. It has helped to contain fatal diseases like the Ebola virus that could have threatened an entire continent.

To millions around the world, the United Nations is not what we see on our news programs at night. Instead it's the meal that keeps a child from going to bed hungry, the knowledge that helps a farmer coax strong crops from hard land, the shelter that keeps a family together when they're displaced by war or natural disasters.

In the last 50 years, these remarkable stories have been too obscured, and the capacity of the United Nations to act too limited by the Cold War. As colonial rule broke down, differences between developing and industrialized nations and regional rivalries added new tensions to the United Nations so that too often there was too much invective and too little debate in the general assembly.

But now the end of the Cold War, the strong trend toward democratic ideals among all nations, the emergence of so many problems that can best be met by collective action, all these things enable the United Nations at this 50-year point finally to fulfill the promise of its founders.

But if we want the U.N. to do so, we must face the fact that for all its successes and all its possibilities, it does not work as well as it should. The United Nations must be reformed. In this age of relentless change, successful governments and corporations are constantly reducing their bureaucracies, setting clearer priorities, focusing on targeted results.

In the United States we have eliminated hundreds of programs, thousands of regulations. We're reducing our government to its smallest size since President Kennedy served here, while increasing our efforts in areas most critical to our future. The U.N. must take similar steps.

Over the years it has grown too bloated, too often encouraging duplication, and spending resources on meetings rather than results. As its board of directors, all of us—we, the member states—must create a U.N. that is more flexible, that operates more rapidly, that wastes less and produces more, and most importantly, that inspires confidence among our governments and our people.

In the last few years we have seen some good reforms—a new oversight office to hold down costs, a new system to review personnel, a start toward modernization and privatization. But we must do more.

The United Nations supports the proposal of the President of the General Assembly, Mr. Essyi, who spoke so eloquently here earlier this morning, to prepare a blueprint for renewing the U.N. and to approve it before the 50th General Assembly finishes its work next fall.

We must consider major structural changes. The United Nations simply does not need a separate agency with its own acronym, stationery and bureaucracy for every problem. The new U.N. must peel off what doesn't work and get behind what will.

We must also realize, in particular, the limits to peacekeeping and not ask the Blue Helmets to undertake missions they cannot be expected to handle. Peacekeeping can only succeed when the parties to a conflict understand they cannot profit from war. We have too often asked our peacekeepers to work miracles while denying them the military and political support required, and the modern command-and-control systems they need to do their job as safely and effectively as possible. Today's U.N. must be ready to handle tomorrow's challenges. Those of us who most respect the U.N. must lead the charge of reform.

Not all the critics of today's United Nations are isolationists. Many are supporters who gladly would pay for the U.N.'s essential work if they were convinced their money was being well-spent. But I pledge to all of you, as we work together to improve the United Nations, I will continue to work to see that the United States takes the lead in paying its fair share of our common load. (Applause.)

Meanwhile, we must all remember that the United Nations is a reflection of the world it represents. Therefore, it will remain far from perfect. It will not be able to solve all problems. But even those it cannot solve, it may well be able to limit in terms of the scope and reach of the problem, and it may well be able to limit the loss of human life until the time for solution comes.

So just as withdrawing from the world is impossible, turning our backs on the U.N. is no solution. It would be shortsighted and self-destructive. It would strengthen the forces of global disintegration. It would threaten the security, the interest and the values of the American people. So I say especially to the opponents of the United Nations here in the United States, turning our back on the U.N. and going it alone will lead to far more economic, political and military burdens on our people in the future and would ignore the lessons of our own history. (Applause.)

Instead, on this 50th anniversary of the charter signing, let us renew our vow to live together as good neighbors. And let us agree on a new United Nations agenda to increase confidence and ensure support for the United Nations, and to advance peace and prosperity for the next 50 years.

First and foremost, the U.N. must strengthen its efforts to isolate states and people who traffic in terror, and support those who continue to take risks for peace in the face of violence. The bombing in Oklahoma City, the deadly gas attack in Tokyo, the struggles to establish peace in the Middle East and in Northern Ireland—all of these things remind us that we must stand against terror and support those who move away from it. Recent discoveries of laboratories working to produce biological weapons for terrorists demonstrate the dangerous link between terrorism and the weapons of mass destruction.

In 1937, President Roosevelt called for a quarantine against aggressions, to keep the infection of fascism from seeping into the bloodstream of humanity. Today, we should quarantine the terrorists, the terrorist groups, and the nations that support terrorism. (Applause.)

Where nations and groups honestly seek to reform, to change, to move away from the killing of innocents, we should support them. But when they are unrepentant in the delivery of death, we should stand tall against them (Applause.) My friends, there is no easy way around the hard question: If nations and groups are not willing to move away from the delivery of death, we should put aside short-term profits for the people in our countries to stop, stop their conduct. (Applause.)

Second, the U.N. must continue our efforts to stem the proliferation of weapons of mass destruction. There are some things nations can do on their own. The U.S. and Russia today are destroying our nuclear arsenals rapidly. (Applause.) But the U.N. must also play a role. We were honored to help secure an indefinite extension of the Nuclear Non-Proliferation Treaty under U.N. auspices. (Applause.)

We rely on U.N. agencies to monitor nations bent on acquiring nuclear capabilities. We must work together on the Chemical Weapons Convention. We must strengthen our common efforts to fight biological weapons. We must do everything we can to limit the spread of fissile materials. We must work on conventional weapons like the land mines that are the curse of children the world over. (Applause.) And we must complete a comprehensive nuclear test ban treaty. (Applause.)

Third, we must support through the United Nations the fight against manmade and natural forces of disintegration, from crime syndicates and drug cartels, to new diseases and disappearing forests. These enemies are elusive; they cross borders at will. Nations can and must oppose them alone. But we know, and the Cairo Conference reaffirmed, that the most effective opposition requires strong international cooperation and mutual support.

Fourth, we must reaffirm our commitment to strengthen U.N. peacekeeping as an important tool for deterring, containing and ending violent conflict. The U.N. can never be an absolute guarantor of peace, but it can reduce human suffering and advance the odds of peace.

Fifth—you may clap for that—(applause.) Fifth, we must continue what is too often the least noticed of the U.N.'s missions; its unmatched efforts on the front lines of the battle for child survival and against disease and human suffering.

And finally, let us vote to make the United Nations an increasing strong voice for the protection of fundamental human dignity and human rights. After all, they were at the core of the founding of this great organization. (Applause.)

Today we honor the men and women who gave shape to the United Nations. We celebrate 50 years of achievement. We commit ourselves to real reforms. We reject the siren song of the new isolationists. We set a clear agenda worthy of the vision of our founders. The measure of our generation will be whether we give up because we cannot achieve a perfect world or strive on to build a better world.

Fifty years ago today, President Truman reminded the delegates that history had not ended with Hitler's defeat. He said, it is easier to remove tyrants and destroy concentration camps than it is to kill the ideas which give them birth. Victory on the battlefield was essential, but it is not good enough for a lasting, good peace. (Applause.)

Today we know that history has not ended with the Cold War. We know, and we have learned from painful evidence, that as long as there are people on the face of the Earth, imperfection and evil will be a part of human nature; there will be killing, cruelty, self-destructive abuse of our natural environment, denial of the problems that face us all. But we also know that here today, in this historic chamber, the challenge of building a good and lasting peace is in our hands and success is within our reach.

Let us not forget that each child saved, each refugee housed, each disease prevented, each barrier to justice brought down, each sword turned into a ploughshare, brings us closer to the vision of our founders—closer to peace, closer to freedom, closer to dignity. (Applause.)

So my fellow citizens of the world, let us not lose heart. Let us gain renewed strength and energy and vigor from the progress which has been made and the opportunities which are plainly before us. Let us say no to isolation, yes to reform; yes to a brave, ambitious new agenda; most of all, yes to the dream of the United Nations.

Thank you.•

TRIBUTE TO GEN. GORDON R. SULLIVAN, USA, ON HIS RETIREMENT

• Mr. NUNN. Mr. President, as the U.S. Army undergoes a change in its top military leadership, I would like to recognize the outstanding service of the Army's 32d Chief of Staff, Gen. Gordon R. Sullivan. Throughout his tenure as the Army Chief of Staff, General Sullivan has worked closely with the Congress and we have found his professional military advice invaluable. He is retiring from the Army after more than 35 years of service to our Nation.

General Sullivan has had the unenviable task of leading the Army through its largest downsizing in 50 years, while simultaneously preparing the Army for the new challenges of the next century. As a testament to the success of his efforts, General Sullivan is leaving an Army that is trained, disciplined, and proud. His focus on taking care of soldiers and their families, on education, and on promoting both realistic field exercises and increasing the use of simulation has made the Army ready for what the 21st century may bring. General Sullivan has put forth a vision of the Army for the 21st century that will be the guidepost for years to come. He can take great pride in both the Army's past accomplishments and future preparedness. General Sullivan has essentially led the Army into the 21st century.

Throughout his career, General Sullivan has distinguished himself in numerous command and staff positions with U.S. forces stationed both overseas and in the Continental United States. In Asia, he served a tour of duty in Korea and two tours of duty in Vietnam. In Europe, his assignments included 3d Armored Division's Chief of Staff and the VII Corps operations officer. From July 1985 to March 1987 General Sullivan served on the NATO staff as the Deputy Chief of Staff for Support of Central Army Group in Germany.

General Sullivan's stateside assignments included serving as the assistant commandant of the Armor School at Fort Knox, KY, and deputy commandant of the Command and General Staff College at Fort Leavenworth, KS. In addition, he served as the commanding general of the 1st Infantry Division, "The Big Red One," at Fort Riley, KS. Since June 1991, General Sullivan has served in his present assignment as the U.S. Army Chief of Staff.

Mr. President, I ask my colleagues to join me in thanking General Sullivan for his honorable service to the people and Army of the United States. We wish him and his family Godspeed and all the best in the future.•

TRIBUTE TO THE NEW JERSEY DEVILS

• Mr. BRADLEY. Mr. President, I rise today with great pleasure to congratulate New Jersey's very own Devils. As you may know, the New Jersey Devils have defeated the Detroit Red Wings to become the Stanley Cup Champions of the National Hockey League. This past Saturday night at the Meadowlands Arena in East Rutherford, NJ, the Devils concluded their courageous quest for the Stanley Cup with a 5 to 2 victory to sweep the four-game series.

The New Jersey Devils may not have superstar players like Detroit. However, it is clear that through their classic gritty team play and a foundation of discipline, unity, and hard work, they overcame all adversity to achieve their ultimate goal. After last year's heart-breaking exit from the playoffs at the hands of the New York Rangers, this year's team forged through the playoffs with a vengeance to complete their mission.

New Jersey's key players came through in the playoffs to inspire their team with clutch performances. Although it was forward Claude Lemieux who took the Conn Smythe Trophy as the Most Valuable Player throughout the Stanley Cup playoffs, there were a host of other heroes without whom the Devils would never have made it as far as they did. Captain and defenseman Scott Stevens, who shut down the opposition's superstars, goaltender Martin Brodeur, the second-year phenom who has emerged as one of the best goaltenders in the NHL, and native New Jerseyan Jim Dowd from Brick, who scored a clutch goal to win game two, are just a few examples.

The Devils played ultimate team hockey in winning the Stanley Cup. Their now infamous neutral-zone trap defensive system put the Red Wings in a stranglehold tighter than any octopi their fans could throw onto the ice.

In closing, Mr. President, I would like to once again offer congratulations to our Devils. Success in the professional sports arena, like many other endeavors, requires a great deal of dedication, hard work, and courage. And that is our New Jersey Devils. I am very proud to have them represent our State.•

THE DEATH OF FORMER CHIEF JUSTICE BURGER

• Mr. MOYNIHAN. Mr. President, yesterday's newspapers reported that former Chief Justice Warren E. Burger died on Sunday here in Washington. He was 87 years old.

Twenty-six years ago, President Nixon nominated Warren Burger to be Chief Justice with the hope of reversing the activism of the Warren Court. Yet history was not entirely cooperative: Chief Justice Burger presided over a 17-year period in which many of the era's most profound controversies had to be decided by the High Court. A number of those issues, including school busing to achieve desegregation: Swann versus Charlotte-Mecklenburg Board of Education, 1971; the separation of church and state as applicable to government aid to parochial schools, Lemon versus Kurtzman, 1971; and Executive privilege, United States versus Nixon, 1974, were decided in opinions written by Chief Justice Burger himself.

The Chief was somehow able to take all of this and more in stride. He relished his additional statutory duties as chancellor of the Board of Regents of the Smithsonian Institution, and as chairman of the board of trustees of the National Gallery of Art. Although my service as a regent of the Smithsonian Institution began just after Chief Justice Burger's tenure as chancellor ended in 1986, I did have the exhilarating honor, in September of 1985, to be presented the Joseph Henry Award by then-Chancellor Burger on one memorable evening at the Hirshhorn Museum and Sculpture Garden.

Following his retirement from the Court in 1986, Chief Justice Burger devoted himself on a full-time basis to his work as Chairman of the Commission on the Bicentennial of the U.S. Constitution, to which President Reagan had appointed him the previous year. Characteristically, the Chief threw himself into that effort with the great energy and enthusiasm he applied to all of his pursuits. I recall corresponding with him about the Commission's progress and his many ideas for increasing public appreciation for the Constitution in its bicentennial year. Among its good works, the Commission produced the excellent pocket-sized Constitutions that are available in Senate offices. I have taken to carrying a copy with me, and I know the distinguished Senator from West Virginia has as well.

In his Foreword to the pocket Constitution, Chief Justice Burger wrote that our constitutional system:

> [D]oes not always provide tidy results; it depends on a clash of views in debate and on bargain and compromise. For 200 years this Constitution's ordered liberty has unleashed the energies and talents of people to create a good life.

Warren Burger created just such a good life through his own indomitable energies and talents. He came from humble roots in St. Paul, MN, attended college and law school at night, and ultimately rose to become Chief Justice of the United States.

Chief Justice Burger was a distinguished jurist and a patriot in the finest sense of the word. He was also a wonderful husband and father and, although it is not much in fashion to say so today, he was a gentleman. He was my friend for more than a quarter century, and he will be greatly missed.

Mr. President, I ask that the obituary by Linda Greenhouse from the New York Times of June 26th be printed in the RECORD.

The obituary follows:

[From the New York Times, June 26, 1995]

WARREN E. BURGER IS DEAD AT 87; WAS CHIEF JUSTICE FOR 17 YEARS

(By Linda Greenhouse)

Washington, June 25—Warren E. Burger, who retired in 1986 after 17 years as the 15th Chief Justice of the United States, died here today at age 87. The cause was congestive heart failure, a spokeswoman for the Supreme Court said.

An energetic court administrator, Chief Justice Burger was in some respects a transitional figure despite his long tenure. He presided over a Court that, while it grew steadily more conservative with subsequent appointments, nonetheless remained strongly influenced by the legacy of his liberal predecessor, Chief Justice Earl Warren. The constitutional right to abortion and the validity of busing as a remedy for school segregation were both established during Chief Justice Burger's tenure, and with his support.

The country knew Chief Justice Burger as a symbol before it knew much about him as a man or a judge.

He was President Richard M. Nixon's first Supreme Court nominee, and Mr. Nixon had campaigned on a pledge to find "strict constructionists" and "practitioners of judicial restraint" who would turn back the activist tide that the Court had built under Chief Justice Warren, its leader since 1953.

The nomination on May 21, 1969, immediately made Mr. Burger, a white-haired, 61-year-old Federal appeals court judge, lightening rod for those who welcomed as well as those who feared the end of an era of judicial activism.

It was a central contradiction of Mr. Burger's tenure as Chief Justice that long after he became one of the most visible and, in many ways, innovative Chief Justices in history he remained, for many people, the symbol of retrenchment that Mr. Nixon had presented to the public on nominating him.

In fact, the Supreme Court in the Burger years was in its way as activist as the Court that preceded it, creating new constitutional doctrine in areas like the right to privacy, due process and sexual equality that the Warren Court had only hinted at.

"All in all," one Supreme Court scholar, A. E. Dick Howard, wrote in the Wilson Quarterly in 1981, "the Court is today more of a center for the resolution of social issues than it has ever been before."

While there were some substantial changes of emphasis, the Burger Court—a label liberals tended to apply like an epithet—overruled no major decisions from the Warren era.

It was a further incongruity that despite Chief Justice Burger's high visibility and the evident relish with which he used his office to expound his views on everything from legal education to prison management, scholars and Supreme Court commentators continued to question the degree to which he actually led the institution over which he so energetically presided.

His important opinions for the Court included the decision that validated busing as a tool for school desegregation, the one that struck down the "legislative veto" used by Congress for 50 years to block executive branch actions, and the one that spurred President Nixon's resignation in 1974 by forcing him to turn over White House tape recordings for use in the Watergate investigations. Yet Chief Justice Burger was just as often in dissent on major decisions. In that, he differed from Chief Justice Warren, who voted with the majority in nearly all important cases.

Those seeking to identify the sources of intellectual leadership on the Court usually pointed to William H. Rehnquist, another Nixon appointee to whom Chief Justice Burger assigned many important opinions, and to William J. Brennan Jr., the Court's most senior and, with Thurgood Marshall, most liberal member.

As the senior Associate Justice, Justice Brennan had the right to assign the opinion in any case in which he was in the majority and the Chief Justice was in dissent, and he often exercised that prerogative by assigning major opinions to himself, particularly in the area of individual rights.

As the years passed, Chief Justice Burger seemed to assign himself the opinions in relatively straightforward and uncontroversial cases, avoiding those in which the Court was deeply split and in which it would have required considerable effort to marshal or hold a fragile majority. As a result, his personal imprint on the Court's jurisprudence was not always readily identifiable.

AN INNOVATOR IN ADMINISTRATION

But his imprint was distinct in the area to which he gave his most sustained attention, judicial administration.

Mr. Burger liked to say that he took his title seriously. He was Chief Justice of the United States, not just of the Supreme Court, and he took as his mandate the stewardship of the entire judicial system, state as well as Federal.

An array of institutions were created under his aegis, including the National Center for State Courts, the Institute for Court Management and the National Institute of Corrections. The common purpose of those organizations was to improve the education and training of participants in nearly all phases of the judicial process, whether judges, court clerks or prison guards.

The Chief Justice turned the small Federal Judicial Center, for which he served by statute as chairman of the board, into a major center for research and publishing about the courts.

He believed that judges could be helped to be more efficient if professional management techniques were imported to the courts, from clerks' offices to judges' chambers. The Institute for Court Management set up a six-month program for training court managers and administrators.

The Supreme Court itself became one of the first fully computerized courts in the country; in 1981, the Justices all received computer terminals on which to compose their opinions.

The Chief Justice campaigned tirelessly for better pay for judges, better education for lawyers and help for the Court's evergrowing caseload. From his earliest years in office, he warned that the Federal courts and the Supreme Court in particular were becoming dangerously overworked.

In 1983, he asked Congress to create an appellate panel that could relieve some of the Supreme Court's caseload by resolving conflicting opinions among the Federal appeals courts.

MANY ADMIRERS, BUT DETRACTORS AS WELL

Judges and others interested in these long-ignored administrative issues responded with gratitude. One of the Chief Justice's warmest admirers on the Federal bench was Frank M. Johnson Jr., a Federal appeals court judge from Alabama who won praise from civil rights advocates for his orders on prison issues and other rulings.

"Warren Burger has redefined the nature of his office," Judge Johnson wrote in the early 1980's. "He has concentrated his energy not simply on exploring the subtleties of constitutional doctrine but on reforming the mechanics of American justice. More than any of his 14 predecessors, he has invested the prestige of the Chief Justiceship in efforts to make the American judicial system function more efficiently. He has used his position not as an excuse to withdraw from public affairs but as an opportunity to furnish public leadership."

But the priority that Chief Justice Burger assigned to administration also had its detractors, who complained that he trivialized his office by emphasizing the mechanics of justice at the expense of its substance.

Occasionally, too, his enthusiastic lobbying was seen as overbearing by those at whom it was directed. In 1978, for example, he became deeply involved in the effort in Congress to overhaul the bankruptcy system.

One Democratic Senator, Dennis DeConcini of Arizona, whose subcommittee had jurisdiction over the bill, complained publicly that a "very, very irate and rude" Chief Justice had telephoned him to object to a legislative development and "not only lobbied but pressured and attempted to be intimidating."

The Chief Justice could also be rather intimidating from the bench, particularly when a relatively inexperienced lawyer was arguing a position with which Mr. Burger disagreed. While Chief Justice Warren's favorite question from the bench was, "Yes, but was it fair?" Chief Justice Burger often asked: "Yes, but why is this case in the courts? Isn't this a matter for the Legislature to address?"

WORKING TO LIMIT THE JUDICIARY'S SCOPE

Chief Justice Burger believed in a limited role for the courts and reserved some of his sharpest criticism for those who looked to them to resolve social and political problems that, in his view, were not the province of judges. "If we get the notion that courts can cure all injustices, we're barking up the wrong tree," he liked to say.

A speech he gave while he was still a judge on the Court of Appeals for the District of Columbia provided a useful summary of the view he held throughout his career: "That courts encounter some problems for which they can supply no solution is not invariably an occasion for regret or concern. This is an essential limitation in a system of divided power."

Some of the more important decisions while he was Chief Justice were those that limited litigants' access to Federal court by using the doctrines of standing, mootness and deference to state courts.

He seemed to regard suits for small monetary stakes as a waste of judges' time, and many of his speeches complained about the disproportionate cost to the system of trying the lawsuits brought by prisoners or consumers over modest losses of money or property.

His questioning of one lawyer, who argued in 1982 on behalf of 168,000 consumers, each with a claim for $7.98 against the Gillette Company, was the talk of the Court for weeks. "What is the economic justification for this kind of lawsuit in the Federal courts under any circumstances?" the Chief Justice demanded.

"We are in state court, judge, in this case," the lawyer, Robert S. Atkins, replied.

"In state or Federal court?" the Chief Justice persisted.

"The problem," Mr. Atkins said, "is that if you cheat people a little bit but do it a lot, you can go free——"

The Chief Justice interrupted to interrogate him about the proportion of the recovery that would go for legal fees.

INVITING ATTENTION, SOME OF THE TIME

Chief Justice Burger's effort to police the moral character of lawyers who sought to become eligible to argue before the Court rankled some of the other Justices and in 1982 provided a rare public glimpse of internal disagreements over the Chief Justice's administrative approach.

He singled out several applicants by name and accused them of seeking membership in the Supreme Court bar to "launder" tarnished credentials. But he failed to persuade a majority of the Court to block the admissions and provoked one Justice, John Paul Stevens, to write that the Court should grant applicants with questionable credentials a "fair hearing" before publicly labeling them as unworthy.

There were contradictory strains in Chief Justice Burger's attitude toward the public, including the press. At times he seemed to welcome and even invite public attention. He took pride in having made the Supreme Court a more attractive place for tourists to visit, transforming the cold marble ground floor into an area for historical exhibits.

Yet he alone of all the Justice refused, when announcing one of his opinion from the bench, to provide tourists and lawyers in the audience with a brief oral description of the case and the decision.

The other Justices either read aloud from a memorandum explaining the case or gave a more casual oral account. When the Chief Justice's turn came, he would simply announce that in a case with a particular name, the judgement of the lower court was affirmed, or reversed. When asked why he refused to join the others in explaining his opinions, he once said, "It's a waste of time."

He was adamant about preserving the secrecy of the Court's internal operations, even to the extent of refusing to make public the names of his four law clerks. A law firm recruiter or other member of the public who called the Court's public information office seeking a list of the current law clerks would receive the names of all the clerks except the Chief Justice's.

He mailed copies of his speeches to hundreds of journalists around the country and would telephone particular columnists to make sure his message was clear.

DEFINING THE LIMITS OF SPEECH AND PRESS

Occasionally, usually in connection with his annual "State of the Judiciary" address to the American Bar Association, a tradition that he inaugurated, he would invite journalists for informal "deep background" briefings, sessions that were often relaxed and informative.

But he seemed to hold much of the press corps in low repute. Asked by a lawyer at a Smithsonian Institution symposium what he thought of the reporters who covered the Court, he replied, as he often did: "I admire those who do a good job, and I have sympathy for the rest, who are in the majority."

His special scorn was reserved for television, which he regarded as an intrusive annoyance. He once knocked a television camera out of the hand of a network cameraman who followed him into an elevator. He vowed that he would never allow oral arguments at the Supreme Court to be televised.

Yet he wrote the opinion for the Court in the 1981 case Chandler v. Florida, holding that a state could permit a criminal trial to be televised, even over the defendant's objection, without depriving the defendant of the constitutional right to a fair trial.

Chief Justice Burger wrote several of the Court's most important opinions interpreting the free speech and free press guarantees of the First Amendment.

His opinion in a 1976 case, Nebraska Press v. Stuart, effectively prohibited judges from ordering the press not to publish information in its possession about the crime, a confession or the like. The opinion said that judges could take less drastic steps to protect criminal defendants from negative pretrial publicity, like sequestering the jury or changing the site of the trial.

A 1973 opinion by the Chief Justice ended roughly 15 years of turmoil over the legal definition of obscenity by changing the focus to local communities, rather than the entire country.

That opinion, in Miller v. California, said obscene materials were "works which, taken as a whole, appeal to the prurient interest in sex, which portray sexual conduct in a patently offensive way and which, taken as a whole, do not have serious literary, artistic, political or scientific value." The Chief Justice added that it was up to local juries applying "contemporary community standards" to decide whether a particular work fit that definition.

"It is neither realistic nor constitutionally sound to read the First Amendment as requiring that the people of Maine or Mississippi accept public depiction of conduct found tolerable in Las Vegas or New York City," he wrote. "People in different states vary in their tastes and attitudes, and this diversity is not to be strangled by the absolutism of imposed uniformity."

RELIGION, RIGHTS AND VETO POWER

Chief Justice Burger was also one of the Court's most prolific writers on another aspect of the First Amendment, the clause prohibiting an establishment of an official national religion. In a 1971 opinion, Lemon v. Kurtzman, he set forth the test for deciding whether a given law or government program that conferred some benefit on religion nonetheless passed muster under the First Amendment.

"First," he wrote, "the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion; finally, the statute must not foster an excessive government entanglement with religion." This "three-part test," as it came to be known through later refinements and elaborations, defined the Court's approach to the establishment clause in a variety of contexts.

The 1983 decision that struck down the legislative veto, Immigration Service v. Chadna, altered the balance of power between the executive and legislative branches.

It invalidated a procedure, which Congress had incorporated into some 200 laws, permitting one or both Houses to block executive branch action. The procedure, Chief Justice Burger wrote, was not within Congress' constitutional authority because it did not follow the rules the Constitution set out for "legislation": passage by both Houses and presentment to the President for his signature.

The Chadna opinion in many ways summarized the Chief Justice's view of American Government. He wrote, "With all the obvious flaws of delay, untidiness and potential for abuse, we have not yet found a better way to preserve freedom than by making the exercise of power subject to the carefully crafted restraints spelled out in the Constitution."

Chief Justice Burger wrote relatively few of the Court's criminal law decisions, and some of the more important decisions on the rights of criminal suspects found him in bitter dissent.

For example, in the 1977 case Brewer v. Williams the Court ruled, in a 5-to-4 opinion by Justice Potter Stewart, that the police had violated a murder suspect's constitutional right to counsel. The police officers, knowing that the suspect was deeply religious, delivered what came to be called the Christian burial speech, musing aloud on the wish of the victim's parents to give their daughter a Christian burial. The suspect, who had previously said he would talk only after seeing a lawyer, then led the officers to the victim's body.

The majority's decision overturning the murder conviction was "bizarre," the Chief Justice wrote in a dissent that was a stinging attack on the so-called exclusionary rule barring the use at trial of illegally seized evidence.

"The result reached by the Court in this case ought to be intolerable in any society which purports to call itself an organized society," he said. "Failure to have counsel in a pretrial setting should not lead to the 'knee-jerk' suppression of relevant and reliable evidence."

A CONSERVATIVE ON CRIME ISSUES

Although Chief Justice Burger's views on criminal law did not always garner a majority on the Supreme Court, those views had probably been more responsible for his being nominated to the High Court than any other factor.

He dissented from the Court's 1972 decision that invalidated all death penalty laws then in force. After the Court permitted executions to resume four years later, the Chief Justice grew increasingly impatient with the legal obstacles that lawyers and judges continued to place in the way of executions.

When the Court refused to block the execution of a murderer whose appeals had lasted 10 years, Chief Justice Burger wrote a concurring opinion excoriating lawyers for condemned inmates. He said the lawyers sought to turn the administration of justice into a "sporting contest."

In 13 years on the United States Court of Appeals for the District of Columbia Circuit, he was known as a conservative, law-and-order judge. He enhanced that reputation with speeches and articles. A speech in 1967 at Ripon College in Wisconsin came to Richard Nixon's attention after it was reprinted in U.S. News & World Report.

The White House distributed copies of the speech at the time of Judge Burger's nomination, and the Supreme Court press office handed it out for years when asked for information about his views. In the speech, he compared the American system of justice with the systems of Norway, Sweden, Denmark and the Netherlands.

"I assume that no one will take issue with me when I say that these North European countries are as enlightened as the United States in the value they place on the individual and on human dignity," he said.

Yet, he continued, those countries "do not consider it necessary to use a device like our Fifth Amendment, under which an accused person may not be required to testify."

"They go swiftly, efficiently and directly to the question of whether the accused is guilty," he added.

"No nation on earth," he said, "goes to such lengths or takes such pains to provide safeguards as we do, once an accused person is called before the bar of justice and until his case is completed."

A MODEST START IN MINNESOTA

Chief Justice Burger's speechmaking style changed little in subsequent years. He often returned to the theme and imagery of the Ripon speech and often used the Scandinavian countries, which he visited frequently, as benchmarks against which to compare the American system.

Warren Earl Burger was born Sept. 17, 1907, in St. Paul. His parents, of Swiss-German descent, were Charles Joseph Burger and the former Katharine Schnittger. His paternal grandfather, Joseph Burger, emigrated from Switzerland and joined the Union Army at the start of the Civil War, when he was 14. He was severely wounded in combat and received both a battlefield commission and the Medal of Honor.

Warren Burger was one of seven children. The family lived on a 20-acre truck farm on the outskirts of St. Paul. In addition to farming, his father sold weighing scales; the family's financial circumstances were modest.

At John A. Johnson High School, from which Warren Burger graduated in 1925, he edited the school newspaper, was president of the student council and earned letters in hockey, football, track and swimming. He earned extra money by selling articles on high school sports and other news to the St. Paul newspapers.

The rest of his formal education took place in night school while he worked days selling insurance for the Mutual Life Insurance Company of New York. He attended the night school division of the University of Minnesota for two years, then began night law classes at the St. Paul College of Law, now known as the William Mitchell College of Law. He received his degree with high honors in 1931.

He joined the faculty of the law school and taught for 12 years while practicing law with the firm of Boyesen, Otis & Faricy. He remained with the firm, one of the oldest in the state, for 22 years; after he became a partner, the firm was known as Faricy, Burger, Moore & Costello. He handled probate, trial and appellate cases, arguing more than a dozen before the United States Supreme Court and many more in the Minnesota Supreme Court.

He married Elvera Stromberg in 1933. They had a son, Wade Allen, and a daughter, Margaret Elizabeth.

As a young lawyer, Mr. Burger became active in community affairs. He was president of the Junior Chamber of Commerce and the first president of the St. Paul Council on Human Relations. That group, which he helped to organize, sponsored training programs for the police to improve relations with minority groups. For many years, he was a member of the Governor's Interracial Commission.

He also became involved in state politics, working on Harold E. Stassen's successful campaign for governor. He went to the 1948 Republican National Convention to help Governor Stassen's unsuccessful bid for the Presidential nomination.

MAKING THE MOVE TO WASHINGTON

In 1952, he was at the Republican convention again, still a Stassen supporter. But he helped Dwight D. Eisenhower's forces win a crucial credentials fight against Senator Robert A. Taft of Ohio. On the final day, with General Eisenhower lacking nine votes for the nomination, Mr. Burger helped swing the Minnesota delegation and gave Eisenhower the votes that put him over the top. Cheers broke out on the convention floor as an organ played the University of Minnesota fight song.

His reward was a job in Washington, as Assistant Attorney General in charge of the Civil Division of the Justice Department. He supervised all the Federal Government's civil and international litigation. He told a young Justice Department lawyer years later that he would have been content to continue running the Civil Division for the rest of his career.

One of his assignments was somewhat unusual for the Civil Division chief. He agreed to argue a case in the Supreme Court, usually the task of the Solicitor General's Office. The case involved a Yale University professor of medicine, John F. Peters, who had been discharged on loyalty grounds from his job as a part-time Federal health consultant.

The Solicitor General, Somin E. Soboloff, disagreed with the Government's position that the action by the Civil Service Commission's Loyalty Review Board was valid and refused to sign the brief or argue the case. Mr. Burger argued on behalf of the board and lost. Among the lawyers who filed briefs on the professor's behalf were two who would precede Mr. Burger on the Supreme Court, Abe Fortas and Arthur J. Goldberg.

After two years, Mr. Burger resigned from the Justice Department and was preparing to return to private practice in St. Paul when Judge Harold Stephens of the United States Court of Appeals for the District of Columbia Circuit died. President Eisenhower nominated him for the vacancy, and he joined the court in 1956.

His elevation to the Supreme Court 13 years later was made possible by President Lyndon B. Johnson's failure to persuade the Senate to accept Abe Fortas as Chief Justice.

A BENEFICIARY OF '68 ELECTION

On June 13, 1968, Earl Warren had announced his intention to resign after 15 years as Chief Justice. President Johnson nominated Mr. Fortas, then an Associate Justice, as Chief Justice. But the nomination became a victim of the 1968 Presidential election campaign and was withdrawn on Oct. 2, the fourth day of a Senate filibuster that followed acrimonious confirmation hearings.

Chief Justice Warren agreed to delay his retirement, and it was clear that whoever won the Presidential election would choose the next Chief Justice. Justice Fortas remained on the Court until May 1969, when he resigned after the disclosure that he had accepted a $20,000 fee from a foundation controlled by Louis E. Wolfson, a friend and former client who was under Federal investigation for violating securities laws.

On May 21, a week after the Fortas resignation, President Nixon nominated Warren Burger to be Chief Justice. The nomination went smoothly in the Senate, and he was sworn in as Chief Justice on June 23, 1969.

The Chief Justice and his wife lived in a renovated pre-Civil War farmhouse on several acres in McLean, Va. According to the annual financial disclosure statements required of all Federal judges, he had assets of more than $1 million. His largest investment was the common stock of the Minnesota Mining and Manufacturing Company.

He was a gardener and a serious wine enthusiast who took pride in his wine cellar and occasionally sponsored wine-tasting dinners at the Supreme Court.

By statute, the Chief Justice is Chancellor of the Smithsonian Institution and chairman of the board of trustees of the National Gallery of Art, duties that, as an art and history buff, he enjoyed. He visited antiques stores to look for good pieces for the Court and took an active role in the Supreme Court Historical Society.

He and his wife led an active social life in Washington and spent part of nearly every summer in Europe, usually in connection with a conference or other official appearance.

Chief Justice Burger cut an imposing figure, and it was often said that he looked like Hollywood's image of a Chief Justice. He was nearly 6 feet tall, stocky but not heavy, with regular features, a square jaw and silvery hair.

Proper appearance was important to him. He once sent a note to the Solicitor General's Office complaining that a Deputy Solicitor General had worn a vest the wrong shade of gray with the formal morning attire required of Government lawyers who argue before the Court.

In 1976, he appeared at a Bicentennial commemoration in a billowing robe with scarlet trim, a reproduction of the robe worn by the first Chief Justice, John Jay. He later put the robe on display in the Court's exhibit area.

A book by Chief Justice Burger, "It Is So Ordered" (William Morrow), was published earlier this year. It is an account of 14 cases that, in his judgment, helped shaped the Constitution.

Mr. Burger's wife died in May 1994. He is survived by his son, of Arlington, Va.; his daughter, of Washington, and two grandchildren. Funeral arrangements were incomplete today.•

CONGRATULATING THE STUDENTS OF MAINE SOUTH HIGH SCHOOL

• Mr. SIMON. Mr. President, I wish to recognize a group of students from Maine South High School in Park Ridge, Illinois, who won the Unit 1 award for their expertise in the "History of Rights," in the national finals of the "We the People . . . The Citizen and the Constitution" program.

As the ranking member of the Senate Subcommittee on the Constitution, Federalism, and Property Rights, I have a keen interest in constitutional issues. It is exciting to recognize achievement in an area which is important both to me personally and to the entire Nation.

Pat Feicher taught the winning class which competed against 49 other classes from across the Nation. The following students participated in the program: Raymond Albin, Julie Asmar, Marla Burton, Kevin Byrne, William Dicks, Nicholas Doukas, Neil Gregie, Conrad Jakubow, Brian Kilmer, Kristin Klaczek, Joe Liss, Robert McVey, Daniel Maigler, Agnes Milewski, Manoj Mishra, Vicky Pappas, Devanshu Patel, Anne Marie Pontarelli, Caroline Prucnal, Todd Pytel, Seema Sabnani, Jennifer Sass, Scott Schwemin, Peter Sedivy, Richard Stasica, Angela Wallace, Andrea Wells, and Stephen Zibrat.

This fine group of students has demonstrated a remarkable understanding of the fundamental element of the American system of government.•

VACLAV HAVEL

• Mr. KERRY. Mr. President, earlier this month, Vaclav Havel, President of the Czech Republic, spoke at a luncheon in his honor at the John F. Kennedy Library in Boston. President Havel spoke eloquently about President Kennedy's New Frontier and the hopes it inspired in his own country and among peoples throughout the world. He quoted the famous words of President Kennedy's Inaugural Address, "Ask not what your country can do for you, ask what you can do for your country." He spoke as well of our failure to live up to those ideals, and of the importance of continuing to strive for them. "What we can never relinquish is hope," he said.

Present in the audience at the Kennedy Library to hear these inspiring words were many members of the Masaryk club in Boston, a nonprofit cultural and social organization for Americans of Czech or Slovak ethnic background. President Havel's own personal courage in leading his country to freedom and democracy after the fall of the Berlin Wall made his visit to Boston an especially moving occasion for them.

I believe President Havel's eloquent address will be of interest to all my colleagues in the Senate. I ask that it be printed in the RECORD, along with Senator KENNEDY'S introduction of President Havel.

REMARKS OF SENATOR EDWARD M. KENNEDY

I want to thank Paul Kirk for that generous introduction. Everyone in the Kennedy family and everyone associated with President Kennedy's Library is proud of Paul and his outstanding leadership as Chairman of the Library Foundation.

I also want to thank John Cullinane for his effective role in our Distinguished Foreign Visitors Program. John has been a dear friend to our family for many years, and we are grateful for all he's done for Jack's Library.

Today is a special day for the Library, and we are delighted that our guest of honor could be here.

The ties that bind the United States and the Czech people go back many years. We're proud to have with us today members of Boston's Masaryk Club, named for the great founder of modern Czechoslovakia.

In 1918, at the end of World War I and the collapse of the Austro-Hungarian Empire, the new independent nation of Czechoslovakia was born. Thomas Masaryk drafted its Declaration of Independence, and he used America's Declaration of Independence as his model. He adopted the red, white and blue colors of our flag for the Czech flag and he declared the birth of the new nation. At the time, he was in Pittsburgh, Pennsylvania, seeking support for his native land, a true patriot for his people.

Masaryk's Declaration of Independence had a fascinating subsequent history. Masaryk died in 1937, and left the document to his private secretary, who gave it to the Library of Congress for safe keeping, until it could one day be returned to a free Czechoslovakia

When I first met President Havel in 1990, the Berlin Wall had been down for several months, and I mentioned to him that it might be time to return the document to Czechoslovakia. But Czechoslovakia's democracy was still very new, and it's future was uncertain. So President Havel thought is best for the document to remain at the Library of Congress a little longer. In 1991, with democracy firmly established, it was a great honor and privilege for all of us in Congress to return that historic document to President Havel and the people of Czechoslovakia.

As all of us know, our guest of honor has had an extraordinary and very inspiring career. As a student in the 1950's in Prague, he was attracted to the theater. After completing his compulsory military service, he started work for an avant-garde theater company as a stagehand and electrician. With his talent for writing and his strong sense of the stage, he quickly rose to the position of manuscript reader, and then resident playwright.

His rise coincided with the increasing political thaw in his country in the 1960's, and he became well-known for his vivid plays about the dehumanizing and repressive bureaucracy of communist regimes.

President Havel's relationship with the Kennedy family goes back to 1968, when he visited the United States in connection with the first American production of one of his most famous plays. Due to restrictions on visitors from Iron Curtain countries at the time, his visa limited him to New York City. His friends in the literary and theater community contacted Senator Robert Kennedy, and, with Bobby's help, President Havel was given permission to visit Washington.

But the thaw in Czechoslovakia was only temporary, and the Soviet invasion of 1968 ended the famous Prague Spring. President Havel's works were banned and his passport was confiscated.

Repression and harassment followed. In 1975, after his production of "The Beggar's Opera," even the members of his theater audiences became targets of police harassment.

But President Havel never wavered. He did not remain silent or flee the country during the repressive Communist rule. He was forced to take menial jobs, but he continued writing, speaking out for human rights, and standing up against the Communist dictatorship.

In 1977, he became a leader of Charter 77, a manifesto signed by hundreds of artists and intellectuals protesting the government's refusal to abide by the Helsinki Agreement on Civil and Political Rights. For his continuing courage, he was jailed several different times, and spent five years in prison.

In his visit to this country in 1990, President Havel told me that during those dark years in prison, the most important and most sustaining book he had read was "Profiles in Courage" by President Kennedy.

After the fall of the Berlin Wall, President Havel became the leader of the Civic Forum, an organization of groups opposed to the Communist Government. In November 1989, massive crowds gathered in Wenceslas Square to challenge that government and there was real dangers of violence. President Havel showed great leadership in bringing about a peaceful transition. It was called the Velvet Resolution, and in December he became the first president of the new, free Czechoslovakia.

In 1993, when Czechoslovakia peacefully split into two independent nations, he became the first President of the new Czech Republic.

During President Havel's earlier visit, we happened to be together at a large dinner party in his honor. As it was ending, I mentioned that one of the most beautiful and moving places to visit in Washington was the Lincoln Memorial at night. He was intrigued, and so we drove over there together. I read out loud the beautiful words inscribed on the walls—the text of Lincoln's Gettysburg Address and his Second Inaugural Address—and his interpreter translated them for President Havel.

It was a deeply moving few moments. He wrote down several of the great phrases, and he turned to me and said, "I am not able to understand the language, but I can understand the poetry."

Finally, I want to quote briefly from some of President Havel's own words, describing his life. Here is what he said: "You do not become a 'dissent' just because you decide one day to take up this most unusual career. You are thrown into it by your personal sense of responsibility, combined with a complex set of external circumstances. You are cast out of the existing structures and placed in a position of conflict with them. It begins as an attempt to do your work well, and ends with being branded an enemy of society."

But that label could not stick. No friend of freedom can be an enemy of society. President Havel's heroic opposition to repression won him many admirers throughout the world, including the great Irish playwright, Samuel Beckett. In 1982, in a unique political action, Beckett dedicated a play to Havel, about the suffering of a martyr in an oppressive country.

I know that President Havel regards that as one of the finest tributes he has ever received, and he eminently deserved it. Through many years of hardship and repression, he kept the idea of freedom alive, and he successfully led his people to it.

As Robert Kennedy said, "Each time a man stands up for an ideal, or acts to improve the lot of others, or strikes out against injustice, he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance."

Those words eloquently describe the extraordinary life of our guest of honor and the ripples of hope he has set forth across the world. He is a symbol of the aspirations of peoples everywhere for liberty and an end to oppression.

I am honored to introduce him now, a man for all seasons, an inspiring leader for our times, President Havel of the Czech Republic.

REMARKS OF VACLAV HAVEL

Dear Mr. Senator, dear guests, the name of the President for whom this library is named, your name, Mr. Senator, and the name of your family, evokes as powerful an echo as few other names do. For several generations, this name has been inseparably linked with the history of Boston, the Commonwealth of Massachusetts, the United States of America and, indeed, of the whole world.

For me and many others, this name is primarily linked with a period which had profoundly influenced a whole generation in various parts of the world, a period whose aftereffects we are still feeling today. I am speaking, of course, about the sixties. I will never forget my sense of elation at the election of President Kennedy. I will never forget my sense of shock at the news of his assassination. It was then that I realized that there are dark forces operating in the human nature and in the world at large. And I will never forget the few weeks I spent in the United States at the end of the sixties, my own taste of the unrepeatable atmosphere of the times in this country.

The historical dimensions of a decade do not always coincide with its chronological dimensions. The sixties began right on time in 1960, on a wave of hope with the election of your brother John Fitzgerald Kennedy as the 35th President of the United States. The same sixties, however, ended prematurely in the chaos and disillusion of 1968, with the student riots in Paris, the assassination of your brother Robert Kennedy in Los Angeles, the demonstrations against the war in Vietnam in Washington, and with the invasion of Czechoslovakia by the Warsaw Pact. What remained of the sixties chronologically after that, did not really belong there. Even the last joyful moment of the decade, the landing of Man on the Moon "before the decade was out," seemed to be a mere legacy of the late President who had turned the eyes of the nation toward the New Frontier but was murdered before he could witness the breakthrough.

Few decades in the history of mankind have been the focus of so much energy, joy and hope as well as of so much pain, bitterness and disappointment. It is then no wonder that few decades have left behind a legacy so controversial. It is hard to imagine a more suitable place for a small reflection on this legacy and what it might mean today than the Kennedy library.

From the very beginning of the sixties we hear the great call of the dead President for a new step forward, for courage and personal responsibility: "Ask not what your country can do for you—ask what you can do for your country." In the course of the sixties the civil rights movement triumphed and eliminated much of the heavy burden of the past. The turmoil of the sixties destroyed the barriers between the sexes and opened a new realm of freedom—sexual freedom. The creative impulse of the sixties produced an unprecedented number of original works in literature, music and arts. The technological progress, accelerated by the effort to conquer the space, set off an information revolution whose fruit we are in full extent reaping only today. In the communist part of the world the end of the decade witnessed an outburst of popular will against the absurdity of the totalitarian dictatorship in Czechoslovakia.

If it all stayed at that, we would now be remembering the sixties as a golden age of mankind. However, the hope that had ushered it in remained largely unfulfilled. The removal of barriers did not automatically bring about universal prosperity or universal harmony. A large part of the creative impulse of the times dissipated in disillusion or succumbed to commercial interests. The newfound individual freedom spent itself in hedonism, arbitrariness and in drugs. Technological progress also helped to build a new generation of ever more destructive weapons which were prevented from being used only by the certainty of mutually assured destruction. And the Czechoslovak rebellion against totalitarianism collapsed, in part because of the ambivalence of its efforts, under the avalanche of half a million troops of occupation while the rest of the world could only stand by and watch.

It would be too simple to attribute the failure of our hopes at the time only to unfavorable circumstances, to assassins or to the military might of the totalitarian regime. It would be equally simple to say that our hopes had been false from the very beginning, that they were nothing more than a result of the euphoria of youth or inexperience.

Our hopes did not come true because, as many times before in history, we failed to heed that call for personal responsibility and for a service to common interests. The opportunity to work together for the common good gradually degenerated into a service to group interests, sectarian interests and ultimately purely individual interests. The loving sixties were followed by the selfish eighties.

I do not think we should tear our garments here as if this were some exceptional and unforgivable failure. The service to one's own interests, the tendency to use one's own potential for one's own good is an inseparable part of human nature and the motivation which ultimately drives the world forward. At the same time it is equally an inseparable part of human nature to love and be loved, to be capable of solidarity, altruism, even of self-sacrifice. Some scientists like E. O. Wilson and some theologians think of both these tendencies as being a part of a single elementary life force. The question of a talmudistic scholar: "If I am not for myself, who will be for me? And if I am only for myself, who am I?" still demands an answer.

Today we are all thirty years older and hopefully—though this is far from certain—wiser. Much of that crazy decade we remember with a smile and sometimes even with some embarrassment. Much of that decade we can relinquish as unrepeatable, mistaken or misconceived. What we can never relinquish is hope.•

REGULATORY REFORM

• Mr. BAUCUS. Mr. President, in the next few days, the Senate will begin to debate regulatory reform legislation to make regulations more sensible, less burdensome, and more efficient.

This debate is long overdue. Because while passing laws is important, real people are affected not by congressional debates but by implementation of the law by agencies.

And all too often, agencies implement laws with too much paperwork, too much harassment and too little common sense. It is time to set things straight, and I congratulate the leadership for bringing this issue to the floor.

At the same time, however, we must remember that preventing pollution, ensuring food safety and keeping our rivers clean are critically important to a good life for Americans.

Unfortunately, some special interest groups do not see it that way. All over Washington, they are trying to get loopholes and special relief that will let them get away with polluting the air and water. And they are calling their loopholes regulatory reform. They should not get away with it.

So let us watch what is coming aboard pretty carefully. Let us reform Government rules and regulations to make them work better. But let us not use regulatory reform to weaken protection of public health and safety and to lower the quality of life.

THE NEED FOR REFORM

Government has to treat people like adults. It has to understand that most people are good people. They don't need to fill out a lot of forms to do the right thing.

As the debate unfolds, we will hear theories about so-called super mandates. About judicial review. About esoteric provisions of the Administrative Procedures Act. About how many permissible statutory constructions can dance on the head of a pin.

But when most Montanans think about Government regulations, they are more straightforward. Montanans want common sense. Montanans believe most Federal rules and regulations cost too much. They accomplish too little. They make responsible business owners fill out too many forms. And they just plain make people angry.

OSHA LOGGING REGULATIONS

I will give you an example. Earlier this year, OSHA, the Occupational Safety and Health Administration, proposed a rule that would make loggers wear steel-toed boots.

Seems to make sense—unless you are actually out in the Montana woods in winter, on a steep slope and frozen ground. In that case, steel-toed boots can make the job more dangerous, not less. They make your feet go numb, so it is harder to hold your grip. And if you are holding a live chainsaw at the time, you are in a lot of trouble.

So the people this regulation was meant to help knew it made no sense at all. And to add injury to insult, it threatened their jobs. OSHA told them to buy the boots in 2 weeks or take a furlough.

Another example was the EPA's decision 2 years ago to ban some kinds of bear sprays—pepper sprays that help people avoid injury from bear attacks—because they might irritate the nasal tissues of an attacking grizzly. Yet another was the Forest Service's decision to bar loud speech and inappropriate noises in national forests.

Most regulations are not as ridiculous or offensive as these. But even so, the sheer volume of regulation is a big problem. Small business owners often give up all of Friday afternoon to fill out OSHA forms and IRS withholding documents just to comply with existing regulations, let alone keep up with all the new ones.

Today, we are only half-way through 1995. And the Federal Register, in which the Government publishes its rules and regulations, is about to hit the 33,000-page mark. That is about 200 pages of rules, regulations, comments, revisions, and rerevisions every day.

KEY ELEMENTS OF REFORM

So I congratulate the leadership for moving ahead with regulatory reform. The effort is only beginning, but at the end I believe a good bill will include five key elements.

First, we should open up the regulatory process. It should be easier for people to comment on proposed rules. They should get more notice when a rule will affect their job or business. You simply cannot expect a hard-working gas station owner or restaurant manager to subscribe to the Federal Register and track all the changes and revisions in the OSHA code.

And while they are at it, agencies should explain their rules in plain English. For example, look at a sentence from an EPA rule in the December 29, 1994, Federal Register. It means to say treated hazardous wastes are exempt from disposal regulations under two conditions. But what it actually says is this:

> Currently, hazardous wastes that are used in a manner constituting disposal (applied to or placed on land), including waste-derived products that are produced in whole or in part from hazardous wastes and used in a manner constituting disposal, are not subject to hazardous waste disposal regulations provided the products produced meet two conditions.

Imagine handing that in to a high school English teacher.

Second, we should use new statistical tools like risk assessment and cost-benefit analysis when appropriate. They can help agencies set priorities, so we spend our money wisely and solve the biggest problems first. And they can help make sure agencies think creatively and consider all the options before charging ahead. But we must also understand their limitations—because I do not believe we can place a dollar value on things like the survival of the bald eagle or brain damage in children from lead in drinking water.

Third, Congress should conduct more oversight. Passing a law is only a small part of the job. It is implementation of the law that affects real people at home and in business. But too often, Congress passes a law and then walks away, leaving implementation entirely to bureaucrats who do not always have practical experience. The OSHA logging regulation is a good example. Congress should review major new regulations closely, so the mistakes are corrected before they start to threaten jobs and businesses.

Fourth, we should strengthen the Regulatory Flexibility Act. This law requires agencies to pay special attention to the effects of their regulations on small business. A good goal—but one agencies sometimes ignore.

Today, small businesses have no right to challenge an agency, in court, when it fails to comply with the Act. By establishing a streamlined process for judicial review, we can help small businesses protect themselves.

And fifth, we must continue strong and effective protection of public health, public safety and our natural heritage. Clean air, clean water and clean neighborhoods are basic American values. They are essential to a high quality of life in our country. Regulatory reform should get them for us more efficiently. It must not run away from these goals, and allow more contamination of rivers and streams, more urban smog, or greater threats to the public health and safety.

CONCLUSION

With these five steps, Mr. President, we will make federal rules and regulations more effective. And we will do something even more important. Americans will be more confident that their tax dollars are being spent wisely, and that we are guaranteeing public health and safety with the absolute minimum of bureaucracy and paperwork.

So I look forward to the debate on this bill, and to working with my colleagues to meet these goals.•

CONGRATULATING THE NEW JERSEY DEVILS FOR WINNING 1995 NHL STANLEY CUP

Mr. SARBANES. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 142, a resolution to congratulate the New Jersey Devils for winning the 1995 NHL Stanley Cup, a resolution submitted earlier today by Senators LAUTENBERG and BRADLEY; that the resolution and preamble be agreed to, en bloc, and the motion to reconsider be laid upon the table, and that any statements appear in the RECORD as if read.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (S. Res. 142) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 142

Whereas on October 5, 1982, the New Jersey Devils played their first National Hockey League game in New Jersey, embarking on a quest for the Stanley Cup which was satisfied 13 years later;

Whereas the Devils epitomize New Jersey pride with their heart, stamina, and drive and thus have become a part of New Jersey culture;

Whereas the New Jersey Devils won 10 games on the road during the Stanley Cup playoffs, thus demolishing the previous record;

Whereas the Devils have implemented an ingenious system known as the "trap" that was designed by head coach Jacques Lemaire which constantly stifled and frustrated their opponents;

Whereas Conn Smythe trophy winner Claude Lemieux led the league with 13 playoff goals, three of which were game-winners, and goalie Martin Brodeur led the league with a 1.67 goals-against average during the playoffs;

Whereas the New Jersey hockey fans are the best fans in the nation and deserve commendation for helping build the team into championship caliber and for supporting the Devils during their drive for the Stanley Cup;

Whereas the New Jersey Devils during the playoffs beat Boston, Pittsburgh, Philadelphia and in the finals swept the heavily favored Detroit Red Wings in four games giving the state of New Jersey its first-ever championship for a major league team officially bearing the state's name: Now, therefore, be it

Resolved, That the Senate congratulates the New Jersey Devils for their outstanding discipline, determination, emotion, and ingenuity, in winning the 1995 NHL Stanley Cup.

Mr. LAUTENBERG. Mr. President, I stand here proud of the New Jersey Devils' accomplishment in winning hockey's most treasured prize, the Stanley Cup. I congratulate the players and their coaches for an inspiring series with four straight victories over the Detroit Red Wings.

This capped an impressive string of playoff victories over Boston, Pittsburgh, and Philadelphia—victories that resulted in the Devils bringing the Stanley Cup to my home State for the first time in history. It is the first time in history that a national professional championship was won by a team with "New Jersey" in its name.

Mr. President, it took a great deal of determination, courage, drive, and discipline—and no small amount of prayer on the part of fervent fans—for the Devils to bring this cup home.

And they did this despite the fact that no one thought they could win it. Not when the playoffs started. Not when they reached the finals. No one gave them a chance against the Red Wings.

But, under the guidance of Head Coach Jacques Lemaire and with the great help of Claude Lemieux, the Cup's Most Valuable Player, and Martin Brodeur, the Devils demonstrated everything great about New Jerseyans—we have the heart, the drive, and the stamina to do it when we have to.

I will take a moment to mention other outstanding Devils players—Ken Daneyko, Bruce Driver, and John MacLean who have each been with the Devils since 1983 and have helped start the team's long journey to the top. Also we must commend Jim Dowd, a New Jersey native hailing from the town of Brick, who scored the winning goal in game two.

Mr. President, anyone who has been in New Jersey knows that the Devils—like our shoreline—are an integral part of our culture. And I, along with 8 million other New Jerseyans look forward to seeing them defend their cup title in the Byrne Arena next year and the year after as well.

Once again, I would like to congratulate them on their remarkable accomplishment, and to thank them for the hard fight they fought to bring the Stanley Cup to the great State of New Jersey.

ORDERS FOR WEDNESDAY, JUNE 28, 1995

Mr. BENNETT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 8:40 a.m. on Wednesday, June 28, 1995; that following the prayer, the Journal of the proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then immediately resume consideration of S. 240, the securities litigation bill, under the provisions of the previous agreement.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BENNETT. For the information of all Senators, the Senate will resume consideration of the securities bill tomorrow at 8:40 a.m. All Senators should be aware there will be a rollcall vote beginning at 8:45 a.m. on or in relation to the Specter amendment. Following that vote, there will be a series of votes with a brief period of debate between each vote. The first vote will be 15 minutes in length, and the remaining votes in the series will be only 10 minutes in length. Following the series of votes and 30 minutes of debate, there will be a 15-minute vote on final passage of the securities litigation.

ORDER TO RECESS

Mr. BENNETT. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that at the conclusion of Senator PELL's morning business speech, the Senate stand in recess under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Rhode Island is recognized.

U.S. RATIFICATION OF THE LAW OF THE SEA CONVENTION WILL ENHANCE OUR NATIONAL SECURITY INTERESTS

Mr. PELL. Mr. President, in the past few months, I have taken the floor on several occasions to highlight how the U.N. Convention on the Law of the Sea would protect the national interests of the United States with regard to our fisheries and our economic activities. Today, I wish to address how U.S. ratification of the convention will enhance our most important interest: national security.

The convention establishes as a matter of international law freedom of navigation rights that are critical to our military forces. This was highlighted by the President in his Message to Congress, transmitting the Convention on the Law of the Sea:

> The United States has basic and enduring national interests in the oceans and has consistently taken the view that the full range of these interests is best protected through a widely accepted international framework governing uses of the sea. . . . Each succeeding U.S. Administration has recognized this as the cornerstone of U.S. ocean policy. . . . The Convention advances the interests of the United States as a global maritime power. It preserves the right of the U.S. military to use the world's oceans to meet national security requirements and of commercial vessels to carry sea-going cargoes. . . . Early adherence by the United States to the Convention and the Agreement is important to maintain a stable legal regime for all uses of the sea, which covers more than 70 percent of the surface of the globe. Maintenance of such stability is vital to U.S. national security and economic strength." (Treaty Doc. 103–39, p.iii–iv)

Secretary of Defense William Perry and Secretary of State Warren Christopher emphasized in a joint letter to the Congress last year that:

> As one of the world's major maritime powers, the United States has a manifest national security interest in the ability to navigate and overfly the oceans freely.

A recent Department of Defense Report on National Security and the Convention on the Law of the Sea concluded that the United States

> . . . national security interests in having a stable oceans regime are, if anything, even more important today than in 1982 when the world had a roughly bipolar political dimension and the U.S. had more abundant forces to project power to wherever it was needed." (Hearing before the Committee on Foreign Relations on the Current Status of the Convention on the Law of the Sea, S. Hrg. 103–737, pp.61–75)

In his letter to the Senate accompanying that report Secretary Perry declared that:

> . . . the Convention establishes a universal regime for governance of the oceans which is needed to safeguard United States security and economic interests, as well as to defuse

> those situations in which competing uses of the oceans are likely to result in conflict. . . . Historically, this nation's security has depended upon the ability to conduct military operations over, under and on the oceans. . . . To send a strong signal that the United States is committed to an ocean regulatory regime that is guided by the rule of law, General Shalikashvili and I urge your support in securing early advice and consent of the United Nations Convention on the Law of the Sea and implementing Agreement.

I ask unanimous consent that Secretary Perry's letter be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 1.)

Mr. PELL. With the end of the cold war, both our vital interests and our ability to defend them have shifted. In these fiscally difficult times, the convention allows us to concentrate our resources on the most strategic points of our national security. Illustrations of this phenomenon can be found in the provisions of the Law of the Sea Convention that provide for innocent passage, transit passage, and archipelagic passage.

The convention allows a coastal State to claim a territorial sea that shall not exceed 12 nautical miles measured from the baseline. While this provision recognizes the special rights of the coastal state in the area immediately adjacent to its coastline, it also provides specifically for the right of innocent passage for ships, including warships and submarines, to transit through the territorial sea.

Likewise, in some areas, archipelagic states have been allowed to enclose waters located between the various islands of an archipelago, and to claim them as national waters. Unfortunately, some of these instances involve islands located in international straits or along routes used for international navigation and overflight of the highest strategic importance. Here again, the convention strikes the perfect balance by guaranteeing to all ships and aircraft, including warships, submarines, and military aircraft a right of passage on, over and under international straits and archipelagic sea lanes.

The need to protect freedom of navigation is not merely a theoretical issue. There have been recent situations where even U.S. allies denied our Armed Forces transit rights in times of need. Such an instance was the 1973 Yom Kippur war when our ability to resupply Israel was critically dependent on transit rights through the Strait of Gibraltar. Again, in 1986, United States aircraft passed through the Strait to strike Libyan targets in response to that government's acts of terrorism directed against the United States, after some of our allies had denied us the right to transit through their airspace.

In April 1992, Peruvian fighters strafed a United States C–130 aircraft that was 60 nautical miles off the Peruvian coast, well within Peru's claimed 200-nautical-mile territorial sea, but well outside the 12-nautical-mile limit recognized by the Law of the Sea Convention and the United States. This incident resulted in the death of one U.S. service member and the wounding of several others, as well as the loss of the aircraft. Peru continues to challenge United States aircraft flying over its claimed territorial sea.

There are a number of other situations where having the Law of the Sea in effect might have made a difference. I ask unanimous consent that a summary of such instances be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 2.)

Mr. PELL. Another way in which the convention protects our national security interests is by bringing an incredible amount of stability and certainty with regard to multiple and sometimes divergent ocean uses. Most importantly the convention provides the most effective brake on excessive coastal state maritime claims in ocean areas adjacent to their coasts.

If the United States is not a party to the convention, preserving our navigational rights in nonwartime situations becomes increasingly costly. The Law of the Sea provides very clear rules and circumstances according to which these claims need to be recognized. In addition, if the rights of a transiting nation are impeded, the Law of the Sea provides all parties with a very clear set of rules for the peaceful settlement of disputes.

Only a few weeks ago, a potential conflict threatened to erupt over Greek territorial claims around its islands in the Aegean Sea. Turkey has warned against the transformation of this area into a "Greek Lake" and many have warned of the possibility of conflict over this issue. The Law of the Sea specifically calls for peaceful resolution of such disputes and, when the Hamburg Tribunal on the Law of the Sea is convened, it could be seized to address disputes such as this one.

Another potential point of conflict is to be found in the South China Sea, where conflicting claims have been staked over the Spratly Islands. These islands have been claimed by the People's Republic of China, Taiwan, Vietnam, the Philippines, Malaysia, and Brunei. Recently, some of those claimants have engaged in aggressive activities. The location of the Spratlys is of paramount importance, as the islands lie along strategic sea lanes that connect the Indian Ocean and the Persian Gulf to the Pacific Ocean. Seventy percent of Japan's oil imports travel through this route and both the United States and its allies would stand to lose if armed conflict erupted as a result of these conflicting claims. The administration recently advised the various claimants that the United States would view with serious concern any maritime claim or restriction on maritime activity in the South China Sea that was not consistent with the Law of the Sea Convention.

In that regard, on June 20, 1995, the Committee on Foreign Relations reported, and on June 22 the Senate agreed to, Senate Resolution 97, introduced by Senator THOMAS and Senator ROBB, which I cosponsored. This resolution calls on the parties involved in this dispute to solve their differences in a manner that is consistent with international law.

I would like to bring to the attention of my colleagues an op ed piece that was published on May 26, 1995 in the Washington Times and I ask unanimous consent that it be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 3.)

Mr. PELL. In it, Keith Eirinberg, a Fellow in the Asian Studies Program at the Center for Strategic and International Studies, calls the Law of the Sea Convention perhaps the world's greatest diplomatic achievement for having established internationally accepted laws for three fourths of the earth's surface. He also clearly demonstrates that excessive claims have no standing under the Convention and that the U.S. ability to influence a peaceful settlement of the dispute over the Spratly Islands would be enhanced by U.S. ratification of the treaty.

In addition, on June 22, 1995, Rear Adm. Lloyd R. Vasey (Ret.), a senior strategist specializing in Asia-Pacific security, wrote in the Christian Science Monitor that the claims over the Spratly Islands should be resolved through international law and the UN Convention on the Law of the Sea. He added that for its own credibility the U.S. needs to complete ratification of the Law of the Sea Treaty. I ask unanimous consent that this article be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 4.)

Mr. PELL. There are scores of other instances where maritime boundary disputes were solved in a peaceful manner, precisely because the Law of the Sea establishes such clear rules and limitations. If it does not ratify the Convention, the United States will stand at risk of being left out of the enforcement of this Constitution for the Oceans, and will be subject to the uncertainties of customary international law.

I have heard arguments that the Convention's provisions on freedom of

navigation are not really important because they reflect customary international law. I disagree with that argument.

Customary international law is inherently unstable. Governments can be less scrupulous about flouting the precedents of customary law than they would be if such actions were seen as a violation of their treaty obligations.

Moreover, not all governments and scholars agree that all of the critical navigation rights protected by the Convention are also protected by customary law. They regard many of those rights as contractual and, as such, available only to parties to the Convention.

The concordant judgment of those charged with responsibility for the national security of our Nation is reflected in the report of the Department of Defense on National Security and the Law of the Sea, which states:

> Our principal judgement is that public order of the oceans is best established by a universally accepted Law of the Sea treaty that is in the U.S. national interest. . . . Reliance upon customary international law in the absence of the modified Convention would represent a necessarily imprecise approach to the problem as well as one which requires the United States to put forces in harm's way when principles of law are not universally understood or accepted. A universal Convention is the best guarantee of avoiding situations in which U.S. forces must be used to assert navigational freedoms, as well as the best method of fostering the growth and use of various conflict avoidance schemes which are contained in the Convention.

Mr. President, this is not merely my opinion but that of the professionals whose job it is to protect our Nation's security. We must not ignore their advice: United States ratification of the Law of the Sea Convention will enhance our national security interests.

EXHIBIT 1

THE SECRETARY OF DEFENSE,
Washington, DC, July 29, 1994.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In 1982, the United States made a decision that it would not become a party to the United Nations Convention on the Law of the Sea because of its concerns about the deep seabed mining provisions, contained in Part XI of the Convention. The Convention is due to enter into force on November 16, 1994, now that the requisite number of other states (60) have ratified it. However, consultations were recently concluded which resulted in an Agreement to correct what the United States has long viewed as the Convention's flawed deep seabed mining provisions. The United States now intends to sign the Agreement at the United Nations on July 29, 1994. Accordingly, the Convention as modified will be transmitted to the Senate for its advice and consent at the end of the 103rd Congress.

The Department of Defense fully supports U.S. signature of the Agreement, and ratification of the Convention as modified by the Agreement. In the Administration's view, the new Agreement satisfactorily resolves the issues that the U.S. Government and ocean mining interests raised in the early 1980's during deliberations over whether the United States should sign the Law of the Sea Convention. The new Agreement meets these objections by correcting the serious institutional and free market deficiencies in the original Convention. We have received indications from other industrialized nations that, with adoption of the new Agreement, they will soon accede to the modified Convention.

The Convention establishes a universal regime for governance of the oceans which is needed to safeguard U.S. security and economic interests, as well as to defuse those situations in which competing uses of the oceans are likely to result in conflict. In addition to strongly supporting our interests in freedom of navigation, the Convention provides an effective framework for serious efforts to address land and sea-based sources of pollution and overfishing. Moreover, the Agreement provides us with an opportunity to participate with other industrialized nations in a widely accepted international order to regulate and safeguard the many diverse activities, interests, and resources in the world's oceans. Historically, this nation's security has depended upon the ability to conduct military operations over, under, and on the oceans. The best guarantee that this free and unfettered access to the high seas will continue in the years ahead is for the U.S. to become a party to the Convention, as modified by the Agreement, at the earliest possible time.

In the coming months, we anticipate heightened public debate of the merits of the Law of the Sea Convention. To put that debate into perspective, you will find enclosed a paper which briefly outlines the history of the original Convention, the steps leading to the formalization of the Part XI Agreement, and the nation's vital national security and other interests in becoming bound by the modified Convention.

To send a strong signal that the United States is committed to an ocean regulatory regime that is guided by the rule of law, General Shalikashvili and I urge your support in securing early advice and consent of the United Nations Convention on the Law of the Sea and implementing Agreement.

Sincerely,

WILLIAM J. PERRY.

EXHIBIT 2

PARTICULAR CASES WHERE HAVING THE LAW OF THE SEA CONVENTION IN EFFECT MIGHT HAVE MADE A DIFFERENCE:

Between 1961 and 1970, Peru seized 74 U.S. fishing vessels over disputed tuna fisheries.

In 1986, Ecuador interfered with a USAF aircraft flight over the high seas 175 miles from the Ecuadorian coast.

Since 1986, Peru has repeatedly challenged U.S. aircraft flying over its claimed 200 nautical mile territorial sea. During several of these challenges, the Peruvian aircraft operated in a manner that unnecessarily and intentionally endangered the safety of the transiting U.S. aircraft and its crew. This includes an incident where a U.S. C–130 was fired upon and a U.S. service member was killed.

In 1986, two Cuban MIG–21 aircraft intercepted a USCG HU–25A Falcon flying outside of its 12 nautical mile territorial sea, claiming it had entered Cuban Flight Information Region (FIR) without permission.

In 1988, Soviet warships intentionally "bumped" two U.S. warships engaged in innocent passage south of Sevastopol in the Black Sea.

In 1984, Mexican Navy vessels approached U.S. Coast Guard vessels operating outside Mexican territorial waters and interfered with valid USCG law enforcement activities.

Libyan claims to the Gulf of Sidra have resulted in repeated challenges and hostile action against U.S. forces operating in high seas.

During the 1980's, transits of the Northwest Passage by the USCG POLAR SEA and POLAR STAR were challenged by the Canadian Government.

EXHIBIT 3

[From the Washington Times, May 26, 1995]

U.N. MARITIME PACT COULD PRODUCE SOUTH CHINA SEA SOLUTION

(By Keith W. Eirinberg)

The recent Clinton administration statement on the Spratly Islands dispute, urging negotiations instead of force, is the strongest declaration yet of U.S. interests in the South China Sea.

While critics of the administration argue that the United States should "draw a line in the sand" against Chinese aggression in the Spratlys, U.S. interests are better served by efforts to persuade the contesting parties to follow international law, including the newly effective 1982 U.N. Convention on the Law of the Sea, and find a diplomatic solution.

The Republican-controlled Senate can help America's efforts to protect these interests by ratifying the Law of the Sea accord, giving this country greater standing as it encourages a peaceful resolution of the dispute.

The Spratly Islands imbroglio is essentially a maritime controversy centered on the question of sovereignty and jurisdiction over geologic features and adjacent waters in the South China Sea.

Six nations claim part or all of the Spratlys: the People's Republic of China, Taiwan, Vietnam, the Philippines, Malaysia and Brunei. The dispute has direct implications for U.S. interests: freedom of navigation and overflight and the maintenance of peace and stability in Southeast Asia.

The sovereignty issue appears intractable, so many of the parties have voiced a desire to shelve this point and look to joint development of the area's resources. China, in a "divide and conquer" strategy, insists on negotiating bilaterally and rejects a regional or international approach. The Association of Southeast Asian Nations, which includes some of the claimants, is interested in a regional solution.

The parties to the dispute, except Brunei, claim ownership over islands, reefs, atolls, rocks and cays in the Spratlys. The Spratlys are important because they lie along strategic sea lanes and lines of communication that connect the Indian and Pacific oceans. More than 70 percent of Japan's oil imports and a large volume of global commerce travel along this maritime route. The Spratlys are domestically important to the claimants because of the politics and patriotism reflected in ownership.

It is the potential of vast hydrocarbon resources beneath the seabed that has caused this dispute to become a flash point in East Asia. The energy needs of the developing claimants have made the exploitation of oil and gas beneath the South China Sea especially attractive.

The U.N. Convention on the Law of the Sea—perhaps the world's greatest diplomatic achievement for having established internationally accepted laws for three-fourths of the earth's surface—can provide the framework for a diplomatic solution. For example, it prescribes the methods for determining boundaries. Of the claimants, the Philippines and Vietnam have ratified the convention.

To Beijing, however, ownership is nine-tenths of the law. While advocating a diplomatic solution, it has aggressively placed encampments and markers in contested areas of the Spratlys. This "talk and take" pattern was most recently illustrated in China's occupation of Mischief Reef in Philippine-claimed territory.

China's cavalier attitude to international law is also shown by its 1992 territorial sea law. This declares Chinese jurisdiction over virtually all of the South China Sea—a claim that has no basis in modern international law.

China must play by the rules. Washington encourages Beijing to join the international community in many different areas, from nuclear proliferation to human rights. But Washington finds itself in a poor position to persuade Beijing to ratify the Law of the Sea accord without having done so itself.

U.S. administrations had resisted ratification because of inequities in the deep-seabed-mining provisions. But changes to the convention have addressed U.S. objections.

Last year, with strong Defense Department backing, the White House signed the amended Convention on the Law of the Sea and sent it to the Senate for ratification.

America's ability to influence a peaceful settlement of the Spratly Islands dispute would be enhanced by U.S. ratification of the treaty. In light of the tensions in the South China Sea, this step should be taken soon.

EXHIBIT 4

[From The Christian Science Monitor, June 22, 1995]

COLLISION IN THE CHINA SEA—WORLD OIL AND SHIPPING LANES AT STAKE IN MULTINATION DISPUTE

(By Lloyd R. Vasey)

East Asia's economic momentum may grind to a premature halt unless political leaders find a way to defuse tensions over territorial disputes in the South China Sea. With several countries on a collision course, a major regional crisis is waiting to happen.

At issue are claims of sovereignty over the Spratly and Paracel Islands—hundreds of islets and reefs and surrounding seas believed to be rich in oil, gas, and other resources. China, which urgently needs new energy sources, is the central disputant; others include Vietnam, Brunei, Malaysia, the Philippines, and Taiwan. China's claims are historically based, going back several centuries when the South China Sea was an area of preeminent Chinese influence and power. Currently they have no basis in international law, and claims of some of the other countries are also questionable.

The prevailing view in Asia is that China is deliberately expanding its geopolitical influence in the region. This perception was dramatically reinforced in 1992 when the Chinese People's Congress declared ownership of the waters around the Spratlys and Paracels and readiness to use military power to defend its interests. The claim would make the South China Sea a virtual Chinese lake straddling shipping lanes carrying huge volumes of global trade, including the oil lifelines of Japan and South Korea.

Indonesia and other countries of the Association of Southeast Asian Nations (ASEAN) have convened unofficial forums seeking to resolve the disputes, but progress on the issues has stalled.

Regional tensions escalated last month when Philippine president Fidel Ramos challenged China's "illegal" occupation of a small atoll in the Spratlys aptly named Mischief Reef.

It lies well within the Philippine's 200 mile Exclusive Economic Zone but also within the area claimed by Beijing.

China hasn't hesitated to use force in asserting territorial claims. In 1974 it seized most of the Paracel islands east of Vietnam. In 1988, the two engaged in bloody clashes over the Spratlys.

Indonesians are deeply suspicious of China's revision of a map that now depicts part of the maritime area around Natuna island, hundreds of miles south of the Spratlys, to be under Chinese jurisdiction. Indonesia's military leaders have announced that they will defend their national interests by force if necessary. What makes the issue particularly irksome to Indonesia is that a $35 billion deal involving a United States oil company was signed last year to help develop the Natuna gas field, possibly one of the world's largest.

Such colliding claims ought to alert Washington to pay much closer attention to this high-stakes strategic game. The implications for American interests are disturbing: future access to resources, freedom of the seas, the balance of power, and regional stability are all involved.

The US should now revamp its policy of relying on ASEAN even when important American interests are involved. Instead, the US should volunteer to act as honest broker to work out production-sharing agreements for joint development of resources in contested areas, and request disputants to put sovereignty claims on hold. These claims should be resolved through international law and the UN Convention on the Law of the Sea. For its own credibility the US needs to complete ratification of the Law of the Sea Treaty, now in the Senate. Leadership won't cost Washington an extra dime, nor will it require any troops. Crisis prevention is what it's all about.

RECESS UNTIL 8:40 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 8:40 tomorrow morning.

There being no objection, the Senate, at 9:38 p.m., recessed until Wednesday, June 28, 1995, at 8:40 a.m.

NOMINATIONS

Executive nominations received by the Senate June 27, 1995:

THE JUDICIARY

TODD J. CAMPBELL, OF TENNESSEE, TO BE U.S. DISTRICT JUDGE FOR THE MIDDLE DISTRICT OF TENNESSEE, VICE THOMAS A. WISEMAN, JR., RETIRED.

JAMES M. MOODY, OF ARKANSAS, TO BE U.S. DISTRICT JUDGE FOR THE EASTERN DISTRICT OF ARKANSAS, VICE HENRY WOODS, RETIRED.

EVAN J. WALLACH, OF NEVADA, TO BE A JUDGE OF THE U.S. COURT OF INTERNATIONAL TRADE, VICE EDWARD D. RE, RETIRED.

U.S. INFORMATION AGENCY

ALBERTO J. MORA, OF FLORIDA, TO BE A MEMBER OF THE BROADCASTING BOARD OF GOVERNORS FOR A TERM OF 2 YEARS. (NEW POSITION.)

HOUSE OF REPRESENTATIVES—*Tuesday, June 27, 1995*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore [Mr. EMERSON].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 27, 1995.

I hereby designate the Honorable BILL EMERSON to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

MORNING BUSINESS

The SPEAKER. Pursuant to the order of the House of May 12, 1995, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member except the majority and minority leaders limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from New Mexico [Mr. SCHIFF] for 5 minutes.

WHAT NEW BUDGET FROM THE PRESIDENT?

Mr. SCHIFF. Mr. Speaker, as our colleagues are aware, the House and Senate budget committees reached a resolution of the differences between the House budget resolution and the budget resolution of the other body, and we may get their conference report on the future budget as soon as this week, and I want to say that they have had to make a number of hard choices, just as each body, the House and the other body, had to make hard choices within their own budget resolutions.

Nevertheless, I have noticed a great deal of media discussion again comparing the President's new budget that he talked about in his televised presentation to the Nation a couple of weeks ago with the proposed united congressional budget, and by united congressional budget, I mean the House-Senate conference report which is coming to us.

Now, I have to say with the utmost respect: "What new budget from the President of the United States?"

Now, Mr. Speaker and colleagues, this is a budget. In fact, this is the President's budget submitted to the Congress in February of this year, which, as you can see by its size, goes through each agency and each program and point-by-point proposes spending in the next fiscal year and beyond. There is no such document from the White House, at least as of this time, which gives comparable point-by-point proposals for spending.

There is, if one contacts the White House, available some talking points about the President's new budget goals. But talking points are not by themselves a budget. A budget is program-by-program recommendations on spending.

The fact of the matter is in most respects we do not know what is in the President's new budget and, therefore, when the media compares the President's budget with the congressional budget, they are comparing our real budget with the President's talking points, and, as such, there cannot be a point-by-point comparison.

We do not know how the President's new budget will affect so many programs that are federally funded. We have a brief reference in the President's televised address to the Nation referring to a 20-percent cut in funding for discretionary programs except for the military and except for education, and the President stated he wanted to boost spending on education. But what does that 20-percent cut mean? First of all, is it a 20-percent real cut? Did the President mean that Federal agencies will have 20 percent less budget or did he mean it will be a Washington cut, there will be a 20-percent decrease in the amount of new spending? I think that is a reasonable question, but there is no answer to it.

Further, does that mean a 20-percent cut across the board? That means, however you define a cut, will every single agency except for the military and except for the agency, have a 20-percent reduced budget, or does it mean an average 20-percent reduction so that some agencies and some programs will, say, remain the same and other agencies and programs will be reduced by 40 percent? We do not know any of that either.

So, to give some specific examples, we do not know what the congressional proposal is being compared to. Let me give three examples very briefly. First of all, to start with, my home State of New Mexico, there has been a great deal of discussion about how the future funding of the Federal Government will affect the two national laboratories in New Mexico and there has been a good deal of debate about what the congressional figures will mean in various programs. I want to say that all of this is fair commentary, that the national laboratories, I think, are important programs, but they understand, as everyone understands, that they will be affected as all Federal programs will, in the goal to reach the balanced budget. But the evaluation of how they are being treated by Congress cannot be made in a vacuum.

How will all the national laboratories fare in the President's new budget if the President's new budget is adopted as the spending blueprint for the Congress? Well, we just do not know because we have not seen those figures. Nobody thus far can answer that question.

Just this morning, just to show this applies anywhere, as I was leaving my apartment to come here, I saw one of the national morning news programs. They were centered around the national park system, and one of the comments I heard is they said we will be talking about how proposed congressional cuts will affect the National Park Service.

I just wanted to say, to be a full player, Mr. Speaker, the President has to provide a full proposed budget.

COMPACT-IMPACT AID

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Guam [Mr. UNDERWOOD] is recognized during morning business for 5 minutes.

Mr. UNDERWOOD. Mr. Speaker, I rise today to again call attention to the problem of unrestricted immigration to Guam allowed by the compact of free association and the failure of the Federal Government to fulfill its promises to Guam to reimburse our local government for the cost of educational and social services that this immigration policy causes.

This legal immigration allows the citizens of the three nations of the former trust territory to travel unrestricted to the United States, without passports or visas, and to reside, work, or attend school without going through the usual INS applications. In opening the door to this unusual and generous policy, the Federal Government also promised in Public Law 99-239 to reimburse the American islands in the Pacific for the expected costs. Guam, because of its proximity, has received the greatest share of this immigration.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Since 1985, when the compact was enacted, and compact-impact aid was authorized, Guam has incurred over $70 million in costs. Guam has received a grand total of $2.5 million in reimbursement.

Mr. Speaker, Congress has spoken out loud and clear on unfunded Federal mandates. As we consider the Interior appropriations bill this week, I urge my colleagues to ensure that the funding for Guam's reimbursement is included. Let us make sure that on this issue, promises are kept.

THE FEDERAL BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Ohio [Mr. HOKE] is recognized during morning business for 5 minutes.

Mr. HOKE. Mr. Speaker, I rise today to talk about the Federal budget and to talk about the context in which it is being discussed both by the President and in the media and on the floor, and I particularly want to thank my good friend, the gentleman from New Mexico who spoke before me in his remarks regarding highlighting what the fundamental problems are in the way that we talk about the budget itself.

Let me just share a couple of numbers with you that may be helpful. Total spending for 1995 was $1.531 trillion; that is, $1.531 trillion. The projected spending for the year 2000, under the Republican conference bill that was just approved by the conference committee, will be $1.778 trillion, that is, $1.778 trillion. Let us go over those again:

In 1995, $1,531,000,000,000, in 2000, $1,778,000,000,000: More than $350 billion more will be spent in the year 2000 by the Federal Government under the Republican plan that gets us to a balanced budget than was spent or is being spent right now in the fiscal year 1995.

Now, let me put that in the context of something that the President said on the CBS This Morning program about 2 years ago, May 27, 1993. He was being interviewed by Paula Zahn, and he said in response to a question about the budget he said, "We have about $100 billion in cuts, but they are still going up very rapidly." I will say that again: "We have about $100 billion in cuts in various entitlement programs, but they are still going up very rapidly."

Now, what does that mean? Think about those words. How can we have $100 billion in cuts but they are still going up very rapidly? That is the problem with Washington doublespeak. We talk a lot about Orwellian language. We talk a lot about the problem that George Orwell so brilliantly talked about and exposed there is his novel "1984," and it is the problem of the debasement of language, the abuse of language and the use of language in a way that, in fact, confuses people instead of bringing clarity and light, and that is the problem we have got with the budget, because the reality is that we talk about money inside Washington in a way that is very different from how we talk about it over kitchen tables in Cleveland, OH, or over corporate board tables in corporate boardrooms or the way that people in churches discuss their budget for the next year or the way that people with nonprofit foundations and corporations and universities and institutions of that sort discuss their budget. The fact is that we can talk about money in Washington in terms of a projected amount of growth that was created by a bureaucratic agency known as the Congressional Budget Office, and that budget office, the CBO, talks about we are going to have this much growth projected; therefore, if you project spending less than that, that is a cut, and if you project spending the same as that, then you have not spent more money, but the reality is that in Cleveland, OH, if you are going to spend $5,000 on food and clothing in 1996 and you spent $4,700 on food and clothing for your family in 1995, that is a $300 or 6 or 7 percent increase in spending. It is not a cut. It cannot be a cut under any circumstances, and until and unless we begin to use language in Washington the same way that we use language in the rest of the country, the public is going to continue to be confused about this.

Let us look at Medicare as an example, because this is where you will hear the greatest exploitation of these projected increases in terms of political exploitation, and these numbers will be used to inject fear into the debate, to scare senior citizens and, frankly, to confuse for political gain. The reality is that in 1995 we are spending $178 billion on Medicare. In the year 2000, under the Republican budget plan, if that is what is finally approved and passed by both the Senate and the House and then signed into law this coming August or September by the President of the United States, we will spend $214 billion, $178 billion in Medicare in 1995, $214 billion on Medicare in the year 2000.

Does that or does that not sound like an increase? Clearly, it is an increase, and yet you will hear it described as a cut.

ELECTIONS IN HAITI

Mr. SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Florida [Mr. GOSS] is recognized during morning business for 5 minutes.

Mr. GOSS. Mr. Speaker, speaking of the budget as the previous colleagues have from this point of view, I think it is important to note that today the Members of this body will be discussing the appropriation for our foreign operations assistance, and that, of course, is part of our budget process, how much money are we going to parcel out for the different things we undertake as the United States of America through the governance in Washington.

Today I am here to talk a little bit about a specific budget item and a little bit about a situation where American taxpayers' dollars go in very substantial amounts, because I think there is some interest in it. I think there should be some interest in it.

I am reporting about the situation in Haiti today, discussing a little bit the question about foreign aid for Haiti, how much is right and how should we handle it.

As we go through the foreign operations appropriations bill, I will be submitting an amendment that will deal directly with the subject, so in a way I am going to use these few moments just to say that I have come back from the elections in Haiti, and I think that there is a very important message in those elections, and I also feel that there is much work ahead and much accountability ahead.

Let me be specific. The headline this morning in one of the Washington papers was, "A step for Democracy?" After reviewing showing pictures and reviewing the reports that are coming from Haiti, I would conclude, having been there for 4 days and gotten around part of the country and been in charge of a team that had observers spread countrywide, that it was a very small step, a very halting step, a very hesitant step for democracy, but it was a step. It was a very expensive step for the American taxpayers also.

It turned out that by our standard, you would probably not recognize it as much of an election. It was a very compressed election time, virtually no campaign, which I think many Americans would probably applaud, but unfortunately that meant for Haitians they did not know what the issues were or what was going on, and in that country, generally, you vote for an individual out of a loyalty or a personal conviction, and the issues seem to take a subordinate role.

There were an extraordinary amount of unaddressed administrative problems, and when I say unaddressed, that is the critical word because the people in charge of the election apparently got the complaints but never gave any answers out. It created a tremendous amount of frustration that led to a lack of transparency. The people did not know what was going on. The people making decisions were not sharing why they were making those decisions, and that, in turn, eroded credibility. Credibility is vital for full, free elections.

It turned out not only was there no campaign to speak out, there was no training in advance of poll workers, no preparation of the people. As a result, there was no great enthusiasm to go out and vote and, in fact, the turnout was disappointingly light. It turned out when you went to vote, if you were a Haitian, there were missing candidates. The candidate you wanted to vote for was not on the ballot or the polling workers were not at the polling station to help you vote or to open the polling station, because they had not been paid, or there were no materials to vote. You might have gotten to the right place and your candidate was on the ballot, but there was no other material to deal with, say, no ballot boxes. We found these kinds of problems widespread everywhere.

The end result is people were dissatisfied. There was frustration, and as we have all seen in the pictures from the television and newspapers, widespread disturbances, nothing like the violence in past elections in Haiti. We are all glad abut that. but, still, some very serious incidents did take place in the country, when you are burning down voting stations and stoning candidates, as did happen in some places, and we do not know all of these details yet.

We have got a problem. The mood was clearly more relaxed than in the last election in 1990, when I was also there as an observer, but there is still concern about personal security, and the light turnout was in part described by some Haitians due to the fact they did not have enough security at the polls. They wanted to see somebody out there who could protect them if they want to vote, because they could remember what happened if they went to vote in the past and they did not have that security. Bad things happened.

Another good part of the news, of the good news, is that the political parties are beginning to work better in Haiti. The one thing that did work in these elections was the poll watchers were there and doing their job on behalf of the parties, and I am happy to say that after the election voting process is pretty much over, that the parties are the ones who are getting involved in making the complaints and making things happen in Haiti, and that is the way it should be. The parties were doing a better job than the government did of running, by and large.

What is ahead? We have got about a quarter billion dollars in aid going to Haiti. That means a lot of accountability. I think most Americans want to know what has been spent there, for what purposes, what specifically, how much more are we going to spend.

We have the Presidential elections coming in December 1995, and that is the big one. That is the one that matters. I think we had better be better prepared than we were for these parliamentary elections.

THE NEW ENOLA GAY EXHIBIT AT THE SMITHSONIAN

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Texas, Mr. SAM JOHNSON, during morning business is recognized for 5 minutes.

Mr. SAM JOHNSON of Texas. Mr. Speaker, just a few short months ago, the Smithsonian Institution was surrounded with controversy. The planned exhibit of the historic Enola Gay, the plane that actually dropped the atomic bomb on Japan, was overcome with historic revisionism and distortion of fact by a group of people that was determined to editorialize and promote an anti-American message about the end of World War II, which we are celebrating this year, as you know.

I am happy to report that starting tomorrow, that exhibit is going to be open to the public, and Secretary Heyman and the Smithsonian have created a new Enola Gay exhibit that every American can be proud of. The new exhibit, which I had an opportunity to view last week, tells the amazing story of the development of the B–29 airplane, and it talks about how America researched and how American industry and how American ingenuity developed our air power so that we actually were able to win World War II, and it shows the brave crew that flew on a historic mission.

Most importantly, the exhibit shows the true role America played in ending World War II, in saving both American and Japanese lives.

Mr. Speaker, I congratulate the Smithsonian. I think the National Air and Space Museum is back on track as an exemplary museum for America, and I urge all Americans to visit the National Air and Space Museum here in Washington and see this great tribute to American aviation, American veterans, and American history.

RECESS

The SPEAKER pro tempore. Purusant to clause 12, rule I, the Chair declares the House in recess until 12 noon.

Accordingly (at 10 o'clock and 52 minutes a.m.), the House stood in recess until 12 noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. FOLEY) at 12 noon.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We admit, O gracious God, that often we know the route we should follow but we lack the will to take the step, we understand where we should be and what we should do, but we lack the resolution to follow through on our beliefs. On this day we pray, O God, that, armed with Your good spirit, we will have the courage to act as well as to think, to do as well as to talk, and finally, to accomplish the works of faith and hope and love in all we do. Bless us this day and every day, we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from Georgia [Mr. BISHOP] come forward and lead the House in the Pledge of Allegiance.

Mr. BISHOP led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed concurrent resolutions of the following titles, in which the concurrence of the House is requested:

S. Con. Res. 18. Concurrent resolution authorizing the Architect of the Capitol to transfer the catafalque to the Supreme Court for a funeral service.

S. Con. Res. 19. Concurrent resolution to correct the enrollment of the bill H.R. 483.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 483) "An act to amend title XVIII of the Social Security Act to permit Medicare select policies to be offered in all States, and for other purposes."

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will entertain fifteen 1-minute speeches on each side.

THE RETIREMENT OF E.C. "GUS" GUSTAFSON, CHIEF REPORTER OF OFFICIAL REPORTERS OF DEBATE

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, when the House adjourns this week, it will literally mark the end of an era. From the days of the Pharaohs, from the days of Moses, to the time of King Arthur, to the founding of our great Constitution and the words of our Founding Fathers, all of the great spoken words were memorialized by hand, pen, quill, and ink.

Not any more. Now this new high-technology stenotype machine, handled by lovely people such as Ms. Mazur and others of the official Office of the Reporters of Debates, shall memorialize all the great debates that take place in the House, including that today on foreign operations.

But the reason why this great era is ending, Mr. Speaker, is because a beautiful man, the chief of the Office of the Reporters of Debates, E. Charles Gustafson, known to us all as Gus, is finally retiring.

My colleagues, this beautiful man was born in 1921, on June 26, in West Clarksville, NY. Gus then graduated from the Gregg College of Court Reporting in Chicago, IL, and began his great career in the early 1940's in nearby Cleveland, OH, to my hometown of Youngstown. Many of my colleagues may not realize that when the war broke out, World War II, Gus enlisted in the Navy and served his Nation aboard the battleship U.S. *New Jersey* and in the Philippines, and upon his discharge, Mr. Speaker, Gus resumed his career in my hometown, Youngstown, OH, and from 1946 to 1972 did tremendously, establishing the foundation of what would be called the ultimate for a reporter, to in fact be summoned to Washington, DC.

When the House adjourns this week, my colleagues, Gus Gustafson will join his beautiful wife, Betsy, his two sons, Charles and Richard, and his beautiful grandchildren, Ann and Alex, in that retirement.

My colleagues, if Gus could speak on the floor, he would say: "Take care of your country, take care of America; that's why you were elected."

He would also say, "Help the American people get jobs, and they won't need that much government," and he would also say, "Pass H.R. 390 to change the burden of proof in tax cases."

My colleagues, I want to present on his retirement, Gus Gustafson. Hear, hear, Gus. My colleagues, one of the great men of the United States Congress.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair wishes to thank the gentleman from Ohio [Mr. TRAFICANT], and on behalf of the Speaker and the entire House of Representatives, the Chair wishes to take this opportunity to thank our dear friend, E.C. "Gus" Gustafson, for a very special service to the House. Gus' retirement does represent the end of a great tradition of shorthand official reporting in the House. His attention to detail, his patience, his mastery of proper parliamentary terms and references, and his willingness to communicate his knowledge and experience to other official reporters deserves special commendation at this time. We all wish him well.

WHAT IS IT LIKE TO FIGHT FOR DEFICIT REDUCTION FROM FIRST CLASS?

(Mr. TIAHRT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TIAHRT. Mr. Speaker, we have been working hard in the House for months to eliminate four Cabinet departments and balance the budget because we are serious about trimming the size of the Federal Government. We started with our own budget, cutting committees, cutting committee staff, and congressional mailings by a third. But we also believe it is time for the Cabinet to step up to the plate, and there is not a better place to start than the Department of Energy.

Mr. Speaker, at committee hearings Energy Secretary O'Leary tells us that she cannot find even one more dollar to cut in her department. She says she wants to reform the Department of Energy. But in next year's budget she wants an additional $337 million and $360 million for travel.

Well, the L.A. Times tells us the real story. Secretary O'Leary spends more on travel than any other member of the Clinton Cabinet. She is flying first Class at taxpayers' expense. She is staying in four-star hotels, luxury hotels. I guess she thinks it is proper for taxpayers to foot the bill for her Robin Leach lifestyle.

My question for the Secretary is: "What's it like to fight for deficit reduction from first class?"

WHY DOESN'T THE REPUBLICAN PARTY ABIDE BY THE RULES?

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, Members of the House, I hold up this little book, and I ask, "Why don't the majority abide by this book?"

Mr. Speaker, this is a bible of the House of Representatives. It is the Rules of the House of Representatives. Yet under section 10, subsection 62(a), it says no Member of this House may be a member of more than four subcommittees. That is a rule of the House of Representatives.

Mr. Speaker, that was changed by the majority of Republicans under Speaker GINGRICH back in January when we used to be able to have five subcommittees. He said, "No, only four." Well, we now have 30, 30 members of the majority Republican Party, who have more than four subcommittees, some as many as six.

Mr. Speaker, I ask, "Why doesn't the leadership of the Republican Party say that they will abide by the rules of this House? Why?"

Because, Mr. Speaker, they make a constant effort not to abide by the rules of the House.

AID TO RUSSIA

(Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, today the House is going to debate the foreign operations appropriation bill. During the debate on this bill I think we should work to spend this money wisely and responsibly. While the bill today is better than in past years, many of us have been concerned about the spending that has gone into foreign aid in the past, particularly aid directed at the former Soviet Union.

Mr. Speaker, we have given the former Soviet Union billions of dollars in foreign aid and wonder how wisely this has been spent. I am convinced that much of it has not been spent wisely at all. That is because between 50 and 90 percent of the money in these aid packages has not reached the pockets of one single pro-democracy, pro-market, pro-reform Russian.

Instead, much of the money has been found in the pockets of consultants right here in the beltway, the "beltway bandits," and much of the rest of it has just disappeared into the former Soviet Union without any real accounting of where it went or how it was being spent. Too much of it has been given to consultants, too much of it has disappeared, too little of it has gone to solid pro-democracy reformers in Russia.

Therefore, my colleagues, let us look at this Russian section of the foreign aid bill very carefully today.

PROPOSED LEGISLATION WOULD GUARANTEE LONGER HOSPITAL STAYS ON CERTAIN VAGINAL DELIVERIES

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, having a baby is surely one of the most wonderful and important events for a family. Unfortunately, to maximize their profits, many insurance companies treat this event as just another opportunity to cut costs.

Many insurance companies cover only 1 night's stay in the hospital after a normal vaginal delivery. For some women, this is enough time to recover from the delivery and get adjusted to breast feeding and caring for the baby. But for many other women, this is not enough time.

Doctors are increasingly alarmed that babies are being discharged from hospitals within 24 hours. In that short time they cannot receive critical health assessments to prevent routine child illnesses from becoming serious health problems.

Unfortunately, the decision to give more extensive care to a newborn baby and the mother—such as monitoring for early signs of jaundice—is in the hands of insurance companies, which either limit stays or pressure doctors to recommend short stays.

Today I am introducing legislation with my colleague, PETER DEFAZIO, to require insurance plans contracting with the Federal Employee Health Benefits Program to cover a minimum stay in the hospital of 48 hours after a normal vaginal delivery, and 96 hours after a caesarean section. In the case of plans that offer at-home visits, this minimum is waived as long as the plan provides extensive at-home, postpartum visits.

Mr. Speaker, let us start our babies off on the right foot. The health of the baby, not of insurance company portfolios, should be our No. 1 concern. I urge my colleagues to support this legislation.

ENOUGH GAMESMANSHIP

(Mrs. SEASTRAND asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SEASTRAND. Mr. Speaker, as I read the paper this morning, I could not believe what I read about what the liberals are up to today. As we are reaching an agreement between the House and the Senate regarding a balanced budget by the year 2002 by responsibly slowing the rate of government spending increases, the other side of the aisle is planning another spate of July fireworks.

According to the Washington Times, the minority leadership is encouraging their Members to go to a local nursing home and engage in scare tactics about what they call unfair Medicare cuts. Have they no shame? They want their Members to go to our senior citizens in a nursing home, many of whom are on fixed incomes and dependent on Social Security and their Medicare benefits, and try to scare them into thinking their benefits will be cut. Is this what the once mighty Democrat Party has been reduced to? Are they completely bankrupt of ideas?

We want to work together to increase Medicare spending every year, for every eligible person for 7 years. Is that a cut? No. We want to increase Medicare spending by 33 percent over 7 years.

Mr. Speaker, it is time for partisanship, gamesmanship, and scare tactics to be set aside. We must work together and solve the Medicare problems.

REMOVING THE ROADBLOCKS TO A COLLEGE EDUCATION

(Mr. DOGGETT asked and was given permission to address the House for 1 minute.)

Mr. DOGGETT. Mr. Speaker, I have just this moment come from a meeting with many young Americans who are deeply troubled about why the Republican budget proposes the largest cut in Federal assistance to students who want to attend college of any time in our Nation's history, and they are asking why, and one of the individuals who is asking why down in my district is a woman named Tina Henderson, who I had the opportunity and privilege to meet a few weeks ago in Austin.

Tina Henderson is the first person in her family to go to college. She did so after working as a member of the U.S. Air Force. She is a single mom. She has a great daughter, a 5-year-old, Erica, that she is mighty proud of, but she told me that without Federal student assistance she would not be able to go to college.

Mr. Speaker, every family like hers across America is being told in this budget, "Come up with an extra $5,000 if you want to support a young person through college in America in the future." With the tremendous cuts that are being made in this budget, roadblocks are being erected to Tina Henderson, to her daughter, Erica, and we need to get those roadblocks out of the way.

THE LARGEST DEBT EVER IN THE HISTORY OF MANKIND

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, $3 per month over the 10-year period; that is the amount extra that students who take out student loans are being asked to pay in response to the gentleman from Texas; $3 per month over 120 months.

Mr. Speaker, for the last 30 years the Federal Government has ignored the simple virtues that made America a great Nation. For generations, the American people built their lives around simple virtues: Thrift, hard work, and personal responsibility.

Starting in the 1960's, though, the Federal Government began to reject these tried and true American virtues in favor of a value system that placed government at the center of any policy consideration.

The results have been phenomenally disastrous.

The Federal Government has racked up the largest debt ever in the history of mankind; a debt that will passed to future generations.

Mr. Speaker, this week, Congress will vote to balance the budget in 7 years. Not only will this budget return sanity to chaotic Federal spending, it will return our Government to the basic American virtues of thrift, hard work, and personal responsiblity.

CLOSING OF FORT McCLELLAN SEEN AS A DANGEROUS MISTAKE

(Mr. BROWDER asked and was given permission to address the House for 1 minute.)

Mr. BROWDER. Mr. Speaker, I am asking Alabamians and all Americans concerned about chemical weapons and terrorism to write or call President Bill Clinton and urge him to save the world's only live-agent chemical defense training base.

The recommendation to close Fort McClellan is a serious and dangerous mistake. Closure of the only live-agent chemical defense training facility will disrupt and degrade the ability of America's military forces to fight and survive chemical warfare.

Furthermore, with the threat of terrorism on the rise, this is no time to deprive American civilians of the only base that can respond to chemical attack.

Again, I am asking Alabamians and all Americans concerned about chemical weapons and terrorism to write or call President Bill Clinton and urge him to save the world's only live-agent chemical defense training base.

PROMISES MADE, PROMISES KEPT IN NEW JERSEY

(Mr. ZIMMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ZIMMER. Mr. Speaker, I rise today to salute Governor Christie Whitman and the legislature of the State of New Jersey.

Yesterday, Mr. Speaker, the New Jersey Legislature by overwhelming bipartisan majorities voted to pass the third and final phase of Christie Whitman's 30 percent income tax cut.

Two years ago, when Governor Whitman and the Republican candidates for the legislature promised that they would cut taxes in New Jersey by 30 percent, a lot of people did not believe that they were going to do it, but they kept their promise. They cut taxes, they cut spending, and they delivered for New Jersey families and for the New Jersey economy. No wonder Governor Whitman has made New Jersey a model for the other 49 States and for this Congress.

Promises made, promises kept. Lower taxes, more jobs. The New Jersey message resonates throughout the

Nation and should be remembered in this Chamber.

STUDENTS PROTESTING PROPOSED CUTS IN STUDENT LOANS

(Ms. LOFGREN asked and was given permission to address the House for 1 minute.)

Ms. LOFGREN. Mr. Speaker, today in the Capitol hundreds of students will be visiting with each of us protesting the proposed cuts in student loans. Why? Because these cuts are like opening up with an assault weapon on the American people.

As my colleagues know, 8,000 students at San Jose State University in my district received help in education last year, and many of those students would not be able to go to college without the loans and grants and work student programs that have been provided.

I was terribly shocked to read in the paper the other day the supposition that somehow this is class warfare, that the high school graduates of the country should not be asked to use their tax money for students to get ahead and become college graduates and even more.

□ 1220

I think the person who said that does not understand blue collar America. I grew up the daughter of a truck driver and secretary, and I will tell you the thing that mattered most to my parents and every adult on the block, none of whom had college degrees, was that all the kids get ahead and be successful. Do not cut down on the American dream. Allow students who work hard to get good grades to get ahead.

TAX RELIEF

(Mr. JONES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JONES. Mr. Speaker, when President Clinton was running for the Presidency, a tax cut was one of the main features of his campaign. But when the President was elected, he raised taxes on the middle class. Where does the President stand now? Who knows.

Mr. Speaker, in the absence of leadership from the White House, Republicans have introduced a tax relief plan that allows working Americans to keep more of the money they earn. We have not flip-flopped or changed our position. Instead, we stand with the vast majority of Americans who know all too well the impacts of higher taxes and who struggle to make ends meet.

Mr. Speaker, the President may not know where he stands, but Republicans have consistently stood for tax relief, smaller Government, and a balanced budget.

CONGRATULATIONS TO DETROIT RED WINGS AND 1995 STANLEY CUP CHAMPIONS NEW JERSEY DEVILS

(Mr. SMITH of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Michigan. Mr. Speaker, the National Hockey League playoffs concluded last Saturday with the victory of the New Jersey Devils. I am here today as a result of a friendly bet with my colleague from New Jersey, BOB FRANKS.

Unfortunately, my favorite team, the Detroit Red Wings, lost to the Devils after a brilliant run in the playoffs, defeating Dallas and San Jose and Chicago. In the finals, New Jersey and Detroit battled through four grueling games, but the Devils prevailed. Due to the excellent play of Devils skaters such as Claude Lemieux, Scott Stevens, goalie Martin Brodeur, and the other excellent skaters, they secured Lord Stanley's Cup.

I wish to commend both teams in advancing in the playoffs and further to the NHL finals.

In closing, consistent with our bet, I show my tail, I show my horns, and I show my fork, and I would like to present this to BOB FRANKS, the Stanley Cup winners, the New Jersey Devils.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY). The Chair would rule that the gentleman should not wear those materials on the floor.

DO NOT SUPPORT A BALANCED BUDGET THAT IS ANTIFAMILY AND ANTIELDERLY

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, tonight the Republicans will release the details of their budget, setting the stage for national debate on budget priorities. The top priority of their budget is a $245 billion tax cut to the wealthy, better known as the crown jewel. Yet the Republican leadership will tell the American people that this plan is fiscally responsible.

Fiscally responsible? Where is the responsibility to working families? Is it responsible for Republicans to cut $11 billion from student loans for the middle class to help to pay for a tax break to the wealthy?

Fiscally responsible? Where is the responsibility to our seniors? Is it responsible for Republicans to steal $270 billion from Medicare to finance a tax giveaway to their wealthiest friends?

Seniors have every reason to be scared. Democrats support a balanced budget, but we will not support a plan that is antifamily and antielderly. We will not support a plan that asks the middle class working families to sacrifice not to balance the budget, but to pay for a tax cut for the privileged few.

CALIFORNIA TIMBER WORKERS WANT A HAND UP, NOT A HANDOUT

(Mr. RIGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RIGGS. Mr. Speaker, I might point out to the gentlewoman that the Republican family tax credit will completely remove or eliminate the tax liability for 4.7 million working poor families.

Mr. Speaker, 3 weeks ago, Bill Clinton told thousands of timber workers they could not go back to work in productive high wage private sector jobs when he vetoed the timber salvage amendment. This veto, his first, triggered a protest back here in Washington, DC, by mill workers and loggers and their family members in a stormy headlined loggers protest in the District of Columbia.

Today, the President is announcing extra unemployment grants and some loans for our area, northwest California. Well, we are glad that the administration has not forgotten about us completely, but do not insult the hard working people in northern California with your charity at taxpayer expense, when you personally vetoed the bill that would have put thousands of California loggers back to work.

The fact that he would provide us welfare style assistance, but will not let loggers go back to work, tells us a lot with the President. There is just one problem: California timber workers want a hand up, not a handout.

GIVE YOUTH OF AMERICA THE FUTURE THEY DESERVE

(Mr. HILLIARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILLIARD. Mr. Speaker, I rise today to recognize the students who are visiting our Capital City. These students have brought a message to Congress, stressing the importance of funding the student loan programs. If the Republicans cut or eliminate student aid, many bright young people will not be able to go to college.

I have seen the wonderful results of education funding. I have hosted several financial-aid recipients as interns in my congressional office. Currently, I am proud to have Vernetta, from Selma, AL. Without the benefits of the student aid program, Vernetta would not be able to complete her college education.

Each of my interns has demonstrated great intelligence and drive, and I feel very fortunate to have benefited from their talent and enthusiasm. Let us not deprive this country of these bright minds by denying them the opportunity for an education. Let us give the youth of America the future they deserve.

MEDICARE CUTS WILL BE DEVASTATING

(Mr. KLINK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KLINK. Mr. Speaker, I have stood in this well before and I have defended the policies of my leadership, and I have also taken them on in some instances. So I think that I have got some credibility that I do not necessarily go along party lines with every issue. But when it comes to Medicare cuts, the Democrats are completely correct and the Republicans are completely wrong. I tell you this after going throughout the Fourth Congressional District of Pennsylvania and talking to Republican doctors and Republican hospital administrators who say, "Congressman, we are going to lose 1,000 health care jobs in your district if the Republican plan goes through to cut Medicare this deeply."

You see, in my district, 1 in 5 residents are on Medicare. Many of those on Medicare are elderly and poor, and are also on Medicaid. They cannot afford these kind of cuts. And is it a cut or isn't it a cut? When you get less and pay more for it, it is a cut. And when you take a look at the dollars, and you know those dollars are equal to the amount of dollars that we are giving wealthy people, those who make over $200,000, in tax cuts, then you know it is a direct offset we are taking from the elderly poor to give to the rich.

EARLY DISCHARGE OF NEWBORNS AND MOTHERS A THREAT TO HEALTH

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, we have all heard about drive-by-shootings. How about drive-through deliveries? This latest threat to the health of newborns and their moms comes from insurance companies and managed health programs. They are requiring physicians and hospitals to put mothers and newborns out of the hospital in as little as 12 hours. Not to meet the wishes of the new mother, not to foster the health of the newborns, not because it is best in the professional medical opinion of the attending physicians. These arbitrary limits have been imposed, possibly jeopardizing the health of the newborns and their new moms, only to increase the profits of the insurance companies and these for-profit managed health care plans.

Today the gentleman from California [Mr. MILLER] and I have introduced legislation to restrict this growing threat to the public health and to our most vulnerable newborns and their mothers. I urge my colleagues to join us in stopping this outrageous practice.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Spectators in the gallery will refrain from displaying approval or disapproval for Members' remarks.

TROUBLES IN CALIFORNIA NEED TO BE ADDRESSED

(Mr. TUCKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TUCKER. Mr. Speaker, I take the well this morning to stand and be counted. I take the well this morning to ask the President of the United States to also stand and be counted. For in my great State of California, we have troubles.

Mr. Speaker, it was 2 years ago when I came to this House on the wings of riots and destruction, fires and earthquakes. Since then, we have had all kind of layoffs and cutbacks in aerospace.

But now, Mr. Speaker, the most devastating thing that has happened is the Base Closure Commission has said that the Long Beach Shipyard and McClellan Air Base and other bases in California must bear additional burdens of other additional layoffs.

Mr. Speaker, in my area of Long Beach, 3,000 additional jobs are going to be lost. It is time for the President of the United States to stand up and make good on the promise that he made to the people in California. We cannot lose 3,000 more jobs in Long Beach and 2,000 more jobs in Los Angeles County. The Rams have left, the Raiders are leaving. We have problems in California, and we need the President of the United States to stand up and be counted.

AUTHORIZING TRANSFER OF THE CATAFALQUE TO THE SUPREME COURT

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 18) authorizing the Architect of the Capitol to transfer the catafalque to the Supreme Court for a funeral service, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 18

Resolved by the Senate (the House of Representatives concurring), That the Architect of the Capitol is authorized and directed to transfer to the custody of the Chief Justice of the United States the catafalque which is presently situated in the crypt beneath the rotunda of the Capitol so that the said catafalque may be used in the Supreme Court Building in connection with services to be conducted there for the late Honorable Warren Burger, former Chief Justice of the Supreme Court of the United States.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TODAY DURING 5-MINUTE RULE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole House under the 5-minute rule.

Committee on Banking and Financial Services; Committee on Commerce; Committee on Economic and Educational Opportunities; Committee on Government Reform and Oversight; Committee on International Relations; Committee on Resources; Committee on Science; Committee on Transportation and Infrastructure; and Permanent Select Committee on Intelligence.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

APPOINTMENT AS MEMBERS OF BOARD OF VISITORS TO U.S. AIR FORCE ACADEMY

The SPEAKER pro tempore. Without objection, and pursuant to the provisions of section 9355(a) of title 10, United States Code, the Chair announces the Speaker's appointment as members of the Board of Visitors to the U.S. Air Force Academy the following Members of the House: Mr. YOUNG of Florida, Mr. HEFLEY of Colorado, Mr. DICKS of Washington, and Mr. TANNER of Tennessee.

There was no objection.

EXTENSION OF HEALTH CARE TO VETERANS EXPOSED TO AGENT ORANGE

Mr. STUMP. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1565) to amend title 38, United States Code, to extend through December 31, 1997, the period during which the Secretary of Veterans Affairs is authorized to provide priority health care to certain veterans exposed to agent orange, ionizing radiation, or environmental hazards, as amended.

The Clerk read as follows:

H.R. 1565

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY OF PROVIDE PRIORITY HEALTH CARE.

(a) AUTHORIZED INPATIENT CARE.—Section 1710(e) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(e)(1)(A) A herbicide-exposed veteran is eligible for hospital care and nursing home care under subsection (a)(1)(G) for any disease suffered by the veteran that is— I21"(i) among those diseases for which the National Academy of Sciences, in a report issued in accordance with section 2 of the Agent Orange Act of 1991, has determined—

"(I) that there is sufficient evidence to conclude that there is a positive association between occurrence of the disease in humans and exposure to a herbicide agent;

"(II) that there is evidence which is suggestive of an association between occurrence of the disease in humans and exposure to a herbicide agent, but such evidence is limited in nature; or

"(III) that available studies are insufficient to permit a conclusion about the presence or absence of an association between occurrence of the disease in humans and exposure to a herbicide agent; or

"(ii) a disease for which the Secretary, pursuant to a recommendation of the Under Secretary for Health on the basis of a peer-reviewed research study or studies published within 20 months after the most recent report of the National Academy under section 2 of the Agent Orange Act of 1991, determines there is credible evidence suggestive of an association between occurrence of the disease in humans and exposure to a herbicide agent.

"(B) A radiation-exposed veteran is eligible for hospital care and nursing home care under subsection (a)(1)(G) for any disease suffered by the veteran that is—

"(i) a disease listed in section 1112(c)(2) of this title; or

"(ii) any other disease for which the Secretary, based on the advice of the Advisory Committee on Environmental Hazards, determines that there is credible evidence of a positive association between occurrence of the disease in humans and exposure to ionizing radiation.";

(2) in paragraph (2)—

(A) by striking out "Hospital" and inserting in lieu thereof "In the case of a veteran described in paragraph (1)(C), hospital"; and

(B) by striking out "subparagraph" and all that follows through "subsection" and inserting in lieu thereof "paragraph (1)(C)";

(3) in paragraph (3), by striking out "of this section after June 30, 1995," and inserting in lieu thereof ", in the case of care for a veteran described in paragraph (1)(A), after December 31, 1997,"; and

(4) by adding at the end the following new paragraph:

"(4) For purposes of this subsection and section 1712 of this title:

"(A) The term 'herbicide-exposed veteran' means a veteran (i) who served on active duty in the Republic of Vietnam during the Vietnam era, and (ii) who the Secretary finds may have been exposed during such service to a herbicide agent.

"(B) The term 'herbicide agent' has the meaning given that term in section 1116(a)(4) of this title.

"(C) The term 'radiation-exposed veteran' has the meaning given that term in section 1112(c)(4) of this title.".

(b) AUTHORIZED OUTPATIENT CARE.—Section 1712 of such title is amended—

(1) in subsection (a)(1)—

(A) by striking out "and" at the end of subparagraph (C);

(B) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a semicolon;

(C) by adding at the end the following new subparagraphs:

"(E) during the period before January 1, 1998, to any herbicide-exposed veteran (as defined in section 1710(e)(4)(A) of this title) for any disease specified in section 1710(e)(1)(A) of this title; and

"(F) to any radiation-exposed veteran (as defined in section 1112(c)(4) of this title) for any disease covered under section 1710(e)(1)(B) of this title."; and

(2) in subsection (i)(3)—

(A) by striking out "(A)"; and

(B) by striking out ", or (B)" and all that follows through "title".

SEC. 2. SAVINGS PROVISION.

The provisions of sections 1710(e) and 1712(a) of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, shall continue to apply on and after such date with respect to the furnishing of hospital care, nursing home care, and medical services for any veteran who was furnished such care or services before such date of enactment on the basis of presumed exposure to a substance or radiation under the authority of those provisions, but only for treatment for a disability for which such care or services were furnished before such date.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona [Mr. STUMP] will be recognized for 20 minutes, and the gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona [Mr. STUMP].

GENERAL LEAVE

Mr. STUMP. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1565.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. STUMP. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, I want to thank the leadership for allowing us to bring H.R. 1565 to the floor as it extends authority which expires at the end of this month.

Mr. Speaker, H.R. 1565, extends VA's authority to provide health care to veterans exposed to agent orange.

It also makes permanent VA's authority to provide health care to veterans exposed to ionizing radiation.

The provisions incorporate the findings of the National Academy of Sciences while still giving the benefit of the doubt to veterans already being treated.

Where the National Academy of Sciences has found evidence suggesting certain conditions have no association with exposure, H.R. 1565 does not extend authority for future health care.

However, those veterans previously or currently receiving care would be grandfathered for treatment under the bill.

I want to thank my good friend from Mississippi, SONNY MONTGOMERY, the distinguished ranking member of the committee for his assistance on this measure.

Before yielding to him, I also want to express my appreciation to TIM HUTCHINSON, chairman of the Subcommittee on Hospitals and Health Care, as well as CHET EDWARDS, the subcommittee's ranking member for their work on the bill.

They have maintained the committee's bipartisan approach to matters affecting veterans.

Concerns were raised at the subcommittee markup about some provisions by Mr. FOX, who had drafted an amendment, as well as Mr. GUTIERREZ and Mr. KENNEDY.

Mr. EVANS also raised some concern. I believe Mr. HUTCHINSON and Mr. EDWARDS responded very well to those concerns and have done an excellent job working with other members on the bill.

The cooperation of all Members on these matters is greatly appreciated, and I urge my colleagues to support the bill.

Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HUTCHINSON], chairman of our Subcommittee on Hospitals and Health Care.

Mr. HUTCHINSON. Mr. Speaker, I urge my colleagues to support H.R. 1565, bipartisan legislation to extend the priority health care program for veterans exposed to agent orange and ionizing radiation through December 31, 1997.

I would like to thank Chairman STUMP, along with full committee ranking member MONTGOMERY and my subcommittee colleague, ranking member CHET EDWARDS, for their tireless efforts to ensure that this bill receives full consideration in an expeditious fashion.

Furthermore, I wish to recognize LANE EVANS, JOE KENNEDY, LUIS GUTIERREZ, and JON FOX for their bipartisan work in fashioning compromise language when concerns were raised about the bill at the subcommittee level. Without the work of these veterans' advocates, this bill might have never come to the floor.

Mr. Speaker, H.R. 1565 would incorporate for a 2-year extension period the findings of the National Academy of Sciences, which provide rational scientific evidence on which determinations of eligibility for health care can be based. The bill is supportive of veterans and continues to give them every benefit of the doubt. It would authorize the VA to provide treatment for three broad categories of conditions identified by the NAS and would grandfather for continued care those veterans who have been previously treated at the VA but for which the NAS has found no association to exist between certain diseases and exposure to herbicides.

Additionally, the bill would provide special eligibility in the case of radiation-exposed veterans for care of a long list of cancers as well as for any disease for which the VA determines there is credible evidence of a positive association between disease occurrence and radiation exposure. This bill also contains a generous grandfather clause for those veterans who have previously been treated at the VA for which no positive association between the disease occurrence and radiation exposure has been found. Under this bill both groups of veterans would receive substantially expanded outpatient services on a priority basis.

Mr. Speaker, this legislation also takes into consideration the possibility of a lag time between NAS reports and the discovery of new credible evidence on agent orange. It would provide a mechanism to add additional diseases based on new research findings.

H.R. 1565 would authorize the Secretary, based on recommendations of the Under Secretary for Health, to add to the list of covered conditions. A disease could be added based on peer-reviewed research published within 20 months of the most recent NAS report regarding agent orange. The addition of new diseases must meet the test of providing credible evidence suggestive of an association between that disease and exposure to agent orange.

Mr. Speaker, H.R. 1565 enjoys unanimous support from the Veterans' Affairs Committee. The bill passed at markup 29 to 0.

Again, I would like to thank my colleagues on both sides of the aisle for their support and assistance in writing this legislation, and I urge Members to support the bill.

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Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of this measure and commend the chairman of the committee, the gentleman from Arizona [Mr. STUMP], for bringing the measure to the floor; also to the gentleman from Arkansas [Mr. HUTCHINSON], the chairman of the subcommittee, for his quick action as well as the gentleman from Texas [Mr. EDWARDS] on the minority side.

Mr. Speaker, this is the first veterans bill to be considered by the House in this Congress. It is very fitting that this measure is one that reforms and expands the health care services which veterans can obtain from the Veterans' Administration. Health care eligibility reform is one of the most important veterans issues that will face this Congress. Although this measure only affects a small number of veterans, it is important, Mr. Speaker, and it is a step in the right direction.

The bill comes at a time when the VA health care system is undergoing very significant changes. At many VA facilities throughout the country, efforts are under way to treat more veterans on an outpatient basis rather than putting them in the hospitals. That saves a lot of money. That is a big change.

There is an emphasis on making VA services more convenient and delivering them in a more cost-effective manner, and to do that on outpatient clinics. The new Under Secretary for Health, Dr. Kenneth Kizer, is moving the VA system into the 21st century. His leadership and vision for the state-of-the-art health care for veterans have turned the VA toward a goal of making all VA health care the first choice for the service-connected and low-income veterans. His understanding of what VA needs to do is very, very encouraging. But there are some problems, Mr. Speaker, that will be facing Dr. Kizer.

Dr. Kizer does not have some of the basic tools he needs to make the VA health care system more efficient. One of the things he needs most from the Congress is a modest capital investment so that the VA can shift from that is still a hospital-based system to provide more outpatient care.

We have had these great 171 veterans hospitals, but we are trying to move into more outpatient clinic care. That is what the General Accounting Office has recommended. Such an investment will make VA care more convenient and cost-effective, moving toward more outpatient clinic care.

I am advised that the VA currently has over $940 million in planned projects to improve outpatient facilities. If these projects are delayed and are not a priority in the appropriations process, the VA will be unable to become the efficient health care system veterans expect and deserve.

Finally, Mr. Speaker, it has been well explained by the chairman of the subcommittee, it is appropriate that the first veterans bill taken up by the House in the 104th Congress deals with health care problems of veterans exposed to agent orange and ionizing radiation. The Congress originally authorized health care services for these veterans in 1981, when we had little knowledge about the long-term effects of the exposure of these agents. Over time, as a result of objective scientific review, the Congress and the executive branch have tried to treat and compensate those veterans whose lives and health have been affected by their exposure. Today, Mr. Speaker, we take a step that honors our commitment to these veterans.

I would certainly ask my colleagues to give us a unanimous vote on H.R. 1565.

Mr. Speaker, I reserve the balance of my time.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. SMITH], the vice chairman of the Committee on Veterans' Affairs.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of H.R. 1565, legislation to extend the priority health care program for veterans who were exposed to agent orange or ionizing radiation.

As vice chair of the Committee on Veterans' Affairs, I would look to recognize the gentleman from Arkansas [Mr. HUTCHINSON] and the gentleman from Arizona [Mr. STUMP] for their unyielding dedication to these veterans who have suffered a wide range of illnesses because of their service to their country.

Mr. Speaker, as you know, H.R. 1565 would take into consideration the findings of the National Academy of Sciences, which has done extensive and exhaustive studies on agent orange linkage. This legislation would authorize the VA to continue priority health care treatment for the first three categories identified by NAS. Additionally, it would grandfather those veterans who have been previously treated by the VA for illnesses which now the NAS finds evidence of no linkage to agent orange exposure. So they are protected and they are grandfathered.

This bipartisan bill—and the minority side has been very, very helpful and very strong in their views which has helped to craft this important bill—also takes into account the fact that NAS is not the only reputable scientific agency doing research on this matter.

An amendment offered by Chairman HUTCHINSON and supported by the entire committee allows the Secretary of Veterans Affairs to add diseases to the list of covered conditions based on peer reviewed research which provides credible evidence of association between that disease and agent orange exposure.

Once more, Mr. Speaker, I strongly support this legislation. I urge my colleagues to give it unanimous support.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. EDWARDS], the ranking member of the Subcommittee on Hospitals and Health Care.

Mr. EDWARDS. Mr. Speaker, I want to rise in support of H.R. 1565, as amended. I want to pay my respects to the gentleman from Arkansas [Mr. HUTCHINSON] for his fine work on this. I want to express a personal thanks to the gentleman from Arizona [Mr. STUMP] and to the gentleman from Mississippi [Mr. MONTGOMERY] for the way in which they have not only helped craft this legislation in a fair bipartisan manner but the way in which the gentleman from Arizona has run the committee on a bipartisan basis that I think is a role model that the people of this country would have high respect for. I appreciate the gentleman's leadership on this and other legislation and the way he runs the committee.

My colleagues, H.R. 1565 would maintain our commitment to provide medical care to veterans who suffer disease as a result of exposure in service to certain toxic substances. The authority under which the VA provides such care, first established in 1981, will expire at the end of this month. H.R. 1565, as amended, would extend the VA's treatment authority. Current law, however, reflects the limited knowledge we had in 1981 regarding the relationship between exposure to agent orange and an occurrence of specific diseases.

This bill would incorporate the findings of the National Academy of Sciences to identify the diseases for which treatment is available. At the same time, the bill extends veterans every benefit of the doubt, as we should, and expands the scope of treatment which the VA may provide.

Mr. Speaker, Members on both sides of the aisle have worked hard to produce an excellent bill. I think this legislation is a statement that even in tough budget times, we do ask the American people to tighten our belts, this Congress and our Nation owe a deep debt of gratitude to those who have fought and been willing to put their lives on the line for our country and its freedoms. I enthusiastically support this bill and thank those who have played such an important role in its development.

Mr. STUMP. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. GILMAN], chairman of the Committee on International Relations.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in support of H.R. 1565, legislation to extend through December 31, 1997, health care benefits for military veterans suffering from the possible long-term side-effects of agent orange, ionizing radiation, and other environmental hazards. This legislation, demonstrates our continuing efforts to provide our veterans with the benefits and the medical care that they have valiantly earned. Furthermore, I commend the distinguished chairman of the Veterans' Affairs Committee, Mr. STUMP, for his diligent efforts on behalf of our service men and women.

I strongly support this legislation, as we must provide treatment to our veterans whose health has been affected by their service. The National Academy of Sciences has conducted a comprehensive review of scientific and medical literature to determine the specific health affects of certain chemicals that may have been used during armed conflicts. Based upon their research, the NAS has developed four categories to classify diseases and their association to agent orange exposure.

These categories include: sufficient evidence of association, limited/suggestive evidence of association, inadequate/insufficient evidence to determine whether an association exists, and limited/suggestive evidence of no association.

H.R. 1565 authorizes the VA to offer treatment for illnesses that fall under the first three of these categories. Thus allowing veterans to claim treatment for any disease that is conceivably related to wartime herbicide exposure unless scientific evidence has clearly shown that the condition is not linked.

The measure we are discussing today is significant legislation that provides a framework for continued health service to our Nation's veterans who may have been exposed to hazardous substances during their military service. With this in mind, I am proud to vote in strong support of H.R. 1565, and I urge my colleagues to join in adopting this measure.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. FILNER] who is a member of the Committee on Veterans' Affairs.

Mr. FILNER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise today in support of H.R. 1565, legislation to renew our obligation to provide medical treatment for veterans suffering from exposure to agent orange.

Between 1962 and 1971, the military forces of the United States used 11.2 million gallons of agent orange and 8 million gallons of other herbicides in Vietnam, in order to strip the thick jungle that concealed the opposition forces. Most of these spraying operations were completed using airplanes and helicopters, but herbicides were also sprayed from the ground by soldiers with back-mounted equipment.

After a scientific report in 1969 concluded that one of the primary chemicals used in agent orange could cause birth defects in laboratory animals, U.S. forces suspended use of this herbicide—and stopped all herbicide spraying the following year.

But thousands of soldiers had already been exposed to this chemical for months at a time. Today, many of these soldiers have a significantly higher rate of diseases and death than those who did not go to Vietnam. Since the end of the Vietnam war, a growing body of evidence has connected several diseases to agent orange.

I join a truly bipartisan effort in urging support for this bill. We can do no less for the brave men and women who answered their country's call to fight in an unpopular war. They came home to find that jobs were hard to come by, as was emotional support for the terrors they had experienced. No hero's welcome for these veterans.

Today, I would also like to recognize the work of my colleague, the gentleman from Illinois, Congressman LANE EVANS. Without his perseverance, it is unlikely that we would be voting on this legislation today—and it is unlikely that thousands of Vietnam veterans would be receiving the health care that they need and deserve.

I also want to acknowledge the work of Chairman BOB STUMP and ranking member SONNY MONTGOMERY of the Veterans' Affairs Committee, as well as the entire committee. This bill is the latest in a long line of bills crafted in a truly bipartisan manner for the good of our veterans.

Whatever our views on the Vietnam war, we must all help to heal its wounds—and these are few wounds greater than those suffered from the effects of agent orange. These veterans had to wait for decades to receive recognition and medical care. We must not make them wait again.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I commend the gentleman for mentioning the work of the gentleman from Illinois [Mr. EVANS]. He did have a lot of interest. He has put a lot of hard work in this legislation on the agent orange issue.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida [Mrs. THURMAN], a strong supporter of veterans' programs.

Mrs. THURMAN. Mr. Speaker, I rise in strong support of this legislation, H.R. 1565, the extension of health care to veterans exposed to agent orange. Both the gentleman from Mississippi [Mr. MONTGOMERY] and the gentleman from Arizona [Mr. STUMP] know of the gentleman that I am going to speak of because they have been trying to help me with this particular man's case.

Mr. Speaker, this bill concerns veterans who are sick today because they were exposed to a herbicide later found to be dangerous.

John Nichols, a constituent of mine from Bayonet Point, FL, is one of the 2.7 million U.S. service men and women who had their lives interrupted and changed by the Vietnam war. Recipient of the Bronze Star and three Army Commendation medals, John Nichols left active duty after 10 years as a U.S. Army master sergeant.

Sergeant Nichols suffers from severe osteoporosis, a gradual loss of bone tissue that makes his bones brittle. John has suffered a number of fractures of his spine since his condition was first diagnosed.

The Department of Veterans Affairs concedes that Sergeant Nichols was exposed to agent orange based on his service in Vietnam. The VA claims, however, that there is no legal or medical basis to associate this exposure with his current medical condition.

Distinguished specialists in bone diseases have recognized that Mr. Nichols' osteoporosis could be associated with his exposure to agent orange. He watched it sprayed regularly from helicopters outside his base camp.

He has been examined by some of the best specialists in the country. Thy cannot find any other explanation for his condition except exposure to agent orange. However, the Veterans Administration has still not recognized his condition as one related to exposure of the herbicide.

If we send young men and women into military combat in support of our national objectives, we had better be willing to follow through once the fighting ends. We must make good on our commitment to take care of those who were willing to fight for this country. A tight budget does not free us from this commitment. Mr. Nichols' disease will not take a rest while we struggle with the deficit.

Mr. Speaker, this bill is a step in the right direction and I believe that it is a positive step for John Nichols and veterans with similar ailments throughout our country.

Again, I want to thank the two gentlemen who have helped me so much with this constituent.

Mr. MONTGOMERY. Mr. Speaker, we have some blue sheets that further explain this bill. If Members would come by the stands here, they could pick up these sheets.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STUMP. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I would like to once again thank the distinguished gentleman and ranking member of the full committee for all his efforts, and also to the gentleman from Texas, [Mr. EDWARDS], the ranking member of the subcommittee, for all his hard work, and to the gentleman from Arkansas [Mr. HUTCHINSON], who is chairman of the subcommittee.

But we also owe a lot of thanks to the staff who have put in many hours in putting this bill together. I thank Members on both sides of the aisle. I urge, once again, passage of H.R. 1565.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, as you know, I expressed the concerns of many of our veterans with the original version of H.R. 1565, which reauthorizes care for agent orange and radiation exposed veterans.

I am pleased that the House will now consider a compromise version which addresses this situation. It is important that we ensure that no agent orange-affected veterans are overlooked in the period between National Academy of Sciences reports.

I firmly believe that we must honor our commitment to care for our veterans, particularly those who have borne the sacrifices of battle for our country. I would like to express my appreciation to the men and women of the Vietnam Veterans of America and the American Legion, as well as to many of my colleagues on the House Veterans' Affairs Committee, for their hard work on this issue.

I look forward to continuing our work together to address the needs of our Nation's veterans.

Mr. STUMP. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. EVERETT].

Mr. EVERETT. Mr. Speaker, I would just like to congratulate the committee chairman, the gentleman from Arizona [Mr. STUMP], the gentleman from Mississippi [Mr. MONTGOMERY], the gentleman from Arkansas [Mr. HUTCHINSON], the gentleman from Texas [Mr. EDWARDS], the gentleman from Pennsylvania [Mr. FOX], the gentleman from Illinois [Mr. EVANS], the gentleman from Illinois [Mr. GUTIERREZ], and the gentleman from Massachusetts [Mr. KENNEDY].

This truly, Mr. Speaker, has been an outstanding effort of bipartisanship, and I want to congratulate all those involved.

Mr. Speaker, I am proud to have been a part of the bipartisan effort that has unanimously brought H.R. 1565 to the floor out of the Veterans Committee. This is a necessary and important bill, and I am glad to speak in support of it today.

H.R. 1565 clarifies and simplifies the conditions for coverage for victims of agent orange exposure. Veterans who exhibit characteristics of the exposure will be covered, as will those whose condition demonstrates an association with the disease. Even when available medical data merits no conclusion on the source of their condition, the veteran will be covered. This bill gives veterans every benefit of the doubt.

In addition, veterans exposed to radiation during their time on active duty will be eligible for hospital and nursing home care where credible evidence exists of a positive association with the disease and the defoliant. As an extension of the Agent Orange Act of 1991, this bill will also require the Department of Veterans Affairs to work with the National Academy of Sciences to evaluate and review all issues pertaining to agent orange. This is a positive step that will allow veterans access to the best available information on their ailments.

In short, Mr. Speaker, this is a good day for our veterans and those who have suffered from agent orange. We must work together to protect the interests of our Nation's veterans, and this legislation marks a positive step in that direction.

Mrs. MINK of Hawaii. Mr. Speaker, I rise in support of H.R. 1565, the extension of health care to veterans exposed to agent orange. The evidence continues to accumulate how horribly our Vietnam veterans are suffering due to this defoliant agent, which saturated their lungs, their food, and their skin.

During the war, millions of gallons of dioxin-contaminated agent orange and other herbicides were sprayed over Vietnam. Two decades later, we are seeing more and more health effects of that exposure among our 3 million service men and women who served there. The National Academy of Sciences is investigating reports of cancer, metabolic dysfunction, and a multitude of other disorders of the reproductive, respiratory, digestive, circulatory, and immune systems. We have no way of knowing what additional illnesses may develop. This bill very wisely leaves the option open for new illnesses and disorders to be treated.

This bill also makes VA benefits permanent for those military men and women exposed to radiation during the post-World War II occupation of Japan and during cold war nuclear testing in the Pacific. Diseases triggered by radiation-exposure continue to plague veterans, half a century later. While we remember our victory 50 years ago, we must not forget the suffering of those who helped bring that war to a close.

FInally, this bill ensures top treatment priority for veterans exposed to either radiation or agent orange. This is fitting, as these veterans have struggled to cope with their illnesses have experienced much frustration and uncertainty over the years in their dealings with the Government. Today, it is the least we can do to respond to their illnesses without further delay.

Mr. Speaker, the Congress is talking a great deal about patriotism these days, during our debate over flag burning. But protecting the American flag is completely meaningless unless we take care of our surviving veterans who have sacrificed their health for this country. We must help them heal. We should decisively pass H.R. 1565.

Mr. QUINN. Mr. Speaker, I rise today in favor of H.R. 1565, which provides for priority health care to veterans exposed to agent orange, ionizing radiation, or other environmental hazards.

In 1992, this body required the National Academy of Sciences to conduct a comprehensive study of the health effects of exposure to agent orange and other herbicides. The NAS findings serve as the basis of H.R. 1565 which requires certain specific diseases to be considered related to exposure for treatment purposes—including those where there is insufficient evidence to prove a connection.

Often, many of our veterans, who served this country with distinction during their tour in Vietnam, have felt let down. They have felt that the Government has not recognized that some of their problems stem from exposure to agent orange and other herbicides. It is my hope that this legislation will help drive home the fact that we are aware of their tremendous sacrifices and give our support.

H.R. 1565 also provides for treatment for veterans subjected to ionizing radiation. These veterans also deserve our assistance.

I wish to compliment my colleagues, Representatives HUTCHINSON and EDWARDS, for their leadership on this legislation. I am pleased to offer my support.

Mr. STUMP. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOLEY). The question is on the motion offered by the gentleman from Arizona [Mr. STUMP] that the House suspend the rules and pass the bill, H.R. 1565, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 38, United States Code, to extend through December 31, 1997, the period during which the Secretary of Veterans Affairs is authorized to provide priority health care to certain veterans exposed to Agent Orange and to make such authority permanent in the case of certain veterans exposed to ionizing radiation, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. CALLAHAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 1868, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. Pursuant to House Resolution 170 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1868.

□ 1258

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, with Mr. HANSEN in the chair.

The Clerk read the title of the bill.

□ 1300

The CHAIRMAN. When the Committee of the Whole rose on Thursday, June 22, 1995, all time for general debate had expired.

Pursuant to the rule, the bill shall be considered under the 5-minute rule by titles and each title shall be considered as having been read.

Before consideration of any other amendment, it shall be in order to consider the amendments printed in part 1 of House Report 104–147. Those amendments will be considered in the order printed, by a Member designated in the report, may amend portions of the bill not yet read for amendment, are considered as having been read, are not subject to amendment, and are not subject to a demand for division of the question. Debate on each amendment is limited to 10 minutes, equally divided and controlled by the proponent and an opponent of the amendment.

After disposition of the amendments printed in part 1 of the report, the bill as then perfected will be considered as original text.

An amendment printed in part 2 of the report shall not be subject to a demand for division of the question.

During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition to a Member who has caused an amendment to be printed in the designated place in the CONGRESSIONAL RECORD. Those amendments will be considered as having been read.

The clerk will read.

The clerk read as follows:

H.R. 1868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1996, and for other purposes, namely:

Mr. CALLAHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just wanted to refresh the Members as to where we are. We had general debate, and since that time the weekend has intervened.

Just to bring the Members of Congress up to date on where we are on this foreign operations appropriation bill, H.R. 1868, let me tell the Members we have worked out a bipartisan agreement with both sides of the aisle, working very hard to bring to this floor a bill that both sides could support. The ranking member on the committee, the gentleman from Texas, CHARLIE WILSON, has been most cooperative, as have all Members of the other side that have approached the committee. We do not want to deny any Member the opportunity to address any issue they want to in this bill. Thus, the open rule.

However, I must tell the House that we have 73 pending amendments to this bill. We would like for them to be considered as expeditiously as possible. I have informed the leadership, and I have discussed it with the ranking member of our committee, we are willing to stay here until 4 o'clock in the morning if that, indeed, is what the Members want to do. We want to have everybody here. However, at the same time, we are going to ask Members to be as brief as possible.

First of all, this bill is $11.99 billion in budget authority. Most importantly, it is a 22-percent reduction from 1995. It is nearly $3 billion less than what the administration has requested.

The American people have sent us a strong message telling us to cut Government spending, and they said to cut foreign aid as well. That is precisely what this bill does. It is drafted in such a manner that it gives the administration a great deal of latitude. I would hope that we do not fall prey to some today who will be coming before us asking us to increase this measure.

The CHAIRMAN. The Clerk will designate title I.

The text of title I is as follows:

TITLE I—EXPORT AND INVESTMENT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel or technology to any country other than a nuclear-weapon State as defined in Article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act.

SUBSIDY APPROPRIATION

For the cost of direct loans, loan guarantees, insurance, and tied-aid grants as authorized by section 10 of the Export-Import Bank Act of 1945, as amended, $786,551,000 to remain available until September 30, 1997: *Provided,* That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further,* That such sums shall remain available until 2010 for the disbursement of direct loans, loan guarantees, insurance and tied-aid grants obligated in fiscal years 1996 and 1997: *Provided further,* That up to $100,000,000 of funds appropriated by this paragraph shall remain available until expended and may be used for tied-aid grant purposes: *Provided further,* That none of the funds appropriated by this paragraph may be used for tied-aid credits or grants except through the regular notification procedures of the Committees on Appropriations: *Provided further,* That funds appropriated by this paragraph are made available notwithstanding section 2(b)(2) of the Export-Import Bank Act of 1945, in connection with the purchase or lease of any product by any East European country, any Baltic State, or any agency or national thereof.

ADMINISTRATIVE EXPENSES

For administrative expenses to carry out the direct and guaranteed loan and insurance programs (to be computed on an accrual basis), including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $20,000 for official reception and representation expenses for members of the Board of Directors, $45,228,000: *Provided*, That necessary expenses (including special services performed on a contract or fee basis, but not including other personal services) in connection with the collection of moneys owed the Export-Import Bank, repossession or sale of pledged collateral or other assets acquired by the Export-Import Bank in satisfaction of moneys owed the Export-Import Bank, or the investigation or appraisal of any property, or the evaluation of the legal or technical aspects of any transaction for which an application for a loan, guarantee or insurance commitment has been made, shall be considered nonadministrative expenses for the purposes of this heading: *Provided further*, That, notwithstanding subsection (b) of section 117 of the Export Enhancement Act of 1992, subsection (a) thereof shall remain in effect until October 1, 1996.

OVERSEAS PRIVATE INVESTMENT CORPORATION

NONCREDIT ACCOUNT

The Overseas Private Investment Corporation is authorized to make, without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, such expenditures and commitments within the limits of funds available to it and in accordance with law as may be necessary: *Provided*, That the amount available for administrative expenses to carry out the credit and insurance programs (including an amount for official reception and representation expenses which shall not exceed $35,000) shall not exceed $26,500,000: *Provided further*, That project-specific transaction costs, including direct and indirect costs incurred in claims settlements, and other direct costs associated with services provided to specific investors or potential investors pursuant to section 234 of the Foreign Assistance Act of 1961, shall not be considered administrative expenses for the purposes of this heading.

PROGRAM ACCOUNT

For the cost of direct and guaranteed loans, $79,000,000, as authorized by section 234 of the Foreign Assistance Act of 1961, to be derived by transfer from the Overseas Private Investment Corporation Noncredit Account: *Provided*, That such costs, including the cost of modifying such loans, shall be as defined in section 502 of the Congressional Budget Act of 1974: *Provided further*, That such sums shall be available for direct loan obligations and loan guaranty commitments incurred or made during fiscal years 1996 and 1997: *Provided further*, That such sums shall remain available through fiscal year 2003 for the disbursement of direct and guaranteed loans obligated in fiscal year 1996, and through fiscal year 2004 for the disbursement of direct and guaranteed loans obligated in fiscal year 1997. In addition, such sums as may be necessary for administrative expenses to carry out the credit program may be derived from amounts available for administrative expenses to carry out the credit and insurance programs in the Overseas Private Investment Corporation Noncredit Account and merged with said account.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT AGENCY

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $40,000,000: *Provided*, That the Trade and Development Agency may receive reimbursements from corporations and other entities for the costs of grants for feasibility studies and other project planning services, to be deposited as an offsetting collection to this account and to be available for obligation until September 30, 1997, for necessary expenses under this paragraph: *Provided further*, That such reimbursements shall not cover, or be allocated against, direct or indirect administrative costs of the agency.

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $67,550,000, for the United States share of the increase in subscriptions to capital stock, to remain available until expended: *Provided*, That of the amount appropriated under this heading not more than $5,269,000 may be expended for the purchase of such stock in fiscal year 1996.

CONTRIBUTION TO THE ENTERPRISE FOR THE AMERICAS MULTILATERAL INVESTMENT FUND

For payment to the Enterprise for the Americas Multilateral Investment Fund by the Secretary of the Treasury, for the United States contribution to the Fund to be administered by the Inter-American Development Bank, $70,000,000 to remain available until expended.

Mr. WILSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to echo what the chairman of our subcommittee said. The minority is perfectly willing to stay here until 4 o'clock in the morning to finish the bill.

I would also like to underline that the bill is a fairly fragile compromise, and I hope that we can keep it from being fundamentally changed. As it is now, I think it is veto-proof. I think that would be a very constructive thing for the House to do.

AMENDMENT OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GILMAN:

Page 8, beginning on line 9, strike "shall be made available notwithstanding any other provision of law, and".

Page 9, beginning on line 15, strike "*Provided further*," and all that follows through "Committees on Appropriations:".

Page 16, line 23, strike "and for other purposes,".

Page 19, line 8, strike "1.5" and insert "1".

The CHAIRMAN. Pursuant to House Resolution 170, the gentleman from New York [Mr. GILMAN] and a Member opposed will each be recognized for 5 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I strongly support this bill, which is the product of careful consultation with our Committee on International Relations by the subcommittee, under the leadership of the gentleman from Alabama [Mr. CALLAHAN]. I commend the distinguished chairman, the gentleman from Alabama, and the ranking minority member, the gentleman from Texas [Mr. WILSON]. The bill as a whole deserves the support of the House. I strongly urge Members to support it on final passage.

Mr. Chairman, my en bloc amendment is designed to overcome certain concerns I had with the bill as reported. Chairman CALLAHAN, Chairman SOLOMON, and I agreed that the best way to handle these concerns, which might otherwise be subject to a point of order, would be for me to offer two amendments. This is the first of those amendments.

The amendment would strike three legislative provisions and alter a third.

The first provision strikes legislative language in the Child Survival and Diseases Fund Program that would allow funds appropriated to the fund to be made available notwithstanding any other provision of law.

This language is inappropriate, in my view, because it would set aside appropriate provisions of the Foreign Assistance Act and give the administration little guidance beyond the bill's six child survival purposes.

In recent days, Members expressed concerns about the child survival section of the Foreign Assistance Act. The International Relations Committee will be considering legislation later this summer to update the Child Survival Program. We will update provisions of the FAA and take care of any concerns with current law. I trust it will be a bipartisan bill and would seek its rapid adoption in the Congress.

The second provision would strike the provision that allows the transfer of funds from AID's Development Assistance account to the Treasury Department for debt restructuring. Given the cuts to the Development Accounts in the authorizing bill, our International Relation Committee chose not to allow the transfer funds from development assistance to other accounts in violation of section 109 of the Foreign Assistance Act. The policy of section 109 of the FAA is clear—funds may not be transferred from development assistance. I think it was wise policy when it became law. I do not think this law should be waived. I will also point out that during debate on the authorizing bill, the House decisively rejected an attempt to provide additional funds for debt restructuring.

The third provision strikes language that expands the purposes of the appropriation for the Freedom Support Act—assistance to the former Soviet Union—to unspecified other purposes, notwithstanding any other provision of law. This is the kind of legislative language that could have the effect, however unintentional, of weakening the appropriate oversight role of the authorizing committees, since it is not at all clear what the other purposes of such additional aid would be or what authorities they would employ. If this language were not stricken, the House would be appropriating, to some degree, in the blind with respect to the somewhat troubled aid program for Russia and the New Independent States.

Finally, the amendment changes the ratio of required private participation in certain programs in Russia. This amendment reflects the reality that, in dollar terms, indigenous contributions by Russians, valued in dollars, are necessarily going to be very small, and it will be very difficult to reach the required ratio for many projects.

In a compromise with Chairman CALLAHAN, we agreed to reduce this ratio from 1.5 to 1 down to 1 to 1. It will reflect an equal partnership between the public and private sectors It was my understanding from the appropriations committee staff that this change would help groups like Save the Children in Russia and other New Independent States.

Mr. Chairman, I appreciate the effort made by Chairman CALLAHAN and Rules Committee Chairman SOLOMON to help me address several concerns that have come up during consideration of this bill.

We had unprecedented cooperation between the subcommittee and our Committee on International Relations. Chairman CALLAHAN addressed some of my concerns through an amendment he offered in full committee and I thank him for that. With the adoption of this amendment and the one that I will offer next, our committees will be in sync.

The CHAIRMAN. Is there a Member opposed to the amendment offered by the gentleman from New York?

Mr. WILSON. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Texas [Mr. WILSON] is recognized for 5 minutes.

Mr. WILSON. Mr. Chairman, I rise in opposition to the amendment.

This amendment would delete a provision that waives legislative restrictions for programs for child survival.

Over the past several years the committee has included this provision in the bill because programs for children should be carried out without technical or political restrictions.

The provision has enabled aid to help displaced children, orphans, and other children in distress in Bosnia, Mozambique, Somalia, and Rwanda.

It enables the United States to respond quickly to assist children as a result of natural disasters, war, and the spread of disease.

Assistance to children for immunization, family reunification, and other assistance is the one area in the foreign assistance area where we can statistically show that benefits are achieved and in fact lives are saved. UNICEF has estimated that the United States program for child survival has saved more than 1 million lives during the past 10 years.

Mr. Chairman, there are a number of legislative provisions in this bill that have been here for a number of years—since there hasn't been an authorization bill signed into law for more than 10 years.

I do not know why the gentleman has chosen this one to strike. But I think for the sake of saving lives of children, Members should vote against the Gilman amendment.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the pending first amendment provided for under the rule, by the chairman of the Committee on International Relations, and incidentally, I want to thank the chairman for his cooperation during this process, and for helping me through his very knowledgeable history in foreign relations.

However, the amendment of chairman of the Committee on International Relations reflects discussions between us prior to the Committee on Rules hearing last week. By way of explanation, the "notwithstanding" provision that is deleted in this amendment was inserted by the Committee on Appropriations to allow the executive branch to act more expeditiously than the Foreign Assistance Act would allow in the case of epidemics. The diphtheria epidemic now sweeping across the former Soviet Union is a case in point.

According to the General Accounting Office, AID delayed contracting with the Centers for Disease Control in Atlanta, when diphtheria struck the Ukraine more than a year ago. Now that the epidemic has spread, we accept the chairman's assurances that the "notwithstanding" clause is unnecessary to prevent future delays in responding to epidemics to prevent future delays in responding to epidemics abroad.

The two language changes in the heading "Assistance for the New Independent States of the Former Soviet Union" should not change the Committee on Appropriation's original objectives. Administration lawyers have assured us that reverting to the customary term "and for related programs" as a result of the deletion proposed by the chairman, the gentleman from New York [Mr. GILMAN], will in no way reduce the ability of the coordinator and special advisor to obligate these funds. They may be used for any activities in the former Soviet Union that were requested by the administration and the Committee on Appropriations.

Mr. Chairman, I am not going to ask for a recorded vote, I would say to the gentleman from Texas [Mr. WILSON].

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. GILMAN. I am pleased to yield 30 seconds to the gentleman from Wisconsin [Mr. ROTH], a senior member of the Committee on International Relations.

Mr. WILSON. Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. ROTH].

The CHAIRMAN. The gentleman from Wisconsin [Mr. ROTH] is recognized for 1 minute.

Mr. ROTH. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, we have two amendments here that are very important. The first one deletes authorizing language from the bill which runs directly contrary to the provisions that came out of the Committee on International Relations and were written in the law.

In one instance, the bill waives all provisions of law in providing funds for certain health-related programs. In another instance, the bill authorizes $15 million of debt relief in Africa. In another, the bill authorizes the transfer of $15 million from the development fund for Africa. That is why these amendments are important.

In offering these amendments, the gentleman from New York is making a very important point. The point is this: appropriations bills should be consistent with the authorization bills. This is not the case here. I understand the tendency, as has been pointed out by the gentleman from Texas [Mr. WILSON], that in the past 10 years we have not had an authorization bill enacted. Now we have an authorization bill that has been passed. Before, yes, the appropriations bill carried the burden of the authorization bill.

Mr. WILSON. Mr. Chairman, if the gentleman will yield, he means he has had an authorization bill passed.

Mr. ROTH. Yes, Mr. Chairman. What we are saying is the authorization bill should set the standard. The appropriations should dovetail into the authorization bill.

The CHAIRMAN. All time has expired.

Mr. SMITH of New Jersey. Mr. Chairman, I ask unanimous consent for 2 additional minutes to engage in a colloquy with the maker of the amendment.

The CHAIRMAN. The Chair would advise the gentleman, only if the time is equally divided by each side can the Chair entertain that request.

Mr. SMITH of New Jersey. Mr. Chairman, I ask unanimous consent for an additional 3 minutes, and that it be equally divided between both sides.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, I am concerned with the part of the amendment that would delete the phrase "notwithstanding any other provision of law" from the Child Survival and Disease Programs Fund in title II. I would just ask the chairman of the full committee for a clarification. If the amendment passes, can the House be assured that the money in the fund would not be used or available for population assistance?

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We have such money designated. It has been used in the past. My hope is that this day on point for child survival interventions, immunizations, oral rehydration, and the like, and those things that were expressed on the bottom of page 7 and page 8 of the bill.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from New York.

Mr. GILMAN. If the amendment passes, the House can be assured the money in the fund would not be available for population assistance.

Mr. SMITH of New Jersey. Mr. Chairman, I thank the gentleman for clarifying that.

The CHAIRMAN. Under the unanimous-consent argument, the gentleman from Texas [Mr. WILSON] is recognized for an additional 1½ minutes.

Mr. WILSON. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. GILMAN].

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in part 1 of House Report 104–147.

AMENDMENT OFFERED BY MR. GILMAN

Mr. GILMAN. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. GILMAN: Page 8, line 16, strike "$669,000,000" and insert "$645,000,000".

The CHAIRMAN. Pursuant to the rule, the gentleman from New York [Mr. GILMAN] will be recognized for 5 minutes, and a Member opposed will be recognized for 5 minutes.

The Chair recognizes the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I urge Members' support for the Gilman-Brownback amendment. This amendment simply reduces the foreign aid development assistance budget to the level approved by the House on June 8.

When the House debated the American Overseas Interests Act (H.R. 1561), we supported a total funding level of $858 million for development assistance. This amount reflected a balanced reduction in foreign aid to meet our budget reduction targets included in the House-passed budget resolution. I strongly support these programs but must note that we must show spending restraint in a time of $200-billion deficits.

Chairman CALLAHAN's bill was marked up in subcommittee while the Overseas Interests Act was debated on the floor—therefore amounts in the bill are not identical to the authorizing bill. Our amendment would simply reduce the amounts in the bill for this particular account to the authorized level as passed in the House. We support Chairman CALLAHAN's Child Survival Program and our amendment would not cut a penny from that account or AID funds for Africa. My colleagues recall that the budget savings in the Overseas Interests Act were endorsed by Chairman KASICH and the following organizations: the National Taxpayers Union Foundation, Americans for Tax Reform, the Association of Concerned Taxpayers, and Citizens Against Government Waste. Remembering the support of these budget-conscious groups, I urge support for the Gilman-Brownback amendment.

Mr. Chairman, I yield 2 minutes to the gentleman from Kansas [Mr. BROWNBACK].

Mr. BROWNBACK. Mr. Chairman, I rise today in strong support of the Gilman-Brownback amendment to reduce the Development Assistance Fund to the level authorized by H.R. 1561, the American Overseas Interests Act.

My support for reducing the Development Assistance Fund is not based on a desire to gut USAID's development assistance program. Nor is it based on a desire to unfairly single out individual projects for outright elimination.

The problem is we are broke. This fiscal year, the Federal Government is forecasted to spend over $200 billion more than it takes in. That annual deficit will add to our current national debt of almost $5 trillion.

We cannot afford to continue our current spending habits. That is why the new Republican majority in the House has crafted a balanced budget resolution, and we must meet our budget targets.

I cosponsor this amendment to the foreign aid authorization bill, H.R. 1561, to bring its funding levels in compliance with the budget resolution target.

Although this foreign operations bill overall spends even less on foreign aid than the budget resolution's target, H.R. 1868 raises the level of the Development Assistance Fund by approximately $25 million.

I applaud the Appropriations Committee for lowering the level of taxpayer funding of foreign assistance. However, the committee should not have used the additional savings to raise the funding levels of the Development Assistance Fund.

I agree that the United States should be providing development assistance for programs that further U.S. interests abroad. However, because of the importance of balancing the budget and reducing the deficit, we need to reduce our overall level of development assistance. As a result, we need to reevaluate our development assistance priorities.

Providing more than $27,000,000 to Nepal is not a priority.

Providing almost $19,000,000 to Sri Lanka is not a priority.

Providing almost $10,000,000 to Yemen is not a priority.

I do not want to gut these programs of the entire fund. But I cite these programs as examples of areas in which cost-cutting could and should occur.

Mr. Chairman, I ask for the passage of the bill.

Mr. WILSON. Mr. Chairman, I am confused. Do I control 5 minutes of the time?

The CHAIRMAN. Is the gentleman from Texas opposed to the amendment?

Mr. WILSON. I am extremely opposed, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas [Mr. WILSON] is recognized for 5 minutes in opposition to the amendment offered by the gentleman from New York [Mr. GILMAN]. The gentleman from New York [Mr. GILMAN] has 1 minute remaining.

Mr. WILSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am extremely opposed to this amendment for many, many reasons, but basically because the funding levels in this bill were reached after very, very careful negotiations in order to bring a bipartisan bill to the floor, a bill that would be veto-proof, a bill that could gain wide acceptance through all elements of both parties, and to cut $25 million here out of development assistance, which would mean a 40 percent total cut, I think would endanger that compromise.

Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I would simply say this: If the House wants to have bipartisan support for this bill, it needs to defeat this amendment. If it does not care about getting support for this bill from this side of the aisle and wants to pass it all on your own, then vote for the amendment, because that is going to be the result.

When we came out of the subcommittee, we had reached a very delicate compromise. Basically what we had done is, taking into account the level of DA already recommended by the subcommittee, we simply suggested that other accounts that had been increased over last year be reduced so that through a combination of development assistance and assistance to Africa, we would reduce somewhat the huge cuts that had already taken place in those accounts.

The problem with this amendment is that it is cutting an account which has already been cut by 40 percent at the same time that military assistance in this bill is $1 million above last year's level.

We do not believe that that is a balanced approach, we do not think you ought to do that, and frankly I do not instead to support a bill if it becomes nothing but a delivery mechanism for warped priorities.

It seems to me it is essential for us to stick with a bipartisan product. If this amendment is passed, you abandon that.

Mr. Chairman, I yield to the gentleman from Louisiana [Mr. LIVINGSTON].

Mr. LIVINGSTON. Mr. Chairman, I was going to ask the gentleman from Alabama [Mr. CALLAHAN] to yield time.

The CHAIRMAN. The gentleman from Wisconsin [Mr. OBEY] controls the time.

Mr. OBEY. Mr. Chairman, it is my understanding that there is only 1 minute left.

Mr. WILSON. I think I control the time, Mr. Chairman.

The CHAIRMAN. The gentleman from Texas [Mr. WILSON] controls the time in opposition. The gentleman from New York [Mr. GILMAN] has 1 minute remaining.

The gentleman from Wisconsin still has the time that was yielded to him, 3 minutes.

Mr. OBEY. That is my impression. My understanding is that there will be no time for the gentleman from Louisiana [Mr. LIVINGSTON] or the gentleman from Alabama [Mr. CALLAHAN] unless I yield to them, which I am trying to do.

Mr. CALLAHAN. Mr. Chairman, if I might, respectfully ask for unanimous consent to extend the debate for 3 additional minutes on each side and then I would ask the gentleman from New York [Mr. GILMAN], chairman of the Committee on International Relations, to yield his 3 minutes to me so I can recognize the gentleman from Louisiana [Mr. LIVINGSTON], chairman of the Committee on Appropriations, and we each would have additional time.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. BURTON of Indiana. Mr. Chairman, reserving the right to object, we have, I think, 2 or 3 speakers on this side that have served on the Committee on Foreign Affairs/International Relations who feel very strongly about this amendment. We would like to have a minute or two for us to express our feelings.

I would ask unanimous consent instead of 3 minutes that we have 7 minutes so we can split it 3½ minutes on each side.

The CHAIRMAN. Does the gentleman from Alabama modify his request?

Mr. CALLAHAN. Yes, Mr. Chairman.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. BURTON of Indiana. Mr. Chairman, further reserving the right to object, is the gentleman from Alabama [Mr. CALLAHAN] planning to give the chairman of the Committee on Appropriations 3 minutes?

Mr. CALLAHAN. Mr. Chairman, I am, when they yield to me.

Mr. BURTON of Indiana. Mr. Chairman, further reserving the right to object, that being the case, then I think we need more than the 3 minutes. We need 10 minutes.

Mr. OBEY. Mr. Chairman, is all of this coming out of my time?

The CHAIRMAN. Each side has to be equally treated in this area.

Mr. BURTON of Indiana. Mr. Chairman, I ask unanimous consent that debate on this amendment be extended by an additional 10 minutes equally divided on each side.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The gentleman from New York [Mr. GILMAN] will be recognized for an additional 5 minutes, and the gentleman from Texas [Mr. WILSON] will be recognized for an additional 5 minutes.

Mr. OBEY. Could I ask the Chair how much time I have remaining?

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. OBEY] has expired.

Mr. OBEY. I thank the Chair.

Mr. WILSON. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. LIVINGSTON], the chairman of the full committee.

Mr. LIVINGSTON. Mr. Chairman, I thank the gentleman for yielding me the time. I doubt I will use the full 3 minutes.

Mr. Chairman, the Gilman amendment reduces the development assistance account by $24 million in order to bring the bill in line with the authorization bill. I understand and support his desire to appropriate within House-passed authorization levels. However, I respectfully disagree with Mr. GILMAN on the merits, and the effect of this specific amendment.

Our committee was forced to not only work with the authorizing levels, but also to work out billions in cuts in a politically difficult bill.

Chairman CALLAHAN displayed amazing leadership and consensus building skills in developing a bipartisan consensus on how we should distribute the declining foreign assistance dollars. Each member of the subcommittee outlined their priorities and we compromised in order to report a bill with wide bipartisan support. Mr. WILSON and Mr. OBEY both support this legislation. I think it is important that we maintain the support of the minority in order to get this bill through.

However, if we agree to Mr. GILMAN's amendment, we break our bipartisan agreement and risk losing support from our minority party members. It seems extremely counterproductive to lose the bipartisan support we have worked so hard to achieve, merely to prove our unequivocal compliance with the authorizing legislation. Especially since we conform with the authorization bill in almost all respects, and overall $375 million below the total funding level assumed in the authorization bill.

In addition to breaking bipartisan support, this bill is wrong on the merits. Our committee provided a $25 million increase for child survival activities in the newly created child survival and disease programs fund This was done to accommodate a bipartisan effort to protect funding for child survival and infectious disease programs. Not only did we maintain a separate account, we were able to increase the level by $25 million because of wide support for protecting children.

Mr. GILMAN's amendment, while understandable for jurisdictional reasons, is a bad amendment for the children of the world. In order to keep bipartisanship and to protect children, I urge opposition to this amendment.

Mr. GILMAN. Mr. Chairman, I yield the balance of my time to the gentleman from Alabama [Mr. CALLAHAN], the distinguished chairman of the Subcommittee on Foreign Operations of the Committee on Appropriations, and I ask unanimous consent that he be allowed to control that time.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The CHAIRMAN. The gentleman from Alabama [Mr. CALLAHAN] is recognized for 6 minutes.

Mr. CALLAHAN. Mr. Chairman, I rise in strong opposition to the amendment, but I am going to speak last on it.

At this point, though, in fairness to all concerned, I yield 1 minute to the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. I thank the gentleman for yielding me the time.

Mr. Chairman, first of all, we are not going to be allowing children to starve if we pass this amendment. The authorizing committee came up with a reasonable amount of money to deal with the problems of the world. The problem is the authorizing committee came up with a figure and now we are going above that with the Appropriations Committee of $24 million. We do not need to be spending that money at a time when we are having fiscal problems.

I want to read what one of the Chief of Staffs of AID said, Larry Byrne. He said that AID was 62 percent through the fiscal year and they had only spent 38 percent of their dollar volume. They needed to spend a $1.9 billion in the next 5 months. Now, get that.

They were two-thirds through the year and they had only spent one-third of their money so they had to speed up the spending process, to blow American taxpayers' dollars, so they could ask for more money.

They don't need more money. We don't need to be spending this $24 million.

I say to my colleagues who are fiscally responsible, vote for this amendment. It takes it back to the authorizing level, which was a reasonable figure. We do not need to be going above authorized levels if we are really concerned about balancing the budget.

Mr. CALLAHAN. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. MANZULLO].

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Mr. MANZULLO. Mr. Chairman, very briefly, what we are trying to do here is to roll back the aid to the Development Assistance Fund $24 million, back to the authorizing levels. It is very simple. We are trying to save some money.

Mr. Chairman, I rise in support of Mr. GILMAN's amendment to strike $24 million from the Development Assistance Fund [DAF] in an effort to cut spending and reduce the deficit and national debt.

Today the national debt stands at over $4.89 trillion—that's right, trillion—dollars. In fact, the debt continues to increase by $9,600 every second, which means that by the time I conclude my remarks, the national debt will have risen by another $576,000—another half a million dollars of fiscal liability placed on the backs of our children.

Mr. Chairman, given this fiscal crisis, we as responsible legislators must continue to look for ways to make reasonable cuts in government spending. The amendment before us now makes such a reasonable reduction. Two weeks ago, we passed a foreign aid authorization bill that set spending levels for the Development Assistance Fund at $858 million. The appropriations bill we are currently considering proposes to spend $25 million above the authorized amount on the DAF. The Gilman amendment simply brings the appropriation in line with the levels authorized without touching the Child Survival Program.

I think we all agree, Mr. Chairman, that cutting spending to reduce the deficit and the debt is necessary and will bode well for the economy and for future generations of Americans. I think we can agree, too, that a very basic step in controlling spending is to keep appropriations within approved authorization levels. This amendment does just that. Let's stop the half-a-million-a-minute trend of debt accumulation. I support the amendment by the distinguished chairman and I urge the support of my colleagues.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, I basically have a question. I realize Chairman CALLAHAN and ranking member WILSON have done a good job and we congratulate them on that. As I interpret this amendment, the nub of the issue basically is this. The gentleman's amendment takes us back to the authorization bill and basically cuts it $24 million. It brings it back to the authorization fund. There is no jurisdiction fight or anything as I read it; it is just going back to the authorization bill.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, the gentleman from Wisconsin is precisely correct. It cuts development assistance by $24 million, down to $645 million, to the level the House authorized back on June 8. It does not cut child survival or Africa development funds.

Mr. WILSON. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I urge the body to reject the amendment. The fact is the appropriations bill that is before us is below the 602(b) allocation for the 150 account. The total of the bill does not exceed the authorization level. it is $400 million below the authorization level.

As was mentioned by Chairman LIVINGSTON and Chairman CALLAHAN, the $24 million increase in the development assistance was a major part, a very small amount of money, but it was a major part of deciding whether this body is going to go back to a bipartisan approach trying to deal with the very important question of foreign assistance.

I ask my colleagues to remember, the appropriations bill is below the 602(b) allocation, that is in the budget resolution that passed the House. The appropriations bill in total is $400 million below the authorization level. And we are talking about $24 million for development assistance to support the most critical programs in the foreign assistance program; the kinds of aid that goes directly to people, that is not government-to-government, that is not going to be squandered.

And what is the benefit of this? We go back to a bipartisan approach to the foreign assistance program. That is worth something. I am sorry the amendment is being offered. I hope it is rejected. I think it is critical to the future of how we handle foreign assistance programs in this body.

Mr. WILSON. Mr. Chairman, I think it would benefit the House for the gentleman from Alabama [Mr. CALLAHAN] to close.

Mr. Chairman, I yield back the balance of my time.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

I too rise in opposition to the Gilman amendment. So just let me reinform the committee that we have worked hard. We have bipartisan support.

The Appropriations Committee has reported a bill that conforms with the authorization bill in almost all respects. In fact, overall we are $375 million below the total funding level assumed in the authorization bill.

Chairman GILMAN maintains that we are $25 million over the authorization level for the Development Assistance Fund. However, that is only due to the fact that the committee provided a $25 million increase for child survival activities in the newly created Child Survival and Disease Programs Fund.

Creation of this new fund was a response to a bipartisan effort to protect funding for child survival and infectious disease programs of the Agency for International Development. Members from both sides of the aisle on both the authorizing and appropriations committees discussed this matter with me, and I decided to protect these programs by creating a separate appropriations account.

Not only did we maintain funding for child survival programs at the 1995 level of $275 million, we were able to increase this level by $25 million.

In addition, I worked hard to achieve bipartisan support for this bill. Part of that compromise involved slightly higher funding levels for development assistance programs. I believe it is very important that foreign policy legislation, to the extent it is possible, be supported by Members on both sides of the aisle.

In my opinion, we do not violate the authorizing committee one iota. We have created a child survival account to make absolutely certain that the children that we are helping worldwide, the starving children that you see on television in these Third World countries and underdeveloped countries, are the ones that will suffer.

Let me encourage my colleagues in this House to keep this bipartisan agreement together; to reject the Gilman amendment.

Many of the funding levels in this bill were developed with that end in mind.

I want to stress that this bill already makes the largest reduction from a President's request for foreign aid in 20 years. It is 19 percent below the administration's request, and over 11 percent below last year's level. We have done our job on the Appropriations Committee to reduce spending on international relations.

I have the greatest respect for Chairman GILMAN. He did an outstanding job under very difficult circumstances when he successfully managed the authorization bill several weeks ago. Therefore I can understand his reluctance to agree to an appropriations bill that does not completely comply with the authorization.

However, I have developed a bipartisan bill with Mr. WILSON and Mr. OBEY, and I must oppose this amendment. I do so with the utmost respect for Chairman GILMAN, but I believe the committee process has resulted in a good bill that we can all support.

Mrs. LOWEY. Mr. Chairman, I rise in opposition to the Gilman amendment that would slice $25 million from the Development Assistance Fund.

The Development Assistance Fund, which finances family planning programs, has become the slush fund of choice for Members of this body. Everyone is raiding the development assistance pot—a pot that is almost empty already.

Currently, this bill designates approximately $669 million for development assistance for all sectors including population assistance, once the child survival and disease programs earmark is deducted. Under the current bill, population assistance will get approximately a 49-percent cut from the 1996 request level. Now, Mr. GILMAN asks us to cut an additional $25 million. This cut would have a devastating and irreversible effect on the well-being of women and children throughout the world.

These cuts would directly result in the loss of family planning and other reproductive health services to millions of women who need them. Ultimately, cuts in USAID population funding will affect the size of the world's population for decades to come. Our decisions here today will determine whether the world's population stabilizes under 10 billion, or whether it doubles from its current size to reach 12 billion by 2050, and continues to grow thereafter.

Among the immediate consequences of a 50-percent cut are an estimated 1.6 million unintended pregnancies per year, which would have been directly prevented through USAID supported family planning activities. These pregnancies will result in 1.2 million unwanted births, 363,000 otherwise unneeded abortions, and 8,000 maternal deaths.

Programs lost or dramatically reduced due to severe budget cuts would include research programs developing new contraceptive methods and methods to help prevent HIV/AIDS transmission. In addition, programs targeted at reducing the heavy reliance on abortion in countries like Russia and the New Independent States would have to be reduced or discontinued.

Moreover, with the cuts proposed here today, USAID will be unable to continue its mission of bringing family planning and reproductive health services to the world. Over 120 million women have an unmet need for family planning services today. During the next decade, 200 million more women will reach their reproductive years, creating increased demand for services. The world cannot afford for the USAID programs to be crippled by severe budget cuts.

One of the most important forms of aid that the United States provides to other countries is family planning assistance. No one can deny that the need for family planning services in developing countries is urgent and the aid that we provide is both valuable and worthwhile.

Mr. GILMAN's additional cut of $25 million is a gratuitous swipe at family planning. To demand additional cuts on top of the 49-percent reduction, is to say to the world that the United States does not care.

Mr. Chairman, I urge my colleagues to vote against the Gilman amendment.

Mr. CALLAHAN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

The question is on the amendment offered by the gentleman from New York [Mr. GILMAN].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 202, noes 218, not voting 14, as follows:

[Roll No 420]

AYES—202

Allard
Armey
Baker (CA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Bono
Browder
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Calvert
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Cremeans
Cunningham
Deal
DeLay
Diaz-Balart
Doolittle
Dornan
Dreier
Duncan
Ehrlich
Emerson
English
Ensign
Ewing
Fawell
Fields (LA)
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (NJ)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kim
King
Kingston
Klug
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (KY)
Lincoln
Linder
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Myers
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Nethercutt
Neumann
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Norwood
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Quinn
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Ramstad
Roberts
Rohrabacher
Ros-Lehtinen
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Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
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Shadegg
Shays
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Smith (MI)
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Smith (TX)
Smith (WA)
Solomon
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Stenholm
Stockman
Talent
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Taylor (MS)
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Thomas
Thornberry
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Upton
Walker
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Young (FL)
Zeliff
Zimmer

NOES—218

Abercrombie
Ackerman
Andrews
Archer
Bachus
Baesler
Baldacci
Barrett (WI)
Barton
Bateman
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Boehner
Bonilla
Bonior
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Bunn
Callahan
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Conyers
Costello
Coyne
Crapo
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
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Dixon
Doggett
Dooley
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Edwards
Ehlers
Engel
Eshoo
Evans
Everett
Farr
Fattah
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Forbes
Frank (MA)
Franks (CT)
Frelinghuysen
Frost
Gejdenson
Gephardt
Gibbons
Gilchrest
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hansen
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Hunter
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
Leach
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lofgren
Lowey
Maloney
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Martinez
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McCarthy
McCrery
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McHale
McKinney
McNulty
Meehan
Meek
Menendez
Miller (CA)
Mineta
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Mollohan
Moran
Morella
Murtha
Nadler
Neal
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Obey
Olver
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Orton
Owens
Packard
Pallone
Pastor
Payne (NJ)
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Pelosi
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Pickett
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Rangel
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Rivers
Roemer
Rogers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shaw
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Spratt
Stark
Stokes
Studds
Stump
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walsh
Ward
Waters
Watt (NC)
Waxman
White
Wicker
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)

NOT VOTING—14

Baker (LA)
Camp
Collins (MI)
Cubin
Ford
Furse
Gunderson
Jefferson
Lantos
Mfume
Moakley
Reynolds
Torricelli
Williams

☐ 1356

Mrs. CHENOWETH changed her vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. DUNN of Washington. Mr. Speaker, during the House's consideration of H.R. 1868, I inadvertently voted "no" on rollcall vote No. 420. I rise to ask that the RECORD reflect I intended to vote "yes" on that vote.

AMENDMENT OFFERED BY MR. SANDERS

Mr. SANDERS. Mr. Chairman, I offer an amendment, amendment No. 44.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SANDERS: Page 4, line 26, strike "$26,500,000" and insert "$1,000,000".

Page 5, line 9, strike "$79,000,000" and insert "$0".

□ 1400

Mr. SANDERS. Mr. Chairman, as my colleagues know, this country has a $4.7 trillion national debt, and this body has passed a budget which makes savage cuts in Medicare, Medicaid, student loans, veterans programs, and many other programs which mean a great deal to tens of millions of working Americans. Given that context, Mr. Chairman, it seems to me long overdue that the U.S. House of Representatives begins to stand up and take on the $100 billion a year in corporate welfare which goes to the largest corporations in America and to the wealthiest people, and this amendment begins that process.

Mr. Chairman, this amendment offers a crystal clear test case to show all of our constituents that Congress has the guts to take a bite out of corporate welfare. It will be a recorded vote to stop the Federal Government acting through the Overseas Private Investment Corporation, OPIC, from committing billions more in U.S. taxpayer dollars to help Fortune 500 companies.

What this amendment does very simply is, it says that OPIC, a Federal agency, can no longer commit and put at risk tens of billions of dollars of taxpayer money for the largest corporations in America.

OPIC is a small, obscure Federal agency which has its hands deep into the pockets of every American taxpayer. It receives at least $26 million every year in appropriated funds, but, more importantly, it has already placed at risk, at risk, $6.3 billion of taxpayer money, and it keeps on getting bigger.

Why is OPIC such a juicy target for cutting corporate welfare? It seems to me, Mr. Chairman, that it makes no sense at all that the Congress provide incentives for large American corporations to invest in politically unstable countries around the world. If huge Fortune 500 companies, like General Electric, duPont, Caterpillar, Westinghouse, and on and on it goes, want to make investments in unstable countries like Russia, they have every right in the world to do so. But they do not have the right to obligate American taxpayers to underwrite the insurance for the possible loss of their private investments.

Currently, if these giant corporations make a lot of money, well, the good news is that the owners of those companies become a little bit richer. However, if there is political turmoil in an unstable country, and these large companies lose their assets as a result of expropriation, or political turmoil, or civil war, guess what? It is Uncle Sam and the American taxpayers who have to bail out these companies.

Now, Mr. Chairman, OPIC does not make sense for two basic reasons. No. 1, we do not have to subsidize the largest corporations in America and stand a tremendous potential loss when we have a huge deficit. No. 2, from an economic point of view, why in God's name are we encouraging the largest corporations in America to invest abroad rather than reinvesting in America and creating jobs?

What are the outrages of OPIC can be seen on the chart to my right. We are providing incentives for corporations like Ford to invest abroad when Ford has laid off in the last 15 years over 150,000 American workers. We are providing incentives to GE to invest abroad when GE has laid off over 180——

The CHAIRMAN. The time of the gentleman from Vermont [Mr. SANDERS] has expired.

(By unanimous consent, Mr. SANDERS was allowed to proceed for 1 additional minute.)

Mr. SANDERS. Mr. Chairman, let us eliminate OPIC for two reasons. The largest, most profitable corporations in America do not need taxpayer incentives, and we do not have to cover through insurance their risky investments. No. 2, what does it say to companies in America who are reinvesting here? That we are going to subsidize large corporations who take our jobs abroad.

It is time to eliminate OPIC. I urge support for this amendment.

Mr. CALLAHAN. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Vermont [Mr. SANDERS].

The Overseas Private Investment Corporation is not perfect. It does have room for improvement. Perhaps part of that can be privatized. This matter will be discussed in the amendments to be offered later in the day by the gentleman from Wisconsin [Mr. KLUG].

Mr. Chairman, the amendment before us closes down the Overseas Private Investment Corporation. In fact, it does not leave enough money to even close it down. It cannot be done for $1 million. Many former Socialist nations are now looking to American investment and building the infrastructure needed for their own development. In the short term much of that American investment will involve OPIC insurance of financing, and, as long as these countries, such as India, do not have a track record of adherence to free market principles, OPIC is needed.

Mr. Chairman, if we are going to compete in a global economy, then our business people must compete with the Governments of Japan and Germany and all of the other industrialized nations because all of them have such an agency to assist the export of our American jobs overseas. This is the finest vehicle we have to do that, and I think that it would be a very serious mistake to do it especially in the way that the gentleman from Vermont proposes, and that is just to walk downtown, and give them a key, and tell them to lock the door, and do not even give them enough money to pay the rent for the rest of the month.

So I strongly oppose the amendment and urge my colleagues to support this bipartisan disagreement to the gentleman from Vermont's amendment and to vote "no" on this amendment.

Mr. WILSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I probably will not take the whole 5 minutes, but, if there has ever been a win, win, win situation in an institution in the United States, it is the Overseas Private Investment Corporation. The Overseas Private Investment Corporation generates an immense number of jobs in the United States and the production of heavy generation equipment, of airplanes, of airplane engines, of all the rest. It not only creates jobs, it creates a positive balance of payments. It creates a good competitive situation against Germany and Japan.

Mr. Chairman, many Members of the House really do not know what OPIC does, but what OPIC essentially does is allow companies to buy insurance against political instabilities in other countries, and then this insurance makes it possible for them to obtain private financing.

The final point that I would make, and we are going to be making these points all day, but the final point that I would make is that OPIC not only generates an enormous number of jobs in the United States, it not only generates a positive balance of payments for the United States, but most of all it returns money to the Treasury. It is one of the few agencies I know that has a positive impact on the Nation's deficit.

Mr. Chairman, since 1971 OPIC has contributed $2 billion to deficit reduction in the United States, and in 1996 we expect OPIC to contribute $100 million in addition to all of its other economic contributions to our country and to our balance-of-payments accounts.

Mr. ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Sanders amendment.

Mr. Chairman, I myself introduced a virtually identical amendment. I would like to talk about who I think ought to be for this amendment.

First of all, let me say that I commend my colleagues on the Republican side for making some very difficult and controversial stands in favor of reducing the Federal budget. I do not agree with all that they have done, but I agree with the idea that they are addressing, in a very honest and aggressive way, the fact that we are spending far more than we take in. I invite them to continue that philosophy and continue that tradition by voting for Mr. SANDERS' amendment.

The bill, as it presently is written, calls for 79 million dollars' worth of appropriations for new loans, and new guarantees and new goals for OPIC, and it calls for, I believe, 29 million dollars' worth of operating money from the American taxpayer. Here is an opportunity, my colleagues, to say to duPont, "Be a rugged individualist," to say to CocaCola in an entrepreneurial society, "Make it on your own," to say to AT&T and GTE, "Take risks with your own shareholders' money, but not with the taxpayers' money of the United States," to American Express, "Leave home without it, leave home without the taxpayers' money the next time you want to make a deal somewhere overseas."

Mr. Chairman, I say to my colleagues, If you will look, my friends, to cut unjustifiable welfare subsidies in the welfare budget, as I have when I voted with you on your welfare reform bill, then look to the Sanders amendment, and vote "yes." If you think that it is a wrong-headed policy for the United States to subsidize a company that will create jobs overseas, but not create jobs in the United States, then vote for the Sanders amendment.

I say to my colleagues, You think about this the next time you return to your district. If a company in your district wanted a Federal loan guarantee to make their factory bigger, or their store employ more people, or do research and development, by and large the answer would probably be "No, they wouldn't get that Federal loan guarantee," but if they chose to set up shop in Guatemala, or Malaysia, or Argentina, or somewhere else outside of the United States, here comes OPIC driven and funded by the American taxpayer to the rescue. If you think it is a bad industrial policy to subsidize the export of American capital and American jobs, then vote for the Sanders amendment.

Finally, Mr. Chairman, to my friends' concern about the foreign policy of our country, I say, If you think it is bad foreign policy for an unelected, unaccountable, private group of people to travel the world and make policy decisions on behalf of the United States, if you agree with the editors of the Wall Street Journal who said that OPIC is really nothing more than foreign policy conducted through another way, foreign aid conducted through another way then support the Sanders amendments.

Mr. Chairman, the majority is to be commended for making very difficult and sometimes unpopular decisions to try to bring our budget into balance. It is entirely consistent with that tradition that they support the Sanders amendment. I am going to; I would urge my colleagues on both sides of the aisle to do so, too.

Mr. ROTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this amendment before us is a disaster for American exporters and, therefore, American jobs. This amendment reduces American exports, it costs American jobs, it does great harm to our competitive position in the world and will destroy a valuable tool for American exporters.

□ 1415

I think the chairman of the committee and the ranking member have explained it very precisely. This amendment simply denies OPIC the authority to function. It shuts down OPIC.

Last week's disastrous trade report underscores the reason why the House should reject this amendment. In April of this year our overall trade deficit was the worst in the 3 years, $11 billion, and the deficit in goods was $16 billion. The reality is, our exports are stalling.

If our exports do not grow, our economy will not grow, and probably will slip into recession. Now, along comes this amendment, which would further reduce our exports. This amendment is economic unilateral disarmament. Who in this House wants to vote to cut exports, at the very time we are in danger of slipping into a recession?

OPIC essentially puts us in a position in the world markets where we can compete for jobs. OPIC provides two services for American business they cannot get anywhere else: Long-term insurance against risk and financing for trade and investment overseas.

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, some of the other speakers have indicated that OPIC operates at a cost to the American taxpayers. Would the gentleman agree that is not so?

Mr. ROTH. Mr. Chairman, reclaiming my time, I have looked at OPIC and read the law. There is not 1 red cent of taxpayer money in OPIC. That is No. 1. No. 2, what is this talk about sending jobs overseas? OPIC has written in law that it cannot cost American jobs. That is part of the law.

Long-term financing is given so that we can compete in international markets. OPIC exists because American business cannot get this insurance and financing anywhere else. Over the past 25 years, OPIC has directly supported $40 billion in American exports, and that translates into 800,000 jobs.

Let me repeat that again—$40 billion in American exports. Where do you think our good-paying jobs are coming from? They come when we send our products overseas. You stop selling our products overseas, and you are not going to have jobs in New Hampshire, and Dallas, TX, or Green Bay, WI, or San Francisco. You are only going to have more good-paying jobs when you have more exports.

OPIC is the best managed Federal agency. OPIC has never lost 1 cent. OPIC has paid back to the Treasury every dollar; yes, my good friend from Ohio, every dollar it initially had to capitalize. So there is no taxpayer money, not 1 red cent.

Look at me. Am I blue in my face? There is not 1 red cent of taxpayer money involved in OPIC. Every year OPIC makes money for the Treasury. Do you know how much it made last year alone? It made $167 million. OPIC actually helps cut the Federal deficit. It has contributed $2 billion—yes, my friend from Texas, $2 billion to the U.S. Treasury. It has helped to reduce the deficit. If you shut down OPIC, we will not have this money to help reduce the deficit. And where will U.S. exporters obtain the long-term financing necessary to establish a presence in foreign markets? The answer is, without OPIC, you will not.

If this amendment would become law, our exporters will suffer, particularly in the emerging markets of Latin America, Asia, and parts of Africa, where OPIC insurance is so essential.

A loss of American exports translates into a loss of American jobs. That is what we are fighting for here today. We are fighting for American jobs, because we are staring a recession in the face. We have to have jobs for our people. You cut out OPIC, you cut out exports. You cut out exports, you cut out jobs.

So let us fight for the American worker for a change. Let us do something for the American worker. This amendment makes absolutely no sense.

So here is our choice. If we want to reduce American exports, if we want to kill jobs for American workers, and if we want to make America less competitive in the world markets, then vote for this amendment.

But if you want to increase exports—and let me just say, every indicator is that we are facing a recession—if you want to fight for American jobs, then let us vote against this amendment.

Mr. LEVIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I, with some reluctance because of my deep respect for the sponsor of the amendment, rise in strong opposition to this amendment. This will, in a word, lose jobs. It will not gain them.

I am in favor of eliminating unnecessary subsidies to business. I think where the private sector can do it, it should be able to do it, and it should be left to do it. But I think we have to be careful how we apply it. I believe when we talk about corporate welfare, and we need to look at it, we have to separate the wheat from the chaff. We have to look at business subsidies, but with some care, and not with simply a sword that cuts off some assistance where it is necessary.

Where does the purpose of OPIC lie? What does it do? Mainly it insures. And what does it insure against? Expropriation, currency problems, political violence. You cannot go to the private sector and get that kind of insurance. Period. The purpose of OPIC is not basically to give money to corporations to go overseas to do research and development.

That is not its basic purpose. It was founded to provide insurance so that American companies could compete with companies of other countries and be insured against contingencies where they could not cover those problems themselves.

Now, let me just say a word about what other countries are doing. They are providing this kind of insurance. Our competitors do that. So if you eliminate OPIC, what you are simply saying to the companies of the United States who are trying to do some exporting, trying to operate overseas, not to take jobs away from this country, but to help to create them here, is that they will not have the same kind of facility as is available to companies from other countries.

Now, let me say a word about job loss. Look, let us not confuse the issue. OPIC specifically provides, the statute does, that no money can be given, no insurance can be provided, where there would be a negative effect on U.S. jobs.

Our companies do operate overseas. When they do it appropriately, they create jobs here. Simply to say there will be no insurance available to them is going to result in job loss in the United States.

About 25 percent of the companies that now are insured by OPIC, as I understand it, are small businesses. So I do not think it is fair to simply take the big business label and simply to throw it around and say, "This is a way to get at big business."

Look, I do not like the downsizing, but the downsizing has nothing to do with OPIC. I do not like the downsizing when it comes to job loss. But OPIC's insurance activities have nothing to do with that downsizing. Indeed, what we need to do is to stimulate American companies to compete with their overseas competitors.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. LEVIN. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, it seems to me if we are going to provide subsidies and incentives to corporations who are laying off hundreds and hundreds, if not millions of workers, then at the very least, it would be appropriate to say stop laying off workers here in the United States. To simply give these people incentives to invest abroad and then turn a blind eye on their disastrous policies here in America is a real sell-out of American workers.

Mr. LEVIN. Mr. Chairman, reclaiming my time, let me say in response to my distinguished colleague from Vermont, if that is what the facts were, I would favor the Sanders amendment. The trouble is, those are not the facts. The facts are that the OPIC efforts have nothing to do with the downsizing in this country, and in fact, there is a provision that will not allow insurance.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. LEVIN] has expired.

(By unanimous consent, Mr. LEVIN was allowed to proceed for 2 additional minutes.)

Mr. LEVIN. Mr. Chairman, there is a provision that if the insurance would cause job loss, it will not be provided.

Now, look, everybody knows that some activities of companies overseas generate jobs in the United States. That is simply a fact. When we, for example, insure an activity, a powerplant activity in another nation for a U.S. company, that can create jobs in the United States, because it is likely that the equipment used by that power company will come from the United States.

So I think what you have to use here when it comes to corporate welfare is some objectiveness, some understanding of the facts. You have to sometimes use a scalpel and not a meat ax here, and I think this is essentially a meat ax proposal.

Mr. Chairman, in conclusion, I think this is not a wise amendment. I think we have to protect American jobs, safeguard them in this country. I think we have to be sure that our policies stimulate growth of jobs in this country, and that is what OPIC's mission is. And while it has made some mistakes, it has done more good than it has done harm. So get at the problem, do not take this sword and cut American business and American workers, at the knees in many cases.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. LEVIN. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Chairman, I just want to take a second to say that the gentleman from Michigan [Mr. LEVIN] and the previous speaker made a number of comments that I disagree with, and they made some that I agree with.

My problem with the Sanders amendment is it goes too far too fast from the standpoint of what my and the amendment of the gentleman from Wisconsin [Mr. KLUG] has, which is to privatize the operation of this corporation. If we were to adopt the Sanders amendment, we would have great difficulty.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. LEVIN] has expired.

(By unanimous consent, Mr. LEVIN was allowed to proceed for 2 additional minutes.)

Mr. LEVIN. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. KASICH. So what I would argue, Mr. Chairman, is that we should resist the Sanders amendment and then quickly pivot and adopt the Klug amendment, which the chairman of the subcommittee has agreement with. That would do several things. It would bring the appropriation more in line with the game plan spelled out within our budget resolution, and would prevent the transfer of funds from the insurance fund into the investment fund, all of which will serve in a short period of time to privatize the operation of OPIC.

We may have a debate down the road as to whether the gentleman from Michigan [Mr. LEVIN] will support that. I happen to believe it is not something that should continue to be directly supported by taxpayers, and can in fact be a viable entity in the private sector.

So I would urge opposition to the Sanders amendment, but then quick support in favor of the Klug amendment that will take this out of the hands of the Government, privatize it, and make it an efficient operation, not directly funded by the taxpayers of the country.

Mr. LEVIN. Mr. Chairman, reclaiming my time, let me just say quickly in response, if we can privatize a function effectively, let us do it. But you, I think, will have the burden of showing, the burden of proof, that this indeed can be done by the private sector, the insurance against political turmoil, currency problems, and also expropriation.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. LEVIN. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, my understanding is not only is OPIC not a drain on the taxpayers, it has a return to the taxpayers every year. Estimates are as much as $2 billion has been brought to the Treasury since 1971.

So in effect what you are saying is we have two challenges on the floor to the Overseas Private Investment Corporation today. One says we are angry at business, so we want to hit anything that helps them. The problem with that approach is the layoffs will be greater if we do not have OPIC to help facilitate sales overseas.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. LEVIN] has expired.

(By unanimous consent, Mr. LEVIN was allowed to proceed for 1 additional minute.)

Mr. LEVIN. Mr. Chairman, I continue to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, the other challenge says the private sector can do it better. There is no demonstration of that anywhere that I have seen. I do not know where you replace the $140 million, $100 million a year that comes to the Treasury, and where you can get the kind of guarantee that the Federal Government brings in with its intelligence resources and other resources to make sure that American companies can stay competitive overseas.

Mr. LEVIN. Mr. Chairman, reclaiming my time, let me just say to the gentleman from Connecticut, I very much agree with that, and let me just close: Look, I think we need to get at subsidies that are unwise. I think we need to look after the taxpayers' needs. This is a shortsighted way to do it.

□ 1430

OPIC has been insuring activity that is creative of American jobs, not destructive. I urge defeat of this amendment.

Mr. HOKE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment and will be speaking on behalf of the Klug amendment that the gentleman from Wisconsin [Mr. KLUG] and I are going to bring after this. But I want to correct one thing before I speak in opposition. That is, we hear repeatedly that OPIC has actually brought money to the Treasury over the past couple of decades that it has been in business. While in one sense there is some truth to that, I think that by saying that it is generating income is misleading. It really ought to be corrected.

What it has done is it has generated reserves against possible potential insurance claims, as any insurance company does. To say that that is income to the Treasury and has helped offset the deficit is essentially to mislead the fundamental aspects of what insurance underwriting is all about.

If there are and when there are claims against that amount, it could be wiped out very, very quickly. It happens that OPIC has done a very good job which, frankly, is a very powerful argument in favor of privatization.

The reason that I am opposed to the Sanders amendment is because it truly does not offer an opportunity to privatize. It immediately shuts everything down in a way that will make it impossible to in a thoughtful and orderly and regular way actually get to a privatization.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. HOKE. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, the gentleman from Ohio [Mr. HOKE] makes a very important point, and I hope the Members are listening. We have heard some Members say, this adds $2 billion to the Treasury. It is used for deficit reduction, et cetera, et cetera. Wrong. It is an insurance fund.

If my memory is correct, we have some $6.3 billion in liabilities out there. In point of fact, if we kill OPIC, then we would have $2 billion to use for deficit reduction. Right now, as the gentleman from Ohio [Mr. HOKE] indicates, this is an insurance fund.

Mr. HOKE. Mr. Chairman, reclaiming my time, if we kill OPIC, I do not agree that we would have that money for deficit reduction because I do not think that we can simply abrogate the liabilities of the U.S. Government by writing them off in a new agreement. At least, even if we can do that by law, it is something that I do not think that this Congress is going to do because we have made commitments in that area.

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. HOKE. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, I think the gentleman and I have got conflicting information that we both believe is true. But I believe that the OPIC has steadily contributed to, has returned money to the treasury in addition to maintaining its $2.4 billion reserve. We need to clear that up.

Mr. HOKE. That is my understanding, Mr. Chairman.

Reclaiming my time, Mr. Chairman, and to finish up, I think that the reason that we do not want to go in this direction where we are going to shut it down is it will make it impossible to do what we need to do, which is essentially make it possible to privatize the whole operation. I think we can do that.

Clearly, the insurance end of it is making money. I think that the credit side of it is much more problematic, and it may not be able to be privatized. And frankly, it may not be worth going forward with. I am not sure that that is good use of taxpayer funds on the credit side.

I think most people do not understand that there are two different accounts. There is the credit account that guarantees the loans and then there is the insurance account that insures against losses due to politics or currency fluctuation, et cetera.

Mr. WILSON. Mr. Chairman, if the gentleman will continue to yield, I think you will find, and you probably do not disagree and it does not conflict with anything you said, but it is the insurance side that turns the big profit because there is no competition out there. They can charge whatever they think that the traffic will bear and that is the reason they are able to return money.

Mr. HOKE. Mr. Chairman, to sum up, I rise in opposition to the Sanders amendment.

Mr. GEJDENSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think it is interesting what we have confronted here. OPIC is under attack because it has been successful. It has done a good job, and it has helped exports. It has protected the American economy, protected American workers, and, yes, it has helped American business. They are all in the same boat. We are all in the same boat.

To the Sanders amendment, I have to say that without these tools, frankly, more of the people that we are concerned about, the workers, would be being laid off. So if you take away the guarantees and they cannot sell the products that we make to a lot of these markets, when they are unstable, we are not going to be in there when these countries stabilize. The Germans, the French, the Japanese will have locked up these markets, and we will be back on this floor in 5 or 6 years wringing our hands about a larger trade deficit and more layoffs and more downsizing.

It is without question against America's best interests to do damage to OPIC. This is the Overseas Private Investment Corporation. It is not the one that dealt with the oil monopolies. This one helps us. The other one hurt us. It helps workers, and we ought to protect those workers.

How does it help us? When American products are made and we are entering markets that are just developing, there are oftentimes a number of challenges: stability in the regime; stability in the currency. Corporations, large ones and small ones alike, may not be able to, first, assess the danger and, second, take all that risk in a product being moved into that country. The Government guarantee helps us access those markets.

As those markets mature and become stable, once we are the ones that have established the generating system, we are going to get the replacement parts. We are going to get the new orders more likely, when there is a mature and stable market.

This program has made money for the taxpayers, made money for the treasury and made jobs for our country. It would be counterproductive, with all the anger that we share against people being unemployed, to hurt this program because it means more people would be unemployed.

I would hope we defeat this amendment. It is a bad amendment. It would hurt the workers of this country.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, we talk about job creation. Where is your information about how many jobs have been created?

Second of all, the gentleman from Wisconsin previously talked about exports. Nobody in this House believes more than I do that we have got to rebuild our manufacturing base, create decent-paying jobs and exports. That is not what we are talking about here.

In fact, what we are talking about here is helping the largest corporations in America who have thrown hundreds of thousands of American workers out on the street, set up factories abroad. The jobs that are going to be created are over 90 percent abroad.

Mr. GEJDENSON. Reclaiming my time, Mr. Chairman, I do not agree with those statistics. I would say that what we have seen across the board is that every billion dollars of exports means about 20,000 American jobs. And when you look at the OPIC guarantees, inevitably 70 and 80 percent of the product in those plants that make those plants operate are American-made products, in some cases as high as 90 percent.

Mr. ROTH. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Chairman, to answer the question how many jobs OPIC created, I can answer that for the gentleman: $40 billion have been sold overseas because of OPIC. You had mentioned 20,000 jobs for every billion sold overseas, that means 800,000 jobs have been created because of OPIC. There is your answer.

The other point is, some people say that we are going to send some jobs overseas. Look who is on the board of directors of OPIC, the president of the International Association of Machinists and Aerospace Workers. Do you think he would be on the board sending jobs overseas?

Mr. GEJDENSON. Mr. Chairman, reclaiming my time, what the gentleman from Wisconsin has just listed is the head of the machinists union, as I understand it, is a member of the OPIC board and making these decisions. The gentlemen from Wisconsin and I joined together with language several years ago to make sure that there was virtually no chance that we would do a net harm to the United States.

Mr. LEVIN. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Michigan.

Mr. LEVIN. Let me say to the gentleman from Vermont, just take another look at this. We are now over in Geneva trying to force open the markets of Japan.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. GEJDENSON] has expired.

(On request of Mr. LEVIN, and by unanimous consent, Mr. GEJDENSON was allowed to proceed for 2 additional minutes.)

Mr. LEVIN. Mr. Chairman, if the gentleman will continue to yield, we are trying to get the Japanese to open their markets for American cars and American parts. We are spending a lot of time and some resources doing that.

The beneficiaries, if you want to call it that, will be Ford, GM, Chrysler, they are big companies, Allied Signal, TRW, and a lot of other parts companies, which would be able to build parts here in the United States and ship them to Japan. It simply is incorrect to say because a company is large, as it would be, because a company is small, they should not do business overseas. And what OPIC does, basically, is to insure companies. And we do not need this as to Japan. We need it other places, against currency difficulties, against political violence, and turmoil and expropriation.

Mr. GEJDENSON. Reclaiming my time, Mr. Chairman, to continue on the gentleman's analogy, you would then have to argue that trying to open the markets in Japan are helping these big companies that downsize. That is not correct.

Mr. LEVIN. The opposite is true, Mr. Chairman, if the gentleman will continue to yield. We want to open up the Japanese market so that the downsizing in the auto industry will stop and they can continue to begin to hire more people.

Mr. SANDERS. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Vermont.

Mr. SANDERS. Mr. Chairman, it seems to me that we are missing a fundamental point here. To talk about opening up Japan for American products is something that we all agree on. That means products are being manufactured in the United States, employing American workers and sold in Japan. That is what we want. That is not what OPIC is about. OPIC is giving the largest, most profitable corporations in America help in setting up factories abroad.

The CHAIRMAN. The time of the gentleman from Connecticut [Mr. GEJDENSON] has again expired.

(On request of Mr. LEVIN, and by unanimous consent, Mr. GEJDENSON was allowed to proceed for 1 additional minute.)

Mr. LEVIN. Mr. Chairman, if the gentleman will continue to yield, if that were the history of OPIC, I would be in favor of its destruction. It simply is not true.

Mr. GEJDENSON. Reclaiming my time, Mr. Chairman, I believe that it would be impossible to have the head of the machinists union on an organization that was moving jobs out of the country. The president of the machinists union is on this board particularly for that reason, to make sure that we protect American jobs.

Mr. SANDERS. Mr. Chairman, I ask unanimous consent to strike the requisite number of words.

The CHAIRMAN. Without objection, the gentleman from Vermont [Mr. SANDERS] is recognized for 5 minutes.

There was no objection.

Mr. SANDERS. Mr. Chairman, the issue here is whether or not multibillion-dollar corporations, Mars Candy comes to mind, why Mars Candy? Because that family, the Mars family, is one of the very wealthiest families in America. Why do these people need subsidies and incentives to start factories and plants in other countries?

Some of my friends here have said, this is a job creator. The way you create jobs is to build plants and factories in the United States, manufacture and sell them abroad.

Some people say, well, it really does not matter, that we are encouraging companies to start factories abroad.

I respectfully disagree. A company looks at the bottom line and it says, I have got $1 billion here. Do I build in Detroit, MI or in Burlington, VT? Or do I go to Russia? And then they say, is it not nice, I cannot get Government subsidies to build in Detroit or Burlington, VT but I can get help to go to Russia or to Latin America?

□ 1445

Mr. Chairman, I have heard a whole lot about the beauties of the market system and the free enterprise system. If it is such a good system, then why do the largest corporations in this country need taxpayer subsidies in order for them to go out and make money? Right now one of the scandals facing this country, in my view, is that American corporations, while they are laying off hundreds of thousands of workers a year here, are investing $750 billion a year abroad. They do not need to help abroad. They are doing it just fine. Ask the workers in the UAW who have lot their jobs when companies, automobile companies, are set up in Mexico.

Mr. Chairman, if these programs are so good, let the private sector undertake the insurance. Let the multinationals go to private banks to get below-market financing. This Congress has voted to cut back on Medicare, student loans, and veterans programs. We should not be providing subsidies and incentives to the largest corporations in America.

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. SANDERS. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, the gentleman has said several times, and I do not know why he has said it, but he has said several times that OPIC gives subsidies loans and is subsidizing American corporations. Is the gentleman aware that OPIC only makes loans at market rates?

Mr. SANDERS. Mr. Chairman, if OPIC makes loans at market rates, why do not companies go to the private market and get those loans?

Mr. WILSON. They do not go to the private market to get the loans, Mr. Chairman, because the loans do not bear the same significance as loans guaranteed by the Government of the United States, because it is impossible to get private financing against political instability.

Mr. SANDERS. Mr. Chairman, I should think that in a free market society, there would be some insurance companies that would love to be charging a high premium.

Reclaiming my time, Mr. Chairman, over and over again what I am hearing from my Republican friends is, Get the Government out of this, get the Government out of that. The private sector does such a great job.

I am hard pressed to believe that a large insurance company could not provide insurance for some of these companies to invest in Russia and make some money. If it is such a good deal, let the private sector do it, and not the taxpayers of America.

Mr. CHRISTENSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman's characterization of OPIC is not correct. Also, this is a bipartisan support. The committee on both sides, Republicans and Democrats, supported this bill.

The Overseas Private Investment Corporation, or more commonly known as OPIC, is a good thing for the country and a good thing for the American people. Mr. Chairman, I support downsizing Government more than anyone. However, abolishing OPIC will not further either of these goals.

OPIC is not some big Government subsidy program, as some have charged. It provides loans and political risk insurance, as we just heard, to American companies doing business abroad. It does not do this for free. As Members heard, it charges market rates.

Let me tell the Members about a company that I know of personally that has worked with OPIC. It recently got charged 11.9 percent for a financing rate, 11.9 percent to construct a powerplant in the Philippines. If it was not for OPIC, that company would have purchased 500 million dollars' worth of goods in the Japanese market.

Like most every other Federal agency, OPIC actually takes in more than it spends. As we have heard this year, this past year, it made over $167 million. At the end of each year it writes a check back to the Federal Government. Since 1971, it has contributed back $2 billion to the Federal Government. OPIC is a successful entity because it negotiates on a government-to-government basis. Its services are simply not available in the private sector. OPIC does not cost the taxpayers anything. It actually makes money for the Government, so its elimination would actually increase the deficit, not reduce it.

Mr. Chairman, in my opinion, OPIC is a model example of how a Federal agency should run. I oppose the Sanders amendment. Mr. Chairman, I ask for support for the committee's position.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. CHRISTENSEN. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, the gentleman is absolutely right. The gentleman from Vermont is looking at the Mars Candy Bar Co. I do not know what he is talking about. Why does he not look at some of the positive aspects of what OPIC is doing. Look at some of the generation plants that they are building. Large American companies, true. However, look at the fact that they are building power plants, that they are building infrastructure in countries that they would not be able to be in without the guarantee of OPIC. Who would be there? The Japanese would be there.

Do Members guess the Japanese would insist we buy General Electric generators? No, they would buy their generators from Japan. Do we guess then that people who bought the Japanese generator might need American parts to repair them? No. They would go to Japan.

Let me tell the gentleman, he is absolutely right. This is a way we can compete. The example of the Mars Candy Bar Co. to me makes no logic whatsoever, because the gentleman is talking about a small tip of the dog's tail, when he should be talking about the fact that this is the only vehicle that American business people have to compete internationally with the other G–7 nations, so the gentleman is absolutely right, we should reject the gentleman's amendment.

Mr. CHRISTENSEN. I thank the chairman for his leadership on this issue. Reclaiming my time, that is exactly the point. That is exactly what has happened with the people that I know of who have worked with OPIC in the past.

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have been listening to the debate on this amendment, and am very concerned about the fact that what I hear is that this is a program that really benefits all of us here in America, but it is really to the benefit of the major corporations of America. Again, it is like the old trickle-down: We are going to be benefited when somebody builds a power plant somewhere else and uses American goods.

That is true, we all benefit when those jobs are created. However, what if the people that bought that power plant do not pay for it? Then the taxpayers have to pay for it.

Mr. LEVIN. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Michigan.

Mr. LEVIN. Mr. Chairman, the insurance is not an insurance against the loss of an investment because it was unprofitable.

Mr. VOLKMER. I did not say unprofitable.

Mr. LEVIN. It is insurance against expropriation, against political turmoil, like a revolution, or because of currency problems, so no one could bring back their money to the United States. It is not an insurance to guarantee a profit.

Mr. VOLKMER. I did not say it was guaranteeing a profit. Mr. Chairman, I am saying basically it is a guarantee that we are going to receive our return for the investments.

Mr. LEVIN. Mr. Chairman, if the gentleman will continue to yield, it is not.

Mr. VOLKMER. In a way, it is.

Mr. ANDREWS. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from New Jersey.

Mr. ANDREWS. Mr. Chairman, I want to agree with the gentleman, that OPIC does in fact do loan guarantees, not just insurance. It gives loan guarantees. It says if the enterprise located in a foreign country does not pay its loan back, the American taxpayer does.

The other point in the gentleman's statement, I am sure in Missouri there are a number of communities that would like to build power plants, sewer plants, and factories, as well.

Mr. VOLKMER. Reclaiming my time, Mr. Chairman, I have all kinds of cities that would like to build an industrial tract in order to entice industry to come in, and does the gentleman know how much help those Missouri communities would get from OPIC?

They would not get any.

Mr. ANDREWS. Nothing, because it is not part of OPIC's charter.

Mr. VOLKMER. Mr. Chairman, it is basically to create jobs here, but basically the work goes elsewhere. What really bothers me, Mr. Chairman, is when I see the types of companies, many of which are huge conglomerates, worldwide companies, that have billions of dollars, and yet we have to guarantee a loan for them.

DuPont? I have to guarantee a loan for DuPont? Come on, Mr. Chairman. Why would I have to guarantee a loan for DuPont? Why do I have to guarantee a loan for CitiBank? I think they have enough of their own money. They have whole bunches of money. Why would I have to guarantee a loan for CitiBank? That is what this does.

This is what I call, if we talk about corporate welfare, and what really interests me is listening to the gentleman from Nebraska speaking in the well before me. If I remember, he is the same one who says we have to save a little money and do away with elevator operators, we have to do away with elevator operators, but we can keep this corporate welfare around. Who benefits from it?

Mr. Chairman, I want to let the people out there know that DuPont got a $200 million loan guarantee, and that CitiBank got a $113 million loan guarantee. How about a little Coca-Cola? Little bitty old Coca-Cola, a little bitty company, they do not have any money at all. They got a loan guarantee of $165 million.

What is going on in this world? We are cutting back, we are going to cut back on the increase that people need out there for food stamps, for school lunches, for Medicare, for Medicaid, but we cannot cut back on all of these loan guarantees for these huge major corporations. We cannot do that, Mr. Chairman. There is something wrong, I think, with this Congress, with our priorities.

I think it is time that we tell corporate America that they are no better off than individual citizens of this country, and just because they have a whole bunch of money to lobby down here and pay off people and get good benefits for their type of activity, it is time we told them no. I think it is time that we told corporate America that they, too, can survive under the Republican budget, and they do not need this kind of welfare.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont [Mr. SANDERS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. SANDERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 90, noes 329, not voting 15, as follows:

[Roll No. 421]

AYES—90

Abercrombie
Allard
Andrews
Barcia
Barrett (WI)
Becerra
Beilenson
Bonior
Brown (CA)
Canady
Chabot
Chenoweth
Chrysler
Coble
Condit
Conyers
Costello
Crane
Crapo
DeFazio
Dellums
Duncan
Ensign
Evans
Fattah
Fields (LA)
Fox
Franks (NJ)
Funderburk
Greenwood
Hancock
Hinchey
Hoekstra
Holden
Hostettler
Kanjorski
Kaptur
Kennedy (RI)
Kingston
Lewis (GA)
Lipinski
LoBiondo
Luther
Martinez
McHale
McInnis
McKinney
McNulty
Meehan
Mica
Miller (CA)
Minge
Mink
Montgomery
Nadler
Neumann
Owens
Pallone
Parker
Poshard
Rohrabacher
Royce
Rush
Salmon
Sanders
Sanford
Scarborough
Seastrand
Sensenbrenner
Serrano
Shadegg
Shays
Smith (MI)
Souder
Spence
Stark
Stearns
Stump
Stupak
Taylor (MS)
Taylor (NC)
Towns
Traficant
Tucker
Velazquez
Volkmer
Wamp
Watt (NC)
Woolsey
Zimmer

NOES—329

Ackerman
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Cardin
Castle
Chambliss
Chapman
Christensen
Clay
Clayton
Clement
Clinger
Clyburn
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Cooley
Cox
Coyne
Cramer
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Everett
Ewing
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Fowler
Frank (MA)
Franks (CT)
Frelinghuysen
Frisa
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoke
Horn
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
King
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Lofgren
Longley
Lowey
Lucas
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHugh
McIntosh
McKeon
Meek
Menendez
Metcalf
Meyers
Miller (FL)
Mineta
Molinari
Mollohan
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Oxley
Packard
Pastor
Paxon
Payne (NJ)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Sabo
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Schumer
Scott
Shaw
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Spratt
Stenholm
Stockman
Stokes
Studds
Talent
Tanner
Tate
Tauzin
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Upton
Vento
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Ward
Waters
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff

NOT VOTING—15

Camp
Collins (MI)
Farr
Ford
Furse
Gunderson
Gutierrez
Hilliard
Jefferson
Lantos
Mfume
Moakley
Payne (VA)
Reynolds
Torricelli

□ 1515

Messrs. PICKETT, PAXON, and MANZULLO, Ms. MOLINARI, and Ms. ROS-LEHTINEN changed their vote from "aye" to "no."

Messrs. HANCOCK, McHALE, HINCHEY, and TUCKER changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. KLUG

Mr. KLUG. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. KLUG: Page 5, line 9, strike "$79,000,000" and insert "$60,629,334".

Page 5, beginning on line 10 strike ", to be derived by transfer from the Overseas Private Investment Corporation Noncredit Account".

Mr. CALLAHAN. Mr. Chairman, I ask unanimous consent that all debate on this amendment, and all amendments thereto, close in 15 minutes and that the time be equally divided.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. DOGGETT. Mr. Chairman, I object; there has been so much misinformation on this whole subject. And I fully and fairly object.

The CHAIRMAN. Objection is heard.

The gentleman from Wisconsin [Mr. KLUG] is recognized for 5 minutes.

Mr. KLUG. Mr. Chairman, as you know, we have just had a long debate about the proper role of OPIC in terms of helping to fund overseas investments and we had a choice in front of us several minutes ago. The amendment of the gentleman from Vermont [Mr. SANDERS] to essentially zero out OPIC funding immediately. But I think the suggestion of a number of my colleagues, including the gentleman from Ohio [Mr. KASICH], the chairman of the Committee on the Budget, is that we have a second alternative which is to take one of the facets of OPIC, privatize it, and sell it off, returning more money to the Federal Government.

The OPIC is divided into two funds. First of all, the credit program and second, an insurance program. One of the key components in OPIC is an insurance fund and what is does is insure against losses of U.S. companies who invest overseas in politically risky environments.

We have to ask ourselves why it is that the Federal Government in this day and age is in the business of essentially offering public insurance against private risk?

And OPIC has grown dramatically over the last several years where now U.S. taxpayers face a potential liability of nearly $800 million and is is not going to be terribly far off before we have a liability approaching a billion dollars?

Mr. Chairman, I have absolutely no objections whatsoever to keeping OPIC in place to help do low-interest loans which do return more money to the Treasury than they actually cost. It is an operation that stands in and of itself.

But there is absolutely no reason for the Federal Government to be involved in essentially guaranteeing high-risk political decisions by U.S. corporations.

My colleagues can look around and see all the other kinds of components of high-risk ventures one can do. A high-risk auto insurance driver can only go to the private sector to get insurance. If you play in a charity golf tournament where a car is offered on a hole, insurance is available to guarantee that the auto company does not have to pay the cost. Insurance is available to protect the charity sponsor.

Why is it that the Federal Government is involved in guaranteeing foreign investments if they decide to put U.S. operations or to sell U.S. products in a very risky political environment?

One of the great ironies I think is the fact that for example Ameritech received $200 million in political risk insurance to provide Hungary's long-distance telecommunications system. Yet we have a fight over whether OPIC should be privatized, but we will loan money to help U.S. companies to compete overseas.

We loaned Marriott $9 million for the privatization of hotels in Budapest. Clearly, what we need to do is have a transition window where OPIC is allowed to continue its job of offering loans which cannot be obtained in the private sector to help U.S. companies invest overseas.

But it is time, clearly, to spin off the privatization of OPIC's insurance function and actually return dollars to the U.S. Treasury and to eliminate what is close to a billion dollar risk for U.S. taxpayers.

That, I should say, was the intention of the House Committee on the Budget which recommended privatizing and phasing out OPIC over the next 3 years. It was also language in the original authorization bill, but we have discovered that the appropriations bill wanted to fund OPIC's operations by bleeding money out of its reserve accounts. And if money is taken out of those reserve accounts and OPIC's key asset is essentially depleted, guess what? We suddenly cannot privatize it.

Our amendment will reduce the funding levels from $79 million down to $60 million, consistent with the Committee on the Budget's recommendation and, second, rope off the reserve funds now approaching $2 billion to guarantee in the future that those funds will be available so that when we follow through on the authorizing committee's language moving toward privatization, an authority now granted to the President to begin privatizing some of OPICs functions, that that $2 billion in insurance funds, the most valuable component in OPIC's treasury, the most valuable asset in its portfolio, will be available as an attractive component in a move by the U.S. Government to privatize OPIC's insurance function.

Mr. LUTHER. Mr. Chairman, I offer my support for the Klug-Hoke amendment to H.R. 1868, allowing for the privatization of the Overseas Private Investment Corporation [OPIC].

Mr. Chairman, I believe we should provide appropriate assistance to promote and encourage U.S. exports. Exports increase American jobs at home and help encourage developing countries to move toward free-market economies.

However, I question whether we can afford to spend taxpayer dollars to provide below-market subsidies to major multinational corporations while we try to tackle an incredible Federal deficit and national debt.

With the dual goals of balancing the Federal budget while maintaining our strong presence and assistance in the developing world, the Klug-Hoke amendment makes common sense. It enables OPIC to become self-supporting within 3 years. It provides for export promotion as well as fiscal responsibility. I therefore encourage my colleagues to support this amendment.

AMENDMENT OFFERED BY MR. CALLAHAN AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. KLUG

Mr. CALLAHAN. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. CALLAHAN as a substitute for the amendment offered by Mr. KLUG: Page 5, line 9, strike "$79,000,000" and insert "$69,500,000".

Page 5, beginning on line 10, strike ", to be derived by transfer from the Overseas Private Investment Corporation Noncredit Account".

Mr. CALLAHAN. Mr. Chairman, first of all I appreciate the articulate manner in which the gentleman from Wisconsin [Mr. KLUG] has addressed the problem he is concerned about. And I certainly share some of the concerns the gentleman has, and he is to be commended for coming before this body with a solution that we can live with.

The gentleman from Wisconsin [Mr. KLUG] and I have come to an agreement on this matter. We are both interested in moving the appropriate functions of the Overseas Private Investment Corporation to the private sector. The resulting subsidy appropriation for OPIC will enable the organization to support American investment abroad in a robust manner.

The increase above the current subsidy appropriation is substantial and indicates the support of this House for OPIC's mission. But OPIC should recognize that this reduction from its request indicates that many Members of this House, led by the gentleman from Wisconsin [Mr. KLUG], expect OPIC to take seriously the proposals for it to move many or most of its functions into the private sector.

Mr. Chairman, I expect OPIC to closely consult with the committee as it prepares the report that we have requested on page 10 of the committee report, and to expand the scope of the report to include all OPIC activities and to provide the report in a timely manner.

Mr. KLUG. Mr. Chairman, will the gentleman yield?.

Mr. CALLAHAN. I yield to the gentleman from Wisconsin.

Mr. KLUG. Mr. Chairman, I would like to tell my colleague from Alabama, Mr. CALLAHAN that I am in agreement with his amendment and with the reduction which I think is appropriate. And I want to commend the gentleman for keeping an open mind on the subject and I would hope in the future I could count on the gentleman's support to move OPIC toward privatization.

Mr. CALLAHAN. The gentleman certainly can.

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, what is the final figure that the two gentlemen have arrived at there?

Mr. CALLAHAN. Mr. KLUG's amendment was to strike $79 million and insert $60 million. My amendment brings it up back up to $69 million. It is a compromise.

Mr. WILSON. Mr. Chairman, I would like to ask the gentleman from Wisconsin [Mr. KLUG] a question.

I do not quite understand the effect of the gentleman's transfer language. Can he explain that to me?

Mr. KLUG. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Wisconsin.

Mr. KLUG. Certainly, OPIC has two accounts. The one account, obviously, involves the credit program, which provides investment financing through direct and guaranteed loans.

But then OPIC also has the reserve account which is essentially a reserve guaranteeing the insurance component of OPIC. If you begin to take that money out of the insurance fund to essentially cover operating costs, you have now begun to bleed down the insurance reserves, which essentially makes it much more difficult next year for those of us who want to privatize OPIC to indeed privatize it.

Mr. WILSON. Has that ever been done before?

Mr. KLUG. To the best of my knowledge, no.

Mr. WILSON. Mr. Chairman, I would like to have a little dialog here so we all know what we are talking about. We get varying numbers as to what that reserve account is, but it is somewhere between $2 billion and $2.5 billion. Is that the gentleman's understanding?

Mr. KLUG. In terms of the liability?

Mr. WILSON. In terms of the amount that is returned to the Treasury as well as its liability.

Mr. KLUG. Right, the money returned to the Treasury, I think the gentleman is accurate. But my concern is the fact that the taxpayers have an exposure of well over $800 million.

Mr. WILSON. Yes, but this is something that the gentleman may not know that I think he will be interested in, and that is we have done a lot of study in the committee as to their credit procedures and arriving at the creditworthy projects and over 24 years, they have only had to pay claims of $20 million. That is a pretty remarkable record, is it not, for the amount of loans they have made?

Mr. KLUG. It is, but as the gentleman knows, past performance is no guarantee of future performance, as they will tell you in any investment instrument.

Mr. WILSON. We could talk about what Harry Truman said about those who read history, too.

Mr. ANDREWS. Mr. Chairman, I move to strike the last word. I will yield to the gentleman from Alabama [Mr. CALLAHAN], the subcommittee chairman, to answer my questions.

My understanding is in the present fiscal year the level of appropriation for OPIC is $33 million in the program account; is that correct?

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Alabama.

Mr. CALLAHAN. The gentleman is correct.

Mr. ANDREWS. It is further my understanding that the underlying bill that the chairman has brought to the floor increases that to $79 million for fiscal 1996; is that correct? In the program account?

Mr. CALLAHAN. The gentleman is correct, 69.5.

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Mr. KLUG's amendment would have reduced that from 79 down to 60, and the effect of your amendment is to bring it back up to $69 million? Is that correct?

Mr. CALLAHAN. If the gentleman will yield, that is correct.

Mr. ANDREWS. I object to and oppose this amendment for the following reason: I think that the authorizing bill that we passed here 2 weeks ago was correct in moving us toward privatization of OPIC. I wish we had done it much sooner and much more aggressively.

I do not think it makes any sense, when we are moving toward privatization of a Government agency, to increase taxpayer liability, which is precisely what we are doing here. The impact of moving OPIC's program appropriation from 33 up to 69 is to increase the amount of exposure that the taxpayers can be exposed to by OPIC over the next fiscal year. That makes no sense to me, if we are going to, in fact, take a deliberate, thoughtful look at privatization, which I support, it makes no sense whatsoever to me, to be increasing the level of public risk at the same time we are doing that, for two reasons: First is the taxpayers ought not to be subjected to more risk, and second, it seems to me the more debt that you load up, the more difficult it is to sell. It makes it a more difficult object for privatization. For that reason, I would oppose respectfully the subcommittee's amendment.

Mr. KLUG. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Wisconsin.

Mr. KLUG. During the authorization process there were a number of us who wanted to move this privatization process forward much more quickly. We were not successful in bringing that fight to the floor.

Clearly, what we are doing today is guaranteeing the Committee on Appropriations does not take us three steps backward. That is the importance of today's amendment, is to say if we are going to preserve that option next year, that is the only option in front of us today, given our ability to legislate on appropriations bills, then I think this is the best way to guarantee we will move toward privatization.

Mr. KASICH. Mr. Chairman, will the gentleman yield?

Mr. ANDREWS. I yield to the gentleman from Ohio.

Mr. KASICH. Let me say to the gentleman from New Jersey that I share his concern on this, and let me say that there is no agreement that ever gets worked out that represents 100 percent. I mean, I wish it did, because I spent my whole life being frustrated because I cannot get everything I want, but you cannot in the real world.

The gentleman from Alabama [Mr. CALLAHAN] has stopped the transfer of money from this reserve account. Why do we not want to transfer it? Because it is the most valuable resource that OPIC has so that when, in fact, we move to privatize, that those funds are in place and it makes an attractive private sector investment.

Now, the fact that the chairman has moved, I mean, basically we kind of split the difference. I mean, that is really what we did in an effort to make sure that we get this done, that we do not raid the reserve fund, that we do not increase it like the appropriators were saying, and that next year, I will say to the gentleman from New Jersey, we will have that reauthorization of this program, and we are going to have a pretty big fight on this floor.

I think what we have been able to do in stopping the transfer of these funds is to dramatically increase the chance we are going to privatize it.

The gentleman from New York [Mr. GILMAN] supports privatization. I am told the chairman supports privatization. The amendment offered by the gentleman from Wisconsin [Mr. KLUG] calls for privatization. I strongly believe in privatization. I suspect the gentleman from Texas and all of us will have a fight next year on privatization. I think we will win that fight.

What this amendment does is to guarantee us and sets us up for the privatization of OPIC and moves us closer to what our goals were within the budget and stops the transfer of those funds.

So I think this is a great victory for those people who want to make a big dent in corporate welfare.

Mr. ANDREWS. Reclaiming my time, I am going to support the amendment offered by the gentleman from Wisconsin [Mr. KLUG] even if amended in this way. I agree with what the chairman just said.

I would ask the chairman and the Republican leadership to consider actively inclusion of this issue in the reconciliation bill that is forthcoming. I see no reason why we have to wait until next year to resolve the underlying debate. That is obviously your call. I would respectfully request you consider dealing with this in the reconciliation bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama [Mr. CALLAHAN] as a substitute for the amendment offered by the gentleman from Wisconsin [Mr. KLUG].

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. KLUG], as amended.

The amendment, as amended, was agreed to.

Mr. WOLF. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I filed an amendment for consideration which would have provided $30 million for law enforcement training and judicial improvement efforts in Russia, the new independent states of the former Soviet Union, Central and Eastern Europe and the Baltic States. I will not offer the amendment today; however, I would like to raise this issue in the House and obtain an assurance from Chairman CALLAHAN that this training is a priority that will be addressed in conference.

Last year Congress set aside $30 million which enabled the FBI, DEA, U.S. Customs, and other U.S. law enforcement agencies to start new and innovative training programs to help professionalize the police in the region, and allowed on-going efforts to improve and strengthen prosecutorial and judicial agencies. Furthermore, the House Committee on International Relations has recognized the critical need and importance of this funding. In its report on the "American Overseas Interests Act of 1995," which passed this House on June 8, the Committee urged that up to $30 million be allocated in each of FY96 and FY97 to support rule of law, law enforcement, and criminal justice assistance activities in the NIS, and East European and Baltic States. I agree that this is sound policy.

The goal of funding programs to assist the struggling democracies of the NIS and Eastern Europe will fail if criminal elements take over those countries. Moreover, organized crime that flourishes in Russia is spilling over into the United States. The problem is so prevalent that the FBI established a Russian Organized Crime Squad in May 1994. Earlier this year the FBI arrested in New York allegedly one of the most powerful Russian crime leaders along with five of his associates on federal charges of conspiracy to commit extortion.

According to the FBI, Russian organized crime groups use businesses in the NIS, Western and Central Europe, and the United States to serve as fronts for laundering the proceeds of illegal activities and for conducting highly profitable commerce in goods in the Commonwealth of Independent States. This commerce, rife with corruption, thrives on such illegal practices as extortion, kickbacks, bribery of public officials, and violence.

Last year Congress began to address the serious organized crime threat in the region and we should do so again this year. I would appreciate knowing whether the chairman of the Foreign Operations appropriations subcommittee will work with me to provide the necessary funding for this critical purpose.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I appreciate the gentleman yielding to me, and I also appreciate your bringing this important issue to the attention of the House. I share your concerns about the detrimental impact organized crime is having on the Newly Independent States, Eastern Europe, and the Baltic states, as well as the United States. I look forward to working with you, the members of the subcommittee, and our Senate counterparts in adequately funding cooperative programs for establishment of the rule of law, law enforcement, and criminal justice assistance to help foster the growth of democracy.

Mr. GILMAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am pleased to join my colleague, the gentleman from Virginia [Mr. WOLF], in support of this very important effort to insure that adequate monies are available for U.S. police training and exchanges for Eastern Europe and the Baltic States.

Today organized crime and criminal elements in the region threaten the very reform and democracy most of our U.S. assistance and other U.S. government efforts are intended to help foster.

I was very pleased to have led the way initially in asking for and getting the FBI, DEA, U.S. Customs, and other U.S. law enforcement entities, monies in FY 1995 to carry on these critical police training programs in both the former Soviet Union and the NIS. These programs are intended to professionalize and made the local police better able to cope with this serious problem of crime, especially organized crime.

Since the initial $30 million was made available in FY 1995 for these police training programs, the FBI, DEA, U.S. Customs and others have trained more than 1,000 police officers in the former Soviet Union and the NIS. We are making progress and must continue these valuable efforts that benefits us, as well as these new nations in the region. I am pleased to join in this effort to keep these programs fully supported.

Finally, let me set the record straight. This isn't just another foreign aid program for police officers overseas. What is also at stake here is efforts by our FBI and other U.S. law enforcement agencies to get a handle on Russian organized crime here at home. Major crime elements that are fast spreading to the U.S., witness the arrest most recently in NYC of a major Russian organized crime figure still closely linked to his homeland.

These overseas police training programs give the FBI and other U.S. law enforcement known and reliable U.S. trained police counterparts in the region. These officers can in turn later work cooperatively with us to help solve the problem of transnational organized crime operating and threatening both our as well as their internal security and safety.

I compliment the efforts of my colleague, the gentleman from Virginia, [Mr. WOLF], and also urge that this matter receive the highest priority in conference as discussed here today.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1996, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

CHILD SURVIVAL AND DISEASE PROGRAMS FUND

For necessary expenses to carry out the provisions of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, for child survival, assistance to combat tropical and other diseases, and related assistance activities, $484,000,000, to remain available until September 30, 1997: *Provided*, That this amount shall be made available for such activities as (1) immunization programs, (2) oral rehydration programs, (3) health and nutrition programs, and related education programs, which address the needs of mothers and children, (4) water and sanitation programs, (5) assistance for displaced and orphaned children, (6) programs for the prevention, treatment, and control of, and research on, HIV/AIDS, polio, malaria and other diseases, and (7) a contribution on a grant basis to the United Nations Children's Fund (UNICEF): *Provided further*, That funds appropriated under this heading shall be made available notwithstanding any other provision of law, and shall be in addition to amounts otherwise available for such purposes.

DEVELOPMENT ASSISTANCE FUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, $669,000,000, to remain available until September 30, 1997: *Provided*, That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further*, That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further*, That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act of 1961 no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further*, That nothing in this paragraph shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act of 1961: *Provided further*, That, notwithstanding section 109 of the Foreign Assistance Act of 1961, of the funds appropriated under this heading and under the heading "Development Fund for Africa", not to exceed a total of $15,500,000 may be transferred to "Debt restructuring", and that any such transfer of funds shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further*, That, notwithstanding section 109 of the Foreign Assistance Act of 1961, of the funds appropriated under this heading and under the heading "Development Fund for Africa", not to exceed a total of $15,000,000 may be transferred to "International Organizations and Programs" for a contribution to the International Fund for Agricultural Development (IFAD), and that any such transfer of funds shall be subject to the regular notification procedures of the Committees on Appropriations.

DEVELOPMENT FUND FOR AFRICA

For necessary expenses to carry out the provisions of chapter 10 of part I of the Foreign Assistance Act of 1961, $528,000,000, to remain available until September 30, 1997: *Provided*, That none of the funds appropriated by this Act to carry out chapters 1 and 10 of part I of the Foreign Assistance Act of 1961 shall be transferred to the Government of Zaire: *Provided further*, That funds appropriated under this heading which are made available for activities supported by the Southern Africa Development Community shall be made available notwithstanding section 512 of this Act and section 620(q) of the Foreign Assistance Act of 1961.

PRIVATE AND VOLUNTARY ORGANIZATIONS

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided*, That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

Funds appropriated or otherwise made available under title II of this Act should be made available to private and voluntary organizations at a level which is equivalent to the level provided in fiscal year 1995. Such private and voluntary organizations shall include those which operate on a not-for-profit basis, receive contributions from private sources, receive voluntary support from the public and are deemed to be among the most cost-effective and successful providers of development assistance.

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses for international disaster relief, rehabilitation, and reconstruction assistance pursuant to section 491 of the Foreign Assistance Act of 1961, as amended, $200,000,000 to remain available until expended.

DEBT RESTRUCTURING

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of modifying direct loans and loan guarantees, as the President may determine, for which funds have been appropriated or otherwise made available for programs within the International Affairs Budget Function 150, including the cost of selling, reducing, or canceling amounts, through debt buybacks and swaps, owed to the United States as a result of concessional loans made to eligible Latin American and Caribbean countries, pursuant to part IV of the Foreign Assistance Act of 1961, $7,000,000, to remain available until expended.

MICRO AND SMALL ENTERPRISE DEVELOPMENT PROGRAM ACCOUNT

For the subsidy cost of direct loans and loan guarantees, $1,500,000, as authorized by section 108 of the Foreign Assistance Act of 1961, as amended: *Provided*, That such costs shall be as defined in section 502 of the Congressional Budget Act of 1974. In addition, for administrative expenses to carry out programs under this heading, $500,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development.

HOUSING GUARANTY PROGRAM ACCOUNT

For administrative expenses to carry out guaranteed loan programs, $7,000,000, all of which may be transferred to and merged with the appropriation for Operating Expenses of the Agency for International Development.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $43,914,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $465,750,000: *Provided*, That of this amount not more than $1,475,000 may be made available to pay for printing costs: *Provided further*, That none of the funds appropriated by this Act for programs administered by the Agency for International Development may be used to finance printing costs of any report or study (except feasibility, design, or evaluation reports or studies) in excess of $25,000 without the approval of the Administrator of that Agency or the Administrator's designee.

In addition, for necessary expenses to carry out the provisions of section 667 related to the termination or phasing down of programs, activities, and operations of the Agency for International Development under chapters 1, 10, and 11 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, and for related purposes, $29,925,000, to remain available until September 30, 1997: *Provided*, That such funds are available in addition to amounts otherwise available for such purposes: *Provided further*, That, prior to the obligation of any funds appropriated in this paragraph, the Administrator of the Agency for International Development shall report to the Committees on Appropriations on the proposed use of such funds: *Provided further*, That by September 30, 1997, the use of such funds should result in the reduction of 500 full-time equivalent direct-hire employees from the onboard level existing on April 30, 1995: *Provided further*, That the authority of sections 109 and 610 may be used for the purpose of making funds available to fulfill the requirements of section 667.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $35,200,000, which sum shall be available for the Office of the Inspector General of the Agency for International Development.

OTHER BILATERAL ECONOMIC ASSISTANCE

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $2,326,700,000, to remain available until September 30, 1997: *Provided*, That any funds appropriated under this heading that are made available for Israel shall be made available on a grant basis as a cash transfer and shall be disbursed within thirty days of enactment of this Act or by October 31, 1995, whichever is later: *Provided further*, That none of the funds appropriated under this heading shall be made available for Zaire.

INTERNATIONAL FUND FOR IRELAND

For necessary expenses to carry out the provisions of part I of the Foreign Assistance Act of 1961, up to $19,600,000, which shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99-415): *Provided*, That such amount shall be expended at the minimum rate necessary to make timely payment for projects and activities: *Provided further*, That funds made available under this heading shall remain available until September 30, 1997.

ASSISTANCE FOR EASTERN EUROPE AND THE BALTIC STATES

For necessary expenses to carry out the provisions of the Foreign Assistance Act of 1961 and the Support for East European Democracy (SEED) Act of 1989, $324,000,000, to remain available until September 30, 1997, which shall be available, notwithstanding any other provision of law, for economic assistance and for related programs for Eastern Europe and the Baltic States.

Funds appropriated under this heading or in prior appropriations Acts that are or have been made available for an Enterprise Fund may be deposited by such Fund in interest-bearing accounts prior to the Fund's disbursement of such funds for program purposes. The Fund may retain for such program purposes any interest earned on such deposits without returning such interest to the Treasury of the United States and without further appropriation by the Congress. Funds made available for Enterprise Funds shall be expended at the minimum rate necessary to make timely payment for projects and activities.

Funds appropriated under this heading shall be considered to be economic assistance under the Foreign Assistance Act of 1961 for purposes of making available the administrative authorities contained in that Act for the use of economic assistance.

ASSISTANCE FOR THE NEW INDEPENDENT STATES OF THE FORMER SOVIET UNION

(a) For necessary expenses to carry out the provisions of chapter 11 of part I of the Foreign Assistance Act of 1961 and the FREEDOM Support Act, for assistance for the new independent states of the former Soviet Union and for related programs, and for other purposes, $595,000,000, to remain available until September 30, 1997: *Provided*, That the provisions of 498B(j) of the Foreign Assistance Act of 1961 shall apply to funds appropriated by this paragraph.

(b) None of the funds appropriated under this heading shall be transferred to the Government of Russia—

(1) unless that Government is making progress in implementing comprehensive economic reforms based on market principles, private ownership, negotiating repayment of commercial debt, respect for commercial contracts, and equitable treatment of foreign private investment; and

(2) if that Government applies or transfers United States assistance to any entity for the purpose of expropriating or seizing ownership or control of assets, investments, or ventures.

(c) Funds may be furnished without regard to subsection (b) if the President determines that to do so is in the national interest.

(d) None of the funds appropriated under this heading shall be made available to any government of the new independent states of the former Soviet Union if that government directs any action in violation of the territorial integrity or national sovereignty of any other new independent state, such as those violations included in Principle Six of the Helsinki Final Act: *Provided*, That such funds may be made available without regard to the restriction in this subsection if the President determines that to do so is in the national security interest of the United States: *Provided further*, That the restriction of this subsection shall not apply to the use of such funds for the provision of assistance for purposes of humanitarian, disaster and refugee relief.

(e) None of the funds appropriated under this heading for the new independent states of the former Soviet Union shall be made available for any state to enhance its military capability.

(f) Funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations.

(g) Funds made available in this Act for assistance to the new independent states of the former Soviet Union shall be subject to the provisions of section 117 (relating to environment and natural resources) of the Foreign Assistance Act of 1961.

(h) Funds appropriated under this heading may be made available for assistance for Mongolia.

(i) Funds made available in this Act for assistance to the new independent states of the former Soviet Union shall be provided to the maximum extent feasible through the private sector, including small- and medium-size businesses, entrepreneurs, and others with indigenous private enterprises in the region, intermediary development organizations committed to private enterprise, and private voluntary organizations previously functioning in the new independent states.

(j) The ratio of private sector investment (including volunteer contributions in cash or time) to United States government assistance in projects referred to in subsection (i) shall be no less than a ratio of 1.5 to 1.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by 31 U.S.C. 9104, $10,000,000.

INTER-AMERICAN FOUNDATION

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $20,000,000.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $210,000,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided*, That none of the funds appropriated under this heading shall be used to pay for abortions.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $113,000,000: *Provided*, That during fiscal year 1996, the Department of State may also use the authority of section 608 of the Foreign Assistance Act of 1961, without regard to its restrictions, to receive non-lethal excess property from an agency of the United States Government for the purpose of providing it to a foreign country under chapter 8 of part I of that Act subject to the regular notification procedures of the Committees on Appropriations.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross, assistance to refugees, including contributions to the International Organization for Migration and the United Nations High Commissioner for Refugees, and other activities to meet refugee and migration needs; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; salaries and expenses of personnel assigned to the bureau charged with carrying out the Migration and Refugee Assistance Act; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; purchase and hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code, $671,000,000, of which not to exceed $12,000,000 shall be available for administrative expenses.

REFUGEE RESETTLEMENT ASSISTANCE

For necessary expenses for the targeted assistance program authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 and administered by the Office of Refugee Resettlement of the Department of Health and Human Services, in addition to amounts otherwise available for such purposes, $5,000,000.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $50,000,000, to remain available until expended: *Provided*, That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $17,000,000.

NONPROLIFERATION AND DISARMAMENT FUND

For necessary expenses for a "Nonproliferation and Disarmament Fund", $20,000,000, to remain available until expended, to promote bilateral and multilateral activities: *Provided*, That such funds may be used pursuant to the authorities contained in section 504 of the FREEDOM Support Act: *Provided further*, That such funds may also be used for such countries other than the new independent states of the former Soviet Union and international organizations when it is in the national security interest of the United States to do so: *Provided further*, That funds appropriated under this heading may be made available notwithstanding any other provision of law: *Provided further*, That funds appropriated under this heading shall be subject to the regular notification procedures of the Committees on Appropriations.

AMENDMENT OFFERED BY MR. BROWNBACK

Mr. BROWNBACK. Mr. Chairman, I offer an amendment, amendment No. 64.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BROWNBACK: Page 12, line 8 strike "$7,000,000" and insert "$3,000,000".

Page 13, strike line 18 and all that follows through page 14, line 11.

Page 16, line 24, strike "$595,000,000" and insert "$619,000,000".

Mr. BROWNBACK. Mr. Chairman, I would like to inform the Members this amendment is designed to have several outcomes, and what we are doing with this I will describe briefly in this presentation.

It is intended to restore part of the funding for the newly independent states of the former Soviet Union provided by H.R. 1561, the American Overseas Interests Act, by removing some funds from other places.

My amendment is also intended to reduce the Treasury buy-back fund to the level authorized by the American Overseas Interests Act previously approved by this Congress and to eliminate the AID reform and downsizing account, a fund not authorized by H.R. 1561.

Finally, my amendment would cut an additional $22 million in foreign assistance funds.

Now, AID argues it needs the $30 million reform and downsizing account in order to make a 10-percent cut in budget, a $30 million reform and downsizing account to make a 10-percent cut in budget.

By analogy, the ICC is making a 33-percent cut. It is not asking for a dime. I realize downsizing AID is very complicated, particularly more so than the ICC. I am not certain about that.

But does AID need $30 million to make a $50 million cut? The GAO will be analyzing this issue and issuing a report in September. Let us appropriate what we agreed to authorize and revisit the issue in September if GAO thinks AID needs the money in order to downsize.

Now, on the second part of this is the Treasury buy-back fund performs an admirable foreign assistance function, reducing bilateral debt of Latin American countries to support environmental and child survival activities. However, we have $5 trillion in debt. We have our own to worry about. We need to put our own fiscal house in order. That is why I am calling for additional reduction here.

We have got to take care of this place so that we can have something to pass on to our own children, not worry about that so much in other countries.

Regarding the NIS, I would just want to put this briefly to my colleagues: I think we need to put these funds back in NIS. The NIS fund will have been cut by 27 percent from fiscal year 1995 level and by 75 percent from fiscal year 1994 level. This cut we are proposing would eliminate waste which has already been cut, get at the waste of this program. That is why I think we need to restore these monies in this particular area of the program.

I think we had better think about, ladies and gentlemen, what we are doing here in taking further, taking it down more than 75 percent from previously.

These are countries that are struggling to survive, struggling to democratize. We need to help them out. We need to do whatever we can here, and this small bit of money, I think, is far better spent here in helping INS countries to stabilize than to having AID reform and downsize and spend $30 million to make a $50 million cut.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. BROWNBACK. I yield to the gentleman from New York, the chairman of the authorizing committee.

Mr. GILMAN. Mr. Chairman, I am pleased to rise in support of the amendment by my good colleague, the gentleman from Kansas [Mr. BROWNBACK].

Our assistance program in the new independent states is a vital effort to support the growth of democracy and market-based economies in the region of the former Soviet Union.

It is also vital to alleviating humanitarian needs in the region—particularly in Armenia, Georgia and Tajikistan.

In short—in ways both large and small—this program is serving the American national interest in that region.

Frankly, in this time of difficult budget decisions, we have had to reduce this assistance program.

Under the amount contained in this bill, as reported by the Appropriations Committee, this assistance program is already: 30 percent below the fiscal year 1995 appropriation, and 24 percent below the fiscal year 1996 request.

Most important, the amount included in this measure is $48 million below the amount approved by this House when it recently approved the foreign aid authorization bill.

Mr. Chairman, I urge my colleagues to support the amendment offered by the gentleman from Kansas.

Mr. BROWNBACK. Mr. Chairman, just in closing on this, this succinctly moves money from the AID reform account, which was not approved by the authorizors, into NIS, which is already being cut 75 percent, and it further reduces the deficit and cuts outlays an additional $22 million. It puts money where it ought to be. It cuts the budget. It cuts the deficit.

I urge my colleagues to support this amendment.

Mr. CALLAHAN. Mr. Chairman, I rise in opposition to the amendment.

First of all, I applaud the courage of the gentleman from Kansas today in introducing the amendment, and certainly I do not think there is any Member of this Congress, especially someone who has only been here such a short time as the gentleman from Kansas [Mr. BROWNBACK], who has grasped international affairs such as he has. I know that you are a very valuable ally to Chairman GILMAN on the Committee on International Relations.

The gentleman was not here the last years during the appropriation process when we first started funding for Russia and the independent states. I think that I was probably the only Member of the House that stood in opposition to that, because I felt that while we wanted to help Russia and the other independent states emerge as industrialized nations and we wanted to help them get on their feet and form a good democracy, it was I who stood on the floor and said we do not have the money to do that.

□ 1545

Mr. Chairman, the very fact that the gentleman is now coming before this committee that now I am chairing, and let me say we reduced the aid from $842 million in 1995 to $595 million in 1996, and I just feel like that we do not have the money to give more aid to Russia.

I say to my colleagues, If you want to reduce the deficit, that is another thing. I wouldn't have agreed to the $595 million. It was much more than I wanted. But in the spirit of compromise, in trying to work out some bipartisan arrangement to give the administration the ability to have an effective foreign policy, I finally agreed to the $595 million. To increase it further just sort of goes against my grain, but certainly not against the intent of what the gentleman is trying to accomplish, and that is to reduce AID money and to increase NIS money.

But I say to my colleagues, I think that the House has already decided and determined to radically downsize AID and to merge it into the State Department, which your committee wants, but that will take a couple of years, and the saving the gentleman is using may leave AID unable to administer the very program he wants to expand. With his amendment AID might have to shut down.

So, Mr. Chairman, I respectfully suggest to the sponsor that he withdraw his amendment and that we work with the managers on both sides of the aisle to see if some accommodation can be worked out. At this time I am obliged to oppose it because I feel like it infringes upon the agreement, the gentleman's agreement I have with the gentleman from Wisconsin [Mr. OBEY], and the gentleman from Texas [Mr. WILSON], and the other Members of the committee. Both sides of the committee, when this bill came out of subcommittee, went around the table, and I said if one member, if one member of our subcommittee on the Republican side opposed this agreement that we have structured, that fragile agreement which included more money for AID, well, then I said the agreement would not be put into effect.

So, we have a fragile agreement. I am going to live up to that commitment. Under no circumstances can I vote for any amendment that is going to increase AID to the independent states or to Russia because I feel that we have gone overboard with respect to our ability at this time in our history. So I respectfully oppose the amendment and would hope that the sponsor would withdraw it.

Mr. WILSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I, too, would like to rise in opposition to the amendment.

Mr. Chairman, I will not take the entire 5 minutes, but I will say it is unfortunate that the full Committee on Appropriations is meeting at the present time because we have so many Members that are interested that are not here, but I will say that I feel certain that the ranking member, the gentleman from Wisconsin [Mr. OBEY] and the chairman of the full committee would both vigorously oppose this amendment because of the AID reductions. I think they would also certainly oppose the reduction in the loan forgiveness for the poorest of the poor countries, and I think I pushed the chairman about as hard as he can be pushed on the NIS, and I do not want to try to push him any further.

So, for that reason I would oppose the amendment as well, and I hope the gentleman would withdraw it, and we will try very, very hard to work with him when we get to conference.

Ms. SLAUGHTER. Mr. Chairman, I rise today in support of the Brownback amendment to restore funding to the New Independent States. This funding will provide needed assistance to Ukraine, a nation which has consistently been a leader among these new and independent nations.

Although I strongly support AID and am not pleased with further cuts to AID in order to fund the New Independent States, I also feel we must send a strong message of support for

Ukraine. I hope we can address the AID shortfall as this bill moves through Congress.

Ukraine has instituted democratic reforms which have made it one of the most politically stable nations in the region. Ukraine and her people play an undeniably important role in this post-cold war world and we would be foolish not to recognize this fact and do everything we can to foster stability and development in that nation.

With more than 18 percent of the population of the newly independent states, Ukraine has consistently received under 10 percent of the total U.S. aid provided to the former Soviet Union. To let this continue would be neither fair nor prudent.

Geographically, Ukraine is the largest nation solely in Europe. Seven decades of Soviet rule and collectivization destroyed Ukraine's once-rich agricultural system, while militarization and the arms race left a huge military-industrial complex which does nothing to feed or house Ukraine's 52 million people. This complex must continue to be converted to nonmilitary uses. If a humanitarian interest in helping our Ukrainian friends isn't a compelling enough reason to support aid to Ukraine, then certainly, my colleagues will agree that the United States has a significant security interest in making sure this conversion takes place.

Despite the recent developments in Russia, we simply cannot punish its neighboring nations, like Ukraine, by denying vital assistance to these new and struggling nations.

Mr. Chairman, I urge my colleagues' support for the people of Ukraine and their vote in favor of this amendment.

Mrs. LOWEY. Mr. Chairman, I rise in support of increased funding for Ukraine. Ukraine is one of our most important allies among the New Independent States [NIS] of the former Soviet Union. Since its independence, Ukraine has instituted democratic reforms, making it the most stable country in the region.

In 1994, Ukraine held democratic elections, voting in a new parliament and a new president. They have accepted all of our requests, including the ratification of START and NPT, and are in the midst of economic reform that has won praise from the IMF and G–7.

In the wake of this significant show of stability in an otherwise fragile region, it is imperative that the United States show strong economic support for Ukraine. Although Ukrainians make up almost one-fifth of the population of the NIS, they receive less than 10 percent of United States aid under the Freedom Support Act.

Although there are reductions in foreign aid in this bill, we must continue to make clear our international priorities. If we do not earmark $150 million for assistance to Ukraine, we send the wrong signal to that country, and all other countries that are instituting democratic reforms. We must not tell Ukraine that there is nothing to be gained by adopting democratic reforms, maintaining a good human rights' record, progressing with economic reforms, and unilaterally disarming their nuclear arsenal.

There are battles being waged right now between President Kuchma and the Ukarainian parliament over Ukraine's economic reforms and unilateral disarmament. Many members of parliament are pointing to the lack of past support from the United States for Ukraine's reforms, and questioning the benefits of continuing down this road. We cannot afford to let the Ukrainians turn back. Ukraine and the other young nations of the world, struggling with the implementation of democracy, must know that they will benefit from those reforms.

Mr. Chairman, Ukraine is deserving of our respect, praise, and commitment. I urge my colleagues to support increased aid to Ukraine.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kansas [Mr. BROWNBACK].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BROWNBACK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 78, noes 340, not voting 16, as follows:

[Roll No. 422]

AYES—78

Baker (CA)
Ballenger
Bartlett
Barton
Blute
Brownback
Burton
Chabot
Christensen
Condit
Crane
Crapo
Ehrlich
English
Ensign
Flanagan
Fox
Franks (NJ)
Ganske
Gekas
Geren
Gilman
Graham
Gutknecht
Hancock
Herger
Horn
Hostettler
Inglis
Kasich
King
Klug
Largent
Linder
LoBiondo
Lowey
Luther
Martini
McCarthy
McIntosh
McKeon
McNulty
Mica
Myrick
Neumann
Norwood
Orton
Pallone
Peterson (FL)
Petri
Porter
Radanovich
Ramstad
Rohrabacher
Rose
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Sensenbrenner
Shadegg
Slaughter
Smith (MI)
Smith (NJ)
Smith (WA)
Solomon
Souder
Stenholm
Stump
Tate
Tiahrt
Traficant
Upton
Walker
Weldon (PA)
Weller

NOES—340

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Canady
Cardin
Castle
Chambliss
Chapman
Chenoweth
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Emerson
Engel
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Foglietta
Foley
Forbes
Fowler
Frank (MA)
Franks (CT)
Frelinghuysen
Frisa
Funderburk
Gallegly
Gejdenson
Gephardt
Gibbons
Gilchrest
Gillmor
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Green
Greenwood
Hall (OH)
Hall (TX)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Istook
Jackson-Lee
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kingston
Kleczka
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Lipinski
Livingston
Lofgren
Longley
Lucas
Maloney
Manton
Manzullo
Markey
Martinez
Mascara
Matsui
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McKinney
Meehan
Meek
Menendez
Metcalf
Meyers
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Nadler
Neal
Nethercutt
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Owens
Oxley
Packard
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce
Quillen
Quinn
Rahall
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Ros-Lehtinen
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Serrano
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Smith (TX)
Spence
Spratt
Stark
Stearns
Stockman
Stokes
Studds
Stupak
Talent
Tanner
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Torkildsen
Torres
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zeliff

I71NOT VOTING—16

Camp
Collins (MI)
Ford
Frost
Furse
Gunderson
Gutierrez
Jefferson
Lantos
Mfume
Moakley
Reynolds
Tauzin
Torricelli
Young (AK)
Zimmer

☐ 1609

Messrs. HASTERT, HINCHEY, DEFAZIO, LATHAM, and RUSH changed their vote from "aye" to "no."

Messrs. BARTLETT of Maryland, CHRISTENSEN, STUMP, PORTER, SMITH of Michigan, and SCARBOROUGH changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer an amendment, amendment No. 37.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. RICHARDSON: Page 14, line 22, strike "2,326,700,000" and insert the following "2,325,500,000".

Page 21, line 7, strike "$671,000,000" and insert "672,000,000".

Mr. CALLAHAN. Mr. Chairman, I reserve a point of order on the gentleman's amendment.

The CHAIRMAN. A point of order is reserved.

Mr. RICHARDSON. Mr. Chairman, this amendment that I am offering with the gentleman from California [Mr. ROHRABACHER] will increase the migration and refugee assistance fund by $1 million to alleviate the refugee crisis on the Thai-Burma border. In keeping with budgetary guidelines, the increase in funding is offset by cuts to the Economic Support Fund.

The ramifications of the systematic repression conducted by Burma's ruling military junta, the State Law and Order Restoration Council or [SLORC], have created a refugee crisis along the Thai-Burma border that is worsening.

The launching of a major SLORC military offensive against the Karen refugees this spring resulted in an outflow of an estimated additional 20,000 refugees to Thailand bringing the population to over 90,000.

These new developments have serious implications for relief agencies. First, they are faced with unbudgeted expenses moving the refugees and establishing a new camp; and second, the new town-size camp will have different dynamics then the old village-size camps.

The Burma Border Consortium [BBC], the group of NGO's responsible for rice distribution and relief in the border camps, issued an appeal in March for an increase of $5 million in their budget to cover the continuing worsening refugee situation. The BBC anticipated that it would be stretched to the limit and experiencing a serious cash flow problem by April.

I have here a copy of a letter from the Burma Border Consortium Chairman Jack Dunford requesting additional funding.

Efforts to combat the growing refugee crisis along the Thai-Burma border could be expedited with this additional funding particularly if NGO's on both sides of the border were empowered with proper financing.

The Thai Government should not have to bear the burden of this refugee population alone. A clear signal must be sent that the international community is willing and able to assist the Thai, thus preventing the return of refugees to unsafe and unacceptable conditions.

The Richardson-Rohrabacher amendment increasing the migration and refugee assistance funds by $1 million will enable organizations working along both sides of the Thai-Burma border to facilitate the settlement of additional refugees.

Mr. Chairman, I insert for the RECORD a letter from Jack Dunford, chairman of the Burma Border Consortium.

THE CHURCH OF CHRIST
IN THAILAND,
March 20, 1995.

BURMESE BORDER CONSORTIUM
EMERGENCY UPDATE

The Burmese Border Consortium (BBC) six monthly report to the end of December incorporates a revised Appeal for 1995 and will be sent to you next week. The Appeal is for an increased budget of U.S. $5 million to cover a continuing worsening refugee situation.

The map shows the estimated refugee population at the end of February as 88,907, an increase of 12,000 or 15 percent since December. During March numbers have continued to increase and could now have reached 95,000. Most of the new arrivals are in the northern area, camps K1 to K6. Currently there is still military activity around the KNU 6th and 4th Brigade areas and there is still the potential for a lot more refugees from these areas if SLORC launches and all-out offensive.

The situation remains very volatile and extremely dangerous for both the refugees and NGO's working for them. SLORC and Karen rebels continue to make intrusions into Thailand, entering refugee camps, stealing rice, threatening, abducting and killing refugees. There is fear and panic and a small number of refugees (probably less than 2000) have returned to the Burma side.

Most of the new refugees have arrived in very remote areas which will be cut-off by road as soon as the rains start. This is adding to the normal burden of stockpiling supplies for the rainy season. The revised budget of U.S. $5 million is already 25% higher than 1994 but even this is based on a population of only 90,000 and a rice price of $580. We are currently paying $700 per sack for these new refugees.

The BBC is currently stretched to the limit. There will be a critical cash/flow crisis in April unless new funds arrive very soon, and any further increase in numbers will necessitate yet another increase in the budget.

It is difficult to estimate exact needs because many Donors have yet to indicate their proposed contributions for 1995. Present indications however suggest a shortfall of between U.S. $500,000 and U.S. $1 million for 1995. All Donors are urged to confirm commitments as soon as possible, and to transfer funds as quickly possible to support the rainy season stockpiling. We will issue another statement when the funding situation becomes clearer.

On a more optimistic note, the first reports of a Karenni cease-fire deal are coming through, the Mon are reported to be about to resume talks with SLORC, and even the Karens are said to be discussing possible negotiations. There is still hope for a better future, but the needs of the BBC programme are unlikely to reduce in 1995.

JACK DUNFORD,
BBC Chairman.

THE CHURCH OF CHRIST
IN THAILAND,
Bangkok, June 14, 1995

BURMESE BORDER CONSORTIUM 1995
EMERGENCY/FUNDING UPDATE NO. 4

Previous updates described two phases of the current emergency on the Burmese border. From January through March SLORC launched a major military offensive against the Karen National Union opposite Tak and Mae Hong Sen Provinces sending as many as 15,000 new refugees into Thailand. Although a de-facto cease-fire has been in place since then, the second phase of the emergency saw SLORC-backed Karen rebels entering Thailand, burning down refugee camps and attempting to pursuade the refugees to return to Burma.

At the time of writing the incursions have stopped and, for the relief agencies providing assistance, the emergency has entered a third phase. To improve security for the refugees the Thai authorities have ordered a consolidation of the camps located in the areas where incursions occurred. In Tak Province camps K8 to K14 are to be consolidated in two locations, Sho Khlo (K10) and Mae La (K14), and in Mae Hong Sen Province camps K1 to K7 are to be consolidated at Mae Ra Ma Luang (K7). For the time being all other camps will remain as before.

The consolidation of camps K8 to K14 has started (see map) and Mae La will eventually house a population of over 20,000. This has two implications for the relief agencies. Firstly we have been faced with unbudgeted expenses moving the refugees and establishing a new camp, and secondly the new town-size camp will have different dynamics than the old village-size camps. We have already incurred costs in buying building materials because there is not enough available locally and we will now also have to start providing firewood. The Ministry of Interior will set up office in the camp but wishes to maintain the low key, self-support nature of the relief activities as much as possible. The need for other support services however seems inevitable. It is hoped to complete this consolidation within a month although further moves have been temporarily suspended because of an outbreak of diarrhea resulting in at least four deaths.

Although the order has already been issued for consolidating camps K1 to K7, heavy rains could make this impractical until later in the year.

All of this has been taking place against a background of speculation that the refugees might soon start repatriating to Burma. This has been fuelled to some extent by the fact that only about 50% of the refugees are turning up at Mae La during the camp moves. Some are interpreting this to mean that the others have all chosen to go back to Burma, but there is no reliable information. Some certainly have gone back but others are probably hiding out elsewhere in Thailand. There have also been continuing new refugee arrivals mostly escaping village relocations and forced labour.

The border situation is tense. SLORC seems to have reverted to a hardline policy against all opposition and refugees tell of ongoing human rights abuses throughout the border States. From our perspective there seems little justification to claim, as some do, that the situation has "returned to normal". There could still be further offensives or incursions resulting in new refugee movements. Relations between SLORC and Thailand are strained to the point that most border points are closed, construction on the "Friendship" bridge has been stopped, and both sides have been moving troops into border areas.

The result of all of this for the BBC is that we are facing additional expenditures because of the emergencies, and cannot rule out the possibility of new emergencies as the year progresses. Even without emergencies the BBC budget has not increased to over US$6 million for this year:

	US$
Food items	4,750,000
Household items/medical	370,000
Emergency items/transport	900,000
Administration	180,000
Total	6,200,000

Donor response has again been magnificent and this budget is currently covered by projected income totalling US$6,311,100.

	US$
ADRA	4,000
Anonymous	200,000
American Baptist Ministries	6,000
Anglican Church of Canada	7,000
Australian Churches of Christ	3,600
Bangkok Community Theatre	4,100
Bread for World, Germany	100,000
Burmese Relief Centre	16,000
Burma Action Group, UK	3,000
CAFOD, UK	20,000
Christ Church Bangkok	1,200
CARITAS Switzerland	255,000
Christian Aid—UK	159,000
Church World Service, USA	245,000
Canadian Council of Churches	180,000
Compassion International	6,400
DIAKONIA, Sweden	[1]1,136,000
DOEN, Netherlands	[1]15,000
Dutch Interchurch Aid	[1]1,745,000
International Church BKK	2,000
International Rescue Committee	608,000
Jesuit Refugee Service	65,200
Korean Church	5,000
German Embassy	55,500
National C.Churches Australia	[1]365.000
Norwegian Church Aid	[1]168,000
Open Society International	30,000
Refugees International Japan	35,000
Swissaid	[1]290,000
Trocaire	[1]23,000
United Society Prop Gospel	3,100
ZOA Refugee Care Netherlands	560,000
Interest/Misc	4,000

[1] Part or all of these amounts have yet to be confirmed.

Funds from the Governments of Australia, Canada, European Union, Germany, Great Britain, Netherlands, Norway, Sweden, Switzerland and USA are channelled through these Donors.

Approximately US$3,650,000 has already been received but BBC is currently carrying no reserves. Donors still processing grants are urged to transfer funds as quickly as possible to avoid further cash/flow problems, and to provide cover for new emergencies.

Further funding appeals/updates will be issued if and when the situation changes.

JACK DUNFORD,
Burmese Border Consortium,
Chairman.

Mr. Chairman, the gentleman from California [Mr. ROHRABACHER] and I have had a long interest in this issue. Let me say that we have met with the chairman of the subcommittee, who has made a very, very strenuous effort to ensure that there are adequate funds for this effort.

□ 1615

Now, we have at this time $1.5 million that are allocated for the Thai-Burma border for the refugee crisis. It is the understanding of myself and the gentleman from California [Mr. ROHRABACHER] that the chairman will ensure that the funds that are in the legislation, that are in the refugee and migration account, will be moved over so that there will be a total of $2.5 million for this amendment.

For that reason, Mr. Chairman, the gentleman from California and I are considering withdrawing the amendment once we enter into a colloquy with the chairman of the subcommittee.

Mr. Chairman, let me just say that, again, the reason that there is this repression, that this is taking place on the Thai-Burma border is we have a government called the SLORC, easily the most repressive of all time, that clearly is in a situation where because of this repression they are increasing the number of refugees along their border. There are squalid, horrendous conditions on this border. The Thais do not have the funds to adequately ensure that they can deal with the refugee crisis. So what we are doing is, we are moving these funds and we are ensuring that there are adequate medical facilities and that the United States, the State Department has not entirely spent their budget on this effort. For some reason, they have said in the past, we do not need these funds. So what the practical effect of this amendment does is, it would move ahead with $2.5 million total for this effort.

The CHAIRMAN. Does the gentleman from Alabama [Mr. CALLAHAN] insist on his point of order?

Mr. CALLAHAN. Mr. Chairman, I withdraw my point of order.

Mr. ROHRABACHER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would just like to stand in support of my friend and colleague from New Mexico and everything that he stated. I would just say that there is a tragedy, an ongoing tragedy in Burma. The people of the United States have historically stood for freedom and democracy and if, indeed, we would continue this stand in Southeast Asia, many of the problems that we face today, like this refugee problem that is being expressed, talked about today, would not be confronting us. Unfortunately, what we have done in these last 4 and 5 years is we have tried our best to try to romance the SLORC regime. We have done our best, and the gentleman from New Mexico has done heroic deeds in the cause of democracy. Yet, trying to treat this dictatorship with kid gloves, trying to move them along outside of the arena of tyranny has not worked.

Today we are confronted with not only a monstrous repressive regime but refugees whose lives are in our hands today.

I just stand in support of my colleague's efforts and my colleague's amendment.

Mr. CALLAHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I congratulate the gentleman from New Mexico for bringing to the attention of the House the need for additional refugee assistance along the Thai-Burma border.

The gentleman from New Mexico [Mr. RICHARDSON] as well as the gentleman from California [Mr. ROHRABACHER] have both been long interested in dealing with this matter. I know they have filed an amendment to add funds for refugee assistance in the area. I would appreciate them withholding their amendment, however. In return, I pledge to them that we will work with the State Department to ensure an additional $1 million is provided these refugees.

I know that $1.5 million has already been allocated for this purpose, but we will monitor the situation to ensure that these funds are spent for the purposes identified in the amendment.

I would like to thank both of the gentlemen for their efforts in this regard and for working with me and the committee to resolve the problem.

Mr. RICHARDSON. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Chairman, let me commend the chairman and his staff for their excellent work on this issue. The chairman is somebody who I know is very concerned about this issue. I just want to make it clear that based on what the chairman just said to me in the colloquy, that in addition to the $1.5 million that are allocated for the Thai-Burmese border, that the chairman, through his very strong efforts as chairman of this subcommittee, will ensure that an additional $1 million will flow to this account to make it a total of $1.5 million. Is that an accurate statement?

Mr. CALLAHAN. Mr. Chairman, I cannot assure that, but I will assure the gentleman that I will do everything I can to ensure that it does take place.

Mr. RICHARDSON. Mr. Chairman, if the gentleman will continue to yield, if that is the case, the gentleman from New Mexico and I know my friend from California are satisfied. I do appreciate the chairman's word on this. We will, as the gentleman knows, have another amendment coming up on Burma which deals with the narcotics issue which we appreciate the chairman's support.

Mr. RICHARDSON. Mr. Chairman, I ask unanimous consent that the amendment be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

> Amendment offered by Mr. BURTON of Indiana: Page 13, strike line 18 and all that follows through page 14, line 11.

Mr. BURTON of Indiana. Mr. Chairman, I ask unanimous consent that debate on this amendment and all amendments thereto be limited to 30 minutes, 15 minutes on each side, proponents and opponents of the bill.

The CHAIRMAN. Is there objection to request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The gentleman from Indiana [Mr. BURTON] will be recognized for 15 minutes, and a Member in opposition will be recognized for 15 minutes.

Mr. CALLAHAN. Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The gentleman from Alabama [Mr. CALLAHAN] will be recognized for 15 minutes.

The Chair recognizes the gentleman from Indiana [Mr. BURTON].

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, when we had the markup in the Committee on International Relations on AID, I became very concerned because I thought that the cut in the operational budget was not sufficient. The chairman's mark cut the overhead for AID by about 10 percent. I wanted to increase that cut to about 20 to 25 percent.

I wanted to reduce the spending by $65 million. I brought an amendment to the floor of the House when the bill reached the House floor, trying to cut that $65 million, and my position did not prevail because it was agreed by the majority of the House that we should stick with the chairman's mark of $465 million.

I have talked to my colleagues on the Committee on Appropriations and I was under the impression that they agreed with the chairman's mark on the foreign aid authorization bill as far as the operational costs were concerned or the overhead was concerned. Now I find that the chairman of the subcommittee has agreed to increase above the chairman's mark on the Committee on International Relations the figure by $29.9 million. In my view, this is an excessive amount of money, and it is a waste of taxpayers money.

We here in the Congress of the United States have cut our staffs by 30 percent. I felt like we should be able to cut the AID staffs by 20 to 25 percent, but we did not. We only cut them by 10 percent. Now we find that they are increasing in the foreign aid appropriations bill by $29 million the operational account.

I think that is a mistake. Let me just point out some of the reasons why I think that is a mistake.

I have here before me a message that alludes to what the ambassador in Chad thinks about the AID program over there. And the ambassador in Chad, according to this memo, said that this was expensive, an expensive development program in Chad since the 1979 and 1981 wars, and that it had little impact.

This involves, I understand, $2- to $300 million. And if you read further in this memo, you find that the AID officer over there said, and I quote: With the exception of one other officer who leaves June 15, the remaining personnel will be occupied with the administration of the closeout. And listen to this, this is very important, our parting gift of $4 million for Government officials' salaries in Chad will have been paid out to officials by the end of the May. They were giving them a goodbye gift of $4 million. This is the AID administration.

This is a waste of taxpayers' dollars. I also have in my possession an amendment or a document that I read several times before. This document was sent out by Sally Shelton, the senior staffer at the AID office. And this went through their inner office memo system throughout the world. She said, Larry Byrne, the assistant administrator for management at AID, announced that AID was two-thirds or 62 percent through this fiscal year, and we have 38 percent of the dollar volume of procurement actions completed. We need to do $1.9 billion, that means spend $1.9 billion, in the next 5 months. Byrne also said there are large pockets of money in the field, so let's get moving.

What he was saying in essence was, we want to spend this money before the end of the fiscal year.

Now, in addition to that, Mr. Chairman, I would like to point out to my colleagues what AID has been spending some of their money on. This is what is called a gender analysis tool kit. A gender analysis tool kit, it costs $175,000. Nobody in this place really knows what that thing is for. AID has no business dealing with gender analysis tool kits. They are supposed to help developing countries with AID programs. And one of the subtitles, one of the booklets in this gender analysis tool kit says, sex and gender; what is the difference? A tool for examining the sociocultural context of sex differences. I would like to say to my colleagues on the Committee on Appropriations, what in the world is AID doing coming up with this kind of a program?

So finally, I would like to say that the chairman's mark, although I did not agree with it in the Committee on International Relations, did make a minor cut of 10 percent in the operational budget of AID. That is not enough. But most certainly, most certainly we should not be increasing by almost $30 million the $465 million that was in the chairman's mark at a time when we are trying to cut expenses.

My colleagues on the Committee on Appropriations are going to come back and say, we are cutting the appropriations by $400 million. That may be the case. But here is 30 more million you can add to it because it is not needed. We certainly do not need to be spending this money.

I submit to my colleagues that we should stick with the chairman's mark. It is a reasonable amount of money. It will deal with the AID expenses adequately. It will take care of their personnel and any people who are going to be cut or laid off because it has figured into it the amount of money it is going to take to close out those people in some of these offices around the world.

So, I submit to my colleagues, support my amendment. Cut AID by $29 million, go back to the Committee on International Relations chairman's mark. It is a reasonable figure. I urge the support of my amendment.

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Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, I rise in support of the Burton amendment. The amendment would cut the $29 million supplementary add-on of AID's operating expenses in a new reform and downsizing account. While the purpose of the account is a good one, regrettably, the account was not authorized in the Committee on International Relations bill. I support the amendment of the gentleman from Indiana [Mr. BURTON] to keep control of spending in this bill.

Mr. BURTON of Indiana. Mr. Chairman, I reserve the balance of my time.

Mr. CALLAHAN. Mr. Chairman, I would like to allocate half of the time allocated to me to the gentleman from Texas [Mr. WILSON].

The CHAIRMAN. Without objection the gentleman from Texas [Mr. WILSON] will be recognized to control 7½ minutes.

There was no objection.

Mr. CALLAHAN. Mr. Chairman, I yield myself 3½ minutes to speak in opposition.

Mr. Chairman, the committee recommendation truly does propose reduction of AID personnel and operations. We do not come into this issue ignoring the concerns that the gentleman from Indiana has. In fact, we applaud his enthusiasm toward attacking this agency for some of their wasteful spending. He is exactly right in some areas. However, he is wrong here.

What his amendment is doing, is taking away from the ability of AID to downsize. The $29 million he is talking about was money we put into the bill specifically earmarked to AID to downsize. If we take away this authority for them to downsize, I do not know how in the world they can downsize.

Mr. Chairman, an example is Radio Free Europe. They are in the process of reducing staff in Munich from 1,500 to 400 employees, and moving to Prague in the Czech Republic. The cost of downsizing is $130 million, more than half the size of Radio Free Europe's annual budget.

AID has already cut staffing by 18 percent below the level that existed at the beginning of fiscal year 1994. The total of $29,975,000 is being proposed for reform and downsizing activities.

The committee intends for the funds to be used as follows: $4.7 million for severance pay, which we have to pay, for general services employees; $11.2 million for the return home of directors that are overseas, general service, foreign service, and contractor employees, including moving expenses and employee closeout costs; $12 million of the money must be used for mission closure costs, and foreign national severance pay.

We have entered into a contract with these foreign nationals, who have worked in conjunction with AID efforts. Under contract with those countries, we have to pay those employees severance pay. I did not make that arrangement. The United States of America made the arrangements. We are obligated. We cannot just say "Well, Congressman BURTON said we could not have the $29 million." We have to pay that money.

Mr. Chairman, I concur in the sense that we ought to be downsizing AID, but I do not concur in this amendment. We already have downsized AID in our appropriation bill. We have acted responsibly, We have reached a bipartism commitment between the minority side and the majority side. We recognize the concern of the committee that the gentleman from Indiana [Mr. BURTON] so eloquently serves upon and speaks about. At the same time, I think we must be responsible. If we are going to downsize, we have to give them a van to close them out and to move them home. That is what this $29 million does. It is earmarked specifically for reduction in force. Mr. Chairman, I would urge a "no" vote against the Burton amendment .

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I talked to the gentleman's staffers in the Committee on Appropriations and asked them where they got the information. They told me they got the information the gentleman just quoted from AID officials.

Mr. CALLAHAN. Reclaiming my time, Mr. Chairman, where would we get the information? Would we go ask someone on the street "How much would it cost to close down an office in Ethiopia?" We do not know that answer. We have to depend upon the agency to tell us how much money they need to downsize. They told us that to downsize that is what it would be.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would just like to say to my dear friend, the gentleman from Alabama, that when you call a bureaucracy like AID, with which I have worked for 12 years, and ask them if they need more money for closing down, we must expect they are going to say "We need more money for closing down."

I have worked with this agency, like I said, for 12 years. I can tell the Members, no matter how much money we say they are going to cut, they say they need more. I am not saying my colleagues are naive because they are very intelligent people, but I do not think we should rely on people from AID.

Mr. WILSON. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. JOHNSTON].

Mr. JOHNSTON of Florida. Mr. Chairman, I ask my colleagues to look at this amendment very closely. This is amendment No. 57, and it is double-barreled.

First, it takes away the downsizing account money, and as the chairman of the subcommittee said, this is going to affect it all over the world. We closed about nine offices, six in Africa alone. Of course, there are commitments there before you can close them about leases and moving and things of that nature.

It also affects our operation in Asia and Latin America, but specifically Africa. We have to give credit where credit is due.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. JOHNSTON of Florida. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. This is amendment No. 14, Mr. Chairman, I would tell the gentleman.

Mr. JOHNSTON of Florida. The same premise, Mr. Chairman, to eliminate this. That is $30 million, which I think the committee very graciously put the money in there. I know from experience, Mr. Chairman, and being in Africa, being in Botswana, where the regional office was closed, myself, without going to AID, the fact that is going to be a substantial amount of expense involved.

Mr. Chairman, in others areas of Africa, and particularly in the francophone countries where there are leases involved, I think in that case we are going to have to give credit where credit is due in the fact that AID is doing an excellent job here. I just think that by eliminating this fund, this is very shortsighted. I strongly request my colleagues to defeat this amendment. The fact that we spent $175,000 for gender analysis does not mean that we have to cut them by $29.9 million.

Mr. WILSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there is not much more to say. It has all been said. This is an amendment to cut $29 million from an account that has already been cut by $52 million. The money is necessary for a businesslike, logical downsizing, for it to be done in a way that exercises good business judgments. The people do have to be moved. This reduction would particularly impact AID programs in Eastern Europe and the former Soviet Union. We have already reduced those significantly.

I just think that further reduction in AID would impact children's programs, programs that are labor-intensive, but most of all, it would act as a deterrent to a logical, rational downsizing approach.

Therefore, Mr. Chairman, I would ask my colleagues to vote against this amendment.

Mr. BURTON of Indiana. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Chairman, I thank the gentleman for yielding time to me.

I would like to make four points, Mr. Chairman. One is a special appreciation to the chairman, the gentleman from Alabama [Mr. CALLAHAN], for the good work he has done, along with the new ranking member, the gentleman from Texas.

The other point I would like to make is an appreciation to the chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON], for making this amendment in order, because in prior congresses it would be suspect whether it would be in order or not.

The second argument I would like to make is an argument of process. We have proceeded under the rules of the House. We set up authorizing committees and we set up appropriators. If we want to ignore the rules of the House and need to do that, then let us get rid of the Committee on Appropriations and put it all in one. We have done that. History has shown we have tried that before.

What we have tried to do under this Congress is to stop the sieve of the money. This is one of the experiences I learned in the 103d Congress, was if you did not get a project, if it was not authorized, or you did not get the amount that you wanted from an authorizing committee, run off to the appropriators and they will appropriate money that either was not authorized or is in excess of the authorizing amount. If we have monies here in excess of the authorizing amount, that should not be made in order. However, it was made in order. I understand that. Now we are here on the House floor as a matter of process and procedure.

Mr. Chairman, I appeal to the consciences of my colleagues to support this amendment and to support the authorizing committees, and not to support the appropriators spending money in excess of that which is authorized.

The fourth point I would like to make is that on substance. All of us are beginning to learn there are more and more, tons of studies out there referencing AID. The Agency for International Development has become a bureaucratic beast, a beast for which, the gentleman from Texas [Mr. WILSON] is smiling, he understands what it is about. It is very difficult to rein in the excesses of that. I think the two gentlemen working together are beginning to do that, but I think that AID is a bureaucratic beast which Reagan could not reform, Bush could not reform, and President Clinton is having a very difficult time reforming. I think this House is going to have to take the leadership to reform it. Please support the Burton amendment.

Mr. WILSON. Mr. Chairman, I yield back the balance of my time.

Mr. CALLAHAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in opposition to the gentleman's amendment.

AID is already in the process of downsizing and restructuring. Hiring has been frozen for almost two years, and will continue through fiscal year 1996. Twenty-one AID missions are being closed. The national performance review eliminated 1,200 jobs, and the authorization passed several weeks ago will reduce staff by another 400. These actions already underway represent a 20-percent personnel cut.

Further reduction of AID funding will impede management and oversight of the taxpayer's money and the programs which it funds. It will also increase job losses and complicate AID's efforts to transition to a smaller, more streamlined agency while still maintaining itself as a coherent and accountable institution.

Even without this amendment, the bill is $14 million short of the amount AID says it needs to carry out its mission while downsizing and streamlining its programs and personnel. Further cuts will only complicate and disrupt this process.

Mr. Chairman, I urge Members to oppose the amendment.

Mr. CALLAHAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let us get the facts out here. Let us stop and reflect on where we are. First of all, Mr. Chairman, the authorizing committee authorized a sum of $465,750,000. The appropriations subcommittee and the full committee recommended the exact same amount.

The gentleman from Indiana [Mr. BURTON] has so eloquently found issues such as this throughout the entire 10 years I have known him, and I applaud his efforts of bringing these matters, such as this horrible box of information that AID has printed. I knew nothing about that. I think it is great that he brings these things to our attention.

However, the gentleman from Indiana [Mr. BURTON] also came to me and said "SONNY, we need to downsize. We need to reduce the AID staff. We need to bring home some of these people from overseas." I do not want anybody in this country or in this room or anywhere in this city to think that I am up here trying to increase aid for anybody, much less AID.

Therefore, what we did in response to the request of the gentleman from Indiana, we went to AID and said "We are going to force you to downsize. We are going to include $29 million in this bill, and we are going to say that you can only use this, and you must use this, to downsize your operation, because the Congress of the United States is demanding it." What we did was a responsible thing. We provided them with a moving van to bring these people home, with an opportunity to pay the severance pay when necessary in these foreign countries, not to just walk out of there and have us have to come back next year and ask for even more money.

Therefore, Mr. Chairman, I felt when I got with the minority and when I got with the subcommittee's ranking member, the gentleman from Texas, and we worked this out, I insisted that the wishes of the gentleman from Indiana [Mr. BURTON] be fulfilled; that we send a strong message to AID, and that at the same time, we afford them the opportunity by the $29,000,000 that we put in there, especially earmarked, cannot be used for anything else, that we were doing a service to the gentleman from Indiana, I thought.

Now he comes and says he wants to remove the $29 million. If we do not give them the $29 million, how are we going to downsize?

☐ 1645

I think that we have done the responsible thing. I urge Members to vote "no" on the Burton amendment.

Mr. BURTON of Indiana. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the other body, the authorizing committee over there was below the chairman's mark in the House by $33 or $34 million, so you have two of the authorizing committees that are well below the figure that the appropriators are coming up with here today.

The thing that bothers me the most is not that my colleagues are not well-intentioned. I have the highest respect for both the gentleman from Texas [Mr. WILSON] and the gentleman from Alabama [Mr. CALLAHAN], but my problem is that they are believing the people over at AID. I have worked with those people for 12 years. Mr. Chairman, I am not accusing them of being liars, but I am saying they stretch the truth an awful lot.

The chairman's mark on the Committee on International Relations was set at $465 million. That is a 10 percent cut.

Let me give a figure that will surprise my friends on the Committee on Appropriations. Since 1985, AID's program costs have gone down by 23 percent. The money they are spending for worthwhile projects has gone down 23 percent. At the same time that their costs for programs have gone down 23 percent, they have increased their overhead by 41 percent.

How can you cut the size of your programs by 23 percent and at the same time increase the number of personnel and the overhead by 41 percent? It is obvious there is inefficiency in that agency, major inefficiency.

That is why the chairman's mark on the Committee on International Relations cut them back to $465 million. I came to your office and wanted to cut it back to $400 million or less, but it could not be done, according to the people on the staff of the Committee on Appropriations.

Now you are coming back and saying you want to increase it by $29 million over the chairman's mark on the authorization committee. I just do not understand that. When you say the reason that you are increasing it by almost $30 million is because, quote, AID says they need the money to close down, what evidence do you have except their word?

Mr. Chairman, if you went to any single bureaucracy within the jurisdiction of the Congress of the United States, any one of them, they would tell you they need more money for closing down or downsizing. The fact of the matter is the only way you are going to cut those bureaucracies is to say, "Hey, we're cutting you by 10 percent. You figure out how to do it."

If one were in any business, and I know the gentleman from Alabama was a businessman before he came to Congress, if you have to cut your overhead or go in the red and go bankrupt, you would call your staff in, you would call your board of directors in and you would say, "Hey, how do we get from here to there? How do we cut the spending?" And you would say, "We've got to do it or we go bankrupt," and they would figure out a way to do it.

Mr. Chairman, the AID bureaucrats will figure out how to live without this $30 million. We are telling the taxpayers of this country they are going to have to do with less. We are cutting programs, domestic programs, left and right. Now here we have a chance to stick with the chairman's mark on the Committee on International Relations, and you are telling me you want to go $30 million above it? I do not buy it.

I hope my colleagues in this body will see fit to live within the chairman's mark on the Committee on International Relations, save $30 million, live within the budget, do the right thing and save the taxpayers money. I absolutely guarantee, AID will be able to live with it.

Mr. ROTH. Mr. Chairman, this is a very important amendment, for two reasons.

First, it waves $30 million for the American taxpayer, by cutting out unnecessary funds for AID operating costs.

Second, it sends a message to the bureaucracy that business as usual is over. Let me explain the legislative situation. Many of us in Congress have been pressuring AID to downsize.

It is a bloated bureaucracy, which is spending $546 million for salaries, travel, office space, and operating costs. That is more than half a billion dollars to operate programs that total $6.5 billion. What is AID's response to downsizing? They are demanding another $30 million! Only in the Federal Government does downsizing translate into spending more money, not less.

Everywhere else in America, downsizing means reducing in size, cutting costs and saving money. But not in Washington. This is why the Burton amendment is so important.

This amendment says that downsizing means spending less money, not more. It says to AID: reduce your operating costs, like the rest of America. Vote for the amendment, save $30 million and tell AID to cut its costs.

Mr. BURTON of Indiana. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BURTON of Indiana. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, noes 182, not voting 14, as follows:

[Roll No. 423]

AYES—238

Allard
Archer
Armey
Bachus
Baker (CA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bereuter
Bevill
Bilbray
Bilirakis
Blute
Boehlert
Boehner
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunning
Burr
Burton
Buyer
Calvert
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Deal
DeFazio
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Ewing
Fawell
Fields (LA)
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (NJ)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutknecht
Hall (TX)
Hancock
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kennedy (RI)
Kim
King
Kingston
Kleczka
Klink
Klug
LaHood
Largent
Latham
LaTourette
Lazio
Leach
Lewis (KY)
Lincoln
Linder
Lipinski
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Myers
Myrick
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Parker
Paxon
Peterson (MN)
Petri
Pombo
Portman
Poshard
Pryce
Quillen
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Smith (MI)
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Upton
Waldholtz
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Watts (OK)
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Weller
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NOES—182

Abercrombie
Ackerman
Andrews
Baesler
Baker (LA)
Baldacci
Bateman
Becerra
Beilenson
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Bishop
Bliley
Bonilla
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Borski
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Brown (CA)
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Bryant (TX)
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Hall (OH)
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Payne (NJ)
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Pickett
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Roybal-Allard
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Sanders
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Slaughter
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Tucker
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Visclosky
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Watt (NC)
Waxman
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)

NOT VOTING—14

Camp
Collins (MI)
Ford
Furse
Gunderson
Gutierrez
Jefferson
Lantos
Laughlin
Mfume
Moakley
Reynolds
Torricelli
Zimmer

☐ 1709

Mr. TUCKER changed his vote from "aye" to "no."

Mr. KLUG, Mr. DICKEY, and Mrs. CUBIN changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT, AS MODIFIED, OFFERED BY MR. HALL OF OHIO

Mr. HALL of Ohio. Mr. Chairman, I offer an amendment, as modified.

The CHAIRMAN. The Clerk will designate the amendment, as modified.

The text of the amendment, as modified, is as follows:

Amendment as modified, offered by Mr. HALL of Ohio: Page 7, strike line 18 and insert the following: "CHILDREN AND DISEASE PROGRAMS FUND".

Page 7, line 23, strike "$484,000,000" and insert "$592,660,000".

Page 8, line 6, strike "and (7)" and insert "(7) basic education programs, and (8)".

Page 8, line 16, strike "$669,000,000" and insert "$655,000,000".

Page 14, line 22, strike "$2,326,700,000" and insert "$2,300,000,000".

Page 30, line 17, strike "$167,960,000" and insert "$100,000,000".

Mr. CALLAHAN. Mr. Chairman, would the gentleman from Ohio [Mr. HALL] yield for a unanimous-consent request?

Mr. HALL of Ohio. I am glad to yield to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Chairman, would the gentleman object to placing a 1-hour time debate on this with the time equally divided?

Mr. HALL of Ohio. Mr. Chairman, I would not object.

Ms. SLAUGHTER. Mr. Chairman, reserving the right to object, I object, really, on the grounds that this is a very important amendment and it has just come to my attention.

The CHAIRMAN. The gentlewoman from New York objects.

Mr. CALLAHAN. Mr. Chairman, if the gentlewoman will yield, will the gentlewoman agree to any time limitation?

Ms. SLAUGHTER. Mr. Chairman, I would object to a time limit on the grounds that this is a very important amendment and it has just come to my attention that the money from this amendment is coming from family planning. And we would like to have a thorough discussion of it.

Mr. CALLAHAN. Mr. Chairman, if the gentlewoman will yield further, would the gentlewoman object to any time limit so that we could give the Members an opportunity to go and eat or do whatever? But if we just had some time limitation, something reasonable, I am willing to accept anything the gentlewoman would like.

Ms. SLAUGHTER. I regret, Mr. Chairman, I did not want to object, but I wanted to make certain that everybody has the opportunity to discuss this.

□ 1715

The CHAIRMAN. The gentleman from Ohio [Mr. HALL] is recognized for 5 minutes.

Mr. HALL of Ohio. Mr. Chairman, this amendment, known as the "Children's Amendment", is being introduced by myself and my colleague, the gentleman from New York [Mr. HOUGHTON].

Our amendment transfers $108.66 million from other foreign aid programs to ones that specifically save children. Our amendment is budget neutral. We have found the enabling funds within other foreign aid programs including development assistance ($14 million), the economic support fund ($26.7 million), and the Asian Development Fund ($67.96 million). With all the cuts that foreign aid has received in the last few years, we must prioritize. We will save and improve millions of lives by making this transfer.

Mr. Chairman, 5 years ago, I attended the World Summit for Children in New York. In New York, 159 world leaders, including President George Bush, agreed to aim their nation's foreign aid resources at a few practical and achievable goals. We agreed to reduce child deaths by at least one-third, to reduce maternal deaths and child malnutrition by one half, and to provide all children access to basic education.

Many of you well know I have sought to champion these causes by ensuring that the United States contributes its fair share to the noble vision of the World Summit.

Mr. Chairman, ever since 1984, when I personally witnessed the unnecessary deaths of over a dozen infants in Ethiopia, I cannot seem to rest until I feel comfortable that we are doing all we can to avert such horrible tragedy. These children, whom I held in my arms, visit my conscience each and every day.

As policy makers who work closely with the programs that save these kids, AMO HOUGHTON and I have seen the incredible results products by focussing on child survival and basic education programs. Millions and millions of young girls, for instance, rarely make it past the fifth grade and perpetuate a cycle of poverty their families can never escape.

For each additional year of schooling these children receive, their incomes rise by 10 percent. By learning to read and write and to take care of themselves and their children, they cease being recipients of foreign aid and become instead economic players purchasing America goods.

We are at an extremely critical juncture today. The World is watching the Congress. The World is watching our new leadership in Washington. We have the chance to do the right thing for innocent, destitute, and dying children. What I am asking for will cost no more than the total amount currently in the foreign aid appropriations bill. What I am asking for is for us to prioritize children by transferring $108.66 million from other accounts in this bill. These accounts are simply not as important as saving and improving the lives of millions of starving children who have absolutely no hope of a whole life.

We have made progress toward the goals that President Bush agreed to. It would be a big mistake to end our commitment before we finish the job. I remember some years ago saying that six vaccine-preventable diseases such as measles and tetanus were killing 5 million kids each year, and then 4 million. Now I am here to say that the same preventable diseases are taking 2 million lives a year. This is a legacy that Congress can be proud of. It is a legacy our Congress should continue.

Here is the legacy for Congress I would like to see. It is a legacy where we stood up to the task of stopping 2 million preventable child deaths next year. It is a legacy where we faced the fact that almost one-half of all rural women remain illiterate and more than 100 million children, mostly girls, are not in primary schools.

This amendment does not add one extra dollar to the appropriations bill before us today. Mr. HOUGHTON and I have provided modest cuts in other programs under this bill in order to save these most precious children. I think the areas which we propose to slightly reduce—the Economic Support Fund, the Asian Development Fund, and the General Development Account—can sustain the cuts we have in mind. Simply put, children come first.

Mr. Chairman, I am proud of the new protected Child Survival and Disease Programs Fund that the new leadership has created. Let's put our very limited dollars where they can really make a difference. This is the kind of foreign aid the American people like. It is the kind of foreign aid we can all be proud of, citizens and legislators alike.

The CHAIRMAN. The time of the gentlemen from Ohio [Mr. HALL] has expired.

(On request of Mrs. SCHROEDER and by unanimous consent, Mr. HALL of Ohio was allowed to proceed for 2 additional minutes.)

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. HALL of Ohio. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. There is nothing I want to do more than agree with the gentleman, but the way I read this is these cuts are coming out of the funds that go to international family planning, too, and I am very troubled by that because as we just finished the Cairo conference, where we talked about empowering women and that women should have the choice to decide whether they are going to be productive or reproductive, we are really going at this by doing that, and I am really very saddened by the gentleman's amendment.

Because I would jump on it in a minute except for the fact that it appears from the way I read it, it comes right off of the area where we have already made cuts but where we would be funding our family planning programs.

Mr. HALL of Ohio. The area that you are talking about is the development assistance account. I do take $14 million out of there. I take $67 million out of the Asian development bank of which I can explain a little bit later. I take approximately $26 million out of ESF.

The $14 million that I take out, in my opinion, is minuscule in what I am trying to do, because what happened in the last couple of years actually, before 2 years ago, we had an account called basic education. In this complete bill here, there is not a mention even in the committee report of basic education.

Basic education goes for women and children. It goes for the teaching of breast feeding, the boiling of water, teaching women and children how to read and write.

I felt it necessary to take moneys out of certain funds, put basic education in the amendment and be sure at least that basic education got its fair share.

Mrs. SCHROEDER. I understand what the gentleman is saying. I just am very, very saddened because pitting mothers against children is not the way I would go in this amendment. That is how I read this amendment.

When you are going after a fund that has already been gone after, after the United States decided at the Cairo conference that if you worked really hard to empower women and children, I think we are going the wrong way.

Mr. HOUGHTON. Mr. Chairman, I move to strike the last word to speak on the amendment.

Mr. Chairman, I would like, if the gentlewoman from Colorado would just hold on a minute, I would like to get specifically to this issue that she talks about. Then I would like to talk on the general amendment.

As I understand it, there are three areas the money for this Houghton-Hall amendment would come from. One of them is the economic development assistance program. There are a variety of areas in there. There is economic development. There is environmental development. There is the population issue. And then there is the basic education.

In talking to the people in that specific area, they said they were going to spend on basic education, this is out of a fund of $669 million, $14 million, so all we are doing is taking that $14 million, making sure that it is spent for basic education, not taking it out of anything else, so the remaining amount of money is going to be spent exactly as it was before.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. HOUGHTON. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Now, my understanding is that really because of an amendment we passed, did we not change that $669 million? Did not the gentleman from New York [Mr. GILMAN] lower that figure? I mean, we have already tapped into that fund once.

Mr. HOUGHTON. It was $840 million. Now it is $669 million.

Mrs. SCHROEDER. Now it is down to $669 million? I thought it was lower than that. It has already been cut quite a bit.

Mr. HOUGHTON. It has already been cut. None of us are particularly happy about that, but with the amount of money remaining, the basic education, according to the people who are running the program, would be $14 million. All we are doing is taking that out. That would not have affected the population or environment or economic development funds anyway.

Mrs. SCHROEDER. If the gentleman will yield further, then what I hear the gentleman saying is that my interpretation is incorrect, that you are not going to touch the funds?

Mr. HOUGHTON. We will not touch the population or environment or economic development funds. We will not even touch the basic education. The problem is that with taking any amount of money out of any one of these categories, we are going to be separating those amounts of money, the $14 million, putting it in a different category, but the same amount of money would have been spent, in any event.

Mrs. SCHROEDER. If the gentleman will yield further, the way the gentleman's amendment is written, it does not say that. It takes it out of the top number, so you could take it out of environment and you could take it out of family planning, the way I read it.

Mr. HALL of Ohio. Mr. Chairman, will the gentleman yield?

Mr. HOUGHTON. I yield to the gentleman from Ohio.

Mr. HALL of Ohio. I would just like to add, what we are doing is basic education could be funded out of the development assistance fund to the tune, because there is $669 million; what I am doing is freeing up the fund of basic education and transferring $108 million into the children's account and saying spend the basic education money in that account.

Mr. HOUGHTON. Reclaiming my time, just let me go for the basic numbers. It was $840 million for this entire category with four subsections. It is now $669 million. We want to bring it down to $665 million.

The only change is that the money which already would have been spent in that $669 million, the $14 million, is going to be pushed aside to make sure it is spent on basic education. None of the rest of the moneys, according to their plan, would be affected at all.

Mrs. SCHROEDER. Except, if the gentleman would yield further, you are still lowering it by $14 million, and it has got to either come out of family planning or environment.

Mr. HOUGHTON. It lowers it in a total sense. In terms of a practical allocation, it does not affect those other three categories, because they were going to spend $14 million anyway out of the $669 million.

Mrs. SCHROEDER. So you are saying you lower it by that and transfer it to another category?

Mr. HOUGHTON. Transfer what already we spent to another category, to make sure that small amount of money of the $669 million is going to be spent on basic education.

Mrs. SCHROEDER. If the gentleman would yield further, I understand what the gentleman is saying. That makes me feel better. I do not see where it says that in the amendment, and I am terribly frightened they would take the $14 million out of there.

Mr. HOUGHTON. It probably does not, but this is according to the people who would be allocating and spending the money.

I think I am sort of running out of the 5 minutes, but I thank the gentlewoman very much.

I would like to say in conclusion that I support what the gentleman from Ohio [Mr. HALL] is doing. I respect him. I think it makes a lot of sense.

The agony is when you shift funds at all. Absent that, this would be an absolute no-brainer.

But I think it is the right thing to do, and I can give you chapter and verse out of my own experience, and I hope this will be supported.

Mr. CALLAHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to start off by saying how much respect I have for the gentleman from Ohio [Mr. HALL] and for many of the causes that he has been behind, especially with respect to humanitarian rights and to starving children, and I would like, as soon as he can, for him to give me his attention, because I want to direct part of my talk to him.

I want the gentleman from Ohio [Mr. HALL] to know that the American people gave us a strong message last November. They told us they wanted us to come to Washington, and they wanted us to cut spending, and they told us at the same time they wanted us to reduce everything. They did not say, cut everything but spending on foreign aid. They said cut foreign aid.

During this process, I, like you, have been concerned about the children of the world who are destitute and starving and who need immunization programs, and out of respect for you, I came to you and I said we must do one thing, if we are going to reduce foreign aid, which we are going to do, then we must protect the number one priority, and that is the children., We did not want to look at the television set and see starving children and know that we could have done something about that by sending them food or medicine.

☐ 1730

So, out of deference to the gentleman from Ohio [Mr. HALL] and others we created a new account called the child survival account, and in the child survival account we said to the administration, "You must take this money, and you must spend it on needy children throughout the world."

I say to the gentleman, I thought I was doing exactly what you wanted me to do.

Mr. Chairman, I am proud of the fact that this Congress and this committee has brought to this floor a measure that still reduces dramatically foreign aid, but at the same time prioritizes the use of what limited amounts of money we will have for child survival needs, and now I see the gentleman comes and says that, "You want to also increase the child survival account, increase it by taking away $126 million from the Development Assistance Fund, $68 million from the Asian Development Fund, and $17 million from the Economic Support Fund to do something for basic education for adults."

The child survival program was intended, and is intended, and is in my bill because I was concerned, and I thought the gentleman was just as concerned about children of the world and need immunization, who need basic foods, we need a survival capacity that the United States of America can deliver in the form of food and medicine, and now we are saying that we also want the child survival account to educate adults in some countries.

I think that we do need to help educate some adults in other countries. I think we need to help educate some adults in this country. But I do not think that we ought to violate the child survival account by now including a mishmash of things by saying that we ought to also take money from other accounts, put it in my child survival account, and start educating people through basic adult education.

I say to my colleague, If you wanted to do that, I think that you should have come with an amendment, not put it in the child survival account, not even renamed the child survival account. I don't think you should have done that, but that's the gentleman's prerogative, but I would assure you, by, first of all, taking away from the Asian Development Fund, you are costing thousands of possible exporting job situations here in the United States because the Asian Development Fund is utilized to make things better for people and to give them a monetary possibility to develop the underdeveloped countries of Asia.

So, as my colleague knows, he has got me almost lost because when he came to my office there was nothing, there was no assurance, that the United States would do exactly what he has been wanting to do ever since the day I first met him, and that is to provide a capability to feed starving children and to provide immunizations, and now he is coming and saying, "Let's expand the child survival account. Let's also put this itinerary here where we are going to increase the possibility of America spending money to educate adults in foreign countries."

Mr. Chairman, the American people do not want that. I do not want it in my bill. That is not the intent of the section that I included. My intent was to make absolutely certain that we would prioritize what limited amounts of money we are going to have available in 1996 for child survival, not adult education.

So, I strongly oppose the amendment, and I would ask my colleagues to recognize the purpose of the child survival section in my bill, and that is child survival.

Mr. HALL of Ohio. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. Without objection the Chair recognizes the gentleman from Ohio for 5 minutes.

Mr. HALL of Ohio. Mr. Chairman, I appreciate everything the gentleman from Alabama [Mr. CALLAHAN] has said. He is a very distinguished gentleman. I have had a number of talks with him about this. He is very much of a gentleman, and I appreciate the kind of constraints that he is under. But I must tell my colleagues I can remember debating this bill when this bill was around $20 billion, and then $18 billion, and now it is at a little bit under $12 billion for foreign operations. We have cut this bill since 1985 by 40 percent, and it is interesting. I say to my colleagues: As you ask people in the country about the kinds of programs that I'm talking about, child survival activities, they believe in this. But it is also they did a poll in the United States, and they asked people what portion of the Federal budget should go to foreign aid, and most people thought that the portion of the Federal budget that went to foreign aid was around 18 percent. That was the average. Then they asked the American people, "What percentage do you think it should be?" The average guess was, the average what they thought was right, was 8 percent.

Well, the fact is that this is 1 percent actually of our total Federal budget. It is less than 1 percent of what we are talking about today.

I applaud what the gentleman has done in putting a parentheses around child survival activities. That is the only part I like about the bill because the other part in development assistance has been cut by 40 percent, aid to Africa has been cut by 34 percent, and there are a lot of programs in there that ought to be in there that are not in there. But the one good thing that I believe that the gentleman did is the parentheses, the special category for children, and what the gentleman said, we are going to put so much money in this for children, for child survival activities, basic nutrients, AIDS, UNICEF, immunization kinds of programs, ORT and et cetera.

The gentleman added seven categories. I added another one. I made 8, and I add basic education because the gentleman forgot to include that, and we have funded basic education for years here to teach mothers about nutrition, to teach mothers reading and writing, to teach mothers about breast feeding, and boiling water and those kinds of things that eventually not only bring down the populations through the studies we have, but increase the gross national product.

Mr. Chairman, we only have so much resources, and I am saying, and some of us are saying, that this is the best money that we spend overseas. It is spent on child survivor activities, women and children. We get more mileage out of this.

As I said in my opening statement, years ago 5 million children were dying. Because of our efforts, then it was 4 million, then it was 3 million. Now is down to 2 million. We made that goal, and we have something to look forward to. We could end it, and we end it by these programs, and that is why I am saying we only have so much money, we must prioritize.

I say, I say, put the money here.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I reluctantly rise in opposition to the amendment offered by my good friends, the gentleman from Ohio [Mr. HALL] and the gentleman from New York [Mr. HOUGHTON].

I must agree with the arguments made by the manager of the bill, the chairman of the subcommittee, Mr. CALLAHAN.

The amendment would cut the development assistance account by $14 million and the Economic Support Fund by $27 million as part of its effort to provide additional funds for the Child Survival and Disease Fund. In addition, it would cut the Asian Development Fund by $68 million.

The Economic Support Fund contains, apart from any funds intended for Israel and Egypt, only about $250 million for economic political support for the entire world. With these funds we provide assistance to Jordan, Lebanon, on the West Bank and in Gaza, to developing democracies in Africa, Asia, and in Latin America. When we passed H.R. 1561 less than 3 weeks ago, we made prudent cuts so that this program will be funded below last year's level and below the President's request.

But there must be a limit. We must provide the President with some assistance tool with which to attempt to shore up our friends. We would be going a long way toward tying the President's hands if we cut it by the nearly 10 percent contemplated by this amendment.

I think that the decision made by this House last week on the overall size of the combined development assistance account, which at that time included the Child Survival Fund, should likewise be upheld. Also, as a strong supporter of family planning programs, I urge a "no" vote.

Furthermore, the Appropriations Committee has looked at the subdivision of funds between the Child Survival Program, on the one hand, and the development assistance account, on the other, and made a recommendation to this House. They have also taken a hard look at the Asian Development Fund, and recommended support for it.

Mr. Chairman, we need to keep long-term development in mind, as well as the pressing needs of individuals who are in need of immediate assistance. The Appropriations Committee has made a reasonable decision, and I think we should not overturn it.

To further clarify, this amendment would transfer $14 million from the overall development assistance account to Child Survival. Simply put, it would mean that there would be fewer funds for family planning activities, among others, out of the development assistance account.

Accordingly, I urge my colleagues to oppose the Hall amendment.

Mr. WARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to speak in favor of the Houghton-Hall amendment, and I am glad to speak in favor of a bipartisan effort to make this bill better.

I have listened to the debate, and oftentimes we cannot say that in this body, that we have been in the room and we have listened to the debate, but I have had the opportunity, since coming over to participate in it, to listen from the beginning, and I heard the concerns, Mr. Chairman, expressed about the family planning money, and I, too, am very concerned about that.

I did make the effort and had the opportunity to talk to the sponsors of this amendment, to other Members who are deeply involved in this amendment and to professional staff, and have been assured by them that this will not cause a reduction in family planning spending because we should not cause a reduction in family planning spending, but by the same token we do need at the same time, we do need to increase spending on education through these programs. Only through education can we achieve true freedom around this world. Only through basic education and basic skills training, as the gentleman from Ohio [Mr. HALL] has spoken of, can we achieve true freedom for all citizens of this world because only through education do people have the opportunity to have more control over their lives, whether it is through family planning or through taking advantage of economic opportunities.

So, for those reasons, I speak in strong favor of the Hall-Houghton amendment and praise the sponsor for his work. I, too, have had the opportunity of being in the Third World, of seeing the conditions that bring rise to these needs, of seeing the conditions that can be helped.

As the sponsor of the amendment said, we have seen a decrease in infant mortality around the world. We need to continue that, and for that I applaud him and support the amendment.

Mrs. ROUKEMA. Mr. Chairman, I rise in strong support of the Hall/Houghton amendment and would like to particularly thank my good friend, the gentleman from Ohio for the tremendous work and commitment he has put into this and other child survival issues for so many years.

Having had the privilege of serving as the first vice chairman of the former Select Committee on Hunger, I had the honor of working with then-chairman Mickey Leland and his successor, Mr. HALL, to make important reforms in U.S. hunger policy and to make the public better aware of the plight of the hungry.

Although the Select Committee on Hunger which Mr. HALL chaired is gone, our obligation is not. As the wealthiest and most advanced nation in the world, the globe's last remaining superpower, we continue to have a moral responsibility to help alleviate the problems related to hunger.

The Hall-Houghton amendment moves us toward meeting that obligation. In essence, Mr. HALL would reprogram $109 million from the development assistance account to the child survival account to be used for basic education—primary and secondary schooling and adult literacy and skills training. By providing this level of education to children living in developing countries we are taking a critical step toward ensuring sustainable development is successful.

These programs are often carried out by NGO's [Non-Governmental Organizations] to teach children how to read and write and mothers the importance of cleanliness and hygiene.

In recent years, Members of the House have continued to recognize the importance of basic education as a means of advancing sustainable development throughout the world. By investing in basic skills, we are equipping impoverished children to become self-sufficient as they grow older while giving them a better understanding of how to utilize the resources around them so that their communities can prosper. Without a basic education, how can we expect developing communities receiving U.S. assistance to most effectively use the funds that we are providing and rise out of poverty?

The question arises: what do we in the United States get out of this proposal?

Simply put, basic education is an invaluable investment for us because it is a necessary tool for sustaining long-term development. In many respects, it should be viewed as critical seed money by which children, their families, their villages and eventually, whole economies become more independent and self-sufficient. Consequently, they will rely less on us for future aid.

Just as we recognize here in the United States the importance for every child to receive an education, so too must we recognize this need for impoverished developing nations throughout the world. And, because in many of these nations access to basic education is often not readily available, we must work to make it more available.

Throwing good money after bad if we fail to target this money in the most cost-effective way.

The other issue facing this amendment is the funding question. First, the Hall-Houghton amendment would transfer basic education from the development assistance account to the child survival account. This is necessary because basic education is an important component of child survival. If we lump it together with other development assistance such as population, environment, and economic growth programs, there is a real possibility that basic education programs will lose out to these larger and more popular programs and this could significantly impact our attempts to achieve substantial development.

Second, the amendment would transfer an additional $108 million from three other accounts to the child survival account to fund basic education. Let me repeat, the amendment is budget neutral and does not add funding to the bill but rather finds offsetting spending reductions to support this funding—a critical distinction between this and other amendments that might also be offered today.

This represents a proper order of priorities. Without basic education, we will limit efforts to achieve progress in sustainable development, and we will have less ability to make advances in agriculture, health, and other areas critical to economic and social progress. As populations continue to grow throughout the world, we must make sure that these communities at least receive the bare minimum of basic education so that they don't languish in hunger and poverty forever. Such a small contribution on our part will reap innumerable benefits in the future.

Once again, I would like to congratulate my two colleagues for their efforts on this issue and for bringing it to the attention of our other colleagues. I urge support for the Hall-Houghton amendment.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Ohio [Mr. HALL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HALL of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 263, noes 157, not voting 14, as follows:

[Roll No. 424]

AYES—263

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Ballenger
Barcia
Barrett (WI)
Bartlett
Becerra
Beilenson
Bentsen
Bevill
Bishop
Boehlert
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Canady
Cardin
Chabot
Chapman
Clay
Clayton
Clement
Clinger
Clyburn
Coburn
Coleman
Collins (IL)
Condit
Conyers
Costello
Coyne
Cramer
Crapo
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Doyle
Duncan
Durbin
Edwards
Ehrlich
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fields (LA)
Filner
Flake
Foglietta

Foley
Ford
Fowler
Frank (MA)
Franks (NJ)
Frisa
Frost
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Harman
Hastings (FL)
Hayes
Hefley
Hefner
Heineman
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
Kolbe
LaFalce
Largent
LaTourette
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
McCarthy
McCollum
McDade
McDermott
McHale
McHugh
McInnis
McKeon
McKinney
McNulty
Meek
Menendez
Miller (CA)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Nadler
Neal
Nethercutt
Neumann
Oberstar
Olver
Ortiz
Orton
Owens
Oxley
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pomeroy
Portman
Poshard
Pryce
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roemer
Ros-Lehtinen
Roukema
Roybal-Allard
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Scott
Seastrand
Sensenbrenner
Serrano
Shays
Sisisky
Skaggs
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Talent
Tanner
Tauzin
Taylor (MS)
Thomas
Thompson
Thornton
Thurman
Tiahrt
Towns
Traficant
Tucker
Upton
Vento
Visclosky
Volkmer
Waldholtz
Ward
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Williams
Wise
Wolf
Woolsey
Wyden
Wynn

NOES—157

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Barr
Barrett (NE)
Barton
Bass
Bateman
Bereuter
Berman
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Castle
Chambliss
Chenoweth
Christensen
Chrysler
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Cremeans
Cubin
Cunningham
Deal
DeLay
Dickey
Dooley
Doolittle
Dornan
Dreier
Dunn
Ehlers
Emerson
English
Everett
Ewing
Fawell
Fazio
Flanagan
Forbes
Fox
Franks (CT)
Frelinghuysen
Funderburk
Gallegly
Gekas
Gilman
Greenwood
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Herger
Hostettler
Istook
Johnson (CT)
Johnson, Sam
Kim
King
Kingston
Knollenberg
LaHood
Latham
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Matsui
McCrery
McIntosh
Meehan
Metcalf
Meyers
Mica
Miller (FL)
Mineta
Mink
Morella
Myers
Myrick
Ney
Norwood
Nussle
Obey
Packard
Parker
Paxon
Pickett
Pombo
Porter
Quillen
Rogers
Rohrabacher
Roth
Royce
Scarborough
Schumer
Shadegg
Shaw
Shuster
Skeen
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Tate
Taylor (NC)
Tejeda
Thornberry
Torkildsen
Torres
Velazquez
Vucanovich
Walker
Walsh
Wamp
Waters
Waxman
Weller
White
Whitfield
Wicker
Wilson
Young (AK)
Young (FL)
Zeliff

NOT VOTING—14

Camp
Collins (MI)
Fields (TX)
Furse
Gunderson
Lantos
Mfume
Moakley
Reynolds
Roberts
Rose
Torricelli
Yates
Zimmer

☐ 1804

Mr. KIM and Mr. DICKEY changed their vote from "aye" to "no."

Mr. FRANK of Massachusetts, Ms. ESHOO, Ms. ROYBAL-ALLARD, and Messrs. DIXON, CLINGER, HILLEARY, and HOEKSTRA, Mrs. SEASTRAND, and Messrs. DICKS, SMITH of Michigan, and FLAKE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MILLER OF FLORIDA

Mr. MILLER of Florida. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. Miller of Florida: Page 16, line 24, strike "$595,000,000" and insert "$565,000,000".

Mr. MILLER of Florida. Mr. Chairman, I am introducing this amendment along with my colleague, the gentlewoman from Miami, FL [Ms. ROS-LEHTINEN], to reduce funding for Russia and the newly independent states by $30 million. This amendment will reduce funding for Russia and the newly independent states by $30 million.

By passing this amendment, we can send a message to Moscow that Congress will not continue to support a government that disregards human rights at home and abroad. We need to let Russia know that its egregious behavior has not gone unnoticed. In Chechnya the Russian military has displayed a pattern of aggression that should not be ignored.

In Bosnia, Russia supports the Serbians who are engaged in brutal acts of ethnic cleansing. And even closer to home in Cuba, they have assisted Fidel Castro in maintaining his totalitarian reign over that nation.

While I commend the efforts of my colleagues on the Committee on Appropriations for introducing a bill that reduces foreign aid by more than 10 percent, I believe that we need to go further. In this era of fiscal austerity for which every American has sacrificed, we cannot continue to subsidize Russia's aggressive behavior.

This amendment will provide a warning to Russia to alter their policies or face further sanctions. We have got to let them know the United States will not stand for it, Congress will not stand for it, and the American taxpayer will not stand for it.

Mr. CALLAHAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I understand and I sympathize with the concern of the gentleman from Florida and the other members of the Florida delegation about the possibility of an unsafe nuclear reactor.

Mr. Chairman, I understand the concern of the Florida delegation and the gentleman from Florida with his amendment of reducing aid to the independent states of the former Soviet Union.

However, his amendment, in my opinion, does not do what he seeks to do, and that is limit the ability of Russia to provide some type of capability to the Castro government in Cuba to help them with a nuclear reactor. No one in this body that I know of supports helping give Castro any ability to participate with Russia or any other country, Iran or any other country, to help them build a nuclear reactor, but the gentleman's amendment does not address that. The gentleman's amendment is just a symbol of what he is trying to do.

The amendment does not address specifically what he wants to address, and that is whether or not Russia will be diminished in the event that they furnish aid, some type of assistance to Cuba. We do not have special account aid, first of all, in this bill for Russia. So there is no money to cut. And even if we did have, it does not do that. It simply says that we are going to take away money from the independent states, from the various independent states of the former Soviet Union. So what you are doing is, you are penalizing the Ukraine and Armenia and other areas of the independent states by your amendment because you simply just reduce the amount of money that we had provided for the former independent states.

So if you are going to address this issue, I think it should be more properly addressed in the Menendez amendment, which has been put in order by the Committee on Rules and will answer that question directly yes or no. But to just go ahead and reduce aid to the independent states to send someone a message, number one, it does not ensure that the balance of the money will not be used by Russia or any of the independent states. They can take what is left, if they want to build a nuclear reactor in Cuba. So I think your amendment misses the point.

And while I respect what you are trying to do and your colleagues in Florida are trying to do, I hope you recognize that your amendment is not doing that. It is simply reducing aid to the independent states. There is nothing in there to say that the reduced aid cannot be spent in Cuba. And while I do not support any of it being spent in Cuba, I think that your amendment really does not truly address the question.

If you want to reduce aid to Russia, we will reduce aid to Russia, but there is no provision in this bill that gives any aid to Russia anyway. So I recognize what the gentleman is saying. I sympathize with the problem. I will do everything I can to absolutely send whatever message to whatever country, whether it be a newly independent state or any other country in the world, that we do not want this to take place on our shores. I just do not think that the amendment actually satisfies what the gentleman is trying to do because there is nothing to preclude them from doing it, if we are going to give them aid anyway.

□ 1815

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take a back seat to no one in the desire to save money on foreign assistance. During the years that I chaired the subcommittee, the foreign aid bill for the United States was reduced from $18 billion to $13 billion. I defy anyone to show me any other appropriation bill which was cut more deeply.

I have in my possession, in fact I prize them, three letters from previous administrations, the Reagan Administration and the Bush Administration, each telling me that they were planning to veto my bill because we did not spend enough money, so I take a back seat to no one in my desire to see the taxpayers' money is spent judiciously in this area.

However, there is a price for participation effective participation in the world. When we do not pay that price, we often pay a far higher price. If Members question that, all they have to do is to take a look at what happened to the world when the West essentially ignored what was happening in the Weimar Republic after World War I in Germany. A fellow by the name of Hitler came to power because he exploited the fact we did nothing to ease the economic collapse in that country, and only 50 million people died, including a good many Americans, so there is a price for participation in the world. I would much rather it be financial than human.

Mr. Chairman, I think it is a mistake to cut aid to the Soviet Union, or the former Soviet Union, below the amount in the administration's request. I in fact think it is a mistake to pass this amendment. Aid to the former Soviet Union has already been reduced by 27 percent below last year's level. This cuts another $30 million.

Mr. Chairman, I would point out that two-thirds of this cut will not be applied to Russia. It will be applied to other former republics, such as Armenia, Ukraine, countries that we would like very much to see maintain as much independence as possible. This amendment is going to make it more difficult for them to sustain that independence.

I would also suggest this cut is going to hurt the very people we are trying to help in Russia itself, the reformers who want to see a market-based economic system, and who want to see a democratic political system.

I understand that this amendment is being offered by members of the Florida delegation because they are unhappy about the fact that Cuba began in 1983 (before the Communists fell from power in Russia) they began the construction of a nuclear power plant, financed partially by the former Soviet Union.

However, I would point out that all Russian aid stopped in 1992, when Russia demanded hard currency payments from Cuba. I would point out that the only subsidy from Russia since that time was a $30 million credit to mothball the plant, not to build it, but to mothball the plant. We want that plant mothballed!

Mr. Chairman, I would also make the point that the press has reported that the Cubans would seek Western backers for that plant, but in fact the Wall Street Journal contacted the companies allegedly involved and they denied any concrete intention to proceed. So it seems to me shortsighted to deny $30 million aid to former Soviet Republics because they provided $30 million to put the nuclear plant in mothballs. It seems to me that is exactly what we want. No sane person, Russian or American, want to see that plant built.

Therefore, it seems to me if we want to effectively oppose the construction of any nuclear plant in Cuba that is not to our liking, what in fact we ought to be doing is to promote the political causes of the factions within Russia who are most opposed to that, and other idiotic actions that some of the other factions would like to take.

Mr. Chairman, I know it is very easy to come into this well and say "Let us cut foreign aid." As I say, we have cut it billions of dollars over the past few years. However, there are times when a specific cut can be the wrong thing from the standpoint of American interests, and this is such a time.

AMENDMENT OFFERED BY MR. WILSON AS A SUBSTITUTE TO THE AMENDMENT OFFERED BY MR. MILLER OF FLORIDA

Mr. WILSON. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

> Amendment offered by Mr. WILSON as a substitute for the amendment offered by Mr. MILLER of Florida: on page 16, line 24, delete $595,000,000 and insert $580,000,000.

Mr. WILSON. Mr. Chairman, this substitute merely reduces the amount of the cut from $30 million to $15 million. Mr. Chairman, I would ask the gentlewoman, is this acceptable?

Ms. ROS-LEHTINEN. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield to the gentlewoman from Florida.

Ms. ROS-LEHTINEN. Mr. Chairman, I would ask the gentleman, is this then a $15 million cut from the same budget item on the appropriations bill? It was the 595, and the gentleman cut 15.

Mr. WILSON. Mr. Chairman, I would say to the gentlewoman, yes.

Ms. ROS-LEHTINEN. If the gentleman will continue to yield, Mr. Chairman, I would ask, would the legislative language be clear in our debate? We have tried to make sure that it is understood that our intent is that Russia is the target of this.

I realize that the way that the bill is drafted, and purposely and quite deliberately, it is drafted in a way that it has to be taken out of Russia and all the newly independent states. Would the gentleman agree that the target in this would be Russia, and of course, it is not up to us to determine this, I understand, in this bill?

Mr. WILSON. Mr. Chairman, I do not think I can do this because of the way this is drafted. It has to come from all of the newly independent states.

Ms. ROS-LEHTINEN. If the gentleman will continue to yield, that would be a determination?

Mr. WILSON. We could discuss the language with the managers. I am unable to make that commitment at this point.

Ms. ROS-LEHTINEN. Mr. Chairman, if I could further ask the gentleman to yield, that would be an acceptable cut, $15 million, from my perspective. I am a cosponsor with my colleague, the gentleman from Florida [Mr. MILLER], if we could ask him for his response on this.

Mr. MILLER of Florida. Mr. Chairman, will the gentleman yield?

Mr. WILSON. I yield to the gentleman from Florida.

Mr. MILLER of Florida. Mr. Chairman, I would find that acceptable, and I would support the gentleman's amendment to my amendment.

AMENDMENT OFFERED BY MR. HEFLEY TO THE AMENDMENT OFFERED BY MR. WILSON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. MILLER OF FLORIDA

Mr. HEFLEY. Mr. Chairman, I offer an amendment as a substitute for the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. HEFLEY as a substitute for the amendment offered by Mr. WILSON as a substitute for the amendment offered by Mr. MILLER of Florida: strike "$580,000,000" and insert "$296,800,000".

POINT OF ORDER

Mr. LIVINGSTON. I have a point of order, Mr. Chairman.

The CHAIRMAN. The gentleman will state his point of order.

Mr. LIVINGSTON. Mr. Chairman, is an amendment to the amendment to the amendment in order? Is that an amendment in the third degree?

The CHAIRMAN. The amendment to the amendment offered as a substitute is not in the third degree and is in order.

The gentleman from Colorado [Mr. HEFLEY] is recognized for 5 minutes.

Mr. HEFLEY. Mr. Chairman, I rise to offer an amendment to the substitute which cut the appropriations to the former Soviet Union from $595 million to $296.8 million. For those who have been talking about how the $30 million cut is too drastic, it is going to seem very, very drastic.

The way we arrived at these figures is to look at last year's. It is a little difficult to get at, because it is difficult in the bill to know exactly where these dollars are going to go. However, the way we arrived at it was to look at the expenditures last year, and some of the programs that we thought were foolish expenditures, and subtract from that.

Mr. Chairman, I commend the gentleman from Alabama [Mr. CALLAHAN], for his efforts in putting together a bill that is significantly better than the foreign operations bills of the past. The gentleman has worked hard to focus American taxpayer dollars on regions that will most benefit from U.S. assistance, and prioritize them according to our own national security interests.

The former Soviet Union is such a region. I agree with the committee's views that no relationship is more important to the long-term security of the United States than the strategic relationship with the former Soviet Union. If reform fails in the former Soviet Union, the potential of nuclear confrontation will increase greatly.

If I believe this to be true, how could I stand here and promote slashing U.S. aid to the newly independent states? Let me tell the Members why, because much of the aid we have given, and that which we will give again this year, has been a total waste, I think, of taxpayer dollars.

When we think of the aid to the former Soviet Union, most of us think of humanitarian aid, or aid to promote free market, or we think of strengthening democracy there. However, when we think of aid to the former Soviet Union, do we envision Planned Parenthood of Northern New England? That is right, Planned Parenthood of Northern New England has received over $200,000 of these tax dollars to develop a Center for the Formation of Sexual Culture in Russia. I do not know about the Members, but that is not high on my list of aid to the Soviet Union priorities.

Mr. Chairman, we give money intended to implement structural changes in Russia, but instead some of this money went to the Center of Love and Support, a program to teach employees in Russian hospitals a good bedside manner. I wonder how many Russian children could have been immunized with the $200,000 that was spent on that?

What bothers me most and should bother all of us, I think, is the amount of money we are wasting in the so-called aid to the Soviet Union. Billions of the dollars we expended in the past has not been wisely spent, much of it because between 50 percent and 90 percent of the money in these aid packages has not reached the pockets of a single pro-democracy, pro-market, proreform foreign citizen.

Instead, this money found its way into the pockets of consultants and beltway bandits, and the going rate for a Western consultant to the former Soviet Union is about $800 a day, and a lot of them are collecting on that rate.

My constituents are outraged, and I think the gentleman's are, too. I encourage my colleagues to support this amendment to cut aid to the former Soviet Union. This amendment is intended to zero out many programs which are simply so inefficiently administered as to render them useless, or are programs we do not need to be involved in, or are programs we simply do not have good accountability on. We do not know where the money has gone, and we do not know whether it is being spent well or not.

Mr. Chairman, I would encourage support of this amendment.

Mr. WILSON. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, this is a massive, massive, massive cut. This would absolutely wreck the entire program that the United States has built up. It would not only cause great hardship in Russia and certainly put the brakes on all the efforts toward privatization there, but it would wreck the programs in the Ukraine, it would wreck the programs in Armenia, it would wreck the programs in Georgia, and in my opinion, it would completely diminish any ability that the United States has to affect any events that take place in the former Soviet Union or in Russia itself.

Mr. Chairman, I am surprised at the amendment offered by the gentleman from Colorado [Mr. HEFLEY] because of the drastic nature of it. It is a train wreck. It will destroy any possibility of any sort of bipartisan cooperation in passing this bill on the floor. I do not have to tell the Members what the State Department or what the administration feels.

Mr. Chairman, often during times when Democrats ran the House and Senate and Republicans ran the White House, which has usually been the situation since I have been in Congress, I used to always have to remind my Democratic colleagues when they had amendments like this that would absolutely wreck administration programs that we ought to be a little careful and a little moderate, because some day we might have the White House.

I would like to remind my friends in the majority that they ought to be a little careful and a little moderate, because some day they might have the White House and we might be back in the majority, and then they will have to talk to us about this.

However, this amendment is drastic, it is extreme, it is an sleuth show-stopper, and Mr. Chairman, I would urge, urge, urge my colleagues to vote "no".

Mr. LIVINGSTON. Mr. Chairman, I move to strike the last word.

□ 1830

Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to this amendment.

Mr. Chairman, if this amendment were adopted, frankly, it would knock out a key component of a declining foreign aid budget. It would affect more than Russia. It would affect Armenia, Ukraine, and all of the independent states that we are trying to assist in achieving their independence from Russia. It would, frankly, just destroy our foreign policy with respect to New Independent states of the former Soviet Union. I think that is ill-advised. I just hope that the Members will vote against it.

There is reason to be concerned about Russia, for example, their hard tactics against Chechnya, but a cease fire is in place and there are mediating talks between the Russian government and the Chechnyan separatists going on now.

The Gore-Chernomyrdin Commission is meeting this week to review the proposed sale of Russian nuclear reactors to Iran, to ensure that no militarily useful components are provided to Iran.

With regard to NATO expansion into Eastern Europe, Russia has now joined NATO's Partnership for peace program.

Russia is fully supportive of U.N. talks to end the conflict in Tajikistan. Russia has signed a framework agreement for the withdrawal of its 14th Army in Moldova.

Russia has recently reached important agreements with Ukraine on division of the Black Sea Fleet and basing of the fleet. It is reportedly moving to settle a conflict that Georgia faces with separatists in the region of Abkhazia.

It has agreed that any peacekeeping force in Azerbaijan will fall under OSCE supervision. It is moving towards parliamentary elections this December and presidential elections next June in Russia alone.

It has withdrawn its troops from the Baltic States, and it is ending its targeting of nuclear weapons on the United States. The days of the costly and dangerous cold war confrontation are hopefully over for good.

The best way to turn that around is just to turn our back on Russia and say, "All your progress over these last few years is all nice, but we're just going to walk away from you. Whatever happens to you, just go ahead, reassert your nationalistic, militaristic point of view on your neighbors, and we're going to save our money."

I would say it is going to cost us a heck of a lot more money changing this around when all hell breaks loose in that part of the world. This amendment is just not wise.

I want to take this opportunity to say that I know that the gentleman from Alabama [Mr. CALLAHAN] and the gentleman from Texas [Mr. WILSON] have worked with the members of this subcommittee long, hard hours, with the staff, to confect this bill. I know that it is the objective of the majority to allow as much of an open rule as possible, and allow all Members to come forward to the well of the House and offer their amendments.

We have over 70 amendments to this bill. If we want to engage in the committee process, if it makes any sense whatsoever to try to develop some expertise and some coherent foreign policy, then I hope that the Members would have some reliance on the committee process and let it do its work.

But if we want to just write all legislation on the floor of the House, fine. We will just forget the committee process. Let's just do all of the business on the floor of the House, but be prepared to work to midnight from now until Christmas, and let's forget about weekends.

This has just gone a little bit too far. This bill is a good bill, it is a balanced bill, and this amendment destroys the balance and neglects the role and the objectives of the United States in maintaining peace in the world. It is ill-advised. It should be rejected.

Mr. CALLAHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I also rise in opposition to the Hefley amendment. My colleagues, I do not think there has been anyone in this House who was more opposed to the program that the administration brought to this Congress in 1994 where the President had committed some $2.1 billion to the independent states of the former Soviet Union. I rose and spoke against part of that aid to Russia, although I was certainly interested in seeing democracy prevail there, but I never rose in support of cutting off moneys to the Ukraine or Armenia or any of the other independent states.

Mr. Chairman, no one to my knowledge, including me, rose to say they were against aid to Ukraine. No one rose and said we ought not to give money to Armenia or to Georgia, because we want those countries to survive, and we want them to understand democracy, and we want the administration to have the ability to go to the independent states.

We are not talking about Russia as much as we are the Ukraine and the other independent states. There is nothing in my bill that earmarks any money for Russia. As a matter of fact, there is language in my bill that says before they can spend any money in Russia, they have to come back to the committees to get permission to do it, that we can sign off on.

No one has been stronger in vocal opposition to aid to Russia for silly things like building houses for the retired military officers in Russia than I have. I have been the only one that stood on this floor, to my knowledge, and said anything about it. I did not hear the gentleman from Colorado or anybody else coming up and saying we ought to not give aid to Ukraine or Georgia or Armenia, and I did not say it.

We have come from $2.1 billion. Last year we gave them $842 million. This is not Russia. This is all of the independent states. The President came this year, and he said, "Gentlemen, I need $788 million," and I was the one who said we do not have that kind of money, we are going to have to cut the independent states just like we are cutting everybody else.

The committee reduced it to $595 million, one-quarter of what we gave them just 2 years ago. Now along comes the gentleman from Florida, and he recommends another $30 million, and now the gentleman from Texas has worked out seemingly a compromise to reduce that to only $15 million, which I am going to support.

But if we are going to tell Armenia, if we are going to tell Georgia, if we are going to tell the Ukraine, if we are going to tell anybody that we are not going to support the democratization and the ability of this administration to assist them to establish these democracies, well, then, maybe we ought to cut it all out. Maybe that would be the way to go. If you want to build a wall around America and say we are not going to participate in this type of international activity, build a wall up. Let's do it that way.

But to come in and to say that we are going to cut $296.8 million and take it away from those countries who deserve our help and who we want to support, and we don't want to create another cold war, we don't want to give them encouragement to begin redeveloping a military, we want to assist them where they will not become reunited again, which is what your amendment is going to force, I think, ultimately them to do, is to say, "Look, we thought the United States would help us, we thought the other G–7 nations would help us, but now they're turning their backs on us."

Mr. Chairman, I strongly oppose the gentleman's substitute amendment. I urge Members to vote against the Hefley amendment. I urge Members to vote for the Wilson substitute, and if the Wilson substitute passes, I would encourage Members to then vote for the Miller amendment as substituted by the gentleman from Texas [Mr. WILSON].

Mr. HEFLEY. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Colorado.

Mr. HEFLEY. I thank the gentleman from Alabama [Mr. CALLAHAN] for yielding. I have great respect for your judgment in this. You are certainly more knowledgeable than I am.

It is not just the Ukraine that is getting this money. Booz, Allen & Hamilton is getting this money. Paine Webber is getting this money. Ernst & Young is getting this money.

Some of you speak as if I am cutting the whole thing out. We still have $300 million in here. You say we have come down a great deal, and we certainly have since we started doing this, but is this something, do we take them to raise forever?

Is this something that is going to go on and on forever or are we going to see the day when we are not putting any money into the former Soviet Union?

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think we need to put in perspective what we are being asked to do here.

We have an awful lot of self-styled foreign policy experts, starting with people like Henry Kissinger himself and going right on down, who are saying that we ought to extend our NATO guarantees virtually to the Russian border.

I ask Members, how many people really believe that the American people would support the idea that the United States ought to make a security commitment to defend all of eastern Europe, possibly even the Ukraine and some of the other countries in that region, much as we want to see those countries remain free?

In a public opinion poll, how many Americans do you think would vote for us to extend that security commitment with all of the dollars that it would cost to maintain that commitment and with all of the cost it might someday reach in human terms? I suspect the answer is not very many.

If you believe that, as I do, then it seems to me that what you need to do is to find a way to make sure, even though we only affect events on the margin in that region, to try to find a way to make sure that we never have to provide that kind of money and we never have to provide the use of American troops to defend those countries.

What is the best way to do that? Well, when the Iron Curtain collapsed, the Bush administration and the Congress on a bipartisan basis decided the best way to do that was to try to promote market reforms in the Soviet Union.

Secretary Baker came down to the committee and he said, "Look, fellows and gals," he said, "I know we're going to make some mistakes, but I beg you not to tie our hands. We don't know what opportunities are going to be presented to us, we don't know what choices are going to be presented to us. We ask you to just trust us to do our best in a situation we've never experienced before."

It seemed to this subcommittee at that time to be a good bet, because we had literally spent trillions of dollars to win the cold war, and we did win the cold war. Now we are faced with a Russian economy which is in shambles because of the stupidity associated with the Communist system. So we are trying to work our way through both political reform and economic reform, not just in Russia but in some of the former captive nations.

Now we are told that despite the fact that that rebuilding job has barely begun, that we ought to take this bill and reduce aid to the former Soviet Union by two-thirds from last year. As the gentleman who chairs the subcommittee has indicated, that is an almost three-quarters reduction from just 2 years ago.

Mr. Chairman, I submit that what we are spending today is pennies in comparison to what we will have to spend if events go the wrong way in Russia and the Ukraine and in other countries in that region.

You betcha there have been mistakes. I have great respect for the gentleman from Colorado [Mr. HEFLEY], but I can give him some other examples of mistakes. I recall just a couple of years ago when there was an op-ed piece in the Washington Post attacking me because I withheld funds for the Enterprise Funds in that region because they were insisting on paying salaries of $400,000 a year. And our committee held up that whole operation for 4 months until they blew that arrangement away.

You have been told by the subcommittee chairman that not a dime is going to be able to be spent in Russia until they bring the way they intend to spend it back to the committee so we can make a judgment about it. That is going a far piece, to make certain that to the best of our ability in the legislative as opposed to administrative body, that we can help prevent the executive branch from making further mistakes.

I do not like the fact that a single dime was wasted. But the fact is I think that it was perfectly understandable for the previous administrations to say, "look, we've got to try everything. Undoubtedly we will make some mistakes, but we're going to experiment. We hope you bear with us." I think it was reasonable for them to ask us that. I think it is reasonable for the Clinton administration to ask that we give them reasonable flexibility in dealing with all of the problems in that region. I would respectfully suggest that we would be cutting off our nose to spite our face and damaging our own economic and political and national interest if we make this kind of reduction. I urge Members not to do this.

□ 1845

Mr. DUNCAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Speaker, I will not take the full 5 minutes, but I rise in strong support of the amendment offered by the gentleman from Colorado [Mr. HEFLEY]. I think it is a very fair and reasonable amendment. I rise in support of this amendment not as any criticism of the gentleman from Alabama, because I think that he has done everything within his power to make this bill as fair to everyone as possible and to cut it as low as possible, but the last speaker mentioned that he thinks that a public opinion poll would show that very few people would support an extension of NATO. I would say to you that I think a very small percentage, a very few of the American citizens, an overwhelming majority of the American citizens would not support us even spending $300 million in aid to the States of the former Soviet Union, and that is, of course, the amount that would be left to do in the amendment offered by the gentleman from Colorado.

We should have no reason to feel guilty about that figure of $300 million, because we have sent billions over there just the last few years. In fact, 4 years ago Leslie Gelb, the foreign affairs editor of the New York Times, estimated that the combined Western aid to the former States of the Soviet Union had totaled $60 billion, most of it coming from the United States.

Two years ago this Congress voted to send $12 billion to the States of the former Soviet Union through the International Monetary Fund and the World Bank. Then in addition to that the gentleman from Alabama [Mr. CALLAHAN] mentioned a few moments ago that 2 years ago we sent $2.1 billion in direct aid to the States of the former Soviet Union. I think it was $830 million last year. If we reduced it to $300 million this year we would still have done many times more than any other country in this entire world.

As the gentleman from Colorado [Mr. HEFLEY] has mentioned, much of this money, most of this money, is going to overpriced, overpaid consultants. He got this figure of $800 a day for a typical consultant from a story which ran in the Wall Street Journal last year, and that story ran under a headline, quote, "U.S. Aid is Quite a Windfall for U.S. Consultants," and some consultants are receiving as much as 90 percent of certain aid contracts.

And listen to this. The article said that there is, "dancing in the streets" by consultants but hardly any of the money is getting through to the average Russian. The story reported criticism because of waste and meager results. That same story quoted one expert as saying that, "The aid benefits Russians minimally, if at all," and that he expects "a scandal down the road that is going to upset the taxpayers."

A few years ago, 3 or 4 years ago, Henry Kissinger wrote an article for the Washington Post that said unfortunately most of our aid to Russia is going down a black hole. We need to stop pouring money down that black hole.

Our first obligation is to the U.S. taxpayers. We are still almost $5 trillion in debt. We are still losing almost a billion dollars a day. We are spending money that we do not have; $300 million in aid to the States of the former Soviet union is plenty.

I urge support for this amendment offered by the gentleman from Colorado [Mr. HEFLEY].

Mr. ROEMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise with a great deal of sympathy for the intent of the amendment offered by the gentleman from Colorado [Mr. HEFLEY].

I think that it is appropriate that Congress act on the floor of the House of Representatives with respect to sending a message to Russia. But I think that the gentleman's amendment is probably for method, for money, and for message the wrong place to send this message to the Russian people. Let me explain what I mean.

First of all, I would oppose the gentleman's amendment because of the method. I will offer an amendment under title V which will place a limitation on moneys to Russia. It will not get into the moneys that would go to the newly independent states. We do not want to punish under this amendment, even though we are saying this is intended for Russia, it is the account for the newly independent states as well. So it is not the appropriate method to achieve the message that we want to send to Russia.

Second, the money. Certainly, as we send the hundreds of millions of dollars to the Russian people, some of the programs, very effective, very efficient, are working to achieve what we hope that the Russian people achieve, and that is a transition to a free enterprise system and democracy.

Some of the money that we are sending is under the Nunn-Lugar money, which is trying to achieve peace and stability, and I support that money. Some of the money is sent from our NASA account to buy the Russian participation in the space station. I object to that money.

But certainly we should have a voice when we send hundreds of millions of dollars over there. I think that is what the gentleman from Florida [Mr. MILLER] and the gentleman from Colorado [Mr. HEFLEY] are saying, but we do not want to devastate our relationship with the Russian people at such a delicate and precarious time. I think to send the message that we are going to cut $296 million out of aid to the Russian people is simply too much at this delicate, precarious time.

I think more in terms of a limitation only to Russia, directed at Russia, and specifically limiting it by $30 million; a $30 million cut, as I would propose under title V, would be more appropriate.

Last, I think, Mr. Chairman, it is very appropriate for us to send a message to Mr. Yeltsin and the Russian people that they must stop immediately this war in Chechnya. This is in our direct interest to do. It is in our direct interest because the Russians have just recently acquired a $6.2 billion loan from the IMF. We are the largest guarantor of those loans through the IMF. We have a great deal at stake in the Russian transformation to a free enterprise system and a democracy, and the Russian people, the Russian Government are spending about $2 billion in pursuing this war in Chechnya.

Now, this is morally and ethically a tragic war that is taking away from the efforts to transform their economy and their government. So I think it is appropriate for us to send a message to them. I would hope that the gentleman from Colorado would join on title V where we can directly limit the aid to Russia rather than get at some of the newly independent states' moneys.

I think it is very appropriate for the United States Congress to say to the Russians and to Mr. Yeltsin: "This war has got to stop. It is hurting you in the West. It is hurting you in the world. It is hurting your people. It is hurting people. It is hurting peace. It is an immoral war, and it must stop."

That is a good message for the people of the United States to send to the people of Russia and to Mr. Yeltsin.

Mr. WELDON of Pennsylvania. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the entire 5 minutes, but I do rise in opposition to the amendment offered by the gentleman from Colorado [Mr. HEFLEY], my good friend, and in support of the compromise offered by the gentleman from Texas [Mr. WILSON] and modified by the gentleman from Florida [Mr. MILLER] and the gentlewoman from Florida [Ms. ROS-LEHTINEN].

Mr. Chairman, 2 weeks ago I was on the floor of the House perhaps leading the fight on increasing funds for missile defense and for putting some limitations on Nunn-Lugar money so that we could get some cooperation from the Russians on their chemical and biological weapons.

But, Mr. Chairman, this amendment I think sends a totally wrong signal. It is important for us, I think, to let the Russian military know that we are going to deal with them from a position of strength and that we are going to take what steps we have to take to protect our people.

But it is equally important for us to send a signal to the Russian people, and the citizens of Armenia and Azerbaijan and Turkmenistan and Uzbekistan and Tadzhikistan, and all those other former Soviet republics, that we are going to work with them to help them move away from a military-industrial economy, move toward a free market system.

That is what this money does, Mr. Chairman. I think that this amendment sends the wrong signal. Let us look at some of the specific programs that have benefited from this funding. I will just give some examples of ones that I have been working with.

Our good friend, the gentleman from Texas [Mr. LAUGHLIN] and I for the last 2½ years have cochaired the Former Soviet Union-American Energy Caucus. We have worked with the 16 largest energy corporations in the world, most of them American corporations, to develop energy initiatives inside the former Soviet republics. The assistance from programs like those funded today made possible the single largest energy deal in the world.

The Sakhalin project deal was just concluded this past year. It will see $10 billion of western investment that will allow Mobil and Marathon Corp. to work with the Russians in developing what we think is one of the world's largest energy resources.

That will directly benefit this country, private sector money, western capital, and help stabilize the Russian economy.

The same thing is happening right now in the Caspian Sea where we are working with a group that wants to develop a project and a pipeline that may help us bring together the Armenians and the Azeris in a way that will allow them to see economic benefits from a project developing energy resources in the Caspian Sea.

Why are these projects so important? The alternative for the Russian people, and those people of the other former Soviet republics, is to sell off their nuclear technology; that is unacceptable to us. To sell off their conventional arms to raise capital; that is unacceptable to us. We have seen them do it with the submarine sales to Iran with the efforts to sell off their technology.

Therefore, we must work in a positive way to develop joint economic opportunities and to help the Russians realize their full economic potential. Just last year a delegation of the Members of this Congress, bipartisan, went over to Murmansk, and we came back and worked with the Trade Development Administration. We have heard criticism about consultants.

The Trade Development Administration awarded a $300,000 grant to the MacKinnon Searle Group of Virginia to begin the study of the conversion of the largest shipyard in St. Petersburg. The Baltic shipyards in St. Petersburg is where the Russians built the Kirov-class warships, where they have potential to build nuclear warships, 8,500 workers.

Money that will be cut in this amendment was used to begin the process of converting that shipyard to an environmental remediation center where instead of building warships, those 8,500 workers can help dismantle old Russian warships and deal with PCB's and lead-based paints and the other problems inherent in naval warships.

In addition, we have seen from the funding that would be cut in this amendment the development of an Biznet program. And I urge my colleagues to do down to the Department of Commerce and see the tremendous strides made in working to encourage American businesses to do joint ventures in Russia and the other republics.

That is creating American jobs and American economic opportunity, but it is having a direct positive impact on the Russian economy and the economy of the other republics.

Mr. Chairman, I am as concerned about what is happening in Chechnya as any of my colleagues in this body. But, Mr. Chairman, I think this amendment sends the wrong signal. I think we have to be aggressive with the Russian Government, as we did on the defense bill. But I think we also have to show that we want to be supportive; we want to nurture the free enterprise developments that are occurring there; we want to encourage the kind of positive economic opportunities that are developing throughout the former Soviet states today.

So I would urge my colleagues, despite my friendship with the gentleman from Colorado [Mr. HEFLEY], to oppose this amendment and to support the efforts of the gentleman from Texas [Mr. WILSON] and also the gentleman from

Florida [Mr. MILLER] in this amending process.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Hefley amendment and in support of the Wilson substitute, I know that it is fun to come down to the floor and do a lot of cutting. I used to do it a lot on my own. And I hope Members heard the gentleman from Pennsylvania's excellent presentation on being responsible when you do the cutting.

Mr. Chairman, the committee has been responsible. The committee has made deep cuts in aid to the former Soviet Union. But the Hefley amendment goes way too far and seriously undermines our ability to work with Russia and the independent states, as the gentleman from Pennsylvania [Mr. WELDON] has so eloquently outlined.

Two-thirds of the money that is left in this bill, after having cut it to $193 million less than the request, and $248 million less than last year, two-thirds of this money does not go to Russia.

The Hefley amendment cuts aid to Ukraine, Armenia, and other victims of the former Communist state. We need to continue our support for an independent Ukraine. We need this money to keep Armenia alive. It will seriously undercut the remaining free marketeers and reformers in Russia.

□ 1900

It is not responsible, from this Member's point of view, to make the kind of cuts that the gentleman from Colorado [Mr. HEFLEY] envisions cutting. He has made some good arguments, and they are arguments that we need to address, but this is not the way to address it.

The way to address it is look at what the committee has done and seriously sending a message to Russia by cutting from the request and cutting from last year.

But there are real, legitimate concerns that the committee has. We are sending a message with the Wilson substitute, a very real message that if Russia does not clean up their act, there will be consequences from this body. But when you come to the rubber hitting the road, you have to ask yourself, are we cutting for cutting sake or are we cutting to make responsible decisions?

I think the Hefley amendment cuts too deep. I would urge our Members to vote against Hefley amendment and support the Wilson substitute.

Mr. WILSON. Mr. Chairman, I move to strike the requisite number of words.

I will not take the full 5 minutes. I would like to echo what the gentleman from Wisconsin [Mr. OBEY] said about what I consider to be the very dangerous idea of expanding NATO into countries the American people probably have not too much interest in defending and that can make no contribution on their own. I do not think the United States really and truly wants to extend our nuclear umbrella to the borders of Russia.

I would like to remind the members that we are talking about, in the great scheme of things, we are talking about a very minuscule amount of money. The most successful foreign policy initiative that the United States has ever enjoyed was the Marshall Plan. The Marshall Plan saved Europe from communism. We even extended the Marshall Plan to Germany, to our great enemy in World War II. But, again, it saved democracy. It kept Europe from becoming communist. It kept Europe from coming behind the Iron Curtain. It was done in a great bipartisan manner. It was not popular with the American people. It was an enormous amount of money, particularly compared to what we are doing today.

I suggest that this modest investment in the newly independent states is in the same spirit as the Marshall Plan was.

Finally, I would like to underline one more time that two-thirds of this money, two-thirds of this cut, are going to cut the hearts out of the programs that we have in the Ukraine, that we have in Armenia, that we have in Georgia and that we have in other countries which I not only cannot spell but I cannot pronounce.

Finally, finally, finally, I would like to remind the House that we are talking here about a couple hundred million dollars. But I would also remind the House that since the Berlin Wall came down, since the great changes occurred in the Soviet Union and since the disintegration of the Soviet Union, that we have saved probably today, this year, our defense budget is probably $200 billion less than it would be if we were still facing a highly nationalistic Soviet Union. So I think, by any measure, by any measure, that the Hefley amendment should be defeated.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Colorado [Mr. HEFLEY] to the amendment offered by the gentleman from Texas [Mr. WILSON] as a substitute for the amendment offered by the gentleman from Florida [Mr. MILLER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. HEFLEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2 of rule XXIII, the Chair will reduce to a minimum of 5 minutes the time for a recorded vote, if ordered, on the Wilson substitute and then on the original Miller amendment, if there is no intervening business or debate following the 15-minute vote.

The vote was taken by electronic device, and there were—ayes 104, noes 320, not voting 10, as follows:

[Roll No. 425]

AYES—104

Allard
Baker (LA)
Barcia
Barton
Bilirakis
Brewster
Bryant (TN)
Bunning
Burton
Canady
Chapman
Chenoweth
Christensen
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cunningham
Danner
DeFazio
Doolittle
Duncan
Ensign
Everett
Fields (LA)
Funderburk
Geren
Goodlatte
Green
Gutknecht
Hall (TX)
Hancock
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hilleary
Hoekstra
Inglis
Jacobs
Johnson, Sam
Jones
Kaptur
Kim
Kingston
Klug
Kolbe
Largent
Lewis (KY)
Lincoln
Longley
Manzullo
McInnis
McKeon
McKinney
Metcalf
Mica
Myrick
Neumann
Ney
Norwood
Pastor
Peterson (MN)
Petri
Pombo
Quillen
Ramstad
Rogers
Rohrabacher
Roukema
Royce
Salmon
Sanford
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shuster
Skelton
Smith (MI)
Smith (WA)
Solomon
Souder
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Traficant
Wamp
Watts (OK)
Weller
Whitfield
Young (FL)

NOES—320

Abercrombie
Ackerman
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baldacci
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TX)
Bunn
Burr
Buyer
Callahan
Calvert
Cardin
Castle
Chabot
Chambliss
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coleman
Collins (IL)
Conyers
Costello
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Davis
de la Garza
Deal
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Evans
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodling
Gordon
Goss
Graham
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastert
Hastings (FL)
Hefner
Heineman
Hilliard
Hinchey
Hobson
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Istook
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.

Johnston
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
King
Kleczka
Klink
Knollenberg
LaFalce
LaHood
Lantos
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McIntosh
McNulty
Meehan
Meek
Menendez
Meyers
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Nadler
Neal
Nethercutt
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Radanovich
Rahall
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Ros-Lehtinen
Rose
Roth
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schiff
Schroeder
Schumer
Scott
Serrano
Shaw
Shays
Sisisky
Skaggs
Skeen
Slaughter
Smith (NJ)
Smith (TX)
Spence
Spratt
Stark
Stokes
Studds
Stupak
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Towns
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Ward
Waters
Watt (NC)
Waxman
Weldon (FL)
Weldon (PA)
White
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Zeliff

NOT VOTING—10

Camp
Collins (MI)
Furse
Gunderson
Mfume
Moakley
Reynolds
Torricelli
Yates
Zimmer

□ 1924

Mr. RUSH and Mr. VOLKMER changed their vote from "aye" to "no."

Messrs. KIM, LEWIS of Kentucky, METCALF, WHITFIELD, and GOODLATTE, Mrs. CHENOWETH, and Messrs. BURTON of Indiana, DOOLITTLE, EVERETT, BARTON of Texas, and INGLIS of South Carolina changed their vote from "no" to "aye."

So the amendment to the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. WILSON] as a substitute for the amendment offered by the gentleman from Florida [Mr. MILLER].

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. MILLER], as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MS. JACKSON-LEE

Ms. JACKSON-LEE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. JACKSON-LEE: Page 19, line 16, strike "$10,000,000" and insert in lieu thereof "$11,500,000".

Mr. CALLAHAN. Mr. Chairman, I reserve a point of order against the amendment.

Ms. JACKSON-LEE. Mr. Chairman, first let me applaud the work that has been done by the mutual chairperson/ranking member.

□ 1930

A parable has been heard by many of us that says if you give a man a fish, he will ask for another fish tomorrow. But if you teach him how to fish, then he will be independent and be able to make a way for himself in years to come.

I rise today to offer an amendment to H.R. 1868, which would increase the funding for the African Development Foundation in the fiscal year 1996 from $10 to $11.5 million. This is a modest increase, Mr. Chairman, but it will help the African Development Foundation to continue its important work in 20 African countries.

Established in 1980, the African Development Foundation is a progressive organization that delivers funds directly to self-help organizations in economically undeveloped countries in Africa. Since no funds are channeled through any foreign government, the ADF avoids any bureaucratic patterns in dispensing funds.

This organization has been instrumental in expanding ties and developing good will among the citizens of the United States and the citizens of many African countries. I understand that every Federal program and every agency is now under extensive review under this concept of responding to the Federal budget deficit. However, I would simply say in keeping in mind about teaching a man or woman to fish, and helping to feed hungry children and improving the development opportunities in developing nations, that this amendment needs and deserves consideration. I would ask my colleagues to consider it, because it adds to the funding to help impact the real lives of people in our developing nations.

I would simply say, Mr. Chairman, that I hope we are able to come to a reasoned response and compromise for the African Development Foundation which will be strengthened by these additional dollars of $1.5 million. It will help strengthen the economies, enhance the number of people that can benefit from the grants awarded to agricultural cooperatives, youth groups and self-help organizations.

These groups have been effective stewards of the grants that range from 20,000 to 250,000. That is the most important part of ADF. It provides small amounts of money that are leveraged into large amounts of activity and success. My amendment is important to the African Development Foundation and to the people of Africa and to millions of Americans who support adequate development assistance.

Again, it reinforces the point, Mr. Chairman, that if you give a man a fish, or a woman, they will ask for another fish tomorrow. But teach them to fish, and they will maintain that opportunity for development for years to come.

I ask my colleagues to support this modest amendment to make a statement for enhancing opportunity for our African countries and their self-help organizations.

The CHAIRMAN. Does the gentleman from Alabama seek recognition on his point of order?

Mr. CALLAHAN. Mr. Chairman, I would like to withdraw my point of order and accept the gentlewoman's amendment.

Mr. WILSON. Mr. Chairman, there is no objection to the amendment on this side.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas [Ms. JACKSON-LEE].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title II?

The Clerk will designate title III.

The text of title III is as follows:

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541 of the Foreign Assistance Act of 1961, $39,000,000: *Provided*, That up to $100,000 of the funds appropriated under this heading may be made available for grant financed military education and training for any high income country on the condition that that country agrees to fund form its own resources the transportation cost and living allowances of its students: *Provided further*, That the civilian personnel for whom military education and training may be provided under this heading may also include members of national legislatures who are responsible for the oversight and management of the military, and may also include individuals who are not members of a government: *Provided further*, That none of the funds appropriated under this heading shall be available for Zaire: *Provided further*, That funds appropriated under this heading for grant financed military education and training for Indonesia and Guatemala may only be available for expanded military education and training.

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $3,211,279,000: *Provided*, That funds appropriated by this paragraph that are made available for Israel and Egypt shall be made available only as grants: *Provided further*, That the funds appropriated by this paragraph that are made available for Israel shall be disbursed within thirty days of enactment of this Act or by October 31, 1995, whichever is later: *Provided further*, That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced weapons systems, of which not to exceed $475,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further*, That funds made available under this paragraph shall be nonrepayable notwithstanding any requirement in section 23 of the Arms Export Control Act: *Provided further*, That none of the funds made available under this heading shall be available for any non-NATO country participating in the Partnership for Peace Program except through the regular notification procedures of the Committees on Appropriations.

For the cost, as defined in section 502 of the Congressional Budget Act of 1974, of direct loans authorized by section 23 of the Arms Export Control Act as follows: cost of direct loans, $64,400,000: *Provided*, That these funds are available to subsidize gross obligations for the principal amount of direct loans of not to exceed $544,000,000: *Provided further*, That the rate of interest charged on such loans shall be not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturities: *Provided further*, That funds appropriated under this heading shall be made available for Greece and Turkey only on a loan basis, and the principal amount of direct loans for each country shall not exceed $224,000,000 for Greece and shall not exceed $320,000,000 for Turkey.

None of the funds made available under this heading shall be available to finance the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the Arms Export Control Act unless the foreign country proposing to make such procurements has first signed an agreement with the United States Government specifying the conditions under which such procurements may be financed with such funds: *Provided*, That all country and funding level increases in allocations shall be submitted through the regular notification procedures of section 515 of this Act: *Provided further*, That funds made available under this heading shall be obligated upon apportionment in accordance with paragraph (5)(C) of title 31, United States Code, section 1501(a): *Provided further*, That none of the funds appropriated under this heading shall be available for Zaire, Sudan, Peru, Liberia, and Guatemala: *Provided further*, That none of the funds appropriated or otherwise made available for use under this heading may be made available for Colombia or Bolivia until the Secretary of State certifies that such funds will be used by such country primarily for counternarcotics activities: *Provided further*, That funds made available under this heading may be used, notwithstanding any other provision of law, for demining activities, and may include activities implemented through nongovernmental and international organizations: *Provided further*, That not more than $100,000,000 of the funds made available under this heading shall be available for use in financing the procurement of defense articles, defense services, or design and construction services that are not sold by the United States Government under the arms Export Control Act to countries other than Israel and Egypt: *Provided further*, That only those countries for which assistance was justified for the "Foreign Military Sales Financing Program" in the fiscal year 1989 congressional presentation for security assistance programs may utilize funds made available under this heading for procurement of defense articles, defense services or design and construction services that are not sold by the United States Government under the Arms Export Control Act: *Provided further*, That, subject to the regular notification procedures of the Committees on Appropriations, funds made available under this heading for the cost of direct loans may also be used to supplement the funds available under this heading for grants, and funds made available under this heading for grants may also be used to supplement the funds available under this heading for the cost of direct loans: *Provided further*, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further*, That the Department of Defense shall conduct during the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further*, That not more than $24,000,000 of the funds appropriated under this heading may be obligated for necessary expenses, including the purchase of passenger motor vehicles for replacement only for use outside of the United States, for the general costs of administering military assistance and sales: *Provided further*, That not more than $355,000,000 of funds realized pursuant to section 21(e)(1)(A) of the Arms Export Control Act may be obligated for expenses incurred by the Department of Defense during fiscal year 1996 pursuant to section 43(b) of the Arms Export Control Act, except that this limitation may be exceeded only through the regular notification procedures of the Committees on Appropriations.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551 of the Foreign Assistance Act of 1961, $68,300,000.

The CHAIRMAN. Are there amendments to title III?

AMENDMENT OFFERED BY MRS. LOWEY

Mrs. LOWEY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mrs. LOWEY: Page 23, line 19, insert "or Indonesia" after "Zaire".

Page 23, line 21, strike "Indonesia and".

Mr. CALLAHAN. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Alabama reserves a point of order.

Mrs. LOWEY. Mr. Chairman, I rise today to correct a critical flaw in the bill before us. In 1992, we voted to end all international military education and training assistance for Indonesia because of that country's abysmal human rights record and their continued oppression of the people of East Timor.

Regrettably, this bill reinstates IMET funding for Indonesia, which has shown no significant improvement in its human rights record since the IMET ban was imposed. In fact, the State Department's own human rights report notes that there have been only cosmetic changes in East Timor.

Violent crackdowns on peaceful demonstrations in East Timor continue. First, innocent protestors are massacred and then the military rounds up and jails the witnesses so that the world will never know what happens. Is this the type of oppression we want to be rewarding with U.S. assistance? I don't think so.

The State Department report goes on: "Extrajudicial arrests and detention, torture of those in custody, and excessively violent techniques for dealing with suspected troublemakers continued" throughout Indonesia. "The Armed Forces continued to be responsible for the most serious human rights abuses."

In November 1991, in the city of Dili, the Indonesian military slaughtered 200 people in full view of news cameras. Sixty-five people are still unaccounted for, and yet the Indonesian Government does not apologize for these killings. On the contrary, the regional commander of East Timor, Gen. Herman Mantiri, said: "We don't regret anything. What happened was quite proper. They were opposing us."

Mr. Chairman, Indonesia's policy in East Timor is about the oppression of people who oppose Indonesia's right to torture, kill, and repress the people of East Timor. It is about the 200,000 Timorese who were slaughtered by the Indonesian military when they invaded in 1975. Two-hundred thousand killed out of a total population of 700,000. It is about genocide.

The language in this bill is the first step toward releasing pressure on the Indonesian Government to clean up its act. Without passage of this amendment, we will continue to support a government that laughs in the face of the human rights principles that we hold dear.

We, in Congress, made the right decision in 1992 when we cut off all IMET funding to Indonesia. But we must not go backward now. I urge my colleagues to support this amendment and send a message to Indonesia that we will not tolerate the oppression of the Timorese people.

The CHAIRMAN. Does the gentleman from Alabama [Mr. CALLAHAN] seek recognition on his point of order?

Mr. CALLAHAN. Mr. Chairman, I continue to reserve my point of order

Mr. WOLF. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I am really sorry this amendment has to be offered. I would have hoped that the Indonesian Government would have learned, and this is an opportunity I think to send a message to them. The amendment offered by the gentlewoman from New York [Mrs. LOWEY] is a good amendment. The Indonesian military should not be rewarded for their conduct with the American IMET dollars. Congress and the American people value human rights and dignity, and we should not be timid about conveying that message to countries that do not share our basic concerns. We should be prepared to use bills like this to send that message.

Mr. Chairman, the State Department's country reports on Human Rights Practices for 1994 reports, "The Indonesian Government continued to commit serious human rights abuses and in some areas, notably freedom of expression, it became markedly more oppressive, departing from a long-term trend toward greater openness. The most serious abuses included the continuing inability of the people to change their government and harsh repression in East Timor."

I would tell the Members of the body, if they could have seen the film and talked to the men and women that were there, what the Indonesian army did to these people was brutal, absolute persecution of the Catholic Church. The Congress should be concerned with these issues, and I strongly urge the Members of the body to support this amendment. Hopefully this will send a message to Indonesia, where by next year things will be good and this will not be a problem.

Mr. CALLAHAN. Mr. Chairman, I continue to reserve my point of order.

Mr. ANDREWS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from New York [Mrs. LOWEY]. I think she makes a persuasive and compelling case. The ongoing violation of human rights in Indonesia is unsustainable in a moral way, and certainly not supportable in a budgetary way.

It is my understanding that shortly the Chair will be asked to rule on a point of order with respect to legislating on an appropriations bill. Let me just make this comment: Presumably the Chair will consider whether the proper time to offer the Lowey amendment would have been during the authorization bill. During the authorization bill, we labored under a rule that ate up a considerable amount of time on some very important amendments, that ate up a long, long time of debate. There were dozens and dozens of amendments like this one that could have been offered that were not heard during that debate.

Now, it seems to me that this kind of consideration of process puts the Members of this House in a Catch-22 situation. You cannot legislate on an appropriations bill by attaching conditions to spending like this. That is our rule. And then you are supposed to pursue it in an authorization bill. But when the authorization bills come up, we have unduly restricted rules that cut off debate in an arbitrary time and never permit this kind of thing to come up.

The real shame, Mr. Chairman, the real shame that is being raised by Mrs. LOWEY's amendment, is that such a meritorious and critical debate will never really happen and never really get a vote because of the way the rules of the House are being manipulated. I think that is a shame.

Mr. CALLAHAN. Mr. Chairman, I continue to reserve my point of order.

Mr. REED. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this amendment and commend the gentlewoman from New York [Mrs. LOWEY], and the gentleman from Virginia [Mr. WOLF], for their leadership in proposing this amendment. Indeed, I attempted to offer a similar amendment to H.R. 1561, the Foreign Aid Authorization bill, but as my colleague from New Jersey explained, because of this construction of the rule, I was effectively prevented from doing this.

In 1992, my former colleague from Rhode Island, Mr. Machtley, offered successfully an amendment to cut training for funding for the training of Indonesia military in response to flagrant abuses of human rights in East Timor. When Congress cut this money, it send two strong messages: First, to the Government of Indonesia that the U.S. will not tolerate any more human rights abuses by the military in East Timor, and, second, to the East Timorese, who were finally given hope that someone had listened to their call for help and provided them a voice in the face of oppression.

Today we are debating a bill which effectively restores this money. That might be appropriate if the conditions in East Timor had improved, but in fact they have not.

I would like to emphasize that this amendment is not about the efficacy of American military training and the value of exposing foreign military personnel to our professional military instruction. No, this is about sending a strong signal concerning the abuse of human rights in East Timor.

In June and July of last year, Indonesian troops committed acts of sacrilege against the East Timorese church and clergy. The courts are still sentencing people to long prison terms for speaking to journalists or sending information critical of the government. On January 12 of this year, Indonesian soldiers killed six men outside Dili. These six civilians were shot in retaliation for a guerrilla attack the day before, but sources present indicate that the six were never involved in the attack.

At a joint hearing before the International Relations Subcommittee on Asia and the Pacific and International Operations and Human Rights on March 16, the Director of the Human Rights Watch stated, "In East Timor, violations of fundamental rights have been especially severe, and have worsened dramatically since the APEC summit meeting in Djakarta last November."

When we are cutting aid to Africa and are cutting many, many worthy programs, it seems incongruous we would be giving money in the face of these human rights abuses.

I would urge my colleagues to accept the amendment offered by the gentlewoman from New York [Mrs. LOWEY]. I would urge them to send a strong signal to the Government of Indonesia that we will not tolerate further human rights abuses in East Timor.

A headline in the New York Times in November of last year stated, "Timorese worry world will now forget them." Mr. Chairman, I urge my colleagues not to forget them, to stick to the precedent we have now established. We have taken a stand. We can make a difference. Mr. Chairman, I urge my colleagues to support the Lowey-Wolf amendment.

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Mr. CALLAHAN. Mr. Chairman, I reserve my point of order on the amendment.

Mr. KENNEDY of Rhode Island. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise as a supporter and a true believer in the International Military Education and Training program. But I am compelled, like my colleagues who have just spoken, by the overwhelming evidence to support this amendment offered by the gentlewoman from New York [Mrs. LOWEY], and the gentleman from Virginia [Mr. WOLF].

This is a good program, but this is the wrong time and the wrong place for IMET. For 3 years, Congress has denied IMET to Indonesia. A careful look at the record shows that this is no time to shift this policy. When Congress, at the urging of my predecessor, Ron Machtley, revoked Indonesian participation in IMET, a clear and unmistakable message was sent. We will no longer tolerate an intolerable situation. The human rights abuses in East Timor must end. Simply put, the abuses have not ended. IMET should not be restored.

This amendment is most appropriate, considering recent assessments of human rights conditions in Indonesia. To quote from the State Department's 1994 human rights report,

> The Indonesian government continued to commit serious human rights abuses and in some areas, notably freedom of expression, it became markedly more repressive. The most serious abuse included the continuing inability of the people to change their government and harsh repression of the East Timorese dissidents. Restoring IMET at this time

would run counter to these findings and would undermine the moral force of these findings.

We have in Indonesia a situation where the benefits of IMET would be lost. The corruption is too deep. The violence is too extreme. And the repression is too severe for us to hold any hope that it can be tempered through education and training. IMET is designed to support democracy and military professionalism, and we cannot support what does not already exist.

U.S. aid cannot fill this vacuum. IMET is a powerful and effective tool. It must be used in the right way at the right time. This is not the time. Only through continued pressure will we be able to have the opportunity for an improvement in East Timor. Now is not the time for the United States to send conflicting messages on this issue.

Mr. Chairman, I urge the adoption of the Lowey amendment, and I ask my colleagues to do the same.

Mr. CALLAHAN. Mr. Chairman, I reserve my point of order on the amendment.

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Lowey-Kennedy amendment and urge our colleagues to support them. First, before speaking about that amendment, I want to commend our chairman, the gentleman from Alabama [Mr. CALLAHAN], and the chairman of the full committee, the gentleman from Louisiana [Mr. LIVINGSTON], as well as our ranking members, the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Texas [Mr. WILSON], for their leadership in bringing this very strong bipartisan bill to the floor.

As a member of the subcommittee, I want to personally thank Mr. CALLAHAN for his exceptional leadership his first time out with this bill. He has consulted individually and personally with members of the subcommittee, listened to our concerns and did the best that he could do under the circumstances of our very limited allocation. That allocation was limited not because our chairman of the full committee, Mr. LIVINGSTON, did not work hard to get us a better allocation but just the realities of the budget resolution.

It is in that spirit of bipartisanship and admiration for our chairman that I hope that we can pass this not perfect but best possible bill we could get on the floor today. I hope when we do pass it today or tomorrow that it will have the Lowey-Kennedy language in it.

To get to the point about Indonesia, because I know time is of the essence, it is a close call on the enhanced and expanded IMET. Many of us have had some very serious concerns about how IMET funds have been used throughout the world. And in some countries, it underwrites the brutality of authoritarian regimes with U.S. taxpayers' dollars. The expanded IMET is supposed to be used to teach human rights training, democratic institutions, the role of a military in a democratic society. And it would be hoped that that is what these purposes would be in Indonesia. And I commend the gentlewoman from New York [Mrs. LOWEY] and the gentleman from Rhode Island [Mr. KENNEDY] for bringing this resolution to the floor because it focuses just on what expanded IMET is and why if we would continue to grant it, if we would grant it to Indonesia, why it should be used specifically for those purposes.

The concern of some of us is that funds sent to a country are fungible and if the regime happens to be authoritarian and a violator of human rights, then we are subsidizing that even with our good intentions.

Others today have talked about what the situation is in Indonesia in terms of human rights. I will say that I will join with some others in quoting the 1995 State Department human rights country report which calls Indonesia "strongly authoritarian" and notes that "it became markedly more repressive" during 1994 as the "government continues to commit serious human rights abuses."

Last December, a United Nations Special Rapporteur noted,

> the conditions that allowed the 1991 Santa Cruz killings to occur are still present. In particular, the members of the security forces responsible for the abuses have not been held accountable and continue to enjoy virtual impunity.

The Rapporteur "clearly sensed terror among many East Timorese he had the opportunity to meet." The situation has gotten worse during the first half of 1995.

That is all to say, Mr. Chairman, that I think that we should have the opportunity to discuss this issue. If the Chair has a point of order that we cannot pass it here today, at least we should be sending a message to the authoritarian regime in Indonesia that if they get this IMET, it is to be for enhanced, that is, training their troops in human rights and training their military in the proper role of the military in a democratic society.

With that, Mr. Chairman, I again commend our chairman, Mr. CALLAHAN, and the ranking member, Mr. WILSON, for their great leadership on this legislation.

Mr. CALLAHAN. Mr. Chairman, I move to strike the requisite number of words. Before pressing my point of order, I want to rise in opposition to the amendment and speak to it just briefly.

I do rise in opposition to the amendment of the gentlewoman from New York, although I know she is offering it because it is based upon her own strongly held convictions as well as the other speakers who have spoken tonight. I appreciate the strong concerns of the gentleman from Virginia and the gentlewoman from California, the gentleman from Rhode Island. But as the gentlewoman from New York knows, under our bill, Indonesia will not be eligible for IMET training.

Under H.R. 1868, Indonesia will only be able to receive human rights training under the expanded IMET training, as it is called. Expanded IMET is specifically designed to help improve human rights practices of the military. This is exactly the kind of program I think the gentlewoman from New York should be supporting.

Furthermore, I would note that the House Committee on International Relations has already recommended expanding IMET for Indonesia, and included it in the authorization bill passed by the full House on June 8.

Also I note that because of the concern of the gentlewoman from New York, the committee report requires that all candidates for expanded IMET be carefully screened to make certain they have not been involved in past human rights abuses. I would hope under those circumstances that the gentlewoman would reconsider offering her amendment in light of the committee's action on this very important amendment.

Mrs. LOWEY. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentlewoman from New York.

Mrs. LOWEY. Mr. Chairman, before I do, I want to thank the gentleman again and commend him for his outstanding leadership of this committee.

It has really been a privilege for me to work with the gentleman. He has been open. He has worked in a bipartisan way. He has approached each issue in a very thoughtful manner. I want to thank the gentleman, again, and the ranking member, the gentleman from Texas [Mr. WILSON].

In response to the gentleman's request, I do want to ask unanimous consent to withdraw the amendment. Mr. Chairman, we will be watching expanded IMET for Indonesia over the next year. And if the human rights records does not improve, we will work to cut off all IMET funding next year.

Mrs. LOWEY. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

The CHAIRMAN. Are there other amendments to title III?

If not, the Clerk will designate title IV.

The text of title IV is as follows:

TITLE IV—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock for the General Capital Increase, $23,009,000, to remain available until expended.

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States contribution to the Global Environment Facility (GEF), $50,000,000, to remain available until September 30, 1997.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $743,900,000.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $575,000,000, for the United States contribution to the tenth replenishment, to remain available until expended.

CONTRIBUTION TO THE INTER-AMERICAN DEVELOPMENT BANK

For payment to the Inter-American Development Bank by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increase in capital stock, $25,950,000.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Inter-American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $1,523,000,000.

CONTRIBUTION TO THE ASIAN DEVELOPMENT BANK

For payment to the Asian Development Bank by the Secretary of the Treasury for the United States share of the paid-in portion of the increase in capital stock, $13,200,000, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the Asian Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $647,000,000.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $167,960,000, to remain available until expended.

CONTRIBUTION TO THE EUROPEAN BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the European Bank for Reconstruction and Development by the Secretary of the Treasury, $69,180,000, for the United States share of the paid-in share portion of the initial capital subscription, to remain available until expended: *Provided*, That of the amount appropriated under this heading not more than $54,600,000 may be expended for the purchase of such stock in fiscal year 1996.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the European Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $161,400,000.

NORTH AMERICAN DEVELOPMENT BANK

For payment to the North American Development Bank by the Secretary of the Treasury, for the United States share of the paid-in portion of the capital stock, $56,250,000, to remain available until expended.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the North American Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of the capital stock of the North American Development Bank in an amount not to exceed $318,750,000.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of section 301 of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1973, $155,000,000: *Provided*, That none of the funds appropriated under this heading shall be made available for the United Nations Fund for Science and Technology: *Provided further*, That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency: *Provided further*, That none of the funds appropriated under this heading that are made available to the United Nations Population Fund (UNFPA) shall be made available for activities in the People's Republic of China: *Provided further*, That not more than $25,000,000 of the funds appropriated under this heading may be made available to the UNFPA: *Provided further*, That not more than one-half of this amount may be provided to UNFPA before March 1, 1996, and that no later than February 15, 1996, the Secretary of State shall submit a report to the Committees on Appropriations indicating the amount UNFPA is budgeting for the People's Republic of China in 1996: *Provided further*, That any amount UNFPA plans to spend in the People's Republic of China in 1996 about $7,000,000, shall be deducted from the amount of funds provided to UNFPA after March 1, 1996 pursuant to the previous provisos: *Provided further*, That with respect to any funds appropriated under this heading that are made available to UNFPA, UNFPA shall be required to maintain such funds in a separate account and not commingle them with any other funds: *Provided further*, That up to $13,000,000 may be made available to the Korean Peninsula Energy Development Organization (KEDO) for administrative expenses and heavy fuel oil costs associated with the Framework Agreement: *Provided further*, That additional funds may be made available to KEDO subject to the regular notification procedures of the Committees on Appropriations.

The CHAIRMAN. Are there amendments to title IV?

AMENDMENT OFFERED BY MR. DE LAY

Mr. DELAY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. DELAY: Page 29, line 1, strike "$50,000,000" and insert "0".

Mr. DELAY. Mr. Chairman, the amendment I am offering today with my colleague, the gentleman from Arizona, eliminates funding for the Global Environment Facility or the GEF.

The GEF was created in 1991 to pay cash to Third World governments to stop local people from escaping poverty through development that could harm the environment at some point in the future—a difficult concept to grasp when you consider that the everyday concerns of these countries are not about climate change but survival, clean drinking water and reduced food spoilage.

In 1992, the GEF was made the funding mechanism to help poor countries finance projects in compliance with the environmental conventions agreed to at the Rio summit dealing with such scientifically questionable—yet trendy—environmental "calamities" such as global warming and biodiversity loss.

I say to my colleagues that what this program really is, is a global giveaway for poor countries—it gives developing countries a refund for the economic restrictions imposed on them in the UN "biodiversity" and "climate change" conventions. This program is flawed because its fundamental design is wrong.

A scathing report on the GEF's activities—called for after loud complaints from environmental groups and donor countries to the GEF—basically found that the GEF's operations are "dysfunctional" and its accountability is ill-defined.

The report found that the fundamental purpose of the GEF, that being dedicating funds to climate change, biodiversity, international waters, and ozone depletion is "rather obscure in nature."

The GEF has also been severely criticized as a "green" slush fund for the World Bank. On this, the independent report concluded that the World Bank controls the lion's share of the GEF's resources and that is fundamentally using GEF as a device to make its own regular projects look "greener" and to mitigate criticism alleging World Bank insensitivity to environmental concerns.

Take a look at how the GEF is actually performing its obscure role: you'll find that it has done more to upset the environmental and social balances in developing countries than to clean things up. As of last year, over half of the GEF's projects had provoked clashes over forced resettlement of displaced local people.

The report concluded that the premise of the GEF's mandate—putting emphasis on global environmental problems over local ones—is a "serious weakness." The GEF claimed it was reforming these abuses by including locals in the decision-making process but the independent GEF report called this claim a "biased exaggeration, if not falsification."

The independent review led to a restructuring process that was supposedly completed in March of 1994. And my colleagues who support this institution will probably argue that the GEF has made progress since this report. But I submit to my colleagues that such assertions serve little more than the political purposes of those who seek the "environmental" cover of the GEF.

According to Probe International, a Canadian environmental group that has monitored the GEF for four years, "The restructured GEF remains as flawed as its predecessor and, as a closer examination of some of its projects shows, does nothing to protect the global environment."

Despite such obvious reasons to be extremely concerned with sending taxpayer dollars to this operation, the Administration pledged last March to send a total of $430 million to the GEF over four years—the largest amount of any donor nation.

In FY95, the U.S. gave the GEF another $90 million. This year's request from the Administration is a completely unsupportable $110 million. You would think that the Administration believes the GEF has been an unheralded success.

I commend the chairman of the Foreign Operations subcommittee for recognizing the extremely questionable activities of this project and reducing the funding for the GEF to $50 million in this bill. But, I submit to my colleagues that the GEF is a fundamentally flawed and unaccountable organization and certainly not an area where this Congress should be allocating scarce tax-dollars.

Not only does eliminating funding for the GEF make sense and save the taxpayers hundreds of millions of tax dollars, but it will also have the effect of slowing the implementation of global environmental policies that do more to restrict economic opportunity in poor countries than to promote environmental conservation.

The only responsible move for this Congress is to put a halt to the millions of taxpayer dollars we send to this flawed institution. I urge my colleagues to support this effort.

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Mr. CALLAHAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, to rise in opposition to the gentleman's amendment is certainly a first for me, because we have voted 99 percent of the time together since we first came to this House 10 years ago.

However, during the process of the responsibility I assumed on this subcommittee as its chairman, I think it became very, very important that we recognize that this subcommittee has a responsibility to this country and to the world. If we are going to be a participant in the world of international affairs, we are going to have to recognize that global environment has to be a part of that. In trying to put together the bill, we did assemble a bill that was very fragile. Each side compromised. I gave a little, the minority gave a little. We let everyone have as much input as we possibly could.

Mr. Chairman, as the gentleman from Texas [Mr. DELAY], will recognize, we cut the facility from $110 million to $50 million. I thought that was a compromise. I cannot, as eloquently as some who may follow me, stand up and defend the GEF. I can defend the fragile agreement that we have, the agreement that I put together that says if we will create child survival funds, if we will place our priorities on child survival, if we will reduce the level of overall spending, then I would compromise and go along with this request, provided they let me cut it from $110 million down to $50 million.

Therefore, I commend the gentleman for the message that he gave, but I reluctantly rise in opposition to his amendment.

Ms. PELOSI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. It is with great reluctance and in admiration for the maker that I rise to oppose his amendment to strike the additional funds over and above the funds the committee has already struck from the GEF.

Mr. Chairman, I think it is important for our colleagues to know, and many are very familiar and have worked on the Global Environmental Facility, otherwise known as GEF, that it is a multilateral fund dedicated to the preservation of the global environment. It funds projects that help developing countries deal with environmental problems that affect all countries, including the United States.

Indeed, we have heard over and over again that environmental degradation and air pollution and water pollution know no boundaries. Effects of development, such as loss of the forest and wild species, ozone depletion, and pollution of international waters, are obviously not limited to the country where they occur.

Mr. Chairman, the Bush and Clinton administrations both supported the GEF because meeting these threats is so important. Projects funded by the GEF help prevent the loss of forests and threatened plant and animal species. They help prevent pollution of international waters, threatening fish species on which the world depends.

Mr. Chairman, it is interesting to note what other countries are contributing to the GEF, because this is an international effort, not just one funded by the U.S. Other donors' pledges are related to ours in a burden-sharing arrangement. For example, Japan recently increased GEF funding over a 4-year period to $500 million, substantially more than the United States even before the recent reduction. Germany will give $240 million over the same period. Further reducing GEF funding risks unraveling the GEF, and with it our efforts to bring developing countries into the global effort to safeguard our environment.

Mr. Chairman, the GEF operates the three implementing agencies. Our colleague has pointed out some concerns that he had about the way the GEF has functioned, but I think he is aware, and if not, I am pleased to inform him that the governance of the GEF has been changed substantially since criticisms were lodged against it. The structure and governance of GEF have been criticized in the past, it is true.

In response to an independent evaluation of the GEF pilot phase, which ended in December 1993, the GEF has been completely overhauled and restructured. Under U.S. leadership, a fully independent GEF Secretariat has been set up in Washington under the leadership of a U.S. citizen. A GEF council consisting of major donors, including the United States and developing countries' constituencies, is meeting four times annually to review project proposals, set policy, check implementing agency performance, and overall GEF effectiveness.

I go into this detail, Mr. Chairman, to point out that the overall governance of the GEF has been overhauled, very specifically. A comprehensive project monitoring system has been created. In addition, the GEF Secretariat consults biannually, and I think this is very important, because it gives transparency and public participation to it, to a wide range of environmental and indigenous groups.

Project development has been streamlined. There is strong U.S. economic interest involved as well. U.S. industries and consumers who have a substantial interest in conservation of biological and genetic diversity, with its myriad commercial application in production of food, fiber, and medicine, support the GEF. One fourth of all pharmaceutical prescriptions in this country contain active ingredients derived from plants, many of which exist only in tropical forest areas whose biodiversity values are facing rapid destruction.

By catalyzing technological advances in developing countries, the GEF helps expand export markets for U.S. firms. The GEF's international waters portfolio has potential to prevent marine pollution and to conserve some of the most economically and ecologically valuable species.

In conclusion, Mr. Chairman, I would like to just sum up and say whether it is for environmental reasons or economic reasons, or population reasons in terms of avoiding the problem of environmental refugees that could result if we do not stop some of the degradation that is happening in our environment, the GEF is a very good investment.

Mr. Chairman, our chairman, the gentleman from Alabama [Mr. CALLAHAN], under his leadership, the GEF was cut substantially, in recognition of the budget and fiscal realities that we had to face. However, the value that he placed on it I think is one that is appropriate in these tough fiscal times, and I would hope that the membership of this body would support the chairman's mark and reject the amendment proposed by the gentleman from Texas [Mr. DELAY].

Mr. SHADEGG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the amendment. It is with great respect, Mr. Chairman, that I rise to oppose the chairman of the subcommittee, the gentleman from Alabama [Mr. CALLAHAN], and with great respect for the proponent of this amendment, the gentleman from Texas [Mr. DELAY].

The truth is, as the gentleman from Alabama [Mr. CALLAHAN] said, we do have a responsibility to the global environment. As my colleague from the other side said, indeed, the Global Environment Facility may in fact be dedicated to preservation of the environment, but the simple truth is it is an unabashed failure. It has not done what it proposed to do.

Mr. Chairman, as a member of the Committee on the Budget, I rise to say enough is enough. We must have the strength to say no to continuing to fund bad programs, even if they are dedicated to worthy causes.

Last month the national debt of the United States grew by over $1 billion per day. We simply cannot continue to leave that legacy to our children. We cannot leave it in the name of failed programs like the Global Environment Facility. Let me explain why I call it a failure, and why I call upon my colleagues to support the amendment offered by the gentleman from Texas [Mr. DELAY] and to oppose any amendments which simply reduce its funding.

Mr. Chairman, I hold before me a report prepared by an organization called Probe International, out of Toronto, Canada. Its title is "The World Bank's Persisting Failure to Reform." It was written by John Thibodeau, and it is dated May, 1995. It documents in its first section that the Global Environment Facility remains dysfunctional.

It says, and I quote, "The review" of this program "was as scathing in its evaluation" as possible, "revealing an organization that was fundamentally flawed and unaccountable. The review found that the reason for the existence of the Global Environment Facility was obscure, "that its operations were dysfunctional and its accountability ill-defined; that the concept of incremental costs was a serious weakness."

It concluded with the following words, and this is an independent review: "No further funds to new projects or programs should be made until such time as strategies, policies, concentration areas, priorities, criteria" have been put in place. That is the conclusion of this report.

Let me tell the Members why. Is it in fact protecting the environment? It is not. Its record is fundamentally flawed. The report talks about "The Tana River Primate Reserve in Kenya, a $6.2 million project to protect two Endangered Species Act of monkeys."

However, as my colleague pointed out, it is a failed proposal. It is a proposal to resettle 50,000 farmers of the Pokomo tribe. The GEF's desire to resettle this community, however, as is often the case, flies in the face of the evidence, the evidence that the Pokomo people not only co-existed with this endangered species and protected them for centuries, but also introduced them to Kenya, and when the danger to the environment of these monkeys became known, it was the Pokomo tribe that made it clear to the scientists.

Mr. Chairman, why does the GEF propose to move them? The report details the facts. In fact, by claiming that the local people are a threat to the monkeys, what is happening is the GEF is conveniently hiding the fact that there are two other failed World Bank projects that are hurting the real environment for these monkeys. The two projects are the Kiambere Dam and the Bura Irrigation Project, both World Bank projects that are over budget disasters, and have so radically altered the Tana River's flow that the future of the monkeys is in danger.

Mr. Chairman, the truth is the GEF is there to cover up and add a green tint to failed World Bank projects. In an environment such as we have today, where funds are so scarce, we simply cannot go on funding programs like the GEF.

This amendment is supported, because it would save $50 million this year and $400 million over the course of the next 4 years, by Citizens Against Government Waste, Citizens for a Sound Economy, the Small Business Survival Committee, the Competitive Enterprise Institute, Americans for Tax Reform, Coalitions for America, the National Center for Public Policy Research, the Environmental Policy Task Force, the Association of Concerned Taxpayers, Project 21, and Cato Institute.

Mr. Chairman, why do they all support it? Because it is an abject failure. In this age, we cannot continue to support an abject failure, even at the minimal level. While I commend the subcommittee chairman for reducing the funding from a level that was proposed to only the figure of $50 million, it is time to zero this project in the waste and keep the monies where they belong, in the United States.

AMENDMENT OFFERED BY MR. WILSON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DE LAY

Mr. WILSON. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. WILSON as a substitute for the amendment offered by Mr. DELAY: On page 29 line 1, delete "$50,000,000" and insert "$40,000,000".

Mr. WILSON. Mr. Chairman, the gentleman from Texas [Mr. DELAY] has deleted $50 million. We zero the entire enterprise. My amendment offered as a substitute would reduce the reduction in the bill by a further $10 million. In other words, instead of reducing the entire $50 million, I would reduce it by $10 million, leaving $40 million in the enterprise.

Mr. Chairman, the GEF as we have heard before, provides an insurance policy to avoid the cost of future environment degradation. The GEF promotes the use of technology, of which the United States is a leader. I could name all of the reputable companies that consult with the GEF, that work on ozone substitutes and that work in the biotechnology area.

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The Bush and Clinton administrations have supported the GEF over more expensive alternatives. The GEF was completely reorganized and overhauled in 1994, and I think that many of the problems that have been mentioned here today have already been addressed.

I would again suggest that the subcommittee, the Subcommittee on Foreign Operations, has already cut the GEF by 50 percent. The cut that I am proposing would add another 10 percent, which would mean a 60 percent cut in this multilateral organization that I think still shows great promise for the environment.

Mr. Chairman, I would move the substitute.

Mr. PORTER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I strenuously oppose the amendment offered by my friend the gentleman from Texas. I believe a little history will help clarify for Members why providing funds for the GEF makes sense.

The Global Environmental Facility [GEF] was established in 1991 during the Bush administration for a 3-year pilot phase designed to identify innovative approaches to conservation—to determine what works and what does not. During the pilot phase, GEF was part of the World Bank, but was run in cooperation with the U.N. Development Program. In March 1994, at the end of the pilot phase, GEF became a free-standing international institution, designed to be arms length from existing international bureaucracies and able to articulate a clear global environmental agenda.

Much was learned after the pilot phase and appropriate adjustments were made. In 1993 and 1994, two environmental organizations, Conservation International and Natural Resources Defense Council, conducted a major evaluation of the GEF and made recommendations for the operational phase. GEF was overhauled and is now technically first-rate, transparent to the public, and responsive to its donors.

Although some were skeptical early on, with the improvements that have been made every major environmental group now supports the GEF, and I have a letter here signed by 19 of them opposing the DeLay amendment. It may surprise you, though, to know that many major U.S. corporations also support the GEF. I have letters here from the chairman of the board of Intel, Dwayne Andreas of Archer Daniels Midland, and the vice chairman of the Mary Kay Corp. These corporations support GEF because it protects biodiversity, which they use to innovate in their fields, they sell environmental technology to countries for GEF projects, and they realize that protecting the environment is in our best interest as human beings.

In addition, companies like Bechtel, Brooklyn Union Gas, and Texaco from the gentleman from Texas' home State have participated in GEF projects. DuPont, GE, and Raytheon dominate the market for substitutes for ozone depleting chemicals. And Merck and Ciba-Geigy, pharmaceutical companies, depend on the biodiversity protected by GEF for their future.

As the gentleman from Texas knows, GEF mobilizes $5 for environmental protection for every $1 the U.S. contributes. For the United States, GEF is quite simply the most cost effective means of avoiding environmental degradation. No one—not AID, not the U.N. Environment Program—no one can do what GEF does.

There is precious little left in this bill to ensure that our children and grandchildren have the benefits of clean air and water and access to biodiversity for new drugs, chemicals and plant adaptations. The President's request for GEF was $110 million, we appropriated $90 million last year, this bill provides $50 million, and the DeLay amendment would eliminate funding. I urge Members to oppose the DeLay amendment, provide the subsistence level of funding contained in this bill for the GEF and help protect these treasures for the future.

Mr. Chairman, I rise in support of the Wilson amendment.

Mrs. LOWEY. Mr. Chairman, I want to thank the gentleman from Arizona [Mr. SHADEGG] for his comments regarding the inappropriate policies that he referred to. However, I also want to note that in the report to which you referred, you specifically said, "until such time as new policies have been put in place." In other words, the funds should be cut until such time as new policies have been put in place.

I will not go on because you have heard so much from my colleagues this evening. But I think we have received a lot of information which clearly lays out changes that have been put in place, and thereby the Wilson amendment, which says that we should cut it an additional $10 million, I think is appropriate, and I would strongly oppose the amendment of the gentleman from Texas [Mr. DELAY] and the gentleman from Arizona [Mr. SHADEGG] which would cut out all the money.

We have heard this evening that the GEF secretariat consults biannually with a wide range of environmental and indigenous groups. We have heard that this sort of participation is unique to the GEF among multilateral institutions. As a result, environmental groups like the NRDC now endorse the GEF and support continued strong U.S. participation. Project development procedures have been streamlined. There has been extensive consultation with communities affected by GEF projects, and that is now required for every project.

Mr. Chairman, as this report suggests, there have been policies and procedures put in place to ensure that this money is spent wisely.

We have also heard that this has been supported by the Bush administration and the Clinton administration. I would like to add my support to the Wilson amendment and encourage my colleagues to vote with me.

Mr. SHADEGG. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment offered by the gentleman from Texas [Mr. WILSON].

Mr. Chairman, I understand the proposal of those who seek to defend this program. I understand they claim that the corrections have been made. The report I read from, I did not have time to note its date. The report is a report by an independent organization called Probe International based not out of the United States but out of Toronto, Canada, and is dated May 1995. The section of the report which I read was from the independent review. That review was concluded some time ago and it did point out the flaws which have been clearly acknowledged here, indeed the numerous flaws which have been clearly acknowledged in the GEF. But this is a current report which goes beyond that, and says that notwithstanding the claims of the environmental community, in point of fact the GEF is not doing the job correctly today. I suggest indeed it is not. I suggest that as President Clinton called upon America and said we can do better, indeed for those who are concerned about protecting the global environment, we can do far better than to add more money to a failed World Bank-dominated program, a program which puts money in the hands of the rulers of third-world countries and does not achieve its goals, a program which papers over World Bank projects which do serious environmental damage. I think it is important that this Congress have the courage to say "no," not the courage to say, "oh, it failed so let's give it a little less," but the courage to say "no."

With regard to my colleague from this side who said there is great corporate support for this proposal, let me suggest a fundamental flaw in that notion. When he says that many corporate interests in America support this idea and support funding for it, let me point out their hypocrisy. The truth is when polluters pollute, they should pay to clean it up, not the American taxpayer, and in this instance when he cites a series of American corporations who think it is a wonderful idea for us to take American tax dollars and to deal with third-world pollution, indeed, third-world pollution which they themselves may have contributed to, we set the cart before the horse. If the polluters have created the pollution, they should be made to clean it up, not the taxpayers of America, and not under a government program where you and I and my children and indeed with the debt we are creating, my grandchildren are compelled to pay to clean it up, that creates all the wrong incentives. Then the polluter has no motivation to clean up because the taxpayer is going to come along and bail him out. It simply is, as the report I have read from, which is a second report suggests, a failed program.

Mr. Chairman, let me simply conclude with this point. If the best that the proponents of GEF can do is to acknowledge its failure, is to acknowledge that a year ago the environmental community, including the Environmental Defense Fund, criticized this and acknowledged that it was a failure, if the best they can do is say, "Yes, it was poor before, but we've tried to improve, so give us, not $50 million but $30 million," I suggest we can, as Bill Clinton said, do better, and we can do better by abolishing the funding and creating a new program, a new program that in fact makes polluters pay for the pollution and does not require the American taxpayer to pay for their pollution or the pollution of other third-world governments.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Wilson amendment.

Mr. Chairman, I will try not to take the 5 minutes. I think it is important for those Members that are listening to understand what is going on here. It is obvious to me that the gentleman from Texas, my good friend, is trying to block zeroing out a failed agency because it has failed on a failed concept.

The gentleman from Illinois was right in pointing out that former President Bush went to Rio and worked on the Rio summit and committed us to certain things. Before the President left, many of us, and many of us in leadership urged the President not to go because this summit would lead to bad things.

This is a perfect example of proving us right. This is a feel-good organization that has no substance in its ability to clean up calamities as outlined in the Rio summit.

First of all, I would like to say to those that may not know, being a biologist and biochemist by education, I am here and stand here on the floor to tell Members that global warming and ozone depletion are not proven. They are not proven concepts. They are theories. No one, including the environmentalists, can say with certainty that this is a proven concept. This is a hope-that-it-does-not-happen concept. It has never been proven. This is a concept designed on computer models by environmental activists. Yet we are spending millions if not billions of dollars on a theory. That is why we were very concerned that Bush go to Rio to get involved in this kind of issue.

Yes, he signed a 3-year pilot. Well, the pilot has crashed. This does not work, it is a fundamentally flawed concept. Let me say to the Members that are interested in deficit reduction. We are not interested in "government-light" that is an example of the amendment of the gentleman from Texas. We are interested in looking at programs and those programs that can be done better and smarter, we want to do them better and smarter, thereby realizing savings. But for programs like the GEF that are fundamentally flawed and even environmental groups are saying it is flawed, we want to zero them out.

Members have to vote against the Wilson amendment in order to get to the DeLay-Shadegg amendment in order to zero it out.

Mr. Chairman, as far as the corporations, all those Members that have called for the end of corporate welfare, corporations support the GEF because GEF gives them green cover, and makes them look like they are environmentally sound. I am not here serving in this body to protect corporations and give them taxpayers' money to make them look a little greener. That is what GEF does.

Mr. Chairman, I am just saying, this is a flawed program, it has not proven itself at all, it is a flawed program trying to control a flawed theory. I urge a "no" vote on the Wilson amendment and a "yes" vote on the DeLay amendment.

Mr. WILSON. Mr. Chairman, I have been overwhelmed by the eloquence of my colleague, the gentleman from Texas.

Mr. Chairman, I ask unanimous consent to withdraw my substitute amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

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Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the well-intentioned DeLay amendment. I find it very difficult, Mr. Chairman, to be here and watch the Global Environmental Facility be absolutely terminated. It went on a committee level from $110 million down to $50 million, and now to get rid of it completely I think is absolutely inappropriate and would be devastating.

As one of the founding members of a group called GLOBE, Global Legislators for a Balanced Environment, I must speak up for a multilateral fund that was begun under the Bush administration and has had continued support by the present administration. Operating through three implementing agencies, the World Bank, the U.N. Development Programme, and the U.N. Environment Programme, the GEF plays a crucial role in influencing international environmental actions.

We have here a unique fund dedicated to the preservation of the global environment. Its projects include those in climate change, which affect crop-growing seasons, plant distribution, damage to coastal communities, and many others: ozone depletion, which if it increases will increase our exposure to ultraviolet radiation and the attendant threat of malignant melanoma; pollution of international waters, which are already depleting our fish species, loss of forests, plants, and animal species; and the list goes on.

Mr. Chairman, the United States does not stand alone in supporting the GEF. With the proposed reduction to $50 million, we will be going against the international mainstream. Japan has increased their contribution to $500 million over a 5-year period, and Germany will give $240 million over the same period.

To bow out of this important World Bank program completely is to abrogate our responsibility, and I believe it will be very counterproductive. Why do I feel this way? Because the GEF is protecting the environment and biodiversity where it is most valuable and most threatened, in the developing countries of Africa, Asia, and Latin America.

Frankly, if this attempt to further reduce the funds, to eliminate them, is a criticism of past governance, this has already been addressed. Under U.S. leadership, a fully independent GEF secretariat has been set up in Washington under the leadership of a U.S. citizen. A comprehensive project monitoring system has been created under this secretariat to ensure that projects meet cost and performance goals from start to finish. Many of these management changes are unique to the GEF among multilateral institutions.

To further reduce funding of the Global Environmental Facility would be to jeopardize bringing developing countries to the global effort to safeguard our environment. Really, too much is at stake. I strongly urge my colleagues to support the GEF, it has already been reduced to the extent it is determined in the bill, and to vote against the DeLay amendment.

As Shakespeare said, "To nature none more bound," and we must remember that.

Mr. GILCHREST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I reluctantly rise against the amendment offered by the gentleman from Texas [Mr. DELAY]. But I would like to speak for just a few minutes on the positive impacts of the Global Environmental Fund.

A number of my colleagues have mentioned a number of things here about tropical rain forests, global fisheries, biological diversity, global warming, ozone depletion, and things like that. These are not abstract concepts. These are not things that are proven beyond a shadow of a doubt to have impact on our Nation or the world as a whole.

When we are dealing with scientific realities, there are always certain scientific uncertainties, but I want to start from this list and make a couple of comments.

The nations of the world's forests, the rain forests of the world, are a storehouse of medical potential breakthroughs that will not only benefit us as citizens today, but future generations to come. What are the major pharmaceutical companies of the world, especially in the United States, American companies included, doing in tropical rain forests now? I will give you one example.

Merck & Co. has signed an agreement partially through the link with the Global Environmental Fund to bring these two countries, the United States and Costa Rica, together. Costa Rica has decided to set aside 25 percent of their entire country so a U.S. pharmaceutical firm can go down there and study the biology and the biodiversity of that country's species, flora and fauna, that means the animals and the plants, to try to extract chemical agents to cure diseases around the world that are becoming resistant to antibiotics today.

These are going to be the cures for tomorrow. What does that mean to Merck & Co. as a result of this connection? It means literally billions of dollars.

So if we are looking at the Global Environmental Fund and saying that it is not worth the few dollars that we are going to put into it, talk with the pharmaceutical companies of this country and they will tell you it is worth billions for Merck. It is worth hundreds of billions for the other pharmaceutical companies in this country and for the emerging biotechnology companies of this country.

The global fisheries. If we just looked at the United States, 70 percent of the commercial fish that we harvest are spawned in tidal estuaries. What does GEF, the Global Environmental Fund, do? It helps other countries realize the necessity of protecting their tidal marshes for the main protein source of the entire world. So for the few investment dollars that we put into GEF, the Global Environmental Fund, we reap huge profits.

What about biological diversity in the first place? You cannot name a disease in this country that does not have a potential cure as a result of finding some chemical agent in some species around the planet. That is just as a result of our understanding for renewed molecular technology advancements in this country today.

From an endangered species called the rosy periwinkle, a small little endangered flower, they extracted a chemical agent that now cures or sets aside 80 percent of childhood leukemia. Why is this particular plant important? Because it cures disease. Also, we have not been able to synthesize that chemical agent, so we need that particular plant.

Whether it is heart attacks, high blood pressure, cancer, glaucoma, a whole range of diseases, we are finding agents in particular plants for these particular diseases to be cured.

The Global Environmental Fund is a small investment, folks, for a major discovery. Global warming, has it been proved? No. Has it been disproved? No. But I will tell my colleagues, the major scientists of this country, if we talk to an independent scientist from Harvard or Cornell or Yale or whatever that is not linked with any environmental group, they would say, "Hedge your bets, it might be happening."

What about ozone depletion? Is there an increase in the incidence of skin cancer? Are doctors telling you to stay out of the sun? The answer is yes. I reluctantly ask my colleagues to vote no on the amendment.

AMENDMENT OFFERED BY MR. PORTER TO THE AMENDMENT OFFERED BY MR. DELAY

Mr. PORTER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. PORTER to the amendment offered by Mr. DELAY:

At the appropriate place, strike "0" and insert in lieu thereof "$30,000,000".

Mr. PORTER. Mr. Chairman, I will not take 5 minutes because I have already spoken on the DeLay amendment, but while I was off the floor, I understand that the gentleman from Texas [Mr. WILSON] had withdrawn his amendment at $40 million. I simply would like to offer this amendment for the consideration of the Members, where the DeLay amendment would be reduced from zeroing out GEF so that it would leave $30 million in that account.

Mr. SALMON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I see some great progress being made here. I understand it started at 110 million then it was at 50, then at 40, now at 30. I think we are almost there.

But I would like to say this: I have heard the evidence on both sides of the equation, and other than the side that wants to preserve funding saying, "Trust me, I am from the Government, I am here to help you," I have not found any compelling reasons to support this boondoggle.

I support the efforts of an impressive list of people and groups that support the amendment put forth by the majority whip and the gentleman from Arizona [Mr. SHADEGG]. These include Grover Norquist's group, Americans for Tax Reform, the Cato Institute, Citizens for a Sound Economy, the Competitive Enterprise Institute, and a host of other responsible groups. The GEF is a global giveaway that cannot be justified, particularly given our Nation's fiscal crisis, and it has even failed its stated goal, improving the environment. The GEF should RIP.

Mr. SCARBOROUGH. Mr. Chairman, will the gentleman yield?

Mr. SALMON. I yield to the gentleman from Florida.

Mr. SCARBOROUGH. Mr. Chairman, I think the environment won an important battle today as there was an extension on the moratorium for drilling off the coast of this country. That was something I supported. It was something other environmentalists supported. And as an environmentalist, though, I cannot rise and support something like this. Resources are so scarce in our battle for cleaning up the environment that we cannot continue to throw money away at a failed PR effort for the World Bank.

You now, Bismarck once said you can do anything with children so long as you play with them. Well, that is exactly what the World Bank is doing. They are playing a PR game here because they want to come off looking good.

If they want to spend their own money, that is fine, but when they spend our money for their own PR games, it is not only the taxpayer that loses, but it is the environment that loses. If we as a body decide that we need to spend money cleaning up the environment of this country, then let us make sure that we invest our dollars wisely. We cannot continue in this hoax, in this PR game.

Mr. Chairman, we should support the DeLay-Shadegg amendment and clean up this country for our children.

Mr. DELAY. Mr. Chairman, will the gentleman yield?

Mr. SALMON. I yield to the gentleman from Texas.

Mr. DELAY. Mr. Chairman, I thank the gentleman for yielding.

I just asked for this time to explain to the Members where we are. Even if we wanted to do the great things that the gentleman from Maryland claims that the GEF does, which I dispute, this is a waste of money, $30 million. It will go to bureaucrats. It will go the World Bank. It will not do anything.

So I urge the Members to understand the vote. The vote that I am urging is a no vote on the Porter amendment to the DeLay amendment. Defeat that and then vote for the DeLay amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. PORTER] to the amendment offered by the gentleman from Texas [Mr. DELAY].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. PORTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2 of rule XXIII, the Chair will reduce to a minimum of 5 minutes the timer for a recorded vote, if ordered, on the original DeLay amendment if there is no intervening business or debate following the 15-minute vote on the Porter amendment. This will be a 17-minute vote.

The vote was taken by electronic device, and there were—ayes 242, noes 180, not voting 12, as follows:

[Roll No. 426]

AYES—242

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bishop
Blute
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Callahan
Cardin
Castle
Clay
Clayton
Clement
Clinger
Clyburn

Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Ehlers
Engel
English
Eshoo
Evans
Everett
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Foglietta
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Gejdenson
Gekas
Gibbons
Gilchrest
Gilman
Gonzalez
Goodling
Gordon
Goss
Green
Greenwood
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Horn
Houghton
Hoyer
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Klug
Kolbe
LaFalce
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lipinski
Longley
Lowey
Luther
Maloney
Manton
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McDade
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Molinari
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Porter
Poshard
Pryce
Quinn
Rahall
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roemer
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schiff
Schroeder
Schumer
Scott
Serrano
Shaw
Shays
Skaggs
Skelton
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Tanner
Tejeda
Thomas
Thompson
Thornton
Thurman
Torkildsen
Torres
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Walsh
Ward
Waters
Watt (NC)
Waxman
Weldon (PA)
Whitfield
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn

NOES—180

Allard
Archer
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bilirakis
Bliley
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Calvert
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Deal
DeLay
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehrlich
Emerson
Ensign
Ewing
Fields (TX)
Flanagan
Foley
Frisa
Funderburk
Gallegly
Ganske
Geren
Gillmor
Goodlatte
Graham
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson, Sam
Jones
Kasich
Kim
King
Kingston
Knollenberg
LaHood
Largent
Latham
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lofgren
Lucas
Manzullo
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Petri
Pickett
Pombo
Portman
Quillen
Radanovich
Ramstad
Roberts
Rogers
Rohrabacher
Roth
Royce
Salmon
Sanford
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shuster
Sisisky
Skeen
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thornberry
Tiahrt
Vucanovich
Waldholtz
Walker
Wamp
Watts (OK)
Weldon (FL)
Weller
White
Wicker
Young (AK)
Young (FL)
Zeliff

NOT VOTING—12

Armey
Bryant (TX)
Camp
Furse
Gephardt
Gunderson
Moakley
Reynolds
Torricelli
Williams
Yates
Zimmer

☐ 2104

Messrs. RADANOVICH, ALLARD, ROYCE, DUNCAN, LEWIS of California, CHABOT, McINNIS, PACKARD, and PORTMAN changed their vote from "aye" to "no."

Messrs. JEFFERSON, JOHNSON of South Dakota, BALDACCI, STUPAK, TUCKER, and FORBES changed their vote from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. DELAY], as amended.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DELAY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 273, noes 146, not voting 15, as follows:

[Roll No. 427]

AYES—273

Allard
Archer
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gibbons
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martinez
Martini
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Meehan
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Orton
Oxley
Packard
Parker
Paxon
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Portman
Poshard
Pryce
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Wise
Wolf
Young (AK)
Young (FL)
Zeliff

NOES—146

Abercrombie
Ackerman
Andrews
Baldacci
Becerra
Beilenson
Bentsen
Berman
Bishop
Boehlert
Bonior
Borski
Brown (CA)
Cardin
Castle
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon

Doggett
Dooley
Durbin
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Frelinghuysen
Frost
Gejdenson
Gilchrest
Gilman
Gonzalez
Green
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Hilliard
Hinchey
Horn
Hoyer
Jackson-Lee
Jefferson
Johnson (CT)
Johnson, E. B.
Johnston
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
LaFalce
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lofgren
Lowey
Maloney
Manton
Markey
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meek
Mfume
Miller (CA)
Mineta
Mink
Moran
Morella
Nadler
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Porter
Quillen
Rangel
Reed
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Saxton
Schiff
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Smith (NJ)
Spratt
Stark
Stokes
Studds
Stupak
Thompson
Torres
Towns
Tucker
Velazquez
Vento
Waters
Watt (NC)
Waxman
Weldon (PA)
Wilson
Woolsey
Wyden
Wynn

NOT VOTING—15

Armey
Bachus
Bryant (TX)
Camp
Forbes
Ford
Furse
Gephardt
Gunderson
Moakley
Reynolds
Torricelli
Williams
Yates
Zimmer

□ 2112

Mrs. MEYERS of Kansas, Mr. PETERSON of Minnesota, and Mr. BARCIA changed their vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title IV?

If not, the Clerk will designate title V.

The text of title V is as follows:

TITLE V—GENERAL PROVISIONS

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 501. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION OF BILATERAL FUNDING FOR INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 502. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

LIMITATION ON RESIDENCE EXPENSES

SEC. 503. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

LIMITATION ON EXPENSES

SEC. 504. Of the funds appropriated or made available pursuant to this Act, not to exceed $5,000 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

LIMITATION ON REPRESENTATIONAL ALLOWANCES

SEC. 505. Of the funds appropriated or made available pursuant to this Act, not to exceed $95,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided*, That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further*, That of the funds made available by this Act for general costs of administering military assistance and sales under the heading "Foreign Military Financing Program", not to exceed $2,000 shall be available for entertainment expenses and not to exceed $50,000 shall be available for representation allowances: *Provided further*, That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $50,000 shall be available for entertainment allowances: *Provided further*, That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,000 shall be available for entertainment and representation allowances: *Provided further*, That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,000 shall be available for entertainment expenses: *Provided further*, That of the funds made available by this Act under the heading "Trade and Development Agency", not to exceed $2,000 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 506. None of the funds appropriated or made available (other than funds for "International Organizations and Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used, except for purposes of nuclear safety, to finance the export of nuclear equipment, fuel, or technology.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 507. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Cuba, Iraq, Libya, North Korea, Iran, Serbia, Sudan, or Syria: *Provided*, That for purposes of this section, the prohibition on obligations or expenditures shall include direct loans, credits, insurance and guarantees of the Export-Import Bank or its agents: *Provided further*, That, notwithstanding any other provision of law, Azerbaijan shall be eligible to receive funds provided under title II of this Act to be used solely for humanitarian assistance and for democracy-building purposes.

MILITARY COUPS

SEC. 508. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided*, That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 509. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated, except for transfers specifically provided for in this Act, unless the President, prior to the exercise of any authority contained in the Foreign Assistance Act of 1961 to transfer funds, consults with and provides a written policy justification to the Committees on Appropriations of the House of Representatives and the Senate: *Provided*, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations, except for transfers specifically referred to in this Act.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 510. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under title II of this Act are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1996, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided*, That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds in accordance with regular notification procedures of the Committees on Appropriations.

AVAILABILITY OF FUNDS

SEC. 511. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided*, That funds appropriated for the purposes of chapters 1, 8 and 11 of part I, section 667, and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, and funds provided under the heading "Assistance for Eastern Europe and the Baltic States", shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act: *Provided further*, That, notwithstanding any other provision of this Act, any funds made available for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961 which are allocated or obligated for cash disbursements in order to address balance of payments or economic policy reform objectives, shall remain available until expended: *Provided further*, That the report required by section 653(a) of the Foreign Assistance Act of 1961 shall designate for each country, to the extent known at the time of submission of such report, those funds allocated for cash disbursement for balance of payment and economic policy reform purposes.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

SEC. 512. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act: *Provided*, That this section and section 620(q) of the Foreign Assistance Act of 1961 shall not apply to funds made available in this Act or during the current fiscal year for Nicaragua, and for any narcotics-related assistance for Colombia, Bolivia, and Peru authorized by the Foreign Assistance Act of 1961 or the Arms Export Control Act.

COMMERCE AND TRADE

SEC. 513. (a) None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become operative and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided*, That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

(b) None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided*, That this subsection shall not prohibit—

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

SURPLUS COMMODITIES

SEC. 514. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the North American Development Bank, the European Bank for Reconstruction and Development, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

NOTIFICATION REQUIREMENTS

SEC. 515. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Child Survival and Disease Programs Fund", "Development Assistance Fund", "Development Fund for Africa", "International organizations and programs", "Trade and Development Agency", "International narcotics control", "Assistance for Eastern Europe and the Baltic States", "Assistance for the New Independent States of the Former Soviet Union", "Economic Support Fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Nonproliferation and Disarmament Fund", "Anti-terrorism assistance", "Foreign Military Financing Program", "International military education and training", "Inter-American Foundation", "African Development Foundation", "Peace Corps", "Migration and refugee assistance", or "United States Emergency Refugee and Migration Assistance Fund", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operations not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided*, That the President shall not enter into any commitment of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other than conventional ammunition, or other major defense items defined to be aircraft, ships, missiles, or combat vehicles, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment: *Provided further*, That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year: *Provided further*, That the requirements of this section or any similar provision of this Act or any prior Act requiring notification in accordance with the regular notification procedures of the Committees on Appropriations may be waived if failure to do so would pose a substantial risk to human health or welfare: *Provided further*, That in case of any such waiver, notification to the Congress, or the appropriate congressional committees, shall be provided as early as practicable, but in no event later than three days after taking the action to which such notification requirement was applicable, in the context of the circumstances necessitating such waiver: *Provided further*, That any notification provided pursuant to such a waiver shall contain an explanation of the emergency circumstances.

Drawdowns made pursuant to section 506(a)(2) of the Foreign Assistance Act of 1961 shall be subject to the regular notification procedures of the Committees on Appropriations.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 516. Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share, in accordance with section 307(c) of the Foreign Assistance Act of 1961, for any programs identified in section 307, or for Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended: *Provided*, That, subject to the regular notification procedures of the Committees on Appropriations, funds appropriated under this Act or any previously enacted Act making appropriations for foreign operations, export financing, and related programs, which are returned or not made available for organizations and programs because of the implementation of this section or any similar provision of law, shall remain available for obligation through September 30, 1997.

ECONOMIC SUPPORT FUND ASSISTANCE FOR ISRAEL

SEC. 517. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that, subject to the availability of appropriations, it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

PROHIBITION CONCERNING ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 518. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations.

REPORTING REQUIREMENT

SEC. 519. The President shall submit to the Committees on Appropriations the reports required by section 25(a)(1) of the Arms Export Control Act.

SPECIAL NOTIFICATION REQUIREMENTS

SEC. 520. None of the funds appropriated in this Act shall be obligated or expended for Colombia, Dominican Republic, Guatemala, Haiti, Indonesia, Liberia, Nicaragua, Peru, Russia, Sudan, or Zaire except as provided through the regular notification procedures of the Committees on Appropriations: *Provided*, That this section shall not apply to funds appropriated by this Act to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961 that are made available for Indonesia and Nicaragua.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 521. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund and Foreign Military Financing Program, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961.

CHILD SURVIVAL AND AIDS ACTIVITIES

SEC. 522. Up to $8,000,000 of the funds made available by this Act for assistance for family planning, health, child survival, and AIDS, may be used to reimburse United States Government agencies, agencies of State governments, institutions of higher learning, and private and voluntary organizations for the full cost of individuals (including for the personal services of such individuals) detailed or assigned to, or contracted by, as the case may be, the Agency for International Development for the purpose of carrying out family planning activities, child survival activities and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome in developing countries: *Provided*, That funds appropriated by this Act that are made available for child survival activities or activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome may be made available notwithstanding any provision of law that restricts assistance to foreign countries: *Provided further*, That funds appropriated by this Act that are made available for family planning activities may be made available notwithstanding section 512 of this Act and section 620(q) of the Foreign Assistance Act of 1961.

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 523. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Cuba, Iraq, Libya, Iran, Syria, North Korea, or the People's Republic of China, unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

RECIPROCAL LEASING

SEC. 524. Section 61(a) of the Arms Export Control Act is amended by striking out "1995" and inserting in lieu thereof "1996".

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 525. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided*, That before issuing a letter of offer to sell excess defense articles under the Arms Export Control Act, the Department of Defense shall notify the Committees on Appropriations in accordance with the regular notification procedures of such Committees: *Provided further*, That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 526. Funds appropriated by this Act may be obligated and expended subject to section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 527. (a) INSTRUCTIONS FOR UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution designated in subsection (b), and the Administrator of the Agency for International Development shall instruct the United States Executive Director of the International Fund for Agriculture Development, to use the voice and vote of the United States to oppose any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979.

(b) DEFINITION.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the African Development Fund, and the European Bank for Reconstruction and Development.

COMMERCIAL LEASING OF DEFENSE ARTICLES

SEC. 528. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel and Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

STINGERS IN THE PERSIAN GULF REGION

SEC. 529. Except as provided in section 581 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, the United States may not sell or otherwise make available any Stingers to any country bordering the Persian Gulf under the Arms Export Control Act or chapter 2 of part II of the Foreign Assistance Act of 1961.

DEBT-FOR-DEVELOPMENT

SEC. 530. In order to enhance the continued participation of nongovernmental organizations in economic assistance activities under the Foreign Assistance Act of 1961, including endowments, debt-for-development and debt-for-nature exchanges, a nongovernmental organization which is a grantee or contractor of the Agency for International Development may place in interest bearing accounts funds made available under this Act or prior Acts or local currencies which accrue to that organization as a result of economic assistance provided under title II of this Act and any interest earned on such investment may be used for the purpose for which the assistance was provided to that organization.

LOCATION OF STOCKPILES

SEC. 531. Section 514(b)(2) of the Foreign Assistance Act of 1961 is amended by striking out "a total of $200,000,000 for stockpiles in Israel for fiscal years 1994 and 1995, up to $40,000,000 may be made available for stockpiles in the Republic of Korea, and up to $10,000,000 may be made available for stockpiles in Thailand for fiscal year 1995." and inserting in lieu thereof "$40,000,000 for stockpiles in the Republic of Korea and $10,000,000 for stockpiles in Thailand for fiscal year 1996".

SEPARATE ACCOUNTS

SEC. 532. (a) SEPARATE ACCOUNTS FOR LOCAL CURRENCIES.—(1) If assistance is furnished to the government of a foreign country under chapters 1 and 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961 under agreements which result in the generation of local currencies of that country, the Administrator of the Agency for International Development shall—

(A) require that local currencies be deposited in a separate account established by that government;

(B) enter into an agreement with that government which sets forth—

(i) the amount of the local currencies to be generated, and

(ii) the terms and conditions under which the currencies so deposited may be utilized, consistent with this section; and

(C) establish by agreement with that government the responsibilities of the Agency for International Development and that government to monitor and account for deposits into and disbursements from the separate account.

(2) USES OF LOCAL CURRENCIES.—As may be agreed upon with the foreign government, local currencies deposited in a separate account pursuant to subsection (a), or an equivalent amount of local currencies, shall be used only—

(A) to carry out chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), for such purposes as—

(i) project and sector assistance activities, or

(ii) debt and deficit financing; or

(B) for the administrative requirements of the United States Government.

(3) PROGRAMMING ACCOUNTABILITY.—The Agency for International Development shall take all appropriate steps to ensure that the equivalent of the local currencies disbursed pursuant to subsection (a)(2)(A) from the separate account established pursuant to subsection (a)(1) are used for the purposes agreed upon pursuant to subsection (a)(2).

(4) TERMINATION OF ASSISTANCE PROGRAMS.—Upon termination of assistance to a country under chapters 1 or 10 of part I or chapter 4 of part II (as the case may be), any unencumbered balances of funds which remain in a separate account established pursuant to subsection (a) shall be disposed of for such purposes as may be agreed to by the government of that country and the United States Government.

(5) CONFORMING AMENDMENTS.—The provisions of this subsection shall supersede the

tenth and eleventh provisos contained under the heading "Sub-Saharan Africa, Development Assistance" as included in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 and sections 531(d) and 609 of the Foreign Assistance Act of 1961.

(b) SEPARATE ACCOUNTS FOR CASH TRANSFERS.—(1) If assistance is made available to the government of a foreign country, under chapters 1 or 10 of part I or chapter 4 of part II of the Foreign Assistance Act of 1961, as cash transfer assistance or as nonproject sector assistance, that country shall be required to maintain such funds in a separate account and not commingle them with any other funds.

(2) APPLICABILITY OF OTHER PROVISIONS OF LAW.—Such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the nature of this assistance including provisions which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Report No. 98–1159).

(3) NOTIFICATION.—At least fifteen days prior to obligating any such cash transfer or nonproject sector assistance, the President shall submit a notification through the regular notification procedures of the Committees on Appropriations, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by such assistance).

(4) EXEMPTION.—Nonproject sector assistance funds may be exempt from the requirements of subsection (b)(1) only through the notification procedures of the Committees on Appropriations.

COMPENSATION FOR UNITED STATES EXECUTIVE DIRECTORS TO INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 533. (a) No funds appropriated by this Act may be made as payment to any international financial institution while the United States Executive Director to such institution is compensated by the institution at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to such institution is compensated by the institution at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(b) For purposes of this section, "international financial institutions" are: the International Bank for Reconstruction and Development, the Inter-American Development Bank, the Asian Development Bank, the Asian Development Fund, the African Development Bank, the African Development Fund, the International Monetary Fund, the North American Development Bank, and the European Bank for Reconstruction and Development.

COMPLIANCE WITH UNITED NATIONS SANCTIONS AGAINST IRAQ

SEC. 534. (a) DENIAL OF ASSISTANCE.—None of the funds appropriated or otherwise made available pursuant to this Act to carry out the Foreign Assistance Act of 1961 (including title IV of chapter 2 of part I, relating to the Overseas Private Investment Corporation) or the Arms Export Control Act may be used to provide assistance to any country that is not in compliance with the United Nations Security Council sanctions against Iraq, Serbia or Montenegro unless the President determines and so certifies to the Congress that—

(1) such assistance is in the national interest of the United States;

(2) such assistance will directly benefit the needy people in that country; or

(3) the assistance to be provided will be humanitarian assistance for foreign nationals who have fled Iraq and Kuwait.

(b) IMPORT SANCTIONS.—If the President considers that the taking of such action would promote the effectiveness of the economic sanctions of the United Nations and the United States imposed with respect to Iraq, Serbia, or Montenegro, as the case may be and is consistent with the national interest, the President may prohibit, for such a period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not prohibited—

(1) the importation of products of Iraq, Serbia, or Montenegro into its customs territory, and

(2) the export of its products to Iraq, Serbia, or Montenegro, as the case may be.

POW/MIA MILITARY DRAWDOWN

SEC. 535. (a) Notwithstanding any other provision of law, the President may direct the drawdown, without reimbursement by the recipient, of defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training, of an aggregate value not to exceed $15,000,000 in fiscal year 1996, as may be necessary to carry out subsection (b).

(b) Such defense articles, services and training may be provided to Vietnam, Cambodia and Laos, under subsection (a) as the President determines are necessary to support efforts to locate and repatriate members of the United States Armed Forces and civilians employed directly or indirectly by the United States Government who remain unaccounted for from the Vietnam War, and to ensure the safety of United States Government personnel engaged in such cooperative efforts and to support United States Department of Defense-sponsored humanitarian projects associated with the POW/MIA efforts. Any aircraft shall be provided under this section only to Laos and only on a lease or loan basis, but may be provided at no cost notwithstanding section 61 of the Arms Export Control Act and may be maintained with defense articles, services and training provided under this section.

(c) The President shall, within sixty days of the end of any fiscal year in which the authority of subsection (a) is exercised, submit a report to the Congress which identifies the articles, services, and training drawn down under this section.

MEDITERRANEAN EXCESS DEFENSE ARTICLES

SEC. 536. During fiscal year 1996, the provisions of section 573(e) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1990, shall be applicable, for the period specified therein, to excess defense articles made available under sections 516 and 519 of the Foreign Assistance Act of 1961.

CASH FLOW FINANCING

SEC. 537. For each country that has been approved for cash flow financing (as defined in section 25(d) of the Arms Export Control Act, as added by section 112(b) of Public Law 99–83) under the Foreign Military Financing Program, any Letter of Offer and Acceptance or other purchase agreement, or any amendment thereto, for a procurement in excess of $100,000,000 that is to be financed in whole or in part with funds made available under this Act shall be submitted through the regular notification procedures to the Committees on Appropriations.

AUTHORITIES FOR THE PEACE CORPS, THE INTER-AMERICAN FOUNDATION AND THE AFRICAN DEVELOPMENT FOUNDATION

SEC. 538. Unless expressly provided to the contrary, provisions of this or any other Act, including provisions contained in prior Acts authorizing or making appropriations for foreign operations, export financing, and related programs, shall not be construed to prohibit activities authorized by or conducted under the Peace Corps Act, the Inter-American Foundation Act, or the African Development Foundation Act. The appropriate agency shall promptly report to the Committees on Appropriations whenever it is conducting activities or is proposing to conduct activities in a country for which assistance is prohibited.

IMPACT ON JOBS IN THE UNITED STATES

SEC. 539. None of the funds appropriated by this Act may be obligated or expended to provide—

(a) any financial incentive to a business enterprise currently located in the United States for the purpose of inducing such an enterprise to relocate outside the United States if such incentive or inducement is likely to reduce the number of employees of such business enterprise in the United States because United States production is being replaced by such enterprise outside the United States;

(b) assistance for the purpose of establishing or developing in a foreign country any export processing zone or designated area in which the tax, tariff, labor, environment, and safety laws of that country do not apply, in part or in whole, to activities carried out within that zone or area, unless the President determines and certifies that such assistance is not likely to cause a loss of jobs within the United States; or

(c) assistance for any project or activity that contributes to the violation of internationally recognized workers rights, as defined in section 502(a)(4) of the Trade Act of 1974, of workers in the recipient country, including any designated zone or area in that country: *Provided*, That in recognition that the application of this subsection should be commensurate with the level of development of the recipient country and sector, the provisions of this subsection shall not preclude assistance for the informal sector in such country, micro and small-scale enterprise, and smallholder agriculture.

AUTHORITY TO ASSIST BOSNIA-HERCEGOVINA

SEC. 540. (a) Congress finds as follows:

(1) The United Nations has imposed an embargo on the transfer of arms to any country on the territory of the former Yugoslavia.

(2) The federated states of Serbia and Montenegro have a large supply of military equipment and ammunition and the Serbian forces fighting the government of Bosnia-Hercegovina have more than one thousand battle tanks, armored vehicles, and artillery pieces.

(3) Because the United Nations arms embargo is serving to sustain the military advantage of the aggressor, the United Nations should exempt the government of Bosnia-Hercegovina from its embargo.

(b) Pursuant to a lifting of the United Nations arms embargo, or to a unilateral lifting of the arms embargo by the President of the United States, against Bosnia-Hercegovina, the President is authorized to transfer, subject to prior notification of the Committees on Appropriations, to the government of that nation, without reimbursement, defense articles from the stocks of the Department of Defense and defense services of the Department of Defense of an aggregate value not to exceed $50,000,000 in fiscal year 1996: *Provided*, That the President certifies in a timely fashion to the Congress that the transfer of such articles would assist that nation in self-defense and thereby promote the security and stability of the region.

(c) Within 60 days of any transfer under the authority provided in subsection (b), and every 60 days thereafter, the President shall report in writing to the Speaker of the House of Representatives and the President pro tempore of the Senate concerning the articles transferred and the disposition thereof.

(d) There are authorized to be appropriated to the President such sums as may be necessary to reimburse the applicable appropriation, fund, or account for defense articles provided under this section.

SPECIAL AUTHORITIES

SEC. 541. (a) Funds appropriated in title II of this Act that are made available for Haiti, Afghanistan, Lebanon, and Cambodia, and for victims of war, displaced children, displaced Burmese, humanitarian assistance for Romania, and humanitarian assistance for the peoples of Bosnia-Hercegovina, Croatia, and Kosova, may be made available notwithstanding any other provision of law: *Provided*, That any such funds that are made available for Cambodia shall be subject to the provisions of section 531(e) of the Foreign Assistance Act of 1961 and section 906 of the International Security and Development Cooperation Act of 1985: *Provided further*, That the President shall terminate assistance to any country or organization that he determines is cooperating, tactically or strategically, with the Khmer Rouge in their military operations.

(b) Funds appropriated by this Act to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961 may be used, notwithstanding any other provision of law, for the purpose of supporting tropical forestry and energy programs aimed at reducing emissions of greenhouse gases, and for the purpose of supporting biodiversity conservation activities: *Provided*, That such assistance shall be subject to sections 116, 502B, and 620A of the Foreign Assistance Act of 1961.

(c) During fiscal year 1996, the President may use up to $40,000,000 under the authority of section 451 of the Foreign Assistance Act of 1961, notwithstanding the funding ceiling contained in subsection (a) of that section.

(d) The Agency for International Development may employ personal services contractors, notwithstanding any other provision of law, for the purpose of administering programs for the West Bank and Gaza.

POLICY ON TERMINATING THE ARAB LEAGUE BOYCOTT OF ISRAEL

SEC. 542. It is the sense of the Congress that—

(1) the Arab League countries should immediately and publicly renounce the primary boycott of Israel and the secondary and tertiary boycott of American firms that have commercial ties with Israel; and

(2) the President should—

(A) take more concrete steps to encourage vigorously Arab League countries to renounce publicly the primary boycotts of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel as a confidence-building measure;

(B) take into consideration the participation of any recipient country in the primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel when determining whether to sell weapons to said country;

(C) report to Congress on the specific steps being taken by the President to bring about a public renunciation of the Arab primary boycott of Israel and the secondary and tertiary boycotts of American firms that have commercial relations with Israel; and

(D) encourage the allies and trading partners of the United States to enact laws prohibiting businesses from complying with the boycott and penalizing businesses that do comply.

ANTI-NARCOTICS ACTIVITIES

SEC. 543. (a) Of the funds appropriated or otherwise made available by this Act for "Economic Support Fund", assistance may be provided to strengthen the administration of justice in countries in Latin America and the Caribbean in accordance with the provisions of section 534 of the Foreign Assistance Act of 1961, except that programs to enhance protection of participants in judicial cases may be conducted notwithstanding section 660 of that Act.

(b) Funds made available pursuant to this section may be made available notwithstanding the third sentence of section 534(e) of the Foreign Assistance Act of 1961. Funds made available pursuant to subsection (a) for Bolivia, Colombia and Peru may be made available notwithstanding section 534(c) and the second sentence of section 534(e) of the Foreign Assistance Act of 1961.

ELIGIBILITY FOR ASSISTANCE

SEC. 544. (a) ASSISTANCE THROUGH NONGOVERNMENTAL ORGANIZATIONS.—Restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance in support of programs of nongovernmental organizations from funds appropriated by this Act to carry out the provisions of chapters 1 and 10 of part I of the Foreign Assistance Act of 1961: *Provided*, That the President shall take into consideration, in any case in which a restriction on assistance would be applicable but for this subsection, whether assistance in support of programs of nongovernmental organizations is in the national interest of the United States: *Provided further*, That before using the authority of this subsection to furnish assistance in support of programs of nongovernmental organizations, the President shall notify the Committees on Appropriations under the regular notification procedures of those committees, including a description of the program to be assisted, the assistance to be provided, and the reasons for furnishing such assistance: *Provided further*, That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion or involuntary sterilizations contained in this or any other Act.

(b) PUBLIC LAW 480.—During fiscal year 1996, restrictions contained in this or any other Act with respect to assistance for a country shall not be construed to restrict assistance under the Agricultural Trade Development and Assistance Act of 1954: *Provided*, That none of the funds appropriated to carry out title I of such Act and made available pursuant to this subsection may be obligated or expended except as provided through the regular notification procedures of the Committees on Appropriations.

(c) EXCEPTION.—This section shall not apply—

(1) with respect to section 620A of the Foreign Assistance Act or any comparable provision of law prohibiting assistance to countries that support international terrorism; or

(2) with respect to section 116 of the Foreign Assistance Act of 1961 or any comparable provision of law prohibiting assistance to countries that violate internationally recognized human rights.

CEILINGS

SEC. 545. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

EXCESS DEFENSE ARTICLES

SEC. 546. (a) The authority of section 519 of the Foreign Assistance Act of 1961, as amended, may be used in fiscal year 1996 to provide nonlethal excess defense articles to countries for which United States foreign assistance has been requested and for which receipt of such articles was separately justified for the fiscal year, without regard to the restrictions in subsection (a) of section 519.

(b) The authority of section 516 of the Foreign Assistance Act of 1961, as amended, may be used in fiscal year 1996 to provide defense articles to Jordan, except that the provision of such defense articles shall be subject to section 534 of this Act.

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 547. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress: *Provided*, That none of the funds appropriated by this Act may be made available to carry out the provisions of section 316 of Public Law 96-533.

USE OF AMERICAN RESOURCES

SEC. 548. To the maximum extent possible, assistance provided under this Act should make full use of American resources, including commodities, products, and services.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 549. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

CONSULTING SERVICES

SEC. 550. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

SEC. 551. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development.

PROHIBITION ON ASSISTANCE TO FOREIGN GOVERNMENTS THAT EXPORT LETHAL MILITARY EQUIPMENT TO COUNTRIES SUPPORTING INTERNATIONAL TERRORISM

SEC. 552. (a) None of the funds appropriated or otherwise made available by this Act may be available to any foreign government which provides lethal military equipment to a country the government of which the Secretary of State has determined is a terrorist government for purposes of section 40(d) of the Arms Export Control Act. The prohibition under this section with respect to a foreign government shall terminate 12 months after that government ceases to provide such military equipment. This section applies with respect to lethal military equipment provided under a contract entered into after the date of enactment of this Act.

(b) Assistance restricted by subsection (a) or any other similar provision of law, may be furnished if the President determines that furnishing such assistance is important to the national interests of the United States.

(c) Whenever the waiver of subsection (b) is exercised, the President shall submit to the appropriate congressional committees a report with respect to the furnishing of such assistance. Any such report shall include a detailed explanation of the assistance to be provided, including the estimated dollar amount of such assistance, and an explanation of how the assistance furthers United States national interests.

WITHHOLDING OF ASSISTANCE FOR PARKING FINES OWED BY FOREIGN COUNTRIES

SEC. 553. (a) IN GENERAL.—Of the funds made available for a foreign country under part I of the Foreign Assistance Act of 1961, an amount equivalent to 110 percent of the total unpaid fully adjudicated parking fines and penalties owed to the District of Columbia by such country as of the date of enactment of this Act shall be withheld from obligation for such country until the Secretary of State certifies and reports in writing to the appropriate congressional committees that such fines and penalties are fully paid to the government of the District of Columbia.

(b) DEFINITION.—For purposes of this section, the term "appropriate congressional committees" means the Committee on Foreign Relations and the Committee on Appropriations of the Senate and the Committee on International Relations and the Committee on Appropriations of the House of Representatives.

LIMITATION ON ASSISTANCE FOR THE PLO FOR THE WEST BANK AND GAZA

SEC. 554. None of the funds appropriated by this Act may be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza unless the President has exercised the authority under section 583(a) of the Middle East Peace Facilitation Act of 1994 (part E of title V of Public Law 103–236) or any other legislation to suspend or make inapplicable section 307 of the Foreign Assistance Act of 1961 and that suspension is still in effect: *Provided*, That if the President fails to make the certification under section 583(b)(2) of the Middle East Peace Facilitation Act or to suspend the prohibition under other legislation, funds appropriated by this Act may not be obligated for assistance for the Palestine Liberation Organization for the West Bank and Gaza.

EXPORT FINANCING TRANSFER AUTHORITIES

SEC. 555. Not to exceed 5 percent of any appropriation other than for administrative expenses made available for fiscal year 1996 for programs under title I of this Act may be transferred between such appropriations for use for any of the purposes, programs and activities for which the funds in such receiving account may be used, but no such appropriation, except as otherwise specifically provided, shall be increased by more than 25 percent by any such transfer: *Provided*, That the exercise of such authority shall be subject to the regular notification procedures of the Committees on Appropriations.

WAR CRIMES TRIBUNALS

SEC. 556. If the President determines that doing so will contribute to a just resolution of charges regarding genocide or other violations of international humanitarian law, the authority of section 552(c) of the Foreign Assistance Act of 1961, as amended, may be used to provide up to $25,000,000 of commodities and services to the United Nations War Crimes Tribunal established with regard to the former Yugoslavia by the United Nations Security Council or such other tribunals or commissions as the Council may establish to deal with such violations, without regard to the ceiling limitation contained in paragraph (2) thereof: *Provided*, That the determination required under this section shall be in lieu of any determinations otherwise required under section 552(c): *Provided further*, That 60 days after the date of enactment of this Act, and every 180 days thereafter, the Secretary of State shall submit a report to the Committees on Appropriations describing the steps the United States Government is taking to collect information regarding allegations of genocide or other violations of international law in the former Yugoslavia and to furnish that information to the United Nations War Crimes Tribunal for the former Yugoslavia.

NONLETHAL EXCESS DEFENSE ARTICLES

SEC. 557. Notwithstanding section 519(f) of the Foreign Assistance Act of 1961, during fiscal year 1996, funds available to the Department of Defense may be expended for crating, packing, handling and transportation of nonlethal excess defense articles transferred under the authority of section 519 to countries eligible to participate in the Partnership for Peace and to receive assistance under Public Law 101–179.

LANDMINES

SEC. 558. Notwithstanding any other provision of law, demining equipment available to any department or agency and used in support of the clearing of landmines for humanitarian purposes may be disposed of on a grant basis in foreign countries, subject to such terms and conditions as the President may prescribe.

REPORT ON THE SALARIES AND BENEFITS OF THE IMF AND THE WORLD BANK

SEC. 559. The Comptroller General shall submit a report to the Committees on Appropriations not later than November 1, 1995, on the following—

(1) a review of the existing salaries and benefits of employees of the International Monetary Fund and the International Bank for Reconstruction and Development; and

(2) a review of all benefits paid to dependents of Fund and Bank employees.

Such report shall include a comparison of the salaries and benefits paid to employees and dependents of the Fund and the Bank with salaries and benefits paid to employees holding comparable positions in the public and private sectors in member countries and in the international sector.

RESTRICTIONS CONCERNING THE PALESTINIAN AUTHORITY

SEC. 560. None of the funds appropriated by this Act may be obligated or expended to create in any part of Jerusalem a new office of any department or agency of the United States Government for the purpose of conducting official United States Government business with the Palestinian Authority over Gaza and Jericho or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles: *Provided*, That this subsection shall not apply to the acquisition of additional space for the existing Consulate General in Jerusalem: *Provided further*, That meetings between officers and employees of the United States and officials of the Palestinian Authority, or any successor Palestinian governing entity provided for in the Israel-PLO Declaration of Principles, for the purpose of conducting official United States Government business with such authority should continue to take place in locations other than Jerusalem. As has been true in the past, officers and employees of the United States Government may continue to meet in Jerusalem on other subjects with Palestinians (including those who now occupy positions in the Palestinian Authority), have social contacts, and have incidental discussions.

PROHIBITION OF PAYMENT OF CERTAIN EXPENSES

SEC. 561. None of the funds appropriated or otherwise made available by this Act under the heading "INTERNATIONAL MILITARY EDUCATION AND TRAINING" or "FOREIGN MILITARY FINANCING PROGRAM" for Informational Program activities may be obligated or expended to pay for—

(1) alcoholic beverages;

(2) food (other than food provided at a military installation) not provided in conjunction with Informational Program trips where students do not stay at a military installation; or

(3) entertainment expenses for activities that are substantially of a recreational character, including entrance fees at sporting events and amusement parks.

LIMITATION ON ASSISTANCE TO COUNTRIES THAT RESTRICT THE TRANSPORT OR DELIVERY OF UNITED STATES HUMANITARIAN ASSISTANCE

SEC. 562. (a) IN GENERAL.—None of the funds made available in this Act may be used for assistance in support of any country when it is made known to the President that the government of such country prohibits or otherwise restricts, directly or indirectly, the transport or delivery of United States humanitarian assistance.

(b) EXCEPTION.—Subsection (a) shall not apply to assistance in support of any country when it is made known to the President that the assistance is in the national security interest of the United States.

REFERENCES TO AUTHORIZATION ACTS

SEC. 563. The funds appropriated under the heading, "Child Survival and Disease Programs Fund" are provided pursuant to the Foreign Assistance Act, as amended: under sections 103 through 106 (Development Assistance Fund), in the amount of $214,000,000; under part I, chapter 10 (Development Fund for Africa), in the amount of $131,000,000; under the provisions of section 498(6) (Assistance for the New Independent States of the Former Soviet Union), in the amount of $15,000,000; under the provisions of part I, chapter 1, section 104(c) of the Foreign Assistance Act and the Support for East European Democracy (SEED) Act of 1989, in the amount of $1,000,000; under provisions of chapter 4, part II (Economic Support Fund), in the amount of $23,000,000; under the provisions of section 301, in the amount of $100,000,000 as a contribution on a grant basis to the United Nation's Children's Fund (UNICEF): *Provided*, That funds derived from funds authorized under chapter 4, part II, shall be made available for projects meeting criteria set forth in part I section 104(c): *Provided further*, That funds appropriated under the heading "Child Survival and Disease Programs Fund" shall be in addition to amounts otherwise available for such purposes.

Mr. PORTER. Mr. Chairman, as I have said many times on this floor, the United States has a unique opportunity—in fact in my view a responsibility—to remain engaged overseas in the post-cold-war world. The reasons for promoting our interest overseas, including the development of overseas markets for United States goods, protection of the planet's environment, and United States strategic interests did not disappear with the break-up of the Soviet Union. If anything, the United States should focus its energies and resources on these issues now, when we can have the greatest opportunity for success any time in the last 50 years.

The gentleman from New York is a good friend of mine and a person whom I greatly respect for his longtime dedication to enhancing the United States's role in the world through development aid. I commend him for his leadership in passing the American Overseas Interests Act earlier this year. Unfortunately, he has been put in a very peculiar and difficult position by the foreign operations bill, which reflects his priorities, I believe, but exceeds his committee's authorization level by $24 million.

While I understand the gentleman's dedication to protecting the prerogatives of his committee, I cannot support his amendment. The development assistance account is, in my view, the backbone of this bill. The bill already effectively cuts this account by 40 percent, devastating programs in the areas of population, education, agriculture, microenterprise, and others that promote our interests overseas. Further cuts like the ones proposed in this amendment are counterproductive and should not be enacted.

I have a great deal of respect for the gentleman from New York, but I must reluctantly encourage Members to oppose his amendment today.

Mr. GOODLING. Mr. Chairman, I rise today to comment on an issue of vital strategic importance to the United States—the future of Ukraine.

The Ukraine, situated in the middle of Sir Halford John Mackinder's celebrated "heartland" of the world, is of vital strategic significance to every nation in the region. Standing at the crossroads of Europe and Asia, the future of the Ukraine and its 52 million people will have a profound impact on the geopolitical complexion of Europe, Central Asia, and the Transcaucasus.

Recently, the Ukraine has responded extremely well in its efforts to implement democratic principles, begin the conversion to a free market economy, and fulfill international treaty commitments. In particular, the period since the 1994 democratic election of President Kuchma has been a time of significant progress in several respects.

However, the United States commitment to the Ukraine has not been commensurate with the pace of Ukrainian reform. I understand the reluctance of the House Committee on Appropriations Subcommittee on Foreign Operations to provide specific country earmarks in this bill. However, this administration has been negligent in providing proportionate funding for the Ukraine under the authority of the Freedom Support Act. Ukraine's size, geostrategic significance, and commitment to important treaty obligations have not been reflected in the administration's distribution of Freedom Support Act funds.

Ukraine has fulfilled nuclear disarmament obligations, adopted democratic reform, made progress in economic reform, and boasts an excellent human rights record. In many ways, the Ukrainian record stands in stark contrast to that of the Russian Government.

Russia is the overwhelming recipient of the Freedom Support Act account. In response to several regrettable actions undertaken by the Russian Government, Congress has justifiably reduced our commitment to that account. It is the expectation of Congress that these reductions will be borne by Russia and not the Ukraine.

While I support the reductions in spending for the Freedom Support Act, these cuts should not come from the Ukrainian allotment. Congress will be watching the administration closely on this matter.

Mr. CALLAHAN. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. DIAZ-BALART) having assumed the chair, Mr. HANSEN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATIONS

Mr. CAMP. Mr. Speaker, I would like the RECORD to show that I was not present on Tuesday, June 27, due to the birth of my son, Andrew David. I would like to state for the record that had I been present, I would have voted as follows: On rollcall vote No. 420—"Yes"; rollcall vote No. 421—"No"; rollcall vote No. 422—"No"; rollcall vote No. 423—"Yes"; rollcall vote No. 424—"No"; rollcall vote No. 425—"Yes"; rollcall vote No. 426—"No"; rollcall vote No. 427—"Yes".

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 79, PROPOSING CONSTITUTIONAL AMENDMENT TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG

Mr. SOLOMON, from the Committee on Rules, submitted a privileged report (Rept. No. 104–164) on the resolution (H. Res. 173) providing for consideration of the joint resolution (H.J. Res. 79) proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States, which was referred to the House Calendar and ordered to be printed.

AUTHORIZING USE OF CAPITOL GROUNDS FOR GREATER WASHINGTON SOAP BOX DERBY

Mr. GILCHREST. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the concurrent resolution (H. Con. Res. 38) authorizing the use of the Capitol Grounds for the Greater Washington Soap Box Derby, and ask for its immediate consideration in the House.

The Clerk read the title of the concurrent resolution.

□ 2115

The SPEAKER pro tempore (Mr. DIAZ-BALART). Is there objection to the request of the gentleman from Maryland?

Mr. WISE. Mr. Speaker, reserving the right to object, I will not object, of course, but I yield to the gentleman from Maryland [Mr. GILCHREST] for an explanation of his request.

Mr. GILCHREST. Mr. Speaker, this resolution authorizes the Greater Washington Soap Box Derby races to be run on the Capitol Grounds on July 15, 1995, or on such other date as the Speaker of the House and President pro tempore of the Senate so designate. This free event is sponsored by the All American Soap Box Derby and its local affiliate, the Greater Washington Soap Box Derby Association. Its participants are young girls and boys from 9 to 16 years old who reside in the Greater Washington metropolitan area.

Pursuant to this resolution the association would assume full responsibility for any expenses involved with the event and for any liability related to it. The association also agrees to make any necessary arrangements for the races with the approval of the Architect of the Capitol and the Capitol Police Board.

For 50 years the Soap Box Derby races have taken place in Washington, D.C., and this will be the fifth time that the Capitol Grounds will be used for the races down Constitution Avenue.

Every year this event helps teach participating youngsters the basics of mechanics and aerodynamics as they design and build their race cars. It is truly an exciting event for the entire family.

I urge my colleagues to support this resolution so that this activity may take place.

Mr. WISE. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. Mr. Speaker, I thank the gentleman from West Virginia for yielding to me.

Mr. Speaker, I want to thank Chairman SHUSTER, the ranking Member, the gentleman from California, Mr. MINETA, my friend and colleague, the gentleman from Maryland, WAYNE GILCHREST, and the gentleman from West Virginia, BOB WISE, for their strong support and continued assistance in expediting consideration of this bill today.

This resolution authorizes the use of Constitution Avenue between Delaware Avenue and Third Street for the 54th running of the Greater Washington Soap Box Derby on July 15, 1995. This competition is part of the All-American Soap Box Derby held later this summer in Akron, OH.

The resolution also authorizes the Architect of the Capitol and the Capitol Police to negotiate a licensing agreement with the Greater Washington Soap Box Derby Association to assure that there will be complete compliance with rules and regulations governing use of the Capitol Grounds.

For the past 4 years, I have proudly sponsored this bill along with regional Members and sports fans. It provides young boys and girls, ages 9 to 16, with an invaluable opportunity to develop and practice both sportsmanship and engineering skills.

This year, over 50 participants from Washington, DC and the surrounding communities of northern Virginia and Maryland are expected to participate in this year's event. I am pleased that boys and girls representing all five counties in my district will be competing in this year's derby.

The Soap Box Derby promotes a positive activity involving our young people. All too often, we hear many disturbing stories about negative activities youth are involved in.

I am reminded of a statement Ken Tomasello, the director of Greater Washington Soap Box Derby Association, made to me 4 years ago when I introduced the first resolution for use of the Capitol Grounds. He said, in short, "while the derby doesn't keep kids off the street, it does give them a drug free activity on the street."

The young people involved spend many months preparing for this race. The day they actually compete provides them with a sense of achievement and comraderie, not only for themselves but also for their families and friends.

This worthwhile event provides the participants, tourists, and local residents with a safe and enjoyable day of activities. I would like to take this opportunity to congratulate them for their achievements and wish them all well in this year's race.

Again, I want to thank the Transportation Committee for its continued support of the Greater Washington Soap Box Derby and I encourage all of my colleagues to attend this year's race.

Mr. WISE. Mr. Speaker, further reserving the right to object, I join my colleague Mr. GILCHREST in supporting House Concurrent Resolution 38, a resolution to authorize the use of the Capitol Grounds for the Greater Washington Soap Box Derby. The event is scheduled for July 15, 1995, and part of the Capitol Grounds as well as Constitution Ave. NE., will be used for the race.

Boys and girls, ages 9 through 16, design, build and race their own soap box cars. In the process they become familiar with the principles of aerodynamics and mechanics. In addition, the entire family can participate in, and enjoy the fun and activities of the day.

The winner of the Washington race will then compete in the national competition in Akron, OH.

This is a very worthwhile, well attended activity. I wish to commend Mr. HOYER for his support for this annual event, and urge support for House Concurrent Resolution 38.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 38

Resolved by the House of Representatives (the Senate concurring),

SECTION 1. AUTHORIZATION OF SOAP BOX DERBY RACES ON CAPITOL GROUNDS.

The Greater Washington Soap Box Derby Association (hereinafter in this resolution referred to as the "association") shall be permitted to sponsor a public event, soap box derby races, on the Capitol grounds on July 15, 1995, or on such other date as the Speaker of the House of Representatives and the President pro tempore of the Senate may jointly designate.

SEC. 2. CONDITIONS.

The event to be carried out under this resolution shall be free of admission charge to the public and arranged not to interfere with the needs of Congress, under conditions to be prescribed by the Architect of the Capitol and the Capitol Police Board; except that the Association shall assume full responsibility for all expenses and liabilities incident to all activities associated with the event.

SEC. 3. STRUCTURES AND EQUIPMENT.

For the purposes of this resolution, the Association is authorized to erect upon the Capitol grounds, subject to the approval of the Architect of the Capitol, such stage, sound amplification devices, and other related structures and equipment as may be required for the event to be carried out under this resolution.

SEC. 4. ADDITIONAL ARRANGEMENTS.

The Architect of the Capitol and the Capitol Police Board are authorized to make any such additional arrangements that may be required to carry out the event under this resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR SUNDRY COMMITTEES AND THEIR SUBCOMMITTEES TO SIT TOMORROW, JUNE 28, 1995, DURING 5-MINUTE RULE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit tomorrow while the House is meeting in the Committee of the Whole House under the 5-minute rule: The Committee on Agriculture; the Committee on Banking and Financial Services; the Committee on Commerce; the Committee on Economic and Educational Opportunities; the Committee on Government Reform and Oversight; the Committee on the Judiciary; the Committee on National Security; the Committee on Small Business; and the Permanent Select Committee on Intelligence.

It is my understanding that the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida.

Mr. WISE. Mr. Speaker, reserving the right to object, the gentlewoman is absolutely correct. The Democrat minority leadership has been consulted. We have no objection.

Mr. Speaker, I withdraw my reservations of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

CUT WASTE, FRAUD, AND ABUSE IN MEDICARE

(Mr. GENE GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. GENE GREEN of Texas. Mr. Speaker, yesterday I met with 100 senior citizens from my district to talk with them about the cuts they will be facing under this new Republican budget plan that came out of the conference committee. They do not understand why leaders in Washington would cut their senior health care plan in order to finance a tax cut. Frankly, Mr. Speaker, I do not either.

I also had a chance to visit with some doctors who asked me not to cut Medicare. These doctors were declared Republicans. They said, for the first time in 30 years, they have been able to adequately provide health care for seniors through the Medicare program. We should cut fraud in Medicare by funding Operation Restore Trust, to eliminate fraud in health care, but we should not arbitrarily cut Medicare to finance our egregious tax cut plan.

The Republican budget agreement cuts Medicare, education, job training, and then cuts taxes. They want to cut taxes and also cut Medicare at the same time. Then they say that are not cutting Medicare to finance their tax break. Something is fishy.

Mr. Speaker, Congress should work hard to cut the waste, fraud, and abuse in Medicare. I hope we can agree that seniors should not be used to balance the budget for sound bites in Washington. Let us be fair to the students and seniors and not punish them for a balanced budget. It's not good government.

Mr. Speaker, I submit for the RECORD an article from the Houston Chronicle.

CONGRESSMEN WARN SENIORS OF GOP BUDGET CUTS

(By Stefanie Asin)

Democratic U.S. Reps. Dick Gephardt and Gene Green told about 100 senior citizens Monday the Republicans want to balance the budget at their expense.

The GOP wants a $270 billion cut in Medicare and Medicaid spending, and if the GOP's budget agreement passes this week in the House, seniors could expect $1,000 more a year in medical costs, said Gephardt, House minority leader from Missouri.

"It is wrong to do this," he said. "A lot of you live on your Social Security. You're already having trouble paying for rent, housing, groceries and prescription drugs."

Gephardt, who heard support from the seniors as he spoke, encouraged them to speak out and fight the proposed cuts. Congress should cut defense spending instead, he said.

"I strongly object to the priorities that have been set," said Green of Houston. "You can't balance the budget on the backs of the senior citizens."

Green said 286,000 Harris County senior citizens receive more than $1.5 billion in Medicare payments annually and cannot afford to lose their health care.

GOP leaders say Medicare spending must be slowed before the system goes bankrupt. If Medicare payments continue at their current rate—$4,700 to the average person per year—the fund will be bankrupt by 2002, said Tom Hoopes, spokesman for Rep. Bill Archer, R-Houston, chairman of the House Ways and Means Committee.

"If we don't slow the increase, these people will get absolutely nothing," Hoopes said.

"We think it's foolhardy for political gain to spend too much now and end up with nothing after the next couple of elections. We would tell the senior citizens we are truly concerned about Medicare and its future."

Susie Davis, 85, and several others asked the congressmen many questions about how the Democratic and Republican proposals would affect them. Davis, who lives alone with no family left, said she needs subsidized health care.

"I don't have anything else," she said. "It's bad to do us that way."

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

NATURALIZATON REMARKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California, [Mr. FARR] is recognized for 5 minutes.

Mr. FARR. Mr. Speaker, as we approach the 4th of July celebrating our citizenship and the good fortune to live in a country where people can elect a government that derives its strength from the faith of the government, Let us take this moment during the 4th of July recess to reflect on a lot of people who will be citizens of the United States.

Mr. Speaker, I am talking about the many of us who recognize that there are decent, productive, legal immigrants trying to become good and productive American citizens. Sometimes there is one thing in the way, a backlogged naturalization process.

As a Member of this Congress, I have worked with the administration towards eliminating the long backlogs and improving the naturalization process for many hard-working immigrants who wait as long as a year and a half to get naturalized after they have qualified to be naturalized.

Recently I supported the INS request to pout more funds into improving our naturalization system. This successful effort allows the INS to spend $76.6 million to make progress, processing "adjustment of status applications" and "naturalization applications" much easier.

These critical funds will allow the INS to hire more than 1,000 much-needed additional staff and utilize newly improved technology to more efficiently process the surging backlogs.

It will help also in the INS efforts to improve customer service. It is very important to point out that the money for naturalization is not taxpayer money. It is from the immigrants themselves and from the application fees that they pay into the system.

Mr. Speaker, I am pleased to see that this unprecedented commitment by the INS to improve the naturalization process and eliminate many of the backlogs will allow many people to become citizens this next year. I ask my colleagues to join me in making the 4th of July a day in which our communities do their own swearing-in ceremonies, to welcome our newest citizens on board.

I will be performing such ceremonies in Watsonville, CA, on July 7. I hope a year from now that the President will offer the lawn of the White House for the national 4th of July swearing-in ceremony and that every Member of this Congress will sponsor residents in their district of participate in such a swearing-in ceremony.

FARM PROGRAMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia [Mr. KINGSTON] is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, I just wanted to speak briefly about one of the amendments we had today in the full Committee on Appropriations that had to do with some of the farm programs that are coming up.

This particular amendment had to do with the peanut program. The peanut program, like all of the agriculture programs, frankly are somewhat hard to describe and explain and they are very complicated. But one of the things that I think people need to keep in mind when we discuss agriculture is that, number one, the agriculture programs that we have were designed to give the American consumers an abundant supply of food and a steady supply, steady variety at reasonable prices. That has been achieved. American consumers spend 11 percent of their income on food compared to 20 percent in other countries and 33 percent in countries like the Soviet Union.

So when we talk about farm subsidies and farm programs and so forth, we need to keep in mind that the people who are being subsidized are not necessarily the farmers. They are the American consumers. Eleven percent of our income, again, Mr. Speaker, goes to groceries. Compared to other countries, America is favorably ahead.

□ 2130

Number two, farm programs have been reduced from a $26 billion level in 1987 to $10.6 billion today, in 1995. If all the Federal Government programs had been reduced as much as agriculture programs, we would not have the deficit. We would be paying down the debt. No other agencies, with the exception of Defense, can claim that kind of cut in the last 8-year period of time.

Yet, Mr. Speaker, every time I pick up the newspapers, the big problem with the Federal budget seems to be agriculture. People do not keep that in mind.

Finally, let me say this. The farm bill is coming up. Every year we have a farm bill, and all these programs are up for negotiation right now. There are many, many Members who are moving these programs to a more traditional capitalist system. We are changing the status quo. We are moving towards no net cost programs.

I have noticed that the gentleman from central Georgia, SAXBY CHAMBLISS, has come down here. He is on the Committee on Agriculture. He is involved. I am happy to yield to the gentleman from Georgia. I know he has been involved in changing the peanut program to a no net cost program, and I know he is doing the same with many other programs.

Mr. CHAMBLISS. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, he is exactly right. We in the Committee on Agriculture have been involved in trying to rewrite every single title of the agriculture programs in preparation for the 1995 farm bill, which is, without a doubt, going to be the most crucial farm bill that we have ever written in Congress. The reason it is going to be so crucial is that it is going to dictate how our agriculture community operates from now into the 21st century.

Irrespective of what any segment of our country thinks, the agriculture community is still the backbone of the economy of this country. The reason they are is that we feed more people in this country than anybody else in the world does. We not only feed folks in this country, we feed folks all over the world. We grow the finest quality agricultural products of anybody in the world.

Mr. KINGSTON. Mr. Speaker, I think the average American farmer feeds something like 187 people, and 126 people outside of America, so the production is unbelievable. I did not want to break down the gentleman's train of thought there.

Mr. CHAMBLISS. The gentleman is exactly right. Let me tell the Members what we have been thinking about in the Committee on Agriculture, as far as the 1995 farm bill is concerned. We have in place now two agreements, the GATT agreement as well as the NAFTA agreements. Those two agreements are going to dictate certain requirements on the agriculture community from a subsidy standpoint.

We know that when NAFTA and GATT are fully implemented, that we are going to have to transition into a true free world market, and we in the Committee on Agriculture are preparing to do that. We are working very diligently towards modifying and changing programs to ensure that our folks involved in agriculture are able to compete in the world market when those treaties are fully implemented.

Mr. KINGSTON. I would ask the gentleman, Mr. Speaker, is it not true that France subsidizes their farmers? Most European countries subsidize their farmers. Is it not true that American farmers cannot even sell rice in Japan because of the tariff agreement?

So even as we look at GATT, and look at NAFTA, it is not a perfect world. We are not going out there on a free world basis, because of still existing trade barriers and still existing subsidies by foreign governments to their farmers who are competing with our American farmers. Is that not the case?

Mr. CHAMBLISS. If the gentleman will yield, he is absolutely right. Not only France but countries like Spain highly subsidize their farmers. They compete against us in the world market. We simply cannot do that and be able to make a profit in our agriculture community.

A NEW FARM POLICY

The SPEAKER pro tempore (Mr. DIAZ-BALART). Under a previous order of the House, the gentleman from Georgia [Mr. CHAMBLISS] is recognized for 5 minutes.

Mr. CHAMBLISS. Mr. Speaker, we will continue the same dialog with the gentleman from the First District of Georgia [Mr. KINGSTON].

Mr. Speaker, one way that we look at the farm programs is not from the standpoint of is it a subsidy, because it really is not. The United States government makes an investment into our agriculture community, and a good example of it is with the peanut program.

The peanut program is a highly criticized program, but the reason it is criticized is because most folks just do not understand it. What we do in the United States is we have invested over the last 10 years an average of $15 million a year into the peanut program. That program in Georgia alone last year was a $2.5 billion industry. I do not know how many jobs it created, just in the State of Georgia alone. Peanuts are grown from Texas all the way to Georgia, up the seaboard, all the way into Virginia.

Mr. Speaker, really what our farm programs are are investments by the U.S. Government into our agriculture community, into our States, that create jobs, they provide an income for people, and we get a significant return off of those programs from the standpoint of income to our farmers, as well as providing crops.

Mr. KINGSTON. Mr. Speaker, if the gentleman will yield, one of the things we are telling farmers from the gentleman's district and my district and all over the country is despite the fact that we have gone from $26 billion in a government investment to $10 billion over a net year period of time, they are still going to have to change if we are going to have a program. We are moving these programs into no net cost programs. We are transforming them. If people want status quo, they lose out in 1995. That is not what the taxpayers want. They want a balanced budget, which means we are going to have to all do more.

What we try to do, Mr. Speaker, is measure agriculture with the same yardstick that we measure social programs. When we are looking at social programs, if we are going to vote to cut them, then we need to be able to say we are going to do the same thing to agriculture.

What the farmers are saying to us is "We realize that, as long as you are fair and across the board, and do not balance the budget on the back of farmers." In fact, we could not, because even if we eliminate all farm spending, it constitutes three-fifths of 1 percent of the entire budget. It will not balance the budget if we eliminate it completely.

What we are trying to get across to folks, Mr. Speaker, even still, we have to change the program in order to be in this game. I am glad to say that most of the farmers I have talked to, and I think Mr. CHAMBLISS as well, are saying "Do what you can to balance the budget. Make that the number one priority, but remember, you have to feed people and you have to have farmers to do that, so do not eliminate all your agricultural investments."

Mr. CHAMBLISS. One interesting thing about agriculture, Mr. Speaker, is that our farmers are generally conservative individuals. They fully believe the main thing we need to do in this country is balance the budget. I have not met a single farmer in my district who does not give that a high priority.

At the same time, as the gentleman says, we simply cannot single out the agricultural community to balance the budget. One thing that our chairman of the Committee on Agriculture is committed to do is to ensure that all cuts that are made are taken in a proportionate, on an equal basis with other programs, and agriculture is not singled out.

Let me just address one other point that is very crucial, Mr. Speaker, and it is something that folks who are opposed to the farm programs continually point out. That is that there is a myth out there if agriculture programs are cut out, that the housewife will see a difference in the price at the retail store. That simply is not true.

We have had testimony after testimony in the Committee on Agriculture from individuals who are involved in manufacturing who will tell us that even if we take a price cut, or even if there is a price cut in the support price, there will not be a reflection of that cut in the retail price. They will use that money either to add to their bottom line, to show their stockholders that they have made more money, or they will take that money and put it in promotion to advertise their products. Therefore, there is not going to be a change in the price at the retail store if there are cuts in price supports. That myth simply does not exist.

Mr. KINGSTON. Mr. Speaker, I think the gentleman has summed it up.

A MESSAGE FROM CARDINAL O'CONNOR TO CONGRESS, REMEMBERING APRIL 16, 1995, AND CLARIFYING THE MEANING OF THE WORD "COVENANT"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN. Mr. Speaker, I hope an average C–SPAN audience is here for an exciting special order I guess to follow, but also because I have a message from a very important prelate of the Holy Roman Catholic Church.

Mr. Speaker, when the Los Angeles Times wrote about my presidential announcement week in New Hampshire and New York, their traveling reporter left out the high point of our whole trip. It happened on Easter, and it was absolutely the most moving moment for me, for my wife, and our five grown children, and for our nine grandchildren.

At St. Patrick's Cathedral in New York, the best-known clergyman in all of North and probably South America, John Cardinal O'Connor, from the pulpit, during the homily at Easter High Mass, his Mass, gave a U.S. Congressman the following assignment.

He said:

> I noted during communion time the presence of Congressman Bob Dornan. Bob, you can tell the Congress, and through your radio and television programs, the people of the United States, that St. Patrick's Cathedral is not a tomb of dead dreams but a vibrant temple of hope; that the hearts of our Catholic people are by no means empty with dead faith, but are filled with living faith, a faith that will not be ignored, a faith that, however ridiculed, however derided by cynics, will continue to blaze forth through this land to radiate goodness and to bring hope to millions.

Those are stirring words, Mr. Speaker. I will do what Cardinal O'Connor asked of me, I have just done it, because his Christian conviction is my family's conviction, all 20 of us. I truly believe the Cardinal expresses the sentiments of all loyal and practicing Christians.

Easter Sunday, this last April 16, was my Sally's birthday and our 40th wedding anniversary, so, after Mass, to the left of the main altar, the altar where my parents were married June 27, 1929, Sally and I stood in front of the very baptismal font where I was christened in May 1933, and Sally and I renewed our sacred vows of matrimony. I wanted to share the special memories of this day with the L.A. Times, but they saw fit to ignore that any of that happened. I am still surprised.

April 16, Mr. Speaker, 1995, is a day the Dornan clan will remember with great fondness forever and ever. Amen.

Mr. Speaker, a word about that fascinating day following the State of the Union message, when in 1 minute, I made four points. One of those points was stricken from the record, and I was removed from my speaking privileges for the rest of the day. I refused to apologize because I believe everything I said was historical, and I will revisit this well at some point in the future to discuss point 3 that I was suppressed for, but I will at this point discuss point 1.

I said that Mr. Clinton had overstepped the bounds of decency to refer to his presidency as the New Covenant. At the moment of consecration at every Catholic Mass, when the wine is consecrated, the words are "the new and everlasting covenant." However, a week ago Sunday, the scriptural reading from the Gospel hit it right on the head. It is St. Paul's letter to the Corinthians, 11:23 to 26. Here is what I took exception to. "In the same way after supper, he," meaning Jesus, "Took the cup saying 'This is the cup of the New Covenant in my blood. Do this whenever you drink it in remembrance of me.' "

Anybody who has seen an Indiana Jones movie knows that the Old Covenant, the Ark of the Covenant, was between Abraham and God. The New Covenant is Jesus Christ, our Savior, who redeemed us with His death on the cross, redeemed us with His precious blood. The New Covenant is not Bill or Hillary Clinton, and I am sure Mother Teresa the other day, when she spent the better part of the day with the First Lady, would have made that very clear to Miss Hillary if she had asked "Mother Teresa, are we perchance the New Covenant?" I think that settles point 1. More about point 2, 4, and that infamous point 3, later.

SAFETY IN THE WORKPLACE

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Illinois [Mr. DURBIN] is recognized for 60 minutes as the designee of the minority leader.

Mr. DURBIN. Mr. Speaker, I rise to defend the right of every American to be safe and healthy at work. Americans who do the right thing and go to work every day should not have to pay for it with their health or their lives.

I have two photos with me this evening, and I hope the camera can catch them. The first shows a job which I am personally familiar with, working in a slaughterhouse, which I did when I was working my way through college. It is tough work, it is dangerous work. I have seen people literally mutilated and hurt on the job in this employment, and yet those of us who take for granted the meat in the grocery department do not realize how many men and women each day literally risk their own health and lives in their jobs.

Below this is another photo in which we cannot see the gentleman who is carrying it, but he appears to be a worker in some sort of a grocery outlet carrying a bag of bakery flour, which of course can be a challenge at times, depending on the size of it.

□ 2145

These are just two, I guess, regular employment opportunities in America that we do not think much of. But the reason that I rise this evening and invite my colleagues to join me is to talk about the men and women who go to work each day in America and how safe it is in their workplace.

Unfortunately, for too many Americans in all kinds of jobs, they pay each day with their health and their lives. The numbers are absolutely staggering in America. Six thousand Americans are killed at work every single year, almost twice as many as are killed by fires in the home. Fifty thousand Americans die of occupational diseases every year, almost as many died in the entire Vietnam War. Sixty thousand Americans are permanently disabled every year because of their jobs, more than all the newly reported AIDS cases reported in 1992. And more than 6 million workers suffer serious injuries and illnesses every year because of their work. That is more than twice the number of people who live in the city of Chicago. And it happens every single day.

On an average day, 16,000 Americans are injured at work. On an average day, 154 Americans are killed by job-related injuries and occupational diseases. We know how many people are killed and injured in auto crashes and we are horrified by it and we demand that the Government take action to make our highways safer. We know how many people are killed and injured in airplane accidents and we rightly demand safer airports and airplanes. The Director of the Occupational Safety and Health Administration has said that "if a plane crashed every day in this country, the hue and cry for action would be deafening." But when a plane full of Americans die at work each day, silence is all we hear. These are not just numbers. They are real people. Their only fault is they get up and go to work every day to provide for themselves and their family, and that is certainly no fault. They are our coworkers, our friends, our relatives, our family, our neighbors.

Darrell Drummer of Loves Park, IL. He was killed in a gravel pit when a cable came loose and struck him in the head. He was 41 years old. Janice Banks of Pulaski, TN, killed when the lumber stacker she was working on fell up against her. Lloyd Mills, who lost his hearing because of this job, and he said, "Had I had the right to wear hearing protection, I would have worn it because the longer I live, the longer I'm going to have to listen to that humming in my ears." Or the 25 workers who died in a poultry processing plant in Hamlet, NC, trapped in a raging fire because the emergency exits had been locked by their employers.

Unsafe workplaces are not limited to giant factories, meatpacking plants, and high elevation construction sites. Job hazards affect Americans who work in all kinds of jobs. They affect the employees of nursing homes who work in what has become one of the most dangerous jobs in America. They affect workers in grocery stores who work with band saws that can cut workers as quickly as they slice meat. They include locked exit doors that trap workers in fires, electrical hazards, toxic chemicals and noise that causes permanent hearing loss.

This special order tonight by my colleagues on the Democratic side of the aisle is a reminder to those who think it is time to turn back the clock on job safety and health in the workplace, a reminder that the job is not yet done and the victory is not yet won. With me are Members of Congress from across the country, and I might add from both sides of the aisle now, and I welcome the gentlewoman from Maryland. They know the importance of safety and health in the workplace, because they have worked for safety and health laws for years. They know the importance of safety and health because they have constituents who have been killed and maimed at work. They will tell you about the hazards American workers face in food processing plants, coal mines, grocery stores, and construction sites and they will tell you what the new majority in Congress, some of them, are proposing to do in response, from cutting safety and health funding to gutting safety and health laws.

Mr. Speaker, it is not enough to say that you care about the safety and health of Americans at work. The American people will judge us by our actions. I hope this special order will remind people of the importance, the life-and-death importance, of a healthy and safe workplace. I hope it will encourage Congress to work for real improvements and real solutions.

I see among my colleagues this evening the gentleman from New York [Mr. OWENS], the gentleman from Rhode Island [Mr. KENNEDY], the gentleman from California [Mr. MILLER], the gentleman from West Virginia [Mr. WISE], and the gentlewoman from Maryland [Mrs. MORELLA]. I welcome them all.

Mr. Speaker, I yield to the gentleman from New York [Mr. OWENS].

Mr. OWENS. Mr. Speaker, I thank the gentleman and congratulate him on this special order. I would also like to thank the leadership for taking this opportunity to highlight a very important piece of legislation. I serve as the ranking Democrat on the Subcommittee on Workforce Protections of the Committee on Economic and Educational Opportunities.

Mr. Speaker, I have in front of me a package of printouts listing a portion of the 10,000 Americans who died in the workplace last year. About 56,000 die of accidents that take place in the workplace and of diseases contracted in the workplace. But 10,000 die in the workplace, at the workplace. I think that it is important that we note that there are names and addresses of human beings here. They are very real.

The notion that government agencies like OSHA exist only to make work for bureaucrats or to make life unpleasant for businesses is untrue in most cases, but certainly in the case of an agency like OSHA, we can clearly prove it to be untrue. One of the great things about the Vietnam War Memorial is the fact that it does give individual names. No more Tomb of the Unknown Soldier. You know exactly who it was who died and what day they died, and I think that to humanize what happens in this great so-called bureaucracy of the Federal Government, it is important of us to take a look at the actual list of names and addresses of the human beings who have died in the workplace.

Over the years, OSHA has decreased the number who die in the workplace, or who die as a result of diseases contracted in the workplace, but OSHA has not done the job 100 percent. OSHA must continue to exist.

Congress must be concerned about the health and safety of all American workers. The blind and furious ideological war being waged by the Republican Party against the Nation's labor unions has propelled the Republicans into a search and destroy mission against OSHA. This relentless attack places all American workers in harms way. There will be a large number of casualties. Already, more than 56,000 American workers die each year as a result of accidents on the job or from disease and injuries suffered at their places of work. Passage of legislation designed to disable OSHA will greatly escalate this unfortunate body count.

Speaker GINGRICH has recently proclaimed that politics is "war without blood." The reality is that the Republican war on OSHA will provide pain and suffering; and in many instances their proposed "scorched earth" assault on OSHA will also produce blood. Among the 56,000 casualties last year, there were 10,000 who bled and died at the work site as a result of horrible accidents.

It is not exaggerating at all to say that the proposed Republican OSHA reforms, H.R. 1834, could be accurately described as the Death and Injury Act of 1995. Provisions designed to protect the health and safety of workers are being eradicated. The requirements of serious compliance by employers is being demolished. Reasonable protections are being blown away leaving workers dangerously exposed and defenseless. As a result of this Republican invasion of every worthwhile Government program there will be a criminal escalation of the body count.

Before the Republican aggression against programs they target as enemies, there is always a barrage of propaganda attempting to pulverize the facts and the truth. Always there are bombardments of disinformation about Government bureaucracies. Like most Government agencies initiated by Democrat Franklin Roosevelt's New Deal and Democrat Lyndon Johnson's Great Society, OSHA is not the blundering irrelevant entity described by the Republican propaganda machine. OSHA is very much in accordance with the mission of the U.S. Constitution "to promote the general welfare."

Promoting the general welfare of workers involves providing basic protections of their health and safety. The workplace should not be a place which diminishes the opportunity and damages the capacity of any American to engage fully in their right to the "pursuit of happiness." Although organized labor led the fight to create OSHA and unions play a major role in enforcing the regulations, OSHA is not a gift of the Democratic Party to union members. OSHA represents a logical fulfillment of the promise of our Constitution. OSHA is for all Americans.

The Republican juggernaut has launched a counterattack against the basic mission of our Constitution. The following examination of the Republican proposals will expose the destructive nature of their "Death and Injury Act":

SUMMARY OF THE REPUBLICAN DEATH AND INJURY ACT

After the September 3, 1991, fire at the Imperial Food's Hamlet Plant—where 25 workers were killed and 56 injured—Mr. CASS BALLENGER, now chairman of the Subcommittee on Workplace Protections, told the Charlotte Observer, "it's embarrassing that it takes a fire like this * * * before the news media makes a big enough deal that people will say 'OK, we'll pay more tax money' (for worker safety). It's the squeaking wheel that needs the grease and this wheel apparently hasn't been squeaking loud enough. * * * I think everybody agrees that it's underfunded and bogged down with bureaucracy." Given this insight, can you imagine how utterly incomprehensible it is that the Death and Injury Act is being proposed by Congressman BALLENGER.

Let's closely examine the Republican Death and Injury Act.

The Ballenger bill viciously targets all working Americans—without prejudice or discrimination. However, the suffering it will inflict on workers and their families is not equally distributed—only the workers lose.

THE BILL

This legislation is an assault on worker safety and health protections. The Ballenger bill undermines the safety net for workers by: virtually eliminating the general duty of employers to maintain a safe and healthy workplace; making it almost impossible for OSHA to inspect workplaces and issue citations; taking away the right of workers to raise safety and health concerns without fear of employer reprisals; making it harder, if not impossible for OSHA to set standards; and eliminating important job safety agencies.

ENFORCEMENT

Ballenger guts the enforcement provisions by shifting 50 percent of the resources for this activity to consultation. To focus this agency's energies on nonenforcement compliance activities further erodes OSHA's ability to prevent hazards likely to cause death and serious physical injuries. OSHA's enforcement program is woefully inadequate. At current levels of inspections, Federal OSHA can inspect workplaces only once every 87 years. Under Ballenger there will be no inspections—no enforcement.

Ballenger permits the employer to self-evaluate by conducting its own "safety audits". Workers will not have access to these audits. If this isn't the fox guarding the chicken coop, I don't know what is. Fifty-six thousand American workers die each year from accidents on the job or disease and injuries suffered at their places of work. Ballenger guarantees an escalation in work-related deaths.

Ballenger prohibits OSHA from issuing citations to first time violators. Although, under current law, a citation is issued within 6 months of the inspection, and employers can request an informal conference to resolve the citation (even before a hearing takes place); it is not enough for Ballenger. This bill sends employers the message that they will not be punished until they are caught, not once but twice, by OSHA. Therefore, many employers will not comply.

Ballenger slashes fines and employers who violate laws for which there is no specific standard, such as ergonomics or indoor air quality, will never be fined. The General Accounting Office [GAO] has observed that civil penalties accessed under the OSHA Act are inadequate to deter violations of the act. In 1993, the average penalty collected for a serious OSHA Act violation was $550. As a matter of fact, a report in the Daytona Daily News highlighted a Georgia company that paid a $2 fine for an OSHA Act violation which resulted in the deaths of two employees. Ballenger insures violators will not have to pay.

PROTECTION OF EMPLOYEES FROM DISCRIMINATION

Ballenger requires workers to inform employers of complaints before contacting OSHA. The right to confidentiality is eliminated and as a result, retaliation against workers who file complaints will escalate. Employees will not report safety and health hazards, or illness and injuries, fearing that they will lose their jobs. Ballenger compromises the protection of workers from discrimination: Ensuring the victimization of the American worker into the 21st century.

Ballenger gives employers the right to blame workers for not following safety rules in order to overturn citations and fines. Ballenger generously provides employers with opportunities to avoid sanctions for hazardous workplace violations.

Ballenger makes it easier for employers to randomly drug test workers. Ballenger makes a mockery of a persons right to privacy.

OCCUPATIONAL HEALTH AND SAFETY STANDARDS

Ballenger prevents OSHA from setting standards unless they can prove that the costs will not exceed the benefits. Ballenger effectively restricts the cost for worker health and safety to zero.

Ballenger lets companies overturn safety and health standards in court and tie up the standard process in redtape. Ballenger forestalls the development of standards for ergonomics, indoor air quality and other emerging hazards, indefinitely.

MINE SAFETY AND HEALTH AGENCY [MSHA] AND NATIONAL INSTITUTE FOR OCCUPATIONAL SAFETY AND HEALTH [NIOSH]

Ballenger collapses MSHA into OSHA, effectively eliminating the agency which has been very successful in reducing fatalities and injuries in the mine industry. Ballenger places the lives of workers in 14,500 mines in this Nation at risk.

Ballenger eliminates NIOSH—the only agency in this country that conducts research on worker safety and health. Ballenger eradicates any possible major research effort in health and safety; placing all American workers at risk.

The disruption caused by the Death and Injury Act by needlessly combining MSHA and OSHA and eliminating NIOSH, will cost the Federal Government time, money, and experienced staff. Most importantly, however, it will cost thousands of innocent lives—the lives of men, women and young people who go to work to help support their families, pay for their education or simply to earn a living.

This Death and Injury Act is a menace to all Americans. A fully functioning OSHA offers an umbrella to all Americans. The children, families, and relatives of workers benefit when workers are protected. Against the Republican attack on OSHA the majority of Americans must mobilize to defend themselves. Speaker GINGRICH has stated that his brand of politics is war without blood. It must be remembered that even before the Republican declaration of war against OSHA there were 56,000 casualties each year. There is already too much blood. A war against OSHA will be costly. A war against OSHA is madness that must be halted immediately.

The 56,000 casualties represent real people with names and faces. These are real people who left loved ones behind. These are real Americans who were lost despite the reasonable efforts of their Government to protect them in the work place. We cannot consciously accept policy changes which will guarantee that more Americans will die.

Our society places a high value on statistics. Each year for each holiday we broadcast the holiday highway death count. We deplore the statistics which tell us that homicides by gunshot are out of control. Last year there were 16,000 gunshot homicide victims. And, or course the periodic Vietnam War body count led thousands of Americans to protest in the streets. It should be noted that of the Vietnam War Memorial there are 57,000 names of those who died during the entire war. In contrast, there are 56,000 American work-place casualties each year.

We Americans place a high value on human life. Large numbers even insist on protecting unborn life in the wombs of mothers. To defeat the Republican Death and Injury Act we must raise the level of our voices and in every way possible inform the voters. This is not abstract politics. These are living, breathing, working citizens who are being protected. Perhaps the Republican warmongers will get the message if we follow the example of the Vietnam War Memorial. This great monument ends the practice of celebrating unknown soldiers. Carved on that great wall are the names of all the individuals who died.

Mr. Speaker, each day I propose to enter into the CONGRESSIONAL RECORD a portion of the 56,000 names of the casualties of last year's work place hazards. We propose to begin with North Carolina where, a few years ago, 25 workers in a chicken parts packaging plant perished. During a hearing before the Subcommittee on Workplace Protections there was also a mother from North Carolina who pleaded with the committee not to destroy OSHA. She had already lost one son and a second son was gravely ill as a result of accidents at the plant where they worked.

Speaker GINGRICH defines politics as war without blood; however, the kind of politics being pushed by the Republican Death and Injury Act is very much a life and death matter. Children will lose fathers and mothers; wives will lose husbands; parents will lose sons and daughters; Americans will die as a result of these reckless changes being proposed to dismantle OSHA. This brand of politics is too extreme. This kind of political war is too deadly.

□ 2200

Mr. DURBIN. I thank the gentleman for his contribution this evening. His position as ranking member of the subcommittee which has jurisdiction over this issue certainly gives him a good view of the issues, and I appreciate the analysis which he has given us.

At this point I would like to make it clear and I hope I made it clear in my opening statement that that statement about worker safety, this special order, is a bipartisan effort, and I am happy to recognize one of my friends and one of my colleagues, the gentlewoman from Maryland [Mrs. MORELLA], a Republican Member, who is going to address the question of worker safety as it relates to Federal workers.

Mrs. MORELLA. Mr. Speaker, I thank the gentleman very much for yielding. As a matter of fact, I thank him very much for arranging for this special order tonight.

Mr. Speaker, I appreciate this opportunity to express my concern about the health and safety conditions in the Federal workplace. The U.S. Government should be setting the example for all employers in providing a safe and healthy work environment.

We tend to forget that that scientist at the National Institutes of Health who is isolating the colon cancer gene and the breast cancer gene is a Federal employee, that the meat and health inspectors are Federal employees, that they are taking care of us and the least we can do is to provide the adequate workplace environment to protect their health and safety. Federal workers, however, are still faced with workplace health and safety hazards that are causing a high rate of injuries and illness. Frankly I do not really see this, as the gentleman from Illinois [Mr. DURBIN] mentioned, as a partisan issue. Federal employees are Republicans, Democrats, and, independents, Americans are Republicans and Democrats and independents, and Americans care about the safety of the Federal workers in the workplace.

For decades Federal safety councils were formed to address the high injury rates among Federal employees. Finally, in 1970, Congress passed the Occupational Safety and Health Act [OSHA]. This legislation required every Federal agency to establish an effective safety and health program. OSHA's Office of Federal Agency Programs was responsible for implementing the program, which relied on voluntary compliance.

Without an enforcement mechanism, workplace programs to protect the health and safety of the Federal employee are dismal and uneven. They simply do not work. OSHA reports that for 1991, there were more than 170,000 work-related injuries and illnesses in the Federal Government, at a cost of more than $1.5 billion.

While workplace hazards continue to grow, the staffing levels at the Office of Federal Agency Programs [OFAP] have decreased. This is another matter of great concern to me. OFAP has only 8 full time professionals compared to 25 during the Ford administration. Budget constraints have limited OFAP's evaluations of Federal agency programs to two per year. The number of Federal agency safety and health inspections has also decreased by 40 percent since 1988.

OSHA is required to conduct annual safety and health program evaluations at 15 agencies which employ 2 million Federal workers. However, OSHA has conducted only 16 out of 150 evaluations of the targeted 15 agencies mandated by law since 1982. A report by the General Accounting Office [GAO] concluded that even when OSHA does inspect a Federal workplace, it does not use that information to assess the agency's safety and health program.

The lack of resources at OSHA, coupled with a lack of commitment by most agencies to evaluate their managers' performance in the area of health and safety, put Federal employees at risk on a daily basis.

In the private sector, OSHA conducts an independent, objective review of health and safety allegations. In the Federal sector, however, the agencies investigate themselves. In the private sector, there is an enforcement mechanism. Private firms can and have been shut down for health and safety violations through systematic fines and their publication.

The health and safety concerns in the public sector mirror the private sector. Asbestos fiber release in buildings, Legionnaire's disease, accidental death due to poor training and supervision, and failure to properly ventilate machine shops are among the commonplace concerns in both the public and private work environments.

Just as in the private sector, the greatest number of workplace injuries are occurring in repetitive motion occupations, primarily where computer and video display terminals (VDT's) are used. In the Federal sector, the workers most likely to sustain these injuries are women. We need to take reasonable steps to protect our Federal workers.

The American Federation of Government Employees (AFGE) conducted a study in 1992 relating to repetitive motion injuries at the Social Security Administration. Let me share the alarming results:

78.4 percent of the employees surveyed experienced pain in their shoulders, arms, elbows, and/or necks.

53.9 percent have had pain, aching, stiffness, burning, numbness, or tingling in their hands more than three times and lasting more than 1 week.

56.5 percent wake in the night or in the morning with pain, tingling, or numbness in their hands, fingers, arms, or shoulders—carpal tunnel syndrome.

These injuries are preventable. It is cheaper to take steps to prevent the pain and suffering, rather than paying for lost work time and expensive surgery.

Mr. Speaker, to protect our Federal employees, I recommend the following:

Enforcement mechanisms to compel agencies to meet safety and health standards;

Top management commitment to address safety and health problems;

Protection for workers who report unsafe conditions;

The right of workers to refuse work that is dangerous;

Safety and health labor/management committees.

Mr. Speaker, we must work together—in a bipartisan fashion—to protect the health and safety of Federal employees in their work environment. They work for us; we must not ignore their safety.

Again, I thank the gentleman from Illinois for arranging this special order, and I was honored to be part of it.

Mr. DURBIN. Of course we are honored to have the gentlewoman's participation in this bipartisan special order.

I would like to at this point yield to my colleague from the State of California, Mr. GEORGE MILLER. He has served on what was then called the Committee on Education and Labor, and he is very familiar with the issue of worker safety.

Mr. MILLER of California. I thank the gentleman very much for yielding and for calling this special order to address what is a very, very serious threat to American workers, and that is the demise of OSHA that is being presented to our Committee on Education and Labor in the guise of reform, but in fact it guts the basic tenets of OSHA and the basic enforcement mechanisms of OSHA.

As the gentleman rightly pointed out when he took the well this evening, millions of Americans go to work every day, and they play by the rules, they work hard, and what they do not need is to engage in an accident at work or have an unsafe workplace take its toll on them or members of their family.

When we send our spouses or our parents off to work or our brothers and sisters, we expect to see them come home in the evening in as good a shape as they left, but as has already been pointed out here this evening, for tens of thousands of workers a year that does not happen, and unfortunately for tens of thousands of workers it costs them their lives.

What we know since the advent of OSHA obviously is that these accidents are preventable, and the workplaces of America can be made safe, they can be made safer if not completely safe, and the accident rate can be impacted in a very, very positive manner. In fact since OSHA came into being the accident rate has dropped by over 50 percent. In some of the toughest industries we see that the protective standards that have been set forth by OSHA have had an impact. In the construction industry, where there are protective standards now for trenches that are being dug, where before hundreds of people lost their lives and thousands of people were injured in the cave-ins in trenches, we now see that those accidents and fatalities have declined by 35 percent. In industries where lead and high concentration of lead is used, thousands of smelting and battery plant workers suffer from anemia, nerve disorders, seizures, brain damage, and even death as a result of prolonged exposure to lead before OSHA issued its standard in 1978. Now we see that those same workers with high concentrations of lead in their blood has dropped by 66 percent.

Grain handling, where we had a rash of explosions, hundreds of workers and thousands injured in grain dust explosions prior to the standards in 1988. We now see that these fatalities have dropped since those standards by 58 percent, and the injury rate has dropped by 41 percent. We see cotton dust, where hundreds of thousands of America's textile workers contracted brown lung, the dust from the cotton processing, and we now see the dramatic drop in the cases affecting brown lung, and we also see there that it may have very well been responsible for making that industry competitive in worldwide competition as they were forced to modernize because of those standards.

So what we really see is in the 3 years following an OSHA inspection and fine, injuries at the inspected workplace decline by as much as 22 percent, and we have seen that the injury and illness rates have fallen where OSHA has concentrated its enforcement, mainly in construction, manufacturing, oil and gas extraction. These are all testimonies to the fact that these protective standards have worked to protect the American families. They have worked to protect the American worker. They have saved both the employer money, the employee money, the health care system money, the workers' compensation system money, and that is the result that we said we wanted in 1970, and that is the result we are getting.

Have some of these standards caused industries to strain to meet those standards? Yes, they have. But what we have also seen is that we have gotten back the benefits of those standards. We now see that where, as the gentlewoman from Maryland just talked about, cumulative repetitive motion distress, carpal tunnel syndromes, we now see a 770-percent increase in those injuries. We have got to figure out how to address that, to make sure that those people can continue to earn a living without being disabled and their employers can save the money from having a safer workplace.

OSHA is trying new programs. They are trying to make sure that OSHA works better for the employers, for the employees. No longer are there quotas. No longer are people rated by the number of inspections they do or the penalties that are assessed. We have seen the simplification of the standards. We have seen compliance assistance, helping small businesses to meet these standards. I think some 24,000 small businesses have been helped with this and hazardous free inspections, no citations, no fine, helping the small businesses make their place for the worker.

□ 2215

In a program in Maine they took the 200 most unsafe workplaces and they said, You can voluntarily inspect your own workplace or we will give you a wall-to-wall inspection. The workers for the most part, the employers decided they would inspect their own workplace for hazard. They found 100,000 hazards. 100,000 hazards; 14 times higher than OSHA's own rate of inspection in identifying hazards. And almost half of these have now been abated since that program was recently started.

So what we see is that OSHA can work very well with employers. In my district, heavy concentration of the oil and chemical industry, we have hundreds of millions of dollars of refinery work going on now. The major oil refineries, Exxon, Union, Texaco, Chevron, and Shell. And we have hundreds of thousands of worker hours, because of safety committees, because of OSHA compliance, because of learning how to set it out and get a work plan together and where the workers in some of the most dangerous industries in this country are working hundreds of thousands of hours without job loss.

Let me say before I came to Congress I worked in a lot of these industries. I have driven trucks. I have worked on tugboats. I was a firefighter. I worked in the oil refineries. I worked on the farms and ranches bailing hay. I have been a tree faller, in the construction industry, commercial fishing, in the merchant marines and oil tankers.

I have seen the workers who have fallen from great heights and the workers who suffered damage from toxic chemicals. And I have shaken more hands in my district with three fingers on those hands than can be imagined, and they lost them in industrial accidents.

I have seen workers hit by cables and snapped by ropes because safety procedures were not in place when I was working in those industries. I have seen workers go in the tank farms in the oil refinery, I have gone in, with no protective gear, no breathing gear or skin protection. And I have seen the workers suffer the consequences and pass out on the job from the fumes, unable to go back into those tanks and come into contact with those chemicals.

I have seen people lose their hands in hay bailers. Why? Because safety procedures were not in place. Those are the same industries that are in my district today. All of those industries now have a safety record that was unheard of, unheard of prior to OSHA.

And I would just hope that people would understand that this is not a fight between the AFL–CIO and the American Manufacturers Association. This is about the safety of America's families. People who go off to work every day to earn a living.

And many of these people, millions of Americans earn those livings in dangerous workplaces. Simply because of the occupation, they are dangerous. But they can be and they have been made safer by the OSHA regulations.

And we cannot succumb as a Congress, we cannot talk about the importance of our families, we cannot talk about the importance of a worker being able to sustain the economics of their family and household income and then resort to the kind of legislation that is being proposed to us in the Education and Labor Committee and being sent to the floor of this House basically on a party line vote by the Republicans that would take away the rights of employees to go to OSHA to demand a safe workplace, would take away the reporting of how many times did the employees tell the employer their workplace was not safe.

The employer, under the new law, would not be required to keep records. They could disregard that. And when an accident takes place, an injury takes place, no penalty to be paid. You get a citation and are told to clean it up. And if you do not clean it up, you are still not held liable under the law.

This is not the way to protect America's families. This is not the way to protect family's children from having to lose a mother or father in a workplace accident. And this is not the way to protect workers from those employers who will violate the law, as we saw in the tragic chicken factory fire in North Carolina where the employer thought they could get more productivity out of their workers if they chained the doors closed so that the workers couldn't get out in the fresh air. And then, when the fire started, the workers were burned up and people lost their spouses and mothers and fathers and lost their sons and daughters in that accident; an accident that did not have to happen in the first place.

But the tragic loss of life and the injuries were completely avoidable had the law been followed and had we had people who respected the dignity and the rights of those workers.

So I want to thank the gentleman for taking this time in this special order. I think we need to talk more about this. I think we have got to educate that it is OSHA that has provided the safe workplaces in this country for America's families and we should not have to go back, we should not have to go back where the workplace is based upon the whims of the employer as opposed to the right of a worker and their families to have a safe workplace.

That is what OSHA provides today. But that is not, that is not what the OSHA legislation that the Republicans want to pass would provide for workers in the future. And I thank the gentleman.

OSHA WORKS

I. OSHA'S MISSION

Congress created OSHA in 1970 "to assure so far as possible every working man and woman in the Nation safe and healthful conditions." OSHA's fundamental mission is as important to America's working families today as it was a quarter-century ago.

The 1970 OSH Act authorized the agency to issue and enforce protective standards, and to provide compliance assistance through consultation, education, and training. The 1970 OSH Act gave states the option of establishing their own state OSH agency; to date, 23 states have done so.

II. WHY OSHA WORKS

By developing protective standards, and making employers more safety conscious, OSHA has made a real difference—often the difference between life and death—to millions of working Americans. Overall, the workplace fatality rate has dropped by over 50% since OSHA was created in 1970, according to the National Safety Council.

a. OSHA's Protective Standards Save Lives. Here are just a few examples of how OSHA has saved lives and improved worker health and safety through the promulgation of hazard-specific protections:

Trenches. Thousands of construction workers were buried alive in trench cave-ins before OSHA strengthened trenching protections in 1990. Since then, trenching fatalities have declined by 35%, and hundreds of trenching accidents have been prevented.

Lead. Thousands of smelting and battery plant workers suffered anemia, nerve disorders, seizures, brain damage and even death as a result of prolonged exposure to lead before OSHA issued protections in 1978. The number of workers with high-lead concentrations in their blood dropped by 66% in the ensuing five years, markedly improving the health of workers in these industries.

Grain Handling. Hundreds of workers were killed and thousands injured in grain dust explosions before OSHA issued protections in 1988. Since then, according to the grain industry's own data, the fatality rate has dropped by 58%, and the injury rate has dropped by 41%.

Cotton Dust. Several hundred thousand textile industry workers developed "brown lung"—a crippling and sometimes fatal respiratory disease-from exposure to cotton dust before OSHA issued protections in 1978. That year, there were an estimated 40,000 cases, amounting to 20 percent of the industry's workforce. By 1985, the rate had dropped to 1 percent.

b. OSHA's Enforcement Program Saves Lives. Millions of working Americans have also benefitted directly from OSHA's enforcement program. Most employers have reported that their workplaces became safer after OSHA inspected them; a recent study confirmed that in the 3 years following an OSHA inspection and fine, injuries at the inspected worksite decline by as much as 22 percent. In fact, since 1975 injury and illness rates have fallen in industries in which OSHA has concentrated its enforcement activities—construction, manufacturing, and oil and gas extraction—while they have risen in other industries.

In fiscal year 1994 alone, OSHA inspections helped make over 40,000 workplaces safer for nearly 2 million working Americans. There is no shortage of examples of successful enforcement efforts:

Following a 1991 inspection, a West Virginia vending machine manufacturer instituted a safety program and lowered its lost workday injury rate by 73 percent.

OSHA inspected a Cleveland construction site in 1994, insisting that workers wear safety belts while working on a scaffold 70 feet above the ground. Four days later the scaffold collapsed, but the workers were saved by their new safety belts.

OSHA's 1989 inspection and $700,000 fine was the catalyst for Boise Cascade to improve worker protections. The company implemented a comprehensive safety and health program, cutting injury rates by 78 percent and worker's compensation costs by 75 percent. "OSHA played a key role in these accomplishments," according to the company's counsel.

Following a 1989 OSHA inspection and fine, an automobile carpeting manufacturer established an ergonomics program at two Pennsylvania plants. Cumulative trauma injuries declined by 94 percent and 77 percent respectively at the two plants over the ensuing 3 years.

c. Safe Workplaces Save Dollars. Every workplace accident cuts into the employer's profit margin. In 1992, for example, workers' compensation claims amounted to $44 billion. Compliance with OSHA's protective standards helps save lives, reduce injuries and cut these unnecessary losses. For example, 2 years after OSHA issued a cotton dust standard to protect workers from respiratory disease, The Economist magazine reported that the required protections were helping to make the industry more efficient.

III. DO WE STILL NEED OSHA?

OSHA has had notable successes, but its job is far from done:

Every year, work-related accidents and illnesses cost an estimated 56,000 American lives—more than the total American lives lost in battle during the entire 9-year Vietnam War.

On an average day, 17 working Americans are killed in safety accidents, an estimated 137 more die from occupational disease, and another 16,000 are injured. Meatpacking workers, for example, suffer an incredible annual injury and illness rate of 39 per 100 workers. These incidents have a devastating impact on thousands of America's working families each year.

There are staggering economic costs as well: safety accidents alone cost our economy over $100 billion a year, and occupational illnesses cost many times more. We all bear these costs—as employers, as workers, and as taxpayers.

New workplace hazards are emerging as our economy changes to meet the demands of the new global marketplace. For example, cumulative trauma disorders have increased roughly 770% in the past decade.

Other federal programs may provide job training, civil rights protections, a minimum wage, or collective bargaining rights. But what good are they to a worker who is killed or disabled on the job?

IV. MAKING OSHA WORK BETTER

In the past, OSHA has been criticized for focusing too much on nitpicky technical violations, and too little on eliminating serious safety and health hazards. OSHA must improve its targeting of the most dangerous hazards and workplaces, particularly given the ever-widening gap between OSHA's resources (1,000 inspectors) and responsibilities (3.7 million workplaces). Under the leadership of Assistant Secretary of Labor Joseph A. Dear, OSHA has begun to refocus its mission to maximize its impact on worker safety:

No Inspection Quotas. The number of inspections is no longer an agency performance measure. Neither is the amount of penalties assessed. Instead, performance measures will be based on real improvements in worker safety and health.

Standards Simplification. In October 1994, OSHA asked the public and its field staff to identify outdated, vague, conflicting or duplicative regulations for simplification or elimination. That effort is in progress.

Compliance Assistance. In FY 94, OSHA's consultants helped nearly 24,000 small businesses identify and abate hazards free of citations and fines, under OSHA's consultation programs.

Targeting the Most Dangerous Workplaces. Under the Maine 200 program, the 200 most unsafe employers were offered a choice: implement a comprehensive safety and health program, or be put on a priority list for a wall-to-wall inspection. The vast majority of employers chose the first option, with stunning results. During the first 18 months of the program, participants identified nearly 100,000 hazards, at a rate over 14 times higher than OSHA's own rate of identifying hazards through inspections. More than half of these newly-identified hazards have already been abated.

Targeting Real Hazards. OSHA is refocusing its enforcement program on the most dangerous hazards: Under a new focused inspection program, construction employers with safety and health programs will only be inspected for the four leading causes of on-the-job deaths (e.g., falls, electrocutions). Citations for the most common paperwork violations have declined by 35% over the past 4 years.

Recognizing Excellence. OSHA's Voluntary Protection Program recognizes employers who have excellent safety and health records, exempting them from general inspections. OSHA expanded the VPP Program by 70% in FY94.

Additional Initiatives. OSHA has taken many additional steps to refocus the agency on results including: increasing the involvement of stakeholders in setting the agency's regulatory agenda; redesigning the agency's field offices to streamline the complaint process, reduce paperwork, and focus more on results; establishing customer service standards (in a recent survey, over 75% of employers found OSHA inspectors to be professional and knowledgeable); establishing the Maine Team Concept Pilot Program to empower front-line inspectors to use their own judgment in deciding how to make the best use of their resources (In FY94, at the participating field offices, the number of inspection hours increased by 86%, delays between inspection and citation dropped by 30%, and the employer contest rate declined by more than 50% as inspectors adopted a less adversarial enforcement approach); establishing pilot programs to improve response time from complaint to abatement (reduced for nonformal complaints from 61 days to 9 in Cleveland and from 35 days to 5 in Peoria); simplifying recordkeeping requirements; and expediting FOIA request processing.

Mr. DURBIN. Mr. Speaker, I thank my colleague from California for that excellent statement. And I would like to at this point yield to my colleague, the gentleman from West Virginia, Mr.

BOB WISE, who is familiar with another aspect of employment in America that at one time was the most dangerous. And were it not for efforts that have been made at Federal and State levels, might still be the most dangerous and still is very hazardous. And I would like to yield at this point to Mr. WISE.

Mr. WISE. Mr. Speaker, I thank the gentleman and he is correct. As he has spoken before on this floor for the need, not only for OSHA but for MSHA, the Mine Safety Health Administration. The MSHA was created in 1969 as the direct result of the Farmington mine disaster. Finally, this country had had enough. It had taken all the bloodshed in the mines that it could tolerate and MSHA grew out of that.

MSHA celebrated its 25th anniversary this year. But there may not be a 26th anniversary should this legislation pass. What this legislation would do, in addition to what has already been talked about concerning OSHA, this legislation would merge MSHA and OSHA together, of course cutting the funding together and merging them together.

Let me talk for a second about what the proposed legislation would do to MSHA. It would end mandatory inspections of surface mines. It would reduce mandatory Federal inspections of underground mines from 4 per year to 1 per year.

It would eliminate the current surprise factor in mine inspections by canceling mine inspectors' rights to inspect mine workplaces without a warrant. That is right. You have to call and get the permission to come on. If you do not get the permission to come on, you cannot come on without a warrant. And by that time, the surprise factor is gone.

It would provide several ways for operators to avoid inspection altogether such as employing a consultant to certify that the mine has an effective safety and health program, thereby exempting the mine for virtually all inspections for the year. I bet we can find a real industry developing in certification consultants.

It would prevent Federal mine inspectors from closing unsafe mines for uncorrected hazards, extreme operator negligence, or a pattern of violation.

One area of concern for me, it would ban workers from contacting the agency unless they first raise the problem with their employer, even when the worker faces imminent danger on the job and the likelihood of retribution.

It would eliminate penalties for mine operators violating the law, prohibit Federal mine inspectors from removing untrained miners from the workplace. The gentleman knows it took us a long time at the State and Federal levels to get training requirements for miners in the workplace.

It would limit the rights of miners, including the right to take their own cases to court if they have suffered reprisals for maintaining their safety rights.

This is not simply a deficit reduction issue or a budget reduction issue. It cannot be put on the paper in black and white. And, yes, there are some that say Why do we need MSHA as a separate agency? Cut the funding and put it in OSHA, because the fatality rate is down.

And happily, Mr. Speaker, it is down. It is down from 400 every year being killed in the mines. As the gentleman from Illinois [Mr. DURBIN] noted, the most hazardous industry in the country, it went from 420 6 years ago to 84 this year. That is testimony that OSHA is working; that MSHA is working.

It is still one of the most hazardous occupations. In West Virginia last year we lost 11 miners. That is a far cry from the 20-some we were losing just a few years ago. A far cry from the 50 and 60 that we were losing a few years before that.

I would like to point out to those who want to make it a black and white issue, think for a second about what work in a mine is all about. Particularly a deep mine. The gentleman from Illinois [Mr. DURBIN] I know, knows the mines in Illinois. He has been associated with them for a long, long time.

First of all, turn out all the lights in this Chamber and put on a blindfold, because there is no light at the bottom of a mine. The second thing to do, if you want a real impression, now crawl under this desk that I am standing in front of. It stands about 3 feet high and that is what a low coal seam is.

You have no lights now and you are lying underneath this desk expected to work under there. Now, imagine thousands of tons of rock about you. Not just a wooden platform, thousands of tons of rock above you. It is creaking, it is belching and it is moving.

It is wet down there and on top of the creaking, you have the potential, if you hit it just right, you can dig right into a gas deposit and you can be snuffed before anyone knows what happened to you. Methane is a very common problem in mines. And, of course, explosion is often a tragedy as well in mines.

That is what working in a coal mine is all about. It is not something that is easily reduced to black and white. It is not something that is reduced to number on a page. It is a very, very dangerous occupation. And anybody that threatens that, even well-meaning, threatens that, I think has to be called to account.

I hope that this legislation does not pass. I thank the gentleman for taking this position. This is another wrinkle to the OSHA debate. And in the hearings that the committee will continue to hold, I hope this message comes through loud and clear. This is not a place to be reducing the deficit.

Mr. DURBIN. I thank my colleague for joining us this evening. And like him, I have had the opportunity to be in a deep-shaft coal mine. It is a humbling experience to be in that closed atmosphere and you have described it so well, to fear for your own safety every step of the way.

That we should in any way diminish this kind of inspection from the Federal and State sources is, to me, just to invite disaster and tragedy. And I certainly hope that the legislative proposals that we have heard will be more sensitive to what men, and now women, are subjected to each day in these coal mines.

Mr. WISE. As the gentleman well knows, whether it is the Centralia mine disaster in Illinois or the Farmington mine disaster in West Virginia, that is what has brought this to the attention of the country. And, unfortunately, State legislation, State mining enforcement was not adequate. It is better now and MSH has been driving for that and continues to do so.

Mr. DURBIN. I thank my colleague.

My colleague, the gentleman from Rhode Island [Mr. KENNEDY], is here. And I thank him for joining us and being patient to speak this evening. I yield to Congressman KENNEDY.

Mr. KENNEDY of Rhode Island. Thank you. I would like to thank my colleague from Illinois [Mr. DURBIN] for allowing me to be here for this special order. And as I rise to discuss with him OSHA in terms of the problems that have been solved, the lives that have been saved, and the injuries that have been prevented by making the workplace a safe place. And that has been because of OSHA.

The record of success is now at risk because some want to crush OSHA's ability as an agency to function, leaving today's workers vulnerable and exposed, 40 stories above the ground on today's job site.

I want us to ask ourselves a few questions. Do we not as a Nation need to protect workers from the safety and health hazards that they are exposed to on the workplace?

Do we not want the Federal Government to take action against employees who would jeopardize the well-being of their workers?

Do we not believe that this is important to determine what is killing and injuring people in America's work force?

The answer is, of course, yes. The answer should be yes. But what I am hearing from my colleagues from the committee, the Republicans have said, no.

Every day workers are asked to gamble their lives and take unnecessary risks because someone wants to cut corners. Today, while it is usually the contractor, today it seems like it is the Congress that wants to cut corners. They want to cut corners when it comes to worker's safety. Many want to argue that today's rules in OSHA are too restrictive and excessively infringe on a company's right to do business.

What is so excessive about ensuring a safe workplace? What is so excessive about ensuring that thousands of workers are no longer buried alive in trench cave-ins, as was the case before OSHA strengthened its protections of these workers in 1990?

Since then, trenching fatalities have declined by 35 percent, and hundreds of trenching accidents have been prevented.

In one instance, OSHA inspected a Cleveland construction site in 1994 and insisted that the workers wear protection gear while working on a scaffold 70 feet above the ground. Four days later the scaffold collapsed, but not one worker was killed because each one was wearing the new protective equipment. How does this protective gear infringe on a company's right to do business? Because it costs money. That is why. It costs money. OSHA made the difference. We are here today to tell our colleagues that we are drawing the line. We will not stand for budget cuts that destroy an agency that is charged with protecting American workers.

□ 1030

Remember, we are protecting American workers. This is America, not a third-rate nation, and we will be acting like a third-rate nation if we treat our workers as if they were workers in a third-rate nation. That is why I commend the gentleman from Illinois [Mr. DURBIN] for working on this issue, and my colleagues that are standing up for workers in this House, to make sure that we have a safe workplace, that has the dignity that we would want and the safety that we would demand for our workers in this country. I do not think we should accept anything less than a safe workplace. I commend the gentleman from Illinois for his work, and thank him for allowing me to be here this evening.

Mr. DURBIN. I thank my colleague from Rhode Island [Mr. KENNEDY] for joining us with a very forceful and articulate statement on this issue, particularly as it relates to construction workers. We will continue this debate, not only on the floor, but also in the committees and subcommittees. I thank you for joining in this special order.

The last speaker joining us this evening comes from the State of Minnesota. Congressman JIM OBERSTAR is one of the most articulate spokesmen on behalf of working men and women. The time I have served in Congress, he has risen many times to their defense and is recognized as somebody in this body who has a very intimate and personal knowledge of not only the men and women he represents who work for a living, but those across the country.

I yield to my colleague from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. I thank my colleague for yielding and I join my colleagues in complimenting the gentleman for calling this special order to focus on the industrial workplace and safety.

I have seen the face of tragedy in mining. I have lived with it. I am here because, for me, it is real, it is personal, it is family.

My father worked 40 years in the iron ore mines of northern Minnesota, 26 of those years in the underground Godrey Mine between my hometown Chisholm and nearby town of Hibbing. I never worked in the underground. He never let me go down there. I worked in the open pits.

But I will never forget the day my father came home from a cave-in, where he heard the timbers cracking, and in a drift, he pushed his two coworkers out the mouth of the drift, and the ore caved in right around him and stopped right at his throat. The timbers cracked because the mining company was not willing to put in new timbers. They were not willing to put in bigger and stronger oak in the mines, and he almost lost his life.

I will never forget him as chairman of the mining safety committee in the underground saying the most horrible memory was the awful screams of the men when the cables broke on the cage, and they went plunging to their death 100, 200, 300 feet, with nothing to save them. No safety catches. Nothing to break the fall of the cage.

We heard our colleague BOB WISE talk about how dark it is in a mine. My father told me about the time when the storm above ground cut the power, and there they were, 600 feet underground, he and a partner who had a heart condition, and all the light went out and the water was trickling in. They switched on their head lamp, but there was no power, because the mining company would not replace the batteries, though the men appealed and asked for them to be replaced. They knew they were weak, knew they were down, but the company said no, it costs too much. And you could not move. You could not see your hand in front of your face. And they waited for three hours while the water crept up, waist high and armpit high. And, finally, someone got the power going. I will not tell the rest of the story about getting the pumps going to start draining the mine.

The year that I was born was the year of the Milford Mine disaster in the Cuyuna Mountain Range south and west of where I lived. The miners were told to keep digging for that rich load of ore, until they were well under a lake. And they could see the water seeping in, and they knew it was dangerous. But the mining company said, "Go on, go on, dig further and deeper, and keep going." then, one day, the lake caved in, and an entire shift was wiped out. Thirty-four men, only three survived, as the lake swept into the underground and drowned them all.

There was no mine inspector. There was no Federal law. There was a weak little State act that had been drafted by the mining companies and run through the legislature. It did nothing to protect lives.

Then later I had my own experience in the Alworth Pit, watching helplessly from afar while a 15-ton ore truck backed over and crushed an elderly man. Natali never had a chance. No one had ever taught him how to back a truck up. He had no training. And yet later when we got Mine Safety and Health Act passed, companies protested about the requirement for training and safety, how to back a truck up, how to operate equipment safely. "Oh, that is second nature. People know how to do that." He did not know how to back up a 15-ton ore truck, and it ran right over him. It snuffed his life out.

That isn't just ancient history. Last year, 1994, February, Duluth News Tribune. "Tragedy reminder of mining's risks."

It reads:

> Twisted backs. Crushed feet. Ruptured tendons.
>
> Disabling injuries are common among workers at Iron Range taconite mines.
>
> That's because operating and repairing the heavy-duty machinery used daily in iron ore mining has inherent risks. Over the past century, Iron Range miners have learned to live with those risks.
>
> But sometimes the odds finally catch up.
>
> When Louis DeNucci died as a result of tons of compacted ore dust falling on him Thursday at Eveleth Mines' Fairlane taconite pellet plant, the impact was felt by thousands of miners across the Range.

It is never very far away. In the 1930's we had an average of 230 deaths a year from metal and nonmetallic mining. In the past 10 years, that has dropped to 53 fatalities a year. But the danger is still there, and the significance of the Mine and Safety Administration was brought up by testimony given by Peter Minsoni, district director of Steel Workers 33.

I introduced him at a hearing of the Committee on Education and Labor on mine safety and health as the committee was preparing the legislation we know today as MSHA. I was a cosponsor of that original bill and helped draft it. Because when I came to the Congress, there was one thing I wanted to do, and that was to erect a memorial to the men and women who died in mining, who had given their arms and legs and limbs and eyes to make it a safer place to work.

Pete Minsoni said, talking about the action of the then Ford administration to abolish the Federal Advisory Committee on Mine Safety Standards, it had been enacted in 1966, 5 years later they were proposing to abolish it. It finally happened in 1975. He said, "Abolishing the Mine Safety Review Board caused me concern, to think that because the review board had no work, some Members of Congress and the public will be misled into thinking that the Government deserves a pat on the back for finally abolishing a Federal agency." He went on to say, "The reason the Mine Safety Board did not have any work is there was no law to enforce." There was nothing to review. There were no teeth in mine safety legislation.

He went on to talk about a good example. The White Pine Copper Mine in upper Michigan where the steel workers unions represents some 2,600 workers employed in one of the largest mines in our country. A fatality occurred when a foreman picked up a hot cable. The Mine Enforcement Safety Administration inspectors found improper grounding and a lack of control boxes for electrical cable throughout the mine, a mandatory standard set by the Mine Safety Act not enforced, paid no attention to.

Mr. DURBIN. I think we only have just 2 or 3 minutes left.

Mr. OBERSTAR. What he went on to say was the miners learned they do not have a legal right to join mine safety inspectors. Standards are only advisory and not mandatory. And only when they had tough inspection standards, mandatory fines, mandatory inspections, did we get safety in the mines.

I just want to say that in all of America's history, more men and women have died in the industrial workplace in our country than died in all the wars combined. Let it not be the epitaph of our generation that we let another decade come to pass when mine safety took a back seat to economics.

Mr. DURBIN. I thank my colleague. I am sorry I had to cut him short, as we have run out of time this evening in this important special order. Perhaps we can resume it later on at a different time.

If you listened to the debate in Washington over the last 6 months, you would be convinced that all we are talking about tonight are faceless Federal bureaucrats meddling into the affairs of business people, making their life miserable with fines and inspections and all sorts of minutiae that in fact weighs heavily on their profit statements.

What I hope we have conveyed tonight in this special order is we are talking about something much larger. We are talking about dignity of workers. We are talking about safety in the workplace. We are talking about a history in America of danger in the workplace that we do not want to see repeated again.

The fact is since OSHA was created in 1970, we have seen deaths on the job in America cut in half. In factories deaths on the job have been cut by more than half. In construction, deaths have been cut by 60 percent. Can OSHA be improved? Yes, it can. But for those who address this issue in terms of terminating the Federal responsibility and the Federal authority to help protect workers and their families in the workplace, I would say they are really going in the wrong direction.

I hope that the special order this evening, the stories that you have heard and I guess the information that we have shared with you, will help people to understand that the debate which goes on on the floor of this House of Representatives each day is a relevant and important debate to every working family in America. We hope that those on the Republican side of the aisle who take an extreme position of doing away with this Federal responsibility will stop and think twice about the legacy of pain and the legacy of death which we have seen in America's workplace, certainly something we never want to see repeated again.

BALANCING THE BUDGET

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, the gentleman from Connecticut [Mr. SHAYS] is recognized for 60 minutes as the designee of the majority leader.

Mr. SHAYS. I thank the Speaker for giving me the opportunity to speak at this special order and to thank him for his willingness to stay. I know the hour is certainly a little late in the east part of the country.

My purpose for speaking tonight is to talk about really a monumental event that is taking place this week when the House of Representatives and hopefully the Senate will also be voting for the first time in 24 years to get our financial house in order and balance our Federal budget deficits.

There is a revolution taking place in this country, and I do not think people fully grasp it. With the Contract With America, I remember during the course of the campaign I would have editorial boards ask me how could I have signed this Contract With America. And I responded by asking a question. I said what do you think of the majority party's Contract With America, the 8 things they are going to do on the opening day of the session, the 10 things they are going to do in the first 100 days? And there was silence, because the majority party did not have a plan in the opening day or it did not know what it wanted to do in the first 100 days.

□ 2245

And I said to the editorial boards, is it not remarkable that you have a minority party, the Republican Party, that has come forward with a plan that does not criticize President Clinton, that does not criticize Democrats. It simply outlines what we intend to do if we are fortunate enough to get elected.

This past week, the House and the Senate have agreed to a plan that gets us to a balanced budget. And the differences between the House and the Senate were not all that different. And yet hearing in the press, you would have though that they were very different. What we did is we made a determination that in 7 years, we wanted to slow the growth in spending so that it would ultimately intersect our revenues by the seventh year. And so that by the time we were going to have revenues at $1.8 trillion, we would have our spending at $1.8 trillion.

The red line that you see on this chart illustrates almost a parallel line between spending and revenue. They never meet because we always spend at deficits. So this was our objective, to get our financial house in order and to do it in 7 years.

The challenge in dealing with this effort was that I, as a Member of Congress, along with my colleagues, vote on about one-third of the budget. We vote on the pink part of the diagram, of this pie chart. We vote on what we call domestic discretionary spending. We vote on foreign aid. And we vote on defense spending through the Committee on Appropriations. Social Security, Medicare, Medicaid, and what we call entitlements, other entitlements, they just happen automatically. They are on automatic pilot. They do not get voted on every year. They are just part of the law.

So I do not vote on half of this budget. I vote on one-third, what is in the pink. And what is the yellow part is interest on the national debt. This year we are paying about $235 billion interest on the national debt. That is money that could go for education or infrastructure, investment. It is going for interest because past Congresses have simply been willing to deficit spend.

And the whole effort was to not only just look at the red part of this budget, what comes out of the Appropriations Committee, but it was to look at our entitlements, excluding Social Security, because in our Contract With America, we said the one thing that we would not change was Social Security, the contract of retirement payments to our elderly. But we would look at Medicare and Medicaid to save these programs and preserve them and also to slow their growth. We would look to slow the growth of other entitlements. We would look to actually have absolute cuts in domestic spending and foreign aid and to not go higher on defense spending than we are going today. Then we hoped by doing that we would shrink what is the yellow and shrink our annual interest payments.

So this was our challenge, to try to deal with the entire budget.

Now, when people look at this and they say, what did we do? Domestic spending, we actually are cutting spending. We are going to spend less money next year in domestic spending. That is what runs the judicial branch, the legislative branch, the executive branch, all the departments in the executive branch that are not defense. And we are looking to actually have real cuts, absolute cuts there. Foreign aid, we are going to reduce the budget significantly. Defense spending, we are looking to hold the line. And the challenge there is that we are oversubscribed by $150 billion in the next 7 years, because what Congress has done, regretfully, is it has pushed out the expenses of some of our procurement for our weapons systems and not had it show up in our 5-year budget because they pushed it to the sixth year. So we are oversubscribed in our defense spending.

So what do we have to do? We have to slow the growth of entitlements. We have to make real and absolute cuts in our domestic spending, and we want to bring interest down.

Now, people said, when you do that, you are cutting certain programs that we are not cutting. One of them was Medicaid. Medicaid is health care for the poor, and it is nursing care for the elderly, long-term care for the elderly.

This chart shows that we are actually going to be spending more money. In fact, subsequent to the agreement with the Senate, we are going to be spending more than you see here. But it goes from $89 billion, in 1995, to $121 billion. It increases over 30 percent in the next 7 years. We are going to be spending more. That is not a cut; that is an increase.

Now, the reason why some people call it a cut is they say they want to spend more and we are not spending to that level. We are going to be spending to $121 billion. How does that become a cut in some people's language? Because, and this is only in Washington that this happens, at least I do not know of it happening in people's own family environment or in their work place, but in Washington, if it costs $100 million to run a program and people say, it will cost $105 million to run the program the next year and Congress appropriates $103 million, in Washington that would be called a $2 million cut, even though we are spending $3 million more. In your home and in your workplace, you would be saying, if you spent $100 million and you are spending $103 million, that is a $3 million increase in the next year. So we are going to be spending more on Medicaid.

In fact, under Medicaid, we are going to spend over $324 billion more in the next 7 years than we did in the last 7. This line shows the increase in spending that takes place under Medicaid.

Only in Washington, when you spend $324 billion more in the next 7 years than you did in the past 7 years would some people call it a cut. It is not a cut. It is an increase. It is an increase that is quite substantive, quite significant.

Now, when it got to Medicare, we had heard the same argument that this Congress was going to be cutting Medicare. The first thing that needs to be pointed out very strongly is that Medicare is going to go bankrupt in 7 years, Medicare part A. That is the part that goes to pay hospital costs. You have Medicare part A, it is funded by taxpayers. They put a certain amount of all their income into the Medicare part A trust fund. Employers and employees put money in. If you are self-employed you have to put both sides in. And you put into this trust fund.

This trust fund, as noted in the blue line, starts to go down, it starts to go down next year. We have $136 billion in the trust fund now. In 1966, next year, it will be $135 billion. Then it goes to $129, $117, $98, $72, $37, minus $7 in the year 2002. It literally goes bankrupt. There will be no money in the trust fund. The only money that will come to the trust fund is the annual amount that will be put in by the taxpayer. It goes bankrupt, and we need to rescue this fund. We need to save it. Spending is that red line. And what we need to do is slow the growth of Medicare.

Now, Medicare is health care for the elderly and the disabled. And it is growing at 10 percent. And we need to preserve it. We need to protect it, and we need to save Medicare. The way we are going to save Medicare is not by taxing more. That is just not going to happen. We can affect the beneficiaries, those who receive the benefits; we can affect the providers, those who are giving services to the beneficiaries. Or we can change the system. And just like with Medicaid, Medicare, we are going to change the system.

We are going to allow people to have the same kind of program they have today with a slight increase for some, not all. If you are wealthy, I for one am going to be advocating that, if you make $90,000 as a married couple, you should pay a little more on your premium and your copayment. I will be arguing that, if you were single and making $70,000, you should be paying more than someone who is below that income level.

But there are other ways that we are going to change this program. We are going to strive to move people and encourage them to go from a fee-for-service into a whole host of different private plans that will provide a whole host of different choices. For instance, if you are a senior and you only want catastrophic care, you will be able to join a plan and you will get an actual rebate. You will get a refund.

We are going to allow people to have a savings account that will be tax-free. You can use it for health care needs tax-free. And if you do not have health care needs, you will be able to save it for your retirement.

We are going to allow individuals to join HMO's. The bottom line is that, at least from my perspective, we want seniors to be allowed to have the same health care that their children and their children's children have. And we want those who are poor or individuals on AFDC who get Medicaid, we want them to basically have the same health care that other Americans have.

We want in some cases to have managed care for those who want it. And in other cases, we want people to be able to have their own relationship with their doctor, if they are a Medicare patient and they choose to without breaking the law. We want Medicare and Medicaid patients to examine their bills and when they find mistakes, and there are mistakes, to get 10 percent of whatever they found in mistakes.

I happen to be the chairman of the Subcommittee on Human Resources and Intergovernmental Relations of the Committee on Government Reform and Oversight, and we oversee HHS. We are aware of billings that were for $16.50 that actually were $16,500. Or it is not unusual and it has happened that it has actually been in the hundreds of thousands when it was only a bill for $10 or $20.

Colossal mistakes. The State of Connecticut has determined that their hospitals have mistakes in 30 percent of their billings.

We want people to catch those mistakes. They are going to save the Government a lot of money. They are going to save the health care system a lot of money, and we would like them to benefit. But Medicare part A is going to go bankrupt if we do not slow the growth.

So what do we propose? We propose to allow Medicare to go up from $178 billion to $259 billion. That is a 45-percent increase. Now, only in Washington, when you spend 45 percent more in the seventh year than you spend today would some people call that a cut. That is a gigantic increase. It just does not happen to be as large as some people want.

In terms of the total dollars, what we spent in the last 7 years to what we spend today in the last 7 years, we spent $925 billion. We are going to spend $1.5 trillion. In fact now with the agreement with the Senate, it is going to go up even more than that. We are going to spend $659 billion more over the next 7 years compared to the last 7 years. Only in Washington, when you spend $659 billion more in the next 7 years over the last 7 years do some call it a cut. It is not a cut. It is an increase in spending and a quite significant one.

Some have said, you are going to spend more on Medicare, but what is going to happen to the per beneficiary? They are not going to get any more because there are more beneficiaries in the system. There are more people who need the care.

What this chart illustrates is that in 1995 we spent $48,000 per beneficiary in Medicare, and in the year 2002, under the House, it was $61,361. And I will illustrate in a new chart that that number is going up now that we have our agreement with the Senate.

These next two charts illustrate the annual growth in spending that will take place if we do nothing. If we do nothing, Social Security will go up at 5.4 percent a year. If we do nothing, Medicare will go up at 10.1 percent a year and become bankrupt and run out of funds in the seventh year. If we do nothing, Medicaid is going to go up at 10.8 percent and other entitlements at 8.4 percent. Interest will go up nearly 6 percent. Defense spending will go up a percent a year. Foreign aid will go up over 2 percent a year. Domestic discretionary will go up 2.3 percent a year.

□ 2300

There is if we do nothing. What we are looking to do, Mr. Speaker, is to change the growth of these programs. What happens, and Members can compare the chart at the bottom now to the one at the top, we are going to allow Social Security to go up at 5.1 percent a year, Medicare is going to go up at 5.5 percent a year, not 10.1 percent, Medicaid is going to go up 4.5 percent a year, not 10.7 percent.

Other entitlements, which we have made significant changes on, that is welfare, it is food stamps, it is agricultural subsidies, we are controlling the growth of these programs so they will go up at 3.9 percent a year. All of the entitlements are going to go up. They are simply not going to go up as much as they would if we allowed or took no action.

Interest becomes quite significant. Instead of it going up at nearly 6 percent a year, because of the budget changes we are making, the total payment on interest will go up less than 1 percent.

In this chart, defense spending is going up a half a percent a year, but with the new agreement with the Senate, it will not go up basically at all during the next seven years. It will not decline, but it will not go up. Foreign aid will go down 5.4 percent each year, and domestic discretionary will go down 1.6 percent a year.

It is fair to say that Republicans are going to cut domestic spending. We are going to have not just real cuts, we are going to have absolute cuts in those programs. Foreign aid will go down. Defense spending will stay basically the same. Interest payments will go up slightly, and then we have true growth in Medicare and Medicaid and other entitlements.

What I would like to do now, Mr. Speaker, is just go through a number of charts, since the President has come in with his proposal on what we should do to balance the budget. Before I talk about what the President is actually doing, what Members see in this chart, the green line is the Congressional Budget Office. They are the ones that look at everything we do in Congress and make sure our numbers add up. The White House has its Office of Management and Budget. They do the same thing.

Historically, the Congressional Budget Office and the Office of Management and Budget in the executive branch do not always agree on their economic forecasts, but they have consistently, the White House has consistently said to us that we need, that we need to make sure that we use one group to analyze our numbers. The organization that the White House has said we should use is the Congressional Budget Office. They are the ones who have said "Use the Congressional Budget Office when you use your numbers." That is what we are doing.

All our projections are based on what the Congressional Budget Office says in terms of their analysis of everything that we do in Congress. Regretfully, the Congressional Budget Office and the Office of Management and Budget are going in two different directions.

The Office of Management and Budget has basically said, OMB, that revenues will come in stronger than we think they will in the Congressional Budget Office, and expenses will not be as strong. They said if we take no action in the 7th year, the Office of Management and Budget, our deficit would be $266 billion. The Congressional Budget Office said that if we take no action, our deficit will be $454 billion.

The next chart illustrates what happens to the President's own projections when the Congressional Budget Office looks at it. Members may remember that the President chose not to come in with a budget to reduce our deficits. He basically said "Congress, you do it." We are doing it. We are happy to do it. We have waited a long time to have this opportunity to lead this country, so we said that we wanted to balance the budget in 7 years. The President was critical of that effort, and basically said that we did not need to be focused so much on reducing our annual deficits.

I need to make this point, because it is central. Not only are we trying to get our financial house in order, we are trying to change this government. We are trying to change this social corporate welfare mentality into an opportunity society. We are trying to change this caretaking government into a caring government.

We are trying to change an experience that we are seeing throughout this country of 12-year-olds having babies, of 14-year-olds selling drugs, of 15-year-olds killing each other, of 18-year-olds who cannot read their own diplomas, of 24-year-olds who have never, ever had a job, not necessarily because there are not any jobs, and 30-year-old grandparents. A society that exists with that type of thing happening cannot long endure.

Therefore, we are not just trying to get our financial house in order, we are trying to change our government in the process. We are trying to make it smaller, we are trying to make it more efficient, we are trying to reduce the layers of bureaucracy within departments, where 11 people might have to make a decision on what action government should take, when in the private sector they try to get it down to two, three, or four layers.

What did the Congressional Budget Office say about the President's 10-year plan to balance the budget? Because Members may remember, a week or so ago the President said that we needed to balance our budget, not in 7 years, but in 10 years. In the process of doing that, there were some Republicans who were critical of his effort, more Democrats who were critical, but a number of Republicans welcomed the President stepping in and saying balancing the budget was important. I happen to think we should be balancing the budget in 5 years, not 7, so I certainly do not think 10 is good enough.

However, what was important is that the President recognized the need to balance the budget. He validated in that process the fact that we can do it with no tax increase. He validated the fact that we are not cutting Medicare and Medicaid, we are slowing the growth. Those are his words, and those are our words. That is exactly what we are doing. He even validated the fact that we can balanced the budget and have a tax cut at the same time, because we are paying for the tax cut.

What did they say happens, the Congressional Budget Office? There are four lines in this chart. The current law is, if we do nothing, the national debt, the annual deficit will be $454 billion under current law. In the seventh year, really the year 2002, and we are using the 7-year budget, and we are going to balance the budget in 7 years, if we do nothing, our annual deficit that year will be $340 billion. Mr. Speaker, a deficit is not the debt. The deficit is the difference between revenues, revenues and expenses, and when you have expenses above revenues, you have this deficit.

They are saying that this deficit will be here, expenses will be here, revenues will be here, and we have $340 billion of deficit. At the end of the year it is taken and added on top of the national debt, and the national debt just keeps getting bigger and bigger and bigger. Our national debt keeps going up every year, even if our deficits get smaller, because our deficits keep adding to the national debt.

They said under current law, the deficit will be $340 billion. They then said under the President's own plan in February that the deficits keep going up. He did not give us a 7-year budget, he gave us a 5-year budget, but in the fifth year the deficit goes, in the fourth year, 256, the fifth year 276. It just keeps going up. This is the reason why we 2 years ago opposed the President's plan. We knew his annual deficits would keep going up and that he had not resolved that.

Mr. Speaker, what we did is we came in with a 7-year plan. Our 7-year plan is the green line that touches zero in the seventh year. That is scored by CBO, and they point out, in fact, that we will have a $1 billion surplus, not a lot of money compared to all those deficits, but what a change. Then what they did is they analyzed the President's new budget, and when they analyzed the President's new budget, it is the red line. Members will notice it is parallel. It stays around $200 billion in deficits each year.

The President's new budget goes from $175 billion to $196 billion to 212. These are deficits. Then it goes to 199, to 213, to 220, to 211, 210, 207. It is just above that $100 billion amount. It never becomes balanced. When the President said in the 10th year, scored by the Office of Management and Budget, yes, they say it becomes balanced, but when we use the Congressional Budget Office, the organization the President told us all of us should use, it never becomes balanced.

Mr. Speaker, let me just show a few more charts. I noticed my colleague, the gentleman from Michigan [PETE HOEKSTRA], has come to the Chamber. I would love to engage him in this dialogue, because he is really one of the key experts on this issue.

If I could just continue to go through these charts, I do not know if on the TV screen Members can see the difference between the two red lines and the two green lines. The red lines are the President's budget and the green lines are the House budget scored by OMB and scored by CBO, CBO being the congressional budget.

When we compare the President's budget to the House budget, it is interesting to note that the President said "I am going to balance it in 7 years." That is the one with the red lines and the dots. In the 10th year he says it is balanced. That is when his budget is scored by the Office of Management and Budget. It is balanced in 10 years.

□ 2310

When the Congressional Budget Office scores his budget, they say it never becomes balanced. It is basically that parallel line to the zero deficits.

When the Congressional Budget Office scores our budget, they say we are balanced in 7 years. But this is really, I think, an interesting point.

When the Office of Management and Budget takes a look at our budget, when they are forced to use their projection of revenues and expenses, they basically say, we will balance the budget now in 6 years and not 7.

What the President has done is he has compared his OMB scoring of 10 years to our CBO scoring of 7. He has either got to compare his OMB to our OMB or his CBO to our CBO. The bottom line is we are going to balance it in 7 years under CBO and scored by his office, we balance it in 6 years.

I have 4 more charts. I will run through them fairly quickly.

Medicaid Spending. The President said he is only going to slow the growth of Medicaid by $54 billion. That is the red line. He said, "But the House Republicans are going to cut the growth by $187 billion."

The problem is he is comparing OMB scoring of his budget to CBO. If we compare OMB to OMB, if he has $54 billion of cuts in the growth, then we are only $119 scored by OMB. But, more importantly, if we are slowing the growth by $187 billion, we have to score his number $122 billion. He is not $54 billion scored by CBO. He is $122 billion. In other words, we need to compare the same scoring. When you do that, you realize that the President is cutting a lot more from the growth in spending than he wishes to claim.

The same analogy on Medicare. He says he is going to slow the growth of Medicare by $127 billion, scored by OMB. But when the Congressional Budget Office scores what he does, they say he slows the growth by $192 billion. When you compare the $192 billion to our number of $288 billion, they are a lot closer.

In fact, when you consider the per-beneficiary, and this is before we had our agreement with the Senate, the per-beneficiary goes from, the President, from $4,700 to over $7,000, and the House, $4,800 to $6,300.

This chart, the last chart, illustrates the per-beneficiary cost of Medicare. Now with the House and Senate agreement, you will realize that the President is slightly higher in per-beneficiaries but not all that much. The problem with the President is, in terms of his plan, he attempts to slow the growth of Medicare. He goes from $4,700 to $7,128 in the seventh year. We in our House and Senate agreement go from $4,800 to $6,667. We are less than $400 apart.

The difference is we want to change the system. We want to save Medicare, we want to preserve it, but we want to change it. We want people to have the opportunity to have a whole host of different plans, whereas the President has not said how he will slow the growth of Medicare.

There are extraordinary things taking place down here. I do not think people fully grasp it. There is a revolution going on. I will conclude, and I would like to invite my colleague to add some comments. I will conclude by making this comment:

When we had our Contract With America, which my colleague, the gentleman from Michigan [Mr. HOEKSTRA], helped lead and helped create, created the idea, created the Capitol steps event and had a lot to do with what went in our contract, as my colleague knows, before the election, people said, well, this would cost Republican votes. We did not lose one Republican who ran who was an incumbent and we picked up a whole new number that gave us a majority.

Then people said, well, this was a contract but you used it to get elected but you wouldn't implement it. We implemented it in the first day and then the first 100 days.

Then people said, well, moderate Republicans would not get along with conservative Republicans. This is what the press was saying. We got along just fine, thank you, because we have waited 40 years for the opportunity to help lead this country and candidly to help save it.

Then they said, "Well, you're getting along all right in the House but you're not going to get along with the Senate." I happen to like the Senators. I think a lot of my colleagues like the Senators. We meet together and we talk about this shared problem of how we save this country.

Then they said, "Well, you voted for the balanced budget amendment but you're not going to vote to balance the budget." We are voting to balance the budget. In fact, I remember some saying, "You know, you boxed yourself in. Now you're going to have to do it." You know, in a way we did. In a way we did what Cortez did when he sailed to the new world. He sailed to the new world with this opportunity, as he saw it, to claim this land for Spain and for the old world, but what he did, he saw his sailors looking back to the east and longing to be back in the old world. So he burned the ships. In a sense that is what we have done as Republicans. There is no going back for us. We are not looking back at the old world. We are looking at this new world. We have burned our ships. If we don't get our financial house in order, my feeling is we don't deserve to come back. If we don't change this government, my sense is we don't deserve to come back.

I mean, that is what we are about. The old world is behind us, the new world is in front of us. I appreciate the patience of my colleague. I would love at this time to invite him to make some comments, because I know you have been at the very center of what I have been talking about.

Mr. HOEKSTRA. I thank my colleague for yielding.

Mr. Speaker, I could not help but watch this special order when the gentleman started about 30 minutes ago, and remembering my commitment that I would come down and join if he started before 11:00.

Mr. SHAYS. But I kept you waiting a long time, did I not?

Mr. HOEKSTRA. That is fine.

I think the words that you started your special order with were talking about the discussions that we really had 14, 15 months ago, talking about what kind of an agenda and what kind of platform are we going to run on as Republicans, in walking away from the easy answer which is saying, let's run a negative campaign, and talking about now, let's not worry about what the other side is doing, what the other side is saying, let's identify our agenda, what we want to do, the positive message that we believe we can carry to the American people because of the great faith that we have in our country, in the American people, in our ability to bring all of these people together to re-create and to renew this country. We ran on a positive agenda.

We then came in and, as my colleague recounted, we did what we said we were going to do. We are continuing to do it.

I went back and got this document, this is the CONGRESSIONAL RECORD for yesterday. It is pretty much a pro forma day. But the first document that was put in there was Permission to Have until Midnight Tonight to file the Conference Report on House Concurrent Resolution 67, the Concurrent Resolution on the Budget for Fiscal Year 1996. This is it. This is the document that a year ago, 6 months ago, 6 weeks ago, 6 days ago all the critics were saying we could not do, that first we could not as House Members on the Committee on the Budget get to a budget resolution that would balance the budget within 7 years. Then they said, "Well, yeah, you're right, the House could do it but you'll never get a similar-type document out of the Senate." The Senate came through in great form and they delivered a budget document that got the balance.

As happens, their document was different than ours, and the people came back and said, "Now there's no way you'll ever reconcile the differences between the two." We now have, and I believe on Thursday we will have the opportunity, hopefully in both the House and the Senate, to pass a budget resolution, the same budget resolution which gets us to a balanced budget by the year 2002.

□ 2320

So we have moved from a process of talking about change, having a positive message, to taking one more step to actually delivering positive change, and as we have had so many people come into the Budget Committee and testify, Alan Greenspan coming in and talking about what the importance is of having a balanced budget, not only to business and industry, but to families, people buying a mortgage. I believe a number Mr. Greenspan has quoted is we may see up to a 2-percent benefit on home mortgage and long-term interest rates and short-term interest rates.

Mr. SHAYS. I would love the gentleman to yield to me, because I remember when we were there, when Mr. Greenspan was before the Budget Committee and one of our colleagues said, "Are you not concerned that Congress will cut too much?" He responded in the way that only he does. He said, "You know, Mr. Congressman, I do not go to sleep at night fearful that when I wake up Congress will have cut too much."

Mr. HOEKSTRA. I do not think that has been a problem. The nice thing about going through this process is we have recognized, despite all of the rhetoric, and Mr. Greenspan knew this, to get a balanced budget we did not have to radically go through and cut spending; we had to slow the growth of the Federal Government. And coming from the private sector, I would have taken these kinds of budgets and these kinds of cuts almost any time because the private sector is going through much more difficult and aggressive cost-cutting procedures than what we are doing. We are slowing the growth. We are still spending at a roughly 3-percent to 4-percent increase.

Mr. SHAYS. About a 3-percent increase. In fact when we looked at what we are spending now we spend about $1.5 trillion. In the seventh year it will be $1.8 trillion. That is an increase in spending by anybody's definition.

Mr. HOEKSTRA. That is right; and as we have taken a look we are increasing spending, we are going to have to reassess some priorities, because we are going to be moving money into high-priority programs, programs like Medicare, Medicaid, those types of programs, as we reform them we are still going to be increasing this per beneficiary from I do not know of the latest numbers, but I know in the House budget resolution we are looking at going from roughly $4,700 or $4,800 per beneficiary to over $6,000 per beneficiary.

Mr. SHAYS. Actually with the Senate agreement, it is going to be about $6,600.

Mr. HOEKSTRA. So we are significantly going to grow. We are expecting that we are going to have reform, so we are going to be able to deliver the same if not better health care to our seniors than what we are getting today.

So we have an opportunity to go through programs, yes, we are going to have to downsize and eliminate some programs. We are going to have an opportunity to go after waste, fraud and abuse more aggressively, but as we take those savings some of those will go toward deficit reduction, others of those dollars will go towards programs we have identified as having a high priority, and we are still going to be getting increased revenue. So we are going to be spending more money in 7 years than what we are today, and all we have to do is now manage ourselves and discipline ourselves over the next 7 years and we will get to a place where we wanted to be for a long period of time.

Mr. SHAYS. I was elected to the State House in Connecticut in 1974, and started by first year in 1975, and I continually watched Congress deficit spend, and in the State House I was not allowed to do that, thank goodness; we always had to have a balanced budget. And when I was elected 7 or 8 years ago, and as the gentleman was elected shortly after that, I mean we weighed in and said the most important thing obviously before we do all of the other things is to get our financial house in order. So I cannot emphasize how thrilling this week is for me. It is one reason why I wanted this special order. I basically waited 20 years for this opportunity, and now you and I are able to be part of an effort to get our financial house in order. As the gentleman pointed out, we are still going to allow spending to go up, we are just going to slow the growth.

I do not know if the gentleman has thought much about the challenge we had when we had the debate on the school lunch program and the incredible feeling I had when I went home one weekend and I saw the President in a school saying we were eliminating the school lunch program, apropos of your whole issue of whether we are spending more. I thought, what idiots.

Why would this Congress be doing this. I remember coming back and saying how could you of all things cut the school lunch program. And speaking to the appropriators, they said wait a second, we are taking it off as an entitlement. We are going to spend 4.5 percent more each year for the next 5 years, 4.5 percent more each year instead of 5.2 percent. Then they said, but we are going to also allow State and local governments to be more flexible with how they use it so they can target the funds better. I can remember the President saying we are going to eliminate school lunch for poor kids. Then I thought of my daughter, if I can just make this last point, I thought of my daughter who comes from a family who obviously makes a decent amount of income, and I realized that my daughter's lunch is subsidized, 17 cents in cash and 13 cents in commodity. Why would my daughter's school lunch be subsidized? Because we have a Federal program that subsidizes everyone.

Mr. HOEKSTRA. I am well aware of what went on with school lunch. It came out of the Committee on Economic and Educational Opportunities.

Mr. SHAYS. The gentleman's committee.

Mr. HOEKSTRA. My committee. I can only say I think our committee let our colleagues on the Republican side of the aisle down, because when we went through this, we had discussions about where are we taking the school lunch program. We said, No. 1, we are going to reform it, we are going to take the program from Washington and we are going to move the program to the States and the local school districts, so we are going to get Washington out of the way and out of this program. Why are people in Washington monitoring what kids are eating in Holland, MI, or Zeeland, MI, or anywhere in the country. It is a bureaucracy that does not need to be there.

So let us get rid of the bureaucracy, which will do a couple of things. It will free up more money for buying food and actually getting food to kids, and very different from all of the other block grants, this is one where we then went through and we said OK, we are going to increase spending. Other block grants, Governors have come back to us and said if you get rid of all of the rules and regulations, all of the red tape, we can deliver the same level of service at 90 percent of the dollars, 95 percent of the dollars, and we said well in school lunch, it is too risky, we want to make sure that these kids are fed. We are going to give them a 4½ percent increase for each of the next 5 years. So we thought fine, we have gotten rid of the red tape, the rules and regulations, the bureaucracy. They are getting more money. This cannot be controversial.

Mr. SHAYS. It is a win-win, right?

Mr. HOEKSTRA. It is win-win. All of a sudden we come to the floor and we see people on TV, and it is the sky is falling, and you know, this is my second term, so this is my third year here, and you are kind of looking around and saying, "Whoa, what's happening to us here, we are giving them more money, we have gotten rid of this, and there are people that are going out and saying we are eliminating the program." Then you take a look at it and you say, "There are even people printing this as fact." It has taken a while, but there are other ways to get information out, and the truth eventually comes out, and the truth has come out on that program.

Mr. SHAYS. Basically it was an excellent opportunity for all of us to learn a lesson, and we talk about not being school-lunched again on other issues. It is the same way with Medicaid and Medicare. We are going to be spending more money and we are going to make sure that we are not being school-lunched on these two programs, that people truly understand what is happening.

Mr. HOEKSTRA. I know that as I went back for a whole series of town meetings in April when the school lunch debate was at its peak, you kind of go back and say, "Wow, I am really going to be prepared to address the issue, because I am going to get a lot of questions on it." It was very surprising, because even as I think much of the media had not covered the debate very accurately, it came up, and people understood the issue, and they understood it a lot better than what I thought they might. They had gone through the clutter and taken a look at what was really going on. The gentleman brought up his daughter. I had people actually coming to me and saying, "Can you explain to me exactly why the Federal Government is even doing a school lunch program?" We have moved a significant distance away from, "Whoa, you are cutting these programs out."

But the gentleman is absolutely right. We are going to spend a lot of time over the next 6 months because the process now is the authorization bills, the appropriations bills, that put a real life into this budget document.

□ 2330

Because those are the bills that now actually carry out the budget document. Those are the ones that change our policies. They change our priorities. They focus dollars where we want them focused. They change the way that we actually start doing business.

And I think as you said earlier, they start changing the way that America works so that we can use these dollars in a much more constructive way.

We have recognized the problems that ineffective Washington spending has reaped on this country. The symptoms are here in Washington. They are around in our urban centers around the country. They are in our smaller communities, our rural communities.

We are going to go after those problems and we are going to move accountability and responsibility to where change can be affected most efficiently and most quickly, which is at the local level.

Mr. SHAYS. You know, during the course of your last comments, you pointed out that our budget resolution, which is really a plan and an agreement between the House and the Senate on how we are going to reach a new deficit by the seventh year, has to be implemented by the Appropriations Committee that will make decisions on defense spending and domestic spending; will have to be implemented by the Ways and Means Committee that makes decisions on taxes; Ways and Means and Energy Committee making decisions on entitlements.

So all of this, we are going to be doing a lot of wrestling in the next three or four months. And the key point as far as I am concerned is that the President needs to weigh in in a positive way. And I have made a determination, with a number of my colleagues, that I am not voting to increase the Federal debt ceiling. If the President is not going to weigh in on getting this budget balanced, our financial House in order, too often we have allowed the debt ceiling to climb, we are willing to shut down government.

Not essential services, but we are simply willing to shut down the government and call the question. And I wish it had happened 10 years ago. If it had happened 10 years ago, we would not be in the mess we are in today.

But as you point out, a lot of what we intend to do is to move this government from the Federal to the State and local level. And as I think about it, and I have to admit that I did not use to think this way. I used to think if people had different shoe sizes, the Federal Government would make sure that everybody had the right shoe size.

Instead, Washington tries to make one size fit all. So if people have a size 3, or some 18 or 16 or 15 or 10, they create and we create the shoes in the size of 9 and say: Everybody has got to wear them.

I would prefer Mississippi to have a system that fits them; Michigan to have a system that fits them; and for us in Connecticut to have a system that fits our needs and our concerns.

Mr. HOEKSTRA. I think of much of what we do in Michigan would work in Connecticut. We will export our solutions over to you.

Mr. SHAYS. I will jump in, because that is what you do with your governor. Governor Engler has made a lot of exciting reforms and the reforms are coming from states like Michigan where you have seen welfare reform and other reforms that the Federal Government has been reluctant to take.

Mr. HOEKSTRA. Yes, the next 5 or 6 months will be tough. We have a lot of work to do, even though we now have a budget document. There are issues that you and I will disagree on.

I think the exciting thing about the process that we have gone through in the last 6 months, and that we look forward to in the next 6 months, is that we have a large group of Members who do have their sights on the same vision: Creating a better America; understanding the things that we need to do to get there; understanding the many different strategies. Differing on some of the projects, but recognizing that an ability to dialogue, an ability to work together in a partnership, both on this side of the aisle, across the aisle, to the Senate, hopefully to the President, back to grassroots America. That through that dialogue and through that partnership, and only through that dialogue and only through that partnership, will we reach the type of solutions that get us to our objective and get us there in a very positive and constructive way.

So we are going to have to work through lots of differences on projects, but we recognize that we have to work through those differences. We have to reach agreement. And that as we reach agreement, we, together, will reach the goals and the missions that we have outlined.

So I think it is going to be a tough 5 or 6 months. It is going to be a very satisfying 5 or 6 months, because at the end we will have made a difference. We have been working at it for a long period of time. And we are going to take some gigantic steps in 1995 and then we have 6 more years of work to do to make sure that we get to that zero, because we have to stay disciplined for that time.

I thank the gentleman for sharing this time with me.

Mr. SHAYS. I thank the gentleman. I agree so strongly with the gentlemen words, I would like them to be what is the last words and I yield back my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YATES (at the request of Mr. GEPHARDT) for today, on account of illness.

Miss COLLINS of Michigan (at the request of Mr. GEPHARDT) on Tuesday and Wednesday, June 27 and 28, on account of illness.

Mr. MFUME (at the request of Mr. GEPHARDT) for today, on account of travel delays.

Mr. GUNDERSON (at the request of Mr. ARMEY) for today, on account of family illness.

Mr. CAMP (at the request of Mr. ARMEY) for today, on account of the birth of his son, Andrew David Camp.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. FARR) to revise and extend their remarks and include extraneous material:)

Mr. FARR, for 5 minutes, today.

Ms. JACKSON-LEE, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

(The following Members (at the request of Ms. ROS-LEHTINEN) to revise and extend their remarks and include extraneous material:)

Mr. FUNDERBURK, for 5 minutes each day, on June 29 and June 30.

Ms. SEASTRAND, for 5 minutes, on June 28.

Mr. FOLEY, for 5 minutes, today.

Mr. GOSS, for 5 minutes each day, today and on June 28.

Mr. RIGGS, for 5 minutes each day, today and on June 28, 29, and 30.

Mr. HOKE, for 5 minutes, today.

Mr. KINGSTON, for 5 minutes each day, today and on June 28, 29, and 30.

Mr. CHAMBLISS, for 5 minutes each day, today and on June 28, 29, and 30.

Mr. DORNAN, for 5 minutes each day, today and on June 28.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. FARR) and to include extraneous matter:)

Mr. MILLER.
Mr. UNDERWOOD.
Mr. HOYER.
Mr. MARKEY.
Mr. BEILENSON.
Mr. BERMAN in two instances.
Ms. SLAUGHTER.
Mrs. SCHROEDER.
Mr. NADLER.
Mr. GORDON.
Mr. BARCIA.
Mr. MORAN.
Mr. HAMILTON.
Mr. ENGEL.
Mr. FILNER.
Mr. TUCKER in two instances.
Ms. MCCARTHY.
Mr. TOWNS.

(The following Members (at the request of Ms. ROS-LEHTINEN) and to include extraneous matter:)

Mr. HUNTER.
Mr. FRANKS of New Jersey.
Mr. RADANOVICH.
Mr. EHRLICH.
Mr. FORBES.
Mr. BLILEY.
Mr. MARTINI.
Mr. YOUNG of Alaska.
Mr. TAYLOR.
Mr. HYDE.
Mr. SHUSTER.
Mr. STUMP.
Mr. BURTON of Indiana.
Mr. JONES.
Mr. GILLMOR in two instances.
Mr. QUINN.
Mr. HOKE.
Mr. LAZIO of New York.
Mr. SOLOMON in two instances.

ADJOURNMENT

Mr. SHAYS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 36 minutes p.m.), the House adjourned until tomorrow, June 28, 1995, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1082. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation to clarify an ambiguity relating to the applicability of section 3703a of title 46, United States Code, to vessels in the National Defense Reserve Fleet; to the Committee on National Security.

1083. A letter from the Acting Director, Office of Thrift Supervision, transmitting a report on changes and progress in the operations involving regulatory resources for the Office, pursuant to 12 U.S.C. 1462a(g); to the Committee on Banking and Financial Services.

1084. A letter from the Acting Director, Office of Thrift Supervision, transmitting the Office's 1994 annual report to Congress on implementation of the Community Reinvestment Act, pursuant to 12 U.S.C. 2904; to the Committee on Banking and Financial Services.

1085. A letter from the Secretary of Energy, transmitting the Department's report entitled, "Energy Efficient Environmental Program for Pollution Prevention in Industry," pursuant to Public Law 102–486, section 2108(c) (106 Stat. 3071); to the Committee on Commerce.

1086. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Army's proposed lease of defense articles to Brazil (Transmittal No. 21–95) pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

1087. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Navy's proposed lease of defense articles to Brazil (Transmittal No. 22–95), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

1088. A letter from the Director, Defense Security Assistance Agency, transmitting the Department of the Air Force's proposed lease of defense articles to Brazil (Transmittal No. 24–95), pursuant to 22 U.S.C. 2796a(a); to the Committee on International Relations.

1089. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of a memorandum of justification for drawdown under section 552 of the Foreign Assistance Act to support the Haitian police forces, pursuant to 22 U.S.C. 2348a; to the Committee on International Relations.

1090. A communication from the President of the United States, transmitting the bimonthly report on progress toward a negotiated settlement of the Cyprus question, including any relevant reports from the Secretary General of the United Nations, pursuant to 22 U.S.C. 2373(c); to the Committee on International Relations.

1091. A letter from the Secretary, Department of Housing and Urban Development, transmitting the inspector general's semiannual report for the period October 1, 1994, through March 31, 1995, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1092. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–67, "Pennsylvania Avenue Development Area Parks and Plaza Public Safety Temporary Amendment Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1093. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–68, "Prohibition on the Transfer of Firearms Temporary Act of 1995," pursuant to D.C. Code, section 1–233(c)(1); to the Committee on Government Reform and Oversight.

1094. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11–69, "Insurance Omnibus

Temporary Amendment Act of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1095. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-70, "Industrial Revenue Bond Forward Commitment Program Authorization Temporary Act of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1096. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-71, "Limited Liability Company Amendment Act of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1097. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-72, "Business Corporation Five-Year Report Amendment Act of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1098. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-73, "Public Accountancy Amendment Act of 1995," pursuant to D.C. Code, section 1-233 (c)(1); to the Committee on Government Reform and Oversight.

1099. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-74, "Commercial Piracy Protection and Deceptive Labeling Amendment Act of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1100. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-76, "Isle of Patmos Plaza Designation Act of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1101. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 11-77, "Nonprofit Corporation Five-Year Report Amendment Act of 1995," pursuant to D.C. Code, section 1-233(c)(1); to the Committee on Government Reform and Oversight.

1102. A letter from the Inspector General, General Services Administration, transmitting the office's audit report register, including all financial recommendations, for the period ending March 31, 1995 pursuant to Public Law 101-576, section 305 (104 Stat. 2853); to the Committee on Government Reform and Oversight.

1103. A letter from the Secretary, Department of Transportation, transmitting the Secretary's management report on management decisions and final actions on Office of Inspector General audit recommendations, for the period ending March 31, 1995, pursuant to Public Law 101-576, section 306(a) (104 Stat. 2854); to the Committee on Government Reform and Oversight.

1104. A letter from the Administrator, General Services Administration, transmitting the 1993-1994 report to Congress on programs for the utilization and donation of Federal personal property, pursuant to Public Law 101-612, section 5 (102 Stat. 3181); to the Committee on Government Reform and Oversight.

1105. A letter from the Chairman, U.S. Equal Opportunity Commission, transmitting the semiannual report on activities of the inspector general for the period March 31, 1995, and the management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1106. A letter from the Secretary of the Interior, transmitting the annual report entitled "Outer Continental Shelf Lease Sales" for fiscal year 1994, pursuant to 43 U.S.C. 1337(a)(9); to the Committee on Resources.

1107. A letter from the Secretary of Veterans Affairs, transmitting a draft of proposed legislation to permit the Secretary of Veterans Affairs to reorganize the Veterans Health Administration notwithstanding the notice and wait requirements of section 510 of title 38, United States Code, and to amend title 38, United States Code, to facilitate the reorganization of the headquarters of the Veterans Health Administration; to the Committee on Veterans' Affairs.

1108. A letter from the Deputy Administrator, General Services Administration, transmitting an informational copy of the space situation report for the National Oceanic and Atmospheric Administration consolidation for Hampton Roads, VA, pursuant to 40 U.S.C. 606(a); jointly, to the Committees on Appropriations and Transportation and Infrastructure.

1109. A letter from the Acting Assistant Attorney General, transmitting the Attorney General's report on risk exposure of private entities covered by the Federally Supported Health Centers Assistance Act of 1992; jointly, to the Committees on the Judiciary and Commerce.

1110. A letter from the Railroad Retirement Board, transmitting a report on the actuarial status of the railroad retirement system, including any recommendations for financing changes, pursuant to 45 U.S.C. 321f-1; jointly, to the Committees on Transportation and Infrastructure and Ways and Means.

1111. A letter from the Secretary of Labor, transmitting the Department's report entitled, "Transition Assistance Program: Phase III Impact Analysis," pursuant to Public Law 101-237, section 408(d) (103 Stat. 2084); jointly, to the Committees on National Security, Economic and Educational Opportunities, and Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ARCHER: Committee on Ways and Means. H.R. 541. A bill to reauthorize the Atlantic Tunas Convention Act of 1975, and for other purposes; with amendments (Rept. 104-109, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. ARCHER: Committee on Ways and Means. H.R. 1642. A bill to extend nondiscriminatory treatment—most-favored-nation treatment—to the products of Cambodia, and for other purposes (Rept. 104-160). Referred to the Committee of the Whole House on the State of the Union.

Mr. ARCHER: Committee on Ways and Means. H.R. 1887. A bill to authorize appropriations for fiscal years 1996 and 1997 for the International Trade Commission, the Customs Service, and the Office of the U.S. Trade Representative, and for other purposes; with amendments (Rept. 104-161). Referred to the Committee of the Whole House on the State of the Union.

Mr. ARCHER: Committee on Ways and Means. H.R. 1643. A bill to authorize the extension of nondiscriminatory treatment—most-favored-nation treatment—to the products of Bulgaria (Rept. 104-162). Referred to the Committee of the Whole House on the State of the Union.

Mr. GOODLING: Committee on Economic and Educational Opportunities. H.R. 1176. A bill to nullify an Executive order that prohibits Federal contracts with companies that hire permanent replacements for striking employees (Rept. 104-163). Referred to the Committee of the Whole House on the State of the Union.

Mr. SOLOMON: Committee on Rules. House Resolution 173. Resolution providing for consideration of the joint resolution (H.J. Res. 79) proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States (Rept. 104-164). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. THORNTON:

H.R. 1926. A bill to provide for the protection of the flag of the United States; to the Committee on the Judiciary.

By Mr. LIVINGSTON:

H.R. 1927. A bill making emergency supplemental appropriations for additional disaster assistance, for antiterrorism initiatives, for assistance in the recovery from the tragedy that occurred at Oklahoma City, and making rescissions for the fiscal year ending September 30, 1995, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BEILENSON:

H.R. 1928. A bill to amend title 49, United States Code, to require that the motor vehicle bumper standard established by the Secretary of Transportation shall be restored to that in effect January 1, 1982; to the Committee on Commerce.

By Mr. BERMAN (by request):

H.R. 1929. A bill to amend the Immigration and Nationality Act to more effectively prevent illegal immigration by improving control over the land borders of the United States, preventing illegal employment of aliens, reducing procedural delays in removing illegal aliens from the United States, providing wiretap and asset forfeiture authority to combat alien smuggling and related crimes, increasing penalties for bringing aliens unlawfully into the United States, and making certain miscellaneous and technical amendments, and for other purposes; to the Committee on the Judiciary.

By Mr. ENGEL (for himself, Mr. SAXTON, Mr. SCHUMER, and Mr. DELAY):

H.R. 1930. A bill to govern relations between the United States and the Palestine Liberation Organization [PLO], to enforce PLO compliance with standards of international conduct, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GILLMOR:

H.R. 1931. A bill to amend the Legal Services Corporation Act to prohibit recipients of grants or contracts from the Legal Services Corporation from soliciting clients, and for other purposes; to the Committee on the Judiciary.

By Mr. HOEKSTRA (for himself, Mr. Coburn, Mr. Weldon of Florida, Mr. Volkmer, Mr. LaFalce, and Mr. Canady):

H.R. 1932. A bill to amend the Public Health Service Act to prohibit governmental discrimination in the training and licensing of health professionals on the basis of the refusal to undergo or provide training in the performance of induced abortions, and for other purposes; to the Committee on Commerce.

Mrs. KENNELLY (for herself, Ms. DeLauro, Mr. Gejdenson, Mr. Shays, Mrs. Johnson of Connecticut, Mr. Franks of Connecticut):

H.R. 1933. A bill to require the Secretary of the Treasury to mint coins in commemoration of the bicentennial of the Old State House of Connecticut; to the Committee on Banking and Financial Services.

By Mr. LAZIO of New York:

H.R. 1934. A bill to amend section 255 of the National Housing Act to extend the mortgage insurance program for home equity conversion mortgages for elderly homeowners, and for other purposes; to the Committee on Banking and Financial Services.

By Mr. LIPINSKI:

H.R. 1935. A bill to suspend until January 1, 1998, the duty on certain twine; to the Committee on Ways and Means.

By Mr. MILLER of California (for himself, Mr. DeFazio, Mr. Waxman, Mr. Sanders, Mr. McDermott, Mr. Ackerman, Mrs. Mink of Hawaii, Mr. Scott, Mr. Torricelli, Mr. Dellums, Mr. Flake, Ms. Woolsey, Mrs. Schroeder, Ms. DeLauro, Mr. Owens, Mr. Stark, Mr. Evans, Mr. Frazer, Mr. Borski, Mr. Nadler, and Mr. Serrano):

H.R. 1936. A bill to amend title 5, United States Code, to provide for certain minimum requirements under the Federal Employees Health Benefits Program with respect to obstetrical benefits; to the Committee on Government Reform and Oversight.

By Mr. SCHIFF:

H.R. 1937. A bill to facilitate small business involvement in the regulatory development processes of the Environmental Protection Agency and the Occupational Safety and Health Administration, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Small Business, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SOLOMON:

H.R. 1938. A bill to amend the vaccine injury compensation portion of the Public Health Service Act to permit a petition for compensation to be submitted within 48 months of the first symptoms of injury; to the Committee on Commerce.

By Mr. UNDERWOOD (for himself and Mr. Frazer):

H.R. 1939. A bill to amend the Federal Home Loan Bank Act to provide for the representation of Guam and the Virgin Islands on the boards of directors of the appropriate Federal home loan banks; to the Committee on Banking and Financial Services.

By Mr. YOUNG of Alaska:

H.R. 1940. A bill to amend the Internal Revenue Code of 1986 to allow a charitable contribution deduction for certain expenses incurred by whaling captains in support of Native Alaskan subsistence whaling; to the Committee on Ways and Means.

By Mr. OWENS:

H.J. Res. 98. Joint resolution proposing an amendment to the Constitution of the United States to clarify the meaning of the second amendment; to the Committee on the Judiciary.

By Mr. SANDERS (for himself, Mr. DeFazio, and Mr. Miller of California):

H. Con. Res. 79. Concurrent resolution expressing the sense of Congress regarding an appropriate minimum length of stay for routine deliveries; to the Committee on Commerce.

By Mr. MARKEY (for himself and Mr. Leach):

H. Res. 174. Resolution expressing the sense of the House of Representatives regarding the recent announcement by the Republic of France that it intends to conduct a series of underground nuclear test explosions despite the current international moratorium on nuclear testing; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

122. By the SPEAKER: Memorial of the Senate of the State of Louisiana, relative to memorializing the Congress of the United States to establish an integrated spent fuel management storage facility; to the Committee on Commerce.

123. Also, memorial of the Senate of the State of Louisiana, relative to memorializing the Congress of the United States to cause the Army Corps of Engineers to mitigate for losses on the MR&T Mainline Levee Construction Program and perform an updated environmental impact statement; to the Committee on Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 32: Mr. Kleczka.

H.R. 65: Mr. Evans, Mr. Gene Green of Texas, Mr. Mollohan, and Mr. Flake.

H.R. 104: Mr. Peterson of Minnesota and Mr. Watts of Oklahoma.

H.R. 209: Mr. Fields of Texas.

H.R. 210: Mrs. Chenoweth.

H.R. 246: Mr. Crane and Mr. Skeen.

H.R. 303: Mr. Mollohan and Mr. Hinchey.

H.R. 353: Mr. Martini, Mr. Moorhead, Mr. Kasich, and Mr. Dellums.

H.R. 359: Mr. Mascara.

H.R. 390: Mr. Frost.

H.R. 394: Mr. McCollum, Mr. Scarborough, Mr. Martini, Mr. Filner, Mr. Latham, Mr. Smith of New Jersey, Mr. Taylor of Mississippi, Mr. Smith of Texas, Mr. Moorhead, and Mr. Roberts.

H.R. 408: Mr. Blute.

H.R. 469: Mr. Deutsch.

H.R. 475: Mr. Sensenbrenner.

H.R. 488: Mr. Walsh, Ms. Pryce, Mr. Horn, and Mr. Pastor.

H.R. 582: Mr. Dreier.

H.R. 598: Mr. Bonilla, Mr. Crane, Mr. Stark, Mr. Tauzin, Mr. Brownback, Mr. Wamp, Mr. Longley, Mr. Gene Green of Texas, Mr. Lewis of Kentucky, Mr. Baesler, Mr. Hutchinson, Mr. Royce, Ms. Danner, Ms. Ros-Lehtinen, Mr. Deal of Georgia, Mr. Andrews, and Mr. Whitfield.

H.R. 676: Mrs. Lowey.

H.R. 752: Mr. Underwood, Mr. Hayworth, Mr. Flake, Mrs. Fowler, Mr. Bonior, Mr. Hastings of Washington, Mr. Tauzin, Mr. Wicker, Mr. Chrysler, Mr. Boehner, Mr. Largent, Mr. Chabot, and Mr. Orton.

H.R. 771: Mr. Barcia of Michigan and Mr. Young of Alaska.

H.R. 789: Mr. Cox, Mrs. Cubin, Mr. Sawyer, and Mr. Combest.

H.R. 816: Mr. McCrery.

H.R. 852: Mr. Martinez.

H.R. 858: Mr. Engel, Mr. Frank of Massachusetts, Mr. Gejdenson, Mr. Williams, and Mr. Dicks.

H.R. 860: Mr. Salmon and Mr. Upton.

H.R. 911: Mr. Bonior, Ms. Velazquez, Mr. de la Garza, Mr. Fazio of California, Mr. Manton, Mr. McNulty, Mr. Neal of Massachusetts, and Mr. Franks of New Jersey.

H.R. 1020: Mr. Crane, Mr. Shaw, Mr. Ehrlich, Mr. Kanjorski, Mr. Frost, Mr. Wicker, Mr. Taylor of Mississippi, Mr. Nethercutt, and Mr. Greenwood.

H.R. 1033: Mr. Lazio of New York.

H.R. 1047: Mr. McIntosh.

H.R. 1114: Mr. Taylor of Mississippi, Ms. Pryce, Mr. Weller, Mr. Archer, Mr. Roberts, Mr. Sam Johnson, Mr. Stearns, Mr. Franks of New Jersey, Mr. Lewis of Kentucky, and Mr. Stockman.

H.R. 1143: Mr. Romero-Barcelo, Ms. Kaptur, and Mr. Olver.

H.R. 1144: Ms. Kaptur, Mr. Romero-Barcelo, and Mr. Olver.

H.R. 1145: Mr. Romero-Barcelo, Ms. Kaptur, and Mr. Olver.

H.R. 1176: Mr. Franks of Connecticut.

H.R. 1203: Mr. Petri, Mr. Crapo, Mr. Leach, Mr. Nussle, and Mr. Fox.

H.R. 1226: Mr. Burr, Mr. Bass, and Mr. Hefley.

H.R. 1227: Mr. Jacobs and Mr. Ehlers.

H.R. 1278: Mr. Lewis of Georgia, Mr. Gene Green of Texas, and Mr. Faleomavaega.

H.R. 1296: Mr. Gallegly and Mr. Radanovich.

H.R. 1314: Mr. Coyne.

H.R. 1317: Mr. Longley.

H.R. 1384: Mr. Flanagan and Mr. Quinn.

H.R. 1406: Mr. Waxman, Mr. Weldon of Pennsylvania, Mr. Montgomery, Mr. Doyle, Mr. Kanjorski, Mr. English of Pennsylvania, and Mr. Payne of Virginia.

H.R. 1533: Mr. Christensen.

H.R. 1536: Mr. Flanagan and Mr. Quinn.

H.R. 1541: Mr. Lipinski and Mr. English of Pennsylvania.

H.R. 1567: Mr. DeFazio, Mr. Fattah, and Mr. Lipinski.

H.R. 1619: Mr. Smith of New Jersey, Mr. Kildee, Ms. Pelosi, and Mr. Taylor of North Carolina.

H.R. 1626: Mrs. Thurman, Mr. Canady, Mr. Deutsch, Mr. Stearns, and Mr. Peterson of Florida.

H.R. 1627: Mr. Hobson and Mr. Houghton.

H.R. 1640: Mr. Shays, Mr. Bartlett of Maryland, Mr. Lipinski, Mr. Burton of Indiana, Mr. Baker of California, Mr. Sawyer, Mr. Talent, Mr. Scarborough, Mr. Hoekstra, and Mr. Funderburk.

H.R. 1651: Mr. Smith of New Jersey, Mr. Saxton, Mr. Houghton, Mr. Stupak, Mr. McHugh, Mr. Deutsch, Mr. Hilliard, Mr. English of Pennsylvania, and Mr. Baker of Louisiana.

H.R. 1675: Mr. Jones, Mr. Tanner, Mr. Hastings of Washington, Mr. Duncan, Mr. Longley, Mr. Hamilton, and Mr. Saxton.

H.R. 1684: Mr. White, and Mrs. Seastrand.

H.R. 1713: Mr. MCKEON, Mr. JOHNSON of South Dakota, and Mr. ENSIGN.

H.R. 1739: Mr. KOLBE, Mr. PETE GEREN of Texas, and Mr. WATTS of Oklahoma.

H.R. 1748: Mr. MINGE and Mr. FROST.

H.R. 1758: Mr. FAZIO of California.

H.R. 1774: Mr. LIPINSKI and Mr. DELLUMS.

H.R. 1801: Mr. CREMEANS, Mr. CHRYSLER, and Mr. SCARBOROUGH.

H.R. 1807: Mr. LANTOS, Mr. LUTHER, and Ms. NORTON.

H.R. 1818: Mr. ROBERTS, Mr. HUTCHINSON, Mr. BAKER of Louisiana, and Mr. SALMON.

H.R. 1821: Mr. STUPAK and Mr. FRANK of Massachusetts.

H.R. 1833: Mr. STENHOLM, Mr. BARCIA of Michigan, Mr. BLILEY, Mr. PETERSON of Minnesota, Mr. HOSTETTLER, Mr. HOLDEN, Mrs. CHENOWETH, Mr. VOLKMER, Mr. MANZULLO, Mr. KLINK, Mr. SCARBOROUGH, Mr. TAUZIN, Mr. HASTERT, Mr. LIPINSKI, Mr. ISTOOK, Mr. BURTON of Indiana, Mr. HUTCHINSON, Mr. GUTKNECHT, Mr. DOOLITTLE, Mr. BARTLETT of Maryland, Mr. TIAHRT, Mr. CRANE, Mr. SHADEGG, Mr. COLLINS of Georgia, Mr. BARRETT of Nebraska, Mr. MCDADE, Mr. MASCARA, Mr. SALMON, Mr. BONO, Mr. GRAHAM, Mr. HUNTER, Mr. SOLOMON, Mr. UNDERWOOD, Mr. WICKER, and Mr. WAMP.

H.R. 1834: Mr. BARR, Mr. CHRYSLER, Mr. COLLINS of Georgia, Mr. DEAL of Georgia, Mr. HASTINGS of Washington, Mr. HAYWORTH, Mr. HILLEARY, Mr. KINGSTON, Mr. LARGENT, and Mr. METCALF.

H.R. 1840: Mr. HERGER, Mr. STOCKMAN, Mr. PACKARD, and Mrs. SEASTRAND.

H.R. 1856: Mr. CRAPO, Mr. COBLE, and Mr. MCHUGH.

H.R. 1884: Mr. FROST.

H.R. 1885: Mr. BLUTE and Mr. WAMP.

H.J. Res. 78: Mr. CLAY, Mr. GEPHARDT, and Mr. COSTELLO.

H.J. Res. 84: Mr. BECERRA.

H. Con. Res. 4: Mr. SOUDER and Mr. EHRLICH.

H. Con. Res. 42: Mr. FRANKS of New Jersey, Ms. FURSE, and Mr. KILDEE.

H. Con. Res. 50: Ms. RIVERS, Mr. SCOTT, and Mr. HALL of Ohio.

H. Con. Res. 65: Mr. MENENDEZ, Ms. ESHOO, Mr. FRANK of Massachusetts, Mrs. ROUKEMA, Ms. SLAUGHTER, Mr. CLAY, Mr. MILLER of California, Ms. JACKSON-LEE, Miss COLLINS of Michigan, Mr. LIPINSKI, and Mr. WAXMAN.

H. Con. Res. 76: Mr. COLEMAN, Mr. BROWN of California, Mr. FRANK of Massachusetts, and Mr. BRYANT of Texas.

H. Res. 21: Mr. GUTKNECHT.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

26. By the SPEAKER: Petition of the 47th student senate, Florida State University, relative to H.R. 1709; to the Committee on National Security.

27. Also, petition of the common council of the city of Buffalo, NY, relative to the Historic Homeownership Assistance Act; to the Committee on Banking and Financial Services.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1868

OFFERED BY: MR. GOSS

AMENDMENT NO. 74: Page 78, after line 6, insert the following new section:

LIMITATION ON FUNDS FOR HAITI

SEC. 564. Effective March 1, 1996, none of the funds appropriated in this Act may be made available to the Government of Haiti when it is made known to the President that such Government is controlled by a regime holding power through means other than the democratic elections scheduled for calendar year 1995 and held in substantial compliance with the requirements of the 1987 Constitution of Haiti.

H.R. 1868

OFFERED BY: MS. JACKSON-LEE

AMENDMENT NO. 75: Page 19, Line 16, strike "$10,000,000" and insert in lieu thereof "$11,500,000".

Page 23, line 6, strike "39,000,000" and insert in lieu thereof "37,500,000".

H.R. 1868

OFFERED BY: MS. KAPTUR

AMENDMENT NO. 76. Page 78, after line 6, insert the following new section:

LIMITATION ON FUNDS FOR NORTH AMERICAN DEVELOPMENT BANK

SEC. 564. None of the funds appropriated in this Act under the heading "North American Development Bank" may be expended except when it is made known to the disbursing official concerned that the Government of Mexico has contributed to the North American Development Bank its share of the paid-in portion of the capital stock for fiscal year 1996, $56,250,000.

H.R. 1868

OFFERED BY: MRS. MEEK OF FLORIDA

(Amendment to the Amendment Offered by Mr. Goss)

AMENDMENT NO. 77. In the matter proposed to be inserted by the amendment, strike "when it is made known" and all that follows and insert the following:

except when it is made known to the President that such Government is making continued progress in implementing democratic elections.

H.R. 1868

OFFERED BY: MR. PORTER

AMENDMENT NO. 78: Page 15, line 4, insert "or Turkey" after "Zaire".

H.R. 1868

OFFERED BY: MR. SMITH OF NEW JERSEY

AMENDMENT NO. 79. Page 78, after line 6, insert the following new section:

PROHIBITIION OF FUNDING FOR ABORTION

SEC. 564. (a) IN GENERAL.—

(1) Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act for population assistance activities, may be made available for any private, nongovernmental, or multilateral organization until the organization certifies that it does not and will not during the period for which the funds are made available, directly or through a subcontractor or sub-grantee, perform abortions in any foreign country, except where the life of the mother would be endangered if the fetus were carried to term or in cases or forcible rape or incest.

(2) Paragraph (1) may not be construed to apply to the treatment of injuries or illnesses caused by legal or illegal abortions or to assistance provided directly to the government of a country.

(b) LOBBYING ACTIVITIES.—

(1) Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act for population assistance activities may be made available for any private, nongovernmental, or multilateral organization until the organization certifies that it does not and will not during the period for which the funds are made available, violate the law of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited, or engage in any activity or effort to alter the laws or governmental policies of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited.

(2) Paragraph (1) shall not apply to activities in opposition to coercive abortion or involuntary sterilization.

(c) COERCIVE POPULATION CONTROL METHODS.—Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act may be made available for the United Nations Population Fund (UNFPA), unless the President certifies to the appropriate congressional committees that (1) the United Nations Population Fund has terminated all activities in the People's Republic of China; or (2) during the 12 months preceding such certification, there have been no abortions as the result of coercion associated with the family planning policies of the national government or other governmental entities within the People's Republic of China. As used in this section the term "coercion" includes physical duress or abuse, destruction or confiscation of property, loss of means of livelihood, or severe psychological pressure.

H.R. 1868

OFFERED BY: MR. SMITH OF NEW JERSEY

AMENDMENT NO. 80: Page 78, after line 7, insert the following new section:

PROHIBITION ON USE OF MIGRATION AND REFUGEE ASSISTANCE FUNDS FOR ADMINISTRATIVE EXPENSES

SEC. 564. Notwithstanding any other provision of this Act to the contrary, none of the funds made available in this Act under the heading "Migration and Refugee Assistance" may be used for (1) salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; (2) salaries and expenses of personnel assigned to the bureau charged with carrying out the Migration and Refugee Assistance Act; (3) allowances as authorized by sections 5921 through 5925 of title 5, United States Code; or (4) administrative expenses.

H.R. 1868

OFFERED BY: MR. SOUDER

AMENDMENT NO. 81: Page 78, after line 6, insert the following:

LIMITATION ON ASSISTANCE TO MEXICO

SEC. 564. (a) IN GENERAL.—None of the funds appropriated or otherwise made available by this Act may be obligated or expended for the Government of Mexico, except if it is made known to the Federal entity or official to which funds are appropriated under this Act that—

(1) the Government of Mexico is taking actions to reduce the amount of illegal drugs entering the United States from Mexico by at least 10 percent of the level of such illegal drugs from the previous year, as determined by the Director of the Office of National Drug Control Policy; and

(2) the Government of Mexico—

(A) is taking effective actions to apply vigorously all law enforcement resources to investigate, track, capture, incarcerate, and prosecute illegal drug kingpins and their accomplices, individuals responsible for, or otherwise involved in, corruption, and individuals involved in money-laundering; and

(3) is pursuing international anti-drug trafficking initiatives.

H.R. 1868

OFFERED BY: MR. SOUDER

AMENDMENT No. 82: Page 78, after line 6, insert the following:

LIMITATION ON ASSISTANCE TO MEXICO

SEC. 564. (a) IN GENERAL.—None of the funds appropriated or otherwise made available by this Act may be obligated or expended for the Government of Mexico, except if it is made known to the President that—

(1) the Government of Mexico is taking actions to reduce the amount of illegal drugs entering the United States from Mexico by at least 10 percent of the level of such illegal drugs from the previous year, as determined by the Director of the Office of National Drug Control Policy; and

(2) the Government of Mexico—

(A) is taking effective actions to apply vigorously all law enforcement resources to investigate, track, capture, incarcerate, and prosecute illegal drug kingpins and their accomplices, individuals responsible for, or otherwise involved in, corruption, and individuals involved in money-laundering; and

(B) is pursuing international anti-drug trafficking initiatives.

H.R. 1905

OFFERED BY: MR. FORBES

AMENDMENT No. 11: Page 16, line 1, strike "$2,596,700,000" and insert "$2,696,700,000".

Page 20, line 8, strike "$362,250,000" and insert "$262,250,000".

Page 20, line 25, strike "$239,944,000" and insert "$139,944,000".

H.R. 1905

OFFERED BY: MR. HOKE

AMENDMENT No. 12: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 505. The Secretary of Energy shall transmit a report to the Congress each time the Secretary authorizes the payment of travel expenses of the Secretary or other employees of the Department of Energy in excess of an aggregate of $5,246,200 for fiscal year 1996. Such report shall describe the amount authorized, the purposes for which such funds were originally allocated, and the travel expenses for which they are used.

H.R. 1905

OFFERED BY: MR. HOKE

AMENDMENT No. 13: Page , after line , insert the following new section:

SEC. . TRANSFER OF FUNDS FOR TRAVEL.

The Secretary of Energy shall transmit a report to the Congress each time the Secretary authorizes the payment of travel expenses of the Secretary or other employees of the Department of Energy in excess of an aggregate of $5,246,200 for fiscal year 1996. Such report shall describe the amount authorized, the purposes for which such funds were originally allocated, and the travel expenses for which they are used.

H.R. 1905

OFFERED BY: MR. KLUG

AMENDMENT No. 14: Page 16, line 2, insert before the period the following:

: *Provided*, That, of such amount, $44,772,000 shall be available to implement the provisions of section 1211 of the Energy Policy Act of 1992 (42 U.S.C. 13316)

H.R. 1905

OFFERED BY: MRS. SMITH OF WASHINGTON

AMENDMENT No. 15: Page 14, line 13, strike "$48,630,000" and insert "$48,150,000".

EXTENSIONS OF REMARKS

THE UNITED NATIONS AT 50: BAD IN BOSNIA; TIME TO GROW UP

HON. GEORGE P. RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. RADANOVICH. Mr. Speaker, I'm going to withhold wishing the United Nations a "happy birthday" until it grows up. My particular problem with this international organization—chartered for a mighty mission and with the best of intentions—comes into clear focus when you look at the sorry state of its performance in Bosnia.

As so often is the case, the editors of the Wall Street Journal have offered their readers an insightful and incisive examination of current conditions. That is the case with today's editorial, "Virtual United Nations," which I am pleased to draw to the attention of my colleagues in Congress.

[From the Wall Street Journal, June 27, 1995]

VIRTUAL UNITED NATIONS

Fifty years ago this week, representatives of 50 countries gathered in San Francisco to sign the Charter of the United Nations. It was probably both the novelty of peace in Europe and the dream that it would spread and last that inspired the U.N.'s signatories to pledge to "save succeeding generations from the scourge of war" by practicing "tolerance and [living] together in peace," by uniting "our strength to maintain international peace and security" and by accepting "principles and the institution of methods" so that "armed force shall not be used, save in the common interest."

Fine as they are, it is difficult to imagine that these words sounded any less like rules for a virtual reality world then than they do today. Then as now, people like to believe that having such intentions is important, no matter that war is raging in Bosnia under the U.S.'s watchful eye.

This 50th anniversary year of the U.N. features far more debates about how the U.N. needs to be reformed than recounting of its successes.

But these ideas do not address the key failings of the U.N. that are visible all around us. These are not just the shortcomings that can be attributed to the dearth of collective interest and political will. They are also uniquely U.N.-inspired instances of failing to do what the organization and its bodies say it is dedicated to doing.

The failure of the U.N. in Bosnia is too grand to describe exhaustively or even in thematic terms, so events of last week will have to suffice. The refusal of the United Nations to authorize a NATO request for an air strike on a U.N.-mandated target last week was merely the lastest in a series of such vetoes.

A new type of failure of the U.N. was also on display last week in Belgrade. There, the office of the U.N. High Commissioner for Refugees is complaining that it is besieged by draft-age ethnic Serb men—mainly refugees from Bosnia and Croatia—who are being rounded up for conscription into the rump-Yugoslav army. Figures given by the office are that as many as 2,500 men have already been press-ganged, and 70 "begging for some sort of protection" were turned away by UNHCR on Thursday alone.

Also last week was Le Monde's report that for a year the United Nations has been sitting on a report written by its own people that shows that the Serbs alone have pursued ethnic cleansing as a planned and systematic government policy and that they have been responsible for the vast majority of the other war crimes and atrocities. The report makes the explicit admission that it is not possible to treat all of the parties in the Bosnian conflict on an equal basis.

The U.N. not only made this pretense possible, but also dressed it up with the mantle of the world's prominent international mediating body. This farce of moral equivalence continues despite the existence of the U.N.'s report and was most recently on display on Friday when the Security Council condemned Bosnian Muslim army efforts to block the movement of Unprofor forces in its attempt to lift the siege of Sarajevo.

To be sure, many organizations and individual states have failed Bosnia. But the U.N. is the body that purports to be competent in such situations. Worse than inaction (which the U.N. could then blame on member-state cowardice), the U.N.'s actions have in many ways worsened the conflict.

Those who talk of U.N. reform are therefore the most optimistic of the pundits. Many believe the body is simply unreformable because consensus of the type that existed in 1944 and 1945 would be impossible to find today. Presumably there is a role for such an organization, though perhaps confined to a talk shop. Yet as long as the U.N. undermines its own goals, as it has in Bosnia by refusing to acknowledge and condemn blatant aggression, any hope that it will somehow develop into a useful forum for conflict resolution are likely to be disappointed.

AMENDMENT TO THE ENERGY AND WATER APPROPRIATIONS BILL

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. FORBES. Mr. Speaker, as per the request of the Rules Committee, I am submitting an amendment to the Energy and Water Development Appropriations bill for preprinting in the RECORD.

Mr. Speaker, my amendment is quite simple, it would simply add $100 million to the energy supply, research, and development activities account in the bill and offset the increase with a corresponding cut in the Department of Energy departmental administration account. Mr. Speaker, my amendment is intended to restore funding to a couple of valuable research and development programs while making further cuts in the DOE bureaucracy.

The first program is the Energy Research Laboratory Technology Transfer Program which was funded at $57 million last year and unfortunately has been zeroed out in this bill. This program is a highly important tool for developing our industrial technological base for the future. Lab Tech Transfer programs around the country provide industry with access to the incredible R&D resources and capabilities of our national laboratories. Every year, thousands of scientists from U.S. companies perform experiments in collaboration with scientists at our national labs. Through this program, technologies developed at our national labs become resources that permit U.S. industry to introduce new state-of-the-art products and to enhance its competitive position in domestic and international markets.

The Lab Tech Transfer Program also funds cooperative research and development agreements, or CRADA's, with small- and medium-sized companies around the country. Currently, there are CRADA's in such important fields as advanced materials, advanced computing, biotechnology, nuclear medicine, and others. For each of these CRADA's, industry more than matches the amount of funds contributed by our national labs. Mr. Speaker, I believe that this kind of collaborative partnership between industry and our national laboratories is necessary to the economic future of the country and is certainly a higher priority than the administration of the sprawling Department of Energy.

The second general area that I think should be funded at a higher level is biological and environmental research; specifically oceanographic and carbon dioxide programs. These programs quantify the mechanisms and processes by which carbon dioxide is assimilated, transported and transformed in coastal oceans; study the flux of carbon dioxide between the oceans and the atmosphere and develop remote sensing equipment for measurement of carbon dioxide in the oceans.

Mr. Speaker, while I am not convinced of the theory of global warming, it does seem to me that it is worth our while to find out its validity. This of course can only be done through more research and there is valuable work going on right now in the fields of oceanographic and carbon dioxide research. Again, I place a higher priority on this than the bureaucracy at DOE and I urge adoption of the amendment.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

A TRIBUTE TO BRIG. GEN. JEFFREY R. GRIME

HON. WALTER B. JONES, JR.

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. JONES. Mr. Speaker, I want to recognize Brig. Gen. Jeffrey R. Grime for his dedicated service to our Nation as the commander of the 4th Wing for the U.S. Air Force. General Grime was assigned to Seymour Johnson Air Force Base, Goldsboro, NC in July 1993 as commander of the 4th Wing. The 4th Wing has been involved in every major air support action undertaken by the United States. General Grime also commands an F-15E and KC-10 composite wing, a major air combat command base with more than 4,600 personnel who provide logistics support for the 916th Air Refueling Wing.

General Grime served with distinction from February to August 1994 as the commander of the 4404th Composite Wing at Dhahran Air Base in Saudi Arabia. He has also presided over the addition of the national training mission for the F-15E—giving Seymour Johnson the world's largest compliment of this state-of-the-art weapons system. Also under his command, the 4th Wing received the highest rating during the air combat command operational readiness inspection, thus establishing a new standard of excellence for the U.S. Air Force.

As if his operational contributions have not been enough, General Grime distinguished himself in reaching out to the civilian community of the Goldsboro area. This was shown in an increase in base tours and by over 94,000 hours of volunteer work by service members in Wayne County in 1994 alone. Indeed, General Grime has made a big difference in the lives of many—and there are plenty of personal testimonies supporting it. From all of us who have worked with General Grime, we join in bidding him a fond farewell. Thank you, Jeff Grime, for your friendship and extraordinary contributions to Goldsboro-Wayne County, NC, and to our Nation.

A TRIBUTE TO THEO JACKSON, AN EXAMPLE OF EXCELLENCE IN DEDICATION

HON. WALTER R. TUCKER III

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. TUCKER. Mr. Speaker, in this world there are those people who dedicate themselves to the work ethic, and the needs of others.

Mr. Speaker, Theo Jackson is such a person.

Theo has dedicated himself to the needs of American Airlines, starting some 26 years ago.

Theo uprooted his family for his company, and came west to assume the role of general manager at the Oakland Airport.

Mr. Speaker, Theo gave of his time above and beyond the call of duty, sacrificing family time and personal wants for the benefit of his company. He also dedicated himself to the community, becoming involved in various activities to make a difference and an impact.

Mr. Speaker, I rise today to pay tribute to a gentleman who exemplifies the type of dedication so needed in America today, Mr. Theo Jackson.

HONORING SENATOR BARRY LEVEY ON THE OCCASION OF HIS RETIREMENT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to an outstanding citizen of Ohio. State senator and chairman of the senate judiciary committee, Barry Levey is retiring after a distinguished career in service to the people of Ohio.

I had the privilege of serving in the Ohio State Senate while Barry served in the Ohio House of Representatives during the 1960's and again when he joined the State senate in 1987. I can tell you Barry has been a strong advocate and outstanding friend to southwestern Ohio. Barry's aggressive leadership has been crucial in promoting the concerns of the citizens of this area.

Barry holds the distinction of being the only member in Ohio history to be the chairman of both the senate and house judiciary committees. He is a graduate of Middletown High School, the University of Michigan, and the Ohio State University College of Law. This former officer in the U.S. Army Judge Advocate General Corps was first elected to the Ohio House of Representatives in 1962 and served in that body until 1970. After a successful career in banking and business, Barry returned to public service in 1987 as a State senator. Throughout his distinguished tenure, Barry has demonstrated his deep faith in, and dedication to, upholding the principles of American democracy. He has been a strong advocate for education and has been recognized for his efforts on behalf of controlling government spending.

Mr. Speaker, we have often heard that America works because of the unselfish contributions of her citizens. I know that Ohio is a much better place to live because of the dedication and countless hours of effort given by Senator Barry Levey over the years. While Barry is leaving his official capacity as State senator, I know he will continue to be actively involved in those causes dear to him.

I ask my colleagues to join in paying a special tribute to my friend, Senator Barry Levey's record of personal accomplishments and wishing him, his wife Marilee, and their three children all the best in the years ahead.

THE 1995 CONGRESSIONAL HIGH SCHOOL ARTS COMPETITION

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. HOYER. Mr. Speaker, I rise today to mark the opening of the 14th annual congressional high school arts exhibition, entitled "An Artistic Discovery." This competition, which is held in congressional districts throughout the country, with the winning entry being displayed in the U.S. Capitol, is designed to recognize the creative talents of young Americans.

This event is an inspiration to many young artists, Mr. Speaker. I recently received a letter from the parents of Dan Sutherland, the winner of the arts competition in the Fifth Congressional District of Maryland in 1984. In this letter, which I would like to share with my colleagues, Ann and Doug Sutherland of Greenbelt write:

> Our son Dan was your district's selection in 1984. This recognition from outside his realm of family, friends, and school helped give him the assurance to decide to pursue art as a career. He won art scholarships as an undergraduate at James Madison University and as a graduate student at Syracuse University. Dan moved to Texas with his wife, and began as an adjunct instructor at the University of Texas, Austin. This month (May, 1995) Dan was selected from among 400 applicants for a teaching and painting/drawing position on the University of Texas faculty.
>
> Encouragement from this type of competition is important, particularly in a field like art where so many people tell youngsters, "You can't make a living in art." Be assured that this program and your contribution to it was an important stepping stone in our son's evolving career as an artist.

Mr. Speaker, the artistic heritage of our country is dependent upon our young artists and I would like to congratulate this year's arts competition winners from the Fifth Congressional District: First place—Rina Wiedenhoeft, a student at Eleanor Roosevelt High School in Greenbelt, for her winning watercolor entry entitled, "Self-portrait."

Second place (tie)—Erik Minter, a student at Thomas Stone High School in Waldorf, for his oil painting entitled, "Mason Dixon Door," and Alicia Pirner of Northern High School in Calvert County for her colored pencil drawing entitled, "Mediterranean Villa."

Third place (tie)—Greg Paterno, a student at Leonardtown High School for his acrylic painting of football players in action entitled, "4th and 1;" and Khalise Holmes of Laurel High School in Prince Georges County for a linoleum block print entitled, "Still Life With Flowers."

I hope my colleagues will join me in saluting these talented individuals. These young artists enrich our cultural traditions, and through this competition we continue to encourage their creative energies.

WE THE PEOPLE * * * THE CITIZEN AND THE CONSTITUTION

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. MARKEY. Mr. Speaker, I rise today on the occasion of the national conference in Washington of We the People * * * the Citizen and the Constitution to congratulate the teachers and educational administrators who have participated in and led this highly effective program.

We the People * * * the Citizen and the Constitution is a program of the Center for Civil Education, and is funded by the U.S. Department of Education by act of Congress. The program teaches the principles of the U.S. Constitution. It does so by engaging students at the upper elementary, middle, and high school levels in group research, study and debate on the central issues and questions which shaped our Constitution.

Marie Gosnell is a ninth grade civics teacher at Medford High School. Her honors class presented their hearing project to parents and teachers this past May after finishing six units of the We the People * * * national curriculum. Mrs. Gosnell finds it to be, "among the most exciting programs, involving students deeply, preparing them for citizenship, and giving them a rich understanding of why our government functions as it does."

We the People is an example of how coordination and consultation among Federal and State education officials and teachers can produce a national program which addresses the fundamental issues of civics education. The excitement generated by this program should be emphasized, especially in the face of recent attacks by some groups on the Department of Education and on any national educational coordination or standards in the name of local control.

The program also builds links between public officials, businesses, parents, educators, and students. Former Chief Justice of the Supreme Court, the late Warren Burger, called it "one of the most extensive and effective programs for the education of young Americans about our constitutional system of government and the principles and values it represents." I and members of my staff have visited schools to support the program's goal of directly involving legislators.

Once again, I congratulate the organizers, teachers and students of the We the People program.

RETURN TO STRONGER 5 MPH BUMPER STANDARD

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. BEILENSON. Mr. Speaker, today I am reintroducing legislation I have proposed before to restore automobile bumper protection standards to the 5-mile-per-hour requirement that was in force when the Reagan administration took office in 1981.

Beginning in 1978, new cars were equipped with bumpers capable of withstanding any damage in accidents occurring at 5 miles per hour or less. That action was taken in accordance with the Motor Vehicle Information and Cost Savings Act of 1972, which requires the National Highway Traffic Safety Administration [NHTSA] to set a bumper standard that "seek(s) to obtain the maximum feasible reduction of cost to the public and to the consumer."

As part of the Reagan administration's effort to ease what it called the regulatory burden on the automobile industry, NHTSA reduced the standard to 2.5 miles per hour in 1982, claiming that weaker bumpers would be lighter, and would therefore cost less to install and replace, and would provide better fuel economy. This supposedly meant a consumer would save money over the life of a car, since the lower purchase and fuel costs should outweigh the occasionally higher cost of any accident. The administration promised at the time to provide bumper data to consumers, so that car buyers could make informed choices about the amount they wished to spend for extra bumper protection.

This experiment has been a total failure. None of the anticipated benefits of a weaker bumper standard has materialized. Crash tests conducted by the Insurance Institute for Highway Safety [IIHS] have shown year after year that bumper performance has little or nothing to do with bumper weight or car price. Lighter bumpers seem to perform just as well as heavier ones in accidents, and bumpers on inexpensive autos perform just as well as or better than the bumpers on expensive autos. In fact, some of the heaviest and most expensive bumpers serve no energy-absorbing purpose at all. Adding insult to injury, NHTSA has virtually ignored its promise to make adequate crash safety and damage information available to consumers.

What has happened is that consumers are spending hundreds of millions of dollars in extra repair costs and higher insurance premiums because of the extra damage incurred in low-speed accidents. In IIHS's latest series of 5-mile-per-hour crash tests, all but 1 of the 14 1995 midsize four-door models tested sustained damage that ranged up to $1,056 in the two crash tests this legislation would restore as a standard. That is a Federal standard that cars were required to withstand without any damage at all. Worse yet, the lowest total damage repair cost for IIHS's four crash tests—all at 5 miles per hour was $1,433; and 3 of the 14 cars ended up with more than $3,000 damage in those 4 tests at 5 miles per hour. That a consumer would be faced with this amount of damage after an accident occurring at 5 miles per hour is both offensive and totally unnecessary.

There is no doubt that consumers overwhelmingly favor a stricter bumper standard, a survey conducted in 1992 by the Insurance Research Council found that almost 70 percent of respondents said cars should have bumpers that provide protection in low speed collisions, and over 80 percent said they would choose protective bumpers over stylish bumpers. Surely no one buying a new car would prefer the extra inconvenience and cost associated with damage sustained in low-speed accidents with weaker bumpers to the virtually negligible additional cost, if any, of stronger bumpers.

Both Consumers Union, which has petitioned NHTSA unsuccessfully to rescind the change, and the Center for Auto Safety strongly support Federal legislation requiring a return to the 5-miles-per-hour bumper standard. The insurance industry also strongly believes rolling back the bumper standard was an irresponsible move, and supports a stronger standard as a way of controlling auto insurance costs.

Mr. Speaker, the Reagan administration made a serious, costly mistake when it rolled back the bumper standard. It has cost consumers many hundreds of millions of dollars, with no offsetting benefit at all. Some manufacturers have continued voluntarily to supply the stronger bumpers. But car buyers, who cannot look at a bumper system and judge how it would perform, have no easy way of knowing whether cars have the stronger or weaker bumpers.

Restablishing the 5-miles-per-hour bumper standard would be the most effective and easiest measure Congress could approve this year to reduce excessive automobile insurance costs. We can save consumers hundreds of millions of dollars by a re-instating a proven regulation that worked well in actual practice. We cannot allow rhetoric about the burden of Government regulation and the advantages of free market economics to blind us to the reality of the unnecessary costs of minor automobile accidents. It is long past time to restore rationality to automobile bumper protection standards.

Mr. Speaker, I urge my colleagues to join me in supporting this proposal to restore the 5-mile-per-hour bumper standard.

A RUMMAGE SALE ON THE ENVIRONMENT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. MILLER of California. Mr. Speaker, each day we seem to have a clearer view of ways in which the Republican Congress intends to attempt to balance our Nation's budget—and this week's action by the House Interior Appropriations Subcommittee is an alarming indication that it will be our Nation's most valuable natural resources that will play a major role in this balancing act.

As a recent San Francisco Chronicle editorial laments the subcommittee's actions appears to be "a national rummage sale, the effect of which will be to privatize, commercialize, pollute, and consume America's natural heritage."

I believe that those of us who have worked for years to protect our natural resources would agree with the Chronicle's view that such actions are "a sell-out, pure and simple."

I commend the following editorial to my colleagues' attention:

[From the San Francisco Chronicle, June 22, 1995]

A RUMMAGE SALE ON THE ENVIRONMENT

Now we know how the Republican Congress is going to balance the budget: auction off the nation's most valuable natural resources, along with its own votes, to the highest bidder.

Make no mistake, the legislation on offshore oil and gas leasing and the East Mojave National Preserve that passed the House Appropriations Subcommittee Tuesday is part and parcel of a giant national rummage sale, the effect of which will be to privatize, commercialize, pollute and consume America's natural heritage.

It is a sell-out, pure and simple.

The congressional assault on natural resources is far from being limited to the coasts and the desert. The House budget plan calls for selling—or even giving away—vast tracts of national forests, and other House legislation would set up a commission to study the closure of national parks.

Still other proposals call for turning national wildlife areas over to the states to do with as they please. And an amendment to the vetoed budget rescission act, that would have doubled the cutting of timber in national forests while suspending all environmental protections, has risen from its well deserved grave and is heading back to the president's desk.

In April, President Clinton promised to veto any bill that compromises America's clean water, clean air and toxic waste laws. If he is as good as his word, every single one of these ecological nightmares must be vetoed if and when they reach his desk.

Let's look at just three of them.

The so-called "logging without laws" amendment to the rescission bill would virtually hand national forest management over to timber barons with chain saws.

Ostensibly intended to expedite salvage logging of dead and dying trees, it would direct the U.S. Forest Service and the Bureau of Land Management to cut more than 6.2 million board-feet over the next 18 months with no regard to the protections stipulated in the National Environmental Policy Act, the National Forest Management Act, the Clean Water Act or the Endangered Species Act.

The bill's definition of "salvage" timber would include all "associated trees," "insect-infected trees" and "trees imminently susceptible to fire or insect attack"—in other words, anything that can be cut.

A recent BLM memo correctly characterized it as "more or less a license for unregulated timber harvest."

Second, the House Interior Appropriations bill would virtually zero-out funding for National Park Service management of the new Mojave National Preserve, created last fall as part of the California Desert Protection Act.

Not satisfied with having won a battle to permit continued hunting and grazing in the preserve, Representative Jerry Lewis, R-Redlands, along with ranching and mining interests, are pressing ultimately for a reversal of the Desert Protection Act, which took eight years to negotiate.

It seems not to matter a whit to Lewis that many of his own constituents, including the San Bernardino County Board of Supervisors, which originally opposed the preserve, is now enthusiastic about winning full funding for it, having noted that tourist visits in the area have increased dramatically since the preserve was established.

Finally, the same legislation would open up all federal waters on both the Atlantic and Pacific coasts to leasing by oil and gas extractors, reversing a 14-year moratorium on offshore drilling that has enjoyed bipartisan support, including that of Governor Wilson.

Laughingly, congressional Republicans argued that the United States is too dependent upon foreign oil and that it would be irresponsible not to explore all domestic sources. But a Department of Energy study shows that there are approximately 726 million barrels of proven reserves off the California coast.

This means that, in exchange for allowing oil derricks to threaten spills along the entire length of our coast, the nation would get all of 41 days worth of energy from proven oil reserves—a bargain that only members of Congress in thrall to oil companies could appreciate.

President Clinton, get out the veto pen.

THE JAYCEE ALLIANCE MOBILIZES YOUNG AMERICANS TO GET INVOLVED

HON. JAMES A. BARCIA

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. BARCIA. Mr. Speaker, I take great pride today in saluting the commencement of an organization created so that young Americans in their twenties, thirties, and forties can have a collective voice on pertinent Federal issues of the day. The Jaycee Alliance is a new national, grassroots organization, boasting 150,000 members, that will allow concerned and involved young leaders to contribute their thoughts and experiences on issues before the U.S. Congress and State legislatures, and will form a compact between each generation of Americans to the next.

I applaud the success of the U.S. Junior Chamber of Commerce—Jaycees—organization and I proudly point to my membership as a Jaycee at an early age as essential in my professional development. I firmly believe that the new Jaycee Alliance is an intelligent and much needed organization that will edify and mobilize thousands of new leaders into the 21st century. We are facing some very serious challenges in terms of this and future generations' responsibility to prioritize Government spending in a fiscally prudent fashion. I am pleased that the Jaycee Alliance has already pledged its support for the balanced budget amendment, which I too have supported throughout my years in public office.

Many young business people and homemakers are striving to achieve the American dream and make their communities better places to live. These are bright, energetic people who are interested in securing and creating high-wage jobs, keeping their streets safe, and promoting the highest quality of education in their children's schools. The challenges we, as Americans, face are certainly daunting, but they pale in comparison to the energy this young, invigorated group has to offer. Now is the time that people in the early and middle stages of their careers should mark as the day on which they were invited to get involved. In the finest tradition of the Jaycees, I am confident that the alliance will succeed in becoming the voice of young Americans.

ALASKA NATIVE SUBSISTENCE WHALING EXPENSE CHARITABLE TAX DEDUCTION

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. YOUNG of Alaska. Mr. Speaker, I rise to introduce a measure that would provide critically needed tax relief to a few Alaskan Native whaling captains who otherwise may not be able to continue their centuries-old tradition of subsistence whaling. In brief, this bill would provide a modest charitable deduction to those Native captains who organize and support traditional whaling hunt activities for their communities.

The Inupiat and Siberian Yupik Eskimos living in the coastal villages of northern and western Alaska have been hunting the bowhead whale for thousands of years. The International Whaling Commission [IWC] has acknowledged that "whaling, more than any other activity, fundamentally underlies the total lifeway of these communities."

Today, under the regulatory eye of the IWC and the U.S. Department of Commerce, these Natives continue a sharply restricted bowhead subsistence hunt out of 10 coastal villages. Local regulation of the hunt is vested in the Alaska Eskimo Whaling Commission [AEWC] under a cooperative agreement with the Department of Commerce, National Oceanic and Atmospheric Administration.

The entire Native whaling community participates in these hunting activities. However, Native tradition requires that the whaling captains are financially and otherwise responsible for the actual conduct of the hunt; meaning they must provide the boat, fuel, gear, weapons, ammunition, food, and special clothing for their crews. Furthermore, they must store the whale meat until it is used.

Each of the approximately 35 bowhead whales landed each year provides thousands of pounds of meat and muktuk—blubber and skin—for these Native communities. Native culture dictates that a whaling captain whose crew lands a whale is responsible for feeding the community in which the captain lives. Customarily, the whale is divided and shared by all of the people in the community free of charge.

In recent years, Native whaling captains have been treating their whaling expenses as a deduction against their personal Federal income tax, because they donate the whale meat to their community and because their expenses have skyrocketed due to the increased costs in complying with Federal requirements necessary to outfit a whaling crew. The IRS has refused to allow these deductions, placing an extreme financial burden on those who use personal funds to support their Native communities' traditional activities. Currently five whaling captains have appeals of these disallowances pending before the Tax Court of the IRS.

The bill I am introducing today would amend section 170 of the Internal Revenue Code to provide that the investments made by this relatively small and fixed number of subsistence Native whaling captains are fully deductible as charitable contributions against their personal Federal income tax. Such an amendment should also retroactively resolve the disallowance and assessment cases now pending within the statute of limitations.

The expenses incurred by these whaling captains are for the benefit of the entire Native community. These expenses are vital contributions whose only purposes are to provide food to the community and to perpetuate the aboriginal traditions of the Native subsistence whaling culture.

Each Alaskan Native subsistence whaling captain spends an average of $2,500 to $5,000 in whaling equipment and expenses in a given year. A charitable deduction for these expenses would translate into a maximum revenue impact of approximately $230,000 a year.

Such a charitable deduction is justified on a number of grounds. The donations of material and provisions for the purpose of carrying out subsistence whaling, in effect, are charitable contributions to the Inupiat and Siberian Yupik communities for the purpose of supporting an activity that is of considerable cultural, religious, and subsistence importance to those Native people. In expanding the amounts claimed, a captain is donating those amounts to the community to carry out these functions.

Similarly, the expenditures can be viewed as donations to the Inupiat Community of the North Slope [ICAS], to the AEWC, and to the communities' participating churches. The ICAS is a federally recognized Indian tribe under the Indian Reorganization Act of 1934 (48 Stat. 984). Under the Indian Tax Status Act, donations to such an Indian tribe are tax deductible (28 U.S.C. 7871(a)(1)(A)). The AEWC is a 501(c)(3) organization. Both the ICAS and the AEWC are charged with the preservation of Native Alaskan whaling rights.

Also, it is important to note the North Slope Borough of Alaska, on its own and through the AEWC, spends approximately $500,000 to $700,000 annually on bowhead whale research and other Arctic marine research programs in support of the U.S. efforts at the International Whaling Commission. This is money that otherwise would come from the Federal budget to support the U.S. representation at the IWC.

Given these facts and the internationally and federally protected status of the Native Alaskan subsistence whale hunt, I believe expenditures for the hunt should be treated as charitable donations under section 170 of the Internal Revenue Code. I ask my fellow Members to join with me in clarifying the Federal Tax Code to make this a reality for these Native whaling captains.

RECOGNITION OF ORLANDO YARBOROUGH AND GROUP

HON. ROBERT L. EHRLICH, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. EHRLICH. Mr. Speaker, I rise today to publicly recognize an outstanding group of people in my district. Because of the great number of outstanding citizens in the Second District of Maryland, I am hesitant to single out one particular example. This group, however, has been selected for a great honor on behalf of the United States, and should be so recognized.

Mr. Orlando Yarborough works with at-risk youngsters in the Essex-Middle River area of Baltimore County. This area is a very strong, working class area that has been slow to recover from the most recent recession. Therefore, opportunities for young people to get involved in programs that give them self-esteem and a sense of accomplishment are critical.

Mr. Yarborough developed an after school personal power package for kids. Participants sign a contract to improve their bodies as well as their minds in activities done at the Body Mechanics Family Fitness Center. The program encompasses academic and physical exercises, community service, and a discussion of personal improvement. The contract also specifies that participants will not smoke, fight, use profane language, nor use drugs or alcohol.

The program has the enthusiastic support and financial backing of many local business and community groups, as well as prominent members of the community at large.

Mr. Speaker, recently Mr. Yarborough's group was selected to attend ceremonies commemorating the 1,500th anniversary of the founding of the Shaolin Temple in mainland China. The selection was based on the program's emphasis on discipline, perseverance, and character development. They are the only U.S. citizens to be invited to this very historic event. While in China, the team will be training, performing demonstrations, speaking at local schools, and generally acting as good will ambassadors of the United States. They will be introducing American ideas and culture to their hosts as well as bringing some of China's rich culture and heritage back to share with their friends and families.

This, Mr. Speaker, is what I want America to stand for: kids who take the responsibility to constructively improve themselves and their communities without turning to the evils of substance abuse or crime. Similarly, we should honor adults like Mr. Yarborough who care enough about their communities and their kids to put forth the effort in making programs like this work.

Mr. Speaker, I could not be more proud of Mr. Yarborough and his kids. They are our future. And I want to recognize Mr. Yarborough and everyone else connected with this noble endeavor. The sacrifices made by the community on behalf of each child will pay many dividends in the form of productive, well-rounded citizens.

AMERICAN CHILDREN DESERVE EDUCATIONAL CHOICE

HON. THOMAS J. BLILEY, JR.

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. BLILEY. Mr. Speaker, I commend to the attention of Members the following article by Walter Williams which appeared in the June 23, 1995, Richmond Times Dispatch. I believe Mr. Williams' remarks paint an honest portrait of the debate surrounding the critical need for school choice.

[From the Richmond Times Dispatch, June 23, 1995]

BLACK VICTIMS OF LIBERALS WANT CHOICE IN EDUCATION

(By Walter Williams)

The nation's capital provides one of the best examples of the destructiveness of liberal ideas. Washington used to be a thriving city where free persons of color and freed slaves established flourishing family businesses. As early as 1899, the black students of Washington's Paul Lawrence Dunbar High School scored higher than any of the white schools in the District of Columbia. From 1870 to 1955, most Dunbar graduates went to colleges like Oberlin, Harvard, Amherst, Williams, and Wesleyan. Washington was home to a broad, upwardly mobile black middle class.

All that has changed. According to Philip Murphy's article in Policy Review, Washington has "the highest per-capita murder and violent-crime rates, the highest percentage of residents on public assistance, the highest-paid school board, the lowest SAT scores, the most single-parent families, and the most lawyers per capita."

People are fleeing Washington in droves. During the second half of the 1980s alone, over 157,000—one-fifth of Washington's population—moved. This exodus disproportionately consisted of black households earning between $30,000 and $50,000 a year. Today, Washington's population is 578,000, down from a peak of 800,000.

To blame racism for Washington's emergence into a bankrupted Third-World-type city requires a lot of imagination. Washington is a city where the mayor is black, the chief of police is black, the school superintendent is black, and most of the city council is black. Can we blame poor revenue sources? According to Murphy, the city takes in an astonishing $8,950 in revenue for every man, woman, and child in its jurisdiction. That's to be compared to $4,000 and $3,700 in nearby Maryland and Virginia, respectively. Nonetheless, the city is in receivership. Its bonds have achieved junk status because it manages to spend $1,000 more per person than it receives in revenue.

Washington's story can be told in varying degrees in other predominantly black cities. The story is a monument to the failure of the liberal ideas of Democrats, black politicians, and civil-rights organizations. Liberals have convinced blacks that we deal with crime not by arresting and locking up criminals but by searching for crime's original causes. This theory gives criminals carte blanche to prey on law-abiding citizens. Liberals have convinced blacks that we deal with education fraud by spending more money to create programs that fall just short of lunacy. Liberals don't expose their children to this nonsense—they enroll their children in private schools.

Victims of the liberals are mostly poor, black people who have few options—such as Sheila Stamps, a widowed mother of five living in a housing project. She complains, "You can't let the children out by themselves, and the playground is littered with intravenous needles." Like most black parents, Ms. Stamps wants school choice, saying: "Any child in this city should be able to go to the best schools. If they meet the criteria, let them go." But her liberal "benefactors" say no.

When black Americans finally come to the full realization of what liberals have done to them, it's going to make last November's political revolution look like a Girl Scout outing.

JUNIOR HIGH STUDENTS HAVE LUNCH WITH THEIR REPRESENTATIVE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. HYDE. Mr. Speaker, those who believe that youth are not interested in public affairs have not met the eighth grade class at Churchville Junior High in Elmhurst, IL. In a contest, sponsored by the school's social studies department, the students were asked to write an essay entitled, "Why I would like to have lunch with Representative Hyde." The students used the opportunity to voice opinions on a wide range of issues. Many also expressed interest in running for public office and making positive contributions to government in the future. I would like to share with my colleagues the six winning essays, I and am happy to report that we had lunch and discussed some of the students' concerns and questions about political office.

HENRY HYDE

(By Gwen Infusino)

I wish to have lunch with the prominent politician, Henry Hyde. I would very much enjoy expressing my political opinions. I would enjoy meeting him because I want to know about the life of a politician. Also, I am interested in the way government works.

I would very much enjoy expressing my political opinions. I'm concerned about society, environment, and many other issues. I'm happy to imagine that I just might make a difference. I'm sure Mr. Hyde is open to all kinds of opinions and suggestions.

I would enjoy meeting him because I want to know about the life of a politician. At this point in time, many people my age are making career decisions. These will affect us for the rest of our lives. If I find a politician's life appealing, I might choose to get into that field.

I am interested in the way government works. America is where I live, and so will all of our children. I want to learn a bit about our system so I know how it works and how safe it makes it for us all. I feel knowing about our political and judicial system is a must for us all.

In conclusion, I would like to meet Henry Hyde for three prominent reasons. I want to know about the life of a politician. I am interested in expressing my political opinions. I want to ask him about our government and the way it works.

WHY I WOULD LIKE TO EAT LUNCH WITH CONGRESSMAN HYDE

(By Jodi Carnevale)

For a thirteen year old I have very strong opinions that I share with people to show them how I feel. Congressman Hyde did the same thing. That is why I would be honored to eat lunch with him and talk one on one.

Congressman Hyde had made a presentation on abortions and why he was very anti-abortion. I was lucky enough to hear his presentation, and even get a cassette tape of the speech. I have the same morals on abortion that he does, and I find it interesting that someone older than me has the same feelings I do about abortions. It would be an exciting, as well as educational experience for me to tell him how I feel, and to tell him that as a kid, I greatly respect him for having such strong feelings, and publicly addressing them on such a strong world-wide debate. I would also like to know if since he addressed his opinion on abortions publicly if he has received any remarks on his position regarding abortions. It's not very likely that someone with as much authority as Congressman Hyde states his position. I admire that greatly.

I also believe it would be fun to talk to him one on one to find out his positions on other world-wide problems. I would like to know if he has made a speech about any other topic, and if so, where you can find them, because his speeches make an impact on me and I would like to have more.

That is why I would like to eat lunch with Congressman Hyde, I respect him for telling the truth, and I know he is open and willing to state his opinion on issues as big as abortions. I would also like to go out with him because I would just like to tell him how much I admire his way of speaking out to people.

WHY I WANT TO GO TO LUNCH WITH HENRY HYDE

(By Melissa Greco)

I would like to go to lunch with Henry Hyde because it will expand my knowledge in social sciences and in politics. I am very interested in people's opinions and I would like to ask Mr. Henry Hyde some questions of my own. I have lots of respect for people involved in making our government work and settling laws. I have lots of opinions of my own and I would love to represent Churchville.

Some topics that I would like to discuss with Congressman Hyde are: gun control, abortion, our national debt, and the baseball strike. I want to know if he thinks that guns should be outlawed or if they should remain on the streets. Then I would discuss my opinion on this matter. I also want to know if he believes in abortion and his reasoning. Another issue I would like to ask him about is the baseball strike. Does he believe that the players or the owners are being unfair? I would also like to know what he is doing to help reduce our national debt. I would also like to ask Congressman Hyde what laws he is trying to pass now.

I will represent Churchville by displaying well behaved manners. I always respect my elders and am very polite to others. I would love to have the honor of representing Churchville and meeting Mr. Henry Hyde.

I think that politics is very interesting and one day I would like to become a part of it and represent, not only Churchville but the United States. This opportunity would bring me one step closer toward this goal. As I mentioned, I would like to hear out Mr. Henry Hyde's ideas and reasoning on important issues that we are dealing with in our society everyday.

WHY I WOULD LIKE TO GO TO LUNCH WITH REPRESENTATIVE HYDE

(By Megan Guimon)

I think that being able to go out to lunch with Representative Hyde would be a great privilege, and something we will probably never again have the chance to experience. As eighth graders, this is our last year attending Churchville, and this would be a perfect last memory of it. My Uncle Roy McCampbell is a trustee in Leyden Township, and I have heard Representative Hyde's name since I was little. I think it would be great to finally get to meet him in person, and actually get to talk to him. I think that it would be very fascinating to hear ideas and views from a person that has such a great deal to do with the outcome of them. I don't know very much on the government system, and it seems like a lot of work, with very many obligations and pressures attached to it. Though I know in my heart that I will never get into politics as a career, I still believe that it is very important to understand and experience all different areas. I know that a chance like this is very rare, and this is why I felt that I should try to get involved. I think that it is very important for kids our age to understand or at least acknowledge our government system. That's why I believe that this is such a perfect chance for all of us. I think that it is completely different than listening to an already prepared speech. I think that this is such a terrific program that Churchville has setup, and Representative Hyde has fit us into his surely tight schedule, and I hope to be a part of it.

WHY I WOULD WANT TO HAVE LUNCH WITH HENRY HYDE

(By Joy Tetrick)

I would very much enjoy having lunch with Dupage County Representative, Henry Hyde. It would be a very honorable and memorable experience.

One reason I would like to go to lunch with Henry Hyde is to find out the answers to some questions I have. It would be interesting to see what he does all day, how stable is his job, to find out how they come up with new laws, how much he has to work a week, etc. It would also be interesting to find out how he got in politics, like if he was a lawyer and then decided to try out for a position. I would also want to know if he enjoys his job, if it's pressuring at times, how his family feels about it.

Henry Hyde is very well respected and again, it would be an honor to have lunch with him. I would be on my best behavior at all times if I was chosen, and I think I would be a good representative of Churchville Junior High School.

I would also like to talk to him about some ideas I have. One idea is about Salt Creek. I live right by Salt Creek so I know how polluted it is. It is so polluted that York High School wouldn't let my brothers class test some things out because it was too dangerous.

It would also be neat to see a bigger recycling program. In our school were have a recycling program for paper but I'm talking about going farther than that. I'm talking about having a recycling program for the cafeteria. For Styrofoam, plastic, etc. It would be neat to have it in all schools in DuPage county. Also, to have recycling programs for home. I know Elmhurst has one but Addison doesn't. In Addison you have to buy plastic bags. Most people don't want to buy them. It would be neat to see all DuPage county doing these ideas.

WHY I WOULD LIKE TO HAVE LUNCH WITH REPRESENTATIVE HYDE

(By Heidi Wilberschied)

I can't even begin to tell you all the reasons I want to go! In fact when I first heard about it I told my whole family! (I was very excited). These are some of the reasons I want to go: It's a chance of a life time, I've got a lot of questions, I want to know how it feels to be in this position, and most importantly I want to be in a similar position when I grow up.

It's definitely a chance of a lifetime. I've always had dreams of meeting the president, not to mention being the president. Representative Hyde is just as important. Also, I don't know anyone who's had such a chance like this, it's one of the highest privileges I can think of.

I have many questions, such as, "What do you exactly do? Do you agree with other senator's opinions? Do you enjoy your job"? There is so much an 8th grader is deprived of knowing on this subject. (Although it isn't due to Mr. Caldwell's and Mr. Heap's expertise in the field of Social Science/Studies.)

I want to know how it feel's to be in this position. It's a great honor. He hold's many people's trust and opinions. After all that's how he got chosen. Is his position stressful or successful?

Most importantly I want to be in a similar position when I grow up. Ever since I was young I've been interested and intrigued by our government. I've wanted to be in a government position for four years. I know it's a big dream, and I know it will take many years of hard work, but I want it. I want to hold a high government position, so you can be sure I'll get it. That's why I want this opportunity so much, I need much information and education now so I can start forming opinions now, so I'll be familiar and knowledgeable in this field in my upcoming years.

To conclude my points; It's a chance of a life time. I've got a lot of questions, I want to know how it is to be in this position, and I want to be in this position. I really want to go.

IN APPRECIATION OF CHRISTIAN RELIEF SERVICES ON THEIR 10TH ANNIVERSARY

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. MORAN. Mr. Speaker, I would like to commemorate the 10th anniversary of Christian Relief Services, an international, charitable organization located in Lorton, VA. Throughout its 10-year history, Christian Relief Services has always had one overriding goal: to help those in need both in the United States and around the world.

From the hollows of Appalachia and the barren plains of the Pine Ridge Indian Reservation in South Dakota, to a children's home in Kenya and the first pediatric hospital in Haiti, and to the children of Chernobyl in Ukraine, Christian Relief Services has touched lives.

Just minutes from this building are some of the poorest neighborhoods of Washington, DC. Just minutes from this building are children who go to bed hungry every night, who wake up hungry the next morning, who never have enough to eat. Christian Relief Services, through its food distribution programs, has reached these people. Working with local churches and civic organizations, over 100,000 pounds of fresh fruit and vegetables have been distributed to the needy in northern Virginia, Washington, and suburban Maryland just in the past 2 months.

As great as our Nation is, poverty and need still exist. The innercities, Appalachia, small towns, Indian Reservations, and rural areas all have people in need of assistance. Christian Relief Services is meeting these needs, and has been for 10 years, by giving people a hand up, not a hand out. This is their motto, and through long-term development projects they are providing people with the foundations they need to improve their lives for themselves. Organic gardening programs on the Pine Ridge Reservation and vocational-technological classes in West Virginia are but two examples.

Long-term development is a focus of Christian Relief Services projects overseas, as well. The Kip Keino Children's Home in Eldoret, Kenya, in addition to giving abused and abandoned children a safe and supportive place to live and grow, provides for their education, and allows them to become happy, productive members of society. Currently, 68 children live at the home. Over the years, 90 children have been rescued by the home and given new lives.

Pick up today's newspaper and you will read of far-off lands in turmoil: Haiti, Bosnia, Rwanda, Somalia. Within the past year alone, Christian Relief Services has shipped countless tons of emergency medical supplies, food, clothing, building materials, and other relief items to refugees from these areas. As our Government appears to be pulling inward, it is important and commendable for Christian Relief Services to reach out an American hand to those less fortunate in places some would write off as not being in our national interest to help.

Christian Relief Services is about connecting with people, about caring for them and their families, and about making a difference in their lives.

For 10 years, Christian Relief Services has made a difference in the lives of many people. Each day, this number grows. For this reason, and on behalf of these people, I would like to say thank you, Christian Relief Services, for 10 years of service to humanity, for making the world a less harsh place, for feeding those who are hungry, for providing the supplies to make well those who are sick, and for giving hope to those who had none.

TRIBUTE TO DAN ZENO ON THE OCCASION OF HIS RETIREMENT

HON. PAUL E. GILLMOR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. GILLMOR. Mr. Speaker, I rise today to pay tribute to an outstanding individual and a good friend of Ohio, Dan Zeno, who is retiring on June 30, 1995, after a distinguished career with Ohio Edison.

An Ohio native, Dan graduated from Toronto High School in Toronto, OH, and served as a sergeant in the United States Army in Korea from 1950 to 1953. After the Army, Dan pursued a degree in finance at Kent State University. In 1961, he began a career in public service at the Akron Area Chamber of Commerce. While there, he was responsible for designing a financial plan enabling the city to participate in urban renewal projects of over $100 million.

Before coming to Ohio Edison, Dan was director of finance for the city of Akron. As its chief financial officer and a member of the mayor's cabinet, he was responsible for long-range planning, budgeting, debt management and accountability of all city funds.

Through the years Dan has been active in a variety of community and business groups. He is on the board of directors of the Ohio Chamber of Commerce, the board of trustees of the Ohio Public Expenditure Council, and a member of the Akron Regional Development Board Taxation Committee among others. In addition, he is a visiting lecturer at Akron University and involved with the Weathervane Community Playhouse.

Mr. Speaker, it is obvious that the Akron community and the State of Ohio have benefited greatly from Dan's hard work and dedication over the years. His service is a model of citizenship. I ask my colleagues to join me today in wishing Dan Zeno and his wife June well as they begin this new chapter in their lives.

IN MEMORY OF JOHN B. VEACH, SR.

HON. CHARLES H. TAYLOR

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. TAYLOR of North Carolina. Mr. Speaker, I rise today to honor a very special person from western North Carolina, John "Jack" B. Veach, Sr. Jack passed away on Thursday, June 19, at the age of 95. With great sadness, I offer my condolences to his wife Jane, and his son, John B. Veach, Jr. Jack was a pioneer in North Carolina's timber industry and one of the great leaders of the community.

Jack was respected by those in commerce and public service for his outstanding leadership and great inspiration to all the people of North Carolina. His energy and love for helping those in the community kept him involved in public service up to the final days of his life. Much of his success in business and politics can be attributed to the fact that he was a true gentleman.

Jack was nationally known for his work as a forester in the timber industry. He was past president of Appalachian Hardwood Manufactures Inc., American Forest Products Industries, National Manufacturers Association, North Carolina Forestry Association, and Asheville Area Chamber of Commerce. He was voted Man of the Year by the Southern Hardwood Lumber Association, and twice voted Man of the Year by the North Carolina Forestry Association. In 1985, the Southern Appalachian Multiple Use Council honored Jack for having the most influence over western North Carolina forestry during the past 50 years. In 1993, he was inducted into the Western North Carolina Agricultural Hall of Fame as a forester and civic leader. His strongest efforts were always centered toward the regeneration of the forests in western North Carolina. These efforts led to the creation of the Cradle of Forestry Discovery Center, where others could be taught forestry and environmental stewardship. In 1987, Jack was named to the Forestry Advisory Council, that reviews forestry division programs.

Jack's other interests included his businesses and helping the community. He was a cofounder and chairman of Western Carolina Bank and a past director of Carolina Power & Light Co. At one time, he operated Benis Hardware Lumber Co., Williams-Bronwell planing mill, Educational Lumber, and Veach-May-Wilson, Inc. Jack was chairman of the United Way of Asheville and Buncombe County. He was a member of the All Saints Church in Mills River and an integral part of the Republican Party.

Jack Veach was an innovator in the timber industry and a leader in the community. His energy and excitement motivated our community. The loss of this remarkable man will be felt by all.

RECOGNITION OF NATIONAL AMATEUR RADIO WEEK

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. SHUSTER. Mr. Speaker, today I rise in support of National Amateur Radio Week which runs from June 18 to 24. I would like to take time to recognize this activity, the people involved in it and the service to our country which it performs.

Currently, there are over 500,000 amateur radio operators in the United States and approximately 2,500,000 amateur, ham, radio operators worldwide. And, due to the many technological advances which have made our world smaller and even the most remote village accessible, ham radio operation has become an increasingly popular hobby. Countless friendships have been formed over the airwaves. In some cases, people have even found their spouse through ham radio communication.

While amateur radio allows its users to learn the similarities and differences between one another's geographies and cultures, it performs a significant service to our Nation. In times of crisis or tragedy ham radio operators form networks providing information and lines of communication which would otherwise be inaccessible. Several national organizations have formal agreements with the Amateur Radio Emergency Service [ARES] and other amateur radio groups. These groups include the Federal Emergency Management Agency, the American Red Cross, the Salvation Army, the National Weather Service, and the National Communications System.

In conclusion Mr. Speaker, I applaud all those who helped to make National Amateur Radio Week a reality. I believe this to be a wonderful activity which in time of need, performs a wonderful service to our Nation.

ACTION ON FINAL RESOLUTION OF GIBBS AND HILL AGAINST THE GOVERNMENT

HON. DAN BURTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. BURTON of Indiana. Mr. Speaker, I rise today to voice a specific and direct concern, and a demand for action from our State Department, over the inexcusable delay in the final resolution of the $43.4 million commercial claim of Gibbs & Hill against the Government of the Kingdom of Saudi Arabia. This claim is the last remaining unpaid claim under the special claims process established by the Congress in 1992 in recognition of a pattern of commercial abuse by the Kingdom towards the American companies working there during the period of the late 1970's and early 1980's.

Gibbs & Hill's story is not unlike that of all of the other American companies whose claims were satisfactorily resolved by Saudi Ambassador Bandar under the special claims process. Gibbs & Hill provided services to the Kingdom and was not paid for the services provided. The claim was notified to the Saudi Government for resolution under Ambassador Bandar's mandate to resolve these claims and Ambassador Bandar pledged to spare no efforts in so doing fairly and expeditiously. This was more than 2 years ago. Since that time, a message on behalf of none other than the King has been provided to our country's representative in Riyadh that the claim was soon to be paid. Yet the claim still has not been paid.

We have included legislation in the fiscal year 1996 American Overseas Interest Act to further the policy of our country that the claim be favorably resolved for the company, as has been repeatedly committed to by the Saudis to our Government and the company. This is only the first of such steps the Congress can take to ensure that the wrongful acts of the Kingdom against Gibbs & Hill are rectified.

What is needed, and what is expected from our State Department, is its immediate and unrelenting effort to bring this matter to a successful conclusion, through the full and prompt payment of the claim, so as to conclude successfully the claims issue. Nothing short of this will be tolerated, nor is acceptable. The importance of the successful conclusion of this singular issue to our bilateral relationship cannot be overemphasized. Until it is resolved, it will continue to fester and threaten to undermine our relationship with the Kingdom.

PERCELL ANTHONY BELL

HON. WALTER R. TUCKER III

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. TUCKER. Mr. Speaker, I rise today to pay tribute to a builder. Mr. Percell Anthony Bell, a self-taught masterplasterer, was born and raised in Richmond, VA.

In 1903, Mr. Bell was born to the proud parents of Charles E. Bell, Jr., and Julia Graham Bell. He attended the Baker Street School and became one of the finest masterplasterers in Virginia.

Mr. Speaker, Mr. Bell's contributions to the architecture of this great country include many of the finest buildings on the east coast, including the Federal building here in Washington.

In addition, Mr. Bell's work can be seen in the Union Theological Seminary, the Federal Bank, and the Richmond City Hall.

Mr. Bell leaves, to cherish his memory, three daughters, Elinor B. Pollard, Marion Hill, and Geraldine Anderson, seven grandchildren, five great grandchildren, and one great-great grandson, and a host of other relatives and friends.

Mr. Speaker, to this good and decent man, the oldest member of the Mount Carmel Baptist Church Deacon Board, the proud father of three and a builder for all seasons, thank you.

INTRODUCTION OF THE IMMIGRATION ENFORCEMENT IMPROVEMENTS ACT OF 1995

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. BERMAN. Mr. Speaker, I rise today to introduce the Immigration Enforcement Improvements Act of 1995 on behalf of the Clinton administration. This bill builds upon the strong effort this administration has been making to control illegal immigration.

This administration has done more to close the door on illegal immigration than any previous administration. With expected increases this year and next, border control staffing will have increased by 51 percent since President Clinton took office—including border patrols and inspectors at border crossing points and airports. Deportation of illegal immigrants has tripled and the removal of criminal aliens has been targeted. The budget of the INS has increased by over 70 percent from $1.5 billion in 1993 to $2.6 billion requested for 1996.

The President, the Attorney General, and INS Commissioner Doris Meissner should be credited for their effective leadership and commitment to rising to the challenge of illegal immigration.

The legislation introduced today gives the administration a number of tools to control our borders more effectively, to combat illegal hiring and to remove those who are here in violation of our laws.

The bill would make realistic increases in border enforcement personnel without jeopardizing the quality and safety of Border Patrol officers and inspectors. Border control officers know best what resources they need to do their job effectively, and this bill responds directly to their needs.

The bill imposes stiff penalties for smuggling of immigrants, document fraud and other offenses.

The bill authorizes pilot programs to test ways to verify that job applicants are eligible to work in the United States. The goal is to find simple and effective ways of denying jobs to illegal immigrants to help eliminate the reason why immigrants enter this country illegally.

The bill promotes coordination on workplace enforcement between the INS and the Department of Labor, since employers who hire undocumented workers often also violate other labor standards.

Finally, the bill expedites the removal of criminal aliens by eliminating some procedures and redtape.

I commend the administration for their initiative and I look forward to working with my colleagues to produce legislation that deals thoughtfully with the serious challenges we face.

CONGRATULATIONS TO MELVIN DANAO TABILAS ON HIS EAGLE SCOUT AWARD

HON. ROBERT A. UNDERWOOD

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. UNDERWOOD. Mr. Speaker, in my home district of Guam, we have many outstanding young people. However, one young man from Boy Scout Troop No. 38 deserves special mention. Whenever a Scout earns the rank of Eagle, the accomplishment stands out as a milestone in his life. Melvin Danao Tabilas is the only person on Guam to get the Eagle Scout Award this year. This triumph alone predicts future successes, but there are many things about Melvin worth watching.

This Eagle Scout plans to attend college and major in the fields of medicine and music. I have heard him play piano at family functions; he has the gift of harmony. A career in music would be a natural, but this fine young man plans to participate in medical missions to the Philippines after college. He wants to provide medical assistance to the less fortunate. I can close my eyes and see Melvin also soothing patients with song.

Melvin pledges to remain active as a Scout in the Order of the Arrow, and he will espouse the values learned in Scouting throughout his life. One needs only to examine his Eagle Scout Service Project to grasp the sincerity of this young adult. Melvin embarked on a beautification project for the central park in Dededo where he lives. He recruited his friends, who put in over 130 hours of labor. In return for a simple lunch, they painted the pavilion, planted trees, picked up trash, and replaced the sand around the swing and slide. When the project began, garbage was everywhere, the pavilion was covered with graffiti, and there were only a couple of trees. In this fast-paced, ever changing society, Melvin wanted his villagers to have a place to relax. From the planning stage in April, 1994, Mel and his volunteers completed the project 2 months later.

Melvin Tabilas graduated from Father Duenas Memorial High School and is a National Honor Society member. It's hard to keep up with him. He ran cross country for Father Duenas in 1992, and has been on the move ever since. He received the Governor's Art Award and a Guam legislative resolution as a member of the San Vicente School Percussionists. He performed at the Lytigo and Bodig Telethon, using his talent to help others.

Melvin has upheld the Scout oath. He has made his family, parents, and Congressman proud. Keep up the good work!

A SPECIAL TRIBUTE IN HONOR OF THE VERY REVEREND J. EARL CAVANAUGH

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Ms. MCCARTHY. Mr. Speaker, it is with great pride and respect that I rise today to bring to your attention, and to the attention of my colleagues, the fine work and outstanding public service of the Very Reverend J. Earl Cavanaugh.

On Sunday, May 21, 1995, I was honored to join with the congregation of the Grace and Holy Trinity Episcopal Cathedral of Kansas City, MO, as well as the greater Kansas City community, to salute Reverend Cavanaugh on the occasion of his retirement after 19 years as dean of the Cathedral.

Reverend Cavanaugh was born in Philadelphia, PA, on May 22, 1930. After graduating from Lycoming College in Williamsport, PA, in 1953 with an A.B. degree in English literature, he attended Drew Theological School in Madison, NJ, receiving a master of divinity degree in 1956. Upon completing a year of special study at the Church Divinity School of the Pacific, he was ordained to the priesthood on June 18, 1958, diocese of Los Angeles, CA.

During the period 1958–1976, Reverend Cavanaugh served as vicar of St. Peter's Church in Rialto, CA 1958–1961; vicar of St. Bartholomew's Church in Poway, CA 1961–64; rector of St. Barnabas Church and chaplain to Episcopal students at Occidental College in Los Angeles, CA 1964–68; and rector of the Church of the Holy Faith in Inglewood, CA 1968–76.

In March 1976, Reverend Cavanaugh became dean and rector of Grace and Holy Trinity Cathedral in Kansas City, MO, the heart of the heartland and my hometown.

As he had in his previous ministries, Reverend Cavanaugh not only embraced his pastoral duties to his congregation but became an advocate and a leader in many areas of concern and challenge to the community at large, establishing the place of the Cathedral as a center of worship and service to both the greater Kansas City community and the diocese of West Missouri.

As dean of Grace and Holy Trinity, he extended participation in the worship ministry to both women and men at all levels; encouraged and facilitated the development of congregational diversity by age, socio-economic and cultural background; advocated and implemented the ordination of women to the presbyterate; and strengthened the relationship of the Cathedral with other Christians and members of other faiths through joint worship, study and community service.

As Dean of Kansas City, Reverend Cavanaugh, working with the Grace and Holy Trinity congregation, provided vision and leadership in support of the community's efforts to address the growing human needs and suffering of the Kansas City population, in particular the residents of the downtown area and our more troubled neighborhoods. As part of Downtown Ministries, Reverend Cavanaugh and the Grace and Holy Trinity congregation worked hand-in-hand with the Catholic Cathedral of the Immaculate Conception, Grand Avenue Temple, United Methodist Church, and St. Mary's Episcopal Church to minister to area youth, the elderly, the hungry, and the needy. From the beginning, Reverend Cavanaugh became involved publicly and pastorally in dealing with the very difficult issues of the AIDS epidemic, working to instill throughout our community a sense of true compassion and concern for those inflicted with this terrible disease. He dedicated his spirit and his energies to creating a climate of ecumenical cooperation and to fostering within our community a heightened awareness of the continuing need for social, racial, gender, and economic justice.

Among his many community activities, Reverend Cavanaugh has served with distinction as a member of the U.S. Interreligious Committee for Peace in the Middle East; as a member of the Downtown Council Board of Directors; as chaplain of the Harry S. Truman Good Neighbor Award Foundation; as a member of the Martin Luther King, Jr. Interfaith Coalition; on the Kansas City Community Joint Committee on Homelessness; and on the mayor's task forces on AIDS and on hunger and poverty.

Within the Episcopal Church, at the national level, Reverend Cavanaugh has served on the executive council; was elected nine times as deputy to the general convention of the executive church; served as a member of the Committee on the State of the Church; and served as a member of the House of Deputies Committee on Evangelism at the General Conventions held in 1973 and 1979.

In 1954, Reverend Gingrich married Nancy Gingrich Cavanaugh of Philadelphia, PA. Mrs. Cavanaugh graduated from the University of Pennsylvania with an A.B. degree in economics. She attended Claremont Graduate School in Claremont, CA where she received a master's degree in education. Prior to the family's relocation to Kansas City, Mrs. Cavanaugh worked for the Federal Reserve System, the California Department of Public Assistance, and the Rialto, Los Angeles, and Inglewood California School Districts. Since 1977, she has taught second grade at the now-Pembroke Hill School in Kansas City. While actively involved in her own career, Mrs. Cavanaugh has been an integral partner in the great works and the great successes of Reverend Cavanaugh. One of the greatest gifts Reverend Cavanaugh shared with Kansas City was Nancy Cavanaugh. She became a true citizen of our city embracing with her heart our cares and concerns, dedicating her personal time and energy to seeking solutions to our problems and to celebrating our gains.

Reverend and Mrs. Cavanaugh are the proud parents of Helen Mary, who I had the distinct pleasure of having as one of my students when I was on the faculty at the Sunset Hill School. Helen is an attorney and is married to Paul Stauts. Helen and Paul live in Northern California and have four wonderful children: Sydney, Alexander, Ethan, and Jacob. Helen's tribute to her father on Sunday, May 21, brought tears of joy to my eyes.

In 1976, when Reverend Cavanaugh came to the heartland of America—to Kansas City—he opened his heart to the congregation and to our community. During his 19 years as dean at Grace and Holy Trinity, Reverend Cavanaugh played an extraordinary and critical role in our community. He touched the lives of so many people. His contributions will long be remembered.

Today, Mr. Speaker, I ask that you and our colleagues join me, the congregation of the Grace and Holy Trinity Cathedral, Reverend Cavanaugh's family, and the citizens of Kansas City, MO, in recognizing Reverend Cavanaugh's outstanding achievements and selfless contributions and in extending our congratulations and best wishes on the occasion of his retirement.

TRIBUTE TO GEORGE LUTZA AND CAROL SILVER LUTZA

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to George Lutza and Carol Silver Lutza, corecipients of the Bernardi Senior Center's ninth Community Service Award. For the past 7 years George and Carol's company, Dynamic Home Care, has provided home chore and bathing services to homebound seniors referred by the Bernardi Center. Their goal is to ensure that seniors have affordable and excellent health care. In that, Carol and George have succeeded admirably.

Carol and George serve on the professional advisory council and the member advisory council of the Bernardi Center, which is located in Van Nuys. They bring their own brand of dedication and energy to the center, in addition to providing a valuable service to the elderly of the northeast San Fernando Valley.

Both are busy in other organizations involved with the lives of senior citizens. For example, George is a member of the Elderabuse Task Force, a member of Elders at Risk, a supporter of the Alzheimer's Association and the past chairperson of the Living at Home Community Council. Carol has since 1987 been chairperson of the Home Care Consortium through Senior Care Network, which is affiliated with Huntington Memorial Hospital. She is also cochairperson of the steering committee of the Greater Los Angeles Amyotrophic Lateral Sclerosis Association.

Mr. Speaker, I ask my colleagues to join me in saluting George Lutza and Carol Silver Lutza, public servants who work tirelessly for the betterment of senior citizens. They are a shining example to us all.

RECOGNITION TO LEWIS "DEE" WALKER

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mrs. SCHROEDER. Mr. Speaker, the Federal Government is losing to retirement a dedicated defender of both the U.S. Army and the American environment.

Lewis "Dee" Walker has been under the Secretary of the Army in charge of the environment. It was his duty to recognize years of environmental neglect at U.S. Army bases. It became his responsibility to turn that neglect into a commitment to make contaminated land safe for human health and the environment.

And Dee Walker performed in outstanding fashion.

I am most familiar with his years of work to clean up one of the Army's most infamous messes, the Rocky Mountain Arsenal. For over 10 years Walker showed great energy, patience, and determination to get where we are today—a comprehensive cleanup plan endorsed by all parties involved. His effort here alone casts him a spot next to Hercules and the Madonna.

Mr. Speaker, we owe a great debt to Dee Walker. And I wish him well in the future.

A BRIEF HISTORY OF UNION COUNTY, NJ, RESIDENTS WHO HAVE SERVED IN CONGRESS, 1789–1808

HON. BOB FRANKS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. FRANKS of New Jersey. Mr. Speaker, as a Member of the House of Representatives from Union County, NJ, I recently became interested in my predecessors who represented my home county during Congress' early years. During the first two decades of our Nation's history, Union County sent five distinguished gentlemen to serve in Congress. For many of these men, like Abraham Clark, who signed the Declaration of Independence, and Jonathan Dayton, a signer of the U.S. Constitution, their service in Congress was but one of their many contributions to our Nation during its formative years. And although some of these men have been obscured by the passage of time, their accomplishments are remembered by many of my constituents, and still studied by scholars of this period.

Before one can examine the Union County natives who served in the first 10 Congresses, a short primer on how Union County developed is appropriate. Although settlers from Europe had been living in Union County for nearly 200 years, Union County was not created by the State legislature until 1857. As New Jersey's youngest and second smallest county, Union County was originally part of its neighbor to the north, Essex County. In colonial times, what is now Union County was encompassed by the county's most populous community, Elizabethtown—now Elizabeth, and the county seat. Elizabeth, a port town, was founded in 1665 by Sir George Carteret, who named the new settlement in honor of his wife, Lady Elizabeth.

No sooner had the little village of Elizabeth been founded than settlers pushed outward onto the surrounding lands. As isolated farms were hewn from the forest, tiny hamlets developed, and new neighborhood names were born. Although these farms and small villages remained part of Elizabeth, they began to develop their own sense of identity and local concerns. By the end of the 18th century, division was inevitable. The first of the outlying areas to separate was Springfield, which was created by the State legislature in 1793. The next year Westfield incorporated, garnering its name because it was the "west field" of Elizabeth. Then in close succession came Rahway in 1804, Union in 1808, and my hometown of New Providence in 1809. The rest of Union County's 15 communities would grow out of these 6 towns. Elizabeth would continue to dominate the county politically, and would be home to most of the men Union County sent to the first Congresses.

On March 4, 1789, amid much fanfare, the first session of the First Congress began. Unfortunately for the new government, a quorum to conduct business was not reached in the House until April 1, and in the Senate until April 4. One of the reasons for this absence of a quorum was the difficulty Members had in reaching New York City, the home of the new government. Travel was slow during this period, especially for Members from the Western States or those not near the coast or a river. The trip must have been an easy one for Elias Boudinot, however, Union County's first resident to serve in Congress. Representative Boudinot probably took a short ferry ride across Newark Bay, up the Kill van Kull, and finally across the Hudson River to reach Federal Hall, located on Manhattan's southern tip. It is interesting to note that prior to his trip to be sworn into the First Congress, Representative-elect Boudinot entertained President-elect George Washington at Boxwood Hall, his two-story mansion in Elizabeth. President-elect Washington was also on his way to New York City, to be sworn in as our Nation's first chief executive.

Although born in Philadelphia, Representative Boudinot lived and practiced law in Elizabeth when he was elected to the First Congress. A tall, dignified, and reportedly handsome man, Boudinot was both cautious in his temperament and conservative in his politics. His career before his congressional service was quite distinguished. He served in the Revolutionary Army, and was a Delegate to the Continental Congress in 1778. Delegate Boudinot would serve again in the Continental Congress from 1781 to 1783. During his tenure, Delegate Boudinot gained valuable experience by serving on over 30 committees. He also served as the Continental Congress' tenth president during 1782–83, making him, in a de facto sense, New Jersey's first elected national leader. As my colleagues may be aware, under the Articles of Confederation, there was no executive branch, and hence, no chief executive. The Continental Congress, a unicameral legislature, ran the entire government. Furthermore, under the Articles, Delegate Boudinot's term was automatically abbreviated because the terms of Delegates to the Continental Congress were limited to 3 years.

As a House member during the first three Congresses, Representative Boudinot fathered many essential measures and participated in practically all important debates. Boudinot led the defense of Hamilton's conduct of the Federal Treasury. He also was the first chairman of the Rules Committee, then a select committee that had the important task of formulating the first rules of the new body. During his tenure as chairman, Boudinot's leadership and experience from serving in the Continental Congress would prove invaluable to the First Congress.

After the Third Congress, Representative Boudinot declined to run for reelection. In 1795, he accepted an appointment as director of the U.S. Mint. He moved to Philadelphia, and sold Boxwood Hall to his House colleague Jonathan Dayton. He served as director of the Mint until 1805. Representative Boudinot died in 1821.

In the Second Congress, Representative Boudinot was joined by another Elizabeth native, a slight, almost frail man named Abraham Clark. Representative Clark grew up on his family farm in a section of Elizabeth which is now present-day Roselle. Born in 1726, Representative Clark had a distinguished career and contributed much to the founding of our Nation. He hated aristocratic privilege in any form and was outspoken in his advocacy for independence from England, culminating in his signing the Declaration of Independence. Although not formally educated in the law, Representative Clark's zeal for giving free legal advice earned him the nickname of "the Poor Man's Counsellor."

Because of his support for the American Revolution, he was chosen as a Delegate to the Continental Congress from 1776–78, and again from 1780–83, and finally from 1786 until the Continental Congress largely disbanded in 1788. Delegate Clark was also chosen as a delegate to the Constitutional Convention in Philadelphia, but ill health—he suffered from poor health his entire life—prevented him from attending. He would go on to oppose adoption of the Federal Constitution until the Bill of Rights was added in 1791. Reelected to the Third Congress, Representative Clark's tenure in Congress was cut short by his death in 1794 at age 69. In honor of his patriotism and many accomplishments, the future township of Clark, NJ, at the time a part of Rahway, was named for him.

Also joining Representative Boudinot and Clark in the Second Congress was Jonathan Dayton of Elizabeth. Son of Elias Dayton, a Delegate to the Continental Congress, Representative Dayton was elected to the First Congress, but declined the office, preferring instead to become a member of the New Jersey council and later speaker of the New Jersey General Assembly. Born in 1760, he graduated from the College of New Jersey, now Princeton University, became a lawyer, and fought during the Revolutionary War, attaining the rank of captain. He was captured by the British in Elizabeth, but obtained his freedom in a prisoner exchange. In addition to his military service, he was also a delegate to the Federal Constitutional Convention, and had the honor of being the youngest signer, at 27, of the U.S. Constitution. interestingly, he was chosen to go to the Constitutional Convention after his father and Abraham Clark declined to travel to Philadelphia because of poor health.

In the Third Congress, Representative Dayton became chairman of the House Committee on Elections, one of the first standing committees of the House. From that position, and because he was a loyal Federalist, Representative Dayton attained the Speakership during the Fourth and Fifth Congresses.

As Speaker, Dayton has been described as being of ordinary ability, but of being personally popular, which helped temper the growing bellicose attitude of the House over the controversial Jay Treaty, which Dayton supported. He is also seen as an active Speaker compared with his predecessors, and as someone who used his position to influence other Members. He was also the first Speaker to speak out on issues before Congress when the House operated in the Committee of the Whole.

During his time in the House, Representative Dayton argued in favor of having the secretaries of the Treasury and of War appear in the House, and for a larger regular army, rather than a militia. With Representative Boudinot, he voted five times to uphold Hamilton financial policy. His first speech in the House was on his own motion to sequester British debts. He also took part in the debate supporting the Washington administration's position in the Whiskey Rebellion.

As Speaker at the outset of the Adams administration in 1797, Dayton increasingly found himself in the middle of Jeffersonian attacks on Hamilton's administration of the Treasury Department. This growing lack of comity reached a boiling point when Dayton had to break up a fight between Jeffersonian Republican Matthew Lyon of Vermont and stalwart Federalist Roger Griswold of Connecticut on the House floor after Lyon spit in Griswold's face over a political dispute.

Dayton recognized that two noticeable factions in the Congress had developed. By 1800 these factions would be distinct political parties, called the Federalists and the Democrat-Republicans. In 1798, Speaker Dayton declined to run for the House again and instead ran and won a seat in the Senate as a Federalist candidate. Republican Dayton is still the only Speaker of the House ever from Union County.

Although an active participant in the debates of the Senate, Dayton wielded considerably less influence than he had as Speaker. During his tenure in the upper body, Senator Dayton voted along Federalist party lines against the repeal of the Judiciary Act of 1801, and against the impeachment of Justice Samuel Chase. After a visit to New Orleans in 1803, he favored the purchase of Louisiana, which was a Jefferson administration initiative. Dayton served one term in the Senate, from 1799 to 1805.

After leaving the Senate, Dayton was supposed to accompany President Jefferson's first Vice President and his childhood friend Aaron Burr on an expedition to the West, where Burr apparently intended to conquer Spanish land and create an empire. However, Senator Dayton became ill and was unable to make the arduous journey. Fortunately for Dayton, his absence from the trip may have saved him from a lengthy prison term as he was indicted for treason due to his perceived role in Burr's schemes. After spending a brief time in prison, he was released and spared the embarrassment of a public trial. However, the attendant publicity brought an end to his national political career. Nevertheless, the people of New Jersey still held him in high regard, and he went on to serve two terms in the New Jersey General Assembly beginning in 1814. He died in 1824 in the town of his birth, Elizabeth, soon after hosting a visit from Lafayette. The city of Dayton, OH was named for him—not for his political achievements, but because he was a member of a group of businessmen that invested in the area in 1796—and closer to my home, a regional high school in Springfield was named in his honor.

Serving with Senator Dayton in the Sixth and Seventh Congresses was Aaron Ogden of Elizabeth. Senator Ogden, a Federalist, was elected to fill the vacancy caused by the resignation of James Schureman, who left the Senate to become the mayor of his hometown, New Brunswick. Born in 1756, Senator Ogden was educated at Princeton University and served with great valor in the Revolutionary Army, attaining the rank of brigade major. After the Revolution, Senator Ogden became an outstanding lawyer and leader of the Federalist Party in New Jersey. His first political job was Essex County clerk, which he held from 1785–1803, coinciding with his brief tenure in the Senate. He was also a presidential elector in 1796 for John Adams. In 1802, he ran for a full 6-year Senate term, but was denied reelection. He went back to New Jersey and resumed his law practice, and capped his political career by serving as New Jersey's fifth governor.

Before his death in 1839, Governor Ogden would make one more significant contribution to his Nation, not as a lawmaker, but as a defendant in a civil case. In the early 1820's, a dispute arose with Thomas Gibbons, his former partner in the steamship trade. This dispute resulted in the landmark Supreme Court case Gibbons versus Ogden (1824). In this case, which Ogden ultimately lost, Chief Justice John Marshall established important constitutional precedents concerning the Federal commerce clause and the supremacy clause's restraints on State power.

In the Ninth Congress, with the retirement of Senator Dayton, Union County's only native in either body was freshman Congressman Erza Darby of Westfield. Born in 1768, Representative Darby was a farmer in what is now Scotch Plains. Unlike all of his predecessors from Union County, Representative Darby did not attend college, played either no or a minor role in the Revolutionary War—he was a young teenager when the War ended—and his highest office he ever achieved was his brief tenure in the House. Prior to his election as a Democrat-Republican to the House in 1804, he served as a freeholder, assessor, and justice of the peace, and a member of the New Jersey General Assembly for one term, 1802–04. Re-elected to the Tenth Congress, Representative Darby died in office on January 28, 1808, and is interred at the Congressional Cemetery in Washington, DC.

From the time of the First Congress to Erza Darby's death in 1808, the five men who Union County sent to Congress served an average of 6 years. While unusual for this period, as turnover in Congress was usually 50 percent or more every election, this fact speaks to the stature and quality of these men. For the average House Member or Senator, however, this was an era when serving in Congress was generally done only for a short period of time. This was especially prevalent for southern members. One of the principal reasons for the relatively brief period of service during this time was the enormous burdens placed on Members of Congress. Depending on the occupation, a Member had to neglect his farm or his business to serve in Congress. Additionally, a Member's pay of $6 per day was paltry even by the standards of the day, the pay was not increased until 1860. Nevertheless, prominent men like Boudinot, Dayton, and Clark did choose to serve, probably out of a mix of devotion to their country, and the opportunity to enhance their reputation and stature back home.

Mr. Speaker, Union County is extremely proud of its sons that it sent to Congress during this early period in our Nation's history. Union County is full of interesting history that can easily be relived by visiting the preserved homes of some of New Jersey's famous Congressman or Senators. For example, the public is welcome to visit Boxwood Hall in Elizabeth, home of Representative Boudinot and Senator Dayton, or the Abraham Clark House in Roselle, or the Belcher-Ogden Mansion home of Governors Ogden and Belcher in Elizabeth. These beautifully restored homes are for both the casual visitor or the serious historian. I urge my colleagues and all of my constituents, and especially my younger constituents, to discover Union County's proud heritage.

HONORING CANTRELL'S SACRIFICES AND CONTRIBUTIONS TO HIS COUNTRY

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. GORDON. Mr. Speaker, I rise today to recognize and commend the contributions a middle Tennessee family is making to preserve and further the heritage of an outstanding Tennessee ancestor.

Charles T. Cantrell will present his grandfather's Congressional Medal of Honor to American Legion Post 122 during a Tennessee bicentennial celebration scheduled for June 29, 1995.

Charles P. Cantrell, a Keltonburg native, was awarded the Congressional Medal of Honor during the Spanish-American War for acts of bravery. He was a member of the unit that participated in the taking of San Juan Hill, the major stronghold of the Spanish. Without consideration for his own safety, Cantrell rushed to the front lines and rescued the wounded from enemy territory. Cantrell escaped the battle unharmed, and died in 1948 at the age of 74.

Until World War I, Cantrell was the only recipient of the Medal of Honor in middle Tennessee.

Now, years later, Tennesseans can personally, share the history that surrounded the events of Cantrell's life-changing day. The family's contribution will be displayed in a special case at a local library with other Spanish-American War memorabilia.

I ask you to join me today in honoring Cantrell's sacrifices and contributions to his country, as well as his family's.

IN RECOGNITION OF WORLD WAR II VETERANS WHO SERVED AS COMBAT ARTISTS

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Ms. SLAUGHTER. Mr. Speaker, I rise today to pay tribute to the World War II veterans who served as combat artists. The art collections of the Army, Navy, Air Force, Marines, and Coast Guard provide a pictorial memory using the medium of fine art to record the military heritage of America and to provide insights into the experiences of individual members of the Armed Forces. Regardless of service affiliation, the World War II combat artist was assigned to document events of military importance. These included frontline battles, combat service support, areas of operations, and incidents in the daily lives of military men and women. Their paintings and drawings are varied in personal interpretation, but are alike in their portrayal of the reality of war.

The Department of Defense 50th Anniversary of World War II Commemoration Committee is honoring the combat artists from World War II with an exhibition opening Friday, June 30, 1995 at the National Building Museum in Washington, DC. The artists whose works will be displayed are:

From the Army: Leslie Anderson, Bernard Arnest, Howard D. Becker, Howard Brodie, Manuel Bromberg, James D. Brooks, William V. Caldwell, Harry A. Davis, Harry Dix, Frank Duncan, Olin Dows, Loren Fisher, Jean Flannigan, Albert Gold, Robert Gottsegen, Robert MacDonald Graham Jr., Robert Greenhalgh, Hans Helweg, Richard H. Jansen, Steven R. Kidd, Wayne Larabee, David Lax, Ludwig Mactarian, Hans Mangelsdorf, Barse Miller, James Neace, Charles Peterson, John Pike, Savo Radulovic, Edward Reep, Julian Ritter, John A. Ruge, Edward Sallenback, John Scott, Sidney Simon, Mitchell Siporin, Samuel D. Smith, Harrison Standley, Joseph Steffanelli, A. Brockie Stevenson, Ann B. Tilson, Frede Vidar, Rudolph C. Von Ripper, John A. Wittebrood, and Milford Zornes.

From the Navy: Standish Backus, Jr., Griffith Bailey Coale, William Franklin Draper, Mitchell Jamieson, Edward Millman, Albert K. Murray, Alexander P. Russo, and Dwight C. Shepler.

From the Air Force: Richard Wood Baldwin, Charles Baskerville, Edward Brodney, R. Munsell Chambers, G. Frederick Cole, Almer F. Howard, John Lavalle, Clayton Knight, Robert Laessig, Jack Levine, Milton Marx, John T. McCoy, Jr., Arthur G. Murphy, Oke G. Nordgren, George Edward Porter, Arthur S. Rothenberg, James Powell Scott, Maltby Sykes, and William Peter Welsh.

From the Marines: Paul Arlt, John Degrasse, Donald Dickson, Vic Donahue, James Donovan, Tom Dunn, John Fabion, Richard Gibney, Victor Guinness, Harry Jackson, Walter Anthony Jones, Woodrow A. Kessler, Hugh Laidman, John McDermott, and Charles Waterhouse.

From the Coast Guard: Gare Antresian, Tom Asplundt, Peter Cook, Robert Daley, Ralph DeBurgos, Russell Dickerson, Joseph DiGemma, Di Valentine, Max Dorothy, Bruno Figallo, Anton Otto Fischer, John Floherty, Jack Gildersleeve, John Gretzer, Sherman Groenske, Lawrence Jenson, Jack Keeler, Sandor Klein, Joe Lane, Leonardo Mariani, Kenneth Miller, John Morris, John B. Norall, Ken Riley, Richard Saar, Michael Senich, Norman Thomas, Robert Tucker, Ronald Ullman, H.B. Vestal, John Wisinki, and Hunter Wood.

America is grateful for this powerful legacy—rich in its emotional context—and is proud to recognize these artists who served their country during World War II.

HOME EQUITY CONVERSION MORTGAGES

HON. RICK LAZIO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. LAZIO of New York. Mr. Speaker, today I offered a bill reauthorizing the Federal Housing Administration's ability to insure home equity conversion mortgages [HECM], one of the most effective tools available to older Americans to ensure their own financial standing.

I strongly support the HECM program. Last year I cosponsored the HECM expansion and extension provisions included in last year's housing bill, which the Senate failed to act on at the close of the last session.

The HECM program is still in its infancy—currently, banks only underwrite on average 200 to 400 loans HECM loans per month. This all the more reason to support this worthwhile effort, to give the private sector time to educate itself and adjust to this valuable program. The legislation I am introducing extends the authorization for an additional 5 years. This bill also extends the provisions of HECM to cover 1 to 4 family units in which the owner resides.

This is precisely the kind of role FHA has served well in the past and should continue to serve into the future: Creating a market for valuable financing products and, after they are established, moving out to let the private sector operate those products more efficiently.

By creating a market for reverse mortgages, the HECM program provides unique opportunities for older Americans to hold onto their houses throughout their lifetime and avoid being house poor, a sad result for those Americans who have worked long and hard to keep their house but find, later in life, that they cannot afford to live without selling their home.

The program also makes sense from a budget standpoint. It is a net inflow to the FHA insurance fund of between $1.5 and $4 million a year.

Currently, lenders in 47 States, the District of Columbia, and Puerto Rico are originating HECM loans.

The average HECM borrower is 76 years old and has a home value of $138,000, but an income of only $10,400. By contrast, the median senior's income in the United States today is $18,500 and the median home value is only $70,400.

We should encourage, not punish those who want to stay in their houses and stay in the neighborhoods they care about and at the same time make their life more livable. What could be better than ensuring the quality of life of older Americans at no additional cost to the Government?

IN RECOGNITION OF THE MILIKEN LEGAL CLUB OF THE BOYS CLUB OF NEW YORK

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. NADLER. Mr. Speaker, I rise today to recognize the Miliken Legal Club of the Boys Club of New York. The Miliken Legal Club was founded in 1992 by Dr. Shirley Smith. This program provides an active legal education for high school age students. During the school year, young men and women are instructed in legal procedure by lawyers such as Larry Carbone of the New York City Con. Ed. Legal Department and by Ellen Van Dyke of the Manhattan district attorney's office. When summer arrives, several students are chosen to act as interns at the Manhattan district attorney's office. The program culminates each year with a mock trial that is presided over by Bronx Supreme Court Justice Richard Lee Price.

This program helps make the legal system accessible to many young people in my district. In doing so, the Miliken Legal Club teaches these students that they have an investment in the law, in the justice system and in this Nation. I am proud to have this fine organization located in my district.

TRIBUTE TO JACK DRISCOLL

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. BERMAN. Mr. Speaker, I am honored to pay tribute to Jack Driscoll, who is recipient of the 1995 Distinguished Public Service Award given by the Anti-Defamation League, Southwest Division. The award reflects Jack's many outstanding contributions to the city of Los Angeles.

Jack is best known as the executive director of the Los Angeles Department of Airports, a position he has held since December 1992. In this role Jack oversees the operations of Los Angeles and Ontario International Airports, Palmdale Regional Airport, and Van Nuys Airport. This position has given Jack tremendous influence in local and regional affairs, and made him one of the key players in the economic revitalization of southern California. It is also the culmination of a successful 28-year career in municipal government.

Prior to assuming his duties with the Department of Airports, Jack was general manager of the city of Los Angeles Personnel Department. He arrived in Los Angeles in 1978, after serving in various capacities in the mayor's office in Seattle.

Jack has a bachelor's degree in psychology, a master's in business administration from the University of Seattle, and is a graduate of the UCLA Graduate School of Management, Executive Program. In addition, he is a member of the American Association of Airport Executives and the government affairs committee of Airports Council International-North America.

Mr. Speaker, I ask my colleagues to join me in saluting Jack Driscoll, a public servant who works tirelessly for the betterment of his community. He is a shining example to us all.

THE FUTURE OF THE REPUBLIC OF KOSOVA

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. ENGEL. Mr. Speaker, Dr. Bujar Bukoshi, Prime Minister of the Republic of Kosova, recently gave an important address to the European Parliament in Strasbourg, France.

In his speech, Dr. Bukoshi spoke eloquently about his homeland and the people of Kosova. While lamenting the past, including the number of Kosovars who have been killed, wounded, arrested, tortured, and otherwise subjected to inhumane treatment, Dr. Bukoshi gave reason for hope in the future by laying out his vision for protecting Kosova from further injustice.

I urge my colleagues and members of the European Union to strongly consider Dr. Bukoshi's positive, forward-looking solutions as the United States and Europe consider how to proceed in the former Yugoslavia.

The text of the speech follows:

Ladies and gentlemen, it is an Honor for me to have been given the opportunity to address an important audience that is actively seeking to identify conflict situations and prevent them before they become unmanageable. In this context, let me congratulate you on the good task you have started, in the hope that the FORUM will have its impact in breathing a sense of reality into the asphyxiated, and crisis-ridden international fora.

Let me begin by quoting one of the greatest Albanian writers, Ismajl Kadare, who has on one occasion stated: "The word 'Kosova' is spoken always with hesitation, in a low voice, almost in a whisper—the way ancient people spoke some words in a low voice when they talked of 'evil spirits' ".

Although hesitantly, Kosova is always mentioned whenever there are evident signs of the escalation of the former Yugoslav crisis, and always in the context of a wider Balkan conflict. In the case of the last escalation in Bosnia involving UN hostages taken by Serbian forces, a clear act of international terrorism, western leaders have pointed out again the possibility of a wider Balkan war rightly stressing that such a war would firstly encompass Kosova, then Macedonia, in order to include Albania, Bulgaria, Greece and possibly Turkey.

Just 200 kilometers southeast of Sarajevo lies the Republic of Kosova, in danger of becoming another Bosnia, but even worse. The Balkans imbroglio suggests that Kosova may be next in the succession of victims in the face of Serbian ethnic cleansing and oppression.

Kosova with its 90-percent Albanian population is already a Serbian victim. Kosova lost its autonomy six years ago, when Serbia, unconstitutionally and by use of police and military forces, abolished the Parliament of Kosova, dismissed the government and its administration, and closed down television, radio and the daily Albanian-language newspaper. Systematic structural repression against the Albanians of Kosova, enacted martial law, has reached tragic proportions each passing year.

Serbian apartheid manifests itself in discrimination that started with rigged political trials before civil and military courts; isolation and confinement of hundreds of intellectuals, scientists and economic experts; massive prison sentencing of Albanians, killings of peaceful demonstrators; expulsion of hundreds of university professors, thousands of teachers and administrators; dismissal of physicians and medical staffs and the complete abrogation of all human, civil and national rights.

Our plight has been documented by Amnesty International, the United Nations Special Rapporteur, CSCE, and other human rights bodies and international organizations.

In the first quarter of 1995, more than 3,000 Albanians were subjected to all forms of mistreatment by the Serbs. Two were shot dead; seven wounded; 34 were convicted; 125 were subjected to arms searches and harassment; 1,157 were arrested; 985 tortured; 973 families subjected to weapons raids; 589 summoned for police interrogation; 204 suffered political persecution; 114 youth were punished for not joining the Serbian army; 8 were convicted by military courts; 9 Albanian families were evicted from their apartments. The above constitute only the most drastic forms of repression. It should also be noted that many cases are never reported.

Thus far, Kosova has reacted to this repression with peaceful resistance. We have been firm, we have established a functioning government and economy, we have held together in solidarity with one another. We have demonstrated incredible patience, restraint, and judgment in the face of daily brutality, harassment and intimidation.

Numerous delegations have visited Kosova and have witnessed the appalling situation. They have visited the storefront clinics, spoken with patients, listening to the doctors. They have witnessed the classrooms in homes where thousands of Albanian students are doing their best to preserve their education, and they have reported on massive violations of human civil and national rights of the Albanians.

Also many delegations from Kosova, including the leadership of Kosova have repeatedly informed governments of western democratic countries and the general public about the ever deteriorating situation that can lead to a conflict with unpredictable consequences.

In parliaments around the world, legislators have spoken with resolutions of support. For illustration, let me mention that the European Parliament has condemned repression against the Albanian population in eight resolutions. At the same time Albanians have been praised for their peaceful restraint.

Yet, the situation has only kept worsening while repression continues.

The international community cannot continue to ignore the untenable situation in Kosova.

As much as we are determined to remain patient, no one can guarantee that the Albanians can sit idly by for decades, watching their personal and collective resources disappear while their families and friends are subjected to barbaric treatment by cruel and inhuman occupying forces.

To avert this calamity the European Union and the international community must become engaged in helping solve the Kosova part of the Balkans problem. We need their involvement in the following ways:

First: While talks on the future of Kosova remain an uncertain reality, it is necessary that preventive forces be deployed to Kosova. Since Kosova presents a threat to regional peace and stability, the UN Security council should declare Kosova a safe area in the meaning of Chapter VII of the UN Charter.

Second: NATO must prepare contingency plans for intervention in Kosova in the worst possible scenario. Its credibility can only be restored if, as Manfred Worner has said, "it is ready to punish the aggressor if necessary and also consider using force to achieve political and diplomatic solutions".

Third: Keep sanctions in place and increase international pressure to Serbia.

Recent attempts to force Serbia to recognize the borders of Bosnia, a bargain for lifting of sanctions, is a doomed effort not only because of the request that a non-entity accepts what is now already a UN member. [The] Belgrade regime may be forced to accept this demand, which will most probably be another Serbian farce, but nothing will change on the ground and the peoples of former Yugoslavia will not find themselves closer to an acceptable solution. Although sanctions were introduced because of the Serbian active role in the war, they should never be lifted before a global solution of the former Yugoslavia crisis is achieved. (In this regard, we welcome the tough stance of EU Commissioner for Central and Eastern Europe, Mr. Hans van den Broek, that international sanctions should be linked to a solution of the Kosova issue.)

Fourth: Immediately return a long-term, expanded OSCE monitoring mission to Kosova.

A handful of then-CSCE observers were posted in Kosova until July 1993 when Belgrade expelled the delegations. Although few in number, the monitors served the purpose of at least chronicling the cases of human right abuses across Kosova. Since their departure, incidence of violence, beating, plundering and murder has escalated dramatically.

Fifth: Support mediated dialog with the Serbs in the presence of international mediator.

We have repeatedly offered to meet with the Serbs to discuss our difference without preconditions except one: an international mediator must be present in the talks. We are prepared to meet anywhere at anytime to talk about our differences and sincerely try to resolve them.

Sixth: Reactivate the Kosova Group of the International Conference on Former Yugoslavia.

The Working Group which was established in London in August 1992 and which has been moribund ever since, has achieved absolutely nothing. Now is the time to breathe new life into the process and create a new mechanism to begin the task of fulfilling the legitimate rights of the Albanians to life, liberty and self-determination.

Seventh: UN get involved for the restoration of democratic institutions to Kosova. This would prove to be a powerful deterrent of conflict and, therefore, instill hopes of a return to normality in Kosova.

Events of the last months demonstrate that a new reality is setting in among those concerned with the Balkans. We firmly believe that until the world deals with the major cause of the aggression, the problem will fester, the bloodshed will continue, and there will be no place in the Balkans.

The current Yugoslav crisis is not the result of an abrupt decision of its peoples to part company. It is the realization of the right of peoples to self-determination; it is a free expression of their national identities, hitherto suppressed by Serbian hegemonism. In this context, the independence which we have proclaimed for Kosova, and we are pursing to institute, is but an adaptation to political realities and moderate approach to our goals.

In conclusion, let me point out the Kosova issue has been wrongly ignored until now. Whether this has been done because of the Serbian Myth, was place in the service of aggression, or because of the 'evil spirits', inaction in Kosova may prove costly. There is still time to save Kosova, and we still believe in peace, therefore we have not resorted to violent means. However, if it comes to conflict, for which Kosova Albanians can never be blamed, they have no other option but to defend themselves.

Bad Judgments of the past must not be repeated. It is time for courageous leadership and commitment to principle, southeast of Sarajevo and throughout the Balkans.

ELECTIONS IN HAITI

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. HAMILTON. Mr. Speaker, yesterday I received the following statement from the Presidential delegation to the June 25, 1995, Haitian elections.

The text of the correspondence follows:

DEPARTURE STATEMENT, UNITED STATES PRESIDENTIAL DELEGATION TO OBSERVE THE HAITI ELECTIONS

JUNE 26, 1995, PORT-AU-PRINCE, HAITI

Yesterday's elections represent a step in the building of democracy in Haiti. A peaceful balloting process occurred in a country where violence has so often marked past elections. This feat is truly impressive when one considers that but nine months ago Haiti was under the yoke of a military dictatorship. However, the process was affected by irregularities and administrative flaws that need to be addressed for the second round and the future.

Members of the presidential delegation visited five of Haiti's nine departments and more than 300 polling sites. We observed a complicated balloting procedure, involving elections for more than 2100 legislative, mayoral and local council offices. Dedicated polling officials and pollwatchers representing 25 political parties surmounted various obstacles in allowing the Haitian people, in most localities, to choose their representatives.

Procedural and administrative problems before and on election day, nonetheless, prevented citizens in several municipalities from expressing their voting preferences. The failure to include the names of certain approved candidates on the ballots contributed to the cancellation of elections in seven communities and created disquiet in other areas. We also have received critical reports regarding the failure to follow proper procedures during the initial counting phase, with most serious consequences in the Department of the West, which covers the Port Au Prince area.

Despite repeated misunderstandings over the actions of election officials at all levels, the delegation saw little evidence of any effort to favor a single political party or of an organized attempt to intentionally subvert the electoral machinery. At many points, the Provisional Electoral Council's actions and public statements raised questions about the credibility of the process. The most significant of the problems was the failure to explain the reasons candidates were rejected. Political parties raised these and other concerns relating to the transparency of the elections in their contacts with the delegation.

President Aristide and his government performed a positive role in repeating often the theme of reconciliation. In meeting with some rejected candidates and in a public statement on the eve of the elections, the President demonstrated his concern over the controversies surrounding the process and underscored his desire to be President of every Haitian citizen.

We wish to emphasize that this electoral process is far from over and thus a definitive evaluation is premature. The counting of ballots and the adjudication of electoral complaints are pending. There may even be a need to rerun elections in certain jurisdictions. We will remain in close contact with other observer delegations, most notably the Organization of American States, which has organized coverage of these elections throughout the country.

A determined effort is required to remedy the most significant problems affecting the electoral process before the next round of elections. Sincere consultations with a broad range of political parties and transparent decisionmaking by the electoral authorities should have occurred and are indispensable to strengthening Haiti's democratic institutions. The government also should consider carefully the recommendations of the United Nations, various observer delegations and technical election experts who have worked closely with their Haitian counterparts in assisting the electoral process. In this context, we note the very positive role that the United Nations Mission played in Haiti during the entire transition period.

Despite the problems associated with the pre-election period and observed on election day, the Haitian people voted freely and seemingly without fear. Haiti is now one step closer to establishing a functioning parliament and viable local government.

It is our firm belief that further steps to correct the identified problems will encourage a perception of fairness about this process, despite the inevitable difficulties of conducting an election in Haiti. The Haitian people have demonstrated that they have earned the respect associated with participating in the individual act of casting a ballot. For our part, we will continue to work with the government and people of Haiti in supporting the strengthening of democratic institutions in this country.

PRODIGIOUS TRAVEL BY ENERGY SECRETARY O'LEARY

HON. MARTIN R. HOKE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. HOKE. Mr. Speaker, as you may remember, 1 month ago I asked the General Accounting Office and the chairmen of the House Commerce, House National Security, and House Government Reform and Oversight Committees to initiate investigations into the Secretary of Energy's prodigious travel.

I am happy to report that the General Accounting Office has initiated an investigation into Secretary O'Leary's travel. This is especially important in light of the Monday, June 26, front page story in the Los Angeles Times reporting that Secretary O'Leary's travel expenditures far exceed those of all other Cabinet officers.

When I made my May 25 statement about the Secretary's travel habits, I was under the impression that she had transferred $100,000 from various program accounts to finance her travel. Imagine my surprise when it actually turned out that Secretary O'Leary had transferred in excess of $400,000 from other accounts, including accounts used by scientists and technicians in the Department's nuclear safeguards and security program, to pay for her globe-trotting.

According to the L.A. Times, Secretary O'Leary believes in traveling first class all the way, spending approximately $815 per trip for a total of nearly $50,000 on her domestic travels. But that does not include the costs associated with her entourage that has included as many as 10 staff members. I ask unanimous consent that the Los Angeles Times article be inserted in the CONGRESSIONAL RECORD after my statement.

I now understand that Secretary O'Leary has demanded that DOE program offices cough up additional funds for her planned boondoggle to South Africa. I suppose that a safari to South Africa would be grand this time of the year, but I cannot believe that this trip is more important than safeguarding our nuclear deterrent. As I have said before, the Department of Energy seems to have become nothing more than a travel service to satisfy the Secretary's wanderlust.

For that reason and in order to gain a handle on DOE travel expenditures, I plan to offer an amendment to the Energy and Water Appropriations bill that would require Secretary O'Leary to report to Congress every time the Secretary authorized the payment of travel expenditures in excess of the amount appropriated for fiscal year 1996.

[From the Los Angeles Times/Washington edition, June 26, 1995]

O'LEARY: ENERGY SECRETARY LOGS CABINET'S HIGHEST TRAVEL COSTS

(By Alan C. Miller and Dwight Morris)

WASHINGTON.—Energy Secretary Hazel O'Leary defends her department against budget-cutting proposals to dismantle it by portraying herself as a master economizer in government—reducing her work force, boosting efficiency and saving taxpayers' money.

But when she hits the road in her job, as she often does, O'Leary apparently is no bargain hunter.

Traveling in a style that is unusual, if not unique, among her Cabinet colleagues, O'Leary is the jet-setter of the Clinton Administration.

On longer trips, the former corporate executive frequently upgrades her airline flights to business class or first class—and sometimes authorizes staff members accompanying her to do so as well. And she routinely stays at expensive hotels, such as the Ritz-Carlton and the Four Seasons, in contrast with more cost-conscious fellow Cabinet members.

The travel habits are apparent on the bills for all trips, other than flights on military or Energy Department aircraft, that she submits to the government. For her first two years on the job, the median cost of O'Leary's 61 domestic official trips was 58% higher than it was for EPA Administrator Carol Browner's trips, 73% higher than for travel by Housing Secretary Henry G. Cisneros and 90% higher than Health and Human Services Secretary Donna Shalala's trips, according to travel documents obtained under the Freedom of Information Act.

In a written response to questions, O'Leary said her travel costs and practices are entirely appropriate and that, in fact, she had spent nearly $14,500 of her own money on official travel. On most domestic flights, she upgrades to business class at no cost to the government, even though she is on duty 24 hours a day and does considerable work en route, a spokeswoman said.

"Secretary O'Leary is an activist secretary who believes that most of the work of the government is beyond the Beltway," said Barbara Semedo, the Energy Department's press secretary. "She is responsible for supervising a nationwide network of sites, many of which are former nuclear weapons facilities located in remote areas of the western United States, where transportation is sometimes time-consuming and expensive."

Two practices in particular put O'Leary at the top of the travel-expense list. The government has ceilings on the amount it will repay officials for meals and accommodations but citing special circumstances, O'Leary routinely seeks hotel reimbursement at as much as 150% of the maximum level. Other Cabinet members usually find lodging for considerably less.

And most other agency heads rarely, if ever, upgrade from coach class on commercial flights.

The figures cited for O'Leary do not reflect one additional area in which the Energy Department outspends other agencies: travel by staff members. The energy secretary usually takes a larger retinue of aides with her on trips than do her Cabinet colleagues.

O'Leary, 58, a lawyer, oversees a $17.5-billion agency and one of the largest federal bureaucracies, with 17,000 federal employees and another 140,000 who work for the government through contracts with private companies. Its responsibilities include cleaning up thousands of sites that were radio-actively contaminated through the nation's nuclear weapon program.

O'Leary was executive vice president for corporate affairs at Northern States Power Co., a gas and electric utility based in Minneapolis, before Clinton made her the first woman and first African American to head the Energy Department. A multimillionaire, her annual salary is now $148,400.

She won early plaudits for revealing information about government-sponsored atomic experiments and has led high-profile overseas trade missions to India, Pakistan and China, where U.S. energy firms signed deals that the Energy Department said were worth at least $19.2 billion.

While battling Republican-led efforts to eliminate her department in recent months, O'Leary has announced plans to close offices and reduce staff, as well as cut back on overall department travel.

An extensive review by The Times of the travel itineraries and vouchers of eight senior Clinton officials found that O'Leary's travel habits stood out. The median cost of her trips, which means that half her trips cost more and half less, was $671. The median duration of the trips was three days.

Among those surveyed, only Veterans Affairs Secretary Jesse Brown recorded similar costs. His traveling style is not comparable to O'Leary's, but he tends to take longer trips.

The figures for O'Leary and her counterparts appear low, in part because they include inexpensive trips, some of which involved only ground transportation and no overnight stays. In other cases, political campaign committees picked up some of the tab if the trip entailed a political appearance.

Moreover, government officials can be reimbursed no more than a certain amount for meals and lodging, with those maximums determined on a city-by-city basis. In addition, hotels and airlines often offer discount rates to government workers.

Overall, O'Leary spent $49,857 on her 61 domestic trips, a figure that does not include travel by her aides.

That amount was $11,088 less than Cisneros' cumulative cost, although he took nearly twice as many trips. Labor Secretary Robert B. Reich took only three fewer trips than O'Leary but charged taxpayers slightly more than half as much.

The seven times that O'Leary upgraded to business class or first class at public expense were generally on overseas or cross-country trips. She cited on her travel vouchers that she needed to do so to perform work during the flight, to arrive at her destination fresh enough to conduct business and because of periodic back spasms. Federal travel regulations require such justifications for flying via any class other than coach.

On other trips, Semedo said O'Leary upgraded by using frequent-flier miles accumulated before she came to the Energy Department or by paying the difference herself.

The spokeswoman said O'Leary considers it cost-effective for aides to upgrade so they can work with her in flight. Unless otherwise necessary, just a single seat is upgraded, with staff members moving back and forth from coach class to consult with the secretary.

But the practice can multiply the cost. During an October, 1993, flight from Chicago to London, three staff members upgraded to business class with O'Leary. The additional charge to the government for the secretary was $3,198, and the added amount for the three aides was $7,067.

The lodging choices of O'Leary and her Cabinet colleagues are also a study in contrasts.

When Browner traveled to Boston in late 1994 for the EPA, she stayed at the Charles Hotel on Harvard Square at a cost of $83 a night. O'Leary stayed at the Four Seasons for $335 a night when she flew to Boston in November, 1993.

When Reich went to New York for the Labor Department in April, 1993, he stayed at the Sheraton Manhattan for $125. Three weeks later. O'Leary flew to Manhattan and checked into the Ritz-Carlton for $195.

Federal travel regulations permit officials to seek approval to claim up to 150% of the maximum per diem cost if one of the several "special or unusual circumstances" applies. In Boston, O'Leary sought the higher rate in her travel authorization because she required lodging close to where she was scheduled to appear. She also did so in New York, citing high costs and her schedule.

The government maximum for New York accommodations is $140, or $210 at the higher reimbursement level. In Boston, however, even at the higher reimbursement rate, the secretary was able to put in for only $171 for lodging. O'Leary paid the balance herself.

Overall, O'Leary billed the government for expenses that exceeded the maximum standard reimbursement rate on 61 of the 71 occasions when she stayed at a hotel in the United States, records show. Other agency heads took advantage of the higher cap far less often.

O'Leary is usually joined by seven or more aides on foreign trips and by several aids on domestic journeys, though that number has been as high as 10 on occasion. She almost always travels with her director of scheduling and logistics and a security officer, Semedo said. Other staff members "may be assigned if their expertise is needed" in such matters as nuclear weapons cleanup or international trade, she added.

By comparison, Cisneros traveled alone on a quarter of his domestic trips, with one aide on nearly half of his trips and with as many as four staff members only once. U.S. Trade Representative Mickey Kantor traveled alone or with one aide on two-thirds of his trips that included domestic destinations and with no more than five on any trip.

"I don't travel with a large number of aides because I usually spend my travel time catching up on important reading that I can't get to in the office, or sketching out ideas," Cisneros said. "Likewise, I find coach seating very satisfactory for my needs."

One O'Leary destination had nothing to do with official Energy Department business.

In February, 1994, the secretary and two staff members traveled from Los Angeles to Boca Raton, Fla., where she participated in a weekend conference of the Democratic National Committee's Business Leadership Forum, a group of corporate executives who each gave at least $10,000 to the Democratic Party.

During her stay at the Boca Raton Resort & Club, O'Leary's schedule consisted primarily of attending a Democratic leadership forum lunch and dinner, as well as recreational and personal appointments. O'Leary did not seek reimbursement from the government for any of her expenses in Boca Raton. The Democratic National Committee repaid the Energy Department for the added cost of her flight from Los Angeles, where she had gone on government business.

But the two staff members who accompanied her did bill taxpayers for their flights to and from Florida and for some of their expenses during their midwinter stay at the oceanfront resort.

Chief of Staff Richard H. Rosenzweig was reimbursed for three nights at $125 a night and the daily per diem of $34. Johannah M. Dottori, O'Leary's director of scheduling and logistics, put in for the full resort rate of $257 for two nights and per diem for two days. Both sought the higher ceiling on their lodging because of "extraordinary expenses associated with accompanying the secretary," according to their travel records.

Even so, Dottori exceeded the 150% limit by approximately $100. Semedo said Friday that this was "an oversight" by department auditors and that Dottori will probably have to reimburse the government for the excessive charge.

During the cross-country flight, Semedo said O'Leary worked on official business and consulted with her staff. Wherever O'Leary is, Semedo said, she spends "a major portion of her time" on departmental matters.

Asked to explain why Rosenzweig and Dottori were reimbursed for their expenses, the department cited a 1990 White House memorandum which said, in part, that travel can be charged to the government for individuals "whose official duties require them to be with a Cabinet member, whether or not the Cabinet member himself is on official business."

The two aides accompanied O'Leary "to perform official functions, including preparation for upcoming work, policy discussions and providing a communications link to the department headquarters," Semedo said. "They did not take part" in partisan activities.

FLAG AMENDMENT IS THE PEOPLE'S WILL

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. SOLOMON. Mr. Speaker, I would like to draw your attention to the comments of one of our colleagues in the House, the gentleman from Louisiana, Mr. JEFFERSON. His column entitled, "Flag Amendment Is the People's Will" was published in the recent edition of the American Legion Magazine in support of the constitutional amendment protecting our flag. As you know, Mr. Speaker, this constitutional amendment will be coming before us on the floor this Wednesday, June 28. I would ask all my fellow Members to heed Mr. JEFFERSON's sound advice and keep faith with the American people by supporting this constitutional amendment and sending it to the States and the people for ratification.

[From the American Legion]

FLAG AMENDMENT IS THE PEOPLE'S WILL

(By Representative William Jefferson)

In April, a proposed constitutional amendment that would permit the individual states to enact legislation banning physical desecration of the flag was introduced in the Congress.

After much careful deliberation, I became an original cosponsor of the amendment. My decision came not without considerable anguish, particularly over the principle of amending the Constitution.

In the final analysis, however, it came down to this: If we are not willing to stand up for our flag, what will we stand up for?

To those who say this is a First Amendment issue—an issue of free speech—let me remind them that there are several restrictions and limits on speech already. One cannot libel or slander another without fear of legal retribution. One cannot advocate the assassination of the President without the Secret Service becoming extremely interested in his or her speech. As Supreme Court Justice Felix Frankfurter pointed out so eloquently many years ago, our right to free speech does not extend to yelling "Fire!" in a crowded theater. No, this is not a free speech issue. Rather, it is a matter of personal responsibility.

Surely, desecrating a U.S. Flag—burning a flag—is abhorred by society, and our society has the right to demand that such activity be punished. Reflecting that sentiment, my home state of Louisiana in 1991 was the 21st of 49 states so far to pass a resolution urging Congress to approve a flag-protection amendment.

Amending the Constitution is no simple undertaking. The Founding Fathers intended it to be that way. Two-thirds of the House (290 Members) and Senate (67) must agree to pass the legislation, then three-fourths of the states—36—must ratify the amendment within seven years.

Throughout our history, constitutional amendments have proved the only path for redress of serious societal ills in our country. Women's suffrage, for example, was accomplished through a constitutional amendment, as was the abolition of slavery after the Civil War. The Fourteenth Amendment recognized former slaves as citizens and the Fifteenth gave them the right to vote. No one could deny that these amendments—controversial as they were at the time—made our society better.

This proposed amendment and the need of its passage grew from a 1989 Supreme Court decision, Texas v. Johnson. The court narrowly ruled, 5-4, that burning an American Flag was "protected" as free speech. The case arose following a demonstration at the Republican National Convention in Dallas in 1984. Gregory Johnson and a group of fellow protesters burned a flag outside the convention hall as part of their protest. Texas authorities convicted Johnson of flag desecration under existing Texas law. The Supreme Court decision overturned not only the Texas law, but also flag-protection statutes in 47 other states and the District of Columbia.

The American public was outraged then and continues to be outraged today. Public-opinion polls show that more than 80 percent of all Americans favor protection of the flag. Following the 1989 Supreme Court decision and a similar 5-4 decision in 1990 in another flag desecration case, three out of four Americans believed the only way to protect the flag was through a constitutional amendment.

Nearly 40 years ago in the hot summer of 1957, Dr. Martin Luther King was beginning his dream of equality for all Americans. At a citizenship education program that summer, King said there was glory in citizenship, and that we don't want haters. Our country, he said, may not be all we want it to be, but that would change.

Respect your country; honor its flag.

We have come a long way as a nation since 1957. Dr. King's dream still lives—the American dream persists. In the words of Charles Evan Hughes, the 11th Chief Justice of the U.S. Supreme Court, "This flag means more than association and reward. It is the symbol of our national unity."

It is now our time to do our patriotic duty, to keep faith with the American people who sent us to Washington. Passing this flag-protection amendment adds one more strand to the fabric woven by preceding generations—the fabric of freedom, symbolized by our flag.

SAN YSIDRO NEIGHBORHOOD HISTORY DAY

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. FILNER. Mr. Speaker, I rise today to honor the community of San Ysidro in recognition of San Ysidro Neighborhood History Day. Its official name, "San Ysidro," was given in 1909 by a group of people who came to live in the valley and founded a small agricultural colony named after Saint Isidro—the patron saint of field laborers and agriculture.

In 1957, San Ysidro was incorporated to the city of San Diego. Today, in 1995, because it is California and San Deigo's gateway to Mexico and Latin America, San Ysidro plays a major role in the development of San Diego.

The success of this unique community is an example of what happens when people take pride in their neighborhood—a community made up of friends and families that work hard every day for the betterment of the residents and especially the children.

San Ysidro Neighborhood History Day was celebrated with exhibits about the history of San Ysidro, the unveiling of murals by the children of San Ysidro, and a theatrical performance. I have been working with the community of San Ysidro since my days on the San Diego City Council to help the community foster pride in its diversity and culture. I was proud to participate with the community in recognizing San Ysidro Neighborhood History Day.

LETTER IN RESPONSE TO THE POMBO-SOLOMON AMENDMENT

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. SOLOMON. Mr. Speaker, I would like to bring to your attention a letter I received in response to the Pombo-Solomon amendment which passed overwhelmingly in the House last week. The letter, in support of the amendment, is from Rear Adm. Joseph F. Callo, a Yale University alumnus.

JUNE 14, 1995.

Hon. GERALD B.H. SOLOMON,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN SOLOMON: I support your efforts to block all federal financial aid to schools that deny ROTC on campus.

The intellectual dishonesty of the campus groups that argue for the ban of ROTC, and other military activities on campus, is appalling. I am also deeply saddened by a faculty and administration that supports those efforts. My distress is heightened by the following:

As an undergraduate at Yale, I learned the importance of objectivity, intellectual consistency and rationality. Each of these qualities has been trampled by those pursuing, or supporting, the anti-ROTC efforts.

As a former NROTC student at Yale, I know first hand of the high academic quality of that program.

As a taxpayer, I protest using my tax money to support the students, administration and faculty involved in these efforts.

As an alumnus of Yale, I am aware of the significant contributions to national defense made through the years by members of the Yale community—including in some instances, the sacrifice of their lives. The efforts of those advocating, or supporting, the ban of ROTC units on the campus are an obscenity in the face of those contributions.

Please continue your efforts.

Sincerely,

JOSEPH F. CALLO,
Rear Admiral, USNR (Ret).

CONGRATULATIONS TO DR. DONALD E. JARNAGIN

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. STUMP. Mr. Speaker, it is a pleasure for me to recognize that a good friend and fellow native Arizonan, Dr. Donald E. Jarnagin, of Glendale, Arizona, is being inducted as the 74th President of the American Optometric Association today by his colleagues at their 98th Annual Congress in Nashville, Tennessee.

Don's accomplishment are most impressive and extend past his field of optometry. He is a graduate of Southern California College of Optometry in Fullerton, California, and has held numerous elective and appointed positions in his professional career. Prior to first being elected to the American Optometric Association Board of Trustees in 1987, Don served as the Central Arizona Optometric Society's President and then went on to become President of the Arizona Optometric Association.

Active in his community, Don is a former president of the Glendale Rotary Club and has been appointed a member of the City of Glendale Charter Review Committee. He chaired the City of Glendale Housing Authority and has also been active in the Glendale Chamber of Commerce.

I am pleased to join Don's family, many friends and colleagues in congratulating him on his induction today. From his many years of friendship and counsel, I know that he will be an outstanding AOA President, and will do a great job in leading the Association in its efforts to improve our Nation's vision care.

IMPORTANT NEWS ON THE DRUG ISSUES

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 27, 1995

Mr. SOLOMON. Mr. Speaker, I would like to share with you some important news on the drug issue. In April of this year, the U.S. Sentencing Commission recommended that Congress end the sentencing disparity between powder cocaine and crack cocaine. Congress ought to ignore this politically correct suggestion and reaffirm its well-considered position that offenses involving crack cocaine deserve more severe punishment than those involving powder cocaine.

Under current Federal law, there is a 100:1 powder/crack ratio. That is, possession or distribution of 100 grams of powder is treated as the equivalent of possession or distribution of one gram of crack for sentencing purposes. Therefore as the law currently stands, a first-time offender involved with one gram of crack would receive the same 5-year mandatory minimum sentence as another first-time offender arrested for an offense involving 100 grams of powder cocaine.

The Sentencing Commission recommends that Congress rewrite the law and treat crack and powder cocaine on an equal basis. Evidently, some members believe that there is no reason for the disparity. In my opinion, Congress in the 1980's reacted properly to the crack epidemic gripping vulnerable innercity communities. This body saw the destruction wrought on entire communities by this cheap and highly addictive form of cocaine and decided that crack offenses ought to be punished more severely than powder offenses because of the violence associated with the use and trafficking of crack.

I would alert my colleagues that there is another way to achieving equal treatment of crack and powder cocaine: Instead of lowering the penalties for crack offenses, as the Sentencing Commission proposes, we should increase the punishment for powder offenses. The advantages would be two-fold: First, it would prevent opponents from playing the "race card." Second, it would stiffen the penalties for cocaine offenses, which are currently far too lenient.

Whatever path is taken—maintaining the current ratio—or mildly reducing it—or raising the penalties for powder offenses to achieve equal treatment—one point must be emphasized: Congress must do something. For if Congress fails to address the hasty recommendation offered by the Sentencing Commission, it will automatically become law on November 1, 1995.

Mr. Speaker, at this time I would submit into the CONGRESSIONAL RECORD a position paper on this subject drafted by Drug Watch International.

ALERT, JUNE 1995

A massive federal decriminalization of the most dangerous drug destroying our communities and feeding the wave of inner-city violence is poised to become law! And it will happen automatically on November 1, 1995, unless Congress stops it.

Crack dealing, even in large amounts, is about to be 99 percent decriminalized.

The greatest weapon used by federal prosecutors to protect urban, inner-city communities from gangs and gang violence will be 99 percent defused.

Who will benefit? Gang leaders and crack dealers whose business and activities are already destroying the lives and the future of one of the most vulnerable segments of our society.

Who will be hurt? The children of crack addicts who will continue to have everything of value in their households, including the money for food and clothing, and sometimes even their own bodies, given or sold by their parents to crack dealers for just one more fix. And the other helpless hostages of gangs in communities in which the most violent predators among them will be able to walk

in the open with more confidence as they build their empires of drugs and violence.

How will it happen? The United States Sentencing Commission, which sets the guidelines federal judges must follow in imposing sentences, has recommended that the sentencing guidelines for crack offenses be reduced to equal the far lesser penalties for cocaine powder. Currently, one unit of crack is treated as the equivalent of 100 units of cocaine for sentencing purposes. That 100:1 ratio is also embodied in the federal mandatory minimum sentences, which provide a mandatory five year sentence for offenses involving five grams of crack (or 500 grams of cocaine), and 10 years for 50 grams of crack (or 5 kilograms of cocaine).

By law if Congress takes no action to stop it on November 1, 1995 it will take 100 times as much crack in an offense to get the same sentence as today. The Sentencing Commission recommendation will pass automatically. That is the way Congress set it up. Therefore, no one will be on the record favoring a massive decriminalization. It will just sneak on through and become law.

Effective investigation and prosecution of organized gang crimes invariably requires the undercover assistance and later trial testimony of gang members who have access to the gang's leadership and knowledge of the gang's inner workings. Such key gang insiders only agree to cooperate with agents and prosecutors when they fear federal sentences more than they fear and are loyal to their fellow gang members. Gangs thrive in prisons, and short prison sentences only give gang members a chance to advance in rank and return to the streets with more power than when they went in. Only very long sentences can remove the smirk from a hardened gang member's face and make him even consider helping the police.

If the sentences for crack crimes are reduced as proposed, the smirk will return. The threat will go out of federal sentences. Agents and prosecutors will be largely disarmed in their fight against the most dangerous and destructive predators in our cities.

Some people believe the drug laws are too harsh on those predators, and want to ease up on the federal pressure on gangs. At the moment, those sympathizers are in control. Only Congress can stop them, but most members of Congress may not even be aware of or understand the threat, so they will do nothing. Which means the decriminalizers win, automatically!

For the sake of the most vulnerable in our society, we must not let that happen!

The penalties for cocaine powder should be raised to equal those of crack, not the other way around.

SENATE—*Wednesday, June 28, 1995*

(Legislative day of Monday, June 19, 1995)

The Senate met at 8:40 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Gracious Lord, we begin the work of this day with awe and wonder. You have chosen and called us to know, love, and serve You. Through the years You have honed the intellect, talent, and ability You have entrusted to each of us. With providential care You have opened doors of opportunity, education, culture, and experience. Most important of all, You have shown us that daily You are ready and willing to equip us with supernatural power through the anointing of our minds with the gifts of Your Spirit: wisdom, knowledge, discernment, and vision of Your priorities.

When we ask You, You reveal Your truth and give us insight on how to apply it to specific decisions before us. We say with the Psalmist, "In the day when I cried out, You answered me, and made me bold with strength in my soul."—Psalm 138:3.

We thank You that in a time of restless relativism and easy equivocation, You make us leaders who are intrepidly bold in the fecklessness of our time. Now, as the Senators press on to the votes and responsibilities of this day continue to give them the boldness of Your strength in their souls, manifested in conviction and courage. In Your holy name. Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

PRIVATE SECURITIES LITIGATION REFORM ACT

The PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 240, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 240) to amend the Securities and Exchange Act of 1934 to establish a filing deadline and to provide certain safeguards to ensure that the interests of investors are well protected under the implied private action provisions of the act.

The Senate resumed consideration of the bill.

Pending:

Boxer amendment No. 1480, to exclude insider traders who benefit from false or misleading forward looking statements from safe harbor protection.

Specter amendment No. 1483, to provide for sanctions for abuse litigation.

Specter amendment No. 1484, to provide for a stay of discovery in certain circumstances.

Specter amendment No. 1485, to clarify the standard plaintiffs must meet in specifying the defendant's state of mind in private securities litigation.

Mr. D'AMATO. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 1483

Mr. D'AMATO. Mr. President, I move to table the Specter amendment, numbered 1483, and I ask for the yeas and nays.

The PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDENT pro tempore. The question is on agreeing to the motion to table the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. BOND (when his name was called). Present.

Mr. LOTT. I announce that the Senator from Mississippi [Mr. COCHRAN] and the Senator from Kansas [Mrs. KASSEBAUM] are necessarily absent.

Mr. FORD. I announce that the Senator from Louisiana [Mr. JOHNSTON] and the Senator from Arkansas [Mr. PRYOR] are necessarily absent.

The result was announced—yeas 57, nays 38, as follows:

[Rollcall Vote No. 291 Leg.]

YEAS—57

Abraham
Ashcroft
Bennett
Breaux
Brown
Burns
Campbell
Chafee
Coats
Cohen
Conrad
Coverdell
Craig
D'Amato
Daschle
Dodd
Domenici
Exon
Faircloth
Feinstein
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Hatfield
Helms
Hollings
Hutchison
Inhofe
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McCain
McConnell
Mikulski
Murkowski
Murray
Nickles
Nunn
Pressler
Reid
Robb
Rockefeller
Santorum
Shelby
Simpson
Smith
Thomas
Thompson
Thurmond
Warner

NAYS—38

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Bryan
Bumpers
Byrd
DeWine
Dole
Dorgan
Feingold
Glenn
Graham
Harkin
Hatch
Heflin
Inouye
Jeffords
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Moseley-Braun
Moynihan
Packwood
Pell
Roth
Sarbanes
Simon
Snowe
Specter
Stevens
Wellstone

ANSWERED "PRESENT"—1

Bond

NOT VOTING—4

Cochran
Johnston
Kassebaum
Pryor

So the motion to table the amendment (No. 1483) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1484

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes for debate equally divided on the second Specter amendment, 1484, to be followed by a vote on the amendment. Who yields time?

Mr. SPECTER. Mr. President, before my 2 minutes commence, may we have order in the Chamber.

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this amendment would leave it to the discretion of the trial judge, as the Federal judges have discretion in all other cases, to decide whether there ought to be discovery after the defense files a motion to dismiss. The judges currently have the full authority to stop discovery if it is inappropriate.

What is happening here, as with many of the other rules changes in the bill, is a wholesale revolution in the way securities cases are handled without having followed any of the usual procedures prescribed by law under which the Supreme Court of the United States establishes the rules after hearings and consideration by advisory committees and recommendation from the Judicial Conference, and without ever having had the Committee on the Judiciary consider these issues.

It is true that there are some frivolous lawsuits which are filed in America today, but we are dealing here with

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

an industry which in 1993 had transactions on the stock exchanges of $3.663 trillion, new issues of $54 billion, and the savings of many small investors and the proverbial widows and orphans at risk.

The Securities and Exchange Commission does not have the resources to handle all the potential violations as enforcement matters. That is why there are private actions. When you take a look at the lawyers' fees, they are a pittance compared to the over $3.6 trillion involved. What is happening here, Mr. President, is we are not throwing the baby out with the bath water. We are throwing out the entire family with the bath water.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, if we are going to talk about the securities industry we should talk about its role in capital formation, in fact the securities industry is an integral part of the American system—and that system is now being ripped off. As a matter of fact, one law firm does handle about 30 percent of all this litigation. They go out and hire plaintiffs, they have lists of plaintiffs to chose from, and then they race to the courthouse.

Let me tell you, once they bring the suit, firms feel they have to surrender. In 93 percent of the cases brought, people give up. Do you know why? Because the average case costs you $6 million to defend; so even if you win you lose.

So the defendants are forced to settle before costs get too high. The people, the small investors get nothing back. The law firm rakes in the settlement. No wonder the lawyers want to keep the system the same.

Now, let me tell you something what this legislation says on staying discovery. When a person makes a motion to dismiss, "discovery and other proceedings shall be stayed unless the Court finds, upon the motion of any other party, that particularized discovery is necessary to preserve evidence."

So you can stay discovery unless the court rules against that motion. If you cannot stay discover, however, then they are in there fishing, fishing, fishing, until they find any piece of evidence to force corporate America to give up, to surrender. The little guy is not protected by this process. The interest of a group of entrepreneurial lawyers is advanced. This amendment would continue that system and let those lawyers continue to go out fishing and keep corporate America held hostage. It is about time we freed them.

Mr. President, if all time has been yielded back, I move to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment No. 1484, offered by the Senator from Pennsylvania, [Mr. SPECTER]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BOND (when his name was called). Present

The result was announced—yeas 52, nays 47, as follows:

[Rollcall Vote No. 292 Leg.]

YEAS—52

Abraham
Ashcroft
Bennett
Breaux
Brown
Burns
Chafee
Coats
Coverdell
Craig
D'Amato
Daschle
Dodd
Dole
Domenici
Faircloth
Feinstein
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Helms
Hutchison
Inhofe
Johnston
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Pressler
Pryor
Reid
Simpson
Smith
Stevens
Thomas
Thurmond
Warner

NAYS—47

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Bryan
Bumpers
Byrd
Campbell
Cochran
Cohen
Conrad
DeWine
Dorgan
Exon
Feingold
Glenn
Graham
Heflin
Hollings
Inouye
Jeffords
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
McCain
Moynihan
Nunn
Packwood
Pell
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Snowe
Specter
Thompson
Wellstone

ANSWERED "PRESENT"—1

Bond

So the motion to table the amendment (No. 1484) was agreed to.

Mr. BENNETT. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1485

The PRESIDING OFFICER. Under the previous order, there will now be 4 minutes for debate equally divided for the third Specter amendment No. 1485, to be followed by a vote on or in relation to the amendment.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I have asked my colleagues to listen to this amendment. In the well of the Senate, I won several votes, finally having received a hearing on the last amendment.

What this amendment does is to accept the very stringent standard of the second circuit on pleading to show state of mind, and then it adds to the legislation the way the second circuit says you can allege the necessary state of mind.

The bill, quite properly, tightens up the pleading standards by establishing the most stringent rule of any circuit. The committee report takes pride and says that the committee does not adopt a new and untested pleading standard but takes the second circuit standard. But then in four lengthy, well-reasoned opinions, the second circuit has said this is how you can allege the required state of mind. They set two ways down to prove it, which I would like to read to you but I do not have time.

All this amendment does is says that when you take the second circuit standard, admittedly stringent, this is how you get it done—not the exclusive way—but the way you get it done. In asking the managers and the proponents of the bill, I have yet to hear any reason advanced why this is not sound, even after they conferred with their staffs.

This is just basic fundamental fairness that if you take the second circuit standard, you ought to take the entire standard, which is very tough on plaintiffs to establish state of mind, which is hard to prove. How do you get into somebody else's head? But at least when the second circuit says this is the way it ought to be done and the bill says let us make it really tough, at least let the plaintiff know how they are going to be able to plead it by the way the second circuit itself permits.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from New York.

Mr. D'AMATO. Mr. President, I know that the proponents of this legislation are attempting to stop the kind of litigation that has made securities cases a sham. This amendment goes too far, however, because it actually tells the court how to interpret S. 240's pleading standards. S. 240 codifies the second circuit pleading standard, but this amendment goes further, to say precisely what evidence a party may present to show a strong inference of fraudulent intent. I think this straitjackets the court.

Having said that, I could accept referring to the courts interpretation, but I think we are going too far if we adopt the language that the court referred to because it would tie the courts hand by forcing it to ask that plaintiffs prove exactly the delineated facts; alleging facts to show the defendant had both the motive and opportunity to commit fraud and by alleging facts that constitute strong circumstantial evidence.

To be quite candid with you, I think it places too great a burden on the plaintiffs, and I have a difficult time understanding how the Senator from

Pennsylvania feels that this would add fairness to this process. We tried to be balanced in setting this standard, that is why we did not straitjacket the court with the language in this amendment.

Mr. President, I am not going to move to table. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1485, offered by the Senator from Pennsylvania [Mr. SPECTER]. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. BOND (when his name was called). Present.

The result was announced—yeas 57, nays 42, as follows:

[Rollcall Vote No. 293 Leg.]

YEAS—57

Abraham
Akaka
Baucus
Biden
Boxer
Bradley
Breaux
Bryan
Byrd
Chafee
Cochran
Cohen
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
Lugar
Mack
McCain
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Packwood
Pell
Pryor
Robb
Rockefeller
Roth
Santorum
Sarbanes
Shelby
Simon
Snowe
Specter
Wellstone

NAYS—42

Ashcroft
Bennett
Bingaman
Brown
Bumpers
Burns
Campbell
Coats
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Helms
Hutchison
Inhofe
Kempthorne
Kyl
Lott
McConnell
Murkowski
Nickles
Pressler
Reid
Simpson
Smith
Stevens
Thomas
Thompson
Thurmond
Warner

ANSWERED "PRESENT"—1

Bond

So the amendment (No. 1485) was agreed to.

Mr. SARBANES. Mr. President, I move to reconsider the vote.

Mr. D'AMATO. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1480

The PRESIDING OFFICER. Under the previous order, there will be 7 minutes of debate on the Boxer amendment, with 5 minutes under the control of Senator BOXER and 2 minutes under the control of the Senator from New York, to be followed by a vote on or in relation to the amendment.

Mrs. BOXER. Thank you, Mr. President. My colleagues, I will make this very brief and, I hope, interesting, because I think it is an interesting issue that is raised by the Boxer amendment. This is the last Boxer amendment on this bill, I am happy to say.

I think we have shown in this Chamber we can be very tough on crime. Today I am giving Members a chance to show we can be tough on white-collar crime. I am afraid if we do not adopt this amendment, we are opening the door to insider trading, which could really hurt a lot of small investors.

My amendment simply says that you do not get the benefit of the safe harbor in S. 240 if you are an insider trader who personally profits in connection with the issuance of a false and misleading statement.

Let me show a couple of real examples. Here is the company called Crazy Eddie. Some may remember. What happened here? The insiders bought a lot of the stock, it went up, and at the peak, they started selling it after they made a false and misleading statement: "We are confident that our market penetration can grow appreciably. Growing evidence of consumer acceptance of the Crazy Eddie name augurs well for continuing growth." They get out, and the top officer flees the country with millions of dollars. The CEO is convicted of fraud. Under this bill, the safe harbor would apply to these people.

I will show another quick example. Here is another company, T2 Medical. They said: "T2 plans to lead the way through the 1990's. We expect steady revenue in earnings growth." Then there is a bad report about the company, which they obviously knew because they get out of the stock. It goes down and all the stockholders are left holding the bag.

What we are basically saying is, if you are an insider and you benefit, you should not have the benefit of the safe harbor under this bill.

I want to tell Members what the opponents of my amendment have said. First, they said my definition of insiders is too broad. Nothing could be farther from the truth. It is a boilerplate. It is the corporation, it is the officers, and the board of directors. That is what insiders are.

Then they say, "But, Senator, you include purchases as well as sales." Anyone who follows the stock market knows that insiders often purchase the stock of a company before the false and misleading statement so they can get in at a cheap price.

The last thing they have said is that, "Gee, this is covered by another statute." That is not true. Only if you happen to buy the specific shares that the insider sells you, are you covered in another statute. If you are an ordinary shareholder, a small investor, you get hit, because these guys run away with all the money, the stock, plus you are left holding the bag.

I want to show one article here. If Members are wondering whether insider trading is common now—because we heard about it in the 1980's—let me tell Members about it. Saturday, in the Los Angeles Times, "Insider-Trading Probes Make a Comeback." "'We have more insider-trading investigations now than at any time since the takeover boom in the 1980's,' says Thomas Newkirk, Associate Director of Enforcement for the Securities and Exchange Commission."

Then I thought this statement by Gary Lynch, who, as chief of enforcement at the SEC in the 1980's, brought about the investigations of Boesky and Milken: "What's happening now is exactly what everyone predicted back in the '80's: That with the number of high profile cases brought, the incidence of insider trading would decline for a while, but as memories dulled, insider trading would pick up again," said Lynch. "The temptation is too great for people to resist."

So, insider trading is back. We should not have a safe harbor for these people. Forty-eight Members voted for one of the Sarbanes amendments, which would have taken another look at this safe harbor. It did not pass.

I say to my friends who voted against that, the least those Members can do is narrow the safe harbor for people who profit, who make false and misleading statements. I want to say that again: The only people who would not get the safe harbor in S. 240 under the Boxer amendment are those insiders who personally profit in connection with the issuance of a false and misleading statement.

I urge my colleagues, please stand up against white-collar crime. I think this is a very good amendment Members could be proud to support. I yield the floor.

Mr. D'AMATO. Mr. President, I yield 1½ minutes to the Senator from Utah.

Mr. BENNETT. Mr. President, I hesitate to challenge my friend from California. She has a background as a stockbroker. This is an area where she has great expertise.

I must share with Members my own experience in trying to recruit directors for a company that would become a public company. They said, "The grief that goes with being a director under the present law is so overwhelming that I simply do not need it. I will not accept appointment as a director." The only way we could change their minds was to assure them that we had 20 million dollars' worth of officer and director insurance.

I know from my own experience as a director of a public company that the present law is very stringent and, in my opinion, adequate. I am forbidden, as a director, to buy or sell any securities 30 days prior to a public announcement of our earnings, and, after the announcement has been made, for another 48 hours after that announcement, I cannot enter the market to either buy or sell under the present law.

In my opinion, the present law is sufficient. The kind of people that are being talked about in the article that she offers from the Wall Street Journal are breaking the law now and we do not need the redundancy of the Boxer amendment.

Mr. D'AMATO. Let me say, first of all, insider trading is prohibited by section 10(B) and rule 10b-5 of the Federal securities laws. What this amendment does is destroy the safe harbor, absolutely destroys it. Any small company that pays a director with stock options will be effectively excluded from the safe harbor. All the plaintiff would have to do is allege wrongdoing to bring a suit, which will open up this whole area to continued litigation. This is a carefully crafted amendment which would destroy what we are attempting to do, which is to free corporate America from a group of bandits.

Mr. President, I move to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. BOND (when his name was called). Present.

Mr. FORD. I announce that the Senator from Nevada [Mr. REID] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 294 Leg.]

YEAS—56

Abraham
Ashcroft
Baucus
Bennett
Bingaman
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Faircloth
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Helms
Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kyl
Lieberman
Lott
Lugar
Mack
McConnell
Murkowski
Nickles
Packwood
Pell
Pressler
Roth
Santorum
Shelby
Simpson
Smith
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—42

Akaka
Biden
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Graham
Heflin
Hollings
Inouye
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
McCain
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pryor
Robb
Rockefeller
Sarbanes
Simon
Snowe
Specter
Wellstone

ANSWERED "PRESENT"—1

Bond

NOT VOTING—1

Reid

So the motion to table the amendment (No. 1480) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BENNETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COHEN. Mr. President, I rise today to express some concerns I have regarding S. 240, the Securities Litigation Reform Act of 1995, as reported by the Banking Committee.

The laudable goal of this legislation has been to reform the securities litigation system to curb frivolous lawsuits. I strongly support the goal of deterring meritless securities class action lawsuits and believe that there is room for constructive improvement in the current Federal securities litigation process. In some instances, meritless class action cases can be costly to defend against and may impose large and unnecessary costs on issuers and other participants in the market. In other cases, small investors themselves are taken advantage of by overzealous attorneys.

Nevertheless, in our quest for reform, it is crucial that we do not undermine the right of investors, particularly small investors, to protect themselves against unscrupulous swindlers who use grossly exaggerated claims to lure investors. Private litigation under Federal securities laws is an important complement to the SEC's enforcement program. We must not curtail legitimate rights of the investor to litigate.

Over the past several weeks, an intense battle has been waged over the airwaves on the merits and motives of this legislation. At times, these assaults have been aimed not only at the bill's provisions, but at its sponsors as well, with insinuations that supporters of S. 240 are intentionally protecting securities fraud and are against senior citizens. Unfortunately, once again mass media lobbying campaigns have distilled a complex, and I believe earnest, reform effort into a white hat or black hat screenplay, casting anyone who supports this branded bill an enemy of senior citizens. Somewhere in this heated debate, I believe that a balance must be achieved that protects the rights of defrauded investors while also providing relief to aboveboard companies who might find themselves the target of meritless or frivolous lawsuits.

Mr. President, as chairman of the Senate Special Committee on Aging, and as a strong advocate of consumer protections against the elderly, I suggest that there can and should be some middle ground. I am extremely concerned about issues that affect the welfare of our senior citizens and, in particular, about fraudulent and abusive practices that are directed against them. The Aging Committee has held a series of hearings on the special needs and issues facing the small, and often unsophisticated, investor. As interest rates declined over the last decade, the quest for higher yields has intensified, particularly among senior citizens who often rely on their investments as a principal means of support. Many of them are low- and middle-income retirees who have worked hard for their pensions, and who must now make these pensions stretch over two or even three decades.

Retirees and others know they can invest in CD's with long periods of maturity, but they are reluctant to tie up their money fearing that they may have to tap into their savings for a major operation, expensive drugs, or some other emergency. As a result, the lucrative securities market became a popular choice for the small, but often financially unsophisticated and inexperienced, investor.

For the first time in American history, investment company assets have surpassed commercial bank deposits. The percentage of U.S. households that own mutual funds has more than quadrupled since 1980, with over 38 million Americans investing in those funds. One out of three American families now have investments in mutual funds or the stock market. While this mass movement into the securities market has provided new opportunities for investors, it has also increased risk, led to a great deal of confusion, and, unfortunately, created opportunities ripe for fraud by securities dealers who misrepresent risks to unsuspecting investors.

Our Aging Committee hearings showed that low interest rates create an environment in which small investors are susceptible to outright investment fraud and abusive sales practices. Senior citizens are not the exclusive prey of these market manipulators, but one factor makes scamming the senior citizen small investor particularly odious: Younger Americans can restore some or all of their losses through new earnings, while seniors' savings are not a renewable resource. Accordingly, scammed seniors living on fixed incomes cannot write their losses off as a lesson learned for the future. Instead, their financial losses may be the loss of their entire future.

Our Aging Committee investigation and hearings revealed a wide range of small investor frauds, from penny stock scams to large mutual fund companies deceptively peddling junk bonds. Our hearings also examined the questionable marketing practices of some banks that sell uninsured investments, such as mutual funds, annuities and stocks. While we should not close the door to banks wanting to sell securities, the hearing pointed out the special dangers and problems that this trend in banking presents, namely that there is tremendous potential for confusion by bank customers about the safety and nature of the investments they are buying. As bank customers are swayed more toward uninsured investments, we must ensure that they are fully informed of the risks inherent in some of these investments and have adequate opportunity to seek redress remedies if they are intentionally misled into these investments.

I cosponsored S. 240 as introduced to indicate my support for securities litigation reform efforts. Frivolous lawsuits have become all too common. I have concerns, however, that the bill reported by the Banking Committee does not strike the appropriate balance between securities litigation reform and investor protection.

First, I question whether the safe harbor provisions of the revised S. 240 may make it very difficult to sue when intentionally misleading information clauses investors to suffer losses. The original S. 240 directed the SEC to develop regulatory safe harbor rules for forward-looking statements. The new version of S. 240, however, establishes statutory safe harbor rules. I am concerned that these rules would unwisely protect even some fraudulent statements that were made knowingly.

I have concerns that the revised version of S. 240 would leave defrauded investors with the nearly insurmountable task of establishing a corporate executive's actual intent, and that a few carefully placed disclaimers could provide a legal protection for misleading statements that were made knowingly.

I believe that the SEC should be given an opportunity to fashion a safe harbor that strikes the proper balance.

Finally, S. 240 as reported dropped the extension of the statute of limitations for private securities fraud actions contained in the original bill. I believe that the extension should have been retained in order to tip the balance of reform more toward investor protections.

I believe that the Banking Committee deserves much credit for addressing some of the major concerns with the original S. 240. The bill before us, for instance, contains no loser-pays provision, a provision of the original bill which caused me concern.

Mr. President, the challenge before us today is to identify ways to make the legal system more balanced and efficient. We must sift through the dueling advertisements and challenges of "pro-Keating" and "antisenior" on one side and challenges of "antibusiness" and "antireform" on the other. An appropriate balance between the rights of investors to hold companies responsible for wrongdoing and the need of the companies to be protected from costly, meritless litigation must be achieved.

I believe that the safe harbor rules should be implemented by regulation rather than statute. The regulatory process allows for full and fair comment by all sides to determine appropriate safe harbor rules. Also, once established, regulatory safe harbor rules offer greater flexibility than would statutory ones. In the fast-changing world of investment finance, this flexibility is important.

I wish that S. 240 retained the original safe harbor provision; because it does not, however, I regret that I can no longer support this bill.

Mr. FEINGOLD. Mr. President, the legislation currently before this body, S. 240, the Private Securities Litigation Reform Act of 1995, is very important for two reasons. First, what it seeks to achieve and second, what in actuality it will achieve if passed in its current form.

One of the stated purposes of this legislation is to curb abusive lawsuits—so-called strike suits where lawyers seek to get rich quick by preying on a company which suffers a loss in value. That is what this legislation seeks to do and no one can quarrel with this goal. The interests of the American people and the integrity of the American legal system are not served by meritless lawsuits which drain precious resources from our national economy. This is true not just in the context of securities fraud, but also in the areas of product liability, of medical malpractice, in short, in every field of American jurisprudence. Frivolous lawsuits should be discouraged.

However, what this bill will actually do is limit the rights of investors to recover money they lose due to fraud. Unfortunately, as many of colleagues have already pointed out, this legislation fails to properly balance the goal of stopping frivolous lawsuits with the need to preserve the rights of legitimate investors to recover in cases of securities fraud.

It is important to note that the laws this legislation amends, the Securities Act of 1933 and the Securities Exchange Act of 1934, were the direct result of the Great Depression. As the report to S. 240 points out—the goal of these laws was to promote investor confidence in the securities markets. Unfortunately, the legislation we are now considering will erode, not enhance, investor confidence.

I want to touch briefly upon a few areas that I find particularly problematic.

SAFE HARBORS FOR FORWARD LOOKING STATEMENTS

The pending legislation contains a so-called safe harbor provision for forward looking statements. I support the notion that full and candid disclosure regarding the potential of a given company is beneficial, not only to the potential investors but also to the companies involved. Candor, however, should not be confused with fraud. The standard established by S. 240 makes only the most blatantly fraudulent statements subject to liability. The standard of proof is so high that the private plaintiff who actually prevails will be rare indeed.

I might add that the Chairman of the Securities and Exchange Commission, Arthur Levitt, in a letter dated May 25 said in regard to this provision:

> . . . I cannot embrace proposals which allow willful fraud to receive the benefit of safe harbor protection. The scienter standard in the amendment is so high as to preclude all but the most obvious fraud.

It is one thing to protect statements that are made in good faith, without intent to defraud, it is another issue altogether to protect people based upon the standard contained in this legislation.

The appropriate approach, ironically the approach contained in the original bill, is to allow the SEC to complete the rulemaking process—to review comments and testimony—and determine the proper scope of the safe harbor. Unfortunately, this commonsense approach has given way to an expansive exemption for all but the most egregious statements. This is unfortunate. While we clearly want to protect companies from being dragged into court over every comment or remark they make, we do not and should not protect those who engage in fraud at the expense of innocent investors.

This is not an either-or proposition. The language of S. 240 seems to suggest that the only way to truly protect the company is to also limit the rights of investors.

I suggest this is far from the truth. The original S. 240 contained the proper approach. We should return this function to the SEC, let them do their work and adopt guidelines for a safe harbor which protects companies and investors, but not those who deal in fraud. The purpose of this legislation is to eliminate fraudulent behavior, not to protect it.

STATUTE OF LIMITATIONS

Another area of this legislation which does a disservice to the millions of Americans who invest in securities is the failure to extend the statute of limitations from bringing an action based upon securities fraud.

Under existing law, as a result of a U.S. Supreme Court ruling in Lempf versus Gilbertson, the prevailing statute of limitations is 1 year from discovery of the violation or no more than 3 years from the date of the violation. This period is far too short. The complexity of these cases necessitates an extension of this limitation.

Once again, S. 240 had the proper solution when it was introduced, yet as reported, the bill sustains the woefully inadequate status quo. The original bill extended the statute of limitations to 2 years from the date of discovery and 5 years from the date of violation. The amendment of the Senator from Nevada, Senator BRYAN, would have adopted this equitable standard.

With the exception of criminal offenses, all causes of action in the American legal system are subject to a statute of limitations. The theory being that while we want to give plaintiffs an adequate opportunity to recover, people should not live forever under the threat of litigation. The Bryan amendment recognized this and would have achieved that important balance.

The current statute of limitations goes beyond being fair to potential defendants. In fact, as Chairman Levitt pointed out in testimony, the current statute of limitations rewards those perpetrators who conceal their fraud for only 3 years.

I might also note, that in regard to those handful of attorneys who thrive on frivolous litigation, the statute of limitations is of little concern.

If, as we have heard during this debate, attorneys simply scan the newspapers looking for companies reporting bad news, then fill in the blanks on their boiler plate complaints and rush to the courthouse within days of the news reports, what difference does the statute of limitations make?

But for the innocent investor, who is saving for retirement, or to put children through college, or maybe just trying to live a little better life, it may mean the loss of a lifetime of hard work and savings. The failure to extend the statute of limitations will result in legitimate plaintiffs, through no fault of their own, being foreclosed from any recovery. The statute of limitations does matter to the average American investor—it matters a great deal.

AIDING AND ABETTING

One final area that I want to touch upon is the liability of aiders and abetters, those lawyers, accountants and other professionals who assist primary wrongdoers in committing securities fraud. The private cause of action against aider and abettors, is a necessary tool in deterring securities fraud.

Until last year, this private cause of action was available in every circuit in America, provided that the assistance was substantial and had some element of deception or recklessness. However, the Supreme Court eliminated this private right.

Why should aiders and abettors, those people who profit from the fraud, why should they escape culpability? The answer to this question, and it should be obvious to all, is that they should not escape responsibility.

Critics argue that these other professionals work behind the scenes and do not communicate directly with investors—in essence critics argue they are simply doing their jobs on someone elses behalf. Well, in my view there is a vast distinction between vigorously representing your client and perpetuating that client's fraudulent actions.

And that is what we are talking about here—instances where aiders and abettors act recklessly or knowingly in perpetrating fraud. The SEC has been very clear on this issue. Chairman Levitt came to the Senate and indicated that the conduct in question, aiding and abetting, should be deterred and that in light of the Supreme Court's holding, the only effective way to do this is for Congress to act.

I have yet to hear a salient argument as to why a professional—and these are professionals, lawyers, accountants, bankers—who recklessly or knowingly perpetrates a fraud on any investor should escape liability simply because they are not the primary defendant.

CONCLUSION

Mr. President, we have heard from all sides of this debate a constant refrain that we must reign in frivolous lawsuits. I agree with that objective, but the legislation before us is not a balanced approach. It hurts the average American investor, by limiting access to the courts, and limiting the ability to recover money that others have fraudulently taken from them.

I want to commend my colleagues from Maryland, Nevada, and California, as well as my colleague from Alabama for their efforts in improving this legislation. They have offered a number of amendments that could have improved this legislation. The amendments were uniformly rejected—that is regrettable.

This bill is important, and I had hoped that we could end up with legislation which we could all support. However, unless the protection of the average American investor is given greater consideration, I cannot support this legislation.

Mr. KERRY. Mr. President, the legislation the Senate has been considering these past few days has been the subject of intense debate. While the legislation would appear to be rather dry and technical, its effect extends to a wide range of interests. Fraudulent actions by management can destroy an individual investor's retirement nest egg; likewise, a frivolous suit filed against a start-up high-technology company can stop that business dead in its tracks.

Most of us would agree that our goal here is to strike a balance. I have been mindful that there are investors on both sides of the equation, and I have listened carefully to their concerns. I have also spoken with SEC Chairman Arthur Levitt about his agency's concerns and recommendations about enforcing our securities laws.

Me and my staff have met regularly with the high-technology community in Massachusetts on this issue. This sector, which has been the most frequent target of strike suits, is critical to our economic growth and the creation of highly skilled, family-wage jobs. I want this sector to continue to grow and prosper, but frivolous strike suits have a truly chilling effect on start-up high-technology, bio-technology, and other growth businesses. The committee report states: "small, high-growth businesses—because of the volatility of their stock prices—are particularly vulnerable to securities fraud lawsuits when projections do not materialize." Companies in Massachusetts and elsewhere have been hurt, but more importantly the people in those companies—from the CEO's on down—have been hurt by such strike suits.

I can also cite cases where companies in Massachusetts repeatedly misrepresented sales, senior executives had to resign, and some of the companies went bankrupt. In one case a company paid an analyst for a leading national business magazine to publish a favorable report about its projected sales and earnings. Cases remain pending against some of the auditors, so I will not mention names. These fraudulent actions resulted in hundreds if not thousands of investors losing significant amounts, if not all, of their investments. The point is: It is not difficult to find instances of abuse on both sides of the issue.

There is no doubt that this is an extremely complex area of the law, where minor word changes can produce major consequences. For example, directing plaintiffs to plead particular facts demonstrating the state of mind of each defendant at the time the alleged violation occurred seems reasonable to defendants. But for plaintiffs, this standard is more like having to clear a pole vault bar than a high hurdle. I am pleased the committee adopted my amendment regarding the pleadings standard, and believe this example demonstrates the need for careful consideration of the effect of seemingly minor word changes in this area. That is why I believe it is of the utmost importance that we proceed cautiously in amending our Nation's securities laws.

As the committee report notes: "S. 240 is intended to encourage plaintiffs' lawyers to pursue valid claims for securities fraud and to encourage defendants to fight abusive claims." According to some securities litigators, the legislation as presently construed will make it more difficult to pursue frivolous cases, but not impossible to pursue valid ones, as some have argued during this debate. This legislation should also strengthen the hand of businesses in responding to suits they view as abusive by reducing the incentive they claim the present system imposes upon them for early settlement. If the committee's expectations prove true in practice, then I believe we will have achieved the balance we sought with regard to the initiation of so-called strike suits.

My outstanding concerns with this legislation lie at the conclusion of the process, where it is unclear whether we have achieved a balance comparable to that established at the outset. In light of the limitations on joint and several liability and in aiding and abetting in private actions, I question whether the legislation assures that investors who are victims of fraudulent securities actions will be able to recover all of their losses. Certainly, some of the provisions in the bill will help investors recover a greater share of their losses vis-a-vis the attorneys; however, it is uncertain whether they will be able to recover all their losses, as proponents of the bill claim. Here, it would appear the legislation leans toward protecting proportionately liable defendants rather than toward assuring victims of fraud will recover fully their losses. Unfortunately, the amendments offered on the floor to provide such balance did not prevail.

A title of the legislation that will directly serve investors' interests by requiring early detection and disclosure of fraud is "Title III—Auditor Disclosure of Corporate Fraud." I am proud to have coauthored this title with Representative WYDEN originally as freestanding legislation, S. 630, the Financial Fraud Detection and Disclosure Act of 1993. It places on accountants and company auditors a clear responsibility for early detection and disclosure of illegal actions by management. The provision requires that if an accountant learns of an illegal act that may have a material effect on the company's financial statements, the accountant must inform management, and, if management fails take corrective action, the accountant must inform the board of directors. If the board fails to notify the SEC within 1 day of its notification, and accountant must notify the SEC the following day. Failure to provide this notification will subject the accountant to stiff civil penalties. I believe these clear procedures for early detection and disclosure of fraud by the accountants will serve the interests of both investors and business, and am pleased the committee incorporated this title into the legislation.

The securities litigation reform bill we are about to vote upon is likely to make it more difficult to bring frivolous strike suits, but my preference also would have been to include stronger investor recovery provisions in the sections relating to joint and several liability and aiding and abetting. I was disappointed that amendments on these subjects did not prevail.

On balance, however, this legislation should lead to the creation of a more favorable climate for investors and businesses. Investors should gain better information about the marketplace, more control over securities litigation should they choose to pursue class action suits, and, with the safeguards intended to weed out frivolous suits, investors should also find a climate more conducive to the fullest prosecution of securities fraud cases. A diminished threat of abusive strike suits should strengthen the ability of businesses to raise capital and to provide investors more information. Taken as a whole, therefore, I will support S. 240.

Mr. BIDEN. Mr. President, our securities laws have served this country well for more than 60 years. Remember, the 1933 and 1934 securities acts were borne out of the 1929 stock market crash. Yet, the bill we are debating would topple our well-founded securities laws.

I oppose the so-called Securities Litigation Reform Act—not because I do not think we need some reforms—but, because by supposedly discouraging frivolous lawsuits, this legislation would discourage legitimate suits too.

Let us be honest. Most corporate executives and plaintiff lawyers are responsible. What we should do is target and penalize those who abuse the system. But, we should not close the courthouse door to the many, in an attempt to reform the abuses of the few.

In an effort to fix abuses, this legislation strips safeguards that protect millions of average Americans whose pensions are invested in security plans. The result of which will be to let white collar criminals go free.

I fought for 7 long years in this Chamber to pass a tough, smart, balanced crime bill. And I stood on this floor with my colleagues on both sides of the aisle as we debated who could be tougher on crime.

Yet, here we stand today, debating a bill to give white collar crooks in three-piece suits a free ride. This so-called Private Securities Litigation Reform Act is about white collar crime.

This is about law and order. The financial losses victims suffer can wipe them out.

I realize that securities laws are complex, but the devastating impact of this legislation is simple:

It impacts our senior citizens—with 3 out of 4 seniors relying on investment income to meet some of their day-to-day living expenses.

It impacts police, firefighters, teachers, and labor and automobile union members whose pensions are invested in securities.

Whether you live in a small town or a big city, if you are a small or large investor, this legislation affects you.

I have several major concerns with this legislation. First, investors would have to prove that a corporation made a falsehood with a clear intent to deceive. That's incredibly tough to prove. Under current law, investors must show that unreasonable or reckless predictions of a corporation's performance misled investors. If this bill becomes law, however, companies could get away with making misleading, even fraudulent, statements about their earnings.

Second, accountants, auditors, lawyers, and underwriters are given a free ride—they can escape liability even if they go along with a fraudulent scheme. Some have compared that to giving the driver of a getaway car immunity from prosecution for an armed robbery.

Third, the bill fails to modestly extend the statute of limitations for investment fraud suits, which currently is too short. Instead of a 1- to 3-year statute of limitation, we should give defrauded investors 2 to 5 years. That's reasonable—and it would give victims more time to file suit so that a guilty party does not dodge liability.

Finally, this bill wipes out joint and several liability—leaving crime victims holding an empty bag and unable to get their money back.

We hear a lot of rhetoric about the attack of the vulture lawyers—preying on corporations, stockbrokers, and accountants. But what about vulnerable investors?

Some unfounded lawsuits are filed. Some lawyers do make too much from a suit—leaving defrauded investors too little. But, this massive bill—pushed through with such little examination, without a proper hearing before the Senate Judiciary Committee to assess its impact on our judicial system—is not the answer.

Let us protect the small investor—not let white collar criminals go unpunished. If we pass this bill, mark my words, we will be back here in 2, 3, 4 years undoing it. There will be another Orange County—another huge insider trading scandal—millions of defrauded Americans, parents, hard-working men and women—who will have no recourse and no hope for reimbursement if we let this bill become law.

There is a way to deal with the abuses in securities litigation. I am a cosponsor of a bill introduced by Senators BRYAN and SHELBY, S. 667, the Private Securities Enforcement and Improvements Act of 1995.

In response to the criticism that securities litigation suits are initiated by professional plaintiffs, the Bryan-Shelby bill would require plaintiff class representatives to certify their complaints, outline their interest in the pending litigation, and list any securities suits they might have filed in the prior 12 months.

The Bryan-Shelby bill also would require that multiple securities class actions brought against the same defendant be consolidated and that a lead counsel be agreed upon by the various plaintiffs, or appointed by the court if no such agreement can be reached.

I believe these new requirements for certification of complaints and the new case management procedures would improve the securities litigation process, without resorting to the extreme measures in the Dodd-Domenici bill, which will shut the courthouse door to millions of valid claims.

The Bryan-Shelby bill also includes a reasonable extension of the statute of limitations for securities liability actions and would restore liability for aiding and abetting if an accountant or lawyer knowingly or recklessly provided substantial assistance to another person in violation of the securities laws.

Mr. President, I commend my colleagues, Senators SARBANES, BRYAN, and BOXER, for leading the effort to improve the Dodd-Domenici bill. Unfortunately, however, we were only able to get a couple amendments approved.

I appreciate my colleagues support—on both sides of the aisle—for my amendment that will maintain a civil RICO action against anyone who has been criminally convicted of securities fraud, thereby tolling the statute of limitations for such a RICO action until the final disposition of the criminal case.

I urge my colleagues to vote against S. 240. To supporters of this bill, I say, OK, you have the Nation's attention now. Let's go back to the drawing board and draft a more reasonable approach based upon the Bryan-Shelby bill to curb the relatively small number of frivolous securities lawsuits without dismantling the entire existing securities litigation process.

Mr. MOYNIHAN. Mr. President, S. 240, the Securities Litigation Reform Act, is intended to deter frivolous securities litigation while protecting the rights of investors to bring legitimate lawsuits. The sponsors of this legislation, arguing that opportunistic attorneys often file these lawsuits after precipitous reductions in stock prices, attempted to strike a delicate balance between these two competing interests.

Unfortunately, the bill fails to strike that balance. The bill would make it too difficult—if not impossible—for small investors to recover losses resulting from securities fraud. S. 240 would establish cumbersome case-filing procedures designed to discourage litigation; shield from liability those who knowingly aid or abet fraudulent schemes; and limit too strictly the liability of those who make misleading or false forward-looking projections of company performance.

While these provisions will deter frivolous lawsuits, they will also discourage meritorious ones. If the amendments offered by Senators SARBANES, BRYAN, and BOXER had been accepted by the Senate, I perhaps could have supported this bill. As it stands, however, this legislation goes too far in protecting corporations and stockbrokers at the expense of small investors. I cannot support it.

Mr. CONRAD. Mr. President, I have reluctantly decided that I cannot vote in support of the version of S. 240 that is in front of us today. As a cosponsor of S. 240, this was a difficult decision. But the changes that have been made in this legislation make this a completely different bill from the version I cosponsored. In my view, this version of S. 240 goes too far and will make it too difficult for innocent investors to recover in legitimate cases of securities fraud.

Mr. President, there is no question that we need to reform the current securities litigation system. Too often when a stock drops suddenly for reasons completely beyond the control of a corporation, the corporation finds itself the subject of a so-called strike suit. These strike suits border on legal extortion: The cost of defending the suit and the risk of huge damages create a strong incentive to settle the case even when the corporation has done nothing wrong. Moreover, these suits have targeted not just the corporation whose stock has dropped, but also the accountants, lawyers and others who participated in the preparation of documents for the Securities and Exchange Commission and the public. These businesses, which often played only a marginal role in the alleged fraud, can nonetheless be held fully liable. Finally, the current system does not serve investors well. In too many cases, lawyers walk away with millions of dollars in legal fees while the plaintiffs whose interests the lawyers are supposed to be serving recover only a small portion of their losses.

In short, the current system does not work. It imposes a burden on entrepreneurial activity and impedes the efficient functioning of our capital markets. As a result, all investors—and the economy as a whole—suffer. That is why I cosponsored S. 240. I wanted to send a strong signal that we need to reform the current system and put an end to frivolous, speculative lawsuits that serve little purpose but to enrich the lawyers who bring them.

At the same time, however, I fully recognize that there are legitimate instances of securities fraud, and we must ensure that we preserve the rights of investors to seek redress in cases of true fraud. We should not protect Charles Keating, Ivan Boesky, or Michael Milken from the investors who lost their life savings as a result of sophisticated swindles. I believed, when I cosponsored S. 240, that it achieved this balance. And I was given assurances that—in a few areas where I thought the bill might go too far in curtailing the rights of investors—modifications would be made to ensure that legitimate suits were fully protected.

Unfortunately, during the Banking Committee markup, S. 240 was significantly changed to the detriment of investors. As reported from the committee, the delicate balance in the original bill was destroyed. Instead of a relatively narrow set of changes targeted directly at frivolous strike suits, the bill that came to the Senate floor contained radical changes that will make it far more difficult to bring any suit, including a legitimate suit where real fraud has occurred.

First, the new version of S. 240 contains a huge expansion of the safe harbor for forward looking statements. S. 240 as introduced directed the SEC to develop an expanded safe harbor to encourage companies to provide more information to the market on their expected future performance. Most observers expected this to result in a relatively modest expansion of the safe harbor. In committee, this provision was amended to provide a statutory safe harbor for forward looking statements unless they are "knowingly made with the purpose and actual intent of misleading investors." SEC Chairman Levitt has expressed the view that this safe harbor will protect knowingly made false, misleading, and fraudulent statements. This will reduce confidence in information and impede the efficiency of capital markets. This is a significant, and potentially dangerous, change from the version of S. 240 I cosponsored. It would make it extremely difficult to prosecute even the most outrageous of statements about expected future performance.

Second, the new version of S. 240 does not contain a necessary, modest expansion of the statute of limitations in securities fraud cases. Pursuant to the Supreme Court's Lampf decision, the statute of limitations in fraud cases is now 1 year from when the fraud was discovered but in no case longer than 3 years from the date the fraud occurred. S. 240 originally proposed to extend the statute of limitations to 2 and 5 years because in sophisticated swindles it may take longer than 1 and 3 years for a fraud to be sufficiently understood to bring suit. This was the most important unambiguously pro-investor provision in the bill. However, during markup this provision was deleted. This is a significant change; it will leave many plaintiffs with strong, legitimate complaints unable to bring suit if a fraud is uncovered too later for them to sue.

Third, the new version of the bill gives control of fraud suits to the biggest investors, virtually excluding small investors from consideration.

Under the original bill, the court was required to appoint a plaintiff steering committee that held in aggregate at least 5 percent of the securities involved or securities with a market value of $10 million, whichever is smaller, unless the judge decided a lower threshold was appropriate. This formulation would have allowed a group of small investors to join together to control the lawsuit. But in committee this provision was dropped. In the new version, the court is required to appoint a single lead plaintiff, and there is a presumption that the most adequate plaintiff will be the class member with the largest financial interest in the case, unless he cannot adequately represent the interests of the class. Unfortunately, in many cases the member with the biggest financial interest will be an institutional investor with interests, for example, holdings of stock in the corporation that are not subject to the suit or strong ties to the board of directors, that may not mirror the interests of most other class members. This provision could lead to significant litigation on whether the presumed most adequate plaintiffs other interests disqualify him and/or to settlements that do not always best serve the interests of the majority of the class members.

Fourth, the new version of the bill for the first time imposes a cap on the damages that an investor can recover. The provision limits damages to no more than the difference between the purchase price of the stock and the value of the security during the 90-day period after information correcting the fraudulent misstatement or omission is made public. Although this may appear reasonable, it creates a strong incentive for the issuer to use the safe harbor for forward-looking statements to puff the stock during this 90-day period and otherwise abuse the system by waiting to correct the misinformation until a stream of positive news can be released simultaneously.

Finally, the new version of S. 240 does not contain a provision restoring liability for aiding and abetting a fraud. In 1994, the Supreme Court ruled that the securities statute does not cover private actions for aiding and abetting. The Chairman of the SEC has testified that aiding and abetting liability should be restored. Although the original version of S. 240 similarly failed to address this issue, when I cosponsored S. 240 it was my understanding that this issue would be addressed before the bill came to the floor. However, the new version of S. 240 restores aiding and abetting liability only for individuals who act knowingly. It does not fully restore liability for other participants in a fraud.

During floor debate, a series of amendments was offered to restore the balance in the original bill. I voted for these amendments. Unfortunately, not one of these important changes was reversed. Thus, the bill that we now have before us remains significantly different from the bill that I cosponsored. In its attempt to root out frivolous lawsuits, this version of the bill will make it far too difficult for small investors to prevail when they have been defrauded by unscrupulous Wall Street dealmakers. I cannot support this unbalanced version of the bill.

It is my hope that the conferees will revisit these issues. We need securities litigation reform, and I would like to vote for a balanced conference report that fixes the many problems in the current system without creating new problems for small investors who have been fleeced by crooks on Wall Street.

Mr. WELLSTONE. Mr. President, today I address my comments once again to the reservations I have regarding an important piece of legislation that by my measuring is moving way too fast through this body, a piece of legislation that I believe may end up hurting legitimately aggrieved citizens; a piece of legislation that, although I believe it is necessary in some form and earnestly want to give it my support, I nonetheless find it difficult to support, given its present form. I am referring, Mr. President, to S. 240.

Mr. President, I have heard the charges—about unethical lawyers looking for deep pockets and hunting for a fast buck, about the tremendous number of meritless suits—some 300—that are filed and settled each year regarding alleged securities fraud. I have had extensive discussions with Minnesota-based companies, many of them new high-technology firms, about the pressing need to plug the legal loopholes that allow companies to be intimidated by unethical attorneys. And I have heard the arguments of my respected colleagues that this bill, S. 240, is the best way to stop such baseless strike suits.

First, with regard to this problem of strike suits, Mr. President, I do not think you will find anyone in this Chamber who believes in their heart that such lawsuits are in any way good for the country. Nobody is arguing on behalf of such behavior. My cautious opposition to this bill—in its present form—should not hide the fact that I consider such actions to be the equivalent of blackmail, and detestable in the extreme.

But Mr. President, there are swindlers and fraudulent securities setups out in the markets, and there are people who are legitimately hurt by such schemes. I have one report that in my State of Minnesota alone over the past decade, more than 25,000 Minnesotans have recovered $28½ million in money that was cheated out of them in stock and securities fraud; $28½ million, Mr. President, and that is just the money that was reportedly recovered. So it certainly would appear to me that in addition to the real problem of the meritless strike suits, there is another real problem—that of ongoing investment fraud.

The task of this bill in my view should be to balance these two needs: To create tighter protections for honest companies who are forced to pay the equivalent of extortion to unethical attorneys, while maintaining the protections that have existed for 60 years for legitimately aggrieved investors.

Does this bill accomplish this delicate balancing act? In my view, no, it does not. It is in my view reckless, not because of how it handles the problem of strike suits, but how it knocks down existing protections for those who have had their savings cheated out of them. One of my colleagues has in fact characterized this bill as addressing "recklessness"—and I must say that I agree that this bill does deal with recklessness. But I must say that we part company on how and why we reach those conclusions. It is not just the subject of this bill that is recklessness—this bill itself is, by my measurement, reckless in how it turns back 60 years of protections that serve big and small investors alike.

On the surface I admit this bill appears to have very little to do with the average American family. It appears to deal with high-rolling bond salespeople and securities attorneys and CPA's who live and die by the smallest twists and turns of the financial markets. But scratch the surface and who do you find under this bill? Hard-working honest American families, that is who, Mr. President. After all, is it not retirement plans that fuel the economy? Isn't it the typical American family that has provided the capital needed by so many innovative startup firms simply by investing their hard-earned savings in stocks and securities? Is it not this great majority of our country that with $1,000 here, $5,000 there, a pension fund over there, have built the mightiest success stories that make up the American landscape?

Of course it is. But now we are presented with this bill—a complex piece of legislation by anyone's accounting—that will take away some of the protections that have served these millions and millions of investors so well and for so long. Mr. President, I like this bill to using a sledgehammer to cut a slice of bread: if a little reform of the law is good, then an all out attack on the law must be better. I did not agree when we took a sledgehammer approach in the case of product liability reform, and I don't agree now.

There are hundreds of strike suits filed each year—but there are also thousands of legitimate cases of fraud as well. This bill should balance the two; it should make necessary corrections it seems to me to plug up the legal loopholes that allow unethical lawyers to collect while retaining important, existing investor protections. But is this the approach my colleagues have chosen? Do they propose to discreetly close loopholes, or judiciously plug up the cracks that have allowed the unethical attorneys to target big dollars? No, Mr. President, No, they do not. Instead my colleagues would hammer away at time-tested protections, saying in effect: "No more. No more lawsuits. Unless you have overwhelming evidence, unless you lost millions, unless you have a sophisticated understanding of securities law, unless you catch the misdeed within a certain limited period, you can no longer sue to recover the money from the swindlers and cheats who robbed it from you."

I am sure some of my colleagues would object to such a characterization of this bill—but, Mr. President, actions speak as loud as words. We have had many attempts on the floor to make this bill better, to more finely tailor its language and scope to address the problem of strike suits. For example, we had an amendment on the floor that would have extended the period in which wronged investors could file a suit against those who committed the fraud. That sounds like a good protection to me—and it was an amendment that I supported. But did it pass? The answer is no. And let me emphasize: we have had numerous opportunities to amend this bill, make it better, more closely tailor it to the problems that exist, and I have supported those amendments. But Mr. President, those amendments have been consistently rejected.

Under this bill, investors who bring a legal challenge run the risk of facing a court order to pay the entire court costs, thus discouraging many people from bringing suit who have been defrauded. The bill also takes away the right to sue many of those who aid and abet in the fraud; effectively immunizing from private action lawyers, accountants, and countless others who may have assisted the primary wrongdoers who committee securities fraud.

Another example: This bill provides for extended immunity from private fraud liability for those corporations that release overly optimistic information when they have their first sale of stocks. This extended immunity does not protect investors; rather it is all but an open invitation for crooked corporations and swindlers to promise the Sun, Moon, and stars in their forward-looking statements, only then to take the money and run once it becomes clear that the corporation will never deliver what it promised. And those individuals, or private pension funds, or counties that invested and lost money on such a basis-too bad. Under this bill they are simply out of luck.

Individuals aren't the only ones who will be left with no protections under this bill; counties and municipal governments and public institutions will have fewer protections as well. I have heard several references to Orange County, CA, made on the floor during debate, but Orange County is not the only one hurt by losses from derivatives investments. In Minnesota alone: Dakota County, $2.5 million lost; in Chanhassen $4 million lost; the Minnesota Orchestral Association, $2 million lost; the University of Minnesota, $13-million lost; and Mr. President this is only a partial list. It is no wonder that groups like the Municipal Treasurers Association, the National Association of County Treasurers and Finance Officers, and the National League of Cities are but a few of the organizations opposing this bill as it is currently written.

Mr. President, we have heard the name of Charles Keating—perhaps one of the most famous of swindlers in recent memory—invoked many times on the floor during this debate. Some people say that under this bill, thousands of people would never have been able to recover one thin dime from Mr. Keating. I have also heard some people say that claim is not true, and that this bill will not affect individuals' rights to collect what has been taken from them.

But Mr. President, the fact that we have so many great and respected legal minds disagreeing so harshly over what this bill will actually do should be the issue here. And until I, and the rest of my colleagues, can be convinced beyond reasonable doubt that this bill will not hurt middle America, and will not swindle them out of their chance to prosecute the swindlers, there can be question. I cannot and will not support any measure that hurts those good, honest people who have entrusted us with their best interests.

Thank you, Mr. President, and I yield the floor.

Mr. LAUTENBERG. Mr. President, I believe I bring a somewhat different perspective to the issue of securities than most other Members of this body. Prior to coming to the U.S. Senate, I worked in the private sector. I cofounded a company with two others that today employs over 20,000. After the company went public in 1961, I filed countless statements with the SEC as its CEO. As the CEO, I believed it was important for investors to have as much information as possible.

Each year, I made it a practice to project earnings for the following year. And if those projections needed modification due to changed circumstances, I quickly went to the public to alert them to any revision. This process had significant rewards because investor confidence in my former company caused our stock, which is traded on the New York Stock Exchange, to sell at among the highest price-earnings ratios of all listed securities on any exchange.

As I look back on that period, I know that I was in the forefront of CEO's who provided investors with forward-looking statements on my company's financial health. It made sense to me then. It makes sense to me now. I know many companies want to provide this information but do not because they are concerned about their potential liability should their forecasts turn out to be off the mark. It is not in the public interest for these companies to go out of business because of a lawsuit based on a financial forecast, which despite the company's best efforts, later turns out to be inaccurate.

I remember how much the stock of biotech companies dropped when we were discussing health care last year. Should those companies be held accountable for this drop? Of course not. We want to protect such firms. But I believe this bill goes too far in the effort to do that; in fact, I believe the practical effect of this bill will be to immunize certain fraudulent statements. This is just one example of the many instances in which I believe the legislation is too extreme.

This is unfortunate because S. 240, the Private Securities Litigation Reform Act of 1995, had the potential to be a good bill, perhaps a very good bill. In my judgement, if a few key amendments had been adopted, this legislation would have eliminated current abuses in existing law without sacrificing investor protections. But, those amendments were not. As a result, the bill that will pass the Senate today and go to conference with the House will, I predict, undermine investor confidence in our markets, chill meritorious suits, and leave investors exposed to fraud. I also predict that Congress will revisit this issue in the foreseeable future. I can only hope that the next Charles Keating, whose fraudulent conduct will be facilitated by this bill, will not cost the taxpayers as much as the original.

Too often debate on this bill was reduced to accusations of special interest favoritism. It is a shame that the proponents of this bill believed anyone who opposed this legislation was merely siding with the trial lawyer bar. Likewise, the legitimate concerns of accountants and other deep pockets were downplayed by the opponents of this bill. Mr. President, I oppose S. 240, not because it might hurt trial lawyers and not because I do not believe certain groups are being unfairly targeted as deep pockets, but because it is unfair to investors and because I do not think it will serve as a deterrent to fraudulent behavior.

The sponsors of this legislation cite compelling anecdotal evidence of abuse by the so-called professional plaintiffs and their unscrupulous attorneys. I agree there are abusive securities class actions suits filed every year. I also agree that we need to protect companies, and even other shareholders, from these people. But in our zeal to tackle this problem, we should take care not to stifle legitimate claims.

Amendments were offered that would have tempered the Senate bill's overreaction to the purported securities litigation boom. There were amendments to: provide aiding-and-abetting liability in private implied actions; insert a safety net to ensure that small investors are able to fully recover their losses; extend the statute of limitations period on these claims, thus making it more difficult for bad actors to hide their fraud; and an amendment I cosponsored with Senator SARBANES that would not have insulated fraudulent statements as a result of the overly broad safe harbor provision in the bill. All were defeated.

In opposing these amendments, the sponsors of the bill cited some of the more egregious practices of professional plaintiffs and certain lawyers. What they do not mention is that this behavior would have been curbed by noncontroversial provisions contained in S. 240, provisions not affected by the amendments I mentioned above. These would include: prohibitions against referral fees and attorney conflicts of interest; requirements that the share of the settlement awarded to the name plaintiffs be calculated in the same manner as the shares awarded to all other members of the class and that the name plaintiff certify that he did not purchase the security at the direction of his attorney; a prohibition against excessive attorneys' fees; and an assurance that all members of the class have access to information held by counsel of the name plaintiff.

I did not want to have to vote against a bill to curb frivolous securities lawsuits because I believe there are problems. I have met with accountants and executives of high-technology companies and have heard about their legal nightmares. But I have also heard from the director of my State's bureau of securities, the North American Securities Administrators Association, AARP, dozens of consumer groups, and some organizations with large pension funds.

Mr. President, I cannot in good conscience vote for a bill I believe will insulate fraudulent conduct, prevent investors injured by fraud from fully recovering damages, and chill meritorious litigation. In our rush to reform the problems detailed by the sponsors of this bill, we have overreacted.

Mr. CHAFEE. Mr. President, I am pleased to be a cosponsor of S. 240, the Private Securities Litigation Reform Act, which the Senate approved today. This proposal has been introduced by Senators DOMENICI and DODD year after year without ever reaching the full Senate for consideration. Finally, this year, the Senate debated and approved securities reform without substantial changes to the Domenici-Dodd bill, as reported by the Banking Committee.

Our's has become an increasingly litigious society. Opportunistic lawyers are prepared to spring into action with the least provocation. In the case of securities fraud suits, this class of attorneys claims to have the interests of small investors in mind, but the level of compensation they exact compared with the compensation received by their clients tells quite a different story.

As many as 300 securities fraud suits are filed annually. An astonishing 93 percent of these suits are resolved out of court, with an average settlement of more than $8 million each.

It is no accident that so many of these suits are settled out of court. That is one of the major problems addressed by S. 240. Under current law, every defendant can be found jointly and severally liable—or liable for the entire settlement cost—regardless of the extent of the defendant's involvement. It has become the practice of some lawyers to name as many deep pocket defendants as possible. Frequently, the fear of being held 100 percent responsible and the enormous cost of diverting substantial resources to defending against these suits leads these defendants to settle. S. 240 applies proportionate liability, enabling the court to determine the extent of a defendant's involvement and determining liability on the basis of that involvement.

S. 240 seeks to reduce abusive practices by prohibiting brokers or dealers from receiving a referral fee from attorneys seeking clients for class action suits; giving the court authority to determine whether a conflict of interest exists if an attorney is also a shareholder; and, by prohibiting funds discharged by the SEC from being used for attorneys' fees.

It seeks to limit frivolous lawsuits by eliminating professional plaintiffs, prohibiting attorneys' fees from exceeding a reasonable percentage of damages awarded, and giving courts the authority to appoint lead plaintiff on the basis of greatest financial loss rather than continuing the practice of naming lead attorneys based on who filed the suit first.

I believe that we have approved a bill that will benefit shareholders and corporations alike. Shareholders will have more information on which to base their investments and corporations will be able to operate in an environment free of meritless lawsuits. I commend Senators DOMENICI and DODD for proposing this worthwhile legislation and Chairman D'AMATO for moving it so swiftly through the legislative process.

Mr. PELL. Mr. President, today as the Senate comes to the conclusion of the debate over the Securities Litigation Reform Act, I state my support for this legislation. It has been a long process to achieve reform in this area and the Senate has worked for several years to craft legislation which will adequately address the problems in the laws which govern our securities industry without creating others. I commend the efforts of those most directly involved, particularly my good friend and colleague Senator DODD, for their commitment and hard work in bringing this bill to final passage.

The need for some type of reform in this area is universally acknowledged, even by those who have most vociferously opposed the version of reform contained in the final bill. Indeed, the bill had 51 cosponsors, an indication of overwhelming consensus that congressional action is necessary to correct a glaring problem. Simply put, the securities industry has been plagued by abusive and frivolous lawsuits for years. These lawsuits have been encouraged by a system that far too often does more to reward creative lawyers and undeserving plaintiffs than it does to protect the integrity of the securities markets and legitimate investors. The end result has been the unnecessary escalation of business costs as companies are forced to pay legal costs to defend against these meritless actions. In a growing number of cases, these escalated costs, combined with the chilling effect of the threat of groundless litigation, have resulted in bankruptcies, reluctance to release pertinent investment information, and in many cases, the decision to forego the formation of startup enterprises altogether. The latter has particularly been the case for fledgling high-technology companies, the next generation of American industry. As we strive to compete in the world marketplace, it becomes even more imperative that we work to discourage those aspects of our legal system which foster frivolous, costly, and unnecessary litigation.

I do not claim that this bill is perfect in all aspects. Indeed, some 17 amendments were offered to the legislation as we considered on the Senate floor and I supported many of them. I share the concerns expressed that as we rewrite our securities laws to eliminate abusive lawsuits, we must also protect the rights of legitimately wronged investors to have their day in court. Of particular concern are those small investors, many times senior citizens and those with stakes in pension funds, who face formidable odds in bringing actions against large corporations. Accordingly, I voted for stronger protection against fraudulent and misleading statements by corporate executives as well as for an alternative dispute mechanism which would have discouraged frivolous actions without the use of the courts. I also supported giving even the smallest investor a voice in choosing who would control suits brought on behalf of a large class of plaintiffs, an effort to ensure that everyone would be represented in legal actions, no matter how big or small. Unfortunately, these and other efforts to improve the bill were not supported by a majority of the Senate. However, even though these amendments did not succeed, the legislation as a whole merited support for its work to reform our legal system in a constructive way to curb unnecessary lawsuits in our securities industry without removing adequate protection for those legitimately harmed by fraud and wrongdoing.

Again, I commend the good work done by all involved with this legislation. There are still significant differences with the House that need to be worked out so I fear that we still have a way to go before the process of securities law reform is completed. With passage today, however, the Senate has taken an important step toward achieving that goal.

The PRESIDING OFFICER. Under the previous order, the committee amendment in the nature of a substitute, as amended, is agreed to, and the clerk will read S. 240 for the third time.

The bill was ordered to be engrossed for a third reading, and was read for the third time.

The PRESIDING OFFICER. Under the previous order, the Banking Committee is discharged from further consideration of H.R. 1058, and the Senate will proceed to its immediate consideration.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1058) to reform Federal securities litigation, and for other purposes.

The Senate proceeded to consider the bill.

The PRESIDING OFFICER. Under the previous order, all after the enacting clause of H.R. 1058 is stricken, and the text of S. 240, as amended, is inserted in lieu thereof.

The clerk will read H.R. 1058 for the third time.

The bill was read for the third time.

The PRESIDING OFFICER. Under the previous order there will now be 30 minutes of debate divided in the usual form.

Mr. SARBANES. Mr. President, I yield 5 minutes to the distinguished Senator from Nevada.

The PRESIDING OFFICER. The Senator from Nevada is recognized.

Mr. BRYAN. Mr. President, I thank the Chair.

Mr. President, at this stage of the debate I acknowledge that the die is cast and this bill will pass. I must say that I believe it is a terrible mistake.

This has not been about whether you are for curtailing frivolous lawsuits or not. There is no disagreement on that. The provisions that deal with containing frivolous lawsuits I think enjoy a vast majority of our support, and certainly this Senator.

I have asked myself. Why are we doing this? Why are we undergoing all of this exercise? For the last 6 decades we have enjoyed the world's safest securities markets. They are the envy of the world. Could it be because there is a litigation explosion? The facts belie that. In the past 20 years, the number of cases filed in class action lawsuits remain about between 290 and 315 a year. There are some 235,000 civil filings each year. So that cannot be the reason. There are some 14,000 companies that have filings with the SEC. Each year only about 140 out of those 14,000 are brought in as party defendants in these class action cases.

Is it because there has been an inability to raise capital in our markets? In the past 20 years, the amount of capital raised has increased by 58,000 percent. So it certainly cannot be that.

Mr. President, this is clearly—as I observed at the beginning—a Trojan horse that brings us to the floor of the U.S. Senate to shield a large number of people from liability for their misconduct. Under securities action no one who is simply negligent or grossly negligent is liable. So it is extremely difficult. What this has all been about, in my view, is to emasculate the private individual, the private investor, from securing relief and recover from investment fraud.

I have prepared a little chart here which I think indicates the number of hurdles that have to be surmounted in order to get to the finish line. It will be more difficult to get these cases brought because of the limitations imposed. The shorter statute of limitations. The surrender of control of the wealthiest plaintiff which in effect becomes the lead plaintiff presumptively under this. The automatic discovery stage prevents the plaintiff from ascertaining what the state of mind is of the defendants who have perpetrated the fraud. The safe harbor provisions, that the distinguished Senator from Maryland has talked about; aiders and abettors—they are home free. They do not have any liability at all. The RICO liability has been wiped out.

Ultimately, if you are able to perform a feat that even Edwin Moses would have difficulty performing, and you get to the finish line, the prospect of recovery is greatly reduced because we have eliminated the concept as between those who are guilty of reckless misconduct or totally innocent. We are simply saying that those who are guilty of reckless misconduct only have proportionate liability, and the plaintiff, the investor who is damaged, does not recover the full amount.

That overturns hundreds and hundreds of years of legal precedent. For a social and economic policy that I just cannot comprehend as between the innocent party and the wrongdoer whose conduct is at least reckless, we are saying give the reckless actor immunity from the suit. In the case of the aider and abettor and in the other case where he may be a primary violator, we simply say he or she is only liable for the proportionate share. That makes no sense.

In the 1980's, Congress enacted the infamous Garn-St Germain. Within a decade, the savings and loan industry in America imploded and the American taxpayer was asked to write a bill which constitutes hundreds of billions of dollars.

I forecast that, as a consequence of the enactment of this kind of legislation, we are going to see innocent investors by the thousands deprived of their day in court. Fifty major newspapers in America who have looked at this issue have concluded that what we are about to do is a tragic mistake.

Mr. President, as I said at the outset, I acknowledge that this legislation will pass this Chamber, but I believe that we will rue the day and that our markets will be less secure and what the proponents may intend to accomplish will, indeed, have a countereffective result.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

Mr. D'AMATO. Mr. President, I yield 5 minutes to the distinguished Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah is recognized for 5 minutes.

Mr. BENNETT. Mr. President, the debates have been made. I remember the comment by my colleague from Connecticut during the Whitewater hearings when he said everything that needs to be said has been said but not everybody has said it. So I will try not to say too much about this.

Contrary to those who say, gee, everything has been wonderful up until now, the facts clearly demonstrate that there has been a serious problem. It has affected that portion of the stock market that most needs the entrepreneurial thrust of venture capital, and this bill will correct it.

I made all of the arguments that I intend to make. I simply want to make one additional observation. This problem has generated action in the House of Representatives. Now it is generating action in the Senate. In my view, the Senate bill is more responsible than the House bill. I congratulate the authors of the bill, Senator DOMENICI and Senator DODD, the chairman of the committee, Senator D'AMATO, in seeing to it that the Senate version is more responsible than the House version. I look forward to working with them in a conference committee to see that the Senate approach be adopted in every possible circumstance as there are differences between the Senate and the House.

These men have worked very hard, very responsibly and intelligently on this bill, and I for one have been delighted to have had the opportunity to work with them. I commend the work product to the entire Senate and, if you will, to the President himself when it gets to him for his ultimate signature.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Mr. President, I yield 5 minutes to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut is recognized for 5 minutes.

Mr. DODD. Mr. President, I thank the Chair. Let me begin by thanking my colleague from New Mexico, Senator DOMENICI, Senator D'AMATO, Senator BENNETT, and others who have been present in the Chamber here almost for a week now. We considered 17 amendments and one motion to commit on this bill.

Let me also express my appreciation to my colleague from Maryland, my colleague from California, and my colleague from Nevada, all of whom have been actively involved in this legislation, along with the Senator from Pennsylvania, with a number of amendments that have been offered to this bill.

We have spent several years on this legislation. We have crossed the threshold of whether or not this was an area of the law that needed repair and significant repair. I would say to my colleagues that we can put behind us the days that we have rued, in a sense, the days when you ended up with somewhere between 93 and 98 percent of these cases all being settled, never going to litigation because, frankly, the system was designed in a way to produce settlements even when cases lack merit because of the outrageous costs involved. This was an area of the law where, frankly, a number of people had turned a profession into a business, and we had lost the essence of the practice of law in the area of securities litigation.

This is a piece of legislation that we think goes a long way to protecting investors on all sides. It leaves that door very wide open for legitimate plaintiffs to bring their cases. It also makes it possible for those legitimate defendants to make sure that they will end up paying the price that they are required to pay, where they do something wrong. But it also protects the innocent investor of those very same companies from not being charged the cost of frivolous lawsuits and meritless litigation.

It is a technical area of the law but one that we think is going to do a great deal in terms of making it possible particularly for these smaller start-up companies, the bases of economic growth in the 21st century, the high-tech firms, the biotech firms, the ones that have the great volatility in the earliest stages of their development as industries and businesses from being preyed upon by meritless litigation.

There is still in the views of many, including this Senator, some legitimate discussion about the area of safe harbor. I feel very strongly that we should have a true safe harbor. My view is that in conference we are going to have to revisit the issue. We had a very close vote on an amendment offered by the Senator from Maryland.

I would love to be able to tell all of my colleagues that I am entirely satisfied everything we have done is absolutely going to work. I do not know that. I do know this, that we have corrected a significant problem and we have plugged up pleadings that were so loose that virtually almost any case that could be brought could lead to significant discovery, such as the situation where you had Peat Marwick on a $15,000 contract ending up at $7 million in legal fees. We stop the practice where you have Ratheon Corporation acquiring a firm and within 90 minutes of that announcement a lawsuit gets filed.

Those are the kinds of situations that were occurring, that we will have cleaned up with this legislation that I hope we are about to pass.

Is it perfect in every aspect? Anyone who will tell you that cannot say so with absolute certainty. This much we can say, that the previous situation, the situation that exists today, is a mess and it needs and demands to be cleaned up. And in this Senate bill we have moved great lengths toward achieving that goal.

Let me also underscore the comment made by the Senator from Utah. The House bill, in my view, goes way too far, way too far, and it is my fervent hope that we will not support the House-passed legislation.

Let me say here to my colleagues, as someone who has worked a long time along with my colleague from New Mexico on this—and I use this opportunity—that efforts to weaken this Senate bill by the House are going to cause this Senator serious reservations about recommending to his colleagues, if we come back with that, that it ought to be supported.

We have a long way to go yet with this legislation before it is done, but this is an opportunity for us to go on record to say the present system does not work; it needs to be changed.

We have made those changes here. For those reasons, I think the product we have produced is deserving of support. Again, it may not be perfect. We do not know that. Time will test that through the legal system of this country. But we think it does go a great way toward solving the kinds of problems where lawsuits were filed right and left without the kind of adequate protections for investors and innocent defendants.

For those reasons, I ask my colleagues to support this bill.

The PRESIDING OFFICER. The Senator's time has expired.

Who yields time?

The Senator from Maryland.

Mr. SARBANES. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Maryland has 9 minutes and 55 seconds; the Senator from New York has 7 minutes and 16 seconds.

Mr. SARBANES. I yield myself 6 minutes.

The PRESIDING OFFICER. The Senator is recognized for 6 minutes.

Mr. SARBANES. Mr. President, I think perhaps the best analogy that was used was by the Senator from Nevada earlier in this debate when he said what we have here is a Trojan horse moving forward under the pennant of frivolous lawsuits, but hidden within the Trojan horse are a lot of problems. That is this legislation. This legislation goes too far. I listened to my colleagues, and they get up and they talk about horror stories. And I do not quarrel with those horror stories. I think we need to bring those under control. And those of us on this side have consistently made that point.

But this bill goes too far. It overreaches. It is excessive. As one article said in U.S. News & World Report, "Will Congress Condone Fraud?" And then it concludes saying that, "The pendulum is swinging much too far," and says, "Unfortunately, some major investor frauds may have to take place before again it moves back toward the center."

I want to avoid those major investor frauds. And that was what the whole effort to try to amend this legislation was about over the last few days.

Now, we are ignoring the advice of all of the regulators, Democrats and Republicans. The SEC, both under the former Chairman and under the current Chairman of the SEC, the 50 State securities regulators, the Government Finance Officers Association, they have all come in. They have all said, "Yes, we want to get at the problem of frivolous lawsuits. Yes, there are reasonable ways to try to do it." Then they have made the point that this bill goes too far.

Now, we tried to correct it. We tried to correct the safe harbor provision, which is potentially one of the most dangerous features in this legislation. We urged the Senate to leave that to the SEC. That is where it ought to be, with the experts. The Senate rejected that.

We then said, "Well, at least let us get a proper standard." We came very close on that issue, a vote of 48–50 with respect to getting a standard that was a more reasonable standard and that would not shield, as the Chairman of the SEC told us, not shield willful fraud.

The distinguished Senator from Nevada has pointed out, under the proportionate liability provision, innocent investors who are defrauded are now going to bear the burden of their loss ahead of people who participated in the fraud. I want to repeat that. People who participated in the fraud will be shielded from bearing the full burden of the fraud, and that burden will be thrown upon the innocent investor.

We sought to extend the statute of limitations from 1 to 3 years to 2 to 5 years. There is a lot of concealment that goes on in these fraud cases. And if you talk to people who get caught up in it as victims, they will tell you that often they cannot discover the fraud within a 3-year period. The SEC, once they know about a fraud, takes 2 years to bring the action. This bill requires people to act within 1 year.

We tried to restore aiding and abetting. The aiders and abettors are dancing down the street right now with this legislation. They will go scot-free. It is not a question with aiders and abettors, whether it is going to be recklessness as a standard, or whether you are going to go to a higher standard than recklessness—actual knowledge, actual intent. There is no liability for aiders and abettors. None. It is gone. This bill will make it harder for defrauded investors to bring legitimate suits and to recover their losses.

And I say to my colleagues, because a number have cosponsored this legislation at the outset, the legislation which they cosponsored had in it two very important provisions that we tried to add by amendment that are not in the bill before us. The original legislation extended the statute of limitations. The original legislation extended this statute of limitations so it took care of that particular provision. Now we have dropped that in this legislation that is before us.

And the original legislation sent the safe harbor issue, one of the most difficult and complex issues to deal with, sent it to the SEC where, I submit to you, it ought to be. That is where that ought to be made. Now they are trying to write the standard right in this bill.

So the original bill, which people cosponsored, took care of two of the issues that we have argued on the floor of the Senate over the last few days. Why would we want to make it more difficult for defrauded investors to bring legitimate suits and make it more difficult for them to recover their losses in an effort to get at frivolous suits, which we support? This bill has gone so far, has swung the pendulum so far over that it is going to penalize, in a significant way, legitimate investors.

Now, this is bad not just for the individual investor, but it is bad for the country, it is bad for economic growth. Our markets, which are the marvel of the world, depend upon the confidence of the investors.

The PRESIDING OFFICER. The time is expired.

Mr. SARBANES. The confidence of the investor will be undermined by this legislation. I urge my colleagues to vote against it.

Mr. President, I reserve the remainder of our time.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

Mr. D'AMATO. Mr. President, I yield 4 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 4 minutes.

Mr. DOMENICI. Thank you very much, Mr. President.

I would like to thank the Senator from Connecticut, Senator DODD. Mr. President, I say to the Senator from Connecticut, Senator DODD, let me stay here on the floor, even though I only have a few moments, it has been a pleasure working with him on this legislation. I first got interested after I read some articles that led me to think this part of the judicial system of America was not working. That is how I got involved. I read three or four articles. I could not believe what I was reading. I was naive enough to think since it was so patently wrong, all I had to do was work on the bill and get someone like Senator DODD to help and it would all come through. I found that was not the case.

And the reason it is not the case is because this bill is bad for about 90 lawyers in America. This bill is bad for about 90 lawyers in America, not the plaintiff's bar—about 90 lawyers. And let me tell you, Mr. President, they are rich lawyers, because look at this little chart. They file these kinds of lawsuits. And out of every dollar in judgments, verdicts or settlements—here is the dollar—the high side of what the investors get is 14 cents. In many cases it is not 14 cents it is half that.

Now, let me tell you, if you start with a system that does that and is monopolized by a group of barristers who 20 years ago or 25 or 30, when I was in law school, would have been found guilty of champerty. We learned about two things you should never do, and one of them, my friend from Georgia will remember, is commit champerty, which said you should not promote unnecessary legislation that inures more to your benefit as a lawyer than to your client's. This is the epitome of that. They would not get through the door today.

The judges of yesteryear would say, "Get rid of this kind of lawyer." So they are out there with gobs of money running advertisements all over the country like they are for the investors. They are 14 cents for the investor. They are 14 cents for the investor and 86 cents for themselves, the investigators who work for them, and all the other experts that they use.

Now, tell me you cannot fix that. If we could not fix it, I would give up on the U.S. Senate and say we are going to leave this up to lawyers and their entrepreneurial minds. And we are stopping that.

Essentially, under this reform lawyers are going to represent a class of people, not a select plaintiff that they choose as pet plaintiffs. Lawyers are going to be more responsible to the courts. Lawyers are going to have less fun running around getting facts.

And, Mr. President, clearly this bill is balanced.

Reform is supported by more than 19 major associations, 10 of the biggest public pension funds, 12 State pension fund administrators and regulators, and hundreds of companies—the list reads like who is who in making America's economy great.

The bill Senator DODD and I introduced has 51 cosponsors.

We heard a lot about Charles Keating. There is not a Senator in this body that would protect Keating. This bill has nothing to do with Keating. His name is well known. This bill has a lot to do with slowing down a group of entrepreneurial lawyers whose names are not well known.

The current system needs reform. It is a system that has given us millions for lawyers and pennies for plaintiffs.

When Congress enacted our securities laws, the 1933 and 1934, the basic foundation was disclosure of information and deterrence.

Congress did not by statute create the class action securities law suit under 10b and rule 10b-5. The courts created them. However, in the last decade, every significant Supreme case on the topic has scaled down the scope of the 10b-5 class action cases. It shortened the statute of limitations. It abolished aiding and abetting liability. The Court also seemed to be inviting Congress to legislate in this area. Today we are taking that historic step.

This bill gives investors a better system 12 ways:

First, it puts investors with real financial interests, not lawyers in charge of the case.

It puts investors with real financial interests, not professional plaintiffs with one or two shares of stock in charge of the case. It includes most adequate plaintiff; plaintiff certification; ban on bonus payments to pet plaintiffs; settlement term disclosure; attorney compensation reform; sanctions for lawyers filing frivolous cases; restrictions on secret settlements and attorneys' fees.

Second, it provides for notification to investors that a lawsuit has been filed so that all investors can decide if they really want to bring a lawsuit. It is likely that people trusted to manage pension funds and mutual funds—institutional investors—will get more involved (most adequate plaintiff provision).

Third, it puts the lawyers and their clients on the same side (reforms that change economics of cases, proportionate liability, settlement terms disclosure).

Fourth, it prohibits special side-deals where pet plaintiffs get an extra $10,000 or $15,000. It protects all investors, not just the lawyers' pet plaintiffs, so that settlements will be fair for all investors.

Fifth, it stops brokers from selling names of investors to lawyers.

Sixth, it creates an environment where CEO's can, and will talk about their predictions about the future without being sued. It gives investors a system with better disclosure of important information (safe harbor).

Seventh, it contains better disclosure of how much a shareholder might get under a settlement and how much the lawyers will get so that shareholders can challenge excessive lawyers' fees.

Eighth, no more secret settlements where attorneys can keep their fees a secret (restrictions on settlements under seal).

Ninth, it limits amounts that attorneys can take off the top. It limits attorneys' fees to a "reasonable amount" instead of confusing calculations (attorney compensation reform, banning lodestar method of calculating fees).

Tenth, it provides a uniform rule about what constitutes a legitimate law suit so that it will no longer matter where a case is filed. Investors in Albuquerque will have the same rules as investors in New York (pleading reform). It stops fishing expeditions where lawyers demand thousands of company documents before the judge can decide if the complaint is so sloppy that it should be dismissed on its face (discovery stay).

Eleventh, it will make merits matter so that strong cases recover more than weak cases. It will make sure people committing fraud compensate victims. It improves upon the current system so that victims will recover more than six cents on the dollar.

Twelfth, by weeding out frivolous cases, it gives the lawyers and judges more time to do a good job in protecting investors in meritorious cases. High-technology companies' executives can focus on running their companies and growing their businesses. Investors will get higher stock prices and bigger dividends.

S. 240 does exactly what Chairman Levitt said the system should do, protect all investors—not just a few.

I ask unanimous consent to have inserted in the RECORD the numerous organizations that have real interests, like money managers who have handled our money, who say this bill is a good bill. I also ask unanimous consent that some letter of support from various pension fund groups be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORTERS OF SECURITIES LITIGATION REFORM

American Business Conference: Members of the American Business Conference include 100 chief executive officers of high-growth companies with revenues over $25 million. ABC serves as a voice of the midsize, high-growth job creating sector of the economy.

American Electronics Association: The American Electronics Association represents some 3,000 companies in 44 states that span the breadth of the electronics industry, from silicon to software, to all levels of computers and communication networks, and systems integration.

American Financial Services Association is a national trade association for financial service firms and small business. Its 360 members include consumer and auto finance companies, credit card issuers, and diversified financial services firms.

American Institute of Certified Public Accountants: The American Institute of Certified Public Accountants is the national professional organization of over 310,000 CPAs in public practice, industry, government, and academia.

Association for Investment Management and Research: The Association for Management and Research is an international nonprofit membership organization of investment practioners and educators with more than 40,000 members and candidates.

Association of Private Pension and Welfare Plans: The Association of Private Pension and Welfare Plans membership represents the entire spectrum of the private pension and employee benefits community: Fortune 500 companies, banks, insurance companies, law, accounting, consulting, investment and actuarial firms. APPWP members either sponsor directly or administer employee benefit plans covering more than 100 million Americans.

Association of Publicly Traded Companies: The Association of Publicly Traded Companies has an active membership of over 500 corporations consisting of a broad cross section of publicly traded companies, especially those traded on the NASDAQ national market.

BIOCOM/San Diego (Formerly the Biomedical Industry Council): BIOCOM/San Diego is a business association representing over 60 biotechnology and medical device companies in San Diego, CA.

Biotechnology Industry Organization: The Biotechnology Industry Organization represents more than 525 companies, academic institutions, state biotechnology centers and other organizations involved in the research and development of health care, agriculture and environmental biotechnology products.

Business Software Alliance: The Business Software Alliance promotes the continued growth of the software industry through its international public policy, education and enforcement programs in more than 60 countries, including the U.S., throughout North America, Asia, Europe and Latin America. BSA represents leading publishers of software for personal computers.

Information Technology Association of America: The Information Technology Association is a major trade association representing over 5,700 direct and affiliated member companies which provide worldwide computer software, consulting and information processing services.

National Association of Investors Corporation: The National Association of Investors Corporation is the largest individual shareowners organizations in the United States. NAIC has a dues-paid membership of investment clubs and other groups totalling more than 273,000 individual investors.

National Association of Manufacturers: The National Association of Manufacturers is the nations's oldest voluntary business association, comprised of more than 13,000 member companies and subsidiaries, large and small, located in every state. Its members range in size from the very large to the more than 9,000 small members that have fewer than 500 employees each. NAM member companies employ 85% of all workers in manufacturing and produce more than 80% of the nation's manufactured goods.

National Investor Relations Institute: The National Investor Relations Institute, now in its 25th year, is a professional association of 2,300 corporate officers and investor relations consultants responsible for communication between corporate management, shareholders, security analysts and other financial publics.

National Venture Capital Association: The National Venture Capital Association is made up of 200 professional venture capital organizations. NVCA's affiliate, the American Entrepreneurs for Economic Growth, represents 6,600 CEOs who run emerging growth companies that employ over 760,000 people.

Public Securities Association: The Public Securities Association is the international trade association of banks and brokerage firms which deal in municipal securities, mortgage and other asset-backed securities, U.S. government and federal agency securities, and money market instruments.

Securities Industry Association: The Securities Industry Association is the securities industry's trade association representing the business interests of more than 700 securities firms in North America which collectively account for about 90% of securities firm revenue in the U.S.

Semiconductor Industry Association: The Semiconductor Industry Association represents the $43 billion U.S. semiconductor industry on public policy and industry affairs. The industry invests 11% of sales on R&D and 15% of sales on new plant and equipment—more than a quarter of its revenue reinvested in the future—and thus seeks to improve America's equity capital markets.

Software Publishers Association: The Software Publishers Association is the principal trade association of the personal computer software industry, with a membership of over 1,000 companies, representing 90% of U.S. software publishers. SPA members range from all of the well-known industry leaders to hundreds of smaller companies; all of which develop and market business, consumer, and education software. SPA members sold more than $30 billion of software in 1992, accounting for more than half of total worldwide software sales.

MANAGERS OF PRIVATE OR PUBLIC PENSION FUNDS

Champion International Pension Plan: Champion Internation Pension Plan controls over $1.8 billion in total assets.

Connecticut Retirement and Trust Fund: The Connecticut Retirement and Trust Fund invests over $11 billion on behalf of over 140,000 employees and beneficiaries.

Eastman Kodak Retirement Plan: Eastman Kodak Retirement Plan manages over $10.9 billion in total assets and is ranked as one of the largest 60 pension plans in the U.S.

Massachusetts Bay Transportation Association: With over 12,000 participants, the Massachusetts Bay Transportation Association controls over $772 million in total assets.

New York City Pension Funds: Over $49 billion have been invested in the fund to insure the retirement security of 227,000 retirees and 138,000 vested employees.

Oregon Public Employees' Retirement System: Assets controlled by the fund total over $17.2 billion. The Oregon Public Employees' Retirement System is ranked among the largest 30 pension plans in the U.S.

State of Wisconsin Investment Board: One of the 10 largest pension funds in the United States, the State of Wisconsin Investment Board manages over $33 billion contributed by the State's public employees.

State Universities Retirement System of Illinois: The State Universities Retirement System is ranked as one of the country's 100 largest pension funds with total assets of $5.3 billion.

Teachers Retirement System of Texas: The Teachers Retirement System of Texas controls over $36.5 billion in total assets on behalf of its 700,000 members.

Washington State Investment Board: With assets totaling over $19.7 billion, the Washington State Investment Board is ranked in the largest 25 pension funds.

NATIONAL ASSOCIATION OF
INVESTORS CORPORATION,
Royal Oak, MI, July 19, 1994.

Hon. CHRISTOPHER DODD,
Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR DODD: I am writing to you as Chairman of the National Association of Investors to congratulate you on your sponsorship of the Private Securities Litigation Reform Act of 1994 (S. 1976) and to promise the support of the National Association of Investors Corporation.

NAIC is, we believe, the largest individual shareowners organization in the United States. We currently have a dues paid membership of investment clubs and other groups totalling more than 273,000 individual investors. NAIC has been in operation since 1951 and our members are the direct owners of shares in our nation's industry. We are a cross-section of the nation's population including individuals from every race, political persuasion and economic level.

Our purpose as an organization, is to help individuals learn the benefits provided by being an owner of a business and to learn how to do so successfully. Since our founding, nearly 4 million people have taken our training programs and a high percentage of our members enjoy an earnings rate on their securities equal to or exceeding that of the S&P 500 Index.

The current situation in the law permits and even encourages the filing of lawsuits with very little merit against corporations. The benefits derived from these suits are going primarily to attorneys.

However, these payments are actually coming from the pockets of serious, lifetime owners of the corporations like our members.

These unmerited suits take corporate executives away from the main task of running the business and building it for their shareowners.

Even more importantly, the fear of these kinds of suits causes executives to release less information about the business to shareholders because of the fear that this could lead to their being sued.

Our members devote about 25% of their investments to smaller companies and many of these companies are high technology companies that have been a particular target of attorneys filling these questionable suits.

Again let me say that our members appreciate your interest in solving these problems and thus helping the great mass of the nation's investors by reducing the threat of a large and mischievous expense.

Yours respectfully,

THOMAS E. O'HARA,
Chairman, Board of Trustees.

JULY 19, 1994.

Hon. CHRISTOPHER J. DODD,
U.S. Senate, Russell Senate Office Building, Washington, DC.

Hon. PETE V. DOMENICI,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR SENATORS DODD AND DOMENICI: As pension fund managers, we are responsible for safeguarding the investments of thousands of individuals in the securities markets. In making investment decisions on behalf of these individuals our success depends on both the integrity of the market and the vitality of the American economy.

For these reasons, we are writing to applaud your initiative in addressing the fundamental problems of the securities fraud litigation system. We agree that the current system is not protecting investors and needs reform. Under the current system, defrauded investors are receiving too little compensation, while plaintiffs' lawyers take the lion's share of any settlement. Moreover, meritless litigation costs companies millions of dollars—money that could be generating greater profit for the company and higher returns for investors. Finally, the fear of such meritless litigation has caused many companies to minimize the amount of information that they disclose—the opposite of what we need to do our job effectively.

Thank you again for pursuing long overdue reforms on the securities litigation system. We look forward to working with you to make the system work for all investors.

Sincerely,

Mr. John J. Gallahue, Jr., Executive Director, Massachusetts Bay Transportation Authority, Retirement Fund; Dr. Wayne Blevins, Executive Director, Teachers Retirement System of Texas; Mr. Alan G. Hevesi, Comptroller, The City of New York, New York City Pension Funds; Mr. John A. Ball, Senior Vice President, Champion International Corp., Champion International Pension Plan; Mr. Joseph M. Suggs Jr., Treasurer, State of Connecticut, Connecticut Retirement and Trust Funds; Mr. Jim Hill, Treasurer, State of Oregon, Oregon Public Employees' Retirement System; Ms. Patricia Upton, Executive Director, State of Wisconsin Investment Board; Mr. Kenneth E. Codlin, Chief Investment Officer, State Universities Retirement System of Illinois; Mr. Gary P. Van Graafeiland, Senior Vice President, Secretary and General Counsel, Eastman Kodak Co., Eastman Kodak Retirement Plan; Mr. Basil J. Schwan, Executive Director, Washington State Investment Board.

THE COMMONWEALTH OF MASSACHUSETTS, OFFICE OF THE TREASURER,
STATE HOUSE,
Boston, MA, March 22, 1995.

Hon. ALFONSE D'AMATO,
Chairman, Senate Hart Building, Washington, DC.

DEAR SENATOR D'AMATO: I am writing you as Treasurer of the Commonwealth of Massachusetts and, in that capacity, as sole Trustee of the state's largest public pension fund for state teachers and employees. I would like to join with those elected officials around the country who are urging your committee to enact legislation to curtail the epidemic of meritless securities legislation which has begun to have a negative impact on the effectiveness and productivity of our nation's businesses and the capital formation process itself.

The concern about, and the reaction to, meritless lawsuits has caused industry, as well as accounting, law and insurance companies, to increase their costs and price tags ultimately paid by the consumer and the investing public, including a large percentage of our retirees and pension holders. Therefore, I urge your committee to enact legislation to eliminate these well-known abuses to our legal system. In doing so, I would urge the avoidance of "lawyer bashing". Although there is a sizable portion of the bar that generates and unduly profits from these meritless suits, the overwhelming percentage of lawyers represent their profession well and are constructive participants in our judicial system. I also urge caution in establishing a "losers pay" system to ensure that we do not preclude the middle class and the poor from bringing meritorious causes of action before our courts.

I am confident your committee will find a way to overhaul the current securities litigation system and pass meaningful legislation which will enhance the capital formation process in our country and enure to the economic benefit of millions of individuals and retirees who invest in corporate America for their own security.

Sincerely yours,

JOSEPH D. MALONE,
Treasurer and Receiver General.

STATE OF OHIO,
OFFICE OF THE TREASURER,
Columbus, OH, March 10, 1995.

Senator ALFONSE D'AMATO,
Chairperson, Senate Hart Building, Washington, DC.

DEAR SENATOR D'AMATO: As Treasurer of the State of Ohio, my office regularly issues debt and purchases securities on behalf of the people of the State of Ohio. In addition, my office is designated by law as the custodian of the assets of the State's pension funds. In the exercise of my responsibilities, I have become concerned that securities litigations, and the threat of securities litigation has begun to negatively impact the capital formation process essential to the economic growth for my state and the nation.

Under present law, attorneys have an incentive to file unsubstantiated claims, because there are no penalties for the filing of a meritless claim. Attorneys will file first and then use the discovery process to see if there is any merit to continuing the claim. In many cases, defendants have settled even unsubstantiated claims because it is more cost efficient to settle an unsubstantiated claim rather than to defend a lawsuit.

Furthermore, the amount of damages that plaintiffs have typically recovered represents only a percentage of their initial claims; but the lawyers who bring the claim extract substantial fees from any lawsuit filed. A system that was intended to protect investors now primarily benefits their lawyers.

The fear of meritless lawsuits has also caused many companies to minimize the amount of information they disclose to the public which is the opposite intent of the federal securities laws. Moreover, the fear of meritless lawsuits has caused accounting, law, and insurance firms to increase their costs to clients, discontinue service in some cases, and cause outside executives to refuse to serve on company's board of directors.

Federal legislation is needed to restore the protections that the 10B-5 action is supposed to provide and to eliminate the abuses of the system. At a minimum, legislation should address the liability scheme that rewards lawyers bringing meritless lawsuits and reduce the costs that the system imposes on the capital markets and business expansion.

Pension fund participants and other investors depend on the integrity of the market and the prospects of the economy. The current securities litigation system undermines both. I urge the Congress to pass meaningful reform legislation to protect the economic security of millions of individuals who invest in the securities markets.

Sincerely,

J. KENNETH BLACKWELL,
Treasurer of State of Ohio.

TREASURER OF THE
STATE OF ILLINOIS,
Springfield, IL, March 16, 1995.

Hon. CAROL MOSELEY-BRAUN,
Senator, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MOSELEY-BRAUN: As the state official responsible for safeguarding the investments of public employees' pension funds, I am concerned about abuses in the securities litigation system that threaten investors' interests and impose unnecessary costs on the economy.

Abusive securities lawsuits are frequently filed on the basis of little more than a drop in a company's stock price. Enormous liability exposure and the onerous cost of mounting a defense leave companies with little choice but to settle, regardless of their culpability. Typically, plaintiffs recover only a small percentage of their damages, while lawyers extract substantial fees from the transactions. A system that was intended to protect investors now primarily benefits their lawyers.

Because shareholders are on both sides of this litigation, it merely transfers wealth from one group of shareholders to another. However, it wastes millions of dollars in company resources for legal expenses and other transaction costs that otherwise could be invested to yield higher returns for company investors. In addition, the fear of meritless litigation has caused many companies to minimize the amount of information they disclose, precisely the opposite of what investors need to invest safely and wisely.

Federal legislation is needed to restore the protections that the 10b-5 action is supposed to provide and to eliminate the abuses that plague the system. At a minimum, legislation should address the liability scheme that rewards lawyers for bringing abusive suits and reduce the cost that the system imposes on the capital markets and business expansion.

Pension fund participants and other investors depend on the integrity of the market and the prosperity of the economy. The current securities litigation system undermines both. I urge the Congress to pass meaningful reform legislation to protect the economic security of the millions of individuals who invest in the securities markets.

Sincerely,

JUDY BAAR TOPINKA,
State Treasurer.

STATE OF CALIFORNIA, DEPARTMENT
OF CORPORATIONS, OFFICE OF THE
COMMISSIONER,
Los Angeles, CA, February 9, 1995.

Re H.R. 10—The Securities Litigation Reform Act.

Hon. JACK FIELDS,
Chairman, Telecommunications and Finance Subcommittee, Committee on Commerce, U.S. House of Representatives, Washington, DC.

DEAR CHAIRMAN FIELDS: As Commissioner of Corporations, I am responsible for the administration of the securities laws of the State of California. Before being appointed Commissioner of Corporations, I was an attorney in private practice specializing in corporate transactions, including securities offerings. It is an honor and privilege to present to you the following views concerning H.R. 10, the Securities Litigation Reform Act currently before your subcommittee.

I believe there is a compelling need to reform the current system of securities litigation. The problem with the current system is two-fold. First, the current system too often promotes the filing of meritless claims. Perhaps more importantly, the current system does not adequately serve the interests it is designed to protect—the interests of defrauded investors. Before I comment on particular provisions of H.R. 10, I would like to provide some background information with respect to this latter problem.

Defrauded Investors—Class Action Victims. At the January 19 Telecommunications and Finance Subcommittee hearing, the principal beneficiaries of the current system, class action attorneys, were its strongest defenders. While it is not surprising that the class action bar might put its interest in the status quo ahead of the nation's interest in a dynamic entrepreneurial economy, I have been concerned that, too often, class action lawyers appear to put their interests ahead of their clients'. The class action bar's handling of a number of cases arising out of the Prudential limited partnership scandal exemplifies this abuse of the current system.

In the 1980s, Prudential Securities engaged in a widespread pattern of sales abuses in its marketing of limited partnership investments. To settle charges stemming from these abuses, Prudential pled guilty to criminal securities law violations and entered into a comprehensive settlement with the Securities and Exchange Commission and securities regulators from 49 states. As part of this comprehensive settlement, an independent arbitration process was established to address aggrieved investors' claims. According to the Independent Claims Administrator's January 20, 1995 report, however, more than 100,000 claims or parts of claims have been rejected because they had been settled as part of a class action lawsuit. My office has received letters from scores of investors in this situation. Frequently, these investors didn't even know that their claim was part of a class action settlement. Now many feel they've been victimized twice—once by Prudential and another time by the class action litigation system ostensibly designed to protect their interests.

In the VMS Realty Partnership case, limited partnership interests were sold to thousands of unsuitable investors, often on the basis of materially misleading statements. A class action suit based upon these abuses was brought by Milberg, Weiss, Bershad, Hynes & Lerach, the nation's largest class action law firm. Despite the strong evidence of securities law violations, this case was settled for less than 8 cents on the dollar. While this may have represented a significant recovery for the lawyers, it woefully undervalued the investors' claims. Investors who opted out of the class action settlement and are now participating in the independent arbitration process are frequently receiving 100% of their losses. In addition, these investors haven't had to share their recovery with a lawyer "representing their interest."

The Energy Income Limited Partnership case provides another example of this type of abuse. Again, this case involved a pattern of securities law violations, which Prudential acknowledged when it pled guilty to criminal securities violations. After some discovery, the lead class action lawyers recommended that the court approve a $37 million cash settlement. After a number of state securities regulators strenuously objected, the judge deferred ruling on the proposed settlement.

Because of the regulators' action, the total settlement offer was ultimately increased more than three-fold to $120 million. At the point, the class action lawyers affirmatively fought my office's efforts to require that they clearly explain to their clients what the settlement offer meant to them—for good reason. Those investors who did not accept the settlement and are now participating in the independent arbitration process are frequently recovering 100% of their losses. Investors who accepted the recommendation of "their lawyers" and participated in the class action settlement, have had to accept roughly 25–30 cents for each dollar of loss.

These cases illustrate the flip-side of the abuses in the current system of class action litigation; not only are bad cases overvalued, but strong cases are too often undervalued. While quick settlement of these cases may serve the lawyers' interests, it frequently does not serve the interests of the defrauded investors.

Provisions of H.R. 10. H.R. 10 effectively addresses many of the current abuses of the securities class action litigation system. As the following analysis of certain of the provisions of H.R. 10 reflects, however, I would like to respectfully submit several suggested changes for the Subcommittee's consideration.

SECTION 202. PREVENTION OF LAWYER-DRIVEN LITIGATION

Section 202 puts in place several much-needed safeguards against certain abuses in the current system. It is important that the prosecution of securities claims be directed by the aggrieved investors, not by the lawyers. I would respectfully suggest however, that Section 202(a) be revised to evidence a strong preference for having a steering committee of investors perform this function rather than an appointed guardian ad litem. Those investors who are seeking to recover their losses are, on balance, likely to have a more complete commonality of views with the investor class than a court-appointed third party.

Section 202(b) does address a particular problem associated with class action settlements—woefully inadequate disclosure of the settlement terms. The settlement notice that was sent to investors in the Prudential Energy Income Limited Partnership case illustrates this problem. While the notice contained lengthy and complicated descriptions of the procedural history of the case, the paragraph that described the mechanism to determine what investors would receive in the settlement was buried near the back of the notice. In addition, the formula to calculate the settlement awards was nearly incomprehensible to average investors. As I noted earlier, the lead class action lawyers fought my office's efforts to make the description of the settlement terms more understandable to investors.

While Section 202(b) does provide some improvement over the current system of disclosure, I would respectfully suggest that it be amended to provide, at a minimum, that the amount that an investor could expect to receive in the settlement, on a per share or per unit basis, be prominently disclosed in the settlement notice. Section 202(b) might also be amended to require that the settlement notice be understandable to an average investor and focus more attention on the substance of the class action settlement, including the information now called for in Section 202(b), and less attention on the procedural history of the case.

SECTION 203. PREVENTION OF ABUSIVE PRACTICES THAT FOMENT LITIGATION

One of the most egregious abuses of the current system of class action securities litigation, the professional plaintiff, is effectively addressed by the elimination of bonus payments and limits on those investors who can serve as class representatives. I do have one suggested change, however. While it is important that class action representatives have a meaningful economic stake in the proceeding, I would respectfully suggest that Section 21(k) of the Securities Exchange Act, to be added by Section 203(a), be amended to reduce the amount of required investment from $10,000 to $5,000. While the amount of the minimum investment is admittedly a judgment call, I encourage the Subcommittee to strike the balance more in favor of the interests of small investors.

Under the current system, litigants are responsible for their own attorneys' fees. This can present two problems. Defendants in class action cases may feel coerced to settle a frivolous case to avoid the often high costs of litigation. In addition, the amount received by defrauded investors is reduced by the attorneys' fees, and, as a result, investors can never fully recover their losses. H.R. 10 addresses these problems by requiring the loser in a securities litigation case to pay the opposing side's legal fees in all cases.

While the solution offered by H.R. 10 should help weed out frivolous claims and afford investors an opportunity to receive full compensation for their losses, a strict loser-pays rule could put a significant and unwarranted barrier to investors, particularly small investors, seeking to recover losses allegedly associated with the defendant's fraudulent conduct. Putting too high a barrier to investors' claims could also undermine the important role that private securities litigation serves as an adjunct to governmental enforcement of the securities laws.

To address this concern, I would respectfully recommend that Section 21(m) be amended to require that the plaintiffs be obligated to pay the defendant's legal fees in those cases where (i) the case is dismissed on the pleadings or pursuant to a defendant's motion for summary judgment or (ii) the court otherwise finds at the end of the case that it was substantially without merit.

SECTION 204. PREVENTION OF "FISHING EXPEDITION" LAWSUITS

One of the most problematic elements of class action litigation is the prospect that a defendant who played a small role in the alleged securities law violation could be liable for the entire amount of investor losses. This prospect can be among the most coercive elements of securities litigation that compel so-called "deep pocket" defendants to accept unfair settlement proposals. H.R. 10 responds to this concern by requiring that plaintiffs show that the defendants were guilty of actual fraud.

I am concerned, however, that this solution to the problem associated with the rules of joint and several liability goes too far. Such a knowing fraud standard may encourage participants in the securities offering process to put a premium on remaining ignorant of the facts and undermine their commitment to do appropriate due diligence. To avoid the unintended consequences associated with an absolute knowing fraud standard, I would respectfully suggest that Section 204 be amended to entitle investors to hold defendants who engaged in reckless conduct, not constituting knowing fraud, proportionately liable for their losses. Defendants who engaged in knowing fraud should remain jointly and severally liable for all investor losses.

While I respectfully recommend that certain changes be made to H.R. 10, I believe that H.R. 10 represents a significant step forward to correct certain of the problems in the current class action litigation system, and I want to urge the Subcommittee to continue to proceed with this important piece of legislation.

Very truly yours,

GARY S. MENDOZA,
Commissioner of Corporations.

STATE OF NORTH CAROLINA,
DEPARTMENT OF THE TREASURER,
Raleigh, NC, May 3, 1995.

Senator ALFONSE D'AMATO,
Senate Hart Office Building,
Washington, DC.

DEAR SENATOR D'AMATO: As State Treasurer and fiduciary for the North Carolina Retirement Systems and the State of North Carolina, I am writing to add my support for securities litigation reform legislation. I agree that the current securities fraud litigation system is not protecting investors and needs reform.

It is my understanding that the legislation was passed by the House of Representatives by an overwhelming bipartisan vote on March 8, 1995. Your support for these long overdue reforms would be greatly appreciated.

Sincerely,

HARLAN E. BOYLES,
State Treasurer.

STATE OF SOUTH CAROLINA,
OFFICE OF THE STATE TREASURER,
Columbia, SC, April 17, 1995.

Hon. ERNEST F. HOLLINGS,
Senate Office Building,
Washington, DC.

DEAR SENATOR HOLLINGS: As State Treasurer of South Carolina, I am concerned that abusive and meritless securities litigation inflicts tremendous harm on the capital formation process that is vital to the economic growth of South Carolina and the United States. Accordingly, I would like to join with those elected officials nationwide who are urging the Senate to pass meaningful reform legislation that would discourage meritless litigation and thereby enhance the capital formation process.

Under present law, attorneys have no disincentive to file unsubstantiated claims, because there are no penalties for filing such claims. Similarly, defendants are often pressured to settle meritless claims by the staggering costs of defending lawsuits in our overburdened courts.

Our nation's securities laws were enacted to protect investors and to improve our capital markets. However, the perverse incentive of attorneys to file meritless claims has created the exact opposite of the intended effects of our securities laws. Abusive lawsuits, triggered by a small group of lawyers, inflict tremendous harm on our nation's financial system and on the individuals and organizations drawn into them.

Our securities system was structured to provide broad disclosure of information to investors so they could make informed decisions. But there is overwhelming evidence that issuers of corporate securities filings include only limited disclosure, influenced largely by the threat of lawsuits. Additionally, lawyers, not investors, control the litigation system and reap the lion's share of financial rewards.

Growth companies are the most critical sector of our nation's economy as they provide the majority of new jobs. Unfortunately, such companies are also the target of an inordinate number of abusive lawsuits. These lawsuits undermine the confidence of investors and produce a higher cost of capital in the United States. This higher cost of capital puts us at a disadvantage with foreign competitors and harms workers, consumers, and investors.

Once again, I urge the Senate to pass meaningful reform legislation to enhance our economic future and to protect the investments of the State of South Carolina and those of individual investors.

Very truly yours,

RICHARD ECKSTROM,
State Treasurer.

STATE OF DELAWARE,
OFFICE OF STATE TREASURER,
Dover, DE, March 21, 1995.

Hon. ALFONSE M. D'AMATO,
U.S. Senate,
Washington, DC.

DEAR SENATOR D'AMATO: As Treasurer of the State of Delaware, I have become concerned that abusive securities litigation is negatively affecting the capital formation process essential to the economic growth of my state and the nation.

Problems with the current system have been well-documented in Congressional hearings, academic studies, and by the first-hand experiences of corporate executives and investors. Abusive lawsuits—often triggered merely by a stock price drop—and easy and inexpensive for plaintiffs' lawyers to bring. Once a company is sued, they are forced to settle, even if they are innocent, to avoid the high costs of fighting a meritless lawsuit. Such abusive class action litigation diverts corporate capital away from R&D, business expansion and job creation. High-technology and other high-growth companies are prime targets to these lawsuits, simply because of the inherent volatility of their stock prices.

Investors are also being harmed by the current system as it shortchanges people who have been victimized by real fraud. Studies show that plaintiffs receive 14 cents for every dollar of recoverable damages, at best, and a substantial portion of the settlement fund usually goes to the plaintiffs' attorneys. The plaintiffs' lawyers who specialize in these cases profit from bringing as many cases as possible and quickly settling them, regardless of the merits. Valid claims are being undercompensated in the current system because lawyers have less incentive to vigorously pursue them.

Investors lost out in another way. Studies show that abusive 10b-5 lawsuits are chilling voluntary corporate disclosure of information that would be useful to investors. A recent survey by the American Stock Exchange revealed that 75% of the corporate CEOs surveyed limit the information disclosed to investors out of fear of meritless lawsuits.

Federal legislation is needed to restore the protection that the 10b-5 action is supposed to provide while eliminating the abuses in the current system. Meaningful reform must include remedying the existing liability structure that creates the incentive to bring and settle meritless lawsuits. Legislation should also reduce the costs that the system imposes on the capital markets and on business and economic growth.

I urge Congress to pass securities litigation reform legislation to protect the investments of my state and of the millions of individual Americans who invest in the securities markets.

Sincerely,

JANET C. RZEWNICKI,
State Treasurer.

STATE OF COLORADO,
DEPARTMENT OF THE TREASURY,
Denver, CO, April 10, 1995.

Hon. ALFONSE D'AMATO,
Chairman, Senate Hart Building, Washington, DC.

DEAR SENATOR D'AMATO: As the Treasurer of the State of Colorado, my office issues debt and purchases securities on behalf of the people of the State of Colorado. With such responsibility, I am concerned that securities litigation and the threat of securities litigation are beginning to negatively impact our nation's business by hindering the capital formation process essential to the economic growth of Colorado and the nation.

Under the present law, attorneys are given an incentive to file unsubstantiated claims because there are no penalties for filing meritless claims. Attorneys will file claims on the basis of little more than a drop in a company's stock prices and then, through discovery, will determine if there is any merit to continuing the claim. Because of the liability exposure and the tremendous cost of defending a claim, companies are often left with no choice but to settle the unsubstantiated suit.

Additionally, the plaintiffs typically recover only a small percentage of their claim, as the lawyers extract large fees for bringing the suit. A system that was intended to protect investors now seems to benefit the lawyers.

The fear of meritless lawsuits has also caused many companies to minimize the amount of information they disclose to the public which is the exact opposite of the intent of the federal securities laws. This fear has also caused accounting and insurance firms to increase their costs to clients, discontinue service in some cases, and cause outside executives to refuse to serve on a company's board of directors.

Federal legislation is needed to restore the protections that the 10B-5 action is supposed to provide and to eliminate the abuse of the system. At a minimum, legislation should address the liability scheme that rewards lawyers for filing meritless suits and reduce the costs that the system imposes on the capital markets and business expansion.

Thank you for your consideration of this important issue.

Sincerely,

BILL OWENS,
State Treasurer.

ASSOCIATION OF PRIVATE PENSION
AND WELFARE PLANS,
Washington, DC, March 17, 1995.

Hon. PETE V. DOMENICI,
U.S. Senate, Dirksen Senate Office Building, Washington, DC.

Hon. CHRISTOPHER J. DODD,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATORS DOMENICI AND DODD: On behalf of the membership of the Association of Private Pension and Welfare Plans (APPWP), I am writing to commend your efforts in pursuing reform of the securities litigation system. The APPWP is a national trade association for companies and individuals concerned about federal legislation affecting all aspects of the employee benefits system. The APPWP's members represent the entire spectrum of the private pension and employee benefits community: Fortune 500 companies, banks, insurance companies, law, accounting, consulting, investment and actuarial firms. APPWP members either sponsor directly or administer employee benefit plans covering more than 100 million Americans.

Your initiative is necessary to address the critical problems with today's securities litigation system. As you have correctly noted, investors are ill-served by the present system. Because issuers fear abusive litigation, they have sharply curtailed the amount of information they are willing to disclose, leaving investors without information essential for intelligent decision making. To the detriment of shareholders, abusive securities litigation distracts companies from their principal tasks, discourages the development of new businesses and inhibits sound risk-taking. Finally, the existing litigation system encourages suit regardless of merit and the cost forces defendants to settle regardless of merit.

We support your efforts to change these skewed incentives, to encourage voluntary disclosure by issuers of securities and to transfer control of securities litigation from lawyers to investors. We look forward to working with you to make these reforms a reality.

Sincerely,

LYNN D. DUDLEY,
Director of Retirement Policy.

[From the Legal Times, February 1995]

TIME TO WAKE THE SLEEPING BEAR

(By Nell Minow)

In January of this year, the U.S. District Court for the Southern District of New York issued a decision dismissing a group of shareholders class actions against the Philip Morris Cos. The court noted that less than five hours after Philip Morris announced that its 40-cents-per-package price reduction on Marlboro cigarettes could reduce its operating earnings by as much as 40 percent, the first class action was filed.

The court further noted:

"[The first action was filed] by a plaintiff who had bought 60 shares of stock during the alleged class period. Four more lawsuits were filed that day, and on the very next business day . . . five additional lawsuits were commenced . . .. I note that in the few hours counsel devoted to getting the initial complaints to the courthouse, overlooked was the fact that two of them contained identical allegations, apparently lodged in counsel's computer memory of 'fraud' form complaints, that the defendants here engaged in conduct 'to create and prolong the illusion of [Philip Morris'] success in the toy industry.' "

In other words, in the race to the courthouse, the plaintiffs' lawyers had not even taken the time to do a "global search and replace" on a previous complaint, apparently against some toy company, to reflect the fact that the product Philip Morris was reporting on so "fraudulently" was actually cigarettes.

This demonstrates one-half of the problem in the current system for shareholders litigation. Most shareholder lawsuits are brought by people who care little, if at all, for shareholders as a group. The plaintiffs and their lawyers make grand statements about the integrity of the markets, but the primary motivation—and the primary outcome—is their own returns.

Typically, plaintiffs get a small award, and their lawyers get a large one. These merit less suits are filed whenever the stock performance is worse—or better—than the company predicted, and then settled by insurance companies for too much money (because insurers don't want to risk sending a complicated case to the jury).

The other half of the problem is that cases with merit are settled for too little or never brought at all. Because of free-rider and collective-choice issues, along with conflicts of interest, those shareholders with a meaningful stake have not been heard from.

The state of shareholder litigation is reminiscent of a line by William Butler Yeats: "The best lack all conviction and the worst are full of passionate intensity." The system fails to protect shareholders from genuine abuses, but still deters managers from disseminating useful and legitimate information. The current proposals for securities litigation reform—a Senate bill, S. 240, that is similar to one introduced last year and a House bill, H.R. 10, that is part of the Contract With America—do a better job with the first half of the problem than with the second.

The current rules and procedures for securities class actions and derivative actions were designed to overcome the problem of collective choice. In certain cases, no one shareholder can justify the time and expense necessary to bring a lawsuit for only a pro rata share of the rewards. So the procedures were established to create incentives for participation in suits challenging fraudulent statements.

But the system fails to take into account the unusual makeup of the class of potential securities plaintiffs. The shareholder community is too diffuse, too diverse, and subject to change too frequently to be addressed meaningfully as a group.

More important, the disincentives for participation are strong. Can we see the trustees of the IBM Corp.'s pension fund joining, as plaintiffs, in a shareholder action against the management of the General Motors Corp., no matter how much is at stake?

Having created a system for filing suits that does not eliminate the powerful disincentives for legitimate plaintiffs, we are left with the tiny but highly prosperous community of "Wilmington filers." The ambulance chasers of securities law, these people have made an industry out of nuisance suits. Anthony Bonden described them like this in the December 1989 issue of The American Lawyer ("The Shareholder Suit Charade"):

"Welcome to the plush and intimate confines of the Delaware chancery court, home turf of the Wilmington filers, the shareholder lawyers who sue any deal that moves. They are the bottom scrapers of the M&A world, the Wall Street Journal clippers with the mysterious professional plaintiffs. Racing to the courthouse on the merest rumor of a deal, they file triplicate copies of one another's suits—complaints that themselves read like duplicates from every other case. They are "rapacious jackals," in the memorable words of Chicago federal judge Charles Kocoras in 1982, "whose declared concern for the corporate well-being camouflages their unwholesome appetite for corporate dollars." And they are the "pilgrams"—early settlers—litigators who never have to prove their mettle in a trial."

What we want is for shareholders with a meaningful stake to file suit to enforce limits on corporate directors and managers who have neglected or abused their obligation to be candid about the company's status and prospects. We do not want shareholders with microscopic stakes to file dozens, even hundreds, of nuisance suits and to settle on terms that benefit the plaintiffs a little, their lawyers a lot, and their fellow shareholders not at all. We want to encourage corporate communication about the company and its prospects, but we want to discourage communication that is misleading or fraudulent.

The proposals before Congress address these goals with the following important and urgently needed reforms: The Racketeer Influenced and Corrupt Organizations law should not apply to ordinary securities cases. Forward-looking statements, as defined by the Securities and Exchange Commission, should have some "safe harbor" protection. Plaintiffs should bear the burden of proving that the defendant had "actual knowledge" that a statement was false or that a relevant statement was omitted. And a stay of discovery should be provided once a motion to dismiss, based on the safe harbor for forward-looking information, has been filed.

These measures will reduce the number of sloppy, race-to-the-courthouse actions, like the ones filed against Philip Morris, and put less pressure on insurers to settle. They will also encourage use of alternate dispute resolution. Indeed, the ADR provisions in the current bills should be strengthened, perhaps even requiring referral to a certified mediator with a background in securities law, who would resolve as many issues as possible.

To reduce the conflicts of interest between plaintiffs and their fellow shareholders, the proposals provide for appointment of a guardian ad litem or a plaintiff steering committee. This makes other aspects of the bills—including a minimum requirement for stock ownership and a limit on the number of actions a plaintiff can bring—unnecessary and possibly counterproductive. As long as there is an independent mechanism for ensuring that the interests of all shareholders are met, the identity and the holdings of the name plaintiff are unimportant. Indeed, an individual shareholder may be an excellent representative of the group.

Litigation reform efforts in fields where corporations pay big awards always raise the question of the English, or "loser pays," rule. The theory is that "loser pays" discourages frivolous suits. But in this context, it is unnecessary.

There are already sufficient penalties available for frivolous suits. Furthermore, judges can penalize litigants by refusing to approve attorney fees, as the U.S. District Court in Maine did in a 1992 case, Weinberger, et al. v. Great Northern Nekoosa Corp., et al.

Lawyers had filed suit on behalf of the shareholders of Great Northern Nekoosa, a takeover target of the Georgia-Pacific Corp. Since the ultimate deal was better for shareholders than the proposal on the table at the time that the suit was filed, the attorneys argued that they had made an important contribution for which they deserved to be paid. Georgia-Pacific agreed to pay them $2 million, subject to what was expected to be routine approval by the court.

Instead, the court refused to allow any payment at all, issuing a decision with detailed objections to almost every item and calculation put forward to support the $2 million in fees. The judge ruled that even had the law firms justified their involvement, they had overbilled by 80 percent: "Exaggeration, rather than restraint, has been the watchword of the plaintiff's counsel's entire exercise. . . . [Even a Michelangelo should not charge Sistine Chapel rates for painting a farmer's barn."

Since the plaintiffs bar normally takes these shareholders cases on a contingency basis, a decision like the one in the Georgia-Pacific case is a powerful deterrent to frivolous and unnecessary suits.

But just as we have to address the problem of too many bad suits, we need to address the problem of too few good ones. Institutional investors, including pension funds and money managers, often ignore notices of shareholders suits. It is almost unheard of for them to file one. The "loser pay" rule will only make this problem worse.

On the contrary, to encourage large shareholders to take on the task—and the commercial risk—of filing suit against major corporations, we may need to compensate them for the time and resources they expend. A steering committee, as in bankruptcy cases, could review such awards.

The Department of Labor, which has jurisdiction over ERISA and Taft-Hartley pension funds, has already raised the consciousness of the pension-fund community about its obligations with regard to proxy voting. The department could do the same with regard to shareholder litigation. Along with the other agencies that have jurisdiction over institutional investors—the SEC, the Internal Revenue Service, and the banking agencies—the Labor Department should establish a standard for evaluating a potential suit as one would any other asset.

To produce real reform—by encouraging suits brought to hold management's feet to the fire and discouraging suits brought to line the pockets of plaintiffs and their lawyers—institutional investors must be persuaded to share the burden of bringing shareholder litigation. When the system does not provide adequate incentive for them to protect their own interests and those of their fellow shareholders, it is institutional investors and their beneficiaries whom the system has failed the most.

TESTIMONY OF MARYELLEN ANDERSEN, INVESTOR AND CORPORATE RELATIONS DIRECTOR, CONNECTICUT RETIREMENT & TRUST FUNDS AND TREASURER OF THE COUNCIL OF INSTITUTIONAL INVESTORS, BEFORE THE SENATE BANKING SECURITIES SUBCOMMITTEE, JULY 21, 1993

Good morning. My Washington advisor ordered me not to start by telling you who I am and who I represent. She says you already know, or you wouldn't have invited me. She also says it is silly to read a string of titles and numbers, and it puts everyone to sleep.

So I won't read you a string of titles. But I think it is critical to emphasize that if there is *any* constituency here today that has every reason to get the securities litigation system right, and no reason to want to skew the system to favor anyone, it is the constituency I represent.

This is the constituency. I am here representing the public employees and retirees of the state of Connecticut. As some of you know, the state pension system invests over $9.54 billion dollars on behalf of over 140,000 employees and beneficiaries. I am also the Treasurer of the Council of Institutional Investors, whose members invest over $600 billion on behalf of many more millions of union, public, and other corporate employees and beneficiaries.

Why do we care about this legislation? We care because we are the largest shareholders in America. We are ones who are hurt if a system allows someone to force us to spend huge sums of money in legal costs by merely paying ten dollars and filing a meritless cookie cutter complaint against a company or its accountants when that plaintiff is disappointed in his or her investment. Our pensions and our jobs depend on our employment by and investment in our companies. If we saddle our companies with big and unproductive costs that other companies in other countries do not pay, we cannot be surprised if our jobs and raises begin to disappear and our pensions come up short as the population ages.

But we are also the shareholders who want to preserve our ability to sue when it is appropriate. We are the shareholders who are benefitted if the SEC or private parties bring appropriate law suits that police our markets and care for millions of individual investors who might not otherwise be able to protect themselves.

Let me emphasize this point. As the largest shareholders in most companies, we are the ones who have the most to gain from meritorious securities litigation. The awards directly and positively affect our returns. So, besides the general value that meritorious lawsuits have for keeping our markets clean, they have direct immediate financial value to us. We certainly, therefore would be foolish to advocate any change that would discourage the proper enforcement of our securities laws.

However, we are also both the employees and taxpayers who depend on corporate employers and a corporate tax base, and we are the millions of individual consumers of corporate goods and services. In both of these roles we are the ones who pay the cost of *all* corporate litigation, meritorious and otherwise. We pay by not getting raises, we pay by higher prices, we pay through lower shareholder returns. You must remember, in other words, that whenever you see a deserving plaintiff awarded, we are the ones paying the price. We are also the ones paying the settlements when the lawsuits are frivolous. And we are the ones paying the huge lawyers' fees. Since the Council of Institutional Investors' average retiree makes only $552 a month, we feel we are pretty needy and deserving too.

In short, we are the ones who are hurt if the system doesn't work right or efficiently, and we are the ones who stand to benefit most if it does.

And, with all due respect to the other parties present, I believe we are the ones with both the interest and the expertise necessary to address these issues and come up with solutions that are genuinely in the public interest.

What, then, do we think? I think most of us feel that despite all the strong language and political blood letting that this legislation has produced; there is reason to believe the system isn't yet working right.

There is still major disagreement about whether there are a huge number or a small number of frivolous securities strike suits filed. There is disagreement about whether the recent growth in the number of these suits is temporary or permanent. But whether the number is large or small, and whether the problem is temporarily worse than usual or not, the problem is one to be addressed: it is in our collective interest to look for ways to reduce or eliminate any frivolous or inefficient efforts to use our legal system and our private markets like a shareholder lottery.

There are also still major disagreements about the size and utility of the legal, administrative, settlement, and lost opportunity costs generated by the present system. But we all know that because of the tremendous number of these cases the costs are very significant. It is in our collective interest to look for ways to reduce these costs and insure that every dollar spent is spent as efficiently as possible and is as likely as possible to go to innocent victims, affected shareholders, and public administrative costs, not on individuals whose wealth depends on generating lawsuits more-or-less regardless of merit.

So I am here to offer to work with those who have every interest in getting this matter right—with labor, with the business community, with other investors, and with you and the SEC—to offer up our best effort at identifying and addressing securities litigation reform to protect our jobs and our pensions.

I am not here to endorse this specific piece of legislation or to pretend to be an expert on the intricacies of this bill or this issue more generally. I am not an accountant or a securities lawyer—my Washington advisor says this makes me "a civilian." But one needn't be an expert to realize the importance of this issue and to conclude that this issue must be addressed to ensure that the system protects us as investors, employees, retirees, and citizens.

I close by repeating my offer to have the Council work with you, the SEC, labor, and business to try to reach constructive solutions to this and other litigation-related problems.

Mr. DOMENICI. I thank the Senator from New York for yielding. And I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. I yield the remainder of our time to the distinguished Senator from California, who has been such a powerful advocate throughout this debate.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mrs. BOXER. Mr. President, I thank my ranking member so much. Since people are thanking people for working with them on this, I just have to say what an honor it has been to take this issue to the floor of the U.S. Senate with two of my role models, frankly, Senator SARBANES and Senator BRYAN. I have been so honored to be part of this team because when we started, we were really laughed at in some ways saying, "Well you'll never get any votes for anything." By God, we actually won a couple of amendments.

We came close to fixing the safe harbor provision. I think we have shown with tenacity that we can make our points, and I am going to try to do that in the last couple of minutes.

Why do we need securities laws in the first place? Clearly, it is to protect the average investor. There are so many tears being shed here for corporate directors, and, by the way, most of them are wonderful, honorable, decent people in the community and they help the engine of economic growth, but I have not seen any tears shed on the other side for the victims of securities fraud.

I hear bashing of lawyers, that is in. Sure, bash, bash, that is the politics of the nineties. Every time we put up an amendment, bash the lawyers, beat the amendment.

But what we are about is saying get rid of the frivolous lawsuits, but do not give fast-moving insiders and others a chance to make a quick buck at the expense of the small investor.

I am going to tell you what some of the press have said about this bill relating to S. 240. The St. Louis Post-Dispatch: "Don't protect securities fraud." That is what they think this bill does.

Contra Costa Times: "Why would any Member of Congress vote to protect those involved in fraud at the expense of investors?"

Seattle Post-Intelligencer: "The legislation is opposed by the U.S. Conference of Mayors, the Government Finance Officers, the American Association of Retired Persons, and the North American Securities Administrators Association."

"S. 240 is bad news for investors. It would tie victims in legal knots while immunizing white-collar crooks against having to pay for their misdeeds." The Raleigh, NC, News and Observer.

The Philadelphia Inquirer: "A crook is a crook, and S. 240 would relax penalties for many stock crooks."

And then we have Jane Bryant Quinn of Newsweek: "S. 240 makes it easier for corporations and stockbrokers to mislead investors."

The Seattle Times: "This legislation has proceeded almost unnoticed because it is hideously complicated."

It is so complicated it is bad for the average investor. I hope we will register a "no" vote on this final passage.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, we have heard a lot said about this bill. I want to first commend Senators DOMENICI and DODD for their stewardship. Senator DOMENICI outlined how he detected a system that was more interested in making huge profits for lawyers and not give a whit about the so-called victims. In many cases, there were no victims until the small investors, people who had invested in companies that these lawsuits were manufactured against, became the victims.

Let me tell you about the people who brought these suits. About 30 percent of these suits were brought by one law firm—by one law firm. They went out and they hired their plaintiffs. Sixty-five plaintiffs appeared in two cases, 12 plaintiffs appeared in three cases, 3 plaintiffs appeared in four cases. They appeared to get their bonuses, $10,000, $15,000, $20,000—and by allowing their names to be used these plaintiffs allow the lawyers to race to the courthouse.

Let me tell you what this bill does. It ends the use of professional plaintiffs. I have not heard anybody say anything about that. It forces lawyers to work for real clients. We say the pension funds, the little guys who have invested in them, they should select who the lawyers are.

This bill will empower courts to weed out frivolous cases. It gives defendants the leverage to fight cases when they did nothing wrong. Now they cannot fight, they have to surrender, otherwise they are hit for millions of dollars in costs or damages, so even if you win you lose.

S. 240 will require accountants to report fraud to authorities. Nobody says anything about that. It gives the SEC the ability to go after bad guys, a power which they do not have today.

It will get more information to investors by making it so that people can make projections without being sued. It is a good bill, and it is long overdue. We would rectify a terrible situation that exists at the present time by passing this bill.

Mr. President, I urge the adoption of S. 240. I yield back the remainder of my time.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the bill having been read the third time, the question is, Shall the bill, H.R. 1058, as amended, pass? The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. BOND (when his name was called). Present.

The PRESIDING OFFICER (Mr. KYL). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 70, nays 29, as follows:

[Rollcall Vote No. 295 Leg.]

YEAS—70

Abraham
Akaka
Ashcroft
Baucus
Bennett
Bradley
Brown
Burns
Campbell
Chafee
Coats
Cochran
Coverdell
Craig
D'Amato
DeWine
Dodd
Dole
Domenici
Exon
Faircloth
Feinstein
Ford
Frist
Gorton
Gramm
Grams
Grassley
Gregg
Harkin
Hatch
Hatfield
Helms

Hutchison
Inhofe
Jeffords
Johnston
Kassebaum
Kempthorne
Kennedy
Kerry
Kohl
Kyl
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Nunn
Packwood
Pell
Pressler
Reid
Robb
Rockefeller
Roth
Santorum
Simpson
Smith
Snowe
Stevens
Thomas
Thompson
Thurmond
Warner

NAYS—29

Biden
Bingaman
Boxer
Breaux
Bryan
Bumpers
Byrd
Cohen
Conrad
Daschle
Dorgan
Feingold
Glenn
Graham
Heflin
Hollings
Inouye
Kerrey
Lautenberg
Leahy
Levin
McCain
Moynihan
Pryor
Sarbanes
Shelby
Simon
Specter
Wellstone

ANSWERED "PRESENT"—1

Bond

So, the bill (H.R. 1058), as amended, was passed, as follows:

Resolved, That the bill from the House of Representatives (H.R. 1058) entitled "An Act to reform Federal securities litigation, and for other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Private Securities Litigation Reform Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REDUCTION OF ABUSIVE LITIGATION

Sec. 101. Elimination of certain abusive practices.
Sec. 102. Securities class action reform.
Sec. 103. Sanctions for abusive litigation.
Sec. 104. Requirements for securities fraud actions.
Sec. 105. Safe harbor for forward-looking statements.
Sec. 106. Written interrogatories.
Sec. 107. Amendment to Racketeer Influenced and Corrupt Organizations Act.
Sec. 108. Authority of Commission to prosecute aiding and abetting.
Sec. 109. Loss causation.
Sec. 110. Study and report on protections for senior citizens and qualified retirement plans.
Sec. 111. Amendment to Racketeer Influenced and Corrupt Organizations Act.
Sec. 112. Applicability.

TITLE II—REDUCTION OF COERCIVE SETTLEMENTS

Sec. 201. Limitation on damages.
Sec. 202. Proportionate liability.
Sec. 203. Applicability.

TITLE III—AUDITOR DISCLOSURE OF CORPORATE FRAUD

Sec. 301. Fraud detection and disclosure.

TITLE I—REDUCTION OF ABUSIVE LITIGATION

SEC. 101. ELIMINATION OF CERTAIN ABUSIVE PRACTICES.

(a) PROHIBITION OF REFERRAL FEES.—Section 15(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(c)) is amended by adding at the end the following new paragraph:

"(8) PROHIBITION OF REFERRAL FEES.—No broker or dealer, or person associated with a broker or dealer, may solicit or accept, directly or indirectly, remuneration for assisting an attorney in obtaining the representation of any person in any private action arising under this title or under the Securities Act of 1933.".

(b) ATTORNEY CONFLICT OF INTEREST.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(f) ATTORNEY CONFLICT OF INTEREST.—In any private action arising under this title, if a plaintiff is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such ownership or other interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the party.".

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

"(i) ATTORNEY CONFLICT OF INTEREST.—In any private action arising under this title, in which a plaintiff is represented by an attorney who directly owns or otherwise has a beneficial interest in the securities that are the subject of the litigation, the court shall make a determination of whether such ownership or other interest constitutes a conflict of interest sufficient to disqualify the attorney from representing the party.".

(c) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(g) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Except as otherwise ordered by the court upon motion by the Commission, or, in the case of an administrative action, as otherwise ordered by the Commission, funds disgorged as the result of an action brought by the Commission in Federal court, or as a result of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking distribution of the disgorged funds.".

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)) is amended by adding at the end the following new paragraph:

"(4) PROHIBITION OF ATTORNEYS' FEES PAID FROM COMMISSION DISGORGEMENT FUNDS.—Except as otherwise ordered by the court upon motion by the Commission, or, in the case of an administrative action, as otherwise ordered by the Commission, funds disgorged as the result of an action brought by the Commission in Federal court, or as a result of any Commission administrative action, shall not be distributed as payment for attorneys' fees or expenses incurred by private parties seeking distribution of the disgorged funds.".

SEC. 102. SECURITIES CLASS ACTION REFORM.

(a) RECOVERY RULES.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(h) RECOVERY RULES FOR PRIVATE CLASS ACTIONS.—

"(1) IN GENERAL.—The rules contained in this subsection shall apply in each private action arising under this title that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure.

"(2) CERTIFICATION FILED WITH COMPLAINTS.—

"(A) IN GENERAL.—Each plaintiff seeking to serve as a representative party on behalf of a class shall provide a sworn certification, which shall be personally signed by such plaintiff and filed with the complaint, that—

"(i) states that the plaintiff has reviewed the complaint and authorized its filing;

"(ii) states that the plaintiff did not purchase the security that is the subject of the complaint at the direction of plaintiff's counsel or in order to participate in any private action arising under this title;

"(iii) states that the plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary;

"(iv) sets forth all of the transactions of the plaintiff in the security that is the subject of the complaint during the class period specified in the complaint;

"(v) identifies any action under this title, filed during the 3-year period preceding the date on which the certification is signed by the plaintiff, in which the plaintiff has sought to serve as a representative party on behalf of a class; and

"(vi) states that the plaintiff will not accept any payment for serving as a representative party on behalf of a class beyond the plaintiff's pro rata share of any recovery, except as ordered or approved by the court in accordance with paragraph (3).

"(B) NONWAIVER OF ATTORNEY-CLIENT PRIVILEGE.—The certification filed pursuant to subparagraph (A) shall not be construed to be a waiver of the attorney-client privilege.

"(3) RECOVERY BY PLAINTIFFS.—The share of any final judgment or of any settlement that is awarded to a representative party serving on behalf of a class shall be calculated in the same manner as the shares of the final judgment or settlement awarded to all other members of the class. Nothing in this paragraph shall be construed to limit the award of reasonable costs and expenses (including lost wages) directly relating to the representation of the class to any representative party serving on behalf of the class.

"(4) RESTRICTIONS ON SETTLEMENTS UNDER SEAL.—The terms and provisions of any settlement agreement of a class action shall not be filed under seal, except that on motion of any party to the settlement, the court may order filing under seal for those portions of a settlement agreement as to which good cause is shown for such filing under seal. For purposes of this paragraph, good cause shall exist only if publication of a term or provision of a settlement agreement would cause direct and substantial harm to any party.

"(5) RESTRICTIONS ON PAYMENT OF ATTORNEYS' FEES AND EXPENSES.—Total attorneys' fees and expenses awarded by the court to counsel for the plaintiff class shall not exceed a reasonable percentage of the amount of damages and prejudgment interest awarded to the class.

"(6) DISCLOSURE OF SETTLEMENT TERMS TO CLASS MEMBERS.—Any proposed or final settlement agreement that is published or otherwise disseminated to the class shall include each of the following statements, along with a cover page summarizing the information contained in such statements:

"(A) STATEMENT OF PLAINTIFF RECOVERY.—The amount of the settlement proposed to be distributed to the parties to the action, determined in the aggregate and on an average per share basis.

"(B) STATEMENT OF POTENTIAL OUTCOME OF CASE.—

"(i) AGREEMENT ON AMOUNT OF DAMAGES.—If the settling parties agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement concerning the average amount of such potential damages per share.

"(ii) DISAGREEMENT ON AMOUNT OF DAMAGES.—If the parties do not agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement from each settling party concerning the issue or issues on which the parties disagree.

"(iii) INADMISSIBILITY FOR CERTAIN PURPOSES.—A statement made in accordance with clause (i) or (ii) concerning the amount of damages shall not be admissible in any Federal or State judicial action or administrative proceeding, other than an action or proceeding arising out of such statement.

"(C) STATEMENT OF ATTORNEYS' FEES OR COSTS SOUGHT.—If any of the settling parties or their counsel intend to apply to the court for an award of attorneys' fees or costs from any fund established as part of the settlement, a statement indicating which parties or counsel intend to make such an application, the amount of fees and costs that will be sought (including the amount of such fees and costs determined on an average per share basis), and a brief explanation supporting the fees and costs sought.

"(D) IDENTIFICATION OF LAWYERS' REPRESENTATIVES.—The name, telephone number, and address of one or more representatives of counsel for the plaintiff class who will be reasonably available to answer questions from class members concerning any matter contained in any notice of settlement published or otherwise disseminated to the class.

"(E) REASONS FOR SETTLEMENT.—A brief statement explaining the reasons why the parties are proposing the settlement.

"(F) OTHER INFORMATION.—Such other information as may be required by the court.".

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

"(j) RECOVERY RULES FOR PRIVATE CLASS ACTIONS.—

"(1) IN GENERAL.—The rules contained in this subsection shall apply in each private action arising under this title that is brought as a plaintiff class action pursuant to the Federal Rules of Civil Procedure.

"(2) CERTIFICATION FILED WITH COMPLAINTS.—

"(A) IN GENERAL.—Each plaintiff seeking to serve as a representative party on behalf of a class shall provide a sworn certification, which shall be personally signed by such plaintiff and filed with the complaint, that—

"(i) states that the plaintiff has reviewed the complaint and authorized its filing;

"(ii) states that the plaintiff did not purchase the security that is the subject of the complaint at the direction of plaintiff's counsel or in order to participate in any private action arising under this title;

"(iii) states that the plaintiff is willing to serve as a representative party on behalf of a class, including providing testimony at deposition and trial, if necessary;

"(iv) sets forth all of the transactions of the plaintiff in the security that is the subject of the complaint during the class period specified in the complaint;

"(v) identifies any action under this title, filed during the 3-year period preceding the date on which the certification is signed by the plaintiff, in which the plaintiff has sought to serve as a representative party on behalf of a class; and

"(vi) states that the plaintiff will not accept any payment for serving as a representative party on behalf of a class beyond the plaintiff's pro rata share of any recovery, except as ordered or approved by the court in accordance with paragraph (3).

"(B) NONWAIVER OF ATTORNEY-CLIENT PRIVILEGE.—The certification filed pursuant to subparagraph (A) shall not be construed to be a waiver of the attorney-client privilege.

"(3) RECOVERY BY PLAINTIFFS.—The share of any final judgment or of any settlement that is awarded to a representative party serving on behalf of a class shall be calculated in the same manner as the shares of the final judgment or settlement awarded to all other members of the class. Nothing in this paragraph shall be construed to limit the award to any representative party serving on behalf of a class of reasonable costs and expenses (including lost wages) directly relating to the representation of the class.

"(4) RESTRICTIONS ON SETTLEMENTS UNDER SEAL.—The terms and provisions of any settlement agreement of a class action shall not be filed under seal, except that on motion of any party to the settlement, the court may order filing under seal for those portions of a settlement agreement as to which good cause is shown for such filing under seal. For purposes of this paragraph, good cause shall exist only if publication of a term or provision of a settlement agreement would cause direct and substantial harm to any party.

"(5) RESTRICTIONS ON PAYMENT OF ATTORNEYS' FEES AND EXPENSES.—Total attorneys' fees and expenses awarded by the court to counsel for the plaintiff class shall not exceed a reasonable percentage of the amount of damages and prejudgment interest awarded to the class.

"(6) DISCLOSURE OF SETTLEMENT TERMS TO CLASS MEMBERS.—Any proposed or final settlement agreement that is published or otherwise disseminated to the class shall include each of the following statements, along with a cover page summarizing the information contained in such statements:

"(A) STATEMENT OF PLAINTIFF RECOVERY.—The amount of the settlement proposed to be distributed to the parties to the action, determined in the aggregate and on an average per share basis.

"(B) STATEMENT OF POTENTIAL OUTCOME OF CASE.—

"(i) AGREEMENT ON AMOUNT OF DAMAGES.—If the settling parties agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement concerning the average amount of such potential damages per share.

"(ii) DISAGREEMENT ON AMOUNT OF DAMAGES.—If the parties do not agree on the average amount of damages per share that would be recoverable if the plaintiff prevailed on each claim alleged under this title, a statement from each settling party concerning the issue or issues on which the parties disagree.

"(iii) INADMISSIBILITY FOR CERTAIN PURPOSES.—A statement made in accordance with clause (i) or (ii) concerning the amount of damages shall not be admissible in any Federal or State judicial action or administrative proceeding, other than an action or proceeding arising out of such statement.

"(C) STATEMENT OF ATTORNEYS' FEES OR COSTS SOUGHT.—If any of the settling parties or their counsel intend to apply to the court for an award of attorneys' fees or costs from any fund established as part of the settlement, a statement indicating which parties or counsel intend to make such an application, the amount of fees and costs that will be sought (including the amount of such fees and costs determined on an average per share basis), and a brief explanation supporting the fees and costs sought.

"(D) IDENTIFICATION OF LAWYERS' REPRESENTATIVES.—The name, telephone number, and address of one or more representatives of counsel for the plaintiff class who will be reasonably available to answer questions from class members concerning any matter contained in any notice of settlement published or otherwise disseminated to the class.

"(E) REASONS FOR SETTLEMENT.—A brief statement explaining the reasons why the parties are proposing the settlement.

"(F) OTHER INFORMATION.—Such other information as may be required by the court.".

(b) APPOINTMENT OF LEAD PLAINTIFF.—

(1) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(i) PROCEDURES GOVERNING APPOINTMENT OF LEAD PLAINTIFF IN CLASS ACTIONS.—

"(1) EARLY NOTICE TO CLASS MEMBERS.—

"(A) IN GENERAL.—In any private action arising under this title that is brought on behalf of a class, not later than 20 days after the date on which the complaint is filed, the plaintiff or plaintiffs shall cause to be published, in a widely circulated national business-oriented publication or wire service, a notice advising members of the purported plaintiff class—

"(i) of the pendency of the action, the claims asserted therein, and the purported class period; and

"(ii) that, not later than 60 days after the date on which the notice is published, any member of the purported class may move the court to serve as lead plaintiff of the purported class.

"(B) ADDITIONAL NOTICES MAY BE REQUIRED UNDER FEDERAL RULES.—Notice required under subparagraph (A) shall be in addition to any notice required pursuant to the Federal Rules of Civil Procedure.

"(2) APPOINTMENT OF LEAD PLAINTIFF.—

"(A) IN GENERAL.—Not later than 90 days after the date on which a notice is published under paragraph (1)(A), the court shall consider any motion made by a purported class member in response to the notice, and shall appoint as lead plaintiff the member or members of the purported plaintiff class that the court determines to be most capable of adequately representing the interests of class members (hereafter in this subsection referred to as the 'most adequate plaintiff') in accordance with this paragraph.

"(B) CONSOLIDATED ACTIONS.—If more than one action on behalf of a class asserting substantially the same claim or claims arising under this title has been filed, and any party has sought to consolidate those actions for pretrial purposes or for trial, the court shall not make the determination required by subparagraph (A) until after the decision on the motion to consolidate is rendered. As soon as practicable after such decision is rendered, the court shall appoint the most adequate plaintiff as lead plaintiff for the consolidated actions in accordance with this paragraph.

"(C) REBUTTABLE PRESUMPTION.—

"(i) IN GENERAL.—Subject to clause (ii), for purposes of subparagraph (A), the court shall adopt a presumption that the most adequate plaintiff in any private action arising under this title is the person or group of persons that—

"(I) has either filed the complaint or made a motion in response to a notice under paragraph (1)(A);

"(II) in the determination of the court, has the largest financial interest in the relief sought by the class; and

"(III) otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

"(ii) REBUTTAL EVIDENCE.—The presumption described in clause (i) may be rebutted only upon proof by a member of the purported plaintiff class that the presumptively most adequate plaintiff—

"(I) will not fairly and adequately protect the interests of the class; or

"(II) is subject to unique defenses that render such plaintiff incapable of adequately representing the class.

"(iii) DISCOVERY.—For purposes of clause (ii), discovery relating to whether a member or members of the purported plaintiff class is the most adequate plaintiff—

"(I) may not be conducted by any defendant; and

"(II) may be conducted by a plaintiff only if the plaintiff first demonstrates a reasonable basis for a finding that the presumptively most adequate plaintiff is incapable of adequately representing the class.

"(D) SELECTION OF LEAD COUNSEL.—The most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class.".

(2) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new subsection:

"(k) PROCEDURES GOVERNING APPOINTMENT OF LEAD PLAINTIFF IN CLASS ACTIONS.—

"(1) EARLY NOTICE TO CLASS MEMBERS.—

"(A) IN GENERAL.—In any private action arising under this title that is brought on behalf of a class, not later than 20 days after the date on which the complaint is filed, the plaintiff or plaintiffs shall cause to be published, in a widely circulated national business-oriented publication or wire service, a notice advising members of the purported plaintiff class—

"(i) of the pendency of the action, the claims asserted therein, and the purported class period; and

"(ii) that, not later than 60 days after the date on which the notice is published, any member of the purported class may move the court to serve as lead plaintiff of the purported class.

"(B) ADDITIONAL NOTICES MAY BE REQUIRED UNDER FEDERAL RULES.—Notice required under subparagraph (A) shall be in addition to any notice required pursuant to the Federal Rules of Civil Procedure.

"(2) APPOINTMENT OF LEAD PLAINTIFF.—

"(A) IN GENERAL.—Not later than 90 days after the date on which a notice is published under paragraph (1)(A), the court shall consider any motion made by a purported class member in response to the notice, and shall appoint as lead plaintiff the member or members of the purported plaintiff class that the court determines to be most capable of adequately representing the interests of class members (hereafter in this subsection referred to as the 'most adequate plaintiff') in accordance with this paragraph.

"(B) CONSOLIDATED ACTIONS.—If more than one action on behalf of a class asserting substantially the same claim or claims arising under this title has been filed, and any party has sought to consolidate those actions for pretrial purposes or for trial, the court shall not make the determination required by subparagraph (A) until after the decision on the motion to consolidate is rendered. As soon as practicable after such decision is rendered, the court shall appoint the most adequate plaintiff as lead plaintiff for the consolidated actions in accordance with this paragraph.

"(C) REBUTTABLE PRESUMPTION.—

"(i) IN GENERAL.—Subject to clause (ii), for purposes of subparagraph (A), the court shall adopt a presumption that the most adequate plaintiff in any private action arising under this title is the person or group of persons that—

"(I) has either filed the complaint or made a motion in response to a notice under paragraph (1)(A);

"(II) in the determination of the court, has the largest financial interest in the relief sought by the class; and

"(III) otherwise satisfies the requirements of Rule 23 of the Federal Rules of Civil Procedure.

"(ii) REBUTTAL EVIDENCE.—The presumption described in clause (i) may be rebutted only upon proof by a member of the purported plaintiff class that the presumptively most adequate plaintiff—

"(I) will not fairly and adequately protect the interests of the class; or

"(II) is subject to unique defenses that render such plaintiff incapable of adequately representing the class.

"(iii) DISCOVERY.—For purposes of clause (ii), discovery relating to whether a member or members of the purported plaintiff class is the most adequate plaintiff—

"(I) may not be conducted by any defendant; and

"(II) may be conducted by a plaintiff only if the plaintiff first demonstrates a reasonable basis for a finding that the presumptively most adequate plaintiff is incapable of adequately representing the class.

"(D) SELECTION OF LEAD COUNSEL.—The most adequate plaintiff shall, subject to the approval of the court, select and retain counsel to represent the class.".

SEC. 103. SANCTIONS FOR ABUSIVE LITIGATION.

(a) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(j) SANCTIONS FOR ABUSIVE LITIGATION.—

"(1) MANDATORY REVIEW BY COURT.—In any private action arising under this title, upon final adjudication of the action, the court shall include in the record specific findings regarding compliance by each party and each attorney representing any party with each requirement of Rule 11(b) of the Federal Rules of Civil Procedure.

"(2) MANDATORY SANCTIONS.—If the court makes a finding under paragraph (1) that a party or attorney violated any requirement of Rule 11(b) of the Federal Rules of Civil Procedure, the court shall impose sanctions on such party or attorney in accordance with Rule 11 of the Federal Rules of Civil Procedure.

"(3) PRESUMPTION IN FAVOR OF ATTORNEYS' FEES AND COSTS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), for purposes of paragraph (2), the court shall adopt a presumption that the appropriate sanction for failure of the complaint or the responsive pleading or motion to comply with any requirement of Rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

"(B) REBUTTAL EVIDENCE.—The presumption described in subparagraph (A) may be rebutted only upon proof by the party or attorney against whom sanctions are to be imposed that—

"(i) the award of attorneys' fees and other expenses will impose an undue burden on that party or attorney; or

"(ii) the violation of Rule 11(b) of the Federal Rules of Civil Procedure was de minimis.

"(C) SANCTIONS.—If the party or attorney against whom sanctions are to be imposed meets its burden under subparagraph (B), the court shall award the sanctions that the court deems appropriate pursuant to Rule 11 of the Federal Rules of Civil Procedure.".

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

"(l) SANCTIONS FOR ABUSIVE LITIGATION.—

"(1) MANDATORY REVIEW BY COURT.—In any private action arising under this title, upon final adjudication of the action, the court shall include in the record specific findings regarding compliance by each party and each attorney representing any party with each requirement of Rule 11(b) of the Federal Rules of Civil Procedure.

"(2) MANDATORY SANCTIONS.—If the court makes a finding under paragraph (1) that a party or attorney violated any requirement of Rule 11(b) of the Federal Rules of Civil Procedure, the court shall impose sanctions in accordance with Rule 11 of the Federal Rules of Civil Procedure on such party or attorney.

"(3) PRESUMPTION IN FAVOR OF ATTORNEYS' FEES AND COSTS.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), for purposes of paragraph (2), the court shall adopt a presumption that the appropriate sanction for failure of the complaint or the responsive pleading or motion to comply with any requirement of Rule 11(b) of the Federal Rules of Civil Procedure is an award to the opposing party of all of the reasonable attorneys' fees and other expenses incurred as a direct result of the violation.

"(B) REBUTTAL EVIDENCE.—The presumption described in subparagraph (A) may be rebutted only upon proof by the party or attorney against whom sanctions are to be imposed that—

"(i) the award of attorneys' fees and other expenses will impose an undue burden on that party or attorney; or

"(ii) the violation of Rule 11(b) of the Federal Rules of Civil Procedure was de minimis.

"(C) SANCTIONS.—If the party or attorney against whom sanctions are to be imposed meets its burden under subparagraph (B), the court shall award the sanctions that the court deems appropriate pursuant to Rule 11 of the Federal Rules of Civil Procedure.".

SEC. 104. REQUIREMENTS FOR SECURITIES FRAUD ACTIONS.

(a) SECURITIES ACT OF 1933.—

(1) STAY OF DISCOVERY.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(k) STAY OF DISCOVERY.—In any private action arising under this title, during the pendency of any motion to dismiss, all discovery and other proceedings shall be stayed unless the court finds, upon the motion of any party, that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party.".

(2) PRESERVATION OF EVIDENCE.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(l) PRESERVATION OF EVIDENCE.—It shall be unlawful for any person, upon receiving actual notice that a complaint has been filed in a private action arising under this title naming that person as a defendant and that describes the allegations contained in the complaint, to willfully destroy or otherwise alter any document, data compilation (including any electronically recorded or stored data), or tangible object that is in the custody or control of that person and that is relevant to the allegations.".

(b) SECURITIES EXCHANGE ACT OF 1934.—Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 36. REQUIREMENTS FOR SECURITIES FRAUD ACTIONS.

"(a) MISLEADING STATEMENTS AND OMISSIONS.—In any private action arising under this title in which the plaintiff alleges that the defendant—

"(1) made an untrue statement of a material fact; or

"(2) omitted to state a material fact necessary in order to make the statements made, in the light of the circumstances in which they were made, not misleading;

the complaint shall specify each statement alleged to have been misleading, the reason or reasons why the statement is misleading, and, if an allegation regarding the statement or omission is made on information and belief, the plaintiff shall set forth all information on which that belief is formed.

"(b) REQUIRED STATE OF MIND.—

"(1) IN GENERAL.—In any private action arising under this title in which the plaintiff may recover money damages only on proof that the defendant acted with a particular state of mind, the complaint shall, with respect to each act or omission alleged to violate this title, specifically allege facts giving rise to a strong inference that the defendant acted with the required state of mind.

"(2) STRONG INFERENCE OF FRAUDULENT INTENT.—For purposes of paragraph (1), a strong inference that the defendant acted with the required state of mind may be established either—

"(A) by alleging facts to show that the defendant had both motive and opportunity to commit fraud; or

"(B) by alleging facts that constitute strong circumstantial evidence of conscious misbehavior or recklessness by the defendant.

"(c) MOTION TO DISMISS; STAY OF DISCOVERY.—

"(1) DISMISSAL FOR FAILURE TO MEET PLEADING REQUIREMENTS.—In any private action arising under this title, the court shall, on the motion of any defendant, dismiss the complaint if the requirements of subsections (a) and (b) are not met.

"(2) STAY OF DISCOVERY.—In any private action arising under this title, all discovery and other proceedings shall be stayed during the pendency of any motion to dismiss, unless the court finds upon the motion of any party that particularized discovery is necessary to preserve evidence or to prevent undue prejudice to that party.

"(3) PRESERVATION OF EVIDENCE.—It shall be unlawful for any person, upon receiving actual notice that a complaint has been filed in a private action arising under this title naming that person as a defendant and that describes the allegations contained in the complaint, to willfully destroy or otherwise alter any document, data compilation (including any electronically recorded or stored data), or tangible object that is in the custody or control of that person and that is relevant to the allegations.

"(d) LOSS CAUSATION.—In any private action arising under this title, the plaintiff shall have the burden of proving that the act or omission alleged to violate this title caused any loss incurred by the plaintiff. Damages arising from such loss may be mitigated upon a showing by the defendant that factors unrelated to such act or omission contributed to the loss.".

SEC. 105. SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

(a) SECURITIES ACT OF 1933.—Title I of the Securities Act of 1933 (15 U.S.C. 77a et seq.) is amended by inserting after section 13 the following new section:

"SEC. 13A. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

"(a) SAFE HARBOR.—

"(1) IN GENERAL.—In any private action arising under this title that is based on a fraudulent statement, an issuer that is subject to the reporting requirements of section 13(a) or section 15(d) of the Securities Exchange Act of 1934, a person acting on behalf of such issuer, or an outside reviewer retained by such issuer, shall not be liable with respect to any forward-looking statement, whether written or oral, if and to the extent that the statement—

"(A) projects, estimates, or describes future events; and

"(B) refers clearly (and, except as otherwise provided by rule or regulation, proximately) to—

"(i) such projections, estimates, or descriptions as forward-looking statements; and

"(ii) the risk that actual results may differ materially from such projections, estimates, or descriptions.

"(2) EFFECT ON OTHER SAFE HARBORS.—The exemption from liability provided for in paragraph (1) shall be in addition to any exemption that the Commission may establish by rule or regulation under subsection (e).

"(b) DEFINITION OF FORWARD-LOOKING STATEMENT.—For purposes of this section, the term 'forward-looking statement' means—

"(1) a statement containing a projection of revenues, income (including income loss), earnings (including earnings loss) per share, capital expenditures, dividends, capital structure, or other financial items;

"(2) a statement of the plans and objectives of management for future operations;

"(3) a statement of future economic performance contained in a discussion and analysis of financial condition by the management or in the results of operations included pursuant to the rules and regulations of the Commission;

"(4) any disclosed statement of the assumptions underlying or relating to any statement described in paragraph (1), (2), or (3); or

"(5) a statement containing a projection or estimate of such other items as may be specified by rule or regulation of the Commission.

"(c) EXCLUSIONS.—The exemption from liability provided for in subsection (a) does not apply to a forward-looking statement that is—

"(1) knowingly made with the purpose and actual intent of misleading investors;

"(2) except to the extent otherwise specifically provided by rule, regulation, or order of the Commission, made with respect to the business or operations of the issuer, if the issuer—

"(A) during the 3-year period preceding the date on which the statement was first made—

"(i) was convicted of any felony or misdemeanor described in clauses (i) through (iv) of section 15(b)(4)(B); or

"(ii) has been made the subject of a judicial or administrative decree or order arising out of a governmental action that—

"(I) prohibits future violations of the anti-fraud provisions of the securities laws, as that term is defined in section 3 of the Securities Exchange Act of 1934;

"(II) requires that the issuer cease and desist from violating the anti-fraud provisions of the securities laws; or

"(III) determines that the issuer violated the anti-fraud provisions of the securities laws;

"(B) makes the forward-looking statement in connection with an offering of securities by a blank check company, as that term is defined under the rules or regulations of the Commission;

"(C) issues penny stock, as that term is defined in section 3(a)(51) of the Securities Exchange Act of 1934, and the rules, regulations, or orders issued pursuant to that section;

"(D) makes the forward-looking statement in connection with a rollup transaction, as that term is defined under the rules or regulations of the Commission; or

"(E) makes the forward-looking statement in connection with a going private transaction, as that term is defined under the rules or regulations of the Commission issued pursuant to section 13(e) of the Securities Exchange Act of 1934; or

"(3) except to the extent otherwise specifically provided by rule or regulation of the Commission—

"(A) included in a financial statement prepared in accordance with generally accepted accounting principles;

"(B) contained in a registration statement of, or otherwise issued by, an investment company, as that term is defined in section 3(a) of the Investment Company Act of 1940;

"(C) made in connection with a tender offer;

"(D) made in connection with an initial public offering;

"(E) made by or in connection with an offering by a partnership, limited liability corporation, or a direct participation investment program, as those terms are defined by rule or regulation of the Commission; or

"(F) made in a disclosure of beneficial ownership in a report required to be filed with the Commission pursuant to section 13(d) of the Securities Exchange Act of 1934.

"(d) STAY PENDING DECISION ON MOTION.—In any private action arising under this title, the court shall stay discovery during the pendency of any motion by a defendant (other than discovery that is specifically directed to the applicability of the exemption provided for in this section) for summary judgment that is based on the grounds that—

"(1) the statement or omission upon which the complaint is based is a forward-looking statement within the meaning of this section; and

"(2) the exemption provided for in this section precludes a claim for relief.

"(e) AUTHORITY.—In addition to the exemption provided for in this section, the Commission may, by rule or regulation, provide exemptions from liability under any provision of this title, or of any rule or regulation issued under this title, that is based on a statement that includes or that is based on projections or other forward-looking information, if and to the extent that any such exemption is, as determined by the Commission, consistent with the public interest and the protection of investors.

"(f) COMMISSION DISGORGEMENT ACTIONS.—

"(1) IN GENERAL.—If the Commission, in any proceeding, orders or obtains (by settlement, court order, or otherwise) a payment of funds from a person who has violated this title through means that included the utilization of a forward-looking statement, and if any portion of such funds is set aside or otherwise held for or available to persons who suffered losses in connection with such violation, no person shall be precluded from participating in the distribution of, or otherwise receiving, a portion of such funds by reason of the application of this section.

"(2) JUDGMENT FOR LOSSES SUFFERED.—In any action by the Commission alleging a violation of this title in which the defendant or respondent is alleged to have utilized a forward-looking statement in furtherance of such violation, the Commission may, upon a sufficient showing, in addition to all other remedies available to the Commission, obtain a judgment for the payment of an amount equal to all losses suffered by reason of the utilization of the forward-looking statement that are not compensated through final adjudication or settlement of a private action brought under this title arising from the same violation.

"(g) EFFECT ON OTHER AUTHORITY OF COMMISSION.—Nothing in this section limits, either expressly or by implication, the authority of the Commission to exercise similar authority or to adopt similar rules and regulations with respect to forward-looking statements under any other statute under which the Commission exercises rulemaking authority.".

(b) SECURITIES EXCHANGE ACT OF 1934.—Title I of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 37. APPLICATION OF SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS.

"(a) SAFE HARBOR.—

"(1) IN GENERAL.—In any private action arising under this title that is based on a fraudulent statement, an issuer that is subject to the reporting requirements of section 13(a) or section 15(d) of the Securities Exchange Act of 1934, a person acting on behalf of such issuer, or an outside reviewer retained by such issuer, shall not be liable with respect to any forward-looking statement, whether written or oral, if and to the extent that the statement—

"(A) projects, estimates, or describes future events; and

"(B) refers clearly (and, except as otherwise provided by rule or regulation, proximately) to—

"(i) such projections, estimates, or descriptions as forward-looking statements; and

"(ii) the risk that actual results may differ materially from such projections, estimates, or descriptions.

"(2) EFFECT ON OTHER SAFE HARBORS.—The exemption from liability provided for in paragraph (1) shall be in addition to any exemption that the Commission may establish by rule or regulation under subsection (e).

"(b) DEFINITION OF FORWARD-LOOKING STATEMENT.—For purposes of this section, the term 'forward-looking statement' means—

"(1) a statement containing a projection of revenues, income (including income loss), earnings (including earnings loss) per share, capital expenditures, dividends, capital structure, or other financial items;

"(2) a statement of the plans and objectives of management for future operations;

"(3) a statement of future economic performance contained in a discussion and analysis of financial condition by the management or in the results of operations included pursuant to the rules and regulations of the Commission;

"(4) any disclosed statement of the assumptions underlying or relating to any statement described in paragraph (1), (2), or (3); or

"(5) a statement containing a projection or estimate of such other items as may be specified by rule or regulation of the Commission.

"(c) EXCLUSIONS.—The exemption from liability provided for in subsection (a) does not apply to a forward-looking statement that is—

"(1) knowingly made with the purpose and actual intent of misleading investors;

"(2) except to the extent otherwise specifically provided by rule, regulation, or order of the Commission, made with respect to the business or operations of the issuer, if the issuer—

"(A) during the 3-year period preceding the date on which the statement was first made—

"(i) was convicted of any felony or misdemeanor described in clauses (i) through (iv) of section 15(b)(4)(B); or

"(ii) has been made the subject of a judicial or administrative decree or order arising out of a governmental action that—

"(I) prohibits future violations of the antifraud provisions of the securities laws;

"(II) requires that the issuer cease and desist from violating the anti-fraud provisions of the securities laws; or

"(III) determines that the issuer violated the anti-fraud provisions of the securities laws;

"(B) makes the forward-looking statement in connection with an offering of securities by a blank check company, as that term is defined under the rules or regulations of the Commission;

"(C) issues penny stock;

"(D) makes the forward-looking statement in connection with a rollup transaction, as that term is defined under the rules or regulations of the Commission; or

"(E) makes the forward-looking statement in connection with a going private transaction, as that term is defined under the rules or regulations of the Commission issued pursuant to section 13(e); or

"(3) except to the extent otherwise specifically provided by rule or regulation of the Commission—

"(A) included in financial statements prepared in accordance with generally accepted accounting principles;

"(B) contained in a registration statement of, or otherwise issued by, an investment company;

"(C) made in connection with a tender offer;

"(D) made in connection with an initial public offering;

"(E) made by or in connection with an offering by a partnership, limited liability corporation, or a direct participation investment program, as those terms are defined by rule or regulation of the Commission; or

"(F) made in a disclosure of beneficial ownership in a report required to be filed with the Commission pursuant to section 13(d).

"(d) STAY PENDING DECISION ON MOTION.—In any private action arising under this title, the court shall stay discovery during the pendency of any motion by a defendant (other than discovery that is specifically directed to the applicability of the exemption provided for in this section) for summary judgment that is based on the grounds that—

"(1) the statement or omission upon which the complaint is based is a forward-looking statement within the meaning of this section; and

"(2) the exemption provided for in this section precludes a claim for relief.

"(e) AUTHORITY.—In addition to the exemption provided for in this section, the Commission may, by rule or regulation, provide exemptions from liability under any provision of this title, or of any rule or regulation issued under this title, that is based on a statement that includes or that is based on projections or other forward-looking information, if and to the extent that any such exemption is, as determined by the Commission, consistent with the public interest and the protection of investors.

"(f) COMMISSION DISGORGEMENT ACTIONS.—

"(1) IN GENERAL.—If the Commission, in any proceeding, orders or obtains (by settlement, court order, or otherwise) a payment of funds from a person who has violated this title through means that included the utilization of a forward-looking statement, and if any portion of such funds is set aside or otherwise held for or available to persons who suffered losses in connection with such violation, no person shall be precluded from participating in the distribution of, or otherwise receiving, a portion of such funds by reason of the application of this section.

"(2) JUDGMENT FOR LOSSES SUFFERED.—In any action by the Commission alleging a violation of this title in which the defendant or respondent is alleged to have utilized a forward-looking statement in furtherance of such violation, the Commission may, upon a sufficient showing, in addition to all other remedies available to the Commission, obtain a judgment for the payment of an amount equal to all losses suffered by reason of the utilization of the forward-looking statement that are not compensated through final adjudication or settlement of a private action brought under this title arising from the same violation.

"(g) EFFECT ON OTHER AUTHORITY OF COMMISSION.—Nothing in this section limits, either expressly or by implication, the authority of the Commission to exercise similar authority or to adopt similar rules and regulations with respect to forward-looking statements under any other statute under which the Commission exercises rulemaking authority.".

(c) INVESTMENT COMPANY ACT OF 1940.—Section 24 of the Investment Company Act of 1940 (15 U.S.C. 80a–24) is amended by adding at the end the following new subsection:

"(g) REGULATORY AUTHORITY FOR FORWARD-LOOKING STATEMENTS.—

"(1) IN GENERAL.—The Commission shall review and, if necessary to carry out the purposes of this title, promulgate such rules and regulations as may be necessary to describe conduct with respect to the making of forward-looking statements that the Commission deems does not provide a basis for liability in any private action arising under this title.

"(2) REQUIREMENTS.—A rule or regulation promulgated under paragraph (1) shall—

"(A) include clear and objective guidance that the Commission finds sufficient for the protection of investors;

"(B) prescribe such guidance with sufficient particularity that compliance shall be readily ascertainable by issuers prior to issuance of securities; and

"(C) provide that forward-looking statements that are in compliance with such guidance and that concern the future economic performance of an issuer of securities registered under section 12 shall be deemed not to be in violation of this title.

"(3) EFFECT ON OTHER AUTHORITY OF COMMISSION.—Nothing in this subsection limits, either expressly or by implication, the authority of the Commission to exercise similar authority or to adopt similar rules and regulations with respect to forward-looking statements under any other statute under which the Commission exercises rulemaking authority.".

SEC. 106. WRITTEN INTERROGATORIES.

(a) SECURITIES ACT OF 1933.—Section 20 of the Securities Act of 1933 (15 U.S.C. 77t) is amended by adding at the end the following new subsection:

"(m) DEFENDANT'S RIGHT TO WRITTEN INTERROGATORIES.—In any private action arising under this title in which the plaintiff may recover money damages only on proof that a defendant acted with a particular state of mind, the court shall, when requested by a defendant, submit to the jury a written interrogatory on the issue of each such defendant's state of mind at the time the alleged violation occurred.".

(b) SECURITIES EXCHANGE ACT OF 1934.—Section 21 of the Securities Exchange Act of 1934 (15 U.S.C. 78u) is amended by adding at the end the following new subsection:

"(m) DEFENDANT'S RIGHT TO WRITTEN INTERROGATORIES.—In any private action arising under this title in which the plaintiff may recover money damages, the court shall, when requested by a defendant, submit to the jury a written interrogatory on the issue of each such defendant's state of mind at the time the alleged violation occurred.".

SEC. 107. AMENDMENT TO RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(c) of title 18, United States Code, is amended by inserting before the period ", except that no person may rely upon conduct that would have been actionable as fraud in the purchase or sale of securities to establish a violation of section 1962".

SEC. 108. AUTHORITY OF COMMISSION TO PROSECUTE AIDING AND ABETTING.

Section 20 of the Securities Exchange Act of 1934 (15 U.S.C. 78t) is amended—

(1) by striking the section heading and inserting the following:

"LIABILITY OF CONTROLLING PERSONS AND PERSONS WHO AID AND ABET VIOLATIONS"; AND

(2) by adding at the end the following new subsection:

"(e) PROSECUTION OF PERSONS WHO AID AND ABET VIOLATIONS.—For purposes of any action brought by the Commission under paragraph (1) or (3) of section 21(d), any person that knowingly provides substantial assistance to another person in the violation of a provision of this title, or of any rule or regulation issued under this title, shall be—

"(1) deemed to be in violation of such provision; and

"(2) liable to the same extent as the person to whom such assistance is provided.".

SEC. 109. LOSS CAUSATION.

Section 12 of the Securities Act of 1933 (15 U.S.C. 77l) is amended—

(1) by inserting "(a) IN GENERAL.—" before "Any person";

(2) by inserting ", subject to subsection (b)," after "shall be liable"; and

(3) by adding at the end the following:

"(b) LOSS CAUSATION.—In an action described in subsection (a)(2), if the person who offered or sold such security proves that any portion or all of the amount recoverable under subsection (a)(2) represents other than the depreciation in value of the subject security resulting from such part of the prospectus or oral communication, with respect to which the liability of that person is asserted, not being true or omitting to state a material fact required to be stated therein or necessary to make the statement not misleading, then such portion or amount, as the case may be, shall not be recoverable.".

SEC. 110. STUDY AND REPORT ON PROTECTIONS FOR SENIOR CITIZENS AND QUALIFIED RETIREMENT PLANS.

(a) FINDINGS.—The Congress finds that—

(1) senior citizens and qualified retirement plans are too often the target of securities fraud of the kind evidenced in the Charles Keating, Lincoln Savings & Loan Association, and American Continental Corporation situations;

(2) this Act, in an effort to curb unfounded lawsuits, changes the standards and procedures for securities fraud actions; and

(3) the Securities and Exchange Commission has indicated concern with some provisions of this Act.

(b) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Securities and Exchange Commission shall—

(1) determine whether investors that are senior citizens or qualified retirement plans require greater protection against securities fraud than is provided in this Act and the amendments made by this Act; and

(2) if so, submit to the Congress a report containing recommendations on protections that the Commission determines to be appropriate to thoroughly protect such investors.

(c) DEFINITIONS.—For purposes of this section—

(1) The term "qualified retirement plan" has the same meaning as in section 4974(c) of the Internal Revenue Code of 1986; and

(2) the term "senior citizen" means an individual who is 62 years of age or older as of the date of the securities transaction at issue.

SEC. 111. AMENDMENT TO RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS ACT.

Section 1964(c) of title 18, United States Code, is amended by inserting before the period ", except that no person may rely upon conduct that would have been actionable as fraud in the purchase of sale of securities to establish a violation of section 1962": Provided however, That this exception shall not apply if any participant in the fraud is criminally convicted in connection therewith, in which case the statute of limitations shall start to run on the date that the conviction becomes final.

SEC. 112. APPLICABILITY.

The amendments made by this title shall not affect or apply to any private action arising under title I of the Securities Exchange Act of 1934 or title I of the Securities Act of 1933 commenced before the date of enactment of this Act.

TITLE II—REDUCTION OF COERCIVE SETTLEMENTS

SEC. 201. LIMITATION ON DAMAGES.

Section 36 of the Securities Exchange Act of 1934, as added by section 104 of this Act, is amended by adding at the end the following new subsection:

"(e) LIMITATION ON DAMAGES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), in any private action arising under this title, the plaintiff's damages shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the subject security and the value of that security, as measured by the median trading price of that security, during the 90-day period beginning on the date on which the information correcting the misstatement or omission is disseminated to the market.

"(2) EXCEPTION.—In any private action arising under this title in which damages are sought, if the plaintiff sells or repurchases the subject security prior to the expiration of the 90-day period described in paragraph (1), the plaintiff's damages shall not exceed the difference between the purchase or sale price paid or received, as appropriate, by the plaintiff for the security and the median market value of the security during the period beginning immediately after dissemination of information correcting the misstatement or omission and ending on the date on which the plaintiff sells or repurchases the security.".

SEC. 202. PROPORTIONATE LIABILITY.

Title I of the Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by adding at the end the following new section:

"SEC. 38. PROPORTIONATE LIABILITY.

"(a) APPLICABILITY.—This section shall apply only to the allocation of damages among persons who are, or who may become, liable for damages in any private action arising under this title. Nothing in this section shall affect the standards for liability associated with any private action arising under this title.

"(b) LIABILITY FOR DAMAGES.—

"(1) JOINT AND SEVERAL LIABILITY.—A person against whom a judgment is entered in any private action arising under this title shall be liable for damages jointly and severally only if the trier of fact specifically determines that such person committed knowing securities fraud.

"(2) PROPORTIONATE LIABILITY.—Except as provided in paragraph (1), a person against whom a judgment is entered in any private action arising under this title shall be liable solely for the portion of the judgment that corresponds to the percentage of responsibility of that person, as determined under subsection (c).

"(3) KNOWING SECURITIES FRAUD.—For purposes of this section—

"(A) a defendant engages in 'knowing securities fraud' if that defendant—

"(i) makes a material representation with actual knowledge that the representation is false, or omits to make a statement with actual knowledge that, as a result of the omission, one of the material representations of the defendant is false; and

"(ii) actually knows that persons are likely to rely on that misrepresentation or omission; and

"(B) reckless conduct by the defendant shall not be construed to constitute knowing securities fraud.

"(c) DETERMINATION OF RESPONSIBILITY.—

"(1) IN GENERAL.—In any private action arising under this title in which more than 1 person is alleged to have violated a provision of this title, the court shall instruct the jury to answer special interrogatories, or if there is no jury, shall make findings, concerning—

"(A) the percentage of responsibility of each of the defendants and of each of the other persons alleged by any of the parties to have caused or contributed to the violation, including persons who have entered into settlements with the plaintiff or plaintiffs, measured as a percentage of the total fault of all persons who caused or contributed to the violation; and

"(B) whether such defendant committed knowing securities fraud.

"(2) CONTENTS OF SPECIAL INTERROGATORIES OR FINDINGS.—The responses to interrogatories, or findings, as appropriate, under paragraph (1) shall specify the total amount of damages that the plaintiff is entitled to recover and the percentage of responsibility of each person found to have caused or contributed to the damages sustained by the plaintiff or plaintiffs.

"(3) FACTORS FOR CONSIDERATION.—In determining the percentage of responsibility under this subsection, the trier of fact shall consider—

"(A) the nature of the conduct of each person; and

"(B) the nature and extent of the causal relationship between that conduct and the damages incurred by the plaintiff or plaintiffs.

"(d) UNCOLLECTIBLE SHARE.—

"(1) IN GENERAL.—Notwithstanding subsection (b)(2), in any private action arising under this title, if, upon motion made not later than 6 months after a final judgment is entered, the court determines that all or part of a defendant's share of the judgment is not collectible against that defendant or against a defendant described in subsection (b)(1), each defendant described in subsection (b)(2) shall be liable for the uncollectible share as follows:

"(A) PERCENTAGE OF NET WORTH.—Each defendant shall be jointly and severally liable for the uncollectible share if the plaintiff establishes that—

"(i) the plaintiff is an individual whose recoverable damages under the final judgment are equal to more than 10 percent of the net financial worth of the plaintiff; and

"(ii) the net financial worth of the plaintiff is equal to less than $200,000.

"(B) OTHER PLAINTIFFS.—With respect to any plaintiff not described in subparagraph (A), each defendant shall be liable for the uncollectible share in proportion to the percentage of responsibility of that defendant, except that the total liability under this subparagraph may not exceed 50 percent of the proportionate share of that defendant, as determined under subsection (c)(2).

"(2) OVERALL LIMIT.—In no case shall the total payments required pursuant to paragraph (1) exceed the amount of the uncollectible share.

"(3) DEFENDANTS SUBJECT TO CONTRIBUTION.—A defendant against whom judgment is not collectible shall be subject to contribution and to any continuing liability to the plaintiff on the judgment.

"(e) RIGHT OF CONTRIBUTION.—To the extent that a defendant is required to make an additional payment pursuant to subsection (d), that defendant may recover contribution—

"(1) from the defendant originally liable to make the payment;

"(2) from any defendant liable jointly and severally pursuant to subsection (b)(1);

"(3) from any defendant held proportionately liable pursuant to this subsection who is liable to make the same payment and has paid less than his or her proportionate share of that payment; or

"(4) from any other person responsible for the conduct giving rise to the payment that would have been liable to make the same payment.

"(f) NONDISCLOSURE TO JURY.—The standard for allocation of damages under subsections (b) and (c) and the procedure for reallocation of uncollectible shares under subsection (d) shall not be disclosed to members of the jury.

"(g) SETTLEMENT DISCHARGE.—

"(1) IN GENERAL.—A defendant who settles any private action arising under this title at any time before final verdict or judgment shall be discharged from all claims for contribution brought by other persons. Upon entry of the settlement by the court, the court shall enter a bar order constituting the final discharge of all obligations to the plaintiff of the settling defendant arising out of the action. The order shall bar all future claims for contribution arising out of the action—

"(A) by any person against the settling defendant; and

"(B) by the settling defendant against any person, other than a person whose liability has been extinguished by the settlement of the settling defendant.

"(2) REDUCTION.—If a person enters into a settlement with the plaintiff prior to final verdict or judgment, the verdict or judgment shall be reduced by the greater of—

"(A) an amount that corresponds to the percentage of responsibility of that person; or

"(B) the amount paid to the plaintiff by that person.

"(h) CONTRIBUTION.—A person who becomes liable for damages in any private action arising under this title may recover contribution from any other person who, if joined in the original action, would have been liable for the same damages. A claim for contribution shall be determined based on the percentage of responsibility of the claimant and of each person against whom a claim for contribution is made.

"(i) STATUTE OF LIMITATIONS FOR CONTRIBUTION.—Once judgment has been entered in any private action arising under this title determining liability, an action for contribution shall be brought not later than 6 months after the entry of a final, nonappealable judgment in the action, except that an action for contribution brought by a defendant who was required to make an additional payment pursuant to subsection (d) may be brought not later than 6 months after the date on which such payment was made.".

SEC. 203. APPLICABILITY.

The amendments made by this title shall not affect or apply to any private action arising under title I of the Securities Exchange Act of 1934 commenced before the date of enactment of this Act.

TITLE III—AUDITOR DISCLOSURE OF CORPORATE FRAUD

SEC. 301. FRAUD DETECTION AND DISCLOSURE.

(a) IN GENERAL.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended by inserting immediately after section 10 the following new section:

"SEC. 10A. AUDIT REQUIREMENTS.

"(a) IN GENERAL.—Each audit required pursuant to this title of the financial statements of an issuer by an independent public accountant shall include, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission—

"(1) procedures designed to provide reasonable assurance of detecting illegal acts that would have a direct and material effect on the determination of financial statement amounts;

"(2) procedures designed to identify related party transactions that are material to the financial statements or otherwise require disclosure therein; and

"(3) an evaluation of whether there is substantial doubt about the ability of the issuer to continue as a going concern during the ensuing fiscal year.

"(b) REQUIRED RESPONSE TO AUDIT DISCOVERIES.—

"(1) INVESTIGATION AND REPORT TO MANAGEMENT.—If, in the course of conducting an audit pursuant to this title to which subsection (a) applies, the independent public accountant detects or otherwise becomes aware of information indicating that an illegal act (whether or not perceived to have a material effect on the financial statements of the issuer) has or may have occurred, the accountant shall, in accordance with generally accepted auditing standards, as may be modified or supplemented from time to time by the Commission—

"(A)(i) determine whether it is likely that an illegal act has occurred; and

"(ii) if so, determine and consider the possible effect of the illegal act on the financial statements of the issuer, including any contingent monetary effects, such as fines, penalties, and damages; and

"(B) as soon as practicable, inform the appropriate level of the management of the issuer and assure that the audit committee of the issuer, or the board of directors of the issuer in the absence of such a committee, is adequately informed with respect to illegal acts that have been detected or have otherwise come to the attention of such accountant in the course of the audit, unless the illegal act is clearly inconsequential.

"(2) RESPONSE TO FAILURE TO TAKE REMEDIAL ACTION.—If, after determining that the audit committee of the board of directors of the issuer, or the board of directors of the issuer in the absence of an audit committee, is adequately informed with respect to illegal acts that have been detected or have otherwise come to the attention of the accountant in the course of the audit of such accountant, the independent public accountant concludes that—

"(A) the illegal act has a material effect on the financial statements of the issuer;

"(B) the senior management has not taken, and the board of directors has not caused senior management to take, timely and appropriate remedial actions with respect to the illegal act; and

"(C) the failure to take remedial action is reasonably expected to warrant departure from a standard report of the auditor, when made, or warrant resignation from the audit engagement; the independent public accountant shall, as soon as practicable, directly report its conclusions to the board of directors.

"(3) NOTICE TO COMMISSION; RESPONSE TO FAILURE TO NOTIFY.—An issuer whose board of directors receives a report under paragraph (2) shall inform the Commission by notice not later than 1 business day after the receipt of such report and shall furnish the independent public accountant making such report with a copy of the notice furnished to the Commission. If the independent public accountant fails to receive a copy of the notice before the expiration of the required 1-business-day period, the independent public accountant shall—

"(A) resign from the engagement; or

"(B) furnish to the Commission a copy of its report (or the documentation of any oral report given) not later than 1 business day following such failure to receive notice.

"(4) REPORT AFTER RESIGNATION.—If an independent public accountant resigns from an engagement under paragraph (3)(A), the accountant shall, not later than 1 business day following the failure by the issuer to notify the Commission under paragraph (3), furnish to the Commission a copy of the accountant's report (or the documentation of any oral report given).

"(c) AUDITOR LIABILITY LIMITATION.—No independent public accountant shall be liable in a private action for any finding, conclusion, or statement expressed in a report made pursuant to paragraph (3) or (4) of subsection (b), including any rule promulgated pursuant thereto.

"(d) CIVIL PENALTIES IN CEASE-AND-DESIST PROCEEDINGS.—If the Commission finds, after notice and opportunity for hearing in a proceeding instituted pursuant to section 21C, that an independent public accountant has willfully violated paragraph (3) or (4) of subsection (b), the Commission may, in addition to entering an order under section 21C, impose a civil penalty against the independent public accountant and any other person that the Commission finds was a cause of such violation. The determination to impose a civil penalty and the amount of the penalty shall be governed by the standards set forth in section 21B.

"(e) PRESERVATION OF EXISTING AUTHORITY.—Except as provided in subsection (d), nothing in this section shall be held to limit or otherwise affect the authority of the Commission under this title.

"(f) DEFINITION.—As used in this section, the term 'illegal act' means an act or omission that violates any law, or any rule or regulation having the force of law.".

(b) EFFECTIVE DATES.—The amendment made by subsection (a) shall apply to each annual report—

(1) for any period beginning on or after January 1, 1996, with respect to any registrant that is required to file selected quarterly financial data pursuant to the rules or regulations of the Securities and Exchange Commission; and

(2) for any period beginning on or after January 1, 1997, with respect to any other registrant

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, I send an amendment to the title to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> Amend the title so as to read:
>
> "An act to amend the Federal securities laws to curb certain abusive practices in private securities litigation, and for other purposes."

The PRESIDING OFFICER. The question is on agreeing to the amendment to amend the title.

The amendment was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. D'AMATO. Mr. President, I ask unanimous consent that S. 240 be placed back on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I would like to take just a few seconds to thank a very dedicated staff. Laura Unger, for the dedicated job she has done in a very complex bill—really, without her work, not only during the process on the floor but in committee, we would not have had this legislation. And our staff director, Howard Menell.

Let me also say it was a pleasure working with the ranking member, Senator SARBANES, handling a complex piece of legislation like this with a divergence of opinions. I think we demonstrated the process can work when people are willing to work at it in good will.

Notwithstanding differences of opinion, I could not ask, I think, for fairer debate, et cetera, as we tried to keep this moving. So I thank my colleagues. And certainly Senator DOMENICI and Senator DODD did an excellent job on this bill, bringing it to the point we could bring it to the floor.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I would like to reciprocate to the chairman of the committee with respect to his sentiments. I point out, I think this legislation was considered in a way that I would hope all legislation can be considered. We had opening statements. Then we moved from opening statements to taking up amendments. We considered the amendments seriatim, we had good debate on the amendments, voted on the amendments, then we had closing statements, and then we went to final passage of the bill.

So I hope Members will agree, I know a number of Members I talked to felt we had a good consideration of it. People had a chance to express their points of view. We resolved them and moved forward.

I thank the chairman of the committee for his effort to construct a fair framework in which to address this legislation.

I thank my colleagues, and I want to acknowledge in particular the staff work of Mitchell Feuer, Andy Vermilye, and Brian McTigue, all of whom worked indefatigably on this legislation.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I thank the managers of the bill. I think they did demonstrate we can have an orderly debate and not waste any time. I do not remember there being very many quorum calls. It took a while, but it is a very important piece of legislation, and I want to comment both the managers and also my good friend, the chairman of the committee, Senator D'AMATO. I think this is probably his first major bill as chairman. I think he has done an outstanding job and I appreciate it very much.

Everybody has had a chance to debate. Nobody was shut off. There were not any cloture motions filed. There was not any time wasted. In fact, I was home last night watching on C–SPAN when you were all up here—watching you on C–SPAN, watching you debating until 9, 9:30, 10 o'clock. I commend the managers.

Mr. SARBANES. Will the majority leader yield for a question? Does it look better to watch it on C–SPAN than to watch it in person?

Mr. DOLE. It is better because you are further away. It was very interesting. The Senator from Pennsylvania was speaking and the Senator from Utah was answering. It was fairly quiet up here. It was fairly quiet at home, too, at 10 o'clock at night.

In any event, I thank the Democratic leader for his cooperation, too, and members of the staff on each side and others who participated in this bill.

Mr. DASCHLE. Mr. President, I associate myself with the remarks of the majority leader and his compliments for both managers of the bill just passed.

This is not an easy piece of legislation, both because of its complexity as well as its controversy. But I must say that our colleagues on both sides of the aisle have certainly acted in a very responsible manner. We have had a good debate. As the distinguished Senator from Maryland has said on a number of occasions, it is a debate that I think bears even closer watch and closer consideration as we go through the final stages of passage of this very important piece of legislation.

I particularly want to single out the distinguished Senator from Maryland, the ranking member, for his extraordinary work in leading our caucus in this effort and in sharing, as he has, his very valuable insights on a number of the ramifications of the bill and the amendments pending. He did an outstanding job and I deeply appreciate his leadership in this regard.

Let me also commend my colleague, the distinguished senior Senator from Connecticut, Senator DODD, for his advocacy of the legislation. While we differed on many of the issues pertaining to the bill, he, too, ought to be commended for the way with which he conducted this debate.

This has been a good debate. I appreciate very much the cooperation of the Republican leadership in ensuring that all Senators have the opportunity to present their amendments and to be heard as completely as they were heard, now, over the last several days.

I hope, now, as we turn to the budget conference report, that colleagues will use the time available to us, beginning at noon, to present their views. We will have 10 hours of debate. It is very important that we utilize this time as efficiently and as appropriately as we can. So I encourage colleagues on this side of the aisle to come to the floor beginning at noon to make their remarks and to utilize the opportunities that we will have over the course of the next several hours to express ourselves on this budget resolution.

So, again Mr. President, I commend our managers on the bill just passed, and hope we can have a good debate on the budget conference report beginning at noon.

I yield the floor.

UNANIMOUS-CONSENT AGREEMENT—BUDGET CONFERENCE REPORT

Mr. DOLE. Mr. President, I ask unanimous consent that at 12 noon—this has been cleared by the Democratic leader—the Senate begin 4 hours debate to be equally divided in the usual form on the budget conference report, and that when the Senate receives the conference report to cover the budget, House Concurrent Resolution 67, there be 6 hours remaining for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I hope we may be able to use some more time later in the day.

MORNING BUSINESS

Mr. DOLE. Mr. President, I also ask unanimous consent there now be a period for the transaction of routine morning business with Senators permitted to speak for up to 10 minutes each, between now and 12 noon.

The PRESIDING OFFICER. Without objection, it is so ordered.

REGULATORY REFORM

Mr. DOLE. Mr. President, we have had our colleagues, a number on each side—five, six, seven on each side—meeting in Senator DASCHLE's office on reg reform. They have made some progress. I am not certain what will be the final result.

We hope this afternoon, at least at 4 o'clock, to either go to reg reform or to try to proceed to reg reform—I think it depends on what happens during talks in the afternoon—to demonstrate, first of all, we are gaining a lot of support for the bill and, second, that it would be on the table, on the floor when we come back after the recess. We are not quite there yet, but I think they are working in good faith on each side.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I ask unanimous consent that I may speak as in morning business.

The PRESIDING OFFICER. The Senator has that right.

PAKISTAN AND THE F–16'S

Mr. PRESSLER. Mr. President, many years ago I sponsored an amendment dealing with our aid to Pakistan, and it has been a thorn in the side of our relationship with Pakistan. It ultimately involved the delivery of several F–16's. I had recently proposed a solution to that problem, a resolution of that problem, to the President of the United States.

As my colleagues know, I have held a special interest in South Asia for a number of years. I have the highest admiration for the character of the South Asian people as they strive to better their conditions.

The singular tragedy of South Asia has been war—the reality of conflicts past and the fear of future bloodshed. Pakistan and India have fought three wars since independence in 1947. Tension still remains high.

What was once a conventional military standoff has now become more ominous. Both sides can assemble nuclear weapons. Both sides are striving to obtain modern delivery systems, such as ballistic missiles and aircraft. Just last week, the New York Times and Defense News reported that in the past 3 months, Pakistan has received from Communist China key components that could be used in M–11 ballistic missiles. Without question, a nuclear war between India and Pakistan would be cataclysmic. The names of the perpetrators, and their accessories, would be cursed for a millennium.

To its credit, Mr. President, the U.S. Senate consistently has taken the initiative to promote peace and stability in South Asia—the core of that leadership has been the Senate Foreign Relations Committee. A decade ago, the committee—under the chairmanship of the distinguished senior Senator from Indiana [Mr. LUGAR]—decided to use the leverage of our aid to Pakistan to try to keep it from going nuclear. Just as important, the committee also decided that should Pakistan choose a nuclear option, we would not condone its action through United States aid.

Mr. President, those were the key reasons why the U.S. Congress adopted the so-called Pressler amendment 10 years ago. It was the right thing to do. President Ronald Reagan agreed. So did the Government of Pakistan at that time. I believe the Pressler amendment is needed now more than ever. To the extent that the current administration and this Congress chooses to back away from that standard, the prospects for regional instability and war are increased accordingly. Unfortunately, some have called for a myriad of modifications to the Pressler amendment, ranging from one-time waivers to outright repeal.

Mr. President, I have a more in-depth analysis of the Pressler amendment, which I ask unanimous consent to have printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRESSLER. In summary, any unilateral attempt to weaken or modify the Pressler amendment for whatever reason—whether it be for economic assistance, or drug or terrorism control—would not be in the best interest of our more critical nuclear nonproliferation goals. I urge my colleagues to study this extended analysis before the Senate considers the foreign aid authorization bill later this year.

Today, however, I would like to discuss the initiative I offered to the committee 1 month ago—a new, constructive initiative that will make a significant contribution toward achieving a number of our foreign policy goals.

As my colleagues well know, in 1990, President Bush could no longer certify, under the terms of the Pressler amendment, that Pakistan did not possess a nuclear explosive device. As a result, 28 F-16 aircraft ordered by Pakistan could not be delivered. Today, those planes remain undelivered. Of these 28, 11 were sold on a foreign military sales basis—paid for up-front by the American taxpayer. The remaining 17 were paid for by Pakistan for about $650 million.

Let me be clear: I will oppose any attempt to waive the Pressler amendment to allow for Pakistan to take delivery of these aircraft. My rationale is simple: F-16's are capable of carrying a nuclear payload. It would be contrary to the spirit and letter of our Nation's nuclear non-proliferation policy for this Congress to allow Pakistan to take possession of nuclear delivery vehicles under any condition short of current law.

Doing so would have grave implications. Delivery of the F-16's could spark an unprecedented, destabilizing arms buildup in South Asia. This is not in the best interests of the people of the region. I would hope that no Member of Congress would want his or her fingerprints on any proposal that would spark such an unfortunate turn of events.

I recognize this leaves the United States in a quandary—a quandary that I hope we can eliminate. To do so, Mr. President, please allow me to turn our attention to the South China Sea, where the Communist Chinese military machine is on the march.

Taiwan continues to be threatened with an increasing level of intimidating military exercises by Communist China. In addition, the Philippine Government is the victim of Chinese aggression in the Spratley Islands. The Philippines and the other surrounding countries in the region are concerned that this increased activity by the Chinese military is a prelude to an outright attempt to gain control over the South China Sea.

Three points about the Philippines are worth mentioning:

First, the Philippines is the democratic country in Asia with the weakest military. Its government needs modern planes and naval craft. Second, the Philippines has a security treaty with the United States. The Philippine people are our allies.

Third, the U.S. Senate—through the leadership of former Foreign Relations Committee Chairman LUGAR and the distinguished Senator from Massachusetts, Mr. KERRY—was instrumental in bringing democracy back to the Philippines in 1986. We must not turn our back on them now.

My initiative is very simple. First, we arrange for the immediate delivery to the Philippines, on a FMS basis, of 11 F-16's of the 28 held up by the Pressler amendment—the ones already paid for by the American taxpayer.

At the same time, I recommended last month that we open negotiations with Taiwan on the immediate delivery of the remaining 17 aircraft. Taiwan already is purchasing 150 of the same model F-16 but the delivery date is not until June 1997.

At the time of my announcement, I sent letters to President Clinton, Philippine President Ramos and President Lee of the Republic of China, detailing my initiative. Last week, President Clinton responded to my proposal, stating that he was open to a third-party sale if it met certain areas of concern. First, the President said that a third-party transfer must serve our national interest. I agree. In fact, my initiative produces a number of winners:

For Pakistan, the F-16 issue goes away as an irritant in its relations with the United States. For India, 28 nuclear delivery vehicles do not show up on her border, and that is something I feel very concerned about. I think if these F-16's went to Pakistan, it would accelerate the arms race there. I feel strongly we should be friends with both India and Pakistan. Both countries have done a great deal with us and for us.

I see in the long range a trading partnership with both countries, and friendship. But also this will help us with Taiwan.

Taiwan can, for a price, close its 2-year window of vulnerability to modern Russian aircraft in the hands of Chinese pilots. Finally, the Philippines can get the air defense it needs.

By this initiative, a number of American foreign policy goals would be furthered: lower tensions in South Asia, maintenance of a strong nuclear nonproliferation policy, and an enhanced deterrent capability of two democratic, nonnuclear powers in Asia. At home, American aerospace would have new markets, and the American taxpayer would receive a measurable enhancement of our global security for almost no cost.

Second, the President stated that we would need to consider the return to Pakistan of the military equipment other than the F-16's for which it has paid. Frankly, I believe we must study this option carefully. I would oppose the return of any military equipment to Pakistan that would serve to undermine our nuclear non-proliferation goals, and add to the current instability in the region. We should not limit the third-party sale option just to the F-16's exclusively.

Third, the President noted that a third party sale may not be satisfactory to Pakistan if it does not receive most, if not all, of the funds they originally paid to the United States Government for the aircraft. As I stated last month, if the Congress opts to use any of the funds raised from my initiative to compensate Pakistan for the previously paid F-16's, I would not object. However, I would hope that full compensation is not made a condition by the President for pursuing a third party sale. As it stands right now, I believe it would be difficult to convince Congress to either authorize the delivery of the F-16's to Pakistan, or appropriate the full amount paid by Pakistan. My initiative provides the Government of Pakistan the first real opportunity to gain some compensation in the near future.

I ask unanimous consent that the text of my letter to President Clinton dated May 23, 1995, and his response dated June 22, be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PRESSLER. Mr. President, I am pleased the President remains open to a possible third party sale. Frankly, I believe that is his only option. Let me state for the record that the Republic of China is open to my proposal. I also received a very positive initial response from representatives of the Philippine Government.

This initiative is simple but bold. I hope my colleagues will join with me in urging the administration to make this initiative their own. I stand ready to do my part to reach a solution that serves our national interest—first and foremost being the preservation of a tough, sound nuclear nonproliferation policy.

Mr. President, last month, I had the opportunity to testify before the Foreign Relations Committee and present this idea. I am glad that the President has responded favorably. But much remains to be done to work out this agreement.

This has been a difficult matter to approach because in regard to the amendment that was passed in the 1980's, one could say that Pakistan purchased these planes with their eyes open, so to speak. They knew, on the one hand, of the existence of our law that said we would not continue aid if they developed a nuclear bomb. And, very frankly, they were not being candid in what they told the then Vice President and President George Bush about their nuclear program.

So if you take it from that point of view strictly, when the Pakistanis got into this thing, they had full knowledge of what they were doing back home in terms of developing a nuclear bomb. They knew our law said what it said, and they moved forward with this purchase which would have been in violation.

So we could say, "Well, let us just let them be, that they made a bad deal, and they paid the price." On the other hand, there has been a great distinction in Pakistan. The military people have not always told the civilian government what is going on, very frankly. And the civilian government has engaged in some perhaps unwise decisions based on bad information. That is really Pakistan's problem, I suppose.

But, as the years have gone by, I see an opportunity to get these F-16's to Taiwan, which needs them to counterbalance China, and to the Philippines, which is a longtime ally of ours.

EXHIBIT 1

IN DEFENSE OF THE PRESSLER AMENDMENT

WHAT THE PRESSLER AMENDMENT REQUIRES

The Pressler Amendment requires Pakistan to satisfy two conditions before it is eligible to receive U.S. foreign assistance, including US military equipment or technology. Aid may be provided in any fiscal year only if the President has certified in that year that Pakistan (a) "does not possess" a nuclear explosive device and (b) that the proposed assistance "will reduce significantly" the risk of possession.

COMMON CRITICISMS OF THE PRESSLER AMENDMENT

Critics of the Pressler Amendment have alleged that this legislation: (1) is unfair and discriminatory; (2) is not effective; (3) is counterproductive; (4) penalizes Pakistan when it has not even assembled, deployed, or tested weapons; (5) is inflexible; (6) inhibits US encouragement of a free market in Pakistan; (7) hurts US economic competitiveness; (8) sets back US human rights initiatives; (9) interferes with US counter-terrorism and counter-narcotics efforts; and (10) fosters anti-Americanism in Pakistan.

Not one of these criticisms holds up to responsible analysis. The criticisms reveal more about the critics themselves than about any real shortcomings in the legislation. In particular, these criticisms reflect: (1) a profound misunderstanding of the purposes of the Pressler Amendment, (2) a flagrant case of historical amnesia; (3) a cynical fatalism about the inevitability of proliferation; (4) an ignorance of the regional, global, and US national security consequences of a Pakistani bomb; (5) the susceptibility of the legislative process to special interest lobbying; (6) the triumph of slogans over analysis as a basis of policy; (7) an utterly bizarre conception of what constitutes a "friend" of the United States; (8) a distorted perspective on US national priorities; (9) a preference for the management rather than the prevention of proliferation; and (10) a compulsive desire to channel even more taxpayer dollars into unproductive pursuits.

REBUTTALS TO SPECIFIC CRITICISMS

1. "Unfair and Discriminatory"

Between 1981 and 1990, Pakistan gave the US government both formal and informal assurances about the peaceful nature of its nuclear program, the level of enrichment of its uranium, foreign nuclear procurements, cooperation with China, and other such issues relating to nonproliferation issues—in each case, Pakistan broke its word.

It is not unfair for America to defend its interests by punishing those who violate their commitments to us.

On eight occasions, Congress authorized special waivers of US nonproliferation laws to permit aid to continue to flow to Pakistan. To this day, Pakistan is the only country ever to have received (or required) a waiver of the Glenn/Symington sanctions in order to qualify for US aid. It is true that America engaged in discrimination, but this was discrimination on behalf of Pakistan and against all other countries that played by the rules.

How can Pakistan simultaneously condemn the country-specific discrimination in the Pressler Amendment without also condemning the country-specific discrimination that authorized such aid?

Pakistan is not the only country to be mentioned by name in the context of nonproliferation sanctions—for years, Iraq, Iran, Libya, North Korea, and Cuba have been designated for special controls and sanctions.

US relations with India also have been affected by a variety of US nonproliferation laws. Because of India's unsafeguarded nuclear program, there is no US/Indian agreement for nuclear cooperation; US military cooperation with India is negligible; and the US will not export certain forms of missile equipment and technology to India and other goods related to weapons of mass destruction. Though sanctions under Glenn/Symington have not been invoked against India, it is because India, unlike Pakistan, has not violated that law.

2. "Not effective"

US policy throughout the 1980s asserted that US aid was an effective way to lure Pakistan away from the bomb—yet Pakistan made its most significant nuclear achievements precisely when US aid was flowing at its highest levels.

The Pressler Amendment sanctions accomplished what $5 billion in US economic and military aid failed to accomplish—it led Pakistan to stop producing highly-enriched uranium.

The Pressler Amendment succeeded in enabling the continuation of US efforts to drive the Soviets out of Afghanistan while not sacrificing a bottom-line US nuclear nonproliferation objective: nonpossession. If it were not for this compromise, aid could have been terminated in 1985.

The Pressler Amendment was then and remains now a statement of the priority that America attaches to nonproliferation as a goal of policy.

The Pressler Amendment has unquestionably made Pakistan—especially its air force, army, and navy—pay for its misguided decisions to pursue the bomb. Indeed, if Pakistan once again qualifies for US aid, it will no doubt be Pakistan's military that will stand to benefit the most from the new aid. This gives Pakistan a tangible incentive to satisfy the certification terms under Pressler.

3. "Counterproductive"

Though the sanctions have undoubtedly weakened Pakistan's military capabilities, there is no evidence that the sanctions have "driven" Pakistan to rely more upon nuclear deterrence as a national defense strategy.

Pakistan's decisions to stop producing highly-enriched uranium, not to test, and not to assemble or deploy nuclear weapons hardly suggests a policy of increased reliance on a nuclear deterrent.

The US denial of technology and aid has slowed down Pakistan's bomb-making potential, a long-standing goal of US nonproliferation policy.

Though Pakistan still has a nuclear weapons-capability and is still cooperating with China on the bomb, these activities were not "caused by" the Pressler Amendment. Pakistan was seeking this capability and engaging in this cooperation with China well before the Pressler Amendment came into existence.

For a truly counterproductive policy, one must look to the 1980s, when US taxpayers shelled out $5 billion in aid that was supposed to appease Pakistan's nuclear ambitions . . . aid that coincided Pakistan's acquisition of the bomb. Today, critics of the Pressler Amendment are arguing that more US taxpayer money should be channeled down that drain.

4. "No assembly, deployment, or testing"

Pakistan's decisions not to assemble, deploy, or test have very little to do with the flow of US aid.

The US nuclear arsenal in the 1950s was stored in separate components: was the US a non-nuclear-weapon state as a result?

Even the State Department concedes that a country can still possess the bomb even if it has not yet actually assembled one.

Pakistan's position is that it does not "possess" the bomb because it has not assembled the requisite materials. By this logic, Pakistan could acquire a nuclear arsenal with hundreds of weapons simply by not tightening down the last screw on the casing of each bomb.

Pakistan's new emphasis on the issue of assembling is just another chapter of Pakistan's long history of dissembling about its bomb.

It is widely believed that Pakistan got a pre-tested bomb design from China. Why would Pakistan want to or need to test a pre-tested design?

Pakistan has very limited supplies of bomb-usable nuclear material. Why should it waste such precious material on an unnecessary test?

Why should Pakistan engage in a test that would only give India an excuse to commence a regional nuclear arms race that Pakistan could never win?

If Pakistan's nuclear program is, as its government claims, devoted entirely to peaceful purposes, how can it claim that it has "kept components separate" and not "assembled" the bomb? What would it have to assemble if its program were peaceful? If its program is so peaceful, why does it refuse to agree to international inspections independent of what India does?

5. *"Inflexible"*

Supporters of the Pressler Amendment make no apologies to the charge that the law has been "inflexible," assuming a normal dictionary definition of this term: "of an unyielding temper, purpose, will, etc." The alternative of passive accommodation has little attraction to supporters of nonproliferation.

Even with the so-called "inflexible" label, the following activities take place: (a) the US still issues licenses to export commercial munitions and spare parts to Pakistan, including spares for Pakistan's nuclear-weapons delivery vehicle, the F-16; (b) US military visits and joint training exercises continue to take place; (c) US aid with respect to agriculture, counter-terrorism, nutrition, population control, literacy, advancement of women, health and medicine, environmental protection, disaster relief, and many other areas can continue to flow to Pakistan via nongovernmental organizations; (d) the Export-Import Bank also has extended loans, grants, and guarantees to Pakistan; (e) PL-480 agricultural aid continues; (f) arms control verification assistance continues (a seismic station); (g) millions of dollars of aid in the "pipeline" as of October 1990 was allowed to flow to Pakistan; (h) cooperation on peace keeping is continuing; and (i) Pakistan continues to receive billions of dollars in development assistance via multilateral lending agencies.

Pakistan used almost $200 million in FMS credits to fund the purchase of 11 F-16's between FY 1989 and 1993, of which about $150 million were used after the Pressler sanctions were invoked.

The US continues to review and approve licenses of dual-use technology to Pakistan.

All the above hardly suggest that the PRESSLER Amendment has been unduly inflexible.

6. *"Free Market"*

Pakistan has a long way to go before it has a free market and the Pressler Amendment is hardly to blame.

A recent Heritage Foundation worldwide review characterized Pakistan's economy as "Mostly Not Free." The report found that Pakistan has a "very high level of protectionism."

The only market that is truly free in Pakistan is its black market.

Free markets are an important US interest, but not an end in themselves—they need to be weighed against other US interests, especially national security, defense, and nonproliferation objectives. Encouraging a free market in weapons of mass destruction should not be high on America's list of priorities.

7. *"Hurts US Economic Competitiveness"*

The US has exported hundreds of millions of dollars in defense goods to Pakistan since the Pressler Amendment came into effect.

In 1994, the Commerce Department approved $96 million in exports of dual-use goods to Pakistan, about triple the amount approved in each of the three previous years.

Total US exports to Pakistan still come to less than $1 billion. Even if all of this trade was lost, it would have no effect whatsoever upon the US national trade balance or US economic competitiveness. By comparison, US exports worldwide in 1994 were worth well over a half trillion dollars.

8. *"Sets Back Human Rights Initiatives"*

Congress has expressly authorized the transfer of assistance to Pakistan via non-governmental groups to advance the cause of human rights (as indeed several other non-military causes).

Despite some modest improvements since the days of General Zia, the Pakistani government continues to repress the human rights of Pakistani citizens, as most recently documented both by the State Department's annual human rights report and a recent global survey by Amnesty International.

The US experience in Iran should have taught us to beware of cultivating cozy relationships with a repressive government.

9. *"Interferes with Counter-Terrorism and Counter-Narcotics Efforts"*

Congress has expressly authorized the transfer of assistance to Pakistan via non-governmental groups to terrorism and narcotics trafficking.

Widespread terrorism and narcotics trafficking persists in Pakistan.

Pakistan's recent cooperation with the US in apprehending terrorists indicates that the PRESSLER Amendment is no insuperable obstacle to such cooperation.

10. *"Fosters Anti-Americanism"*

Anti-Americanism was not born in Pakistan with the enactment of the PRESSLER Amendment—it predated the amendment and has causes far beyond a nuclear dispute between the US and Pakistan.

America opposes the global spread of nuclear weapons: it should come as no surprise to witness leaders of governments that are secretly building bombs encouraging anti-Americanism.

America seeks to defend its national interests, not to win popularity contests. As President Clinton stated on October 18, 1994: "There is nothing more important to our security and to the world's stability than preventing the spread of nuclear weapons and ballistic missiles."

U.S. AID POLICIES AND PAKISTAN'S BOMB: WHAT WERE WE TRYING TO ACCOMPLISH?

Letters to Congress from Presidents Reagan and Bush, 1985 to 1989, required under sec. 620E(e) of Foreign Assistance Act (Pressler Amendment):

"The proposed United States assistance program for Pakistan remains extremely important in reducing the risk that Pakistan will develop and ultimately possess such a device. I am convinced that our security relationship and assistance program are the most effective means available for us to dissuade Pakistan from acquiring nuclear explosive devices. Our assistance program is designed to help Pakistan address its substantial and legitimate security needs, thereby both reducing incentives and creating disincentives for Pakistani acquisition of nuclear explosives."—President George Bush, 10/5/89; President Ronald Reagan, 11/18/88; 12/17/87; 10/27/86; and 11/25/85.

President George Bush, letter to Congress (addressed to J. Danforth Quayle as President of the Senate), 12 April 1991, urging abandonment of Pressler certification requirement:

". . . my intention is to send the strongest possible message to Pakistan and other potential proliferators that nonproliferation is among the highest priorities of my Administration's foreign policy, irrespective of whether such a policy is required by law."

Deputy Assistant Secretary of State Teresita Schaffer, testimony before House subcommittee, 2 August 1989:

"None of the F-16's Pakistan already owns or is about to purchase is configured for nuclear delivery . . . a Pakistan with a credible conventional deterrent will be less motivated to purchase a nuclear weapons capability."

Deputy Assistant Secretary of Defense Arthur Hughes, testimony before House subcommittee, 2 August 1989:

"Finally, we believe that past and continued American support for Pakistan's conventional defense reduces the likelihood that Pakistan will feel compelled to cross the nuclear threshold."

Deputy Assistant Secretary of State Robert Peck, testimony before House subcommittee, 17 February 1988:

"We believe that the improvements in Pakistan's conventional military forces made possible by U.S. assistance and the U.S. security commitment our aid program symbolizes have had a significant influence on Pakistan's decision to forego the acquisition of nuclear weapons."

Special Ambassador at Large Richard Kennedy, testimony before two House subcommittees, 22 October 1987:

"We have made it clear that Pakistan must show restraint in its nuclear program if it expects us to continue providing security assistance."

Assistant Secretary of State Richard Murphy, testimony before Senate subcommittee, 18 March 1987:

"Our assistance relationship is designed to advance both our non-proliferation and our strategic objectives relating to Afghanistan. Development of a close and reliable security partnership with Pakistan gives Pakistan an alternative to nuclear weapons to meet its legitimate security needs and strengthens our influence on Pakistan's nuclear decision making. Shifting to a policy of threats and public ultimata would in our view decrease, not increase our ability to continue to make a contribution to preventing a nuclear arms race in South Asia. Undermining the credibility of the security relationship with the U.S. would itself create incentives for Pakistan to ignore our concerns and push forward in the direction of nuclear weapons acquisition."

Deputy Assistant Secretary of State Howard Schaffer, testimony before House subcommittee, 6 February 1984:

"The assistance program also contributes to U.S. nuclear non-proliferation goals. We believe strongly that a program of support which enhances Pakistan's sense of security helps remove the principal underlying incentive for the acquisition of a nuclear weapons capability. The Government of Pakistan understands our deep concern over this issue. We have made clear that the relationship between our two countries, and the program of military and economic assistance on which it rests, are ultimately inconsistent with Pakistan's development of a nuclear explosives device. President Zia has stated publicly that Pakistan will not manufacture a nuclear explosives device."

Special Ambassador at Large Richard Kennedy, testimony before two House subcommittees, 1 November 1983:

"By helping friendly nations to address legitimate security concerns, we seek to reduce incentives for the acquisition of nuclear weapons. The provision of security assistance and the sale of military equipment can be major components of efforts along these lines. Development of security ties to the U.S. can strengthen a country's confidence in its ability to defend itself without nuclear weapons. At the same time, the existence of such a relationship enhances our credibility when we seek to persuade that country to forego [sic] nuclear arms . . . We believe that strengthening Pakistan's conventional military capability serves a number of important U.S. interests, including non-proliferation. At the same time, we have made clear to the government of Pakistan that efforts to acquire nuclear explosives would jeopardize our security assistance program."

Statement by Deputy Assistant Secretary of State Harry Marshall, 12 September 1983, before International Nuclear Law Association, San Francisco:

"U.S. assistance has permitted Pakistan to strengthen its conventional defensive capability. This serves to bolster its stability and thus reduce its motivation for acquiring nuclear explosives."

President Ronald Reagan, report to Congress pursuant to sec. 601 of the Nuclear Nonproliferation Act ("601 Report"), for calendar year 1982—

"Steps were taken to strengthen the U.S. security relationship with Pakistan with the objective of addressing that country's security needs and thereby reducing any motivation for acquiring nuclear explosives."

President Ronald Reagan, report to Congress pursuant to sec. 601 of the Nuclear Nonproliferation Act ("601 Report"), for calendar year 1981—

"Military assistance by the United States and the establishment of a new security relationship with Pakistan should help to counteract its possible motivations toward acquiring nuclear weapons. . . . Moreover, help from the United States in strengthening Pakistan's conventional military capabilities would offer the best available means for counteracting possible motivations toward acquiring nuclear weapons."

Assistant Secretary of State James Malone, address before Atomic Industrial Forum, San Francisco, 1 December 1981.

"We believe that this assistance—which is in the strategic interest of the United States—will make a significant contribution to the well-being and security of Pakistan and that it will be recognized as such by that government. We also believe that, for this reason, it offers the best prospect of deterring the Pakistanis from proceeding with the testing or acquisition of nuclear explosives.

Undersecretary of State James Buckley, testimony before Senate Foreign Relations Committee, 12 November 1981:

"We believe that a program of support which provides Pakistan with a continuing relationship with a significant security partner and enhances its sense of security may help remove the principal underlying incentive for the acquisition of a nuclear weapons capability. With such a relationship in place we are hopeful that over time we will be able to persuade Pakistan that the pursuit of a weapons capability is neither necessary to its security nor in its broader interest as an important member of the world community."

Testimony of Undersecretary of State, James Buckley, in response to question from Sen. Glenn, Senate Foreign Relations Committee, 12 November 1981, on effects of a nuclear detonation on continuation of cash sales of F-16's:

"[Sen. Glenn] . . . so if Pakistan detonates a nuclear device before completion of the F-16 sale, will the administration cut off future deliveries?

"[Buckley] Again, Senator, we have underscored the fact that this would dramatically affect the relationship. The cash sales are part of that relationship. I cannot see drawing lines between the impact in the case of a direct cash sale versus a guaranteed or U.S.-financed sale."

Undersecretary of State James Buckley, letter to NY Times, 25 July 1981:

"In place of the ineffective sanctions on Pakistan's nuclear program imposed by the past Administration, we hope to address through conventional means the sources of insecurity that prompt a nation like Pakistan to seek a nuclear capability in the first place."

From Myth to Reality: Evidence of Parkistan's "Nuclear Restraint"

Early 1980's—Multiple reports that Pakistan obtained a pre-tested, atomic bomb design from China.

Early 1980's—Multiple reports that Pakistan obtained bomb-grade enriched uranium from China.

1980—US nuclear export control violation: Reexport via Canada (components of inverters used in gas centrifuge enrichment activities).

1981—US nuclear export control violation: New York, zirconium (nuclear fuel cladding material).

1981—AP story cites contents of reported US State Department cable stating "We have strong reason to believe that Pakistan is seeking to develop a nuclear explosives capability . . . Pakistan is conducting a program for the design and development of a triggering package for nuclear explosive devices."

1981—Publication of book, "Islamic Bomb," citing recent Pakistan efforts to construct a nuclear test site.

1982/3—Several European press reports indicate that Pakistan was using Middle Eastern intermediaries to acquire bomb parts (13-inch "steel spheres" and "steel petal shapes").

1983—Recently declassified US government assessment concludes that "There is unambiguous evidence that Pakistan is actively pursuing a nuclear weapons development program . . . We believe the ultimate application of the enriched uranium produced at Kahuta, which is unsafeguarded, is clearly nuclear weapons."

1984—President Zia states that Pakistan has acquired a "very modest" uranium enrichment capability for "nothing but peaceful purposes."

1984—President Reagan reportedly warns Pakistan of "grave consequences" if it enriches uranium above 5%.

1985—ABC News reports that US believes Pakistan has "successfully tested" a "firing mechanism" of an atomic bomb by means of a non-nuclear explosion, and that US krytrons "have been acquired" by Pakistan.

1985—US nuclear export control violation: Texas, krytrons (nuclear weapon triggers).

1985—US nuclear export control violation: US cancelled license for export of flash x-ray camera to Pakistan (nuclear weapon diagnostic uses) because of proliferation concerns.

1985/6—Media cites production of highly enriched, bomb-grade uranium in violation of a commitment to the US.

1986—Bob Woodward article in Washington Post cities alleged DIA report saying Pakistan "detonated a high explosive test device between Sept. 18 and Sept. 21 as part of its continuing efforts to build an implosion-type nuclear weapon;" says Pakistan has produced uranium enriched to a 93.5% level.

1986—Press reports cite US "Special National Intelligence Estimate" concluding that Pakistan had produced weapons-grade material.

1986—Commenting on Pakistan's nuclear capability, General Zia tells interviewer, "It is our right to obtain the technology. And when we acquire this technology, the Islamic world will possess it with us."

1986—Recently declassified memo to then-Secretary of State Henry Kissinger states, "Despite strong U.S. concern, Pakistan continues to pursue a nuclear explosive capability . . . If operated as its nominal capacity, the Kahuta uranium enrichment plant could produce enough weapons-grade material to build several nuclear devices per year."

1987—US nuclear export control violation: Pennsylvania, maraging steel & beryllium (used in centrifuge manufacture and bomb components).

1987—London Financial Times reports US spy satellites have observed construction of second uranium enrichment plant in Pakistan.

1987—Pakistan's leading nuclear scientist states in published interview that "what the CIA has been saying about our possessing the bomb is correct."

1987—West German official confirms that nuclear equipment recently seized on way to Pakistan was suitable for "at least 93% enrichment" of uranium; blueprints of uranium enrichment plant also seized in Switzerland.

1987—US nuclear export control violation: California, oscilloscopes, computer equipment (useful in nuclear weapon R&D).

1987—According to photocopy of a reported German foreign ministry memo published in Paris in 1990, UK government officials tells German counterpart on European non-proliferation working group that he was "convinced that Pakistan had 'a few small' nuclear weapons."

1988—President Reagan waives an aid cut-off for Pakistan due to an export control violation; in his formal certification, he confirmed that "material, equipment, or technology covered by that provision was to be used by Pakistan in the manufacture of a nuclear explosive device."

1988—Hedrick Smith article in New York Times reports US government sources believe Pakistan has produced enough highly enriched uranium for 4-6 bombs.

1988—President Zia tells Carnegie Endowment delegation in interview that Pakistan has attained a nuclear capability "that is good enough to create an impression of deterrence."

1989—Multiple reports of Pakistan modifying US-supplied F-16 aircraft for nuclear delivery purposes; wind tunnel tests cited in document reportedly from West German intelligence service.

1989—Test launch of Hatf-2 missile: Payload (500 kilograms) and range (300 kilometers) meet "nuclear-capable" standard under Missile Technology Control Regime.

1989—CIA Director Webster tells Senate Governmental Affairs Committee hearing that "Clearly Pakistan is engaged in developing a nuclear capability."

1989—Media claims that Pakistan acquired tritium gas and tritium facility from West Germany in mid-1980's.

1989—ACDA unclassified report cites Chinese assistance to missile program in Pakistan.

1989—UK press cites nuclear cooperation between Pakistan and Iraq.

1989—Article in Nuclear Fuel states that the United States has issued "about 100 specific communiques to the West German Government related to planned exports to the Pakistan Atomic Energy Commission and its affiliated organizations," exports reportedly included tritium and a tritium recovery facility.

1989—Article in Defense & Foreign Affairs Weekly states "sources close to the Pakistani nuclear program have revealed that Pakistani scientists have now perfected detonation mechanisms for a nuclear device."

1989—Reporting on a recent customs investigation, West German magazine Stern reports, "since the beginning of the eighties over 70 [West German] enterprises have supplied sensitive goods to enterprises which for years have been buying equipment for Pakistan's ambitious nuclear weapons program."

1989—Gerard Smith, former US diplomat and senior arms control authority, claims US has turned a "blind eye" to proliferation developments in Pakistan and Israel.

1989—Senator Glenn delivers two lengthy statements addressing Pakistan's violations of its uranium enrichment commitment to the United States and the lack of progress on nonproliferation issues from Prime Minister Bhutto's democratically elected government after a year in office; Glenn concluded, "There simply must be a cost to non-compliance—when a solemn nuclear pledge is violated, the solution surely does not lie in voiding the pledge."

1989-1990—Reports of secret construction of unsafeguarded nuclear research reactor; components from Europe.

1990—US News cites "western intelligence sources" claiming Pakistan recently "cold-tested" a nuclear device and is now building a plutonium production reactor; article says Pakistan is engaged in nuclear cooperation with Iran.

1990—French magazine publishes photo of West German government document citing claim by UK official that British government believes Pakistan already possesses "a few small" nuclear weapons; cites Ambassador Richard Kennedy claim to UK diplomat that Pakistan has broken its pledge to the US not to enrich uranium over 5%.

1990—London Sunday Times cites growing US and Soviet concerns about Pakistani nuclear program; paper claims F-16 aircraft are being modified to nuclear delivery purposes; claims US spy satellites have observed "heavily armed convoys" leaving Pakistan uranium enrichment complex at Kahuta and heading for military airfields.

1990—Pakistani biography of top nuclear scientist (Dr. Abdul Qadeer Khan and the Islamic Bomb), claims US showed "model" of Pakistani bomb to visiting Pakistani diplomat as part of unsuccessful nonproliferation effort.

1990—Defense & Foreign Affairs Weekly reports "US officials now believe that Pakistan has quite sufficient computing power in country to run all the modeling necessary to adequately verify the viability of the country's nuclear weapons technology."

1990—Dr. A. Q. Khan, father of Pakistan's bomb, receives "Man of the Nation Award."

1990—Washington Post documents 3 recent efforts by Pakistan to acquire special arc-melting furnaces with nuclear and missile applications.

1991—Wall Street Journal says Pakistan is buying nuclear-capable M-11 missile from China.

1991—Sen. Moynihan says in television interview, "Last July [1990] the Pakistanis machined 6 nuclear warheads. And they've still got them."

1991—Time quotes businessman, "BCCI is functioning as the owners' representative for Pakistan's nuclear-bomb project."

1992—Pakistani foreign secretary publicly discusses Pakistan's possession of "cores" of nuclear devices.

EXHIBIT 2

U.S. SENATE,
Washington, DC, May 23, 1995.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: Occasionally there is an opportunity to take a bold initiative which will further multiple American foreign policy goals. Two of those goals are the maintenance of peace and stability in South Asia and the deterrence of aggression in East Asia. Such an opportunity is at hand.

The inability of the President since October 1, 1990, to make the necessary certification under section 620E(e) of the Foreign Assistance Act of 1961 (relating to the nuclear activities of Pakistan) has prevented the delivery of twenty-eight F-16 aircraft to Pakistan. Since F-16s in American service are nuclear delivery vehicles, the possibility that these aircraft might yet be delivered to Pakistan has raised enormous concern in neighboring India. At the same time, our inability to transfer the aircraft is an irritant in our relations with Pakistan. For now, the aircraft in question are in storage in Arizona.

In East Asia, both the Republic of China on Taiwan and the Philippines have been the victims of aggression from the People's Republic of China. In the case of the former, it's military exercises designed to intimidate; in the latter it's the actual take over of Philippine territory in the South China Sea.

To serve as a deterrent for aggression across the Taiwan Straits, Taiwan has ordered 150 American F-16 aircraft. However, these aircraft will not begin to arrive in Taiwan until June of 1997 suggesting that there may be a "window of opportunity" for conflict. With regard to the Philippines, a combination of historical factors and the need to devote defense resources to opposing internal subversion has led to a severe lack of external defense capability.

Considering the twenty-eight F-16 aircraft in storage, it appears that eleven of them were to be delivered to Pakistan under the United States Foreign Military Sales (FMS) program. Essentially, they were paid for already by the American taxpayer. The remaining seventeen aircraft were paid for by Pakistan.

Therefore, I recommend that the Administration open negotiations with the Governments of the Philippines and the Republic of China on Taiwan for the transfer of the aircraft. Eleven of the aircraft could be transferred to the Philippines on an FMS basis and the remaining seventeen could be the subject of negotiations for payment with Taiwan. If a decision is made to return to Pakistan some or all of the money collected, I would not object.

If this initiative were carried out, it would directly further American foreign policy goals in South and East Asia, respectively. In South Asia tensions would be reduced as twenty-eight potential nuclear delivery vehicles would be removed from the region. In East Asia the military strength of our friends and allies would be enhanced significantly and a clear signal would be sent regarding our determination to oppose aggression.

This initiative is simple but it requires a bold imagination for execution. I hope that you will join with me in putting it into effect and making a significant contribution to our national security.

Sincerely,

LARRY PRESSLER,
U.S. Senator.

THE WHITE HOUSE,
Washington, June 22, 1995.

Hon. LARRY PRESSLER,
U.S. Senate,
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for writing to me about the opportunity before us to resolve the F-16 issue with Pakistan. I appreciate your initiative and hope some new thinking will help create a consensus between the Administration and Congress for a satisfactory solution.

As you know, when I met with Prime Minister Bhutto in April, I told her I would explore with Congress the options for returning either the F-16s and equipment or the funds Pakistan had paid. The proposal to sell the planes and return the funds is one possibility if we can resolve some areas of concern. First, we must determine that the transfer of this equipment to third parties would be in our national interest. Second, we would need to be prepared to return to Pakistan the equipment other than F-16s for which it has paid. We would need to work with Congress on the necessary authorities to do so. Third, such a proposal may make this solution less than satisfactory for the Government of Pakistan if it results in the return to Pakistan of significantly less money then they originally paid for the aircraft.

Again, let me say that a solution accepted by Congress and by Pakistan will clear the way for a more serious discussion of the critical nonproliferation issues that concern us all. It will also help to improve the atmosphere in our bilateral relations and thus advance other U.S. interests in the region.

Sincerely,

BILL CLINTON.

MILITARY BUILDUP IN CHINA

Mr. PRESSLER. Mr. President, on a totally separate subject, I have been concerned about the military buildup by China. I cannot understand who China views as its enemy. I cannot understand why China is not only building up its nuclear arsenal, but also proliferating ballistic missile technology to countries like Iran and Pakistan. China should be concerned about the potential for a nuclear arms race by Islamic nations in South Asia and the Middle East. Indeed, if that does occur, if Iran does join the nuclear club, Israel will certainly react.

So the point I am making is I think the President can use my initiative not just to solve one of our foreign policy problems as it relates to Pakistan. He can use it to show our continued friendship with Taiwan. Taiwan is a democracy and a growing economic power in the Pacific. Taiwan usually is on our side 100 percent, even though we do not treat its leaders that way when they come here. Our relationship with Taiwan is one of the ironies of history.

My initiative sends a signal to the Chinese that we are going to be tough in that region and we will look after our allies, and that includes the Philippines, which would also get eleven of the F-16's under my initiative.

As I said earlier, my initiative is a bold step, but it is a partial solution. It is a step forward. I am glad that President Clinton has apparently begun to embrace this concept, to explore with these countries to see if we can get the F-16's out to Taiwan and the Philippines. Again, it is an initiative that can get some money back to Pakistan, although I would not necessarily guarantee full compensation because frankly, Pakistan had their eyes open when they went into this deal. Further, the Government of Pakistan was not being candid with the President of the United States at that time about what was going on in their nuclear program.

Mr. PRESSLER. Mr. President, I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICARE

Mr. PRESSLER. Mr. President, I would like to speak on the subject of Medicare.

There has been much unjustified criticism of the Republican budget plan by the Democrats. As my colleagues know, we will be voting in this Chamber possibly tomorrow night on the budget of the United States for the next 7 years, the basic outline. And for the first time in nearly three decades, we are moving toward a balanced budget by the year 2002. I am proud of this great achievement.

This is the toughest budget since I have been a Member of Congress. It is tough, it is sound and it is right. If we can pass it in the House and in the Senate, it will be the first time in a long time that we have gone in the other direction—the right direction. Finally we will start to pay our bills as they become due.

Up to this point, we have been going in the wrong direction—of runaway spending and the build up of a huge Federal debt.

Included in the budget plan are reductions in the rate of growth in Medicare. I want all senior citizens to understand this budget. I am a champion of senior citizens. My mother is a senior citizen living in Sioux Falls. In fact, I will be one someday in the not too far future. So I am concerned about this subject. My goal is to save Medicare for our seniors. This budget saves Medicare. This budget will provide senior citizens with stability.

The present rate of increase of Medicare is about 10 percent a year. It is growing too fast, and if left alone, it will go bankrupt by the year 2002. This budget slows the rate of increase to about 7.2 percent. Thus, Medicare is still going to grow, but it is not going to grow quite as fast. We are slowing the growth to save the program from overheating and breaking down altogether.

How do we get the savings? It comes from streamlining some of the national administration. It comes from certain cost control reforms, and so forth.

Americans should not be misled about what we are doing here. Both Democrats and Republicans agree that Medicare is going to go bankrupt unless somebody steps forward with a plan to save it. So I would say to my liberal friends, what is your plan? The Republicans have a solvent plan. The Domenici-Dole plan in the Senate will save Medicare. We have to save Medicare.

Let me say a word or two about some of the other areas. This budget takes an across-the-board approach. I know every group that has a stake in the Federal budget will feel it. But I would say to farmers, ranchers, small businessmen, students, and others, that lower interest rates are one of your main concerns. Students, for example, pay back their loans at the going rate of interest after they have graduated from college. To the students of America, I say that one of the greatest threats to your economic security is, the massive Federal debt. That debt keeps interest rates high, forcing students to pay their college loans back at high interest rates. We are going to have high interest rates if we do not do something about the size of our deficit.

A third area of concern here is inflation and the soundness of our monetary system internationally. If we continue to build up the huge Federal debt, we also will be building up the specter of high inflation, high interest rates, and a currency that is not respected in the world, a currency that is weak, and a currency that will eventually be overtaken by the German mark or the Japanese yen.

So, Mr. President, as we engage in this debate on the budget for the next 2 days and as we vote on it here in the Senate tomorrow evening, let us remember that we are trying to save Medicare. We are trying to save our economy for our children—an economy with lower interest rates, a solvent dollar, and low taxes.

We are going to have many eloquent speeches in this Chamber about how the Federal Government is taking away money from here and taking away money from there. But if the Federal Government does not have any money to give, it ultimately has to take that money back either through inflation, high interest rates, and higher taxes, which will lead to all types of economic suffering.

So in conclusion, Mr. President, my concern here is to explain why I will be voting for the Dole-Domenici approach. I urge my colleagues to vote for it. We will have to fight off false charges that we are against senior citizens or that we are against farmers or we are against workers. That is not true. We are for them. This is an historic budget plan for all Americans. Everyone agrees the alternative is bankruptcy, the loss of the Medicare Program, and economic chaos. We are going to save our budget. We are going to save Medicare. We are going to save our economy. We are going to save our children's future.

I urge my colleagues to join us in voting for the Dole-Domenici budget.

Mr. President, I note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ASHCROFT). Without objection, it is so ordered.

Mr. BIDEN. Parliamentary inquiry, Mr. President.

Are we in morning business?

The PRESIDING OFFICER. We are. The Senator can speak for up to 10 minutes under the previous order.

Mr. BIDEN. I thank the Chair. I seek recognition for the purpose of speaking on the issue of the arms embargo in Bosnia.

The PRESIDING OFFICER. The Senator is recognized.

LIFTING THE BOSNIAN ARMS EMBARGO

Mr. BIDEN. Mr. President, I rise today to argue again for lifting the illegal and what I believe to be immoral arms embargo against the Government of Bosnia and Herzegovina. Actually, Mr. President, we should not even be in a position today of having to lift an embargo. In April 1992, when the Republic of Bosnia and Herzegovina was recognized internationally and granted admission to the United Nations, it automatically became covered by article 51 of the U.N. Charter, which grants every State the elemental right of self-defense.

Inexplicably, however, the Bush administration was asleep at the switch and failed to act to abrogate the illegal embargo.

For 3 years, Mr. President, I have repeatedly advocated lifting this unfair and illegal embargo. I would prefer that the timing of the lift be responsive to the wishes of the Bosnian Government which, after all, is the aggrieved party. The aggrieved party is literally fighting for its life.

Not only am I frustrated and angry at the current situation, I am also disturbed that our country, which has been the beacon of hope to freedom-loving people around the world, should even be contemplating refusing to give the Bosnians the tools with which to defend themselves.

How much more, Mr. President, do the Bosnians have to suffer? They have been invaded across an international border by troops equipped and assisted by the fourth largest army in Europe. Against the Bosnian Serbs with sophisticated, modern weapons including planes, tanks, rocket launchers, and heavy artillery, the Bosnian Government forces have fought with small arms and dogged determination. Although recently they have been able to capture a few heavy weapons, and reportedly have been covertly supplied with modest defense weaponry, the Bosnian Government forces are still vastly underarmed compared to the Serbian aggressors.

Mr. President, let me repeat the phrase that I just used: Serbian aggressors. There is no moral equivalence in this conflict. The Government of the Republic of Bosnia and Herzegovina, one of the successor states of the former Yugoslavia, gave absolutely no provocation to the Bosnian Serbs, who have torn this small country apart.

On the contrary, in 1991 and early 1992, while Serbs and Croats were fighting in neighboring Croatia, the Bosnian Government strove to retain the multireligious and multiethnic fabric of its own State. But unscrupulous demagogic politicians like Milosevic in Serbia and Karadzic in Bosnia, in order to implement their vicious racist ideology, exploited fears and successfully widened existing religious and socioeconomic divisions. From this incitement came the centrally planned murder, rape, and vile ethnic cleansing that have so revolted the civilized world.

Mr. President, let us not tolerate criminals cynically wrapping themselves in religious garb. The Bosnian Serbs' behavior has absolutely nothing to do with Orthodox Christianity. French President Jacques Chirac forcefully made this point at a dinner of European Union leaders when he reportedly rebuked the President of Greece, an apologist for the Bosnian Serbs. He said, "Don't speak to me about any religious war," Chirac said. "These are people without any faith, without any sense of law. They are terrorists."

Yet somehow Western European statesmen have criticized the Bosnian Government forces and chastised them for trying to break the blockades of Sarajevo and Bihac. Imagine the impertinence, Mr. President. Sarajevo has been blockaded for 38 months, more than 3 years. Its long-suffering population has been shelled and sniped at, and denied water, food, medicine, electricity, and gas. Mr. President, they literally string blankets and sheets across the narrow streets of the old parts of Sarajevo. When I was first there, I thought it was an unusual way of drying their laundry. I asked, "why are they hanging sheets and blankets there?" I was told that they are hanging there for only one reason—to thwart the Bosnian Serbs from sniping at Moslem, Croatian, and Bosnian Serb children. That is why they are there. No one denies this. Sniping at children is the Bosnian Serbs' calculated plan, which they carry out nearly every day.

Senator DOLE and I went to visit a hospital in Sarajevo. The only people there were children from ages 6 to 20 who were the victims of sniper fire—not random fire, not what they are doing with random shelling—sniper fire. So there is, in fact, a campaign of terror going on. And so here you have Sarajevo and Bihac, Sarajevo blockaded for 38 months, shelled and sniped at, the target of terrorist activities.

And so now, when outgunned Bosnian Government forces try to break the siege, which contravenes the U.N. resolution, not to mention basic human rights, what is the reaction of the most advanced industrialized democracies?

Well, Mr. President, in mid-June, we got a taste of their reaction at the G-7 summit in Halifax. The world's wealthiest nations, the United States included, called upon all parties, even those who have been under siege for 38 months, to display the greatest restraint. Is that not nice? This callous declaration surely set a new standard for arrogance, for blaming the victim.

I would ask the well-fed gentlemen of the G-7 if they could look into the face of an undernourished, weakened Sarajevo mother who gets shot at, literally shot at, while running to fetch a plastic jug of water for her children, and tell her that her government's army should display the greatest restraint.

Mr. Akashi, a great world citizen, a top U.N. diplomat in the Balkans, in deliberate violation of his own organization's declaration, announced on June 9 that UNPROFOR, the U.N. protective forces, henceforth would act only if the Bosnian Serbs agreed. Keep in mind that the Bosnian Serbs have Sarajevo, Bihac, and other cities under siege.

Mothers literally cannot go to get water because all the water has been cut off. The gas and electricity has been cut off. So they go to a public fountain, a spring, and are shot at, murdered cold-bloodedly—in cold blood. And Akashi says on June 9, that by the way, we, the U.N. forces, will take no action on any matter unless we first check with the snipers, the Bosnian Serbs.

Now, is that not wonderful? Is that not wonderful? But if the Bosnian Serbs do not agree, then the United Nations will not act. What is the Bosnian Government, having been criticized for trying to break the siege, supposed to do? They are under siege—no water, no food, no electricity, in a campaign to kill their children. And their government is told not to act unless the United Nations first talks to the Bosnian Serbs.

Well, Mr. President, the criticism of the Bosnian army for attacking to break the siege would be laughable if it were not so utterly grotesque. Nonetheless, some West European governments have criticized the United States for our advocacy of the victimized Bosnian Moslems.

Perhaps the following piece of counterfactual analysis might be helpful to our friends in London and Paris.

What if, Mr. President, a Moslem-dominated Bosnia and Herzegovina had attacked a peaceful, Orthodox Christian Serbia, carried out barbaric atrocities against Orthodox Serbian civilians, and then proudly announced that its policy of so-called ethnic cleansing had been successful—would Christian Europe then be sitting idly by, conjuring up excuse after excuse for not halting the cruel and cowardly aggression? I think the answer is self-evident.

Bigotry, sad to say, spreads more easily than tolerance. So we must not allow ourselves to fall into the trap of labeling all Serbs—in Bosnia, Serbia, or elsewhere—as racists. Nearly 200,000 Serbs, sometimes referred to as the forgotten Serbs, continue to live in the territory under the control of the Bosnian Government.

When I first visited Bosnia several years ago, I met with the Council of Leadership of the Bosnian Government, four of whom were Serbs. The army was 28-percent Serbian. It was a multiethnic country—the army and the Bosnian Government made up of Serbs, Croats, and Moslems, all of whom were Bosnians.

So I want to make it clear that not all the Serbs, by any stretch of the imagination, in fact, are like the aggressors.

I might add that when I visited Belgrade over 2 years ago and met with a group of about 75 leaders from business, academia, and other walks of life, including the press, two things were clear: First, the vast majority of the people living in Serbia did not know the truth. Second, if they did they would not support either the ethnic cleansing by the Bosnian Serbs or the actions taken by their own government. I felt they did not support what

Karadzic was suggesting. But all they had was a totally government-controlled television outlet, like the old Communist days in Yugoslavia. So all they saw on the news were Bosnian Serb children being slaughtered and even hung up on racks like chickens. All pure propaganda, not true. The world acknowledges this now. Milosevic did it to enrage his population, to play on centuries-old fears and divisions, and it worked. But the vast majority of the Serbian people are good, honorable, and decent, but they do not know the truth.

In the Government-controlled portion of Bosnia, there is an organized Bosnian Serb political opposition to Mr. Karadzic and his fellow thugs in Pale. There are many Bosnian Serbs and Bosnian Croats serving in the army of Bosnia and Herzegovina, including the Government army's deputy chief of staff who is a Bosnian Serb.

Indeed, there are thousands of decent, moral Serbs in Sarajevo, Belgrade, and elsewhere whose personal values rise above the primitive, provincial racism of Karadzic, Milosevic, and company.

Despite the almost unbelievable privations endured by Sarajevans, the Bosnian capital's Moslem, Orthodox, Catholic, and Jewish citizens are still living together, hoping against hope that their sophisticated city can receive the basics—food, water, and medicine—currently denied them by the Serbian bullies in the hills who cowardly snipe at their children and indiscriminately lob shells at innocent civilians.

I have already outlined the legal basis and moral imperative for giving the Bosnian Government the means to defend itself. Now I would like to address the tactical arguments often given against lifting the arms embargo.

Some critics assert that the Bosnian Serbs would react by overrunning the eastern enclaves of Srebrenica, Gorazde, and Zepa. I would remind those critics, first of all, that the Serbs have been attacking Gorazde for weeks without success. More importantly, the U.N. Security Council has called for defense of the safe areas with air power, if necessary, and with vigorous American leadership, NATO could do so.

A second criticism is that lifting the arms embargo would induce UNPROFOR to pull out. But I regret to say, Mr. President, that UNPROFOR troops have become the world's most expensive hostages and have ceased to be able to carry out their mandate. UNPROFOR has publicly abandoned its attempt to protect Sarajevo from bombardment of heavy artillery. On June 17, a U.N. spokesman admitted: "The policy of weapons-collection points has now been abandoned."

Moreover, the United Nations is manifestly unwilling to honor its commitment to use all necessary means—that is what the U.N. resolution says—all necessary means to bring supplies to the desperate civilian populations of Sarajevo, Bihac, and the eastern enclaves.

Mr. President, UNPROFOR is now mainly in the business of protecting itself, which I do not blame it for doing, but that is all it does. It has outlived its usefulness and should be withdrawn, independent of whether or not we lift the arms embargo.

Another frequently heard criticism of lifting the arms embargo unilaterally is that it would cause a rift in NATO. Mr. President, in case anyone is not looking, there is already a rift in NATO, and it is going to get bigger as the American people think over why we spend $110 billion a year, every year, for NATO. For what purpose? For what purpose? If they cannot affect events in Bosnia, for what purpose are our American taxpayers spending $110 billion a year?

Mr. President, I step back to no man or woman in this Senate in being a supporter of NATO. I respectfully suggest that I have been one of its strongest advocates for more than 20 years. But it seems to me that if we do not move and do something, NATO will be split and fractured more than by our unilaterally lifting an arms embargo.

NATO will be signing its own death warrant by a continuation of its ineffectual response in Bosnia, hobbled as it is by incomprehensible U.N.-controlled rules of engagement.

Some critics claim that lifting the arms embargo would automatically lead to spreading of the conflict to other parts of the Balkans. Mr. President, this assertion flies in the face of the facts by ignoring the example of the deterrence policy already employed by the United States on Serbia's southern border.

There, an outstanding success story of the Clinton administration's Balkan policy has been the sending of several hundred American troops to join the Nordic U.N. contingent in the former Yugoslav Republic of Macedonia. Combined with our warning to Milosevic not to even dream of attacking, this action—not the existence of the arms embargo—is what has kept Belgrade's hands off the fledgling Macedonian State.

He knows we mean it there and he has not moved. We should extend the warning to Milosevic that any intervention of his army in the conflict in Bosnia, either to aid the Bosnian Serbs after the lifting of the embargo or to harass the evacuation of UNPROFOR troops, would result in massive, disproportionate retaliation against Serbia proper.

Finally, some opponents of lifting the embargo foresee a dire precedent for unilateral embargo-breaking elsewhere, such as those currently in effect against Iraq and Libya.

The line goes, "If we unilaterally lift the arms embargo against Bosnia, won't our allies lift the arms embargo against Iraq and Libya?" But surely, Mr. President, one can point out even to the most disingenuous foreign politician that there is a world of difference between sanctions against Bosnia, the victim of international aggression, on the one hand, and an embargo against Iraq, a notorious international aggressor, on the other hand. We can and should use our considerable leverage against countries who would threaten deliberately to ignore this obvious and fundamental distinction.

In conclusion, Mr. President, in actuality, opponents of lifting the illegal arms embargo against Bosnia ignore a much more ominous precedent than breaking the U.N. sanctions.

The geostrategic reality of the future is that the primary danger to peace will much more likely come, not from nuclear missiles, but from regional crises, often in the form of ethnic conflicts and oppression of minorities.

In that context, therefore, the more dangerous precedent would be to reward an aggressor for his cold-blooded invasion, vile ethnic cleansing, murder, rape, pillage, and starvation by blockade. Europe, unfortunately, has other potential Milosevics and Karadzics. That is the sad reality to which we must adjust as we prepare to enter the 21st century. That, Mr. President, is not feel-good idealism. It is nuts-and-bolts realpolitik, and we should begin to practice it.

I yield the floor.

OFF-SHORE OIL AND NATURAL GAS DRILLING

Mr. BIDEN. Mr. President, I rise today to commend the House Appropriations Committee for its vote yesterday to restore the moratorium on off-shore oil and natural gas drilling. A bipartisan coalition of coastal State members led the successful fight to rightly reverse the subcommittee's recommendation to lift this needed ban.

Mr. President, our Nation's coastline is perhaps our most beautiful and cherished natural resource. With the Fourth of July weekend fast approaching, many American families are planning to head to the beech to escape the heat, walk along the boardwalk, and swim in our oceans. When they look out to sea, the only sight should be the Sun melting into an endless horizon. They do not want to see gigantic oil and gas drilling rigs and most importantly they do not want to expose their children to pollution.

Mr. President, for 14 years the Congress has stood behind the off-shore ban, which strikes a fair balance between the need for development of natural resources and environmental protection. Yesterday, the full Appropriations Committee recognized the necessity of this balance and I again commend committee members of both parties for their foresight.

I remain deeply concerned, however, that there may be yet another attempt to lift the ban as the appropriations bill moves through the legislative process. I will watch this situation closely and will oppose vigorously any attempt to open our shoreline to needless exploitation.

THE 100TH ANNIVERSARY OF THE INVENTION OF VOLLEYBALL IN MASSACHUSETTS

Mr. KENNEDY. Mr. President, most people know about the famous sport that was born during the late 19th century in Massachusetts. The sport was basketball, and its birthplace was Springfield. But what many may not know is that Massachusetts also gave birth to another outstanding game during that same era.

In 1895, William G. Morgan, the physical fitness director of the YMCA in Holyoke, invented a sport that he regarded as a cousin of badminton and called mintonette. Today, it is known as volleyball, and this year it is celebrating its 100th anniversary.

Just as the slams of Dee Brown and the no-look passes of Sherman Douglas for the Celtics today bear no resemblance to the basketball played beneath the peach baskets of the 19th century, the hard-hitting and fast pace that characterize volleyball today are a far cry from Morgan's invention.

He initially developed it for his noon businessmen's fitness class. He wanted a game that was less strenuous than basketball, that did not require physical contact, but that would still provide excellent exercise. Morgan's game was originally played indoors, with a soccer ball stripped of its leather cover. The rules were a conglomeration of regulations adapted from basketball, baseball, tennis, and handball. The net was 6 feet high, compared to the standard 8 feet today, and players could hit the ball as many times as necessary to return it. A game consisted of nine three-out innings, like baseball. A ball hitting the floor more than once was an out.

For a time, the Holyoke YMCA was volleyball's only home. But when players began to take the game outdoors, its popularity soared. Nets started appearing on playgrounds and beaches throughout Massachusetts and surrounding areas. In 1916, the YMCA and the NCAA jointly issued a new set of rules similar to those in use today.

At that time, there were 200,000 players of the still mostly American game. But when U.S. soldiers introduced volleyball to Europe during the First World War, the game began to spread to other countries, and it spread even more rapidly during the Second World War.

In 1947, the International Federation of Volleyball was created with 13 charter members. That number has now grown to 180. By the time volleyball became an official Olympic sport in 1964, teams from Europe and Asia were often dominant. Japan had developed a power game that later spread across the globe, and Soviet bloc nations frequently prevailed in international competitions.

In the 1970's, the United States built state-of-the-art training centers, in a major effort to recapture our own game. The result was the Los Angeles miracle of 1984. The American men's team had been ranked 19th in the world, and hadn't even qualified for the games since 1968. In 1984, it surprised and delighted the Long Beach Arena crowd by defeating Brazil in straight games to win the gold medal. Millions of Americans watched on television and shared in the glory of that magical night, leading to a rebirth of the sport throughout the Nation. America had finally caught up to our own game. Led by Steve Timmons and Karch Kiraly, the American team played an extremely exciting brand of volleyball and dominated the sport. At those same Olympics, the U.S. women's team also shined, winning a silver medal.

A large part of the game's rebirth in America has been on the beach, where professional beach volleyball is rapidly gaining popularity. One of the stars of the beach game is Massachusetts native Karolyn Kirby.

Kirby, from Brookline, grew up as a sports lover, cheering on the Celtics, Red Sox, and Bruins. In high school, she excelled in volleyball. She was a star collegiate player indoors, earning All-America designation at both Utah State and the University of Kentucky.

After college, she took up the outdoor game, and is now the world's best female beach volleyball player. She has been the No. 1 player on the Women's Professional Volleyball Tour since 1990, and she has won or shared the tour's MVP crown four times. She is also the world's No. 1-ranked beach player and will likely represent the United States in 1996 when beach volleyball becomes a full medal sport at the Olympics.

What makes volleyball such a popular sport is that it can be played at all skill levels and by all ages. Forty million Americans now play, making it one of the top 10 participatory sports in the Nation. Most of those 40 million citizens may not be adept at the bump-set-spike play, but they enjoy the game immensely, because it brings families and friends together in backyards, parks, playgrounds, and beaches throughout the Nation.

To commemorate this auspicious 100th anniversary, the men's Division I championship was held in Springfield in May, and was won by UCLA. The women's Division I championship is scheduled for December at the University of Massachusetts.

In October, the women's Division III title finals will be played at Mount Holyoke and Smith Colleges, and in conjunction with that event, new members will be inducted into the Volleyball Hall of Fame at Heritage State Park in Holyoke.

In addition, more than 250 men's and women's teams gathered for an international volleyball celebration from May 27 to June 3 at Westover Air Force Base in Massachusetts. The occasion was the annual USA Volleyball Indoor Open Championships, and for the first time in the event's 67-year history, teams from around the world participated.

Massachusetts is extremely proud of this aspect of its heritage, and I welcome this opportunity to commend all those who have made volleyball such a positive addition to the life of our Nation.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, the skyrocketing Federal debt, which long ago soared into the stratosphere, is like the weather—everybody talks about it but scarcely anybody had undertaken the responsibility to trying to do anything about it. That is, not until following the elections last November.

When the new 104th Congress convened in January, the U.S. House of Representatives approved a balanced budget amendment to the U.S. Constitution. In the Senate all but one of the Senate's 54 Republicans supported the balanced budget amendment; only 13 Democrats supported it. Since a two-third-vote is necessary to enact a conditional amendment the Senate's amendment failed by one vote. There will be another vote later this year or next year.

Mr. President, as of the close of business yesterday, Tuesday, June 27, the Federal debt—down to the penny—stood at exactly $4,890,154,885,704.22 or $18,563,11 for every man, woman, and child on a per capita basis.

NO TRADE WAR BETWEEN THE UNITED STATES AND JAPAN

Mr. GRAMM. Madam President, I yield myself 15 minutes.

Madam President, I think we are all happy today that there is going to be no trade war between the United States and Japan, and I congratulate the President for avoiding that crisis. But I think it is interesting to look back at all the political bravado of the Clinton administration in the last several months, to look back at all of their statements saying they were not going to budge an inch. Yet, today, when the final agreement came out, it is a voluntary agreement with no specifically defined targets. I think we have seen, once again, in dealing with the Clinton administration, after all is said and done, there is always more said than done.

CHARLES "CHICK" REYNOLDS

Mr. BYRD. Mr. President, it has been said that each man's death diminishes us all. Certainly all who knew him have felt a loss due to the recent passing of Charles "Chick" Reynolds.

A reporter of outstanding experience and qualifications, "Chick" Reynolds began his career in stenotype reporting in 1949, when he was employed by the Department of Defense.

In 1950, he went to work for the Alderson Reporting Co. here in Washington, where he continued until 1971, at which time he opened his own stenographic reporting firm. In 1974, he was appointed an official reporter with the Senate Official Reporters of Debates serving in that capacity until he became Chief Reporter in 1988.

When "Chick" Reynolds was a working stenotype reporter, he was considered one of the fastest and most accurate in the country. He reported on Federal agency hearings and on various committees in both the House and the Senate, including the Joseph McCarthy and Jimmy Hoffa hearings on Capitol Hill. He was assigned to cover the White House during the Kennedy, Johnson, and Nixon administrations, and was in the Presidential motorcade on that tragic day when President Kennedy was assassinated in 1963.

"Chick" Reynolds served the Senate and the Nation with distinction for 21 years, and only discontinued that service when ill-health forced him to do so earlier this year. His was an outstanding career, but, the recounting of one's career successes can never completely give the whole measure of a man.

By all accounts, "Chick" Reynolds in both his private and professional lives was an eminently decent human being, with great affection for his wife, Lucille, and a fine sense of humor. He was fond of saying that he took Lucille everywhere he went so that he would never have to kiss her goodbye. He liked to tell a story about one sultry evening when he was stuck in traffic on Route 95 with the windows rolled down because of a faulty air conditioner. His only passenger, his cat, suddenly decided that it was too hot in the car, and leaped out of the window. "Chick" pulled over immediately and spent some time frantically searching for the cat in the heat and congestion. He did not want to go home to Lucille without that cat.

"Chick" Reynolds was a man to whom his fellow employees could continually look for counsel and instruction, always given with humor and genuine concern. Those who worked with him are indeed fortunate to have been so close to this very special life. "Chick" will not be forgotten by his colleagues in the Senate. The institution has been diminished by his passing. His great competence and his institutional memory and comprehension are not easily replaced in a world now more interested in speed than in considered contemplation and mature judgment. "Chick" Reynolds was surely *sui generis*, one of a kind, in a world often far too short on wisdom and experience.

I extend my sincere regret and deep condolences to his family, and most especially to his beloved Lucille. He is gone. But, the lives "Chick" Reynolds touched and the difference he made through his service here, and through the force of his warm and magnanimous personality will remain. The Senate and all who knew him are measurably better for the life and example of Charles "Chick" Reynolds.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, morning business is closed.

THE BUDGET RESOLUTION

The PRESIDING OFFICER. There will now be a period for debate on House Concurrent Resolution 67, the concurrent resolution on the budget for fiscal year 1996.

The Chair, in his capacity as a Senator from the State of Missouri, suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, is the pending business before the Senate the concurrent budget resolution?

The PRESIDING OFFICER. We are in a period for debate on the budget resolution.

Mr. DOMENICI. I understand that we have decided to take 4 hours today, equally divided, and Senator EXON might have other Senators who want to speak during his 2 hours.

Mr. EXON. I advise the Chair that the answer to that is yes.

Mr. DOMENICI. Mr. President, I want to say to Senators—particularly to those who are conferees and, in addition, those on the Budget Committee, all of them—I am not sure they knew we were going to be on this at noon today. Perhaps they thought it would be later, or perhaps even some might have thought tomorrow. I ask that they come to the floor, or call us if they would like some time. I would like as many of them who like to speak to do so. We will have some time tomorrow. I understand three of them want to speak today. This is my invitation to them so that we can arrange the time.

Mr. President, I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 15 minutes.

Mr. DOMENICI. Mr. President, today, the fiscal year 1996 concurrent budget resolution conference agreement, which will be before the Senate shortly, represents, in my opinion, a very historic step in bringing the Federal budget under control, bringing it to balance in 7 years by slowing the growth in Federal spending.

This blueprint that has been crafted is one which, first and foremost, reaches a balance by the year 2002 and does that by ratcheting down the deficit to a balance in 2002. It does that by reducing expenditures of the Federal Government. There are no other items making up that reduction and ratcheting down those deficits, other than reducing the amount of Government spending.

This provides, in addition, up to $245 billion in tax relief. But I want to repeat what we have spoken about so often in the Senate—that relief comes only when we have achieved a balanced budget by adopting this resolution with mandatory caps on the expenditures of appropriated accounts, with one set of caps for defense and one set for all the rest of the expenditures that occur annually, called "appropriated accounts"; and then when we present from the respective committees to the Budget Committee the reconciliation bill, which will accommodate and respond to the instructions given by this resolution, and once they are in the hands of the Budget Committee here and in the House, we will have them evaluated by the Congressional Budget Office, the authenticator, the neutral group, chosen by most, and only a couple of years ago chosen officially before the American people by the President of the United States, as the real authenticator, which would have no smoke and mirrors, which would be objective—we will ask that entity to evaluate our performance. If the caps are enforced—and we intend to enforce them—and that bill called "reconciliation"—a strange name, but I guess the best way to say it is that it reconciles the laws of the country with the budget resolution, thus, it is called reconciliation. That big package will address the issues of Medicare, Medicaid, and many other entitlements, and it will attempt to make Medicare solvent for the next 10 to 12 years, instead of leaving it on a spend-out that would yield to bankruptcy within 6 to 7 years.

They will not have enough money to pay their bills in 6 to 7 years. So when that event occurs, and it is certified by that authenticator, then we will tell the American people and the U.S. Congress that we have a balanced budget.

At that point in time, what will happen is the $245 billion will be released to the Finance Committee in the Senate and its counterpart in the Ways and Means Committee in the House, and they will proceed. While we remain the custodians of the reconciliation bill, we are holding it, they will produce the tax bill after they have debates in their committee, and they will send that tax bill to the Budget Committee, who will then be the guardian of both and bring both to the floor. One will not be passed without the other. We will pass the big reconciliation bill, which the authenticator will say gets you to balance; and then, Mr. President, the American people should know that tax cuts cannot get you out of balance. That is part of the mandate. The tax cuts cannot, in the last year, the seventh year, be bigger than the economic dividend which created a surplus in that last year. It is around $50 billion. So if some wonder whether the tax cuts are going to deny the people of this country a balanced budget, it will not.

The deficits in each of the previous years will be a little higher than we thought they would be as the bill left the U.S. Senate, because we have to accommodate to $75 billion—not $245 billion, but to $75 billion more than we had accounted for in our budget. Those will be spread back across by way of increased deficits annually. But in the final year you will be in balance.

So we believe it is an exciting time, an exciting event to speak about today, to speak about tomorrow, and then to ask the U.S. Senate to vote yes or no. I am very hopeful that the vote will be more than 50 voting for it. I believe that is going to be the case, which means it will pass.

It will do a lot of good things for America. First of all, it demonstrates a commitment to keep our promise to the American people that we will, working together with them, enact a balanced budget for the American people.

It also is an answer to many—most of whom are on that side of the aisle—who said we do not need a constitutional balanced budget to get a balanced budget.

Saying, over and over, "Just do it. Take the action that you must." We took it seriously. In 7 years, we produce that kind of budget.

From this Senator's standpoint, there is probably no event on the domestic side, in the past three or four decades, that is more important to the future of America and more indicative that we are changing directions, than this budget resolution. It is the framework to change the fiscal policy of America, and to change the way the Federal Government operates with and toward the sovereign States and the people of the country.

There should, when it is implemented, be less Government here. I believe the American people have been saying they want less Government here. It will say, "You have more power at the State level." It will say, "We are giving you more power over programs we have held both the purse strings and the power over."

It is a vote of confidence in the Governors and legislators of America who are closer to the people than we are, and who are capable of modifying and melding programs so that they do not fall prey to the one-shoe-fits-all philosophy. That if there is one program with one definition, and one set of strings, it must be good for all Americans and for all States. It will change that premise of Government.

Incidentally, Mr. President, there is no question that we cannot get there unless we reform and alter and make better the programs of health care that America as a United States Government manages or funds, or operates. We will do that.

We will reform Medicaid and Medicare—at least our committees will—in response to this instruction of this budget resolution, requiring that they reconcile the law. I will talk about that in a little while.

In addition, sometimes we forget that of all our responsibilities, there is only one that we do alone and that the sovereign States do not do and we do not ask them to. That is our national defense. I assume when we come here as Senators and take the oath that we pledge our support to our Constitution and our Nation, but I think it is obvious that we are, at the minimum, committing ourselves to the national defense.

So we take care of the national defense here, also. Before we are finished with our presentation, for those who say we have raised defense spending while we have reduced spending in certain social programs—in particular, the entitlements—we will show the American people that, truly, defense, when we are finished with our 7 years, will not have grown, but of a steady starting point, will have come down by $17 billion—$17 billion less than 1995. So, while it comes down, contrary to what is being said by some, Medicare, Medicaid, and other entitlements will go up. Medicare itself will go up by 252 billions of dollars—not down—up. Medicaid will go up by about $180 billion cumulative over the 7 years—not down—up.

I would like to go on with a few other summaries and a few definitions. Then at the appointed time I will yield to Senator EXON, and from my side of the aisle, since we have half the time, fellow Republicans, I would like some Senators to use some of this time this afternoon, 15 or 20 minutes, by each Senator genuinely interested.

Let me give Senators Webster's definition of the word "compromise." The third definition of compromise in this source dictionary "is something midway between other things in quality, effect and criteria," et cetera.

Compromise is something our Founding Fathers envisioned. Clearly, this conference agreement before the Senate today is a compromise. Let me suggest from my standpoint, the Senator who chaired the Budget Committee that got it started out, that put the package together, I truly believe this is an excellent package and a very solid compromise that will serve our people well.

Clearly, the House did not get everything it wants in its 5-year blueprint for America; nor did we. Balance is achieved in 7 years by, first, reducing the rate of growth in total spending.

Let me give a few numbers and ways to look at that. Total Federal spending grows from $1.5 trillion in 1995 to $1.875 trillion in 2002. The average growth rate, Mr. President, will be 3 percent a year. When it goes from $1.5 trillion to $1.875—almost $1.9 trillion—it will grow at 3 percent. The Federal deficit would grow next year to nearly $200 billion if we do not adopt and enforce this resolution. Mr. President, $200 billion without the changes in policy which will reduce that to $170 billion. Thereafter, it will decline to a surplus of $7 billion in the year 2002.

The total deficit reduction over the next 7 years will reach almost $900 billion. Everyone should understand that reduction occurs while the budget is still growing. It is a reduction in the amount of growth by $900 billion, including the interest we will save.

The tax reductions that are contemplated, we should understand very clearly, and every Member of the Senate should, first, there is nothing in this budget resolution that will tell our Finance Committee, the tax-writing committee, what taxes they should reduce. There is nothing in any budget resolution adopted under the laws of this land that can tell a committee precisely what their finished product will be.

I cannot stand here and say that I am clairvoyant enough or understand the mind of the Finance Committee so well that this $245 billion, if they use it, will yield certain tax cuts. What I can say, unequivocally, that those reductions cannot and will not occur until the committees of this Senate have first met their spending reduction instructions.

Let me repeat: The tax reductions that we speak to, which I have alluded to in terms of how we constrain them so as to assure balance, cannot occur and will not occur unless the committees of the U.S. Senate—from the Agriculture to the Labor Committee, to the Finance Committee, to Government Operations, to Energy and others—until they reconcile the law and change it pursuant to this instruction to save the money, there will not be any opportunity for our Finance Committee of the U.S. Senate to pursue a tax bill.

Once that certification occurs—and I have explained that heretofore. Let me do it again. There will be, flowing from the Budget Committee to the Finance Committee, an allowable of $245 billion, $170 billion of which, Mr. President, is the economic dividend which we are entitled to for having reached balance. They will then proceed to write a tax bill, and they must have sufficient votes to get it done. And when they put it in the reconciliation bill in our hands, as custodians of both they will need 51 votes of the floor of the Senate also.

So in a very real sense, the Senate of the United States will decide what tax cuts there will be in this $245 billion allowed. And Senators will have a very big input into it. Ultimately, once again we will have to go meet with the House, who will do their job, and we will have to see what the product is.

Cumbersome it is. Unpredictable, with certainty today—even as short a time as 3 months from now we cannot predict, because committees will do their will. But we have come as close as we have ever come to putting an enforceable blueprint before the committees of this Senate. And the only thing they have to decide: Do you want to be part of balancing the budget or not? And if you do, you have to do what you have been told to do. And I am not telling them what to do. When this vote occurs tomorrow, and a majority of this Senate says aye, the Senate is telling them what to do.

There is no other way under current procedures to get that job done. You could never bring those bills here without a budget resolution because they would be debated forever, amendable forever, and Americans would be waiting until God knows when for a balanced budget. So, while it is not nice to tell committees you have 2½ months or 3, because the date they must produce is September 22, they will produce it and send it over to the Budget Committee for interpretation.

I am certain most of the discussion in opposition to this budget resolution will say it is too quick, not quite the right time, this economy is perhaps not as robust as it was 2½ years ago. Let me say to everybody watching and all our Senators, for those who do not want to balance the budget of the United States it is never the right time to balance it. For, if you are on the up side of the business cycle, with a buoyant 4 percent growth, there will be those who say it is not the right time because we do not want to put any damper on that. Let us let that great economy go on. If you do it in the middle of the business cycle there will be those saying, oh, no, do not do that. It is too close to coming down. And if you wait until now, when we have had a rather robust recovery for a rather prolonged time, there will be those saying do not do it now. We need to make sure the economy continues on.

But to all of those critics, I remind you that if a balanced budget is not worth something to our children and to the future and to opportunity for the future, then we ought not be doing it. But if it is, we ought to do it, for it has a bigger positive effect in our economic lives and the lives of our children than the temporariness of an up or down in the business cycle.

But, did you hear how much we are reducing the deficit in the first year? We are reducing it by $30 billion. It would have been $200 billion. We will get it down to $170. To anyone who wants to criticize this on the basis that it is bad for the economy, then let them say that a $30 billion reduction could harm an economy of almost $6 trillion.

I am also certain that there will be those who will say we should not reform Medicare. We should not do that as fast as we are doing it. And we will hurt people. And some will even say we are cutting Medicare.

Let me suggest, Medicare is going to grow from $158 billion to $244 billion as an annual expenditure of Medicare by the year 2002. It will grow at an annual average rate of 6.4 percent. The total Medicare spending over the next 7 years will top $1.6 trillion. Medicare is borderline solvent. It will not have money to pay its bills in 6 or 7 years. By the changes we are asking, the reforms we are asking, it will be made solvent and will be there for our seniors.

One last observation that should not go unnoticed. Per capita expenditures on Medicare will increase from $4,900 per recipient to $6,700 per recipient by the year 2002. Relative to what I perceive to be an unsustainable current spending path, the conference agreement reduces Medicare spending from that expected amount, which I do not believe was sustainable, and reduces it by $270 billion.

I will talk about Medicaid in due course, defense and nondefense spending. But, obviously, at this point I have given to the U.S. Senate and those concerned and observing at least an overview of why we are doing what we are doing.

I close with just my own pledge and my own feelings on this day about this event. Mr. President, fellow Senators, the time has come for adult Americans leading this country to produce a Government plan that no longer asks our children and grandchildren to pay our bills. The time has come for us to say enough is enough. No more burden on our children to pay for the deficit spending of today. Sooner or later we must do it for the general good of our country and for the specific well-being of our children and grandchildren. And I stand ready to support what we are suggesting and recommending because I believe the better good and the broader and more basic good for our country will come from us being responsible.

Mr. President, I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I yield myself such time I might need off time on our side.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I want to start out by congratulating my good friend, Senator DOMENICI from New Mexico, the chairman of the Budget Committee, for the remarks he has just made.

I say to Senator DOMENICI, the remarks I will make in the next few moments are certainly not intended directly at him. I have the highest regard for him, his ability, and, generally speaking, I would subscribe wholeheartedly to the road he just outlined to get from here to there with regard to a balanced budget.

I worked with Senator DOMENICI on the Budget Committee since I came here 17 years ago. He is a principled individual. He worked very hard to put this budget together. Unfortunately, we were not able to see eye to eye. I would simply say to my friend from New Mexico that the main disagreement here, as he understands fully, is not the goal that I think we both want, a balanced budget, but—and there has been considerable discussion and debate—which will continue—the roads or the paths we follow to get from here to there.

I think in summation, before I begin my remarks, I just wanted to say that he is the Republican leader and I am the Democratic leader. When we have this kind of democracy in action we are entitled to the majority view, we are entitled to the minority view. I simply say, I congratulate him for what he has done. I hope we could work together in the future.

But certainly, as he knows full well, the events of the last few months have not made it possible for us to join forces as I hoped, earlier, we might be able to. That is not his fault and it is not mine. That is the system under which we operate.

Mr. DOMENICI. Will the Senator yield?

Mr. EXON. I will be happy to yield.

Mr. DOMENICI. Mr. President, let me first say I am very gratified by the remarks, and I appreciate them. Frankly, I must say the feeling is mutual. I did not feel very good when I heard the Senator was not going to be around here very long, that he decided to go home and retire. I think he has done an excellent job for his people and for this great country. I am very sorry we do not have a budget we both can stand up here and say we are for.

I am quite sure that in many of the difficulties, many of the exact issues, the Senator from Nebraska and I would be on the same boat, he and I, traveling down that stream, trying to get to "Balanceville," I guess I would say. We are not there this year. I know the Senator will hope for us the best in our journey. We will try to get there. If the Senator from Nebraska cannot help us now, perhaps he might later on when the President chooses to make it more difficult for us.

Maybe the Senator—who knows—might be in one of those meetings to see what we can do.

I thank him very much.

I yield the floor.

Mr. EXON. I thank my friend. I appreciate his very generous remarks. We have been on different sides on many issues. In 1993, when we passed the first great deficit reduction bill in history offered by the President, while I thought that my friend and colleague from New Mexico probably agreed with many of the thrusts of the President's initiative, he still was not able to support it.

I have reviewed some of the statements that he made in opposition to the President's measure which received not one single Republican vote in either the U.S. Senate or the House of Representatives. With that thought in mind, I have gone through the remarks that I am about to make and hope that Senator DOMENICI and others might not, in a year or two, be able to point back and say EXON said this and it did not turn out that way.

I will simply say that we do get carried away with rhetoric from time to time. I am going to try to be straightforward about this and explain my position, and the general Democratic position with regard to what we think is an unfair, very troubled, very bumpy road, especially with regard to our senior citizens, our veterans, rural America, and others not so fortunately situated financially.

Mr. President, today we bring down the curtain on the first act of this budget drama that has been unfolding since February. And I hope I can bring a little Nebraska common sense to the sound and fury that has swirled around this budget.

Contrary to what we may read in the papers or see on television, the budget we are debating should not be about Presidential politics. It is not about the Republican Party or the Democratic Party.

This budget is about 100 million American households. It is about the 250 million Americans who are looking to us to make the right decisions about this budget. That is not the province of any person or party.

I am glad the President has become engaged in this landmark debate on how to balance the budget. The American people want to see cooperation between the two parties. They crave rational and civil discourse and meaningful dialog. They hope that we will take the best ideas—regardless of party—and forge a tough new alloy from these different metals.

Unfortanately, my Republican colleagues have a different view. They believe that their budget is so pure, so sacred, so perfect that it cannot be touched by those of us on this side of the aisle.

I am reminded of a story that Will Rogers told. It seems that a woman confessed to her priest that she was guilty of the sin of pride. She said, "When I look in the mirror, I think I'm beautiful." The priest said, "That's not a sin. That's a mistake!"

And so it is with this Republican budget. The Republicans may think so, but their budget has not improved with time. It has not turned into a dazzling butterfly. It is a mistake on a colossal scale.

At the opening of the conference on the budget, I predicted that the Senate budget would deteriorate. I wish that I had been wrong, but with each violent lurch forward, this budget gets meaner and uglier. The all-Republican conference merely twisted the knife.

And that is the story of Republican priorities throughout this budget: From bad to worse—from worse to worst.

Were the Medicare cuts softened to ease the pain on the elderly? No, they are worse—$14 billion worse, bringing the total Medicare cuts to $270 billion. That is the largest cut in Medicare history coming from the self-proclaimed saviors of Medicare. Hit men is more like it.

What about Medicaid? Was there any attempt to help the elderly, disabled and the children who rely on this health safety net? Not a chance in this Republican budget. Medicaid was slashed by an additional $7 billion, bringing the cuts to a staggering $182 billion over 7 years.

What about rural America, already reeling from the $11.9 billion in cuts in the Senate budget? This new budget heaps on further abuse with an additional $1.4 billion in agriculture cuts bringing the total damage to $13.3 billion.

And what about the tax cut? What about the so-called economic dividend we heard so much about on the Senate floor in May? It was the once and future tax cut. It was the tax cut that was not a tax cut, in the parlance of my friends across the aisle.

Thank goodness, we can finally end that charade. We can dispense with the play-acting. There is a tax cut in this conference agreement. It is a whopping $245 billion tax cut—$75 billion more than the Senate economic bonus and it is on page 32 of the conference report. That is where the Senate Republicans accommodate the Contract With America. "Caved in" would be a more accurate description.

We know how the Republicans will pay for the $245 billion tax cut. They pay for it by strip mining Medicare and Medicaid. They pay for it by gouging education, job training, and the earned income tax credit. They pay for it by flailing rural America.

Of course, we do not have any firm details on the tax cut itself. That will be up to the tax-writing committees, as Senator DOMENICI indicated. But I think we can venture a good guess at what will be in this witches' brew. The conference agreement is the vessel for the Contract With America and it's filled to the brim with tax cuts, primarily for the wealthy.

The Wall Street Journal reported that the $245 billion Republican tax cut could include such goodies for America's wealthiest as a $64 billion capital gains tax revision and a $500-per-child tax credit for families making up to $200,000 per year—key provisions of the Contract With America.

The sense-of-the-Congress resolution, sponsored by Senator BOXER, that stated that 90 percent of the tax benefits should go to working families making under $100,000 was changed beyond recognition. It was gutted in conference to drop the $100,000 cut-off. It was totally rewritten to conform with the Contract With America.

House conservatives are threatening to derail the reconciliation bill unless it meets their far-right litmus test. Representative PHIL BURTON, leader of the so-called Conservative Action Team, told the Journal, and I quote, "It is imperative that it"—the child tax credit—"be kept at $200,000." House Ways and Means Chairman ARCHER said, and I quote, "I'm not going to go back and do another tax bill." And why should he when the Senate Republicans are waving the white flag to the Speaker of NEWT GINGRICH's, army.

Mr. President, families making $200,000 a year do not need any largess from the Federal Government. It is astonishing that at a time when we are asking for a helping hand for our elderly, our students, and middle-income Americans, we are giving a handout to the wealthy. It is obscene that my Republican colleagues are contemplating tax cuts for families making six figures. Is this mainstream America, Mr. President? I emphasize that. I think the Republicans are not so much concerned about mainstream America as they would have you believe. My Republican friends talk much about it. I can simply sum up by saying it certainly is not mainstream Nebraska.

Mr. President, the most confusing part of the tax cut package is that it costs $245 billion, but it is supposedly financed with an economic bonus of only $170 billion. Anyone can tell you that is $75 billion short.

Republican leaders have gone to great pains to explain this sleight of hand by focusing on the net effects of the cut and the bonus in the year 2002. In that year, the economic bonus will be $50 billion, the CBO says. The Republican package will thus be restricted to $50 billion as well for that year. In preceding years, however, the cost of the tax package will exceed—will exceed, Mr. President—the savings from the economic bonus by a significant margin. I underline that. In the preceding years, the costs of the tax package will exceed the savings from the economic bonus by a significant margin.

Despite the differences in the cost, the Republicans claim that the $245 billion tax cut can be included in the budget without compromising the goal of zero deficits in the last year.

In order for all of this to pan out, spending cuts in programs like Medicare and Medicaid once again will have to be used to finance the additional costs. This is coming from the party that claims it is "saving" Medicare. For Medicare, any more of these kinds of "savings" will assure that there will not be anything left for the program.

My Republican colleagues are not only short $75 billion to pay for their tax cut, they are also short on explanations. They are not explaining to the American people that the extra $75 billion in tax cuts would result in higher debt service and, in turn, higher deficits—up to $100 billion—for the years leading up to the magic balanced budget year of 2002, and that, in turn, would cause higher debt service costs for those intervening years. Mr. President, that is clear.

I mentioned earlier that this budget is about American people, and so it is. I want to take a few minutes to get beneath the shiny surface of this budget that is all glitter and glut for the wealthiest. Nowhere do we see this more than in Medicare and Medicaid. The Republicans now siphon off $275 billion from Medicare to help pay for their tax cut. That means the average Medicare beneficiary will pay $3,345 more over the next 7 years in out-of-pocket costs—$860 more alone in the year 2002.

The $182 billion in Medicare cuts is especially harsh on the elderly, the disabled and children. Average Federal and State spending would be reduced by nearly 30 percent by the year 2002, and of the children covered by Medicare, more than half live in working families.

Mr. President, under the Republican budget, the States would be forced to roll back the number of people served. I estimate that 8 million people, including children, could fall through the safety net by the year 2002. As many as 2.9 million seniors and disabled, including children, could lose access to long-term care.

From day one of this budget, I have expressed my deepest concern about the betrayal of rural America. Rural America has been sold out. Rural America became a popular fall guy for this Republican budget. What is particularly galling to this Senator is that agriculture is being asked to take such a whack once again. It is totally out of all proportion to other cuts in the budget.

Where is fairness in this budget? Farm program cuts in the Republican budget represent 20 to 25 percent in spending reductions over the next 5 years.

Agriculture Secretary Glickman warns, and I quote, "Cuts in spending of this magnitude could be especially burdensome on those farming areas that specialize in the production of target price commodities and could reduce producer payments, incomes, and their ability to borrow."

The Republican budget does not stop with these programs. It wraps its fingers around and squeezes the life from numerous programs vital to Americans. The earned-income tax credit was high on their hit list. The EITC, as it is commonly called, is a refundable tax credit for working families. It helps families get off and stay off welfare by boosting the value of low-wage jobs.

While the conference report folds EITC changes into the overall savings for welfare reform, the description suggests that the far more draconian Senate-passed cuts are assured. If enacted, these provisions would result in tax increases—that is right, Mr. President, tax increases—for more than 14 million families. Families with two or more children would be the hardest hit, losing $305 in 1996 alone. More than 72,000 Nebraska families will lose $110 million in benefits under this proposal over the next 7 years. They would experience an average tax increase of $230 in 1996 alone. Families with two children would lose $290 in 1996.

Mr. President, do not tell me that there are no tax increases in the Republican budget because they are there and they are real.

The Republicans are just as shortsighted about job training. The conference cut job training by 20 percent. That means that by the year 2002, 1.3 million fewer disadvantaged youths will be able to participate in the summer jobs programs. That also means that nearly 1.3 million fewer dislocated workers could be assisted in their efforts to return to productive employment.

Mr. President, let us look, too, at education. The Republican budget makes scandalous cuts in one of the greatest investments our Nation can make.

Let us start at the beginning with Head Start. Under the Republican budget, preschool children from disadvantaged backgrounds could be denied this critical service that prepares them to succeed in school. Even if Head Start was funded at the current level of the current law, over 350,000 children would be denied services over the next 7 years because the population of eligible children will continue to grow.

The same is true with title I, education for the disadvantaged. Under the conference agreement, up to 2 million children from disadvantaged backgrounds could be denied funding to help them improve basic math and reading skills. And that is even if title I programs were funded at the current levels.

We have also heard a lot about the hit on student loans. The conference agreement assumes elimination of the in-school interest subsidy for 500,000 graduates and professional students. This would cost an average graduate student between $3,000 and $6,600 more in interest payments over the life of his or her loan.

However, do not for one second believe that this is the full extent of the cut. Eliminating this subsidy for graduate students does not account for the full $10 billion cut required by the conference agreement. All students, including undergraduates, could be required to pay hundreds of dollars more for loans in the form of higher upfront fees or loss of the grace period that currently prevents interest from accruing on loans until 6 months after graduation.

Under the conference agreement, the 3.7 million college students receiving Pell grants—30,000 of them in Nebraska alone—could lose the value of these grants and see them cut dramatically. Even if Pell grants were funded at current levels, their value would decrease by nearly 40 percent by the year 2002 simply because of inflation. And student population will continue to grow over this time. Nearly half of all of the Pell grant recipients have annual incomes of less than $10,000 a year. Fairness, Mr. President? I think not.

I also want to touch briefly on impacted aid. Under this Republican budget, Nebraska school districts, with large amounts of Federal land within their boundaries, could see their operating budget shrink to unacceptable levels.

The level of funding for veterans programs and the cuts therein are an abomination. For example, the cut in VA medical funding will result in the cancellation of approximately 74 projects. These are projects which are needed for the VA to meet current community health care delivery standards. Our veterans deserve better than this Republican budget.

Mr. President, I could go through this budget function by function and line by line and program by program and prove how it hurts ordinary Americans and hurts them badly. That is what is often lost in these budget debates—the human factor. We speak in baselines. We speak in acronyms. We do not speak in terms that put a face to the budget. And I have been able to partially do that today in these remarks.

In conclusion, let me say that the face that is reflected in the Republican budget is not one of mainstream America. It is not the face of our elderly. It is not the face of our children. It is not the face of our middle class or our veterans or our working poor. It is not the face of rural America. And as one from rural America, I can assure you beyond any question that it is not the face of rural America.

The face reflected in this Republican budget is one for the privileged few, the wealthiest among us who do not have to worry about Medicare or job training or college tuition loans or crop prices or the state of care at the local Veterans Administration hospital. They are not being asked to make the sacrifice.

The others are the ones that are being asked to make this sacrifice, all for the good of the wealthiest citizens of America. They are the ones, the wealthiest, who will benefit most from this package with a $250 billion unfair tax cut. From the beginning of this budget process I have stated that the only way to balance the budget is through shared sacrifice. The only way to balance the budget is through bipartisanship. But for the past 6 months my Republican colleagues have worn blinders. They have seen only their core constituency. They have seen only their own party, which has veered dramatically to the right.

If the Republicans insist on maintaining their narrow version, they do so at their own peril and the peril for mainstream America. The stage has been set for a confrontation between the Republican Congress and the Democratic White House. I have called it a train wreck. That is an apt description.

However, if the Republicans open their eyes, they will see there is an alternative, one that will get us to the same destination and without the chaos of a Government held hostage to politics.

That alternative is called bipartisanship. I tell my Republican friends, meet us halfway, and we will create a budget that is not only a balanced one, but represents the whole citizenry of this great Nation.

Mr. President, I understand that there has been an informal agreement that we could go next to Senator KENNEDY. And, if acceptable, I would yield to him whatever time he might need. And then following that, it would be two Republican Senators in a row, after the two Democrats, myself and Senator KENNEDY.

In furtherance of that agreement, and if there is no objection, I yield 15 minutes or such additional time as he might need to my friend and colleague from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Thank you very much, Mr. President. I want to say at the outset how much all of us appreciate the good efforts of our friend and colleague from New Mexico, Senator DOMENICI, and Senator EXON in trying to help chart responsible expenditures for our national endeavors. And I want to thank, in particular, the Senator from Nebraska for an extraordinary statement. He clearly understands these issues in fiscal terms. But I think, most importantly, he understands them in human terms. This afternoon he explained very eloquently to the Senate and to the American people the impact of these budget recommendations on the families of our great country. And I want to build on his excellent presentation.

In looking at a budget, we have to consider the bottom line in terms of the expenditures, but we also have to consider what the real impact on the families of this country is going to be. When we talk about having "fair sacrifice" and "shared sacrifice," it is only fair to try to review, in some detail, exactly where the belt-tightening is going to come. And when we look over, as the Senator from Nebraska has pointed out, the total expenditures, we find out that it does come down particularly hard on the working families of this country, and it comes down particularly hard on the children of those working families, those that go on to our fine State schools and colleges across the country and those that go into the schools that enhance students' academic achievement and accomplishments. In addition, the burden falls on the men and women who have been a part of our great national economy and national life over a period of many years and now are experiencing, and should experience, the glories of old age with a degree of security in Medicare. Moreover, the burden falls on those who, out of necessity, are being attended to with the coverage of Medicaid.

Of the extraordinary cuts that we are going to be facing in the Medicaid program, two-thirds of the cuts are going to be from home care for the very frail and the neediest, the poorest of Americans. SSI is covered within that chunk, and the rest is in the coverage of some 18 million children. These are poor children. We are going to see significant cuts in the coverage of poor children. Half of those poor children have working parents. This gives us some idea of where the burdens are going to fall.

So it seems to me, Mr. President, as we review this budget, that there is going to be a significant burden placed on the Medicare for elderly people who have built this country, sacrificed for their children, and made America the strong country that it is.

In addition to Medicare and Medicaid, there is also a slash in the education programs that the Senator from Nebraska already discussed. There will be a significant slash in college opportunities. The Senator from Nebraska talked about the reduction in assistance for graduate students who receive loans. These students are now able to defer those loans until they get out of graduate school. We call that the in-school interest rate. The fact is, those who are going to the graduate schools will pay for it, as well as those in the colleges.

Every family should know that students will not be able to defer college loan interest while they are still in school. This ought to be a wake-up call for every family that is making $75,000 a year or less. Eighty-eight percent of all of the college loan programs go to families that are making $75,000 a year or less. Well, I have news about what this means for your family. After 10 hours of debate on the floor of the U.S. Senate, and after this legislation is passed, it is going to mean that your children, if they are fortunate enough to get a student loan, are going to pay one-third more—from $3,500 to $4,500 more—for that student loan program. Obviously, the amount rises even higher in relation to the size of the loan.

As the Senator from Nebraska also pointed out, there is a slash in wages for working families. There will be $21 billion in tax benefits for tax expenditures over the next 7 years of this program. But, the men and women who will have a tax increase are those individuals who are making $26,000 a year or less. That is why I think it is only fair, when we look at what this budget means, to do what the Senator from Nebraska has done, to see who it is going to impact adversely.

There will be an adverse impact, as the Senator from Nebraska has pointed out and the Senator from Maryland has pointed out, on working families who are making $26,000 or less a year. We have news for you: Your taxes are going up. Taxes will not go up if you are in the very wealthy incomes of this country, but they are going up for working families, and it is going to mean less in take-home pay for the worker.

It is not surprising to me, Mr. President, that this budget would come out this way, because the Republicans have resisted any increase in the minimum wage to make work pay. They have failed to say to men and women who are prepared to work 40 hours a week, 52 weeks of the year, that you will not live in poverty, which has been an age-old commitment since the late 1930's under Republican and Democratic administrations.

We have opposition to increasing the minimum wage to make it a livable one. We have an assault on the Davis-Bacon families who are averaging $27,000 a year to try to cut their wages. And now we have, on the measure that is before us, the $21 billion burden in taxes that is going to be on the working families of this country. When we look over here at this chart, we see that this proposal asks our seniors, the very young, those going to college, the working families—all Americans—if they are prepared to tighten their belts if they need to because we have a shared responsibility for our national interest that is what is called for in the name of our national interest. Why are we doing it?

The answer is right over here on this chart. It is to pay for the $245 billion of tax cuts for the wealthiest individuals in this country. This is what we are asking workers: "Tighten your belts."

This is what we are saying to those who want to go to college—the 88 percent of those who get student assistance who come from families making $75,000 a year or less: "You are going to have your belt tightened; you are going to pay anywhere from $3,000 to $5,000 more over the life of your indebtedness." We are going to undermine higher education programs.

We are saying to families that we are going to penalize 350,000 to 500,000 young children who will not be able to go to a Head Start Program. We are going to exclude the 2 million American children who otherwise would qualify for programs that assist the economically distressed under the Title I program. We are going to slash the School-to-Work Program that was enacted and had strong bipartisan support in the Congress last year.

Finally, we are saying to our senior citizens over the period of these next 7 years, "You are going to pay a cumulative total of some $3,200 out-of-pocket more with this Republican budget," if we are going to have shared cuts in Medicare between the provider and between the beneficiary. If you are a family on Social Security and retired, you will pay a cumulative total of $6,400. The average income for those families is only about $17,000.

Make no mistake about it, we will hear a lot of talk about a billion dollars here and a billion dollars there. What I am talking about here is who it is going to hit. For what? To pay for these tax cuts for the rich.

Finally, I would have thought—I am about to yield to my friend from Maryland—at least out of a sense of some decency, that the Budget Committee would have come returned to the floor and said, "I know we have voted on the billionaires tax cut." What is the billionaires tax cut? It is the provision that exists in the IRS that says, effectively, that if you have made hundreds of millions of dollars over the past years, you renounce your citizenship, take citizenship overseas, and say, "Goodbye, America," and become a modern-day Benedict Arnold, you can take all of your accumulations of wealth and not pay any taxes. That is wrong.

We have already overwhelmingly voted on that issue. I would have thought that the Budget Committee, returning from conference would have said—and the House has gone on record on this—we are serious enough to indicate we are going to close that loophole, so that we are not going to have so many cuts in Medicare, education, or wages for working families. But it is not in there, I say to my friends. All that stands in there are the provisions which will provide some $245 billion for tax benefits that will go to the wealthiest individuals.

If you read, as I am sure the Senator from Maryland has, the Senate budget closely, you will notice that a measure passed the Senate that said that 90 percent of any tax would go to working families under $100,000 a year. I do not know whether the Senator from Maryland noticed, in reading through the budget, but the conference eliminated the $100,000—eliminated the $100,000. We know what is going on. We know who they want to benefit. It is the wealthiest individuals.

Why? When the Senate passes something so overwhelmingly that says that 90 percent of the tax benefits is going to go to those working families that earn under $100,000, and it comes back from conference saying it will go to working families, but they take off the $100,000, what does that say? I can tell you what it says to this Senator. It says, "You are right; when we get our chance to cut the $245 billion, who is going to get it? It is going to pay for the tax cuts for the rich."

Mr. SARBANES. Will the Senator yield for a question?

Mr. KENNEDY. That is what this is about. That is basically what we are talking about in these 10 hours prior to the time the Senate is going to vote, and it is going to be something that every family in this country should pay attention to.

They should pay attention today. They should pay attention tomorrow. They should pay attention to when these measures are put before the Congress in real terms, in terms of the cuts on appropriations and in terms of reflecting the budgets over the period of these next several weeks. If the American people want us to go on that path, then they should be urging all of us to vote "yes."

However, if the American people say, "Hey, wait a minute, wait a minute, wait a minute. Cuts in education, cuts in our Medicare, raising the taxes for working people—for tax cuts for the wealthiest individuals? That is not what last fall was about." It certainly was not about that in my State of Massachusetts, and it was not about that in the State of Maryland. Maybe it was in some other part of this country. But that is not what the people of my State elected me to see done—cutting education, cutting college opportunities, cutting wages for working families, and slamming it to the retirees so that we can get tax cuts for the wealthiest individuals.

(Mr. FAIRCLOTH assumed the chair.)

Mr. SARBANES. If the Senator will yield for a question, I ask the Senator from Massachusetts—because I know that there will be an effort to defend this budget resolution on the basis that it is going to balance the budget over a 7-year period—if they did not provide $245 billion in tax cuts for the wealthy, is it not the case that we could reduce the slashes in these programs by $245 billion and still have a balanced budget?

Mr. KENNEDY. The Senator is absolutely correct. In real terms, it would say to those 18 million children—effectively a quarter of all of the children in this country that are covered by the Medicaid Program—and, it would say to the 5 to 7 million of those that are going to lose any kind of coverage under this Medicaid cut, that you still will have some coverage. What it would say to those children, half of whom are the sons and daughters of working families that are trying to make it in the United States of America, is that they would not lose their coverage. And what it would say to the frailest senior citizens, the ones absolutely dependent upon the Medicaid Program in so many instances, that they will receive assistance, and so forth. The Senator is correct. If we could take that $245 billion and say that we are not going to have those kinds of cuts in the Medicaid Program, we would say to those seniors and to those children that they are important and we are not going to balance the budget by cutting support for their significant needs.

Mr. SARBANES. If the Senator will yield further. This is an extremely important point. I thank the Senator from Massachusetts for the very effective way in which he has made the point. People must understand that the very deep cuts in these programs that are so important to them—Medicare for our senior citizens, educational assistance in order to send our young people to college, and the earned income tax credit for working families—that these very deep cuts being made in those programs in this budget resolution are not solely in order to balance the budget. Those deep cuts are being made in order to provide $245 billion that will be given in tax cuts for the people at the top end of the income scale.

There is a direct connection between the Senator's two charts, and it must be understood. A senior citizen must understand that the Medicare cuts to which they are going to be subjected are much more severe and much deeper in order to create a pot of money with which to give a tax cut to the very people at the top end of the income scale. This is a very important point because senior citizens are going to be told that this is necessary in order to balance the budget, and balancing the budget is a good thing for them. But cuts of this magnitude are not necessary to balance the budget.

So the issue that is posed by this budget resolution is the simple question: Is it more important for America that people with six-figure incomes, $200,000, $300,000, $400,000, should get a tax cut and a senior citizen should suffer a reduction in their Medicare benefits? Is it more important to give a tax break to those at the very top of the income scale and deny a young person the opportunity to go to college? That is the question that is being framed by the priorities that are outlined in this budget resolution. These deep cuts are not being made to balance the budget; $245 billion of those deep cuts are not to balance the budget; they are to give a tax break to the wealthiest people in the country.

I defy anyone to explain to me the fairness and the rationale of doing that. As the Senator from Massachusetts has so eloquently stated, you are going to have young people wanting to go to college who are going to find doing so much more difficult because of this resolution. I ask the Senator, has the forgiveness of interest on the money people borrow to go to college while they are in school been eliminated by this budget resolution?

Mr. KENNEDY. Well, effectively, it will mean that the in-school interest which was deferred until after college and after graduate school, that provision will effectively be wiped out. You recover approximately $3 billion to recover the in-school interest for graduate students. Under the mandate in the Republican budget, the only way you can make the other money up is to require those young people, the day after they get that loan, when they are going to school, to start off repaying it immediately.

Let me comment about that and I will yield further. The fact of the matter is that a year ago, even 2 years ago, when we were considering the direct loan program in higher education, our Republican friends asked us over here on the Labor and Human Resources Committee, "After the graduation date, should we not give the students 6 months to be able to find a job so they do not take that first job just to pay back loans?" It did make sense, and we had a strong bipartisan coalition in support of it. We overwhelmingly passed an amendment to give the college student or graduate student a very short period of time, 6 to 9 months to get that first job, deferring payment of loans during that time. And it made sense from an actuarial point of view. You are demonstrating, when that young person has the 6 to 9 months, by and large they get a better job and it is easier to pay back the loans. That is the history of the payback of the student loan program. So, now we are going in just the opposite direction.

Our Republican colleagues persist in suggesting that this budget eliminates the in-school interest subsidy for graduate students only. But the numbers do not add up. This budget requires savings of $10.8 billion over 7 years from student loan accounts.

But eliminating the in-school interest subsidy for graduate students saves only $3 billion over 7 years, according to the official CBO numbers that govern this budget. That leaves the budget $7 billion short in the student loan accounts alone.

Where will that $7 billion come from in this Republican budget? It will come from the Nation's students one way or another. Either the Republicans will eliminate the in-school interest subsidy for undergraduates as well as graduates. That would save the required $10 billion. Or students will be asked to give up the other benefits that we have fought to secure for them—on a bipartisan basis—over the last 5 years. They will no longer have the 6-month grace period in which to find a job before they have to start paying back loans. That would save $3 billion. Or they will face higher up-front loan fees and interest rates. That would save another $3½ billion.

The bottom line is that this budget assumes a $10 billion cut in student loan accounts, and the graduate student subsidy accounts for less than one third of that amount. It is bad enough that the Republicans have designed a budget that taxes students to pay for tax cuts for the rich. It's worse that they insist on hiding the ball about the true impact of these cuts on the Nation's students.

It is important to note also that the student loan cuts are only a portion of the total education cuts contained in this misguided budget. This Republican budget contains the largest education cuts in U.S. history. It eliminates one-third of the Federal investment in education by the year 2002, based on Congressional Budget Office estimates. The specific cuts are as follows:

COLLEGE AID

Cuts $30 billion in Federal aid to college students over the next 7 years.

Half of all college students receive Federal financial aid.

Seventy-five percent of all student aid comes from the Federal Government.

Increases personal debt for students with subsidized loans by 20 to 48 percent by eliminating the in-school interest subsidy.

Affects up to 4 million students a year.

Undergraduate students who borrow the maximum of $17,125 will pay an extra $4,920.

Reduces Pell grants for individual students by 40 percent by the year 2002, or terminates Pell grants altogether for over 1 million students per year, even assuming a freeze at 1995 levels.

Could increase up-front student loan fees by 25 percent, raise interest rates on student loans, or eliminate the grace period for students to defer payment on loans after graduation.

SCHOOL AID

Elementary and Secondary Education Act: Cuts funding for improving math and reading skills to 2 million children; reduces funding for 60,000 schools.

Safe and drug free schools and communities: Cuts over $1 billion in antidrug and antiviolence programs serving 39 million students in 94 percent of the Nation's school districts.

Head Start: Denies preschool education to between 350,000 and 550,000 children.

Special education: Eliminates $5 billion in Federal support for special education services for 5.5 million students with disabilities.

Goals 2000: Denies assistance to 47 States and more than 3000 school districts helping students to achieve higher education standards.

School-to-work: Cuts $5.3 billion from initiatives to improve job skills for up to 12 million students through local partnerships of businesses, schools, and community colleges.

Technology: Eliminates Federal initiatives to develop and provide educational technology for the classroom through collaboration with private funders.

Now, that you have heard the facts, I would like to ask the Senator a question as to whether or not he would agree with me. We will hear these eloquent statements about how this glidepath for the country is moving us toward a balanced budget and that it is necessary for these college students to pay 30 percent more on their student loans, see a further reduction in the value of the Pell grants which go to the neediest children—a 40-percent reduction in that program over the life of this budget. We are going to see the indebtedness of the young people of this country increase dramatically.

Would the Senator from Maryland tell me how he would be able to convince the students in the State of Maryland who get a student loan program, how he would be able to convince them and say that what we are doing to you is increasing your indebtedness so we will have a balanced budget so that your future would be better off? Is there any logic to that rationale? I do not see it.

I do not see how we say to the young people, going back to the point of the Senator from Maryland, that we are taking the savings and putting it toward a tax cut for the rich. We are trying to say to the young people going to schools and colleges, "Pass this and your future will be more secure." Someone better tell the college students they will pay 30 percent more for their loans. And the value of their Pell grant will be 40 percent less, meaning they have to borrow more. How are they better?

Mr. SARBANES. Some of them will not get an education.

Mr. KENNEDY. The Senator is correct.

Mr. SARBANES. The fact is some are on the edge now, and they need the forgiveness of the interest while they are in school in order to be able to pay their tuition.

What we have done now is knocked some students out of even getting an education. The ones who are able to go on will assume an even heavier burden.

I know an argument that will be made. They will say to the young people, "We will be reducing the deficit over time and that is a desirable thing for you." I will not quarrel with that.

The fact of the matter is that these programs are being cut an additional one-quarter of $1 trillion, $250 billion, in order to give tax cuts to the people at the top end of the income scale.

If we did not do that, if we did not give the tax cuts, we would have $250 billion with which we could ease the deep cuts that are being made in these programs. Our young people would have a much greater chance to get an education.

I ask the Senator from Massachusetts, is not the loan program we are talking about, the Stafford loan program—is that what it is called?

Mr. KENNEDY. Yes, named after one of the very important education leaders from the State of Vermont, who happened to be a Republican.

Mr. SARBANES. A Republican; just to prove the point that in the past there was very strong bipartisan support for this program.

Mr. KENNEDY. The Senator is correct.

I think it is important for these families to understand something else. That is, what has been happening in the States. So often around here we say we can cut student loans because the States will make up the difference. I can say that the cost of tuition in my own State of Massachusetts—for our State schools and colleges—has the second-highest tuition rates of any State in the country, if we include the tuition and fees. Of course, there are different ways of calculating it.

When we talk about what a family is paying out, what both the students and their parents are having to do, we have seen a significant reduction, over $350 million less, in State appropriations in support our higher education system. I daresay that has been happening in many, many States.

It is important for families that care about the education of their young to recognize that when we do this today there is not any indication—maybe in some States, but by and large, the past record is not encouraging—that States will be making up the difference and assisting those needy students.

Let me ask the Senator from Maryland a question. I can remember not long ago, probably in the last 8 or 9 years, when the tuition for the University of Massachusetts in Boston was $800. They raised it to $950. About 12 percent of all the student applications went down with that $150 increase. This happened because 85 percent of the students that go to University of Massachusetts in Boston had parents that never went to college and 85 percent of the students that went there already worked 25 hours a week or more.

These are kids trying to get an education. Hard working, recognizing the importance of education being their opportunity—150 bucks makes a big difference—and we are talking to these students about hundreds, thousands of dollars of increased indebtedness to them.

We are talking about what happens in those schools and colleges—I know that the Senator from Maryland pays attention to what happens in his State and education policy there, generally—but does the Senator not agree with me that $200 or $300 increases in tuition is big money?

When we ask the families to take on indebtedness, when they are paying a mortgage, and when we force them to pay for other things—for example, in the greater Boston area we have seen dramatic increases in the water rate to pay for unfunded Federal programs to help clean up the clean water —the families turn to us and say, "Look, we have had it up to here. What are you doing to us? Why are you cutting back in terms of our children's future, our family's future." I wonder whether the Senator from Maryland does not find similar stories in his own State.

Mr. SARBANES. Mr. President, I say to the distinguished Senator, we are experiencing exactly the same problem in Maryland. The Governor of my State has indicated clearly that there is no way that the State can compensate for these cuts. So the cuts will actually fall on our young people who are trying to get an education.

The critical question before the Senate is, when we balance the budget, how will we go about doing it? What priorities are we going to set? Who will feel the impact of the affect of this balancing effort?

As the Senator from Massachusetts has pointed out very clearly in his chart, this plan cuts education, it cuts Medicare, it cuts nutrition programs, it slashes important investments in our Nation's future, it raises taxes on working people by the impact on the earned income tax credit. So the children, the elderly, and working families, are asked to bear the brunt of this deficit reduction. And then the conference agreement provides for large tax decreases for the very wealthy.

We must put those two things together. In effect, what is happening in this resolution is we are slashing all these programs for people who need them, in order to give a large tax break to the wealthy—not in order to balance the budget. If we did not give the large tax break, we would have $250 billion less in these severe cuts, and the budget would still be balanced.

It is not a matter of balancing the budget. It is a matter of slashing these important programs, in order to give large tax cuts to the very wealthy.

I defy anyone with any reasonable sense of priorities to tell me why someone making $200,000, $300,000, $400,000 a year, should get a tax cut, and a young person trying to get to college should now have to pay interest on their college loan while they are in school and not working. Or why a very wealthy person should get a tax cut, and a senior citizen on Medicare who is fighting to find the means to provide for their health care needs is going to experience a decrease in their medical services. That is the sense of priorities that is contained in this concurrent resolution, which has been made far worse in the conference than when it left the Senate. The budget was bad enough when it left the Senate. Now it has been made worse. The cuts in the student loans have been doubled in the conference.

This sense of priorities that is in this budget resolution is a disaster for America.

I very much hope it will be rejected.

Mr. KENNEDY. Mr. President, I say finally, because the hour has moved on and there are others who wish to speak, the final bottom line of what the Senator from Maryland has pointed out, it is not just older people, it is not just students, it is not just some workers, it is America's working families.

This all comes together. It all comes together for working families. It is their children that are going to be paying more out for the loans. It is their parents who are going to be paying out more for their copayments, deductibles, and for other payments that Medicare will not cover.

It is their families, their immediate families, that will find their taxes rising higher, if they are making less than $26,000, than they otherwise would have. It is their schools that will not get those incentive grants to enhance their academic achievement. It is their children in those schools that will be denied the violence and drug abuse prevention programs, to try to help those young people resist the appeals of violence and substance abuse.

This is what this issue is really about. This Republican budget is historic indeed. It is an historic attack on American working families, senior citizens, children, families, and veterans, brought to us by the same Republican Party whose policies created the huge budget deficits of the 1980's.

The Republican budget takes the bad bill passed by the Senate and makes it worse: Greater tax breaks for the rich, deeper cuts in Medicare and Medicaid, even heavier burdens for families struggling to educate their children. Americans will be paying a higher price for the impact of this budget well into the next century if these harsh cuts ever actually become law.

But, these cuts will not become law if Democrats have anything to say about it. The Republican budget deal being rammed through Congress is veto bait. It is even worse than the misguided version passed earlier by the Senate. Splitting the difference between the extreme Senate version and the even more extreme House version is a hold-your-nose compromise that is beginning to smell already. The Medicare cuts are extreme by any standard. These cuts are far deeper than any cuts that could conceivably be justified by any need to keep Medicare solvent. The Republican argument on the insolvency of Medicare is a sham.

Mr. President, I hope this measure will not be accepted. I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from the State of Washington.

Mr. GORTON. Mr. President, I am authorized by the manager on this side to yield myself such time as I may take. I point out the Senator from New Hampshire, under the previous order, is the next to be recognized.

Mr. President, do you remember that wonderful phrase that a few years ago was turned into the title of a movie, "Only In America," an expression of awe and wonder? Mr. President, I think we have to rephrase it as a question of stunned disbelief. Only among Democrats, only among the few left on that side of the aisle who, as liberals, worship at the shrine of an ever-increasing Government, only among those who debate against this budget resolution is a $300-billion-plus increase in what this country will spend on Medicare described not as a cut but a slash.

Mr. President, if this budget resolution passes, not only will we preserve a Medicare system which otherwise will go bankrupt, we will spend more than $300 billion in increased Government support of Medicare in the next 7 years. Yet these last two Senators speak of cuts and slashes, deserting of our commitments.

The increase in Medicaid during that period of time will be almost half as much. It is also described as a cut, as a slash. Only among liberal Democrats, Mr. President, only among liberal Democrats is a modest reduction in a check coming to an individual from the Government described as a tax increase. But that is the way we mistranslate for the American people. If your welfare payment goes down, that is a tax hike by their description. Only among Democrats, Mr. President.

Mr. President, they are right about this. This is perhaps the most significant budget resolution to be passed by the Congress of the United States since we instituted the concept of budget resolutions. Why? Because this is the first one that gives a real and enforceable promise that the budget will be balanced. It is the goal of this process to end the time, the decades during which Members of Congress spend the people's money and send the bills to their children and to their grandchildren. That is not a policy for our future, for those children and for those grandchildren. We propose to end that era.

Why? Because borrowing, year after year, $200 billion more than we can repay, eats into our ability to invest in our own future. It drives up interest rates and drives up job opportunities for the very people our opponents, in defending the status quo and defending those deficits, claim to be supporting but are actually oppressing. Even the promise in this budget resolution, if appropriately enforced, gives us a dividend of $170 billion for the public sector in lower interest rates on the debt we have, and in increased tax collections from a more vibrant economy which has created more jobs. And it gives far more than that to the people whom we are here to serve.

Granted, on the part of the manager of this bill for the Democrats and some of his colleagues, there is lip service given to the idea of a balanced budget, someday, long in the future—but not now and not in this way. Always in some different way.

The President of the United States, when he was a candidate, told us he would pass a balanced budget. He claimed 2 years ago to have reduced our budget deficit which he did almost entirely by increasing taxes on the American people and then is surprised this year when the tax bill comes due and at the very time it comes due, because money is taken out of our pockets, we have a pause, a dip in our own economy—a possible recession caused by those tax increases.

Earlier this year, the President was not interested in a balanced budget at all. More recently, he has come to feel it is appropriate. But not now and not in this way and not with valid figures.

We say it is time. The time is now and this is the way. Some of us will say, as we often do in many bills here: This bill is not perfect, but it is the best we can come up with. Mr. President, I guess I do not think it is perfect. It is not exactly what I would have written or the direction I would have gone. But that is absolutely irrelevant. There are 100 of us here in this body, each with a different point of view, and none of us with an absolute certainty as to what perfection is. But what this is is the reaching toward a goal. Perfection is not our goal, a balanced budget is. This budget will lead us to that point and in doing so, will allow more money to remain in the pockets of the American people, will create more jobs for them, will lower the interest rates on their homes and, not at all incidentally, lower the interest rates on those student loans we have heard so much about—undoubtedly by considerably more than whatever the changes in those loan policies may well be. A balanced budget is a concrete goal. A balanced budget is what we will reach if we pass and enforce this budget resolution.

In doing so, yes, Mr. President, we will lower taxes on the American people. Only over there on that side of the aisle, Mr. President, is a $500 family tax credit for any person who makes enough money to pay $500 in income taxes described as a tax break for the rich. Only over there is someone who pays any income tax at all and gets a break under this proposal—rich.

The people whom we serve will be surprised to learn how many of the wealthy there are who presumably are on the dole of these tax reductions. And I guess, Mr. President, that is the single worst element of this proposal from the point of view of those who love the status quo and love the Government we have today. The thought that an American—any American—might possibly be allowed to keep any additional amount of what they earn is the worst possible policy from their point of view because they believe the Government ought to be spending that money, and we do not. That is the difference between us.

Mr. President, this is a budget resolution that will build America. And this is a budget resolution which I must say is a tribute to the senior Senator from New Mexico, the chairman of the Budget Committee. New Mexico's inestimable gift to the U.S. Senate, my friend, the friend of the Presiding Officer, who, with a tremendous commitment to the future of this country and a patience which I know that I could not match and a willingness to listen to different points of view, both reasonable and unreasonable but never abandoning the goal of a better America, an America which stops sending its bills to its future, has led us to a budget resolution which will reach that goal.

I want to say in conclusion, Mr. President, that I hope this budget resolution passes with a large majority.

But large or small, it will make for a better country, and its passage will be a magnificent tribute to its author, the senior Senator from New Mexico.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the senior Senator from New Mexico.

Mr. DOMENICI. Mr. President, I understand Senator GREGG is going to follow with his remarks for as long as he wants to and then we have another Senator on our side ready. We will go back and forth. I will have to leave the floor for a little while.

I say to Senator GORTON, let me just thank you for those remarks. I appreciate them. I want to say frankly to the U.S. Senate, while everyone will be here to participate in this victory, that our system puts a special burden and a special responsibility on committees. And every now and then a committee has an opportunity to do something very, very sensational, or fall back into a quagmire of making excuses, or let us do it like we have always done it. But this Budget Committee is made up of a group of veterans and a group of newcomers, two of whom are on the floor, Senator GORTON is here, and Senator GREGG is here. They did an excellent job. I mean they did not flinch. They voted for tough, tough things because they had a goal and they wanted to achieve it.

I want to thank Senator GORTON for his participation, as well as all the other members.

Let me say to Senator GREGG that I asked him early on to head a task force on the toughest part of this budget. How do we fix in some meaningful way the rampant growth of entitlements led by the two health care programs, but not exclusively. And he worked for well over 2 months with exciting ideas, and difficult challenges. You came up with some very, very rational reasons, and we followed them ever since.

So I thank him for that. I am sure the Senate looks forward to his remarks. He has a wonderful way of showing what reality is instead of letting those who would be against everything show it their way. I hope the Senate and the people pay attention to his analysis today.

I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Hampshire.

Mr. GREGG. Mr. President, first I want to thank the Senator from New Mexico for his very generous comments, and join the Senator from Washington in exalting the efforts of the Senator from New Mexico who has for the first time in 25 years been able to put this country on the right track. Passing a balanced budget resolution is an amazing event. But, more importantly than that—and I know that this is what the Senator from New Mexico has kept his energies focused on in this area, and has kept us all focused on the goal—it is a great gift to our children and to the next generation. The Senator from New Mexico has a few, and also has a few grandchildren.

It was because of his concern about their future and the fact that he has been for many years fighting the battle of making sure that we do not pass on to our children and our grandchildren a Nation which is bankrupt, that he has kept this committee and this Congress focused on the end line. The end line is to produce a budget which gets to balance, and as a result reduces the burden of debt which we are passing on to our children.

So, once we pass this budget—which I am sure we will—and once we institute its recommendations, it will be a tremendous gift, which really will have been because of the author of and the wrapper of, and which we will be passing on to our children as a result of his efforts. I thank the Senator from New Mexico for having given us all this leadership in this area.

I also would like to pick up on a comment that was made by the Senator from Washington because he is a pretty astute observer of this. He sort of alluded to the fact that we just heard a presentation from the Senator from Massachussetts and the Senator from Maryland which essentially said, if you would argue it properly, they were presenting the philosophy of the liberal approach to Government, sort of the philosophers of the left, so to say. It is their belief that Government must always grow and must always expand.

I think their real outrage comes from the fact that we are contracting the size of Government. We are saying that really it cannot be allowed to constantly grow and expand beyond the ability to pay for it. And that as we contract the size of Government we are going to return some of the benefit of the contraction in the size of Government, or at least its rate of growth—we are never going to actually downsize it, but the rate of growth—return some of the benefit of that to the people through a tax break. It is sort of like prying money out of the hand of someone who is at the door of death, the liberal philosophy being at the door of death in my opinion, to try to get them to give any money back to the American people through tax cuts.

That is what we are proposing. Think about it in the context of what these tax cuts are. They represent two-tenths of 1 percent of the total spending that the Federal Government will undertake over the 7-year period. We are going to spend $12 trillion over the next 7 years. We are talking about cutting taxes $245 billion. Yet, you would think that we were exercising a scorched earth policy against the actions of the Government by instituting that sort of really rather minuscule return to the American people of their benefit. Is this going to flow to the wealthy in America? First off, the resolution says it is not. The resolution says the tax cuts shall flow to the working people of America. And that is pretty obvious.

We are talking about primarily the biggest tax cut being a benefit for the working families, people with kids; a $500 tax credit to people with kids. Now, sure, a lot of wealthy Americans have kids. A lot of middle-class Americans have kids. A lot of lower-income Americans have kids. I suspect if you were to line all those kids up and put them on a scale, you would find that the number of kids of the middle class and working Americans far exceed by a factor of millions, I suspect, the number of kids of the wealthy Americans.

So, by definition, the vast majority of this tax cut is going to flow to just plain working American families that have children. That is where it is going. And is it such an outrage to take two-tenths of 1 percent of the spending that is going to occur over the next 7 years and say we are going to rebate it to you, the American people? Well, it is, if you are a liberal, because, basically, if you are a liberal, you believe you own that money, and you should not give it up. We own it, if you look at it from a liberal prospective. We should design the programs to tell you how to run your family.

Well, what we are saying is let us let the American people have the money and manage their own families a little bit, have a little bit more money to manage their own families rather than have the Federal Government tell them how to run their families and how the money will be spent. This whole tax cut issue is really a lot of smoke from the other side both on substance and I think on policy also.

I wanted to focus a little bit today on some other issues because we have heard a lot about how we are slashing and cutting Medicare and Medicaid and we are raising defense spending, and I have not heard too many numbers that have defended that in real terms because they cannot, if you look at the numbers.

The fact is that if you take a freeze baseline—I think that is the only way to do it honestly—you say what are we spending today on Medicare; what are we spending today on Medicaid; what are we spending today on defense. Let us say it was $100 today. Two years from now, are we going to be spending $102 on these programs, or are we going to be spending $98 on these programs?

That is an honest way of evaluating whether or not spending is going up or coming down. None of this current services baseline, none of this assumption baseline. It is what you actually take out and put on the table in the way of dollars for these programs. That is what counts for whether or not it goes up or it goes down.

If you look at those numbers—like everybody else in this institution, I only function now with charts—you will see that over the 7-year period, Medicare spending, off the current baseline of a freeze, which would be $176 billion, goes up $349 billion. That is new dollars that we will be spending on Medicare over the next 7 years over what is being spent this year.

Medicaid spending under this budget goes up $149 billion over the next 7 years over what we are spending this year. Defense spending goes down—this number happens to be wrong; it has been reestimated—$13 billion over the 7-year period.

So this representation that we are somehow slashing Medicare, slashing Medicaid, in order to raise defense spending is absolutely false. There is no other word for it. It is false. The fact is Medicare and Medicaid spending are going up, and this chart shows it in a bar graph. This is how much Medicare spending goes up. This is how much Medicaid spending goes up. And as you can see, it is a very sizable portion. Medicare spending is going up almost—well, better than twice Medicaid spending, but Medicaid spending is going up better than 149 times what defense spending is going up because defense spending is not going up; it is going down. And so let us have a little integrity around here when we start talking these numbers.

Some other numbers that I think are important are how these spending factors that we undertake over the next 7 years relate to the past 7 years, because we have heard a lot about how we are cutting Medicare, we are cutting Medicaid, and we are increasing defense.

Well, if you look at it in relationship to the last 7 years, defense spending was $2.02 trillion over the last 7 years. Over the next 7 years, it is going to be $1.88 trillion. We will spend less on defense over the next 7 years than we spent on defense in the prior 7 years.

Remember, there is no adjustment for inflation in here. That means defense is going down in hard dollars. It means defense is going down, if you look at it in inflationary dollars, even more. So defense is going down in comparison to the last 7 years.

If you look at Medicaid spending and compare it to the last 7 years, over the last 7 years we spent $445 billion in Medicaid. Over the next 7 years we are going to spend $772 billion on Medicaid, almost twice the amount of money we spent in the last 7 years. So we are dramatically increasing the amount we are spending on Medicaid.

If you look at Medicare, Medicare spending over the last 7 years was $923 billion. If you look at it over the next 7 years, we are going to spend $1.6 trillion or 73 percent more than we spent in the prior 7-year period.

How can you define that as a cut? There must be some new math that I did not learn when I was in school that you get if you go to certain schools in this country which could define an increase of 73 percent as a cut. Not only is it not a cut, it is a substantial increase.

Why are we doing this in the Medicare accounts? I think we have to understand that this budget resolution accomplishes a couple of very significant public policy events.

No. 1, of course, is it balances the budget for the first time in 25 years, which is absolutely critical to our children. We hear a lot of talk about children and concern for the children. I do not think there is any question that everybody in this institution is genuinely concerned about our children and their future and how we address them. But I cannot think of a single thing that is more important relative to our children's future than to be able to give them the opportunity to have a prosperous lifestyle. And whether or not you have a prosperous lifestyle depends on how much debt you have to pay.

It works that way in your home. If you run up a big debt and you have to pay it off, you are basically going to have a lot of trouble doing that. You are going to have to work hard, and you are probably going to work longer hours and you are probably going to find that you are able to keep less because you are paying off a big debt. This country is passing a big debt on to its kids, and unless we get this budget under control, it will get a lot bigger.

So the most significant thing this resolution does is it improves the opportunity for our children to have a decent and prosperous lifestyle, and that, I believe, is the largest gift of all, as I said earlier, and will far outweigh some of the negatives that were alleged will occur from the other side, which I do not agree to anyway. But even if you accepted them on face value, they are far outweighed by the positive of balancing this budget for our children's future.

Second, what this budget does is that, in driving this Government to be fiscally responsible and managed in a way that we can afford it, we are taking a hard look at all the major programs that are in this institution. And a lot of them were created with good intentions, but they have not worked. The classic example, of course, is welfare. No program has had a more disastrous track record than welfare considering the amount of money that has been spent on it. I am sure there are more disastrous programs, but in relationship to the amount of dollars spent on it, it would be hard to find.

The fact is what this budget does is assumes that we are going to take the welfare system and improve it substantially, basically by putting it back in the control of the States that have the imagination and flexibility and the originality to create new and aggressive programs, and the Governors are excited about the opportunity. I can tell you, as a former Governor, they will deliver a heck of a lot more dollars to the recipients that need it by having flexibility than by having a huge bureaucracy on their back. So we are going to reorganize welfare.

We are also going to take a hard look at the other entitlement programs, all of them, but the one entitlement program that needs the most scrutiny because it is the most sensitive and it is the most critical right now is Medicare, because the trustees of the Medicare trust fund—and this is not a Republican group; in fact, four of the six trustees are members of this administration, including the Secretary of HHS and the Secretary of the Treasury—the trustees of the Medicare trust fund have said that if something is not done to correct the fundamental financial situation or imbalance of the trust fund, it will go bankrupt in the year 2002.

This is a chart that reflects that. This is where we are today, and this is where it goes—bankruptcy in 2002 for the trust fund.

What are the practical implications of that? The practical implications are that there will be no insurance program for seniors in the year 2002. And so what does this budget proposal put forward? It puts forward ways in which we can effectively address that issue and bring under control the rate of growth of the Medicare trust fund so that we can afford it, and so that it will exist and work well for our seniors.

It does not assume that seniors will get less care. It actually assumes that seniors will get more care. They will get more care because we will give them more options; we will give them more choices. And in the process, we will, hopefully, move them from a fee-for-service system into fixed-cost systems which can deliver high quality care but for costs which are predictable.

Are we talking about cutting the Medicare trust fund to do this or cutting Medicare spending to do this? No. As I mentioned earlier, we are talking about increasing it rather dramatically, $345 billion of increase over the 7 years. And what does that work out in this inflation factor? It works out to the fact that today the Medicare spending is growing at 10.5 percent.

What we are talking about in this resolution is accomplishing a rate of growth that is basically 6.4 percent. Mr. President, 6.4-percent rate of growth. That is what we are assuming for the Medicare spending under this resolution. Is that a cut? Only if you function under the liberal new math. Under any reasonable math, even moderate math, a 6.4-percent annual increase is still an increase in spending and it is a very substantial increase in spending. In fact, it represents twice the rate of growth of inflation. That is the commitment we made in this budget. And it is a significant commitment to our senior citizens, and it will, we believe, produce a budget which will be in balance.

Now, there has been some discussion about a couple other issues I wanted to touch on quickly. That is the education issue. There is a representation, if you were to listen to the earlier colloquy between the Senators from Maryland and Massachusetts, that all students everywhere will be impacted adversely by this resolution. Well, I think maybe they are not up to speed on what the resolution does.

The resolution does say that graduate students will be impacted, but undergraduate students will continue to have their programs and have them pretty much the way they are today. Graduate students, yes. They will be asked to pay the cost of interest on their loans after they graduate from graduate school. Their interest on their loans will accrue while they are in graduate school, which they do not now.

What does that mean? Well, it basically means John and Mary Jones working at the local diner, 60 hours a week to try to make ends meet, will no longer have to subsidize the guy who is going to law school and his graduate loan and the interest on that graduate loan. It means that lawyers, in fact, they will still be subsidizing them to some degree but that person going to law school will, when they get out of law school, because their earning capacity will be significantly increased, be required to pay the burden of the interest that was accrued on that loan. I think that is fairly reasonable.

Yes, we should maintain the programs for undergraduates. I believe they should keep undergraduates free from the interest cost during the period they are in school. But for graduates, I can see no legitimate reason for not requiring them once they get out of graduate school, where they have increased their earning capacity dramatically, to pay back that interest. Because, after all, if we do not do that, what we are basically doing is transferring to our wealthiest Americans, the graduate students, from our moderate- and middle-income Americans' tax dollars, something that there appears to be outrage about over the tax cut. It does not clone that direction as mentioned earlier. But it seems to be acceptable relative to graduate students from that side of the aisle, this income transfer, from hard-working Americans to people who are clearly going to be quite wealthy once they get out of the graduate schools, whether it is law school or medical school or whatever.

So that is, I think, a bit of a specious argument to begin with. But second it is specious because it ignores probably the most underlying positive event which this balanced budget amendment is going to generate for all Americans, not just for the Federal Government; that is, the fact that all the economists that have looked at this, including CBO, have said if we put in place a budget which balances the Federal budget over the next 7 years and does it in real numbers, with real terms, as this one does, that there will be a drop in the interest rates in this country of 2 percent. A 2-percent drop in interest rates is a huge benefit to homeowners, to people who are borrowing on their credit cards, people who are buying cars, and equally people who are going to graduate school. And I suspect just that the percent drop will more than pay for the cost of incurring the interest in later years or will certainly pick up a significant proportion.

So, I do not find this argument to be very persuasive. Good politics, which unfortunately appears to be a big part of this debate, but not persuasive on the facts as is the argument that there is a Medicare cut here which is maybe good politics but is inaccurate and clearly not true on the facts.

Now, the President presented a budget in this process also. The President has presented a number of budgets. The first budget was out of balance by $200 billion a year or $1.2 trillion over 5 years. And then he came forward and presented a second budget, just a little while ago. And that unfortunately came forward, scored by his own folks on the basis of his own numbers, something that he said he would not do, not scored by CBO. And when it was scored by CBO it turned out that budget was also out of balance by about $200 billion a year for essentially as far as the eye could see.

But I want to congratulate the President. I think he has stepped on the playing field, finally. We have had a second effort here in June. And basically he has gotten involved in the process where he was not before. His first budget was clearly a walkaway from the budget process. Sort of a Pontius Pilot approach to the budget, just washing his hands of it. But this budget is not what he presented. Granted, CBO has scored it as a budget which does not get to balance. But when it was sent up it was sent up with some very basic assumptions which I think are good assumptions and good intentions.

First, he has agreed we need to get to a balanced budget. His timeframe is 10 years. Ours is 7. I was interested in the Senator from Massachusetts's discussion of this issue. I was thinking that if we were to accept the President's budget, the Senator from Massachusetts would have been here—I am sorry I did not have a chance to ask him this—would have been here for 45 years before we get to a balanced budget, if I calculate right, since 1965. In any event, it is a long way away, but at least we agree it is a balanced budget.

Second, he has stated that we need Medicaid and Medicare reform. That is important. Because you cannot get to a balanced budget unless you address the issue of Medicaid and Medicare spending.

Third, he has agreed we need welfare reform. He not only agrees to it, he was the primary mover in this area. I give him credit for coming out early and aggressively to do something in the area of welfare reform, and hopefully we can accomplish it. So those are three areas of agreement.

Fourth, he has agreed that other entitlement programs have to be addressed and discretionary spending has to be addressed and in the budget he sent up he had some good numbers in those areas.

And fifth, he has proposed a tax cut. Less than what is in this budget but still a tax cut so it recognizes the need to flow dollars back to the people as we address this issue of balancing the budget.

So, on five major points, five major points, we are basically in agreement, and the question comes down to dollars and timing. I think there is an area for significant action here.

For example, in the Medicare, for all the slashing and cutting that we are alleged to do from Members on that side of the aisle in the Medicare accounts, I would point out if you compare the President's number to our number, in outlays—that is really the only honest way to do it—you take out all the assumptions, and the President's number is only $11 billion off from our number each year in a program that is spending hundreds of billions of dollars. Not really a very significant difference in the sense of coming to agreement. Significant difference? Yes. But a difference which is clearly manageable—Mr. President—$11 billion on accounts which spend hundreds of billions of dollars. So the President's numbers and our numbers are pretty close.

On Medicaid it is even closer. The President's outlay numbers are only $9 billion different from ours. On some of the other entitlements, welfare, for example, $10 billion of difference from ours. Those are numbers that are very close. And I think they are numbers that can be resolved. And so the President has come forward with a budget which basically agrees philosophically with five of the points we have been raising: First, you need to get to balance; second, you need to address Medicare and Medicaid; third, you need welfare reform; fourth, you need to address the other entitlements in discretionary accounts; and, fifth, you need a tax cut. Which is what our budget does.

And then his numbers in the key accounts, which are the entitlements accounts, are clearly in striking distance of our own numbers. So it seems to me there is an opportunity there for significant action to reach accommodation and reach agreement. Which brings me back to my original premise, which is that this budget is a no-nonsense, make-sense budget about how we get to balance and delivers to our children the opportunity to have a country which has some prosperity and hope for them.

The President, from his presentation, appears to also understand the need for that. I hope that the Members on the other side of the aisle would agree with the President's view and agree that these goals are what are needed and agree that these numbers are places he can start, because as we go over to the appropriations and reconciliation process, maybe we can reach the accommodations necessary to deliver to our children this gift which is so critical, a balanced budget.

I thank the President, and I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER (Mr. COVERDELL). The Chair recognizes the Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I give 15 minutes of our time to the distinguished Senator from North Dakota.

Mr. CONRAD. Mr. President, I thank the Senator from New Jersey, and I thank my colleagues.

Let me first say that a balanced budget should be our goal. In fact, I offered an alternative budget resolution during debate on the budget in the Senate that balanced the budget, and did so by 2004, without counting Social Security surpluses, and did so with a different set of priorities contained in the budget before us today.

I think it is fair to say that the Republican budget resolution before us today is a fraud. Over and over, we have heard it stated on the floor of the Senate and in the news media that they have balanced the budget. Apparently, nobody has bothered to look at the budget resolution, because if you look at the budget resolution, you find out they have not balanced the budget. Here it is. Here is the conference report that we are debating today, and on page 3 of conference report, under "Deficits," it says:

> For purposes of the enforcement of this resolution, the amounts of the deficits are as follows:

And we go to the year 2002, in which they are claiming they have balanced the budget. Do you know what one finds? It is the dirty little secret of this budget. There is not a zero by "deficits" in the year 2002. That is what we would have if they balanced the budget. It does not say zero. It says the deficit in fiscal year 2002 is $108.4 billion. That is not a balanced budget. That is not within hailing distance of a balanced budget. That is a budget that is not anywhere close to balancing, a $108 billion deficit in the year 2002.

How is it the Republicans claim they have balanced the budget? They claim it because they are looting and raiding the Social Security trust funds of every dime of surplus that is in those accounts. That is their plan. That is what they have in mind for America, to take every penny, every dime of the Social Security surplus, more than $600 billion over the next 7 years, take it all, spend it on other things, use it to give tax cuts to the wealthiest among us. That is the plan that is before us. It is a giant fraud. It is a huge hoax. That is what is before the American people today.

This is the biggest transfer-of-wealth scheme ever in the history of this country. They are going out there and taking money from people from their payroll taxes—and by the way, 73 percent of the American people pay more in payroll taxes than they pay in income taxes—and they are taking that money from them on the promise that it will be used to fund their Social Security retirement.

That is not what they are doing. They are taking that money and they are spending every dime of the Social Security surpluses. Just in the year 2002, they are taking $108 billion of Social Security trust fund surpluses. They are using that to spend on other parts of the budget, and they are using it to give giant tax breaks to the wealthiest among us. That is their plan.

If the American people are hoodwinked on this one, at some point they will find the bill coming due, because last year the Entitlements Commission told us precisely what will happen if such a plan goes forward. We will face either an 85-percent tax increase or a 50-percent cut in benefits in order to fund those entitlement programs, because it does not add up.

Mr. President, this Republican budget is a monument to misguided priorities. It is unfair and just plain wrong. There are draconian reductions in Medicare, Medicaid, education, agriculture, and public investments that benefit average Americans. And why? So they can give massive tax breaks to the wealthiest among us.

This budget, make no mistake, is a return to trickle-down economics. It gives the wealthy a massive tax reduction and asks the middle class to pay the bill. One middle-class program after another is reduced in order to finance a tax break for those that have the most.

For example, the Republicans are reducing Medicare $270 billion over this 7-year period; Medicaid by $182 billion. Make no mistake, rural hospitals all across America will close. I have dozens of such hospitals in my State. I have talked to the administrators. I have asked them the effect of these budget plans, and they have said to me, "Senator, we will close our doors. We will have no option."

Our Republican friends say they are for welfare reform, they want people to work. They are right about that, people should work. But with the budget cuts that they have outlined, people will not be working. The Congressional Budget Office told the Finance Committee, under the Senate Republican plan that 44 of the 50 States in this country will not have a work requirement. They will not be able to have a work requirement. They will be better off taking a 5-percent penalty and not having any work requirement in 44 of the 50 States of this country because there will not be enough funds for child care and for job training. What a fraud, but the wealthy will get their tax cut.

The Republicans take domestic spending, spending in this country on infrastructure, spending on education, spending on research and development—the very things that are critical to our future—and they cut those $190 billion below a hard freeze.

In the budget plan I offered, we froze those programs for 7 years. Their program cuts $190 billion below a freeze, tough, harsh cuts in education, in infrastructure and research, in the things that matter to the future of our country, but the wealthy will get their tax cut.

The Republican budget agreement also makes draconian and drastic cuts in agriculture programs. Many people do not understand agriculture outside of the heartland of the country. But I tell you, our farmers work every day competing not only against the French farmer and the German farmer, but against the French Government and the German Government, and this budget signals unilateral disarmament; we are going to give up in this trade battle; we are going to leave that playing field to our European competitors; and we are going to back away from one more market where the United States has been dominant; we are going to raise the white flag of surrender in this trade battle and give up these agricultural markets.

Make no mistake, that is precisely what is going to happen under this plan.

Middle-class program after middle-class program will be devastated, but the wealthy will get their tax cut. Those priorities do not make sense, and they certainly do not benefit the middle class. The tax cuts that our friends have in mind are tax cuts that benefit disproportionately those who are the wealthiest among us.

This chart shows an analysis of the House plan. We do not yet have the Senate plan. The House plan is very clear in terms of who benefits from the Republican tax bill. If you are a family of four earning over $200,000 a year, you get an $11,000 tax break. If you are a family of four earning $30,000 a year, you get $124. That is 100 times as much to the family of four earning $200,000 as to the family of four earning $30,000. That is the Republican idea of targeting tax relief: Give the crumbs to the middle class; give the cake to the wealthy. That is the Republican plan that is before us today.

This budget resolution is nothing more than a repeat of the failed trickle-down economics of the 1980's. We learned a lesson in the 1980's that some have forgotten. We learned then that wealth does not trickle down, it gets sucked up. That is precisely what the plan before us today will do: Big bucks for the big guys and crumbs for the middle class. That is the plan that is before us.

I say to my colleagues and friends that if these policies are enacted, we will witness an even larger redistribution of wealth than the one that took place in the early 1980's. I remind my colleagues what happened. From 1983 to 1989, the last time the Republicans had control, this is what happened to growth in financial wealth in this country. The top 1 percent got 66 percent of the increased wealth in that period—the top 1 percent got 66 percent of the increased wealth. The bottom 80 percent—the vast majority of the people in this country—went backward. They saw their wealth reduced by 3 percent.

Mr. President, the Republican commentator, Kevin Phillips, had an interesting comment on National Public Radio several weeks ago. He said:

> If the budget deficit were really a national crisis . . . we'd be talking about shared sacrifice, with business, Wall Street, and the rich—the people who have the big money—making the biggest sacrifice. Instead, the richest 1 or 2 percent—far from making sacrifices—actually get new benefits and tax reductions.

That is the plan that is before us—an enormous transfer of wealth, from the middle class and the lower income people to those who are the highest on the income scale in this country. That is not fair, that is not right, and that is not an economic plan for the future of America.

During Senate debate on the budget resolution, I and a number of my colleagues offered an alternative balanced budget, one that balanced the budget by the year 2004, without counting Social Security surpluses. And we had much different priorities. Yes, we reduced the rate of increase in Medicare and Medicaid, because that must be done—but not in the draconian fashion contained in this budget resolution.

We also had reductions in the rate of growth for nutrition programs, and others—but not the draconian reductions that we see here. We were able to do that by going to the wealthiest among us and asking them to participate in a plan to restore America's fiscal health. Shared sacrifice; everybody has to play a part. That is the American way. That is the way we ought to do what needs to be done.

Mr. DORGAN. I wonder if the Senator from North Dakota will yield for a question.

Mr. CONRAD. I am happy to yield.

Mr. DORGAN. I appreciate it. I have been watching some of the discussion. I have noticed several Members of the majority side nearly breaking their arms patting themselves on the back in the last hour or so because they say they have brought a balanced budget to the floor of the Senate. I noticed in the press conference at which they unveiled it, they said they kept their promise, ergo, a balanced budget. I notice the press reported that they had brought a balanced budget to the floor of the Senate. Then I notice on page 3 of the document before the Senate, the very chart that I think the Senator from North Dakota has, Senator CONRAD, where it says "deficits," it appears they have been patting themselves on the back too soon.

The Senator from North Dakota is saying, is he not, that there are no balanced budgets in 2002? In fact, this budget resolution would leave a deficit of $108 billion in the year 2002; is that correct? And, if so, why is everybody patting themselves on the back and claiming that the budget is in balance if on page 3 it says it is not in balance, that it is $108 billion short of balance in the year 2002?

Mr. CONRAD. The Senator is exactly right. I think they are hoping nobody actually reads the document. So far, they have been wildly successful in that. The news media have not bothered to read the source document either. If they do, they will see under "deficits" in the year 2002, it does not say zero; it does not say they have reached a balanced budget. It shows a deficit of $108 billion in the year 2002. That is because they have looted every penny of the Social Security surplus trust funds during this period.

The PRESIDING OFFICER. The time yielded to the Senator from North Dakota has expired.

Mr. CONRAD. I yield the floor, Mr. President.

Mr. LAUTENBERG. Mr. President, we will yield to the Republican side now, despite the fact that we had only one Democrat speak after two Republicans in a row. But we have a distinguished friend on the other side, Senator GRASSLEY from Iowa, who wishes to speak. I now yield so that the Senator can use some of his time.

The PRESIDING OFFICER. The Chair recognizes the Senator from Iowa.

Mr. GRASSLEY. Mr. President, I yield myself 20 minutes.

The PRESIDING OFFICER. The Senator is recognized for 20 minutes.

Mr. GRASSLEY. Mr. President, I do not want to engage the Senator from North Dakota because I want to make my remarks and run to a meeting that I have to have. But I want to make this point in his presence, and we can argue about it at a later time. What he said I am not going to say is inaccurate because he has the documentation for what he said. But he spoke about our document and our claim of a balanced budget as being a fraud on the American people. We can accept that judgment if he is willing to say that if we had the President's document as a final document before this body to pass as the budget resolution for this year, with the claim that the President balanced it in the year 2005, which is 3 years longer than ours, the Senator from North Dakota would have to say that the President's budget is a fraud on the American people, because the document that we have before this body, that we correctly claim will balance the budget by the year 2002, uses exactly the same accounting procedure that has been used in this body by both Republicans and by Democrats when they were in the majority. It would also be used by the President of the United States in saying he had a balanced budget.

The President would use the same approach that we used. The fact of the matter is that our document is not a fraud. Our document balances the budget by the year 2002. And except for the fact that the President of the United States uses OMB numbers instead of CBO projections for the future, I would have to say that the President balances the budget by the year 2005. Therefore, the President's document is not a fraud and our document is not a fraud.

I hope that if the Senator from North Dakota is going to say that the way we do business and account for the balance is a fraud, he would be willing to say that the way the President of the United States did it as well was fraudulent. But the fact is that we are balancing the budget. We are balancing the budget because the United States people have finally sent a very clear message to the Congress of the United States that it is morally wrong for this generation to live high on the hog and to let our children and grandchildren pick up the bill.

Now, most of the debate behind the desire to have a balanced budget in this body is going to be based solely upon the public policy that it is good economics to have a balanced budget. And I agree with those statements. But I think that the main reason we should balance the budget is because for one generation we had anything we want through the Federal budget because of the bottomless pit of borrowing and that is not right. I do not believe it was ever right.

Obviously, it got into the thinking of public servants that there was nothing wrong with one generation living off future generations.

We are finally going to be able to put our house in order so that after the year 2002, we are going to be able to pay our own way. Then future generations can have a better life. They will not be saddled with the high interest and the high debt. If we did not change business as usual in this country on fiscal policy, future generations would be facing tax rates in the high 80 percent to pay for the debt that we have loaded on them.

If any Member wonders whether or not we can have a great future without borrowing to the extent to which we borrow, $4.9 trillion, just think, for the first 165-year history of our country, except for the years you classify as war years, our forefathers were able to show surpluses in budgets of the Federal Government 3 out of 4 years.

So the economic philosophy that has come to dominate public policymaking in Washington, DC, that somehow we had to have a deficit to have prosperity, that does not square with the practice of our forefathers who lived within their income and still built a strong, viable economy and a society that was strong.

The moral arguments for this budget are very, very strong, I think the overriding reason for victory that the balanced budget brings.

One other comment that is somewhat a reaction to what has been said on the other side of the aisle about the tax cuts, most importantly about the hogwash of the tax cuts going to the wealthy. I think they express those points of view because there is not an appreciation of what $500 per child in the pockets of middle-class Americans can do for the families of America and what it can do for the economy.

Maybe there is not an appreciation by the limousine liberals of America of what $500 means to a family because the philosophy on the other side of the aisle, quite frankly, is that somehow all the resources of this country belong to the Government, that we let, somehow out of the goodness of our heart, a certain amount of money be given by the Government to the families.

That is all wrong. Everything belongs to the families and the workers of America. Under our constitutional system, people might give up some of their resources to Government through taxes to exercise certain functions that can be done by Government for the good of all of society.

In the last 30 or 40 years, the concept of tax expenditures has crept into our policymaking here in Washington. We say that the deduction for children is a tax expenditure. We say that the tax deduction for interest on home mortgage is a tax expenditure. We say this or that which you can subtract from your income tax is a tax expenditure.

Well, a tax expenditure implies that Government owns all the resources of this Nation and we might expend some of the money back to the families to keep.

We can complain about high taxes and $500 tax credits for families on the other side of the aisle very easily when you start with the concept that every penny made by the working families of America in this country belongs to the Government and Government is going to let the families keep something. That turns good reasoning on its head.

We, on this side of the aisle, accept the premise that all the resources of this country belong to the families and the workers of America and that we, Government, ought to only take from those families what is legitimately needed to exercise the legitimate functions of Government.

That is why on the other side of the aisle they can make light of and maybe even make fun of a $500 tax credit per child.

I want to commend the chairman of the Budget Committee for his hard work in reaching this budget compromise. I want to say it this way so the American people out there, cynical about one person any place in American society maybe can make a difference—and I believe one person can make a difference. I believe that any one person, any place, regardless of their station in American life, can make a difference if they want to. Our society and our system of government allows that to happen. And each person that says they cannot make a difference belittles their contributions that they can make and underestimates their contribution that they can make to American society.

That is true in this body, as well. One person can sometimes make a difference. I think that Senator PETE DOMENICI's desire to have a sound fiscal policy for this country and to work to a balanced budget has made a difference, just because of the single individual of Senator DOMENICI. I think I can hold him up as an example, when people are cynical about an individual in Congress making a difference, that we are going to have a balanced budget in the year 2002 because of 1 person out of 535 in this Congress. Maybe I ought to say at least of the 100 Members of the Senate, because Senator DOMENICI of New Mexico, chairman of the Budget Committee, made a difference.

I suppose, as the Senator from Washington said about an hour ago, everybody cannot have everything that they want in a balanced budget. You can have everything you want when you can borrow unlimited amounts of money to pay for it. But the principle of a balanced budget, for the first time in a generation, dictates that you cannot have all your desires. It dictates the establishment of priorities within Government. It also dictates that every Member of this body cannot have everything they want in a budget.

I, too, like the Senator from Washington, can find parts of this conference report that maybe I do not like. But we cannot lose sight of its singular accomplishment that it balances the budget in 7 years.

This balanced budget will mean that our children and grandchildren will have a better tomorrow. This resolution will also help working families today with lower interest rates and better wages because of the increased productivity that is going to come from it.

It is for these reasons that I intend to vote for this conference report.

While the Congress has produced a balanced budget for the benefit of our children, I want to note by contrast, that the administration has still failed to provide a plan to achieve balance.

Last week I spoke on the floor, urging the administration to provide the additional spending cuts necessary for their new budget proposal to achieve balance. And I urged them to do what the President said he was going to do in February 1993 in his first budget resolution, to use the Congressional Budget Office's economic projections.

As is well known, CBO has stated that President Clinton's budget proposal—that is the second one this year—provides a deficit of $210 billion in the year 2002, the year that Congress' budget resolution gets into balance, the Republican budget resolution gets our budget in balance.

And in the year 2005, the President's budget will still have a $209 billion deficit.

I am very pleased that leaders on the other side of the aisle have already come forward, urging their President to provide for more spending cuts and to use CBO's economic projections so his budget will have integrity and so it will actually be in balance.

Monday's Wall Street Journal quotes the minority leader as saying that President Clinton must find hundreds of billions of dollars in more spending cuts. And in the Washington Times that same day, the minority leader is quoted as saying the White House will comply with CBO estimates.

Another Democratic Senator is quoted in the Washington Times as saying, "They cooked the numbers. The President needs to get back to the CBO numbers."

I am glad to see Members on the other side of the aisle agree that the administration must use CBO estimates and must provide hundreds of billions of dollars in more spending cuts. This is necessary if the White House is going to have any credibility in efforts to achieve a balanced budget.

Now the ball is once again in the White House court. I strongly encourage the administration not to punt the ball for a third time. The American people do not want their President to abdicate leadership on the budget. They are glad he is in the ballgame now, but we want him in the ballgame playing as a full member of the team.

This budget we have before us preserves Medicare. Medicare would otherwise be bankrupt in the year 2002. I am glad the President recognizes in his budget that Medicare would be bankrupt by the year 2002, and he proposes slower growth of Medicare as we propose slower growth of Medicare. And even with slower growth, it is still going to grow at 7 percent. Even at slower growth the per capita expenditure for Medicare is going to go up from $4,900 today to $6,500 in the year 2002. We are going to be spending $1.7 trillion on Medicare. We are going to have Medicare still be one of the biggest, if not the biggest programs in the Federal budget. Medicare will not go bankrupt under this budget.

Agriculture is going to do very well under this budget. I thank the chairman for helping us in the Senate hold a strong line on the Senate's figures for agriculture. I think this conference report represents a real victory for agriculture because the House was going to cut agriculture $17 billion for 7 years. Normally, splitting the difference we would have been cutting more than $14 billion. Our figures will be at $13 billion, just above the Senate's recommendations, and the conference retained the sense-of-the-Senate language that only 20 percent of the savings required of the Agriculture Committee should be realized from farm programs.

No one will benefit more from this effort to balance the budget than our family farmers. Because of the intense amount of capital that it takes to be a family farmer and because, especially among young farmers, so much of this capital is borrowed, lower interest rates will be of enormous benefit to this capital-intensive industry. Lower interest rates will result from a balanced budget.

The Food and Agricultural Policy Research Institute, which is a combination of the University of Missouri and Iowa State University, analyzed the impact on the farm economy of a balanced budget. In a preliminary estimate, this organization took the CBO estimates of reduced interest rates that would be realized from a balanced budget and said it would translate into a $2.5 billion increase in farm income in the year 2002.

Finally, on the subject of taxes, this conference report assumes $245 billion in tax cuts for the American people, especially working families. I am particularly pleased that under this budget resolution there can be no tax cuts until after CBO has certified that the budget does get to balance.

We all know we have a credibility problem with the American people when we talk about balancing the budget and cutting taxes at the same time. But we overcome that problem with the American people because this resolution will ensure that we have done the hard work first, that we have actually cut the necessary spending that it takes to achieve a balanced budget. It will be an enforceable reconciliation package. And then it will be scored by the Congressional Budget Office so we know there are x number of dollars available for a tax cut and that the tax cut is paid for and we do not cut taxes until that is done. That protects us from the usual traditional use of smoke and mirrors that are too often used, and never gets us to our targeted deficit reduction.

When it comes to tax cuts, as a member of the Finance Committee I state categorically I do not agree with the House of Representatives that we should give middle-income tax cuts to families up to $200,000. As a member of the Finance Committee, I will be working to have that be capped at $100,000. But there is no question that families will greatly benefit from being able to retain more of their income. Families will be able to use those resources for their children's education, their children's health, their children's nutrition. Let the families make the decision, not big Government make the decision on where this money should be spent. Because I am confident that families will make the better choice.

One last note on taxes. I want to make a brief comment about a small, very small but very important part of this budget resolution. I am very pleased that the House agreed to join the Senate in rejecting the off-budget funding for the Internal Revenue Service. The off-budget funding was proposed by the administration to provide for approximately 6,000 more IRS agents. The Senate last month, by a vote of 58 to 42, and it was a bipartisan vote, rejected this off-budget funding for the Internal Revenue Service. By rejecting this off-budget funding gimmick the Congress showed, first, that we would not engage in smoke and mirrors budgeting to achieve balance and, second, by eliminating this off-budget funding for IRS, we showed the American people that this Congress is committed to getting big Government off their back. The IRS has more than sufficient resources to do its job. It does not need the thousands more agents knocking on taxpayers' doors, as proposed by the administration.

This was a small but important victory for the taxpayers. It is a symbol that this new Congress did get a message from the last November election that Americans want to see a smaller, less intrusive Government. In this regard, again, this could not have been done without the help of the chairman of the Budget Committee, Senator DOMENICI. His dogged work in ensuring that this off-budget funding for the IRS was eliminated made that possible.

This victory would not have been possible, then, without his determined support. I want to close by saying this is truly a historic vote. I did not think I would see the day when we would have a credible budget conference report that would get us to balance, either in my public service or in my lifetime. By adopting this conference report we take the necessary steps to put our fiscal house in order and provide the benefits of a balanced budget to our children and grandchildren.

We all tell our children and grandchildren that it is good and important to have dreams and hopes. This budget will help our children and grandchildren make these dreams and hopes come true.

I yield the floor.

Mr. LAUTENBERG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I thank the distinguished occupant of the chair.

Mr. President, the Republican budget before us purports to solve our deficit problem in 7 years. However, it will not do the job. For one thing, the budget claims balance by using billions of dollars in the Social Security trust fund. In some ironic way that is almost a joke because no company, no corporation—and I come with some experience having been the CEO of a major American corporation, the one that I helped build with a couple of other young fellows—none of them would dare propose to show their balance sheets, or their financial statement, as having been balanced using the company's pension fund.

By the way, Mr. President, I allow myself up to 20 minutes or such time less than that which I care to use.

The PRESIDING OFFICER. That is the Senator's right.

Mr. LAUTENBERG. Mr. President, no corporation would dare use the pension fund that does not belong to them as a line on their financial statement suggesting that in fact they have had a pretty good year. That would amount to absolute fraud. And I think any chairman or president of a company who signs such a statement, the financial officer, could be accused and charged with fraud, and could be charged with violation of the accounting rules that apply to public companies.

Meanwhile, my Republican colleagues claim that they are going to balance the budget in 7 years, but only by using billions of dollars in the Social Security trust fund that are reserved for senior citizens, the beneficiaries. I hope they will not break their arms patting themselves on the back about this.

In any case, Mr. President, there is a much larger question involved in this debate. And that question is Whose side are you on?

Those on the Republican side of the aisle are on the side of high-income people with lots of assets. And so it is not surprising that they advocate a tax cut for the wealthy.

They claim it will help the economy. I think it was at one point called trickle down. Trickle down was something like—I know this is a play on words—trickle-dee trickle-dum. But the fact is that trickle down economics did not work.

Meanwhile, Mr. President, we Democrats are here to represent ordinary Americans. The people who work every day, trying to provide for their families, trying to buy a home, a roof over their heads, trying to supply an education for their children, trying to reserve funds for their older age, or trying to help a parent. These people will not benefit by a tax cut to the rich.

Mr. President, the Republicans justify their budget by talking about debt. But there is a lot of confusion about debt.

Debt is a recognized and an acceptable aspect of personal and business life in this country. Show me a company, any company of size, a company doing $50 million a year, $100 million a year, probably a lot smaller than that, that does not have debt on its books, and I will show you a private company owned by perhaps one individual. But assume as soon as you get other owners in the business, public companies and so forth, it goes almost without saying that they need debt, that they need to borrow to expand, to invest in the future, to invest in research, product development, and marketing. That is the way it is.

What is the dream of the average American family? The largest asset that most Americans have is their home. And I do not know anybody, middle income, modest income, or rich, that buys a home for cash. They go to the bank or they go to a lending institution. They say, "Lend me money based on my collateral; the brick and mortar that was used to build my house, the piece of property that I own." And for many, throughout their lifetime of work, the largest asset that they acquire is their home or the equity in their home at such time as they dispose of it.

So it has to be with government at times. And we ought not to make phony comparisons of government to business or government to individuals. You hear the argument that American families balance their budget, so why not government. That is phony. Everybody knows that. Every American family lives like every American business conducts itself. They borrow money. It is part of our system.

Yet we should try to balance the operating budget. And there is no question that we need to do much more to cut wasteful spending and move in that direction.

There may be some disagreement about the date, whether it is the year 2002 or the year 2005. But both Democrats and Republicans share the overall goal.

The question is how do we get there and who pays the ultimate price? Whose side are you on?

We have heard our friends on the other side claim that they are not cutting Medicare, or that they are simply cutting into the growth of Medicare. The fact of the matter is that when you take $270 billion out of Medicare over the next 7 years, with the huge growth in the number of beneficiaries, and rising medical costs, that money goes for less per person than it would otherwise. These cuts in Medicare will mean a cut of over $3,300 per individual, almost $7,000 per couple, over the next 7 years. And that is a lot of money for the average family. As a matter of fact, the average senior citizen today pays 20 percent of his or her income in out-of-pocket health care costs.

We are talking about people whose incomes at best are modest. Seventy-five percent of Medicare recipients have incomes under $25,000 a year; 35 percent have incomes under $10,000 a year. But we are talking about an average increase for those folks of $3,300 per person, or roughly almost $7,000 for a senior couple.

Student loans—it is going to cost students $3,000 more over the period of a student loan. And the question is, who is going to be deprived of the opportunity to go to college?

Mr. President, I have heard lots of personal stories about our colleagues. There are some illustrious, distinguished careers that were built among people here in this body with relatively modest starts. And I was one of those people. I came from a family where my mother was widowed at age 36. I was 18 and had already enlisted in the Army to do what I had to in World War II. There was no money in that household—nothing. The modest allotment that I sent home was small. It helped my mother. She worked hard to take care of my sister and herself and to maintain the small apartment that they lived in.

When I got out of the service, I was 22. I wanted to go to college and was accepted to a fine university. Were it not for the GI bill, Mr. President, I do not know which way my career would have gone. But I created a business. I am actually a member of the hall of fame of an industry, the information processing industry, for what is called my pioneering efforts in building the service side of the computer business today larger than the hardware side of the computer business. A company I helped found with two other fellows today employees over 20,000 people. It is a wonderful story about America and the success that can be achieved here from three poor kids, and I was one of them. The other two are brothers.

It was the GI bill that sent me to Columbia University. Without that I never would have known which turn to take in the road, very frankly. But with that assistance from the Government, I made a contribution. It is an industry that employs over a million people today, and I take some measure of the credit for having helped create the notion that you could buy computer services outside of your company; you did not have to own the hardware and you did not have to have the programmers, the technicians; you could do it—all because I got a start from my Government.

My father during the Depression years was humiliated by the fact that he had to work under a WPA program. It was a very unpleasant experience. But my father knew even more than his dignity, he had to have a week's pay and he had to put some food on the table, and he had to maintain the respectability that he had as head of the household. So he took a Government program job. It was not long, but it was necessary.

So here we have education, employment. If only my father had health insurance during the year of his sickness when my mother worked behind the counter of a luncheonette so she could pay doctor bills and administer to him at the same time.

So here we have a picture of America, Mr. President. What kind of a country are we? Is our mission primarily to cut taxes for the wealthy or is our mission here to build citizenry in the proudest way possible, to make patriots out of people because they love their country, because their country does something for them? And if it takes us a couple of years more to eliminate a budget deficit, so it shall be. Because the price of not doing it could be detrimental to our country for decades to come.

We go to the 21st century with the heaviest competition that this country has ever seen, whether it is from the European Union, 350 million people strong, or from the Pacific rim where energy is just boiling and people want to take our markets and take our products and take our opportunity. We can avoid being in that competition very clearly by not educating our people, by not training them, by not penetrating those markets, by eliminating Government's assistance in helping to get to those markets. We can do those things. In this case, a penny saved is liable to be a dollar lost.

So we have to do this with some sense of compassion, with some sense of mission about what our democracy is like.

And yet, in this budget, we are going to take away the earned-income tax credit for modest families. We are going to make students pay more to get their loans. And we are going to cut Medicare benefits.

But we are going to take care of our friends who are in the high side of the income strata. We are going to make sure that they get their tax cut. I think it is ridiculous.

The people who are looking at this placard have to ask themselves the question: Whose side are you on? Where are we going to go? Are we going to be a Government that provides energy and seed money and encouragement for people to develop, or are we going to say, no, no, no, you have to live without these things and if the child does not have sufficient nutrition, so be it. And if the child does not have an education and goes to prison, we will build enough prisons. But will we build enough pride in our citizenry? That is the question.

So we are here with a conference report today that says we are going to give out 245 billion dollars' worth of tax cuts, but we are going to take $270 billion out of Medicare and $182 billion out of Medicaid.

Medicaid. My goodness, I live in a State that has the second- or third-highest per capita income in the country, New Jersey, but we also have the paradox of some of America's poorest cities in our midst. And those cities and other urban areas, where incomes are not high, very often are totally dependent on Medicaid to carry the hospitals that will serve the needs of children. But we are going to say we are going to cut that because we are saving money. Yes, we are saving over here. We are going to give some to those rich guys over there, but we are saving money. And so those children will not get treated. And what kind of respect will they have for themselves, their families or their country if they have not enough to eat and not enough health care? Not much, I can tell you. They will find other ways to satisfy their basic needs.

(Ms. SNOWE assumed the chair.)

Mr. LAUTENBERG. And so, Madam President, the debate will go on and we will have different perspectives, but the one thing that will ring through this debate loudly and clearly in my view is: Whose side are you on? The Democrats believe that people in modest income levels, people in the middle class may need that extra little push to help them move their families along so that they can move up the social and economic ladder. And our friends on the other side will say, no, no, no, we are not going to spend money on those silly programs like child nutrition and day care and those kinds of things. No, we have to give tax cuts to the rich so that they can perhaps let something trickle down for others.

I do not believe that is what America wants. It will be interesting to see how the American public receives this debate.

And with that, Madam President, I am prepared to yield.

Madam President, the next speaker is ordered from the Republican side, and they will allot their time as they see fit.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I thank the Chair. I yield myself whatever time I may take—I believe 15 minutes or so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ABRAHAM. I thank the Chair.

Madam President, last November, voters sent 11 new Members to the Senate. I believe all of us came to Congress dedicated to keeping the promises we made in our campaigns, and specifically we promised to end business as usual and to replace the old equation here in Washington of higher taxes and more Government with smaller Government and the goal of letting people keep more of what they earn.

Central to our campaign was a commitment to end 25 years of deficit spending here in the Congress.

Today, the Senate is debating a budget resolution which delivers on those promises. First and foremost, this resolution balances the Federal budget over the next 7 years. It does so by slowing the growth of Federal spending from 5 percent a year to 3 percent a year. In dollars, that means Federal spending will continue to grow from $1.6 trillion next year to $1.9 trillion in the year 2002.

Now some, of course, have argued that we moved too fast. But the facts are quite simple. If we do not take action now, America will face an economic crisis far greater than any this Nation has ever confronted before. Here is why.

If Washington keeps spending money the way it has for the last quarter of a century, the Medicare trust fund will go bankrupt in 7 years. In 15 years spending on entitlements and interest payments on the national debt alone will equal all tax revenues. That means not $1 for national defense, law enforcement, education, job training, veterans programs and so on, unless we run up even higher deficits in the future, deficits at levels we have never previously contemplated.

Most importantly, unless the actions we begin in Congress are enacted and signed by the President, a child born this year, 1995, would during their lifetime pay $187,000 in Federal taxes, not in total, but just to cover their share of interest on the national debt that already exists and will accumulate during their lifetimes.

By adopting this budget we can avoid fiscal disaster and begin the process of removing the mountain of debt from the backs of our children. Moreover, balancing the budget also sets the stage for an era of lower interest rates, accompanied by expanded job creation and a higher standard of living. Balancing the budget will result in significantly lower interest rates, which means that the average homeowner can save up to $500 per month on their mortgage. In addition, the GAO reports that balancing the budget could produce real income growth of up to 36 percent by the year 2020. For families and children then, balancing the budget means more than just reducing public debt, it means keeping a roof over their heads, putting food on their table, going to better schools and financing retirement. It means a brighter future.

How do we get there? We get to a balanced budget by setting priorities and making tough decisions. We get to a balanced budget by keeping our promises, promises to eliminate wasteful spending, to evolve programs to the States and control growth of entitlements and provide taxpayers with some badly needed relief.

First, this resolution trims the fat off of the Government and does so by eliminating unnecessary agencies, consolidating duplicative programs and privatizing those functions that are better served by the private sector.

The resolution includes the elimination of almost 150 departments, administrations, agencies, commissions, committees, boards and councils—everything from the Board of Tea Experts to the Department of Commerce. It also assumes the privatization of entities like the naval petroleum reserve and the Uranium Enrichment Corporation and the Alaska Power Marketing Administration, all of which provides services which are better left to the private sector.

Finally, this resolution consolidates duplicative programs to make the Government less cumbersome and more efficient. And all these reforms save the American taxpayer $190 billion over the next 7 years.

This budget also devolves powers to State and local governments. During my campaign I promised the people of Michigan to return the operation of various Government functions back to the State, where Governor Engler and our legislature are out front on important issues like reforming welfare, Medicaid and education. I know Governors from other States are equally as innovative.

This budget takes advantage of the tremendous talent outside the beltway by utilizing block grants to replace the hundreds of Federal welfare, housing and education programs. These block grants, which in many committees are already moving forward on a bipartisan basis, will provide the Governors with the resources and the freedom they need to carry out such reforms.

Another promise I made to the people in Michigan was to work to control the growth of Federal entitlement programs. The need for this reform was made apparent in February when the Medicare trustees announced the trust fund will be insolvent 7 years from now. The trustees concluded that the HI program is severely out of financial balance and that the trustees believe that the Congress must take timely action to establish long-term financial stability for the program. This budget embraces this call to act by addressing both the short- and the long-term insolvency of Medicare programs.

First, it allows Medicare to continue to grow at a 6.4 percent rate per year. This reform enables Medicare to pass the trustee short-term solvency test while still growing at twice the rate of inflation.

Second, the resolution includes a call for a special commission to address the long-term stability questions facing Medicare and to advise Congress on how to keep Medicare's promise for future generations. President Clinton's most recent budget endorses this approach by advocating similar reforms.

Now, we have heard a lot during the debate on this budget when it first came before us, and we heard already today, and I am sure tomorrow we will hear issues raised as to whether or not we should do these things with regard to entitlement programs and Medicare in particular, whether or not we can limit the growth to twice the rate of inflation. And the claims will be made that this is impossible to do simply because, if we did this at the current rate of growth, the current rate of inflation in health care programs, it will have this, that or the other effect. All these horror stories we heard suggests it is impossible to change any system in this country.

That is certainly not the case, at least based on the recent evidence we have seen in the health care area. What we have seen is that in the private sector the inflationary health care has been dramatically reduced as corporate America, small business America, as families in America have addressed these growth problems by finding innovative ways to deal with health care and health insurance costs, by engaging in more preventive medicine and joining managed care facilities, by finding other alternatives to simply assuming that the rate of inflation can never change. I think it can. I think on a bipartisan basis we can, while providing the same level of service, limit the rate of growth of Medicare to the types of percentage that are contained in this budget resolution.

Another central promise of my campaign was to fight for tax relief for America's families and businesses. Federal, State, and local taxes today combine to take almost 40 percent of every American's dollar that they earn. The tax burden on American families has increased by 300 percent over the past 40 years. Our Tax Code is excessive and it is often arbitrary and too often it chokes innovation and job creation.

In my campaign, I promised the people of Michigan to support much-needed tax relief, like the $500 per child family tax credit, which we have talked about already and will continue to discuss in this body. This budget delivers on those promises by providing $245 billion in relief over the next 7 years. Under this resolution when spending has been cut and a balanced budget is ensured, $245 billion is made available to the Finance Committee for legislation providing family tax relief and incentives to stimulate savings and investment. And we need those incentives. Recent economic indicators suggest the economy may be slowing down. If slower growth is on the horizon, then we need to do more than just focus on spending. Slower economic growth endangers our common goal of a balanced budget in the year 2002. According to the OMB a 1-percent slower economic growth rate translates into $150 billion in higher deficits over the next 5 years. By including real incentives for investment and savings, we can help stimulate the economy and ensure that revenues keep pace with projections.

A good example of how this can work, I think, was embodied in Jack Kemp's original enterprise zone proposal. In these zones lower taxes on capital would encourage businesses and employers to go into economically depressed areas, spurring economic growth and job creation. The primary benefits of these zones go to the residents of the zones themselves as their neighborhood is given a much-needed boost. And within the next few weeks I plan to introduce a bill that would supercharge the current empowerment zones with powerful savings and investment tax incentives such as those that have been previously outlined in enterprise zone bills to try to create that kind of job creation.

By including a tax cut in the budget, we are opening the door for tax reforms like enterprise zones, family tax credits, and other incentives for savings and investment. These tax cuts in turn will increase—grow, create jobs, improve savings and ultimately improve the standard of living for most Americans. I intend to work with the Finance Committee to provide Americans with a profamily, progrowth tax cut this year.

Madam President, 2 weeks ago Bill Clinton sent to Congress a proposal that embraces the central themes of this Republican budget. It cuts spending. It limits the growth of entitlements, and it provides Americans with relief from excessive Federal taxes. In short and in many ways, the President's budget alternative vindicates Republican efforts to balance the budget. While the plan falls short of its goals, which has been quantified by the Congressional Budget Office, I still think it is a good start in the right direction. I also hope that the President now will support other Republican efforts to create jobs and strengthen our economy, and I look forward to working with the administration to do so.

Madam President, this budget resolution takes a historic step toward balancing the budget by slowing the growth of Government and returning power to the States. It is a credit to Senator DOMENICI and to the members of the Budget Committee and to the leadership, I think, that we have set this goal and stuck with it.

As is the case, I know, with the President and many others in this Chamber, there are parts of this budget resolution that I wish were different. There is an area, for example, in the student loan area where I wish it were different, closer to something that I had worked out before.

But I think it does an extraordinarily good job of ordering priorities and reaching the commonly held objective of bringing the budget into balance, and it is the reason that I strongly support what we are attempting to do today and tomorrow.

The question before Congress is not just about dollars and cents, revenues and outlays. The question confronting us is whether this will be the first generation of Americans that fails to pass on to our children as much freedom and opportunity as we inherited from our parents. Like many other new Republicans in Congress, I ran for the Senate promising to fight for an agenda that would guarantee my children and their generation more freedom and opportunity. This budget, I think, keeps those promises, because it guarantees that the freedoms and opportunities for future generations are greater than ever. I look forward to working with the President and, hopefully, congressional Democrats to get this job done.

We heard earlier today numerous people comment on the implications of this budget. The previous speaker was quite eloquent in trying to outline his view of America and where he thought this budget would take us. He talked about his family and their experiences in this country. I would just like to close by talking about my family.

My grandparents were all immigrants. They came to this country about a century ago in search of freedom. None of the four could speak English. Probably cumulatively the four had about $5 in resources when they got here. But they came to this country because they wanted to live in a country that was free and they wanted their kids and their grandchildren and future generations of their family to live in a nation that was free.

They did not come here seeking a nation for the purpose of finding a place where there were great Government benefits. They believed in their own capacities to do things, and they wanted a place where they would have a chance to enjoy the freedom to do the things they want.

My parents were very hard-working folks. Neither of them had a college education. They were not really well educated, in fact, but they cared an awfully lot about their children and they wanted my sisters and me to have a little more opportunity than they did.

My dad worked for almost 20 years as a UAW member on an assembly line in Lansing, MI, in an Oldsmobile factory, and he and my mom had a small business after that. They worked very hard, 6, sometimes 7 days a week, to give my sisters and me a chance to have the other part of the American dream—freedom and opportunity.

I think what they envisioned for my generation and what I think they all wanted for my children's generation was a chance to grow up in a nation that provided these opportunities. I sincerely believe that if we burden the next generations with an ever-increasing amount of debt, we will not pass on the kind of freedom that my grandparents came to this country to find and that my parents tried to pass on to my sisters and to me.

I just will close by saying this. We heard a lot of talk about compassion and which party has the ability to provide it and what this budget will do. But just remember, Madam President, that in this budget, we will be spending over the 7-year period involved something in the vicinity of $12 trillion of taxpayers' money, of moneys sent to us by hard-working people across this country. We are a very compassionate Nation, I think, and we are spending most of those dollars in one way or another on programs which benefit people who are less fortunate.

So I think we are a compassionate Nation. If we continue to provide the people with the freedoms and the incentives to pursue their entrepreneurial instincts and pursue the kind of opportunity my grandparents came to this country to find, we will get the job done.

I cannot imagine, in a nation that does as much, how we can ever get to the floor and suggest we are not compassionate, our programs are not effective. I think this budget allows us to continue providing support for people who are truly needy but, at the same time, make it possible for people to enjoy the freedom and opportunities in America.

So I strongly support what we have done and look forward to working to adopt this resolution.

At this time, I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Madam President, I yield 10 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I am struck sometimes, in listening to the discussion on the floor of the Senate, by some Members of the Senate who think that it is always intrusive to ask someone in this country to pay taxes; that it is, after all, their money and they should not be required to send it, and the only reason the Congress asks them to send it is so the Congress can squander it on one thing or another.

The fact is, in our country, we do a lot of things together. When we do things together, there is an obligation for all of us to pay for it—educating our kids, building our roads, paying for our police and fire protection, and providing for the common defense of our country. That is what we must do in our country, and all of us have an obligation to pay for some of that. And we do that through taxes.

None of us enjoys it, perhaps, but I happen to consider the taxes I pay a good investment in my children's education. I am pleased I do. I happen to consider the taxes that I pay something that I am proud to do to support the men and women, for example, who serve in our Armed Forces and risk their lives in defense of this country's liberty and freedom. So I think we ought to talk about what is it that makes a good country and what are our obligations to each other and to our country.

About 6 months ago, I went to Dulles Airport to meet an airplane. I had about a month or two prior to that been watching television and saw on television a young woman in Bosnia whose parents had been killed, who had been critically wounded herself, and who lay in a hospital for some long while. Her brother, in the same attack that killed her parents and critically wounded her, was miraculously spared, and he was able to come to the United States. She, on the other hand, when she recovered from her wounds, after laying in critical condition, having lost her parents and then her brother having been taken from her, was living in a single room with a candle trying to study, despondent over losing her family.

I decided I was going to see if I could help this young woman somehow, and I did. She came to the United States, and I picked her up at Dulles Airport and reunited her with her brother. Coincidentally, this happened 1 year to the day after my daughter had died.

I was thinking on the way to the airport to meet this young woman from Bosnia who had suffered from such tragedy a lot of things that were very emotional for me, because we could not do much to save my daughter, and yet I thought perhaps I was helping some other young woman start a new life. I felt at least in some ways maybe there was some opportunity to reach out.

Her plane arrived and she got off the plane and was overcome with emotion as she met her brother, whom she never expected again to see. She cried and was extraordinarily emotional. When we were talking after this, she said to me, "It was only something I barely was able to dream about, that I might some day ever come to the United States of America. You don't have any idea what this means to someone to be able to come to the United States of America. We view the United States as a land of opportunity, as a place where opportunity exists to live a good life and live in peace and live in freedom."

I thought to myself, when she said that through her tears, that all of us in this Chamber, I think, and probably all of us in this country from time to time, take too much of this country for granted. If by chance we are able to hear from others what this country means to them, we can understand again what our great grandparents and grandparents and our parents helped build in this country. It is a pretty remarkable, special, unusual place. This is a superpower, a world economic leader. It did not start that way. But because of genius in people, because of a free market capitalist system, because of businesses that took risks, and, yes, even because of Governments that did things and invested the taxpayers' money and also provided opportunity, this country has progressed. We led the way.

We, as we moved along, decided there is a right way and a wrong way to do things. The captains of industry in the turn of the century were producing tainted meat with rat poison. Upton Sinclair wrote his book about how they killed rats by lacing the bread with arsenic. He said they would shove the bread and rats down the chute and it would get mixed in and they would produce a mystery meat that would end up on the shelf. We decided we did not want to eat tainted meat.

We also decided we did not want to pollute our air. In the last 20 years, we are using twice as much energy and we have cleaner air. Is it because the captains of industry said we are going to spend money to clean up emissions? No, it is because people here in the Senate and across the way in the House said there is a right way and a wrong way to do things. We said we were going to require less pollution. Yes, it will cost a little more. But we have cleaner air now than we had 20 years ago, and we have cleaner water than we had 20 years ago.

Is it a nuisance to comply with all of that? I suppose so. Is it good for our kids to leave this country in better shape? You bet it is. The Government provided leadership and did the right thing. We have to provide the leadership in fiscal policy as well. Do we not have to balance the Federal budget? You bet. There is no question about that. There ought not to be one scintilla of debate on the floor of the Senate on the question of whether we should put our fiscal house in order. The question is not whether we should, the question is how. There is a right and a wrong way to do that as well.

The Federal budget represents our priorities. One hundred years from now they can look at the budget and figure out what the people in this country thought was important to them. They can determine that just by looking at what they decided to spend money on. I know it is easy to criticize. I do not mean to be critical. As has been said, "Any jackass can kick a barn door down, but it takes a carpenter to build one." Yet, I must be critical of the priorities in the budget. I think they are wrong.

I want to balance the budget. I have supported initiatives to do so. But I do not think we ought to make it harder for kids to go to college. That is what this budget does. I do not think we should do it by deciding that health care is going to be more expensive for the poor and elderly. We do not advance the economic interests of this country when we decide a poor child at school should not be entitled to a hot lunch, but the richest Americans are entitled to a tax cut. That does not make sense for this country.

This is a debate about priorities. I have been watching people break their arms patting themselves on the back today for a balanced budget. I only observe that if you take this document that is on every single desk in the Senate and turn to page three, look at the heading called deficits, and look at the year 2002, you will see that in the year 2002, on this majority party budget deficit document, it says the budget is not in balance. It is, in fact, a $108 billion deficit.

I have a standing offer of $1,000 of Senator ROCKEFELLER's money—because he has a little more than the rest of us, so he would provide $1,000 of his money to anyone—to any Member of the Senate or any journalist who would demonstrate to us that this budget is in balance. I made that offer 24 hours ago, and nobody has taken the $1,000 dollars yet, and nobody will, largely because this budget is not in balance. Everybody in this Chamber knows it. Yet, they are spending most of their time complimenting themselves on doing something they have not done. That might be fun for them and might eat up some of their time, and it might even convince some people it is in balance. But those who have taken simple arithmetic and who can read page numbers can simply go to page 3 and understand that it is not in balance.

Again, I say, about priorities, that the priorities here are not the right priorities. We can, should, and will debate the priorities. And, in my judgment, it is investing in our children's education. It is in balancing the budget, but doing so in a way that spends money that is productive, that yields investments.

If I have 1 or 2 minutes left, I want to tell a story I have told before. It represents what I think is the future of this country. The oldest Member of Congress, when I came here, was Claude Pepper. I went to his office to meet him. Behind his desk were two pictures on the wall. One was of Orville and Wilbur Wright taking their first flight. You know, it was autographed. That is how old Claude was. It said, "To Congressman Pepper with deep admiration." He came to Congress in the 1930's and was still here in the 1980's. Beneath the autographed picture of Orville and Wilbur Wright making their first flight was a picture of Neil Armstrong standing on the Moon.

What was it in that relatively short period of decades that produced people that went from the ground to the air to the Moon? Education and genius. It was massive amounts of education in our country, allowing people to become the best they can be—engineers, scientists, and more. It was not just going to the Moon; it was progressing in so many other areas. Why? Because we made the right investments. We understood the right priorities.

The right priorities, in my judgment, are this country's children. This budget short-changes America's children. Someone once said that 100 years from now your income will not matter, or how big your house was, but the world might be a different place because you were important in the life of a child.

The question for us about priorities is: Will we pass a budget that is important in the lives of America's children? If we will, it will not be this one because its priorities are wrong. We can do much better, and will, if we reject this budget, reject the tax cuts for the rich, reject more money for defense, and invest more in America's kids, and make sure we take care of the things that are important in this country.

I yield back the entire balance of my time.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Madam President, I rise today in support of the budget agreement. I want to congratulate Senator DOMENICI. I want to congratulate Congressman KASICH. It is very seldom in American politics that you get an opportunity to vote for a big bill—a budget in this case—that takes a step toward fundamentally changing the way our Government does its business.

I am not saying that this is the be-all and end-all of budgeting. I am not saying that this budget in and of itself is going to fundamentally change the future of America. But I am saying that it is an important step in the right direction. It is clearly the most dramatic and important budget that we have adopted in the U.S. Congress since 1981.

I believe that the American people will be beneficiaries of this budget. And it is not perfect, from my point of view. I think we could have cut spending more. I think we could have let working people keep more of what they earned. I think we could have done more to change fundamentally American Government. The bottom-line truth is that this is a dramatic change in policy, and I think everybody who has had anything to do with this budget can be proud of what they have done.

Let me set in perspective what we are doing here today. We are writing, over a 7-year period, a binding budget that, if enforced over that 7-year period, will balance the Federal budget. That is something that we have not done since 1969.

The important thing to note about this budget is that we are not promising to do things in the future that will balance the budget. What we are doing in this budget, and in the follow-on legislation that we will adopt this year, is we are making changes now that will, over the next 7 years, if the economy stays roughly as we now anticipate it will stay, in a modest recovery mode, balance the Federal budget and will, for the first time in over a quarter-century, mean that the Federal Government is living within its means. That is a very important change in public policy. What did it take to achieve this change?

Some of our colleagues on the other side of the aisle are going to talk about deep cuts, about denying benefits, but let me try to set that in perspective.

Since 1950, Federal spending has grown, on average, about 7½ percent a year. Federal spending since 1950 has grown 2.5 times as fast as family income has grown.

An interesting number is, that if the family budget since 1950 had grown as fast as the Federal budget has grown, and if the Federal budget had grown as fast as the budget of the average family in America has grown, the average income of working families in America today would be almost $130,000 a year and the Federal Government would be one-third the size it is today.

Given a choice between the America we have and that America, I would take the America of higher family income and smaller government.

What we are doing in this budget is limiting the growth of Federal spending to no more than 3 percent a year, each year, for the next 7 years.

Now I know we have many people on the other side who will say, well, after having grown at 7½ percent a year for 40 years that to limit the growth to 3 percent a year is going to decimate Government programs.

I would just like to remind my colleagues that every day in America, businesses make tougher decisions than that just to keep their doors open. Every day in America, families make far tougher decisions than that in dealing with the real world problems that families in America face every single day.

The difference is that families and businesses live in the real world in America where you have to make tough choices. Our Government has not lived in the real world for the past 40 years. I think we can take a little pride in the fact that this budget is a major step toward bringing our Government in Washington back into the real world that everybody else lives in.

Under the old budget, under the Clinton budget, the Federal Government over the next 7 years would have spent $13 trillion. Under this budget, we are still going to spend $12 trillion. We are talking about spending roughly $1 trillion less than we would have spent.

But we are talking about more than simply controlling the growth of Government. We are talking about something that I fought for in the Senate. I offered an amendment to cut spending further so we could let working families keep more of what they earn. That amendment was not successful. But I am very proud of the fact that the conference accepted, basically, a variant of the House language that allows working families to keep more of what they earned.

In 1950, the average family with two little children in America sent $1 out of every $50 it earned to Washington, DC. Today that average family with two children is sending $1 out of every $4 it earns to Washington, DC.

I do not think there are many people in America that believe that Washington is doing a better job of spending that family's money than that family would do if we let them keep more of what they earn, to invest in their own children, in their own family, in their own business.

I am very proud of the fact that we are making a major step in this budget that is going to let us enact a $500 tax credit per child so that families can spend more of their own money on their own children on their own future.

In our tax cut, we call for a cut in the capital gains tax rate. I know the President says if you cut tax rates, rich people will exploit the situation. They will invest their money. If they are successful they will earn profits.

Welcome to America. That is how our system works. We want to encourage more people to invest money. I do not understand a country and a Government and people who love jobs but hate people who create them. I do not understand all this class warfare that we are always debating about. If we want people to invest money, we have to provide incentives to people who have money. Those are basically people who have been successful.

What a different world our President is from than the world I am from. When I was growing up and we rode by the nicest house in town, never once did my mama point her finger out and say, "We ought to tax those people, and give us their money." My mother always pointed her finger out and said, "If you work hard and you make good grades, you can have a house like that." I like my mama's America a lot better than I like Bill Clinton's America.

I am proud of the fact that in our budget we provide incentives for people to invest their money to create jobs and growth and opportunity so that other Americans can get their foot on the bottom rung of the economic ladder and climb up and begin to create success for themselves, their family, and their country.

This tax cut that we are talking about in this bill sounds like a small amount of money in Washington, DC, $500 per child. Many have said, well, it is not enough money to make any difference. Well, to a two-child family in Texas, that is $1,000. And $1,000 is real money. The fact that $1,000 is not real money in Washington, DC, tells more about the problems in Washington, DC, than it does about anything else.

The tax credit for children that we contemplate in our budget will mean that a family with four children, that makes $35,000 a year, will be taken off the income tax rolls. A family with two children that earns $45,000 a year, if we go on now and adopt the tax cut that goes with this budget, will see its income taxes cut by one-fourth.

This will mean that working families can keep more of their own money to invest in education, in housing, in nutrition. The President, in criticizing our budget, says this budget cuts spending on children. This is not a debate about how much money we spend on children, but it is certainly a debate about who will do the spending.

President Clinton and the Democrats want the Government to do the spending. We want the family to do the spending. We know the Government and we know the family. We know the difference.

We believe that letting families keep more of what they earn to invest in their own children will mean that they will do a better job and they will be richer and freer and happier.

When we concluded the debate on this budget, I was concerned that we were not going to fulfill the promises that Republicans made in the campaign.

We promised the American people three things if they made Republicans the majority: No. 1, we would balance the budget; No. 2, we would let working families keep more of what they earn; No. 3, we would provide incentives for economic growth. I am proud of the fact that in this final budget we are balancing the budget over a 7-year period. We are letting families keep more of what they earn. We are providing incentives for economic growth.

Promises made, promises kept. That is something that there has not been enough of in Washington, DC. I am very proud to have been part of an effort where we have fulfilled our promises and where we are, in fact, beginning to change the way our Government does its business. I served in the House and in the Senate. I have never had an opportunity to vote for a budget that if fully enforced, under realistic assumptions, would do the job of balancing the Federal budget. I am very proud that I am going to have an opportunity to cast my vote for this budget. It may very well be that 2 years from now or 4 years from now we will have to go back and make an adjustment. It may very well be that we will have to reduce the growth in spending further at some point to get the job done. I am certainly willing to do that.

The important thing today is—and I think every Member of the Senate, whether they vote for this budget or not, can be proud of the fact—that we have written a budget that is a fundamental change. This budget would never have been written had the 1994 elections not been held, had there not been a fundamental change in the makeup and control of Congress.

But we are writing, today, a budget that under realistic assumptions will balance the budget over the next 7 years. It represents a change in policy. It represents the fulfillment of a commitment that we have made to the American people. I think every person who is privileged to serve in the Senate today can be proud of the fact that this budget does what the American people wanted done, change the way we do business in Washington.

It does not complete the job. In and of it itself today, it does not balance the budget. But it lays the foundation for a 7-year program that if we stay with it, if we are willing to make changes when things go wrong—and they inevitably go wrong—with modest adjustments over the next 7 years, we can guarantee the American people that we will balance the Federal budget, and if things go well, we can do it without further action.

I think that is a tremendous achievement. I am very proud to have played a small role in it. I congratulate Senator DOMENICI. I congratulate Members of the House and Senate. And I am delighted to have an opportunity to cast a vote for this budget.

I reserve the remainder of our time.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Madam President, I yield myself 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SIMON. Madam President, there is credit to be spread around. And there is blame to be spread around, for the deficit and where we are. I thought Senator DORGAN's remarks earlier were right on target. It is why I am proud to have him as a Member of the U.S. Senate.

The Republicans, and I specifically commend Senator DOMENICI, deserve credit for having the target of balancing the budget. The Democrats, on the other hand, I think, have the right priorities, and the priorities that we are offered in this budget are not the priorities that the Nation needs.

I add that I would feel much better about this if we had a balanced budget amendment. I would feel better because we would have interest at least 1 percent lower and that means, over a 7-year period, $170 billion to spend on things that are needed in this country. And the irony is that some of the groups that fought the balanced budget amendment are now having their programs hurt because we do not have a balanced budget amendment. We need it also because our history is that when we adopt a program like this we keep it for about 2 years, as in Gramm-Rudman—which I voted for—and then it becomes too politically awkward, and we lose it.

What is wrong in terms of the priorities that we have? For national defense, we increase spending. We already are spending more than the next eight countries in the world combined. If you go back to the 1973 defense budget and add the inflation factor, we end up spending more money in fiscal year 1996 than we did in fiscal year 1973, and the Berlin Wall has fallen. You would never guess it, looking at the budget. In 1973, we had troops in Vietnam. In 1973, we had almost twice as many troops in Europe. In 1973, we were building up our nuclear arsenal. Now we are buying, including buying weapons the Defense Department says we do not need—B-2 bombers. They tell us it is a white elephant, yet we are going to go ahead, I assume. We will have a vote on it, not with my vote, but we will go ahead and have B-2 bombers. We are going to spend $59.8 billion in an increase over where we are right now on national defense.

International affairs, foreign aid. I recognize it is not popular. But among the industrial nations of the world, do you know where we are in terms of percentage of our budget that we spend on foreign aid? We are dead last. And the great threat today is not a military threat. I want a strong military, but the great threat is instability. And we are saying in our budget we want to keep that military option as the greater option to the economic option. It does not make sense.

What other nations today worry about is, frankly, not whether we have the equipment technology and the manpower to respond. The question is whether we have the backbone in the administration, in Congress, in the American people, not in our Armed Forces. Cutting back foreign aid, though it is politically popular, it is extremely shortsighted.

Education? I commend the Presiding Officer, the junior Senator from Maine, for her amendment which added money back in for education. Yet, this budget cuts back education a total of $67 billion. Every study—conservative, liberal, you name it—says what we ought to be doing for the future of our country is we ought to be investing more in education. Yet this budget does the opposite.

Medicaid? We hear a lot of Medicare. I agree with my colleagues who make the speeches on Medicare. But frankly, I am more concerned about Medicaid because Medicaid is poor people. When we reduce the spending on Medicaid $182 billion, let us keep in mind, half the people on Medicaid are children, poor children. Would the people of the United States want us to cut back on that? I do not think so.

Tax cuts? I disagree with the Republicans. I disagree with the Democrats on tax cuts. I do not think we ought to be having tax cuts when we have deficits. Would I like a tax cut? Of course. We all like tax cuts. But if I give myself a tax cut, I know I am hurting the future of my three grandchildren. Faced with that option, the American people do not want a tax cut. Yet, both political parties are pandering—that is what we are doing, pandering—on the tax cut. The Senate, assuming that you had interest reduction, would have given a $170 billion tax cut; the House, $345 billion; the conference is $245 billion. Are we better off applying that to the deficit or applying it to education? I think, very clearly, the Nation would be much ahead if we applied it to the deficit or to education.

I ask unanimous consent, Madam President, to have printed in the RECORD a column by Robert Samuelson that appeared in the Washington Post called "Macho Tax Cuts," and a New York Times editorial, "The Rich Get Richer Faster."

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

MACHO TAX CUTS: DON'T BELIEVE IT, THEY'RE ACTUALLY TINY AND UNDESIRABLE

(By Robert J. Samuelson)

Among Republicans, cutting taxes has always been macho. Writing recently in the Wall Street Journal, House Speaker Newt Gingrich said the case for tax cuts rests on the "key principle" of the Contract With America, which is: "The American government's money does not belong to the American government. That money belongs to Americans, and it's time to give Americans some of their own money back." It will surely surprise most Americans to know that, once they've paid their taxes, the money still belongs to them. But if so, why be timid? Give all of it back. End taxation. Period.

The silliness of this rhetoric emphasizes the undesirability of instant tax cuts. Taxes are the price of government; they shouldn't be cut unless the budget is in surplus. The populist pap that tax money belongs to "the people" is simply the latest of many pretexts, advanced by both parties, to prolong budget deficits. The money belongs to "the people" until "the people" divert it to government for purposes that, presumably, serve their needs. If Americans want lower taxes, they'll have to ordain smaller government.

These arguments are now relevant because, in the current House-Senate conference to write a budget, tax cuts loom as the largest disagreement. Between 1996 and 2002, the House would cut taxes by $354 billion; the Senate would reduce taxes only if balancing the budget provides extra revenues through faster economic growth. The tax cuts taint otherwise courageous budget proposals. Although the Republicans' plans can be faulted on details, they broach the critical—often unpopular—choices that must be faced to control spending and deficits.

By contrast, the instant tax cuts feed the illusion that people don't have to pay for government. It is, ironically, the House Republicans who best discredit this false logic. In a new book ("Restoring the Dream: The Bold New Plan by House Republicans"), they call a balanced budget a "moral imperative" to avoid burdening "our children and our children's children" with a huge federal debt. If so, what's the excuse for adding $354 billion to that debt, which under the House plan would grow to $4.5 trillion in 2002, up from $3.6 trillion in 1995?

One possible excuse is that Americans need to be bribed, via lower taxes, to accept unpleasant spending cuts. Although this is plausible, some public-opinion surveys actually suggest just the opposite. A recent NBC/Wall Street Journal poll asked respondents to select priorities: Deficit reduction (54 percent) ranked ahead of tax cuts (37 percent). A CBS/New York Times poll similarly asked respondents to choose deficit reduction or tax cuts: 56 percent picked lower deficits and 40 percent lower taxes.

Mostly, the tax cuts indulge partisan symbolism—"hey look, we shrunk government." In fact, this is highly misleading, because the tax cuts would be tiny. They would average about 3.8 percent for individuals and families, estimates the Joint Committee on Taxation. In 2002 the federal tax burden would be 18.2 percent of our economy's output (gross domestic product), says the House Budget Committee. If taxes weren't cut, the tax burden would be only 18.8 percent of GDP. (Indeed, the tax burden has been highly stable since World War II. It averaged 17.6 percent of GDP in the 1950s and 19 percent in the 1980s.)

The $354 billion of tax cuts are so small because, in the same seven-year period, federal spending would total about $12 trillion. For many Americans, the tax cuts would be trivial or nonexistent. There's a $500 tax credit for each child under 18 in families with less than $200,000; but that wouldn't affect 77 percent of taxpayers, says the Joint Committee. There's modest relief (up to a $145 credit) of the so-called marriage penalty, but that would apply to only about 11 percent of taxpayers.

The obvious danger is the tax cuts could prevent a balanced budget. The House plan rests on optimistic assumptions. Economic growth is expected to rise and interest rates to fall. They might not. Spending on Medicare—federal health insurance for the elderly—is assumed to slow sharply. Even if (a big if) legislation is passed to curb Medicare, the desired savings might no materialize. Health spending has routinely resisted precise forecasting.

The drive for lower taxes may also impel unwise spending cuts. Defense is the federal government's first responsibility. Is it adequately financed? Maybe not. It would be virtually frozen for seven years with little adjustment for inflation. In 2002, defense spending ($280 billion under the House plan) would be about $45 billion below the present "base line." Republicans would also transfer, via block grants, welfare, Medicaid and, possibly, some food programs to states. But if block grants are set too low, states will have to raise taxes or cut services sharply.

It is imprudent to cut taxes before the consequences of these policies are better understood. Finally, tax cuts are simply unfair before the budget is balanced. Until then, they would mainly represent a transfer from the poor (whose benefits are cut) to the well-to-do. About half the tax cut of the House bill would go to the eighth of taxpayers making more than $75,000 a year, who also pay about half the taxes. Naturally, these people tend to vote Republican while the poor don't.

The politics are straightforward, but in a cynical age, they may not be shrewd. By and large, Americans see through rhetorical ruses. If tax cuts are passed, people will ultimately grasp that they don't amount to much. They will feel (correctly) misused, especially if deficits persist. The dilemma for House Republicans is that, having made an unprincipled promise to cut taxes, they cannot change without seeming to break their word. But it is better to admit a mistake than to perpetuate it.

A balanced budget aims to restore discipline to government—to revive traditional notions that choices must be made, that people must pay for what they get and that government must live within limits. Such discipline is not just an accounting exercise. It is also a moral code. It takes government seriously and seeks not only to eliminate what it can't (or shouldn't) do but also to improve what it should (and can) do. A lot of Republicans aren't there yet; they're too busy, in Tarzan fashion, thumping their chests and screaming: "Me Tax Cutter."

[From the New York Times, Apr. 18, 1995]

THE RICH GET RICHER FASTER

The gap between rich and poor is vast in the United States—and recent studies show it growing faster here than anywhere else in the West. The trend is largely the result of technological forces at work around the world. But the United States Government has done little to ameliorate the problem. Indeed, if the Republicans get their way on the budget, the Government will make a troubling trend measurably worse.

Some inequality is necessary if society wants to reward investors for taking risks and individuals for working hard and well. But excessive inequality can break the spirit of those trapped in society's cellar—and exacerbate social tensions.

After years of little change, inequality exploded in America starting in the 1970's. According to Prof. Edward Wolff of New York University, three-quarters of the income gains during the 1980's and 100 percent of the increased wealth went to the top 20 percent of families.

The richest 1 percent of households control about 40 percent of the nation's wealth—twice as much as the figure in Britain, which has the greatest inequality in Western Europe. In Germany, high-wage families earn about 2.5 times as much as low-wage workers; the number has been falling. In America the figure is above 4 times, and rising.

Interpreting these trends requires caution. Inequality rose here in the 1980's in part because the United States created far more jobs—many low-paid—than did Western Europe. Low-paying jobs are better than no jobs. Rising inequality in the United States has also been caused in substantial part by middle-class families that moved up the income ladder, opening a gap with those below them.

About half of Americans move a substantial distance up or down the income ladder over a typical five-year period. In a mobile society, where workers rotate among high- and low-earning jobs, earnings gaps are less frightening because any given job would be less entrapping.

But mobility has offset none of the increased inequality in income. Studies at the Maxwell School at Syracuse University show that mobility in America is not higher than in Germany. Nor does mobility here appear to be higher today than it was in the early 1970's.

The best guess about the factor behind burgeoning inequality is technology; the wage gap between high- and low-skilled workers in America doubled during the 1980's. College graduates used to earn about 30 percent more than high school graduates, but now earn 60 percent more. Prof. Sheldon Danziger of the University of Michigan estimates that trends in private pay rates explain about 85 percent of recent increases in inequality; Reagan-Bush tax cuts for the rich and spending cuts for the poor explain much of the other 15 percent.

But even if government is not the main actor, it could be part of the solution. Changes in the Canadian economy during the 1980's also hit hard at low-wage workers. But there the Government stepped in to keep poverty rates on a downward path. In the United States, poverty rose.

House Republicans are now pushing the Federal budget in the wrong direction. At a time when employers are crying out for well-educated workers, the G.O.P. proposes to cut back money for training and educational assistance. America needs better Head Start, primary and secondary education. It needs to train high school dropouts and welfare mothers. The G.O.P. policy would leave the untrained stranded. That would harm the nation's long-term productivity—and further distort an increasingly tilted economy.

Mr. SIMON. Madam President, the goal of balancing the budget is noble. I applaud that. I joined the Republicans when that vote was established in the Budget Committee. I went over and voted with the Republicans for that. The priorities that we have in this budget, however, are wrong. I think we will have to reexamine this as we move into reconciliation, as we move ahead. I will be here a year and a half. Within a year after I get out of this body, we will be shifting away from this goal unless we change the priorities. I think the goal is one we ought to be fighting for, and I hope we will shift the priorities.

(Mr. GRAMS assumed the chair.)

Mr. SIMON. Mr. President, I have how much time remaining on this side?

The PRESIDING OFFICER. The Senator from Illinois has 4 minutes and 45 seconds.

Mr. SIMON. Mr. President, if someone on this side wants to take the time now, fine. Otherwise, I will yield that remaining time. I yield the time that remains to the Senator from Washington, and I ask unanimous consent that I be allowed to yield an additional 4 minutes to the Senator from Washington from the 6 hours remaining under the statute on the budget resolution.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. It is not clear from that when my colleague would want that time. Does he want that time tonight?

Mr. SIMON. Now. We are talking about yielding 10 minutes to the Senator from Washington now.

Mr. DOMENICI. We have been asked by the Republican leader—you have 4 minutes. We have 2 minutes. Is that correct? The Senator can yield that 4 minutes to her right now. Or he can wait and do a bigger package.

Mr. SIMON. The Senator from Washington indicates she would like to wait and take it a little later then.

Mr. DOMENICI. The Republican leader is here. If the leader would not mind, I have 2 minutes in which I would like to respond. Then we will yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I have 2 minutes left. I will take it now. I understand the other side will yield back this time, and we will give the floor to the Republican leader at that time.

Mr. President, I think perhaps with all of the things said on that side of the aisle, I would like to make two points. It has always been a problem with bodies such as this, legislative bodies in which everybody seems to be for the same idea, everybody seems to say we want to get to the same place. But the difficulty is to get them to go to that place following the same path, to decide they want to do some tough things and to concede and compromise along the way.

So, Mr. President, I did not expect this U.S. Senate to unanimously agree on a balanced budget and then say we were doing it the right way. So Americans should understand that is the way it is always done in bodies such as this. Everybody agrees on some principles, but how you get there only Senators can decide.

Second, the question has been asked on whose side is this budget or whose side are we on? Mr. President, I say to the Senator and to the American people, this budget is a budget for all Americans. We do not believe we want to pick and choose. We want a budget that is good for our country, we want a budget that is good for Americans, and we want a budget that is good for our children and for our grandchildren and children not yet born. We are convinced we cannot spend on the programs that are currently part of America at the same level, and give everybody everything they are getting under current programs, and be a budget that is good for all Americans, because the debt will continue, the interest rates will go up. And what it all boils down to it is that Americans will pay in the end with less of an economy, less good jobs, and less opportunities.

So I answer the question posed on that side of the aisle with a great deal of pride, that this budget is good for America and the people of America. We are not picking and choosing. We are producing a budget that will make America a better place for everyone.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I rise in opposition to this conference report.

When Senator DOMENICI's budget resolution passed the Senate, I said it was a good accountant's budget. That is, it had the right bottom line, and it made some tough choices by eliminating Cabinet Departments and reducing spending. But in the end, it failed the test of priorities and values.

It cut Medicare service by $256 billion, which would reduce the essential Medicare health services for older Americans by nearly a quarter and place intense financial pressure on their children. And it weakened our future prospects by cutting education severely.

At the same time, the Senate budget left in place wasteful Federal projects like courthouses, foreign spending like the so-called TV Marti, and luxury items like space telescopes. At the same time, it provided a large tax cut whose benefits went primarily to wealthy individuals and corporations rather than middle-income Americans.

So I voted against it. But I hoped that with some changes in these priorities areas it could be made acceptable.

Unfortunately, the opposite has happened.

Medicare will be cut by an additional $14 billion, threatening the well-being of Montana's 125,000 senior citizens and the survival of Montana's rural hospitals.

Support for agriculture will decline by an additional $1.4 billion to a total of $13.3 billion over 7 years. Per farm, that means agricultural supports will fall by $1,000 every year for the next 7 years. And with 85 percent of American farms grossing under $100,000 per year, we will see a severe cut in income all over rural America.

Education will be reduced by $10 billion, meaning our children will be less able to compete with our trade rivals abroad.

And wealthy people will get $75 billion more in tax breaks, which comes directly from senior citizens, rural hospitals, agricultural producers, and investment in education.

Finally, it is no longer a good accountant's budget. Senator DOMENICI's sober projections have been replaced by unrealistic rosy scenario assumptions about growth, interest rates, and so on. It is far less likely to lead to a balanced budget.

So this budget is significantly worse than the version the Senate voted on last month. It is less disciplined. Less far-sighted. And more damaging to senior citizens, rural America, and our future.

I oppose it, and I urge the conference committee to go back to the drawing board and start over.

Mr. EXON. How much time is remaining on our side?

The PRESIDING OFFICER. Three minutes twenty seconds.

Mr. EXON. I ask unanimous consent that we be allowed to reserve that time for later in the debate without further charging to this side of the aisle.

How much time is left on the other side?

The PRESIDING OFFICER. Five seconds.

Mr. DOLE. Five seconds?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. We will yield that back. [Laughter]

Mr. EXON. We do not yield ours back at this time.

UNANIMOUS CONSENT AGREEMENT

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, I have been conferring throughout the day with the distinguished Democratic leader, Senator DASCHLE. I think we have an arrangement that will satisfy most of our colleagues on both the budget and regulatory reform and the program for the remainder of the week.

So I ask unanimous consent that the Senate now turn to the consideration of Calendar No. 118, S. 343, the regulatory reform bill, and we have 1 hour of debate on S. 343 commencing as soon as we obtain the consent.

Mr. DASCHLE. Mr. President, reserving the right to object, I will not object, but simply to clarify what I understand to be the circumstances.

Senator DOLE, the majority leader, and I have been talking about the opportunity for Senators to discuss the issue of regulatory reform and to do it in the context of S. 343 for the next hour. Then it would be our assumption that we could go back to it again sometime tomorrow and discuss it further. But it is also our understanding that there will not be any amendments offered during this time, to accommodate the effort that is now underway on both sides in good faith off the floor to try to continue to work through some of the disagreements that may continue to exist with regard to the draft that Senator DOLE and Senator JOHNSTON and others have been working on.

It is with that understanding that I think this would be a very good approach and would offer no objection at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me thank the distinguished Democratic leader.

There has been some progress. There have been a number of meetings. I am not certain whether either one of us can stand here and predict that everything is going to be worked out. I would guess the odds are that probably not everything is worked out. But we had a bipartisan press conference today. We think there is an opportunity here for a bipartisan improvement. We may reach a point where we have to say, OK, we will offer amendments and have the debate, up or down, and then proceed with the bill in that fashion.

Mr. DASCHLE. If I could just clarify the majority leader's understanding as I have stated it, is that correct?

Mr. DOLE. That is correct.

I ask unanimous consent that between now and 5 p.m. we debate S. 343, and that the time be equally divided and then we go back to the budget resolution, and all time consumed this evening be subtracted from the statutory time limitation on the budget resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. DOLE. So, for the information of all Senators, there will be no further votes today. When the Senate completes its business this evening it will stand in recess until 9 a.m. on Thursday June 29, 1995; following the prayer, the leaders' time will be reserved, and there will be a period for the transaction of routine morning business not to extend beyond the hour of 10:30 a.m.

As I understand, there will be a Democratic caucus in the morning at 9:30. So, I think there are requests for morning business. Then perhaps following that caucus the two leaders would have further conversation. Hopefully, we could proceed again for a period of time on S. 343, regulatory reform.

Then also, depending on the House action on the budget conference report, we could eat up more time than the 10 hours. We now have 6 hours remaining on the budget, as I understand it.

So there will be no more votes tonight. We will try to accommodate many of our colleagues who must travel long distances and who would like to depart tomorrow evening. It is our hope that we could work that out. There may be a rescissions package. I understand it is still in negotiation with the White House, with Senator HATFIELD and Senator BYRD on this side and their House counterparts. If that can be done, I hope we can get an agreement on the Senate side that we do it by consent. Otherwise, it would be open to amendment and we would be here for days. But I believe that if the White House, the President, and bipartisan leaders on appropriations can agree on a package, perhaps we could obtain consent to do that. If we had to do that Friday morning, perhaps we could do it without a vote.

Mr. DASCHLE. That would be my hope as well. We have a lot of Senators we are trying to accommodate. This is an important effort. It has been under way now for a couple of weeks. We are so close, it would be nice to finish it and be convinced that it is our best product. Indeed, I think it would be.

The PRESIDING OFFICER. Without objection, the foregoing requests are agreed to.

COMPREHENSIVE REGULATORY REFORM ACT

The PRESIDING OFFICER. The clerk will report the pending business.

The legislative clerk read as follows:

A bill (S. 343) to reform the regulatory process, and for other purposes.

The Senate proceeded to consider the bill which had been reported from the Committee on Governmental Affairs to strike out all after the enacting clause and inserting in lieu thereof the language shown in italic; and from the Committee on the Judiciary with amendments as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

[SECTION 1. SHORT TITLE.

[This Act may be cited as the “Comprehensive Regulatory Reform Act of 1995”.

[SEC. 2. DEFINITIONS.

[Section 551 of title 5, United States Code, is amended—

[(1) in paragraph (13), by striking out “; and” and inserting in lieu thereof a semicolon;

[(2) in paragraph (14), by striking out the period and inserting in lieu thereof “; and”; and

[(3) by adding at the end thereof the following new paragraph:

[“(15) ‘Director’ means the Director of the Office of Management and Budget.”.

[SEC. 3. ANALYSIS OF AGENCY RULES.

[(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

[“SUBCHAPTER II—ANALYSIS OF AGENCY RULES

[“§ 621. Definitions

[“For purposes of this subchapter the definitions under section 551 shall apply and—

[“(1) the term ‘benefit’ means the reasonably identifiable significant favorable effects, including social, environmental and economic benefits, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule;

[“(2) the term ‘cost’ means the reasonably identifiable significant adverse effects, including social, environmental, and economic costs that are expected to result directly or indirectly from implementation of, or compliance with, a rule or an alternative to a rule;

[“(3) the term ‘cost-benefit analysis’ means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition;

[“(4)(A) the term ‘major rule’ means—

[“(i) a rule or a group of closely related rules that the agency proposing the rule, the Director, or a designee of the President reasonably determines is likely to have a gross annual effect on the economy of $100,000,000 or more in reasonably quantifiable direct and indirect costs; or

[“(ii) a rule or a group of closely related rules that is otherwise determined to be a major rule by the agency proposing the rule, the Director, or a designee of the President on the ground that the rule is likely to result in—

[“(I) a substantial increase in costs or prices for wage earners, consumers, individual industries, nonprofit organizations, Federal, State, local, or tribal government agencies, or geographic regions;

[“(II) significant adverse effects on wages, economic growth, investment, productivity, innovation, the environment, public health or safety, or the ability of enterprises whose principal places of business are in the United States to compete in domestic or export markets;

[“(III) a serious inconsistency or interference with an action taken or planned by another agency;

[“(IV) the material alteration of the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

[“(V) a significant impact on a sector of the economy, or disproportionate costs to a class of persons and relatively severe economic, social, and environmental consequences for the class; and

[“(B) the term ‘major rule’ shall not include—

[“(i) a rule that involves the internal revenue laws of the United States;

[“(ii) a rule or agency action that authorizes the introduction into, or removal from, commerce, or recognizes the marketable status, of a product; or

[“(iii) a rule exempt from notice and public comment procedure under section 553 of this title;

[“(5) the term ‘market-based mechanism’ means a regulatory program that—

[“(A) imposes legal accountability for the achievement of an explicit regulatory objective, including the reduction of environmental pollutants or of risks to human health, safety, or the environment, on each regulated person;

[“(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, and such flexibility shall, where feasible and appropriate, include the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

[“(C) permits regulated persons to respond at their own discretion in an automatic manner, consistent with subparagraph (B), to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates under subparagraph (A);

[“(6) the term ‘performance standard’ means a requirement that imposes legal accountability for the achievement of an explicit regulatory objective, such as the reduction of environmental pollutants or of risks to human health, safety, or the environment, on each regulated person;

[“(7) the term ‘risk assessment’ has the same meaning as such term is defined under section 632(5); and

[“(8) the term ‘rule’ has the same meaning as in section 551(4) of this title, and shall not include—

[“(A) a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

[“(B) a rule relating to monetary policy proposed or promulgated by the Board of Governors of the Federal Reserve System or by the Federal Open Market Committee;

[“(C) a rule relating to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k)); credit unions; the Federal Home Loan Banks; government-sponsored housing enterprises; a Farm Credit System Institution; foreign banks, and their branches, agencies, commercial lending companies or representative offices that operate in the United States and any affiliate of such foreign banks (as those terms are defined in the International Banking Act of 1978 (12 U.S.C. 3101)); or a rule relating to the payments system or the protection of deposit insurance funds or Farm Credit Insurance Fund; or

[“(D) a rule issued by the Federal Election Commission or a rule issued by the Federal Communications Commission pursuant to sections 312(a)(7) and 315 of the Communications Act of 1934.

[“§ 622. Rulemaking cost-benefit analysis

[“(a) Before publishing notice of a proposed rulemaking for any rule (or, in the case of a notice of a proposed rulemaking that has been published on or before the effective date of this subchapter, no later than 30 days after such date), each agency shall determine whether the rule is or is not a major rule within the meaning of section 621(4)(A)(i) and, if it is not, determine whether it is a major rule under section 621(4)(A)(ii). For the purpose of any such determination, a group of closely related rules shall be considered as one rule.

[“(b)(1) If an agency has determined that a rule is not a major rule, the Director or a designee of the President may, as appropriate, determine that the rule is a major rule no later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the effective date of this subchapter, no later than 60 days after such date).

[“(2) Such determination shall be published in the Federal Register, together with a succinct statement of the basis for the determination.

[“(c)(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking file an initial cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

[“(B)(i) When the Director or a designee of the President has published a determination that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

[“(ii) Following the issuance of an initial cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment pursuant to section 553 in the same manner as if the draft cost-benefit analysis had been issued with the notice of proposed rulemaking.

[“(2) Each initial cost-benefit analysis shall contain—

[“(A) an analysis of the benefits of the proposed rule, including any benefits that cannot be quantified, and an explanation of how the agency anticipates that such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

[“(B) an analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates that such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

[“(C) an identification (including an analysis of costs and benefits) of an appropriate number of reasonable alternatives allowed under the statute granting the rulemaking authority for achieving the identified benefits of the proposed rule, including alternatives that—

[“(i) require no government action;

[“(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; and

[“(iii) employ voluntary programs, performance standards, or market-based mechanisms that permit greater flexibility in achieving the identified benefits of the proposed rule and that comply with the requirements of subparagraph (D);

[“(D) an assessment of the feasibility of establishing a regulatory program that operates through the application of market-based mechanisms;

[“(E) an explanation of the extent to which the proposed rule—

[“(i) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; and

[“(ii) employs voluntary programs, performance standards, or market-based mechanisms that permit greater flexibility in achieving the identified benefits of the proposed rule;

[“(F) a description of the quality, reliability, and relevance of scientific or economic evaluations or information in accordance with the cost-benefit analysis and risk assessment requirements of this chapter;

[“(G) if not expressly or implicitly inconsistent with the statute under which the agency is proposing the rule, an explanation of the extent to which the identified benefits of the proposed rule justify the identified costs of the proposed rule, and an explanation of how the proposed rule is likely to substantially achieve the rulemaking objectives in a more cost-effective manner than the alternatives to the proposed rule, including alternatives identified in accordance with subparagraph (C); and

[“(H) if a major rule subject to subchapter III addresses risks to human health, safety, or the environment—

[“(i) a risk assessment in accordance with this chapter; and

[“(ii) for each such proposed or final rule, an assessment of incremental risk reduction or other benefits associated with each significant regulatory alternative considered by the agency in connection with the rule or proposed rule.

[“(d)(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking file a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

[“(2) Each final cost-benefit analysis shall contain—

[“(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking, including the market-based mechanisms identified under subsection (c)(2)(C)(iii); and

[“(B) if not expressly or implicitly inconsistent with the statute under which the agency is acting, a reasonable determination, based upon the rulemaking file considered as a whole, whether—

[“(i) the benefits of the rule justify the costs of the rule; and

[“(ii) the rule will achieve the rulemaking objectives in a more cost-effective manner than the alternatives described in the rulemaking, including the market-based mechanisms identified under subsection (c)(2)(C)(iii).

[“(e)(1) The analysis of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs. Such quantification or numerical estimate shall be made in the most appropriate units of measurement, using comparable assumptions, including time periods, shall specify the ranges of predictions, and shall explain the margins of error involved in the quantification methods and in the estimates used. An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible. An agency shall not be required to make such evaluation primarily on a mathematical or numerical basis.

[“(2)(A) In evaluating and comparing costs and benefits and in evaluating the risk assessment information developed under subchapter III, the agency shall not rely on cost, benefit, or risk assessment information that is not accompanied by data, analysis, or other supporting materials that would enable the agency and other persons interested in the rulemaking to assess the accuracy, reliability, and uncertainty factors applicable to such information.

[“(B) The agency evaluations of the relationships of the benefits of a proposed and final rule to its costs shall be clearly articulated in accordance with this section.

[“(f) As part of the promulgation of each major rule that addresses risks to human health, safety, or the environment, the head of the agency or the President shall make a determination that—

[“(1) the risk assessment and the analysis under subsection (c)(2)(H) are based on a scientific evaluation of the risk addressed by the major rule and that the conclusions of such evaluation are supported by the available information; and

[“(2) the regulatory alternative chosen will reduce risk in a cost-effective and, to the extent feasible, flexible manner, taking into consideration any of the alternatives identified under subsection (c)(2) (C) and (D).

[“(g) The preparation of the initial or final cost-benefit analysis required by this section shall only be performed under the direction of an officer or employee of the agency. The preceding sentence shall not preclude a person outside the agency from gathering data or information to be used by the agency in preparing any such cost-benefit analysis or from providing an explanation sufficient to permit the agency to analyze such data or information. If any such data or information is gathered or explained by a person outside the agency, the agency shall specifically identify in the initial or final cost-benefit analysis the data or information gathered or explained and the person who gathered or explained it, and shall describe the arrangement by which the information was procured by the agency, including the total amount of funds expended for such procurement.

[“(h) The requirements of this subchapter shall not alter the criteria for rulemaking otherwise applicable under other statutes.

[“§ 623. Judicial review

[“(a) Compliance or noncompliance by an agency with the provisions of this subchapter and subchapter III shall not be subject to judicial review except in connection with review of a final agency rule and according to the provisions of this section.

[“(b) Any determination by a designee of the President or the Director that a rule is, or is not, a major rule shall not be subject to judicial review in any manner.

[“(c) The determination by an agency that a rule is, or is not, a major rule under section 621(4)(A)(i) shall be set aside by a reviewing court only upon a clear and convincing showing that the determination is erroneous in light of the information available to the agency at the time the agency made the determination. Any determination by an agency that a rule is, or is not, a major rule under section 621(4)(A)(ii) shall not be subject to judicial review in any manner.

[“(d) If the cost-benefit analysis or risk assessment required under this chapter has been wholly omitted for any major rule, a court shall vacate the rule and remand the case for further consideration. If an analysis or assessment has been performed, the court shall not review to determine whether the analysis or assessment conformed to the particular requirements of this chapter.

[“(e) Any cost-benefit analysis or risk assessment prepared under this chapter shall not be subject to judicial consideration separate or apart from review of the agency action to which it relates. When an action for judicial review of an agency action is instituted, any regulatory analysis for such agency action shall constitute part of the whole administrative record of agency action for the purpose of judicial review of the agency action, and shall, to the extent relevant, be considered by a court in determining the legality of the agency action.

[“§ 624. Deadlines for rulemaking

[“(a) All deadlines in statutes that require agencies to propose or promulgate any rule subject to section 622 or subchapter III during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

[“(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

[“(2) the date occurring 6 months after the date of the applicable deadline.

[“(b) All deadlines imposed by any court of the United States that would require an agency to propose or promulgate a rule subject to section 622 or subchapter III during the 2-year period beginning on the effective date of this section shall be suspended until the earlier of—

[''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

[''(2) the date occurring 6 months after the date of the applicable deadline.

[''(c) In any case in which the failure to promulgate a rule by a deadline occurring during the 2-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

[''(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

[''(2) the date occurring 6 months after the date of the applicable deadline.

[''§ 625. Agency review of rules

[''(a)(1)(A) No later than 9 months after the effective date of this section, each agency shall prepare and publish in the Federal Register a proposed schedule for the review, in accordance with this section, of—

[''(i) each rule of the agency that is in effect on such effective date and which, if adopted on such effective date, would be a major rule; and

[''(ii) each rule of the agency in effect on the effective date of this section (in addition to the rules described in clause (i)) that the agency has selected for review.

[''(B) Each proposed schedule required under subparagraph (A) shall be developed in consultation with—

[''(i) the Administrator of the Office of Information and Regulatory Affairs; and

[''(ii) the classes of persons affected by the rules, including members from the regulated industries, small businesses, State and local governments, and organizations representing the interested public.

[''(C) Each proposed schedule required under subparagraph (A) shall establish priorities for the review of rules that, in the joint determination of the Administrator of the Office of Information and Regulatory Affairs and the agency, most likely can be amended or eliminated to—

[''(i) provide the same or greater benefits at substantially lower costs;

[''(ii) achieve substantially greater benefits at the same or lower costs; or

[''(iii) replace command-and-control regulatory requirements with market mechanisms or performance standards that achieve substantially equivalent benefits at lower costs or with greater flexibility.

[''(D) Each proposed schedule required by subparagraph (A) shall include—

[''(i) a brief explanation of the reasons the agency considers each rule on the schedule to be a major rule, or the reasons why the agency selected the rule for review;

[''(ii) a date set by the agency, in accordance with subsection (b), for the completion of the review of each such rule; and

[''(iii) a statement that the agency requests comments from the public on the proposed schedule.

[''(E) The agency shall set a date to initiate review of each rule on the schedule in a manner that will ensure the simultaneous review of related items and that will achieve a reasonable distribution of reviews over the period of time covered by the schedule.

[''(2) No later than 90 days before publishing in the Federal Register the proposed schedule required under paragraph (1), each agency shall make the proposed schedule available to the Director or a designee of the President. The President or that officer may select for review in accordance with this section any additional rule.

[''(3) No later than 1 year after the effective date of this section, each agency shall publish in the Federal Register a final schedule for the review of the rules referred to in paragraphs (1) and (2). Each agency shall publish with the final schedule the response of the agency to comments received concerning the proposed schedule.

[''(b)(1) Except as explicitly provided otherwise by statute, the agency shall, pursuant to subsections (c) through (e), review—

[''(A) each rule on the schedule promulgated pursuant to subsection (a);

[''(B) each major rule promulgated, amended, or otherwise continued by an agency after the effective date of this section; and

[''(C) each rule promulgated after the effective date of this section that the President or the officer designated by the President selects for review pursuant to subsection (a)(2).

[''(2) Except as provided pursuant to subsection (f), the review of a rule required by this section shall be completed no later than the later of—

[''(A) 10 years after the effective date of this section; or

[''(B) 10 years after the date on which the rule is—

[''(i) promulgated; or

[''(ii) amended or continued under this section.

[''(c) An agency shall publish in the Federal Register a notice of its proposed action under this section with respect to a rule being reviewed. The notice shall include—

[''(1) an identification of the specific statutory authority under which the rule was promulgated and an explanation of whether the agency's interpretation of the statute is expressly required by the current text of that statute or, if not, whether it is within the range of permissible interpretations of the statute;

[''(2) an analysis of the benefits and costs of the rule during the period in which it has been in effect;

[''(3) an explanation of the proposed agency action with respect to the rule, including action to repeal or amend the rule to resolve inconsistencies or conflicts with any other obligation or requirement established by any Federal statute, rule, or other agency statement, interpretation, or action that has the force of law; and

[''(4) a statement that the agency seeks proposals from the public for modifications or alternatives to the rule which may accomplish the objectives of the rule in a more effective or less burdensome manner.

[''(d) If an agency proposes to repeal or amend a rule under review pursuant to this section, the agency shall, after issuing the notice required by subsection (c), comply with the provisions of this chapter, chapter 5, and any other applicable law. The requirements of such provisions and related requirements shall apply to the same extent and in the same manner as in the case of a proposed agency action to repeal or amend a rule that is not taken pursuant to the review required by this section.

[''(e) If an agency proposes to continue without amendment a rule under review pursuant to this section, the agency shall—

[''(1) give interested persons no less than 60 days after the publication of the notice required by subsection (c) to comment on the proposed continuation; and

[''(2) publish in the Federal Register notice of the continuation of such rule.

[''(f) Any agency, which for good cause finds that compliance with this section with respect to a particular rule during the period provided in subsection (b) of this section is contrary to an important public interest may request the President, or the officer designated by the President pursuant to subsection (a)(2), to establish a period longer than 10 years for the completion of the review of such rule. The President or that officer may extend the period for review of a rule to a total period of no more than 15 years. Such extension shall be published in the Federal Register with an explanation of the reasons therefor.

[''(g) If the agency fails to comply with the requirements of subsection (b)(2), the rule for which rulemaking proceedings have not been completed shall cease to be enforceable against any person.

[''(h) Nothing in this section shall relieve any agency from its obligation to respond to a petition to issue, amend, or repeal a rule, for an interpretation regarding the meaning of a rule, or for a variance or exemption from the terms of a rule, submitted pursuant to any other provision of law.

[''§ 626. Public participation and accountability

[''In order to maximize accountability for, and public participation in, the development and review of regulatory actions each agency shall, consistent with chapter 5 and other applicable law, provide the public with opportunities for meaningful participation in the development of regulatory actions, including—

[''(1) seeking the involvement, where practicable and appropriate, of those who are intended to benefit from and those who are expected to be burdened by any regulatory action;

[''(2) providing in any proposed or final rulemaking notice published in the Federal Register—

[''(A) a certification of compliance with the requirements of this chapter, or an explanation why such certification cannot be made;

[''(B) a summary of any regulatory analysis required under this chapter, or under any other legal requirement, and notice of the availability of the regulatory analysis;

[''(C) a certification that the rule will produce benefits that will justify the cost to the Government and to the public of implementation of, and compliance with, the rule, or an explanation why such certification cannot be made; and

[''(D) a summary of the results of any regulatory review and the agency's response to such review, including an explanation of any significant changes made to such regulatory action as a consequence of regulatory review;

[''(3) identifying, upon request, a regulatory action and the date upon which such action was submitted to the designated officer to whom authority was delegated under section 644 for review;

[''(4) disclosure to the public, consistent with section 634(3), of any information created or collected in performing a regulatory analysis required under this chapter, or under any other legal requirement; and

[''(5) placing in the appropriate rulemaking record all written communications received from the Director, other designated officer, or other individual or entity relating to regulatory review.

["SUBCHAPTER III—RISK ASSESSMENTS

["§ 631. Findings and purposes

["(a) The Congress finds that:

["(1) Environmental, health, and safety regulations have lead to dramatic improvements in the environment and have significantly reduced risks to human health; except—

["(A) many regulations have been more costly and less effective than necessary; and

["(B) too often, regulatory priorities have not been based upon a realistic consideration of risk, risk reduction opportunities, and costs.

["(2) The public and private resources available to address health, safety, and environmental risks are not unlimited. Those resources should be allocated to address the greatest needs in the most cost-effective manner and to ensure that the incremental costs of regulatory options are reasonably related to the incremental benefits.

["(3) To provide more cost-effective protection to human health, safety, and the environment, regulatory priorities should be supported by realistic and plausible scientific risk assessments and risk management choices that are grounded in cost-benefit principles.

["(4) Risk assessment has proved to be a useful decisionmaking tool, except—

["(A) improvements are needed in both the quality of assessments and the characterization and communication of findings;

["(B) scientific and other data must be better collected, organized, and evaluated; and

["(C) the critical information resulting from a risk assessment must be effectively communicated in an objective and unbiased manner to decision makers, and from decision makers to the public.

["(5) The public stakeholders should be involved in the decisionmaking process for regulating risks. The public has the right to know about the risks addressed by regulation, the amount of risk reduced, the quality of the science used to support decisions, and the cost of implementing and complying with regulations. Such knowledge will allow for public scrutiny and will promote the quality, integrity, and responsiveness of agency decisions.

["(b) The purposes of this subchapter are to—

["(1) present the public and executive branch with the most realistic and plausible information concerning the nature and magnitude of health, safety, and environmental risks to promote sound regulatory decisions and public education;

["(2) provide for full consideration and discussion of relevant data and potential methodologies;

["(3) require explanation of significant choices in the risk assessment process that will allow for better public understanding; and

["(4) improve consistency within the executive branch in preparing risk assessments and risk characterizations.

["§ 632. Definitions

["For purposes of this subchapter, the definitions under sections 551 and 621 shall apply and:

["(1) The term 'covered agency' means each of the following:

["(A) The Environmental Protection Agency.

["(B) The Department of Labor.

["(C) The Department of Transportation.

["(D) The Food and Drug Administration.

["(E) The Department of Energy.

["(F) The Department of the Interior.

["(G) The Department of Agriculture.

["(H) The Consumer Product Safety Commission.

["(I) The National Oceanic and Atmospheric Administration.

["(J) The United States Army Corps of Engineers.

["(K) The Nuclear Regulatory Commission.

["(L) Any other Federal agency considered a covered agency under section 633(b).

["(2) The term 'emergency' means a situation that is immediately impending and extraordinary in nature, demanding attention due to a condition, circumstance or practice reasonably expected to cause death, serious illness or severe injury to humans, or substantial endangerment to private property or the environment if no action is taken.

["(3) The term 'estimates of risk' means numerical representations of the potential magnitude of harm to populations or the probability of harm to individuals, including, as appropriate, those derived by considering the range and distribution of estimates of dose-response (potency) and exposure, including appropriate statistical representation of the range and most likely exposure levels, and the identification of the populations or subpopulations addressed. When appropriate and practicable, a description of any populations or subpopulations that are likely to experience exposures at the upper end of the distribution should be included.

["(4) The term 'hazard identification' means identification of a substance, activity, or condition as potentially causing harm to human health, safety, or the environment.

["(5) The term 'risk assessment' means—

["(A) identifying, quantifying to the extent feasible and appropriate, and characterizing hazards and exposures to those hazards in order to provide structured information on the nature of threats to human health, safety, or the environment; and

["(B) the document containing the explanation of how the assessment process has been applied to an individual substance, activity, or condition.

["(6) The term 'risk characterization' means the integration, synthesis, and organization of hazard identification, dose-response and exposure information that addresses the needs of decision makers and interested parties. The term includes both the process and specific outputs, including—

["(A) the element of a risk assessment that involves presentation of the degree of risk in any regulatory proposal or decision, report to Congress, or other document that is made available to the public; and

["(B) discussions of uncertainties, conflicting data, estimates of risk, extrapolations, inferences, and opinions.

["(7) The term 'screening analysis' means an analysis that arrives at a qualitative estimate or a bounding estimate of risk that permits the risk manager to accept or reject some management options, or permits establishing priorities for agency action. Such term includes an assessment performed by a regulated party and submitted to an agency under a regulatory requirement.

["(8) The term 'substitution risk' means a reasonably likely increased risk to human health, safety, or the environment from a regulatory option designed to decrease other risks.

["§ 633. Applicability

["(a) Except as provided in subsection (c), this subchapter shall apply to all risk assessments and risk characterizations prepared by, or on behalf of, or prepared by others and adopted by any covered agency in connection with a major rule addressing health, safety, and environmental risks.

["(b)(1) No later than 18 months after the effective date of this section, the President, acting through the Director of the Office of Management and Budget, shall determine whether other Federal agencies should be considered covered agencies for the purposes of this subchapter. Such determination, with respect to a particular Federal agency, shall be based on the impact of risk assessment documents and risk characterization documents on—

["(A) regulatory programs administered by that agency; and

["(B) the communication of risk information by that agency to the public.

["(2) If the President makes a determination under paragraph (1), the provisions of this subchapter shall apply to any affected agency beginning on a date set by the President. Such date may be no later than 6 months after the date of such determination.

["(c)(1) This subchapter shall not apply to risk assessments or risk characterizations performed with respect to—

["(A) an emergency determined by the head of an agency;

["(B) a health, safety, or environmental inspection or individual facility permitting action; or

["(C) a screening analysis.

["(2) This subchapter shall not apply to any food, drug, or other product label, or to any risk characterization appearing on any such label.

["§ 634. Savings provisions

["Nothing in this subchapter shall be construed to—

["(1) modify any statutory standard or requirement designed to protect human health, safety, or the environment;

["(2) preclude the consideration of any data or the calculation of any estimate to more fully describe risk or provide examples of scientific uncertainty or variability; or

["(3) require the disclosure of any trade secret or other confidential information.

["§ 635. Principles for risk assessment

["(a) The head of each covered agency shall ensure that risk assessments and all of the components of such assessments—

["(1) provide for a systematic means to structure information useful to decision makers;

["(2) provide, to the maximum extent practicable, that policy-driven default assumptions be used only in the absence of relevant available information;

["(3) promote involvement from all stakeholders;

["(4) provide an opportunity for public input throughout the regulatory process; and

["(5) are designed so that the degree of specificity and rigor employed is commensurate with the consequences of the decision to be made.

["(b) A risk assessment shall, to the maximum extent practicable, clearly delineate hazard identification from dose-response and exposure assessment and make clear the relationship between the level of risk and the level of exposure to a hazard.

["§ 636. Principles for risk characterization

["In characterizing risk in any risk assessment document, regulatory proposal, or decision, each covered agency shall include in the risk characterization, as appropriate, each of the following:

["(1)(A) A description of the exposure scenarios used, the natural resources or subpopulations being exposed, and the likelihood of those exposure scenarios.

[“(B) When a risk assessment involves a choice of any significant assumption, inference, or model, the covered agency or instrumentality preparing the risk assessment shall—

[“(i) identify the assumptions, inferences, and models that materially affect the outcome;

[“(ii) explain the basis for any choices;

[“(iii) identify any policy decisions or policy-based default assumptions;

[“(iv) indicate the extent to which any significant model has been validated by, or conflicts with, empirical data; and

[“(v) describe the impact of alternative choices of assumptions, default options or mathematical models.

[“(C) The major sources of uncertainties in the hazard identification, dose-response and exposure assessment phases of the risk assessment.

[“(D) To the extent feasible, the range and distribution of exposures and risks derived from the risk assessment should be included as a component of the risk characterization.

[“(2) When a covered agency provides a risk assessment or risk characterization for a proposed or final regulatory action, such assessment or characterization shall include a statement of any significant substitution risks, when information on such risks has been made available to the agency.

[“§ 637. Peer review

[“(a) The head of each covered agency shall develop a systematic program for independent and external peer review required under subsection (b). Such program shall be applicable throughout each covered agency and—

[“(1) shall provide for the creation of peer review panels that—

[“(A) consist of members with expertise relevant to the sciences involved in regulatory decisions and who are independent of the covered agency; and

[“(B) are broadly representative and balanced and, to the extent relevant and appropriate, may include persons affiliated with Federal, State, local, or tribal governments, small businesses, other representatives of industry, universities, agriculture, labor consumers, conservation organizations, or other public interest groups and organizations;

[“(2) shall not exclude any person with substantial and relevant expertise as a panel member on the basis that such person represents an entity that may have a potential interest in the outcome, if such interest is fully disclosed to the agency, and in the case of a regulatory decision affecting a single entity, no peer reviewer representing such entity may be included on the panel;

[“(3) shall provide for a timely completed peer review, meeting agency deadlines, that contains a balanced presentation of all considerations, including minority reports and an agency response to all significant peer review comments; and

[“(4) shall provide adequate protections for confidential business information and trade secrets, including requiring panel members to enter into confidentiality agreements.

[“(b)(1)(A) Except as provided under subparagraph (B), each covered agency shall provide for peer review in accordance with this section of any risk assessment or cost-benefit analysis that forms the basis of any major rule that addresses risks to the environment, health, or safety.

[“(B) Subparagraph (A) shall not apply to a rule or other action taken by an agency to authorize or approve any individual substance or product.

[“(2) The Director of the Office of Management and Budget may order that peer review be provided for any risk assessment or cost-benefit analysis that is likely to have a significant impact on public policy decisions or would establish an important precedent.

[“(c) Each peer review under this section shall include a report to the Federal agency concerned with respect to the scientific and technical merit of data and methods used for the risk assessments or cost-benefit analyses.

[“(d) The head of the covered agency shall provide a written response to all significant peer review comments.

[“(e) All peer review comments or conclusions and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

[“(f) No peer review shall be required under this section for any data, method, document, or assessment, or any component thereof, which has been previously subjected to peer review.

[“§ 638. Guidelines, plan for assessing new information, and report

[“(a)(1)(A) As soon as practicable and scientifically feasible, each covered agency shall adopt, after notification and opportunity for public comment, guidelines to implement the risk assessment and risk characterization principles under sections 635 and 636, as well as the cost-benefit analysis requirements under section 622, and shall provide a format for summarizing risk assessment results.

[“(B) No later than 12 months after the effective date of this section, the head of each covered agency shall issue a report on the status of such guidelines to the Congress.

[“(2) The guidelines under paragraph (1) shall—

[“(A) include guidance on use of specific technical methodologies and standards for acceptable quality of specific kinds of data;

[“(B) address important decisional factors for the risk assessment, risk characterization, and cost-benefit analysis at issue; and

[“(C) provide procedures for the refinement and replacement of policy-based default assumptions.

[“(b) The guidelines, plan and report under this section shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State agencies and local governments, and such other departments and agencies, organizations, or persons as may be advisable.

[“(c) The President shall review the guidelines published under this section at least every 4 years.

[“(d) The development, issuance, and publication of risk assessment and risk characterization guidelines under this section shall not be subject to judicial review.

[“§ 639. Research and training in risk assessment

[“(a) The head of each covered agency shall regularly and systematically evaluate risk assessment research and training needs of the agency, including, where relevant and appropriate, the following:

[“(1) Research to reduce generic data gaps, to address modelling needs (including improved model sensitivity), and to validate default options, particularly those common to multiple risk assessments.

[“(2) Research leading to improvement of methods to quantify and communicate uncertainty and variability among individuals, species, populations, and, in the case of ecological risk assessment, ecological communities.

[“(3) Emerging and future areas of research, including research on comparative risk analysis, exposure to multiple chemicals and other stressors, noncancer endpoints, biological markers of exposure and effect, mechanisms of action in both mammalian and nonmammalian species, dynamics and probabilities of physiological and ecosystem exposures, and prediction of ecosystem-level responses.

[“(4) Long-term needs to adequately train individuals in risk assessment and risk assessment application. Evaluations under this paragraph shall include an estimate of the resources needed to provide necessary training.

[“(b) The head of each covered agency shall develop a strategy and schedule for carrying out research and training to meet the needs identified in subsection (a).

[“§ 640. Interagency coordination

[“(a) To promote the conduct, application, and practice of risk assessment in a consistent manner and to identify risk assessment data and research needs common to more than 1 Federal agency, the Director of the Office of Management and Budget, in consultation with the Office of Science and Technology Policy, shall—

[“(1) periodically survey the manner in which each Federal agency involved in risk assessment is conducting such risk assessment to determine the scope and adequacy of risk assessment practices in use by the Federal Government;

[“(2) provide advice and recommendations to the President and Congress based on the surveys conducted and determinations made under paragraph (1);

[“(3) establish appropriate interagency mechanisms to promote—

[“(A) coordination among Federal agencies conducting risk assessment with respect to the conduct, application, and practice of risk assessment; and

[“(B) the use of state-of-the-art risk assessment practices throughout the Federal Government;

[“(4) establish appropriate mechanisms between Federal and State agencies to communicate state-of-the-art risk assessment practices; and

[“(5) periodically convene meetings with State government representatives and Federal and other leaders to assess the effectiveness of Federal and State cooperation in the development and application of risk assessment.

[“(b) The President shall appoint National Peer Review Panels to review every 3 years the risk assessment practices of each covered agency for programs designed to protect human health, safety, or the environment. The Panels shall submit a report to the President and the Congress at least every 3 years containing the results of such review.

[“§ 640a. Plan for review of risk assessments

[“(a) No later than 18 months after the effective date of this section, the head of each covered agency shall publish a plan to review and revise any risk assessment published before the expiration of such 18-month period if the covered agency determines that significant new information or methodologies are available that could significantly alter the results of the prior risk assessment.

[“(b) A plan under subsection (a) shall—

[“(1) provide procedures for receiving and considering new information and risk assessments from the public; and

[“(2) set priorities and criteria for review and revision of risk assessments based on such factors as the agency head considers appropriate.

[“§ 640b. Judicial review

[“The provisions of section 623 relating to judicial review shall apply to this subchapter.

[“§ 640c. Deadlines for rulemaking

[“The provisions of section 624 relating to deadlines for rulemaking shall apply to this subchapter.

[“SUBCHAPTER IV—EXECUTIVE OVERSIGHT

[“§ 641. Definition

[“For purposes of this subchapter, the definitions under sections 551 and 621 shall apply.

[“§ 642. Procedures

[“The Director or other designated officer to whom authority is delegated under section 644 shall—

[“(1) establish procedures for agency compliance with this chapter; and

[“(2) monitor, review, and ensure agency implementation of such procedures.

[“§ 643. Promulgation and adoption

[“(a) Procedures established pursuant to section 642 shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

[“(b)(1) If procedures established pursuant to section 642 include review of any initial or final analyses of a rule required under this chapter, the time for any such review of any initial analysis shall not exceed 60 days following the receipt of the analysis by the Director, a designee of the President, or by an officer to whom the authority granted under section 642 has been delegated pursuant to section 644.

[“(2) The time for review of any final analysis required under this chapter shall not exceed 60 days following the receipt of the analysis by the Director, a designee of the President, or such officer.

[“(3)(A) The times for each such review may be extended for good cause by the President or such officer for an additional 30 days.

[“(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

[“§ 644. Delegation of authority

[“(a) The President shall delegate the authority granted by this subchapter to the Director or to another officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

[“(b) Notice of any delegation, or any revocation or modification thereof shall be published in the Federal Register.

[“§ 645. Public disclosure of information

[“The Director or other designated officer to whom authority is delegated under section 644, in carrying out the provisions of section 642, shall establish procedures (covering all employees of the Director or other designated officer) to provide public and agency access to information concerning regulatory review actions, including—

[“(1) disclosure to the public on an ongoing basis of information regarding the status of regulatory actions undergoing review;

[“(2) disclosure to the public, no later than publication of, or other substantive notice to the public concerning a regulatory action, of—

[“(A) all written communications, regardless of form or format, including drafts of all proposals and associated analyses, between the Director or other designated officer and the regulatory agency;

[“(B) all written communications, regardless of form or format, between the Director or other designated officer and any person not employed by the executive branch of the Federal Government relating to the substance of a regulatory action;

[“(C) a record of all oral communications relating to the substance of a regulatory action between the Director or other designated officer and any person not employed by the executive branch of the Federal Government; and

[“(D) a written explanation of any review action and the date of such action; and

[“(3) disclosure to the regulatory agency, on a timely basis, of—

[“(A) all written communications between the Director or other designated officer and any person who is not employed by the executive branch of the Federal Government;

[“(B) a record of all oral communications, and an invitation to participate in meetings, relating to the substance of a regulatory action between the Director or other designated officer and any person not employed by the executive branch of the Federal Government; and

[“(C) a written explanation of any review action taken concerning an agency regulatory action.

[“§ 646. Judicial review

[“The exercise of the authority granted under this subchapter by the Director, the President, or by an officer to whom such authority has been delegated under section 644 shall not be subject to judicial review in any manner.”.

[(b) REGULATORY FLEXIBILITY ANALYSIS.—

[(1) IN GENERAL.—Section 611 of title 5, United States Code, is amended to read as follows:

[“§ 611. Judicial review

[“(a)(1) Except as provided in paragraph (2), no later than 1 year after the effective date of a final rule with respect to which an agency—

[“(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities; or

[“(B) prepared a final regulatory flexibility analysis pursuant to section 604,

an affected small entity may petition for the judicial review of such certification or analysis in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 of this title or under any other provision of law shall have jurisdiction to review such certification or analysis.

[“(2)(A) Except as provided in subparagraph (B), in the case of a provision of law that requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), such lesser period shall apply to a petition for the judicial review under this subsection.

[“(B) In a case in which an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection shall be filed no later than—

[“(i) 1 year; or

[“(ii) in a case in which a provision of law requires that an action challenging a final agency regulation be commenced before the expiration of the 1-year period provided in paragraph (1), the number of days specified in such provision of law,

after the date the analysis is made available to the public.

[“(3) For purposes of this subsection, the term ‘affected small entity’ means a small entity that is or will be adversely affected by the final rule.

[“(4) Nothing in this subsection shall be construed to affect the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

[“(5)(A) In a case in which an agency certifies that such rule would not have a significant economic impact on a substantial number of small entities, the court may order the agency to prepare a final regulatory flexibility analysis pursuant to section 604 if the court determines, on the basis of the rulemaking record, that the certification was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

[“(B) In a case in which the agency prepared a final regulatory flexibility analysis, the court may order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the rulemaking record, that the final regulatory flexibility analysis was prepared by the agency without complying with section 604.

[“(6) If, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5) (or such longer period as the court may provide), the agency fails, as appropriate—

[“(A) to prepare the analysis required by section 604; or

[“(B) to take corrective action consistent with section 604 of this title,

the court may stay the rule or grant such other relief as it deems appropriate.

[“(7) In making any determination or granting any relief authorized by this subsection, the court shall take due account of the rule of prejudicial error.

[“(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

[“(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.”.

[(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the effective date of this Act, except that the judicial review authorized by section 611(a) of title 5, United States Code (as added by subsection (a)), shall apply only to final agency rules issued after such effective date.

[(c) PRESIDENTIAL AUTHORITY.—Nothing in this Act shall limit the exercise by the President of the authority and responsibility that the President otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices.

[(d) TECHNICAL AND CONFORMING AMENDMENTS.—

[(1) Part I of title 5, United States Code, is amended by striking out the chapter heading and table of sections for chapter 6 and inserting in lieu thereof the following:

[“CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

[“SUBCHAPTER I—REGULATORY ANALYSIS

[“Sec.
[“601. Definitions.
[“602. Regulatory agenda.
[“603. Initial regulatory flexibility analysis.
[“604. Final regulatory flexibility analysis.
[“605. Avoidance of duplicative or unnecessary analyses.

["606. Effect on other law.
["607. Preparation of analysis.
["608. Procedure for waiver or delay of completion.
["609. Procedures for gathering comments.
["610. Periodic review of rules.
["611. Judicial review.
["612. Reports and intervention rights.

["SUBCHAPTER II—ANALYSIS OF AGENCY RULES

["621. Definitions.
["622. Rulemaking cost-benefit analysis.
["623. Judicial review.
["624. Deadlines for rulemaking.
["625. Agency review of rules.
["626. Public participation and accountability.

["SUBCHAPTER III—RISK ASSESSMENTS

["631. Findings and purposes.
["632. Definitions.
["633. Applicability.
["634. Savings provisions.
["635. Principles for risk assessment.
["636. Principles for risk characterization.
["637. Peer review.
["638. Guidelines, plan for assessing new information, and report.
["639. Research and training in risk assessment.
["640. Interagency coordination.
["640a. Plan for review of risk assessments.
["640b. Judicial review.
["640c. Deadlines for rulemaking.

["SUBCHAPTER IV—EXECUTIVE OVERSIGHT

["641. Definition.
["642. Procedures.
["643. Promulgation and adoption.
["644. Delegation of authority.
["645. Public disclosure of information.
["646. Judicial review.".

[(2) Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

["SUBCHAPTER I—REGULATORY ANALYSIS".

[SEC. 4. CONGRESSIONAL REVIEW.

[(a) IN GENERAL.—Part I of title 5, United States Code, is amended by inserting after chapter 7 the following new chapter:

["CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

["§ 801. Congressional review of agency rulemaking

["(a) For purposes of this chapter, the term—

["(1) 'major rule' means a major rule as defined under section 621(4) of this title and as determined under section 622 of this title; and

["(2) 'rule' (except in reference to a rule of the Senate or House of Representatives) is a reference to a major rule.

["(b)(1) Upon the promulgation of a final major rule, the agency promulgating such rule shall submit to the Congress a copy of the rule, the statement of basis and purpose for the rule, and the proposed effective date of the rule.

["(2) A rule submitted under paragraph (1) shall not take effect as a final rule before the latest of the following:

["(A) The later of the date occurring 45 days after the date on which—

["(i) the Congress receives the rule submitted under paragraph (1); or

["(ii) the rule is published in the Federal Register.

["(B) If the Congress passes a joint resolution of disapproval described under subsection (i) relating to the rule, and the President signs a veto of such resolution, the earlier date—

["(i) on which either House of Congress votes and fails to override the veto of the President; or

["(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President.

["(C) The date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under subsection (i) is approved).

["(c) A major rule shall not take effect as a final rule if the Congress passes a joint resolution of disapproval described under subsection (i), which is signed by the President or is vetoed and overridden by the Congress.

["(d)(1) Notwithstanding any other provision of this section (except subject to paragraph (2)), a major rule that would not take effect by reason of this section may take effect if the President makes a determination and submits written notice of such determination to the Congress that the major rule should take effect because such major rule is—

["(A) necessary because of an imminent threat to health or safety, or other emergency;

["(B) necessary for the enforcement of criminal laws; or

["(C) necessary for national security.

["(2) An exercise by the President of the authority under this subsection shall have no effect on the procedures under subsection (i) or the effect of a joint resolution of disapproval under this section.

["(e)(1) Subsection (i) shall apply to any major rule that is promulgated as a final rule during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes.

["(2) For purposes of subsection (i), a major rule described under paragraph (1) shall be treated as though such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date the succeeding Congress first convenes.

["(3) During the period between the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, a rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law.

["(f) Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under subsection (i) shall be treated as though such rule had never taken effect.

["(g) If the Congress does not enact a joint resolution of disapproval under subsection (i), no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such major rule, related statute, or joint resolution of disapproval.

["(h) If the agency fails to comply with the requirements of subsection (b) for any rule, the rule shall cease to be enforceable against any person.

["(i)(1) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced after the date on which the rule referred to in subsection (b) is received by Congress the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the _______ relating to _______, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in.)

["(2)(A) In the Senate, a resolution described in paragraph (1) shall be referred to the committees with jurisdiction. Such a resolution shall not be reported before the eighth day after its submission or publication date.

["(B) For purposes of this subsection, the term 'submission or publication date' means the later of the date on which—

["(i) the Congress receives the rule submitted under subsection (b)(1); or

["(ii) the rule is published in the Federal Register.

["(3) In the Senate, if the committee to which a resolution described in paragraph (1) is referred has not reported such resolution (or an identical resolution) at the end of 20 calendar days after its submission or publication date, such committee may be discharged on a petition approved by 30 Senators from further consideration of such resolution and such resolution shall be placed on the Senate calendar.

["(4)(A) In the Senate, when the committee to which a resolution is referred has reported, or when a committee is discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Senator to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) shall be waived. The motion shall be privileged in the Senate and shall not be debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the Senate until disposed of.

["(B) In the Senate, debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall be in order and shall not be debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution shall not be in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

["(C) In the Senate, immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the Senate rules, the vote on final passage of the resolution shall occur.

["(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

["(5) If, before the passage in the Senate of a resolution described in paragraph (1), the Senate receives from the House of Representatives a resolution described in paragraph (1), then the following procedures shall apply:

["(A) The resolution of the House of Representatives shall not be referred to a committee.

["(B) With respect to a resolution described in paragraph (1) of the Senate—

["(i) the procedure in the Senate shall be the same as if no resolution had been received from the other House; but ["(ii) the vote on final passage shall be on the resolution of the other House.

["(6) This subsection is enacted by Congress—

["(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed to be a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

["(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

["(j) No requirements under this chapter shall be subject to judicial review in any manner.".

[(b) Technical and Conforming Amendment.—The table of chapters for part I of title 5, United States Code, is amended by inserting after the item relating to chapter 7 the following:

["8. Congressional Review of Agency Rulemaking .... 801".

[SEC. 5. STUDIES AND REPORTS.

[(a) Risk Assessments.—The Administrative Conference of the United States shall—

[(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 3 of this Act); and

[(2) submit an annual report to the Congress on the findings of the study.

[(b) Administrative Procedure Act.—No later than December 31, 1996, the Administrative Conference of the United States shall—

[(1) carry out a study of the operation of chapters 5 and 6 of title 5, United States Code (commonly referred to as the Administrative Procedure Act), as amended by section 3 of this Act; and

[(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

[SEC. 6. RISK-BASED PRIORITIES.

[(a) Purposes.—The purposes of this section are to—

[(1) encourage Federal agencies engaged in regulating risks to human health, safety, and the environment to achieve the greatest risk reduction at the least cost practical;

[(2) promote the coordination of policies and programs to reduce risks to human health, safety, and the environment; and

[(3) promote open communication among Federal agencies, the public, the President, and Congress regarding environmental, health, and safety risks, and the prevention and management of those risks.

[(b) Definitions.—For the purposes of this section:

[(1) Comparative risk analysis.—The term "comparative risk analysis" means a process to systematically estimate, compare, and rank the size and severity of risks to provide a common basis for evaluating strategies for reducing or preventing those risks.

[(2) Covered agency.—The term "covered agency" means each of the following:

[(A) The Environmental Protection Agency.

[(B) The Department of Labor.

[(C) The Department of Transportation.

[(D) The Food and Drug Administration.

[(E) The Department of Energy.

[(F) The Department of the Interior.

[(G) The Department of Agriculture.

[(H) The Consumer Product Safety Commission.

[(I) The National Oceanic and Atmospheric Administration.

[(J) The United States Army Corps of Engineers.

[(K) The Nuclear Regulatory Commission.

[(3) Effect.—The term "effect" means a deleterious change in the condition of—

[(A) a human or other living thing (including death, cancer, or other chronic illness, decreased reproductive capacity, or disfigurement); or

[(B) an inanimate thing important to human welfare (including destruction, degeneration, the loss of intended function, and increased costs for maintenance).

[(4) Irreversibility.—The term "irreversibility" means the extent to which a return to conditions before the occurrence of an effect are either very slow or will never occur.

[(5) Likelihood.—The term "likelihood" means the estimated probability that an effect will occur.

[(6) Magnitude.—The term "magnitude" means the number of individuals or the quantity of ecological resources or other resources that contribute to human welfare that are affected by exposure to a stressor.

[(7) Seriousness.—The term "seriousness" means the intensity of effect, the likelihood, the irreversibility, and the magnitude.

[(c) Department and Agency Program Goals.—

[(1) Setting priorities.—In exercising authority under applicable laws protecting human health, safety, or the environment, the head of each covered agency should set priorities and use the resources available under those laws to address those risks to human health, safety, and the environment that—

[(A) the covered agency determines to be the most serious; and

[(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

[(2) Determining the most serious risks.—In identifying the greatest risks under paragraph (1) of this subsection, each covered agency shall consider, at a minimum—

[(A) the likelihood, irreversibility, and severity of the effect; and

[(B) the number and classes of individuals potentially affected, and shall explicitly take into account the results of the comparative risk analysis conducted under subsection (d) of this section.

[(3) OMB review.—The covered agency's determinations of the most serious risks for purposes of setting priorities shall be reviewed and approved by the Director of the Office of Management and Budget before submission of the covered agency's annual budget requests to Congress.

[(4) Incorporating risk-based priorities into budget and planning.—The head of each covered agency shall incorporate the priorities identified under paragraph (1) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), the basis for that determination, and explicitly identify how the covered agency's requested budget and regulatory agenda reflect those priorities.

[(5) Effective date.—This subsection shall take effect 12 months after the date of enactment of this Act.

[(d) Comparative Risk Analysis.—

[(1) Requirement.—(A)(i) No later than 6 months after the effective date of this Act, the Director of the Office of Management and Budget shall enter into appropriate arrangements with an accredited scientific body—

[(I) to conduct a study of the methodologies for using comparative risk to rank dissimilar human health, safety, and environmental risks; and

[(II) to conduct a comparative risk analysis.

[(ii) The comparative risk analysis shall compare and rank, to the extent feasible, human health, safety, and environmental risks potentially regulated across the spectrum of programs administered by all covered agencies.

[(B) The Director shall consult with the Office of Science and Technology Policy regarding the scope of the study and the conduct of the comparative risk analysis.

[(2) Criteria.—In arranging for the comparative risk analysis referred to in paragraph (1) of this subsection, the Director shall ensure that—

[(A) the scope and specificity of the analysis are sufficient to provide the President and agency heads guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

[(B) the analysis is conducted through an open process, by individuals with relevant expertise, including toxicologists, biologists, engineers and experts in medicine, industrial hygiene and environmental effects;

[(C) the analysis is conducted, to the extent feasible, consistent with the risk assessment and risk characterization principles in sections 635 and 636 of this title;

[(D) the methodologies and principal scientific determinations made in the analysis are subjected to independent and external peer review consistent with section 637, and the conclusions of the peer review are made publicly available as part of the final report required under subsection (e);

[(E) there is an opportunity for public comment on the results before making them final; and

[(F) the results are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

[(3) Completion and review.—No later than 3 years after the effective date of this Act, the comparative risk analysis required under paragraph (1) shall be completed. The comparative risk analysis shall be reviewed and revised at least every 5 years thereafter for a minimum of 15 years following the release of the first analysis. The Director shall arrange for such review and revision with an accredited scientific body in the same manner as provided under paragraphs (1) and (2).

[(4) Study.—The study of methodologies provided under paragraph (1) shall be conducted as part of the first comparative risk analysis and shall be completed no later than 180 days after the completion of that analysis. The goal of the study shall be to develop and rigorously test methods of comparative risk analysis. The study shall have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for human health, safety, and environmental risk prevention and reduction.

[(5) TECHNICAL GUIDANCE.—No later than 180 days after the effective date of this Act, the Director, in collaboration with other heads of covered agencies shall enter into a contract with the National Research Council to provide technical guidance to agencies on approaches to using comparative risk analysis in setting human health, safety, and environmental priorities to assist agencies in complying with subsection (c) of this section.

[(e) REPORTS AND RECOMMENDATIONS TO CONGRESS AND THE PRESIDENT.—No later than 24 months after the effective date of this Act, each covered agency shall submit a report to Congress and the President—

[(1) detailing how the agency has complied with subsection (c) and describing the reasons for any departure from the requirement to establish priorities to achieve the greatest overall net reduction in risk;

[(2) recommending—

[(A) modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

[(B) modification or elimination of statutorily or judicially mandated deadlines,

that would assist the covered agency to set priorities in activities to address the risks to human health, safety, or the environment in a manner consistent with the requirements of subsection (c)(1);

[(3) evaluating the categories of policy and value judgments used in risk assessment, risk characterization, or cost-benefit analysis; and

[(4) discussing risk assessment research and training needs, and the agency's strategy and schedule for meeting those needs.

[(f) SAVINGS PROVISION AND JUDICIAL REVIEW.—

[(1) IN GENERAL.—Nothing in this section shall be construed to modify any statutory standard or requirement designed to protect human health, safety, or the environment.

[(2) JUDICIAL REVIEW.—Compliance or noncompliance by an agency with the provisions of this section shall not be subject to judicial review.

[(3) AGENCY ANALYSIS.—Any analysis prepared under this section shall not be subject to judicial consideration separate or apart from the requirement, rule, program, or law to which it relates. When an action for judicial review of a covered agency action is instituted, any analysis for, or relating to, the action shall constitute part of the whole record of agency action for the purpose of judicial review of the action and shall, to the extent relevant, be considered by a court in determining the legality of the covered agency action.

[SEC. 7. REGULATORY ACCOUNTING.

[(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

[(1) AGENCY.—The term "agency" means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

[(A) the General Accounting Office;

[(B) the Federal Election Commission;

[(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

[(D) government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

[(2) REGULATION.—The term "regulation" means an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedures or practice requirements of an agency. The term shall not include—

[(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

[(B) regulations issued with respect to a military or foreign affairs function of the United States; or

[(C) regulations related to agency organization, management, or personnel.

[(b) ACCOUNTING STATEMENT.—

[(1) IN GENERAL.—(A) The President shall be responsible for implementing and administering the requirements of this section.

[(B) Every 2 years, no later than June of the second year, the President shall prepare and submit to Congress an accounting statement that estimates the annual costs of Federal regulatory programs and corresponding benefits in accordance with this subsection.

[(2) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

[(3) TIMING AND PROCEDURES.—(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

[(B) The President shall propose the first accounting statement under this subsection no later than 2 years after the effective date of this Act and shall issue the first accounting statement in final form no later than 3 years after such effective date. Such statement shall cover, at a minimum, each of the fiscal years beginning after the effective date of this Act.

[(4) CONTENT OF ACCOUNTING STATEMENT.—(A) Each accounting statement shall contain estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

[(B)(i) An accounting statement shall estimate the costs of Federal regulatory programs by setting forth, for each year covered by the statement—

[(I) the annual expenditure of national economic resources for each regulatory program; and

[(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

[(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

[(I) Private sector costs.

[(II) Federal sector costs.

[(III) State and local government costs.

[(C) An accounting statement shall estimate the benefits of Federal regulatory programs by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in human health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

[(c) ASSOCIATED REPORT TO CONGRESS.—

[(1) IN GENERAL.—At the same time as the President submits an accounting statement under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an "associated report"). The associated report shall contain, in accordance with this subsection—

[(A) analyses of impacts; and

[(B) recommendations for reform.

[(2) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

[(A) The cumulative impact on the economy of Federal regulatory programs covered in the accounting statement. Factors to be considered in such report shall include impacts on the following:

[(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

[(ii) Small business.

[(iii) Productivity.

[(iv) Wages.

[(v) Economic growth.

[(vi) Technological innovation.

[(vii) Consumer prices for goods and services.

[(viii) Such other factors considered appropriate by the President.

[(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

[(3) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

[(A) A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

[(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

[(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers and the agencies, develop guidance for the agencies—

[(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to this section and section 3 of this Act, including—

[(A) detailed guidance on estimating the costs and benefits of major rules; and

[(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

[(2) to standardize the format of the accounting statements.

[(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

[(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

[(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

[(f) JUDICIAL REVIEW.—No requirements under this section shall be subject to judicial review in any manner.

[SEC. 8. EFFECTIVE DATE.

[Except as otherwise provided in this Act, this Act shall take effect 180 days after the date of the enactment of this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Regulatory Reform Act of 1995".

SEC. 2. DEFINITIONS.

Section 551 of title 5, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking "this subchapter" and inserting "this chapter and chapters 6, 7, and 8";

(2) in paragraph (13), by striking "and";

(3) in paragraph (14), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(15) 'Director' means the Director of the Office of Management and Budget.".

SEC. 3. RULEMAKING.

Section 553 of title 5, United States Code, is amended to read as follows:

"§553. Rulemaking

"(a) This section applies to every rulemaking, according to the provisions thereof, except to the extent that there is involved—

"(1) a matter pertaining to a military or foreign affairs function of the United States;

"(2) a matter relating to the management and personnel practices of an agency;

"(3) an interpretive rule, general statement of policy, guidance, or rule of agency organization, procedure, or practice that is not generally applicable and does not alter or create rights or obligations of persons outside the agency; or

"(4) a rule relating to the acquisition, management, or disposal by an agency of real or personal property, or of services, that is promulgated in compliance with criteria and procedures established by the Administrator of General Services.

"(b)(1) General notice of proposed rulemaking shall be published in the Federal Register, unless all persons subject thereto are named and either personally served or otherwise have actual notice of the proposed rulemaking in accordance with law. Each notice of proposed rulemaking shall include—

"(A) a statement of the time, place, and nature of public rulemaking proceedings;

"(B) a succinct explanation of the need for and specific objectives of the proposed rule, including an explanation of the agency's determination of whether or not the rule is a major rule within the meaning of section 621(4);

"(C) an explanation of the specific statutory interpretation under which a rule is proposed, including an explanation of—

"(i) whether the interpretation is expressly required by the text of the statute; or

"(ii) if the interpretation is not expressly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and an explanation why the interpretation selected by the agency is the agency's preferred interpretation;

"(D) the proposed provisions of the rule;

"(E) a summary of any initial analysis of the proposed rule required to be prepared or issued pursuant to chapter 6;

"(F) a statement that the agency seeks proposals from the public and from State and local governments for alternative methods to accomplish the objectives of the rulemaking that are more effective or less burdensome than the approach used in the proposed rule;

"(G) a description of any data, methodologies, reports, studies, scientific evaluations, or other similar information available to the agency for the rulemaking, including an identification of each author or source of such information and the purposes for which the agency plans to rely on such information; and

"(H) a statement specifying where the file of the rulemaking proceeding maintained pursuant to subsection (f) may be inspected and how copies of the items in the file may be obtained.

"(2) Except when notice or hearing is required by statute, a final rule may be adopted and may become effective without prior compliance with this subsection and subsections (c) and (f) if—

"(A) the agency for good cause finds that providing notice and public procedure thereon before the rule becomes effective is contrary to an important public interest or is unnecessary due to the insignificant impact of the rule;

"(B) the agency publishes the rule in the Federal Register with such finding and a succinct explanation of the reasons therefor; and

"(C) the agency complies with this subsection and subsections (c) and (f) to the maximum extent feasible prior to the promulgation of the final rule, and fully complies with such provisions as soon as reasonably practicable after the promulgation of the rule.

"(3) Whenever the provisions of a final rule that an agency plans to adopt are so different from the provisions of the proposed rule that the original notice of proposed rulemaking did not fairly apprise the public of the issues ultimately to be resolved in the rulemaking or of the substance of the rule, the agency shall publish in the Federal Register a notice of the final rule the agency plans to adopt, together with the information relevant to such rule that is required by the applicable provisions of this section and that has not previously been published in the Federal Register. The agency shall allow a reasonable period for comment on such final rule.

"(c)(1) After providing the notice required by this section, the agency shall give interested persons not less than 60 days to participate in the rulemaking through the submission of written data, views, or arguments.

"(2)(A) To collect relevant information, and to identify and elicit full and representative public comment on the significant issues of a particular rulemaking, the agency may use such other procedures as the agency determines are appropriate, including—

"(i) the publication of an advance notice of proposed rulemaking;

"(ii) the provision of notice, in forms which are more direct than notice published in the Federal Register, to persons who would be substantially affected by the proposed rule, but who are unlikely to receive notice of the proposed rulemaking through the Federal Register;

"(iii) the provision of opportunities for oral presentation of data, views, information, or rebuttal arguments at informal public hearings, which may be held in the District of Columbia and other locations;

"(iv) the provision of summaries, explanatory materials, or other technical information in response to public inquiries concerning the issues involved in the rulemaking; and

"(v) the adoption or modification of agency procedural rules to reduce the cost or complexity of participation in a rulemaking.

"(B) The decision of an agency to use or not to use such other procedures in a rulemaking pursuant to this paragraph shall not be subject to judicial review.

"(3) To ensure an orderly and expeditious proceeding, an agency may establish reasonable procedures to regulate the course of informal public hearings under paragraphs (1) and (2), including the designation of representatives to make oral presentations or engage in direct or cross-examination on behalf of several parties with a common interest in a rulemaking. Transcripts shall be made of all such public hearings.

"(4) An agency shall publish any final rule it adopts in the Federal Register, together with a concise statement of the basis and purpose of the rule and a statement of when the rule may become effective. The statement of basis and purpose shall include—

"(A) an explanation of the need for, objectives of, and specific statutory authority for, the rule;

"(B) a discussion of, and response to, any significant factual or legal issues raised by the comments on the proposed rule prior to its promulgation, including a description of the reasonable alternatives to the rule proposed by the agency and by interested persons, and the reasons why each such alternative was rejected;

"(C)(i) an explanation of whether the specific statutory interpretation upon which the rule is based is expressly required by the text of the statute; or

"(ii) if the specific statutory interpretation upon which the rule is based is not expressly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and why the agency has rejected other interpretations proposed in comments to the agency;

"(D) an explanation of how the factual conclusions upon which the rule is based are substantially supported in the rulemaking file maintained pursuant to subsection (f); and

"(E) a summary of any final analysis of the rule required to be prepared or issued pursuant to chapter 6.

"(5) The provisions of sections 556 and 557 shall apply in lieu of this subsection in the case of rules that are required by statute to be made on the record after opportunity for an agency hearing.

"(d) An agency shall publish the final rule in the Federal Register not less than 60 days before the effective date of such rule. An agency may make a rule effective in less than 60 days after publication in the Federal Register if the rule grants or recognizes an exemption, relieves a restriction, or if the agency for good cause finds that such a delay in the effective date would be contrary to an important public interest and publishes such finding and an explanation of the reasons therefor, with the final rule.

"(e)(1) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.

"(2) Each person subject to a major rule may petition—

"(A) for the issuance, amendment, or repeal of such rule;

"(B) for the amendment or repeal of an interpretive rule or general statement of policy or guidance;

"(C) for an interpretation regarding the meaning of the rule, interpretive rule, general statement of policy, or guidance; and

"(D) for a variance or exemption from the terms of the rule.

"(3)(A) Any person subject to a rule, interpretive rule, general statement of policy, or guidance may petition an agency for the amendment or repeal of any rule, interpretive rule, general statement of policy, or guidance.

"(B) If such petition presents a reasonable likelihood that, considering its future impact, the rule, interpretive rule, general statement of policy, or guidance is, or has the effect of, a major rule within the meaning of section 621(4), and its amendment or repeal is required to satisfy the decisional criteria of section 624, the agency shall grant the petition and shall, within one year, conduct a cost-benefit analysis under chapter 6.

"(C) If, considering its future impact, the rule, interpretive rule, general statement of policy, or guidance does not satisfy the requirements of chapter 6, including the decisional criteria set forth in section 624, the agency shall take immediate action either to revoke or to amend the rule, interpretive rule, general statement of policy, or guidance to conform it to the requirements of chapter 6, including the decisional criteria in section 624.

"(4) The agency shall grant or deny a petition made pursuant to this subsection, and give written notice of its determination to the petitioner, with reasonable promptness, but in no event later than 180 days after the petition was received by the agency. The written notice of the agency's determination shall include an explanation of the determination and a response to each factual and legal claim that forms the basis of the petition. A decision to deny a petition shall be subject to judicial review immediately upon denial, as final agency action under the statute granting the agency authority to carry out its action.

"(5) Following a decision to grant or deny a petition to conduct a cost-benefit analysis for a rule, interpretive rule, general statement of policy, or guidance under this subsection, no further petition for such rule, interpretive rule, general statement of policy, or guidance, submitted by the same person, shall be considered by any agency unless such petition is based on a change in a fact, circumstance, or provision of law underlying or otherwise related to the rule, interpretive rule, general statement of policy, or guidance occurring since the initial petition was granted or denied, that warrants the amendment or repeal of the rule, interpretive rule, general statement of policy, or guidance.

"(f)(1) The agency shall maintain a file for each rulemaking proceeding conducted pursuant to this section and shall maintain a current index to such file. The file and the material excluded from the file pursuant to paragraph (4) shall constitute the rulemaking record for purposes of judicial review. Except as provided in paragraph (4), the file shall be made available to the public beginning on the date on which the agency makes an initial publication concerning the rule.

"(2) The rulemaking file shall include—

"(A) the notice of proposed rulemaking, any supplement to, or modification or revision of, such notice, and any advance notice of proposed rulemaking;

"(B) copies of all written comments received on the proposed rule;

"(C) a transcript of any public hearing conducted on the rulemaking;

"(D) copies, or an identification of the place at which copies may be obtained, of all material described by the agency pursuant to subsection (b)(1)(G) and of other factual and methodological material not described by the agency pursuant to such subsection that pertains directly to the rulemaking and that was available to the agency in connection with the rulemaking, or that was submitted to or prepared by or for the agency in connection with the rulemaking; and

"(E) any statement, description, analysis, or any other material that the agency is required to prepare or issue in connection with the rulemaking, including any analysis prepared or issued pursuant to chapter 6.

"(3) The agency shall place the materials described in paragraph (2) in the file as soon as practicable after such materials become available to the agency.

"(4) The file required by paragraph (1) need not include any material that need not be made available to the public under section 552(b)(4) if the agency includes in such file a statement that notes the existence of such material and the basis upon which the material is exempt from public disclosure under such section. The agency may not substantially rely on any such material in formulating a rule unless it makes the substance of such material available for adequate comment by interested persons. The agency may use summaries, aggregations of data, or other appropriate mechanisms to protect the confidentiality of such material to the maximum extent possible.

"(5) No court shall hold unlawful or set aside an agency rule because of a violation of this subsection unless the court finds that such violation has precluded fair public consideration of a material issue of the rulemaking taken as a whole. Judicial review of compliance or noncompliance with this subsection shall be limited to review of action or inaction on the part of an agency.

"(g) Notwithstanding any other provision of law, this section shall apply to and supplement the procedures governing rulemaking under statutes that are not generally subject to this section.

"(h) Nothing in this section authorizes the use of appropriated funds available to any agency to pay the attorney's fees or other expenses of persons participating or intervening in agency proceedings.".

SEC. 4. ANALYSIS OF AGENCY RULES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY RULES

"§621. Definitions

"For purposes of this subchapter—

"(1) the term 'benefit' means the reasonably identifiable significant incremental benefits, including social and economic benefits, that are expected to result directly or indirectly from implementation of a rule or an alternative to a rule;

"(2) the term 'cost' means the reasonably identifiable significant incremental costs and adverse effects, including social and economic costs, reduced consumer choice, substitution effects, and impeded technological advancement, that are expected to result directly or indirectly from implementation of, or compliance with, a rule or an alternative to a rule;

"(3) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition;

"(4)(A) the term 'major rule' means—

"(i) a rule or a group of closely related rules that the agency proposing the rule, the Director, or a designee of the President reasonably determines is likely to have a gross annual effect on the economy of $50,000,000 or more in reasonably quantifiable increased direct and indirect costs, or has a significant impact on a sector of the economy; or

"(ii) a rule or a group of closely related rules that is otherwise designated a major rule by the agency proposing the rule, the Director, or a designee of the President on the ground that the rule is likely to result in—

"(I) a substantial increase in costs or prices for wage earners, consumers, individual industries, nonprofit organizations, Federal, State, or local government agencies, or geographic regions;

"(II) significant adverse effects on competition, employment, investment, productivity, innovation, health, safety, or the environment, or the ability of enterprises whose principal places of business are in the United States to compete in domestic or export markets;

"(III) a serious inconsistency or interference with an action taken or planned by another agency;

"(IV) the material alteration of the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

"(V) disproportionate costs to a class of persons within the regulated sector, and relatively severe economic consequences for the class;

"(B) the term 'major rule' does not include—

"(i) a rule that involves the internal revenue laws of the United States; or

"(ii) a rule or agency action that authorizes the introduction into, or removal from, commerce, or recognizes the marketable status, of a product;

"(5) the term 'market-based mechanism' means a regulatory program that—

"(A) imposes legal accountability for the achievement of an explicit regulatory objective on each regulated person;

"(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, which flexibility shall, where feasible and appropriate, include, but not be limited to, the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

"(C) permits regulated persons to respond freely to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates;

"(6) the term 'performance-based standards' means requirements, expressed in terms of outcomes or goals rather than mandatory means of achieving outcomes or goals, that permit the regulated entity discretion to determine how best to meet specific requirements in particular circumstances;

"(7) the term 'reasonable alternatives' means the range of regulatory options that the agency has discretion to consider under the text of the statute granting rulemaking authority, interpreted, to the maximum extent possible, to embrace the broadest range of options that satisfy the decisional criteria of section 624(b); and

"(8) the term 'rule' has the same meaning as in section 551(4), and—

"(A) includes any statement of general applicability that alters or creates rights or obligations of persons outside the agency; and

"(B) does not include—

"(i) a rule of particular applicability that approves or prescribes the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

"(ii) a rule relating to monetary policy or to the safety or soundness of Federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956), credit unions, Federal Home Loan Banks, government sponsored housing enterprises, farm credit institutions, foreign banks that operate in the United States and their affiliates, branches, agencies, commercial lending companies, or representative offices, (as those terms are defined in section 1 of the International Banking Act of 1978); or

"(iii) a rule relating to the payment system or the protection of deposit insurance funds or the farm credit insurance fund.

"§622. Rulemaking cost-benefit analysis

"(a) Prior to publishing notice of a proposed rulemaking for any rule (or, in the case of a notice of a proposed rulemaking that has been

published on or before the date of enactment of this subchapter, not later than 30 days after such date of enactment), each agency shall determine whether the rule is or is not a major rule within the meaning of section 621(4)(A)(i) and, if it is not, whether it should be designated a major rule under section 621(4)(A)(ii). For the purpose of any such determination or designation, a group of closely related rules shall be considered as one rule.

''(b)(1) If an agency has determined that a rule is not a major rule within the meaning of section 621(4)(A)(i) and has not designated the rule a major rule within the meaning of section 621(4)(A)(ii), the Director or a designee of the President may, as appropriate, determine that the rule is a major rule or designate the rule a major rule not later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the date of enactment of this subchapter, not later than 60 days after such date of enactment).

''(2) Such determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation.

''(c)(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking file an initial cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

''(B)(i) When the Director or a designee of the President has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

''(ii) Following the issuance of an initial cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment in the same manner as if the initial cost-benefit analysis had been issued with the notice of proposed rulemaking.

''(2) Each initial cost-benefit analysis shall contain—

''(A) an analysis of the benefits of the proposed rule, and an explanation of how the agency anticipates each benefit will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

''(B) an analysis of the costs of the proposed rule, and an explanation of how the agency anticipates each such cost will result from the proposed rule, including a description of the persons or groups of persons likely to bear such costs;

''(C) an identification (including an analysis of the costs and benefits) of reasonable alternatives that the agency has discretion to adopt under the decisional criteria of the statute granting the rulemaking authority, as supplemented by the decisional criteria in section 624, for achieving identified benefits, including, where appropriate, alternatives that—

''(i) require no government action;

''(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply; and

''(iii) employ voluntary or performance-based standards, market-based mechanisms, or other flexible regulatory alternatives that permit the greatest flexibility in achieving the identified benefits of the proposed rule;

''(D) an assessment of the feasibility of establishing a regulatory program that operates through the application of voluntary programs, voluntary consensus standards, performance-based standards, market-based mechanisms, or other flexible regulatory alternatives;

''(E) in any case in which the proposed rule is based on one or more scientific evaluations, scientific information, or a risk assessment, or is subject to the risk assessment requirements of subchapter III, a description of the actions undertaken by the agency to verify the quality, reliability, and relevance of such scientific evaluations or scientific information in accordance with the requirements of subchapter III;

''(F) an analysis, to the extent practicable, of the effect of the rule on—

''(i) the cumulative burden of compliance with the rule and other existing regulations on persons complying with it; and

''(ii) the net effect on small businesses with fewer than 100 employees, including employment in such businesses;

''(G) an analysis of whether the identified benefits of the proposed rule justify the identified costs of the proposed rule, and an analysis of whether the proposed rule will achieve greater net benefits or, where applicable, lower net costs, than any of the alternatives to the proposed rule, including alternatives identified in accordance with subparagraphs (C) and (D).

''(d)(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking file a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

''(2) Each final cost-benefit analysis shall contain—

''(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking, including the flexible regulatory alternatives identified pursuant to subsection (c)(2) (C) and (D); and

''(B) an analysis, based upon the rulemaking record considered as a whole, of—

''(i) whether the benefits of the rule justify the costs of the rule; and

''(ii) whether the rule will achieve greater net benefits or, where section 624(c) applies, lower net costs, than any of the reasonable alternatives that the agency has discretion to adopt under the decisional criteria of the statute granting the rulemaking authority, as supplemented by the decisional criteria in section 624, for achieving identified benefits, including, where appropriate, alternatives referred to in subsection (c)(2) (C) and (D).

''(e)(1)(A) The analysis of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs. Such quantification or numerical estimate shall be made in the most appropriate unit of measurement, using comparable assumptions, including time periods, shall specify the ranges of predictions, and shall explain the margins of error involved in the quantification methods and in the estimates used. An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible. An agency shall not be required to make such evaluation primarily on a mathematical or numerical basis.

''(B) Where practicable and appropriate, the description of the benefits and costs of a proposed and final rule required under this section shall describe such benefits and costs on an industry by industry basis.

''(2)(A) In evaluating and comparing costs and benefits and in evaluating the risk assessment information developed pursuant to subchapter III, the agency shall not rely on cost, benefit, or risk assessment information that is not accompanied by relevant information that would enable the agency and other persons interested in the rulemaking to assess the accuracy, reliability, and uncertainty factors applicable to such information.

''(B) The agency evaluations of the relationships of the benefits of a proposed and final rule to its costs shall be clearly articulated in accordance with this section.

''(f) The preparation of the initial or final cost-benefit analysis required by this section shall only be performed by an officer or employee of the agency. The preceding sentence shall not preclude a person outside the agency from gathering data or information to be used by the agency in preparing any such cost-benefit analysis or from providing an explanation sufficient to permit the agency to analyze such data or information. If any such data or information is gathered or explained by a person outside the agency, the agency shall specifically identify in the initial or final cost-benefit analysis the data or information gathered or explained and the person who gathered or explained it, and shall describe the arrangement by which the information was procured by the agency, including the total amount of funds expended for such procurement.

''§623. Petition for cost-benefit analysis

''(a)(1) Any person subject to a major rule may petition the relevant agency, the Director, or a designee of the President to perform a cost-benefit analysis under this subchapter for the major rule, including a major rule in effect on the date of enactment of this subchapter for which a cost-benefit analysis pursuant to such subchapter has not been performed, regardless of whether a cost-benefit analysis was previously performed to meet requirements imposed before the date of enactment of this subchapter.

''(2) The petition shall identify with reasonable specificity the major rule to be reviewed and the amendment or repeal requested.

''(3) The agency, the Director, or a designee of the President shall grant the petition if the petition shows that there is a reasonable likelihood that, considering the future impact of the rule—

''(A) the rule is a major rule; and

''(B) the proposed amendment or repeal of the rule is required to satisfy the decisional criteria of section 624.

''(4) A decision to grant, or final agency action to deny, a petition under this subsection shall be made not later than 180 days after submittal.

''(5) Following a decision to grant or deny a petition to conduct a cost-benefit analysis for a rule under this subsection, no further petition for such rule, submitted by the same person, shall be considered by any agency, the Director, or a designee of the President, unless such petition is based on a change in a fact, circumstance, or provision of law underlying or otherwise related to the rule occurring since the initial petition was granted or denied, that warrants the amendment or repeal of the rule.

''(b) Not later than 1 year after the date on which a petition has been granted for a major rule under subsection (a), the agency shall conduct a cost-benefit analysis in accordance with this subchapter, and shall propose amendments to, or repeal of, the rule if required by the decisional criteria set forth in section 624.

''(c) For purposes of this section, the term 'major rule' means any major rule or portion thereof.

''(d)(1) Any person may petition the relevant agency to withdraw, as contrary to this subchapter, any agency interpretive rule, guidance, or general statement of policy that would have the effect of a major rule if the interpretive rule, guidance, or general statement of policy had been adopted as a rule.

''(2) The petition shall identify with reasonable specificity why the interpretive rule, guidance, or general statement of policy would have the effect of a major rule if adopted as a rule.

"(3) The agency shall grant the petition if the petition shows that there is a reasonable likelihood that the guidance or general statement of policy would have the effect of a major rule if adopted as a rule.

"(4) A decision to grant, or final agency action to deny, a petition under this subsection shall be made not later than 180 days after the petition is submitted.

"(e) For each interpretative rule, guidance, or general statement of policy for which a petition has been granted under subsection (d), the agency shall—

"(1) immediately withdraw the interpretive rule, guidance, or general statement of policy; or

"(2) within one year, propose a rule in compliance with this subchapter incorporating, with such modifications as the agency considers appropriate, the regulatory standards or criteria contained in such interpretive rule, general statement of policy, or guidance.

"(f) Upon withdrawing an interpretive rule, guidance, or general statement of policy, or where such interpretive rule, guidance, or general statement of policy is not withdrawn and a final rule is not promulgated within 2 years of granting a petition under subsection (d), the agency shall be prohibited from enforcing against any person the regulatory standards or criteria contained in such interpretive rule, guidance, or general statement of policy, unless and until they are included in a rule promulgated in accordance with this subchapter.

"(g)(1) Any person subject to a major rule may petition the relevant agency to modify or waive the specific requirements of the major rule and to authorize such person to demonstrate compliance through alternative means not otherwise permitted by the major rule. The petition shall identify with reasonable specificity the requirements for which the waiver is sought and the alternative means of compliance being proposed.

"(2) The agency shall grant the petition if the petition shows that there is a reasonable likelihood that the proposed alternative means of compliance would achieve the specific benefits of the major rule with an equivalent or greater level of protection of health, safety, and the environment than would be provided by the major rule, and would not impose an undue burden on the agency that would be responsible for enforcing such alternative means of compliance.

"(3) Following a decision to grant or deny a petition under this subsection, no further petition for such rule, submitted by the same person, shall be considered by any agency unless such petition is based on a change in a fact, circumstance, or provision of law underlying or otherwise related to the rule occurring since the initial petition was granted or denied, that warrants the granting of such further petition.

"§624. Decisional criteria

"(a) The requirements of this section shall supplement any other decisional criteria otherwise provided by law.

"(b) Subject to subsection (c), no final rule subject to this subchapter shall be promulgated unless the agency finds that—

"(1) the potential benefits from the rule justify the potential costs of the rule; and

"(2) the rule will produce the most cost-effective result of any of the reasonable alternatives that the agency has discretion to adopt under the decisional criteria of the statute granting the rulemaking authority.

"(c) If a statute requires or permits that a rule be promulgated and that rule cannot, applying the express decisional criteria in the statute, satisfy the criteria provided in subsection (b), the agency shall not promulgate the rule unless the rule imposes—

"(1) lower costs than any of the reasonable alternatives; or

"(2) the least costs taking into account benefits that the agency has discretion to adopt under the decisional criteria of the statute granting the rulemaking authority.

"(d) If an agency promulgates a rule that is subject to subsection (c), the agency shall prepare a written explanation of why the agency was required to promulgate a rule with potential costs that were not justified by the potential benefits and shall transmit that explanation along with the final cost-benefit analysis to Congress when the final rule is promulgated.

"§625. Judicial review

"(a) Each court with jurisdiction to review final agency action under the statute granting the agency authority to conduct the rulemaking shall have jurisdiction to review final agency action under this subchapter.

"(b)(1) Any cost-benefit analysis of, or risk assessment concerning, a rule shall constitute part of the whole rulemaking record of agency action for the purpose of judicial review and shall be considered by a court in determining the legality of the agency action, but only to the extent that it relates to the agency's decisional responsibilities under section 624 or the statute granting the agency authority to take the agency action.

"(2) No analysis required by this subchapter shall be subject to judicial review separate or apart from judicial review of the agency action to which it relates.

"(3) The court shall apply the same standards of judicial review that govern the review of agency findings under the statute granting the agency authority to take the action.

"(4) The court shall set aside agency action that fails to satisfy the decisional criteria of section 624, applying the applicable judicial review standards.

"§626. Deadlines for rulemaking

"(a) Beginning on the date of enactment of this section, all deadlines in statutes that require agencies to propose or promulgate any rule subject to this subchapter shall be suspended until such time as the requirements of this subchapter are satisfied.

"(b) Beginning on the date of enactment of this section, the jurisdiction of any court of the United States to enforce any deadline that would require an agency to propose or promulgate a rule subject to this chapter shall be suspended until such time as the requirements of this subchapter are satisfied.

"(c) In any case in which the failure to promulgate a rule by a deadline would create an obligation to regulate through individual adjudications by another deadline, the deadline for such regulation shall be suspended to allow the requirements of this subchapter to be satisfied.

"§627. Agency review of rules

"(a)(1)(A) Not later than 9 months after the date of enactment of this section, each agency shall prepare and publish in the Federal Register a proposed schedule for the review, in accordance with this section, of—

"(i) each rule of the agency that is in effect on such effective date and which, considering its future impact, would be a major rule under this subchapter;

"(ii) each rule of the agency that is inconsistent or incompatible with, or duplicative of, any other obligation or requirement established by any Federal statute, rule, or other agency statement, interpretation, or action that has the force of law; and

"(iii) each rule of the agency in effect on the date of enactment of this section (in addition to the rules described in clauses (i) and (ii)) that the agency has selected for review.

"(B) Each proposed schedule required by subparagraph (A) shall include—

"(i) a brief explanation of the reasons the agency considers each rule on the schedule to be a major rule under section 621(4)(A), or the reasons why the agency selected the rule for review;

"(ii) a date set by the agency, in accordance with subsection (b)(1), for the completion of the review of each such rule; and

"(iii) a statement that the agency requests comments from the public on the proposed schedule.

"(C) The agency shall set a date to initiate review of each rule on the schedule in a manner that will ensure the simultaneous review of related items and that will achieve a reasonable distribution of reviews over the period of time covered by the schedule.

"(2) Not later than 90 days before publishing in the Federal Register the proposed schedule required under paragraph (1), each agency shall make the proposed schedule available to the Director or a designee of the President, or to the Vice President or other officer to whom oversight authority has been delegated under section 643. The President or that officer may select for review in accordance with this section any additional rule.

"(3) Not later than 1 year after the date of enactment of this section, each agency shall publish in the Federal Register a final schedule for the review of the rules referred to in paragraphs (1) and (2). Each agency shall publish with the final schedule the response of the agency to comments received concerning the proposed schedule.

"(b)(1) Except as explicitly provided otherwise by statute, the agency shall, pursuant to subsections (c) through (e), review—

"(A) each rule on the schedule promulgated pursuant to subsection (a);

"(B) each major rule under section 621(4) promulgated, amended, or otherwise renewed by an agency after the date of the enactment of this section; and

"(C) each rule promulgated after the date of enactment of this section that the President or the officer designated by the President selects for review pursuant to subsection (a)(2).

"(2) Except as provided in subsection (f)—

"(A) in the case of a regulation that takes effect after the date of enactment of this section, the regulation shall terminate on the date that is 5 years after the date on which the regulation takes effect, unless the review required by this section has been completed by the date that is 5 years after the date on which the regulation takes effect; and

"(B) in the case of a regulation in effect on the date of enactment of this section, the regulation shall terminate on the date that is 7 years after the date of enactment of the Regulatory Reform Act of 1995, unless the review required by this section has been completed by the date that is 7 years after the date of enactment of the Regulatory Reform Act of 1995.

"(c) An agency shall publish in the Federal Register a notice of its proposed action under this section with respect to a rule being reviewed. The notice shall include—

"(1) an identification of the specific statutory authority under which the rule was promulgated and an explanation of whether the agency's interpretation of the statute is expressly required by the current text of that statute or, if not, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and an explanation why the interpretation selected by the agency is the agency's preferred interpretation;

"(2) an analysis of the benefits and costs of the rule during the period in which it has been in effect;

"(3) an explanation of the proposed agency action with respect to the rule, including action to repeal or amend the rule to resolve inconsistencies or conflicts with any other obligation or

requirement established by any Federal statute, rule, or other agency statement, interpretation, or action that has the force of law; and

"(4) a statement that the agency seeks proposals from the public for modifications or alternatives to the rule which may accomplish the objectives of the rule in a more effective or less burdensome manner.

"(d) If an agency proposes to repeal or amend a rule under review pursuant to this section, the agency shall, after issuing the notice required by subsection (c), comply with the provisions of this chapter, chapter 5, and any other applicable law. The requirements of such provisions and related requirements shall apply to the same extent and in the same manner as in the case of a proposed agency action to repeal or amend a rule that is not taken pursuant to the review required by this section.

"(e) If an agency proposes to renew without amendment a rule under review pursuant to this section, the agency shall—

"(1) give interested persons not less than 60 days after the publication of the notice required by subsection (c) to comment on the proposed renewal; and

"(2) publish in the Federal Register notice of the renewal of such rule, an explanation of the continued need for the rule, and, if the renewed rule is a major rule under section 621(4), an explanation of how the rule complies with section 624.

"(f) Any agency, which for good cause finds that compliance with this section with respect to a particular rule during the period provided in subsection (b) is contrary to an important public interest, may request the President, or an officer designated by the President, to establish a period longer than 5 years, in the case of a regulation that takes effect after the date of enactment of this section, or 7 years, in the case of a regulation in effect on the date of enactment of this section, for the completion of the review of such rule. The President or that officer may extend the period for review of a rule to a total period of not more than 10 years. Such extension shall be published in the Federal Register with an explanation of the reasons therefor.

"(g) In any case in which an agency has not completed the review of a rule within the period prescribed by subsection (b) or (f) of this section, the agency shall immediately publish in the Federal Register a notice proposing to issue the rule under subsection (c), and shall complete proceedings pursuant to subsection (d) or (e) not later than 180 days after the date on which the review was required to be completed under subsection (b) or (f).

"(h) Nothing in this section shall relieve any agency from its obligation to respond to a petition to issue, amend, or repeal a rule, for an interpretation regarding the meaning of a rule, or for a variance or exemption from the terms of a rule, submitted pursuant to any other provision of law.

"§628. Special rule

"Notwithstanding any other provision of the Comprehensive Regulatory Reform Act of 1995, or the amendments made by such Act, for purposes of this subchapter and subchapter IV, the head of each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act), the National Credit Union Administration, the Federal Housing Finance Board, the Office of Federal Housing Enterprise Oversight, and the Farm Credit Administration, shall have authority with respect to such agency that otherwise would be provided under such subchapters to the Director, a designee of the President, Vice President, or any officer designated or delegated with authority under such subchapters.

"SUBCHAPTER III—RISK ASSESSMENTS

"§631. Definitions

"For purposes of this subchapter—

"(1) the term 'benefit' has the meaning given such term in section 621(1);

"(2) the term 'best estimate' means an estimate that, to the extent feasible and scientifically appropriate, is based on—

"(A) central estimates of risk using the most plausible and realistic assumptions;

"(B) an approach that combines multiple estimates based on different scenarios and weighs the probability of each scenario; and

"(C) any other methodology designed to provide the most plausible and realistic level of risk, given the current scientific information available to the agency concerned;

"(3) the term 'cost' has the meaning given such term in section 621(2);

"(4) the term 'cost-benefit analysis' has the meaning given such term in section 621(3);

"(5) the term 'emergency' means an actual, immediate, and substantial endangerment to health, safety, or the human environment;

"(6) the term 'hazard identification' means identification of a substance, activity, or condition that may cause to health, safety, or the environment based on empirical data, measurements, or testing showing that it has caused significant adverse effects at some levels of dose or exposure combined degree of toxicity and actual exposure, or other risk the hazards pose for individuals, populations, or natural resources; and

"(7) the term 'major cleanup plan' means any proposed or final environmental cleanup plan for a facility, or Federal guidelines for the issuance of any such plan, the expected costs, expenses, and damages of which are likely to exceed, in the aggregate, $10,000,000, including a corrective action requirement under the Solid Waste Disposal Act (notwithstanding section 4(b)(1)(C) of such Act, but only to the extent of such requirement), a removal or remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and any other environmental restoration or damage assessment carried out by, on behalf of, or as required or ordered by, an agency or Federal court, or pursuant to the authority of a Federal statute with respect to any substance;

"(8) the term 'major rule' has the meaning given such term in section 621(4);

"(9) the term 'negative data' means data that fail to show that a given substance or activity induces an adverse effect under certain conditions;

"(10) the term 'risk assessment' means—

"(A) the process of identifying hazards, and of quantifying (to the maximum extent practicable) or describing the combined degree of toxicity and actual exposure, or other risk the hazards pose for individuals, populations, or natural resources; and

"(B) the document containing the explanation of how the assessment process has been applied to an individual substance, activity, or condition;

"(11) the term 'risk characterization'—

"(A) means the element of a risk assessment that involves presentation of the degree of risk to individuals and populations expected to be protected, as presented in any regulatory proposal or decision, report to Congress, or other document that is made available to the public; and

"(B) may include discussions of uncertainties, conflicting data, estimates, extrapolations, inferences, and opinions, as appropriate;

"(12) the term 'rule' has the meaning given such term in section 621(7); and

"(13) the term 'substitution risk' means a potential increased risk to health, safety, or the environment resulting from market substitutions, a reduced standard of living, or a regulatory alternative designed to decrease other risks.

"§632. Applicability

"(a) Except as provided in subsection (b), this subchapter shall apply to all risk assessments and risk characterizations prepared by, or on behalf of, or prepared by others and adopted by, any agency in connection with health, safety, and environmental risks.

"(b)(1) This subchapter shall not apply to risk assessments or risk characterizations performed with respect to—

"(A) a situation that the head of the agency finds to be an emergency;

"(B) a rule or agency action that authorizes the introduction into or removal from commerce, or initiation of manufacture, of a substance, mixture, or product, or recognizes the marketable status of a product;

"(C) a health, safety, or environmental inspection, compliance or enforcement action, or individual facility permitting action; or

"(D) a screening analysis clearly identified as such.

"(2)(A) An analysis shall not be treated as a screening analysis for the purposes of paragraph (1)(D) if the result of the analysis is used—

"(i) as the basis for imposing a restriction on a previously authorized substance, product, or activity after its initial introduction into manufacture or commerce; or

"(ii) to characterize a finding of risk from a substance or activity in any agency document or other communication made available to the public, the media, or Congress.

"(B) Among the analyses that may be treated as a screening analyses for the purposes of paragraph (1)(D) are product registrations, reregistrations, tolerance settings, and reviews of premanufacture notices under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) and the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

"(3) This subchapter shall not apply to any food, drug, or other product label or to any risk characterization appearing on any such label.

"§633. Principles for risk assessment

"(a)(1) The head of each agency shall apply the principles set forth in subsection (b) when preparing any risk assessment for a major rule to ensure that the risk assessment and all of its components—

"(A) distinguish scientific findings and best estimates of risk from other considerations;

"(B) are, to the maximum extent practicable, scientifically objective, plausible, and realistic, and inclusive of all relevant data;

"(C) rely, to the extent available and practicable, on scientific findings; and

"(D) use situation- or decision-specific information to the maximum extent practicable.

"(2) An agency shall not be required to repeat discussions or explanations required under this section in each risk assessment document if there is an unambiguous reference to the relevant discussion or explanation in another reasonably available agency document that was prepared in accordance with this subchapter.

"(b) The principles to be applied when preparing risk assessments are as follows:

"(1)(A) When assessing human health risks, a risk assessment shall consider and discuss both the most important laboratory and epidemiological data, including negative data, and summarize the remaining data that finds, or fails to find, a correlation between a health risk and a substance or activity.

"(B) When conflicts among such data appear to exist, or when animal data are used as a basis to assess human health, the assessment shall include a discussion of possible reconciliation of

conflicting information. Greatest emphasis shall be placed on data that indicates the biological basis of the resulting harm in humans. Animal data shall be reviewed with regard to relevancy to humans.

"(2) When a risk assessment involves a choice of any significant assumption (including the use of safety factors and default assumptions), inference, or model, the agencies or instrumentality preparing the assessment shall—

"(A) present a representative description and explicit explanation of plausible and alternative similar assumptions, inferences, or models (including the assumptions incorporated into the model) and the sensitivity of the conclusions to them;

"(B) give preference to the model, assumption, input parameter that represents the most plausible or realistic inference from supporting scientific information;

"(C) identify any science policy or value judgments and employ those judgments only where the policy determination has been approved by the head of the agency, after notice and opportunity for public involvement, as appropriate for the circumstance under consideration;

"(D) describe any model used in the risk-assessment and make explicit the assumptions incorporated into the model; and

"(E) indicate the extent to which any significant model has been validated by, or conflicts with, empirical data.

"(3) Risk assessments that provide a quantification or numerical output shall be calculated using the best estimate for each input parameter and shall use, as available, probabilistic descriptions of the uncertainty and variability associated with each input parameter.

"(4) A risk assessment shall clearly separate hazard identification from risk characterization and make clear the relationship between the level of risk and the level of exposure to a potential hazard.

"(5) A risk assessment shall be prepared at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition.

"(6) Where relevant, practicable, and appropriate, data shall be developed consistent with standards for the development of test data promulgated pursuant to section 4 of the Toxic Substances Control Act, and standards for data requirements promulgated pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act.

"(c)(1) The head of each agency shall promote early involvement by all stakeholders in the development of risk assessments that may support or affect agency rules, guidance, and other significant actions, by publishing as part of its semiannual regulatory agenda, required under section 602—

"(A) a list of risk assessments and supporting assessments, including hazard, dose or exposure assessments, under preparation or planned by the agency;

"(B) a brief summary of relevant issues addressed or to be addressed by each listed risk assessment or supporting assessment;

"(C) an approximate schedule for completing each listed risk assessment and supporting assessment;

"(D) an identification of potential rules, guidance, or other agency actions supported or affected by each listed risk assessment and supporting assessment; and

"(E) the name, address, and telephone number of an agency official knowledgeable about each listed risk assessment and supporting assessment.

"(2)(A) The head of each agency shall provide an opportunity for meaningful public participation and comment on any risk assessment throughout the regulatory process commensurate with the consequences of the decision to be made.

"(B) In cases where the risk assessment will support a major rule, the agency shall publish, at the earliest opportunity in the process, an advanced notice of relevant risk assessment related information that includes, at a minimum, an identification of—

"(i) all relevant hazard, dose, exposure, and other risk related documents that the agency plans to consider;

"(ii) all risk related guidance that the agency considers relevant;

"(iii) all hazard, dose, exposure, and other risk assumptions on which the agency plans to relay and the bases therefor; and

"(iv) all data and information deficiencies that could affect agency decisionmaking.

"(d)(1) No agency shall automatically incorporate or adopt any recommendation or classification made by an entity described in paragraph (2) concerning the health effects or value of a substance without an opportunity for notice and comment. Any risk assessment or risk characterization document adopted by an agency on the basis of such a recommendation or classification shall comply with this title.

"(2) An entity referred to in paragraph (1) includes—

"(A) any foreign government and its agencies;

"(B) the United Nations or any of its subsidiary organizations;

"(C) any international governmental body or standards-making organization; and

"(D) any other organization or private entity without that does not have a place of business located in the United States or its territories.

"§634. Principles for risk characterization and communication

"In characterizing risk in any risk assessment document, regulatory proposal or decision, report to Congress, or other document relating in each case to a major rule that is made available to the public, each agency characterizing the risk shall comply with each of the following:

"(1) The head of the agency shall describe the exposure scenarios used in any risk assessment, and, to the extent feasible, provide an estimate of the size of the corresponding population or natural resource at risk and the likelihood of such exposure scenarios.

"(2) If a numerical estimate of risk is provided, the head of the agency, to the extent feasible and scientifically appropriate, shall provide—

"(A) the range and distribution of exposures derived from exposure scenarios used in a risk assessment, including, where appropriate, central and high-end estimates, but always including a best estimate of the risk to the general population;

"(B) the range and distribution of risk estimates, including best estimates and, where quantitative estimates of the range of distribution of risk estimates are not possible, a list of qualitative factors influencing the range of possible risks; and

"(C) a statement of the major sources of uncertainties in the hazard identification, dose-response, and exposure assessment phases of risk assessment and their influence on the results of the assessment.

"(3) To the extent feasible, the head of the agency shall provide a statement that places the nature and magnitude of individual and population risks to human health in context.

"(4) When a Federal agency provides a risk assessment or risk characterization for a proposed or final regulatory action, such assessment or characterization shall include a statement of any significant substitution risks to human health identified by the agency or contained in information provided to the agency by a commentator.

"(5) An agency shall present a summary in connection with the presentation of the agency's risk assessment or the regulation if—

"(A) the agency provides a public comment period with respect to a risk assessment or regulation;

"(B) a commentator provides a risk assessment, and a summary of results of such risk assessment; and

"(C) such risk assessment is reasonably consistent with the principles and the guidance provided under this subtitle.

"§635. Requirement to prepare assessment

"(a) Except as provided in section 632 and in addition to any requirements applicable under subchapter II, the head of each agency shall prepare—

"(1) for each major rule relating to health, safety, or the environment, and for each major cleanup plan, that is proposed by the agency after the date of enactment of this subchapter, is pending on the date of enactment of this subchapter, or is subject to a granted petition for review pursuant to section 553(e) or 623, a risk assessment in accordance with this subchapter;

"(2) for each such proposed or final plan, and each reasonable alternative within the statutory authority of the agency taking action, a cost-benefit analysis equivalent to that which would be required under subchapter II if subchapter II were applicable; and

"(3) for each such proposed or final plan, quantified to the extent feasible, a comparison of any health, safety, or environmental risks addressed by the regulatory alternatives to other relevant risks chosen by the head of the agency, including at least 3 other risks regulated by the agency and to at least 3 other risks with which the public is familiar.

"(b) A major cleanup plan is subject to this subchapter if—

"(1) construction has not commenced on a significant portion of the work required by the plan; or

"(2) if construction has commenced on a significant portion of the work required by the plan, unless—

"(A) it is more cost-effective to complete construction of the work than to apply the provisions of this subchapter; or

"(B) the application of the provisions of this subchapter, including any delays caused thereby, will result in an actual and immediate risk to human health or welfare.

"(c) A risk assessment prepared pursuant to this subchapter shall be a component of and used to develop any cost-benefit analysis required by this subchapter or subchapter II, and shall, along with any cost-benefit analysis required by this subchapter, be made part of the administrative record for judicial review of any final agency action.

"§636. Requirements for assessments

"(a) The head of the agency, subject to review by the Director or a designee of the President, shall make a determination that, notwithstanding any other provision of law—

"(1) for each major rule and major cleanup plan subject to this subchapter, the risk assessment required under section 635 is based on a scientific, plausible, and realistic evaluation, reflecting reasonable exposure scenarios, of the risk addressed by the major rule and is supported by the best available scientific data, as determined by a peer review panel in accordance with section 640; and

"(2) for each major cleanup plan subject to this subchapter, the plan has benefits that justify its costs and that there is no alternative that is allowed by the statute under which the plan is promulgated that would provide greater

net benefits or that would achieve an equivalent reduction in risk in a more cost-effective and flexible manner.

"(b) Notwithstanding any other provision of law, no agency shall prohibit or refuse to approve a substance or product on the basis of safety where the substance or product presents a negligible or insignificant human risk under the intended conditions of use.

"(c) Notwithstanding any other provision of law, issuance of a record of decision or a final permit condition or administrative order containing a major cleanup plan, or denial of, or completion of agency review pursuant to, a petition for review of a major cleanup plan under section 637(c), shall constitute final agency action subject to judicial review at the time this action is taken.

"§637. Regulations; plan for assessing new information

"(a)(1) Not later than 1 year after the date of enactment of this subchapter, the Director or a designee of the President shall—

"(A) issue a final regulation that has been subject to notice and comment under section 553 that directs agencies to implement the risk assessment and risk characterization principles set forth in sections 633 and 634; and

"(B) provide a format for summarizing risk assessment results.

"(2) The regulation under paragraph (1) shall be sufficiently specific to ensure that risk assessments are conducted consistently by the various agencies.

"(b) Review of a risk assessment or any entry (or the evaluation underlying the entry) on an agency-developed database (including, but not limited to, the Integrated Risk Information System), shall be conducted by the head of the agency on the written petition of a person showing a reasonable likelihood that—

"(1) the risk assessment or entry is inconsistent with the principles set forth in sections 633 and 634;

"(2) the risk assessment or entry contains different results than if it had been properly conducted under sections 633 and 634;

"(3) the risk assessment or entry is inconsistent with a rule issued under subsection (a); or

"(4) the risk assessment or entry does not take into account material significant new scientific data or scientific understanding.

"(c) Review of a risk assessment, a cost-benefit analysis, or both, for a major cleanup plan shall be conducted by the head of the agency on the written petition of a person showing a reasonable likelihood that—

"(1) the risk assessment warrants revision under any of the criteria set forth in subsection (b); or

"(2) the cost-benefit analysis warrants revision under any of the criteria set forth in section 624.

"(d)(1) Not later than 90 days after receiving a petition under subsection (b), the head of the agency shall respond to the petition by agreeing or declining to review the risk entry, the cost-benefit analysis, or both, referred to in the petition, and shall state the basis for the decision.

"(2) If the head of the agency agrees to review the petition, the agency shall complete its review not later than 180 days after the decision made under paragraph (1), unless the Director agrees in writing with an agency determination that an extension is necessary in view of limitations on agency resources. Prior to completion of the agency review, the agency's written conclusions concerning the review shall be subjected to peer review pursuant to section 640.

"(3) A risk assessment review completed pursuant to a petition may be the basis for initiating a petition pursuant to any other provision of law.

"(4) Following a decision to grant or deny a petition under subsection (b) or (c), no further petition for such risk assessment, entry, or cost-benefit analysis, submitted by the same person, shall be considered by any agency unless such petition is based on a change in a fact, circumstance, or provision of law underlying or otherwise related to the matters covered by the initial petition, occurring since the initial petition was granted or denied, that warrants the granting of such further petition.

"(e) The regulations under this section shall be developed after notice and opportunity for public comment, and after consultation with representatives of appropriate State agencies and local governments, and such other departments, agencies, offices, organizations, or persons as may be advisable.

"(f) At least every 4 years, the Director or a designee of the President shall review, and when appropriate, revise, the regulations published under this section.

"§638. Rule of construction

"Nothing in this subchapter shall be construed to—

"(1) preclude the consideration of any data or the calculation of any estimate to more fully describe risk or provide examples of scientific uncertainty or variability; or

"(2) require the disclosure of any trade secret or other confidential information.

"§639. Regulatory priorities

"(a)(1) Not later than 180 days after the date of enactment of this section, the Director of the Office of Management and Budget, in consultation with the Office of Science and Technology Policy, shall enter into appropriate arrangements with an accredited scientific body to—

"(A) conduct a study of the methodologies for using comparative risk to rank dissimilar health, safety, and environmental risks; and

"(B) to conduct a comparative risk analysis in accordance with paragraph (2).

"(2) The study of the methodologies under paragraph (1)(A) shall be conducted as part of the first comparative risk analysis under paragraph (1)(B). The study shall—

"(A) seek to develop and rigorously test methods of comparative risk analysis;

"(B) have sufficient scope and breadth to test approaches for improving comparative risk analysis and its use in setting priorities for health, safety, and environmental risk prevention and reduction; and

"(C) review and evaluate the experience of States that have conducted comparative risk analyses.

"(3)(A) The comparative risk analysis under paragraph (1)(B) shall compare and rank, to the extent feasible, health, safety, and environmental risks potentially regulated across the spectrum of programs relating to health, safety, and the environment administered by the departments, agencies, and instrumentalities of the Federal Government.

"(B) In carrying out the comparative risk analysis under this paragraph, the Director shall ensure that—

"(i) the scope and specificity of the analysis are sufficient to provide the President and the heads of agencies guidance in allocating resources across agencies and among programs in agencies to achieve the greatest degree of risk prevention and reduction for the public and private resources expended;

"(ii) the analysis is conducted through an open process, by individuals with relevant expertise, including, as appropriate—

"(I) toxicologists;

"(II) biologists;

"(III) engineers; and

"(IV) experts in the fields of medicine, industrial hygiene, and environmental effects;

"(iii) the analysis is conducted, to the extent feasible, consistent with the risk assessment and risk characterization principles described in sections 633 and 634;

"(iv) the methodologies and principal scientific determinations made in the analysis are subjected to peer review under section 640 and the conclusions of the peer review are made publicly available as part of the final report;

"(v) there is an opportunity for public comments on the results of the analysis prior to making them final; and

"(vi) the results of the analysis are presented in a manner that distinguishes between the scientific conclusions and any policy or value judgments embodied in the comparisons.

"(4) The comparative risk analysis shall be completed, and a report submitted to Congress not later than 3 years after the date of enactment of this section. The analysis shall be reviewed and revised not less often than every 5 years thereafter for a minimum of 15 years following the release of the initial analysis.

"(b) Not later than 180 days after the date of enactment of this section, the Director of the Office of Management and Budget, in collaboration with the head of each Federal agency, shall enter into a contract with the National Research Council to provide technical guidance to the agencies on approaches to using comparative risk analysis in setting health, safety, and environmental priorities to assist the agencies in complying with subsection (c).

"(c)(1) In exercising authority under any laws protecting health, safety, or the environment, the head of an agency shall prioritize the use of the resources available under such laws to address the risks to health, safety, and the environment that—

"(A) the agency determines are the most serious; and

"(B) can be addressed in a cost-effective manner, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources to be expended.

"(2) In identifying the sources of the most serious risks under paragraph (1), the head of the agency shall consider, at a minimum—

"(A) the plausible likelihood and severity of the effect; and

"(B) the plausible number and groups of individuals potentially affected.

"(3) The head of the agency shall incorporate the priorities identified in paragraph (1) into the budget, strategic planning, and research activities of the agency by, in the agency's annual budget request to Congress—

"(A) identifying which risks the agency has determined are the most serious and can be addressed in a cost-effective manner under paragraph (1), and the basis for that determination;

"(B) explicitly identifying how the agency's requested funds will be used to address those risks;

"(C) identifying any statutory, regulatory, or administrative obstacles to allocating agency resources in accordance with the priorities established under paragraph (1); and

"(D) explicitly considering the requirements of paragraph (1) when preparing the agency's regulatory agenda or other strategic plan, and providing an explanation of how the agenda or plan reflects those requirements and the comparative risk analysis when publishing any such agenda or strategic plan.

"(4) In March of each year, the head of each agency shall submit to Congress specific recommendations for repealing or modifying laws that would better enable the agency to prioritize its activities to address the risks to health, safety, and the environment that are the most serious and can be addressed in a cost-effective manner consistent with the requirements of paragraph (1).

"§640. Establishment of program

"(a) The Director of the Office of Science and Technology or the Director, as appropriate,

shall develop a systematic program for the peer review of work products covered by subsection (c), which program shall be used, in as uniform a manner as is practicable, across the agencies.

"(b) The program under subsection (a)—

"(1) shall provide for the creation of peer review panels consisting of independent and external experts who are broadly representative and balanced to the extent feasible;

"(2) shall not exclude peer reviewers merely because they represent entities that may have a potential interest in the outcome, if that interest is fully disclosed;

"(3) shall exclude experts who were associated with the generation of the specific work product either directly by substantial contribution to its development, or indirectly by consultation and development of the specific product;

"(4) shall provide for differing levels of peer review depending on the significance or complexity of the issue or the need for expedition;

"(5) shall contain balanced presentations of all considerations, including minority reports and an agency response to all significant peer review comments; and

"(6) shall provide an opportunity for interested parties to submit issues for consideration by peer review panels.

"(c) Matters requiring peer review shall include—

"(1) risk assessments and cost-benefit analyses for major rules;

"(2) quantitative estimates of risk or hazard that are used in making regulatory determinations, including all entries into the Integrated Risk Information System;

"(3) risk assessment and risk characterization regulations and cost-benefit guidelines; and

"(4) any other significant or technical work product, as designated by the head of each agency, the Director of the Office of Science and Technology, or the Director.

"(d) All underlying data shall be submitted to peer reviewers, except to the extent necessary to protect confidential business information and trade secrets. To ensure such protections, the head of the agency may require that peer reviewers enter into confidentiality agreements.

"(e) The peer review and the agency's responses shall be made available to the public for comment and the final peer review and the agency's responses shall be made part of the administrative record for purposes of judicial review.

"(f) The proceedings of peer review panels under this section shall be subject to the applicable provisions of the Federal Advisory Committee Act.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"§641. Procedures

"(a) The Director or a designee of the President shall—

"(1) establish procedures for agency compliance with this chapter; and

"(2) monitor, review, and ensure agency implementation of such procedures.

"(b) Not later than 12 months after the date of enactment of this subchapter the Office of Management and Budget shall issue regulations to assist agencies in preparing the cost-benefit analyses required by this subchapter. The regulations shall—

"(1) ensure that cost and benefit evaluations are consistent with this subchapter and, to the extent feasible, represent realistic and plausible estimates;

"(2) be adopted following public notice and adequate opportunity for comment; and

"(3) be used consistently by all agencies covered by this subchapter.

"§642. Promulgation and adoption

"(a) Procedures established pursuant to section 641 shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

"(b)(1) If procedures established pursuant to section 641 include review of any initial or final analyses of a rule required under chapter 6, the time for any such review of any initial analysis shall not exceed 30 days following the receipt of the analysis by the Director, a designee of the President, or by an officer to whom the authority granted under section 641 has been delegated pursuant to section 643.

"(2) The time for review of any final analysis required under chapter 6 shall not exceed 30 days following the receipt of the analysis by the Director, a designee of the President, or such officer.

"(3)(A) The times for each such review may be extended for good cause by the President or such officer for an additional 30 days.

"(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

"§643. Delegation of authority

"(a) The President may delegate the authority granted by this subchapter to the Vice President or to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

"(b)(1) Notice of any delegation, or any revocation or modification thereof shall be published in the Federal Register.

"(2) Any notice with respect to a delegation to the Vice President shall contain a statement by the Vice President that the Vice President will make every reasonable effort to respond to congressional inquiries concerning the exercise of the authority delegated under this section.

"§644. Judicial review

"The exercise of the authority granted under this subchapter by the Director, the President, or by an officer to whom such authority has been delegated under section 643 shall not be subject to judicial review in any manner under this chapter.".

(b) REGULATORY FLEXIBILITY ANALYSIS.—

(1) JUDICIAL REVIEW.—Section 611 of title 5, United States Code, is amended to read as follows:

"§611. Judicial review

"(a)(1) Except as provided in paragraph (2), not later than 2 years after the effective date of a final rule with respect to which an agency—

"(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities;

"(B) prepared a final regulatory flexibility analysis pursuant to section 604; or

"(C) did not prepare an initial regulatory flexibility analysis pursuant to section 603 or a final regulatory flexibility analysis pursuant to section 604 except as permitted by sections 605 and 608,

an affected small entity may petition for the judicial review of such certification, analysis, or lack of analysis, in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 or under any other provision of law shall have jurisdiction to review such certification or analysis.

"(2)(A) Notwithstanding any other provision of law, an affected small entity shall have 2 years to challenge such certification, analysis or lack of analysis.

"(B) If an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection shall be filed not later than 2 years after the date the analysis is made available to the public.

"(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be adversely affected by the final rule.

"(4) Nothing in this subsection shall be construed to affect the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

"(5)(A) Notwithstanding section 605, if the court determines, on the basis of the rulemaking record, that there is substantial evidence to conclude that the rule would have a significant economic impact on a substantial number of small entities, the court shall order the agency to prepare a final regulatory flexibility analysis pursuant to section 604.

"(B) If the agency prepared a final regulatory flexibility analysis, the court may order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the rulemaking record, that the final regulatory flexibility analysis was prepared by the agency without complying with section 604.

"(6) The court may stay the rule or grant such other relief as it deems appropriate if, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5) (or such longer period as the court may provide), the agency fails, as appropriate—

"(A) to prepare the analysis required by section 604; or

"(B) to take corrective action consistent with section 604.

"(7) In making any determination or granting any relief authorized by this subsection, the court shall take due account of the rule of prejudicial error.

"(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

"(c) Nothing in this section bars judicial review of any other impact statement or similar analysis required by any other law if judicial review of such statement or analysis is otherwise provided by law.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect on the date of enactment of this Act, except that the judicial review authorized by section 611(a) of title 5, United States Code (as added by subsection (a)), shall apply only to final agency rules issued after the date of enactment of this Act.

(c) PRESIDENTIAL AUTHORITY.—Nothing in this Act shall limit the exercise by the President of the authority and responsibility that the President otherwise possesses under the Constitution and other laws of the United States with respect to regulatory policies, procedures, and programs of departments, agencies, and offices.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—Part I of title 5, United States Code, is amended by striking out the chapter heading and table of sections for chapter 6 and inserting in lieu thereof the following:

"CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

"SUBCHAPTER I—REGULATORY ANALYSIS

"Sec.
"601. Definitions.
"602. Regulatory agenda.
"603. Initial regulatory flexibility analysis.
"604. Final regulatory flexibility analysis.
"605. Avoidance of duplicative or unnecessary analyses.
"606. Effect on other law.
"607. Preparation of analysis.
"608. Procedure for waiver or delay of completion.
"609. Procedures for gathering comments.
"610. Periodic review of rules.
"611. Judicial review.
"612. Reports and intervention rights.

"SUBCHAPTER II—ANALYSIS OF AGENCY RULES

"621. Definitions.

"622. Rulemaking cost-benefit analysis.
"623. Petition for cost-benefit analysis.
"624. Decisional criteria.
"625. Judicial review.
"626. Deadlines for rulemaking.
"627. Agency review of rules.
"628. Special rule.

"SUBCHAPTER III—RISK ASSESSMENTS

"631. Definitions.
"632. Applicability.
"633. Principles for risk assessment.
"634. Principles for risk characterization and communication.
"635. Requirement to prepare risk assessment.
"636. Requirements for assessments.
"637. Regulations; plan for assessing new information.
"638. Rule of construction.
"639. Regulatory priorities.
"640. Establishment of program.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"641. Procedures.
"642. Promulgation and adoption.
"643. Delegation of authority.
"644. Judicial review.".

(2) SUBCHAPTER HEADING.—Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

"SUBCHAPTER I—REGULATORY ANALYSIS".

SEC. 5. JUDICIAL REVIEW.

(a) SCOPE OF REVIEW.—Section 706 of title 5, United States Code, is amended to read as follows:

"§706. Scope of review

"(a) To the extent necessary to reach a decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

"(1) compel agency action unlawfully withheld or unreasonably delayed; and

"(2) hold unlawful and set aside agency action, findings and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(D) without observance of procedure required by law;

"(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 or otherwise reviewed on the record of an agency hearing provided by statute;

"(F) without substantial support in the rulemaking file, viewed as a whole, for the asserted or necessary factual basis, as distinguished from the policy or legal basis, of a rule adopted in a proceeding subject to section 553; or

"(G) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

"(b) In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"(c) In reviewing an agency interpretation of a statute governing the authority for an agency action, including agency action taken pursuant to a statute that provides for review of final agency action, the reviewing court shall—

"(1) hold erroneous and unlawful—

"(A) an agency interpretation that is other than the interpretation of the statute clearly intended by Congress; or

"(B) an agency interpretation that is outside the range of permissible interpretations of the statute; and

"(2) hold arbitrary, capricious, or an abuse of discretion—

"(A) an agency action as to which the agency—

"(i) has improperly classified an interpretation as being within or outside the range of permissible interpretations; or

"(ii) has not explained in a reasoned analysis why it selected the interpretation and why it rejected other permissible interpretations of the statute; or

"(B) in the case of agency action subject to chapter 6, an interpretation that does not give the agency the broadest discretion to develop rules that will satisfy the decisional criteria of section 624.

"(d) Notwithstanding any other provision of law, the provisions of this subsection shall apply to, and supplement, the requirements contained in any statute for the review of final agency action which is not otherwise subject to this subsection.".

(b) COURT OF FEDERAL CLAIMS.—

(1) IN GENERAL.—Section 1491(a) of title 28, United States Code, is amended—

(A) in paragraph (1), by amending the first sentence to read as follows: "The United States Court of Federal Claims shall have jurisdiction to render judgment upon any claim against the United States for monetary relief founded either upon the Constitution or any Act of Congress or any regulation or action of an agency, or upon any expressed or implied contract with the United States, in cases not sounding in tort, or for invalidation of any Act of Congress or any regulation of an executive department that adversely affects private property rights in violation of the fifth amendment of the United States Constitution.";

(B) in paragraph (2), by inserting before the first sentence the following: "In any case within its jurisdiction, the Court of Federal Claims shall have the power to grant injunctive and declaratory relief when appropriate."; and

(C) by adding at the end the following new paragraphs:

"(4) In cases otherwise within its jurisdiction, the Court of Federal Claims shall also have ancillary jurisdiction, concurrent with the courts designated in section 1346(b), to render judgment upon any related tort claim authorized under section 2674.

"(5) In proceedings within the jurisdiction of the Court of Federal Claims which constitute judicial review of agency action (rather than de novo proceedings), the provisions of section 706 of title 5 shall apply.".

(2) PENDENCY OF CLAIMS IN OTHER COURTS.—Section 1500 of title 28, United States Code, is repealed.

(c) JUDICIAL PROCEEDINGS.—

(1) CONSENT DECREES.—Chapter 7 of title 5, United States Code, is amended by adding at the end the following new section:

"§707. Consent decrees

"In interpreting any consent decree in effect on or after the date of enactment of this section that imposes on an agency an obligation to initiate, continue, or complete rulemaking proceedings, the court shall not enforce the decree in a way that divests the agency of discretion granted to it by the Congress or the Constitution to respond to changing circumstances, make policy or managerial choices, or protect the rights of third parties.".

(2) AFFIRMATIVE DEFENSE.—Chapter 7 of title 5, United States Code, is further amended by adding at the end the following new section:

"§708. Affirmative defense

"Notwithstanding any other provision of law, it shall be an affirmative defense in any enforcement action brought by an agency that the regulated person or entity is complying with a rule, regulation, adjudication, directive, or order of such agency or any other agency that is inconsistent, incompatible, contradictory, or otherwise cannot be reconciled with the agency rule, regulation, adjudication, directive, or order being enforced.".

(3) AGENCY INTERPRETATIONS IN CIVIL AND CRIMINAL ACTIONS.—

(A) IN GENERAL.—Chapter 7 of title 5, United States Code, is further amended by adding at the end the following new section:

"§709. Agency interpretations in civil and criminal actions

"(a)(1) No civil or criminal penalty shall be imposed in any action brought in a Federal court, including an action pending on the date of enactment of this section, for the alleged violation of a rule, if the defendant, prior to the alleged violation—

"(A) reasonably determined, based upon a description, explanation, or interpretation of the rule contained in the rule's statement of basis and purpose, that the defendant was in compliance with, exempt from, or otherwise not subject to, the requirements of the rule; or

"(B) was informed by the agency that promulgated the rule, or by a State authority to which had been delegated the responsibility for ensuring compliance with the rule, that the defendant was in compliance with, exempt from, or otherwise not subject to, the requirements of the rule.

"(2) In determining, for purposes of paragraph (1)(A), whether a defendant reasonably relied upon a description, explanation, or interpretation of the rule contained in the rule's statement of basis and purpose, the court shall not give deference to any subsequent agency description, explanation, or interpretation of the rule relied on by the agency in the action that had not been published in the Federal Register or otherwise directly and specifically communicated to the defendant by the agency, or by a State authority to which had been delegated the responsibility for ensuring compliance with the rule, prior to the alleged violation.

"(b)(1) In a civil or criminal action in Federal court to redress an alleged violation of a rule, including an action pending on the date of enactment of this section, if the court determines that the rule in question is ambiguous, the court shall not give deference to an agency interpretation of the rule if the defendant relied upon an interpretation of the rule to the effect that the defendant was in compliance with or was exempt or otherwise not subject to the requirement of the rule, and the court determines that such determination is reasonable.

"(2) Without regard to whether the defendant relied upon an interpretation that the court determines is reasonable under paragraph (1), if the court determines that the rule failed to give the defendant fair warning of the conduct that the rule prohibits or requires, no civil or criminal penalty shall be imposed.

"(c)(1) No agency action shall be taken, or any action or other proceeding maintained, seeking the retroactive application of a requirement against any person that is based upon—

"(A) an interpretation of a statute, rule, guidance, agency statement of policy, or license requirement or condition; or

"(B) a determination of fact,

if such interpretation or determination is different from a prior interpretation or determination by the agency or by a State or local government exercising authority delegated or approved by the agency, and if such person relied upon the prior interpretation or determination.

"(2) This subsection shall take effect on the date of enactment of the Comprehensive Regulatory Reform Act of 1995 and shall apply to any matter for which a final unappealable judicial order has not been issued.

"(d) This section shall apply to the review by a Federal court of any order of an agency assessing civil administrative penalties.".

(B) UNPUBLISHED AGENCY GUIDANCE.—Section 552(a)(1) of title 5, United States Code, is amended by inserting at the end the following new sentence: "In an action brought in a Federal court seeking a civil or criminal penalty for the alleged violation of a rule, including actions pending on the date of enactment of this sentence, no consideration shall be given to any interpretive rule, general statement of policy, or other agency guidance of general or specific applicability, relied upon by the agency in the action, that had not been published in the Federal Register or otherwise directly and specifically communicated to the defendant by the agency, or by a State authority to which had been delegated the responsibility for ensuring compliance with the rule, prior to the alleged violation.".

(4) TECHNICAL AMENDMENT.—The analysis for chapter 7 of title 5, United States Code, is amended by adding at the end the following new items:

"707. Consent decrees.
"708. Affirmative defense.
"709. Agency interpretations in civil and criminal actions.".

SEC. 6. CONGRESSIONAL REVIEW.

(a) IN GENERAL.—Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"§801. Congressional review of agency rulemaking

"(a)(1) Before a rule takes effect as a final rule, the agency promulgating such rule shall submit to the Congress a report containing a copy of the rule, the notice of proposed rulemaking, and the statement of basis and purpose for the rule, including a complete copy of any analysis required under chapter 6, and the proposed effective date of the rule. In the case of a rule that is not a major rule within the meaning of section 621(4), summary of the rulemaking proceedings shall be submitted.

"(2) A rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of the following:

"(A) The later of the date occurring 45 days after the date on which—

"(i) the Congress receives the report submitted under paragraph (1); or

"(ii) the rule is published in the Federal Register.

"(B) If the Congress passes a joint resolution of disapproval described under subsection (g) relating to the rule, and the President signs a veto of such resolution, the earlier date—

"(i) on which either House of Congress votes and fails to override the veto of the President; or

"(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President.

"(C) The date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under subsection (g) is approved).

"(b) A rule shall not take effect as a final rule if the Congress passes a joint resolution of disapproval described under subsection (g), which is signed by the President or is vetoed and overridden by the Congress.

"(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this section may take effect if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

"(2) Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

"(A) necessary because of an imminent threat to health or safety or other emergency;

"(B) necessary for the enforcement of criminal laws; or

"(C) necessary for national security.

"(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under subsection (g) or the effect of a joint resolution of disapproval under this section.

"(4) This subsection and an Executive order issued by the President under paragraph (2) shall not be subject to judicial review by a court of the United States.

"(d)(1) Subsection (g) shall apply to any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes.

"(2) For purposes of subsection (g), a rule described under paragraph (1) shall be treated as though such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date the succeeding Congress first convenes.

"(3) During the period between the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, a rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law.

"(e) Any rule that takes effect and later is made of no force or effect by the enactment of a joint resolution under subsection (g) shall be treated as though such rule had never taken effect.

"(f) If the Congress does not enact a joint resolution of disapproval under subsection (g), no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

"(g)(1) For purposes of this subsection, the term 'joint resolution' means only a joint resolution introduced after the date on which the report referred to in subsection (a) is received by Congress the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the __________ relating to __________, and such rule shall have no force or effect.' (The blank spaces being appropriately filled in.)

"(2)(A) A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution shall not be reported before the eighth day after its submission or publication date.

"(B) For purposes of this subsection the term 'submission or publication date' means the later of the date on which—

"(i) the Congress receives the report submitted under subsection (a)(1); or

"(ii) the rule is published in the Federal Register.

"(3) If the committee to which a resolution described in paragraph (1) is referred has not reported such resolution (or an identical resolution) at the end of 20 calendar days after its submission or publication date, such committee may be discharged by the Majority Leader of the Senate or the Majority Leader of the House of Representatives, as the case may be, from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

"(4)(A) When the committee to which a resolution is referred has reported, or when a committee is discharged (under paragraph (3)) from further consideration of, a resolution described in paragraph (1), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) shall be waived. The motion shall be highly privileged in the House of Representatives and shall be privileged in the Senate and shall not be debatable. The motion shall not be subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"(B) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall be in order and shall not be debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution shall not be in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

"(C) Immediately following the conclusion of the debate on a resolution described in paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

"(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in paragraph (1) shall be decided without debate.

"(5) If, before the passage by one House of a resolution of that House described in paragraph (1), that House receives from the other House a resolution described in paragraph (1), then the following procedures shall apply:

"(A) The resolution of the other House shall not be referred to a committee.

"(B) With respect to a resolution described in paragraph (1) of the House receiving the resolution—

"(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(ii) the vote on final passage shall be on the resolution of the other House.

"(6) This subsection is enacted by Congress—

"(A) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed to be a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(h) This section shall not apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.".

(b) TECHNICAL AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

“8. Congressional Review of Agency Rulemaking .... 801”.

SEC. 7. ACCOUNTING.

(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) REGULATION.—The term “regulation” means an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedures or practice requirements of an agency. The term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States; or

(C) regulations related to agency organization, management, or personnel.

(2) AGENCY.—The term “agency” means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(b) ACCOUNTING STATEMENT.—

(1) IN GENERAL.—(A) The President shall be responsible for implementing and administering the requirements of this section.

(B) Every 2 years, not later than June of the second year, the President shall prepare and submit to Congress an accounting statement that estimates the costs of Federal regulatory programs and corresponding benefits in accordance with this subsection.

(2) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

(3) TIMING AND PROCEDURES.—(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

(B) The President shall propose the first accounting statement under this subsection not later than 2 years after the date of the enactment of this Act and shall issue the first accounting statement in final form not later than 3 years after the date of the enactment of this Act. Such statement shall cover, at a minimum, each of the 8 fiscal years beginning after the date of the enactment of this Act.

(4) CONTENT OF ACCOUNTING STATEMENT.—(A) Each accounting statement shall contain estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

(B)(i) An accounting statement shall estimate the costs of Federal regulatory programs by setting forth, for each year covered by the statement—

(I) the annual expenditure of national economic resources for the regulatory program; and

(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

(I) Private sector costs.

(II) Federal sector administrative costs.

(III) Federal sector compliance costs.

(IV) State and local government administrative costs.

(V) State and local government compliance costs.

(VI) Indirect costs, including opportunity costs.

(C) An accounting statement shall estimate the benefits of Federal regulatory programs by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(c) ASSOCIATED REPORT TO CONGRESS.—

(1) IN GENERAL.—At the same time as the President submits an accounting statement under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an “associated report”). The associated report shall contain, in accordance with this subsection—

(A) analyses of impacts; and

(B) recommendations for reform.

(2) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

(A) Analyses prepared by the President of the cumulative impact of Federal regulatory programs covered in the accounting statement on the following:

(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(ii) Small business.

(iii) Productivity.

(iv) Wages.

(v) Economic growth.

(vi) Technological innovation.

(vii) Consumer prices for goods and services.

(viii) Such other factors considered appropriate by the President.

(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(3) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

(A) A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers, provide guidance to agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to sections 3 and 7 of this Act, including—

(A) detailed guidance on estimating the costs and benefits of major rules; and

(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

(2) to standardize the format of the accounting statements.

(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

SEC. 8. STUDIES AND REPORTS.

(a) RISK ASSESSMENTS.—The Administrative Conference of the United States shall—

(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 4 of this Act); and

(2) submit an annual report to the Congress on the findings of the study.

(b) ADMINISTRATIVE PROCEDURE ACT.—Not later than December 31, 1996, the Administrative Conference of the United States shall—

(1) carry out a study of the operation of the Administrative Procedure Act (as amended by section 3 of this Act); and

(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

Mr. DOLE. Mr. President, I again thank the Democratic leader, Senator DASCHLE.

Mr. President, today we begin consideration of regulatory reform, one of the most important and fundamental reforms that this Congress will address. No doubt about it, the American people are fed up with a regulatory state that is out of control. That was one of the messages the American people delivered last November.

The regulatory state has become so pervasive that it lies on our economy like a blanket, stifling innovation, and killing infant industries and small businesses before they get off the ground. Although the Federal Government has a department for just about everything else, it does not have a department of lost opportunities. And that is what this is all about—getting the Government off the backs of the American people; and letting them have an honest opportunity to succeed, for example, when they open a small business.

I want to note at the outset that the reforms before us are the product of over a decade of bipartisan work. The first major attempt at regulatory reform took place here in the Senate in 1982, when we passed S. 1080 unanimously. S. 1080 itself grew out of a bill I introduced in 1981, again with bipartisan support.

S. 1080 contained sweeping revisions of the Administrative Procedures Act. Most of those revisions are included in the bill before us.

S. 1080 imposed a requirement that major rules be subjected to cots-benefit analyses. The structure of the cost-benefit analyses in the bill we consider today closely follow those in S. 1080.

S. 1080 required judicial review of cost-benefit analyses in order to provide meaningful enforcement. The bill before us does the same.

I have provided this brief history for two reasons. First, there are many Senators still in this body on both sides of the aisle who supported S. 1080 in 1982. And, second, there has been a concerted attempt by those who defend the status quo to ignore that history and act as if the bill under consideration today was a radically new approach with little thought for the consequences. Nothing could be further from the truth.

Every President since President Nixon, including President Clinton, has issued an Executive order that imposed such requirements on agencies, though Executive orders are necessarily limited in scope and cannot provide for court enforcement, the bill we consider today draws on two decades of agency experience with those Executive orders.

This bill is also the product of four major committees. I want to especially commend the chairmen of those committees, Senators HATCH, ROTH, MURKOWSKI, and BOND, and their members for their hard work. This bill is the product of negotiations with the Clinton administration, and Democrat colleagues. From the beginning, it has had bipartisan support. I especially want to commend Senator HEFLIN for his leadership in working on the bill in the Judiciary Committee. And, finally, the text of the bill we consider today is the product of weeks of work with Senator JOHNSTON who has long championed reforms in risk assessment in this body.

Given this history and broad bipartisan support, it might be surprising that regulatory reform has been met with often strident opposition.

But this bill is about fundamental change—needed change—and those who defend the status quo will fight it tooth and nail. Apparently, they will do so without even pretending to read the legislation.

Let me be clear: These reforms will not place at risk human health or safety or protection of the environment.

I understand that Ralph Nader and Joan Claybrooke are out running ads in part of the country that Senator DOLE, the majority leader, is for dirty meat, for unhealthy meat. So we have a lot of these incredible statements being made, but they have nothing to do with this bill.

And the bill before us makes this explicit in any number of provisions. Those who argue otherwise should stop trying to scare people and take the time to actually read the bill.

What opponents of regulatory reform really mean, but are embarrassed to admit, is that they believe that strong laws must always mean the most costly laws. Now, they will not say that of course. No, they will pay lip service to common sense. But as soon as you actually propose a way to consider costs and benefits, they switch subjects and accuse reformers of endangering human health and safety. I doubt anyone outside Washington, DC, who has to deal with regulations in their daily lives really believes that line anymore.

Mr. President, I have enough faith in our ingenuity to believe that we can find better, smarter ways to achieve otherwise worthwhile goals.

Nor—as opponents of reform would phrase it—is this a debate about placing a value on human life. The bill makes clear that there are often nonquantifiable benefits, and that an agency decisionmaker may well have to make judgments that are not subject to quantification. What the bill demands is accountability, by insisting that the decisionmaker articulate the basis for these judgments on the record. The principles of judging risks and weighing costs and benefits are rational and widely used in our daily lives. What is unacceptable is to allow Government agencies to avoid these types of judgments when enacting regulations that impose huge costs on our economy.

These reforms are about limited government. For too long, decisionmakers in Washington, DC, have acted as though bigger government—taking more of our taxes and savings, and suppressing individual initiative—could exist without more coercion and more rules. But that is wrong. For 40 years, the number and scope of regulations have skyrocketed out of control. The costs and annoyances of regulations have grown unbearable. And what is worse: We have not even attempted to use common sense in order to determine whether the costs are worth it.

These reforms are about accountability. Open government. Forcing the Government to tell the rest of us why it chooses to regulate a certain way, and making it defend its choice. This aspect of regulatory reform is not often discussed, but I would argue that it may be the most important of all.

It has often been remarked by historians that the decline of great civilizations—such as ancient Rome—is typically marked by an overabundance of bureaucracy that relied on secret, often contradictory, rules. Eventually, the entire regulatory structure brings progress to a standstill and it collapses of its own weight. It is no accident that we described complex, inscrutable procedures as byzantine.

Mr. President, we are a long way from reaching that point certainly. But we should understand that this is a battle that we will fight again and again. I, for one, intend to win this battle. The reforms we take up today are a giant step forward for common sense and our great country.

So I am pleased that we are on the bill. I thank my colleagues on the other side for not objecting to moving to the bill. We will have a brief debate today. We will have a longer debate tomorrow and probably some debate on Friday of this week. Hopefully, when we return from the July 4 recess, we will be able to finish this bill in the week following the recess, because I think it is probably the most important legislation we will have considered so far this year.

Mr. President, I would ask the distinguished Senator from Utah to be in charge of the time on this side. I guess Senator JOHNSTON will be in charge of the time on that side.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. How much time does this side have?

The PRESIDING OFFICER. There are 20 minutes remaining.

Mr. HATCH. I yield myself 7 minutes.

Mr. President, today we begin the debate on one of the most important pieces of legislation this Congress will address this year: the Comprehensive Regulatory Reform Act of 1995. This is a bill that will change the way the Government does business.

It is high time that we respond to the American people's loud and clear demands that government become smaller and more streamlined—their demand that government become more responsive. It is high time that we realize just who is working for whom.

The fact that government often takes forever to carry out its functions; spends a fortune in doing so; at best inconveniences citizens in the process; and yet still does not seem to get the job done properly, is reason enough for this legislation.

It is high time that Congress acted to require government to act in a timely, sensible, and rational manner.

If this bill becomes law, the Federal bureaucrats will, from now on, have to prove to America that their regulations do more good than harm to society.

I submit that nothing could be more basic to our democracy and to our federal system of government than the notion that the Federal Government should only act when it helps people and when its actions are justified. That is just plain common sense, and that is what this bill is about.

This bill forces the Federal bureaucracy to justify the costs of the rules and regulations that it places on hardworking Americans.

I. THE NEED FOR REFORM

I do not disagree that there is a need for some government regulation. Unfortunately, under the current system, there is little notion of restraint or balance in the way that government agencies operate. The Federal bureaucracy has become bloated, inefficient, and wasteful. Excessive, needless government regulation is running rampant. It has done tremendous damage to our economy, and it continues to do so every year.

A. STATISTICS

The bottom line is that American people pay for this bureaucracy several times over.

First, of course, they have to pay for the salaries and other expenses for the Federal agencies to operate. These direct expenditures, of course, figure in to our budget. To the extent that such expenditures are not offset by cuts elsewhere, the cost of maintaining the Federal bureaucracy adds to the national deficit and to the national debt, which is already at about $18,500 for every man, woman, and child in America.

Second, there are the hidden costs of complying with all this regulation. The American people have to pay to comply with the regulations the bureaucracy churns out. It has been estimated that complying with Federal regulation costs the average American family $4,000 a year. [The Heritage Foundation, citing Jonathan Adler, "Regulated . . . out of this world", the Washington Times, June 3, 1992].

And that is the low estimate. If you include indirect costs—such as increased prices for goods and services because sellers are passing on some of their regulatory burden to buyers—some estimates run as high as $8,000 to $17,000 a year. [William Laffer, the Heritage Foundation].

That is staggering, particularly when compared with the average annual income tax of $5,491 [IRS, 1992]. The costs of regulation are operating as a hidden tax on the system. Not only should that tax be cut, but the agencies should be made accountable so that the American people know what they are paying and what they are getting.

Third, these costs have indirect consequences and impose opportunity costs. It has been estimated that the costs of Federal regulation have reduced the total output of the Nation, the GDP, by nearly 6 percent. [Thomas Hopkins, "Costs of Regulation: Filling the Gaps," citing a study by Hazilla and Kopp]. How does this happen?

It is simple enough. When businesses have to devote resources to meeting a Federal directive, alternative—and more productive—uses of those resources cannot be made. That means that the economy is slower, and jobs are lost because of regulatory excesses.

Mr. President, the status quo is simply unacceptable. Federal regulation is stifling the American Dream. It used to be said that America was the land of opportunity, where the streets were paved with gold. Today, the streets are paved with redtape.

B. EXAMPLES

Where regulation is doing its jobs and is helping society, there is no problem. The supporters of beneficial regulations have nothing to fear from this bill. But, too often regulations not only fail to do the job, but also they are downright dumb. Those are the regulations that this bill seeks to eliminate.

For example, there is a regulatory requirement that drive-through cash machines must be equipped with Braille pads. Now, how many blind Americans are driving cars to drive-through ATMs? [The Heritge Foundation, citing Insight which was quoting TCF Bank Savings of Minneapolis Chairman William Cooper]. That type of regulation is simply ridiculous on its face.

In another instance, a rancher was fined $4,000 for killing a grizzly bear that had eaten his sheep previously and was attacking him. [The Heritage Foundation, citing a Wall Street Journal article by Ike Scrugg, dated June 23, 1993].

What is worse is that excessive regulations have often thwarted the very ends those regulations seek to further. Take the case of the Abyssinian Baptist Church in Harlem. That church struggled for 4 years to get approval for a Head Start Program in a newly renovated building. Most of those 4 long years was spent arguing with Federal bureaucrats concerning the dimensions of rooms.

Now, we do not want Head Start Programs in unsafe facilities. I agree with that. But, where is the common sense here? What exactly are we trying to do? Provide early childhood educational opportunities for low-income children? Or, keep regulators busy with their tape measures? Clearly, we failed at the former and were a great success in the latter. An entire generation of head starters were unable to participate in that valuable program.

This is really a shameful waste of resources that could have been provided by this church in Harlem for the benefit of neighborhood children.

A representative from the church complained about the unresponsiveness of the people in Washington.

All the bureaucrats wanted to tell her, she said, was what could not be done rather than what could be done. She said that when she told them that they were talking about pieces of paper, and she was talking about children, they did not seem to care. ["The Death of Common Sense."].

Mr. President, I believe this particular example is an excellent illustration of how our regulatory system has gone haywire. It is hard to believe that regulators do not care about children and their access to Head Start or any other kind of service.

But, this example clearly shows that our regulatory policy has become more concerned with process than with outcomes. It has become so obessed with the objective that room size not deviate an inch from the Federal standard that it has completely lost sight of what Head Start is supposed to accomplish.

I have to believe that similar examples of form over substance exist at the Department of Labor, the EPA, the Interior Department, and just about every other Federal agency.

Regulation has also reached deep into our smallest businesses. Take the case of Dutch Noteboom. Mr. Noteboom is 72 years old and has owned a small meat-packing plant in Springfield, OR, for 33 years.

Despite the fact that Mr. Noteboom employs only four people, the U.S. Department of Agriculture has one full-time inspector on his premises. Another inspector spends over half his time there. This level of attention is astonishing and must be extremely costly.

Mr. Noteboom says that he is swimming in paperwork, and that he does not even know a tenth of the rules. He says, "You should see all these USDA manuals." ["The Death of Common Sense"].

Well, I have seen some of the Government's manuals and regulations and they are shocking in their length and complexity.

Consider, for example, the Federal regulations on the sale of cabbage. Now, the Gettysburg Address is 286 words in length, and the Declaration of Independence contain 1,322 words. But Government regulations on the sale of cabbage total an eye-popping 26,911 words. [Heritage, citing a letter from Congressman McIntosh to Grover Norquist].

I am frankly wondering just how much there is to restrict about the sale of cabbage that would justify nearly 27,000 words. I had my staff do a quick calculation: 27,000 words is approximately the same length as the Federalist Papers Nos. 1 through 15. We have transformed regulatory compliance into an industry all by itself. We have gone from simple rules that reasonable people could understand and comply with to a Code of Federal Regulations that by itself takes up a whole wall of shelf space—not counting other agency guidance and field memos. We forget how fast is mount up.

Could I ask how much time I have left?

The PRESIDING OFFICER. The Senator has 11 minutes remaining.

Mr. HATCH. I will yield 1 more minute to me, and the rest of my time to Senator ROTH, after Senator JOHNSTON finishes.

Since 27,000 words is approximately the same length as the Federalist papers Nos. 1 through 15, how can there be any question that we have gone too far?

Mr. President, Mr. Noteboom's story highlights another major mutation of U.S. regulatory policy.

I can go on and on, but the point I am making is this: They are taking away our properties, our private properties, and interfering with small business.

They are hurting people and stopping kids from getting the care they need. And, frankly, it is all because of ridiculous regulations in large part written by people who are not thinking about what is best for the American people and what is cost efficient in doing so. This bill will make a terrific difference. It will make our bureaucrats better and make us better. And, frankly, it is high time we did it.

I want to compliment the distinguished Senator from Kansas, our majority leader, and also my good friend and colleague from Louisiana, who both worked long and hard to get together, and a whole raft of others. I will put their names in the RECORD by unanimous consent.

Mr. President, I reserve the balance of our time.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

PRIVILEGE OF THE FLOOR

Mr. JOHNSTON. I ask unanimous consent that Dr. Robert Simon be given the privilege of the floor for the pendency of S. 343 and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I want to thank my colleague, Mr. HATCH, as well as Senator DOLE, and their staffs, and Senator ROTH, and others on the other side of the aisle, for making this bill and the negotiation on it thus far a true bipartisan effort.

The Judiciary Committee bill was, indeed, the product of last Congress' risk assessment legislation, which I sponsored, as well as S. 1020, which dealt with regulatory reform from earlier in the 1980's. Since that time, Mr. President, the distinguished Senator from Kansas, Senator DOLE, and I, worked together over a period of some 10 hours—excuse me—12 hours of direct negotiation in working out what we called the Dole-Johnston draft, discussion draft. Since that was filed in the RECORD, we have spent an additional—or at least I have spent 20 hours in negotiation with both Republicans and Democrats, seeking to work out the problems in that draft.

All of our problems have not yet been worked out. But if I may give my colleagues and others the state of play on it, I think the mood is there, the will is there, and I think eventually substantial agreement can be arrived at, dealing with nine major points:

First, judicial review. The argument about judicial review is now not about the principle, it is about the language. I believe our language achieves the result. We will continue to listen, but I believe it achieves the result that everyone wishes.

Supermandate has been eliminated from the bill. I believe that is also clear. And both sides agree that underlying statutes are not superseded. Whatever the requirements of the Clean Air Act are, for example, are still in place. And we believe that the language of the draft now reflects that. We are willing to work further to clarify that—not to clarify, but to reassure Senators that that is so.

With respect to decisional criteria, Mr. President, I believe that from our side of the aisle the language now in the draft fully gives the discretion to the agencies that we wish.

I call attention of my colleagues to the language of section 624, which states certain requirements, such as the benefits rule to justify the cost. But it goes on to say that if scientific, technical, or economic uncertainties or nonquantifiable benefits to the health or safety of the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objective of the statute appropriate and in the public interest, and the agency head provides an explanation of that, that they may chose the more costly alternative.

Mr. President, we will listen to further elucidation on this.

But it seems to me that this is a complete victory for those on our side of the aisle who have always said the difficulty with risk assessment is sometimes scientific uncertainty, where scientists do not agree in some areas, where the data is uncertain or where you have values that are nonquantifiable by their nature, such as the value of life, the value of good health, the value of environment, the value of clean air which are, by their nature, nonquantifiable.

As I say, the theme, the idea is there, and I believe is clear. But to the extent it is not, we are certainly willing to negotiate, I believe, on both sides of the aisle. The question, again, is not whether to grant discretion for these things, but rather the question is how best to phrase the language.

With respect to petition, appeal on that petition, sunset, consolidation, we believe, Mr. President, that we now have complete agreement on that. It covers the issue of agency overload, and we will soon be filing in the RECORD language that will reflect that agreement. Anything, of course, is subject to further wordsmithing, but we believe both Democrats and Republicans have arrived at a decision in that very difficult area.

With respect to effective date, I hope we can come to agreement on that. On the Democratic side, we do not want to have to go back and redo regulations which have, in some cases, been 2 or 3 years in the making. On the Republican side, the concern has been that they do not want to have a flood of new regulations come in at the last minute to escape the requirements of this bill. I believe effective date can be appropriately worked out and pick some date such as July 1 of this year.

With respect to threshold, I believe the threshold should be 100 million, and 50 million is now in the bill. I believe also that is a doable thing. My prediction is that we will end up agreeing on 100 million with some language with respect to small business because small business has really been a concern here. At least I am in good hopes we can agree on that.

I hope we can agree to drop Superfund at some point. Not that anybody thinks a process of risk assessment should not be applicable to Superfund, it should definitely be applicable to Superfund, but we believe that is best done by the Environment and Public Works Committee, working their will against special requirements of the Superfund site. To put it in this bill, I believe, would be very difficult.

With respect to toxic release inventory, the language now in the Dole-Johnston draft, I believe, can be much improved. It, in turn, was an improvement over the Judiciary Committee draft. Frankly, we are waiting for some kind of improvement language that we hope will solve this problem.

Toxic release inventory is a high-profile issue, but I believe, in terms of importance of the issue, it is clearly one of the lesser issues in this bill and should not stand in our way of getting a bill.

The final point I have has to do with the Delaney rule. We greatly improve the Judiciary Committee draft on the Delaney rule. The language now in the Dole-Johnston draft says that an administrator or an agency head cannot fail to license a chemical if it has negligible or insignificant foreseeable risk to human health resulting from its intended use. It seems to me that this ought to be the standard. It is a good standard. I have heard no defense of keeping the Delaney rule as it is, and I submit that the votes will be on the floor to change the Delaney rule.

Our request is that those who think the standard we have in this draft is not appropriate should come up with alternative language which we are happy to consider. We have given notice of consideration of alternative language now for a week or two, and I have not yet received it. So I urge people who want that to be reconsidered to please submit language.

The point I am making, Mr. President, is that the most difficult things about this bill—things like decisional criteria, judicial review, supermandate—have been agreed upon in principle, and the problem now is to determine language that carries out the principle.

We all understand that language and wordsmithing in this area is very important, is crucial, is critical, and we will continue to negotiate to seek very precise language that carries this out, and we solicit that from both sides of the aisle.

But, Mr. President, frankly, given the attitudes on both sides of the aisle, I believe it is going to be possible to come to those agreements, not with all Senators. We are not going to get 100 votes, but I believe that there is a real possibility for a broad consensus, and I am happy to be part of the group that is putting together what I consider to be the most important bill in this field that has ever been enacted by the Congress.

Mr. President, I reserve the remainder of my time.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. Who yields time? The Senator from Delaware.

Mr. HATCH. I yield the remainder of our time to the Senator from Delaware.

The PRESIDING OFFICER. There are 9 minutes 51 seconds remaining.

Mr. ROTH. Mr. President, first of all, I would like to thank the distinguished Senator from Louisiana for the constructive role he has played in the effort to bring the two sides together. Like him, I am optimistic that we are going to be able to fashion legislation that will satisfy the large majority on both sides of the aisle.

I, frankly, can think of no legislation of more critical importance, both from the standpoint of enforcement of the legislation or statutes on the books, but also from getting a better bang for the taxpayers' buck. So, again, I congratulate and thank the distinguished Senator for his contribution.

Mr. President, today marks a milestone in the effort to build a smarter, more effective regulatory process. From all quarters, Americans are calling for change from the often overbearing and counterproductive regulatory monolithic that has grown out of control these past couple of decades. President Clinton has admitted that many regulations, regulations that are costing our Nation billions of dollars, are bad regulations.

George McGovern has described in brilliant detail how overbearing regulations put him out of business when all he was trying to fulfill was the dream of being an entrepreneur of owning his own New England inn.

Economists are telling us that Federal regulations are costing our households some $6,000 annually, costing our country about $600 billion a year, and this at a time when our policies must be those that make our Nation competitive abroad, economically secure at home and confident within our families.

Financial costs are not the only burden. As we move further into the information age, the old adage, "Time is money," rings truer than ever before. Time alone is becoming one of America's most vital economic resources. In a competitive world of instant information, a world where time is measured in cyberseconds, businesses, entrepreneurs, service providers, researchers, scientists, farmers, and others must be able to accelerate their response time in providing their services and bringing new products to market.

In our age of information, time is often the difference between profit and loss. But today, Federal regulations, like cholesterol clogging a vital artery, not only slow down the process but often disrupts it. Well over 5 billion hours—I repeat—well over 5 billion hours a year are spent by our private sector just trying to meet government paperwork demands.

The legislation we are considering today, S. 343, the comprehensive regulatory reform act of 1995, is a real and workable solution to the problems being expressed on both sides of the aisle. That is why I am supporting this legislation. It is the most comprehensive reform of the regulatory process since the enactment of the Administrative Procedure Act of 1946. Since then, efforts to reform Federal regulations have been like a man trying to save himself by running up the aisle in the opposite direction on a runaway train. What this legislation does, Mr. President, is get that runaway train under control and places it back on the right track.

This legislation substantially changes the requirements for the issuance of Federal regulations. It requires regulators to directly consider whether the benefits of a new regulation would justify its cost. Regulators who want to issue environmental and health and safety regulation regulations under this legislation have to make realistic estimates of the risks to be addressed. They have to disclose to the public any assumptions they make to measure the risk.

The bill encourages agencies to set priorities to achieve the greatest overall risk reduction at the least cost. More generally, this bill requires agencies to review existing regulations, to be sensitive to the cumulative regulatory burden, and to select the most cost effective, market-driven method feasible.

This, Mr. President, is smarter regulation. Smarter regulation benefits us all—our farmers, our businesses of all sizes; it benefits State and local government, and, most important, it benefits the consumer, the wage earner, the taxpayer, and the family.

I support this legislation because it is a reform of Federal regulations, not a rollback. And the distinction is extremely important. I am an environmentalist and honored to be called an environmentalist. On this floor, I have fought many battles to stop ocean dumping and incineration, to preserve the northern coastal plain of Alaska, to protect forests and precious wildlife. I can say with pride that Federal regulations have made our air cleaner. They have made our water purer, and they have improved conditions in our cities, lakes, and along our shores.

Regulation in itself is not bad. The problem is that the huge regulatory enterprise, like that runaway train, has gained so much inertia these past few decades that it is posing a real and dangerous threat to our future. What we are looking for is balance, and this legislation provides that balance. It will restore common sense to the regulatory process.

This legislation helps us achieve necessary regulation in the most flexible and cost-effective way possible. We have learned with experience that regulations often have been more costly and less effective than they could have been. This legislation addresses that problem by making Government more efficient, more effective. I believe, as best they can, regulators should issue regulations whose benefits justify their cost. I believe that a fair, commonsense test requiring that the benefits of a regulation justify its cost should be consistent with environmentalism, not contrary to it.

Environmentalists and conservationists have long recognized that we live in a world of limited resources. In this vein, we must use those limited resources to achieve the greatest benefit at the least cost. This is absolutely consistent with our objectives.

Throughout my career, Mr. President, I have advocated reducing Government waste and inefficiency. I have led efforts to reduce waste in Government procurement practices, particularly in defense contracts. At the time, some critics suggested that I was undermining support for a strong military. How could I support a strong military, they asked, if I challenged the practices of the Department of Defense? The answer was simple. I pushed for reform to make the Department of Defense work better, reform to make it more efficient and effective in carrying out its mission. And toward this end, we have been successful. Our reform of the procurement process improved the department. DOD was strengthened as precious resources were spared to be used much more efficiently and effectively.

In the same way, as a committed environmentalist, I want to reduce the inefficiency of the Environmental Protection Agency as well as other Federal agencies that serve the public interest. Some critics suggest that we cannot support strong cost benefit analysis, and the Dole-Johnston compromise bill requires and still favors protecting the environment, health and safety, but these critics are wrong. Without effective regulatory reform, the EPA and other agencies will not carry out their mission in an efficient and effective manner.

Mr. President, this legislation simply requires common sense in the regulatory process. We should require no less. I urge my colleagues to support this commonsense legislation. Thank you, Mr. President.

Mr. JOHNSTON. Mr. President, I yield 10 minutes to the Senator from Ohio, with the understanding that he will yield some time to Senator LEVIN.

The PRESIDING OFFICER. The Senator from Louisiana has 13 minutes total remaining.

The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I hope that when the press writes about what happened on the floor today, they get away from the idea that this is the ultimate in confrontation, which seems to be what the questions lead to when we go out of the Chamber—talking about regulatory reform—because, today, I would hope the message would go out that we are united in the Senate of the United States, Democrat and Republican, on one thing: we need regulatory reform.

Sometimes we get strident here and give people the wrong impression. But we have a need for regulatory reform, and that is felt by those who have been negotiating on the particulars of this legislation over the past several days. So the importance of regulatory reform is well understood, and we all share in a devotion to what we are trying to do here.

I think a lot of people wonder why we have regulations and rules. We need to remember that we pass laws here on the Senate floor, in the Congress, that are signed by the President requiring agencies to issue rules. After we pass laws, rules and regulations written by the agencies become applicable in every community across this country.

I say to those listening that your children today, your family today, can have milk that is safe because of rules and regulations. You can eat food that is safe. You do not have to worry about it, because of rules and regulations to ensure safety to public health. Transportation, whether by air, bus, or plane, comes under certain rules and regulations that let your family travel safely.

The problem is that we have gone too far in some of these matters with some rules, and some regulation writers have been overzealous.

So we have come full circle in needing to put a rein on some of the rules and regulations. We need to set up new processes for making sure that we do not get into the quagmires of where we do not use common sense. Some of them are ridiculous. We can all cite anecdotal evidence.

On the Governmental Affairs Committee, we started working on what was landmark regulatory reform, doing a study back in 1977. This issue is not something that is brand new. Through the years, we dealt with OMB and OIRA, and it has been an open process.

While I was chair of the committee, we had a number of hearings, and this year, Senator ROTH, our chairman this year, has had four hearings on our bill, S. 291. We took a bipartisan and deliberative approach to it and voted that bill out of committee, unanimously, 15–0. Republicans and Democrats united together.

Any bill must have a balance. On the Governmental Affairs Committee, I believe we achieved that balance. I would like to run through very briefly some of the central issues for regulatory reform in the limited time I have here today.

My approach, and the approach taken by our committee, on regulatory reform is the following: First, agencies should be required to perform risk assessment and cost-benefit analysis for all major rules; second, cost-benefit analysis should inform agency decisionmaking, but it should not override other statutory rulemaking criteria; third, risk assessment requirements should apply only to major risk assessments, and these requirements must not be overly prescriptive; fourth, agencies should review existing rules, but the reviews should not be dictated by special interests; fifth, Government accountability requires sunshine in the regulatory review process; sixth, judicial review should be available to ensure the final agency rules are based on adequate analysis; it should not be a lawyer's dream with unending ways for special interest to bog down agencies with litigation; seventh, regulatory reform should not be the fix for every special interest.

Now, Mr. President, the Senator from Louisiana mentioned a number of the areas that are still in contention with this legislation. While we will have to work these issues out, we are all united in the need for regulatory reform.

The decision criteria: Will it be least cost, or will it be the cost effectiveness? Judicial reform has yet to be ironed out completely. Can we get a threshold of $100 million? How about the petition process, the sunset, special interest additions? These are issues we still need to work together on. We have yet to iron out exactly how we do these things.

Mr. President, any bill on the subject of regulatory reform to be deserving of support must pass a test. This test is twofold. I close with this: No. 1, does the bill provide for reasonable, logical, appropriate changes to regulatory procedures that eliminate unnecessary burdens on businesses and individuals? No. 2, at the same time, does the bill maintain the ability to protect the health, the safety, and the environment of the American people?

Now, that is a dual test that is very simple, and one we need to keep in mind as we debate this legislation. If the answer is "yes," to both questions, the bill should be supported. Any bill that relieves regulatory burdens but threatens the protections for the American people in health or safety or environment should be opposed.

I will come back to this test many times when we debate regulatory reform the rest of this week and after the Fourth of July break.

I thank my colleague from Louisiana for yielding time. I yield the balance of my time to Senator LEVIN.

The PRESIDING OFFICER. The Senator from Michigan has 6 minutes remaining.

Mr. LEVIN. Let me commend all those involved in this effort. It is a very complicated effort, and most importantly perhaps, an essential and bipartisan effort. It has been that way from the beginning. I hope it stays that way throughout this process.

The original bill which was introduced was flawed. It did not achieve both goals we need to achieve, which is regulatory reform, to make this process more responsive to cost, to allow Members to review rules. We all, I hope, want to do that.

We all, I hope, want cost effective rules. We all, I hope, want to try to protect some basic health, safety, and environmental concerns. And I think we all believe that we can achieve all of that.

The original bill which was introduced in the bill that is now pending had some real limitations in those regards. The Senator from Louisiana and the Senator leader, the majority leader, and people on both sides of the aisle worked to come up with a substitute. I think they made some significant progress. They should be commended for it.

After that happened, there were a number of deficiencies that were pointed out by various people—the Senator from Louisiana and others who were open to the process of considering suggestions to improve their product—and we have made some significant progress in our private discussions to improve the so-called Dole-Johnston substitute.

Right now, assuming that the language is agreed upon, even though we have only reached two or three of the key nine issues, there has been some significant changes in that draft, which I think most of the people that have been involved in these negotiations, say represent improvements.

Now, there are still some outstanding issues. For instance, the majority leader and others have said "We don't want a supermandate." This bill is intended to supplement and not to supersede.

Some have raised the question, what happens if the material in this bill, which is intended to supplement, conflicts with what it is intended not to supersede. Then what?

We are assured that the underlying legislation governs. Some have said "Why don't we just simply say that?" The answer has been, "There is no need to because there is no conflict," yet the concern remains, and we are trying to figure out language which will address the concern of those who want to be sure that what the Republican leader says is the intent, the majority leader says is the intent—that there not be a supermandate, in fact, implemented in this bill.

We made some real progress in the so-called petitions area. Before this progress was made, I am afraid we were going to substitute a judicial quagmire for what is already a complicated regulatory process.

Nobody is benefited if we throw to the drowning folks who are drowning in regulations another bucket of water. What they need is a lifeline, not another complicating superstructure of judicial consideration.

That is what I am afraid we were about to do in the so-called petition area, until we had some very fruitful discussions, which have now, I think, reached a point where we can hope to avoid adding a judicial superstructure of huge complication to a regulatory process.

Mr. President, I am glad that these discussions are going to continue. I want to commend, particularly, Senator GLENN, Senator ROTH, others on the Governmental Affairs Committee who have worked on the Governmental Affairs bill which contained so many elements of the bill which we are going to consider during the days that we do consider regulatory reform.

We need regulatory reform. We must have cost-benefit analysis. We need risk assessment. But we also need to be sure that what we are achieving protects, in a sensible way, the environment and the health and the safety of the people of the United States.

Some people say, "Why don't you just have the cheapest regulation automatically?" Well, the answer is because the cheapest may not be the most cost effective. Just like the cheapest pair of shoes is not the sensible pair of shoes. The cheapest car is not the best car to buy, or else we would all be driving Yugos.

We need cost-benefit analysis, but that assumes that something which is slightly more costly might have huge benefits, and in that case we surely want to be able to consider the cost effectiveness of the regulation and not be required to always go with what is the cheapest, because that may not be the most cost effective.

I think there is kind of an understanding, almost a consensus that that is correct; that we do not want to be driven always to the cheapest, that a marginal increase might be sensible and might achieve some great benefits and that ought to be permitted under this process.

Let me close by again commending my colleagues on Governmental Affairs, Senators GLENN and ROTH and others; the majority leader and Senator DASCHLE have been critical in this, Senator JOHNSTON, Senator HATCH, and others—so many who have been involved in getting us where we are today. We are making progress. I hope that progress will be allowed to continue and will not be thwarted in any way that is inconsistent with what our common goal is.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Louisiana is recognized. All time has expired.

Mr. JOHNSTON. Mr. President, I ask unanimous consent I be able to proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. Mr. President, I commend my colleagues on this side of the aisle who have been involved in this negotiation, particularly Senator LEVIN, Senator GLENN, Senator BIDEN, Senator BAUCUS, Senator KERREY, and Senator LAUTENBERG especially, who have contributed so much in bringing the draft up to where it is now.

As I say, it is not a done deal yet in terms of satisfying everyone's concerns, but it is much, much closer to that than when the Judiciary Committee bill started out.

Mr. President, I am advised it is the majority leader's intention Friday afternoon to withdraw the committee amendments to S. 343 and send the substitute to the desk. That substitute is, in effect, the Dole-Johnston discussion draft filed a few days ago, which is being supplemented by the agreement identified by myself and Senator LEVIN, and with other modifications which we have worked on during these hours.

So I ask unanimous consent that be printed in the RECORD tonight, when submitted to the Chair.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

On page 33, beginning with line 5, strike all through the end of the bill and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Regulatory Reform Act of 1995".

SEC. 2. DEFINITIONS.

Section 551 of title 5, United States Code, is amended—

(1) in the matter preceding paragraph (1), by striking "this subchapter" and inserting "this chapter and chapters 7 and 8";

(2) in paragraph (13), by striking "and";

(3) in paragraph (14), by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following new paragraph:

"(15) 'Director' means the Director of the Office of Management and Budget.".

SEC. 3. RULEMAKING.

Section 553 of title 5, United States Code, is amended to read as follows:

"§ 553. Rulemaking

"(a) APPLICABILITY.—This section applies to every rulemaking, according to the provisions thereof, except to the extent that there is involved—

"(1) a matter pertaining to a military or foreign affairs function of the United States;

"(2) a matter relating to the management or personnel practices of an agency;

"(3) an interpretive rule, general statement of policy, guidance, or rule of agency organization, procedure, or practice, unless such rule, statement, or guidance has general applicability and substantially alters or creates rights or obligations of persons outside the agency; or

"(4) a rule relating to the acquisition, management, or disposal by an agency of real or personal property, or of services, that is promulgated in compliance with otherwise applicable criteria and procedures.

"(b) NOTICE OF PROPOSED RULEMAKING.—General notice of proposed rulemaking shall be published in the Federal Register, unless all persons subject thereto are named and either personally served or otherwise have actual notice of the proposed rulemaking in accordance with law. Each notice of proposed rulemaking shall include—

"(1) a statement of the time, place, and nature of public rulemaking proceedings;

"(2) a succinct explanation of the need for and specific objectives of the proposed rule, including an explanation of the agency's determination of whether or not the rule is a major rule within the meaning of section 621(5);

"(3) a succinct explanation of the specific statutory basis for the proposed rule, including an explanation of—

"(A) whether the interpretation is clearly required by the text of the statute; or

"(B) if the interpretation is not clearly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and an explanation why the interpretation selected by the agency is the agency's preferred interpretation;

"(4) the terms or substance of the proposed rule;

"(5) a summary of any initial analysis of the proposed rule required to be prepared or issued pursuant to chapter 6;

"(6) a statement that the agency seeks proposals from the public and from State and local governments for alternative methods to accomplish the objectives of the rulemaking that are more effective or less burdensome than the approach used in the proposed rule; and

"(7) a statement specifying where the file of the rulemaking proceeding maintained pursuant to subsection (j) may be inspected and how copies of the items in the file may be obtained.

"(c) PERIOD FOR COMMENT.—The agency shall give interested persons not less than 60 days after providing the notice required by subsection (b) to participate in the rulemaking through the submission of written data, views, or arguments.

"(d) GOOD CAUSE EXCEPTION.—Unless notice or hearing is required by statute, a final rule may be adopted and may become effective without prior compliance with subsections (b) and (c) and (e) through (g) if the agency for good cause finds that providing notice and public procedure thereon before the rule becomes effective is impracticable, unnecessary, or contrary to the public interest. If a rule is adopted under this subsection, the agency shall publish the rule in the Federal Register with the finding and a succinct explanation of the reasons therefor.

"(e) PROCEDURAL FLEXIBILITY.—To collect relevant information, and to identify and elicit full and representative public comment on the significant issues of a particular rulemaking, the agency may use such other procedures as the agency determines are appropriate, including—

"(1) the publication of an advance notice of proposed rulemaking;

"(2) the provision of notice, in forms which are more direct than notice published in the Federal Register, to persons who would be substantially affected by the proposed rule but who are unlikely to receive notice of the proposed rulemaking through the Federal Register;

"(3) the provision of opportunities for oral presentation of data, views, information, or rebuttal arguments at informal public hearings, meetings, and round table discussions, which may be held in the District of Columbia and other locations;

"(4) the establishment of reasonable procedures to regulate the course of informal public hearings, meetings and round table discussions, including the designation of representatives to make oral presentations or engage in direct or cross-examination on behalf of several parties with a common interest in a rulemaking, and the provision of transcripts, summaries, or other records of all such public hearings and summaries of meetings and round table discussions;

"(5) the provision of summaries, explanatory materials, or other technical information in response to public inquiries concerning the issues involved in the rulemaking; and

"(6) the adoption or modification of agency procedural rules to reduce the cost or complexity of the procedural rules.

"(f) PLANNED FINAL RULE.—If the provisions of a final rule that an agency plans to adopt are so different from the provisions of the original notice of proposed rulemaking that the original notice did not fairly apprise the public of the issues ultimately to be resolved in the rulemaking or of the substance of the rule, the agency shall publish in the Federal Register a notice of the final rule the agency plans to adopt, together with the information relevant to such rule that is required by the applicable provisions of this section and that has not previously been published in the Federal Register. The agency shall allow a reasonable period for comment on such planned final rule prior to its adoption.

"(g) STATEMENT OF BASIS AND PURPOSE.—An agency shall publish each final rule it adopts in the Federal Register, together with a concise statement of the basis and purpose of the rule and a statement of when the rule may become effective. The statement of basis and purpose shall include—

"(1) an explanation of the need for, objectives of, and specific statutory authority for, the rule;

"(2) a discussion of, and response to, any significant factual or legal issues presented by the rule, or raised by the comments on the proposed rule, including a description of the reasonable alternatives to the rule proposed by the agency and by interested persons, and the reasons why such alternatives were rejected;

"(3) a succinct explanation of whether the specific statutory basis for the rule is expressly required by the text of the statute, or if the specific statutory interpretation upon which the rule is based is not expressly required by the text of the statute, an explanation that the interpretation is within the range of permissible interpretations of the statute as identified by the agency, and why the agency has rejected other interpretations proposed in comments to the agency;

"(4) an explanation of how the factual conclusions upon which the rule is based are substantially supported in the rulemaking file; and

"(5) a summary of any final analysis of the rule required to be prepared or issued pursuant to chapter 6.

"(h) NONAPPLICABILITY.—In the case of a rule that is required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 shall apply in lieu of subsections (c), (e), (f), and (g).

"(i) EFFECTIVE DATE.—An agency shall publish the final rule in the Federal Register not later than 60 days before the effective date of such rule. An agency may make a rule effective in less than 60 days after publication in the Federal Register if the rule grants or recognizes an exemption, relieves a restriction, or if the agency for good cause finds that such a delay in the effective date would be contrary to the public interest and publishes such finding and an explanation of the reasons therefor, with the final rule.

"(j) RULEMAKING FILE.—(1) The agency shall maintain a file for each rulemaking proceeding conducted pursuant to this section and shall maintain a current index to such file.

"(2) Except as provided in subsection (k), the file shall be made available to the public not later than the date on which the agency makes an initial publication concerning the rule.

"(3) The rulemaking file shall include—

"(A) the notice of proposed rulemaking, any supplement to, or modification or revision of, such notice, and any advance notice of proposed rulemaking;

"(B) copies of all written comments received on the proposed rule;

"(C) a transcript, summary, or other record of any public hearing conducted on the rulemaking;

"(D) copies, or an identification of the place at which copies may be obtained, of factual and methodological material that pertains directly to the rulemaking and that was considered by the agency in connection with the rulemaking, or that was submitted to or prepared by or for the agency in connection with the rulemaking; and

"(E) any statement, description, analysis, or other material that the agency is required to prepare or issue in connection with the rulemaking, including any analysis prepared or issued pursuant to chapter 6.

The agency shall place each of the foregoing materials in the file as soon as practicable after each such material becomes available to the agency.

"(k) CONFIDENTIAL TREATMENT.—The file required by subsection (j) need not include any material described in section 552(b) if the agency includes in the file a statement that notes the existence of such material and the basis upon which the material is exempt from public disclosure under such section. The agency may not substantially rely on any such material in formulating a rule unless it makes the substance of such material available for adequate comment by interested persons. The agency may use summaries, aggregations of data, or other appropriate mechanisms to protect the confidentiality of such material to the maximum extent possible.

"(l) RULEMAKING PETITION.—(1) Each agency shall give an interested person the right to petition—

"(A) for the issuance, amendment, or repeal of a rule;

"(B) for the amendment or repeal of an interpretive rule or general statement of policy or guidance;

"(C) for an interpretation regarding the meaning of a rule, interpretive rule, general statement of policy, or guidance; and

"(D) for a variance or exemption from the terms of a rule to which the petitioner is otherwise subject, provided the statute authorizing the rule does not prohibit a variance or exemption.

"(2) The agency shall grant or deny a petition made pursuant to paragraph (1), and give written notice of its determination to the petitioner, with reasonable promptness, but in no event later than 18 months after the petition was received by the agency.

"(3) The written notice of the agency's determination shall include an explanation of the determination and a response to each significant factual and legal claim that forms the basis of the petition.

"(m) JUDICIAL REVIEW.—(1) The decision of an agency to use or not to use procedures in a rulemaking under subsection (e) shall not be subject to judicial review.

"(2) The rulemaking file required under subsection (j) shall constitute the rulemaking record for purposes of judicial review.

"(3) No court shall hold unlawful or set aside an agency rule based on a violation of subsection (j), unless the court finds that such violation has precluded fair public consideration of a material issue of the rulemaking taken as a whole.

"(4)(A) Judicial review of compliance or noncompliance with subsection (j) shall be limited to review of action or inaction on the part of an agency.

"(B) A decision by an agency to deny a petition under subsection (l) shall be subject to judicial review immediately upon denial, as final agency action under the statute granting the agency authority to carry out its action.

"(n) CONSTRUCTION.—(1) Notwithstanding any other provision of law, this section shall apply to and supplement the procedures governing informal rulemaking under statutes that are not generally subject to this section.

"(2) Nothing in this section authorizes the use of appropriated funds available to any agency to pay the attorney's fees or other expenses of persons intervening in agency proceedings.".

SEC. 4. ANALYSIS OF AGENCY RULES.

(a) IN GENERAL.—Chapter 6 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER II—ANALYSIS OF AGENCY RULES

"§ 621. Definitions

"For purposes of this subchapter—

"(1) except as otherwise provided, the definitions under section 551 shall apply to this subchapter;

"(2) the term 'benefit' means the reasonably identifiable significant favorable effects, including social, environmental, health, and economic effects, that are expected to result directly or indirectly from implementation of a rule or other agency action;

"(3) the term 'cost' means the reasonably identifiable significant adverse effects, including social, environmental, health, and economic effects that are expected to result directly or indirectly from implementation of a rule or other agency action;

"(4) the term 'cost-benefit analysis' means an evaluation of the costs and benefits of a rule, quantified to the extent feasible and appropriate and otherwise qualitatively described, that is prepared in accordance with the requirements of this subchapter at the level of detail appropriate and practicable for reasoned decisionmaking on the matter involved, taking into consideration the significance and complexity of the decision and any need for expedition;

"(5) the term 'major rule' means—

"(A) a rule or set of closely related rules that the agency proposing the rule, the Director, or a designee of the President determines is likely to have a gross annual effect on the economy of $50,000,000 or more in reasonably quantifiable increased costs; or

"(B) a rule that is otherwise designated a major rule by the agency proposing the rule, the Director, or a designee of the President (and a designation or failure to designate under this clause shall not be subject to judicial review);

"(6) the term 'market-based mechanism' means a regulatory program that—

"(A) imposes legal accountability for the achievement of an explicit regulatory objective on each regulated person;

"(B) affords maximum flexibility to each regulated person in complying with mandatory regulatory objectives, which flexibility shall, where feasible and appropriate, include, but not be limited to, the opportunity to transfer to, or receive from, other persons, including for cash or other legal consideration, increments of compliance responsibility established by the program; and

"(C) permits regulated persons to respond to changes in general economic conditions and in economic circumstances directly pertinent to the regulatory program without affecting the achievement of the program's explicit regulatory mandates;

"(7) the term 'performance-based standards' means requirements, expressed in terms of outcomes or goals rather than mandatory means of achieving outcomes or goals, that permit the regulated entity discretion to determine how best to meet specific requirements in particular circumstances;

"(8) the term 'reasonable alternatives' means the range of reasonable regulatory options that the agency has authority to consider under the statute granting rulemaking authority, including flexible regulatory options of the type described in section 622(c)(2)(C)(iii), unless precluded by the statute granting the rulemaking authority; and

"(9) the term 'rule' has the same meaning as in section 551(4), and—

"(A) includes any statement of general applicability that substantially alters or creates rights or obligations of persons outside the agency; and

"(B) does not include—

"(i) a rule that involves the internal revenue laws of the United States, or the assessment and collection of taxes, duties, or other revenues or receipts;

"(ii) subject to section 633(c)(6), a rule or agency action that implements a treaty or international trade agreement to which the United States is a party;

"(iii) a rule or agency action that authorizes the introduction into commerce, or recognizes the marketable status, of a product;

"(iv) a rule exempt from notice and public procedure under section 553(a);

"(v) a rule or agency action relating to the public debt;

"(vi) a rule required to be promulgated at least annually pursuant to statute, or that provides relief, in whole or in part, from a statutory prohibition, other than a rule promulgated pursuant to subtitle C of title II of the Solid Waste Disposal Act (42 U.S.C. 6921 et seq.);

"(vii) a rule of particular applicability that approves or prescribes the future rates, wages, prices, services, corporate or financial structures, reorganizations, mergers, acquisitions, accounting practices, or disclosures bearing on any of the foregoing;

"(viii) a rule relating to monetary policy or to the safety or soundness of federally insured depository institutions or any affiliate of such an institution (as defined in section 2(k) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(k))), credit unions, Federal Home Loan Banks, government sponsored housing enterprises, farm credit institutions, foreign banks that operate in the United States and their affiliates, branches, agencies, commercial lending companies, or representative offices, (as those terms are defined in section 1 of the International Banking Act of 1978 (12 U.S.C. 3101));

"(ix) a rule relating to the payment system or the protection of deposit insurance funds or the farm credit insurance fund;

"(x) any order issued in a rate or certificate proceeding by the Federal Energy Regulatory Commission, or a rule of general applicability that the Federal Energy Regulatory Commission certifies would increase reliance on competitive market forces or reduce regulatory burdens;

"(xi) a rule or order relating to the financial responsibility of brokers and dealers or futures commission merchants, the safeguarding of investor securities and funds or commodity future or options customer securities and funds, the clearance and settlement of securities, futures, or options transactions, or the suspension of trading under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or emergency action taken under the Commodity Exchange Act (7 U.S.C. 1 et seq.), or a rule relating to the protection of the Securities Investor Protection Corporation, that is promulgated under the Securities Investor Protection Act of 1970 (15 U.S.C. 78aaa et seq.); or

"(xii) a rule that involves the international trade laws of the United States.

"§ 622. Rulemaking cost-benefit analysis

"(a) DETERMINATION OF MAJOR RULE.—Prior to publishing a notice of proposed rulemaking for any rule (or, in the case of a notice of proposed rulemaking that has been published but not issued on or before the date of enactment of this subchapter, not later than 30 days after such date of enactment), each agency shall determine whether the rule is or is not a major rule within the meaning of section 621(5)(A)(i) and, if it is not, whether it should be designated as a major rule under section 621(5)(A)(ii).

"(b) DESIGNATION.—(1) If an agency has determined that a rule is not a major rule within the meaning of section 621(5)(A)(i) and has not designated the rule as a major rule within the meaning of section 621(5)(A)(ii), the Director or a designee of the President may, as appropriate, determine that the rule is a major rule or designate the rule as a major rule not later than 30 days after the publication of the notice of proposed rulemaking for the rule (or, in the case of a notice of proposed rulemaking that has been published on or before the date of enactment of this subchapter, not later than 1 year after such date of enactment).

"(2) Such determination or designation shall be published in the Federal Register, together with a succinct statement of the basis for the determination or designation.

"(c) INITIAL COST-BENEFIT ANALYSIS.—(1)(A) When the agency publishes a notice of proposed rulemaking for a major rule, the agency shall issue and place in the rulemaking file an initial cost-benefit analysis, and shall include a summary of such analysis in the notice of proposed rulemaking.

"(B)(i) When an agency, the Director, or a designee of the President has published a determination or designation that a rule is a major rule after the publication of the notice of proposed rulemaking for the rule, the agency shall promptly issue and place in the rulemaking file an initial cost-benefit analysis for the rule and shall publish in the Federal Register a summary of such analysis.

"(ii) Following the issuance of an initial cost-benefit analysis under clause (i), the agency shall give interested persons an opportunity to comment in the same manner as if the initial cost-benefit analysis had been issued with the notice of proposed rulemaking.

"(2) Each initial cost-benefit analysis shall contain—

"(A) a succinct analysis of the benefits of the proposed rule, including any beneficial effects that cannot be quantified, and an explanation of how the agency anticipates such benefits will be achieved by the proposed rule, including a description of the persons or classes of persons likely to receive such benefits;

"(B) a succinct analysis of the costs of the proposed rule, including any costs that cannot be quantified, and an explanation of how the agency anticipates such costs will result from the proposed rule, including a description of the persons or classes of persons likely to bear such costs;

"(C) a succinct description (including an analysis of the costs and benefits) of reasonable alternatives for achieving the identified benefits of the proposed rule, including, where such alternatives exist, alternatives that—

"(i) require no government action, where the agency has discretion under the statute granting the rulemaking authority not to promulgate a rule;

"(ii) will accommodate differences among geographic regions and among persons with differing levels of resources with which to comply;

"(iii) employ performance-based standards, market-based mechanisms, or other flexible regulatory options that permit the greatest flexibility in achieving the regulatory result that the statutory provision authorizing the rule is designed to produce; or

"(iv) employ voluntary standards;

"(D) in any case in which the proposed rule is based on one or more scientific evaluations, scientific information, or a risk assessment, or is subject to the risk assessment requirements of subchapter III, a description of the actions undertaken by the agency to verify the quality, reliability, and relevance of such scientific evaluation, scientific information, or risk assessment; and

"(E) an explanation of whether the proposed rule is likely to meet the decisional criteria of section 624.

"(d) FINAL COST-BENEFIT ANALYSIS.—(1) When the agency publishes a final major rule, the agency shall also issue and place in the rulemaking file a final cost-benefit analysis, and shall include a summary of the analysis in the statement of basis and purpose.

"(2) Each final cost-benefit analysis shall contain—

"(A) a description and comparison of the benefits and costs of the rule and of the reasonable alternatives to the rule described in the rulemaking record, including flexible regulatory options of the type described in subsection (c)(2)(C)(iii), and a description of the persons likely to receive such benefits and bear such costs; and

"(B) an analysis, based upon the rulemaking record considered as a whole, of whether and how the rule meets the decisional criteria in section 624.

"(3) In considering the benefits and costs, the agency, when appropriate, shall consider the benefits and costs incurred by all of the affected persons or classes of persons (including specially affected subgroups).

"(e) REQUIREMENTS FOR COST-BENEFIT ANALYSES.—(1)(A) The description of the benefits and costs of a proposed and a final rule required under this section shall include, to the extent feasible, a quantification or numerical estimate of the quantifiable benefits and costs.

"(B) The quantification or numerical estimate shall—

"(i) be made in the most appropriate unit of measurement, using comparable assumptions, including time periods;

"(ii) specify the ranges of predictions; and

"(iii) explain the margins of error involved in the quantification methods and the uncertainties and variabilities in the estimates used.

"(C) An agency shall describe the nature and extent of the nonquantifiable benefits and costs of a final rule pursuant to this section in as precise and succinct a manner as possible.

"(D) The agency evaluation of the relationship of benefits to costs shall be clearly articulated.

"(E) An agency shall not be required to make such evaluation primarily on a mathematical or numerical basis.

"(F) Nothing in this subsection shall be construed to expand agency authority beyond the delegated authority arising from the statute granting the rulemaking authority.

"(2) Where practicable and when understanding industry-by-industry effects is of central importance to a rulemaking, the description of the benefits and costs of a proposed and final rule required under this section shall describe such benefits and costs on an industry by industry basis.

"(f) HEALTH, SAFETY, OR EMERGENCY EXEMPTION FROM COST-BENEFIT ANALYSIS.—(1) A major rule may be adopted and may become effective without prior compliance with this subchapter if—

"(A) the agency for good cause finds that conducting cost-benefit analysis is impracticable due to an emergency or health or safety threat that is likely to result in significant harm to the public or natural resources; and

"(B) the agency publishes in the Federal Register, together with such finding, a succinct statement of the basis for the finding.

"(2) Not later than 180 days after the promulgation of a final major rule to which this section applies, the agency shall comply with the provisions of this subchapter and, if thereafter necessary, revise the rule.

"§ 623. Agency regulatory review

"(a) PRELIMINARY SCHEDULE FOR RULES.—(1) Not later than 1 year after the date of the enactment of this section, and every 5 years thereafter, the head of each agency shall publish in the Federal Register a notice of proposed rulemaking under section 553 that contains a preliminary schedule of rules selected for review under this section by the head of the agency and in the sole discretion of the head of the agency, and request public comment thereon, including suggestions for additional rules warranting review. The agency shall allow at least 180 days for public comment.

"(2) In selecting rules for the preliminary schedule, the head of the agency shall consider the extent to which, in the judgment of the head of the agency—

"(A) a rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

"(B) a rule would not meet the decisional criteria of section 624, and the agency has discretion under the statute authorizing the rule to repeal the rule; or

"(C) a rule could be revised in a manner allowed by the statute authorizing the rule so as to meet the decisional criteria of section 624 and to—

"(i) substantially decrease costs;

"(ii) substantially increase benefits; or

"(iii) provide greater flexibility for regulated entities, through mechanisms including, but not limited to, those listed in section 622(c)(2)(C)(iii).

"(3) The preliminary schedule under this subsection shall propose deadlines for review of each rule listed thereon, and such deadlines shall occur not later than 11 years from the date of publication of the preliminary schedule.

"(4) Any interpretive rule, general statement of policy, or guidance that has the force and effect of a rule under section 621(9) shall be treated as a rule for purposes of this section.

"(b) SCHEDULE.—(1) Not later than 1 year after publication of a preliminary schedule under subsection (a), and subject to subsection (c), the head of each agency shall publish a final rule that establishes a schedule of rules to be reviewed by the agency under this section.

"(2) The schedule shall establish a deadline for completion of the review of each rule listed on the schedule, taking into account the criteria in subsection (d) and comments received in the rulemaking under subsection (a). Each such deadline shall occur not later than 11 years from the date of publication of the preliminary schedule.

"(3) The schedule shall contain, at a minimum, all rules listed on the preliminary schedule.

"(4) The head of the agency shall modify the agency's schedule under this section to reflect any change ordered by the court under subsection (e) or subsection (g)(3) or contained in an appropriations Act under subsection (f).

"(c) PETITIONS AND COMMENTS PROPOSING ADDITION OF RULES TO THE SCHEDULE.—(1) Notwithstanding section 553(*l*), a petition to amend or repeal a major rule or an interpretative rule, general statement of policy, or guidance may only be filed during the 180-day comment period under subsection (a) and not at any other time. Such petition shall be reviewed only in accordance with this subsection.

"(2) The head of the agency shall, in response to petitions received during the rulemaking to establish the schedule, place on the final schedule for review within the first 3 years of the schedule any rule for which a petition, on its face, together with any relevant comments received in the rulemaking under subsection (a), establishes that there is a substantial likelihood that, considering the future impact of the rule—

"(A) the rule is a major rule under section 621(5)(A); and

(B) the head of the agency would not be able to make the findings required by section 624 with respect to the rule.

"(3) For the purposes of paragraph (2), the head of the agency may consolidate multiple petitions on the same rule into 1 determination with respect to review of the rule.

"(4) The head of the agency may, at the sole discretion of the head of the agency, add to the schedule any other rule suggested by a commentator during the rulemaking under subsection (a).

"(d) CRITERIA FOR ESTABLISHING DEADLINES FOR REVIEW.—The schedules in subsections (a) and (b) shall establish deadlines for review of each rule on the schedule that take into account—

"(1) the extent to which, for a particular rule, the preliminary views of the agency are that—

"(A) the rule is unnecessary, and the agency has discretion under the statute authorizing the rule to repeal the rule;

"(B) the rule would not meet the decisional criteria of section 624, and the agency has discretion under the statute authorizing the rule to repeal the rule; or

"(C) the rule could be revised in a manner allowed by the statute authorizing the rule so as to meet the decisional criteria under section 624 and to—

"(i) substantially decrease costs;

"(ii) substantially increase benefits; or

"(iii) provide greater flexibility for regulated entities, through mechanisms including, but not limited to, those listed in section 622(c)(2)(C)(iii);

"(2) the importance of each rule relative to other rules being reviewed under this section; and

"(3) the resources expected to be available to the agency under subsection (f) to carry out the reviews under this section.

"(e) JUDICIAL REVIEW.—(1) Notwithstanding section 625 and except as provided otherwise in this subsection, agency compliance or noncompliance with the requirements of this section shall be subject to judicial review in accordance with section 706 of this title.

"(2) The United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to review agency action pursuant to subsection (b) and subsection (c).

"(3) A petition for review of final agency action under subsection (b) or subsection (c) shall be filed not later than 60 days after the agency publishes the final rule under subsection (b).

"(4) The court upon review, for good cause shown, may extend the 3-years deadline under subsection (c)(2) for a period not to exceed an additional year.

"(5) The court shall remand to the agency any schedule under subsection (b) only if final agency action under subsection (b) is arbitrary or capricious. Agency action under subsection (d) shall not be subject to judicial review.

"(f) ANNUAL BUDGET.—(1) The President's annual budget proposal submitted under section 1105(a) of title 31 for each agency subject to this section shall—

"(A) identify as a separate sum the amount requested to be appropriated for implementation of this section during the upcoming fiscal year; and

"(B) include a list of rules which may terminate during the year for which the budget proposal is made.

"(2) Amendments to the schedule under subsection (b) that change a deadline for review of a rule may be included in annual appropriations Acts for the relevant agencies. An authorizing committee with jurisdiction may submit, to the House of Representatives or Senate appropriations committee (as the case may be), amendments to the schedule published by an agency under subsection (b) that change a deadline for review of a rule. The appropriations committee to which such amendments have been submitted shall include or propose the amendments in the annual appropriations Act for the relevant agency. Each agency shall modify its schedule under subsection (b) to reflect such amendments.

"(g) Review of Rule.—(1) For each rule on the schedule under subsection (b), the agency shall—

"(A) not later than 2 years before the deadline in such schedule, publish in the Federal Register a notice that solicits public comment regarding whether the rule should be continued, amended, or repealed;

"(B) not later than 1 year before the deadline in such schedule, publish in the Federal Register a notice that—

"(i) addresses public comments generated by the notice in subparagraph (A);

"(ii) contains a preliminary analysis provided by the agency of whether the rule is a major rule, and if so, whether it satisfies the decisional criteria of section 624;

"(iii) contains a preliminary determination as to whether the rule should be continued, amended, or repealed; and

"(iv) solicits public comment on the preliminary determination for the rule; and

"(C) not later than 60 days before the deadline in such schedule, publish in the Federal Register a final notice on the rule that—

"(i) addresses public comments generated by the notice in subparagraph (B); and

"(ii) contains a final determination of whether to continue, amend, or repeal the rule; and

"(iii) if the agency determines to continue the rule and the rule is a major rule, contains findings necessary to satisfy the decisional criteria of section 624; and

"(iv) if the agency determines to amend the rule, contains a notice of proposed rulemaking under section 553.

"(2) If the final determination of the agency is to continue or repeal the rule, that determination shall take effect 60 days after the publication in the Federal Register of the notice in paragraph (1)(C).

"(3) An interested party may petition the U.S. Court of Appeals for the District of Columbia Circuit to extend the period for review of a rule on the schedule for up to two years and to grant such equitable relief as is appropriate, if such petition establishes that—

"(A) the rule is likely to terminate under subsection (i);

"(B) the agency needs additional time to complete the review under this subsection;

"(C) terminating the rule would not be in the public interest; and

"(D) the agency has not expeditiously completed its review.

"(h) Deadline for Final Agency Action on Modified Rule.—If an agency makes a determination to amend a major rule under subsection (g)(1)(C)(ii), the agency shall complete final agency action with regard to such rule not later than 2 years of the date of publication of the notice in subsection (g)(1)(C) containing such determination. Nothing in this subsection shall limit the discretion of an agency to decide, after having proposed to modify a major rule, not to promulgate such modification. Such decision shall constitute final agency action for the purposes of judicial review.

"(i) Termination of Rules.—If the head of an agency has not completed the review of a rule by the deadline established in the schedule published or modified pursuant to subsection (b) and subsection (c), the head of the agency shall not enforce the rule, and the rule shall terminate by operation of law as of such date.

"(j) Final Agency Action.—(1) The final determination of an agency to continue or repeal a major rule under subsection (g)(1)(C) shall be considered final agency action.

"(2) Failure to promulgate an amended major rule or to make other decisions required by subsection (h) by the date established under such subsection shall be considered final agency action.

"§ 624. Decisional criteria

"(a) Construction With Other Laws.—The requirements of this section shall supplement, and not supersede, any other decisional criteria otherwise provided by law.

"(b) Requirements.—Except as provided in subsection (c), no final major rule subject to this subchapter shall be promulgated unless the agency head publishes in the Federal Register a finding that—

"(1) the benefits from the rule justify the costs of the rule;

"(2) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii); and

"(3)(A) the rule adopts the least cost alternative of the reasonable alternatives that achieves the objectives of the statute; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest and the agency head provides an explanation of those considerations, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits; and

"(4) if a risk assessment is required by section 632—

"(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

"(c) Alternative Requirements.—If, applying the statutory requirements upon which the rule is based, a rule cannot satisfy the criteria of subsection (b), the agency head may promulgate the rule if the agency head finds that—

"(1) the rule employs to the extent practicable flexible reasonable alternatives of the type described in section 622(c)(2)(C)(iii);

"(2)(A) the rule adopts the least cost alternative of the reasonable alternatives that achieves the objectives of the statute; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment identified by the agency in the rulemaking record make a more costly alternative that achieves the objectives of the statute appropriate and in the public interest, and the agency head provides an explanation of those consideration, the rule adopts the least cost alternative of the reasonable alternatives necessary to take into account such uncertainties or benefits; and

"(3) if a risk assessment is required by section 632—

"(A) the rule is likely to significantly reduce the human health, safety, and environmental risks to be addressed; or

"(B) if scientific, technical, or economic uncertainties or nonquantifiable benefits to health, safety, or the environment, preclude making the finding under subparagraph (A), promulgating the final rule is nevertheless justified for reasons stated in writing accompanying the rule and consistent with subchapter III.

"(d) Publication of Reasons for Noncompliance.—If an agency promulgates a rule to which subsection (c) applies, the agency head shall prepare a written explanation of why the agency was required to promulgate a rule that does not satisfy the criteria of subsection (b) and shall transmit the explanation with the final cost-benefit analysis to Congress when the final rule is promulgated.

"§ 625. Jurisdiction and judicial review

"(a) Review.—Compliance or noncompliance by an agency with the provisions of this subchapter and subchapter III shall be subject to judicial review only in accordance with this section.

"(b) Jurisdiction.—(1) Subject to paragraph (2), each court with jurisdiction under a statute to review final agency action to which this title applies, has jurisdiction to review any claims of noncompliance with this subchapter and subchapter III.

"(2) No claims of noncompliance with this subchapter or subchapter III shall be reviewed separate or apart from judicial review of the final agency action to which they relate.

"(c) Record.—Any analysis or review required under this subchapter or subchapter III shall constitute part of the rulemaking record of the final agency action to which it pertains for the purposes of judicial review.

"(d) Standards for Review.—In any proceeding involving judicial review under section 706 or under the statute granting the rulemaking authority, failure to comply with this subchapter or subchapter III may be considered by the court solely for the purpose of determining whether the final agency action is arbitrary and capricious or an abuse of discretion (or unsupported by substantial evidence where that standard is otherwise provided by law).

"(e) Interlocutory Review.—(1) The United States Court of Appeals for the District of Columbia Circuit shall have jurisdiction to review—

"(A) an agency determination that a rule is not a major rule pursuant to section 622(a); and

"(B) an agency determination that a risk assessment is not required pursuant to section 632(a).

"(2) A petition for review of agency action under paragraph (1) shall be filed within 60 days after the agency makes the determination or certification for which review is sought.

"(3) Except as provided in this subsection, no court shall have jurisdiction to review any agency determination or certification specified in paragraph (1).

"§ 626. Deadlines for rulemaking

"(a) Statutory.—All deadlines in statutes that require agencies to propose or promulgate any rule subject to section 622 or subchapter III during the 5-year period beginning on the effective date of this section shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 2 years after the date of the applicable deadline.

"(b) Court-Ordered.—All deadlines imposed by any court of the United States that would require an agency to propose or promulgate a rule subject to section 622 or subchapter III during the 5-year period beginning on the effective date of this section shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 2 years after the date of the applicable deadline.

"(c) OBLIGATION TO REGULATE.—In any case in which the failure to promulgate a rule by a deadline occurring during the 5-year period beginning on the effective date of this section would create an obligation to regulate through individual adjudications, the deadline shall be suspended until the earlier of—

"(1) the date on which the requirements of section 622 or subchapter III are satisfied; or

"(2) the date occurring 2 years after the date of the applicable deadline.

"§ 627. Special rule

"Notwithstanding any other provision of the Comprehensive Regulatory Reform Act of 1995, or the amendments made by such Act, for purposes of this subchapter and subchapter IV, the head of each appropriate Federal banking agency (as defined in section 3(q) of the Federal Deposit Insurance Act), the National Credit Union Administration, the Federal Housing Finance Board, the Office of Federal Housing Enterprise Oversight, and the Farm Credit Administration, shall have authority with respect to such agency that otherwise would be provided under such subchapters to the Director, a designee of the President, Vice President, or any officer designated or delegated with authority under such subchapters.

"§ 628. Requirements for major environmental management activities

"(a) DEFINITION.—For purposes of this section, the term 'major environmental management activity' means—

"(1) a corrective action requirement under the Solid Waste Disposal Act;

"(2) a response action or damage assessment under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

"(3) the treatment, storage, or disposal of radioactive or mixed waste in connection with site restoration activity; and

"(4) Federal guidelines for the conduct of such activity, including site-specific guidelines,

the expected costs, expenses, and damages of which are likely to exceed, in the aggregate, $10,000,000.

"(b) APPLICABILITY.—A major environmental management activity is subj ect to this section unless construction has commenced on a significant portion of the activity, and—

"(1) it is more cost-effective to complete construction of the work than to apply the provisions of this subchapter; or

"(2) the application of the provisions of this subchapter, including any delays caused thereby, will result in an actual and immediate risk to human health or welfare.

"(c) REQUIREMENT TO PREPARE RISK ASSESSMENT.—(1) For each major environmental management activity or significant unit thereof that is proposed by the agency after the date of enactment of this subchapter, is pending on the date of enactment of this subchapter, or is subject to a granted petition for review pursuant to section 623, the head of an agency shall prepare—

"(A) a risk assessment in accordance with subchapter III; and

"(B) a cost-benefit analysis equivalent to that which would be required under this subchapter, if such subchapter were applicable.

"(2) In conducting a risk assessment or cost-benefit analysis under this section, the head of the agency shall incorporate the reasonably anticipated probable future use of the land and its surroundings (and any associated media and resources of either) affected by the environmental management activity.

"(3) For actions pending on the date of enactment of this section or proposed during the year following the date of enactment of this section, in lieu of preparing a risk assessment in accordance with subchapter III or cost-benefit analysis under this subchapter, an agency may use other appropriately developed analyses that allow it to make the judgments required under subsection (d).

"(d) REQUIREMENT.—The requirements of this subsection shall supplement, and not supersede, any other requirement provided by any law. A major environmental management activity under this section shall meet the decisional criteria under section 624 as if it is a major rule under such section.

"SUBCHAPTER III—RISK ASSESSMENTS

"§ 631. Definitions

"For purposes of this subchapter—

"(1) except as otherwise provided, the definitions under section 551 shall apply to this subchapter;

"(2) the term 'exposure assessment' means the scientific determination of the intensity, frequency and duration of actual or potential exposures to the hazard in question;

"(3) the term 'hazard assessment' means the scientific determination of whether a hazard can cause an increased incidence of one or more significant adverse effects, and a scientific evaluation of the relationship between the degree of exposure to a perceived cause of an adverse effect and the incidence and severity of the effect;

"(4) the term 'major rule' has the meaning given such term in section 621(5);

"(5) the term 'risk assessment' means the systematic process of organizing and analyzing scientific knowledge and information on potential hazards, including as appropriate for the specific risk involved, hazard assessment, exposure assessment, and risk characterization;

"(6) the term 'risk characterization' means the integration and organization of hazard and exposure assessment to estimate the potential for specific harm to an exposed population or natural resource including, to the extent feasible, a characterization of the distribution of risk as well as an analysis of uncertainties, variabilities, conflicting information, and inferences and assumptions in the assessment;

"(7) the term 'screening analysis' means an analysis using simple conservative postulates to arrive at an estimate of upper and lower bounds as appropriate, that permits the manager to eliminate risks from further consideration and analysis, or to help establish priorities for agency action; and

"(8) the term 'substitution risk' means an increased risk to human health, safety, or the environment reasonably likely to result from a regulatory option.

"§ 632. Applicability

"(a) IN GENERAL.—Except as provided in subsection (c), for each proposed and final major rule, a primary purpose of which is to protect human health, safety, or the environment, or a consequence of which is a substantial substitution risk, that is proposed by an agency after the date of enactment of this subchapter, or is pending on the date of enactment of this subchapter, the head of each agency shall prepare a risk assessment in accordance with this subchapter.

"(b) APPLICATION OF PRINCIPLES.—(1) Except as provided in subsection (c), the head of each agency shall apply the principles in this subchapter to any risk assessment conducted to support a determination by the agency of risk to human health, safety, or the environment, if such determination would be likely to have an effect on the United States economy equivalent to that of a major rule.

"(2) In applying the principles of this subchapter to risk assessments other than those in subsections (a), (b)(1), and (c), the head of each agency shall publish, after notice and public comment, guidelines for the conduct of such other risk assessments that adopt the principles of this subchapter in a manner consistent with section 633(a)(4) and the risk assessment and risk management needs of the agency.

"(3) An agency shall not, as a condition for the issuance or modification of a permit, conduct, or require any person to conduct, a risk assessment, except if the agency finds that the risk assessment meets the requirements of section 633 (a) through (f).

"(c) EXCEPTIONS.—(1) This subchapter shall not apply to risk assessments performed with respect to—

"(A) a situation for which the agency finds good cause that conducting a risk assessment is impracticable due to an emergency or health and safety threat that is likely to result in significant harm to the public or natural resources;

"(B) a rule or agency action that authorizes the introduction into commerce, or initiation of manufacture, of a substance, mixture, or product, or recognizes the marketable status of a product;

"(C) a human health, safety, or environmental inspection, an action enforcing a statutory provision, rule, or permit, or an individual facility or site permitting action, except to the extent provided by subsection (b)(3);

"(D) a screening analysis clearly identified as such; or

"(E) product registrations, reregistrations, tolerance settings, and reviews of premanufacture notices under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) and the Toxic Substances Control Act (15 U.S.C. 2601 et seq.).

"(2) An analysis shall not be treated as a screening analysis for the purposes of paragraph (1)(D) if the result of the analysis is used—

"(A) as the basis for imposing a restriction on a previously authorized substance, product, or activity after its initial introduction into manufacture or commerce; or

"(B) as the basis for a formal determination by the agency of significant risk from a substance or activity.

"(3) This subchapter shall not apply to any food, drug, or other product label or labeling, or to any risk characterization appearing on any such label.

"§ 633. Principles for risk assessments

"(a) IN GENERAL.—(1) The head of each agency shall design and conduct risk assessments in a manner that promotes rational and informed risk management decisions and informed public input into the process of making agency decisions.

"(2) The head of each agency shall establish and maintain a distinction between risk assessment and risk management.

"(3) An agency may take into account priorities for managing risks, including the types of information that would be important in evaluating a full range of alternatives, in developing priorities for risk assessment activities.

"(4) In conducting a risk assessment, the head of each agency shall employ the level of detail and rigor considered by the agency as appropriate and practicable for reasoned decisionmaking in the matter involved, proportionate to the significance and complexity of the potential agency action and the need for expedition.

"(5) An agency shall not be required to repeat discussions or explanations in each risk assessment required under this subchapter if there is an unambiguous reference to a relevant discussion or explanation in another reasonably available agency document that was prepared consistent with this section.

"(b) Iterative Process.—(1) Each agency shall develop and use an iterative process for risk assessment, starting with relatively inexpensive screening analyses and progressing to more rigorous analyses, as circumstances or results warrant.

"(2) In determining whether or not to proceed to a more detailed analysis, the head of the agency shall take into consideration whether or not use of additional data or the analysis thereof would significantly change the estimate of risk and the resulting agency action.

"(c) Data Quality.—(1) The head of each agency shall base each risk assessment only on the best reasonably available scientific data and scientific understanding, including scientific information that finds or fails to find a correlation between a potential hazard and an adverse effect, and data regarding exposure and other relevant physical conditions that are reasonably expected to be encountered.

"(2) The agency shall select data for use in a risk assessment based on a reasoned analysis of the quality and relevance of the data, and shall describe such analysis.

"(3) In making its selection of data, the agency shall consider whether the data were published in the peer-reviewed scientific literature, or developed in accordance with good laboratory practice or published or other appropriate protocols to ensure data quality, such as the standards for the development of test data promulgated pursuant to section 4 of the Toxic Substances Control Act (15 U.S.C. 2603), and the standards for data requirements promulgated pursuant to section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a), or other form of independent evaluation.

"(4) Subject to paragraph (3), relevant scientific data submitted by interested parties shall be reviewed and considered by the agency in the analysis under paragraph (2).

"(5) When conflicts among scientific data appear to exist, the risk assessment shall include a discussion of all relevant information including the likelihood of alternative interpretations of the data and emphasizing—

"(A) postulates that represent the most reasonable inferences from the supporting scientific data; and

"(B) when a risk assessment involves an extrapolation from toxicological studies, data with the greatest scientific basis of support for the resulting harm to affected individuals, populations, or resources.

"(6) The head of an agency shall not automatically incorporate or adopt any recommendation or classification made by any foreign government, the United Nations, any international governmental body or standards-making organization, concerning the health effects value of a substance except as provided in paragraph (2) of this subsection. Nothing in this paragraph shall be construed to affect the implementation or application of any treaty or international trade agreement to which the United States is a party.

"(d) Use of Policy Judgments.—(1) To the maximum extent practicable, each agency shall use policy judgments, including default assumptions, inferences, models or safety factors, only when relevant scientific data and scientific understanding, including site-specific data, are lacking. The agency shall modify or decrease the use of policy judgments to the extent that higher quality scientific data and understanding become available.

"(2) When a risk assessment involves choice of a postulate, the head of the agency shall—

"(A) identify the postulate and its scientific or policy basis, including the extent to which the policy judgment has been validated by, or conflicts with, empirical data;

"(B) explain the basis for any choices among policy judgments; and

"(C) describe reasonable alternative policy judgments that were not selected by the agency for use in the risk assessment, and the sensitivity of the conclusions of the risk assessment to the alternatives, and the rationale for not using such alternatives.

"(3) An agency shall not inappropriately combine or compound multiple policy judgments.

"(4) The agency shall, subject to notice and opportunity for public comment, develop and publish guidelines describing the agency's default policy judgments and how they were chosen, and guidelines for deciding when and how, in a specific risk assessment, to adopt alternative policy judgments or to use available scientific information in place of a policy judgment.

"(e) Risk Characterization.—In each risk assessment, the agency shall include in the risk characterization, as appropriate, each of the following:

"(1) A description of the hazard of concern.

"(2) A description of the populations or natural resources that are the subject of the risk assessment.

"(3) An explanation of the exposure scenarios used in the risk assessment, including an estimate of the corresponding population at risk and the likelihood of such exposure scenarios.

"(4) A description of the nature and severity of the harm that could plausibly occur.

"(5) A description of the major uncertainties in each component of the risk assessment and their influence on the results of the assessment.

"(f) Presentation of Risk Assessment Conclusions.—(1) To the extent feasible and scientifically appropriate, the head of an agency shall—

"(A) express the overall estimate of risk as a range or probability distribution that reflects variabilities, uncertainties and data gaps in the analysis;

"(B) provide the range and distribution of risks and the corresponding exposure scenarios, identifying the reasonably expected risk to the general population and, where appropriate, to more highly exposed or sensitive subpopulations; and

"(C) where quantitative estimates of the range and distribution of risk estimates are not available, describe the qualitative factors influencing the range of possible risks.

"(2) When scientific data and understanding that permits relevant comparisons of risk are reasonably available, the agency shall use such information to place the nature and magnitude of risks to human health, safety, and the environment being analyzed in context.

"(3) When scientifically appropriate information on significant substitution risks to human health, safety, or the environment is reasonably available to the agency, or is contained in information provided to the agency by a commentator, the agency shall describe such risks in the risk assessments.

"(g) Peer Review.—(1) Each agency shall provide for peer review in accordance with this section of any risk assessment subject to the requirements of this subchapter that forms that basis of any major rule or a major environmental management activity.

"(2) Each agency shall develop a systematic program for balanced, independent, and external peer review that—

"(A) shall provide for the creation or utilization of peer review panels, expert bodies, or other formal or informal devices that are balanced and comprised of participants selected on the basis of their expertise relevant to the sciences involved in regulatory decisions and who are independent of the agency program that developed the risk assessment being reviewed;

"(B) shall not exclude any person with substantial and relevant expertise as a participant on the basis that such person has a potential interest in the outcome, if such interest is fully disclosed to the agency, and the agency includes such disclosure as part of the record, unless the result of the review would have a direct and predictable effect on a substantial financial interest of such person;

"(C) shall provide for a timely completed peer review, meeting agency deadlines, that contains a balanced presentation of all considerations, including minority reports and agency response to all significant peer review comments; and

"(D) shall provide adequate protections for confidential business information and trade secrets, including requiring panel members to enter into confidentiality agreements.

"(3) Each peer review shall include a report to the Federal agency concerned detailing the scientific and technical merit of data and the methods used for the risk assessment, and shall identify significant peer review comments. Each agency shall provide a written response to all significant peer review comments. All peer review comments, conclusions, composition of the panels, and the agency's responses shall be made available to the public and shall be made part of the administrative record for purposes of judicial review of any final agency action.

"(4)(A) The Director of the Office of Science and Technology Policy shall develop a systematic program to oversee the use and quality of peer review of risk assessments.

"(B) The Director or the designee of the President may order an agency to conduct peer review for any risk assessment or cost-benefit analysis that is likely to have a significant impact on public policy decisions, or that would establish an important precedent.

"(5) The proceedings of peer review panels under this section shall not be subject to the Federal Advisory Committee Act.

"(h) Public Participation.—The head of each agency shall provide appropriate opportunities for public participation and comment on risk assessments.

"§ 634. Rule of construction

"Nothing in this subchapter shall be construed to—

"(1) preclude the consideration of any data or the calculation of any estimate to more fully describe or analyze risk, scientific uncertainty, or variability; or

"(2) require the disclosure of any trade secret or other confidential information.

"§ 635. Comprehensive risk reduction

"(a) Setting Priorities.—The head of each agency with programs to protect human health, safety, or the environment shall set priorities for the use of resources available to address those risks to human health, safety, and the environment, with the goal of achieving the greatest overall net reduction in risks with the public and private sector resources expended.

"(b) Incorporating Risk-Based Priorities Into Budget and Planning.—The head of each agency in subsection (a) shall incorporate the priorities identified under subsection (a) into the agency budget, strategic planning, regulatory agenda, enforcement, and research activities. When submitting its budget request to Congress and when announcing its regulatory agenda in the Federal Register, each covered agency shall identify the risks that the covered agency head has determined are the most serious and can be addressed in a cost-effective manner using the priorities set under subsection (a), the basis for that determination, and explicitly identify how the agency's requested budget and regulatory agenda reflect those priorities.

"(c) Reports by the National Academy of Sciences.—(1) Not later than 6 months after the date of enactment of this section, the Director of the Office of Science and Technology Policy shall enter into an arrangement with the National Academy of Sciences to investigate and report on comparative risk analysis. The arrangement shall provide, to the extent deemed appropriate and feasible by the Academy, for—

"(A) 1 or more reports evaluating methods of comparative risk analysis that would be appropriate for agency programs related to human health, safety, and the environment to use in setting priorities for activities; and

"(B) a report providing a comprehensive and comparative analysis of the risks to human health, safety, and the environment that are addressed by agency programs under subsection (a), along with companion activities to disseminate the conclusions of the report to the public.

"(2) The report or reports prepared under paragraph (1)(A) shall be completed not later than 3 years after the date of enactment of this section. The report under paragraph (1)(B) shall be completed not later than 4 years after the date of enactment of this section, and shall draw, as appropriate, upon the insights and conclusions of the report or reports made under paragraph (1)(A). The companion activities under paragraph (1)(B) shall be completed not later than 5 years after the date of enactment of this section.

"(3)(A) The head of an agency with programs to protect human health, safety, and the environment shall incorporate the recommendations of reports under paragraph (1) in revising any priorities under subsection (a).

"(B) The head of the agency shall submit a report to the appropriate Congressional committees of jurisdiction responding to the recommendations from the National Academy of Sciences and describing plans for utilizing the results of comparative risk analysis in agency budget, strategic planning, regulatory agenda, enforcement, and research and development activities.

"(4) Following the submission of the report in paragraph (2), for the next 5 years, the head of the agency shall submit, with the budget request submitted to Congress under section 1105(a) of title 31, a description of how the requested budget of the agency and the strategic planning activities of the agency reflect priorities determined using the recommendations of reports issued under subsection (a). The head of the agency shall include in such description—

"(A) recommendations on the modification, repeal, or enactment of laws to reform, eliminate, or enhance programs or mandates relating to human health, safety, or the environment; and

"(B) recommendation on the modification or elimination of statutory or judicially mandated deadlines,

that would assist the head of the agency to set priorities in activities to address the risks to human health, safety, or the environment that incorporate the priorities developed using the recommendations of the reports under subsection (a), resulting in more cost-effective programs to address risk.

"(5) For each budget request submitted in accordance with paragraph (4), the Director shall submit an analysis of ways in which resources could be reallocated among Federal agencies to achieve the greatest overall net reduction in risk.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"§ 641. Procedures

"(a) In General.—The Director or a designee of the President shall—

"(1) establish and, as appropriate, revise procedures for agency compliance with this chapter; and

"(2) monitor, review, and ensure agency implementation of such procedures.

"(b) Public Comment.—Procedures established pursuant to subsection (a) shall only be implemented after opportunity for public comment. Any such procedures shall be consistent with the prompt completion of rulemaking proceedings.

"(c) Time for Review.—(1) If procedures established pursuant to subsection (a) include review of any initial or final analyses of a rule required under chapter 6, the time for any such review of any initial analysis shall not exceed 90 days following the receipt of the analysis by the Director, or a designee of the President.

"(2) The time for review of any final analysis required under chapter 6 shall not exceed 90 days following the receipt of the analysis by the Director, a designee of the President.

"(3)(A) The times for each such review may be extended for good cause by the President or by an officer to whom the President has delegated his authority pursuant to section 642 for an additional 45 days. At the request of the head of an agency, the President or such an officer may grant an additional extension of 45 days.

"(B) Notice of any such extension, together with a succinct statement of the reasons therefor, shall be inserted in the rulemaking file.

"§ 642. Delegation of authority

"(a) In General.—The President may delegate the authority granted by this subchapter to an officer within the Executive Office of the President whose appointment has been subject to the advice and consent of the Senate.

"(b) Notice.—Notice of any delegation, or any revocation or modification thereof shall be published in the Federal Register.

"§ 643. Judicial review

"The exercise of the authority granted under this subchapter by the Director, the President, or by an officer to whom such authority has been delegated under section 642 and agency compliance or noncompliance with the procedure under section 641 shall not be subject to judicial review.

"§ 644. Regulatory agenda

"The head of each agency shall provide, as part of the semiannual regulatory agenda published under section 602—

"(1) a list of risk assessments subject to subsection 632 (a) or (b)(1) under preparation or planned by the agency;

"(2) a brief summary of relevant issues addressed or to be addressed by each listed risk assessment;

"(3) an approximate schedule for completing each listed risk assessment;

"(4) an identification of potential rules, guidance, or other agency actions supported or affected by each listed risk assessment; and

"(5) the name, address, and telephone number of an agency official knowledgeable about each listed risk assessment.".

(b) Regulatory Flexibility Analysis.—

(1) Final regulatory flexibility analysis.—Section 604 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(c)(1) Except as provided in paragraph (2), no final rule for which a final regulatory flexibility analysis is required under this section shall be promulgated unless the agency finds that the final rule minimizes significant economic impact on small entities to the maximum extent possible, consistent with the purposes of this subchapter, the objectives of the rule, and the requirements of applicable statutes.

"(2) If an agency determines that a statute requires a rule to be promulgated that does not satisfy the criterion of paragraph (1), the agency shall—

"(A) include a written explanation of such determination in the final regulatory flexibility analysis; and

"(B) transmit the final regulatory flexibility analysis to Congress when the final rule is promulgated.".

(2) Judicial review.—Section 611 of title 5, United States Code, is amended to read as follows:

"§ 611. Judicial review

"(a)(1) For any rule described in section 603(a), and with respect to which the agency—

"(A) certified, pursuant to section 605(b), that such rule would not have a significant economic impact on a substantial number of small entities;

"(B) prepared a final regulatory flexibility analysis pursuant to section 604; or

"(C) did not prepare an initial regulatory flexibility analysis pursuant to section 603 or a final regulatory flexibility analysis pursuant to section 604 except as permitted by sections 605 and 608,

an affected small entity may petition for the judicial review of such certification, analysis, or failure to prepare such analysis, in accordance with this subsection. A court having jurisdiction to review such rule for compliance with section 553 or under any other provision of law shall have jurisdiction over such petition.

"(2)(A) Notwithstanding any other provision of law, an affected small entity shall have 1 year after the effective date of the final rule to challenge the certification, analysis or failure to prepare an analysis required by this subchapter with respect to any such rule.

"(B) If an agency delays the issuance of a final regulatory flexibility analysis pursuant to section 608(b), a petition for judicial review under this subsection may be filed not later than 1 year after the date the analysis is made available to the public.

"(3) For purposes of this subsection, the term 'affected small entity' means a small entity that is or will be subject to the provisions of, or otherwise required to comply with, the final rule.

"(4) Nothing in this subsection shall be construed to limit the authority of any court to stay the effective date of any rule or provision thereof under any other provision of law.

"(5)(A) Notwithstanding section 605, if the court determines, on the basis of the court's review of the rulemaking record, that there is substantial evidence that the rule would have a significant economic impact on a substantial number of small entities, the court shall order the agency to prepare a final regulatory flexibility analysis that satisfies the requirements of section 604.

"(B) If the agency prepared a final regulatory flexibility analysis, the court shall order the agency to take corrective action consistent with section 604 if the court determines, on the basis of the court's review of the rulemaking record, that the final regulatory flexibility analysis does not satisfy the requirements of section 604.

"(6) The court shall stay the rule and grant such other relief as the court determines to be appropriate if, by the end of the 90-day period beginning on the date of the order of the court pursuant to paragraph (5), the agency fails, as appropriate—

"(A) to prepare the analysis required by section 604; or

"(B) to take corrective action consistent with section 604.

"(b) In an action for the judicial review of a rule, any regulatory flexibility analysis for such rule (including an analysis prepared or corrected pursuant to subsection (a)(5)) shall constitute part of the whole record of agency action in connection with such review.

"(c) Except as otherwise required by the provisions of this subchapter, the court shall apply the same standards of judicial review that govern the review of agency findings under the statute granting the agency authority to conduct the rulemaking.".

(c) REVISION OF CERTAIN PROVISIONS OF THE FEDERAL FOOD, DRUG, AND COSMETIC ACT RELATING TO TESTING.—In applying section 409(c)(3)(A), 512(d)(1), or 721(b)(5)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(3)(A), 360b(d)(1), 379e(b)(5)(B)), the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency shall not prohibit or refuse to approve a substance or product on the basis of safety, where the substance or product presents a negligible or insignificant foreseeable risk to human health resulting from its intended use.

(d) TOXIC RELEASE INVENTORY REVIEW.—

(1) Not later than 180 days after the date of enactment of this subsection, the Administrator of the Environmental Protection Agency shall carry out a review of each characterization or listing of a substance added since November 8, 1994, to the Toxic Release Inventory under section 313(c) of the Emergency Planning and Community Right to Know Act of 1986 (42 U.S.C. 11023(c)).

(2) In this review, the Administrator shall determine with respect to each such characterization or listing whether removal of the substance from the Toxic Release Inventory presents a foreseeable significant risk to human health or the environment.

(3) The Administrator shall remove from the Toxic Release Inventory any substance the removal of which is justified by a determination under paragraph (2).

(4)(A) Not later than 90 days after the date of enactment of this section, the Administrator shall publish a draft review and the Administrator's preliminary plans to use the authority under paragraph (3), and afford interested persons an opportunity to comment.

(B) Promptly upon completion of the review, the Administrator shall provide Congress with a written report summarizing the review and the reasons for action or inaction on each characterization or listing subject to this subsection.

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—Part I of title 5, United States Code, is amended by striking the chapter heading and table of sections for chapter 6 and inserting the following:

"CHAPTER 6—THE ANALYSIS OF REGULATORY FUNCTIONS

"SUBCHAPTER I—REGULATORY ANALYSIS

"Sec.
"601. Definitions.
"602. Regulatory agenda.
"603. Initial regulatory flexibility analysis.
"604. Final regulatory flexibility analysis.
"605. Avoidance of duplicative or unnecessary analyses.
"606. Effect on other law.
"607. Preparation of analysis.
"608. Procedure for waiver or delay of completion.
"609. Procedures for gathering comments.
"610. Periodic review of rules.
"611. Judicial review.
"612. Reports and intervention rights.

"SUBCHAPTER II—ANALYSIS OF AGENCY RULES

"621. Definitions.
"622. Rulemaking cost-benefit analysis.
"623. Agency regulatory review.
"624. Decisional criteria.
"625. Jurisdiction and judicial review.
"626. Deadlines for rulemaking.
"627. Special rule.
"628. Requirements for major environmental management activities.

"SUBCHAPTER III—RISK ASSESSMENTS

"631. Definitions.
"632. Applicability.
"633. Principles for risk assessments.
"634. Rule of construction.
"635. Comprehensive risk reduction.

"SUBCHAPTER IV—EXECUTIVE OVERSIGHT

"641. Procedures.
"642. Delegation of authority.
"643. Judicial review.
"644. Regulatory agenda.".

(2) SUBCHAPTER HEADING.—Chapter 6 of title 5, United States Code, is amended by inserting immediately before section 601, the following subchapter heading:

"SUBCHAPTER I—REGULATORY ANALYSIS".

SEC. 5. JUDICIAL REVIEW.

(a) IN GENERAL.—Chapter 7 of title 5, United States Code, is amended—

(1) by striking section 706; and

(2) by adding at the end the following new sections:

"§ 706. Scope of review

"(a) To the extent necessary to reach a decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

"(1) compel agency action unlawfully withheld or unreasonably delayed; and

"(2) hold unlawful and set aside agency action, findings and conclusions found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

"(D) without observance of procedure required by law;

"(E) unsupported by substantial evidence in a proceeding subject to sections 556 and 557 or otherwise reviewed on the record of an agency hearing provided by statute;

"(F) without substantial support in the rulemaking file, viewed as a whole, for the asserted or necessary factual basis, in the case of a rule adopted in a proceeding subject to section 553; or

"(G) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

"(b) In making the determinations set forth in subsection (a), the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

"§ 707. Consent decrees

"In interpreting any consent decree in effect on or after the date of enactment of this section that imposes on an agency an obligation to initiate, continue, or complete rulemaking proceedings, the court shall not enforce the decree in a way that divests the agency of discretion clearly granted to the agency by statute to respond to changing circumstances, make policy or managerial choices, or protect the rights of third parties.

"§ 708. Affirmative defense

"Notwithstanding any other provision of law, it shall be an affirmative defense in any enforcement action brought by an agency that the regulated person or entity reasonably relied on and is complying with a rule, regulation, adjudication, directive, or order of such agency or any other agency that is incompatible, contradictory, or otherwise cannot be reconciled with the agency rule, regulation, adjudication, directive, or order being enforced.".

(b) TECHNICAL AMENDMENT.—The analysis for chapter 7 of title 5, United States Code, is amended by striking the item relating to section 706 and inserting the following new items:

"706. Scope of review.
"707. Consent decrees.
"708. Affirmative defense.".

SEC. 6. CONGRESSIONAL REVIEW.

(a) FINDING.—The Congress finds that effective steps for improving the efficiency and proper management of Government operations will be promoted if a moratorium on the implementation of certain significant final rules is imposed in order to provide Congress an opportunity for review.

(b) IN GENERAL.—Title 5, United States Code, is amended by inserting immediately after chapter 7 the following new chapter:

"CHAPTER 8—CONGRESSIONAL REVIEW OF AGENCY RULEMAKING

"801. Congressional review.
"802. Congressional disapproval procedure.
"803. Special rule on statutory, regulatory, and judicial deadlines.
"804. Definitions.
"805. Judicial review.
"806. Applicability; severability.
"807. Exemption for monetary policy.

"§ 801. Congressional review

"(a)(1)(A) Before a rule can take effect as a final rule, the Federal agency promulgating such rule shall submit to each House of the Congress and to the Comptroller General a report containing—

"(i) a copy of the rule;

"(ii) a concise general statement relating to the rule; and

"(iii) the proposed effective date of the rule.

"(B) The Federal agency promulgating the rule shall make available to each House of Congress and the Comptroller General, upon request—

"(i) a complete copy of the cost-benefit analysis of the rule, if any;

"(ii) the agency's actions relevant to sections 603, 604, 605, 607, and 609;

"(iii) the agency's actions relevant to sections 202, 203, 204, and 205 of the Unfunded Mandates Reform Act of 1995; and

"(iv) any other relevant information or requirements under any other Act and any relevant Executive orders, such as Executive Order No. 12866.

"(C) Upon receipt, each House shall provide copies to the Chairman and Ranking Member of each committee with jurisdiction.

"(2)(A) The Comptroller General shall provide a report on each major rule to the committees of jurisdiction to each House of the Congress by the end of 12 calendar days after the submission or publication date as provided in section 802(b)(2). The report of the Comptroller General shall include an assessment of the agency's compliance with procedural steps required by paragraph (1)(B).

"(B) Federal agencies shall cooperate with the Comptroller General by providing information relevant to the Comptroller General's report under subparagraph (A).

"(3) A major rule relating to a report submitted under paragraph (1) shall take effect as a final rule, the latest of—

"(A) the later of the date occurring 60 days after the date on which—

"(i) the Congress receives the report submitted under paragraph (1); or

"(ii) the rule is published in the Federal Register;

"(B) if the Congress passes a joint resolution of disapproval described under section 802 relating to the rule, and the President signs a veto of such resolution, the earlier date—

"(i) on which either House of Congress votes and fails to override the veto of the President; or

"(ii) occurring 30 session days after the date on which the Congress received the veto and objections of the President; or

"(C) the date the rule would have otherwise taken effect, if not for this section (unless a joint resolution of disapproval under section 802 is enacted).

"(4) Except for a major rule, a rule shall take effect as otherwise provided by law after submission to Congress under paragraph (1).

"(5) Notwithstanding paragraph (3), the effective date of a rule shall not be delayed by operation of this chapter beyond the date on which either House of Congress votes to reject a joint resolution of disapproval under section 802.

"(b) A rule shall not take effect (or continue) as a final rule, if the Congress passes a joint resolution of disapproval described under section 802.

"(c)(1) Notwithstanding any other provision of this section (except subject to paragraph (3)), a rule that would not take effect by reason of this chapter may take effect, if the President makes a determination under paragraph (2) and submits written notice of such determination to the Congress.

"(2) Paragraph (1) applies to a determination made by the President by Executive order that the rule should take effect because such rule is—

"(A) necessary because of an imminent threat to health or safety or other emergency;

"(B) necessary for the enforcement of criminal laws;

"(C) necessary for national security; or

"(D) issued pursuant to a statute implementing an international trade agreement.

"(3) An exercise by the President of the authority under this subsection shall have no effect on the procedures under section 802 or the effect of a joint resolution of disapproval under this section.

"(d)(1) In addition to the opportunity for review otherwise provided under this chapter, in the case of any rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on the date occurring 60 days before the date the Congress adjourns sine die through the date on which the succeeding Congress first convenes, section 802 shall apply to such rule in the succeeding Congress.

"(2)(A) In applying section 802 for purposes of such additional review, a rule described under paragraph (1) shall be treated as though—

"(i) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the 15th session day after the succeeding Congress first convenes; and

"(ii) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(B) Nothing in this paragraph shall be construed to affect the requirement under subsection (a)(1) that a report shall be submitted to Congress before a final rule can take effect.

"(3) A rule described under paragraph (1) shall take effect as a final rule as otherwise provided by law (including other subsections of this section).

"(e)(1) Section 802 shall apply in accordance with this subsection to any major rule that is published in the Federal Register (as a rule that shall take effect as a final rule) during the period beginning on November 20, 1994, through the date on which the Comprehensive Regulatory Reform Act of 1995 takes effect.

"(2) In applying section 802 for purposes of Congressional review, a rule described under paragraph (1) shall be treated as though—

"(A) such rule were published in the Federal Register (as a rule that shall take effect as a final rule) on the date of enactment of the Comprehensive Regulatory Reform Act of 1995; and

"(B) a report on such rule were submitted to Congress under subsection (a)(1) on such date.

"(3) The effectiveness of a rule described under paragraph (1) shall be as otherwise provided by law, unless the rule is made of no force or effect under section 802.

"(f) Any rule that takes effect and later is made of no force or effect by enactment of a joint resolution under section 802 shall be treated as though such rule had never taken effect.

"(g) If the Congress does not enact a joint resolution of disapproval under section 802, no court or agency may infer any intent of the Congress from any action or inaction of the Congress with regard to such rule, related statute, or joint resolution of disapproval.

"§ 802. Congressional disapproval procedure

"(a) For purposes of this section, the term 'joint resolution' means only a joint resolution introduced during the period beginning on the date on which the report referred to in section 801(a) is received by Congress and ending 60 days thereafter, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule submitted by the ____ relating to ____, and such rule shall have no force or effect.'. (The blank spaces being appropriately filled in.)

"(b)(1) A resolution described in paragraph (1) shall be referred to the committees in each House of Congress with jurisdiction. Such a resolution may not be reported before the eighth day after its submission or publication date.

"(2) For purposes of this subsection the term 'submission or publication date' means the later of the date on which—

"(A) the Congress receives the report submitted under section 801(a)(1); or

"(B) the rule is published in the Federal Register.

"(c) If the committee to which is referred a resolution described in subsection (a) has not reported such resolution (or an identical resolution) at the end of 20 calendar days after the submission or publication date defined under subsection (b)(2), such committee may be discharged from further consideration of such resolution in the Senate upon a petition supported in writing by 30 Members of the Senate and in the House upon a petition supported in writing by one-fourth of the Members duly sworn and chosen or by motion of the Speaker supported by the Minority Leader, and such resolution shall be placed on the appropriate calendar of the House involved.

"(d)(1) When the committee to which a resolution is referred has reported, or when a committee is discharged (under subsection (c)) from further consideration of, a resolution described in subsection (a), it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for a motion to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of resolution) are waived. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order.

"(3) Immediately following the conclusion of the debate on a resolution described in subsection (a), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

"(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

"(e) If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

"(1) The resolution of the other House shall not be referred to a committee.

"(2) With respect to a resolution described in subsection (a) of the House receiving the resolution—

"(A) the procedure in that House shall be the same as if no resolution had been received from the other House; but

"(B) the vote on final passage shall be on the resolution of the other House.

"(f) This section is enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"§ 803. Special rule on statutory, regulatory, and judicial deadlines

"(a) In the case of any deadline for, relating to, or involving any rule which does not take effect (or the effectiveness of which is terminated) because of enactment of a joint resolution under section 802, that deadline is extended until the date 1 year after the date of the joint resolution. Nothing in this subsection shall be construed to affect a deadline merely by reason of the postponement of a rule's effective date under section 801(a).

"(b) The term 'deadline' means any date certain for fulfilling any obligation or exercising any authority established by or under any Federal statute or regulation, or by or under any court order implementing any Federal statute or regulation.

"§ 804. Definitions

"(a) For purposes of this chapter—

"(1) the term 'Federal agency' means any agency as that term is defined in section 551(1) (relating to administrative procedure);

"(2) the term 'major rule' has the same meaning given suoh term in section 621(5); and

"(3) the term 'final rule' means any final rule or interim final rule.

"(b) As used in subsection (a)(3), the term 'rule' has the meaning given such term in section 551, except that such term does not include any rule of particular applicability including a rule that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing or any rule of agency organization, personnel, procedure, practice or any routine matter.

"§ 805. Judicial review

"No determination, finding, action, or omission under this chapter shall be subject to judicial review.

"§ 806. Applicability; severability

"(a) This chapter shall apply notwithstanding any other provision of law.

"(b) If any provision of this chapter or the application of any provision of this chapter to any person or circumstance, is held invalid, the application of such provision to other persons or circumstances, and the remainder of this chapter, shall not be affected thereby.

"§ 807. Exemption for monetary policy

"Nothing in this chapter shall apply to rules that concern monetary policy proposed or implemented by the Board of Governors of the Federal Reserve System or the Federal Open Market Committee.".

(c) EFFECTIVE DATE.—The amendment made by subsection (b) shall take effect on the date of enactment of this Act and shall apply to any rule that takes effect as a final rule on or after such effective date.

(d) TECHNICAL AMENDMENT.—The table of chapters for part I of title 5, United States Code, is amended by inserting immediately after the item relating to chapter 7 the following:

"8. Congressional Review of Agency Rulemaking .... 801".

SEC. 7. REGULATORY ACCOUNTING.

(a) DEFINITIONS.—For purposes of this section, the following definitions apply:

(1) MAJOR RULE.—The term "major rule" has the same meaning as defined in section 621(5)(A)(i) of title 5, United States Code. The term shall not include—

(A) administrative actions governed by sections 556 and 557 of title 5, United States Code;

(B) regulations issued with respect to a military or foreign affairs function of the United States or a statute implementing an international trade agreement; or

(C) regulations related to agency organization, management, or personnel.

(2) AGENCY.—The term "agency" means any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency, but shall not include—

(A) the General Accounting Office;

(B) the Federal Election Commission;

(C) the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions; or

(D) Government-owned contractor-operated facilities, including laboratories engaged in national defense research and production activities.

(b) ACCOUNTING STATEMENT.—

(1) IN GENERAL.—(A) The President shall be responsible for implementing and administering the requirements of this section.

(B) Not later than June 1, 1997, and each June 1 thereafter, the President shall prepare and submit to Congress an accounting statement that estimates the annual costs of major rules and corresponding benefits in accordance with this subsection.

(2) YEARS COVERED BY ACCOUNTING STATEMENT.—Each accounting statement shall cover, at a minimum, the 5 fiscal years beginning on October 1 of the year in which the report is submitted and may cover any fiscal year preceding such fiscal years for purpose of revising previous estimates.

(3) TIMING AND PROCEDURES.—(A) The President shall provide notice and opportunity for comment for each accounting statement. The President may delegate to an agency the requirement to provide notice and opportunity to comment for the portion of the accounting statement relating to that agency.

(B) The President shall propose the first accounting statement under this subsection not later than 2 years after the date of enactment of this Act and shall issue the first accounting statement in final form not later than 3 years after such effective date. Such statement shall cover, at a minimum, each of the fiscal years beginning after the date of enactment of this Act.

(4) CONTENT OF ACCOUNTING STATEMENT.—(A) Each accounting statement shall contain estimates of costs and benefits with respect to each fiscal year covered by the statement in accordance with this paragraph. For each such fiscal year for which estimates were made in a previous accounting statement, the statement shall revise those estimates and state the reasons for the revisions.

(B)(i) An accounting statement shall estimate the costs of major rules by setting forth, for each year covered by the statement—

(I) the annual expenditure of national economic resources for major rules, grouped by regulatory program; and

(II) such other quantitative and qualitative measures of costs as the President considers appropriate.

(ii) For purposes of the estimate of costs in the accounting statement, national economic resources shall include, and shall be listed under, at least the following categories:

(I) Private sector costs.

(II) Federal sector costs.

(III) State and local government administrative costs.

(C) An accounting statement shall estimate the benefits of major rules by setting forth, for each year covered by the statement, such quantitative and qualitative measures of benefits as the President considers appropriate. Any estimates of benefits concerning reduction in health, safety, or environmental risks shall present the most plausible level of risk practical, along with a statement of the reasonable degree of scientific certainty.

(c) ASSOCIATED REPORT TO CONGRESS.—

(1) IN GENERAL.—At the same time as the President submits an accounting statement under subsection (b), the President, acting through the Director of the Office of Management and Budget, shall submit to Congress a report associated with the accounting statement (hereinafter referred to as an "associated report"). The associated report shall contain, in accordance with this subsection—

(A) analyses of impacts; and

(B) recommendations for reform.

(2) ANALYSES OF IMPACTS.—The President shall include in the associated report the following:

(A) Analyses prepared by the President of the cumulative impact of major rules in Federal regulatory programs covered in the accounting statement on the following:

(i) The ability of State and local governments to provide essential services, including police, fire protection, and education.

(ii) Small business.

(iii) Productivity.

(iv) Wages.

(v) Economic growth.

(vi) Technological innovation.

(vii) Consumer prices for goods and services.

(viii) Such other factors considered appropriate by the President.

(B) A summary of any independent analyses of impacts prepared by persons commenting during the comment period on the accounting statement.

(3) RECOMMENDATIONS FOR REFORM.—The President shall include in the associated report the following:

(A) A summary of recommendations of the President for reform or elimination of any Federal regulatory program or program element that does not represent sound use of national economic resources or otherwise is inefficient.

(B) A summary of any recommendations for such reform or elimination of Federal regulatory programs or program elements prepared by persons commenting during the comment period on the accounting statement.

(d) GUIDANCE FROM OFFICE OF MANAGEMENT AND BUDGET.—The Director of the Office of Management and Budget shall, in consultation with the Council of Economic Advisers, provide guidance to agencies—

(1) to standardize measures of costs and benefits in accounting statements prepared pursuant to sections 3 and 7 of this Act, including—

(A) detailed guidance on estimating the costs and benefits of major rules; and

(B) general guidance on estimating the costs and benefits of all other rules that do not meet the thresholds for major rules; and

(2) to standardize the format of the accounting statements.

(e) RECOMMENDATIONS FROM CONGRESSIONAL BUDGET OFFICE.—After each accounting statement and associated report submitted to Congress, the Director of the Congressional Budget Office shall make recommendations to the President—

(1) for improving accounting statements prepared pursuant to this section, including recommendations on level of detail and accuracy; and

(2) for improving associated reports prepared pursuant to this section, including recommendations on the quality of analysis.

(f) JUDICIAL REVIEW.—No requirements under this section shall be subject to judicial review in any manner.

SEC. 8. STUDIES AND REPORTS.

(a) RISK ASSESSMENTS.—The Administrative Conference of the United States shall—

(1) develop and carry out an ongoing study of the operation of the risk assessment requirements of subchapter III of chapter 6 of title 5, United States Code (as added by section 4 of this Act); and

(2) submit an annual report to the Congress on the findings of the study.

(b) ADMINISTRATIVE PROCEDURE ACT.—Not later than December 31, 1996, the Administrative Conference of the United States shall—

(1) carry out a study of the operation of the Administrative Procedure Act (as amended by section 3 of this Act); and

(2) submit a report to the Congress on the findings of the study, including proposals for revision, if any.

SEC. 9. MISCELLANEOUS PROVISIONS.

(a) EFFECTIVE DATE.—Except as otherwise provided, this Act and the amendments made by this Act shall take effect on the date of enactment.

(b) SEVERABILITY.—If any provision of this Act, an amendment made by this Act, or the application of such provision or amendment to any person or circumstance is held to be unconstitutional, the remainder of this Act, the amendments made by this Act, and the application of the provisions of such to any person or circumstance shall not be affected thereby.

Mr. JOHNSTON. Mr. President, I understand that will be the pending business when the Senate returns from recess. In the meantime, we will continue to discuss this package with our colleagues and, hopefully, will be able to arrive at further modifications along the lines we have talked about. I believe those negotiations will happen tomorrow.

Mr. LEVIN. Reserving the right to object, Mr. President, there was a unanimous-consent agreement that had been entered into previously between Senator DOLE and Senator DASCHLE. Is there any intent in what the Senator from Louisiana has just said to modify in any way the previous unanimous-consent agreement that had been entered into?

Mr. JOHNSTON. No, the only unanimous consent I asked is that when this draft is prepared, that it be printed in the RECORD for notice.

The majority leader, I was just informed, will ask on tomorrow afternoon—I did not ask unanimous consent but I was just advised that he would ask for permission to withdraw the committee amendments to S. 343 and send a substitute to the desk.

I am not asking that be done. I was just giving the Senate notice because his staff just gave me that notice. I wanted to make the Senate aware of that.

I hope tomorrow we can reassure Senators on matters, or change that which needs to be changed, and get a very broad consensus bill so when we come back after the recess we will have a bill that passes overwhelmingly.

Mr. President, I said a moment ago Senator DOLE intended to put in the substitute tomorrow afternoon. I meant on Friday afternoon, because that is what he meant. I wanted to give my colleagues notice of that.

THE BUDGET RESOLUTION

The PRESIDING OFFICER (Mr. DEWINE). Under the previous order, the Senate will resume debate on the conference report to House Concurrent Resolution 67, the budget resolution for fiscal year 1996.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I rise this afternoon to voice my strong support for the budget conference report, which I believe is a historic document that looks forward and not back; one that promises freedom, not Government servitude; and one that delivers hope and not despair.

Mr. DOMENICI. Mr. President, I wonder if the Senator will yield for a moment?

Mr. GRAMS. Yes, go ahead.

Mr. DOMENICI. Mr. President, I understand we are going to be on this resolution for 1 hour now; is that correct?

The PRESIDING OFFICER. There is not an hour to end the debate, or to begin debate.

Mr. DOMENICI. We will be going back and forth? I ask the Senator, how much time would the Senator like?

Mr. GRAMS. No more than 10 minutes.

Mr. DOMENICI. I yield 10 minutes to the distinguished Senator.

Mr. GRAMS. Mr. President, talking about the budget, this historic budget is a budget unlike any other approved by Congress in more than a quarter of a century because, not only does it balance the budget within 7 years without raising taxes, it actually cuts taxes for middle-class Americans.

It marks the first time since 1969 that Congress has committed itself to a balanced budget, and reflects the change demanded by the voters in November: Get government off our backs and out of our back pockets.

Mr. President, our budget resolution provides $245 billion in tax relief, making it the largest tax refund in history.

I am proud that the centerpiece of the tax relief package will be the $500 per-child tax credit originally proposed by me and my very good friend from Indiana, Senator COATS, in our families-first legislation, and by Representative TIM HUTCHINSON in the House.

Along with my freshman colleague, Senator ABRAHAM, and the leadership of Senator DOLE, we have ensured that this Senate goes on record supporting middle-class tax relief, and incentives to stimulate savings, investment, job creation, and economic growth.

And, Mr. President, this tax relief could not have come at a better time.

Government has become a looming presence in the lives of the American people, mostly through the encouragement of Congress.

Each year, the people are asked to turn more and more responsibilities over to the Federal Government—for Government regulation, for Government support.

From the time they get up in the morning till the time they go to bed at night, there are very few aspects of daily American life that are not touched by the hand of government.

So government has been forced to grow just to keep up.

Consider that government spending at the Federal State, and local levels has jumped from less than 12 percent of national income in the 1930's to more than 42 percent today.

And the burden for keeping these ever-ballooning bureaucracies in operation has fallen on the taxpayers, of course—through more and higher taxes.

As a sign of just how big the Federal Government has grown—and how the number of tax dollars sent to Washington have grown right along with it—look what has happened to the IRS.

Today, it has an annual operating budget in excess of $7.5 billion. If it were a private company, its gross receipts—more than $1 trillion—would put it at the top of the Fortune 500 list.

All that—just by processing tax dollars.

Most middle-class American families pay more in Federal taxes than they spend for food, clothing, and shelter combined.

Families with children are now the lowest after-tax income group in America—below elderly households, below single persons, below families without children.

Since 1948, when Americans paid just 22 cents per dollar of their personal income in taxes, the Gallup organization has asked Americans what they think about the taxes they pay.

That first year, 57 percent of the people said yes, taxes are too high. Today, nearly 50 cents of every dollar earned by middle-class Americans goes to taxes of some sort—and 67 percent of the people say they're handing over too much of their own money to the Federal Government.

They might feel differently if they were getting a fair return on then investment. But Americans see their hard-earned dollars being wasted by the Federal Government. They look at the services they are getting in return and they feel like they are being taken to the cleaners.

The 1993 tax bill offered by President Clinton did not help, either. As the largest tax increase in American history, it hit middle-class Americans right where it hurt the most—their wallets.

The President's 1993 tax hike actually increased their tax burden, making it more difficult for the middle class to care for themselves and their children.

And I remind you—not a single Republican voted for it.

The tax burden has become so heavy in my home State of Minnesota that it took until May 14 this year—134 days into 1995—for us to finally reach Tax Freedom Day.

That is the day when Minnesotans are no longer working just to pay off taxes, and can finally begin working for themselves. Nearly 20 weeks, over 800 hours on the job just to pay Uncle Sam and his cousins at the State level.

In order to pay all these taxes, Americans are spending more time on the job. Within the past three decades, the average American has added about 160 hours annually to their work schedule. That is about 4 extra weeks of work a year.

They are overworked, overstressed, and they are moonlighting more than ever before.

In 1995, one in six Americans holds more than one job. One out of every three is regularly working on weekends and evenings. And it is not because they necessarily want to—it is because they must.

A significant number of families are relying on that second job just to pull themselves above the poverty line and meet their annual tax obligations.

The majority of families who have reached a middle-class standard of living are families relying on two incomes. They are still pursuing the American dream, but the ever-increasing tax burden keeps pushing it out of reach.

Imagine what those longer work hours are doing to the family. Or better yet, listen to taxpayers like Natalie Latzska-Wolstad of Coon Rapids, MN, who struggle with the demands of family life, the job, and the Government—while pursuing their own version of the American Dream.

I went to the floor of the Senate last month to talk about Natalie and her family, after she wrote me a moving letter about the enormous tax burden her family is forced to bear.

It hit home for Natalie after she and her husband met with their realtor, only to learn that they simply could not afford to purchase a new home on their own.

Let me quote just a few paragraphs from Natalie's letter: "I have finally reached the point of complete frustration and anger over the amount of taxes being deducted from my check each month," she wrote.

> When we got home that evening my husband and I sat down with our checkbook and our bills and tried to determine what we were doing wrong.
>
> After taking everything into consideration we determined that we weren't spending our money foolishly.
>
> The only real problem we found was when we looked at our paycheck stubs and actually realized how much of our income was going to pay for taxes.
>
> It saddens me to think of how hard my husband and I work and how much time we have to spend away from our daughter to be at work, and still we cannot reach the American dream.

This is a disturbing letter, and I am even more troubled knowing it is just one of hundreds I have received from across the country. I know you have heard some Senator on the floor say: Americans do not want tax relief. I do not know who they are talking to, or who is writing them letters. But I hear something completely different from the people that I get letters from. Here is another example.

From California:

> Our families desperately need tax relief, and our Government needs to stop spending so wastefully.

From Georgia:

> I want to personally thank you for fighting for tax relief for families. Your efforts do not go unnoticed.

From Illinois:

> We are a one-paycheck family struggling to keep our heads above water.
>
> Two of our three children are in a private school. The burden of paying for the public and private school systems is great for us. Nonetheless, we must do what we know to be best for our children.
>
> It is encouraging to know there are members of the government who understand our struggle and are working on our behalf.

From Kentucky:

> We realize you are fighting a tough battle and we fully support you on this issue. Keep fighting!

From Oklahoma:

> I want to let you know there are a lot of us middle-income heads of households who support you firmly.

And finally from Pennsylvania:

> Please continue to keep the pro-family community in mind. The family, its strength, is what keeps this nation strong.

Those are strong words, Mr. President, from people who know what they are talking about.

As somebody once told me, those who say, We don't need a tax cut probably do not pay taxes.

Contrary to 40 years of conventional wisdom in Washington, American families are better equipped and better able than the Federal Government to spend their own dollars. And they need the tax relief offered in the budget resolution more than ever.

When we first introduced the idea of family tax relief and the $500 per-child tax credit in 1993, our arguments were simple: taxes were too high, the burden of tax increases fell disproportionately on the middle-class, and big government was forcing more workers out of the working class and into the welfare class.

Today, those same problems remain, and the arguments for tax relief have not changed, either. The big difference, however, is that this year, with this Congress—with this budget resolution—we are finally doing something about it.

The $500 per-child tax credit takes money out of the hands of the Washington bureaucrats and leaves it in the hands of the taxpayers. It would return $25 billion annually to families across America, $500 million to my Minnesota constituents alone.

And it is truly a tax break for the middle class. We will ensure that 9 out of every 10 dollars of this tax relief go to families making less than $100,000.

That is not the wealthy, Mr. President. That is middle-class America.

The Clinton administration and the Treasury Department have tried to refute our tax relief numbers.

Without dwelling on the inherent bias in asking the President's own Treasury Department to examine a Republican budget plan, let me just say that our budget figures are based on numbers provided by the nonpartisan Congressional Budget Office and the Joint Tax Committees.

Members of the President's own party have called on him to use CBO numbers—numbers which clearly show middle-class taxpayers benefit most from our tax relief.

Along with tax relief, the other important aspect of the budget resolution is that we have balanced the budget.

For decades, Congress has offered up budgets which raised taxes, sent government spending spiraling out of control, and created massive deficits.

They built up a national debt of nearly $5 trillion because Congress thrives on spending other people's money.

But who gets stuck with the bill?

Not this generation. No, we are passing this debt on to our kids and grandkids.

Even the Clinton administration, despite all its talk about shrinking the deficit, has washed its hands of the problem.

Under both of the President's budget plans, the deficit would increase from $177 billion this year to well over $200 billion through the next decade, and add another $1.5 trillion to the national debt.

When the voters ushered in a new political reality in November, they soundly rejected business as usual in Washington.

They looked to the Republicans for an alternative, for a budget that could turn back 40 years of spending mentality and the belief that "money will fix everything, especially if it's your money and Washington can spend it."

Today, we have delivered.

We crafted a document the naysayers said could never be achieved—a resolution that brings the budget into balance by the year 2002—and it is proof that we are serious about living up to our pledge.

And we have done it without slashing Federal spending, without putting children, seniors, and the disadvantaged at risk.

Most of our savings are achieved by slowing the growth of Government.

Will there need to be some sacrifices? Yes, although the Government will have to sacrifice more than the people will.

Will belts need to be tightened? Yes. But a belt that is not tightened today may become a noose tomorrow, a noose around the necks of our children and grandchildren.

As I hear over and over from Minnesotans: The American people are willing to make those sacrifices—if they believe their Government is serious about making change.

At long last, America has a Congress that is serious.

Mr. President, what we are doing with this budget resolution, we are doing for the taxpayers who silently foot the Government's bills—the average men and women who get up every morning, send their kids to school, go to work, maybe at more than one job, and pay their taxes every year.

They are the forgotten middle-class families, the people who have for too long borne the burden of Federal overspending.

The taxpayer have watched their money vanish and then reappear in the form of some lavish Federal program which benefits few but the bureaucrats themselves.

Mr. President, is it fair to ask these middle-class Americans to endure greater economic hardships if we continue to do nothing?

Is it fair to expect middle-class Americans to endure greater economic hardships if we continue to do nothing?

Is it fair to expect middle-class Americans to do without, when their Government has never had to, if we continue to do nothing?

Is it fair to enslave the children of middle-class America with our debts if we continue to do nothing?

If each Senator in this Chamber asks themselves those very questions, the budget resolution will pass and it will be an overwhelming victory—a victory not for this Congress, but a victory for the people.

Thank you, Mr. President. I yield the remainder of my time.

Mr. DOMENICI. Mr. President, I understand that Senator BROWN was next. How much time is the Senator going to use?

Mr. BROWN. I would like 10 minutes.

Mr. DOMENICI. I yield 15 minutes to Senator BROWN. And then following that, we will go to Senator FRIST if there is no Democrat who wants to be heard.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. BROWN. I thank the Chair.

I wish to start this discussion off with a tribute to a Senator who has been on the front line in this fight for a long time. Senator DOMENICI's brilliant efforts not only helped put together a package that has not been put together before in this Senate, at least during the last quarter century, but he brought people with widely diverse views into agreement over a plan that will rescue America. This is a bailout for America's finances. I believe it is due in large part to an enormous amount of dedicated effort by the Senator from New Mexico.

Mr. President, I said bailout of America's finances. That is not an overstatement. That is precisely what I meant.

For those who are listening, let me share with you why I believe that is true. The chart on my left is a simple, straightforward chart on the amount of money this country owes.

Mr. President, let me quickly acknowledge these are not numbers that an accountant would use. There is no CPA firm in the country that would show this as the amount we owe. It is far from what we owe. It does not use sound accounting principles that are generally accepted, but it is the numbers that we use. It does not show our contingent liabilities. It does not show a wide balance sheet. But this is the net amount, if you are in the marketplace to borrow each year, and it is significant in that it is the amount that American working men and women have to pay interest on each year.

What we have seen for a quarter century is a continuous growth line of budget deficits. They go up in bad times and down slightly in good times, but they continue to grow and grow and grow and grow.

Mr. President, what is depicted here is nothing more on a straight basis than the amount we owe coming from the lower levels in the 1950's, rising to almost $5 trillion. That is roughly $40,000 for every working person in this country.

Let me put it in perspective. That is every man, woman and child who has a full-time or a part-time job owes over $40,000 for their share of the national debt. What is significant is that they have to pay the interest on that every year. Before a penny goes to support their family, before a penny goes to support their parents or their children, before a penny goes to pay the necessities of life, they have to come up with the interest on over $40,000.

The problem is that this amount is expected to explode even higher. Any reasonable person, Democrat or Republican, liberal or conservative, who can look at these numbers, who can look at this chart, who can look at the forecasts that have been put in place, cannot but conclude that this problem has to be solved. It is not a question of can we wait until tomorrow. It is not a question of can we hide from it. It is not a question of can we refigure it in a way that will not look as bad. It is a simple, straightforward question that we are at a point now where the deficits are in a runaway fashion, and if we fail to address it, if we fail to acknowledge it, every American, rich or poor, will be poorer because of it. The predominance of the American economy in the 20th century will be lost. Our ability to be able to finance our debt, our very ability to borrow in the international marketplace will be destroyed.

I believe people who do research of this type cannot help but notice what has happened to the value of the dollar in this crisis has gotten worse. The value of the dollar has plummeted. As a young man in the United States Navy when I visited Japan, the dollar would buy over 400 yen. And as we speak it is in the neighborhood of 85. It used to be, at the end of the war, that the dollar would buy 5 deutsche marks. As we speak it is about 1⅓.

The trend is not good. The reality is the financial crisis that has gripped our country has seen the rapid depreciation of the value of our currency. We have turned the biggest trade surplus in the world's history into the biggest trade deficit in the world's history. We have turned the greatest creditor nation in the world into the biggest debtor nation in the world.

I honestly believe that unless we address this problem, what we will face is a drastic, almost catastrophic financial failure of this Nation.

The good news is that this budget does address it. This budget does give us a plan, and it gives us a commitment. It involves a proposal to revise the programs when reconciliation bill comes before this body.

Some will say it is too harsh, and some, like me, will say it is too weak; it is not strong enough; we ought to do more; we ought to end the deficit in the next year or two and not wait 7 years. But the political reality is that this is a budget that can pass. This is a budget that will solve the problem. It is a moderate proposal, but it is essential. We do not continue to have a viable financial circumstance for this Nation as a whole if this problem goes unaddressed.

The normal process is for the President of the United States to come forward and recommend a budget. One may fairly ask: What did the President recommend in light of those astronomic increases in the deficit?

Here is what the President suggested. He suggested huge increases in spending each year for the next 5 years, and proposed increasing the annual deficit from what was then estimated as $177 billion for 1995, increasing it each and every year up to $276 billion in the year of 2000. Now, that is reestimated by the Congressional Budget Office over the next 5 years.

Members will note that what we have talked about is a 7-year budget that not only comes into balance but provides a surplus. But the President's plan for this Nation was not to reduce the annual deficit but to increase it and to increase it dramatically. I believe that had we followed the President's course, the U.S. finances would be comparable to those of Orange County today. What the President had prescribed was a plan for fiscal disaster for this Nation and a poorer life for every working American and higher interest charges for every working American to pay, and, yes, a further decline in the value of the dollar.

Some will say: Well, the President stepped forward and revised those figures and, instead of proposing continuous, increasing deficits, advocated balancing the budget within 10 years. Indeed, all Americans have heard the President speaking on TV, talking about he proposes a balanced budget in 10 years and the Republicans in 7 years. So what are we talking about? In fact, he even said his was far more humane.

Mr. President, I wish to address that because the President of the United States himself has indicated that the Congressional Budget Office is the one that ought to be the arbiter of these figures.

The Congressional Budget Office did evaluate his figures. They did come back and tell us what the President's revised proposal was. It was not a $276 billion debt increase in the year 2000, as he had originally proposed. What he proposed was something that involved a 10-year budget, but in the 7th year it called for a $210 billion deficit.

Mr. President, here is the proposal: Continuous rising debt, continuous rising spending by the President and a deficit by the year 2002, a deficit increase by the year 2002 of $210 billion.

The agreement that is before this body is a surplus proposal for that year of $6.4 billion—a $210 billion increase in the deficit versus a $6.4 billion surplus.

Some will say: Wait a minute; that is not what the President said. He said he wanted it balanced by the end of 10 years.

Mr. President, the figures are not what he said in his rhetoric but what they total up to when you have an independent Congressional Budget Office review them.

The reason I mention all of this is because this body faces a choice. It faces a choice of whether we vote yes or no on this budget resolution.

Let me remind the body of what the choices that have been presented are, and they are the only alternative choices out there. One is to balance the budget in 7 years and have a $6.4 billion surplus. The other is the President's revised plan that calls for a $210 billion deficit and a failure to address the problem in the following years. Mr. President, there is no choice. And that is the bottom line of what we consider here today. It is either fiscal disaster, continuing increases in deficits and debt, a higher and higher burden for every working American, or it is a responsible plan that slows the growth of spending.

Now, Mr. President, some may say, "It slows the growth? I thought you were cutting?" Mr. President, on this chart we see what this budget does. It modestly increases spending each year and modestly reduces the deficit each year, attaining a surplus by the year 2002.

Some will say, "Wait a minute. Let us talk about real numbers and real figures. What does this budget really do?" We have heard, and it has been said nationwide, that the President says we slashed and cut Medicare. Mr. President, that is false. That is inaccurate. That is not true. That is not a fair representation of the facts of this budget.

Now what are the facts of this budget? Medicare in 1995 spends $158 billion. Medicare under this plan by the year 2002 will spend $244 billion. Medicare will increase over the distance of this plan by $317 billion on a net basis and $349 billion on a gross basis.

Some will say, "Wait a minute. Medicare increases? I thought you were cutting it." What this budget plan calls for is a slowing of the rate of increase in Medicare. It does not call for a cut in Medicare. It calls for a huge increase in Medicare. Let me repeat it. On a gross basis, this budget calls for a $349 billion gross increase over 7 years in Medicare spending. To depict it as a slash in Medicare is simply inaccurate. Literally over the next 7 years we will spend $1.6 trillion on Medicare. And total spending on Medicare in the next 7 years will be 73 percent higher over the next 7 years than it has been in the past 7 years.

I hope as Americans listen to this debate, they will have firmly fixed in their minds that what this budget does is to increase Medicare spending, not cut it. It also slows the rate of increase in Medicare spending, so that it is less likely that the trust fund goes bankrupt. For those who think we ought to increase spending even faster than this budget does, I hope they will accept the burden to come here and explain what they do when they bankrupt the trust fund, how they provide health care, because, Mr. President, that is the bottom line for the debate on health care. Yes, you can spend up all your savings account, but what happens when it runs out? That is what this budget attempts to address.

Now, some have said we will cut Medicaid. What are the facts? Medicaid spent $89 billion in 1995 and will spend $124 billion a year by the year 2002. Medicaid spending will rise $149 billion on a net basis. It will spend a total of $772 billion in the next 7 years. The total spending in the next 7 years on Medicaid will be 73 percent higher than it was in the past 7 years.

Well, perhaps by now people are saying, "Wait a minute, I have heard all the numbers. What is bottom line?" The bottom line is the rhetoric by those naysayers that say we cannot change anything. The bottom line is, what they have used to describe and attack this budget has not been accurate. The bottom line is, what we have seen is a misdescription of what this budget does.

Mr. President, lastly what I heard some of the detractors say is, this budget provides a huge increase in defense spending. Mr. President, if you look at the numbers, I think they speak for themselves. Defense spending goes from $270 billion in 1995 to $271 billion in the year 2002.

The PRESIDING OFFICER. The Chair will advise the Senator his time is expired.

Mr. BROWN. I ask unanimous consent that I have an additional 4 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROWN. Mr. President, the reality on defense spending is that between now and the next 7 years, compared to 1995 defense spending, it will drop $13 billion. It will not increase; it will drop. Some will say, "Wait a minute. It might have dropped more under other plans." That is absolutely correct. But let me remind the body that that $13 billion drop is a drop in stated dollars and not adjusted for inflation. If you viewed it in constant dollars, it would be much more dramatic dollars. Could we save more in defense? My view is we could, and should. But to say this is a bad budget because it increases defense spending simply flies in the face of the real fact.

Now, Mr. President, I want to put back up the chart we started with, because I think it displays in cold, hard facts the reality of this debate. Do we adopt a budget that brings us into balance? Or do we go on as we have? Is the status quo that the President advocates good enough? Or do we need to take strong, firm steps to slow the growth of spending and bring the budget into balance and restore fiscal soundness?

Mr. President, I believe there is no choice. I believe there is no choice because there is no alternative before the body. If you select staying with the status quo, you not only condemn American working men and women to carry a burden of interest payments and debt that will cause the greatest economy in the world to stagger and fall, you not only foment a fiscal crisis, but you deny the men and women and the children and their children and their great grandchildren any possibility of having a competitive economy in the years ahead.

There is no choice on this budget, Mr. President. It is either adopt a reasonable plan to move this budget into balance or offer the status quo that the President has advocated and see the future of our children and grandchildren lost. Great nations and great societies have arisen in abundance on this Earth. They abound around the globe. The glories of the Samarian society and the Egyptian society are renowned in the textbooks of history. The Greek civilization brought great advances to mankind. Perhaps few have achieved the dominance of the Romans. There was a time when French glory spread its influence around the world. And there was a time when the Sun never set on the British Empire.

Each nation in its turn has had its time in the Sun. And now, Mr. President, the question is whether or not the Sun will set on the greatest experiment in democracy in the history of mankind—the United States of America. This budget offers our children a future.

Mr. FRIST addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. FRIST. I yield such time as may be required for me, which I will take from our side.

Mr. President, I rise today, first, to commend my colleagues on the Budget Committee who participated in the conference on the budget resolution. I was not a member of the conference, but as a member of the Budget Committee, I certainly appreciate the hard work that went into this package from Members in both Houses of Congress.

Second, I want to express my strong support for this package and to point out why the reforms Republicans have outlined in this plan are vital to America's future. This is truly a historic budget agreement, one that will achieve balance in 2002 for the first time in almost three decades. And this budget is fair. It slows the growth of Federal spending. Even President Clinton has now agreed that we must balance the budget and that we must change our spending habits if we are ever to restore the long-term health of this country.

Mr. President, as a physician, I would like to focus on the health care spending aspect of this budget agreement, because I think it is critical for each and every American to understand exactly what the Republicans have proposed. But first I would like to commend the conferees on coming to an agreement with respect to tax relief for hard-working Americans.

The conference agreement ensures that we get to balance by first locking in spending cuts and then, and only then, by cutting taxes to put hard-earned dollars back into the hands of the working families and small businesses of the country.

I look forward to working with the Finance Committee to craft the specifics of the Senate tax relief bill which I hope will, indeed, include family tax relief, as well as capital gains tax cuts. These reductions will greatly benefit the American family and the American economy.

Mr. President, the most important provisions of the budget conference agreement in my mind are those which address the growth in the Medicare and Medicaid Programs. Like the earlier resolution passed by the Senate, the budget resolution conference report sets forth outlay levels for Medicare spending that are based on reforms necessary to preserve and protect Medicare. These new spending levels will require structural changes in our Medicare system, changes which will improve the system, will improve the delivery of care, changes which are absolutely essential to ensure that Medicare will be solvent in the year 2002 and beyond.

By beginning the process of reform to avoid bankruptcy in the short-term, we will be on our way toward structural reform that will ensure Medicare's long-term viability so that this program, which is so important to many seniors and individuals with disabilities, will be there for years to come.

Yet, even though these reductions in the growth of Medicare spending will certainly require change, it is important to understand that both total spending and spending for each Medicare beneficiary will continue to grow over time, will continue to increase at a rate well above that of inflation.

Total spending grows in Medicare from $178 billion in 1995 to $274 billion in the year 2002. That is an average annual growth rate of 6.4 percent in the Medicare Program, which is twice as fast as the average projected inflation rate over the next 7 years.

More importantly and easier to understand, I think, and I will refer to this chart next to me, is that the Medicare per capita spending in this conference agreement—that is, how much we are spending per Medicare beneficiary—increases over time. A Medicare beneficiary today will have spending associated of $4,816 in 1995, and in this conference agreement, that will increase by the year 2002 to $6,734. This is not a cut, this is an increase from 1995 to the year 2002 for each individual in the Medicare Program, from $4,800 to $6,700. That is a 40-percent increase over 7 years. Even after accounting for inflation, that is a 12-percent increase per person in our Medicare Program over these 7 years.

These numbers show two things. First, the Republican budget takes care of our seniors. The conference agreement increases spending for each Medicare beneficiary so that we can continue to provide access to high-level, high-quality care for our seniors and disabled citizens.

Second, these numbers show that the Republican budget is responsible by requiring the Medicare Program to be improved and to be restructured, it strengthens and preserves the fiscal viability of the program for our Nation's seniors now and for generations to come.

Finally, the conference agreement strikes the right balance on Medicaid as well. Currently, the growth in Medicaid is simply unsustainable. Medicaid comprises nearly 20 percent of State budgets. In my own State of Tennessee, Medicaid accounts for 25 percent of the overall State budget, $3 billion of a $12 billion State budget. If left unchecked, Federal spending on Medicaid will double by the year 2002. It is simply not sustainable.

The conference agreement gradually slows the rate of growth in the Medicaid Program from over 11 percent now down next year to 8 percent, gradually down to 7, 6, 5, and then 4 percent by the year 2002. Still, total Federal spending on the Medicaid Program will be $773 billion over the next 7 years.

Again and again, Governors all across this country have told us that if we strip away the regulations, if we increase flexibility and return control of these programs in Medicaid over to the States that they will be able to institute reforms to achieve these levels of Federal spending.

Mr. President, the States are the entities responsible for managing the Medicaid Program, and I am confident that the levels agreed to in the budget resolution conference report will be attainable.

I wanted to outline the specifics of the Medicare and Medicaid spending today, because I do believe it is important, critical that we look at the facts and not just get lost in the rhetoric. The rhetoric that we have heard today, and will likely hear tomorrow, undoubtedly will continue to surround our consideration of this agreement as we hear that there are tax cuts being taken on the backs of the elderly and the poor. This representation really ignores the problems that are inherent in our Federal health programs that do need to be improved, that do need to be changed. And this representation is, in my judgment, an inappropriate response to an impending crisis that is staring us in the face.

Again, I am proud of my colleagues and honored to be a part of this historic occasion.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. I yield myself 15 minutes.

The PRESIDING OFFICER. The Senator is recognized.

Mr. BUMPERS. Mr. President, the great French philosopher Voltaire once said, "History doesn't repeat itself, men do." So here we go again, precisely as Voltaire said, plowing the same ground, the same way we did in 1981, and it will be a few years from now before we can stand on the floor and say, "I told you so."

In 1981, I stood right here at this desk and fought like a saber-toothed tiger to keep us from quadrupling the deficit. But there was a herd instinct that swept across this floor, and only 11 Senators—only 11—stood up for common sense.

What did we get? We got a deficit which grew to $290 billion in 1992, and which accumulated over the years into today's $4.6 trillion national debt.

This chart shows what the Republicans promised in 1981. They were going to balance the budget in 1983, no later than 1984, and here is where they said the deficit would go—down toward zero. Between 1984 and 1985, they said, we would have a balanced budget.

"How do you reach a balanced budget?" we asked. "You double defense spending and cut taxes," they said. That was their method of balancing the budget.

What happened? Here it is. By 1983, we had a $200 billion deficit. Even those of us who were terrified by the 1981 budget changes would never have guessed that could happen.

David Stockman, President Reagan's head of OMB, wrote a book about that. Here it is. It is called "The Triumph of Politics," and he wrote it in 1986, after the damage had been done. In the book he says that the 1981 Reagan budget plan was all done on the back of an envelope. Where were the numbers coming from, he asked? People kept putting things on his desk that he did not understand.

Stockman was a friend of Senator MOYNIHAN because he had studied under Senator MOYNIHAN while in college. And in his book, Stockman relates a conversation he had over dinner with the Senator and Mrs. Moynihan on September 24, 1981 after the damage of the Reagan tax cuts had already been done. Stockman says he told MOYNIHAN, "You guys on the hill are going to have to rescue this. We went too far with the tax cut and now I can't get them to turn back."

And MOYNIHAN responds, "I am not sure whether anything can be done about it."

And so the damage continued to pyramid. In 1992, Bill Clinton was elected President. President Clinton came to this body in 1993 with a proposal to raise taxes by $250 billion and cut spending by $250 billion, and we passed it, without one single Republican vote in the House and without one single Republican vote in the Senate.

And this chart shows where the deficit was when President Clinton made his proposal. It was headed for a $300 billion deficit in 1992. We had nearly a $300 billion deficit. The Republicans said the Clinton proposal would be a disaster for the Nation and would bring on a terrible depression. The predictions were ominous and endless. But what happened? The deficit, the first year, went from $300 billion to $255 billion; the next year, to $203 billion; and this year to $175 billion, without one single Republican vote.

So here we are. We cannot stand to admit the success of that. So we have this budget here. I daresay I could walk down the streets of Little Rock and pick out 535 people at random, bring them to Washington, put 435 in the House and 100 in the Senate, and I promise you that we could come out with a better budget, a more compassionate budget, and a fairer budget, than this one.

I heard a Congressman say the other day that there is "plenty of pain in this for everybody." Really? Pain for everybody? What about Members of Congress? Where is their pain? Where is the pain of people who can afford to send their children to school without Pell grants and student loans?

The one thing that will restore some sense of decency, civility, culture, and social fabric in this country is education. You can stand on this floor and moralize all you want. You are not going to force people to go to church by moralizing with them. You are not going to force people to quit having babies out of wedlock by moralizing with them. You are going to solve all of these problems by educating people. The one thing Joycelyn Elders said—and it is not popular to quote her these days, but this is worth repeating—when they asked, "What are you going to do about this generation?" She said, "Nothing, they are already lost. I am going after the next generation." Well, I do not totally agree with that, but I can tell you that is where our money ought to be spent—on the coming generation.

So what are we going to do? Cut $11 billion out of education for the next 7 years and stand back and ask why our children are not learning.

What else? Why, we are going to deny 350,000 children the right to Headstart. Everybody knows what Headstart means to children, particularly from poverty areas. So what are we going to do? Sorry, we are closed.

What else? Two things that we fund here are, for some reason, such an anathema to most Republicans. I watch public broadcasting and Discovery and Arts and Entertainment. I do not watch sitcoms. I do not know any of those people. I do not say that boastingly. It just does not interest me. I have an intense curiosity about everything, and I am interested in knowledge; I want to learn all I can before I die—and that is not too far away. But I am still curious about everything, so I watch the Learning Channel and the channels where I am likely to learn something, not the channels where I know I am not going to learn anything.

So what do the Republicans propose? Eliminate PBS. Eliminate the National Endowment for the Arts. "Well, Senator, you favor pornography, or you must if you favor the National Endowment for the Arts." No, I do not favor pornography. But I am hot to keep the Arkansas symphony afloat. I am hot to keep the Arkansas Repertory Theater afloat. I am hot to see people in small rural communities of this Nation get exposed to Shakespeare now and then. I deplore the Mapplethorpe exhibit as much as the Presiding Officer or any other Senator. It is like welfare—eight percent rip off. You cannot design a program that somebody is not going to corrupt.

So two of the few civil, decent culturally enriching things in this Nation, public broadcasting and the National Endowment for the Arts, they go on the block.

Earned-income tax credit. You think about the earned-income tax credit, which everybody considers to be the greatest program ever invented to keep people off welfare. This is where people who make less than $28,000 a year get a refundable credit of up to $2,200 a year, on a sliding scale. We make money off of it because we keep them off welfare. Is that what DALE BUMPERS says? No. That is what Senator DOMENICI, chairman of the Budget Committee, said. What did he say about the earned income tax credit? "It is a great way to help families with the costs of raising their children. It sends assistance to those in need; to those who work hard and yet struggle to make a living and provide for their children." That was Senator DOMENICI, not DALE BUMPERS. This is what Senator PACKWOOD said: "A key means of helping low-income workers with dependent children get off and stay off welfare." Those are Senator PACKWOOD's words. This is what President Reagan said: "The best antipoverty, the best profamily, the best job creation measure to come out of the Congress."

So what do we do to that? About $21 billion is whacked off of it in this budget resolution.

Family values. I must tell you that I get sick listening to the moralizing about family values from the same people who choose to torpedo the best program we have going to help families stay together and stay off welfare.

What else are we going to do? We are going to sell the Presidio, the most magnificent piece of property left in America. The old Fort Presidio goes on the auction block.

What else? We are going to sell the naval petroleum reserves, which we have always relied on in a time of military crisis. The naval petroleum reserve. We are going to sell it to the highest bidder.

What else? We are going to privatize all those people who are in the towers at the airports who guide our planes. We are going to privatize them. It will run for profit in the future—not for safety necessarily, but for profit.

What else? We are going to sell the Uranium Enrichment Corporation and the Power Marketing Administration which make the Government money. We will get a pretty good amount of revenue in the year that we sell those programs, but then we will fail to get the annual revenue that we are getting now.

What else? We are getting down to the bone now, Mr. President. We are going to cut Medicare $270 billion. How are we going to do that? We are going to reform Medicare. How are we going to reform it? Nobody knows. Nobody has said.

We can either bankrupt every rural hospital in America, which we would do in my State, cut doctors' fees to the point they do not want to participate in the program anymore, or assess every single Medicare recipient in the country $3,345 over the next 7 years.

Medicaid, the poorest of the poor, we are going to increase 4 percent. It has been increasing by 10 percent. What will happen? We will do block grants to the States and we will have 50 different programs for Medicaid.

Mr. President, all 100 people who sit in this body get a nice fat check every month, $133,000 a year. A lot of them never dreamed they would make that much. I guess I am one of them. We get $133,000 a year. We have a nice, fat, cushy pension waiting to retire. But we have a health care plan second to none. Any doctor or hospital in this city is more than pleased to see a Member of Congress come in because they know our plan will pay for everything.

But do you know what we forget? We forget that 37 million people in this country are over 65, and 50 percent of them go to bed terrified at night for fear they will get sick and not be able to pay their medical bills. We in Congress have no such fears.

What are we going to do? We are going to give a $245 billion tax cut. Not a middle-class tax cut. I cannot believe people have the temerity to call this a middle-class tax cut. This tax cut, at least the House tax cut, goes to virtually the wealthiest people in America.

What in the name of God are we thinking about? Seventy percent of the people of this country say, "Don't spend that $245 billion on tax cuts." If you can come up with $245 billion, put it on the deficit.

Mr. President, what is next? Defense—the Senate Armed Services Committee is this day marking up a bill that is calculated to do one thing: that is to gin up the cold war one more time. More B-2 bombers. For whom? Whom are we going to bomb? Even new battleships—two battleships. All kinds of things the Defense Department, even the Joint Chiefs of Staffs, say they do not want. We in Congress will teach the Joint Chiefs a thing or two about military battles.

Imagine Senators telling old people we are cutting Medicare by $270 billion and telling poor people we are cutting Medicaid by $180 billion. What do we say to the Defense Department? Have it all; just have what you want. Do you want to kill the ABM treaty so the Russians have no choice but to start rearming? Do you want to build all the weapons systems that really have no meaning in today's world? Here is the proof of the pudding.

The United States is spending $280 billion this year, counting the Energy Department's budget, on defense; the eight biggest military nations on Earth outside NATO—Russia, China, North Korea, Iraq, Iran, Libya, Syria, Cuba, our most likely adversaries—the combined total budgets of all eight nations is $121 billion.

We are spending twice as much in the United States alone as our eight most likely adversaries combined. When we add NATO spending of $250 billion, the United States and NATO are spending four times more than all these nations combined. Mr. President, this sounds like sheer lunacy, because it is.

In a few days, the Budget Committee will send over all their mandatory spending instructions to the committees to report back to them by September 22. Then CBO will certify that the budget really will be in balance in the year 2002. Then the Budget Committee will tell the Finance Committee, "Come up with a big tax cut of $245 billion over the next 7 years," and then the Budget Committee will combine all of this mandatory savings legislation with a tax cut bill, and it is all going to be passed in one fell swoop.

What does that mean? That means that we will pass a tax cut this fall. We will pass this budget, and all the appropriations bills that go with it, and then we will be free to have an immediate tax cut.

Then next year, it will require only 51 votes to undo every bit of our balanced budget. If we have a recession, a war, if we have a trade war, earthquakes, hurricanes, floods, every Senator in this body will fall all over himself to vote to pay for every bit of it, and there goes our balanced budget because we will have already passed a $245 billion tax cut.

Mr. President, we are back to square one. I know my time is about to expire. I wanted to say some other things. I just want to close by making a couple of observations.

This budget is guaranteed not to solve the problems of this Nation. This budget tells the American people only one thing: That it has been crafted with the utmost cynicism to keep people's attention diverted just long enough to get this tax cut passed.

When we pass a tax cut, think of who will feel the pain. Here is the chart. On capital gains alone, 76.3 percent of the capital gains tax cuts will go to the wealthiest 5 percent of people in America—76 percent to the wealthiest 5 percent of people in America. If that is what America is about, somehow or another, I missed it all. You could not hold a gun to my head and make me vote for this budget. I yield the floor.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time consumed by the quorum not be charged against the resolution.

The PRESIDING OFFICER (Mr. ABRAHAM). Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, it should come as no surprise that the budget resolution which has come back to us from conference is far worse and more dismaying in its impact than the version which passed the Senate on May 25.

What I said when I voted against the resolution the first time applies now with even more force: This budget is a plan for the evisceration of progressive government as we have come to know it in the past 40 years. Sadly, it marks the end of an era of high intentions and decency and compassion in public policy.

One of the worst provisions of the conference report, from my point of view, is the mandatory cut of some $10 billion in education programs, notwithstanding the fact that the Senate last month voted 67–32 to restore $9.2 billion to this account.

The conference cut in education will substantially increase the indebtedness that students incur to pay for college tuition, adding some $4,000 to $5,000 to the cost of an average student loan. It could well mean that literally millions of students will have to trim, defer or even drop their plans for college.

A number of important education programs—such as Safe and Drug Free Schools, Goals 2000, School to Work Opportunities, Head Start, Pell grants, the National and Community Service Act and Vocational Education—could well be subject to severe funding reductions and even elimination.

At a time when our Nation needs a more educated and better prepared workforce, these education cuts mean we would be moving in precisely the opposite and wrong direction.

Similarly, Mr. President, the conference report's outline for spending on foreign affairs, the so-called 150 account, indicates that over time, there will be significant cuts in funding for U.S. foreign affairs agencies, personnel and assistance programs; there will be an enormous reduction in U.S. financial support for the United Nations and U.N. peacekeeping missions; and there will be major constraints on the ability of the United States to conduct diplomacy and exert influence abroad.

If we follow the prescriptions in this budget plan, the United States will be unable to exercise leverage over or work cooperatively with the international community to resolve conflicts, advance our interests, or promote democratic and free market principles.

I am particularly disturbed by the potential impact of the budget plan on our ability to contribute to the United Nations. Having just returned from the 50th anniversary celebration of the United Nations, I am once again reminded of the tremendous contributions that the United Nations has made to support and advance U.S. foreign policy goals, and of how useful a tool it could be for the United States in the future. I am not so naive as to profess that the United Nations has always lived up to its potential, but for every example of failure that are numerous countervailing examples of success.

These cuts will set us squarely down the road toward retrenchment and withdrawal. If we choose to go this route, we will do grave disservice to the next generation of Americans. At the end of World War II, we chose not to yield to the temptation of isolationism, and our country prospered as it never had before. I think we should have learned our lesson by now.

These cuts in education funding and in the foreign affairs account typify the great differences in priorities and values which distinguish the opponents from the proponents of this resolution. All of us agree that many Federal programs should be trimmed or restructured or phased out altogether. But we have significant differences over where the axe should fall.

I for one think that far more critical attention should be given to modifying and reducing the elaborate defense and security structure which in many ways is a casualty of its own success in the cold war.

I am dismayed that the conference report comes back to us with even greater allowance for defense outlays than we originally provided. As I see it, we should be spending far less on defense and more on domestic social programs.

The same might be said for the vast hidden budget of our intelligence apparatus which I note spent some $10 billion in its unsuccessful efforts to estimate the state of the Soviet economy, the collapse of which it failed to anticipate.

Mr. President, as I indicated last month, my differences on the budget go deeper than priorities. I continue to question the basic premise that the Federal budget must be brought into absolute balance in a specific time frame.

And I particularly question the wisdom, indeed the sanity, of providing for tax cuts at the very time our objective should be to bring revenues and expenditures into balance. It seems preposterous that the budget resolution now comes back to us with a provision for tax cuts of $245 billion, notwithstanding the Senate's decisive rejection by a vote of 69 to 31 of the Gram amendment last month.

For every dollar of opportunistic tax cuts provided by this resolution, an offsetting dollar must come from some other source. The designers of this budget actually propose to borrow funds in the next few years to make up for the lost revenue, and then the impact will fall on school children, college students and Medicare recipients among many others.

This seems like a strange way indeed for a modern society to manage its affairs. A far better way, it seems to me, would be to make judicious cuts, reduce the deficit to reasonable proportions and, if necessary, raise additional revenues to preserve worthy programs.

We should not loose sight of Franklin Roosevelt's wise dictum that "Taxes, after all, are the dues that we pay for the privileges of membership in an organized society." In the end, we get what we pay for.

OPPOSITION TO DEFENSE FUNDING LEVELS

Mr. GRASSLEY. Mr. President, I have asked to speak at length on this conference agreement to raise some serious reservations about the funding levels it contains for defense. I appreciate Chairman DOMENICI's cooperation in allowing me this time.

I would like to say first that I will vote for this conference report. I spoke at length earlier today about the positive aspects of this budget, and why it's needed for this country's future. Whatever reservations I have about the defense numbers, they are secondary to the main priority—which is a credible, balanced budget.

To me, the explosion of debt sanctioned by Congress over the last three decades is unconscionable. It has become a moral issue with me. We are mortgaging our children's future by failing to act responsibly now. It has to stop. The goal of this conference agreement is, in fact, to restore responsibility to our fiscal policy. And that's why I support the conference agreement despite my opposition to the defense budget levels.

Let me also say that I strongly supported the Senate budget, including the defense numbers. To me, the Senate's version of the budget we passed in May was the most credible budget passed by this body that I have voted for. There was no smoke and mirrors. Just sound, tough choices. And as I have done before on this floor, including today, I want to once again commend Chairman DOMENICI for his outstanding leadership in crafting that budget.

Having provided that context, Mr. President, I would like now to address the defense issue.

The conference report pumps $40 billion into the defense budget over the next 7 years. There are two justifications given. First, the defense budget is "underfunded." Second, we need more money for weapons so we can have more money for readiness.

Neither argument has credibility, in my view.

The defense debate is often dominated by fancy buzz words and phrases. Two examples are: First, the defense budget is "underfunded"; and second, we cannot sacrifice "future readiness" for current readiness. These are the phrases being used. But what do they mean?

What I plan to do is explain these arguments in terms the taxpayers can understand. That way, they can see how they are getting ripped off.

First, the underfunding argument. This argument cites a gap between the level of funding for programs in the defense budget, versus the realistic cost of those same programs when the bills come due. It says more money is needed to fund everything that's in the defense budget.

This argument is bogus. The fact of the matter is, more money would not be needed if the defense managers were to manage their programs properly. The funding gap cited in the conference agreement is future cost overruns that happen historically because defense managers are not doing their jobs.

The defense budget is not underfunded; it is overprogrammed. The cost of what is in the budget is deliberately underestimated. That way, the bureaucrats can squeeze more programs in. It is a bait-and-switch game that would make the best of the con artists green with envy.

Once they get all the programs stuffed in by underestimating their cost, they turn around and say: "Gosh, we need more money to pay for everything we just crammed in there."

If it were not for the conscious game of deliberately underestimating costs to shoehorn more programs into the budget, the term "underfunding" might be legitimate. But that is not the case. The fact that it is a deliberate scheme to game the system is why it is really a case of overprogramming, not underfunding.

For example, when Republicans accuse President Clinton of using rosy economics to balance the budget—therefore, claiming his budget really is not balanced—we are accusing him of not making the tough choices. By assuming a rosier revenue stream, he is trying to fit more programs into the Federal budget, and make fewer cuts. It is poor management and leadership. It will lead to higher deficits. In his case, our accusations are justified.

It is the same with the defense budget. That is why I call the defense budget a "blivet"—5 pounds of manure in a 4-pound sack. The question is, after they pull this bait-and-switch routine, do we give them a bigger sack, or do we ask them to manage their manure better?.

Interestingly, Mr. President, I used this argument to successfully freeze the defense budget in 1985—during the height of the Soviet threat. If the argument was successful then for spending less money, why would we use it now to argue for more money, especially when the threat is gone?

Simply put, those who are using the argument now to justify more spending do not understand the issue.

The Defense Department has a history of playing the overprogramming game. I first uncovered it in 1983, and used analysis of that problem to show how more money was making the funding gap worse. The answer was not more money, but rather better management. Using that argument, we froze defense spending in 1985, and it has been plateaued ever since.

The overprogramming gap was bad back in 1983, and it hasn't gotten any better. The data confirm this. The conference report language acknowledges that the problem is still with us. But what the report does not do is present a logical case for why an argument that once was used to justify less spending and better management, is now used to justify more spending in place of better management.

If my colleagues were to respond correctly to this problem, we would say better management must substitute for more money. That means taking away a pound of manure, rather than getting a bigger sack. Better yet, preventing the excess manure in the first place is what we want. That is proper management. If all we do is keep getting a bigger sack, we're rewarding bad management.

It is a game. It is a game mastered by crafty bureaucrats to extort taxpayer money out of Congress. In reality, by doing what is argued for in this conference agreement, we would be covering the cost overruns that will result from putting in more money.

You see, the cost overruns have not occurred yet. They will occur each of the next 7 years, if business is conducted as usual. Putting $40 billion more in the defense budget guarantees that business will be as usual. And we will get $40 billion of cost overruns as a result.

Now, let me address the second argument used by the conferees. It is really just another symptom of the problem I just described.

The second argument goes like this: More money lessens the need for Pentagon decisionmakers to sacrifice future readiness to meet current readiness requirements.

"Current readiness" means spare parts, fuel, and training. "Future readiness" means procurement. This argument simply means that DOD managers do not want to have to manage and prioritize. As cost overruns due to bad management occur in each of the next 7 years in weapons accounts, the managers don't want to have to rob the readiness accounts to pay for the weapons. That is what they used to do. But that would hollow out the force. Instead, this time they want more procurement money to cover the cost overruns.

When you hear the cry for more money for things like "procurement" or "modernization" or "future readiness needs"—all of which are fancy buzz words—those are euphemisms for putting in more money to cover cost overruns. It says, "We are not going to manage better. We have run the defense budget this way for decades, and we're not going to change now."

That is the attitude that troubles me, Mr. President. What troubles me even more is that the new Republican Congress is willing to tolerate it. We are treating it as a sacred cow. Worse. We are treating it as a sacred fatted cow.

Why is it that Members on my side of the aisle send their management principles on a vacation whenever the defense budget is mentioned? We scrutinize every other program for better performance. But when it comes to the defense budget, it is a jobs jamboree. A pork paradise.

It is hypocritical. It undermines our credibility as a party. We are not willing to tolerate business-as-usual in any corner of the Federal Government, except for defense. On defense, we worship at the altar of the sacred fatted cow.

I want to make it clear, Mr. President, that my colleagues in the Senate did not have this attitude, for the most part. It was mainly those of the other body. During the conference, we met with our counterparts in a very important defense discussion. Afterward, we reached a compromise on the defense numbers.

I do not intend to mention names. But I would like to relay a couple points that were made by House leaders in defense of pumping up the defense budget.

The first argument was the pork argument. At the time of the defense meeting of conferees, the relevant House committee had already completed work on this year's defense bill. If the conferees did not pump up the numbers, it would mean going back to Members of Congress and saying we would have to go back on our promise to fund this project or that program.

Now, when a Member of Congress is faced with a choice like that, guess what he or she will do? The choice is, go along with the pumped-up defense numbers, or we'll cancel this project in your district. And that'll mean jobs.

What kind of national security strategy is this, Mr. President?

Everyone knows, the defense budget is justified by a national security strategy. We've all heard of the two-war strategy. The defense budget is built on a strategy of fighting and winning two near-simultaneous wars in different parts of the globe.

Now, I am not so naive to think there's any real tight connection between a national strategy and our defense budget. But at least our defense community usually goes along with the gag. They pay lip service to the connection, even though we all know the defense budget is as much a big pork factory as it is a generator of fighting capabilities. If we did not pay lip service, there would be no justification for budget increases, and hence no credibility.

In this case—in my discussion in that defense meeting—there was not even lip service. It was unadulterated realpolitik. The justification for more defense spending was more pork ad more jobs. Period.

The other comment that was made was the recognition that a national security strategy is no longer the basis of our defense budget, since the cold war is over. So what, I asked, is the justification for the present budget, let alone vast new increases. The answer I got was that more defense spending is needed because the United States must police the world. And we are the only ones who can do it.

My question is, how in the world can that justify the spending levels in this agreement? If anything, it undermines it. This defense budget is still based on an obsolete, cold war strategy. We are still buying cold war relics. Before this conference agreement, we were on a path toward a post-cold war budget. But with this influx of money, we are now returning to the cold war budget in a post-cold war era.

If we are now going to be policemen of the world, why are we still buying things that were specifically designed to counter the Soviet threat, not to police the world? We are still buying Seawolfs and B-2's and F-22's and Comanche helicopters, and the like. If we are supposed to now police the world, why are we buying these? The fact is, this argument does not justify these larger defense numbers.

Another argument is that the defense budget is not going up, we are simply trying to freeze it, and keep it from going down. But this is not a credible argument. And it never has been. The defense budget is based on a national strategy, at least supposedly. If the budget declines, which would be consistent with the disappearance of the Soviet threat, what is the problem? There should not be a problem—unless, that is, we view it as a port factory with jobs attached.

Mr. President, there is no logical basis for the defense numbers in this conference agreement. The arguments are bogus, and they reflect a lack of serious, credible justification.

As I mentioned earlier, I support the conference agreement because I believe it will lead to a legitimate balanced budget in 2002. And I am willing to accept the defense compromise if that's what it takes to get an overall agreement.

But I am taking this opportunity to warn my Republican colleagues not to repeat the mistakes we made in the 1980's with the defense budget. In the 1980's, our goal was not a defense build-up. It was a defense budget build-up. We ended up buying much less with much more than we got and spent under the Carter administration. That's because we substituted more money for better management. We lost credibility as a party because of it.

As the party that now controls Congress for the first time in 40 years, we are right back where we were in 1981. Our defense policy, as reflected in this conference agreement, is to once again build up the defense budget, not defense. It is to, once again, create jobs, not a lean fighting machine.

I have been given assurances by Members of the other body that defense reforms arę forthcoming. After concentrating this year on health care reform, the top reform priority of the other body next year will be major defense reform.

By inference, my colleagues are admitting that they will tolerate business-as-usual with the Defense Department—at least for 1 more year. I am here to warn my colleagues that 1 year is all they will get. One year to conclude that better management will win out over more money, as a solution.

Because if there is not a change next year to doing business-as-usual in defense, then I will expend everything in mu arsenal to bring sanity to our defense policy. Just like I did from 1983 to 1985, when I ended the irrational defense budget buildup under President Reagan. It was my amendment on this very floor on May 2, 1985, by a vote of 50-49 that ended the insanity back then. And I will do it again.

Even if it takes me 2 full years to do it, like it did back then. And I will win. Because it is not right to have a double standard—one for defense, and one for the rest of Government. All that will do is hurt the credibility of our party. And I do not want that. Because in my view, our party is the only one that can restore hope and opportunity for the next generation.

MORNING BUSINESS

Mr. DOLE. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting a treaty and sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT—PM 58

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Commerce, Science, and Transportation:

To the Congress of the United States:

As required by section 19(3) of the Public Telecommunications Act of 1992 (Public Law 102-356), I transmit herewith the report of the Corporation for Public Broadcasting.

WILLIAM J. CLINTON.
THE WHITE HOUSE, *June 28, 1995.*

MESSAGES FROM THE HOUSE

At noon, a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 38. Concurrent resolution authorizing the use of the Capitol grounds for the Greater Washington Soap Box Derby.

The message also announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 18. Concurrent resolution authorizing the Architect of the Capitol to transfer the catafalque to the Supreme Court for a funeral service.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1565. An act to amend title 38, United States Code, to extend through December 31, 1997, the period during which the Secretary of Veterans Affairs is authorized to provide priority health care to certain veterans exposed to agent orange, ionizing radiation, or environmental hazards.

The message also announced that pursuant to the provisions of section 9355(a) of title 10, United States Code, the Speaker announces the appointment as members of the Board of Visitors to the U.S. Air Force Academy the following Members on the part of the House: Mr. YOUNG of Florida, Mr. HEFLEY, Mr. DICKS, and Mr. TANNER.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 1565. An act to amend title 38, United States Code, to extend through December 31, 1997, the period during which the Secretary of Veterans Affairs is authorized to provide priority health care to certain veterans exposed to agent orange, ionizing radiation, or environmental hazards; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEE

The following report of committee was submitted:

By Mr. STEVENS, from the Committee on Rules and Administration:

Special Report entitled "Review of Legislative Activity During the 103D Congress" (Rept. No. 104-100).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. D'AMATO, from the Committee on Banking, Housing, and Urban Affairs:

Deborah Dudley Branson, of Texas, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1996.

Charles L. Marinaccio, of the District of Columbia, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1996.

Steve M. Hays, of Tennessee, to be a Member of the Board of Directors of the National

Institute of Building Sciences for a term expiring September 7, 1997.

Martin Neil Baily, of Maryland, to be a Member of the Council of Economic Advisers.

Tony Scallon, of Minnesota, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for a term of three years.

Sheila Anne Smith, of Illinois, to be a Member of the Board of Directors of the National Consumer Cooperative Bank for a term of three years.

Marianne C. Spraggins, of New York, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1997.

Albert James Dwoskin, of Virginia, to be a Director of the Securities Investor Protection Corporation for a term expiring December 31, 1998.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PACKWOOD, from the Committee on Finance:

Ira S. Shapiro, of Maryland, for the rank of Ambassador during his tenure of service as Senior Counsel and Negotiator in the Office of the United States Trade Representative:

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CHAFEE:

S. 975. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel JAJO, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. NICKLES:

S. 976. A bill to transfer management of the Tishomingo National Wildlife Refuge in Oklahoma to the State of Oklahoma, and for other purposes; to the Committee on Environment and Public Works.

By Mr. HATCH:

S. 977. A bill to correct certain references in the Bankruptcy Code; to the Committee on the Judiciary.

By Mrs. HUTCHISON (for herself and Mr. DODD):

S. 978. A bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, to clarify the inapplicability of antitrust laws to charitable gift annuities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. BOXER (for herself, Mr. KENNEDY, Ms. MIKULSKI, Mrs. MURRAY, Mrs. FEINSTEIN, Ms. SNOWE, Mr. LAUTENBERG, Mr. INOUYE, Mr. GLENN, Mr. PACKWOOD, Mr. DODD, and Mr. SPECTER):

S. 979. A bill to protect women's reproductive health and constitutional right to choice, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HARKIN:

S. 980. A bill to amend the Public Health Service Act and the Social Security Act to protect and improve the availability, quality and affordability of health care in rural areas, and for other purposes; to the Committee on Finance.

By Mr. EXON:

S. 981. A bill entitled "Truck Safety and Congressional Partnership Act"; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NICKLES:

S. 976. A bill to transfer management of the Tishomingo National Wildlife Refuge in Oklahoma to the State of Oklahoma, and for other purposes; to the Committee on Environment and Public Works.

THE TISHOMINGO NATIONAL WILDLIFE REFUGE ACT

Mr. NICKLES. Mr. President, I take the floor today to introduce a bill which will turn the management responsibilities of the Tishomingo National Wildlife Refuge from the U.S. Fish and Wildlife Service over to the Oklahoma Department of Wildlife Conservation. This legislation responds to unacceptable policies promulgated by the Fish and Wildlife Service in their management of national wildlife refuges.

During the past several years, the Fish and Wildlife Service has attempted to restrict public access and traditional activities on our wildlife refuge preserves. Long-allowed public uses on refuges such as wildlife viewing, hunting, fishing, hiking, grazing, and boating, have come under close scrutiny and curtailment. These shortsighted restrictions proposed by the administration's political appointees have resulted in unnecessary burdens and pressures on the public who use and benefit from our wildlife refuges.

What the Fish and Wildlife Service fails to realize is that the taxpayers own and finance the refuge lands. Outdoor recreation contributes significantly to local economies and local support for the refuges. Allowing traditional activities, such as fishing and boating at Tishomingo, is integral in maintaining continued public support and funding for the refuge system.

Due to ill-advised changes in Federal management practices during the last 10 years, wildlife populations on the Tishomingo refuge have severely declined. The State of Oklahoma, however, presently provides suitable habitats for wildlife resources across the State and currently manages 650,000 acres of Federal land. State officials have assured me that they will improve habitat conditions for wildlife at the refuge and work to reverse the negative impact of inadequate Federal management.

My legislation will ensure limited Federal funding for the Tishomingo Refuge and will ultimately result in significant savings to the Federal Government. The Oklahoma Department of Wildlife Conservation can manage the refuge more efficiently and with fewer taxpayer dollars. Specifically, my bill stipulates annual funding be made available to the State in the amount of 50 percent of the refuge's current operating costs.

In conclusion, I believe the State of Oklahoma can manage the Tishomingo National Wildlife Refuge in an efficient and cost-effective manner and do so with fewer employees than the Federal Government. Local management will result in better communication between the managers of the refuge and the public. Those responsible for managing our national refuges must be held accountable to the needs of the public they serve.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 976

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF MANAGEMENT OF TISHOMINGO NATIONAL WILDLIFE REFUGE.

(a) TRANSFER.—Not later than 30 days after the date of enactment of this Act, the Secretary of the Interior shall transfer, with the consent of the Governor of Oklahoma, the management of the lands and waters within the Tishomingo National Wildlife Refuge in Oklahoma to the State of Oklahoma for administration by the Director of the Oklahoma Department of Wildlife Conservation (or any successor agency).

(b) MANAGEMENT.—

(1) IN GENERAL.—The lands and waters transferred under subsection (a) shall—

(A) be managed for the same uses and in the same manner as the lands were managed by the United States Fish and Wildlife Service prior to 1994; and

(B) continue to be a national wildlife refuge.

(2) APPLICABLE LAWS.—The laws (including regulations) applicable to the National Wildlife Refuge System established under the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd *et seq.*) shall continue to be applicable to the lands and waters on and after the effective date of the transfer under subsection (a).

(c) AUTHORIZATION OF FUNDING.—For each fiscal year commencing after the date of enactment of this Act, there is authorized to be appropriated to the Secretary of the Interior to make annual grants to the State of Oklahoma for management of the lands and waters transferred under subsection (a) an amount equal to 50 percent of the amount made available to the Secretary of the Interior in fiscal year 1994 for the management of the refuge.

By Mr. HATCH:

S. 977. A bill to correct certain references in the Bankruptcy Code; to the Committee on the Judiciary.

TECHNICAL CORRECTION LEGISLATION

• Mr. HATCH. Mr. President, I am pleased to introduce legislation that would work a purely technical correction to certain references in the Bankruptcy Code.

Title 11, United States Code, section 1228 contains incorrect cross references to 11 U.S.C. §1222(b)(10). Those references should be to 11 U.S.C. §1222(b)(9). The errors have been pointed out to me by practitioners, and have been commented on by the leading bankruptcy treatise. See 5 "Collier on Bankruptcy" ¶1288.01 at p. 1228-3 n.1 (15th ed. 1994). The bill I introduce today would correct those errors.

The substance behind the corrections is fairly straightforward. Section 1228 provides for the discharge of debt in chapter 12 bankruptcies. Under that provision, as soon as the debtor completes all payments under the debtor's pan, debt will generally be discharged, subject to a few, limited exceptions. One obvious exception covers certain payments that, under the plan, will necessarily extend beyond the period of the plan. It simply makes sense that, where the plan contemplates payments to be made beyond the period of the plan, the debt will not be discharged at the close of the plan period.

The exception currently refers to subsections 1222(b)(5) and 1222(b)(10), which appear in that section of chapter 12 governing the contents of the plan. The reference to subsection 1222(b)(10) is plainly in error, however, and should be to subsection 1222(b)(9). Subsections 1222(b)(5) and 1222(b)(9) both concern debts on which payments are due following completion of the plan. Subsection 1222(b)(10), however, concerns something entirely different: the vesting of property in the debtor or another entity. The current cites to subsection 1222(b)(10) should be to 1222(b)(9). This bill corrects those errors, in accordance with the suggestions of practitioners and commentators.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFERENCE.

Section 1228 of title 11, United States Code, is amended by striking "section 1222(b)(10)" each place it appears and inserting "section 1222(b)(9)".•

By Mrs. HUTCHISON (for herself and Mr. DODD):

S. 978. A bill to facilitate contributions to charitable organizations by codifying certain exemptions from the Federal securities laws, to clarify the inapplicability of antitrust laws to charitable gift annuities, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

THE CHARITABLE GIVING PROTECTION ACT OF 1995

• Mrs. HUTCHISON. Mr. President, one of charities' most important sources of funds—charitable gift annuities—is threatened.

Ever since the American Bible Society entered into the first planned giving arrangement in the 1830's, charitable gift annuities have been a traditional method of giving in America. Typically, the donor gives property to a charity and receives some of the investment income for the rest of her life. After the donor's death, the charity keeps the property to help with its charitable mission.

Donors establish charitable gift annuities to help feed and clothe the neediest among us, to provide relief for disaster victims, to heal the sick, to educate our children, and to bring culture to our communities.

The threat to charities comes from the misapplication of laws to protect consumers from securities fraud and unfair competition to charitable giving. A lawsuit filed in Federal court in Wichita Falls, TX, challenges the ability of charities under Federal securities laws and antitrust laws to engage in planned giving with donors.

The lawsuit alleges that the American Council on Gift Annuities—an educational organization sponsored by more than 1,500 charities to assist them in issuing gift annuities—violated antitrust law by providing actuarial tables to charities to assist them in determining the interest they should pay on annuities. The lawsuit also alleges that commingling of more than one charities' trust funds in a pooled income fund is a violation of the Investment Company Act of 1940, and other securities laws.

The plaintiff—a disappointed potential heir of the elderly woman who made the charitable donation—says that it is price-fixing for the council to suggest what charities should pay in interest on gift annuities. She overlooks that gift annuities aren't trade or commerce in the first place. Congress recognized this fact in the Technical Corrections Act of 1988 when it excepted gift annuities from the definition of commercial insurance.

Instead of getting the best possible return on her investment, a charitable donor is trying to help the charity. If she wanted investment return, she would go to a bank or a brokerage house, not the Red Cross.

Lawyers for the plaintiff are seeking class action certification to expand the suit to charities from every State. The lawyers ask for the return of all charitable annuity donations plus treble damages—damages that would have to be paid from endowments or unrelated donations.

Such an award could financially disable thousand of charities, including hospitals, relief organizations, arts groups, museums, universities, and every religious denomination in the country. One of the plaintiff's lawyers in this case has boasted that this is a "billion-dollar lawsuit," because it will extract huge sums of money from our Nation's noblest institutions—and earn him a big contingency fee.

Today I am introducing legislation to prevent the financial security of American charities from being undermined. The bill exempts charitable organization's annuity activities from the antitrust laws. It also codifies current SEC policy for irrevocable trusts by clarifying that charities may make collective investments under the securities laws, such as investment in pooled income funds. For revocable trusts, the bill provides a 3-year window for compliance with the securities laws, termination of revocable trusts, or conversion of revocable trusts into irrevocable trusts.

Similar legislation was unanimously passed this spring by the Texas Legislature to clarify that charities issuing gift annuities are not required to be licensed as insurance companies or incorporated as trust companies.

Charities in America have a consistent track record of honoring their promises and commitments to donors, and will remain liable for fraudulent acts—although none are alleged in this lawsuit. My bill does not exempt charities from liability for fraud. The persons responsible for the Foundation for New Era Philanthropy "Ponzi Scheme" would still be held responsible for their acts.

Charities are not harming anyone—the only harm being done is by this lawsuit to America's charities. We must act now to protect charitable giving from harm, and to protect our laws from being misapplied.

Returning charitable annuity gifts and opening up endowments to pay treble damages will harm all of us. Every dollar lost is a child unvaccinated, a baby unfed, a sick person with no medical care, a Boy Scout troop that will cease to exist, a house for a poor family that will not be built, and a scholarship that will not be granted. I urge all Senators to protect their most important institutions and pass this bill as soon as possible.•

By Mrs. BOXER (for herself, Mr. KENNEDY, Ms. MIKULSKI, Mrs. MURRAY, Mrs. FEINSTEIN, Ms. SNOWE, Mr. LAUTENBERG, Mr. INOUYE, Mr. GLENN, Mr. PACKWOOD, Mr. DODD, and Mr. SPECTER):

S. 979. A bill to protect women's reproductive health and constitutional right to choice, and for other purposes; to the Committee on Labor and Human Resources.

THE WOMEN'S CHOICE AND REPRODUCTIVE HEALTH PROTECTION ACT

• Mrs. BOXER. Mr. President, I introduce the Women's Choice and Reproductive Health Protection Act with my colleagues, Senator KENNEDY, Senator MIKULSKI, Senator MURRAY, Senator FEINSTEIN, Senator SNOWE, Senator LAUTENBERG, Senator INOUYE, Senator GLENN, Senator PACKWOOD, Senator DODD, and Senator SPECTER. Similar legislation will be introduced in the House by Representatives SCHROEDER and LOWEY.

The Women's Choice and Reproductive Health Protection Act unequivocally calls on Congress to maintain current policies which preserve a woman's right to choose and critical reproductive health care services.

Specifically, the bill upholds the following policies which represent gains for women that were achieved through legislative action, Presidential Executive order or court decisions:

Medicaid funding of abortions for victims of rape or incest;

Protection for reproductive health care clinics and a woman's access to them;

Reauthorization of family planning programs;

Funding for contraceptive research and for screening programs in all 50 States for breast cancer, cervical cancer, and chlamydia;

The prohibition of any "gag rule" on information pertaining to reproductive medical services;

Fair evaluation of the drug RU-486;

Ensuring that all women, including Federal employees, can obtain insurance policies that provide the full range of reproductive health care services;

Allowing women in the military to use their own funds to obtain abortion services at overseas facilities; and

A woman's right to choose, as decided by the Supreme Court in Roe versus Wade.

The American people overwhelmingly support a woman's right to choose. Yet there are those in this Congress who are determined to turn the clock back—on clinic access, on family planning, and on reproductive rights. The women of America cannot afford to go back and this bill calls on Congress to hold firm against such attacks.

I urge my colleagues to join me in cosponsoring this bill and in reaffirming their support for a woman's right to choose and for crucial reproductive health care services.•

By Mr. HARKIN:

S. 980. A bill to amend the Public Health Service Act and the Social Security Act to protect and improve the availability, quality and affordability of health care in rural areas, and for other purposes; to the Committee on Finance.

THE RURAL HEALTH CARE PROTECTION AND IMPROVEMENT ACT OF 1995

• Mr. HARKIN. Mr. President, today I introduce the Rural Health Care Protection and Improvement Act of 1995. I have introduced similar legislation in previous sessions of Congress but believe the need for the legislation has grown more critical in light of our failure to enact comprehensive health care reform and because of the impending cuts in Medicare and Medicaid.

Perhaps no where else will the proposed Medicare and Medicaid cuts hit harder than in Iowa and other rural States where there is such a high proportion of seniors, uninsured and others without access to health care. Iowa ranks first in percent of citizens over age 85 and third nationally in percent of the population over age 65. The health care system in many small towns in Iowa is already on the critical list—we have too few doctors, nurses, and other health care professionals and many of our rural hospitals are barely making it.

Because of demographics our health care providers in Iowa depend heavily on Medicare payments. Many Iowa hospitals are financially strained and 75 percent of all hospitals lost money on patient revenue in 1993. But, according to a recent study conducted by Lewin-VHI, under the Republican budget plan, Iowa hospitals will lose on average $1,276 for each Medicare care patient in the year 2000—and losses for rural hospitals will be even greater.

Mr. President, without question, the future of rural health care is jeopardized by the budget plan we will consider later this week and the reconciliation bill that will implement it. The level of cuts proposed would be absolutely devastating to the fragile health care systems in rural areas and thus to our rural and small town economies as hospitals are typically the largest employer in small towns and help keep other businesses there. So our first and most important concern must be to stop the level of cuts proposed by the budget resolution. If they become law, there is very little that could be done to resuscitate rural health care. Smaller efforts, while well intentioned, will not be successful in counteracting the impacts of such cuts.

We need to be improving access to and affordability of quality health care in rural areas, not reducing it. The legislation I introduce today would do just that. It would make a number of important improvements to rural health. First, it would establish a grant program to expand access to health services in rural areas through the use of telemedicine. For 6 years as chairman of the Appropriations Subcommittee on Labor, Health and Human Services, and Education my committee funded many telemedicine projects including several in my own State of Iowa. These funds have spurred great interest and activity in telemedicine across the country. But more needs to be done.

The grant program in my legislation will encourage the development of telemedicine networks which can play a critical role in ensuring that people in rural areas have access to high quality health care. Telemedicine puts technology to work to improve the delivery of health care. It uses technology to link patients and their doctors in rural or remote hospitals with highly-trained medical specialists and state of the art medical technology located hundreds, or even thousands of miles away. These linkages will allow more patients to receive care in their community and will ease the burden on specialists in underserved areas. By increasing the education and training opportunities for providers in rural areas these links will also help underserved communities recruit and retain physicians.

Telemedicine will help ensure that people who live in small towns and rural communities have the same access to quality health care as people in Beverly Hills or Palm Beach.

Rural hospitals and other facilities can benefit from the cost savings and access to specialists that telemedicine provides. Using a network, a family doctor in Muscatine, IA could immediately consult with a specialist at the University of Iowa for an instant diagnosis in a life-or-death situation. A specialist in Mercy Hospital in Des Moines could provide emergency advice and help oversee a difficult surgery taking place in Centerville. And a radiologist at Methodist Hospital in Des Moines could help examine x rays just taken in Jefferson.

My home State of Iowa has developed a world class fiber optic system that holds great potential in the area of telemedicine. Fiber optic cables greatly enhance the potential of telemedicine because they carry much more information than traditional, copper telephone wires.

My President, telemedicine will allow patients to stay close to home for support. For most people, one of the most traumatic times in their life is when they are sick or injured. And we should be helping them stay with their family and friends, who often provide the support and love they need to get well. This will also reduced costs associated with travel.

One of the obstacles for further expansion of telemedicine is the lack of a payment system in Medicare and Medicaid. To begin to address this problem, my legislation would require the Department of Health and Human Services to issue regulations regarding reimbursement for telemedicine.

This legislation would also authorize the Rural Health Outreach Grant Program. I began this program as chairman of the Health Appropriations Subcommittee several years ago and it has been a great success. Many rural communities suffer critical shortages of health providers. Distance, lack of public transportation, rough terrain, and unpredictable weather, present additional obstacles. This initiative recognizes that existing health and social services agencies do not always cooperate and coordinate to reach needy populations in rural America.

Through the Rural Health Outreach Program rural organizations have been able to come together to collaborate and build networks to deliver much needed health care. For example, communities used funds provided by the Outreach Program to provide basic health care services to isolated seniors, to provide care to pregnant women, to build emergency medical systems, and to bring mental health services to isolated communities with the help of telemedicine.

In my own State of Iowa, outreach funds were used to help get a new hospice program in rural Grundy County up and running. The local hospital joined with the local health department and volunteer organizations to develop a program to help families coping with terminal illness. The program helps families that are struggling to survive under the weight of nursing chores, daily responsibilities and grief.

Mr. President, the Rural Health Care Protection and Improvement Act would also extend the Medicare Department, Small, Rural Hospital Program. Between 1980 and 1990, 330 rural hospitals were forced to close their doors, in large part because of inequities in Medicare reimbursement. In OBRA 1989, Congress wisely acted to redress these inequities by establishing the Medicare Dependent Small Rural Hospital [MDH] Program. The MDH Program allows rural hospitals under 100 beds to qualify for somewhat higher reimbursement if over 60 percent of their patient days went to caring for Medicare patients. But, Mr. President this program expired in October 1994.

Iowa has 45 Medicare department, small, rural, hospitals. These hospitals mean access to health care services and retention of local health care providers. They also provide economic stability and are a strong draw for businesses and residents into the area. If the hospital or clinic closes it means that the local economy goes, and the nursing home goes, and so does the local economy. It is a domino effect.

The MDH Program is helping many Iowa hospitals survive and this program should be extended to ensure that these small rural hospitals continue to provide health care services.

So, Mr. President, the Rural Health Care Protection and Improvement Act will help improve access and enhance the quality of health care in rural areas. It will help shore up the fragile health care infrastructure in our rural communities and towns. I am pleased that Senator KASSEBAUM has included the Rural Outreach Grant Program and a Telemedicine Grant Program in her Health Centers Consolidation Act of 1995 that will soon be voted on in the Labor and Human Resources Committee. And, I am hopeful that as we consider steps to improve our Nation's health care system, the Medicare Department, Small, Rural Hospital Program will be extended. But not even my bill will be enough to save rural health care if the unprecedented level of cuts to Medicare being proposed become a reality. We must defeat those proposals and work toward a more sound, a more reasonable effort to reform Medicare.•

By Mr. EXON:

S. 981. A bill entitled "Truck Safety and Congressional Partnership Act"; to the Committee on Commerce, Science, and Transportation.

THE TRUCK SAFETY AND CONGRESSIONAL INVOLVEMENT ACT

• Mr. EXON. Mr. President, I introduce legislation which the Senate was expected to consider as an amendment to the National Highway System. Last minute negotiations between the chairman of the Commerce Committee and myself produced an understanding that this legislation would be considered by the full committee at the next scheduled markup.

This legislation is a very simple and very narrow measure. It preserves congressional involvement in critical truck safety issues currently before a trinational committee authorized under the North American Free-Trade Agreement. This legislation simply states that if the executive branch moves to set a standard for single trailer lengths pursuant to the NAFTA negotiations and that standards exceeds 53 feet, the executive branch must come to the Congress for such authority.

This legislation only applies to Federal regulations on truck trailer length issue pursuant to the North American Free-Trade Agreement.

Last year, I chaired a hearing on this issue of truck lengths and safety. Needless to say there are serious concerns about the safety of longer and heavier trucks.

Pursuant to the NAFTA agreement, the Governments of Mexico, Canada, and the United States of America are negotiating the harmonization of traffic safety laws. The Senate has been very concerned about these negotiations and following the approval of NAFTA, approved a resolution expressing the sense of the Senate that these negotiations should bring Canadian and Mexican traffic safety up to United States levels, rather than lower United States standards. I am pleased to report that the Clinton administration expressed their desire to involve Congress in the adoption of any new safety rules arising out of these negotiations. this legislation simply locks in that commitment.

Since the Federal Government maintains no single trailer length standards, there is a risk that a future administration cold use the NAFTA negotiations to increase lengths beyond the generally accepted 53-foot standard.

This legislation assures that the Congress will remain involved in critical truck safety issues. Again, Mr. President, this bill only applies if the administration sets a single trailer length standards pursuant to NAFTA negotiations exceeding 53 feet. In such a case, congressional action would be necessary to implement the longer Federal standard.

The amendment does not restrict State action.

The amendment does not affect Federal legislative action.

The amendment does not affect Federal regulatory action not related to the North American Free-Trade Agreement.

The amendment is consistent with the intent of the Reigle-Exon NAFTA/truck safety resolution, approved by the Senate following the approval of NAFTA, and in no way disrupts the long combination vehicles freeze Senator LAUTENBERG and I authored as part of the 1990 highway bill.

I ask my colleagues to consider and support this narrow legislation which will preserve congressional discretion over truck safety and the NAFTA.•

ADDITIONAL COSPONSORS

S. 12

At the request of Mr. BREAUX, the names of the Senator from Vermont [Mr. LEAHY] and the Senator from South Dakota [Mr. PRESSLER] were added as cosponsors of S. 12, a bill to amend the Internal Revenue Code of 1986 to encourage savings and investment through individual retirement accounts, and for other purposes.

At the request of Mr. ROTH, the name of the Senator from Oklahoma [Mr. INHOFE] was added as a cosponsor of S. 12, supra.

S. 67

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 67, a bill to amend title 10, United States Code, to authorize former members of the Armed Forces who are totally disabled as the result of a service-connected disability to travel on military aircraft in the same manner and to the same extent as retired members of the Armed Forces are entitled to travel on such aircraft.

S. 73

At the request of Mr. INOUYE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 73, a bill to amend title 10, United

States Code, to authorize certain disabled former prisoners of war to use Department of Defense commissary stores and post and base exchanges.

S. 594

At the request of Mrs. BOXER, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 594, a bill to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer.

S. 607

At the request of Mr. WARNER, the names of the Senator from North Carolina [Mr. HELMS], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from Connecticut [Mr. LIEBERMAN] were added as cosponsors of S. 607, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify the liability of certain recycling transactions, and for other purposes.

S. 692

At the request of Mr. GREGG, the name of the Senator from Vermont [Mr. JEFFORDS] was added as a cosponsor of S. 692, a bill to amend the Internal Revenue Code of 1986 to preserve family held forest lands, and for other purposes.

S. 789

At the request of Mr. CHAFEE, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of S. 789, a bill to amend the Internal Revenue Code of 1986 to make permanent the section 170(e)(5) rules pertaining to gifts of publicly traded stock to certain private foundations, and for other purposes.

S. 849

At the request of Mr. D'AMATO, the name of the Senator from New York [Mr. MOYNIHAN] was added as a cosponsor of S. 849, a bill to amend the Age Discrimination in Employment Act of 1967 to protect elected judges against discrimination based on age.

S. 851

At the request of Mr. JOHNSTON, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Idaho [Mr. CRAIG] were added as cosponsors of S. 851, a bill to amend the Federal Water Pollution Control Act to reform the wetlands regulatory program, and for other purposes.

S. 939

At the request of Mr. SMITH, the name of the Senator from Michigan [Mr. ABRAHAM] was added as a cosponsor of S. 939, a bill to amend title 18, United States Code, to ban partial-birth abortions.

S. 942

At the request of Mr. BOND, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 942, a bill to promote increased understanding of Federal regulations and increased voluntary compliance with such regulations by small entities, to provide for the designation of regional ombudsmen and oversight boards to monitor the enforcement practices of certain Federal agencies with respect to small business concerns, to provide relief from excessive and arbitary regulatory enforcement actions against small entities, and for other purposes.

S. 950

At the request of Mrs. BOXER, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 950, a bill to amend the Outer Continental Shelf Lands Act to direct the Secretary of the Interior to cease mineral leasing activity on submerged land of the Outer Continental Shelf that is adjacent to a coastal State that has declared a moratorium on mineral exploration, development, or production activity in adjacent State waters, and for other purposes.

S. 971

At the request of Mr. COATS, the names of the Senator from Ohio [Mr. DEWINE] and the Senator from Mississippi [Mr. LOTT] were added as cosponsors of S. 971, a bill to amend the Public Health Service Act to prohibit governmental discrimination in the training and licensing of health professionals on the basis of the refusal to undergo or provide training in the performance of induced abortions, and for other purposes.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the name of the Senator from South Carolina [Mr. THURMOND] was added as a cosponsor of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet on Wednesday, June 28, 1995 at 1 p.m. to mark up the Department of Defense Authorization Act for fiscal year 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Banking Committee be permitted to meet on Wednesday, June 28, 1995, beginning at 10:40 a.m. to mark up S. 883, the Credit Union Reform Enhancement Act of 1995 and consider pending nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, June 28, 1995, for purposes of conducting a full committee business meeting which is scheduled to begin at 9:30 a.m. The purpose of this meeting is to consider pending calendar business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Finance Committee be permitted to meet on Wednesday, June 28, 1995, beginning at 9:30 a.m. in room SD–215, to conduct a hearing on the perspective of the Governors on Medicaid.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, June 28, 1995, beginning at 9:45 a.m., in room 485 of the Russell Senate Office Building on S. 814, a bill to provide for the reorganization of the Bureau of Indian Affairs, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ACQUISITION AND TECHNOLOGY

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Subcommittee on Acquisition and Technology be authorized to meet on Wednesday, June 28, 1995, at 9 a.m. to mark up the Department of Defense Authorization Act for fiscal year 1996.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AIRLAND FORCES

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Subcommittee on Airland Forces be authorized to meet on Wednesday, June 28, 1995, at 11 a.m. to continue mark up of the Department of Defense Authorization Act for fiscal year 1996.

The PRESIDING OFFICER. Without objection it is so ordered.

SUBCOMMITTEE ON IMMIGRATION

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Subcommittee on Immigration for the Senate Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, June 28, 1995, at 10 a.m. to hold a hearing on the Report of the U.S. Commission of Immigration.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

"ASSESSMENT STANDARDS FOR SCHOOL MATHEMATICS" RECENTLY PUBLISHED BY THE NATIONAL COUNCIL OF TEACHERS OF MATHEMATICS

• Mr. HATFIELD. Mr. President, 6 years ago the National Council of Teachers of Mathematics [NCTM] released a publication, the "Curriculum Standards for School Mathematics," which established national standards for mathematics education. The Standards presented a vision of appropriate mathematical goals for all students. It represented a consensus view of educators, mathematicians, classroom teachers, researchers, lay persons, and leaders in business.

The Standards are based on the assumption that all students are capable of learning mathematics. The Standards describe what a high-quality mathematics education for North American students, K–12, should comprise. However, since their publication, NCTM has granted permission for the Standards to be translated into the Chinese, Korean, Spanish, and Portuguese languages. The Standards are being used as a guide to mathematics education reform in many countries around the world. This publication has given the world a vision of meaningful mathematics education.

NCTM's goal was to develop mathematics power for all students. Reaching this goal required more than a vision. Two years later this publication was followed by a second document, "Professional Standards for Teaching Mathematics." These Professional Standards are a guide for the creation of a curriculum and an environment in which teaching and learning are to occur. It is now being used by colleges and universities in their mathematics teacher preservice education programs. The goal is to develop public school teachers who are more proficient in selecting tasks to engage students in learning mathematics, providing opportunities for understanding mathematics, promoting the investigation and growth of mathematical ideas, using technology and other tools to promote investigations, and connecting mathematics to previous and developing knowledge.

The Curriculum Standards contained the vision. The Professional Standards outlines teacher training methods that will enable educators to achieve this vision. Recently, NCTM has released a third publication, the "Assessment Standards for School Mathematics." This publication will establish criteria for student assessment and program evaluation and elaborate the vision of assessment that was described in the previous documents. The purposes of assessment include monitoring student progress, making instructional decisions, evaluating student achievement, and evaluating programs. The assessment standards should reflect the mathematics that all students need to know and be able to do, should enhance mathematics learning, should promote equity, and should be an open process.

If meaningful and long lasting change is to be realized, all aspects of school mathematics—content, teaching, and assessment—need to change on a systemic basis. These three documents are tools, not solutions. They will provide the tools needed for significant mathematics reform to take place. This effort is truly exemplary in that first, the community came together on its own, and second, standards have been developed without one dollar from the Federal Government.

I appreciate this opportunity to bring this publication to the attention of fellow Senators and voice my support for worthwhile education reforms. I congratulate NCTM for their efforts to this end by providing the mathematics community these valuable documents.•

IN MEMORY OF TREASURY ENFORCEMENT PERSONNEL AND SPECIAL AGENTS LOST IN OKLAHOMA CITY BOMBING

• Mr. KERREY. Mr. President, it has been 2 months since a bomb exploded at 9:02 a.m. April 19 in Oklahoma City. The rescue is over but we are still in shock, still grieving, and still trying to understand this tragedy. I come to the floor today with a profound sense of sadness. My heart goes out to the families of the fine people whose lives have been tragically taken by this horrific act. I feel that it is my duty as the ranking member of the Appropriations Subcommittee which funds the Department of Treasury that I share my thoughts on Treasury law enforcement and their losses. All law enforcement—agent and personnel alike—live with the threat of losing a colleague, but no matter how dangerous the job, no matter how families and the law enforcement community prepare themselves, it is never enough.

It is particularly devastating to have the lives of law enforcement lost in this manner—helpless, unaware, and going about their daily business as were the rest of the employees in the Alfred P. Murrah Federal Building. Wednesday, April 19, 1995, 9:02 a.m., was a sad day for all Americans across the United States. It was also the day that the U.S. Secret Service suffered the largest loss in its history. Assistant special agent in charge, Alan G. Whicher, age 40; office manager, Linda G. McKinney, age 48; special agent, Cynthia L. Brown, age 25; special agent, Mickey B. Maroney, age 50; special agent, Donald R. Leonard, age 50; and investigative assistant, Kathy L. Siedl, age 39. In addition, the U.S. Customs Service lost two senior special agents, Claude A. Meaderis, age 41; and Paul D. Ice, age 42.

Let me just say a few words about these fine people.

Alan Whicher, appointed as a special agent to the U.S. Secret Service on April 12, 1976 in the Washington field office, known by his friends as Al, was a devoted father and husband. His career, which spanned two decades, included the Vice Presidential Protective Division during the Reagan administration and the Presidential Protective Division of two Presidents. He is survived by his wife Pamela Sue Whicher and their three children, Meredith, Melinda, and Ryan.

Linda G. McKinney, was appointed to the Secret Service on June 28, 1981 in Oklahoma City. Linda served as the office manager. She is survived by her husband Danny, and son Jason Derek Smith, age 22. Her mother, Minnie J. Griffon, also survives her. I know she will be sorely missed as a daughter, wife, and mother.

Cynthia L. Brown, who had celebrated her first year as a rookie agent and was married only 40 days to Secret Service Special Agent Ron Brown of the Phoenix field office. They were both waiting for transfers so they could be together. Cindy was only 25, a bright future ahead of her both in her career and in her new life with Ron.

Mickey Maroney, was appointed as a special agent to the U.S. Secret Service in the Fort Worth office on June 14, 1971. Mickey's distinguished career included the Johnson Protective Division and Lady Bird Johnson's protective detail. Mickey is survived by his wife Robbie, and children Alice, age 27, and Mickey Paul, age 23. I know he will be missed by those whose lives he touched.

Don Leonard, was appointed as a special agent to the U.S. Secret Service in Oklahoma City on November 16, 1970. His career spanned over two decades including assignments in the Tulsa resident office, the Protective Support Division, the Vice Presidential Protective Division and the St. Louis field office. Don is survived by his wife Diane, and sons, Eugene, age 26, Jason, age 23, and Timothy, age 22.

Kathy Siedl, was appointed to the U.S. Secret Service on March 17, 1985, as an investigative assistant. She served her country for over a decade. Kathy is survived by her husband Glenn and her son Clint, who I understand collects Secret Service pins. In addition, she is survived by her parents, Dallas and Sharon Davis, and Carol Reiswig, her sister, who works for the Internal Revenue Service in Oklahoma City.

Paul D. Ice, born and raised in Oklahoma, was a senior special agent for the U.S. Customs Service and had a lengthy record of Government service. He began his career as a Marine jet pilot and spent 5 years with the IRS as an agent in the Criminal Investigation Division before transferring to Customs as a special agent. He was one of the first special agents assigned to the resident agent office in Oklahoma City and had been there for 7 years. He was a member of the Marine Corps Reserve for 20 years, retiring last year with the rank of lieutenant colonel. Paul is survived by his daughters, Sara and Miranda, their mother Faith, and his parents Jack and Neva Ice.

Claude A. Medearis was a senior special agent for the U.S. Customs Service and also a native of Oklahoma and a veteran of public service. Before coming to the Customs Service he served in the military and in the Oklahoma State probation and parole office. He began his career with Customs in Del Rio, TX, before transferring to Oklahoma City in 1992. He was recently promoted to senior special agent status. Claude is survived by his wife Sharon and daughter Kathy.

Mr. President, in light of all that has happened since the bombing, I would simply like to remind us of this simple fact—these brave people who worked in Federal law enforcement were members of the Oklahoma City community. They were mothers and fathers, sons and daughters, they shared the same dreams and goals for their children that their neighbors did—they were little league coaches and volunteers in their community. They were willing to give the supreme sacrifice to their Nation and community—we should not tarnish their families' memories by vilifying them. They are not faceless, nameless robots. They hurt like you when they lose a loved one, as their families hurt now from losing them.•

DON'T SIGN A BAD DEAL IN GENEVA

• Mr. BOND. The world's attention is focused on today's deadline for a resolution of the auto parts trade dispute between the United States and Japan. At the same time, however, another critical trade deadline looms largely unnoticed.

On June 30, the United States must decide whether to lock open its financial services markets regardless of whether our trading partners do the same. We would do this by surrendering our right to take an exemption from the most-favored-nation [MFN] provision of the World Trade Organization's General Agreement on Trade in Services [GATS].

For many years, it has been the policy of the United States to provide open access and national treatment to foreign financial firms that want to enter our market, regardless of foreign barriers to entry by U.S. firms. During the past decade, our Government, actively aided by our financial services industry, has worked to open foreign financial markets. The Uruguay round of the GATT negotiations, which began in 1986, aimed at achieving for the first time multilateral standards for open trade in financial services. Our negotiators sought commitments from other countries that would guarantee substantially full market access and national treatment to U.S. financial firms in foreign markets. Unfortunately, those negotiations ran into difficulties as some of our trading partners with the most restrictive practices in financial services were reluctant to make the market opening commitments needed to bring them to a successful conclusion.

In December 1993, as the Uruguay round concluded in Geneva, negotiators agreed to include financial services within the GATS. That agreement establishes a multilateral framework of principles and rules for trade in financial services, including the principles of national treatment and MFN status. However, members were bound by these principles only to the extent they made commitments in their GATS offers. Unfortunately, the commitments made by many countries to open their markets to foreign financial institutions under that framework were far less than the United States had hoped for. As a result, the United States, as it was legally permitted to do, took an exemption from the GATS MFN obligation with respect to new establishment and new powers for foreign financial firms. The purpose of doing so was to allow our Government to differentiate among members of the World Trade Organization in regard to providing their firms a guarantee they would always have full access with national treatment in our market. In essence, we did not want to lock our market open, while other countries were given GATS protection to continue restricting access to theirs.

The Uruguay round final agreement provided that for 6 months after the GATS went into effect, countries would suspend their MFN exemption and continue to negotiate.

The stakes in these talks are enormous. Exports of financial products and services represent one of the greatest potential export markets the United States will have in the coming century. We are far ahead of most of the rest of the world in development of our markets and of new financial instruments. One need only think of the billions of people in China, India, Indonesia, Brazil, and other developing nations who have no insurance, who do not have access to an ATM machine, who have not ever invested in mutual funds or who do not yet even have saving accounts. As these countries develop and personal income levels rise, U.S. firms can and should play a role in providing those services.

Even more important is the impact of financial services on other trade and investment. The ability of other American industries to sell their goods overseas depends, in large part, on the support of American banks and securities firms in those markets. As U.S. Trade Representative Mickey Kantor recently told the Senate Banking Committee, "if you can't get your financial services companies into a market, it has a negative effect upon your ability to get your products into the market and, of course, that has a negative effect on the U.S. economy."

The United States has approached these talks with a call for fair and open markets. We have offered—and urged all other countries to offer—a system of national treatment, whereby foreign institutions would be treated the same as domestic ones.

Unfortunately, it appears likely that come midnight on June 30, we will not have seen sufficient progress to justify signing an agreement. Although several countries have put forward offers that would provide national treatment, the WTO's MFN rule prevents us from guaranteeing these countries national treatment in our market without giving it to all other WTO members as well. Thus, for example, if the United States and the European Union accept each other's offers and guarantee each other national treatment, other countries not doing the same would still reap the benefit of that agreement and get national treatment in both Europe and the United States without offering equal access to their market. These free riders would be getting the benefit of the agreement without giving anything in return.

Many of the offers on the table today are simply unacceptable. India, for example, has closed its insurance market to all private companies. Brazil maintains a total prohibition on new foreign financial firms entering their market. Korea continues to restrict foreign access to its financial markets. A number of Southeast Asian nations have placed on the table offers that could require United States financial companies to divest their current holdings in local firms. These are some of the fastest growing and potentially most lucrative markets in the world. Signing an agreement under these conditions, would lock in these barriers and provide countries a legal right under the WTO to enforce them. That would deny our financial firms access to good markets, and would hurt our ability to get U.S. goods and investments into those markets. We would be insane to sign an agreement which would legitimize these barriers and effectively shut American firms out of these markets in perpetuity while locking our market open to firms from these same countries.

There is an alternative for U.S. negotiators, however; we can reject a bad agreement, maintain our MFN exemption, and begin to negotiate bilateral agreements with countries that want open financial markets. Under such a plan, the United States could immediately sign agreements with the European Union, Switzerland, Norway, and other countries that are offering national treatment. We could then continue to negotiate with other nations, using access to our lucrative American market as a lever to get them to open their own.

There is no question the United States is under strong international pressure to surrender our MFN exemption. Earlier this year, a senior British trade official flew to Washington to pressure United States Treasury officials to sign an agreement in Geneva—regardless of whether it makes sense for the United States. And the head of the WTO argued recently that the United States must make the right decision and sign whatever agreement is on the table when the deadline rolls around.

Proponents of a deal argue that failure to conclude an agreement will weaken the WTO. But that argument is hogwash. To the contrary, the worst thing we could do would be to sign an agreement that sanctions closed markets and unfair barriers. That would weaken support for the WTO far more than failure to reach an agreement in Geneva. The American people rightly expect that free trade must be a two-way street.

In recent days, some have proposed an extension of the talks as one way to deal with the lack of progress. I believe an extension makes sense since it will allow us to build on the progress that has been made to date. I believe strongly, however, that for the United States to maintain its leverage during any extended talks—whether in the multilateral WTO forum, or on a bilateral basis—the United States must exercise its MFN exemption. To do otherwise would remove any incentive for countries such as Korea, which wants to expand in our market, to negotiate in good faith. Exercising our MFN exemption would not require the United States to retaliate against other countries or to, in any way, close off its market. It would merely give us the right to do so at a later date, if we decided it was in our best interest to do so. Granting MFN, on the other hand, would lock our market open—and thereby remove our leverage in the talks.

U.S. negotiators should stand firm. The United States has played the sucker far too many times in international trade negotiations. The stakes this time are simply too high. Handshakes and promises of future action are not good enough. If the final written offers are not significantly better than those on the table today, U.S. trade officials should act in our clear national interest, and walk away from the table.•

RECOGNIZING RECIPIENTS OF THE GIRL SCOUT GOLD AWARD FROM THE STATE OF MARYLAND

• Ms. MIKULSKI. Mr. President, each year an elite group of young women rise above the ranks of their peers and confront the challenge of attaining the Girl Scouts of the United States of America's highest rank in scouting, the Girl Scout Gold Award.

It is with great pleasure that I recognize and applaud two young women from the State of Maryland who are some of this year's recipients of this most prestigious and time honored award.

These young women are to be commended on their extraordinary commitment and dedication to their families, their friends, their communities, and to the Girl Scouts of the United States of America.

The qualities of character, perseverance, and leadership which enabled them to reach this goal will also help them to meet the challenges of the future. They are our inspiration for today and our promise for tomorrow.

I am honored to ask my colleagues to join me in congratulating these recipients. They are the best and the brightest and serve as an example of character and moral strength for us all to imitate and follow.

Finally, I wish to salute their families and Scout leaders who have provided these young women with continued support and encouragement.

It is with great pride that I submit these two names as recipients of the Girl Scout Gold Award.

GIRL SCOUT GOLD AWARD RECIPIENTS

Miranda Jean Buck of Frederick, MD
Carla R. Williams of Union Bridge, MD.•

TRIBUTE TO JEFF DURHAM

• Mr. COATS. Mr. President, when America celebrates its independence, it celebrates the courage and sacrifice of the men and women who defend it—people who pay a price of pain, inconvenience, and danger.

Jeff Durham has shown that courage, paid that price, and earned our thanks.

Millions of Americans were inspired by the dedication and boldness of the team that rescued Scott O'Grady. When Captain O'Grady returned to America, he gave the lion's share of praise to both God and those soldiers who saved him. As a vital part of that dramatic and successful mission, Jeff Durham is an example of courage and commitment.

There is no virtue more generous than courage. It values duty over comfort, honor over safety, others over self. It is the hallmark of heroes.

From moment to moment our Nation depends on people who will stand guard for American interests and American ideals. That is a lonely watch in a dangerous world. It is a privilege to praise someone who fulfilled that duty with such skill and distinction.

Thank you, Jeff, from all of us in Indiana, for serving God and your neighbors by serving your Nation so well.•

PEACEKEEPING AND PEACEMAKING: THE FUTURE CHALLENGE

• Mrs. FEINSTEIN. Mr. President, I was recently privileged to address the convention of the United Nations Association during its conference in San Francisco, coinciding with the celebration of the 50th anniversary of the United Nations. I took the opportunity to make some observations about the past, present, and future of U.N. peacekeeping, and I offer them here for the record.

THE U.N. MISSION: A TREND TOWARD PEACEKEEPING

When we look at the 50-year history of the United Nations, certain facts and trends become evident. One of these is the increasing trend toward peacekeeping. In the first 43 years of its existence, from 1945 to 1988, the United Nations launched 13 peacekeeping missions in places such as Lebanon, the Dominican Republic, the then-Congo, Cyprus, between India and Pakistan, and along Arab-Israeli borders. While the results of these missions were not uniformly successful, the United Nations proved it was able to play an important role in resolving, or at least containing, a number of dangerous conflicts.

And yet, during this period, the United Nations faced certain realities, the largest of which was the superpower rivalry between the United States and the Soviet Union. As conflicts developed, the countries involved were forced, either through external or internal forces, to align themselves with one superpower or the other. In this environment, the United Nations was often left on the sidelines. When United States and Soviet interests collided, each could cancel out the other's initiatives with their Security Council vetoes. When conflicts involved vital United States and Soviet interests, the two powers did not hesitate to take it upon themselves to try to resolve the conflict in their favor rather than seeking a negotiated resolution through the United Nations.

There is no question that the cold war was a time of serious international insecurity. The specter of two superpowers, with weapons of immense destructive capability aimed at each other, competing for influence across the globe, lasted for nearly 45 years, ending startlingly in 1990 with the collapse of the Soviet Union.

Even today, many people share the misconception that the demise of the Soviet Union has created a more secure world. I do not believe that this is necessarily the case.

The cold war, for all its dangers, had the unintended effect of discouraging many smaller countries, nationalities, and ethnic minorities from fighting one another. The danger that any uprising could, and would with certainty, be put down brutally by the Soviet Union, clearly contained insurrections and civil wars in areas like the former Yugoslavia. If Tito were in power today, under Soviet control, the civil war would most probably not have happened. A dying vestige of this cold war control is seen today in Chechnya, where a weakened Russia is brutally struggling to contain and vanquish Chechen rebels.

However, the potential for nuclear war also had a deterrent and stabilizing effect on both major superpowers in their dealing with each other.

Today, with these cold war constraints gone, an equally, if not more dangerous scenario has developed whereby smaller conflicts that had been festering just beneath the surface have now emerged, many erupting with unprecedented force and brutality. Though the numbers vary almost weekly, through most of 1994 and 1995, there have been over 30 wars raging simultaneously across the world.

Trouble spots seem to crop up everywhere. Some fizzle quickly, while others spread into larger regional conflicts. Once again, genocide, starvation, ethnic cleansing, mass rape, torture, and millions of homeless people confront all of us. From Bosnia and Croatia to Rwanda and Burundi, from Afghanistan to Algeria, and from Sudan to Tajikistan, ethnic, religious and national grievances are taking a tremendous toll in human life. And whether these conflicts are internal or across borders, they all contribute to the deepening sense of international insecurity.

In this increasingly complex and dangerous environment, there has never been a greater need for the United Nations to provide leadership. No other body, and certainly no single nation, is equipped to deal with the problems of ancient territorial disputes, ethnic and religious rivalries, inherent in the host of newly emergent independent nations, many with ruthless dictators.

For this reason, peacekeeping is fast becoming the most important and significant function of the United Nations. As the world community grapples for ways to deal with these burgeoning conflicts, multilateral peacekeeping is increasingly seen as the best or the only viable recourse. As such, the United Nations alone is also seen—and rightfully so—as the only body with the structure, the experience and the international mandate to make a nonpartisan peacekeeping effort succeed.

The numbers bear out this trend: After 13 peacekeeping missions in its first 43 years, the United Nations has performed 25 such missions in the last 7 years alone. Today there are 16 concurrent peacekeeping missions underway. In 1988 there were 9,000 soldiers from different countries participating in peacekeeping missions. Today there are more than 61,000 from over 80 countries.

I believe that on this anniversary, we should pause, take stock, and reevaluate where events mandate change in both the role and mission of the United Nations. Clearly, peacekeeping has become a major and expanding role. The question is: Can the blue-helmeted observer of the past and present effectively be the peacekeeper of the future?

For a moment, let us look at some peacekeeping successes.

In Cyprus, U.N. peacekeepers have helped since 1964 to prevent a resumption of hostilities that could lead to war between two of our NATO allies, Greece and Turkey.

On the Golan Heights, U.N. peacekeepers have helped make the Israeli-Syrian border one of the quietest in the Middle East for the last 21 years.

In El Salvador and Cambodia, U.N. peacekeepers helped to safeguard the reconciliation process at the end of those countries' civil wars, and helped provide the order necessary to conduct free and democratic elections.

Clearly, these were, and are, successful missions. When peacekeeping works, it can stabilize, reduce tension and hostility, and provide the backdrop needed before which peacemaking can succeed.

It is worth noting here that, today, even with the dramatic increase in peacekeeping missions, U.S. troops constitute only about 5 percent of total U.N. peacekeeping efforts around the world—about 3,300 out of over 61,000.

Now let's look at some of the problems.

As peacekeeping missions increase in numbers, more funding is required to keep it going. In 1988, the [U.N.] peacekeeping budget was $230 million. In 1994, the budget grew to $3.5 billion.

Here, the United States makes its primary contribution to U.N. peacekeeping in financial terms, paying 31 percent of all assessed costs, although Congress has mandated that the U.S. share be reduced to 25 percent this October. In 1988, the U.S. contribution for assessed peacekeeping cost was $36.7 million. In 1994, the U.S. share rose to $991 million — a huge increase.

Clearly not all peacekeeping operations have been successful. We can and should learn from the tragedies of Bosnia and Somalia—perhaps the two most difficult examples of U.N. peacekeeping in the last 50 years. Why have they been so difficult? I would submit that not all peacekeeping missions are the same, and they often become confused. Different peacekeeping missions require different types of peacekeeping efforts. You cannot lump them all together.

For example, in Somalia, the United Nations started out engaged in a successful humanitarian mission to prevent hundreds of thousand from starving to death, but the mission soon changed into one of nation-building and political involvement, finally resulting in confrontations with the warring factions.

The U.N. forces in Somalia proved unable to respond to a shifting set of dynamics. The dynamics in one country are not going to be the same as the dynamics in another, and the dynamics within a country can change overnight. The blue-helmeted observer that cannot fire back to protect himself or civilians, without a convoluted approval process, cannot maintain peace when warring factions want to have at each other.

Somalia was a classic lesson in that regard. We saw a renegade warlord who was prepared to circumvent the peacekeeping mission one way or another. The U.N. forces, when challenged, could not fight back effectively. The result was more than 100 U.N. peacekeepers and 18 U.S. Army Rangers killed during that 24 month mission, and the United Nations and the United States pulled out with mixed results.

But the ultimate challenge in this century to peacekeeping has been the war in the former Yugoslavia. There the United Nations faces insurmountable problems and dilemmas. Literally, more than 800 years of animus, hatred, and territorial disputes have combined to provide UNPROFOR Its most difficult and challenging mission in U.N. history.

Perhaps in 1878, Benjamin Disraeli said it best when he offered these words, in the British House of Lords:

> No language can describe adequately the condition of that large portion of the Balkan peninsula—Serbia, Bosnia, Hercegovina and other provices—[the] political intrigues, constant rivalries, a total absence of all public spirit . . . hatred of all races, animosities of rival religions and absence of any controlling power . . . nothing short of any army of 50,000 of the best troops would produce anything like order in these parts.

And that was 117 years ago.

On one hand, there has been a dramatic decrease in civilian casualties in that terrible conflict—from 130,000 in 1992 down to 3,000 in 1994. On the other hand, it is in Bosnia that we begin to see the major shortcomings of United Nations forces as peacekeepers.

We saw it on May 25 in Tuzla, a "U.N. Safe Area" when 71 young people, all under age 28, were killed by a single Serb shell—one of many instances when Serb forces have eroded safe areas with attacks—without any retaliation, despite a Security Council resolution authorizing such responses.

We saw it when 377 U.N. troops were recently taken hostage after a NATO airstrike on a Serbian ammunition dump.

We saw it when Captain O'Grady's F-16 was shot down, the second plane lost in Deny Flight operations, without response [as] scores of hostages were still held captive.

We see it every day, as U.N. peacekeepers attempt to protect innocent civilians, sometimes successfully, but often not.

And we saw it, most poignantly, on June 10, when the United Nations mission in Sarajevo announced it would not respond to protect Muslim enclaves from attack without the consent of the Bosnian Serbs.

I believe it is fair to say that U.N. forces have neither the training, the equipment, nor the rules of engagement, to allow them to sufficiently respond to attacks against them or against civilian populations. They are meant to be observers—not fighters.

These problems have taken their toll on U.S. congressional support. And they have taken their toll, I think unfairly, on support for the UNPROFOR troops. In the Congress, there has been continuing debate over whether a unilateral or a multilateral lifting of the arms embargo against Bosnia, or the withdrawal of UNPROFOR troops altogether is the humane or the inhumane action to take. And, because the United States has no troops on the ground in Bosnia, we have less leverage in influencing nations that do have troops on the ground.

It is my belief that the United Nations must address peacekeeping efforts more realistically in view of the variety of situations they find themselves in, and provide a speedy and effective response dependent on the individual situation. The rapid reaction force recently created for Bosnia should help. We all hope they can be moved into the scene speedily, and that they will be properly empowered and commanded, in order to have an effective and immediate impact.

The idea of rapid response units has been discussed repeatedly over the past 50 years. At the international seminar hosted by the Netherlands Government in the spring of 1995, the Minister of Foreign Affairs of the Netherlands, Mr. Hans van Mierlo, presented a proposal of how such a force might work. Mr. van Mierlo's plan proposes a permanent rapid response nucleus, which would be able to be sent to a critical area of the world on very short notice. Such a force, if headed by a well-trained commanding officer with field experience, could provide a robust response to any aggressive action.

So my first point here today is that the entire United Nations peacekeeping structure must be reexamined, and perhaps redefined and restructured. Those of us who consider ourselves friends of the United Nations, and who believe that the world needs the United Nations, and vice versa, are prepared to make a case for continued U.S. participation, even for payment of our dues, but our success depends upon the willingness of the U.N. leadership to meet and discuss these issues with the Congress, and on their willingness to make improvements in the way peacekeeping is conceived and carried out.

PEACEKEEPING VERSUS PEACEMAKING

The second point I would like to make here involves peacekeeping versus peacemaking. Clearly the record on peacekeeping over 50 years has been, by and large, successful. The record on peacemaking is less clear.

I believe that the United Nations has an important and viable role in peacekeeping. And at times, the U.N. leadership has proven to be able mediators, and have helped parties in conflict reach a negotiated settlement. At other times it has been unsuccessful. But I do not believe that the United Nations is set up for peacemaking, because sometimes peacemaking requires force, or at least the ability to bring force to bear. The United Nations generally lacks the ability to bring such force to bear—whereas states, and alliances of states, have a greater capacity to do so.

So, I would suggest that peacemaking efforts also be reevaluated. This reevaluation should begin with an assessment of regional and political imperatives that lend themselves toward specific peacemaking alliances. Regional political forces, in the form of strong geographically based alliances, can more effectively spearhead diplomatic and military efforts to promote peacemaking than can the United Nations alone.

For example, peace has reigned in Europe for five decades since World War II, primarily because of the strong NATO alliance. NATO has been an important framework for making and maintaining peace between longtime adversaries—like Greece and Turkey, or Germany and France, and it has deterred aggression and conflict between East and West.

When peacemaking, rather than peacekeeping is called for, the United Nations needs to work with alliances like these to bring about the desired result. The United Nations can even foster the creation of such alliances, as indeed it did through a series of resolutions during the 1990–91 Persian Gulf crisis. When the situation calls for peacemaking, the United Nations must understand whether diplomacy is sufficient, and where it is not, the United Nations must cooperate with individual states and alliances of states that can bring the necessary force to bear.

I am one that believes that the solution in Bosnia must be a negotiated one. In other words, a diplomatic solution rather than a military solution. Why? I can think of no military solution that would solve these 800-year old animosities without enormous bloodshed and loss of life. Nor can I think of a diplomatic solution that will work without the force of military action to compel it and, perhaps, to maintain it.

Warren Zimmerman, former Ambassador to Yugoslavia, in a recent article in the Washington Post, laid out what I believe is the only realistic goal: Give the Bosnian Serbs a limited time and certain deadline to agree to the plan advanced by the so-called contact group of five nations—a plan to which Mr. Milosevic has already agreed—which divides Bosnia virtually in half between the Serbs and their adversaries. But, as Ambassador Zimmerman correctly concludes, this outcome is only realistic if the Bosnian Serbs believe the West means business.

If this solution remains unacceptable to the Bosnian Serbs, there appears to be no other choice but a multilateral lifting of the arms embargo and an expedited removal of UNPROFOR forces.

Based on briefings I have had, I can find no acceptable rationale for a unilateral lifting of the embargo that would not involve the massive loss of life, or one without America being forced to arm and train Muslim forces, with the probability of a major spread of conflict in Croatia, Kosovo, and Macedonia.

In Bosnia, the single biggest problem for UNPROFOR has been that it is trying to carry out its mission with its hands tied. I truly believe that if a U.N. peacekeeping operation is unable to respond to hostile action taken against it, then it is unlikely to succeed.

UNPROFOR troops, through no fault of their own, have had to stand by and watch civilians get picked off by sniper fire, have their own equipment stolen and used against them, and finally, have 377 of them become hostages themselves.

The primary lesson of Bosnia for U.N. peacekeeping is that U.N. military commanders on the ground must have the authority, the weapons, and the trained fighting personnel to respond to hostile action with sufficient force to protect civilians and peacekeepers, and deter attack. This may require the establishment of permanent rapid response teams within U.N. peacekeeping missions, which will protect the mission and enable it to carry out its mandate.

In addition, peacekeepers need to be able to adapt to changing conditions. No matter how well a mission is planned, warring parties can force the United Nations to change its mission, and U.N. troops need to be able to respond. In this case, NATO's military response in the form of airstrikes is based on a "dual key" decisionmaking process, whereas both the United Nations and NATO commanders decide upon and coordinate the response. Targeting and execution are joint decisions by United Nations authorities and NATO military commanders.

The final point I'd like to make is that there is a need to develop alternative structures and alliances that can be employed both for peacekeeping and peacemaking.

Neither the United States, nor any other member state, can participate in every U.N.-sponsored effort to resolve every conflict. But I do believe that the United Nations can proceed most effectively if it is able to develop solid back-up among regional groupings and alliances.

Secretary General Boutros-Ghali has suggested that regional groupings like NATO, the Organization of the American States [OAS], and the Organization of African Unity [OAU] could appropriately take on peacekeeping responsibilities for certain types of missions in their regions. Other organizations that might contribute include the Association of Southeast Asian Nations [ASEAN] and the Newly Independent States of the former Soviet Union. There is a healthy logic to putting together specific alliances in specific areas of the world, so that peacekeeping is carried out with some geographical relationship. Such missions would be strengthened by the political determination of neighbors—who could be affected should a war spread—to see that peace is the only result.

There are successful models that should be considered. One such case involved the United States, Israel, and Egypt, who, in the 1979 Camp David Accords, jointly established a private, United States-led peacekeeping operation in the Sinai peninsula—the Multinational Force and Observers [MFO]. This successful mission, undertaken without U.N. involvement, goes on to this day. It might serve as a model for other missions.

I have little doubt that the value of the United Nations to the international community and the United States will continue to grow. The United States simply does not have the support of its people, nor the resources, to assume the role of world-caretaker for the settlement of all disputes. The recognition of this fact will always bring people back to the conclusion that the United Nations is the best institution we have for dealing in a collective way with problems that affect the security of the United States and others.

Therefore, the United States has an obligation to work with the United Nations—not against it—to improve it, strengthen it, and make it more successful. With U.S. leadership, U.N. peacekeeping can indeed become more effective, better defined, and more realistically employed.•

TRIBUTE TO VAN VANCE

• Mr. McCONNELL. Mr. President, I stand today to pay tribute to Van Vance, the "Voice of the Cards." Van Vance has kept University of Louisville basketball and football fans tuned in on WHAS radio since the 1981–82 seasons. And today, I'm saddened to announce that one of the biggest Cardinals fans is giving up two of his true loves; play-by-play for U of L basketball and his "Sportstalk" radio show.

Van's voice will surely be missed by U of L basketball fans next season. He will also be missed by his old buddy and cohost, Jock Sutherland. For Cardinal fans, Jock and Vance are like the Siskel and Ebert of basketball, they have been inseparable for the past 13 seasons. Jock describes Van as "an absolute total professional." In a recent article in Louisville's Courier Journal Jock called Van "the Walter Cronkite of Louisville Sports. They can replace you and replace you with a good man, but there'll only be one Walter Cronkite."

Van's love for basketball started at an early age. He earned the nickname "Hawkeye" while playing basketball at Park City High School. He lead the team in scoring during the 1951–52 season, and even though his career high was 39 points, Van most remembers a 34-point performance that included a perfect 18 of 18 from the free throw line. Those are just several reasons Van earned letters in four sports and an athletic scholarship to Western Kentucky University.

His first job in radio came after a station manager in Glasgow, KY, heard his delivery of an "I Speak for Democracy" speech. He wasted no time getting to work, he started the job just hours after his last basketball game at Park City High in 1952. Van still had "Hoop Dreams." He went to play basketball for legendary Ed Diddle at Western Kentucky, but when the coach made him choose between basketball and radio, Van gave up the courts for the studio.

After several radio jobs, Van finally landed at WHAS–AM in Louisville. He started as a staff announcer in 1957, and then joined the sports staff in 1970. That same year, WHAS acquired the rights to broadcast the Kentucky Colonels' games of the American Basketball Association. Van did play-by-play for the Colonels until the franchise disbanded in 1976. Then in 1981, WHAS–AM was awarded the rights to U of L football and basketball games, and Van Vance was back on the air. The rest is Cardinals sports history.

Mr. President, I ask you and my fellow colleagues to pay tribute to the career of Van Vance. It has been a memorable one, highlights include; doing play-by-play for the Louisville victory over Duke in the 1986 NCAA championship, the Kentucky Colonels' victory in the 1975 ABA championship, the first basketball "Dream Game" between U of L and UK, and the football Cardinals big win in the 1991 Fiesta Bowl. A recent quote from Van sums it up best: "I've always said a play-by-play announcer is like a surfer—the better the team, the better the game, the better announcer you can be. If you have a good wave, just ride it." Let's hope Van catches the "Big Kahuna" and the "Voice of the Cards" lives on in the hearts of cardinal fans young and old.•

DEPARTMENT OF JUSTICE AND THE INFORMATION AGE

Mr. DOLE. Mr. President, 2 weeks ago the Senate took a dramatic step toward transforming our telecommunications laws for the 21st century.

CONGRESS SETS TELECOM POLICY

There were many important issues addressed in that debate. But today, I would want to hit on one of the bill's main themes. It is simple, but important—Congress will not play second fiddle to the courts, or any other branch of Government, when it comes to establishing telecommunications policy. Despite heavy opposition by the White House, I believe the final vote of 81 to 18 clearly demonstrated that Congress is now in charge.

This is not just a simple turf battle. Although, I seem to recall, that legislating is a function of Congress, sometimes the courts have forgotten this constitutional separation of powers.

No other branch has greater accountability than ours. Voters have the power to elect us, and they have the power to send us home. We serve at their pleasure.

So in effect, when Congress sets policy, it is set by the people. Neither the courts nor the executive branch can make that claim.

That is why I found it so troubling when the courts usurped Congress' authority to set telecommunications policy in the early 1980's. Instead of the voices of 535 Members of Congress, any judge in the country could unilaterally set telecommunications policy. And they have done so often, sending conflicting signals.

EXPANDING DOJ'S ROLE

The reason I raise this point is some Members of this body wanted to give the Department of Justice the same decisionmaking role as the courts. Under existing antitrust statutes, the Department of Justice prepares an analysis that it must defend and prove in court. In effect, it is the prosecutor. What DOJ wanted in the telecommunications bill, however, was to be both prosecutor and judge. Sort of one-stop shopping.

Mr. President, I did not support this expansion of power. To me, this was not an issue of whether you were pro-Bell or pro-long distance. Instead, I thought it set bad precedent. If we expanded DOJ's authority over Bell companies, someone could legitimately ask: "Why shouldn't this so-called one-stop shopping be extended to the entire telecommunications industry? And why stop there. Maybe we should give DOJ such authority over all sectors of our economy."

I do not believe that was the intent of my colleagues who supported giving the Department of Justice a decision-making role, but what I did hear, however, was that many colleagues believed that current antitrust standards were not sufficient.

AN OVERZEALOUS DOJ

Mr. President, antitrust standards are not only sufficient, but it seems to me that the current Department of Justice is overzealous in its use of these statutes.

Just take a look at an article entitled, "Microsoft Corporation Broadly Attacks Antitrust Unit" that appeared in the June 27 edition of the Wall Street Journal. It outlines Microsoft's latest problem with the Department of Justice's antitrust division.

More importantly, it sheds some light on how the Department of Justice intends to use its antitrust authority to regulate the information age. And to me it is frightening.

The article chronicles Microsoft's latest run-in with the Department of Justice and reports that DOJ is considering blocking Microsoft's efforts to give customers package deals on certain Microsoft products. The specific products involved are Microsoft's updated windows software package and its new on-line service.

Let us understand what is going on here. A company develops a new product. A product that consumers want. But now the Government steps in and is in effect attempting to dictate the terms on which that product can be marketed and sold. Pinch me, but I thought we were still in America.

If somebody makes something and somebody wants it, you sell it. You do not have to go to the Department of Justice to get their approval.

Unfortunately, DOJ does not stop there. According to the article, and I quote, "One of the [DOJ] document requests asks the company to produce 'all strategic plans prepared by or for Microsoft by any party and any documents provided by or to the board or top executives of Microsoft concerning predictions as to the future of computers and computer technology.'"

If this report is accurate, DOJ is out of control.

Let us not forget, however, Justice has gone after Microsoft more than once this year. First, there was the accord reached between Microsoft and DOJ that Judge Sporkin opposed until the case was taken away from him.

Then there was Microsoft's efforts to purchase Intuit, a maker of personal banking software. This fell through after DOJ sued to block the deal. According to the Wall Street Journal, before DOJ took Microsoft to court, the company had complied with two DOJ subpoenas which involved producing 772 boxes of paper and a "foot-high stack of answers" to DOJ questions. That is right, 772 boxes of paper. Bureaucrats gone wild. Imagine all the time and money, not to mention a forest or two, wasted on complying with Justice's requests.

DOJ: AN EQUAL OPPORTUNITY MEDDLER

And it is not just Microsoft that DOJ has been eyeing lately. For instance, earlier this year this same Antitrust Division declared that a new cellular company by the name of Air Touch was a regional Bell operating company. As a result, it would carry all the restrictions of a Baby Bell company.

True enough, Air Touch was a spinoff from the Baby Bell company called Pactel. But let us not forget the facts.

Fact No. 1. Air Touch is not a subsidiary of Pactel, it is a separate company.

Fact No. 2. Air Touch was purchased with money not connected with Pactel.

Fact No. 3. Cellular or wireless services were not restricted under Judge Greene's break-up of Ma Bell. As Air Touch is a wireless company, how can it have restrictions placed upon it that are not even applicable to a real Bell company? It just does not make any sense.

Now DOJ may believe that Air Touch is a Bell company because it is composed of former Bell property. I guess that makes Bell companies the modern day equivalent of King Midas—anything they touch turns into a Bell company.

Unfortunately, that line of logic creates a new problem. Bell companies have been off-loading all sorts of property to different companies in the last decade. Does that make all of these buyer companies a Bell company, too?

The bottom line is that DOJ cannot and has not justified its actions.

BIG GOVERNMENT: DOJ'S EXPERTISE

Ironically, this is the same Department of Justice that wanted us to give them a key role to play in telecommunications policy, because, get this, they have greater expertise than the FCC. I read articles like the Wall Street Journal's and I am left wondering: "Greater expertise in what?" Maybe it's in big government micromanaging business. Or maybe it's that they have greater expertise in scuttling new services and products. Whatever it is, America does not need that type of expertise.

CONCLUSION

Mr. President, if DOJ is able to be this meddlesome under current law, just imagine if we had increased its authority under the telecommunication bill. Unlike Congress, they have little or no accountability.

That is why Congress—not the executive or judiciary branches—should set telecommunications policy.

Mr. President, I ask unanimous consent that the article which appeared in the June 27 Wall Street Journal be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, June 27, 1995]

MICROSOFT CORP. BROADLY ATTACKS ANTITRUST UNIT

ACTING TO QUASH SUBPOENA, FIRM SAYS IT'S FACING APPARENT "HARASSMENT"

(By Viveca Novak and Don Clark)

Microsoft Corp., trying to quash a government subpoena related to its new on-line information service, launched a broad attack on the Justice Department's antitrust division.

In its unusual challenge to the subpoena, the Redmond, Wash., software giant lashed out against the department and belittled the legal theories the agency might use to block the company from bundling access to the Microsoft Network with Windows 95, the much-promoted operating system due for release in late August.

Microsoft says it "has been subjected to a series of burdensome document demands . . . that shows no sign of abating." The antitrust division "seems to be doing its level best to hinder Microsoft's efforts," it says, and it calls the subpoena "the latest salvo in what increasingly appears to be a campaign of harassment directed against Microsoft."

Microsoft's petition, filed Friday in federal court in the Southern District of New York, asks that the subpoena be set aside. The Justice Department responded yesterday with a motion to strike the petition, setting forth a different version of circumstances surrounding last week's subpoena. The subpoena gave the company only a few days to respond to 33 sets of questions and 16 requests for documents, some of them sweeping.

For example, one of the document requests asks the company to produce "all strategic plans prepared by or for Microsoft by any party and any documents provided by or to the board or top executives of Microsoft concerning predictions as to the future of computers and computer technology."

The two sides even disagree about the date the subpoena was issued; Microsoft said it was Wednesday, while the government asserts Microsoft was given a "courtesy copy" two days earlier, with slight modifications on Wednesday.

William Neukom, Microsoft's general counsel, said that filing the petition was simply a matter of "protecting ourselves against the consequences" of missing the government's deadline, since Microsoft didn't comply with Wednesday's subpoena. The government could have asked a judge to impose sanctions on the company.

Mr. Neukom said Microsoft filed the petition in New York because it was convenient to the company's outside law firm and because courts in New York "have a history of dealing with fast-moving, complicated business transactions." Antitrust experts speculated that Microsoft didn't want to file in Washington because the company might draw Judge Stanley Sporkin, whose sharply critical decision against a separate antitrust accord involving Microsoft was recently overturned.

For its part, the Justice Department contends it was still in negotiations with Microsoft on the scope and timing of delivering the documents when Assistant Attorney General Anne Bingaman received a Friday-morning call from Microsoft's outside counsel "stating that he was standing in the chambers" of a district court judge and had moved to quash the subpoena.

Microsoft acted in bad faith, the department's motion defending the subpoena states, by abruptly terminating "an established negotiating process." Microsoft and a Justice Department lawyer had been negotiating Thursday to narrow the scope of the subpoena, and talks hadn't broken off. The motion asserts that Microsoft's petition concerns a matter that should be worked out between the parties. Microsoft's petition is a "tempest in a teapot," the department says.

If the Justice Department were to file suit to force Microsoft to remove software for tapping into its new on-line service from Windows 95, Microsoft may have trouble meeting its Aug. 24 deadline to release the product.

Microsoft is taking an unusual step in filing a copy of the latest Justice Department subpoena with its petition. Many targets of antitrust probes attempt to keep such information requests from becoming part of the public record, since the documents sometimes contain confidential company data or give unflattering hints about areas the agency is investigating. In this case, Microsoft apparently hopes to use the sheer breadth of the department's latest subpoena to bolster the company's case that it is being treated unfairly.

Microsoft isn't the only company receiving subpoenas with short turnaround times. The department also has issued such subpoenas to competing on-line services, software suppliers and companies that plan to supply content for the Microsoft Network, also known as MSN.

One major focus of Wednesday's subpoena is the relationship between the MSN and independent companies that will sell goods or information over the new network. That suggests the agency is examining whether the company is competing unfairly with other on-line services in wooing "content" suppliers.

The subpoena asks for the "full consideration" paid by Microsoft to each content company, for example, and whether Microsoft has exclusive rights to their content. Microsoft has said content companies get a standard split of revenues for their services, and are not required to sign exclusive contracts.

Another focus is on Microsoft software, dubbed Blackbird, for developing new content offerings, and on whether companies that use Blackbird can develop content for other on-line services. The subpoena also asks for extensive data on projected sales and expenses tied to MSN and other Microsoft products, including Windows 95.

Last Week, the agency intensified its search for data that might bolster a case that Microsoft's new network might attain market dominance quickly.

One previously undisclosed source is Pipeline Communications Inc. Among other things, the Atlanta company works for on-line services, offering a speedy way for new PC users to try out those services soon after they turn on their machines for the first time. The Justice Department approached Pipeline early last week.

According to Pipeline's data, about 60% of the people offered these trial memberships subscribed, said Matt Thompson, Pipeline's president. If that experience carried over to the huge number of Windows 95 users, MSN could quickly dwarf other on-line services, some industry executives said. Dataquest Inc. expects Windows 95 to sell 30 million copies in just its first six months on the market.

Microsoft's petition seems at least partly a bid to elicit sympathy by portraying itself as the victim of intensive and unfairly focused antitrust-division scrutiny since August 1993. That's when Ms. Bingaman, the division's head, reopened a Federal Trade Commission investigation begun in 1990 and closed after commissioners deadlocked on whether to bring a case.

In large part, the petition catalogs Justice Department requests for information. For example, when Microsoft sought last fall to buy Intuit Inc., a maker of popular personal-finance software, it gave the department 37 boxes of documents in response to its first subpoena, the petition said. A second department request produced 735 more boxes of papers, plus a foot-high stack of answers to questions, after the request was narrowed in negotiations, according to the petition. The Justice Department sued to block the Intuit acquisition, and Microsoft dropped the deal.

The subpoena being challenged is the second issued to Microsoft in connection with the current investigation. Another was issued June 5 and demanded a response by June 9, but the department agreed to extend the deadline. Mr. Neukom was in Washington to meet with Ms. Bingaman last week when he learned the department wanted more data.

TRIBUTE TO EDWARD BANKS

Mr. DOLE. Mr. President, at the end of this month, the Senate will be losing one of our most distinguished employees when Edward Banks retires.

Currently the assistant supervisor of the material facility warehouse section of the U.S. Senate Service Department, Edward has served the Senate with loyalty and dedication for over 36 years.

When Edward served as a messenger in the 1970's and 1980's, he was fondly known throughout the Senate as the "wagon master"—hailing back to the days of the 1800's when documents, materials, and equipment were delivered by horse and wagon on the Capitol grounds.

Edward carried this affectionate title with pride and great distinction.

I know I speak for all the Senate when I thank Edward Banks for his 3½ decades of distinguished service, and wish him a happy and healthy retirement.

TRIBUTE TO FLORENCE NOLAN

Mr. DOLE. Mr. President, with the August retirement of Florence Nolan, customer service and records specialist in the U.S. Senate Service Department, the Senate will be losing the services of an employee who truly has mastered the nuts and bolts operations of this Chamber.

Florence began her Senate service in the Senate restaurant in 1959. In 1970, she accepted a position with the Sergeant-at-Arms in the service department, where she has worked in a variety of positions ever since.

She is an extremely competent and loyal employee who has made a difference wherever she has served.

I join with all my colleagues in thanking Florence Nolan for her many years of service, and in sending our best wishes for her retirement.

TRIBUTE TO CLAIRE CRIM

Mr. DOLE. Mr. President, for 37 years, Senators, staffers, and members of the public who have dealt with the Senate Services Department have come into contact with Claire Crim.

It is Claire who has welcomed staff and visitors, routed phone calls, filed work orders, and entered computer data. She has fulfilled all these duties and more with a great degree of skill and professionalism.

Claire is retiring from her position as customer service/records specialist at the end of the month, and I join with all my colleagues in thanking her for her nearly four decades of services, and in wishing her a happy and healthy retirement.

SALUTE TO ERIK WEIHENMAYER AND AFB HIGHSIGHTS '95

Mr. DOLE. Mr. President, on Tuesday evening Erik Weihenmayer and his climbing partners reached the summit of Mount McKinley, 20,320 feet into the Alaskan sky and the highest point in North America. Mount McKinley is called "Denali"—the Great One—by Native Alaskans.

Under the best of circumstances, Mount McKinley is one of the toughest climbs in the world. Average daytime temperatures are a bonechilling 20 degrees below zero, dipping to 40 below at the summit. The National Park Service reports that the success rate for reaching the top is just 47 percent. Since 1913, 79 climbers have died on the mountain. Six died earlier this year.

Mount McKinley is the ultimate challenge for any serious climber. But it is a unique challenge for Erik Weihenmayer, who is blind. Erik was born with limited vision, and lost all his sight by age 13.

Most of the time, Erik is a 26-year old fifth-grade teacher and wrestling coach in Phoenix, AZ. About 10 years ago he took up mountain climbing. He uses two ski poles to locate the footprints of the hiker ahead of him, and then steps in the same tracks. To maintain balance and direction, Erik hangs on to a taut rope tied to his partner. Other than that, he carries the same gear and equipment as other team members.

As Erik has said, "I may do things a little different, but I achieve the same process * * * . There's very little my team has to do to accommodate me."

Over the past 10 years, Erik had trekked the Inca Trail in the Andes of South America, the Rockies in Colorado, and other demanding spots around the world.

On June 9, under the sponsorship of the American Foundation for the Blind, Erik and four others set out to conquer the summit of Mount McKinley. The other members of the AFB HIGHSIGHTS '95 team are Sam Epstein, of Tempe, AZ; Ryan Ludwig of Laramie, WY; and Jeff Evans and Jamie Bloomquist of Boulder, CO.

The AFB HIGHSIGHTS '95 team prepared for this climb for 8 months, with rigorous training. Since January, the team also climbed Humphrey's Peak near Flagstaff, AZ; Long's Peak in Colorado; and Mount Rainier in Washington State, all in blizzard-like conditions.

Mr. President, the American Foundation for the Blind deserves great credit for making this climb possible. Founded in 1921, AFB is one of the Nation's leading advocates for the blind.

AFB's motto is "We help those who cannot see live like those who do." Erik exemplifies this spirit. Early on, he decided that "Blindness would often be a nuisance, would always make my life more challenging, but would never be a barrier in my path."

Mr. President, the message of AFB HIGHSIGHTS '95 is universal, extending well beyond blindness. It inspires all of us to realize our potential rather than focusing on our limitations.

Coincidentally, Tuesday also marked the 115th anniversary of the birth of Helen Keller. For 40 years, Helen Keller was AFB's Ambassador of Goodwill. At the age of 74, on an around the world flight, she said, "It is wonderful to climb the liquid mountains of the sky. Behind me and before me is God and I have no fears." I imagine that Erik and the AFB HIGHSIGHTS '95 team have been similarly inspired.

Mr. President, let us wish Erik Weihenmayer and his climbing partners Godspeed and a safe return.

CHANGE OF VOTES

Mr. AKAKA. Mr. President, I ask unanimous consent that I be allowed to change my vote on final passage of H.R. 1058, vote No. 295, the Securities Reform Act of 1995. I voted in favor of the passage of the bill. It was my intention to vote "no." This change in vote will not alter the outcome of the vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I also ask unanimous consent that I be allowed to change my June 20, 1995, vote on the motion to table the Lautenberg amendment, vote No. 270, relating to highway speed limits during the debate on S. 440, the National Highway System designation bill. I had inadvertently voted in support of the motion to table the amendment. I wish to be recorded as having voted against the motion to table the Lautenberg amendment. This change in vote will not alter the outcome of the original vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PRIVATE SECURITIES LITIGATION REFORM ACT

Mr. ROCKEFELLER. Mr. President, today, I joined a large number of my Senate colleagues in voting for S. 240, the Private Securities Litigation Reform Act of 1995. The 70-to-29 vote for this bill in its revised form demonstrated strong bipartisan commitment to repairing and changing the country's securities litigation system.

Like any effort to change the status quo, especially through legislation that must win a majority of support from diverse corners, this final product cannot be called perfect. Compromises and tough judgment calls had to be made throughout the process of grappling with a very complex set of issues posed by securities and the legal system. After much consultation and reflection, today I felt the vote for a more rational, less costly, and improved system was a vote for this bill.

This bill's fundamental purpose is to reduce and deter frivolous and meritless lawsuits in the securities area. The idea is by no means just to protect potential defendants. The need for legislation is based on the costs and problems created by the current system for investors when they cannot get helpful information on investment opportunities; for working Americans when the legal costs of the current system saps jobs, capital, and growth; and for participants like accountants who are at risk of liability that's far beyond their fault. In other words, repairing the system is designed to resolve problems that are hurting small and large investors, workers and our communities, and specific people professionally involved in securities.

Thirty-one years ago I went to Emmons, WV, to be a VISTA worker because I wanted to make some small difference in the lives of other people. I quickly learned that West Virginians are people who value hard work, and are ready to earn their fair share of what society has to offer.

But there were not enough jobs in Emmons, or in many other places in West Virginia. After deciding to make public service my career and West Virginia my permanent home, I also made creating long-term, well-paying jobs for West Virginians one of my main goals. Three decades later, it is still my focus. Almost everything I do for West Virginia must be weighed against that goal of creating the opportunity for West Virginians to earn a living, and, through work, to achieve the quality of life they seek.

And when West Virginians are able to earn a decent living, and are able perhaps to invest a few dollars for their futures through savings or investment, I want to make sure that they are treated fairly and are protected.

It was for both of these reasons—protecting the small companies in West Virginia that create quality jobs and protect wage-earner investors—that I have sponsored the current legislation regarding securities litigation. The bill I sponsored would go a long way toward curtailing what I believe is an epidemic of frivolous securities fraud lawsuits that are brought by a small cadre of lawyers against often small and start-up companies, and against their lawyers and accountants who may have little to do with the operation of the company.

The stated purpose of S. 240, as introduced last January, was to facilitate the ability of companies to gather capital for investment, the underlying theory being that frivolous lawsuits against corporations make it very difficult to do so. While American securities markets have been very successful, the Banking Committee, after extensive hearings, reported that class action suits, as well as the fear of being sued in a class action by professional plaintiffs has the capital formation markets in terror. From this flows the need to come to a better balance between protecting the rights of investors and the standards of recovery. In my view, this is an appropriate goal.

When I was asked to cosponsor S. 240 in January, I carefully analyzed its provisions to make sure that it struck a fair balance, and I came to the conclusion that it did. Regarding frivolous lawsuits, the bill contained many important provisions to assure that meritless lawsuits can be dealt with in an expeditious and less costly way. And there were several important protections for investors as well, including a 1-year extension of the statute of limitations for securities suits, the creation of a self-disciplinary auditor oversight board to assure truthfulness of securities statements; and encouragement of alternative dispute resolution for both plaintiffs and defendants, rather than resorting to lengthy and costly litigation in the courts. Unfortunately, several of these investor protection provisions have been deleted from the bill.

The Banking Committee's action was not one-sided, however, and the bill contains a number of valuable provisions, and changes, to help deter frivolous lawsuits. A review of these changes reveals that the Committee did:

Lower the pleading requirements, somewhat, to a standard set by the leading Federal circuit.

Eliminate an onerous "loser pays" provision, but replaced it with a mandatory requirement that judges review pleadings in these cases under Federal Rule 11, which will most often mean that investor-plaintiffs, but not defendants, may be punished. Judges already have this responsibility under Rule 11, and it should be equally applied to plaintiffs and defendants—An amendment by Senator BINGAMAN has now made this provision more balanced.

Eliminate an investor-plaintiff "steering committee" to manage the securities class action, but replaced it with a troublesome lead plaintiff provision which will likely result in large institutional investors—to the exclusion of small investors—controlling class actions—An amendment by the Senator BOXER, which would have corrected this shortcoming was defeated during earlier consideration of the bill.

Eliminate a dollar threshold to be the named plaintiff.

Partially restore SEC enforcement against those who aid and abet the commission of a fraud by another, but failed to restore a private right of action.

Other changes included in the committee bill include:

Expanding the protections of the legislation to include the 1933 Securities Act.

Creating a legislative safe harbor for forward-looking economic statements about a company, thus ending an ongoing rulemaking on this subject by the SEC.

An extension of the proportional liability protections.

Providing that investors with the largest financial interest, will control securities class action suits.

Eliminating the loser pays provision, as stated earlier, and replacing it with a provision with a strong presumption of fee-shifting against investors only.

During the Senate's floor consideration of the legislation over the past week, a number of amendments were proposed by some of my colleagues from the Banking Committee. I strongly supported a number of these initiatives, and want to review each of them.

STATUTE OF LIMITATIONS AMENDMENT

In 1991, the Supreme Court decided in the Lampf versus Gilbertson case to establish a uniform statute of limitations applicable to implied private actions under the Securities Exchange Act of 1934. Before this decision, Federal courts had followed the statute of limitations in the applicable State. The timeframe established was consistent with that for express causes of action for false statements, misrepresentation, and manipulation under the 1934 act: One year from the date of discovery of the violation or discovery of the facts constituting the violation, or 3 years from the date of the violation.

In 1991, an extension of this statute of limitations was proposed as part of the FDIC Improvement Act. Its supporters sought to change the statute of limitations to 2 years after the plaintiff knew of the securities violation, but in no event more than 5 years after the violation occurred. This provision was dropped because of the argument that it should only be enacted as part of a bill with further reform of the securities litigation system, as we are now doing.

The extension of the statute of limitations was part of both the Domenici/Dodd bill from the 103d Congress, and the original version of S. 240 this year that I cosponsored.

The original S. 240 also provided that a violation that should have been discovered through the exercise of reasonable diligence would fall under the 2-year category.

An amendment rejected by the Senate would have returned the statute of limitation provision to that which was in the original version of S. 240. In the committee markup, the statute of limitation provision was taken out, returning to a shorter 1-year/3-year provision.

A good number of our colleagues believed that this provision was harmful to business in that it would establish, at least de facto, a 5-year statute of limitation; that 3 years is a reasonable cap because after that, cases become stale and more difficult to defend; that a 1-year minimum is enough time to get a suit ready; that there are other adequate remedies including State actions, blue sky laws, and occasionally awarding of disgorgement funds by the SEC; and that the amendment would invite claim speculation—allowing investors to sit back and see if they turn a profit before suing.

There were persuasive arguments put forth by supporters, as well. For example, the Senator from Nevada [Mr. BRYAN] argued that:

The bill as reported has a statute of limitations that is shorter than that in 31 States. Thirteen States also allow tolling of the statute until fraud is discovered.

Under current law, it is too easy for a claim to be barred through no fault of the investor, especially because fraud is difficult to detect.

I supported the amendment because I did not believe that it would adversely impact capital formation, and thus job creation.

AIDING AND ABETTING AMENDMENT

Prior to 1994, courts in every circuit supported the right of investors to sue those who aid and abet securities fraud. This right arose from common law, but was not specifically provided for in Federal securities statutes. For primarily this reason, the Supreme Court—in 1994—eliminated the right of investors to sue aiders and abettors of fraud.

The Senator from Connecticut [Mr. DODD], upon whose advice I depend heavily in this matter, as well as the SEC, the administration, and even the Supreme Court, has expressed the belief that the private right of action to pursue those who aid and abet should be replaced by statute. At the committee hearing, Senator DODD said, "This is conduct that must be deterred, and Congress should enact legislation to restore aiding and abetting liability in private actions."

The SEC testified before the Banking Committee strongly in favor of restoring this investor right because of its deterrent effect on fraudulent behavior. Otherwise, those who knowingly or recklessly assist in a fraud will be shielded.

However, the committee failed to restore the private right of action, but did empower the SEC to bring aid and abet actions, although not authorizing any additional resources for the SEC to undertake this added responsibility.

In my opinion, protecting aiding and abetting has nothing to do with capital formation, since it is not applicable to the primary investment company. I thus supported an amendment, offered by the Senator from Nevada [Mr. BRYAN], which sought to restore this important right of investors to seek redress only against those who knowingly or recklessly provide substantial assistance to another who commits fraud.

SAFE HARBOR FOR FORWARD-LOOKING STATEMENTS AMENDMENT

The term "forward-looking statements" is broadly defined in S. 240 to include financial projections on items such as revenues, income, and dividends, as well as statements of future economic performance required in documents filed with the SEC. As with any attempt to foresee the future, such statements always have an element of risk to them, and prudent investors must be careful in relying on them.

Up until 1979, the SEC prohibited disclosure of such forward-looking information because it felt that this information was unreliable, and it feared that investors would place too much emphasis on these materials. After extensive review, the SEC adopted a safe harbor regulation for forward-looking statements in 1979. This regulation—known as rule 175—offers protection for specified forward-looking statements when made in documents filed with the SEC. The theory for the safe harbor was to encourage voluntary disclosure by companies to the SEC. To sustain a fraud suit, a plaintiff/investor needed to show that the forward-looking information lacked a reasonable basis and was not made in good faith.

The effectiveness of this regulation has been widely criticized, and as recently as May 19, 1995, SEC Chairman Arthur Levitt acknowledged "a need for a stronger safe harbor than currently exists." In fact, the SEC is currently conducting a rulemaking on its safe harbor regulation.

The original S. 240 bill required the SEC to consider adopting rules or making recommendations for expanding the safe harbor. This idea was strongly endorsed by SEC Chairman Levitt, among others.

However, the Banking Committee abandoned this approach in favor of enacting a statutory safe harbor provision. Many have argued that the SEC is in the best position. Many have argued that the SEC is in the best position to tailor rules for this issue. The SEC will be able to closely monitor the effects of any new policy and quickly modify it if need be. The SEC also has the advantage of having already examined this problem in great detail.

More important, however, is the way the committee did this. Under the committee version of S. 240, a forward-looking statement can only be the basis for fraud finding if the investor-plaintiff can prove that the statement is knowingly made with the expectation, purpose, and actual intent of misleading investors. Expectation, purpose, and actual intent are to be treated as separate elements, each of which must be proven independently. This is an extremely difficult standard to meet—an amendment adopted by voice vote removed the "expectation" requirement.

Any safe harbor provision, whether statutory or by regulation, places a greater burden on the investor to uncover fraudulent misrepresentations. However, in order to encourage companies to file information with the SEC, most believe it is important to have some safe harbor provision. Because I believed that the committee's changes to S. 240 might make it more difficult for investors to prove that forward-looking statements should be liable for fraud—and thus that the SEC promulgated rule currently is a much better standard and that the Congress should leave this to the SEC—I supported the amendment to return this provision to the original S. 240 version.

That amendment failed, and the Senator from Maryland, Mr. SARBANES, proposed an amendment to modify the standard for recovery for fraudulent forward looking statements to require a showing that it was made with actual knowledge it was false or actual intent of misleading. This was what I believed was a reasonable middle-ground standard between what all agreed to be an ineffective current rule on safe harbor—reasonable basis/good faith—and the stringent actual intent standard inserted in the bill by the committee. Unfortunately, this amendment was tabled.

PROPORTIONAL LIABILITY AMENDMENT

Under current law, each defendant who conspires to commit a securities violation is joint and severally liable, and thus can be held accountable for 100 percent of damages found by a court. Most agree that this unfairly treats defendants who have only a small percentage of responsibility.

As originally introduced, S. 240 provided for joint and several liability to be maintained only for primary wrongdoers, knowing violators, and those controlling knowing violators.

As the bill reported by the committee, only knowing violators are held joint and severally liable. Knowing securities fraud is defined in the bill to exclude reckless violators, whose liability would be reduced to proportional liability. Additionally, if the judgment is uncollectible, proportionally liable defendants can be held to pay an additional 50 percent of their share, and can be made to pay the uncollectible share to investors with net worth less than $200,000 and who have lost more than 10 percent of their net worth. Under the 50-percent provision, a defendant could be liable for up to 150 percent of their proportional share.

The bill's proportionality provision is an improvement over current law, but may not fully protect investors when a judgment is uncollectible from a primary defendant. An exception was carved out so that those who have invested more than 10 percent of their net worth might still recover at least some portion of the damages even from the nonprimary defendant.

An amendment proposed by Senators BRYAN and SHELBY would have allowed for full reallocation of uncollectible shares among culpable defendants, while maintaining a system of proportionality as contained in the committee bill, to protect minimally responsible defendants, who are usually the accountants and attorneys, but at the same time would have been, I believe, fairer to victims of investment fraud.

I supported this important amendment because I believed that it was a vast improvement over the current system of joint and several liability, but also as a stronger protection for investors.

To conclude, Mr. President, I am disappointed that the managers supporting S. 240 rejected the amendments offered that I voted for. Perhaps some further enlightenment and discussion will inspire the conferees to incorporate some of them to ensure the balance that I think the legal system also calls for.

Because the current system and its problems should not be left alone, I still came to the conclusion that a vote for the bill was in the interests of the people I represent and the country. Most of us may not be aware of the way the securities litigation system ultimately affects jobs, economic growth, and opportunity. The proponents of this bill have reminded us of these very real-life and serious effects. Today, I felt it was time to support action to revise and change the system so that it's more about common sense than a proliferation of lawyers and legal costs.

PRIVATE SECURITIES LITIGATION REFORM ACT

Mr. DODD. Mr. President, now that the Senate has completed action on S. 240, the Securities Litigation Reform Act, I wanted to take a few moments to focus on many of the salient provisions of this legislation that were not fully discussed during our 5 days of debate on 17 different amendments.

Of course, I am extremely pleased that the legislation received an overwhelming vote of support from my colleagues this morning, passing by a margin of 70 to 29.

This vote is yet another confirmation of the very strong bipartisan support that the bill has received in the Senate and it also reflects the broad coalition of investor groups and businesses that have supported these reform efforts for the past 4 years.

This is certainly an important day for American investors and the American economy. Passage of S. 240 puts us well on the road to restoring fairness and integrity to our securities litigation system.

To some, this may sound like a dry and technical subject, but in reality, it is crucial to our investors, our economy and our international competitiveness. We are all counting on our high-technology and bio-technology firms to fuel our economy into the 21st century. We are counting on them to create jobs and to lead the charge for us in the global marketplace.

But those are the same firms that are most hamstrung by a securities litigation system that works for no one—save plaintiffs' attorneys.

Over the past 1½ years, the intense scrutiny on the securities litigation system has dramatically changed the terms of debate, as we have seen on the floor for the past 5 days.

We are no longer arguing about whether the current system needs to be repaired; we are now focused on how best to repair it.

Even those who once maintained that the litigation system needed no reform are now conceding that substantive and meaningful changes are required if we are to maintain the fundamental integrity of private securities litigation.

The flaws in the current system are simply too obvious to deny. The record is replete with examples of how the system is being abused and misused.

While there has been much discussion of the position of the Securities and Exchange Commission, it is important to note that the Chairman of the SEC, Arthur Levitt, agrees with the fundamental notion that we must enact some meaningful reform:

> There is no denying that there are real problems in the current system—problems that need to be addressed not just because of abstract rights and responsibilities, but because investors and markets are being hurt by litigation excesses.

The legislation under consideration today is based upon the bill that Senator DOMENICI and I have introduced for the last two Congresses.

There are some provisions from the original version of S. 240 that I would have liked to see included in this bill, such as an extension of the statute of limitations on private actions.

In fact, I strongly supported an amendment offered by my good friend, Senator BRYAN, that would have extended the statute of limitations from 1 year after the fraud is discovered to 2 years and from 3 years after the actual perpetration of the fraud to 5 years.

It is also important to note that the statute of limitations was decreased by the Supreme Court in last year's Central Bank decision, and not by any part of S. 240.

But I certainly understand why this provision was taken out of the committee's product. It is excruciatingly difficult to produce a balanced piece of legislation, especially in such a complex and contentious area.

But that is exactly what the Senate passed today, a bill that carefully and considerately balances the needs of our high-growth industries with the rights of investors, large and small. I am proud of the spirit of fairness and equity that permeates the legislation.

I am also proud of the fact that this legislation tackles a complicated and difficult issue in a thoughtful way that avoids excess and achieves a meaningful equilibrium under which all of the interested parties can survive and thrive.

As I stated earlier, this is a broadly bipartisan effort. This bill passed the Banking Committee with strong support from both sides of the aisle, and the 70 Senators from both parties who voted in favor of the bill this morning, represent all points on the so-called ideological spectrum.

I believe that this morning's strong show of support displays the desire of the Senate to stand in favor of the balanced approach of S. 240. In my view this vote also demonstrates the Senate's disagreement with the more extreme securities reform bill (H.R. 1058) that passed the other body in March.

Those of us who have supported this legislation must be very mindful of the close vote that occurred on the second Sarbanes amendment to further limit the safe harbor provisions of the bill.

I, for one, am committed to ensuring that as we move to a conference with the other body, we retain a safe harbor provision that is truly meaningful but that gives no aid and comfort to those who would try to defraud investors.

And I would like to use this opportunity to reinforce the statement that I made earlier today: I will urge my colleagues to reject any conference report that includes safe harbor provisions—or any other provision for that matter—that are so broadly expanded that they breach the rights of legitimately aggrieved investors.

Mr. President, H.L. Mencken once said that every problem has a solution that is neat, simple, and wrong. Believe me, if there were a simple solution to the problems besetting securities litigation today, we would have been able to pass a bill after 5 minutes, rather than 5 days, of floor debate.

But these problems are so pervasive and complex that we have moved far beyond the point where the public interest is served by waiting for the courts or other bodies to fix them for us.

The private securities litigation system is too important to the integrity and vitality of American capital markets to continue to allow it to be undermined by those who seek to line their own pockets with abusive and meritless suits.

Let me be clear: Private securities litigation is an indispensable tool with which defrauded investors can recover their losses without having to rely upon Government action.

I cannot possibly overstate just how critical securities lawsuits brought by private individuals are to ensuring public and global confidence in our capital markets. These private actions help deter wrongdoing and help guarantee that corporate officers, auditors, directors, lawyers, and others properly perform their jobs. That is the high standard to which this legislation seeks to return the securities litigation system.

But as I said at the beginning of floor debate, the current system has drifted so far from that noble role that we see more buccaneering barristers taking advantage of the system than we do corporate wrongdoers being exposed by it.

But there is more at risk if we fail to reform this flawed system. Quite simply, the way the private litigation system works today is costing millions of investors—the vast majority of whom do not participate in these lawsuits—their hard-earned cash.

Mary Ellen Anderson, representing the Connecticut Retirement & Trust Funds and the Council of Institutional Investors, testified that the participants in the pension funds,

> . . . are the ones who are hurt if a system allows someone to force us to spend huge sums of money in legal costs . . . when that plaintiff is disappointed in his or her investment. Our pensions and jobs depend on our employment by and investment in our companies. If we saddle our companies with big and unproductive costs . . . we cannot be surprised if our jobs and raises begin to disappear and our pensions come up short as our population ages.

There lies the risk of allowing the current securities litigation system to continue to run out of control. Ultimately, it is the average investor, the retired pensioner who will pay the enormous costs clearly associated with this growing problem.

Much of the problem lies in the fact that private litigation has evolved over the years as a result of court decisions rather than explicit congressional action.

Private actions under rule 10(b) were never expressly set out by Congress, but have been construed and refined by courts, with the tacit consent of Congress. But the lack of congressional involvement in shaping private litigation has created conflicting legal standards and has provided too many opportunities for abuse of investors and companies.

First, it has become increasingly clear that securities class actions are extremely vulnerable to abuses by entrepreneurs masquerading as lawyers. As two noted legal scholars recently wrote in the Yale Law Review:

> . . . The potential for opportunism in class actions is so pervasive and evidence that plaintiffs' attorneys sometimes act opportunistically so substantial that it seems clear that plaintiffs' attorneys often do not act as investors' "faithful champions."

It is readily apparent to many observers in business, academia—and even Government—that plaintiffs' attorneys appear to control the settlement of the case with little or no influence from either the named plaintiffs or the larger class of investors.

For example, during the extensive hearings on the issue before the Subcommittee on Securities, a lawyer cited one case as a supposed showpiece of how well the existing system works. This particular case was settled before trial for $33 million.

The lawyers asked the court for more than $20 million of that amount in fees and costs. The court then awarded the plaintiffs' lawyers $11 million and the defense lawyers for the company $3 million. Investors recovered only 6.5 percent of their recoverable damages. That is 6½ cents on the dollar.

This kind of settlement sounds good for entrepreneurial attorneys, but it does little to benefit companies, investors or even the plaintiffs on whose behalf the suit was brought.

A second area of abuse is frivolous litigation. Companies, particularly in the high-technology and bio-technology industries, face groundless securities litigation days or even hours after adverse earnings announcements.

In fact, the chilling consequence of these lawsuits is that companies—especially new companies in emerging industries—frequently release only the minimum information required by law so that they will not be held liable for any innocent, forward-looking statement that they may make.

Last week, I related to my colleagues the case of Raytheon Co., one of the Nation's largest high-tech, firms. This example warrants recapitulation here. Raytheon made a tender offer of $64 a share for E-Systems, Inc., a 41-percent premium over the closing market price. Let me allow Raytheon to explain what happened next:

> Notwithstanding the widely held view that the proposed transaction was eminently fair to E-Systems shareholders, the first of eight purported class action suits was filed less than 90 minutes after the courthouse doors opened on the day that the transaction was announced. [Raytheon letter to Senator Dodd; June 19, 1995.]

No one lawyer could possibly have investigated the facts this quickly. What the lawyers want here is to force a quick settlement.

The Supreme Court in Blue Chip Stamps versus Manor Drug Store echoed this concern about abusive litigation, pointing out:

> [i]n the field of federal securities laws governing disclosure of information, even a complaint which by objective standards may have very little success at trial has a settlement value to the plaintiff out of any proportion to its prospect of success at trial . . . The very pendency of the lawsuit may frustrate or delay normal business activity of the defendant which is totally unrelated to the lawsuit.

The third area of abuse is that the current framework for assessing liability is simply unfair and creates a powerful incentive to sue those with the deepest pockets, regardless of their relative complicity in the alleged fraud.

The result of the existing system of joint and severable liability is that plaintiffs' attorneys seek out any possible corporation or individual that has little relation to the alleged fraud—but which may have extensive insurance coverage or otherwise may have financial reserves. Although these defendants could frequently win their case were it to go to trial, the expense of protracted litigation and the threat of being forced to pay all the damages make it more economically efficient for them to settle with the plaintiffs' attorneys.

The current Chairman of the SEC, Arthur Levitt, as well as two former Chairmen, Richard Breeden and David Ruder, have all spoken out against the abuses of joint and several liability. Chairman Levitt said at the April 6 hearing of the Securities Subcommittee that he was concerned, in particular, "about accountants being unfairly charged for amounts that go far beyond their involvement in particular fraud."

Frequently, these settlements do not appreciably increase the amount of losses recovered by the actual plaintiffs, but instead add to the fees collected by the plaintiffs' attorneys.

Again, the current system has devolved to a point where it favors those lawyers who are looking out for their own financial interest over the interest of virtually everybody else.

At the beginning of debate on this bill, I spent a fair amount of time discussing, in some detail, the various provisions of the legislation. I would like to again return our focus to how the legislation that the Senate passed earlier today deals with the existing problems in the securities litigation system:

First, the legislation empowers investors so that they, not their lawyers, have greater control over their class action cases by allowing the plaintiff with the largest claim to be the named plaintiff and allowing that plaintiff to select their counsel.

Second, it gives investors better tools to recover losses and enhances existing provisions designed to deter fraud, including providing a meaningful safe harbor for legitimate forward-looking statements so that issuers are encouraged, instead of discouraged, from volunteering much-needed disclosures.

Third, it limits opportunities for frivolous or abusive lawsuits and makes it easier to impose sanctions on those lawyers who violate their basic professional ethics.

Fourth, it rationalizes the liability of deep-pocket defendants, while protecting the ability of small investors to fully collect all damages awarded them through a trial or settlement.

I would like to go into each of these provisions in more detail.

The legislation ensures that investors, not a few enterprising attorneys, decide whether to bring a case, whether to settle, and how much the lawyers should receive.

The bill strongly encourages the courts to appoint the investor with the greatest losses—usually an institutional investor like a pension fund—to be the lead plaintiff. This plaintiff would have the right to select the lawyer to pursue the case on behalf of the class.

So for the first time in a long time, plaintiffs' lawyers would have to answer to a real client. We are bringing an end to the days when a plaintiffs attorney can crow to Forbes magazine that "I have the greatest practice of law in the world. I have no clients."

The bill requires that notice of settlement agreements that are sent to investors clearly spell out important facts such as how much investors are getting—or giving up—by settling and how much their lawyers will receive in the settlement. This means that plaintiffs would be able to make an informed decision about whether the settlement is in their best interest—or in their lawyers' best interest.

And the bill would end the practice of the actual plaintiffs receiving, on average, only 6 to 14 cents for every dollar lost, while 33 cents of every settlement dollar goes to the plaintiffs' attorneys. This bill would require that the courts cap the award of lawyers fees based upon how much is recovered by the investors. Simply putting in a big bill will not guarantee the lawyers multimillion-dollar fees if their clients are not the primary beneficiaries of the settlement.

Taken together, these provisions should ensure that defrauded investors are not cheated a second time by a few unscrupulous lawyers who siphon huge fees right off the top of any settlement.

The bill mandates, for the first time in statute, that auditors detect and report fraud to the SEC, thus enhancing the reliability of independent audits. The bill maintains current standards of joint and several liability for those persons who knowingly engage in a fraudulent scheme, thus keeping a heavy financial penalty for those who would commit knowing securities fraud.

The bill restores the ability of the Securities and Exchange Commission to pursue those who aid and abet securities fraud, a power that was diminished by the Supreme Court in last year's Central Bank decision.

With regard to frivolous litigation, the bill clarifies current requirements that lawyers should have some facts to back up their assertion of securities fraud by adopting the reasonable standards established by the second circuit court of appeals. This legislation is therefore using a pleading standard that has been successfully tested in the real world; this is not some arbitrary standard pulled out of a hat.

The bill requires the courts, at settlement, to determine whether any attorney violated rule 11 of the Federal Rules of Civil Procedure, which prohibits lawyers from filing claims that they know to be frivolous. If a violation has occurred, the bill mandates that the court must levy sanctions against the offending attorney. Though the bill does not change existing standards of conduct, it does put some teeth into the enforcement of these standards.

The bill provides a moderate and thoughtful statutory safe harbor for predicative statements made by companies that are registered with the SEC. It provides no such safety for third parties like brokers, or in the case of merger offers, tenders, roll-ups, or the issuance of penny stocks. There are a number of other exceptions to the safe harbor as well. Importantly, anyone who deliberately makes false or misleading statements in a forecast is not protected by the safe harbor.

By adopting this provision, the Senate will encourage responsible corporations to make the kind of disclosures about projected activities that are currently missing in today's investment climate.

While almost everyone, including SEC Chairman Arthur Levitt, recognizes the need to create a stronger safe harbor for forward-looking statements, this is clearly one of the most controversial parts of the bill.

I recognize the desire of my colleagues who have opposed this provision to clearly and firmly protect investors from fraudulent statements by corporate executives, and I am committed to maintaining the most balanced possible language on safe harbor as we enter into conference with the other body.

I would point out that the legislation preserves the rights of investors whose losses are 10 percent or more of their total net worth of $200,000. These small investors would still be able to hold all defendants responsible for paying off settlements, regardless of the relative guilt of each of the named parties.

And while the bill would fully protect small investors—so that they would recover all of the losses to which they are entitled—the bill establishes a proportional liability system to discourage the naming of deep-pocket defendants.

The court would be required to determine the relative liability of all the defendants, and thus deep-pocket defendants would only be liable to pay a settlement amount equal to their relative role in the alleged fraud. A defendant who was only 10 percent responsible for the fraudulent actions would only be required to pay 10 percent of the settlement amount. In some circumstances, the bill requires solvent defendants to pay 150 percent of their share of the damages, to help make up for any uncollectible amount. By creating a two-tiered system of both proportional liability and joint-and-several liability, the bill preserves the best features of both systems.

Mr. President, the legislation passed by the Senate today will keep the door to the courthouse wide open for those investors who legitimately believe that they are the victims of fraud, while slamming the door shut to those few entrepreneurial attorneys who file suit simply with the intent of enriching themselves through coercing settlements from as many defendants as possible.

It has become clear that today's securities litigation system has become a system in which merits and facts matter little, in which plaintiffs recover less than their attorneys, and in which defendants are named solely on the basis of the amount of their insurance coverage or the size of their wallet; in short, we have a system in which there is increasingly little integrity and confidence. Mr. President, such a system of litigation is rendered incapable of producing the confidence and integrity in our Nation's capital markets for which it was originally designed.

I am extremely pleased that this morning the Senate took the important step of repairing this ailing system by overwhelmingly passing the Securities Litigation Reform Act.

NATIONAL DAIRY MONTH

Mr. LEAHY. Mr. President, I want to bring to your attention that June is National Dairy Month.

Earlier this month I was in Vermont during the Enosburg Falls Dairy Festival in Franklin County, VT, home of some of the finest dairy farms and dairy products in America.

June 1, 1995, was Dairy Day in Montpelier, the State capital. There was a grand celebration with cows on the statehouse lawn and a milking contest. It was the first chance for Vermont's new agriculture commissioner, Leon Graves, a dairy farmer himself, to show his expertise. And while the celebration is light hearted and fun, there is a serious side to it.

In Vermont we stop and take the time to celebrate the importance of dairy farmers in our State and the importance of milk in our lives. In Vermont we pay tribute to the men and women of America who get up so early in the morning to milk the cows and bring us the safest, most wholesome supply of milk in all the world. I think we should pay tribute here in Washington, too.

We should also remember how important dairy products are to American culture and to the diet of Americans.

Little League games just would not be the same without the promise of a trip to the drive-in for a cone after the game. The Indy 500 winner still drinks milk in victory lane and cookouts would not be the same without a sizzling burger topped by a slice of cheddar.

More important than the enjoyment we get from dairy products, is the nutrition we get from dairy products. There are some who try to hurt the image of milk and others who distort the truth about the nutritional value of milk, but the facts cannot be denied.

Milk is a nutrient dense food that is an important part of the American diet. Milk and dairy foods supply 75 percent of the calcium in the U.S. food supply as well as substantial amounts of riboflavin, protein, potassium, vitamin B 12, zinc, magnesium, and vitamins A and B 6. Some might argue that calcium can be gained through fortified foods or taking calcium supplements. While these alternatives can supply calcium, research has shown that people who have low calcium intakes also have low intakes of several other nutrients which can be supplied by dairy foods. A recent report from the National Institutes of Health recommends that "the preferred source of calcium is through calcium rich foods such as dairy products."

Adequate calcium intake is especially critical for young women. Building optimal bone mass before age 30 is one of the best ways to prevent osteoporosis later in life. Increasingly, we see young women failing to get the calcium they need. In addition, nutrients from dairy products are keys to preventing high blood pressure, which increases the risk of heart disease, stroke, and renal failure.

Many Americans are becoming more conscious about their diets. It is important that people not eliminate nutritious foods such as dairy foods from their diets as they attempt to reduce fat intake. A wide array of dairy foods come in low fat and nonfat versions, while delivering the same amount of nutrients. Research has shown that people can increase dairy food consumption to recommended levels without gaining weight or increasing blood cholesterol.

I will not talk about policy or politics today except to add we need to keep the importance of dairy products in mind as we consider changes to our nutrition programs. And we need to remember the hard working men and women who bring us nature's most perfect food as we craft our dairy policy this year during the farm bill.

I do not often rise to talk about commemorative days, weeks, or months. But I hope my colleagues will join with me in raising the awareness of Americans about good nutrition and expressing our appreciation to America's dairy farmers for their hard work.

ORDER OF PROCEDURE

Mr. GRASSLEY. Mr. President, I have some business to wrap up for this evening, and it has been cleared by the Democratic side of the aisle.

AUTHORIZING USE OF THE CAPITOL GROUNDS FOR THE GREATER WASHINGTON SOAP BOX DERBY

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Concurrent Resolution 38, just received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will state the concurrent resolution.

The bill clerk read as follows:

A concurrent resolution (H. Con. Res. 38) authorizing the use of the Capitol grounds for the greater Washington Soap Box Derby.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the concurrent resolution be considered and agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear at the appropriate place in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

So the resolution (H. Con. Res. 38) was agreed to.

ORDERS FOR THURSDAY, JUNE 29, 1995

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m. on Thursday, June 29, 1995; that following the prayer, the Journal of the proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for the transaction of morning business until the hour of 10:30 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the following exceptions: Senator THOMAS, 30 minutes; Senator MURKOWSKI, 15 minutes; Senator DORGAN, 30 minutes; Senator FEINSTEIN, 15 minutes; further, that at the hour of 10:30 a.m., the Senate resume consideration of S. 343, the regulatory reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. I further ask unanimous consent that prior to the Senate recessing for Independence Day, that debate only be in order to S. 343, with the exception of the withdrawal of the committee amendments, and the majority leader offering a substitute amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRASSLEY. For the information of all Senators, the Senate will resume consideration of the regulatory reform bill tomorrow at 10:30 a.m., pending the arrival of the budget conference report from the House on which approximately 5 hours of debate remain.

Therefore, all Senators should expect rollcall votes during Thursday's session of the Senate.

RECESS UNTIL 9 A.M. TOMORROW

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recession under the previous order.

There being no objection, the Senate, at 7:08 p.m., recessed until Thursday, June 29, 1995, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate June 28, 1995:

DEPARTMENT OF STATE

FRANCES D. COOK, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE SULTANATE OF OMAN.

J. STAPLETON ROY, OF PENNSYLVANIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF INDONESIA

THOMAS W. SIMONS, JR., OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF PAKISTAN.

JOHN M. YATES, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BENIN.

DEPARTMENT OF TRANSPORTATION

GEORGE D. MILIDRAG, OF MICHIGAN, TO BE A MEMBER OF THE ADVISORY BOARD OF THE SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION, VICE L. STEVEN REIMERS.

DEPARTMENT OF THE TREASURY

LAWRENCE H. SUMMERS, OF MASSACHUSETTS, TO BE DEPUTY SECRETARY OF THE TREASURY, VICE FRANK N. NEWMAN, RESIGNED.

HOUSE OF REPRESENTATIVES—*Wednesday, June 28, 1995*

The House met at 10 a.m.

PRAYER

Rabbi Yisrael Meir Lau, Chief Rabbi of Israel, offered the following prayer:

Our Father in Heaven, bless and grace the House of Representatives of the United States of America, and lead them in the right way to bring peace in the United States of America and in the entire universe, for the benefit of all mankind.

I am very happy to be here and to thank you for the declaration and proclamation offering the Congressional Golden Medal and tribute in honor of the Lubavitcher Rebbe, Rabbi Menachem Mendel Schneerson, spiritual leader not only for the Jewish people but for all mankind, leading us as a scholar, as a guide, in the period, in the age of the end of the Second World War, out of the Holocaust, from the darkness of the Holocaust, which I was personally very lucky to be one of its survivors, to show us there is a light in the edge of the tunnel. He showed us the way of spirit, of hope, of faith, of education, to all the good and the best it can be.

His colleagues, his students, his followers, the Chabad Movement of Lubavitch, in its over 2,000 educational and social institutions, bring to a world which will be improved in peace, in health, in happiness.

So I appreciate on behalf of the State of Israel, of the people of Israel, of the people, the Jewish people all over the world, your brilliant idea, the House of Representatives of the leaders of the free world, United States of America, for this contribution to peace all over the world.

Let us say, all of us, He, the Almighty who makes peace in His heights, will make peace upon us, upon the entire universe.

And let us say: Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. The Pledge of Allegiance will be led by the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

OPENING PRAYER BY ISRAELI CHIEF RABBI YISRAEL MEIR LAU

(Mr. GILMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GILMAN. Mr. Speaker, I join our colleagues in welcoming to the House this morning the Chief Rabbi of Israel, Yisrael Meir Lau, who today led our opening prayer in Congress.

We are very honored to have Israel's Chief Rabbi, Rabbi Lau, present with us as we commemorate the awarding of a Congressional Gold Medal to the late leader of the Lubavitch Chassidim, Rabbi Menachem Mendel Schneerson, of blessed memory.

Rabbi Lau has come to the United States because of his admiration for the late Rabbi Schneerson, and because of his commitment to the Jewish people as a child survivor of the Holocaust.

Prior to his becoming Chief Rabbi of Israel, Rabbi Lau served as the Chief Rabbi for the cities of Netanya and Tel Aviv.

I know my colleagues join in extending our heartiest good wishes upon his visit to the United States, and look forward to being with him at today's historic events.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DUNCAN). The Chair will announce that there will be 10 1-minutes per side starting at this time by previous order of the Speaker and with agreement of the minority leader.

HONORING THE LUBAVITCHER REBBE

(Mr. LAZIO of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAZIO of New York. Mr. Speaker, today the President will fulfill a congressional mandate to honor a lifetime of good words and good deeds by the late Rabbi Menachem Mendel Schneerson, the Lubavitcher Rebbe, by presenting a Congressional Gold Medal in his memory.

I am honored this morning to speak about a very extraordinary American.

Born in Russia in 1902, educated at Sorbonne University in Paris, Rabbi Schneerson emigrated to America and built a worldwide organization dedicated to goodness out of the ashes of the Holocaust.

The Rebbe exemplified the meaning of Chabad—an acronym that stands for wisdom, understanding, and knowledge. The Chabad movement he led became the world's largest Jewish education and outreach organization, active in 42 countries and almost every State in our Union.

We honor his memory today because the Rebbe's work on behalf of morality, education, and charity and his essential goodness made him a respected and beloved religious leader around the world. The Rebbe's good work reached far beyond the Chassidic community he led so well from a small brownstone building in the Crown Heights section of Brooklyn.

Awarding a Congressional Gold Medal in the Rebbe's memory is a fitting tribute to a great humanitarian whose work on behalf of all people will never be forgotten.

TRIBUTE TO RABBI MENACHEM MENDEL SCHNEERSON

(Mr. DEUTSCH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEUTSCH. Mr. Speaker, I also join my colleagues in a very special opportunity to remind the world and this country and this Congress about the work of the Rebbe Menachem Mendel Schneerson, someone who in his lifetime probably influenced as many people as anyone else maybe in the history of the world in terms of good works and good deeds.

I also thank the Chief Rabbi of Israel for being with us today and being part of a ceremony. Most Members, I think, are aware that today the gold medal that this Congress voted for the late Rebbe will be given at a ceremony at the White House, and there are activities throughout the day in terms of speeches in memory of the Rebbe.

I can speak, in a sense from a personal perspective, from the community that I represent in south Florida. Before I move to that community, there was no presence of the Chabad movement. In the near 15 years, there are six centers of learning, a school that has several hundred students. It is not

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

just a community that, in a sense, the Rebbe taught to, but the entire community of the world in terms of education and really faith that we have the opportunity today in a special way to thank and to bless his memory.

OCALA: ALL-AMERICAN CITY

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, I rise today to commend the city of Ocala, FL. This past weekend it won the prestigious title of All-American City from the National Civic League.

Competing against 30 other communities from across the Nation. Ocala-Marion County was one of 10 towns to earn recognition for its ability to creatively overcome problems and bring its citizens together. In a time when civic pride and strong community spirit are on the wane, it is refreshing to see a city like my hometown travel a different course, one where the residents still embrace the duties and reap the rewards of citizenship.

This city is worthy of this honor. Ocala-Marion County is a town experiencing rapid growth while at the same time preserving those values—thrift, industry, faith, and patriotism—that keep America strong. This Nation could do far worse, and could hardly do better, than to make Ocala a model for communities everywhere.

Mr. Speaker, I want to wish Ocala-Marion County continued good fortune, and I encourage the citizens and all its elected officials to wear their new title of All-American City with pride. Truly, they have earned it.

HONORING HISTORICALLY BLACK COLLEGES AND UNIVERSITIES ADVOCACY DAY

(Mr. CLAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLAY. Mr. Speaker, today is denoted as Historically Black Colleges and Universities Advocacy Day.

HBCU presidents have taken on the challenge to confront the wrong-headed assault on knowledge being waged by this Congress.

Slashing education funding in general and funding for the Nation's historically black colleges and universities in particular is not only shortsighted, it is counterproductive. HBCU's have been in the forefront of providing leadership for black communities and for America.

If you look at the ranks of virtually any profession, you see the indelible mark made by historically black colleges and universities. No group of institutions has done so much with so little for so long.

I want to commend those presidents and chancellors who are here today to participate in this significant undertaking. I want to encourage them to inform Members of Congress of the critical role these schools play in educating a segment of the population that only they are capable, experienced, and proficient in educating.

I also want to pledge my support to help preserve and strengthen the unique and critical role played by historically black colleges and universities.

REPUBLICANS ARE KEEPING THEIR PROMISES

(Mr. CHABOT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHABOT. Mr. Speaker, the budget plan the House will debate and vote on this week is one of the most important pieces of legislation this Congress will vote on for the next 2 years. It is important because this Federal Government cannot continue on the path it has been on for generations now.

We can no longer afford massive social spending programs that have little impact on the problems they were created to solve. We can no longer afford to bury future generations under a mountain of debt.

Mr. Speaker, the time has come to put to rest the idea the Government has all the answers and if we throw more money at the problems we can solve those problems.

It is time to let American families keep more of what they earn. Republicans are keeping our promises. We are finally balancing the budget, not by raising taxes but by cutting spending.

VIOLATION OF THE RULES OF THE HOUSE

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, Members of the House, this little book here many Members undoubtedly have not read, but it is the rules of the House that were adopted January 4, and the majority of Republican Members said they were going to reform the House, and you could only serve on four subcommittee.

Well, how come 30 Members of the majority now serve on 5 or 6 subcommittees? Are the rules made just to be broken?

I would like to ask the couple of gentleman from North Carolina, the gentlewoman from New York, the gentleman from Indiana, the gentleman from Maryland, all freshmen, do you tell your children that rules are made to be broken, because that is what you are doing? Or do you teach them that you do not have to follow the rules, because you are in the majority, and as long as you are running the place you can do whatever you want to do, no matter what the rules say? Because that is what you are doing right now.

That is the Republican majority. They are violating the rules, because they have more than four subcommittees, and the rules say you can only have four subcommittees.

ALLOWING FAMILIES TO KEEP MORE OF THEIR OWN MONEY

(Mr. KNOLLENBERG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KNOLLENBERG. Mr. Speaker, Republicans in Congress are keeping our promises to the American people. Our budget resolution eliminates the deficit, saves Medicare from bankruptcy, and lowers taxes on working families.

Contrary to the rhetoric emanating from the other side of the isle, our tax relief package will not bust the budget. Our tax cuts represent only 2 percent of the $12.1 trillion in Federal spending over the next 7 years, and are fully paid for.

Furthermore, we prove our commitment to balancing the budget, by delaying the implementation of our tax cuts until CBO certifies we have produced a plan that eliminates the deficit by 2002.

Our fiscal house is in chaos because the Government spends too much money—not because it taxes too little. Lowering taxes will help families get ahead, stimulate the economy, and create new jobs and businesses.

Mr. Speaker, as we work to eliminate the deficit and reduce the size and scope of the Federal Government, we should also allow families and businesses to keep more of what they earn.

JAPAN: OPEN YOUR MARKETS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, American trade experts are saying that the White House and the Congress should not go forward with trade sanctions against Japan because they have clear, convincing evidence that Japan is going to open their markets, and they are saying that this new evidence can be found in the fact that Miller beer can now be sold in Japan and this new chug-a-lug attitude in Japan is going to lead to bigger and better things.

Mr. Speaker, bigger and better things? Pizza? Potato chips? A few Slim Jims?

Beam me up. There is only one way to get the attention of the land of the rising sun: Midnight tonight put the sanctions on Japan. You have been screwing us for years. Open your markets or pay the price.

The pocketbook is the only thing Japan will understand. Think about it, Congress.

SALUTE TO THE ISRAELI CENTER FOR INTERNATIONAL COOPERATION

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I rise to salute the Israeli Center for International Cooperation, and the 47-year-long United States-Israeli partnership.

The center is known by its Hebrew initials as Mashav, and has developed a remarkable record in nation building all over the world.

Thanks to Mashav, Israel has developed an international reputation for its leadership in agriculture, medicine, and education.

I would like to especially note the impact that Mashav has had throughout Africa.

In Kenya, Malawi, and Zambia, eye-surgery clinics set up by Mashav have restored sight to thousands of people.

Israeli irrigation technology helps to provide food and sustenance for millions.

Mr. Speaker, I recall an old saying "give a man a fish, and he eats for a day. Teach him to fish and he eats for a lifetime."

This perfectly describes the influence that Israel, a small but dynamic friend of the United States, is having throughout the developing world.

There is a reception at 5:30 today at 2168 Rayburn. Please join us to hear more about Mashav.

FLY THE FLAG, DO NOT AMEND THE BILL OF RIGHTS

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, deception is at work in this House today as Congress considers an amendment to our Bill of Rights in the name of respecting our flag, when just last week the Speaker of this House and his emissaries voted to terminate the American flag service here in our Nation's Capital.

This flag office has served millions of Americans, and over the last decade over 1 million flags were purchased for special occasions by our citizens at cost; I underline "at cost."

Nobody should profit excessively from flying our flag. All Americans, even if they are not rich enough to travel here to Washington, should be able to get a flag flown over this Capitol.

Now that Speaker GINGRICH will close down this patriotic service, are we to stick a red, white, and blue feather in our caps for passing a constitutional amendment when we cannot get flags anymore?

□ 1020

Mr. Speaker, the best way to show respect for our flag is to fly it. Shame on those who have put a price on flying our flag, and shame on those who would trample on our Constitution.

BALANCED BUDGET PLAN AND A TAX CUT ARE LONG OVERDUE

(Mr. SAM JOHNSON of Texas asked and was given permission to address the House for 1 minute.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, I say to the gentlewoman, "I agree with you, MARCY."

Mr. Speaker, as my colleagues know, for the past 40 years the Federal Government has supported its wasteful spending habits by increasing taxes on our businesses, our seniors, our families, our children. This week that destructive pattern will finally come to an end. Republicans will pass the first balanced budget plan in 26 years, and provide needed tax cuts to spur the economy and give money back to the people who earned it.

Despite the whining from critics, I know tax cuts and deficit reduction go hand-in-hand. The only way to reduce the amount of money the Government takes is to reduce taxes. I say to my colleagues, "The Government takes in taxes from you, the people, and I feel compelled to remind everyone in this body it is not our money. It belongs to the American taxpayers."

Let us help America. Let us give them back what they deserve, a big old whopping mother of a tax cut and a balanced budget. Both are long overdue.

IS THIS ANY WAY TO TREAT THE CONSTITUTION?

(Mr. DeFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DeFAZIO. Mr. Speaker, today the House will vote on an amendment to the Constitution, and for the first time ever probably vote a change in the Bill of Rights.

Now, changing the Bill of Rights is of such importance that surely this will take place with due deliberation. Well, actually not. It will be a closed rule, no amendments, no substitutes, and precious little debate. One hour for the first change ever to the Bill of Rights in over 200 years.

Is this any way to treat the Constitution and the Bill of Rights? This is not the first instance of disrespect for the Constitution and the Bill of Rights under the Republican majority. We had the infamous H.R. 666, a direct attack on the fourth amendment by authorizing warrantless searches.

Mr. Speaker, now, at the end of all this the flag might fly on high, but the Constitution and the Bill of Rights will lie torn and tattered at our feet.

REPUBLICANS ARE TOUGH ON CRIME

(Mr. CHRISTENSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CHRISTENSEN. Mr. Speaker, President Clinton has launched a $1.8 million media barrage to showcase his record on crime to the American people. Well, what is the President's record on crime?

For starters, the ill-conceived 1994 crime bill, which cost the taxpayers $30 billion was filled with empty rhetoric and meaningless social welfare programs.

Remember President Clinton's pledge to put 100,000 new police officers on the American streets? But his program only funded 20,000 cops.

Well, while President Clinton and his advisers talk about being tough on crime, the Republicans have passed legislation in the Contract With America which will keep thousands of criminals off of our streets and in the prisons.

Mr. Speaker, President Clinton's solution to fighting crime is to throw billions of dollars into failed social experiments and then to spend millions more trying to convince the American people that he is tough on crime.

The Republicans have proven to the American people that they are tough on crime.

Americans will plainly see the results of our crime bill as they feel safe again on their streets not locked fearfully in their homes forced to watch deceptive campaign commercials.

COMPACT-IMPACT AID

(Mr. UNDERWOOD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. UNDERWOOD. Mr. Speaker, what do you get when you combine an unfunded mandate with unrestricted immigration? You get one messed up Federal policy.

Under the terms of the compacts between the United States and the former islands of the trust territory, the citizens of these newly independent countries can immigrate to the United States with absolutely no restrictions. To offset the expected costs of this immigration, the Federal Government also promised to reimburse the local governments for this impact.

Guam has incurred costs of $70 million for this immigration, and Guam has received a whopping $2.5 million in reimbursement. The Interior appropriations bill for fiscal year 1996 contains nothing for compact reimbursement.

I urge my colleagues to support my amendment to restore the compact-impact reimbursement of $4.58 million requested for Guam. It is time for the Federal Government to pay up, and to end this ridiculous immigration policy.

THINK ABOUT THE BAD SITUATION OF THE JAPANESE ECONOMY BEFORE DRIVING THEM OVER THE CLIFF

(Mr. KOLBE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLBE. Mr. Speaker, it is come to this. We are down to the last few hours of what is a dangerous game of chicken with Japan. Tonight we will know whether we are going over the cliff or if one or both sides are going to blink in this dispute.

Well, everyone knows that Japan-bashing is popular. After all, the proposed sanctions are only going to hurt a few rich people who drive a car like Lexus, or did they ever think about Sam, who I met this last Friday at the Lexus dealership, who takes great pride in servicing those Lexuses and is very much a middle-class American?

It seems to me there is no game plan here; there is no end game. If we go all the way through with this, the economic and political ramifications for our relationship with Japan are going to be enormous. What happens if the other side retaliates? What will happen to Boeing and General Electric who are doing business in Japan today? Did the administration consider how little room the Japanese have to negotiate, given the bad situation of their economy today?

Mr. Speaker, all we can do by driving them over the cliff is to harden their resolve and allow them to blame the United States for the problem. Mr. Speaker, the time has come for some responsible action in this area, to get Japan to do fundamental deregulation, not to get voluntary import quotas accepted by Japan. We need a different strategy.

HOW DO REPUBLICANS BALANCE THE BUDGET?

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, tomorrow we begin another debate on the budget. The issue is how will we balance the budget? Who will be helped and who will be hurt?

The answer is now clear. The Republican majority wants to help only the richest 1 percent in this country, the millionaires, the billionaires. The Republican majority wants to help the military-industrial complex by buying more toys like the B-2 bomber that the Pentagon told us we did not even need.

Mr. Speaker, how do Republicans balance the budget? By giving the wealthiest a tax break and buying more toys for the Pentagon.

How do Republicans pay for this? By cutting the programs that will help out our seniors, our veterans, our students; by cutting Medicare, by cutting Medicaid, by cutting the veterans' programs, by cutting $10 billion out of financial student assistance programs and by cutting social security.

The issue is, who will we help and who will we hurt? Will it be the millionaires and billionaires that will be helped? Will it be the seniors and the veterans and the students that will be hurt? I and the Democrats will stand with the seniors, the veterans and the students.

THE JEWISH HOSPITAL OF ST. LOUIS

(Mr. TALENT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALENT. Mr. Speaker, I rise in recognition of the outstanding work of the Jewish Hospital of St. Louis. In conjunction with BJC Health System and Washington University School of Medicine, the hospital will be honored in a White House Ceremony today. It is being awarded a multiyear humanitarian grant to work with health care facilities in Riga, Latvia.

The St. Louis health professionals will be working with three hospitals including Riga's State Hospital for Children, as well as the maternity and local jewish hospitals. Working to improve the quality and delivery of health care, the St. Louis mission will lend its expertise to a community that needs guidance modernizing medical techniques and privatizing its healthcare system.

The staff of the Jewish Hospital of St. Louis is reaching across geographical, linguistic and ideological barriers to help those who need it most, the children and the infirm.

It is my pleasure to be able to express our gratitude for the work of the Jewish Hospital of St. Louis which has healed so many lives at home and will now heal many lives around the world.

REPUBLICANS BALANCING THE BUDGET ON THE BACKS OF OUR NATION'S SENIORS

(Mr. NADLER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NADLER. Mr. Speaker, I rise today to express my outrage with the Republican proposal to balance the budget on the backs of our Nation's senior citizens. The Republican budget proposal would force our seniors to pay more than $1,000 out of pocket each year while giving the very wealthiest 1 percent of Americans a windfall of $20,000 a year in tax cuts.

It is outrageous that, at a time when our Nation's seniors are struggling more than ever to make ends meet, the Republicans have chosen to make it harder than ever for them to access quality health care. While it is important to work toward a balanced budget, we cannot force seniors to pick up the tab, while to add insult to injury, giving a tax break to the very wealthiest Americans. The Republicans claim that they must cut Medicare, because they project that the entire system will be out of money in 7 years.

Mr. Speaker, I say to my colleagues, "But even if you accept the Republican figures, and I don't, their Medicare cuts are 2½ times greater than called for to make their figures balance. The real purpose of this drastic cut in Medicare is to pay for a windfall for the very wealthy, not to save the future of Medicare for seniors."

Again I say, Mr. Speaker, "For shame."

WHO SAID WHAT ABOUT MEDICARE?

(Mr. HOKE asked and was given permission to address the House for 1 minute.)

Mr. HOKE. Mr. Speaker, as my colleagues know, the beauty of the well is that one can say anything that they want at any time, regardless of what the facts may be. Let us look at Medicare and who said what about Medicare.

The President's trustees, the President's trustees, three members of the President's Cabinet, have said that the Medicare Trust Fund will be broke, bankrupt, out of money—without anything—in 6 to 7 years. That is under the median case scenario. It could be even shorter if things are worse.

What are the Republicans doing? What we are doing is we are spending right now in 1995 about $400 per month per beneficiary on Medicare. That will go up in the year 2000 to about $550 per month, per beneficiary. That is for one person over the age of 65 who is getting the benefits of Medicare.

I say to my colleagues, "Now you have really got to believe that that cup is completely half empty all of the time and that we must have Federal Government bureaucrats who are going to solve all these problems for us, if you don't believe that the private sector with $550 month can deal with Medicare."

WOMEN MUST HAVE SAME HEALTH CARE RIGHTS AS MEN DO

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, today, many of us are introducing a bill to protect women's health and the constitutional right to choose. It saddens me that this bill is necessary.

Mr. Speaker, I am one of the few Members who was here when Roe versus Wade came down and we started finally getting politics out of doctors' offices and medical schools, and we said to politicians, "Really women need some advances in their health care, and they don't need political opinions. We would like medical opinions, the same kind men get."

Well, we made those terrific gains, and now we see the extremism coming back in this whole new primary era, and what is the battleground? The battleground once is women's health and trying to roll us back.

Mr. Speaker, this bill is saying we will not go back. It codifies the gains that we have, and we hope every Member who believes women should be full and equal citizens and have the same health care rights that men should have will join us in saying to the extreme right: "No, no, you don't play in women's health care. Keep your politics somewhere else."

We hope many of you will join us in this bill.

PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS AND COMMITTEE ON SCIENCE AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole under the 5-minute rule: The Committee on International Relations and the Committee on Science.

It is my understanding the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. DUNCAN). Is there objection to the request of the gentleman from New York?

Mr. WISE. Reserving the right to object, Mr. Speaker, the gentleman is correct. The Democrat leadership has been consulted, has no objections to these requests.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 79, CONSTITUTIONAL AMENDMENT TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 173 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 173

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 79) proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States. The joint resolution shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit. The motion to recommit may include instructions only if offered by the minority leader or his designee. If including instructions, the motion to recommit shall be debatable for one hour equally divided and controlled by the proponent and an opponent.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this rule provides a fair and reasonable way to consider the proposed constitutional amendment to allow Congress and the States to prohibit the physical desecration of the flag of the United States of America.

Let me go through the steps we will follow and Members in their offices should pay attention.

First there is the 1 hour of general debate on this rule that we are taking up right now, which is equally divided between the majority side and the minority side, half and half. After voting on the rule, there will then be an hour of general debate on the proposed constitutional amendment.

That time also is equally divided between the chairman and ranking minority member of the Committee on the Judiciary, who happen to be on different sides of the issue: again equal time, half and half. Then the rule allows for a motion to recommit which may include instructions if offered by the minority leader or his designee.

If the motion to recommit includes instructions, it may be debated for a full hour under the terms of this rule, not 10 minutes, a full hour. That hour would be controlled by a proponent and an opponent. That hour would be controlled by a proponent and an opponent. This would be the opportunity for the minority to offer an amendment or a substitute and have it voted on in the House.

For the record, I should note that in the full Committee on the Judiciary markup only one amendment was offered, only one, and we should remember that the proposed constitutional amendment before us is only one sentence. It is a simple concept.

The proposed amendment says, and I quote, "The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States of America."

That is all the amendment does; it speaks to principle, not to detail.

Now, while short and simple, this proposed amendment to the Constitution carries great significance for me, and for many veterans, and for large numbers of patriotic citizens across this Nation. It is terribly, terribly important.

I want to express my special thanks to the chairman of the Committee on the Judiciary, the distinguished gentleman from Illinois [Mr. HYDE], and the subcommittee chairman, the gentleman from Florida [Mr. CANADY], who have really carried this in the Committee on the Judiciary. I thank the other Committee on the Judiciary members for all their work in moving this amendment to restore the Constitution to what it was, and that is exactly what we are doing, restoring it to what it was before the Supreme Court made what I consider to have been a very, very bad decision back in 1989.

As we begin this historic debate, I would like to provide some background on how we got to where we are now.

Prior to the Supreme Court decision in Texas versus Johnson back in 1989, 48 States, and one has to remember this, 48 States and the Federal Government had laws on the books prohibiting the desecration of that flag behind you, Mr. Speaker. In the Johnson case the Supreme Court held that the burning of an American flag as part of a political demonstration was expressive conduct protected by the first amendment to the Constitution.

In response to the Johnson decision, Congress passed the Flag Protection Act of 1989 under suspension of the rules by a record vote of 380 to 38, 380 to 38. That means a vast majority of this Congress, representing the vast majority of the American people, voted for that bill.

□ 1040

Then in 1990, in the case of the United States versus Eichman, the Supreme Court, in another 5-to-4 decision, struck down that statute, ruling that it infringed on expressive conduct protected by the first amendment.

Within days, the House responded by scheduling consideration of a constitutional amendment identical to the one we have on the floor here today. That amendment received support from a substantial majority of the House, but fell short of the necessary two-thirds vote for a constitutional amendment. The vote was 254 to 177. We needed 290, and we did not get it.

Since that time, 49 States have passed resolutions calling on the Congress of the United States to pass an amendment to protect the flag of the United States from physical desecration and send it back to the states for ratification. I invite all of you to come over here and look. Your State, every State but the State of Vermont, has memorialized this Congress to pass the identical constitutional amendment.

Ladies and gentleman, that is what we are here today for. None of us undertake this lightly. I certainly do not. The Constitution is a document that has stood the test of time for over 200 years, and our Founding Fathers wisely made it very difficult to amend. It is almost impossible to amend the Constitution. It has only been done a very few times over 200 years.

Our goal is not really to change the Constitution, and for some of the Members that worry about freedom of speech, I think you ought to pay attention. Our goal is to restore the Constitution to the way it was understood for the first 200 years of our Nation's history, until 1989. Had the Supreme Court not suddenly read into the Constitution by a very close 5-to-4 vote, something that was never there before, we would not even be here today. We would not be debating this issue. But the Supreme Court did take away the right of the people, acting through their elected representatives, to protect that flag, and today we propose to restore the right of the people to protect our American flag.

Mr. Speaker, this is not an idea that just a few people dreamed up. We are responding to the will of the overwhelming majority of the American people by restoring to the States and the Congress the power to protect the flag of this Nation.

Some of the opponents of this proposal have tried to make it sound as if there is some kind of a threat to freedom of speech. But I will note that the power to protect the flag was used judiciously for over 200 years. For 200 years no one thought it denied them anything. They thought it protected the flag. Well, 200 years later, 80 percent of the American people still want that flag protected. In a recent poll by Gallup, 80 percent of the American people said they want this amendment. That is why we are here today, to do just that, to protect Old Glory.

Mr. Speaker, I could go on, but we have other speakers who want to speak on this important issue. I ask a yes vote on this fair rule, and a yes vote on the constitutional amendment that will follow later on this afternoon.

Mr. Speaker, for the RECORD, I include the following report showing the number of open rules in the 103d Congress and 104th Congress.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of June 27, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	31	72
Modified Closed [3]	49	47	11	26
Closed [4]	9	9	1	2
Totals:	104	100	43	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of June 27, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1	Balanced Budget Amdt	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95)
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95)
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95)
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95)
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95)
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95)
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95)
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95)
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95)
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191; A: 233–183 (6/13/95)

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of June 27, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95)
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95)
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95)
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

Mr. Speaker, I reserve the balance of my time.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from New York, the distinguished chairman of the Committee on Rules, for yielding the customary 30 minutes of debate time to me.

Mr. Speaker, we strongly oppose this closed rule for considering House Joint Resolution 79, which proposes, as you all know, an amendment to the Constitution that seeks to protect the flag of the United States from desecration. This is a controversial and important resolution, and it deserves a more open and fair procedure for its consideration that that which has been granted by our Republican colleagues on the Committee on Rules.

The rule provides for 1 hour of debate on the amendment as proposed by the Committee on the Judiciary, and provides as well, as the rules of the House actually require, for a motion to recommit with or without instructions, which in this instance is debatable for 1 hour, instead of the usual 10 minutes. As I noted, and is always the case with a proposed amendment to the Constitution of the United States, this is an important and serious question, and it is thus deserving of more than passing consideration.

We sought in the Committee on Rules to modify this closed rule by proposing that a number of amendments be made in order, so that Members would have the opportunity to vote for protecting the flag, both through an alternative amendment to the Constitution, and also through legislation that would seek to achieve the same ends without the necessity of a constitutional amendment. All were defeated on straight party line votes.

We sought first to make in order the substitute constitutional amendment offered by the gentleman from Texas [Mr. BRYANT] that would provide Congress and the States the authority to prohibit the burning, trampling, or rending of the flag, and also provide that Congress determine what constitutes the flag of the United States. Without this amendment, the terms of House Joint Resolution 79 are so open-ended that they give no guidance as to its intended constitutional scope or parameters. The resolution would, in fact, give enormous authority to State legislatures and the Congress in determining the crucial terms "desecration" and "flag." It would also grant open-ended authority to State and Federal governments to prosecute dissenters who use the flag in a manner deemed inappropriate. Mr. BRYANT's substitute is an effort to cure many of the defects in the writing of House Joint Resolution 79. It would also have allowed Congress to adopt a single uniform definition ever of the term "U.S. flag" rather than leaving the definition to 50 different State legislatures.

Unfortunately, Mr. Speaker, even though the chairman of the Committee on the Judiciary requested in writing and again orally yesterday at the Committee on Rules that at least one substitute amendment be made in order, and despite the promise of the Committee on Rules chairman that such a substitute would be in order, we were denied that request. Instead, Mr. Speaker, we were told that the majority is giving the minority the right to offer the substitute in the motion to recommit.

I would remind my colleagues that the motion to recommit is not a gift from the majority. It has since 1909 been a protection for the minority. In fact, the majority would have been prevented under the standing rules of the House from even bringing up the rule for consideration if they denied the minority the motion to recommit. We should have been allowed the promised substitute, as well as the motion to recommit, which we should have been able to construct on our own. This is a serious denial of our rights. It is especially significant because we are being denied this right during a serious change in our Constitution.

The majority on the committee also denied the gentleman from Colorado [Mr. SKAGGS] the opportunity to offer his amendment, which consisted of the text of House Concurrent Resolution 76 and expresses respect and affection for the flag of the United States, and states our abiding trust in the freedom and liberty which the flag symbolizes. We felt the House should have been able to consider this thoughtful proposal as an alternative to amending the Constitution.

Mr. Speaker, the committee also refused to make in order the amendment by the gentleman from Arkansas [Mr. THORNTON] consisting of the text of H.R. 1926, which provides for the protection of the flag by statute, rather than through a constitutional amendment.

Lastly, the majority also turned down our request for an open rule for House Joint Resolution 79, another example of broken promises by the Republican majority that we seem to be seeing more and more often these days.

Mr. Speaker, as Members certainly are aware, this is a troubling and a difficult question, and it is not completely clear how Congress can or should go about the perfectly proper business of successfully and constitutionally prohibiting the highly offensive act at which this proposed amendment is directed.

Those of us who served in previous Congresses have, the great majority of us, voted for legislation to outlaw desecration of the flag. We deeply regret the Supreme Court has struck down those statutes, holding that such Federal and State laws infringed upon an individual's right to free speech and expression as protected under the First Amendment to the Constitution. Many of us feel that this act of desecration is not in fact an expression of an idea or thought, and that protecting the flag should not, therefore, be held unconstitutional. It seems to most of us no one would have lost any freedom under those laws except that of burning the flag. Americans would have been just as free as they had been before to express themselves in speech or in writing or demonstrating on behalf of or against any idea or issue.

However, this proposed amendment to our Constitution would, for the first time in our Nation's history, modify the Bill of Rights to limit the freedom of expression, and is thus wrong, we believe, as a matter of principle. This is unpopular expression, but it deserves protection, no matter how much we may deplore it. That is the test of our commitment to freedom of expression, that it protects not just freedom for the thought and expression we agree with, but, as has often been said, freedom for the thought we hate.

Second, and of great relevance, we believe there is no compelling case to be made that there is a need for this amendment. We thankfully see no great need for it. Infuriating as these instances of contempt for a symbol we all love are, they do not happen often. As the gentleman from Colorado [Mr. SKAGGS] testified at the Committee on Rules, only three such incidents occurred in 1993 and 1994. Indeed, studies indicate that from 1777 through 1989, there are only 45 reported incidents of flag burning. There have been very few and isolated instances of flag burning in the past several years, and, frankly, there is every reason to leave well enough alone. Let these misfits who desecrate our flag remain in obscurity, where they deserve to be.

Finally, Mr. Speaker, such an amendment, even though it seeks to remedy an act truly abhorrent to all of us in this Chamber, trivializes the Constitution. We do not amend the Constitution very often, and for good reason. When we do, the reasons should be compelling and necessary to resolve a truly important question.

In general, we reserve our Constitution, this great, basic document upon which all of our laws are based, to be the repository of the fundamental principles underlying the governance of this great Nation. This matter of flag burning, important as it is, does not rise to such a level of constitutional consideration. It does not resolve any great matter that cries out for resolution.

In addition, its passage would open a Pandora's box of litigation. The terms of the resolution concerning what is desecration and what is the flag are too vague and give no guidance to the States. It could well lead to 50 separate State laws, defining both the flag and the act of desecration in different ways, so that an act that is entirely lawful in one State may result in imprisonment were it to be performed in another.

Mr. Speaker, this is a difficult matter for Members to resolve in a proper manner, and it is for that reason exactly that we are so seriously concerned that the majority party is not allowing this House the opportunity to consider other possible alternative means to the end desired by all of us. So we urge your opposition to this unnecessarily restrictive rule.

I end with two quotes which Members may find helpful, as I have. The first is from Charles Fried, who served with distinction as Solicitor General under President Reagan, and who said when he testified against a similar proposed amendment in 1990:

> The flag, as all in this debate agree, symbolizes our Nation, its history, its values. We love the flag because it symbolizes the United States, but we must love the Constitution even more, because the Constitution is not a symbol. It is the thing itself.

And this, finally, Mr. Speaker, from a letter to the editor of my local newspaper a couple weeks ago from a woman named Carla O'Brian.

> America cannot be harmed by the destruction of its symbols, but it can be damaged by abridging the freedom for which so many have died, even if this very freedom allows a sensation seeker to burn the flag. Those who seek to dishonor this country by trampling on symbols are only difficulties honoring themselves. Like a child throwing a tantrum, their goal is to draw media attention and their actions should be fittingly dealt with. Let's not make constitutional martyrs out of these people in the name of patriotism. Instead, give them the treatment they really deserve. Ignore them.

Mr. Speaker, I urge a "no" vote on the previous question, and I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would have to just disagree with the gentleman. You know, the flag of the United States is the most important symbol we have. It is what makes us all Americans, regardless of where we came from, what country the immigrants who came to this country came from.

Mr. Speaker, having said that, I yield 2 minutes to the gentleman from Florida [Mr. DIAZ-BALART], a truly great American, serving on the Committee on Rules with me.

Mr. DIAZ-BALART. Mr. Speaker, I thank the chairman for yielding.

Mr. Speaker, I recognize the seriousness of this subject. Any time that we are proposing to amend the Constitution of the United States, it is a serious subject that merits and requires treatment with the utmost consideration and seriousness. Precisely I think because we are such a diverse nation, multiethnic nation, in fact, we are a multilingual nation, the symbol, the environment of our sovereignty, the symbol of our Nation, the symbol of our national unity, I think deserves protection.

There should certainly be no bar to protection of that symbol of our Nation and our national unity and that environment of our sovereignty itself. There should be no bar to protection by Congress or the States to that most important symbol of our national unity.

What we are proposing with this constitutional amendment is precisely to eliminate the prohibition against the protection of that enshrinement of our sovereignty. That is what we are seeking to do. So that is why it is so important.

I commend the chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON], for having brought forth this amendment. I think it is appropriate and important, and I would say that it is compelling and I would say that it is necessary, precisely because of our diversity and because of the great not only ethnic, but linguistic diversity and reality of our Nation.

So, with respect to the arguments of the gentleman from California [Mr. BEILENSON], I would disagree with him. I would say that it is precisely compelling that we go forth and propose this amendment and let the States decide, because this is a symbol that deserves our protection and should not be prohibited. That protection should not be prohibited. That is what we are doing today.

Mr. BEILENSON. Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I am very disturbed about the free speech aspects, but not of the constitutional amendment, but of the rule. I do not think that this pattern of shutting us up and stopping substantive debate ought to go forward without comment.

A pattern has very clearly developed, no matter what the intentions of the chairman of the Committee on Rules. And I do not question his intentions, but unfortunately I am not governed by his intentions, but by the actions he is required to take within the context of the whole House.

We have had a pattern of more restrictive rules for debate recently than in any previous time. We just debated the military authorization bill under the most restrictive terms in my 15 years in Congress. We were told we did not have time to debate fundamental issues in that bill, and then we adjourned on Thursday afternoon, I believe, with hours to go when we were still in session on a Friday. We have had these rules where you get a fixed time, and quorum calls take away the chance of Members to offer important amendments.

Today it is almost a mockery when we are discussing free speech, and this is a difficult issue, and I have great admiration for the patriotism that drives many with whom I disagree, but to debate this under so restrictive a situation. No amendment was allowed. The Committee on Rules used its discretion to say no to any alternative.

It then had the inconvenient fact that the minority is entitled, entitled, to the motion to recommit. And what do they do? They even played with that, because the motion to recommit is usually available to any member on the minority side in descending order, the ranking member of the committee on down. They said only if it is the minority leader or his designee. Apparently some ploy to try to engage the minority leader.

Why was it not the usual recommit? That does not say the minority leader or his designee. We in the past have said OK, look, here is our major amendment, and you use the recommit, frankly, for strategic or tactical purposes. You engage in debate. You have always had the right on the recommittal motion to come up with something and suggest it and come forward with it. And that has been taken away.

It is unseemly in the defense of the great American flag, symbolic of the freest nation in the world, to come forward in the legislative body with debate under such restrictive terms. I think this is a very grave error.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. FRANK of Massachusetts. I am glad to yield to the gentleman from Michigan, the ranking minority member, who has always been victimized by this undemocratic rule.

Mr. CONYERS. Mr. Speaker, I thank my colleague from Massachusetts for yielding.

Mr. Speaker, the gentleman from Massachusetts has made the case ably. I would like to just reiterate that the rule on a constitutional amendment before us permits no amendments to be offered, despite the fact that numerous alternatives, both statutory and constitutional, were granted. Instead, the Committee on Rules is making merely in order a motion to recommit, which is more a procedural tactic as it has been used in the House.

So the promise on opening day, that the Committee on Rules chairman promised, that 70 percent of the bills would be brought up under open rules, has not occurred. As a matter of fact, almost the opposite has occurred; 62 percent of all the legislation has been brought to the floor under closed or restrictive rules.

The irony is this is on a constitutional amendment designed to restrict free rights of the first amendment of the United States.

Mr. SOLOMON. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I hate to take the time of the body when we really should be debating the issue of the constitutional amendment, but I would say to my good friend who mentioned it before, rule XI(4)(b) applies if offered by the minority leader or a designee. The gentleman perhaps ought to read that.

And let me just say to the other gentleman that the last time the ERA was brought before the House, it was brought on a suspension of the rules. That means no motion to recommit, no amendments, no anything. And I would just say the press does not agree with his assessment of the Rules Committee. They say we have had 72 percent open rules since January.

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Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Sanibel, FL [Mr. GOSS], a very distinguished Member of this body, and a member of the Committee on Rules who has been a leader on this effort.

Mr. GOSS. Mr. Speaker, I certainly thank the distinguished chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON], who is also the author of this very, very important amendment.

I am pleased to rise in support of what I think is a very fair and responsible rule, especially relative to how we have dealt with this in the past and also in support of the underlying legislation. This rule works within the time constraints that we have been given, and I think it ensures the careful, structured, scrutiny of what we are about here.

Equally important, this rule does provide the minority with a chance to offer a substitute. I do not understand the problem on that. We have a motion to recommit there, and we will have debate, and we are going to debate the alternative for the same amount of time—the full hour—that we are going to give to the Solomon proposal. So I think that is a pretty good deal. Each side gets the same amount of time. I commend the chairman for this very fair approach, and I frankly think all Members should support it.

With respect to the amendment itself, I am generally very hesitant to support changes to the Constitution. Our Founding Fathers exhibited, I think very uncanny long-sightedness in establishing the framework for the greatest democracy on Earth. But their tremendous forethought also allowed them to recognize that there might be times when the American people would want to join together and seek to make measured changes to the living document that the Constitution is. It has actually happened 27 times, a very small number to be sure, but most of those 27 amendments established and reinforced bedrock principles of our free society.

I venture to guess that even those who strongly oppose today's proposed amendment would agree that the American people have thus far used the awesome power of amending the Constitution in a very wise and judicious way. There is no reason to doubt that this time will be any different.

There is much misinformation about what this legislation does and does not do. In my view, simply put, it takes back from the nine individuals of the Supreme Court, who are not accountable, and it gives to the people, all the people in their States, in their home communities, wherever, it gives them the decision on how best to treat the flag. In sum, I trust the people of our country more than the Supreme Court on this matter, which is close to the heart of every American.

Mr. BEILENSON. Mr. Speaker, I yield 30 seconds to the gentleman from Texas [Mr. COLEMAN].

Mr. COLEMAN. Mr. Speaker, originally as a cosponsor of the legislation, my name was placed on that as a matter of fact, and it was a mistake for it to have been done so. I know it is too late to withdraw the name because the bill has been reported, but I would simply say that in speaking, in planning to vote against the present proposal, I tried to honor and defend what the flag stands for, and that is freedom.

I thank the gentleman for permitting me to make this statement prior to the time that we have any recorded votes on either the rule or the constitutional amendment.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from California for yielding time to me.

Mr. Speaker, as one of the chief sponsors of this bill, along with my good friend, the gentleman from New York [Mr. SOLOMON], I rise in strong support of the legislation and support the rule.

Mr. Speaker, I have made the point several times over the past few weeks that this is a bipartisan effort. This is not Democrat or Republican. It is a matter of protecting the single most recognized symbol of freedom and democracy in the world.

We tried in 1990 to simply pass a law to protect the flag. Most of us voted for it. But the Supreme Court ruled it unconstitutional. That means the only way that we can achieve this goal is by a constitutional amendment.

This amendment will not infringe on anyone's first amendment rights. We are the most tolerant country on Earth when it comes to dissent and criticism of our Government. But I really draw the line on the physical desecration of this great flag. I think the American people agree. In fact, the gentleman from New York [Mr. SOLOMON], has a folder that shows 49 of our States have passed resolutions in support of our efforts.

Each session of the House of Representatives, when we are opening session, we start off, as you know, Mr. Speaker, with a prayer and the Pledge of Allegiance. Every time we have a group of students that are in the gallery from elementary school on up, they proudly join in, and you will see it this week. They will join in. You will hear their young voices ring out: I pledge allegiance to the flag of the United States of America. They know the pledge, and they know what the flag means to our country.

They do not understand why anyone should be allowed to desecrate the flag. Mr. Speaker, neither do I.

The flag has rallied our troops in battle, and it has brought us together in times of national tragedy because it holds such an emotional place in our lives. And I am emotional, too. It is worthy of the protection we seek in this legislation .

Now, our Founding Fathers never dreamed someone would desecrate the flag. If they had, the protection would have been written into the Constitution 219 years ago.

Mr. Speaker, over a million Americans have died in defense of this flag. We owe it to them to adopt this amendment. God bless our great country.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Seneca, SC [Mr. GRAHAM], a 6-year veteran of the Armed Forces, with 4 years overseas, a great American.

Mr. GRAHAM. Mr. Speaker, I would like to echo what my good friend from Mississippi has just said. I would like to encourage Members to support this rule.

I know that many of the colleagues in this body are concerned about adopting this rule and approving the amendment, that it will harm the Bill of

Rights and the right to free speech. I do not question their patriotism. One cannot be in this body without being an American patriot. We all disagree at times on many issues. So I understand the right to disagree. I certainly respect that.

But let me say that the Bill of Rights and free speech issues and desecrating the flag in my opinion are not related. I would like to encourage every one in this Nation, conservative, liberal, and moderate, to speak out loudly if they feel the Government is wronging them or that we are off track. Speak loudly, speak boldly. Do it in constructive form, write, call, protest, take to the streets, tell everybody how you feel and in a manner that will encourage them to listen.

Burning the flag, in my opinion, does not legitimize one's position or allow anybody to listen to you. If you feel the need to burn something, burn your Congressman in effigy, burn me, do not burn the flag. If you cannot yell fire in the movie for public safety concerns, you should not be able to burn the flag because of national concerns.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes and 15 seconds to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, this is a debate about desecration. And goodness knows, we have had a significant amount of desecration in this country. Not desecration of the flag. In fact, you can go all the way across the 50 States these days and you will see few, if any, Americans now or at any other time in our recent past, even since this decision, who think so little of this country that they would dare desecrate this flag.

There are, of course, a handful of the super rich in this country who have regularly desecrated their citizenship by repudiating that citizenship so they could burn any sense of patriotism and burn the American treasury at the same time. And, of course, this amendment does nothing about that desecration, just as our Republican colleagues have sat around on their hands throughout this session of Congress and have rejected the notion of effectively doing something about those who desecrate their American citizenship.

But I must say in this rules debate, what really troubles me is the desecration that goes on in this body every day and is going on today with this very rule. And that is the desecration of the rules of the House of Representatives. You would think that someone who proposes to give the House of Representatives the job, along with this Congress, of protecting Old Glory would be concerned about protecting the dignity of its own rules.

We sat here on the first day of this Congress and heard about reform, about revolution, about opening the House of Representatives to do truly the people's business. And what have we got? Certainly not reform.

The chairman of the Committee on Rules stood on this floor and told us, we will have at least 70 percent open rules. Do we have an open rule today to consider something as important as how we protect Old Glory? No, sir, we do not.

Why is it that there is such fear, if we are so proud of Old Glory, why is there such fear of having true openness? And the same thing is true with regard to the way the rules of this House are being desecrated today and every day of this session by those who refuse to abide by the rule that they serve on a limited number of subcommittees and committees. Thirty Republican Members of this House today desecrate that rule, as they have desecrated this rule for an open House.

Mr. SOLOMON. Mr. Speaker, there is an old saying going on around here, "GERRY SOLOMON has the longest memory in the House of anybody." I will not comment any further.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. KIM], one who came to this country, a great American and a very respected Member.

Mr. KIM. Mr. Speaker, I cannot quite understand the argument, talking about the flag burning issue. I rise today in support of this rule and flag burning constitutional amendment. Many, many people have come to this great country in search of American dream, myself included. To these people to become an American citizen is the ultimate dream. To these people, the American flag is the essence of what being an American is all about. How would you like to see somebody burning the symbol of hope, symbol of dream?

I have been hearing this argument that this amendment is a direct attack on freedom of speech under the Constitution. I do not buy this argument. I understand it is illegal for anybody to run around naked in a public place trying to express their freedom of speech. I place burning the American flag in the same category. I do not buy this argument that burning the flag occurs only less than six times a year. I do not care if it is once in a century, that should not be allowed.

I have also heard this argument about some alternatives should be allowed. What kind of alternatives are we talking about? It is going to either allow or not allow, simple as that, up or down vote. I do not see any other argument about we should allow more alternatives.

I personally am more insulted by watching someone burn our flag than watching someone running around naked trying to express their freedom of speech. Therefore, I call on my colleagues to support this rule. It is OK. Pass this much-needed constitutional amendment.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Speaker, I support the Constitution. I support the first amendment. My comments are not to demean the intentions of anybody in the House. I support this rule, and I support this bill. I want to talk about a few facts.

In America today, it is illegal in many cities to kiss or hug in public. It is illegal to burn leaves. It is illegal to rip that little tag off the back of those newly bought pillows. You cannot rip those tags off. It is actually a Federal law, my colleagues, to desecrate or violate a mailbox. First amendment rights do not apply to a mailbox. But in America, my colleagues, it is absolutely legal to burn the flag.

Desecrate the flag. You can defecate and urinate on Old Glory to make a political statement, but you cannot touch a mailbox. My colleagues, when did we start pledging allegiance to the mailboxes of our country?

I do not mean to make light of this. But a Congress of the United States that will allow the same flag that was carried into battle after battle on the shoulders of fighting personnel, military personnel, knowing full well they would be slain and also knowing someone else would grab that flag, take that flag on into battle, try and mount that flag to preserve our great freedoms, knowing full well that their successor may be slain, a Congress that will allow that same flag to be burned by a dissident is out of touch. We have gotten so fancy there is no common sense left.

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Mr. Speaker, I support the first amendment. Damn it, if we could set a mailbox aside, we can set the flag apart. Let the flag alone. If Members want to burn something dissident, they should burn their bra, burn their underwear, burn their money, and see how many will make that statement. However, the Congress of the United States has to say "You cannot violate Old Glory."

This is not about the flag, this debate today; it is about respect, it is about pride, it is about values, and there is only one reason why flags are violated in America, only one; the Congress of the United States, the Congress of the United States allows the flag to be violated. Statutes are not going to work. Members know it. Let us not politically posture. Laws are not going to address it. It will take a constitutional amendment. I support that constitutional amendment, and I applaud the leaders for bringing it forward. Burn your bra, burn your pantyhose, burn your BVD's, see how many burn their money, but let the flag alone.

Mr. SOLOMON. Mr. Speaker, let me just say amen to the previous speaker. He is a great American.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Miami, FL, Ms. ILEANA ROS-LEHTINEN, another extremely important Member of this body. I know she speaks from her heart on this issue.

Ms. ROS-LEHTINEN. Mr. Speaker, the American flag is a sacred symbol of freedom and justice, not just in the United States, but throughout the world.

I know this in a very special way. I was born under a different flag. After a brutal dictatorship took control of Cuba, the land of my birth, I journeyed to freedom and came to the United States as a refugee.

I remember well that day when I raised my right hand and swore allegiance to this great country.

All of us who came to this country as refugees from a brutal tyranny know how much the American flag means for lovers of liberty and democracy.

And we know jut how great and important are the American values that have led so many American soldiers, sailors, marines and airmen over the centuries, to pick up our flag and march into battle against those who threaten our freedom.

This year we have celebrated the 50th anniversary of the final year of World War II.

One of the memorable occasions of that war, was when the marines climbed to the top of Mount Surabachi, to raise the American flag.

Six thousand, eight hundred and fifty-five men gave their lives to place that flag on that mountain, and their sacrifice can never be forgotten.

We have heard a lot from those who oppose protecting our flag from desecration and dishonor.

We have heard words, and legalisms, and theories, and all the sort of things you find in books. I respect those words taken from books.

Consult the book of America's heroes—patriotic young men who gave their lives for us. Put down your law books, and drive over to Arlington Cemetery, and gaze at the long rows of headstones of our fallen heroes.

Then drive over to the Iwo Jima memorial, and stand there in silent tribute to America's heroes. Feel the wonder of what they have done for us.

See beyond the cold bronze and the polished granite, and see those young men who were out there, thousands of miles from their loved ones, surrounded by the temporary graves of thousands of their fellow marines, and surrounded by field hospitals, where thousands more other marines lay wounded.

See those young men, and then feel what they were feeling that day, knowing that any at a moment their lives could be taken.

And then think about what it was that they felt that day about the American flag.

Then you will understand this issue. Men have died under that flag.

Those who served with them, those who loved them, and those who honor their memory today must stop those who dishonor them by burning or desecrating the American flag.

And we can put a stop to this, by supporting an amendment to protect this sacred symbol from abuse.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from Colorado [Mr. SKAGGS], a former Marine and Vietnam veteran.

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I would say to the gentleman from New York [Mr. SOLOMON], the chairman, he and I were proud to serve our country in uniform. We were proud to serve under our Nation's flag. One of the reasons for the pride that the gentleman and I share was that we believed in a country that was strong enough to tolerate diversity and dissent, and to rise above it, because our freedoms and our values are stronger than the occasional jerk that wants to treat the American flag in a disrespectful way.

Today, we are debating an amendment to the Constitution that, for the first time in the history of this country, will diminish our freedom of expression. I think it is ironic, maybe poetic, that the rule proposed for this debate itself shuts down freedom of expression in this House. There is no justification for this, absolutely none. Not even a substitute allowed in the regular order. This rule is a shame. It is shameful. It should not be allowed.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute the gentleman from Wisconsin [Mr. SENSENBRENNER], a gentleman who came with me to this body 17 years ago. He is a member of the Committee on the Judiciary, and would like to rebut what was just said.

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of this rule. Back in 1983, I would bring to the attention of my Democratic colleagues, the equal rights amendment was brought up on the floor with the support of most of them, under suspension of the rules.

There were no amendments allowed, there was no motion to recommit, and because I was the manager on the Republican side, in fairness, I yielded half of my time to Republican supporters of the ERA, but the Democrats did not yield any of their time to Democratic opponents of the ERA, so the split in the 40 minutes that we had to debate that important constitutional amendment was split 3 to 1 for the supporters, because of the unfairness of the folks on the other side of the aisle.

Mr. Speaker, this rule is fair. It will allow for an extensive debate. I think that, given what the other side did with another important constitutional amendment, maybe they ought to take up a collection to build a statue to the gentleman from New York [Mr. SOLOMON], because of the fair rules that he puts together.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Speaker, today I am wearing an American flag tie that my son picked out for me, and American flag earrings that my 13-year-old daughter picked out for me for the Fourth of July. I love the flag, and when I see the flag flying here over the Capitol, I choke up.

However, we are talking not just about the symbol of our country today, we are talking about the Constitution that governs our country. The first amendment says "Congress shall make no law abridging the freedom of speech." The Bill of Rights has served our country for 204 years. An hour of debate to discuss amending the Bill of Rights is not good enough.

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to my good friend from Puyallup, WA [Mr. TATE], another freshman Member of this body which is really changing the face of this country.

Mr. TATE. Mr. Speaker, I rise in strong support of H.R. 79, the Flag Protection Act. The purpose of this amendment is simple: To empower States and Congress to provide constitutional protection for the symbol of our Nation and all for which she stands.

When you think of our national flag, Mr. Speaker, you think of our national heritage, our history, our culture; you think of the principles it embodies.

America ultimately stands on the principle of freedom. Her soldiers have died on battlefields, her leaders have resisted foreign threats, and she herself has endured the risk of internal destruction rather than give up the ideal. All America is and all that she hopes to be can be found in this principle.

The American flag is the symbol of that freedom. Its colors represent peace, liberty, and the blood her people have spilled. Its stars represent her parts, the 50 States of which 49 have urged us to pass this amendment. Taken as a whole, the flag represents America and the best of her traditions and hopes.

Yet that freedom does not come without responsibility. Those who would dream her dreams must also share in her burdens. The right to free speech carries with it a corresponding responsibility to respect others and exercise that right in an appropriate manner.

H.R. 79, Mr. Speaker, seeks to protect the symbol of the American Dream. If that hope of freedom can be freely desecrated, the freedom of our future will not long stand. I urge my colleagues to support the rule and pass the Flag Protection Act.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Speaker, I thank the gentleman from California for yielding me time.

Mr. Speaker, as a Democrat, a former Marine, like our chairman, the gentleman from New York [Mr. SOLOMON], and our good colleague, the gentleman from Colorado [Mr. SKAGGS], and as an original cosponsor of House Joint Resolution 79, I rise in strong support of this rule to provide for the consideration of this proposed amendment to the U.S. Constitution which would permit Congress and the States to prohibit the physical desecration of the American flag.

Mr. Speaker, I fully appreciate the comments many of my colleagues in opposition to this proposed amendment have made regarding the first amendment.

I, too, hold dearly the protections and privileges guaranteed to all Americans under the Bill of Rights, and in particular the first amendment right to free speech. The Bill of Rights is the foundation upon which this great Nation was built.

But it is that greatness and resiliency of the Constitution and this Nation that are symbolized by the American flag. The desecration of the American flag is not just a simple expression of free speech. It is a profound and brutal attack on the very soul and history of our country.

Old Glory has carried Americans to war and shrouded those who gave the ultimate sacrifice in the defense of freedom and liberty. The American flag that is carefully folded and passed on to the family of a fallen hero is more than just a symbol. It embodies who we are as a nation.

On June 14, 1915, President Woodrow Wilson paid high tribute to the American flag when he said:

> The flag is the embodiment, not of sentiment, but of history. It represents the experiences made by men and women, the experiences of those who do and live under that flag.

The American flag is a unique and important part of America. Let us pay tribute to the flag, to this Nation and to our Constitution by passing this rule and this amendment today.

Mr. SOLOMON. Mr. Speaker, I will say to the gentleman who just spoke that he may be a Democrat but he is a good marine and a good American.

Mr. Speaker, I yield 1 minute to the very distinguished gentleman from Maryland, Mr. ROSCOE BARTLETT.

Mr. BARTLETT of Maryland. Mr. Speaker, I carry always with me a copy of the Constitution, and one of the previous speakers mentioned the first amendment, which has, of course, several very important protections in it: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or of the right of the people peaceably to assemble."

Obviously, these are very important rights that are guaranteed to us, but we have recognized as a country that there are some limits to these. For instance, the right of free speech will not permit you to get up in a crowded motion picture theater and yell "fire, fire" when there is not a fire. I think that this proposed amendment, which protects our flag against desecration, is at least the equivalent of denying the person the right to yell "fire, fire" in a crowded theater.

This flag is a symbol of this great Republic. It stands for the whole history of our country. I think there is just no reasonable rebuttal to this very important amendment which four out of five Americans support.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Speaker, I thank the gentleman from California for yielding time to me.

Mr. Speaker, there is always an abundance in this House Chamber, and I guess in every body in America, of people who are willing to come down here and do the easy parts.

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The easy part is to stand up here and make a patriotic speech that articulates our shared sentiments about the flag. We have heard 8 or 10 of them already. Everybody agrees with them. But the hard part that a real patriot, I say to the gentleman from New York [Mr. SOLOMON], would believe to be his obligation is to write law that will protect our public and last for the long term.

What you have brought to us today with a rule that says we cannot amend it except with a motion to recommit is not a workable proposal. I fear that many of the Members who in a well-meaning fashion have come up here and spoken about it do not realize what it does.

What does it do? It says that all 50 States can define what a flag is and all 50 States can define what desecration is as well as the Federal Government and the District of Columbia. That means, of course, that a citizen has no way of knowing from one State to the next what desecration of the flag is or even what a flag is.

You probably have not bothered to check, but the current statute that defines what a flag is defines it as a 48-star flag; the other 2 stars were added by Executive order.

I asked the gentleman from Florida [Mr. CANADY], the chairman of the subcommittee, during debate in the full committee would it be a desecration of a flag if you desecrated a 49-star flag and his answer was, "That will depend upon the enactment passed by the Congress and the States."

We have tried to bring an amendment to the floor here today. We asked permission to bring an amendment to the floor today here and it will have to be offered as part of the motion to recommit now that says the Congress can pass a law defining what a flag is and making it against the law to burn, to trample, to soil or rend a flag. It makes it clear exactly what the flag is and what desecration is. Instead, we have been brought one out here that no one can interpret.

Is it desecration of the flag to wear a flag on the back of your coat? Is it desecration of the flag to wear it on the seat of your pants? On a tie? Is it desecration of the flag for the Olympic team to wear a uniform that has a flag emblazoned across the shoulders? What about a Hell's Angel or a protester who wears the same thing? Nobody knows.

We tried to bring an amendment to the floor to your proposal that says very clearly what it is, the flag is what the Congress says it is and desecration is burning, trampling, soiling, or rending. But you would not let us offer that amendment. It will, however, be offered as part of the motion to recommit.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. BRYANT of Texas. I will yield to you on your time as much as you want to, but I have very little time so I do not want to use it up yielding.

Mr. SOLOMON. The gentleman's amendment is in order.

Mr. BRYANT of Texas. I ask for regular order, Mr. Speaker, I will be happy to yield to the gentleman on his own time.

The easy part is to come down here and make great speeches, extolling the flag and talking about patriotism. Everybody agrees with those. But the hard part is writing legislation that will last for the ages and it will not subject our public to accidentally breaking laws they do not intend to break. Why would you not let us offer that amendment on the floor?

Well, we will offer it as part of the motion to recommit. I commend it to the Members to vote for the motion to recommit, vote for one that will work.

Mr. SOLOMON. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. QUILLEN], the chairman emeritus of the Committee on Rules and one of the longest serving Members of this body.

Mr. QUILLEN. Mr. Speaker, in 1967, I was an original cosponsor of a bill to make desecration of the American flag a Federal offense, punishable by up to 1 year in prison and up to a $1,000 fine. That bill passed both Houses almost unanimously and was signed into law by the President.

By 1989, 48 States and the Federal Government had laws on the books prohibiting the desecration of our beloved American flag. And as we all know, in 1989 the Supreme Court struck down a Texas statute which prevented flag burning, and declared such an outrageous act an expression of speech protected by the first amendment.

In response to that decision, another Federal law was enacted banning flag desecration, which the Supreme Court ruled unconstitutional.

Since then, 49 of our 50 States have passed resolutions calling on the Congress to pass an amendment to the Constitution to protect the flag of the United States from physical desecration and to send it back to the States for swift ratification. It is clear that the States want us to act on this issue.

I support this rule for House Joint Resolution 79, proposing a constitutional amendment authorizing Congress and the States to prohibit the physical desecration of the flag. It would be a shame and a disgrace if we sit idly by and let our beloved American flag—the greatest symbol of liberty and freedom—continue to be disrespected and desecrated. Our flag is a part of the soul of America, not merely a piece of cloth.

I would challenge the Members of this body to remember that our freedom is not without cost—it comes with the high price of the sacrifice of human life. From the shores of Iwo Jima to the sands of Desert Storm, American men and women have given their lives for what the flag represents. If our flag is worth dying for, it is worth protecting. I urge all of the Members of this body to support this rule and this measure.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to a Member from my home State, the gentleman from Hamburg, NY [Mr. QUINN].

Mr. QUINN. Mr. Speaker, as an original cosponsor of House Joint Resolution 79, it is with great pride that I rise to urge my colleagues to support the rule for its consideration.

This amendment gives Congress and the States the power to enact legislation prohibiting the physical desecration of the flag of the United States.

Forty-nine States have passed resolutions calling on Congress to propose this constitutional amendment. A recent Gallup survey found that 79 percent of those asked would vote for a constitutional amendment and that 81 percent belived they should have the right to vote on the issue.

Mr. Speaker, let us give the American people what they want and what our flag deserves.

The American flag represents this great Nation and is something to be revered—not destroyed or mutilated or treated with disrespect. This amendment helps to preserve a symbol of our country—a united nation where values transcend political party, ethnic group or socio-economic class and reflects pride in the principles of democracy and freedom upon which this country was founded.

Mr. Speaker, I want to thank the chairman of the Rules Committee for bringing this rule and his leadership on this important issue and once again I would urge my colleagues to support the rule and ask that they vote "yes" on final passage.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Buies Creek, NC [Mr. FUNDERBURK], one of the outstanding new Members of this body who is changing the outcome of votes this year since he arrived in January.

Mr. FUNDERBURK. Mr. Speaker, I am proud to support the Solomon antiflag desecration amendment, House Joint Resolution 79.

Many years ago the distinguished jurist, Felix Frankfurter, was asked, "What is America?" Mr. Justice Frankfurter noted:

> We are nothing more than the symbols we cherish. We live by our symbols because a civilization that does not nurture and cherish its symbols is in danger of withering away. The ultimate foundation of a free society is the binding tie of cohesive sentiment.

That is why we honor the flag. It is the tie which binds us together. We remember that tie every time we see it draped on the coffin of a soldier or sailor who gave his life fighting to preserve our freedoms.

For 6 years I lived in a communist country where I saw people cry and salute when they saw the U.S. flag. They venerated our flag as a symbol of freedom from tyranny and they considered it an inexplicable sign of weakness for us to tolerate desecration of our most cherished symbol.

A few years ago, the Supreme Court sent America a very clear message; desecrating the flag, they said, is somehow an act of free speech protected by all of the force of the U.S. Constitution. Now it is up to us to send a response to the Supreme Court. It is time to send, as one U.S. Senator put it, "A We the People response", that there should be no tolerance for those who deliberately dishonor the flag and all of the precious things that it stands for.

Opponents of this amendment argue that the Constitution permits absolute freedom of speech. They declare that if freedom of expression is not protected absolutely, it is by definition diminished. But history can lead us to the opposite conclusion. When every conceivable outrage is permitted in the name of free speech, law and order soon breaks down and the rights of every citizen are threatened. 2,500 years ago Socrates warned that, "Excessive freedom leads to anarchy and anarchy leads to tyranny".

As we enter this fight, we must remember that the Constitution of the United States belongs not to the U.S. Congress, not to the Supreme Court, not to the media; it belongs to all of the American people. Let the people in the States decide. Let the people decide because, after all is said and done, it is their flag.

Mr. BEILENSON. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts [Mr. OLVER].

Mr. OLVER. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise to oppose this rule. Is it not ironic that this closed rule that we are dealing with today comes on a constitutional amendment that is designed to restrict the free speech rights of the first amendment of the U.S. Constitution? Is it not even more ironic that tomorrow we are going to be dealing with the Republican budget resolution, the final budget resolution which will be on the floor and that budget resolution makes cuts in veterans' medical care and benefits, a resolution that cuts $32 billion out of veterans' programs over the next 7 years.

Under that resolution by the year 2002, more than half of the veterans who presently are served by the VA health care system, more than half of them will not be served. Thousands of beds will be closed, rationing of their health care will be imposed, and the prescription drug payments will be increased dramatically.

Is it not ironic that those people who have served the flag, served this Nation the most, will see those kinds of cuts, and it is going to be covered up by this particular debate.

Mr. Speaker, our flag generates the most intense national pride and reverence. Our flag is in no danger whatsoever of losing that position of pride and reverence. As such, anyone who burns or tramples the flag contemptuously as a part of dissent defeats their very cause. The proposed amendment that we have before us would be the first amendment adopted to the Bill of Rights to restrict free speech. It is not necessary, the flag is not in danger, but the adoption of this amendment endangers every American citizen's free speech rights.

Mr. BEILENSON. Mr. Speaker, I yield myself the balance of my time to close if I may.

Mr. Speaker, I include the following data on floor procedure for the RECORD:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPLIED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPLIED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a "Queen of the Hill" procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a "Queen of the Hill" procedure; All points of order are waived against the amendments.	5D; 26R
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D
H.R. 655	Hydrogen Future Act	H. Res 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives cl 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives cl 7 of rule XVI, cl 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery of the State of Iowa ..	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.0
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D;1R
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waivers sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. XXX	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A

*Contract Bills, 67% restrictive; 33% open. **All legislation, 62% restrictive; 38% open. ****Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. ****Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. BEILENSON. Finally, Mr. Speaker, as I said at the very outset, this is a controversial, important and difficult question to resolve. It deserves a more open and fair procedure for its consideration than that which was granted by our Republican colleagues on the Committee on Rules.

Mr. Speaker, I urge my colleagues to defeat the previous question. If the previous question is defeated, I shall offer a substitute amendment to the rule. The alternative rule will allow 2 hours of general debate and make in order the Bryant substitute, the Skaggs substitute, and the Thornton substitute, with each substitute debatable for 1 hour. At this point, I include the rule I intend to offer in the RECORD; as follows:

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H. RES. 173

Strike all after the resolving clause and insert in lieu thereof the following:

That upon the adoption of this resolution the Speaker may, pursuant to clause 1(b) of Rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 79) proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States. The first reading of the joint resolution shall be dispensed with. General debate shall be confined to the joint resolution and shall not exceed two hours equally divided and controlled by the Chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five minute rule and shall be considered as read. No amendment shall be in order except the following amendments in the nature of a substitute printed in section 2 of this resolution: (1) an amendment in the nature of a substitute offered by Representative Bryant of Texas or his designee; (2) an amendment in the nature of a substitute offered by Representative Skaggs of Colorado or his designee; and (3) an amendment in the nature of a substitute offered by Representative Thornton of Arkansas or his designee. The amendments in the nature of a substitute shall be considered as read, are each debatable for one hour equally divided and controlled by the proponent and an opponent thereto and are not subject to amendment. All points of order are waived against the amendments in the nature of a substitute printed in this resolution. At the conclusion of the consideration of the joint resolution for amendment the Committee shall rise and report the joint resolution to the House with such amendment as may have been adopted. The previous question shall be considered as ordered on the joint resolution and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2.

(1) Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE—

"SECTION 1. The Congress and the States shall have power to prohibit the burning, trampling, soiling, or rending of the flag of the United States.

"SECTION 2. For the purpose of this article of amendment, the Congress shall determine by law what constitutes the flag of the United States, and shall prescribe procedures for the proper disposal of a flag.".

(2) Strike the resolving clause and all that follows and insert the following:

"Whereas freedom and liberty protected by the Constitution are fundamental and precious rights of each American;

Whereas the flag of the United States is an historic and revered symbol of that freedom and liberty;

Whereas generations of Americans have fought with valor under the flag to protect the sacred values it represents;

Whereas all the people of the United States, and their representatives in Congress, should show respect and affection for the flag;

Whereas the flag has been a source of inspiration for freedom-seeking people around the world;

Whereas deeply held respect and affection for the flag have caused many to propose an amendment to the Constitution to protect the flag from desecration; and

Whereas an amendment to the Constitution, expanding the powers of government to prohibit offensive behavior, would entail a limitation on freedoms previously protected under the First Amendment: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States expresses deep respect and affection for the flag of the United States, and states its abiding trust in the freedom and liberty which the flag symbolizes."

(3) Strike the resolving clause and all that follows and insert the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Flag Protection Act of 1995".

SEC. 2. FLAG PROTECTION.

Each copy of the flag of the United States that is intended to be displayed as a flag and is made after the date of the enactment of this Act shall belong to the people of the United States and be held in trust for them by the Government of the United States. The United States therefore has a property interest in each such copy, and such copies are subject to rules and regulations made under section 3 of article IV of the Constitution of the United States. On this basis, the Secretary of the Treasury is authorized to make rules for the use and disposition of such copies. Such rules shall allow for the sale and transfer of the rights to possess and use such copies. Any damage to or destruction of such a copy that is in violation of such rules is a depredation against the property of the United States for the purposes of section 1361 of title 18, United States Code.

Mr. BEILENSON. Mr. Speaker, I urge Members to vote against the previous question and against the rule.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time to close debate on this rule.

Mr. Speaker, we have heard a lot of criticism of this rule. I would welcome Members to come over and look at the CONGRESSIONAL RECORD of 1983 when the equal rights amendment was brought before this body under suspension of the rules, 40 minutes of debate, no motion to recommit, no amendments allowed, no substitutes allowed. We have not done that.

Let me tell what we have done. We are debating a rule now that has 1 hour of debate, and it is equally divided. Those in opposition have half an hour, we have half an hour. Then we go into the general debate on the constitutional amendment. That is equally divided. Both sides have equal time. Then we go into what is allowed in the motion to recommit, and that is any germane amendment, any germane substitute that the opponents would care to offer.

I have just heard my good friend, the gentleman from California [Mr. BEILENSON], say that his motion to defeat the previous question would make in order 3 kinds of substitutes. One is a constitutional amendment that was offered by the gentleman from Texas [Mr. BRYANT], who never bothered to come to the Committee on Rules in defense of his amendment, never bothered to even come up there.

☐ 1145

Among the other two, one is a sense-of-Congress resolution by the gentleman from Colorado [Mr. SKAGGS] that is not germane to a constitutional amendment. It is simply a sense of Congress. The other is a statute. But you cannot allow substitutes in the form of statutes to a constitutional amendment.

So, Mr. Speaker, what we are allowing is what is allowed under the rules of the House: the Bryant amendment in whatever form he cares to offer it, as an amendment, as a substitute, as a motion to recommit. That is in order and that will be immediately brought to the floor, if he cares to ask for it, after the one hour of general debate.

Ladies and gentlemen, what we have before us today is a simple one-sentence amendment that has been asked for by 49 States; every State but Vermont. It simply says the Congress and the States shall have power to prohibit the physical desecration of the flag of the United States of America.

Pay attention to that, because that is not a constitutional amendment that bans physical desecration of the flag. It does not do that at all. What it does is empower the 50 States, one at a time, to pass a law which would provide for criminal penalties for those that would physically desecrate the American flag. Or the Congress could pass such a law.

That is what we are doing. If we pass this today, we will then send it out to the States to be ratified by those States. Three-quarters of the States have to ratify it. That is all we are asking, that 80 percent of the American people be allowed to have their vote.

This is it. Look at it. And here are over a million signatures gathered by the veterans organizations that are sitting in this gallery and that are all out in the halls and around this complex today.

All they want is the right to ratify. Give them that chance. That is what this country is all about. I urge a yes vote on the previous question and a yes vote on the rule.

And then, ladies and gentlemen, we are going to pass that constitutional amendment. Two-thirds of this Congress is going to speak on behalf of those 80 percent of the American people who demand this right to vote on the constitutional amendment.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. DUNCAN). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BEILENSON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 5(b)(1) of rule XV, the Chair may reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adopting the resolution.

The vote was taken by electronic device and there were—yeas 258, nays 170, not voting 6, as follows:

[Roll No. 428]

YEAS—258

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—170

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moran
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Woolsey
Wyden
Wynn
Yates

NOT VOTING—6

Gibbons
Hoyer
Kasich
Moakley
Reynolds
Torres

☐ 1209

Mr. MASCARA changed his vote from "yea" to "nay."

Mr. GORDON changed his vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DUNCAN). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BEILENSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. By a previous order of the Chair, this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 271, noes 152, not voting 11, as follows:

[Roll No. 429]

AYES—271

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump

Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)
Zeliff
Zimmer

NOES—152

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hinchey
Holden
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Poshard
Rangel
Reed
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thornton
Thurman
Torricelli
Tucker
Velazquez
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Woolsey
Wyden
Yates

NOT VOTING—11

Burton
Gibbons
Hoyer
Hyde
Livingston
Meyers
Moakley
Pomeroy
Reynolds
Vento
Young (FL)

☐ 1218

Ms. VELÁZQUEZ and Mr. BERMAN changed their vote from "aye" to "no."

Mrs. CLAYTON changed her vote from "no" to "aye."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, I missed the last rollcall vote, No. 429. I ask that the RECORD reflect had I been present I would have voted "aye."

PERSONAL EXPLANATION

Mr. POMEROY. Mr. Speaker, I inadvertently missed rollcall vote 429. I was just off the House floor meeting with North Dakotans on legislative matters. Had I been present, I would have voted "nay."

CONSTITUTIONAL AMENDMENT TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 173, I call up the joint resolution (H.J. Res. 79), proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States, and ask for its immediate consideration in the House.

The clerk read the title of the joint resolution.

The text of House Joint Resolution 79 is as follows:

H.J. RES. 79

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE—

"The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States.".

The SPEAKER pro tempore. Pursuant to House Resolution 173, the gentleman from Florida [Mr. CANADY] and the gentleman from Michigan [Mr. CONYERS] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is no greater symbol of our unity, our freedom, and our liberty than our flag. In the words of Justice John Paul Stevens:

> It is a symbol of freedom, of equal opportunity, of religious tolerance, and of good will for other peoples who share our aspirations.

Our flag represents We the People—the most successful exercise in self-government in the history of the world.

In 1989 in Texas versus Johnson, the Supreme Court of the United States in a narrow 5 to 4 decision, invalidated the laws of 48 States and an act of Congress depriving the people of their right to protect the most profound and revered symbol of our national identity. In 1990, Johnson was followed by the decision in United States versus Eichman, which held unconstitutional a Federal statute passed by Congress in the wake of the Johnson decision.

House Joint Resolution 79 proposes to amend the Constitution to restore the authority of the Congress and the States—which was taken away by the Supreme Court—to pass legislation protecting the flag from physical desecration.

I believe, as do many of my colleagues, and eminent jurists such as former Chief Justice Earl Warren and Justice Hugo Black—ardent defenders of the first amendment—that the Constitution, properly interpreted, allows Congress and the States to prohibit the physical desecration of the U.S. flag.

Justice Black bluntly stated:

> It passes my belief than anything in the Federal Constitution bars a State from making the deliberate burning of the American flag an offense.

The Solomon-Montgomery amendment will overturn the opinions of the Supreme Court in Johnson and Eichman by restoring the authority to Congress and the States to prohibit the physical desecration of the flag.

This amendment poses no threat to free speech. As legal commentator and columnist Bruce Fein testified before the Subcommittee on the Constitution:

> I don't think [the flag desecration amendment] really outlaws or punishes a person's ability to say anything or convey any idea. Indeed, every idea that is conveyed by burning a flag can clearly be conveyed without burning the flag using your vocal cords, for example, and therefore it doesn't, in my judgment threaten to dry up rich political debate.

As Chief Justice Rehnquist stated in his dissent in the Johnson case, the physical desecration of the flag:

> . . . is the equivalent of an inarticulate grunt or roar that, it seems fair to say, is most likely to be indulged in not to express any particular idea, but to antagonize others.

In protecting the flag from physical desecration we will do nothing to impede the full and free expression of ideas by Americans.

The people of the United States—through their elected representatives—have the power and the right to amend the Constitution under article V. After the amendment is ratified by the States, legislation will need to be crafted to prohibit the physical desecration of the flag.

In an unprecedented demonstration of public support, the legislatures of 49 States have called on this Congress to exercise its power under article V and to submit a flag protection amendment to the States for ratification. We should not ignore the 49 legislatures which have called for action. We should listen to them and pursuant to article V.

Our flag was raised at Iwo Jima, planted on the moon and drapes the coffin of every soldier who has sacrificed his or her life for our great country. It is a national asset, a national asset which deserves our respect and protection. Indeed our flag is a national asset which deserves to be protected from physical desecration as much as the Capitol Building itself, or the Supreme Court, or the White House.

I say to my colleagues, "If you want to protect the flag, this unique national asset, from physical desecration, you must support the Solomon-Montgomery constitutional amendment. There is no other way."

Mr. Speaker, I reserve the balance of my time.

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that the majority be granted an additional 10 minutes of time for general debate to be controlled by the gentleman from Mississippi [Mr. MONTGOMERY] and that the minority be granted an additional 10 minutes of general debate to be controlled by the gentleman from Arizona [Mr. KOLBE] which would give each side 40 minutes of general debate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. CONYERS. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, my colleagues, I rise as a patriotic American and a veteran today to debate under a very restricted rule the consideration of a constitutional amendment to outlaw the physical desecration of the flag of the United States. If adopted, this amendment would represent the first time in our Nation's history that we will have altered the Bill of Rights to limit freedom of expression.

Along with other constitutional amendments being considered, this Congress, relating to the budget, to term limits, to school prayer, the flag desecration proposal can be viewed, in my view, as a broad-ranging effort by the Republican majority to alter our fundamental national charter and to unintentionally undermine our commitment to individual liberty.

I deplore flag burning, but I am concerned by amending the Constitution we will be elevating a symbol of liberty over the liberty that it protects and provides itself. What I mean is that the true test of any nation's commitment to freedom, to freedom of expression, lies in its ability to protect unpopular expression such as flag desecration. As Justice Oliver Wendell Holmes wrote as far back as 1929, the Constitution protests not only freedom for the thought and expression we agree with, but freedom from that thought that we hate. By limiting the scope of the first amendment's free speech protections, the supporters of the flag desecration amendment will be setting a most dangerous precedent. If we open the door to criminalizing constitutionally protected expression related to the flag, it will be difficult to limit further efforts to censor speech; certainly it would be hard to justify a constitution which bans flag burning but does not prohibit burning a cross or the Bible.

Mr. Speaker, once we decide to limit freedom of speech, limitation of freedom of speech and religion will not be far behind. I quote former solicitor general Charles Free, who testified:

> Principles are not things that you can make an exception to just once. The man who says that you can make an exception to a principle may not know what a principle is, just as a man who says that only once let's make two plus two equal five does not know what it is to count.

Mr. Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York [Mr. SOLOMON], chairman of the Committee on Rules.

☐ 1230

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I cannot tell you how excited I am that finally we are going to have the chance to pass this amendment that will restore the flag to its rightful position of honor. It has been a long time coming since that tragic day back in 1989 when five Supreme Court Justices decided it was OK to burn the flag and thereby hurt so many feelings around this country. Just ask all of the supporters you see here in this gallery and all over this Capitol here today in their uniforms, who put thousands of hours into the grassroots effort to pass this amendment. That is why I am so proud to be on the floor today sponsoring this amendment on behalf of the American people.

Mr. Speaker, today we are going to hear the same arguments against this amendment that we have heard for years now. I respect the opinions of those opponents. That is their first amendment right. But, Mr. Speaker, supporters of this amendment come to the floor today with the overwhelming support of nearly 80 percent of the American people. All around this Capitol today you see all of the major veterans organizations who, along with 100 organizations making up the Citizens Flag Alliance, have asked for this amendment to be put forth to the American people. They are the people who have spearheaded this grassroots effort. In fact, you can see for yourself the stack of over 1 million names of all our constitutions that are right here on the table. One million. I invite all Members to come over here and take a look at them.

Mr. Speaker, perhaps most impressive is the resounding support from the States around this country. Forty-nine out of the 50 States, and that is what is in this book, 49 of 50 States, have asked Congress to pass this flag protection amendment and send it to them for ratification. This amendment, not one watered-down or changed by amendment. Mr. Speaker, when have 49 out of 50 States agreed on anything?

Mr. Speaker, some opponents of this amendment claim it is an infringement of their First Amendment rights of freedom of speech, and they claim if the American people knew it, they would be against this amendment. Well, there is a recent Gallup poll taken of people outside the beltway, that is real people, you know, real down-to-earth people. Seventy-six percent of the people in that poll say no, a constitutional amendment to protect our flag would not jeopardize their right of free speech. In other words, they do not view flag burning as a protected right, and they still want this constitutional amendment passed, no matter what.

Mr. Speaker, we should never stifle speech, and that is not what we are seeking to do here today. People can state their disapproval for this amendment. They can state their disapproval for this country, if they want to. That is their protected right. However, it is also the right of the people to have a redress of grievances and amend the Constitution as they see fit. They are asking for this amendment.

Therefore, I am asking you to send this amendment to the States and let the American people decide. That is really what this is all about, speaking of Old Glory, Mr. Speaker, and America. It is what makes us Americans and not something else. Over the past two centuries, especially in recent years, immigrants from all over this world have flocked to this great country. They know little about our culture, they know nothing about our heritage, but they know a lot about our flag. They respect it, they salute it, they pledge allegiance to it.

Mr. Speaker, it is the flag which has brought that diverse group together. It is what makes them Americans. No matter what our ethnic differences are, no matter where we come from, whether it is up in the Adirondack Mountains of New York where I come from, whether it is Los Angeles, CA, it does not matter what our ideology is, be it liberal or conservative, we are all bound together by those uniquely American qualities represented by that flag behind you, Mr. Speaker.

It is only appropriate that the Constitution, our most sacred document, include within its boundaries a protection of Old Glory, which is our most sacred and beloved national symbol. All that lies before us now, all that is required, is for each of us to get the patriotic fire burning in our belly and come over here and vote for this. We need 290 votes. Get over here and let the American people decide. Put this out to them.

Mr. BRYANT of Texas. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Texas.

Mr. BRYANT of Texas. If we are going to do what the gentleman is advocating, why don't we describe what the flag is here in the Congress and pass a constitutional amendment permitting the Congress to prohibit flag burning? Otherwise all 50 States write a different definition of desecration and all 50 States write a different definition of what the flag is.

Mr. SOLOMON. Mr. Chairman, is it not funny, for 200 years nobody infringed on this? We are just going to put the Constitution back to where it was before five out of nine judges tore down this Constitution and said this protection of the flag was invalid.

Mr. BRYANT of Texas. Three of the five judges were Republicans, Mr. SOLOMON.

Mr. SOLOMON. So what?

Mr. BRYANT of Texas. So why not pass laws here today that will stand the test of time, rather than having 50 different laws? We have a substitute that just says it is going to be one law. Does that not make more sense?

Mr. SOLOMON. The gentleman's substitute is in order. Offer it.

Mr. BRYANT of Texas. I will. I hope you vote for it.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS of Illinois. Mr. Speaker, I rise in strong opposition to House Joint Resolution 79.

Mr. Speaker, I rise in strong opposition to House Joint Resolution 79. This legislation typifies the GOP leadership's mad rush throughout the 104th Congress to stifle individual rights and freedoms in our great country merely to appease certain constituencies. Last week we saw over 1 million Americans denied representation when voting was cut off in this Chamber so that Republicans could get to a fundraising dinner.

Every time I turn around the Republicans are trying to amend the Constitution which has served this country well for all these years. They want to amend the Constitution against a woman's right to choose. They want to amend the Constitution to mandate the balancing of the budget. They want to amend the Constitution to mandate school prayer. They want to amend the Constitution to mandate term limits. Now they want to amend the Constitution so they can cut off the very free speech and open expression that defines our democracy simply because they feel benefits will flow to them politically by its passage. I say: let us end this charade once and for all.

I agree with my colleagues and the vast majority of Americans who find the act of desecrating the flag absolutely distasteful. However, it is a form of expression and, therefore, must be protected under the first amendment.

When it comes to amending the Constitution, we must always ask the questions Is it the right thing to do? and What would James Madison and the other Framers of the Constitution do?

It is my belief that, with respect to flag desecration, they would not favor any change in the Constitution which they wrote and none in the Bill of Rights, the rock upon which our democracy has stood for over 200 years.

When I ask myself "What makes America great?" at the top of the list is the first amendment. Worldwide, millions have struggled, fought, and died to experience the freedom of expression which is such an integral part of our society that it is often taken for granted. On the hierarchy of national treasures, it reigns supreme.

Madison knew this. The first amendment was not drafted with exceptions. A few have since been created by the Supreme Court for public safety and the like, but never for what some, or even most of us, might deem to be offensive forms of political speech or protest. Political demonstrations were the foundation of our Nation and remain a vital part of the democratic process. That heritage is not ours to change. When we took the oath of office, "to support and defend the Constitution of the United States," no one suggested an exception for popular campaign issues.

The good fortune which all of us in America share is the right to live in and enjoy the benefits of the greatest country in the world. I love the United States and bristle at anyone who chooses to defile any national symbol, including the flag.

However, for me, the bottom line is simply the question of which is more important: the flag or the Constitution. One is a treasured symbol of our pride and patriotism, made of cloth that some people will tear, burn, or trample. The other is a set of basic principles which embody the best of what is American.

Mr. Speaker, does it make sense to canonize the symbol by utterly destroying what it represents? I do not believe so and, therefore, do not support House Joint Resolution 79. It is misguided and it is wrong-headed.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Hawaii [Mrs. MINK].

Mrs. MINK of Hawaii. Mr. Speaker, I rise in opposition to House Joint Resolution 79.

Mr. Speaker, the first amendment is the touchstone of our constitutional democracy. It enriches our national discourse by permitting all views—however obnoxious—to enter public debate. It guarantees the political equality of all citizens by protecting the right of the least popular among us to express our opinion.

The first amendment represents a national promise to tolerate dissent. The Supreme Court repeated that promise not too long ago when it ruled that any meaningful protection of speech must protect political speech even when we do not like it, even when it involves dishonoring the flag.

The flag is a beautiful symbol of the United States, of our history, of our constitutional principles—and of our struggles to be a more perfect democracy. It is precisely because of its power as a political symbol of the liberties we have fought to defend and extend that we need to uphold the right of individuals to free expression. To amend the Constitution to censor the content of political expression would erode the very liberties for which the flag is a symbol.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I must say one of the reasons our flag has become so important and such an important symbol is because there was such substance behind it. I find it very sad that we are rushing today to change this Constitution with very little debate, after over 200 years of not doing it, when at really the same time we are going to have a budget coming shortly that is going to take $32 billion worth of cuts out of veterans programs and another $7 billion worth of cuts out of veterans health care over the next 7 years. It seems to me we are going to be gutting the substance that this very symbol stands for.

We also, in this great rush to do this today, are dealing with the time where we just have the majority decide they are going to close the flag office. No more flag flying over the Capitol for American citizens who buy those flags and want that symbol.

What does that mean?

I think we are really trying to distract people almost from what is really going on in this body by this action today, and I find it very sad. When you read this amendment, this amendment does not say flag burning. This amendment says flag desecration. What does that mean? A 32-cent stamp with a flag on it could be canceled and someone could consider that desecration, because we the Congress will not just be the only ones defining that. All the States will be able to define what that means, too. It could very clearly be different in different places.

So you hear flag burning, but you better read, because when you read, it is something entirely different, and the standard is going to be very different. I wonder why this rush, why this hustle, why we cannot really debate this openly and why this now.

When you look at what the facts are, they tell us that there were just a few flag burnings. In fact, there were three in 1994, and there were none that they had on record, according to Congressional Research, the year before. Yes, zero, none.

So why the rush to this symbol? I think it is to fog what we are doing to the subtance of being an American.

Mr. Speaker, I submit for the RECORD an editorial from the June 21 Rocky Mountain News that I think puts the flag desecration issue in perspective.

I'm personally affronted by flag desecration, but, like the editorial writer, I am more affronted by big government efforts to stifle the free speech the flag represents.

That's why I have joined my colleagues, Representative DAVID SKAGGS of Colorado and Representative JIM KOLBE of Arizona, in sponsoring the alternative resolution to the proposed constitutional amendments to ban flag desecration that the editorial talks about. The resolution simply reaffirms the place of honor that the American flag holds and states that respect for the flag cannot be mandated, especially at the expense of the first amendment guarantee of free speech.

[From the Rocky Mountain News, June 21, 1995]

SYMBOLISM TO THE FORE

According to the Congressional Research Service, there were three flag-burning incidents in 1994—yes, all of three. There were none the year before. Zero. Doesn't flag-burning sound like a practice that is virtually irrelevant to the vast majority of this nation's 260 million citizens?

Yes, but even so, flag-burning remains an irresistible topic for many politicians. This has been the case since 1989, when the Supreme Court ruled that flag-burning was a form of expression protected by the First Amendment. That decision was seized by President George Bush and others, and the political impetus for a constitutional amendment has never died.

Indeed, no fewer than 279 members of the U.S. House of Representatives are now co-sponsoring a resolution that would amend the Constitution to permit Congress and the states to prohibit physical desecration of the flag. A vote could occur this month.

Needless to say, we hold no brief for the odd flag burner, but simply see little point in passing a constitutional amendment to outlaw the practice. At the very least, such amendments should deal with issues of great moment, for which there is an upsurge of popular demand. Congressional term limits would be a good contemporary example. Many issues of an older vintage come to mind, too, such as voting rights and the prohibition, and then legalization, of alcoholic beverages.

But there has been no great popular movement for a constitutional amendment on flag-burning. If asked by a pollster, most citizens indicate they favor the idea, but it has been driven forward since its inception by politicians.

As Democratic Rep. David Skaggs points out, not the least of the problems with flag-burning amendments is how far to extend the protection. What about flags with 48 stars? Or small American flags attached to clothing? How about those mini-flags that are planted atop tables and cakes? And what constitutes desecration?

To be sure, the authors of the Bill of Rights probably meant only to protect speech involving actual verbal or written utterances. Yet even if the Supreme Court's flag-burning decision is dubious, there is no doubt that the protest act itself is meant as a political statement. Why such eagerness to suppress dissident, if obnoxious, views?

Skaggs and Rep. Jim Kolbe, R-Ariz., are offering an alternative resolution to the House that honors the flag but leaves the Constitution untouched. Don't expect it to succeed, though. Not when there is a chance to corral a practice that has occurred an average of 1½ times annually during the past two years.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of House Joint Resolution 79.

Mr. Speaker, what is proposed here today is not unprecedented. We are proposing to overturn a Supreme Court decision which is wrong, just as wrong as the Dredd Scott decision which provoked the 13th, 14th, and 15th amendments to be proposed by Congress, just as wrong as the Supreme Court's decision invalidating the income tax which resulted in a constitutional amendment, and just as wrong as the Supreme Court's decision in the first decade under our Constitution on court jurisdiction that provoked the 11th amendment to be ratified by the States after being proposed by the Congress.

So the question before us here today is whether or not you agree with the 5-to-4 majority of the Supreme Court that flag burning is protected free speech. If you think it is protected free speech, go ahead and vote no on this constitutional amendment. If you object to the Supreme Court's decision, vote aye, and you are not setting a new precedent, because that has been done at least five times in the history of this country, when Congress and the States have flat out said those judges over there are wrong. They are wrong this time, and we ought to pass this amendment and send it to the States for ratification.

The SPEAKER pro tempore. Under the unanimous-consent agreement, the gentleman from Arizona [Mr. KOLBE] is recognized for 10 minutes.

Mr. KOLBE. Mr. Speaker, I yield myself 2½ minutes.

Mr. Speaker, I rise today in opposition to House Joint Resolution 79, a proposed constitutional amendment to ban flag burning.

I am a Vietnam veteran, a combat veteran. I am not sure I know why I have to state that credential, as though somehow my credentials would not be valid to speak in opposition to this amendment were I not a combat veteran. Let me lay that issue to rest. You can be for this amendment or against it whether you ever served in uniform or in combat. We are all Americans and our patriotism should not be questioned wherever we stand on this issue.

Mr. Speaker, this House is bringing fundamental change to the Federal Government. We are altering the very relationship Washington has with the States and the American people. And that should continue to be our focus.

This year we have voted on two constitutional amendments—one to require Congress to balance the budget, the other to limit terms of Members of Congress. I supported both amendments. They either proposed to alter the institutions of our National Government or to fundamentally change the way Congress conducts its business.

Mr. Speaker, there is not a crisis of disrespect for the American flag as a symbol of this great country. There is not a rash of flag burning. In fact, the Congressional Research Service reports that there were all of three incidents of flag burning in 1994. We can count on our fingers the flag burning incidents since the Supreme Court ruled that such behavior—despicable though it may be—is constitutionally protected. I disagreed with that Court decision. I do not believe our Founding Fathers contemplated that a physical act of desecration of the flag would be construed as speech. Nonetheless, that is the ruling, and it is one that we can live with.

Mr. Speaker, I will not dwell on the many questions this proposed amendment raises—does it include flag patches or a uniform? Are partial reproductions of flags covered by the intent of the amendment? Suffice it to say that this amendment very simply is not necessary.

We honor our flag with our behavior every day. We show our respect in large ways and in small ways. But this body could do nothing more fundamental to honor our country—and its symbols—than by restoring fiscal responsibility to this Government.

So let us get on with the business we were sent here to do. Let us balance the budget, let us return responsibilities to the States, let us empower the American people. We do not need to pass a constitutional amendment on the flag to show that we love and respect this great symbol of America. We cannot legislate patriotism and we cannot pass laws to make people love their flag.

I urge a "no" vote on this resolution.

The SPEAKER pro tempore. The gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, we need to set the record straight. They are saying that flags had not been burned around the country, and they are going back to 1994. Only two blocks from here, Mr. Speaker, they burned two flags on June 14. A fellow had a nice cake down there and was passing out the cake, and two nuts came up and started burning the American flag. The Interior Department tried to stop them.

So we need this bill. They are burning the flags only two blocks from here.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Speaker, some years ago, this House voted on a constitutional amendment to prohibit desecration of the flag. I voted against that amendment because I felt—and still do—that the Constitution should be amended only as a last recourse. I had hoped a statute prohibiting desecration of the flag would reach the same end. The statute passed but was overturned by the Supreme Court.

Once again, Congress is considering a flag desecration amendment. This time, I plan to vote for it.

It is not that my views about the flag have changed; I have always felt that desecration should be against the law. And it is not that my views about the Constitution have altered; changes to this document must be kept to a strict minimum. But given the fact that a law will not stand, I believe a constitutional amendment is warranted. I do not believe we endanger our freedoms by protecting our flag.

Like every Member of Congress, I am constantly aware of our flag. I salute it on the House floor in the morning; I often bring a flag to a school or a firehouse when I am home. When I review a parade—on Memorial Day, Veterans Day, or the Fourth of July—I never see the flag pass without my heart expanding with love.

And I am constantly aware of how Americans revere their flag.

The various anniversary celebrations of World War II demonstrated so strongly the significance our flag has for veterans. Men and women who had never heard of Okinawa or Iwo Jima followed the flag to those distant battlefields so democracy could survive.

To Americans, our flag is unique. This amendment recognize this uniqueness in our Constitution in a special way.

I have only once before supported a Constitutional amendment, believing that the Constitution was a near-perfect document. I now believe that the Constitution will be brought even closer to perfection by adding to it a special place for our flag. For this reason, I will support this amendment today.

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Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York [Mr. SERRANO], an outstanding member of the Committee on the Judiciary.

Mr. SERRANO. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, to my right here is the reason why this amendment makes very little sense. Let me first preface by saying that I, too, like the gentleman from New York, served our country's armed services. I was doing it to protect not only the flag but what the flag stands for. I, too, like the gentleman, if I am walking on the street and I see someone hurting our flag, will grab him and slap him around, not because he does not have the right to do it but because he is being stupid.

The problem with this amendment is that it really cannot be enforced fairly. Here are symbols of the flag. The question to be asked is, does this amendment cover these symbols? Will every State uniformly speak to this issue? So if you wear a soccer shirt with the American symbol on it and you sweat it up or you are a terrible soccer player, will that offend somebody and therefore be covered by this amendment?

How about those tacky ties to the far right? One is orangy red; the other one gets even worse because it tries to imitate the flag in a miserable way. That tie really does not look good on anyone, but will it look better on someone and, therefore, be OK? That is a question.

On July 4, this weekend, people throughout this country will be eating cake made out to look like the American flag. Some will be light. Some will be full of cholesterol. Is that offensive to someone? That is a question to be asked.

Get ready for this. You see this flag here? This could be covered by this amendment. This flag was made in Taiwan. If you really want to talk about offending the flag, should not all flags be made in this country by American workers? Buy America, only American flags.

Right here we have a young woman who looks very good in a flag. She has got a flag skirt on. How about someone who does not look good in that flag?

Up here is the symbol of my hometown, Mayaguez, PR, where I was born. It has the Puerto Rican flag and the American flag as symbols of the Commonwealth. Some statehooders use that symbol to express their desire to be the 51st State. Some people who believe in independence or Commonwealth find that offensive to put both flags together. Some might decide that that is improper for their flag or for their Commonwealth, and how would they be protected under this amendment?

The point is a simple point. Do any of these symbols of the American flag get covered under this amendment? If so, why will you not let us discuss the issue of what constitutes the flag and what constitutes desecration of the flag?

I realize that we have an amendment, but we wanted to amend piece by piece to be able to discuss this. The gentleman from New York should know that.

I would think, my colleagues, that the best way to protect our flag is not to worry about what constitutes the flag and what constitutes desecration. If that flag could speak to us, it probably would tell us to stop this silly debate and to do what it stands for. It would tell us to feed the children that are hungry. It would tell us to take care of the senior citizens who need Medicare. It would tell us to stop disliking each other along racial lines. It would tell us to respect each other. If you do that, you honor the flag. If you put this as a question, you make a mockery of the flag.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. BARR].

Mr. BARR. Mr. Speaker, let there be no doubt about it, this is the American flag. I do not think there is any, and I certainly hope there is no, school child in America from the seventh district of Georgia to the first district of New York to the third district of California that does not know that this is the American flag. It is defined in statute. And even if it were not, there is a very commonsense and very broad understanding in America, obviously not to some Members of this Chamber on the other side, as to what is the American flag.

Let us be very clear, Mr. Speaker, about what we are not doing here today, just as we are clear about what we are doing here today. We are not amending the Bill of Rights. We are not limiting free speech, which is what the Bill of Rights talks about. We are limiting offensive conduct. Congress does that every year when we look at our criminal code. There is nothing wrong with that. There are precedents for it every single year of our Union. That is all that we are doing.

The constitutional amendment that is contained in this resolution is very narrow; it is very clear. And more important, Mr. Speaker, the American people are demanding it.

They are demanding that we do for them the one thing, the only avenue that they have left open to them by the Supreme Court of the United States: To give voice to their sentiments, to give voice to their patriotism and protect this flag. If we were today to deny them that opportunity, and that is all I would say to my colleagues on the other side of the aisle, that is all we are doing, is giving them the opportunity to do what the Supreme Court has said: This is the only way you can accomplish what you, the American people; want to do. If we deny them that right, that would be the height of everything that we do not stand for here in this Congress. We stand for representative democracy based on our Constitution.

Let us not, Mr. Speaker, let us not deny to the American people what they are demanding in overwhelming numbers. The stack here before me is but a very small token of that. I urge strong support and adoption of this resolution for the American people.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Indiana [Mr. VISCLOSKY].

Mr. VISCLOSKY. Mr. Speaker, I rise in opposition to the pending amendment.

Mr. Speaker, as we debate a constitutional amendment to ban flag desecration, the following questions must be answered. Do people have greater freedom in Communist China and Iraq, where protests that offend the government are crushed violently? Or do people in the United States have more freedom, where offensive political protest is constitutionally protected? In the United States, the flag flies on the mast of freedom and liberty. In China and Iraq, the flag flies on the mast of totalitarian oppression. In which country does the flag fly as a true symbol of national pride?

Some people have said that the last election was a call for freedom from Government intrusion. According to this analysis, people across the Nation who felt that Government had become an oppressive force voted for less Government and more individual freedom. The constitutional amendment to ban desecration of the flag turns this analysis on its head.

I am disgusted and offended by the act of burning the American flag. Burning or otherwise desecrating the flag is a stupid, mean, and reprehensible act. I cannot comprehend why anyone living in our great Nation would want to desecrate this beloved symbol of our country. However, the Supreme Court has ruled that burning the American flag is symbolic political speech, protected by the first amendment to the Constitution—the cornerstone of our freedoms.

As Roger Pilon of the Cato Institute said, "The principles at stake could not be more simple or clear. Indeed, they are the principles at the core of the American vision. The right of the individual to be free is the right to do what one wishes short of violating the rights of others. That includes the right to do or say what is popular, for sure. But it includes, as well, the right to do or say the unpopular. For it is then, when our actions give offense, that our freedom is put to the test. It is then, precisely, that we learn whether we are free or not." Pilon then quotes Sir Winston Churchill's observation that "the United States is the land of free speech."

When I was sworn into office, I took an oath to uphold the Constitution of the United States. That document and the principles it embodies have made our country the greatest in the history of the world. For more than 200 years, it has endured—through times of tranquility and tremendous crises. Through two world wars and a civil war bloodier and more costly to our country than both world wars combined, the Constitution has preserved our freedom. Through the Korean war and then through the long years of wrenching involvement in Vietnam, the Constitution has protected the freedom of the people from the oppression of Government.

The U.S. Constitution has made ours a better country than any in the world because it has guaranteed that certain basic individual rights are more important than the powers of Government. The Constitution says that certain inalienable rights, such as liberty, cannot be invaded by Government—Federal or State—no matter how well-meaning the Government might be.

At times in our history, when we feared the Constitution was not strong enough to protect the rights of every citizen regardless of their situation in life, we amended it to provide greater protection of individual rights. For example, the 13th amendment prohibited slavery and the 19th amendment allowed women to vote.

But never, never, in our history, not because of our greatest fears or in our darkest despair, never have we jeopardized our Bill of Rights. We may very well do that today. And for what terrible threat are we willing to risk our most fundamental constitutional right? Has there been an epidemic of flag desecration sweeping the Nation? Have any of any colleagues seen anyone desecrate the flag? Why, when we have been through such tough times and accomplished so much as a Nation, why would we let a few jerks who have desecrated the flag limit everyone's freedom.

I have two sons, Tim and John. I would not be my father's son if I left my children—or any other American—with fewer freedoms than my father has given me. We are the greatest Nation on Earth in no small part because of the individual freedoms contained in the Constitution and the Bill of Rights. If the Constitution and Bill of Rights were good enough for Washington, Madison, Jefferson, and Franklin and good enough for our Nation to become the world's greatest, it is good enough for this Congress and this Nation.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Rhode Island [Mr. REED], a distinguished member of the Committee on the Judiciary.

Mr. REED. Mr. Speaker, I rise in opposition to this amendment. My respect for the flag and reverence for the flag stems from many, many years of service as an Army officer, a graduate of West Point. Indeed, this is not just rhetorical reverence, it is reverence born by experience.

I am offended when the flag is abused, deeply offended. But today we are considering a constitutional amendment which I think, although attempting to preserve the symbol of our freedom, encroaches substantially on the substance of our freedom. I cannot describe that phenomenon any better than the words of James Warner, a former marine flier in Vietnam who was a POW. He wrote an opinion letter back in 1989, when this was being debated before.

Mr. Warner was captured by the Vietnamese. He was being tortured. In fact, at one point the Vietnamese officer showed him a picture of American protesters burning a flag and the interrogator said, "People in your country protest against your cause. That proves you are wrong."

Mr. Warner replied, "No, that proves I am right. In my country, we are not afraid of freedom, even if it means that people disagree with us."

I do not think we should be afraid of freedom. I think we should in fact support freedom. If we were to pursue a constitutional approach to preserving the flag, it cannot be this approach, because just on technical merits, this fails miserably. As my colleague, the gentleman from New York [Mr. SERRANO], indicated, physical destruction or desecration of the flag is something that encompasses a range of things. Is underwear in the shape of the flag a physical desecration? I believe in many, many cases, it is disrespectful, but is it constitutionally desecration?

More than that, some States could say it is; some States could say no. We would be living in a situation where if you were wearing an American flag tie in one State and crossed the border, you could be arrested. We must reject this amendment. Indeed, we must support the substance of our freedoms.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE].

Mr. GOODLATTE. Mr. Speaker, as an original cosponsor, I fully support this amendment which an overwhelming majority of the American people support and feel strongly that it is an important addition to the Constitution. Through their elected representatives, the people have spoken: 49 of the 50 State legislatures, including my State of Virginia, have passed resolutions calling on Congress to pass this amendment.

The American flag is the most powerful symbol of the United States. It represents the ideals of freedom, equality and liberty on which this Nation was founded. The Stars and Stripes have led our Nation, our Armed Forces in conflict time and again, reassuring our troops and reminding them of what they were fighting for.

Many Americans have given their lives carrying that flag and protecting it. Many Americans are outraged when we think of our grand flag being desecrated. We are not altering the Bill of Rights as some in the minority has said. I am a staunch defender of first amendment rights. I do not believe that burning a flag is free speech despite what the Supreme Court has said in two wrong-headed decisions.

Talking about the flag is free speech. Criticizing America and its Government, for those who care to do so, is free speech. But physically desecrating an American flag is not. Americans know speech when they see it, and they know that what Gregory Lee Johnson and Sara Eichman, the defendants in those court cases, did to the American flag is not free speech.

The American people want us to confirm what one of the verses of America the Beautiful asks our Nation, "confirm thy soul in self-control, thy liberty in law."

Pass the amendment.

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. MASCARA], a member of the Committee on Veterans' Affairs, a new Member of Congress and a great patriot.

Mr. MASCARA. Mr. Speaker, I thank the gentleman from Mississippi for yielding time to me.

Mr. Speaker, I rise to express my support for House Joint Resolution 79, the amendment to protect the flag. Many members of my immediate family including myself have served in the Armed Forces to protect the American flag. My father, a decorated veteran of World War I, was the first member of my family to serve in the Armed Forces of the United States of America.

He did not fight in World War I and earn a Silver Star for someone to burn the flag that he served under. My brothers, veterans of World War II, did not fight for someone to burn the flag that they fought to defend. From my family's record of service I have learned both great respect and love for my flag.

Moreover, I have long supported the effort to protect the American flag from desecration. Unlike my father and brothers, my battle is not on foreign soil. But I defend our flag in the most ironic of all places—the floor of the U.S. House of Representatives. I have joined them in the battle to protect our flag.

Our American flag must be protected. It is more than a mere symbol of our Nation. Our flag is the living embodiment of what this Nation stands for, freedom, liberty, justice, and equality. When someone destroys our flag he is saying that he would destroy those values for which our flag stands. He is saying that he does not believe in justice. He does not believe in liberty. He does not believe in equality. He does not believe in the United States of America.

I assure my well meaning opponents, this debate is not about curtailing protest or an infringement of first amendment rights. Most forms of protest are patriotic and very American. In fact, many competing protest movements have as their center piece our American flag.

Our flag flies above the protesting factions proudly casting a shadow on the protesters below. Our flag unites these people. Our flag proves to the world that while we may disagree, we all are united by one common bond—we are Americans.

In closing I would like to share with you a section of a poem given to me by one of my constituents, Mary Smith, of Fayette County, PA.

> "Old Glory" is my nickname and proudly do I wave on high. Honor me, respect me and defend me with your lives and fortunes. Never, never let the enemy bring me down from this place that I hold so high because, if you do—If you do—I may never return.

Please, vote to protect the flag.

□ 1300

Mr. KOLBE. Mr. Speaker, I yield 2½ minutes to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, as the House moves closer to a constitutional amendment to ban flag burning, I am reminded strangely enough of the book of Exodus. When the Israelites were given the Ten Commandments, they were warned against graven images as symbols of God. The wisdom of this is obvious. It is easy to confuse the symbol of something with what that symbol represents, and what that symbol symbolizes, so one worships the statue instead of what the statue represents.

Mr. Speaker, the House is about to make a similar mistake, confusing the flag with what it symbolizes. I remember when I came home from Vietnam, after spending 4 years in the Marine Corps, I read about incidents where students were insulting servicemen and waving North Vietnamese flags instead of American flags, and I started to think "Is this what I and members of my platoon were fighting and dying for?"

It took a few years for me to realize that the right to be obnoxious, the right to be unpatriotic, was the essence of what we are fighting for. Freedom means the freedom to be stupid, just as surely as it means the freedom to be wise. No government should ever be so powerful as to differentiate between the two.

I understand the anger and the frustration of people when they hear about malcontents who burn the flag, and most of the time they do that to get attention. I was raised to respect the flag, and I cannot understand anybody that would do otherwise. However, if these malcontents can get us to alter the Constitution, the very premise and foundation of this country, then they have won and we have lost. I read about a southern State legislator who said that nothing is more stupid than burning the flag and wrapping oneself in the Constitution, except burning the Constitution and wrapping oneself in the flag.

When we accept the principle of free speech, we have to recognize that it is both a blessing and a curse. We have to understand that the reasoned voices of good men will often be drowned out by the blustering of fools. We have to understand that the government will not be able to protect us from speech which is imprudent or offensive, in most cases, and we accept all of this as the price of freedom.

The work of Betsy Ross is beautiful. The flag is an honored symbol which deserves reverence and respect. However, it is meaningless without the work of Jefferson and Madison. How do we protect and show respect for the flag? We are good family members, we are good fathers, good mothers, we serve our country, we serve our community, we serve our Nation, and we serve our family.

Mr. CONYERS. Mr. Speaker, I am delighted to yield such time as she may consume to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I revere the flag, I respect the Constitution, and for those reasons, I rise in opposition to the constitutional amendment.

Mr. CONYERS. Mr. Speaker, I am delighted to yield such time as he may consume to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Speaker, I rise in support of our flag and Constitution and against this constitutional amendment.

Mr. Speaker, 2 weeks ago today, on June 14, I rose on the floor of this Chamber to lead the House in the Pledge of Allegiance to the flag. On June 14, of course, we celebrate Flag Day.

It will come as no surprise to my colleagues to learn that Flag Day is observed with a great sense of history and pride at Fort McHenry, in Maryland's Third Congressional District, which I have the honor to represent. At 7 p.m. that evening, 8,000 Marylanders gathered at the fort from which Francis Scott Key watched the rockets' red glare, to participate in the Pause for the Pledge.

The Pause for the Pledge is organized and directed by the National Flag Day Foundation, which is also based in Baltimore. The foundation began in 1982 to promote Flag Day. Since then, the foundation has received more than 100,000 requests from all over the United States for information on scheduling ceremonies to observe the Pause for the Pledge. This year, more than 600,000 Americans will visit Fort McHenry, seeking to learn more about the stirring events that occurred there in the War of 1812.

We are here to debate the very serious issue of amending the Constitution. Since Francis Scott Key peered through the "dawn's early light" for a glimpse of the "broad stripes and bright stars", we have added only a dozen new provisions to the Constitution, and none that would compromise the Bill of Rights, as the constitutional amendment before us today would do.

The overwhelming majority of my colleagues now propose that we provide a measure of constitutional protection for the flag, our most treasured national symbol. I understand their feeling for the flag, and their anger at those few misguided fools who would seek attention by desecrating it.

According to the Congressional Research Service, in the past 2 years there have been three instances of individuals burning our flag. The Supreme Court has ruled, wrongly in my judgment, in a 5-to-4 decision, that State statutes aimed at criminalizing such behavior do not stand constitutional scrutiny.

Considering the split opinion on the Supreme Court, we should continue to pursue statutory means of protecting our flag. By pursuing a statutory approach, we will protect both our flag and our Constitution.

Today we are here debating a constitutional amendment to protect our flag. The Republican leadership has given us no opportunity to vote on a statutory approach. In thinking about whether the flag needs protection, however, I have found no need to look to the Constitution. Instead, I would encourage my colleagues to look to the American people. There they will find the flag in good hands, and well-protected.

I have mentioned the events 2 weeks ago at Fort McHenry, and the work of the National Flag Day Foundation. Flag Day provides a special occasion on which Americans proudly show their colors and demonstrate their love of our country and our flag.

Next week we will observe another special day for honoring the red, white, and blue. On July 4, Independence Day, millions of Americans will march in parades, attend festivals, wave the flag, watch fireworks, and gather with their neighbors and friends to celebrate our country's birth.

These 2 days, Flag Day and Independence Day, provide special opportunities for honoring our country and our flag. But we do not need to look at these 2 days a year to find evidence of the American people's feeling for their flag.

This past weekend, more than 180,000 fans filed into Oriole Park at Camden Yards in Baltimore. Before they settled in to watch the Red Sox and the Orioles, they joined in the tradition of singing the national anthem, "The Star Spangled Banner."

Every day of the school year, which ended for most Maryland children the day before Flag Day, begins with the Pledge of Allegiance. In my congressional district, nearly 100,000 school children, from kindergartners through high school, know the Pledge of Allegiance and respect the flag.

Mr. Speaker, every day, in ball parks, in school classrooms, at historic sites like Fort McHenry, millions of Americans from all parts of the country and all walks of life affirm their affection for their country and their flag. I salute their patriotism. We have nothing to fear from the pathetic handful of misfits who would burn or otherwise dishonor the flag.

The Constitution sets forth the freedoms we guarantee to every American. The flag symbolizes the freedoms protected in the Constitution. It has been that way for all of our Nation's history.

In the minds and hearts of the overwhelming majority of Americans, the flag and the Constitution stand together. Neither needs protection from the other. Indeed, both the Constitution and the flag derive the protection they need from the American people.

Mr. CONYERS. Mr. Speaker, I am delighted to yield 2 minutes to the gentleman from Virginia [Mr. SCOTT], one of the great constitutional members of the Committee on the Judiciary.

Mr. SCOTT. Mr. Speaker, I think first we want to put what we are doing in perspective. Every year over 2,300 murders occur in my congressional district. We are having cutbacks in health care, we are reducing funding for homelessness, we are reducing funding for veterans' health care, veterans' pensions, we are cutting back on our future by cutting back in education, and here we are, discussing the flag.

Whatever we do with this amendment, Mr. Speaker, there will be no more respect for the flag. Not one of those million people will respect the flag any more or less, depending on what we do. What we will have if we pass this amendment is a legal quagmire about what is a flag and what is desecration. The flag is burned more today in American Legion halls and Boy Scout troops than anywhere else, because that is the ceremony you use for disposing of the flag.

Mr. Speaker, the flag and the principles for which it stand do not need protection from the occasional imbecile who protests without realizing that he is destroying the very symbol of his right to protest, and somebody that cannot figure out that his method of protesting cannot possibly benefit his cause.

Finally, Mr. Speaker, if we do not pass this amendment, we will be sending a message to the American people that we are saying that Americans do not need the criminal code to enforce their patriotism.

Mr. Speaker, I would hope that we would defeat this amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Illinois [Mr. FLANAGAN].

Mr. FLANAGAN. Mr. Speaker, as an original cosponsor of House Joint Resolution 79, I am proud to be here today along with Congressmen SOLOMON and MONTGOMERY, as well as all those patriotic Americans, past and present, who are with us today in the galleries and in spirit, as we take this giant step forward in our long struggle to adopt an amendment to the Constitution which will forever protect our majestic and glorious flag from those ungrateful and disingenuous individuals that purposefully desecrate it. I believe this amendment will be an excellent addition to our Constitution—a document I believe to be the greatest invention ever created by the mind and hands of man—and I urge all my colleagues to support it.

When the Court ruled in 1989, in a 5 to 4 decision, that flag burning in public protest was an act of free speech protected by the first amendment, it did not only free Gregory Johnson, a miscreant who danced around a burning flag chanting, "Red, white and blue, we spit on you!," it also nullified the flag-protection laws in 48 States.

A vast majority of Americans were, and still are, outraged over the Texas versus Johnson decision. Unfortunately, the only sure way of reversing this decision is for the Congress to report to the States for ratification this wonderfully crafted constitutional amendment. The Congress has failed in its previous attempts, but this time I think we have the votes to push it through.

This amendment is long overdue, and while being a veteran is no litmus test of patriotism, as a veteran especially, I feel it is imperative that our beloved symbol of nationhood and freedom be guaranteed the respect that it deserves since it represents the souls of all those departed American heroes who fought so valiantly to protect it for over the last 200 years.

Mr. Speaker, before closing, I want to reiterate my strong support for House Joint Resolution 79 and thank those grassroots groups, especially the veterans organizations, who worked so tirelessly to rally the necessary support for this measure.

Mr. CONYERS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York [Ms. SLAUGHTER].

Ms. SLAUGHTER. Mr. Speaker, as a 10th generation American who realizes that every country has had a flag and most have a constitution, I would remind my colleagues the one thing that makes us unique is the Bill of Rights. I do not think we need to trifle with it. I rise in opposition to this legislation.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California [Ms. LOFGREN], a distinguished member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Speaker, debating the rule, I showed everyone my tie that my son got me, and my wonderful flag earrings that my 13-year-old daughter got me. I wore it today because if this amendment were to become part of the Constitution, I could be arrested for wearing this.

I do not feel unpatriotic. We fly our flag at home on holidays. I love my country. I love the flag. What I love more than the flag, Mr. Speaker, is the Constitution that stands behind that flag. We have had our Bill of Rights for 204 years. I have heard that this is not about the first amendment. That is not so, because the Supreme Court has made a ruling, and the Constitution provides that it is the Court that decides final questions of law, not the Congress.

Mr. Speaker, I will never vote to amend the first amendment. I think real conservatives do not want to amend the first amendment or any of the Bill of Rights. Real conservatives do not try to amend the Constitution three times in 6 months.

Mr. WILLIAMS. Mr. Chairman, will the gentlewoman yield?

Ms. LOFGREN. I yield to the gentleman from Montana.

Mr. WILLIAMS. Mr. Speaker, I asked the gentlewoman to yield for the purpose of saying to people, particularly our veterans, I encourage Members to look at the timing of this, the timing of it. Within 24 hours this House, including a majority who vote for amending the Constitution, will vote to cut $17,900,000,000 out of veterans' benefits.

Within 24 hours from where that clock is now, the House of Representatives, and a majority of whom are going to vote for this amendment, will have voted to cut $32 billion below today's veterans services. Do Members know what the timing of this amendment is? It is a duck, a dodge, a camouflage. It is a dupe, a ruse, a subterfuge.

If people are veterans and they are worried about fewer hospitals, they should not worry about that, we are going to save the flag for them. They should not worry about too few outreach centers or losing physicians or losing pharmacies, the Republican leadership is going to save the flag for them. They should not worry that they do not have any veterans' nursing homes; my veterans' friends, the Republicans, are going to save the flag for them. If they are Desert Storm victims, they should not worry about the fact that they are getting inadequate service.

Rudyard Kipling a long time ago wrote about a fellow that came back named Tommy Atkins, a veteran. This is what he wrote:

Now it's Tommy this, an' Tommy that, an' "Tommy go away;"
But it's "Thank you, Mister Atkins," when the band begins to play.
Now it's Tommy this, an' Tommy that, an' "Tommy fall be' ind,"
But it's "Please to walk in front, sir," when there's trouble in the wind.
You talk o' better food for us, an' schools, an' fires, an' all:
We'll wait for extra rations if you treat us rational.
Yes, it's Tommy this, an' Tommy that, and "Chuck him out, the brute!"
But it's "Savior of his country" when the guns begin to shoot.
Yes, "It's Tommy this, an' Tommy that, and anything you please;
But Tommy ain't no blooming fool, you know, Tommy can see.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Speaker, the veterans of our country are the first to recognize that the march toward a balanced budget is absolutely necessary for the national security of our Nation, for the standard of living that applies to every American citizen, and for the future security of our country and everyone in it. The veterans are in the front on that march, just as on every other march.

In the meantime, there is a missing element in this debate. That is the heart of Americans. That heart, that collective heart, was horrified beyond belief when they watched on television the hostage crisis in Iran, when our enemies were burning the American flag and otherwise desecrating it. That horror was magnified a thousand times when they saw American citizens, our fellow Americans, doing the same thing on domestic grounds.

That heart can tolerate no longer any further desecration of the symbol that binds all our American hearts together. If I had it in me, I would add another amendment to make the English language the language of our Nation, because only the flag and the language are the unifying symbols of our country.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina [Mr. WATT], one of the great new constitutionalists on the Committee on the Judiciary.

Mr. WATT of North Carolina. Mr. Speaker, I have risen many times in this cherished Hall in defense of the Constitution of the United States. I do so again today. Our flag is but a symbol of our democracy, but our democracy and the freedoms which make it unique and strong are not defined by a symbol, but by the guarantees in our Constitution and our Bill of Rights.

Most of those guaranteed freedoms often do not enjoy a majority support. In some cases, they were written into the Constitution to protect them against the majority. That is what makes our democracy unique. That is what makes America America. What do we gain by protecting the symbol if we fail to protect the rights it symbolizes?

The supporters of this amendment will argue that they are the true patriots, but where were these patriots when the constitutional principles of our democracy were under attack during the first 100 days of this Congress? Where were these patriots when we voted on the language of the fourth amendment?

Mr. Speaker, I come from North Carolina, a State that refused to ratify the U.S. Constitution until the Bill of Rights was incorporated into it. It is a State that recognized in 1792 that our fundamental rights were so important that they had to be delineated in the charter of this Nation. Today I stand in support of that same charter, and I stand patriotically in support of that same charter.

□ 1315

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Speaker, I was in the Hall as I heard the remarks from the gentleman from Montana which were quite disturbing to me, being a Desert Storm veteran.

We all have the intellectual abilities to spin this however we want. Those who are going to vote against this amendment are going to be scared to death going back to their districts. I can understand that. I also respect your intellect. None of us here challenges your patriotism.

Let me do say, though, that I believe that the flag is definitely a national symbol that is worthy of respect and should be protected against acts of disgrace. That is what this issue is about. None of us that will vote to support this amendment challenge the patriotism of those who are going to vote against this amendment, so stop the spinning there and trying to spin politics into this one, also.

I think this is a great credit to our system, where we have 49 States out there come to us and they say, this is what the American people are asking of us. There are some in this body that are going to say no to that. I think that is really unfortunate.

We should listen to the American people. Because the American people when they say, "We are upset with the direction of the country," there are a lot of things that they say about that. One of these is a symbolic vote and one of substance here by supporting this amendment to prevent desecration of the flag.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Colorado [Mr. SKAGGS], who has worked very, very energetically on the proposal before us.

Mr. SKAGGS. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, amending the Constitution, and for the first time amending the Bill of Rights, is an extremely serious step. We should take it only under the most compelling circumstances. The few idiots who misguidedly believe that flag desecration will further their cause should not cause us to weaken the first amendment.

What is the grave danger to the Republic that will be remedied by this amendment? There is none. What case can be made that this amendment enhances our constitutional order? None. And absent a significant evil to be avoided, or a significant improvement to be made, we should not undertake the most serious step of all acts of Congress—an amendment to the Constitution.

We have heard a lot this year about cost-benefit analysis in other contexts. What about now? The costs: a real if subtle paring down of the rights of open and free expression; a softening up of the first amendment, making subsequent and more damaging cuts into its protection of freedom that much easier; perhaps the prospect of years of litigation about the multiplicity of definitions of "flag" and "desecration" which will abound under this amendment.

The benefits: Old Glory will be protected, even as the magnificent freedoms fcr which it stands are diminished.

Our Nation was founded on the ideals of democracy and freedom, the freedom to speak our minds without interference from Government. And while isolated acts of disrespect for the flag may test our tempers, we should not let them erode our commitment to freedom of speech.

The first amendment and its guarantee of free and open political expression is at the very heart of this Nation's tradition of freedom and self-government. We change it at our great peril.

We do not need to amend the Bill of Rights to show our respect for the flag. Respect for the flag should not be mandated, especially at the expense of the first amendment's guarantee of free speech. It cannot be mandated. That respect, to be genuine, to be a respect that truly honors the flag, cannot be a legal requirement. It must flow from the natural love of our freedom-loving people for the beautiful standard of our Nation and the exquisite symbol of our freedoms.

The great irony here is that a constitutional amendment will ultimately render respect for the flag into a Government mandate, and so sadly will contribute to its own undoing.

Let us not leave a tear in the Bill of Rights.

Mr. Speaker, for the first time in our history, we are on the verge of amending—and weakening—the Bill of Rights. What a shame.

I can think of no better invocation on this debate than the words of Justice Oliver Wendell Holmes: " * * * we should be eternally vigilant against attempts to check the expression of opinions we loathe * * *"

As a veteran, I have great pride in the American flag. I know the strong feelings of patriotism and pride in flag and country which motivate the supporters of this proposal.

I too am fiercely proud of the values and ideals the flag symbolizes. Our flag should command the deepest respect. I believe the flag commands that respect because it stands for a nation and a community strong enough to tolerate diversity and to protect the rights of those expressing unpopular views, and even expressing them on some regrettable occasions in an offensive manner. It is our Nation's strong commitment to these values, not the particular design of our flag, that makes the United States an unparalleled model of freedom and, in my opinion, the greatest of all the nations.

As an American, I am deeply offended by any act of disrespect to the flag, including physical desecration such as flag burning. But it would be a mistake if, in the attempt to prohibit disrespect for the flag, we show greater disrespect for the Constitution and for the essential liberties of a free people now guaranteed by the Constitution.

There are only a handful of flag burning incidents each year—according to the Congressional Research Service, only three in the past 2 years.

Amending the Constitution, and for the first time amending the Bill of Rights, is an extremely serious step. We should take it only under the most compelling circumstances. The few idiots, who misguidedly believe that flag desecration will further their cause, should not cause us to weaken the first amendment.

What is the grave danger to the Republic that will be remedied by this amendment? There is none. What case can be made that this amendment enhances the constitutional order? And absent a significant evil to be avoided, or a significant improvement to be made, we should not undertake the most serious of all acts of Congress—an amendment to the Constitution.

We've heard a lot this year in other contexts about cost/benefit analysis. What about now? The costs—a real, if subtle, paring down of the rights of open and free expression; a softening up of the first amendment, making subsequent and more damaging cuts into its protection of freedom that much easier—a school prayer amendment, perhaps; the prospect of years of litigation about the multiplicity of definitions of "flag" and "desecration" that will abound under this amendment. The benefits—Old Glory will be protected—even as the magnificent freedoms it stands for are diminished.

Our Nation was founded on the ideals of democracy and freedom—the freedom to speak our minds without interference from Government. While isolated instances of disrespect for the flag may test our tempers, we should not let them erode our commitment to freedom of speech. The first amendment, and its guarantee of free and open political expression, is at the very heart of this Nation's tradition of freedom and self-government. We change it at our great peril.

We do not need to amend the Bill of Rights to show our respect for the flag. Respect of the flag should not be mandated, especially at the expense of the first amendment guarantee of free speech. I cannot be mandated. That respect, to be genuine, to be a respect that truly honors the flag, cannot be a legal requirement. It must flow from the natural love of our freedom-loving people for the beautiful standard of the Nation and the exquisite symbol of our freedoms. The great irony here is that a constitutional amendment will ultimately render respect for the flag into a Government mandate and so, sadly, will contribute to its own undoing.

Mr. KOLBE. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Illinois [Mr. PORTER].

Mr. PORTER. Mr. Speaker, the first amendment to the Constitution, the supreme law of our Nation, proclaims that, "Congress shall make no law abridging the freedom of speech or of the press." This principle of free speech is an absolute, without proviso or exception. The citizens of the newly free colonies had lived through the tyranny of a repressive government that censored the press, prevented meetings, and silenced those who would speak out to criticize it. They wanted to make certain that no such government would arise in their new land of freedom and the first amendment—as with all 10 amendments of the Bill of Rights—was a specific limitation on the power of the Government to prevent free expression.

We have lived for more than 200 years true to that original principle: that personal utterances, expressions or writings, however offensive to others, or however critical of our Government, cannot be repressed by a majority in our Congress.

Now there are those who would like to write an exception, who would for the first time in our history to qualify that right written by the first Congress 200 years ago. Their burden is a heavy one. Only the most dangerous of acts to the very continuance of our Republic could possibly be of sufficient import to require us to qualify in any way the principle which lies at the bedrock of our free society.

That act they claim is the desecration of the flag, in protest or criticism of our Government, I submit, Mr. Speaker, that such an act is exactly the kind of expression our Founders intended to protect, that they themselves had torn down, spit on, and burned the Union Jack in protest of the British Government's oppression; and that their greatest fear was of a central government of our own so powerful that individual protests and criticisms could be silenced.

We have lost our way in America if we believe criticism of the Government should now be curtailed. We have forgotten our history. We have laid our Constitution and the Bill of Rights aside.

The act of desecrating the American flag is abhorrent in the extreme, an outrage to the sensibilities of patriotic Americans and representative only of the perpetrators' small minds, lack of judgment, and ignorance of the history and meaning of our country. But Mr. Speaker, it is not an act that threatens in the least our existence as a Nation. Rather, our toleration of it reaffirms our commitment to free speech, and to the supremacy of individual expression over governmental power, which is the essence of our history, the essence of America.

The real threat to our Nation, to the principles that have guided us for 200 years, comes from changing them.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think that this debate has been good for all of us. We are all learning more about the Constitution, and that is what it is all about.

I was reading opinions from constitutional scholars, Steven Presser of Northwestern University among them, and they keep coming back to the idea that blowing up of buildings, doing crazy things on the streets is really not an expression of freedom and goes beyond common sense. Therefore, burning the flag is beyond common sense and, therefore, the flag amendment does not hurt the first amendment freedom of speech. I think that is a very, very strong point, that when you burn the flag, you are going beyond the common speech or the common sense that individuals are entitled to in this country.

Mr. Speaker, there are more signatures—and I have been around here for quite a while—that is the most signatures I have ever seen from the American people, over 1 million signatures saying that they want a constitutional amendment. I want to commend the American Legion and other veterans' organizations, plus the Citizen Flag Alliance, for going out. This is what the people want, Mr. Speaker. They want a constitutional amendment; over 80 percent of them in a poll have said that. We ought to give them what they want.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for leading this fight and for the great work he has done. I have to agree with him with respect to burning the flag. That is not a statement, that is not speech. That, as

Judge Rehnquist said, is an inarticulate grunt. There are a lot of other ways to express yourself rather than lighting a fire, and this is not speech. I think the gentleman is right on that. I thank him for his leadership.

Mr. MONTGOMERY. Mr. Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT of Nebraska. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise today to express my strong support for House Joint Resolution 79. As has already been stated, this amendment is supported by 49 State legislatures and more than 80 percent of the American public. I hope that when the day ends, it will also have received the resounding support of this Chamber.

Since the birth of our country, the flag has been the accepted symbol of our national unity, pride, and commitment to democracy. It was the inspiration for our national anthem, was raised in victory for the immortalized moment of Iwo Jima, was placed on the Moon to proclaim the U.S. conquering of space, and is waved by millions of Americans at parades, rallies, and sporting events.

The flag is not just a piece of cloth. It is the embodiment of all that the brave men and women of our country have fought, sacrificed, and laid down their lives for.

We cannot allow the U.S. flag to be set on fire, spit upon, and trampled as a form of political expression. These acts are not speech; they are examples of destructive conduct that insult every patriotic American.

Mr. CONYERS. Mr. Speaker, I am proud to yield 3 minutes to the gentleman from Michigan [Mr. DINGELL], the dean of the House.

Mr. DINGELL. Mr. Speaker, behind you stands the great flag of this beloved country, the symbol of our liberty, the sign of our freedom, the hopes of our people. I love it, I revere it, and I have served it in World War II and for 40 years in this body. It is a precious national treasure, and it deserves to be honored by all.

But I have also in my hand something else which is even more precious to any free man in this country. It is the embodiment of our liberties. It defines our freedom, it lays out the structure of our Government. It sets forth those things which distinguish Americans from any other race in the world. It is the document which defines how an American is different from any citizen of any other Nation.

This morning I had a call from a veteran who, like me, served his country. In that he urged me to protect the flag, but he said to do so by protecting the Constitution. He shares with me the disgust for those who would dishonor the flag. However, he reminded me, more importantly, that by voting for this amendment I would create a monster that would trample the rights that he fought to protect.

If this amendment is adopted, it will be the first time in the entire history of the United States that we have cut back on the liberties of Americans. That is not something which I want on my record.

The flag is precious. It deserves honor. But remember, it is the symbol of the country and of the Constitution. The Constitution, however, Mr. Speaker, is the soul of this country. It, above all things, must be preserved and protected.

I would remind my colleagues that we take with pride and pleasure the privilege of pledging allegiance to the flag of the United States. But each 2 years when we are sworn in to the Congress of the United States, we take a solemn oath to defend and protect the Constitution of the United States against all enemies, foreign, and domestic. The Constitution is one of the most extraordinary documents ever written. Insofar as Government is concerned, it is the most perfect document of Government ever written. It is the freedom of expression which is set forth in this great document which the Supreme Court has said is at stake here.

In two recent decisions, the Supreme Court has ruled that it is unconstitutional for the States and the Federal Government to enact laws prohibiting flag burning. I find that regrettable, but on careful evaluation, I understand that we are talking really about the protection of rights of American citizens regardless of how odious that exercise might be.

We do not protect the flag by defaming the Constitution. The flag is the symbol. I urge my colleagues to protect the Constitution, the definer and the glory of our liberties.

□ 1330

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. STENHOLM], a leader in this Congress.

Mr. STENHOLM. Mr. Speaker, I rise today in support of this amendment, I learned early in life that the flag of the United States represents something very special and should be treated with respect. My parents, as descendants of Swedish immigrants who came to this great land in search of opportunity, taught me to respect the flag by their example. I learned to remove my hat when the flag passes by; to never let the flag touch the ground; and, with hand over heart, to be silent as the Star Spangled Banner is played and the flag is raised.

Today, you can barely hear the national anthem above the noise at athletic games, school assemblies and other public events. People wear shirts and shorts made out of the U.S. flag, and receptions feature flag cakes—which will be cut—and flag napkins—which will wipe mouths. As those examples illustrate, flag desecration takes many forms. However, the worst abuse has occurred when some individuals have burned this cherished national symbol in protest.

In 1989, the Supreme Court by a 5-to-4 margin struck down a Texas law—and all other State and Federal efforts—making flag desecration a crime, arguing that such a statute was inconsistent with freedom of expression as guaranteed by the first amendment to the U.S. Constitution. In reviewing Chief Justice Rehnquist's dissenting opinion, I found myself in agreement with his perspective when he wrote:

> For more than 200 years, the American flag has occupied a unique position as the symbol of our Nation . . . The flag is not simply another "idea" or "point of view" competing for recognition in the marketplace of ideas. Millions and millions of Americans regard it with an almost mystical reverence regardless of what sort of social, political, or philosophical beliefs they may have. I cannot agree that the First Amendment invalidates the Act of Congress and the laws of 48 out of the 50 States, which make criminal the public burning of the flag.

Justice Rehnquist went on to reference a unanimous 1942 Court decision which said:

> It is well understood that the right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include insulting or "fighting" words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace.

This year, our own Texas Legislature commemorated the 50th anniversary of the raising of the U.S. flag on Iwo Jima by voting to ask Congress for a constitutional amendment to exempt flag desecration from first amendment protection. The grassroots support for such an amendment is so strong that 49 legislatures have pledged to ratify such an amendment.

Amending the U.S. Constitution should be done only in rare circumstances. I still believe we must be very cautious about limiting the freedom of expression and speech as guaranteed in the Bill of Rights. However, during the past 5 years I also have been deeply troubled by the increasing cynicism and negativism toward our Government. The culmination of these negative feelings resulted in the tragedy in Oklahoma City. While I will continue to defend the right of every citizen to petition the government for a redress of grievances, I am disturbed both by the violence of a few individuals and the nonviolent but pervasive cynicism many Americans feel toward their country. It is time for us to better encourage a respectful attitude toward the American ideals which our flag represents.

I always have believed that physical desecration of the flag should be prohibited. At the same time, I sincerely have hoped that we could protect our flag without amending our beloved Constitution. After much deliberation, a review of recent court history, and a deep concern about a growing, negative and disrespectful national attitude, I have come to the conclusion that the way to honor the flag at this time is by amending the Constitution.

I wish that recent circumstances were not dictating this course of action. However, with a somber attitude and a great love of the country for which our flag stands, I urge my colleagues to support this amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts [Mr. BLUTE].

Mr. BLUTE. Mr. Speaker, this morning an elderly gentleman from Massachusetts, Mr. Stephen Ross, stopped by my office to speak with me. Mr. Ross is a survivor of Dachau, where he was imprisoned and tortured by the Nazis for over 5 years, starting when he was a 9-year-old boy.

He was liberated from that hellhole, where almost his entire family was killed, in 1945 by the U.S. 7th Army. One young American tank commander stopped to comfort him as the young Mr. Ross wept. That Army commander wiped away the boy's tears with a piece of cloth and gave it to him.

Later on, Mr. Ross realized that the cloth was a small American flag taken from the tank. Since that day, Mr. Ross has carried that flag with him every single day in a small velvet bag, a sacred symbol.

Mr. Ross wants that flag to be protected. As he said to me, "Protest if you wish. Speak loudly, even curse our country and our flag. But please, in the name of all those who died for our freedoms, do not physically harm what is so sacred."

I understand and respect the arguments of those who oppose this bill, but I urge my colleagues to support this amendment.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia [Mr. LEWIS], a distinguished civil rights proponent before he came to the Congress.

Mr. LEWIS of Georgia. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in strong opposition to this amendment.

Our flag is a powerful symbol. It represents the freedoms and individual liberty that make the United States the greatest democracy on earth. It makes me sick to see any person burn our flag.

But I am appalled when I hear my colleagues try to tell that person that he or she cannot burn the flag.

I would say to my colleagues the right to desecrate our flag is protected by the most important document in our country—the Bill of Rights.

There would be no United States of America without the Bill of Rights. The States refused to join the union until they were assured that the rights of our citizens would be protected.

And what is the first freedom guaranteed in the Bill of Rights? Freedom of speech. The freedom to disagree. The freedom to have political beliefs—and to express those beliefs publicly and openly.

More than any other freedom, this is what makes our country great.

Our freedom, our individual rights and liberties, are what our flag represents. When we deny our citizens the right to desecrate the flag, we diminish these freedoms. When we diminish our freedoms, we diminish our flag, our country, and ourselves.

Our flag, while a great symbol, is still just a symbol—a symbol of our rights and freedom. What is worse, destroying a flag, or destroying the liberty that flag represents?

Mr. Speaker, we must not choose the symbol over the real thing. This resolution is an affront to the flag. It is an affront to the Bill of Rights. This amendment will do more to desecrate the flag than any bonfire—or any protest.

If Old Glory would speak, she would cry for us. She would weep.

Old Glory is strong. She has stood the test of time. She has stood the test of the Civil War, World War I, World War II, and Vietnam. Old Glory does not need 435 Members of Congress to defend her. She is not crying out for our help.

I urge each and every one of you to look within yourself, to stand up for freedom. Show the world that the United States is, indeed, the greatest Nation on earth.

Mr. Speaker, I ask my colleagues to vote against this amendment—it is the only way, the sure way, to protect our flag.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, the flag is a symbol of our country. The founders of our country, when they contemplated free speech, did not envision the burning of our national symbol.

There are many forms of expression that are legitimate, and this is not one of them. Servicemen and women have died in support of the country and what the flag represents. Burning the flag is as inappropriate as yelling "fire" in a crowded theater when no fire exists.

I was proud to sponsor and vote for the Pennsylvania House resolution in 1989 that recommended that we in Congress now approve a constitutional amendment to prohibit the desecration of our flag. Forty-eight other States have now joined.

I am hoping that the House will, in fact, pass this and move it on to the Senate and the people of the United States will know that we, in fact, uphold the flag, believe in the flag, and believe in this country. God bless you all.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Speaker I have been preceded in the well by several Members who spoke eloquently and personally of reverence for our freedoms as symbolized by the flag: the gentlewoman from Florida who fled the oppressive Castro regime for her freedom; the gentleman from Korea who immigrated to America for great freedom and opportunity. In Castro's Cuba, South Korea, mainland China, and the old Soviet Union, there was one common thread. Show disrespect to the hammer and sickle, you go to jail. In Cuba, China, Korea, all the tottering oppressive regimes, show disrespect to their symbol, you go to jail.

Until today, America was different. We had a Bill of Rights that was the beacon of liberty to oppressed people around the world. When they throw off the chains of oppression, they do not endeavor to copy our flag. They endeavor to copy our Bill of Rights and our Constitution.

Vote "no". Do not be afraid to be free. Save the Constitution and the Bill of Rights.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentlewoman from Florida [Mrs. FOWLER].

Mrs. FOWLER. Mr. Speaker, there are two compelling reasons to support this legislation—the letter and the spirit of the law.

Title 36, chapter 10, section 176 of the U.S. Code states that "The flag represents a living country and is itself considered a living thing." If it is illegal to commit acts of violence against persons or property as a means of expression, and the flag is considered a living thing, then prohibiting acts of violence against the flag is entirely consistent with previous interpretations of the first amendment.

Just as important, Mr. Speaker, is the spirit of that law, which makes it clear that our flag is more than a piece of cloth, it is the symbol of freedom to millions of people around the world.

Whether it is being flown by a Navy ship off some foreign shore, waving proudly over the U.S. Capitol, or fluttering from the window of a house on the Fourth of July—our flag represents everything for which this Nation stands—and as such, it should be treated with respect.

Mr. Speaker, I urge my colleagues to support House Joint Resolution 79.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from South Carolina [Mr. SPENCE].

Mr. SPENCE. Mr. Speaker, I thank the gentleman for yielding time to me.

I was sitting there just listening and it occurred to me that we are trying to decide what speech means and the protection of speech and expression under our Constitution and Bill of Rights. I have said on other occasions that our Maker has endowed us with minds that can allow us to look at the same set of facts and arrive at conclusions 180 degrees apart from one another.

I use that to justify the thinking of Members on the other side sometimes, but this is carrying it too far. Anyone, including the Supreme Court, that cannot look at a dictionary definition of what speech means and expression means and decide the correct way on this question is beyond me.

If we were to say that burning or desecrating a flag is speech and expression, we could also say that tossing a bomb into a building is our way of free speech and expression. Put another way, you can cuss the flag, you can call it all kind of names, you can speak at length against the flag, but you cannot do the act of desecrating or destroying it.

Mr. MONTGOMERY. Mr. Speaker, I yield 1 minute to the gentleman from Texas, Mr. GENE GREEN, who has been a strong supporter of this amendment.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise as a proud cosponsor of this resolution. There is a need to set aside our flag as a special item and in a special place; an exception to the freedom of speech. That is what this constitutional amendment is about.

We can disagree on particular language that we have, and I am sure that the U.S. Senate will even make some changes in it. But I think what we are doing today is so important. We need to make the flag designation a separate symbol of our country. Once again, I rise again in proud support of this resolution.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from New York [Mr. ENGEL].

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding time to me.

I love our country and I love our flag, and several years ago in this body I voted for a law, a statute, that would have made it illegal to desecrate the American flag. I would vote for such a statute again, but the Supreme Court in its wisdom declared such a law unconstitutional, and may I point out that the Supreme Court appointees, conservative Republican appointees, appointees of Reagan and Bush, declared the law unconstitutional.

So the question we have now is should we amend the Bill of Rights for the first time in American history? Should we tamper with our Constitution, which is sacred, to do something which really is not a threat to the Republic? The idiots that burn the American flag, and I hate them, are not that many. Why highlight them? They are no threat to the Republic. This is what they want.

I do not think we should tamper with the Constitution. I do not think we should amend the Constitution. Several years ago, someone before mentioned Nazi Germany, Nazi Germany had a statute to make it a crime to desecrate their flag. I do not think we want to follow in their footsteps. While we abhor what these idiots do, we should not desecrate our Constitution. Vote "no."

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there have been many points made in the debate today. I want to read a statement by Chief Justice Rehnquist which I think puts this issue in perspective in a way that we have not seen it put in perspective thus far. The Chief Justice said:

> The significance of the flag, and the deep emotional feelings it arouses in a large part of our citizenry, cannot be fully expressed in the two dimensions of a lawyer's brief or of a judicial opinion. But if the Government may create private proprietary interests in written work and in musical and theatrical performances by virtue of copyright laws, I see no reason why it may not . . . create a similar governmental interest in the flag by prohibiting even those who have purchased the physical object from impairing its physical integrity. For what they have purchased is not merely cloth dyed red, white, and blue, but also the one visible manifestation of 200 years of nationhood—a history compiled by generations of our forefathers and contributed to by streams of immigrants from the four corners of the globe, which has traveled a course since the time of this country's origin that could not have been "foreseen . . . by the most gifted of its begetters."

Mr. Speaker, I reserve the balance of my time.

□ 1345

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the most thoughtful gentlewoman from California [Ms. WATERS].

Ms. WATERS. Mr. Speaker and Members, I love America. I love the Constitution. I love all of the symbols of our free society, our democracy.

My ancestors loved America. They loved America even when America did not love them. My ancestors loved America when they were not free to pray to their God. They loved America when they were not free to rally or protest. They loved America even when they had to die to help America live up to her ideals.

Their sacrifices instilled in me an undying loyalty and commitment to always defend the Bill of Rights. It is the Bill of Rights that gave my ancestors hope that there could be a democracy for all people, even people who look like me.

This amendment being offered here today endangers the most profound protection guaranteed to us by the Bill of Rights, the right to disagree, the right to confront, the right to rally, the right to march, the right to protest.

The flag is, indeed, a precious symbol, a powerful symbol, but no symbol is more powerful than the powerful ideas embodied in the Bills of Rights that guarantees to us all the freedom of expression, the right to express ourselves as a proud and determined people.

Mr. KOLBE. Mr. Speaker, I yield the balance of my time to the gentleman from Pennsylvania [Mr. GREENWOOD].

Mr. GREENWOOD. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, in making a decision today on the proposed constitutional amendment to ban desecration of the flag, I was confronted with the fundamental question of our democracy. That question is: What is it that makes us free?

The flag is a symbol, perhaps the sacred symbol, of our freedom, but the Constitution is the guarantee of our freedom. The flag reminds people throughout the world of everything we stand for, but the Constitution is the bedrock upon which we stand.

The flag touches our mystic chords of memory, but the Constitution is not about the past only, but our future as well.

The founders made it possible for the Congress of the United States to change the flag tomorrow, its color, its shape, its size. But the Constitution can only be changed when the great weight of the Nation comes to believe that human liberty is at stake.

Like each of my neighbors, I pledge allegiance to the flag. Yet each of us who have the honor to serve our Nation has taken a higher oath before God and man to uphold the Constitution. At the heart of that great document is the Bill of Rights, and at the center are 10 words that settle forever the issue of whether the State or the individual is our Nation's sovereign. "Congress," the majestic first amendment begins, "shall make no law abridging the freedom of speech." Speech we admire and speech we despise, protest we support and protest we condemn, beliefs we embrace and beliefs we reject, nonviolent actions we applaud and nonviolent actions we deplore, all are protected here.

I honor the flag. I revere everything it represents. But in the end, I cannot vote for this amendment.

Those who fought for the flag, those of us who defend its honor today do not fight for a piece of cloth, no matter how treasured it is, but for an idea now more than 200 years old that human liberty, even the liberty to disagree, is the greatest treasure of mankind.

Mr. Speaker, we stand in the most sacred shrine of freedom in the history of the Earth, and if we abandon the Bill of Rights here, where will it then find a home?

I urge a "no" vote, Mr. Speaker.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from California [Mr. BAKER].

Mr. BAKER of California. It is very appropriate that I am allowed to speak right after that previous speech, because I take a different point of view.

The burning of the flag is a behavior. It is not free speech.

When you find a book you do not like, you do not burn down the library. When you argue against a government policy, which you have the right to do under the first amendment, you do not blow up a Federal building, and the sooner that person gets the death penalty, the sooner we can reaffirm our constitutional liberties.

But this flag is more than just a colored piece of rag. It is a symbol of liberty and justice. It is beyond free speech. It is a foundation of liberty, and you do not tear down the foundations because you do not like an action of government or the people in government.

We would not amend the Constitution if it were not for the Supreme Court ruling, unless we do make it clear in the Constitution the States and the people therein cannot protect their own flag.

We find this 5 to 4 decision disheartening. We decry this 5 to 4 ruling, and we are now allowing the States and the people therein to have their voices be heard.

So this debate is not about free speech. It is about the preservation of a great experiment in liberty.

Can we continue to speak about our elected officials and the government without tearing down our foundations and falling, like most democracies have done over the 2,000-year history that we are so familiar with? And the answer is "yes."

Give liberty a chance. Vote "yes" on this amendment.

Mr. CONYERS. Mr. Speaker, I yield the remainder of my time to the gentleman from Utah [Mr. ORTON].

Mr. ORTON. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I also love the United States of America and the principles of liberty and justice guaranteed in the Constitution which established our Nation. I would lay down my life to protect those rights and our Nation.

I also love and respect our flag, which is the symbol that represents all that our Nation stands for. But we err if, in our attempts to protect the symbol, we damage the rights which the symbol represents.

Thomas Jefferson, in his first inaugural address in 1801, said, "If there be any among us who would wish to dissolve this Union or change its republican form, let them stand as monuments of the safety with which error of opinion may be tolerated where reason is left to combat it."

My fellow Americans, if there be any among us who wish to desecrate this flag, let them stand undisturbed as monuments of the liberties and freedoms which it represents.

I urge you to vote against this amendment.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the gentleman from Michigan for giving me the opportunity to have this time. I thought that was very, very fair, and I appreciate it, along with the gentleman from Florida.

Mr. Speaker, I hope this amendment is adopted. This is not the last vote. This amendment will go to the Senate. Then, if it is adopted, it will go to the different States, and it will take three-fourths of the States to ratify this amendment.

So I would certainly hope that today will give the first step forward in a constitutional amendment to protect the flag.

Mr. Speaker, I yield the balance of my time to the gentleman from Missouri [Mr. VOLKMER].

Mr. CANADY of Florida. Mr. Speaker, I yield 30 seconds to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Speaker, I rise in strong support of the proposed constitutional amendment, and it does not do what many of the people in opposition to it have said.

I have no problems with defining a flag. We can do that through implementing legislation. Once it has gone through the process, as the gentleman from Mississippi has talked about, and three-fourths of the States have ratified this proposed constitutional amendment, it will come back to here, and the Congress at that time will have to pass implementing legislation. I have no difficulty with that.

One of the things that I disagreed strongly with the Supreme Court, and many Supreme Court decisions I have disagreed with, and that was the one on flag burning. In my opinion, that Supreme Court, in its decision, amended the Constitution of the United States because it said for the first time that I know of, that actions, not words, were protected by freedom of speech. The act or the conduct of burning a flag was protected by the speech provisions of the first amendment. I strongly disagree with that.

I find no problem with proposing an amendment to the Constitution that would say that that action, not the words, the action, is not protected by the Constitution.

So I just remind everybody here that, in my opinion, the Supreme Court has already amended our Constitution, and it was a 5-to-4 decision. It could very easily have been the other way, and we would not be here today.

So I have no difficulty at all in proposing and supporting this constitutional amendment so that flag desecration will no longer be possible, hopefully, in the United States after we go through the process. Surely it will take several years, but that, to me, is worthwhile, and there is nothing wrong with this Congress, because it has done it in the past, in the past years has said the Supreme Court was wrong, and we have had constitutional amendments to change what the Supreme Court has done.

Mr. CANADY of Florida. Mr. Speaker, I yield the remainder of my time to the gentleman from Georgia [Mr. DEAL], who will close the debate.

Mr. DEAL of Georgia. I thank the gentleman for yielding me this time.

Mr. Speaker, this topic is a great one for patriotic speeches, and we have certainly heard some sincere ones on both sides of this issue today, that in itself perhaps the best illustration of what the first amendment, freedom of speech, is all about.

But this debate symbolizes more than just a venting of patriotism. It highlights the perversions which the Supreme Court has allowed in the name of free speech, and the very Constitution that both sides to this argument have revered in their comments allows us, through the process we are engaged in at this very minute, to correct those perversions of that Supreme Court.

For those who would suggest that this proposed constitutional amendment would in any way detract from the original first amendment, I would suggest quite the opposite is true. Freedom of speech is elevated in importance as much by what it excludes as by what it includes.

For those who would suggest that someone would intentionally violate this law by wearing clothing that has a flag on it, I suggest, is a hollow argument, indeed.

As Chief Justice Oliver Wendell Holmes once observed, "Even a dog can tell the difference between a man who unintentionally stumbles over him and the one who intentionally kicks him." Certainly, we can do the same with regard to desecration of the flag.

A nation that tolerates every form of behavior, no matter how demeaning, under the passport of free speech will eventually find that it has very little power to govern, indeed.

I support this constitutional amendment to protect our flag. You do not have to love it. You do not have to leave it. But you should not be allowed to burn it.

If it is, indeed, the symbol of liberty and that symbol can be destroyed, can the freedom that it symbolizes it be far behind?

I suggest not. I urge you to support this amendment to protect the freedom that all of us hold so dear.

Mr. MINGE. Mr. Speaker, I have a deep and abiding respect for our flag and what it symbolizes. Freedom is our greatest commodity. The flag is our greatest representation of that freedom. We should never take lightly the supreme sacrifice our fallen soldiers have made in defense of freedom. Likewise, I do not believe we can take lightly the freedoms their sacrifice entrusted to us.

One of the most important liberties our Founding Fathers gave us, and one of the most important liberties our soldiers died for, is the freedom of expression. If everyone in America is truly free to express opinions, each of us will undoubtedly be disgusted by someone's views or actions at one time or another. Nothing enrages me more than when someone burns our flag. Nonetheless, I do not believe that the people who are disrespectful of the flag should move us to limit personal freedom and amend the Bill of Rights, something that has never been done. If any limits, no matter how reasonable they appear to us, are placed on the freedom of expression, we will open the possibility that other limits can be placed on our freedoms in the future.

Each of us must decide how we will be patriots to our hallowed past. I believe defending the freedom of expression is patriotic. I also believe doing what I can to serve the people of the Second District, including our veterans, is patriotic. Others, such as veterans organizations, have shown their continued patriotism in part by educating young people about what this great symbol represents. Educating young people about its significance, rather than mandating respect, is the only way to build the true and enduring reverence our flag deserves.

It is ironic that many of the congressional champions of the amendment to prohibit flag burning are advocating harsh reductions in veterans programs to finance substantial tax cuts for higher income Americans. Secretary of Veterans Affairs Jesse Brown has indicated that 35 to 40 veterans medical centers will close and the jobs of more than 50,000 professionals providing care to veterans will be eliminated as a part of the congressional Republican budget plan that includes tax cuts. Sadly, passing a flag burning amendment when no pressing problem exists appears to be, not a display of patriotism, but a gesture to provide political cover for my colleagues who are financing tax cuts on the backs of veterans.

Mr. VENTO. Mr. Speaker, I rise today in support of the motion to recommit House Joint Resolution 79 with instructions offered by my colleague from Texas.

House Joint Resolution 79 would amend the Constitution of the United States prohibiting the desecration of the American flag. I too am concerned about the treatment of our flag; in 1989 I supported the Flag Protection Act. However, the language of this proposed amendment, as it stands, raises serious questions as to its exact extent and intent.

Mr. BRYANT's motion to recommit with instructions, in my opinion, clarifies this amendment by establishing guidelines for Federal and State courts and legislatures to follow when interpreting and developing future laws. The motion calls for a definition of what constitutes a flag, as well as the proper procedure for the disposal of a flag. Together with its decided definition of "physical desecration", this motion ensure the amendment will lead to clear and specific laws.

For over 200 years our Constitution and the Bill of Rights has stood strongly protecting the freedom of the citizens of this Nation without ever being amended. Today, Congress is attempting to amend arguably the most precious doctrine within the Constitution's Bill of Rights, the first amendment guarantee of free speech. We must not, and can not enter into this process without proper consideration and understanding endangering the strength and integrity of our most valuable liberty and freedoms protected by the first amendment. The flag is a symbol of our freedom, but the Bill of Rights is the substance of our freedoms and rights.

I urge my colleagues to join me in support of the Bryant motion to recommit with instructions and provide at the very least some specifics to this proposed constitutional action.

Mr. FRELINGHUYSEN. Mr. Speaker, on June 14, America celebrated flag day. Millions of American men and women all across the country retrieved their Star Spangled Banner from the basement or attic and proudly displayed it to honor the day. For many families, the flag itself is a tradition. Perhaps it was a grandfather's flag, or a gift from a son or daughter serving in the military. Perhaps it even draped the coffin of a sister or brother who made the ultimate sacrifice for the United States.

Whatever the case—the American flag means something special and personal to each and every one of us. It represents our freedom, our liberty, and our common bond. It is the emblem of a unity to which every fourth-grader has pledged their allegiance in homeroom. In the House of Representatives, we begin every day with that same pledge. We pledge allegiance to the flag because of "the Republic for which it stands." As a veteran, I believe that our flag is our Nation's most enduring symbol.

It is unfortunate and saddening that some disagree. They use the flag to express an opinion or make a statement. I think that this is wrong. Burning our flag is simply wrong, and should be outlawed. As an original cosponsor of a constitutional amendment to ban flag desecration, and with nearly 280 of my colleagues in the House of Representatives, I am working to protect the flag and what it stands for.

I plan to vote today for this constitutional amendment. Our goal is to pass the amendment this year and to present it to the States for ratification. Forty-nine States have already passed resolutions requesting that Congress pass this amendment banning the desecration of our American flag.

We hold high respect for the flag not because of what it is but because of what it stands for. We have rules which define the proper way to display, store, and maintain our flag. These rules were established for a reason. They were established so that we would not grow complacent about our flag, and hence our unity and our freedom. They protect our flag so that we remember the high price we paid for our freedom and personal liberties. Our flag reminds us that we are one nation, one People—regardless of our diverse backgrounds, religions, or heritage.

Our flag reminds us of who we are as Americans, and deserves the utmost honor, esteem, and protection.

Mr. SMITH of New Jersey. Mr. Speaker, in the wake of all the rhetoric, the question boils down to whether or not the flag and the American ideals it symbolizes should be protected by our constitution.

To me the flag is about freedom; about liberty and equality in a nation made up of various cultures; about the American veterans who braved the foreign warlords to preserve our freedoms and to ensure that future generations of Americans can live in the security of life, liberty and pursuit of happiness.

Mr. Speaker, here in Washington we are constantly reminded of the dedicated men and women who died in battle, in lands far away, for the preservation of our country and the ideas for which it stands. The flag, now as then, serves as remembrance for the gift of freedom given to us by those fallen heroes. Should they have died knowing that future generations would permit the desecration of the very symbol for which they lay buried in foreign cemeteries?

Thanks to those veterans who fought and died for our freedom, and promulgated on the idea of the "melting pot", the United States represents a community where heterogeneity is championed and individualism, regardless of race, creed, sex or color, is revered. Hence, we, as Americans, have a unique opportunity available to us. Where Alexander the Great failed to keep his holdings together, and diversity crippled the Roman Empire, our unity under one flag affords us the unique opportunity to maintain a harmonious multicultural superpower. Being the first successful community of its kind in history, maintenance does not come easily.

Mr. Speaker, what bonds our seemingly different people into one nation, one soul? Values, ideas, hopes, dreams, all symbolized in our common denominator, the flag. The unity inherent in the flag is beyond measure. What does a person from New Jersey have in common with person living in Wyoming but born in Nepal? They are both Americans, and they both possess an allegiance to our country and the recognition that such allegiance manifests itself in an allegiance to the flag. Without a doubt, the flag remains the best symbol of solidarity for our country.

Furthermore, Mr. Speaker, the flag embodies all that Americans treasure. The vast imagery the flag evokes points to that very fact. Who hasn't seen paintings of Betsy Ross sewing a garment that would consolidate a collection of English colonists in defiance of a King who refused to give them representation. A new and improved system of government is why Betsy Ross created the flag; democracy is what we got.

Who can say they haven't seen the statue of the Marines storming the island of Iwo Jima to raise Old Glory high above the fray. Freedom is why those soldiers raised the flag; liberty is what we—what the world—got.

Who hasn't heard the story of Francis Scott Key as he sat aboard a British frigate and watched our flag continue to flutter above the devastation in Fort McHenry. Sheer amazement is why Mr. Key wrote down what he saw; an understanding of the transcendently unifying nature of our flag is what we got.

Burning or desecrating the flag is a destructive act, Mr. Speaker. It is not free speech. And it is only a small fringe group who even care to mutilate, desecrate or burn the flag. In fact, the vast majority of Americans support a constitutional amendment to protect this symbol of freedom. Indeed, it is time the Congress of the United States act to protect our flag.

Mr. UNDERWOOD. I would like to call attention to an oversight in the text of House Joint Resolution 79, the constitutional amendment to prohibit the physical desecration of the flag of the United States. While it may seek improbable that an amendment of only 20 words can contain an important oversight, the amendment would grant Congress and the States the power to pass laws to prohibit the physical desecration of the flag.

So, it is conceivable that some States will pass restrictive laws, some States will pass more lenient laws, and some States will not do anything. And it is conceivable that flag desecration would have various State definitions, unless Congress chooses to make a standard of desecration and Federal penalties for such actions. Of course, if such congressional action were taken, or such standardized definitions were adopted by Congress, then all the arguments we hear today that it is up to the States to determine what is desecration, and all the arguments we hear today that this is a transferring of Federal power to the States, fly out the window.

If Congress instead defers to the States, and chooses to let the States make their own determinations, then it is possible that flag burning and other acts of desecration would be made illegal in the several States, but there would be no similar Federal law for the territories and the District of Columbia. We could then have the incredibly ironic situation where flag burning would be illegal everywhere but here, and those who would burn flags as an expression of their free speech or in protest of some cause would be able to do so legally in the Nation's capital.

In the case of Guam, and the other far flung American territories of American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and Puerto Rico, the territorial governments would have no power under this amendment to act one way or the other to prohibit flag desecration. As you know, Mr. Speaker, but as many of our colleagues tend to forget, the flag also flies over there.

Should this constitutional amendment be adopted by the States, then I intend to introduce legislation to give the territories and the District of Columbia the same authority as the States to prohibit flag desecration. My concern is that as the new federalism emerges to transfer powers to the States, as this amendment represents, let's not forget to transfer powers to the territories, too. If it does not make sense for Congress to act for the States, it makes even less sense for Congress to act for Guam, 10,000 miles away.

Or, conversely, if Congress were to legislate a restriction on free speech only for the territories and the District, places where American citizens have no voting representation, what is that saying about the value of our constitutional rights? What is the Congress saying when it legislates restrictions on the basic freedoms in the Bill of Rights for the territories that do not even vote in this body? Would it not seem more logical for Congress to allow such decisions to be made by the territories in recognition of their lack of representation? If Congress tries to dictate to the disenfranchised Americans in the territories what it would not dictate to the States, maybe then flag burning would become the protest of choice for those Americans in the territories who value their freedoms as much as any other American.

Mr. STOKES. Mr. Speaker, I rise in strong opposition to House Joint Resolution 79, the constitutional amendment to prohibit flag desecration. While I am aware of the deep and sincere feelings of many Americans concerning this emotional issue, I am also mindful of my duty as a Member of Congress to act in the best interest of the people I represent and in the best interest of the U.S. Constitution I have sworn to uphold.

We cannot and should not, in an attempt to protect the flag, trample on the freedoms so many of our bravest citizens have fought and died to protect. As Members of the U.S. Congress, we must not shirk our responsibility to act in the best interest of the American people by disregarding the dangers to all of our civil liberties this resolution symbolizes.

The bill before us today, House Joint Resolution 79, seeks by constitutional amendment, to prohibit the physical desecration of the American flag. The objective of this amendment is to overturn the U.S. Supreme Court's decisions in *Texas* v. *Johnson,* 491 U.S. 397 (1989).

In Texas versus Johnson, a majority of the Supreme Court considered for the first time whether the first amendment protects desecration of the U.S. flag as a form of symbolic speech. Like the State argued in Texas versus Johnson, proponents of this resolution argue that flag desecration results in breaches of the peace and attacks the integrity of the our national symbol of unity. The majority opinion of the Court correctly responded that the desecration was "expressive conduct" because it was an attempt to convey a particular message.

The Supreme Court also correctly held that the State may not use incidental regulations as a pretext for restricting speech because of its controversial content or because it simply causes offense. Justice Brennan concluded that "If there is a bedrock principle underlying the first amendment, it is that Government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."

Mr. Chairman, I find the desecration of the American flag abhorrent, but I find the compromise of the principles the flag represents absolutely unacceptable. This attempt to infringe upon the proud American tradition of dissent is the hallmark of authoritarian States, not democracies. Voting against this resolution is a vote for the Constitution and for the Bill of Rights, but most importantly it is a vote for the freedom and democracy the flag symbolizes.

In addition to compromising our first amendment rights this resolution is defective on its face because it fails to define what constitutes a flag, or constitutes desecration. The resolution simply gives Congress and the States sweeping powers to criminalize a broad range of acts falling far short of flag burning or mutilation. This kind of broad amendment to the Constitution will certainly lead to State and Federal flag protection legislation that violates the rights the flag represents.

Mr. Chairman, amending the U.S. Constitution is a serious business. This is one of the most important and sacred acts that can be taken by a Member of Congress. With very little opportunity for open hearing, and with limited debate, this resolution has been placed before us. A measure of this kind required detailed analysis of the impact it may have on the American people, and the greatest pillar of the American Republic: The first amendment to the U.S. Constitution—but no such review has, or will, take place.

During a period when the House of Representatives is slashing public assistance and medical benefits to the poor, our children, the elderly and veterans across this Nation we are faced with this cynical attempt to protect the flag. Individuals who wish to protect the flag should first protect the citizens who hold the flag so dear.

In the current rush to force this bill through the House, the liberty of the American people and the Constitution I have sworn to uphold will certainly be compromised. I urge my colleagues to join with me and vote against this resolution.

Mr. BORSKI. Mr. Speaker, I rise today in opposition to the amendment and in support of the Constitution of the United States.

For over 200 years, the Constitution of the United States and the Bill of Rights have endured as real, physical symbols of the values of this country. Never in our Nation's history has Congress passed a constitutional amendment to curtail the freedoms guaranteed by these documents. After careful thought, I have come to the conclusion that we must not do so now.

The issue of free-speech inherent in the flag-burning argument is far too important to be politicized or trivialized through name-calling and scare tactics. The values and freedoms embraced by the Constitution are so fundamental to this Nation, that we should defend against any attempts to relinquish these rights.

Let me clearly state that I do not condone flag burning. I strongly oppose it. Flag burning—for whatever reason—is offensive to me and to all patriotic citizens. It is repulsive to see people burning our flag. I stand alongside patriotic citizens and veterans, nationwide, in condemning flag burners everywhere. Yet, even these unpatriotic acts of protest must remain protected if the essential freedoms our Founding Fathers and veterans have fought for are to mean anything. We cannot protect freedom by taking away freedom.

The Stars and Stripes has always had a special meaning for my family and me. My father, a World War II Marine veteran, was born on Flag Day, June 14. In proudly serving his country during the war, my father successfully fought against the tyrannical and strong-handed suppression of freedom of Nazi Germany. The flag under which he fought symbolizes the constitutional freedoms for which he risked his life. Let us not chip away at these real fundamental beliefs and freedoms for protection of the symbol.

For over 200 years, the Bill of Rights has never once been amended. Historically, lawmakers have been unwilling to tamper with these liberties, reflecting an appropriate reverence for the Constitution and a hesitance for turning this document into a political platform. Yet amending the Constitution in order to prevent a few disgruntled citizens from expressing their views creates a special exception in the definition of free speech, opening up the door for further clarifying of our God-given freedoms.

By overwhelming numbers, Americans have chosen to display the flag proudly. And what gives this deed its patriotic and unique symbolism is that the choice was freely made, coerced by no man, out of respect for the symbol of freedom. Were it otherwise—should respectful treatment of the flag be the only choice for Americans—this gesture would mean something different, possibly something less.

In addition, Mr. Speaker, I find it ironic that at the same time we stand here pledging our respect for the flag and to the veterans who fought under it, the majority will soon pass a package of cuts to the hard-fought and long-earned benefits to our Nation's veterans and senior citizens. The Republican budget agreement, which I strongly oppose, calls for $32 billion in cuts to veterans programs over the next 7 years as well as a $270 billion cut in Medicare spending over 7 years. At the same time, the majority's budget calls for a $245 billion tax break for our Nation's wealthiest citizens. It is unfortunate that the same veterans who so proudly fought under this flag will soon be denied the benefits for which they fought and worked all their lives.

Finally, Mr. Speaker, I stand here today to proudly express my respect for the flag and for the constitutional freedom it symbolizes and for the men and women who fought for these freedoms. Yet, I must remain faithful to my sworn duty to protect the Constitution from attacks on its integrity, and oppose this amendment.

Mr. DINGELL. Mr. Speaker, my colleagues, behind the Speaker's rostrum stands the glorious symbol of the United States—our flag—the most beautiful of all the flags, resplendent with colors of red, white, and blue, carrying on its face the great heraldic story that of 50 States descended from the original 13 colonies. I love it and I revere it. I have served it with pride, in the Army of the United States, actively in one war and in reserve status in another. Like millions of young Americans in all the wars of this country, I have served under this great flag, symbol of our Nation, our unity, our freedom, tradition, and the glory of our country.

This small book, my dear colleagues, which I now hold up in my hand, is the Constitution of the United States. It is not so visible as is our wonderful flag, and regrettably oftentimes we forget the glory, the majesty of this magnificent document—our most fundamental law and rule of order, the document which defines our rights, liberties, and the structure of our Government. Written in a few short weeks and months in 1787, it created a more perfect framework for government and unity and defined the rights of the people of this great republic. As Chief Justice Burger, Chairman of the Commission on the Bicentennial of the U.S. Constitution observed in his remarks on the Constitution.

> The work of 55 men at Philadelphia in 1787 was another step toward ending the concept of the divine right of kings. In place of the absolutism of monarchy the freedoms flowing from this document created a land of opportunities. Ever since then discouraged and oppressed people from every part of the world have made their way to our shores; there were others too—educated, affluent, seeking a new life and new freedoms in a new land.
>
> This is the meaning of our Constitution.

Justice Burger observed the Declaration of Independence was the promise, the Constitution was the fulfillment.

This is the most successful and magnificent document ever to create a government. The Government which is the product of the agreement of the people on this Constitution is the most successful government that has ever served free men, now over 200 years old, and still a wonder of the world.

The Constitution was designed to assure that it could be amended, but only with difficulty. High hurdles were imposed on successive generations, lest it be too easy to amend, and lest it be too easy to impair the greatness of this wonderous document by unwise actions taken in the haste of a moment of passion or folly.

We are today compelled to debate in a process constrained by inadequate time. We are told we must choose between the glorious symbol of our Nation and the great, majestic fundamental document which is the soul and the guardian of principles which not only define the structure of our Government, but the rights of every American.

This is not a choice that I like to make, and it is not a choice that other Members of this body like. There is regrettably enormous political pressure for us to constrain rights set forth in the Constitution to protect the symbol of this Nation. And yet when we make the decision today, we must keep in mind that we are choosing between the symbol of our country and the soul, and the guardian principles of our democracy.

I call upon this body and all Americans to understand the issue before us. I believe that if Americans understand this issue, they will come to the same wise conclusion. Like other Americans, I say the Pledge of Allegiance to our flag with reverence and pride. I join my colleagues here in reciting this great pledge to our Nation's flag as I do in joining my constituents at home in frequent public ceremonies in saying this important Pledge of Allegiance to the dear flag of this country.

I again hold up before you the Constitution of the United States, a small document, successfully amended only a few times, and wisely subject to strong constraints on attempted amendments. On many occasions, because of the difficulty in amending this wonderful document, unwise attempts to amend it have thankfully not come to fruition.

The Constitution says "the Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press * * *"

That right of freedom of speech is absolute, not in any way constrained. And there is no power in the Congress to abridge the freedom of speech.

That is the question before us here. Only here, we are called on to not simply pass a law, but rather, to amend the Constitution itself, or to permit the States to do so.

The Constitution is the soul of our Nation, the guiding principles of both government and protection of our liberties. It is the Constitution which makes being an American so unique and which gives us such precious quality and character to our lives as citizens of this great Nation.

The Supreme Court is hardly a group of left-wing antigovernment protestors, but rather a group of conservative men and women, given lifetime tenure, to carry out one of the most singularly important responsibilities in our Government—the interpretation of our Constitution and laws. That court has said plainly and clearly that freedom of speech guaranteed by the first amendment is a right so precious that it may not be interfered with by a statute which criminalizes the conduct of anyone who "knowingly mutilates, defaces, physically defiles, burns, or maintains on the floor or ground or tramples upon" a United States flag, *United States, appellant* v. *Eichman, et al.* 496 U.S. 310. In this case and in the case of *Texas* v. *Johnson,* 491 U.S. 397, a similar conversion was reached.

My colleagues, we are compelled to choose—a great symbol of the Nation, our beloved flag, or the majestic Constitution of the United States and the great 10 amendments to that Constitution, the first amendment guaranteeing freedom of speech and freedom of expression.

In this there is only one choice, defend the majesty and glory of the Constitution. Protect, support, and defend the Constitution and the rights guaranteed thereunder.

Like the rest of my colleagues, I pledge allegiance to the flag, regularly in this body. But, I remind all here and elsewhere, that every 2 years each Member of Congress takes a great and solemn oath, to support and defend the Constitution of the United States against all enemies, foreign and domestic. This oath is a far higher and greater responsibility than that which we take in any of our other activities as citizens. It is a precious commitment to the people of the United States, to those who have served here before us, to those who will serve here after us, and to all Americans throughout history.

In this oath we honor all those who have loved and served this country. And, we commit solemnly to all Americans from the first days of its founding until the end of time, that the principles of our Government will be protected and defended by us against all, regardless of how powerful politically they might be or how wonderful a cause that they may assert. When I vote today, I will vote to support and defend the Constitution in all its majesty and glory, recognizing that to defile or dishonor the flag is a great wrong, but recognizing that the defense of the Constitution and the rights that are guaranteed under it is the ultimate responsibility of every American.

Whether we hold elective office, or whether we are simply citizens living our day-to-day lives under the protection of the Constitution, this commitment is to defend our greatest Government treasure. When I cast my vote today, it will be for the Constitution, it will be for the rights enunciated in the Constitution, it will be against wiping away or eroding the constitutional rights of Americans in even the slightest way. I remind my colleagues of their oath and I call on them for keen awareness of that oath to defend and support the Constitution. The great and awesome oath binds me to a duty of the greatest importance to all Americans past, present, or future.

We do not defend our beloved flag by passing the first amendment to our Constitution to reduce the rights of Americans. Honor our flag. Honor a greater treasure to Americans, our Constitution. Vote down this bill.

Mr. LEACH. Mr. Speaker, I rise in reluctant opposition to the amendment.

It is interesting to note that this debate is taking place almost 5 years to the day since the last time the House considered amending the Constitution to protect the flag. The intervening years have been ones of momentous change.

As we approach the conclusion of the bloodiest century in human history, the United States has emerged as undisputed leader of the world community. The individualistic, democratic values that are the hallmark of our society are in ascendancy everywhere and America has never been more secure from foreign threat.

Yet all is not well here at home. The heinous crime perpetrated in Oklahoma City this spring raises anew questions about America's social fabric, of whether, in William Butler Yeats' terms, the center—that is, civilization—can hold.

In what may be the most disturbingly prophetic poem in Western civilization, "The Second Coming," Yeats wrote:

> Turning and turning in the widening gyre
> The falcon cannot hear the falconer;
> Things fall apart; the center cannot hold;
> Mere anarchy is loosed upon the world
> The blood-dimmed tide is loosed, and everywhere
> The ceremony of innocence is drowned;
> The best lack all conviction while the worst are full of passionate intensity.

"Surely," Yeats continues, "some revelation is at hand."

The question is of what that revelation might be.

In America today hate is one the rise; prejudice is bubbling. There is growing doubt, if not fear, of the very values—such as free competition within the rule of law—that have impelled America to the position of unprecedented preeminence on the world stage it now occupies.

It is in this context that the amendment before us has been brought forward. It is an attempt to affirm all that is good about our great country. It is, in the words of our distinguished colleague from Illinois and chairman of the Judiciary Committee, HENRY HYDE, "an effort by mainstream Americans to reassert community standards. It is a popular protest against the vulgarization of our society."

This is an honorable motive, and I am reluctant to oppose it.

Moreover, this amendment is championed by organizations—particularly the American Legion, VFW, and DAV—which represent those without whose sacrifices this country and its values would not exist. Had it no been for our Nation's veterans, the only competition in the world today would be between totalitarianism of he left and totalitarianism of the right.

These are honorable men and women, and I am reluctant to oppose them.

Yet, Mr. Speaker, I cannot support this amendment because I am convinced that to do so is to undercut the very essence of the system of governance for which the flag itself stands.

At the heart of our democracy is a struggle, an ongoing conflict of ideas for which the Constitution provides the rules. It is in this conflict that the e pluribus unum—the "one out of many," as the motto borne on the ribbon held in the mouth of the American bald eagle on the Great Seal of the United States puts it—arises. And it is precisely this unity in multiplicity for which our flag with its 50 stars and 13 stripes stands.

The genius of our Constitution lies in the ways in which it structures and ensures the continuity of this conflict of ideas which is our democracy. It does so through the system of checks and balances and separation of powers with which it structures our Government on the one hand, and the protection of freedom of expression it provides in the first amendment on the other. The former ensures that the fight is always a fair one and that no momentary majority uses its temporary advantage to destroy its opponents; the latter ensures that no idea, however obnoxious, is excluded from the consideration in the debate.

It should be stressed that the protection provided by the first amendment is a two-edged sword. In fact, the Bill of Rights does not exempt ideas and the actions that embody them from criticism, but ensures they are exposed to it. As Jefferson put it in his "Act for Establishing Religious Freedom" in Virginia:

> Truth is great and will prevail if left to herself . . . she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict unless by human interposition disarmed of her natural weapon, free argument and debate; errors ceasing to be dangerous when it is permitted freely to contradict them.

Thus any abridgment of the protections provided by the first amendment, no matter how nobly motivated, would diminish freedom and in all likelihood precipitate, in this instance, more symbolic incidents tarnishing the flag than would otherwise be the case. Accordingly, great care must be taken not to take actions in the name of protecting the flag that have the effect of misinterpreting the meaning of the flag.

In this assessment, the distinction between liberties to protect and symbols to rally behind must be made. Freedom of speech and freedom of religion require constitutional protection. The flag, on the other hand, demands respect for what it is—the greatest symbol of the greatest country on the face of the Earth. It is appropriate to pass laws expressing reverance for the flag and applying penalties, wherever possible, to those who would trash it, but I have grave doubts the Constitution is the right place to address these issues.

Mr. SHAYS. Mr. Speaker, I find it abhorrent that someone would desecrate the flag of the United States of America. But I will not support an amendment to the Constitution to prevent it.

When I think of the flag, I think about the men and women who died defending it. What they really were defending was the Constitution of the United States and the rights it guarantees.

My colleagues in Congress, and I, sought to address this problem when we overwhelmingly passed the Flag Protection Act of 1989. I don't feel anyone should be allowed to desecrate the flag. I wish the Supreme Court had decided in favor of the law, but regretfully, by a vote of 5 to 4, it declared the act unconstitutional.

Congress anger and frustration with the decision led us to consider an amendment to the Constitution. Keep in mind the Constitution has been amended only 17 times since the Bill of Rights was passed in 1791. This is the same Constitution that eventually outlawed slavery, gave blacks and women the right to vote, and guarantees freedom of speech and freedom of religion.

Republicans have proposed amendments to the Constitution to balance the budget, mandate school prayer, impose term limits on Members of Congress, institute a line-item veto, change U.S. citizenship requirements, and many other issues.

Amending the Constitution is an extraordinarily serious matter. I don't think we should allow a few obnoxious attention-seekers to push us into a corner, especially since no one is burning the flag, and there is no constitutional amendment.

I love the flag for all that it represents—the values of freedom, democracy, and tolerance for others—but I love the Constitution even more. The Constitution is not just a symbol. It defines the very principles on which our Nation is founded.

Mrs. ROUKEMA. Mr. Speaker, I strongly support House Joint Resolution 79, the resolution proposing a constitutional amendment to prohibit desecration of the American flag.

The last time that the House considered a constitutional amendment allowing the States or Congress to prohibit the desecration of the American flag was June 1990. This vote followed an earlier decision by the Supreme Court which struck down the Flag Protection Act of 1989 that had passed the House overwhelmingly the year before. And, although the constitutional amendment failed, I strongly supported both the amendment and the Flag Protection Act

Although the Supreme Court agrees that desecrating our flag is deeply offensive to many, it has twice overturned laws that bar flag burning. In both cases, the decision has been handed down by the narrowest of margins, 5 to 4. Such distinguished constitutionalists as Justices Stevens and White hold that burning of the U.S. flag is not an expression protected by the first amendment. Instead, they believe that flag burning is an action, a repugnant action. And, therein lies the distinction. Burning a flag is conduct, not speech.

I believe strongly in this amendment, although I believe it to an issue on which patriotic Americans of good faith can, and do, have legitimate differences. Many assert that burning a flag endangers no one. Using that standard, one would then assume that we would not see the inherent violation of decency of throwing blood on the U.S. Capitol, painting a swastika on a synagogue, or defacing a national monument. These actions also endanger no one. And, yet, laws have been wisely enacted to prohibit these actions.

I feel very strongly that we must do all we can to protect our flag. This constitutional amendment is a necessary good-faith measure that defends our most treasured national symbol.

Mr. CLINGER. Mr. Speaker, 5 years ago, I was one of only 17 Republicans in the House of Representatives and the only Republican from the Pennsylvania delegation who did not support the constitutional amendment prohibiting flag desecration.

I did not arrive at this decision easily. Polls showed an overwhelming majority of Americans supporting the amendment, and my Republican colleagues and President Bush were lobbying hard for its passage.

Only after painful reflection did I come to the conclusion that the amendment would diminish the first amendment and make martyrs of the twisted lowlifes who defile the flag for public attention. Although I deplore flag burners and despise their cheap theatrics, I have greater reverence for the Constitution and the Bill of Rights and refuse to give these pathetic individuals and their sorry causes the stature that a constitutional amendment provides.

When I learned that the flag burning amendment would be coming to the House floor again for a vote, I dug out my old files on the flag burning amendment to review the constituent letters I received after the 1990 vote.

Many constituents were irate with me, and they didn't sugarcoat their feelings or pull any punches. I was invited to "stick it where the sun don't shine." I was told that I was "as guilty as the flag burners" and "should hang my head in shame." I convinced several lifelong Republicans to join the Democratic Party. And I was instructed by several of my strongest supporters and closest friends to remove their names from my mailing list.

But not all of the mail was as negative as one might imagine. In fact, a majority of the letters were supportive of my vote.

As I read these letters from former servicemen, widows, and disabled veterans who explained what patriotism meant to them and why they opposed the flag burning amendment, I realized that many were far more eloquent than any statement or speech I could compose. So rather than read a prepared statement that merely outlines my views, I would like to read passages from several of the letters I received and let some of my constituents speak for me.

One reads:

> DEAR CONGRESSMAN: I had four and one half years in the United States Army. Three of those years were overseas helping to fight a war to keep fascism and Nazism away from our shores. I was not drafted. I volunteered to serve my country. I love and respect the flag as much as anyone, but I love the freedom for which it stands more so.

Another reads:

> DEAR CONGRESSMAN CLINGER: My father tried to raise his sons as patriots. Only time will tell if he succeeded. I enlisted on my 17th birthday and served in the submarine force. This was my way of trying to preserve our land as a nation of free people. It would have been tragic to risk my life for freedom, only to have it voted away.

A third one reads:

> DEAR CONGRESSMAN CLINGER: I am a 100% service-connected, double amputee veteran of the Korean War. I agree with you on your vote on the flag burning amendment. Please feel free to use my name or letter to support your position as stated.

A fourth letter reads:

> DEAR MR. CLINGER: I am not a resident of your voting district. I am a disabled Vietnam era veteran. I could easily have avoided service, however, I chose to serve my country when it was not a popular thing to do. It was a difficult choice. I see that you recently made a difficult and unpopular choice; the choice to vote against the Constitutional amendment prohibiting burning of the U.S. flag. I am glad that you had the courage to vote against this amendment and I thank you for standing up for the "Bill of Rights."

Finally, the shortest, but probably the most poignant, struck a chord with me:

> DEAR CONGRESSMAN CLINGER, I support your vote on the flag amendment.
>
> If the day ever comes when we must ensure patriotism by statute, it will already be too late for our country.

The point is it isn't too late; we don't need to ensure patriotism by statute. The vast majority of Americans have a deep-seated respect for the flag and fly the flag proudly. We shouldn't let an ignorant few force us to compromise the integrity of the Constitution and the Bill of Rights—the true source of our Nation's greatness.

If we really want to stop the burning, we should not adopt this measure. A constitutional amendment will turn a fool's act of cowardice into a martyr's civil disobedience, and encourage more dimwits to burn the flag.

Preserving and exercising the first amendment's guarantee of freedom of expression, not suppressing it, is the best way to combat this disgraceful behavior. We must ridicule those fringe elements and expose them for what they are: despicable, grandstanding losers who are beneath contempt and unworthy of any attention whatsoever.

Mr. JONES. Mr. Speaker, I have the privilege of representing three military bases, many active and retired military personnel, and a large group of patriotic civilians who all have strong feelings of respect for the American flag. As a proud cosponsor of the flag desecration constitutional amendment, I strongly believe in protecting the American flag and everything that it symbolizes. Old Glory, the most respected and recognized symbol in our country, represents the continued struggle for freedom and democracy. Far too often people disregard and betray all that the flag has stood for throughout our history and continues to. The flag is the physical embodiment of that for which many men and women have sacrificed their lives. To desecrate the flag is to desecrate them. We owe it to these unsung heroes to continue the job they started by ensuring passage of this constitutional amendment. Our flag is a unique symbol of our country's heritage that deserves the highest degree of respect and dignity.

Mr. MINETA. Mr. Speaker, as a former Army intelligence officer, as a former major in the U.S. Army Reserve, and as a Member of Congress who is sworn to uphold the Constitution, I cannot support this proposed amendment.

More than a half century ago, President Franklin Roosevelt spoke to this country and told us we had nothing to fear but fear itself. Truer words were never spoken.

Time and again throughout our history, the greatest tragedies have occurred when we have allowed our fear or anger to lead us into drastic overreaction.

The redbaiting of the 1950's with its blacklists and purges, arose in response to the fear of the Soviet Union. Even at the time, many Americans realized that Senator McCarthy's crusade was not the way to respond to the threat of communism. With 20–20 hindsight today, virtually all Americans regret the national hysteria that caused so many lives to be ruined.

In the 1940's it was our justified anger over the Empire of Japan's attack on our naval installation at Pearl Habor, HI, that led this Nation to ignore the civil liberties guaranteed by our Constitution and force 120,000 Americans from their homes and into internment camps simply on the basis of their Japanese ancestry.

It is unfortunate that President Roosevelt, in authorizing that action, failed to appreciate the wisdom of his own warning on the dangers of fear.

Today, we are faced with a situation in which a few individuals have on occasion set fire to the American flag. That is an action which, as a former Army officer, as a Member of Congress, and as an American, I find repugnant.

Our response to these incidents will say a lot about this country. Will we once again allow our anger to overrule our reason? If this resolution were to pass, the answer would unfortunately be "Yes."

Our response to flag burning should be to denounce it.

However, this resolution goes so far as to narrow the provision of the Constitution which guarantees to all Americans the freedom of speech and the freedom of political debate.

That is unnecessary, it is an over-reaction, and it represents an action which is far more dangerous to the future of this Nation than a few misguided flag burners.

This resolution will do nothing but cut off the Constitution's nose to spite its face. In an effort to deny the right of a few people to express an idea we despise, it would place at risk the right of all Americans to freedom of speech.

I would have hoped that this Congress would have learned more from the mistakes of history than to take this road. The vote today in the House will tell us whether that is true.

I urge my colleagues to join me in opposing this misguided resolution, and vote "no" on House Joint Resolution 79.

Mr. MARTIN. Mr. Speaker, I rise today in strong support of House Joint Resolution 79, an amendment to the Constitution to allow the banning of the desecration of the American flag.

It is a crucial amendment, one aimed at restoring a civility and patriotism that our Nation seems to have been lacking in recent years.

For the better part of two centuries, democracy in America has been characterized by vibrant and rich debate. Disagreement has been a hallmark of our system of government; the competition of ideas has helped make us the greatest nation on Earth. Unanimity on political matters has never been achieved, and it has never been pursued. It has been the freedom to disagree, to criticize, and to dissent that has made the United States so worthy of our loyalties.

Indeed, the freedom of expression is something so precious as to be worth fighting and dying for. This freedom of expression has enabled individuals to engage in the great American discourse, a legacy which will go down in history as perhaps our Nation's finest accomplishment.

Yet in recent years, it seems as if a once eloquent discourse has become something of a rough, almost violent argument. As individuals in the public arena raise their voices, it appears that nothing is sacred.

Almost every constituent with which I speak, no matter what political stripe he or she is, agrees on at least one point: They demand that a degree of civility be returned to the public debate. And this amendment is one of the first and one of the few legislative steps we can take to answer these demands.

The flag is a symbol of our heritage; it represents our common institutions and traditions. It has stood for peace and democracy abroad, and justice and progress at home.

For two centuries, millions of our finest men and women have sacrificed to defend the flag and all that it stands for. They have risked their lives in every corner of the world so that we may enjoy the liberties guaranteed us by the Constitution.

Yet there are some in our society who would abuse the freedoms and privileges our land provides. They do such offensive and outrageous things to the symbol of our Nation that they cause us to propose amendments to the Constitution.

House Joint Resolution 79 will help remind the American people of the debt we all owe to those who have fought and died for the freedoms we enjoy.

This would be an altogether healthy development for the United States and one which a great majority of the people would applaud.

But the need for this amendment runs even deeper than these positive effects.

If a society that holds the freedom of expression as a right of all citizens wishes to remain free, then that society needs to state some kind of baseline to that expression. Without that baseline, such a society would soon devolve to anarchy. And out of anarchy, there will come no freedom of speech.

To the contrary, if we want to continue the excellent American tradition of freedom of speech, then at the very least we must all agree on one thing: It is the U.S. Government and its institutions that allow us to exercise that speech. And as the symbol of those institutions, the flag ought to be protected from heinous and debasing acts.

You see, those that speak out against this amendment in defense of the freedom of speech are threatening their own freedom.

By leaving nothing sacred, not even the symbol of hope and liberty for billions around the world, we are doing a great disservice to all those who have come before us, and all those who will come after. In fact, we threaten the freedom of speech itself.

House Joint Resolution 79 represents the opportunity to do just what Americans across the country are pleading for: namely, returning civility to the public arena.

It would allow States and Congress to prohibit the gross mistreatment of our national symbol, and help restore a faith in our institutions that has been sorely missed by the public at large. Protect Old Glory and the freedom of speech, support House Joint Resolution 79.

Mr. COYNE. Mr. Speaker, I rise today to express my opposition to the proposed amendment to the U.S. Constitution that would seek to amend our Nation's Bill of Rights for the first time in American history. This is the wrong way to honor the American flag which is intended to symbolize the freedoms first set forth by our Nation's Founders in the Constitution and the Bill of Rights.

There is a very real question about why this amendment is before the House today. It seems that there have been very few, if any, reports of flag desecration since the late 1980's when the flag became embroiled in a Presidential political campaign. I will venture to predict, however, that efforts to pass this amendment will prompt some malcontent in our society to engage in the very act some would prohibit. There will always be a few who will do anything to claim their 15 minutes of fame, or infamy in this case.

Still, simply stated, the most important question before us today is whether we should carve out a constitutional exception to first amendment protections under the pretext of saving the flag. The issues before us involve legal matters but, more importantly, they also involve fundamental questions about the nature of our democracy and the freedoms we will celebrate in less than a week on July 4.

The United States has always been a beacon of freedom to the world because of the principles of liberty set forth by our Nation's Founders. This was true over 200 years ago and it is true today. Our freedoms have endured and prevailed over monarchists, Fascists, and Communists. This is due in large part to the fact that our Nation's Founders enshrined in our Constitution and the Bill of Rights an unyielding commitment to liberty. This commitment finds its most noble expression in the first amendment to the U.S. Constitution. And one of the most fundamental elements of this amendment is the idea that each person should be free to express his or her views, no matter how repugnant they may be.

The freedom of speech embodied in America's first amendment is celebrated here in the United States and around the world. It has provided inspiration to prisoners of conscience who have struggled in foreign lands against dictatorship. It has been repeatedly upheld by the U.S. Supreme Court as one of our Nation's most important constitutional principles. Our right to free speech is something that makes us uniquely American.

No one has ever attempted an outright repeal of our first amendment right of free speech. Instead, there have been efforts over the course of our history to nibble away at these rights. This periodic pressure to erode the full expression of free speech in our Nation has always been dangerous. Such efforts have always raised basic questions of where do we stop if we start down the slippery road of curbing speech or expressions that some may find offensive. Such a selective defense of liberty has always threatened to eat away at the very foundations of our democratic values. These are the true threats to our Nation's most sacred principles.

We see an example of this danger today in the proposed amendment to prohibit the desecration of the flag. It is an important step in the wrong direction.

I would stress at this point that I share the belief of many Americans that desecration of the U.S. flag is an offensive act. Burning the American flag is an extremely despicable way for any individual to express their views on the U.S. Government, its laws, or the flag itself. I also understand that American veterans feel especially offended to see the flag that they have served under desecrated. As someone who is proud to have worn the uniform of the U.S. Army, I am also disgusted to see our flag desecrated at any time by malcontents who seek to draw attention to an issue by burning the American flag.

Yet, the real issue before us is how committed we are to the Bill of Rights and the guarantee of free speech set forth in the first amendment. The question is whether we are willing to defend the right of free speech even while we condemn the acts of those who would express their views by burning the American flag.

I have every right to join the vast majority of Americans in condemning those who would burn our Nation's flag. Yet, I have taken a solemn oath to defend the Constitution and that also requires a defense of the first amendment. I refuse to let the actions of a few despicable malcontents who would burn the flag lead me to take an action that would erode the freedoms guaranteed by our Constitution and the Bill of Rights. I cannot permit myself to join with those who would honor the flag by weakening the first amendment.

Supreme Court Justice William Brennen said it well, "we do not consecrate the flag by punishing its desecration, for in doing so we dilute the freedom that this cherished emblem represents."

Mr. Speaker, I believe that the U.S. flag is best honored by upholding all of the traditions of freedom outlined in the U.S. Constitution and the Bill of Rights. I urge my colleagues to vote against this amendment.

Mr. HEINEMAN. Mr. Speaker, for more than 200 years, the American flag has been a symbol of all that was good, honorable and just in our great Nation. Unfortunately, on June 21, 1989, the Supreme Court ruled that the American flag could be burned just like any other piece of cloth. This amendment will remedy this gross error.

I am proud to say that I am an original cosponsor of this amendment and strongly support the flag desecration constitutional amendment. Throughout the U.S. history, during wars abroad and at home, the one symbol that unites this great Nation is the flag. Since Congress last voted on the flag desecration issue, 49 States, including my home State of North Carolina, have passed resolutions requesting Congress give them the opportunity to protect the American flag by ratifying such an amendment.

We should have the deepest gratitude for those wartime heroes who fought and died for our freedom. We should be humbled by those who gave their lives in defense of those things we treasure as Americans. We should be in awe of the ultimate symbol of these acts of patriotism and heroism. With every act of flag desecration, we are allowing patriotism and heroism to be mocked.

Opponents of the flag desecration amendment argue that this is an infringement on free speech and the first amendment. This amendment will simply restore what was the law of the land for more than two centuries. The flag is a unique symbol in our society. No other act arouses the amount of outrage as flag desecration. This amendment will simply give the States the power to decide on what is and what is not flag desecration. I urge my colleagues to vote yes on this bi-partisan amendment. Our greatest national treasure deserves no less.

Mr. FOGLIETTA. Mr. Speaker, here we go again.

Here we go again spending time on a sound-bite solution to an issue.

The symbol of our flag is very important to me. It was in my hometown of Philadelphia where Betsy Ross sewed the first flag. But that's not all that happened in Philadelphia. The Constitution and its first amendment were also written there.

Our goal here is to honor America. And it is an admirable goal to pay homage to this, the greatest Nation on Earth.

But the flag—no matter how beautiful and special—is a symbol. Justice Jackson said this more than 50 years ago in a landmark decision about pledging allegiance to our flag: "The use of an emblem or flag * * * is a short cut from mind to mind."

We can honor America and pass on to our children reverence for our country in much more genuine ways. First, as Members of Congress we should spend every day in this institution living up to the highest ideals of democracy and constitutional Government.

Second, we should do our best to preserve and expand debate and free speech. Free speech is the essence of democracy and the energy that drives our Nation.

Burning the flag is speech; it is hideous speech but it is speech. Oliver Wendell Holmes said this about offensive speech: we need to protect the "freedom for the thought we hate."

It is unfortunate that we are spending our time passing this amendment. There's a better way. The next time someone desecrates our flag—I would rather spend my energy defending our Nation by challenging this ugly form of speech, through speech. That's the way to pledge allegiance to America.

Mr. BILIRAKIS. Mr. Speaker, I rise today, as an original cosponsor of House Joint Resolution 79, in strong support of this legislation to protect our flag from desecration. I congratulate my colleague and friend from New York for introducing this measure and for his persistence in bringing it to the floor today.

Because of what America is, our flag should always be one of our most cherished and revered symbols. Therefore, I was astounded and gravely disappointed by the 1989 Supreme Court decision legitimizing desecration of our flag as protected conduct. I was one of those in Congress at the time who immediately afterward introduced legislation to reverse it.

However, I must tell you that I took this step not at all lightly. I believed that to reverse this decision of the Supreme Court, one course and one course only was open to us: Amending the U.S. Constitution. Today we seek to do just that with this legislation authorizing the Congress and the States to prohibit the act of desecration of the flag of the United States.

My friends, I have to tell you that I never believed that the issue involved is one of free speech—that burning the flag is a form of protest against government policies. The American flag does not stand for any particular government policy or decision or official. It stands for the United States of America, and to desecrate it means that America should not exist—that freedom and democracy should not exist—that, in fact, right to peaceful protest should not exist. I cannot and will not support this idea.

It has been said that allowing the desecration of the flag is the best way to prove we believe in equal freedom for those with whom we disagree. The late Senator from Illinois, Everett M. Dirksen, once answered this argument. He called it false and sour.

"A person can revile the flag to his evil heart's content," he said, but it is only if his contempt takes physical form—such as trampling, tearing, spitting on and burning the flag—that he can be punished. Only his violence is punished. I could not agree more.

Let me repeat, I say that by protecting our flag we deny no one the right of free speech or of peaceful political protest. I will defend the right of anyone to get up and say whatever is on his mind. That is, in fact, the entire point: By defending the flag we ensure that this right never will be denied.

All we ask is that the flag be accorded the same respect we offer to those who protest under its freedoms.

If living symbols of freedom and liberty mean nothing, if the ideals and not the evidence are all that matter, why don't we just open up the National Archives and tear up the Constitution and Declaration of Independence? They're just fading, old pieces of paper, aren't they?

The fact of the matter is that they are much more than that. They have told generations and generations of immigrants seeking a better life—immigrants like my parents and some of yours—that here in America we believe it is an individual's right to choose, to control his own destiny.

Senator Dirksen had it right—he said that:

> Reverence for our stars and stripes is but our simple tribute to the republic and to all of its hopes and dreams.

In this country, we do not pledge allegiance to a king or a President or even a piece of old parchment.

We pledge allegiance to a flag because its bright stars and bold stripes mean something that no other flag on Earth today means: Here in America, the people are the Government, and for that reason we will always be free.

No, it is not lack of commitment to the flag and the great freedoms and ideals it symbolizes that make me uneasy.

What disturbs me is that we as a Nation must go to these lengths—to the extreme of amending the document upon which all of our national history and heritage rests—to reconfirm these very national beliefs.

We cannot hold ourselves apart, we cannot claim that we are Americans, and at the same time believe that this flag should be burned or otherwise desecrated.

This flag means America, it means that we should be able to disagree. How can anyone believe otherwise? How could anyone not choose freedom over tyranny, justice over injustice, liberty over servitude? This flag—our flag—stands for these great ideals. It is hope, dreams, the very best man can offer the world and the future.

Our cemeteries are filled with the bodies of those who had great dreams of productive lives with loving families—dreams that were forfeited in order that you and I and our children would be able to lead better lives.

Our freedoms have been bought and paid for by their sacrifice, and we own it to them to ensure that this country can be all that it was meant to be.

That does not include contempt and desecration—it requires determined, constructive effort every day. All of this and more is woven into those few yards of cloth. We need to remember that.

Mr. Speaker, I urge all of my colleagues to support this valuable and needed legislation today. Protect our flag and ensure that it's protections will never be compromised.

Mr. EWING. Mr. Speaker, I rise today in strong support of House Joint Resolution 79. I take great pride in supporting this resolution which will protect Old Glory, from being desecrated. Contrary to what this resolution's opponents say, we are not trampling on the Bill of Rights. Indeed, we are ensuring the rights of millions of Americans who find burning the American flag to be offensive to their beliefs.

It does not make sense to argue that burning the American flag is a protected form of expression. It is a felony to burn U.S. currency, even if a political statement is being made, and it is illegal to damage a Postal Service mailbox. But you can burn the American flag. This makes no sense.

Until 1989 the Supreme Court upheld State laws that prohibited the desecration of the flag. In 1989, the Supreme Court overturned a Texas statute that prohibited the desecration of the flag. Consequently, Congress passed a Federal law that prohibited the desecration of the flag. Once again, the Supreme Court overturned a statute that barred flag-burning. Faced with these two decisions, a constitutional amendment is the only way to give the American flag the protection it so dearly needs. This amendment will provide Congress and the States with the constitutional authority to protect the flag, authority that they had prior to the Supreme Court's intervention in 1989. This amendment itself will not prohibit desecration of the flag, it will simply return this authority to the States.

Public opinion polls show that more than 80 percent of the American people support this amendment. Forty-nine State legislatures have passed resolutions calling on Congress to pass this amendment and send it to the States. One needs only to look at the Iwo Jima Memorial to witness the powerful nature of the American flag. The American flag is a symbol throughout the world for liberty and justice and we should treat it with the utmost respect and admiration, not just for what it symbolizes but also for countless numbers of soldiers and others who fought, served and died protecting it. In a country as wonderfully diverse as ours, the American flag serves as a national symbol of unity. No matter who you are, whether you are rich or poor, African-American or Irish-American, male or female it is our flag that reminds us of our common history and our heritage.

The American people want us to pass this amendment, and I urge my colleagues to vote for it.

Mr. KLECZKA. Mr. Speaker, I rise in opposition to this unnecessary constitutional amendment.

All of us here today respect and honor our flag. We all feel so proud when we see the Stars and Stripes on a front porch.

We all agree that the flag is a treasured symbol of our democratic ideals and the values we hold most dear to our hearts. And, we all agree that damaging that symbol is disgraceful and should never be condoned.

The key question is, are we truly prepared to amend the Bill of Rights for the first time ever, to begin eroding the freedom of speech and expression? Our Founding Fathers drafted the Bill of Rights as a guarantee against the abuses and tyranny they had fled. These inalienable rights have stood the test of time and survived for 204 years. Are we prepared to begin placing qualifications on the first amendment? What provision of the Bill of Rights will be next?

If we start down the slippery slope of eroding fundamental rights like free speech, where will the assault on individual freedom we all take for granted end? What is the logical extension?

I am disturbed by the remarks of American Legion National Commander William Detweiler, who stated, "Burning the flag * * * is a problem even if no one ever burns another American flag." These comments show an alarming lack of perspective. Is Congress going to begin amending the Constitution to prohibit actions which do not even occur? There is no rampant abuse of the flag occurring in this country. There has not been a major incident in 5 years. But know full well, as soon as we pass this amendment, someone will burn a flag just to get in the news.

Old Glory has a special place in our Nation's history and damaging it is disgraceful. But we should not let a few isolated hooligans and malcontents blackmail us into whittling away at the Bill of Rights.

Moreover, our flag, while revered and held in honor, is a secular symbol and thus should not be worshiped. It should not be elevated to the exalted status this amendment would confer.

That is why I am perplexed by the use of the word desecration in connection with the flag. The word actually means "to violate the sanctity of," a definition with obvious religious undertones.

William Safire, one of the most conservative commentators in America today, addressed the question of the flag's true secular symbolism eloquently. In 1990 he wrote,

> * * * in this democracy, nothing political can be consecrated, "made sacred." * * * Any attempt to make the nation's flag sacred—to endow this secular symbol with the holiness required for "desecration"—not only undermines our political freedom but belittles our worship of the Creator.

He continued,

> Should we respect the flag? Always. Should we worship the flag? Never. We salute the flag but we reserve worship for God.

Mr. Speaker, in spite of my deep respect and affection for our flag, I will vote against this constitutional amendment. This amendment would alter our Bill of Rights for the first time in more than 200 years to prohibit an act which almost never occurs. It is ironic that this amendment's sponsors are using our Nation's symbol of freedom to begin eroding that freedom.

I urge my colleagues to vote no on this unnecessary constitutional tampering.

Mr. YOUNG of Florida. Mr. Speaker, I rise in strong support of House Joint Resolution 79, legislation I have cosponsored to allow Congress and the States to prohibit the physical desecration of the American flag.

As we debate this long overdue legislation to correct a 1989 Supreme Court ruling that allowed for the desecration of the American flag, I cannot help but recall my good friend and constituent Charles Allen, a veteran who served in the Navy during World War I. He is a legend at the Department of Veterans Affairs Hospital at Bay Pines which he helped build. Later he served on the hospital's maintenance team and upon his retirement devoted thousands of hours as a hospital volunteer and donated thousands of dollars to the volunteer services program. Although Charlie died 4 years ago, he is buried at the National Cemetery at Bay Pines and is with us in spirit during every memorial day and Veterans Day program.

Perhaps the greatest gift left to us by Charlie Allen was a special tribute to the American flag he wrote and recited at Memorial Day and Veterans Day services for more than 25 years. It is a stirring tribute to Old Glory which I would like to share with my colleagues.

> It is my privilege and high honor to direct your attention to this beautiful flag of our beloved country. It is, and should always be displayed in the proper place and conditions where it is accorded the position of highest honor and is a constant inspiration to every loyal citizen. It demands unswerving loyalty and wholehearted devotion of the principals of which it is the glorious representative. It is the majestic emblem of freedom under constitutional government.
>
> Beneath its protective folds, liberty, equality, and fraternity have become the heritage of every citizen—while the opposed of many nations have found peace and happiness in the land over which it floats.
>
> Each time I see Old Glory wave against a clear blue sky.
>
> I know that deepest reason that our flag will always fly.
>
> And so I set about to write just how it made me feel.
>
> To see the banner fluttering, our guardian so real.
>
> I will not say, as others did, for which each color stands.
>
> I'll only state this grand old flag a Nation great commands.
>
> And that each mother's sons of us would more than gladly give.
>
> Our blood, and yes, our very life so it can wave and live.
>
> The flags of many empires have come and gone, but the Stars and Stripes remain.
>
> Alone of all flags, it has the sanctity of revelation. He who lives under it, is loyal to it, is loyal to truth and justice everywhere. For as long as it flies on land, sea, or air, Government of the people, by the people, for the people, shall not perish from this earth.
>
> (Charles Allen, WW I veteran)

Before his death, Charlie willed his tribute to the flag to another legend of Bay Pines and our local veterans community, Mr. W.B. Mackall. He is a leader of Florida's Citizen Flag Alliance who now carries on the tradition of reciting this tribute at the appropriate events.

Mr. Speaker, as a veteran and as one who dedicated his life to other veterans and to our Nation, it is most appropriate that Charlie Allen's word from the heart about the American flag be a part of this historic debate. In just a few sentences, he captures its essence and the urgent need to protect the Stars and Stripes from those who would desecrate it. Those who would trample on our flag also trample upon our Nation, the honor of Charlie Allen, all those who went before him into battle, and all those who will go into battle in the future in defense of our Nation and our way of life.

Mr. GUNDERSON. Mr. Speaker, the flag of the United States is very dear to almost every American. To see it desecrated evokes anger among most of us because it is such a powerful and important symbol. The flag makes us proud and reminds us of what we, our friends and relatives and our forefathers have sacrificed to ensure it will continue to symbolize peace, strength and above all, freedom.

The Supreme Court has ruled that statutes which prohibit flag desecration violate the first amendment protection of freedom of speech and are unconstitutional. Therefore, it has become necessary to amend the Constitution so that Congress and the states may enact legislation protecting the flag. The constitutional amendment before us today provides such power; no more, no less. It states: "The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States." I support this narrowly drawn amendment to allow us to protect the flag, our symbol of all that we are as a people.

The most important part of this debate, and one we won't decide today, is how a future Congress will define two important terms in this amendment. Those terms are "physical desecration" and "flag." This will require careful and thoughtful consideration to make sure we protect both our flag and our right to free speech.

Some would argue that we cannot protect the flag through a constitutional amendment, because to do so would restrict the right to free speech. The first amendment protects a wide variety of expression of ideas and the means by which these ideas are conveyed. For example, the spoken word, a gesture, and picket signs are largely protected by the first amendment. However, the Supreme Court has ruled that first amendment does have reasonable limits. The Supreme Court has ruled that the first amendment does not protect one from yelling "fire" in a crowded movie theater or from provoking a riot. It has also allowed restrictions on when, where and how speech is conveyed in public.

Let me illustrate with a hypothetical situation. Assume that I am the owner of a business on Main Street in town and the mayor decides to close Main Street. I can express my dislike for the mayor's decision by giving a speech against the idea in a public square or by holding a picket sign. However, the town can legally regulate when, where and how I can do these things. In my example above, the town could prevent me from screaming my speech through a megaphone at 2 o'clock in the morning. It could also prevent me from throwing a paint bomb at city hall. But it cannot prevent me from expressing my dislike of the mayor's decision to close Main Street.

It will be necessary for a future Congress to be thoughtful in defining the term "physical desecration." Obviously, the definition cannot be so narrow that it prevents burning of a soiled or tattered flag. That is considered a respectful means of disposal. However, it should not be so broad as to prevent a flag being present at a protest against a certain government action. Such a prohibition would not involve physical contact with the flag and would not, therefore, involve any changes to the flag.

The definition of "physical desecration" will depend upon how a future Congress defines "flag," which will be just as difficult. What exactly is a flag? I have no problem with the traditional "flag" that is flown on a flag pole in front of a house or city hall or above the Capitol. Similarly, a flag on a stick distributed at a Fourth of July parade seems clearly to be a flag which deserves protection. But what about a flag emblem on a sweater or on a shoe? What about a flag cake or a flag tie on the Fourth of July? Or a video picture of a flag that is transformed into the face of a politician? Is this video emblem a flag capable of desecration?

These are the very detailed and difficult questions which a future Congress must resolve if the amendment is adopted and ratified by the States. I support this amendment because I believe in protecting the flag. However, I also support the amendment because in the process of defining "flag" and "physical desecration," the American public will see just how challenging it is to define what is and what is not protected by the first amendment. This civics lesson will increase our understanding of the freedoms which our flag symbolizes.

Mr. DOYLE. Mr. Speaker, I am a proud cosponsor of House Joint Resolution 79, the resolution to protect the U.S. flag from physical desecration.

This year, we continue to commemorate anniversaries of the passage of 50 years since notable events of World War II. One of those celebrations marked the anniversary of the U.S. capture of the Japanese island Iwo Jima. Many of us can picture the famous photograph and bronze monument near Washington, D.C., and adjacent to Arlington National Cemetery. Of the many monuments, memorials, and truly powerful sights, the Iwo Jima Memorial, illustrating U.S. Marines raising the U.S. flag above a battleground covered with American casualties, has prominence in our appreciation of the flag. It was the wish of President John F. Kennedy to fly a fabric U.S. flag atop the mast being raised by the dramatic figures.

Our flag is the embodiment of our national pride. It is what we use to identify our Nation at everything from community picnics to international events such as the Olympic games. It is used to cover the caskets of those who served in our military when they are interred. We witnessed the positive expressions and use of the flag when our pilot returned safely from Bosnia. One might ask, Why should not all Americans share the same reverence and regard for the flag as those six Marines did in 1945? Not all share the same feelings. But that is exactly what the flag represents—varying opinions. And that is why I believe strongly we must protect is from desecration.

Many men and women fought to defend and protect the flag and the great Nation it represents. During our Nation's history, few objects have evoked such emotion, loyalty, and bravery. The U.S. flag is more than a fabric which flies over courthouses and post offices. It represents our beliefs, our dreams, our sense of responsibility and community. We should remember what it means to each of us today and pledge our allegiance to the principles it represents.

Mr. BACHUS. Mr. Speaker, some people just don't get it. Our flag is more than just another piece of cloth.

Our flag is a symbol, a proud symbol. It represents much of what is good and right in America. But, as history has taught us, what is good and right does not necessarily prevail merely because it is good and right, often it must be fought for.

We face just such a fight today as we consider an amendment to the Constitution that would forbid burning the flag.

Some self-styled liberals contend this is a question of freedom of speech, that malcontents in our population have a right to burn the flag to show their defiance of this country or its policies.

They are wrong, dead wrong.

Dissidents in this country have an unbridled freedom to voice their dissent and opposition whether it comes from the right or the left of the political spectrum. This freedom does not extend to the physical destruction of our flag, the official symbol of our Nation.

Millions of Americans have often spoken of having proudly fought for the flag. Such a statement is not quite accurate. Those millions fought not for the flag itself, but they did fight for what that flag represents—what it stands for—what it means.

Just before the critical battle at Valley Forge, George Washington cited the true importance of our flag as he implored his desperate, outnumbered troops. Washington said, "Let us raise a standard to which the wise and honest can repair, the event is in the hands of God." This standard helped carry the Nation to victory.

That is the real significance and meaning of this debate. We are fighting for the very values, concepts, and principals on which this country was founded.

I am proud to be one of the 281 members of this House in support of the amendment to protect our flag. I urge all of my colleagues to reflect on the true significance of this issue and join us in support of this amendment.

Mr. MFUME. Mr. Speaker, today we vote on legislation which would create a constitutional amendment that would authorize the Congress and the States to prohibit the physical desecration of the Nation's flag.

There are many dangers presented by this constitutional amendment, particularly to the first amendment right to free speech and free expression. In 1989, the Supreme Court handed down a decision which supported this argument. In effect, the decision reversed 48 State flag protection laws that were already on the books. In response to this decision, Congress passed the Flag Protection Act in 1989 and deleted any reference to an individual's intent in mutilating the flag. However, in 1990, the Supreme Court ruled that the statute was unconstitutional because it infringed on the first amendment right to freedom of speech and freedom of expression. The statute was found to "suppress[es] expression out of concern for its communicative impact."

I agree that the burning of the American flag is disrespectful and I am often disgusted and disturbed by this act. I also feel compelled to protect the right of any American to express themselves as they see fit. In a democratic society, we have the enormous and sometimes difficult duty of protecting all forms of speech.

House Joint Resolution 79 seeks to eliminate the already rare incidents of flag burning. From 1777 to 1989, there were only 45 incidents reported. Since the 1989 and 1990 Supreme Court decisions which deemed the flag-desecration statutes unconstitutional, there has been no outbreak of flag burning. In fact, fewer than 10 flag burning incidents have been reported since 1990.

There is no flag burning problem sufficient to justify the radical step of amending the Constitution.

The Supreme Court has been consistent in its rulings that the destruction of the flag is a political statement and political expression, which is exactly the kind of unpopular speech which the first amendment has always sought to protect. For example, in Street v. New York, Sidney Street publicly burned the American flag in protest of the shooting of civil rights activist James Meredith. He was convicted under a New York law which made it illegal to mutilate a flag or to show contempt for it in words or conduct. The Supreme Court overturned the decision and stated that the language was too broad because it punished not only Street's actions but his words as well.

The amendment we debated today was written with such broad strokes that it fails to define desecration and fails to establish which flags or representations of the flag are to be protected. Such open-endedness and vague wording provides Congress and the States with enormous powers to criminalize a broad range of acts which fall short of flag burning or mutilation.

This bill would amend the Bill of Rights and damage the first amendment's protection of freedom of expression.

Prohibiting the right of expression is characteristic of a totalitarian society not a democracy such as ours. We must not erode the right of citizens to express their political opinions no matter how repugnant they may seem to some. There is only one thing more distressing than the desecration of this national symbol and that is the desecration of the principles which it represents. It is certainly a sad day in this country when we invest all of our beliefs into a single symbol and are willing to forgo real constitutional rights for it.

The freedom of expression that is guaranteed to every citizen of the United States carries with it a great responsibility. Any attempts to curb that right must not be taken lightly. If so, our freedom of speech and expression becomes the price for adopting a constitutional amendment.

Ms. PELOSI. Mr. Speaker, I rise to oppose the constitutional amendment which would ban desecration of the flag. House Joint Resolution 79 would—for the first time in our Nation's history—modify the Bill of Rights to limit our freedom of expression, a preeminent human right and one which is central to fostering all other forms of freedom.

I firmly believe that one of the unique and special characteristics of our democracy is that we uphold the freedom of expression even when we do not believe in or approve of the statement being made. As former Supreme Court Justice William Brennan wrote in 1984, "punishing desecration of the flag dilutes the very freedom that makes this emblem so revered, and worth revering."

It would be a hollow form of patriotism to coerce reverence for national symbols at the expense of real constitutional rights. Prohibiting dissent and lawful freedom of expression is the hallmark of totalitarian states like China and North Korea, not of great democracies like our own.

I urge my colleagues to reject this amendment. Voting against House Joint Resolution 79 is a vote for the Constitution and for the Bill of Rights.

The SPEAKER pro tempore (Mr. OXLEY). All time has expired.

Pursuant to House Resolution 173, the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BRYANT OF TEXAS

Mr. BRYANT of Texas. Mr. Speaker, as the minority leader's designee, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the joint resolution?

Mr. BRYANT of Texas. Yes, I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit with instructions.

The Clerk read as follows:

Mr. BRYANT of Texas moves to recommit the joint resolution, H.J. Res. 79, to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

"ARTICLE—

"SECTION 1. The Congress and the States shall have power to prohibit the burning, trampling, soiling, or rending of the flag of the United States.

"SECTION 2. For the purpose of this article of amendment, the Congress shall determine by law what constitutes the flag of the United States, and shall prescribe procedures for the proper disposal of a flag.".

□ 1400

The SPEAKER pro tempore (Mr. OXLEY). Pursuant to House Resolution 173, the gentleman from Texas [Mr. BRYANT] and the gentleman from New York [Mr. SOLOMON] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would dearly love to be freed at this moment from any restraints of conscience so that I could simply content myself with a sincere speech about my love of this country and this flag and then go on my way because life would certainly be more simple for me and for many others who have spoken here today if we did that, but the fact of the matter is, if we love this country, if we truly want to be patriots who bear responsibility for the future of our people, and, after all, they are this country, we have the obligation to legislate for the long run in a way that is workable and in a way that protects them from accidentally getting in trouble and in a way that protects the things that we hold dear insofar as possible.

The fact of the matter is that in haste to bring this bill to the floor in time to precede the July Fourth recess the bill that has been brought to us today is one that I think bore a great deal more study and a great deal more consideration than it received. Why is that? Because either inadvertently or perhaps on purpose the way this current provision is written, Mr. Speaker, it allows 52 different definitions of what the flag is and 52 different definitions of what desecration of the flag is.

Well, I submit to my colleagues that the polls that I have heard the gentleman from New York [Mr. SOLOMON] make reference to during this debate, that the American people are for a prohibition on burning the flag, certainly would not be the same if they knew it was going to be 50 different laws and 50 different definitions of the flag; 52 that is. Surely, if there is anything that is within the province and responsibility of this Congress, it is defining what is an American flag. That should not be subject to 52 different definitions, and surely if we are going to deal with this problem in a way that goes as far as possible to avoid limiting freedom of speech and to avoid accidental prosecutions and accidental crossing of the legal prohibitions, it is our job to write a single statute, a Federal statute, to govern the question of what is desecration of the flag.

I asked during the course of the debate in the Committee on the Judiciary of the gentleman from Florida [Mr. CANADY], who is the chairman of the subcommittee with jurisdiction, what would happen if a State said that a flag has 49 stars, or 48 stars, or a flag is green, and yellow, and blue instead of red, white, and blue, and the answer that I received was, "Well, it is up to the States. It depends on what the States do." That is not an outcome that befits a Congress that is supposed to be handling with extreme care and reverence the Constitution of the United States and the best interests of the people that sent us here.

The motion to recommit is in effect an amendment to this bill, this resolution. It says quite simply that Congress and the States shall have power to prohibit the burning, trampling, soiling, or rending of the flag of the United States, and for purposes of this article the Congress shall determine by law what constitutes the flag and shall prescribe procedures for the proper disposal of the flag. That, if we are going to pass a constitutional amendment, is what the public would have in mind. That is something that tells people what is the flag, what is the law, and where is the line which one cannot cross.

I simply submit to the many Republicans, as well as Democrats who stood up today and spoke for this, that this is what they had in mind, not the provision that was hastily brought to the floor today in order to get here before the July Fourth recess and perhaps permit the delivery of many inspriational speeches with a slight political overtone over this coming holiday. How are we serving the interests of this country if we handle this in a way that is designed to meet our political needs rather than handling it in a judicious way that is designed to protect the interests of the public?

I submit the motion to recommit is constructive, it deals with the problem that has been articulated by the authors of the amendment in a way and in a way that tells the American people what is permitted and is not permitted.

Finally I would say this: You have made much of how important it is to prohibit anyone from desecrating the flag, but your proposal would allow States to permit the desecration of a flag because all 50 states can do what they want to do in terms of defining desecration and defining the flag. This proposal, this motion to recommit, says that the Congress defines the flag and the Congress defines desecration. If we are to take this monumental move, action, if we're to amend the most sacred civil document of this land, surely we ought to do it in a way that is constructive and it serves the interests of the people.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, first of all let me just say to Members on both sides of the aisle that reasonable men and women can disagree with each other, and certainly there is a reasonable disagreement on this issue. I respect those on both sides of the aisle regardless of what their opinion is, and I am sure that they are sincere, and I do not think that any of us are any more patriotic or any more standing up for the flag than the other. It is a question of a difference of opinion, and, because of that, I rise in opposition to the alternative for two basic reasons.

One, Mr. Speaker, is because it changes the wording of the language recommended by 49 States of the United States of America, and more than three-quarters of these States have memorialized this Congress to pass this exact language.

Now all of the State's attorneys in those States, whether it is Ohio, yours, Mr. Speaker, or Texas, or New York, they have looked at the language in House Joint Resolution 79, as have all of the veterans' organizations, as have many of the constitutional lawyers around this country. They have said that this language is the language we should adopt.

Now, if we change it, then it is going to cause a problem. We know now that these 49 States would almost immediately, within the first year that their legislatures go back into session, we know that they would ratify the language in House Joint Resolution 79. That means within 2 years we are going to settle this issue one way or the other. It would not be like the equal rights amendment that went for 7 years and then failed. If we pass this exact language, then we are assured that we are going to protect that flag and we are going to do it in a very short period of time.

Now, second reason:

It is because I do not believe that the sponsors, not this gentleman here, but those who appeared before my Committee on Rules upstairs yesterday, I do not believe that they are going to vote for this gentleman's substitute. As a matter of fact, those who came to testify, and the gentleman was not one of them, those that came to testify said they would not vote for it even if we made it in order.

Now that brings a problem to us because it again, once again, just clouds the issue. I say to my colleagues, "If you recall last time, we passed a constitutional—or we tried to pass a constitutional amendment, but we ought to in tandem try to pass a statute, and many Members said, 'no, I'm going to vote against the constitutional amendment because we can vote for the statute, and that will take care of it,' and we failed. We failed by about 34 votes."

My colleagues, we cannot fail today. We have tried it. The courts have said nothing is going to stand short of a constitutional amendment, and what we are simply doing is putting the constitution back to where it was prior to 1989 and how it stood for 200 years.

My good friend from Texas worries about the possibility that States might permit the desecration of the flag. Now I just have to take exception to that. In 200 years of the history of this country not one State did that. I mean after all, Mr. Speaker, we are people of common sense in this country.

Mr. Speaker, those are the reasons we need to defeat this alternative that is being offered and pass the constitutional amendment overwhelmingly supported by the American people.

Again, Mr. Speaker, I have the highest regard for the gentleman. There is not one Member of this House, whether liberal or conservative, that I dislike, or question, or impugn their integrity. They are all ladies and gentlemen that are highly respected in the eyes of this gentleman anyway.

Mr. HEFNER. Mr. Speaker, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from North Carolina.

Mr. HEFNER. I just want to ask a question.

I plan to vote for the amendment, but there is something that has been bothering me. I realize that the States will set whatever the penalty is, but just say that someone is here on the Capitol Grounds in the District, here on the Capitol Grounds, and they burn a flag. Now what would be the penalty?

Mr. SOLOMON. There would not be any penalty unless this Congress——

Mr. HEFNER. Say it passes, it is ratified. What would be the penalty? What would be the Federal penalty if it happened in front of the Capitol?

Mr. SOLOMON. There would be no penalty unless the Congress takes action. The District of Columbia is not a State. This Congress must pass a statute, which we will do, the gentleman and I will do it together, and we will define the U.S. Flag Code, and what constitutes a flag, and what is a criminal offense; we will do that once this amendment has been ratified.

Mr. HEFNER. If the gentleman would continue to yield, because I read here the Congress and the States shall have the power to prohibit the physical desecration of the flag of the United States, and we cannot very well prohibit it, but what I am trying to get at is are we going to pass a statute here or are we going to have a law that it is a Federal crime, a Federal crime, to desecrate the flag and what penalty would it carry if someone desecrated the flag on the steps of the Capitol? What penalty would he have to pay? We have to have something.

Mr. SOLOMON. That is going to be up for debate on this floor. I hope the gentleman is back here next year if this is ratified as quickly as I think it will be. We ought to take this up on the floor and establish what constitutes an illegal activity as far as the flag is concerned and what criminal penalty goes with it. That is up for this Congress to do, but do it by statute. All this amendment does is speak to the principle and allow, as the gentleman repeated, the States and/or the Congress to enact a statute which would provide for a legal penalty for physically desecrating the flag.

Mr. HEFNER. Would the gentleman continue to yield?

Mr. SOLOMON. I am running out of my time over here.

Mr. HEFNER. But the gentleman would anticipate that once this is passed by all the States, and I am assuming that it would happen fairly quickly, that they would set their penalties, and we would set one penalty, it would be a Federal offense if it took place here in the front of the Capitol, and there would be some penalty for desecration of the flag. If not, it is pretty meaningless to have it.

Mr. SOLOMON. Well, yes, sir, and I would hope that this Congress would do it before any of the States do it so that we could give them a sample to go back to what we believe it should be. They would not have to follow it because in some States, like in your State of North Carolina, they may want a very, very stiff penalty. In my State of New York, sometimes they are a little questionable with their enforcement of the laws; right, Mr. ACKERMAN? And so it might be a lesser penalty; I don't know. But again that is up to the States.

Mr. HEFNER. I thank the gentleman.

Mr. SOLOMON. Mr. Speaker, I reserve the balance of my time.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself such time as I may consume.

I would like to ask the gentleman from New York [Mr. SOLOMON] if he would respond to me; he was good enough to yield me his time a moment ago. I ask Mr. SOLOMON from New York if I could have his attention for a question.

Mr. SOLOMON. Excuse me. I was distracted over here by one of our Texas colleagues.

Mr. BRYANT of Texas. I understand.

Mr. SOLOMON. They are everywhere you turn.

Mr. BRYANT of Texas. That is as it should be.

Mr. SOLOMON. Almost as bad as Californians.

Mr. BRYANT of Texas. Mr. SOLOMON, I am sure—I appreciate the gentleman's statement of his belief and sincerity of all parties in this debate, and I certainly say to the gentleman that those are my feelings in return. In the substitute which I have offered in the form of a motion to recommit we have provided that the Congress and the States shall have the power to prohibit the burning, trampling, soiling, or rending of the flag of the United States. What else do you want to prohibit other than those four things?

Mr. SOLOMON. Mr. BRYANT, I do not know what the interpretation of rending of the flag might be.

Mr. BRYANT of Texas. Tearing.

Mr. SOLOMON. There are a lot of other things. Is punching a hole in the flag? I do not know.

□ 1415

What I am saying is that we want it to be a statement of principle, and then let this Congress make that decision, or let your State of Texas make that decision as to what the physical desecration of that flag would be.

Mr. BRYANT of Texas. Do you think my State should be able, for example, to prohibit someone from wearing the flag on the back of their jacket if they are a Member of an Olympic team? Should the State be allowed to prohibit that?

Mr. SOLOMON. No; and I do not think that they will.

Mr. BRYANT of Texas. Do you think the States should be allowed to prohibit the Olympic team from wearing a flag on the back of their athletic jacket?

Mr. SOLOMON. No; and I do not think they will.

Mr. BRYANT of Texas. Under the terms of your language, that could be defined as physical desecration. That is the whole point of my substitute.

Mr. SOLOMON. Let me tell the gentleman something: I have the greatest respect for your State legislature in Texas.

Mr. BRYANT of Texas. How about the one in New York?

Mr. SOLOMON. They are going to define a flag according to the U.S. flag code. Some articles of clothing are not a flag, and neither is a picture of it on a T-shirt. I have no concerns about that.

Mr. BRYANT of Texas. If I might ask the gentleman another question, do you not think it just logical that the flag of the United States would be defined by the Congress of the United States, not by the New York Legislature, or the Texas Legislature, or California or Massachusetts? One definition of what the flag is? Doesn't that just stand to reason that would make more sense?

Mr. SOLOMON. Yes; and we have a flag now; I think it needs refining and defining. I intend to work with that gentleman and to try to do that.

Mr. BRYANT of Texas. But your proposal allows 50 States to define the flag any way they want to. You brought it out here so quickly, you overlooked that. That is the point.

Mr. SOLOMON. I would say to the gentleman from Texas [Mr. BRYANT] that I am 64 years old, and I have looked at all of these statutes. I have not found one State that abused it, not one, in 200 years of this country's history.

Mr. BRYANT of Texas. I doubt if you looked at all of them. None of the rest of us have either. But for you to state a State can never abuse it. A State, as I said under your definition, could permit the desecration of the flag, whereas we are saying it is going to be a Federal statute.

Mr. SOLOMON. Does the gentleman think his State of Texas is going to abuse it?

Mr. BRYANT of Texas. No; but I am not so sure about the gentleman's State of New York.

Mr. SOLOMON. I do not think my State of New York would do it.

Mr. BRYANT of Texas. I hope the gentleman is right.

Mr. SOLOMON. I do not think any State would do it, not even Vermont, which happens to be the only State that actually passed a resolution saying they did not want this amendment.

Mr. BRYANT of Texas. I hope the gentleman is right. But the reason we write constitutional amendments is because of the assumption that somewhere down the line, somebody is going to get off tract, and abuse what we put into the Constitution, unless we write it carefully. This proposal to this motion to recommit is a careful writing of something which you all hustled out here in a big hurry, because you wanted to get out of here ahead of the July 4 recess.

Vote for something reasonable. You are going to have what you want. You will be able to prohibit the desecration of the flag. But we are not going to threaten the American people with accidental prosecution.

Mr. Speaker, I yield 9 minutes to the gentleman from New York [Mr. ACKERMAN].

Mr. ACKERMAN. Mr. Speaker, I am a bit old-fashioned. I love our country. I love our Constitution. I even love a parade. I love our flag. I am an Eagle Scout who still gets a tingle down my spine when Old Glory goes by. I do not understand and I disapprove of those misguided people who would desecrate that in which we all believe.

The question is, how should we as American patriots respond? Do we, like Voltaire, disagree with what they say, but loving freedom so much defend their right to do so? Or do we do like a despot, who, when offended, seeks to put an end to the activities of those who offend them?

Why should we as Americans act? Is the threat so great? Is our society grinding to a halt? Are our constituents jumping out from behind parked cars, waiving flags, and burning them at us so we cannot get to work? Is there a left-leaning radical court giving solace to our enemies? Or is it a blue, white, and red herring to use our beloved national symbol as a partisan pawn by petty politicians for their personal partisan purposes?

And what is the flag, and why do I love it? The flag is not our way of life. The flag is a symbol. It is a symbol of our country, of our value system, a symbol of the things in which we believe. And high among those beliefs is the right to disagree and the right to protest, the same right currently in each and every one of our 50 States.

Let me correct a misconception. Nobody died for the flag. They died for what it stands for. No American mother gave up her son for a piece of cloth. The sacrifice was made for our way of life. It did not cost us a sea of blood and thousands of lives for a flag that costs each of us $7.97 a copy in the office supply store downstairs. Americans did not sacrifice and bleed and die for a piece of cloth, but rather for what it symbolizes.

And what does it symbolize? It symbolizes the greatest experiment in democracy and individual rights in the history of this planet. It symbolizes a country that is different, because people, indispensable and disagreeable people, have a right to protest, to protest to Congress, to protest against Congress, to protest against you and me, to protest against their Government, their President, their Constitution, and, yes, even against their flag.

This proposed amendment says that 50 States can pass 50 different flag desecration amendments. The motion to recommit corrects that. Imagine 50 different definitions of desecration. Is it a tearing in Montana? It will be. Will it be burning in Mississippi? How about soiling in New Jersey, or cursing at the flag in Utah?

Imagine 50 different State definitions of the flag itself. Is it cloth? How about a paper flag? Could it be unconstitutional to burn a tablecloth that looks like a flag? How about ripping up a photograph of a flag, destroying a symbol of a symbol? Take away that right, and you have diminished us all.

Is a flag anything with stars and stripes? If it has 70 stars and 12 stripes, have you burned a U.S. flag, or can you get off the hook? It will be different in each of 50 States. How about if it is orange, white, and blue? We can have people making them for the purpose of burning. If that is the case, do you beat the rap?

The Constitution is supposed to protect your rights, not your sensitivities. Take away that right, and you are changing what the flag symbolizes, for the first time in American history, reducing constitutional rights. Pass the amendment as it is without the motion to recommit, and what will it mean? The answer will be different in 50 different States. Let us take a look at what it might mean.

America's First Ladies, most of them, all truly patriots, have worn American flag kerchiefs. Are they desecrators? A patriotic gesture, you say? How about an ugly Democrat wearing a flag hat in some State that does not like the idea? Or an uglier flag hat, or an uglier flag hat?

How about a bathing suit made out of the Stars and Stripes, is that desecration? Maybe in one State it is, and another State it will not be.

It goes further. Where does it offend you? How about pantyhose made out of the flag? Stars down one side, stripes down the other leg.

I will spare you the things that personally offend me. How about children who desecrate? Wearing silly flag ears? Or flag pinwheels? Or filling the flag up with hot air? Can you try these children as if they were adult desecrators?

How about American flag napkins? If you blow your nose in one, have you broken the law? Violating the Constitution is nothing to sneeze at. And how about American flag plates? If you put your spaghetti in it, do you go to the can? How about a flag bag? Have you violated the Constitution if you fill it with garbage and then throw it out? Each State could have a different answer.

Do we raid factories that make things such as George and Barbara slippers out of flags? Do we just arrest the people who make them or the people who put their feet in them? Do you throw them all in jail?

How about flag socks? There are ugly ones, and there are cute ones. Do you violate the flag when you make them, when you buy them, when you wear them? Does it matter if your feet are clean or dirty? And what happens if different States make different statutes? Do you have to check your socks at the border? And what happens to you if you burn your socks?

Disposable flashlights. Can you dispose of them or do you have to give them a decent burial when the battery dies? Suspenders. Does that get you a suspended sentence in one State and live sentence in another? And your mother's admonition to wear clean underwear will have new meaning when it comes from your lawyer.

I do not mean to trivialize the flag, Mr. Speaker. Americans love and respect our flag. But we do not want to worship it. It is not a religious relic that once destroyed exists no more. It is not the physical embodiment of our value system that once gone can no longer be. It is only a copy. The fabric of our beliefs are woven into our society and guaranteed by our Constitution, and that which is a symbol of our beliefs is not so fragile as to be endangered by matches or desecrators or even trivializers.

Desecrators cannot destroy the flag, Mr. Speaker. They have tried. They have burnt it, they have soiled it, they have torn it, but they have not destroyed it.

Turn around, Mr. Speaker. There it is, right in back of you. You cannot destroy a symbol, unless you destroy that which it represents. I urge our colleagues, Mr. Speaker, do not destroy what our flag represents. Do not destroy what our flag represents. Please, do not destroy that which our flag represents.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. (Mr. OXLEY). Visitors in the gallery are admonished not to demonstrate approval or disapproval of the proceedings.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have a little trouble composing myself here, but let me just point out, I did not see an American flag in any of that crap on that desk there. To me that is crap.

Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary, who is so highly respected in this body. I once recommended him to Ronald Reagan as a U.S. Supreme Court Justice, and would he not have made a great one?

Mr. HYDE. Mr. Speaker, my good friend from New York that preceded me was quite amusing, and he reminded me when he said the flag cost $7.59, or whatever, of the old saying about a person. They say he knows the cost of everything and the value of nothing.

What is at work here is something larger than the flag itself; it is a protest against the vulgarization, the trashing of our society. This amendment asserts that our flag is not just a piece of cloth, but, like a family picture on your desk, it represents certain unifying ideals most Americans hold sacred, ideals that are wonderfully expressed in the Declaration of Independence.

It represents the "unum" in the "e pluribus unum" of our country, and as tombstones are not for toppling, as churches and synagogues and places of worship are not for vandalizing, flags are not for burning.

Some of our critics have accused us of trivializing the Constitution. With great respect, I believe it is they who trivialize democracy itself, by reducing it to a matter of process, a matter of procedure, rather than substance. Their democracy is one-dimensional, consisting only of free speech as they define it. They elevate a method of communication or process over the substance of democracy, equal protection, due process, and the majestic values so timelessly expressed in our Declaration of Independence, our country's birth certificate: Life, liberty, and the pursuit of happiness.

Free speech is protected by this amendment. It is not harmed or diminished. This amendment takes free speech a dimension forward and it validates the duties and the responsibilities that are part and parcel of every right that exists. A right does not exist without a correlative duty.

□ 1430

We have a duty to respect your rights, and you have a duty to respect our rights. Those responsibilities and duties are the essential underpinnings of the ordered liberty that is the soul of America.

There are well-defined limits to freedom of speech: obscenity laws, perjury, slander, libel, copyright laws, classified information, agreements in restraint of trade and the old yelling fire where there is no fire in a crowded theater.

The question is, is that list commodious enough to include flag desecration? Somebody tell me why it is a Federal crime to burn a $20 bill but it is okay to burn a flag. Walk down Independence Avenue without your clothes on, and you will find very quickly the limits on freedom of expression.

I consider the flagpole that holds that flag high to represent Jefferson's famous tree and liberty which is nourished, as he said, with the blood of martyrs. Think of the words of our national anthem: "and the rocket's red glare, the bombs bursting in air, gave proof through the night that our flag was still there." That expresses something sublime, something profound, something extraordinary in history.

Too many men have marched behind the flag. Too many have returned in a wooden box with the flag as their own blanket. Too many parents and kids and wives have clutched to their grieving bosom a folded triangle of the American flag as the last remembrance of their loved one not to honor and revere that flag.

Stand among the crosses in the cemetery at Arlington or go to Normandy and read the names on the crosses and the Stars of David, and you will come across some that say: Here lies in honored glory a comrade in arms known but to God; and ask yourself, what honored glory? Here is a young man, thousands of miles away from home in the ground who died defending freedom. How do you honor, how do you glorify that?

I will tell you how. You honor Old Glory on behalf of that hero. From Valley Forge to Iwo Jima to Anzio, that flag is symbolized, and we live by symbols. Justice Felix Frankfurter in 1940 said we live by symbols. So honor Old Glory, and that is how you honor that comrade-in-arms known but to God.

The flag is falling. Catch the falling flag and hold it high. There may not be any rocket's red glare, any bombs bursting in air, but anyone with eyes to see will see that our flag is still there.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself such time as I may consume.

I would hope to be able to interpret the comments of the gentleman from Illinois [Mr. HYDE] that we just heard as a ringing endorsement of the motion to recommit, for it is the motion to recommit that will permit this Congress to pass legislation prohibiting the desecration of the flag. And it is the pending proposal brought to the floor by the gentleman from New York [Mr. SOLOMON] and the gentleman from Florida [Mr. CANADY] which would allow a State, if it chose to do so, to permit the desecration of the flag.

It is that same proposal which would allow 50 different States 50 different definitions of the flag. And if the gentleman from New York [Mr. SOLOMON] is so offended by the presentation of the gentleman from New York [Mr. ACKERMAN] pointing out all of the different things that could or could not be defined as a flag by any given State, surely he would be offended by the very idea that 50 different States ought to be able to designate for themselves what is to be the symbol of this country that was the last blanket that draped the coffins of those that went abroad and fought for the freedom of this country.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Houston, TX [Ms. JACKSON-LEE].

Ms. JACKSON-LEE. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, let me comment to the gentleman that chairs the Committee on Rules and as well the very honorable gentleman that chairs the Committee on the Judiciary. Let me acknowledge that I was not before the Committee on Rules and certainly I am one that plans to vote for the motion to recommit, which states the sentiment of the American people.

I take this discussion extremely seriously. I do so as I hold the Constitution of the United States in my hand that incorporates as well the Declaration of Independence; the Declaration being the promise, the Constitution being the document that implements the promise.

When I hear the comments of those who would honor the flag, let me join in, for I can honestly say that I have never in my life's history desecrated, burned or trampled or done anything to disrespect this flag. However, I have watched those who have felt passionately that they wanted to express their first amendment rights. And yet having relatives who served in World War II and other wars of this Nation for our people, but realizing that those in my family did not come to this Nation free citizens, I still say very proudly the Pledge of Allegiance to the flag of the United States of America. And I do emphasize the word Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all. And I say that proudly every single day.

This is not a war between the States or a war between those who would be in support of our Constitution, the Declaration and, yes, our flag. But it is, if you will, a debate on values and morals and what we truly believe in and what we want our children to believe in.

I want them to know that in their heart they can express dissent, and they can respect the flag. It is not like me to want to, if you will, look to amending the Constitution on a regular basis. But in this instance, I am concerned, and the reason I support the motion to recommit is that we do not have a clear understanding of what we are doing.

We have a particular constitutional amendment now proposed that uses the word desecration, a word that in fact is not clear and, therefore, may do more injury to the honor of this great flag and the understanding of it and the respect for it.

In fact, as we talk about desecrate, it is a word of sacredness. In fact it means consecrate to God or having to do with religion, not destroying a flag. Therefore the amendment is unclear.

This is a time that we should come together as a nation. What I would simply say is that the motion to recommit, the one I will vote for, talks about prohibiting the burning, the trampling, the soiling or rendering of the flag of the United States of America. It is clear.

Amending the Constitution is a very, very serious act. I would simply say to my colleagues, I have been offended and hurt over the years when a cross has been burned. In fact, as recently as this year, unfortunately citizens in Texas saw fit to burn a cross to express opposition against an African-American who was running for mayor of one of our cities in the State. Tears came to my eyes. Should we not amend the Constitution on the burning of a cross, another very honored emblem in this Nation?

If we are to do anything like that, if we are to seriously respect all citizens, then should we not be clear on what we are doing? Should we not have the opportunity to have a full understanding of the impact of what we are doing. What behavior are we preventing—wearing a flag tie? I hope not.

When I talk to those in the American Legion, they are talking about burning and trampling and soiling or rendering of a flag.

The motion to recommit is a fair motion. But more importantly, let me say something directly to those of my good friends who are veterans and those who are also Legionnaires, for whom I have great respect. I say to them that we are in this fight together. If we came together, and this point of view was discussed and we all reaffirmed our pledge to honor the flag. Our Nation would not be divided and I believe there would be broad support for this view point. In fact when we amend the Constitution, it should be joined with the understanding that it is to express freedom, not to deny freedom.

Do you know what? That representative of the American Legion's organization understood that when we spoke. How many of us have taken the time to explain what we truly believe in. There was no castigation and no accusation.

I think we are going the wrong way. I think the motion to recommit is one that brings us all together. For those of us who hold the document of implementation—the Constitution—near and dear like we hold the document of promise, the Declaration of Independence, we do know that this is the way to go, for we are being divisive when we go in the direction of this amendment.

So I support the motion to recommit. I, for one, will be voting for it. Mr. Speaker, let is not divide this body. Let us be supportive and support an amendment that the American people can understand and that gives honor to the American flag.

Mr. SOLOMON. Mr. Speaker, the speech we have just heard is the kind of speech we should always hear on the floor. It came from the gentlewoman's heart. I respect her opinion, even though I respectfully disagree with it. But that is the kind of speech that we need. We need to really debate this issue. I want the gentlewoman to know I have the greatest respect for her because of that.

Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, I stand to support the American Flag Protection Act. Let us protect our flag. It means too much to us.

Mr. Speaker, I rise today in strong support of House Joint Resolution 79, the American Flag Protection Act. In less than a week Americans all around this Nation will be celebrating Independence Day, the Fourth of July. There will be countless tributes, fireworks displays, and picnics, all to commemorate our country's Independence. It is also a time to reflect on the great history of the United States of America and many courageous men and women that built this great Nation.

Mr. Speaker, it is only fitting that in this time of patriotic revelry and remembrance, Congress has the opportunity to pay tribute to every man and woman that ever fought for America, and the freedom that she represents. We will not be voting to build a new memorial. We will not be voting to build a new museum. My colleagues, when we vote yes on the American Flag Protection Act, we are giving a simple thank you to every veteran that fought and many times died, in every corner of the globe to defend this flag, and the country it stands for.

As many Americans know, the Supreme Court overturned legislation Congress adopted in 1989 which was designed to protect our flag as our Nation's greatest symbol of freedom, a symbol that thousands of brave Americans gave their lives to defend.

Mr. Speaker, some may argue that desecration of the Stars and Stripes should be allowed as an exercise of free speech. I am not a legal scholar. I simply say, if the Supreme court holds that our Constitution permits flag burning, it is time to change our Constitution.

I believe in free speech. But I also believe that the flag embodies ideals that Americans have sacrificed their lives to protect for more than 200 years.

Neither I, nor any of my colleagues in the House of Representatives would want to stifle anyone's right to freely speak their mind. A constitutional amendment would not restrict anyone from saying anything they want about any issue. I just believe that the ideas flag burners want to communicate can be expressed without burning our beautiful flag.

Let me say to my friends, that country music songwriter Lee Greenwood sings, "I'm proud to be an American, where at least I know I'm free," I deeply share his sentiments. As do the many veterans and other patriotic citizens in my district who have sent hundreds of letters of support demanding this small token of gratitude for what they and their forefathers have fought for. Please honor these brave men and women. Vote "yes" on House Joint Resolution 79.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Del Mar, CA [Mr. CUNNINGHAM]. He is an outstanding Member of this body. He is a veteran of the Armed Forces of the United States of America. He has risked his life for this country and that flag.

Mr. CUNNINGHAM. Mr. Speaker, not process but substance. Let me put a face on substance.

I have a close friend that was in Vietnam. He was a POW for nearly 6 years. It took him nearly 5 years to gather bits of thread to knit an American flag on the inside of his shirt. When they would have a meeting, he would hang that shirt above his comrades. That was fine until the guards broke in and they ripped the shirt and they dragged the POW out. And they beat him for 6 hours. They brought him back unconscious and broken bodied.

When they tried to comfort him and put him on a bale of straw, they did not think he was going to survive. They heard a stirring and that broken-bodied POW had dragged himself to the center of the floor and started knitting another American flag.

What kind of message do we send to our children when an Olympic athlete carries the American flag or what kind of message do we send to our children when we allow someone to burn it? We talk about value systems in this country and erosion of them. All we are trying to do is protect those value systems.

Some of those said that they support the Declaration of Independence and the Constitution, but I would ask them to look at the same values when it comes to the second amendment rights and under the Constitution on the different things that we spend on. But to us, this amendment is not political. I would say, as Mr. SOLOMON has and the last speaker, that we understand that on both sides. But it is very, very important.

Mr. BRYANT of Texas. Mr. Speaker, how much time remains on both sides?

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] has 15 minutes remaining, and the gentleman from Texas [Mr. BRYANT] has 7½ minutes remaining.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from San Diego, CA [Mr. HUNTER]. As I said before, we are surrounded with Texans and Californians. He is another Californian, also a great American, a veteran of the Armed Forces of this country.

□ 1445

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, let me say to my colleagues on both sides of this debate, we can protect the flag and protect free speech. In fact, for 100 years or so before this case, Texas versus Johnson, in 1989 which struck down flag amendments around the country, I would answer my friend, the gentleman from Texas [Mr. BRYANT] he had a number of State legislatures that in fact passed flag protection amendments. They worked well.

I might add, Mr. Speaker, for those who say this somehow constricts free speech, if we look back at the Vietnam days and the Vietnam war days and all the protests and we ask ourselves the question "Was there the adequate expression of free speech? I would say yes, in all of the marches and screaming and shouting and the sound boxes and the cursing and all of the things that were done to oppose the war. Those were all done at a time when we had flag protection amendments. Therefore, this does not hurt free speech. In fact, Mr. Speaker, I think Justice Rehnquist was exactly right when he said that "burning the American flag is not a statement, it is an inarticulate grunt."

To answer my friends who say this is just a piece of cloth, it is a unique piece of cloth. We have made it so. It is the only symbol that we ask American soldiers and sailors to follow, sometimes to their death. When somebody does die in battle, that folded flag that covered their coffin is given to the widow or to the mother, so we have elevated this flag to a position that is a unique, unifying symbol in this country. It is only appropriate to protect it, and we will only be doing, with this constitutional amendment, what the country has been doing for the last several hundred years, before 1989.

Mr. BRYANT of Texas. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I yield to the gentleman from Texas.

Mr. BRYANT of Texas. Mr. Speaker, I would just ask, why in the world the gentleman would want 50 different States to be able to define the flag.

Mr. HUNTER. If the gentleman will let me answer, Mr. Speaker, I think it is absolutely appropriate for the State legislators to participate in protecting the flag.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from California.

Mr. HUNTER. My answer to the gentleman, Mr. Speaker, is I think this is an effort, this idea of protecting the flag, and patriotism and desire to protect the flag is not limited to this body. I think it is absolutely appropriate for the State legislature in Texas, for example, to participate in protecting the flag. There is nothing wrong with that.

Mr. BRYANT of Texas. Reclaiming my time, Mr. Speaker, it is important to stay on point. The gentleman has made many good points with regard to patriotism, the sacredness of the flag, and all of which I agree with.

The point I have made bringing this motion to recommit is in the haste to get this to the floor, they have allowed 50 different States to decide what the flag is and 50 different States to define desecration. That is a dangerous thing to do. We ought to define what the flag is and we ought to define desecration. The motion to recommit would do that.

Mr. HUNTER. If the gentleman will yield to let me answer his question, Mr. Speaker, my answer to the gentleman is I think it is a healthy exercise for the States to participate in protecting the flag. I think they did a great job of it prior to 1989, when Texas versus Johnson struck down a Texas statute. I have a lot of faith in the legislature in Texas. I think they can do the same thing again.

Mr. BRYANT of Texas. If we have ultimate faith in them, then we do not need a Constitution at all. This says, "The Congress and the States shall have the power to prohibit the burning, trampling, soiling, or rending of the flag of the United States." There is nothing else. That is all Members would want to prohibit.

Let us write one that is like the rest of the Constitution. It is clear what it means, it is narrowly defined, and the definition of the flag would be within the province of the Congress.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from New York, Mr. BEN GILMAN, a colleague of mine from the State of New York, chairman of the Committee on International Relations, who does a great job for this Congress.

Mr. GILMAN. Mr. Speaker, I am proud to rise in strong support of this resolution prohibiting the physical desecration of the flag of the United States. I commend the gentleman from New York [Mr. SOLOMON], the original sponsor of this legislation, for his dedicated work and determination on this important issue.

As Americans across the country prepare to celebrate our Nation's independence, it is befitting that the House of Representatives is considering this important legislation.

For hundreds of years, courageous men and women have fought for the ideals and beliefs that our great Nation represents. To the many dedicated men and women who have sacrificed for our Nation, our flag is not just a piece of cloth, it is not just the symbol of our Nation, it represents our inherent belief in our freedoms and our ideals.

Based upon these strong beliefs of proud Americans across the country, 49 State legislatures have passed resolutions asking Congress to approve an amendment to the Constitution protecting our flag; 48 States have enacted flag-desecration laws. The American people support such an amendment to the Constitution.

This is not any new issue, yet today, it is more important than ever. Accordingly, I urge my colleagues to join in strong support of this legislation.

Let us properly protect our flag and all of the ideals that it represents.

Let us vote against this motion to recommit.

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to the gentleman from Appleton, WI, Mr. TOBY ROTH, a great American who came here with me 17 years ago.

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, every morning before we start business we stand here, one of us stands here in the well of the House, and we put our hands over our hearts and say we pledge allegiance to the flag. Now there are some people who would say let that flag, let it burn, let it be desecrated. Nothing is sacred in America anymore.

There are still some things sacred in America. One is the flag. Today we take sides. Put me down with Barbara Fritchie. When the Confederate Army marched through over here in Maryland, marched up to Antietam for the battle, and this 95-year-old woman went to the top floor of her House, opened the window, put the flag out, and as they were marching by she said, as John Greenleaf Whittier, the poet said, "Shoot this old gray head, if you must, but spare your country's flag." Put me down with her.

Put me down with John Bradley from Appleton WI, who, when they asked for volunteers to put up the flag at Mount Suribachi, he said, "I will volunteer." He was one of five. Put me down with him.

There are still some things sacred in America today, and one is our flag. Members do not have to march into battle, they do not have to put a knapsack and rifle over their shoulders. All they have to have is the courage to vote for our flag today. Barbara Fritchie would have given her life, and John Bradley and others did. Members do not have to give their lives today, they just have to give their vote for the flag.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. BARTON], another great American who is noted for a different constitutional amendment called the balanced budget amendment.

Mr. BARTON of Texas. Mr. Speaker, I thank the distinguished chairman of the Committee on Rules for yielding time to me.

Mr. Speaker, the United States of America has many symbols, but the paramount symbol is the flag of the United States. Because of that, it is worthy of special respect; because of that, it is worthy of special protection; that is why we are here today.

Until 1989, there were numerous States that had flag statutes that protected the burning of the flag, the desecration of the flag. As has been pointed out, the statute in my State of Texas was overturned by the Supreme Court. The amendment before us today specifically gives the Congress and the States the right to pass other statutes so they can protect the American flag. It is important that we allow this amendment to be passed.

The distinguished gentleman from New York [Mr. ACKERMAN], who earlier stood on the floor and pulled out of his surface bag of tricks various paraphernalia, said, "Is this the flag? Is this the flag?" There were no flags that he pulled out of his bag.

That is the flag of the United States of America. That is the flag of the United States of America. The flag that is flying over our Capitol today at half mast, because of the death of former Chief Justice Warren Burger, that is the flag of the United States of America.

The flag that Patton's divisions took into Europe to liberate the death camps at the end of World War II, that is the flag that we want to protect. The flag that was flying over the air base when then Captain, now Congressman, SAM JOHNSON came back from captivity in the Vietnam war, that is the flag that we want to protect. The flag that General Schwarzkopf sent into Kuwait to liberate Kuwait, that is the flag that we want to protect.

What act is so despicable that the only way we can exercise freedom of speech is this country is by burning the American flag or desecrating it? I can think of no act that is that despicable. That is why we need to pass this amendment, give our States and our Congress the right to protect the paramount symbol of the United States of America, the American flag.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just observe that when my friend, the gentleman from Texas [Mr. BARTON] turned and pointed to the flag, addressed the Speaker and said, "That is the flag," Mr. Speaker, that may be the flag today, but if the gentleman's version of this amendment passes, we could have 50 different versions of the flag. I have repeatedly raised this issue and they have repeatedly failed to answer it, because there is really no answer.

The fact of the matter is that today the definition of the flag in the Federal statutes that exist designates a 48-star flag. The 49th and 50th stars were added by executive order. The gentleman's amendment would allow every State to define a flag as it chose and to define desecration as it chose.

Why not take the motion to recommit, which says that this Congress defines the flag, and this Congress is going to be able to prohibit the burning, the trampling, the soiling, or the rending of the flag of the United States?

Is that not what the gentleman wanted? Did the gentleman want more than that? If he wanted more than that, he should tell us what more he wanted. There really is not any more than that. Certainly it would be the height of patriotism, and perhaps it would be unpatriotic not to admit that in the rush of getting this bill to the floor before the July 4 recess, some mistakes were made, some things were not thought of, and a proposal was brought out here that is overly broad and unworkable. The motion to recommit is workable, is not overly broad, and does exactly what the gentleman says he wants to do.

For that reason, I urge Members to vote for the motion to recommit.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield 30 seconds to the gentleman from Meridian, MS [Mr. MONTGOMERY], a Democrat, a cosponsor of this constitutional amendment and a great American. He has stood up for this country so many times.

Mr. MONTGOMERY. Mr. Speaker, I was in opposition to the recommital motion, and will sponsor and vote for our flag amendment.

However, I have been here all day, just like the gentleman has, I would say to the chairman, the gentleman from New York [Mr. SOLOMON], when you destroy the flag you are really destroying the symbol of this country. This is a real flag. Our veterans marched off to fight for this flag. This is going too far. It is beyond common sense, when you burn the flag. Therefore, we should support the constitutional amendment.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Ocala, FL [Mr. STEARNS], a very distinguished Member from an all-American city, the one just named.

Mr. STEARNS. Mr. Speaker, at 10 o'clock this morning on the floor of this House I had the distinct privilege to lead this body in reciting the pledge of allegiance. If I may, I would like to recite just the opening line again for the benefit of any of my colleagues who weren't here at that time. It states, quite simply: "I pledge allegiance to the flag of the United States of America."

Allegiance, my colleagues. Allegiance to the flag. Now, some of my colleagues here today may think you can burn the flag, spit on the flag, or otherwise desecrate the flag all while still professing allegiance to it. I disagree. Desecrating the flag is the antithesis of allegiance. It is instead the height of contempt—contempt not only for our sacred symbol, but contempt for the nation it proudly represents.

Let us be clear on what this debate is about today. This is certainly a debate about the first amendment. For 213 years of our Nation's history, from the founding until just 6 short years ago, the highest court of the land found nothing wrong with laws that protect the flag from desecration. But in 1989 five Supreme Court justices decided to overturn all legal precedent and declare flag-burning a constitutionally protected form of speech. I have no problem standing up here today and saying emphatically that those five justices were wrong. The Texas versus Johnson decision was yet another case of judicial overreaching by activist judges not content to interpret the law, but feeling the need to re-write it as well.

The other thing this debate is about today is the ability of the majority of the American people to determine the laws under which they will live. The fact is, up to 80 percent of Americans are firmly on record supporting a constitutional amendment that protects the American flag from desecration. Who are we, the members of the people's House, to deny the people what they have asked for? How can we have credibility with the American people if we claim to love and honor the flag, as so many of my colleagues have done here today, yet refuse to take the simple step necessary to protect from desecration?

Do my colleagues need more evidence that passing this amendment expresses the will of the American people? Fully 48 States—48 States—already have anti-flag-desecration laws on the books that would be protected by this amendment. My colleagues, if Congress passes this amendment, we will all be amazed at the speed with which virtually every State votes to ratify it.

Why is that we allow a law on the books that makes it a Federal crime to burn a dollar bill, but recoil from a law protecting the flag? Is the dollar bill a greater symbol of freedom than the American flag? Why do we outlaw vandalism against the mailbox sitting out here on the corner, yet permit acts of unspeakable violence against the banner under which so many of our sons have died for freedom?

Mr. Speaker, the flag of the United States is more than the sum of it parts. It is more than a bolt of cloth arranged into a pattern of stripes and stars, it is the very symbol of liberty itself. From Valley Forge to Vietnam, on every battlefield where American values have been attacked and American lives sacrificed, the flag of the United States has been the shining, indomitable, eternal spirit of American liberty. As Justice Felix Frankfurter has said, "We live by symbols." Symbols may be abstract, but for the patriotic men and women across this land they are certainly more real that contorted arguments of those refuse to give the flag the protection it deserves.

Burning the flag offends me, it offends the vast majority of the American people, and it offends the memory of those who gave their lives to uphold the values the flag represents. I urge all my colleagues to lend their strong support to this amendment today.

Mr. BRYANT of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would simply make an observation that with regard to the reference of the gentleman from Florida [Mr. STEARNS] a moment ago to what the public wants, I think, perhaps he and others should take more care with regard to saying that. I do not believe the public wants 50 different legislatures defining the flag or 50 different legislatures defining desecration. What they want is a definition of the flag and a definition of desecration that is prohibited.

Unfortunately, his side did not get it out here today because they were in such a hurry to get it out here before the July 4 recess. They have one out here that is overly broad and will not work. The motion of recommit will work. Let us go along, and do the right thing today.

□ 1500

Mr. STEARNS. Mr. Speaker, will the gentleman yield?

Mr. BRYANT of Texas. I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Speaker, would the gentleman admit, though, that if we went out to the American public and asked them would they like to protect the flag and would they expect the States to ratify this, the majority of Americans would say yes? In fact, the polls show that 80 percent of the Americans agree.

Mr. BRYANT of Texas. Taking my time back, again you are begging the question. The point is simply this. You say they want to prohibit desecration, sure. They want the Congress to define the flag and the Congress to define desecration and be done with it.

What you have got is a deal where 50 States do it, 50 States define the flag, 50 States define desecration. It is unworkable and unreasonable. It leads to all types of potential problems. Why do it that way? The answer, because you got in a big hurry, you wanted to be able to take this home for the Fourth of July and say you got something out here, but it will not work.

Mr. STEARNS. Will the gentleman allow me one sentence?

Mr. BRYANT of Texas. One sentence.

Mr. STEARNS. Mr. Speaker, we can split hairs and we can talk about this, but we have a unique opportunity to pass this amendment and thereby give the people what they want. Let's see if it will work out.

Mr. BRYANT of Texas. Your sentence is not responsive to my concern. We prohibit here the burning, trampling, soiling and rending of the flag of the United States. That is really all there is. What you have got here will not work, simply put.

Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I would like to get into this right now but I will do it when I close.

Mr. Speaker, I yield 1½ minutes to the gentleman from Union City, NJ [Mr. MENENDEZ], another great Member of this body, a Democrat, too, on the other side of the aisle who stood up against Castro and Cuba. I thank the gentleman for his amendment that will be on the floor shortly.

Mr. MENENDEZ. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in strong support of the proposed constitutional amendment banning the desecration of the flag. The flag of the United States is unique among all the symbols of the unity and freedom of our country, and it is for that reason that I so strongly support its protection.

No other symbol of our Nation is so universally recognized. No other symbol of our Nation is so beloved by its people. No other symbol of our Nation could so thoroughly unite the world's most diverse population.

Our flag's unique status as a symbol of our Nation has long been recognized by the American people, and by this Congress. Many of us have voted in the past to single our flag out for protection because of this uniqueness.

I strongly supported previous efforts to afford such protection by statute precisely because I believed in the flag's uniqueness. The Supreme Court, however, has made it clear that a constitutional amendment, and only a constitutional amendment, can give the flag protection by law. If a constitutional amendment is what it takes, then so be it.

My parents came to this country from Cuba to secure a future of freedom for themselves and for their children. To them, and to me, the flag serves as a tangible reminder of the freedom they lost in their homeland and found in America.

The symbolism goes beyond patriotism—it is a physical symbolism. The American flag, like the country itself, is composed of different colors and material, coming together to make a whole. The colors clash, but are firmly held together. They are held together for a higher purpose. To tear them apart is to reject the sacrifices of millions of Americans who gave their lives to keep the colors together as one.

My commitment to our flag is a reflection of my country's commitment to its people. Those who stand in support of the protection of our flag must stand for the freedom and equality of all, just as surely as our flag stands as a beacon to which all freedom-loving people of the world are drawn. I urge you to join us.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Missouri [Mr. EMERSON], a very distinguished Member of this body.

Mr. EMERSON. Mr. Speaker, I thank the gentleman for yielding me the time.

"Shoot, if you must, this old gray head, but touch not your country's flag," she said. That was Barbara Fritchie, as Stonewall Jackson was marching through Frederick on the way to the Battle of Antietam.

What do you think Stonewall Jackson said? He replied, "He who touches yonder flag dies like a dog," he said. And they marched and they marched all day long through Frederick town but no one touched their country's flag.

This resolution enables Congress and the States to enact flag protection without fear of such a law being ruled unconstitutional. It is going to convey the protection that the flag enjoyed for 200 years and which must be restored.

While I believe strongly in the first amendment and its protections, I also believe that there are recognized exceptions to the first amendment. Not every act of expressive conduct is protected. Flagrant and public abuse of the flag should not be considered as symbolic speech under the first amendment, and such abuse should not be tolerated. We will see to it through this amendment that it is not tolerated.

I strongly urge my colleagues to join me in passing this important amendment to our constitution which would give the States and the Federal Government the authority to prohibit desecration of the flag of the United States of America.

Mr. BRYANT of Texas. Mr. Speaker, I reserve the balance of my time for the purpose of closing.

Mr. SOLOMON. Mr. Speaker, a number of years ago we had a Republican who ran against Ronald Reagan for President. He is a great American. I did not support him. I supported my other friend, Ronald Reagan.

Mr. Speaker, I yield 30 seconds to him, the gentleman from Wauconda, IL [Mr. CRANE].

Mr. CRANE. Mr. Speaker, I strongly support this amendment. But whether one supports it or does not support it, I think it is important for you to recognize that all this vote is about is giving the people a chance to be heard. A vote against this is a denial to hear the expressed will of the people. Amendments require 75 percent ratification support amongst all the States. Forty-nine of the States endorse the concept.

All you are asked to do on this vote is give the people a chance to be heard. You are not changing the Constitution. You are giving the people a chance to change it if they choose.

Mr. SOLOMON. Mr. Speaker, I intend to close for this side and would ask the gentleman to proceed.

PARLIAMENTARY INQUIRY

Mr. BRYANT of Texas. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. OXLEY). The gentleman will state it.

Mr. BRYANT of Texas. Mr. Speaker, my understanding is that the right to close would be mine, unless the bill is being managed on the other side by a member of the Committee on the Judiciary, which it is not. Inasmuch as it is not, I believe that I would have the right to close. I would appreciate clarification.

The SPEAKER pro tempore. Under the rules, since the gentleman from New York [Mr. SOLOMON] is not a member of the Committee on the Judiciary, the gentleman from Texas does have the right to close.

With that, the Chair recognizes the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. Mr. Speaker, I thought a member of the Committee on Rules was ex officio on all committees. I will proceed at any rate.

Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, this has been a very, very good debate. For the most part we have stuck to the subject and for the most part I think everyone understands what we are doing here.

I am a little concerned with the arguments of my good friend, the gentleman from Texas [Mr. BRYANT], because he goes against the entire federalist system. He worries about what the States will do. I do not. I believe that this Constitution gave certain powers to the Federal Government but it retained most of the powers to the States. That is the way it should be. I have faith in those States, all 50 of those States.

I believe that once we pass this constitutional amendment, we give it to the States, I think they will ratify it within 2 years and it will become a part of our Constitution. When that happens, I would ask the gentleman to join me and the gentleman from Mississippi [Mr. MONTGOMERY]. We have already agreed to work with the Committee on the Judiciary, with the gentleman from Illinois [Mr. HYDE], with the gentleman from Florida [Mr. CANADY], both of whom have done outstanding work here, in developing and redefining the U.S. flag code, and passing a statute on a Federal level that will serve as the example for the other 50 States. We have to have confidence in our States. That is what built this country.

Having said that, Mr. Speaker, I would hope that we would defeat this motion to recommit. If we do that, we will simply leave the amendment as it is, which says the Congress and the States shall have power to prohibit the physical desecration of the flag of the United States of America. That is what the people here today want. That is what 80 percent of the American people want. Let's let them decide. If we vote "no" on the motion to recommit and "yes" on the amendment, that is what will happen.

The SPEAKER pro tempore. For the purpose of closing debate, the gentleman from Texas [Mr. BRYANT] is recognized for whatever time he has remaining.

Mr. BRYANT of Texas. Mr. Speaker, I have said already that I dearly wish that I could be free from the restraints of conscience today so that I might come up here and give a great patriotic speech, which I am able to give, I think, just as enthusiastically and as sincerely as anyone else has. Everyone who has given one believes what they have said. I have no doubt about that whatsoever.

But I have the duty, and so do you, to write law for this country that is going to last and stand the test of time, and is not going to get people in trouble accidentally. For better or for worse, in what I assume you hoped would be a fine hour for you, you have brought a proposal to the floor that portends serious problems for us, when you could have easily taken a little more time to write one that is simple and works.

We have done one in this motion to recommit, which says you can't burn the flag, trample it, rend it or soil it, and Congress decides what the flag is. What more could you possibly want than that?

You express great confidence in the States. I did not hear that confidence expressed when we were talking about product liability here just 6 or 8 weeks ago. In fact, your confidence in the States is based upon the fact that every State has its own culture and its own ideas. That is right. What if all 50 States write a different law with regard to desecration and all 50 States write a different law with regard to what the flag is?

Are you serving the people that watch this debate or the people back home that do not know about it or the people that have answered these polls saying they want to protect the flag, when you do that? Of course you have not. If you are going to wrap yourself in the flag, then, by golly, take the responsibility that goes along with wrapping yourself in the flag. Pass a provision that works.

This Congress ought to decide what the flag is, not every State legislature. Desecration ought to be burning, soiling, rending, or trampling. What else could it be?

Instead, you have come out here with one that does not work because you were in such a hurry to get it out here before the Fourth of July recess so you could all go home and say, "Look what I did, and look what those other bad guys wouldn't go along with and do also." That is what is at stake here.

This motion to recommit is the right thing to do if you believe in a constitutional amendment. For goodness sakes, do not soil this day in which you have come forward to try to do something very patriotic, by doing something that is going to lead to problems, hurt people and get people in trouble accidentally, and in effect is in my view a dereliction of our duty in this House to legislate for the ages. Vote for the motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BRYANT of Texas. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

Pursuant to the provisions of clause 5 of rule XV, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage of the joint resolution.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 63, nays 369, not voting 2, as follows:

[Roll No. 430]

YEAS—63

Abercrombie
Ackerman
Bentsen
Bonior
Borski
Brown (CA)
Bryant (TX)
Clay
Coleman
Collins (MI)
Coyne
Doggett
Edwards
Engel
Fields (LA)
Frank (MA)
Frost
Gephardt
Gutierrez
Hall (OH)
Harman
Hastings (FL)
Jackson-Lee
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kildee
LaFalce
Leach
Levin
Lowey
Luther
Maloney
Markey
Martinez
McCarthy
McKinney
Meehan
Meek
Minge
Mink
Moran
Nadler
Neal
Oberstar
Obey
Olver
Owens
Peterson (FL)
Reed
Richardson
Rush
Schroeder
Schumer
Scott
Skaggs
Thornton
Torricelli
Tucker
Vento
Visclosky
Waters
Williams

NAYS—369

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Boucher
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Collins (GA)
Collins (IL)
Combest
Condit
Conyers
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Ehlers
Ehrlich
Emerson
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lucas
Manton
Manzullo
Martini
Mascara
Matsui
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Stokes
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thurman
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Velazquez
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Watt (NC)
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—2

Moakley
Reynolds

☐ 1532

Messrs. McDERMOTT, FLAKE, ROSE, HOYER, and DELLUMS, Mrs. COLLINS of Illinois, and Messrs. MFUME, FOGLIETTA, and FAZIO of California changed their vote "yea" to "nay."

Messrs. SKAGGS, THORNTON, RICHARDSON, and NEAL of Massachusetts changed their vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. OXLEY). The question is on the passage of the joint resolution.

The question was taken.

RECORDED VOTE

Mr. SOLOMON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 312, noes 120, not voting 3, as follows:

[Roll No. 431]

AYES—312

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clyburn
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner

Davis
de la Garza
Deal
DeLay
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (LA)
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Gephardt
Geren
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Gunderson
Gutierrez
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoke
Holden
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnson, Sam
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennelly
Kildee
Kim
King
Kingston
Klug
Knollenberg
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manton
Manzullo
Martinez
Martini
Mascara
McCarthy
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McKinney
McNulty
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Pallone
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Pickett
Pombo
Pomeroy
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Richardson
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Towns
Traficant
Tucker
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)
Young (FL)
Zeliff
Zimmer

NOES—120

Abercrombie
Ackerman
Barrett (WI)
Becerra
Beilenson
Berman
Bonior
Borski
Boucher
Brown (CA)
Bryant (TX)
Cardin
Clay
Clinger
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
DeFazio
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Durbin
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Filner
Flake
Foglietta
Frank (MA)
Furse
Gejdenson
Gibbons
Gilchrest
Gonzalez
Greenwood
Hall (OH)
Hastings (FL)
Hinchey
Hoekstra
Hoyer
Jackson-Lee
Johnston
Kaptur
Kennedy (RI)
Kleczka
Klink
Kolbe
LaFalce
Leach
Levin
Lewis (GA)
Lofgren
Lowey
Maloney
Markey
Matsui
McDermott
McHale
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Nadler
Oberstar
Obey
Olver
Orton
Owens
Pastor
Payne (NJ)
Pelosi
Petri
Porter
Poshard
Rangel
Reed
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shadegg
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Tanner
Torres
Torricelli
Velázquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
White
Williams
Woolsey
Wyden
Yates

NOT VOTING—3

Horn
Moakley
Reynolds

☐ 1540

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Before announcing the vote, the Chair will remind all persons in the gallery that they are here as guests of the House, and that any manifestation of approval or disapproval of proceedings is in violation of the rules of the House.

So (two-thirds having voted in favor thereof) the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. HORN. Mr. Speaker, unfortunately I missed the last rollcall on the constitutional amendment since I was circulating a letter to the President on behalf of the base closure situation in California.

If present, Mr. Speaker, I would have voted for the Solomon resolution concerning the authority given to pass legislation to deal with the flag and desecration.

PERSONAL EXPLANATION

Mr. MOAKLEY. Mr. Speaker, had I been present, I would have voted in favor of House Joint Resolution 79, the flag amendment.

GENERAL LEAVE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 79, the constitutional amendment that just passed the House.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 896

Mr. YATES. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 896.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1289

Mr. CLAY. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1289.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 1996

The SPEAKER pro tempore. Pursuant to House Resolution 170 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1868.

☐ 1543

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, with Mr. HANSEN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, June 27, 1995, amendment No. 17, offered by the gentleman from Texas [Mr. DELAY] had been disposed of, and title V was open for amendment at any point.

Are there amendments to title V?

AMENDMENT OFFERED BY MR. PORTER

Mr. PORTER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. PORTER: Page 78, after line 6, insert the following new section:

LIMITATION ON ASSISTANCE TO TURKEY

SEC. 564. Not more than $21,000,000 of the funds appropriated in this Act under the heading "ECONOMIC SUPPORT FUND" may be made available to the Government of Turkey.

☐ 1545

PARLIAMENTARY INQUIRIES

Mr. CALLAHAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. CALLAHAN. Has the bill been called up, Mr. Chairman?

The CHAIRMAN. Yes.

Mr. CALLAHAN. The amendment of the gentleman from Illinois [Mr. PORTER] has been read?

The CHAIRMAN. The gentleman's amendment has been designated.

Mr. CALLAHAN. Then, Mr. Chairman, I reserve a point of order at this point.

The CHAIRMAN. Does the gentleman want to proceed with his point of order at this point?

Mr. CALLAHAN. I will just reserve the point of order, Mr. Chairman.

The CHAIRMAN. The gentleman from Alabama [Mr. CALLAHAN] reserves his point of order, and the gentleman from Illinois [Mr. PORTER] is recognized for 5 minutes.

Mr. PORTER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. PORTER. Mr. Chairman, I would like to know the gentleman's point of order. If he has one, what point of order is he making?

POINT OF ORDER

Mr. CALLAHAN. Mr. Chairman, the amendment adds a limitation to a general appropriation bill. Under the revised clause 2, rule XXI, such amendments are not in order during the reading of a general appropriation bill.

Mr. Chairman, the revised rule states in part:

> Except as provided in paragraph (D), no amendment shall be in order during consideration of a general appropriation bill proposing a limitation not specifically contained or authorized in existing law for the period of the limitation.

The gentleman's amendment adds limitation and is not specifically contained or authorized in existing law, and, therefore, is in violation of clause 2(c) of rule XXI, and I will ask for a ruling of the Chair.

The CHAIRMAN (Mr. HANSEN). The Chair rules that the amendment does contain a limitation and, therefore, would have to wait until the end of the bill to be offered.

PARLIAMENTARY INQUIRIES

Mr. VOLKMER. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. VOLKMER. I ask, Would the amendment not be in order if the motion to rise at the end of the bill after all amendments are completed is defeated?

The CHAIRMAN. The Chair is not making that ruling at this particular time.

Mr. VOLKMER. Well, I mean at that time an amendment with a limitation is in order only after the motion to rise is defeated; is that correct?

The CHAIRMAN. That would be correct, except if the motion to rise and report is not offered.

Mr. PORTER. Mr. Chairman, the amendment merely changes the level of funding in the bill by making a cut of $25 million. It has no limitation that I am aware of if we are talking about amendment No. 34.

The CHAIRMAN. The Chair will tell the gentleman from Illinois that it does limit funds in the bill, and the Chair has ruled on the form of the amendment. It would have to wait until the end of the bill.

Mr. CALLAHAN. Mr. Chairman, I might inform the gentleman that it is certainly not our intention to deny him the ability to introduce his amendment or the opportunity to debate it to its fullest extent. It is just being introduced at the wrong time because the rule puts in point of order three amendments prior to his, so we do intend to afford the gentleman from Illinois [Mr. PORTER] every opportunity that he needs to present his amendment, and there will be no indication, coming from me at least, there is no indication that I will deny him the——

Mr. PORTER. If the gentleman would yield, then why not take it up right now?

Mr. CALLAHAN. Because the rule says we are going to take up the three bills that the Committee on Rules approved——

The CHAIRMAN. Are there further amendments to title 5?

Mr. DEUTSCH. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman will state his inquiry.

Mr. DEUTSCH. Would it be our understanding that this amendment coming into order, that we would have to defeat the motion to rise?

The CHAIRMAN. Unless the motion to rise and report is not made, the gentleman is correct.

Mr. DEUTSCH. So the fact is the Porter amendment would not automatically be made in order at the end of this bill.

The CHAIRMAN. The gentleman is correct.

Mr. CALLAHAN. Except, Mr. Chairman, if I might be recognized, I would just like to inform the gentleman from Illinois [Mr. PORTER] that under no circumstances is this committee going to rise and vote on final passage of this bill until such time as he has had the opportunity to fully debate his amendment regarding Turkey, so it is not our intention to——

Mr. DEUTSCH. Mr. Chairman, if the gentleman would yield, could we make a unanimous-consent request that that would be done at this time? As I understand, the gentleman from Alabama [Mr. CALLAHAN] would be willing to do that, but it would not prevent any other Member to make that motion.

The CHAIRMAN. Has the gentleman made a unanimous-consent request?

Mr. DEUTSCH. Well, I would not if the gentleman would just make clear that we would have the opportunity to debate the amendment.

The CHAIRMAN. The gentleman has the opportunity to make his unanimous-consent request.

Mr. PORTER. Mr. Chairman, I ask unanimous consent that we take up the Porter-Wolf-Smith amendment immediately following the three amendments that the rule makes in order.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. CALLAHAN. Mr. Chairman, I reluctantly object. I have given the gentleman my word. I have told him we are going to give him full opportunity for as much time as he likes to debate his amendment. We are not going to do anything to preclude him this opportunity. We are going to do it as the rule permits, and that is the three amendments that were allowed under the rule, we are going to debate them this afternoon, and then immediately following the gentleman from Illinois [Mr. PORTER] can offer his amendment.

The CHAIRMAN. Objection is heard from the gentleman from Alabama [Mr. CALLAHAN].

AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

Mr. SMITH of New Jersey. Mr. Chairman, I offer an amendment.,

The Clerk read as follows:

> Amendment offered by Mr. SMITH of New Jersey: Page 78, after line 6, insert the following new section:
>
> PROHIBITION OF FUNDING FOR ABORTION
>
> SEC. 564. (a) IN GENERAL.—
>
> (1) Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act for population assistance activities may be made available for any private, nongovernmental, or multilateral organization until the organization certifies that it does not and will not during the period for which the funds are made available, directly or through a subcontractor or sub-grantee, perform abortions in any foreign country, except where the life or the mother would be endangered if the fetus were carried to term or in cases of forcible rape or incest.
>
> (2) Paragraph (1) may not be construed to apply to the treatment of injuries or illnesses caused by legal or illegal abortions or to assistance provided directly to the government of a country.
>
> (b) LOBBYING ACTIVITIES.—
>
> (1) Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act for population assistance activities may be made available for any private, nongovernmental, or multilateral organization until the organization certifies that it does not and will not during the period for which the funds are made available, violate the laws of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited, or engage in any activity or effort to alter the laws or governmental policies of any foreign country concerning the circumstances under which abortion is permitted, regulated, or prohibited.
>
> (2) Paragraph (1) shall not apply to activities in opposition to coercive abortion or involuntary sterilization.

(c) COERCIVE POPULATION CONTROL METHODS.—Notwithstanding any other provision of this Act or other law, none of the funds appropriated by this Act may be made available for the United Nations Population Fund (UNFPA), unless the President certifies to the appropriate congressional committees that (1) the United Nations Population Fund has terminated all activities in the People's Republic of China; or (2) during the 12 months preceding such certification there have been no abortions as the result of coercion associated with the family planning policies of the national government or other governmental entities within the People's Republic of China. As used in this section the term "coercion" includes physician duress or abuse, destruction or confiscation of property, loss of means of livelihood, or severe psychological pressure.

Mr. SMITH of New Jersey (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Chairman, the amendment I am offering today is both pro-life and anticoercion. It is essentially identical to the one that the House adopted to the American Overseas Interests Act, H.R. 1561, last month. The amendment would do nothing more and nothing less than reinstate the "wall of separation" between family planning and abortion, and particularly coercive abortion, which was torn down 2 years ago by the Clinton administration.

The prochild, provoluntarism policy that my amendment would reinstate was the law of the land for a decade. It was repeatedly upheld by the Federal courts against a wide range of both statutory and constitutional challenges brought by the abortion industry. Recent experience suggests that this policy is needed now, more than ever before.

Mr. Chairman, the government of the People's Republic of China, as I think more and more Members are realizing, routinely compels women to abort their, quote, unauthorized children. The usual method is intense persuasion, using all of the economic, social, and psychological tools a totalitarian state has at its disposal. When these methods fail, the women are taken physically to abortion mills, often in handcuffs, and coerced to have abortions. Sometimes this happens very late in the pregnancy: the baby's skull is crushed with forceps, or lethal chemical shots are administered into the soft part of the skull.

Mr. Chairman, forced abortion was properly construed to be a crime against humanity at the Nuremberg war crime tribunals, and again it is being used pervasively throughout the People's Republic of China. Population control organizations, with the United Nations Population Fund at the helm, are promoting population control in China and have had a hand-in-glove relationship with the hardliners in the People's Republic of China.

As a matter of fact, I would remind Members that during the Reagan and Bush years we did not provide funding to those organizations because of that kind of complicity in these heinous crimes against women. It is not just that the child is being killed. It is also that the woman is being exploited in this very cruel manner.

I would ask all of my colleagues to take a look at the report by Amnesty International, released just yesterday. It is under the heading "Human Rights Violations Resulting from Enforced Birth Control." They point out that birth control has been compulsory in China since 1979. Women must have official permission to bear children.

Mr. Chairman, the report in its entirety is as follows:

WOMEN IN CHINA—A PRELIMINARY REPORT FROM AMNESTY INTERNATIONAL, JUNE 1995

HUMAN RIGHTS VIOLATIONS RESULTING FROM ENFORCED BIRTH CONTROL

Birth control has been compulsory in China since 1979. . . . Government demographers set a target for the stabilization of the population by the year 2000. The target currently stands at 1.3 billion, which they claim can only be achieved through "strict measures".

The policy involves the strict control of the age of marriage and the timing and number of children for each couple. Women must have official permission to bear children. Birth control is enforced through quotas allocated to each work or social unit (such as school, factory or village). The quotas fix the number of children that may be born annually in each unit. Local party officials (cadres) have always monitored the system, but since 1991 they have been held directly responsible for its implementation through "target management responsibility contracts". A cadre's performance is now evaluated not just on the region's economic performance but also on its implementation of the birth control policy. Cadres may lose bonuses or face penalties if they fail to keep within quotas.

The policy has become known as the "one-child" policy. In fact, it is more complex than that and is applied differently in various areas. While the authorities issue ideological directives, targets and guidelines, at present the detailed regulations, sanctions and incentives are left almost entirely to the county level administration, who determine them "according to the local situation". In most regions, urban couples may have only one child unless their child is disabled, while rural couples may have a second if the first is a girl. A third child is "prohibited" in most available regulations. Regulations covering migrant women indicate that abortion is mandatory if the woman does not return to her home region. Abortion is also mandated for unmarried women.

The authorities in Beijing initially insisted that ethnic groups with populations of less than 10 million were exempt from the one child policy or even from family planning entirely. It is clear, however, that controls have been applied to these groups for many years, including more stringent sanctions for urban residents and "prohibitions" on a third child. There have also been reports since 1988 of controls extending to enforcement of one-child families, in particular for state employees. Currently, as with the rest of the population, specific regulations and their implementation are decided by "Autonomous Regions and Provinces where the minorities reside".

Couples who have a child "above the quota" are subject to sanctions, including heavy fines. In rural areas, there have been reports of the demolition of the houses of people who failed to pay fines. Peer pressure is also used as work units may be denied bonuses if the child quota is exceeded. State employees may be dismissed or demoted. Psychological intimidation and harassment is also commonly used to "persuade" pregnant woman to have an abortion. Groups of family planning officials may visit them in the middle of the night to this end. In the face of such pressure, women facing unwanted abortions or sterilization are likely to feel they have no option but to comply.

AMNESTY INTERNATIONAL'S CONCERNS

Amnesty International takes no position on the official birth control policy in China, but it is concerned about the human rights violations which result from it, many of which affect women in particular. It is concerned at reports that forced abortion and sterilization have been carried out by or at the instigation of people acting in an official capacity, such as family planning officials, against women who are detained, restricted or forcibly taken from their homes to have the operation. Amnesty International considers that in these circumstances such actions amount to cruel, inhuman and degrading treatment of detainees or restricted persons by government officials.

The use of forcible measures is indicated in official family planning reports and regulations, and in Chinese press coverage. Amnesty International also has testimony from former family planning officials as well as individuals who were themselves subjected to such cruel, inhuman and degrading treatment.

Details of county level regulations are difficult to obtain. Most available documents are ambiguous and full of euphemisms such as the "combined method" (abortion and sterilization) or "remedial measures" (abortion). Despite this, some insight can be gained into the use of coercion from provincial, as well as county reports. For example, in 1993 family planning officials in Jiangxi Province stated: "Women who should be subjected to contraception and sterilization measures will have to comply". Regulations published in January 1991 for Gonghe county in Qinghai (which has a substantial Tibetan population) state "the birth prevention operation will be carried out before the end of 1991 or in any case within the year 1992 and no excuses or pretexts will be entertained".

In a 1993 interview with Amnesty International, a former family planning official described the threat of violence used to implement the policy:

"Several times I have witnessed how women who were five to seven months pregnant were protected by their neighbors and relatives, some of whom used tools against us. Mostly the police only had to show their weapons to scare them off. Sometimes they had to shoot in the air. In only one case did I see them shoot at hands and feet. Sometimes we had to use handcuffs."

Several family planning officials who worked in Liaoning and Fujian Provinces from the mid-1980's to the mid-1990's are now in exile and have given testimony. They say they detained women who were pregnant with "out of plan children" in storerooms or offices for as long as they resisted being "persuaded" to have an abortion. This could last several days. One official reported being able to transfer such women to the local detention centre for up to two months if they remained intransigent. Once a woman relented, the official would escort her to the local hospital and wait until the doctor performing the abortion had signed a statement that the abortion had been carried out. Unless the woman was considered too weak, it was normal for her to be sterilized straight after the abortion.

A refugee from Guangdong Province described how he and his wife had suffered under the birth-control policy. The couple had their first child in 1982 and were subsequently denied permission to have another. In 1987 the authorities discovered that his wife was pregnant and forced her to have an abortion. In 1991 she became pregnant again and to conceal it, the couple moved to live with relatives in another village. In September that year local militia and family planning officials from the city of Foshan surrounded the village in the middle of the night and searched all the Houses. They forced all the pregnant women into trucks and drove them to hospital. The refugee's wife gave birth on the journey and a doctor at the hospital reportedly killed the baby with an injection. The other women had forced abortions.

The implementation of the birth-control policy has also resulted in the detention and ill-treatment of relatives of those attempting to avoid abortion or sterilization. Significantly, the Supreme People's Court felt the need to specifically outlaw the taking of hostages by government officials in a directive in 1990. However, the practice continues, as shown by a series of reports since late 1992 from Hebei Province.

Journalists from Hong Kong visited Zhao county, Hebei province, in November 1992 while a birth-control campaign was in progress. They saw villagers detained outside the county government offices in freezing temperatures who were under arrest for nonpayment of fines for illegal birth. Villagers reported that those who could not pay the heavy annual fine had their property confiscated or that their relatives were held hostage until the money was paid.

In January 1994 an official Chinese newspaper published a letter from Xiping county, Hebei Province, complaining that the reputation of the People's Emergency Militia (minbing ying ji fendui) was being ruined because cadres were misusing them to enforce unpopular family planning policies.

In April 1994 the annual review of family planning work in Hebei Province mentioned the use of "law enforcement contingents" and admitted that some cadres believed that any method was acceptable in pursuit of the family planning policy. Such cadres had "resorted to oversimplified and rigid measures and even violated laws . . . thus affecting the party-populace and cadre-populace relations". It is not clear what, if any, action was taken against these abuses, and violations have persisted in the province since then.

For example, villagers in Fengjiazhuang and Longtiangou in Lingzhou country, Hebei Province, alleged they were targeted in a birth-control campaign initiated in early 1994 under the slogan "better to have more graves than more than one child". Ninety per cent of residents in the villages are Catholic and many have been fined in the past for having more children than permitted because they reject on religious grounds abortion and sterilization.

An unmarried woman was one of those targeted. One of her brothers had fled the village with his wife fearing sterilization as they had four children. The sister had adopted one of their children and was detained several times, including once in early November 1994 when she was held for seven days in an attempt to force her brother and his wife to return and pay more fines. She was taken to the county government office and locked in a basement room with 12 to 13 other women and men. She was blindfolded, stripped naked, with her hands tied behind her back, and beaten with an electric baton. Several of those detained with her were suspended and beaten, and some were detained for several weeks.

A report by the Union of Catholic Asian News stated that other villages had been targeted in a similar way. Despite complaints to the county and provincial government and to the people's procurator, the family planning teams ignored the procurator's order to stop their actions, blaming the Catholics for "causing problems".

The taking and ill-treating of hostages by family planning officials was also reported in Fujian Province, in 1994. An elderly woman who lived near Quanzhou city was detained for three months when her daughter-in-law fled from family planning officials; they had found out she was pregnant with her second child one year earlier than local regulations on both spacing allowed. The elderly woman was reportedly kept in a cell with little ventilation or light, with 70 other people, and was only released when she became ill.

Despite assurances from the State Family Planning Commission that "coercion is not permitted", Amnesty International has been unable to find any instance of sanctions taken against officials who perpetrated such violations. This is in stark contrast to the treatment of those who assist women to circumvent the policies, or who shelter women from the threat of forced abortion and sterilization.

In December 1993 a district court in Guangzhou reportedly sentenced a man to 10 years' imprisonment and three years' deprivation of political rights for his part in a "save the babies and save the women group", which had assisted 20 women to give birth in excess of the plan. The court reportedly claimed that by his actions he had entered into rivalry with the party and state, and had therefore committed counter-revolutionary crimes as well as jeopardizing social order.

The same month Yu Jian'an, the deputy director of the No. 2 People's Hospital in Anyanbg, Henan Province, was sentenced to death for collecting bribes of 190,000 yuan for issuing bogus sterilization papers. The hospital affairs director, Sun Chansheng, was sentenced to death with a two-year reprieve, and four others were given sentences of five years' to life imprisonment in connection with the offense.

In the light of the information available about serious human rights violations resulting from the enforcement of the birth control policy and the lack of explicit and unequivocal prohibition in published regulations of coercive methods which result in such violations, Amnesty International calls on the Chinese Government to include such provisions in relevant regulations. It also calls on the authorities to take effective measures to ensure that officials who perpetrate, encourage or condone such human rights violations during birth control enforcement are brought to justice.

Let me just remind Members we are talking about a country where children are declared illegal simply because they do not fit into a certain quota that has been articulated and promulgated by the government. Couples who have a child above the quota are subject to sanctions, Amnesty International writes, including heavy fines. They talk about psychological and physical pressure. They talk about degrading treatment, the use of handcuffs, detentions. They also get into the fact that not only are they just focusing on the women and their husbands, they also go after other relatives who try to shield and protect some kind of safe haven for their sisters or daughters who are the object of a forced abortion, and throw them into jail as well.

This report from Amnesty International, which takes no position on the right-to-life issue, the defense of the unborn, is another nail in the coffin of the PRC's heinous practice of forced abortion and forced sterilization.

As my colleagues know, they also point out there is a movement under way in some of the provinces where they say—and this is a slogan used by the government—"Better to have more graves than one more child." Children are treated very cruelly in China, not by their parents, but by the government, and they are the subject of forced abortion.

Let me also remind Members, too, there is a growing disproportionate number of baby boys vis-a-vis baby girls and young people because of this. When you've only allowed one child, what happens is that many of the families, when they are told that they can only have one, have a sonogram. If a baby girl is detected, that baby girl is killed, and now there are tens of millions of missing girls in the People's Republic of China.

Where are the feminists on this? Why are they not speaking out against this cruel practice of targeting baby girls for extinction in the People's Republic of China? They have been abysmally silent in this regard.

Let me also point out, there were some people that were recently, as the Amnesty report points out, thrown into prison for, quote, initiating a save-the-babies and save-the-women's group. The man got 10 years in prison because he tried to defend some of the women in China against this terrible practice. Please read this.

The United Nations Population Fund meanwhile applauds the Chinese programs against all of this evidence, and let me remind Members that it is indeed overwhelming evidence.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. SMITH] has expired.

(By unanimous consent, Mr. SMITH of New Jersey was allowed to proceed for 3 additional minutes.)

Mr. SMITH of New Jersey. Mr. Chairman, just let me remind Members that Dr. Sadik and UNFPA has spent over $150 million. They have people and personnel on the ground. As part of this terrible program they have said, and I quote, "China has every reason to feel proud of and pleased with its remarkable achievements made in its family planning policy and control of its population growth over the past 10 years. Now the country could offer its experiences and special experts to help other countries."

Just what we need, a world of one child per couple where forced abortion and forced sterilization is the rule rather than the exception.

Mr. Chairman, let me also point out that the amendment contains a provision that would essentially reinstate what was known as the Mexico City policy, and that, too, was rescinded by President Clinton in 1993. This policy, and the amendment, would prevent foreign aid from going to nongovernmental organizations unless the organizations certify that it does not and will not during the term for which funds are made available perform abortions as a method of family planning or undermine the laws of other countries with respect to abortion. It clarifies that this does not apply to the treatment of injuries or illnesses caused by legal or illegal abortions or to assistance provided directly to governments. Moreover, the amendment contains a limited exception for attempting to establish universally recognized standards such as opposing forced abortion.

Mr. Chairman, this policy worked for almost a decade, it worked well for the American taxpayer, for unborn children, and for responsible family planning organizations. Most recipients of U.S. aid during the two previous administrations accepted the policy and said, "We will, indeed drive that wall between abortion and family planning and just do family planning and not take the lives of innocent, unborn children by way of abortion."

□ 1600

Mr. Chairman, I hope Members will accept this amendment. They did so just about a month ago. I hope when Mrs. MEYERS offers the amendment on behalf of the abortion rights people, that that will be defeated by this body. I suspect we will get to that momentarily.

Mrs. VUCANOVICH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the Smith amendment. Recently, a woman in my district called my office to let me know that her 12-year-old daughter was in her room crying. My young constituent was upset because she had recently learned about 13 Chinese women being held in Bakersfield, CA, who had fled the brutal birth quota system imposed by the totalitarian government in the People's Republic of China. My young constituent was shocked to learn that these women were in danger of being sent back to China by the Clinton administration where they would face possible arrest and forced sterilization.

This is a very distressing situation and it is even more distressing when we take into account that our tax dollars are being used by the United Nations Population Fund for so-called family planning activities in China.

The Smith amendment will ensure that none of the moneys will be available to the United Nations Population Fund unless the President certifies that the UNPF has terminated all activities in China or, during the 12 months preceding, there have been no abortions as the result of coercion by government agencies.

The Smith amendment would also ensure that none of the moneys sent to the UNPF may be used to fund any private, nongovernmental, or multilateral organization that directly or through a subcontractor performs abortions in any foreign country, except to save the life of the mother or in cases of rape and incest.

Now some may claim that this is a gag rule on family planning assistance. However, this is not the case, abortion is not considered a family planning method and should not be promoted as one, especially by the United States. Recently, the State Department decided that the promotion of abortion should be a priority in advancing U.S. population-control efforts. This is unacceptable to the millions of Americans who do not view abortion as a legitimate method of family planning and do not support Federal funding of abortion except to save the life of the mother or in cases of rape and incest.

We also need to reinstate what was known as the Mexico City policy which prohibits funds to organizations unless they certify that they do not perform abortions in any foreign country except in the cases cited above. Most recipients of U.S. population assistance readily agreed to these terms from 1984 to 1993 and we are not reducing the funding level for real international population assistance.

In a time when 69 percent of the American public opposes Federal funding for abortion we desperately need to clarify congressional intent so that it cannot be disregarded by those who seek to fund abortion on demand throughout the world. I urge my colleagues to support the Smith amendment as written. Vote "no" on the Meyers amendment, which will strike two of the three subsections of the Smith amendment.

Mrs. LOWEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Smith amendment and in support of the Meyers amendment. Mr. SMITH's amendment is an extreme piece of legislation that aims to end family planning aid overseas.

Mr. SMITH claims that his amendment simply cuts abortion funding. What Mr. SMITH has not told you is that abortion funding overseas has been prohibited since 1973. His amendment would cut abortion funding from its current level of zero to zero.

Therefore, Mr. SMITH's amendment must be after something more. That something is family planning.

One of the most important forms of aid that we provide to other countries is family planning assistance. No one can deny that the needs for family planning services in developing countries is urgent and the aid we provide is both valuable and worthwhile.

The world's population is growing at an unprecedented rate. In 40 years our planet's population will more than double. As a responsible world leader, the United States must do more to deter the environmental, political, and health consequences of this explosive growth.

And let us not forget what family planning assistance means to women around the world. Complications of pregnancy, childbirth, and unsafe abortion are the leading killers of women of reproductive age throughout the Third World. One million women die each year as a result of reproductive health problems.

Each year, 250,000 women die from unsafe abortions.

Only 20 to 35 percent of women in Africa and Asia receive prenatal care.

Five hundred million married women want contraceptives but cannot obtain them.

Most of these disabilities and deaths could be prevented.

The Smith amendment is extreme in that it would defund family planning organizations that perform legal abortions—even if the abortion services are funded with non-U.S. money.

It would also impose a gag rule on U.S. based organizations and indigenous nongovernmental organizations that provide U.S. family planning aid overseas. The gag rule is written so broadly that it would prohibit the publishing even of factual information about maternal morbidity and mortality related to unsafe abortion.

Finally, the Smith amendment cuts funds to the UNFPA, an organization that provides family planning and population assistance in over 140 countries. The pretext for the Smith amendment is that the UNFPA operates in China, and therefore the funding must be cut. However, the law currently states that no United States funds can be used in UNFPA's China program. Mr. SMITH is clearly using the deplorable situation in China as an excuse to eliminate funding for this highly successful and important family planning organization. The UNFPA is in no way linked to reported family planning abuses in China, and should not be held hostage to Mr. SMITH's anti-abortion rhetoric.

I urge my colleagues to oppose the Smith amendment. It is an extreme piece of legislation that, no matter how Mr. SMITH tries to disguise it, is ultimately intended to end U.S. family planning assistance overseas. A vote for the Smith amendment is a vote against sensible, cost-effective family planning programs.

AMENDMENT OFFERED BY MRS. MEYERS OF KANSAS TO THE AMENDMENT OFFERED BY MR. SMITH OF NEW JERSEY

The Clerk read as follows:

Amendment offered by Mrs. MEYERS of Kansas to the amendment offered by Mr. SMITH of New Jersey: In the new section proposed to be inserted in the bill by the amendment—

(1) strike subsection (a) and (b); and

(2) in subsection (c), strike the subsection designation and caption.

Mrs. MEYERS of Kansas. Mr. Chairman, there are three parts to the amendment of the gentleman from New Jersey [Mr. SMITH]. My amendment would not change the gentleman's provision about UNFPA in China. So if you do not want to give family planning money to China, you can safely vote for my amendment. Neither Mr. SMITH nor I would give money to UNFPA unless they totally cease activities in China.

However, the remaining two parts to Mr. SMITH's amendment are terrible in their impact on the poorest of the poor women of the world. The Smith amendment says that no matter how sick or malnourished these women are, no matter that they are carrying a seriously malformed fetus, they cannot have a health service in their poor women's clinic that others could have if they could afford to pay their doctor.

It is not as if these women have any place else to go. In many cases, they could not afford to go to a hospital or another doctor, and in many cases, there is no hospital and there is no other doctor. The door the gentleman from New Jersey [Mr. SMITH] would slam shut in the face of poor, sick women is the only door there is.

There are NGO's and there are health care professionals that will work under these circumstances. But think how hard it is for these health care professionals when they must sentence a woman to life-long health problems, or force a woman to carry a child for months that they know would probably live only a few hours. And they have to do this in order to receive American support.

But those NGO's that are most efficient and that are located in most countries simply cannot and do not operate this way. And that is why the Smith amendment is not an anti-abortion amendment, but an anti-family planning amendment.

I would ask my colleagues to focus on the fact that not one cent of American foreign aid money has been used to pay for an abortion since 1973. Not one cent of foreign aid money has been used to pay for an abortion. But the Smith amendment is not satisfied with that, and the gentleman's amendment says you cannot provide an abortion for the sickest woman, even if it is paid for with private money.

It is a harsh amendment, denying health services and limiting family planning services to those who need our help the most, those in Bangladesh and Cameroon, where the average number of children for a woman of child bearing age is five, five children; in Malawi, where the average number of children for a woman of child bearing age is seven; in Rwanda, where the average number of children is eight. This is a cruel and a harsh amendment.

The other portion of the Smith amendment is a gag rule, and it would go far beyond what any supporter of free speech and the Democratic process could support. It would prohibit a group of Filipino women in the Philippines who suggest to their senator that abortion should be allowed in cases of rape or incest from helping us provide family planning. We could not give them money.

It could prohibit a group of Indian women who urge the Indian Health Ministry to make legal abortions safer by requiring that they be done in licensed clinics or hospitals. They could not receive American family planning assistance. It could prohibit a Kenyan organization that tries to promote family planning by pointing out the risk of unsafe abortions from getting any family planning assistance from America on the grounds that opposing unsafe abortion could be construed as advocating change in Government policies.

Mr. Chairman, I am leaving out the portion regarding China, because I know many Members feel divided on this issue. But the other two portions of this amendment are so onerous that I beg my colleagues to support my amendment to change the Smith amendment.

I also must comment, Mr. Chairman, that if my amendment does not pass, I am going to be forced to oppose this bill. I do not want to. I have supported foreign aid every single time since I have been here, but I cannot do it in the face of these two terrible affronts to the women of the world.

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, before I do so and speak as to the amendments, this is an issue that we have just previously discussed when we had the authorization bill. We have discussed it in this Congress many times. I do not believe that it would be fair to the House if we took an elongated time to rehash what has already been said many times.

Therefore, I am going to ask unanimous consent that all debate on this amendment, the Smith amendment and the Meyers amendment to the Smith amendment, end in 1 hour.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

Mr. WILSON. Mr. Chairman, I reluctantly object.

The CHAIRMAN. Objection is heard.

Mr. VOLKMER. Mr. Chairman, I would like to inquire of the gentleman from Texas [Mr. WILSON], is there a reason why he wants to prolong the debate?

Mr. WILSON. Mr. Chairman, there are many Members on our side that want to speak. I would advise the gentleman also that the ranking member of the full committee is at the White House at a meeting, and he has specifically requested that we provide time for him to speak.

□ 1615

Mr. VOLKMER. Mr. Chairman, I will just briefly say that if you are in favor of supporting abortions in foreign lands, basically with taxpayer money, then you should vote for the Meyers amendment. I am not. I am going to vote against the Meyers amendment.

If you are not in favor of using taxpayers' money in foreign lands for abortions, then support the Smith amendment, which I plan to do. I am not going to take a lot of time of the House. I think I have previously done that as to my position and why. But I would say that I feel very strongly on the issue. I do believe that the House, I hope, will vote in favor of life and not abortion.

Mr. CHABOT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Smith amendment. My friend from New Jersey is offering essentially the same amendment which was adopted in this House on May 24, during consideration of the American Overseas Interests Act. It is a much-needed amendment. I hope this House will continue to support it.

As my colleagues know, the music had barely stopped playing at the inaugural ball when President Clinton kicked off his international abortion campaign. Literally hours after assuming office, the new President sought to overturn long-standing pro-life policies espoused by both the Reagan and the Bush administrations. The Smith amendment seeks to bring that 2½-year campaign to a halt.

It makes it less likely that United States tax dollars will pay for coerced abortions in China and in other countries. Voluntary abortion is bad enough, but forcing a woman to have an abortion is an absolute crime against humanity. It is an abomination.

Mr. Chairman, the Smith amendment will restore some of the well-reasoned pro-life policies that the U.S. Government insisted on before President Clinton was sworn into office. I urge my colleagues to resoundingly support the Smith amendment.

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. CHABOT. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Chairman, I would just like to bring to the attention of the Members that one of the provisions that my good friend from Kansas strikes reads as follows: Funds would not be provided to any private, nongovernmental, multilateral organization until that organization certifies that it does not and will not, during the period for which the funds are made available, violate the laws of any foreign country concerning the circumstances under which abortion is permitted, regulated or prohibited.

I am astounded that my good friend would offer an amendment that tries to protect U.S. taxpayers from providing funds to an organization that would willfully and knowingly violate laws in a sovereign nation vis-a-vis its abortion policy.

There was a working group, a report on the working group that was put out by the IPPF federation, based in London, that had language that went like this in one of their recommendations: Family planning associations and other nongovernmental organizations should not use the absence of law or the existence of an unfavorable law as an excuse for inaction. Action outside of the law, and even in violation of the law, is part of that, is the process for stimulating change.

In other words, IPPF has admonished its affiliates to break the law. The Smith language that would be gutted by the gentlewoman from Kansas [Mrs. MEYERS] said that if we give money to those organizations that violate the sovereign laws of nations, let me also remind Members, 95 to 100 countries around the world, including the overwhelming majority in our hemisphere, protect the lives of their unborn children from the violence of abortion. All of Central America, virtually, South America have laws or constitutional amendments on the books that protect their unborn children.

IPPF says violate those laws. It is right here in black and white as a recommendation from the IPPF based out of London. Mrs. MEYERS would cut that.

I would like to ask the distinguished gentlewoman, why does she want to cut language that says, let us not violate the law of other nations?

Mrs. MEYERS of Kansas. Mr. Chairman, will the gentleman yield?

Mr. CHABOT. I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. Mr. Chairman, as I said, no abortions have been performed with American money since 1973, and NGO's follow the laws of the country that they are in. We have not had problems with people breaking laws of the country that they are in. If the country allows abortions, NGO's, some of them will, in order to get American money, will not provide abortions. Some simply cannot operate that way. So they cannot receive our money so they cannot do as effective a job with family planning, which certainly leads to more abortions.

Mr. CHABOT. Mr. Chairman, reclaiming my time, I yield to the gentleman from New Jersey, [Mr. SMITH].

Mr. SMITH of New Jersey. Mr. Chairman, that was not an answer. IPPF has said to its own affiliates, action outside of the law and even in violation is part of the process of stimulating change. They are telling their people to violate the law. Again, my amendment simply says, we do not want to contribute to an organization that gets involved in that kind of law breaking.

Ms. ESHOO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Smith amendment and in support of the Meyers amendment. I think that it is very important on all issues that we debate in this House that we have some truth in advertising. This issue that the gentleman from New Jersey [Mr. SMITH] has raised zeros and zero. Since 1973, the taxpayers of this Nation have not funded abortions overseas. Let me repeat that. Since 1973, the U.S. taxpayer has not funded abortions overseas. We are not going to start doing that now.

What Mr. SMITH is proposing is to go after family planning. Any thinking person in this country and around the world recognizes that one of the great environmental issues that faces not only this Nation but around the globe is the issue of overpopulation. If, in fact, if, in fact, we want abortions reduced, then we should recognize that around the world, especially the greatest and the most powerful nation on the face of this earth should give leadership on the issue of family planning.

When family planning takes place, then that begins to resolve so many of the problems that we extend our hand in aid for.

So every Member of this House, regardless of where they are on the issue of abortion or choice, should understand that it is not a debate about public dollars going to fund abortions overseas. That is not what this issue is about.

Mr. SMITH seeks to knock out family planning. And people in this country overwhelmingly understand and appreciate what the issue of family planning can bring about.

So I rise in support of the Meyers amendment. I think it is important. I think that it is straightforward. I think it speaks to the direction that we need to move. I applaud the leadership that she had given on it. I think that every Member of the House should again understand that Mr. SMITH is not going after stopping any U.S. tax dollar for abortions. For my entire 5 minutes I should have repeated one sentence and one sentence only. He is going after family planning. No tax dollar was used since 1973 for abortions overseas.

Mr. MANZULLO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Illinois [Mr. HYDE].

Mr. HYDE. Mr. Chairman, I do not know how the gentleman from New Jersey [Mr. SMITH] can make it any clearer. These are not difficult ideas. Abortion is not a proper part of family planning. Family planning has to do with getting pregnant or not getting pregnant. But once you are pregnant, it is a different situation. Then if you want to move into abortion, you are killing a life once it has begun.

Now, the gentleman from New Jersey [Mr. SMITH], nor myself, nor Members speaking on this side of the issue, are not against family planning. We are against dollars going to organizations that promote abortion, that counsel abortion, but we are the biggest supplier of family planning around the globe. We have been, and we still will be. But we want to help organizations that do not counsel nor perform abortions, whether it is with the money we give directly or whether it is with fungible funds.

We are for family planning, properly understood, which does not include killing an unborn child once it has begun. That ought not to be too complicated. I congratulate the gentleman from New Jersey [Mr. SMITH]. I hope his amendment prevails, and I thank the gentleman for yielding to me.

Mr. MANZULLO. Mr. Chairman, the bill provides $25 million to the UNFPA, but we should not send one penny to an organization that not only condones, but praises China's brutal family planning program. In 1991, the executive director of the UNFPA, Dr. Nafis Sadik, referring to China's population control policies, said that she "was deeply impressed by (China's) efficiency." She wanted to, and I quote, "employ some of these (Chinese) experts to work in other countries and popularize China's experiences in population growth control and family planning."

With that attitude, I do not think the United States should provide any aid to the UNFPA until it quits China policy. The American people do not want to subsidize an organization which not only collaborates with forced abortions and sterilizations, but heartily condones such policies.

Nor do the American people want their tax dollars spent in support of organizations that perform abortions in other countries or engage in activities to alter existing laws on abortion in these countries.

I commend the language adopted in the recently passed authorization bill that restores the restrictions on abortion funding. Now, I urge the support of my colleagues for the Smith amendment to restore consistency between what we say and what we do. The Smith amendment will send a clear message to the UNFPA and other organizations: The United States will not condone coercive family planning policies. This is not an issue of pro-life or pro-choice—it's an issue of whether American taxpayer dollars should be used for forced abortions. I urge my colleagues to vote for the Smith amendment and against the Myers amendment.

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, it is my understanding, and I would like to ask the gentleman if it is his understanding, and also the gentleman might want to ask the gentlewoman from Kansas [Mrs. MEYERS]. It is my understanding that the Meyers amendment to the Smith amendment is identical in its language as far as China is concerned, that in regard to China there is no issue. The gentleman addressed the China issue, but we are talking about the Meyers amendment, which, as I understand it, is identical to the Smith amendment as far as China is concerned.

Mr. MANZULLO. Mr. Chairman, it goes to the overall funding of the UNFPA.

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Chairman, we are actually debating the underlying amendment and the Meyers amendment. The gentlewoman from Kansas [Mrs. MEYERS] would cut two-thirds of the amendment out of the underlying amendment.

Mr. WILSON. Mr. Chairman, if the gentleman will continue to yield, as far as China is concerned, it is the same.

Mr. SMITH of New Jersey. It leaves that alone, but it goes after the Mexico City policy and the lobbying policy.

Mr. WILSON. But China is not an issue.

Mr. SMITH of New Jersey. For some Members there will be no time after the vote on the Meyers amendment where my underlying amendment will be debated. So all the debate has to be now, while both amendments are pending.

Mrs. MEYERS of Kansas. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. The reason that I did not address UNFPA and China is because I recognized that a number of Members are truly divided on that issue and so I left the Smith provision just as it is. If they vote for my amendment, the Smith provision will remain.

□ 1630

Ms. WOOLSEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Smith amendment to H.R. 1868 and to support the amendment offered by the gentlewoman from Kansas [Mrs. MEYERS] to the amendment offered by the gentleman from New Jersey.

Mr. Chairman, I believe it is important that my colleagues truly understand that the goal of the Smith amendment is not to prohibit U.S. funds from being spent on abortion activities. Current law already prohibits U.S. funds from being spent on abortion activities, and this has been the case for over 20 years. The true aim, Mr. Chairman, of the Smith amendment is to totally eliminate family planning aid overseas.

Mr. Chairman, this is an extreme amendment. It is extreme because it would take U.S. funds away from organizations that perform legal abortions or participate in any other abortion-related activities, using their own funds, not using Federal funds, using their own funds.

The implication of this staggering U.S. aid amendments, Mr. Chairman, would be doing away with U.S. aid to organizations for pre- and postnatal care, as well as for programs to reduce unwanted pregnancy, combat childhood diseases, prevent the spread of HIV and AIDS. All of this would be cut off completely if the organizations provide legal abortion-related services, paid for with their own funds, not paid for with Federal funds.

How can proponents of this amendment claim that they are interested in the welfare of children and women when this amendment will harm critical programs that prevent unwanted pregnancy and improve the health of needy children around the world? If anything, this amendment will result in more unwanted pregnancies and sick children, not less.

Mr. Chairman, the American people do not want the U.S. Congress to support extreme amendments which endanger the health of the world's children increase unwanted pregnancies, and force women to resort to unsafe abortions. Therefore, Mr. Chairman, I urge my colleagues to vote against this extreme and dangerous amendment, an amendment that would eliminate family planning aid overseas, and vote in support of the amendment offered by the gentlewoman from Kansas [Mrs. MEYERS].

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Meyers amendment and against the Smith amendment. Discussion has occurred a little earlier about the fact that this bill would not ban the UNFPA money, and as has been explained and I will reiterate, it does retain the ban on the UNFPA, so it is unlike the defense authorization that has been stated earlier.

The amendment that is offered by the gentlewoman from Kansas [Mrs. MEYERS] does not affect the restrictions the gentlewoman from New Jersey has proposed for the U.N. population fund. I also want my colleagues to be aware that these amendments have nothing to do with abortion funding.

Under the Helms amendment, U.S. law already forbids the use of U.S. funds to perform abortions or to lobby on abortion policy. This has been mentioned earlier. It does need to be reiterated, so we understand what we are discussing and voting on today. The effect of the amendment is to gut U.S. family planning programs. The result will be more abortions, not fewer.

The Smith amendment would deny funds to women's health groups which use their own funds to perform abortions or lobby their governments on abortion policy, but the effect would be to kill family planning programs. As a matter of fact, none of those groups violate the laws of the foreign countries. That has been authenticated. For example, in terms of the effect of killing family planning programs, a university providing contraceptive training to hospitals in the former Soviet Union to counter the high rate of abortion would be ineligible for funding because the hospital provides legal abortions funded from other sources. An Indian women's health clinic lobbying that nation's health ministry with its own funds to provide safer conditions for legal abortion would be funded.

A recent Los Angeles Times article demonstrated how family planning clinics in the Ukraine reduced the number of abortions, reduced the number of abortions. Ukrainian women average two abortions for every live birth. The average woman will have four of five abortions during her lifetime. Some will have as many as 10 or more. By making available safe and reliable family planning information and contraceptives, a Kiev clinic reports that only 25 of pregnant women coming to the clinic had abortions, a high number, of course, but the average for the rest of the country was 60 percent. Sixty percent. This is but one example.

However, there are a number of similar clinics around the world which we are helping to fund, and by giving women the opportunity to regulate their own fertility, we have reduced the number of abortions, while empowering women to manage and space their pregnancies as best suits their needs and the needs of their families. It helps them also to educate their family.

The gentleman from New Jersey [Mr. SMITH] will say that family planning money will still be available, and that is true, but the effect of his amendment will be that the money will be channeled through foreign government health ministries, with all of the problems of corruption, mismanagement, and bureaucracy which they entail. This approach would also run counter to the philosophy of this Congress, which has been seeking to reduce the intrusion of government into people's lives and families' lives.

The Smith amendment, an international gag rule indeed, endangers women's health and will deny women and couples access to family planning information, and will increase, not decrease, abortions. Mr. Chairman, I urge Members to join me in support of the Meyers amendment and against the Smith amendment.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this entire discussion of the Meyers amendment is a good one in that it explains to the Congress what family planning is all about. The Meyers amendment I strongly support. I strongly oppose the Smith amendment. Let me tell the Members why, Mr. Chairman.

The Meyers amendment ends U.S. funding for the U.N. Family Planning Agency unless it ends its activities in China or the President certifies there have been no coerced abortions in China in the preceding 12 months. The amendment language on the UNFPA in China is identical to the language in the Smith amendment.

The Congress should be aware of the fact that U.S. law for over 20 years has prohibited U.S. funding for abortions overseas. The Meyers amendment would in no way affect this ironclad policy.

The Smith amendment goes beyond current law and imposes restrictions on this kind of organization, on the kind of organization that can receive U.S. funds for family planning. What that essentially says, Mr. Chairman, is that the gentleman from New Jersey [Mr. SMITH] my dear colleague, he went to Washington and now he wants to go out of the country with the imposition of this rule.

It says that the United States cannot provide any money to any organization that performs legal abortions, even if the organization does not use U.S. funds. The Meyers amendment strikes these restrictions, which go beyond current law.

Let us look at the practical effect of the Smith amendment. The reality is that a lack of adequate access to family planning tragically often leads to abortion. I came up through a day where women went into back rooms and into corners and into alleys and performed illegal abortions. It was a travesty on the health of these women. The Smith amendment would cut off some of the most effective family planning organizations, because they provide legal abortions with their own funds. It would cut off clinics and hospitals that provide family planning if they also provide safe and legal abortions.

Mr. Chairman, this whole approach is shortsighted and counterproductive, particularly in Third World countries and in the poor areas of the world, with only limited medical services of any kind. The law of unintended consequences is alive and well in the Smith amendment. It is unintended, Mr. Chairman, but yet it is there. Therefore, I strongly support the Meyers amendment, and I strongly oppose the Smith amendment, and I am asking of the Congress to please vote against the Smith amendment and for the Meyers amendment.

Mrs. SMITH of Washington. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I stand in strong support of the Smith amendment and against the Meyers amendment. I think that one important thing to look at is that this bill does not cut international family planning, this amendment, by one red cent. I merely goes back to the 1980's, when we had the Mexico City policy. Under that policy, and I want to take a look, because we hear all family planning is going to go away, and I am a strong advocate for family planning. We hear it will all go away.

However, during the 1980's, every budget cycle under the Mexico City plan, every year family planning went up, every year under the Mexico City plan. That did not gut it, and all the gentleman from New Jersey [Mr. SMITH] is saying is let us go back to the Mexico City plan.

I listened, and Members would think that both sides of the aisle, all the people speaking, agree that abortion should not be performed with Federal American folks' money in other countries. however, we support family planning. The Mexico City policy, for Members that maybe do not remember, went into effect in 1984 under a plan of action which was adopted by the International Conference on Population that was held in Mexico City. They basically said that in no case should abortion be promoted as a method of family planning. All this does is say that again.

President Clinton took those words out, and made our dollars available for abortion funding. We hear about radical discussions and things being radical and gutting. Let us come back to what is really happening. The American people, and I will tell the Members, in the early 1970's, I supported abortion. I supported Roe versus Wade, because I believed abortion should be rare, and in the case of the mother's life, should be allowed. I was promised it would never be, never be for family planning, never be for convenience, and never replace personal responsibility.

Today, Mr. Chairman, it is now family planning. If Members agree with me that it should not be, no matter where Members are on abortion, should not be family planning, then vote for the amendment offered by the gentleman from New Jersey [Mr. SMITH]. The amendment just says we all agree in different places on the abortion issue and disagree in other places, but we do not want our money especially sent to foreign countries to pay for abortion.

Let us return to the Mexico City policy, reject, reject the Meyers amendment from a very nice lady who I just do not agree with, and support the final amendment, the amendment offered by the gentleman from New Jersey [Mr. SMITH].

Mr. PORTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me begin by saying how much I admire the integrity and advocacy that the gentleman from New Jersey [Mr. SMITH] brings to all issues, and particularly to matters of human rights. My disagreement with him on his amendment in this case is simply as a matter of policy. I admire him greatly for his strength of character and conviction in matters that he feels very deeply about.

However, Mr. Chairman, this is an appropriations bill. It is designed to determine funding levels for the upcoming fiscal year for various programs authorized elsewhere by the Committee on International Relations, the Committee on Banking and Financial Services, and others. It is not an authorizing bill, and authorizing language should not be part of it.

Mr. Chairman, unfortunately while the Committee on Rules produced an open rule for this bill, it also specifically carved out protection for this amendment, which is clearly out of order without this extraordinary protection. Everyone in this Chamber has an interest in preserving the integrity of the system, and for procedural reasons, we should oppose the Smith amendment.

Moreover, I oppose the Smith amendment on policy grounds. The United States is presently the largest international family planning donor, providing more than $600 million last year alone. U.S. voluntary family planning funds are being used to provide millions of couples access to safe, effective contraceptive services worldwide.

The U.S. programs have worked. In Kenya, where the United States has had a very large program, there was a 20-percent reduction in family size in just 4 years. In Bangladesh, the contraceptive prevalence rate went from 5 percent in 1975 to 40 percent in 1993, and there was a decline in fertility from 6.7 births per woman to 4.9 during that time. In Egypt, the average number of children per family has declined from 5.8 to 3.9 between 1960 and 1994.

These family planning services also help decrease the demand for abortion all across the globe and help couples time and space pregnancies to enhance the chance of their baby's survival. And in allowing women to control their bodies, these programs save the lives of many women. Approximately 200,000 women die each year from unsafe abortions. Increased access to information and contraception is the only proven way to decrease unwanted pregnancies and give women control over their own lives and destinies.

For example, in Ukraine, where a small Planned Parenthood clinic is providing scarce contraceptive education and services, there is evidence that the incidence of abortion is decreasing.

The Smith amendment does nothing to help prevent abortion. When the same Mexico City policy was in effect between 1985 and 1993, there was no decrease in the number of abortions worldwide. Instead, more women resorted to unsafe abortions and hundreds of thousands a year died. The Smith amendment simply interferes with the delivery of effective family planning programs whose purpose is to reduce the incidence of unwanted pregnancy and the need for abortion.

The fact is that none of the funds in this bill may be used for abortion now. With the Smith amendment, none of these funds may be used for abortion, but the Smith amendment goes further. It aims to kill family planning overseas by gutting U.S. participation in multilateral and bilateral population programs.

I urge Members to support the second degree amendment offered by Representative MEYERS. The Meyers amendment strikes the section of the Smith amendment that prohibits NGO's from using their own funds to attempt to influence official policies in other countries or to provide legal, safe abortions in countries where they are legal. It is the equivalent of telling U.S. defense contractors that they may not use their own funds to lobby Congress if they receive any Federal defense contracts.

I oppose the use of U.S. funds to perform abortions and I am a strong and consistent supporter of the Hyde amendment. I would not vote for a bill that allowed the use of any U.S. funding for selective abortions. I support the Meyers amendment because it contains tough safeguards but ensures that essential family planning programs are funded.

I also oppose the Smith amendment whether the Meyers amendment prevails or not. The Smith amendment places restrictions so tough on the UNFPA that U.S. funds will almost certainly not go to it. UNFPA fills in the holes where AID does not work and even in nations like China, plays a constructive role. UNFPA is a multilateral organization. It does not have the discretion to simply pull out of China at will.

The Smith amendment, I believe, is a thinly veiled attempt to stop the United States from working with other developed nations to provide voluntary family services to couples in developing nations because if we do not fund UNFPA, our funds do not go to 140 other nations beyond China that do not have forced abortions.

Mr. Chairman, I would urge the Members to support the Meyers amendment and oppose the Smith amendment.

Mr. BEILENSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from New Jersey [Mr. SMITH] and in support of the amendment of the gentlewoman from Kansas [Mrs. MEYERS].

Mr. Chairman, contrary to what proponents of this amendment argue, this is not about curbing abortion. It is about denying millions of women access to family planning services, the very services that help avert abortion. It is about cutting population funding in real terms to its lowest level in 25 years. It is about reinstating a policy that has proven to increase the incidence of abortion.

The fact remains that without this amendment, U.S. funds do not pay for abortions. That has been said a number of times today, but it bears repetition. For over 20 years, Federal law has prohibited any U.S. funds from being used for abortions, or to promote abortion. H.R. 1868 retains that prohibition.

The only real impact of the Smith amendment would be the disruption of the delivery of effective family planning programs that prevent unwanted pregnancies. These are programs which help reduce the incidence of abortion.

The effect of the amendment will be to deny millions of women access to family planning and along with that access to prenatal care, safe delivery services, maternal and infant health programs, treatments for infertility, and STD prevention services.

And it will result in hundreds of thousand of abortions that would have been averted if these women had had access to the basic health services the Smith amendment would deny them.

According to USAID, the funding reductions for population programs in this bill, together with this amendment, will likely result in an estimated 1.6 million unwanted pregnancies per year, resulting in 1.2 million unwanted births, 8,000 maternal deaths, and more than 350,000 abortion per year.

All of us would like to reduce the incidence of abortion as well as the staggering number of maternal deaths due to unsafe abortions. The Smith amendment would do the opposite. During the years the so-called Mexico City policy was in effect, which from 1985 to 1993 prohibited funding to organizations that perform abortions with private funds, there was an increase in the number of abortions worldwide because in the absence of access to family planning services, more women resorted to abortion and in the absence of information about safe abortion, more women resorted to unsafe abortions which cause more maternal deaths.

Proponents of this amendment assert that the only organizations that will be affected by this policy will be the International Planned Parenthood Federation [IPPF] and the Planned Parenthood Federation of America [PPF], two of the most effective and well-respected worldwide providers of family planning and reproductive health services. While both will survive the loss of U.S. funds, the real impact of this amendment will be felt by small local organizations in developing countries that rely on U.S. funds or on private funds from U.S. contributors who are forced to abide by this policy.

When the Mexico City policy was in effect, over 50 grant-receiving affiliates of International Planned Parenthood Federation lost their USAID funding. In many cases, these family planning associations were the most uniquely important sources of services and information for their countries. For example, in India, which will soon be the most populous country in the world, family planning assistance was significantly curtailed because the most respected and effective Indian family planning organization was unable to comply with that policy.

The Smith amendment would have the same disastrous effect. USAID would be unable to fund the best providers of services in many countries. Under the amendment, any hospital or clinic in the developing world that provides abortions, if they are legal in that country, such as Kenyatta National Hospital in Nairobi, Kenya would be prohibited from receiving United States assistance.

United States assistance would also be denied to organizations that are involved in providing much needed contraceptive training to hospitals in the former Soviet Union in order to decrease the high abortion rate, because these hospitals also provide abortions with non-United States funds.

And local health care providers who urge their governments to assure safer conditions for legal abortions would be denied funds under this amendment.

Finally, the gentleman from New Jersey [Mr. SMITH] misstates the role in the involvement of the UNFPA in China. Nobody disagrees that the coercive Chinese population program is abhorrent, and that UNFPA categorically condemns the use of coercion in any form or manner in any population program, including China.

Mr. SMITH has said the UNFPA cannot say enough good things about the Chinese program, and that China could not ask for a better front than the UNFPA. But Mr. SMITH relies on a 1989 quote from UNFPA executive director, Dr. Nafis Sadik, that was taken out of context, at a time when the Chinese seemed to be making progress toward improving the program. No evidence has ever been presented of complicity by international agencies, including the UNFPA, in Chinese human rights abuses and, as confirmed by USAID during the Reagan administration, UNFPA does not fund abortions or support coercive practices in any country, including China.

Mr. SMITH's amendment ignores the benefits of the UNFPA's presence in China and over 140 other countries. One of the reasons the international community knows about the horrors of the Chinese program is because of the presence in China of international organizations such as the UNFPA. Moreover, many countries believe that by providing assistance to China, UNFPA is in a unique position to influence positively China's population policies and to promote human rights. UNFPA is in constant dialog with Chinese officials at every level on matters pertaining to human rights, and exposes Chinese officials to international standards through international training in foreign institutions.

Most importantly, denying funds to the UNFPA would have a drastic effect on the UNFPA's programs in the rest of the world. Out of its annual budget of $275 million, only $4 to $5 million goes to China. Why deny United States funding to UNFPA to be used in 100 other countries around the world where hundreds of millions of couples want to limit the number of children they have just because we abhor Chinese coercive practices?

Mr. Chairman, family planning prevents abortions. As I stated earlier, the effect of the drastic funding reductions for family planning programs in this bill, together with the Smith amendment, will be an estimated 1.6 million unwanted pregnancies per year, resulting in 1.2 million unwanted births, more than 350,000 abortions, and 8,000 maternal deaths.

Mr. Chairman, this is no time to cripple the ability of the United States to provide help to family planning services around the world. Global population is now nearly 5.7 billion people. It is growing by 100 million a year, by 260,000 every 24 hours. Future prospects are even more staggering. If effective action is not taken in the next few years, the earth's population will double by the year 2040 and could quadruple to 20 billion people by the end of the next century.

In much of the developing world, high birth rates, caused largely by the lack of access of women to basic reproductive health services and information, are contributing to intractable poverty, malnutrition, widespread unemployment, urban overcrowding, and the rapid spread of disease. Population growth is outstripping the capacity of many nations to make even modest gains in economic development, leading to political instability and negating other U.S. development efforts.

For almost 30 years, population assistance has been a central component of U.S. development assistance.

While much more remains to be done, population assistance has had a significant positive impact on the health of women and their children and on society as a whole in most countries. In many parts of Asia, Latin America, and Africa, fertility rates have decreased, often dramatically. Couples are succeeding in having the smaller families they want because of the greater availability of contraceptives that our assistance has made possible.

Today, approximately 55 percent of couples worldwide use modern methods of contraception, compared with 10 percent in the 1960's. Despite this impressive increase in contraceptive use, the demand for family planning services is growing, in large measure because populations are growing. Indeed, over the next 20 years, the number of women and men who wish to use contraception will almost double.

Similarly, population assistance has contributed to the significant progress that has been made in reducing infant- and child-mortality rates. Child survival is integrity linked to women's reproductive health, and specifically to a mother's timing, spacing, and number of births. Despite substantial progress, a large proportion of children in the developing world—particularly in sub-Saharan Africa and some Asian countries—still die in infancy.

And, while many countries in the developing world have succeeded in reducing maternal mortality rates, the incidence of maternal death and disability remains unacceptably high, constituting a serious public health problem facing most developing countries. According to the World Health Organization, an estimated 500,000 women die every year as a result of pregnancy and childbirth.

U.S. population assistance is preventive medicine on an international scale. Congress has long recognized this to be the case and over the years has reaffirmed the importance of population assistance in securing U.S. interests abroad. By addressing the basic health and educational needs of women and their families, population assistance provides building blocks for strong democratic government and sets the stage for economic growth. Furthermore, it helps prevent social and political crises, thereby averting the need for costly relief efforts.

At the International Conference on Population and Development [ICPD], held in Cairo last year, the United States was instrumental in building a broad consensus behind a comprehensive program of action, which was signed by almost all of the 180 countries that participated in the conference, and which will help guide the population and development programs of the United Nations and national governments into the next century. Central to this plan is the recognition that with adequate funding this decade for family planning and reproductive health services, as well as educational, economic, and social opportunities necessary to enhance the status of women, we can stabilize world population in the first half of the next century.

Mr. Chairman, under this bill, H.R. 1868, unfortunately funding for our efforts to stabilize global population growth is cut by almost 50 percent.

This amendment would be additionally destructive of our national interest in continuing to play a central and leading role in addressing the most fundamental challenge facing this and future generations, the soaring rate of human population growth which underlies virtually every environmental, developmental, and national security problem facing the world today.

I urge Members to vote against the Smith amendment and for the Meyers amendment.

Mr. EMERSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Smith amendment.

Mr. Chairman, I rise today to give my strong support to the Smith amendment to the bill which prohibits funding Mexico City policy and prohibits funding to the U.N. fund for population activities unless that organization discontinues all activities in China.

During the 1970's and early 1980's, foreign nongovernment organizations were the major source of funding for a number of groups which promoted abortion and the legalization of abortion in developing countries. Adopted in 1984, the Mexico City policy substantially changed the United States' position on funding such organizations by stipulating that the Agency for International Development will not fund any private organization which participates in performing or promoting abortion as a method of family planning.

A year later, in 1985, the House approved the Kemp-Kasten amendment which denies funds to organizations that support coercive population programs. Funding is denied the UNFPA due to its active participation in China's population control program—its one-child-per-family program.

Today, the Clinton administration is conducting an ideological crusade to expand access to abortion throughout the developing world. The Clinton administration's policy was announced by Under Secretary Tim Wirth in a speech to a U.N. population meeting in 1993. Mr. Wirth stated that the Clinton administration's position was to, "support reproductive choice," including abortion access and to make such "reproductive choice" available to every woman by the year 2000.

During House consideration of the American Overseas Interest Act—a bill which attempts to support basic human rights across the globe—the House adopted the Smith amendment which reaffirmed the most basic human right, Life.

Mr. SMITH's amendment today will prohibit funding for the Mexico City policy and ensure that United States tax dollars do not support China's coercive population control policies. The Smith amendment will simply ensure that the United States will not pay for abortions or impose a pro-abortion doctrine in foreign countries.

I urge my colleagues to support the Smith amendment. The right to life is the most fundamental human right—both here and abroad.

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it is with the highest regard for the maker of this amendment, the gentleman from New Jersey [Mr. SMITH] and with the greatest respect for the role that he plays in this Congress and in this country for promoting human rights throughout the world that I reluctantly rise in opposition to his amendment and in support of the Meyers amendment. We all certainly share the goal of the gentleman from New Jersey [Mr. SMITH] of decreasing the number of abortions performed in this country and throughout the world. The fact is that the Meyers amendment would keep the current prohibition on U.S. funding for abortions. It would allow the United States to continue to fund organizations that effectively reduce the number of abortions by providing access for family planning. It would cut off U.S. funding for the UNFPA unless they pull out of China or China stops coercive abortions.

I think that the gentlewoman from Kansas [Mrs. MEYERS] has captured some of the concerns of this body and indeed of the gentleman from New Jersey [Mr. SMITH] in her amendment.

I would like to say, though, Mr. Chairman, that existing law already prevents the use of U.S. funds for abortion activities abroad and has done so under the Foreign Assistance Act since 1973. This amendment, the Smith amendment, would restrict effective women's health and family planning organizations and interfere with efforts to provide safe and legal reproductive health care for women in developing countries. That is why I do not support the Smith amendment and prefer the Meyers amendment.

I understand that a great deal of concern in this debate has centered on China's coercive policies and that that is a reason why many people would support the Smith amendment. Let me say that all that I have heard the gentleman from New Jersey [Mr. SMITH] say about coercive abortions and coercive family planning procedures in China is absolutely well-documented. We stipulate to that, that the family planning practices there are repulsive to us and we do not want to be a partner to them, and indeed we are not and will not under the Meyers amendment.

Mr. Chairman, the amendment is unnecessary in that respect, because no United States funds can be used in the U.N. population fund's China program. Current appropriation law already denies foreign aid funding to any organization or program that supports or participates in the management of a program of coerced abortion or involuntary sterilization in any country under the so-called Kemp-Kasten amendment.

Further, current appropriation law also ensures that none of the United States contribution to UNFPA may be used in its China program. No U.S. funds may be commingled with any other UNFPA funds and numerous penalties exist in law for any violation of this requirement.

UNFPA is in no way linked to reported family planning abuses in China. Anyway, I have not seen any evidence presented of complicity by international agencies, including UNFPA, in China's human rights abuses, and I do follow that issue quite closely.

□ 1700

UNFPA does not condone or cover up coercion in China. At the International Conference on Population and Development last year, the world community strongly condemned the use of coercion in national population programs. UNFPA's current 5-year program in China is ending this year.

In light of the solid, international consensus that has developed in opposition to the use of any form of coercion, the governing council will review any future country program proposed for UNFPA assistance, including any involvement in China, for compliance with the principles adopted at the ICPD.

I think, Mr. Chairman, it would be the cruelest act of all of the Chinese Government, in addition to depriving their own people of access to appropriate family planning information, if they were able by their coercive practices to influence decisions that we make here about family planning support throughout the developing world.

According to the World Health Organization, 500,000 women die each year of pregnancy-related causes; 99 percent of them in the developing world. Up to one-third of these deaths can be attributed to septic or incomplete abortion.

Restrictions on family planning organizations proposed in this amendment represent a threat to the health and safety of the women's world. I would think if my colleagues hate and abhor abortion, as I do, they would love family planning. And that is what the Meyers amendment presents.

I would like to also add that Mr. SMITH, the maker of this amendment, is not only a champion for human rights, not only an important and internationally recognized advocate to stop the coercive kinds of programs that exist in China. The gentleman is a man who follows up on his commitment.

He is also a champion for child survival funding and programs throughout the world. I want to make that point of my regard for the gentleman in opposing his amendment and urging my colleagues to support the Meyers amendment.

Mrs. CHENOWETH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this debate is about more than just family planning in China or other countries. This debate is about the United States of America and a consistent policy that has been established from the beginning of this country and has been held forth until now.

But through a weakening of the commitment and the resolve to never, never allow for public funding for abortions, especially overseas, just through the rhetoric, and through a potential treaty, that consistent policy could be seriously, seriously diminished.

Even as late as 1994, the General Conference on Population and Development held in Cairo reiterated that in no case should abortion be promoted as a method of family planning.

Mr. Chairman, we take great pride in the fact we have established a new vision for America and we have begun to establish a new trust for this Congress by laying out promises that were made; promises that were kept. And I think in all cases we ought to be able to say to the American people, "This is a promise that we have made and we will make it into the future; that there shall not be this kind of foreign policy that shall be initiated."

Mr. Chairman, all kinds of fears are being raised in the debate. For instance, the gag rule has been brought up. Well, the prohibition on lobbying activities contained in the Smith amendment, like the virtually identical provision the House passed as an amendment to the authorization bill, is another application of the wall of separation principle between abortion and the U.S. tax dollars.

Specifically, it makes clear that U.S. funds should not subsidize nongovernmental organizations which violate other country's laws on abortion or which actively work to undermine the laws of a foreign country with respect to abortion.

Mr. Chairman, the pro-abortion forces have once again carted out the tired old slogan that any restriction on U.S. tax dollars for lobbyists is a gag rule. But there is no gag rule. This amendment does not affect counseling. It does not affect medical advice. It merely applies the wall of separation principle to abortion lobbyists.

It says to organizations on both sides of the abortion question that they have choices to make about what businesses they are going to be in, but if they want to provide family planning services, they can receive family planning money, and that happens to the tune of about $585 million last year.

But if they want to be a foreign lobbyist, they must get funding from somebody other than the U.S. taxpayers. The Smith amendment, which I strongly support, recognizes that money is fungible and that U.S. taxpayers do not want their money going to organizations actively engaged in nothing less than cultural imperialism for their own profit.

Mr. Chairman, I hope that my colleagues will agree with me that subverting the laws of another country concerning the legality or illegality of abortion is not one of the United States' foreign policy objectives.

Mr. WOLF. Mr. Chairman, I move to strike the requisite number of words. I will not take the whole 5 minutes. It is getting late and I know the hour has gone on.

Mr. Chairman, I rise in very strong support of the Smith amendment. The gentleman from New Jersey [Mr. SMITH] and I had the opportunity to visit China together and the stories that we were told with regard to coercive abortion were unbelievable.

I would also urge Members, I have a film that I watched in my office yesterday. I have a copy in my office whereby in China they are getting young girl babies and putting them in what they call the dying rooms. They put them in these rooms and they just allow them to stay there for days, upon days, upon days.

The film ends with a young child called Mei Ming, which means "No Name," and she is left in the room for about 10 days and they go in and they open up the blanket and she dies.

Mr. Chairman, we know what they are doing. We have had women tell us of tracking down to require abortions. UNFPA money does go to China. For that one purpose alone the Smith amendment is the right thing to do.

So, I strongly urge the defeat of the Meyers amendment and strong support of the Smith amendment.

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, as a matter of principle, when I disagree with a colleague I make it a point not to always talk about what great affection I have for them and all of that. In this case I do want to make an exception to my rule and say that I respect the gentleman from Virginia [Mr. WOLF] very much. The gentleman has never, ever, in the times we have served together, ever misled me in any way.

But this is an important point. The gentleman is talking about China. Is the gentleman opposing the Meyers amendment?

Mr. WOLF. Yes, I am opposing the Meyers amendment.

Mr. WILSON. Does the gentleman understand that the Meyers amendment is not any different than the Smith amendment on China?

Mr. WOLF. I do. I am very, very strong pro-life. And also let me say that I strongly support family planning. I strongly support birth control. But I supported the Mexico policy and I think with regard to China it would be absolutely wrong, any time we would have an opportunity to shut down giving any aid to them in any way, it would be the appropriate thing.

Mr. WILSON. But the gentleman would agree that China is not an issue here?

Mr. WOLF. China is an issue. It is a major issue. They are tied together. There will be the vote on the Meyers amendment and then the vote on the Smith amendment.

Mr. WILSON. Either way, China is not in the picture.

Mr. WOLF. But Mexico City policy is. And I will bring the film around to the gentleman's office today

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Chairman, the Meyers amendment is about promoting abortion. It is not about family planning. Members have said over and over again on the other side, and I do not know how they can say this with a straight face, that we want to kill family planning with this amendment.

That same argument was made in the mid-1980's, and during the 1980's and into the 1990's population control funding doubled. Just look at the numbers that are provided by AID. I will make them a part of the record. It doubled under the Mexico City policy.

As a matter of fact, in 1980, for example, over 350 family planning organizations signed the Mexico City clauses, including 57 international Planned Parenthood Federation affiliates.

The problem that this gentleman has, and that I think the American people have, is that groups like IPPF based in London have in their vision statements—even though most of the countries in the world protect their unborn children—they have as their objectives 1, 2, and 4, to increase the right of access to abortion, and to remove barriers, political, legal, and administrative.

So, Mr. Chairman, the point is by providing money to these organizations, we are effectively empowering this lobby organization with U.S. funds to go out there and bring down these very important protective statutes that provide basic protections for unborn children.

Mr. Chairman, let me also ask the gentlewoman from Kansas [Mrs. MEYERS], my good friend, if she might respond to this. That working paper that I talked about earlier by IPPF has this point: The right of everyone to have full access to fertility regulation services applies equally to young people, including those in the adolescent group, age 10 to 19.

As we all know, the World Health Organization defines fertility regulation in four ways, one of which includes abortion. This was a big issue in Cairo. When people realized that is what it meant, they wanted that word taken out. But here we have, under the rubric of the rights of young people, IPPF promoting abortion on demand as a matter of birth control for 10-year-olds. How would the gentlewoman from Kansas [Mrs. MEYERS] respond to that in terms of IPPF?

Mrs. MEYERS of Kansas. Mr. Chairman, will the gentleman yield?

Mr. WOLF. I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. Mr. Chairman, I have no idea what the gentleman from New Jersey [Mr. SMITH] is reading from.

The CHAIRMAN. The time of the gentleman from Virginia [Mr. WOLF] has expired.

(On request of Mr. SMITH of New Jersey, and by unanimous consent, Mr. WOLF was allowed to proceed for 1 additional minute.)

Mr. WOLF. I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. Mr. Chairman, I do know that the other working paper that the gentleman from New Jersey [Mr. SMITH] was reading from was something that was drafted 15 years ago, was considered and specifically rejected by the Planned Parenthood board. I don't know what the gentleman is reading from now; if it is the same kind of thing.

Mr. Chairman, I must mention also that money for family planning decreased during the Mexico City policy; reference 1986 through 1992, and I would just mention several people have said that it doubled and it went up. It went down.

Mr. SMITH of New Jersey. These are AID's own figures. In 1984, $264 million; in 1986, it was $295 million; by 1992, it had jumped to $325; by 1993, it was up to $447 million. On a graph this would show a steady growth. And, again, this was under the Mexico City policy.

So again it is a red herring that my good friends are floating here today that we want to kill family planning. We want to separate abortion from family planning.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Meyers amendment. With all this gray hair, I am probably one of the few people who attended the Mexico City conference in this body. I was there when the Mexico City policy was adopted and I am listening to this debate wondering what in the world is going on.

It is a little ironic. Let me just remind people of what really happened. First of all, one of the strongest international supporters of family planning was Richard Nixon. You know, if Richard Nixon could come back here today, he would be considered, I guess, way to the left on that side of the aisle. It is positively amazing.

Richard Nixon understood how critical family planning was internationally, because no one can be an environmentalist if we are going to keep doubling the world population every 20 years. At some point the world collapses.

So having international family planning was very critical. Therefore, it was indeed a great shock to many of us when the Reagan administration, at the U.N. family planning meeting in Mexico City, rolled back the Nixon doctrine and put in the Mexico City doctrine.

Mr. Chairman, here we are going to say to the most vulnerable women in the world, the women in Bangladesh and other such places, we are shutting off access to real family planning. When we listen to all these words, there are a lot of words flying around here. But what I consider family planning and what most reasonably prudent people consider family planning, some people call abortifacient.

I consider the pill family planning. I consider IUD's family planning. I consider all sorts of other such things that are out there in the mainstream and the mainstream considers family planning."

But what really happened is in Mexico City, people said we will just do natural family planning, which is really the rhythm system. And in my State in Colorado, we call people who use that "parents."

☐ 1715

And that is not really family planning, and what we had was a period of time when we were spending taxpayer money on something that was called family planning, but when you go around and find out what it really was, taxpayers got really mad, and they just said, "Don't spend money on that stuff, or spend it on the real stuff. If you are going to do family planning, do real family planning."

Because we had an awful lot of people around the world very angry that they could not get access to the real information, and as one of the senior women on this floor, I must tell you that I meet all sorts of visiting delegations from parliamentarians from Third World countries, and woman after woman in those things would come to me and say, "American women have let us down by not standing firmly for our right to the same kind of family information, family planning information you get."

So the gentlewoman from Kansas is trying very hard to basically reinstate the Nixon doctrine. That is really all this is about.

The gentlewoman from Kansas is trying to go back to what the Nixon doctrine was. I never thought I would be standing on the floor and saying let us go back to the Nixon doctrine; that would be a breath of fresh air. That is basically what I am saying. We ought to support her amendment because it is a sane amendment, an amendment that all of us sharing this globe together realize how important it is and let us be very clear about the words being thrown around here.

If you go to a family planning clinic funded with U.S. dollars or funded by international agency dollars, you assume you are going to get real information, the same information people get at those clinics in western developed countries, and to remove that and to go back to where we were after Mexico City would be a great embarrassment.

I must tell you, even when I was in Mexico City, the Ambassador who was there at the time was so embarrassed by what our country did, as were many other people, so I think it is time we closed that chapter and that we stay with the Nixon policy and that we realize that all the dreams we have for this next century are not going to work, and that we allow women internationally, and we will be doing this if we pass the gentlewoman's amendment, to choose. They get to choose between whether they get to be productive and reproductive rather than have it be mandated that they only get to be reproductive over and over and over and over again, that that is our real only other role for them, and that is where it goes.

But we phony it up under the name of family planning. Natural family planning and the rhythm system is not family planning.

Vote for the gentlewoman from Kansas. She is telling it like it is.

Mr. SOUDER. Mr. Chairman, I move to strike the last word.

As one of the junior fathers on the floor of the House right now, I am still trying to recover from the gentlewoman from Colorado wrapping herself with Richard Nixon. I was not quite prepared for that in the debate here.

We cannot lose track that the fact is that this is an amendment by the gentleman from New Jersey [Mr. SMITH] and an amendment to modify his amendment that really relates to the abortion issue. It has been confused as we have gone through this. The principle is the same.

Very few people, whether pro-life or pro-choice, want their tax dollars to be used to fund a procedure that is so objectionable and controversial.

If anything, the American public has even less tolerance for U.S. taxpayer-funded abortions carried out in other countries. After all, Americans, particularly those in Indiana, do not care much for foreign aid spending, to begin with. When this foreign aid is used to pay for abortion, support falls through the floor.

A commonsense position of not paying for abortions overseas was official U.S. policy throughout most of the last decade and a half, but it came to a screeching halt the third day of the Clinton presidency when he nullified the Mexico City policy with a stroke of pen.

There has been debate on the floor whether or not, in fact, we do abortions. Listen to some folks we heard earlier, Tim Wirth, Undersecretary for Global Affairs, May 11, 1993, said, "Our position is to support reproductive choice, including access to safe abortion." On March 16, 1994, the State Department action cable was sent to overseas diplomatic and consular posts. It called for "senior-level diplomatic interventions," in support of U.S. population control priorities. "The priority issues for the U.S. include assuring access to safe abortions. The United States believes access to safe, legal and voluntary abortion is a fundamental right of all women."

Since rescinding the Mexico City policy, the Clinton administration has committed $75 million to International Planned Parenthood Federation [IPPF], which performs and actively promotes abortion as a method of family planning around the world.

During the time the Mexico City policy was in effect, International Planned Parenthood Federation was one of only two organizations that refused to sign an agreement stating they would not perform or actively support abortion as a method of family planning. The other organization was Planned Parenthood Federation of America, by far the largest abortion provider in the United States. Of course, there is the U.N. Population Fund, which, as a matter of course, supports and collaborates with countries that use abortions as birth control.

Opponents of the Smith amendment would have you think the Mexico City policy hurts family planning efforts worldwide. This is not true. In 1990, over 350 foreign family planning organizations signed the agreement, unlike Planned Parenthood. So what we are talking about here is whether or not to fund three organizations that countenance abortions, out of the hundreds of others that carry out successful planning, family planning, without supporting abortion.

Now, there is a question whether Planned Parenthood directly uses their funds for abortion. For those of you who do not understand basic accounting and the ability to move money around, all you need to do is look at the U.S. Government. For those who think one division of Planned Parenthood cannot fund abortion and another division can fund abortion, I want to show you the Social Security trust fund. We do that all the time here in Congress where we claim it is set aside and is not. Money that goes to a company merely can be shifted between divisions. It is a cost accounting question.

I believe it is somewhat a little bit of a sleight of hand to claim Planned Parenthood does not fund abortions in those countries, because they are merely playing games with their funds.

Now, as to the China question, I want to point out that the amendment offered by my friend from Kansas only addresses UNFPA funds, not the International Planned Parenthood funds which are addressed in the first and third clauses. While the first and third clauses alone in the Smith amendment would not solely address the China policy, for example, it would require ceasing abortion funding in all countries, not just China, it nevertheless guarantees that the money will not go to China, whereas the International Planned Parenthood funding for China is not affected by the Meyers amendment.

At best, the Meyers amendment, substitute, assumes a very rosy scenario. International Planned Parenthood would not fund the reprehensible policies in China or China will change their policies. In other words, it is not inappropriate for us to raise the China policy, because it does matter, because the Meyers amendment, while it takes clause 2 from the Smith amendment, it does not cover International Planned Parenthood in clauses 1 and 3.

I would like to make a point or two on China even though that is not the primary reason I oppose the Meyers amendment and support the Smith amendment, and what I would like to make sure gets in the record is not only have we heard about the forced abortions and a lot of what traditionally we conservatives have criticized about China, but the new development of what has concerned us, the unborn babies that are being sold for human consumption. According to United Press International, a Hong Kong magazine, and this is quoting UPI, recently revealed the latest health fad in the southern boom town of Shenzhen to be the consumption of human fetuses, which are believed to improve complexions and general health. Unlike the serving of endangered reptiles, a human embryo as food trade is not illegal or underground in China.

Mr. WILSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not think there is anything that can be said that has not already been said, but I will say one more time that we are not talking about China.

I rise in support of the Meyers amendment. We are not talking about China. It is simply not an issue.

The Smith amendment, without the Meyers amendment, would freeze in place a situation in developing countries where somewhere in the range of 100,000 to 200,000 women die due to abortions performed under unsafe conditions. We all know, the Smith amendment strikes at the very heart of international family planning programs.

It is far worse than previous or existing policies. It is an intrusion on the free speech and legal action of organizations, both those in the United States and those operating within the laws and policies of their own countries.

Implementation of the amendment would actually, in many cases, be an impediment to the prevention of abortion. Apart from its efforts to preclude funding for a number of affected providers of family planning services, the amendment would make it impossible to assist or work with organizations providing or improving contraceptive service for women who have had abortions in order to prevent future or repeat abortions.

I would voice strong support for the Meyers amendment and opposition to the Smith amendment.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take my whole 5 minutes. I just want to come down to the well to support the Smith amendment and oppose the Meyers amendment.

As I watched this debate, I saw that there is a lot of misinformation about this amendment. Let us not be deceived.

The Smith language does nothing to reduce U.S. funding of international family planning programs. It merely prevents taxpayer money from going to fund promotion or funding of abortion, a principle that the majority of the American people support. The American people have risen time and time again against Federal funding for abortion.

Let us not be deceived about what this amendment does.

Now, I heard earlier said on this floor that we have too many people in this world. How elitist can you be to make a statement like that?

We have too many people in this world? Ladies and gentlemen of the House, if you took every person in the world, you could put them in the State of Connecticut, and they would still have 5 square feet to stand on. It is not that we have too many people in this world. It is that we have governments that oppress people and destroy the free market system, that does not allow the system to feed the people. That is what is the problem in the world, not that we have too many people.

If you all remember the book "The Population Bomb," by Paul Erlich, that has been disputed, ridiculed and thrown out years ago. Yet some people, as I saw today, still quote from that ridiculous book. "the Population Bomb." This is not the problem.

As the gentleman from Indiana has said, what the fight is here is to allow Planned Parenthood to use these funds to perform abortions, whether they are through fungible funds or not. We know what the Planned Parenthood is and what it is all about. They do it here in the United States as well as overseas. That is what this is all about.

I just ask that you vote "no" on the Meyers amendment and keep the Government and the American taxpayer out of the business of abortion and restore the Reagan-Bush policy.

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Chairman, I just want to remind Members, too, the International Planned Parenthood Federation out of London, not only supports abortion globally, but considers it their goal to lobby to bring down pro-life statutes throughout the world.

But this is from the Chinese news agency:

> Dr. Halfdan Mahler, a top official of the International Planned Parenthood Federation, today praised China as a model for all countries, particularly developing countries in family planning. "China has set a good example for developing countries to follow in controlling the population growth," he said.

The date of that quote is August 27, 1994.

These are the kind of organizations that, if they decide to put up that wall of separation, yes, we will provide money to them, as we have in the past. Again, that money has gone up during the Reagan-Bush years under the Mexico City policy.

But that kind of statement about the Chinese policy is contemptible, where women are being exploited, where forced abortion is the rule, not the exception, and where now we see such egregious practices as infanticide, where children are killed right at birth, primarily because they are girls, and where just recently, as Members know, a nationwide policy went into effect that is absolutely reminiscent of the Nazis: a eugenics policy where if even the one child is found to be defective in some way, that woman is forcibly aborted because they want to have a master race. That is absolutely sick.

I ask for a "no" vote on the Meyers amendment and a "yes" vote on the underlying Smith amendment.

Mrs. MEYERS of Kansas. Mr. Chairman, will the gentleman yield?

Mr. DELAY. I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. I would just like to make it clear that no American funds are provided for abortion. What my amendment says is that NGOs who see very sick women or women who have serious problems of some sort with the fetus would be able to provide abortions with private money; no American money is provided for abortions.

Mr. DELAY. Reclaiming my time, I understand the distinguished chairman of the Committee on Small Business and her approach, and I am sure she is sincere in it. We all know how these organizations shift funds around.

We feel very strongly that they are taking our taxpayers' money, or they are either taking it or they could very well take taxpayers' money, and put it in one account while they are using their private funds to perform abortions.

I do not want my taxpayer money, and most Americans understand, to be used in any way.

Mr. TORKILDSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Meyers amendment and in strong support of our country's commitment to give men and women the option of family planning as well as the right to free speech.

□ 1730

I think this issue clearly has no place in this debate. Right now the law of the land is that Federal taxpayer dollars cannot be used for abortion. I support that. I voted for the Hyde amendment in the last Congress. But this issue goes far beyond this. This would tell organizations around the world that, if a woman comes to them seeking an abortion, and if that woman seeks to pay for it with her own money, or if a private entity seeks to pay for it, the United States will not allow any funding of that organization to go on.

Mr. Chairman, for me this is a very cynical and mean-spirited attempt to undermine family planning around the world. Without the United States' assistance——

Mr. SMITH of New Jersey. Will the gentleman yield?

Mr. TORKILDSEN. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. It is absolutely not mean-spirited in its attempt. This is to build that wall between abortion and family planning because I happen to believe, and I believe the majority of Americans believe, that the killing of an unborn child is a very, very serious act. We do not want to provide money to those groups that do it.

Mr. TORKILDSEN. Reclaiming my time, there is a separation now for U.S. funds which cannot be used for abortion either here at home or abroad. I think everyone has to agree to that.

Now some people may say organizations will use money for family planning and for educational purposes. That is the way the law is now. I think that is the way the law should be in the future. Without the United States assistance, many of these facilities could not exist, and I think that underscores perhaps what is an unspoken attempt by some supporters of this amendment.

I think women deserve the right to make the choice about their own personal bodies. It should not be left up to the taxpayers. I would hope the U.S. Government could get out of this very personal decision. I would hope that all Members would vote for the Meyers amendment.

Mr. HUTCHINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from New Jersey [Mr. SMITH] and in opposition to the amendment offered by the gentlewoman from Kansas [Mrs. MEYERS]. I will not take my full 5 minutes, but I simply want to state three reasons why I am supporting the Smith amendment and why I am opposing the amendment.

I think what the gentleman from New Jersey [Mr. SMITH] has done makes eminent sense. It restores a policy that worked, the Mexico City policy. That is all it is doing. It is going back to a policy from 1984 to 1993 that worked. We saw family planning funds increase during that time. It was a policy that was very much mainstream. Hundreds of organizations signed onto that. The 150 family planning organizations signed the Mexico City clauses, and so it is quite mainstream, it is quite common sense, to return to that policy.

It was on June 22 in 1993 that President Clinton gave the green light to renewed funding for international organizations that perform and promote abortions. It is time that we return to that policy in the 1980's/early 1990's that was so successful.

The second reason I am supporting the Smith amendment and opposing the Meyers amendment is that I believe what the gentleman from New Jersey [Mr. SMITH] is attempting to do in this legislation, and this attempt is supported by the American people. While the American people are strongly, and very forcefully and emotionally divided on the abortion issue, they are overwhelmingly opposed to public financing, and what we have, and we have tried to kind of smoke the issue, cloud the issue; it is simply a matter of shifting funding, and so to talk about private funds being used and no taxpayers dollars being used is really quite disingenuous, I think. If I take taxpayer dollars with my left hand, and I perform abortions with my right hand, it does not really fool anybody. It is a shell game being played by these organizations, and the American people do not want their taxpayer dollars being used to promote, and to perform and to support abortion policies around the world.

I think finally I would just say that it defends, it defunds, only the most radical pro-abortion organizations. Under the Mexico City policy, 350 family planning organizations signed it while only the most radical, pro-abortion organizations refused to sign that policy.

It makes eminent good sense for us to return to a policy that worked. Therefore, I urge my colleagues to support the Smith amendment and oppose the Meyers amendment.

Mrs. MEYERS of Kansas. Mr. Chairman, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentlewoman from Kansas.

Mrs. MEYERS of Kansas. Just in the interest of accuracy, Mr. Chairman, I would like to say that the Mexico City policy was in 1984 and in 1985, the amount of money was $290 million. It dropped immediately to $239, to $234, to $197, to $197, and then went back up to $216, but still not up to——

Mr. HUTCHINSON. Reclaiming my time, I do not know where the gentlewoman is getting these figures. I heard the gentleman from New Jersey [Mr. SMITH] just a moment ago cite very exact figures on where that funding has increased during those years in which the Mexico City policy——

Mrs. MEYERS of Kansas. These are the population line items from our appropriations bills.

Mr. HUTCHINSON. Once again I would say that the gentleman from New Jersey [Mr. SMITH] just a few moments ago cited specific funds on how those funds increased under the Mexico City policy and that in fact there was not any decrease in family planning programs.

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. HUTCHINSON. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. To get an accurate picture of how population funds are used one has to know they come from a variety of spigots, including the African fund, including some ESF funds, including the actual population account, and only a reading which says, "You're looking at all these accounts, what is the aggregate" can tell you whether or not that funding is going up or down. Since 1984 that figure has gone up dramatically, and I cite those figures for the record. They were produced by the Agency for International Development.

Mr. HUTCHINSON. So, in the interests, Mr. SMITH, of accuracy, funding for family planning actually increased during the——

Mr. SMITH of New Jersey. The United States remained. like it or not, during the 1980's and into the 1990's, the No. 1 provider internationally for population assistance, and I remember so well in 1984, if the gentleman would continue yielding, when Members stood up on the floor and said that there is no way that any family planning organization would accept the Mexico City clauses. How wrong they were. One after another said they wanted to do family planning, and they got out of the abortion business, and that wall of separation was intact. That is what this is all about.

Mr. HUTCHINSON. Reclaiming my time, I think everybody is ready to vote, and I just wanted to thank the gentleman from New Jersey [Mr. SMITH] as many on both sides have expressed their admiration for him. I want to express my appreciation for his leadership on this issue, and I think we are going to take a very good step in the passage of the Smith amendment today in defunding these organizations that are doing so much wrong in the promotion of abortion policies around the world.

I urge support for the Smith amendment.

Mr. BACHUS. Mr. Chairman, I strongly support the Smith amendment to prohibit use of taxpayer dollars to promote abortion overseas. While not reducing any U.S. funding of legitimate family planning programs, this amendment simply redirects those American dollars to organizations which, like most Americans, believe our tax dollars should never be used to promote abortion as if it were an acceptable method of family planning.

It is not.

We should provide funding only to organizations whose goals are consistent with those of the United States. If they want our money, they should be required to play by our rules.

Since 1993, the Clinton administration has taken every opportunity to promote the pro-abortion platform at home and around the world. Most Alabamians resent their tax dollars being used, by anyone, to promote abortion on demand. Their hard earned money should not be squandered to provide what is seen by some as an easy way out of an inconvenient pregnancy.

Mr. Chairman, the United States should be a role model for the world—especially when it comes to issues of morality, honest values, and concerns.

This amendment is our opportunity to do just that and to take a small step to stop the insanity of abortion on demand or whim. Support the Smith amendment.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Kansas [Mrs. MEYERS] to the amendment offered by the gentleman from New Jersey [Mr. SMITH].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WILSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to clause 2, rule XXIII, the Chair may reduce to 5 minutes the minimum time for electronic voting, if ordered, on the underlying Smith amendment. This is a 17-minute vote.

The vote was taken by electronic device, and there were—ayes 201, noes 229, not voting 4, as follows:

[Roll No 432]

AYES—201

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Beilenson
Bentsen
Berman
Bilbray
Bishop
Boehlert
Bono
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coyne
Cramer
Danner
Davis
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Dunn
Durbin
Edwards
Ehrlich
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Foglietta
Foley
Ford
Fowler
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hobson
Horn
Houghton
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kleczka
Klug
Kolbe
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lofgren
Longley
Lowey
Luther
Maloney
Markey
Martinez
Martini
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Molinari
Moran
Morella
Nadler
Neal
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Porter
Pryce
Ramstad
Rangel
Reed
Richardson
Rivers
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Shays
Sisisky
Skaggs
Slaughter
Spratt
Stark
Studds
Tanner
Thomas
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
White
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOES—229

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fields (TX)
Flanagan
Forbes
Fox
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Goodlatte
Goodling
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson, Sam
Jones
Kanjorski
Kasich
Kildee
Kim
King
Kingston
Klink
Knollenberg
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manton
Manzullo
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Portman
Poshard
Quillen
Quinn
Radanovich
Rahall
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tate
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Tiahrt
Tucker
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOT VOTING—4

Moakley
Reynolds
Stokes
Tauzin

□ 1800

Mr. ZELIFF changed his vote for "aye" to "no."

So the amendment to the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. SMITH].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SMITH of New Jersey. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 243, noes 187, not voting 4, as follows:

[Roll No. 433]

AYES—243

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bateman
Bereuter
Bevill
Bilirakis
Bliley
Blute
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Ensign
Everett
Ewing
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Goodlatte
Goodling
Goss
Graham
Gunderson
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hoekstra
Hoke
Holden
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson, Sam
Jones
Kanjorski
Kasich
Kildee
Kim
King
Kingston
Kleczka
Klink
Knollenberg
LaFalce
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Markey
Mascara
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Peterson (MN)
Petri
Pombo
Portman
Poshard
Quillen
Quinn
Radanovich
Rahall
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Tiahrt
Tucker
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff

NOES—187

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barrett (WI)
Bass
Becerra
Beilenson
Bentsen
Berman
Bilbray
Bishop
Boehlert
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Coyne
Davis
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Durbin
Edwards
Ehrlich
Engel
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Gordon
Green
Greenwood
Gutierrez
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hobson
Horn
Houghton
Hoyer
Jackson-Lee
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Klug
Kolbe
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Martinez
Martini
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Moran
Morella
Nadler
Olver
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Porter
Pryce
Ramstad
Rangel
Reed
Richardson
Rivers
Rose
Roukema
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schiff
Schroeder
Schumer
Scott
Serrano
Shays
Sisisky
Skaggs
Slaughter
Spratt
Stark
Studds
Thomas
Thompson
Thornton
Thurman
Torkildsen
Torres
Torricelli
Towns
Traficant
Upton
Velazquez
Vento
Visclosky
Ward
Waters
Watt (NC)
Waxman
White
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates
Zimmer

NOT VOTING—4

Moakley
Reynolds
Stokes
Tauzin

☐ 1808

The Clerk announced the following pair:

On this vote:

Mr. Moakley for, with Mr. Stokes against.

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. MENENDEZ

Mr. MENENDEZ. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MENENDEZ: Page 78, after line 6, add the following:

WITHHOLDING OF ASSISTANCE TO COUNTRIES SUPPORTING NUCLEAR PLANT IN CUBA

SEC. 564. The President shall withhold from assistance made available with funds appropriated or made available pursuant to this Act an amount equal to the sum of assistance and credits, if any, provided on or after the date of the enactment of this Act by that country, or any entity in that country, in support of the completion of the Cuban nuclear facility at Juragua, near Cienfuegos, Cuba.

Mr. CALLAHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, we have another 50 pending amendments. At the rate we are going, we will finish this bill about August 25, unless we do something about curtailing the debate. We do not want to deny anybody the opportunity to speak on any of the issues that are so important to them, but we are going to have to start putting some time limit on some of these amendments or else we will never get through with this bill.

I would like to know if the gentleman would agree to a time limitation, a reasonable time limitation on this amendment with the gentleman controlling his side of the argument.

Mr. MENENDEZ. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from New Jersey.

Mr. MENENDEZ. Mr. Chairman, I appreciate the gentleman's predicament. However, this is an issue that I and others have been working on for 2½ years. To be very honest with you, I do not want to curtail anybody's ability to speak. I cannot gauge that. I do not anticipate that it will be as long as some of the other debates that we have had, but I do believe that it will take a decent hour or so. But I do not want to limit it to that.

Mr. Chairman, there is a certain urgency to this amendment. Russia and Cuba have announced a joint stock company to finish construction of a dangerous nuclear plant located in the southern coast of Cuba. I am offering this amendment with several of my colleagues, the gentlewoman from Florida [Mr. ROS-LEHTINEN], the gentleman from Florida [Mr. DIAZ-BALART], the gentleman from Florida [Mr. DEUTSCH], and others, to reduce dollar for dollar U.S. aid to any country which financially helps the Castro dictatorship prospectively build a nuclear plant.

The Castro dictatorship has decided that a dangerous and mothballed Soviet-era nuclear plant in Juragua near Cienfuegos, Cuba should be completed and operated. We believe that it should not. Let me explain why not in some detail.

In a letter to me, dated April 12, 1993, President Clinton stated:

> The United States opposes the construction of the Juragua nuclear power plant because of our concerns about Cuba's ability to ensure the safe operation of the facility and because of Cuba's refusal to sign the nuclear nonproliferation treaty or ratify the treaty of Guadalupe.

In fact, Cuba has yet to ratify either treaty, the letter of which establishes Latin America and the Caribbean as a nuclear weapons free zone. The State Department, the Nuclear Regulatory Commission, the Department of Energy have also expressed concerns about the construction and operation of Cuba's proposed nuclear reactors.

Recently, Dr. Edward Purvis, who headed the Department of Energy's investigation about Cuba's reactor stated, "an accident in this reactor is probable. It is just a question of when. I do not know if they are the most dangerous reactors in the world, but they are the most dangerous reactors anywhere close to the United States."

In a September 1992 report to Congress, the General Accounting Office outlined concerns among nuclear energy experts about deficiencies in the Cienfuegos nuclear plant. They included lack in Cuba both of a nuclear regulatory scheme and inadequate infrastructure to ensure the plant's safe operation and maintenance.

□ 1815

Reports by a former technician from Cuba, who by examining with x rays weld sites believed to be part of the auxiliary plumbing system for the plant, which is what would have operated to stop Chernobyl from where it was going, found that 10 to 15 percent of those were defective, and this technician was quoted as saying "The operation of this reactor will be criminal." The construction was being performed in a completely negligent manner.

Since September 5, 1992 the construction was halted. There has been prolonged exposure to the elements of the primary reactor components, including corrosive salt water vapor. The possible inadequacy of the upper portion of the reactor's dome retention capability, the one that is supposed to withstand, in case of a nuclear accident, to withstand only 7 pounds of pressure per square inch, given that normal atmospheric pressure is 32 pounds per square inch, and that the United States reactors that we are designing accommodate 50 pounds per square inch, 50 pounds versus 7 pounds per square inch, and according to the U.S. Geological Survey, the Caribbean plate, a geological formation near the south coast of Cuba, poses seismic risks to Cuba and the reactor site, and may produce large to moderate earthquakes. In fact, on May 25, 1992 the Caribbean plate produced an earthquake measuring 7 on the Richter scale.

Mr. Chairman, I want Members who may be listening in their offices to listen carefully. It is a result of this map by the National Oceanic and Atmospheric Administration, and if Members are from Texas, Louisiana, Arkansas, Mississippi, Alabama, Florida, Georgia, Tennessee, South Carolina, North Carolina, Maryland, Virginia, and the Nation's capital, please be warned, we are talking about 80 million Americans here, Mr. Chairman, almost 1 in 3 Americans who, according to a study by the National Oceanic and Atmospheric Administration, said that summer winds could carry radioactive pollutants from a nuclear accident at the powerplant throughout all of Florida and parts of the States on the gulf coast as far as Texas, and northern winds could carry the pollutants as far northeast as Virginia and Washington, DC, and more States would be affected in time.

Mr. Chairman, finally, Fidel Castro has over the years issued threats against the U.S. Government. In 1962 he advocated the Soviets' launching of nuclear missiles to the United States, and brought the world to the brink of a nuclear conflict. We are talking about perhaps the most anti-American dictator in the world. Can we trust him with nuclear power? Can we trust him with an unsafe nuclear plant? Do we need another Chernobyl type incident 90 miles away from the United States?

I strongly suggest that we do not, as do 130 of our colleagues on both sides of the aisle, who signed the letter to the President saying "Do everything possible to stop the nuclear plant that is being proposed in Cuba." We should not permit any dollars to be used directly or indirectly to help those who would put our country at risk and our fellow citizens at risk at the same time.

Mr. Chairman, I urge the Members, in the interests of the national security of the United States, and on behalf of those 80 million people in those States that I have suggested, that this amendment needs to be passed and it needs to be passed now.

Mr. CALLAHAN. Mr. Chairman, I rise reluctantly to oppose the gentleman's amendment, but certainly not his intent. I our conference on our side of the aisle this morning, and on this floor this entire week, all we have been hearing is that the Committee on Appropriations is violating the House procedures because we are authorizing in an appropriation bill. We have strived long and hard not to violate that rule.

Now the gentleman from New Jersey [Mr. MENENDEZ] has an amendment that is an authorization within an appropriation bill. All these people that have been coming to the floor, like the two gentlemen from Indiana, who have raised so much ruckus over the fact that we are violating some of the procedures, will come here and recognize that what we are doing in opposition to this bill is in no way against the mission that the gentleman from New Jersey wants to carry out.

Mr. Chairman, I live in one of those States, in the beautiful and great State of Alabama, on the beautiful Gulf of Mexico, as a matter of fact, so I am pretty close to Cuba. I am not going to do anything or permit anything that would injure our environment or the environment of Florida or any other place in the world.

I am just saying that the gentleman's message is good, his intent is good. I think he ought to rush over to the Senate, where the authorization bill is, he ought to tell the Members of the Senate how crucial this is, he ought to insist that the Members of the Senate put this in the authorization bill. It does not belong in this bill.

Mr. Chairman, I would hope the gentleman would accept a perfecting amendment, which I understand is going to be offered by the gentleman from Texas [Mr. WILSON]. If indeed the gentleman does, then we can support it. Mr. Chairman, we should send the message we want to send.

I am not one for giving Russia money anyway, much less giving them money that might ultimately be channeled to Cuba, or even if they are not channeling that money, if they are going to help Cuba, we ought to cut off all aid to Russia, the gentleman is absolutely right. He is just on the wrong bus. He ought to get on the bus that is going down that road to stop Russia from doing this, and to deny the administration the authority to permit Russia to do that. I would support that with the gentleman 100 percent.

However, I cannot support it and go back tomorrow and listen to all of these people on the authorizing committee saying "You violated the committee once again. You violated the rules of the House. You are having authorizing language in an appropriation bill." So we support what the gentleman is trying to do. I commend the gentleman. I share his concerns. However, he is in the wrong bill at the wrong time.

Mr. MENENDEZ. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from New Jersey.

Mr. MENENDEZ. Mr. Chairman, I thank the gentleman for yielding to me.

In anticipation of this, having heard these objections made during the rules debate, I asked the IRS to look at the whole question of what the gentleman suggests is happening in this bill. In fact, they have shown me that for over a long period of time, and I have a whole host of citations, including changes in the application of existing law in this bill that we are considering right now, where there are approximately between 30 and 70 different changes in existing law that would be considered the same exact effect as what I am proposing.

Therefore, that is why I think the Committee on Rules, seeing that in fact there are so many changes in the application of existing law that would be considered legislating in an appropriation bill instead of in an authorizing bill, that in fact they saw it in their wisdom to permit the amendment to go forth, to make it in order, to waive points of order against it, as well as understanding the urgency of the timing.

Mr. Chairman, I think that when we see so many other things being considered in the bill, and the other amendments for which we just voted on that equally have the same impact, I would hope that the application would be made across the board. I do not believe necessarily that it is being made across the board.

Mr. CALLAHAN. Mr. Chairman, I would say that I support 100 percent the gentleman's mission; we just feel this is not quite the right vehicle in which to carry forth the gentleman's mission.

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. Mr. Chairman, I thank the gentleman for yielding to me.

Mr. Chairman, I want to say how, as a member of the committee, I appreciate the gentleman's concern with the process of legislating in an appropriation bill. It is indeed a long-standing problem and a regular complaint of those of us on the committee. It is, of course, the world's most violated rule. Nevertheless, Mr. Chairman, it does not mean it should always happen.

Mr. Chairman, I want to assure the chairman that both the gentleman from New Jersey [Mr. MENENDEZ] and the gentlewoman from Florida [Ms. ROS-LEHTINEN], as members of the committee, are for this amendment, in spite of that fact, and our appreciation for your concern about jurisdiction.

We do so in part, as the gentleman from New Jersey suggested, because there is a problem of timing. The Cuban and Russian Governments have announced this construction only 2 weeks ago. We would like the administration to act before construction actually begins and the Russians become committed.

Mr. Chairman, it is our feeling that this vote on this day can send that message. Therefore, I think it may be a worthwhile exception to what is a good rule and the gentleman's own commitment to uphold it.

AMENDMENT OFFERED BY MR. WILSON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. MENENDEZ

Mr. WILSON. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. WILSON as a substitute for the amendment offered by Mr. MENENDEZ: In lieu of the matter proposed to be inserted, insert:

SEC. 564. The President shall withhold from assistance made available with funds appropriated or made available pursuant to this Act an amount equal to the sum of assistance and credits, if any, provided to the government of a country under this Act that, on or after the date of enactment of this Act, is used by that country, or any entity in that country, in support of the completion of the Cuban nuclear facility at Juragua, near Cienfuegos, Cuba.

POINT OF ORDER

Mr. MENENDEZ. I reserve the right of a point of order, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from New Jersey [Mr. MENENDEZ].

Mr. MENENDEZ. Mr. Chairman, reserving the right of a point of order, I would ask the parliamentarian if the substitute as proposed is within the purview permissible to be applied within the purview of the rules by the Committee on Rules.

The CHAIRMAN. Is the gentleman making the point of order?

Mr. MENENDEZ. That is the point of order that I am making, Mr. Chairman.

The CHAIRMAN. Does the gentleman from Texas, Mr. WILSON, wish to be heard on the point of order?

Mr. WILSON. Yes, I do, Mr. Chairman.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. WILSON].

Mr. WILSON. Mr. Chairman, the amendment narrows, it does not expand, the pending amendment. It requires the funds withheld relate only to U.S. assistance. The amendment, therefore, is within the House rules.

Mr. MENENDEZ. Continuing on my point of order, Mr. Chairman, my point of order to the parliamentarian is that the amendment as is proposed and promulgated by the Committee on Rules, Mr. Chairman, is to say that any monies used by a country in investing in the nuclear power plan in Cuba would trigger a reaction of a reduction dollar for dollar of U.S. funds to that country.

My point of order is, is this within the ambit of the rule. Is it permissible under the rule?

Mr. DIAZ-BALART. Mr. Chairman, I would like to be heard on the point of order, if I may.

The CHAIRMAN. The Chair recognizes the gentleman from Florida [Mr. DIAZ-BALART].

Mr. DIAZ-BALART. Mr. Chairman, the substitute amendment varies substantially and significantly the amendment that was ruled in order by the Committee on Rules.

The Committee on Rules made in order the amendment offered by the gentleman from New Jersey, Mr. MENDENDEZ, which, as he has stated, calls for a dollar for dollar reduction in aid if Russia gives credits or assistance for the completion of a power plant.

What the substitute says is totally different. It says that the actual dollar, the actual dollar that we give to Russia, this dollar, if we give it to Russia, Mr. Chairman, we have to trace it and find that it goes to Cuba in order for us to ask for it to bet back to us. That is a totally different amendment, Mr. Chairman. This is not the amendment that was made in order by the Committee on Rules, and I would submit to the Chair that it would violate the rules.

They did not go to the Committee on Rules with this amendment. It is a totally different amendment. The one we made in order in the Committee on Rules is the Menendez amendment, which is totally different. This one is out of order, therefore.

The CHAIRMAN (Mr. HANSEN). The Chair is prepared to rule.

Under the precedents, legislation permitted to remain by a waiver of points of order may be perfected by an amendment which does not add further legislation. This amendment is a narrowing of the amendment offered by the gentleman from New Jersey [Mr. MENENDEZ], to restructure the prohibition of funding only to assistance provided to the government of a country which uses that assistance to support the Cuban facility, rather than use any sum to assist Cuba, and is merely perfecting the Menendez amendment, and it does not add additional legislation to that permitted to remain. The Chair overrules the point of order.

The gentleman from Texas [Mr. WILSON] still has time remaining.

Mr. WILSON. Mr. Chairman, it is very difficult for me to be in opposition to the four most active proponents of this amendment, because I have been on their side in these matters ever since all of them got here. I take a back seat to nobody in my opposition to Castro, in my opposition to everything that he has done since he has been in power.

However, Mr. Chairman, if we do not adopt the substitute, and the amendment passes as presented, and it becomes part of the final bill. Members have to think these things through a little bit. What we are really doing if we tell Russia that we are going to withhold our foreign assistance to them, which we grant to them because we think it is in our own interest, we are forcing them to go forward with this reactor. It is just forcing them to do it. It is forcing them to do it, because of their dignity and their self-respect.

Nobody in this Chamber, nobody that I know of in the United States, wants a nuclear reactor built in Cuba. We have to think about the best way we can stop it. And we certainly have to consider that we do not want to do anything that will cause it to go forward.

□ 1830

The action that we can take that would be most likely to cause this to go forward is the passage of this amendment, that my good friend from New Jersey has introduced.

The political situation in Russia is very fragile. It is very difficult. The Democrats are not in an extremely strong position. For the United States to try to dictate to Russia this sort of policy is not the way to accomplish the policy. The way to accomplish the policy is through diplomacy and through persuasion.

I submit to the House that my substitute should be adopted. I submit that it is the most likely way to stop the construction of a nuclear reactor that nobody wants to see built. I do not want to push the Government of Russia against the wall, or take away their dignity and make them think they have to do this. This amendment would only encourage the nationalistic trends in Russia and would not add to East-West stability.

Ms. ROS-LEHTINEN. Mr. Chairman, I rise in opposition to the Wilson amendment and in strong support of the Menendez amendment.

The Menendez amendment would cut aid to Russia by the same amount of money that it provides to the Castro regime for the construction and operation of the unsafe and dangerous Juragua nuclear plant in Cienfuegos, Cuba. This amendment is an important step to serve notice to Russia that the United States Congress will not tolerate its helping the tyrannical Castro regime introduce a national security threat of this magnitude just a few hundred miles from our shores.

Mr. Chairman, on May 4 of this year, Russia and the tyrannical Castro regime announced that they were in the process of forming a multinational consortium that would finance the estimated $800 million needed to complete the Juragua plant. The completion of this plant would constitute the introduction of a grave threat to the national security of our United States.

A 1992 GAO report detailed the numerous faults in the infrastructure and the serious equipment problems which former plant technicians and experts state that the plant suffers from. Among the most glaring deficiencies are the statements by former technician Vladimir Cervera, who states that up to 15 percent of the pipe welding in the Juragua plant's cooling system is deficient. Furthermore, the small resistance capability of the nuclear plant's containment dome can only resist pressure of up to 7 pounds per square inch, while U.S. reactors must sustain pressure of up to 50 pounds per square inch.

These and other technicians as well as experts have denounced the lack of appropriate training of those Cubans who will monitor the plant, and the serious lack of infrastructure inside the island to operate the Juragua plant.

Mr. Chairman, this type of VVER plant has already been banned in countries like Germany, where four similar plants were shut down after reunification and which environmental groups have called to be closed. When asked about the plant, Dr. Edward Purvis of the Department of Energy states,

> An accident in the reactor is probable. it's just a question of when . . . I don't know if they are the most dangerous reactors in the world, but they are the most dangerous reactors anywhere close to the United States.

Although the technology is different from the infamous Chernobyl plant, the Cuban nuclear plant poses similar dangerous and indeed horrific risks and grave consequences. Do we want a Chernobyl in our backyard, subsidized with U.S. taxpayer dollars? I think not.

Mr. Chairman, the Clinton administration has remained quiet and indeed deadly silent about the Juragua nuclear plant because it presents a roadblock on their path of normalization of relations with Castro. It is inconceivable that the administration has remained dangerously silent while this national security threat is constructed just 180 miles from our shores, a threat that would affect a large part of the United States with radiation if an accident or a provoked accident would take place.

Indeed, studies by NOAA concluded that depending on the direction of the wind, radiation from the plant could affect Central America, the Caribbean, the United States, as far as Washington, DC, and Virginia, and, of course, Cuba itself.

The threat of the Juragua plant is indeed further increased when we consider that it would be at the hands of a tyrant who has no respect for human life and who has not hesitated in the past to destroy human life to achieve his evil purposes. Already Castro has entered into an agreement with another pariah and terrorist state, Iran, to exchange information about these reactors.

Yet, while the Clinton administration denounces Russia for transferring nuclear technology to that Middle Eastern country, it has not raised a finger to help stop construction of Juragua. The inaction of the administration raises the ante on us in Congress to take action and warn Russia that we will not stand idly by while Moscow helps Castro and his Communist thugs introduce a new threat to our hemisphere.

Passage of this Menendez amendment will signal Moscow that American taxpayers will not be suckered into having their hard-earned money help in the completion of this national security threat.

Castro once called the Juragua project Cuba's greatest accomplishment of this century. However, this plant could also become Castro's greatest security threat to our hemisphere unless we in the Congress take action to stop Russia from aiding and abetting the Cuban tyrant. I urge my colleagues to defeat the Wilson substitute and adopt the Menendez amendment.

Mr. ENGEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in strong support of the Menendez amendment and rise in opposition to the Wilson substitute.

Mr. Chairman, I support foreign aid to Russia. I think foreign aid to Russia is very important. I think that the relationship between the United States and Russia is a very, very important relationship.

But, Mr. Chairman, one cannot turn a blind eye to the conduct of Russia. One cannot turn a blind eye to what we have seen come out of Russia during the past several months. One cannot turn a blind eye to Chechnya, one cannot turn a blind eye to the selling of nuclear reactors or nuclear technology to Iran, and one cannot turn a blind eye to Russian help in terms of Cuba completing this nuclear powerplant.

Mr. Chairman, the issue here is not merely the Cuban dictatorship, although it has been a brutal dictatorship and has been a dictatorship that I have never supported, and certainly I think that the Cuban people would be much better off with democracy and political pluralism and look forward to the day when Cuba does have democracy. The issue here is also about the safety of American citizens.

I have in front of me the GAO report, the U.S. General Accounting Office report to the chairman, Subcommittee on Nuclear Regulation, Committee on Environmental and Public Works of the U.S. Senate. They express tremendous reservations about this nuclear powerplant. There are subdivisions, I would like to read some of them:

Safety concerns raised by former Cuban nuclear power officials; allegations of problems and defects in construction; allegations of inadequate simulator training; assertions of adherence to safety rules; United States prefers that reactors not be completed; United States policy and concerns of United States officials about the safe construction and operation of Cuba's nuclear reactors; NRC officials concerned about allegations of safety deficiencies; Department of Energy official concern about quality of reactor's construction and components; assessment of risks from earthquakes and radioactive pollutants.

It goes on and on and on. The gentleman from New Jersey [Mr. MENENDEZ] mentioned all the States, one-third of the American population, that could be put in jeopardy for this.

I think it is very, very important that we support the gentleman from New Jersey [Mr. MENENDEZ]. My worry about my good friend from Texas, his substitute, is what this would simply allow is, it would allow Russia to take our money, manipulate the funds through the back door, continue to build the powerplant and continue to have our money. I do not think that is what we want.

We talk about the dignity and self-respect of Russia, and I am sensitive to that. What about our own dignity and self-respect, that we could have a calamity 90 miles from our shore and it could be built with the help of American money? That is adding insult to injury.

I support the gentleman from New Jersey [Mr. MENENDEZ]. I think this is something we ought to put into this bill. We ought to stand up and take notice.

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. ENGEL. I yield to the gentleman from Texas.

Mr. WILSON. I appreciate the gentleman yielding. Everything the gentleman says about the undesirability of the Cuban nuclear powerplant is true, but I believe that the gentleman mentioned the two nuclear powerplants that Russia has contracted to build for Iran. Is that right? Did you mention that?

Mr. ENGEL. I mentioned Russia helping Iran in building nuclear technology and I know that our administration, our Government has made a plea with them not to continue. I know that they have said that they would look at it again, but they have not unequivocally stated that they will not help Iran in attaining nuclear power.

Mr. WILSON. Assuming that an announcement was made that Russian was going to assist Iran in building two powerplants, would the gentleman then want to cut off funds as a result of that?

Mr. ENGEL. Well, I think that would be a step in the right direction, but I would like them to couple that with an announcement that they will not help Cuba build this nuclear powerplant. If they did that, then I would certainly be opposed to cutting off funds.

Mr. WILSON. Is the gentleman basically saying that if Russia builds a nuclear powerplant for anybody, then we ought to reduce the amount of aid to them?

Mr. ENGEL. No, I think that when Russia is active in helping countries that are our adversaries, like Iran and like Cuba, increase their nuclear technology, I think it is very appropriate that we in turn pull out dollar-for-dollar that they are putting into building those powerplants.

Mr. WILSON. So the gentleman would favor reducing assistance to Russia by the amount of funding they spend on the Iranian plants?

Mr. ENGEL. That is not the amendment that is being done here. If I could just say, I pointed out Iran as showing that this is a behavioral pattern on the part of Russia with Iran and with Cuba.

Mr. DIAZ-BALART. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the substitute amendment offered by the gentleman from Wisconsin [Mr. OBEY] and the gentleman from Texas [Mr. WILSON].

Mr. Chairman, I want to preface my remarks by saying that I respect extraordinarily the patriotism of the gentleman from Texas [Mr. WILSON] and the gentleman from Alabama [Mr. CALLAHAN], who has also expressed here his support of this substitute, but I think that they are extremely incorrect by supporting this substitute.

Let's be clear with regard to what we are talking about. The Menendez amendment, Mr. Chairman, simply states that there will be a deduction, a dollar-for-dollar deduction of our aid to Russia if Russia—if and when, if and when, it conditions that—if and when Russia gives aid for the completion of this powerplant that, as the gentleman from New Jersey [Mr. MENENDEZ] has pointed out, is extraordinarily dangerous; as the gentlewoman from Florida [Ms. ROS-LEHTINEN] pointed out, the same kind of powerplant, that same model, it was called VVER, they were the export powerplants that the Soviets used to build throughout Eastern Europe, those same model powerplants were closed in Germany immediately after reunification because of their inherent danger.

Now, last month Castro and the Russians announced that they have come up with a formula to get the money to complete the first of those two plants, that same model that was closed down in Germany because there was an explosion of protest by the environmental movement in Europe and they closed down those plants. By the way, the remaining plants in Eastern Europe, the environmental movement in Europe has mobilized to close them down because they are ticking time bombs for explosions, for accidents, those plants. Castro announces, as I say, Mr. Chairman, that he has found the formula with the Russians to complete the first of these plants.

The Menendez amendment says if they do that, if they provide assistance, we will then deduct dollar-for-dollar our assistance, our taxpayer money, for the completion of that powerplant which is a risk, as the gentleman from New Jersey [Mr. MENENDEZ] pointed out, to half of the United States, just about. If you look at the map, you see that just about all the southern States, all the way, and especially up the eastern coast, all the way to the Nation's capital are directly threatened if there is an accident or an incident at the nuclear powerplant.

Then my dear friend, the gentleman from Texas [Mr. WILSON], gets up and he says his amendment is so as to not insult the dignity of the Russian democrats. Wait a minute. How do we get the message across to the Russians? Do we vote for the amendment that says we do not want the plant built with our money? Or do we vote for the amendment that says we do not want to insult the sensitivities of the Russian democrats?

The gentleman from Texas [Mr. WILSON], my good friend, great American patriot, I know he is a ranking member. The gentleman from Alabama [Mr. CALLAHAN] is the chairman of the subcommittee, and they have to fulfill a roll. I understand that. I respect that.

But their amendment, the Russian democrats' sensitivity amendment, is not the way to convey the message that we cannot be more concerned about the completion of this power plant than we are. The Menendez amendment, the reason we have to defeat the substitute and vote for the Menendez amendment is because this is not an issue of Russian sensitivity.

This is an issue, the Clinton administration has got to understand, it has got to be at the top of our agenda in our dealings with Russia and we have got to tell them they cannot build the plants that were closed down in Germany, that we are closing down, that are being closed throughout eastern Europe and yet Castro wants to complete them in Cuba.

□ 1845

That is not acceptable to the national security of the United States of America.

So, let us keep in mind what the Wilson-Obey substitute is, the Russian sensitivity amendment. That is what it is, the Russian sensitivity amendment. That we do not want to disturb their sensitivity on balance the Democrats versus the whatever.

Mr. Chairman, the bottom line is if we vote in favor of the sensitivity amendment, what we are saying is that we are not concerned about that powerplant; that we will deal with it, like the gentleman from Texas [Mr. WILSON] said, diplomatically.

Mr. Chairman, we have heard enough of diplomatically. Let Warren Christopher convince, with sensitivity, the Russians that we are concerned about this plant, even if we vote against the Menendez amendment. Let us see if that makes sense. If we vote for the substitute, the sensitivity substitute, then we are putting our faith in Mr. Warren Christopher that he will say: The Congress did not support the amendment to cut, dollar for dollar, Russian aid if you go ahead and build. They were more concerned about sensitivity. That is why they sent me here, to sensitively tell you Russians that even though the Congress did not support the Menendez amendment, we are, I think, concerned about the plant. I guess that is what the sensitivity amendment means.

What the Menendez amendment is, and we have to vote down the Wilson-Obey sensitivity amendment, is very clear. It is on the highest priority for our national security. That plant cannot threaten the people of the United States, Mr. Chairman.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not think I have heard any more demagoguery on this floor today than I have in most days, but let me try to set the facts straight. I think the worst thing that a politician can do in public life is to try to mislead the voting public about serious issues. And so what I would like to try to do is to separate fact from fiction. Russian aid for this plant began in 1983 when Russia was still a Communist country. It stopped in 1992, when the Russians demanded hard currency payment from Cuba. The only subsidy from Russia since that time was a $30 million credit to mothball the plant that so many Members suggest that they want to see mothballed and stopped.

The only thing the Russians have done recently is to spend their own money to put this plant in mothballs, not to run it. Now, the Cuban Government says they want to conduct a feasibility study. Nothing is feasible under Castro. Nothing rational will happen under Castro. So I think we have had a lot of rhetoric about a plant that nobody wants to see built.

What Mr. WILSON was trying to say is that the best way to see to it that Russia does not reverse its position and to begin funding this plant once again is to see to it that we do not damage reformers in the Soviet Union who are trying to keep the old horses at bay. What Mr. WILSON is trying to say is that Russian society is rampant with paranoia; not the only place I have seen paranoia recently, I would say. But they are certainly rampant with paranoia. That has been the history of Russia.

And rejectionist and reactionary forces routinely in that country use innocent actions of the West in order to feed the paranoia in that society in order to do in Russia what Hitler did when he came to power in Germany, which is to feed on fears and feed on resentment against outsiders, against being dictated from the outside in order to build your own political power. Again, not the only politicians have I seen do that recently, but they do it very well.

And so what the gentleman from Texas [Mr. WILSON] is trying to say is that if you want to be most effective in preventing Russia from taking a course that we do not want them to take, then do not take an action which through inadvertence would weaken the hand of the reformers in Russia.

That is what the gentleman from Texas [Mr. WILSON] is trying to say. Mr. Chairman, I am going to suggest something to my colleague, Mr. WILSON. I am going to suggest that because this amendment is chasing a ghost, I would suggest that the gentleman withdraw his amendment and that the committee accept the amendment being offered by the gentleman from New Jersey [Mr. MENENDEZ] because it is stopping something that is not happening.

Mr. Chairman, if we make more of it than it is, what will happen today is we will feed that very paranoia in Russia which we do not want to feed. So what I would suggest is that the gentleman from Texas [Mr. WILSON] withdraw his amendment to the amendment, and we accept this amendment, which is justifiably aimed at something that we do not want to occur, but which I think has generated a debate which will leave the American people thinking that black is white and vice versa.

The facts remain that the only thing that has been happening so far is that the Cubans want to do a feasibility study. No money has been provided. The Russians have indicated no intention of providing any. And I want to make quite clear that if the day ever comes when the Russians would provide it, I would be the first one in this well offering an amendment to eliminate the same amount of funds.

However, Mr. Chairman, I do not think that this debate has really added an awful lot to the public's understanding of this issue. It has, in fact, wound up condemning Russia because they provided $30 million to mothball a plant we want mothballed. But I know how politics works and how often issues get misconstrued. And, so, I think to do the least damage possible, that what we ought to do is to withdraw the Wilson amendment.

Mrs. FOWLER. Mr. Chairman, I rise in opposition to the Wilson substitute and in support of the Menendez amendment. My aim is to send a strong signal that completion of the nuclear reactor in Cuba, just 180 miles from Key West, is not acceptable to the American people.

There is no doubt that the United States has a strong interest in promoting positive relations with Russia. We should continue to support that forward momentum.

However, as a Representative from Florida I am particularly concerned about plans to proceed with the Cienfuegos plant. Aside from my objections to providing support to the repressive Castro regime, I am deeply worried about safety issues that could impact the people of Florida, as well as the citizens of Cuba and the rest of the Caribbean. The safety standards established for the plant are simply insufficient. According to one Cuban engineer who worked on the plant, fully 15 percent of the pipes he inspected were flawed.

This project could not proceed without Russian technical assistance, training, and capital. Accordingly, we must send the strongest possible message. I urge my colleagues to support the Menendez amendment.

Mr. STEARNS. Mr. Chairman, I rise in strong support of the Menendez amendment. The President has not acted and time is short.

Let me be brief: The last thing we need is a Chernobyl in the Caribbean. Cuba is a mere stone's throw from the shores of my home State of Florida. If, God forbid, the inconceivable happens, it is certain Americans would suffer the devastating effects of nuclear exposure. We do not want this on our conscience.

It is amazing that even as the news reports show that Russia's Chernobyl plant is now leaking deadly radiation, that same substandard Russian technology is being used to build a nuclear plant in our backyard.

Completion of this plant would constitute a real and permanent threat to the health and safety of our country. The Menendez amendment needs to be passed. It is imperative that we take the proper steps to ensure that this type of security and safety threat is not brought to fruition.

Mr. Chairman, it is wrong that we give any money to Russia. It is horrendous that we should even consider giving money to Russia for the purpose of building of a nuclear power plant in Cuba. Simply put, Mr. Chairman, we cannot let this happen.

We cannot let this happen. I urge my colleagues to vote for the Menendez amendment and to oppose any weakening amendments.

Mr. CALLAHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, I ask unanimous consent to withdraw my amendment offered as a substitute for the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. CALLAHAN. Mr. Chairman, with the withdrawal of the substitute, and with the importance that we know the Florida delegation and others sense with respect to this, we will accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Jersey [Mr. MENENDEZ].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. GOSS

Mr. GOSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GOSS: Page 78, after line 6, insert the following new section:

LIMITATION ON FUNDS FOR HAITI

SEC. 564. None of the funds appropriated in this Act may be made available to the Government of Haiti when it is made known to the President that such Government is controlled by a regime holding power through means other than the democratic elections scheduled for calendar year 1995 and held pursuant to the requirements of the 1987 Constitution of Haiti.

MODIFICATION TO AMENDMENT OFFERED BY MR. GOSS

Mr. GOSS. Mr. Chairman, I ask unanimous consent that the amendment be modified in the new form at the desk.

The CHAIRMAN. The Clerk will report the modification to the amendment offered by the gentleman from Florida [Mr. GOSS].

The Clerk read as follows:

Amendment, as modified, offered by Mr. GOSS: Page 78, after line 6, insert the following new section:

LIMITATION ON FUNDS FOR HAITI

SEC. 564. Effective March 1, 1996, none of the funds appropriated in this Act may be made available to the Government of Haiti when it is made known to the President that such Government is controlled by a regime holding power through means other than the democratic elections scheduled for calendar year 1995 and held in substantial compliance with the requirements of the 1987 Constitution of Haiti.

The CHAIRMAN. Is there objection to the modification to the amendment offered by the gentleman from Florida [Mr. GOSS]?

There was no objection.

Mr. GOSS. Mr. Chairman, this is a very simple amendment. It is about Haiti and it says, "No democracy, no taxpayer money."

The intent is to encourage both the Clinton administration and the Haitians in Haiti to ensure that this year's parliamentary and Presidential elections are as free, open, and democratic as possible.

Simply put, the Goss amendment says that in the event of a new regime assuming power in this fiscal year in Haiti through means other than an election in substantial compliance with the Haitian Constitution of 1987, the United States would halt aid to Haiti.

I believe this amendment is of significant value, if not necessary, because I believe the American people would draw the line at funding a regime in Haiti that gained power through a nondemocratic or an antidemocratic process.

We saw some serious problems with the electoral process in this past weekend's parliamentary elections. Today, we have new reports of trouble, including the assassination of a mayoral candidate in the coastal town of Anse d'Hainault.

Others have noted that the electoral council we have there is provisional, not permanent as required by the Constitution. The international community has looked at that and the international community and Haiti have accepted that as a necessary compromise for this past weekend's election. It was necessary to do it that way because we had to have the elections and I think that makes sense.

The natural follow-on question is whether or not building a more permanent electoral administrative mechanism will be a priority once the new Parliament is in place. There are, arguably, more important Haitian issues than the electoral council.

The Haitian Constitution also prohibits President Aristide from running again and prohibits the new Parliament from changing the laws to allow him to do so. Whether or not that standard holds should be of particular interest to this House, to the Clinton administration, and to the Haitian people themselves.

Ultimately, this amendment is, in part, about adding incentives to keep the evolution of democracy in Haiti on track by holding elections in a manner as consistent with the Haitian Constitution as possible, despite the realities of holding elections from scratch in what is a poverty-stricken, infrastructure-challenged Third World country.

The larger issue for us is deciding what our job as Members of Congress is all about. Members of Congress are the keepers of a trust for the American taxpayers. We are responsible for knowing whether our tax dollars are used for priority spending and whether there is value in return.

Let us be clear about this. No one knows exactly how much the Clinton administration has spent on operations in Haiti. What we do know is that before American soldiers leave, the cost of this effort is projected to be well over the $2 billion mark. That is a tremendous amount of money.

Why have we committed this level of resource of Haiti? Because the White House has placed a priority of building democracy there. And this is an admirable goal I think all of us support in principle.

But if at end of the election cycle this year we find that the process has drifted or been jolted far from democratic standards, then we should stop pouring money into that small Caribbean nation. When I say pouring money, it is about $300 per capita, which is about $50 per capita per year more than the average income.

This amendment says "No" to United States assistance for any new regime in Haiti that comes to power via an antidemocratic process. If building democracy is not about that kind of commitment, then what is it about? This amendment is good for a democratic Haiti; it is good for the American taxpayers.

Also I would like to point out that we have checked it out with the Committee on International Relations and we have made it in modified form today, after checking with the Department of State, to try and relieve some problems they were concerned about.

I have added the words "substantial compliance" with regard to observing the Haitian Constitution, because obviously they are not going to be able to cross every T or dot every I.

We have also tried to make this effective as of March 1996, well into the fiscal year, to allow plenty of opportunity for adjustment in case there are technical glitches with the election process.

We have tried to accommodate in every way possible the concerns of the administration. I think we have done that. I think we have a very clear, simple amendment that says as long as Haiti stays on the track, they are eligible for foreign assistance. If they get off that track, then we better take another look.

AMENDMENT OFFERED BY MRS. MEEK OF FLORIDA TO THE AMENDMENT, AS MODIFIED, OFFERED BY MR. GOSS

Mrs. MEEK of Florida. Mr. Chairman, I offer an amendment to the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mrs. MEEK of Florida to the amendment offered by Mr. GOSS, as modified: In the matter proposed to be inserted by the amendment, strike "when it is made known" and all that follows and insert the following: "except when it is made known to the President that such government is making continued progress in implementing democratic elections."

Mrs. MEEK of Florida (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

□ 1900

Mrs. MEEK of Florida. Mr. Chairman, I join with my colleagues Mr. OWENS, Mr. RANGEL, Ms. CORRINE BROWN of Florida, and Mr. ALCEE HASTINGS of Florida in offering this amendment to the amendment offered by my friend, Mr. GOSS.

Our amendment is simple and concise. For Haiti to continue to get U.S. aid, the President has to be sure that Haiti is making progress in implementing democratic elections.

The United States has fostered and nurtured democracy in Russia and in Central America and in Eastern Europe. We should do no less for Haiti.

Our amendment provides a strong, clear incentive to the leaders of Haiti to continue on the path to democracy.

Mr. GOSS says that he wants to hold Haitians to the standards they set for themselves in the 1987 Constitution. So do we.

But we must also recognize that Haiti has had very little experience in governing itself. Let us move them in the right direction. Let us encourage them in the right direction, but let us not threaten them with disaster if they cannot immediately meet the lofty standards they have set for themselves. Mr. Chairman, in the world of international diplomacy, words are extremely important. Our amendment encourages democracy in Haiti without presupposing its failure.

Every person in this body today has a strong—and, I hope, unshakable—commitment to democracy as a form of government. Democracy is a truly great form of government, but it is also one of the most, if not the most, difficult forms of government on the face of the Earth.

There is a line in the new movie, "Apollo 13," when Tom Hanks says, "There's nothing routine about going to the Moon." Well, there's nothing routine about making democracy work, either.

Here in the United States, we have had over 200 years of experience with it. We have well-established democratic traditions. We probably make democracy work as well as anybody in the world.

And yet, democracy works imperfectly in our own country. If you want proof, just look at the contested Maryland Governor's election. Or the contested California senatorial election. Just look at how many elections have been challenged right here in our own House of Representatives.

This should be a vote to ensure that our tax dollars help support democracy, and that is why I ask for your support for our amendment.

Our amendment makes further funding for Haiti contingent on the progress of democracy in Haiti.

Mr. Chairman, this is not a vote on whether or not last weekend's election in Haiti was without problems.

The fact is that the vote on Sunday in Haiti was far from perfect. There were organizational problems and confusion. Polls opened late, or not at all. There were untrained poll workers, and lapses in voter secrecy.

Was the baby's first step shaky? Absolutely.

But as yesterday's Miami Herald reports, quote:

> Although the election was organizationally flawed, there was little indication of an effort to tilt the vote. And it was certainly the most peaceful of any since the Feb. 7, 1986, fall of the Duvalier family dictatorship.

The Canadian election specialist in charge of the 300 observers from the Organization of American States said, quote: "The overall picture was much more positive than reflected by some." He also noted that, as the day wore on, "the conduct of the voting process significantly improved."

Keep in mind that this election was in Haiti, the very poorest nation in the entire Western Hemisphere, a nation that until last fall was under the control of a military dictator. In fact, for most of its existence, Haiti has struggled under the rule of dictators.

The CHAIRMAN. The time of the gentlewoman from Florida [Mrs. MEEK] has expired.

(By unanimous consent, Mrs. MEEK of Florida was allowed to proceed for 1 additional minute.)

Mrs. MEEK of Florida. Mr. Chairman, democracy, like everything else in life, takes practice. And this election in Haiti was a very clear and positive step in the right direction—toward democracy.

Would America's allies in the Revolutionary War have forced the Goss amendment upon the struggling little United States? Did our allies, in the difficult days after our liberation from our own colonial masters, make their assistance contingent on our implementing the Articles of Confederation? Of course not.

Why, then, should we so burden Haiti, which is struggling mightily to meet the high standards of self-government that we have set for the world?

Mr. Chairman, I urge the adoption of our amendment to the Goss amendment.

Mr. BURTON of Indiana. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me just say that we do have occasionally here in the United States voting irregularities, but they are not really widespread.

I was one of the monitors sent by President Bush to monitor the elections in Namibia, and that was a very, very big election on independence and freedom and democracy over there, and there was a lot of opportunity for vote fraud, but very, very little of it occurred in Nambia.

In South Africa, likewise, there were some irregularities, but it was very minimal. I think in many, many of the developing countries, there have been some minor voting irregularities.

But the problem we saw in Haiti last week was there were widespread voter irregularities. Ballots were lost. People could not vote. Polls were closed. And as a result, the entire election was tainted.

For that reason, I rise in support of the Goss amendment and in opposition to the gentlewoman's substitute.

Mr. GOSS. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. Mr. Chairman, I yield to the gentleman from Florida.

Mr. GOSS. Mr. Chairman, I thank the distinguished gentleman from Indiana for yielding to me.

The problem with the amendment offered by my colleague from Florida is that it simply bases the question of how we judge democracy on some unknown. There is no particular standard for it. It is sort of in the eye of the beholder.

We are very particular about how we do that in our amendment, by design. We measure democracy by the Haitian Constitution. That is the way we measure democracy in this country, and we believe specific reference to the Haitian Constitution is also extremely critical because that is the path they have announced they are taking and that is the path that the dollars of our tax support are committed to pursuing, in helping them pursue.

If we get that off that path and create some new direction, we open the door for a lot of mischief, and I am sad to say that there was some mischief in Haiti this past weekend, and I am sorry that my colleague from Florida has felt it necessary to shoot the messenger for reporting that.

But in the words of the mayor of Port-au-Prince, who called the election, and incidentally the mayor of Port-au-Prince is a member of the former coalition of elected President Aristide, called the election a massive fraud. The minister of culture said he was ashamed. Quoting from the New York Times on this, he said, "As a member of the Government, I am not proud of this at all." These are serious challenges.

The political parties are calling for a re-vote. They are calling for re-elections.

This is not PORTER GOSS saying this, this is PORTER GOSS bringing the message. I am sorry, it is the Haitians who have said this, who participated in this. It is not PORTER GOSS who has created this.

The fact that we have brought it to your attention may be distressing, but it is important that when we represent, first and foremost, the United States taxpayers, we have a higher obligation to make sure their money is properly and wisely spent than any other obligation in a foreign country. I think that is an extremely important point.

I would say that one of the problems I have with the Meek amendment is that it clearly weakens accountability to the American taxpayers.

I think that not specifying that we stick to the Constitution in Haiti is a serious flaw in the Meek amendment, and I am afraid that leaving it up to somebody, presumably the spokespersons for the liberal left, as who have been speaking widely on this, to define what democracy is and how well it is doing in Haiti is a dangerous mistake and would not pass muster with the United States taxpayers.

Having said all of this, I urge definitely a "no" vote on the Meek amendment, and I urge support for the Goss amendment.

Mr. BURTON of Indiana. I say to the gentleman from Florida, to restate what he said, his amendment is consistent with the Constitution of Haiti and leaves no room for doubt, and for that reason I think we should support his amendment and vote down the substitute.

Mr. FOGLIETTA. Mr. Chairman, I move to strike the requisite number of words.

I have read the amendment offered by the gentleman from Florida, and I really do not understand what his objective is here except to try to embarrass President Aristide and especially the people of Haiti.

I rise in strong opposition to this amendment. I do so because it represents a slap in the face to the millions of people who voted in Haiti on Sunday.

I have investigated; I have gotten reports from people who were there. The reports that I have received were that there was practically no violence; there was practically no intimidation, no fraud. These things were practically nonexistent.

Yes; there were lost ballots. It was the first election allowed in that country in many, many years. There were some irregularities, but there are irregularities in almost every free election.

What really we should have to look to find out is what was really Haiti's Government before our forces returned democracy to Haiti? It was a gang of military thugs and criminals who controlled that nation. They took control, and President Aristide, who was elected by almost 70 percent of the people of that nation, was forced to leave his office and his country under threat of death.

Politically motivated violence and murder reigned. Two elections were rigged by the gang in power, Cedras, Biambe, Francois. Do you want them back in power? Terror was the form of government in Haiti.

But that changed when President Aristide returned last October. Democracy has replaced terror. Democracy has replaced terror in Haiti, and that was demonstrated on Sunday.

My colleagues on the other side of the aisle have harped on the logistical difficulties surrounding Sunday's election in Haiti. There was not an extraordinary multitude of problems or widespread disturbances. There were problems, admittedly. President Aristide has publicly acknowledged that there were problems.

In the United States elections, which is the bedrock of a 200-year-old system, there are problems. Coming from the city of Philadelphia, I can assure you that we still have elections in this Nation tainted with controversy, irregularities, and problems. But this was only Haiti's second free election ever.

Furthermore, most of the 3.5 million Haitians who were registered to vote in Sunday's election are illiterate and require special attention.

Despite these difficulties, people were able to participate in a free and fair election. According to the report issued by the election observers with the Organization of American States, problems related to the election were attributed to Haitian inexperience, not widespread fraud, not abuse or not violence.

The seed of democracy has been planted in Haiti. While it will take time and hard work for democracy to establish firm roots, we witnessed positive, tangible progress toward this goal on Sunday.

Can the people on the other side not accept success? We have created a democracy in Haiti. Now is not the time to send this negative message. Now is not the time to hold critical development funds which could further guarantee the success of Haitian democracy.

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. FOGLIETTA. I yield to the gentleman from Michigan.

Mr. CONYERS. I would want to comment particularly with the gentleman's reference to Philadelphia elections because in Detroit we lost a city clerk as a result of problems, and we have been holding pretty good elections the whole time.

May I just say that I agree with you. The Meek amendment to Goss is absolutely essential, and I am hoping that our Republican friends will understand what we are trying to do is give Haiti a chance. Let us not put them under an increasing burden. Their difficulties are much, much graver than some people think, and I want to give them a chance.

Mr. Chairman, I rise in enthusiastic support of the amendment by the gentlelady from Florida. It is a much needed modification to the amendment by the gentleman from Florida. That amendment is deeply flawed in content and intent. Despite its seemingly harmless wording, it will curtail democracy in Haiti, where peaceful governance can ill afford such a setback.

The gentlelady's amendment offers some simple but critical changes. Her amendment in its entirety reads:

> None of the funds appropriated in this Act may be made available to the Government of Haiti except when it is made known to the President that such Government is making continued progress in implementing democratic elections.

Rather than tearing the carpet out from under Haiti's painful steps toward democracy, this amendment allows aid to that country as long as it is continuing those steps toward democracy. I have traveled to Haiti several times, and have witnessed myself the pain that this country had to bear in anticipation of peaceful enfranchisement and they are closer now than ever before.

The absence of systemic fraud and organized violence in Haiti's elections this week showed that this nation is working diligently for democracy, even without an adequate transportation network to get people to the polls and extremely limited resources. Nevertheless, those who disagree with the results in favor of the ruling party such as the International Republican Institute have sought to impose the same standards on this infant democracy as they would in the United States.

The truth of the matter about IRI is that it received nearly half a million United States taxpayer dollars to observe the elections in Haiti this spring. Have no illusions about IRI so-called nonpartisanship. One IRI document for the electoral study states: "IRI will conduct local leadership training exclusively for non-Lavalas centrist political party representatives from all 83 electoral districts." Lavalas is the opposition party. That's not observing democracy; that's interfering with it. IRI is supporting political parties they happen to agree with. This organization also apparently has a crystal ball that allowed them to state in a fancy report the day before the elections that the elections were unfair. We should give democracy in Haiti a chance and not be in such a hurry to pass judgment, but instead continue to encourage this young democracy's growth.

For the first time this week, voters could let their political voice be heard out of freedom and not out of fear. Democracy is a process and not a standing status. We have to maintain our commitment to Haiti at the early stages of its process now that it is on course.

America's commitment to Haiti is an integral part of America's pledge to democracy and peace worldwide. Other nations of the world, who are still struggling under the bloody boot of oppression, have to see that peace and freedom can and must coexist. Without the gentlelady's modifications, the amendment is a vote of no confidence to this blossoming democracy and an endorsement of the IRI's delusions.

I urge my colleagues on both sides of the aisle to vote for the amendment by the gentlelady from Florida in the name of a stable democracy and a real democracy.

Mr. FOGLIETTA. I thank the gentleman.

I just want to say there are 6 million people in Haiti. They have suffered tremendously over the years by dictatorial government. They have suffered from people who have indiscriminately killed, maimed, and injured people to keep control of that nation.

They are finally achieving democracy. They are finally achieving freedom. Give them a chance. Do not hamstring them. Do not threaten to take the funds back.

I urge my colleagues to understand the problems of the people of Haiti. They want democracy. Let us help them achieve that goal.

I urge my colleagues to vote for the Meek amendment and against the Goss amendment.

□ 1915

Mr. OWENS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Meek amendment. I think the amendment that Meek seeks to amend, Mr. GOSS, places the process of Haitian democratization under a vague and mischievous standard. The question is how do we define a democratically constituted government, how do we define a democratic election process? The Meek amendment makes it pretty clear that the responsibility would be fixed upon the President. It must be made known to the President. Otherwise the President will certify whether the democratic process took place and whether the regime in power is a result of a democratic process.

Yes, I agree with the gentleman from Florida [Mr. GOSS]. We should say no. We should not support any regime that is in power as a result of a process that is not democratic. But what is the definition of the process, what is the definition of staying on track? As the gentleman from Florida [Mr. GOSS] said, they must stay on track. I agree they must stay on track toward democracy and maintain the democracy. Let the President determine what staying on track means. The President, the executive branch, is in charge of foreign policy. Let us make it clear the Meek amendment makes it clear that they will determine that. Instead we have in the Goss amendment a rather vague situation where it is not clear who will determine whether or not they are on course.

We should bear in mind that the liberation of Haiti marks a high point in

United States foreign policy. The liberation of Haiti sends a message to all of the nations in the Caribbean area and this hemisphere, all throughout the world, that we stand well on the side of democracy, and when it is clear that a democratic government has been deposed, we will have the strength and the resources of the American Government on the side of the democratic government. We have, step by step, supported a process which the Haitian people themselves began in 1987.

Let us understand the context in which the presidential election has just taken place. First of all, the election was an election which involved 11,000 candidates running for everything from village council up to the national legislature. That is very difficult for anybody to run. They have no machines, no election machines. They do not have boards of elections that have existed for decades. Their constitution only came into existence less than 10 years ago. So they are carrying out a process under the worst of circumstances in an economy that does not even have the infrastructure to support electricity on a 24-hour basis. All of this is taking place within less than 10 years in the Haitian society.

They said they can never write a constitution, but they wrote a constitution. They went out and voted for that constitution. They said they can never have free elections, and it looked for a while as if they can never have free elections because people were gunned down at the polls in the first two elections.

Finally, Mr. Chairman, they had an election where they elected Jean-Bertrand Aristide as President. After the election was certified as being a fair and free election, he was deposed by the army, and that situation lasted for over 3 years. Now some of the people who supported the criminals who deposed the democratically-elected President are trying to set a very high standard that they were never concerned about while Haiti was under the domination of criminal dictators.

We have broken through; we have liberated Haiti. The process is moving in a very swift way.

Mr. Chairman, they have had an election less than a year after the president was returned. The president who is there now has agreed to step down. He has made no claim to the fact that he was out of office for 3 years and, therefore, he ought to be continued. Some other people are making that claim, but Jean-Bertrand Aristide will step down. Jean-Bertrand Aristide will play the role of George Washington and see to it that there is an orderly, peaceful transition of government.

All of these things are moving on track, and they are moving in ways that most cynics said they can never move. Why do we want to introduce a vague standard here? Why do we want to place Haiti under scrutiny, which will not help the situation at all? Why not let the process go forward and let the State Department and the President, the executive branch of government, determine whether or not they are meeting the requirements of a movement toward democratization that is acceptable for the United States to continue to support?

I hope that the gentleman will accept the amendment to his amendment because the difference is not so great. We only clarify and pinpoint the responsibility for defining what democratization is in Haiti.

I urge that we support, all people to support, the Meek amendment.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by our colleague, the gentleman from Florida [Mr. GOSS], and in opposition to the amendment offered by the gentlewoman from Florida [Mrs. MEEK].

Mr. Chairman, the gentleman's first-hand account of what transpired in the Haitian elections on Sunday offers compelling evidence that, despite our extraordinary investment and best intentions, much remains to be done to strengthen the democratic institutions there.

Laboring in extreme heat, without food, water, or pay, Haitians made their best effort to cast and count ballots—in some cases by candlelight into the next day. However, Haiti's Provisional Electoral Council fell down on the job, failing to provide logistical support, training, and funds.

Frankly, there is much ground to be covered if the Presidential elections in December are to be judged as free and fair. Also, the statement yesterday by a key Haitian politician that President Aristide should stay in power after his constitutional term expires on February 7, 1996, casts further doubt on the democratic transition.

President Clinton defended his extraordinary investment in Haiti as a move to restore constitutional order. It would be profoundly difficult to make the case to the American people and Congress that our assistance should continue to flow to an unconstitutional government in Haiti. That is the basis of the Goss amendment, which I hope my colleagues will support.

Mr. RANGEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Florida [Mr. GOSS] who authored this original amendment had indicated that support for the Government of Haiti seemed to be coming from liberals or something that would denote that there was a different type of thinking with liberals, and conservatives, and people of different backgrounds, as related to a poor country that has really suffered tremendously over the last decades.

It seems to me that the amendment is a political statement:

I did not like Aristide when he first was elected. I did not like Aristide when he came to the United States. I did not like Aristide when we went in to restore the government, and, notwithstanding the fact that he has done each and every thing that everyone expected him to do, they could not find one thing to say except, "Something must be wrong. I don't know what it is, but, if anyone finds out what it is, then we cut off aid."

As my colleagues know, I am more concerned about the politics of when it is made known to the President of the United States than anything in this statement because, as the gentleman from Florida [Mr. GOSS] knows better than most Members of this body, everything that was made known to the Presidents of the United States was made known by the Central Intelligence Agency, and it really surprises me, with the type of information that was gathered out of the sewers of the intelligence community, that was made and proven to be false to misguide the President of the United States, that we would have this vague type of language as to the President would cut off any assistance to the Government of Haiti when it is made known to the President.

I really would not want to start laughing here by asking the distinguished gentleman from Florida just who would he think, or what agency would it be, that would be mandated to make information known to the President of the United States as would be in Haiti sometime. If we take a look at the history of the CIA in condemning our country, in condemning a man, and continuously condemning someone that has been elected by the people, we will run down the line and say the man was psychotic based on what? Information collected. The man was addicted to drugs. The man was responsible for murder. There is no support for the man on the island of Haiti. It is the army, it is institutions, it is the people that were paid, the people that were on the payroll. Everyone that opposed the man when he was in this country was paid for by the CIA and other people that just could not tolerate the idea that they did not have a puppet controlled by the United States of America.

And so I know, I know, that certain people are just born in this world that is going to have to carry a heavy burden, and I do not mind carrying it at all. I think it was our distinguished Speaker who said, "You just got to worker harder." So that goes for the gentleman that comes to become president of Haiti. But the question has to remain how much does a country have to suffer, how much does a man have to do, in order to get certain people off of his back?

Now, until there is reason to believe that something was wrong, that the election was fraudulent, do my colleagues not think this body and the President has the power to move forward? The reason I support the Meek amendment is because it is done the way the United States of America should do business, and that is we are going to assume that things are done legally, we are going to assume that the Congress and the people have good intent, and if anyone, anyone, misuses that, then this Congress would respond.

Well, what the gentleman is saying and what the gentlewoman from Florida [Mrs. MEEK] is not saying is that we make it a negative thinking that it is going to happen, and she is the American that has hope that, when our troops went over there, got rid of the tyrants, got rid of the CIA people that were on the payroll, that was actually stopping the United States ship from coming into it when they were chased out of the country because of the spirit of fine young American boys, we are going to send a message to them, "Yes, you did a good job, but wait until you see what happens because we got an amendment that will take it all back."

This is not the U.S. Congress that I am proud to be a Member of. This is not the United States of America. We should laud our esteem for doing what the international community asked him to do, and I, for one, was proud that I supported him before, and I do now.

Mr. GOSS. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from Florida [Mrs. MEEK].

Mr. Chairman, I was prepared to let this go unanswered, but it has gotten a little out of control here in the rhetoric. The gentleman from New York [Mr. RANGEL] has just said when it is made known. He objects to that language, and that is the language in Mrs. MEEK's amendment as well, so I guess he is opposed to Mrs. MEEK's amendment as well.

The question was raised by the gentleman: Who will make it known? Any number of people will make it known to the President. As I recall, the last person who made it known to the President that there was a problem in Haiti was the gentleman named Randall Robinson. Randall Robinson actually made it known by a protest in front of the White House, a starvation diet type of thing, a publicity stunt as it were. Well, I would suggest a very great way the president will know.

Mrs. Robinson now works for the government of Haiti, as I understand is on the payroll of the Government of Haiti. Presumably she will tell Randall Robinson and Randall Robinson will tell the president again. So I am not concerned that we are not going to get the word to the President that the folks who are taking the Rangel position want to know. It is going to happen; there is no question there.

I am a little bit offended by the statement that I did not support President Aristide. I was in Haiti for the election in 1990; I was in Haiti for the election in 1995, as an observer. As an observer in 1990 I came back and signed on and said President Aristide is a duly popular, enthusiastically elected President of the country of Haiti, and I have stuck to that position the whole way through. When former President Carter, and General Powell and Senator NUNN negotiated the settlement that avoided the armed hostile conflict of war between the U.S. Armed Forces, and the Haitian army, and people, and the innocent bystanders that would have been hurt, I was the first Member in the well the next day to congratulate President Clinton for a negotiated settlement.

□ 1930

I think he was fortunate to get it at the last minute. He had good people working for him and made that come out. I met with President Aristide this Monday. We had a very nice discussion after this election. We agreed there are some very hopeful signs that we need to focus on. It was a courteous call, a pleasant call, there was no disagreement.

There is no question that we have a challenge ahead. President Aristide said so and has been saying so publicly, frankly, in the past 2 days. I do not think we have any disagreement about that. This is not about the election last weekend. Sure, there were tremendous logistical difficulties. Everybody knows that. Sure, there were some disturbances. Some were severe, some were not. In some areas there were no disturbances at all. I think everybody who was there understands that. Nobody would mischaracterize that.

My problem is, what is going to be the standard? The gentleman from New York [Mr. OWENS] said what is the standard. He said a vague and mischievous standard was my game. It is not. I am saying the standard of measuring democracy in Haiti is the Haitian Constitution. Is there anybody who would deny that that is about a bad idea? That is what we are measuring democracy by in Haiti, is their democratic Constitution. Can we get real here? What is wrong with that?

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. GOSS. I yield to the gentleman from New York.

Mr. RANGEL. I would like to withdraw some harsh statements I made about the gentleman, because I am reminded by your statement that unlike so many others that are positioned in that side of the aisle, that you constantly have talked about the restoration of democracy in Haiti, even to the point that you had a place where you thought the new government should be.

But I guess my point to you, sir, is that why would this little island government need your direction with its constitution as to when our great Nation cuts assistance?

Mr. GOSS. Reclaiming my time, the answer is very simple: Because I am first and foremost accountable to the American taxpayers for the wise use of their tax dollars, and I do not stand still for the proposition that we are going to put any money in any country, no matter what, unless they are proceeding in a properly democratic way.

Mr. RANGEL. Is the gentleman saying he would hope that his amendment would apply to any country that is not abiding by the constitutional principles that is in their Constitution, and that this little island country was not singled out for this kind of treatment?

Mr. GOSS. I have picked Haiti for two reasons: The substantial compliance question I think accommodates most of your concern. But the other reason is because we have $2 billion, B, billion, invested in Haiti in this 2-year frame, probably going to be more before we are through, and that is my foremost responsibility to the United States of America as a Representative here, is to make sure in the House of revenue, the people's House, we use dollars wisely.

Mr. HASTINGS of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me address my colleague most immediately with reference to the fact that we have $2 billion invested in Haiti, and put the question rhetorically: How much of that was used in the structuring of an election that would satisfy the so-called requirements of the Haitian Constitution?

Mr. GOSS. Mr. Chairman, if the gentleman will yield, I do not know. I certainly hope we are all going to have that answer.

Mr. HASTINGS of Florida. Let me suggest it was minuscule by comparison. I am fond of quoting my mother, and I choose at this time to do so. My mom says "Give the prize to the one who tries," and she says that often. Haiti has tried over and over again to satisfy every single requirement that our government has put forward to require them to go forward in a meaningful manner. There has been but a year in the process of restoration of democracy, and I am fascinated by the little amount of resources that were devoted toward trying to help an 80 percent illiterate country to understand the basic dynamics of voting. The 1,000-plus candidates that were on the ballot alone required an immense amount of resources in order for the various persons to be widely known. We spend in some of our districts $1 million, and that is about how much money we spent during that period of time in trying to assist in the election.

Do you know what I am going to ask the gentleman from Florida [Mr. GOSS] is what is the real agenda here? I mean, the election was just held Sunday and Monday, and I hear my chairman of the Committee on International Relations saying that some of the votes were counted by candlelight. Absolutely, Mr. GILMAN, THEY WERE COUNTED BY CANDLELIGHT, FOR THE REASON THAT THE PEOPLE DO NOT HAVE ELECTRICITY.

Give me a break. They do not have computers. They do not have the knowledge that we have with reference to how to conduct an election. And many of us sat on the sidelines and waited until Sunday to go down there and find out precisely what was going on before we would say anything.

What has the international community done with reference to the donors that said they were going to come forward and help this country? The money has been slow in coming. There is no infrastructure. People stood in long lines waiting to have an opportunity to vote. They voted probably as good as we do in this country, in many of our areas, rich and poor. Therefore, it is unwise of us to thrust on them at this time such a nebulous, vague, and uncertain mandate from this country as to how it is to conduct itself as a national government.

Let me make it very clear: You do not have any more concern than anybody else. The so-called liberal left you said, PORTER. That is the language he used, CHARLIE, liberal left. Then I am a proud member of that liberal left, and I gather then that you must be something other than liberal left.

You do not have any more reason to support the taxpayers of this country than do I. You cannot wrap yourself around a flag or hide under the rug of the CIA and expect that from somewhere on earth is going to come this rumination that is going to give you greater say about something that every Member of the liberal left struggled for these people to have, the opportunity to have a democratic election.

Every Member of the liberal left stood by them and said, "We do not want you dying out in the ocean." Every Member of the liberal left said that it was wrong to hold them in Guantanamo. Every Member of the liberal left said that we had dual America standards, and everybody on earth knows that we had dual standards.

Who, other than a handful of you, have complained about this election? Were there problems? Yes. And there were problems in Fort Lauderdale, and there were problems in Immokalee in your district. So do not commence to tell me that problems now are going to be reported arbitrarily by somebody unknown to the President of the United States, and that is going to be pursuant to the Constitution of 1987.

Who, other than you, have complained? Did Brian Atwood complain? I did not hear him say that the election was a fraud, and it is his agency that was involved. Did the military complain? Six thousand of our troops are still there, and they shepherded as best they could an election of a fledgling country.

I am tired of standing in this well and in this body and hearing people refer to the people of the liberal left. One day I will come forward and tell you all the things that the liberal left has done. My concern is what the conservative right has done to us all.

Mr. HOKE. Mr. Chairman, I move to strike the requisite number of words.

Mr. GOSS. Mr. Chairman, will the gentleman yield?

Mr. HOKE. Mr. Chairman, I would like to yield to the distinguished gentleman from Immokalee, the distinguished gentleman from Sanibel [Mr. GOSS].

Mr. GOSS. Mr. Chairman, I thank my colleague from Ohio for yielding.

Mr. Chairman, I would say to my colleague and friend from Florida, who has spoken with great passion and articulation on an issue that we all care very much about, I have been involved with Haitian affairs for 30 years now, from many perspectives, all aimed toward building democracy and a better quality of life for Haiti, which is demonstrably the poorest, most impoverished, most backward part of the western hemisphere, a tragedy in history of many ways, of 200 years as the second oldest sovereign republic, free sovereign republic, in this hemisphere. They just have not been able to get it together down there. I think we all as good neighbors in this hemisphere want to do our best for them.

I suspect that my colleague from Florida's impassioned speech was in part from the sense of frustration and disappointment that he feels and that I feel, that we all feel, that things are not going better more quickly. I suspect a little bit perhaps of his feeling comes from the same feeling that I have as an American, a little bit of the shame I feel that some of the poverty in Haiti today is a direct result of the embargo that we have advocated against, this economic embargo that has simply made Haiti, I hate to say this, but it is close, a place where there is too much garbage with too many pigs in the city streets going around. It is very hard to think that this is a civilized capital city of a great sovereign nation. Things have gotten so bad economically down there for anybody to come in and see. It is pathetic, and I feel badly about it.

But that was our embargo, and as an American I feel very badly. That was unwise policy by President Clinton and his advisers, and I stood on this floor and many times said that. So that does not mean I am not sympathetic to Haiti. It means I am very sympathetic to the people of Haiti and to the country of Haiti. I do not think starving Haitians into democracy is a very smart way to go, and I have said so repeatedly.

Now, apparently my colleague from Florida has some type of obsession with the CIA. I do not know what it is about, but, just to make the record clear, I will say I would presume that all of the President's horses and all of the President's men are the people and ways that he is going to get the message about what is going on in Haiti. That is how our government works, and how it should be.

The final point I would like to make is that the question of constitutionality that I have raised, using the Haitian Constitution as the measure by which we judge, is not a new subject. It is, in fact, the way the OAS judges its own member states, and has been since June of 1991 per resolution 1080 of Santiago. The test is a sudden or irregular interruption of democracy creates a abrogation. And where was that ever tested? The first place, Haiti. It served Haiti already, and it can serve Haiti again. That is the standard I am asking us to adopt.

Ms. WATERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, last week when I heard about the Goss amendment I went to him to discuss with him that amendment and to try and determine what he was trying to do. I am surprised today when I hear the gentleman, because my discussion with him last week, well, he sounded a lot different.

The gentleman said to me, "Let me assure you, I do not want to do anything to harm Haiti. I would like to encourage them. I am with you all the way." He said, "I was there, and I think they did a pretty good job." He said, "I think there were a few problems."

So, having had that conversation with him one-on-one, I am surprised when I hear him on the floor today, because he sounds like a different person. He even said to me, "I want to amend my amendment to put in substantial compliance, because I in no way believe that we should hold them to the strict standard of the 1987 Constitution." Because, he implied, "I know what had to be done for the election. With Aristide only returning in October, to say that they had to put everything in place to comply with the Constitution was literally impossible, and we wanted these elections to be held. And yes, Ms. WATERS, I agree, that ever since everybody, but everybody, signed off on the way that they should proceed. And recognizing that everything demanded by the Constitution could not be put in place, I think it has worked out well."

Well, you know, maybe I need to ask the gentleman from Florida [Mr. GOSS] to revisit this conversation, because when he gets on the floor today, then he starts to go back and say some things that really do surprise me.

Let me just say, this amendment should not be about refighting and getting involved in a struggle where there were some who did not believe we had any place in Haiti, that did not want us to assist Haiti, who made statements that pained us all, "We are not going to and we do not wish to lose one good American soldier on their soil." We do not want to go back to talk about that.

□ 1945

Let us put that behind us. Let us at least conclude, as reasonable people can do, that we have helped Haiti, and they are grateful. Do they say to us over and over again how grateful they are? We must have had 200 CODELs to Haiti. Everybody has been to Haiti. Everybody from both sides of the aisle that has wanted to go. Those who did not want to go have been to Haiti. They have been received with warmth. They have been embraced. The president has thanked us profusely, and we know that they are grateful for what we have done.

Having done all of that, the President has said over and over again, What else do you want me to do? How else can I make you believe that all that I want for my beloved country is freedom and democracy for its people? Everything that we have asked him to do he has done.

I am pleased and proud, as I look at what took place with these elections. Now, if you recall what happened in South Africa, people stood in lines for hours. If you will recall, it took them a long time to count the ballots. If you will recall, there were some skirmishes. It will happen.

Let us not talk about what happens in America but certainly in a third world country, where they do not have the computerization, they do not have the electricity and other things, certainly you expect there are going to be some problems. But why are you putting on them the kind of restrictions to box them in to say that if you do not comply with the 1987 Constitution for the 1995 elections coming up and somebody, God knows who, tells the president that they have not done it, then we are to withhold money. I do not think you mean that.

Mr. GOSS, I say to you now, I think that you are the man that I talked to last Thursday. I really do not think whatever has influenced you today is the real you. I want you to do what you told me you wanted to do. I want you to join with me in helping Haiti.

Let me tell you how you can do it. We do not mind working with you to structure something that would encourage them, but, Mr. GOSS, you need to pull this amendment back from the floor. You should not disrespect your colleagues from Florida. You work pretty well with them from time to time. CARRIE MEEK is here. She is pained by what you are doing. Mr. HASTINGS is also.

The CHAIRMAN. The time of the gentlewoman from California [Ms. WATERS] has expired.

(On request of Mr. GOSS, and by unanimous consent, Ms. WATERS was allowed to proceed for 1 additional minute.)

Ms. WATERS. I would like to ask the gentleman from Florida [Mr. GOSS] to pull this back from the floor. Walk over here with your colleagues and friends from Florida, get together an amendment that will encourage Haiti that we can agree on and let us move forward as friends on this one because we are winning all the way.

Would you please do that, Mr. GOSS?

Mr. GOSS. Mr. Chairman, will the gentlewoman yield?

Ms. WATERS. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Chairman, I first of all want to say that I filed this amendment way at the beginning of last week, way before the elections. It actually had very little to do with the elections. Second thing, I did confer with you, as you point out. Third, I want to assure you, it is the real me. I am definitely here. I am standing here and it is me.

The third thing I want to say is this is not about the elections. The fourth thing I want to say is I have not made any allegations or charges that we should stop aid because it was not a democratic election. That would be a very foolish thing to do, I do not think you or anybody else over there would say right now that we have supported a nondemocratic election because they did not have their electoral council in place. I, at your request and others' requests, put in the words "substantial compliance" so we would know we are not talking about trickery or anything like that. I do not expect all the T's to be crossed or the I's to be dotted. I expect substantial compliance. I have said publicly, these elections are OK, on to the next ones.

Mr. PAYNE of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I thank you for this opportunity to say a few words. Let me say that I stand in strong support of the Meek amendment. I had the opportunity to travel to Haiti this time, about the seventh time in the last few years, to be a member of the interorganizational observer mission. We went there to try to get an opportunity to see what was going on.

The first thing that was very surprising to me though was the day before we arrived on Saturday that a report had been concluded already by the IRI, the International Republican Institute, very colorfully done, very well done, very thorough. And a press conference was held the day before we got there, two days before the election, which already said, for all intents and purposes, that this is flawed, that this was going to be an election that did not work, that this is something—this was a press conference given two days before the election was even held.

So, therefore, people going into the election were suspect because of an American organization. And it is the first time I have ever seen an American organization in a foreign country give a press conference of something that is not very easily made. This is a pretty fancy-looking agenda item here, to say for all intents and purposes it is a failure. To me, it makes me suspicious.

Let us talk about the election very briefly. They said there was confusion. Let me tell you something. I would be the first to admit that there was some confusion. But let us take a look at the ballot.

There were eight months since President Aristide had been back. What was on the ballot? You had their Senators, 177 running on a ballot with pictures, with symbols, with names. There were deputies, 859 Senate Congress types running on another ballot. You had 855 mayors running; not only themselves but on each mayor's slate there is a deputy mayor and a third assistance mayor on the same ballot.

What else did you have? You had 2,688 council people who had three people on the site. There were close to 5,000 candidates. There were over 25 political parties. There were over 10,000 polling places. There were people who had to walk from 3 in the morning to 6 in the morning when the polls opened to get to the polling place.

Ninety-two percent of the people were registered. And guess what? The representative giving the report for the International Republican Institute said that 92 percent registration was a step in the right direction; 92 percent of the people in this country registered. Sure there were flaws. There were flaws because when I went back with President Aristide on October 30, 1994, when we went to the presidential palace, the water was not running, the electricity was not running. They did paint the house the day before so it could look presentable.

When I went down to Haiti on my other trips and met with those murderous General Cedras and Biamby and Francois Michel, you saw people running and hiding. People were hiding in the bush. I went there six different times.

When I went there this time, I could walk the streets. There was no—I went to Cap Haitien, supposed to be the area that flew a one-engine plane all the way over the mountains to see what was happening over there. People were in line. They were waiting patiently. People were discussing the elections.

This was one of the greatest democratic exercises that I have ever seen. I cannot believe that people of good will could go down, and we would look at the same thing and that these people would come back with a report saying that a polling place or so opened late.

There were some people who seemed to be confused because of the fact that on every ballot you had about 30 or 40 or 50 different candidates. They looked at a glass being half empty. That glass was not only half full, it was bubbling over, because people were peaceful.

The new police were up there in Cap Haitien, not the Army that used to control that country with 7,000 men with a gun, pointing the barrel down at people. These were policemen who were applauded by the people in Haiti. When they dispersed, the police group in Cap Haitien, they had a party. There was a celebration. People brought flowers and plants to the police.

This is something that is unbelievable. I urge the support of the Meek amendment.

Ms. BROWN of Florida. Mr. Chairman, I move to strike the requisite number of words.

The gentleman from New Jersey, I want to ask the gentleman a question. I want to ask a question about the group that was down there, because I received today a call from Bishop Cousin who is the presiding bishop of the African Methodist Church in the State of Florida and the Bahamas. He indicated that he was intimidated by some group, the International Republican Institute. In fact, he indicated to them that he did not work for the Government and he would not be intimidated.

Mr. PAYNE of New Jersey. Mr. Chairman, will the gentlewoman yield?

Ms. BROWN of Florida. I yield to the gentleman from New Jersey.

Mr. PAYNE of New Jersey. I did meet the bishop and did have an opportunity to see him before I went up to Cap Haitien but did not see him after my return.

Mr. GOSS. Mr. Chairman, will the gentlewoman yield?

Ms. BROWN of Florida. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Chairman, I had the good fortune and pleasure of meeting the bishop while we were there. We had a very pleasant conversation. If somebody who was one of my observers on the IRI team intimidated him, I would certainly like to know that person's name and know the circumstances. I have had no such report.

Ms. BROWN of Florida. I will provide that for the gentleman.

I am looking at the Washington Post story, and they indicated that this particular group was a very partisan group.

I just want to close by saying this: I support my colleagues from Florida and other Members today that have spoken for the Haitian people. I, from Florida, have lived through what has gone on in Haiti for a number of years, the double standards. I support what President Clinton has done, what President Aristide has done, working with the Haitian people.

Yes, Haiti is not what we want. I have been over there several times. But I am a part of what we can do to make that country work and work for the people. They are very grateful for everything that we have done; but they, as I told you earlier, are not a colony of the United States of America. They appreciate everything that we have done for them, but they need to govern themselves.

Mr. GOSS. Mr Chairman, if the gentlewoman will continue to yield, that in fact was what I said in my remarks to the press on Monday morning.

What paper said this was a partisan group?

Ms. BROWN of Florida. The Washington Post.

Mr. GOSS. The Washington Post reported that the IRI was partisan?

Ms. WATERS. Mr. Chairman, will the gentlewoman yield?

Ms. BROWN of Florida. I yield to the gentlewoman from California.

Ms. WATERS. Mr. GOSS, you have specifically identified in your amendment that there would be substantial compliance with the 1987 Constitution for the 1995 elections. What does that mean? As you know, there was an agreement for this election, to oversee and operate this election. Everything was not in place. So they had to put the electoral council in place, not as the Constitution identified.

Would you agree that that agreement is sufficient?

Mr. GOSS. Mr. Chairman, will the gentlewoman yield?

Ms. BROWN of Florida. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Chairman, the answer to the question is, by substantial compliance, I certainly think that if we have said that this election this weekend involves substantial compliance, that that gives us a pretty good idea of how far away we can get from the specific words and technical requirements because we were quite far away from them. And I do not believe anybody is—certainly I am not—saying that this last election was not in substantial compliance.

Ms. WATERS. Mr. Chairman, if the gentlewoman will continue to yield, so you believe that this election was in substantial compliance?

Mr. GOSS. Mr. Chairman, yes.

Ms. WATERS. That the agreement that operated and oversaw this election was fine?

Mr. GOSS. Mr. Chairman, I will not say it was fine. I will say it was substantial compliance for the purposes of this amendment.

Ms. WATERS. And you are not asking for a higher standard than that?

Mr. GOSS. I am not asking for a higher standard.

Ms. WATERS. If they reach it, that is fine?

Mr. GOSS. I am not asking for a higher standard than substantial compliance.

Ms. WATERS. Let the record reflect, if I may, that this amendment is not asking for a higher standard than that standard which oversaw this election in Haiti, that the gentleman is not asking that they are in some absolute or letter perfect compliance with the 1987 Constitution, but, rather, what just took place is all right. That is what the gentleman just said.

□ 2000

Mr. GOSS. Mr. Chairman, I hope we are going to do better.

Ms. BROWN of Florida. Reclaiming my time, Mr. Chairman, I rise today in support of the Meek amendment. The Meek language is a tremendous improvement over the badly crafted Goss language. The parliamentary elections that just took place in Haiti are a real accomplishment for the people of Haiti as they build a stable democracy. The Washington Post said that Haiti's elections, "by any reasonable standard, were a success." The Washington Post acknowledges that Representative GOSS observed the elections not as an impartial observer, but as a partisan participant of the Republican Party's International Republican Institute. This group's criticism of the elections, according to the Washington Post, was not constructive and was misinformed. I, personally, was informed by Bishop Cummings who is bishop for Florida and the Bahamas for the African-Methodist Episcopal Church, that the Republican Party's International Republican Institute participants were rude and threatening to him as he tried to explain that he was an impartial observer and not from the Federal Government. Bishop Cummings was outraged by the comments made about him, but refused to be intimidated.

This should be one of America's proudest moments—our country did the right thing, we did not shirk our responsibilities to strengthen democracy as some would have had us do. We should be proud that we reached out to our close neighbor in their time of need to help them fulfill the promise of democracy and hope.

I congratulate President Clinton and the brave young men and women of our armed services who have worked hard to create the safe and secure environment necessary for real democracy to take root in Haiti so that these elections could take place.

I congratulate President Aristide for having the wisdom to lead his people into this era of healing, hope and redevelopment. He put together a government of inclusion and continues to reach out to other groups including the business sector and the political opposition—including giving air time to opposition candidates.

These elections faced challenges, especially many logistical challenges, but they occurred without bloodshed. Improvements will be made, especially in the area of civil justice and stronger democratic institutions. The international community must honor its commitments and ensure that donor nations' assistance reinforces Haitian electoral institutions in a nonpartisan manner. The elections this past weekend were a testament to the Haitian people's strong desire for a new beginning in Haiti. They were a testament of the international community's commitment, and Americans, especially those of us in Florida who are so close to Haiti, to support democracy for our neighbors.

Mrs. MEEK of Florida. Mr. Chairman, will the gentlewoman yield?

Ms. BROWN of Florida. I yield to the gentlewoman from Florida.

Mrs. MEEK of Florida. Mr. Chairman, I thank the gentlewoman for yielding to me.

Mr. Chairman, there are a lot of things that have been said today, but there are still a lot of questions existing. No. 1, there is no one in this Congress, all 435 of them, that know doodley-squat about the Haitian Constitution. They know absolutely nothing about it.

The CHAIRMAN. The time of the gentlewoman from Florida [Ms. BROWN] has expired.

(On request of Mr. BONIOR and by unanimous consent, Ms. BROWN of Florida was allowed to proceed for 2 additional minutes.)

Mrs. MEEK of Florida. Mr. Chairman, will the gentlewoman yield?

Ms. BROWN of Florida. I yield to the gentlewoman from Florida.

PARLIAMENTARY INQUIRY

Mrs. MEEK of Florida. Mr. Chairman I would like to ask a parliamentary inquiry.

The CHAIRMAN. The gentlewoman will state her parliamentary inquiry.

Mrs. MEEK of Florida. I have a Parliamentary inquiry, Mr. Chairman, Mr. Chairman, I am trying to get recognized so I can move to strike the last work on the underlying amendment.

The CHAIRMAN. The gentlewoman from Florida [Ms. BROWN] requested 2 additional minutes. The time is hers now. That was granted without objection. She has now yielded to the gentlewoman from Florida [Mrs. MEEK] in the well, so the chair would say to the gentlewoman from Florida [Mrs. MEEK] the time is hers as long as the gentlewoman yields to her.

Mrs. MEEK of Florida. I have a further parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentlewoman will state her inquiry.

Mrs. MEEK of Florida. Mr. Chairman, after I have expended the 2 minutes that she gives me, may I request 5 minutes.

The CHAIRMAN. The gentlewoman may, under that circumstance.

Mrs. MEEK of Florida. With unanimous consent, I can?

The CHAIRMAN. The Chair will tell the gentlewoman, after the 2 minutes, yes.

Mrs. MEEK of Florida. Mr. Chairman, first of all, no one here knows doodley-squat about the Haitian Constitution. I have it in my hand. None of the Members know what it says. However, Members are in here doing a lot of rhetorical meandering around, saying that they know this and they know the other. My good friend, the gentleman from Florida [Mr. GOSS] if he has his way. Aristide would be on some far distant island from where he is now, trying to govern Haiti.

Mr. Chairman, I want to know, what does substantial compliance mean? If there is a hurricane on election day in Haiti, what do you do? Does that fit the standard of substantial compliance?

Who decides what it means? It is my brother, the gentleman from Florida [Mr. GOSS] who decides what it means? These are rhetorical questions.

Mr. GOSS. Mr. Chairman, will the gentlewoman yield?

Mrs. MEEK of Florida. I will not yield Mr. Chairman, because I am asking the gentleman rhetorical questions. I do not expect an answer.

All of this is a disincentive for a democracy, a budding democracy. All day long all of you have been wrapping yourselves in the flag, and I am beginning to think you do not know doodley-squat about democracy. Democracy means that you want to see other countries see the American dream and realize what it means to have fair and free elections. I want to appeal, like my sister MAXINE did, to the gentleman.

The CHAIRMAN. The time of the gentlewoman from Florida [Ms. BROWN] has again expired.

PARLIAMENTARY INQUIRY

Mr. FOGLIETTA. I have a parliamentary inquiry, Mr. Chairman.

The CHAIRMAN. The gentleman from Pennsylvania will state the parliamentary inquiry.

Mr. FOGLIETTA. I believe I heard the gentlewoman from Florida [Mrs. MEEK] say that she moved to strike the requisite number of words on the underlying amendment. She has spoken on her own amendment. Now she has asked for 5 minutes on the underlying amendment. I think she is entitled to that 5 minutes.

The CHAIRMAN. That is correct, and the chair would recognize the gentlewoman for 5 minutes to strike the last word on the Goss amendment.

Mrs. MEEK of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want my colleague, the gentleman from Florida [Mr. GOSS], to realize that we all live on a peninsula called Florida. We are all being impacted by all the things the gentleman has said. I take umbrage to the fact that the gentleman has singled out Haiti and used a standard just for Haiti.

I have never heard on the floor that any funds were limited because of an election in any country since I have been here. I want to hear more of that from those of the Members who are not flaming liberals. I want to hear them speak out for democracy. I want to hear them say that a small country like Haiti, regardless of what happens during the election, as long as it is free, and as long as it is fair, and that they do not have people poking guns in their ribs, that that is the time for a free election.

When the Goss amendment says "None of the funds appropriated in this act may be made available to the Government of Haiti when it is made known to the President that such Government is controlled by a regime holding power through means other than the democratic elections scheduled for calendar year 1995 and held in substantial compliance with requirements of the Constitution," I repeat again to the gentleman, what does the gentleman mean by "substantial," rhetorical statement, "compliance?" What does the gentleman mean by saying that the people in Haiti are not ready? That is the inference the gentleman is making, that they are not ready for a free election.

I say to the gentleman that they are. They fought for their freedom years ago, before any of us got free, before any of us came over here on the slave ships, they fought for freedom. What the gentleman is saying about Haiti upsets me. The gentleman is wrong.

Mr. GOSS. Mr. Chairman, I would ask the gentlewoman, is that a rhetorical question?

Mrs. MEEK of Florida. Mr. Chairman, I am asking the gentleman only rhetorical questions, and I am trying to keep my intellectual composure as I speak to the gentleman. It is very difficult, because I have seen the gentleman go on a path since we got here of intimidation of this small republic. I have seen it.

I ask the gentleman, forget about any kind of predisposing conditions he may have that causes him to want to attack this small nation. I speak to the Congress, not to the gentleman, but to the entire Congress. I do not believe you have one, you do not have one majority in this Congress who would want any small nation to have democracy threatened by saying to them we are going to hold back your funds if you do not do this election the way we want you to do it. You cannot do it.

Mr. VOLKMER. Mr. Chairman, will the gentlewoman yield?

Mrs. MEEK of Florida. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I think the gentlewoman may be alluding to some things. As I reminisce over the last year or so, when we have had legislation pertaining to Haiti, I remember other amendments that the gentleman from Florida [Mr. GOSS] had offered at previous times that appeared to me that he did not want democracy in Haiti; that when the junta was in control in Haiti, that there was language introduced by the gentleman from Florida that would have required that no U.S. troops ever go to Haiti, and we would still have the junta in Haiti, and there would be no democracy in Haiti; that the one amendment even said that the people who were fleeing Haiti to get away from the killers, the murderers that were there, that they should not come to the United States, they should not go to Guantanamo, they should not go on board ships, they should go to a little island off in the Caribbean, away from Haiti. That is where we should take them.

These are amendments that the gentleman from Florida [Mr. GOSS] has introduced previously. I also understand from the gentleman's own statements during this debate, Mr. Chairman, that the gentleman has been active to some extent in Haiti endeavors for the last 20, 30 years. That means that the gentleman was present and knew something about Haiti back when we had the juntas, back when we had the killers, so, Mr. Chairman, that makes me suspicious of what is being offered here today, because we do have a fledgling democracy.

Mr. Chairman, I would like to close by saying one thing. I was one of those who did say, and many of us did, and I think a majority of this House did, before the troops, before the agreement was reached with President Carter, before the troops went to Haiti, we all said no, we should do something.

Mrs. MEEK of Florida. Reclaiming my time, Mr. Chairman, before it expires, I would like to ask this House to vote for democracy, vote for justice. Do not worry about what party the gentleman from Florida, PORTER GOSS, is in, vote for democracy and vote for freedom.

Mr. MILLER of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. GOSS. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Florida. I yield to the gentleman from Florida.

Mr. GOSS. Mr. Chairman, I thank the distinguished gentleman for yielding to me.

It seems a lot of folks from Florida are interested in this, Mr. Chairman, and indeed, we are. We represent Haitians who are Haitian Americans. We represent Americans who are not Haitian Americans.

I thank the gentleman for yielding, because there are a couple of points I feel I have to add to here, some things made that are getting a little bit on the edge of being ad hominem attacks.

I am truly sorry for the distress of my colleague and friend, the gentlewoman from south Florida. We share the same goals. It is just a question that we are not sure we do. We do share the same goals. Mr. Chairman, in previous resolutions and pieces of business before this floor, I have taken a very, very strong position about not wanting to send our armed troops to make war on Haiti. I consider it a friendly neighboring country, and have said that almost every time I have referred to it. I do not believe in making war on friendly neighbors.

As I have said before, I applauded very loudly, I applauded President Clinton for the negotiated settlement after President Carter, former President Carter, General Powell, went down there.

Mr. Chairman, with regard to the embargo, I opposed the embargo because I felt it would bring suffering to the people of Haiti, innocent victims. It did. It did. There is no question about it. This tiny island in some far remote part of the Caribbean that the distinguished gentleman referred to, I do not remember who made the statement, apparently has not got much of an understanding of where Haiti is or what it looks like.

This tiny island is a rather large island. It is in the central mass of sovereign Haiti, it is Haitian soil, it is bigger, bigger than Manhattan, and it has thousands of Haitian citizens living on it, and they voted on Sunday.

To say that we were trying to create a problem in some tiny remote non-Haitian territory, I have only said the way to solve the problem in Haiti is by Haitians on Haitian soil with U.S. aid, appropriately expended and properly justified. That is what this is about.

Mr. Chairman, this is the foreign appropriations bill we are talking about. We are talking about are we using American taxpayers dollars wisely. I think we are. We are trying to do the right thing. I am asking that we always keep asking ourselves that question, because Haiti has had a difficult history, as we all know.

It is not more than that. It is not complicated. There is nothing sinister, there is nothing Machiavellian, there are no tricks. We have had this out in the open in this wonderful democracy. I do not know what more I could say.

I think perhaps more is being read into this amendment than is there.

Ms. BROWN of Florida. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Florida. I yield to the gentlewoman from Florida.

Ms. BROWN of Florida. Mr. Chairman, the gentleman said two or three times that America did not want to make war on Haiti. I want him to know that the American people did a rescue. They saved the Haitian people. We are very grateful, the people in Florida.

Mrs. MEEK of Florida. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Florida. I yield to the gentlewoman from Florida.

Mrs. MEEK of Florida. Mr. Chairman, I do not think the Goss amendment is needed. I do not think the Meek amendment to the amendment is needed. I spoke to my colleague, and I asked him, I said to him, we do not need either one of these amendments. I do not need to tell the Members what his answer was to me, because it is not relevant to what we are talking about here.

However, I am willing, given the permission of the gentleman from Florida [Mr. GOSS], if he withdraws his amendment, I will be more than happy to withdraw my objection to his amendment, my amendment to the amendment, because neither one of them does anything.

Mr. GOSS. Mr. Chairman, if the gentleman will continue to yield, I will answer that very briefly. As I said before, the reason to this amendment is on my responsibility, our first responsibility on the foreign aid bill to provide proper oversight that the funds are spent in the proper priority areas with the proper governance and oversight and accountability back to the American taxpayers.

Haiti we have put an awful lot of money in, pretty near $2 billion. It has come in different places and forms. That is a ton of money. I think we owe an accountability to the American people, and a statement to them that we are checking. I will not withdraw my amendment, but there is nothing more sinister to my amendment than what I have said.

PREFERENTIAL MOTION OFFERED BY MR. BONIOR

Mr. BONIOR. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN. The gentleman will state his motion.

Mr. BONIOR. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN. The Clerk will report the preferential motion.

The Clerk read as follows:

Mr. BONIOR moves that the Committee do now rise.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Michigan [Mr. BONIOR].

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. BONIOR. Mr. Chairman, I demand a recorded vote, and pending that I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum. Does the gentleman from Michigan withdraw his point of order?

Mr. BONIOR. No, Mr. Chairman.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following members responded to their names:

[Roll No. 434]

Abercrombie
Ackerman
Allard
Andrews
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Collins (MI)
Combest
Condit
Conyers
Cooley
Costello
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (LA)
Fields (TX)
Filner
Flake
Flanagan
Foglietta
Foley
Forbes
Ford
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martinez
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Meehan
Meek
Menendez
Metcalf
Meyers
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanders
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Schumer
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spratt
Stearns
Stenholm
Stockman
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watts (OK)
Waxman
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Young (FL)
Zeliff
Zimmer

□ 2032

The CHAIRMAN. Four hundred thirteen Members have answered to their names, a quorum is present and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from Michigan [Mr. BONIOR] for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 188, noes 231, not voting 15, as follows:

[Roll No. 435]

AYES—188

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stenholm
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn

NOES—231

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo

Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)
Zeliff
Zimmer

NOT VOTING—15

Clyburn
Cremeans
Durbin
Goodling
Gunderson
Harman
Largent
McNulty
Moakley
Reynolds
Salmon
Stark
Stokes
Yates
Young (AK)

☐ 2041

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

Mr. CALLAHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to my colleague, the distinguished majority leader, Mr. ARMEY.

Mr. ARMEY. Mr. Chairman, we have very carefully worked out a work schedule for this week; work that we believe is important to the people of this country.

We knew when we planned the week that we had ample opportunity to complete that work, including finishing this bill between 10 o'clock and 11 o'clock this evening, assuming everything would go within the context of normal legislative process.

Mr. Chairman, let me begin by making the point, in order to maintain the work schedule we have for this week, we will not adjourn this evening until we complete this bill.

☐ 2045

Mr. Chairman, I will encourage the floor managers of this bill to use whatever options are available to them within the context of a unanimous-consent request in conjunction with that cooperative effort between themselves and those offering amendments to expedite every amendment under consideration during the remainder of this time under consideration.

Following the completion of this bill, Mr. Chairman, we will complete a budget conference report, a rescission and supplemental assistance report, a Medicare select conference report, and an additional appropriations bill, the energy and water appropriations bill.

It is my intention, Mr. Chairman, for us to complete this work, and it is perfectly within the realm of reasonable work hours for us to complete this work, and to be out of here and on our planes home by 3 o'clock on Friday.

I am so committed to our making our 3 o'clock departure on Friday that I am prepared to remain here all through tonight, all through tomorrow, all through tomorrow night, until 3 o'clock on Friday, and should we not have completed the work that I have enumerated at 3 o'clock on Friday, I am prepared for us to remain in session until that is done.

Mr. Chairman, in the interests of moving this along, I yield back the balance of my time.

Mr. CALLAHAN. Reclaiming the balance of my time, Mr. Chairman, I just want to address the House seriously just for 1 minute.

As my colleagues know, I think that this foreign operations bill is something that we in a bipartisan manner are working toward in conjunction with and in cooperation with the administration. I think that President Clinton and Secretary Christopher are going to need some foreign operation moneys next year, and I recognize that the leaderships may have some differences of opinion about some other activities that do not relate to this bill in any way. But I would like very much for the leadership on this side to continue to dispute some things with the leadership on our side, but to let us continue to address this bill in a respectable manner tonight. Let us receive, in an open rule, which all of my colleagues wanted, let us receive these amendments, debate them tonight in a responsible, limited time, and get on with this bill tonight. Tomorrow we can go back to all the shenanigans. We can have all of the motions to rise, we can have all of the motions to adjourn, but let us get this out of the way for the sake of the leadership of this administration so they can have a foreign operations bill next year.

Mr. BONIOR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would say to my distinguished friend from Texas, the majority leader, that we are prepared to make the coffee and provide the No-Doz tablets for him this evening, and tomorrow evening, and the evening after that, and let us be clear that it is not this side of the aisle that is delaying the proceedings with respect to this bill.

I say to my colleagues, If you would have done your bill correctly in committee, we wouldn't have 90 percent of the amendments being offered on the floor to this bill being Republican amendments.

But let me further clarify for my friends on the other side of the aisle what the issue is here. The issue is that we want, will demand, our fair representations on the committees that govern this institution.

Now, if the majority thinks that they are going to get away with putting an extra member on the Committee on Ways and Means, and skewing the ratios even further, and denying us our ability to fight for senior citizens against these Medicare cuts, they are wrong.

This issue is about our ability to speak on that committee, defend seniors, and fight these egregious tax cuts for the wealthiest people in our society, make no mistake about it, and we will stay here until we get justice, and fair representations and ratios in that committee.

Mr. VOLKMER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, members of the committee, we have before us a substitute amendment offered by the gentlewoman from Florida [Mrs. MEEK] that will not harm the democracy movement in Haiti. We also have the underlying amendment of the gentleman from Florida [Mr. GOSS] that would probably undermine that movement of democracy in Haiti.

Now I was one of those like the majority that was here back a year ago when we said, no, we should not send troops into Haiti.

We should not be doing that. But the American public did not support it, and our President went ahead and did it anyway, and guess what, my colleague? HAROLD VOLKMER, the gentleman from Florida, and others who were in opposition to that, we are wrong. The President so far has been right, and I say, "so far."

And what I see happening in this small area in the Caribbean is a movement of democracy that is taking place. I am willing to admit I was wrong. I am willing to say, "Let's help it now that it is ongoing," but I am afraid that the amendment of the gentleman from Florida [Mr. GOSS] could possibly put a stranglehold on that democracy movement in that small Caribbean nation, that very poor Caribbean nation.

Mrs. MEEK of Florida. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentlewoman from Florida.

Mrs. MEEK of Florida. Mr. Chairman, it appears to me when there is a certain interim here some of my colleagues go out and get a little drink of water, and they do not make any sense when they come back. I say to my colleagues, Now you're back in this House now. You have got to recognize that this is a syndrome that goes on in some of these bodies. You go out and get a little drink of water, and then you come back in here and—and all of that. Well, there is no time for that.

Mr. Chairman, this is a very serious matter. I am asking my colleagues to please vote for the Meek amendment.

Mr. Chairman, all I ask this House to do is forget about party, forget about any affiliation, but think about the fact that the Meek amendment softens a Goss amendment, what the Goss amendment did. It had an inference in it that the elections in Haiti were not fairly conducted, so he put an amendment together which said that there will be a limitation on the funds if the elections were not held and were not in substantial compliance, whatever that means.

Now I have had some, some experience, with the nomenclature, but that is a part of the nomenclature no one understands. I do not know whether the Member understands it himself, substantial compliance with the Haiti constitution.

I am asking my colleagues, When you vote tonight, vote for the Meek amendment because the Goss amendment isn't needed. Neither is the Meek amendment. The reason why I have to amend his, it was so wrong morally that I had to do something to soften it because the Goss amendment inferred that because the elections were a little bit—has a few problems, we should put some limitations.

Mr. Chairman, we should not put limitations on any other country. We have not put any limitations on funds of any other country because of the elections.

Mr. Chairman, will the gentleman from Missouri [Mr. VOLKMER] yield to the gentleman from Florida [Mr. HASTINGS]?

Mr. VOLKMER. If I have any time remaining.

Mr. Chairman, how much time do I have remaining?

The CHAIRMAN. The gentleman from Missouri has 1 minute remaining.

Mr. VOLKMER. Mr. Chairman, I yield the 1 minute to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. Mr. Chairman, I thank the gentleman from Missouri for yielding this time to me.

We have a notorious tendency of not wanting to listen to certain people. I demand that the House be made in order, Mr. Chairman.

Mr. Chairman, 9 years ago outside Lake Worth, FL, I walked over the bodies of Haitians who had washed up on the shore. One of them was a pregnant, nude woman, and that has stayed with me all of my life.

All this little nation is asking of us is a little opportunity to restore democracy. That is all they are asking, and here we come with a superimposed notion, dictating our form of democracy within the framework of a year. It is absurd that we find ourselves in this position where democracy has to be according to our dictates in order for us to do business with even the most feeble of us.

Mr. Chairman, we have had a habit in this body of addressing on the domestic front the most vulnerable among us, and now we move to the international front and continue that pattern. I say to my colleagues, "Shame on you."

Mr. GEJDENSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, as my colleagues know, it is astounding to watch us trying to micromanage, a word I heard from my Republican colleagues for years, a policy that has been successful beyond anybody's imagination. When the President of the United States singlehandedly decided to bring down the generals because there was not a lot of support on our side of the aisle or the Republican side of the aisle, Democrats and Republicans were fearful of American casualties, as rightly we were.

I think the President understood with his national responsibility that both for the United States, and particularly the State of Florida—that was dealing with refugees and crises on a regular basis on their social service network, the kind of scenes that my colleague from Florida just referenced in watching what had happened on that small island time and time again where the hope of the people of Haiti was dashed—that he understood how important it was for our hemisphere, for the United States, and for Haiti.

The President's policy not only succeeded; it succeeded more than any of us dared dream. As that policy succeeded to remove the generals, to restore the rightfully elected president, the naysayers immediately began that there would be no election in Haiti. The president, freely elected, did not believe in democratic institutions.

□ 2100

It was reminiscent of the charges against Nelson Mandela as he brought South Africa to democracy. There was no tradition of democracy. This individual was not a perfect personification of democratic policies and institutions. They will never have another election.

Well, what just happened? The country took a step it had virtually never taken before, having free and open elections. And, yes, like every election process, and I can speak for that, having gone through a close one myself, there are always some issues that you can review. But there is no question that Haiti had what it never had before.

And I would ask my friend from Florida [Mr. GOSS] to accept this amendment. This amendment does no harm to what he seeks to do here today. I think the gentleman is honest in his desire to see Haiti move forward in democracy. I think his motives are pure, and I believe in a motion of good faith. I would ask the gentleman from Florida [Mr. GOSS] to stand and accept the gentlewoman's amendment, because together we can help this Nation have what it never had before. It can have a democratic government. Let us give it a chance. Let us not try to shackle the President. Let us not try to hobble this government. Let us continue to encourage its moving forward.

Mr. GOSS. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from Florida.

Mr. GOSS. I will not withdraw my amendment because we can get all of that and one additional factor which is very important, and that is accountability to the American taxpayers on how these funds are being used.

Mr. GEJDENSON. Mr. Chairman, reclaiming my time, this is astounding debate. We spent tens of millions of dollars on services for Haitians that overloaded the services that are available to Florida. We spend tens of millions of dollars, of Coast Guard dollars, sweeping the Caribbean trying to find Haitians fleeing tyranny in sailboats, in bath tubs, in wooden tubs that they created. And now, suddenly, we think Price Waterhouse will make this democracy flourish.

We are making every effort with the administration to make sure the taxpayer dollars are accounted for. But let us understand what this is all about. This is a nation taking its first steps for democracy. If you pull that rug out now, do not come back to this Congress asking for more dollars to set up blockades for Haitians and their children as they risk their lives to flee the next tyrants.

Let us give this democracy a chance. Let us support the Meek amendment and defeat the Goss amendment. This is the right direction. That is the wrong direction.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to try to defuse this situation and simply suggest that I do not think the Meek amendment is needed, and I do not think the Goss amendment is needed. But neither do I believe any of them do any harm.

The problem with this entire debate so far is that I think it is rooted in, to be kind, a very warped sense of expectation about the present government in Haiti. I must confess I am somewhat amused by political factions in this country who somehow seem to have found a newly discovered concern about democracy and human rights in Haiti, after this government for about 50 years was complicit in the governing of Haiti by one of the most reprehensible regimes in the history of this hemisphere, the Duvalier government.

I think Americans need to learn that other people who have never experienced democracy also need to learn how to experience that form of government. We have seen on that island a series of lurches as the people of that country have tried to reach a different kind of reality in their own society, after 50 years of being absolutely crunched and destroyed by the cynics who ran that island.

When Mr. Carter and General Powell went to Haiti, there was a lot of snipping. But they produced results, and the administration has been able to follow through on those results and produce a situation in Haiti which is far better than virtually anyone on this floor predicted, either supporters or opponents of the President's action in sending the military to Haiti.

It seems to me what we ought to do is to recognize success when we see it. This is one occasion on which American policy has succeeded, through a combination of wisdom and luck, which is what it always takes to succeed. So I am, frankly, mystified, after this Congress for years acquiesced in a vicious, vicious regime in that country, because they happen to support some of the elite business interests in our own country, that all of a sudden we are expecting that the Clinton administration and the Aristide regime and the elections in Haiti should be held to a far higher standard than any party has ever been held on that island before.

So it seems to me if we want to deal substantively and rationally and fairly with this issue, that we will do one of two things: We would either reject both amendments and leave the language as is in the bill, or else we would, in the spirit of comity, accept both amendments, indicating on both sides of the aisle that we are trying to find our way toward some unity on some issue in this place in the midst of all of the turmoil which is going on around us.

So I would again urge the gentleman from Florida to accept the Meek amendment, because it does no harm; and, if that happens, I would urge the acceptance of the Goss amendment, because neither one of them together does any harm. They indicate the Congress' preference for continued progress in democratization, but they do so in a realistic way, which is not conveying either mean-spiritedness or a total lack of unreality on the part of the Congress.

Ms. FURSE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I got a notice today, as I think probably everyone did, that at 4 o'clock there would be a briefing on the election in Haiti, and unfortunately, some people did not come. In fact, only four Members made it. But I would like to give an accounting of the briefing. The people there who gave the briefing had been to Haiti to be observers at the election. They were also, many of them, the same people who went to South Africa to be official observers at the election.

Yes, they said, there were some polls that opened late, because it is a very poor country and there really was not the infrastructure there. Some did open late, but they opened.

Yes, some of the polling places did not have enough ballots, because it is a poor country. They did not have the infrastructure. But they got the ballots there.

I do not remember, but I was not in this House, I do not remember when we said we would never give money to Haiti when there were no elections in Haiti. No, they did not bother to have elections in Haiti, because they had a dictator.

There was an election in Haiti, there were some polls that were late. And, as someone who lived many years ago in South Africa, I remember, as my colleague does, that we said, many people said, oh, the South Africans, they will not be able to run a good election.

Well, the same people who went and observed the election in South Africa observed the election in Haiti, and they said that it was done as fairly as possible. And one thing that I would remind my colleagues, an historic thing happened in Haiti in this election: There was virtually no violence. No violence, Mr. Chairman. People fought to vote in Haiti.

Who are we to say that a poor country cannot run an election, that poor people cannot reach for democracy? Who are we to say? We must vote for the Meek amendment. We must stand by the people of Haiti as they reach for democracy, as we reach for democracy.

Mr. TORRICELLI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there are many characteristics of this institution and of our country that I admire, and one is our great pride in ourselves. Sometimes we forget, we are not the only people in the only country that have dignity and a sense of pride. Only a year ago, this Chamber was deeply divided, and, like the gentleman from Missouri, I argued strenuously for the United States not to involve itself in the affairs of Haiti. I did not believe that a peaceful election was possible. I was not sure that American forces could accomplish their mission, and I was wrong.

Our forces performed brilliantly, but that was not the only success. As we reached out to the people of Haiti, they reached too. We offered security and our forces. And in spite of all the doubts and all the things that this Member and other Members said, the people of Haiti kept a peaceful regime, within the law, and participated in elections.

There is not a great difference in substance between the language of the gentleman from Florida [Mr. GOSS], and the gentlewoman from Florida [Mrs. MEEK]. But there is a great difference in the respect for what the Haitian people have done, their nation, their pride, and their dignity.

The American people made a deal with the people of Haiti. They kept it. There is another quality I admire about our people; we do not break deals. They kept their part, they held an election, they have kept the peace. Now let us see the mission through that our military forces began, and that the Haitian people have been true to.

I, too, like the gentleman from Connecticut [Mr. GEJDENSEN], that for all the foreign policy divisions, since this is only about tone, that the gentleman from Florida will accept the amendment of the gentlewoman from Florida [Mrs. MEEK] and tonight the people of Haiti will understand, and all of our military forces who risked their lives will understand, that tonight, for all the divisions of the past, we are united and proud of what has happened in Haiti.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. TORRICELLI. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I want to commend the gentleman for his statement, and simply want to observe one thing: For those who are concerned about the fact that this debate on this issue has taken so long, I would simply like to point out that the Meek amendment would not even be here had the Committee on Rules not made in order an amendment which was not in order under the ordinary rules of the House. The Committee on Rules made in order not a limitation, but an amendment which was legislation on the appropriations bill.

□ 2115

We would not even have had this extended debate on this subject tonight if the Committee on Rules had not gone out of the normal order to make this amendment in order. I think under those circumstances it is perfectly understandable why the gentlewoman from Florida would want to attach a modifying amendment to an amendment which was not normally in order under the normal course of events.

Ms. JACKSON-LEE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take up all of my time. I simply, in listening to the debate, wanted to understand the debate. I heard something just a few minutes ago that gave me pause for concern. It seems that several of our Members have offered a compromise of withdrawing both amendments or supporting both amendments. Then I heard the gentleman from Florida offer an explanation, if you will, of his amendment that dealt with taxpayers' dollars.

I thought we were talking about a question of human rights. That is what I hear in the comments of the gentlewoman from Florida [Mrs. MEEK] that Haiti is making the steps that need to be made to emphasize life but also to emphasize a better life, that a good life in Haiti, is also a respect for human rights.

I do understand the concern with taxpayer dollars and accountability, but I think when America stood alongside of Haiti, they stood alongside of Haiti to give them the bridge and the support to be able to embrace a better life for their nation. And for Haiti to be able to say, we are proud to stand up for human rights. We are proud to go against tyranny, to go against murder, pillaging, poverty. We want to have fair elections to make a better quality of life for Haitians.

So in listening to the debate, albeit there is certainly maybe some positive points that the gentleman from Florida [Mr. GOSS] wants to offer, but when it comes down to the question of human rights versus the issue of mere accountability, I want to bolster Haiti's right for elections but also to applaud what occurred, and that is a transition of power through elections that occurred safely and without massive loss of life.

I think that is the real vote for human rights. I think the Meek amendment is a vote for human rights. So in my understanding of it, I hope my colleagues will join me in supporting the Meek amendment which is really a vote for human rights and a vote for Haiti and a vote for the future of their nation and to say to them, thank you, you kept your promise. And America is going to keep its promise.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would hope that we would reject the Goss amendment for many of the same reasons that my colleagues have already taken the well to speak about. Clearly, the path to democracy in Haiti has not been a smooth one. It has been a tragic one. We have all seen, and our constituents have all seen and witnessed in their living rooms and on TV for all too long the murders, the retributions, the denial of human rights, actions by the government, against the government, by the Ton-Tons Macoutes, for and against and by the private police against the citizens.

We have watched when people have tried to exercise free speech, whether it was in the churches or in the town square. They were gunned down in front of others, and others felt frozen to do anything about it because they were afraid that they or their families would be killed.

We watched this as it went on and on and on. We watched as Aristide, President Artistide rose as a Catholic priest who had the ear of the people and won a popular election. That upset a lot of people for a whole host of reasons, very little of which had to do with Haiti, other than the Haitians inside that wanted back that power, did not want to let that transition take place and finally was driven from the country by violence as governmental officials and others were killed openly. Religious leaders were killed openly.

Finally, after a great debate in this country, a great debate in the United Nations, a long and protracted debate around the world, and a debate in this Congress where people were not clear, they were not sure about the use of force, somehow, somehow it happened. Once the troops arrived, nobody was sure whether they had left or not. We had to invoke former President, Members of Senate, Joint Chiefs of Staff to pave the way. But it did happen. And beyond all of our expectations, Aristide has been returned to the country, and his promise was held, and an election was held.

Now we threaten to undermine that election, and to those people who have sacrificed so much, the Haitians, to try to get the flower of democracy to bloom, we start the process of undermining it, questioning it, second guessing it. Let me tell you, this Chamber, this Government, and the people who raised questions about this election have accepted far less from the Government of Mexico year after year after year. They have accepted far less from the Government of Honduras year after year after year. They have accepted far less from the Government of El Salvador, the Government of Columbia, year after year after year; all in the name that those were open and free elections, and we know very well they never were.

And yes, we finally have accepted an election in El Salvador that in fact turned out to be open and free. A huge amount of irregularities. Aristide visited the poll sites. Many of our colleagues were with us as we traveled in areas. But El Salvador is not California. It is not Nebraska. It does not have a history of elections. People do not have transportation. People cannot read.

But do you know what they did do? They stood in line, under threats of violence, in hot sun for hours and hours and hours for the right to do this. And people did the same thing in Haiti, under the threats of violence, their own lives in peril. What did they do? When the polling place was not open, they stayed and they waited and they waited.

Last night we saw views of women who walked 6 and 7 miles to deliver the ballots, to make sure that their little village and their polling place was going to be counted in the name of democracy. And now the U.S. Congress rises up and undermines that? Without any showing of that irregularity? No, that is not what we should be about.

We recognize it was not perfect. But we also recognize it is the best they have yet had in Haiti, and that is all we ever asked in El Salvador, and that is all we ever asked in a lot of other countries: that progress continue to be made and that open and free continue to become the watchwords and that transparencies is now we will measure it so that we will know that the fraud is not there. But it is progress, just as we demand of our larger neighbor to the south, of Mexico. Nobody believed that the PRI won the election two elections ago except the PRI.

Well, but the point is this: that we have set down the marker, and we have demanded this progress. And Haiti has met the mark. We should reject this amendment for that reason because it is most important. If we believe that we are going to go and ask people to risk their lives, to face down the violence, to try and participate in democracy and then we say, unless it is perfect, we are going to take it away from you and do it again, we will be doing what the general could not do. We will be doing what the thugs could not do, and we should not do it.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Florida [Mrs. MEEK] to the amendment, as modified, offered by the gentleman from Florida [Mr. GOSS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to rule XXIII, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the underlying Goss amendment, if there is no intervening business. This will be a 17-minute vote. The Chair intends to hold it to 17 minutes.

The vote was taken by electronic device, and there were—ayes 189, noes 231, not voting 14, as follows:

[Roll No. 436]

AYES—189

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Houghton
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski

Lofgren
Lowey
Luther
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDade
McDermott
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Smith (MI)
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Traficant
Tucker
Velázquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn

NOES—231

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—14

Bateman
Berman
Chenoweth
Clyburn
Coburn
Gunderson
Harman
Largent
McNulty
Moakley
Reynolds
Rush
Stokes
Yates

☐ 2141

Mr. EWING changed his vote from "aye" to "no."

So the amendment to the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

PARLIAMENTARY INQUIRY

Mr. VOLKMER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. VOLKMER. Mr. Chairman, first it is my understanding that we have pending the Goss amendment.

The CHAIRMAN. The gentleman is correct.

Mr. VOLKMER. That is subject to debate under the 5-minute rule.

The CHAIRMAN. That is correct.

MOTION TO RISE OFFERED BY MR. VOLKMER

Mr. VOLKMER. Before moving to strike the last word, which I will do at a later time, I move that the committee do now rise.

The CHAIRMAN. The question is on the motion offered by the gentleman from Missouri [Mr. VOLKMER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

Mr. LINDER. Mr. Chairman, a parliamentary inquiry.

The CHAIRMAN. There is a vote in progress. Twenty-five Members stood, a recorded vote was ordered, and the vote is now in progress.

The vote was taken by electronic device, and there were—ayes 185, noes 236, not voting 13, as follows:

[Roll No. 437]

AYES—185

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefley
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn

NOES—236

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Beilenson
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio

Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Bateman
Berman
Coburn
Fawell
Gunderson
Harman
Largent
Markey
McNulty
Moakley
Reynolds
Stokes
Yates

□ 2200

So the motion to rise was rejected.

The result of the vote was announced as above recorded.

Ms. WATERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we continue with this debate on this amendment that has been offered by the gentleman from Florida [Mr. GOSS], and many have raised the question: Why this amendment? What is he trying to do? The amendment certainly is unnecessary.

The gentleman from Florida [Mr. GOSS] perhaps knows better than anyone else all that we have been through as we have assisted Haiti in its move toward democracy. Even Mr. GOSS agrees that Haiti has done well. Certainly there were some problems in the election.

Mr. Chairman, as we continue, we know that the gentleman from Florida [Mr. GOSS] knows that those elections that were just held in Haiti are somewhat of a miracle. This country that has been in such turmoil, this country that for years has been under a dictatorship, finally had an election, an election that we assisted them with.

Mr. Chairman, the gentleman from Florida [Mr. GOSS] perhaps knows better than most that this miracle that just occurred in Haiti is something that we should celebrate. We should embrace the fact that a very poor people struggling, many of them without food, many of them without shelter, participated in this election. They stood in long lines, and, yes, someone said earlier they counted votes by candlelight.

But instead of celebrating the success of the election, we wonder why the gentleman from Florida [Mr. GOSS] would insist on bringing an amendment to this floor that basically may tie the hands of Haiti as they move toward the next election.

Mr. Chairman, what the gentleman from Florida [Mr. GOSS] is basically saying in this amendment is that he does not trust all of the work that has been done, he does not trust the representations of the President there.

I said to Mr. GOSS that President Aristide had said to me that he thought Mr. GOSS was a fine man, and Mr. GOSS said to me that he thought President Aristide was a fine man, and he said to me that President Aristide has made a commitment to him that he would not run again, that he would not interfere in the elections, and according to the constitution he cannot run again, and he said that he made a commitment that he would do everything that he could to ensure that there would be fair and free elections.

Given all of that, he comes with this amendment, and this amendment basically says he does not trust any of that. This amendment basically says, if somebody, God knows who, tells the President of the United States that the elections were not in substantial compliance with the 1987 constitution, then we should cease to give any financial assistance to Haiti.

Well, I reiterate, this is quite unnecessary, and it has gotten us into this big debate this evening. The gentlewoman from Florida [Mrs. MEEK] had to come with an amendment in order to try and modify what was being done. She had to do that because she knew that whether he was serious about this or not or whether he was just being mischievous that they could cause some problems in Haiti.

I tried to get him to explain, what does he mean by substantial compliance. I asked him if, in fact, he thought the recent elections were in substantial compliance, and he said yes, and I said, "Are you asking for a higher standard? Do you know the work that went into getting an agreement from everybody that they would move in the direction that they did to oversee and conduct these elections?" And he said yes. So, he does not know why he is doing this.

This does not encourage, this discourages, the people of Haiti. They know that, given everything that they have done, everything that they have agreed to, when we continue to have these kinds of motions on the floor of Congress, something is wrong.

The CHAIRMAN. The time of the gentlewoman from California [Ms. WATERS] has expired.

Mrs. SCHROEDER. Mr. Chairman, I ask unanimous consent the gentlewoman from California be given 2 additional minutes.

The Chairman. Is there objection to the request of the gentlewoman from Colorado?

Mr. LINDER. Reserving the right to object, Mr. Chairman, I would like to question the gentlewoman as to how much longer she thinks this debate is going to go on. There has been about 2 hours' debate on both the underlying amendment and the Meek amendment which failed. I would like to ask the gentlewoman how much longer this might go on.

Ms. WATERS. Mr. Chairman, will the gentleman yield?

Mr. LINDER. I yield to the gentlewoman from California.

Ms. WATERS. It was my preference that we not have this debate. As a matter of fact, given my negotiations with the gentleman from Florida [Mr. GOSS], I asked him if he would withdraw his amendment. Someone else asked if they would simply agree to the Meek amendment.

POINT OF ORDER

Mr. CALLAHAN. Mr. Chairman, I have a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. CALLAHAN. Mr. Chairman, we have been on this amendment for 6 hours and 55 minutes, and I think I have been extremely fair to everybody in this House on both sides of the aisle by making absolutely certain that all of my colleagues have the opportunity to speak. The gentlewoman from California had been recognized for 5 minutes——

Mr. FRANK of Massachusetts. Regular order, Mr. Chairman.

Mr. Chairman, this is not a point of order. The gentleman from Alabama [Mr. CALLAHAN] is not stating a point of order.

The CHAIRMAN. Would the gentleman state his point of order?

Mr. CRANE. Object.

The CHAIRMAN. Objection heard.

Mr. CALLAHAN. Mr. Chairman, I ask unanimous consent that debate on this amendment and all amendments thereto end with 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. OBEY. Reserving the right to object, Mr. Chairman, could I under my reservation suggest to the Chair, to the subcommittee chairman, that, as we know, there are a pair of discussions going on between out two leadership, and I think, if we are going to get through this night in a civilized way, that we ought to recognize the fact that those discussions are probably going to determine what happens in this debate tonight. I do not especially like that any more than——

Mr. LINDER. Mr. Chairman, will the gentleman yield under his reservation?

Mr. OBEY. I will be happy to after I complete the sentence, but I really do believe that we can keep the emotional pressure at a lower level if we allow people to continue to make their points for a few minutes to see what is happening in the other room.

Mr. LINDER. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Georgia.

Mr. LINDER. Would the gentleman agree that the discussions between the respective leaders has less to do with the Goss amendment than it has to do with the Committee on Ways and Means, and that we can still conduct the business of this amendment and get it out of the way while they are discussing the question as to what has been interrupting the House for the last 6 hours?

Mr. OBEY. I would simply observe that that is one part of, or that is partially true, but I think it is also true that this debate would not be taking place at all had the committee on which the gentleman serves not approved an amendment which would not be in order under the regular rules of the House.

Mr. LINDER. Mr. Chairman, would the gentleman further yield on that?

Mr. OBEY. I yield to the gentleman from Georgia.

Mr. LINDER. Would the gentleman also agree that several other amendments were made in order with waivers in the same vein?

Mr. OBEY. Yes, I would, and I objected to all of them at the time, and I think we would have been better off if none of them had been made in order.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Alabama?

Mr. FRANK of Massachusetts. Mr. Chairman, I object.

The CHAIRMAN. Objection has been heard.

Mr. OBERSTAR. Mr. Chairman, I move to strike the last word

Mr. Chairman and colleagues. As some of my colleagues in the Chamber know, I lived in and worked in Haiti for 3½ years. I speak the language, the official language and the everyday language of the people, both French and Creole, and Haiti for me has been a passion of over 35 years.

Mr. Chairman, I have followed with great excitement what has happened in the last 5 years: that a real election has taken place, an honest election, the results of which were disrupted by the army, and then, through diplomacy and forceful action, the rightful President was restored.

Mr. Chairman, just this past weekend we witnessed another election in Haiti that was about as fair and as free as any election in the history of the country ever has been with the possible exception of the election of President Aristide.

I was on the presidential observer team with our colleague from Florida. We observed election precincts in the mountains above Petionville, in the waysides, in the center city, in Cité Soleil, in Marché Salomon. The gentleman was with me when a similar occurrence in 1990 happened as happened over this past weekend. People waited in line for 7 hours to vote but could not vote because there were no ballot boxes, and the gentleman helped me make ballot boxes out of cartons.

Mr. Chairman, mistakes were made in that election, mistakes, but not actions of ill will; and mistakes were made in this past weekend's election, but not purposefully, not actions of ill will.

I think the gentleman's amendment is well intentioned. I think he wants to see a good result come out of the December election or whenever it occurs in accordance with the constitution.

☐ 2215

But I suggest to you that this is the wrong time and the wrong place for this amendment. We have in the past used forcing mechanisms against violent regimes, against regimes that were oppressive and dictatorial and would not hold elections, to force elections to happen.

In this case we have a government that wants elections, a President who is committed not to succeeding himself, who said that the second election is the one that counts in this country, the second election is the one that determines whether we will have a democracy. He wants an election to happen.

It is the other side that does not want an election to happen. It is the remnants of the Ton-Tons Macoutes, the remnants of the Force de FRAPH. It is the remnants of Duvalierism who do not want elections to happen in Haiti. They would rather disrupt. And this language now, at this time, 6 months or more before an election even happens, feeds the forces of retreat and repression and regression.

It will give them all the encouragement in the world to disrupt elections, to cause evil things to happen, if today we are imposing conditions on this country.

You know, it is a modern miracle that Haiti even wrote a Constitution, wrote an election law. This is a country whose law school was closed for 30 years, whose university was closed for 30 years; where people left the country, the best and brightest minds left the country to go elsewhere to work, for the United Nations, in Africa, elsewhere around the world. And yet when Baby Doc was ousted from Haiti, there were people of good will and of bright minds who could write a Constitution, a model Constitution, and write an election law, and supervise elections and have a real election happen.

My fear is that if this amendment is adopted, the Haitian proverb will come true, "We washed our hands and dried them off in the dirt." The end will be the reversal of the beginning.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. OBERSTAR] has expired.

(On request of Mr. VOLKMER, and by unanimous consent, Mr. OBERSTAR was allowed to proceed for 2 additional minutes.)

Mr. OBERSTAR. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I would just like to point out to the House that the gentleman has had experiences in Haiti, and this is the only time that the gentleman has spoken on the floor on this amendment, is that correct?

Mr. OBERSTAR. I thank the gentleman. Yes.

Mr. Chairman, to simply conclude, the Haitians say it so well in their own words. "Behind the mountains are more mountains." Today I say, behind the problems of Haiti are more problems. We are trying, I think well, to deal with the problems of Haiti. But the gentleman's amendment will feed into the hands of the forces of repression. And to simply restate that very simple but eloquent Haitian proverb, it is washing your hands and drying them off in the dirt. That is the effect of the amendment. It will be to undo the good that we intend and the good that we have accomplished.

Please, do not adopt this amendment. If elections go badly, we can always come afterward and cut off aid. But we do not impose on any country in the world, any industrialized country, any third world country, any developing country, preconditions, preconditions to democracy. Do not do it now, not for struggling Haiti. Please, defeat the amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we are confronted with an odd principle here, which is that a nation which has been deprived of democracy for many, many years, will be worse off for trying to become democratic than if they just are content to remain repressive.

The Haitians are trying in extraordinarily difficult circumstances. They are doing far better than anyone had predicted. But they are being held to a standard that is much too high.

Had they not tried at all, it is clear that for many in this body that would not be a problem. We have given aid and continue to give aid to countries which are not even trying to be democratic.

I think the Middle East peace process is one of the most important things going on in the world right now, so I am for foreign assistance for, among other places, Egypt. I do not think anyone would look at the electoral process of Egypt and award it any prizes. I think we have in Haiti today more democracy in fact than we have in Egypt.

We continue, as I understand it, to provide some forms of assistance to Indonesia. As I understand it, the only elections they have in Indonesia are when the family of the President gets together and votes on who gets what, and they may do that by majority rule.

Indonesia is right now in the process of oppressing East Timor. By what logic and moral principle do the people of Haiti get punished, as they would under this amendment, for trying to be democratic, when you do not get punished for succeeding in being repressive?

If you were going to make a list of recipients of American foreign assistance on a scale of the will to have democracy, Haiti would come very high. I have to say I think part of the problem here is not just the Haitian's fault. They are guilty of having benefited from President Clinton's foreign policy. I know when the President makes a mistake, as he does sometimes, because all Presidents do, people on the other side are unhappy. But when he succeeds, they are furious.

The problem here is not President Aristide, it is President Clinton. He presumed not to listen to this body. I was in the minority, and this time I was glad I was. The President went ahead under his constitutional authority and moved in the right direction in Haiti. People warned of disaster.

There is nothing more frustrating than to be walking around with a sign that says the world is going to end Friday, and all of a sudden it is Monday morning and the sun is shining.

Now, the sun is not shining yet in Haiti, but it is coming out, the clouds are receding. And what we have in Haiti is a successful presidential foreign policy that has gone further towards restoring democracy to one of the most oppressed and maligned places in the world.

If you had a measurement of progress, Haiti would be at the very top. What we are in danger of doing is punishing people for trying something difficult and not succeeding fully.

If the standards of this amendment governed Olympic judging, all the diving events would be head first straight into the pool, and all the gymnasts would just jump up and back and up and back, because you do not take into account degree of difficulty. In the real world, when you are judging people, the degree of difficulty that they have volunteered to undertake has to count for something.

Aristide and Clinton and, even more, the brave common citizens of Haiti are guilty of having shown some people to be excessively pessimistic. The Haitian people are proving more interested in democracy. We have some people who tended to argue that the desire to be democratic was kind of an European instinct, not shared by others. The people of Haiti have disproved that as eloquently as anyone in history, because against the greatest of odds, at the peril of people's lives, they have insisted on their right to govern themselves and they have come a very long way toward that goal. And they are to be rewarded by an amendment that says because you did not have a very, very good election, we are going to throw this one away.

Now, I have to say, perhaps we should have been warned about that by the standards people on the other side use, because I have to admit they are not entirely inconsistent. If you look at their views regarding the election in North Carolina and California, they are being consistent, but they are wrong on all counts.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am trying to understand exactly what the motivation of the gentleman from Florida [Mr. GOSS] is and what the attitude of our country is towards the poor Haitian people. The United States is the richest and most powerful democracy in the world. Yet we put on the floor of this House an amendment designed to once again create a paternalistic attitude by the United States towards a poor, vulnerable, black, democratically elected regime.

We say to this poor nation, where people have stood in line for hours and hours, where people have been killed and gunned down on the street to fight a military junta led by General Cedras, where time and time again families have been disrupted and torn apart, individuals absolutely pulled out of churches and gunned down, and we have the right to say to these people that somehow their struggle for democracy is not up to our standards? Our standards, where only 25 percent of the American people currently participate in the electoral process, and a party comes in here thinking they have got some mandate from the American people?

The fact of the matter is that if the people of this country ever participated in an election the way the Haitian people did this last weekend, we would have a very different government here in the United States of America. What we need in this country is a little sensitivity towards a struggling democracy, and a sensitivity that suggests that an individual in this Congress who offered an amendment just a few months ago to send the Aristide government to an island off of Haiti in exile rather than have the guts that President Clinton did to put President Aristide back into power.

President Aristide, a quiet, stately human being, who has committed himself and his country toward the path of democracy, who opened up free and fair elections, with 11,000 people running for office over a weekend. Yes, there were problems. But as I have heard many people say to me today, not as many problems as we sometimes have in Boston, not as many problems as MAJOR OWENS has in New York, not as many problems as some of the major cities here in the United States in terms of getting polls.

I was reading about some of the problems the Republicans were having, some of the problems Democrats are having in getting votes in this country today. But all of a sudden, if there is a problem in a poor black country in the Caribbean, we are going to condemn them. We are going to put an amendment out on the House floor that says if they do not shape up, we are going to ship them out.

Well, maybe it is time that we look in the mirror of our democracy and ask ourselves the same questions we are asking the Haitian people, and challenge ourselves to reach the same standards that we asked the Haitian people to meet. And maybe if we met those standards, we would have the right to ask people throughout the world to reach those same standards.

You look at the level of democracy and participation in so many other countries throughout the world, Third World nations, that struggle each and every day, that have individuals and corporations and so many special interests, that have the capability of going in and struggling and stifling off any hope of individuals rising to their full potential, not because of their brain power, not because of their desire for democracy, but simply because they are stifled by the systems that are in place.

Haiti, more than any other nation, has struggled against that system for 200 years. Finally, after 200 years, after millions of dollars of American taxpayers' money has gone to stifle democracy in Haiti and so many other countries throughout Latin America, they finally have a democratically elected regime, and we sit here in the Congress of the United States and basically tell them that they are not good enough.

Well, Mr. Chairman, it is time for us to stand up for Haitian democracy, be proud of President Aristide, be proud of the democracy that President Clinton has allowed to take place in the Third World, in Haiti, and stand up and be counted the way the American people did when George Washington led our revolution.

□ 2230

Mr. PAYNE of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me say that I had the privilege to travel to Haiti, as I indicated before, and was certified by their election board to be a person that could observe these elections. I was a member of the Interorganizational Observers Mission Group. It was made up of people who were scholars and educators, lawyers. And we visited many of the election sites. I flew up to Cap Haitien, and we went to the area that was supposed to be the most in distress. There were 10,000 polling places, 10 million election pieces had to be printed. There were 177 Senates running, 859 deputies, 885 mayors with 3 names with each mayor because they have several persons in, so you can multiply that by 3 and you get close to 2,500.

You had 2,688 counselors and in those you had also 3 persons, so you are talking about 7,500, over 11,000 persons being elected.

In that country, 3.5 million people were registered, 92 percent of the persons registered to vote, and a member of the International Republican Institute said, "Well, that sounds fairly good."

In the election people voted from all parts of that country. We had turnouts that were outstanding throughout the country. We had numbers of people, close to 50 percent in some areas. We had election returns of up to 40 percent in some of the other suburbs. We had the fact that many of the people there, 30 to 40 percent in Port-au-Prince, 60 to 65 percent in the rural suburbs of Port-au-Prince, 35 percent in the north, 50 percent in the northeast, 30 to 40 percent in the south. In our last election in this country, only 39 percent of the registered persons voted. In our country, only about 75 percent of the people in this country, eligible to register, are registered.

During the 1987 election, 100 people were killed leading up to election day in Haiti. In 1987, 34 people were killed on election day alone. This time there were none killed. There was a shooting of someone in the arm, and no one knows whether that was about an election on whether it was some longstanding problem.

I say that this election was fair and free. I say that the people who voted voted their conscience. Yes, there were some problems, but the thing that was interesting was that all parties complained about the fact that they did not feel the election was as good as they wanted it to be. I commend President Aristide for the criticism that he took from his own Lavalas Party so that he created a new party, a new party with a new symbol, a symbol of people sitting around a table, four people, where they are at the table negotiating for peace. And his right wing radical persons from his party disagreed with him. They said, Let us get revenge; let us not have reconciliation. He said, There is reconciliation and not revenge. And so they split off from him because he was not going after revenge.

This was a very outstanding election. We talked to people after the election. They stood in line peacefully waiting hours and hours, polls opened at 6:00 in the morning. People had to walk for hours and hours to get there to open them up. Yes, a few got there a little bit late, but I have seen polls open late all over the country, in my own State of New Jersey, where you do not have to walk far to get to a polling place.

So I think it is totally unfair. If we want to see people once again leaving a place because people like a Cedras or a Michel Francois or a Biamby will come back into power as they did before, using the gun barrel. They have a police department. For the first time Aristide wanted to do away totally with their military, with their army and wants a police department like they have in other countries.

Why do you not give the man credit? I know the CIA was upset when they miscalculated the fact that Aristide was going to win the election, because the CIA told everyone it was going to be a guy named Bazin who they said had it in the bag, they were totally wrong. They have been trying to clean their act up ever since they miscalculated that election in 1990. With the hundreds of millions of dollars they had there to monitor the election, they blew it.

AMENDMENT OFFERED BY MS. PELOSI TO THE AMENDMENT, AS MODIFIED, OFFERED BY MR. GOSS

Ms. PELOSI. Mr. Chairman, I offer an amendment to the amendment, as modified.

The Clerk read as follows:

Amendment offered by Ms. PELOSI to the amendment, as modified, offered by Mr. GOSS: In the matter proposed to be inserted by the amendment, strike "when it is made known" and all that follows and insert the following: "except when it is made known to the President that the democratic process is being strengthened in Haiti."

Mr. LINDER. Mr. Chairman, will the gentlewoman yield for a unanimous-consent request?

Ms. PELOSI. I do not yield to the gentleman from Georgia for that purpose.

Mr. Chairman, I frankly do not believe that we need any amendments to the foreign operations bill in relationship to Haiti. I do not think we should condition our assistance to Haiti, but I do understand the concern expressed by my colleague, the gentleman from Florida [Mr. GOSS]. In the spirit of that understanding, I am suggesting that perhaps an appropriate amendment to his amendment would be as the Clerk reported, except when it is made known to the President that the democratic process is being strengthened in Haiti. That is as opposed to the gentleman's amendment which just addresses the elections.

There is more to a democracy than elections, Mr. Chairman. Many times, people in this body, indeed in our country, have looked away from countries once they have had a democratic election and said: Okay, they have had a democratic election, now we can move on before those countries have even had a chance to develop democratic institutions, develop systems of independent judiciary, a court system, which is fundamental to a democracy.

So I think that instead of just using the elections as a guide, we should determine a standard that is realistic and that strengthens democracy in Haiti.

When I was listening to the debate, it was interesting to me to hear about this conditionality which, as I said, if I had my druthers, I do not think we need any conditionality for our aid. But in the spirit of compromise, I was thinking that we do not even condition aid to countries that do not even have elections, much less elections that do not meet our complete standards.

But I was recalling a speech that was very familiar to every American, particularly to Americans of a generation of many of us who serve in this Congress, indeed, inspired many of us to a life of public service. That was President Kennedy's acceptance speech.

Everybody, whoever follows government and politics, can quote the President's very famous: And so, my fellow Americans, ask not what your country can do for you but what you can do for your country. But what I want to address is the sentence that comes next in that speech. The sentence that comes next, Mr. Chairman, is, the President went on to say: My fellow citizens of the world, ask not what America will do for you but what together we can do for the freedom of man.

I think that the issue that is before this body this evening is about what we can all do working together for the freedom of man.

The gentleman from Florida [Mr. GOSS] says in his amendment that we spend so much money and we have limited resources right now; and, indeed, I know that. Our chairman, the gentleman from Alabama [Mr. CALLAHAN] worked very hard to craft a bipartisan agreement in our foreign operations bill. Every time I have risen to address an amendment on this floor, our colleague, in a Dear Colleague letter to us, Mr. GOSS says that recognizes the budgetary, the tight budgetary times, and indeed they are. As I was saying, every time I have risen to speak on this bill, I have commented on the excellent job that our chairman, the gentleman from Alabama [Mr. CALLAHAN] has done to make the most of the resources that were available to him and to comment on also the hard work of the gentleman from Louisiana [Mr. LIVINGSTON] in trying to get us the best allocation he could. But the tight budgetary times did not give us enough money to go around.

I think that for the money that we have and the investment that we have in Haiti, we want to protect that investment, not only by sending money but by sending our respect for the people of Haiti. We are not going to say to them: We do not think you can do this, so right from the outset we are going to put a condition on your receiving the funds or the continuation of your receiving the funds.

The people of Haiti went to the polls this weekend to vote. Let us give them our vote of confidence by saying we believe that they can become a more democratic country. They have been through a very tough time.

In closing, Mr. Chairman, I also want to quote from President Kennedy's speech because I think it is appropriate to the debate this evening. In addition to asking the citizens of the world what together we can do for the freedom of man, he talked about a clarion call to bear the burden of a long twilight struggle, year in and year out, rejoicing in hope, a patient in tribulation, a struggle against the common enemies of man: tyranny, poverty, disease, and war itself.

Surely, Haiti, a small neighbor of ours, has suffered to through all of those afflictions. Let us help them become a strong democracy. Let us please, I urge my colleagues to support my amendment to the Goss amendment.

PREFERENTIAL MOTION OFFERED BY MR. WISE

Mr. WISE. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN. The Clerk will report the motion.

The Clerk read as follows:

Mr. WISE moves that the Committee do now rise.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from West Virginia [Mr. WISE].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. WISE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 179, noes 236, not voting 19, as follows:

[Roll No. 438]

AYES—179

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefley
Hefner
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pickett
Pomeroy
Poshard
Rahall
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Williams
Wilson
Wise
Woolsey
Wyden
Wynn

NOES—236

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Heineman
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—19

Berman
Chapman
Coleman
Dicks
Forbes
Gunderson
Harman
Herger
Hilliard
Largent
Martinez
McNulty
Moakley
Rangel
Reynolds
Rose
Stokes
Waxman
Yates

□ 2259

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

□ 2300

PARLIAMENTARY INQUIRY

Mr GOSS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentlemen will state his parliamentary inquiry.

Mr. GOSS. Mr. Chairman, our records show that debate started at 6.55, more than 4 hours ago. Do the Chair's records comply with that?

The CHAIRMAN. The gentleman has not stated a parliamentary inquiry.

MOTION OFFERED BY MR. GOSS

Mr. GOSS. Mr. Chairman, I move that all debate on the Goss amendment and all amendments thereto close immediately.

PREFERENTIAL MOTION OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I have a preferential motion at the desk

The CHAIRMAN. The Clerk will report the preferential motion.

Mr. VOLKMER moves that the Committee do now rise and report the bill back to the House with recommendation that the enacting clause be stricken.

Mr. VOLKMER. Mr. Chairman, the attempt by the gentleman from Florida [Mr. GOSS] to limit debate on this very important amendment of the gentlewoman from California [Ms. PELOSI] to the gentleman's amendment I do not think is appropriate at this time.

We have yet to start real debate on the amendment of the gentlewoman from California, and I think it is inappropriate at this time, very inappropriate at this time, to move or to even request a limitation on time on this amendment.

This amendment, most of the Members I am sure do not even know what the consequences are. I think it is appropriate that we permit unlimited debate on these amendments so that they can be thoroughly discussed and then at the appropriate time we will vote on those amendments.

Mr. Chairman, I believe that the appropriate thing to do under the circumstances is to proceed and, therefore, for the committee to rise and to report the bill back and that the enacting clause be stricken, so that the committee can then start all over with this piece of legislation.

Ms. FURSE. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentlewoman from Oregon.

Ms. FURSE. Mr. Chairman, I think that perhaps there is a misunderstanding here. I think perhaps that the people in this room do not know how long it takes to get a democracy. Maybe it takes more than a few minutes. Perhaps it takes a little longer.

It has taken the people of Haiti a long time. I am going to ask the people in this room just to imagine what it might be like to all your life long for a vote, to vote in an election in your country. I am going to ask you to imagine what it is like when finally you get to vote and you find that that great democracy, the United States of America, does not think that your vote is really worthy.

That the United States of America, to which you have looked to as a great democracy, as a model for that vote you are going to make, they say, Well, we do not know if that vote is right. We do not know what it is like to be a democracy.

Mr. Chairman, I am going to ask my colleagues to imagine what it must be like tonight in Haiti, having finally voted in a free election, to hear that the country that they looked toward does not think that this is worth a few more hours of debate, a few more days of debate.

This country took a long while to become a democracy. Let us respect the people of Haiti. Let us give them the time to talk about democracy and their vote.

Mr. VOLKMER. Mr. Chairman, I know that there are some Members of this House who really do not want to take the time to debate the situation in Haiti and the freedom that those people now receive that they have not had for many years.

They have had now the opportunity to vote freely for one time and yet they want to now, by the amendment of the gentleman from Florida [Mr. GOSS], they, the majority, are willing to take that away from them again.

And, therefore, I really think that this House needs to spend at least another hour to 2 hours on the situation in Haiti. Mr. Chairman, I don't believe that I have attempted to interrupt any speaker during my 19 years, or 18½ years, in this House. I would hope that we have mature people as Members of Congress. And not people who act like spoiled children.

Mr. FOLEY. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Florida.

Mr. FOLEY. Mr. Chairman, I am relatively new here as a freshman of the new Congress. There was a lot of clapping going on when the gentleman from Texas [Mr. ARMEY] spoke about working through the night. Since his speech, we have been asked to rise by your side of the aisle over three times. Are we going to work or are we going to keep having these types of tactics to rise and have Members come to the floor and vote and waste time?

Mr. GOSS. Mr. Chairman, I rise in opposition to the preferential motion. I think that what we have got here, if anybody ever wondered what a dilatory tactic was, across the country they are seeing it in evidence.

We have been more than 4 hours on this amendment. Granted, we have got better than $2 billion of American taxpayers' money riding in Haiti which does need appropriate oversight and that does justify some time. I think 4 hours is enough.

This is an appropriations bill. We are talking about appropriations. We are talking about oversight of appropriations. There has been sort of an attempt to obfuscate that by going back into a lot of other very important matters, but they are not particularly important to this bill.

The amendment that we are out there talking about, the Goss amendment, basically says, "No democracy, no money." That is a fair proposition. Most everybody understands it. We all hope for the democracy, and therefore the money will flow.

One of the speakers on the other side, one of our colleagues said they long for a vote. Well, Mr. Chairman, we long for a vote too. And I think it is about time we got down to that vote.

The CHAIRMAN. The question is on the preferential motion offered by the gentleman from Missouri [Mr. VOLKMER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 255, not voting 13, as follows:

[Roll No. 439]

AYES—166

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Bentsen
Bevill
Bishop
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Chapman
Clay
Clayton
Clement
Clyburn
Collins (IL)
Condit
Conyers
Costello
Coyne
Cramer
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dingell
Dixon
Doggett
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Hamilton
Hastings (FL)
Hayes
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Taylor (MS)
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Towns
Tucker
Velázquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wise
Woolsey
Wyden
Wynn

NOES—255

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Beilenson
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dicks
Dooley
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter

Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skaggs
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NOT VOTING—13

Berman
Coleman
Collins (MI)
Gunderson
Harman
Martinez
McNulty
Moakley
Reynolds
Rose
Sisisky
Stokes
Yates

□ 2326

Mr. SKELTON changed his vote from "aye" to "no."

So the preferential motion was rejected.

The result of the vote was announced as above recorded.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to explain where I think we are at this point, on this bill anyway.

As my colleagues know, we have had considerable concern about another matter before this House, and I understand that we will see that concern continue to manifest itself. But I think there is general agreement on both sides of the aisle that it would be good if we could reach agreement on this item and then move on to whatever is going to happen because we have debated it for a good long time.

So what I would like to do is just to take a brief moment or two to make certain people understand what it is we are going to vote on on the Pelosi amendment. Then I would hope after that vote, we can move right to a vote on the Goss amendment. Then I do not have any idea what is going to happen, but at least we will have moved on to something else.

□ 2330

So let me simply explain that the Pelosi amendment simply reads as follows:

In the matter proposed to be inserted in the Goss amendment, strike "when it is made known" and all that follows, and simply insert the following: Except when it is made known to the President that the democratic process is being strengthened in Haiti.

The point that the gentlewoman from California made when she offered the amendment was that we feel on this side of the aisles that there was no need for any amendment of this section, but if there is going to be one, it at least ought to reflect the fact that in evaluating whether a country really has democracy or anything close to it, that there are other factors to consider besides elections; not instead of elections, but in addition to elections. You want to know that they have an improving state of the judiciary. You want to know that the police force is not running wild. You want to know that democratic institutions are being strengthened.

So it was in the spirit of trying to get an agreement on Haiti which is, after all, one of our neighbors, and which is, after all, an island which has seen a good less than democracy for a long, long time, it was simply her effort to try to reach agreement in a very contentious evening by trying to offer language that would be a reasonable compromise.

So I would simply, in urging that we vote on this amendment, and then the Goss amendment, I would urge Members to support the Pelosi amendment. I think it is a constructive effort to continue the bipartisanship which we tried to maintain on this bill, even though we have a lot of other problems plaguing the House at this point.

Mr. Chairman, I would urge a yes vote on the Pelosi amendment.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, let me understand. The gentleman is saying we will immediately vote at the end of this conversation assuming that the gentleman from Florida [Mr. GOSS] will withdraw his motion, on the Pelosi amendment, and then immediately vote up or down on the Goss amendment?

Mr. OBEY. That would certainly be my hope.

Mr. GOSS. Mr. Chairman, with that understanding, I withdraw my motion at this time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from California [Ms. PELOSI] to the amendment, as modified, offered by the gentleman from Florida [Mr. GOSS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to rule XXIII, the Chair may reduce to 5 minutes the minimum time for electronic voting, if ordered, on the underlying Goss amendment.

The vote was taken by electronic device, and there were—ayes 186, noes 233, answered "present" 1, not voting 14, as follows:

[Roll No. 440]

AYES—186

Abercrombie
Ackerman
Andrews
Baesler
Baldacci
Barcia
Barrett (WI)
Barton
Becerra
Beilenson
Bentsen
Bevill
Bishop
Bonior
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Chapman
Clay
Clayton
Clement
Clyburn
Collins (IL)
Condit
Conyers
Costello
Coyne
Cramer
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lipinski
Lofgren
Lowey
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Sisisky
Skaggs
Skelton
Slaughter
Spratt
Stark
Stenholm
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wyden
Wynn

NOES—233

Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Bass
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot

Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Longley
Lucas
Manzullo
Martini
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Molinari
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (AK)
Zeliff
Zimmer

ANSWERED "PRESENT"—1

Bateman

NOT VOTING—14

Berman
Coleman
Collins (MI)
Gunderson
Harman
Martinez
McDade
McNulty
Moakley
Reynolds
Stokes
Towns
Yates
Young (FL)

□ 2350

So the amendment to the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Florida [Mr. GOSS].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WILSON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 252, noes 164, answered "present" 1, not voting 17, as follows:

[Roll No. 441]

AYES—252

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bereuter
Bilbray
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
Deal
DeFazio
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Luther
Manzullo
Martini
McCarthy
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
Metcalf
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Paxon
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wyden
Young (AK)
Zeliff
Zimmer

NOES—164

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Becerra
Beilenson
Bentsen
Bevill
Bilirakis
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Collins (IL)
Condit
Conyers
Costello
Coyne
de la Garza
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hall (OH)
Hamilton
Hastings (FL)
Hefner
Hilliard
Hinchey
Jackson-Lee
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Maloney
Manton
Markey
Mascara
Matsui
McDermott
McKinney
Meehan
Meek
Menendez
Meyers
Mfume
Miller (CA)
Mineta
Mink
Mollohan
Moran
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Smith (MI)
Spratt
Stark
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torres
Torricelli
Traficant
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Wilson
Wise
Woolsey
Wynn

ANSWERED "PRESENT"—1

Bateman

NOT VOTING—17

Berman
Coleman
Collins (MI)
Gunderson
Harman
Hoyer
LaFalce
Martinez
McDade
McNulty
Moakley
Parker
Reynolds
Stokes
Towns
Yates
Young (FL)

□ 2358

Mr. LIPINSKI changed his vote from "no" to "aye."

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there further amendments to title V?

AMENDMENT OFFERED BY MR. VISCLOSKY

Mr. VISCLOSKY. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. VISCLOSKY:

H.R. 1868

AMENDMENT No. 52: In Title V Section 507 strike "Provided further," and all that follows in Section 507.

□ 0000

Mr. VISCLOSKY. Mr. Chairman, I would stress at the outset on a personal note, having been present and listening to the debate of the last 5 hours, that the amendment before us is bipartisan. There will be Members on the majority side who are supportive of the amendment. There will be Members on the majority side who will be opposed to the amendment. There will be Members on the minority side who will be supportive of the amendment. There will be Members on the minority side who will oppose the amendment.

It is a bipartisan issue that I would hope can be considered by all of the Members of the House on both sides of the aisle in that vein.

Mr. Chairman, I rise today to offer an amendment to strike language in the bill lifting the current ban on direct United States assistance to the Government of Azerbaijan. This ban, Section 907 of the Freedom Support Act, was passed in the 102d Congress and signed into law by President George Bush in 1992. It was in response to Azerbaijan's decision to impose a complete blockade on all goods and services into Armenia and Nagorno-Karabakh. Section 907 is not vague.

Section 907 states:

> United States assistance under this or any other act may not be provided to the government of Azerbaijan until the President determines and so reports to Congress that the government of Azerbaijan is taking demonstrable steps to cease all blockades and other offensive uses of force against Armenia and Nagorno-Karabakh.

To date, the President has failed to report to the Congress that the blockade is being lifted.

This bill would gut that section. I want to be clear about this. Section 907 does not prohibit direct government aid. It does not deny United States humanitarian assistance to Azerbaijan as the bill language would lead one to believe. As a matter of fact, as of March 31 of this year, Azerbaijan has received $61.8 million in United States foreign aid money provided through non-governmental organizations and private volunteer organizations. The United States money went to such notable organizations working in Azerbaijan as Save the Children, the International Red Cross, UNICEF and the World Food Program. Do not give credibility to arguments that Azerbaijan does not receive United States humanitarian aid. The U.S. taxpayers have already spent over $60 million in humanitarian aid.

Let me return to the issue of the blockade. The President's own administration, instead of reporting that the blockade is being lifted, detailed through the Agency for International Development in its 1995 annual report the devastating effects caused by the Azerbaijani blockade of Armenia. The administration's report describes how Azerbaijan continues to enforce a complete railroad and fuel blockade of Armenia throughout its territory, cutting off all fuel and humanitarian supplies.

Aides described the situation in Armenia as desperate with key industries completely shut down by the blockade, public transportation crippled, and over 50 percent of the work force unemployed or underemployed.

Any attempt to remove Section 907 must be viewed as support for Azerbaijan's blockade of Armenia, as a weapon of war, and as an obstructionist position in the ongoing peace negotiations.

I am also particularly disturbed by the fact that this position is intellectually inconsistent with the entire thrust of this bill. The bill includes very clear instructions regarding the use of U.S. foreign aid. The Committee on Appropriations inserted a new provision, Section 562, the Humanitarian Aid Corridor Act, strictly prohibiting assistance, and this is in the bill, to any country whose government prohibits or restricts the transport or delivery of U.S. humanitarian aid.

Therefore, the provision of Section 907 gutting the current law regarding Azerbaijan is clearly inconsistent with another section of this bill as well as the policies of the authorization committees. Lifting the ban on U.S. assistance to the Azerbaijani government would contradict requirements outlined in the Humanitarian Aid Corridor Act which has already been overwhelmingly approved by the House Committee on International Relations as well as the Senate Foreign Relations Committee.

Mr. Chairman, if the Azerbaijani government wants to drink from the cup of United States generosity, they should wash their hands of this blockade and come to the table of conciliation in peace.

Mr. CALLAHAN. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. I know the sponsor has worked long and hard to work something out that would protect aid to the refugees in Azerbaijan and the interests of Armenia. I regret that he was unable to get agreement, and I commend him for his effort.

I don't know any Member of this House who wants to deny help for women and children who have been driven from their homes by the wars that are sweeping across the old communist empire. I don't think many of us care whether these victims are Christian or Moslem, believers or atheists.

Some of the opposition to this amendment appears motivated by revenge for past wrongs against Armenia. All of us have Armenian friends who have told us of the events of 1915, but most Americans of Armenian descent look to the future, and to a time when today's Armenia can live in peace with its neighbors. This amendment could set back the day when Armenia can live in peace with its neighbors.

Mr. Chairman, while I support the gentleman's concern as do many Americans, I reluctantly oppose his amendment.

Mr. TORRES. Mr. Chairman, I rise in support of the Visclosky amendment. The provisions of the bill lifting the ban on United States aid to the government of Azerbaijan is intellectually inconsistent with other provisions included in the foreign aid appropriations bill. Specifically, section 562 of the bill, the Humanitarian Aid Corridor Act, strictly prohibits assistance to any country whose government prohibits or restricts the transport of U.S. humanitarian aid. Azerbaijan is doing just that to Armenia, restricting the transport of United States humanitarian aid to Armenia and Nagorono-Karabakh.

Current United States law prohibits direct United States government assistance to the Government of Azerbaijan until it ceases its aggression against and lifts its blockade of Armenia and Nagorono-Karabakh. In the 3 years since Congress enacted that law (section 907 of the Freedom Support Act), the blockade has driven 94 percent of Armenia's population below a poverty level of $1 a day. As many as one-third of Armenia's 3.6 million people have fled the country because the winters are unbearable.

Removing Section 907 should only happen when Azerbaijan lifts its blockade. Azerbaijan has the power to do this right now if they wanted, but the Government of Azerbaijan would rather flaunt their refusal to abide by international norms of conduct.

The Government of Azerbaijan has done absolutely nothing to lift their 5-year-long total blockade of Armenia and have blatantly disregarded the very clear conditions that Congress attached to our foreign aid.

Therefore, lifting the ban now would only encourage Azerbaijan to resist a peaceful solution to the conflict in Nagorono-Karabakh and thus keep their blockades in place.

For 5 consecutive years the Government of Azerbaijan has maintained a complete blockade of Armenia and Nagorno-Karabakh. This blockade has cut off the transport of food, fuel, medicine, and other commodities.

Mr. Chairman, I urge this committee to support the Visclosky amendment. I vote to maintain the ban on direct United States assistance to the Government of Azerbaijan until it lifts the vicious blockade of Armenia.

Mr. LIVINGSTON. Mr. Chairman, I move to strike the last word, and I rise in opposition to the amendment.

Mr. Chairman, however well-intentioned the amendment by the gentleman from Indiana [Mr. VISCLOSKY] may be, the fact of the matter is, it does indeed deny innocent people humanitarian assistance and assistance for democracy-building purposes, because in effect it repeals a provision in the bill that says very simply, "Azerbaijan shall be eligible to receive funds provided under title II of this act to be used solely for humanitarian assistance and for democracy-building purposes."

The gentleman says that that provision will not apply, that his amendment will apply instead. He interprets it as not denying people humanitarian assistance. But in fact, in the conflict between Armenia and Azerbaijan, only those refugees in Azerbaijan who are totally unassisted by the Azerbaijani Government will receive assistance. All of those others will not get assistance.

Here are the facts: 10 percent of the refugees in Azerbaijan the people who really need help, the people who are starving, the people who are malnourished, 10 percent of those people are currently living in organized camps and would be eligible for the assistance alleged by the gentleman from Indiana [Mr. VISCLOSKY]. The rest are either living with host families in public buildings, government-provided shelters, hostels provided for the government, or unused railway wagons or crude earth pits, all of which are government-related facilities.

The hepatitis cases in Azerbaijan among the IDP's and refugees have increased by 144 percent since January 1993.

Water-borne diseases among children are up 18 percent.

Salmonellosis is up 70 percent in the first 8 months of 1994 compared with all of 1993.

The leading cause of infant mortality and their main reason for hospitalization in Azerbaijan is acute respiratory infections.

Drugs previously supplied by the former Soviet central system have decreased from 75 percent of the country's needs to 5 percent.

Of the total IDP/refugee population, those most in need, those who have few or no alternative sources of income are estimated to number some 430,000. The families hosting the displaced, pensioners, orphans, handicapped and disabled people bring the total vulnerable population in need of assistance to 450,000 people.

Of those, the gentleman's amendment would say all but 10 percent just have to "hit the road, Jack. Don't get any help; forget it; because you're living in public-assisted housing or you're in a railroad house or a government provided hovel or someplace like that."

Look, if the gentleman gets his way, in effect he will be repealing a provision that is very straightforward and very clear, and says we will only give funds under this act to people in Azerbaijan for the sole purposes of humanitarian assistance and democracy-building.

The point is that the United States does not have a dog in this hunt. We should be in favor of helping people in Azerbaijan who need help, as well as for helping people in Armenia who need help. We should not be injecting ourselves in their dispute. What is done is done. If these people cannot live together in peace, that is too bad. It is unfortunate. But our policy should not be one of taking sides.

We have people here that need assistance. This gentleman's amendment would deny 90 percent of them any assistance whatsoever. It is a bad amendment. I urge this body to reject it, outright and totally. Just get rid of it. Vote "no."

Mr. WOLF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise reluctantly in opposition to the amendment. Let me just say at the outset, I do not agree, having read the article, who the Azerbaijani government has hired to represent them, and I want to put that on the record before I speak.

Second, I have been there, I have been to Armenia, I have been to Nagorno-Karabakh for 4 days, and we went into Baku. I felt an obligation to go.

□ 0015

I am pro-Armenian. Let the word go forth not because there are many Armenians in my district. There really are not. But I am pro-Armenian. They are the oldest Christian Nation and the ones abused by the Turks.

If you want to do something tonight, support the Porter amendment. Because it is the Turks that have the blockade, not the Azeris.

Second, I went into the refugee camps and I met with World Vision and all the different ICRC. The people in those camps, as Mr. Livingston said, they are suffering. And what this part of the world needs is reconciliation. It does not need "I am going to take yours away and you are not going to get." We ought to aid the people in the camps. They are good, decent people. They are of the Muslim faith, but they are hurting badly.

Third, the Azeris have prohibited, if you want to talk about national security, they have prohibited the Russians from entering their country. They have said no, they will not allow them in. And that is important for us.

Last, they have expelled Iran. They have expelled Iran from the oil basin, which is very, very important. So I say as an act of reconciliation to bring these parties together, I reluctantly urge my colleagues to defeat the Visclosky amendment. It is well-meaning, but it will, as the gentleman from Louisiana [Mr. LIVINGSTON] said, it will hurt a lot of people there.

If you want to do more good for the people in Nagorno-Karabakh and the people in Azerbaijan and the people in Armenia, the opportunity will come soon after this and that is to support the Porter amendment, because when we were in Nagorno-Karabakh, we saw Turkish tanks when we were in Nagorno-Karabakh. We saw weapons whereby there were American weapons given to the Turkish Government and then given to torpedo and kill innocent Armenians.

As somebody who is pro-Armenian because I agree with them, and let me tell you, millions of Armenians were slaughtered by the Turks in what was genocide and that is something that is a fact. But we do not want to hold it against the poor people in Baku that have no part about this.

In fairness and in reconciliation, a no vote on the Visclosky amendment is the right vote. And I want to go on record again, and I want the Azeri Government to know, I do not, having read that article in the Wall Street Journal the other day, I find some of the people representing the Azeri Government reprehensible, but I cannot hold that against the poor people in the camps.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I know that the gentleman from Virginia [Mr. WOLF] mentioned the article in the Wall Street Journal, and I would like to just spend some of my time now reading from that article. It gives some indication of what he was talking about.

This was in the Wall Street Journal, Friday, June 23, of this year. It says:

> Azerbaijan Pays Lobbyists $2.5 million to Plug Its Image and Oil Potential.

And I quote,

> Azerbaijan was once an obscure part of the Soviet empire. Now, to burnish its image, this potentially oil-rich nation is paying $2.5 million to a group that includes an international oil trader and several former Congressmen, one an ex-convict.
>
> They have lavish plans to spend $700,000 to set up a Washington operation to promote "the Republic of Azarbaijan and its people in all governmental bodies in the U.S.A. and in the eyes of the American people." according to the contract signed in 1994 by Azerbaijan and Arco-Globus International, Inc.
>
> But their first real test is at hand.

That is this vote tonight.

> To push through a measure being considered by the House that would soften a 3-year-old ban on U.S. aid to Azerbaijan.
>
> Azerbaijan's trump card is oil, possibly billions of barrels of it, that attracts U.S. oil giants. So Azerbaijan hired 2 Americans to solve its problem. One is Abe Citron, a Russian-born American citizen and self-described international oil trader; the other is John Murphy, a former Congressman from New York who was convicted in a sting operation in 1981 for accepting bribes from FBI agents disguised as wealthy Arabs. He was sentenced to 3 years in jail and fined $20,000.
>
> According to their contract, they plan to spend up to $300,000 annually for public relations, $250,000 for rent on a Washington office, and $1.5 million on staff salaries. Citron

and Murphy each will receive salaries of $125,000.

Mr. Chairman, I would like to put all of this in the record. But I mention what this is about; I have to mention that the oil lobby is clearly behind this effort to gut section 907. The language currently in the foreign operations bill would rewrite U.S. law by weakening section 907 of the Freedom Support Act.

The bottom line is that U.S. humanitarian aid is going to Azerbaijan. More than $60 million in such assistance has been provided to meet humanitarian needs in Azerbaijan. What is going on here is that the Azeris, Azerbaijan, is blockading Armenia. They are blockading Armenia.

Here is a country that is trying to move towards a market economy and trying to trade with the United States and other countries and it is being blockaded by Azerbaijan. And we are here going to say that is okay. Even though the Azeris continue the blockade, we are going to say throw out section 907, let them receive aid, direct governmental assistance from the United States, even though they continue this blockade.

Who are we talking about? Armenian citizens are suffering directly, not only because of the blockade by Turkey, but also because of the blockade by Azerbaijan. And it simply does not make sense for us now to say that that is okay.

Until the time comes when we have certified, and the President certifies, that Azerbaijan has lifted that blockade, they have dirty hands. They cannot expect us to provide them with any kind of aid other than the humanitarian assistance they already have as long as they keep up this stranglehold blockade on Armenia.

It is not fair. I think that those who are advocating the other point of view are simply ignoring that the blockade continues to exist. Azerbaijan does not have clean hands. They are causing the suffering in Armenia. They shouldn't be rewarded the way this committee accomplishes that goal.

Mr. PORTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think we ought to put this in the right perspective. This provision of the Freedom Support Act was originally put in the language of the bill and has been carried for 3 years because Azerbaijan is preventing all aid, humanitarian and otherwise, crossing its borders to go to Armenia.

And the gentlemen who have spoken previously have talked very eloquently about the suffering going on in Azerbaijan, but the suffering going on in Armenia is just as bad or much worse. And it is the result directly of the failure of Azerbaijan to allow the passage mainly of energy supplies, but also of others, into Armenia.

Mr. Chairman, the people of Armenia last winter had 2 hours of electricity a day in a country that has a freezing cold climate. People had no heat. People had no hot water. People had no energy supplies to cook their meals. Talk about suffering going on, it is going on in the entire population of Armenia as a direct result of the blockade of Azerbaijan. Can we get aid to Azerbaijan in there? Certainly. If they lift the blockade on Armenia, they will have it tomorrow.

And what has happened in this bill is that slipped into the bill is a provision to repeal section 907 of the Freedom Support Act that is a perfectly logical policy on behalf of the United States saying: You have to lift the blockade before you get our aid.

You have in Azerbaijan a government that is not a democratically-elected government. The Azeri President is a former communist party boss and politburo member who overthrew the democratically-elected President of Azerbaijan and his police and military are responsible for ongoing widespread human rights abuses in that country. And if we do not adopt the Visclosky amendment, we will allow aid to go directly to this corrupt government. There is no guarantee whatsoever that the aid would help the poor people of Azerbaijan.

In fact, we have now today under the current law a provision where aid can go directly through private voluntary organizations. We have already sent, as the gentleman from Indiana [Mr. VISCLOSKY] said, $60 million since 1991 through that source. We should not now change the U.S. policy.

Mr. Chairman, we should insist that the Azeris lift the blockage, stop the suffering in Armenia, and then we will stop the suffering in Azerbaijan. It is in their hands that the policy lies for change. The Visclosky amendment should be supported.

Ms. ESHOO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise this evening to urge Members to support amendments to the Foreign Aid Appropriations Act which will end the brutal blockade on the people of Armenia by Turkey and Azerbaijan.

I rise, of course, in strong support of the gentleman from Indiana, Mr. VISCLOSKY's, amendment and thank him for his leadership on this. I would like to also salute my colleague, the gentleman from Illinois [Mr. PORTER] for the work that he has done in particular in this amendment, which strikes the section of the bill which undermines the 1992 Freedom Support Act.

The Freedom Support Act prohibits government-to-government assistance between the United States and Azerbaijan until Azerbaijan lifts its blockade of Armenia.

As the only Member of Congress of Armenia descent, I find that the bill passed by the Appropriations Committee contains both good news and bad news for the people of Armenia.

On one hand, the committee included the Humanitarian Aid Corridor Act which bars U.S. assistance to countries that prevent the delivery of U.S. assistance to a third country. This would directly affect Turkey and encourage Turkey to lift its blockade against Armenians.

Yet the bill also changes section 907 of the 1992 Freedom Support Act by permitting government-to-government assistance to Armenia's neighbor to the east, Azerbaijan, which is currently imposing its own blockade against the people of Armenia.

Mr. Chairman, the gentleman from Illinois [Mr. PORTER] I think, speaks more eloquently to this. The United States of America cannot rejoice in the suffering of any people. And If there is an identity of suffering on the part of the Azerbaijanis, then they would lift what they are doing to the Armenian people. And I hope all of my colleagues will listen to and embrace that point.

Mr. Chairman, I know how Armenia is suffering under a two-sided blockade supported to the west by Turkey and to the east by Azerbaijan. Turkish forces during the Ottoman Empire helped write one of the darkest chapters in human history when they systematically executed a million and a half Armenians at the beginning of this century.

So. Mr. Chairman, I urge Members to remember that Armenians were persecuted throughout the Ottoman Empire because they were a vulnerable people with no nation of their own in which they could seek sanctuary, no borders behind which they could seek protection. Isolated and abandoned, they were attacked and killed.

Now that we have an independent nation, true peace in the Caucuses will only be achieved when the political and economic isolation of Armenia ceases and regional leaders recognize the inherent rights of Armenia, including its land and its history.

Mr. Chairman, now is not the time to send a signal to Turkey or Azerbaijan that their blockade of Armenia is permissible and reward their governments with our precious aid.

I urge my colleagues to support the Visclosky amendment and I thank people from both sides of the aisle in this bipartisan effort to accomplish what the amendment states.

Mr. KNOLLENBERG. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Indiana [Mr. VISCLOSKY]. I believe what we are trying to do here is to retain the current ban, simply the status quo. We want to maintain the current ban on direct United States assistance to the Government of Azerbaijan as long as Azerbaijan continues to blockade Armenia.

People have talked about the geography. The geography, of course, puts Turkey and Armenia and Azerbaijan in close proximity. One look at the map would tell you that there is bound to be some problems.

H.R. 1868 includes the Humanitarian Aid Corridor Act which prohibits assistance to any country whose government prohibits or restricts the transport or delivery of U.S. humanitarian aid.

Azerbaijan is simply restricting the transport of United States humanitarian aid to Armenia. It has been talked about, it has been discussed, it has been made clear, that the United States law regarding Azerbaijan is based on section 907 of the Freedom Support Act of 1992.

Now I know we quoted that verse and scripture, but I want to do it again because I think it must be clear that we all understand exactly what 907 says. It says: "United States assistance under this or any other act may not be provided to the Government of Azerbaijan until the President determines, and so reports to Congress, that the Government of Azerbaijan is taking demonstrable steps to cease all blockades and other offensive uses of forces against Armenia and Nagorno Karabagh."

This amendment, unlike what I have heard tonight, does not mean we end all assistance to the people of Azerbaijan. We simply keep the current ban on getting American tax dollars to the Government of Azerbaijan. The amendment maintains the current law. It seems we do not like to maintain the status quo; that is, what we are doing, but that is in fact what we want to do and what we should do.

The United States Government has provided over $40 million to Azerbaijan, and it has been reported by the gentleman from Indiana and the gentleman from Illinois that this money does go from the United States Government to nongovernmental organizations working in Azerbaijan such as, as my colleague shave heard, Save the Children, the International Red Cross, UNICEG, and the World Food Program.

This amendment, and I think this ought to be made very clear, this amendment does not prohibit United States humanitarian aid to Azerbaijan refugees. Removing section 507 and maintaining section 907 simply maintains the ban against direct United States funding to the Government of Azerbaijan.

For that reason I believe we should support this amendment, and I urge my colleagues to vote for it.

Ms. WOOLSEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Visclosky amendment. and I commend the gentleman from Indiana for his hard work on this issue, as well as Mr. PORTER's.

Mr. Chairman, I say to my colleagues, "If you want taxpayer money to go down a foreign rathole, send it to Azerbaijan. The committee's move to lift the ban on direct aid to Azerbaijan is in total conflict with reasonable human rights standards, and it does nothing to meet our foreign policy goals."

The Armenian people are suffering greatly at the hands of the Government of Azerbaijan. Over the past few winters, people have been left without food; heat; and shelter as a result of the armed conflict.

In 1992, Mr. Chairman, Congress acted against this aggression by restricting aid until the government makes legitimate progress toward peace in the region by lifting its blockades and shifting its focus from a military to a diplomatic solution. Almost 3-years later, Azerbaijan has done virtually nothing to change its posture. They have taken absolutely no steps to meet the conditions set forth in the Freedom Support Act.

Any attempt to lift the ban puts a barrier to real political solution. If we lift the ban, we will weaken the position of the Armenian people. In fact, we will be abandoning them.

Mr. Chairman, we are talking bout lifting sanctions on a country that has systematically violated the human rights of their neighbors, the Armenian people. There is no vital U.S. interest in doing this. It is a violation of the standards of human decency and compassion which our country's foreign aid program should represent.

I urge my colleagues to support the Visclosky amendment.

Mr. LAUGHLIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, section 907 makes a farce of a statute called the Freedom Support Act. If the Freedom Support Act was a Freedom Support Act, it would be fair to all sides. Truth of the matter is it is not. I say to my colleagues, when you talk about blockade of a country, you have it encircled, and what the proponents of the Visclosky amendment, with every good intention, are suggesting is that Azerbaijan is totally, totally encircled, and it is not. Certainly Turkey is to the south, Azerbaijan is to the east, and Georgia, a country occupied by Russian troops, just as Armenia is occupied by Russian troops, the Republic of Georgia is to the north.

Now let us talk about this war. I too, have been to Azerbaijan several times, and I have been to Yerevan, the capital of Armenia, several times. In fact, I have been in both capitals this year, and to everyone in the sound of my voice:

The conditions are deplorable in both countries, and it is a hard contest to say they worse in one country than any other, and the President of Armenia, when I met with him in his office, there is more light in the phone booths in any phone booth in this capital than there were in the President of Armenia's office, and that is deplorable. People are starving in both countries. The Armenian troops are allied with the people occupying almost 20 percent of the territory in Azerbaijan, yet not one soldier from Azerbaijan is on the soil, is on the soil of the Republic of Armenia.

Mr. Chairman, the first time I went to Azerbaijan they said, "How could freedom-loving and democracy-caring people from America take sides in this historic, long-running dispute?" And if Americans were truly fair, if Americans were fair, they would treat both sides to this dispute equally. They would allow aid to both countries, or they would deny aid to both countries.

So I urge my colleagues to take this into consideration. I have visited with people in both countries, and they are wonderful people. They want peace. They want peace in their lifetime for themselves and for their children, and we can talk about Azerbaijan being a Moslem country, but, while I was there the first time I visited, in a Jewish synagogue they were worshiping as they desired without interruption, and it is important to let the peace process work. Today for over 10 months there has not been warlike action. Let us give the people of that country, without interruption from this body, without interference of the American Congress, let us give the people of Azerbaijan and Armenia a chance to find peace for their people, and that is all we are asking for those who are trying to oppose the Visclosky amendment.

There are no Armenian immigrants in the 14th District of Texas, and there are no Azerbaijani immigrants in the 14th district of Texas. What we are trying to deal with here is to find a way for peace and to suggest that countries on the south and countries on the east can blockade a country is a misrepresentation of a military blockade, and today in Azerbaijan there are no Russian troops because the Azerbaijan government prohibited, prohibited Russian troops from being there, and that is not the case in Armenia.

The last point I want to make, Mr. Chairman:

When we talk about the Freedom Support Act and trying to help create democratic institutions across the former Soviet Union, why in the name of democracy from America do we single out one republic? One republic? There is a reason why we should lift this ban, and that is that in the fall they are trying to schedule elections, and how many republics across the former Soviet Union are trying to have parliamentary elections this year?

So, I urge my colleagues to oppose the Visclosky amendment. It is well intentioned, but let democracy work and support democracy.

Mr. DURBIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, many elements of this debate defy common sense and defy logic. The suggestion that these two countries, Armenia and Azerbaijan, are on equal terms and should be treated equally defies history and defies the truth.

The truth is that since 1992 our country, the United States of America, has said that the Government of Azerbaijan, not the people, the Government of Azerbaijan, will not receive governmental assistance from the United States so long as it continues its blockade of Armenia and Nagorno-Karabakh.

Let me tell my colleagues this. This blockade is for real. The suggestion by speakers here that it does not exist defies fact. The fact is that this blockade imposed by Azerbaijan has affected the entire population of Armenia. It has prevented the delivery of assistance to 300,000 Armenian refugees driven out of Azerbaijan and obstructed the rebuilding of earthquake-damaged regions of Armenia where 500,000 persons were left homeless. The impact on Armenia is well documented. Azerbaijan has continued this blockade for 5 years, cutting off the transport of food, fuel, medicine, and other commodities to Armenia.

Mr. Chairman, to suggest for a moment, that the Armenians and Azerbaijanis are in equal status here is to ignore the truth, and the truth has been obvious for a long time, at least since 1992, in our policy. So why in the early hours of the morning are we debating whether we should change this United States policy, whether we should give a new status to Azerbaijan and ignore this blockade of Armenia?

I will tell my colleagues the simple truth of the matter. It is because they have discovered something in Azerbaijan which makes them very valuable to a lot of people, and do my colleagues know what it is? It is the same thing that took us to war in the Persian Gulf. It is oil. It is the oil of Azerbaijan. It is the opportunity for profit. It is companies that are hiring lobbyists in Washington to convince us to ignore the blockade of Armenia and concentrate on the opportunity for profit. It is greed, simple greed again, and that is why the Visclosky amendment is so important.

Mr. Chairman, the Visclosky amendment reminds us again of the principles we stood for in 1992. Unless and until Azerbaijan removes its blockade of Armenia, stops the oppressive conduct toward the people of that country, we in the United States shall continue to say to Azerbaijan, "You are doing the wrong thing, you cannot be treated as a friend in the family of democratic nations."

Mr. Chairman, when I listen to this debate and hear people say these are just two countries, treat them equally, it defies logic, and the only thing that draws my colleagues into this illogical and somewhat distorted debate is the fact that Azerbaijan has some wealth, the wealth of oil, and that wealth of oil again turns the heads of too many policymakers, and it should not turn ours.

Support the Visclosky amendment. My colleagues know it is the right and principled thing to do, and it is what our country stands for.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, I would like to commend the gentleman for his remarks, and I think there is another lesson from the Middle East, and that is when we let a problem fester, we will pay a far greater price over the long haul than if we take a principled stand in the beginning. History owes a great debt to the Armenians, what they have gone through as a people. There has been too much silence in the world, and they have suffered already, and to let some opportunity that may be economic get in the way of justice once again with the Armenians is something that we should not allow here in this Congress.

I know the gentleman from Illinois has led fights on human rights and equity around the globe, and this is another case where the gentleman needs to be commended, as Mr. VISCLOSKY is, because this is a very clear case. The Armenians once again are being victimized, and the question for this democratic body is whether we will side for short-term oil profits which will cost us much more in the long term or stand up for what is right and stand with the Armenian people.

□ 0045

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, I am at a loss to understand how standing up for human rights and at the same time repealing a provision that will feed starving Azeri children are compatible. I do not understand how one equates the two.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. DURBIN] has expired.

(By unanimous consent, Mr. DURBIN was allowed to proceed for 5 additional minutes.)

Mr. DURBIN. Mr. Chairman, I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, I am not opposed to helping the people of Armenia. I think that we should. But I do not understand how anybody can justify coming to the well of the House and saying we should not help starving people in Azerbaijan.

Mr. GEJDENSON. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Chairman, that is exactly the argument that Saddam Hussein makes. Saddam Hussein goes into Kuwait, violates international borders in his case, tries to go to Saudi Arabia. When the entire would joins together to remove him from Kuwait and then tries to stop him from killing Kurds, he complains that the economic embargo is killing children. If the Azerbaijanis would stop the embargo, we would not need this debate here.

Mr. LIVINGSTON. Mr. Chairman, if the gentleman will yield further, I would point out to the gentleman that the gentleman from Texas, Mr. LAUGHLIN, was just over there, and he pointed out in the well that Armenian troops and their allies are in Azerbaijan and that there are no Azeris in Armenia.

Now, I do not know how that relates to the hypothetical that was just advanced by the gentleman from Connecticut, but the point is, the language that the gentleman from Indiana is trying to change simply says that we are trying to provide humanitarian assistance to people that really need it. Now, they happen to be Azerbaijani. I have no Azerbaijanis in my district or in Louisiana. I do not think I have many Armenians either. And I do not think the United States has any business inserting itself into a conflict between two faraway countries. We ought to be helping people in both countries who need assistance.

Mr. DURBIN. Mr. Chairman, reclaiming my time, I would ask of the sponsor of the amendment, are we precluded now from providing humanitarian aid to the Azerbaijanis?

Mr. VISCLOSKY. Mr. Chairman, if the gentleman will yield, we are not. And as of March 31, as I indicated, more than $60 million have been provided to nongovernmental organizations. If the government, the sympathetic government who is so concerned about those poor suffering individuals, wants to help them, all they have to do is to comply with the 1992 act and begin to lift the blockade. But, instead, they are more concerned about persecuting people within their own country.

I would quote from the State Department's Human Rights Practices Report of 1994. Both governmental and societal repression and discrimination against ethnic Armenians continue in Azerbaijan. The 18,000 ethnic Armenian and part-Armenians, most of them members of mixed families, continue to live in an atmosphere of fear and uncertainty. There are credible reports of denial of medical treatment to ethnic Armenians, confiscation of their travel and resident documents, and most of those Armenians who lost jobs in previous years are still unemployed. Many are too frightened to appear in public. That is a State Department document.

If the Government of Azerbaijan wants the money of the Government of the United States, they ought to respect human rights of everyone.

Mr. DURBIN. Mr. Chairman, reclaiming my time, if we did not have the issue of an oil rich Azerbaijan, I do not believe we would be engaged in this debate. We would view Azerbaijan as an oppressor which has imposed a blockade on a helpless country. Everyone who is familiar with history knows that Azerbaijan controls 85 percent of the trade going into Armenian. They have strangled Armenia for more than 5 years with a blockade. We have taken the same principled position we did time and again during the cold war, saying we will not stand on the side of an oppressor. What has changed the debate? Simply the factor of oil. Oil in Azerbaijan, which American and international companies want to exploit.

Mr. Chairman, one person was sold out for 30 pieces of silver in our history. Let us not sell out the Armenians. In this situation, they need our strong support, I am in favor of humanitarian aid for Azerbaijan as I am for Armenia. But make it clear once and for all to the Government of Azerbaijan: As long as they strangle the economy and people of Armenia through their blockade, the United States will stand resolute and firm in the position that we will not provide any direct assistance to their government. To say anything else is to sell out the most fundamental principle which we have stood for throughout our history.

Mr. Chairman, I support the gentleman's amendment from Indiana. I urge all my colleagues, who saw this issue so clearly during the cold war, to think in terms of this new world and the new challenges, and not to be clouded in their thinking by the existence of oil in Azerbaijan.

Mr. SMITH of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Visclosky amendment and in support of the language in title V, section 507, which reads—and I hope Members will pay close attention to this—it is very simple language:

> Notwithstanding any other provision of law, Azerbaijan shall be eligible to receive funds provided under title II of this act, to be solely used for humanitarian assistance or for democracy building purposes.

The rationale for this language, I think, is self-evident. In today's circumstances, how can anybody vote against allowing U.S. Government aid to go to the Government of Azerbaijan for the purposes of building democracy or for humanitarian assistance? They are in dire straits in Azerbaijan.

Mr. Chairman, when I introduced the Humanitarian Aid Corridor Act in February, and successfully attached it to the foreign relations authorization bill when it was going through committee and approved by this House about a month ago, I argued that it was simply wrong for any country receiving U.S. assistance to impede the delivery of U.S. humanitarian aid to any other country. The Humanitarian Aid Corridor Act specified no countries, but it was clearly directed at Turkey, which has been blockading Armenia for over 2 years and greatly complicating the delivery of United States aid to over 300,000 refugees in that country. The case I made at the time was simple and based on a very basic principle, on the desire to help refugee.

In the same light, Mr. Chairman, I argue today that it is simply wrong to vote against direct government-to-government aid designed not to help the Azerbaijan Government, but to help the refugees in that country. A refugee is a refugee, Mr. Chairman, regardless of nationality or religion. Democracy building, including the facilitation of free and fair elections, is important to U.S. foreign policy, regardless of the nationality or religion of the country in question.

True, as the gentleman from Indiana [Mr. VISCLOSKY] said, section 907 of the 1992 Freedom Support Act, which prohibits United States Government aid to the Government of Azerbaijan, permits humanitarian aid to be given through NGOs. Over 60 million has been expended as of December 31, 1994. But the need is so much greater than that, considering that Azerbaijan has almost 1 million refugees. And according to the State Department's Office for the Coordinator of Assistance for the Newly Independent States, there are relatively few PVO's in Azerbaijan to distribute and to administer United States humanitarian aid.

Moreover, Mr. Chairman, U.S. officials tell my office that fear of violating the restrictions imposed by section 907 keeps them from addressing the dire humanitarian needs of refugees. For example, they do not send prescription drugs to Azerbaijan, because such medicine must be administered by doctors, who can hardly be found outside the framework of government-run hospitals. Consequently, our aid to Azerbaijan is not nearly as effective as it could be, and Azerbaijanis are left to feel that the United States only cares about certain refugees, but not about others.

As for democracy, Azerbaijan frankly needs all the help it can get. The country was economically and strategically pivotal, with one of the sorriest records in the USSR for coups d'etat and extra-constitutional changes of leadership. How can it possibly be against United States interests or anyone else's interests to help Azerbaijan's Government develop democratic institutions?

More specifically, after innumerable starts and stops, the parliament has set a date for new elections for November 12. These elections are a landmark and offer a great possibility and great hope.

Again, I wanted to say to my colleagues, I take a back seat to nobody in this Chamber on behalf of human rights. I serve as chairman of the Helsinki Commission and the International Operations and Human Rights Committee. I happen to believe that human rights violated anywhere against anyone must be spoken out against. But here we have refugees with this narrowly construed language in the bill, and I want to salute the gentleman from Louisiana, [Mr. LIVINGSTON] and the gentleman from Alabama [Mr. CALLAHAN] for having the wisdom to say we have got to get the help to these people. They need it. And I know it is against some of the wisdom on this floor and it is against the Armenian lobby, of which I am very often in support and they in support of me. But when somebody is suffering and we can provide tangible assistance, I would submit, respectfully, we ought to try to do it.

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New Jersey. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, the gentleman has brought a very important dimension to this debate that has not been made clear before, and that is, and would the gentleman agree with me, that Azerbaijan, even though they are a part of the former Soviet Socialist Republic, they have completely expelled the Russian army——

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. SMITH] has expired.

(On request of Mr. WILSON, and by unanimous consent, Mr. SMITH of New Jersey was allowed to proceed for 2 additional minutes.)

Mr. SMITH of New Jersey. I yield to the gentleman from Texas.

Mr. WILSON. And as a former Soviet country that so much of the health care delivery system and so many of the shelters and so many of the other things that we ordinarily try to provide to refugees must go through the government because the facilities are all government owned. Because of 907 it is impossible to deliver humanitarian refugee assistance under those circumstances.

Mr. SMITH of New Jersey. Mr. Chairman, reclaiming my time, I thank the gentleman for making that very, very important point. We would rather go through PVO's and nongovernmental organizations. But experience has shown us and demonstrated in a very tangible way the intended recipients, the suffering men, women, children, the family are hurting simply because we have got to go through those other mechanisms. We do not like it, but the gentleman makes an excellent point. If we want to help suffering people, the underlying language in the bill of the gentleman from Alabama [Mr. CALLAHAN] and himself, which was spoken to by the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Virginia [Mr. WOLF] and others, is the only way to really accomplish that.

Mr. GEJDENSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the history here is very clear. If there is a people in the world that has suffered, there are not many that have suffered more than the Armenians. When Hitler proposed his extermination of the Jews, there was some opposition in the room. He silenced his opposition by asking the question, who remembers the Armenians?

We are here today in a very simple situation, in essence. If we wanted to provide assistance elsewhere, if we wanted to find a way to help the others here, they simply need to end their blockade. The Armenians have suffered from nature and from their neighbors. Half a million people were left homeless in 1988. The blockade prevents the rebuilding of those homes and prevents assistance to some 300,000 refugees.

I go back to what I said earlier about Saddam Hussein. At every opportunity Saddam Hussein brings up the orphans of the war and their plight. The plight of the Iraqis is not the result of what the United States and other countries did. It is the result of what Saddam Hussein did.

The same is here. Azerbaijan needs only to lift the embargo to have this entire House embrace and assist its people. This is not a vengeful Congress that will complain for decades about previous actions even by this very government that exists there today. End the blockade against Armenia, and you will not find Members of this House on either side of the aisle arguing for continued resistance to support any economic needs that we can provide for Azerbaijan.

The Armenians have suffered enough in history. The request is small enough. End the blockade and you will not see a Visclosky amendment.

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield?

Mr. GEJDENSON. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. Mr. Chairman, I want to identify myself with the remarks of the gentleman. Three years ago this Congress took an important stand, both because of an historic obligation to the Armenian people, for certainly the world owed them some recognition of their suffering, but also because of a barbaric blockade.

The situation in Azerbaijan and Armenia is not the same. Eighty-five percent of all products going to Armenia must flow through Azerbaijan. Ninety-five percent of people now of Armenia are living on under $1 a day. It is not a sustainable situation. This country is in a test of wills with Azerbaijan. We have said clearly, lift this blockade, allow the world's assistance to get to the Armenian people, or we will not be there for you.

□ 0100

Now at this late date, 3 years into this struggle, for us to lift this sanction would send a message that would be seen around the world, and certainly this blockade then would never ever be lifted.

Azerbaijan has spoken in this test of wills. They have done nothing; nothing has been lifted. I am sensitive to the comments of the distinguished chairman of the committee that certainly we do not wanted refugees to suffer. But when the Congress enacted this provision, we spoke to that need. Under section 907, refugees are exempted to ensure that as we are in a test with the Azerbaijani Government, refugees themselves do not suffer.

I ask members of the committee to stand with what has been a proud 3-year provision of American law. The obligation is not on the United States. It is on the Azerbaijani Government. Now at this late date in history, after so many years, the Armenian people fought for their own homeland; after so many years their struggles and their sufferings were ignored, not at this late date to turn our backs on them once again.

Mr. GEJDENSON. Mr. Chairman, under the agreements that were made by the international community at the end of World War II, a blockade is actually considered an act of war. In that sense, the United States would be assisting a country that is presently committing an act of war against the Armenian people.

We need to make sure that we can as a country make a clear statement here so that elsewhere in the world we will not lead to confusion. Our actions and our consistent policies in favor of peace-loving people, people who are trying to rebuild their lives after earthquake, Soviet oppression, and now a blockade, to turn that aside would be the height of irresponsibility.

Mr. ZIMMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment. I believe that the rationale behind the policy that is on the books today is as strong as it was in 1992 when it was adopted.

I believe that those who have tried to establish an equivalence or a parity between Armenia and Azerbaijan are just mistaken. There is only one of those two nations that is imposing a blockade. There is only one of those two nations that is a victim of a blockade. And the theory behind the Freedom Support Act and the theory behind the Humanitarian Aid Corridors Act is that a country which imposes a blockade on another country should not be provided aid.

This blockade does exist. There is no disputing that. In fact, it is referred to on page 34 of the report of the Committee on Appropriations. It is referred to as causing dire effects on the Armenians. It is causing untold human suffering and damage to their economy.

It should be our business to try to lift that blockade as we have made it our business to lift any blockade that is barring humanitarian aid to another nation.

There is another aspect of this amendment that I have to bring to light, and I believe that this amendment is as important for the integrity of the legislative process and the reputation of this Congress as it is for the benefit of the people of Armenia and Nagorno Karabagh. I am referring to the millions of dollars that have been spent in lobbying efforts by the Government of Azerbaijan, spent to hire a former Member of this House, who is a convicted felon, who has served time in prison, who in turn has hired other ex-Members of this House to lobby for Azerbaijan. I believe this is an example of the revolving door at its worst. It is why we need reform in the rules that specify when our former colleagues should be allowed to lobby us.

I believe that on the merits, on the substance, we must support this amendment. I believe as a matter of retaining the integrity of our own process and our own reputation, we must approve this amendment. So I urge my colleagues to support the proposal from the gentleman from Indiana.

Mr. PALLONE. Mr. Chairman, will the gentleman yield?

Mr. ZIMMER. I yield to the gentleman from New Jersey.

Mr. Chairman, I wanted to just point out, I have the utmost respect for my colleague, the gentleman from New Jersey [Mr. SMITH] and the fact is that he has been a tremendous supporter of Armenia and, of course, is the author of the Humanitarian Aid Corridor Act. But just following on what the gentleman from New Jersey [Mr. ZIMMER] said, the Humanitarian Aid Corridor Act, the way I understand it, would basically prohibit the United States from helping countries that are in affect blockading or preventing assistance from coming to other countries.

And I just wanted to ask the gentleman how that is consistent. In other words, it seems to me that the Freedom Support Act, the way it currently stands, under current law would be very consistent with the Humanitarian Aid Corridor Act. But now if we are going to reward the Armenia Government at the same time that they are participating in an ongoing blockade of Armenia, that seems to be me to be very inconsistent with the goals of the Humanitarian Aid Corridor Act.

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. ZIMMER. I yield of the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Chairman, the language says notwithstanding any other provision of law, so it is seeking to carve a very narrow exception. This would not be necessary if it was not for the fact that the NGO community cannot provide the kind of help, not to the government, I do not care about the government. I frankly resent some of the comments that were made earlier by speakers that somehow oil is influencing this vote. I frankly could not give a damn about that.

What I care about is the fact that a million refugees are suffering a horrible and cruel fate. We have the means, by way of the language, the true humanitarian language, it may not have the surface appeal that this particular amendment has, but this language in the underlying bill that has been put there says, we can make differentiations. We can see when somebody is actually hurting and say, that over there, the government, as much as we despise them, is the only way that we can get that aid to the people who are suffering.

So, yes, it is an exception. Again, I am the prime sponsor of the Humanitarian Aid Corridors Act. That has been introduced year in and year out, never went anywhere. I attached it to the foreign relations bill and it passed. It passed this House just a month ago. The gentleman from Illinois [Mr. PORTER] put it on this bill. It will probably pass. I do not think anyone is taking a shot at it.

If you want to help people and leave all the politics aside and the high-powered PR firms, I do not care about that. They never contacted me. In my Helsinki Commission and on our subcommittee, we looked at the suffering people. That is all I care about. A refugee is a refugee is a refugee. I think we ought to stop trying to play some partisan politics trying to appease certain groups and other groups.

The CHAIRMAN. The time of the gentleman from New Jersey [Mr. ZIMMER] has expired.

(On request of Mr. PALLONE, and by unanimous consent, Mr. ZIMMER was allowed to proceed for 2 additional minutes.)

Mr. ZIMMER. I yield to the gentleman from New Jersey [Mr. PALLONE].

Mr. PALLONE. Mr. Chairman, I am not suggesting in any way that the gentleman from New Jersey is influenced by the oil lobby. I know he is very much a supporter of Armenia and is, in fact, the author of the Humanitarian Aid Assistance Act. My only concern is the fact that I believe very strongly that it is wrong, a violation of international law, the other things that were mentioned here today, for the Azerbaijan Government to continue the blockade of Armenia.

Mr. SMITH of New Jersey. Mr. Chairman, if the gentleman will continue to yield, I agree with the gentleman on that.

Mr. PALLONE. It seems to me that the only way we will get them to lift that is if we keep section 907 in place. I understand your argument with regard to humanitarian assistance, but it seems to me that if they are expecting that humanitarian assistance that the least they could do is lift the blockade which is hurting Armenia.

I think we all know that Armenia is not blockading Azerbaijan. In fact, I know the gentleman from Louisiana and from Texas previously talked about how there are no Azeri troops in Armenia. Of course, the reference there is Nagorno Karabagh. Nagorno Karabagh is an Armenian enclave in Azerbaijan.

The reason why there are Armenians there is because they have been there historically for years. They were involved in the act of self-defense to protect their own homes and their own lands. So naturally there are going to be Armenians on the soil of Azerbaijan because they have lived there for centuries, for a millennium. I think that we have to look at this fairly.

The bottom line is, one country is blockading the other, and the other is not. It seems only fair to me under those circumstances to continue with section 907.

Mr. SMITH of New Jersey. Mr. Chairman, if the gentleman will continue to yield, just let me say, in conclusion, the operative principle to me is how do we get the humanitarian aid through. Well meaning as it was, the Freedom Support Act section did not accomplish the end of bringing down that hated, and I hated it as much as you do, blockade of the aid to the Armenians by the Azerbaijanis.

Let me also say that it has been my experience, as a member of 15 years in working on this subcommittee and doing human rights work throughout the world, that dictatorships and authoritarian regimes do not care about refugees. That includes their own refugees.

I looked at the Government of Azerbaijan in this instance as a means to an end, to get the aid from our government and our people down at the White House and the State Department, who desperately want to provide real humanitarian aid, the PVO's are doing a good thing, but they cannot do it all. We have to get it to the doctors and those that could help those suffering people. It carves out an exception to the Humanitarian Aid Corridors Act. I am the author of that, and I think that is a necessary exception.

Mr. HASTINGS of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the Visclosky amendment and ask that we vote to maintain the ban on direct United States assistance to the Government of Azerbaijan. We cannot lift the sactions of Azerbaijan while its vicious blockade is ongoing with reference to Armenia.

Clearly, for a substantial period of time, for 5 consecutive years, the Government of Azerbaijan has maintained a complete blockade of Armenia and Nagorno Karabagh. The blockade has cut off the transport of food, fuel, medicine and all other commodities. The blockade has driven 94 percent of Armenia's population below a poverty level of $1 a day. As many as one-third of Armenia's 3.6 million people have fled the country because the winters are unbearable and the factories stand idle.

This effort to gut the law restricting United States aid to Azerbaijan represents a retreat from the principled position strongly adopted by the Congress in 1992, that Azerbaijan must make progress toward peace by lifting its blockade and abandoning a military solution to the conflict over Nagorno Karabagh. Congress would be sending the wrong message by moving to weaken this restriction when Azerbaijan has done nothing but reject any conditions for United States aid.

A cease-fire has been in effect for over a year. But unfortunately, talks toward a settlement of the conflict have obviously not been successful. Retreating from the conditions enacted in the Freedom Support Act would seriously threaten the fragile peace that exists and reward Azerbaijan for failing to comply with United States law.

The cease-fire is in effect in part because the United States has taken a strong stand on this issue. We should not back down now.

These are very complicated times for all of us and particularly for our country. In this area of the world, we cannot find ourselves in a position now where section 907 should not be changed until Azerbaijan lifts its blockade of Armenia. Actually, that is what we should be about in this country.

Let me repeat for the Members what we did in 1992. Just so that Members who have not had the opportunity to be on the Committee on International Relations will understand, that section 907 of the Freedom Support Act adopted by Congress states that

> United States assistance under this or any other act, other than assistance under title V of this act, may not be provided to the

government of Azerbaijan until the President determines and so reports to Congress that the government of Azerbaijan is taking demonstrable steps to cease all blockades and other offensive use of force against Armenia and Nagorno Karabagh.

As I indicated before, we have maintained that position now rather substantially.

□ 0115

Mr. Chairman, the blockade imposed by Azerbaijan has affected obviously the entire population of Armenia.

Mr. DOGGETT. Mr. Chairman, will the gentleman yield for a question?

Mr. HASTINGS of Florida. I yield to the gentleman from Texas.

Mr. DOGGETT. I am very impressed that at this hour, now well after 1 o'clock in the morning, that you are sufficiently committed on this issue and concerned for what is happening in Azerbaijan and Armenia that you are here speaking out on it. I think that is commendable. But, of course, there is the possibility of the deck being stacked, of there being blockades, of their being interference with the normal political process even closer to home than Nagorno-Karabakh, right here in this House, is there not?

Mr. HASTINGS of Florida. I would be terribly remiss if I did not agree with my good friend the gentleman from Texas.

The CHAIRMAN. The time of the gentleman from Florida [Mr. HASTINGS] has expired.

Mr. DOGGETT. Mr. Chairman, I ask unanimous consent that the gentleman be given 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. COX of California. Reserving the right to object, Mr. Chairman, if the purpose of the extension of time is to trivialize a very important debate over a human rights issue by dragging into this debate wholly inappropriately concerns about whether or not a Democrat who has changed to the Republican Party will be seated on Ways and Means, I would object.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. COX of California. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. OBEY. Mr. Chairman, I moved to strike the requisite number of words.

Mr. CHAIRMAN, I yield to the gentleman from Florida [Mr. HASTINGS].

Mr. HASTINGS of Florida. I thank the gentleman for yielding.

Mr. Chairman, I at the very same time would wish to reply that during the course of my comments, I made absolutely no statements at all about anything having to do with any seat that was sold for anybody to be on the Committee on Ways and Means. I resent the fact that someone would suggest that. I was talking about section 907 when a question was put to me by my friend the gentleman from Texas which I tried to answer.

Section 907 prohibits government-to-government aid. It does not deny humanitarian aid to Azerbaijan. As a matter of fact, Azerbaijan had received $61.8 million in United States assistance as of March 31 through NGO's and PVO's.

Mr. DOGGETT. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Texas.

Mr. DOGGETT. Certainly the gentleman would not feel we would be trivializing our concern for human rights in Nagorno-Karabakh, in Armenia or any other part of the world if we expressed concern about rights right here on the floor of the House, would you?

Mr. HASTINGS of Florida. I would not think that that would be trivializing. We just fought the same kind of process concerning opportunities for those less fortunate than us in Haiti.

Mr. DOGGETT. In other words, if we stack the deck against the people that are concerned about cuts in Medicare or tax breaks for the rich, that would be consistent with a concern for human rights in Armenia, would it not?

Mr. HASTINGS of Florida. There are serious violations that we see every place and indeed it would be. But the fact of the matter is that we have before us the Visclosky amendment to the foreign aid appropriations measure which is of critical importance with reference to the lifting of the blockade.

We stand here all the time for human rights around the world. In this particular one, we cannot find ourselves abandoning the American position.

Mr. OBEY. Mr. Chairman, I yield to the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I thank the gentleman for yielding.

At this hour, I want to summon up some solemnity to mourn the death of a principle. A couple of hours ago, a Member of the majority offered an amendment and he said to the people of Haiti, "No democracy, no money." That strong principle apparently is going to last about 2 hours, because I do not regard Azerbaijan as a democracy. Some of us were suggesting before that the people of Haiti for a variety of reasons were being held to a standard of democratic purity that was not applicable elsewhere. I would venture to say that Haiti is making much greater strides toward democracy today than Azerbaijan. I was given by one of the gentlemen from New Jersey the quotes from the State Department human rights report about Azerbaijan in 1994, talking about while the government tolerates the existence of political parties, it has demonstrated a disregard for the right to freedom or peaceable assembly and association when it has deemed in its interest to do so.

I think it would be a grave error to cut back on this legislation, not simply to try to give aid to the brave people of Armenia, but let us not have this newly found insistence on democracy as a condition for the extension of American foreign aid die so soon.

Does the majority not want to at least spend a day as defenders of human rights? Is it like only a couple of hours? You said, "No democracy, no money." Well, if Azerbaijan is a democracy, then Haiti must be ancient Greece. The inconsistency is overwhelming. I therefore urge the passage of the amendment of the gentleman from Indiana both on its own terms and because what you gentlemen decided was sauce from the Haitian goose ought to equally apply to the Azerbaijani elephant, if we are going to talk about relative lack of democracy. The fundamental principles that you have applied are now being called into question.

Mrs. JOHNSON of Connecticut. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Visclosky amendment. But I would want to say that I think the sufferings of the minority party on this floor whether it be Democrats in the minority or Republicans in the minority do not compare to the sufferings of the people in Armenia and Azerbaijan and that part of the world. I think it truly does trivialize what was a very fine debate about a very important matter to bring in our own petty controversies.

I want to rise in support of the Visclosky amendment. I want us to remember that Azerbaijan has systematically sought over a number of years to strangle Armenia, to freeze and starve her people. In spite of pressure from the United States and many other nations, Azerbaijan has persisted in its blockade. At any time Azerbaijan could have received assistance from our Government if it had been willing to lift the blockade that has cost so many lives and caused so much starvation and anguish in Armenia.

We know that the United States has provided over $60 million through nongovernmental organizations to meet humanitarian needs in Azerbaijan.

It is late and I am not going to belabor this subject. But this is a nation that has systematically blockaded the Armenians and does not deserve at this time the treatment that it is receiving in the bill. I urge my colleagues to support the Visclosky amendment, to stay true to the policy we adopted in 1992, now 3 years past, to try to break the roar of starvation and suffering that is going on in this part of the world and force the parties to the table to create a real peace.

Mr. KENNEDY of Massachusetts. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Visclosky amendment. Some time ago, I had the opportunity in the dead of winter to visit Armenia. I arrived in Yerevan in the middle of the night, a cold wintry night, drove from an airport with no lights, through the streets of Yerevan, so dark that you could not see across the street from one building to the next. The next morning we got up after a bitterly cold evening in a cold hotel room, and I went out and visited an orphanage. The orphanage was so cold that the urine soaking the children's, the little babies' clothes was frozen solid.

I went to a hospital and saw senior citizens that could not leave their hospital rooms because of the bitter cold, blanket after blanket laid on top of elderly people without any heat whatsoever. A thermometer inside one of those hospital rooms showed that it was 18 degrees, 12 degrees in a room where mothers were delivering little babies.

The fact of the matter is, there is terrible suffering that has taken place in Armenia. Terrible suffering. Children without arms and legs that have been victims of this violence that this legislation if it is not passed, if we do not take up the Visclosky amendment, will continue.

This poor nation of Armenia is cut off by the Turks on the west, the Azeris on the east, the Iranians in the south, and the Georgians on the north.

The fact is that it is a very serious situation with a country that has no option, if it cannot gain humanitarian assistance, if it cannot gain the kind of trade that is necessary to be able to conduct normal economic affairs with the rest of the world. The only way that is possible is if trade with the Azeris begins to take place.

This bill would affect the Azeris in a way that would enable them to circumvent world opinion, be able to ignore the terrible plight that has taken place in Armenia in order for us to make some sort of arrangement with the Azeris which could be economically beneficial to a few people here in the United States.

The fundamental fact of the matter is that we ought to have the guts to stand up for human rights and we ought to stand up for the Armenian people that have made the United States their home, in so many cases has contributed so much to the quality of life of the American people.

In my own district in Watertown, MA, you see what the Armenian people have done, in adopting a new Nation and making this their home, and keeping the quality of life, and keeping the basic beliefs in their ethnicity alive, having parades, speaking their own language, going to their own churches and yet participating fully in the American life. That, it seems to me, is what we want to encourage in this country. We can only do that by standing up against the tyranny that we have seen in Azerbaijan, the tyranny that we have seen by the Turks in regard to their feeling toward the Armenians.

Let us stand up for human rights. Let us stand up for the Armenian people. Let us support the Visclosky amendment.

Mr. LAHOOD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, while all of you folks were in your caucus, some of us were sitting here on the floor listening to the gentleman from Florida, the gentleman from Connecticut [Mr. GEJDENSON], and the gentleman from Illinois, and I am really irritated that the gentleman from Texas would come here and demean this debate made by your own Members who are trying to make a case for the amendment from the gentleman from Indiana. You do no good for his amendment by coming here and trying to politicize what we are trying to do here.

0130

This is ridiculous for the gentleman to do what he has done. And the gentleman does no good for his friend, the gentleman from Indiana [Mr. VISCLOSKY] to do that, because a lot of the Members on his side of the aisle support this amendment.

This is an important debate and I know the gentleman wants to politicize it and I know that the distinguished minority whip wants to politicize the debate; it cannot be done on this one though. Try it on another one.

Mr. FATTAH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think in some respect we might have people who protest slightly too much and perhaps they are trying to politicize this important debate now, but let me speak directly to the amendment.

Mr. Chairman, I rise in support of this effort. I think it is entirely appropriate that we focus in now on what we can do to help alleviate a very tragic situation faced in Armenia. I would like to associate myself with the remarks of the gentleman from Florida, [Mr. HASTINGS,] and the gentleman from Massachusetts, [Mr. KENNEDY,] who just spoke and I would like to encourage all of my colleagues to favorably consider this amendment.

We cannot disconnect American foreign policy from American ideals. And I think that those two things are inextricably intertwined and that the blockade and the suffering that has taken place in Armenia, on top of the historical sufferings and atrocity faced by the Armenian people and the genocide that took place there, is something that deserves both the full recognition and hopefully the support of this Congress in rectifying this situation.

So I would ask for favorable consideration of this amendment. For those who want to talk about the immediate matters facing the House, there will be, believe me, an opportunity for us to continue that discussion.

Mr. ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Visclosky amendment and urge my colleagues to support it as well.

The senior Senator from my State, Mr. BRADLEY, has observed in the recent past that throughout this century our country has defined ourselves by what we are against. We took a somewhat belated but leading role in opposing Naziism and totalitarianism in World War II and led the world in defeating Hitler and his allies throughout the world.

In the days that followed, we took a leading role in opposing the tyranny of Soviet state socialism in its satellites and in the Soviet Union itself. Generations who have gone before us have labored and fought and sacrificed so we could win the cold war and distinguish ourselves by being against the tyranny of state socialism and communism.

The defeat of state socialism and communism has begged the question, what are we for? If the major forces that we have opposed are no longer present in the world, then what are we for?

I believe that we are for two great principles. The first is that we respect the right of every person to live to the fullest extent of their dignity as a human being and the second is that we respect the rule of law among countries. We respect processes and peace as a way of resolving disputes between countries.

Mr. Chairman, if this is what we are for, then under what pretense, under what circumstances are we removing the protective language that used to be in our law by striking that section from this bill?

Under what moral or strategic principle are we once again opening up the door for U.S. tax dollars to be spent directly or indirectly to subsidize the regime of Azerbaijan in its heartless, inhumane, cruel blockade against the people of Armenia?

Mr. Chairman, in my judgment, there is only one justification, one, for ignoring conduct which contradicts our basic principles of respect for human rights and respect for the processes of law and peace among nations. That one exception is if the strategic national interests of this country are somehow at stake and if they somehow demand us to make an exception.

Tonight we have looked at the possibility of some of those exceptions. We said very clearly there is no exemption when it comes to Castro and Cuba, so by voice vote we accepted the Menendez amendment to cease the possibility of nuclear power plants being built with our tax money in Cuba.

We had a long debate over whether conditions should be placed on our aid to Haiti, because we want to promote the idea of human rights and the rule of law both within that country and in its relations with other countries. Mr. Chairman, there is no exception there and there is no exception here.

There is no vital strategic interest of the United States that would justify an exception to the principles of human rights and respect for international law.

There is no strategic justification for lifting the protective language that the gentleman from Indiana [Mr. VISCLOSKY] would once again promote.

Ladies and gentlemen, the world watches us and asks the question, What are we for? When the students in Tiananmen Square risked and gave their lives for the principle of liberty in their own country, they hoisted a statue of the Statue of Liberty. When Nelson Mandela rose to prominence in a free and fair election in South Africa, he cited the principles of our forefathers, those who went before us, framed our Constitution, and built our institutions. The rest of the world, Mr. Chairman, looks at us and asks, "What does America stand for?"

When we support with the hard-earned tax dollars of our constituents the tyrannical policies of Azerbaijan with respect to the Armenians, we are giving a pathetic and indefensible answer to that question. We are saying that we are for expediency over principle. We are saying that we are for blindness in favor of understanding.

Let us give a better answer to the world and restore the legal protections that existed before this bill. Let us support the Visclosky amendment.

Mr. HOYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, on both sides of the aisle, Members have risen and acknowledged that this is a very serious issue. We voted today on a flag amendment and that was important to people who voted on either side. The flag of the United States is a very special flag like none other in the world, because it stands like no other flag in the world for principles of freedom and justice and human dignity.

All of us who are privileged to serve in this House as representatives of the people of the United States of America will forever, throughout our lives, be proud that we were able to serve in this House that represents for the peoples of the world the beacon of freedom.

Mr. Chairman, few countries, when they meet in their legislature assembled, can have an impact on other parts of the world like the United States of America. That is why, my friends, I rise in support of the Visclosky amendment.

Like some others who have spoken on this floor, I have been to Yerevan. I have spoken to President Ter-Petrosyan. I have met with the people of Armenia. As the gentleman from Massachusetts [Mr. KENNEDY] intoned, and as have others in this body on both sides of the aisle, we have seen the pain.

Let us also acknowledge that the Azeri people are in pain as well. But the fact of the matter is that the pain visited upon the Armenians in many ways was a direct and proximate result of the actions of the Government of Azerbaijan.

That is why tonight, without politics, but as Americans, we ought to make once again a strong statement that America stands for the freedom, the dignity, the independence, of the Nation of Armenia; and not just Armenia, but the nations of the world.

As all of my colleagues know, I have been involved very deeply in the Helsinki process since 1985. I now have the privilege of serving with Chairman SMITH as the ranking member of the Helsinki Commission.

We ought to say once again that, yes, we understand that there are problems as I am sure the gentleman from Texas [Mr. WILSON] the ranking member has pointed out.

But this is a statement of principle. We have made it before. Let us make it again.

Mr. VISCLOSKY. Mr. Chairman, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from Indiana, the distinguished author of this amendment, whose amendment I support.

Mr. VISCLOSKY. Mr. Chairman, I appreciate the gentleman yielding and I do think we are at a natural conclusion. I would begin my remarks by thanking all of my colleagues on both sides of the aisle for their attentiveness in the debate and the fact that this was a bipartisan discussion of a very important issue.

I would like to respond to a number of the points made during the last hour and a half to 2 hours of debate.

The first is the issue of those who are suffering. There is no question of everyone's agreement here that that problem ought to be solved. The simple point of the language of my amendment is to ensure that we do not pay money directly to the Government of Azerbaijan until they cease an economic and military blockade of Armenia.

They have it within their power to relieve that suffering. And when the Red Cross asked to transport relief through Armenia in January of this year to remote regions of Azerbaijan and the Armenians agreed to it, the Azerbaijanis refused that assistance.

If the government, and that is what we are talking about here, was so concerned about those individuals, they would have let that Red Cross assistance that had traveled through Armenia be used for those suffering individuals that so much concern has been expressed about.

Mr. Chairman, there has been talk about the Turkish blockade and talk about Georgia by the gentleman from Texas [Mr. LAUGHLIN]. No one in this debate has suggested that the Azerbaijanis have lifted their blockade. Three wrongs do not make a right. And in the 1930's, I think we learned that we do not pay money up front. We do not give land up front.

The CHAIRMAN. The time of the gentleman from Maryland [Mr. HOYER] has expired.

(On request of Mr. VISCLOSKY, and by unanimous consent, Mr. HOYER was allowed to proceed for 2 additional minutes.)

Mr. HOYER. I yield to the gentleman from Indiana.

Mr. VISCLOSKY. Mr. Chairman, payment in advance, whether it is dollars, whether it is assistance, whether it is land for peace or the hope of good intentions not shown over a period of years, is inverting the type of firmness that we ought to exhibit in this circumstance.

There has also been talk of the democratization of Azerbaijan. We have repeated reports again in 1994 aid report relative to the type of Government in Azerbaijan, including, and I am quoting, police and Ministry of National Security entrusted with national security, they are responsible for widespread human rights abuses.

We have had a good debate. We have good people in need. The Government of Azerbaijan should act in peace, lift the blockade, and everyone can be made whole. Short of that, having the blockade continue in existence, it should not for all practical purposes be lifted by this House. I would ask that the amendment be adopted.

Mr. WILSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, Chairman SMITH of New Jersey made a point that he does not represent any oil interests and that the gentleman did not like the implication that big oil was behind all of this.

I would like to say that I represent a lot of the suburbs in Houston, which has an immense number of employees of oil companies of all sizes, and I have not been contacted by a single one of them.

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So this issue has very little to do with oil interests in the United States.

Second, I would like to say that the gentleman from Illinois was successful in putting a humanitarian-corridor amendment into the foreign operations bill which I think will bring great encouragement to Azerbaijan because a humanitarian corridor, according to Mr. PORTER's amendment, I believe will automatically cut off funds to Armenia.

Third, I would like to say one more time, as we have said so many times, that we cannot provide assistance to these refugees without going through the Government of Azerbaijan simply because their entire structure, as a result of all the years that they were part of the, probably involuntarily a part of the, Union of Soviet Socialist Republics, the entire structure is government-owned. I would like to remind the Members of the House that the Azerbaijanis have been the only former state of the Soviet Union that has refused to allow the presence of a Russian army on their soil. I would also like to point out that it is the only republic that I know of that has free elections scheduled for this fall. These elections will certainly be supervised internationally, which I think is extremely important.

Now we should remember over and over that there was a war over in Nagorno-Karabakh. There was a war. The Armenians essentially won the war. They now occupy 20 percent of the territory of Azerbaijan. I say to my colleagues, it is not normal when you have wars, and one country occupies 20 percent of the other country, that the country which is occupied opens its borders to the occupier; it is just not usually done. The United States is trying very hard to arbitrate that situation.

Under the current president, who was not the president at the time all this commotion started, a cease-fire has been put into effect. Not only has a cease-fire been put into effect, but the United States is trying very, very hard, trying very, very hard, to bring the parties together to end all the blockades, to keep a cease-fire and to make peace.

Finally, as Chairman SMITH said, there are a million suffering people. There are a million suffering people, many of whom are children, many of whom are Armenians in Azerbaijan, and this is the only way that we can possibly get any effective relief to all of those people.

I would also like to point out to the House that for every $8 that goes to the suffering people in Azerbaijan, $130 goes to the suffering people of Armenia. The administration very much wants a chance, to make a true peace here. It wants a chance to relieve the suffering entirely. We should allow it that chance. The only way we can allow it that chance is to defeat the amendment from the gentleman from Indiana [Mr. VISCLOSKY].

Mr. CONDIT. Mr. Chairman, I rise today in support of the Visclosky amendment.

Moving to weaken the law restricting United States aid to Azerbaijan will represent a retreat from the principled position, adopted by this body in 1992, that Azerbaijan must make progress toward peace by lifting its blockades.

The restriction of aid to the Azerbaijani Government does not prevent the delivery of United States humanitarian aid to nongovernmental organizations within Azerbaijan.

Furthermore, according to section 907 of the Freedom of Support Act passed by Congress in 1992, the President has the full authority to provide United States assistance to the Azerbaijani Government once he determines that Azerbaijan has lifted its blockades and ended its aggression against Armenia.

Thus, Mr. Chairman, any attempt to lift the ban now will only encourage Azerbaijan to resist a political solution to conflict and keep its blockades in place.

I urge my colleagues to vote in support of the Visclosky amendment.

Mr. MANTON. Mr. Chairman, I rise in strong support of the Visclosky amendment to maintain the ban on United States aid to the Azerbaijan Government.

Mr. Speaker, for the past 5 years, the Government of Azerbaijan has maintained a blockade of Armenia. This cruel and vicious act of war on Armenia has caused a tremendous humanitarian crisis in that country. The blockade has prevented the delivery of assistance to 300,000 Armenian refugees and crippled the efforts to rebuild the earthquake torn regions of Armenia. Azerbaijan is an undemocratic government that is using oppressive force to deny basic human rights and humanitarian aid to the people of Armenia.

Armenia is introducing free market reforms and is attempting to integrate its economy with the West. Yet the Azerbaijan Government is strangling these efforts.

Mr. Speaker, each year I join with the Armenian community of New York and this Nation to commemorate Armenian Martyrs Day to remember and pay tribute to the more than 1.5 million Armenians killed by the Turkish Ottoman Empire between 1915 and 1923. The Armenian people join to proclaim that never again shall the world allow such a senseless tragedy to occur.

But if we allow American dollars to flow to Azerbaijan, we are allowing the tragedy of the Armenian genocide to happen again. The suffering people of Armenia deserve our support.

I urge my colleagues to support the Visclosky amendment to maintain the ban on aid to Azerbaijan until it lifts the blockade on Armenia.

Mrs. KENNELLY. Mr. Chairman, I rise today in support of the Visclosky amendment to maintain the ban on United States foreign aid to Azerbaijan.

I am deeply concerned that lifting this ban will weaken efforts to find a political solution to the Karabagh conflict. While a ceasefire has been in place for over a year now, talks toward settlement have been stalled.

There is simply no reason to threaten a fragile peace and reward Azerbaijan for failing to comply with United States law. Instead, Congress must stand by the principles of the Freedom Support Act it adopted in 1992. We must support a peace settlement of the current conflict between Armenia and Azerbaijan, without weakening the tough stand we took 3 years ago.

I urge my colleagues to support this important amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. VISCLOSKY].

The amendment was agreed to.

Mr. SAXTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I had intended to offer an amendment tonight, and the amendment has been duly filed. However, I must say that I am sorry that we have not been able to arrive at an accommodation in order that the amendment might have been considered in a meaningful way. The amendment had to do, and I just would like to explain what it was, because I think this is very important to get this on the record; the amendment would have stricken $540 million from section 585. That is moneys that were intended for the Palestinian authority.

Mr. Chairman, at a ceremony on the White House lawn in September 1993, Yasser Arafat signed an agreement and pledged to move toward peace and coexistence with Israel. He committed to the PLO to renounce terrorism, to condemn individual acts of terror, assume responsibility over all PLO elements and personnel to stop terrorism, to discipline those who engage in terrorism, to call upon the Palestinian people in the West Bank and Gaza to reject violence, to amend the sections of the PLO Covenant that call for the destruction of Israel and urge violence against Israel. Not one of these has been complied with in the 21 months since the signing on the White House lawn.

Then, last May, when PLO self-rule began in Gaza and Jericho, the PLO promised to take all measures necessary in order to prevent all acts of terrorism including acts committed by groups like Hamas and Islamic Jihad, to abstain from incitement, including hostile propaganda, and to take legal measures to prevent incitement by any groups within its jurisdiction, to adhere to internationally accepted norms and principles of human rights and to extradite suspected terrorists to Israel. These, too, have all been violated.

And, in addition, they have failed to condemn 184 terrorist attacks that took place from May 1, 1994, to May 1, 1995, which they also promised to do.

So we should not be surprised that the PLO, despite signing these accords, was, is, and in my opinion apparently plan to continue to be committed to the destruction of the State of Israel and to replace it with an Arab state.

Let me quote directly further from Yasser Arafat in a November 1994 letter to the heads of anti-Israel organizations. He said, and I quote:

> In order to obtain the goal of returning to Palestine, all of us sometimes have to grit our teeth. But it is forbidden that this harm the continued struggle against the Zionist enemy. Cooperation and understanding between the PLO and the rejectionist organizations is what will lead to the speedy retreat

> of Israel from the occupied territories in the first stage, until the establishment of a Palestinian state with its capital in Jerusalem.

And, let me quote further from one of Arafat's closest advisers and the chief negotiator with Israel this past January as he was quoted in the Palestinian media,

> The PLO has no intention of annulling the articles in the PLO Covenant [calling for the destruction of Israel].

Another senior PLO official this past April in a speech in Gaza said,

> The PLO and the Islamist opposition complement each other . . . We regard Hamas and the Islamic Jihad as national elements . . . The main enemy, now and forever, is Israel.

If you think that these acts are bad enough to stop the flow of aid, just hold on a minute. We have just recently obtained information directly from the Palestinian Economic Council for Development and Reconstruction, known as PECDAR, supposedly an independent organization set up to distribute donor funds. We know that the deputy chairman of PECDAR has acknowledged that the PLO signed the peace agreements with Israel primarily in order to get foreign funds. He explained, "The money is the carrot for signing the peace agreement with Israel and we have signed."

We have also obtained PLO documents. These documents are requests from the Secretary of the Treasury of the PLO and the PNA to PECDAR for the transfer of funds to specific projects that are in direct violation of the peace agreements. Further, responses from PECDAR to the PLO confirm that Arafat's instructions were followed and the money were indeed transferred. These documents confirm that the PLO has diverted funds to illegally acquire land in Jerusalem, to illegally purchase apartments in Jerusalem for loyal PLO supporters, to illegally establish a Palestinian publicity center so that disinformation can be fed to the West and hence weaken Israel. Moneys were also spent in the investment of a computer company owned by the sons of the key negotiator with Israel, for programs inside Israel that would strengthen pro-PLO forces, including money to Arab members of Knesset and also for the establishment of companies under private auspices. Again. All in direct violation of the peace accords.

Congress must make difficult, sometimes unpopular, decisions in these days of budget balancing. Choices on Medicare, school lunches, law enforcement, healthcare and, yes, foreign aid.

The American people are quite rightly focused on foreign aid because so much has been wasted in the past. If we are to preserve some foreign aid, as we must for our own national interest, we must be conservative stewards of the peoples' pocketbook. If not, we may well face a day when no foreign aid, even when our own national security depends on it, is available because the American people see what happens to the bad use of foreign aid.

This foreign aid line item is the best example of bad foreign aid policy I can recall in the decade that I have served here. My amendment would have addressed this. I am sorry we were not able to get to it, but because of circumstances that seems to have been impossible.

Mr. Chairman, that is my statement. I understand that we are going to be able to fight this battle on another day. I look forward to taking part in those discussions.

PLO DOCUMENTS

Although there have been various citing of violations by the PLO and the PNA (Palestinian National Authority) of the agreements signed by Arafat, following are summations of recently-disclosed documents of specific violations. These not only demonstrate the disregard for the spirit of the agreements, but also indicate the urgent response required by the facilitator of the accords (the U.S.) at this junction.

These documents are a series of top-secret documents that are exchanges between Muhammad Nashashibi, the PLO/PNA Minister of Finances, and the leadership of the Palestinian Economic Council for Development and Reconstruction (PECDAR). PECDAR was established on November 4, 1993, as an independent body entrusted with the distribution of foreign donations for the rebuilding and improvement of the Palestinian economy free of any political considerations; Arafat and the PLO/PNA were to have no role in the administration of PECDAR. PNA can not have funds transferred from or to PECDAR. PECDAR is supposed to be supervised by the World Bank. However, in July 1994 PECDAR distributed an internal chart depicting it as being directly subordinate to the PLO/PNA. Moreover, the entire leadership of PECDAR is comprised of Arafat loyalists.

In general, all the 28 top-secret documents constitute a series of 14 pairs: Each pair is comprised of (1) a letter over the signature of Nashashibi, the PLO/PNA Minister of Finance, with instructions to transfer funds to specific individuals and projects, and (2) a response from PECDAR confirming that the instructions were followed and the monies transferred. In his letters, Nashashibi invariably stresses that his instructions are on behalf of Yassir Arafat and/or based on Arafat's decisions. All the responses from PECDAR are concluded with the request to inform Yassir Arafat that the instructions were fulfilled and implemented. (Concerning the last sentences in the PECDAR letters: In some of the letters, the phrasing in Arabic is vague—that is, it could be read as either "the" instructions/orders or "his" [Arafat's] instructions/orders. In others, including as Document 4, the sentence reads specifically to inform Arafat that "his instructions" or "his orders" were implemented.)

Following are the Documents in order of importance:

DOCUMENT 1

August, 1994. Nashashibi's instructions on behalf of Arafat to funnel $20 million to clandestine political activities inside Israel to strengthen pro-PLO forces, including Members of Knesset, and organizations as the beginning of PNA political presence among Israeli Arabs. Nashashibi writes that Arafat ordered that "PNA's activities will expand inside Israel and concentrate on the Arabs and Palestinians inside", pushing them to work toward "the establishment of the Palestinian State that includes the city of Jerusalem." Among the specific tasks of this program are financing political parties and individual politicians supporting the establishment of a Palestinian State, spread of financial support to local bodies, social organizations and charities in order to push them to political activism. Dr. Tibi is in charge and the money was deposited in his clandestine personal accounts abroad.

DOCUMENT 2

August, 1994. Nashashibi's instructions on behalf of Arafat to arrange clandestine funding to acquire land in Jerusalem. The acquisition is a part of the "consolidation of the foundations of the Palestinian States . . . while concentrating on Jerusalem in order to solidify our foot hold there and increase our activities there in an active and strong manner." The letter stresses the clandestine character of the deal "because we do not want to have this activity appear under the name of the PNA so that it would not be utilized against us for political reasons in international circles by the other side . . . particularly the American administration." Therefore, $15m were allocated for clandestine transfer to Dr. Tibi for a host of ostensibly private land acquisition and development projects in East Jerusalem.

DOCUMENT 3

August, 1994 (Following Document 2). Instructions on behalf of Arafat to arrange clandestine funding for apartments in Jerusalem to be given to loyal Arabs. Dr. Tibi is to supervise this project for which $12 million is allocated.

DOCUMENT 4

November, 1994. Nashashibi issued instructions on behalf of Arafat for clandestine funding for Raymonda Tawil, Arafat's mother-in-law, and Ibrahim Qar'in to open a Palestinian publicity center, ostensibly independent and without acknowledgment of connection with Arafat, in "Arab al-Quds [Jerusalem], the Capital of Palestine." PECDAR's response stresses that Raymonda Tawil was thanking Yassir Arafat in person for the funding.

DOCUMENTS 5, 6, 7

Discuss clandestine investment in computer companies of Ali and Mazan Sha'at, the sons of Dr. Nabil Sha'at (key negotiator with Israel). Nashashibi not only stresses that Arafat ordered the projects, but adds (in Document 5) that "We must emphasize that the brother leader Abu-'Amar [Yassir Arafat] gives special importance to this company." It is note worthy that after the Sha'at sons were provided with these funds, Dr. Nabil Sha'at was nominated by Arafat to the PECDAR board. This was done to ensure that no one individual would have a full understanding of the totality of the funds available and their actual use.

DOCUMENTS 8, 9, 10

Series of documents in which Nashashibi informs PECDAR that Arafat decided to order a close loyalist, Dr. Amin Haddad, to establish several companies, including import-export operations, under private auspices so as to maintain control over the local economy and employment in the West Bank. In its response, PECDAR confirmed that the funds were transferred to Haddad's private accounts, and (in Document 8) that they have Haddad's assurance that "this stock company belongs to the PNA and is only a trust in his hands."

DOCUMENTS 11, 12, 13

Nashashibi writes to PECDAR that in order to establish "effective control over the commercial market," that is, to control the financial market and key import-export financing, throughout the West Bank, Arafat ordered the establishment of a series of import-export companies, insurance and contracting firms to be overseen by Jamil Tarifi, an Arafat crony. These companies should also be established, and the funding for them be transferred, in a clandestine manner so as to ensure that they appear privately owned.

DOCUMENT 14

Nashashibi writes that the establishment of a chicken farm was directed by Arafat in order to divert Palestinian workers from internationally-controlled development programs. He instructs PECDAR on behalf of Arafat to clandestinely transfer $1.5 million to Ibrahim Qar'in. In its response, PECDAR confirms that the sum was transferred clandestinely from its "special accounts" to the private accounts of Ibrahim Qar'in. Nashashibi concluded his letter with the comment that Arafat gives special importance to this project because it is creating a PNA-controlled employment. The PLO repeatedly seeks to establish alternatives to the various development programs launched by the international donors in order to ensure that the PNA/PLO remains the main and choice employer.

AN UPDATE ON THE FINANCIAL CONDITION OF THE PALESTINIAN AUTHORITY ON THE EVE OF THE DONOR NATION CONFERENCE IN PARIS

The Donor Nations to the Palestinian Authority are conducting a two-day conference, beginning today, 27 April 1995. The purpose of the conference is to discuss the future of monetary assistance to the Palestinians, given the serious financial crisis currently gripping the Palestinian Authority.

On 21 March 1995 Peace Watch published a comprehensively report on the financial condition of the Palestinian Authority, and attempted to trace the causes of the crisis faced by the Palestinian Authority. The following is an update prepared on the eve of the resumption of discussion of the issue by the donor nations. This report details for the first time the demands made on Israel and the Palestinian Authority by the donor nations, as they are to be raised at the Paris conference. In addition, it includes the major highlights of the previous report and surveys the main changes that have occurred since its publication. This report is based on material collected from sources in the Palestinian Authority, Israel, and the donor nations, as well as from monitoring of World Bank publications and Palestinian newspaper accounts.

A. THE DEMANDS MADE ON ISRAEL AND THE PALESTINIAN AUTHORITY BY THE DONOR NATIONS

According to Peace Watch sources, the donor nations have complied two working documents in preparation for the Paris conference. These documents detail the demands made on Israel and the Palestinian Authority by the donor nations.

The demands on Israel are:

1. A repetition of an earlier demand made by the donor countries that Israel fulfill its commitments as expressed in the economic protocols which it signed in Paris in April last year, which later formed an integral part of the Cairo agreement between Israel and the PLO.
2. An Israeli guarantee of work for the Palestinians, even under Israeli closure of the territories.

The demands on the Palestinian Authority are:

1. An immediate wage and hiring freeze in all Palestinian Authority institutions.
2. A commitment that the construction of a port in Gaza be conducted in coordination with Israel, and not with the European nations alone.
3. A repetition of an earlier demand made by the donor nations for an improvement in the tax collection capabilities of the Palestinian Authority.
4. The preparation of a detailed report on the ways and means of raising private capital in the context of the Palestinian economy.
5. The submission of a report on plans for the development of banking in the territories.
6. The submission of a Palestinian Authority expenditure estimate for 1996.

B. HIGHLIGHTS OF THE COMPREHENSIVE PEACE WATCH REPORT

The comprehensive report issued by Peace Watch on 21 March 1995 underscored the critical financial condition of the Palestinian Authority and detailed the reasons for the crisis:

1. Most of the international monetary assistance that was promised the Palestinian Authority has not arrived, and those sums which were finally disbursed to the Palestinian Authority were used to cover operating budget deficits, and not for the purposes they were intended—namely, development projects and the establishment of infrastructure.
2. The Palestinian Authority failed to establish an orderly tax collection system which would enable it to overcome its deficit crisis and balance its budget.
3. A pipeline for the disbursement of international financial assistance which is agreed upon by all parties has not yet been established. This has negatively influenced the amount of assistance money arriving, and has indirectly harmed the Palestinian Authority's economy. The main Palestinian economic institution—PECDAR—was established in order to serve as such a pipeline, but due to structural problems in the institution and to political disagreements in the Palestinian leadership, it has not managed to fully serve in its intended capacity.
4. The donor countries, especially the US, have attempted to limit the economic freedom of action of the Palestinian Authority and its leadership, mainly by establishing subcommittees working under the Local Aid Coordination Committee—subcommittees which have taken up responsibility for the ongoing financial operations of the Palestinian Authority.

The conclusion reached by the comprehensive report was that no significant improvement in the financial condition of the Palestinian Authority is foreseeable in the near future. Without additional monetary assistance from the donor countries, the Palestinian Authority will not be capable of surviving financially for more than a handful of months.

C. THE MAIN DEVELOPMENTS SINCE THE PUBLICATION OF THE PEACE WATCH COMPREHENSIVE REPORT

It can generally be asserted that since mid March 1995 a number of changes have taken place in the financial situation of the Palestinian Authority, changes which can be divided into two types: positive and negative developments. The changes which have increased the changes that the Palestinian Authority will receive additional monetary assistance are; the finalizing of a more or less agreed upon Palestinian budget proposal, and the agreement attained between Israel and the Palestinians on the subject of the establishment of industrial parks. In contrast, the changes likely to decrease the possibility that the Palestinian Authority will receive additional monetary assistance are: the lack of agreement among the donor nations as to the proper destination of the assistance funds; internal disagreements among the Palestinian as to the destination of the assistance funds; and a growing Palestinian Authority budget deficit which shows no sign of decreasing in the near future.

The proposed budget

In April 1995 the Palestinian Authority came to an agreement with the World Bank on a proposed budget of $444 million. This was in effect a compromise between the previous proposal submitted by the Palestinians, for a $600 million budget, which was rejected by the World Bank, and a World Bank counter proposal for a $425 million budget. The $600 million figure calculated by simply summing together the proposed budget of each ministry within the Palestinian Authority, with each ministry submitting a separate proposal.

It should be noted that the $444 million budget has not yet been formally approved by the World Bank, although it is likely that approval will be granted since the figures arrived at by the Palestinians were calculated with the assistance of experts from the World Bank. The budget proposal must also be approved by the Palestinian Authority itself, and it is not unlikely that there will be reservations expressed by some of the Palestinian Authority's cabinet ministers.

The establishment of industrial parks

The managing director of the Israeli Ministry for Foreign Affairs, Uri Savir, and the Palestinian Authority Economics Minister, Abu Alaa, prepared a joint working paper—which has not yet received final approval by either party—on the subject of industrial parks. These working papers were presented at the Washington donor conference. The decision to establish eight industrial parks, with the first park slated to be located in Gaza, served in an unintended manner as a means for overcoming differences of opinion between the donor countries and disagreements between Israel and the Palestinian Authority. Israel agreed to concentrate the balance of the assistance it had promised to the Palestinians in grants provided towards the construction of the park in Gaza. The sum of money involved is a balance of $20 million out of $25 million over five years originally promised to the Palestinian Authority by Israel. The World Bank supports this initiative, and there is no known European opposition to the idea. However, Yasser Arafat's silence about the project has raised uncertainty as to his position on the subject, since he has yet to express either support or opposition.

Although the working papers have not yet been finalised, the very fact that they were jointly prepared is an achievement in itself, and if a decision is taken in favour of establishing the industrial parks it can serve as a catalyst for the increased flow of funds for development projects.

Sharpening disagreements among the donor countries

The existing disagreements among the donor nations—between the US and the World Bank on the one hand, and the EU on the other—have sharpened in the past month. The disagreements revolve around requests made by the Palestinian Authority and around development plans. The EU of the opinion that the World Bank requirements that the Palestinian Authority run a transparent accounting system are exaggerated. It also disagrees with World Bank and US-sponsored development plans. Those plans are opposed to vast 'nationalistic projects', such as the construction of air and sea ports in Gaza, while granting priority to economic development plans which stress the needs of the Palestinian communities in the territories and not external national symbols of the Palestinian Authority.

On 4-5 April 1995, an informal meeting of the donor nations was conducted in Washington, D.C., in an effort to overcome the disagreements among them, but no success was attained towards that goal. The Europeans demanded that the 'nationalistic' development projects be funded instead of the World Bank plans. The EU announced, for the first time, that it would not disburse the funds that it had promised the Palestinians through the Holst Fund of the World Bank, but rather directly to the Palestinian Authority through the offices of either Nabil Sha'ath's Ministry of Planning or Zuhadi Nashashibi's Treasury Ministry.

The Chairman of the Palestinian Authority, Yasser Arafat, thanked the Europeans for their position in a meeting with a French economic delegation, which visited Gaza on 19 April 1995. He repeated his demands that supervision over the Palestinian Authority's budget be removed from the World Bank to UNRWA on a number of occasions, most notably in a Palestine Broadcasting Corp. radio address on 8 April 1995. In that same broadcast Arafat made light of the World Bank's conditions for transparency in Palestinian Authority accounting procedures.

Sharpening internal disagreements among the Palestinians

There were also internal disagreements over development plans among the Palestinians. The Economics, Trade, Capital and Industry Minister, Ahmed Qria, (Abu Alaa), supports the World Bank position, and the organization he heads, PECDAR, is attempting to implement his policies. Other economic ministers, especially Nabil Sha'ath, support the European position, and represent the opinion of the Chairman, Yasser Arafat. As part of the Palestinian political power struggle, Arafat appointed Nabil Sha'ath as a member of the PECDAR Board of Directors on 25 April 1995, as a counter-balance to Abu Alaa. The fact that he sent Nabil Sha'ath, who supports the European position, to the Washington talks rather than Abu Alaa, who supports the World Bank/US position, revealed his predilections and policies, and his preference for the European positions.

Peace Watch has learned that Abu Alaa will not attend the Paris conference as the PECDAR representative, and that Muhammad Shtaya, who heads the Administrative and Financial Services Department in PECDAR, will attend in his place. Abu Alaa's absence at the Paris discussions comes on the heels of his absence at the donor nation meeting held in Washington, and is another indication of the disagreements between PECDAR and the Palestinian Authority.

The Palestinian authority budget deficit and its lack of success in improving tax collection

Thus far, the Palestinian Authority's budget deficit has not decreased. This is due to its inability to collect taxes in an efficient manner, and because the bulk of the promised assistance funds have not arrived—including the sums of money committed by Israel. According to Peace Watch sources, the Palestinian Authority spends some $30 million per month, while its income from taxation comes to $6 million per month. These figures are based on the Palestinian Authority's income and expenditures balance for the months of December 1994 and January 1995, but Peace Watch has learned that there has been no improvement in tax collection since then. As a result, in March 1995 the Palestinian Authority paid the salaries of its employees from loans it took from banks operating in the territories, and there is some concern that it will be unable to repay those loans—which could harm the future functioning of those banks.

It can be ascertained from statements made by Nabil Sha'ath upon his return from the Washington talks that the Palestinian Authority operating budget deficit will come out to some $136 million in 1995, but Israeli officials told Peace Watch of a projected Palestinian Authority deficit of some $250 million, given low expectations for efficient tax collection.

Given these figures, the Palestinian Authority is clearly in grave financial condition, especially since there are no expectations that it will be able to improve its tax collection capabilities in the near future.

At the informal Washington conference held on 4-5 April 1995, the donor countries promised to meet their original promises of development funding, but only if a complete distinction can be maintained between money earmarked for development assistance and the Palestinian Authority's operating budget. The Palestinians were therefore asked to hurry up the full implementation of their tax collection system, while Israel was asked to increase its assistance to the Palestinians in tax collection, pay its commitments and reduce to a minimum its closure policies.

According to Peace Watch sources, Israel is behind in paying its debts to the Palestinian Authority. Although it is difficult to calculate exactly how far behind schedule Israel is in its debt payment to the Palestinian Authority, estimates show it to be clearly at least $10 million behind. As stated above, Israel has committed itself to providing the Palestinian Authority with $5 million per year as an outright grant, in addition to the taxes collected for the Palestinian Authority by Israel, such as income taxes taken at the source from Palestinian labourers working in Israel. Israeli officials point out that it is difficult to estimate the true scope of Israeli debt to the Palestinian Authority, given the varied forms the debt takes, the difficulties in canceling out pre-payments given to the Palestinian Authority with unpaid debts, and the fact that Palestinian Authority debts to Israel, which are mainly unpaid electricity and telephone bills, must also be taken into account.

PEACE WATCH ISSUES CRITIQUE OF THE STATE DEPARTMENT REPORT ON PLO COMPLIANCE

Peace Watch issued a critique today of the U.S. State Department's June 1, 1995 report on PLO compliance. Peace Watch views the State Department report as a significant document on compliance that is worthy of being addressed. In its critique, Peace Watch notes a number of instances where the State Department report presents information which is inaccurate or misleading and, if uncorrected, might cause errors in understanding. In addition, the critique cites a number of cases in which the State Department's methodology in assessing compliance is at variance with methods generally employed by monitoring organizations.

It should be stressed that Peace Watch's critique does not aim to give an overall assessment of the State Department report. Similarly, Peace Watch only relates the report's statements about compliance, and takes no position regarding its policy recommendations. The critique's main points are:

The State Department report claims that it is evaluating PLO and Palestinian Authority (PA) compliance with all commitments. In practice, however, it focuses on five obligations undertaken in Chairman Arafat's letters of September 9, 1993, and largely ignores other obligations in the Declaration of Principles and especially in the Gaza-Jericho accords. It also focuses on improvement in compliance, rather than on the degree to which PLO behavior currently conforms to its legal obligations.

The State Department claims to "have no information that incidents of terrorism were perpetrated or organized by PLO elements under Arafat's control during the period covered by this report," that of December 1, 1994 to May 31, 1995. If this claim is correct, the State Department must be excluding from its definition of terrorism cases in which Fatah activists attacked and injured Israelis and killed Palestinians. This definition of terrorism is not standard, and the report should have stressed why it was adopted.

The report notes with approval that the PA set a May 14th deadline for the registration or confiscation of all guns. It neglects to mention, however, that virtually no steps were taken after the deadline elapsed which included two and a half weeks during the State Department's reporting period and that senior PA figures stated they do not plan to disarm Hamas or Islamic Jihad.

The State Department lists incidents in which PA leaders claim to have preempted attacks from being launched against Israelis, along with the proviso that they could not examine all cases. The State Department should have invested more effort in checking claims. At least one of the claims was publicly shown to be false, when it turned out that 200 kilograms of "explosives" was actually pesticides.

The report notes that the PA has given Israel partial lists of the individuals serving in its police force. It does not mention, however, that the actual obligation was to allow Israel to see all names in advance and exercise veto power, nor that the names of the most potentially troublesome recruits, veteran Intifada activists from Gaza and Jericho, were not submitted to Israel at all. The report notes that Israel has submitted three formal requests to the PA for the transfer of suspected terrorists from Gaza to Israel. The report nowhere states, however, that the PA rejected one of the requests, and has so far refused to give an answer in the other two cases.

The State Department makes no mention of the 7 Palestinian Authority institutions which operated in Jerusalem during the reporting period, even though there is an explicit prohibition on their doing so, making this a significant breach of compliance.

The report notes that "Israel officials have stated that the number of police in Gaza and Jericho exceeds the numbers permitted in the Gaza/Jericho agreement," implying that this claim is not necessarily accepted by others. It neglects to point out that the mandated limit is 9,000 policemen, and that the heads of the Palestinian police and the UN coordinator in the territories are on public record stating that the actual force has upwards of 15,000 policemen.

The report notes that the PA does not show adequate respect for human rights and the rule of law. It neglects to point out, however, that the PA held a number of trials at night, some of which lasted as little as 15 minutes. The report also ignores instances of torture during detention, and at least two cases in which Palestinian prisoners were killed in jail by their PA investigators.

PLO Self-Rule in Gaza and Jericho After One Year, May 4, 1994–May 4, 1995: An Assessment of PLO Compliance With the Israel-PLO Self-Rule Accords

(By Morton A. Klein)

EXECUTIVE SUMMARY

I. The PLO's Obligations

On May 4, 1994, PLO self-rule began in the Gaza Strip and the city of Jericho. The Israel-PLO self-rule accords require the PLO to "take all measures necessary in order to prevent acts of terrorism" against Israelis; to "abstain from incitement, including hostile propaganda" against Israel; to "take legal measures to prevent such incitement by any organizations, groups or individuals within [its] jurisdiction"; to adhere to "internationally-accepted norms and principles of human rights"; and to extradite suspected terrorists to Israel.

These requirements were in addition to the PLO's obligations under the September 1993 Israel-PLO peace accords: to "renounce the use of terrorism" and condemn individual acts of terror; to "assume responsibility over all PLO elements and personnel" to stop terrorism; to "discipline" those who engage in terrorism; to "encourage and call upon the Palestinian people in the West Bank and Gaza Strip" to "reject violence and terrorism"; and to make "changes" in the PLO Covenant to eliminate the 30 (out of 33) clauses that call for Israel's destruction or urge violence against Israel.

II. The PLO's Violations During the First Year of Gaza-Jericho Self-Rule

Senators Joseph Lieberman (D-CT) and Connie Mack (R-FL), in a letter to Secretary Christopher (on Dec. 9, 1994) wrote: "So long as the PLO and Mr. Arafat are not held to the commitments they have made, there will be no peace."

Throughout the first year of PLO self-rule in Gaza and Jericho, Arafat and the PLO have consistently violated virtually every major and minor requirement of the peace accords. Arafat has:

failed to take the necessary steps to prevent terrorism and combat terrorists, such as outlawing terrorist groups, prosecuting terrorists (so far only a token handful have been prosecuted); disarming terrorists; closing down terrorist bases; and making speeches condemning the terrorist groups and individuals who perpetuate terrorism;

failed to honor Israel's requests for the extradition of terrorist suspects;

failed to "discipline" PLO members and factions that engage in terrorism;

failed to condemn the 184 terrorist attacks that have taken place between May 4, 1994-May 4, 1995 (leaving 102 dead and 308 injured) [the total from September 1993 to April 1995 is 373 attacks, leaving 176 dead and 465 injured];

failed to change the PLO Covenant;

failed to make speeches to Arab audiences, denouncing anti-Israel violence;

failed to refrain from engaging in hostile propaganda against Israel, such as Arafat's speeches calling Israel "the Zionist enemy," hailing killers of Jews "heroes" and "martyrs," and repeatedly urging a jihad (Islamic holy war) against Israel;

failed to respect human rights (by torturing prisoners, banning newspapers, and more) and failed to implement democracy in the self-rule areas;

failed to refrain from taking steps relating to the ultimate sovereignty of the territories.

III. The PLO's Misuse of International Donations

The Clinton administration pledged to send $500-million to the PLO over a five-year period. Will that money be used properly? The British government is investigating the PLO's misappropriation of a $500,000 British donation, while Norway and the United Nations are investigating the disappearance of a $100,000 Norwegian grant to the PLO. A donation of $16-million for humanitarian projects in Gaza and Jericho was diverted to PLO military and propaganda activities in Lebanon and Jordan.

IV. Suggested Options for Congressional Action on U.S. Aid to the PLO

1. The U.S. could set a date, sometime later in 1995, by which U.S. aid will be terminated if the PLO is not complying with major requirements of the accords.

2. The U.S. could withhold specific amounts of U.S. aid in response to specific major PLO violations. Partial PLO compliance would permit continued U.S. funding, at reduced levels.

3. A bipartisan Congressional committee could be established, under the Senate Foreign Relations Committee and the House International Relations Committee, to help determine if the PLO is complying with the peace accords.

The State Department's reports, which have claimed that the PLO is complying, were seriously flawed and were criticized by leading Republican and Democratic members of Congress and U.S. Jewish groups such as AIPAC, the ZOA, and others.

PLO SELF-RULE IN GAZA AND JERICHO: BACKGROUND

On May 4, 1994, the Government of Israel and the Palestine Liberation Organization began implementing PLO self-rule in the Gaza Strip and the city of Jericho (the "Gaza-Jericho First" plan). The PLO was given control over all aspects of daily life—except for matters of external security—in Gaza and Jericho.

In exchange, the PLO agreed that its governing body in Gaza and Jericho, known as the Palestinian Authority, will "take all measures necessary in order to prevent acts of terrorism" against Israel and Israelis in the territories;[1] will "abstain from incitement, including hostile propaganda" against Israel; will "take legal measures to prevent such incitement by any organizations, groups or individuals within [its] jurisdiction";[2] will adhere to "internationally-accepted norms and principles of human rights and the rule of law";[3] and will extradite suspected terrorists to Israel.[4]

These requirements were in addition to the obligations that the PLO agreed to, and is required to fulfill, according to the text and side letters comprising the September 1993 "Declaration of Principles": to "renounce the use of terrorism" and condemn individual acts of terror;[5] to "assume responsibility over all PLO elements and personnel" to stop terrorism;[6] to "discipline" those who engage in terrorism;[7] to "encourage and call upon the Palestinian people in the West Bank and Gaza Strip" to "reject violence and terrorism";[8] and to make "changes" in the PLO Covenant to eliminate the 30 (out of 33) clauses that call for Israel's destruction or urge violence against Israel.[9]

When the Gaza-Jericho self-rule plan began, Israeli officials described it as an experiment that would determine if the PLO had sincerely transformed itself from the terrorist organization that is always was. it would be a test to determine if the PLO was interested in, and capable of, governing in a civilized, peaceful and democratic manner. The plan was "reversible," Israeli Deputy Foreign Minister Yossi Beilin noted. "If there are problems on the way to implementing the agreement and if they cannot control their opposition and there is no order, we will say we can't go on . . . As in any other agreement, there is the belief that both sides will be able to implement it and can be trusted, but if there is a clear violation, it will be more than understandable that we cannot adhere to it . . . the plan is conditional on the Palestinians being able to prevent Islamic fundamentalist groups who oppose the peace talks from carrying out terrorist attacks against Israel."[10]

One year has now passed since the beginning of PLO self-rule on May 4, 1994. Has the PLO lived up to its commitments?

THE PLO'S VIOLATIONS OF ITS SPECIFIC OBLIGATIONS

I. PREVENTING TERRORISM AND COMBATTING TERRORISTS

The peace accords require the PLO to "take all measures necessary to prevent" terrorists from attacking Israel or Israelis in the territories, and "take legal measures against offenders." Has it done so?

(a) PLO's Failure To Outlaw Terrorist Groups

Prime Minister Rabin has urged Arafat to "outlaw Hamas and Islamic Jihad," just as Israel and other countries have declared specific terrorist groups illegal. If Arafat took such action, membership in Hamas and Islamic Jihad, and any activity by those groups, would be prohibited. This would give the PLO greater legal ability to arrest terrorists and shut down their facilities. It would also send a powerful message to the Palestinian Arab community about the unacceptability of anti-Israel terrorism. Yet Arafat has not outlawed them.[11]

(b) PLO's Reluctance To Prosecute Terrorists

Throughout the first year of Gaza-Jericho self-rule, the typical response of the PLO to a terrorist attack by Hamas or other groups against Israelis has been to detain some members of the group in question, and then quietly release them within days or weeks. Prime Minister Rabin has described those PLO roundups as "just public relations,"[12] Ze'ev Schiff, the respected military affairs analyst for the Israeli daily Ha'aretz, has characterized them as "fictitious arrests."[13] Between August 1994 and April 1995, there was a total of eleven such roundups, in which a total of 800 people were detained, but nearly all of them were released within a short time.[14]

According to Major-General Nasser Yussef, commander of PLO police in Gaza and Jericho, the issue is not one of ability but of desire: "The Palestinian police can stop Hamas terrorists, but have not been given the instructions to do so . . . We cannot act without the instruction of the political echelon . . . When we receive instructions, we will stop them."[15]

Prime Minister Rabin has strongly criticized the PLO's behavior: "We don't feel that the Palestinian authority takes the measures that they can take against terror, Hamas, and the Islamic Jihad . . . The basic limitation that will decide the success of the agreement with the Palestinian (is) their readiness, not just capability, but readiness to use power against the extreme Islamic terror organizations."[16]

Foreign Minister Peres likewise remarked, in August 1994: "They [the PLO] are still not doing enough [about preventing terrorism]. The problem is terror of every kind, not just of Hamas—and that's their clear obligation. We demand a 100 percent effort, not 100 percent success."[17]

In February 1995, there were some media reports suggesting that the PLO had recently arrested several terrorists who were planning to attack Israelis. It was not clear if they were arrested because of their plans, or if they were arrested for different reasons and in the course of their interrogation disclosed their intention to attack Israelis. Commenting on these reports, a "senior Israel security official" told the Jerusalem Post: "We don't expect 100% success [by the PLO in preventing terrorism], but there should be 100% effort. Until recently, there was zero effort. Now there is 5% effort."[18] Israeli cabinet minister Shimon Shetreet questioned the significance of the reported PLO actions, saying "Here and there they happened to catch a car that had ammunition, so they stopped it. This is not preventing terror. I have not heard that they have disarmed the Islamic Jihad or the Hamas, that train themselves openly, that dance when there is a terrorist activity in our cities and that burn as a matter of daily activity the flag of Israel."[19]

In February, Arafat claimed that the PLO police had prevented six terrorist attacks against Israelis. A few weeks later, he said the number was ten. But at the news conference where he made the claim, Arafat refused to divulge any details about the alleged prevention of anti-Israel terror.[20] A spokesman for the Israeli Army intelligence division said that Israel "has no way of confirming" the PLO's claims.[21] Another Israeli official said that "There are, let's put it mildly, discrepancies between what we know and what we are told" about the PLO's supposed success in stopping terror attacks.[22] American diplomats have told the Washington Post that in addition to Arafat's refusal to provide details in public, "he had provided few in private."[23]

In one instance, the PLO police showed reporters two of the alleged captured terrorists. The two, aged 19 and 16, were described by the police as members of the Islamic Jihad organization, although spokesmen for that group denied that they were members. According to the police, the two were receiving "religious preparation on Islamic concepts of martyrdom," and therefore were presumed to be planning a terrorist attack. However, when questioned by reporters, the police conceded that the teenagers had not been found to be in possession of any weapons, and that there was no evidence that they had chosen any specific targets to attack.[24] Was this really a case of the PLO foiling a terrorist attack against Israel, or were the teenagers falsely presented as terrorists in order to deceive critics of the PLO's failure to crack down on terrorist groups . . . ?

Another of the alleged terror plots that may have been included in Arafat's estimate was the case of Majdi Abu-Hilal, who was arrested by the PLO police in early February 1995, on the grounds that he was in possession of 200 kilograms of explosive material. The police officers who interrogated Abu-Hilal soon realized that, in fact, the material in question was used for cleaning bird hatcheries and had no connection to any terrorist plans. Abu-Hilal later told the Gaza newspaper El-Watan his interrogators said they would nevertheless keep him in prison for some time longer so that the Palestinian Authority could tell "the Israelis they succeeded in capturing explosive material." Abu-Hilal quoted one of the investigating officers as saying that "we will keep you until after the Rabin-Arafat meeting at the Erez Checkpoint for propaganda purposes."[25]

During a joint press conference with U.S. Vice President Al Gore in Jericho on March 24, 1995, Arafat promised to take unspecified action against "those who are jeopardizing the peace process." Israeli officials told the Washington Post that they regarded Arafat's statement as "empty," since he "has promised a crackdown many times." The Post noted that just before Vice President Gore arrived, Arafat delivered a speech in Jericho's municipal square in which he "singled out just one Palestinian for praise: 'my beloved brother Skeikh Ahmed Yassin,' the spiritual leader of the Islamic Resistance Movement, or Hamas."[26]

After two Arab terrorist attacks in Gaza that killed eight Israelis and injured 59 on April 9, 1995, the Palestinian Authority detained a number of suspects. How many were actually seized is unclear; the San Francisco Chronicle put the number of detainees at 170; the Associated Press reported that the number was "nearly 200"; while the Los Angeles Times reported that 300 had been detained.[27] By April 14, just five days after the attacks, the arrests had ceased and by April 16, half of the detainees had been set free.[28] In any event, none of those detained in April were actual terrorists, according to the Jerusalem Post. It quoted Brigadier Samir Siksik, a spokesman for PLO police commander Nasr Youssef, as saying that there had not yet been "an order from the political level" for the "roundup of the hard-core terrorists."[29]

PLO spokesman Faisal Husseini asserted on April 14 that the PLO "will take no more moves against Islamic extremists until Israel implements in full the 1993 agreement." Husseini said if there were a crackdown on the terrorists, "people will turn against us."[30] In addition, a senior Hamas leader who openly vowed "that no one from his group would turn in his weapon" took part in an April 16 public panel discussion with one of Arafat's top aides, Nabil Sha'ath.[31]

At the same time, the Palestinian Authority claimed that it had sentenced five Palestinian Arabs to prison terms. The first of the convicts, Islamic Jihad activist Samir Ali Jedi, was prosecuted not for attacking Israelis but for mistreating six young Muslim terrorists (Jedi had buried them alive for several minutes to test their resolve).[32] Two of the five convicts were punished for taking part in the murder of an Israeli, but they were sentenced to just two years in prison each.[33] Since the alleged court proceedings were held late at night and behind closed doors, many of the details remain shrouded in secrecy.[34]

Has Arafat undertaken a serious crackdown on terrorists? The chief of Israeli Army intelligence, General Uri Saguy, said that despite the alleged sentencing, "Arafat has not yet implemented any real change in policy aimed at battling extremists."[35] Commenting on the roundups and sentencing, Prime Minister Rabin criticized Arafat "for not taking stronger steps to control terrorism."[36] Major-General Shual Mofaz, chief of the Israeli Army's Southern Command, met with Arafat while the 'crack down' was underway. Mofaz said afterwards that "it is obvious that he lacks the determination to stop Hamas and other terrorists."[37]

(c) PLO's Failure To Disarm Terrorists

Asked by an interviewer (on Radio Monte Carlo) if he was willing to "disarm opposition organizations," Arafat replied by asking "Why?" and complained that the Israeli government had not disarmed those who attended a recent rally by rightwing Jews.[38] On other occasions, Arafat has explicitly asserted that "I am not going to fight Hamas terrorists"[39] and that he "will not disarm Hamas."[40] After Arafat made a statement saying he would fight against "terrorism," but "not against Hamas," Israeli Foreign Minister Shimon Peres criticized Arafat as "smart-alecky—because it's Hamas that is setting terror in motion."[41]

According to Israeli media reports, the PLO police in Gaza have confiscated just 11 of the more than 26,000 illegal weapons that are in the hands of private citizens.[42] Arafat's senior police officials confirm that no disarming of terrorists has been ordered. Asked by the Washington Post why no such order had been issued, Major-General Nasser Yussef, police commander for the terrorists, replied, "You can check up there with the big man. We are awaiting the instructions of the political leadership."[43] Likewise, Ghazi al-Jibali, the PLO police chief for Gaza, has declared that "the police will not disarm Hamas activists."[44] Jibril Rajoub, PLO security chief for Judea-Samaria, has gone even further, asserting: "We sanctify the weapons found in the possession of the national factions which are directed against the occupation . . . If there are those who oppose the agreement with Israeli, the gates are open to them to intensify the armed struggle."[45]

(d) PLO's Statements Defending Hamas

On numerous occasions, both Arafat and his senior aides have publicly praised Hamas or its leaders. In his address upon entering Gaza for the first time, in July 1994, Arafat said, "I send a warm blessing to all the prisoners and first among them, the Sheik Ahmed Yassin [the imprisoned Hamas leader]. Indeed, I say to you, and I say to him, be sure my brother that we are with you, Ahmed Yassin, and we will not rest or be quiet until you stand with us here, here, here." In the same speech, Arafat referred to Yassins as "my brother Ahmed Yassin the warrior."[46]

Farouk Kaddoumi, the PLO's "foreign minister" has said that "Hamas attacks against Israeli soldiers are still legitimate in the West Bank . . . I'm calling on them to continue this as long as the Israelis are there."[47] Kaddoumi has also said that "Hamas are our brothers in the struggle."[48]

(e) Collaboration Between the PLO and Hamas

Israeli "security sources" told the Jerusalem Post in January 1995 that Arafat not only "refuses to crack down on Islamic terrorists" but in fact "has quietly encouraged them . . . Senior General Security Services officials, including its head, have concluded that Arafat regards Hamas and Islamic Jihad as essential for the Palestinians to achieve concessions [from Israel]."[49]

In early 1994, Muin Shreim, first counselor to PLO's Mission to the United Nations, had this to say about the PLO-Hamas relationship: "We don't disagree with [Hamas]. Our tactics vary; our schedules might vary . . . There is a local cooperation between Fatah and Hamas."[50] An investigation report by the Washington Jewish Week confirmed that the PLO "has quietly built up a working relationship with [Hamas] . . . beginning with a little-known non-violence pact signed by both factions. This newfound close coordination between the PLO and Hamas raises the question of which group, in the end, will be co-opted."[51] Shortly thereafter, the Jerusalem Post quoted "Israeli and Arab intelligence sources" as saying that there was evidence of "increasing cooperation between Hamas and members of Arafat's Fatah organization . . ."[52]

Asked by an interviewer on Radio Monte Carlo, in February 1995, about his relationship with Hamas and the other "opposition factions," Arafat replied by urging those groups to "carry out operations from the Syria borders, or the Jordanian borders," rather than within the self-rule areas, which could result in Israeli relation against the PLO. Once again, in April, Arafat urged Hamas to refrain from launching attacks "from areas under his political control," implying that he had no objection to attacks against Israelis from areas not under his control. His approach suggested that the difference between the PLO and Hamas is tactical rather than ideological.[53]

PLO "foreign minister" Farouk Kaddoumi put it this way: "The Hamas movement is a national movement, whose methods may differ from ours, but it is still part of the national struggle. This movement is different than extremist movements, which exist today in various nations. We have ties with the Hamas. This movement can take any position, as it wishes."[54] According to Ehud Barak, the then-Chief of Staff of the Israeli Army: "The PLO and Hamas are two faces of the national movement, with very similar long-term goals in all that regards Israel."[55]

II. EXTRADITING TERRORISTS TO ISRAEL

The peace accords require the PLO to honor requests by Israel for the extradition of terrorists who have taken refuge in the Gaza and Jericho selfrule areas.

Yet the PLO has rejected Israel's request for the extradition of Arab terrorists Ragah Abu-Sitra and Amru Abu-Sitra, who murdered an Israeli. In addition, the PLO has ignored five other Israeli requests for the extradition of terrorist suspects. And it has ignored Israel's request for the extradition of 10 fugitive Arab terrorists who were included among the graduates of a recent PLO police training program in Jericho.[56]

PLO officials have given no indication that they have any intention of extraditing any terrorists who were included among the graduates of a recent PLO police training program in Jericho.[56]

PLO officials have given no indication that they have any intention of extraditing any terrorists to Israel. PLO police chief Nasser Yussef has said that his forces "will refuse to hand over to Israel alleged perpetrators of operations against the Jewish State who seek refuge in the self-rule area."[57]

III. "DISCIPLINING" TERRORISTS

The peace accords require Arafat and the PLO to "discipline" any PLO members who violate the pledge to halt terrorism. This is intended to deter terrorism both by making terrorists pay a price for their deeds and sending a message to the broader Palestinian Arab community about the unacceptability of violence.

There are a variety of punitive measures Arafat could take. For example, if individual members of Arafat's Fatah faction of the PLO commit terrorism on their own, they could be expelled from Fatah.

The PLO is an umbrella organization, to which nine factions belong, including several factions that openly reject the peace accords and continue to practice terrorism, such as the Democratic Front for the Liberation of Palestine (DFLP) and the Popular Front for the Liberation of Palestine (PFLP). Arafat could expel them from the PLO altogether.

During the first year of Gaza-Jericho (May 4, 1994–May 4, 1995), Arafat took no "disciplinary" steps against any Arab terrorists or terrorists groups in the PLO.

IV. CONDEMNING TERRORISM

The peace accords require Arafat to "renounce terrorism." Congress, in the Middle East Peace Facilitation Act of 1994, expressed its conviction that Arafat's obligation includes "condemning individual acts of terrorism and violence." President Clinton has also said that Arafat "is duty-bound at a minimum to condemn" individual acts of terrorism.[58]

During the first year of Gaza-Jericho, there were at least 184 Arab terrorist attacks (leaving 102 dead and 308 injured). (Note: These figures are part of the total of 373 attacks—including 176 murders and 465 injuries—that took place between the signing of the Israel-PLO peace accords, on September 13, 1993, and the beginning of Gaza-Jericho self-rule, on May 4, 1994.)

Of the 184 attacks, 164 of them were carried out by non-PLO groups, such as Hamas and Islamic Jihad. Twelve of the attacks (killing 12, wounding 1) were carried out by Fatah or the Fatah Hawks, which are Arafat's own wings of the PLO. Eight of the attacks were carried out by other factions of the PLO: 3 (in which 2 people were killed, and 2 wounded) by the Democratic Front for the Liberation of Palestine (DFLP) and 5 (in which 1 person was killed, and 7 wounded) by the Popular Front for the Liberation of Palestine (PFLP).

Arafat did not explicitly condemn any of these attacks, nor did he condemn the individual perpetrators. (The closest he came was when he referred to one attack as "condemnable." In addition, in response to an attack in October 1993—prior to the beginning of Gaza-Jericho self-rule, Arafat, under severe U.S. and Israeli pressure, issued a terse, three-sentence fax that was read by a spokesman, condemning a terrorist attack.[59])

On several other occasions, PLO officials claimed to Western journalists that Arafat had privately "condemned" terrorist attacks. For example, after the January 1995 massacre of 21 Israelis in Beit Lid, PLO officials quoted Arafat as having said that the attack was a criminal one that threatens the entire peace process" and "harmed the prospective release of prisoners and the transfer of authority." Arafat himself, however, declined to make any public statement of condemnation on that or other occasions. Following the April 1994 attack on a bus in Afula (in which 8 Israelis were killed and 50 injured), Arafat abruptly walked away without comment when reporters asked if he condemned the attack.[60] In the case of the August 1994 murder by Arab terrorists of two Israeli construction workers, Arafat said the killing was just "a labor dispute."[61]

The Jerusalem Post, quoting an analysis by an Israeli Army intelligence officer who monitors PLO statements, reported that in Arafat's remarks about anti-Israel terrorism, "There is no use of the word 'condemn' or 'criticize' in any of his statements . . . Arafat, in his comments in Arabic, had used the word assaf which means 'sorry,' but had refrained from using istinkar, tandid, or shajab, even to condemn the attack in general terms."[62]

V. CHANGING THE PALESTINE NATIONAL COVENANT, WHICH CALLS FOR THE DESTRUCTION OF ISRAEL

The peace accords require Arafat to "submit the [PLO Covenant] to the Palestinian National Council [PNC] for . . . the necessary changes" so that the articles of the Covenant no longer "deny Israel's right to exist" or urge violence against Israel.

The Covenant was adopted at the time of the establishment of the PLO, in 1964. (At the time, the Arabs ruled the administered territories of Judea, Samaria [the West Bank], Gaza, Sinai, Golan Heights and eastern Jerusalem.) It defines the ideology and strategy of the PLO, and, according to the PLO Constitution, is binding upon the PLO's member-organizations. It can only be changed (according to Article 33 of the Covenant) by a vote of a two-thirds majority of the total membership of the PLO National Council. (The current total membership is 480).

Articles 15, 19, 20, 22, and 23 of the Covenant directly deny Israel's right to exist, by declaring that the purpose of "the liberation of Palestine" is to attain "the elimination of Zionism in Palestine" (15) and that "the partition of Palestine in 1947 and the establishment of the State of Israel are entirely illegal, regardless of the passage of time." (19) These articles also redefine Judaism as "a religion, not an independent nationality" which is therefore unqualified for statehood. (20).

Articles 1–6, 8, 11–14, 16–18, 21, 24–26, 28 and 29 indirectly deny Israel's right to exist, by granting the Palestinian Arabs the sole legal and historical right to the Holy Land and by denying the right of any Jews to live there except those who were already residing there prior to "the beginning of the Zionist invasion," in 1917. (Thus, those Jews who arrived, or were born, in the Holy Land in 1918 or later—meaning nearly all of today's Israelis—are considered by the PLO to be illegal aliens.)

Articles 7, 9 and 10 directly call for the use of "armed struggle" (violence) against Israel.

Articles 27 and 30 indirectly call for the use of violence.

Thus, a total of 30 of the 33 articles in the Covenant either directly or indirectly deny Israel's right to exist, or directly or indirectly call for the use of violence against Israel. All of these would have to be deleted or at least substantially altered in order to conform with the terms of the Israel-PLO peace accords. (The remaining three articles would not have to be changed.)

During the first year of Gaza-Jericho, Arafat took no steps to change the PLO Covenant. In July 1994, Arafat said in Paris that he would convene the PNC "in the very near future."[63] But he has not done so. Indeed, Radio Monte Carlo reported that on August 10, 1994, Arafat sent a message to PLO delegations in Arab countries, assuring them that "I will never give my hand to the annulment of one paragraph of the Palestinian National Covenant."[64]

At a press conference with Foreign Minister Shimon Peres in Gaza on August 20, 1994, Arafat blamed Israel for his failure to change the Covenant, claiming that a session of the Palestine National Council could not be held because "many of our leaders have been prevented from arriving in Gaza or Jericho. There are still security blankets on the other side." Peres interrupted Arafat, saying "I told the chairman we shall not object to having the PNC meet in Gaza and invite all its members to come and participate in the meeting."[65] Arafat made no further comment. Peres later expressed disappointment at Arafat's attitude: "We have an agreement with the PLO, not with Tunis, and we expect Arafat to honor what he has promised. I hope they will not once again label themselves as those who do not keep commitments."[66]

Other PLO officials have made similar statements about the Covenant. Nabi Sha'ath has said that the Covenant will not be changed prior to the holding of elections in the territories.[67] Farouk Kaddoumi has said that the Covenant will not be changed "until an Israeli withdrawal is completed from all Arab territories," until the signing of peace treaties between Israel and "all Arab partners" and until Israel recognizes the establishment of a Palestinian state.[68] According to PNC Deputy Speaker Salim Za'Noun, the PNC will not be convened to consider the issue "until all Palestinian prisoners are released."[69] Jihad Karshuli, director of the PLO's department of Education, Culture, and Science has said that the Covenant "is holy to the Palestinian people." Before it is changed, Karshuli asserted, Israel should "void the charter of the Zionist movement which calls for the establishment of greater Israel from the Euphrates to the Nile."[70] (In fact, the Zionist movement never had any such charter, nor has any Zionist faction ever advocated such a position.) On August 20, 1994, the Central Committee of Arafat's Fatah wing of the PLO declared the Covenant will not be changed before Israel recognizes the establishment of a Palestinian state with Jerusalem as its capital.[71]

IV. URGING ARABS TO REJECT TERRORISM

The peace accords require Arafat to "call upon" Palestinian Arab audiences in the territories to "reject terrorism and violence."

Israel's leaders insisted that the peace accords include a requirement that Arafat make such appeals both because they would demonstrate that Arafat has sincerely transformed himself from being a terrorist, and because they could influence the Palestinian Arab masses to change, too. Such speeches are necessary to begin to change the atmosphere and create a new moral tone among the Palestinian Arabs, and to make it crystal clear that the Palestinian Arab leadership will not tolerate this continuing and escalating violence. It would send a loud and clear message to the Arab world that terrorism is immoral and must cease.

Instead of making speeches opposing anti-Israel violence, Arafat has made many belligerent speeches inciting violence against Israel. Best-known perhaps, are his repeated calls for jihad (Islamic holy war) against Israel. Speaking to a Muslim audience in South Africa on May 10, 1994, Arafat called for a jihad against Israel.[72] On November 21, 1994, Arafat vowed to a Gaza audience that "this Palestinian people will continue, will continue their struggle and jihad . . . until a young girl from Fatah raises the flag of Palestine over the walls of Jerusalem, over the churches of Jerusalem, over the minarets of Jerusalem."[73] He told a Gaza audience on January 3, 1995 that "we have the weapon of faith, the weapon of martyrdom, the weapon of jihad."[74] Speaking by telephone to an Arab rally in Hebron on February 14, 1995, Arafat declared "Our nation is a nation of sacrifice, struggle and jihad."[75]

In a speech to an audience of young Palestinian Arab women in Gaza, in January 1995, Arafat said "We are proud of the role of Palestinian women, from Avir to Dalal." He was referring to two prominent female PLO terrorists, one who was involved in the murder of an Israeli in Ramallah, and another who took part in the Tel Aviv Highway Massacre of 1978, in which 38 Israelis were killed.[76] In another speech, he praised the killers of Jews as "heroes."[77]

Arafat has also publicly praised the violent Palestinian Arab intifada, saying that is must "continue, continue, continue."[78] He has declared (on the very day that he received his Nobel Peace Prize) that "the intifada will continue until Palestine is redeemed with blood and fire."[79] Speaking in Gaza on November 15, 1994, Arafat referred to Israel as "the Zionist enemy" and described the peace accords as the first phase in the PLO's traditional "Strategy of Phases" for destroying Israel step by step.[80] A message sent by Arafat to PLO officials in Arab countries in November 1994 likewise referred to Israel as "the Zionist enemy" and asserted that the creation of a PLO state in the territories "can continue the struggle to remove the enemy from all Palestinian lands."[81]

Senator Arlen Specter (R–PA), who is co-chair of the bipartisan Peace Accord Monitoring (PAM) Group in the U.S. Senate, has urged Arafat to "make a major public address, delivered in Arabic on radio and television, call[ing] for an end to the use of violence against Israel."[82] Arafat did not reply.

PLO officials have given a variety of explanations when questioned about Arafat's speeches. Asked why Arafat had not made speeches to Arab audiences, in Arabic, against violence, Nabil Sha'ath said it was because "he is not a very good public speaker, particularly in English." Sha'ath did not explain why Arafat has frequently made anti-Israel speeches.[83] When the PLO's director of economic affairs, Ahmed Qreia (Abu Alla) was asked about Arafat's anti-Israel speeches, he replied that Arafat "never made any such speeches."[84]

VII. ANTI-ISRAEL PROPAGANDA

The peace accords require the PLO to "abstain from incitement, including hostile propaganda" against Israel and "take legal measures to prevent such incitement by any organizations, groups or individuals within their jurisdiction."

In addition to Arafat's numerous hostile speeches against Israel (see section VI of this study), numerous PLO officials have engaged in anti-Israel propaganda during the first year of Gaza-Jericho self-rule. Arafat and the PLO have taken no action against any of them.

For example, in recent interviews, the PLO's Foreign Minister, Farouk Kaddoumi, has denounced "the Israeli enemy" and asserted that terrorist attacks against Israelis "are still legitimate."[85] At a meeting of United Nations groups in Geneva in December 1994, PLO representative Nabil Ramlawi compared Israeli behavior to that of "the Nazis during World War II."[86] When three heavily-armed veteran Arab terrorists, on their way to carry out an attack were killed by Israeli soldiers in April 1995, senior Arafat aide Nabil Sha'ath declared: "I express sorrow at the killing of three Palestinian martyrs."[87] On April 13, 1995, the PLO's Minister of Justice, Freih Abu Meddein, told an Arab audience in Gaza: "The greatest enemy of the Palestinian people, now and always, is the Israelis."[88]

The PLO has also published hostile propaganda against Israel. In the spring of 1995, the Ministry of Information of the PLO's Palestinian Authority issued two sharply anti-Israel booklets.

The first booklet was entitled "Jewish Immigration to Palestine and its Devastating Effects on the Peace Process." In some sections, the booklet used the term "Palestine" to refer to the administered territories; but in other sections, it referred to all of Israel as "Palestine," in effect condemning all Jewish immigration to both Israel and the territories. The booklet attempted to demonstrate a connection between Jewish immigration and what it called Israel's "atrocities," "thievery," and "confiscation of Palestinian land," which it traced to "the Zionist mentality" (pp. 3–4) and "Zionist expansionist goals" (p. 6). It accused Israel of having a secret "plan," according to which "the original inhabitants [of the territories] will be uprooted from their land and replaced by new immigrants" (pp. 6–7).[89]

The second booklet was entitled "Palestinian Refugees and the Right of Return." It rejects both the 1917 Balfour Declaration the 1947 United Nations Partition Plan, and alleges that "brutalities were perpetrated by the Jews against the Palestinians."[90]

In addition, the PLO took no action against the public staging, in Gaza, of a skit praising the kidnap-murder of Nachshon Waxman, an Isaeli soldier.[91]

VIII. HUMAN RIGHTS ABUSES

According to the peace accords, the PLO's Palestinian Authority (PA) must "adhere to internationally-accepted norms and principles of human rights and the rule of law."

During the period since the beginning of self-rule in Gaza and Jericho, the PA "has committed a number of disturbing human rights violations," including the torture and murder of prisoners and the suppression of opposition newspapers, according to a study by the organization Human Rights Watch.[92]

There have been at least two, and possibly three, cases of Palestinian Arab prisoners being beaten or tortured to death by the PLO police. Farid Jarbua, 28, of Gaza, was killed in July 1994,[93] and Salman Jalayta, 45, of Jericho, was killed in January 1995.[94] A third prisoner, Rashid Fityani, 23, of Jericho, has been missing since January 1995 and according to some media reports, was killed by his PLO interrogators.[95]

Prisoners who are suspected of having cooperated with Israel have been subjected to beatings by their PLO captors. (Prisoners affiliated with Muslim terrorist groups have only rarely complained of physical mistreatment.[96]) Tareq Abu Rajab, an official of the PLO's General Intelligence branch, has admitted that prisoners are sometimes deprived of sleep or forced to stand for periods of time.[97] In other cases, PLO interrogators beat prisoners with electric cables.[98] Many other human rights abuses by the PLO police have gone unreported because the victims are afraid to complain.[99] Asked by an interviewer if lawyers are permitted access to the Jericho prison, PLO security chief Jibril Rajoub replied: "Yes, there is a lawyer there to supervise. A lawyer from our Preventive Security."[100]

The PLO has taken other action against its Arab political opponents. Raji Sourani, a 41 year-old attorney who heads the Gaza Center for Rights and Law, was arrested by the PLO police and charged with "incitement" after he publicly expressed concern about "the militarization of Palestinian society and its institutions."[101]

There have also been reports of violent abuse of civilians by the PLO police in Jericho. An investigative report by Israel's second-largest daily newspaper, Ma'ariv, concluded that "random beatings, rapes, and torture" by the more than 1,000 PLO policemen in Jericho have "turned the lives of the city's 12,000 residents into a living hell." The article described several brutal rapes by PLO policemen that the PLO leadership has refused to investigate on the grounds that in each case, "she consented." The Ma'ariv report also recounted the case of a Christian Arab from Bethlehem, Victor Alias, who was arrested in Jericho for publicly criticizing a PLO policeman's violent behavior. Alias was severely beaten in prison and forced by his interrogators to chant Muslim religious sayings.[102] According to the national U.S. Jewish weekly Forward, the city of Jericho has become "the world's smallest police state."[103]

The PLO has also repeatedly taken action to suppress or intimidate Arab newspapers that have deviated from the Arafat line. In July 1994, the PLO blocked distribution of the An-Nahar newspaper and the magazine Akhbar al Balad because they were, in the PLO's words, reflecting "a line that contradicts the national interests of the Palestinian people."[104] The PLO also ordered another Palestinian Arab newspaper, Al Quds, to stop using the byline of its reporter Daoud Kuttab, because he signed a petition criticizing the closure of An-Nahar.[105] Five weeks later, An-Nahar was allowed to resume publication when its editors publicly pledged their loyalty to the PLO.[106] But in November 1994, the PLO suspended distribution of An-Nahar and another newspaper, Al-Quds, for five days as punishment for having given coverage to Arafat's rivals.[107] In February 1995, the PLO banned the publication of the Gaza-based magazine Al Rafed because it disapproved of its editorial slant.[108] In March 1995, the PLO police seized shipments of another Gaza magazine, Sahil al-Filastini because it contained an article critical of PLO police officials. The magazines were released two days later, with the article removed.[109] In April 1995, PLO police raided the Gaza home of Palestinian Arab journalist Taher Shariteh (of the Reuters News Agency), whose reporting has displeased PLO officials. Not finding Shariteh at home, the PLO policemen beat his brother unconscious with their rifle butts.[110] At the same time, Shariteh's other brother, a CBS-TV cameraman, and several other Palestinian Arab journalists were detained by the PLO police for having quoted critics of the PLO leadership in their reporting. They were subjected to seven hours of interrogation, and then released with a warning "not to incite people with their reporting."[111]

Bassam Eid, a Palestinian Arab activist who works for the Israeli organization B'Tselem, has said: "The whole attitude of the Palestine National Authority is one of 'Don't interfere in the affairs of the regime.' It's like Syria or Iraq. We're still in the Arab mind-set, which has no idea of the meaning of the word democracy."[112] The situation is so desperate that Eid has "called on the international community not to give funds to the new Palestinian Authority unless it guarantees freedom of expression and practices democracy."[113]

Local human rights activists have not fared well under PLO rule. Raji Sourani, head of the Gaza Center for Human Rights and Law, was arrested by the PLO police in February 1995 when he publicly questioned Arafat's commitment to human rights. He was released, but when he again publicly criticized the PLO leadership, in March, he was fired from his job.[114] When the Gaza Center for Human Rights tried to hold a public seminar on human rights in March, Gaza police chief Ghazi Jabali announced that it could not be held because "it planned to discuss internal Palestinian affairs with foreigners."[115]

Human Rights Watch concludes: "[T]he PA has not demonstrated a commitment to installing a rule of law. It is responsible for a series of arbitrary and repressive measures while at the same time failing to make clear what laws and regulations are in effect and to show any commitment to investigating and punishing human rights violations."[116]

IX. POSTPONING SOVEREIGNTY ISSUES

The peace accords require issues concerning sovereignty over the administered territories to be postponed until the 1996 "final status" negotiations between Israel and the PLO. Yet the PLO continues to use stationery featuring a map which labels all of Israel as "Palestine."[117] The stationery is headed "State of Palestine," and Arafat refers to himself as "President of Palestine."[118] Similarly, a map distributed by PLO official Faisal Husseini shows all of Israel as "Palestine." It also characterizes the cities within Israel's pre-1967 borders, such as Tel Aviv and Haifa, as "Jewish settlements." Questioned by reporters, Husseini defended the map and said it would not be changed unless "the process moves ahead, and there is an agreement."[119]

In an attempt to stake a claim to sovereignty in parts of the territories beyond Gaza and Jericho, and in Jerusalem, the PLO has undertaken a number of official activities in those areas. The PLO's bureau of municipal affairs issues orders to the chairman of town councils throughout the territories.[120] The PLO's police force carries out a variety of operations in the territories and in Jerusalem.[121] Seven branches of the Palestinian Authority are operating in Jerusalem: its Statistics Center, Energy Center, Religious Affairs division, Office of the Mufti, Broadcasting Authority, Economic Council for Development and Reconstruction, and Orient House which as a de facto foreign ministry. In addition, a branch of the PA's Transfer Office has been established in Ramallah, and the PA's Education Office is headquartered in Bethlehem.[122] The Palestinian Authority has issued a variety of documents apparently intended to give the impression that it has the powers of a sovereign state, including passports, postage stamps, and international drivers' licenses.[123] The PA has also taken control of the twenty Muslim schools operating in eastern Jerusalem.[124]

CONCLUSION

In December 1994, the Office of the Israeli Chief Military Judge-Advocate for International Law, acting on behalf of the Israeli government, published a lengthy report detailing the PLO's consistent, numerous and flagrant violations of virtually every major and minor aspect of the Gaza-Jericho self-rule agreement. The report listed military violations, economic violations, civil violations, and foreign relations violations.

These continuing violations have led many Israelis to the conclusion that the Gaza-Jericho experiment is failing. Recent public opinion polls have shown that a majority of Israelis oppose further concessions to the PLO. A recent study by the prestigious Jaffee Center for Strategic Studies, at Tel Aviv University, found that only 36% of Israelis still support the peace process. A mid-April 1995 survey by Israel's largest daily newspaper, Yediot Ahronot, found just 30% of Israelis support continuation of the current peace process, while 69% favor suspending or stopping the process. Numerous leading Israelis from across the political spectrum have called for a suspension of the Israeli-PLO negotiations, including members of Prime Minister Rabin's own Labor Party, such as cabinet minister Binyamin Ben-Eliezer, Labor Knesset Member General Avigdor Kahalani, the outgoing Israeli Army Chief of Staff, General Ehud Barak, and President Ezer Weizmann, who has twice publicly called for a halt to the talks.[125]

The PLO's misrule in Gaza and Jericho also has serious implications from the American perspective, since the Clinton administration has lent its prestige, credibility and political support to the PLO, and has committed a substantial amount of U.S. taxpayers' money to the Gaza-Jericho experiment, pledging to send $500-million over a five-year period. Americans have good reason to be concerned about how the PLO will use the foreign donations that it receives. In 1994, Britain's Overseas Development Agency sent $5-million to pay the salaries of 9,000 PLO policemen, with specific instructions that none of the money be given to Arafat's plainclothes "preventive security forces"—yet more than $500,000 was given to those forces, prompting a British government investigation.[126] Meanwhile, Norway's attorney general and a United Nations oversight committee are investigating the disappearance of a $100,000 Norwegian, grant for a PLO agricultural project.[127] In August 1994, $16-million in international contributions that were supported to go for humanitarian projects in Gaza and Jericho was diverted to PLO military and propaganda activities in Lebanon.[128] On December 31, 1994, the PLO's Palestinian Authority took $1-million in international donations and gave it to the PLO "Martyrs Fund," in Amman.[129] Although the peace accords permit the PLO to maintain a police force of 9,000, Arafat has hired 16,000, paying them, in part, by misappropriating donations that were sent from abroad for other purposes.[130]

No wonder that, as Senator Richard Shelby (R–AL), co-chair of the Peace Accord Monitoring (PAM) Group in the U.S. Senate, recently pointed out, increasing numbers of Americans citizens look at the PLO's rule in Gaza—which has been characterized by totalitarianism, corruption, human rights abuses, terrorism and internecine violence—and "wonder why we should be pouring money into a sinkhole of deepening chaos and disorder."[131]

Meanwhile, at the request of Rep. Benjamin Gilman (R-NY), chairman of the House International Relations Committee, the General Accounting Office (GAO) is conducting an investigation to determine the extent of the PLO's financial assets.[132] A study in 1993 by Great Britain's National Criminal Intelligence Service concluded that the PLO has worldwide assets of $7–$10 billion and an annual income of $1.5–$2 billion.[133] If the GAO determines that the PLO does indeed have substantial sums of money at its disposal, American citizens will justifiably wonder—for this reason alone—why they should contribute additional hundreds of millions of dollars to Arafat.

SUGGESTED OPTIONS FOR CONGRESSIONAL ACTION ON U.S. AID TO THE PLO

1. The U.S. could set a date, sometime later in 1995, by which U.S. aid will be cut off if the PLO is still not complying with the accords.

For example, if by the specified date the PLO is not complying with major requirements of the accords, such as preventing terrorism and combatting terrorists, changing the PLO Covenant (which calls for Israel's destruction), disarming terrorists, and extraditing terrorists to Israel, U.S. aid would be terminated.

Nearly two years have passed since the Israel-PLO peace accords were signed, and a year has passed since PLO self-rule began in Gaza and Jericho on May 4, 1994. The United States has been more than patient in waiting for Arafat and the PLO to stop violating the accords. It is time to use U.S. aid as leverage to stop the violations, which are destroying hopes for any real peace.

2. The U.S. could withhold specific amounts of U.S. aid in response to specific major PLO violations.

There could be specific deductions in U.S. aid in accordance with specific PLO violations of major aspects of the accords, such as preventing terrorism and combatting terrorists, changing the PLO Covenant, disarming terrorists, and extraditing terrorists to Israel.

Making such specific deductions is exactly what the Clinton Administration has been quietly doing with the $10-billion in loan guarantees that the U.S. approved for Israel in 1992. The State Department calculates how much Israel spends in Judea, Samaria, Gaza, Golan, and eastern Jerusalem, and then deducts that amount from the loan guarantees as punishment ($653-million was deducted in 1993–1995). If U.S. aid to Israel is significantly reduced because the Administration disapproves of a particular Israeli policy, why shouldn't the same principle apply to the PLO? If a loyal democratic ally is subjected to financial penalties, shouldn't a totalitarian organization that is responsible for numerous murders of Israelis and Americans (such as Cleo Noel, the U.S. ambassador to Sudan in 1973, and the U.S. tourist Leon Klinghoffer, aboard the *Achille Lauro* in 1990) be subjected to comparable penalties?

Withholidng specific amounts of U.S. aid from the PLO would be a practical and appropriate first step towards improving PLO compliance with the accords. Arafat and the PLO must understand that they will have to pay a price—literally—for their continued violations.

According to this proposal, partial PLO compliance would permit continued U.S. funding, at reduced levels. Only if there were no compliance with major aspects of the accords would all U.S. funding be terminated.

3. A bipartisan Congressional committee could be established, under the Senate Foreign Relations Committee and the House International Relations Committee, to help determine if the PLO is complying with the peace accords.

Until now, the State Department has had the exclusive authority to determine, for the President, whether or not the PLO is in compliance with the peace accords. Congress could take an important role in helping determine PLO compliance, by establishing a committee under the aegis of the Senate Foreign Relations Committee and the House International Affairs Committee, to periodically report on the PLO's record.

The need for such a Congressional role is illustrated by the many flaws in the State Department's first three biannual reports on PLO compliance. All three reports were strongly criticized by leading Republican and Democratic members of Congress and prominent American Jewish organizations, such as the American Israel Public Affairs Committee (AIPAC), the Zionist Organization of America (ZOA) and others.

The first State Department report was issued on January 10, 1994. Senators Joseph Lieberman (D–CT) and Connie Mack (R–FL) said that parts of the report "read most like a defense of the PLO's lapses than a constructively critical guide to better behavior . . . [it] glosses over and too easily excuses the occasions when the PLO may be unwilling or incapable of [fulfilling its commitments] . . . This report accepts the PLO's failures without comment and thereby seems to excuse them rather than establishing any benchmark by which to measure progress. This undermines the U.S. effort to improve compliance by implying that no progress is necessary"[134]

The second State Department report was issued on May 30, 1994. In a June 9 letter to Secretary of State Christopher, Senators Lieberman and Mack criticized the report for not holding the PLO to a "sufficient standard of compliance." They noted that "While suggesting that the PLO should 'do more' to condemn terrorism, the report does not clearly describe standards for adherence . . . We cannot allow Arafat to shirk responsibility for condemning and combatting terrorism by defining every terrorist incident as outside his control." Representatives Howard Berman (D–CA), Benjamin Gilman (R–NY), Eliot Engel (D–NY) and Jim Saxton (R–NJ) [the latter two are co-chairs of the Peace Accord Monitoring (PAM) Group in the House] were also critical of the State Department report. They wrote: "We should demand swift and unequivocal responses [by the PLO] to all acts of terror." They urged the State Department "to hold the PLO to a more exacting standard."[135] In a detailed analysis, the ZOA found that the State Department report "minimizes and excuses the PLO's numerous and serious violations of the agreement."[136]

The third State Department report on PLO compliance was issued on November 30, 1994. Senators Lieberman and Mack expressed their "disappointment over the State Department's report" and said they were "distressed by the report's apologetic tone." The report "continues the practice, begun in earlier reports, of moving the goalposts: PLO failures are excused and no clear standards are fixed." The State Department report, they said, "fails in its obligations to the Congress and, by too easily excusing the PLO's and Palestinian Authority's failures, will ultimately impede the successful conclusion of the peace process."[137] Senator Richard Shelby (R–AL) characterized the State Department report as "muddled at best."[138] Representative Eliot Engel (D–NY) said that the report should have been "more balanced" and "does not hold Yasir Arafat to a high enough standard . . . The difficult political circumstances faced by Yasir Arafat should not excuse his failure to follow through on his solemn agreement."[139]

AIPAC expressed its "disappointment" with the report."We are disappointed that [the PLO's] failures are generally attributed to administrative inefficiencies and difficulties facing the Palestinian Authority rather than to the deliberate policies of, and errors of judgment by, the head of the Authority, PLO Chairman Yasir Arafat. This report fails to hold Arafat to a high enough standard."[140]

Representative Benjamin Gilman (R–NY), chair of the House International Relations Committee, wrote to Secretary of State Christopher on December 30, 1994, that "none of the parties will be favorably served if we continue to ignore reality about the PLO's repeated and persistent lack of compliance with the commitments it voluntarily assumed." He added that the PLO's failure to comply with the accords was "the result of Yasser Arafat's lack of will to comply."[141]

The ZOA, in its analysis of the report, concluded that "The State Department has ignored, minimized, or whitewashed the PLO's numerous and serious violations."[142]

The current peace process is not likely to bring about peace between Israel and the Arabs unless meaningful pressure is put on Arafat and the PLO now to honor their obligations and act in a peaceful and civilized way in Gaza and Jericho. This must be done before they are given additional territory, since once they have additional territory they will have even less incentive to abide by the accords. Such action is the only way to ensure the integrity of the peace process so that it leads to real peace. As Senators Lieberman and Mack have stated (in a December 9, 1994 letter to Secretary of State Christopher), "So long as the PLO and Mr. Arafat are not held to the commitments they have made, there will be no peace."[143]

NOTES

[1] Gaza-Jericho Agreement, Article XVIII, and Annex III, section I.5.

[2] Gaza-Jericho Agreement, Article XII.

[3] Gaza-Jericho Agreement, Article XIV.

[4] Gaza-Jericho Agreement, Annex III, Section II.7.

[5] Arafat letter to Rabin, September 9, 1993; Middle East Peace Facilitation Act of 1994, Part E of Title V of Public Law 136–203, Section 583(b)5; Presidential Documents, Administration of William J. Clinton, November 12, 1993; Washington Post, September 13, 1993.

[6] Arafat letter to Rabin, September 9, 1993.

[7] Arafat letter to Rabin, September 9, 1993.

[8] Arafat letter to Holst, September 9, 1993.

[9] Arafat letter to Rabin, September 9, 1993.

[10] Wall Street Journal, September 1, 1993.

[11] Associated Press, February 15, 1995.

[12] Jerusalem Post, August 18, 1994.

[13] Ha'aretz, October 11, 1994.

[14] Jerusalem Post, April 12, 1995.

[15] Israel Radio, August 23, 1994.

[16] Jerusalem Post, September 5, 1994.

[17] Israel Radio, August 19, 1994.

[18] Jerusalem Post, February 24, 1995.

[19] Jewish Telegraphic Agency Daily News Bulletin, February 13, 1995.

[20] Jerusalem Post, February 24, 1995; Washington Post, March 11, 1995; Washington Post, March 11, 1995.

[21] Israeli Radio Channel 7 News, March 22, 1995.

[22] Washington Post, March 11, 1995.

[23] Ibid.

[24] Jerusalem Post, March 9, 1995.

[25] El-Watan (Gaza), February 28, 1995.

[26] Washington Post, March 25, 1995.

[27] San Francisco Chronicle, April 15, 1995; Associated Press, April 16, 1995; Los Angeles Times, April 13, 1995.

[28] San Francisco Chronicle, April 15, 1995; Associated Press, April 16, 1995.

[29] Jerusalem Post, April 12, 1995.

[30] Israel Radio, April 16, 1995; Jerusalem Post, April 16, 1995.

[31] New York Times, April 13, 1995.

[32] Jerusalem Post, April 11, 1995.

[33] New York Times, April 17, 1995.

[34] New York Times, April 11, 1995 & April 12, 1995.

[35] Jewish Telegraphic Agency Daily News Bulletin, April 12, 1995.

[36] Washington Post, April 17, 1995.

[37] Ma'ariv, April 14, 1995.

[38] Radio Monte Carlo, February 20, 1995.

[39] Reuters, August 18, 1994.

[40] Reuters, August 24, 1994; Reuters, September 8, 1994.

[41] Israel Radio, August 19, 1994.

[42] Ma'ariv, March 10, 1995; Ha'aretz, February 17, 1995.

[43] Washington Post, February 27, 1995.

[44] Israel Radio, August 20, 1994.

[45] Yediot Ahronot, May 27, 1994.

[46] New York Times, July 2, 1994.

[47] Los Angeles Times, July 15, 1994.

[48] FBIS, January 6, 1995.

[49] Jerusalem Post, January 26, 1995.

[50] Washington Jewish Week, February 10, 1994.

[51] Washington Jewish Week, February 10, 1994.

[52] Jerusalem Post, April 20, 1994.

[53] Radio Monte Carlo, February 20, 1995; New York Times, April 15, 1995.

[54] Sharq al-Ausat (London), February 25, 1995.

[55] Yediot Ahronot, April 27, 1994.

[56] Near East Report, September 5, 1994; Jerusalem Post, December 7, 1994.

[57] Radio Monte Carlo, May 29, 1994.

[58] Middle East Peace Facilitation Act of 1994, Part E of Title V of Public Law 136–203, Section 583(b)5; Presidential Documents, Administration of William J. Clinton, November 12, 1993; Washington Post, September 13, 1993.

[59] Foreign Broadcast Information Service (FBIS), November 15, 1993.

[60] Jerusalem Post, April 7, 1994.

[61] Jerusalem Post, August 29, 1994.

[62] Jerusalem Post, April 20, 1994.

[63] New York Times, July 8, 1994.

[64] Radio Monte Carlo, August 10, 1994.

[65] Jerusalem Post, August 21, 1994.

[66] Jewish Telegraphic Agency Daily News Bulletin, August 23, 1994.

[67] Yediot Ahronot, August 23, 1994; Ha'aretz, January 24, 1995; Jerusalem Post, January 12, 1995.

[68] Jerusalem Post, July 26, 1994; FBIS, August 22, 1994.

[69] Jerusalem Times, February 3, 1995.

[70] El-Ro'i (Jordan), March 7, 1995.

[71] Jerusalem Post, August 22, 1994.

[72] FBIS, May 17, 1994.

[73] FBIS, November 22, 1994.

[74] New York Times, January 4, 1995.

[75] Voice of Palestine Radio, February 14, 1995.

[76] PLO Television, Jerusalem, January 24, 1995.

[77] New York Times, July 2, 1994.

[78] Associated Press, January 7, 1994.

[79] Jerusalem Post, December 11, 1994.

[80] Jerusalem Post, November 18, 1994.

[81] Jerusalem Post, November 18, 1994.

[82] Specter letter to Arafat, October 29, 1994.

[83] Jerusalem Post, February 7, 1995.

[84] Qreia conversation with Morton A. Klein, Jerusalem, February 27, 1995.

[85] Los Angeles Times, July 15, 1994; FBIS October 11, 1994.

[86] Jewish Telegraphic Agency Daily News Bulletin, December 2, 1994.

[87] Jewish Telegraphic Agency Daily News Bulletin, April 18, 1995.

[88] Máariv, April 16, 1995.

[89] Palestinian National Authority-Ministry of Information-Press Office, "Jewish Immigration To Palestine And Its Devastating Effects On The Peace Process," Ramallah, February 1995.

[90] Jerusalem Post, March 1, 1995.

[91] Reuters, December 16, 1994.

[92] Human Rights Watch-Middle East, "The Gaza Strip and Jericho: Human Rights Under Palestinian Partial Self-Rule," New York: February 1995, p.14.

[93] Jerusalem Post, July 13, 1994.

[94] Jerusalem Report, February 23, 1995.

[95] Ibid.

[96] Human Rights Watch report. p.19.

[97] Ibid., p.20.

[98] Ibid., p.21.

[99] Reuters, August 4, 1994; Jerusalem Report, February 23, 1995.

[100] Jerusalem Report, February 23, 1995.

[101] San Francisco Chronicle, February 16, 1995.

[102] Máariv, March 24, 1995.

[103] Forward, March 31, 1995.

[104] New York Times, July 30, 1994.

[105] Washington Times, August 16, 1994.

[106] New York Times, September 6, 1995.

[107] New York Times, December 4, 1994.

[108] Al Akhbar [Cairo], March 1, 1995.

[109] FBIS, March 13, 1995.

[110] Associated Press, April 12, 1995.

[111] Ibid.

[112] Jerusalem Report, February 23, 1995.

[113] U.S. News and World Report, August 22, 1994.

[114] Jerusalem Post, March 23, 1995; Jerusalem Post, April 5, 1995.

[115] Jerusalem Post, March 23, 1995.

[116] Human Rights Watch report, p.14.

[117] Copy in the possession of the ZOA.

[118] Jerusalem Post, December 17, 1993; Headquarters of the Israel Chief Military Judge Advocate,"Palestinian Violations of the May 4, 1994 Cairo Agreement," Jerusalem: Dec. 13, 1994, section 30.

[119] Jerusalem Post, March 29, 1995.

[120] Headquarters of the Israel Chief Military Judge Advocate, "Palestinian Violations of the May 4, 1994 Cairo Agreement," Jerusalem: December 13, 1994, section 25.

[121] Headquarters of the Israel Chief Military Judge Advocate, "Palestinian Violations of the May 4, 1994 Cairo Agreement," Jerusalem: Dec. 13, 1994, section 25.

[122] Jerusalem Post, August 12, 1994; Jerusalem Post, March 8, 1995; Jerusalem Post, March 24, 1995; Headquarters of the Israel Chief Military Judge Advocate, "Palestinian Violations of the May 4, 1994 Cairo Agreement," Jerusalem: December 13, 1994, section 25.

[123] Headquarters of the Israel Chief Military Judge Advocate, "Palestinian Violations of the May 4, 1994 Cairo Agreement," Jerusalem: December 13, 1994, sections 34, 38, and 44.

[124] Jerusalem Post, March 24, 1995.

[125] Jerusalem Post, Jan. 23, 1995; Jerusalem Post, March 19, 1995; New York Times, April 12, 1995; Yediot Ahronot, April 14, 1995.

[126] Jerusalem Post, November 7, 1994.

[127] Jerusalem Post, November 7, 1994.

[128] Jerusalem Post, March 22, 1995.

[129] Jerusalem Post, March 22, 1995.

[130] Washington Post, February 27, 1995.

[131] Transcript of remarks by Senator Shelby, Zionist Organization of America annual dinner, New York City, December 11, 1994.

[132] Jerusalem Post, November 22, 1994.

[133] Jerusalem Post, November 22, 1994.

[134] Lieberman-Mack letter to Christopher, January 24, 1994.

[135] Near East Report, June 20, 1994.

[136] ZOA Analysis of the 2nd State Department Report, June 8, 1994.

[137] Lieberman-Mack letter to Christopher, December 9, 1994.

[138] Remarks at ZOA Dinner, Dec. 11, 1994.

[139] Press Release by Office of Congressman Eliot L. Engel, December 5, 1994.

[140] AIPAC Press Release, December 2, 1994.

[141] Gilman letter to Christopher, Dec. 30, 1994.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I appreciate very much the gentleman's deciding not to offer this amendment, but I do believe, given the comments that have been made, that a response is required because this is a significant issue, and I think that we need to talk about this issue frankly on both sides of the aisle.

I know that for a long time in many circles in this country and elsewhere that the PLO has been thought of as being a naughty word. But the fact is, and I think we all have to face this, there will be no peace process in the Middle East without the constructive participation of the PLO.

Now that organization, like many others throughout history that has been engaged in essentially revolutionary activity, has a lot of factions, and some of them are more easily controllable than others. But it seems to me that, if Mr. Rabin can deal with the PLO in the interests of the security of the state of Israel, that we ought to follow that example and be prepared to assist in their doing that.

I would point that there is an alternative to the PLO. It is called Hamas, and I do not think that that alternative is especially a good one for Israel, for us, or anybody else in the region. And there are even worse organizations in that part of the world which could pose even greater long-term threats to peace and stability in the region. I think we need to understand that at this point the PLO is one of the organizations being used, to deliver health assistance to people in that region, in the occupied territories, to deliver education, to deliver policing, imperfect though their policing is, and to assist in the development of infrastructure.

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I do not know how many of you have been in refugee camps and Palestinian camps in the Middle East. I have. They are not a pretty sight. What they are breeding in terms of resentment and hatred because of those conditions will not be very healthful for the region in the long term.

I do not know how many of you have had an opportunity to talk with Mr. Arafat. I have, on a number of occasions. It has often been a very frustrating experience. But it is a necessary component of Israel's efforts to finally defang the situation in the Middle East to the point where that region becomes safe for all parties, including Israel.

So I would suggest that while we can talk all we want, I do not think we should be deceived. We must have the active and constructive participation of the PLO if we are to have security and peace in that region. And it seems to me that given the fact of what our State Department, the Government of Israel, Mr. Rabin, who has taken himself great political risks for peace, have done, it seems to me that we can do no less. And it seems to me, therefore, that our support for that organization is part of the effort to see to it that the PLO is constructively rather than destructively engaged in the region.

So I appreciate very much that the gentleman has withdrawn the amendment, because it would not have helped a very delicate situation.

Mr. BRYANT of Texas. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Texas.

Mr. BRYANT of Texas. Mr. Chairman, if this is to be revisited later, and I certainly welcome his comments, would it not be appropriate in the course of revisiting it, by this committee or any other, for us to consider both sides of the difficulty of bringing peace to the Middle East, one portion of which is the continued news we read in the newspapers about the Government of Israel sanctioning the taking of lands from Arabs who have lived on these lands for hundreds of years? You know, we have had a little history on this issue in the past. I had an amendment a few years ago to deal with what the Likud government was doing.

The current government is much, much better. There are many things about its activities in this regard that deserve commendation. If we are going to take up the problem of peace in the Middle East, we need to look at both sides of this problem, and give some support to the constructive parts of the government which have fought against the unjust land seizing at the same time we are talking about whether the PLO is holding up its end of the bargain.

Mr. OBEY. Mr. Chairman, reclaiming my time, I understand the gentleman's comments and do not disagree with them. I once asked a former Prime Minister of Israel about that issue. I asked him about a specific piece of land.

The CHAIRMAN. The time of the gentleman from Wisconsin [Mr. OBEY] has expired.

(By unanimous consent Mr. OBEY was allowed to proceed for 1 additional minute.)

Mr. OBEY. Mr. Chairman, I asked the gentleman for an assurance that a specific piece of land held by an Arab in that area was not going to be, in effect, confiscated. I was assured it was not. A week later it was. So I understand directly what the gentleman is raising. But I think that that is water over the dam. We have, in my view, the most constructive effort that has been made by Israel in my memory to try to bring peace to the region and reach an agreement with her neighbors. I think that bringing the PLO along in that process is essential, and I commend the present Israeli Government for their willingness to do that, and urge them to continue. I think our State Department is right to promote the process as well.

Mr. LIVINGSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just wanted to compliment the gentleman from Wisconsin [Mr. OBEY] on his statement. The situation in the Middle East is extraordinarily complex. The United States has hung in there for many, many years in hopes of bringing about a balanced peace to the entire region. The sentiments expressed by the gentleman from Wisconsin are right on target. We cannot be in a position of taking sides. We have to work with the most moderate of all parties on all sides. Frankly, it would serve no purpose for the United States to start withholding support from the PLO when in fact they are going to be an integral part of a future peace in that part of the world.

Mr. ENGEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all, I want to pay tribute to my good friend, the gentleman from New Jersey [Mr. SAXTON] for the work that he has done in this regard, and thank him for withdrawing his amendment, which I know he feels very strongly about. Just yesterday the gentleman from New Jersey and I, along with the gentleman from New York [Mr. SCHUMER] and the gentleman from Texas [Mr. DELAY] introduced a bill called the Middle East Peace Compliance and PLO Accountability Act of 1995.

What we are saying in this bill, which is very relevant to the discussion today, is that the PLO needs to keep its promise and needs to comply with the agreements it made when Yasir Arafat shook the hand of Prime Minister Rabin on the White House lawn, September 15, 1993. I wholeheartedly support the peace process and want to see the funds continued to the PLO, because I do agree with the gentleman from Wisconsin that the PLO can play and should play a very constructive role in Middle East peace.

The question is will they play that constructive role, and that question can only be answered by Mr. Arafat and the people of the PLO.

What our bill does is simply this: If the PLO complies with its commitments, then the U.S. aid will continue to flow. If the PLO, on the other hand, does not comply with its commitments, then the U.S. aid would stop.

The gentleman from Wisconsin [Mr. OBEY] said there can be no peace process without the constructive participation of the PLO. I agree. But the key word there is constructive participation. If they will have constructive participation, then peace will come and American money will flow. If, on the other hand, they are not constructive, then we ought not to give them money, if they renege on their promises.

Only they can determine that. I hope that Mr. Arafat will do the things he promised. I hope that he will condemn terrorism and all acts of terrorism, not only in English for American public consumption, but also in Arabic, so that his people can hear his condemnation. I hope he will proactively continue to track down and prosecute those responsible for committing terrorist acts, and I hope he will comply with all the other things to which he agreed.

Now, I would also hope, and I know the chairman of our Committee on International Relations is here, I would hope that we would be able to hold hearings on my bill and Mr. SAXTON's bill, and that we would talk actively at these hearings about a PLO compliance.

So I would like to yield to the chairman of the committee to engage in a colloquy briefly with him, to ask him if we are prepared to in the future hold hearings on our Middle East Peace Compliance and PLO Accountability Act of 1995, so we can be assured that the PLO will live up to its commitment so American aid can continue to flow.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. ENGEL. I yield to the gentleman from New York.

Mr. GILMAN. Mr. Chairman, in response to the gentleman, we certainly will be holding hearings on this issue.

Mr. Chairman, in commitments that the PLO voluntarily assumed since September 1993, the PLO promised to renounce terrorism and the use of violence, discipline violators, and seek peaceful political change. It also promised to amend the Palestinian Covenant to remove all references calling for the destruction of Israel.

Over 1½ years later, we are still witnesses to wanton violence. The American people have waited patiently for the violence against innocent Israelis and Americans to end, and for PLO chief Yasser Arafat to display the kind of leadership necessary to make this experiment work.

The State Department's most recent report on PLO compliance, issued on June 1, 1995, demonstrated yet again that the Palestinian track of the Middle East peace process is still the cause of great concern and consternation.

The report once again fails to hold the PLO to an adequate standard. The report ignores many issues, for example the failure to renounce and prevent terrorism and violence, the failure to prosecute violators, the failure to turn over terrorists whose extradition was requested by Israel, the failure to enforce human rights standards toward those arrested by the Palestinian authority, and most glaringly, the failure to amend the Palestinian Covenant's references to the destruction of Israel.

Later this week, the President's authority under the Middle East Peace Facilitation Act will expire. A 45-day extension, adopted by the other body last week, will soon be considered in this House. This will allow U.S. support for the Middle East peace process to continue, while giving the House and Senate the opportunity to comprehensively review the reauthorization of the Middle East Peace Facilitation Act, which the Senate has committed to considering in its State Department reorganization measure. I also want to commend the gentleman from New Jersey [Mr. SAXTON], and the gentleman from New York [Mr. ENGEL] for withdrawing their amendment at this time.

I, therefore, wish to assure the gentleman from New Jersey [Mr. SAXTON] that his concerns about U.S. funding for the Palestine Liberation Organization will be taken into account, and that I welcome his input, as well as that of other Members, as we prepare to discuss this important issue with the Senate, and in our committee.

Mr. ENGEL. Mr. Chairman, reclaiming my time, I thank the chairman for his remarks, and I just want to say that last year, the gentleman from New Jersey and I formed the peace accord monitoring group, which we cochair. I think that our Middle East Peace Compliance and Accountability Act of 1995 is a logical extension of the peace accord monitoring group to make sure that all sides are complying with what they promised.

I would say to the gentleman from Texas [Mr. BRYANT] who had some questions before, that it is not the Government of Israel that we worry about in terms of keeping its commitments to peace, because the Government of Israel has shown time and time again it keeps its commitments to peace. We are worried about the Palestinian side and the PLO. Again, only the PLO can determine whether or not it keeps its commitments to peace. I fervently hope it will, and fervently hope, therefore, that United States money will continue to flow. But time will tell.

I would say to Chairman GILMAN that I would hope that after the 45 days that the money is automatically extended, that we would use our bill as a core for the hearings to see that what we finally go beyond the 45 days, that we will have some teeth in terms of insisting that all sides, including PLO, comply with what they promise. Again, if they do, money will continue to flow. If they do not, it will be nobody's fault but their own.

Mr. BRYANT of Texas. Mr. Chairman, will the gentleman yield?

Mr. ENGEL. I yield to the gentleman from Texas.

Mr. BRYANT of Texas. I just wanted to respond once again. I fully agree with your desire to press the PLO to comply.

The CHAIRMAN. The time of the gentleman from New York [Mr. ENGEL] has expired.

Mr. BRYANT of Texas. Mr. Chairman, I ask unanimous consent that the gentleman from New York be allowed to proceed for 2 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mrs. CUBIN. Mr. Chairman, I object, and I will object any time anyone on either side requests extra time.

The CHAIRMAN. Objection is heard.

Mr. FOX of Pennsylvania. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to thank the gentleman from New Jersey [Mr. SAXTON] for his restraint in deferring in his amendment to withhold aid to the PLO, not because it did not have the correct items on the merits, but because it was moving the dialog forward at this time for later debate.

I believe it is important to note to my colleagues that the PLO has failed to keep its promises, not only the White House lawn peace accords in September 1993, but in the self-rule accords as well. It also should be noted that the acts of terrorism against Israel by the PLO are well documented.

In contrast, Israel, as the only democracy in the Middle East, has been one of America's best friends, if not its best friend, a trading partner, involved in cultural exchange, and a champion for human rights. The victory we had in the Desert Storm war would not have been realized in my opinion, and I am sure the opinion of many of my colleagues and Americans, without Israel's assistance and Israel's restraint. So I say thank you to the gentleman from New Jersey [Mr. SAXTON].

☐ 0215

Mr. WILSON. Mr. Chairman, I move to strike the requisite number of words.

I yield to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT of Texas. Mr. Chairman, I would just like to identify with the remarks of the gentleman from New York [Mr. ENGEL] a moment ago and others with regard to the PLO.

I fully agree that we should act in every constructive way to see to it that they comply with their peace agreements. I also think it is wrong of us to get up here and only take the popular side.

The fact of the matter is, there are elements within the Israeli Government and Israeli society who believe it is OK to take away land from Arabs who have lived on it for hundreds of years. I do not think anybody here agrees with that. I think they view it as wrong. It is very dangerous to the peace process. If we are going to take this matter up, we ought to also make clear to the Israeli Government and others in that society that we do not sanction that and we view that as a threat to the peace process as well.

Mr. WILSON. Mr. Chairman, I would like to say that I think it would be an extremely destructive thing for us to in any way interfere with the assistance that has been committed to the PLO. This money is to go for schools, for water, for infrastructure, and it is absolutely essential to maintain the balance in the peace process.

I would like to further say that there is just, there is nobody in the world that admires the current Government of Israel as much as I do. I believe that Yitzhak Rabin is my political hero. I think the courage that he is showing under enormous pressure at home, the enormous pressures that are coming at him from every direction, the courage and the durability and the determination that he and his foreign minister have demonstrated to the world should be a great example to all of us.

I think they would be the last ones that would want us to do anything that would in any way upset the peace process.

Mr. CALLAHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I yield to the gentleman from Florida [Mr. DEUTSCH].

Mr. DEUTSCH. Mr. Chairman, I would take some exception to both what the chairman of the Committee on Appropriations and the ranking member of the subcommittee said in terms of the PLO.

By saying that they are moderates does not make them moderates. I think something that every Member in this Chamber and everyone in America needs to understand is that the fundamental test in the agreements still deals with the destruction of the state of Israel. One of the wisdoms, one of the things that was said that was going to be done 18 months ago regarding taking out part of the covenant and the PLO covenant that calls specifically for the state of Israel's destruction still exists, has not been taken out. And that, in a sense, is the essence of the debate that still goes on.

By us projecting our hopes and our desires onto Yasser Arafat does not change Yasser Arafat. I, along with six of my colleagues, just came back from Israel during the Memorial Day break where some of us met with Mr. Arafat. And some of his statements were bizarre, to say the best.

Mr. Arafat specifically said to this group that he believed that terrorist incidents that occurred in Israel, like the bombing in Tel Aviv where innocents that were killed were done by Israelis, without any proof, without any information.

He specifically talked about Israelis going through their internal security process and stealing passports and giving them to members of Hamas, without evidence. He would be willing to do things like that, because he has done things like that. He would be willing to kill innocents because he has been willing to do that previously.

Yet that is the person that Members in this Chamber are projecting as moderates. The reality is that people who have committed acts of terrorism that the Israeli Government knows are within the jurisdictional areas of the PNA in Jericho and in Gaza are there, they are identified by name, yet they are not being released to the Israeli Government.

There are clearly fundamental problems with what is going on right now. It is not the only path to success. By us projecting that, that is a real problem.

I support the effort of the gentleman from New Jersey [Mr. SAXTON] to get accountability, that the United States taxpayers, $100 million a year went last year, is supposedly going this year in a system of accountability that has real problems.

Other governments have withdrawn their aid. Other governments have withdrawn their aid.

Mr. CALLAHAN. Mr. Chairman, reclaiming my time, I wanted to make a statement echoing what the gentleman says.

I do want to say that the gentleman from New Jersey has raised a very serious concern and one I share, demanding adequate accountability of American taxpayer dollars regardless of what country it goes to.

I insist that they live up to the standards before we give them the aid.

I want to assure the gentleman from New Jersey [Mr. SAXTON] and others that we will work with him in ensuring that the funds are spent properly. I will encourage the authorizing committee to maintain close oversight of this program, and I want to thank him for raising this very important matter. I look forward to working with him to ensure the proper management of this program is maintained.

Mr. BERMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just wanted to correct what I think was an inadvertent comment, the implication of a comment made by my friend from Wisconsin who as chairman of the Subcommittee on Foreign Operations has consistently promoted and led the fight for assistance to Israel and for security and for support of the peace process.

This is not the first Israeli constructive effort to try and bring peace to that region. Any study of the history of Israel since its founding, since its inception, would recognize that in 1948, in 1967, in the early 1970's, again in the Camp David process, Israel has over and over again reached out for that process.

What is different this time is the parties that were never willing to acknowledge the right of Israel to exist, some of those parties are now accepting that right and moving forward. But the history of Israel for its 45 to 47 years of existence is filled with efforts by its leaders to reach out to its Arab neighbors to bring an end to this particular conflict. I want to correct that for the RECORD.

Mr. NADLER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the 5 minutes. I just want to make a couple of observations. Number one, as the gentleman from California [Mr. BERMAN] says, the Israeli Government for many years and many times has tried to reach out to the Arab countries to everyone involved to make peace. Usually until recently, she has been met with a stone wall. In the last couple of years that has changed. The peace process has been undertaken.

Second, no one really suggests credibly that the PLO is a moderate force. The PLO is not a moderate force. The PLO has been recognized and has been a terrorist organization and has engaged in terror. But one makes peace with one's enemies, not with one's friends. One makes peace with the extremists on the other side, not with the most moderate elements. That is easy.

The question involved in the entire peace process is, has the PLO changed, have circumstances changed, have they changed enough, can you do business with them? I believe the jury is still out on that question.

Not can you trust them, because you do not make peace agreements based on trust; you make peace agreements based on mutual interests if you can find them. But I believe the jury is still out on the question. And the valiant effort of the government of Israel to make peace should be supported, and the valiant effort of the United States Government to assist that should be supported.

I would have opposed the Saxton amendment because I think it would have brought the peace process to a dead stop. The bill that the gentleman from New Jersey [Mr. SAXTON] and the gentleman from Texas [Mr. DELAY] and the gentleman from New York [Mr. SCHUMER] and the gentleman from New York [Mr. ENGEL] have designed instead, which they will introduce or they just introduced, may be a constructive effort to push the PLO to use the lever of American aid to push them a little further in the direction of compliance.

Have they complied, has the PLO complied with what they promised? No. Have they complied with some of it? Yes. Have they complied with enough so you can make a peace agreement? We do not know yet.

We have to be careful in our actions here to take actions that will advance the cause of peace and not throw an unnecessary roadblock in there. I am glad the gentleman from New Jersey [Mr. SAXTON] withdrew his amendment. I suspect the bill that he has gotten together with Mr. SCHUMER, Mr. ENGEL, and Mr. DELAY may be a step toward advancing that effort rather than restarding it. I hope we will discuss that in future days.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TRAFICANT: Page 78, after line 5, insert the following new section:

PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS

SEC. 564. SENSE OF CONGRESS.—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available in this Act should be American made.

(b) NOTICE REQUIREMENT.—In providing financial assistance to, or entering into any contract with, any entity using funds made available in this Act, the head of each Federal agency, to the greatest extent practicable, shall provide to such entity a notice describing the statement made in subsection (a) by the Congress.

Mr. TRAFICANT. Mr. Chairman, this is standard buy American. It was offered in the last Congress and placed on all the appropriations bills. I am only going to take a couple minutes.

I am not here to become an expert on the Middle East. I am sure trying to become an expert on the Midwest. I just want to point out to the Members of this Congress that we here in the Congress of the United States borrow money from Japan and Germany. We borrow from the Social Security trust fund. And we sell Government debt instruments to American citizens and basically pension plans. And then we pay interest. I would like the attention of everybody. I sat through all this intriguing debate. Then we pay interest on this borrowed money.

Now, I do not know where this $12 billion comes from. Is it the money we borrowed from Japan and Germany? Is it from the forays into Social Security? Is it the Government debt instruments that we sold to the pension plans that underfunded every major industrial pension plan in America? And the next major one that fails, the Pension Benefit Guaranty Corporation is going to have to bail it out. The next major bank that fails will exhaust the Federal Deposit Insurance Corporation, and we are going to be asked for more money for the savings and loans fiasco.

I keep hearing all about the superpower. If we evaluated America on a corporate standard, we would be considered deficient and possibly bankrupt.

All my little buy-American amendment says is we are going to ask people, to the greatest extent practical, if they find it in the goodness of their heart, to try not to buy the goods from Japan and Germany.

But there is one other thing I want to say. I have a 1-percent cut that will be coming up. I have never seen so many reasons to convince me that I should not bring it. My colleagues, we have cut education. We have cut housing. We have got more murder in America than any of these countries we are giving the money to.

I do not want to tarnish one bit the great job the chairman has done. This is the best foreign aid appropriation bill I have seen, and I am going to give you the credit for that and to the gentleman from Texas [Mr. WILSON] here. I do not want you to take it personal, but if I had 400 votes, not one of them would go for this bill; because, my colleagues, I think it is unconscionable and immoral to pay your neighbor's rent bill when the bank is foreclosing on your family home.

Now, damn it, I am tired of talking about the Mideast. I want to talk about the Midwest. Tell you the truth, this does not endear me to a lot of people, Israel and Egypt do not take a penny cut in this new Congress. My veterans get a hit. My seniors get a hit. Our housing gets a hit. Our education gets a hit.

So my little 1-percent cut will exempt the basic poor countries, certain African accounts, certain development assistance, certain narcotics accounts, certain terrorist approaches and programs, so we could help where we are really needed.

Do you know what it does? The 1 percent is going to hit everybody. If the White House decides not to hit Israel and Egypt, then, yes, like the chairman tells me, other countries are going to even get hit harder. I cannot deal with that. But I am so damn sick of seeing my people go without jobs. I have to come down here, run to the chairman, talk about programs for America; when we do, there is no money.

□ 0230

Look, I just have a little very simple approach. I want you to accept my little Buy American amendment. At least these countries have to get a notice, but I want you to support a 1 percent cut.

If you are talking about deficits around here, damn it, this bill is not sacred, either, and let's really stand up for once.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Alabama.

Mr. CALLAHAN. I just want to tell you, you have convinced me. I am going to accept your amendment.

Mr. TRAFICANT. I thank the gentleman.

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Texas, the ranking member, who is ecstatic about the amendment. In fact passes over it without prejudice.

Mr. WILSON. I appreciate the the gentleman yielding. For clarification, did the chairman say he was going to accept both of your amendments or one of your amendments?

Mr. TRAFICANT. You will have to deal with that in conference.

Reclaiming my time, the major cities of America should secede from the union, qualify for foreign aid, and do a hell of a lot better.

PARLIAMENTARY INQUIRY

Mr. BERMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BERMAN. Mr. Chairman, is the amendment before us the Buy American sense of Congress or is it the 1 percent across-the-board?

The CHAIRMAN. It is the Buy American amendment.

The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. TRAFICANT: Page 78, after line 5, insert the following new section:

ACROSS-THE-BOARD REDUCTION OF AMOUNTS

SEC. 564. (a) IN GENERAL.—Except as provided in subsection (b), each amount appropriated or otherwise made available by this Act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by 1 percent.

(b) EXCEPTIONS.—Subsection (a) shall not apply to the amounts appropriated or otherwise made available by this Act for the following:

(1) "Export and Investment Assistance" (title I of this Act).

(2) "Development Assistance Fund".

(3) "Development Fund for Africa".

(4) "International Disaster Assistance".

(5) "African Development Foundation".

(6) "Inter-American Foundation".

(7) "Peace Corps".

(8) "International Narcotics Control".

(9) "Anti-Terrorism Assistance".

(10) "Nonproliferation and Disarmament".

(11) "Contribution to the International Development Association".

(12) "Contribution to the Asian Development Fund".

Mr. TRAFICANT. Mr. Chairman, I am only going to offer the 1 percent. It may not even pass.

My God, cutting foreign aid in the Congress of the United States. You might even get an opponent with a half a million dollars staring at you in less than a week. But I guess, I played football without a helmet, I could handle that.

Except as provided in subsection (b), each amount appropriated or otherwise made available by this act that is not required to be appropriated or otherwise made available by a provision of law is hereby reduced by the fat margin of this big 1 percento.

Exceptions: Export and Investment Assistance. Certain programs that help very poor countries. The Development Assistance Fund, the fund that helps again very poor countries, people with their stomachs hanging out, bloated hungry.

The Development Fund for Africa. International Disaster Assistance. The African Development Foundation. The Inter-American Foundation. The Peace Corps. International Narcotics Control. Anti-Terrorism Assistance. Nonproliferation and Disarmament Fund. Contribution to the International Development Association. Contribution to the Asian Development Fund. These about cover those basically very poor entities at the bottom of the list fighting for a few bucks.

I say this to the Congress: We have gone through a budget process around here, where I heard speaker after speaker come up and say nothing, nothing is sacred, everything is on the table. The debate we have right now is Medicare, Medicaid, senior citizens, children.

Well, there are some sacred cows in this bill. Now, I don't know about you. I am not a Member of the Japanese Diet. I am not a Member of the Israeli Knesset. I am not a member of the British Parliament and quite frankly, Scarlett, that is not my job.

If the Congress of the United States cannot make a 1-percent cut in this bill, then the Congress of the United States has, No. 1, lost all anatomy and cannot make tough decisions to govern.

Had this bill not come in at what is a very responsible approach by this chairman, I would have offered a bigger amendment, even though it would have failed. I am not going to belabor the time. But there is not a bill that comes before this Congress that cannot stand a 1-percent cut. I think I have taken care of those needy groups and those countries that are really deserving and need help. That is basically all I have to say.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Missouri.

Mr. VOLKMER. Is the amendment a 1 percent cut across the board for all areas of the bill? Everything?

Mr. TRAFICANT. Yes, there are.

Mr. VOLKMER. There are no exceptions?

Mr. TRAFICANT. Other than these exemptions. These exemptions that were listed, I don't want to go through the time to belabor them again, but you can read the amendment. There are quite a few exemptions.

Mr. VOLKMER. You did not cut those that you listed? That you read?

Mr. TRAFICANT. They are exempted.

Mr. VOLKMER. They are exempted. Everything else is cut 1 percent?

Mr. TRAFICANT. From what I understand, there is not an earmarking here and what the chairman tells me, that this could come to the Economic Support Fund, the $5.2 billion, and in fact there are certain groups in there that may not even take a cut.

What his concern is, for example, that if Israel and Egypt don't take any cut after it is all over, there will be bigger cuts for these smaller countries.

I do not deal with that. If there is no earmarking in this bill, then I cannot deal with the earmarking. The legislative intent of the Traficant amendment is to cut everybody that gets a dollar from us, to cut them one penny, everybody. That is my legislative intent. If that means anything anymore. Legislative intent if somebody offers an amendment to Congress.

Mr. VOLKMER. You are talking about direct aid to those countries?

Mr. TRAFICANT. Yes, I am.

Mr. CALLAHAN. Mr. Chairman, I rise in opposition to the amendment of the gentleman from Ohio, but I recognize the symbolism of what he is saying and support the symbolism. But to accept a 1-percent cut, especially one that just applies to certain areas—and I notice that you have taken selective programs out that you did not want to cut—but if I agree to accept your amendment, it would be an admission that I did not do the very best job I could do while still protecting the ability of the administration to have a foreign aid policy.

Let me just say that, first of all, I have cut the President's request by 19 percent; 20 times what the gentleman is suggesting, I have already cut. I have cut every single account almost in this foreign aid bill. I am below the budget allocations. I am below last year. This is the lowest level in the past probably 40 years of a foreign operations bill.

So if you come along at the last minute with this symbolic cut, I know that will gain great headlines and sound good. You might even be invited to the Donahue show, but let me tell you, I do not admit that this bill could be lower than I have made it. I have worked with your side of the aisle, with my side of the aisle, and we have compromised back and forth to the point of insisting that this bill not be any higher than it is right now.

In your bill, there is a possibility that because it does not exempt the Camp David countries, including Israel and Egypt, maybe they would be threatened by the 1 percent. It would not hurt them, you are right, but is that what you want to do?

The Child Survival Fund for some reason was left out of your exemption. You talk about these flies and these starving children, and you left child survival out. You say cut the Child Survival Fund. Cut the immunization programs by 1 percent. Maybe that 1 percent might inoculate some 15,000 kids. Maybe it would feed thousands of kids, but you did not exempt that.

I would submit to you that this committee, the subcommittee, the full committee, when we brought this bill to the House, it was done with great deliberation and done with the maximum amount of money that we are permitting or suggesting to be permitted for this administration to have for the next fiscal year.

I recognize the symbolism, I appreciate the symbolism, but let us give credit to where we already are. When the President came to us and asked us for $15 billion and we told the President, "We're sorry, we're going to cut you 19 percent, we're going to cut your ability to have a foreign policy by the largest amount in history," I think we have gone far enough.

Mr. TRAFICANT. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Ohio.

Mr. TRAFICANT. Mr. Chairman, I think the President came in asking for too much money. That is not unusual, No. 1.

No. 2, if you want to add those exceptions, I would be glad to accept them.

Mr. CALLAHAN. It has already been cut 19 percent.

Mr. TRAFICANT. Mr. Chairman, I am not asking you to vote on symbolism. I am asking you to vote on a cut, and I want the vote to be recorded on the cut.

I want to say one other thing to you: If everybody who came in here said, "Look, we did a great job, nobody should be cutting our bills," then we would not have any cuts to any bills.

This is not directed to you. I in fact support you. I am glad to see you in the position. In my opinion, I think everybody could take a 1 percent cut, and this is no different. That is what it is.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I was wondering if the distinguished chairman could tell me, is it correct that this bill cuts the administration's request by nearly $3 billion? Is it correct that the bill you have brought to the floor cuts the administration's request by nearly $3 billion?

Mr. CALLAHAN. The gentleman is correct.

Mr. BERMAN. Is it correct that the bill you have brought to the floor was nearly $2 billion below this year's funding level?

Mr. CALLAHAN. That is correct.

Mr. BERMAN. Is it correct that when your bill passes, that the 150 account, of which your bill takes up by far the biggest portion, no other function of the Federal Government will have been cut more in the past 10 years than that 150 account?

Mr. CALLAHAN. That is absolutely right.

Mr. WILSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I guess we could say over and over again that the bill has been cut by 20 percent below the President's request, it has been cut $2.8 billion below the President's request. In real dollars this is probably the smallest foreign operations bill brought before the House in the last quarter century.

I am going to address the Middle East situation. The proposed cut would reduce both the Economic Support Fund and foreign military sales, and in my opinion cuts to these programs would add a great deal of unsteadiness to the Middle East peace process.

I think that particularly in Israel's case, and in Egypt's as well that the Government is as strained as it could possibly be in trying to hold together the peace process especially within Israel itself. I think any cut by the American Congress at this time would have terrible consequences in Tel Aviv tomorrow. It is hard enough as it is.

I would also like to point out, and this was probably an oversight on the gentleman's part, but the cut would also reduce funds for refugees and disaster assistance, endangering the lives of children and adults all over the world who are at the very, very greatest risk.

Mr. Chairman, I respectfully ask the Members to vote against the amendment.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Traficant amendment. I am a strong supporter for our foreign aid program but I have also made the tough choices to cut the program's budget—but if you do not believe me—do believe the National Taxpayers Union and Citizen's Against Government Waste who endorsed our committee's authorization bill.

Under the authorizing bill as approved by this House, we voted to cut $1 billion from the foreign assistance budget for 1996. The authorizing bill this House supported cuts another $2 billion from the foreign assistance budget in fiscal year 1997. Over the 7-year glidepath, the authorizing bill would save a total of $21 billion.

Mr. Chairman, Mr. CALLAHAN's appropriation bill is below those cuts in the authorizing bill. Yesterday, the House cut another $73 million in this bill.

Mr. Chairman, I submit that we have cut significantly from the foreign assistance program. We have vital national security, economic and humanitarian interests throughout the world. Mr. TRAFICANT's amendment would cut all of these vital programs. The gentleman's amendment would cut aid to our allies, to Russian nuclear-disarmament related programs, and to multilateral trade promotion programs to higher income countries needed to employ Americans whose jobs depend on exports.

Mr. Chairman, I urge a strong "no" vote on this amendment.

□ 0245

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would simply like to run down, once again, the numbers to emphasize what both the gentleman from Alabama [Mr. CALLAHAN] and the gentleman from Texas [Mr. WILSON] have said.

To put this amendment in perspective, in 1985, this bill spent $18.5 billion. Last year, this bill spent $13.6 billion. And this bill comes in at $11.9-and-some million. That means that this bill is almost a 20 percent cut from last year and it is a huge cut.

I am on the Committee on Appropriations so I cannot figure that fast, but the fact is if you take 18.5 and 11.9, it is almost a 40 percent cut over that time.

As the gentleman from California indicated, my colleagues cannot name another appropriation bill in this country that has been cut by anywhere near that amount.

I know what the public impression is. When my colleagues take a look at the polls, you see that 27 percent of the people in this country think that foreign aid is the largest expenditure in the budget, when, in fact, it is about 1 percent.

We have had a lot of distress and a lot of anger and a lot of frustration in this House for the past few years. But I think we have to ask ourselves whether or not our processes mean anything. And we have to ask ourselves whether we really have respect for the process by which we bring a product to the floor.

That process is called the committee system. People fight to get on various committees around here, and if either party places a person on the Committee on Appropriations, they ought to do it only if they think that that person will contribute to doing the best possible job at sorting out budget priorities and budget levels.

If my colleagues do not think people are worth it and are going to do that, they should not put them on the committee in the first place.

But the problem Members face if they are members of the Committee on Appropriations, very frankly, is that no matter how much we cut, it is always convenient for some Member to say, "Well, no matter what you do, boys and girls, we are going to one up you by 1 or 2 percent."

That is very easy to do. Not very complicated. Sounds great. Sounds simple. But the fact is that what that encourages people to do is to begin padding the accounts so that they take into account the fact that something like this might pass.

This bill has obviously not been padded. The gentleman from Alabama [Mr. CALLAHAN] has seen to that. So it seems to me that sooner or later both Members of this institution, and the so-called experts in these so-called outside groups who rank us, ought to take into account not just the votes that occur on the floor, but the actions taken in the committee itself.

This committee not only has reduced the bill from previous years' levels, as I have indicated it is almost $400 million below the authorization bill. It seems to me if a committee has done a good job in establishing fiscal discipline, it has a right to expect to be backed up by this House, and it seems to me when they have cut this much, no one in this body can reasonably ask for more.

So I would suggest that sooner or later, if you want people to serve and do what is right on the Committee on Appropriations, when they make the kind of reductions that have been made in this bill, which obviously are very tight, their judgment ought to be backed up.

I would respectfully request that you support the gentleman from Alabama [Mr. CALLAHAN] and the gentleman from Texas [Mr. WILSON] and oppose this amendment, because it is simply a "one-upper" and we ought to be above that.

Mr. METCALF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will take much less than 5 minutes. I want to commend the chairman and the committee for the work they have done on this bill. It is a great bill and I would support it. However, I rise to support the amendment of the gentleman from Ohio [Mr. TRAFICANT], and I would just like to tell you why.

You know, if we went out, not in the middle of the night like this, but went out in the daytime and picked out in any place in America and picked out 435 people, the first 435 people we ran into, and we asked them to come in and vote on this issue, how do my colleagues suppose they would vote? There is no question. Take any poll. There is no question how they would vote. They would vote to support it.

I think we should support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio [Mr. TRAFICANT].

The question was taken; and the chairman announced that the noes appeared to have it.

Mr. TRAFICANT. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

Mr. TRAFICANT. Mr. Chairman, are Members afraid of going on record? You cut education and housing and veterans, but you will not go on record on this vote? I ask for a vote.

Mr. DEUTSCH. Regular order.

The CHAIRMAN. The Chair is attempting to count for a quorum.

Mr. TRAFICANT. I will withdraw it if you give me a vote.

Mr. DEUTSCH. Regular order, Mr. Chairman.

The CHAIRMAN. The gentleman will suspend while the Chair counts for a quorum. The Chair counts 106 Members, a quorum is present.

RECORDED VOTE

The CHAIRMAN. Members favoring a recorded vote will now rise and be counted.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 139, noes 270, not voting 26, as follows:

[Roll No. 442]

AYES—139

Allard
Archer
Baker (CA)
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Barton
Bevill
Bilirakis
Brewster
Browder
Bryant (TX)
Canady
Chabot
Chapman
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Clement
Coble
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Collins (GA)
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Cooley
Costello
Cramer
Crane
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Cremeans
Cunningham
Deal
DeFazio
Dingell
Doolittle
Dornan
Doyle
Duncan
Edwards
Emerson
Everett
Fields (LA)
Fields (TX)
Flanagan
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Goodlatte
Goodling
Graham
Gutknecht
Hancock
Hayes
Hefley
Hefner
Herger
Hilleary
Hoekstra
Holden
Hunter
Hutchinson
Inglis
Istook
Jacobs
Johnson (CT)
Johnson, E. B.
Jones
Kennedy (MA)
Kleczka
Klug
Laughlin
Lincoln
Lipinski
Lucas
Luther
Manzullo
McHugh
McKeon
Meehan
Metcalf
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Minge
Montgomery
Moorhead
Myers
Neumann
Ney
Norwood
Orton
Parker
Pastor
Payne (VA)
Peterson (FL)
Petri
Pombo
Portman
Poshard
Quillen
Rahall
Ramstad
Regula
Roberts
Roemer
Rohrabacher
Roth
Royce
Sanford
Schaefer
Schroeder
Seastrand
Sensenbrenner
Shuster
Smith (WA)
Solomon
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
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Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Thurman
Tiahrt
Traficant
Upton
Volkmer
Wamp
Ward
Weldon (FL)
Weldon (PA)

NOES—270

Abercrombie
Ackerman
Andrews
Armey
Bachus
Baesler
Baker (LA)
Baldacci
Barr
Bartlett
Bass
Bateman
Becerra
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Bonilla
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Brown (CA)
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Brownback
Bryant (TN)
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Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cardin
Castle
Chambliss
Christensen
Chrysler
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Clayton
Clinger
Clyburn
Collins (IL)
Conyers
Cox
Coyne
Cubin
Danner
Davis
de la Garza
DeLauro
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Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dixon
Doggett
Dooley
Dreier
Dunn
Durbin
Ehlers
Ehrlich
Engel
English
Ensign
Eshoo
Ewing
Farr
Fattah
Fawell
Fazio
Filner
Flake
Foley
Forbes
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gejdenson
Gephardt
Gibbons
Gilman

Gingrich
Gonzalez
Gordon
Goss
Green
Greenwood
Hall (TX)
Hamilton
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Houghton
Hoyer
Hyde
Jackson-Lee
Jefferson
Johnson (SD)
Johnston
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Klink
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Lazio
Leach
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Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Linder
Livingston
LoBiondo
Lofgren
Longley
Lowey
Maloney
Manton
Markey
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McCarthy
McCollum
McCrery
McDermott
McHale
McInnis
McKinney
Meek
Menendez
Mfume
Miller (CA)
Miller (FL)
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Mollohan
Moran
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
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Obey
Olver
Ortiz
Owens
Oxley
Packard
Pallone
Paxon
Payne (NJ)
Pelosi
Peterson (MN)
Pickett
Pomeroy
Porter
Pryce
Quinn
Radanovich
Rangel
Reed
Richardson
Riggs
Rivers
Rogers
Ros-Lehtinen
Rose
Roybal-Allard
Rush
Sabo
Salmon
Sawyer
Saxton
Scarborough
Schiff
Scott
Serrano
Shadegg
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Shays
Sisisky
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Smith (MI)
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Smith (TX)
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Studds
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Tucker
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Vento
Visclosky
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Walker
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Watt (NC)
Watts (OK)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Young (AK)
Zeliff
Zimmer

NOT VOTING—26

Coleman
Collins (MI)
Evans
Foglietta
Ford
Gunderson
Gutierrez
Hall (OH)
Johnson, Sam
Martinez
McDade
McIntosh
McNulty
Meyers
Moakley
Reynolds
Roukema
Sanders
Schumer
Stark
Stokes
Towns
Waldholtz
Waxman
Yates
Young (FL)

☐ 0312

Messrs. RUSH, JEFFERSON, and POMEROY changed their vote from "aye" to "no."

Mrs. SMITH of Washington, Mr. INGLIS of South Carolina, and Mr. GRAHAM, changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read the last 3 lines of the bill.

The Clerk read as follows:

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1996".

AMENDMENT OFFERED BY MR. PORTER

Mr. PORTER. Mr. Chairman, I offer an amendment. The Clerk read as follows:

Amendment offered by Mr. PORTER: Page 78, after line 6, insert the following new section:

LIMITATION ON ASSISTANCE TO TURKEY

SEC. 564. Not more than $21,000,000 of the funds appropriated in this Act under the heading "ECONOMIC SUPPORT FUND" may be made available to the Government of Turkey.

☐ 0315

Mr. PORTER. Mr. Chairman, the chairman of the committee has asked that I yield to him for the purpose of explaining where we are. I yield to him for that purpose.

Mr. CALLAHAN. Mr. Chairman, if the Members of the House would give me their attention, I just wanted to give some idea of where we are and how fast we can move from this point.

The gentleman from Illinois [Mr. PORTER] has an amendment that is going to be debated for as much time as it may take. The issue involves Turkey. It is a very passionate issue with respect to Mr. PORTER, and there is going to be a lot of debate on that. But after the Porter amendment, we then have eight additional amendments on which we do not expect a lot of controversy. In fact, we intend to accept probably six of the eight, and then try to amend the other two to an acceptable level. So I feel like if we can give close attention to the debate on this particular issue, we can finish it in a timely manner, and then move as expeditiously as we can to the other six or seven amendments, and hopefully we can flow through them in a matter of minutes and then get you home before daybreak.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, those are the amendments that you have been noticed. I have two amendments that I would like to discuss with you, perhaps during the debate on this amendment.

Mr. CALLAHAN. That would be good.

Mr. PORTER. Mr. Chairman, reclaiming my time, Mr. Chairman, I ask unanimous consent that I be given 5 minutes from this point.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PORTER. Mr. Chairman, the Porter-Smith-Wolf amendment is a straight cut in economic aid of $25 million for Turkey from the $46 million provided in the bill, to $21 million. It does not affect military aid to Turkey whatsoever, and there remains $320 million in FMF loans in the bill that is not affected by the amendment.

The amendment contains no conditions, no provisos, no reports. It is a straight cut of $25 million.

Mr. Chairman, I have great respect for the Turkish people, but millions of them are being denied their most basic human rights by their own Government. Turkey is a valued friend and ally of the United States. I offer the amendment in no way as hostility toward the Turkish nation. We want a closer relationship with Turkey based upon shared values. But I believe that the genocide going on in Turkey today against the Kurdish people and the ongoing and worsening human rights problems that are not being addressed by Turkey, are so severe that the Turkish democracy itself is being undermined and could well be lost.

Mr. Chairman, no true friend stands aside while his friend is violently abusing his family, and that is exactly what is happening as Turkey, our friend, is violently abusing the members of its country's family.

The United States must send a message to the Turkish people that their Government's policy of unbridled violence against the Kurdish minority, intransigence for the last 21 years in Cyprus where 35,000 troops continue to occupy a portion of that island, their preventing United States humanitarian aid from transiting Turkey to reach Armenia, and their ongoing torture, unlawful detention, and extrajudicial killings by their Government against their own people, must end.

Mr. Chairman, it is absolutely clear, and do not let anybody tell you otherwise, because it is not true, that nothing in Turkey is being done by the Government to change any of these wrongheaded policies.

Turkey continues to take a strictly military approach to the Kurdish situation. Government genocide is being committed against the Kurdish minority. Of approximately 15,000 people dead from the conflict, half of them have been killed in just the last 2 years; 3 million people have been internally displaced in Turkey as villages have been forcibly evacuated or destroyed. France Liberte Foundation puts the number of forcibly evacuated Kurdish villages at 2,500 villages. The former minister of human rights referred to the village evacuations in one province as state terrorism. Turkey has been widely criticized for its treatment of these 3 million refugees. Government forces continue to use excessive force against civilian noncombatants. They continued to use U.S. origin military equipment and actions during which human rights violations have taken place in direct violation of U.S. law.

Mr. Chairman, the Turkish police and military forces continue extrajudicial killings, unlawful detention, and torture, the numbers for which are all up during the last year. Authorities at all levels throughout the country continue to practice torture with impunity. Torture is systematic, widespread, and unpunished, even though it is illegal.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. PORTER] has expired.

(By unanimous consent, Mr. PORTER was allowed to proceed for 4 additional minutes.)

Mr. PORTER. Mr. Chairman, in the rare case where torture claims are pursued, sentences are light. Convicted officers remain on the payroll while in prison and usually return to work when they are released; 1994 deaths in custody were the highest since 1982. Persons increasingly disappear while they are in police custody. Their tortured, mutilated bodies are usually found days, weeks or months later. In the first 3 months of this year, 77 people disappeared while allegedly in police custody, more than in all of last year.

Mr. Chairman, most disturbingly, the Government continues to harass, detain and prosecute writers, journalists, even elected parliamentarians who are critical of Government policies. One hundred sixty-six people are currently imprisoned under their sedition law.

Yashar Kemal, one of Turkey's most prominent writers, is today on trial for sedition under the so-called antiterror law. His crime is to criticize the Government's policy of terror against its Kurdish citizens, and he probably will be sent to prison.

Political organizations and media continue to face harassment and shutdowns. The Ciller government has indefinitely removed from consideration proposed Democratic reforms to the antiterror law. The state minister in charge of human rights, the first high ranking Government official to speak openly about torture, was relieved of his post earlier this year.

Turkey continues its intransigence regarding the occupation of Cyprus and the issue of transporting United States humanitarian assistance to Armenia. Thirty-five thousand Turkish troops remain in Cyprus, and negotiations are stalled. Turkey continues to block United States humanitarian assistance to Armenia.

Mr. Chairman, seven European countries in the face of these ongoing abuses have recently cut off all military assistance to Turkey, including France and Germany. The situation is that bad, and worsening, that these countries have cut off all military aid to this Government. An agreement between the European Union and Turkey for freer trade will not be taken up by the European Union for ratification because of ongoing Turkish human rights abuses.

Mr. Chairman, in this situation, it seems to me incumbent upon the United States to send a message to the Turkish Government that a violence only policy against its Kurdish minority is not acceptable; that it is not acceptable that they continue to prevent American assistance to Armenia; that it is not acceptable, Mr. Chairman, that they continue to torture and detain and execute without trial their own citizens, that it is not acceptable that they put people in prison for expressing their opinions about Government policy.

Turkey ought to be our close friend and ally, but we must have shared values, and we must send a message to this close friend and ally that their conduct simply does not meet international standards of any government on this Earth.

I commend the amendment to the Members.

Mr. PALLONE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Illinois [Mr. PORTER].

Mr. Chairman, U.S. foreign assistance is supposed to go to nations that share our values and who promote peace and security in ways consistent with American interests. It is becoming increasingly clear that the Republic of Turkey is not a helpful partner to the United States. Indeed, by its behavior, Turkey has been acting against American values and American interests. American taxpayers should not have to support many of the Turkish actions we deplore.

Opponents of the Porter amendment claim that United States assistance to Turkey provides strong American influence over Turkey. Yet that influence has not translated into better Turkish behavior. Ironically, supporters of the Porter amendment, like myself, also recognize that United States aid gives us influence over Turkey—and we believe it's about time we started using that influence to force Turkey to make the meaningful changes it has so far resisted.

Turkey is maintaining a blockade of its tiny, land-locked neighbor Armenia by preventing trade, transport and transshipment of humanitarian assistance to Armenia. This blockade is illegal—it is not sanctioned by the United Nations or any other international organization. Turkey is also supporting the blockade of Armenia by Azerbaijan. Turkey has extended military support to Azerbaijan, and continues to conduct military exercises and increase its forces on the border with Armenia. The Armenian Government has sought to be a good neighbor with Turkey. This despite a very troubled history between the two nations—particularly the genocide of the Armenian people at the hands of the Ottoman Turks, which Turkey continues to officially deny. But Turkey has not responded in kind. Instead, Turkey has tried to prevent Armenia from having greater contact with the West. In the mean time, Turkey continues to strive for improved relations with the West—through membership in the European Economic Community and as a major recipient of United States economic and military aid.

It has been 20 years since Turkish troops first invaded the northern part of the Mediterranean island nation of Cyprus, leaving a trail of death, destruction and hundreds of thousands of refugees. In the two decades since this shocking breach of international law, Turkey has maintained and solidified its occupation of more than one-third of the territory of Cyprus with an estimated 35,000 troops. Turkey has continued this illegal occupation in complete defiance of the international community, spurning U.N. resolutions and the entreaties NATO countries, both here and in Europe, seeking a Turkish withdrawal.

Indeed, far from bowing to the international pressure, Turkey has gone in the other direction, having declared in 1983 the so-called "Turkish Republic of Northern Cyprus," recognized by no other country but Turkey. Recently, Turkey has increased the size of its occupation forces by adding 8,000 additional troops and new tanks and armored vehicles.

Turkey also curtails the civil rights of its minorities within its own borders. The mistreatment of the Kurdish people and the Christian community—including Armenian Christians in Turkey—is well-documented and has been eloquently described by Mr. PORTER and some of the other speakers.

Mr. Chairman, the message to Turkey must be that you cannot have it both ways. You cannot continue to benefit from the support of Western nations and call yourself a partner in peace and security, while flouting the basic principles of the Western democracies: respect for international law, respect for the sovereignty of your neighbors, and respect for the peoples within your own borders. Turkey has benefited from American largesse for many years, and the results have been disappointing. It is time to show that Turkey must clean up its act with regard to human rights if it wants to continue to receive United States support.

ENCOURAGE YOUR U.S. REPRESENTATIVE TO CUT U.S. AID TO TURKEY

"I will be offering an amendment to cut some of these funds in order to send a clear message to Turkey that their ongoing genocide of the Kurds, and their treatment of their neighbors, Armenia and Cyprus, is absolutely unacceptable."—Rep. John Edward Porter (R–IL), June 22, 1995.

The ANCA urges you to contact your U.S. Representative in support of Rep. Porter's amendment linking U.S. aid to Turkey to its blockade of Armenia, continued occupation of Cyprus, and escalating human rights violations, including widespread abuses against its Kurdish population.

Please call the Capitol Switchboard at (202) 225–3121 and ask to be connected to your Representative.

The House began debate on the foreign aid bill on Thursday, June 22nd. The vote on the Porter amendment is scheduled for Tuesday, June 27th. The entire House debate will be broadcast live on C–SPAN.

The last year the Congress withheld 10% of U.S. aid to Turkey because of concerns about human rights. The Turkish government responded by publicly rejecting any U.S. assistance which is linked to its record on human rights.

In February of this year, the State Department reported that the human rights situation in Turkey "worsened significantly," during 1994. More recently, in May of 1995, the State Department confirmed that U.S. supplied weapons are being used in human rights violations by the Turkish government.

Human rights groups, including Amnesty International and Human Rights Watch, have consistently identified Turkey as among the world's worst human rights abusers.

Turkey blockades U.S. humanitarian aid to Armenia, continues to occupy northern Cyprus, denies the identity of its Kurdish population, and places unfair restrictions on its Christian churches and communities.

THE PORTER AMENDMENT CUTTING U.S. AID TO TURKEY

Passing the Porter amendment will help to restore credibility to our foreign aid program by ensuring that recipients of U.S. aid adhere to basic international standards for human rights and humanitarian practices.

The U.S. State Department, in February of 1995, concluded that "the human rights situation in Turkey worsened significantly in 1994."

Human rights monitoring organizations have consistently documented extensive and widespread human rights abuses by the government of Turkey, including the use of torture.

Turkey is in violation of several international human rights agreements to which it is a party, such as the U.N. Universal Declaration of Human Rights and the European Convention on Human Rights.

Turkey continues to obstruct desperately needed U.S. humanitarian aid to Armenia.

Turkey continues to deny basic rights to 15 million Kurds and has used military force to deny them an identity.

Turkey continues its military occupation of Cyprus and has obstructed efforts to reach a just and lasting resolution on the island.

Turkey places unfair and prohibitive restrictions on Christian communities and churches.

MAINTAINING THE BAN ON U.S. AID TO AZERBAIJAN

Weakening the law restricting U.S. aid to Azerbaijan will represent a retreat from the principled position, adopted by the Congress in 1992, that Azerbaijan must make progress toward peace by lifting its blockades and abandoning a military solution to the Nagorno Karabagh conflict.

The Congress sends the wrong message by moving to weaken this restriction when, in the more than two years since the law was passed, the Azerbaijani government has not taken any steps to meet the clear conditions set forth in the Freedom Support Act.

Any attempt to lift the ban now will only encourage Azerbaijan to resist a political solution to the Karabagh conflict and keep their blockades in place.

A cease-fire has been in effect for over a year, but talks towards a settlement of the conflict have not yet been successful. Retreating from the conditions in the Freedom Support Act would seriously threaten a fragile peace and reward Azerbaijan for failing to comply with U.S. law.

The restriction on aid to the Azerbaijani government does not prevent the delivery of U.S. humanitarian aid to non-governmental organizations within Azerbaijan. To date, over $60 million in such assistance has been provided to meet humanitarian needs in Azerbaijan.

Azerbaijan fails to meet the democratic and human rights standards that U.S. taxpayers have the right to expect from recipients of foreign aid.

□ 0330

Mr. LIVINGSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, our number one foreign policy priority should be to advance the national security interests of the United States. Turkey is clearly in our Nation's national security interest. Nothing more; nothing less.

Gen. John Shalikashvili, Chairman of the Joint Chiefs of Staff, wrote this week in a letter to Chairman Callahan that:

> Now that Turkey occupies the new front line in the post-Cold War era, the strategic value to the United States of having a staunch and steadfast ally situated in a critical strategic location in the flanks and Middle East cannot be overstated. . . .

He added that:

> Turkey's continued participation in NATO as a strong ally of the U.S. remains vitally important as new security arrangements evolve in Europe.

He says:

> Imposing more restrictions on this valued ally will only hinder our attempts to encourage progress and bring about lasting change. . . . By withdrawing support for them and taking on the role of adversary, we lost access to key decision makers. Recent progress combined with Turkey's unquestioned strategic importance, should drive the United States to increase support to Turkey in order to achieve our objectives, not destroy bilateral relations.

This is the Chairman of the Joint Chiefs of Staff who is entrusted with maintaining the defense of our Nation. His concerns about our Turkey's strategic importance should be paramount in this debate.

Turkey's is vital for a number of critical reasons:

First of all, Turkey secures NATO's troubled southern flank. It maintains the second largest standing army in NATO.

It strengthens Western defenses against future turmoil should Russian reformers fail and aggressive Russian nationalism returns.

It is the only secular democracy with a free market economy that has a predominantly Moslem population. Strengthening this democratic ally is crucial to preventing the spread of terrorism associated with Islamic fundamentalism, and instability arising from repressive regimes.

Turkey is vital to the containment of Saddam Hussein. Without the use of NATO air bases in Turkey, where over 2,700 strike missions against Iraq were launched, we would not have been able to defeat Iraq without substantially more casualties and expense.

Turkey's help in closing Iraq's pipeline and honoring the embargo cost the Turkish economy around $20 billion in trade to cooperate with the United States in Desert Storm.

Turkey remains a close friend with Israel and a supporter of the Middle East peace process. Turkey can help bridge the divide between Moslem and Western worlds.

Turkey's neighbors include Iran, Iraq, Syria, Russia, and the Balkans. And the stability in that very troubled sector of the world is vital to securing peace in one of the most volatile and dangerous sectors of geography.

Only yesterday, the Turkish Parliament approved a 6-month extension of Operation Provide Comfort, the international program which uses Turkish bases to deter Iraqi attacks against the Kurds of northern Iraq.

The State Department report on the situation in Turkey contends that Turkey has started human rights training for military, made public the Code of Conduct for the military, and is considering human rights and democracy proposals in the parliament. State Department states, "We can and should expect progress."

The State Department stated on June 14, 1995:

> Any cutoff in assistance would undermine Prime Minister Ciller's bold but vulnerable initiative to improve democracy and human rights in Turkey. This would damage the interest of the Kurds and other important groups in Turkey.

As former Secretary of State Alexander Haig stated in a column in yesterday's Washington Times:

> At this critical juncture, those who support cuts in assistance or in support for Turkey are willfully blind to U.S. strategic interests.
>
> In the absence of an effective U.S. Turkish partnership, the entire U.S. position in the Persian Gulf and the Middle East will be the biggest loser. The winners will be neither pro-Western nor those interested in human rights. It is high time that we recovered from strategic amnesia.

That from Alexander Haig.

Mr. Chairman, I would suggest that as well intentioned as this amendment may be, it fiddles dangerously with a U.S. strategic alliance with one of our NATO allies, and it should be rejected.

Mr. TORRES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise tonight to support the Porter-Wolf-Smith amendment in moving to strike the $25 million in economic support funds to Turkey to express U.S. opposition to the intransigence of the Turkish government against its neighbors with acts of hostility, acts that historically have cast Turkey as a bad actor in the Near East.

When I say this, you know that as we hear reports, as we are privy to the news, Turkey has not been providing or promoting peace in the region. Beginning with its callous invasion of Cyprus 21 years ago, as we have heard, currently occupying that island with 35,000 Turkish troops speaks to their imperialistic stance that they have taken.

The Turkish army is constantly conducting military maneuvers near Armenia and has increased its forces on the Armenian border. The Turkish Army has extended military support to Azerbaijan in its conflict with the Armenians of Nagorno Karabagh.

Turkey continues to curtail and oppress the civil rights of its minorities. False charges of conspiring with the Kurdish movement are leveled against the Armenian church.

Turkey's genocide against its Kurdish minority, using U.S. origin weapons which have, as you have heard, resulted in the deaths of 15,000 Kurds, 2500 Kurdish villages that have been destroyed, Kurds forcibly evacuated, and three million Kurds made homeless refugees.

Turkey is no stranger to the crime of genocide. History will long note their genocide of Armenians, but they, to this day, continue to deny the fact of this atrocity some 80 years ago.

The Armenian genocide was a deliberate act to kill and to deport Armenians from Asia Minor. It takes its place in history with other acts of genocide such as Stalin's destruction of the kulaks, Hitler's calculated wrath on the Jews and gypsies, and Pol Pot's attempts to purge incorrect political thought in Cambodia by killing all of its people over the age of 15.

We do not have the ability, my colleagues, to go back and correct the acts of previous time or to right the wrongs of the past. I am sure, if we had that capacity, perhaps we could have prevented the deaths of millions of and murders of millions of men and women and children. But we can, however, do everything in our power to prevent such atrocities from occurring again, as they are occurring now.

Turkey's banning of books on the Armenian genocide and the imprisonment of its publishers is deplorable. Its persecution, its imprisonment of writers, of artists, of intellectuals, even members of their parliament, our counterparts, because they chose to dare to criticize Turkish policies against the Kurds, the Assyrians and Christians, this, this, my fellow colleagues, in what some of my colleagues have called the only Muslim democracy in the world. A democracy? I think not.

I think the greater question we must ask ourselves is why do we tolerate this bankrupt policy of Turkey? Simply because they are valued allies, I have heard. And because they played a critical role during the cold war. To be sure, we appreciate the use of their air bases and their listening posts on what was at that time the Soviet Union. But that is no longer. That is a heavy price for Americans to pay, for American taxpayers to pay when tanks, American tanks and American weapons, are used against innocent people and there is widespread torture and unlawful detention.

My colleagues, we have to send a strong message to Turkey, our so-called valued ally, that we can no longer tolerate this. Their human rights record leaves much to be desired. And this would send a clear and very salient message that we would like to see changes in their situation and provide for greater economic, political and social justice in that nation.

Mr. WOLF. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I strongly support the Porter amendment. If you listen to the debate on the Visclosky amendment and you were going to vote for it, you really have to vote for the Porter amendment.

Sure, Turkey has been our friends on things. But we really cannot close our eyes to what has taken place with the fundamental values that our country has. The gentleman from Illinois [Mr. PORTER] does not have with him now, but he had the pictures of the butchering, literally, the butchering of the Kurds and the ripping apart, and the body parts that are all over. He brought the pictures to the subcommittee meeting. You could not look at the pictures without getting sick.

Second, when I was in Nagorno Karabagh, all the weapons that the Azeris have used against the Armenians are supplied by the Turks. In the field was a Turkish tank that had been taken out. All the weapons had Turkish marks or American marks that we gave to the Turks because they are our NATO allies and then gave to the Azeris. You all know what took place on Cyprus. You all know what is going on there.

This is a moderate amendment. This is not a killer amendment. We stand for some fundamental values. I think to defeat the Porter amendment tonight would pretty much send words to the Turkish Government that they can do what they want to the Armenians. They can do what they want on Cyprus. They can butcher the Kurds, and the U.S. Congress will not speak out. I strongly urge a yea vote for the Porter amendment.

Ms. PELOSI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, although I know you will be officially commended by the leadership of our committee, I want to add my thanks for the dignified and firm manner in which you have chaired over this process.

Mr. Chairman, I rise in support of the Porter amendment, and in doing so I want to acknowledge that Mr. PORTER is an internationally recognized champion of human rights, not only in Turkey but throughout the world. As we all know, he serves as co-chair with the gentleman from California [Mr. LANTOS] of the Human Rights—I do not know if it is called caucus anymore in the House of Representatives.

He knows of what he speaks. He has studied this subject of Turkey long and thoroughly. He has visited there. He has documentation for the concerns that he has expressed, and he has provided a great deal of leadership to our committee and to this Congress on what is going on in that part of the world. I commend him for his leadership and for bringing this amendment to the floor.

Our chairman, the gentleman from Louisiana [Mr. LIVINGSTON], read a letter from General Shalikashvili which made a couple of points about our foreign policy interests in Turkey and Turkey being a strong ally, and that is true. However, I do not believe any of the reasons spelled out in General Shalikashvili's letter gives Turkey a license to brutally repress its people or us reason to ignore that fact.

My colleague, our colleague, the gentleman from California [Mr. TORRES] has documented some of the concerns that we have, and in the interest of time I will not go into them. However, I will comment that Turkey, as others may mention later, is in violation of several international human rights agreements to which it is a party, such as the Universal Declaration on Human Rights and the European Convention on Human Rights.

☐ 0345

Last year the Congress withheld 10 percent of United States aid to Turkey because of concerns about human rights.

In February of this year, the State Department reported that the human rights situation in Turkey worsened significantly during 1994.

More recently, in May of 1995, the State Department confirmed that United States-supplied weapons are being used in human rights violations by the Turkish Government.

That is why it is very interesting to hear in the statement of one of our colleagues earlier that the State Department expects progress on human rights in Turkey, when as recently as May they have said that the situation has deteriorated. They have been saying this over and over, that they expect progress. In the meantime, we have to do something about it.

Human rights groups including Amnesty International and Human Rights Watch have consistently identified Turkey as one of the world's worst human rights abusers. Turkey blockades United States humanitarian aid to Armenia, continues to occupy northern Cyprus, denies the identity of its Kurdish population, and places unfair restrictions on its Christian churches and communities.

For years Congress has heard from the State Department about quiet diplomacy will lead to progress on Turkey's human rights record. Each year we have read letters and heard testimony on how Turkey will soon adopt sweeping reforms which will lead to broad-based democracy and respect for human rights. Indeed, we even heard that read to us again tonight. Sadly each year, we have been disappointed as the human rights environment in Turkey continues to deteriorate.

The Congress must take the lead in impressing upon Turkey that it abide by international standards for humanitarian practices and human rights. If Turkey fails to comply with the requirement, I believe it is our obligation to ensure that United States tax dollars do not subsidize the Turkish Government's abuses of its own citizens.

I said as I began, Mr. Chairman, that I would not use all my time, but I would like to take a moment again to commend the gentleman from Illinois [Mr. PORTER] for his leadership and once again the gentleman from Alabama [Mr. CALLAHAN] for his strong leadership on this committee.

Mr. BUNN of Oregon. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, at least twice in the last 3 hours I have heard a reference to the Ottoman Empire. It is interesting to me that the nation of Turkey is being blamed for something that the Ottoman Empire, which does not exist today, may or may not have done 75 years ago.

The government of Turkey is not responsible for what happened in World War I. I do not think that this debate benefits by that being our center focus.

But let's talk about the Kurdish people, because we are being told that there is a systematic genocide of the Turkish people, but we are not being told about the PKK, which is a terrorist group that was founded by the KGB to disrupt one of our NATO allies. Yet even though the Soviet Union no longer exists, the PKK still does, killing tourists, disrupting the economy and trying to divide the Nation.

I had an opportunity to visit Turkey recently and unfortunately also had the opportunity to see the result of one of the bombs in Istanbul that was designed to kill terrorists.

It did not accomplish its task. They found out that it was there and it was being towed away and it killed a tow truck driver rather than the tourists that it was aimed at.

But Turkey has a real threat to its national security. The PKK is intent on dividing the nation. Turkey has a right to defend its borders. It has a right to say if the PKK is going to use Iraq as a safe haven that it will go in and it will deal effectively with that terrorist attack that is coming across its border.

We also need to realize, Turkey is not anti-Kurdish. Roughly a quarter of the members of the parliament are Kurdish. But what about the 6 that were mentioned?

Let's quote a couple of the State Department because we heard some earlier quotes from the State Department. This is from June of this year:

"Currently as many as 25 percent of the members of the 450-seat parliament are Kurds." That does not sound like genocide of the Kurds to me.

As far as the 6 deputies, "Six are in self-imposed exile in Europe and most of these have associated with the PKK." We need to take a realistic look at what is happening in that country and respect their ability to protect themselves.

As far as free expression and books being banned, Turkey has made progress. We are told, oh, things are getting worse. Things are getting better.

In 1991 the law was changed so that books can be printed in Kurdish. This is an example of a book printed in Kurdish since the law was changed.

The blockade. We passed a modification in the committee to prevent support going to nations that maintain the blockades, so that we are not allowing that. But, in addition, Turkey removed the air blockade. They are making steps forward.

Cyprus. I think it is very interesting that somehow we think that Turkey is the only party at fault in Cyprus. Do we have a proposal here to take everybody else involved and say, "We're going to cut your funding by over half"?

I think it is a major mistake for this Congress to decide that Turkey is the only party at fault and, therefore, we are going to cut over half of their aid, we are not putting conditions certainly, we are just automatically saying $25 million of your $46 million in support is gone.

I think that that is very wrong. I think that things are improving in Turkey. But I also think we need to look at another very practical side. That is, our interests. Our interests are to maintain a strong relationship with a country that has worked very hard for us, has supported us, and it is not a one-way street.

As a NATO ally with the second largest ground force, they have been a significant factor. In Desert Storm, hundreds of Americans' lives were saved because we were able to use Turkey's air bases. One of the things that many of us do not realize is that Turkey has been the most effective participant in shutting off Iraq because the pipelines going through Turkey are closed and it has literally cost Turkey billions of dollars because of that sacrifice, because we have asked them to do so.

So we are sending them millions while they are losing billions in support of us. They are a friend that we can count on. There are two sides to the argument. I urge a strong "no" vote on the Porter amendment.

Mrs. LOWEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Porter amendment which will hold Turkey accountable for the human rights abuses it has perpetrated over the past two decades.

According to the State Department, Turkey's human rights record "worsened significantly in 1994." And they are using the military aid we send them to carry out these gross abuses.

Each year, American taxpayer dollars go to perpetrate a terrifying list of human rights abuses. Extra-judicial executions, tortures, missing persons, political imprisonment. The list goes on. It is time to put an end to this.

We have seen 21 years of Turkish occupation of Cyprus. Over two decades since more than 200,000 Cypriots were driven from their homes in Cyprus and forced to live under foreign occupation. Turkey still has more than 35,000 troops on the island. And we still do not know what became of the 1,614 Cypriots and 5 American citizens missing since the Turkish invasion.

Turkey also continues to prevent United States humanitarian assistance from going to Armenia.

We must not tolerate these abuses that Turkey perpetrates. They have not shown significant signs of improvement, and we cannot let them roll the American taxpayers year after year. I urge my colleagues to make a statement that the United States will not tolerate this kind abuse. Please support the Porter amendment.

Mr. GEKAS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, each Member when deciding how to vote on the Porter amendment is going to have to decide it on whether or not the human rights violations which have been now a matter of record, that the Turkish Government has perpetrated them all over the Middle East, and then decide, well, is it enough to hear the State Department's report on recent human rights violations? Is that enough for me, a Member of Congress, to reduce the aid to Turkey?

Maybe it is not enough. Maybe it is just episodic, maybe a few instances of brutality that we should overlook because of the long-term relationship that the United States has had with Turkey.

But then when one recounts that these are not just episodes but, rather, a campaign of brutality according to the State Department report, and then when you add to it the fact that in Cyprus, where only one nation attacked and stormed the shores of Cyprus, only one, and caused refugees and caused agony and caused other human rights violations, when you add that to the weighing-in of how you are finally going to cast your vote on the Porter amendment, and then you recall Armenia and you recall the patriarchate in Istanbul and the Kurds and one after the other, then you are going to be able to determine your vote not on just a scant report of recent violations but a government which has for decades, as someone else has referred to it, has for decades engaged in brutal conduct on its own citizens and on its neighbors.

The irony of it was, as the gentleman from California said, when the Cold War was at its height, we supplied weapons and economic aid to Turkey so that their weapons could be pointed toward the Soviet Union to keep them, to keep the Soviet Union, from ever being able to rush into the Middle East and fill the void of conflict that exists in that area of the world.

These weapons were pointed there. We said it was a matter of national security and NATO existence for us to make sure that the Turkish government was able to keep those weapons pointed at the Soviet Union.

What has happened since then? The Cold War ended, the Soviet Union collapsed, and these weapons were turned inwardly by the Turkish government toward their own citizens, toward Cyprus, facing west across the Aegean, and no longer can anyone in the State Department or in the Joint Chiefs of Staff aver that we need those guns pointed at the Soviet Union, which is useless. On the contrary, something must be done to turn those weapons away from the direction in which they are now pointed. That is the essence of the Porter amendment.

Mr. Chairman, we say the behavior of the Turkish government must be modified. This is a modest way in which to send that message and have the Congress play a small role in modifying that behavior. It does the United States no good at all to see the Cyprus situation, the Armenia situation, the Kurd situation continuously boil and continuously perpetuate itself in all the agony that exists in those parts of the world.

To say that Turkey helped us in the war against Iraq, well, so did Cyprus, so did a dozen other nations, so did 30 other nations supply materiel and airspace and all the other accouterments required for Desert Storm. So we cannot let bygones by bygones. It is a question of whether the past violations that we have outlined here in this debate are evidence of conduct, predilection toward future conduct of human rights violations and, therefore, adding instability to an area where we believe we ought to have stable government in order to protect our own national interests there.

Mr. Chairman, we need to support the Porter amendment and then urge the United States and the international community to solve the situation in Cyprus and Armenia and in the Kurdish part of Turkey and Iraq.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Porter amendment.

Mr. Chairman, Turkey is indeed an ally of the United States, an important one. So is Greece. Frankly, from time to time, the governments of both countries have frustrated me.

I would say, also, that I opposed in committee the original intention of the gentleman from Illinois [Mr. PORTER] to eliminate all aid to Turkey, because they are an important ally and I think we have to keep a focus on our own national interest, and I think our national interest requires a decent relationship with Turkey as well as the other countries in the region.

□ 0400

But I also think we have to remain true to our values, not just our interests.

And I think we expressed those values a year ago when the Congress asked for a report on the human rights situation in Turkey. We got it. It was not a very pleasant report.

And it seems to me that when we ask for a report on a subject as important as human rights and get one, we then ought to act on it. And if we are not prepared to act on it, then we ought not to ask for those reports in the first place because we are simply asking somebody to shuffle some paper to no good end.

And so it seems to me that the Porter amendment is a modest approach to try to send a signal that we do, indeed, care about human rights and we do expect that there is going to be an improvement and insist on an improvement in human rights in that country.

It is always a question of how far we go, how deeply we cut, how much of an amount we carve out in order to send that kind of a message. And I frankly do not know if the Porter amendment selects the right number or not. But I think it is a reasonable approach and it can be modified as we go through conference.

Mr. Chairman, I think that the worst thing of all that we could do would be to do nothing in this instance, because if we do that, I am afraid that the human rights abuses in Turkey will continue unabated. And I think the logical action that will flow from that is an eventual insistence by Congress that all aid be cut off and I do not think that would be healthy.

And so it seems to me that this is a modest approach and we ought to support it. It leaves Turkey with some $21 million in ESF and $320 million in SMF. I think that is a reasonable approach and so I would suggest that we support the Porter amendment.

Mr. GILMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to commend my colleague from Illinois, Mr. PORTER, the gentleman from Virginia, Mr. WOLF, and the gentleman from New Jersey, Mr. SMITH for offering this amendment.

We all recognize the importance of continuing United States security cooperation with Turkey. Turkey's importance as a Member of NATO and its role as a base for operation Provide Comfort and its support for U.N. sanctions against Iraq is noteworthy and fully appreciated by our own Government.

Nonetheless, along with many of my colleagues, I am deeply concerned about the human rights situation in Turkey, particularly the government of Turkey's action against the Kurds, against journalists and others which infringe upon the freedom of expression.

Our Committee on International Relations has received credible reports from human rights organizations of serious violations of international standards of human rights. Moreover, we remain deeply concerned about Turkey's continuing intransigence regarding its ongoing occupation of Cypress by some 35,000 Turkish troops, not to mention the lack of information on the missing in action.

This amendment is targeted to cut only the economic support fund by some $25 million. It does not affect the funding of Turkey's foreign military financing program.

Accordingly, I urge my colleagues to support the Porter-Wolf-Smith amendment. It sends a strong message to Turkey on the need to improve their human rights record.

Mr. TORRICELLI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to begin by noting that in this Chamber, when there is a good cause to help people in a worthwhile endeavor, the name of the gentleman from Illinois, JOHN PORTER, is usually associated with it and tonight is no exception. I rise, therefore, in strong support of his amendment.

Through the years, we have on many occasions debated in this Chamber the question of American assistance to Turkey. I remember most of them, and frankly opposed most of them because Turkey was so critical to the United States during the cold war, because of its pivotal position in a dangerous place in the world.

But after all these years, and all of those votes, in the final analysis, we have no choice tonight. The cold war and its end has meant many things, but for this Chamber and the foreign policy of this country it certainly means this: A new freedom to look at friends and adversaries alike honestly, no longer needing to compromise for the Nation's security important national principles.

This much can be said of the United States in the post-cold-war period.

There is no reason to compromise. Our highest principles cannot be bought simply because of security reasons.

Tonight, we need to take a firm and final stand on human rights in Turkey because, in fact, Turkey is two nations. It has an evolving democracy, to be sure. But it is also unmistakably involved in a genocidal campaign against hundreds of thousands of its own people; not simply abusing some of their rights, but villages that I have seen with my own eyes razed. Buildings taken to the ground, thousands of people who have disappeared from their homes. It is, to be certain, an ally of longstanding of the United States, but for nearly 3 decades engaged in an occupation of Cypress, standing harm's way against a fellow NATO ally.

It is, of course, a Nation that was helpful to the United States in the Persian Gulf war. But yet it unbelievably blockades humanitarian assistance to the Armenian people, one of the most desperate of nations on earth trying to struggle to create a new nation for itself. And yet our own country, despite this friendship cannot get assistance to Armenia because of a Turkish blockade.

Tonight, Mr. Chairman, the United States has an opportunity to follow the leadership of our European allies who have already taken a stand by ending their own assistance. And yet, Mr. PORTER does not ask that we do end assistance. He makes the incredibly modest proposal, leaving military assistance aside, for 50 percent basis, we reduce economic assistance.

Mr. Chairman, one day it will be asked where were you America when the villages of the Kurdish people were razed and their people were abused? Where were you? What did you do and what stand did you take? As it will be asked three decades later America, where were you when Cypress continued to be occupied? As it will be asked, where were you America when the Armenian people suffered, a new Nation was being created, but your own aid was being blockaded?

Tonight by standing with the gentleman from Virginia [Mr. WOLF], with the gentleman from New Jersey [Mr. SMITH], with the gentleman from Illinois [Mr. PORTER], you can answer all 3 of these questions. That we stood as friends of Turkey to be sure, because it is better in friendship to be honest, to ask Turkey to correct its own behavior. That is worthy of a friendship with the United States. I strongly urge adoption of the Porter amendment.

Mr. BILIRAKIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to add my commendations to my colleague from Illinois, Congressman PORTER, for sponsoring this important amendment. It is designed to hold the Turkish Government accountable for their human rights abuses and prevent U.S. taxpayer dollars from funding such violations.

This amendment is particularly timely, as the Turkish Government continues to suppress religious expression within its borders. Turkey has signed a number of international agreements guaranteeing freedom of religion, including the Treaty of Lausanne, a 1968 protocol between Greece and Turkey, the European Convention for Human Rights and several agreements issued by the Conference on Security and Cooperation in Europe. In spite of these guarantees, the Turkish Government has systematically repressed the religious freedom of the Greek community and other ethnic minorities in Turkey.

Particularly disturbing to me is Turkey's failure to take strong action in the wake of several recent terrorist attacks against ecumenical patriarch Bartholomew I. The patriarch is the spiritual leader of the Eastern Orthodox Christian Church, representing over 250 million Orthodox Christians worldwide, including over 5 million residing in the United States.

On May 28, 1994, a provocation was staged by Muslim militants in Istanbul, Turkey, against the patriarch. Three bombs were placed in the attic of the building where the patriarch lives and were found shortly before they were set to explode. While the episode is ominous, it is only one in a series of provocations against the Patriarchate and the Greek Orthodox Christian Community in Turkey.

Other examples include the following: On March 30, 1994, unknown perpetrators threw a molotov bomb inside the back courtyard of the Ecumenical Patriarchate. In July 1993, the Christian Orthodox cemetery in Yenikoy was attacked by vandals and desecrated. Finally, there has been a concerted effort to convert the Church of Hagia (Saint) Sophia into a mosque.

In light of these events, I have introduced separate legislation in this Congress urging the Turkish Government to ensure the proper protection of the Patriarchate and all Orthodox faithful residing in Turkey.

Also, of course, Turkey continues its illegal occupation of northern Cyprus—one recognized by no other government on Earth. Altogether this represents two decades of unanswered questions, two decades of division, two decades of human rights violations and two decades of cultural destruction.

Turkey continues to station more than 30,000 troops on the Island of Cyprus and also maintains 65,000 settlers there. In fact, the amount of U.S. aid we send to Turkey each year is roughly equal to the amount needed to maintain the 30,000-plus troops illegally occupying Cyprus. A coincidence? I think not.

A "no" vote, Mr. Chairman, on the Porter amendment endorses the human rights violation. A "yes" vote will send a strong message to Turkey that their policies of oppression will not be tolerated. So please, I ask my colleagues, vote "yes".

Mr. HOYER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, some 6 or 7 or 8 years ago, I had the opportunity of going to Bulgaria. Before I went to Bulgaria, I spent some time with the Turkish ambassador and a number of Turkish parliamentarians. They were very concerned because the Bulgarians had circled a number of towns on the Bulgarian-Turkish border. One of them was Kurdzhali.

They had surrounded towns and forced Turkish Bulgarians to change their names. They had made it illegal to use the Turkish language. They had, in fact, tried as a Bulgarian Government to eliminate the Turkish culture in Bulgaria.

I went to Sofia, the capital of Bulgaria, and spoke to those officials, then the communist leaders of that nation. And then I got on a bus and traveled approximately 3½ to 4 hours south to Kurdzhali. Then Assistant Secretary of State Dick Shifter was with me and some other Members of this body were with me and we went door-to-door in that town and talked to people and by happenstance we found some people that confirmed in fact that is what had happened.

The Bulgarian TV was with us and we made statements. The Bulgarian Government was surprised that we found confirmation of the allegations the Turkish Government had made.

So I rise today on behalf of the Porter amendment as someone who has in my role in the Helsinki Commission been an advocate of human rights for Turks. But when we ask for human rights, we must also be prepared to accommodate human rights.

And that sadly is not happening in Turkey. I commend the speech of our colleague, Mr. TORRICELLI. I thought he said it just right. Turkey is our friend. Turkey is an important ally. I do not delude myself, however that, Turkey has allied itself with us for our interests. They did it for their interests.

□ 0415

They had benefited by the protection of the NATO alliance and the alliance with the United States, and they have been an important ally of ours.

It is, frankly, a more complicated world in which we now live. When it was us and them, it was easy to point fingers at the Warsaw Pact nations and say they are awful, they are violating human rights, they are not allowing people to emigrate, and we were all united on that because after that, that was then, and we were us.

It is, as the gentleman from New Jersey [Mr. TORRICELLI] said, more difficult to look a friend in the eye and say, "Friend, you're not acting properly, you're not complying with the rules of the Helsinki Final Act of the Uniform Declaration of Human Rights, and you are abusing your Kurdish citizens."

In fact, my colleagues, non-Kurds in Turkey, if they happen to be in prison, have their human rights violated egregiously.

I have met on countless times with the Ambassador from Turkey in private because it was not my desire to confront Turkey in a public way. But frankly, my colleagues, I do not believe the Prime Minister, Madam Ciller, is in control of the actions of the Turkish military as we see thousands upon thousands upon thousands of refugees created, warring on their own citizens.

Yes, the PKK is a problem. They are terrorists, and the Turkish Government has a responsibility to its people and to its nation to confront that terrorism. But we must stand and say that that confrontation and dealing with terrorism should not be and must not be an excuse or rationalization for the continued undermining of the human rights of the Kurdish citizens and other citizens in Turkey. The Porter-Smith-Wolf amendment speaks to this issue.

I said on the amendment that we adopted of the gentleman from Indiana [Mr. VISCLOSKY], also a complicated amendment, that America plays a very special place in the world. We speak with a loud voice. Let us tonight again speak with a voice on behalf of those who are weak and who have no voice.

Mr. SMITH of New Jersey. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Porter-Wolf-Smith amendment which would cut ESF assistance by $25 million, leaving Turkey with $21 million in that account.

Mr. Chairman, without question a stable and democratic Turkey is the best partner we could hope to have in that frightfully unstable region. Turkey has been a loyal friend who supported us in the Gulf War and continues to pay the price for standing up to Saddam Hussein. The economic costs of the Iraq embargo and lack of authority in northern Iraq have fueled terrorism and violence which has claimed the lives of more than 6,000 people since 1991.

Mr. Chairman, in recent years, aid levels to Turkey have decreased steadily, and Turkey's grants have already been converted to loans. Last year, Turkey received $46 million in ESF assistance. Additionally, 10 percent of Turkey's $363 million military assistance earmark was conditioned on the findings of a human rights report by the Departments of State and Defense. In response, Turkish leaders rejected the conditioned 10 percent and anti-American, particularly anti-Congress, rhetoric abounded in the Turkish press and Parliament.

The time has come for Congress and the President to reexamine available options to best support an important ally while remaining true to our human rights commitments. Striking such a balance is important. While we want to support Turkey's pro-Western, democratic oriented government, we cannot abandon what we continue to see in terms of human rights abuses and those who face oppression.

The State Department and Defense Department report on allegations of abuses by Turkey's armed forces confirmed OSCE and NGO data that Turkey's leaders have failed to improve human rights conditions. More than 2,000 Kurdish villages have been evacuated, creating 2 million internal refugees. Death squads operate unhindered and hundreds of civilians have disappeared or become victims of unsolved murders. Turkey's pending entry into an EU Customs Union, clearly linked to human rights improvements, has barely spurred cosmetic reforms to address laws which restrict free expression. While Turkey deserves our assistance in combating terrorism supported from abroad, the government's response to terror has only made the problem worse. Volatile combinations of violence and propaganda polarize Turkey's citizens and destabilize the political system, raising the possibility of a military coup.

Mr. Chairman, last Friday, a letter from the Chairman of the Joint Chiefs of Staff, General Shalikashvili, reiterating Turkey's strategic importance, was circulated with a "Dear Colleague" asking us to oppose the Porter amendment. I believe it is noteworthy that General Shalikashvili, who led international efforts to help Kurds after the gulf war, has personally engaged himself in a dialogue on human rights issues with his Turkish counterparts. This dialogue reaffirms the important linkage of human rights with security interests, but also raises some questions in my mind. First, has the human right situation in Turkey deteriorated to such a critical point that it must be raised at the highest military levels? Second, did such discussions contribute to the conclusions of the recent State Department and DOD report indicating that U.S. equipment has been used to commit rights abuses? And finally, what role does the Turkish military have in politics if, and I quote the letter, "the Turkish military leadership is backing progress on human rights and is ready to make a concerted effort to see democratization legislation pass?"

Mr. Chairman, Turkey's present leaders seem unable to find a peaceful, political solution to the Kurdish problem. Nationalist policies promoted through military action are widely supported among the Turkish media, public, and almost all political parties. This is not surprising when one considers that those who advocate political solutions, including free expression and cultural rights for Kurds, are viewed as "separatists" and face significant jail time. Championing political, nonmilitary solutions to the Kurdish crisis would take an immense act of courage. While realization of such policies would certainly test the mettle of Turkish democracy, we must assure Turkey that we, her friends, would stand by her, for we all must collectively place our faith in the ability of our democratic institutions and values to overcome divisive issues.

Mr. Chairman, let us not forget the critical parliamentary elections in Turkey next fall. Many believe this election will be an historic last chance for the present political system and constitution. If a newly elected group of Turkish leaders is unable to decisively move toward peaceful resolution of the Kurdish impasse, many related crises will be exacerbated. Islamic fundamentalist and nationalist parties increasingly cut into support for Turkey's centrist, secular parties. Should the centrist parties lose control, Turkey will likely turn away from the West and could face increased internal conflict. That outcome would be devastating to the interests of both our countries and would pose serious threats to regional stability. In this context, Mr. Chairman, I would urge worldwide election monitoring institutions to set their sights on this important contest, where the potential for irregularities, especially in southeast Turkey, will be significant.

Mr. Chairman, keeping these issues in mind, aid to Turkey poses serious questions. When we fail to raise the human rights issues, we seemingly condone and support Turkey's militaristic campaign against its own citizens. I would remind my colleagues and our friends in Turkey of a traditional Turkish saying: "Words between friends are often the most bitter." A decision to condition aid to Turkey should not be viewed as a rejection of our friendship. I believe further demonstration of our concerns over deteriorating human rights conditions are warranted, not only to confirm our support for human rights and for those who support human rights in Turkey, but also for the interests of political stability in a crucial ally. I believe the porter amendment to cut Turkey's ESF funding from $46 to $21 million is an appropriate demonstration of our concern, and I call on my colleagues to support this amendment.

Mr. MENENDEZ. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as a member of the House International Relations Committee and of the Congressional Human Rights Caucus, the latter of which Mr. PORTER is cochair with Mr. LANTOS, I have stated repeatedly in committee and on the House floor that we must condemn human rights abuses whenever and wherever they occur. I say to my colleagues, "You can't pick and choose," and for those, yes, Turkey has been an ally, and my colleague, the gentleman from New Jersey [Mr. TORRICELLI] clearly pointed out, however, the dichotomies in that relationship. But I reject those who suggest that that relationship at any price has to be maintained. There are some things that are not for sale.

The gentleman from Illinois is to be commended for pointing out the abuses perpetrated by Turkey in recent years. Yes; there are times when we must be firm even with our allies. And the time is now for us to be firm with our NATO ally, Turkey. So, it is right that we condemn the human rights violations committed by Turkey within and beyond its borders. And it is right that we pursue the mild sanctions proposed in this amendment.

I ask my colleagues, should we be providing any assistance whatsoever to a country which responds to its critics in the press by stopping the presses and shutting up writers—even the Nation's leading author—by throwing them in jail without due process?

Should we be providing any armaments whatsoever to a government which according to our State Department turns around and uses those armaments to repress ethnic minorities such as the Kurds?

Should we be providing any assistance whatsoever to a country which for 21 years has forcibly and illegally occupied with 35,000 troops the tiny island nation of Cyprus? The Turkish occupation of Cyprus has dashed the dreams and destroyed the hopes of thousands of families in Cyprus. And it continues to this very day.

And how about the missing in Cyprus? Over 1,000 Cypriots and several Americans missing after the Turkish invasion 21 years ago? Should we forget those people? Should we forget our fellow Americans who are among the missing?

And should we be providing any assistance whatsoever to a country which has been blocking United States humanitarian assistance from reaching the great people of Armenia? Armenian children have had to do without schooling, and hospitals have been unable to care for the sick and the dying. There is no justification for this type of behavior, and American taxpayers should not be asked to reward or appease these types of actions.

So, it would seem to me that maybe we should not even be providing a penny of U.S. aid to a country which behaves so punitively toward its own people and toward its neighbors.

And yet, despite the troubling activities outlined above, the United States nevertheless provides aid to Turkey to the tune of $375 million per year. This amendment does not seek to drastically change that aid relationship. Instead, it simply seeks to reduce that total by $25 million. This is a reasonable amendment. And it is a responsible approach. I join Mr. PORTER in support of his amendment to modestly reduce aid to Turkey. I urge Members to support the amendment. Vote "yes."

Soon the daybreak will probably come upon the Capitol and bring with it the promise of a new day. I would urge my colleagues that the beacon of light that has shined throughout the night from this Capitol to the rest of the world become a promise of a new day for human rights in Turkey, in Armenia, in Cyprus, and we can do that by voting for this amendment.

Ms. ROS-LEHTINEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Porter amendment, cutting back economic support fund assistance to Turkey, is a good amendment and deserves the support of the House.

It is time to put an end to the bureaucratic inertia and mindset that believes that once a country receives U.S. economic assistance, we have to give millions more every year from then on.

Turkey does have economic problems, but most of its problems are those that only they can solve.

Forty percent of Turkey's manufacturing is under state control. With numbers like that, it is no wonder that the economy lags. Turkey's continued occupation of parts of the Island of Cyprus is unacceptable, as is the human rights situation there.

Most of all, Mr. Chairman, I would hope that the Porter amendment would send a strong message to Turkey that the time has come to work out its differences with Greece and to create a lasting peace in the eastern Mediterranean.

Such a reconciliation and the ending of tensions could do more for Turkish prosperity and stability than any conceivable level of American economic assistance.

That message needs to be sent, and will be sent, if the House adopts the Porter amendment. I urge everyone to vote for this amendment.

Mr. ZIMMER. Mr. Chairman, will the gentlewoman yield?

Ms. ROS-LEHTINEN. I yield to the gentleman from New Jersey.

Mr. ZIMMER. Mr. Chairman, we all know that Turkey was a front-line state in the cold war on the border of the Soviet Union, and we know that Turkey still has a very important strategic location. Certainly, it is in America's interests to remain on good terms with allies of strategic importance. But our foreign policy is not just about military strategy. Our foreign policy at root is about our values, and how best we can promote those values, and how best we can encourage our allies to embrace our values.

□ 0430

It, certainly, is not consistent with the values that America has or America seeks around the world to have Turkey blocking the transit of United States humanitarian aid to Armenia. It is not consistent with American values to have Turkey intransigent for decades regarding Cyprus, its invasion, its occupation of Cyprus by 35,000 Turkish troops.

It is not consistent with American values that Turkey continues its genocide against its Kurdish minority, using United States-made weapons, which has resulted in 15,000 deaths, 2,500 Kurdish villages destroyed or forcibly evacuated, and 3 million Kurds made homeless refugees. It is not consistent with American values that Turkey oppresses the human rights of its own citizens.

The State Department of the United States in its own evaluation said, "Despite the government's pledge in 1993 to end torture and to establish a state of law based on respect for human rights, torture and excessive use of force by security personnel persisted throughout 1994." The State Department report goes onto say, "The human rights situation worsened significantly in 1994. The police and security forces often employed torture during periods of incommunicado detention and interrogation, and the security forces continued to use excessive force against noncombatants."

The State Department says, "Various agencies of the government continue to harass, intimidate, indict, and imprison human rights monitors, journalists, lawyers and professors, for ideas which they expressed in public forums. Disappearances and mystery murder cases continued at a high rate in the southeast." It says, ". . . the government infrequently prosecutes police or security officers for extrajudicial killings, torture, and other abuses. In the cases which produce a conviction, lenient sentences were usually given. The resulting climate of impunity that has been created probably remains the single largest obstacle to reducing unlawful killing, torture, and other human rights abuses."

Finally, the State Department says, "Human rights monitors hesitate to estimate the number of persons in custody who might reasonably be considered political prisoners. They estimate only that thousands have been detained."

These are not the values that America should be promoting throughout the world. We should support the Porter amendment.

Mrs. MALONEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in very strong support of the Porter-Smith-Wolf amendment.

Mr. Chairman, over the last several weeks, I have stood side by side with members of the large and vibrant Greek, Cypriot, and Armenian-American communities that I am privileged to represent.

I heard first-hand about the injustices perpetrated against their homelands by Turkish Governments of the past, and about the terrible human rights violations that continue to this day.

Sadly, there isn't anything we can do to undo the suffering of the past.

But we in Congress have every obligation to use our clout with Turkey—particularly the power of our pocketbook—to stop the suffering of the present.

We should join with France and other European countries which have cut their aid in response to Turkey's massive human rights abuses.

Turkey is paying a moral price for its abuses and now we must make it pay a financial price as well.

For over 2 years Turkey has maintained its illegal occupation on Cyprus, in violation of innumerable U.N. resolutions.

This amendment, cutting $25 million in economic assistance, sends a strong signal that the United States will no longer tolerate Turkey blocking a solution to the conflict on Cyprus.

We will no longer tolerate abuses against Kurdish civilians, particularly with American-made weapons.

We will no longer tolerate the mistreatment of Christians in Turkey and the harassment of Orthodox clergymen.

We will also no longer tolerate the stranglehold of the Armenian blockade.

For over 2 years, Turkey has blockaded the small, land-locked country of Armenia, denying that country the most basic humanitarian assistance—food, medicine, and clothing.

To make matters worse, much of this humanitarian assistance has been U.S. aid.

Turkey is using United States money to help keep United States aid from reaching a third country.

Allowing our ally Turkey to deny United States humanitarian assistance to people in need discredits our Nation's foreign policy and sets a terrible precedent for abuse by other nations.

Support human rights.

Support simple human dignity.

Support a credible U.S. foreign policy.

Support the Porter-Smith-Wolf amendment.

Mr. LAUGHLIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as I have listened to various speakers talk about pockets of communities of Greeks, pockets of communities of Americans, pockets of communities of Armenians, pockets of communities of other ethnic groups, I have not heard anyone say they are here to speak for the pocket of Turks in America. And, strangely, they have not, because for historical reasons, the Turks did not immigrate to America, so they have no voice to stand before the Congress of the United States to say anything kind or good about the Turks of the world.

So I come before you, my colleagues, as a voice for the Turks, because I lived in that country. Not because I asked to go there, but because your Government, my Government, sent me there as a youngster, as a young soldier.

To the gentlewoman from California and for the others who have said the Turks have attacked the Christians, and my good friend, the gentlewoman from California [Ms. PELOSI], I must tell you that 28 years ago in a small village called Sinop, I worshipped my all-mighty God and Jesus Christ without fear. Last year my 20-year-old daughter spent a week with a Turkish family in Istanbul, and, yes, she went to an Armenian Christian wedding. She did not understand the words, but she understood the Christian symbolism of marriage. And when the wedding was over, she tells me that she went outside, and in the same block as the Christian Armenian church, there was a Jewish synagogue in the same block, and in the same block was a Moslem mosque.

So if I were a Turkish citizen today, I would ask my Government in these words of friendship from the American Congress, why has the Congress of the United States declared war? Because I sat in this very Hall when we passed a resolution declaring war on Iraq for invading Kuwait, and I heard the same words.

It is not an easy neighborhood that the Republic of Turkey lives in. The Turks gave the women in that country the right to vote before we did in this great land of ours called the United States of America. And today a woman is head of government, and nowhere else in that region of the world has a woman headed their government. They have free elections in Turkey. And, yes, there are Kurds in the Parliament, and I have met them and talked to them, and they are under death threats. But not from Turks, but from the PKK.

So I ask you, why are we doing this? My good friend from New Jersey and others have said let us send them a message. What message are you sending Iraq and Iran, next-door neighbors? What message are you sending Bulgaria? What message are you sending Syria?

So, my colleague and friends, why would any country on this Earth want to be an ally of our great country, when this body stands and attacks the people? Why would a mother in Turkey want her son to go to Korea when our Government asks? Why would a mother in Turkey want her young son to stand at the battle lines of freedom and democracy?

If I were a Turk, I would ask my Government to break its friendship with a country that talks about mine the way this body has tonight. There will be no other voice who has lived in Turkey. There are no Turks that gather in any of the 435 congressional districts in this body. There are no Turks in my district. There are no Armenians in my district. There are very few Greeks, if any, in my district. But why is that important? I thought we came here as Americans. I thought we came to this body to do what was good for the United States of America.

So I urge Members to defeat the Porter amendment.

Mr. VISCLOSKY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise tonight in support of the Porter-Smith-Wolf amendment. I believe that Congress must take a strong stand relative to Turkey, because of its blatant refusal to abide by the international norms of conduct toward its neighbors and its own citizens.

First, Turkey practices gunboat diplomacy, recently authorizing the use of military force against Greece if Greece exercises its internationally recognized right to patrol its coastal waters up to the distance off the coast prescribed in the international law of the sea.

Second, Turkey continues to violate the rights of its citizens, and was behind only China in the number of pages devoted to a single country in the 1994 State Department Human Rights Report.

Third, Turkey has also been widely criticized for violating United States law when they used United States weapons against its Kurdish minority. Three million Kurds are now rendered homeless.

Finally, Turkey continues its 21-year military occupation of northern Cyprus with its 35,000 troops.

I strongly believe that the most effective policy the United States can pursue is to convince Turkey of the seriousness of our support for the principles of human rights by imposing strict conditions on the granting of United States aid.

I close by urging my colleagues to support this amendment. The use of foreign aid money must be held to strict standards. In light of Turkey's failure to comply with international standards for human rights and humanitarian practices, it is our obligation to ensure that United States tax dollars do not subsidize the Turkish government's abuses against its own citizens and its neighbors.

Mr. WHITFIELD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there has been a lot said early this morning about the situation in Turkey, and I think it is very easy for us to sit in the warmth of this building and the security of our great country and talk about what another nation should do. But I think it would be helpful to remember that Turkey is surrounded by Iran on its southern Border, and Iraq and Syria, all terrorist nations. It has been said many times this evening and this morning that the PKK is a terrorist organization, operating out of Iraq, and the Turkish Government has taken many steps to try to remove that terrorism from its country. As a result, we also know and reports have shown without dispute that the PKK has committed acts of terrorism and has committed many killings of Turkish people throughout the country of Turkey. And today Turkey finds itself in the unenviable position and task of trying to reconcile human rights, to protect its democracy, while defending itself in a very unstable part of the world and against a well-organized and well-financed terrorist organization.

So I think it has been said many times this morning that Turkey is a vital military ally of the United States, going back to the Korean war, through the cold war, through the Persian Gulf War. The gentleman from Maryland [Mr. HOYER] said earlier today that Turkey received more from being an ally to the United States than it gave, but I would like to remind this body that as a result of the Iraqi war, Turkey lost over $20 billion because of the embargo on the Turkish-Iraqi pipeline, and the fact that it lost its trade with Iran, its second largest trading partner.

□ 0445

So, its support of the United States has come at a dear cost to Turkey. The Clinton administration asked for $100 million in economic aid. The committee reduced that to $46 million, and now the Porter amendment wants to reduce it down to $21 million. I think it is sending a wrong message to a vital ally to reduce funding when they live in such an unstable area of the world surrounded by terrorist nations, a terrorist organization operating within the country, and I think the Turkish people and the Turkish Government has shown that it is committed to improving its human rights activities and I would urge a vote against the Porter amendment.

Mr. CALLAHAN. Mr. Chairman, we are trying to determine how many speakers there are on each side and we have no idea where they are or where they are coming from or which side they are on. Can the gentleman from Texas [Mr. WILSON] give us an idea of how many Members over there wish to be heard?

Mr. WILSON. Mr. Chairman, I see nine.

Mr. CALLAHAN. How many on this side? I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I think it is very much in the interest of everybody not to resurrect the rancorous ness of earlier in the evening by getting into an argument about limitation. So I hope we can avoid a formal limitation. I would also hope, and I know some Members are still interested in talking on this amendment frankly I think on both sides. We underestimated the number of Members who did want to talk. So I guess I would simply ask Members for restraint in continuing on this amendment, and ask Members to hold their remarks as short as possible and if they do not absolutely feel obligated to speak, ask if they would consider not doing so, simply because we still have seven amendments remaining after this. We have one more which we expect will take some time, and we would like to finish this thing before 7 in the morning.

Mr. CALLAHAN. I agree, and I have no intention of offering a limitation. I was just trying to make an inquiry in deference to all of those who wish to speak, to give them an opportunity, but to recognize that we have heard just about every aspect of this.

It is my understanding that on this side, and we welcome listening to it again, we do not have any problem with that, but I think our own side of the aisle we are pretty well down to just me closing it out. If we could encourage the gentleman's side to be as brief as they possibly could, let us get through and give them the opportunity and give some of them the opportunity they want to revise and extend their remarks, and we will put it in the RECORD tomorrow. But if we could get through this in a timely fashion I would very much appreciate it.

Mr. ANDREWS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Porter amendment, commend our friend from Illinois for offering it along with his cosponsors.

Mr. Chairman, one of the previous speakers who spoke in opposition to the Porter amendment said we should focus on the question of whether it is appropriate and good for the United States. What is appropriate and good for the United States is to practice as well as preach principles of respect for human rights, and support for peaceful resolution of disputes among States as the cornerstones of our foreign policy, except in cases, except in cases where a vital national interest of our own would dictate otherwise.

The record is replete with examples in which Turkey has violated and is violating these principles dear to our own foreign policy. We need only look to the constant refusal of Turkey to permit independent monitoring of human rights conditions within that country by international organizations. We need only look to the shabby and often persecution that takes place of Christians within Turkey. We need only look with respect to the behavior of the Turkish Government toward the Kurds. We need only look toward the continuation of the ruthless blockade of Armenia, and finally, we need only look to the continued illegal occupation of the island of Cyprus with the active support of Turkey.

The record is replete with examples of Turkey's disregard for the principles that we say inform our foreign policy.

Mr. Chairman, I would submit that the country whose principles ought to be measured in the Porter amendment is not Turkey. The country whose principles are to be measured in the Porter amendment is the United States. The principles we measure are whether we talk about what we believe in, or whether we act upon that in which we believe.

I know that there have been arguments advanced as to ways in which continuing this level of support for Turkey serves the strategic best interests of the United States. For years we heard that a policy which did not ruffle the feathers of Turkey was important as a check against Soviet aggression. That rationale evaporated with the existence of the Soviet state in 1991.

Those who explicitly or implicitly argue it argue with respect to a world that no longer exists.

There is the argument that is made that Turkey's continuing importance as a military force, as a positive military force in that region requires a continued level of support. Frankly, that issue was taken off the table when the gentleman from Illinois [Mr. PORTER] drafted his amendment, because his amendment does not reduce military assistance from the United States to Turkey. To the extent that the military force must remain a positive one, the Porter amendment does not jeopardize or undercut that military support.

Finally, there are those who say that the continued cohesion of NATO depends upon a relationship between the United States and Turkey which does not reduce or otherwise threaten United States aid to Turkey.

My colleagues, I would submit that it is important in this post-cold-war era that NATO evolve beyond being a force that stands against a negative presence in Europe, and must evolve into a positive force that stands for some positive principles. First among those principles ought to be the active practice, the active practice of the use of international law and peaceful means to determine disputes among nations.

Turkey does not practice such a process.

The Porter amendment is carefully tailored. It is modest in scope. It is well thought out. Although it is modest in scope and particular in detail, it represents a dramatic departure from the status quo politics which have plagued our insufficient reaction to the atrocities on Cyprus, the atrocities in Armenia, the atrocity committed against the Christians in Turkey, against the Kurds, and the general dismal record of Turkey on human rights.

Let us not only send a message to Turkey tonight, let us send a message to our own citizens, Mr. Chairman, tonight that in the United States we are finally ready to practice what we preach.

Support the Porter amendment.

Ms. ESHOO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Porter-Wolf-Smith amendment and urge my colleagues to do so as well. The hour is very, very late, but the moment is right. This amendment, which does amend the Foreign Aid Appropriations Act, reduces nonmilitary assistance to Turkey. I think that with many of the things that have been said throughout this evening that that is an important point to underscore. It reduces nonmilitary assistance to Turkey, to encourage that country to improve its human rights record.

I will not go through it; so many other Members have. It is not a record that the American people can point to with pride and say we want to indeed send our tax dollars to them.

This amendment is intended to draw attention to Turkey's brutal blockade of Armenia, its systematic oppression of citizens in Cyprus, and the Kurds, and restrictions on free expression in Turkey. Armenia is suffering under a two-sided blockade supported to the west by Turkey and to the east by Azerbaijan.

I am not going to continue my comments but ask that they be revised and extended for the RECORD, Mr. Chairman. The hour is late.

There is a last comment that I would like to make, and that is that one of our colleagues this evening spoke about the Ottoman Empire. And it was they that imposed the genocide upon the Armenian people and that this government should not be held responsible.

The Government of Turkey should follow the Government of Germany that acknowledged what a previous government did; to this day they still pay for that. The present Government of Turkey has never acknowledged that they annihilated 1½ million people. I think that this is an important distinction to make, and I think that that is inherent in the amendment that is before us.

I thank my colleagues on both sides of the aisle, especially the gentleman from Illinois [Mr. PORTER], and the original cosponsors of this for the work they have done and thank the chairman as well for his dignity and patience this evening.

Mr. WYNN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise this morning to support the Porter-Wolf-Smith amendment. I think it is a good idea. You know, a lot of people wonder what exactly foreign policy is all about. Some of them, I think in America have the mistaken notion that foreign policy is just a matter of us playing Santa Claus to the rest of the world. It is not the way it is supposed to be. Foreign policy is supposed to be a vehicle which reflects what we believe in and what we stand for.

Well, it seems to me that we stand for human rights. But we have a problem in Turkey: 15,000 deaths, 2,500 Kurdish villages destroyed or forcibly evacuated, and 3 million Kurds made homeless refugees.

We have another problem. We believe in a free press as part of democracy. But Turkey has persecuted and imprisoned writers and journalists. When there has been public criticism, Turkey has responded with repression.

So we have a legitimate problem, we have a legitimate reason to take Turkey to task on this issue.

The first thing some opponents would say is, well wait a minute, Turkey is our ally. And I think our colleague, the gentleman from New Jersey [Mr. TORRICELLI], put it very well. Sometimes we have to speak with our allies, pull them aside. This amendment says, I think, and even sends, I think, a modest message. Let me emphasize we are not talking about military aid. I acknowledge that Turkey has threats from the PKK, from Iraq and Iran, but this is not military aid.

We are giving $320 million in military loans to Turkey in this budget. This is a mere $25 million in economic aid as a means of saying to our ally, wait a minute, we think you are doing some things that are not consistent with what we as Americans believe in.

I just want to communicate to the American people what we stand for and why we have a foreign policy. This is an excellent opportunity to do it. It enables us to say we stand for human rights, we want to see a free press, we are against repression, and even when our allies do it, we are willing to take them to task on it.

□ 0500

I do not think this measure threatens the security of Turkey, but enables us to stand up. I have said on this floor on a couple of occasions, as a member of the Committee on International Relations, that we have to lead, that we should be engaged in the world, that we should have foreign aid, but I do not believe we should have a passive foreign policy. Making these kinds of decisions, saying to our allies, "We think you're wrong," standing up for the principles we believe in, reflects the kind of leadership that I think all Americans can understand, and reflects the kind of foreign policy that all Americans can understand.

Mr. ENGEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my friend, the gentleman from Texas [Mr. WILSON] said before that everything that has to be said has been said but not everyone has said it. I will not take the full 5 minutes, but I want to add my voice very strongly in support of the Porter amendment.

I have had the pleasure for the past several years of working very closely with the gentleman from Illinois [Mr. PORTER] on the Cyprus issue. I think, of course, that is a very, very important as of yet unresolved issue. Last year my bill, cosponsored by the gentleman from Illinois [Mr. PORTER], passed Congress and was signed into law by the President calling for a full investigation of the missing Cyprus, including six American citizens.

Turkey has been an ally of the United States for many years but has turned away, turned a blind eye, turned a deaf ear whenever we have asked for an accounting of the missing in Cyprus and an accounting of our American citizens. That is totally unacceptable.

Our colleagues have mentioned how Turkey invaded Cyprus back in 1973, has divided the island, has refused as far as I have seen any kind of reasonable attempts at mediation, and I certainly think that 22 years now is far, far too long.

I think it really behooves us to say to Turkey, or to any ally, or to anyone that is a recipient of United States foreign aid, that there is a certain modicum of behavior which we expect, and if you do not adhere to that, to that decent way, then we are going to act accordingly.

When we look at Cyprus and the way Turkey has behaved, at the way they have behaved toward the Armenians, at the way they have reacted toward the Kurds, it really makes one stop and pause. I think we have seen here this evening and this morning an outpouring of colleagues on both sides of the aisle expressing a grave reservation at the way Turkey has acted.

It is a NATO ally, it has American weapons. We are not happy with how they have used them, but the Porter amendment does not really address that. It talks about nonmilitary aid. I think it certainly makes sense to support this amendment.

I urge my colleagues to support it and am glad that we have such bipartisan support.

Mr. DEUTSCH. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I know the hour is late or, if you want, the hour is early.

Yet the principle that this amendment is espousing is something that I actually compliment my Republican colleagues on the Committee on Rules for making a number of these type amendments in order on this bill, in many ways better than the first 2 years that I was in Congress in the 103d Congress, to really give us an opportunity in this bill to, both by words but also by deeds, send a message in our foreign policy.

We have already taken action on this bill that has clearly sent signals around the world about American foreign policy: that yes, we have national security interests and obviously, as the chairman of the Committee on Appropriations mentioned, and I think there would be unanimity for support of that, that that is our No. 1 interest but that is not our only interest. There are other interests that come into play and we can send messages to try to influence. Because if that is only what we are interested in, then really what are we and who are we as a country?

Mr. Chairman, we previously have taken action in terms of the Cuban nuclear powerplant, in terms of the Visclosky amendment on Armenia. Now we have an opportunity to take action regarding Turkey, action that really sends a message because of some of the specific human rights violations that Turkey has engaged in that are irrefutable, that are 100 percent proven on a factual basis by independent agencies, and also really specifically respond to the conditions in Cyprus, where it has been pointed out American citizens are still missing in Cyprus, an area and an activity. How—if we do not pass this amendment—are we supposed to let Turkey know that there is a fundamental problem with the occupation of the island?

As has been pointed out but needs to really be emphasized, there is no question, I do not believe there is one Member in this Chamber who would argue with Turkey's critical part of the NATO alliance. But again I urge my colleagues to look at the numbers in the amendment and look at the numbers in the bill.

This amendment does not address the $320 million in military FMF loans to Turkey. That is not what the gentleman from Illinois [Mr. PORTER] is addressing. What it does address is the ESF loans or ESF aid of $25 million. That is clearly an area where by our actions—in the action that hopefully we will be taking in a short time—we will send a very clear and unequivocal message to Turkey that their actions in the invasion of Cyprus, the continued occupation, the oppression, the torture, the missing Americans that are still missing regarding that invasion, that those people and those actions are not unheeded and are not ignored by the Members of this Congress. By our actions and by our deeds, we will have an ability to change that and change the course, as we have done in a number of instances already, and as I believe we will do in a continuing effort.

I really see this as a bright day and really bright 2 days of the U.S. Congress in terms of our actions on this bill.

Mr. KLINK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I thank the Chair for his attentiveness and those of the House. I will try not to rehash what has been talked about too much, but I wanted to focus on something that my colleague, the gentleman from Florida [Mr. DEUTSCH], just mentioned. That is a fact that, as they say, we do have a dog in this hunt.

Back in 1974 during the invasion of Cyprus, five American citizens were captured. One of them was a 17-year-old young man from Detroit, MI, Andrew Kassapis. A year ago, on the 20th anniversary of the invasion in Cyprus, I had a chance to meet his father outside. He is still filled with the hurt and the wonderment of what has ever occurred to his son. Yet we have got to remember, this 17-year-old boy who if he is now alive would be 38 years old, was with his family in Cyprus. Andrew was taken from his family, with his American passport in hand, he was reported to have been taken alive and seen alive in a Turkish prison some weeks later. Among some of the 1,614 Greek Cypriots who were taken and who are still unaccounted for were an infant, two 3-year-olds, one 7-year-old, a 9-year-old, an 11-year-old, and a 14-year-old.

Throughout this debate in the late night and early morning hours, the word "modest" has been said many times. Indeed, the Porter amendment is very modest, when you take a look at all of the elements that come into question in Turkey's abuse of civil rights and you take a look at what has occurred, in particular the invasion of Cyprus.

Mr. Chairman, this invasion and these abductions could not have occurred with American arms and a conscious American decision not to stop this invasion as we did 10 years prior. Over $8 billion of American taxpayer dollars have gone since then, since those American citizens were taken. Again, we are not talking about military aid. We are talking about a message on only the economic aid front.

Twenty-one years ago when the Turkish troops using American arms illegally invaded, ethnically cleansed, and occupied the northern third of Cyprus, in that process 6,000 Greek Cypriots were killed, ethnically cleansed 200,000 Greek Cypriots from their ancestral homes and captured those 5 Americans and 1,614 Greek Cypriots who are still missing today.

Today over 35,000 Turkish troops illegally occupy the northern third of Cyprus. This illegal occupation of Cyprus is in violation of over 67 United Nations resolutions and over 30 congressional expressions of opposition. Today America is paying for that ethnic cleansing. Each year the United States continues to send hundreds of millions of dollars in cash to the government of Turkey. However, these funds are fungible. Coincidentally, they are equal to the cost of maintaining the Turkish military units in Cyprus. Additionally, the nearly half billion dollars of military equipment the United States gives to Turkey in foreign aid each year replaces on mainland Turkey the massive amounts of arms that Turkey deploys on Cyprus to block the ethnically cleansed area.

We also must talk just very briefly about the enclaved, the American-supported conditions on Cyprus. Again we are asking for a modest message to be sent.

Those enclaved people have prohibitions against leaving their village without official permission. They have a requirement that any talk with outsiders must occur in the presence of their police; a requirement that all mail in and out be read by the regime; the prohibition of the possession of a telephone; the requirement of reporting to their police once a week for males 18 to 50 years of age; the prohibition of educational facilities beyond elementary school and the replacement of elementary school teachers; the prohibition of elementary school's teaching of that ethnic group's history or religion and the confiscation of such books.

I just want to say there is harassment, there is beating, there is rape, there is murder, there is desecration of churches. We are asking for a modest step to be taken. I ask that the people of this House support the Porter amendment.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Porter-Wolf-Smith amendment. This amendment does not in any way affect the $320 million in military aid to Turkey but does cut $25 million in economic aid. It does that in order to express U.S. opposition to several Turkish policies, especially the occupation of Cyprus.

I will be short, Mr. Chairman, but a May 30, 1994 report by U.N. Secretary-General Boutros Boutros-Ghali has termed Cyprus one of the world's most highly militarized areas in terms of ratio between the number of troops and the civilian population. Twenty years ago, Mr. Chairman, Turkish troops invaded the northern part of the island nation of Cyprus, leaving death in its wake and since has not only occupied that nation with 35,000 troops but has over time increased the occupation some 8,000 troops. Again, that was marked and noted by U.N. Secretary-General Boutros Boutros-Ghali as a particular violation. I think that is reason enough to support this amendment, reason enough to send that message to Turkey in cutting that $25 million in economic aid.

Mr. BONIOR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the amendment offered by the gentleman from Illinois to condition United States aid to Turkey.

Mr. Chairman, it is important to understand why we bring this amendment to the floor today.

Yes, Turkey is an ally of the United States.

Yes, Turkey is a member of NATO.

And yes, Turkey is a country that receives United States aid.

But Turkey is also a country that uses our dollars to knowingly and willingly block United States humanitarian assistance;

It is also a country that uses our dollars to keep its troops stationed in Cyprus.

And it is also a country that not only uses our dollars to routinely violate human rights but last year, it actually threw six members of its own parliament into jail for speaking out on behalf of human rights.

Mr. Chairman, I would suggest that unless Turkey changes its ways—it no longer deserves to receive even a dime of United States aid.

It is utterly inconceivable to me that a country who is an ally of ours, who is a member of NATO, and who accepts U.S. aid, would think it has the right to block U.S. humanitarian assistance to people in need.

But that is exactly what Turkey is doing today in Armenia.

Over the past 6 years, full-scale war in Nagorno-Karabakh—which borders Turkey—has left tens of thousands of people killed and wounded, over 1 million people homeless, and countless villages disabled and destroyed. As a result, thousands of people are starving and dying today in Armenia. As a nation, we have taken steps to provide humanitarian relief to save lives. But unfortunely, the most direct route for that aid is through Turkey. And to this day, Turkey continues to block those relief efforts. As a result of this blockade the cost to supply aid to Armenia today is three times higher than what it would be without the blockade.

So not only is Turkey taking our money and using it to block aid but by keeping this blockade in place, it is costing us three times as much money to pursue our own foreign policy interests.

That is money that could be used to heal, to feed, or to warm thousands of suffering people.

And we can't let this situation continue.

As a nation, we have been far too lenient with the Government of Turkey.

Just look at the situation in Cyprus.

Twenty-one years ago, Turkish troops invaded the island of Cyprus.

As a result of that invasion thousands of people were killed, over 200,000 people were expelled from their homes, and today over 1,600 remain missing—including 5 Americans.

But instead of helping us locate the missing, Turkey today continues to keep 35,000 troops in Cyprus.

A barbed wire fence actually cuts across the island, separating Greek Cypriots on one side from their families and friends on the other.

Turkey has been so unwilling to negotiate even U.N. Secretary General Boutros Boutros-Ghali has spoken out against them.

Just 2 weeks ago, he called northern Cyprus "one of the most highly militarized areas in the world."

And most disturbing of all when you look at the amount of U.S. dollars flowing into Turkey today it is nearly identical to the amount of money Turkey spends to keep those troops housed in Cyprus.

So in effect American taxpayers are paying to keep Turkish troops housed in Cyprus.

Mr. Chairman, this situation is outrageous.

At a time when we were asking senior citizens and students and working families to sacrifice because of the deficit we have no business paying to keep Turkish troops housed in Cyprus.

Mr. Chairman, until Turkey begins to remove its troops from Cyprus, until it lifts its blockade of Armenia, until it respects the rights of its Kurdish minorities, and until it lives up to internationally recognized standards of human rights then we have no business sending aid to Turkey.

I believe the Porter amendment will send the right message and move us in the right direction.

I urge my colleagues to support it.

□ 0515

Mr. WILSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will only take a couple of minutes. I think we all agree, now everything has been said and I believe everybody has said it.

Mr. Chairman, I would point out the same things that the other people who have opposed this amendment have pointed out. That one-fourth of the Turkish parliament is Kurdish; that Turkey is the only really functioning Moslem democracy in the world; that they maintain a secular state; that they have recognized Israel from the time of its inception; that they have been an absolutely necessary ally for the United States during the 50 years of the cold war.

I do not subscribe to the belief that now the cold war is over, we can forget who our friends were during the cold war or that we can forget who the friends are that we will need if we have another one. I do not think we should forget Turkey's great sacrifices in maintaining the economic boycott against Iraq. I do not think we should forget Turkey's contribution to the gulf war.

We should not forget the importance of the Turkish bases to any future operations that we might have. I think this is the wrong thing to do and I oppose the amendment. To the author of the amendment, I will say that I think you have got a good chance to win with this because I believe you have had about 218 speakers.

Mr. CALLAHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope that this will close out the debate, but let me start off by saying that this particular amendment is a true deliberative process. This is what the Congress of the United States is all about.

This is not about oil companies coming and lobbying us because they need something. This is not because someone wants something for their own district. This is because of passion.

And let me tell my colleagues that the passion in the eyes of the gentleman from Illinois [Mr. PORTER] and the true belief that the gentleman has, concern about the human rights violations in that section of the world, is remarkable.

I have seen the passion in the eyes of the gentleman's wife, Kathryn, who has been over there and has seen some of these atrocities. And I am not standing here, and on one in this House stands here and says we want to condone the atrocities. That is not the issue.

The issue here is whether or not we are going to continue to support Turkey as Turkey has supported us. It is not a question of whether or not Greece is a better supporter than Turkey, because they are both great allies. It is a question of whether or not, in this complicated world of foreign policy, we are going to make a decision here tonight not necessarily wanting to do what the President of the United States wants us to do.

He wants us to kill the Porter amendment. The Chairman of the Joint Chiefs of Staff has written a letter to us which was read on the floor tonight by the chairman of the Committee on Appropriations telling us to disregard human rights at this particular time. This is not the issue. Do not disregard the human rights violations. Do not discontinue your efforts, Mr. PORTER, in seeing that this issue some day is resolved.

Let us do it the way we have started doing it. What we all have started. When they came before our committee, I chastised the Turkish representatives. I chastised the administration for not being more adamant in making certain that Turkey was not violating human rights.

But now we are down to the point where we have committed, and so many of my colleagues came to me before on aid to Russia to build houses for Russian soldiers and argued, "The President of the United States promised this. We have a commitment to Russia. We have got to give him this money or else we will embarrass the President of the United States."

And now the President has guaranteed Turkey that we are going to fulfill the rest of this commitment. And incidentally we have already told Turkey: This is the last time that we are going to permit you to buy all of the aircraft and military supplies you want. But do not come back. This is the last year.

We have insisted in the report language the very things that you argued. That we are dissatisfied with what we hear. Mr. Chairman, I am at such a disadvantage. I have never been to Greece. I have never been to Turkey. I have never been to Cyprus. I have never been to Iran. So I am at a disadvantage, because I have not seen firsthand what my colleagues are talking about. But I know from the passion in my colleagues' eyes that they are sincere.

But the question here is more a military question than a human rights question. Because we are saying to Turkey, in report language, "We do not like what we have been told, please straighten your act up. We are not going to continue this after this year."

We are going to fulfill our commitment, just as we did to the Russians and let them build houses for their retiring military officers. We are going to fulfill the commitment. We are going to allow the President of the United States to have an effective capability to establish foreign policy.

And we are going to live up to the chief executive officer of this country by giving him the right to have an effective, constitutional guaranteed ability to run international affairs.

So the question here tonight is whether or not for this one year we are going to continue our commitment to Turkey and whether or not we are going to show our appreciation to Turkey for the very valiant ally they have been to us in times of need.

When 2,700 sorties flew out of Turkey during the Persian Gulf war, let me tell my colleagues, we were very appreciative of them. So we do not need them today. We are not at war in the gulf. So let us turn our back on Turkey.

Let us not argue whether Turkey is a greater ally than Greece or Greece is a greater ally than Turkey. Let us fulfill the commitment. Let us follow the wishes of the Commander in Chief of our military. Let us follow the wishes of the Joint Chiefs of Staff. Let us follow the wishes of the Speaker of the House and the leadership.

Let us follow the wishes of the chairman of our Committee on Appropriations. Let us follow the wishes of the ranking member of the subcommittee, the gentleman from Texas [Mr. WILSON], and let us vote this up or down with the understanding that it has nothing to do with condoning any civil rights violation or humanitarian violation anywhere in the world, but it is whether or not we are going to fulfill a commitment that the Commander in Chief has made and whether or not we are going to tell Turkey, "We do not need you anymore; the war in the gulf is over."

So let us vote this bill. I am going to ask for a recorded vote. And let us vote this bill up or down, then go through the last eight amendments that we have and go home and try to get some rest.

Mrs. FOWLER. Mr. Chairman, I rise to oppose this amendment.

This spring I visited Turkey with the Chairman of the National Security Committee. We met with key Turkish and NATO military commanders, who briefed us on Turkey's recent actions in the region.

Aside from the critical support Turkey offered for Operations Desert Shield and Desert Storm, providing bases from which some 2,700 sorties were flown against Iraq, Turkey currently extends vital support for operation provide comfort in Iraq, and deny flight and sharp guard in the former Yugoslavia.

Moreover, Turkey remains key to Western efforts to pursue stability throughout Central Asia. Through its support for secular rule and free markets, Turkey provides a much-needed counterbalance to Iranian influence in these newly independent nations.

We should also be mindful that Turkey, a neighbor of Iran, Iraq, and Syria, has been a supporter of the Mideast peace process.

The gentleman criticizes Turkey for human rights problems. These concerns are indeed important. However, Turkey is moving to address this issue.

In my judgment, this amendment is not an appropriate mechanism for influencing a valued ally. I urge its defeat.

Mr. RADANOVICH. Mr. Chairman, I would like to offer my support for the Porter amendment to H.R. 1868, the Foreign Operations Appropriations Act. This amendment would cut economic assistance to the Government of Turkey particularly because that Government has failed to improve its dismal human rights record.

I support the amendment because Turkey continues to prevent United States humanitarian aid from flowing freely to the Republic of Armenia. Armenia is a progressive country whose bold experiments with democracy and market economics must not be jeopardized by those who seek its demise. America would be taking the right approach by restricting aid to Turkey if that country continues to block humanitarian aid shipments to Armenia. I urge my colleagues to vote in favor of the Porter amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois [Mr. PORTER].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BONIOR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 247, noes 155, answered "present" 1, not voting 32, as follows:

[Roll No. 443]

AYES—247

Abercrombie
Ackerman
Allard
Andrews
Archer
Baker (CA)
Baldacci
Barcia
Bartlett
Bass
Becerra
Bentsen
Bevill
Bilbray
Bilirakis
Bishop
Blute
Boehlert
Bonior
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Cardin
Castle
Chabot
Chenoweth
Christensen
Clay
Clyburn
Coble
Coburn
Collins (GA)
Collins (IL)
Combest
Condit
Conyers
Costello
Coyne
Cramer
Crane
Crapo
Cunningham
Davis
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Durbin
Engel
Ensign
Eshoo
Evans
Farr
Fattah
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Forbes
Ford
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frost
Funderburk
Furse
Gallegly
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gilman
Gonzalez
Goodlatte
Goodling
Greenwood
Gutierrez
Hall (OH)
Hall (TX)
Hamilton
Hancock
Harman
Hastings (FL)
Hefley
Hefner
Hilleary
Hilliard
Hinchey
Hobson
Holden
Horn
Hoyer
Hunter
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson, E.B.
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
Kleczka
Klink
Klug
LaHood
Largent
Leach
Levin
Lewis (GA)
Lipinski
LoBiondo
Lofgren
Lowey
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McHale
McInnis
McKeon
McKinney
Meehan
Meek
Menendez
Metcalf
Miller (CA)
Mineta
Minge
Mink
Molinari
Mollohan
Moorhead
Moran
Morella
Nadler
Neal
Neumann
Ney
Oberstar
Obey
Olver
Orton
Owens
Pallone
Parker
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Radanovich
Rahall
Ramstad
Reed
Richardson
Rivers
Roemer
Ros-Lehtinen
Roth
Roybal-Allard
Royce
Rush
Saxton
Scarborough
Scott
Seastrand
Sensenbrenner
Serrano
Shays
Shuster
Sisisky
Slaughter
Smith (NJ)
Smith (WA)
Souder
Spratt
Stearns
Stenholm
Studds
Stupak
Talent
Tate
Thompson
Thurman
Torkildsen
Torres
Torricelli
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Ward

Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Williams
Wolf
Woolsey
Wyden
Wynn
Zeliff
Zimmer

NOES—155

Armey
Bachus
Baesler
Baker (LA)
Ballenger
Barr
Barrett (NE)
Barrett (WI)
Barton
Beilenson
Bereuter
Berman
Bliley
Boehner
Bonilla
Bono
Brewster
Bryant (TX)
Bunn
Bunning
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chambliss
Chrysler
Clayton
Clement
Clinger
Cooley
Cox
Cremeans
Cubin
Danner
de la Garza
Deal
DeLay
Dornan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Everett
Fields (TX)
Foley
Fowler
Frisa
Ganske
Geren
Gillmor
Gingrich
Gordon
Goss
Graham
Green
Gutknecht
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Heineman
Herger
Hoekstra
Hostettler
Houghton
Hutchinson
Hyde
Inglis
Istook
Johnson (SD)
Johnston
Jones
Kasich
King
Kingston
Knollenberg
Kolbe
Lantos
LaTourette
Laughlin
Lazio
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Livingston
Longley
Lucas
McCollum
McCrery
McDermott
McHugh
McIntosh
Mica
Miller (FL)
Montgomery
Murtha
Myers
Myrick
Nethercutt
Norwood
Nussle
Ortiz
Oxley
Packard
Paxon
Petri
Pickett
Quinn
Regula
Riggs
Roberts
Rogers
Rohrabacher
Rose
Sabo
Salmon
Sanford
Sawyer
Schaefer
Schiff
Schroeder
Shadegg
Shaw
Skaggs
Skeen
Skelton
Smith (MI)
Smith (TX)
Spence
Stump
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Thornton
Tiahrt
Vucanovich
Waldholtz
Walker
Walsh
Wamp
White
Whitfield
Wicker
Wilson
Wise

ANSWERED "PRESENT"—1

Bateman

NOT VOTING—32

Burr
Chapman
Coleman
Collins (MI)
Ewing
Foglietta
Gunderson
Hoke
Johnson, Sam
LaFalce
Latham
Martinez
McDade
McNulty
Meyers
Mfume
Moakley
Rangel
Reynolds
Roukema
Sanders
Schumer
Solomon
Stark
Stockman
Stokes
Thomas
Towns
Waxman
Yates
Young (AK)
Young (FL)

☐ 0544

Mr. BASS and Mr. ZELIFF changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

☐ 0545

AMENDMENT OFFERED BY MS. KAPTUR

Ms. KAPTUR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. KAPTUR: page 78, after line 6, insert the following new section:

LIMITATION OF FUNDS FOR NORTH AMERICAN DEVELOPMENT BANK

SEC. 564. No funds appropriated in this Act under the heading "North American Development Bank" may be obligated or expended unless it is made known to the Federal entity or official to which funds are appropriated under this Act that the Government of Mexico has contributed a share of the paid-in portion of the capital stock for fiscal year 1996 equivalent to that appropriated by the United States.

Ms. KAPTUR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

Ms. KAPTUR. Mr. Chairman, quite simply, this amendment would allow the expenditure of the United States 1996 contribution to the North American Development Bank which was created under NAFTA in the amount of $56.25 million only after the United States is notified that Mexico has also made its contribution, which is what the authorizing legislation in the agreement actually calls for. This amendment imposes no new requirements on either the United States or on Mexico.

Let me mention to my colleagues that this is the first time that the Congress of the United States will actually be appropriating money to an instrumentality that has been created under NAFTA. Again, this installment will be in the amount of $56.25 million.

This amendment would benefit the citizens of both Mexico and the United States by reaffirming the duties of both countries to meet their existing legal obligations to the North American Development Bank, which will finance environmental projects benefiting both sides of the border, as well as about 10 percent of the funds will be used to accommodate displaced workers in this country.

Let me restate also, this amendment imposes no new requirements on either our country or on Mexico. It simply gives the legislature of Mexico an incentive to pass the necessary legislation promptly and ensure that the Untied States alone will not bear the burden of financing environmental infrastructure and related projects relating to NAFTA.

Let me also mention to my colleagues that currently the U.S. $56.25 million 1995 contribution, passed as part of the NAFTA implementing legislation, is sitting untouched at the New York Federal Reserve because the NADBank is really not up and running yet. Mexico also has already $56.2 million from last year being held in an account at the Banco de Mexico in Mexico City. In other words, the NADBank already has over $112.5 million ready and waiting at its fingertips, and waiting to disburse this year's appropriation until Mexico makes its contribution will have no effect on the bank's ability to carry out its mandate. Given Mexico's recent financial crisis and our Government's commitment, without my support, incidentally, of over $20 billion to rescue Mexico from the brink of financial disaster, we have good reason to be concerned about whether Mexico will contribute its share. Earlier this year after Mexico allowed its reserves to dwindle to just over $6 billion and had accumulated over $140 billion of external debt, our administration, without a vote of this Congress, agreed to put up $20 billion of loans and loan guarantees to Mexico. Mexico has already drawn down $10 billion of that, and of that $10 billion which we have already sent to Mexico, the Mexican Government should be able to come up with the $56.25 million to keep the promise it made under NAFTA to fund the NADBank.

Mr. CALLAHAN. Mr. Chairman, will the gentlewoman yield?

Ms. KAPTUR. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, we will be happy to accept the gentlewoman's amendment.

Ms. KAPTUR. Mr. Chairman, I wanted to thank the gentleman for his gentlemanly deportment throughout the consideration of the bill through committee and on the floor.

Mr. TORRES. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I wanted to commend the gentlewoman from Ohio for the introduction of her amendment. I know that she had large concern in the beginning because this bank, while it is not related directly to the NAFTA proposition, she was led to believe, perhaps others believed, that this binational bank, would, in fact, be providing money for Mexico. The U.S. portion of this bank, the money that the gentlewoman has cited here, will stay in the U.S. account, and it will be used on the American side to provide for infrastructure along our 2,000-mile border. Already there are a number of projects that are in design process to begin to build water programs, sewer cleanup, toxic cleanup, various infrastructure programs.

As the gentlewoman mentioned, 10 percent of the funds of the bank will be used for domestic use of workers and communities who will need adjustment if there are job losses related to NAFTA. So the bank is, I should correct the gentlewoman, the bank is in process. They are headquartered in San Antonio. They have staff building up, and they are simply awaiting the go-ahead for projects to begin. I want to thank the chairman of the subcommittee for agreeing and accepting this amendment.

Mr. BONILLA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to reiterate what my colleague from California just stated, and that is this is an unusual portion of this bill in that this portion of the allotment of this bill is designed to help American projects on our side of the border, water system projects, road projects, bridge projects, whatever is necessary, environmental projects, that are extremely important for our commitment in trying to improve the situation along the Mexican border.

I want to thank the gentleman from Alabama, Chairman CALLAHAN, for working with us very closely on this, and the gentlewoman from Ohio, Ms. KAPTUR, for helping us on this.

I wonder if I could ask the gentlewoman from Ohio a question about the amendment. I had a concern and discussed this with the gentleman from California [Mr. TORRES] earlier. Would this allow for incremental contributions, or would we have to wait to contribute any money to this fund until they met the $56 million commitment? Or if they committed $40 or $50 million, could we then contribute the same amount, without having to wait for them to reach the maximum amount, if that situation were to occur?

Ms. KAPTUR. If the gentleman will yield, the intent of this amendment is to provide equity between both countries, and their share would have to equal ours. So if they contributed $20 million, we would contribute $20 million. If they contributed nothing, we would contribute nothing. The idea is we both march down the aisle together.

Mr. BONILLA. Mr. Chairman, I appreciate the work of the gentlewoman from Ohio on this amendment.

Mr. CALLAHAN. Mr. Chairman, we have about seven of these amendments. I assumed if both sides accept them, we could take them for granted. I appreciate your comments, but I would like to get on with the other seven amendments. If we are going to talk 30 minutes on all seven, we will be here until noon.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Ohio [Ms. KAPTUR].

The amendment was agreed to.

AMENDMENT OFFERED BY MR. RICHARDSON

Mr. RICHARDSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. RICHARDSON: Page 78, after line 6, insert the following new section:

LIMITATION ON FUNDS FOR BURMA

SEC. 564. None of the funds made available in this Act may be used for International Narcotics Control or Crop Substitution Assistance for the Government of Burma.

Mr. RICHARDSON. Mr. Chairman, today and this evening and this morning we have talked about human rights violators around the world. Well, this amendment deals with the heavyweight champion of all human rights violators, and that is the Government of Burma, Myanmar. What this amendment does is prohibit counternarcotics assistance to that country, both on human rights grounds and on narcotics grounds.

Mr. Chairman, what we have here is an amendment that is supported by the chairman of the subcommittee, by the minority, by the chairman of the Committee on International Relations, who is doing very valuable antinarcotics work throughout the world and especially in the Burma area.

Mr. Chairman, I would be also honored to have the coauthor of this amendment, the gentleman from California [Mr. ROHRABACHER], join me. I would like to yield to him for any initiatives.

The purpose of this amendment is to prohibit counternarcotics funds for the Government of Burma.

My intention is to prohibit the administration from using this legislation to fund its shortsighted new drug policy initiatives toward Burma that were proposed last by drug czar Lee Brown.

The purpose of this amendment is to nullify the administration efforts to start a crop substitution program with Burma, to increase funding for UNDCP for their cooperation, and to fund NFO's activities in Burma.

I want to clarify to my colleagues that the Richardson-Rohrabacher amendment does not obstruct the ongoing efforts of Chairman GILMAN of the International Relations Committee to find alternative approaches to combating the enormous drug trade in Burma.

Furthermore, this amendment has no effect on the minimal presence of Drug Enforcement Agency [DEA] representatives already in Burma's capital of Rangoon.

There is a very simple logic to this amendment: We have condemned Burma for years for human rights abuses and child labor violations—they have made no effort to reform—we should not reward this repressive regime with American tax dollars now.

My most recent trip to Burma last month was extremely disappointing on account of the Burmese regime's retrenchment on human rights and democratization efforts.

Burma's ruling military junta, the State Law and Order Restoration Council [SLORC], has established itself as the heavyweight champion of repressive governments by violating human rights and detaining the leader of Burma's democratic movement Aung San Suu Kyi for the past 6 years.

This courageous woman is in house arrest without any prospect of being released.

Recent efforts to obtain visas by the authors of this amendment have been denied or granted only after preconditions were met.

Leading opposition members of the National League for Democracy were arrested after I met with them last month.

Perhaps the most egregious of all human rights violations comes in the form of Dr. Michael Aris, Aung San Suu Kyi's husband has been denied access to his imprisoned wife.

Shortly after admitting the Red Cross to inspect prisons in Burma, the International Committee for the Red Cross has abandoned efforts to work with the SLORC leadership last week after the SLORC imposed unacceptable conditions on Red Cross operations.

Dealing with the heroin crisis is an important issue before Congress and I can sympathize with Members who have fought noble battles to rid American streets of the drug menace.

New Mexico is not immune to this disease; I have seen the devastating effects of heroin abuse on Indian Pueblos and the impoverished Hispanic communities in my own district. But these problems do not mean that American dollars should go to reward a repressive regime with counternarcotics assistance.

The narcotics issue is a small component of an overall United States policy shift necessary to combat the repressive Burmese regime. The Richardson-Rohrabacher amendment is a means to a greater objective of promoting democracy in a country that has a vital strategic interest in Southeast Asia.

I urge Members to consider the resulting relationship forged by a counternarcotics partnership between the United States and a military junta that expels respected international organizations like the Red Cross while constructing infrastructure projects with child labor.

The end of the cold war offers the United States a window of opportunity to encourage nations to foster democracy and open their economies to free trade. The SLORC has made it clear to myself and other Members that they are not willing to play by these rules.

Efforts to combat the international drug trade should not blur our ability to discipline a regime that has not made a serious attempt on its own.

Like Burma's dismal human rights record, its unilateral efforts to counter the narcotics threat are not impressive as they have had no major impact on the thriving Burmese drug economy. The SLORC has yet to introduce meaningful eradication or drug enforcement measures in the ethnic strongholds of the Shan State where the bulk of Burma's drug trade is based.

Instead, the SLORC concentrates on quelling border area insurgencies that result from actions designed to crush democratic efforts and does not take counternarcotics as a priority in these regions.

By prohibiting counternarcotics funding to the Government of Burma the Richardson-Rohrabacher amendment will send a signal to the SLORC that the United States wants meaningful reform.

I commend the distinguished gentleman from New York, BEN GILMAN, the chairman of the International Relations Committee for his efforts to pursue solutions to this problem.

I understand he has requested a GAO report to explore the possibilities of counternarcotics assistance with local governing authorities and I am supportive of that initiative.

I want to make it clear for the record that the language of the Richardson-Rohrabacher amendment does not preclude any direct or indirect counternarcotics assistance funding to regional ethnic groups in Burma if the GAO determines that such assistance can be provided directly to the regional ethnic groups in Burma and not through the SLORC.

I hope Mr. GILMAN can appreciate my concern for unintended funding of SLORC activities with money intended for counternarcotic operations.

Mr. ROHRABACHER. Mr. Chairman, I would like to thank my colleague from New Mexico very much for his leadership on this issue. There is a concern about what is going on in Burma right now, because the message that we send is being heard on the other side of the world, and literally hundreds of thousands of people's lives are at stake.

What we have in Burma is a misinterpretation by the SLORC regime, which is one of the most brutal and oppressive regimes on this planet. It is a misinterpretation of some of the actions of this Congress, that in some way we are not as committed to democracy in that country as we all are in this body.

This message today that we are sending with this amendment is that the United States is on the side of democracy, and we will not tolerate the brutality and the military offensives that are being conducted by the Government of Burma against its own people. As we sit tonight, or should I say this morning, on the other side of the world the Burmese military is about to conduct another offensive against one of its ethnic peoples, the Kareni people, who are a very small group of people that are at risk of being wiped out by a military offensive by this very brutal regime. By what we are doing today with this amendment, we send a message to the regime we are for democracy, and do not terrorize your own people.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, we have no objection to the amendment. In the essence of time, I would like to revise and extend my remarks, which is a way we can get things in the RECORD without taking up a lot of extra time.

Mr. Chairman, this amendment would prohibit funds in this act from being used for narcotics control or crop substitution assistance in Burma.

Two-thirds of the heroin seized on the streets of the United States comes from Burma. It seems to me it is in our interest to cooperate with that government, however distasteful it may be, to reduce heroin production that threatens the lives of American citizens. Cutting off all contact with Burma may only end up hurting our own citizens. In addition, the administration opposes this amendment.

Currently the United States has been involved in multilateral assistance through the U.N. International Drug Control Program, as well as projects with nongovernmental organizations in minority-controlled areas. I know the administration is considering a small program to attack heroin traffickers in Burma and to encourage opium farmers to produce other crops, but no decisions have been made on the scope of such a program.

I agree with the gentleman from New Mexico that the Burmese Government is regressive, and that human rights are routinely violated. However, I'm not sure this amendment is the right way to deal with that problem.

On the other hand, I think I know where the votes are, and I know the gentleman's intentions are sincere. Therefore, I am prepared to accept the amendment on this side.

Mr. BONIOR. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Chairman, I would like to commend my colleague from New Mexico for his leadership on this amendment and for his vigilance in watching the situation in Burma, and his travels and all his efforts on behalf of human rights in that part of the world. It is actually an area that has been largely ignored. I commend the gentleman for his outstanding efforts in this area.

Mr. SMITH of New Jersey. Mr. Chairman, I rise in support of the amendment.

We all support a vigorous effort to eradicate drug production and trafficking.

But there are two serious problems with subsidizing brutal, illegitimate governments, no matter how pure our motives.

First, it legitimizes these dictators. A law enforcement partnership with the United States gives any regime more international prestige. It also gives their people a heightened sense of despair. These are the effects of our anti-immigration deal with Fidel Castro. These are the effects of our many concessions to the Beijing regime. The costs to human rights of any partnership with murderers are never trivial.

Second, this kind of deal is not likely to work. If the SLORC ["slork"] cared one bit about stopping drugs, they would have stopped the drugs. This poisoning of our children has been going on with the full knowledge and consent—and quite possibly the participation—of the SLORC.

Governments that kill our children do not deserve carrots. They deserve sticks. The solution to drugs coming from Burma, like the solution from most problems caused or exacerbated by the SLORC is international ostracism, and the restoration of the free and democratically elected government—not more foreign aid.

I urge a "yes" vote on the Richardson amendment.

Mr. UNDERWOOD. Mr. Chairman, I rise in full support of this amendment. This amendment is necessary not only because of the profits from drugs, but because of the children who buy them and sometimes die from them. We know that there is a big drug problem in the Asia-Pacific region. There is even a big drug problem on my island of Guam. This amendment sends a message that this country will not tolerate drugs. This amendment will show that this country will not sit down while a country we help will transform the money we give to them into drugs. This amendment will show that this country will take a strong stand on drugs. This amendment is just one small step to making a big problem disappear. We may need a marathon of steps to follow, but this represents a good beginning. This amendment will make the streets safer for our children here and in the Asia-Pacific region. This is why we have to thank Mr. RICHARDSON and Mr. ROHRABACHER for combining to make this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico [Mr. RICHARDSON].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BONIOR. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 359, noes 38, not voting 37, as follows:

[Roll No. 444]

AYES—359

Abercrombie
Ackerman
Andrews
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Burton
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Collins (IL)
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Engel
English
Ensign
Eshoo
Evans
Everett
Farr
Fawell
Fazio
Fields (LA)
Filner
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hamilton
Hansen
Harman
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Inglis
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Lantos
Largent
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lightfoot
Lincoln
Linder
Lipinski
LoBiondo
Lofgren

Longley
Lowey
Lucas
Luther
Maloney
Manton
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Meehan
Meek
Menendez
Metcalf
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schiff
Schroeder
Scott
Seastrand
Serrano
Shadegg
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Spratt
Stearns
Stenholm
Studds
Stupak
Talent
Tanner
Tate
Taylor (MS)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Waldholtz
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Zeliff
Zimmer

NOES—38

Allard
Archer
Ballenger
Bunning
Buyer
Coble
Coburn
Collins (GA)
Combest
Deal
DeLay
Ehlers
Ehrlich
Emerson
Ewing
Fields (TX)
Gillmor
Hall (TX)
Hancock
Hastert
Hunter
Johnson (CT)
Jones
Laughlin
Lewis (KY)
Livingston
Manzullo
Myers
Norwood
Oxley
Roberts
Schaefer
Sensenbrenner
Shaw
Stump
Taylor (NC)
Vucanovich
Walker

NOT VOTING—37

Browder
Burr
Chapman
Coleman
Collins (MI)
Dingell
Dixon
Dooley
Fattah
Foglietta
Frank (MA)
Gunderson
Hefley
Istook
Johnson, Sam
LaFalce
Latham
Martinez
McDade
McNulty
Meyers
Mfume
Moakley
Reynolds
Roukema
Sanders
Schumer
Solomon
Stark
Stockman
Stokes
Tauzin
Towns
Waxman
Yates
Young (AK)
Young (FL)

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Mr. EHLERS changed his vote from "aye" to "no."

Mr. FRISA and Mr. SMITH of Michigan changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am still trying to keep a semblance of comity and understanding around here.

Forget it. Forget it.

The CHAIRMAN. The Committee will be in order.

Mr. OBEY. Forget it, Mr. Chairman. Do whatever you want.

AMENDMENT OFFERED BY MR. SOUDER

Mr. SOUDER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SOUDER: Page 78, after line 6, insert the following:

LIMITATION ON ASSISTANCE TO MEXICO

SEC. 564. (a) IN GENERAL.—None of the funds appropriated or otherwise made available by this Act may be obligated or expended for the Government of Mexico, except if it is made known to the Federal entity or official to which funds are appropriated under this Act that—

(1) the Government of Mexico is taking actions to reduce the amount of illegal drugs entering the United States from Mexico by at least 10 percent of the level of such illegal drugs from the previous year, as determined by the Director of the Office of National Drug Control Policy; and

(2) the Government of Mexico—

(A) is taking effective actions to apply vigorously all law enforcement resources to investigate, track, capture, incarcerate, and prosecute illegal drug kingpins and their accomplices, individuals responsible for, or otherwise involved in, corruption, and individuals involved in money-laundering; and

(B) is pursuing international anti-drug trafficking initiatives.

Mr. CALLAHAN. Mr. Chairman, I move to strike the last word.

Let's calm down just a second. Let's take the advice of the gentleman from Wisconsin [Mr. OBEY]. He is trying to work it out. He is not a part of any delaying tactic. He rose in all sincerity after I talked with him and said there is a possibility that we can just run through these last 4 amendments, 3 of which are accepted amendments.

Let's try to work it out and keep calm. Maybe we can do it, maybe we can't. If we can, we can. If we can't, we can't. But I appreciate the gentleman's effort to try to add some degree of sensibility to this debate and to this bill and to try to get finished with it today. I applaud the gentleman.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, we have about four or five Members of the House that have been here on the floor, and I have watched these Members. They have amendments that they feel very strongly about. They have worked with the committee, both the ranking member on the minority side and the chairman of the committee on this side. They have worked hard all night working out agreements. They have agreements, they have an opportunity to complete their work which they have spent the night working on. If we can just give them the courtesy of allowing them to proceed in accordance with the agreements they have worked so hard on tonight, we can finish our night's business.

It seems to me the kind of courtesy we ought to extend to those of our colleagues who spent this evening working as hard as they did together. I would encourage the body to accommodate those Members.

Mr. CALLAHAN. Mr. Chairman, I yield to the gentleman from Wisconsin [Mr. OBEY].

Mr. OBEY. Mr. Chairman, I simply stood to inquire about the order of the amendments since it had been my understanding that we were first moving to the Burton amendment. I am opposed to the Burton amendment. I am not looking to do it any favors, but I thought that the Burton amendment was going to be going first and I would like to know why it is not.

Mr. CALLAHAN. Mr. Chairman, we have no objection to that if the gentleman from Indiana [Mr. SOUDER] has no objection. We will go that way. This is the order that someone wrote for me. I was not keeping order on how they go. If the gentleman would rather have the Burton amendment, I have no objection to that if the gentleman has no objection.

Mr. SOUDER. Mr. Chairman, I ask unanimous consent to withdraw my amendment at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. BURTON of Indiana. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BURTON of Indiana: Page 78, after line 6, insert the following new section:

LIMITATION ON ASSISTANCE TO INDIA

SEC. 564. None of the funds appropriated in this Act under the heading "Development Assistance Fund" may be made available to the Government of India or non-governmental organizations and private voluntary organizations operating within India.

Mr. BURTON of Indiana. Mr. Chairman, the hour is early. Everybody is tired. We have discussed human rights violations around the world. I think everybody knows my position on the human rights violations that have been occurring in India, in Punjab, in Kashmir and Nagaland.

I will not prolong the debate. I understand we have an agreement for a much lower amount of reduction in aid to India than I wanted. I wanted a cut of

$70 million. We have gone down to $5 million, but I will accept that because of the late hour and because all I want to do is send a signal to India that we want them to try to change their policies toward the people who are suffering these human rights violations over there.

With that, because we have an agreement and understanding, I close my remarks.

AMENDMENT OFFERED BY MR. CALLAHAN TO THE AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. CALLAHAN. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. CALLAHAN to the amendment offered by Mr. BURTON of Indiana: In the matter proposed to be inserted by the amendment, strike "None of the funds" and insert "Not more than $65,000,000 of the funds.

Mr. CALLAHAN. Mr. Chairman, the gentleman from Indiana [Mr. BURTON] has zeroed the amount. This amendment cuts India by $5 million. I now concur in the amendment. I hope that the minority side will also do that.

Mr. WILSON. Mr. Chairman, if the gentleman will yield, as one Member, I agree with the amendment and agree to accept it, but there are many Members on this side that do not agree with it and intend to oppose it.

Mr. ROSE. Mr. Chairman, I move to strike the last word.

I will be brief. The hour is very early, as my colleague has said. This is not about money. This is about symbolism.

India is trying to be our friend. Compared to what, you say? Compared to China. The Secretary of Defense told me the other night that India was fast becoming more strategically important to us than China. India has 900 million people. China has 1.2 billion people. India has a free press, it has an elected parliament, it has a judiciary, it has a court system. Bectel, General Electric, and Enron corporations have a $3 billion contract on the table right now, Enron, Bectel, GE, $3 billion contract right now, very touchy, with the Indian Government to build a power station to generate all the electricity for Bombay. It is to be owned by the American companies.

Mr. Chairman, it could be $1 million and we would put this new relationship that we are now developing with India in jeopardy. I have been there twice this year. I was there when Secretary Brown was there. Motorola, AT&T. I was there when the 777 airplane from Boeing was being demonstrated for Air India.

I know my friend, the gentleman from Indiana [Mr. BURTON], is close to people as the Sikhs have had problems in India, but read the "Dear Colleague" letter that a very broad bipartisan group of us signed saying, Let us not slap India in the face with $70 or $7 or $5 or $1 million. Let us continue to work to make them our friends.

The Prime Minister is opening up the country to foreign investment. There are 1.4 million American Indian citizens in this country. You want to hear from them by noon today? They are intelligent, they are committed, they are professional, they are in every community in this country.

They do not care whether it is $1 million or $70 million. They do not want to see this Government of ours slap their native country in this way.

Mr. BEREUTER. Mr. Chairman, will the gentleman yield?

Mr. ROSE. I yield to the gentleman from Nebraska.

Mr. BEREUTER. I thank the gentleman for yielding.

Mr. Chairman, as the chairman of the Subcommittee on Asia and the Pacific, I strongly ask Members, do not cut the aid to India. It is not in the best interest of the United States to do this.

We are opening up relationships with India as never before in every front. We have a positive relationship. This is not in our interest to slash this aid. I urge Members to vote against the Burton amendment.

Mr. BONIOR. Mr. Chairman, I rise in strong support of this amendment. I will tell why, Mr. Chairman.

There is a place called Kashmir. What is happening in Kashmir today is one of the great moral tragedies on the face of this earth. Mr. Chairman, Kashmir is plagued by violence. There have been more than 20,000 people that have been killed there. Tensions are on the rise again. Holy places of worship by the Moslems have been burned to the ground recently. On Saturday, June 3, the Indian Parliament once again extended the New Delhi rule over Kashmir and they revoked the elections that were going to be held. It is one horror story after another. The rape of women, the butchery of the civilians of Kashmir. It is one of the great tragedies of our time. I think it is about time we sent a very clear message to India.

There are 700,000 Indian troops in Kashmir today. They are stationed no further from this wall or that wall, throughout the country. You cannot move on the streets without seeing an Indian soldier with their finger on the trigger of a gun. People do not go out at night.

This is a good amendment. I commend my colleague from Indiana for offering it. I hope my colleagues will at least show some sense of sensitivity. Amnesty International, all the human rights groups are kept out. Only recently have they allowed the Red Cross to finally come in. This is an important amendment. I hope my colleagues will support my friends from Indiana.

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. Mr. Chairman, I want to thank the gentleman from Michigan [Mr. BONIOR] for adding these comments because I, too, want to rise in support of the Burton amendment.

The gentleman from North Carolina [Mr. ROSE] may be right that they are open to trade and India is open to good relations with America, but let me tell you what they are not open to: Amnesty International, the international media.

Much of what the gentleman from Michigan [Mr. BONIOR] said tonight about the carnage in Kashmir or for that matter in the Punjab may be new to many Members of this institution. That is because the media of this country and the world cannot even get in to see the carnage. People have been killed by the thousands. They have littered the streets of Kashmir. The least we can do is support the gentleman from Indiana [Mr. BURTON] and send this extremely modest message.

I join with the gentleman from Michigan [Mr. BONIOR] in urging support of the Burton amendment.

Mr. ENGEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong opposition to the Burton amendment.

I think the gentleman from North Carolina is quite right. This is symbolism. Whether you cut 5 or 70, it does not matter. We should not be cutting it at all.

The United States and India, two, the longest democracy and the largest democracy, have too many confluent interests to allow such an ill-conceived amendment to be adopted.

Has there been trouble? Yes, there has. Has the government of India taken great strides to alleviate the difficulties? Yes, it has.

The government has very recently decided to allow the controversial Terrorist and Disruptive Activities Act to terminate on May 23, 1995 despite continued terrorist violence in Jammu and Kashmir.

India's National Human Rights Commission works vigorously to protect rights. Assistant Secretary of State, Robin Raphel, said on February 9 of this year the commission has surprised the skeptics and begun to establish itself as an effective advocate for human rights.

Just a few weeks ago the U.N. High Commissioner for Human Rights, Ayala Lasso, visited Punjab and Kashmir. In a press conference after this visit, Lasso praised the advances India has made in human rights and lauded the unparalleled access he had been granted.

In my opinion the Burton amendment seeks to damage United States-Indian relations at precisely the moment they are showing such dynamism. More United States investment has come to India in the last year than in the entire history of United States-Indian relations. In addition, India buys more of its goods from the United States then from any other country.

The U.S. Department of Commerce has named India as one of the 10 big emerging markets and estimates business opportunities worth at least $100 billion in the next 5 years in the infrastructure sector alone.

□ 0630

I think that this amendment overlooks the great strides that India is making in its efforts to protect human rights and it would have an extremely negative impact on the flourishing United States-Indian relations. It is bad for U.S. business and overlooks the great strides that India is making.

Have there been difficulties? Yes, there have. We should not penalize a country when they are trying to correct those difficulties. I think we should vote "no" on the amendment.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. ENGEL. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman for his comments and I think it is important to respond. Last year when the gentleman from Indiana [Mr. BURTON] tried to do this, there was a great deal of discussion about the refusal of India to allow international organizations in to check what is happening in Kashmir.

Reuters today reports:

> India, in a move towards greater transparency in strife-torn Kashmir, agreed Thursday to allow the International Committee of the Red Cross access to the detainees in the region. The Red Cross said in a memorandum of understanding was signed between the committee and the Indian government allowing it access to all persons arrested and detained in relation with the current situation in Jammu and Kashmir.

This is a democracy. This is a country which has had a peaceful transition of power from the government to the opposition, both nationally and in many states very recently. I think this is not taking the situation in India in perspective.

There are terrible problems in Kashmir. Many people have died. But this is not the right approach. While we are loosening up the Pressler amendment allowing all kinds of assistance, nonmilitary assistance to go into Pakistan, to now come in and slap India like this puts us into a position which we will rue the day that we accept. I urge the amendment be defeated.

PARLIAMENTARY INQUIRY

Mr. CALLAHAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. CALLAHAN. Mr. Chairman, I think there may be some confusion. What is the amendment before the Committee at this time?

The CHAIRMAN. The Callahan amendment to the Burton amendment.

Mr. CALLAHAN. So it is the Callahan amendment that is being debated. The Callahan amendment reduces it only $5 million, whereas Mr. BURTON zeroed it out. The amendment before the Committee is whether or not Members want to adopt the $5 million substitute or the $5 million amendment to the Burton amendment.

Mr. DOOLITTLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it may be the world's largest democracy, but there is a gross abuse of rights that is going on there and I cannot imagine that we as the Congress would not want to stand up with our money and say something about it; the outrageous abuses that have occurred against the Sikhs and against the Moslems and indeed against the Christians.

I like the original amendment of the gentleman from Indiana [Mr. BURTON] to zero it out. We ought to stand up and make a statement for heaven sakes. It is our money. Why should we be supporting the kinds of abuses that are going on there. Torturing people routinely in certain parts of the country; locking them up because they expressed their opinion only and then they do not see the light of day. I mean it is outrageous.

The gentleman from Indiana [Mr. BURTON] has courageously stood on this floor for years and advocated this position and I would like to support the gentleman's amendment and just say to all of my colleagues that I think that there are some serious problems here. If they are the world's largest democracy, then they ought to stand up and respect human rights. I support the Burton amendment.

Mr. PALLONE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Indiana [Mr. BURTON], which I take it has now been amended or is from the gentleman from Alabama [Mr. CALLAHAN]. And I really want to stress that this is the wrong amendment at the wrong time.

If we were before the House a few years ago, then some of these allegations that are being brought up today might have been appropriate, but they are certainly not appropriate now. India has made a lot of progress on many of the human rights issues and if you look specifically at some of the points that were made today, I would like to individually try to refute them.

Unlike many other nations where human rights have been as issue, India has honestly confronted its problems in this area and taken protective steps to address them. Last week under the auspices of our Congressional Caucus on India, which I cochair along with the gentleman from Florida [Mr. MCCOLLUM], we had a visit from the chairman of India's National Commission on Human Rights. This is a new commission in business now for about a year or two. And I wish that the gentleman from Indiana [Mr. BURTON] and some of the other critics of India had been there to hear the presentation of Mr. Misra, who was a former chief justice of India's Supreme Court.

He pointed out how the commission now has the power to summon witnesses, collect evidence and to recommend prosecution of officials accused of human rights violations. The commission has been active in every State of India. Not a single recommendation by the commission has been rejected by government officials.

On May 23 of this year, the Terrorist and Disruptive Activities Prevention Act, this is the infamous act that some people have mentioned today that in the past has allowed for judicial procedures to be usurped, it has lapsed. It has not been reenacted and there are no plans to renew it.

And the main reason it was allowed to lapse was largely because of the urging of this new human rights commission. And this was despite the continuing terrorist violence in Jammu and Kashmir, much of it arising from Islamic fundamentalist forces outside of India's borders.

I think the gentleman from New York [Mr. ENGEL] mentioned that the Indian Human Rights Commission has won praise from our own State Department. Before the Subcommittee on Asia the Assistant Secretary of State, Robin Raphel, was quoted and came before the subcommittee and said that they were surprised, the State Department, that the skeptics that had talked about this commission and said it was never going to accomplish anything were wrong and that the commission had established itself as an effective advocate for human rights.

It was mentioned that a few weeks ago the U.N. high commissioner for human rights, he visited Punjab and Kashmir. And after his visit he praised the advances India has made in human rights. He lauded the unparalleled access that has been granted to investigate allegations concerning human rights violations.

Some mention has been made about Asia Watch, Amnesty International, and the International Red Cross. During his visit to the United States this month, Mr. Misra, the chairman of India's National Human Rights Commission, met with representatives of these three groups and he indicated there will be progress on these organizations sending representatives to India within the year.

Now, I think that the gentlemen have suggested that the amendment would put pressure on the Government of India to improve its record on human rights. In fact, I think this amendment, if it were to become law, would have just the opposite effect. It would greatly reduce our ability to positively influence the Indian Government, not only in terms of human rights but on a wide range of economic and security issues.

Punitive measures like this one would only serve to isolate the Indian Government, give aid and comfort to political forces in India who oppose closer ties with the United States. I think it is extremely unfair that at this point when so much progress has been made and when so many of us have worked with the Indian Government representatives to try to turn things around and this human rights commission has started and had success, it would be really a tremendous disservice to pass this amendment.

Regardless of weather it is $70 million or $5 million, it is the symbolic effect of it that is going to have a negative impact on our relations.

Mr. BURTON of Indiana. Mr. Chairman, I ask to strike the requisite number of words.

Mr. Chairman, I hope everybody will pay attention to this. This is very important. The Indian Government has promised for years to allow Amnesty International and other human rights groups, the International Red Cross, into Punjab and Kashmir and they have never fulfilled that obligation.

I talked to the Indian Ambassador in my office and said, "Can I take a congressional delegation over there and take TV cameras so we could talk to the people?" He said, "Yes, we will work that out." Three years later, he never called me back. They do not want us in there.

Let me give my colleagues some facts. In 1995, Indian troops in Kashmir burned to the ground the centuries-old old walnut wood mosque along with hundreds of homes around it. You might say that is not very bad.

Let me tell you what Asia Watch says. Asia Watch, a human rights group, said that virtually everyone detained in Punjab is tortured. Everyone arrested is tortured. Amnesty International: Torture in Punjab and Kashmir and injury is widespread and in some cases systematic, resulting in scores of deaths in police custody.

State Department, you talk about the State Department, the State Department Human Rights Report this year said over 41,000 cash bounties were paid to police in Punjab for extrajudicial killings of Sikhs between 1991 and 1993. That was 41,000 people. Murdered.

Extrajudicial murders of Sikh youth are a common occurrence. Between 1986 and 1994, 6,017 unidentified Sikh victims of Indian police were cremated in the district of Amritsar alone. There are 13 districts in Punjab. It has been estimated that security forces have had over 25,000 unidentified Sikhs cremated or dumped in the rivers.

They just drained about a three-block area, a three-block area of canals, and they found 12 bodies with their arms tied together and their feet tied together and tortured. And they have hundreds of miles of these canals and in one two-block area they found 12 bodies at the bottom of the canal when they drained it.

In January 1993, paramilitary forces in Kashmir burned to death at least 65 Kashmiri civilians in the town of Sofar. Soldiers immediately set fire to five separate areas of the town and dragged shopkeepers out of their shops and shot them in the streets. The torching of entire Kashmiri villages by Indian forces is a common tactic. I can go on and on and on.

They gang rape women. I want the gentlewomen to listen to this. They gang rape Moslem women in Kashmir because it is something that violates their religious beliefs so the men will not have anything to do with them. Women commit suicide and leave the country and their families because of these things that are going on.

All I am asking for is a $5 million cut to send a signal to them. Do my colleagues think that is too much? They are getting $152 million anyhow. All I am asking for is a signal to them.

For God's sake, I brought pictures down here of people that have been disemboweled and tortured by the Indian Government. I have done this for years. We have passed amendments in the past and they have started to see the light.

The TADA laws are starting to change, but there are still a lot of other black laws that will allow them to take people out of their homes in the middle of the night, never to be seen again, no judicial proceedings, and we continue to support them with our taxpayers' dollars.

All I am asking, all I am asking is that we send them a signal. Go ahead and give them the $152 million, but let the rest of the world know that we at least care about Punjab and Kashmir. We are talking about Moslems, we are talking about Sikhs and we are talking about Christians in Nagaland.

This goes beyond just one ethnic group or one religious group. It goes into a lot of them. They have 1.1 million troops in Kashmir and Punjab imposing martial law and they have been doing it for years. This is not me talking. Read Amnesty International. Read the International Red Cross. All these human rights groups say these things.

All I am asking my colleagues to do is to vote for the substitute amendment, which I thought we had an agreement on tonight. I was asking for a $70 million cut and I said, "OK, just to send a signal I will go along with a $5 million cut." I thought we had an agreement. I thought the gentleman from North Carolina [Mr. ROSE] and I had an agreement and all of a sudden this place erupts into a big debate. Well, we had the debate.

Mr. FLAKE. Mr. Chairman, will the gentleman yield?

Mr. BURTON of Indiana. I yield to the gentleman from New York.

Mr. FLAKE. Mr. Chairman, the gentleman who is speaking has spent the last several years, and I have been supportive because there have been a number of persons who are residents in my district who have come from India who have been victimized in so many ways.

We have seen the gentleman from Indiana [Mr. BURTON] come to this well year after year to talk about the human rights violations which have been not only proven, but in most instances proven by institutions and agencies that we have a great deal of faith in.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. BURTON] has expired.

(By unanimous consent, Mr. BURTON was allowed to proceed for 1 additional minute.)

Mr. BURTON of Indiana. I yield to the gentleman from New York.

Mr. FLAKE. If the gentleman from Indiana [Mr. BURTON] has been willing, and that is commendable on his part, to agree to the amendment of the gentleman from Alabama [Mr. CALLAHAN] that strikes a portion but does not strike in total the amount of funds that are made available for India, I think we as a body ought to agree to that.

It is not a question that India has not made some progress, but it is a question of at what price do we, as we stand in this well, talk about the contracts that are available for India; talk about changes that are being made as of this moment that could have been made over the last 3 or 4 years that have not been made?

I tend to think that once again we can have an empty process; more sounding brass and tinkling cymbal. I urge my colleagues to support the Callahan amendment. If the gentleman from Indiana [Mr. BURTON] is in agreement with it, I think this body would do itself well. It would send a proper signal to India. We have been standing together over the last 3 years on this amendment. I think it is the right thing to do.

Mr. BURTON of Indiana. Mr. Chairman, let me just say that we just cut $25 million on the Porter amendment and we did that in a country, in my view, that does not even come close to the human rights violations that we are talking about here. Let us just send a signal to them. Let the world know we care.

Mr. ABERCROMBIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not know how many of the Members here on the floor have ever been to the Punjab or have spent any time in Amritsar as I have done and been to the Golden Temple, gone to the border of Kashmir.

□ 0645

I do not know how many Members have spent any time in India itself. I spent months in India, not under any grant or anything of the kind. I went on my own, I traveled the length and breath of India for months in the Gandhi centenary year. I am not sure that that necessarily gives me any greater insight than any other Member might have at this point, but I do not think it made me any the less sympathetic or wise about what was going on in India and the many countries that I was able to visit in my travels. I can think of two, when I was asked, and I would say the same thing today, two that I felt were the friendliest to the United States were the friendliest to me. The two countries for which I have the greatest affection and still feel deep affection because of the friendships I made there, and that continues today, and that was Egypt and India. I well recall the times in Egypt when people were asking when is the United States coming back, why did they leave us? The same in India.

So I stand here today in support of the Callahan amendment, speaking, I believe, as a friend of India of more than two decades standing.

No one can go and have an acquaintanceship with any member of the Sikh religion. Religion has been mentioned here tonight. The Sikh people are among the only ones that I have ever been acquainted with that actually live their religion. I say to my colleagues, "If you go to a Sikh temple and seek shelter, it will be given to you without question. If you go to a Sikh temple, you will be fed without question. They do not require of anyone that they demonstrate any kind of good will or special purpose in being there. They know that you are a human being, and I have discovered that among the Sikh people all around the world."

The question there then is not whether we are for India or against India, and I have the greatest respect for the presentation of the gentleman from North Carolina [Mr. ROSE] because his record on human rights with respect to Tibet and other areas is unmatched, but how is it possible for us to make an argument?

And the reason I am here in support—how is it possible for me to make an argument against our participation with China which I consider obscene? Child labor, prison labor, all for the money that we think we can make out of the country. We should not have the most-favored-nation status there.

How can I stand up? How can any of us who have that position stand there, and then, when we see our friends, and I consider, and I say again with resolution, our friends in India involving themselves in this aberration of torture and murder in the Punjab and Kashmir and not make this gesture, and I will call it that, and I do not think that is an empty term to say it is a gesture.

So what I am saying here: I believe, as a friend of India and a friend of the Punjab most particularly, I admit to bias and prejudice in particular with the Sikh people in the Punjab. But that does not make my commitment any the less, and I do not think it should make it for any of the rest of us any the less with our friends in India, the great democracy in southeast Asia, something we are never going to see in the mainland of China, probably in the legislative lifetime of most of us in this Chamber, sad to say. I wish it was otherwise.

This is important to do, as the leading democracy in the world right now, to say that it is not just a question of dollars and cents, and it is not just a question of trying to deal with past friendships and say, "Let's ignore what is going on right now." If we are going to be true to what is the best in India, and we will find people in India that have this same point of view: They want their government to do the right thing just as we want to do the right thing with our Government. I ask my colleagues then to support the Callahan amendment.

Mr. BROWN of Ohio. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Indiana has made these comments over and over year after year in committee and on the floor of this House yet ignores the progress that India has made, as Chairman BEREUTER noted, the progress that India has made in human rights. Allegations of human rights violations in Kashmir caused India to form the Independent National Human Rights Commission. Thus far 174 security-force personnel have been punished for their involvement in human rights violations. Assistant Secretary of State for south Asia, Robin Raffel, in some testimony in Congress this year said that the Indians in HRC, an independent body, has real teeth that have made a difference. International efforts to monitor the situation in Punjab, as well as in Kashmir, continue. The International Committee of the Red Cross has been in to Kashmir. Last year Members of the U.S. Congress have gone there. From some of the largest American newspapers, the New York Times, the Post, the Los Angeles Times have been into Kashmir and have viewed the progress there. Prime Minister Rao announced that the Terrorist and Disruptive Prevention Act will be allowed to lapse, has lapsed this year, effectively answering the amendments as referenced to TADA. This is just one more area in which Mr. BURTON'S amendment has been rendered out of date.

It makes no sense, Mr. Chairman, to stigmatize a nation which has taken so many positive steps towards improving human rights conditions. India and the United States have too many interests. India is an emerging nation, the two largest democracies in the world. They have too many common interests to allow such an ill-conceived amendment to be adopted.

The issue for India, the issue in this amendment, is not one of United States foreign assistance. Last year, the total development assistance allocated for India's 900 million people was slightly less than $40 million.

The money is not the issue. What will damage and retard our relationship, our human rights relationship, our democracy relationship, our democratic relationship, our trade relationship with India is the stigma that this amendment will attempt to impose on India.

Mr. McCOLLUM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the 5 minutes. I just happen to have to comment that I have had a lot of relationships in the last 2 or 3 years with India because of the terrorism question and because they have had similar problems to many of those we have been concerned about, about radical Moslems and the problems of the international networks that are involved in this, and over that experience and the relationship I have grown to understand some of the problems that the gentleman from Indiana [Mr. BURTON] has talked about. I understand there has been a history, but I also understand, as several have mentioned here, and the previous speaker just did, there have been enormous strides, and I am convinced that this is so, that have been taken by the Indian Government to correct those problems, and for us today to come and make this symbolic gesture, and that is, as several people have said today, is indeed what we would be doing by this vote that slaps India at this time when they are making that progress and when we are increasing our relationships with them in trade and with a war against terrorism and in so many other ways is just plain wrong.

As the gentleman from Nebraska [Mr. BEREUTER], my friend, said a few moments ago who chairs the subcommittee in the Committee on International Relations on this subject, this is simply the wrong thing to do now, and I urge a "no" vote on the Burton amendment.

Mr. ACKERMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I join with the previous speaker, as well as the gentleman from Nebraska [Mr. BEREUTER], and say very strongly, as strongly as I can as the immediate former chairman of the Subcommittee on Asia from this side, that this amendment and the amendment to it would be a tragic mistake at this time. India is a very important country, a democratizing country, a very large democracy, and a country that has been very, very responsive to all of the suggestions that we have been making over the years. If adopted, this amendment will do great harm to that relationship which is growing stronger and stronger between our two nations and between the trade relationship that has been developing, and even more importantly, this amendment, because its maker has rushed to the floor to do the kind of traditional Indian bashing that we have seen here year after year after year, this amendment is fatally flawed and will do harm not just to millions of children in India, but to millions of children around the world. This amendment is drafted in such a way that it will cut off not just the development aid to India, but all United States development assistance to any nongovernment organization that is presently in India whether they are in India or not. The development assistance will be cut off to Catholic relief services all over the world and to Save the Children all over the world and the work that these organizations are too important for us to ignore, work that nobody else is doing in so many corners of the world.

If the gentleman from Indiana [Mr. BURTON] wants to go to India, I invite him to do so. To blame the Ambassador for not bringing him there is utter nonsense. I say to my colleagues, I've been there. You get on a plane and you go. I've been to Kashmir. You get on a plane and you go, and you see with your own two eyes instead of looking at the horror pictures that people bring you because I see those pictures in my office, too, and let me tell you both sides have brought me the same pictures of the same corpses and blamed each other for them. You have to make some sense out of this, and you don't do it by those who have vested interests in this issues.

Yes, India has problems and historically has had problems, religious deepseated problems, that have existed throughout the ages. But progress is being made by a government that is responsive, that is democratizing more and more each day. We have never seen this kind of response from a major government being responsive and responsible to the suggestions that we have made.

I say to my colleagues, You have asked for the Red Cross to come in. They are going in. You asked for a human rights commission. There is a human rights commission. I urge my colleagues. This is no compromise that you see before you. We have worked out a compromise before on this $5 million, this symbolic $5 million, and this was not supposed to come up.

Now suddenly, after we fulfill our obligation of the agreement that we supposedly made, Republicans and Democrats alike with the maker of this amendment, and we fulfilled our part, suddenly of a new partner is sought to make a new agreement with to bring up $70 million and then to knock it down to $5 million as if this was an act of major generosity. This is flimflam. It is in the interests of the United States of America to make sure that this amendment and the amendment to it is defeated, not just for India, but for Catholic Relief Services, and Save the Children, and all of the good work that those organizations do as well worldwide.

Mr. VOLKMER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman and members of the committee, I first wish to commend the gentleman from Indiana for offering the basic amendment, however, as he has said, I think too that perhaps in the spirit of compromise that the Callahan amendment should be adopted at this time. However I had hoped that we would be able to spend a little more time on what is occurring in the country of India because even though there have been improvements in India's relation with the people of Kashmir and Punjab, it is still not there, and I think that we need to send that signal.

I, too, like the gentleman from Hawaii [Mr. ABERCROMBIE], consider India a very friendly nation, one that we will continue to improve our relationship with, one that we will hopefully continue to see human rights violations eliminated completely, that people will not be persecuted because of their religious beliefs, as has been done in the past and continues today.

I believe that it is imperative, and I would just like to ask the gentleman from Alabama on his substitute amendment because of what has been mentioned by the previous speaker:

"Under your amendment we have a total of a $5 million cut is all; is that correct?"

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Alabama.

Mr. CALLAHAN. That is correct.

Mr. VOLKMER. That does not deprive the charity organizations from providing assistance for the children, for the people that need it in India; does it?

Mr. CALLAHAN. That is correct.

Mr. VOLKMER. And that assistance will continue.

Mr. CALLAHAN. That is correct.

Mr. ACKERMAN. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from New York.

□ 0700

Mr. ACKERMAN. Mr. Chairman, let me read to you from the amendment.

Mr. VOLKMER. Which amendment?

Mr. ACKERMAN. If the gentleman from Alabama [Mr. CALLAHAN] will give me a copy of his amendment, I will read both. Mr. CALLAHAN's amendment affects the amount and not the other language, is that correct?

Mr. CALLAHAN. It affects just the amount.

Mr. ACKERMAN. Let me read you the language that exists through both amendments. No development assistance fund, and he changes that in the number, may be made available to the government of India or nongovernmental organizations and private voluntary organizations operating within India.

Very simple: If they are operating within India, they get no money. That is what this says. It is a fatal flaw in the drafting of this, which will be responsible for killing children all over the world.

Mr. VOLKMER. If the gentleman from Alabama would agree that we could modify his amendment to clarify that it only affects the total amount of U.S. aid that will be going to India, I think it would be beneficial. I would yield to the gentleman from Alabama, if he wishes to make such a modification.

Mr. CALLAHAN. I would have no objection, but I think out of deference to the gentleman from Indiana, [Mr. BURTON] we talked only about the monetary portion of it.

Mr. VOLKMER. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, I have no objection.

Mr. CALLAHAN. The gentleman from Indiana has no problem. If he has no problem, I have no problem.

Mr. VOLKMER. I ask unanimous consent that the amendment be modified.

Mr. ACKERMAN. Mr. Chairman, I object.

Mr. VOLKMER. I was just trying to help move this thing along. If the gentleman wishes to object, he has that right.

Mr. ACKERMAN. Mr. Chairman, I object.

The CHAIRMAN. objection is heard.

Mr. BURTON of Indiana. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Indiana.

Mr. BURTON of Indiana. Mr. Chairman, as the author of the original amendment, it is my intention to send a signal to India. These things that the gentleman from New York is raising right now, I have no problem with changing them. The gentleman is objecting right now because he simply wants to kill any attempt to send a signal to India. It is obvious what he is trying to do.

So I say again to my colleague, I am amenable to that kind of amendment. I think it is something that would still send a signal to India and solve the problem.

Mr. MANTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Burton amendment. India has come too far in its human rights situation to be turned back by this amendment, no matter how much it has been scaled down. The symbolism does the damage.

Since securing independence only a short time ago, India has made great strides to develop a vibrant democratic system. The chief argument of the proponents of this amendment is that India should be punished because its government is guilty of human rights abuses. If the complete absence of human rights abuses was a test for securing foreign assistance, then a majority of the countries which this bill benefits would not be eligible. The real issue should be whether a nation is making a good-faith effort to address such problems.

Mr. Chairman, I am not arguing that India is perfect or does not need to improve the treatment of its citizens. Rather, I submit that I share the goals of my colleagues who want to encourage India—and all nations—to fully realize their potential as free nations. I believe we can best achieve this goal by offering assistance to the Indian Government, by working in partnership to help this young democratic nation with so much potential, but so many burdens, to develop into a strong democracy which stands as an example to the entire region.

In the past year, India has made great strides toward improving its human rights record. I think the United States can be proud of our role in encouraging this achievement. U.S. assistance to India is one of the success stories of our foreign assistance program. India is a strong democracy in a region in need of a positive force to encourage the growth of democracy. I urge my colleagues to vote to continue our current commonsense policy toward India. I urge a "no" vote on the amendment.

Mr. CUNNINGHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take 5 minutes, but just a minute. I do have Sikhs in my district, and many of them have suffered some of the atrocities that the gentleman from Indiana has spoken about.

I would like to associate myself with the gentleman from Michigan [Mr. BONIOR] and his comments that he has made, because they are true. It is true that some groups have gone into Punjab and Kashmir, but they are not allowed on a regular basis. When they have gone it, you have heard the results that Mr. BURTON has read and Mr. BONIOR has talked about. These are farmers. They own most of the land, and they are having violations. I have heard there is punishment and slaps in the face. Well, punish me with $152 million, and that is not a slap in the face.

AMENDMENT OFFERED BY MR. VOLKMER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. BURTON OF INDIANA

Mr. VOLKMER. Mr. Chairman, I offer a substitute amendment to the original amendment offered by the gentleman from Indiana [Mr. BURTON].

The CHAIRMAN. The Clerk will report the substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER as a substitute to the amendment offered by Mr. BURTON of Indiana: In lieu of the matter proposed to be inserted by the amendment, insert the following:

LIMITATION ON ASSISTANCE TO INDIA

SEC. 564. Not to exceed $65,000,000 appropriated in this Act under the heading "Development Assistance Fund" may be made available to the Government of India.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. VOLKMER. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, we have no objection to the substitute for the amendment. I do not think the original sponsor of the original amendment objects.

Mr. VOLKMER. This says it is only the $65 million. That is it. Now, in other words, it is a cut of $5 million. That is it.

PARLIAMENTARY INQUIRY

Mr. ACKERMAN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. Does the gentleman from Missouri [Mr. VOLKMER] yield for a parliamentary inquiry?

Mr. ACKERMAN. I believe I must ask the Chair for a parliamentary inquiry, rather than the gentleman in the well.

The CHAIRMAN. The gentleman from Missouri must yield for that purpose.

Mr. VOLKMER. Mr. Chairman, I yield to the gentleman from New York.

Mr. ACKERMAN. Mr. Chairman, did I understand the gentleman to say this is an amendment to the amendment to the amendment? If so, I believe that would not be in order at this time.

The CHAIRMAN. This is a substitute for the Burton amendment.

Mr. ACKERMAN. May we see a copy of it?

The CHAIRMAN. The Clerk will make copies available.

The CHAIRMAN. The Chair will first put the question on the amendment offered by the gentleman from Alabama [Mr. CALLAHAN] to the amendment offered by the gentleman from Indiana [Mr. BURTON].

The amendment to the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri [Mr. VOLKMER] as a substitute for the amendment offered by the gentleman from Indiana [Mr. BURTON], as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ACKERMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. Pursuant to rule XXIII, the Chair may reduce to 5 minutes the minimum time for electronic voting, if ordered, on the underlying Burton amendment.

The vote was taken by electronic device, and there were—ayes 284, noes 118, not voting 32, as follows:

[Roll No. 445]

AYES—284

Abercrombie
Allard
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Brewster
Browder
Brown (CA)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Diaz-Balart
Dickey
Dicks
Dingell
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Farr
Fawell
Fazio
Fields (LA)
Fields (TX)
Flake
Flanagan
Foley
Forbes
Ford
Franks (CT)
Frisa
Frost
Gallegly
Ganske
Gejdenson
Geren
Gilchrest
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hilleary
Hinchey
Hobson
Hoekstra
Hoke
Holden
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Jackson-Lee
Jacobs
Jones
Kanjorski
Kaptur
Kasich
Kennedy (RI)
Kennelly
Kim
King
Kingston
Kleczka
Klink
Klug
Kolbe
LaFalce
Largent
Laughlin
Lewis (GA)
Lewis (KY)
Lincoln
Linder
Lipinski
Longley
Lucas
Luther
Manzullo
Martini
Mascara
McCarthy
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Metcalf
Miller (CA)
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Moran
Murtha
Myers
Myrick
Neal
Neumann
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Parker
Paxon
Payne (VA)
Pelosi
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Sabo
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Seastrand
Sensenbrenner
Serrano
Shadegg
Shays
Sisisky
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Taylor (MS)
Tejeda
Thomas

Thornberry
Thornton
Tiahrt
Torkildsen
Torres
Torricelli
Traficant
Tucker
Vento
Volkmer
Waldholtz
Wamp
Ward
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wolf
Wyden
Zeliff

NOES—118

Ackerman
Andrews
Baesler
Barr
Bateman
Beilenson
Bentsen
Berman
Boucher
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Castle
Chabot
Clayton
Clyburn
Collins (IL)
Conyers
Coyne
DeFazio
Dellums
Deutsch
Dixon
Doggett
Dooley
Durbin
Ehlers
Engel
Eshoo
Evans
Fattah
Filner
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Funderburk
Furse
Gekas
Gephardt
Gibbons
Gillmor
Green
Gutierrez
Hamilton
Hastings (FL)
Hilliard
Horn
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnston
Kelly
Kennedy (MA)
Kildee
Knollenberg
LaHood
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lightfoot
Livingston
LoBiondo
Lofgren
Lowey
Maloney
Manton
Markey
Matsui
McCollum
McDermott
Meehan
Meek
Menendez
Mica
Mineta
Mink
Morella
Nadler
Nethercutt
Ney
Pallone
Pastor
Payne (NJ)
Peterson (FL)
Roemer
Rose
Roybal-Allard
Royce
Rush
Sawyer
Scott
Shaw
Shuster
Skaggs
Souder
Spence
Studds
Taylor (NC)
Thompson
Thurman
Upton
Velazquez
Visclosky
Vucanovich
Walker
Walsh
Waters
Wise
Woolsey
Wynn
Zimmer

NOT VOTING—32

Archer
Becerra
Chapman
Coleman
Collins (MI)
Foglietta
Gunderson
Hall (OH)
Harman
Hefley
Istook
Johnson, Sam
Latham
Martinez
McDade
McNulty
Meyers
Mfume
Moakley
Reynolds
Roukema
Sanders
Schumer
Solomon
Stark
Stokes
Tauzin
Towns
Waxman
Yates
Young (AK)
Young (FL)

☐ 0726

Ms. WOOLSEY, Mrs. COLLINS of Illinois, Mr. DOGGETT, Mrs. FOWLER, Mrs. KELLY, Ms. WATERS, and Messrs. STUDDS, PETERSON of Florida, and MATSUI changed their vote from "aye" to "no."

Messrs. GILMAN, OBEY, EMERSON, and SHADEGG changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. LATHAM. Mr. Speaker, on the morning of June 29, I was unavoidably detailed and unable to vote on House rollcalls 443, 444, and 445.

I would like the record to show that, had I been present, I would have voted "no" on rollcall 443, "yes" on rollcall 444, and "yes" on rollcall 445.

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent to speak out of order for 1 minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Missouri?

Mr. LINDER. I object.

The CHAIRMAN. Objection is heard.

Mr. BEREUTER. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The gentleman can only do that by unanimous consent.

PARLIAMENTARY INQUIRY

Mr. BEREUTER. Mr. Chairman, parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BEREUTER. Mr. Chairman, why is it by unanimous consent at this stage?

The CHAIRMAN. It is right here in the manual. A pro forma amendment may be offered after a substitute has been adopted and before the vote on the amendment, as amended, by unanimous consent only.

Mr. VOLKMER. Mr. Chairman, I could not hear the ruling because of the uproar.

Mr. ACKERMAN. Mr. Chairman, we could not hear the ruling.

The CHAIRMAN. A pro forma amendment may be offered after a substitute has been adopted and before the vote on the amendment, as amended, by unanimous consent only. That answers the gentleman's question.

Mr. ACKERMAN. Mr. Chairman, I ask unanimous consent that the distinguished chairman of the subcommittee be allowed to speak.

Mr. LINDER. I object.

The CHAIRMAN. Objection is heard.

The question is on the amendment offered by the gentleman from Indiana [Mr. BURTON], as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BEREUTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 191, noes 210, not voting 33, as follows:

[Roll No. 446]

AYES—191

Abercrombie
Allard
Armey
Bachus
Baker (CA)
Baker (LA)
Ballenger
Barcia
Bartlett
Barton
Bass
Bevill
Bilbray
Bilirakis
Bliley
Bonilla
Bonior
Bono
Brewster
Brownback
Bryant (TN)
Bunn
Bunning
Burton
Buyer
Callahan
Camp
Canady
Chenoweth
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Costello
Cox
Crane
Crapo
Cubin
Cunningham
de la Garza
Deal
DeLauro
Diaz-Balart
Dickey
Dingell
Doolittle
Dornan
Dreier
Duncan
Dunn
Edwards
Ehrlich
Ensign
Everett
Farr
Fawell
Fazio
Fields (TX)
Flake
Foley
Forbes
Franks (CT)
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gilchrest
Gonzalez
Gordon
Goss
Graham
Greenwood
Gutknecht
Hancock
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hilleary
Hoke
Hostettler
Hunter
Hyde
Inglis
Jackson-Lee
Jacobs
Kaptur
Kennelly
King
Kingston
Kleczka
Klug
Kolbe
Largent
Latham
Laughlin
Lewis (GA)
Lewis (KY)
Lipinski
Longley
Manzullo
Martini
McHugh
McInnis
McIntosh
McKeon
McKinney
Metcalf
Miller (CA)
Minge
Montgomery
Moorhead
Moran
Myers
Myrick
Neumann
Nussle
Oberstar
Olver
Ortiz
Orton
Owens
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Pombo
Porter
Poshard
Quillen
Radanovich
Ramstad
Reed
Riggs
Rivers
Rogers
Rohrabacher
Ros-Lehtinen
Salmon
Saxton
Scarborough
Schaefer
Schroeder
Seastrand
Sensenbrenner
Shadegg
Shays
Shuster
Skeen
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Spence
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Tiahrt
Torres
Torricelli
Traficant
Volkmer
Waldholtz
Walker
Wamp
Watt (NC)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Wyden
Zeliff
Zimmer

NOES—210

Ackerman
Andrews
Archer
Baesler
Baldacci
Barr
Barrett (NE)
Barrett (WI)
Bateman
Beilenson
Bentsen
Bereuter
Berman
Bishop
Blute
Boehlert
Boehner
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Burr
Calvert
Cardin
Castle
Chabot
Chambliss
Christensen
Clay
Clayton
Clement
Clyburn
Collins (IL)
Conyers
Cooley
Coyne
Cramer
Cremeans
Danner
Davis
DeLay
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Doyle
Durbin
Ehlers
Emerson
Engel
English
Eshoo
Evans
Ewing
Fattah
Fields (LA)
Filner
Flanagan
Ford
Fowler
Fox
Frank (MA)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gephardt
Gibbons
Gillmor
Gilman
Goodlatte
Green
Gutierrez
Hall (TX)
Hamilton
Hansen
Hastert
Hastings (FL)
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Horn
Houghton
Hoyer
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E.B.
Johnston
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kildee
Kim
Klink
Knollenberg
LaFalce
LaHood
Lantos
LaTourette
Lazio
Leach
Levin
Lewis (CA)
Lightfoot
Lincoln
Linder
Livingston
LoBiondo
Lofgren
Lowey
Lucas
Luther
Maloney
Manton
Markey
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
Meehan
Meek
Menendez
Mica
Miller (FL)
Mineta
Mink
Molinari
Mollohan
Morella
Murtha

Nadler
Neal
Nethercutt
Ney
Norwood
Obey
Oxley
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Petri
Pickett
Pomeroy
Portman
Pryce
Quinn
Rahall
Rangel
Regula
Richardson
Roberts
Roemer
Rose
Roth
Roybal-Allard
Royce
Rush
Sabo
Sanford
Sawyer
Schiff
Scott
Serrano
Shaw
Sisisky
Skaggs
Slaughter
Smith (MI)
Souder
Studds
Stupak
Thompson
Thornton
Thurman
Torkildsen
Tucker
Upton
Velazquez
Vento
Visclosky
Vucanovich
Walsh
Ward
Waters
Watts (OK)
Weldon (FL)
Williams
Wilson
Wise
Woolsey
Wynn

NOT VOTING—33

Becerra
Chapman
Coleman
Collins (MI)
DeFazio
Foglietta
Goodling
Gunderson
Hall (OH)
Harman
Hefley
Hutchinson
Istook
Johnson, Sam
Martinez
McNulty
Meyers
Mfume
Moakley
Reynolds
Roukema
Sanders
Schumer
Solomon
Spratt
Stark
Stokes
Tauzin
Towns
Waxman
Yates
Young (AK)
Young (FL)

□ 0736

Mr. DOGGETT and Mr. EWING changed their vote from "aye" to "no."

So the amendment, as amended, was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Ms. HARMAN. Mr. Speaker, I was unavoidably detained and missed rollcall vote Nos. 445 and 446 on H.R. 1868.

Had I been present, I would have voted "aye" on rollcall No. 445, and "no" on rollcall No. 446.

AMENDMENT OFFERED BY MR. ROEMER

Mr. ROEMER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ROEMER: Page 78, after line 6, insert the following new section:

LIMITATION ON FUNDS FOR RUSSIA

SEC. 564. Of the funds appropriated in this Act under the heading "Assistance for the New Independent States of the Former Soviet Union", not more than $150,000,000 may be made available for Russia.

Mr. ROEMER. Mr. Chairman, I would like to start out by thanking the Chair for his fairness presiding all through the night on this bill.

Mr. Chairman, I would also like to thank the gentleman from Alabama [Mr. CALLAHAN] and the gentleman from Texas [Mr. WILSON], who have been exceedingly patient with an open rule.

Mr. Chairman, we are now debating all night, into the morning. We are competing with "Good Morning America," the "Today Show," "Sesame Street" for some of our children that we did not see last night. We are debating some very serious issues.

We are talking about two things. We are talking about cutting, in a fair way, some funds in this budget. We are talking about America and what America stands for.

About 15 hours ago we debated what that flag behind our Chairman stood for. We heard different people articulate what that means to veterans who have died overseas. We heard people talk about their experience marching in civil rights parades. Now we hear about people overseas and what that American flag means to them. It means fairness. It means democracy. It means justice.

What my amendment would achieve is justice in terms of cuts in foreign aid to Russia and in terms of a fair outcome for an unjust war that the Russians started in Chechnya. My amendment would cut $30 million from Russia.

Some people might clamor, "Oh, that's too much. We've already cut some aid for Russia. That's too much to cut."

Mr. Chairman, $30 million. I ask for Members' support. That is not too much to send a signal to Russia that they have conducted themselves in a brutal and inhumane way in attacking the people and the country of Chechnya.

How much do we give Russia in aid? In the NIS account under New Independent States, $580 million. Under the DOD funds for the Nunn-Lugar to this date, $612 million. IMF loans, we just extended them a $6.2 billion loan. Space Station will give them $400 million. Then we will extend money to them under OPIC and World Banks.

Is $30 million too much to ask if we are going to cut $25 million from Turkey for human rights? No. Is $30 million too much to send a signal to the people of Russia that we will not subsidize a war with American money?

That is in effect what we are doing. We are sending hundreds of millions of dollars over there. The Russians are spending $2 billion to attack Chechnya. We are subsidizing that with these hundreds of millions of dollars.

I think our relationship with Russia is critical. I did not support the Hefley amendment to cut $296 million. We need to engage with the Russians. We need to see an orderly transition. We do not want to spend hundreds of billions of dollars increasing our defense expenditures, but to send them a message for a $30 million cut I think is fair.

This amendment, Mr. Chairman, is not about what is wrong in Russia. It is about what is right in America, that we stand up for peace, that we stand up for justice, and the United States should send the Russians a signal.

As the American people wake up across this country, let's show them we have worked through the night. We are going to cut some foreign aid, we are going to do it justly, and we are going to try to end an inhumane war in Chechnya.

I urge my colleagues to support this fair amendment.

AMENDMENT OFFERED BY MR. OBEY AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ROEMER

Mr. OBEY. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. OBEY as a substitute for the amendment offered by Mr. ROEMER: In lieu of the matter proposed to be inserted by the amendment, insert the following:

LIMITATION ON FUNDS FOR RUSSIA

SEC. 564. Of the funds appropriated in the Act under the heading "Assistance for the New Independent States of the Former Soviet Union", not more than $195,000,000 may be made available for Russia.

Mr. OBEY. Mr. Chairman, as the gentleman from Louisiana [Mr. LIVINGSTON] and the gentleman from Texas [Mr. WILSON] and the gentleman from Alabama [Mr. CALLAHAN] all pointed out yesterday, if this were pre-1990, or if 1990 had not happened and the Communists were still in control in Russia, we would be spending about $200 billion more on our defense budget. So the question here is not whether we are for or against the war in Chechnya. We are against it.

I would point out that the people of Russia have indicated that they are outraged over their Government's action in Chechnya. They have given Mr. Yeltsin single-digit ratings in the polls. The Russian media has roundly attacked the actions of the Russian Government for Chechnya.

□ 0745

So have sectors of the military, including General Lebyan, who is one of the most popular figures in the Russian military establishment who called upon the government to enter negotiations with the Chechnyans. So has most of the Russian Parliament.

We have talks underway between Russia and Chechnya. The Russian Government started talks with them and Prime Minister Chernomyrdin on June 25 that Russia would seek only a political solution.

I would suggest to you that that indicates that it is not just Members of Congress who are opposed to Russian action in Chechnya. So are the vast majority of people who have spoken out in Russia itself. Now people want to send a signal to the Russian Government that they want that war to stop. I do not think there is any harm in that. But I think it needs to be a measured response or else we will, in fact, hurt the very reformers who are trying to see to it that they end that war, the very reformers who are also trying to bring a market system and a system of democracy to that country which has not been anywhere near close in a thousand years or more.

So this amendment simply limits the amount that we would provide to Russia to $195 million, and it is an effort to send a signal without doing damage to the very forces in Russia who are on our side on democratization, on moving to market forces and ending the war. To me it gives us an opportunity to do things that both sides want, and I would urge you in the spirit of sending a measured signal to that country to accept the substitute amendment.

Mr. LIVINGSTON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I am one of the lone voices on our side of the aisle who believes that there are times for open rules and that there are times for closed rules, and I think have just exhibited one of those times when maybe we should have had a closed rule.

You know, everybody has their views on foreign policy, and most of them have expressed themselves in the last several hours, many of them, several times.

Now, I will tell you that in my opinion, the subcommittee headed up by the gentleman from Alabama [Mr. CALLAHAN] and the gentleman from Texas [Mr. WILSON] did a tremendous job in producing a very difficult bill. They took this bill down by almost $2 billion under what was appropriated last year and almost $3 billion under what the President asked for.

It was not easy to produce this bill. The bill comes out as a foreign aid appropriations bill perhaps for the first time in 20 years under an open rule.

On one amendment after another, the House has worked its will. And that is good. That is democracy. That is just exactly what the gentleman from Indiana indicated is represented by the flag behind me, except for the fact that not everybody has all of the facts at their fingertips on every subject that we have discussed. The emotionalism of the moment gets in the way. Individual groups get about various aggravating factors that have nothing whatsoever to do with the bill.

Others might be upset about something that happened on another bill. People vote or call for votes even when it disrupts the business of the evening. As a result not every decision we have made in the last 2 days has been in the best interest of a cohesive U.S. foreign policy. But we are going to have to move this bill and the administration is going to have to live with it. It is going to go to the Senate, and they in turn will work their will.

All of that is background for my belief that this amendment by the gentleman from Indiana is founded on the best of intentions, as were most of the amendments that have been debated here today. But it does cut too far and it is not good foreign policy. And that is why I support the substitute from the gentleman from Wisconsin.

You can take it out on the Russians, and I agree with everything the gentleman from Indiana has said about the Chechnyan horror. The Russians have gone too far. They have massacred innocent men, women, and children. There is no doubt about it. But we have still got to remember that good foreign policy is not made by overreacting to every issue that grates on our emotions.

Foreign policy is a network of ideas, of concepts that have to come together and work in the best national interest of this country and of peace and freedom in the world. And if we are going to get cohesive, sensible policy, then we cannot just pick out one thing that grates on us and react to it.

So I would tell my colleagues that the fact that Russia has joined the NATO Partnership for Peace, the fact that they are working for an end of the conflict in Tadzhikistan, the fact that they are withdrawing troops in Moldavia, the fact that they are reaching an agreement with Ukraine on the division of the Black Sea fleet and basing of that fleet, the fact that they are moving toward a settlement in Georgia, the fact that they have agreed to a peacekeeping force in Azerbaijan that will operate under OSCE supervision, the fact that they have withdrawn their troops from the Baltic States, that they have ended their targeting of nuclear weapons against the United States, that the cold war is over, that free media is flourishing in Russia today, that elections for President and the Parliament are progressing on schedule, that democracy is taking root in an area that has not ever been known in its entire history: All of those things are also things that you should consider when you consider whether or not we should cut aid to the Russian people from the United States.

I would urge you ladies and gentlemen, stop getting carried away with the emotionalism of one issue that is brought up on the floor to sweep us off our feet and start realizing that foreign policy is more complicated than any one single issue. As well-intentioned as the gentleman from Indiana is with his amendment, I urge you to adopt the substitute from the gentleman from Wisconsin. It is a fair and just statement about the outrages that exist in Chechnya.

Mr. CALLAHAN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, you know, I guess it comes as no surprise I am not the smartest man in the House. I am not the most effective man in the House. I am not the most handsome man in the House, and I suppose if my epitaph had to be written today, the epitaph would have to mention, if I did anything in the United States House of Representatives, it was fight aid to Russia.

Last year when I was on the floor of this House of Representatives complaining about a foolish program of building houses for Russian soldiers, I do not think I saw the gentleman from Indiana standing up opposing that. And for the gentleman to stand on the floor of the House tonight and to indicate that I have not cut aid to Russia and that only he is here to cut aid to Russia is sort of an insult.

In 1994, the level of aid to Russia was $2.1 billion. In 1995, it was $842 million. The President came and said, SONNY, we need $788 million, and I said, no, Mr. President, we are only going to give you $595 million. So I have cut aid to Russia to nearly 25 percent of what it was two years ago. So let us not confuse this issue of CALLAHAN standing here supporting aid to Russia.

I am supporting a responsible piece of legislation that has bipartisan support.

I started out at $150 million and then we compromised with others in the House in order to reach a consensus that we could bring to this floor. So let us not confuse this with the fact that we are not already cutting aid to Russia.

I think, Mr. Chairman, we should adopt the Obey substitute. I think it is responsible, and I think we should adopt it now, and I think we should move on with the other three amendments.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, I would just say that as I started my remarks on opening up, that I complimented the gentleman from Alabama [Mr. CALLAHAN] for his hard work on this bill. He has been very fair and open and I did not intend any kind of insult to the gentleman from Alabama by offering this amendment.

I think he has done as fair a job as he could in putting this bill together. However, there are many things where we give aid to the Russians that do not fall under the gentleman's purview and jurisdiction.

And I mentioned some of those, the DOD funds and Nunn-Lugar, over $612 million. You mentioned the NIS account, $580 million; IMF loan, space station. My amendment does not touch Nunn-Lugar. My amendment does not touch space station. My amendment does not touch U.S. assistance through trade investment agencies and OPIC.

Mr. Chairman, my amendment tries to say that instead of just saying to the Russians with a $5 million cut out of $1 billion, when you add up all the programs, "Please do not do it again," and wink at the Russians, my amendment says, "You will not do it again." This is $30 million as opposed to $5 million. The gentleman from Alabama [Mr. CALLAHAN] has done an exceedingly fair job on this bill.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. CALLAHAN. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I greatly respect the gentleman from Indiana [Mr. ROEMER] and his concern about human rights. I think that human rights is a basic value on both sides of the aisle and it has to remain a basic value of this House.

But I think we need to understand that one of the reasons that the gentleman from Alabama [Mr. CALLAHAN] made the major reductions that he did in his mark was because of the general concern in the House about the war in Chechnya. If it had not been for that war, we would have fought for a much higher number.

We felt that the number provided by the gentleman already sends a significant signal to anybody who has one ear open. But nonetheless, in order to assist all Members of the House so that they can specifically record themselves as wanting to send another message, we are supporting a further modest reduction in aid to Russia. We simply have a question about numbers and we have a question about whether if you go too deep, you do not harm the very forces in Russia who are the most on our side.

Mr. Chairman, I want to respect everyone's sincerity, but I would strongly urge the House to support this amendment. It will send a measured signal, but it will not send a dangerous signal and that is what we are trying to do.

Mr. CALLAHAN. Mr. Chairman, reclaiming my time, just to close let me say also if the gentleman from Indiana [Mr. ROEMER] or anybody else would like to read the language of the bill, we address the Chechnyan situation and we are just as distressed as the gentleman or anybody else.

Thus, in the language of the bill, in the report language, we do point out our discontent with what is happening there and we encourage them to change their direction. So we have addressed Chechnya.

We have addressed the reduction with 25 percent of what we were 2 years ago, and I would urge the adoption of the Obey substitute.

Mr. MANZULLO. Mr. Chairman, I move to strike the requisite number of words. Mr. Chairman, I am a member of the Committee on International Relations and I am among those who vote to cut, not to send a signal, but to save money.

I believe in a lean and trim foreign aid policy because it is cheaper to make the peace than it is to fight the war. But we have also got a $4.8 trillion debt on our hands and according to the generational forecast that is printed in the budget, because of this debt by the time every child born after 1993 goes to work, he or she will pay between 84 and 94 percent of his or her income in State, local, and Federal taxes.

That is one of the reasons why I believe in a foreign aid policy. I am going to vote in favor of the foreign aid bill regardless of the form, but I am cutting not to send a signal to the foreign countries, but to save money.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. MANZULLO. I yield to the gentleman from Wisconsin.

□ 0800

Mr. OBEY. Mr. Chairman, I would like to ask the gentleman if we totaled up everything that the American taxpayers shelled out in taxes since we first had the cold war begin until the Berlin Wall fell down or was knocked down, I would like to ask the gentleman:

"How much do you think that would amount to per family in this country in taxes?"

Mr. MANZULLO. I was not a Member of Congress then.

Mr. OBEY. Neither was I, but the answer is $80,000 per family. That is what the average American family has shelled out over the last 45 years to win the cold war.

It seems to me that what we are talking about tonight is the necessity to invest a tiny pittance in comparison to that number to try to secure a peace——

Mr. MANZULLO. Reclaiming my time——

Mr. OBEY. That, if it is lost, will cost us far more.

Mr. MANZULLO. Reclaiming my time, I have no objection with it. I am just stating words have been said on the floor here that many of us are voting to cut because we do not understand foreign policy, that it is more complicated than we think it is.

I am on the committee, and I have studied it. Maybe I do not understand it as well as many of the members here do, but I have an obligation to those kids born after 1993 who are facing a 48- to 49-percent income tax rate in this country, my children and the children of the people we represent, that we have to take every opportunity there is to make a cut, and there are many of us that are voting not to send a signal to Russia, not to send a signal to India, but simply to say we want to save money and we use this as an opportunity to do so.

Mr. GINGRICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just want to say very briefly we are asking, and I think the gentleman from Wisconsin put it in pretty good perspective, we are asking the average American to allow us to spend $2 this year. We are saying, "We believe, if you'll let us spend $2, we have a better chance of your children living in a world in which Russia is a democracy."

And, yes, it has problems, and, yes, there are things we do not like, and, yes, it may even fail. But we believe those $2 is a better gamble of not having to go to a draft, not having to risk a nuclear war, not having to do a lot of other things. That is what it comes down to, $2 per American.

I would simply ask all of my colleagues to vote for the substitute offered by the gentleman from Wisconsin.

Mr. GEPHARDT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the 5 minutes, but I want to follow the Speaker and urge Members on both sides of the aisle to vote for the Obey substitute.

I have the greatest respect for my friend from Indiana. But I believe that what the gentleman from Wisconsin [Mr. OBEY] is suggesting is a better approach.

Russia is in the balance today. No one is happy with what happened in Chechnya. Everyone hopes for future progress. This is an embryonic democracy that is trying to become a democracy, and, if we take this language of a cut as suggested by my friend from Indiana, we stand the chance of injuring the ability of this democracy to take root and to take hold and to save us billions and billions of dollars in the future.

I urge Members on both sides of the aisle in a bipartisan manner to vote for the Obey substitute to the amendment offered by the gentleman from Indiana [Mr. ROEMER].

Mr. ABERCROMBIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, now we have been at this a long time, apparently for 200 years or better. Now I just think it is a sad day when we start talking about embryonic democracies, when we start talking about how we can justify what is going on in Chechnya and say that we are not going to do what the gentleman from Indiana [Mr. ROEMER] is asking.

Now I do not know about the message, whether it will be clear or whether it will not be clear, but I know what will be clear from our point of view if we back up this amendment that is being offered.

How can we take a look at what is going on? I do not know. Maybe it is because we have the electronic media that bring us these pictures, that brings us the immediacy, if my colleagues will. We do not have the luxury, I guess, if that is the right word, of contemplating these atrocities at a distance of time. It is not brought by a clipper ship, or it is not taken by Pony Express, or that we literally have distanced ourselves.

But I do not think any message is going to be delivered unless this kind of message, delivered from this Congress, because we are the ones that can make that difference. I do not know what Mr. Yeltsin's position is at the moment because I am not quite sure whether he can stand or sit. I do not know what is going on as far as the Russian Parliament is, whether it is going to stand or fall this week, but I do know one thing. I know that what I have heard about, how the Chechnyans are viewed by the Russians. If we think we have got racism in this country to deal with, and we do, well, let me tell my colleagues it pales in comparison to the way the Russians regard the Chechnyans. There is no human dimension operating where they are concerned. As far as the Chechnyans are concerned, they would just as soon wipe them all out.

Now, if we want to participate in that, in the name of democracy we can go ahead and do that. But I am telling my colleagues it diminishes us, it diminishes us as a people, it diminishes us as a democracy. One thing we have always stood for, or tried to at least in our rhetorical stances, and I do not use the word rhetorical in some pejorative sense. One thing we stood for historically along the way is when the little person is being done in by the big person we stand with them.

I was asked at one point why did I ever get into politics. I said, "Sunday school; I think it is one of the few times I've ever been able to get anybody to stand back and wonder what did he say." It was Sunday school. That is what I learned, and I learned that that is what Americans do, and that is what Americans stand for and stand up for.

The Russians want to destroy these people. When I say the Russians I am talking about the leadership there. I do not think the Russian people want to be involved in this, and I think a lot of them will take a signal, if that is what we are talking about here today, what kind of signal gets sent. They would take a signal that we understand that, and so, while I applaud the motives of the previous two speakers, I think that, if we genuinely mean to stand for those things that have been discussed from the very first moments of our second day of deliberation here with respect to that flag, that we are going to back up the amendment offered by the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. ABERCROMBIE. I yield to the gentleman from Indiana.

Mr. ROEMER. Mr. Chairman, I would just conclude by saying that I have the greatest respect for the Speaker and the minority leader, but, if we are going to show a fledgling democracy how a great democracy acts, then we should send a strong signal.

What is the greater threat to internal Russia right now? Is it the war in Chechnya, or is it $30 million out of a billion that we are sending them?

Mr. ABERCROMBIE. Reclaiming my time, Mr. Chairman, I think the greatest threat to Russian democracy right now is this enterprise they are engaged in, in Chechnya.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin [Mr. OBEY] as a substitute for the amendment offered by the gentleman from Indiana [Mr. ROEMER].

The question was taken; and the chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ROEMER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This is a 17-minute vote.

Pursuant to rule XXIII, the Chair may reduce to 5 minutes the minimum time for electronic voting, if ordered, on the underlying amendment offered by the gentleman from Indiana [Mr. ROEMER].

The vote was taken by electronic device, and there were—ayes 348, noes 67, not voting 20, as follows:

[Roll No. 447]

AYES—348

Ackerman
Allard
Archer
Armey
Bachus
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TX)
Bunn
Burr
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chambliss
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Conyers
Cooley
Costello
Coyne
Cramer
Cremeans
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Evans
Everett
Ewing
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gingrich
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutknecht
Hall (OH)
Hamilton
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hefner
Heineman
Herger
Hilliard
Hinchey
Hobson
Hoekstra
Holden
Horn
Hostettler
Houghton
Hoyer
Hutchinson
Hyde
Istook
Jackson-Lee
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McKeon
Meehan
Meek
Menendez
Mfume
Mica
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Rogers
Rose
Roybal-Allard
Rush
Sabo
Sawyer
Saxton
Schaefer
Schiff
Schroeder
Scott
Serrano
Shaw
Shays
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Spence
Spratt
Stark
Stearns
Stenholm
Studds
Stump
Stupak
Talent
Tanner
Tauzin
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Torkildsen
Torres
Torricelli
Upton
Velazquez
Vento
Visclosky
Vucanovich
Waldholtz
Walker
Walsh
Ward
Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Zeliff

NOES—67

Abercrombie
Andrews
Baesler
Bryant (TN)
Bunning
Burton
Chabot
Chenoweth
Cox
Crane
Crapo
Cubin
Diaz-Balart
Dornan
Duncan
Durbin
Ensign
Farr
Fattah
Funderburk
Geren
Gutierrez
Hall (TX)
Hancock
Hayworth
Hilleary
Hoke
Hunter
Inglis
Jacobs
Jefferson
Lewis (GA)
Lincoln
Lofgren
Longley
McIntosh
McKinney
Metcalf
Miller (CA)
Neumann
Ney
Pallone
Quillen
Roemer
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Scarborough
Seastrand
Sensenbrenner
Shadegg
Shuster
Smith (WA)
Souder
Stockman
Tate
Taylor (MS)
Tiahrt
Traficant
Tucker
Volkmer
Wamp
Zimmer

NOT VOTING—20

Chapman
Collins (MI)
Fields (LA)
Foglietta
Gunderson
Hefley
Martinez
McInnis
McNulty
Meyers
Moakley
Reynolds
Sanders
Schumer
Solomon
Stokes
Towns
Waxman
Young (AK)
Young (FL)

☐ 0826

Messrs. QUILLEN, LONGLEY, ROYCE, and SANFORD changed their vote from "aye" to "no."

Mrs. MEEK of Florida and Mr. CHRISTENSEN changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above-recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. ROEMER], as amended.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. VOLKMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 401, noes 2, not voting 31, as follows:

[Roll No. 448]

AYES—401

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson, E.B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kasich
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Meehan
Meek
Menendez
Metcalf
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Nadler
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Scott
Seastrand
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Studds
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Velazquez
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Zeliff
Zimmer

NOES—2

Johnson (CT)
Lofgren

NOT VOTING—31

Bartlett
Barton
Brewster
Chapman
Collins (MI)
Condit
Conyers
Fields (LA)
Foglietta
Gephardt
Gunderson
Hefley
Johnson (SD)
Kaptur
Martinez
McCrery
McNulty
Meyers
Moakley
Parker
Reynolds
Sanders
Schumer
Skelton
Solomon
Stockman
Stokes
Waxman
Weldon (PA)
Young (AK)
Young (FL)

☐ 0836

Mr. HALL of Texas changed his vote from "no" to "aye."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

☐ 0840

AMENDMENT OFFERED BY MR. SOUDER

Mr. SOUDER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. SOUDER: Page 78, after line 6, insert the following:

LIMITATION ON ASSISTANCE TO MEXICO

SEC. 564. (a) IN GENERAL.—None of the funds appropriated or otherwise made available by this Act may be obligated or expended for the Government of Mexico, except if it is made known to the Federal entity or official to which funds are appropriated under this Act that—

(1) the Government of Mexico is taking actions to reduce the amount of illegal drugs entering the United States from Mexico by at least 10 percent of the level of such illegal drugs from the previous year, as determined by the Director of the Office of National Drug Control Policy; and

(2) the Government of Mexico—

(A) is taking effective actions to apply vigorously all law enforcement resources to investigate, track, capture, incarcerate, and prosecute illegal drug kingpins and their accomplices, individuals responsible for, or otherwise involved in, corruption, and individuals involved in money-laundering; and

(B) is pursuing international anti-drug trafficking initiatives.

Mr. SOUDER. Mr. Chairman, I offer this amendment on behalf of myself, the gentleman from New Hampshire [Mr. ZELIFF], the gentleman from Arizona [Mr. SHADEGG], the gentleman from California [Mr. CONDIT], the gentleman from Massachusetts [Mr. BLUTE], the gentleman from Florida [Mr. MICA], the gentleman from Mississippi [Mr. TAYLOR], the gentleman from Maryland [Mr. EHRLICH], the gentleman from Washington [Mr. METCALF], the gentleman from Indiana [Mr. MCINTOSH], the gentleman from Indiana [Mr. HOSTETTLER], and the gentleman from Tennessee [Mr. WAMP].

MODIFICATION TO AMENDMENT OFFERED BY MR. SOUDER

Mr. SOUDER. Mr. Chairman, I ask unanimous consent that the amendment be modified with the modification at the desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to the amendment offered by Mr. SOUDER numbered 81: Beginning on line 9 strike, "by at least" and all through the word "year" on line 10.

The CHAIRMAN. Is there objection to the modification?

There was no objection.

The text of the amendment, as modified, is as follows:

Amendment, as modified, offered by Mr. SOUDER: Page 78, after line 6, insert the following:

LIMITATION ON ASSISTANCE TO MEXICO

SEC. 564. (a) IN GENERAL.—None of the funds appropriated or otherwise made available by this Act may be obligated or expended for the Government of Mexico, except if it is made known to the Federal entity or official to which funds are appropriated under this Act that—

(1) the Government of Mexico is taking actions to reduce the amount of illegal drugs entering the United States from Mexico, as determined by the Director of the Office of National Drug Control Policy; and

(2) the Government of Mexico—

(A) is taking effective actions to apply vigorously all law enforcement resources to investigate, track, capture, incarcerate, and prosecute illegal drug kingpins and their accomplices, individuals responsible for, or otherwise involved in, corruption, and individuals involved in money-laundering; and

(B) is pursuing international anti-drug trafficking initiatives.

Mr. SOUDER. Mr. Chairman, for the last 2 days the Government Reform Subcommittee with jurisdiction on national security and justice, chaired by the distinguished gentleman from New Hampshire [Mr. ZELIFF], has held hearings on the drug interdiction efforts. This amendment, sponsored by Members from both parties, many of whom serve on the subcommittee, has risen directly from those hearings. I want to especially commend Chairman ZELIFF for his leadership in trying to raise awareness of our Nation's drug crisis that again appears to be rising to even higher than the 1989 levels.

Our amendment is simple. It would stop foreign aid to Mexico unless Mexico reduces the amount of drugs entering the United States as determined by the Office of National Drug Control Policy.

Mexico is taking action to crack down on drug kingpins and individuals involved in money laundering and corruption. Mexico is pursuing international drug trafficking initiatives.

More drugs now come into America from Mexico than from any other country in the world. That is the major reason why we need this. Our Southwest border has provided an unimpeded drug passageway. Consider the following: The State Department estimates that 80 percent of the marijuana in this country comes through Mexico; 60 percent to 70 percent of the cocaine in this country comes through Mexico; and 22 percent of the heroin in this country comes through Mexico.

At the same time, the border seizure rate for illegal drugs is estimated to be in the 5-percent to 15-percent range, according to the CRS. Put another way, we catch fewer drug traffickers than shoplifters within our own borders. This is not due to any lack of effort on the part of our own law enforcement officers. They are simply overwhelmed.

The flow of illicit drugs from Mexico traditionally has not been effectively addressed by the Government of Mexico, despite President Zedillo's apparent enthusiasm for combating drug trafficking. President Zedillo is to be commended for his words of commitment toward the eradication of drug trafficking across our shared border. However, the level of corruption existing within the Mexican Government infrastructure makes me skeptical that such well-intended verbiage will become a reality.

We must not forget that Americans will be left with business as usual if his words do not become a reality, and Mexican drug trafficking will lead to the continued deaths of our children and destruction of our families.

I hope with all my heart that President Zedillo is successful in pursuing reforms, but if he is not, he will have a hard time telling my constituents in Indiana that we let NAFTA pass with no conditions, that we let President Clinton bail out the Mexican economy with no conditions, and now for a third time we are giving Mexico another break with no strings attached. I think my colleagues would also have a hard time explaining this to their constituents in their home States.

I have accepted the change in my amendment because I believe that in order to accelerate things here the most important thing here is to make a statement that we can agree on, and we can get into the RECORD. I also believe because of the wording of the amendment it would be very difficult to establish what the base would have been where he took the 10-percent funds since I do not know the actual amount of illegal drugs coming in. The phrase "by at least 10 percent of the level of such illegal drugs from the previous year," actually modifies the phrase "is taking action to reduce." So I believe that was an acceptable change in order to get this amendment favorably accepted.

CORRUPTION IN THE MEXICAN GOVERNMENT

"Profoundly corrupt" is how the customs chief in the Reagan and Bush administration recalls the Mexican Government of the 1980's. "And it got worse and worse."—USA Today, April 4, 1995.

Mexican President Ernesto Zedillo acknowledged, "There is evidence that some individuals in the government could have served the interests of drug traffickers." In a sharp departure from a tradition of denial about high-level involvement in narcotics peddling, the President said illegal drug operations had penetrated "institutions, power structures and local economies."—The Houston Post, March 26, 1995.

According to Eduardo Valle Espinoza, a former attorney general's official, at least half of Mexico's 31 Federal police chiefs and 31 Federal attorney general's delegates receive illegal payoffs from drug traffickers * * * they pass that money along to their superiors as part of "a pyramid of corruption." Moreover, police chief posts are so lucrative that some applicants offer $1 million or $2 million just to be hired.—The Dallas Morning News, March 19, 1995.

Once subsidiaries of the Colombians, Mexico's cartels are becoming full-fledged partners, using some $30 billion in annual revenue to pollute the political system through a familiar combination of bribery and terror.—The Boston Globe, March 19, 1995.

Last year, the corruption was even more blatant. Police credentials signed by the State Attorney General of Baja, California, turned up in the hands of members of the Arellano Felixes. They allegedly were sold out of the attorney general's office for $8,000 to $10,000.—The Boston Globe, March 19, 1995.

The State Department's recently released annual report on international drug trafficking talks matter-of-factly about the influence of narcotics dealers on the Mexican government, saying that efforts were under way to "eliminate official corruption within law enforcement and the judiciary."—The Washington Post, March 12, 1995.

Most observers now agree that Mexico is awash in drug money, apparently enough to hasten the peso's decline as some of it moved out of the country recently. Raul Benitez Manaut, a drug trafficking specialist in Mexico City, estimated that as much as half of all hotel tourist revenue last year came from traffickers who laundered millions of dollars simply by having officials create fictitious guests.—The Boston Globe, March 19, 1995.

HORROR STORIES: MEXICO—DRUGS

President Zedillo quoted as saying, "I also think we have to put order in our own house. We have severe problems in the attorney general's office, historical problems"; Time: "Of corruption?" Zedillo: "Yes."—Time, June 19, 1995.

"This city [Tijuana] is the main battlefield in a ferocious war for the border that has raged across Mexico, spilling south to Venezuela and north to San Francisco * * *. The combatants are two major Mexican drug cartels—one based in Tijuana, the other in the northwestern state of Sinaloa. More than 200 people have been killed in their battles during the last 5 years, many of them anonymous gunslingers and drug-runners."—LA Times, June 16, 1995.

A list of "excellent cadavers" in the war: "The former state attorney of Sinaloa, murdered while jogging in a Mexico City park. The head of the Sinaloa human rights commission, slain on orders of a Federal police commander. A roman Catholic cardinal, mowed down in a Guadalajara airport shootout. A Federal police commander, killed by fellow officers guarding a Tijuana drug lord. The Tijuana police chief, ambushed on a highway. And most recently, the former state attorney general of Jalisco, shot has he left home to teach a law class."—LA Times, June 16, 1995.

A quote from a Mexican investigator: "There are powerful obstacles within the State police forces, people allied with the narcotics. The Federal police are another obstacle. And the third enemy is the bad guys themselves. So you are fighting three fronts. It goes beyond the police. Organized crime has the support and participation of politicians. It happened in Colombia. And it is happening in Mexico."—LA Times, June 16, 1995.

Cocaine arrives from Columbia, through the desert city of Mexicali, where smuggling specialists, "Who function as subcontractors for the different cartels, send groups of loaded vehicles through the Calexico port of entry to the Los Angeles area, often warehousing the cocaine in Riverside and San Bernardino counties." This Imperial Valley corridor accounted for almost one-half of the cocaine seized along the southwestern border during the past three years."—LA Times, June 16, 1995.

"We have reliable information that every load of cocaine that comes into Mexicali is guarded by Mexican federal police," said a high ranking United States law enforcement agent, who asked not be to identified.—LA Times, June 16, 1995.

The corruptive influence reaches across the border. A continuing probe of U.S. border inspectors has resulted in charges against two Calexico inspectors for waving across tons of smuggled cocaine in exchange for bribes. Just last month, a grand juror from the Imperial Valley was convicted in San Diego Federal court of leaking sensitive information to traffickers—the first case of grand jury tampering in the history of the Southern District of the U.S. District Court.—LA Times, June 16, 1995.

A massive indictment involving southern California currency exchanges in April—the sting revealed how traffickers infiltrated the thriving cross-border industry to move and launder their millions. The suspects included the owner of a chain of currency businesses in Los Angles, Orange, and San Diego counties and a prominent accountant who the U.S. DEA says it linked to the Arellanos—LA Times. June 16, 1995.

On taking advantage of NAFTA: Gangsters also have acquired trucking companies and sought consultants with expertise in NAFTA, "someone knowledgeable who could counsel them on how to take advantage of NAFTA to move their product," said Craig Chretien, special agent in charge of the DEA in San Diego—LA Times. June 16, 1995.

Summary of the article above, the struggle between rival gangs and drug families has pushed across the border, and is too far out of control for the Mexican police to handle. One official was quoted: "We are fighting a monster. We have just begun to cut off a few tentacles, but we are not close to killing it."—LA Times. June 16, 1995.

"As a result of the financial capacity of these drug-trafficking organizations, the tendency to infiltrate the government and financial structures will continue. The power of the drug-trafficking organizations could lead to situations of ungovernability, using whatever political or economic space in which institutions show weakness or inattention; the advance of drug-trafficking promotes impunity and uncertainty in the institutions, justifies violence and increases intimidation of the authorities"—(taken from a report from Mexico's National Institute for Combating Drugs).—LA Times. June 15, 1995.

Mexico has become a "narco-democracy"—a term to reflect the apparent contradiction of a nation governed by elected officials and a democratic constitution falling under the influence of ruthless international drug cartels.—LA Times. June 15, 1995.

"The bosses of Mexico's handful of major cartels remain at large, raking up what Constatine estimates at $7 billion in annual profits as they consolidate their presence north of the border."—LA Times. June 15, 1995.

"Notable murders blamed on "narco-politics," such as the slaying of Presidential candidate Luis Donaldo Colosio last year and that of the Roman Catholic cardinal of Guadalajara the year before, have gone unsolved. Mexican and United States authorities are investigating ruling party leaders suspected of collusion with drug lords in these and other crimes."—LA Times. June 15, 1995.

"Drug corruption pervades law enforcement. Federal and State police serve as soldiers of the underworld. They commit murders, guard drug lords and, as was graphically illustrated in the mystery surrounding a giant cocaine shipment that landed in the state of Zacatecas last year, escort huge loads of drugs toward the United States. Mexican Federal officers protect smuggling operations in hub cities such as Mexicali, according to United States Law enforcement."—LA Times. June 15, 1995.

"There has been a history of, and there continue to be problems with, the groups of Mexican Federal police assigned to high-profile areas of trafficking, such as the border. They get percentages of drug profits; they get compromised. It has been tough. There is an unacceptable level of corruption." Craig Chretien.—LA Times. June 15, 1995.

"A U.N. commission on transnational crime recently said gangs have used the battered economy as a Laundromat for their illicit profits. They convert their dollar revenues into cheap pesos and buy movable assets, such as luxury cars, in Mexico. Then they sell them abroad for "clean" dollar profits. U.N. sources estimated that the cartels laundered tens of thousands millions of dollars in Mexico this year".—LA Times. June 15, 1995.

MEXICO: AMERICA'S #1 DRUG TRANSIT POINT!

More drugs come into America from Mexico than from any other country in the world.

Our Southwest border has provided an unimpeded drug passageway. Consider the following: 80 percent of the marijuana in this country comes through Mexico; 60–70 percent of the cocaine in this country comes through Mexico; and 22 percent of the heroin in this country comes through Mexico.—(estimates from the State Department)

We catch fewer drug traffickers than shoplifters within our own borders. The border seizure rate for illegal drugs is estimated to be a mere 5 to 15 percent. This isn't due to any lack of effort on the part of our own law enforcement officers, they are simply overwhelmed.—(estimates from CRS)

The United States receives more illegal—than legal—imports from Mexico each year. According to some estimates, Americans spend at least $50 billion per year on illegal drug purchases versus $32.5 billion per year on legal imports.—(estimates from CRS)

It's time to put drug traffickers out of their jobs and behind bars. But in order to do so, we must hold the Mexican Government accountable for its part in the war on drugs. This is exactly what the Souder-Zeliff amendment would do.

THREE STRIKES AND WE'RE OUT!

Strike One: The 103d Congress gave Mexico its first break by allowing the passage of NAFTA with no strings attached. We opened the door to increased trade to Mexico—and increased drug trafficking with it. Decreased border examinations have let more drugs enter our country via the Mexican border.

Strike Two: President Clinton's $47.5 billion bailout gave Mexico its second big break with no strings attached. The Mexican Government made a poor judgment when it devalued the peso, and now American taxpayers are picking up the tab.

Strike Three? If we don't get tough with Mexico now, and pass the Souder-Zeliff amendment, we will hand Mexico its third break with no strings attached.

But this time it won't be the Mexican government receiving the big break, it will be the drug smugglers, lords, and kingpins. I'll have a hard time telling my constituents that we have let this happen, and I think you will too.

Vote for the Souder-Zeliff Amendment—Don't Let America Strike Out.

RELENTLESS GOVERNMENT CORRUPTION

While President Zedillo is to be applauded for advocating a tough policy on drugs, previous administrations have endorsed similar initiatives without results.

The level of corruption in the Mexican Government has rendered futile their best efforts—pervasive corruption doesn't stop at the snap of a finger.

When a newspaper in Mexico's own capital city writes that every police agency "from the smallest town to the Federal judicial police is contaminated by the narco-traffickers," I think there is still a problem.

Officials are often offered the choice of "silver or lead"—money or a bullet—allowing traffickers to build their powerful empires.

Despite President Zedillo's good intentions, President John Adams was right:

Americans deserve better than to passively wait and see if the promises made by one administration in this narco-democracy become a reality. We cannot wait while one more life is lost to the drug trade.

The drug problem in this country is not only an issue of demand—it is also an issue of supply. We must use whatever leverage we have to stem the flow of drugs into this country—we owe our children nothing less.

Columbians fly merchandise to central and south America in converted 727's capable of carrying up to 10 tons. Mexicans ship it in small shipments by truck, trains, and small ships. "At every key transit point, bribed Mexican officials are on hand to help."—LA Times. June 15, 1995.

Mexican drug lords now spend as much as $500 million a year on bribery. They spend nearly $1,000 in payoffs for each kilogram of cocaine. The Mexican Federal attorney general's annual budget is about $200 million—less than half of the presumed cartels' kickbacks.—LA Times. June 15, 1995.

Aug 6, 1994. Soon after a shipment of cocaine estimated at $200 million was seized by Mexican officials, a separate police force hijacked it. They unloaded about ¾ of the shipment into trucks, before allowing it to proceed to the state capital.—LA Times. June 15, 1995.

"In this operation, it's left absolutely clear the connection that exists between high officials of the attorney general's office and the narcotics gangs operating in Zacatecas."—Top U.S. Justice officials concluded that the drug theft was covered up.—LA Times. June 15, 1995.

On corruption: "There are few officers whom they can depend on. In there, they give an order and the bad guys know about it before the officers. It turns out that the one who receives the order is the traitor."—LA Times. June 15, 1995.

Ruiz Massieu, 44, is considered to be the symbol of cynicism and corruption to rival any of the PRI's six decades in power. He has been charged with covering up for the man accused of ordering his brother's assassination, and being investigated for possible ties to drug traffickers after $10 million was discovered in bank accounts in his name.—LA Times. June 15, 1995.

Drug trafficking is a $30 billion-a-year business in Mexico.—Dallas Morning News. June 6, 1995.

"Observers believe that many businesses in Mexico that are seeking United States investment may actually belong to drug traffickers, or to businessmen who are in league with drug traffickers. 'It's becoming impossible to know whether they're holding hands with the Devil down there'."—Dallas News. June 6, 1995.

Recent revelations about more direct and flagrant links between drug lords and political elites in Latin America suggest significant changes in the traditional ways of doing drug business: Leaks from American officials, together with investigations and arrests in Mexico and Columbia, show that the drug lords are modernizing, becoming businessmen instead of simply rich, high-rolling, quick-burnout delinquents.—LA Times. May 23, 1995.

Faced with a growing threat from narcotics traffickers, President Ernesto Zedillo has ordered the Mexican military to take a greater role in the antidrug fight, including the use of air force jets to intercept planes loaded with cocaine.—The New York Times. May 23, 1995.

Expenditures for this fight against drug trafficking has risen to $38 million from $27 million.—New York Times. May 23, 1995.

Mexican officials agreed to crack down after Clinton's $52 billion international rescue package, most notably by giving the U.S. more information on drug trafficking.—New York Times. May 23, 1995.

For the U.S., the tentacles of drug-based corruption are thwarting the war against cocaine traffickers, but, for others, President Zedillo's commitment to that war is credible and may even turn the tide.—San Diego Union Tribune: May 15, 1995.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. SOUDER. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I have examined the amendment. The amendment is acceptable to this side of the aisle.

Mr. SOUDER. I thank the gentleman.

Mr. ZELIFF. Mr. Chairman, will the gentleman yield?

Mr. SOUDER. I yield to the gentleman from New Hampshire.

Mr. ZELIFF. Mr. Chairman, I would like to commend the gentleman for making the amendment. I think it is right on the mark and sends the appropriate message.

Mr. Chairman, I rise in support of the gentleman from Indiana's amendment. Very simply, Mr. Chairman, this amendment would hold funds from Mexico until they can prove that they decrease the drug flow to our country by 10 percent. I remind my colleagues that 80 percent of the marijuana, 70 percent of the cocaine, and 20 percent of the heroin traffic to the United States comes through Mexico. I firmly believe that we need to take huge steps in refocusing our efforts on stemming the tide of drugs that are killing this Nation. The Souder amendment is an extremely effective first step in that effort. Drugs are killing our Nation, Mr. Chairman, and I fear that we in this Congress have forgotten that. As Drug Enforcement Administration Constantine said, they are a timebomb about to go off. It's time our Nation wakes up and realizes this.

As chairman of the House Subcommittee on National Security, International Affairs, and Criminal Justice, I have held four high-level oversight hearings on the President's national drug strategy—what we have learned is devastating.

Over the course of our four hearings, we have heard from Nancy Reagan, former cabinet members, prevention groups, and drug czar Lee Brown. We have also heard testimony from the heads of the Drug Enforcement Agency, U.S. Customs, and the Coast Guard, President Clinton's interdiction coordinator, and GAO investigators. They revealed that they have just completed a major study of the Clinton administration's drug strategy in source countries.

Mr. Chairman, I would like to share with the House what we have learned:

First, the head of DEA, Administrator Constantine, admitted that our exploding drug use in this country—that was falling until 3 years ago—and the international drug cartels should be seen as our No. 1 national security threat. He ranked it above ballistic missiles for the impact on our Nation. Yet he also admitted that it is not given that ranking by his own administration's National Security Council. He spoke from the heart and called his threat, and I quote, a "timebomb."

Second, the President's interdiction coordinator, Admiral Kramek, admitted that his office, which is supposed to coordinate the whole Nation's drug interdiction effort, has just six people—and that his efforts have seen cuts for 3 straight years.

Fourth we received admissions from the DEA, the President's interdiction coordinator, and the head of U.S. Customs that President Clinton's drug strategy is nor fulfilling expectations.

Fourth, and Mr. Chairman, GAO today dropped a bomb in our committee. After investigating the Clinton drug strategy in the source countries, including extensive interviews in Columbia and Mexico, they released a study that shows that the Clinton anti-drug strategy in the source countries is very badly managed, poorly coordinated among agencies, holds low priority in key embassies, including the United States embassy in Mexico—even though 70 percent of the cocaine coming to the United States comes from Mexico, and that the Clinton administration's drug strategy in source countries has serious accountability problems. That study and testimony is available from GAO for anyone who asks.

What does this all mean, Mr. Chairman? It means that what we have is a secret epidemic creeping back into American culture, and we have a failed drug policy by this administration. There is much to be done to correct this, Mr. Chairman, and the Souder amendment is not the answer—but it is a definite step toward cutting the flow of drugs from Mexico. We must do everything we can to stop the drugs at their source. The majority of cocaine comes into our country from Mexico, and that is where we must start.

They will feel it where it hurts, Mr. Chairman—in the wallet. We cannot afford to continue to ignore this epidemic and sweep it under the rug. The time is now to begin the war on drugs once again. I urge my colleagues in the strongest possible terms to vote for the Souder amendment, and show Mexico that we are serious about cleaning up the scourge of drugs from America's streets.

Mr. WILSON. Mr. Chairman, will the gentleman yield?

Mr. SOUDER. I yield to the gentleman from Texas.

Mr. WILSON. Mr. Chairman, the amendment is acceptable to the minority as well.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. SOUDER. I yield to the gentleman from Florida.

Mr. SHAW. Mr. Chairman, I would like to commend the gentleman for his very fine amendment. Things are deteriorating along the borders and getting worse, not better. We definitely need to give Mexico this wakeup call.

Mr. SOUDER. I thank the gentleman.

Mr. OBEY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I simply want to say to the gentleman that I share many of the sentiments expressed by him. I did not support NAFTA because I frankly have very little faith in the willingness of the elite who run Mexico to really provide sufficient reforms for their economy or to sufficiently crack down on drugs, and I am very skeptical that even with the good intentions announced by the new Government that we will see much progress. But I do want to say that we need to face a far more fundamental problem when it comes to drugs. It is easy to blame other countries whose income is very low and therefore whose farmers find an easy way to make money by producing drugs for export to the United States. But if we are going to be credible in objecting to that practice, then it seems to me we have to face up to a reality about our own country.

□ 0845

The gentleman from Alabama [Mr. CALLAHAN] and I in 2 successive years have both been chewed on by people in this House who are very well-meaning, but who insist that we continue to spend very large amounts of money in the drug interdiction program and in the program in this bill to wipe out the production of drugs in other countries.

I must tell you, while I hate to say it, that in my judgment, while that money is well-intentioned, almost all of it in my view is wasted. We have been told by officials of our own Government in previous administrations who ran some of those programs that in fact they stop less than 2 percent of the drugs that come into this country.

I would respectfully ask each and every Member of this House, the next time we have a foreign assistance bill up, before you pressure the gentleman from Alabama [Mr. CALLAHAN] or anybody else on the subcommittee to again raise that amount, you take a look behind the numbers. This goes for people on both sides of the aisle. Because last year, you remember, a number of Members on this side of the aisle tried to bring down the rule because we reduced that program to save money.

The fact is that the recommendation to cut it was the right recommendation because that program is virtually a total waste. It seems to me we would be much better off to use that money for drug education, drug enforcement and law enforcement programs right here in this country than we would be to waste it in this bill.

Mr. PASTOR. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Arizona.

Mr. PASTOR. I thank the gentleman for yielding.

Mr. Chairman, I would like to tell my colleagues here that I represent the border communities in Arizona. We now begin to see that this Government is working with the United States in trying to stop the flow of drugs from Mexico into this country. Mexico, as you know, is in hard times. If we are going to stop the drugs from coming from Mexico into this country, it has to be a binational effort.

I agree with my colleague the gentleman from Wisconsin that one of the problems is that we are doing very little in this country to stop the consumption. As long as there is a demand for consumption of drugs in this country, you are going to find countries in Central America, South America, Mexico or wherever continue to bring or produce those products because this country has such a high demand.

I think we need to address that problem, because as long as we have a high demand for drugs in this country, then these countries will continue to produce them. I would tell my colleagues that we have an equally high problem in this country. We have to do as much as we can to lower the consumption and use of drugs in the United States.

Mr. LIVINGSTON. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Louisiana.

Mr. LIVINGSTON. Mr. Chairman, I just want to tell the gentleman, as a former criminal prosecutor, I could not agree with you more. We cannot eradicate all the crops in the world. We cannot stop the introduction of drugs, all of the massive paraphanalia that comes in with the drug crops, and stop the flow of money the other way.

We have got to stop drug abuse by stopping the demand. We have got to convince our children and our people that it is culturally impermissible, it is socially unacceptable, to use drugs in this country. At that point, drug abuse will stop.

Mr. SHAW. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take the floor only for a moment. I agree and associate with everything that the gentleman from Louisiana and the gentleman from Wisconsin said, with one big exception. Our interdiction effort is working. That is the reason why they are coming in from Mexico now, is because of the success of the interdiction system and the interdiction effort in south Florida using our United States naval assets. That has been a tremendous help. The problem is, to do the same thing on the Mexican border will require absolute cooperation from the Mexicans, including flyover cooperation which we have never received. That is the big difference.

The rest of it is absolutely necessary. I totally agree. But I think in this particular effort, in this particular matter, I want the record to be absolutely clear that our U.S. Navy in cooperation with all of the Federal law enforcement officials and local law enforcement officials is doing a terrific job in south Florida.

Mr. BONIOR. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Michigan.

Mr. BONIOR. Could my friend the gentleman from Florida apprise us, I remember during the debate we had on NAFTA, he was very eloquent about a particular case, in an extradition case. Could you give us an update on where that is and if the administration ever took any action on your behalf?

Mr. SHAW. While we were negotiating, they had the man on trial down there, which means if he were returned here, it would be double jeopardy. It was a double-cross. It was just plain and simple. The Mexicans just did not level with us and tell us the truth. We desperately need extradition from Mexico. We have not received that cooperation. We have yet to extradite one single Mexican national back to the United States. We have got to work on that. We have been working, the attorney general has been working hard to try to do that. I was working hard. But none of us to date have succeeded.

Mr. PASTOR. Mr. Chairman, will the gentleman yield?

Mr. SHAW. I yield to the gentleman from Arizona.

Mr. PASTOR. Very recently I was in Austin, TX and had a chance to meet with Mexican officials. One of the concerns that they have and are asking us to assist is that, as you know, we have the former attorney general in this country, and they asked that we send him back to Mexico so that he could be prosecuted. The judge in this country refused to extradite him. Right now the Mexican Government is saying, you ask us to cooperate, we need cooperation from you so that we can extradite this known—

Mr. SHAW. Reclaiming my time, I do not know the facts of that situation, but we have extradited, particularly Mexican nationals and even Americans back into Mexico. Our extradition treaty has been a one-way street.

Mr. Chairman, I yield to the gentleman from New York.

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Chairman, I do not want to delay the debate at this point, but I just want to make note for our colleagues that the drug war has to be fought on five major battlefields to reduce both demand and supply simultaneously. It is all well and good to try to reduce consumption, but let's not forget the supply side.

We have got to eradicate, we have got to interdict, we have got to enforce, and on the demand side, we have got to teach our young people and we have got to treat and rehabilitate. We cannot neglect any one of those facets in our drug war.

Mr. SHAW. The gentleman certainly knows of what he speaks. He has done a lot for this House in the war on drugs.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. SOUDER], as modified.

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. WISE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 411, noes 0, not voting 23, as follows:

[Roll No. 449]

AYES—411

Abercrombie
Ackerman
Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Becerra
Beilenson
Bentsen
Bereuter
Berman
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono

Borski
Boucher
Brewster
Browder
Brown (CA)
Brown (FL)
Brown (OH)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clay
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Conyers
Cooley
Costello
Cox
Coyne
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeFazio
DeLauro
DeLay
Dellums
Deutsch
Diaz-Balart
Dickey
Dicks
Dingell
Dixon
Doggett
Dooley
Dornan
Doyle
Dreier
Duncan
Dunn
Durbin
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Ensign
Eshoo
Evans
Everett
Ewing
Farr
Fattah
Fawell
Fazio
Fields (TX)
Filner
Flake
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Frank (MA)
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gejdenson
Gekas
Gephardt
Geren
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green
Greenwood
Gunderson
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hamilton
Hancock
Hansen
Harman
Hastert
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hinchey
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jackson-Lee
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Johnston
Jones
Kanjorski
Kaptur
Kelly
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaFalce
LaHood
Lantos
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
Livingston
LoBiondo
Lofgren
Longley
Lowey
Lucas
Luther
Maloney
Manton
Manzullo
Markey
Martini
Mascara
Matsui
McCarthy
McCollum
McCrery
McDade
McDermott
McHale
McHugh
McInnis
McIntosh
McKeon
McKinney
Meehan
Meek
Metcalf
Mfume
Mica
Miller (CA)
Miller (FL)
Mineta
Minge
Mink
Molinari
Mollohan
Montgomery
Moorhead
Moran
Morella
Murtha
Myers
Myrick
Neal
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Oxley
Packard
Pallone
Parker
Pastor
Paxon
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Rangel
Reed
Regula
Richardson
Riggs
Rivers
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Roybal-Allard
Royce
Rush
Sabo
Salmon
Sanford
Sawyer
Saxton
Scarborough
Schaefer
Schiff
Schroeder
Scott
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Spratt
Stark
Stearns
Stenholm
Stockman
Studds
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thompson
Thornberry
Thornton
Thurman
Tiahrt
Torkildsen
Torres
Torricelli
Towns
Traficant
Tucker
Upton
Vento
Visclosky
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Ward
Waters
Watt (NC)
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wilson
Wise
Wolf
Woolsey
Wyden
Wynn
Yates
Zeliff
Zimmer

NOT VOTING—23

Chapman
Collins (MI)
Doolittle
Fields (LA)
Foglietta
Kasich
Martinez
McNulty
Menendez
Meyers
Moakley
Nadler
Reynolds
Sanders
Schumer
Serrano
Solomon
Stokes
Stump
Velazquez
Waxman
Young (AK)
Young (FL)

□ 0910

So the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

Mr. RICHARDSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I was going to offer an amendment that terminated the IMET program and the enhanced IMET program to Guatemala. However, given the subcommittee's action in eliminating the IMET program because of Guatemala's grave human rights problems, and the assurance that the chairman has given me of extended oversight of the enhanced IMET program, I will not be offering this amendment.

However, I do want to recognize the efforts of the gentleman from New Jersey [Mr. TORRICELLI] and the gentlewoman from Maryland [Mrs. MORELLA] who have worked with me on this amendment who have long been involved in the Guatemala issue.

Mr. Chairman, I think as my colleagues know, Guatemala is also, especially in the Western Hemisphere, one of the more outstanding human rights violators. There have been cases where Americans have been killed, thousands and thousands of disappearances, and a military that is out of control and the objective of the amendment was to get the United States out of the business of associating itself with the military.

But some in the committee have developed an enhanced IMET program which deals with teaching human rights, teaching ethics to military officers in the Guatemalan military, and feel with the extended oversight and the good record that the gentleman from Alabama [Mr. CALLAHAN] and the gentleman from Texas [Mr. WILSON] have established on a number of human rights amendments today, that I will offer the amendment.

And I would like to recognize the gentlewoman from Maryland [Mrs. MORELLA] who is active in this issue and who has had a long history in support of human rights in Guatemala.

Mrs. MORELLA. Mr. Chairman, I move to strike the requisite words.

Mr. Chairman, I want to thank the subcommittee and the chairman for their recognition of the severity of human rights problems in Guatemala.

The bill authorizes only expanded IMET funding for Guatemala. The chairman has assured me that candidates for this program will be carefully screened for past abuses.

I hope that the committee and the Members of this body will continue their attention to the situation in Guatemala. I urge members to review the devastating report of the U.N. human rights monitoring mission in Guatemala. They will find that in spite of progress in peace talks and almost 10 years of democratic government, the administration of justice in Guatemala is nearly nonexistent, and military impunity, not only for human violations, but also for drug trafficking and other criminal conduct, continues unabated.

Members of the Guatemalan military continue to impede the Harbury-Bamaca case; the government prosecutor assigned to her case resigned this week because of death threats against him and his family and an assassination attempt last week. For 6 years I have been working to resolve the case of Sr. Dianna Ortiz, an American citizen who was kidnaped, raped, and tortured, as well as the cases of Michael Devine and Myrna Mack. In these and a number of other cases, members of the Guatemalan military have prevented the judicial process from working.

I look forward to working with the chairman and other Members of the House in resolving human rights concerns in Guatemala and in supporting a negotiated resolution of Guatemala's civil war.

□ 0915

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. Mr. Chairman, I, too, would like to add my thanks and congratulations to the gentleman from New Mexico [Mr. RICHARDSON] and the distinguished chairman of the subcommittee. The tragedy of Guatemala, while it remains an unfortunate fixture in our history, nevertheless shows promise of bringing change. The actions of the Committee on Appropriations and the Committee on International Relations in a greater oversight role, a new vigilance, I believe, in the Select Committee on Intelligence, the recent announcements by the new DCI in his public statements about new standards for agency activities in the region and the investigations on several levels ordered by the President I think bodes well for the future, for whatever mistakes have been made, I am convinced we are going to know the truth about the past, and, more importantly, that this program in the future and future American involvement may be now on a new and higher standard of which we can all be proud.

I thank the gentleman for offering the amendment and for having yielded me the time.

Mr. CALLAHAN. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Alabama.

Mr. CALLAHAN. Mr. Chairman, I would like to assure my colleague from New Mexico that neither myself or the other members of the subcommittee have any interest in protecting the Guatemalan military from scrutiny of its human rights performance. At the urging of our colleague, the gentleman from California [Mr. TORRES], the subcommittee intends to monitor the activities very closely. For this reason the bill supports administration's present cutoff for all IMET to Guatemala. All the bill does is say that, if the administration makes the decision to resume IMET in Guatemala, it cannot be military IMET. It must be human rights IMET.

In light of this I would hope that the gentleman from New Mexico [Mr. RICHARDSON] would withdraw his amendment if he has indeed introduced it.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Wisconsin.

The CHAIRMAN pro tempore (Mr. WALKER). The time of the gentleman from New Mexico [Mr. RICHARDSON] has expired.

(On request of Mr. OBEY and by unanimous consent, Mr. RICHARDSON was allowed to proceed for 1 additional minute.)

Mr. OBEY. Mr. Chairman, I would simply take the time to simply say that I, for one, would hope that Guatemala would not receive even expanded IMET. I think they have demonstrated that they do not know how to use any military training. I think they demonstrated that it is a virtually hopeless case to reform that military at this juncture in their history, and so I simply want to express my strong reservation about the administration providing any kind of IMET whatsoever to Guatemala.

Mr. DOGGETT. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Texas.

Mr. DOGGETT. Mr. Chairman, I just returned from a trip to Guatemala and saw, and I am particularly interested in this subject, and I think that one of the problems there is a recognition or a feeling that the Guatemalans only have a public relations problem——

The CHAIRMAN pro tempore. The time of the gentleman from New Mexico [Mr. RICHARDSON] has expired.

(By unanimous consent, Mr. RICHARDSON was allowed to proceed for 2 additional minutes.)

Mr. DOGGETT. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Texas.

Mr. DOGGETT. Having just returned from a trip to Guatemala, having met personally with the President, with the Foreign Minister of Guatemala, with a number of business leaders in Guatemala, I remain troubled that the Guatemalan Government remains captive of the Guatemalan military, that the Guatemalan business leaders, many well-intentioned, many working hard to bring reforms in their country, have not yet recognized that they have something more than a public relations problem, that this is not just a concern of one Member of Congress. This is not just the concern of the American Embassy in Guatemala City where our Ambassador, Marilyn McAffee, has been doing an outstanding job of bringing to the attention of the President, to the President of the Congress of Guatemala, the concerns that we have with human rights in that country, but that this is a deep and continuing concern of the American people.

I visited first-hand with a prosecutor in one of the highly publicized cases, thanks to the important work of our colleague, the gentleman from New Jersey [Mr. TORRICELLI]. That prosecutor has been under continual death threats, and he has every reason to be concerned with his life since this year in Guatemala over 20 people in the city of Guatemala City have been found shot with a single bullet wound to the back of the head. The Guatemalan military and its legal counsel stood in the way of an exhumation near a former Guatemalan military base in the northern part of the country to try to get to the bottom of the investigation concerning the death of Mr. Bomaca. It is the Guatemalan prosecutor who wanted to proceed with that exhumation who faced continual death threats, who has this week, after going public about those death threats, actually threatened to resign if his safety cannot be assured.

The CHAIRMAN pro tempore. The time of the gentleman from New Mexico [Mr. RICHARDSON] has expired.

(By unanimous consent, Mr. RICHARDSON was allowed to proceed for 1 additional minute.)

Mr. DOGGETT. Mr. Chairman, will the gentleman yield?

Mr. RICHARDSON. I yield to the gentleman from Texas.

Mr. DOGGETT. He has every reason to be concerned also given the fact that it was only within the last year that the Chief Justice of the Supreme Court of Guatemala was assassinated, that Guatemala during the last year has failed to make any progress in the prosecution of any human rights cases, that the military still seems to feel that it is a power unto its own and that it will not reform.

All of this, of course, occurs at a time that an officer of the Guatemalan military remains under indictment in the State of Florida for drug trafficking, and the Guatemalan Government refused to extradite that officer to the State of Florida. The problems that Guatemala has with reference to drugs trafficking rank right up there along with this human rights abuses and indeed may well be directly connected to those abuses, and now in Guatemala City there is a wave of kidnapings that know no political basis.

The CHAIRMAN pro tempore. The time of the gentleman from New Mexico [Mr. RICHARDSON] has expired.

Mr. DOGGETT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, given the serious nature of the problem in Guatemala, I am troubled about having any assistance continue there. I was very pleased that, when we considered the foreign assistance bill, that the gentleman from New Jersey [Mr. TORRICELLI] succeeded in adding an amendment to that piece of legislation that conditioned our foreign assistance to Guatemala on a number of things. The significant progress in extraditing the colonel in the Guatemalan military who has been indicted in the State of Florida, significant progress be demonstrated in the human rights cases that are pending in Guatemala, specifically the situation with Jenifer Harberry with whom he has worked, and with whom I met in Guatemala and is a person of tremendous courage who continues to pursue the investigation of the death of her husband, and who continues apparently to be thwarted at every avenue in her attempts to investigate that death. Also I met with another very courageous woman there, Mrs. Carpio, from one of the most prominent families in Guatemala, whose husband was the editor of one of the leading newspaper in Guatemala who was the subject of a political assassination. No progress has been made with reference to the investigation of that assassination. The same is true of an anthropologist in Guatemala with whose sister I met in Guatemala City where little, if any, progress is being made.

So, many of the leaders in the effort to bring about change in Guatemala are women who have been left as widows, as sisters who have been left without any realistic hope that their cases are going to be thoroughly and fully investigated. It was only a couple of days after returning to the United States that I, along with several other Members of Congress, received calls from Guatemala concerning the latest efforts to block the exhumation of Mr. Bomaca. We communicated directly with the President after consulting with the State Department, with the Foreign Minister, and have yet to receive a response, but the word that comes back is that this investigation still remains blocked, that no progress has been made concerning this investigation.

Mr. TORRICELLI. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from New Jersey.

Mr. TORRICELLI. If I understand, I would like to congratulate the gentleman for the work that he has done in helping to expose the problems of Guatemala, the time he has taken to go there and the expertise that he developed on the issue. I say to the gentleman, "You may have made an enormous contribution."

But I also want to remind my colleagues that, indeed, it is not 1, but there are 11 Guatemalan military officers, who have been indicted in the United States for narcotics trafficking that have not been extradited. So, those who would advance continued American military cooperation with Guatemala should recognize that they are harboring outlaws themselves who have been trafficking in cocaine to the United States. At this point it is estimated that fully one-third of all the cocaine that reaches the United States is warehoused in Guatemala before it reaches our cities and towns, this in a country that is completely controlled by military units, where nothing happens by chance. It raises the question about the integrity of their operations and should make suspect any American military cooperation in the future.

Although we have not proceeded with this amendment today, we do so, and I trust the gentleman agrees in the belief that in good faith the Clinton administration will not proceed with expanded IMET given the current situation.

Mr. DOGGETT. Mr. Chairman, I agree wholeheartedly. We should not, and this situation needs to be monitored very closely because the situation in Guatemala remains very dark indeed, and there is a failure to recognize the true dimension of this problem, the potential for trade, for commerce. It is a beautiful country, as my colleagues know from their travels there. There is great potential there, but, as long as there is this roadblock and this indifference to the issue of human rights, we are not going to see the full potential of our relationship developed.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. DOGGETT. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I, too, wish to congratulate the gentleman in the well for his continuing interest in making sure that recipient countries of aid from this country do not violate basic human rights of their own citizens, and what is interesting to me is that I find no one on the other side contributing to this discussion, even though earlier today, when we had an amendment on the little country of Haiti in the Caribbean, we had all kinds of discussions.

The CHAIRMAN pro tempore. The time of the gentleman from Texas [Mr. DOGGETT] has expired.

Mr. TORRES. Mr. Chairman, I rise today in support of H.R. 1868, the fiscal year 1996 foreign operations appropriations bill as reported out of the full Appropriations Committee. I want to commend Chairman CALLAHAN and the distinguished ranking member, Mr. WILSON, for their diligent work in crafting a very difficult foreign assistance appropriations package. However, I must note that the bill falls short in meeting important funding needs in some areas, particularly in providing adequate assistance for Latin and Central America.

United States assistance for emerging democracies of Latin and Central America is threatened by the 40-percent reduction to the Development Assistance Fund, the elimination of funding for the Fund for Special Operations of the Inter-American Development Bank [IDB], and the reduction in funding for the Inter-American Foundation [IAF].

Latin America is at the cusp of full consolidation to democratic rule and commitment to free-market, free trade economic policies. Today, the region represents our fastest growing trading partner and accounts for $91 billion in U.S. exports which support nearly 2 million U.S. jobs. However, nearly half the region remains in poverty. These countries will continue to need U.S. Government engagement and foreign assistance in each of the areas of sustainable development if they are to become consumers of U.S. goods and services and full participants in the proposed free trade area of the Americas. Resource levels to the region have dropped precipitously over the past several years and cannot be reduced disproportionately if these goals are to be achieved.

The Fund for Special Operations, the concessional lending arm of the IDB, lends to the five poorest countries in Latin America. Its programs focus on poverty reduction, basic human needs, grassroots development, and projects designed to assist women and the environment. In an era when U.S. bilateral foreign assistance is being cut dramatically, the small U.S. contribution to the Fund for Special Operations is an effective investment in the development of our poorest neighbors in the Western Hemisphere. While this bill has eliminated the $21 million administration request for the Fund, I believe this small U.S. contribution is critical in leveraging significant funds from other donor nations around the world.

The Inter-American Foundation has made significant contributions in providing direct financial support for self-help efforts initiated at the grassroots level by people in Latin America. The IAF effectively channels funds to the private sector, not governments. Projects supported by the IAF create opportunities for the poor to acquire skills and accumulate capital, opening the way for their participation in the mainstream economy. The $11 million reduction in IAF funding contained in this bill will dilute the IAF's effectiveness and ability to support innovative, private sector, sustainable development programs.

A further reduction in resources to Latin and Central America essentially means a premature United States exit from the region. It means backing away from our democratic neighbors, leaving much work unfinished and many commitments unmet. It is my hope that as this bill moves through the legislative process, these concerns will be addressed.

I am pleased to note that the bill provides the full funding level for the U.S. contribution to the North American Development Bank created under the NAFTA Agreement. NADBank was established primarily to finance environmental cleanup projects along the United States-Mexican border area. Communities on both sides of the border have been plagued for years by the problems of raw sewage dumped in boundary waters, unsafe drinking water, and inadequate municipal waste disposal. The agreement with Mexico gives priority to infrastructure projects addressing these environmental problems. In addition, NADBank will provide support for NAFTA-related community adjustment and investment projects throughout the United States. Because the NADBank is a new player in the international capital markets, full funding is critical to ensure the Bank's financial strength and ultimately, its success.

Ms. PRYCE. Mr. Chairman, I rise today to express my concern and disappointment regarding efforts to condition aid to India during consideration of H.R. 1868, the Foreign Operations Appropriations Act of 1995. Specifically, I object to amendments which would prohibit United States development assistance to the government of India or any nongovernmental or private voluntary organization that operates in that country, based on allegations of human rights abuses. I would like to take this opportunity to set the facts straight.

India is the world's largest democracy, with a free and open press as well as a strong pluralistic culture. At the same time, it is a developing nation and does face some tough challenges, including human rights issues. However, India has taken a number of positive steps to improve human rights conditions. For example, reports of human rights violations in Jammu and Kashmir caused India to form an independent National Human Rights Commission [NHRC], resulting in the punishment of 174 security force personnel to date. Additionally, India remains open to international efforts to monitor the situation in Punjab, Jammu, and Kashmir. Most recently, United Nations Human Rights Commissioner Josey Ayala-Lasso was in New Dehli last week after visiting Jammu and Kashmir and was impressed with the Indian Government's transparency and committment to NHRC's task. Further, in past efforts to deny aid to India, India's Terrorist and Disruptive Activities Act [TADA] has been cited as a tool used by the Indian Government to legally violate human rights. However, Prime Minister Rao allowed TADA to lapse on May 23, 1995, and it is no longer effective. This real evidence and significant progress toward high standards for human rights in India cannot be ignored in this debate. By denying aid to a country which has taken positive steps to address human rights concerns, the United States would be sending the wrong message to India and to other developing countries faced with human rights problems.

Mr. Speaker, it is also important to consider the positive diplomatic and economic relationship developing between the United States and India as we consider United States foreign assistance. Over the last 4 years, India has been transforming under an ambitious policy of economic reform, making the transition from a highly regulated, centrally planned economy to a market-oriented economy open to United States investment and exports. In fact, the United States Commerce Department has designated India as one of the most important big emerging markets, with a middle class exceeding 200 million people. A number of American companies are recognizing and seizing upon this tremendous opportunity.

The United States Government should be fostering the improved climate of relations with India as a democratic nation working to build a market-based economy and free society. Any attempt to stigmatize India, however small, should be rejected. Therefore, I urge my colleagues to oppose any amendments to H.R. 1868 that would deny United States assistance to India.

Mr. CALLAHAN. Mr. Chairman, I move that the Committee do now rise.

The CHAIRMAN pro tempore. The question is on the motion to rise.

The question was taken, and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ROEMER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 238, noes 171, not voting 26, as follows:

[Roll No. 450]

AYES—238

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Brown (CA)
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Crapo
Cremeans
Cubin
Cunningham
Davis
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fields (TX)
Flanagan
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Gingrich
Goodlatte
Goodling
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hastert
Hastings (WA)
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Jacobs
Johnson (CT)
Johnson, Sam
Jones
Kelly
Kim
King
Kingston
Kleczka
Klug
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lipinski
Livingston
LoBiondo
Longley
Lowey
Lucas
Luther
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Moorhead
Moran
Morella
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (NC)
Thomas
Thornberry
Thornton
Tiahrt
Torkildsen
Torres
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wolf
Young (FL)
Zeliff
Zimmer

NOES—171

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bevill
Bishop
Bonior
Borski
Browder
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Condit
Conyers
Costello
Coyne
Cramer
Crane
Danner
de la Garza
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Ford
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Geren
Gibbons
Gonzalez
Gordon
Green
Gutierrez
Hamilton
Harman
Hastings (FL)
Hayes
Hefner
Hilliard
Hinchey
Holden
Hoyer
Jackson-Lee
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Maloney
Manton
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
Meehan
Meek
Menendez
Mfume
Miller (CA)
Mineta
Minge
Mink
Mollohan
Montgomery
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rahall
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sawyer
Schroeder
Scott
Serrano
Sisisky
Skaggs
Slaughter
Stark
Stenholm
Studds
Stupak
Tanner
Taylor (MS)
Tejeda
Thompson
Thurman
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Williams
Wilson
Wise
Woolsey
Wyden
Wynn
Yates

NOT VOTING—26

Ballenger
Boucher
Chapman
Clement
Collins (MI)
Fawell
Foglietta
Hall (OH)
Hansen
Istook
Jefferson
Kaptur
Kasich
Largent
Linder
McKeon
McNulty
Moakley
Radanovich
Reynolds
Sanders
Scarborough
Schumer
Stokes
Waxman
Young (AK)

☐ 0947

Messrs. RANGEL, OLVER, BEILENSON, VOLKMER, TUCKER and GUTIERREZ changed their vote from "aye" to "no."

Messrs. SALMON, HORN, and McDADE, Mrs. JOHNSON of Connecticut, and Mr. SPENCE changed their vote from "no" to "aye."

So the motion to rise was agreed to.

The result of the vote was announced as above recorded.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. LAHOOD) having assumed the chair, Mr. WALKER, chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill, (H.R. 1868) making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1996, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST AND PROVIDING FOR CONSIDERATION OF CONFERENCE REPORT ON HOUSE CONCURRENT RESOLUTION 67, CONCURRENT RESOLUTION ON THE BUDGET—FISCAL YEARS 1996–2002

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–165) on the resolution (H. Res. 175) waiving points of order on the concurrent resolution (H. Con. Res. 67) setting forth the congressional budget for the U.S. Government for the fiscal years 1996, 1997, 1998, 1999, 2000, 2001, and 2002, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1944, RESCISSIONS AND DISASTER SUPPLEMENTAL ACT OF 1995

Mr. DREIER, from the Committee on Rules, submitted a privileged report (Rept. No. 104–166) on the resolution (H.

Res. 176) providing for consideration of the bill (H.R. 1944) making emergency supplemental appropriations for additional disaster assistance, for antiterrorism initiatives, for assistance in the recovery from the tragedy that occurred at Oklahoma City, and making rescissions for the fiscal year ending September 30, 1995, and for other purposes which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 1868, and that I may include tabular and extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ADJOURNMENT FROM 9:57 A.M. TO 11:30 A.M. TODAY

Mr. ARMEY. Mr. Speaker, I ask unanimous consent that when the House adjourn today, it adjourn to meet at 11:30 a.m. today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

Mr. GEPHARDT. Reserving the right to object, Mr. Speaker, and I probably will not object, I would like to inquire of the majority leader what this unanimous-consent request would result in with regard to the schedule for this morning.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, as the gentleman knows, today is still yesterday. If this unanimous-consent request is agreed to, then we will adjourn and we will come back in an hour and a half, when today will be tomorrow, we will reconvene the House, and we will forego 1-minutes. Then we will go into the rule on the budget conference report, and then from there we will move on to the budget conference report.

Mr. GEPHARDT. Mr. Speaker, could the gentleman tell the Members what might happen after that?

Mr. ARMEY. Assuming, of course, that that will go swimmingly.

Mr. GEPHARDT. Side stroke, all the way.

Mr. ARMEY. To coin a phrase, as it were, we would then expect to move on to the rule on the rescission bill and then on the rescission bill.

Following that, we would hope to complete consideration of the Medicare select conference report.

Mr. GEPHARDT. Mr. Speaker, can the gentleman tell us if there is business beyond that that he would like to try to finish today or tomorrow?

Mr. ARMEY. Mr. Speaker, I would hope that that would complete our day for today, and that perhaps we would return tomorrow and take under consideration the appropriations bill that has been under consideration.

Mr. GEPHARDT. I thank the gentleman.

Mr. ARMEY. We would return the day after tomorrow.

Mr. BONIOR. Mr. Speaker, if the gentleman will yield, just for purposes of Members having time to do what they need to do this morning, and I will not object, but if we go into the full House to do the rule on the budget conference report, it would be difficult, I might tell my colleagues, for us to get a vote until the previous question on the rule, which Members can factor in the additional time that Members will have between now and then. That is probably an additional 45 minutes on top of the hour and a half.

Mr. ARMEY. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Speaker, the gentleman is correct, assuming there is no vote on the approval of the Journal, in which case we could roll that to a later point, and we should be able to give all our Members an opportunity to freshen up, come back, and be ready to run the table.

Mr. GEPHARDT. Mr. Speaker, if the gentleman will continue to be available for one additional question, is it still the gentleman's intent to have the House adjourn at 3 o'clock tomorrow?

Mr. ARMEY. If the gentleman will yield further, the gentleman is correct. I have every intent, albeit a decreasing optimism, of being out of here by 3 o'clock tomorrow. However, it is important that we meet our departure times, especially after a rigorous week, and if everything goes well, we should have every expectation of having everyone out for the 4th of July work period by 3 o'clock on Friday.

Mr. HASTINGS of Florida. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Florida.

Mr. HASTINGS of Florida. Mr. Speaker, are we contemplating Chief Justice Warren Burger's funeral today at 12:30, and is there going to be any time for those who may wish to attend to do so?

Mr. ARMEY. If the gentleman will yield further the gentleman is perfectly correct in making the question. At that time we should be in general debate, and there should be an opportunity for Members who wish to attend. I appreciate the gentleman making the inquiry.

Mr. BONIOR. Mr. Speaker, if the gentleman will yield further, I would like to ask the majority leader, Members have inquired as to whether or not the committees that are on, that are scheduled to meet at 10 o'clock, will be meeting.

Mr. ARMEY. I am sure that would be at the discretion of each of the separate committees, but we will not be in the House under the 5-minute rule, so it would be perfectly acceptable within the rules of the House for them to do so.

Mr. GEPHARDT. One last inquiry, Mr. Speaker, of the distinguished majority leader. Will there be any 1-minute speeches today?

Mr. ARMEY. Again, Mr. Speaker, let me thank the minority leader for asking. With the gentleman's acceptance, I would propose that we not do so.

Mr. VOLKMER. Mr. Speaker, will the gentleman yield?

Mr. GEPHARDT. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Speaker, the gentleman mentioned that later on tomorrow, the next legislative day, that the second item of business would probably be the rule, and then the new rescission bill. When will that bill be available for Members to review?

Mr. ARMEY. If the gentleman from Missouri will yield further, Mr. Speaker, I appreciate the gentleman asking me. That will happen as soon as we can get to it.

Mr. VOLKMER. If the gentleman will continue to yield, some Members might like to take a look at it before we vote on it.

Mr. ARMEY. I appreciate that. It is available now and I am sure we can make it available to the gentleman.

Mr. GEPHARDT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REPORT OF THE CORPORATION FOR PUBLIC BROADCASTING—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Commerce and ordered to be printed.

To the Congress of the United States:

As required by section 19(3) of the Public Telecommunications Act of 1992 (Public Law 102–356), I transmit herewith the report of the Corporation for Public Broadcasting.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 28, 1995.*

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. GUNDERSON (at the request of Mr. ARMEY), after 6:15 p.m. today, on account of personal reasons.

Mr. MCNULTY (at the request of Mr. GEPHARDT), after 8 p.m. tonight, on account of attending a funeral.

Ms. HARMAN (at the request of Mr. GEPHARDT), on Wednesday, June 28, from 8:30 p.m. to midnight, on account of personal business.

Mr. YATES (at the request of Mr. GEPHARDT), for today after 8:30 p.m., on account of illness.

ADJOURNMENT

Mr. ARMEY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 9 o'clock and 57 minutes a.m.), under its previous order, the House adjourned until Thursday, June 29, 1995, at 11:30 a.m.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

[Submitted Wednesday, June 28]

Mr. SOLOMON: Committee on Rules. H. Res. 175. A resolution waiving points of order against the conference report to accompany the concurrent resolution (H. Con. Res. 67) setting forth the congressional budget for the United States Government for fiscal years, 1996, 1997, 1998, 1999, 2000, 2001, and 2002 (Rept. 104–165). Referred to the House Calendar.

Mr. DREIER: Committee on Rules. H. Res. 176. A resolution providing for the consideration of the bill (H.R. 1944) making emergency supplemental appropriations for additional disaster assistance, for anti-terrorism initiatives, for assistance in the recovery from the tragedy that occurred at Oklahoma City, and making rescissions for the fiscal year ending September 30, 1995, and for other purposes (Rept. 104–166). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

[June 29, 1995—legislative day of June 28, 1995]

By Mr. SKAGGS:

H.R. 1954. A bill to amend the National Park Service Concessions Policy Act to enable the Secretary of the Interior to authorize scenic commercial overflights at units of the National Park System, and for other purposes; to the Committee on Resources, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1112. A letter from the Director, Standards of Conduct Office, Department of Defense, transmitting a report of individuals who filed DD Form 1787, Report of DOD and Defense Related Employment for fiscal year 1994, pursuant to 10 U.S.C. 2397(e); to the Committee on National Security.

1113. A letter from the General Counsel, Department of Defense, transmitting a draft of proposed legislation, to provide for alternative means of acquiring and improving housing and supporting facilities for unaccompanied members of the Armed Forces; to the Committee on National Security.

1114. A letter from the Vice-Chair, Coordinating Council on Juvenile Justice and Delinquency Prevention, transmitting a request to the U.S. House of Representatives to appoint an individual to the Coordinating Council on Juvenile Justice and Delinquency Prevention; to the Committee on Economic and Educational Opportunities.

1115. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting the Administration's report entitled, "Profiles of Foreign Direct Investment in U.S. Energy 1993," pursuant to section 657(8) of the Department of Energy Organization Act; to the Committee on Commerce.

1116. A letter from the Secretary of Health and Human Services, transmitting the Department's report entitled, "Double Jeopardy: Persons with Mental Illnesses in the Criminal Justice System," pursuant to 42 U.S.C. 290bb–31; to the Committee on Commerce.

1117. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a Memorandum of Justification for Presidential Determination regarding the drawdown of defense articles and services for the Rapid Reaction Force [RRF], pursuant to 22 U.S.C. 2348a; to the Committee on International Relations.

1118. A letter from the Chief of Staff, International Affairs, Federal Election Institute, transmitting a communication regarding the Second Trilateral Conference on Electoral Systems (volume I, II, including the executive report, index and program) by the Canadian, American, and Mexican delegations held May 10 through May 12, 1995, in Ottawa, Canada; to the Committee on International Relations.

1119. A letter from the Secretary of Transportation, transmitting the semiannual report of the inspector general for the period October 1, 1994, through March 31, 1995, and management report, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1120. A letter from the Chairman, Federal Deposit Insurance Corporation, transmitting the annual report under the Federal Managers' Financial Integrity Act for fiscal year 1994, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform and Oversight.

1121. A letter from the President, Federal Financing Bank, transmitting the management report of the Federal Financing Bank for fiscal year 1994, including audited financial statements and the independent auditor's report on the statements, pursuant to Public Law 101–576, section 306(a) (104 Stat. 2854); to the Committee on Government Reform and Oversight.

1122. A letter from the Administrator, General Services Administration, transmitting the semiannual report on the activities of the Department's inspector general for the period October 1, 1994, through March 31, 1995, and the management report for the same period, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform and Oversight.

1123. A letter from the Counsel, National Council on Radiation Protection and Measurements, transmitting the 1994 annual report of independent auditors who have audited the records of the National Council on Radiation Protection and Measurements, pursuant to Public Law 88–376, section 14(b) (78 Stat. 323); to the Committee on the Judiciary.

1124. A letter from the Director, National Science Foundation, transmitting a draft of proposed legislation to amend the Program Fraud Civil Remedies Act; to the Committee on the Judiciary.

1125. A letter from the General Counsel, National Tropical Botanical Garden, transmitting the annual audit report of the National Tropical Botanical Garden, calendar year 1994, pursuant to Public Law 88–449, section 10(b) (78 Stat. 498); to the Committee on the Judiciary.

1126. A letter from the Secretary of Housing and Urban Development, transmitting a draft of proposed legislation to amend provisions of the Bankruptcy Code governing the powers of a bankruptcy court and the effect of automatic stays as they relate to certain multifamily liens insured or held by the Secretary of Housing and Urban Development or the Secretary of Agriculture; to the Committee on the Judiciary.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MONTGOMERY (for himself, Ms. WATERS, Mr. CLYBURN, Mr. MASCARA, and Mr. EVANS):

H.R. 1941. A bill to amend title 38, United States Code, to make clarifying and technical amendments to further clarify the employment and reemployment rights and responsibilities of members of the uniformed services, as well as those of the employer community, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LONGLEY:

H.R. 1942. A bill to give authority to the State of Maine over marine fisheries in the waters within 12 miles of the coast of the State; to the Committee on Resources.

By Mr. BILBRAY (for himself, Mr. PACKARD, Mr. CUNNINGHAM, Mr. HUNTER, and Mr. FILNER):

H.R. 1943. A bill to amend the Federal Water Pollution Control Act to deem certain municipal wastewater treatment facilities discharging into ocean waters as the equivalent of secondary treatment facilities; to the Committee on Transportation and Infrastructure.

By Mr. LIVINGSTON:

H.R. 1944. A bill making emergency supplemental appropriations for additional disaster assistance, for antiterrorism initiatives, for assistance in the recovery from the tragedy that occurred at Oklahoma City, and making recissions for the fiscal year ending September 30, 1995, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BATEMAN (for himself, Mr. SHAW, Mr. HOUGHTON, Mr. MCCRERY, Mr. COLLINS of Georgia, Mr. PAYNE of Virginia, Mr. TAYLOR of North Carolina, Mr. BLILEY, Mr. SISISKY, Mr. BOUCHER, and Mr. PICKETT):

H.R. 1945. A bill to amend the Internal Revenue Code of 1986 to provide that the value of qualified historic property shall not be included in determining the taxable estate of a decedent; to the Committee on Ways and Means.

By Mr. LARGENT (for himself, Mr. PARKER, Mr. ALLARD, Mr. BAKER of Louisiana, Mr. BARTLETT of Maryland, Mr. BARR, Mr. BARTON of Texas, Mr. BRYANT of Tennessee, Mr. CALVERT, Mr. CHAMBLISS, Mrs. CHENOWETH, Mr. CHRISTENSEN, Mr. CHRYSLER, Mr. CLEMENT, Mr. COBURN, Mr. COMBEST, Mr. COOLEY, Mr. CRANE, Mr. CRAPO, Mr. DELAY, Mr. DICKEY, Mr. DOOLITTLE, Mr. DORNAN, Mr. DUNCAN, Mr. EMERSON, Mr. FORBES, Mr. FOX, Mr. GOODLATTE, Mr. GRAHAM, Mr. HASTERT, Mr. HASTINGS of Washington, Mr. HAYWORTH, Mr. HEFLEY, Mr. HILLEARY, Mr. HOSTETTLER, Mr. HUTCHINSON, Mr. INGLIS of South Carolina, Mr. KNOLLENBERG, Mr. LEWIS of Kentucky, Mr. METCALF, Mr. MONTGOMERY, Mrs. MYRICK, Mr. NEUMANN, Mr. PETRI, Mr. PORTER, Mr. QUILLEN, Mr. RAHALL, Mr. ROBERTS, Mr. SALMON, Mrs. SEASTRAND, Mr. SENSENBRENNER, Mr. SHADEGG, Mrs. SMITH of Washington, Mr. SOLOMON, Mr. STEARNS, Mr. STOCKMAN, Mr. STUMP, Mr. TATE, Mr. TAUZIN, Mr. TAYLOR of North Carolina, Mr. TIAHRT, Mr. THORNBERRY, Mrs. VUCANOVICH, Mr. WAMP, Mr. WATTS of Oklahoma, Mr. WELLER, Mr. WICKER, and Mr. YOUNG of Alaska):

H.R. 1946. A bill to protect the fundamental right of a parent to direct the upbringing of a child, and for other purposes; to the Committee on the Judiciary.

By Mr. MCCRERY (for himself, Mr. HERGER, and Mr. JACOBS):

H.R. 1947. A bill to amend the Internal Revenue Code of 1986 to revise certain rules relating to fuel excise tax refunds, and for other purposes; to the Committee on Ways and Means.

By Mr. MILLER of California:

H.R. 1948. A bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes; to the Committee on Commerce.

By Mr. MINGE:

H.R. 1949. A bill to amend the conservation title of the Food Security Act of 1985 to give the Secretary of Agriculture jurisdiction over all wetland determinations involving agricultural lands, to provide for consultation between the Secretary of Agriculture and other Federal agencies involved in wetland conservation, and to improve the operation of the wetland conservation program of the Department of Agriculture; to the Committee on Agriculture, and in addition to the Committees on Transportation and Infrastructure, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PALLONE (for himself and Mr. TORRICELLI):

H.R. 1950. A bill to require that health plans provide coverage for a minimum hospital stay for a mother and child following the birth of the child, and for other purposes; to the Committee on Commerce.

By Mr. PALLONE (for himself, Mr. HASTERT, Mr. RICHARDSON, Mr. FRISA, and Mr. DEFAZIO):

H.R. 1951. A bill to amend the Federal Food, Drug, and Cosmetic Act to allow food and dietary supplement manufacturers to communicate truthful, nonmisleading information to consumers concerning the nutritional content and disease prevention benefits of their products, to repeal or clarify rules enacted by the Dietary Supplement Health and Education Act of 1994, and for other purposes; to the Committee on Commerce.

By Mrs. SCHROEDER (for herself, Mrs. LOWEY, Ms. JACKSON-LEE, Ms. RIVERS, Mrs. KENNELLY, Ms. DELAURO, Miss COLLINS of Michigan, Mrs. COLLINS of Illinois, Ms. FURSE, Ms. HARMAN, Ms. NORTON, Mrs. MALONEY, Ms. SLAUGHTER, Ms. MCKINNEY, Mrs. MINK of Hawaii, Ms. PELOSI, Ms. VELAZQUEZ, Ms. WOOLSEY, Mr. ABERCROMBIE, Mr. ACKERMAN, Mr. BALDACCI, Mr. BEILENSON, Mr. BENTSEN, Mr. BERMAN, Mr. CARDIN, Mr. COLEMAN, Mr. CONYERS, Mr. DEFAZIO, Mr. DELLUMS, Mr. DEUTSCH, Mr. EVANS, Mr. FILNER, Mr. FARR, Mr. FRANK of Massachusetts, Mr. GEJDENSON, Mr. HASTINGS of Florida, Mr. HINCHEY, Mr. HORN, Mr. JOHNSTON of Florida, Mr. MATSUI, Mr. MEEHAN, Mr. MILLER of California, Mr. MINETA, Mr. NADLER, Mr. OLVER, Mr. REED, Mr. RUSH, Mr. SABO, Mr. SANDERS, Mr. SERRANO, Mr. SCHUMER, Mr. SHAYS, Mr. STARK, Mr. WAXMAN, Mr. WARD, Mr. YATES, and Ms. LOFGREN):

H.R. 1952. A bill to protect women's reproductive health and constitutional right to choice; to the Committee on the Judiciary, and in addition to the Committee on Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WALKER (for himself, Mr. ZIMMER, Mr. ENGLISH of Pennsylvania, Mr. ROHRABACHER, Mrs. SEASTRAND, Mr. WELDON of Florida, and Mr. SENSENBRENNER):

H.R. 1953. A bill to amend the Internal Revenue Code of 1986 to encourage the development of a commercial space industry in the United States; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 44: Mr. ROEMER, Mr. LANTOS, Mr. FRANK of Massachusetts, Mr. MATSUI, and Mr. PORTER.

H.R. 60: Mr. SKEEN, Mr. GALLEGLY, Mr. SMITH of Texas, and Mr. METCALF.

H.R. 72: Mr. MILLER of Florida, Mrs. MEEK of Florida, and Mr. BILIRAKIS.

H.R. 73: Mr. BILIRAKIS.

H.R. 94: Mr. SISISKY, Mr. JACOBS, Mr. MCHALE, and Mr. CHRYSLER.

H.R. 104: Mr. GALLEGLY.

H.R. 117: Mr. FLANAGAN.

H.R. 127: Ms. RIVERS, Mr. BLILEY, and Mr. LATOURETTE.

H.R. 218: Mr. UPTON.

H.R. 222: Mr. THORNBERRY, Mr. BEREUTER, Mr. INGLIS of South Carolina, Mr. BRYANT of Tennessee, Mr. BARRETT of Nebraska, Mr. SOLOMON, Mrs. VUCANOVICH, Mr. LIVINGSTON, Mr. BARCIA, Mr. DOOLITTLE, Mr. DELAY, Mr. DORNAN, Mr. EMERSON, Mr. HEFLEY, and Mr. BURTON of Indiana.

H.R. 263: Mr. JOHNSTON of Florida, Mr. MCDERMOTT, Mr. MATSUI, Mr. BEILENSON, Mr. BROWN of California, Mr. WAXMAN, Mr. ACKERMAN, and Mrs. MALONEY.

H.R. 359: Mr. CHAPMAN.

H.R. 373: Mr. METCALF.

H.R. 394: Mr. BURR.

H.R. 530: Mr. KIM and Mr. HOBSON.

H.R. 573: Mrs. LOWEY, Mr. STUPAK, Mr. POSHARD, and Mr. GORDON.

H.R. 733: Mr. CRANE, Ms. SLAUGHTER, and Mr. MINETA.

H.R. 734: Mr. CRANE, Ms. SLAUGHTER, and Mr. WARD.

H.R. 784: Mr. BLILEY, Mr. WELDON of Florida, Mr. HALL of Texas, Mr. BARTLETT of Maryland, and Mr. KOLBE.

H.R. 789: Mr. CLINGER.

H.R. 863: Mr. CLEMENT, Mr. ROEMER, and Ms. PRYCE.

H.R. 873: Mr. LIGHTFOOT, Mr. REYNOLDS, and Mr. MICA.

H.R. 892: Mr. HANCOCK.

H.R. 893: Mr. BLILEY, Ms. RIVERS, and Mr. RANGEL.

H.R. 995: Mr. FLANAGAN.

H.R. 1023: Mr. WAXMAN.

H.R. 1067: Mr. SMITH of New Jersey.

H.R. 1068: Mr. SMITH of New Jersey.

H.R. 1114: Mr. RAMSTAD, Mr. DOOLITTLE, Mr. TIAHRT, and Mr. DORNAN.

H.R. 1119: Mr. KLECZKA.

H.R. 1171: Mr. LEWIS of Georgia.

H.R. 1459: Mr. BONIOR, Mr. FAZIO of California, Ms. MCKINNEY, Mr. TOWNS, Mr. HASTINGS of Florida, Mr. CLYBURN, Mr. DELLUMS, and Mr. OWENS.

H.R. 1484: Mr. STUPAK, Mr. BONIOR, and Mr. CLEMENT.

H.R. 1488: Mr. BARCIA of Michigan, Mr. CHAPMAN, Mr. HOLDEN, Mr. ISTOOK, Mr. BALLENGER, Mr. COBLE, Mr. SENSENBRENNER, Mr. SHADEGG, Mr. NEY, Mr. PETE GEREN of Texas, Mr. DICKEY, Mr. TAYLOR of North Carolina, Mr. CRANE, Mr. SOUDER, Mr. QUILLEN, Mr. HOSTETTLER, Mr. YOUNG of Alaska, Mr. SOLOMON, Mr. BARTON of Texas, Mr. JONES, Mr. HILLEARY, Mr. WAMP, Mr. THORNBERRY, Mr. SKEEN, Mr. POSHARD, Mr. BASS, Mr. EMERSON, and Mr. WICKER.

H.R. 1527: Mr. METCALF and Ms. DUNN of Washington.

H.R. 1592: Mr. DIXON.

H.R. 1610: Mrs. WALDHOLTZ, Mr. BARRETT of Nebraska, and Mr. GALLEGLY.

H.R. 1661: Mrs. JOHNSON of Connecticut, Mr. WARD, Mr. CRAMER, and Mr. COBLE.

H.R. 1662: Mr. DIAZ-BALART, Mr. WOLF, Mr. BILBRAY, Mr. LIVINGSTON, Mr. MFUME, and Mr. ENGLISH of Pennsylvania.

H.R. 1713: Mr. GALLEGLY.

H.R. 1736: Mr. WYDEN, Mr. MCDERMOTT, Mr. MILLER of California, Mr. WAXMAN, Mr. SERRANO, Mr. ACKERMAN, Mr. DAVIS, Mr. FROST, Mr. FLAKE, Mr. HILLIARD, Mr. FATTAH, Mr. BAKER of Louisiana, and Mr. GUTIERREZ.

H.R. 1787: Mr. ROHRABACHER, Mr. DORNAN, Mr. WATTS of Oklahoma, Mr. MOORHEAD, and Mr. EWING.

H.R. 1791: Mr. KOLBE and Mr. HOEKSTRA.

H.R. 1884: Mr. MOAKLEY and Mr. JACOBS.

H.R. 1897: Mr. ROMERO-BARCELÓ and Mr. FRANK of Massachusetts.

H.R. 1930: Mr. ANDREWS and Mr. PAXON.

H.R. 1936: Mr. OBERSTAR, Mr. RANGEL, and Mrs. ROUKEMA.

H.J. Res. 89: Mr. BROWN of Ohio, Mr. HOLDEN, and Mr. TALENT.

H.J. Res. 97: Mr. STARK and Mr. FROST.

H. Con. Res. 42: Ms. RIVERS.

H. Con. Res. 63: Mr. SAM JOHNSON.

H. Res. 59: Mr. BROWN of California and Mr. MARTINI.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1289: Mr. CLAY.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1868

OFFERED BY: MS. JACKSON-LEE

AMENDMENT NO. 83: Page 78, after line 6, insert the following new section:

LIMITATION ON FUNDS FOR ETHIOPIA

SEC. 564. None of the funds appropriated in this Act may be made available to the government of Ethiopia unless the State Department monitors, during fiscal year 1996, the Ethiopian government's human rights progress.

H.R. 1868

OFFERED BY: MS. KAPTUR

AMENDMENT NO. 84: Page 78, after line 6, insert the following new section:

LIMITATION OF FUNDS FOR NORTH AMERICAN DEVELOPMENT BANK

SEC. 564. No funds appropriated in this Act under the heading "North American Development Bank" may be obligated or expended unless it is made known to the Federal entity or official to which funds are appropriated under this Act that the Government of Mexico has contributed a share of the paid-in portion of the capital stock for fiscal year 1996 equivalent to that appropriated by the U.S.

H.R. 1905

OFFERED BY: MR. ANDREWS

AMENDMENT NO. 16: Page 16, line 1, after the dollar amount, insert the following: "(less $810,000,000)".

Page 17, line 23, after the dollar amount, insert the following: "(less $490,750,000)".

H.R. 1905

OFFERED BY: MR. DOGGETT

AMENDMENT NO. 17: On Page 16, line 1, strike "$2,596,700,000", and insert "$2,556,700,000".

H.R. 1905

OFFERED BY: MR. MARKEY

AMENDMENT NO. 18: Page 18, line 5, strike "$226,600,000" and insert "$426,600,000".

H.R. 1905

OFFERED BY: MR. MARKEY

AMENDMENT NO. 19: Page 26, line 3, strike "$468,300,000" and insert "$479,300,000".

Page 27, line 9, strike "$11,000,000" and insert "$22,000,000".

H.R. 1905

OFFERED BY: MR. OBEY

AMENDMENT NO. 20: On page 16, line 1, delete "$2,596,700,000" and insert "$2,556,700,000".

H.R. 1905

OFFERED BY: MR. OBEY

AMENDMENT NO. 21: On page 16, line 1, delete "$2,596,700,000" and insert "$2,576,700,000".

H.R. 1905

OFFERED BY: MR. OBEY

AMENDMENT NO. 22: On page 16, line 1, delete "$2,596,700,000" and insert "$2,578,700,000".

H.R. 1905

OFFERED BY: MR. OBEY

AMENDMENT NO. 23: On page 16, line 1, insert "(less $18,000,000)", before "to remain".

H.R. 1905

OFFERED BY: MR. OBEY

AMENDMENT NO. 24: On page 16, line 1, insert "(less $20,000,000)", before "to remain"

H.R. 1905

OFFERED BY: MR. OBEY

AMENDMENT NO. 25: On page 16, on line 1, insert "(less $40,000,000)", before "to remain"

H.R. 1905

OFFERED BY: MR. OBEY

AMENDMENT NO. 26: Page 29, after line 25, insert the following new section:

SEC. 505. The amount otherwise provided in this Act for the following account is hereby reduced by the following amount:

(1) "Energy Supply, Research and Development Activities", aggregate amount, $18,000,000.

H.R. 1905

OFFERED BY: MR. OBEY

AMENDMENT NO. 27: Page 29, after line 25, insert the following new section:

SEC. 505. The amount otherwise provided in this Act for the following account is hereby reduced by the following amount:

(1) "Energy Supply, Research and Development Activities", aggregate amount, $20,000,000.

H.R. 1905

OFFERED BY: MR. OBEY

AMENDMENT NO. 28: Page 29, after line 25, insert the following new section:

SEC. 505. The amount otherwise provided in this Act for the following account is hereby reduced by the following amount:

(1) "Energy Supply, Research and Development Activities", aggregate amount, $40,000,000.

H.R. 1905

OFFERED BY: MR. SKAGGS

AMENDMENT NO. 29: On page 19, line 7, strike "$5,265,478,000" and in lieu thereof insert "$5,411,478,000".

H.R. 1905

OFFERED BY: MR. TIAHRT

AMENDMENT NO. 30: Page 20, line 8, strike "$362,250,000" and insert "$326,025,000".

Page 20, line 25, strike "$239,944,000" and insert "$203,719,000".

H.R. 1905

OFFERED BY: MR. VOLKMER

AMENDMENT NO. 31: On Page 16, Line 1 strike "$2,596,700,000" and insert "$2,588,700,000".

H.R. 1905

OFFERED BY: MR. VOLKMER

AMENDMENT NO. 32: Page 16, Line 1 insert "(less $8,000,000)" before "to remain".

H.R. 1905

OFFERED BY: MR. VOLKMER

AMENDMENT NO. 33: At the end of the bill, insert after the last section (preceding the short title) the following new section:

SEC. 505. (a) LIMITATION ON USE OF FUNDS.—None of the funds made available in this Act may be used for a spallation neutron source.

(b) CORRESPONDING REDUCTION IN FUNDS.—The amount otherwise provided in this Act for "Energy Supply, Research and Development Activities" is hereby reduced by $8,000,000.

H.R. 1868

OFFERED BY: MS. JACKSON-LEE

AMENDMENT NO. 85: Page 78, after line 6, insert the following new section:

LIMITATION OF FUNDS FOR ETHIOPIA

SEC. 564. None of the funds appropriated in this Act may be made available to the Government of Ethiopia if it is made known to the State Department that during fiscal year 1996 the Ethiopian government has not made progress on human rights.

EXTENSIONS OF REMARKS

IN HONOR OF DR. WILLIAM STEUART McBIRNIE

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. MOORHEAD. Mr. Speaker, I rise with sadness today upon learning of the passing of Dr. William Steuart McBirnie. Dr. McBirnie established the United Community Church of Glendale in the winter of 1960 and served for more than 20 years as senior pastor. Dr. McBirnie was a well versed man who will be missed. He was a humanitarian who founded the World Emergency Relief, a nonprofit organization providing relief aid to the needy and suffering throughout the free world. Holding seven doctoral degrees, Dr. McBirnie was a knowledgeable man. As a professor of Homiletics, Church Architecture and Middle Eastern Studies, he was eager to share his wisdom. He is a man who was in touch with society. Not only was he author of over 1,200 books and other publications, Dr. McBirnie acted as a news analyst for "The Voice of Americanism" which aired over a nationwide radio network. He offered forthright and thought provoking commentaries to millions of listeners daily.

A man respected by many, he was the recipient of numerous honors. Dr. McBirnie has been knighted twice and received the George Washington gold medal of honor from the Freedom Foundation, Valley Forge, PA.

Dr. William Steuart McBirnie was a personal friend of mine who will be missed. Yet it is comforting to know that he has entered into the rest which he so richly deserves.

HEALTH COST FIGHTER MOVING ON

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. STARK. Mr. Speaker, at the close of this month, Tom Elkin will be stepping down from his position as assistant executive officer for health benefits for the California Public Employees' Retirement System. I would like to take this opportunity to thank Tom for the great work he has done for CalPERS and the people of California.

Tom's energy, knowledge, and enthusiasm are key reasons why the CalPERS board entrusted him to guide the system's health program. He has been instrumental in CalPERS' success in holding down health insurance costs for the nearly 1 million people who receive health benefits through CalPERS and actually obtaining cost reductions in the last 2 years through hard bargaining with providers. Under his management, the CalPERS health program has maintained quality and choice for its participants while keeping providers honest and focused on those who come to them for care.

During the 103d Congress, CalPERS was used as a paradigm by many players in the health reform debate who sought to reproduce the system's savvy use of its market power to negotiate with health care providers. Tom Elkin's skill and diligence created this enviable record of quality and cost containment which has made CalPERS a model for health care management for the 21st century.

California will miss the service of this distinguished public servant, who is moving on to new challenges. I wish Tom the best for the future.

CONGRESSIONAL REFORM

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, June 28, 1995 into the CONGRESSIONAL RECORD:

REFORMING CONGRESS

Last week the House passed its version of the 1996 funding bill for Congress. Overall funding for the House would be cut 8% from the 1995 level. Congress must take the lead in fiscal discipline. This bill is a step in the right direction.

The bill also includes several worthwhile reforms of the operations of Congress. It cuts funding for committee staff, cuts Members' mail allowances, and eliminates a congressional committee. It also cuts back congressional support agencies. The Office of Technology Assessment, the Government Printing Office, and the General Accounting Office all would be downsized.

These are all worthwhile reforms, and they reflect Members' continuing efforts to streamline Congress and improve its operations. In my view, three broader changes could make the reform process better.

ALLOWING MORE AMENDMENTS

The floor amendment process needs to be more open. The House leadership prohibited several reform amendments to the congressional funding bill from being considered on the floor. Members wanted to offer amendments, for example, to eliminate additional committees and ban gifts from lobbyists. Of the 33 amendments that Members wanted to offer on the floor, only 11 were allowed. Most of the denied amendments called for additional reforms or deeper spending cuts.

Last session Members in the minority objected, with some justification, that many of their amendments were not allowed to be offered, and they promised that if they were ever in the majority the amendment process would be much more open. Yet the new leadership has made only modest progress toward more openness. The amendment process tends to be open on minor bills and restrained on controversial matters. Certainly on some difficult bills and amendment process cannot be totally open. But on such bills the leadership has to identify the major policy issues and allow a thorough and thoughtful consideration of them. We still have a long way to go to reach the goal of allowing Members to vote on the major reform issues of the day.

GREATER BIPARTISANSHIP

Another concern is the increasingly partisan nature of congressional reform. A partisan task force has been set up by the House leadership to make recommendations on additional reforms, particularly further changes in committee jurisdictions.

Committee reform is an appropriate topic for review, but I am disappointed that the leadership has chosen not to make it a bipartisan task force. Last Congress we set up the Joint Committee on the Organization of Congress in a bipartisan way, with an equal number of Members from both parties. Historically that has been the best way to achieve long-lasting institutional reform.

REGULARIZING REFORM

I also believe that we need to regularize the congressional reform process, taking up a major reform package each Congress.

One of my main conclusions from my work last Congress on the Joint Committee on the Organization of Congress is that the institution is better served if congressional reform is treated more as an ongoing, continual process rather than something taken up in an omnibus way every few decades.

Congress has set up three major bipartisan, House-Senate reform efforts in recent times—the 1945, 1965, and 1993 Joint Committees on the Organization of Congress. All three committees were given extremely broad mandates—to look at virtually all aspects of Congress in order to improve efficiency and effectiveness. The Joint Committee in the last Congress took up everything from committee jurisdiction changes and the congressional budget process to ethics reform, House-Senate relations, and congressional compliance with the laws we pass for everyone else. We conducted scores of hearings, heard from hundreds of witnesses, looked over thousands of pages of testimony, considered hundreds of reform ideas, and issued reports totalling several thousand pages.

In my view, it would be far preferable to have the House take up a major congressional reform resolution each Congress. That would make the task much more manageable, since Members would be able to focus attention on the key issues of the day rather than the entire range of procedural and organizational matters carried over from previous Congresses. It would allow us to continually update the institutions of Congress in a rapidly changing world. Letting systematic institutional reform slide for several years only allows problems to fester and heightens partisan tensions.

I recently introduced a resolution requiring the Rules Committee to take up the

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

issue of a congressional reform resolution each Congress. If the Committee decides against sending such a reform resolution to the House floor for consideration, they would have to explain—as part of a required end-of-Congress report—why they thought congressional reform was not needed.

Interest in congressional reform tends to ebb and flow according to the changing interests of the voters and the main House players in reform, the shifting national agenda, and the varying amounts of media coverage given to the operation of Congress. I believe we need to regularize the process so that whoever is in charge of reform in the future will be looking seriously at scheduling and debating a congressional reform resolution each Congress.

This is not a new idea. The Legislative Reorganization Act of 1970 stated the need for a congressional panel to "make a continuing study of the organization and operation of the Congress". Moreover, the 1974 bipartisan House Select Committee on Committees stated that "a key aspect of any viable reorganization is provision for continuing evaluation of its effectiveness, and for periodic adjustments in the institution as new situations arise". It is time to finally follow through on these recommendations and regularize the congressional reform process.

We have been making progress on reforming Congress. But pursuing reform in a more bipartisan, open, and regular way will make our efforts more productive.

ACKNOWLEDGEMENT OF THE ULSTER PROJECT

HON. MARTIN FROST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. FROST. Mr. Speaker, I would like to acknowledge the Ulster project. For the second consecutive year, youths from Northern Ireland have come to Arlington, TX, to see and learn how individuals from different backgrounds can live together in peace.

The Ulster project is comprised of teenagers from Northern Ireland who travel to the United States for 1 month. Teenagers of both Protestant and Catholic faiths participate. Each Irish youth is placed in an Arlington family that shares similar interests. The goal of the program is to demonstrate to the Irish teenagers that people from different faiths and backgrounds can peacefully coexist. The ultimate goal is that they take the experiences that they have learned back home with them to Ireland.

Living in Arlington, TX, this summer are the following teenagers, listed with their hometown: Judith A. Conliffe, Belfast; David Laughlin, Newtonabbey; Andrew McCorriston, Belfast; Louise Morris, Belfast; Cherith McFarland, Newtonabbey; Peter Kelly, Bangor; Ashleigh Cochrane, Newtonabbey; Janine Swail, Belfast; Donna Smyth, Newtonabbey; Gareth Price, Bangor; Fiannuala Hanna, Belfast; Gavin Kyle, Glengormley; Stuart Hall, Belfast; Adrian Kidd, Newtonabbey; Neil McCabe, Belfast; Catherine Davidson, Belfast. Richard Hazley of Bangor and Regina Bradley of Belfast will be accompanying the teenagers as counselors.

Again, I commend this project as a genuine effort to help a country that has for too long been torn apart by war. Progress has been made in Ulster to bring about a peaceful solution. This program and ones like it can only serve as a shining example of what can happen if people work with one another to achieve mutual respect and understanding.

RECOGNITION OF DR. GREG ROTH

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. MOORHEAD. Mr. Speaker, selflessness is a cherished commodity in the era in which we live.

I rise today to recognize Dr. Greg Roth, executive pastor of my home church, Glendale (CA) Presbyterian. Dr. Roth is an individual who exemplifies this selflessness through his love and concern for others. We honor a man who through years of dedicated service to his church and his community, has earned a reputation for leadership, compassion, and generosity.

He, like others, envisions things which are for the betterment of our society. Yet, what sets him apart is his willingness to sacrifice time to lead in the establishment of programs such as the Glendale Coalition to Coordinate Emergency Food and Shelter; The Lords Kitchen, a feeding program for the homeless; Glendale Cold Weather Shelter, and a host of others. Because of his compassion, Dr. Roth has conducted numerous funerals for the homeless men and women. He is also a highly respected member of several different boards, such as the Glendale Homeless Coalition and Positive Directions, a county funded Mental Health Drop-in Center.

Unfortunately, for those of us in the community we will miss Dr. Roth. As he departs for the Centerville Presbyterian Church in Fremont, CA, I would like to wish him, Marsha, and Amanda all the best as they move on. I am sure that they will have a strong and positive impact in Fremont as they have had here in Glendale.

TRIBUTE TO ANDREW G. CANGEMI

HON. MICHAEL P. FORBES

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. FORBES. Mr. Speaker, it is no coincidence that Andrew G. Cangemi is the 1995 recipient of the Mental Health Association's Community Service Award at an event honoring Clinton Court. Mr. Cangemi exemplifies how one individual, like one new living option for people with a history of mental illness, can make all the difference in the world.

On a daily basis, Andy Cangemi touches many lives. Andy serves as an associate vice president of the Nassau County Council, Boy Scouts of America, and is a member of its board of directors. In 1994 he received the distinguished Citizen Award from the Scouts. He has received citations from the county of Nassau, towns of Huntington, Hempsted, and Islip for his work in the community. He particularly enjoys his volunteer work with the Northport Youth Soccer League.

As president of the Advancement for Commerce and Industry, a business organization of several hundred members, he has worked tirelessly to promote a working partnership between government and business to revitalize economic, environmental, and social conditions on Long Island.

As a partner in Sigel, Fenchel & Peddy, P.C. he is a member of both the Nassau and Suffolk Bar Associations. He is active in the Nassau County Judicial Advisory Council, the Columbian Lawyers Society, and the Sons of Italy. He has served as chairman of the Nassau County Bar Association's Condemnation and Tax Certiorari Committee, and as a lecturer for the Nassau Academy of Law.

Andy Cangemi's inspiration and vitality flows out of his background. As a neighborhood boy from Brooklyn, he considers himself fortunate to work his way up and have had the opportunity to become a practicing attorney. His interests in community services is an expression of the great responsibility he feels to give back. The energy he devotes represents a coming together of the personal and the professional man.

I've had the privilege of being a part of many important initiatives on Long Island, and I am proud to help MHA build Clinton Court. This project will be a model for affordable housing that will enable people with psychiatric disabilities to become productive, independent members of our community.

Mr. Speaker, it is a pleasure to know Andy Cangemi and I am proud today to be able to commemorate his many accomplishments. He is an example of the best of Long Island and of this Nation, a hard-working man who gives his time tirelessly to those less fortunate than himself. He demonstrates that in today's busy world compassion is still possible and relevant.

TRIBUTE TO CHRIS K. MOUROUFAS

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Ms. ESHOO. Mr. Speaker, I rise today to pay tribute to Chris K. Mouroufas, a proud Greek-American, a great civic leader, and an extraordinary friend who passed away this month.

Mr. Mouroufas lived the American success story. Born in Messina, Greece, he emigrated to the United States, built a prosperous business, and became widely known in the Greek-American community for his willingness to help newcomers. He was a leader in the affairs of the city of San Francisco, having been appointed to the San Francisco Protocol Committee by mayors George Moscone, DIANNE FEINSTEIN, and Art Agnos. In addition, Mayor Agnos named Mr. Mouroufas to the San Francisco Film Commission, where he served as chairman.

Mr. Speaker, Chris Mouroufas was a prominent member of the San Francisco Bay area who selflessly gave his time and talents to make our community a better place. What he cherished most was his family and his family of friends. He was a man of his word, a man of loyalty and a man of integrity. When Chris Mouroufas extended himself in friendship, it was a bond for life. I know, I was blessed to be his friend. I ask my colleagues to join me in honoring him and all he did as a noble citizen of a nation he embraced, served, and loved, and extend our deepest sympathies to his beloved wife, Tula, and godson, Christopher.

SAYING NO TO MOBUTU

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. HAMILTON. Mr. Speaker, President Mobutu of Zaire has ruled his country for over 30 years, during which period he has become one of the world's richest individuals by impoverishing his fellow countrymen. I wish to place into the RECORD the following exchange of letters between International Relations Committee Chairman BENJAMIN A. GILMAN and I and the Department of State concerning the issue of granting a visa to President Mobutu to visit the United States.

U.S. DEPARTMENT OF STATE,
Washington, DC, June 21, 1995.

Hon. LEE H. HAMILTON,
House of Representatives.

DEAR MR. HAMILTON: Thank you for the letter which you and Chairman Gilman sent to the Secretary on May 19 expressing concern about a possible visit to the United States by President Mobutu of Zaire. We assure you that President Mobutu will not be coming to Washington and that the U.S. visa sanction directed against him and his entourage remains in effect. We agree that President Mobutu needs to demonstrate by his deeds rather than statements that he is committed to a genuine transition to democracy in Zaire. We appreciate your bipartisan support for our Zaire policy.

As you know, the President issued a proclamation in June 1993 suspending the entry into the United States of immigrants and nonimmigrants who formulate or implement policies impeding a transition to democracy in Zaire or who benefit from such policies, and the immediate families of such persons. The intention of the proclamation was to send a strong message to President Mobutu that his obstruction of Zaire's transition to democracy was not without penalty. The visa sanction has been—and remains—one of our most effective measures to influence Mobutu and his entourage, and we have seen no change on the part of the Zairian president which would warrant a reversal of this policy.

President Mobutu has not applied for a visa to the United States, but if he or persons acting for him do so, we will remind him that he remains subject to the visa proclamation. On the basis of rumors of an impending visit, our Charge d'Affaires in Kinshasa made a formal demarche to the office of the Presidency, outlining our continuing concerns about the slow pace of the transition, and reiterating that President Mobutu remains subject to the visa sanction.

Rumors of a Mobutu visit to Washington appear to have been generated entirely by the Zairian president and a number of lobbyists in his employ. His agents attempted—unsuccessfully—to obtain an invitation for Mobutu to address a variety of private organizations. When it became clear that neither invitation nor visa would be forthcoming, President Mobutu's spokesman in parliament announced that the Zairian leader had decided to postpone travel in view of the outbreak of the Ebola virus in Kikwit.

You should know that there is a strong possibility that President Mobutu may attend the 50th U.N. General Assembly in New York this fall. While the Presidential proclamation on visas would permit us to refuse a visa to Mobutu for a bilateral visit, our international obligations under the U.N. Headquarters Agreement would likely require us to permit his entry to attend the General Assembly.

We hope this information is useful to you. If we can be of further assistance to you on this or any other matter, do not hesitate to contact us.

Sincerely,

WENDY R. SHERMAN,
Assistant Secretary, Legislative Affairs.

COMMITTEE ON INTERNATIONAL RELATIONS, U.S. HOUSE OF REPRESENTATIVES,
Washington, DC, May 19, 1995.

Hon. WARREN CHRISTOPHER,
Secretary of State,
Department of State,
Washington, DC.

DEAR MR. SECRETARY: It has come to our attention that President Mobutu of Zaire may be seeking to visit the United States in the near future. We urge you to continue your policy of not granting an entry visa to the United States to President Mobutu of Zaire.

We strongly believe that such a visit should not take place. The visa restriction policy is one of the few instruments of leverage the U.S. has on President Mobutu and his regime. While we hope that President Mobutu is serious in his recent statements concerning a return to democracy in Zaire and improved human rights, there is ample reason for skepticism. Allowing Mobutu to visit the United States before any substantial steps have been taken toward resolving the on-going political crisis in Zaire would be an unwarranted retreat from the policy of both the Clinton and Bush Administrations.

Zaire under Mobutu represents perhaps the most egregious example of the misuse of U.S. assistance resources. The U.S. has given Zaire nearly $1.5 billion in various forms of aid since Mobutu came to power thirty years ago. Partially because of this assistance, Mobutu has been able to maintain control of Zaire and bleed the country into its current dismal state. In recent years, Mobutu has resisted both domestic and international pressure for democratization and continues to cling to power.

In both the 102d and 103d Congress, the House passed bipartisan resolutions calling on Mobutu to step down from power and urging that the United States continue active efforts to this end. Allowing Mobutu to visit the United States at this time would be directly counter to the letter and spirit of these resolutions.

We look forward to your early reply and to working with you on this issue.

With best regards,

Sincerely yours,

LEE H. HAMILTON,
Ranking Democratic Member.
BENJAMIN A. GILMAN,
Chairman.

NOTING THE PASSING OF FORMER STATE REPRESENTATIVE IKE THOMPSON

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. STOKES. Mr. Speaker, I am saddened to announce the passing of a former member of the Ohio State House of Representatives. On June 25, 1995, the Cleveland community mourned the death of Isaiah "Ike" Thompson. For 20 years, Ike Thompson represented Cleveland's east side in the Ohio Legislature. His district included portions of Glenville, Euclid, Bratenahl, and East Cleveland.

The passing of Ike Thompson brings to a close a distinguished career of public service. I join members of the Cleveland community, Ike's family and colleagues in mourning the loss of a talented legislator and a good friend. I rise today to reflect upon the life of Ike Thompson and to share with my colleagues some information regarding his political career.

Mr. Speaker, Ike Thompson was born in Birmingham, AL, and moved to Cleveland during his early childhood. He attended Central High School and Cleveland State University. In 1942, Ike became a factory worker for the Weatherhead Co. He began his political career when he became a precinct committeeman in 1963. Ike also later served as a Democratic ward leader. In 1970, Ike Thompson was elected to the State House of Representatives. He would spent the next 20 years serving his constituents in that legislative body. It was a job which he took very seriously.

During his first year in the legislature, Ike introduced a bill making it illegal for poll watchers to wear police uniforms and carry guns. He based his initiative on the fact that off-duty policemen entering voting places were intimidating and discouraging potential voters. Over the years, Ike would note that this was the most important legislation that he ever sponsored because it gave people the right to vote without fear. During his first term, Ike Thompson was named by his colleagues as the Number One Rookie Legislator, an honor in which he took great pride.

Throughout his political career, Ike Thompson earned a reputation for his strong legislative efforts on behalf of consumers. He was best known for getting the Ohio Legislature to approve the "lemon law," which protects new car buyers from manufacturing defects. It is praised as one of the strongest such laws in the country. During his tenure in office, Ike was also chosen to serve as executive vice president of the Black Elected Democrats of Ohio.

Mr. Speaker, Ike Thompson retired from the State legislature in 1990, following 20 years of service to the Greater Cleveland area. We mourn the recent passing of our friend, Ike Thompson. He will always be remembered for his dedication and commitment to public service. As we remember Ike Thompson, we pay tribute to a distinguished legislator who has earned a special place in our State's political history. I offer my condolences to Ike's family, including his wife of 60 years, Lodeamer, and his daughter, Arwilda Storey. I ask that my colleagues join me in paying tribute to a gifted public servant, Ike Thompson.

BICENTENNIAL CELEBRATION OF WARREN, PA

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. CLINGER. Mr. Speaker, I rise today in celebration of the bicentennial of my hometown, Warren, PA. It is a great pleasure to join my family and friends in sharing this special historic event.

This year's Fourth of July celebration holds a special meaning for the people of Warren County. Not only will we commemorate the birth of our great Nation, we will also mark a great milestone in the history of an extraordinary town.

More than two centuries ago, European settlers achieved independence for the Thirteen Colonies, forming the United States of America. In 1795, the Pennsylvania legislature honored the great patriot Gen. Joseph Warren, by granting his name to a valley nestled between the Allegheny Mountains and the Allegheny River. Although General Warren never saw the land which bears his name, his memory lives through the people who reside in Warren today.

Reflecting on 200 years of stable existence, Warrenites have much to be proud of. The people of this community have honorably participated in every military conflict in our Nation's history. They have persevered over time by cultivating the region's abundance of natural resources. Warren is also home to Kinzua Dam, one of the largest reservoirs east of the Mississippi River. Most importantly the people of Warren are proud of their heritage, which is memorialized by the four flags flown each day in Heritage Park.

Warren is a special town, a community of spirit and pride. It is a wonderful place to live and I have many treasured memories from a lifetime of experiences there. Growing up in Warren provided me with a strong foundation of values, which continue to guide me to this day.

Thank you, Mr. Speaker, for allowing me the distinct pleasure of recognizing the 200th anniversary of Warren, PA. Warrenites embody what it is to be an American by uniting under the U.S. flag while remembering and honoring the pioneers who came before them. It is most appropriate that the bicentennial festivities coincide with the Fourth of July celebration. This holiday is more than just picnics and fireworks, it is the chance to reflect on a cherished privilege we call freedom.

PRESIDENT LEE'S ONE GIANT STEP OUT OF ISOLATION

HON. EARL F. HILLIARD

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. HILLIARD. Mr. Speaker, I was pleased to see that President Lee Teng-hui had taken one giant step out of isolation in having concluded his private trip to a Cornell University reunion on June 9–10, 1995. As the Washington Post and other major newspapers have noted, President Lee's successful visit to his alma mater "marked a bold, symbolic step out of Taiwan's decade and a half of official international isolation."

Taiwan's political achievements are recognized worldwide, and I applaud Taiwan's successful efforts in having dismantled its old political system and replace it with one of Asia's most exuberant new democracies. In the last few years, martial law has been lifted, political prisoners have been freed, and opposing parties are firmly established and flourishing. Moreover, Taiwan has continued to enjoy an unprecedented economic prosperity. Its citizens enjoy one of the highest standards of living and Taiwan is our sixth-largest trading partner.

I have met with President Lee Teng-hui, an affable world-class statesman, as well as other Taiwanese leaders such as Foreign Minister Frederick Chien, a Yale-educated diplomat par excellence; and Representative Benjamin Lu, Taiwan's top diplomat in Washington, DC. They all have impressed me with their vision, forthrightness, intelligence, and their belief in our values and our democratic system of government.

Taiwan is our ally in the Pacific and throughout the world. In the days and months ahead, I hope to see even stronger support given to the Republic of China in its bid to enter the United Nations and other international organizations.

Mr. Speaker, my constituents in Alabama hope that Representative Benjamin Lu will soon find time to visit Alabama to tell the Taiwan story—a story that deserves to be told and retold as a shining example of how an undeveloped nation and its 21 million people became one of the world's most prosperous democracies in four decades. My constituents also are eager to hear Representative Lu tell how President Lee has taken Taiwan out of international isolation and how President Lee envisions Taiwan for the rest of this century and the early 21st century.

Representative Lu, my constituents and I hope you will come visit us in Alabama—real soon.

TRIBUTE TO OFFICER BOB HENRY

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. COX of California. Mr. Speaker, I rise today to honor the memory of Bob Henry, a dedicated law enforcement officer for the city of Newport Beach, CA, who earlier this year was slain in the line of duty.

In the early morning hours of Sunday, March 15, 1995, Officer Robert Henry, 30, was shot in the head during a struggle with an intoxicated man intent on committing suicide. Officer Henry battled for his life, but passed away after more than a month of struggle on April 13. He was the first officer in the history of the Newport Beach police department to be killed in the line of duty.

A native Californian and a devout Catholic, Bob Henry joined the Newport Beach police force 5 years ago, and dedicated his life to serving and protecting the residents of Newport Beach. In his service there, he earned the respect of his colleagues and of his community. He is remembered as a model police officer, an officer who was always prepared to do whatever the job called for—bringing his strength, compassion, courage, and sense of humor along with him.

Above all, Mr. Speaker, Bob Henry is remembered as a loving and devoted family man. He leaves behind his wife, Patty, and their three children: 6-year-old Bobby, 2-year-old Jenna, and Alyssa—who was born only 1 month before the shooting. While nothing can compare to the incalculable pain they all feel at his loss, I hope it is of some comfort to them that all of us feel a profound sense of gratitude for the sacrifice he was willing to make.

I ask my colleagues to join me in saluting the bravery and honor with which Officer Henry carried out his duties. His children must always know that their father's death was in the service of others, and that we will always honor his memory. Although we are overwhelmed with sadness, we are grateful that such a man graced us with his example, his commitment, and his sacrifice.

DELAURO HONORS 1995 SPECIAL OLYMPICS WORLD GAMES' VOLUNTEERS AND SPONSORS

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Ms. DELAURO. Mr. Speaker, in 2 short weeks the world will turn its eyes to New Haven, CT, where the 1995 Special Olympics World Games will be held. The games will showcase the talent and spirit of mentally retarded athletes from around the world.

The 1995 games will be the world's largest sporting event this year. Seven thousand athletes from 140 countries, 1,500 coaches, and 500,000 spectators are expected to attend. These figures represent significant growth for the Special Olympics since the first games were held in 1969.

The 1995 games have been made possible through the hard work and dedication of countless individuals, municipalities, private organizations, and businesses. There has been tremendous enthusiasm and support generated from all levels throughout the region. Today I would like to specifically recognize the contributions of the games' volunteers and sponsors, who have given so much to this worthy cause.

Forty-five thousand volunteers, the largest volunteer force ever assembled in the Northeast, are taking part in the games. I salute the residents of south central Connecticut and the entire State, for their commitment and spirit. These volunteers have been working fast and furiously to ensure that the athletes enjoy nine wonderful days of competition, friendship, and learning. All of the volunteers have participated in training sessions about how to work well with people with mental retardation and to address the vast cultural differences of the many visitors.

The games are fortunate to enjoy the support of many corporate sponsors. Among the major private contributors are McDonald's Corp., Coca-Cola Co., Eastman Kodak Co., IBM Corp., Adidas, General Motors Corp.'s GMC Truck, and M&M Mars. These corporations have generously provided much of the financial support that is vital to ensuring that the games are a success.

Last week the President, who is honorary chair of the Games, announced that he will attend the opening ceremony in New Haven on July 1. His participation in this event is a tribute to the volunteers and the sponsors who through their hard work and dedication have assured that the Special Olympics will be well-received both nationally and internationally.

I ask my colleagues to join me today and salute the contributions of the thousands of volunteers and sponsors who, through their generosity, have made the games the success I know they will be. Their efforts will make the 1995 games a world class sporting event for these very special athletes to enjoy.

EXPROPRIATION IN COSTA RICA

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. TOWNS. Mr. Speaker, I want to express my strong concern over the expropriation of the cellular telephone system installed and formerly operated by Millicom in Costa Rica. Congress must address this situation not only for the sake of this U.S. company, but because of the terrible discouragement the expropriation makes against investors to bring Latin America into the information age, and onto the information highway.

Millicom has headquarters in New York and operates cellular telephone networks in 19 countries in Europe, Asia, Africa, and Latin America. The company was invited by Costa Rica to install a cellular telephone system there. After the system had succeeded and was being expanded, the government began using insidious techniques of regulatory expropriation to nullify Millicom's property rights. Finally, a court ruled that the Costa Rican Constitution requires the government's telephone company to be a monopoly, and thereby expropriated Millicom's network and overturned written assurances Millicom had received that it could own and operate the system. Negotiations with Millicom to resolve the situation were on the threshold of an agreement when they were suddenly terminated last month by the President of Costa Rica.

REMEMBERING THE CONTRIBUTIONS OF FORMER CHIEF JUSTICE WARREN BURGER TO THE COURT AND THE NATION

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. VENTO. Mr. Speaker, I rise today to celebrate the life of an extraordinary Minnesotan, former Chief Justice Warren Burger, who passes away this past Sunday. I am proud to say that Justice Burger was not only from Minnesota, but he hailed from my home city and neighborhood of St. Paul, MN.

Justice Burger's devotion to the Court and the justice system was evident in his hard work and long tenure as a public servant. He began working in the Federal court system in 1956 and remained until he retired as the most senior justice on the Supreme Court through 1986. Justice Burger devoted time after his retirement from the Court to organize the celebrations of the 200th anniversary of the Constitution and Bill of Rights, serving as the Chairman of the Commission on the Bicentennial of the United States Constitution.

During his 17 years on the Supreme Court, Justice Burger made rulings on complex and controversial issues such as school busing, obscenity laws, prison reform, and sexual discrimination, and he was a special champion of judicial reform. It was importantly Justice Burger, a Nixon appointee, who in one of the most important chapters in our history wrote the opinion clearing the way for the release of the Watergate tapes that would become a determinating factor in Nixon's resignation of the Presidency averting a constitutional crisis that threatened our Nation.

During his years of service on the Supreme Court, he watched the ideology of the Court as a whole swing between liberalism and conservatism. Justice Burger tended toward strict conservatism, but he was also sympathetic and pragmatic; open to others ideas often writing opinions praised by his colleagues attempting to insure the Constitution as a living document and judicial review activism.

The Nation is saddened by the loss of former Chief Justice Warren Burger. As we mourn his death, however, we must remember how much he gave to the Court and the Nation. His work is an important legacy that impacts every American's life and will shape the lives of future generations. We will not forget his positive contributions to this country, and I join the Nation in applauding his accomplishments and expressing my sympathy to Justice Burger's surviving family for their loss.

TRIBUTE TO THE NATION'S HISTORICALLY BLACK COLLEGES AND UNIVERSITIES BLACK COLLEGES ADVOCACY DAY

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. STOKES. Mr. Speaker, I rise to pay tribute to the Nation's historically black colleges and universities, one of our country's crown jewels. HBCUs have educated some of our Nation's most distinguished leaders—past and present. They include the former Supreme Court Justice, the late—Thurgood Marshall, Jr., renowned civil rights leader, Dr. Martin Luther King, Jr., former Secretary of the Department of Health and Human Services, Dr. Louis Sullivan, the current Secretary of the Department of Energy, Hazel O'Leary, the list goes on.

While HBUCs represent only 3 percent of all American institutions of higher education, they graduate 34 percent of all African Americans with bachelor's degrees. Of the top five schools in the Nation with the most black graduates accepted into medical school in 1993, four were HBUCs.

Mr. Speaker, the Nation's HBCUs stand 105 strong and proud. In recognition of this standing, I ask that the statement given by one of our most distinguished former colleagues, the Honorable William "Bill" Gray, be included in the CONGRESSIONAL RECORD. This distinguished gentlemen recently testified before the Labor, Health and Human Services, and Educational Appropriations Subcommittee.

His testimony, vividly outlines the achievements of the Nation's historically black colleges and universities, and why the Federal investment must continue. The education cuts contained in the Republican-passed budget resolution, from eliminating funding for trio, to freezing funding for Pell grants, would devastate these institutions.

Mr. Speaker, I ask my colleagues to lend their strong support to preserving and enhancing this national resource.

TESTIMONY BEFORE THE HOUSE APPROPRIATIONS SUBCOMMITTEE ON LABOR, HHS AND EDUCATION BY THE HONORABLE WILLIAM H. GRAY, III, PRESIDENT AND CHIEF EXECUTIVE OFFICER UNITED NEGRO COLLEGE FUND, FEBRUARY 3, 1995

Mr. Chairman and Members of the Subcommittee on Labor, HHS and Education Appropriations, I am William H. Gray, III, chairman and chief executive officer of the United Negro College Fund (UNCF). I am pleased to return to this body, where I served for many years as a Member of the Appropriations Committee and chairman of the Budget Committee. As a result of those experiences, I know and respect the challenges you face and the complex and difficult budgetary and programmatic issues that are before you.

Now, as head of the college fund, I wrestle with the same question you face as members of this subcommittee, and that is, "How and to what extent do we support educational opportunity for those with the aptitude and ability to succeed in college, but whose family financial circumstances limit their opportunities." The college fund has raised over $250 million in the past two and a half years in corporate and individual gifts to help supplement other student and institutional aid at our 41 member institutions. And each year we must justify our 'bottom line' to a corporate board of directors which carefully scrutinizes our costs, our productivity, and our results. Fiscal responsibility and accountability are crucial to the college fund's operations and viability. I believe the same is true for the viability of our Nation.

As you well know, the options you will hear during these hearings and through other channels will be many and varied. I believe they must be carefully weighed and analyzed, as your final decisions will be critical. They will impact the Nation's future generations and ability to compete in a global market place, and thus, will help set the stage for what America is to become. My comments are based on a fundamental principle that I'd like to leave with you in the hope that it will help guide your deliberations and decision making—the principle is that as a Nation we will reap what we sow.

The fact that our Nation leads the world in economic and military might is not coincidental. Our unmatched educational and health systems did not happen fortuitously. The most advanced system of technological communication in the universe did not just fall out of the sky and land in America. A very deliberate and concerted effort begun some 100 years ago was made by our Government and private leaders to invest in industrialization, research and invention, and most importantly in the training and education of Americans. Those investments have resulted in today's harvest of American economic, educational, and technological superiority. This economic investment in intellectual capital has paid off well.

I believe, however, that we cannot rest on these laurels, because if America is to maintain its leadership role, we must continue to strategically plant and cultivate seeds of educational and economic opportunity. According to the U.S. Department of Labor's Workforce 2000 report, over 50 percent of new workforce entrants will be minorities by the year 2000, the majority of which will be African Americans; and most of the new jobs created will be technical in nature, requiring a more highly educated workforce.

Institutions of higher education have a very important role in preparing tomorrow's workers and America's historically black colleges and universities are especially fertile ground for the growth and nurturing of tomorrow's workforce. The reasons are clear:

Black student enrollment in HBCUs grew by 27 percent over the last ten years, from 177,000 to 224,946 and is still rising.

HBCUs make up only 3 percent of all American institutions of higher education, but graduate 34 percent of all African Americans with bachelor's degrees.

Historically black colleges and universities (HBCUs) prepare proportionately more African Americans for professional and technical careers than do mainstream majority institutions.

UNCF's own Xavier University sent more black graduates to medical schools last year than any other U.S. college or university, followed by Howard University, and then Hampton University. Further, of the top five schools in the nation with the most black graduates accepted into medical school in 1993, four were HBCUs.

Between 1981 and 1991, a significant shift away from social sciences occurred in the areas of study chosen by African American students.

(A) Bachelor degrees in engineering jumped by 42 percent;

(B) Bachelor degrees in business increased by 25 percent;

(c) Bachelor degrees in health-related professions rose by 17 percent.

Mr. Chairman, HBCUs have performed a remarkable task, educating over one third of this country's black college graduates, 75 percent of all black Ph.Ds, 46 percent of all black business executives, 50 percent of black engineers, 80 percent of black Federal judges, 85 percent of all black doctors, 50 percent of the Nation's black attorneys, and 75 percent of black military officers.

And Mr. Chairman, our schools have done all this for less cost than majority institutions. HBCUs maintain low tuition in order to provide access to the largely economically disadvantaged student population that they serve. The average tuition and fees at UNCF's 41 private schools in 1992-93, at $5,008, was less than half the average of private colleges nationally. These colleges are a bargain—low cost and a high success rate.

I believe that these and other statistical data convey a clear and strategic role for HBCUs, and suggest a vital need for increased federal and private investment in and nurturing of these institutions. Everything we know today tells us that America needs more, not fewer persons, trained to undertake the challenges of a changing workplace. Clearly HBCUs provide us with one of the best and lowest cost vehicles for ensuring that young African Americans will be ready to assume roles that they must play if America is to continue to prosper in the future. And I believe that the fiscally responsible thing to do is pay a little now, rather than pay a lot later. Sow the seed now so we can reap a new harvest of prosperity in the 21st century by:

Increasing funding for the title III, part B, historically black college and university program created in 1986. Title III funds are critical in that they provide much needed institutional resources to create and improve academic programs; implement community outreach and pre-college programs; acquire instructional equipment, research instrumentation, library books, periodicals and other learning aids; and improve funds management.

These funds are also provided to selected graduate and professional schools and science and engineering programs which prepare HBCU students for careers in which they are under-represented.

Increasing support for several discretionary programs created in the 1992 reauthorization of the Higher Education Act:

(1) Institute for International Public Policy (title IV, part C, which will train African Americans, hispanics, and other minorities for careers in international service;

(2) Institutional support for HBCU library and learning resource enhancement (title II part D), which develops and strengthens libraries and library information science programs and provides fellowships to encourage graduate study in that area.

(3) Federal guarantees for the HBCU Capital Financing Program, which will assure access for HBCUs to the private construction financing markets for much needed renovation and building of laboratory and classroom facilities; and

(4) Faculty development fellowships program, which provides assistance to faculty to complete their doctoral degrees and return to our campuses.

Increasing support for the trio programs, which represent the only hope for many students to learn about college through upward bound, talent search and educational opportunity centers; to receive academic reinforcement, counseling and tutoring through student support services; and to gain access to graduate and professional school through the Ronald C. McNair post-baccalaureate achievement program.

As you know, the trio program has a real friend on this committee in Congressman Lou Stokes. Through his leadership, thousands of disadvantaged, low income and first generation students have succeeded as a result of the nurturing and cultivation provided by this program. Current funding levels however, provide supportive educational opportunities to only about ten percent of all eligible students.

And finally, but of equal critical importance, title IV student assistance programs have been the lifeline for most poor students. Ninety-five percent of all UNCF students receive some form of title IV, student assistance—61 percent receive Pell grants, 60 percent receive FFELP loans, 31 percent receive supplemental educational opportunity grants (SEOGs), and 27 percent receive Federal college works study. The Pell Grant program is particularly vital to HBCUs because its the cornerstone of a poor students' financial aid package and more than 27 percent of HBCU students come from families with household incomes below $20,000.

It is the combination of these Federal grants, loans and work study aid, coupled with significant private contributions from UNCF and other private gift and scholarship aid that provides opportunities for our students to develop and grow into contributors to our great society.

These modest public and private investments in human capital have resulted in an excellent crop of African American professionals. The college fund, in celebrating its fiftieth anniversary, is extremely proud of this harvest and we believe that our alumni are a testament to the quality education available at our colleges and universities. They are the teachers, lawyers, doctors, business persons, entrepreneurs, elected officials, and law enforcement officers in every neighborhood in America, and they are the famous pioneers such as Leontyne Price, Martin Luther King, Jr. Thurgood Marshall, former Secretary of HHS Louis Sullivan and the current Energy Secretary Hazel O'Leary.

Mr. Chairman, on behalf of the college fund member schools, I thank you for the opportunity to present this testimony and hope that this committee, in its wise stewardship, will continue to sow seeds in the fertile grounds of historically black colleges and universities.

AN EIGHTH-GRADE PERSPECTIVE ON PRESIDENTIAL PROBLEM SOLVING

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. HYDE. Mr. Speaker, "If I were President of the United States, I would * * *" was the title of an essay contest sponsored by the Chicago Sun Times. The eighth grade English class at Churchville Junior High located in Elmhurst, IL, participated in this contest. I would like to share with my colleagues the issues these young people see as important and how they would correct the problems if they were President.

IF I WERE PRESIDENT OF THE UNITED STATES I WOULD * * *

(By Aaron Hubalik)

If I were the president of the United States I would help homeless people have job opportunities, clean up crime, and lower taxes.

First, I would give the homeless people a chance to have a job opportunity. I would lower the price of cars and put it towards job opportunities. I would also build amusement parts and take 15 percent of the money earned every month towards more jobs.

Second, I would clean up the crime in our cities. Since gangs are the major problem, I would increase police presence especially in bigger crime areas.

Lastly, I would lower taxes to about 7% so people would have more money to spend for their needs. This would also help the economy grow and create work opportunities.

In conclusion, as president I would give homeless people opportunity, clean up crime, and lower taxes.

(By Jodi Carnevale)

Make all countries come to peace with each other. I would improve every state, and close Abortion clinics.

I would put together a committee who will go to one state and straighten up that state, then that state can help improve the other states. It might take time, but if we all help, it will happen.

While I'm improving states, I would close all the Abortion clinics by destroying the clinics, and building a playground in it's place. It's better to see kids happily playing, that not to see them at all.

I'll have all the Countries sign a treaty, so there will never be another war. So instead of helping just our country, I helped the world.

I could make the World better by straightening up states, closing Abortion clinics, and making peace. This way, we're guaranteed a better future than the one we have in store for us.

(By Amy Byrne)

If I could be president I would make more places for homeless people to go and I would give more money to schools.

Everybody complains about people being dirty or living on the streets and sleeping on benches, so why don't we give these people somewhere to go? I would build large dormitories (large buildings) every couple of blocks for people to sleep, eat and entertain themselves. There would be things for kids to do and we would find jobs for adults or if they needed to learn to read or write we would teach them.

Another thing I would do is give more money to schools. If the schools had more money we could have better uniforms, and more activities, like more dances and a softball team.

If I had a chance to be President of the United States of America I would have places for homeless people and give more money to schools

(By Fred Fang)

As president, I would increase funding to space exploration and conservation programs. I would also cut defense spending to pay for new programs.

First, funding space exploration is crucial. The earth is crowded and resources are depleted. Many possibilities show up when traveling at light speed. Not only could we explore new planets, but also colonize them, and mine their usable resources.

Secondly, I would grant funding to conservation groups like "Green Peace", and make environmental issues more important. Until we find new planets with usable resources, we must conserve. We must conserve so that the earth will stay comfortable.

Finally, I would cut defense spending. Prime Time Live aired a special on government spending. It showed many warehouses with munition surpluses. I propose to sell one-third of surpluses.

In conclusion, my job is to better the world. If these goals are met, my presidential term would be successful.

(By Maja Garmager)

If I were president of the United States I would have all abortion clinics closed, there will be no more homeless people, and nothing at the grocery store would cost more than fifty cents.

First, all abortion clinics will close. If any other doctor is doing abortions they will be arrested and put in jail. If people want to give up the baby, put it up for adoption.

Second, there will be no more homeless people. We will build more apartment buildings, and they will have no rent, so they can live there.

Lastly, at the grocery store nothing will cost more than fifty cents. So that everybody could afford it. If they don't have money they can use food stamps.

In conclusion, all abortion clinics will closed, there will be no more homeless people, and everything at the grocery store will be fifty cents.

(By Katie Durkowski)

I would help the homeless get jobs, money and housing. I would also extend the school year.

To start off, I would help the homeless get jobs, money, and housing so they can raise a family and their self esteem. They would get free job training and they would be placed in a job that best suits them. They would make enough money to raise their family, keep their house, and have extra spending money.

Secondly, to lengthen the school year. I would take the many unneeded holidays. Many kids don't appreciate them anyway. I would also add every other Saturday. This will improve learning and test scores.

In conclusion, as President of the United States I would help the homeless get jobs, money and housing. I would also extend the school year.

(By Chris Buenz)

As President, I would give money to the poor. I would also help finance schools and give some important accessories to the schools.

Firstly, I would give money to the poor people. The reason's why I would give money to the poor people are it would help clean up our streets and make it look better. Also, they could buy a nice suit and tie which would help them get a job. Then, they could provide for themselves.

Next, I would give money to the public schools. Kids going to school need up to date equipment like computers, books and other accessories. If kids don't have these they won't learn the right stuff and be behind in technology.

In conclusion, as President I would give money to the poor, help finance schools and give schools nice equipment.

(By Kristi Marotta)

As President I would help the country get on its feet. I would do this by getting people jobs and having stricture crime laws.

To help people get jobs, I would lower the amount of imports from other countries. This would eliminate some of the competition from other countries. This way we would have to make more products at home and need more workers to make them. This is how I would create more jobs.

Next, I would make stricter crime laws. To accomplish this, stricter punishments for serious crimes are needed. I would support the death penalty and caining. Also teenagers should be tried as adults for serious crimes. These are examples of crime laws that I would support.

In conclusion, as President, I would help people get jobs and make stricter crime laws.

(By Jeannie Gleser)

If I were President of the United States, I would develop a better country. The following are things I would do. First, I would ban abortion, then take care of the homeless and hungry. Last, I would destroy all weapons.

First, I would ban abortion. Abortion is killing an unborn baby. Abortion leaves guilt with the mother. It is also inhumane.

Secondly, I would take care of the homeless. I would make more jobs for them, by creating more stores and businesses. I would first hire bosses and managers to employ homeless workers.

Lastly, I would destroy all weapons. I would burn the weapons. Weapons just hurt and kill. They are unnecessary for humans. This would also cut down on crime.

In conclusion, if I became President I would ban abortion, make jobs for all, and destroy all weapons. I would then be famous for my great actions.

(By Samantha Hiza)

If I were President of the United States I would focus on refining welfare.

First, I'd change the requirements to get welfare. You should only be eligible for welfare if you have children. Adults should try to fend for themselves, but we should help the children who have no control over it.

Secondly, people shouldn't get more money for more children. If you go on welfare receiving money for one child, you should continue receiving that rate no matter how many children you have. That way people aren't just having children to get more money.

Lastly, you should only receive welfare for a short while. That way people aren't living off tax money and are motivated to find a job.

In conclusion, my main concern would be to refine welfare by only giving money to people with children, not giving more money for more children, and only giving money for a short while.

(By Jim O'Sullivan)

If I were President, I would give motivation to the citizens and fix the prison problems.

First, to motivate the people of the US to help the government out (and to show we are trying), I would cut my income from $200,000 to half. This would still allow a good income and also save money. I would also start cutting unneeded spending.

Secondly, I would fix the prison problems. We have people who are in jail, and tax payers are paying their stay. I would make the prisoners work for their stay. If someone would not want to work, they would have the option of doing the alternate. Which would be to receive a warm jacket and some food and ship them into the middle of nowhere.

In conclusion, if I was President, I would try to motivate the country by cutting government spending, and fix prison problems.

(By Christina Suarez)

If I were the President I would get more jobs and homes for the homeless. Then I would also have shorter times in the day during school.

I would first, try to get jobs for the homeless. I would then start working in stores and other places. I would get the whole town to start making more shelters have more soup kitchens and donate clothes. While a person is trying to get a home they could stay in shelters.

Secondly, I would have shorter times in school. What I mean is have students go to school at 10:00 A.M. and go back home at 3:00 P.M. This reason is so kids can sleep in and have more time in the afternoon.

In conclusion, if I were the President I would get jobs and homes for the homeless. Then I would have shorter times in a school day.

(By Kerry O'Reilly)

If I were president of the United States, I would help homeless people find homes, make school years shorter, and also lower taxes.

First, I'd help the homeless find homes. They'd get their homes free of charge for about a year or until they get a job. Homeless people need shelter because of the dangerous conditions that occur outside our homes. After they're able to support themselves, they'll be treated exactly as every other American homeowner.

Secondly, the school year would be shorter. Kids ages 10–18 have so much pressure during the school year. They deserve a big break!! The year would be from September 1–May 1.

Thirdly, I'd make sure to lower taxes. Americans pay too much. Let's cut down! Especially on the stuff we don't need! This would keep people from going poor.

Again, if I'm president, I'd help homeless find homes, make school years shorter, and lower taxes.

(By Jeffrey Knabe)

If I were president; Firstly, I would pass a law outlawing automatic weapons. Then I would expand the Police to stop the sale of those weapons. Secondly, instead of letting people have welfare money for as long as they like, I would set a certain limit.

Firstly, I would do what I could to get automatic weapons off the streets. Then I would try to expand police to try to get automatic weapons off the streets.

Secondly, I would try to change the welfare policy. To "If you are out of a job you can apply for welfare for a limited time". I think that some, not all, people who are on welfare should try harder to get a job.

In conclusion, if I were president I would try to stop the sale and the illegal trading of automatic weapons. Secondly, I would set a limit on welfare.

(By Justin Scully)

If I were president I would make more jobs, create a better health plan but mainly for senior citizens, raise taxes on rich and a little on the middle class to get us out of debt. Also I would build low cost housing, get more police and bring peace in Bosnia.

I would make more jobs by re-creating the CCC but for all ages. To get people off the streets.

For better health plans I would make sure everybody is covered and get rid of the law suits on doctors.

I would raise taxes mainly on the rich to get out of debt, and build low cost housing.

Lastly crime I think we should hire more police officers and that would create more jobs.

In conclusion I think I would be a good president because of all the reasons.

(By Daniel Jugle)

If I were the president of the United States I would help the homeless more and I would try harder to reduce crime.

First, I would help the homeless more I would do this by giving them money, making more homeless shelters, and having more food drives.

Second, I would try harder to reduce crime I would do this by providing more police and having a strong Death Penalty.

In conclusion, helping the homeless more and trying to reduce crime are the two things I would do first if I were president of the United States.

(By Jaffray McCarthy)

I think that government thinking in programs and creating new jobs needs restructuring.

First, I would stop outrageous spending. One type of spending is congressional spending. One example of this is a congressman's frequent travel by transport plane, costing up to $50,000*. Another type of spending is money for unneeded programs. One example of this was a funded program was to study how long it took ketchup to come out of a bottle*.

Second, I would use the money saved from the unneeded programs to create new jobs. One of the jobs I would create is construction crews to build low cost housing for poor people. Another job I would create is a street clean-up crew to clean streets from litter and graffiti.

In conclusion, these are my restructuring ideas. I think any reasonable person would agree with at least one idea.

REDUCE THE CAPITAL GAINS TAX

HON. CHARLIE ROSE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. ROSE. Mr. Speaker, last week I cosigned a letter to the President emphasizing my commitment to a reduction in the capital gains tax. This same letter also raised the specter of an increase in the minimum wage. I do not support an increase in the minimum wage at this time, but do hope the discussion on a reduction of the capital gains tax can be stimulated.

SAMANTHA McELHANEY: AN OUTSTANDING YOUNG STAR

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. HOYER. Mr. Speaker, I rise today to acknowledge the outstanding talents of Ms. Samantha McElhaney, a resident of Clinton, MD and a recent graduate of Suitland High School in Prince Georges County.

As a student of the prestigious Performing Arts Magnet School Program at Suitland, Samantha studied opera, singing in both French and Italian. Not only is Ms. McElhaney a gifted singer, but she is also a driven student and athlete. She enjoys studying biology, and has been recognized as a superior shot-putter and discus thrower. Outside of her vocal training, studying, and athletics, Ms. McElhaney has found the time to share her talents with the community by singing in the choir at Ebenezer AME Church in Fort Washington.

I am pleased to submit to my colleagues an article by David Montgomery which appeared in the Washington Post. It is my hope that this article will give further insight into the achievements and future of this talented young woman.

[From the Washington Post, June 1, 1995]

POWERFUL VOICE MAY CARRY 17-YEAR-OLD A LONG WAY

(By David Montgomery)

In the age of rock and rap, fine U.S. opera singers are rare, so it caused a stir when Samantha McElhaney was discovered recently in the practice studios of Suitland High School.

"She has the potential to be one of our great American opera singers," said Elayne Duke, president of the Rosa Ponselle Foundation, an opera talent underwriting group outside Baltimore. "This [talent] maybe will come along once in our lifetime."

"I would call her a *wunderkind*," said Myra Merritt, a Metropolitan Opera soprano who has taught McElhaney. "She has one of those dramatic, heroic, epic, full-throated voices that comes along once in a lifetime."

The object of all this effusion is a studious 17-year-old soprano from southern Prince George's County. She is no pampered diva. In her senior year at Suitland, she drives herself to achieve good marks in biology, her favorite subject. Last year she was one of the top high school shot-putters and discus throwers in the county. She can bench-press 185 pounds.

Most of all, she sings.

"I wake up and get in the shower, I'm singing," she said. "I'm walking around the house, and I'm singing."

At school, in addition to regular voice lessons, she spends her free time in the practice studio. Her teachers say McElhaney's voice is a remarkable gift, but it would have remained the vocal equivalent of an uncut diamond if she had not poured enormous work and study into her singing. Her gift has become her responsibility.

"She's very meticulous about her voice, her instrument," said Ronald Johnson, coordinator of visual and performing arts at Suitland. "She takes a lot of care and pride in her instrument."

McElhaney is one of many vocal talents nurtured at Suitland, which has a performing arts magnet program. The mellifluous singing in French and Italian that the audience hears during senior recitals is the most obvious clue that the rigorous art of opera is being passed down to a new generation.

"It is our opinion here at Suitland that our students must be versatile," Johnson said. "Along with the spirituals [and other musical styles], we want to make sure our students have a very strong background in classical music."

McElhaney's relationship with music goes way back. She could talk before she was a year old, and she started singing soon after. Her nickname, Mandy, bestowed by her dad, comes from the Barry Manilow song of the same name.

The family lives in Clinton. Robin McElhaney, her mother, is executive assistant to the president of a trade association, and Samuel McElhaney, her father, is a technical information specialist for the State Department. McElhaney's sister, Adrienne, 13, has been admitted to Suitland's vocal program; she shows a talent for singing Broadway show tunes.

Growing up, McElhaney sang whenever the opportunity arose, in the middle school chorus, in the choir at Ebenezer AME Church in Fort Washington. Before she got to Suitland, music was just a hobby. Her main goal, even as a 12-year-old, was to make all the right moves that would lead to a good college. She considered music a means to that end. She realized she could use her singing to audition for Suitland's academically challenging magnet program. She sang "Amazing Grace" and passed the audition.

In McElhaney's junior year, her teachers noticed a significant change in her voice. By senior year, there was stunning improvement. Her voice had lost its "breathiness" and acquired a lyric timbre.

It was the voice of a much more seasoned performer than a 17-year old shower singer.

For the first time, McElhaney allowed herself to dream of a career as an opera singer.

This spring, she won the prestigious Rosa Ponselle Gold Medallion, named after one of the first great American divas, who lived in Baltimore.

At her senior recital last month, McElhaney was resplendent in a red dress with a black velvet jacket and a red handkerchief. Before the piano began each piece, she would bow her head, then she would look up and her face would appear transformed, becoming tragic, comic, coy, as befitted each selection.

The French and Italian lyrics soared and swooned and filled the auditorium.

To lend her performance authenticity, she imagined a private meaning for each piece that matched the emotion communicated by the composers. So, when she sang "Pur dicesti, o bocca bella," by Antonio Lotti, a spritely solo about a beloved and beautiful object, she was thinking "about me asking my father to get me a car, o bocca bocca bella!" she said.

She got six standing ovations. When the recital was over, Samuel McElhaney brought up a bouquet of roses for his daughter the diva.

The experts say she has the talent to become one of the great voices of her generation—but they add a big if.

"The next few years will be the most critical part of her life," said Duke, of the Ponselle foundation. "This is where she is going to develop as a singer or lose her voice altogether. That depends on where she will study and with whom she'll study."

Everyone has an opinion about how to manage the rising star's career. Duke thinks McElhaney ought to study with a private coach for two years, spend a year in Italy, make her debut at age 21 and never mind getting a college degree.

McElhaney, for her part, cares too much about college to forgo it. Besides, private opera coaches don't offer scholarships. She is leaning toward accepting a scholarship to New York University, which has a music program. If her opera dreams don't pan out, she'll have a degree to fall back on.

But she has faith in her gift: "I love singing, and I know it can carry me far."

HONORING DR. ROBERT T. MILLER FOR HIS 49 YEARS OF SERVICE AT BAYLOR UNIVERSITY

HON. CHET EDWARDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. EDWARDS. Mr. Speaker, today it is with great pride and pleasure that I honor Dr. Robert T. Miller, distinguished professor of political science, on his 49 years of outstanding service at Baylor University in Waco, TX.

Baylor University, without a doubt, has most certainly benefitted from Dr. Miller's wisdom, experience and understanding of political science. Students at Baylor are fortunate to have been able to study under his expert instruction. Many of his students today are successful attorneys, college professors, and government professionals. Dr. Miller has touched the lives of many people over the course of his career, and it is only right that we honor him today.

I ask Members to join me in congratulating Dr. Miller for his contribution to higher learning and for his dedication and commitment to the students at Baylor University.

THE HAMMOND ADULT EDUCATION PROGRAM

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. VISCLOSKY. Mr. Speaker, it is with great pleasure that I rise to call your attention to the School City of Hammond Adult Education Program in Hammond, IN. This outstanding program has successfully taken on the immense job of tackling adult illiteracy. I would like to highlight for you and my other colleagues this impressive program and its many achievements.

Under the direction of Dr. Gary Jones, assistant superintendent of curriculum for the School City of Hammond, and Dr. Steve Watson, director of adult education and extended services, the Hammond Adult Education Program has developed into one that should be used as a model for adult education programs throughout the country.

The Hammond Adult Education Program uses several innovative approaches to fight adult illiteracy. Hammond adult basic programs and services include literacy training and life skills education, as well as GED preparation and English as a second language. Joblink 2000 Workforce Development and Instructional Programs, which are joint training programs developed by Hammond adult education, the Inland Steel Co., and the United Steelworkers of America Local 1010, provide academic instruction to steelworkers so that they can learn new skills and compete in a global market. Another initiative the Hammond adult education is most proud of is the continuing education program specifically designed for the Navy recruiting district of Chicago. This program, which is the first in the Nation to qualify GED graduates for acceptance into the U.S. Navy, was initiated 2 years ago and has proven to be very successful.

The Hammond Adult Education Program has entered into cooperative agreements with 22 local agencies, institutions, and organizations to coordinate the planning and delivery of services to adults. Moreover, Hammond adult education exceeds both Federal and State averages relative to student attendance and retention. Again, this year, Hammond adult education joined with the city of Hammond and other educational institutions to sponsor a job fair. This year's fair, which attracted more than 600 participants, was held at the Hammond Area Career Center and featured educational provider booths, an assessment of learner skills follows up by guidance counseling, and displays by local employers.

The Hammond Adult Education Program is already a nationally recognized leader in the field of adult education having received the U.S. Secretary of Education's Outstanding Adult Education Program in 1990. In addition, this distinguished program has received the following awards: 1994 Tri City Community Mental Health Center Community Service Award; 1990 Region V Outstanding Adult Education Program Award; 1990 Indiana Department of Education's nomination for Outstanding Adult Education Program Award; 1984 Governor's Indiana Adult Literacy Coalition's Exemplary Instruction Award; 1984 Citation in Effective Literacy Programs; and, in 1984, the Indiana Division of Adult Education Program Quality Award.

The Hammond Adult Education Program functions as a true melting pot for all racial, ethnic, cultural, socio-economic, and religious groups in northwest Indiana. In May, I spoke to 231 graduates who received their GED diplomas from the Hammond Adult Education Program at the GED graduation and recognition ceremony. These fine graduates, along with the 2,000 other students enrolled in this program are to be commended for their dedication to improve themselves through continuing education. I enthusiastically applaud the Hammond Adult Education Program for successfully improving the quality of life for residents in northwest Indiana.

A TRIBUTE TO LEWIS D. WALKER

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. MONTGOMERY. Mr. Speaker, I am taking this opportunity to pay tribute to an outstanding public servant who has served his country in a quiet, effective, and dedicated manner for over 30 years, Lewis D. Walker, known by his friends and all who know him as "Dee Walker."

Dee Walker has been the Army's senior civilian adviser for environment, safety and occupational health matters for the past 14 years. During this period of time, the Nation's environmental laws have tripled, environmental program funds have grown from $200 million to over $1.3 billion and the potential severity, and cost of Army accidents and tasks to health have increased dramatically. Dee Walker is an outstanding career executive and is recognized for distinguished service by international, government, academic, and public interest groups. In 1992, he completed a 2-year Army wide effort to craft a detailed environmental strategy to guide Army policy and programs into the 21st century. His exemplary leadership has steadily reduced environmental violations.

Mr. Walker managed the largest environmental cleanup in United States history at the Rocky Mountain Arsenal [RMA] in Colorado. For 8 years, he successfully pushed for an initiative to have RMA designated a national urban wildlife refuge which the President signed into law on October 9, 1992. This action is expected to relieve the Army of a cost of at least half a billion dollars.

He skillfully negotiated a $1.2 billion lawsuit against a huge corporation responsible for much contamination which resulted in saving the Government 50 percent of the cleanup cost. When the State of Colorado filed suit against the Army over the cleanup process, Dee Walker was in the forefront, working closely with the Department of Justice to develop a highly successful litigation strategy that resulted in a $72 million cost avoidance. The landmark legislation to designate RMA as a Natural Wildlife Refuge and transfer it to the control of the Department of the Interior will save the Army $500 to $700 million in cleanup and restoration cost.

Mr. Walker's justification of a modified cleanup option for the Louisiana Army ammunition plant saved the Army $27 million. When the Army accepted responsibility for Hamilton Air Force Base in California and reached agreement on cleanup, the cost of which was projected to be $44 million, Dee Walker contributed to a negotiated cost of $34 million, saving the Army and the taxpayer $10 million. His critical direction on the Chesapeake Bay initiative achieved 100 percent compliance for the 22 Army Installations in the region. In recognition of its strong environmental management under his control, the Department of Defense designated the Army as the executive agent for a $124 million program to restore formerly used defense sites [FUDS]. The $35 million National Defense Center for Environmental Excellence and the Environmental Corporate Information Management Systems were also placed under his control. The Army was designated the lead defense agency for administering relationships with the Agency for Toxic Substances and Disease Registry. Mr. Walker has sponsored a management initiative that would cut $2 billion by having the Department of Defense adopt a lead agent management approach.

Dee Walker's responsibilities and accomplishments are too numerous to detail in this short summary of 30 odd years of diligent and conscientious work, which began in 1963 at the Department of the Interior in New Mexico. From 1966 to 1970, he served with the Agency for International Development in Bangkok, Thailand. Later, he returned to the Department of the Interior, although in Washington, DC, in the Bureau of Reclamation during the period of 1971–73. From 1974–79, he served with the U.S. Water Resources Council in Washington, and from 1980 through the present, he has served as Deputy Assistant Secretary of the Army.

Dee Walker is known as a firm but strong promoter of high morale among his staff and fellow associates. He provides critical leadership, management, and human resource guidance. His success in this area has enabled the environmental community to respond favorably to increasing public and congressional expectations in a timely manner. Walker has a commonsense approach to the substantial responsibility that comes along with the job. In addition, he has the ability to relate effectively with his associates and staff. These qualities have served to promote a successful program which has created substantial savings in human anguish, and human and monetary resources in the programs under Dee Walker's direct policy oversight. Walker's responsibilities extended to the aftermath of Operation Desert Shield/Desert Storm, during which he provided sound policy direction for issues such as health risk assessments of the oil fires and depleted uranium cleanup efforts in Kuwait.

Mr. Walker's lovely wife, Colleen, and their two daughters have contributed greatly to his success in his lifelong endeavors. He is recognized for his active participation in church and community activities.

I know that you all will join me as we pay tribute and best wishes to Dee Walker as he enters this well-earned and richly deserved new venture in his life, his retirement.

CALLING ON THE CLINTON ADMINISTRATION TO GAIN THE RELEASE OF UNITED STATES CITIZEN HARRY WU, ARRESTED IN CHINA ON JUNE 19

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 28, 1995

Mr. SMITH of New Jersey. Mr. Speaker, less than 1 month has passed since the President extended most-favored-nation trading status once again to the People's Republic of China. Ignoring the tragic human rights record of China, the huge trade imbalance, the ongoing pirating of intellectual properties, the forced abortion policy and the exporting of nuclear technology to rogue nations, Mr. Clinton rewarded the Chinese leaders while turning his back on the millions of Chinese who are imprisoned, tortured, persecuted, forced into slavery, and have their voices silenced, some even before they are born.

Mr. Clinton believes that granting MFN to China will encourage the Chinese leadership to improve their human rights record. It didn't work last year. And it's not going to work this year, either.

Case in point: On June 19, 1995, Harry Wu, a United States citizen, was arrested as he entered China.

Harry Wu is well known to many of us here in Washington. A former political prisoner in China for 19 years, Harry has tirelessly worked to expose China's human rights abuses—the extensive prison labor system, the backbone of China's export industry; the trafficking of body parts of prisoners for transplants and research—uncovering the numerous products manufactured in the slave labor camps which are being sold in the United States.

Knowing that each time he returned to China to investigate human rights abuses he put himself in danger, Harry continued to go back remembering those millions who, like he, suffered, or like his brother, died at the hands of the Chinese Government and military.

Harry has been a stellar, informative, persuasive witness at several congressional committee hearings. Once, when asked about why he placed his life at risk to expose the horrors of China's prison labor system he responded: "I really want to forget the nightmares of the past period, but, you know, some things simply didn't go away. So, like a bad dream, they refuse to disappear.

"Finally, I got a chance to tell the truth to the world.

"I am a survivor. I think I have a responsibility to those inmates who are still there."

Today Harry Wu is not free. His whereabouts are unknown. The U.S. Embassy in Beijing was not informed of his arrest until June 23—4 days after the arrest.

A U.S. Embassy spokesperson claims that the delay in notification was the result of poor communications. Another spokesperson said that the Embassy and Chinese officials were discussing sending a representative to visit Harry.

Ten days have passed since Harry Wu, a United States citizen, was arrested in China. How much longer will he have to wait for the U.S. Government to respond? How long will the discussions take? And in the meantime, what will happen to Harry Wu?

Mr. Speaker, I have sat with Harry Wu in my own office many times hearing of the unspeakable conditions under which the Chinese people live while their leaders are rewarded year after year after year. It distresses me greatly to think that Harry is not free, may be tortured, and that the administration is moving so slowly to respond to his need.

Mr. Speaker, I call on the Clinton administration to move swiftly to make contact with Harry Wu and to obtain his release. I urge my colleagues to do the same. The administration may at this point be accustomed to turning its back on the people of China. We cannot allow them to become accustomed to ignoring innocent Americans in foreign prisons.

I also urge my colleagues to sign the letter to Jiang Zemin calling for the release of Harry Wu.

Soon the House will take up the disapproval of MFN for China. Some of us might be tempted to put trade, money, over human rights and dignity. Some of us might believe that criticizing China for human rights abuses is interfering with the internal matters of a foreign government. I do not.

Today an innocent United States citizen is being detained in China. What more needs to happen? We cannot ignore this. It should offend every Member of this body that while the administration rewards the Chinese Government, that government responds by arresting a United States citizen.

Harry Wu has been a voice for the voiceless crying out for truth and justice. Now his voice has been silenced, and I pray that silence is only temporary. We must raise our voices loudly and clearly to the Chinese Government. Harry Wu must be released and the Chinese Government must be held accountable for this affront against the United States.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose

of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, June 29, 1995, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JUNE 30

10:30 a.m.

Foreign Relations

To hold hearings on the nominations of David L. Hobbs, of California, to be Ambassador to the Co-operative Republic of Guyana, and William J. Hughes, of New Jersey, to be Ambassador to the Republic of Panama.

SD–419

JULY 11

9:30 a.m.

Appropriations

Defense Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1996 for the Department of Defense, focusing on environmental programs.

SD–192

Energy and Natural Resources

To hold hearings to review the Secretary of Energy's strategic realignment and downsizing proposal and other alternatives to the existing structure of the Department of Energy.

SD–366

10:00 a.m.

Veterans' Affairs

To hold hearings to examine options for compliance with congressional budget resolution (H. Con. Res. 67) instructions relating to veterans' programs.

SR–418

JULY 13

9:30 a.m.

Small Business

To hold hearings on the future of the Small Business Investment Companies program.

SR–428A

Indian Affairs

To hold hearings on S. 479, to provide for administrative procedures to extend Federal recognition to certain Indian groups.

SR–485

POSTPONEMENTS

JUNE 29

9:30 a.m.

Small Business

To hold hearings to examine the future of the Small Business Investment Company program.

SD–538